

The Ethics of Kink

by

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ABSTRACT

This thesis argues that the consent narrative that is used to justify sadomasochistic violence is flawed. Liberals and liberal feminists often use valid consent as a justification for the violence and humiliation inflicted during many sadomasochistic sexual encounters, appealing to ideas of sexual autonomy and sexual freedom to defend those who inflict violence on willing partners. This thesis rejects the consent defence making two arguments: First, that the conditions which need be met for consent to be valid are frequently not met in instances of sadomasochistic violence. Second, that even when consent meets the conditions for validity this does not justify sexually motivated violence as consent does not have the normative power required to justify the infliction of harm. In a final chapter I illustrate the position through a comparison of sadomasochistic violence and domestic violence. Arguing that just as the consent narrative has no place in domestic violence, regardless of how the victim of domestic abuse feels about their circumstances, it should not be regarded as central to the debate about whether sadomasochistic violence is ethical.

For every woman who ever said yes when her heart said no

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‘Once a woman is thought to have said yes to something,
she can say no to nothing.’

Katherine Angel

INTRODUCTION

Is extreme sadomasochism¹ morally permissible? Those who claim that it is appeal, most commonly, to valid consent as a defence; the argument is that if someone consents to being harmed for sexual pleasure, then their consent normatively alters the nature of that encounter. Those who reject the ‘consent defence’ of sadomasochistic harm tend to do so from a radical feminist standpoint. This thesis is in that tradition and seeks to argue that consent does not mitigate the relevant harm, and to consider the ethics of extreme sadomasochistic practices from an alternative perspective. In today’s society, sadomasochistic sexual behaviour is more common and more normalised than ever before and thus questions concerning the ethics of kink have become more pertinent. The motivation of this thesis is to demonstrate the inadequacies of the consent defence of sadomasochism, and to propose an alternative which acknowledges relevant social forces and harm caused.

I begin in chapter one by exploring the ways in which proponents defend sadomasochism. I broadly divide the defences of sadomasochism into three sections: The Queer Theory Defence, The Liberal Defence, and the Psychological Defence. The aim of the opening chapter is to explore the claims that I proceed to argue against as the thesis progresses. Many of the arguments in favour of sadomasochism explored in chapter one are built upon the idea of valid consent. Thus, in chapter two I examine the idea of consent in more detail. I elaborate on what consent is and how it functions. This necessitates a discussion on the different views on consent: the behavioural view, the mental view, and the hybrid view. Additionally, I discuss the validity of consent, and the conditions which must ordinarily be met for consent to be considered valid. I also touch upon the idea of consent as having

¹ Throughout this thesis, I will alternatively use the terms ‘extreme sadomasochism’ and ‘sadomasochism’ when making my arguments. However, in all cases, my argument is against the former and it is extreme sadomasochistic acts to which I am referring. My argument is not against the mildest forms of sadomasochism (for example, in which there is no harm done) but against extreme sadomasochistic behaviour such as branding, strangulation, burning, beating etc.

normative power without delving into too much detail, as this idea is comprehensively explored and elaborated upon in chapter five. Chapters three and four are dedicated to addressing whether or not consent to sadomasochism usually meets the conditions required for valid consent, with chapter three focusing on consent as voluntary, and chapter four focusing on consent as informed. In chapter three, I look at the cultural context within which consent to sadomasochism is given. I discuss the growth and change that has been seen in the pornography industry since the 1950s, the pornification of culture, and the increasingly blurred line between pornography and mainstream media. I also look at the ways in which the impact of porn's sexual norms can be felt even by those who are not themselves porn-consumers. Chapter four looks at whether or not consent to sadomasochism is ordinarily sufficiently informed for consent to be considered valid. In order to do this, I discuss the risks involved in sadomasochistic sex acts, and the level of information that must be provided to meet the bar for 'informed' participation.

In chapter five, I delve more deeply into an issue briefly mentioned in chapter two – the normative power of consent. In this chapter, I discuss the limits of consent's normative power, and the argument against breast implants as put forward by Clare Chambers. I then draw a parallel between breast implants and sadomasochistic sexual behaviour to show how consent does not function as a normative transformer when it comes to sadomasochism. The final chapter, chapter six, moves away from the consent narrative entirely with reference to the parallels between sadomasochistic violence and domestic abuse. I highlight the ways in which domestic abuse and sadomasochism are similar, and show how these similarities are relevant when it comes to considering moral permissibility. The aim of this thesis is, ultimately, to point out the inadequacies of the consent model when it comes to evaluating the moral permissibility of sadomasochism, and to offer a more robust and functional alternative, one that recognises the problem of male violence and allows room for necessary criticism of misogynistic sexual behaviour.

CHAPTER ONE

Mounting a Defence: Exploring the Perspectives of Sadomasochism Proponents

This chapter presents the arguments in support of sadomasochism, which I explore and respond to throughout the thesis. This chapter is divided into four parts; the first part provides some background to the issues at hand, with the following three parts focusing on the various defensive perspectives. In the first part (section 1.1), I give context to the debate between anti and pro-sadomasochism feminists. In the second part (section 1.2), I explore the first of the pro-sadomasochism perspectives, which I have categorised as ‘The Queer Theory Defence’. In this part, I briefly explain the concept of queer theory and discuss its relevance to this topic. I then move to focusing on various arguments put forward by queer theorists to portray sadomasochism as liberatory and revolutionary. In the third part (section 1.3), I explore what I have labelled as ‘The Liberal Defence’; liberals argue that any limitations on people’s sexual choices, in cases where those choices do not directly harm others, infringe upon the agency of individuals, limiting individual freedom by restricting people’s autonomy when it comes to sexual behaviour. The fourth and final part looks at the ‘Psychological Defence’ (section 1.4). I show how pain can be considered pleasurable by some due to the psychological impact of the methods and intentions behind the infliction of the pain. This chapter, therefore, provides the basis for understanding the array of counter-arguments which I consistently refer back to throughout the thesis.

1.1. A FRICTIONAL FEMINIST HISTORY

Feminism has had a consistently complicated relationship with sadomasochism. Both in academic circles and in popular culture, sadomasochism occupies a central role in debates in academia, from

the feminist ‘sex wars’ of the 70s and 80s through to contemporary discussions around sexual consent (Langdrige and Barker 2007, p.4). In this part (section 1.1), I attempt to untangle both the feminist history of sadomasochism and the current-day choice feminist perspective, thereby providing context and background to later arguments. I discuss the concept of “choice feminism”, explaining why I have chosen to use this term over the alternative options. I also delve into a brief history of the feminist ‘sex wars.’ Finally, I discuss the Feminist Porn Awards in order to highlight the practical implications of choice feminism in a contemporary context. In order to fully understand the arguments both for and against sadomasochism, it is crucial to be aware of both the historical and contemporary context surrounding these arguments.

1.1.1 The Sex Wars

In this section, I contextualise the feminist debates around pornography and sadomasochism by providing some background to the arguments through the exploration of what came to be known as the feminist “sex wars” of the 1970s and 80s. I explore the issues raised during the sex wars, before discussing, in the sections that follow, both the radical feminist and choice feminist perspective on the relevant issues. Although there are no exact dates for when these debates became more prominent and mainstream – and when they began, to some extent, to lose momentum – the most significant battles began in the late 1970s and ended in the early 1990s, without clear resolution.

At the National Women’s Liberation Movement (WLM) Conference in 1977, feminist Sheila Jeffreys presented a paper entitled ‘The Need for Revolutionary Feminism,’ in which she stressed the importance of recognising male violence as the primary cause of female oppression, not, as many socialist feminists claimed, capitalism. She wrote that the ‘women’s liberation movement is, and should be seen to be, a threat,’ and that she could not see that it is useful to ‘represent it as mixed

Tupperware party with men doing the coffee' (Jeffreys 1977). The tenth WLM Conference was held in Birmingham the following year. Women who self-identified as "revolutionary feminists" submitted a proposal to cancel demands discussed at previous conferences, claiming that it was ridiculous to demand anything from men 'who are the enemy' (Srinivasan 2021). At the conference, the revolutionary feminists' proposal was left off the plenary agenda, and caused chaos when it was read aloud, with many women walking out (Srinivasan 2021).

Arguably, the height of the 'war' was the 1982 Barnard Conference, 'Towards a Politics of Sexuality,' organized by choice feminists such as Gayle Rubin and Ellen Willis. The conference was opposed by the group 'Women Against Pornography'², an organisation which included radical feminists such as Robin Morgan and Andrea Dworkin, because it was going to include discussions of sadomasochism as well as a generally choice feminist position which was entirely contrary to their own (Khan 2014, p.54; Morgan 1992, p.88; Comella 2015, p.453). In the conference's concept paper, the anthropologist Carole Vance argued that sex ought to be acknowledged not only as a domain of danger, but as one of 'exploration, pleasure, and agency' (Srinivasan 2021). Though feminists had discussed and written about these issues prior to this time, this was a period where such topics became increasingly contentious and polarising within feminist communities and among feminist activists. The 1982 Barnard Conference was evidence of this escalation³. The sex wars were fought on a number of separate but related issues; sadomasochism and pornography in particular were key points of contestation, as were prostitution, monogamy versus polyamory, heterosexuality, and lesbian

² Women Against Pornography (WAP) was co-founded by Susan Brownmiller who claimed that pornography 'transformed women into "adult toys"' to be 'used, abused, broken and discarded' (Potter 2016).

³ The objective of the conference was to bring together feminist academics of varying viewpoints, but there was controversy surrounding the event from the beginning. Anti-pornography feminists claimed that they had been excluded from the conference's planning committee. Both the plenary papers and the workshops were controversial and given by such diverse feminists as Alice Echols, Gayle Rubin, Esther Newton, Shirley Walton, Kate Millet, and Amber Hollibaugh. Though it brought many of these issues to the fore, unfortunately the conference hardened the battle lines that had been drawn by each side during the Sex Wars (McBride 2008).

identities (Khan 2014, p.54; Snitow *et al.* 1983, pp.24-25). At the core of the disagreements were ‘the conflicting notions of sex as liberating or oppressive’ (Snitow *et al.* 1983, p.25).

Though the divide was not always clear-cut, with, for example, some lesbian sadomasochists in the anti-pornography camp, the sides were broadly divided into those who were anti-pornography, anti-sadomasochism, and anti-heterosexuality, and those who were in favour of those things. Feminist activists on each side of the debate were diverse, with lesbian feminists, political lesbians, lesbian separatists, radical feminists, and dominance feminists generally on the anti-pornography side, and sex-positive feminists, anti-censorship feminists, and sex radical feminists⁴ in the rival camp. For the sake of clarity, I will use the term “radical feminists” to describe the former group, and “choice feminists” to describe the latter; both of these perspectives will be discussed in more detail in the sections to follow.

The choice feminist position drew support from what Gayle Rubin would refer to as ‘the most despised sexual castes’, including ‘transsexuals, transvestites, fetishists, sadomasochists,’ and ‘sex workers such as prostitutes and porn models’ (Rubin 1984, p151). A commonly conveyed sentiment by individuals on both sides was a sense that the opposition had oversimplified the political implications of the aforementioned practices (Samois 1979, p.29). While the radical feminists galvanised many women across the country in an anti-pornography movement, it also based its core message on a dichotomous view of sexed erotic nature – male sexuality as violent and aggressive, female sexuality as loving and respectful. Choice feminists, therefore, came to regard this constellation of views as reactionary, considering it to offer minimal opportunities for change or positive progression (Snitow *et al.* 1983, pp.37-38). In the next two sections, I discuss the radical

⁴ A note on terminology: I have mentioned the various labels used by these feminists to describe themselves, but they are referred to more generally as ‘choice feminists’ throughout this thesis. The term ‘sex radical feminists’ can be particularly misleading, as they take an opposing view to radical feminists.

feminist position and choice feminist position in more detail, and clarify the relevant points of contention.

1.1.2 Radical Feminism

In the previous section, I briefly discussed the “sex wars”. In this section and the next, I clarify the perspectives of both sides of the battle. This section will focus on the radical feminist position. I explain what the radical feminist position is, and discuss the philosophy behind it. This thesis builds upon the work of radical feminism, and thus a brief exploration here of the core arguments at the heart of radical feminism is useful.

Historically, radical feminists were lesbian feminists, or those who identified with the lesbian-feminist community in their rejection of ‘male-dominated heterosexual sex’ (Ferguson 1984, p107). Radical feminists claim that we live in a patriarchy – a society in which men dominate and women’s needs, concerns, and desires are secondary. Furthermore, they are concerned with the conditions under which sexuality is formed and acted upon. It was by looking at sexuality as informed by social factors that radical feminists initially came to their critique of heterosexuality, with lesbian radical feminist Adrienne Rich describing heterosexuality not as a choice nor as entirely natural, but an institution that is ‘imposed, managed, organised, propogandised and maintained by force’ (Rich 1980, p631). Many radical feminists of the 1970s and 80s embraced lesbianism as a threat to the ideology of male supremacy; Charlotte Bunch writes that lesbian ‘rejection of heterosexual sex challenges male domination in its most individual and common form’ (Bunch 1975, p.33). According to Alison Jaggar and Paula Rothenberg (1993), the claims at the heart of radical feminist philosophy are as follows:

1. Women were ‘the first oppressed group’ (Tong 1998, p47).
2. Female oppression exists on some level in every known society.
3. Women’s oppression cannot be eliminated via alternative social changes such as ‘the abolition of class society’ (Tong 1998, p.47).
4. Women’s oppression causes substantial suffering to its victims, much of which is unseen due to sexist prejudices and norms.
5. Women’s oppression can provide a conceptual model for understanding other forms of oppression (Tong 1998, p47).

Male dominance and the subordination of women under patriarchy inform radical feminist perspectives on sexuality. As discussed above, radical feminists are critical of heterosexual sex; in *Intercourse*, Andrea Dworkin writes that, if a man’s sexual experience ‘has always and without exception been based on dominance,’ then the ‘end of male dominance would mean – in the understanding of such a man – the end of sex’ (Dworkin 1987, xxxii). The radical feminist perspective on sex is of primary concern for the purposes of this thesis, thus I will outline radical feminist claims about sexuality here:

1. Heterosexual sex is generally based on an ideology of ‘sexual objectification... that supports male sexual violence against women’ (Ferguson 1984, p108).
2. Feminists ought to reject ‘any sexual practice [that] normalises male sexual violence’ (Ferguson 1984, p108).
3. Feminists should ‘reclaim control over female sexuality’ by rejecting the prioritisation of male sexual fulfillment over female sexual fulfillment, the latter of which is ‘more concerned with intimacy and less with performance’ (Ferguson 1984, p108).
4. The ideal sexual partnership involves equal parties who are ‘emotionally involved and do not participate in’ a dominant/submissive sexual dynamic (Ferguson 1984, p108).

1.1.3 Choice Feminism

In this section, I explore ‘choice feminism’; its origins, the assumptions that underpin it, the practical implications of choice feminism in general, and its specific implications for sexual behaviour. I argue that various factions of feminism can be included under the ‘choice feminism’ umbrella, making it a useful term for my thesis as it allows me to refer collectively to a group of similar positions, including ‘sex positive feminism’ and ‘sex radical feminism’.

The phrase ‘choice feminism’ was coined by Linda Hirshman to label the ‘widespread belief in the US that the women's movement [had] liberated women to make whatever choices they [wanted]’ (Ferguson 2010, p.247). Choice feminism is centred around the idea that feminism should prioritise maximising women’s opportunities to make their own life choices and should not pass judgment on what they choose. The emphasis is on the individual agency of women, asserting that women ought to be supported in their choices regardless of what those choices are. Choice feminism asserts that all women’s choices, including sexual choices, are inherently feminist choices as they are the result of female agency (Tarzia 2015). As such, choice feminism encapsulates popular widespread assumptions about what contemporary feminism ought to be (Snyder-Hall 2010, p.255; Tyler 2015). Although Hirshman focuses primarily on women’s freedom of choice when it comes to paid and unpaid labour, choice feminism can be understood much more broadly. Contemporary pop-feminism can be categorised as choice feminism, with the message that all choices made by women are feminist choices promoted widely, from magazine pages to music videos (Cartwright, 2020; Hodgson, 2014). The view that ‘all choices are feminist’ can be ‘invoked to support decisions to wear lipstick and high heels, to participate in Girls Gone Wild!, to sleep with men, to enjoy pornography, to not have children, to hire a maid, or to adopt a gendered division of labour’ (Ferguson, 2010: 247; Freeman, 2020). This argument is illustrated well by Amy Richards and Jennifer Baumgardner, who write in ‘The Number One Question About Feminism’ that ‘feminism is about freeing us’, claiming that a

young woman's decision to wear a thong, for example, is not political (Baumgardner and Richards 2003, pp.448-451; see also: Ferguson 2010, p.247; Thwaites 2017, p.2).

The question remains as to what this means when it comes to sex and sexual behaviour. In such a context, the core philosophy of choice feminism remains consistent. The focus is on personal choice, as opposed to the collective liberation of women as a sex class as championed by radical feminists. Choice feminism supports any and all choices of women, including those which other feminists might criticise as non-feminist, including embracing gender roles and feminine stereotypes:

Juliette Frette poses for Playboy and calls herself a feminist; she says she finds her own buxom, blonde image "sexy as hell." "Hip-hop feminist" Joan Morgan confesses her attraction to the trappings of patriarchy, the rituals of chivalry, the thrill of objectification, and the sexiness of male dominance: "Truth be told, men with too many 'feminist sensibilities have never' turned her on. Laura Doyle supports feminism in public but advocates "traditional gender roles" at home because they help her feel "more feminine, and therefore more intimate" (Snyder-Hall 2010, p.255).

As such, within the context of sexual relationships, choice feminism tells us that anything goes as long as it is willingly chosen. Watching pornography can be a feminist act, as can partaking in sadomasochism, being sexually submissive, or participating in the sexual objectification of others or the self. As Dana Goldstein says in *The Nation*, 'the advances of feminism mean women today are freer than ever to explore their sexuality in art and in their personal lives' in a way that women could not previously (Goldstein 2012). As such, the idea of choice is at the core of what many call 'sex positive feminism'⁵, a feminism that encourages women to embrace their sexual liberation, ask for what they want, and indulge their fantasies (Goldstein 2012). In this thesis, I will be focusing primarily on an understanding of choice feminism in the context of sexual behaviour as it is this perspective that is especially relevant here.

⁵ This will be referred to as choice feminism in this thesis.

In this thesis, I use the term ‘choice feminism’ to refer to a number of different factions of feminism. Throughout the thesis, I make reference to feminists such as Gayle Rubin and Ellen Willis and their perspectives using the term ‘choice feminism’ or ‘choice feminists’, though they might otherwise be labelled ‘pro-sex feminists’, ‘sex positive feminists’, or ‘sex radical feminists’ (Khan 2014, p.54; Stewart 2018, pp.254-255). This is a deliberate decision. Firstly, feminists that might be called pro-sex, sex-radical, or sex-positive share a common foundation in terms of their understanding of feminism. At the core of each of these feminist philosophies is the belief that feminism should focus on individual liberty, freedom of choice, and sexual empowerment through the means of choice. There is a common pro-sexual-autonomy of the individual (and thus pro-pornography and pro-sadomasochism if desired) thread that runs through these perspectives. As such, they fit beneath the umbrella of choice feminism. The second reason for my choice of terminology here relates to the value-laden nature of terms such as ‘sex positive’ or ‘pro-sex’. Such terms give the impression that any opposing position is ‘sex-negative’ or ‘anti-sex’, influencing, and potentially skewing, the debate. Lastly, I avoid the term ‘sex radical feminism’ largely for practical reasons; it is confusingly close to the term ‘radical feminism’ though these two positions are at odds with one another.

1.1.4 The Feminist Porn Awards

In the previous sections, I gave a brief history of feminist thought in particular around the issue of sex. I explained the perspectives of radical feminists and choice feminists. It is choice feminists that are largely in favour of pornography and sadomasochism, and so the focus in this chapter will be on the arguments put forward by such feminists (as mentioned, there is substantial overlap between the choice feminism defences and those offered by queer theorists). In this section, I bring the choice feminist perspective into a more contemporary context through my discussion of one particular

example of choice feminism in action – The Feminist Porn Awards (FPA). The function of this section is to show the practical implications of choice feminist philosophy, which will contribute to our understanding of the choice feminist approach to issues of sex. In this section, I discuss the FPA as a contemporary representation of female empowerment as defined by choice feminists. I discuss the following claims here: 1) That the FPA celebrate a kind of sexual diversity that is repressed by heteronormativity; 2) That the FPA push back against oppressive conservative values; 3) That the FPA enable an inversion of patriarchal norms.

The ‘Good for Her’ Feminist Porn Awards is a celebration that claims to recognise erotic work that champions diverse sexualities and sexual representations. Their website claims that those behind ‘Good for Her’ are feminists and porn-lovers, who are passionate about representing the diversity of female sexuality. They quote porn performer and self-proclaimed ‘sex-positive feminist’⁶ Annie Sprinkle, who once claimed that the answer to bad porn is not the eradication of porn altogether, but the diversification and improvement of what is on offer (Feminist Porn Awards 2017; Sayej 2019). Those behind the FPA argue that criticisms of pornography as heteronormative and sexist are rendered inert in the case of the FPA, as they do not celebrate heteronormative tropes, but instead celebrate work that challenges the dominant narrative (Cameron 2018, pp.61-62). The existence of such an awards celebration, with criteria that emphasise transgression, is consistent with choice feminism’s focus on resisting sexual repression. Choice feminists want to give a voice, and representation, to genders and sexualities that are marginalised within a traditional heteronormative framework, and in doing so celebrate the kind of sexual diversity that they perceive to have long been repressed by a patriarchal sexual narrative. As such, what has been labelled ‘feminist pornography’

⁶ This is a quote from Sprinkle. She would be considered a choice feminist in the context of this thesis (as explained in section 1.1.3).

intends to offer a contextualized and diverse representation of female sexuality that is more consistent with women's own real-life sexual experiences (Marinucci 2010, p.137; Potter 2016).

Choice feminists claim that the repression of female sexuality – and that of sexual minorities – was borne of male fear of female sexual desire and power, and utilised as a means of keeping women under control (Cameron 2018, p.63; Ferguson *et al* 1984, p.109). In this context, the FPA challenges traditional values in a liberatory way. In the choice feminist model, female sexual empowerment depends upon liberation from the sexual oppression imposed by heteronormative sexual narrative, giving agency to those at the bottom of what Gayle Rubin would refer to as the erotic pyramid – those considered part of the ‘sexual fringe’– such as polyamorous queers, transsexuals, sadomasochists, gay and lesbian people, and sex workers (Cameron 2018, p.63; Khan 2014, p.95; Samois 1979, p.28). In her article ‘Sexual Politics, the New Right, and the Sexual Fringe’, Rubin attempted to establish a link between the opposition faced by individuals in the ‘sexual fringe’ by claiming that they were being punished by a societal moral panic which had left them excluded, marginalised and silenced, bearing the brunt of society's hostility towards sexual minorities:

If we are not careful, we will be using feminist politics to rationalize and perpetuate harmful stereotypes that originate not in feminism, but in our puritanical heritage (in Samois, 1979: 29).

This point is echoed by Freccero when she writes that it is impossible to ‘on the one hand, fight for liberation and, on the other, shut down those very same energies you've liberated and maintain a consistent politics and ethics around your stance’ (Freccero 2008, p.212). This line of thinking turns the truth-claim of the opposition on its head; the idea that pornography or sadomasochism have their origins in patriarchal norms is inverted⁷. Rather than having a patriarchal origin, the claim is that it is the criticism of the aforementioned sexual activities that is borne of patriarchal conditioning and feminist analysis offers sexual empowerment to marginalised minorities (Khan 2014, p.95). In saying

⁷ The argument around the subversion of patriarchal power dynamics will be explored in depth in section 1.2.

this, choice feminists are arguing that criticism of feminist pornography is what sexually oppresses women, rather than the existence of feminist pornography itself.

Here, I have discussed The Feminist Porn Awards to illustrate the logic of the choice feminist position. I have discussed Gayle Rubin's concept of the 'sexual fringe' and how this relates to the goal of choice feminism. I have explained how choice feminism conceptualises sexual liberation through the prioritisation of sexual agency of the individual. In the next part, I move on to discussing the first of the three dominant defensive perspectives I am exploring in this chapter: 'The Queer Theory Defence'.

1.2 THE QUEER THEORY DEFENCE

In this first part of the chapter, I discuss the arguments that fall under what I have labelled 'The Queer Theory Defence'. There are many pro-sadomasochism arguments that will be explored in the following sections, but all have a common foundation in queer theory.

Queer theory was borne of a postmodernist approach to sex, gender, and sexuality. It arose in part in an effort to overcome the issue of identity in gay and lesbian theory. One example of a problem that arose among lesbian liberationists was that there were some lesbian subgroups – such as sadomasochists – who did not fit into the non-hierarchical image of lesbian sexuality as championed by lesbian theory. Queer theory offered a solution (Pickett 2020). The term 'queer' does not refer to something innate but instead can be understood as a relational term, placing those who adopt a 'queer' identity as outside of the expectations of a heteronormative society (Saint Thomas *et al*, 2022). Halperin sums this up by describing 'queer' as 'whatever is at odds with the normal, the legitimate, the dominant... There is nothing in particular to which it necessarily refers' (Halperin 1995, p.62). Michel Foucault's understandings of 'power-knowledge' and 'biopower' formed the basis for the

queer theorist project which is skeptical of biology-based categorisation⁸, suspicious of science as a producer of knowledge, and wholly committed to social constructivism (Sisson 2007, p.28).

Queer theory focuses on deconstructing the binaries of male/female, masculine/feminine and so on, emphasising the constructed nature of the sex, gender, and sexuality classification systems. It problematises the binary opposition as inherently hierarchical (Cox 2017; Valocchi 2005, pp.752-753). The project of queer theory was advanced in the 1980s and 90s by figures such as Judith Butler and Gayle Rubin, who built upon Foucault's work on the social constructivism of sex and sexuality⁹. In 'Thinking Sex', Rubin emphasises the social constructivist element of queer theory when she writes that 'sexuality is impervious to political analysis as long as it is primarily conceived as a biological phenomenon or an aspect of individual psychology' (Rubin 1993, p.10).

The arguments presented in this part of the chapter are based upon a queer analysis of sex and sexuality. In other words, they rely on a socially constructivist view of the fictional nature of sexual binaries, and focus fundamentally on 'queering' sexual norms and power dynamics. 'Queering' is the project of deconstructing oppositions through a strategy of 'conceptual and categorical border transgression' (Cox 2017). I will use an example from this context to illustrate the nature of this project of deconstruction. When it comes to addressing the imbalance of power between men and women, queering might offer a solution by deconstructing the binary of man/woman, and giving individuals the opportunity to adopt any role within a sexual scene. By pulling down what they perceive as fictional boundaries between groups, queer theorists attempt to destroy the hierarchy created through rigid categorisation. According to queer theorists, those within sadomasochism communities challenge ideas about which sexual behaviours are acceptable and which are not, by engaging in sadistic or masochistic sexual acts and kinks, and prioritising their conception of sexual

⁸ In particular when it comes to sex, gender, and sexuality.

⁹ See: *The History of Sexuality* by Foucault (1978).

freedom over traditional notions of sexuality. A kink behaviour refers to ‘unconventional sensual, erotic, and sexual behaviour including... bondage, discipline, dominance, submission, sadism and masochism,’ as well as ‘exhibitionistic behaviours (arousal by being observed by others), voyeuristic behaviours (arousal by observing others), fetishistic behaviours (arousal by objects), and others’ (Rehor 2015, p.826). A number of ‘these behaviours [have been] described in clinical research as paraphilias’ (Fedoroff et al 1999, pp.127-129; Rehor 2015, p.826). A kink practitioner, therefore, refers to ‘a person who participates in at least one of the kink behaviours described’ and the ‘kink community’ refers to the community of kink practitioners (Rehor 2015, p.826). It is crucial to define these terms before examining the queer theory arguments for sadomasochism. In this first part of the chapter, I explore pro-sadomasochism arguments as advanced by queer theorists. The claims can be broadly understood as follows:

1. Sadomasochism is liberatory.
2. Sadomasochism is subversive/revolutionary.

I begin by explaining the concept of heteronormativity, a social system that is understood, by queer theorists, to be oppressive and facilitate the marginalisation of sexual minorities. I then discuss the pro-sadomasochism claims stated above.

1.2.1 Heteronormativity

Heteronormativity is a system of social practices, beliefs, standards, and attitudes that both define normative sexuality, and enforce it through prevailing sexual standards and norms (Bauer 2014, p.2; Habarth *et al.* 2019, p.185). Queer theory develops the concept of heteronormativity which has the following features:

1. Heteronormativity is defined as the belief that ‘heterosexuality is the human default sexual orientation’ (Ferrari *et al* 2021, p.2); it compels individuals within a society to abide by the standard of traditional heterosexuality, regardless of the sexual orientation of individuals, therefore positioning heterosexuality as normal and distinct from alternative deviant sexualities.
2. Heteronormativity dictates that there are socially acceptable (and unacceptable) sexual behaviours. Shame and stigmatisation are tools by which heteronormativity is enforced¹⁰.
3. The concept of heteronormativity includes the presumption that there are only two distinct sexes – male and female – and ‘two distinct genders that align perfectly with two biological sexes’ (Habarth 2015, p158). This particular understanding of gender as inextricable from biological sex is a fundamental characteristic of heteronormativity, for the existence of ‘normative heterosexuality cannot exist without fixed expectations of behaviour based on binary systems of gender’ (Habarth 2015, p.168). The structure of heteronormativity relies upon gender binaries and the concept of sex and gender as rooted in biological reality (Valocchi 2005, p.752).
4. When it comes to sexual relationships, heteronormativity positions men and women in a hierarchical relationship with masculine sexuality understood as active and aggressive, and feminine sexuality understood as passive and responsive (Eaton and Matamala 2014, p.1443; Habarth *et al.* 2019, p.185).

¹⁰ The shame associated with the enforcement of heteronormativity can be seen in a 2017 study of students by Hobaica and Kwon which found that after being exposed to heteronormative sex education, ‘more than half of the participants reported previously and/or currently engaging in self-blame and shame associated with their sexual identity’ (Hobaica and Kwon 2017, p.423).

Though heterosexism and heteronormativity are related concepts, heterosexism specifically targets non-heterosexual individuals, whereas heteronormativity can be understood as a wider system of norms and values which marginalises people with unconventional gender identities, sexual orientations, or sexual preferences. Norms, as dictated by heteronormativity, guide human action and practices, prioritising heterosexuality and dominant ideas of “normal” sexual relationships (Jackson 2006, p.106; Nielsen *et al* 2000). Due to the marginalisation of individuals whose sexual identities do not align with those favoured in a heteronormative system, queer theorists claim that it has a negative impact on those who belong to sexual minority groups, such as homosexual and trans-identified people. This also includes those within the BDSM community who, within a heteronormative system, are portrayed as sexual deviants. ‘Heteronormativity has been used [...] to pathologise, criminalise, morally condemn and discriminate against non-heteronormative ways of [living and engaging with one’s sexuality]’ (Bauer 2014, p.2; Habarth 2015, p.168).

In this section, I have explained the concept of heteronormativity, and explored how sexual norms can be seen to operate as restrictive limitations placed on people within a community to behave in ways that are considered appropriate within intimate relationships. I have highlighted the argument that, as such, heteronormativity marginalises people with sexual orientations or genders that are considered transgressive, and can have a negative impact on those who do not align with dominant norms such as homosexual people, trans people, and sadomasochists.

1.2.2 Sadomasochism as liberatory

In the previous section, I outlined the concept of heteronormativity. By definition, heteronormativity excludes and marginalises people who are not heterosexual, trans-identified people, and people whose sexuality does not fit within a certain narrative as regards sex roles (a female dominatrix, for

example). A key argument made by proponents of sadomasochism is that sadomasochism has the potential to be liberatory. Two of the claims made by queer theorists regarding the liberatory potential of sadomasochism are as follows:

1. Sadomasochism, in its rejection of heteronormativity, liberates people from the constraints of traditional norms related to gender and sexuality.
2. Those who do not conform to the heterosexual norm find solidarity in the kink community of 'sexual outlaws' (Rubin 2011, p.131).

I explain these claims in the following two sub-sections.

1.2.2.1 Liberation from gender norms

The first argument in favour of sadomasochism is that it liberates people from gender norms by providing a revolutionary framework. By examining hegemonic gender frames within sexual cultures, it is possible to best evaluate how those with marginalised sexual and gender identities can seek equality. In cases where such people seek greater recognition and acceptance, evidence suggests that they achieve such efforts through a reliance on reproducing hegemonic ideas of gender (Simula and Sumerau 2019, p.458). Thus, it is possible that through examination of these gender structures, people may discover new ways of understanding and framing gender that is more inclusive to those that transgress sexual norms. There is an argument that sadomasochism represents such a framework, with studies of the BDSM community suggesting that it offers members new ways to conceptualise gender and sexuality, as such potentially, albeit temporarily, liberating participants from the oppression of gender inequality (Califia 2000; Khan 2014, p.96). There are a number of arguments in favour of the liberatory potential of sadomasochism when it comes to gender and sexuality. I will discuss the claim that sadomasochism promotes the acceptance of diversity in gender and sexuality.

I will then explore the claim that sadomasochism, and lesbian sadomasochism in particular, liberates women from stereotypes of both female sexuality and queer sexual behaviour (Raj 2010, p.125).

Firstly, an argument put forward by queer theorists regarding sadomasochism's liberatory potential is that queer BDSM identities liberate individuals from the ideal of heteronormative sex, thereby threatening ideas such as: sex as natural, gender as innate, the sexual context as private, and the concept of "real" sex as necessitating vaginal penetration. This point is made by Robin Bauer in *Queer BDSM Intimacies* where they argue that 'dyke + queer BDSM' can be understood as 'creating alternative intimacies and, more specifically, exuberant intimacies, intimacies that reject reason, moderation, mediocrity, harmony and equality as well as reproduction and usefulness', all the while centring the BDSM community's understanding of informed consent (Bauer 2014, p.4). This sentiment is echoed by Darren Langdridge and Ofer Parchev, who claim that the BDSM community subverts heteronormative identities by offering an alternative model of sexual citizenship that embraces diverse intersectional identities (Langdridge and Parchev 2018, p.669). The idea that BDSM communities embrace diversity of identity is echoed by dominatrix Mz Berlin, who claims that, within the subculture, she sees 'a rainbow of sexualities based on a mix of gender roles – exploring roles that may differ from our biological sex' (Monroe 2010, p.255). Within the context of the kink community, people can choose their roles in a power dynamic rather than being forced to play a role that was assigned to them by gender norms. This is especially the case when it comes to same-sex partnerships; there is no heteronormative dynamic that prescribes a particular sexual script in the case of homosexual intimacy, and so participants are liberated to freely prioritise their own desires. Engagement in sadomasochism 'challenges the boundaries of sanctioned gender role behaviour by allowing either gender to assume dominant and submissive roles' (Sisson 2007, p.34).

The second claim is as follows: If one considers the hegemonic expectations around female sexuality oppressive, the argument follows that lesbian sadomasochism, by reimagining female

sexuality, is liberatory. Sexual norms dictate that female sexuality has historically been characterised by passivity, softness, and a willingness to please men (Fröander and Halkosaar 2019, p.19). This understanding of female sexuality could be considered a contributing factor to the relatively high levels of sexual dissatisfaction among women, as evidenced by, among other things, the orgasm gap (Mintz 2015). Wilkins writes that the prioritisation of romance limits the ‘emancipatory potential of [women’s] sexual agency’ (Wilkins 2014, p.187). Women are stigmatised for sexual promiscuity, but likewise are under pressure to appear sexually desirable, which constructs a female sexuality that is oppressive in its restrictiveness (Wilkins 2014, pp.186-187). Ideas about female sexuality have had repercussions in the way that lesbian sexuality is conceptualised. The expectations around a sexual relationship exclusively between women mirror those of female sexuality more generally.

The dominant ideas around lesbian sexuality replicate those around female sexuality; numerous radical feminist texts in particular idealise lesbian sexual relationships as gentle and tender. In ‘Come to Me Baby, or What’s Wrong with Lesbian SM,’ written in the early 1990s, Reina Lewis and Karen Adler criticised sadomasochistic lesbian erotica, taking issue with the ‘dramatic increase in fucking and violent sex,’ which they claimed marginalised the ‘nurturing, sisterly’ lesbian relationships as idealised in much radical feminist writing (Khan 2014, p.85; Lewis and Adler 1994, p.435). This focus on nurturing and sisterly lesbian intimacy is consistent with anti-sadomasochism writing about authentic lesbianism as prioritising emotional connection over physical pleasure (Khan 2014, p.85). Califia makes reference to this de-sexualised image of lesbian sexuality in *A Secret Side of Lesbian Sexuality* when he sarcastically writes the following:

True lesbians are not sex perverts. They are high priestesses of feminism, conjuring up the wimmin’s revolution. As I understand it, after the wimmin’s revolution sex will consist of wimmin holding hands, taking off their shirts, and dancing in a circle. Then we will all fall asleep at exactly the same moment. If we didn’t all fall asleep, something else might happen – something male-identified, objectifying, pornographic, noisy, and undignified. Something like an orgasm (Califia 2000, p.159).

In this section, Califia is parodying popular anti-sadomasochism views of lesbian sexuality. Califia argues that lesbian sadomasochism represents a challenge to the prescription that lesbians should be having ‘gentle and loving’ sex, the kind of sex that would most closely align with the oppressive norm of female sexual passivity (Califia 2000, p.172). Contrary to dominant ideas about female and lesbian sexuality, lesbian sadomasochists are unapologetic in their engagement with power play, their eroticisation of pain, and their prioritisation of physical pleasure. According to sadomasochism proponents, this more expansive representation of female sexuality has liberatory potential. It offers liberation in numerous ways:

1. It gives women the freedom to explore their sexual preferences and fetishes without stigma.
2. It queers the male/female, dominant/submissive binaries, thus freeing women from a prescribed submissive role.
3. It emphasises the importance of female desire and female sexual pleasure.

Many sadomasochism advocates, particularly when it comes to feminism, are lesbian sadomasochists whose ‘sexuality does not conform to... standards of purity’ (Rubin 1984, p281). Rubin in particular is keen to emphasise “pro-sex” arguments for BDSM that ‘emphasise its commitment to erotic diversity’ and its acceptance and celebration of ‘transgressive identities that are on the outer limits of institutional and ideological systems that stratify sexuality’ (Rubin 1984, p.281; see also: Glick 2000, pp.24-25). In this view, sadomasochism champions liberation from ‘normative sexual dynamics because of its focus on the whole body, explicit negotiation, heavy use of props, and the involvement of pain and humiliation’ for the sake of pleasure (Raab 2013, p.5).

1.2.2.2 Liberation through community

BDSM proponents argue that the formation of sadomasochism communities is fundamental to the pushback against the regulation of gender roles and sexual desire; such communities can be utilised as safe and liberatory spaces for individuals with non-normative or otherwise transgressive desires and identities. Those within the kink community could be considered ‘sexual outlaws,’ both in the sense that the kink community has a significant proportion of LGBT people, and in the sense that fetishistic or sadomasochistic behaviour can be seen as deviant in itself. From the early 20th century, lesbians and gay men were constructed as family and gender outlaws because of their deviance when it came to sex and gender. The construction of homosexual people as sexual outlaws came later, emerging largely from a fear of gay male hypersexuality (Calhoun 1998, pp.229-230).

According to data collected on Fetlife, one of the largest online kink communities, just 48.74% of the members self-identified as heterosexual (Fetlife 2014). If we compare this to the 2017 findings by the Office for National statistics, which found that 93.2% self-identified as heterosexual, it hints at a disproportionately large representation of LBGT people among kink communities (Office for National Statistics 2017). This overlap between the BDSM community and the LGBT community could be explained by referencing heteronormativity; members of both the aforementioned parties belong to the ‘sexual fringe’ as conceptualised by Gayle Rubin (Cameron 2018; Ardill and O’Sullivan 2005, p.108). Califia further conceptualises the sexual fringe by claiming that those within it are people who are at odds with conventional sexuality (France 1984, p.37). As such, both sadomasochists and LGBT people fall outside the heteronormative framework, a system that oppresses sexual minorities. Within a heteronormative system, sadomasochism and homosexuality are both organised within a framework of abnormality. Violent sex, as well as non-reproductive sexual practices, are seen to undermine the legitimacy of heteronormative sexual relations.

Sadomasochism, unlike homosexuality, remains classed as a psychopathology - as ‘an obsession with unusual sexual practices’ (Bauer 2008, p.237).

The LGBT community have historically been considered by many to be ‘sexual outlaws’ – although this is a less prevalent view today than it has been in the past – and thus their involvement in sadomasochism culture could be taken as an understandable progression, a union of those who have been cast out by traditional notions of sexuality. As Sara Vibes, a sex educator and performer stated: ‘If I’m already queer, what’s the difference if I’m also poly or kinky?’ (Scott 2015, p.130). According to Bauer, in the US and Western Europe, BDSM communities are organised around sexual preference or orientation, with a substantial gay sadomasochism presence, and a notably smaller ‘dyke’ BDSM community, which manifests itself at national and international kink gatherings (Bauer 2007, pp.178-179). Bauer claims that people within such communities ‘share the view that [sadomasochism] provides a safe space for people to fuck with their gender,’ and to have their sexual preferences and ‘gender identities respected’ (Bauer 2007, p.179). This ability to express one’s gender and sexuality freely and without judgement means that the sadomasochism community is considered by some to offer liberation to sexual and gender minorities.

1.2.3 Sadomasochism as subversive

The BDSM community has been criticised for replicating patriarchal gender power dynamics. Much radical feminist concern about BDSM, especially in the context of heterosexual partnerships, centres around the idea of the male dominant and female submissive as mirroring oppressive power dynamics to the detriment of women. This issue is summarised by Andrew Neil and Anne McClintock as a concern that BDSM ‘runs the risk of unleashing the dark side of human nature, with particular danger for women’ (McClintock 1991, p.207; Scott 2015, p.75). On the other hand, sadomasochism

proponents argue that participants understand the relationship between gender and their BDSM practice in non-heteronormative ways, often claiming that BDSM allows them the space to both reveal and subvert gender power imbalances (Bauer 2008; Simula and Sumerau 2019, pp.454-455).

In the next two sub-sections, I discuss the following claims:

1. BDSM settings operate as spaces within which norms of maleness and femaleness are not as rigidly enforced, and that such contexts allow for the subversion of gender power dynamics (Simula and Sumerau 2019, p.455).
2. Sadomasochism simulates rather than replicates existing power dynamics between men and women such that, rather than mirroring real-world gender power dynamics, BDSM subverts existing gender norms. Within the context of sadomasochism, individuals perform ‘scripted’ social power dynamics, making S/M a ‘theatre of signs’ (McClintock 1991, p.109).

1.2.3.1 Subversion of power dynamics

The criticism of how gender operates in the context of BDSM is largely based on an understanding of heterosexual sadomasochistic relationships as replicating existing power imbalances between the sexes. The idea then, in terms of criticism, is that ‘sadomasochism is a form of playing out genderised power dynamics in sex, by giving men the dominant, sadistic role and women the submissive, masochistic role,’ thereby strengthening and replicating the gender power imbalance in a way that is contrary to female empowerment (Lammers and Imhoff 2016, p.143). Gender norms dictate that male sexuality is active, and female sexuality passive, and this dynamic can be seen to play out in some sadomasochistic relationships. However, sadomasochism practitioners argue that it is not the case that this dynamic goes unexplored and unchallenged. Queer theory claims that sadomasochism offers practitioners role fluidity, and that, by queering the male/female and dominant/submissive binaries, it can reverse the social meanings that it borrows. An example of this reversal is the female

dominatrix, a woman whose sexuality is both active and dominant, contrary to traditional female gender norms. In this view, sadomasochism facilitates the embodiment of opposites. This destabilises gender roles and thus calls the naturalness of such norms into question (Cook 2006, p.125; McClintock 1991, pp.92-93):

The economy of S/M is the economy of conversion: slave to master, adult to baby, pain to pleasure, man to woman, and back again... Contrary to popular stigma, S/M theatrically flouts the edict that manhood is synonymous with mastery, and submission a female fate (McClintock 1991, p.87).

This means that, within the context of sadomasochism, roles are swiftly swapped, and this dynamic allows sadomasochists to manipulate and transgress heteronormative gender roles. Sadomasochism is generally considered non-heteronormative, but this is especially the case when it comes to female sadism and male masochism, which transgress not only the norm of sex as non-violent, but sexual gender norms around dominance and submission (Lammers and Imhoff 2016, p.143). By calling into question the innateness of sexual roles, sadomasochists claim to subvert oppressive gender norms.

Although the criticism of sadomasochism as mirroring ‘the power relationship between the sexes in our society’ (Scott 2015, p.101) is typically aimed at heterosexual sadomasochists, the criticism has also been levelled at gay and lesbian sadomasochists who have been accused of replicating these same dynamics. An argument against this claim is the idea that, in the case of a male-male or female-female couple engaged in sadomasochism, heteronormative dynamics are already deconstructed. In the case of a lesbian or gay couple, there is no dominant man controlling a submissive woman, there is only the potential for members of each sex to freely choose a role, unlimited by gender norms. As discussed earlier, there are some that believe that the liberatory power of sadomasochism lies in the freedom of participants to choose their roles within a given scene, and the fluidity to move between roles in a way that is not socially sanctioned under oppressive heteronormativity. The arguments made in that section remain relevant in the case of gay and lesbian

sadomasochism, and arguably to an even greater extent. On the subject of the fluidity of roles within the sadomasochism community, Califia claims that:

The roles, dialogue, fetish costumes, and sexual activity are part of a drama or ritual. The participants are enhancing their sexual pleasure not damaging or imprisoning one another (Califia 2000, p.172).

In the context of such partnerships, the organisation of sexual desires and sexual roles shifts, with much of the practice revolving around sexual fantasy rather than following a gendered script (Raj 2010, p.127). Bauer describes the freedom to choose roles and role-play in sadomasochism as the most common vehicle for the exploration of gender by those within the BDSM community (Bauer 2008, p.245).

Lesbian and gay sadomasochists are given the opportunity to role-play the power dynamics of everyday relationships without replicating them (daddy/daughter, mommy/son, and teacher/student are a few examples of this) (Taylor and Ussher 2001, p.303). While these tropes appear to reflect heteronormative power dynamics, people of any gender are free to choose to play roles that are not typically embodied by people of that gender, thus subverting the norm. If a sadomasochist chooses to embody a role that does not typically align with their gender, the sexual scene is transgressive; on the other hand, even in cases where the individual does embody their traditional role, the act can be subversive due to the way in which roles are consciously chosen and acted out, rather than prescribed (Ritchie and Barker 2005, p.303; Langdrige and Butt 2004, p.67). Some argue that gay and lesbian sadomasochists are exempt from criticisms regarding the replication of heteronormative power dynamics due to the belief that, within such partnerships, both individuals have the same access to gender power (Roesch Wagner 1982, p.33). From this perspective, the sadomasochism community not only offers solidarity among the sexual fringe, but gives gay and lesbian couples greater freedom to play with power and gender, to explore their sexuality through the

adoption and subversion of gendered roles, and to challenge hegemonic power structures (Bauer 2008, p.243).

1.2.3.2 Simulation, theatre, and performance

Finally, I will discuss the claim that sadomasochism is subversive because it allows for performance, fluidity of roles, and the simulation rather than replication of harmful power dynamics. Sadomasochism is often conceptualised as fantasy, in opposition to reality. Some sadomasochism proponents make the claim that fantasy is crucial to contextualise sadomasochistic activities (Yost 2007, p.137). In sadomasochism, fantasy is argued to play an integral role, with pro- sadomasochism activist Pat Califia writing that ‘the key word to understanding S/M is fantasy,’ and highlighting how the ‘roles, dialogue, fetish costumes, and sexual activity’ all play a part in what they term the ‘drama or ritual’ of an S/M scene (Califia 1981, p.172; Yost 2007, p.136). The claim that sadomasochism is performative is echoed by Weiss and McClintock, with the former writing that sadomasochistic scenes constitute ‘sexual performances’ (Weiss 2011, pp.19-20). One study found that sadomasochists described sadomasochism as distinct from reality, which indicates a differentiation between power relations in day-to-day life, and those enacted in the context of BDSM (Raab 2013, p.8; Ritchie and Barker 2005, p.234). Through their understanding of sadomasochism as fantasy, proponents frame sadomasochism as a simulation of gender power dynamics rather than a replication of them¹¹ (Yost 2007, p.137).

By claiming that sadomasochism is performative, practitioners position themselves as performers who act out ‘scripted’ social power dynamics (Hopkins 1994, p.123; McClintock 1991,

¹¹ The claim that sadomasochism simulates rather than replicates power dynamics will be addressed in more detail later in this section.

p.89; Raab 2013, p.8). Through the control of the script that is being played out, sadomasochism can be considered a ‘theatre of signs,’ which offers practitioners ‘temporary control over social risk’ (McClintock 1991, p.109). The script allows the sadomasochist to play out a scene that gives the illusion of a loss of control, although the reality is the opposite; the scene is, in fact, a setting managed with extreme control. ‘Control frames’ are fundamental to the sadomasochist in the control of social risk. Erving Goffman’s *Frame Analysis* argues that contextualising a scene and understanding the norms that govern the interactions within it is crucial to the production of meaning (Goffman 1974; Persson 2019, p.47). In the case of sadomasochism, control is established through practices such as the screening of partners, the use of safe words, the negotiation of boundaries, and scripting, and the mastering of the control frame is important to practitioners for assurance under otherwise risky circumstances (McClintock 1991, pp.109-110). Each element of a sadomasochistic scene, from the script to the costumes, is a sign that contributes to the establishment of control. By claiming that sadomasochism is a scripted ‘theatre of signs,’ proponents attempt to push back against the claim that argues that the dominant is in control and the submissive is not; to make that claim is, according to McClintock, ‘to read theatre for reality’ (McClintock 1991, p.87). Furthermore, sadomasochism can be considered ‘theatre’ through its use of props. Journalist Allegra Taylor wrote of her experience visiting a dungeon that she was ‘amazed by the sheer volume of props and costumes,’ and went on to compare the dungeon to a theatre warehouse or film set (Taylor 1991, p.110). In its performative nature, sadomasochism makes use of props and costumes such as chains, ropes, whips, and blindfolds, borrowed from the ‘everyday cultures of power’ (McClintock 1991, p.89). In their utilisation of props and sets, a parallel can be drawn between theatre and sadomasochistic scenes.

I will now discuss the claim that sadomasochism does not replicate dominant gender power dynamics but simulates them. Patrick D. Hopkins describes the difference between replicating and simulating, arguing:

Replication implies that SM encounters merely reproduce patriarchal activity in a different physical area. Simulation implies that SM selectively replays surface patriarchal behaviours onto a different contextual field. That contextual field makes a profound difference (Hopkins 1994, p.123).

In other words, whether or not an action replicates patriarchal activity depends on contextual field. The same action could be a replication or a simulation depending on the context within which it took place; one must examine the ‘contextual field’ in order to determine how one ought to judge whether something is a replication or not. Making his argument that sadomasochistic scenes are a simulation, Hopkins writes that sadomasochists might participate in rape scenes, but they do not rape; they might participate in kidnapping scenes, but they do not kidnap. The inclusion of the word ‘scene’ is important in that it distinguishes between patriarchal activity and a simulation of such. Sadomasochistic scenes are, in this view, performances and do not represent real instances of the power dynamics from which they borrow. There can be many similarities between the reality and the simulation, but such similarities are not necessarily sufficient to consider something to be a replication (Hopkins 1994, pp.123-124). In order to clarify how a simulation differs from a replication, I will draw attention to an example of patriarchal violence: rape¹². Rape is, essentially, defined by a lack of consent on the part of the victim. Without the necessity for a lack of consent, the concept of rape would be meaningless¹³. In the case of a rape scene as enacted by sadomasochists, the individual in the ‘victim’ role has negotiated with the ‘rapist’ prior to the scene and established boundaries, safe words, duration, setting, and so on (Hopkins 1994, pp.123-124). What defines rape as rape is absent from a BDSM rape scene, thus it can be regarded as a simulation.

Hopkins further clarifies this concept by using the example of a roller-coaster, claiming that roller-coasters represent a simulation of danger, in the same way that sadomasochism represents a simulation of violence, domination, and submission (Hopkins 1994, p.196). If sadomasochism can be

¹² The FBI defines rape as ‘penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim’¹² (RAINN 2020).

¹³ Discussions of the validity of consent will appear in section 1.3.2, as well as in later chapters.

understood as a simulation, then when one consents to participate in a scene, they are consenting to a simulation of violence rather than consenting to actual violence¹⁴. Contextualising sadomasochism as requiring consent, instead, to a simulation rather than a replication is a way of side-stepping the problem of the validity of consent to violence (Stear 2009, pp.22-23). In this way, sadomasochists can be seen not as replicating a patriarchal power imbalance, but replaying ‘surface patriarchal behaviours onto a different contextual field’ (Hopkins 1994, p.196). This means that, rather than enjoying actual violence, humiliation or degradation, which sadomasochists may find ‘repugnant and horrible’, they enjoy the simulation of violence and degradation, something that is similar to the gender power dynamics observable in wider society, but not a replication of them (Hopkins 1994, p.126; see also: Stear 2009, p.28). Queer theory makes the claim that sadomasochists subvert patriarchal norms through the adoption and performance of non-conventional roles, and through the replication of ordinarily harmful sexual scripts in a simulated way.

1.3 THE LIBERAL DEFENCE

The previous section concerned itself with the key defences of sadomasochism as put forward by queer theorists. In this section, I elaborate on the ideas that constitute what I have called ‘The Liberal Defence,’ and briefly sketch the liberal view. In the first part, entitled ‘Liberalism and the Harm Principle,’ I provide historical context for discussions on liberalism by examining the work of John Stuart Mill, and explaining the Harm Principle as fundamental to an understanding of the liberal perspective. The liberal prioritisation of autonomy, choice, and consent will be briefly touched upon here. This will lead to the second part (section 1.3.2) in which I further discuss the concept of consent as a core tenet of liberalism. I then discuss the limitations of consent, making reference to arguments

¹⁴ The ‘simulation’ concept poses a problem for radical feminists who claim that it is not possible to consent to violence within the context of a patriarchal society.

from those who believe that there is a limit to the harm that one can consent to, and those who do not. Whether or not an individual can consent to substantial or permanent harm, particularly in cases where there is objectively little to gain, is contested; I use this section (1.3.3) to bring the points of that debate to light.

Although liberal theorists have tended to shy away from social constructionist views of the world at the risk of sliding into cultural relativism, there are some, such as Clare Chambers, who have attempted to strike a balance between liberal theory and social constructionism in an effort to thicken the liberal argument. In section 1.3.4, I outline and discuss these ideas, and the concept of a liberalism which recognises the ways in which identities are socially constructed and our preferences shaped. In the final part, I particularise the arguments in favour of liberalism by relating them specifically to sexual conduct. This part will make the case that, for the majority of liberal theorists, sadomasochism is permissible through the prioritisation of personal choice and freedom. In the middle ground, where liberalism is fleshed out with an acknowledgement of the influence of socially constructed norms, the permissibility of sadomasochism is more contentious.

1.3.1 Liberalism and the Harm Principle

In this section, I sketch the core ideas of classical liberalism and, specifically, the work of J.S Mill. I explore the foundational tenets of liberal theory as defined in *On Liberty*, and will elaborate on the Harm Principle, a principle that remains central to liberal thought. I then discuss Mill's objection to the slave contract and the freedom not to be free, as examined in the work of David Archard. Finally, I briefly explore the concepts of autonomy and consent as central to the liberal framework. My aim in this section is to ground our understanding of liberal ideas, lay the foundation for later arguments regarding the expansion of classical liberalism to incorporate social constructionism, clarify the

meaning and importance of the Harm Principle in liberal theory, and touch upon consent as a primary concept of liberal ethics, an idea that will be explored in detail in chapter two.

In his essay *On Liberty*, Mill argues that each individual should be afforded liberty of conscience, liberty of tastes and pursuits, liberty of individuals to unite, and liberty to pursue their own good in their own way (Mill 2001a, p.16). Liberty of conscience requires that citizens have freedom of thought and feeling, as well as absolute freedom of opinion, though it does not cover all instances of expression. Liberty of tastes and pursuits affords individuals the freedom to frame the plan of their own life to suit their own characters, and incorporates negative freedom as defined by the freedom to act without impediment¹⁵. The liberty to unite allows individuals to gather in their own interests, if it is the case that their gathering will not cause substantial harm to another. Finally, and crucially, the liberty to pursue one's own concept of the good gives individuals the freedom to live in such a way as 'seems good to themselves'; Mill claims that 'mankind are greater gainers,' when individuals are given the space to live in accordance with their own understanding of the good life, rather than being compelled to 'live as seems good to the rest' (Mill 2001a, p.16). As such, Mill's liberalism does not endorse a particular concept of the good life, but facilitates each person in discovering and pursuing the good life as they understand it. He notes that there is no way to objectively measure which course of action is best for an individual, but that if someone has a 'tolerable amount of common sense,' (Mill 2001a, p.132) we can make the assumption that the life that they have chosen for themselves is best suited to their needs and well-being (Snowdon 2018, p.88). This refusal to advocate for a universal, non-neutral concept of the good is a fundamental element of classical liberalism, but is contentious in contemporary liberal theory¹⁶, and a complete

¹⁵ This, again, is subject to the Harm Principle. One may act without impediment, except in cases whereby there would be harm caused to the other.

¹⁶ Some contemporary liberals, such as Brian Barry, argue for a non-neutral concept of the good. This will be explored in more detail in the 'Liberalism and Social Constructionism' section.

dismissal of the implications of social construction might today be better described as libertarianism. The prioritisation of individual freedom is favoured today by libertarians; libertarians value individual freedom, endorse strong rights to individual liberty and private property, and reject state coercion even in an individual's best interests (Van der Vossen 2019). Furthermore, libertarians 'ignore the implications of social construction and consider individual choice to be the final and unproblematic beginning of normative theory' (Chambers 2008, p.9).

In an effort to protect individual liberties, Mill proposes a principle that might 'govern absolutely the dealings of society with the individual,' (Mill 2001a, p.13) without interfering in the autonomy of its citizens. He explains the principle as follows:

That principle is, that the sole end of which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number in self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant (Mill, 1975: 13).

This 'Harm Principle' asserts that a 'community is entitled, by means of its laws or through social pressure, to prevent someone from doing that which harms another, but is not justified in compelling somebody to do or not do that which it judges to be harmful to the agent alone' (Archard 1990, p.453). In this excerpt specifically, Mill does not mention harm to the self, though his position does render self-harm permissible. Furthermore, it allows for harm to a third party in cases whereby the third party is fully informed and consents to the relevant harm. In *Utilitarianism*, he 'endorses the maxim *volenti non fit injuria* as the doctrine that "that is not unjust which is done with the consent of the person who is supposed to be hurt by it"' (Brink 2018; Mill 2001b, p.28). In saying this, Mill is not denying that an individual can be harmed by an act in which they consensually partake, but that, if one consents to a harmful activity, then no injustice has been done; the responsibility lies with the individual who knowingly consented. Evidently, consent is crucial in determining moral permissibility in accordance with the Harm Principle.

Although Mill's Harm Principle does allow for a degree of consensual harm to others, and harm to the self, Mill does draw a line when it comes to what Archard refers to as the 'freedom not to be free' (Archard 1990, p.453). He asserts that a person should not be permitted to sell themselves or consent for themselves to be sold into slavery, on the basis that, by selling themselves as a slave, a person gives up their liberty. The primary purpose of Mill's liberalism is to ensure freedom for individuals, making it contradictory to abdicate liberty. Mill states that the 'principle of freedom cannot require that he should be free not to be free,' and that 'it is not freedom to be allowed to alienate his freedom' (Mill 2001a, p.94). As previously discussed, Mill's liberalism is anti-paternalistic in its insistence that the state should not interfere with the personal autonomy of an individual on the basis that it is 'for his own good,' as to conceive of what is best for someone is to assume that one knows better than the individual in question as to how he ought to live. As such, liberalism is committed to neutrality rather than interference (Chambers 2008, p.166; Schaeffer 2001, p.701). Still, in the case of a slave contract, Mill has been accused of slipping into an, albeit minimal, kind of paternalism¹⁷ (Archard 1990, p.454; Feinberg 1971, p.116).

Both consent and autonomy are crucial concepts in the liberal framework. Autonomy is a 'word derived from the Greek', and it literally means 'the having or making of one's own laws' (Feinberg 1989). Therefore, it can also be thought of as 'self-rule' or 'self-determination,' and it refers to the sovereign authority to self-govern (Feinberg 1989). Autonomy concerns the interest that individuals have in making decisions about the course of their own lives, without interference or manipulation; the 'right of individuals to make such choices deserves respect for so long as the choices are, in a specified minimal sense, autonomous, that is to say, informed, voluntary and rational'

¹⁷ Crucially, Mill claims that a slave contract should be considered 'null' and 'void,' and therefore it might be the case that he is claiming only that such a contract should not be legally unbreakable (Archard 1990, p.455). As to whether or not his argument about the illegitimacy of a slave contract is consistent with his liberty principle, Archard makes the case that it is not; he claims that Mill must either be referring to a modified form of the liberty principle, or to a potential amendment to the principle, both cases of which would have a knock-on effect on how his principle can be applied to other such scenarios (Archard 1990, pp.464-465).

(Archard 2008, p.21). Autonomy and consent can be closely related, and often are in practice. The question as to why autonomy is valued by Mill, whether it be intrinsically or instrumentally, remains uncertain, but some argue that its value lies in its ability to afford individuals the space to lay out their existence (Archard 2008, p.21; Dworkin 1988, p.15; Mill 2001a, p.133). Dworkin claims that ‘autonomy is [concerned with] a whole way of living one’s life and can only be assessed over extended periods of a person’s life’ (Dworkin 1988, p.15).

As discussed by Dworkin above, autonomy, unlike consent, is understood as something that can be assessed over the course of a life, rather than something that is considered in each and every autonomous decision made by an individual. Autonomy is valuable ‘insofar as it concerns a matter critical to the leading of a life,’ with autonomous decisions being significant in shaping the course of someone’s life (Archard 2008, p.22; Feinberg 1989). Within a liberal framework, autonomy is valued more highly than other values, and therefore it can be said to be a ‘thick value in the liberal model’ (Widdows 2018, p.199). On the other hand, consensuality can be assessed in each action, and it is as closely tied to the specific act as it is to the individual involved; autonomy can be an enduring quality of a person in a way that consensuality cannot. Consent is, therefore, not a lasting state of mind but an act¹⁸ (Hurka 1987, p.361, p.368; Snare 1975, pp.27-28). Autonomy can also be understood in more detail in categories of negative freedom, first-order autonomy, and second-order autonomy, as explained by Clare Chambers, and this will be dealt with in more detail in chapter five (Chambers 2008, pp.161-162). The question remains as to what the relationship is between autonomy and consent. If autonomy can be said to reside in the ‘ability to will the alteration of moral rights and duties,’ and if it is the case that ‘consent is normatively significant’ because it is an expression of autonomy, then it follows that to consent is to exercise the will (Hurd 1996, pp.124-125). When one

¹⁸ One can also consent in the mind, in the sense that they can think a certain way about consenting to an act, but this does not necessarily define it as a state of mind. It is tied to a particular action.

acts upon another without their consent, such an act can be considered a violation of that person's autonomy. Their autonomy is what allows them to make decisions regarding their own lives, and being acted upon without consent takes away the individual's capability to make such decisions. Non-consensual interactions are, thus, a threat to the autonomy of those acted upon (Archard 2008, pp.20-21). In the next section, I explore the moral significance of consent, and show how, within a liberal framework, consent can be considered to have normative power.

In this part, I have sketched the liberal framework beginning with J.S Mill's *On Liberty* as a foundational text of classical liberalism. I have touched upon the ideas of autonomy and consent as they relate to the liberal framework. In later sections, both of these concepts will be explored further. The next part will focus on consent, the requirements for valid consent, and the morally transformative power of consent.

1.3.2 The Moral Significance of Consent

In the last section, I discussed the concept of autonomy and showed how it relates to consent. In this section, I explore the concept of consent in more depth, explaining what it is and what is required for consent to be considered valid.

Mill's liberty principle applies only in cases whereby the individual gives their 'free, voluntary, and undeceived consent' (Mill 2001a, p.15). Accordingly, consent is valid for Mill only in cases where it is freely given and where the individual is fully informed as to the potential consequences of their actions. Furthermore, he claims that the Harm Principle applies only to 'human beings in the maturity of their faculties'; he elaborates here by explaining that children and those who are necessarily taken care of by others – such as those with certain disabilities – must be afforded protection against their own potentially harmful actions and against injury from other parties (Mill

2001a, p.14). Mill hereby establishes the conditions that must be met for someone to be considered capable of giving consent to harm, whether self-harm or harm by others; those who do not meet the necessary conditions must be protected in their own best interests. It is reasonable to say, then, that Mill believes that consent can be given under the following conditions: by someone who is an adult without disabilities that impair cognitive function, who is informed, and who acts without coercion or manipulation. I will now discuss the meaning of consent and its validity in a contemporary context.

I will begin by explaining the meaning and significance of consent. There are four key claims about consent that can be identified, and these are discussed by Archard in the book *Sexual Consent*. Firstly, when one gives consent it makes a difference to the situation and changes the normative relationships between people in the given scenario. Secondly, there are actions which can be morally transformative that are not consent; there are ways to generate permissions without consent that could still be morally permissible. Thirdly, the giving of consent is an intentional act. Finally, consent involves a certain mental state, but is not a mental state in itself¹⁹; it is possible for someone to consent without an awareness of what they have consented to, and it is also conceivable that someone might consent to something without wanting or approving of that which they consent to, however ‘consent, whether express or tacit, is given rather than simply assumed in the absence of any sign to the contrary’ (Archard 1998, pp.3-4). When consent is morally transformative it changes an immoral act into a moral one. In the contexts in which it is freely given, it ‘transforms the normative expectations that hold between people and groups’; as such, it can potentially function as a ‘proprietary gate’ that one opens to allow another person to act in ways that would be morally impermissible absent the act of voluntarily opening such a gate (Kleinig 2009, p.4). For example, a lack of consent can transform voluntary euthanasia into murder, and the opposite is also true where consent is given (Primoratz 2001, p.201). Therefore, from a liberal perspective, consent alters the morality of someone’s action,

¹⁹ Some dispute this claim; the various claims about how consent works will be discussed in chapter two.

making an action right when it would be wrong under other circumstances; it ‘derives its normative power from the fact that it alters the obligations and permissions’ that determine the rightness or wrongness of someone’s actions (Hurd 1996, pp.123-124; Katz 2006, p.628). If we return to the Harm Principle then the harm is no longer harmful, or at least is morally permissible harm, if it is freely consented to. This applies to sadomasochism, as the individuals involved may be consenting to participate in acts that are likely to cause them harm. There are three key features that render consent valid from a moral perspective²⁰. I will be discussing valid consent from a moral rather than a legal standpoint as the law has social purposes that morality does not have, and thus, in its purpose to provide societal-wide guidance, it may deviate from purely moral considerations (Husak 2009, p.22; Katznelson 1994, p.615).

In the liberal model, consent is valid when it meets three fundamental criteria: First, the consenting individual must have the full information and the capacity to understand it; Secondly, they must be competent, with children and those with cognitive impairments, for example, being considered incompetent; thirdly, consent must be given without coercion or inducement. For example, consent is not valid if it is obtained through coercion or manipulation, if it is given in ignorance of some crucial piece of information, or if it is offered by someone who is suffering from severe cognitive impairment (Archard 1998, pp.2-3; Widdows 2018, p.203). There is much that could be said about informed consent, as regards the extent of the information that must be provided. Furthermore, the term ‘coercion’ is a complicated one when it comes to consent, as a social constructionist might argue that the social construction of identities and preferences equates to a kind of coercion, influencing people in their choices and thus calling the validity of their consent into

²⁰ Although there are certain features that are necessary for consent to be considered legally permissible and these largely overlap with the liberal understanding of valid consent that is morally permissible, I will focus here on the moral rather than the legal.

question²¹. These issues are worth addressing, and will be returned in later sections, as they extend beyond what can reasonably be covered here. In the next section, I discuss two commonly-held but different, liberal perspectives on the limits of consent.

1.3.3 The Limits of Consent

In this section, I look at the two broad ways that liberals understand the limits of consent; the first is that there ought to be no limit to the harm that one can consensually participate in, and the second is that there are ways liberals can regard some forms of harm as morally impermissible, regardless of consent.

Firstly, I explore the argument that there ought to be no limit on the extent to which someone can consensually partake in harmful activities, a view put forward by Mill²² and contemporary libertarian theorists²³. Recall the core liberal claim is that individuals should determine their own good, without state interference, limited only by the harm principle. This implies that someone can consent to being violently beaten, or even killed, and such an act could be considered morally permissible. The consenting person has been harmed, but they have not been wronged; their consent was morally transformative with regard to the act committed. The key argument for this position is that anti-paternalism is crucial in order to maintain the autonomy of the individual, something that is valued above all else. When autonomy is prioritised, paternalism is seen as an infringement on a fundamental element of liberty (Snowdon 2018, p.29). Paternalism, in this view, violates the

²¹ This is the argument made by many feminist theorists, for example, such as Catharine MacKinnon (Schaeffer 2001, pp.699-707). Clare Chambers attempts to reform liberalism through an acknowledgement of socially constructed identities, and I will discuss her work in the section on 'Liberalism and Social Constructionism'.

²² Except, as we have seen, in the case of a slave contract.

²³ It is important to note that Mill could not be considered a libertarian. Libertarianism came about in the mid-twentieth century. Mill did not advocate for a free-market economy as libertarians do, but for a market socialist system as detailed in his *Principles of Political Economy* (Bruenig 2013; Brink 2018). However, in discussing the freedom to consent to harm, Mill's position aligns most closely with what would now be referred to as a libertarian position.

autonomy of the individual, regardless of the consequences of interference or lack thereof. Even if acting with good intentions, a breach of autonomy can be considered morally impermissible through the objectification of the person in question, and the failure to treat them as an autonomous person. The right to autonomy ensures negative freedom, in that it protects an individual's right to live make choices about their own life without interference. (Archard 2008, p.26; Chambers 2008, p.161; Kim 2019, p.21; Mill 2001a, p.13). This sentiment is echoed by libertarian philosopher Robert Nozick, who opens his book *Anarchy, State, and Utopia* as follows: 'Individuals have rights, and there are things no person or group may do to them (without violating their rights)' (Nozick 1974, p.1). From this perspective, the interference in someone's freedom, and the violation of their autonomy, trumps consensual harm in terms of moral impermissibility, and thus the argument follows that what is moral is that which protects autonomy. If a state 'transgresses the narrow boundaries defined by rights [then it] becomes an illegitimate state since it violates the rights of individuals' (Nozick 1974, p.1). On a practical level, Tadros explains that, were we to employ an upper level of harm as a limitation for morally permissible conduct, then an act such as surgical intervention becomes problematic on the basis that surgery, with informed consent, causes substantial harm, albeit to a likely positive end (Tadros 2011, p.28). Therefore, there are no limits to self-harm on this view as to limit this would be to limit autonomy and to be paternalistic.

To illustrate the complexities of this perspective, Feinberg draws our attention to the example of a policeman who comes upon a man attempting to cut off his own hand. According to Feinberg, the policeman would be justified in using force to stop the man in his efforts on the basis that he believes that nobody would voluntarily and freely choose to do such a thing. However, should the man offer proof that he is, in fact, calm, competent, and free, then Harm Principle should deem the man's actions to be morally permissible on the basis he is harming no one else and his action is autonomous. There is, in the most limited sense, a kind of paternalism in this case, but one that is

weak enough to be allowed according to the harm principle; the rule being that interference in liberty can be allowed in cases whereby the voluntariness of the action is called into question, and such interference can cease with evidence of such voluntariness (Feinberg 1971, pp.111-113). This would be consistent with the protection of autonomy, as consent can only be valid, as seen above, in cases whereby it is given voluntarily.

The case discussed above can also be utilised as a point of reference for liberals with an opposing view; this is the second of the two viewpoints I discuss in this section, and one that allows for some limitations when it comes to consent. The two points that I discuss here are as follows:

1. There are very few purely self-harming activities and, particularly when talking about extreme self-harm such as consensual brutal violence or death, the harm may extend beyond the individual.
2. The limitations on consent to harm ought to be considered, by liberals, in light of social constructionist theory, which might limit the extent to which someone can consent to substantial harm.

On the first point, Feinberg notes that ‘the public interest is always involved, at least to some small extent, when persons harm themselves’ (Feinberg 1988). This is the case, he claims, because when someone harms themselves then society is no longer able to benefit from the services that might have been provided by the individuals in question. From this perspective, suicide, for example, is not purely self-harm but causes societal harm by depriving society of the benefits offered by the individual; the suicidal person may have consented to their death, but those who lose out on what that person had to offer did not give consent to be affected in this way. When someone engages in consensual self-harm – or harm done to oneself by a third party – there is potential for such harm to impinge upon the rights of others in ways that might not immediately come to mind (Husak 2009, pp.21-22; Kim 2019, p.20).

If we return to the man who wished to cut off his own arm, he chose, and consented to, the self-harm, and thus those with a libertarian perspective on that issue could claim that his actions were morally permissible. However, let us imagine that the man in question had a wife and children. He goes to work every day to make money to pay the family's bills. By cutting off his own arm, he is severely hindering his abilities when it comes to work; it is possible, depending on what his job is, that he will no longer be able to work without the use of both his arms. Without his job, the family will struggle financially. Thus, he can be forbidden to cut off his own arm; though he is exercising his bodily autonomy, he is also indirectly harming others through his actions, making them morally impermissible. In such a case, an individual may be committing the act with informed consent, but that act may 'impose burdens upon other parties who have not consented and who would not have consented if given the choice' (Kim 2019, p.20).

The concept of self-harm as indirectly inflicting harm upon those who have not consented has frequently been extended in social constructionism, in particular by feminist theorists, by pointing to the ways in which, for example, pornography could have an impact on the social position of women in society. This leads me to my next point, and one which I will touch upon only briefly here: liberal theorists who attempt to marry a liberal view of the world with an acknowledgement of identities and preferences as, at least partially, socially constructed could argue that consensual harm is not always morally permissible on the basis that individuals are limited in their choices and influenced in their decisions by their social circumstances. From this perspective, 'autonomy is developed in a social context,' and the 'nature of an individual's ability to choose is shaped by [their] particular social and cultural memberships' (Chambers 2008, p.14. See also: Kymlicka 2000, p.83). This is the argument put forward by Clare Chambers, and this will form the basis for the discussion in the next section, and in chapter five.

In this section, I have discussed two key liberal perspectives on the potential limits of consent to harm. I have explored the argument whereby autonomy is valued above all else, and thus any violation of autonomy is morally impermissible. On the other hand, I have laid out the argument that consent to harm ought to have a limit on the basis that: 1) Indirect harm can be caused through acts of consensual self-harm. 2) A person's ability to make decisions could be influenced by their circumstances, and thus a reformed liberalism should account for some degree of social construction. The last of these points will be dealt with in the next section where I explore the claim that a more robust liberalism might acknowledge the ways in which one's ability to make decisions is impacted by their social position.

1.3.4 Liberalism and Social Constructionism

In the last section, I looked at the ways in which liberals consider the limits of consent. Here, I examine the attempts to forge a middle path between social constructionism and liberalism, undertaken in an effort to reform liberalism into a more robust philosophy of freedom. Firstly, I touch upon the traditional liberal view of social constructionism, before explaining what the latter means. I look at the work of Clare Chambers, and establish which elements of liberalism and which elements of social constructionism she holds on to and why. Finally, I show how this could be seen to establish a liberalism that functions more effectively.

As discussed in previous sections, autonomy and freedom of the individual are fundamental to a liberal framework. It is the case, as highlighted previously, that autonomous individuals will sometimes choose to act in ways that cause harm to the self, or harm to a consenting third party. The Harm Principle establishes that such conduct is morally permissible on the basis that it is consensual, and therefore the harmed party has not been wronged as a result of the harm inflicted on them. A

libertarian perspective ‘[ignores] the implications of social construction,’ instead considering ‘individual choice to be the final and unproblematic beginning of normative theory’ (Chambers 2009, p.9). Such a perspective assumes autonomous agents who participate in the field of social interaction without being constructed by it (Schaeffer 2001, p.701). In this view, championed by Nozick among others, neither the state nor citizens within it should be permitted to restrain or interfere with the liberty of others for altruistic or paternalistic reasons. Though this rules out coercion, it may allow for the ‘soft paternalism’ of nudge theory (Nozick 1981, p.503; Snowden 2018, p.90). Nozick does not claim that we have no obligation to help others within our society, but does deny that such obligations are enforceable on the basis that the ‘realm of the state’ does not ‘exhaust the realm of the morally desirable’; in other words, it is not the responsibility of the state to enforce moral obligations (Nozick 1981, p.503). Although liberalism makes claims to provide equality and universal freedom, it has often failed in that attempt when it comes to women (Chamber 2009, p.8; Nussbaum 1999, p.10; Schaeffer 2001, pp.699-700). Feminist Robin Morgan goes as far as to describe the rejection of liberalism by some feminist theorists as refusing ‘a piece of the pie as currently and poisonously baked’ (Morgan 1996, p.5; Schaeffer 2001, p.699). Some feminist scholars, including Catharine MacKinnon, have pointed out that autonomy can be undermined by social norms and values that influence the decisions that people are likely to make (MacKinnon 1991, p.184). A defence of liberalism is offered by Nussbaum and Chambers among others, and I will now discuss such a defence.

Firstly, I look at liberal values, and show how these are preserved in the models advanced by Nussbaum and Chambers. I then discuss how they make the case for an acknowledgement of social construction. Finally, I finish by explaining how, by means of finding a middle ground between liberalism and social constructionism, it is argued that a more robust liberalism is formulated. The fundamental ideas of liberalism are that all human beings are of equal worth in virtue of their

capacities for reasoning and decision-making; thus, liberalism is anti-feudal, and opposes the formulation of hierarchies based on caste or birth. Nussbaum makes the case that the liberal model of equality should be applied to women and to the relations between men and women, and that, in accordance with the liberal tradition, each human being ought to be treated as an end in themselves rather than as a means to an end (Barry 2000, p.71; Nussbaum 1999, p.10). The latter of these carries particular weight when it comes to women, in the sense that, according to Nussbaum, women have frequently been regarded as a means to an end, rather than free and autonomous beings in their own right. Furthermore, she refutes the common feminist claim that liberalism has failed to account for social construction, pointing to Mill's acknowledgement that to call women's sexual personalities natural is as plausible as 'to put a tree one half in a vapor bath and the other half in the snow— and then, seeing that one half is withered and the other half luxuriant, to declare that it is the "nature" of the tree to grow that way' (Mill 2001b; Nussbaum 1999, p.13). Finally, when it comes to liberalism and choice, she makes the following claim:

Liberalism concerns itself with freedom and with spheres of choice... In this sense, liberalism has to take a stand about what is good for people... the goal should always be to put people into a position of agency and choice, not to push them into functioning in ways deemed desirable (Nussbaum, 1999: 13).

Nussbaum deviates from classical liberalism by arguing in favour of a liberal judgement of the good; though she does not advocate interference in the liberty of individuals, she does make the case that there can be a liberal 'good' as something maximisable where possible without breaching individual autonomy. The argument can be made that liberal values themselves represent the good, but this leads further issues to arise as to the extent to which liberal values should be enforced in non-liberal societies or communities; such enforcement would compromise the liberal value of autonomy²⁴, but,

²⁴ It is relevant here to mention Chambers's understanding of first and second-order autonomy (Chambers, 2008: 161). One can potentially be compromised without impacting the other.

without standing behind liberal values, there is a struggle to ensure the autonomy of those suffering under an explicitly non-liberal regime.

In a similar vein, Chambers draws attention to the, often painful and expensive, ways in which women conform to standards of beauty. They do this, she says, ‘to please others, to avoid sanctioning from others, or to gain their approval,’ and to ‘please themselves’; fundamentally, their desire to participate in such practices is shaped and regulated by their social circumstances (Chambers 2008, pp.3-4). Liberalism, she claims, cannot adequately criticise the aforementioned process because it is limited by its determination to ‘protect people’s freedom to make harmful choices that threaten their well-being or their equality’; as a result, liberals can wind up ‘protecting inequality and social constraint’ (Chambers 2008, p.4). A robust liberalism must maintain its commitment to liberal normative values such as personal freedom, whilst also acknowledging the ways in which preferences are socially constructed. A liberal model considers choice to be a ‘normative transformer’²⁵, in that it ‘transforms an unjust situation into a just one’ (Chambers 2008, p.21). However, Chambers proposes two factors that make a choice suspect on the liberal model: the disadvantage factor, and the influence factor. The former refers to the disadvantages that one might suffer by making a particular choice, and the latter refers to the pressure on the choosing party to act in a certain way, especially by those who have chosen differently (Chambers 2008, pp.120-121). Such factors make it difficult to conceive of a choice made under relevant conditions as freely chosen.

In this section, I have discussed the traditional liberal view as largely dismissive of social construction, preferring to consider autonomous individuals as ‘makers of meaning who are not themselves made’ (Schaeffer 2001, p.701). I have discussed some of the feminist criticism of the liberal model. I have touched on the work of Nussbaum and Chambers, thereby outlining a reformed

²⁵ In this sense, choice operates in the way that consent does (as explained in previous sections). It is normatively, or morally, transformative.

liberalism that account for the social construction of preferences and identities. The aim of this section was to examine the concept of a liberalism that acknowledges social construction.

1.3.5 Liberalism and Sexual Relations

Having discussed consent and its limits, in this section, I consider limits of consent in sexual encounters specifically. Firstly, I touch upon the relationship between liberalism and consent, before then detailing the requirements necessary for sexual consent to be considered valid. I draw upon classical liberal principles to discuss sadomasochism as a harm that one can consent to. Finally, I use the liberalism of Clare Chambers to highlight potential issues when it comes to ethical sadomasochistic activities.

In section 1.3.2, I discussed the importance of consent to Mill's liberalism; one can consensually participate in harmful practices as long as such practices do not cause harm to a third party. In other words, consent is crucial for ethical action, particularly when it comes to harm. For a moment, let us put aside concerns about harm and focus on sexual consent more broadly. There are three reasons, as proposed by David Archard, why consent can be considered important when it comes to sexual activity. Firstly, there is a 'relationship between consensuality and pleasure' in the sense that, in the context of sex, 'individuals will normally only consent to what they believe they will find pleasurable', and only find pleasurable acts to which they have consented (Archard 1998, p.19-20). Another related point is that the pleasurable nature of a sexual encounter can be, to an extent, dependent on consensual participants; sex can be considered more pleasurable the more willing that parties were to engage in it. Secondly, there are 'special dangers and possible harms attached to sexual interaction' (Archard 1998, p.20); victims of non-consensual sexual acts frequently suffer considerably as a result. Finally, sex matters to human beings and, as such, it is important to us that we are in control of our

sex lives and exercising choice when it comes to our sexual interactions (Archard 1998, pp.19-20; Primoratz 2001, p.202). To return to the concept of consent to harm, Archard is largely aligned with traditional liberalism on this issue, saying of sadomasochism that ‘it cannot be thought that harms which are transient and trifling are so serious as to go off the consensual-as-permissible scale’ (Archard 1998, p.112). That being said, he acknowledges that it is possible that after a certain point of harm, someone cannot really be consenting. Furthermore, he agrees with Mill as regards the impossibility of enforcing a slave contract (Archard 1998, p.112; 1990, p.453). The question as to the severity of harm that would call the consensuality into question is uncertain. Mill’s liberalism suggests that one can consent to any and all sadomasochistic activity as, in this view, an individual can even consent to death. As stated, Archard in this tradition allows some limits; the Harm Principle covers injury up to and including death, and thus does not express the qualm offered by Archard (Mill 2001a, p.13).

The work of Nussbaum and Chambers, however, would indicate an alternative understanding of valid consent. I will use an example here to explain these different approaches to sexual consent. An unemployed woman who is struggling to secure a paid position decides to enter prostitution. In the Mill/Archard understanding of consent to harm, this woman has consented to the sexual encounters that follow²⁶. She made the decision to voluntarily engage in those activities. Archard addresses this specifically, saying that there is ‘nothing about sex as that which is voluntarily exchanged at an agreed price between buyer and seller to make its sale more objectionable than that of anything else’ (Archard 1998, p.108; see also: Richards 1980, p.243; Wicclair 1981, p.358). On the other hand, Chambers might consider the situation of the prostituted woman in relation to her social context; her ability to choose is limited by her circumstances. Such a consideration is put

²⁶ This is somewhat complicated by Mill’s understanding of the female sexual personality as influenced by some societal factors.

forward by Heather Widdows, who writes that desperate choices, such as the choice to engage in prostitution for survival, are ‘choices when it feels as if they are not really choices’; a poverty-stricken woman could choose to enter prostitution, but it is on the basis that it is the ‘least worst option’ (Widdows 2018, p.213). Chambers differentiates between single-party and two-party paternalism in her proscriptive proposals; the former involves harm to the self *by* the self (as in the case of suicide or self-mutilation) and the latter involves harm to the self as inflicted by a second person (as in the case of sadomasochism or cosmetic surgery). Her argument, then, is that paternalism can be largely side-stepped in two-party cases by managing these harms through the imposition of penalties on the person causing the harm rather than the one on whom the harm is being inflicted. In practical terms, this would mean penalising a sex-buyer as opposed to a sex-seller, or penalising a sadist rather than a masochist (Chambers 2008, pp.215-216). This approach marries the liberal approach of allowing consent to self-harm, whilst largely mitigating the problems that could be associated with a libertarian approach whereby all consensual harm goes unmanaged.

In this section, I discussed the relationship between the Harm Principle and consent. I explained why, according to David Archard, sexual consent is important, and how it relates to pleasurable. I showed how the Harm Principle could be applied to sadomasochism to make it morally permissible. I used the example of a woman living in poverty entering prostitution to briefly highlight the difference between the classical liberalism of Mill, and the reformed liberalism of Chambers. In this section, I aimed to apply some of the previously discussed liberal ideas to sexual encounters to clarify the liberal position on consensual sex.

1.4 THE PSYCHOLOGICAL DEFENCE

In the previous section, I focused on the perspectives that constitute ‘The Liberal Defence,’ of sadomasochism. Here, I focus on ‘The Psychological Defence’. The argument follows that pain can be experienced as pleasurable, and that sadomasochism allows people to gain pleasure through pain and thus is morally permissible on that basis. This argument will necessarily involve a discussion on the definition of pain, as well as an exploration of the kinds of pleasure that one might achieve through pain, whether physical or psychological. I will show how, for many proponents of sadomasochism, the harm caused by the infliction of pain is secondary to the pleasurable results ultimately produced (Moser and Kleinplatz 2007, pp.45-46). This section explores the psychology-based arguments in favour of sadomasochism.

1.4.1 Pleasurable Pain

In this section, I explore the concept of ‘pleasurable pain’. I explain the relationship between sadomasochism and pain, as well as examining the way that pain is defined. I look at the ways in which pain can be experienced as pleasurable, and I will divide such pain-mediated pleasurable experiences into two categories. In the first (section 1.4.1.1) I will briefly touch upon the science related to pleasurable pain, and look at how pain impacts our brains physiologically in a way that could illicit a pleasurable response. In the second (section 1.4.1.2), I explore the idea of psychological pleasure, and how it relates to pain; this will include a discussion of the concepts of ‘benign masochism,’ and ‘hedonic reversals’.

First, I will discuss the relevance of pain in sadomasochism. Although many think of BDSM as involving people who enjoy either giving or receiving pain (sadists and masochists), BDSM covers a wide range of activities, some but not all of which involve pain. BDSM includes activities such as

role-playing, humiliation, and bondage, which do not necessarily involve pain at all²⁷ (Moser and Kleinplatz 2007, p.45; Taormino 2012, pp.4-5). It is for this reason that this thesis will focus on sadomasochism, and not on BDSM more broadly understood. Sadomasochism is one aspect of BDSM; when it comes to sadomasochism, individuals will engage in scenes whereby one individual – the sadist or ‘top’ - will stimulate another – the masochist or ‘bottom’ – in a way that elicits a response akin to pain but sometimes referred to instead as ‘intensity’ (Dunkley *et al* 2020, p.422; Moser and Kleinplatz 2007, p.45). Considering the fact that sadomasochistic activities revolve around the giving and receiving of pain, whether or not it is experienced or identified as such, the relevance of pain is clear in the consideration of the moral permissibility of sadomasochism.

Evolutionary theorists conceptualise pain as a ‘warning system [that] protects the body against threat or danger’; in this understanding of pain, it ‘functions as an alarm that orients the recipient to potential environmental threat to prioritize escape and recovery’ (Dunkley 2020, p.421). For example, we experience a burn as painful, which discourages us from putting our arm into a fire and damaging our bodies irreparably (Cohut 2019; Williams 2002, pp.440-441). Pain ‘evokes a fight-or-flight response that allows the recipient to briefly experience blunted pain sensations via neurophysiological responses that block pain signals to achieve safety and subsequently heal’ (Dunkley 2020, p.421). Within such a framework, pain does not offer a reward in itself, but promotes the safety of the individual. On the other hand, The International Association for the Study of Pain task force on taxonomy offers the following definition of pain: ‘an unpleasant sensory and emotional experience associated with actual or potential tissue damage or described in terms of such damage’ (IASP 2020; Leknes and Bastian 2014, p.58). This definition was expanded in 2020 with the inclusion of a number of key notes, which emphasised that pain is a ‘personal experience influenced by biological,

²⁷ In this instance, I am referring to physical pain. The case could be made that humiliation, for example, involves elements of emotional or psychological pain.

psychological, and social factors’, that ‘pain and nociception are different,’ that pain usually serves an adaptive role, and that verbal description is just one of many ways that individuals might express pain (IASP 2020). Siri Leknes has pointed out that, by defining pain as unpleasant, such a definition may be too limiting in terms of its psychological validity (Leknes and Bastian 2014, p.58). This idea will be expanded upon in section 1.4.1.2.

Contrary to the above definition of pain, masochists claim to experience pleasure by having pain inflicted upon them (Taormino 2012, p.9). There are two ways to examine this idea of pleasurable pain. The first is that masochists can experience pain as pleasurable in the most literal sense – a claim that relies on the physiological responses that pain infliction elicits in the masochist (section 1.4.1.1). The second is that, although the pain may be physically unpleasant, there are psychological reasons why such pain may be experienced as pleasurable overall (section 1.4.1.2). For such participants, it is not necessarily the pain itself that is arousing, but rather the idea of pain (Moser and Kleinplatz 2007, p.45). Both of these understandings of pleasurable pain will be explored in the sections that follow.

1.4.1.1 Physical Pleasure

In this section, I elaborate on the claim that pain can be experienced as physically pleasurable. ‘Physiologically [...] pain and pleasure have [much in common, with both sensations] activating the same neural mechanisms in the brain’ (Cohut 2019). The sensation of pain triggers ‘the central nervous system to release endorphins [which are] proteins [that] act to block pain and work in a similar way to opiates such as morphine to induce feelings of euphoria’ (Gorvett 2015). I will use the example of running to illustrate how this works.

When someone is running, their body releases lactic acid which triggers the pain receptors in the muscles to send signals to the brain via the spinal cord. These signals then cause the runner to experience a burning sensation in their leg muscles. Shortly after this, the hippocampus responds to the aforementioned pain signals by releasing endorphins; the endorphins ‘block pain [but they also stimulate] the brain’s limbic and prefrontal regions’, which can cause a rush not dissimilar to that experienced by morphine users (Gorvett 2015). Furthermore, the pain of the running causes an increase in anandamide, a natural painkiller; it ‘binds to cannabinoid receptors in the brain to halt pain signals and induce warm pleasurable feelings as produced when smoking marijuana’ (Gorvett 2015). Finally, adrenaline spikes, which raises the heart rate of the runner, potentially increasing excitement (Gorvett 2015). Both pain and pleasure ‘activate the nucleus accumbens, the pallidum, and the amygdala’; therefore, it is possible that the pleasure experienced by those who are aroused by painful sensations is similar to that experienced by a runner who pushes their body in intense training sessions (Cohut 2019). Both painful and pleasurable events are associated with the release of μ -opioids, which have been shown to trigger a ‘positive shift in affect across the hedonic spectrum’; in other words, they enhance pleasure and decrease the aversiveness of pain (Leknes and Tracey 2008, p.315). This is consistent with research that demonstrates how sexual arousal alters pain perception and increases an individual’s tolerance for pain by up to 80% (Komarisuk and Whipple 1984; Whipple and Komarisuk 1985, 1988; Moser and Kleinplatz 2007, p.45). In other words, it is certainly possible that, within the context of sexual arousal, pain is not experienced as it ordinarily would be; it may not be experienced as painful. When one considers the fact that pain has a similar impact on brain physiology that pleasure does, and that pleasure (such as prior sexual arousal) has the capacity to minimise the perception of pain considerably, it follows that pain may be experienced by masochists as pleasurable.

1.4.1.2 Psychological Pleasure

This section will focus on the six ways in which pain can be experienced as psychologically pleasurable: 1) Pain can enhance the pleasure of other sensory experiences. 2) Pain can be reconceptualised as a challenge to be overcome (benign masochism). 3) We perceive positive personality traits in those who can endure pain. 4) The expression of pain can elicit empathy. 5) The contrast afforded by pain is closely associated with the subjective experience of relief. 6) Sadomasochists report increased closeness in their relationships following a scene.

Under ordinary circumstances, pain and pleasure are thought of as mutually inhibitory. This is in accordance with the IASP definition of pain as detailed above. Pain usually reduces pleasure (Fields 2006, p.455; Leknes and Tracey 2008, p.316). However, research indicates that it is possible for people to concurrently report both positive and negative emotions, and thus it is feasible that someone might experience pain and pleasure simultaneously (Larsen *et al* 2004; Schellenberg *et al* 2008). A frequently cited example of this is the consumption of spicy foods. Someone might choose to eat a curry that burns their mouth, but that they also enjoy; they are experiencing both pain and pleasure at once. It is often the case that people prefer some types of foods a little spicy or bitter. On that basis, Leknes makes the case that ‘pain, in manageable quantities, may similarly integrate with other factors to form a whole that is sometimes evaluated, overall, as positive and likeable’ (Leknes and Bastian 2014, p.60). The results of a 2014 study strengthen this argument; an experiment demonstrated that after enduring the pain of a cold pressor test, people experienced tastes more intensely and positively, indicating that the ‘offset of acute pain may enhance enjoyment of subsequent gustatory experiences’ (Bastian *et al* 2014, pp.153-154). Furthermore, those involved were better at distinguishing between different flavours after enduring pain. This indicates that the experience of ‘pain may enhance the pleasure of other sensory experiences’ (Leknes and Bastian 2014, pp.64-65).

Secondly, pain can be reconceptualised as a challenge. Necessarily, this must be preceded by an awareness that the pain one is experiencing is not genuinely a danger or a threat to one's life. When an individual is experiencing something painful, whilst simultaneously experiencing pleasure (in part based on the distance from genuine threat), this can be understood as 'benign masochism' (Rozin *et al* 2013, p.439) Benign masochism is when an individual seeks out painful experiences knowing that such experiences will not cause serious harm²⁸. It is something that humans alone are capable of doing. It refers to the enjoyment of initially painful experiences with the knowledge that there is no real danger present. Again, the example of spicy food can be utilised. Benign masochism facilitates a person's enjoyment of an extremely hot curry; although the person may be experiencing physical pain, they can enjoy their experience on the basis that it does not pose any real threat (Gorvett 2015). The reconceptualisation of pain as a challenge is possible through benign masochism, whereby an individual can derive pleasure from a 'mind over body' mentality (Rozin *et al* 2013, p.439). This shift from displeasure to pleasure upon acknowledgement of the distance from threat can be understood as a 'hedonic reversal' (Rozin *et al* 2013, p.439). This feeling of having control has been shown to have analgesic²⁹ effects in a number of pain studies with post-operative patients (Salomons *et al* 2004, pp.7200-7201; Wiech *et al* 2006, pp11507). Mastering the challenge posed by a painful experience can activate the reward-related neural mechanisms in the brain, boosting the mood of the individual who has overcome the challenge (Leknes and Bastian 2014, pp.61-62; Sharot *et al* 2009, p.3762).

Thirdly, we tend to perceive 'positive personality traits in those who [...] endure pain' (Leknes and Bastian 2014, p.62). People usually associate a high tolerance for pain with someone who is brave, strong, or heroic and may feel as though an 'admission of pain' could 'be perceived as a sign of weakness or vulnerability' (Cagle and Bunting 2017, p.27; Morris 1991). Evidence of this can be

²⁸ Although it may be more of a challenge to, for example, play Russian Roulette, this would not be considered benign masochism, as the threat to well-being – and to life – is very real.

²⁹ 'Analgesic' refers to an inability to feel pain.

seen when it comes to war or sport – a prime example can be seen in the public reaction to Bert Trautmann, the ‘Manchester City goalkeeper who played the last seventeen minutes of the 1956 FA Cup Final with a broken neck’³⁰ (Hattenstone 2019). Volunteers in pain studies often ‘seek confirmation of their personal virtues as someone who can endure a lot of pain’ (Leknes and Bastian 2014, p.62). Furthermore, expressions of pain can function to ‘elicit empathy and support from others’ (Danziger *et al* 2006, pp.2501-2502. See also: Leknes and Bastian 2014, p.62; Singer *et al* 2004, p.1159). Thus, the result of enduring pain may be an outpouring of support – something that one could experience as psychologically pleasurable.

Pain can provide a contrast against which other less painful experiences can be minimised. Siri Leknes carried out an experiment whereby 16 participants were hooked up to a device which applied a variable level of painful heat to their arms, and the researchers measured their brain activity over the course of the experiment using MRI scans. Initially, some participants were exposed to a level of heat equivalent to touching a hot cup of coffee, and others exposed to no pain at all. Later, participants were exposed to a series of either moderate or intense pain. The participants were able to see, via a screen, which level of pain they would next be exposed to. The researchers noted that in the first instance, participants rated the moderate pain as unpleasant, but in the second they rated it as pleasurable, the difference being that in the latter case, the alternative was intense pain. It is also worth noting that, in the second round, the brain activity of participants showed less activity in the pain region of the brain and more in the frontal lobes (which are associated with pain relief and pleasure). The research indicated that a negative experience of pain can be transformed into a positive one when it accompanies relief (Ghose 2013; Leknes and Tracey 2008, p.315). The pain offers a contrast to non-painful or even minimally painful experiences. A similar outcome can be observed in research carried out on fruit flies; the flies approached odours that they had initially found unpleasant

³⁰ A movie, ‘The Keeper’, has since been made of Trautmann’s life story.

after such odours came to be associated with pain offset (Tanimoto *et al.* 2004, p.983). The experience of pain facilitates the pleasure associated with the relief of pain (Leknes and Bastian 2014, p.65). When it comes to sadomasochism, this aligns with the oft-made claim that the infliction of pain during sexual experiences heightens the pleasure of the sexual experience overall.

Finally, engagement in sadomasochism can have a positive psychological impact in terms of interpersonal bonding. Research ‘published in the *Archives of Sexual Behaviour* [...] found that those who engaged in [pain play as part of their sexual relationship] experienced a heightened sense of bonding with their partners and an increase in emotional trust’ (Cohut 2019). Across both of the relevant studies, sadists and masochists whose scenes went as hoped reported an increase in relationship closeness. The researchers concluded that although sadists and masochists had different physiological reactions after engagement, the psychological reactions were similar with both parties reporting an increase in interpersonal bonding (Cohut 2019; Sagarin 2009, p.196). This closeness and bonding experienced by SM pairs aligns with the benefits of sadomasochism as frequently highlighted by practitioners (Baldwin 1993; Barker 2007, p.205).

If one accepts pleasurable pain, then the question becomes about whether or not it is morally permissible to use the infliction of pain as a means to elicit a desired, pleasurable outcome. If, in some contexts, pain is pleasure, one might wonder whether inflicting pain is morally permissible in those instances. BDSM proponents could make the argument that this situation is analogous to unnecessary elective surgery in the sense that one might decide to endure some physical pain for the sake of a pleasurable outcome. This analogy works only in cases whereby the surgery is, for example, carried out for aesthetic reasons. In the case of surgery that is medically required, the ultimate benefit of enduring pain is not pleasure but good health or survival.

Conclusion

In this chapter, I presented three arguments used to defend sadomasochistic sex: The Queer Theory Defence, The Liberal Defence, and The Psychological Defence. I began the chapter by providing background to the debate, exploring the feminist sex wars in order to set the debate in its proper context. Despite the differences in the viewpoints explored here, the presence of consent is a persistent requirement for defensible sadomasochism across the board. The question the thesis will address is whether or not consent is sufficient to render sadomasochism ethical. I use the chapters that follow to explore this question, first by asking what it means for consent to be valid, and whether consent to sadomasochism qualifies as valid, and second by asking whether valid consent has the normative power to make sadomasochistic behaviour morally permissible.

CHAPTER TWO

Consent and how it works

The purpose of this chapter is to explain what consent is, and put forward the core arguments about how it works. In chapter five on the limits of consent's normative power, I take this further and discuss the problems that I have identified with the belief in the power of consent. Although consent is widely discussed in relation to sexual behaviour more broadly, it has a particular relevance for those in the BDSM community due to the nature of sexual sadomasochism.

Consent is considered by many to be that which distinguishes BDSM from abuse (Ortmann and Sprott 2013, pp.74-75). The focus on ethical BDSM practices as being 'safe, sane, and consensual' (SSC) emerged as a reaction to the pathologisation of sadomasochists, and focused on establishing a public image of safety and psychological stability (Glassburn 2015; Williams *et al* 2014, p.2). However, despite the broad appeal of the SSC model, not all practitioners subscribed to this ethical framework, noting that SSC disallowed sadomasochistic acts that involved higher physical or psychological risks. Some believed, and continue to believe, that SSC sets the bar for safety too high and prohibits people from consensually engaging in risky sexual behaviour. For this reason, some prefer the Risk Aware Consensual Kink (RACK) model, which allows individuals to engage in high risk behaviour as long as they are aware of the risks involved, and consent to taking those risks (Downing 2007, pp.120-121; Williams *et al* 2014, p.2). The RACK model of ethical sadomasochism aligns largely with a libertarian sexual ethics whereby mutual consent is, more or less, sufficient to 'ethically legitimize any sexual activity between adults' (Newman 2015, p.223). These two approaches differ then in their emphasis on the centrality of consent; in the former, consent is crucial but not all consensual behaviour is permissible, and in the latter, consent allows even high-risk behaviour, with few limitations on which acts are permissible.

Although there will be occasions where legal issues or examples will feature in this chapter, my concern is with the morality of consent³¹. One distinction to be made here about the difference between consent in moral philosophy and consent in philosophy of the criminal law is that valid/invalid consent terminology is widely used in the former whereas this is not the case when it comes to the criminal law; ‘the criminal law often uses ‘consent’ as a success term’ (Dougherty 2021, p.13). In other words, when it comes to the criminal law, someone either consented³² or did not consent; ‘invalid consent’ is not commonly used (Dougherty 2021, p.13). There are, therefore, cases whereby philosophers of the criminal law use consent as a success term, and use terms such as ‘prima facie consent’³³ or ‘assent’³⁴ to refer to that which I call ‘invalid consent’. The contrast between moral impermissibility and legal impermissibility has been reflected on by Wertheimer, who has pointed out the clear distinction between what is wrong and what ought to be illegal, stating that ‘it is ordinarily wrong to break a promise or tell a lie, but there are good reasons – good moral reasons – why it should not be illegal to break some promises or tell some lies,’ and that the ‘law is a blunt and expensive instrument, to be invoked with great reluctance, even at the cost of refusing to sanction some behaviour that is clearly wrongful’ (Wertheimer 2009, pp.5-6). Accordingly, I focus on the morality of the acts in question, as opposed to on whether or not there ought to be legal sanctions regulating such acts³⁵. Where clarification is necessary on the aforementioned distinction, I will provide it.

³¹ Although this is partly an issue of terminology, it is also important as there could conceivably be cases whereby legal consent is given but it may be considered invalid in the context of moral philosophy; alternatively, although it is less likely, someone may give valid consent in the context of moral philosophy, but fail to clear the legal bar for consent.

³² In such a way that moral philosophers might call this ‘valid consent’.

³³ Hurd, 1996.

³⁴ Ferzan and Westen, 2017.

³⁵ In relation to various particular examples mentioned throughout this thesis, some have involved criminal sanctions and others have not. These legal implications may be mentioned, but I do not intend to reflect on these legal judgements, but on the moral permissibility of the acts in question where relevant.

In this chapter, I define consent, using an account of consent based on rights and duties. I establish the difference between permissive consent and contract-based consent, and explain how consent can be valid or invalid, based on whether or not it meets certain conditions. I then briefly identify theories about how consent functions. I discuss the validity of consent, and explain the conditions that are necessary for consent to be considered valid, with reference to the Declaration of Helsinki, which sets out ethical standards for medical research. I explore the normative power of consent, focusing in particular on the work of Hurd and Chambers, and discuss theories about the ontology of consent.

2.1 DEFINING CONSENT

In this section, I define consent, distinguish between permissive consent and contract-based consent³⁶, explain the concept of the validity of consent, and touch upon the three main views regarding how consent functions³⁷. The discussion about consent in this chapter relies on assumptions based in rights theory³⁸, crucially, that people have rights when it comes to their person or property, and that others have a duty to act in such a way towards us that respects these rights (Dougherty 2013, p.723; McGregor 1994, p.236). Dougherty explains that individuals have ‘moral claim-rights over [their] persons and property,’ and that these ‘include so-called negative rights against interference’ (Dougherty 2013, p.723). In other words, one has the right not to have one’s person or property be touched or damaged. In turn, such rights impose a duty on others with regard to how they treat us: people have a duty not ‘to intimately touch, use, or harm [us or our] property’ (Liberto 2017, p.128). These duties, or obligations, can be referred to as duties not to trespass, and their significance is based

³⁶ This could also be referred to using other terms such as promises-based consent or prescriptive consent.

³⁷ These will be expanded upon in Section 2.4.

³⁸ This is a substantive account of consent, and not all philosophers agree with an account based in rights theory, even if they conclude that consent does have normative power.

on the importance we place on individual autonomy – to trespass in this way would constitute a threat to the individual’s autonomy (Liberto 2017, p.128; Thomson 1990). Consent is one way in which an individual can waive a moral claim right, and thus transform the moral permissibility of an act that is done to them:

In morality, consent allows agents to change their rights , and the duties that correlate to them. Consent legitimises by changing rights: when an agent consents, she either waves her rights and grants liberties to another agent, or she waives her liberties and grants rights to another agent, or she does both of these things (Hyams, 2011: pp.111-112).

It is worth acknowledging that consent is not the only way that this can be achieved: for example, an individual can forfeit their right over their property through abandonment (Liberto 2017, p.127).

Consent is necessary only in cases whereby one individual has a right against another, and thus the second person has a duty to act in accordance with that right. An individual has moral claim rights over their body, as well as over their property, and these include negative rights against interferences; they do not, however, have rights over the property of another for example. If I wanted to take my dog for a walk in a public park, it would not make sense for me to seek the consent of my neighbour. My neighbour would not have a right against me in this case, and there is no duty that I have towards my neighbour that I would need to be released from. On the other hand, if I wanted to allow my dog to play in my neighbour’s garden, it would be necessary to seek consent from my neighbour; in such a case, the garden is the property of my neighbour, and she has a right against my use of her garden.

It is widely accepted that consent has normative power, in that it has the power to change a morally impermissible act into a morally permissible one³⁹, however the extent of this normative power is disputed. Hurd claims that valid consent has the power to ‘transform the morality of

³⁹ The normative power of consent will be explained in Section 2.3, and will be critically examined in more detail in Chapter Five.

another's conduct—to make an action right when it would otherwise have been wrong' (Hurd 1996, p.123). Consent can be considered to have normative power only when it is morally valid (Dougherty 2013, p.722; Pallikkathayil 2020, p.108). Consent is valid when it meets the following conditions:

1. Consent must be given by a competent person.
2. The consent-giver is adequately informed about the nature of the act they are consenting to.
3. The consent is freely given, without coercion (Bullock 2018, pp.85-86; Kleinig 2009, p.3).

I have dedicated Section 2.2 to discussing the validity of consent, and the required conditions for valid consent. Valid consent can enable B to act in a certain way towards A without wronging them; in this way, valid consent has the capacity to be morally effective. Valid consent, in certain circumstances, has the capacity to alter the deontic status of acts. For now, it is sufficient to say that, in particular cases, consent has the normative power to change the deontic status of particular acts. To illustrate this point, consider the following:

Haircut: Emma books a haircut at her local salon. She shows up for her appointment and Kate, a hairdresser who works in the salon, cuts Emma's hair.

In this situation, consent had normative power. Kate had a duty to Emma not to cut her hair, and Emma's consent released her from this duty. If Kate had cut Emma's hair without indicating to Emma that she was going to do so, and without Emma's consent to this act, she would have failed to respect Emma's rights over her own body. The moral status of this action was altered by Emma's consent, which allowed Kate to cut her hair without violating her Emma's rights. In this case in particular, it can be said that consent had normative power, because consent relieved Kate of her duty not to cut Emma's hair; this was the only relevant duty in this case. However, one could conceive of a scenario in which consent could be given without the consent-receiver being relieved of their duties in this way. There are situations where consent does not have the power to release someone from all relevant

duties with regard to the morality of their action. Such scenarios will form the basis of my discussion in chapter five, where I will draw attention to the limitations of the normative power view of consent. In this chapter, it is enough to acknowledge that, in cases in which an act is morally impermissible due to the absence of valid consent, the provision of consent can alter the moral status of the act; in other words, ‘consent can be valid in that it releases the recipient of the consent from her consent-sensitive duty’ (Tadros 2021, p.295). As mentioned already, consent can only function in this way if it is valid. The validity of consent will be examined in the next section.

In the example discussed above, I did not indicate the manner by which consent is sought or given, though the assumption in this specific circumstance is likely to be that the consent of the consenter was assumed when she showed up for the arranged hair appointment. This ‘showing up’ was a behavioural indication that Emma was consenting for Kate to cut her hair. An important issue to consider when it comes to consent is the extent to which it is expressed, or the necessity for such expression. Broadly, there are three ways that one can think about consent and the communication of consent (Healey 2015, p.354). These are:

- 1) The Behavioural View of Consent⁴⁰
- 2) The Mental View of Consent⁴¹
- 3) The Hybrid View of Consent

The debate about the ontology of consent is ongoing and controversial, and the arguments for each of these views are extensive; some ‘argue that it is a mental act, some that it is a “hybrid” of a mental act plus behaviour that signifies that act; others argue that consent is a performative, akin to promising or commanding’ (Manson 2016, p.3317). Meticulously detailing each of these arguments and the

⁴⁰ This can also be called the ‘performative view’.

⁴¹ Also known as the ‘subjective view’.

potential difficulties inherent in each is not necessary. For our purposes here, it is enough to consider how consent can be understood to function within each of these accounts. In the next section, I turn my attention to the validity of consent, and the features that must be present for consent to be considered morally valid⁴².

2.2 THE VALIDITY OF CONSENT

In this section, I use the Nuremberg Code and the Declaration of Helsinki to establish the features that are necessary for consent to be considered morally valid. Although both of these documents are concerned primarily with ethical medical research as opposed to sexual ethics, they provide a foundation for thinking about the validity of consent, and conditions within which consent would be considered invalid or inadmissible. The Nuremberg Code is mainly about voluntary consent, and the Declaration of Helsinki focuses mainly on informed consent (Shuster, 1997); combined, they suggest that consent must be informed based on understanding the nature and purpose of the intervention and the likely consequences, voluntary or freely given, and given by someone with ‘sufficient comprehension to be able to make and signify an enlightened decision’ (Alderson, Sutcliffe and Curtis 2006, p.27).

The Nuremberg Code

The Nuremberg Code, which was ‘drafted at the end of the [Nazi] doctors’ trial in Nuremberg [August] 1947 [is considered a] landmark document in [the history of] medical and research ethics’ (Ghooi 2011). It has functioned as a foundation for contemporary principles that protect the rights of

⁴² These are also the features required for consent, as a success term, to be present in an interaction when it comes to philosophy of criminal law. There is overlap here with moral philosophy.

subjects in medical research, though debate continues today about its applicability in a contemporary medical context (Shuster 1997). Nonetheless, the Nuremberg Code set a standard for the regulations on human experimentation that followed, and, over seventy years later, its ‘requirement of the voluntary, competent, informed, and understanding consent of the human subject’ remains integral to research ethics (Annas 2018, p.42). The first article of the Nuremberg Code states the following:

The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision (Article 1, The Nuremberg Code 1947).

At the Nuremberg trials of 1947, the judges concluded that the voluntary consent of research subjects, as well as the ability to refuse to participate, was crucial; this prioritisation of the voluntary nature of valid consent is evident in making voluntary consent not only the first principle but also ‘absolutely essential’ (Annas 2018, p.42). The focus on the importance of the voluntariness of consent is further reflected in Article 9 of the Code, which states that ‘the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible,’ further stressing the subject’s right to cease participation in the experiment at any time, thus protecting their mental and physical welfare (Article 9, The Nuremberg Code 1947). Article 1 also states that subjects ‘should have sufficient knowledge and comprehension of the elements of the subject matter involved,’ which highlights the importance of the ‘informed’ aspect of valid consent. These points can be summarised as follows: that valid consent must be ‘voluntary, competent, informed, and understanding’ (Annas 2018, p.42).

The Declaration of Helsinki

‘Developed by the World Medical Association (WMA), the Declaration of Helsinki is a statement of ethical principles for medical research involving human subjects’ (Bullock 2012, p.15). It was initially developed in 1964, and was most recently updated in 2013 (Ballantyne and Eriksson 2019, p.310). The Declaration of Helsinki, upheld as containing the highest ethical standards in medical research, considers consent and its validity. The Declaration of Helsinki contains a section on ‘Informed Consent,’ which contains eight detailed points; for our purposes the relevant information contained within is broadly reducible to three core statements about valid consent.

Firstly, it states that individuals must be ‘capable of giving informed consent,’ and that certain subjects, such as unconscious individuals, are incapable of giving such consent (Declaration of Helsinki 2013, Section 25). It assumes that some individuals are not capable of giving valid consent, for example, young children. Valid consent can only be given by individuals who are capable of providing informed consent; people who, for one reason or another, cannot understand what they are consenting to, cannot be considered to have provided valid consent.

To be ‘informed,’ individuals must be provided with adequate information regarding the ‘aims, methods, sources of funding, any possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study and the discomfort it may entail, post-study provisions and any other relevant aspects of the study’ (Declaration of Helsinki 2013, Section 26). Essentially, valid consent requires that an individual must be fully informed as to the risks and benefits of the action for which consent is being sought. The idea that valid consent is informed consent is widely accepted.

Finally, in point 27, the Declaration of Helsinki states that a physician must be ‘cautious if the [research subject is in a] dependent relationship with the physician [and therefore] may consent under

duress,' and states that consent must be 'voluntary'; furthermore, subjects must be 'informed of the right to refuse to participate' (Declaration of Helsinki 2013, Sections 25 and 27). According to this document, no individual can be involved in medical research unless he or she 'freely agrees'. This final integral feature of valid consent – that consent is voluntary and freely given – invalidates consent provided under duress.

As established, based on the Nuremberg Code and the Declaration of Helsinki, the features that are typically considered necessary for valid consent are the following:

1. Consent must be given by someone who is competent.
2. Consent must be informed.
3. Consent must be freely given.

Valid consent, depending on the circumstances, has the potential alter the moral status of acts and sometimes change morally impermissible acts into permissible ones; this can only happen if consent is valid, in which case it must ordinarily meet the three criteria listed above (Bullock 2018, pp.85-86; Kleinig 2009, p.3; Schaber 2020, p.117). These are also the features typically required when it comes to legal consent; the legal definition of sexual consent in England and Wales, according to the Sexual Offences Act 2003, is when someone 'agrees by choice to [a particular sex act] and has the freedom and capacity to make that choice' (FPA 2018; NHS 2021). In other words, someone must know and understand what they are consenting to, and must give their consent without duress. In the three sections that follow, I explore these features in more depth.

2.2.1 Competent

The first condition that must be met for consent to be considered valid is the following: Consent must be given by an individual who is competent; in other words, a person can only consent if they have the capacity to consent in a meaningful way. Some groups of people are considered to be incapable of consenting in this way, and capacity can be compromised by youth, mental incapacitation, psychosis, and intoxication (Hyams 2011, p.114). Accordingly, a small child or a highly intoxicated person would be unable to give valid consent; their consent would be morally inefficacious (Dougherty 2021, p.13).

Medical Context

The debate about when one is competent to give consent is ongoing. When it comes to psychosis or other relevant psychiatric conditions, for example, it is usually necessary for a clinician to assess whether or not a patient has a range of functioning capacities that would enable them to give consent. In such cases, the MacArthur Competence Assessment Tool for Clinical Research (MacCAT-T) can be used as a guide regarding patient competence. The same tool can be used to assess the competence of minors when it comes to making medical decisions; the test is a ‘semi-structured interview format developed by Applebaum and Grisso in 2001’ (Hein *et al* 2015, p.2). ‘The MacCAT-T test measures four separate capacities as a bundle in the assessment of patient competence’ (Bullock 2012, p.29):

1. Understanding the disclosed information about the nature and procedures of the research.
2. Reasoning in the process of deciding about participation.
3. Appreciation of the effects of research participation on the patient’s situation.
4. Expressing a choice about participation (Bullock 2012, pp.29-30; Hein *et al* 2015, p.2).

I will now use the examples of minors and unconscious people to further illustrate the relevance of competence when it comes to consent.

Based on results from the MacCAT-T, 'children of 11.2 years and above generally appeared to be competent, while children of 9.6 years and younger were [usually] not' (Hein *et al* 2015, p.2). Those in between were 'in a transition period' (Hein *et al* 2015, p.2). However, some authors and ethicists have raised doubts about the validity of the assessment, arguing that the test does not 'sufficiently recognise emotive components and values in decision-making competence' (Hein *et al* 2015, p.3; see also: Charland 2014, p.359-360). The United Nations Convention on Children's Rights acknowledges the significance of a minor's developing values, requiring that laws must be developed in such a way that the "evolving capacities of the child" [quoted from Article 14, Convention on Children's Rights] are respected and this [...] is reflected in the law of consent' (Griffith 2016); Richard Griffith articulates this stipulation as noting that 'as children grow and develop in maturity, their views and wishes must be given greater weight and their development towards adulthood must be respected' (Griffith 2016, p.244). The right of a minor under the age of 16 in the UK to consent to medical treatment was 'decided by the House of Lords in *Gillick v West Norfolk and Wisbech AHA* [1986] where a mother of girls under 16 objected to Department of Health advice that allowed doctors to give contraceptive advice and treatment to children without parental consent' (Griffith 2016, p.244). The term 'Gillick competence' is now regularly used by legal and health professionals to determine whether or not a minor is capable of consenting to medical treatment.

A more straightforward example of people who are not competent when it comes to giving consent are people who are unconscious. Pallikkathayil points out that 'recent legislation stipulates that people who are unconscious cannot give consent' (Pallikkathayil 2020, p.122). The claim that unconscious people are incapable of consenting is consistent with both the Behavioural View and the

Hybrid View⁴³ as regards the ontology of consent; both stipulate that a mental event, intention, or will is insufficient for consent. As such, whether or not the unconscious individual would have consented while awake is not relevant; someone who is not conscious cannot give consent, either to medical procedures or to sexual encounters.

Sexual Context

As well as often being considered incompetent to give consent to medical treatment, minors are usually not considered competent to consent to sexual interactions. The age of consent varies considerably from country to country, but the laws in all jurisdictions of the UK state that ‘the age of consent for any sexual activity is 16 years [for both males and females and] the age of consent is the same regardless of the gender or sexual orientation of a person and whether the sexual activity is between people of the same or different gender’ (Graham 2017, p.162). It is, therefore, illegal for anyone in the UK to engage in sexual relations with a minor under the age of 16. A number of the arguments in favour of age-of-consent laws are as follows:

1. Minors are not physically mature enough to engage in sex, or to deal with potential consequences, such as disease or pregnancy.
2. Minors are not cognitively mature enough to understand the risks.
3. Minors are not sufficiently emotionally developed to contend with the ramifications of sex, and are more inclined than adults to make impulsive or irrational decisions (Graham 2017, p.163).

⁴³ These views will be expanded upon and explained later in this chapter.

When it comes to minors and sexual engagement, there is also the issue raised previously: minors are in the process of developing emotionally and cognitively and this means that their values are likely to shift over the course of their development. Thus, it is not morally justifiable to engage in sex with a minor under the age of 16 who may be consenting in accordance with immature values that are likely to change or evolve. For a minor to meaningfully consent to sex, they would need to be sufficiently physically developed, fully able to contend with any potential consequences of sexual contact, have the capacity to think about the future and long-term ramifications of their actions, and have reached emotional and cognitive maturity; this sets the bar impossibly high. Minors are not competent to consent to sex. Sex with a minor is, on this basis, unethical.

To return to the example of unconscious people, in the same way that they are not competent to consent to medical procedures nor are they able to consent to sexual contact. This is the case regardless of whether or not they would consent if conscious. There are numerous cases whereby women in comatose states have been impregnated, and these highlight the practical application of this claim. On December 29th at the Hacienda Healthcare facility in Phoenix, a female patient who had been a vegetative state for more than a decade gave birth to a baby boy. This pregnancy was the result of the woman having been raped multiple times by a nurse at the facility. Comatose pregnancies including those resulting from sexual assault while the person is unconscious, or braindead are ‘extremely rare but not without precedent’ (McDonnell-Parry 2019). The question of consent is not raised in such cases because a comatose person is not competent⁴⁴. A more common, and less clear-cut, example of this idea is the moral unjustifiability of someone having sex with their sleeping partner. A 2021 report by Victim Focus found that approximately half of adult women have woken up to a partner performing sex acts on them. Dr Taylor, a co-author of the study, said:

⁴⁴ In a medical setting, the issue of ‘presumed consent’ can be raised, such as in emergency cases where a doctor gives necessary life-saving treatment to a patient who is not conscious (Owens 2012, p7). This kind of presumed consent is not important here, and so I will not be addressing it further.

Obviously that raises a massive question, why are men doing anything to sleeping women? Legally that's rape, and to perform a sex act on someone is sexual assault. You can't consent, because you're not awake (Taylor 2021).

In such cases, women are frequently sexually assaulted in their sleep by men that they would have consented to sex with had they been awake. The core of the ethical argument against sex with comatose or sleeping people, even if they would be highly likely to consent if conscious, is that we cannot possibly ascertain the sexual wishes of someone who is unconscious⁴⁵. By having sex with an unconscious individual, regardless of whether or not they consented prior to becoming unconscious, we are leaving no room for them to change their mind; they would have no way out of a situation that they may no longer want. Sexual consent must be revocable if an individual involved so wishes.

2.2.2 Informed

The second feature required for consent is that the consent-giver is informed about what they are consenting to, and what the consequences are with regard to their participation. For an individual's consent to be considered morally valid, they must know that their consent-giving act qualifies as an act of consent, and what it is they are consenting to. I now look at how the law understands informed consent, before then using the example of sexual deception, explored by Dougherty in 'Sex, Lies, and Consent', to examine the concept further. As Gerald Dworkin explains, many of the claims made about informed consent 'come from the legal, rather than philosophical, literature,' because the

⁴⁵ Some cases are more difficult to assess than that of unconscious people, for example, California legislation states that a person is not competent to give sexual consent if they are 'incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity' (Pallikkathayil 2020, p.122). The question then turns to the degree of incapacitation that would be consistent with an inability to give consent; Hyams makes the argument that 'voluntary intoxication does not generally serve to release those who commit crimes from taking responsibility for their crimes,' and that, it may then be worth examining whether or not it ought to 'similarly fall to free those who consent from taking responsibility for the consequences of their consent' (Hyams 2011, p.114). Nonetheless, the prevailing narrative around competence and consent states that an 'incapacitated 'yes' cannot constitute consent' (Pallikkathayil 2020, p.122).

‘doctrine is a creature of law’ (Dworkin 1988, p.101). Nonetheless, my concern is with morally valid consent, rather than legally valid consent, although there is likely to be substantial overlap between these two concepts. The informational deficiencies that can negate consent include ‘the absence of true information... the presence of false beliefs [regarding the] background context within which consent is given’, or misinformation about the likely personal consequences (Hyams 2011, p.114). Broadly speaking, it is the case that ‘fraudulent claims made by the recipient of an act of consent can sometimes render consent ineffective’ (Hyams 2011, p.114). As Alexander explains, false beliefs about an act ‘can destroy the identity between the act consented to and the act that occurred,’ stating that ‘in cases of false belief, there may be consent to an act, but there is no consent to the act’ (Alexander 1996, p.167).

Medical Context

Informed consent is considered a ‘core precept of medical practice,’ in that it is a ‘specification of the principle of respect for individual autonomy’ (Archard 2008, pp.20-21). With regard to informed consent in a medical context, Capron claims that the requirement has two parts, which largely mirror those discussed in the paragraph above, stating firstly that ‘sufficient information be disclosed to the patient so that he can arrive at an intelligent opinion,’ and secondly that ‘the patient agrees to the intervention being performed’ (Capron 1974, p.365). Put simply, the individual must be aware of what is involved in the relevant procedure, and they must consent to their involvement in such a procedure. The reason for requiring informed consent from a patient or subject is, according to Meisel, to ‘protect his physical and psychic integrity against unwanted invasions, and to permit the patient to act as an autonomous, self-determining being’ (Meisel 1979, p.420).

Sexual Context

Dougherty makes the claim that, when one individual deceives another about a characteristic of themselves or the interaction that would constitute a deal-breaker in order to instigate a sexual interaction, the consent of the deceived is invalidated through this deception (Dougherty 2013, p.719). A deal-breaker is defined as a ‘feature of the sexual encounter to which the other person’s will is opposed’ (Dougherty 2013, p.719). Bear in mind that, for consent to be morally valid, it must be informed and freely given. I will use an example to illustrate the type of deception that Dougherty has in mind here.

Hunter Date: Every Saturday, Luke goes hunting with his friends. One Saturday night, Luke goes to a bar for a drink. He gets talking to a woman called Amy. He discovers that Amy is a vegan and animal rights activist. He is attracted to Amy, but she has told him that she only has sex with other vegans, so he lies and tells her that he is a vegan too. Amy is thrilled to find someone who shares her values. She invites Luke back to her apartment and they have sex.

According to Dougherty⁴⁶, Amy did not give valid consent to this interaction. This is because Amy was misinformed as to the relevant specifics of this sexual encounter; she consented to sex with a vegan man, and did not consent to sex with a hunter. Luke has wronged Amy in this case by purposefully deceiving her about a detail of his life, a deal-breaker, that he knew would decrease the likelihood of his success in securing a sexual encounter with Amy. Amy’s consent was not informed, and thus was morally invalid. In Dougherty’s view, for an individual to give valid consent to a sexual

⁴⁶ In his more recent work *The Scope of Consent* (2021), Dougherty has somewhat changed his views on this topic, but for the sake of clarity I will use the present tense when discussing the views put forward in this paper. In the text, he states the following with regard to this article: ‘What I came to see as the central mistake of that article was my assumption that consent is a mental phenomenon. This assumption led me to think that our intentions determine the scope of our consent. However, I now think that this assumption is wrong. Our mental states are private, and yet consent publicly transforms our moral relationships with each other. Since consent is a public phenomenon, we must engage in outward behaviour to give consent. Once we take on board that point, we lose the motivation to hold that our intentions all by themselves fix the scope of our consent.’ (Dougherty, 2021: 6).

encounter, they must be aware of the specifics of the encounter to the extent that they know that there is no aspect to which their will is opposed. This contradicts the Lenient Thesis, which claims that it is ‘only a minor wrong to deceive another person into sex by misleading her or him about certain personal features such as natural hair colour, occupation, or romantic intentions’ (Dougherty 2013, p.718).

There are a number of issues with Dougherty’s claims here, including Liberto’s assertion that ‘when we consent to activities or purchases or the particular behaviour of others, we do not rule out a wide range of possibilities for what might be involved’ (Liberto 2016, p.132). Her claim is that, when an individual consents to a sexual interaction, they are not necessarily consenting to the interaction with every specific variable accounted for and assessed, but rather consenting to a range of potential variables that come under the umbrella of our expectations with regard to that encounter. Furthermore, others have argued that, when it comes to dating and sex, a certain degree of deception is not only permissible but expected. Few people are completely honest about every aspect of their lives, occupations, and lifestyles on a first date. One study found that as many as ‘81% of online dating profiles contained at least one lie about a verifiable characteristic such as age, height or weight’ (Buss 2021, p.41; See also: Toma 2008, p.1023). The argument then is that Dougherty’s bar for informed consent in dating and sexual relationships is too high, implicating countless people in non-consensual sexual interactions, when they are engaging in typical dating behaviour. The issue of informed consent will be discussed at length in chapter four.

2.2.3 Voluntary

The third feature of morally valid consent, and the final one that I discuss here, is that valid consent must be voluntary. Voluntary consent refers to consent that is given without threat or coercion –

consent that is freely given. A person acts voluntarily if ‘he or she wills the action without being under the controlling influence of another person or condition’ (Nelson *et al* 2011, p.7).

Medical Context

As discussed, the Nuremberg Code emphasised that a research subject should be able to ‘exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion’ (The Nuremberg Code 1947). Almost twenty years later, the ‘Food and Drug Administration included the ability to “exercise free power of choice” (Goddard 1966) as a necessary condition of informed consent’ (Nelson *et al* 2011, p.7). Kleinig explains that it can be difficult to determine whether acts of consent genuinely are voluntary, such as in cases of prison inmates participating in clinical trials. The prisoners who participate in these trials give their consent voluntarily, at least in one sense, but in another sense their circumstances could be seen to ‘subvert the voluntariness of their agreement’ (Kleinig 2009, p.15). The same can be said of plea bargains, in which individuals voluntarily plead guilty in exchange for a shorter prison sentence; the voluntariness of their admission of guilt could be questioned, as they are providing such an admission only to avoid the considerable penalty of an extended period behind bars (Kleinig 2009, p.15).

Sexual Context

Voluntary consent means that the consent-giver is acting with ‘free power of choice’, but this idealised understanding of freely given consent has been criticised, partly due to claims that, as no person is omniscient or omnipotent, no one is free from influences and constraints; this indicates that, to some extent, every decision that an individual makes is influenced by external factors (Alderson,

Sutcliffe and Curtis 2006, p.31). In practice, this sets a high bar for voluntary consent, one that is called into question when considering social and cultural influences. This will be discussed at length in the next chapter. Although it is the case that every individual is living within particular circumstances that may limit their capacity to make an entirely ‘free’ choice, there are undoubtedly scenarios in which coercion or duress have an obvious and disproportionate impact on someone’s ability to exercise their autonomy. A dramatic but clear example is threat to life; if an individual’s life is in danger if they do not agree to act in a particular way, then it is widely accepted that their decision to act was not made voluntarily (Nelson *et al* 2011, p.7). The consequences for choosing an alternative action were sufficiently negative to invalidate consent to the act that they ultimately participated in.

The duress under which the individual is acting undermines the consent-giver’s agency (Dougherty 2019, p.2). In circumstances where ‘consent is the result of a consent-seeker’s wrongful threat [the consent lacks the] autonomous control to dissolve another agent’s duty’ (Gerver 2021, p.247). In such a case, consent could not transform the moral relations that exist between the relevant actors because consent given under duress does not have the normative power that it might have in alternative circumstances (Kleinig 2009, p.12). As Hyams claims, consent is ineffective when ‘an agent’s option set is manipulated by another’s coercive threat, such that the agent has no better alternative than to consent’ (Hyams 2011, p.112). In cases where someone’s physical safety, or even their life, is threatened, it is uncontroversial to say that consent is not given voluntarily. The following example illustrates this point:

Knife Threat: Becky and her friend Keith are watching a movie together at Becky’s apartment.

Keith tries to initiate sex, but Becky tells him that she does not want to have sex with him.

Keith pulls a knife out and holds it against Becky in a threatening manner before asking again.

Becky agrees to have sex with Keith as she is terrified that he will attack her otherwise.

In this example, the consent given by Becky is not valid, and Keith has, in fact, raped Becky. Her consent was not voluntary, and was given only due to fears for her physical safety. This example of coercion is an extreme one, and the view that Becky did not meaningfully consent in this instance is widely accepted. However, other examples are less clear. Consider the following:

Porn Facial: Katie is eighteen years old. At school, her friends discuss their sexual exploits, with many claiming to have enjoyed their boyfriends ejaculating on their faces. Katie has seen some boys in her year watching porn that depicts this act, and heard them discussing it as a turn-on. When Katie is at her boyfriend Paul's house, he plays a porn clip for her. The clip depicts facial ejaculation, and Paul is obviously aroused by the idea. He pleads with Katie to consent to allow him to ejaculate on her face and she agrees despite the fact that she finds the idea unappealing.

Whether or not Katie's consent in this instance was voluntary is controversial. Certainly, her decision to partake in this sex act was influenced by her friends, her boyfriend, and the porn culture that she has grown up in. In the next chapter, I argue that porn culture is sufficiently powerful to be considered an influential force in cases such as this one. In accordance with the criticism that consent is always given within a particular, potentially coercive, context, problems can be raised with the voluntariness of an individual's consent to partake in culturally celebrated practices, such as the performance of particular gender norms.

2.3 THE MORAL MAGIC OF CONSENT

In the previous section, I examined the concept of valid consent, and set out the conditions that are required for consent to be considered morally valid. Now that an understanding of valid consent has

been established, I will look at the degree to which consent has normative power⁴⁷. The normative power of consent is discussed by Heidi Hurd, as well as Larry Alexander and Clare Chambers among others. Here, I explain what normative power means, and how consent can be said to possess this kind of power, and I use examples to show how consent can change the moral permissibility of an act. In chapter five, I determine the limits of consent's normative power, and as such I will not be delving into those arguments here.

Consent's normative power functions by permitting an act for which we have a corresponding intention: by giving someone consent, we grant them a permission to perform the act that we consented to; 'we consent to someone performing an action partly by intending to permit them to perform that very action' (Dougherty 2021, p.2). By consenting to an act, I waive the right that I have against another person performing that act with respect to my body or my property, thereby changing the moral permissibility of the act. Hurd explains this as follows:

First, consent can function to transform the morality of another's conduct—to make an action right when it would otherwise be wrong. For example, consent turns a trespass into a dinner party; a battery into a handshake; a theft into a gift; an invasion of privacy into an intimate moment; a commercial appropriation of name and likeness into a biography. Second, consent can generate a permission that allows another to do a wrong act. When consent operates in this second manner, it does not morally transform a wrong act into a right act, but it grants another a right to do wrong (Hurd, 1996: 123).

In the first case, consent functions as a 'moral transformative,' and in the second, Hurd refers to consent as a 'stained permission'; in the case of the latter, consent does not necessarily transform an immoral act into a permissible one, but it does have the power to dispel a duty that obligated the relevant person not to interfere with your person or property.

⁴⁷ It is uncontentious to claim that consent has normative power; in reality, we accept that consent has some normative power under certain circumstances. The argument is regarding the extent of this normative power, and the circumstances in which it applies.

Driving to Work: Danny asks his friend Mark if he can borrow Mark's car to drive to a work meeting tomorrow. Mark consents to Danny borrowing his car to travel to work, and hands him the keys. Danny drives to work in Mark's car.

In this case, consent normatively transformed a morally impermissible act – taking someone's car without asking and driving it to work – into a morally permissible one – borrowing a friend's car after they have given their permission. The 'power to create [and release others from] rights and duties is what it means to be an autonomous moral agent' (Hurd 1996, p.124). A second example will shed light on the concept of a 'stained permission':

Bank Robbery: Danny asks his friend Mark if he can borrow Mark's car to utilise as a getaway vehicle in a bank robbery that he is planning to undertake later that day. Mark consents to Danny borrowing the car for this purpose. Danny uses the car for the bank robbery.

In the *Bank Robbery* case, Mark gave his consent for Danny to use his car for immoral purposes. As such, consent in this case did not change the moral permissibility of Danny's actions, but Mark's consent did release Danny from the duty not to use Mark's car. In this case, consent did not have the power to make the morally impermissible permissible, but it did have the power to waive a right that Mark had against Danny with regard to use of Mark's car. According to Hurd, if we respect someone's autonomy, then we recognise their capacity as 'powerful moral magicians' (Hurd 1996, p.124). In agreement with Hurd, Alexander states that consent's power as a 'moral transformative [functions by] altering the obligations and permissions that determine the rightness of others' actions,' and claims that 'one who cannot alter others' obligations through consent is not fully autonomous' (Alexander 1996, p.165). In *Sex, Culture, and Justice*, Chambers describes the liberal view of consent

as considering it to be a ‘normative transformer,’ which has the power to transform ‘an unjust situation into a just one’⁴⁸ (Chambers 2008, p.21).

In this section, I explained the normative power view of consent and how it functions. In chapter five, I discuss the limits of consent’s normative power in depth. In the next section, I explore the ontology of consent with reference to three competing views about the nature of consent.

2.4 THE ONTOLOGY OF CONSENT

As mentioned in Section 2.1 of this chapter, arguments about how consent can be defined and how it functions can be broadly divided into three categories. These are:

1. The Mental View of Consent.
2. The Behavioural View of Consent.
3. The Hybrid View of Consent.

The first of these views makes the claim that consent is a mental rather than a behavioural act, the second posits the opposite – that consent is a behavioural act or a performance – and the third makes the claim that consent necessarily comprises both a mental event and a corresponding behavioural expression of this event (Healey 2015, p.354). In the sections that follow, I explain these views in more depth, and explore the differences between these views, and the implications of the adoption of each particular view. The aim here is to discuss the varying ways of conceptualising consent, in order that I can, in chapters five and six, draw attention to the problems with applying these perspectives to cases of extreme sadomasochism.

⁴⁸ Chambers is sceptical about the extent to which choice or consent have this power, and considers the cultural context to be important in assessing this. This will be explored further in chapter five.

2.4.1 The Mental View of Consent

In this section, I discuss the Mental View of consent, otherwise known as mentalism or the subjective view. The Mental View makes the claim that consent is a ‘mental act [that is] not just necessary but also sufficient to bring about the normative change distinctive of permissive consent’ (Manson 2016, p.3318). The ‘United Kingdom’s 2003 Sexual Offences Act states that a person consents if he agrees by choice, and has the freedom and capacity to make that choice,’ and the American Law Institute ‘defines [sexual] consent in terms of someone’s willingness to engage in sexual activity’ (Dougherty 2021, p.23; Moringo 2016). Dougherty notes that these legal definitions ‘resonate with the common idea that a sexual encounter is non-consensual when it is against a victim’s will’ (Dougherty 2021, p.23). This aligns with the Mental View, which claims that an individual gives consent only if they have a particular mental attitude or intention. Thus, according to mentalism, consent is a mental phenomenon, and the expression of this mental act of consent is not necessary for consent to be present in a given interaction (Dougherty 2019, p.388). This is expressed by Alexander as follows:

The mental state that I believe constitutes consent is that of waiving one’s right to object – or, if that sounds too much like a non-mental action, that of mentally accepting without objection another’s crossing one’s moral or legal boundary (the boundary that defines one’s rights) (Alexander 2014, p.108).

The claim is that, if X accepts without objection their boundary being crossed by Y, then Y does not wrong X by crossing this boundary.

Those who support this view, however, may acknowledge that consent is usually expressed behaviourally; they consider behavioural expressions of the mental act of consent as playing a primarily epistemic role. In other words, the expression of one’s consent through their behaviour makes known to another person that a consenting mental state is present (Manson 2016, p.3318); such behaviour is not necessary for an interaction to be consensual. According to this view, those who do not have the capacity to express their consent through their behaviour, but do have the capacity for

the mental act of consenting, are able to consent. Consider the following case, loosely modelled on the *Wanted Sex* example as utilised by Alexander, Hurd, and Westen in their response to Dougherty:

Wanted Sex: Amy wants Joe to have sex with her. For the sake of her reputation, she does not want to make her desires known to Joe. When they are together one evening, Joe begins making sexual advances towards Amy. In order to cultivate an image of herself as “girlfriend material”, Amy puts up a front of resistance. Joe has sex with Amy anyway. Amy is pleased that she has managed to maintain a certain image of herself, and also gotten the chance to have sex with Joe as she had wanted.

For those with this view, Amy consented to sex with Joe, despite the fact that this consent was never behaviourally expressed. The mental act of consent had taken place, and therefore Joe did not wrong Amy by having sex with her. In this case, Joe did not cross Amy’s moral boundary without her consent, and so Amy was not wronged in this interaction (Alexander *et al* 2016, p.656). Amy, through the mental act of consenting, had waived her right not to be intimately touched by Joe, normatively changing the sex that occurred between them. One problem for those with this view is that, if consent is a mental act that need not be expressed, it may be difficult for those to whom consent is given to determine that this is the case. This issue has been addressed by Alexander, Hurd, and Westen, who claim that those to whom consent has been given do not have a duty to cross the consenter’s moral boundaries, only a permission to do so. The consent is present even if, due to lack of communication expressing this point, the point of consenting is defeated for the consenter (Alexander *et al* 2016, p.657). This does not solve the problem when it comes to the story of Amy and Joe. Amy had indicated to Joe that she did not want the sex to happen, but he continued despite her protestations. The fact that Amy had consented, in the sense that the mental act of consent had occurred, had no bearing on Joe’s behaviour. If it is the case that we are to believe that Joe did not wrong Amy in this case, that is down to moral luck. Amy could just as easily not have mentally consented, and Joe’s

behaviour would have wronged Amy; considering the potentially catastrophic consequences of sexual assault and rape, the bar for consent in such circumstances ought to reflect the stakes. The Mental View does not appear to sufficiently protect Amy from Joe's potential violation of her bodily autonomy in this case. With that in mind, one might wonder what the appeal of the Mental View is in terms of its practicality. One argument put forward in favour of the mental view is that it prioritises the autonomy of an individual, and has more attractive implications in certain cases; an example of this put forward by Alexander is that of a foreigner who decides to allow their partner to touch them intimately. However, due to a language barrier, this individual intends to say "do it", but it translates to their partner as "do not". The partner proceeds anyway, and the individual in question achieves their desired result (Alexander 2014, p.105; Dougherty 2021, pp.24-25). This mirrors the case of Amy and Joe, and is not a satisfactory defence of the Mental View. However, one potentially attractive implication when it comes to the Mental View is this: the Mental View allows that an individual may withdraw consent during a sexual interaction, and that this withdrawal of consent does not need to be expressed behaviourally for the relevant individual to feel wronged by the interaction. This is especially worth considering in contexts where affirmative consent is prioritised. In Californian legislation, affirmative consent has been defined as 'affirmative, conscious, and voluntary agreement to engage in sexual activity,' and notes that a 'lack of protest or resistance does not mean consent, nor does silence mean consent' (California Legislative Information 2014; Pallikkathayil 2020, p.107). If neither silence, nor a lack of protest or resistance, indicates consent, then the question is whether or not silence or a lack of protest constitutes ongoing consent when consent has initially been expressed through behaviour. Consider the following:

Painful Sex: Charlotte meets Aidan on a night out. They get along well, and she goes back to his place. Aidan tries to seduce Charlotte, and she happily consents to sex with Aidan. Shortly after the sex begins, Charlotte begins to feel uncomfortable. The sex is painful, and she is not

enjoying herself. She is no longer mentally consenting, but she is afraid to express her change of heart behaviourally, as she doesn't know how Aidan will react. Although she had initially consented to the sex, when it is over, Charlotte feels wronged by this sexual encounter.

In this example, the Mental View allows Charlotte to make sense of her feeling of having been wronged by this encounter. Charlotte is empowered to decide in which circumstances she has been wronged, and in which ones she has not, thus maximising her autonomy. This appears to be consistent with the affirmative model of consent. At the same time, Charlotte's retraction of consent does not necessarily make it the case that Aidan is culpable; in this scenario, he may have wronged Charlotte without being aware of it, and therefore he is not morally culpable for the events that unfolded. Dougherty acknowledges the possibility of this in saying that 'even if an agent is innocent, it may still be that their behaviour is morally problematic' (Dougherty 2021, p.64).

In this section, I have briefly explained the Mental View of consent, and discussed the ontology of consent in accordance with this view. I have provided examples which clarify how this understanding of consent works in practice, and explored the *Painful Sex* case in order to reflect on a potentially attractive consequence of this view. In the next section, I discuss an alternative view of consent – the Behavioural View.

2.4.2 The Behavioural View of Consent

In this section, I discuss the Behavioural View of consent, also referred to as the objective or performative view. There are two versions of the Behavioral View: the first holds that a behaviour that indicates or signals consent is itself sufficient for consent, and the second version makes the claim that the behavioural expression of consent must be accompanied by an attitude, or intention to give consent. I examine the former of these two versions here, and will refer to the latter as the 'Hybrid

View of Consent'; I discuss the Hybrid View in the next section. The Behavioural View of consent, as understood here, makes the claim that consent can function only through its communication to the consentee; an individual only consents if they express consent in an appropriate way (Wertheimer 2009, p.144). In this view, consent is nothing more than a performative act; the communication of consent, in itself, constitutes consent. In other words, it is not necessary that this communication reflects a legitimate desire to give consent. What is relevant is that the individual in question has communicated consent, regardless of that person's desire, will, or intention (Healey 2015, p.354).

The view of consent as performance is favoured by Simmons who argues that, although there are understandings of the term 'consent' as indicating a particular 'mental state,' or willingness, this sense of consent is not relevant to the sort of consent required to waive a right or render another person's actions morally permissible; only consent as a performative act has this capacity (Simmons 1979, 83; Wertheimer 2009, p.145). In relation to the examples utilised in Section 2.4.1, the Behavioural View would claim that Amy was wronged by Joe in the *Wanted Sex* scenario, but that Charlotte was not wronged by Aidan in the *Painful Sex* scenario. In the *Wanted Sex* example, consent was not present because there was no performative act that indicated consent, and since the performance itself constitutes consent in accordance with this view, consent was absent. In relation to the *Painful Sex* example, Charlotte gave consent as constituted by her verbal willingness to partake in a sexual encounter with Aidan. At no point did Charlotte indicate, behaviourally, that consent was no longer present. Thus, Charlotte was not wronged by Aidan when he continued to have sex with her despite the absence of mental consent. I will put forward an additional example to highlight how this view of consent functions:

First date: Lauren and Kelly are on a first date. As the date progresses, Kelly instigates a sexual encounter with Lauren. Lauren indicates her willingness to participate both through her body language and through verbal confirmation. Kelly feels that she is in no doubt that

Lauren is consenting to this interaction. Unbeknownst to Kelly, Lauren is not happy with how quickly their physical relationship has progressed, and does not want to have a sex. She indicated her consent verbally, as she likes Kelly and wants to see where the relationship goes, but she does not mentally consent to what unfolds.

For those who argue for the Behavioural View, this interaction was consensual and neither individual was wronged by the other. This is, perhaps, the most obvious conclusion. However, there are problems to consider with this view. As stated in Section 2.4.1, sexual assault and rape are considered crimes, as well as morally impermissible, largely because they involve sexual contact *against someone's will*. This draws attention to the importance of will or intention when it comes to consent. Having sex with someone against their will, regardless of how they behaved prior to the interaction, is widely acknowledged to be morally impermissible. Dougherty draws our attention to two types of wrongs that are relevant here:

‘Acting Without Intention: X acts in Y’s personal domain, and Y does not intend to release X from a duty not to act in this way.

Acting Without Behaviour: X acts in Y’s personal domain, Y intends to release X from a duty not to act in this way, and Y has not expressed this intention in behaviour’ (Dougherty 2021, p.58).

His claim is that ‘acting without intention is more gravely wrong than acting without behaviour’ (Dougherty 2021, p.58); if A is happy to have sex with B, but has not expressed this, and B has sex with A, we judge this less harshly than the alternative, where A does not want sex with B, but B has sex with A anyway. His claim, then, is that intention is crucial for consent to be morally valid, or to function as a moral transformative.

In this section, I have explained the Behavioural View of consent, in which an expression of consent constitutes consent. In the next section, I look at the final, and most appealing, view of consent: the Hybrid View.

2.4.3 The Hybrid View of Consent

The Hybrid View is perhaps the most common view of the ontology of consent. In this view, ‘consent is constituted by both a communicative token and a subjective mental state’ (Healey 2015, p.354). Where the Behavioural View holds that consent requires only the former, and the Mental View only the latter, the Hybrid View argues that both are necessary for consent. In other words, ‘consent consists of both a mental state possessed by the putative consenter and some intentional signification by the putative consenter that he or she possesses that mental state’ (Alexander 2014, p.104). To further explain this view, I will refer to examples mentioned in the previous two sub-sections.

In the *Wanted Sex* example, Amy wants Joe to have sex with her, but she puts up an act of resistance to maintain a certain image. She mentally consents, but does not express this behaviourally. Thus, she consents in accordance with the Mental View, but not the Behavioural View. In the *Painful Sex* example, Charlotte expressed to Aidan that they were engaged in a consensual encounter, however she did not mentally consent and was uncomfortable with how the interaction unfolded. This discomfort was not communicated to Aidan. In the Mental View, the encounter was not consensual; in the Behavioural View, it was. The Hybrid View takes issue with this encounter for much the same reason as in the case of the Behavioural View. Without any communicative token to indicate her state of mind, Charlotte appeared, for all intents and purposes, to be consenting. The Hybrid View would not consider either of these examples to be consensual as both were missing one of the two crucial components for consent: a mental state and a signification of that mental state.

Alexander criticises the Hybrid View in the same way that he criticises the Behavioural View, by claiming that ‘many theorists have been misled [because they] have focused on the culpability of the one alleged to have acted without consent rather than on whether the actor committed the wrong that he would have committed had he lacked consent’ (Alexander 2014, p.104; Healey 2015, p.355).

Alexander explores this idea with reference to the following example:

D asks V to borrow V’s car, V says “Sure,” and is quite happy to lend D her car. D thinks the “Sure” was sarcastic and was meant, not to signify consent, but to signify non-consent. Nonetheless, when V’s back is turned, D takes V’s car keys and drives away in V’s car. Now D is surely culpable. He took V’s car believing he lacked her permission to do so. But although he is as culpable as a thief—even a joyrider is a thief, though of a lesser sort than one who intends to deprive the owner of the car permanently—he did not in fact commit theft and thereby act wrongly. He had V’s consent to borrow her car (Alexander 2014, p.105).

According to Alexander, this example provides support for the Mental View, which would explain why D has not acted wrongly; after all, V had consented to D taking the car by means of her subjective – consenting – state. However, as Healey (2015) has pointed out, V did, in fact, express her consent to D, even if D did not understand it in the tone it was intended. Thus, this case does little to support the Mental View over the other two alternatives. Healey argues that the central problem with the Alexander’s criticism of the Hybrid View is that both the Mental View (as supported by Alexander) and the Hybrid view can distinguish between wrongness and culpability (Healey 2015, p.356). In the case outlined above, V has given consent both in the sense of a subjective state and a communicative token. Thus, she has consented in accordance with the Hybrid View. If, however, D did not ask V to borrow the car, but V was happy for D to take the car, one could say that D did not wrong V by taking the car, but he is culpable as a thief because the second of the necessary conditions for consent in the Hybrid View (communication) was not met.

When examining both the *Wanted Sex* and *Painful Sex* cases outlined above, it is perhaps counter-intuitive to consider either of them fully consensual. Thus, the Hybrid View is often considered the most convincing of the three options discussed here.

Conclusion

In this chapter, I have focused on defining consent. I have discussed three views of consent. I have explored the idea of valid consent and looked at the conditions that must be met for consent to ordinarily be considered valid. The aims of this chapter were: 1) To clarify what consent means and how it functions. 2) To highlight the conditions necessary for consent's validity. 3) To explore different perspectives on how consent operates in practical terms. The next two chapters will deal with the validity of consent to sadomasochism by looking at the following two questions: Is consent to sadomasochism voluntary? Is consent to sadomasochism adequately informed under typical circumstances? The chapter that follows will address the first of these questions.

CHAPTER THREE

Is Consent Voluntary?

In the last chapter, I focused on the meaning of consent, how it works, and what features are necessary for consent to be considered valid. In this chapter, I look at whether or not consent to sadomasochism ought to be considered valid by examining the influence of pornography⁴⁹ on sexual norms. In focusing on consent to sadomasochism, it is useful to explore the extent to which sexual behaviour and, most crucially, a willingness to consent to particular sexual activities, is shaped by cultural factors and sexual norms. Today, there is a substantial body of research that points to a link between the sexual behaviour portrayed in porn and the mainstream sexual behaviour of the masses. In acknowledgement of that reality, this chapter discusses how porn has come to have such a significant impact on the sexual behaviour of the individuals within our society.

Pornography has existed, in one form or another, for centuries. In the 18th century, advances in printing technology meant that written and visual materials could be produced for a mass audience, and pornographic material began to be widely distributed; this included erotic texts such as *Fanny Hill: Memoirs of a Woman of Pleasure* by John Cleland⁵⁰, and *Justine* by Marquis de Sade⁵¹. By 1837, there were more than 50 pornographic shops on Holywell Street in London, and by the early 20th century, pornographic films had begun production (Benjamin 2012; ; Bull 2014, pp.402-404; Head 2020; Jenkins 2020). However, the 1950s marked a significant turning point in the history of pornography; since the launch of the first issue of *Playboy* magazine in December of 1953, when the mass distribution of softcore pornography became more socially acceptable, it has become

⁴⁹ I will use the terms ‘pornography’ and ‘porn’ interchangeably.

⁵⁰ *Fanny Hill* is considered the first instance of pornography produced in the form of a novel; the main appeal of the novel has been the sex, specifically because the book includes references to voyeurism, masochism, and bisexuality (Pappas 2010; Tarrant 2016, p.15).

⁵¹ The term sadism derives from the Marquis de Sade who described sexual acts of extreme sadism in his writing (Palermo 2013, p.399).

increasingly evident with each passing decade that pornography has evolved to represent a dominant force within our culture and an inescapable fact of the narrative of our everyday lives (Chrisman-Campbell 2017; Dines 2010, p.2; Sanburn 2011). The phenomenal growth of the porn industry means that more people are watching more porn than ever before. With so many people watching so much porn, the porn industry has a greater ability to shape sexual behaviour than it has had in the past.

The fact of pornography's significant presence in our lives hints at a formidable capacity to influence or mould the sexual behaviours of our society more broadly. Sexual norms are influenced by porn, and much mainstream porn is aggressive and brutal. In recent years, hegemonic pornography⁵² has become increasingly violent, with many pornographic videos showing performers, primarily women, being smacked, punched, bitten, choked, and spat at (Bridges *et al* 2010, pp.1069-1078). Thus, porn has influenced sexual norms in a more violent and brutal direction. In this chapter, I make the following claims:

- 1) The porn industry is bigger than ever, and thus has a more pervasive influence than it had previously.
- 2) Mainstream porn has evolved and is becoming increasingly violent; sadomasochistic sexual behaviour can be seen across hegemonic pornography.
- 3) There is a pornification and, furthermore, a kinkification, of society underway, and the influence of sadomasochistic pornography can be observed across society.
- 4) There is substantial evidence that the behaviour of ordinary people is influenced by the sexual norms of pornography.

⁵² The term 'hegemonic pornography' refers to pornography that is considered mainstream – the dominant form of pornography that is consumed (Chancer 1998, p77).

These claims amount to my argument that sadomasochistic pornography and the changing sexual norms that accompany its normalisation represent a powerful coercive force which negates the voluntariness of consent to sadomasochism.

I begin by discussing the growth of the porn industry. I then explore the increasing prevalence of sadomasochism in everyday pornography, before examining the pornification and kinkification of culture. Finally, I discuss the influence of pornography on the lives of ordinary women. The aim in this chapter is to call into question the extent to which consent to sadomasochism is freely given, with consideration of the impact of violent and misogynistic pornography. This chapter examines the relationship between pornography and sadomasochism, and considers how pornography can be seen to have a significant influence when it comes to the sadomasochistic engagement of the masses.

3.1 THE EVOLUTION OF PORNOGRAPHY

There has been some debate over how pornography can be best defined. Establishing a definition of pornography is crucial to facilitate the discussions that will follow throughout this chapter. For our purposes here, I will use the definition preferred by historian Lynn Hunt, who explains that pornography includes the following elements: ‘a written or visual representation of sexual behaviour or sexualised body parts’; ‘an intentional violation of widely accepted moral and social taboos’; ‘an objective to arouse sexual feelings’ (Tarrant 2016, p.11. See also: Hunt 1993, p.10). On this definition⁵³ of pornography, it has only existed, in its current form, from the 17th century (Tarrant 2016, p.11). Pornography has evolved dramatically in the centuries since it first emerged, and has changed perhaps most obviously in the last century; the difference, for example, between the adult

⁵³ Not everyone agrees with this definition of pornography, with some claiming, for example, that a text can be pornographic even if it was not created with the intention to sexually arouse the viewer or reader.

films produced by Eugène Pirou and Albert Kirchner in the late 19th century and pornography as we know it today is vast (Erdman 2021, p.24; Tarrant 2016, p.16). Most relevant to this thesis is the evolution of pornography from the 1950s to today. The images published by *Playboy* in the 1950s are in stark contrast with the seemingly infinite ‘gonzo porn’ scenes that can be watched on PornHub in 2022. In this section, I examine the history and evolution of the porn industry, and will discuss the increasing prevalence of sadomasochistic content therein.

My examination of the evolution of pornography in this section is two-fold. Firstly, in section 3.1.1, I look at how the porn industry has grown. I explore the popularity of porn over recent decades and show how the industry has become more powerful today than it has ever been in the past. I discuss the ways in which technological advances such as the invention of VHS, camcorders, and the internet have facilitated this growth, and look at how much porn is being watched today. Secondly, I look not at how the industry has grown, but how it has changed in terms of the content being produced. I explore the impact of *Playboy* and *Hustler*, and show how hegemonic pornography has moved from the soft-core, topless images of the 1950s to the brutal and violent pornography that has come to dominate many popular porn sites now (Forrester 2016). In this section, I aim to show that the porn industry has become more powerful than it has been at any other point in its history, and thus its ability to impact and shape sexual norms is more robust than ever before. Furthermore, I show that the content of mainstream pornography is often violent, brutal, and misogynistic. The messages that porn sends to the viewer are being shouted in a louder voice than ever before and to a wider audience, and I show in this section that those messages consistently sexualise and normalise male-on-female violence in particular.

3.1.1 The Porn Boom

In this section, I discuss the phenomenal economic growth that the porn industry has experienced in recent decades. I indicate the reach of the global porn industry in contemporary culture, with reference to statistics both regarding its financial position and the frequency with which pornographic content is consumed. This section highlights the growth of the porn industry in terms of reach and impact.

The global porn industry is one of the most financially lucrative industries of our time. Low estimates of the porn industry's income in 2018 put the figure at approximately \$6t billion per year, with high estimates valuing it at \$97 billion per year (Benes 2018; Dines 2010, p.47; McVey *et al* 2021, p.51; Tarrant 2016, p.42). One oft-repeated figure is that people spend approximately \$3000 every second on internet pornography (Tarrant 2016, p.42). The money made through the business of porn is notoriously hard to keep track of, and there are various reasons why this is the case; because of this, the porn industry has been referred to as 'the quietest big business in the world' (Maddison 2004, p.57; McVey *et al* 2021, p.53). Some of the reasons for this are:

- 1) 'Multiple revenue streams fall under the pornography umbrella [...] there are countless online content providers' and record-keeping is not always consistent (Tarrant 2016, p.42). For this reason, *Live Science* contributor Stephanie Pappas points out that 'porn is all over the internet, but the actual size of the industry is a mystery' (Pappas 2010).
- 2) Not every porn company is happy to publicly disclose the extent of their takings, and the scope of what is included in relevant research varies; for example, some studies on porn profits may include the profits from live web-camming services and others may not.
- 3) A significant portion of money made in the porn industry is made by independent content creators using platforms such as OnlyFans⁵⁴, and figures on the combined income of

⁵⁴ The growth of OnlyFans as a medium for the dissemination of pornographic content will be discussed in more detail in section 3.3.2.

independent creators are not readily available. Certainly, individual pornographic content creators can accumulate substantial wealth which is not usually accounted for in pornography industry statistics⁵⁵.

- 4) Over the last twenty years, less porn has been made by the large porn corporations that previously dominated the industry, and more porn has been made by small independent businesses or freelance individuals enabled by mass internet access; by 2011, the Wall Street Journal was reporting that the problem with porn was not its mass proliferation, but the fact that there were substantial losses seen in the number of customers willing to utilise pay-per-view cable for porn consumption, instead choosing to use the internet to find their porn (Tarrant 2016, p.23). ‘Applications for porn-shoot permits in Los Angeles County reportedly fell by 95% between 2012 and 2015’; Now most films have ‘low production values, and they are often unscripted’ (Forrester 2016).

This shift in the way porn is produced as well as accessed has given rise to the popularity of ‘gonzo porn’ which will be returned to in the next section. We can acknowledge the difficulties involved in estimating porn profits without disregarding the significance of current estimates. All that being said, it is entirely likely that the true value of the industry is much nearer the higher than the lower estimate. In 1985, the porn industry’s income was estimated to be \$75 million, and, in 1992, \$490 million (Paul 2005, p.54). Furthermore, the explosion of online pornography that can be accessed for free means that, although the aforementioned figures are somewhat telling, they do not necessarily fully reflect the extent of pornography consumption. Though figures illustrate an obvious growth in the porn

⁵⁵ Just one example of this is OnlyFans model Kaya Corbrudge who earns over £30,000 per month selling her content (Tourelle 2020). It is important to note however that ‘this is not the norm. Angela Jones, associate professor of sociology at State University of New York explains that “it is already an incredibly saturated market. The idea that people are just going to open up an OnlyFans account and start raking in the dough is really misguided”’ (Roper 2021).

industry, the trend we can see likely represents only a fraction of the porn actually consumed, with many consumers choosing to solely consume free pornographic content.

PornHub is one of the most popular porn sites on the internet, with the majority of its content available to watch without charge and without acquiring membership. The ‘majority of the world’s tube sites, including PornHub, RedTube, and YouPorn, are effectively a monopoly’—owned by a large multi-national corporation called MindGeek⁵⁶, ‘whose bandwidth use exceeds that of Amazon or Facebook’ (Forrester 2016). Alexa, the leading Web-traffic tracker, places PornHub in the thirty-sixth spot on the list of the world’s most visited websites, among the tens of millions of sites available (Castleman 2018). Four other pornography sites crack the top 100, including XVideos, BongaCams, xHamster, and xnxx. Between these five pornography sites in the top 100 list, their combined views per month exceed 6 billion (Silver, 2019). That equates to over 138,000 views per minute, or 2,300 views per second. PornHub alone claims 28.5 billion visits per day, and 25 billion specific searches annually (Silver 2019; Zane 2019):

One hundred million visitors per day (the combined populations of Canada, Poland, and Australia) engage in fifty-seven thousand searches per minute of videos that are divided into categories such as oral, anal, blond, ebony, MILF, cuckold, squirting, teen, and My Little Pony. (Peggy Orenstein, 2020: Chapter Two, Section ‘Porn World Versus Real World’).

With such huge numbers of porn consumers, and such a vast quantity of porn being consumed daily, there can be no question that we live in a culture that is obsessed with pornography.

Technological advances have contributed enormously, not just to the ability of the porn industry to mass market, distribute, and profit from the content they offer, but to its versatility by means of the vast array of ways in which one can now access and experience pornography should one choose to engage. Perhaps the three most significant inventions of recent decades when it comes to

⁵⁶ The MindGeek CEO until recently Feras Antoon resigned in June 2022 after the New Yorker published an article claiming that Pornhub has hosted sexually explicit non-consensual videos — including those with children — for years (Kolhatkar 2022; Spangler 2022).

porn are the VCR, the camcorder, and the internet. In the 1980s, there was a massive boom in the porn industry, facilitated by the spreading of the new technology of the time – the VCR. At the time, there was competition between VHS and Betamax, with many speculating that it was Sony’s refusal to allow pornographic films to be recorded on Betamax that ultimately led to the success of VHS (Geronia 2017; Glass 2014). The arrival of the VCR into the homes of the masses was undoubtedly a catalyst for the 550% growth in the porn industries value experienced in the mere seven years between 1985 and 1992 (Paul 2005, p.54). The invention of the home camcorder was another event, alongside the mass spread of VCRs, that likely contributed to porn growth. The camcorder was released in 1985; it meant that ‘anyone with a camcorder could make porn’ (Tarrant 2016, p.23). This phenomenon was repeated in the 90s and 00s with the introduction and spread of internet access. The continued growth has undoubtedly been facilitated by the growing number of people with internet access, as well as a growing population⁵⁷ (Hern 2018). The number of porn consumers has increased and this has driven the market for new and innovative ways to consume pornography, the result of which are technological innovations that allow us to experience porn in previously unimagined ways.

Virtual Reality pornography is one result of the merging of pornography and 21st century technology. VR technology has been utilised in many different industries and contexts, namely for education and for tourism among other things (Babich 2019; Bell 2020; Guttentag 2009, p.637). VR technology allows the user to don a VR headset, creating before their eyes a view that looks, for all intents and purposes, close to the reality of lived experience. Due to the ability of VR technology to replicate real-world scenarios in a way that feels authentic, whilst keeping individuals in a safe and contained environment, it has been used in some cases in the treatment of phobias such as agoraphobia (Greene 2018; Quero *et al* 2014, p.124). Much of the pornographic content that is created is marketed

⁵⁷ In the year 2000, there were only three countries in the world that had internet access for over 50% of the population. Now, there are over one hundred countries in such a position.

as POV (point of view) pornography; in other words, the person watching the pornography is placed in the position of one of the individuals⁵⁸ within the video's explicit scene. VR technology has taken this a step further, enabling pornography users with VR headsets not merely to watch a video from a singular participant viewpoint, but to feel engaged in the scene. VR pornography is designed and created to give the watcher the impression of being a part of the scene to the extent that is possible; adult performers appear to be straddling the individual whilst they sit in their bedroom alone and miles away. Despite VR technology's many possible uses, 'VR Porn' is the most searched term related to VR technology; three of the top five VR related websites are porn sites (Bell 2020).

Video game pornography is a second example of the result of advances in pornography technology. Video game pornography, also known as machinima pornography, is created using the same technology used to create most contemporary video games, whereby creators use 'graphics engines and video-editing programs to create mini-movies featuring characters from games' (Leitão *et al* 2016, p.224; Madden 2017). Using these editing programmes, machinima creators are able to create any storylines they want; the lack of real people involved means that no sex act could possibly be off-limits. Without requiring the consent of any performers, machinima creators are creatively free, with the potential scenarios knowing no bounds outside of those of their imaginations. The concept of machinima bears resemblance to the emergence of sex robots, in the sense that, without a human being involved, the user feels a sense of diminished responsibility, which can facilitate violent or otherwise unacceptable behaviour. There are currently four manufacturers of lifelike sex dolls worldwide, including the market leader RealDolls⁵⁹, with experts predicting massive growth in this industry over the coming decade (Jackson Gee 2017). It is clear that the interest that people show in consuming pornography is substantial, and lucrative, enough to prompt investment in relevant

⁵⁸ Usually the male perspective (Ellwood 2021).

⁵⁹ The ethical implications involved in the production and use of sex robots goes far beyond the scope of this thesis, and thus I will not be delving further into this specific topic.

technologies. Venture capitalists estimate that the sex technology industry, which includes VR porn and sex robots, is worth over \$30 billion (Kleeman 2020, p.24). This offers some sense as to the extent of the gains made by the pornography industry in recent years in terms of reach and social acceptability.

The spread, and thus mass availability, of pornography, in addition to the new ways in which to access it such as through smartphones, has meant that pornography has infiltrated previously pornography-free environments. Smartphones have facilitated the growth and spread of pornography, with Pornhub reporting that 80% of their traffic comes from smartphones and tablets (Tarzia and Tyler 2021, p.2693; PornHub 2018). With the growth of the internet and its spread into workplaces, porn has become increasingly accessible during work hours. In 2004, a survey by web-filtering company Cerberian discovered that ‘75% of people have accidentally visited a pornographic site at work, [and that] 15% of those individuals have done so more than ten times’ (*Business Wire*, 2004). Another survey conducted and published that same year by the Employment Law Alliance found that one in four workers admit that they, or their co-workers, purposely access pornographic material over the course of their workday (Paul 2005, p.29; Tarrant 2016, p.75). Surveys carried out in both 2013 and 2014 reflect similar findings, with the former finding that 70% of all online pornography access happens between the hours of 9am and 5pm⁶⁰, and the latter finding that ‘63% of men and 36% of women say they’ve watched porn at work’ (Conner 2013; Forrester 2016; Purdy 2017). The ease of access granted by smartphones presents a further issue, with the possibility now of watching pornography in any public space, including on public transport. Annalisa Barbieri wrote an article for *The Telegraph*, detailing her experiences of witnessing men watchin’g pornography on their smartphones on trains and on the London Underground, a scenario she had been through four separate times (Barbieri, 2019). A spokesperson from the organisation End Violence Against Women spoke

⁶⁰ This indicates that people are likely to be watching during standard working hours.

to this increasingly prevalent issue⁶¹, stating that ‘watching pornography on public transport can be extremely intimidating to women’ and that it is an issue they have become increasingly aware of, with complaints of this nature made regularly not only by grown women, but by schoolgirls (Barbieri 2019; O’Connell 2018). By drawing attention to these examples of how pornography has infiltrated public spaces, I aim to emphasise the extent to which pornography is present in the everyday lives, not only of pornography consumers, but of those around them. This hyper-visibility of pornography facilitates the growing pervasiveness of a ‘porn culture,’ something that will be expanded upon later in the chapter.

In this section, I have explored the growth of the pornography industry, and indicated its reach in contemporary society. I have shown how the marketability of pornography has facilitated technological innovation, expanding the range of options when it comes to the consumption of pornography, and explained how porn growth has had an impact on society more broadly.

3.1.2 Hard Hitting

In the previous section, I discussed the growth and reach of the pornography industry. In this section, I elaborate on the specific ways that pornographic content has evolved. In the 1950s, mainstream pornography was chiefly composed of soft-core nude images which is in dramatic contrast to the content that can be found on pornography websites today. In this section, I discuss this evolution of pornography in recent decades, and, in particular, draw attention to the ways in which pornography has become increasingly violent. Much of mainstream pornography today would previously have

⁶¹ Flight attendant Amanda Pleva has also written about her experiences of passengers watching pornography on board her flights (Pleva 2017).

occupied a niche market, coming under the category of sadomasochistic pornography; what was once a niche is now mainstream.

When pornography began to hit the mainstream market in the early 1950s with the launch of *Playboy* magazine, the images were of a very particular variety. The magazine was marketed as a lifestyle magazine with so-called ‘tasteful’ nude images of women, rather than as a pornographic publication (Dines 2010, pp.6-9). The effort to market the brand as a lifestyle brand represented a push to enable *Playboy* to be sold in mainstream stores, at newsstands and in newsagents, without issue. The magazine contained reviews, cultural commentary and food recommendations, as well as the nude content offered, giving a sense of the publication as being a general men’s magazine, masking, to a certain extent, its pornographic draw. In an effort towards respectability, those marketing the magazine emphasised the written rather than the visual content (Davis 2014, p.170; Dines 2010, p.7). Hugh Hefner described the magazine as a ‘handbook for the urban male’ (Tarrant 2016, p.18). Furthermore, in anticipation of, and response to, backlash from feminists and women’s rights activists, *Playboy* positioned itself as ‘pro-woman,’ vocally supporting abortion rights and allocating funds for the ACLU’s work on women’s rights⁶² (Davis 2014, p.170; Pitzulo 2008, pp.259-260). *Playboy* was endeavouring to market their magazine as porno-chic, rather than pornography outright, thus attempting to avoid the stigma or social unacceptability generally associated with pornography at the time. Though the content in early issues of *Playboy* may look mild and inoffensive to a contemporary audience, even this publication, marketed though it was as a respectable, lifestyle magazine, was inclined towards some sadomasochistic content as early as the 1960s⁶³. Though *Playboy* in those early days may have avoided publishing any explicitly sexual visual material, the July issue of 1962 contained a story by Calder Willingham entitled ‘Bus Story’, which detailed the

⁶² Hugh Hefner was even quoted as saying that he was a ‘feminist before there was such a thing as feminism’ (Pitzulo 2008, p.259).

⁶³ In this instance, expressed only through words rather than images.

rape of a minor by an older man called Harry who ‘used his knees like a wedge’ and instructed the girl to open her legs in ‘a cold, hard and vicious tone’ (Dines 2010, p.11). This was to represent an early example of the growing acceptability and popularisation of sadomasochism in contemporary culture, an explosion that was accelerated largely by the launch of what was to become one of *Playboy*’s biggest competitors: *Hustler*.

The cultural shift towards the mainstreaming of pornography was not limited to print media. In 1960, approximately twenty adult movie theatres began popping up around the Western United States; this number had increased by over 3000% by 1970, with 750 adult movie theatres opening their doors across the US throughout the 1960s (Tarrant 2016, p.22). The porn industry’s access to aspects of mainstream distribution outlets began in the United States in the late 1950s after the launch of *Playboy* magazine, but the majority of the content that was produced was, as mentioned, softcore (Jensen 2008, p.13). More extreme, hardcore content went mainstream with the release of cultural phenomenon *Deep Throat*⁶⁴ a film about a woman with a clitoris at the back of her throat; the film, starring 70s adult film star Linda Lovelace⁶⁵, contributed to the early pornification of popular culture. The normalisation of hardcore content in pop culture paved the way for *Playboy*’s newer, more extreme counterpart.

Larry Flynt launched *Hustler* magazine in 1974 as an alternative to softcore publications including *Playboy* and *Penthouse*; *Hustler* was unapologetically sexually explicit, including full body nudity and close-up images of genitals (Paul 2005, p.64). Though *Hustler* represented a much more hardcore version of what had been previously offered in the mainstream, prior publications led the

⁶⁴ Within seven months of its release in theatres, *Deep Throat* had grossed over \$3.2 million, and had been watched and discussed by countless celebrities, talk show hosts, and critics (Tarrant 2016, p.22). It remained in the Variety top-50 US box-office chart for over ninety weeks and ran continuously at the Pussycat Theatre in Los Angeles for nearly 10 years (Barnett 2018, p.132; Forrester 2016).

⁶⁵ Linda Lovelace, real name Linda Boreman, claimed that she did not consent to appear in the film and did so under threat from her abusive, violent husband Chuck Traynor. In her memoir *Ordeal*, Linda described the film as ‘at once a low point and a salvation’ (Lovelace, 1980: 82).

way for the mainstream acceptance of pornographic material. The desensitisation of the public to pornographic material was underway by the 1970s, thus enabling Larry Flynt to push the boundaries that bit further with his publication (Dines 2010, pp.15-16). Flynt derided the people behind *Playboy* for their attempted porno-chic assimilation whilst maintaining efforts to distance their product from the pornography label, instead blatantly marketing his product as explicit and transgressive. Early pictorials in *Hustler* magazine included pregnant women, middle-aged women, obese women, and amputees – Flynt’s intention to shock audiences was obvious (Kipnis 1999, p.131):

Hustler went where no mass-market porn magazine had gone before. Its pages featured female genitals, sex acts, fetishes, and sex toys (Tarrant, 2016: 19).

As indicated by Flynt’s choice of models, *Hustler* existed not only to offer sexually explicit content, but to push the boundaries and confront what it considered to be repressive social values. In keeping with such an ethos, it became the first mainstream publication to visually represent sexual sadomasochism, catapulting such sexual behaviour from its status as something unthinkable taboo to something that the general public were to become increasingly accepting of and desensitised to, as evidenced by the fact that the magazine was grossing \$500,000 per issue by April of 1975, just ten months after its launch (Dines 2010, p.18; Kipnis 1999, pp.141-142; Olson 2016, pp.398-399). The sadistic elements of *Hustler* can be seen in some of the publication’s most controversial images. In 1978, *Hustler* published their June issue with a cover image of a woman being pushed into a meat grinder; her body, visible intact only from the hips down, is nude and meets the conventional standards of sexual desirability – what we see of her body is taut, tanned, and glossy. The sadistic nature of the image is self-evident: a naked woman is being reduced to her naked body, poised for violation and violence – in an interview, Andrea Dworkin went as far as to describe the cover as a ‘snuff image’ – in other words, an image showing the murder of an individual, usually a woman (24

Larry Flint 2013; Murano 2010)⁶⁶. Images of this kind, once only available as part of a niche market, and within specialised pornography shops or adult venues, were becoming part of popular culture, and the ramifications of this increasing social acceptability of sadomasochism were yet to be seen. I have discussed the evolution of pornography from the 1950s to the late twentieth century. I will now explore the impact that the internet had on this evolution from the 1990s onwards, and will look at what constitutes mainstream pornography today. *Hustler* marketed in shock value in the 1970s and 80s, but the imagery that was once considered shocking was soon to reach the mainstream market.

Prior to the mainstreaming of pornographic content, porn was available in adult video stores, where many tastes and fetishes, whilst rarely spoken about in the mainstream media, were catered for. Even the launches of *Playboy* and *Penthouse* did not necessarily cater to all audiences, limited as they were in scope when it comes to sexual explicitness and taboo fetishes. The birth of the internet allowed the proliferation of countless porn categories readily available for the browsing masses. Where mainstream porn was once softcore - and what would now be considered porno-chic, or at most ‘vanilla⁶⁷’ - the frame of reference for what can be considered mainstream pornography has shifted. The porn industry is a global one, with discernible patterns regarding who owns, participates in, distributes, and consumes pornographic content, it can be helpful to distinguish a dominant, or mainstream, form of pornography (Long 2012, p.59). At one time, the mention of

⁶⁶ Another issue published an image of ‘beaver hunters’, two white men sitting in a black truck carrying rifles, whilst a naked woman lies, bound by heavy ropes, on the hood of the car – their prey. The woman’s legs are spread open and her head is turned to one side, looking away from the camera (Dworkin 1979, pp.25-26). The caption underneath the photo reads: “Western sportsmen report beaver hunting was particularly good throughout the Rocky Mountain region during the past season. These two hunters easily bagged their limit in the high country. They told HUSTLER that they stuffed and mounted their trophy as soon as they got her home” (Dworkin, 1979: 26). Such a feature epitomises the Flynt sentiment regarding sexual taboos and norms, and represents one of the earliest overtly sexually sadistic images seen in a mainstream publication. The sadism is implicit in the bondage, the language of objectification, and the story told by the image (Dworkin 1979, p.27).

⁶⁷ ‘The Millennial’s slang Bible, Urban Dictionary, refers to [vanilla sex] as “plain regular sex” alongside a list of acts that it is *not*, which highlights the term’s ambiguity and leaving it wide open to interpretation. “Most people use it to describe sex that feels straightforward,” says Marin. “You wouldn’t be using a lot of different positions, it’d be pretty quiet and probably dark.”’ (Clark 2021)

everyday, mainstream pornography may have conjured up soft focus, nude images from a *Playboy* spread; times and trends have changed. What was once niche and taboo is now integral to what we would consider ‘everyday pornography’ (Boyle 2010).

‘Everyday’ pornography may also be referred to as ‘hegemonic’ pornography; in other words, everyday pornography is pornography of the kind that is likely to be favoured over others, and become predominant within the society in which we live (Chancer 1998, p.77). This kind of dominant, everyday pornography can usually be seen to have a common theme or thread running through it; certainly, the argument can be made that the thread interwoven through everyday pornography today is that of sexual sadism and masochism. The ‘dominant, hegemonic pornography genre today is that of “gonzo porn”’ defined by Dines as porn that is ‘characterised by hardcore, body-punishing sex in which women are demeaned and debased’ (Dines 2010, xi; see also: Biasin and Zecca 2016, pp.332-333; Brodesco 2016, p.363). She writes that, over the course of twenty years of lecturing, she has witnessed a ‘seismic shift’ in the way that porn impacts young peoples’ sexualities. Prior to the birth of the internet, the pornography accessed by most people was that of the softcore, *Playboy*-style variety; today, the softcore everyday porn of the past has been replaced with pornography saturated with sexual brutality, humiliation, and degradation (Dines 2010, xi; Saunders 2018, p.363).

In order to discuss the extent to which the line has been blurred between the sadomasochistic porn of a previously niche market and the everyday porn of today, one must first understand what the characteristics of sadomasochistic porn are. Sadomasochism is gaining pleasure from the giving or receiving of pain; where the sadist gains pleasure from causing pain or discomfort to another, the masochist enjoys receiving such pain or discomfort. The pain or discomfort involved in sadomasochistic sexual scenarios can be inflicted through any number of methods, and using any of an array of tools, and can include flogging, caning, piercing, slapping, hair pulling, spitting, punching, biting, scratching, and pushing (Taormino 2012, p.10). Sadomasochism also implies a power dynamic

at play, and this is particularly evident in the case of psychological sadomasochism. Thus, sadomasochism does not necessarily involve physical pain, but may instead involve humiliation, psychological play, and degradation (Langdrige and Barker 2007, pp.6-7). Therefore, sadomasochistic porn might be considered to be any porn that includes elements of the aforementioned acts. The hegemonic porn of the 1950s and 60s was *Playboy* and *Penthouse*-inspired and was, certainly by current standards, quite tame. Fast forward sixty years and we find a culture where gonzo porn has taken over as the hegemonic, everyday pornography of our time. I will now examine the extent to which sadomasochism has become a part of everyday pornography; no longer are everyday pornography and sadomasochistic pornography distinct categories separate from one another. Rather, they appear to have merged to become the singularly dominant porn of our time, and thus the porn with the most cultural influence. In the previous section, I explained the powerful force that the pornography industry has become in society; the fact that the dominant pornography being consumed today is sadomasochistic indicates that this sadomasochism could potentially be mirrored in real-world sexual behaviour. I will now discuss the content of the hegemonic pornography of today.

If one searches the term ‘Porn’ on Google, over 2.3 billion pages show up in the results, generated in less than half a second, the top result being the aforementioned Pornhub. Clicking on to the first page of websites displayed, one will quickly notice that some of the most common sex acts in mainstream pornography appear to be ‘vaginal, anal, and oral penetration of one woman by three or more men simultaneously, double anal sex, double vaginal sex, gagging, and bukkake, with regular references to women being ‘destroyed’, ‘punished’, ‘choked’, and ‘brutalised’ (Dines 2010, xviii). In *Gender-Critical Feminism*, Holly Lawford-Smith draws our attention to the extent of the violence in pornography, writing:

[The] demand for ‘innovation’ in porn has driven producers to ever more violent and degrading extremes (the forced blowjobs mentioned already are one example—in a scene featuring the woman quoted above, after she has thrown up, a man off camera can be heard

directing her to ‘lick it up’; another example mentioned in the Netflix series *Hot Girls Wanted: Turned On* is pushing a girl’s head into a toilet bowl and flushing it while fucking her from behind (episode 1). This stuff is brutal. Women and girls are being treated in ever more creative degrading and demeaning ways, in order to satisfy men’s constantly ratcheting-up sexual demands (Lawford-Smith 2022, [Kindle] location 2112).

An entire website, GagFactor.com is dedicated to showing videos of women with penises in their mouths while they choke and gag, oftentimes crying or even vomiting, and this is certainly not the only website of its kind. There are other websites dedicated specifically to ‘Anal Suffering’, which promise to show young women ‘suffering’, and ‘agonising in anal pain’ (Dines 2010, xx). The examples mentioned by Dines are not unusual – in fact, they appear to represent the hegemonic pornography of today. A 2010 study ‘found that [the majority of] the scenes from fifty of the most [popular pornographic films contained scenes of] both physical and verbal abuse of women... Acts of physical aggression such as slapping or choking [could be observed in over] 88% of the scenes, and 48% of them [included] verbal aggression towards female performers. With both physical and verbal aggression [accounted for], the researchers concluded that [almost] 90% of all the scenes in their study contained elements of aggression towards women’ (Bridges *et al* 2010). The average number of instances of aggression per scene stood at twelve (Bridges *et al* 2010). A more recent meta-analysis, published in 2020, found that spanking was present in up to 75% of scenes, gagging in up to 59% of scenes, and rape in up to 51% of violent pornographic scenes⁶⁸, with the paper stating that extreme violence including kicking, torture, and murder were rare, but that less extreme acts of aggression such as spanking were relatively common (Carrotte *et al* 2020, pp.15-16). As Forrester puts it, in pornography ‘our fantasies and worst aspirations – our greed, our desire to humiliate, to dominate are fed back to us... most porn remains conservative, brutal, and anonymous’ (Forrester 2016).

⁶⁸ It is important to note that some studies found rape in less than 2% of scenes, and thus it should not be considered typical of hegemonic internet pornography.

Everyday porn contains elements of sadomasochism; the porn that most porn-watchers are consuming on a regular basis is likely to contain slapping, spanking, or domination⁶⁹. What has been mentioned largely relates to sadism, but masochism can be also be seen in these videos through the smiling faces and encouraging words of the female performers when confronted with both physical and verbal aggression. The porn industry relies on the consumer's belief that the women involved are enjoying themselves, and any evidence that this may not be the case would threaten to disrupt the fantasy. Studies have found that men⁷⁰ are equally aroused by scenes of consensual or non-consensual sex, but this arousal is disrupted if the victim expresses horror or disgust at what is happening (Buss 2016, pp.251-252; Malamuth *et al* 1980, pp.764-765; Thornhill and Thornhill 1992, p.370). Thus, female performers must necessarily demonstrate their enjoyment at whatever act might be taking place, whether their enjoyment is real or feigned (Dines 2010, pp.65-66). As such, a masochistic attitude on behalf of the female performers becomes crucial to maintaining the fantasy that makes pornography marketable⁷¹. There is mounting evidence of the wider societal influence of sexually violent imagery as increasingly seen in pornographic content.

Machinima pornography, as discussed in section 3.1.1, offers people the opportunity to create pornographic material that does not involve any real-life individuals, thus offering exemption from conventions that would ordinarily be necessary, such as requesting informed consent to participate, and legal compliance. Free from such limitations, creators are able to create content that would never

⁶⁹ 'Cowan *et al* found a general dominance theme occurred in 28% of VHS scenes, and noted that among the scenes characterized by themes of dominance, 78% involved the man in a dominant role and 22% involved women in this role. Another VHS study found 19% of scenes involved dominance, of which 74% had a man in the dominant position while 33% had a woman in this position. A final VHS study found that in 39% of vignettes, a male actor ordered a female actor to perform in a certain way' (Carrotte *et al* 2020, p.12).

⁷⁰ Although both men and women consume pornography, men outnumber women as consumers of gonzo porn (Ballester-Arnal *et al* 2022).

⁷¹ It is important to note the contradiction here between the growing popularity of abusive porn sites, such as the aforementioned 'GagFactor.com,' and the disruption of men's arousal when a victim expresses horror or disgust. We are presented with two competing pictures. The likelihood is that most men are not sexual sadists, but that abusive websites appeal to sexual sadists. One could speculate that the growing popularity of violent porn is leading to a growing trend of sexual sadism, but research exploring this idea is lacking.

be possible or legal with actual human beings. Thus, ‘some machinima porn productions [...] depict extreme, non-consensual sex that's dark and disturbing in nature’, such as Studio FOW's ‘Lara Croft In Trouble’ (Madden 2017). A similar dynamic is created by the development of the aforementioned sex robots. At the Arts Electronica Festival in Linz, Austria, Sergi Santos, an engineer from Spain was showing off a robotic doll he calls Samantha. The interactive sex robot was programmed to respond to romance. However, the sex doll was completely destroyed by men attending the festival. Men ‘mounted Samantha’s breasts, her legs, and arms,’ broke two of her fingers, and spat on her; she was ‘heavily soiled’ (Brinkhurst-Cuff 2017). There is an important conversation to be had regarding the ethical implications of the existence of machinima and sex robots, but such a conversation goes beyond the scope of this particular discussion. Though I will not be examining such ethical implications here, I will put forward these examples as evidence of the influence that the mainstreaming of sadomasochistic pornography may be having on the wider public.

In this section, I have discussed the launch of *Playboy* as the birth of modern pornography, with its soft-core, above-the-waist images and attempts at respectability. I have looked at the release of *Deep Throat* and the appearance of *Hustler* magazine as turning points in the evolution of pornography; in many ways, *Hustler* was *Playboy*'s opposite, with its consistent boundary-pushing and trade in shock-value. I have briefly discussed the content of adult publications to highlight the shift that was taking place in the pornography industry. I have examined the impact of the advent of widespread internet access when it comes to the spread of pornography, and have explored the growing trend for sadomasochism in pornography.

3.2 PORN CULTURE TODAY

Having detailed the change in the content of mainstream porn, in this section I aim to show that porn is now normalised across popular culture, such that it permeates across fashion, media, social media and into relationships to the extent that the sadomasochistic behaviour which is exhibited in contemporary porn has become normalised and accepted as sexual behaviour in general. To make this argument I first describe the pornification of mainstream society which results in ‘porn culture’. Secondly, I discuss the ‘kinkification’ of society, a term I use for the cultural normalisation of sadomasochistic imagery and behaviour. Thirdly, I explore McNair’s concepts of ‘porno-chic’ and ‘striptease culture’ to show how the sexual norms of pornography are promoted in mainstream media, where they are widely accessed by the masses. Finally, I explain how the line between mainstream celebrity and porn performer has become blurred in a way that supports the normalisation of pornified behaviour and the widespread acceptability of explicit media.

The growth in pornography’s visibility has led to a growth in its cultural impact. In mainstream culture, ‘sex is becoming [increasingly] visible, and more explicit’ in its representations (Attwood 2006, p.82). For years, ‘cultural commentators, journalists, and scholars have been noting changes in the increasing accessibility and acceptability of pornography, as well as the ways pornography and porno-graphic imagery are fragmenting and blurring into traditionally nonpornographic forms of popular culture’ (Tyler and Quek 2016, p.1). Sexual ‘products and services are becoming more accessible to a wider pool of consumers’ (Attwood 2006, p.82), and new technologies – such as the ones detailed in previous sections – are being developed to support or reimagine the sexual encounters of ordinary people. This shift has been ‘referred to as pornographication, pornification, or porno-chic’ (Tyler and Quek 2016, p.1. See also: Mulholland 2015, p.732). As a result of the expansion of porn and a particular type of hard porn, pop culture and culture in general has become used to, and accepting of, porn, such that our culture is a porn culture.

The concepts of ‘porn culture,’ or ‘raunch culture,’ are formulated to describe this situation⁷² (Dines 2010, p.54; Levy 2005, pp.26-30).

‘Porn culture’ is a term often used to refer to the aforementioned pornification of popular culture; today, in a society where pornography is regularly celebrated in mainstream media, from movies such as *Zach and Miri Make a Porno*, to Oprah’s *O* magazine, the once-frowned-upon highly-sexualised norms and values of the pornography industry have been integrated into ‘popular culture [and] the iconography of pornography has become more commonplace’ in art, music, and film (Attwood 2006, p.81-82). In other words, pornography has become a constitutive part of our culture, to the extent that there has been a pornification of society (Attwood 2006, pp.81-82 ; Boyle 2010, p.2; Dines 2010, p.25, p.55; McNair 2002, pp.7-8; Stella 2020, pp.325-326; Sarracino and Scott 2008, x; Tyler and Quek 2016, pp.1-2). The ‘trend of “pornification” has seen the normalisation of pornography consumption,’ and has ‘increased the legitimacy of such consumption’ (Tarzia and Tyler 2021, p.2693). This process of the pornification of culture is broken up by Sørensen into ‘three interacting tendencies: volume, clean-up, and fragments’ (Sørensen 2005; Tyler and Quek 2016, p.4). Volume refers to a growth in the availability and accessibility of pornographic content. Clean-up refers to the sanitisation of pornography’s image, which serves to increase the social acceptability of pornography consumption. Lastly, fragments can be otherwise understood as porno-chic – it refers to the elements of pornography that show up in mainstream media and popular culture (Sørensen 2005; Tyler and Quek 2016, p.4). There are countless examples to illustrate this pornification of culture, and these will be examined in the sections that follow.

‘Porno-chic,’ a term used by McNair, refers to aspects of popular culture, whether its clothing, TV shows, or music videos, that have been influenced by the iconography of pornography without,

⁷² These terms are used in similar ways to refer to a cultural shift to increasingly sexualised social norms.

arguably, being examples of pornography as defined earlier in this chapter. In section 3.2.1, I will delve further into the concept of pornification, and will examine the increase in sadomasochistic iconography and imagery in mainstream media. In order to draw a parallel between the pornification of culture and the specific trend towards the normalisation of sadomasochism in popular culture, I use the term *kinkification*. I utilise this term to refer to the cultural shift marked by the change in attitudes towards sadomasochistic imagery; where pornification has, for example, normalised graphic sex scenes on television shows, kinkification has normalised the portrayal of sadomasochistic sex in a comparable way. I use the example of the *50 Shades* franchise to show the extent of this kinkification. In section 3.2.2, I will discuss McNair's concepts of 'porno-chic' and 'striptease culture,' and will demonstrate the relevance of these concepts when it comes to today's sexual landscape. This section is divided into two parts. I firstly touch briefly on the idea of porno-chic, and will give contemporary examples of this phenomenon⁷³. I then discuss striptease culture, and will use the following examples to show how the two aforementioned concepts (and the latter in particular) manifest in popular culture: Love Island, Instagram Influencers, and KinkTok⁷⁴. Finally, in section 3.2.3, I discuss the blurring of the line between porn and mainstream media with reference specifically to the crossover between these two spheres: the appearance of ordinary (non-porn-performing) individuals and mainstream stars in pornographic content, and the appearance of pornstars in mainstream media and culture. The purpose of the following sections is to show that: 1) Culture is undergoing both pornification and kinkification. 2) The boundary between porn and material that is not ordinarily considered porn is being eroded. 3) There has been a shift in the way porn and porn

⁷³ The discussion of porno-chic can be less comprehensive as it is closely linked to the kinkification of culture as discussed in the previous section.

⁷⁴ Babes on the Bed and Girls Gone Wild are slightly less recent examples which shed light on how we got to where we are today; the three other examples are contemporary and follow on from the two mentioned prior.

performers are viewed, and this shift has the capacity to influence an individual's willingness to engage in porn-sanctioned behaviour.

3.2.1 Sadomasochism and Kinkification

In a world saturated with easily accessed pornographic content, porno-chic and striptease culture emerge; these will be discussed in the next section in more detail. When the porn saturation that we are referring to is laced with sadomasochistic elements, it is conceivable and even probable that the impact of such saturation on culture will reflect that prevalence of sadomasochistic imagery. Indeed, this section will show this to be the case. In this section, I will show that elements of sadomasochism have crept into the mainstream media and culture. There has been a pornification of culture, as mentioned previously but, furthermore, the examples mentioned in this section will serve as evidence of the trend of kinkification – our culture reflects not only the norms of pornography, but the norms of sadomasochistic pornography more specifically. Kinkification can be seen across music, fashion, movies, and other aspects of popular culture.

When it comes to the world of pop music, Madonna represented an early example of using sadomasochistic porno-chic as part of her appeal; in 1990, her video for *Justify My Love* contained elements of sadomasochism, with performers dressed in black underwear and fetish garments. A further example of this was the cover of her *Erotica* album in 1992, where the image showed Madonna sucking on someone's toe, an act associated with sexual submission (McNair 2002, pp.65-66; Lynch 2017). The 1990s saw the emergence of 'S&M chic', a style heavily influenced by sexual sadomasochism, whereby garments previously restricted to the category of 'fetish gear' began to be seen on catwalks around the world. A 1995 issue of *Dazed and Confused* magazine featured images of people in fetish gear and eroticised violence, and a 1996 issue of *Face* contained an advertisement

for Guinness which depicted a man hanging from the ceiling wearing fetish gear and bound by chains (McNair 2002, p.78). A 1993 Dunlop tyre advertisement featured strange, fetishistic ‘imagery, such as a falling piano, a cackling voodoo master, a skull in flames’, and more obvious SM references including a bald man in a shiny black waist corset (Leodegan 2007; Schneider 2017). Sociologists and feminists have long noted that ‘contemporary fashion increasingly appropriates the iconography of pornography, sadomasochism, and fetishism’ (Harvey and Robinson 2007, [Kindle] location 943). The growth and prevalence of this kind of imagery contributes to the desensitisation of the general public when it comes to sexually explicit or sadomasochistic content. Fast forward to today and BDSM is as in fashion as ever, and elements of sexual sadomasochism continue to be heavily appropriated by many brands in contemporary clothing styles. Valerie Steele was an early observer of this trend:

Leather, rubber, “cruel shoes,” tattoos, and body piercing – all the paraphernalia of fetishism have been increasingly incorporated into mainstream fashion. The popular interest in subcultural style is not new, but there has recently been a qualitative change in the reception of sartorial sexuality. Today sexual “perversity” sells everything from films and fashions to chocolates and leather briefcases (Steele 1996, p.9).

A quick glance at popular online clothing stores shows this to be the case, with online stores such as *Missguided* offering 35 different clothing items under the search term ‘harness’. These include a ‘black faux leather chest harness’, and a ‘black fishnet harness bra’ (Missguided, 2019). They also offer items such as a ‘simple choker necklace’ which fits neatly around the neck and features a circle design on the front; such items have become more readily available in recent years, and have been influenced by the gags, particularly O-ring gags associated with sexual masochism (Missguided, 2019; Fournier 2016). This same trend can be seen in high fashion, with NET-A-PORTER offering Alexander McQueen black ‘studded leather harnesses’ from the Autumn 2018 collection (NET-A-PORTER 2019). In a similar vein, shops such as O’Mighty sell slogan t-shirts with Pornhub logos on them, one with the slogan ‘That’s gross – I love it’, and another simply saying ‘PainHub’. Another

states ‘A Part of Romance is Swallowing’ (O’Mighty, 2019). In all of the aforementioned examples, sadomasochistic pornography is either appropriated through style, or explicitly referred to, with the ‘Painhub’ example being perhaps the most alarming in its blatant reference to the prevalence of violent pornography on the world’s most visited porn site⁷⁵.

When it comes to entertainment, the same pornifying influence can be seen across mediums. In January of 2011, singer and songwriter Rihanna released a song entitled ‘*S&M*’, which included the lyrics. ‘Sticks and stones may break my bones but whips and chains excite me’. The accompanying video includes scenes of Rihanna wearing latex and watching a man on a lead, as well as a scene where she is bound by pink shibari⁷⁶ ropes, and another where she is flogging security men who have been tied to chairs (Rihanna 2011; Sweney 2011). Though a parallel could be drawn between Rihanna’s 2011 video and Madonna’s 1990 one due to the similarity of sadomasochistic themes, it would appear both that artists have become more explicit in their lyrical and visual references to sadomasochism, and that the public reaction to such has shifted somewhat. Where Madonna’s video was controversial for the context within which it was released, Rihanna’s video caused no such stir, familiar as such imagery was to 2011 viewers – people who had, in many cases, been exposed to similar imagery in the mainstream for decades. In 2019, Netflix released a new show entitled *Bonding*, which tells the story of a female dominatrix and the hiring of her new assistant, as he becomes accustomed to working life in the dungeon (Bonding 2019; Dickson 2019). Though the show makes explicit reference to sadomasochistic sexual activities such as electrocution and flogging, the reception to the show has been largely positive, indicating an audience that is no longer shocked by sadomasochism in the way that people were twenty years previously. When extreme, hardcore

⁷⁵ In 2020, Pornhub came under fire for hosting videos of child abuse, rape of both children and adults, and violent assaults on visibly unconscious women (Isaacs 2020; Kristof 2020).

⁷⁶ ‘Simply put, shibari is the act of tying up a person for aesthetic purposes—maybe in a pretty or intricate pattern, typically by using some form of rope. And while shibari is most often used as a means for sexual pleasure, historically, it’s been used as a form of meditation, relaxation, and trust-building practice between two partners’ (Andrews 2021).

pornography becomes mainstream pornography, and previously shocking appropriation of BDSM culture no longer has the power to shock audiences to the same degree, it follows that this integration of sadomasochism into the lives of the many might have an impact on the sexual behaviour and activities of the wider population. In later chapters, the extent to which people are participating in sadomasochism will be discussed in more detail. When it comes to popular culture and examples of sadomasochism therein, there is one example that stands out – both in terms of popularity and in terms of the controversy it caused; no interpretation of sadomasochism in mainstream media garnered more attention than the book and movie franchise *Fifty Shades of Grey*. In the next section, I will focus specifically on this example, and use it to illustrate the social permissibility of sadomasochistic relationships in a contemporary sexual climate.

One of the most prevalent examples in recent years of the explosion of sadomasochism in popular culture is the *Fifty Shades of Grey* franchise. *Fifty Shades of Grey* is an erotic novel written by E.L. James, and published by Vintage Books in 2011. James went on to write a second and third book, *50 Shades Darker* and *50 Shades Freed*, completing the trilogy. In 2015, the first book was made into a film by Focus Features, who then followed up with second and third films. The books were a publishing sensation and a cultural phenomenon, with the first book of the trilogy selling almost 6 million copies in the UK alone within the first eighteen months (Aviles 2019; Singh 2012). The ‘popularity of *Fifty Shades of Grey* [reinvigorated the] ongoing debate on women and sexual submission in feminist discourse’ (Stevens 2014, p.257). Langdrige and Barker have made the case that feminists have often failed to account for the experiences of female sadomasochists, and the unprecedented popularity of the series spoke to that claim. They claim that the proliferation of discourse on sadomasochism has been sparked by the integration of BDSM into popular culture, of which *Fifty Shades of Grey* is an example (Langdrige and Barker 2013, pp.3-15; Stevens 2014, p.257).

The book series quickly became categorised as ‘mommy porn’ due to the erotic nature of James’s narrative, which includes many examples of what people might consider to be sadomasochistic sexual acts, and due also to the consumer demographic, many of whom appeared to be middle-aged women (Goudreau 2012; McCann 2015). In fact, the entire premise of the book is based on the idea of a wealthy, attractive businessman – Christian Grey - who enters into a dominant/submissive relationship with a young virginal woman called Anastasia (James 2011). Grey goes as far as to introduce a contract into their relationship, whereby Anastasia is given the opportunity to identify her hard and soft limits, and to sign the contract by means of consenting to the acts mentioned within it, though she does not agree to this (James 2011). Throughout the trilogy, there are many scenes of what was intended to be BDSM activity, including a concluding scene whereby Christian spans Anastasia until she cries. Whether or not the aforementioned scenes can be considered as such is a controversial issue which will be addressed in a moment, but certainly the story was written and marketed as sadomasochistic erotica.

Elements of sadomasochism, domination and submission are evident throughout the texts. An early example of this, present in the first novel of the trilogy, is the aforementioned contract; Christian Grey tells Anastasia that the only relationships that he ever engages in are ones whereby he plays a dominant role in relation to the other involved party – the submissive individual (Aviles 2019; James 2011). He shows her a contract that he uses for these relationships, a contract that where both hard and soft limits⁷⁷ are listed and open to discussion, and where “rules” are laid out, some of which include rules about the ways in which the submissive should dress, what she should eat, and how often she should exercise. The dynamics of the potential relationship are laid out as overtly

⁷⁷ Hard and soft limits are about negotiation. In *The Ultimate Guide to Kink*, Taormino writes that ‘negotiation creates a space for everyone to talk about their needs, wants, limits, fantasies and fears before they play... People sometimes make a “Yes-No-Maybe” list, marking “yes” for the things they’d like to do, “no” for the things they definitely wouldn’t like to do, and “maybe” for activities that fall in between’ (Taormino 2012, pp16-17).

sadomasochistic. The physical sexual acts mentioned are typical of sadomasochism, and include caning, biting, whipping, spanking, gagging, and restraint, amongst many other sadistic sex acts⁷⁸. The contract also contains details about repercussions, should the submissive party fail to comply with the agreement, whereby the dominant could administer punishment as he deems appropriate. In a later scene in the text, Christian spans Anastasia and, at the first novel's conclusion, beats her with a belt, an act to which she responds with evident upset and anger (Green 2015; James 2011). Despite the massive commercial success of both the novels and the associated film franchise, the BDSM community came out largely in opposition to the portrayal of the community by James, arguing that it misrepresents what BDSM is all about:

As several experienced BDSM practitioners emphasized to me, there are healthy, ethical ways to consensually combine sex and pain. All of them require self-knowledge, communication skills, and emotional maturity in order to make the sex safe and mutually gratifying. The problem is that *Fifty Shades* casually associates hot sex with violence, but without any of this context (Green 2015).

Many BDSM practitioners argue that, although the books and movies do little to stress the importance of consent, as well as open and honest communication, these are at the core of BDSM practice in the real world.

Research carried out by Bonomi, Altenburger, and Walton analysed *Fifty Shades of Grey* in an effort to establish whether or not there is intimate partner violence (IPV) present in the relationship between Christian and Anastasia, as portrayed in the story. Their research found that there is emotional abuse present in almost every interaction between these two characters (Bonomi 2013; Roper 2017). Christian stalks Anastasia by using a phone and computer to track her movements and appear suddenly in places that he knows she will be. He intimidates her both verbally and physically, ordering her to eat and threatening punishment if she does not acquiesce to his demands. He attempts to isolate her from friends and family. He is also sexually violent and abusive, using alcohol to inhibit

⁷⁸ These acts are fairly typical within SM scenes (Taormino 2012, p.10).

Anastasia's ability to think clearly and thus compromising her consent, and intimidating her by initiating sexual contact while he is in a rage. He dismisses Anastasia's insistence regarding her boundaries, and threatens her. The research also found that Anastasia exhibited behaviours typically seen in victims of intimate partner violence, including but not limited to stressful managing and altered identity. She displays signs of entrapment and disempowerment associated with victims of domestic abuse (Roper 2017).

It is worth acknowledging that Anastasia did not sign the contract when it was presented to her by Christian Grey; she did not consent to the relationship dynamic as outlined in the contract. Herein lies the primary issue, as raised by BDSM practitioners – consent was not present when it comes to much of the action of the story. For those within the BDSM community, consent is centred and forms the crucial foundation upon which acts, even those potentially involving an almost uninhibited level of brutality, can be excused and put forward as representations of sexual liberation (Marcus 2015). When informed consent is centred as the foundation for ethical sexual encounters, this radical consent model allows for sexual behaviour that might, in any other context, be perceived as unethical. The fact of *Fifty Shades of Grey*'s popularity is, in itself, telling. It represents a cultural shift of significant magnitude. As 'Paul Wolpe, the director of the [Centre] for Ethics at Emory University, [stated]: 'oral sex, anal sex—those are all things that were at one time illegal' (Green 2015). Just over 90 years ago, D.H.Lawrence's novel *Lady Chatterley's Lover* was banned in the United States for its depictions of sex acts, and this ban was upheld until 1959; less than one average human lifetime later, *Fifty Shades of Grey* became an international bestseller (Charles 2019). The change in society's attitude to sex could not be clearer, with the growth of the pornography industry and ensuing pornification of popular culture playing no small part in this shift.

In this section, I have highlighted numerous examples of the kinkification of popular culture, with reference to examples from music, fashion, and films. I have specifically focused on the *Fifty*

Shades of Grey franchise as a prime example of the normalisation of sadomasochistic sex; the popularity of the books and films is itself evidence of the kinkification referred to earlier in the section. In the next section, I will examine the concepts of striptease culture and porno-chic in more detail.

3.2.2 Porno-Chic and Striptease Culture

Section 3.1 dealt with the first aspect of Sørensen's elements of pornification: volume. In this section and the one that follows, attention will be given to the latter elements: clean-up and fragments. This section will focus primarily on the latter; 'fragments' refers to the way the norms and values of pornography show up in the everyday lives of ordinary people. Pornography⁷⁹ is, by nature, an arena of the visual, and of superficiality. Porn performers are valued, primarily, by what they look like naked and how sexually appealing their presentation is to a potential audience (Drenten 2020, p.41; Mulholland 2015, p.732). The normalisation of these values of superficiality, exhibitionism, and overt sexuality has an impact on our societal perspective, and this impact is seen, for example, in the way that we turn our bodies into projects, as well as the way certain behaviours are perceived; in other words, the power or authority that can be gained through adherence to social norms, or attainment of that which is valued within a society, can be gained through conventional sexiness or self-sexualisation in a pornified culture. The nature of this illusion of power will be further explored in later chapters.

The growing importance of one's status as 'sexy' has, for one thing, led to the proliferation of contests through which contestants are judged, and potentially win, based on how closely their

⁷⁹ In this section, when I refer to pornography I am referring to images and videos, rather than other mediums such as erotica; in any case where I am referring to non-visual pornography, that will be clarified.

appearance and behaviours mirror those of porn performers. In *Living Dolls*, Natasha Walter details her experience of the *Babes on the Bed* competition, a contest run by *Nuts* magazine in 2007 in clubs around the UK; in order to win this competition, women were lined up and, one at a time, had to pose topless on a bed in the middle of a nightclub, while the nightclub patrons looked on, often taking photos, cheering, and shouting sexually explicit phrases and requests at the women involved (Walter 2011, pp.19-23). This competition could be considered an example of clean-up: the association of pornography with a night out with friends, the nightclub venue, and the ‘bit of fun’ attitude that accompanied the promotion of the competition hint at an attempt to increase pornography’s social acceptability outside of its typical context. Another, more explicit, example of this is the creation of reality show *The Sex Factor*⁸⁰, a competitive reality show whereby contestants enter in a bid to become the next big porn star. *The Sex Factor* can be seen to represent a merging of worlds, or a blurring of lines as previously discussed; in this series, the pornography world merges with more widely accepted and celebrated aspects of popular culture, with pornography being portrayed as something that any conventionally attractive member of the public could potentially get involved in. However, this show is online-only, and thus does not have the same cultural influence as a reality show such as *Love Island*, which will be discussed later in this section.

In many ways, porn culture most significantly impacts young people; young women are entering *Babes on the Bed*, the nightclub where the competition took place was likely patronised mostly by those under 30⁸¹, and similarly, young people are getting involved with *The Sex Factor*. In a more blatant way, certain contests specifically target and market to students, such as *ShagAtUni*’s competition to find the ‘UK’s Horniest Student’. This competition urged students to have sex with as many people as possible and keep track of their sexual activities for a chance to win £500, alcohol, a

⁸⁰ It is worth mentioning here that *The Sex Factor* is a reality show that is shown online, and not on mainstream television. This distinction is important.

⁸¹ A 2017 survey of 5000 UK adults found that 31 was the age that most people stopped clubbing (Crummy, 2019).

phone, and a year's supply of condoms (Sherriff 2013). This contest demonstrates a commitment to values that align with those championed in pornography, including the prioritisation of sexual activities devoid of intimacy, an absence of any genuine relationship, anonymity, and compulsivity (Mulholland 2015, pp.733-734; Schultz 2009).

A further way that the impact of pornification can be seen in mainstream culture is through porno-chic and striptease culture. Porno-chic refers to the ways in which elements of pornography have been appropriated into areas of culture that would not, in themselves, constitute pornography; examples of porno-chic are often labelled as being examples of artistic expression, and are frequently distinguished from pornography itself (McNair 2002, p.62). The difference between pornography outright, and porno-chic, in his view, is that examples of porno-chic are created with the intention of having mainstream appeal, whereas pornography itself must be, to some extent, beyond the mainstream to retain its appeal; pornography must represent a violation of conventional moral values and sexual norms in order to maintain its erotic power. Early examples of what was, for a time, marketed as porno-chic, include the 1970s film *Deep Throat*, but attempts to market the film as respectable failed; according to social and cultural norms, it was pornography and thus any effort to fully integrate such work into respectable, mainstream culture was doomed (McNair 2002, p.62). The need for pornography to be transgressive to some degree in order to maintain its erotic appeal goes some way towards understanding the ways in which the porn landscape has changed, with pornography becoming steadily more brutal, demeaning, and violent, pushing the boundaries in order to retain its power. Porno-chic, on the other hand, includes any examples of imagery within popular culture that appropriate elements of pornography, but yet are not transgressive to the point of being considered pornography themselves⁸². In the 1980s and 90s, Madonna's work included prime

⁸² The view that pornography must necessarily be transgressive to be considered pornography has been disputed. See Tyler 2011.

examples of porno-chic. In her music video for *'Open Your Heart*, she portrayed a [woman stripping under the gaze of] a young boy [... In] *Like A Prayer*, [there was] a black Christ figure with whom she has sex' (McNair 2002, p.65). These examples, whilst risqué, were not considered pornography; porno-chic is not created for the purpose of inciting sexual arousal, whether or not that is a consequence is somewhat irrelevant, or for the purpose of masturbation (McNair 2002, p.65; p.86). These also represent instances of the 'fragments' element of pornification as previously explored. McNair states outright that 'porno-chic is not porn,' which would seem to indicate a belief that, when otherwise pornographic content is used for art or advertising, it is no longer pornography in the traditional sense (McNair 2013). The difficulty with this separation, as discussed by Tyler, is that it is not always possible to make such a clear distinction: McNair's definition of porno-chic would appear to make the process of pornification appear as distinct from the pornography industry itself, and could, thus, fail to account for the process of pornification as an infiltration by the pornography industry into popular culture (Dines 1998, pp.37-38; McNair 2013; Tyler 2011; Tyler and Quek 2016, p.3).

On the flip side, striptease culture refers to the increasingly normalised practice of 'ordinary people, talking [explicitly] about sex and their own sexualities, revealing intimate details of their [sex lives, and undressing] in the public sphere' (McNair 2022, p.88). This trend can be seen in sex-related documentary shows on television, reality shows such as *Naked Attraction*, and the emergence of sex-related courses and workshops (*Naked Attraction*, 2019). What is crucial to note is that the necessary preconditions of striptease culture include both 'a regulatory environment' and a widespread voyeurism – a taste 'receptive to the spectacle of ordinary people stripping off physically and emotionally' (McNair 2002, p.89). The following three examples represent the prevalence of striptease culture; each involves the discussion of or enactment of sexualised behaviour for a public audience.

Love Island

Love Island is an ITV reality TV show in which single people couple up in an effort to find love and win a £50,000 prize (ITV 2022). The show was launched in 2015, and continues to the present day, appearing on screens every summer (IMDB 2022). The show is hosted by Laura Whitmore, and narrated by her partner, comedian Iain Stirling, and follows the highs and lows of the contestants as they face challenges and obstacles on the course to partnering up and winning the cash prize (Mangan 2021). Previous challenges have included the ‘Snogathon Challenge,’ in which each group of Islanders had go around and kiss the other Islanders who were wearing blindfolds and then had to rank the kiss out of ten, and the ‘Mile High Challenge,’ in which the female contestants dressed up in sexy air stewardess costumes and performed lap dances for the male contestants before standing on a vibrating platform to give the men a ‘safety demonstration’ (Mensah 2022; Veitch 2022). Although nudity and explicit sexual behaviour cannot be shown on the show⁸³, safe sex is encouraged and producers ensure that condoms are readily available throughout the villa; supposedly there are hundreds of ‘condoms scattered around the villa’ so there is always a condom to hand for a cast member if required (Johns 2021). This is a show that drew five millions viewers for the first episode of the 2022 season (Llewellyn 2022). Columnist for the Guardian, Barbara Ellen, describes the show as ‘a form of sneak porn⁸⁴,’ which features ‘sexual footage, usually pixelated, sometimes with sheets thrown over the participants’ (Ellen 2017). She goes on to say:

Perhaps better to call it gutless porn – porn for people who are up for a bit of titillation but are perhaps too scared to watch real porn. By which I mean porn performed by, one hopes, professionals who are properly remunerated. Professionals who, at the very least, know what they’re getting into, and who’ve processed how participating in porn may affect them, both now and for the rest of their lives... If, in the main, the participants are young, hormonal, naive, and perhaps a little star-struck, they could view these shows as their big chance to

⁸³ This does not include buttocks and much of a contestant’s breasts, which can be shown (Johns 2021).

⁸⁴ One example of the overlap between mainstream media and pornography is the appearance of *Love Island* contestant Olivia Attwood as an extra in a 2022 porn film which will be available to watch on PornHub (Downham 2022). More will be said about this kind of overlap in the next section.

become “reality stars”... Such young hopefuls are likely to feel pressured to have sex, not only by the TV people, but also by each other (Ellen, 2017).

This is not the only time the show has come under fire for its explicit content, with some viewers complaining that the ‘Mile High Challenge’ in particular amounted to ‘soft porn’ (Veitch 2022). It is evident that *Love Island* is an example of striptease culture, in that it involves ordinary people on reality television engaging in frank sexual discussions and sexual behaviour. Furthermore, the show’s substantial viewership is evidence of a public acceptance of such behaviour on television; sex on reality TV shows no longer has the power to shock to the extent that would negatively impact viewership⁸⁵ (Longstaff 2013, p.77).

Instagram Influencers

The social media app Instagram has become a popular arena for sexualised labour, defined as work that is ‘associated with sexuality, sexual desire and sexual pleasure,’ by means of Instagram influencers (Drenten, Gurrieri and Tyler 2018, p43. See also: Tyler 2012; Warhurst and Nickson 2009). Instagram is an image-based online social networking app which has over 800 million users around the world (Drenten, Gurrieri and Tyler 2020, p45; Statista 2018). Instagram influencers are a kind of ‘microcelebrity,’ and they use social media, blogs, vlogs (video blogs) and webcams to expand their reach, increase their follower count, and gain popularity (Senft 2008). The sexualised nature of much of the content produced by influencers is likely to be a result of the way ‘Western societies routinely sexually objectify the female body’ (Fredrickson and Roberts 1997). On the objectification of the female body, Elizabeth A. Daniels writes:

⁸⁵ The show has not gone entirely uncriticised however. In 2022, ‘Love Island viewers made 1,509 complaints to the media regulator Ofcom over allegedly misogynistic behaviour by male contestants towards their female counterparts’ (Waterson 2022).

Women's bodies are regarded as objects for the pleasure and evaluation of others, specifically men and boys. Sexual objectification separates the personhood of a woman from her body and bases a woman's worth on her appearance and sexual appeal (Daniels 2016, p.2).

It is within this context that the sexualised Instagram influencers emerge. For influencers, their bodies and the way their bodies are perceived by the audience is crucial to gaining popularity; their 'conformance to heteronormative prescriptions of attractiveness and femininity is fundamental' (Drenten, Gurrieri and Tyler 2018, p.42). A study of 172 female influencers on Instagram found that they 'consistently pose in ways that highlight body parts, wear tight, short and revealing clothing, and employ gestures such as gently pulling their hair, touching their parted lips and simulating undressing' (Drenten, Gurrieri and Tyler 2018, p.51). The content posted by influencers reflected an aesthetic popularised alongside the growing influence of the porn industry (Dines 2015; Perry 2022, p.136). Some influencers take things a step further and offer access to explicit content to their followers, usually for a price. These social media 'performers' use Instagram as a means to build an audience before redirecting them to 'external outlets for distributing more overtly sexual content' (Drenten, Gurrieri and Tyler 2018, p.58). Naturally then, such influencers often post content that is more obviously sexual in nature, although in accordance with Instagram user guidelines and rules, pornographic content cannot be posted on the app (Instagram, accessed 2022). The growing prevalence of influencers posting subtly – or not so subtly – pornified content represents both porno-chic and striptease culture; the influence of pornography is evident in the poses and behaviours of many influencers as discussed above. Furthermore, influencers are frequently displaying their bodies for a public audience, thus meeting the criteria for striptease culture.⁸⁶

⁸⁶ It is important to state here that any content that is purposefully and obviously pornographic in nature is likely to meet the definition for porn itself, rather than porno-chic or striptease culture which are milder examples of porn's influence.

KinkTok

TikTok is a social media app for making and sharing short videos. Unlike with Instagram or Snapchat, the videos are tall not square, and ‘you navigate through [TikTok] videos by scrolling up and down, like a feed, not by tapping or swiping to [the] side’ (Herrman 2019). KinkTok is the ‘kinky corner of the [TikTok] app that resembles the likes of Tumblr porn days’ (Fong 2022). Many KinkTok videos feature “kinks” including being forcefully pushed up against a wall, being choked, BDSM and even fantasies involving knives; one video of a girl encouraging her reluctant boyfriend to choke her has over a million views (McQueen 2021). The KinkTok hashtag has more than 6.9 billion views, and the choke hashtag has over 375.5 million views (McQueen 2021). Although nudity and sexual activity are banned according to TikTok guidelines, users are allowed to discuss choking, spanking, bondage, and ‘sub-dom play’; those in favour of KinkTok argue that these discussions allow for kink-based education to be dispensed in a stigma-free way (Wilson 2020).

One KinkTok figure Maxwell, known on the app as Mr Olympia, ‘describes himself as a mix between a “hard and soft” dom’ and engages in ‘impact and sensory play’ such as spanking and whipping. He claims to be ‘adept with female biology,’ and says that he has ‘mastered the art of making women squirt’. He asks his followers to call him ‘daddy,’ and has many BDSM-related videos including one showing off his BDSM toy/prop collection (Lucas 2022). He has currently amassed over 22,000 followers (TikTok 2022). Another KinkTok ‘daddy’ who goes by the name of Kane Wolfe has gained more than 300,000 followers on his TikTok account, @kane.wolfe (Lucas 2022). The minimum age for creating a TikTok account is 13 years old⁸⁷, with ‘63% of Americans between the ages of 12 and 17 [using] TikTok on a weekly basis’ (Rodriquez 2021; Zhong and Frenkel 2020).

⁸⁷ ‘In July of 2020, TikTok classified more than a third of its 49 million daily users in the United States as being 14 years old or younger, according to internal company data and documents that were reviewed by The New York Times. While some of those users are likely to be 13 or 14, one former employee said TikTok workers had previously pointed out videos from children who appeared to be even younger that were allowed to remain online for weeks’ (Zhong and Frenkel 2020).

KinkTok represents not only porno-chic and striptease culture, but the kinkification of culture as mentioned in the previous section. TikTok is not a porn app, it is a social media app. Nonetheless, frank discussions of sex and sadomasochism appear on the app with significant regularity as evidenced by previously mentioned statistics.

Porno-chic and striptease culture have thrived under conditions whereby pornography is everywhere; the prevalence of pornography, and the mass admiration of it, has led both to a desire to appropriate the style and content of its imagery, and a streak of exhibitionism and voyeurism amongst the general public – a public that have become accustomed to a constant bombardment with nude and often sexually explicit imagery. If pornography has become a part of our lives to the extent that it's heavily impacting on us culturally, which is becoming evident, then it would follow that violent pornography would also impact us in a particular way, even to the extent of being normalised through sadomasochistic examples of porno-chic. In a bid to remain transgressive, and thus to retain appeal and profit, the porn industry has moved in the direction of violence and degradation. Where once there was nothing except what would now be considered 'vanilla' pornography, there quickly became a sadomasochistic pornography sub-category. Now, in the 21st century, the barriers between what is considered mainstream porn and what is considered niche appear to be crumbling, and the cultural impact of this SM evolution is becoming apparent. In this section, I have explored the pornification of popular culture. I have discussed the ways in which this pornification can be observed, and in doing so, have elaborated on the concepts of porno-chic and striptease culture. I have offered real-world, contemporary examples of the aforementioned concepts, including Instagram influencers and the appearance and growth of KinkTok. In the next section, I will explore the blurring of the boundaries between the porn industry and the mainstream media.

3.2.3 Blurred Lines and Porn Heroes

In previous sections of this chapter, I examined the pornification of culture, and the normalisation of sadomasochism as a result of that process. This section will aim to expand upon that by highlighting the crossover and overlap between pornography and mainstream media in terms of performers⁸⁸. There are two distinct groups that I discuss in this chapter. Firstly, I look at mainstream celebrities who have ended up on porn websites, or have been involved in the creation of pornographic content. Secondly, I look at the other side of that phenomenon, examining the increasing visibility of porn performers in mainstream media such as TV shows and music videos. The purpose of this section is to bring to light the reality that, where once we had porn stars, movie stars, and ordinary women, now the boundaries between those groups have been substantially eroded. This represents another important aspect of cultural pornification and the strengthening of pornified sexual norms.

*Mainstream Stars in “Porn”*⁸⁹

There have been many examples, in particular since the birth and spread of the internet, of celebrity sex tapes and nude celebrity photos being leaked or released. Although there have always been sexually explicit tapes of celebrities, such as Marilyn Monroe early in her career, the boom of the celebrity sex tape began in the 80s and 90s and continues today. One of the earliest examples of this phenomenon was the 1989 tape of actor Rob Lowe ‘participating in sexual activity with two women, one of whom was [a minor]’ (Hayward and Rahn 2015, p.52). The online celebrity sex tape began in the mid to late 90s, ‘exemplified by an early [and infamous] example – [the sex tape of] Canadian

⁸⁸ I use the term ‘performers’ here for simplicity, but of course some of the individuals discussed in this section are not performers. Celebrities whose sex tapes have been leaked, and women who have been victimised through revenge porn were not ‘performing,’ but engaging in an act they believed would remain private.

⁸⁹ Quotation marks are used here to acknowledge the fact that many celebrities who have had their intimate photos and videos made public claim not to have anticipated any public audience. As such, whether or not these tapes or photos meet the definition for pornography is debatable.

actor and model Pamela Anderson and [Mötley Crüe drummer] Tommy Lee' (Hayward and Rahn 2015, p.56):

Starting in the spring of 1996, as information trickled out about what was on the tape, everyone wanted to see it, whether to gawk at the home life of two superstars or condemn the empty-headed, sex-addicted narcissists who presumably leaked it themselves. The couple already had a reputation for carnal and pharmaceutical indulgence, but peeping on their love play offered an entirely new level of dirty, thrilling violation' (Chicago Lewis, 2014)

A copy of the tape was 'apparently stolen from their residence and posted online [in 1995] by the Internet Entertainment Group, a pioneering company in the pay-per-view' porn market⁹⁰ (Hayward and Rahn 2015, p.56).

The trend of making such tapes publicly available gained further momentum in the early 2000s alongside the popularisation of reality television shows, with Rosenfield remarking that 'celebrity sex videos may be the ultimate form of reality television... celebrities are casting themselves in their own hit shows of their intimacy' (Rosenfield 2013, p.258). One of the most prominent cases from the 2000s was that of Paris Hilton's sex tape with her then-partner Rick Salomon; 'the tape was shot [...] in 2001, and scenes from the tape were made available online in 2003' (Hayward and Rahn 2015, p.54). At the 2005 Adult Video Network Awards⁹¹, the Paris Hilton tape, entitled *I Night in Paris* was ranked 'top in the best-selling, best-renting and best overall marketing campaign' categories, which indicates the success of the tape in terms of views and exposure (Hayward and Rahn 2015, p.55). Kim Kardashian and Kendra Wilkinson are two further examples of celebrities whose sex tapes have ended up online, largely on pornographic websites (Rosenfield 2013, p.274). There have also been examples of nude photos of celebrities leaked,

⁹⁰ 'Anderson and Lee took legal action to stop the Internet Entertainment Group but subsequently dropped their suit after signing a confidential agreement allowing the Internet Entertainment Group to maintain the material online and charge for access to it' (Hayward and Rahn 2015, p.56)

⁹¹ In the 2000s, 'the Adult Video Network Awards established a 'Best Celebrity Sex Video' category [in recognition of] high sales within the genre' (Hayward and Rahn 2015, p.57).

including during ‘Celebgate’ in 2014, and ‘The Fappening’ in 2017. Nude and intimate images of celebrities such as Kate Upton and Jennifer Lawrence were spread around online communities⁹².

Many mainstream movie stars, television actresses, and musicians have found their intimate photos and videos appear on porn sites, available to view by porn consumers. This has been a contributing factor when it comes to the erosion of the boundary between mainstream fame and porn fame. The celebrity sex tape offers up a space ‘in which the private sex act and the public personality of the celebrity intersect’ (Longstaff 2018, p.187). It represents just one example of the collapse of porn and pop culture into one another. In the next section, I discuss the opposite phenomenon, highlighting examples of individuals who found fame through pornography, and went on to become mainstream success stories.

Porn Stars Go Mainstream

I have discussed the prevalence of mainstream stars on porn websites thanks, in large part, to leaks of celebrity sex tapes. I will now briefly discuss the opposite: the appearance of porn performers in mainstream media. Where porn performers were once rarely seen outside of adult video stores, many performers have substantial exposure across mainstream culture, from magazines to television and films. It is no longer uncommon to turn on the television and see a porn performer on mainstream TV. The first example I will discuss is evidence of this.

In 2005, the E! Television network launched a reality TV show entitled *The Girls Next Door*. The show followed *Playboy* playmates, and ‘girlfriends’ of *Playboy* founder Hugh Hefner, as they lived their lives at the *Playboy* mansion. Numerous episodes of the show featured soft-core photo

⁹² It is worth noting, however, that some of the women shown in the images disputed their authenticity (Williams 2022).

shoots for *Playboy* magazine. In addition to starring in the series, Hugh Hefner also acted as an executive producer of the series. The early seasons featured Hefner's "no 1 girlfriend" Holly Madison, the young and sporty Kendra Wilkinson, and Master's graduate Bridget Marquardt⁹³ (Graham 2017; Kinnick 2007). The final season starred new girlfriends Crystal Harris, Karissa Shannon and Kristina Shannon. At that point, the previous three women had moved on (Klemme 2021). After the show debuted in 2005, it became the most watched show on the channel, with an audience that grew from 800,000 to more than 1.4 million viewers (Kaplan 2007). As mentioned earlier in this chapter, *Playboy* was one of the earliest catalysts for the porn boom that erupted over the last 60-70 years. The visibility of the brand and the playmates on a mainstream entertainment network is evidence of the extent to which the kind of soft-core pornography that *Playboy* is known for has become completely normalised, to the degree that a reality show depicting nearly-nude photoshoots for the magazine is not considered pornographic.

One porn performer who has enjoyed substantial mainstream success is Bryan Sevilla, known by his porn name - James Deen⁹⁴ (Tower 2012). Deen began working in the porn industry in 2004 at the age of 18, making his debut in *Art School Sluts*. His porn career began after he sent photos of his erect penis to porn veteran Pamela Peaks, who took an interest in him due to his unconventional-for-porn, boyish appearance (Hess and Grover 2012). Just three years later, the X-rated Critics Organisation awarded Deen with their "Unsung Swordsman" award, and in 2009, when he was 23,

⁹³ In 2022 A&E docuseries *Secrets of Playboy*, Holly Madison said that her 'time at Playboy really caused some damage. I've had different types of therapy and stuff since I left. Other than some of the animals in the zoo, I can't really think of anything I miss... When I decided to leave, it was pretty sudden so I wouldn't say it was so much that I had a plan. I just had more to fall back on. I'd been really careful with my money and making investments and I knew that there was at least a fan base for *Girls Next Door*. So maybe I could turn that into something? And it worked out really well.' (Mizoguchi 2022)

⁹⁴ Deen is a controversial figure due to sexual assault and rape allegations made against him in 2015 (Friedersdorf 2017).

Deen won the “Male Performer of the Year” award at the AVN Awards; he was one of the youngest performers to ever be given this award (Tower 2012).

Relatively speaking, it is difficult to overstate Deen’s cultural impact. He has starred in mainstream Hollywood movies, including *The Canyons* with Lindsay Lohan and *Diminuendo* with Richard Hatch. He appeared on mainstream TV in satirical show *Happyish*, and has also worked behind the camera, producing a short entitled *Cowboys and Engines* (O’Connell 2015). Deen was also rumoured to be in the running to play Christian Grey in the aforementioned *Fifty Shades of Grey* movie franchise, although the part ultimately went to Jamie Dornan (Vena 2012). Prior to his 2015 controversy, Deen was loved by teenage girls and feminist women alike, with young fans branded as ‘Deenagers’ (Friedman 2015). The website Jezebel, founded by Anna Holmes in 2007 as a women’s website with a ‘feminist sensibility,’ (Smith 2017) described Deen in 2013 as ‘totally dreamy’ and the ‘Ryan Gosling of porn’ (Beusman 2013). On Tumblr, teenage girls would ‘trade James Deen videos, post candid photographs, and pluck out all the minute details that turn them on: the way he looks at a woman, touches her, stares into her eyes, whispers in her ear’ (Hess and Grover 2012). In 2012, 17-year-old Deen fangirl Emily said that ‘it doesn’t matter if Deen is having intimate sex with a woman on a bed or shoving her into the trunk of his car...I go for just about anything’⁹⁵ (Hess and Grover 2012). In a 2012 blog post, Deen wrote that ‘half of Tumblr is apparently gifs of me and Stoya getting it on’ (Friedman 2015). Deen dated fellow porn performer Stoya from 2012 until 2014. Stoya herself has found notable mainstream success.

Stoya who ‘defies the archetype of the blonde-haired pin-up that that we have come to expect’ has been profiled in numerous publications including Paper and Vice, and has written articles for the

⁹⁵ Deen has addressed behavioural differences he has observed when working with younger women when compared with their older counterparts, saying: ‘I’ve been paying attention to consistencies and behaviour with the younger models that I work with. And intimacy almost is uncomfortable for them. I’ll do scenes, and I’ll like grab the girl and like kiss her, or be like, “Look me in the eyes,” and it will almost be like, “No, I just spread my legs; use my hole and blow a load in my face.”’ (Friedersdorf 2017).

New York Times, including ‘Can There Be Good Porn?’ and ‘Can We Learn About Privacy from Porn Stars?’ (MacNamee 2018). She has published a collection of essays entitled *Philosophy, Pussycats, and Porn*, which is described as ‘an eclectic mix of biographical vignettes and reflections that covers subjects from religious iconography to technology, but often circles back to sexuality, patriarchy and identity’ (Reith 2018). She was also a contributor to the inaugural issue of the first peer-reviewed academic journal on pornography (MacNamee 2018).

The purpose of this section has been to illuminate the fact that porn performers, once confined to the niche they would previously occupy, are now visible across mainstream media and culture, from magazines and television shows to newspapers and films. The visibility of mainstream stars in porn, and porn stars in mainstream media contributes significantly to the blurring of boundaries between porn and pop culture and, thus, the pornification of society.

3.3 GIRLS AND GONZO

On an episode of The Howard Stern Show in December of 2021, international then-teenage popstar Billie Eilish discussed her experience with pornography as a young girl, saying the following:

As a woman, I think porn is a disgrace, and I used to watch a lot of porn to be honest. I started watching porn when I was eleven... I think it really destroyed my brain and I feel incredibly devastated that I was exposed to so much porn. I think I had sleep paralysis and night terrors/nightmares because of it. I think that’s how they started because I would just watch abusive BDSM and that’s what I thought was attractive... It got to a point where I couldn’t watch anything else. Unless it was violent, I didn’t think it was attractive... It led to problems where the first few times I had sex, I was not saying no to things that were not good. And it’s because I thought that that’s what I’m supposed to be attracted to’ (The Howard Stern Show, 2021).

What Eilish is referring to here is the hijacking of her sexuality by pornography; she is stating, in no uncertain terms, the extent to which her sexual behaviour and responses were shaped by her consumption of ‘abusive’ BDSM porn. In this section, I will endeavour to explore this type of

conditioning, of young women in particular. It is not necessary for young women to consume pornography for them to be impacted by the sexual norms shaped by porn, although some do. Gail Dines has drawn attention to this conditioning, stating that many young women she has spoken to do not watch gonzo porn but ‘their sexuality is increasingly shaped by it as the men they partner with want to play out porn sex on their bodies’ (Dines 2010, xii). Although there are a myriad ways that porn can shape the sexuality of young women, I will focus in particular on two core elements of this topic. Firstly, I will discuss the ways in which porn has influenced what is considered desirable, and how young women have fallen in line to conform to this narrow vision of desirability. Secondly, I will explain how porn has shaped the way young people are having sex. Particular aspects of this will be elaborated on in the latter part of the next section, which looks at anal sex and porn facials as examples of pornified sexual behaviour.

Groomed by Gonzo

There has been much critical analysis over the past fifty years in particular about the ways in which the media sets women up to chase an unattainable standard of beauty. With the growth of the pornography industry and its increasing visibility, beauty standards have steadily become increasingly influenced by the images portrayed as desirable by the porn industry rather than, as in the past, by the beauty or fashion industries. Where once the ideal image of female beauty and attractiveness was passive, slim, demure, and conservative, the image of peak desirability has shifted through pornification, with the emphasis now being on the emulation of porn trends (Attwood 2006, p.83; Gill 2003, pp.101–4; Mulholland 2015, p.733). As Ariel Levy points out in *Female Chauvinist*

Pigs:

Hotness has become our cultural currency, and a lot of people spend a lot of time and a lot of regular green currency trying to acquire it. Hotness is not the same thing as beauty, which has

been valued throughout history. Hot can mean popular. Hot can mean talked about. But when it pertains to women, hot means two things in particular: fuckable and salable. The literal job criteria for our role models, the stars of the sex industry (Levy 2005, p.31).

Though there are many potential examples that can be used to illustrate this point, I will focus on body hair, cosmetic surgery, and non-invasive cosmetic procedures. By showing how porn influences beauty practices, I will bring to light the connection between pornography and real-world behaviour. This will be seen again in the second part of this section, this time in terms of sexual behaviour rather than beauty practices.

Hair removal has formed an integral part of many women's beauty routines for the last century, with Gillette introducing the first women's safety razor in 1915 (Chou 2015). This was 'the start of what author Christine Hope called "The First Great Anti-Underarm-Hair Campaign," [in which] advertisers convinced women of the necessity of removing their 'objectionable' underarm hair' (Chou 2015); this coincided with the increasing numbers of sleeveless dresses available on the market (Hope, 1982: 94). The 1940s and 50s brought about a style revolution whereby bikinis became both more popular and smaller, thus encouraging women to pay more attention to grooming their intimate areas in order to avoid 'unsightly' hair around the edges of their bikini. However, the real change occurred in 1974, and pornography was the catalyst for this evolution (Chou 2015). That year, *Hustler* magazine published the first image of a completely bare vulva, kick-starting a pubic hair removal trend that would quickly gain pace, beginning with porn performers and sex workers, and eventually becoming a practice undertaken by the general female population in the 1990s (Tarrant 2016, p.19). Though initially the complete removal of pubic hair in the case of porn performers was for practical reasons, allowing the viewer to see more clearly exactly what was happening, the removal of body hair has become a widespread practice across contemporary culture.

'In 1987, seven sisters from Brazil opened a salon together in New York City called *J. Sisters*, [which] popularised the Brazilian wax in the States', a sure sign that the pornification of culture was

impacting the way women perceived their bodies (Chou 2015; Friend 2017). Though, by this time, women's bodies had long been portrayed as projects to be undertaken, the steps necessary in pushing to attain the ideal were changing. Where smooth legs became a requirement in the mid-20th century, pubic hair maintenance was introduced as a beauty norm decades later and took hold; 'the value of the global hair removal devices market amounted to 880.2 million U.S. dollars in 2017, and is forecasted to rise to about 1.35 billion U.S. dollars by 2022' (Statista 2019). The trend for pubic hair removal has become more than a trend, but something that young women must conform to if they are to be considered desirable in our current climate. The prevalence of this is such to the extent that young women are afraid to have sex with someone if they have not prepared for the sexual encounter by removing their pubic hair (Dines 2010, pp.99-100; Smolak and Murnen 2011, p.506; Stone *et al* 2017, pp.89-90). Young women have been coerced by means of the media, and pornography in particular, to see pubic hair removal as an intrinsic part of preparation for sex, and a sign of cleanliness and respect for sexual partners (Widdows 2018, p.109). Thus, the ideal is sufficiently strong as to supplement individual willpower as a force to dictate action. It is clear that women do not need to be consuming pornography themselves to be massively influenced by the perception of desirability that it encourages. Women are not major consumers of hardcore pornography, certainly not in relation to the rates of men who engage, but they are nonetheless impacted by a porn ideology that they have internalised (Solano, Eaton, and O'Leary 2020, p.92). Intimate waxing is the ideal example of this internalisation in action, whereby young women have been convinced that pubic hair removal is a vital component of desirability in today's society (Dines 2010, pp.100-101).

When it comes to cosmetic surgery, it is worth first defining the ideal body as dictated by mainstream pornography. Certainly, in the 90s and 00s, the pornified look consisted of a slim, firm body with a pert bum, large round breasts, and plump lips. The female genitals favoured by the mainstream porn market are characterised by small pink labia, often with no visible labia minora. The

aforementioned physical features are mirrored exactly when we examine the most common cosmetic procedures of the last three decades. Some of the most common cosmetic procedures of that time period have been breast enhancement surgeries (most commonly enlargement) and liposuction, with surgeries also regularly being performed on buttocks (BAAPS 2019). In 2017, 300,378 breast enhancement surgeries and 246,354 liposuction procedures were performed in the US alone (ASPS 2019). In recent decades, with huge advancements in the field of cosmetic surgery, there has been a significant shift in what aspects of our bodies are considered alterable. We now find ourselves immersed in a ‘body-changing culture’, whereby it has become increasingly popular to potentially change almost all parts of the body, now including even the most intimate body parts (Berer 2010, p.4).

Today, labiaplasty is one of the fastest growing cosmetic surgery procedures around the world. Labiaplasty is a procedure undertaken to alter the appearance of female genitalia — most often, this surgery involves a reduction of the labia minora, but also frequently includes a clitoral hood reduction and vaginal “tightening” (Masterson 2019). In the US, a total of 13,266 labiaplasties were performed in 2016, with 23,155 procedures undertaken in Brazil the same year (ISAPS 2017). According to the American Society for Aesthetic Plastic Surgery, labiaplasties have increased in popularity by 217.3 per cent over the past five years (ISAPS 2017). In the UK, doctors have reported seeing girls as young as nine expressing discomfort or dissatisfaction with the appearance of their vulvas (MacKenzie 2017). The prevalence of the phenomenon of genital-hating among young women has been acknowledged as a cause for concern by many in the medical profession (Forster 2017; Masterson 2019). More than 200 labiaplasties were performed on teenage girls through the NHS in the UK in 2016, and it is one of the fastest growing types of cosmetic surgery for young women (Forster 2017; Masterson 2019). However, due to the fact that figures are not available for the number of women who elected to have this surgery done privately, this relatively small figure is likely to represent only

a tiny fraction of the total number performed. The female genitals favoured by the mainstream porn market are characterized by small pink labia, often with no visible labia minora. When large labia are shown, they are represented as a fetish — something freakish and dehumanizing. Pornhub showcases videos of women with large labia titled, ‘Latina with Long Hanging Lips on Webcam’ and ‘Hot Co-ed Masturbates her Huge Flapping Pussy Lips to Orgasm.’ In porn, women either fit the mould, or they are dehumanized and fetishized for the ways in which they deviate from that mould (Masterson 2019). Clinics perform labiaplasties that aim to give young women the ‘Barbie’ look — genitals that are as tucked away as possible, with labia scarcely visible, and often reducing the clitoral hood and tightening the vaginal passage (De La Cruz 2019). ‘Doll-like, minimally-noticeable labia have become the norm to which many women wish to conform’ (Masterson 2019). Barbie labia have apparently become the norm to which many women desire (Pullen 2018, p.125).

The common theme that emerges in the examination of these examples of the ways in which the ideal has evolved; the pornification of the ideal is evident in the heightened focus on areas of the body that were not given the same attention in previous versions of the ideal. The beautification of the breasts and genitals is prioritised, indicating that young women’s insecurities in contemporary society are largely based around the traits most highlighted in pornographic material. Let us examine, by means of an example of the contemporary pornified ideal in the media, the aforementioned television sensation *Love Island*. The reality show focuses on the love lives of the dozen contestants in the villa, with the cameras following them day to day, recording them sunning themselves by the pool and cosying up with one another at night. The show has been subject to a certain degree of criticism for the negative impact it supposedly has on the body image of viewers. Much like the performers in porn, the contestants in *Love Island* comply, at least superficially, with the pornified beauty ideal, and the show has come under fire for their decision to consistently showcase an extremely narrow range of bodies, opting for contestants that are young, toned, and slim. Research

conducted by the Mental Health Foundation investigated the relationship ‘between [reality] television and body image and found that almost one in four people aged between 18 to 24 say that watching reality television makes them feel worried about their bodies’ (Barr 2019). Dr Antonis Kousoulis, director of England and Wales at the Mental Health Foundation, claims that ‘the lack of body diversity on *Love Island* can be detrimental for avid viewers of the show’ (Barr 2019). The pornified ideal as represented by the show’s cast is impacting the way that young people feel about their bodies; it seems clear that the ideal of toned, tanned youth is not going anywhere.

Sexpectations

The birth and spread of the internet have meant that porn has become more popular and accessible than ever before, particularly for teenage consumers. Porn is not only instructing young women and girls with regard to how they should look; young women are looking to pornography for guidance on how to behave in a sexual context and what might be expected of them (Orenstein 2016, p.33). Porn is shaping the expectations of young people when it comes to their sexual encounters. Clinical psychotherapist Joanna Fortune claims that in her work with teenagers, she is hearing about how exposure to sadistic and violent online porn is sending a damaging message to young people about what to expect when it comes to sex. Girls, in particular, take cues from porn about what they boys are likely to expect from them (Fortune 2013). Orenstein acknowledges this in *Boys & Sex*, writing that:

Girls in particular consult sexually explicit media for a template of male partners’ expectations, despite being more than twice as likely as boys to be disturbed by its treatment of women... While more than 56 percent of the boys and 38 percent of the girls had seen pornography... The boys were at least three times more likely than their dads to have watched videos depicting facial ejaculation, double penetration, BDSM, coercive sex, gang bangs, and rape; the differential between girls and their mothers was generally even higher.’ (Orenstein 2020, [Kindle] location 609).

Girls, more often than boys, report concern that pornography creates expectations and demands around sexual behaviour, and that this adds to their discomfort around the viewing of it (Häggström-Nordin *et al* 2009; Massey, Burns, and Franz 2021, p.324). This is further backed up by research carried out by Wallmyr and Welin in 2006, who report that ‘46.3% of young females and 23.3% of young males described pornography as “degrading”.’ (Massey, Burns, and Franz 2021, p.324) As has been discussed earlier in the chapter, the mass availability and popularity of gonzo has meant that young people are exposed to more violent and abusive sexual imagery than ever before. Despite the fact that girls are watching porn more frequently than previous generations ever have, it is important to note that girls and young women often report feeling uncomfortable watching pornography, claiming that they find it ‘unwelcome and socially distasteful’ (Massey, Burns, and Franz 2021, p.324; see also: Bryant 2009; Cameron *et al* 2005).

A 2015 study carried out involved interviewing 33 teenagers about their experiences around pornography; the results of the study support what has previously been stated: gonzo porn is impacting how young people think about sex, and young women are concerned about the link between the porn consumption of their male peers and the boys’ sexual expectations. The girls interviewed were concerned that ‘exposure to pornographic scripts characterised by women’s degradation, is functioning as a frame of reference for males, which is influencing their sexual desires’ (Walker *et al* 2015, p.203). The degradation of women mentioned here was a primary cause of concern for the girls interviewed, and they discussed their discomfort with the portrayal of women as ‘subservient,’ and ‘always just up for anything’; the authors of the study expressed their concern that ‘young women in this study expressed feelings of discomfort and disgust at being inadvertently or unintentionally exposed to sexist and abusive sexual scenes that were potentially painful and degrading for women’ (Walker *et al* 2015, p.204).

Real-world examples of how this impacts young women and their attitudes to sex can be seen in abundance as submissions for *The Everyday Sexism Project*. Writer Laura Bates started *The Everyday Sexism Project* in 2012 to catalogue instances of sexism experienced on a day to day basis. Many of the instances included on the site and in her book *Everyday Sexism* refer to pornography. One of those included in the book is the following, submitted by a teenage schoolgirl, which highlights the emotional discomfort many girls experience when it comes to the consumption of pornography and their awareness of the viewing habits of their male peers:

I am thirteen and I am so scared to have sex it makes me cry nearly every day. We had sex education in Year 6 and I felt fine about it, but now some of the boys at school keep sending us these videos of sex which are much worse than what we learnt about and it looks so horrible and like it hurts and it keeps coming into my mind and at night I get really scared that one day I will have to do it... Why did they talk about sex at school like it was okay and then the real-life sex we see is so scary and painful and the woman is crying and getting hurt? (Bates 2014, p.111)

The fear discussed by the girl in this example relates to what she feels might be expected of her in terms of sexual behaviour when the time comes for her to engage.

As mentioned above, one of the causes of concern for girls in the 2015 study was the way gender norms and the gender power dynamic are portrayed in much mainstream porn; women are, more often than not, occupying a subservient and compliant role with males portrayed as dominant. Their concern is not unfounded. Research suggests that ‘sexual submissiveness and compliance in women [are] correlated with the age at which they began consuming pornography’ (Orenstein 2020). In other words, when girls view porn at a young age, they are more inclined to take gender cues from porn and re-enact the sexual submissiveness seen in many female porn performers. Girls see porn and think that that is what sex is, and that is what boys and men will expect from them (Orenstein 2020, [Kindle] location 679). Female submission and the prioritisation of male pleasure over female pleasure – or even comfort – can be widely seen in pornography and we can see how this plays out in the real world when it comes to female engagement in sexual activities they do not enjoy or that

they find uncomfortable or painful. The next section will delve deeper into this topic, exploring the relationship between female agreeableness and the orgasm gap, and looking at how, in parallel with porn trends, women are engaging more often in anal sex and facial ejaculation than they ever have in the past.

3.4 '30 WAYS TO PLEASE A MAN'⁹⁶

In this section, I show how the impact of porn on behaviour and understandings of sexual desirability, as discussed previously, combines with higher levels of agreeableness in women and girls, to create an environment in which young women are participating in sexual acts that they do not enjoy, or that cause them discomfort or even pain⁹⁷. I begin by discussing sex differences in traits such as agreeableness and empathy. I then use the example of anal sex to show that women and girls are inclined to prioritise male pleasure over their own sexual satisfaction; the orgasm gap gives us some indication of the extent to which male pleasure is prioritised over female pleasure in heterosexual encounters. The rise of anal sex has been widely discussed as an example of porn's influence on sexual behaviour and, although I will discuss anal sex here, I also address the issues with relying on this to demonstrate such a point. Bearing in mind the potential problems with using anal sex as an indicator of porn's influence on the sex lives of the masses, I refer to another example to support my point: facial ejaculation. Although there has been minimal research done on the prevalence of facial ejaculation in people's sex lives, there is evidence that it is on the rise. Where once it was virtually

⁹⁶ The heading of this section is taken from the heading of a 2014 *Cosmopolitan* article (Frank 2014).

⁹⁷ There are, of course, women who claim to enjoy the sex acts mentioned in this section. There are numerous reasons why this might be the case, but it is not necessary to elaborate on these reasons here. The existence of such women does not negate the fact that many women engage in these sex acts despite gaining little or no pleasure from them. The purpose of this section is to examine why the latter would engage in acts from which they benefit minimally, or are even harmed by.

unheard of for physicians to encounter patients with sexually transmitted diseases in their eyes, this can now be seen. I discuss this further towards the end of the section.

Women and girls tend to be, on the whole, more agreeable, empathetic, and compassionate than men. Some argue that this is innate. Others claim that it is a product of gendered socialisation. Katherine Angel write that women are ‘taught to care inordinately about men’s feelings,’ and that ‘they are socialized to feel responsible for men’s wellbeing, hence also their anger and their violence’ (Angel 2021, p.10). It is probable that women’s tendency to prioritise others, and men in particular, over themselves in a combination of nature and nurture. Nonetheless, research has consistently demonstrated higher levels of agreeableness in females when compared to males (Feingold 1994; Costa *et al* 2001). ‘Agreeableness comprises traits that relate to altruistic behaviour, such as empathy and kindness [...] Agreeableness involves the tendency toward cooperation, maintenance of social harmony, and consideration of the concerns of others’ (Weisberg, DeYoung, and Hirsh 2011, p.8). A 2011 study of 2643 people (892 male, 1751 female) found that:

There was a significant gender difference in Agreeableness such that women tend to score higher than men, and this pattern was the same for the aspects, Compassion and Politeness... Compassion most clearly represents a tendency to invest in others emotionally and affiliate on an emotional level, encompassing traits such as warmth and empathy. Politeness describes the tendency to show respect to others and refrain from taking advantage of them, and is related to traits such as cooperation and compliance. Our findings that women score higher than men on both aspects are consistent with previous research showing women are more trusting and compliant than men (Weisberg, DeYoung and Hirsh 2011, p.8).

This mirrors the findings of Simon Baron-Cohen, Professor of psychology and psychiatry at Cambridge University, who, in *The Essential Difference*, claims that ‘girls express their anger less directly, propose compromises more [frequently], make softer claims, use more polite forms of speech, and are more cooperative, reciprocal, and collaborative’ (Baron-Cohen 2003, pp.49-50). The relevance of women’s willingness to compromise and cooperate becomes ever more obvious through

the examination of particular sex acts later in this section, but it is summed up in simple terms by Perry, who states that:

Agreeable people are more likely to put their own interests last, and more likely to think the best of people, against the evidence... Agreeable people are particularly vulnerable to being taken advantage of by disagreeable people and, given that women are on average significantly more agreeable than men are, this has obvious relevance to sexual politics.' (Perry 2022, p.81).

Although the difference between the sexual experiences of men and women cannot be easily attributed to any single cause, it is clear that this is part of the picture: women are more likely than men to be people-pleasers, and to agree to things for the sake of compromising or keeping the peace. This goes some way to explaining the orgasm gap.

Social researchers have explored the ways in which our social norms and attitudes birth the orgasm gap between male and female partners in heterosexual partnerships. The 'Online College Social Life Survey found that between 29 and 53 percent of girls orgasmed in their most recent hook-up [...] compared to between 56 and 81 percent of boys' (Orenstein 2020). The orgasm gap does narrow considerably in serious relationships, a difference that can be 'attributed to a combination of familiarity, better communication, sobriety, and emotional investment on the male partner's part' (Orenstein 2020, p.1110). Double standards and a focus on male sexual satisfaction can be understood to contribute to the orgasm gap by stigmatising female sexuality and propping up the expectation of men as sexually dominant. Such factors may infringe upon a couple's ability to openly communicate and discuss desires and preferences, as women feel disempowered when it comes to their own sexual needs. Women, concerned with being seen negatively for being forthcoming in making their sexual desires known are discouraged from exploring their own sexuality, and from telling their partners what they like and do not like. Largely 'due to stigma against female [sexuality and sexual] pleasure, some people place greater importance on men's orgasm than women's orgasm' (Frederick 2018, p.284).

Lesbian women are more likely to regularly orgasm during sex than their heterosexual counterparts. In a lesbian partnership, the need to prioritise the male orgasm is eliminated – this could be seen to go some way towards explaining the gap between the orgasm frequency of these demographics of women. The prioritisation of the male orgasm is an element of phallogocentric imperatives, explained as gendered sexual scripts which prioritise men’s sexual satisfaction. Phallogocentric imperatives emphasise the importance of penile-vaginal penetration and men’s physical pleasure (including the male orgasm imperative) (Willis 2018, p.1565). Research shows that both men and the women that have sex with men prioritize the male orgasm, and women in such circumstances try to ensure their partners’ orgasm even at the expense of their own. The imbalance is clear; sexual relationships between women and men careen toward phallogocentricity. Across the board, trends indicate that women’s orgasms are considered subordinate to men’s (Willis 2018, p.1567). Considering the evidence that male sexual satisfaction tends to be prioritised over female sexual satisfaction, I will now turn to two examples of sexual activities that are on the rise likely due to their prevalence in hegemonic pornography and a female willingness to prioritise the sexual satisfaction of their male partner in heterosexual.

Research over the last three decades has shown a consistent rise in the number of people engaging in anal sex, with a notable rise in the number of young women choosing to incorporate it into their sexual practices. ‘National Survey of Sexual Attitudes research undertaken in Britain has found that the proportion of 16- to 24-year-olds [that engage] in heterosexual anal intercourse has risen from 12.5% to 28.5% over recent decades; [in parallel] in the US 30% to 45% of both sexes have experienced it’ (Campbell 2022; Gana and Hunt 2022, p.1; Lewis *et al* 2017, p.694). ‘A 2014 survey of anal sex among heterosexuals ages sixteen to eighteen found that for boys, porn was a driving factor’ (Orenstein 2020, [Kindle] location 674). Considering the fact that as much as 72% of women experience pain during anal sex as previously mentioned, the question is raised as to why

such a significant proportion of women continue to consent to such a sexual experience. According to findings from Gill and Donaghue in 2013, the likelihood of women choosing to engage in heterosexual anal sex depended on women's perception of power and agency; within heterosexual couples, anal sex occurs more frequently when the male in the couple makes decisions about sex and contraception as opposed to when the female partner does (Fahs and Gonzalez 2014, p.504; Gill and Donaghue 2013). One particular study of heterosexual women who engage in anal sex discovered that 48.8% of women had to discontinue anal sex the first time they attempted it because they found the pain unbearable, and 8.7% of women described experiencing severe pain every time they engaged in anal sex (Fahs and Gonzalez 2014, p.506)⁹⁸.

Anal sex is one of the more common acts seen in hegemonic pornography today, and this is reflected in the real-life sexual trends of the general population, and young people especially. This can be seen in the way that publications aimed at adolescents discuss the topic of sex – in the summer of 2017, *Teen Vogue*, aimed at girls between the ages of 11 and 17, published an article with anal sex tips, stating that 'anal sex, though often stigmatized, is a perfectly natural way to engage in sexual activity,' and that 'anal sex can feel great, which is why many people include it as a regular part of their sex life.'⁹⁹ (Engle 2019). The essay, written by sex educator Gigi Engle, emphasises the importance of sexual communication so that partners can convey their pain or discomfort (Fischel 2019, p.2). Despite this advice, the evidence suggests that women are repeatedly putting their sexual

⁹⁸ A 2022 article written in the British Medical Journal warned of the risks of anal sex, especially for women, and noted that women are being let down by doctors who are reluctant to warn them of the risks. They concluded the following: 'Anal intercourse is considered a risky sexual behaviour because of its association with alcohol, drug use, and multiple sex partners. But it is also associated with specific health concerns. The absence of vaginal secretions, increased traumatic abrasions, and less common use of condoms increase the risk of sexually transmitted disease and anal malignancy. Anal pain, bleeding, and fissures also occur as a result of anal intercourse. anal intercourse, in heterosexual partnerships in particular, is associated with specific health concerns.' (Gana and Hunt 2022; see also: Campbell, 2022).

⁹⁹ The article caused outrage among some commentators, including the 'self-proclaimed "Activist Mommy" Elizabeth Johnston, who posted a video of herself burning the magazine in outrage (Activist Mommy 2017). The video [in question was seen] by millions [according to] Fox News', with Johnston referring to *Teen Vogue* as a 'pedophilic peddler' and saying that 'they should not be teaching sodomy to our children' (Fischel 2019, p.2).

satisfaction, and at times even comfort or safety, below the satisfaction of their male partner when it comes to priorities during sexual engagement. However, using the rise of anal sex as an example of the porn world meeting the real world is not without its problems. In the *New Yorker*, Forrester reports that, while the reported increase in the practice of anal sex among heterosexuals is often used by anti-porn campaigners to support the view that porn influences sexual practices, there are other possible explanations to consider. The growing popularity of anal sex may be the result of a growing acceptance of gay sexuality, a severance between reproduction and sex (facilitated originally by contraceptive options and the social change associated with the sexual revolution), and the need for a new focus in the ‘conquest’ narrative now that virginity is rarely kept for marriage (Forrester 2016). Although arguments can be made that these factors have instigated a rise in rates of anal sex, they make a more convincing case for why men would pursue anal sex in their intimate lives; as a case to explain a rise in female engagement, they are less convincing. Nonetheless, rather than respond to each of these potential explanations for the growing prevalence of anal sex, I will instead offer an alternative example of sexual behaviour that runs parallel to anal sex in the sense that it was first widely seen in pornography and then began to appear in the sex lives of ordinary people. The sex act in question is facial ejaculation.

Facial ejaculation is a recent trend; ‘facials’ were not popular in the 1970s and 80s which is considered by some to be the ‘golden age of porn’. At the time, internal ejaculation was most commonly seen, and indicated that the scene was finished. This shifted to external ejaculation from the late 1980s onwards, and facial ejaculation has become more common in the last twenty years. Facial ejaculation allowed the porn viewer to simultaneously view the female performer’s satisfied face and the ejaculation at the same time. In other words, much like the removal of pubic hair discussed earlier, the trend for facial ejaculation in porn initially began to serve the interests of the porn consumer, making as much of the sex act as visible as possible. As the popularity of facials in

pornography grew, so began the popularity of facials among the general population. The ‘rise of cumshots and facials became a new desire for many young and old men across the globe’ (Lane 2018). A 2021 study did find that greater adolescent porn consumption increased the likelihood of later engagement in sexually dominant behaviours including facial ejaculation (Wright *et al* 2021, p.225). Though not everyone agrees that facials exist for the purpose of humiliation and degradation, Gail Dines has argued that ‘the ejaculate marks the woman as used goods, as owned by the man or men who just penetrated her,’ stating further that ‘the money shot would seem a succinct way to deliver multiple messages about the way sex can be used as a vehicle to mark the feminine as all-powerless and the masculine as all-powerful’ (Dines 2010, xxvii). This is supported by comments from porn director Bill Margold, who once said:

The most violent we can get is the cum shot in the face. Men get off behind that, because they get even with the women they can't have. We try to inundate the world with orgasms in the face. (Stoller and Levine 1993, p.22).

Pop culture website *Buzzfeed* announced in 2012 that ‘we appear to have entered “the Age of the Facial”’ (North 2012). Sex researcher Debra Herbenick points out that, while little research has been done on the popularity or prevalence of facial ejaculation as a sexual practice among ordinary people, ‘the college students [that she usually talks to are certainly] more familiar with the practice than older generations are’ (North 2012). Although facials are not necessarily a part of young people’s day-to-day sex lives, she remarks that most have encountered it once or twice (North 2012). Without research to rely on with regard to the rates of engagement in this sexual practice, it can be difficult to determine the extent to which it is spreading. However, the experiences of physicians can be of use here.

One of the risks in terms of physical harm that comes with facial ejaculation is the risk of semen in the eye. One woman is quoted in the aforementioned *Buzzfeed* article as saying that she felt sudden abrupt pressure and aching in her eye before noticing that it had gone blood red. She went on to say that for about 15 minutes she ‘wanted to die,’ and felt like her ‘eye was going to fall out’ (North

2012). Semen contains a chemical called spermine which is made by the prostate gland and can make your eyes burn and swell; the alkaline in semen can also contribute to ocular irritation (Lane 2018). Aside from the pain associated with semen in the eye, there is also a real risk of contracting a sexually transmitted infection. Although sexually-transmitted conjunctivitis is not common, it is increasing in incidence. These conditions can be sight-threatening if not treated; Berrett points out that ‘sexually-transmitted conjunctivitis,’ can arise from direct contact with ‘genital secretions’ (Berrett 2020). Rackstraw *et al* wrote of these risks in a paper in the *International Journal of STD & AIDS* entitled ‘Can Chlamydial Conjunctivitis Result From Direct Ejaculation Into the Eye?’ (Abrahams 2010). They ‘noted that some patients had developed symptoms following direct ejaculation into the affected eye,’ and went on to describe ‘four cases of chlamydial conjunctivitis following ejaculation of semen directly into the eye, which have not been previously described’ (Rackstraw, Viswalingam, and Goh 2006, p.639). Furthermore, they pointed out that this mode of STD transmission is likely underestimated due to the fact that doctors do not ordinarily ask for a ‘history of ejaculation into the conjunctiva’ (Rackstraw, Viswalingam, and Goh 2006, p.639).

The risks associated with facial ejaculation have been shown in mainstream media, both in a documentary and a drama series. In the first episode of Channel 4’s drama *Adult Material*, which centres around the experiences of Jolene Dollar, a mother and a woman in the porn industry, Jolene is shown to contract chlamydial conjunctivitis from a ‘money shot’ while shooting a scene. She then unwittingly passes chlamydia on to her teenage daughter through the sharing of false eyelashes. Jolene is seen wearing an eye patch for much of the series to avoid giving chlamydia to her other children (*Adult Material* 2020). The second episode of Channel 4 documentary series *Generation Porn* documents the experience of a young woman going by the name of Gianna, who is new to the porn industry and suffers from an eye infection after a ‘money shot’ (*Generation Porn* 2019). In *The Independent*, Seán O’Grady describes this as ‘an industrial injury only really encountered in the porn

industry' (O'Grady 2019); it may be the case that these forms of sexually-transmitted conjunctivitis were once only seen among porn performers but, as the research discussed above suggests, this is something that is being seen with increasing frequency among the general population. Facial ejaculation was extremely rare both in porn and in real life prior to the 1990s. It began to gain popularity in porn, and we are now seeing that popularity translate to real-world sexual activity, as evidenced by the increasing prevalence of eye infections contracted via direct contact with semen. Without drawing a connection between porn trends and sexual trends more broadly, this is a difficult phenomenon to account for. The evidence points to a clear link between what porn consumers are watching and what they are requesting in the bedroom. In section 3.1.2, I discussed the evolution of pornography in an increasingly violent and misogynistic direction. Previously cited evidence suggests that, as increasing numbers of young people (the main consumers of gonzo porn) consume increasingly violent and sadistic pornography, this will show up in their sex lives in ways that ought to prompt serious consideration about the extent to which pornification mitigates consent.

Conclusion

In this chapter, I have explored the way in which pornography is becoming ever more visible and easily accessed. I have examined the connection between pornography and our wider culture, showing that pornography's prevalence has led to the proliferation of the trend of porno-chic. I have considered the ways in which the boundary between mainstream or hegemonic pornography and sadomasochistic pornography has been broken down to the extent that these no longer operate as separate genres, rather sadomasochistic pornography has become hegemonic pornography. I have highlighted the ways in which the pornification of culture has extended to the concept of the sexual ideal, morphing the ideal into a new pornified shape.

CHAPTER FOUR

Is Consent Informed?

In this chapter I return to whether the conditions of valid consent can be met in a porn culture, where sadomasochism is normalised to the extent documented in the last chapter. I begin, in section 4.1, by looking at the standards for informed consent. There is a difference between informed consent in the context of medicine and informed sexual consent; sadomasochistic acts, depending on their level of risk, sit somewhere between these, being that they are both sexual in nature and involve objective bodily harm or a high risk thereof that would not ordinarily apply to conventional sexual acts¹⁰⁰. The importance of valid informed consent is proportional to the stakes; when an activity is high-risk, then the bar for valid consent is higher than it would be in the case of a low-risk activity. In this section, I look at medical informed consent and sexual informed consent; in the case of the latter, I use the examples of HIV disclosure and stealthing to illustrate how a failure to meet the standard for informed consent means that consent could be considered invalid. In section 4.2, I discuss the risks involved in some extreme sadomasochistic practices, with reference to three practices in particular: branding, fisting, and strangulation (also known as erotic asphyxiation). Erotic asphyxiation, for example, involves a substantial risk to the health and life of the person on the receiving end (Bichard *et al* 2021, p.3; King 2017; Shea 2021). To further emphasise the level of risk involved, I reference cases whereby individuals have been injured, sometimes fatally while engaging in these practices. The aim of section 4.2 is to highlight the level of risk involved in certain sadomasochistic practices, and thus to give some insight as to the relevant stakes when looking at informed consent to such activities.

¹⁰⁰ The bar for medical consent is due to the risks involved, the prioritisation of patient autonomy, and the lack of assumption about the patient's knowledge of a procedure. There is also a desire on behalf of a person's medical team to protect themselves from future liability, but that is not necessarily relevant here. Although SM is not equivalent to medical intervention and there are obvious differences, like medical intervention SM requires the highest standards for informed consent. The reasons why will be addressed in section 4.3.

Finally, in section 4.3, I explore how, due to the high-risk nature of the practices mentioned in section 4.2, the standard for informed consent to these practices must be high. This standard is rarely met under typical circumstances, although it may be met in the context of the BDSM community. Informed consent to such practices would necessitate a discussion about all of the relevant risks involved and, although such discussions may be commonplace among the BDSM community, sadomasochism has extended far beyond that community and has become mainstream (Moore and Khan 2019). Ultimately, my argument in this chapter is that, although I concede that informed consent to extreme sadomasochism is possible, the popularisation of sadomasochism and cultural celebration of it means that it is likely that many people are participating in sexual behaviours that may disable or even fatally injure them without adequate awareness of the risks.

4.1 STANDARDS FOR INFORMED CONSENT

In this section I return to the conditions of consent and whether they can be met when it comes to sadomasochistic practices. Both the extent of information that must be provided, and the nature of that information, are dependent upon context. I explain, in this section, how sadomasochistic sex acts can be considered from the perspective of sexual consent, but also how they ought to be considered from the perspective of medical consent too. This is because, as Dougherty says, ‘the relevant threshold for sufficient support [is] sensitive to the stakes of the consent’ (Dougherty 2021, p.126). This means that, when it comes to high-risk acts, the requirements for valid consent ought to be more thorough than in low-risk scenarios. I begin by looking at informed sexual consent, and what information must be provided for valid consent to sex. I then look at informed medical consent, where the requirements regarding disclosure of information are more detailed and substantial. I explain the discrepancy between these standards, and show how sadomasochism requires a more rigorous standard of informed consent than is typical in sexual scenarios. The purpose of this section is to

explain how informed consent is understood in two different contexts, sexual and medical, and show how this difference is, at least to some degree, influenced by the relevant risks in each case.

4.1.1 Informed Sexual Consent

Here, I discuss the standards for informed consent in a sexual context, and outline the knowledge that is considered necessary for consent to be informed and therefore valid. I use the examples of HIV disclosure and stealthing to explain how consent can be considered invalid if it is not adequately informed or it is given while misinformed. For consent to sexual activity to be considered informed, the consenter needs to have valid information about the following aspects of the sexual interaction:

1. The identity of the person or people involved.
2. What the sexual act is.
3. The potential consequences of the act (Clough 2018, p.179).

This means that consent is not informed, and is therefore invalid, if one or more parties involved are ‘impersonating a person known to the victim,’ or are ‘deceitful as to the nature or purpose of the act’ (Clough 2018, p.179). The first of these condition is easily understood. The following example illustrates this:

Housemate: Aoife is staying over at her boyfriend Matt’s house. They are sharing the same bed. During the night, Matt goes downstairs to get a drink. While Matt is downstairs, his housemate Aidan sneaks into Matt’s bedroom and climbs into bed with Aoife. The room is in complete darkness. Aoife, half-asleep, believes Aidan to be Matt returning from downstairs, and Aidan and Aoife begin to have sex.

In this case, although Aoife happily went along with the sexual contact that ensued, the sex was not consensual. This is the case because Aidan used Aoife's belief that he was her boyfriend to gain her consent. Aoife was lacking the crucial information mentioned in the first point above – the true identity of the person in bed with her – and thus her consent was not informed and therefore not valid. The 2015 case of Gayle Newland is a real-world example of this type of rape by deception as regards identity. In September 2015, Newland was sentenced to eight years in prison after being found guilty of three cases of sexual assault by penetration. In 2011, Newland had 'adopted a male online persona called Kye Fortune to seduce a fellow student at the University of Chester' before '[persuading] the student to wear a blindfold [every time] they met; she wore 'a strap-on prosthetic penis in order to dupe the woman into having penetrative sex' (Hattenstone 2017). The student claimed that she had no idea that she was actually having sex with Newland, a woman, as opposed to the male 'Kye', and insisted that she would not have consented if she had known Newland's true identity (Hattenstone 2017; Pidd 2017). In this case, as with the example above, despite the student's willingness to participate in sex acts with the person she believed was Kye, the sex was non-consensual on the basis of lack of information due to deception. Deceit as to the nature and purpose of the act can be more difficult to definitely identify. The following example shows how one individual might deceive another as to the purpose of the sexual act:

Pregnancy: Chloe wants a baby, but her partner Greg is not ready to be a parent and has articulated this to Chloe. Chloe has been taking birth control pills but, unbeknownst to Greg, she stopped taking them last week. Chloe is continuing to have sex with Greg in the hope that she will become pregnant. Greg continues having sex with Chloe, believing that she is still on contraception.

This is an example of deception regarding the purpose or potential consequences of the sex act. Chloe is engaging in sex for the purpose of reproduction, but Greg is unaware that Chloe has stopped taking

her birth control pills. In terms of consent from an ethical perspective, Greg has not given informed consent to the sex he has with Chloe, as he did not have valid information as to the likely consequences of the sex act (point 2). However, it can be difficult to draw a line when it comes to deceit regarding intentions behind a sex act. For example, one person may be engaging in sex with the purpose of having a casual one-night stand, and with no intention of pursuing a relationship. However, the other person may desire a relationship, and would, perhaps, not agree to the sex if they knew that it was a one-off encounter. In such a case, one might say that the second individual did not give informed consent as they did not have adequate and correct information about the purpose of the sex act, nor did they have any awareness of the likely consequences. This echoes what Dougherty says about sexual deception, as explained in chapter two. He claims that sex is not consensual if one individual involved deceives the other, or withholds information from the other due to their belief that the disclosure of such information may constitute a deal-breaker for the person with whom they intend to have a sexual encounter:

The deception must concern a deal breaker—a feature of the sexual encounter to which the other person’s will is opposed. This requires more than concealing an undesirable feature. It must be the case that the other person is all things considered unwilling to engage in the sexual encounter, given that it has this feature (Dougherty, 2013: 719).

This sets the bar for informed consent extremely high, which Dougherty justifies by pointing to the fact that the consequences of a non-consensual sexual encounter are sufficiently grave as to demand serious scrutiny of sexual consent. This is an ethical rather than a legal issue; Clough points out that criminalising people based on true intentions and feelings, about which they may have deceived their sexual partner, ‘would be so far within the domain of personal relationships that the criminal law would have no legitimate role’ (Clough 2018, p.181). However, she recognises the difficulty in establishing ‘how much you can withhold information from a sexual partner, and still claim to have reasonable belief that they are consenting to the act, without the knowledge to make an informed decision’ (Clough 2018, p.181). In order to further examine the way that consent can be invalidated

when the consentor does have valid relevant information (as detailed in the three earlier points), I will now discuss HIV disclosure and stealthing.

HIV Disclosure

In numerous countries and states, a person who is diagnosed with HIV is legally obligated to inform sexual partners of their status. Although this legal obligation does not exist in England and Wales, it is possible that a person could later be charged with a crime if they transmit HIV to an uninformed sexual partner. In Scotland however, it is possible for someone to be charged as above, but also for someone who is HIV-positive to be charged with reckless endangerment if they have sex with someone who is unaware of their status (Webb 2020). The prioritisation of informed sexual consent is an important factor when it comes to the obligation to disclose HIV status. Whether or not a HIV-positive person ought to be required to share their status with prospective sex partners remains controversial due to a conflict between an obligation for disclosure and one's right to privacy and confidentiality¹⁰¹ and is beyond the scope of this thesis; for now, I will simply use this as an example of how 'adequately informed' is understood when it comes to consent to sex. HIV is a serious and incurable virus, which can impact the rest of someone's life, although fortunately treatments and management for HIV have improved vastly over the last twenty years (Nall 2021). In order to understand why someone may be obligated, whether legally or ethically or both, to disclose their HIV status to a prospective partner, it is worth examining again the deceit that would negate otherwise valid consent. In the case of risk of HIV transmission, the issue is the consequences and nature of the sex act, rather than, for example, the identity of relevant parties. If an individual consents to sex with someone that is assumed to be HIV-negative due to their lack of disclosure revealing otherwise, then

¹⁰¹ More details on the limits on confidentiality when it comes to HIV disclosure can be found here: <https://www.hiv.gov/hiv-basics/living-well-with-hiv/your-legal-rights/limits-on-confidentiality>

that does not constitute consent to sex with someone who is HIV-positive. They were not properly informed as to the nature of the sex act of which they were a part and therefore they were not able to weigh up the consequences, thus their consent is not valid. A lack of awareness as to the consequences is common to both this scenario and to the scenario detailed in the above *Pregnancy* example.

It is important to draw a distinction between those cases and the case of someone who deceives their sexual partner about something most would generally consider trivial, such as the colour of a partner's natural hair. Although it is not inconceivable that someone's natural hair colour could be a deal-breaker for someone, it is clear that there is a difference between a failure to disclose one's natural hair colour and a failure to disclose one's HIV status; in the case of the former, the nature and consequences of the sex act have changed minimally, or possibly not at all. In the case of the latter, the nature and consequences have changed substantially, in that a fairly low-risk activity has become a much higher-risk activity with potentially life-altering consequences. This issue becomes much more complicated in cases whereby an individual is not aware that they are HIV positive; it may even be the case that they are avoiding being tested as they do not want to find out that they are HIV-positive because they might then be obligated to disclose that information:

Applying criminal law to HIV transmission could discourage people from getting tested and finding out their HIV status, as lack of knowledge of one's status could be the best defence in a criminal lawsuit. Indeed, in jurisdictions with HIV-specific criminal laws, HIV testing counsellors are often obliged to caution people that getting an HIV test will expose them to criminal liability if they find out they are HIV-positive and continue having unprotected sex (Jürgens *et al* 2009, pp.165-166).

The question, in such a case, remains as to whether or not it is unethical for someone to have sex with a person knowing that there may or may not be life-altering consequences associated with that. This point will come to be relevant in relation to erotic asphyxiation later in the chapter¹⁰². Next, I discuss

¹⁰² Erotic asphyxiation is a high-risk activity, though the extent to which people are aware of these risks will be examined later.

stealthing, a practice which alters the consequences and nature of a sex act, and thereby invalidates consent (Tarzia *et al* 2020, p.1182).

Stealthing

Stealthing is a relatively new term which describes the removal of a condom by a male partner during a sexual encounter without the consent of the other person involved (Clough 2018, p.179; Tarzia *et al* 2020: p.1175). Stealthing has been known to occur both in heterosexual and homosexual encounters, and its occurrence changes consensual sex into non-consensual sex due to the change in the nature of the act, as well as the change in level of risk involved (Klein 2014, p.54). I will use an example to explain how stealthing occurs, and to demonstrate the ways in which it negates valid consent.

One-Night Stand: Lily meets Daniel on a night out and agrees to go back to his apartment to have sex. Lily consistently practices safe sex and insists, in this case, that Daniel wear a condom. Daniel is not pleased about this, as he believes that sex is less pleasurable with a condom. Despite his initial protestations, Daniel ultimately gives in and puts one on. During the sex, when Lily is distracted, Daniel takes the condom off and continues to have sex with Lily. Lily did not see him remove the condom, and still believes that she is having protected sex.

There are two main factors that changed here, and turned the initially consensual sex into non-consensual sex. These are as follows:

1. Lily agreed to protected sex, where the risk of pregnancy and disease was low, and instead ended up having unprotected sex which carries a much higher risk of pregnancy and disease.

2. Lily consented to a certain degree of intimacy and skin-to-skin contact, but ultimately and unbeknownst to her, was subjected to a higher level of intimacy than she consented to.

Lily was missing information that would be crucial to obtain her valid consent, and Daniel withheld the above information as he knew that those factors would likely be deal-breakers for Lily. Lily did not consent to the sex that followed the condom removal, as she was not informed and her prior consent was rendered invalid as a result. She was deceived as to the nature and level of risk of the sexual encounter. In the case of both stealthing and the failure to disclose a HIV-positive status, an individual purposely deceives the person they intend to have sex with, or withholds information from them that they fear would constitute a deal-breaker.

4.1.2 Informed Medical Consent

In this section, I discuss consent to medical procedures and touch upon consent to body modification such as piercings and tattoos; there is substantial overlap between these types of consent. As discussed in chapter two, consent to medical procedures must be given voluntarily by a competent person who is sufficiently informed regarding the nature and potential consequences of the procedure. It is the ‘informed’ requirement for valid medical consent that is relevant in this section. In *Consent: A Guide for Health and Social Care Professionals* produced by the Health Service Executive, it is stated that ‘the amount of information to be provided about an intervention will depend on the urgency, complexity, nature, and level of risk associated with the intervention and on the preferences of the person’ (HSE 2021). The information provided to a patient must be *sufficient for them to weigh up the risks and benefits* of any advised procedure, and will usually include information about¹⁰³:

¹⁰³ This list of required information is detailed in the previously mentioned HSE document on consent.

1. Their diagnosis and prognosis
2. Options for treating or managing the condition
3. The purpose of any proposed intervention and what it involves
4. The potential benefits and risks of intervention, and the chance of success

The level of information disclosure required in the case of medical interventions was contested in the UK Supreme Court case of *Montgomery v Lanarkshire Health Board* in 2015. The case ‘concerned an obstetrician’s failure to advise [Ms Montgomery] of a 9-10% risk of shoulder dystocia inherent in childbirth, and to discuss alternative delivery by caesarean section’ (Carver 2020, p188). Ms Montgomery claimed that, ‘had the risk been known [to her, she] would have elected to avoid vaginal delivery’ (Carver 2020, p.188; Smith and Carver 2018, p.384). The case ‘imposed a duty on healthcare professionals to take reasonable care to ensure that a patient is aware of any material risks involved in any recommended treatment’, and of any reasonable alternative or variant treatments (Carver 2020, p.188). A risk can be considered material when:

A reasonable person in the patient’s position would be likely to attach significance to the risk, or the doctor is or should reasonably be aware that the particular patient would be likely to attach significance to it (para 87; taken from Smith and Carver 2018, p.384).

This means that whether or not a risk warrants disclosure does not depend solely on the chances of the risk’s probability of occurrence, but on the patient’s circumstances and the effect that the risk might have on the patient’s life if it were to occur. Information must be ‘disclosed if it would be significant to a particular patient’s decision making’ (Smith and Carver 2018, p.384). The ruling has been characterised as prioritising a patient’s bodily autonomy over medical paternalism (Glover-Thomas 2020, p.7).

Informed consent to body modifications such as tattooing and piercing follows some of the same principles as consent to necessary medical procedures, but the standard is somewhat lower and the details are less decisive given the, typically, lower risk involved in participating. Generally,

consent to a tattoo, for example, can be considered informed when the individual in question is aware of the nature of the procedure (what getting tattooed entails), the consequences of the procedure (a permanent mark on their body in the design that they have chosen), and the potential risks associated with tattooing ('skin infections, allergic or toxic reactions to various substances used on or in the skin, and transmission of blood-borne viruses') (Glover-Thomas 2020, p.14). Tattoo artists ordinarily require that someone reads and signs a consent form prior to being tattooed that details the above information. Tattoos are also performed, at least in the UK and Ireland, on people over the age of 18, with minors considered incapable of making the potentially life-altering decision to permanently mark their bodies. The *Tattooing of Minors Act 1969* makes it an offence to permanently tattoo persons under the age of 18 (Smith 2010, p.2). More often than not, people think of tattooing and piercing in relation to body modification, but there are more dramatic forms of body modification including tongue-splitting and ear removal, and it is these latter forms of modification that test the limits of consent's normative power¹⁰⁴.

In this section, I briefly discussed what informed consent means in the two most relevant contexts: sexual consent and medical consent. I explained the degree of information that must be disclosed for consent to be considered informed, with reference, in the case of sexual consent, to examples of scenarios where a lack of information invalidated consent. For consent to be valid, meaning for it to have any normative power, it must be informed. When one considers the risks associated with many sadomasochistic acts, including branding, choking, and fisting¹⁰⁵, one must concede that the standard for informed consent to sadomasochism must be higher than it would

¹⁰⁴ One case that illustrates this point is the case of *R v BM* in 2018, where a body modification artist was charged with three counts of wounding with intent to cause grievous bodily harm (Beetham 2018, p.206). This case will be explored in more detail in the next chapter.

¹⁰⁵ In *R v Slingsby*, 'the defendant claimed that sexual intercourse, anal sex and the penetration of the deceased's vagina and rectum with his hand, 'fisting', was consensual. The deceased died of septicaemia from cuts caused by a signet ring on his hand' (Edwards 2020, p.307). Rope bondage can cause rope burn, constriction, neck injuries, 'jaw problems from biting the rope and other items, dislocated joints, and nerve issues' (Windle 2017). The risks associated with asphyxiation will be explored in detail in the next section.

ordinary be in a sexual scenario. The three sadomasochistic practices just mentioned are among the riskier practices undertaken by some in the BDSM community. Crucially, however, these practices are becoming more mainstream, as detailed in chapter three. In the next section, I examine each of these practices in terms of the risks involved in order to highlight the high standard required for informed consent to such practices.

4.2. THE RISKS OF EXTREME SADOMASOCHISM

In the previous section, I established the requirements for informed consent to sex and to medical procedures and body modification. In this section, I use the examples of branding, fisting, and choking (otherwise known as erotic asphyxiation or EA) to highlight the risks involved in some extreme sadomasochistic activities, with reference to stories of injuries, some fatal, that have occurred as a result. The aim of this section is to establish that some sadomasochistic practices carry high levels of risk, and are not something that should be undertaken without due consideration of those risks. After establishing the high level of risk, in the next section I go on to explain that sadomasochism requires informed consent of a standard that is rarely met in casual sexual interactions, thus highlighting the fact that much sadomasochistic activity does not involve informed and therefore valid consent.

Branding

Branding refers to ‘a process whereby third degree burns are inflicted on the skin with a hot iron rod or metallic object’ (Raza *et al* 2009, p.1). The most common form of branding is “strike branding” in which the “strike” is ‘performed by applying strips heated by a propane torch (1900 to 2100°F) and the ‘conglomerate of heated strips forms the desired pattern on the skin post striking’ (Raza *et al*

2009, p.2). It is a ‘form of scarification performed to inflict a third-degree burn to the skin (Karamanoukian et al 2006, p.108). Historically, body branding was ‘used by slaveholders and slave traders to mark those they believed to be their property; it was a fundamental commodification of the human body’ (Keefer 2019, p.660). Jean-Pierre Warmer describes such instances of branding as ‘fundamentally related to the process of commodifying or decommodifying a person or thing’ (Warmer 2016, p.155). This is relevant when it comes to understanding body branding in the BDSM community today. In the BDSM community, branding is often understood as a sign of ownership, with one participant saying that the ‘feeling of being claimed and owned is so important for me feeling sexually satisfied and fulfilled in my relationship’ (Wilson 2022). Body branding ‘incurs the same risks associated with any [other] third-degree burn’ (Karamanoukian et al 2006, p.109). A 2009 report identified the following among some of the health risks associated with branding:

- Disfigurement from contractures.
- Hair loss.
- Keloids.
- Orthokeratotic hyperkeratosis.
- Edema and swelling.
- Squamous cell carcinoma.
- Systemic bacterial sepsis.

The paper concluded that the ‘severe medical complications of skin branding are worrisome and these risks far outweigh the benefits of these procedures’ (Raza *et al* 2009, p.5). In the UK today, the legality around branding is complicated due to the fact that the ‘procedure involves a more serious form of bodily harm than tattooing or piercing’ (Wilson 2022). In a 1996 legal case, ‘the court in *R v Wilson* found that a husband consensually branding his wife’s buttock with a hot knife fell within the category of a ‘lawful infliction of actual bodily harm’ because it was in the confines of a marital

relationship' (Keenan 2018). This is despite the fact that the husband had no qualifications or experience of body modification and it is unlikely that the conditions were adequately sterile. This case 'exemplifies the court's confusion in trying to differentiate between tolerable and intolerable consensually inflicted bodily harm' (Keenan 2018).

Fisting

Fisting is a sexual practice 'consisting in the penetration of the vagina, anus, or both with the hand (fist) with or without the forearm' (Cappelletti et al 2016, p.59). Although once associated primarily with the homosexual community, fisting has become 'increasingly common in the heterosexual population' (Cerqui and Haylen 1998, p.288). Fisting is most often practiced in 'kinky communities and queer partnerships,' (Zane 2021) but this is changing with the kinkification of culture. The practice is high-risk and can result in injuries to the rectal mucosa or anal sphincter complex, colonic perforations, vaginal lacerations, and even death (Cerqui and Haylen 1998, p.288). One 2016 study found that consensual fisting 'may result in injury that can be observed at both the external and internal examination,' and highlighted the following injuries, among others, as seen in subjects of the study:

- Injuries at the external examination of the perineum consisting in severe sphincter laceration producing anal incontinence.
- Large and deep laceration along the anovaginal rafe consistent with a fourth-degree perineal laceration.
- Linear and stellate transmural lacerations of the rectosigmoid colon (due to the extreme depth of penetration, pubic hairs were found in the abdominal cavity).
- Laceration of the posterior rectal mucosa immediately above the anal sphincter.

- An 8cm laceration through the posterior wall of the vagina (Cappelletti *et al* 2016, p.58-61).

There were also eight fatalities among the subjects studied; four of these occurred from vaginal fisting, two from anal fisting, and two from anovaginal fisting¹⁰⁶ (Cappelletti *et al* 2016, p.60).. Analysis of the injuries found in people who had engaged in consensual fisting, as well as the fatalities related to fisting, led the authors of the above study to conclude that fisting is a ‘potentially dangerous sexual practice’ (Cappelletti *et al* 2016, p.58). Evidently, the risks involved when it comes to fisting are significant. This is further illustrated by examining individual cases such as that of Cindy Gladue, who died after an apparent fisting attempt caused a fatal 11-centimeter vaginal wound¹⁰⁷. Another case is described in a 2013 study in the *Korean Journal of Legal Medicine* in which a 38-year-old woman became unconscious and died after 20-30 minutes of fisting; the autopsy confirmed the presence of perineal and vaginal lacerations and the cause of death was identified as ‘hypovolemic shock due to uterine artery rupture’ (Kim *et al* 2013, p.157). Anthony J Cerqui, a urogynaecology fellow, and Bernard T Haylen, a medical officer state the following:

We wish to issue this alert to the potential dangers of this form of sexual practice in the heterosexual community. With increasing sexual experimentation, the potential for trauma increases. Genital tract trauma needs to be considered in all acute presentations of vaginal bleeding (Cerqui and Haylen 1998, p.288).

Sex educator, therapist, and chiropractor Robert Lawrence, commenting on the claim that injuries from fisting are rare, stated that ‘if you went down to the hospital and asked all the emergency rooms they'd say, 'Yeah, yeah, we see that in the queer community’ (Hudson 2015).

¹⁰⁶ Two of the fatalities occurred during consensual fisting, and six from non-consensual fisting (Cappelletti *et al* 2016, p.59).

¹⁰⁷ This case culminated in a murder trial in which the defendant was originally found not guilty of Cindy’s murder (Hudson 2015). However, in July of 2021, he was eventually sentenced to manslaughter (Wakefield, 2021).

*Choking*¹⁰⁸

Erotic asphyxiation is the act of strangling someone for the purposes of sexual pleasure of one or both parties involved. It falls under the umbrella of ‘breath play’. In medical terms, EA involves the ‘production of cerebral hypoxia for sexual pleasure’ (Halbach *et al* 2018, p.99). Breath play is any sexual activity that hinder one’s ability to breathe normally, and can include not only strangulation but suffocation, breath-holding, and other such activities. Practitioners of breath play may use their hands, plastic wrap or plastic bags, or specialized tools of sadomasochism such as hoods for breath play. They may inhibit someone’s ability to breathe by placing something around the neck or putting a barrier in front of the mouth and nose (Holland 2019; Shea 2021; WebMD 2021). When someone is being strangled, their ‘brain is deprived of oxygen [which can induce] a lucid and yet semi-hallucinogenic state,’ and they may experience a ‘fading in and out of consciousness’ which proponents claim can be enjoyable (Shea 2021).

Autoerotic asphyxiation, where one restricts their own ability to breathe for the purposes of heightened sexual pleasure, is not a new phenomenon, and there have been reported cases of autoerotic deaths for decades. Autoerotic asphyxia usually involves young males, and in the case of death, there are usually hints as to the sexual nature of the death, including exposure of the genitals and/or the presence of pornographic material near the body (Byard 2016). Conservative estimates of such deaths estimate that they add up to approximately 500-1000 deaths in the US alone annually. Autoerotic deaths are exceptionally rare in females, with the majority of deaths occurring in young males (Turvey 2013). However, the overwhelming majority of people killed through erotic asphyxia involving a couple are women; Fiona MacKenzie of campaign group We Can’t Consent to This, claims that she has yet to discover a single case of a man killed by a woman in this way (Moore and

¹⁰⁸ The practice of erotic asphyxiation is often referring to as ‘choking,’ especially in the mainstream media. For this reason, I will use the terms ‘choking,’ ‘strangulation,’ and ‘erotic asphyxiation’ interchangeably depending on the terms used in the relevant source.

Khan 2019). The mainstreaming of EA and its prevalence, particularly among young people¹⁰⁹, will be detailed later in the chapter; for now, it is important to note only ‘there is a substantial literature [related to the] significant health risks of strangulation’ (Busse et al 2015; Herbenick et al 2022; Valera et al 2022; Zilkens et al 2016).

Having established that EA can lead to fatalities, the question remains as to the level of risk involved for any individual who partakes in this sadomasochistic activity. Barak, ER Nurse and co-owner of adventuresinsexuality.org, describes EA and breath play more generally as ‘possibly the single largest causes of permanent harm and death within the BDSM scene’ (King 2017). Janet Brito, PhD, a psychologist who specialises in sex therapy states that EA is ‘truly very risky and may lead to serious injury, including cardiac arrest, brain damage from lack of oxygen, and death’ (Holland 2019). This sentiment is echoed by Ashley Grinonneau-Denton, PhD, who claims that ‘erotic breath play can be extremely dangerous... when it comes to restricting oxygen, something we all need to survive and continue to live, the stakes certainly don't become lower’ (Shea 2021) .

Strangulation can be defined as the external compression of the airway and/or blood vessels, leading to restricted oxygenated blood flow to, and deoxygenated blood from, the brain... the larynx can be obstructed, cutting off airflow to the lungs... jugular veins can be occluded, leading to venous congestion, increased intracranial pressure, decreased respiration, and possible pinpoint haemorrhage. Third, there is risk of internal carotid artery occlusion, restricting blood flow to the brain... Fourth, there may be triggering of the carotid sinus reflex, leading to dysrhythmia, possible cardiac arrest, and thus further lack of blood to the brain. Finally, the thyroid gland can be damaged, resulting in possible ‘thyroid storm’, in which acute hyperthyroidism can cause congestive heart and multi-organ failure (Bichard *et al* 2021, p2).

To put it simply, EA carries with it the risks of brain damage, multiple—organ failure, cardiac arrest, and death. The stakes involved are painfully clear when one looks at some of the recent injuries and deaths that have occurred as the result of EA. It is important to clarify here that it is difficult to determine whether or not the death was an accident in many cases of deaths caused by asphyxiation.

¹⁰⁹ See Washburn, 2019 and Moore and Khan, 2019.

Prior consent to engagement in EA is frequently used as a defence in cases whereby one individual strangled another to death, with defendants arguing that the death was accidental¹¹⁰.

According to Women's Aid, 'one woman in the UK is strangled to death by her partner every two weeks' (Women's Aid 2019). An article in *The Guardian* by Anna Moore and Coco Khan details the story of Lucy, 33, who met a man on Tinder in September of 2018 and, after going back to his house and consenting to a sexual encounter, was asked if she would be okay with being choked. She agreed, albeit in a drunken state, and was frightened to wake up gasping for air with her Tinder date on top of her. She did not know how long she had passed out for, but she did notice bruises on her chest the following day. One fatal case is that of 'Chloe Miazek, [a 20-year-old woman] who was strangled by Mark Bruce after meeting him at a bus stop and [agreeing to go back to] his flat in Aberdeen with him in November 2017' (Moore and Khan 2019). Bruce's defence argued that Miazek had expressed an interest in EA with her previous partners and that the death was accidental (Edwards 2020, p.305). Bruce was sentenced to six years for manslaughter. The story of Hannah Pearson is similar; Pearson, who was from Lincolnshire, met James Morton in July of 2016, and was strangled to death by Morton later that day. Morton's defence claimed that their client was pursuing a 'sexual thrill,' and he was cleared of murder but convicted of manslaughter (Moore and Khan 2019).

Perhaps the most high-profile case in recent years was that of Grace Millane, a 21-year-old British tourist who was murdered by Jesse Kempson in Auckland in November 2018 (Bows and Herring 2020, p.525; Edwards 2020, p.305). Kempson's defence claimed that, although Kempson's behaviour after Millane's death was not acceptable, he was not a murderer as Millane had consented to EA, and even encouraged him in performing this act. The defence pointed to Millane's profiles on BDSM dating sites Whiplr and FetLife to show that she had an interest in SM, as well as hearing

¹¹⁰ It is not for me to determine whether or not the following deaths were accidental or not. If it is the case that they were not accidental, then this raises further issues about how the normalisation of SM has empowered dangerous sexual predators with a new, and sometimes plausible as far as a judge or jury are concerned¹¹⁰, defence for their violence.

evidence from her ex-partner, who claimed that they had practiced EA during the course of their relationship (D’Antal and Middleton 2019; D’Antal 2019; Jones 2019). In a recorded police interview, Kempson claimed that Millane had shown him what she wanted him to do by holding him around the neck and pushing down. Kempson was ultimately found guilty of Millane’s murder and sentenced to 17 years in prison (SkyNews 2020).

4.3 INFORMED CONSENT TO SADOMASOCHISM

In this section, I focus on the conditions that ought to be met for consent to sadomasochism to be considered adequately informed; in this context, ‘adequately informed’ means informed to the extent that consent given would meet the criteria for validity. I use the example of erotic asphyxiation in this section to determine what a participant would need to know for their consent to EA to be considered informed. I then explore the prevalence of EA among the general population and discuss whether or not consent to this practice is usually informed. Finally, I look at EA in the BDSM community, where informed consent is prioritised to a degree that it usually is not among the general population. Although it is likely that consent to EA is not adequately informed in the context of ordinary sexual interactions, it may be the case that consent to EA is, in fact, fully informed in the context of the BDSM community.

In section 4.1.1, I explained that informed sexual consent would require that an individual was aware of the identity of the person or people involved, what the sex act entailed, and what the consequences of that act might be. The first of these points is not particularly relevant to this issue, so I will focus on the latter two and how they relate to EA. Furthermore, due to the high level of risk involved in EA, it is crucial that, as in the case of medical consent, the consentee is given adequate information to weigh up the risks and benefits of participating and make an informed decision

thereafter. The consentee must, therefore, be aware of the following for consent to EA to be considered informed:

1. The nature of the act: EA involves strangulation and the restriction of breathing using hands, an alternative body part (such as a forearm), or a prop such as a rope or a scarf to apply pressure to the neck and throat. Some EA can also involve ‘smothering or face-sitting... [EA involves restricting] your brain’s oxygen supply’ and a participant may lose consciousness during the act (Herbenick et al 2022a, p.5 [quoted from study article]).
2. The consequences: There are many possible health risks associated with EA including ‘disorientation, loss of coordination, permanent vision loss, brain damage, stroke, fractured hyoid bone, “mechanical damage to your neck structure,” “serious injury”” cardiac arrest, and even death (Bichard *et al* 2021, p.2; Herbenick *et al* 2022a, p.7).

For an individual to give informed consent to EA, they would need to be supplied with the information detailed above. Without an awareness of what is involved in EA and the health risks that they are subjecting themselves to, any consent given cannot be considered valid. I will now discuss whether or not this standard for informed consent to EA is met both under ordinary circumstances and within the context of the BDSM community.

Mainstream EA

In order to consider the likelihood that ordinary people¹¹¹ are adequately informed when it comes to EA, I will look at two key factors. Firstly, I compare the prevalence of EA with the prevalence of people identifying as belonging to the BDSM community. Secondly, I look at a study on some of the

¹¹¹ For clarity, I will use the term ‘ordinary people’ to refer to those not in the BDSM community.

most popular articles on ‘sexual choking’ to determine what information is being disseminated to the masses as regards this practice.

EA has become an increasingly popular practice among young people in the US, the UK, and New Zealand (Beres *et al.* 2020; Herbenick *et al.* 2022b, p.503). Depictions of the practice have become commonplace across ‘contemporary media including pornography, social media (e.g. Twitter, TikTok), television shows, mainstream movies, as well as magazines and their websites’ (Herbenick 2022b, p.503). Sexual choking has ‘become increasingly prevalent in mixed-sex pornography and young men’s sexual behaviour’ (Contos 2022). A 2020 study found that 58% of randomly sampled undergraduate women in the United States have been strangled during sex (Herbenick 2020). Furthermore, a ‘national probability survey in the US found that 21% of women reported having been choked during sex, and 20% of men reported that they have choked a partner during sex’ (Contos 2022; Herbenick 2020). In the study, EA was found to be more common among adults under the age of 29 when compared with older adults which ‘suggests a cohort effect and exhibits the population shift in sexual behaviour’ (Herbenick 2020). In the *Guardian*, Chanel Contos describes being at a birthday party when she was 19, and playing a drinking game in which one of her friends was asked ‘what’s the kinkiest thing you like to do during sex?’ to which the 17-year-old friend replied ‘It’s not really that kinky, but I guess choking’ (Contos 2022). This indicates the extent to which this kink practice has been normalised across mainstream culture.

It is highly improbable, based on research data, that all of (or even a majority of) individuals engaging in EA are part of the BDSM community. A 1993 US study of sexual practices on 2,800 respondents showed that ‘approximately 14% of men and 11% women had participated in some form of BDSM’ (Janus and Janus 1993). A more recent review of BDSM studies found that an estimated ‘10% of adults in the general population have engaged in some form of BDSM activity’ (Kleinplatz and Moser 2006). Finally, a 2017 survey of 1027 adults found that 12.5% indicated regularly

performing at least one BDSM-related activity, and just 7.6% self-identified as BDSM practitioners (Holvoet *et al* 2017). For those who are not a part of the BDSM community and yet participate in EA, there are many articles available online in which to learn about ‘choking’. I will now examine the information offered to these individuals who seek knowledge about the risks and consequences of EA in the mainstream media.

In 2021, Debby Herbenick and colleagues conducted a content analysis of 27 internet articles to determine how accurate the information provided was when it comes to the description of the activity and the relevant risks involved (Herbenick *et al* 2022a, p.1). This research has particular importance as ‘findings from a 2015 National Survey of Sexual Health and Behaviour found that 18- to 24-year olds rated their most helpful sources of information about sex to be pornography, the media, and sexual partners (Rothman *et al* 2021)... [Young people often] turn to digital media to learn about sex’ (Herbenick *et al* 2022a, p.1). The purpose of Herbenick’s study was to identify informational articles about sexual choking, the search terms used were: ‘choking during sex; how to choke my partner during sex; how to choke someone during sex; how to choke someone safely; BDSM choking; how to choke someone in the bedroom’ (Herbenick *et al* 2022a, p.2). They ‘stopped reviewing articles when [the] search results no longer met [the] criteria, which was usually on the second or third page of search results’ (Herbenick *et al* 2022a, p.2). The findings most relevant to the topic of this section are as follows:

1. Most articles described choking with language such as ‘BDSM, sexual domination, erotic asphyxiation, sexual asphyxiation, breath play, edge play... choking was never described as strangulation’ (Herbenick *et al* 2022a, p.5).
2. Choking was often described as ‘pleasurable or arousing, kinky or adventurous... in more than half of articles, choking was described as making orgasm easier or more intense’

(Herbenick *et al* 2022a, p.5). Numerous articles indicated that ‘some women are unable to experience orgasm without being choked’ (Herbenick *et al* 2022a, p.6).

3. Most articles suggested that choking ‘could be done “safely” and “properly”, [with] less than one third indicating there is no safe way to choke someone’ (Herbenick *et al* 2022a, p.6).
4. It was rare for an article to ‘caution against learning how to choke [a partner] from pornography’ (Herbenick *et al* 2022a, p.8).
5. Most articles included ‘at least some inaccurate information about choking,’ and ‘only two had undergone medical or expert review’ (Herbenick *et al* 2022a, p.9).
6. Even when articles did provide ‘some accurate information, they were often incomplete, omitting information about the health risks’ or when to seek medical advice (Herbenick *et al* 2022a, p.9).

Research indicates that there are many people engaging in EA that are not members of the BDSM community. As such, they will not have the knowledge that BDSM practitioners have as regards the risks of EA, and are likely to search online for answers. The advice available online, as shown, does not provide the reader with sufficient accurate information about the practice of EA and the associated potential consequences for individuals to give informed consent. Under these ordinary circumstances, consent to EA, and, in all probability, to other forms of extreme sadomasochism, is not adequately informed and cannot be considered valid consent. In the next section, I look at how the BDSM community approaches informed consent to EA.

EA in the BDSM Community

In chapter two, I briefly touched upon the SSC and RACK models within the BDSM community. It has been determined, earlier in this chapter, that EA cannot be considered safe and therefore the SSC (safe, sane, and consensual) model does not work in this instance. The SSC model excludes ‘edgier

forms of play that involve higher physical and/or psychological risk’, and EA is among these edgier forms of play (Williams *et al* 2014, p.2). RACK (risk aware consensual kink) is less proscriptive than SSC ‘specifying instead that participants be aware of the risks they choose to take and take personal responsibility for their choices and actions’ (Sagarin *et al* 2019, p.64). In order to ensure that individuals are ‘risk aware’ when it comes to their engagement in sadomasochistic practices, there is an emphasis on prior discussion and negotiation in the BDSM community.

Before practitioners take part in a sadomasochistic scene, they usually ‘engage in an explicit process of negotiation during which each participant defines activities they are interested in, activities they are willing to perform, and activities that are off-limits’ (Sagarin *et al* 2019, p.65). It is usual for consent to be ‘given explicitly rather than tacitly and [is based on a] mutual understanding of which acts are permissible’ and which are not (Dunkley and Brotto 2020, p.662). The process of negotiation can vary greatly in terms of complexity, and may even ‘take place over the course of several weeks,’ and involve ‘extensive checklists of personal limits’ (Dunkley and Brotto 2020, p.662). Safewords are an important concept within the BDSM community. A safeword is a phrase, word, or gesture that signals signaling an individual’s wish to cease the activity, and it may be used ‘not only for physical discomfort, but also for psychological discomfort’ (Jozifkova 2013, p.392). Safety ‘precautions, such as negotiation and safewords, are of paramount importance in the practice of healthy BDSM’. (Dunkley and Brotto 2020, p.661). ‘Acceptable BDSM is predicated on thorough and ongoing negotiation (Williams *et al* 2014)’ (Dunkley and Brotto 2020, p.662). New York dominatrix Yin Q has said of this need for ongoing negotiation:

Consent must be talked about more thoroughly in kink and BDSM sex than in more conventional sexual practices because the activities — both physical and mental — are more diverse and edgy. Within kink play, struggle, cries of pain, tears, and even saying “no” may not be the flag to stop — thus safe words and ways to check in should be negotiated... Sadomasochism, especially, should be handled with thorough communication, care, and skilful understanding on both the dominant partner and submissive partner’s part (Retta 2019).

With the emphasis that the BDSM community places on risk-aware, detailed, explicit, and ongoing consent, it is conceivable that anyone within the community who wishes to engage in EA might be made aware of exactly what the act involves, and what the associated risks are. A BDSM practitioner may participate in EA, knowing that they will be strangled, that they may pass out, and that they might suffer long-term health consequences as a result. They might be informed that the practice can be fatal. In such cases, consent is informed and, in this sense, is valid. The problem with extreme sadomasochism in such a scenario cannot be the lack of valid, informed consent. This kind of consent, as discussed in chapter two, has normative power. However, there are limits to this normative power, and these limits will be discussed in the next chapter.

Conclusion

In this chapter, I discussed the standards for informed consent in both a sexual and a medical context. I explored the risks involved in some sadomasochistic practices. I examined whether or not consent to extreme sadomasochism, in light of the above risks, could be considered adequately informed. Sadomasochism, especially particular acts of sadomasochistic violence, can be high-risk. A 2021 literature review on fatal outcomes in BDSM play examined 17 cases of death during consensual BDSM play, with the causes of death including strangulation, suffocation, hanging, throttling, and haemorrhage (Schori, Jackowski, and Schon 2021, pp.287-288). The authors of the review noted that:

Physical health complications such as bruising and musculoskeletal injuries due to whipping, spanking, and flogging; broken skin leading to infections or nerve damage due to bondage or handcuffs; burns due to hot wax play; blood-borne pathogen exposure due to needling or temporary piercings; fainting due to vasovagal response to pain; and emotional intensity may occur in BDSM plays (Schori, Jackowski, and Schon 2021, p.290-291).

For consent to sadomasochism to be valid, participants must be aware of the risks to their health and life when they engage in these practices. In the case of ordinary people, it is highly unlikely that the

standard for informed consent to extreme sadomasochism is met. However, when it comes to BDSM practitioners, it is plausible that this standard is met. In such cases, the impermissibility of extreme sadomasochism cannot be explained by questioning consent's validity, but the limits of consent's normative power. This is the aim of the next chapter.

CHAPTER FIVE

The Normative Power of Consent

In the previous two chapters, I discussed two of the three conditions that must be met for consent to be considered valid. The purpose of the previous two chapters was to call into question the validity of consent to sadomasochism, focusing on whether or not such consent is freely given and adequately informed. Only valid consent is said to have normative power. In this chapter, I discuss the extent of this normative power, and its limitations. In considering consent in the context of sadomasochism, there are two key claims that I make in this thesis:

1. Consent to extreme sadomasochism is rarely valid due to the coercive impact of a kinkified culture and the high bar for informed consent necessitated by the substantial potential risks of engagement.
2. Even in cases where consent to sadomasochism met the necessary criteria to be considered valid, consent does not have the power to normatively transform certain acts of sadomasochistic violence.

If one remains unconvinced by the former argument against sadomasochism, this chapter addresses the second claim, and highlights circumstances whereby consent does not have the power to render an otherwise immoral act morally permissible.

In section 5.1, I explore Clare Chambers's argument that consent does not have normative power in all instances; there are cases where an unethical act remains unethical even when there is consent. I explain that there are certain practices that are considered unethical and legislated against, and for which consent is not relevant due to the harm involved. Extreme sadomasochism belongs to the category of practices that is unethical, and that we legislate against, due to the harm caused. Consent is not part of the picture in such cases. I discuss the case of *R v Brown*, as it is an example

of extreme sadomasochism that was found to be unethical. The consent of participants was irrelevant due to the extreme nature of the physical injuries inflicted on individuals involved.

In section 5.2, I outline Clare Chambers's argument against breast implants to make the case that consent is not relevant when it comes to sufficiently harmful practices. She makes the claim that 'social norms can make it rational for individuals to want things that profoundly threaten their well-being and equality,' and that we 'must refuse to respect those desires which themselves undermine respect for the desiring individual' (Chambers 2008, p.199). I will argue that just as a woman may desire breast implants, she may also desire to partake in extreme acts of masochism, but by respecting those desires, we would be disrespecting her by enabling or encouraging her participation in practices that compromise her wellbeing.

Finally, in section 5.3, I use the argument from the previous section to explain why extreme sadomasochism belongs to the same category as breast implants and FGM. I will argue that these are practices which are desired purely because of the way social norms have conditioned desire, but which are contrary to wellbeing and equality. Following Chambers, I will argue that extreme sadomasochism, like breast implants, falls into the category of practices that cause harm and which individuals should be protected from. In such instances, consent is just not part of the ethical picture. To make this argument, I will draw on the arguments of previous chapters concerning porn culture and the risks of sadomasochism. I claim that it is social conditioning that makes violent or brutal sexual practices desirable. Furthermore, sadomasochism can cause substantial harm to those involved. Thus, my argument against sadomasochism is the same as Clare Chambers's argument against breast implants in two crucial ways: it is socially conditioned and it causes substantial harm. By including sadomasochism in the category of things which are unethical regardless of consent, we are respecting the relevant individuals.

5.1 THE LIMITS OF CONSENT'S NORMATIVE POWER

In this section, I discuss the limits of consent's normative power. As explained in chapter two, consent has normative power; this power functions by waiving the right one has 'against another person performing a particular act with respect to one's body or property'¹¹². Firstly, I explain Clare Chambers's understanding of consent, or 'choice', as utilised in an attempt to 'normatively transform' unjust acts. I use the examples the sale of organs and the amputation of healthy limbs to show that there are acts for which consent is not sufficient to change their deontic status; this is due to the harm caused, or the coercive environment in which the consent was given. Lastly, I discuss the *R v Brown* case; this is a direct example of how sadomasochism has been considered morally impermissible, even in cases where consent was given. My argument in this section is that there are limits to consent's normative power, and that these limits are often dictated by the two factors discussed in depth in previous chapters: the extent of the harm caused by the act in question, and the coercive context within which the consent was given.

In *Sex, Culture, and Justice*, Chambers writes that liberalism sees choice¹¹³ as a 'normative transformer' which she defines as a 'concept that transforms an unjust situation into a just one' (Chambers 2008, p.21). In considering consent to be a normative transformer, liberals 'ignore the creative elements of power' (Chambers 2008, p.21). This echoes issues raised by critics of choice feminism – as explained in chapter one – who claim that choice feminist arguments 'assume a level of unmitigated freedom for women that simply doesn't exist,' stating that women's choices are 'shaped and constrained by the unequal conditions in which we live' (Tyler 2015). Chambers makes a similar claim by stating that political liberalism is a problematic approach for feminists because it is 'ill-equipped to deal with injustices resulting from culture and choice because it abandons

¹¹² See Section 2.3.

¹¹³ 'Choice' and 'consent' can be used interchangeably in this instance.

significant areas of justice to determination by individual choice' (Chambers 2008, p.160). In claiming that consent acts as a normative transformer¹¹⁴, many liberals are failing to take account of the social context within which choices are made and consent given. One of the most obvious and relevant examples here of how social context can influence individual choices is in the area of female beauty standards, as discussed in section 3.3. Chambers claims that 'women's bodies are shaped by power... as a result of compliance with normative rules that directly dictate appearance' (Chambers 2008, p.25). A woman's choice to remove her pubic hair, for example, is influenced by beauty and sexual norms (Dines 2010, p100; Widdows 2018, p.108). Widdows writes that once a beauty practice becomes a norm that requires engagement, 'non-engagement becomes "not an option," non-compliance is policed, and failure to comply is regarded as moral failure' (Widdows 2018, p108). The policing of non-compliance when it comes to female appearance undermines the normative power of choice or consent. Chambers writes:

Power, then, is not confined to those moments when an identifiable senior figure imposes a formal requirement, but manifests itself every time there is any form of social interaction, be it interpersonal or between the individual and an objectified manifestation of culture... Each transmission of female appearance norms is an instance of power. (Chambers 2008, p.26)

Theories of social construction, in their acknowledgement of the social constraints under which choices are made, call into question the concepts of free choice and autonomy. On the other hand, liberals 'appear to view all choices as free [and] autonomy as a matter of non-interference' (Chambers 2008, p.30)¹¹⁵. The problem with viewing consent as a normative transformer is that it does not account for the social constraints or incentives which limit or shape someone's choices. Even when a matter looks 'as though it should come well within the accepted circle of individual control [and when] valid consent has been given for its breach, it may be illegal [or morally wrong] for others to act on this consent' (Radcliffe Richards 2009, p.182). There are a number of influential forces that

¹¹⁴ Consent rightly *does* function as normative transformer in some instances, but it does not function this way in all cases which is an issue that Chambers takes with the liberal position.

¹¹⁵ See chapter one for more information on the liberal perspective on consent.

may compromise the normative power of consent including, as in the case of beauty practices, social norms, as well as other forces such as financial incentives. There are many practices which fall into the category of actions we cannot consent to, or actions we are not allowed to choose. In the next section, I will consider two practices which generally fall into this category, the sale of organs and the amputation of healthy limbs. There is a medical and political consensus that these actions are so harmful that they are generally not the kind of actions which can be consented to, to the extent that many jurisdictions outlaw them.

Selling Organs and Performing Amputations

Here I will briefly discuss two real-world examples of scenarios in which consent does not function as a normative transformer; they are practices which fall into a category of actions which are deemed to be harmful and contrary to well-being, such that they are prohibited irrespective of whether or not the person consents to engage in them. The relevant actions are not of a type that can be transformed by consent. Like Chambers, my claim here is that there are situations in which consent cannot normatively transform an action.

Many lives are saved thanks to organ transplantation; people with end-stage renal disease live longer after a transplant than they do when undergoing dialysis, and a kidney from a living donor lasts longer than that from a donor who is deceased. However, there is a shortage of organs available for transplant; in the US, the wait list for a kidney alone is approximately 100,000 people long (Kerstein 2016). Different measures have been suggested or taken ‘in order to address the kidney shortage [including] using lower quality cadaver kidneys, moving from explicit to presumed consent to cadaveric donation, and permitting living donation to non-relatives and living undirected donation to strangers’ (Malmqvist 2014, p.110). One proposal to deal with the shortage has been to ‘attract

more living donors by offering payment’; however, kidney sales ‘are illegal almost everywhere and are condemned by powerful international organizations such as the EU and the UN’ (Malmqvist 2014, p110. See also: Kerstein, 2016). Even altruistic organ donation for the benefit of others is restricted and closely regulated¹¹⁶. There are a number of arguments against offering financial incentives for organ donation, including the protection of human dignity and the negative long-term financial outcomes of black-market organ sales (Kerstein 2016). For the purposes of my argument, I will focus on two key points against organ sales:

1. An impoverished individual will experience a financial incentive as coercive.
2. Organ donation can cause harm to the donating individual, whether physical, psychological, or financial.

In relation to the first of these points, those who argue against the sale of organs claim that ‘such markets prey upon the poor, whose choice to sell their kidneys may not be truly voluntary’ (Sandel 2012, p.110). In other words, an individual who is living in poverty is likely to be induced into selling an organ if a financial incentive is offered, and consent offered in the context of such an environment is not valid.

If you are a prospective vendor, you do not actually want to lose your kidney; you are proposing to do it only because of the prospect of payment. If the offer is impressive, it leaves you with very little choice about whether to accept it, and if it is impressive enough, it leaves you with no choice at all. (Radcliffe Richards 2009, p.290)

Although, as Rob Lawlor points out, many people would not do their jobs if it were not for the fact that they needed to earn a wage and were thereby incentivised to work for financial gain, it is ‘not obviously absurd to think that a person should have the privilege of being able to hold on to both of their kidneys, regardless of whether or not they have the money to finance this privilege’ (Lawlor

¹¹⁶ Surgeons ‘refused to accept the consent of a man whose first kidney donation to his son had failed and who then wanted to sacrifice his second kidney for another attempt,’ and the sacrifice of an organ essential for life is ‘legally out of the question’ (Radcliffe Richards 2009, p.182).

2014, p.197-198). The claim that an individual ought not to be induced into extreme measures through dire economic necessity is called ‘the fairness claim’ or ‘the fairness argument’ (Lawlor 2014, p.198; Sandel 2012, p.110-111). The second point mentioned above relates to the extent to which consenting to organ donation causes harm to the donor. There is a risk of both physical and psychological harm associated with an impoverished person’s donation of a kidney for financial reasons. According to the World Health Organization, ‘an estimated 10,000 black market operations involving purchased human kidneys now take place per year’, and the donors in such markets, who are typically severely impoverished, ‘undergo serious psychological and physical harms’ (Kerstein 2016). A 2012 study of organ vendors in Bangladesh found that vendors’ ‘health deteriorated, their economic conditions worsened, and their social standing declined in a serious manner after they sold their kidneys,’ with many claiming that the experience had ‘profound psychological and psychosocial impacts on them’ (Moniruzzaman 2012, p.79). A 2001 cross-sectional survey in Chennai found that organ sellers reported a decline in health after kidney removal and that they did not report any improvement in their financial situation over the long-term. In fact, ‘family income actually declined by one third, and most participants were still in debt and living below the poverty line at the time of the survey’ (Goyal *et al* 2001, p.1590). Most participants went on to state that they ‘would not recommend that others sell a kidney [which] suggests that potential donors would be unlikely to sell a kidney if they were better informed of the likely outcomes’ (Goyal *et al* 2001, p.1590-1591).

In the case of organ selling, the consent given by a vendor does not function as a normative transformer because their social conditions limited consent, and the harm involved is deemed too much, such that it is not in the relevant individual’s best interests. A scenario in which a healthy limb is amputated is somewhat different in that the removal of a healthy limb is not requested in accordance with a social norm, or in a cultural or financial context that could be considered coercive with regard to that action. On the other hand, there is common ground between these situations. In the case of

organ selling, one feature which explains why consent is not a normative transformer in such an instance is the risk of substantial long-term harm. When it comes to the removal of limbs, there is certain, rather than potential, physical harm caused which is irreversible.

Upon initial consideration, an individual's desire to amputate their 'healthy limb is a foreign, perhaps unsettling, concept' (Bryant 2011, p.281). Such a desire is usually the symptom of an individual suffering from body integrity identity disorder (BIID) (Blom *et al* 2012). The term body integrity identity disorder describes 'an extremely rare phenomenon of persons who desire the amputation of one or more healthy limbs or who desire a paralysis' (Müller 2009, p.36). Some of these individuals 'mutilate themselves,' and 'others ask surgeons for an amputation or for the transection of their spinal cord' (Müller 2009, p.36). However, it is plausible for a person to present to a surgeon requesting the amputation of a healthy limb without suffering from any such condition.

Outside the pages of medical journals, the people who want amputations simply call themselves 'wannabes'... Wannabes distinguish themselves from 'devotees', who are attracted to amputees, and 'pretenders,' who enjoy dressing up as amputees, often going out in public in wheelchairs, on crutches, or wearing calipers. A growing web industry caters to many of these people, offering merchandise, videos, photographs, chat rooms, and listservs organised around their desires. A Yahoo internet group for amputee wannabes currently has over 2,100 members. (Johnston and Elliott 2002, p.431-432)

Establishing the legality of such amputations is not straightforward. In theory, 'a patient could sue a surgeon in contract if he or she is subsequently dissatisfied with the amputation, or sue a surgeon in tort for medical malpractice if there is evidence of negligence' (Ryan 2009, p.28). However, regardless of the legal consequences, surgeons are unlikely to perform such amputations because to do so would be to harm their patient and act against their well-being.

When it comes to a request to remove a healthy limb, a person is not acting under the influence of any obvious coercion, such as financial coercion as discussed in the previous example. However, one of the issues raised by those critical of the removal of healthy limbs is that to do so is to cause substantial physical harm to the patient. Historically, the amputation of a healthy limb would most

probably have been considered an act of ‘maiming’, in which it was ‘an offence to debilitate the body of another’ (Furth and Smith 2000, p.153). There are costs, physically, socially, and financially, when it comes to living as an amputee. The future of an amputee involves high costs, both financially and often in terms of pain management, for ‘medical treatment, rehabilitation, early retirement, and lost working income’ (Müller 2009, p.42). The choice to have a healthy limb surgically removed, and the consent given for this procedure, are not normatively transformative due to the considerable harm caused to the individual involved. Both of the scenarios discussed here are examples which highlight the limits of consent’s normative power. Consent does, in some instances, have normative power. However, there are acts or procedures that we do not consider to be the kind that people can consent to; this may come down to the degree of harm involved, as is relevant in both of these situations, or to the coercive environment in which the consent was given. Such an environment would undermine consent, as the consent given could not be considered truly voluntary under such circumstances.

The R v Brown Case

There are a number of legal cases that highlight the limits of consent’s normative power; one of the most well-known and infamous of these is the case of R v Brown. My concern is the moral argument, but often the legal follows from the moral, such that this case shows the extent to which we limit harmful choices. This case deals directly with sadomasochism, and the extent to which an individual can consent to participating in scenes of sadomasochistic violence. Firstly, I explore the events that unfolded in the R v Brown case. I then discuss the ruling in this case, and the reasons given for the ruling. Finally, I explain what the ruling in this case tells us about the limits of consent’s normative power when it comes to extreme sadomasochism. In the next chapter, in which I reframe extreme sadomasochism as more closely aligned with violence rather than sex, cases such as this one will

provide context for the argument that violence does not necessarily become morally permissible through consent alone.

The case of *R v Brown* in 1994 is perhaps the most well-known legal case where valid¹¹⁷ consent's normative power within a sexual context was called into question. The case concerned a group of sadomasochistic homosexual men who consented to engage in BDSM, and filmed their encounter. The recording of events ultimately ended up in the hands of a police officer who, concerned that he was watching a snuff film¹¹⁸, alerted the relevant authorities and an investigation was launched. In this case, the men involved engaged in sadomasochistic practices involving, but not limited to, 'torture, wounding and branding to the buttocks, anus, penis, testicles and nipples' (Edwards 2020, p.297). Extensive genital torture was a noted element of the recorded encounter. The injuries 'were said to provide sexual pleasure both for those [at the giving and at the receiving end] of the pain' (Ramanauskas 2020, p.86). If we take it that the men involved gave valid consent to their involvement, the question that stands out then regards the extent of physical harm that one can consent to. The men involved were accused of criminal assault and, heeding the advice of their legal counsel, pleaded guilty to section 47 and section 20 assault; they were ultimately convicted of these offences. The men claimed that valid consent was given by all involved, and that the provision of such consent constituted a defence to the recorded practices; this was their argument on appeal, but the House of Lords held that 'consent cannot provide a defence to an assault that is more than trifling' and invalidated the idea of 'consent to Offences Against the Person Act (OAPA) section 47 and more serious offences, including when done for the purpose of sexual gratification' (Edwards 2020, p.297).

¹¹⁷ Whether or not consent was valid in the case of *R v Brown* is a contentious issue. Some argue that those harmed were substantially younger and more impressionable than those doing the harming, as such calling their capacity to validly consent into question. For my purposes here, I will discuss the case as though valid consent was indeed given, though this is hard to establish for certain.

¹¹⁸ A film of someone being killed, often with the purpose of inciting sexual excitement.

In other words, it was decided that a person cannot give meaningful consent to substantial physical harm, and this is especially the case when it comes to sadomasochism¹¹⁹.

In the case of *R v Brown*, ‘their Lordships held that the law had developed a list of circumstances in which the consent of the victim would be a valid defence where the injuries involved serious assault,’ but that this list did not involve sadomasochistic activity; according to the majority the list could, however, potentially be extended but only if such an extension was ‘deemed to be in the public interest’ (Ramanauskas 2020, p.86). Activities that make the list of circumstances in which consent provides a defence include ‘tattooing and piercing, surgery, regulated sports, public exhibitions and religious rituals’ (Bows and Herring 2020, p.528). It was decided by the majority that sadomasochism ought not to be added to the list as it was harmful rather than beneficial to society, and this decision has been the subject of much academic debate and controversy (Ramanauskas 2020, p.86). The case ‘restricted the validity of consent by reference to the level of harm and the circumstances in which it is inflicted’ and established the threshold for ‘the level of harm that [a person] can give consent to is assault or battery’ (Bows and Herring 2020, p.528). If an individual suffers serious physical harm as a result of an act to which they consent, then that person’s consent does not provide a legal defence unless it is on the aforementioned list of risky activities deemed to be beneficial to the wider public (Bows and Herring 2020, p.528). Evidently, in this case it was decided that consent was not sufficient. My argument is concerned with whether or not consent is morally rather than legally transformative. I argue here that consent in the *R v Brown* case was

¹¹⁹ Sadomasochism is distinct here from other kinds of consensual violence, in the sense that it was decided that sadomasochism was ultimately a negative thing to popularise or normalise across wider society. Lord Templeman said public policy meant the law should protect people from the “unpredictably dangerous and degrading” practices that involved “genital torture and violence to the buttocks, anus, penis, testicles and nipples”. He said: “Society is entitled and bound to protect itself against a cult of violence. Pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilised.” (Baksi 2021).

neither; the acts undertaken in this case caused harm to the extent that they are not the kind of thing that we legally or morally allow people to have done to them.

Some of the controversy surrounding the case concerned whether or not the justices allowed their judgement of the case to be clouded by their own heteronormative understanding of sexuality and gender; for example, there were repeated references to the sexuality of the appellants, and one of the justices commented that ‘it is some comfort at least to be told, as we were, that ‘K’ has now it seems settled into a normal heterosexual relationship’ (Stychin 1994, p.527). Such comments and the potentially homophobic sentiments that they allude to led some to claim that the *R v Brown* judgement pathologised gay male sexuality (Edwards 2020, p.297). Concern over the ‘homophobic’ ruling in *R v Brown* resurfaced following the judgement in the case of *R v Wilson*; ‘the Court of Appeal quashed a conviction where a husband branded his initials on his wife’s buttocks with a hot knife’ – this took place with the consent of his wife (Edwards 2020, p.298). The claim has also been made that the ruling in *R v Brown* demonstrates a misunderstanding of the connection between pain and pleasure. ‘Weait has argued that the law view pain as a punishment’, and for this reason, ‘a fundamental basis of the law is potentially undermined’ when pain is considered pleasurable by relevant parties (Ramanauskas 2020, p.86). In this view, alternative sexualities, in which pain is experienced as pleasure, are not adequately acknowledged or served by laws that pathologise sexual sadism and masochism (Ramanauskas 2020, pp.86-87).

Arguments have been made on both sides with regard to whether or not the ruling in the *R v Brown* case was correct or justifiable. Nicholas Bamforth argued that the ruling was unjust and claimed that it was an example of ‘moral popularism’; he argued that, in order to respect ‘a person as a sexual agent [and avoid the] misery caused by regulation of consenting sexual activity,’ consenting sadomasochism ought to be protected under law. On the other hand, Jonathan Herring argues, from a feminist perspective, that there is a need for regulation in this area. He would not, he says, support a

‘straight-forward legislation of sadomasochism’, and claims that many leading cases on sadomasochism demonstrate how easy it can be to portray domestic violence as consensual sex (Edwards 2020, pp.297-298). Herring’s comparison here between sadomasochism and domestic violence will be particularly relevant in the next chapter, in which I discuss the similarities between these two scenarios and show how discussions of consent are inadequate and insufficient in determining the moral permissibility of either. What this case demonstrates is that there are ‘limits to the amount of harm others legally can do to you, even with your consent’ (Radcliffe Richards 2009, p.182).

5.2 BANNING BREAST IMPLANTS

In this section, I explore Clare Chambers’s argument that breast implants ought to be banned. Chambers argues that breast implant surgery, like organ selling, the removal of healthy limbs, and sadomasochism, is the kind of act which should be considered impermissible irrespective of consent.

In order to make her argument, Chambers first refers to work done by Martha Nussbaum on the distinction between female genital mutilation (FGM) and Western beauty practices such as cosmetic surgery of the kind that Chambers goes on to argue against. Nussbaum makes the case that FGM is abhorrent and should be banned, but her arguments against FGM also function as ‘effective arguments against political liberalism’s prioritisation of second-order autonomy’ (Chambers 2008, p.176). Before exploring Nussbaum’s distinction between FGM and Western practices, I will briefly explain the difference between first-order autonomy and second-order autonomy for Chambers as it is relevant to the claims made in this section. Gerald Dworkin claims that there are ‘two distinct notions’ when it comes to autonomy and that they are ‘related in both contingent and noncontingent ways’ (Dworkin 2012, p.18). Firstly, autonomy typically relates to a person’s freedom to live their lives as

they wish without interference or coercion; one has first-order desires and motivations, and autonomy affords someone the liberty to pursue these. However, there are second-order preferences which relate to how we feel about our first-order desires. Dworkin writes that autonomy is ‘a second-order capacity of persons to reflect critically upon their first order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in the light of higher order preferences and values’ (Dworkin 2012, p.20). I will use an example to explain what Dworkin means here. Person A might want an ice-cream. However, they are on a diet so they also want *not to* want the ice-cream. As Loughrey writes, an autonomous person ‘is able to desire that certain of their first-order desires are either effective or frustrated’ (Loughrey 1998, p212). .Autonomy in this case is the capacity for person A to reflect on the original desire (for ice-cream) and decide not to accept that first-order desire and to choose something else instead.

First-order autonomy and second-order autonomy, as explained by Chambers, are not the same as first- and second-order reflection as understood by Dworkin. For Chambers, ‘first-order autonomy applies to one’s attitude to the rules and norms that are part of a way of life’ (Chambers 2008, p.162). A person is first-order autonomous when they reflect on the norms and rules that impact their life, and chooses how to respond to them (Chambers 2008, p.162). On the other hand, ‘second-order autonomy [applies to] the manner in which an individual comes to have a particular way of life or comprehensive conception of the good’ (Chambers 2008, p.162). For Chambers, there are four ways that these two kinds of autonomy can be combined. These are as follows:

1. One might autonomously choose to live an autonomous life (both kinds).
2. One might live a non-autonomous life that they have not chosen (neither kind).
3. One might autonomously choose to live a non-autonomous life (they have second-order autonomy but not first).

4. One might live an autonomous life that they have not autonomously chosen (they have first-order autonomy but not second). (Chambers 2008, p.163).

Scenarios one and two are more straightforward than scenarios three and four, so I will explain the latter two by means of examples. In relation to the third scenario, a person might autonomously decide to join the army. In this case, they have chosen to live a life in which their opportunities to make autonomous choices going forward are compromised. Dworkin writes of this that a ‘person who wishes to be restricted in various ways, whether by the discipline of the monastery, regimentation of the army, or even by coercion, is not, on that account alone, less autonomous’ (Dworkin 2012, p.18). An example of the fourth scenario would be a child who is forced to relocate with his family, but is then able to live an autonomous life within this new location. He has first-order autonomy but not second, as he did not choose the circumstances in which he has ended up. The distinction between these kinds of autonomy are important, as political liberalism prioritises second-order autonomy and this is relevant to the discussion on FGM and breast implants.

For Martha Nussbaum, autonomy is not a general good for all humans; ‘autonomy is a *political* value only’ (Chambers 2008, p.165 emphasis in text). Nussbaum argues that her position, in which she prioritises political rather than comprehensive liberalism, ‘allows people to live nonautonomous lives [if] autonomy [is] counter to their conception of the good’ (Chambers 2008, p.164). Nussbaum writes that:

Political liberalism is, first and foremost, respect for persons, not respect for the doctrines they hold... It is because we respect persons that we think that their comprehensive doctrines deserve space to unfold themselves, and deserve respectful, nonderogatory treatment from government (whatever treatment they receive from citizens in the “background culture”). (Nussbaum 2011, p.33).

This is evidence of the prioritisation of second-order autonomy by political liberals. For Nussbaum, a person must be able to choose ‘to live a nonautonomous [life if that is congruent] with their conception of the good’ (Chambers 2008, p164). This is particularly relevant in the case of religious

doctrines, as in the case where a man might join the priesthood for example, but also applies more broadly. In her view, political liberalism ‘carefully refrains from asserting that non-autonomous lives are not worth leading,’ or that ‘autonomy is a key element in the best comprehensive view of human flourishing’ (Nussbaum 1999, p.110). She explicitly endorses the view that only political liberalism of this kind ‘can succeed in showing appropriate respect for persons’ (Ferracioli and Terlazzo 2014, p.444). We can situate Nussbaum’s criticism of FGM within the context of her political liberalism, although, as mentioned earlier, her criticism of the practice undermines her claim that the prioritisation of second-order autonomy is conducive with justice. In Nussbaum’s attempt to draw a distinction between FGM and Western beauty practices, she highlights the following points:

1. ‘FGM is carried out by force.
2. FGM is carried out on children under the age of consent.
3. Women who undergo FGM are more likely than Western women to be uneducated and thus to lack the conditions for autonomous choice.
4. FGM is often carried out in conditions that are dangerous to health.
5. FGM is irreversible.
6. FGM causes lifelong health problems.
7. FGM causes the loss of a certain type of sexual functioning that many women (would) value highly.
8. FGM is unambiguously linked to customs of male domination’ (Nussbaum 1999, p.124).

Chambers responds to this argument by firstly highlighting that points 1 to 3 relate to the idea of the practice as unchosen, and therefore they can be mitigated by considering an example of a woman who is educated, above the age of 18, and choosing to have the procedure performed on her. If ‘second-order autonomy [is] the key factor in securing justice, [then] FGM could be made acceptable’ in such an instance, at least when we consider the first three claims (Chambers 2008, p.177). Breast

implants can be chosen by an educated, adult woman, as can FGM. Once these conditions are met, the distinction between FGM and breast implants in the first three objections no longer stands. The fourth point can also be dealt with by considering a case where FGM, or breast implant surgery, was performed in a safe and sterile environment, with appropriate medical equipment and care. I will deal with the last four arguments in more detail, as these are more complex than the initial four.

Irreversible

FGM is irreversible, but there are many procedures that an individual is allowed to seek out that are irreversible, including tattoos, male circumcision, and abortion (Chambers 2008, p.178). In the case of breast implants, although they can be reversible to some extent, breasts do not return to their original appearance once an implant has been removed. Chambers quotes a plastic surgeon Andrew Skanderowicz as saying:

If you've had your implants for a long time, you may find your breasts end up smaller and droopier than they were originally. This is because the implants will have stretched your skin and it's normal for breast tissue to shrink as you get older. (Chambers 2008, p.186)

This issue is raised on the Cleveland Clinic website, where they state that when you have breast implants, the skin stretches to accommodate the now larger size of your breasts, and therefore, after removal, 'breasts may sag, droop or appear misshapen'; for this reason, many women opt to have a mastopexy, also known as a breast lift, when they have their implants removed (Cleveland Clinic 2022). 'John Byrne describes one woman who had her implants removed, saying that "where her breasts had been, there were now just slight ridges of folded, discoloured skin – like deflated balloons that held air for a long time" (Byrne 1996, p.3) [...] Removing breast implants is more difficult than inserting them' (Chambers 2008, p.186); the case of the latter, a small incision is made and the implant is folded during insertion, but this is not possible with implant removal. Larger incisions need to be

made, and there is ‘more bleeding [and scarring] from the deeper and larger cuts (Byrne 1996, p.158)’ (Chambers 2008, p.168). If one wishes to avoid the potential complication involved with the removal of breast implants, there is still upkeep to consider. Silicone implants do not last a lifetime, and need to be surgically replaced every 10-20 years (Peterson 2022). Ultimately, the options for a woman who has chosen to get breast implants and then wishes to reverse that decision are as follows: removal of the implants and the associated risks of excessive bleeding, scarring, and breast sagging; a lifelong commitment to regular surgical intervention for the sake of upkeep. Neither of these potential roads for her to go down indicate that breast implants are reversible, at least not without considerable risk.

Health Problems and Loss of Sexual Functioning

Breast implants can cause lifelong health problems, some of which can result in the loss of secondary sexual function. In a 2019 ‘study published in the *Annals of Surgery*, a team of researchers at the University of Texas MD Anderson Cancer [Centre] looked at the medical records of 99,993 women who had implants and were enrolled in long-term safety studies required by the [US Food and Drug Administration]’ (Coroneos CJ *et al* 2019, p.35-36). Researchers ‘found that, compared to women [without implants], women with silicone gel-filled implants were [eight times] more likely to be diagnosed with Sjögren syndrome (an autoimmune disorder), [seven times] more likely to be diagnosed with scleroderma (a group of autoimmune diseases that cause the skin and connective tissues to become hard and tighten) and [nearly six times] more likely to be diagnosed with rheumatoid arthritis’ (Coroneos CJ *et al* 2019, p.35-36). A further 2018 study of 123,255 Israeli women (24,651 with silicone breast implants and the rest without) found that the ‘women with breast implants were significantly more likely to be diagnosed with autoimmune [and] rheumatic disorders’

(Watad A *et al* 2018, p.1853). Some of the complications or adverse outcomes associated with breast implant surgery include, but are not limited to¹²⁰:

- Capsular contracture: The ‘tightening or hardening of the scar tissue surrounding the implant, which usually causes the breast to feel unnaturally firm, and may eventually result in breasts that are hard and very painful’ (Zuckerman 2010, p.95). The British Department of Health ‘informs women considering breast implants that 10% of women suffer from contracture after surgery’ (Chambers 2008, p189).
- Rupture and Deflation: Rupture happens when ‘an implant develops a break or tear in the shell, whether or not it deflates or changes size, and is widely acknowledged as a risk’ (Zuckerman 2010, p.95). In the case of a saline implant rupture, the saline solution leaks into the individual’s body immediately or over the course of several days and deflates the implant. Silicone breast implants can rupture at any time after your implant surgery, but the longer an implant is in place, the greater the possibility an implant may rupture. An MRI may be needed to determine whether or not a silicone implant has ruptured, though in some cases patients experience symptoms such as swelling, numbness, and burning (FDA 2022).
- Breast implant associated-anaplastic large cell lymphoma: Breast Implant Associated Lymphoma is a type of non-Hodgkin's lymphoma (cancer of the immune system), and it is usually found in the scar tissue and fluid near the breast implant. This cancer is ‘serious and can be fatal if treatment is not sought immediately’ (FDA 2019).
- Loss of nipple sensation: Breast implants may ‘remove the capability for certain forms of sexual pleasure’ (Chambers 2008, p.190). During implant surgery, ‘nerves in the nipple area can be damaged, leading to a loss of sensation’; this is a common complication of surgery, and can be temporary or permanent (Zuckerman 2010, p.97). Approximately one in seven

¹²⁰ The list of relevant risks was found on the US Food and Drug Administration website, and was updated 13/06/2022.

women with breast implants will experience ‘permanent loss of nipple sensation’ (Chambers 2008, p.190).

Linked to Male Domination

Chambers argues that the ‘choice to have breast implants is relevant to justice because it takes place in the context of profound patriarchal influence’ (Chambers 2008, p.193). In the final of her eight claims about FGM, as detailed above, Nussbaum argues that FGM is linked to customs of male domination. For Chambers, this is also the case when it comes to implants. In *Beauty and Misogyny*, Sheila Jeffreys comments on the coercive influence of patriarchal values when it comes to breast implants, saying:

In recent decades the beauty practices required of women and girls have become more and more invasive... They require cutting, the shedding of blood and the placing of foreign objects under the flesh and skin... Breast implants, for instance, have become a socially accepted aspect of beauty practices in American culture in the intervening period (Haiken, 1997). This practice is a severe form of mutilation of women’s bodies (Jeffreys 2014, p.139).

Chambers similarly argues that ‘Western images of the ideal female body are unambiguous in their portrayal of women as vehicles for male pleasure’ (Chambers 2008, p.184). She points to the account of fifteen-year-old Jenna Franklin regarding her desire for breast implants. Franklin is quoted as saying that she had thought about getting breast implants from the time she was 12, stating further that ‘every other person you see on television has had implants’ and that if she wanted to ‘be successful,’ she would need to get them too (Chaudhuri and Mahey 2001). As discussed in chapter three, the mainstream media is strongly influenced by the norms of pornography. The images that Jenna Franklin saw on television, therefore, were shaped through the misogynistic pornification of culture. Chambers makes the claim that the popularity of breast implant surgery is influenced by the

widespread belief that a woman's success depends on 'an appearance that emphasises sexual availability' (Chambers 2008, p.192).

In this section, I have outlined the argument that Chambers make against the prioritisation of second-order autonomy by political liberals. Her claim is that this view is not sufficient for justice, and she uses the ways in which FGM and breast implants are analogous to make this argument. In the next section, I explore the alternative explanation offered by Chambers regarding why both FGM and breast implants are morally impermissible.

5.3 EXTREME SADOMASOCHISM AS UNETHICAL PRACTICE

In section 5.2, I sketched out Clare Chambers's argument that, due to the ways in which breast implant surgery is analogous to FGM, political liberalism prioritisation of second-order autonomy is not sufficient for justice. If, as Chambers has shown, a political liberal could use arguments in favour of allowing breast implants to similarly allow women to choose to undertake FGM, then evidently there is something wrong with FGM – and with breast implants – that is not adequately addressed by political liberalism. In this section, I explore Chambers's alternative argument as to why neither of the above practices are morally permissible. Then, in the second part of this section, I will use the same argument to claim that sadomasochism is similarly morally impermissible.

As shown in the previous section, Chambers does not agree with the claims Nussbaum makes regarding the moral impermissibility of FGM stand up to scrutiny; this is because these claims would also apply to breast implants, and Nussbaum wants to draw a distinction between FGM and Western beauty practices such as cosmetic surgery. The argument that Chambers makes for why both of the practices mentioned are not morally permissible is that, even if women were to consent to (or choose) to have either of these procedures, they would be:

1. Consenting to something that has the potential to cause substantial harm.
2. Consenting under social conditions that can be considered limiting.

The first of these claims has been addressed in section 5.2. Breast implants can cause significant health problems, some of which are fatal. The second of these claims has been addressed in chapter three, where I discussed the influence of porn culture on ordinary women. I will briefly restate what I discussed in chapter three to show its relevance here.

When a woman makes the choice to get breast implants, she is making that choice within the context of a society in which pornography is everywhere. PornHub is one of the most popular websites overall, claiming 28.5 billion visits per day, and 25 billion specific searches annually (Silver 2019; Zane 2019). Furthermore, the influence of the porn aesthetic can be seen in fashion, music, movies, and television shows¹²¹. Breast augmentation was originally associated with ‘topless dancers and Las Vegas showgirls’ (Haiken 1997, p.246), but in recent years the mainstream popularity of the procedure has soared (ASPS 2018). The trend has been described by radical feminist Sheila Jeffreys as ‘enlarging breasts for men’s pornographic delight’ (Jeffreys 2014, p.143). Theories of social construction highlight the relevance of social context when it comes to individual choice. This is discussed by Catharine MacKinnon in *Toward a Feminist Theory of the State* who argues that the notion of rationality in liberal feminist politics is built on cultural sexism. Central to this argument is an understanding that ‘rationality could only be conceived of within the context of male dominance’ (Jovanovski 2015, p.28). This sentiment is echoed by Jeffreys who says of make-up and the veil that both are ‘often seen as voluntary behaviours by women, taken up by choice and to express agency,’ however ‘in both cases, there is considerable evidence of the pressure arising from male dominance that causes the behaviours’ (Jeffreys 2014, p.112). This relates closely to Chambers’s argument.

¹²¹ See section 3.2.1 for examples of this.

Regarding the idea that a woman could choose to undergo FGM, a practice for which political liberals could not justify the banning of, Chambers says:

We would still be worried about an adult woman who consented to undergo FGM under conditions of relative safety... We would ask ourselves what pressures she had faced in coming to her decision, what she believed about the world in order to conclude that genital mutilation would be beneficial, and the extent to which she was being forced into a suboptimal practice by the salience of social norms. (Chambers 2008, p.192).

This gets to the core of the argument. Choice, or consent, cannot always function as a normative transformer the way liberals believe it does, because choices are made within a particular social context which is likely to have a significant influence. This is less of an issue when it comes to practices that do not cause harm, or carry substantial risks of harm. For example, a woman's decision to have her legs waxed by a beautician is almost certainly influenced by social norms, but the risk of harm is negligible and, on that basis, the practice could not be banned. However, in the cases of FGM and breast implants, there is significant risk of harm. For Chambers, there are, therefore, two conditions that are necessary to justify state interference in 'practices that harm the choosing individual' (Chambers 2008, p.195). Firstly, the practice must be significantly harmful and, secondly, the practice 'results from and perpetuates unjust norms' (Chambers 2008, p.198). When a practice meets these conditions, it falls into the category of acts which cannot be consented to; they remain impermissible, due to the harm involved and the likelihood that social construction has overly-shaped the desires and choices of the subject.

I will now apply this argument to the practice of extreme sadomasochism and make the claim that the practice is not the type where consent would make the practice permissible. Sadomasochism of the kind I am concerned with here meets the conditions explored above. Firstly, the choice to engage in sadomasochistic practices is informed by a social and cultural context in which sadomasochism is normalised and even celebrated. This is discussed at length in chapter three where I explore the kinkification of culture. Many of the most common sex acts in mainstream pornography

are vaginal, anal, and oral penetration of one woman by three or more men simultaneously, double anal sex, double vaginal sex, gagging, and bukkake, and there are frequent references to women being ‘destroyed’, ‘punished’, ‘choked’, and ‘brutalised’ (Dines 2010, xviii). The overwhelming presence of pornography influences behaviours; one study from 2021, for example, found that the more pornography that teenagers consumed, the more likely it was that they would engage in sexually dominant behaviours (Wright *et al* 2021, p.225). The research mentioned here and throughout chapter three indicates that women are socially conditioned to choose harmful practices which they would not in a more just society.

The second condition that must be met is that the practice must be significantly harmful. As shown in chapter four, there are substantial risks associated with engagement in some sadomasochistic practices, including fisting, anal sex, and asphyxiation. Some individuals have died or been seriously injured after engaging in these practices. Examples of this are detailed in the relevant chapter. Extreme sadomasochism, therefore, meets the two conditions laid out by Chambers in her argument against breast implants. In the case of implants, Chambers claims that consent is not a normative transformer; the practice is not the kind that someone can meaningfully consent to due to meeting the two conditions discussed above. This argument works for extreme sadomasochism too. It is not the type of practice for which consent is meaningful as it is significantly harmful and results from unjust, patriarchal norms.

Conclusion

In this chapter, I discussed Clare Chambers’s argument that consent does not always function as a normative transformer the way that liberals frequently claim it does. I explored scenarios in which consent is not sufficient for moral permissibility, and looked at the case of *R v Brown*, a case where

individuals were prosecuted for what they claimed was consensual engagement in extreme sadomasochism. I then looked at Chambers's claim that Nussbaum's attempt to differentiate FGM for Western beauty practices does not work, as the reasons why Nussbaum condemns FGM can also be applied to breast implants. Finally, I examined the conditions that Chambers claims are necessary for a practice to be considered the type for which consent does not have normative power, and I showed how these conditions are met in the case of sadomasochism.

CHAPTER SIX

Sadomasochism and Domestic Violence

In the last chapter, I explored the claim that there are some acts for which consent does not function as a normative transformer; in other words, it does not change the moral impermissibility of those acts. Chambers argues that the kind of act to which this principle applies is that which is significantly influenced by cultural or social norms, and causes substantial harm (or poses a high level of risk of such harm). When an act meets these conditions, as in the case of breast implant surgery, it is morally impermissible regardless of whether or not consent has been given to the practice. In this chapter, I further illustrate this argument by drawing a parallel between sadomasochism and domestic violence. Chambers claims that, in order to respect individuals, it is crucial that we ‘refuse to respect those desires which themselves undermine respect for the desiring individual’ (Chambers 2008, p.199). She discusses this idea in the context of domestic violence, saying that ‘if we respect a woman’s desire and refrain from prosecuting her attacker, we fail to respect her as a person’ (Chambers 2008, p.199). In this chapter, I argue that, in order to respect an individual as a person, we must refuse to respect their desires to engage in extreme sadomasochism.

I begin, in section 6.1, by discussing domestic violence and identifying some of the key reasons why it is harmful and morally impermissible. Then, in section 6.2, I show how these reasons also apply to sadomasochism. Although there are distinctions between sadomasochism and domestic violence, the aim of this chapter is to show that there are sufficient similarities between these practices to understand them as both belonging to the category of acts in which the choice of an individual to be harmed does not negate the moral impermissibility of the harmful act.

6.1 DOMESTIC VIOLENCE

In this section, I begin by explaining what domestic violence is, what it involves, and the ways in which it causes harm to victims¹²². I then identify important reasons why domestic violence is morally impermissible. In the next section, I demonstrate how these reasons can also be applied to explain the moral impermissibility of extreme sadomasochism. The willingness of a victim of domestic violence to remain in a dangerous home environment should not impact our willingness to intervene. We recognise the harms of domestic violence. There are analogous harms present when it comes to extreme sadomasochism and, as such, I argue that it should be viewed in a similar way.

Domestic abuse, much like sadomasochism, covers a broad spectrum of behaviours and actions; domestic abuse can include violent physical abuse (such as slapping, kicking, punching, and shoving), sexual abuse (such as unwanted sexual touching, rape, and the taking or sharing of sexual images), emotional or psychological abuse (such as name-calling, degradation, gaslighting, emotional manipulation, blackmail, and humiliation), financial abuse (where access to money is controlled), and coercive control (Bancroft 2003, [Kindle] Location 2269). There are three core elements to coercive control - dependency, debility and dread – and ‘to achieve this effect, [perpetrators use the following] eight techniques: isolation, monopolisation of perception, induced debility or exhaustion, cultivation of anxiety and despair, alternation of punishment and reward, demonstrations of omnipotence, degradation, and the enforcement of trivial demands’ (Biderman 1957, pp.616-619, quoted in Hill 2019, [Kindle] Location 356). Domestic abusers commonly abuse victims in more than one of the

¹²² I will use the term ‘victim’ throughout this chapter when referring to those who have been on the receiving end of domestic abuse. This is somewhat controversial, with some preferring the term ‘survivor’ and other preferring to avoid such labels and describe relevant individuals as ‘those who have experienced domestic abuse’. The term victim has ‘been long-established, especially in scientific literature,’ but there is debate as to whether or not ‘this term might have a negative impact on women who have been raped and whether the alternative term survivor should be adopted instead’ (Schwark and Bohner 2019, p.1492). Although there is much that could be said here about terminology, I will not delve into this issue here and will simply use the term ‘victim’ consistently, whilst recognising that not everyone prefers this term.

aforementioned ways. Due to the wide range of behaviours that come under the umbrella-term of ‘domestic abuse,’ some forms of abuse are much more obvious and more visible to a third-party than others. Although there are many ways that an individual can be abused, in this chapter I focus on domestic violence specifically, rather than focusing domestic abuse more broadly as the former is more closely aligned with extreme sadomasochistic behaviours.

It is difficult to accurately gauge the prevalence of domestic violence due to it being massively underreported, but it is clear that it is a worldwide problem, and one that impacts a huge number of individuals, the vast majority of whom are women. One study of 96 cases of domestic abuse recorded by the police found that ‘men were significantly more likely to be repeat perpetrators,’ and that the ‘vast majority of men had at least two repeat incidents recorded (83% of all male perpetrators)... many a lot more than that, and one man had 52 repeat incidents recorded within the six-year tracking period’ (Hester 2013; Women’s Aid 2021). On the other hand, ‘nearly two-thirds of all women recorded as perpetrators had only one incident (62%), and the highest number of repeat incidents for any woman was eight’ (Hester 2013; Women’s Aid 2021). The same study also found that male violence tended to create a context of fear and control, and this was not the case when the perpetrators were female (Hester 2013). 77% of UK domestic homicide victims between March 2017 and March 2019 were female and 96% of the suspects were male. In cases where the victim was male, it was more likely that the perpetrator was also male (ONS 2020A). In the UK, an average of 3 women are murdered by a male partner or ex-partner every fortnight (ONS 2020B). A total of ‘87,000 women were [murdered] in 2017 with [over half] of them killed by intimate partners or family members, meaning that 137 women across the world are killed by a member of their own family every day’ (UNODC 2018). In the UK, in 2019 the number of domestic homicides increased by 27% compared to 2018 (Hill 2019, [Kindle] Location 107). The statistics consistently paint a clear picture; domestic

violence disproportionately impacts women, and the majority of perpetrators are male. The domestic abuse of women causes a level of harm that is difficult to quantify:

2 to 4 million women are assaulted by their partners per year in the United States. The U.S. Surgeon General has declared that attacks by male partners are the number one cause of injury to women between the ages of fifteen and forty-four. The American Medical Association reports that one woman out of three will be a victim of violence by a husband or boyfriend at some point in her life. The emotional effects of partner violence are a factor in more than one-fourth of female suicide attempts and are a leading cause of substance abuse in adult women (Bancroft 2003, [Kindle] Location 7).

As Jess Hill writes in *See What You Made Me Do*, ‘the truth is that in every country around the world the home is the most dangerous place for a woman’ (Hill 2019, [Kindle] Location 107).

It is uncontroversial to say that domestic violence is unethical, that to abuse someone in the aforementioned ways is not morally permissible. Such violence is broadly understood to be unacceptable irrespective of the views of the relevant victim. It is not unusual for victims of domestic violence to express a desire to remain in their current circumstances. A victim may ‘believe that he will not attack her again, or she may be afraid that pressing charges will in fact prompt him to attack again if the charges are not taken seriously, or she may be the victim of “battered woman syndrome”’ (Chambers 2008, p.199). It is also possible that a victim still loves her abuser; it is not uncommon for a victim to feel love towards their abusive partner (Drake and Casabianca 2021). Research has ‘shown that women often have difficulties in interrupting a violent relationship, and that they often go through a repetitive cycle of separations and reconciliations before the relationship finally ends’ (Crapolicchio *et al* 2021, p.2475). On average, a woman will leave her abusive male partner seven times before she leaves for good (Hill 2019, [Kindle] Location 97; SafeSteps 2022). In other words, she will return to the abuse an average of six times before deciding that she has had enough. If a victim continues a relationship with an abuser, even if she is fully aware that the violence is going to continue, it could be said that she demonstrates a willingness to remain in these dangerous circumstances. There are many possible reasons why a victim of domestic violence may have the

desire to remain within her violent relationship. None of these reasons ought to dissuade us from intervening because ‘if we respect [...] a woman’s desire [to remain in a dangerous home environment and thereby refuse to prosecute] her attacker, we fail to respect her as a person’ (Chambers 2008, p.199). We need not ask whether or not a victim seems content to stay in an abusive household before we consider intervening to protect her. To intervene is to show respect for her ‘bodily integrity and well-being’ (Chambers 2008, p.199). To illustrate the difference in how we respond to domestic violence compared to how we respond to extreme sadomasochism, I will use the following example.

Black Eye: Joan lives next door to a married couple – Katie and Bill. One night, Joan hears yelling and crying through the wall that separates her house from Katie and Bill’s. The following afternoon, Katie drops in to Joan’s house as usual. However, this time Joan notices that Katie has a purple bruise around her eye. Katie tells Joan that she sustained the injury after Bill punched her in the face. Joan is horrified and reports the incident to the police.

In this example, Joan is upset that Katie has been the victim of a violent assault by her husband. She believes that something wrong has occurred, and thus she feels obligated to report the incident. Joan, like most people, did not need to probe Katie as to why the assault happened or how she felt about it before she decided that it was morally impermissible. No further information was required for Joan to make this judgement; she could see the harm that Bill had caused to Katie, and this was enough information to decide that something morally impermissible has happened and that Bill should face consequences for his actions. On the whole, people are likely to feel obligated to intervene upon witnessing or becoming aware of incidents of domestic violence; they do not tend to ask questions about a victim’s willingness to remain in a violent relationship, because such willingness would not be considered a relevant factor in determining whether or not we ought to intervene. I will use an amended example of the aforementioned case to show how a victim’s perspective on the abuse tends not to be a mitigating factor when it comes to third-party obligation to intervene.

Black Eye (2): Joan lives next door to a married couple – Katie and Bill. One night, Joan hears yelling and crying through the wall that separates her house from Katie and Bill's. The following afternoon, Katie drops in to Joan's house. However, this time Joan notices that Katie has a purple bruise around her eye. Katie tells Joan that she sustained the injury after Bill punched her in the face. Joan asks Katie what she can do to help. Katie replies that she does not want any help, loves Bill, and has no desire to prosecute.

In the first example, Joan knew nothing of Katie's feelings on the assault she sustained. In this case, Katie has expressed her desire to remain in her current situation and to continue her relationship with Bill. Although it is possible that, having heard Katie's wishes, Joan might pause to consider the outcome for Katie before reporting the incident to police, it is likely that she would report anyway. Whether she would or not, Joan is unlikely to view Bill's behaviour any more favourably from a moral standpoint in this case than she did in the last. When it comes to domestic violence, an abused woman's perspective might be considered when deciding how to proceed¹²³, but this does not necessarily have any bearing on how the situation is assessed from an ethical standpoint. Consider *Black Eye (2)* with the following amendment: Katie wants to stay with Bill because he buys her extravagant gifts and funds her lavish lifestyle. In these circumstances, Katie wishes to remain in a dangerous and violent situation in order to reap the financial benefits associated with staying. There is no evidence to suggest that such benefits would impact the moral permissibility of the violence that occurs. In the case of extreme sadomasochism, a person may engage in sex that is violent and causes them physical harm for the sake of sexual pleasure. The possibility of this is discussed in section 1.4. The difference between these two possible scenarios is that, in the first, the benefits are financial, and in the second, the benefits are sexual. Much as in the case of financial benefits, there is no reason to

¹²³ This may be the case because an abused woman will often know best what factors need to be considered and what the risks are when it comes to leaving. Domestic abuse victims are often treated terribly in the family courts, and thus their voices need to be heard when deciding what actions and interventions are needed.

think that sexual pleasure has the normative power to alter the deontic status of a sexually violence act that causes objective harm. We recognise the harms inherent in domestic violence, but are slower to recognise similar or equivalent harms when it comes to sadomasochism to the extent that we acknowledge its moral impermissibility. I will now outline some of the key reasons why domestic violence is considered morally impermissible. These reasons are as follows:

1. Domestic violence causes physical harm. It can also cause psychological harm. In some cases, domestic violence can be fatal.
2. Domestic violence is predicated on an imbalance of power.
3. Domestic violence is linked to male domination and female oppression (sexual hierarchy).
4. Domestic violence is propped up by social norms regarding male and female behaviour.
5. Domestic violence causes third-party harm.

In the next section, I discuss extreme sadomasochism as it relates to the points mentioned above. Many of the reasons outlined for why domestic violence is not morally permissible also apply to sadomasochism.

6.2 MORAL IMPERMISSIBILITY OF EXTREME SADOMASOCHISM

In this section, I discuss the reasons, as mentioned in the previous section, why domestic violence is morally impermissible, and will show how these reasons can also be used to explain the moral impermissibility of extreme sadomasochism, which meets many of the same conditions.

Physical and Psychological Harm

In this section, I discuss the objective harm caused by sadomasochism and, where relevant, compare this to the harm caused by domestic violence. The harm caused can be physical or psychological, with some sadomasochistic acts leaving lifelong scars, or even potentially fatally injuring the submissive party. The latter is particularly true when it comes to sadomasochistic acts such as asphyxiation, the risks of which are discussed at length in chapter four. Much like domestic abuse, sadomasochism leaves scars, whether physical or psychological or both, and this is worth considering in ethically evaluating these practices. This is of particular relevance when we consider the fact that BDSM culture is becoming increasingly mainstream; if many individuals involved in sadomasochism come away from it with injuries, either visible or invisible, it is crucial that we take seriously the potential ramifications of an increase in this kind of sexual behaviour. I will begin by looking at examples of physical harm, and will then look at the idea of psychological harm. I recognise that the harms that can be caused by intimate partner violence can extend beyond these headings, but discussing these two primary categories will be sufficient for my purposes here.

Victims of sexual violence often experience one, or many, of the following consequences due to the trauma they have experienced: ‘self-harm, substance abuse, dissociation, post-traumatic stress disorder, eating disorders, sleep disorders, and suicidal thoughts’ (RAINN 2022). These are similar consequences to those associated with domestic abuse victims (SafeIreland 2022). One sexual submissive writes in *The Atlantic* about their experience of meeting a “Dom” who became their boyfriend. Following the treatment they received from this individual, they report that they ‘feel ashamed, humiliated, lonely, and worthless,’ and that they are ‘unable to enjoy what [they] used to do for fun’; after their experience with this sexual “dominant”, they are no longer able to engage in any sexual activities, and even feel uncomfortable with touching themselves in a sexual way (Bodenner 2016). The psychological consequences of sexual violence can be severe and have lifelong

impacts. Therefore, if there is even minimal risk that people are engaging in violent sexual scenes with the intention of pleasing their partner, for example, rather than because they are prioritising their own well-being, the consequences are too serious to ignore. Further to this, there is some evidence to suggest a link between suicidality and engagement in BDSM-related sexual behaviours:

The nature of BDSM-related sexual behaviours may inherently be both physically painful and psychologically provocative, which suggests these behaviours may contribute to the development of acquired capability for suicide... BDSM-related sexual behaviours can also be considered psychologically provocative in that they would typically be considered fear inducing (e.g., bondage, immobilization, violent role plays, violent pornography)... It is likely that individuals who repeatedly engage in BDSM-related sexual behaviours would have heightened acquired capability for suicide (i.e., increased fearlessness about death and pain tolerance) and subsequently be at greater risk for suicidal behaviours when experiencing desire for suicide (Brown *et al* 2017, p.1644).

This 2017 study found that among males particularly, 'BDSM-related [behaviours and] identification were associated with increased acquired capability components, which were positively associated with suicide attempt status' (Brown *et al* 2017, p.1642). However, it was found that those engaging in BDSM-related sexual behaviours were more likely than the general population to have a history of suicide attempts, therefore, although there is a correlation between suicidality and engagement in BDSM-related sexual behaviours, it cannot be concluded that the behaviours lead to suicide attempts. It is possible that the behaviours contribute to suicidal ideation, or alternatively, that those with tendencies towards self-harming behaviours are more inclined to engage in BDSM-related behaviours.

The potential physical harm that can be experienced by those in a domestic abuse situation is indistinguishable from that experienced by submissive individuals in sadomasochistic partnerships. Sadomasochism is an umbrella term that incorporates a wide range of psychological and physical acts of domination and submission. From a physical standpoint, this can include beating, flogging, burning, waterboarding, and strangulation. Grime artist Solo 45, whose real name is Andy Anokye, was arrested in 2020 for terrorising and raping four women. Crucially, one woman who had been

“terrorised” by Anokye did not give evidence for the prosecution. Although the videos in which this woman featured were described by detectives as ‘violent and brutal’, the woman claimed that she ‘consented to this behaviour and the activity’, also saying that ‘we had slightly different style sex than I'm normally used to but I'm happy to experiment’ (Enfield Independent 2020)¹²⁴. The injuries that can be sustained during violent sexual encounters are wide-ranging and varied. Allena Gobosch, a development director of the Center for Sex Positive Culture claims to have seen somebody with nerve damage from being tied up in a particular way during a scene, and another person who cut themselves with a knife (Andriakos 2015). A UK woman died of asphyxia in 2018 after she fell asleep with a tie over her mouth after she had engaged in BDSM play with her partner Warren Martin Coulton (Dresch 2021), and this is just one of countless examples of sadomasochistic sex ending in serious injuries or fatalities. What is clear from the myriad examples of sadomasochism-related injuries and deaths is that, much like domestic abuse, sadomasochism can cause serious physical harm, often with life-long consequences to the injured party. The implications of this extend beyond those that directly impact victims, and can impact the loved ones of the affected people as well as those that exist within a society where women regularly die from sexual violence that they supposedly asked for.¹²⁵

¹²⁴ The reason that this case is worth mentioning is that it included some of the most serious examples of sexual violence one might see under the guise of consensual rough sex, including ‘holding a cloth covered in bleach to women’s faces’ holding ‘a shotgun to the head of another woman’, and making another ‘sit with a bottle of water tied to her finger with a shoelace’ (Harrison 2021).

¹²⁵ Although BDSM practitioners would likely broadly condemn the use of BDSM as a cover for abuse, it is the case that such practitioners often defend acts of extreme sadomasochism such as branding, asphyxiation, and flogging. As mentioned in chapter four, extreme sadomasochistic acts represent a threat to an individual’s well-being and, in some cases, their life. Furthermore, as discussed earlier in this chapter, sadomasochists rely on a power imbalance for the enactment of a BDSM scene. The combination of risk to health or life, and eroticisation of a power imbalance means that, as I have claimed, the distinction between sadomasochism and abuse is much less obvious than is commonly thought.

Imbalance of Power

In this section, I explore the role that power and control play when it comes both to domestic violence and to sadomasochism. I show how domestic violence flourishes when there is an imbalance of power, and I draw a parallel between that and the way power imbalances are eroticised in a sadomasochistic context. I discuss how control and coercion impact a victim's willingness to participate in, remain in, an abusive situation, with reference both to cultural influences and one-on-one coercive control and manipulation. It is possible for an abuser to take advantage of a misogynistic culture, and both influences work together to disempower a victim. As Gail Dines has said, referring to a conversation she had with a perpetrator of sexual abuse, the abuser found it easy to commit his crimes as he said that 'the culture did a lot of the grooming for [him]' (Dines 2010, p.117). This section explains how power operates in the relevant abusive contexts, how coercion and control, both by individual perpetrators and by cultural influences, can disempower a victim or even lead her to choose to remain in a dangerous environment, and the role that sex plays in all of this. It is a fact that males are more likely to be perpetrators of domestic abuse, and are more likely to occupy a 'dominant' role in the BDSM community (Hester 2013, p.623; ONS 2020A; Stiles and Clark 2011, p.164; Hébert and Weaver 2015, p.49). I explore the reasons for this, and the ramifications of it for victims. By understanding sadomasochism as sexual violence against women¹²⁶, acknowledging the harm in eroticising imbalances of power, and recognising the role that control and coercion play in conditioning victims to tolerate abuse, we can think more clearly about the ethical implications of sadomasochism's normalisation in popular culture.

When discussing both domestic abuse and sadomasochism, the imbalance of power is a core element – the former relies upon the relative powerlessness of one individual in relation to the other,

¹²⁶ Sadomasochism can also occur in the context of homosexual couples, or in hetero couples where the male partner is submissive and the female is dominant. However, the most common dynamic is one in which a male partner is dominant and the female submissive.

and in the latter, the power imbalance between a dominant and submissive partner is eroticised in the context of a BDSM scene¹²⁷. Much has been said about the power dynamics of sadomasochism in previous chapters, most notably in chapter one, and therefore I will simply touch upon that here and compare it to the way power plays out in domestic abuse scenarios. The practice of sadomasochism refers to a wide variety of sexual acts and behaviours that ‘have an implicit or explicit power differential as a significant aspect of the erotic interaction’ (Moser and Kleinplatz 2007, p.35. See also: Raab 2013, p.1). In accordance with this understanding of sadomasochism¹²⁸, it cannot exist without a power differential or imbalance; it is the foundation upon which sadomasochistic interactions are built. Domestic abuse relies on a power imbalance too, and magnifies the powerlessness of the abused in the face of her powerful abuser. In *Why Does He Do That?: Inside the Minds of Angry and Controlling Men*, Lundy Bancroft writes:

When a man starts my program, he often says, “I am here because I lose control of myself sometimes. I need to get a better grip.” I always correct him: “Your problem is not that you lose control of yourself, it’s that you take control of your partner. In order to change, you don’t need to gain control over yourself, you need to let go of control of her (Bancroft, 2003).

An abusive intimate relationship involves one partner exerting power and control over another for their own ends. When it comes to sadomasochism, one partner exerts power and control over another, more often than not, for the purpose of sexual gratification¹²⁹, either one-sided or mutual. In the case of domestic abuse, the abuser can take advantage of his partner’s powerlessness to enjoy ‘the luxury of a relationship where he rarely has to compromise, gets to do the things he enjoys, and skips the rest’ (Bancroft, 2003); in other words, the abuser reaps the benefits of being in an intimate relationship

¹²⁷ It is not necessarily the case, when it comes to BDSM, that an existing power imbalance between partners is eroticised. As discussed in chapter one, some BDSM practitioners would claim that an artificial power imbalance is created for the purpose of sexual enjoyment.

¹²⁸ Sadomasochism is defined by Lammers and Imhoff as ‘a form of playing out power differences in sex, where the powerful adopt the controlling sadistic role and exert control over the powerless who adopt a more passive role’ (Lammers and Imhoff 2015, p.142). This aligns with the point made above that sadomasochism relies on a power imbalance, whether pre-existing or created.

¹²⁹ Not all BDSM practitioners agree with this.

without having to consider his partner's feelings and desires and without needing to compromise on his own. One of the many reasons that people consider domestic abuse unethical is because it leaves one individual powerless and under the control of their abuser. The abused individual is disempowered and dehumanised – used in whatever way benefits the abusive party. In a similar way, I argue that the sadist controls his partner and renders her powerless in order to benefit himself. The claim that a submissive party is powerless and that a dominant party is powerful in the context of a BDSM scene is frequently disputed by BDSM practitioners who claim that a submissive individual ultimately has the power to the extent that a scene continues, or halts, at their discretion, and claim that sadomasochism can only be practiced ethically if this dynamic is in place (Lords and Mintz 2016). When it comes to both domestic abuse and sadomasochism, the issue can be complicated by the abused or submissive party's apparent compliance. As mentioned earlier in the chapter, domestic abuse victims frequently choose to remain in their abusive circumstances even when offered an opportunity for escape. Similarly, plenty of people who are beaten to fulfil their partner's sexual desires appear to be perfectly willing to stay in their relationship, despite the harm being done to them. It may also be the case that such people are fulfilling their own desires through this masochistic behaviour, but this does not change the moral impermissibility of the violence. In cases of domestic violence, most see fit to intervene regardless, but such is often not the case in situations where someone is in a relationship with a sexual sadist. The dynamic of powerful vs powerless frequently reflects patriarchal sexual norms, with women most commonly being the abused or submissive party, and men the abuser or sexual sadist.

Male Domination and Female Oppression

In this section, I address the fact that men and women generally tend to occupy different roles when it comes to intimate partner abuse and sadomasochism. The sex dynamics in the former are largely replicated in the latter. I discuss some of the statistics in relation to this, before then examining how domestic abuse and sadomasochism both reflect and replicate a dynamic which disproportionately harms women. It is not a coincidence that in both of these scenarios, where power and control play a central role, women are disadvantaged or harmed and the desires of violent men are prioritised.

The worldwide prevalence of incidents of domestic violence is widely considered to be an epidemic of male-on-female violence, due to the fact that males make up the majority of abusers, and females make up the majority of victims¹³⁰. The dynamic of the male perpetrator and female victim appears time and time again in domestic abuse research. The statistics on sex differences when it comes to domestic violence are discussed in section 6.1. Even in cases where the victim of a domestic homicide is male, the murderer is more likely to be male than female. In her book *See What You Made Me Do*, Jess Hill acknowledges the importance of recognising the way gender and domestic abuse are linked:

Understanding the gendered nature of domestic abuse and the impact of male violence is critical if we are serious about reducing the amount of domestic abuse and domestic homicides in the future (Hill 2019, [Kindle] Location 237).

Although, in the case of sadomasochism, the sex disparity when it comes to victims and perpetrators is not quite as dramatic as in the case of domestic violence, a similar trend can be observed, with males occupying dominant roles more often than females, and females tending toward submissive, masochistic roles (Carlström 2017, p.269; Hébert and Weaver 2015, p.49). One 2013 study of participants in a BDSM online forum found that only 34% of men consistently preferred the

¹³⁰ The less common female-on-male domestic abuse will be discussed later in this section, as will same-sex abuse.

submissive position, while a relatively small proportion of women – 8% – identified as dominants (Wismeijer and Assen 2013). The same study found that dominants tended to be low in the agreeableness personality trait, meaning that they were more inclined to be assertive, demanding, and forthcoming in expressing their desires. The submissive participants however tended to be more agreeable than average; this means that they tended to be more eager to please and to prioritise the desires of their partner. The findings from this study indicate that, contrary to the arguments of some pro-BDSM parties, those involved in BDSM do not generally adopt roles that are contrary to who they are in their day-to-day life; rather, people who are quite dominant in life remain dominant in sexual scenarios more often than not, and the same can be said of submissive people. In the real world, ‘BDSM does not defy the sexual domination of women by men – rather, it reinforces it’ (Perry 2022, p.103). When examining the data on domestic abuse and sadomasochism, it becomes clear that women, being generally more agreeable and less inclined to prioritise their own needs, tend to be victimised or dominated more often than men, who usually adopt a more assertive, aggressive or dominant role. This replicates, rather than challenges, gender norms. This is a further similarity between domestic abuse and sadomasochism.

Furthermore, the physical differences between the sexes are relevant when it comes to discussing male-on-female violence. Adult females are ‘approximately half as strong as adult men in the upper body, and two thirds as strong in the lower body’ (Miller *et al* 1993, p.254; Perry 2022, p.28). On average, men can bench press more mass than women can by a factor of roughly two and a half, and can punch harder by a similar factor (Amasay *et al* 2016, p.46; Link 2020). In hand grip strength, ‘90% of females produce less force than [95% of] males’ (Leyk *et al* 2007, p.415). In other words, almost all men are stronger than almost all women, and this puts females at a significant disadvantage in situations where there is abuse, or the risk of sexual violence (Perry 2022, p.28). It means that, even if a woman felt uncomfortable in a sadomasochistic sexual situation, she is likely to

have an awareness that her male partner could harm her whether she wanted him to or not. It may be the case that, under such circumstances, to tolerate uncomfortable, painful, or unwanted sexual contact seems preferable than to question it.

In a world where women are so often abused, raped, and murdered by men¹³¹, the fact that the dynamics of sadomasochism so closely reflect those seen in domestic abuse situations should motivate us to consider the implications of the normalisation of BDSM-related male-on-female violence. Sadomasochism allows men to exert their power and control over their female partners, much as domestic abuse does. Even the increasing popularisation of sadomasochistic sexual practices can be seen as further evidence of the masculinization of sex, which includes ‘the pursuit of pleasure for its own sake, the increased attention to orgasm, the multiplication of sexual partners, the universal interest in sexual experimentation, and the separation of sexual behaviour from love’ (Kimmel 2005, p.3). Sexual fetishes, which may sometimes come under the definition of paraphilias¹³², of which sadomasochism is one, are much less commonly seen in women than in men. Males tend to be higher in sociosexuality¹³³ than females, and this is considered a likely cause for the difference seen here (Dawson *et al* 2016, pp.25-26). ‘Men think about sex more often than women; have more explicit sexual fantasies; masturbate more often than women; buy more porn; have more sex partners; and, have more varied sexual experiences than women (Billy et al 1993; Laumann et al 1994)’ (Kimmel 2005, p.15). In consideration of these facts, it is evident that the mainstreaming of sadomasochism disproportionately benefits men, who are much more likely than women to enjoy engaging in such

¹³¹ Approximately 60,000 women worldwide are murdered by men every year (Ganson and Wennmann 2016)..

¹³² It is worth acknowledging that paraphilias and fetishes are not exactly the same thing. According to Brown, ‘Fetishism is a form of paraphilia, but most people who have fetishism do not meet the clinical criteria for a paraphilic disorder, which require that the person's behavior, fantasies, or intense urges result in clinically significant distress or functional impairment’ (Brown 2021).

¹³³ ‘Those who score relatively low on this dimension are said to possess a restricted sociosexual orientation - they tend toward monogamy, prolonged courtship, and heavy emotional investment in long-term relationships. Those residing at the high end of sociosexuality are considered more unrestricted in mating orientation, they tend toward promiscuity, are quick to have sex, and experience lower levels of romantic relationship closeness.’ (Schmitt 2005, pp.247-249).

sexual activities. Fetishism and paraphilias are, as stated, seen more commonly in men than women, and there is a significant sex divide. As fetishes, sadomasochism, and pornified sex become more mainstream, it is men who stand to gain more than women.

All in all, the evidence demonstrates that the acts that have become much more socially acceptable over the last sixty years are acts that men are much more likely to enjoy. It is a good time to be a fetishist, a sex buyer, a porn user, and a playboy – it is the highly sociosexual who have done best out of sexual liberalism, and these people are overwhelmingly male (Perry 2022, p.45).

That women are statistically less likely than men to enjoy engaging in sadomasochistic sex is another reason to question the moral permissibility of sadomasochism; the risk to women is greater, and the benefit to women is likely substantially less. When we consider that women are more likely to adopt a submissive role in a sexually violent scenario, that women are less inclined to want to engage in sadomasochism, and that women are, on the whole, more agreeable than men and therefore more likely to agree to sexual practices that harm them or make them uncomfortable, it leads us to a potentially uncomfortable truth: in a world where the level of violence, and particularly sexual violence, against women is overwhelming, we may be contributing to the problem by portraying sadomasochism as ethically permissible, thereby shrugging off the harm done to women behind the veil of the consent narrative.

Propped Up by Social Norms

In this section, I consider what has been discussed previously about the prevalence of women in both the role of abuse victim and the role of sexual submissive, and will look at the ways in which society conditions women into acquiescence in these scenarios. There are two primary considerations here: 1) How women are conditioned into agreeableness and 2) How women are conditioned to think about

sex. In her essay ‘Dear Ijeawele, or a Feminist Manifesto in Fifteen Suggestions,’ Chimamanda Ngozi Adichie writes:

We teach girls to be likeable, to be nice, to be false. And we do not teach boys the same. This is dangerous. Many sexual predators have capitalized on this. Many girls remain silent when abused because they want to be nice. Many girls spend too much time trying to be ‘nice’ to people who do them harm. Many girls think of the ‘feelings’ of those who are hurting them. This is the catastrophic consequence of likeability (Adichie 2017, p.14).

Our culture teaches women and girls that it is more important to be likeable and tolerant and patient than to assert themselves. On the whole, women are much higher in agreeableness, which could also be called niceness, than men are. There is a substantial gap between the sexes when it comes to this trait (Weisberg *et al* 2011, p.178). Those who are high in agreeableness are inclined to put their own needs and desires last, and to prioritise the desires of others. Agreeable people generally prefer to avoid conflict and can struggle with asserting themselves for that reason. This puts them in a vulnerable position as they are likely to be taken advantage of by those who are less agreeable and more domineering (Perry 2022, p.81). It is not clear whether this gap in agreeableness is down to nature or nurture, but it is clear when one reflects on the way that girls and boys are raised that there are certain cultural influences that are likely to contribute. One clear example of this can be seen in the messaging on children’s clothing. The writer Kate Long noticed that clothing for girls frequently carried messages about being kind, whereas such messages could not be found on the clothing for boys. Writing on Twitter, she said:

‘What sort of monster is objecting to children's T shirts saying BE KIND¹³⁴?’ Me, I am. And here's why. Because although in schools we stress the need for everyone to be kind, when it comes to children's clothing messages the high streets are only targeting girls with the message. If you only socialise one specific group to "be kind", you are telling the people in that group that they need to put themselves second, they always need to accommodate others, they shouldn't be saying no. They should consider others before their own requirements. Their personal boundaries are less important than the wants of others (Long 2022).

¹³⁴ The brand ‘Man Who Has It All’ has responded to the prevalence of this message on girls t-shirts by printing and selling a t-shirt with the slogan ‘I’m kind enough already thanks’ (Man Who Has It All 2022).

This cultural conditioning of girls only increases their vulnerability, putting them at significant risk of being taken advantage of by predators. When it comes to domestic abuse, Bancroft has pointed out that an abuser can, at times, seem ‘emotionally needy’, and that women can get ‘caught in a trap of catering to him, trying to fill a bottomless pit’ (Bancroft, 2003). The idea that women are more likely than men to engage in sexual activities that they do not enjoy or that they find painful for the sake of prioritising male sexual pleasure is echoed in the work of Dr Sara McClelland who has pointed out that, when it comes to sex, the barometer for what qualified as good sex is different for men than it is for women:

While women imagined the low end to include the potential for extremely negative feelings and the potential for pain, men imagined the low end to represent the potential for less satisfying sexual outcomes, but they never imagined harmful or damaging outcomes for themselves (McClelland 2010, pp.667-669).

In the ways I have mentioned, among others, women and girls are conditioned by society to sacrifice their own happiness to take care of others. This primes women to be victims of abusive partners who will take full advantage of their inclination towards tolerance and the prioritisation of male pleasure.

Much has been said in chapter three about the influence of porn culture, so I will mention it here only briefly. Pornography can be seen to influence women into having sex “like men”¹³⁵, in other words to have casual and emotionless sex, and to encourage women to experiment sexually, in particular with violent and aggressive sex¹³⁶. In the previous section, I explained that women are generally less likely to want casual sex, and less likely to have paraphilias or fetishes. This is not to dismiss the fact that there are women who are interested in one-night stands, or in engaging in kinky sexual behaviour, but the proportion of such women is significantly less than the proportion of men for whom the same applies (Kimmel 2005, p.9). The idea of having sex like a man also appears in

¹³⁵ As will be discussed later in the section, the idea of having “sex like a man” comes up in mainstream media and television too.

¹³⁶ This is the kind of sex that appears across mainstream pornography sites.

popular culture repeatedly. In the first ever episode of *Sex and The City*, Carrie Bradshaw, a Manhattan-based newspaper columnist, decides to have sex like a man, and engages in oral sex with an ex that she no longer has any feelings for. What is implied in the episode is that she has no emotional attachment to this man, and that she orgasms but leaves before he has an orgasm. Upon leaving his apartment, she says she feels ‘powerful, potent, and incredibly alive’ (*Sex and the City*, 1998). The message here is clear: to have sex like a man, that is, emotionless, self-serving, and casual, is empowering. This is an early example of the encouragement in popular media for women to have sex like men, or have sex without emotional attachment. There have now been many articles published online ‘advising women to work on overcoming their perfectly normal and healthy preference for intimacy and commitment’ with titles such as “‘Here’s What To Do If You Start ‘Catching Feelings’”, “How to Bio-Hack Your Brain to Have Sex Without Getting Emotionally Attached”, and “How to have casual sex without getting emotionally attached” [which] advise readers to, for instance, avoid making eye contact with their partners during sex, in an effort to avoid “making an intimate connection”” (Perry 2022, p.70).

Porn culture normalises, through the increasingly popularisation of gonzo porn, violent “rough” sex, the degradation and humiliation primarily of women, and the disconnection of sex and love. The normalisation of sadomasochistic sex can be seen in the mainstream media and on the high street too. Ann Summers currently ‘offers a six piece ‘bondage set’, [a starter pack] which includes a flogger, blindfold, ball gag, ankle cuffs, handcuffs and rope’ (Perry 2022, p.100). This is just one of a number of items available from their BDSM range, which also includes multi-chain nipple clamps, basic hog ties, and crops. The release of some of these products followed the release of the *Fifty Shades of Grey* books and film, and in 2017, the flagship store in London’s Marble Arch invited customers to visit The Red Room, a Fifty-Shades inspired dungeon-type room where visitors could purchase a bondage dog crate, butt plugs with fluffy tails, or a penis cage (Askham 2017; Perry 2022,

p.100). Pornography and the popularisation of sadomasochism in mainstream society exaggerates and accelerates the masculinization of sex in our culture. In pornography, both male and female partners are eager to participate in casual sexual encounters, to have sex with numerous partners at once, and to experiment with kinky sexual behaviour, and both partners orgasm quickly (Kimmel 2005, p.15). This does not reflect the reality of female sexual life. Women are culturally conditioned to be tolerant, patient, and compassionate, to empower themselves by “having sex like a man”, and to engage in aggressive and violent sexual scenes. The way that women are conditioned increases their vulnerability when faced with predatory male partners, be that in a domestic abuse scenario or a sadomasochistic sexual scenario. Although it may appear that there is a conflict here between the claim that society conditions women to please men, and the claim that it simultaneously conditions women to have sex like men, there is no contradiction between these claims. Men benefit when women are encouraged to have sex like men; in other words, to have casual, kinky, or pornified sex. Women who are being encouraged to have sex like men are also being encouraged to please men by engaging in the kind of sex that men are more likely to favour. Women are not sufficiently empowered by culture to assert themselves, to make their boundaries known, to say no when they feel uncomfortable, and to leave an abusive situation.

Third Party Impact

Third-party impact refers to the way in which individuals who are not directly involved in a situation might nonetheless be impacted by it. When it comes to sadomasochism, as with domestic abuse, there are broadly two ways of looking at this kind of impact: third-party impact on those individuals that are close with the victims, and the third-party impact on individuals who, although they do not know the victims, are indirectly impacted by consequently shifting sexual norms in society. Domestic abuse

impacts the families and friends of the victim of the abuse, even if that victim appears to be content to remain in her abusive relationship. Whether or not the victim is willing to be negatively impacted by her circumstances, her friends and family are impacted and given no choice in the matter. They are harmed, but they have not consented. This highlights a further limitation of the consent model of ethical behaviour in intimate relationships. Furthermore, an increasingly widespread acceptance of violence against women is likely to negatively impact any women existing within that culture. The same can be said of sadomasochism; in the latter, the impact is likely to be even more significant when one considers the relationship between BDSM culture and pornography, and the growing popularity and mainstreaming of gonzo porn. This section works to address how sadomasochistic relationships, even if they directly involve only two partners, negatively impact a much wider group than one might initially think. This further weakens the consent argument, and offers us another element to consider in our ethical assessment.

When one considers the fact that many people, mainly women, are injured or killed in cases of extreme sadomasochism, it is clear that the loved ones of these individuals would be directly impacted by the harm caused to them. The woman Claire Wright, mentioned in the previous section, has been described as a ‘loving and caring mother’ (Dresch 2021). ‘Natalie Connolly, a 26-year-old mother of one, was left to bleed to death at the bottom of a flight of stairs with 40 injuries to her face and body after being attacked by her boyfriend [John Broadhurst]’ (Aoraha 2020). Natalie died from a combination of intoxication and vaginal haemorrhage, having been violently penetrated with a bottle of carpet cleaner. Broadhurst claimed that Natalie consented to violent sex, and that her death was an accident (Aoraha 2020). He was sentenced to less than four years in prison for Natalie’s death (Perry 2022, p.112)¹³⁷. In Australia in 2018, a teenage girl was so badly injured from violent group

¹³⁷ Natalie’s sister has since said that Broadhurst’s excuses ‘made [her] feel physically sick because [she] knew the truth,’ and that it ‘breaks her heart’ (Aoraha 2020). Her father has said that: ““We are all close together as a family and

sex – which she claimed to have participated in due to the influence of pornography – that she has life-long injuries which will require her to wear a colostomy bag (White 2019). She will need the care of her family and friends to deal with the physical trauma of her ordeal. These injuries and deaths impact not only the people to whom they happen, but the friends and families of those who endure traumatic sexual encounters. Loved ones who are left to grieve the loss of their sister or mother, or who are left caring for a debilitated teenager, did not consent to being impacted in this way but they are nonetheless impacted by the normalisation of sadomasochism and by our willingness to look the other way in the face of sexual violence.

When sadomasochism is treated as morally permissible, and as another aspect of sexual exploration, this has a wide-reaching impact across society. There are, primarily, two ways that this can be considered. Firstly, it means that an acceptance of sadomasochism is reflected in the media, from internet pornography to mainstream television and high-street retail stores. Porn culture is both influenced by demand, and helps to shape demand. Secondly, this acceptance changes the landscape of real-life sexual encounters. Research indicates that ‘more than a third of UK women under the age of 40 have experienced unwanted slapping, choking, gagging or spitting during consensual sexual encounters’ (Harte 2019). There is a clear link between the idea that sexual violence is normal and acceptable, and the readiness with which men act out these fantasies during casual sexual encounters.

The relationship between the sex we are having and the pornography we are consuming is reciprocal; they feed each other, and the cycle continues. The more than sadomasochism is considered acceptable and morally permissible in our culture, the more the demand for that type of content will increase (without any shame or social sanctions that might encourage the repression of such urges). As the amount of sadomasochistic content increases and it becomes more and more popular, the more

he’s not allowed anywhere near us. The most important thing is protecting Natalie’s daughter... the pain will never end. We just have to keep on going and look after the little one’ (Siddle 2020).

likely it is that young people will act out sadomasochistic sexual behaviours that they have observed in the pornography that they are consuming.

Conclusion

In this section, I have looked at domestic abuse and the way it is viewed in society, and I have drawn a parallel between domestic violence and sadomasochism. In the case of domestic violence, the consent narrative has little to offer. I argue that sadomasochism ought to be considered as belonging to the same category of acts for which consent is not part of the ethical picture, acts which are considered harmful and contrary to the well-being of individuals who might be involved. I have highlighted the reasons why consent is not appropriate or adequate to explore the harms of sadomasochism, and have offered an alternative way of looking at sadomasochistic sex.

CONCLUSION

The aim of this thesis was to examine the moral permissibility of sadomasochism, and to consider whether or not consent is a sufficient defence for SM sex. In this thesis, I have made the argument that sadomasochism is not morally defensible, and that the idea of valid, informed consent is adequate to make extreme sadomasochistic practices permissible. Over thirty years ago, Catherine MacKinnon argued that liberalism is an inadequate means of achieving equality for women, stating that, when applied to women, 'liberalism has supported state intervention on behalf of women as abstract persons with abstract rights, without scrutinizing the content of these notions in gendered terms' (MacKinnon 1991, p.184). My argument throughout this thesis echoes, to some extent, this sentiment; when consent is all that matters and men can beat consenting women with impunity, it becomes evident that the consent framework, ignorant as it is to sex-based inequality and male-on-female violence, is not up to the task of protecting the wellbeing of people, and women in particular, in sexual encounters. It leaves little room to criticise gendered violence and women end up, both literally and figuratively, with their hands tied behind their backs. In this thesis, I made the argument that extreme sadomasochism is not the kind of thing that can be consented to.

In chapter one, I explained the ways in which SM proponents argue for its moral defensibility, with reference to arguments made by queer theorists and liberals alike. This chapter, whilst delving into various different arguments, brought to light the common thread of consent evident throughout. This was followed by chapter two, which explained what consent is, examined the various views on consent, and discussed the criteria necessary for consent to be considered valid. These criteria were as follows: consent must be voluntary, it must be sufficiently informed, and it must be given by a competent individual. Chapter three explored the social context, highlighting the mainstreaming of pornography and pointing to the growth of sadomasochism in mainstream media as a potentially influential force. I discussed how porn norms and values have seeped into the everyday lives of the

masses, with reference to *Love Island* and ‘Instagram Influencers’ among other examples. I also discussed the crossover between mainstream media and porn media by looking at how mainstream celebrities have come to appear on porn sites, and how pornstars have ended up in Hollywood movies. I finished this chapter by looking at the impact of pornography on young women, and how sex acts most commonly seen in pornography have come to be a part of so many young people’s sexual repertoires. In chapter four, I looked at the standards for informed consent. Sadomasochistic sex acts can be highly risky, especially in the case of acts such as erotic asphyxiation. The higher the risk inherent in a particular activity, the higher the bar for informed consent needs to be. Thus, when it comes to sadomasochism, the bar for informed consent must be particularly high for consent to be considered valid. I also looked at the examples of HIV disclosure and stealthing to highlight how a failure to meet the standard for informed consent means that consent can be considered invalid.

Chapter five looked at the normative power of consent and, crucially, the limits of that normative power. There are scenarios where consent is not sufficient to render a given act morally permissible; this observation was integral to the second part of my argument, which claimed that even valid consent is not sufficient to make sadomasochism permissible. My argument, up to this point proceeded as follows: 1) Consent to sadomasochism may not be freely given. 2) Consent to sadomasochism is unlikely to reach the high bar for informed consent needed for high-risk activities. 3) Consent to sadomasochism, therefore, is usually not valid. 4) If, however, consent to sadomasochism managed to meet the standard for validity, valid consent still does not have the normative power to change the deontic status of extreme sadomasochistic acts. I used Clare Chambers’s argument regarding breast implants to claim that extreme sadomasochism is something for which consent cannot act as a normative transformer. This is for two key reasons. Firstly, there is a strong societal influence which impacts the likelihood that an individual will consent to

sadomasochism. This relates to the argument made in chapter three about porn culture. Secondly, extreme sadomasochism, like breast implants, can cause substantial harm.

The focus then was on moving away from consent, and considering an alternative perspective that is better fit for purpose. In chapter six, I discussed the parallels between domestic violence and extreme sadomasochism. When it comes to domestic violence, we think it matters that all men recognise that women are not their property, and that violence against women is always wrong; this is irrespective of the personal relationship between the individuals in question or what the victimised woman happens to think. When it comes to domestic violence we do not accept these roles for women. This ought also to be the case when it comes to extreme sadomasochism. A person may be happy to engage in sexual interactions during which they are beaten or otherwise harmed, but this does not impact the moral permissibility of these behaviours. By comparing sadomasochism to domestic violence, I highlighted the ways in which these two scenarios are similar in terms of morally relevant criteria. Thus, I suggested that we think about sadomasochism, not in the way we think about sex, but in the way we think about intimate partner violence. Sexual violence, most of which is inflicted by men on women, is not morally permissible, regardless of whether or not the individuals involved are sexually aroused by it. It is not morally defensible for a man to beat his girlfriend for sexual pleasure, regardless of whether or not she has a smile on her face.

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