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LETTER FROM THE EDITOR

Dear reader,

As my work on this year's Feminist Edition comes to an end, it is tempting to speak of it only fondly. After all, as a philosopher, it has been an intensely joyful experience to work with such a talented team of editors, writers and philosophers to produce this year's edition.

However, as a feminist academic, this year has been challenging. Misogyny and gendered violence against women are on the rise, and academic work studying women's health, lives and experiences is being defunded, censored and framed as 'frivolous' or 'unnecessary'. It is not. This work – our work as feminist philosophers – undergirds general feminist efforts in an essential way. It grants us the theoretical tools to grapple with viscerally real problems, and it therefore is in times like these that our research matters most.

As such, I would like to extend my immense gratitude to all the philosophers who submitted their research and writing to *The Feminist Edition* this year, as well as my congratulations to those who were published. Your inquiry matters, and I am very proud to have worked to provide a platform where your thoughts can be shared.

I also deeply thank this year's editorial team, with a special tip of the hat to my highly skilled colleagues Kirsty Graham and Joe Bradstreet. You have all volunteered your time and brains over the course of this year towards the noble cause of platforming young academics and helping them develop their philosophical acumen. Thank you so much for your hard work – it makes a difference.

Lastly, like last year, I want to express my gratitude to – and awe for – all the inspiring women and feminist academics in the Philosophy Society as well as the St Andrews Philosophy Department. To be surrounded by you all is all the affirmation needed to know that what we are doing here is worthwhile, and an academic necessity.

If you made it this far, I must also say – it is with great sadness I now leave *The Feminist Edition* behind, but with great joy I leave it in very competent hands. I cannot wait to see what the future holds for this journal and the people who work so hard to bring it forth.

Signing off,

Christina Landys Herre
Editor-in-Chief, *Aporia: The Feminist Edition*

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Why Women and Men Cannot Love Each Other (Yet)

AUDREY RODRIGUEZ, *UNIVERSITY OF MIAMI*

In a heteronormative society, men and women are typically expected to look not for authentic love, but simply a partner of the opposite gender. This compulsory heterosexuality, as explained by Adrienne Rich, and the resultant tainted love story problematize views about love like Berit Brogaard's "appraisal respect". I take Brogaard to give an apt account of what we should want authentic love to be, one in which we are said to love another when we properly evaluate their role as a lovable lover. However, because loving another and evaluating their lovability are not the goals of love as it stands, heterosexual men and women cannot be said to love in the way Brogaard rightly champions. Authentic love is then something most do not generally experience, but all (who are interested in engaging in romantic love) ought to strive for. I ultimately claim that developing respect for ourselves, our peers, our same-sex relationships, and love itself are the best ways for us to make authentic love widely accessible.

In a heteronormative society, men and women are typically expected to look not for authentic love, but simply a partner of the opposite sex. Can you be said to love your partner without truly getting to *choose*¹ your partner? Many feminist theorists have taken issue with whether men can love women under patriarchy since patriarchy does not see women as ends-in-themselves, but the reverse case has rarely been considered.

I argue that women are also not taught to strive to love men, but taught to objectify men as a means to the securing of connection to a subjectivity. Heterosexual love is thus an inauthentic experience for heterosexual men and women alike. This is because heterosexual love projects, as they stand, necessarily hold not love as their purpose; but rather the fulfillment of societal expectations.

In Section I of this paper, I will explain the constraints compulsory heterosexuality places on love. In Section II, I will recount Berit Brogaard's framework describing romantic love as a goal-oriented emotion that is importantly different from friendship² love. I will use the problem of compulsory heterosexuality to complicate Brogaard's assumption that the appraisal of one's performance in the role of lover accounts for lovers' ability to respect each other when engaging in romance is generally possible.

It will become clear that most do not yet have the type of respect necessary to be said to love authentically, and in Section III I will argue that men and women cannot generally love each other in an authentic sense. I will use the phrases "genuine love"³ and "authentic love"⁴ interchangeably to refer to a love that is genuine/authentic in so far as it "is an expression of the highest of moral laws: when I love another person genuinely I both exercise my existential freedom and evince the highest respect for the freedom of other, on which, I understand, my own freedom rests." (Bauer, 164–5) This respect for another's freedom is something I take to be most clearly portrayed by Brogaard's lovability account, and something that clearly seems to be a necessary aspect of a kind of love worth having. These oppressive societal constraints also make heterosexual friendship love generally impossible according to the "appraisal respect" standard. Finally in Section IV, I will consider general objections to my claims, offer responses, and consider ways in which we could eventually create the conditions for and ultimately secure an authentic heterosexual love.

¹My argument throughout this work presupposes at least a minimal amount of free will. What authentic love would look like in a hard determinist picture is an interesting question, but whose answer is opaque enough that I will not be endeavoring to answer it here.

²Throughout this paper I will refer to "platonic love" as "friendship love" in keeping with the terminological choice of one of the main authors with whose work I am interacting, namely, Berit Brogaard (2022). Any instance of "friendship love" can be understood to refer to the same love between friends that the phrase "platonic love" picks out.

³Bauer, Nancy. *Simone de Beauvoir, Philosophy, & Feminism*. New York: Columbia University Press, 2001. 164-165.

⁴Bauer, Nancy. *Simone de Beauvoir, Philosophy, & Feminism*. New York: Columbia University Press, 2001. 164.

I Compulsory Heterosexuality

Adrienne Rich writes in her essay “Compulsory Heterosexuality” that heterosexuality is a “*political institution*” that dictates that women must be attracted to and pursue relationships with men so as to assure the “male right of physical, economical, and emotional access” to women.⁵ To deny patriarchy’s requirement of heterosexual love from women is often to open oneself up to “physical torture, imprisonment, psychosurgery, social ostracism, and extreme poverty.”⁶ Heterosexuality is then required of women not only at threat of discomfort while in the confines of patriarchy, but at the risk of a woman’s mental, social, and physical safety. All those who live under patriarchy are indoctrinated to believe the only form of romantic love that is common, “normal,” or worthy is heterosexual in nature.

The coercive power of this expectation of heterosexuality is so strong, in fact, that it becomes completely compulsory. With the compulsion of heterosexuality in romantic love, and the definition of romantic love thus being inextricable from a heterosexual relationship structure, this means love itself becomes compulsory as does its structure. One cannot be said to truly be making a choice when only given one option, and one cannot be said to truly engage in loving when only given one definition and version of love. Therefore, those in most heterosexual relationships cannot be said to truly be loving. Instead, many are unwittingly engaging in a societally mandated project akin to military enlistment.

a. Why Heterosexual Love is In Question

Heterosexual love is forced in a way most other types of love are not. I have been asked many times why I take most issue with heterosexual love if starting from an asymmetry in respect or societal power. There are many romantic relationships that can span any number of other oppressed, or not oppressed, lines—be these racial, socioeconomic, in terms of age, etc. I believe many of these are a non-issue in the face of the account of an ideally respectful love I sketch in Section III. Addressing the other types of love that still might be questionable even in the face of such an authentic love is out of the scope of this paper. Women⁷ are understood by most to be pervasively defined in terms of men and generally oppressed by the objectifying structure of this relation. In the next two Sections I will try to make clear how such a societal power imbalance and compulsory heterosexuality clearly problematize heterosexual love given the world as it is now.

The realization of male sexual power “by adolescent boys through the social experience of their sex drive” is the same realization that causes “girls [to] learn that the locus of sexual power is male.”⁸ Girls come to know their sexual identities through boys’ realization of theirs, making female sexual desire compulsorily linked to that of men and pleasing men. In a search for any kind of negotiating power on the societal stage, women become sexual responders to male power as opposed to explorers and actors of their own desires. This is all true if one accepts, as many feminists do, that women are kept subordinate by oppressive structures by patriarchy at best, or that women are entirely second-class citizens in how they are respected by societies at large and at worst. Not only are women taught to define themselves in terms of their ability to appeal to men’s sexual appetite, but they also come to know themselves as objects.

It is in the packaging of heterosexual love in the “workplace [...] where women have learned to accept male violation of our psychological and physical boundaries as the price of survival; where women have been educated—no less than by romantic literature or by pornography—to “perceive ourselves as sexual prey.”⁹ All cultural and political channels create and fortify compulsory heterosexuality, making it a cultural and political pillar itself. This enforced and thusly reinforced self-perception of women as sexual prey causes

⁵Rich, “Compulsory Heterosexuality and Lesbian Existence.” 647.

⁶Rich, “Compulsory Heterosexuality and Lesbian Existence.” 653.

⁷Throughout this paper I will use the terms “women” and “men”, and will take both to mean anyone who identifies as either of those two genders at least occasionally. Again, there are many identity markers that might call for a more fine-grained and specific discussion that considers more than just the issues in love between binary genders. It is just the general power imbalance between those who identify as men and those who identify as women, and the compulsory nature of heterosexuality, that I think makes heterosexual love one of the most contentious and confounding forms of romantic love.

⁸Rich, “Compulsory Heterosexuality and Lesbian Existence.” 645.

⁹Rich, “Compulsory Heterosexuality and Lesbian Existence.” 642.

women to feel that danger at the hands of men is imminent and the only remedy is aligning themselves with men in the hopes of being protected.

Rich asks that all women who assume heterosexuality to be innate or a choice consider that it is in fact “something that has to be imposed, managed, organized, propagandized, and managed by force.”¹⁰ Heterosexuality is thus not a choice or preference, but rather it is a regime backed by threat of death, torture, and social abandonment.

Love and this sexual power imbalance cause women enveloped by compulsory heterosexuality to see their identity fulfill “a secondary role and [grow] into male identification.”¹¹ Female subordination is then eroticized and the “access to women only *on women’s terms*” becomes something unthinkable frightening to men.¹² It is this identification with men, fear of societal retaliation, and the eroticization of female subordination that makes women search for themselves by way of being romantically associated with a man. A woman’s difficulty in separating her sexual drive from that of men becomes part of the love and sex game, with women having to become accustomed to relinquishing their power of desire to men. This results in a clear objective laid out for women in engaging in romantic projects¹³: securing a subjectivity to which you can attach yourself. This objectifies men because they become the kind of object, the kind of thing, that has the kind of subjectivity needed to live more freely, and women are taught they can only really find power and identity by growing into a male’s identity since their sexual desires and others are defined in terms of men’s desires. Thus, romantic projects are the clearest way for women to gain societal power and “love” so-construed never figures into the picture.

II Love for Lovability’s Sake

Compulsory heterosexuality will thus be the lens through which we come to understand love, and Berit Brogaard’s definition of love will give a theory to be considered. It is necessary to give a definition of love that can bring light to the difficulties in squaring the economically and socially disadvantaged position in which women find themselves with the idea of engaging in heterosexual love. Brogaard’s characterization also strikes me as the most concrete explanation of what an ideally authentic, healthy, and genuine love is; which is also that which should be strived for if romantic love is to be one works towards.

Brogaard situates love as a socially and personally defined emotion in which “evaluations of the perceived, remembered, or imagined objects elicit the bodily and mental changes characteristic of the specific emotions.”¹⁴ Similar to the way in which a fear of heights renders height scary to some, this “perceived-response theory of emotions. . . [makes it so that] love renders a person as lovable, or worthy of love.”¹⁵ Her account seeks to establish a clear definition of love that can distinguish romantic and friendship love while also avoiding relying on a motivational account as such accounts can lead to the incorrect assumption that heterosexual men tend to respect the dignity of women who arouse them.¹⁶

Brogaard utilizes Stephen Darwall’s concept of “appraisal respect” to illustrate her theory that love is a matter of the appraisal of a person in terms of their moral perfection generally and in a specific realm.¹⁷ Brogaard’s theory of love then draws on this concept but diverges in the defining of the appraisal inherent in love “in terms of properties we value in them.”¹⁸ Brogaard’s use of appraisal respect as opposed to recognition respect designates respect for one’s lovability as an aspect of their character.¹⁹ Those features of people

¹⁰Rich, “Compulsory Heterosexuality and Lesbian Existence.” 648.

¹¹Rich, “Compulsory Heterosexuality and Lesbian Existence.” 642.

¹²Rich, “Compulsory Heterosexuality and Lesbian Existence.” 643.

¹³I elect to use the term “romantic projects” instead of “romantic relationships” because I do not want to confuse relationship projects with romantic ones. It seems the former would need to factor in more practical matters (longevity of the relationship, living arrangements, etc.) than I have space to undertake in this project. I would like to leave the definition of what a romantic relationship is and questions regarding polyamory and how much “committed” “monogamy” is indicative of a healthy relationship open. I merely mean to argue throughout this paper that heterosexual love is misunderstood and inappropriately portrayed on a societal scale and has little to no authenticity motivating it.

¹⁴Brogaard, *Friendship Love and Romantic Love*. 171.

¹⁵Brogaard, *Friendship Love and Romantic Love*. 171.

¹⁶Brogaard, *Friendship Love and Romantic Love*. 171.

¹⁷Brogaard, *Friendship Love and Romantic Love*. 172.

¹⁸Brogaard, *Friendship Love and Romantic Love*. 172.

¹⁹Darwall, “Two Kinds of Respect.” 41.

which Darwall and thus Brogaard define as “constituting character” are “those which we think relevant in appraising them as persons” and “those which belong to them as moral *agents*.”²⁰ This focus on the agent allows appraisal respect to refer to different aspects of human character, such as Brogaard’s reference to the extent a lover is lovable. In the case of romantic love, this property we value would be the “[I]ovability” of a person based on their attributes.²¹ Thus, romantic love is expressed when we love our beloved “*in their role as our romantic interest or partner*,” and our friends “*in their role as our friend*.”²² This means there is not necessarily a set of values against which we evaluate and determine whether to give love to our lovers. Instead, we appraise our lovers by evaluating their ability to demonstrate the properties we value in them.

Individual people love romantically and authentically when they find those fulfilling the role of a romantic partner lovable in that role. Their character must be that of a romantically lovable person and the character of a lovable romantic partner that is constituted by “dispositions to act for certain reasons [...] to act, and in acting to have certain reasons for acting.”²³ A lover’s reasons for being lovable are just as important as their lovability. Baked into Brogaard’s account is the idea that one cannot feign being “lovable” to secure things other than loving their partner and being the best romantic partner possible.

This clearly picks out the issue of the pervasive love story’s lack of authenticity discussed earlier. Those engaging in heterosexual love simply have too many inauthentic reasons for pursuing love in the first place to be said to be *prima facie* able to love in a way that demonstrates and is constituted by the right kind of respect for their partner. This is also significant in bolstering my later argument describing why the artificial love story mandated by patriarchy’s system of compulsory heterosexuality causes most men and women to have inauthentic reasons for wanting to engage in love. “Love” as it is now understood only facilitates and necessitates one’s trying to be *perceived as* a lovable partner as opposed to their pursuit of *actually being* a lovable partner.

Brogaard then clarifies that that which determines one’s lovability in the role of a romantic partner is based on cultural and individual scripts.²⁴ These scripts refer to:

structures comprising social roles, common knowledge, and norms and guidelines that shape our perception, thinking, and action and guide our interaction with others. . . .Whereas cultural scripts are *constructs of the culture in which we are embedded*, individual scripts are products of individual socialization, which includes our *upbringing and personal experiences*. [Emphasis added]

One of these cultural scripts can thus be undeniably said to be Rich’s compulsory heterosexuality as it utterly determines, defines, and enforces a specific kind of love that individuals and communities alike struggle to free themselves from. As made evident by Rich’s explanation of the power and depth of compulsory heterosexuality, in terms of heterosexism it seems the line between cultural and individual scripts is quite blurred. If one were raised in a society that only ever talks about the delight of cheese and never mentions broccoli except in a disapproving manner, it is likely that would contribute to one’s marked (coerced) “preference” for cheese and unthinking hatred of broccoli. It is in a manner similar to this that people are coerced into only considering heterosexual love as a viable love, and thus it cheapens any heterosexual love projects in which they attempt to engage.

Brogaard goes on to compare the impact of patriarchy and matriarchy on concepts of shame, romantic love, and friendship love. While not the direction in which she takes her argument, Brogaard thus provides a theory of love that helps elucidate the inability of women and men to truly love each other under patriarchy as the world stands by basing her theory on appraisal respect. In Section IV, I will show how this also gives us a roadmap with which to seek healthier, more authentic relationships.

²⁰Darwall, “Two Kinds of Respect.” 43.

²¹Brogaard, *Friendship Love and Romantic Love*. 171.

²²Darwall, “Two Kinds of Respect.” 43.

²³Darwall, “Two Kinds of Respect.” 43.

²⁴Brogaard, *Friendship Love and Romantic Love*. 172.

III Men and Women Cannot Love Each Other...

The cultural scripts of patriarchy and compulsory heterosexuality thus make it so that men and women cannot authentically love each other. Shulamith Firestone argues women must love “not only for healthy reasons but actually to validate their existence.”²⁵ Rich clearly thinks compulsory heterosexuality relegates women to that same fate of engaging in heterosexual love not for authentic or healthy reasons, but because women have to come to “perceive ourselves as sexual prey” and grow into “male identification.”²⁶ This elucidates the fact that women are not held as ends-in-themselves and cannot *be* without first being defined by men. The romantic pursuit of men on the part of women is then not genuine, but necessarily motivated and calculated so as to ensure a connection to any kind of subjectivity. This kind of motive, to no fault of the woman’s own, negates any authenticity her love could hold for a man. The influence of patriarchy in negating her subjectivity and the influence of compulsory heterosexuality in negating her choice to explore other forms of romantic love negate her ability to consider men as possibly lovable in the role of lover, and thus her ability to love men.

Conversely, there is no way for a man to gauge the actual lovability of a woman because men need to fall in love with “*more than woman*.”²⁷ They must engage in a hyper-idealization of women so as to be able to justify their loving someone who they are taught can only serve to siphon their societal power and offer minimal social status in return. Brogaard’s account being one characterized by a goal-oriented emotion similarly recognizes that idealization is at play because to love is to desire to engage in love with the beloved “or, in any case, some idealized version of her or him.”²⁸ Women then become homosocial status symbols for men to prove to other men they are correct and healthy in their ability to fulfill their role as a heterosexual man in society.

Similar to women, men cannot consider other sexualities and are chained to women. Jane Ward’s terminology of the “misogyny paradox” describing “men’s simultaneous desire for and hatred of women” dictated and demanded by compulsory sexuality illustrates this well.²⁹ Desire for women is thus expected and forced out of men while women are presented as people unworthy of respect in and of themselves. This makes evident that if someone’s lovability is based on the appraisal of their performance in their role as a lover, it is impossible for men to see women as lovable in romantic roles because their own participation in love is more a fulfillment of duty than an interest in the person.

We know that femininity and the gathering of women together pose a threat to patriarchy as a site of consciousness-raising. Men are encouraged to distrust and destroy femininity because they are told it is not “manly” and that it would mean the end of their supremacy. Thus, men cannot love women because they cannot view them as those capable of being lovable as romantic interests but instead objects meant to be defined by men. Since women are taught to see men as that which defines them and not those capable of being lovable as romantic interests, women cannot be said to be able to love men either.

Objectifying women is key in affirming women’s subjugation because men’s “identification with women (and what it means to be female) helps remove the symbolic distance that enables men to depersonalize the oppression of women.”³⁰ In the same way that exploring the lesbian continuum might grant women subjectivity, if men identified too much with women and their own femininity, patriarchy would be disrupted because men would begin to see women as subjects. Patriarchy instead relies on a feedback loop of men necessarily objectifying women to affirm women’s subjugation, and women being subjugated because they are objectified.

To love someone “*in their role as our romantic interest or partner*” would necessitate that the consideration of this type of role for men or women were ever offered.³¹ Men are instead effectively given the roles of protector, abuser, or person meant to be appeased by women according to patriarchy’s love story.

²⁵Firestone, *The Dialectic of Sex: The Case for Feminist Revolution*. 155

²⁶Rich, “Compulsory Heterosexuality and Lesbian Existence.” 642.

²⁷Firestone, *The Dialectic of Sex: The Case for Feminist Revolution*. 255

²⁸Brogaard, *Friendship Love and Romantic Love*. 165

²⁹Ward, *The Tragedy of Heterosexuality*, 33

³⁰Bird, “Welcome to the Men’s Club: Homosociality and the Maintenance of Hegemonic Masculinity.” 123.

³¹Brogaard, *Friendship Love and Romantic Love*. 172.

Compulsory heterosexuality takes no interest in actually determining that men be viable love interests for women, but instead that they be the only, inescapable option³² available.

The lack of choice and over exaggeration of a woman's lovable characteristics so as to justify losing power cannot be said to constitute love for a woman on a man's part. The lack of choice and lack of an expectation for men to be lovable romantic interests to women cannot be said to constitute love for a man on a woman's part either.

If Brogaard is correct that love is an emotion based on one's ability to see their partner as lovable, or someone deserving of love, then it seems men and women cannot yet love each other. There is no appraisal respect between men and women as compulsory heterosexuality does not allow it. In being told that women and men *ought* to love each other, women cannot see men as romantic partners or vice versa, and they ultimately *cannot* love each other.

a. **Can Men and Women Be Friends?**

This influences our cultural scripts surrounding friendship love as well. Friendship love is impacted by compulsory heterosexuality because finding a friend of the opposite sex authentically/genuinely "lovable" in their role as a friend is not allowed under patriarchy. It is required that men and women expect to be engaged in claimant, not loving or friendly, relationships with each other. Since the dominant cultural scripts dictate that friendship is non-sexual and since Brogaard and I want to say that one should value a friend in their role as a friend, heterosexual friendships go unconsidered by patriarchy as a possibility. Stories portrayed in social and traditional media rarely (if ever) depict friendships between men and women that have no romantic or sexual connotations, but that do have a friendship intimacy. Friendship intimacy with those of one's own gender is already discouraged, but authentic friendship between genders is such an unconsidered project that it simply does not appear. The inability to regard each other with appraisal respect also negates men and women's ability to define each other as lovable friend interests.

It is important men and women find a way to love each other as friends because that would be another key step in making authentic romantic love possible. It would reject the implied tenet of romantic love that says it must be sexual, and that anything else is simply friendship. All of these forces heavily limit who and how we love, and if one of these forces can be rejected in the hopes of securing a better, more authentic love; then it seems all of them can be rejected. In fact, all of them *must* be eradicated before we can love. Men and women cannot authentically love each other as romantic partners or friends.

IV **... Yet. What We Ought to do to be Able to Love.**

So, there are forces that make it impossible for the majority of heterosexual love projects to be called authentic love. These forces include compulsory heterosexuality and the lack of freedom it allows in choosing³³ partners, patriarchy actually rewarding those who do not hold appraisal respect for their lovers, and the harmful representations of love as something necessarily difficult.

a. **Navigating and Transgressing Against Compulsory Heterosexuality; the Lesbian Continuum**

Rich offers a method to solve the first of these issues, namely, the lesbian continuum. The lesbian continuum directly transgresses against compulsory heterosexuality and patriarchy by encouraging female friendships and sensual relationships between women. The basic idea is that women can actually seek love from men if they love other members of their gender and themselves enough to foster a sort of subjectivity and appraisal respect for themselves as lovable to engage in romantic projects with those of the opposite sex. It also encourages the "bonding against male tyranny, the giving and receiving of practical and political

³²The usage of the word "option" is itself dubious in that it implies there is a choice between several options, whereas in compulsory heterosexuality, clearly the only model of romantic "love" allowed is the commitment of a man to a woman.

³³Some have questioned what this focus on choice might mean for arranged marriages. I am not at all arguing that authentic romantic love cannot grow out of such environments (if the other oppressive constraints I discuss were to be properly dismantled) because there is a choice still at work behind love in such situations. One could have an arranged marriage to another and never love them or choose to love them, meaning one could also choose to love them.

support; [and]...*marriage resistance*.”³⁴ These are all actions praised by various feminist consciousness raising movements and resistance movements generally. It is hard to change anything if one is not supported by others who are oppressed in the same way they are, and it is hard to even recognize an issue regarding a community in the first place if communication between those in the community is so divided. This is why consciousness raising efforts for any social justice movements are suppressed; there is power in community.

The lesbian continuum suggests there should be a similar continuum for men. Many cultures outside of the WASP (White Anglo-Saxon Protestant) cultures of the U.S. and U.K. encourage physical and emotional intimacy between men. This is largely not the case in the U.S. and the U.K., but it is also not the case that increased homosocial male intimacy has seen widespread acceptance of queer men in these societies. Men need to value themselves and other men as people who can be evaluated in terms of their lovability as well. This might look like individual men putting value in their exploration of their femininity and their increased emotional vulnerability with each other. These endeavours would likely lessen their need to objectify women and would succeed in freeing them to engage in love as per Hannah Arendt’s declaration, “If men wish to be free, it is precisely sovereignty they must renounce.”

While the first step would be encouraging homosocial bonding between women and homosocial bonding between men, this would not be enough to introduce queer relationships as being just as viable as heterosexual ones. It seems there would need to be ongoing efforts to ensure the equal treatment of queer love projects as viable in affirming the viability of their heterosexual counterparts. This will not only make authentic heterosexual love possible, but also authentic queer love more accessible. It is not clear that compulsory heterosexuality benefits people, and instead only benefits bureaucratic bodies interested in distracting. Outside of maintaining cultures of self-policing encouraged by cruel conceptions of “morality”, compulsory heterosexuality just greatly cheapens all types of love projects. “Love” is then about aligning ourselves with others as to ensure our capital. Ridding ourselves of this oppressive force would make both queer and heterosexual love projects more authentic because neither could be construed as a reaction to a greater societal force, but instead an expression of intimacy that looks upon our lovers with love and not exploitation.

b. **Conflating Conflict and Sacrifice with Love**

Does this all mean that if you have a partner and you are engaged in a heterosexual love project, you do not love them? No, not necessarily. If you have invested properly in yourself and your intimate relationships with those of various identities, you have hopefully taught yourself how to love others for their lovability. This is much, much rarer than we take it to be; and there are thus many love projects that lack authenticity entirely. Since one can and must navigate within such oppressive forces³⁵, and because we can think of examples in our lives of authentically loving heterosexual projects in which both people clearly love and respect each other as lovers, love can exist under such constraints.

How we are taught to love is an extremely harmful shame. I have argued that we must educate ourselves and properly invest in our homosocial relationships so as to even be *able* to love. I am not arguing that romantic love is unnatural. The need to love and be loved is likely innate for many, but how we are taught to construct and pursue it is completely learned. All the expectations of monogamy, heterosexuality, etc. are taught. The supposed goal of “love” is also taught. We are told that the goal of love projects is overcoming strife regarding your love project or loving your lover in some sense *in spite* of who they are and the role they play in your life. Part of this love in spite of who the other is has to do with their gender identity in relation to your own, as discussed. The other issue at work in this problematic love story is the idea that authentic love should be difficult, or that “true” love comes about when one makes sacrifices for their lover. It seems true that one needs to be *willing* to sacrifice and suffer for their loved one to be said to love them, but for that to be a necessary part of the love or that which proves the love is inauthentic and unhealthy.

I agree with Brogaard that authentic love should come in one’s ability to evaluate their lover in their role as a lover. Unfortunately, we are taught that “love” is something we must struggle to achieve, and that big shows of passion and extremely costly and impractical gestures are the most romantic. These things can be effective displays of affection, and because I also agree with Brogaard that love is goal-oriented, it

³⁴Rich, “Compulsory Heterosexuality and Lesbian Existence.” 648.

³⁵Again, assuming we have some minimal amount of free will.

makes sense that maintaining and expressing love necessitates some form of extra effort at least occasionally. However, that being the *only* and most *widely accepted* way of demonstrating one's true love makes the goal of love projects deeply problematic. Love becomes pure performance, a Romeo and Juliet feat of tragic experience.³⁶ If you respected your lover for their lovability and as subjects worth respect generally, should you want to make them suffer? Surely not. Similarly, they should not want you to suffer, and you should not want them to want you to suffer for them. This need to prove your love comes from a learned insecurity, not only on an interpersonal level, but a societal one as well.

Authentic love can come from certain relationships in which there is some kind of power asymmetry between the partners, or some difficult force they must overcome. "Loving" someone *because* you enjoy your one-sided power over them or *because* you enjoy their one-sided power over you seems like pursuing the wrong kind of goal in your love project. Subordination and domination might be aspects of organizing all kinds of relationships, but authentic love cannot have that as its core goal because that is not loving someone with the proper respect for them as lovable people. How subordination and domination configure into sex might be a separate matter, depending on how closely connected one understands sex and love to be. This is an interesting topic, but out of the scope of this paper.

There is also the matter of comparison of one's partner and love project to those of another. This seems to kill love. Envy of this strain is not an issue specific to romantic love, though, and it is unclear as a result that we can relate to others without *any* sense of comparison *ever*. All of the societal forces described encourage competition and a sense of there being "losers" and "winners" in romantic love, which is problematic in all of love's forms. Presumably this could be alleviated at least somewhat by learning to respect oneself and others and dismantling the "love as conflict" story. Envy of this kind might be possible to completely disentangle from our connections to others, but I am unsure. That might require the type of deep introspection that reveals to one that no connections are necessary or worthwhile at all.

Authentic romantic love as a standalone project should have loving your partner in their role as a lover as its goal. No societal force under which we engage in romantic love supports or allows for this, so it is nearly impossible to love authentically. However, authentic heterosexual love is possible if one undertakes the labor intensive but crucial, intentional unlearning of the oppressive stories we are told and the intentional reteaching of how to actually love each other.

V Conclusion

Men and women cannot be said to love each other romantically nor as friends under compulsory heterosexuality, but that does not mean it is essentially impossible, just impossible under current societal conditions. This is because men and women cannot idealize each other in such a way that they can actually evaluate the other's lovability as romantic partners or friends. Solidarity of any kind is threatening to oppressive social structures, but if men and women want to love each other authentically as friends and lovers, solidarity is key. First, individual men and women must invest in their respect for themselves and their homosocial relationships. Then, they can evaluate each other in their roles as lovable lovers, and lovable friends.

³⁶Of course, many agree that this story ultimately depicts an unnecessary and unfortunate amount of self-sacrifice. However, since many cultures have stories whose structure and outcome is similar to theirs, I take it to be a good indicator of the fact that there is a common belief in true love necessarily being hard-won is true.

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Criminalizing ‘Unjust Sex’

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This essay examines the limitations of current rape law and advocates for legal reform to better protect sexual autonomy. Sexual autonomy, defined as the right to freely choose and refuse sexual interactions, is foundational to liberal legal principles. However, the concept of ‘unjust sex’, which involves manipulation, coercion, or exploitation of agency without physical force, reveals gaps in existing legal frameworks. Drawing on Ann J. Cahill’s work, the essay argues that unjust sex undermines agency and autonomy, causing significant harm that warrants criminalization. While rape nullifies sexual autonomy outright, unjust sex limits the individual’s capacity for meaningful self-determination, reinforcing systemic power imbalances. The essay addresses concerns about potential overreach, arguing that criminalizing unjust sex defends autonomy without imposing moralistic control. It concludes that protecting sexual autonomy requires acknowledging and addressing the harm caused by unjust sex.

INTRODUCTION

Sexual autonomy – the ability to choose and shape the sexual relations one has – is a right as fundamental as any other type of autonomy and is legally protected. The law on sexual offences defines them as ‘violations of the right to sexual self-determination’ (Hörnle 2016, 851). Following a liberal perspective, it has been set out to strengthen sexual autonomy by loosening the grip of the law and decriminalizing certain sexual acts, e.g. homosexuality and adultery. The notion of a liberal criminal law concerning sexual offences has thus been strongly associated with decriminalization, especially in the second half of the 20th century. In this essay, however, I will argue for the reform of laws pertaining to sexual offences to better protect sexual autonomy by criminalizing sexual acts lacking valid and robust consent including forms of ‘unjust sex’, as termed by Ann J. Cahill (2016). The argument will follow from the description of unjust sex as undermining the victim’s agency, which is crucial for the establishment of autonomy. I will argue that it can be in the interest of a liberal theory of law to criminalize more, in order to protect the legal asset of sexual autonomy. First, I will introduce the notion of sexual autonomy and its dual dimensions of positive and negative liberty. Next, I will provide a brief historical overview of how the focus of rape law has evolved over time, highlighting the shift from a focus on marital rights to a recognition of autonomy and consent as central concerns. Then, I will discuss the concept of unjust sex and why it undermines sexual agency. I will argue that unjust sex represents a significant harm to sexual autonomy which justifies its criminalization. Finally, I will address concerns about the criminalization of unjust sex and conclude.

SEXUAL AUTONOMY

Humans have a right to sexual autonomy, as much as they have a right to autonomy in general. The desire to be able to choose and control the way in which one engages in sexual activities is a core characteristic of human sexuality. It allows the individual to express themselves in a certain way while also allowing other people to take part in a most intimate area of the human body and psyche. This right, however, must always be understood in relational terms that involve all sexual partners. Everyone concerned has the right not to have their right to sexual autonomy overridden. Thus, sexual autonomy is restricted by the sexual autonomy of others (Schulhofer 2000, 99).

Sexual autonomy is discussed in terms of two notions of liberty or freedom. Firstly, it includes the positive liberty, i.e. the freedom, to engage in consensual acts according to one’s own desires and needs (Hörnle 2016, 859). This is an important aspect of liberal thought, the idea that it is the individuals themselves who can shape their expression of sexuality how they wish. It is crucial, however, that consent is established. Otherwise, the autonomy of the sexual partners involved is compromised. This is where negative freedom

enters: Negative freedom when it comes to sexual interactions is the right to refuse participation in sexual acts at any time. It is the right not to be exposed to the actions of other people that one does not want to participate in or be subjected to (ibid). It is also the right of defence – if someone coerces you into engaging in a sexual act that you do not want, you are allowed to defend yourself. The negative freedom to sexual autonomy also imposes on others a duty not to interfere; it limits their positive liberties. It is only through consent that the duty not to interfere can be removed, it is consent that makes interferences, i.e. the sexual interactions, permissible and legal (Scheidegger 2021, 771).

The right to sexual self-determination, especially for women, must also be understood in a historical context. Originally, the criminal law on sexual offences was established to safeguard the authority of fathers and husbands over women's bodies. Women were their property, and in cases of rape, it was possible that the woman would get accused of adultery and thus harm the honour of her husband (Lameyre 2000, 92–93). Rape within a marriage was largely inconceivable as the husband had full sexual rights over his wife. To free herself from this accusation and to free her father or husband from dishonour, the woman had to prove an element of coercion, which demonstrated that she had shown sufficient resistance to the aggressor. Even though this notion is highly outdated now, the requirement of coercion as a central element of rape law is now being removed in many jurisdictions, albeit only after a prolonged struggle and resistance from a patriarchal society (Scheidegger 2021, 770). But there is no denying that there has been a significant change in the attitudes towards rape law almost on a global scale in the last twenty or thirty years. Indeed, the focus of rape law has shifted from coercion as the main characteristic of rape to a consent-based model, that defines rape as sex against one's will.¹ This already includes the idea of sexual autonomy; the right to choose the sex you want. Thus, as Tatjana Hörnle puts it, disregarding the right to sexual autonomy is punishable as such (Hörnle 2016, 862). What is punishable is the offence against sexual autonomy. Rape law has thus moved away from a moralizing perspective that dictated with who and how sex was permissible or not, to a focus on sexual autonomy, emphasizing the individual's right to shape their own sexual interactions.

Following the notion of positive freedom in relation to sexual offences, there has been a clear tendency to decriminalize certain sexual acts. For example, the abolition of criminal offences of adultery, sodomy, homosexuality and incest (Scheidegger 2021, 770). One main idea is that the state has no right to determine or have control over the way the individual wants to have sex. This has also led to a demoralization and destigmatisation of certain sexual relations. Thus, positive freedom has the effect - at least in tendency - that we criminalize less. Being able to act according to your own wishes and needs primarily means that the state should not interfere in this intimate area and should be tolerant and non-paternalistic. Autonomy in the sense of positive freedom is the epitome of a modern law on sexual offences: de-moralization of sexual criminal law, getting away from religious commandments and hence decriminalization. This is also reflected in how the law is named: What in some legal orders was termed "offences against morality" became "offences against sexual autonomy" (Hörnle 2016, 851). Since today, it is sex against the will or sex without consent that is punishable, which, at its core, embodies the idea that sexual autonomy is worthy of protection and should be able to shape sexual interactions in a meaningful way, it seems as if everything is settled. However, there are still cases of impairment of sexual autonomy that are not clearly covered by the reformed law. One complex set of these cases can be collected under the heading of 'unjust sex'.

UNJUST SEX

Ann J. Cahill discusses the differences between 'unjust sex' (as termed by Nicola Gavey, 2005) and rape and introduces the idea that the victim's agency is crucial in determining whether an act is rape or not.² There are some heterosexual interactions that occupy a 'gray area', where sex occurs under pressure (albeit non-violently) or with passive acquiescence, making them ethically problematic but distinct from rape. Examples include "situations in which a man applied pressure that fell short of actual or threatened physical force, but which the woman felt unable to resist" (Gavey 2005, 136). The elements of "letting sex happen", or

¹This is the case in most European countries (see, e.g., 'Europe: Spain to Become Tenth Country in Europe to Define Rape as Sex without Consent' 2020)

²Cahill limits her discussion on hegemonic heterosexual, and the following descriptions are of a very gendered nature that stereotypically portray heterosexual cis-women as the victims and heterosexual cis-men as the offenders (Cahill 2016, 747).

“going along with sex” shape the interactions of unjust sex that fall into this ‘gray area’ (ibid). These sexual interactions, though not overtly violent, are nonetheless not desired and thus possibly non-consensual. What permeates the descriptions is the notion of giving in and conceding to the actions. The sexual interactions are accompanied by a sense of moral wrongness which cannot simply be equated with rape. While there are common elements between sexual assault and certain forms of unjust sex, such as coerced and pressured sex, they differ significantly in terms of the role and efficacy of the victim’s sexual agency. In instances of unjust sex, the victim’s sexual agency is acknowledged but constrained or exploited, serving as a superficial validation of the interaction. Feeling like there is no way of refusing sex and ‘having to go along with it’ demonstrates a constraint on the ability to act freely. In sexual assault, agency is overridden or nullified (Cahill 2016, 758). The victim’s right to not engage in the sexual interaction or the right not to be interfered with is revoked and constitutes a harm to sexual autonomy. It is important to acknowledge that women have sexual agency and that denying them this agency constitutes serious harm.

What Cahill highlights is the fact that what makes rape problematic is the nullification of the victim’s sexual agency. Since sexual autonomy and agency are intrinsically connected, a harm to agency is also a harm to autonomy (Cahill 2016, 757; 2016, 760). Autonomy relies on the ability to make meaningful choices, and when agency is constrained, the capacity for autonomous decision-making is diminished or abolished. The nullification of the victim’s sexual agency can be seen as giving enough grounds for criminalization as it amounts to reprehensible sex against the will, to sex that prevents the individual from acting autonomously, i.e. to non-consensual acts. As undermining sexual agency is harmful in at least this very important sense, unjust sex should be criminalized as it is contrary to sexual autonomy.

Cahill also points out, that sexual agency is to be understood in relation to others (Cahill 2016, 757). This means that agency is not exercised in isolation but is shaped by and interacts with the agency of others. The agency is limited by the duty of non-interference imposed by the positive right of others to sexual autonomy. This is similar to how autonomy is described, and that the relational aspect of sexual interactions is limited by the autonomy of others.

False affirmations of autonomy

There are cases where autonomy can be weaponized: in unjust sex, the appearance of autonomy – where a woman’s consent or acquiescence is sought – can paradoxically undermine her autonomy. This occurs when her ‘choice’ is used to validate an interaction that does not genuinely respect or expand her sexual agency. In such instances, consent becomes a tool for masking manipulation or coercion rather than an expression of free will. It is fictitious and non-valid consent, but one that is difficult to detect because it hides behind the façade of proper consent. There can be instances of manipulation or non-violent coercion that lead to this kind of ostensible consent. It can also be the case that preexisting power dynamics influence the ‘choice making’ but in a way that does not further the victim’s sexual agency. When a person’s consent is shaped by factors like economic dependence, social pressure or emotional vulnerability, the resulting action may appear consensual but fail to respect or affirm their autonomy. Rae Langton describes how affirming someone’s autonomy when it is actually constrained can mask the underlying coercion and power imbalance (2009, 14). This recognition of false or apparent autonomy reinforces systemic injustices.

Indeed, traditional gender roles and expectations often normalize behaviours that subtly undermine sexual agency framing them as acceptable aspects of romantic love. Consider the idea of the male pursuer, having to woo the woman and interpret her refusal or denial as teasing him, not understanding that she is setting boundaries and asserting sexual autonomy. Or the expectation that women have to prioritize male pleasure and give in to pleas in order to avoid conflict; these norms all lead to a normalization of violation of sexual agency. Without recognizing and addressing the limitations on sexual agency in everyday sexual interactions, we cannot adequately confront the culture that allows the undermining of sexual agency and autonomy to perpetuate.

SYNTHESIS

Combining the notions of both sexual autonomy and unjust sex, this is what results: the legal asset which criminal law on sexual offences aims to protect is sexual autonomy. Sexual autonomy is the right to engage in consensual sexual interactions that one desires without interfering with the negative freedom of the sexual partners not to be coerced into acts that they do not want to participate in. In instances of rape, sexual autonomy is nullified, taking away the right to sexual autonomy of the victim. The violation is complete and leaves no room for the exercise of autonomy. By contrast, in cases of unjust sex, agency is acknowledged but deliberately exploited, limiting the victim in their ability to assert their sexual autonomy. Although this may not nullify autonomy in the same way as rape, it imposes significant restrictions on the victim's capacity for self-determination, thereby causing harm to their sexual autonomy. The harm caused by unjust sex is not merely moral but involves a legal and social dimension that requires recognition and intervention. Since sexual autonomy is what the law aims to protect, I conclude that there are compelling reasons to criminalize unjust sex.

CONCERNS

This line of argument raises several significant concerns, which I will address in this section.

Firstly, the tension between the liberal idea of decriminalization and the lived reality of many women still experiencing cases of 'unjust sex' that are not captured by existing rape law can lead to confusion. Stricter penalties for offences can provoke defensive reflexes in liberal-minded people. The fear is that increased criminalization might lead to overreach or moral paternalism. The deeply intimate nature of sexuality often leads to an intuitive resistance against state interference, as it is seen as an area where the state should not interfere, and the suspicion of moralization is high. Excessive state control over private lives raises issues about how much state interference is allowed and can be tolerable when it comes to regulating intimate relationships.

This concern is understandable, particularly given the historical trajectory of law on sexual offences. Liberal thought has long emphasized decriminalization as a means of protecting individual freedoms, ensuring that the state does not impose moral judgments on private sexual behaviour. However, the expansion of the law to include unjust sex is not a step towards moralizing sexual interactions but a necessary measure to uphold sexual autonomy. The criminalization of unjust sex does not aim to regulate private morality but to safeguard individuals' ability to make autonomous choices in sexual interactions. The crucial distinction lies in the law's objective: it is not concerned with evaluating the moral worth of particular sexual acts but with preventing coercive and exploitative behaviour that undermines sexual authority. Unlike past laws that sought to impose moral norms – such as those criminalizing homosexuality or adultery – the proposed reform is rooted in the principle that individuals should be able to make free choices about their sexual interactions. Furthermore, the argument for criminalizing unjust sex does not contradict the liberal commitment to limiting state interference in private life. On the contrary, it aligns with it. Liberalism is fundamentally concerned with ensuring that individuals can exercise autonomy without coercion or undue influence. The same rationale that justifies criminalizing rape – protecting individuals from violations of their autonomy – also supports addressing unjust sex, as both involve the imposition of unwanted sexual interactions. By criminalizing unjust sex, the law does not overreach but instead ensures that sexual autonomy is meaningfully protected, reinforcing the very principle of individual's self-determination that liberalism upholds. A progressive, liberal law on sexual offences does not necessarily rely on decriminalization.

A further concern is the potential blurring of boundaries between unjust sex and rape. Nora Scheidegger highlights the importance to reserve the term "rape" for the most egregious violations of sexual autonomy (Scheidegger 2021, 783). Conflating the two could dilute the power and significance of the term 'rape'. Rape is considered one of the most reprehensible violations of sexual autonomy and widening the scope of its definition might weaken its impact. This is similar to the way psychiatric terms like 'depression' are sometimes used casually even when they don't apply, which diminishes their power and seriousness. The concern is that labelling too many behaviours as rape might trivialize its profound harm and undermine public and legal recognition of its severity.

In response to this objection, one could reply that the argument was not aimed at putting unjust sex into the same category as rape. I have argued that unjust sex as such should be criminalized, and not that because unjust sex equals rape, it should be criminalized. As a distinct category of sexual offences, unjust sex harms sexual autonomy and should be criminalized on the grounds of exactly this. Thus, it is more effective to create distinct legal categories to address non-violent abuses effectively.

Tied to the idea of creating new legal categories is the obvious concern of how the case of unjust sex can be proved in a legal setting. Unjust sex occurs in a more ambiguous space where coercion is subtle, and consent may appear to be given, even if it is influenced by pressure or manipulation. This raises significant questions on how to go about evidence and proof, which are already challenging in sexual offence cases due to their reliance on conflicting testimonies – often leading to legal deadlock in 'he said, she said' scenarios. How can the law reliably distinguish between an individual who truly consents and one who 'goes along with' sex?

A potential response would be to carefully define unjust sex in legal terms, ensuring that it is distinguished both from consensual sex and legally recognized forms of sexual assault. This would involve distinguishing criteria for recognizing coercion beyond physical force, such as establishing a threshold for undue pressure, manipulation or abuse of power. A clear formulation of how the criminalization of unjust sex should be approached, however, is an undertaking that pushes the limits of this essay.

CONCLUSION

In conclusion, I have argued that unjust sex – instances of sexual interactions that are characterized by exploitation of sexual agency – should be criminalized on the grounds that they harm sexual autonomy. Sexual autonomy, as a legal and moral principle, underpins the ability to make meaningful and voluntary choices when it comes to sexual interactions. It is characterized by the positive freedom to choose which sexual interactions to engage in and the negative freedom to refuse to participate in sexual interactions. Unjust sex, by manipulating or undermining agency, violates this principle, reducing the individual's capacity for self-determination. Cases that allegedly fall into the 'gray area' have to be painted in colour and acknowledged as acts that undermine sexual agency in a way that threatens and harms sexual autonomy. Not only do these instances reinforce behaviour that perpetuates systemic power imbalances, but they also contribute to a culture that normalizes the undermining of sexual agency. The criminalization of unjust sex is not an overreach but rather a necessary measure to make sure that sexual autonomy is protected. The effort is aimed at defending autonomy and not at imposing moralistic control. An obvious question arises from this analysis: how do we go about criminalization? This, however, is a topic best reserved for a separate discussion.

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