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The Limits of Consent

Sexual Assault and Affirmative Consent

Lisa Featherstone
Cassandra Byrnes · Jenny Maturi
Kiara Minto · Renée Mickelburgh
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ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
AUD	Australian Dollars
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
DFV	Domestic and Family Violence
FNQ	Far North Queensland
FPAQ	Family Planning Association Queensland
GV	Gendered Violence
HIV	Human Immunodeficiency Virus
HPE	Health and Physical Education
IUD	Intrauterine Device
J	Justice (an Australian term for a judge)
LGBTIQ+	Lesbian, Gay, Bisexual, Trans, Intersex, Queer, Asexual, + gender and diverse people
NSWCCA	New South Wales Court of Criminal Appeal
NSW	New South Wales
NT	Northern Territory
QLD	Queensland
RCA	Reproductive Coercion and Abuse
RRE	Respectful Relationships Education
SA	Southern Australia
SV	Sexual Violence
TAS	Tasmania
VIC	Victoria
WA	Western Australia



Sexual Consent and Its Contexts

Abstract Consent is more complicated than a simple ‘yes’ or ‘no’. This chapter serves as an introduction to many of the central ideas around consent in current cultures. It identifies the ways consent, violence, and coercion were and are conceptualised. It seeks to problematise simple concepts of consent and to highlight the ways power and authority influence consent. Our contemporary landscape retains important historical legacies that have left significant holes in social ideas of bodily authority and sexual autonomy. To better understand these gaps and omissions, this chapter traces the long history of consent and non-consent within social, cultural, and legal frameworks. For instance, across the nineteenth century, expectations of physical violence and force were slowly written out of the statutes surrounding rape: consent, rather than physical violence, became the criteria that distinguished sexual assault. Nonetheless, in the absence of physical violence, it remained almost impossible to convict an offender of rape, and force remained central to the way rape was ‘proven’ at trial. As this chapter explores, ideas about consent shifted over time and place, but many understandings remained resistant to change.

Keywords Consent · Sexual assault · Sexual violence · Bodily autonomy · Rape · Law

In 1970, in the Supreme Court of New South Wales, Australia, three men were charged with the sexual assault of an eighteen-year-old woman. At the centre of the trial, as with so many trials of rape and attempted rape, was the matter of consent. Across the transcripts of the trial, consent was debated in multiple ways, with the victim-survivor coming up against scrutiny of her past,

her clothes, her body, and of course her actions on the night of the assault (*R v Martin, Goff and Daniels* 1970¹).

The trial, with an all-male jury, opened with the questioning of the complainant, Carolyn Jacobs, first by the Crown Prosecutor, and then by the lawyer for the Defence. Carolyn told the court that the alleged assault took place after she met one of the assailants Andrew Martin in a coffee shop in the early evening in a Sydney suburb. She had known him for a few weeks. They were later joined by Hugh Goff and then moved to the hotel across the road. Carolyn ordered a scotch and dry. She told the court she had tried a scotch and dry before, but only with her father. From then until the hotel closed at ten o'clock, she had five drinks and was feeling 'tipsy, happy'.

Coming out of the hotel, Martin and Goff began to pick fights with another group of men, and with the police on their way, Carolyn got into a parked car with the two men. A friend of theirs was driving, and two additional men then piled into the car from the street, which sped off, driving fast. They went to the family home of one of the men, who checked his parents were not home, and gave the all-clear to come inside. Carolyn was sick outside the house more than once and then went inside with the men. In her testimony, she said that during this time they were watching TV and listening to records. She was still drunk and unwell when they left the house an hour later and did not know where she was going, as she sat in the back seat of the car with her head between her legs.

The five men and Carolyn arrived in some bushland on the edge of the suburb, and four of the men left the car. According to her testimony, Martin said to Carolyn 'I am going to have you', and she replied, 'I am sick'. She tried to put her head out of the window and to crawl out of the car. According to her testimony, he pulled her back into the car. She could not get out the door, as it was stuck. He tried to pull her trousers down and told her he would tear them. She told the court, 'I was screaming and crying. He reckoned if I was not quiet he would knock me out'. After a struggle, in which her clothes were torn, she told the court, 'He forced my legs apart with his knee and I remember scratching him on the neck'. After the rape, the second man Adam Daniels got into the car, with his pants off, and tried to get Carolyn to touch his penis. She was still crying and refused. The third man, Goff, then entered the car and attempted to have sex with her. They were interrupted by the arrival of a police car: the men scattered and Carolyn was taken back to the police station, and she was interviewed and given a medical examination.

In the courtroom, during her cross-examination, the defence attempted to construct her as a loose girl. The lawyer for one of the men, Mr. Roden, began with a discussion about her hanging about in the coffee shop: hearing rough talk from the boys, and using rough language herself, including the term 'get stuffed'. Defence also questioned her on her crush on another young man, Grant: this would be used to suggest that she agreed to sex with his friends, in order to become Grant's girlfriend.

Throughout the rest of the trial, consent and resistance were debated. While legislation was in place, just how consent, force, and resistance were to be interpreted had to be worked through in the courtroom. Early in the trial, Justice McClemens was asked by the defence to clarify the legal meaning of rape for the jury. McClemens J gave the jury a direction that: ‘The crime of rape takes place when a man has sexual intercourse with a woman without her consent’. He then continued:

under our criminal law no one can be found guilty unless they have a guilty mind. If a person believes a woman is consenting and she is in fact not, but he believes she is then it cannot be said he has a guilty mind which could justify the ingredient which is necessary in any criminal case. (*R v Martin, Goff and Daniels* 1970)

This was an accurate technical summary of the legal definition of rape in NSW in this period, but the law and the direction considerably complicated the meaning of both rape and consent. An accused man who could successfully argue he had believed a woman consented to sex would not be found guilty of rape, opening up a significant loophole in rape law in this and many other jurisdictions.

The trial continued, in an attempt to clarify consent, non-consent, and the accused’s understanding of her own consent. That Carolyn was drinking on the night of the assault was interpreted as the first sign of her consent. By 1970, there had been some theorising over whether or not a complainant who was intoxicated was able to consent. But within this trial, the young woman who had been drinking was assumed to have given her consent. The defence lawyer intimated that, by going drinking in a hotel with men, the woman had put herself ‘in a position where this sort of thing could easily happen’. Defence suggested that the young woman’s actions may have ‘led these boys to believe that you were a girl who was available for sex even though you did not mean it to’. Her drinking, in and of itself, was seen as a clear and concise sign of her consent. And while the Justice expressed it differently, he too agreed that she might consent while heavily under the influence. In his summing up, the Judge articulated this to the jury: ‘There is drunken consent; a woman who is under the influence of liquor gives her consent under conditions where she might not otherwise do so. That is consent’ (*R v Martin, Goff and Daniels* 1970).

In addition to her drinking, the complainant came under considerable scrutiny for her clothes and her body. Before the rape took place, Carolyn was feeling sick from the alcohol and had lain down on the couch to rest. During her testimony, the defence lawyer claimed that in lying on the lounge, she was ‘exposing’ her ‘figure’ to the men. The complainant retorted rather tartly that she had not been exposing anything, as she was wearing trousers. But still, the defence pressed her, questioning her on the position of her arms—were they above her head, presumably highlighting her breasts? And what was she

wearing on her top half? Even in the seemingly modest attire of a coat and trousers, her clothing and her body were both under scrutiny.

Further, she was questioned—intensively and intimately—on the position of her body during the assault. She was asked intrusive questions, on the precise placement of her head, limbs, buttocks, and feet. Through discussion of her body, Defence argued that the young woman *participated* in, and hence consented to, sex, by lifting up her body to allow the defendant increased physical contact. Though the victim gave evidence that she had physically struggled, defence was suggesting that the sex was consenting and not rape. This line of questioning added another layer to the argument that she had consented, calling attention to first, her perceived lack of resistance, and second, her actions, which supposedly allowed the accused access to her body.

There was external evidence that Carolyn had resisted her attackers. The first witness called to the stand after Carolyn herself was one of the five men in the car and a friend of the accused men. Charges against him had been dropped, and he was called to the stand under oath. Stephen Kent had overheard the sexual assault taking place. He gave evidence that he could hear her saying ‘stop it’. He again gave evidence that Carolyn called out ‘stop’, multiple times. Despite what appears to have been a clear resistance, the witness Kent interpreted it as an ambiguous message. He continued on the stand: ‘it was not soft but it was not, you know, absolutely screaming, sort of thing... It was not [a] real boisterous type of voice saying “Stop”,—or anything like that’. Within a culture where ‘no’ might be taken as a ‘yes’, even her explicit verbal opposition did not convince a male bystander that the young woman was strongly or firmly refusing to consent. Of course, Kent himself was complicit in the assault and had driven the car to the secluded location. But even he would admit that she said stop while attempting to mitigate his friend’s violence. Further, according to the Prosecution, Carolyn’s screams could be heard beyond the bush and into the local suburb: it was her cries that brought the police to the attack. Cases such as this indicate that verbal resistance was not considered a definitive form of resistance: it was enough to bring doubt that a woman might still consent while crying out ‘stop’ or ‘no’.

The final examination of consent came via the three accused men themselves. In NSW, defendants were able to give an unsworn statement. The unsworn statement was read out to the court, but was not subject to cross-examination, and was generally used in rape trials to suggest that the complainant had consented. In this instance, all three men gave unsworn testimony, claiming that the complainant had consented to sexual intercourse. One of the men, for instance, put on the record that she had agreed to sex ‘not only with words but by the way she acted and carried on’. Another reported that he thought she was consenting to sex because she had explained in her past that she had consorted with men:

She told me that when she lived in Newcastle she used to sneak out at night when her mother was asleep, to meet her boyfriend. She gave me the impression

that she was a girl who liked boys... [on the night of the assault] she lay on the lounge in a very unladylike manner. (*R v Martin, Goff and Daniels* 1970)

Similarly, his co-accused gave unsworn testimony that the girl had acted provocatively while lying fully clothed on a lounge: ‘it didn’t leave much to the imagination to see what an attractive figure she had’. He also suggested that ‘I know when I went there I firmly believed she knew she was expecting to have sex when she went into the car, and I believed she was not a good girl’. Consent here was understood through her actions on the night—her sprawling on the lounge—and her actions in the past—sneaking out to meet her boyfriend and the perception that she was ‘not a good girl’. The defendants took these actions, in the past and present, as consent, rather than listening to her verbal non-consent, crying ‘stop’.

This particular court trial was in 1970, and provides a snapshot of a moment in time, before feminist-driven reforms of culture and the law. Yet it is illustrative of the deep and long-lasting problems with interpreting consent in cases of sexual violence. The offenders claimed that the young woman did consent to sex with them, despite eyewitness testimony that she called out stop. Her actions and body were interpreted as consenting, above her screams and her verbal no. Her past was imagined as proof that she would consent to any sex with multiple men. Despite her lengthy questioning on the stand, her voice is lost, in this search for consent.

This is an enduring problem in processes in the criminal justice sector. There was significant law reform around sexual assault in the 1970s and 1980s across Western jurisdictions, yet consent has remained a difficult issue (Featherstone 2021). A lack of consent was, and is, very challenging to prove within the criminal trial, especially with the rules of evidence and expectations of proof that dominate the adversarial trial. A general absence of witnesses, a reliance on notions of force and physical harm to prove resistance, and the general sense that ‘imperfect’ victims would automatically consent to sex, ensure that consent and non-consent are tightly debated within the courtroom, both in the past and present.

Consent is, of course, not the only problem with preventing, policing, and prosecuting sexual assault. Rates of sexual assault remain high, across the globe. Sexual violence is endemic in most cultures and has proven remarkably resistant to a raft of cultural and legal reforms across the late-twentieth century. Sexual assault continues to be a major form of violence against women, but it is also a significant problem for trans people, children, and some men. Some groups are more vulnerable than others, and people from LGBTIQ+ communities are at a higher risk, especially trans people. Indigenous women, children, and men are sexually assaulted at higher rates than non-Indigenous people and are a target for sexual violence in all of its forms across their lifespan.

FROM CONSENT TO AFFIRMATIVE CONSENT

To begin to tackle the profound problem of sexual violence, some jurisdictions have begun to shift to a model of ‘affirmative consent’, meaning consent should be clearly articulated in all sexual encounters, with a simple ‘yes’ or ‘no’. Ideally, partners would both give an ‘enthusiastic yes’, and continue to affirm their willingness as the sexual encounter continued. On the surface, this appears an exciting yet simple solution. Affirmative consent allows for agency, for precise boundaries, and promotes clear communication. It allows for the idea that desire and consent can both change during a sexual encounter. Popular metaphors of consent—including the ‘cup of tea’ animation which has been viewed millions of times on YouTube—explained basic ideas of pleasure, desire, and choice to young people. At worst, if affirmative consent is not received, the encounter could be viewed as a sexual assault. Affirmative consent is an important starting point for conversations about sex.

Affirmative consent is, however, not a simple solution to sexual and gendered violence, as the rest of this book will explore. Given the complex power relations involved in sexual encounters, not all victims are able to articulate ‘yes’ or ‘no’, and there are specific gendered disadvantages. Under an affirmative consent model, women and other disadvantaged groups remain vulnerable to pressure, outright coercion, or physical violence.

This book examines the ways that consent operates in contemporary culture, suggesting it is a useful starting point for respectful relationships. Our work, however, seeks to delve deeper, into the more complicated aspects of sexual consent. The rest of this chapter will historicise consent, giving a clearer understanding of the complexities of consent, violence, and coercion. Chapter 2 will then examine the recent shift towards affirmative consent: how it is imagined, and how it has been introduced in multiple jurisdictions. Why has this become an important model for sex educators, policy makers, and legislators? It will consider the value of the affirmative consent model, to provide the background to the coming chapters, which seek to problematise simple ideas of affirmative consent.

Chapter 3 will consider consent within relationships and in particular the ways affirmative consent has been incorporated into community understandings of sexual consent and non-consent. It will explore young adults’ expectations regarding consent communication and negotiation, as well as coercion within intimate relationships. Chapter 4 explores young people’s understandings of consent further, considering consent, sex education, and women’s own narratives of assault. It explores the lacuna in education around consent, and how young women have themselves stepped up to fill in these gaps.

Chapter 5 will examine consent within vulnerable communities, with a focus on refugee and migrant women. It explores the complex ways consent operates in these communities, including the limits of criminal justice responses, and the lack of support services available to women. Further, it explores the

ways women themselves advocate for their rights, within familial, kinship, and community groups. Finally, Chapter 6 focuses on the intersections between sexual consent and reproductive rights, especially within intimate partner relationships. It explores reproductive coercion and consent, and the ways forward for reproductive justice.

Together, we examine the ways meaningful consent is difficult, if not impossible, in relationships that involve intimate partner violence or family violence. It considers the way vulnerable communities need access to information on consent. It highlights the difficulties of consent and reproductive rights, including the use (and abuse) of contraception and abortion. Finally, it considers the ways that young women are reshaping narratives of sexual assault and consent, as active agents both online and offline. Though this work considers victimisation, it also pays careful attention to the ways vulnerable groups take up their rights and understand and practice consent in meaningful ways.

THEORIES AND METHODOLOGIES

There has been an increase in interest in popular and scholarly writings on consent, in the past decade. It is largely feminist in origins, grappling with the nuances of sexual violence in our contemporary world (Gilmore 2022), and often aimed at young people who are attempting to navigate social and sexual relationships (Popover 2019). Legal academics have also written important work on consent, in an attempt to define and articulate aspects of consent in legislation and legal practice (Kim 2019). Other scholars have suggested that the problem with affirmative consent is the legal, technical and bureaucratic apparatus that surround it. There are concerns—even from feminists—that everyday sex might be criminalised (Halley 2016). Much of this work shows, as Simon Bronitt (2021) and others have argued, that law reform is insufficient without social and cultural change. Recent work on consent is beginning to interrogate this nexus.

Joseph Fischel's surprisingly playful investigation of consent argues that it is an imperfect means of monitoring sexual experiences (though, as he adds, it is probably better than other visions of criminalisation including 'force' or 'resistance'). Fischel complicates ideas of consent, suggesting that consent does not equal desire or pleasure. His provocation is this: that rhetoric around consent can mean that people who experience sub-par, boring, painful, or 'unsexy' sex might redefine their experience as non-consenting and hence criminal (Fischel 2019, 20). Instead, he advocates for a feminist sexual utopia, where we prioritise:

'best practices for sex', whereby we facilitate sexual literacy, access to sexual information, and access to sexual health resources, and whereby we critically interrogate sexual pressure, gender norms, drinking culture, media representations of sex, and the like. (Fischel 2019, 21)

This returns us to the important yet notoriously tricky notion of cultural and social change.

Most comprehensively, Tina Sikka's illuminating book *Sex, Consent and Justice: A New Feminist Framework* (2022) configures consent within the framework of the #MeToo movement. Drawing on a series of excellent case studies including chapters on Harvey Weinstein, Louis C.K, and NYU professor Avital Ronell, Sikka argues that affirmative consent (and its variations) is insufficient, as it assumes a 'liberal model of agency' which cannot be assumed (Sikka 2022, 45). Instead, she argues for a movement towards 'an ethic of care, interdependence and bodily enactment', known as 'pleasure and care-centred ethic of embodied and relational sexual Otherness', where both pleasure and care are central (Sikka 2022, 48, 60–63). Sikka has provided an incisive critique of current sexual ethics, and an exciting ethical and philosophical framework for thinking about sex, with a focus on restorative justice. Though there are regular points of crossover—including an emphasis on sexual agency for women—our goal here in this work is not as grand. Our work is an attempt to centralise sexual autonomy, reading it against a backdrop of the challenges of consent and affirmative consent faced in contemporary Western cultures. We attempt to ground these complexities in time and place and to explore the practicalities of affirmative consent for diverse groups. In this way, our aim is less ambitious, but nonetheless makes an important contribution to understandings of sexual violence by those working on the frontline of service provision, sex education, and in-and-around the criminal justice sector.

It is clear that a reinvention of sexual norms is needed. While catchcries such as 'consent is sexy' have indeed attempted to bind pleasure and consent, one suspects it is more of an attempt to make affirmative consent palatable to young people engaging in new sexual encounters. Yet we need to refigure how to make consent as critical to the pleasure of the sexual endeavour, centralising better communication and more joy. It's not merely about gaining the green light of a 'yes', but how mutual desire might enhance sex for everyone involved. Unlike Sikka, we do not argue for an entirely new ethics of sexuality, focused on care. Yet, we do argue, ultimately, that we need to expect more from affirmative consent and be braver when discussing it within our culture.

None of this is easy, of course. We are keen to promote sex-positive cultures, where partners can navigate sexual spaces with passion, desire, sensuality, and even carnality. Yet our work—in this book and elsewhere—is probably more concerned with the reverse. Together, the authors have long histories of research and work on various forms of sexual and gendered violence, abuse, and coercion. It is unsurprising then, that the focus of this work is on flushing out the power inequalities that render a partner unable to navigate consent or advocate for their own somatic or philosophical autonomy. And perhaps this is part of the problem: that it is easier to default to defensive positions than to think more daringly about ways affirmative consent could and should work.

It's also true that interest in consent and affirmative consent has not been driven by academic research but by survivors. The #Metoo movement saw

survivors speak out against perpetrators, spearheading a global exposé of male violence against women and others. Social media proved an imperfect means of communicating about violence—in particular, we note that white voices all too often silenced women of colour, Indigenous women, and other marginalised groups (Ryan 2019). Despite its limitations, social media has also provided a powerful tool for young women to discuss consent. For instance, in February 2021, the then-student Chanel Contos posted on Instagram, asking if any of her friends and followers had been sexually assaulted while at school. Within a day, she had 200 replies, mostly charting abuse amongst students at Sydney’s elite private schools. Her broader petition garnered an enormous response, and she established a platform, www.teachusconsent.com, where young people could sign a petition for better sex education around consent, and leave their anonymous testimonies of non-consenting sex. The shocking testimonies and Contos’ outreach to federal and state ministers led to the introduction of sex education around consent in all Australian schools, through the mandated national curriculum (see Chapter 4 of this volume for more).

Though activists had been working in this space for many years, online initiatives drove discussion about consent into the mainstream, with politicians enacting significant legal change. Individual activists have been powerful voices for reform, and we will cover just two of many here. The trial of Brock Turner in 2016 made news around the world. On the night of the assault, at about 1 am, two international students were riding their bikes home and came across a man lying on top of a woman near a dumpster. She did not appear to be moving. The male students approached, and Turner ran off. He was chased by one of the students, and pinned down until the police arrived. The woman was unconscious, and semi-naked. Turner would later be charged with three sexual offences. At trial, the offender Brock Turner constructed himself as a victim (of college life, of drinking, of peer pressure) (Brand 2022). The eulogising of his status as an elite swimmer and the fear around the loss of his ‘potential’ for what his father described on the stand as ‘twenty minutes of action’ are excellent examples of the ways masculinity and the ‘good bloke’ are shaped during trials for sexual assault. But the most controversial was his sentencing. Found guilty by a jury of three sexual offences, Judge Aaron Persky (a fellow Stanford alumni) sentenced him to only six months in county jail and a three-year probation, far below expectations for these charges. Turner would be released after only three months in jail.

The case is a turning point in thinking about consent. The frenzied response to the sentencing—felt across the globe—was startling. For those of us working on sexual violence, it was deeply unsurprising, yet it evoked a substantial backlash across the mainstream. An important part of this was the activism of the survivor, who would out herself as Chanel Miller. Her extraordinary victim impact statement—published first online on BuzzFeed—was a powerful evocation of the impact on her as a victim and survivor (Baker 2016). She did not, could not, consent, and she returns to the notion of consent multiple times during her statement. But as she told the court, ‘I had no power, I

had no voice, I was defenseless'. Even in this case—with male witnesses and medical evidence of assault—it was the offender who was initially imagined as the victim. Yet Miller, in her statement and later in her biography, reframed ideas of consent for the general public. Persky would later be recalled from the bench, and the state of California introduced minimum sentences for sexual offences.

In recent years, other victim-survivors have made their mark on understandings of consent. In Australia, Saxon Mullins drove legal change in NSW and other states, after a horrific sexual encounter in the back alley of a nightclub in Sydney. The trial (and later, a retrial) revolved around the issue of consent: both agreed that anal sex had taken place, but the accused Luke Lazarus claimed she had consented, while Mullins said she had not. She told the court that she cried 'Stop' and repeatedly asked to go back to her friends (*R v Lazarus* [2017] NSWCCA 279).

The trial also interrogated whether she could in fact consent: under NSW law, a person could be deemed incapable of consent if they were 'substantially intoxicated' by alcohol or drugs. Finally, the trial explored whether or not Lazarus knew she did not consent: in NSW, it had to be proven that he had a 'guilty mind' and either acted carelessly about her consent or had no reasonable grounds for believing she consented. Like the trial of Brock Turner, much of the courtroom action revolved around Lazarus and his future potential: 'I could have been a CEO', he would state at his sentencing hearing (Hall 2015). After an appeal, he was eventually acquitted, during a second trial with no jury. It was only later, when the survivor Saxon Mullins spoke to the mainstream media, that we found her voice: it was a voice that would lead to legal changes to consent laws in NSW, with legislation now demanding affirmative consent from both parties.

This book acknowledges, from the start, that much of the important work on consent has been done by survivors and activists, rather than by academics. Here, we bring together new scholarly ideas about consent, highlighting a range of ideas about race, gender, sexuality, feminism, and bodily autonomy, across multiple disciplines. It seeks to show the ways ideas about consent have shifted and changed over time and place. The recent focus on affirmative consent is a step in the right direction. It allows—theoretically—for agency, for precise boundaries, and promotes clear communication. It enables the idea that desire and consent can both change during a sexual encounter. Affirmative consent is an important starting point for conversations about sex.

Yet our work also seeks to delve deeper into the more complicated aspects of sexual consent. It examines the ways meaningful consent is difficult, if not impossible, in relationships with significant power imbalances (including in many heterosexual relationships). Most notably, sexual autonomy is problematic for partners involved in relationships that include intimate partner violence or family violence, broadly defined. So too, this work considers the way vulnerable communities need access to information on consent. It highlights the difficulties of consent and reproductive rights, including the use (and abuse)

of contraception and abortion. Finally, it considers the ways that women themselves are reshaping narratives of sexual assault and consent, as active agents both online and offline. Though this work considers victimisation, it also pays careful attention to the ways vulnerable groups take up their rights and understand and practice consent in meaningful ways.

The Limits of Consent takes a mixed-methods approach, designed to reflect our interdisciplinary strengths and outlooks. As authors, we have expertise across a range of disciplines, crossing history, gender studies, sociology, psychology, and cultural studies. We bring our own knowledge and skillsets to this work. In the main, we are interested in qualitative research, and interpreting the nexus between sexuality and culture. There is one qualitative survey, which examines the way young people understand consent. This is a base for our work, to interrogate the ways people interpret and apply theoretical ideas of consent. Beyond this, we explore a raft of mixed methods data, including interviews, legislation, case law, public inquiries, criminal trial transcripts, medical journals and feminist writing as well as various forms of media, online databases, and social media. By exploring a wide range of texts and techniques, we offer a broad and inclusive study of the multifaceted problems and opportunities opened up by both consent and affirmative consent.

All interviews and the survey have received ethics approval from the University of Queensland's HASS LNR Committee (HREC Ref 2022/HE000098; HREC Ref 2020001829; HERC Ref 2022/HE001066; HREC Ref 2021/HE001398). Full details of the interview and survey methods are contained in endnotes in each chapter, but we note that consent was obtained from all participants of interviews, who were given relevant information related to participation, withdrawal, use and storage of data, and confidentiality, prior to interviews taking place.

Our work is guided by feminist research practices and approaches, across our disciplines. While we do deal extensively with authoritative bodies (including government, the law, medicine), we are invested in prioritising the ways that individuals, especially victim-survivors, experience and mediate consent and sexual assault. We are interested in subjectivities as 'precarious, contradictory and in process, constantly being reconstituted in discourse each time we think or speak' (Weedon 1987, 33). In doing so, we focus on who can and cannot speak and what can be spoken (Smith and Watson 1996, 10). First person accounts of suffering and harm have long been used to contest power imbalances, and feminist scholars consider 'personal storytelling in informal settings' a testimonial form (Suk et al. 2019).

We note, too, the complexities of terminology. It is statistically true that women are more vulnerable than men to sexual violence, and that men are, in the main, perpetrators. The situation is, however, complex. As noted above, non-binary and trans people are especially vulnerable, and of course men and boys can also be victims of sexual assault and abuse, at home, in public, and in institutions. In some chapters, however, we do prioritise women as victim-survivors, as that is where the historical and contemporary data has led us. This

needs to be read against an acknowledgment that it is not a simple binary, and though we write from feminist standpoints, we are careful to not assume that women are always victims, nor men are always offenders.

FROM PROPERTY TO AUTONOMY

Drawing together the rich interdisciplinary resources on consent, including both historical and contemporary discussions, allows for a deeper investigation into both consent and affirmative consent, and the ways these theories of sexual violence and sexual autonomy are understood in theory, and enacted in practice. Our contemporary landscape retains important historical legacies that have left significant holes in social ideas of bodily authority and sexual autonomy. By tracing the changes and continuities, the rest of this chapter will explore the development of a model of consent, as an important context to current social, cultural, and legal frameworks.

Consent was not part of the conceptualisation of sexual assault in early laws which originated from medieval Canon, Roman, and Germanic traditions. Instead, rape was intertwined with the crime of ‘ravishment’ or *raptus* in Latin (Walker 2013, 431). *Raptus* was defined as a property crime: the abduction of a woman to be married against her will and the will of her parents, often involving sexual violence. To prosecute this crime, women needed to demonstrate their non-consent to sexual intercourse, yet, there also needed to be proof of their parents’ or guardians’ non-consent to the marriage (Dunn 2012, 2–6). Consent was not a key component of these early understandings of rape, and yet in England, until the passing of a statute in 1576 during Elizabeth I’s reign, *raptus* was the only way for women to prosecute sexual violence (Block 2013, 24).

This new law, and its take up in the courts, saw rape become defined as ‘carnal knowledge’ (penetrative intercourse) of a woman over the age of ten years ‘against her will’ (Coke 1680, 60). Sexual consent of the individual, in theory at least, became a central element of rape and its prosecution. Yet implementation proved difficult when culture did not acknowledge women’s bodily autonomy and hence her ability to consent. Julie Hardwick (2020, 246) argues that across Europe in this period, sexual violence was a ‘mundane aspect of daily life’; in France, men frequently used force and coercion in consensual romantic relationships to obtain sexual intercourse from their girlfriends or wives. English culture too portrayed heterosexual courtship as a process in which men ‘wore down’ the will of women, to obtain sex, and then usually marriage (Barclay 2013). Further, some women were literally excluded from consent: across Europe, marital rape was lawful, and female sex workers were legally and culturally barred from prosecuting men for rape (Cody 2022).

For most women, however, the legislation acknowledged a woman’s ‘will’. Yet despite this, the courts did not deeply interrogate her consent. A victim’s testimony was not sufficient proof of non-consent. Women and children were not deemed credible witnesses, because of perceptions that both groups were

less rational and trustworthy than men (Walker 2013, 434–435). Moreover, the longstanding cultural norm that women were sexually insatiable shaped the belief that only active resistance demonstrated non-consent. To prosecute and convict, early modern judges and juries required evidence of the victim's verbal and physical resistance, witnesses to such resistance, injuries to the body, emotional distress, as well as the hasty reporting of the assault to neighbours, family, and the authorities (Walker 2013, p. 434). Otherwise, it was assumed that the woman had consented to the intercourse (Mills 2009). This assumption was also present in cases where a woman became pregnant after an assault, for the prevailing medical frameworks of the day suggested that conception could only take place if a woman orgasmed during intercourse. Within this logic, pregnant victims were assumed to have consented (Block 2013, 29).

Other groups were simply excluded from notions of consent, in the most profound ways. For enslaved women and children in Europe and its colonies, there was no legal recourse for sexual violence perpetrated by masters, owners, or fellow slaves, particularly if women were from ethnic or religious minority groups (Herzig 2022). Enslaved people were human property; they had no legal rights and no bodily autonomy, and refusal of sex was often met with punishment. In European colonies such as America, the consent of enslaved African American women, as well as First Nations American women, was irrelevant to white male perpetrators, who saw sexual violence as inherent to colonisation, the conquest of land, and the maintenance of a racial hierarchy (Block 2006, 54–55).

FORCE AND CONSENT

In the nineteenth century, legal and cultural conceptualisations of consent changed across Europe and the colonial world, increasingly redefining the role of 'force' in sexual violence. After mid-century, there was a gradual rise in the prosecution and conviction of rape throughout Europe, as well as a consistent increase in states' codification of sexual assault (D'Cruze 2013, 446–447). In Britain, ideas about consent broadened somewhat. Previously, a woman's active resistance, and male 'force' had been key to demonstrating non-consent in rape cases. Over the nineteenth century, courts increasingly accepted that women were often made 'insensible' through drugs, alcohol, 'swooning' (fainting), or their 'nerves' and were frequently forced to 'submit' to intercourse because of fear, or the attacker's authority (Bates 2016, 108). Judicial decisions moved away from concepts of force to a newer idea of consent: a woman no longer had to 'resist to the utmost of her strength' (Hamilton and Addison 1947, 80; Tadros 1999, 321–326).

These nascent changes to ideas of consent did not, however, mean that physical violence and resistance were removed as criteria in rape cases. While technically, the statutes no longer insisted on the use of 'force', such myths about physical resistance continued to shape medical and legal approaches to consent, well into the twentieth century. In practice—in policing and in the

courtroom—‘force’ and physical violence remained the primary way prosecutors framed non-consent. Physical violence and physical resistance both made rape far simpler to successfully prosecute—and the absence of both rendered a prosecution difficult and unlikely.

These changes coincided with emerging Victorian models for sexuality, with women no longer seen as lustful or insatiable, but naturally chaste and modest, capable of becoming ‘fallen’ through sexual impropriety (Murdoch 2013, 135). By contrast, men were now regarded as having uncontrollable, potentially violent sexual desires, leading to assaults or the use of brothels (Clark 1987, 23). Cultural norms had an impact in the nineteenth-century courtroom, where women needed to demonstrate that they were innocent of inviting or encouraging the assault. Rape trials centred heavily on the reputation of female victims, particularly if they were working class, a group deemed more prone to sexual immorality (D’Cruze 1999). Judges and juries focussed on whether a victim encouraged the assault through her behaviour, her location (whether in the street or home), her relationship to the assailant, and her response to the assault including whether she cried out or resisted (Jones 2000).

These perspectives on sexual violence and consent were infused into Britain’s colonies across the world, with additional racialised or colonialist perspectives on gender and sexuality. In rape trials in nineteenth-century India, South Africa, New Zealand, and Australia, white settler and colonised women were required to demonstrate that they were chaste, moral victims who had not invited or encouraged the sexual assault (Thornberry 2016; Cunningham 2020; Kolsky 2010; Kaladelfos 2012). Throughout these colonies, white settler-colonist women’s claims about non-consent were much more readily believed than First Nations or non-white women. This was owing to scientific and cultural racial theories that suggested such women were ‘naturally’ immoral or hyper-sexual, as well as beliefs that they were prone to produce false accusations of rape. White male settler-colonists were rarely charged, prosecuted, or convicted of rape against non-white women, while First Nations and non-white men were convicted at much higher rates, particularly when the woman was white (Scully 1995). This disparity was largely due to racial theories which defined colonised men as hypersexual and aggressive, but it was also because of English colonialist beliefs that such men were ‘primitive’ or ‘naive’, and thus less knowledgeable of gentlemanly sexual norms. In Aotearoa, New Zealand, such perspectives—alongside fears of Māori military resistance—encouraged English-born judges to punish Māori men for rape leniently. Caitlin Cunningham explains that these judges believed that Māori men, as less ‘civilised’ than Englishmen, ‘did not yet share a European cultural aversion to rape’ or they had confused ‘European respectability norms’ (Cunningham 2020, 74). By contrast, in nineteenth-century North America, similar ideas about ‘savagery’ were used to support cultural beliefs that Black men were ‘naturally’ sexually violent. Post-emancipation, Southern societies in particular used the concept of the ‘black rapist’ to support segregationist

laws and to condone the widespread lynching of black men by white mobs (Freedman 2011).

MODERNISING CONSENT?

Across the twentieth century, there were monumental changes to gender relations and sexual politics. Two world wars highlighted changing attitudes towards sex, from reports of male soldiers' rapes of enemy and ally civilians, soldiers' use of brothels abroad and fears about high rates of venereal disease, and reports of 'khaki fever', or young women's sexual interest in soldiers at the home front (Woollacott 1994; Harris 1993). World War Two (1939–1945) saw unprecedented levels of sexual violence occur in Europe, particularly by Nazi German soldiers against Jewish women in death and internment camps (Sinnreich 2008). Yet, it was not only Nazi soldiers involved in such crimes; Soviet and American liberators participated in mass, systematic rapes of local civilian populations, often as a means to assert authority over territories, offend the 'masculinity' of enemy forces, and also to 'bond' with fellow soldiers (Herzog 2011, 87; Grossman 1995).

In the postwar decades, legal prosecution of rape across the West began to rise steadily, and there were growing cultural and political discussions about sexual violence. In 1950s Australia, for instance, arrests for rape did not increase over this period but conviction rates for cases that did make it to trial were much higher than previous decades (Featherstone and Kaladelfos 2016, 38–39). Similarly, Shani D'Cruze (2011, 37) suggests that in the UK, there was a 'sustained increase in cases of sexual violence reported after the Second World War'. Nonetheless, these changes did little to dispel existing myths about consent, nor did they change problematic rape laws or the actual incidence of sex crimes. Rape continued to be reported infrequently and prosecuted with varying degrees of success across Western nations. Globally, many groups including colonised people, First Nations people, non-white people, and queer communities remained vulnerable to sexual abuse.

A turning point was the emergence of second-wave feminist and radical political groups across the West from the 1960s to 1980s, leading significant shifts in public discussion about consent and sexual violence. Feminist and women's liberation movements in the US, UK, and Europe began to protest the sexual, domestic, and physical violence that women faced in their daily lives and legal and cultural barriers to justice (Bourke 2020, 138). Activist groups pointed out how women were frequently blamed for rape, seen to consent because of their clothing, or the mere fact of walking home at night. Protests such as the early '70s 'Take Back the Night' marches sought to disprove such myths, while night vigils such as the one held in Brussels following the International Tribunal on Crimes Against Women (1976) memorialised female victims of sexual assault (Take Back the Night 2023; Russell and Van de Ven 1976). Similar vigils and rallies were held across the US, Europe, and Australia, as well

as protests decrying the recently reported mass rapes by the US and Australian soldiers during the Vietnam War (Herzog 2011, 165; Radford 2019).

Second-wave feminism made weighty changes to cultural concepts of rape (Griffin 1971). Most infamously, American feminist Susan Brownmiller's *Against Our Will* (1975), which argued that rape myths were not based on evidence and that rape was a patriarchal tool to ensure women's compliance. Black American feminists also noted that race and class were important factors in rape, often overlooked by white feminist movements. Legal academic Kimberlé Crenshaw's (1989) introduction of 'intersectional' feminism in the '80s showed that rape was historically a tool of white, male racial domination over black women. Concepts of rape trauma emerged, highlighting the emotional and psychological trauma of rape upon victims, which would later shape law reform (Burgess and Holmstrom 1974). Through growing research, public protest, and media discussions of sexual violence—particularly mainstream media coverage of rape trials—feminist groups achieved significant legal and cultural reforms in the Global North. In the 1970s and 1980s, many countries broadened archaic legal definitions of rape, and 'rape shield laws' gave some protection to women at trial (Cassidy 2021; O'Neil 2008).

Despite the profound changes across the twentieth century, there was little renovation of concepts of consent. In theory, at least, issues of consent were rendered central in definitions of rape in Western cultures at this time, but in practice, it was a difficult issue (Freedman 2013, 3–4). To prove a sexual assault, it had to be shown that the sexual act took place and that the complainant did not consent to the act. The onus was on the prosecution to prove the lack of consent (Hamilton and Addison 1947, 80). Further, to be found guilty, it had to be shown that the accused knew the complainant did not consent to the act.

Reform proved slow and unwieldy across most jurisdictions. One of the more innovative reforms of this period was the Michigan Criminal Code of 1974. The Michigan Criminal Code attempted to clarify issues of bodily autonomy. The legislation was stripped back, and rape was expressed as occurring when any of the following circumstances occurred: when under the age of consent (defined as under 13, or under 16 in instances where the victim was under the care of the accused); where the victim was mentally incapable or physically helpless; or, where force was threatened or when force or coercion was used. Though the term 'consent' did not appear in the Code, the acknowledgement of coercion allowed that even when consent was given, it might not be given freely (Cobb and Schauer 1974). Further, the Code's Model Jury Directions provided that a person:

Consents to a sexual act by agreeing to it freely and willingly, without being forced or coerced. It is not necessary to show that the complainant resisted the defendant to prove that this crime was committed. (Michigan Supreme Court 2014, s. 20.27)

Examples of coercion given included the threat of violence and withdrawal of housing, therefore expanding the conditions of coercion. In the Michigan Code, we see the clear articulation that: consent is not indeed consent unless it is freely given; that sexual activity cannot be assumed to be consensual if coercion is present; and that a person does not need to ‘resist’ to disprove consent.

Similar attempts to broaden ideas about rape and consent appeared in the ’70s and ’80s across the US, Europe, the UK, and Australia. Movements to criminalise marital rape such as the British ‘Rape in Marriage Campaign’ rejected notions that husbands had a ‘conjugal right’ to sex from their wives, even without their consent. Marital rape was criminalised in British, European, and Australian jurisdictions from the late ’70s to late ’90s, and although most America states criminalised marital rape by the ’90s, many states’ laws continue to position marital rape as a less serious form of rape (Yllö and Torres 2016). Intimate partner violence remained difficult to prove and prosecute, with consent a tricky issue. Meanwhile, ‘date rape’ described assaults that often took place on college campuses, by male students against female students they were friends or acquaintances with, or dating. Assaults frequently followed dates or parties, with perpetrators arguing that women’s behaviour signalled consent to sex, or an entitlement to sex (Boumil et al. 1993). Old myths about consent continued to reassert themselves, in new forms, despite decades of feminist intervention.

CONCLUSIONS

Ideas about consent shifted considerably over time and place. Yet in our contemporary world, threads of older concepts of consent and non-consent, of women’s inability to hold responsibility for their own bodily autonomy, and of men’s right to access women, all remain in one form or another. The notion of women as property was undermined, but never fully. Attitudes towards force and physical violence remained, and even in the late twentieth century, it was difficult to argue for non-consent without considerable evidence of physical resistance. ‘He said/she said’ arguments plagued issues of consent at trial. Feminists were able to unsettle many rape myths, but attitudes towards consent and non-consent remained stubbornly resistant to change, despite the immense cultural and social transformations of the twentieth century. It would take a considerable rethink—driven initially by young people—to revolutionise ideas about consent, as the following chapter will chart.

NOTE

1. State Records NSW: Court Reporting Branch: NRS 2713, Criminal Transcripts, Supreme Court, *R v R v Martin, Goff and Daniels*, 1970. For more on the trial transcripts, see Lisa Featherstone, *Sexual Violence in Australia, 1970s–1980s: Rape and Child Sexual Abuse* (London: Palgrave

Macmillan, 2021), p. 32. All names of victims and accused have been anonymised.

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What Is Affirmative Consent?

Abstract Affirmative consent was first articulated on college campuses in the United States in the 1990s. Affirmative consent demanded verbal, positive consent during each sexual encounter, and for each individual part of the sexual activity. Consent had to be meaningful and enthusiastic. While later interpretations would shift and change, and in many instances, non-verbal communication might count as affirmative consent, the model required active and positive participation from everyone during a sexual encounter. An absence of agreement—through silence or passivity—does not meet the standard of affirmative consent.

This chapter outlines what affirmative consent was and is, how and why it developed, and why it has been widely imagined as a useful tool for navigating sexual encounters, and for preventing sexual violence. It charts what was initially a radical, alternative suggestion, to a concept that is now institutionalised in the mainstream. Just as importantly, it investigates the challenges of affirmative consent, in particular noting that power imbalances do not allow all people the freedom and bodily autonomy to assert consent. The chapter examines cases where affirmative consent cannot be freely given or denied, including situations where intimate partner violence occurs, or where other practices of coercion or powerlessness are in place. Finally, the chapter traces some of the recent legislative changes across Western cultures, which have enshrined affirmative consent in the law, despite the challenges of ensuring equal access to autonomy.

Keywords Affirmative consent · Consent · Sexual assault · Sexual violence · Bodily autonomy · Law

It is unsurprising that colleges in the United States emerged as leaders in attempts to manage sexual assault: statistics suggest that in the United States, one in five women enrolled in a bachelor's degree experience sexual assault before graduation (Muehlenhard et al. 2017). With commentators calling sexual violence on college campuses an 'epidemic', students themselves drove early moves towards defining and articulating a new vision of consent (Pugh and Becker 2018, 1). In the wake of a series of sexual assaults on campus, students at the liberal arts institution Antioch College in Ohio developed an early, innovative model of consent. Led by a radical feminist group the Womyn of Antioch, affirmative consent was adopted as internal college policy by the Board of Trustees in 1991 (Metz et al. 2021, 53; Rosman 2018). Antioch's Sexual Offense Policy outlined that:

Consent is an on-going process in any sexual interaction. Verbal consent should be obtained with each new level of physical and/or sexual contact or conduct in any given interaction. (Abrams and Herman 1994, B3)

Antioch also had a firm policy on sex education, with all incoming students required to attend a workshop which carefully explained the policy. The workshop spelled out the need for verbal affirmative consent 'each step of the way' and that consent was not 'meaningful' if the participant was inebriated by alcohol or drugs (Gross 1993, 1).

Antioch's policy was revolutionary on a number of grounds. It was driven by young people, as active agents in disrupting social norms around sexual violence. It de-gendered sexual assault, acknowledging that men could be victims as well as offenders. It provided firm policy around the disclosure of sexually transmitted diseases to intimate partners, including HIV and AIDS. Most importantly, it highlighted the need for explicit *verbal* consent to sexual activities, with supporters noting that:

When verbal communication is not a central part of the sexual encounter, false assumptions may and do occur. Misreadings of body language may prevail... one person might be experiencing a "good time", while the other is experiencing a sexual assault. Under our policy, the two are distinguishable because of the requirement of verbal consent. (Abrams and Herman 1994, B3)

The policy was reported as having the support of the majority of students (Abrams and Herman 1994, B3), yet there were certainly opponents. As one freshman told the training group, 'If I have to ask those questions I won't get what I want' (Gross 1993, 9). One can only imagine his surprise to find that was exactly what the policy intended.

The Antioch policy was widely mocked in the mainstream media, including an infamous sketch on *Saturday Night Live* (Serisier 2020). Yet, over time the ideas fermented across other institutions, and rules around affirmative consent were further defined and refined across American colleges from around 2014

onwards. Spurred on by growing numbers of complaints of sexual assault through Title IX (an initiative that requires colleges to protect gender rights, at the risk of loss of federal funding), administrators were looking for new and innovative answers. The focus on sexual assault on campus was bolstered by the Obama administration's campaign 'It's On Us', and the formation of a federal Task Force that drove colleges to clarify their policies on consent (Angiollo 2018, 881). In this climate, affirmative consent was seen as having the potential to be transformational. The affirmative consent policy at Yale University is a good example of the trend, with the college articulating:

Sexual activity requires consent, which is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a 'no'; a clear 'yes', verbal or otherwise, is necessary. Consent to some sexual acts does not imply consent to others, nor does past consent to a given act imply present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. ... Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. Presumptions based upon contextual factors (such as clothing, alcohol consumption, or dancing) are unwarranted, and should not be considered as evidence for consent. ... Although consent does not need to be verbal, verbal communication is the most reliable form of asking for and gauging consent, and you are thus urged to seek consent in verbal form. (Cited in Novack 2017, 304)

By 2017, researchers could comment on the ubiquity of affirmative consent rules on American college campuses, noting that both students and administrators saw affirmative consent policies and procedures as 'necessary interventions to address reports of soaring rates of sexual violence on campus' (Novack 2017, 302).

The push for affirmative consent policy originated in US colleges and amongst legislators who funded them, but interest quickly moved beyond the college populations and into mainstream politics. Could affirmative consent be the answer to the broader problems of sexual assault in Western cultures? Internal college policies were adopted into law in some states. In Californian law, for instance, from 2014, all students in state-funded universities were expected to adhere to affirmative consent rules, as follows:

It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. (Cited in Witmer-Rich 2016, 62)

Ideas of affirmative consent were picked up beyond the United States, across many Western nations. The following discussion focuses largely on the Global North, where these ideas have fermented and in some cases been legislated, and further work will need to be done on the majority of

the world. Here, we trace ideas of affirmative consent in North America, Europe, Australia, and other nations, where, as Katelyn Rose Malae (2022) has argued, affirmative consent went from marginal—mocked and derided when first initiated at Antioch College—to something quite conventional.

DEFINING AFFIRMATIVE CONSENT

Just as consent itself is a slippery concept in both society and the law, affirmative consent is subject to multiple definitions, and even in the microcosm of colleges, there was a muddiness to the definitions. While Antioch College insisted on verbal consent, other conceptualisations of affirmative consent did not. In a good early summary, legal scholar Lucinda Vandervort (2012, 402) suggests that affirmative consent ‘must be communicated or it will be legally ineffective to give the other person permission to engage in sexual touching. Communication may consist of either words or conduct but must be express, explicit, and unambiguous’. If a lack of consent (‘no’) was the basic standard expected to distinguish sexual acquiescence from sexual assault, affirmative consent should move this to an active, even enthusiastic, ‘yes’.¹ It can be verbal ‘yes’, or through their actions. Affirmative consent must be shown dynamically and positively. Affirmative consent demands *active* signs of agreement to sexual activity, not only the *lack* of a direct refusal.

Affirmative consent is, as in the Antioch model, a continual negotiation, not a one-off agreement. Affirmative consent needs to be agreed upon throughout the sexual encounter. At best, these expectations are clearly laid out in legislation. For instance, in Denmark’s Penal Code’s Committee *Report on a voluntariness-based rape provision* (2020), affirmative consent was argued for in the following way:

The Committee’s minority conceived consent as ‘something mutual’ and ‘a common desire’ to have sexual intercourse. The minority maintained that under a consent-based provision, the relevant issue of proof would concern the actual presence of consent rather than the absence of an agreement. A consent-based rule would necessitate that each party agreed to have sexual intercourse. Consequently, anyone who initiates sexual activity becomes bound by the duty of clarification. Therefore, it was alleged that a consent-based provision would change the present evidentiary focus. The question would be whether the complainant consented and whether the accused had reason to believe that the victim agreed to the other party’s sexual advances. (cited in Vestergaard 2021, 21)

There is a difference, of course, between a lack of positive consent and evidence of clear objection. This means that an absence of agreement (through silence, through passivity, through submission) does not meet the standard of affirmative consent. Furthermore, it was no longer enough to ‘believe’ a person consented, but this consent must be shown in either words or actions.

Some legislators have demanded more and defined affirmative consent as ‘clear’ or even ‘unambiguous words or actions’ (Witmer-Rich 2016, 64–65).

Most notably, affirmative consent means the person initiating sexual activity has to ask for consent to do so (Vestergaard 2021, 20). This is a profound shift in the power dynamics of defining sexual assault: affirmative consent shifts the burden of action from one party to the other. No longer is one party expected to assertively say ‘no’, with consent being assumed if either party is quiet or passive. Instead, the onus is on the sexual initiator to seek active approval for the sexual act and other sexual acts that might come. Affirmative consent switches the focus to the offender: what did the accused do to understand consent? This effectively recalibrates the model of consent and the burden of proof. Before affirmative consent, it is assumed that consent is present unless someone says ‘no’ or otherwise withdraws the consent. In trials for sexual assault, then, a great deal of the court’s time is spent ascertaining if and how a person withdrew consent, and if the other party knew it was withdrawn. Affirmative consent offers a solution, and the law then ‘presumes that a woman does not grant consent unless she is asked’ (Little 2005, 1347). And in cases that go to trial, where the complainant says she did not consent, and the accused did not ask, within an adversarial trial system, the accused will be required to show how consent was sought. The burden of proof shifts; the accused may need to take the stand in an attempt to prove consent (North 2023, 5).

This is particularly helpful to women who might experience unwanted sexual contact, but lack the capacity to say ‘no’. This is typical when drugs or alcohol are part of the sexual encounter, but can occur in other circumstances, too. A common response to sexual assault can be to ‘freeze’, which is well documented in scientific, legal, and cultural literature (Mann 2021). Having a strong concept of affirmative consent helps this in two ways. First, if sexual partners are navigating a sexual encounter, and one partner freezes, the sexual encounter should pause and end. This may help partners (especially those without significant power imbalances) navigate their sexual activities more fairly, and more clearly. Second, if a sexual encounter does take place, it should be more difficult for an accused person to say they assumed silence as consent. The accused would need to show that he or she did take some kind of action, to ensure consent. This tightens up ideas of ‘reasonable belief’ (Snell 2022, 68).

Of course, all of these scenarios are messy in the real world, and sexual assault would continue to be challenging to prosecute, but nonetheless, affirmative consent adds some parameters for understanding that a person might go silent or freeze during an unwanted sexual encounter. Significantly, it reframes the focus of the trial around the defendant, rather than the victim-survivor. In rape trials, historically it is the complainant who comes under scrutiny: it is her dress, her body, her actions, where she is, what she said, and how much she had drunk that came under investigation. The complainant was on the stand, sometimes for days, addressing questions over her actions and

appearance. While rape law reforms from the 1970s and 1980s have gone some way to control the questions she was asked on the stand, evidence suggests that the adversarial trial continued to allow for the harassment of the complainant, in multiple ways (Burgin and Flynn 2021, 347–349; Featherstone 2021, 234–242).

One of the most significant benefits of legislating for affirmative consent is that it helps push and formalise cultural change: it establishes a framework for young people and indeed all people to expect and demand enthusiastic consent. At best, it can normalise the articulation of consent during each and every sexual encounter. It also allows for a model where female desire and pleasure are visible and even enunciated. As feminist scholars have noted, ‘affirmative consent necessitates that women ... have an active and eager role in their own sexual experiences’ (Metz et al. 2021, 54). On the surface, the ‘yes means yes’ affirmative consent model was supported by campaigns such as the ‘Consent is Sexy’ poster series, which ran on American campuses from 2011 (Malae 2022, 1134; Hovick and Sliver 2019). Yet there is also a deeper message here about agency, which empowers women to advocate for their own sexual autonomy. Of course, we run the risk of normative gender roles assuming men are the stereoactive players, the “askers” and women are the passive, those asked. Nonetheless, a heightened dialogue (both spoken and unspoken), which centres the desires and experiences of all parties in a sexual encounter, is positive, not just in terms of preventing sexual assault, but more broadly as well.

Thus the ‘enthusiastic yes’ seems a very fine place to start discussions about consent. As an educative tool, especially for young people, it is a concept that would ideally be grounded in education about autonomy over their own body, from an early age. Children, for example, might be taught that their choices would be respected: they would not be forced to give an adult a kiss as a greeting, or they might be asked first for a hug. As one sex educator has suggested, children need to know that they are the ‘boss of their own body’ (Hakanson 2023). The aim is to build knowledge around boundaries, decision-making and autonomy, in age-appropriate ways, and via verbal consent. Over time, this language can be built upon, to discuss the specifics of sexual consent.

For older children, in recent years, there has been a range of sex education texts that deal with consent: chatty in tone, often using cartoons and comics, they seek to inform and engage. In these texts, consent is contextualised within wider discussions about autonomy and agency, and ensuring ‘It’s wrong for people to make us do something that we don’t want to do. It’s also wrong for us to make someone do something that they don’t want to do’ (Hancock 2021, 6). The better works also encourage readers to think about the complexities about sexualities and of consent and affirmative consent. Justin Hancock (2021), for instance, in his book *Can We Talk About Consent*, widens definitions of sexual encounters, does not focus on heterosexuality, and is inclusive of disability and other intersections. There is also an

acknowledgement of the unevenness of people's ability to consent, which is a useful framework for thinking about consent in both everyday life and sexual encounters (Hancock 2021, 22–23). Likewise, the pocket-size book *Welcome to Consent* by Yumi Stynes and Melissa Kang (2021) is inclusive in language and material and discusses that people with different cultures, backgrounds, and abilities might have different views on consent, touching, and bodily autonomy. Stynes and Kang also discuss some of the challenges teenagers face in navigating relationships, including peer pressure, alcohol, and safety.

Texts such as these, aimed at young people, offer valuable ways to think about affirmative consent. As one study of adolescent attitudes towards consent concluded:

Positive evaluations of affirmative consent may lead to decreased sexual assault by reducing misunderstandings between sexual partners, clarifying legal definitions of sexual misconduct, and encouraging sexual scripts marked by enthusiasm and mutuality. (Javidi et al. 2020, 1105)

Yet despite these profound advantages in a shift to a model of affirmative consent, there are significant problems with notions of affirmative consent, as the rest of the book explores.

WHO CAN'T SAY NO

The core problem with affirmative consent is one of power: some people simply cannot say 'no'. Sex involves power differentials, involving age, gender, sexual orientation, race, ethnicity, disability, experience, and so forth. Affirmative consent, by its nature, involves an agency and autonomy that not all actors will have. Navigating these complex terrains of power and authority means that affirmative consent is, at its core, problematic in both theory and practice.

For instance, studies from numerous disciplines have explored the ways young women can have difficulties saying 'no' to sexual partners, even in relationships without violence or the threat of violence. Research reveals that even amongst those who understood the philosophy of affirmative consent, teenage girls could be uncomfortable with saying 'no', and relied on nonverbal cues to show their consent lack of consent. In contrast, their male partners interpreted both silence and lack of resistance as consent (Righi et al. 2021, NP8298–NP8304). This disjunct could have profound impacts. In a close study of young women in the north-east United States, on their decisions to have sex, the women reported rarely giving verbal consent, but rather consent 'was considered implied because it was "assumed", "expected", or "alluded to"'. The young women reported feeling unable to control the situation, express their own preferences, or feeling that they could not say 'no' once they had begun kissing or other activities. For the young women, sex seemed 'inevitable', as one described it (Fantasia 2011, 123–124).

In another study, sociologists Geraldine Brady and Pam Lowe interviewed young people in the West Midlands, England, to explore issues of consent, relationships, sex education, and the potential for exploitation. Many of the interviews revealed a tendency of young people to ‘please’ their partners and to engage in unwanted sexual activity because it was easier than saying no, or in order to maintain their romance or relationship (Brady and Lowe 2020, 84–85). These young women (and they were in this case, women), might have said ‘yes’ and hence met the affirmative consent hurdle, but nonetheless did not necessarily desire sex, or indeed may have even actively wished it would stop. Yet they made the autonomous decision to continue with sexual activity, as they were not empowered to do otherwise, or they decided that they would, in the main, prefer to continue with unwanted sex. Was this a sexual crime, on the part of the instigator? Not necessarily, but nor were all participants able or willing to action the idea of affirmative consent. This is compounded when younger women are dating older or more experienced men (Brady and Lowe 2020, 84–85), or when young people—especially adolescents—do not have the skills to negotiate consent (Javidi et al. 2020, 1101). There can be considerable awkwardness about navigating verbal consent, which young people may see as an impediment (Schumlich and Fisher 2020, 1115).

The issue is even more complex in relationships that already involve violence, coercion, or threats, including domestic and family violence. Familial violence is a common life experience across communities, and sexual assault can be one part of a broader pattern of violence. In these instances, the victims may fear that saying ‘no’ to sex will cause an escalation of harm, to themselves, to children or other family members, or to pets. In some jurisdictions, there have been attempts to acknowledge these challenges. In New South Wales, Australia, for instance, concepts of ‘force, fear of force or fear of serious harm of any kind’ have been extended beyond traditional understandings and can be used to show that victims of domestic and family violence cannot consent if they in fear of their own safety, the safety of their children or animals—even if physical violence did not occur at this specific time (Snell 2022, 69). But a simple concept of affirmative consent cannot necessarily protect or empower victims of intimate partner violence nor can it support them towards bodily autonomy and sexual rights.

Similarly, affirmative consent does not provide clear solutions for intimate partners dealing with the complexities of sexual coercion. Sexual coercion is defined as ‘psychological pressure to engage in coerced sex ... in the absence of physical force or explicit threat of force’ (Pugh and Becker 2018, 4). This might include ‘emotional demands or social pressure ... [or] psychological appeals’ (Schulhofer 1998, 97). In these instances, a person might not wish to engage in sex but will be coerced verbally: nagged, pressured, intimidated, dominated, and made to feel obliged. In the end, the sex might be unwilling or unwanted, but consensual (or at least complied with). It is not, in the end, criminal in most jurisdictions. In many cases, there are extant social pressures

brought to bear, including cultural expectations on when sex is “due”. These too can be used to coerce sex, when a partner is unwilling.

There can be considerable blurring of the boundaries of violence and coercion. Coercion can often be underscored by fear of force, either real or imagined. Certainly, studies report that ‘men that verbally coerce their girlfriends into sex also may be more likely to have been physically violent in the past or are more likely to become physically violent in the future’ (Pugh and Becker 2018, 10).

There are also obvious complications with nonverbal affirmative consent, where offenders may not recognise a lack of consent. Research suggests that men tend to interpret consent to sexual activity in many everyday actions and body language (Sandoz 2021, 717). Even when people can recognise affirmative consent in theory, they do not always enact it (Sandoz 2021, 715). Just as significantly, it may be that some people cannot understand the finer principles of affirmative consent, especially nonverbal cues. Many young people lack the skillset and training to navigate affirmative consent (Schumlich and Fisher 2020, 1108–1121). In one recent study, for instance, researchers sampled 442 college students, testing their responses to certain sexual scenarios. The study showed that, even amongst college students, there was considerable variance in reading or misreading nonverbal consent. A small number of students interpreted lying still or avoiding eye contact as a form of consent. Others interpreted sexual arousal as consent (despite the involuntary nature of physical responses). Thus, even amongst a relatively homogenous body of students, there were considerable differences in their interpretations of consent and nonverbal signalling (Mattson et al. 2022).

Finally, affirmative consent cannot solve the problem of an offender who literally does not care about the consent of their partner: the aggressor who will assert their sexual demands, whether there is consent or not. As philosopher Lois Pineau (1989) has shown, some men admit that they ‘wouldn’t take no for an answer’. Encounters where a lack of consent is voiced but ignored are far more common than myths about rape suggest, and studies have shown that many victim–survivors voice a lack of consent or physically resist but the offender continues anyway (Edwards et al. 2014, 2534; Crown and Roberts 2007, 392).

WHO ELSE IS EXCLUDED?

Ideas of affirmative consent assume bodily autonomy and an ability to speak up. This may not be the case for all social and cultural communities. There are long histories of some groups lacking bodily autonomy including, most obviously, enslaved people. But views about sexual availability can, at worst, inform thinking about many communities including First Nations people. Sexual access was one of the so-called benefits of colonisation for the colonisers, and vestiges of this thinking have left some Indigenous women and children vulnerable to colonial and patriarchal sexual expectations, both in the past

and present (Native Women's Association of Canada 2018; Anderson et al. 2017; Ryan 2019). It is simplistic to assume affirmative consent can overcome generations of sexual exploitation.

Further, as sociologist Jenny Maturi (2022) has shown, not all people have the tools to discuss affirmative consent. Her work amongst migrant and refugee groups in Brisbane, Australia, has highlighted the willingness of communities to engage with the idea of "my body = my consent". Migrant organisations have produced excellent resources on consent and sexual violence that have been translated and distributed (Maturi 2022). At the same time, refugee communities will face complex problems including intergenerational trauma and dislocation, as well as diverse views on gender and sexuality. It is critical that the nuances of different groups are considered, as issues of consent are modelled and taught (see Chapter 5, this volume, for more).

There are other tensions, too, around the ways gender and sexuality are understood. Even when gender-inclusive language is attempted, affirmative consent frameworks tend to operate on gender dichotomies or even stereotypes: in the cultural imagination, all too often men are interpreted as the instigators of sex (the seekers of the consent), while women are imagined as the resisters or at least as more passive (the givers of consent or non-consent). The reality is that research on sexual violence shows men are almost always but not absolutely, offenders, and women or children are commonly the victims and survivors. The sexual scripts that emerge from affirmative consent models assume certain gendered stereotypes around sexual desire and activity, even as researchers do their best to unpack them. But it is a convenient shorthand to write of male offenders and female victims. This stereotype plays indirectly to ideas of consent where women are imagined as the person who must be convinced or who must consent. So where does this leave women who actively desire sex, surely something we might want at the heart of the sexual encounter?

The lack of nuance around gender and sexuality can also mean that affirmative consent models exclude some groups, in particular those in LGBTIQ+ communities. This is a particular problem as LGBTIQ+ people, and especially non-binary and trans people, are amongst the most sexually vulnerable groups, who experience sexual violence at higher rates than cis-gender groups. If affirmative consent is discussed in a gender binary with heterosexual actors, where does this leave people who sit outside these constructions? It is true that a non-binary person can legally draw upon affirmative consent, but do they have the social and cultural reference points to do so? Some LGBTIQ+ communities are already ahead of the mainstream in terms of intimate discussions about both sex and consent. Most notably, players in BDSM have well-practised rules and negotiations around sexual encounters; they know their physical and mental safety depends on it (Fencel 2021). From the moment of "coming out", LGBTIQ+ people more broadly have also had to engage in more overt discussions about gender and/or sexuality than cis-gender straight

people. This may help provide young people with a language and framework for thinking about sexuality and possibly consent. Yet the focus on heterosexual models of masculinity and femininity may mean that affirmative consent is an inherently exclusionary framework for thinking about diverse sexual and gendered encounters.

WHAT CAN THE LAW DO?

Read together, the potential for exclusion of some community groups, alongside the series of problems with offenders adhering to affirmative consent, point to serious gaps in the conceptualisation of affirmative consent policies. This is unsurprising. Many researchers across a raft of disciplinary fields have shown the limits of legal reform in forcing social change (Scutt 1980; Featherstone 2021; Daly 2011; Serisier 2018). Legislative reform—no matter how well-intentioned—is closely intertwined with culture. Affirmative consent laws have been driven by cultural change, but such change is fragmented and incomplete. It may also backfire, acting to criminalise men who are most vulnerable, including First Nations men, while leaving those with good lawyers and cultural capital relatively untouched. In this way, we argue that affirmative consent is important, but that it is not enough, in and of itself. At best, new laws and the debates these necessitate can help drive cultural change. In reality, however, there can be considerable lags in the application of the law.

There remain pragmatic problems with prosecuting trials involving affirmative consent—much as consent is a problematic concept in court, affirmative consent can also be tested. As Nicholas J. Little (2005) has noted, the trial still retains a ‘he said, she said’ conundrum. How to prove whether consent was affirmative? It does not, as Little argues, ‘prevent the accused from claiming that he asked permission, and the woman gave it to him’ (2005, 1347). Other scholars have noted that ‘Implied consent continues to function in rape trials’ with women’s behaviour—sometimes many hours before the assault—continuing to be scrutinised within the courtroom as “evidence” of consent. Burgin and Flynn’s (2021, 335) analysis of court transcripts from Victoria, Australia, for instance, shows that women walking with a man, being friendly, allowing a man to put his arm around her, flirting or giggling, were all raised at trial as evidence of why an accused man believed a woman consented to sex.

Further, as Susan Caringella (2008) has argued, affirmative consent does not overcome many of the inherent problems of rape at trial, including what we know to be rape myths. In particular, it doesn’t solve ideas about what a young woman might consent to, or what a man might expect. She further notes:

A related problem lies in the reasonable person standard in interpreting whether consent is voluntarily affirmatively given. This stipulation does not solve the problems of a “reasonable man” standard. What exactly constitutes “reasonable”

is discretionary, as well as derived from a male—not a neutral, let alone female—point of view. (Caringella 2008, 81)

Similarly, there are also considerable problems with interpreting ‘force’ in trials. Scholars including Rachael Burgin (2019) have powerfully shown that narratives of force and resistance continue to dominate court trials, even in jurisdictions with affirmative consent legislation. Despite these problems, many jurisdictions have moved strongly towards affirmative consent.

JURISDICTIONAL CHANGE

In recent decades, countries around the globe have enacted, or discussed, reform to sexual violence laws based upon models of affirmative consent. The UK passed amendments in 2003 to the *Sexual Offences Act* which changed definitions of sexual assault; it is now defined as assault when a person does not consent, and the offender does not reasonably believe that the person consented (2003, s.1–4). The *Act*’s definition of consent states: ‘a person consents if she agrees by choice, and has the freedom and capacity to make that choice’ (cited in Dowds 2019, 45). *The Crown Court Compendium* further defines consent: ‘In some situations consent may be given enthusiastically, but in other circumstances it is given with reluctance, but nevertheless it is still consent...when a person is so overcome by fear that he/she lacks any capacity either to give consent or to resist, that person does not consent’ (cited in Dowds 2019, 46).

Other European jurisdictions have incorporated affirmative consent models more explicitly. In 2014, the Council of Europe Convention (Istanbul Convention) held that consent must be given freely. It agreed that non-consensual sexual acts should be criminalised, but left it up to individual states to define and legislate these crimes (Vestergaard 2021, 6). This instrument influenced European countries, such as the Nordic countries, where law reform around affirmative consent has recently been enacted. In Denmark, there was considerable cross-party support for rape law reform that prioritised consent. The Proposal for amending the *Penal Code (Consent-based rape provision)* of 2020 was passed unanimously, yet how a person might consent has not yet been clearly defined and will be decided by the courts. Sweden passed changes to the *Criminal Code* in 2018 requiring that the prosecution ‘must prove that the person with whom the sexual act was performed did not participate voluntarily’ (cited in Wegerstad 2021, 739). Since these laws were introduced, rape prosecutions have risen, but the law’s phrasing makes it uncertain as to what behaviour ‘constitutes legally valid expressions of voluntary or nonvoluntary participation’ (Wegerstad 2021, 741). More recently, in 2022, Spain introduced reforms that replaced previous laws requiring elements of force or resistance, after a years-long feminist campaign in response to the ‘Wolf Pack’ trial of 2016 (Faraldo-Cabana 2021). In this case, five men had been charged with the rape of a young woman, but were found not guilty,

due to technical wording in the legislation. As the victim had been tricked and coerced into a building with them, rather than being forced into the room with violence, the men were found only guilty of the lesser charge of sexual abuse. The legislation now has an explicit provision of consent; consent must be given freely and demonstrated through actions that express the person's will.

North American jurisdictions have also included affirmative consent models in their sexual assault laws. In 1992, the Canadian parliament amended the *Criminal Code* to incorporate affirmative consent provisions by limiting the defence of mistaken consent (Lakeman 2011, 42). This change was followed in common law and by the Supreme Court, in a number of trials and appeals from 1994 onwards which held that 'not saying "yes" is equivalent to saying "no"' (Vandervort 2012, 416). Now, consent is defined in the Canadian *Criminal Code* (1985, s.153) as the 'voluntary agreement of the complainant to engage in the sexual activity'. Nearby in the United States, reforms have been piece-meal owing to the variation in state-by-state legislation and lack of overarching federal laws. Many states have moved towards affirmative consent, such as New York, Colorado, Illinois, and California. In the latter state, the *CA Penal Code* (2021, s.216.6) was recently amended in 2021 to define consent as:

...positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act.

California also passed an 'Affirmative Consent Law' in 2014 that requires all universities and colleges to implement policies that promote affirmative consent, in order for the colleges to receive state money (Alabi 2019, 81). In contrast, over half of the US states continue to rely on sexual assault laws that do not define consent, and some states such as South Dakota still have archaic rape laws which require 'force' or 'resistance' (Sandoval 2019, 467).

Meanwhile in the Southern Hemisphere, New Zealand law was amended in 2005 to define 'sexual violation' as sexual acts without consent. The *Crimes Act* (1967, s.128–128A) outlines circumstances where consent cannot be given or assumed, such as consent to some or previous sexual activity. Yet, the defence of 'reasonable belief in consent' persists, which has often led to acquittals even where women were intoxicated or resisted (Gavey 2019). Across the pond, Australian states have recently passed reforms after sustained, feminist-led activism on sexual violence. Affirmative consent models were introduced in Tasmania in 2004, and Victoria in 2007, which had 'the practical effect of requiring consent to be expressed rather than implied, as evidence of a failure to positively do or say anything to communicate consent is enough to establish the absence of consent' (Finlay and Kirchengast 2020, 65). The Victorian Parliament passed amended legislation in 2022 with expanded definitions of affirmative consent after recommendations from the Victorian

Law Reform Commission. The *Justice Legislation Amendment* (2021, s.6–8) includes provisions that ‘consent involves ongoing and mutual communication’, and an updated defence of belief in consent, which states that a defendant’s belief is not reasonable if they ‘do not say or do anything to find out’ if the other party consented.

In the same year, NSW introduced new laws after recommendations from the NSW Law Reform Commission, which began an inquiry into sexual violence after the advocacy work of victim-survivor Saxon Mullins (NSWLRC 2020, 5). The *Crimes Legislation Amendment* (2021, s.61HI–s.61HK) defines consent as a ‘free and voluntary’ agreement to sexual activity and also requires that the defendant take actions to determine if the other party consented. In states such as Queensland and Western Australia, Law Reform Commissions have begun investigating sexual violence laws, and the QLD Government announced in late 2022 that it would adopt affirmative consent models, but it is not clear what these reforms will entail WA Government 2023; DJAG Queensland 2022).

CONCLUSIONS

Affirmative consent is a profound shift in the ways we understand sexual encounters. It is useful in outlining best practices in sexual relationships, and setting new standards in sexual culture, when both parties are willing and engaged. Further, it gives young people new tools to deal with sexual activities. At best, it focuses on desire and pleasure and supports the bodily autonomy of all parties in a sexual encounter. As one activist wrote to a mainstream audience in an op-ed in the *Huffington Post*:

“Affirmative consent” is neither a femi-nazi trap nor a presumption of guilt. It is an accurate description of what we do when we are having sex that is not abusive or coerced: We seek confirmation that our partner is a willing participant. (Boyd 2014)

As such, affirmative consent is an excellent starting point for both a positive sexual culture and individual intimate relationships, as the original authors from Antioch intended. Nonetheless, there are a range of limitations to social, cultural, and legal manifestations of sexual consent. The next chapter will begin to explore these, thinking through the ways intimate partners understand and negotiate consent as young people.

NOTE

1. Jonathan Witnmer-Rich has suggested that affirmative consent does not, in law, require either ‘express verbal agreement’ or an ‘enthusiastic yes’. He claims that the move to affirmative consent, the standard from one that requires an affirmative ‘no’ to one that requires an affirmative ‘yes’

has been underway for some decades, even when it is not legislated (Witmer-Rich 2016, 58).

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Understandings of Sexual Consent Amongst Young Adults

Abstract Young people in Australia are particularly vulnerable to sexual assault with over 40% of reported assaults occurring between the ages of 15 and 35. Despite this, there is little research exploring how young people are engaging with changing perspectives on sexual consent negotiation. Key components of consent frameworks explored in this research are the relationship between the victim and perpetrator, and behaviours of the victim and perpetrator, including the ways in which consent is communicated or sought [or not sought]. Contemporary societal perspectives on consent were explored using survey data from 379 Australians aged 18–35. Results indicate widespread acceptance of affirmative consent approaches to consent, including recognition of passive forms of non-consent communication. However, a substantial minority of participants continue to hold consent views which demonstrate a failure to recognise non-consent in certain contexts and an absence of consideration of contextual cues that may factor into a person's capacity to give free and enthusiastic consent. This highlights the importance of effective education on consent recognition and communication amongst young people.

Keywords Sexual consent · Consent communication · Sexual assault stereotypes · Non-consent recognition · Affirmative consent

Young people are especially vulnerable to sexual violence. Based on Australian Bureau of Statistics data (Australian Bureau of Statistics 2021c), 43.7% of reported sexual assaults occurred when the victim was less than 15, 43.4% occurred when the victim was aged 15–35, and 11.6% occurred when the victim was older than 35. While reported sexual assault rates are known to

underestimate the true rate of sexual assault (Australian Institute of Health and Welfare 2018), the statistics highlight a high incidence of non-statutory sexual assault victimisation in the late teens and early adulthood. Further, data shows that University students are particularly vulnerable to sexual assault (Heywood et al. 2022; Studeny 2020). There are several likely contributors to the high incidence of sexual assault during early adulthood.

Younger people are likely to be more vulnerable to sexual assault due to both their relative inexperience and relative lack of power (Heywood et al. 2022; Nisbet et al. 2022; Pearson 2021; Santelli et al. 2018; Studeny 2020). For example, they are less likely to have the knowledge and confidence to create and maintain their boundaries in sexual interactions and may therefore be more susceptible to peer pressure and social norms around sex or pressure and manipulation from authority figures or older adults.

Younger people are also more likely to be in situations acknowledged as high risk for sexual assault such as parties with alcohol and drugs present. Parties form a key component of socialising for young adults and these parties are key environments for voluntary and involuntary (e.g., drink spiking) intoxication from alcohol or drugs. Additionally, parties or nights out, for young adults are less likely to be supervised by sober parents or older adults and therefore rely primarily on bystander intervention by (often intoxicated) peers to prevent sexual assault (Studeny 2020). As such, it is crucial to understand how the intoxication of a prospective victim or perpetrator factors into judgements of consent.

Finally, younger adults are likely to have interactions with a greater number of potential sexual partners. With casual sexual interactions, differing expectations regarding the communication and negotiation of sexual consent have the potential to contribute to sexual assault cases where the perpetrator falsely believes that the interaction was consensual. In a committed relationship, people will likely learn their partner's preferences and communication styles, making misunderstandings less plausible. However, the attachment to and knowledge of one's partner that is gained through a romantic relationship may make potential victims more vulnerable to coercion. Further, if either or both partners believe that a committed relationship comes with the expectation of regular sexual interactions, coercive tactics to gain sex may be judged more legitimate. By virtue of the tendency for younger adults to have more sexual partners, the potential for genuine or feigned discrepancies in the judgements of non-consent communication and acceptable behaviours to gain sex is increased. Affirmative consent laws are proposed as a solution to prevent such discrepancies. However, without widespread cultural understanding and acceptance of affirmative consent, the risk of sexual assault occurring due to differences in consent judgements remains.

This chapter will explore ways that young people understand consent and non-consent, through a study of young Australians. It helps us to understand the ways that young people understand and interpret sexual consent, how they construe what might be consensual sex, and what might be sexual assault.

Through this chapter, we decode young people's understandings of consent and break down some of the specificities around certain acts and characteristics that can factor into people's consent judgements. Read together, we can see that young people who participated in the survey did have a reasonable understanding of consent and affirmative consent, with the majority able to identify acts that were consenting and non-consenting. There were still, however, significant numbers of young people who were unable to clearly decipher consent and various forms of sexual violence, suggesting that there is room for more education around what it means to consent to sexual relationships in various forms.

USING SCHEMA THEORY TO UNDERSTAND CONSENT JUDGEMENTS

Schema theory has the potential to provide a valuable theoretical foundation for exploring community understanding of sexual consent. Schemas are mental frameworks or representations reflecting generalised understandings of groups or events that are used in decision-making (Axelrod 1973; Bartlett 1995; Vernon 1955). Schemas are formed through life experience, education, and the perceived norms and attitudes of important others. The content of a person's schema typically includes a script that the events are expected to follow and expectations of the characteristic and behavioural cues of those involved (Masser et al. 2010; McKimmie et al. 2012, 2014, 2020). Some of these cues might be salient across many people's schemas, allowing for confident judgements by most people, while others may be less salient, resulting in uncertain judgements, or less common, resulting in differing judgements. When asked to judge if a sexual interaction is consensual, people are likely to compare the event to both their consensual and non-consensual sex schemas, switching between the two as additional information is received (Lee et al. 2021).

WHAT MAKES A 'REAL' RAPE? EXPLORING THREE ARCHETYPES OF SEXUAL CONSENT

Schemas of non-consent will reflect people's idea of what sexual assault looks like. For some, this will reflect a very narrow understanding non-consent, with strict criteria for the identification of sexual assault. This can be classified as a stereotypical understanding of sexual assault. Stereotypical expectations of the offense (e.g., sexual assault is a night-time attack from a stranger while walking home or to one's car), victim (e.g., a woman who physically fights off her attacker and sustains injuries as a result), and perpetrator (e.g., a man who uses physical force) reflect widely held beliefs about sexual assault (Burt 1981; McKimmie et al. 2020). Though sexual assault can and does look like this on some occasions, believing that a sexual assault must look like this stereotype

to be judged genuine is considered a false belief or “rape myth acceptance” (Burt 1981; McMahon and Farmer 2011).

Those whose narrow understanding of non-consent largely reflects stereotypes can be categorised as stereotype reliant. Alternatively, those with a broad understanding of non-consent which includes scenarios without positive evidence of consent (affirmative consent approach) can be categorised as affirmative consent reliant or congruent. Finally, the “no means no” approach to sexual consent can be seen to fit somewhere in between these disparate ideologies, demonstrating recognition of verbal resistance (e.g., ‘no’) unlike the stereotypical approach, but not requiring positive evidence of consent as is required in affirmative consent approaches. Collectively these three approaches, stereotypical, “no means no”, and affirmative consent can function as archetypes to allow people’s understandings of non-consent to be meaningfully categorised for interpretation. While it is likely that people’s schemas may overlap to varying degrees with multiple archetypes, exploring the specific factors in their consent judgments will make it possible to identify the prevalence of different archetypes for different aspects of their schema. For example, a person reliant on a stereotypical understanding of non-consent when considering the relationship of the perpetrator and victim, but a “no means no” approach when considering recognition of non-consent communication.

INTIMATE RELATIONSHIPS AS CUES FOR CONSENT

Research has consistently demonstrated the impact of the relationship between the alleged victim and perpetrator, showing that the greater the extent of the prior relationship (i.e., married vs acquaintances vs strangers) the more likely people will perceive a sexual interaction as consensual (Australia’s National Research Organisation on Women’s Safety 2017; Humphreys 2007). It appears that judgements of consent or non-consent are also influenced indirectly by the relationship of the victim and perpetrator. When a perpetrator and victim are described as acquaintances (counter-stereotypical offense), the behaviour of the victim (e.g., fighting back and cooperating with law enforcement, or not) is more likely to be considered in judgements of perpetrator guilt, and the blameworthiness and credibility of the alleged victim and perpetrator. The impact of an alleged victim’s behaviour on these judgements is greatly reduced, and sometimes non-existent when the alleged perpetrator is presented as a stranger (Masser et al. 2010; McKimmie et al. 2014). This is of particular concern given Australian data shows that from the age of 15, 80% of sexual assaults on women and 73% of sexual assaults on men were perpetrated by someone known to the victim (Australian Bureau of Statistics 2021b).

Discrepancies between identification of stranger and acquaintance rape might also be attributable to the events that typically precede an incident of acquaintance rape. Victim behaviours like allowing men to pick them up for dates, accepting expensive dinners from the man or going home with

the man, wearing revealing clothing, flirting, and initiating a sexual interaction by kissing the other person are often perceived to be communicating a willingness to have sex and have been linked to the attribution of blame to victims of sexual assault, particularly in cases where the victim and perpetrator are acquainted (Australia's National Research Organisation on Women's Safety 2017; Burt 1981; Humphreys 2007; Jozkowski et al. 2014; Lee et al. 2021; McMahon and Farmer 2011; Muehlenhard and Rodgers 1998; Osman 2011; Payne et al. 1999; Shotland and Goodstein 1983). For example, 10% of survey respondents (Australia's National Research Organisation on Women's Safety 2017) thought a man was justified in having sex with a woman after she attempted to push him away when the woman, instead of the man, initiated kissing and brought the man into the bedroom. This suggests that for a substantial minority of the population, certain behaviours (e.g., initiating the sexual interaction) might trigger a consensual sex schema that persists even in the face of subsequent cues for non-consent. While scripts that include the events expected to precede a sexual interaction may factor into correct judgements of consent in cases where sex is consensual, temporal distance from the actual interaction makes these events, at best, ambiguous cues in determining consent. The failure to adjust consent judgements in response to more immediate indicators of non-consent shows a lack of understanding that consent needs to be ongoing in any sexual encounter. Promisingly, the judgements of most respondents suggest that attempting to push away a perpetrator is a widely recognised cue for non-consent and a common component of non-consent schema.

Collectively, it appears that the relationship between victim and perpetrator is a salient component of many people's consent and non-consent schemas and that for some, pre-assault behaviours may trigger a consent schema that is resistant to switching in response to subsequent cues for non-consent. This highlights a need to understand perceptions of different forms of non-consent communication.

CONSENT NEGOTIATION: SEEKING AND COMMUNICATING CONSENT AND NON-CONSENT

Research suggests that physical resistance to sexual activity is a common component of most people's understanding of sexual non-consent and is generally sufficient to trigger a non-consent judgement in cases of acquaintance rape. However, less stereotypical forms of non-consent communication may not be as well recognised.

Widespread recognition of stereotypical forms of non-consent communication is to be expected and is not inherently problematic. However, non-consent schemas that rely exclusively on these stereotypes reflect false beliefs that "real" rape victims will always "physically fight back" and have bruises or marks as evidence of their victimisation (Burt 1981; Canan et al. 2018; Johnson et al. 2021; McMahon and Farmer 2011; Payne et al. 1999;

Thelan and Meadows 2021). Further, while stereotypical beliefs about sexual assault do not appear to completely preclude the identification of acquaintance rape, it does appear that victims who are acquainted with their perpetrator are essentially expected to compensate for their deviation from the stereotype by behaving as a “model” victim (McKimmie et al. 2014).

It is also important to note that stereotypical beliefs around sexual assault are highly gendered, with a focus on male perpetrators and female victims. Although this reflects the most common presentation of sexual assault, stereotypical gender-based behavioural expectations can serve to reinforce rape myths and inhibit identification of sexual assault in cases where the victim, perpetrator, or their respective behaviours differs from the stereotype (Australian Bureau of Statistics 2021b; Burt 1981; Katz et al. 2015; Lonsway and Fitzgerald 1994; Masser et al. 2010; Sexual Assault in Australia 2020). For example, beliefs that idealise men’s sexual dominance and aggression, and women’s warmth and morality foster a belief that men should instigate sexual encounters and that women should serve as sexual gatekeepers who can be characterised as “loose” or “nice” depending on the effort required by the male to succeed in having sex with the woman (Burt 1981; Guerra and Gouveia 2007). Acceptance of this sexual double standard and conservative approaches to sex seemingly leads to the expectation that women are less enthusiastic about sex and underpins a belief in token resistance to sex where a “no” should be “persuaded” into a “yes” (Muehlenhard and Rodgers 1998; Osman 2003, 2007, 2011; Shotland and Goodstein 1983). If an alleged victim does not “fight hard enough”, based on the observers’ own arbitrary expectation, then they tend to minimise or discredit reports of sexual assault in the majority of cases. Of note, those reliant on a very stereotypical approach to sexual consent and non-consent may counter allegations of being part of rape culture by claiming to support the few “true” victims of rape who meet their ‘model’ victim expectations (Canan et al. 2018; Koepke et al. 2014; Masser et al. 2010).

The “no means no” movement, which gained popularity in the late 1980s, challenged preconceptions that sexual assault required physical force, visible injury, or threats of violence, and was typically perpetrated by a stranger (Popova 2019). A schema that reflects this “no means no” approach would crucially allow for recognition of sexual assault in cases where the perpetrator and victim are acquainted, and where the victim communicates their non-consent with a verbal “no” rather than physical resistance. As such, schemas reflecting the “no means no” approach would be incompatible with the idea of token resistance to sex and allow for the identification of sexual assault in cases where there is no evidence of visible injury (Canan et al. 2018; Osman 2007). While this represents an improvement on sexual assault recognition over the stereotype-reliant approach, it is still important to consider the impact of gender role beliefs when operating with a “no means no” approach to sexual consent and non-consent.

The “no means no” understanding of sexual assault fails to recognise that contextual or individual factors may prevent or complicate the direct communication of non-consent. Additionally, the “no means no” approach does not allow for gendered differences in expectations regarding the communication and seeking of consent and non-consent. For example, as previously mentioned, conservative gendered attitudes to sex reflect expectations of men’s sexual aggression and women’s comparatively low enthusiasm or even a degree of passivity in sexual interactions. Even for those whose understanding of non-consent includes recognition of direct communication of non-consent, normalisation of these gendered beliefs about sexual interactions might serve as a barrier to the identification of men’s subtler tactics to achieve sex, like sexual coercion (e.g., accusing the victim of deliberately getting them ‘all worked up’ just to leave them hanging). Compounding this misperception of non-physical use of force or pressure, normalising female passivity would likely reduce identification of passive indicators of non-consent such as a lack of response (e.g., lying still, not reciprocating kissing and touching) or an indirect verbal cue (e.g., I should go back to my friends).

Affirmative consent is presented as a possible solution to ensure all parties in a sexual interaction provide genuine and free consent, by demanding stricter criteria for judgements of consent and ostensibly eliminating ambiguity apparent in previous approaches to sexual consent. This would theoretically preclude misreading a women’s passivity as consent or inferring men’s consent based on expectations of their perceived higher sex drives. While affirmative consent seems an improved approach for reducing the incidence of sexual assault, it is not without limitations, especially amongst young people. Even amongst those who endorse affirmative consent, there may be differences in expectations as to whether this consent should be communicated verbally or through body language. Research indicates that women tend to show a preference for verbal, consent and non-consent communication, while men typically prefer nonverbal communication (Hust et al. 2017; Jozkowski et al. 2014). Additionally, the process of checking in with one’s partner and gaining consent continually may still be subject to debate. For example, is consent to kiss at the beginning of sexual intimacy judged to carry forward to intercourse, or do one or more parties expect continuous or ongoing confirmation of consent? This can be quite confusing, especially for young people or those with limited social and sexual experience.

Another consideration in the application of affirmative consent is perspectives on drug or alcohol use. Intoxication is known to play a role in both sexual assault perpetration and victimisation, particularly amongst younger adults (Australian Bureau of Statistics 2021b; Testa and Parks 1996). Historically, intoxicated women were more likely to be blamed for their assault, but more recent research shows a shift to considering intoxicated victims and perpetrators as less responsible for their actions (Croskery-Hewitt 2015; Henry et al. 2021; Nitschke et al. 2021). This shift for victims demonstrates that there is now recognition that intoxicated people are not capable of giving consent. At

the same time, the law generally regards a perpetrator's intoxication irrelevant (Queensland Law Reform Commission and Jackson 2020). The rationale for this is that committing an act of assault, regardless of intoxication requires action and intent, while being assaulted does not. Although this is seemingly consistent with an affirmative consent approach, where the onus is on the instigator of any sexual activity to ensure their partner's consent regardless of their own intoxication, it is necessary to explore whether young people do understand this difference in victim and perpetrator intoxication.

Crucially for this chapter, the extent to which affirmative consent themes have been incorporated into the sexual consent and non-consent schemas of young adults is unclear. As indicated earlier in this chapter, when people interact with prospective sexual partners who have differing understandings of sexual consent, there is a possibility of genuine or feigned discrepancies in consent judgements, and this may contribute to sexual assault. If we are going to rely on affirmative consent to reduce the incidence of sexual assault, we need to make sure that young people not only understand affirmative consent but are equipped with the skills and confidence to ensure their sexual interactions adhere to affirmative consent principles.

THE CURRENT STUDY

Before developing and implementing campaigns to change societal understandings of sexual consent, it is necessary to evaluate where Australians currently stand with respect to their interpretation of sexual consent. This is particularly important with respect to recognition of less overt forms of non-consent communication, as these are the forms of non-consent that are most likely to result in differing judgements of whether an interaction was consensual. To further our knowledge of young adults' understandings (schemas) of sexual consent and non-consent, quantitative research methods were used to assess participant differences in recognition of behaviours and characteristics that may be considered as cues for the judgement of consent or non-consent. Participants were required to be aged 18–35 and current residents of Australia. They were recruited and completed the survey through the online survey platform Prolific. All participants were reimbursed for their time. The analysis assessed the proportion of participants whose consent and non-consent judgements suggested they were primarily relying on stereotypical, “no means no”, or affirmative consent approaches to sexual consent.¹

BEHAVIOUR AND CHARACTERISTIC CUES

The 379 participants responded to a total of 89 items which listed a single behavioural or characteristic component of the prospective victim (43 items) and perpetrator (46 items). These components were presented as single items to make it possible to disentangle the individual impact of these factors on consent judgements. The order in which the participants were presented with

the victim and perpetrator cues was randomised to avoid order effects. Participants were instructed to ‘indicate the extent to which each of the statements suggest that a sexual interaction would be’ (1) *Non-consensual*, (2) *Likely non-consensual*, (3) *Irrelevant or inconclusive (I’m not sure)*, (4) *Likely consensual*, (5) *Consensual*. Schema theory and a wide literature review led to the identification of five key areas of interest:

1. The victim–perpetrator relationship
 - a. Stranger/just met, colleagues, friends, date, couple, married
2. Non-relevant victim behaviours
 - a. Sexy underwear, apartment invite, initiating kissing
3. Prospective victim behaviour
 - a. Verbal: consent (e.g., encouragement with dirty talk), active non-consent (e.g., “no”), passive non-consent (e.g., should go—home/back to friends)
 - b. Physical: consent (e.g., reciprocal touching), active non-consent (e.g., pushing the other person away), passive non-consent (e.g., lying still)
4. Prospective perpetrator behaviour
 - a. Consent seeking (e.g., asking after comfort of partner), consent ambivalence/disregard (e.g., does not attempt to check consent), sexual coercion (e.g., accuses victim of leading them on), non-physical force (e.g., drink spiking), physical force (e.g., holding down victim)
5. Victim and perpetrator intoxication
 - a. Victim/perpetrator is drunk or on drugs

Within each of these five areas, categories for comparison (e.g., do people more readily perceive non-consent communicated verbally or physically, and actively vs passively) were determined based on both theory and participant responses.² For this research, we were particularly interested in less explicit methods of consent and non-consent communication and negotiation as these behaviours are more likely to be viewed differently by different individuals. Additional statistical analyses were used to determine trends in participant consent judgements within each of the five interest areas. These analyses made it possible to infer the relative prevalence of views that indicate reliance on: stereotypical, “no means no”, or affirmative consent views of sexual consent and non-consent.

In addition to the victim and perpetrator behavioural and characteristic cues, scales from the established literature were used to assess beliefs about gender (Rollero et al. 2014; Spence et al. 1973), sexual conservatism (Burt 1981), and false beliefs about sexual assault (Johnson et al. 2021; Osman 2011; Payne et al. 1999). The participants’ ratings against these scales were

correlated to their judgement of consent in response to victim and perpetrator behaviour to determine which attitudes best-predicted recognition of different forms of non-consent communication and negotiation.

Collectively, the findings provide preliminary support for moderately widespread acceptance of affirmative consent approaches, however, there are some concerning implications of the results with many participants continuing to rely on elements of stereotypical understandings of sexual consent.

QUANTIFYING RELIANCE ON THE ‘REAL RAPE’ STEREOTYPE

The relationship between the victim and perpetrator influenced consent judgements for approximately 40% of participants. Participants were most likely to infer consent when the potential victim and perpetrator were described as married or in a committed relationship (~50% of participants). In response to statements where there was a non-platonic relationship (prior sex or being on a date) consent was assumed by around 30% of participants and where there was a platonic relationship (friends or colleagues) consent was assumed by around 18% of participants. When informed the offender and victim have just met, around 10% of participants assumed consent. Although fewer participants assumed consent when the potential victim and perpetrator had just met, the finding that a tenth of participants indicated that having just met someone was suggestive of consent was surprising. This unexpected finding may be attributable to the ambiguous wording of the item. In phrasing the item to state that the potential victim and perpetrator had just met, participants could have inferred the cue suggested an interaction consistent with a one-night stand, instead of the ‘stranger in the night’ stereotype it was intended to assess. However, this still suggests that a tenth of the participants perceive just meeting someone as sufficient basis to infer likely consent in at least some contexts. When judging the role of the victim–perpetrator relationship, 10% of participants appear strongly reliant on sexual assault stereotypes of stranger rape and 40% of participants appear somewhat reliant on sexual assault stereotypes of stranger rape, with increasing degrees of prior intimate association judged as increasingly suggestive of consent. These results support the conclusions of literature that the victim–perpetrator relationship informs judgements of consent for many people (Abrams et al. 2003; McKimmie et al. 2014; Viki et al. 2004).

This has troubling implications for recognition of sexual assault as it does not reflect the reality that the majority of sexual assaults are perpetrated by someone known to the victim (Australian Bureau of Statistics 2021b). Further, it demonstrates a failure to consider the possibility of intimate partner violence. Unfortunately, reports consistently show that for women at least, the greatest risk of harm is from their romantic partners (Australian Bureau of Statistics 2021a). While most people’s relationships are not characterised by abuse, the power and control imbalances present in abusive relationships have implications for judgements of sexual consent: young people imagined

sexual consent in many instances, especially for people already in existing relationships, however fragmentary.

Much like the relationship of the victim and perpetrator, some behaviours of the victim do not directly confer sexual consent, but they do inform many young people's judgements about consent. As we saw in Chapter One, various actions by victims were understood as common signifiers of consent in the recent past, yet it is notable that there are many continuities even now. Examples of these behaviours include the prospective victim wearing sexy underwear, inviting the prospective perpetrator up to their apartment, or kissing the prospective perpetrator first. These behaviours were judged as likely indicators of consent by 31%, 42%, and 45% of participants respectively. This suggests that a substantial number of participants' understandings do not reflect affirmative consent ideals as behaviours or acts not relevant to the sexual act in question may factor into their decision-making. Though it is possible that participants who, for example, consider initiating kissing as an indicator of consent to sex would be responsive to non-consent communication, inferring consent from the earlier behaviour demonstrates a willingness to assume consent for one act based on consent to another.

This is particularly concerning in light of research showing that for some people, consent to one sexual intimacy can trigger a perception of irrevocable consent which reduces receptiveness to even unambiguous cues for non-consent (Australia's National Research Organisation on Women's Safety 2017; Hust et al. 2017; Lee et al. 2021). This would be most likely for people whose schema is dominated by a stereotypical understanding of consent and non-consent. Though those more reliant on a "no means no" approach to consent and non-consent would be more receptive to at least direct non-consent communication, they may rely on these non-relevant cues when uncertain in their judgement of more ambiguous non-consent behaviours. This assertion is supported by the finding that participants who judged non-relevant behaviours of the victim to be suggestive of consent were also more likely to perceive subtle, passive forms of non-consent communication as unclear or indicative of consent.

It is also worth noting that individual effects of relationship and victim behaviour are likely cumulative when they co-occur. Interpreted in light of prior research, the results of this study suggest that as the extent of the victim and perpetrators relationship increases, the impact of the victim's earlier behaviours will more strongly influence judgements (Australia's National Research Organisation on Women's Safety 2017; Masser et al. 2010). For example, if a woman wears sexy underwear on a date where she is then assaulted by her date, this may be more likely to be misinterpreted as consent to sex than if a woman simply wore sexy underwear and was then assaulted by a stranger. Alternatively, if a person goes on a date and invites their date up to their apartment and initiates kissing, this may be judged as more consistent

with consent than if they just invited their date up to their apartment. Potential cumulative effects of relationship and behaviour should be tested in future research.

As stated earlier in this chapter, these relationships and behaviours may frequently precede a consensual sexual interaction and it is not unreasonable to assume that a committed couple are more likely to have consensual sex than people with no pre-existing intimate relationship. However, if these assumptions of consent influence or override judgements of more directly relevant cues, they may contribute to sexual assault.

EVALUATING CONSENT COMMUNICATION: PAYING ATTENTION TO THE PROSPECTIVE VICTIM

Given the apparent prevalence of people whose responses to non-relevant cues suggest stereotypical or “no means no” understandings of sexual consent, it is essential that we determine whether the responses to relevant cues are similarly limited. Participants nearly universally judged that attempting to push a person away (95%) or saying “no” or “stop” (97%) was communicating non-consent. Based on these results, it is possible to conclude that with regard to victim behaviour expectations, nearly all participants’ sexual consent and non-consent schema content is at least at the level of “no means no”. These forms of active physical or verbal non-consent were judged to be consensual by only 1% and 2% of participants respectively. The remaining participants indicated that the behaviours were irrelevant, or they were unsure whether they suggested consent or non-consent. This means that a small percentage of the population is heavily reliant on stereotypical non-consent schemas and resistant to recognising even the more explicit non-consent communication.

The majority of participants judged that lying still (76%) or saying that they [the victim] should go (75%) was suggestive of non-consent, whilst a small minority of participants indicated that these passive physical (4%) or verbal (5%) forms of non-consent communication were consistent with consent. It is likely that understandings of non-consent communication have progressed beyond a traditional “no means no” understanding for approximately three-quarters of the participants. This provides a strong basis to conclude that most young adults have not adopted beliefs like token resistance to sex and are able to recognise even relatively passive forms of non-consent communication (Osman 2003; Popova 2019; Thelan and Meadows 2021). The results also suggest that these participants are not relying on traditional gender role expectations in their judgements of consent as the passive behaviours would align with gendered expectations of women as sexually passive (Barker and Galliher 2020; Burt 1981; Guerra and Gouveia 2007; Osman 2003).

Of concern, around 20% of participants were unsure whether these passive non-consent behaviours were indicative of consent or non-consent. This is particularly troubling for those making judgements of consent from the perspective of assumed consent (either stereotypical or “no means no”

approach). In these cases, the same uncertainty when judging a passive non-consent behaviour would result in differing judgements of consent overall. A person relying on an affirmative consent approach to non-consent would assume non-consent and be looking for evidence of consent. In contrast, for someone assuming consent, evidence of non-consent is required before they can shift their judgment to identify sexual non-consent. For example, a framework for understanding sexual consent that allows the assumption of consent may allow for a behaviour such as lying still during to be ignored or overshadowed by a seemingly clearer indicator of consent, such as initiating a kiss earlier in the evening. A person operating under this framework would then be capable of perpetrating an assault under the false belief that their partner consented.

EVALUATING CONSENT NEGOTIATION: PAYING ATTENTION TO THE PROSPECTIVE PERPETRATOR

While perceptions of the potential victim's behaviour are essential, it is important to note that victim's behaviours and communication of consent or non-consent do not occur in a vacuum. For example, even an explicit "yes" may not indicate consent if a victim is giving said "yes" under pressure or out of fear. For this reason, it is also necessary to explore judgements of the potential perpetrator's behaviour. The potential perpetrator's consent-seeking behaviours, like reassuring their partner that there is no pressure to have sex and asking after their comfort were viewed as suggestive of consent by 82% of participants and as suggestive of non-consent by 4% of participants. This provides a baseline for comparison of judgements when the potential perpetrator showed a disregard or ambivalence towards their partner's consent by failing to inquire after their consent and continuing to have sex with a partner who is lying still rather than participating. Approximately 76% of participants understood this behaviour to be non-consensual while 20% were unsure and 4% interpreted this behaviour as consensual. These results indicate that most participants recognise passive non-consent from the perspective of the perpetrator as well as the victim.

Sexual coercion was more widely recognised. When considering coercive behaviours (for example, accusing a partner of being a tease, or saying that the partner would do a certain act if they loved them), 83% of participants identified these patterns as indicating non-consent. Only 3% of participants judged sexually coercive behaviours to be consensual, and 14% of participants expressed uncertainty. While the participant's recognition that disregarding or coercing 'consent' from a partner is fairly high, it is apparent that many are unsure of their judgements of these behaviours. Failure to recognise consent disregard as suggesting non-consent suggests these participants have not incorporated affirmative consent approaches into their non-consent schema and are instead relying on primarily stereotypical or "no means no" consent approaches. As addressed in the discussion of responses to the potential

victim's behaviours, it seems likely that participants who expressed uncertainty may rely on less relevant cues when judging similar sexual interactions. For example, many sexually coercive tactics occur within established relationships. Participants uncertain as to whether sexual coercion is consensual or not may then rely on their assumption that being in a committed relationship is suggestive of consent to conclude that an interaction is likely consensual.

The most obvious forms of non-consenting sex were widely recognised as such. The use of physical force to hold one's partner down was judged to be non-consensual by 90% of participants and consensual by only 2% of participants. Pressuring a potential partner to consume drugs or alcohol, removing the condom during sex, spiking drinks, and threats of ending the relationships, career consequences, and physical violence were all judged as even more indicative of non-consent. The recognition of use of force and threats as non-consent is expected as these overt forms of pressure are consistent with stereotypes assumed to be incorporated into nearly everyone's idea of non-consent. Responses to items around drugs and alcohol demonstrated that participants clearly differentiated between a potential perpetrator pressuring the prospective victim to consume drugs or alcohol or spiking their drink without their knowledge (involuntary intoxication), and the victim or the perpetrator consuming drugs or alcohol by choice (voluntary intoxication).

DOES INTOXICATION INFLUENCE RECOGNITION OF SEXUAL ASSAULT?

Participants generally viewed voluntary intoxication of the victim and the perpetrator as suggestive of non-consent, with the perpetrator being drunk considered the most suggestive of non-consent (76%) and the victim being drunk as the least suggestive of non-consent (67%). Of note, around one-third of participants thought a potential victim's intoxication was not relevant or an unclear indicator of consent or non-consent. An additional 4% of participants thought that the victim's intoxication suggested consent. This indicates a failure to recognise that victim intoxication prevents true consent due to cognitive impairment (many jurisdictions recognise that a victim cannot give consent if they are intoxicated by alcohol or drugs). Participants who thought victim intoxication suggested consent may have been relying on stereotypical understandings that reflect the idea that those who choose to be intoxicated are "asking for it" (McMahon and Farmer 2011; Thelan and Meadows 2021). While most participants understood that an intoxicated perpetrator suggested non-consent, around 20% were unsure of the implications of perpetrator intoxication on consent. These judgements reflect the role of alcohol in sexual assault perpetration and victimisation (Heywood et al. 2022; Leone et al. 2022; Nisbet et al. 2022; Testa and Parks 1996), but are seemingly contrary to recent research findings that intoxicated perpetrators and intoxicated victims are both considered less responsible for their actions (Croskery-Hewitt 2015; Henry et al. 2021; Nitschke et al. 2021). This apparent discrepancy may be

due to a disconnect in recognising non-consent and attributing blame: more research on consent, attribution of responsibility, and intoxication is needed.

CONTEXTUALISING JUDGEMENTS OF VICTIM AND PERPETRATOR BEHAVIOUR DURING SEXUAL INTERACTIONS

Having explored participants' responses to behaviour and characteristic cues, it is also worth exploring how their judgements of consent may be connected with aspects of participant demographics, their attitudes, and their judgements of other cues. Even with the restricted age range, as participants got older, they became more likely to misjudge victim behaviours like saying they [the victim] should leave, lying still, and attempting to push the perpetrator away as indicative of consent. Older participants were also slightly more likely to perceive sexual coercion and drink spiking as relatively more consensual than younger adults. Although we cannot be certain of the reason for the effect of age on non-consent recognition, one possibility is that explicit consent and respectful relationships education has become an increasingly common component of Australian sex education in recent years but was not commonplace for older participants in the sample (O'Flaherty 2021; Queensland Department of Education 2018). The potential link between consent education and perceptions of behaviours like sexual coercion and passive non-consent communication could be explored in future research.

Gender of the participants also influenced their interpretations of consent. Findings regarding non-binary participants should be interpreted with caution as there were only nine non-binary participants in the sample. Adequate numbers of men and women were recruited for the study so these findings can be interpreted with more confidence. There were gender differences in the judgement of passive forms of consent recognition with non-binary participants judging these behaviours as slightly less consensual than women, and men being most likely to judge these behaviours as consensual. The gender differences between men and women are fairly typical of research in this area as women tend to more readily identify non-consent and subtle forms of aggression (Card et al. 2008; Harris and Knight-Bohnhoff 1996; Jozkowski et al. 2014). There were also some gender differences in judgements of the potential perpetrator's behaviours, with women more inclined than men to view a perpetrator's failure to check in with an unengaged partner as suggestive of non-consent.

Compared to their non-religious counterparts, participants who considered religion an important part of their lives judged a "no" and drink spiking to be more consistent with consent. They also, unexpectedly, were less likely to view making the effort to seek consent as a positive indicator of consent. Compared to left-leaning participants, people with right-wing affiliations tended to judge behaviour as more consensual, including sexual coercion, drink spiking, and

use of physical force. Participants who held more traditional gender roles, or who endorsed sexism more broadly, were less likely to recognise non-consent, as were participants who identified as sexually conservative, or who upheld rape myths. Specifically, more stereotypical attitudes to gender, sex, and sexual assault were associated with reduced recognition of verbal active non-consent, verbal passive non-consent, physical active non-consent, physical passive non-consent, consent disregard, coercion, drink spiking, and use of physical force. Given the widespread impacts of traditional beliefs around gender, sexual assault, and sex, the existence of these attitudes should be considered in the conversation around sexual consent education and intervention. It is important to recognise how intertwined these attitudes are to responses to potential sexual assault scenarios as they may inhibit long-term attitude change.

CONCLUSION

The findings of this research suggest that while the uptake of affirmative consent beliefs is fairly widespread, substantial minorities of the population of young adults are still drawing on a narrower understanding of non-consent characterised by “no means no” or stereotypical beliefs. Those who less readily identify non-consent communication from victims and potential perpetrator behaviours likely to foster non-consensual encounters are also more likely to rely on non-relevant cues in their judgements like the relationship of the victim and perpetrator and the clothing of the victim. This is particularly true of those who endorse traditional gender roles or sexist ideals, false beliefs around consent, and sexual conservatism.

This study of young adults highlights some potential limitations of affirmative consent. Efforts to implement affirmative consent in our society cannot ignore the complexity in which the negotiation of consent in sexual interactions occurs. As it currently stands many young Australians have adopted an affirmative consent approach to sexual interactions. However, this is far from universal, even in the presumably safe and anonymous online environment in which this research was conducted. The tendency to infer consent from a relationship is widespread and demonstrates a failure to consider the reality that most sexual assault is perpetrated by a known offender, often a romantic partner. Efforts to challenge more stereotypical approaches to sexual consent, need to consider the broader societal infrastructure in which sexual interactions take place. Participants who endorse traditional ideals of masculinity and femininity may be more resistant to educational efforts to increase recognition of subtler versions of non-consent, but recognising these forms of non-consent is particularly crucial in environments when a “no” isn’t really an option.

NOTES

1. Ethics approval for this project was granted by the University of Queensland Ethics Committee (Clearance number: 2022/HE001066). Participants were recruited using the Prolific survey platform. Those who chose to participate in the study clicked on the survey link in the study advertisement. Before proceeding to the main study, participants were provided with information about the study and then required to indicate their informed consent to participation. Payment was awarded automatically upon completion of the survey.

Data was collected over a period of 1 week in early 2023 after final ethics approval. The final sample consisted of 379 individuals (49% Men, 49% Women, 2% Non-binary, <1% Other: Gender fluid) aged 18–35 years old ($M_{age} = 27.08$, $SD_{age} = 4.78$) and currently living in Australia (82% Australian, 18% Other). The original sample size was 383. One participant was excluded for an incomplete survey response and three participants were excluded because they did not meet the specified age eligibility criteria (18–35). All demographic information was self-identified by participants (more detailed demographic data is available on request). The majority of participants identified as Heterosexual (70%), Atheist or Agnostic (58%), white or white European (60%), centre left (40%), and middle income (47% \$45,001–120,000).

2. Exploratory and confirmatory factor analyses followed up by internal reliability assessments.

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Communicating Consent in Schools and Online

Abstract Young women are retelling and reshaping stories of sexual assault and consent through testimonial accounts in the online space. In the wake of the global #metoo movement, women shared their stories both on and offline, as issues of sexual violence and consent education were forced onto national and international agendas. One of these online spaces was the Teach Us Consent website. Drawing on almost 3300 testimonies from the Australian Teach Us Consent website and the close reading of a random sample, this chapter considers the way these testimonies, which focus on breaches of sexual consent amongst high school students, reveal that future consent education programs must focus on the nuance and ambiguity within communication around consent and sexual interaction. Education about consent communication may involve acknowledging that which appears (initially at least) invisible or ambiguous. The Teach Us Consent website reveals discourse around consent does not necessarily support affirmative consent strategies such as the long-held mantras of “yes means yes” and “no means no” (Harris, *Journal of Applied Communication Research*, 46:158, 2018). Instead, the Teach Us Consent testimonies emphasise the complexities of consent, refusing to situate silence as a signal of acquiescence.

Keywords Sexual consent · Consent communication · Testimonies · Rape culture · Consent education

In early 2021, almost a decade after being sexually assaulted by another student who attended an elite private boys’ school in Sydney, Australia, Chanel Contos posted a question to her Instagram account. It read: ‘If you live in Sydney: have you or has anyone close to you ever experienced sexual assault

from someone who went to an all-boys school?’ The response was rapid and consistent: ‘within 24 hours, over 200 people replied “yes”’ (www.teachusconsent.com.au; Mackinlay et al. 2023). Contos rightly suspected these responses were just the tip of the iceberg and set about developing a website where women could post their experiences of sexual assault when they were at high school. There was a dual purpose to the website’s functionality, it also encompassed an online petition demanding better and more universal consent education in Australian schools. Since then, the Teach Us Consent website has received more than 45,000 signatures on the petition and more than 6700 testimonies.

Like much feminist activism, and more recently digital feminist activism, Contos’ work came from a deeply personal place. She designed and launched the website while studying for a master’s in gender and education in London. But it was her lived experience, and the associated trauma, of being sexually assaulted during her high school years, which sparked the motivation for Teach Us Consent. When Contos spoke with a friend about their experiences, both wondered: ‘do they even know what they did to us?’ (Contos 2021). The digital testimonies that later flowed through the Teach Us Consent website suggested that the answer was no. The vast number of these testimonies disrupt dominant understandings, or legal definitions, of how rape and sexual harm are experienced amongst students attending elite high schools in Australia and the Teach Us Consent website is clear in its call for ‘more holistic and earlier consent education’ in Australian schools (n.d.). Specifically, that the consent education must teach them *to demolish rape culture*. This is important because essential to Contos’ project are the parallel goals of not only communicating a collective story about the hidden story of sexual harm amongst young women but also encouraging powerful educational and government institutions to consider the importance of how, and what, is being communicated in Australia’s consent education programs.

The Teach Us Consent activism puts consent education in Australian schools as its primary advocacy objective. However, it’s important to note upfront, the significant work that has been done by educators, researchers, and policymakers in the area of addressing issues of gender violence in Australian schools (Mackinlay et al. 2023).¹ Gender justice educator and scholar Amanda Keddie notes that while she is ‘heartened to hear calls for better gender justice and sexuality education’, she’s also ‘a little fatigued’ given the ‘excellent curriculum and pedagogic resources and research’ developed, implemented, and reviewed by colleagues who have been working to address issues of gender injustice in schools for decades (2023, 504). Much of this work has been occurring under the auspice of ‘respectful relationships education’ (RRE), a ‘holistic approach to school-based, primary prevention of gender-based violence’ (Kearney et al. 2016, 104). Of note is Victoria’s *Building Respectful Relationships: Stepping Out Against Gender-Based Violence*, developed by leading Australian gender justice education scholar Debbie Ollis (2018).

Yet, an evaluation report into RRE programs Australia-wide by Monash University's Gender and Family Violence Prevention Centre, voiced concern at the fact that schools often approach RRE in 'ad hoc ways', ranging from sexuality and relationships education, through to pastoral care, child protection, and gender studies (Pfitzner et al. 2022, 12). Keddie notes that while beneficial, respectful relationships education is an 'adult-centred' approach to sexuality education, which often fails to address the complexities of sexual consent. Specifically, the gendered dimensions of discourses and power relations which position women as being without agency or desire, as the gatekeepers, responsible for containing and controlling boys' and men's sexual desires (2023, 505). Australia's education system is not alone in grappling to reduce sexual violence and improve understandings of sexual consent amongst a school-aged cohort. In other jurisdictions, such as the US and the UK, researchers reveal that educators face similar issues: policies around sex education vary depending on jurisdiction or state; varying degrees of attention is paid to sexual violence or sexual consent; and students still remain confused and uncertain about what obtaining consent actually involves (Muscarì et al. 2022, 2; Setty 2022). This is important when we think about how consent is being communicated. If educators' opinions, methods, and programs on teaching sexual consent remain diverse then it follows that young people are struggling when it comes to communicating their feelings, desires, disinterest, or opposition to a sexual encounter.

Analysing the Teach Us Consent testimonies, therefore, provides a valuable insight into not only how young women students experienced consent being coerced or bypassed but also how it was, or in many cases was not, communicated. This is important: a renewed focus on 'communicative competence' challenges arguments that 'total clarity precedes ethical action' (Harris 2018, 155). Examining the discourse around sexual consent amongst high school students reveals not only how consent is being articulated but also the importance of understanding how power, and lack of power, operates in these often emotionally and physically distressing situations. Doing so reveals the nuances and ambiguities inherent in sexual encounters and problematises an affirmative consent model solely based on a clear communication of agreement or not. Through this approach consent communication considers not only a yes or no question, but also, is it ethically or morally right?

This chapter argues that the Teach Us Consent testimonies reveal the content of any consent education program needs to focus on the nuance and ambiguity within communication around consent and sexual interaction. To do so is a risky approach, one which acknowledges that communication around consent may involve acknowledging that which appears (initially at least) invisible or ambiguous. However, this research does build on the work of other feminist communication scholars (e.g., Harris 2018) in advocating for this risk, by showing that discourse around consent does not necessarily mirror reality, nor does it necessarily support affirmative consent strategies. Such strategies (often shaped and supported by feminists) encompass the long-held mantras

of “yes means yes” and “no means no” (Harris 2018, 158). These testimonies emphasise the complexities of consent, refusing to situate silence as a signal of acquiescence. By making silence visible, these testimonies counter troubling hegemonic rape scripts and precise definitions of rape and sexual assault. They also trouble a culture of rape that insists on spotlighting the behaviour of women’s bodies and normalising and ignoring men’s language and actions. In doing so they provide valuable insights into the nuances of communication in consent, and therefore the kind of consent education needed in the future.

This chapter first situates the Teach Us Consent petition and website within the context of Australia’s #MeToo movement and provides an overview of the increasingly digitised approach girls and women are taking to bear witness to rape culture, sexual violence, misogyny, and everyday sexism (Keller et al. 2018; Serisier 2018). Next, it outlines the Australian government’s consent education response to Contos’ activism and considers it in the context of Australia’s elite private school system and the way representations of powerful hegemonic masculinities and femininities emerge in those schools. It then considers this in the context of rape culture, specifically the way hegemonic “rape scripts” reinforce social and cultural attitudes when it comes to understandings of consent. The feminist theoretical and methodologist approaches to this work are then explained and later applied to the analysis of the Teach Us Consent testimonies. In doing so this chapter considers the way these testimonies work to rewrite rape culture through a rejection of scripts that position certain relationships as safe and certain communication methods as discourses of love and care.

TEACH US CONSENT AND AUSTRALIA’S #METOO MOVEMENT

While the #MeToo movement has been a global push for an end to gender violence, and sexual assault amongst high school students specifically is not unique to Australia, the year 2021 was an important moment for Australian women demanding gender justice. In January 2021, sexual assault survivor and activist, Grace Tame was awarded Australian of the Year after speaking out about her experience of being groomed and raped by a teacher while attending a private school. Chanel Contos launched Teach Us Consent in February. But it was March 2021 when thousands of Australian women and their supporters took to the streets in protest marches, incensed by the serious rape, sexual assault, and harassment allegations emerging from within Australia’s parliament house (Hill 2021). Alongside copious reports of gendered harassment and violence from senior members of parliament towards staffers, was the allegation a former ministerial staffer, Brittany Higgins, had been raped in the Australian parliament by another staffer (Hitch 2021). Anger reverberated around the nation about the proliferation of gendered violence towards women working in the nation’s most powerful institution.

The slogan “metoo” emerged from the work of African American activist Tarana Burke in 2006 as part of a grass-roots work to empower girls and

young women of colour who were survivors of sexual violence. The words later became a twitter hashtag in October 2017 in response to sexual assault allegations against Hollywood producer Harvey Weinstein (Mendes et al. 2019; Gilmore 2020). The hashtag's capacity as 'a practice of bearing witness' (Gilmore 2020, 25) means it has had global capacity as an online feminist activist campaign, galvanising other women and activists worldwide to reflect and push against the culture of silence, shame and fear embedded in rape culture. #metoo is commonly used as the moment from which to explore contemporary concepts of digital feminist activism (e.g., Gilmore, 2020; Loney-Howes et al., 2021; Fileborn and Loney-Howes, 2019; Mendes et al. 2019, 2019; Trott, 2021; Nicholls, 2021); however, online feminist communication campaigns designed to raise awareness about issues of consent and gender violence have been occurring long before the #metoo movement of 2017. These campaigns act both as the precursor and/or complement embodied feminist action held concurrently on both the streets and in the digital world.

The movement of women's testimony to the online space and within a variety of digital platforms signals an interplay between female bodies and digital feminist protests. It also signals a desire or need to broaden dominant understandings of what rape can be. This is important: online testimonies are communicating stories about breaches of not only sexual consent, but also stories about a failure to listen, and respond, to women experiencing sexual violence. The Teach Us Consent website is one significant example of an increasingly digitised approach girls and women are taking to bear witness to rape culture, sexual violence, misogyny, and everyday sexism (Keller et al. 2018). It is part of a feminist 'paradigm shift' of 'provocative and risky' feminist politics (Baer 2016, 18). It suggests a politics that distances itself from a focus on rights and equality via 'conventional legal and legislative channels' (Baer 2016, 18). The Teach Us Consent testimonials follow this path, bypassing police and the court systems, which routinely fail victim-survivors. Instead, testimony is taken to the digital realm as an 'e-witness' (Schaffer and Smith 2014). Digital technologies and the emergence and expansion of social media have provided feminists with the opportunity to challenge gender-based violence and rape culture. Essential to much of this activism involves testifying against what is essentially, a rape culture.

TEACH US CONSENT, EDUCATION, AND THE CONTEXT OF AUSTRALIA'S ELITE PRIVATE SCHOOL SYSTEM

Australian researchers, politicians, educators, and cultural commentators have responded to the Teach Us Consent website in many and varied ways. In a 2022 agreement between federal and state and territory education ministers, teaching consent became compulsory in all Australian schools (ACARA 2022, Maunder 2022). Mackinlay et al. (2023, 6) provide a detailed consideration of both this response and work already being carried out in some state

jurisdictions, noting that in the latest version of the Australian curriculum (Version 9.0), consent education resides in the Health and Physical Education (HPE) syllabus (ACARA 2022). This is not to say that some jurisdictions have not made significant inroads in the area of consent education. However, it is important to consider the locus in which the Teach Us Consent's testimonies emerge: Australia's elite private schools. If we are to consider the importance of having, and not having, power operates in the discourse around sexual consent amongst high school students, then it is important to consider the context these testimonies emerge from.

Whether it meant too or not, Teach Us Consent aims at powerful institutions in Australia, namely, the private (non-government) education sector and specifically elite private (non-government) boys' schools. In doing so, it also raises questions about the types of gendered and social ideologies they reproduce. In Australia, the private education sector is one of the largest in the world (Perry et al. 2016, 176). It includes both religious and/or independent schools that are considered 'typologically, geographically, historically, scholastically, and demographically elite' (Variyan and Wilkinson 2021, 2).² Three key benefits of the private school system for parents are the class-based privilege they aim to reproduce—in terms of economic, social, and cultural capital; the supposedly high system of discipline administered and values they purport to instil (McDonald et al. 2012, 10; Gottschall et al. 2010). In doing so, there is an associated nurturing of young men and young women as particular types of gendered subjects (e.g., Proctor 2011; Wilson et al. 2015; Variyan and Wilkinson 2021; Charles 2010; Charles and Allan 2022). There is a hegemonic masculinity valorised in private boys' schools. Gottschall et al.'s research into school marketing texts identify patterns of masculinity including a pronounced focus on leadership and strength, softened by an emphasis on social justice values. Within these texts students are depicted as the 'ideal' masculine subject through imagery of athleticism, of a constant doing or moving, emphasising 'competitiveness, aggressiveness and control' (23). Older boys are positioned as 'hard, strong and capable' (18), and the boys' schools (and their students) are represented as operating in 'an idealised masculine space', one of hyper-masculinity (21). It is important to consider the way masculinity operates within these institutions because of the way they allow gender oppressions to remain unchallenged, invisible, and, in many cases, hidden from public view or categories as the norm (Variyan and Wilkinson 2021).

In comparison, elite girls' schools have moved along both feminist and neoliberal lines, representing themselves as sites in which young women reach their potential and can join young men as future leaders. These schools draw on neoliberal notions of gender that emphasise the importance of 'individual effort, responsibility and entrepreneurial spirit' (Charles 2010, 65), in a version of Angela McRobbie's 'top girl' femininities (2009), where leadership, career aspirations, and personal achievement merge to engage young women in 'competitive individualism' (2007, 728). McRobbie argues that 'top girls' through a capitalist 'educational vocabulary' engage in a 'sexual

contract' whereby feminism and feminist pedagogy are exchanged for a focus on self-responsibility and hard work. It is a place where economic advancement requires 'an abandonment of a critique of patriarchy' (2009, 54). However, it remains a place of complexity. Studies into girls' conceptions of 'hypersexuality' show a 'complex and ambivalent' status (Charles 2010, 68). That is, while young girls are increasingly incentivised to pursue "sexy" appearances and to perform or simulate their sexuality, such positioning is at odds with a desire to be well-educated and successful (2010, 68). Girls' schools, then, remain places of a complex and contradictory nature. They are the places where young women's bodies and minds are required to do and be many things at once. To then layer that ambiguity with demands for them to express clear communication of sexual agreement or not requires these young women to an almost ambidextrous capacity.

Of course, sexual assault is not limited to elite single-sex high schools and while Contos' original callout was directed to private schools there is no doubt, particularly more recently, that alumni from a variety of school types have responded. If the #MeToo movement has clarified anything it is that gender-based violence is entangled throughout institutions—both public and domestic. Yet, many students who emerge from these schools targeted in Contos' original callout go on to work in powerful positions within the political, legal, medical, and corporate domains in Australia. It is important to ask questions about the relationship between masculinities, 'top girl' femininities produced and reproduced within these schools and issues of consent.

The Teach Us Consent testimonies emerge from a predominantly white, middle-class, privileged, and heterosexual cohort. While that does not invalidate the traumatic nature of these young women's experiences of sexual violence and harassment, such a focus does risk a "false universalism" about who is affected by gender violence and what that violence looks like. It is not only white women attending private schools who face assault and harassment through a lack of consent. Yet, as Teach Us Consent demonstrates, this is the cohort that is often heard (e.g., Loney-Howes et al. 2021; Mendes et al. 2019; Hush 2020; Serisier 2018). It's important to consider 'what relations of power and domination exist between those who incite and those who are asked to speak' (Alcoff and Gray-Rosendale 1993, 284). Teach Us Consent offers a partial perspective. There is a risk of erasure here, erasure of the experiences of vulnerable, marginalised, and historically silenced women: Indigenous women, women of colour, queer women, and those from different socio-economic backgrounds. This erasure also silences questions about who gets to consent: those who are already vulnerable and marginalised are also less likely to have the tools or engage in public discourse at such a significant level. While partial, this perspective emerging from the Teach Us Consent testimonies, does offer insights into the cultural factors that influence and determine power structures inherent within narratives about breaches of consent.

RAPE CULTURE, JUDGEMENT, AND A ‘GENDERED GRAMMAR OF VIOLENCE’

Disrupting dominant understandings of who can be perpetrators of rape has long been a goal of feminists’ intent on dismantling rape culture. Kate Harris argues that the word rape has failed to explain the scope or nuance of sexual assault experiences (2011, 52). A specific type of affirmative consent—the ‘yes means yes, no means no’ model—while helpful in some contexts also risks implying that there is a clear dichotomy or distinction between what is, and what is not rape (2011, 52; 2018, 160). However, the online space is not a courtroom and as such not subject to the same constraints, and judgements, as in the criminal justice sector. This section then, considers the ways the testimony in the online context enables, expands, or constrains the reconfiguration of what is permissible when it comes to speaking about rape and consent. As testimonial accounts of sexual violence and harm move into the digital realm a new style of testimony and bearing witness emerges. With that comes questions about the ways in which, how, if at all, they advance the feminist goal of ending rape culture.

Second-wave feminisms of the 1970s gave rise to the term “rape culture”. It is a culture that not only involves the physical act of rape and sexual assault but is also entangled with a multitude of other discursive practices (Keller et al. 2018; Mendes 2015). Hegemonic rape scripts write the story of this culture, governing common beliefs about rape, and what is seen to be a believable or likely assault. Within this culture sexual assault ‘is not only seen as *inevitable* in some contexts, but *desirable* and *excusable* as well’ (Keller et al. 2018, 23). It is a culture where women are represented as being partially responsible or deserving of rape because of their failure to perform ‘chaste femininity, or for sending out signals to men that they are “up for it”’ (23). These signals include staying out late at night, drinking, flirting, clothing style, and previous sexual activity (Mendes 2015, 28; see Chapter 1 of this volume). Language is a key contributor. Along with behaviour, rape culture is a discourse. It is entangled in language emerging from ‘rape jokes, sexual harassment, cat-calling, sexualized “banter”’ (Keller et al. 2018, 24). Essentially rape culture polices women’s bodies; the way they dress, as well as where blame is directed: ‘from the perpetrator in an assault to the victim; and impunity for perpetrators, despite their conduct or crimes’ (24). It is this rape “culture” Leigh Gilmore explains that ‘distorts notions of women’s sexuality, violence against women, and women’s agency... fosters hyperawareness of risk while obscuring the actual conditions in which it typically arises. Either a woman’s body is taken to offer a duplicitous witness in rape culture, or her verbal and nonverbal behaviour is ignored or overridden’ (2017, 134). Inherent within rape culture is the application of judgement, and the lack of what is seen as an authentic or adequate witness.

Rape culture, then, defines what is permissible to speak about, how it is spoken and who is heard. If the Teach Us Consent goal is to demolish that

permissibility, then perhaps the contents of its testimonies provide some guidance as to how to redefine what we understand is consent. In her own analysis of online anti-rape activism, criminologist Rachel Loney-Howes (2020) notes that while rape has often been said to be unspeakable, it is more accurate to consider ‘the parameters of permissible speech within the law, the confession and wider society that enforce its (un)speakability’ (2020, p. 62). Considering rape as something unspeakable (and therefore a secret) normalises rules around who is permitted to speak about rape, reinforces the shame of sexual violence, and ensures the criminal justice system enforces its power and permissibility in defining what rape is and is not (61). A “yes means yes” framework can not operate within this unspeakability. Shame encourages silence when powerful structures define what rape (and therefore consent) is and is not. Understanding rape culture feeds into feminist scholars’ argument about rape: that it is about ‘language, interpretation and subjectivity’ (Marcus 1992, 387). Almost thirty years ago Sharon Marcus argued that rape does not occur simply because men are biologically stronger than women. Inherent in the action of rape is the script that is followed, a script that encourages the perpetrator believe that he is superior and empowered (390). Marcus describes this as a ‘gendered grammar of violence’ whereby men are ‘objects of violence and the operators of its tools’, and women as ‘objects of violence and subjects of fear’ (393). A rapist follows the script embedded with notions of conventional masculinity and femininity which uphold gender inequalities. Put simply, says Marcus, a feminist discourse on rape would stop promoting men’s violence against women and instead focus on women’s will and agency (395). Marcus’ work has faced criticism for the way it may infer, once again, that the onus lies on women to prevent rape, by them having to be the ones to change this script: specifically, as in learning to prevent their own rape (Loney-Howes 2020). However, it does provide a lens through which to analyse the ways the Teach Us Consent testimonies. Sarah Banet-Weiser’s work on ‘popular misogyny’ (2018) contextualises this approach further. For Banet-Weiser, popular misogyny ‘is expressed more as a norm, invisible, commonplace’. Girls and women are ‘hyper visible’ because they are so often understood as bodies, says Banet-Weiser (32). Boys and men are not understood in the same way. Rather, for them ‘masculine desire’, while regularly on display is not subject to hyper-visibility because the masculine is marked as the norm. The result, says Banet-Weiser, is that ‘popular misogyny lives in widespread sentiments that “boys will be boys” when they commit sexual violence, and in media representations of heteronormativity’ (32).

THEORETICAL APPROACH: FEMINIST TESTIMONY AND E-WITNESSING

This chapter is guided by feminist research practices and approaches (Leavy and Harris 2019; Hesse-Biber 2012; Leavy and Hesse-Biber 2007) to better understand the way young women are mediating their experiences of sexual

assault. It considers the feminist approach of bearing witness to sexual assault by providing testimony through witness narratives which are increasingly emerging in the digital context. It does so in two ways: first, it analyses the importance of testimony and collective witnessing. The Teach Us Consent website explicitly uses the term ‘testimony’. Second, it considers what happens when these testimonies emerge in the online space. Testimony, when considered in a human rights setting, is associated with matters involving individuals seeking redress and the prosecution of perpetrators. Specifically, it is to ‘build a picture of human rights abuses’, where survivors put forth their accounts to help form a picture of sustained oppression and violence over time (Kelly 2008, 7). Historically, in this context, testimony includes statements about survivors’ own lived experiences, statements from those told about events, or those who have thoughts or impressions of an event (Laub 1992, 75). Simply, testimony is ‘a crucial mode of our relation to events of our time’, examples being the Second World War and the Holocaust (5). Testimony in this context, is sporadic and fragmented. It is not a complete, ‘totalizable’ account, but rather a discursive practice, one which is, rather than a statement, a ‘vow to tell ... To produce one’s own speech as material evidence for truth’ (5).

Firstly, witness narratives are essential to testimony. They ‘educate and bind readers’ to real survivors and their stories; there is an understanding that the story ‘is joined to an embodied person’ (Smith and Watson 2012, 590). When witness narratives come together they constitute a ‘collective I-witnessing’, that is, where the “I” often comes to represent ‘a collective injury or suffering’ (2012, 600). Alcoff and Gray-Rosendale term this type of witnessing ‘survivor speech’. It is speech that challenges the conventional speaking arrangements. These are arrangements where ‘women and children are not authoritative, where they are often denied the space to speak or be heard, and where their ability to interpret men’s speech and to speak against men—to contradict or accuse men—has been severely restricted to a few very specific types of cases’ (Alcoff and Gray-Rosendale 1996, 205). Witnessing blurs the tangible with intangible: the collectivising of words and narratives online also collectivises memories and feelings of experiences. Affect scholar Lauren Berlant’s (2008) concept of intimate publics helps to conceptualise this collective “I”-witnessing. What makes a public intimate, says Berlant, is that consumers ‘already share a worldview and emotional knowledge that they have derived from a broadly common historical experience’ (2008, viii). An intimate public, Berlant says, ‘operates when a market opens up to a bloc of consumers, claiming to circulate texts and things that express those people’s particular core interests and desires’ (2008, 5). This is important when it comes to considering the way consent is communicated. If these testimonies operate, as Alcoff and Gray-Rosendale’s work suggest they may, by challenging the status quo and suggesting that consent is more complex, nuanced, contradictory, and contextual than a simple “yes means yes” narrative, then along with exposing a lack of sexual consent education, these testimonies are also concerned about the lack of complexity within that education. Analysing the

Teach Us Consent testimonies from this theoretical viewpoint allows us to consider what the ‘broadly common experience’ (Berlant 2008, viii) of rape and breaches of consent amongst young school students is, and ask the question: how can this common experience inform understandings of consent and its relationship with rape culture?

It is important to note here the way survivor speech is mutating in the digital world. The fluidity of the digital environment shapes new understandings of the kinds of subjectivities emerging in these spaces and their impact on sexual consent discourse. The Teach Us Consent testimonies are fragmented; they are a patchwork of experiences, emotions, and reflections. While they continue the feminist approach of bearing witness to incidents of sexual assault, they do so in an increasingly networked, changing, and interactive environment. Schaffer and Smith suggest this mutation is an ‘e-witnessing’: a collection of story fragments from multiple sources coming together in ‘a witnessing without a singular agent of narration’ (2014, 228). E-witnessing is the fragmented contributions that often highlight a grievance or human rights violation using a mixture of texting, blogs, tweets, and the like. There is a distinctly discursive impact in the digital realm with self-inscription is transformed ‘through identity, relationality, agency and embodiment’ (Smith and Watson 2001, 168).

The sheer number of Teach Us Consent testimonies analysed (3296 of the almost 6700 available at the time) required the application of a feminist mixed methods research process, one which involves large data set analysis via the software data management program, NVivo, and the more finely focused technique of discursive textual analysis via close readings of a random sample of texts.³ Taking this approach paves the way for considering the way these testimonies constitute survivor speech by presuming objects ‘antithetical to the dominant discourse’ (Alcoff and Gray-Rosendale 1993, 268); that is, considering whether these narratives work to oppose, challenge, or rewrite common ‘rape scripts’ or ‘rape myths’ which so often taint survivors’ stories (Loney-Howes 2020; Serisier 2018).⁴

REWRITING RAPE CULTURE

Anonymous Was a Women⁵: Exposing the Power and Parameters of the Rape Script

The Teach Us Consent micro-narratives are stories filled with uncertainty, vulnerability, anger, and regret. These are the *feelings* of rape, a mediation of pain in the online space, and a way of speaking with ‘affective vulnerability, if they speak at all’ (Dobson 2015, 154). There is a ‘biodigital vulnerability’ at play (Fotopoulou 2016, 4): there are limits to this testimony, to the survivors’ ability to ‘speak out’ (Serisier 2018). All the testimonies are anonymous. It is an anonymity which violates what life writing scholar Anna Poletti says is ‘the

most basic primary condition of autobiography: that the narrator be identifiable as an individual' (2020, 80). The very thing that could constitute a weakness—its anonymity—became its strength. Anonymity is the magnet for the testimonies themselves. While a courtroom or a police file would need an identified complainant to be considered authentic, it is the volume and depth of the testimonies in one place that strengthen the website's articulated goals: *to demolish rape culture*. Anonymity is what brings the individual to the collective, for, as Smith and Watson would say, 'the "I" to become a "we"' (2012, 600). By virtue of her anonymity the survivor articulates a "we" narrative. While her experience is specific to her own body, it resides amongst similar experiences, in similar times and places. This anonymity reveals and reinforces a contradictory wilfulness and vulnerability. This anonymity means identity is limited to pronouns, producing both anonymity and intimacy in that the reader is being directly addressed. The number of testimonies is, at times, overwhelming. Dozens can be read in a relatively short space of time, magnifying the scale and the repetitive nature of sexual assault. There is a repetition in themes, settings, and responses. Throughout the testimonies, the age of the survivor is frequently stated (and often this is someone only 15 or 14 years of age—below the legal age of consent in Australia), alcohol and intoxication are familiar themes, and both parties and private residences are common settings. Demands for oral sex are common, and physical force is often used by the perpetrator.

For the survivor, the after story is almost as important as the moment: it is a field of shame and disgust—with herself, "he", and others. With the identities anonymised, commonalities emerge in relations; these relations are entangled in complex power structures. The sexual encounter becomes more than a simple yes or no, there are often relationships at play: friends, boyfriends, even recent acquaintances. Power, of course, 'is a relation' (Weedon 1997, 110) and the relations identified here are relations not only relations between bodies but relations of power with and between survivors and fellow students, principals, teachers, parents, and educational institutions. It is this power which has failed to allow women's embodied experiences of pain, to be recognised on an individual level.

He was my first boyfriend, first kiss, first love, first everything. We dated for 9 months and we broke almost a year ago. It wasn't until after we had broken up and I had a consent talk before our school formal, that I realised I had been sexually assaulted throughout the course of a 9-month long relationship.

* * *

Our friendship groups were intertwined so I felt it necessary to tell my friends what had happened. At first they all seemed supportive, when in actual fact they didn't believe me and remained close friends with my abuser.

Much like the way feminists long disputed the rape script which enabled husbands to rape their wives without penalty (Alcoff and Gray-Rosendale 1996, 203), the Teach Us Consent testimonies provide the opportunity to trouble the meaning of both romantic and platonic relationships by associating word ‘friend’ or ‘boyfriend’ with phrases like ‘raped me’, ‘sexual assault’, ‘scared’, and ‘pinned to the ground’. The words ‘boyfriend’ and ‘friend’ operate ambiguously here, often meaning two things at the same time. As evidenced by the two examples above, the Teach Us Consent testimonies identify ‘boyfriends’ or ‘friends’ as those who have inflicted pain or reinforced the pain of sexual violence. This is a common refrain throughout the thousands of Teach Us Consent testimonies. The subject ‘friend’ or ‘boyfriend’ conventionally signals an important, reliable, and safe body to be with; a safe relationship. In the Teach Us Consent testimonies ‘friends’ or ‘boyfriends’ are usually people who know each other very well, who may have been linked romantically both before, and continue to have contact after the sexual assault has occurred. There is a sense of trust and love written into subjects who are also the perpetrators’ pain. The friend or boyfriend has been a relation for some time and yet is also a subject with whom the testifier identifies as having a sexually violent or harassing experience with. The friend and boyfriend inhabit two spaces at once. If rape scripts, as Sharon Marcus contends, are ‘scripted interaction[s] which take(s) place in language’ (1992, 391) then a new grammar of sexual violence emerges in the way these words of relations are placed within these micro-narratives. The relationship between survivor and perpetrator, often connected to love and care, has in turn made the sexual encounter that occurred between survivor and perpetrator less clearly defined.

There is an absence of burly strangers jumping out from dark alleyways in these micro-narratives. Reconceptualising the meaning of these words in relation to sexual violence also resists the way fear is operationalised to regulate women’s bodies and the places and spaces in which they can inhabit. That is, they expand the parameters of the scripts within rape culture which suggest that strangers are rapists and rape is rare (Harris 2011, 44; Mendes 2015, 28). These scripts guide and restrict the places women’s bodies are considered safe. That is, not the public place (for it is here these scripts tell women to be fearful) but rather in the private space surrounded by the familiar (and often, under the male gaze). In contrast, fear is juxtaposed with trust, it surrounds words depicting someone trusted, or known; someone who represents safety and care.

CONSENT: WHAT’S LOVE GOT TO DO WITH IT? EVERYTHING

The Teach Us Consent testimonies question discourses (prevalent in both legal and mediated settings) that suggest rape only occurs when a victim is attacked or fighting the perpetrator off. They also reject a commonly understood way victims ‘should’ behave when, or after, being raped or sexually assaulted (Loney-Howes 2020, 61; Nicholls 2021; Serisier 2018). This

discursive disruption of what caring relationships look like continues into descriptions within the testimonies of liking or loving the perpetrator of sexual violence and breaches of consent. One survivor reflects on her sexual assault in this way: ‘I was still in love with him, and believed he loved me back. I thought that was how love worked’. There is no indication whether the testifier had provided affirmative consent, whether it was either requested or granted. And yet, it indicates, at the very least, some kind of discomfort when it comes to sexual interaction. It also suggests some sort of acquiescence; exactly what kind it is not clearly communicated. Another testimony writer recalls crying while being ‘forced’ into sex and then hugged ‘for being so understanding of his needs’. Being loved (or in the second example hugged), or desiring love and connection are common themes that appear throughout the testimonies.

We never had sex, but when did do sexual things, almost 90% of the time the conversation would go as follows—“I don’t really feel like it can we please cuddle or watch a movie”, and he would say “come on please you know I love you” or “I saved up for you, you promised” or “I need it” something along those lines. basically manipulating me into some form of a yes. He guilt tripping me till I would give in.

Through the testimonies, the perpetrator is someone the survivor trusted or knew, and often someone they did, or still do, have regular contact with. Leigh Gilmore points out women are often denigrated for their actions in circumstances where sexual violence has occurred: case as making ‘wilful choices or even risk-taking behaviour’. This can involve criticisms for knowing the perpetrator, failing to leave when feeling unsafe, and overall ‘seeing victimisation as cooperation or participation’. As the examples both above and below show ambiguity haunts the discourse of consent. Often silence is interpreted as consent. It is ambiguous and unclear. It is an inability to articulate feelings of fear and guilt. Manipulation is at play, but so is power. The survivor struggles to have her voice heard, her desires acknowledged. Her ability to communicate affirmative consent falters; instead, it is her silence or acquiescence that is interpreted as such.

AMBIGUITY OF CONSENT

I didn’t say yes, I didn’t say no. He knew I was unsure but kept going anyway. I didn’t realise he was the one that did something wrong in the situation. For a year I’ve believed that it was my fault because I should have been more verbal that I was unsure.

* * *

While we were hiding at some weird rock thing at this place he would put his hand under my bra or under my undies. I kind of just let it happen because I didn't know what to do or say. I was scared to say no.

The Teach Us Consent testimonies don't always incorporate spontaneous, traumatic violence according to the dominant parameters of what is acceptable or what is considered an appropriate response when it comes to consent. At times, they reveal encounters the survivor finds embarrassing or shameful. As the above examples show, consent is interpreted somewhere in the silence between yes and no. There is no affirmative consent granted or refused, but neither was it requested. This problematises "yes means yes" and "no means no" mantras, discourses around consent that feminists have long shaped and supported (Harris 2018, 158). In another testimony, a survivor describes being 'frozen' as she was being assaulted, but still experiencing an orgasm. The experience left her with feelings of shame and mortification as her physical response did not align with common understandings of what pain and sexual violence looks like. Admitting to orgasm in public, in a legal setting, or in the media, would generate harsh judgements and accusations of mixed messaging, insinuating that the survivor did little to resist the violence and enjoyed it.

As a sports focused school, XXXX in Adelaide had a toxic culture that favoured boys (especially those who played for the school) over girls and their experiences. I was raped by a XXXX when I was in Year 9 at a party on the bathroom floor, unable to move, pinned to the ground, and afterwards was the victim of slut shaming and bullying from the rest of my peers. When I complained to our dean of students he continued the same narrative, citing that what I was alluding to would never of happened because these boys have their whole lives ahead of them and wouldnt do anything that stupid. Alternatively, I was told by the dean to make better life choices.

The issue of relationships re-emerges in the example above (one of many) where the writer's complaint is relegated to an illusion by those in positions of authority. Here the dean of students, the person charged with student well-being, was disbelieving in the story of rape. From the testimony above, it appears as though the survivor's complaint did not fit an accepted rape script. The comment 'alluding to' suggests those in a position of care are subscribing to the norms of 'popular misogyny' as outlined by Banet-Weiser (2018). The dean trouble's the veracity of the survivor's statement, unable to accept the way it goes against the norms of masculinity because the alleged perpetrator 'wouldn't do anything *that* stupid'. The survivor's body, however, remains on show, and a body of disbelief. She must 'make better life choices'. The blame is redirected from the perpetrator on to the victim. The woman's agency is muffled, the scripts that maintain rape culture operationalised.

There is a temporality at play here too. Generally, these testimonies reveal that the survivor often only recognised that their experience was one of sexual

assault sometime after the physical incident has occurred. Rape is a memory that changes over time. Many have either not initially recognised their experience as sexual assault or lack of consent, or have been unable to articulate it as such at the time of the sexual encounter. Unsurprisingly then, many were unable to fit that memory into an accepted rape narrative. Their grammar of violence does not fit the hegemonic rape scripts, but it also doesn't fit mantras of affirmative consent like "no means no" (Harris 2018).

THE COMPLEXITIES OF CONSENT COMMUNICATION

The Teach Us Consent testimonies constitute a form of e-witnessing that is very much a collective testimony of what consent education needs to consider and, therefore, the diverse ways it can be communicated. They gesture towards the complexities of communicating the experience of rape—the feelings, the emotion, the physical sensations. This communication, often, does not align within the accepted parameters of hegemonic rape scripts. But neither does it align with affirmative consent "mantras" that rely on clear (usually verbal) communication (Harris 2018). Instead, Teach Us Consent contributes to the growing body of research suggesting that mediated voices speaking out online about their experiences of rape and sexual harm are doing important work in terms of expanding the parameters of permissible speech when it comes to sexual violence. In doing so they are continuing the important, and ongoing feminist project of demolishing rape culture.

The testimonies take words commonly associated with trust and care—friend, boyfriend, and dean (along with parents in many other cases)—and transform them from subjects representing safety and security to something else. In times and places where sexual encounters occur, or have occurred, they exist in positions of power and violence, but also judgement. If we consider the spaces from where these words are produced from—from within institutions where hegemonic masculinities are articulated and the performance of "top girl" femininities encouraged—the communication of consent faces significant challenges. Taking these words and placing them into the online space online allows for the underlying meaning of these words to be contested more widely. Rather than considering what these words *should* communicate, we can see how they are *actually* operating in terms of consent communication.

But this is a project that still has a long way to go, and much of that work involves deep thinking about the nuances of consent communication. The testimonies reveal that there are significant complexities and ambiguities inherent in scenarios involving where consent is required. An enthusiastic "yes" or "yes means yes" is a relatively simple response to a complex problem. Failures of consent communication are more than just a simple misunderstanding (Harris 2018, 171). As Harris says, communication is 'by nature, difficult, fraught, exciting, complex, curious and rewarding. In the midst of that complexity, humans still, overwhelmingly, make moral decisions' (171). Perhaps then, considering these challenges it is important to engage with the

ethical and moral side of communication, as much as we engage with the messaging.

NOTES

1. Several ideas in this chapter emerged as part of a team collaboration. Many thanks must go to Professor Liz Mackinlay, Assoc. Professor Margaret Henderson, Dr. Christina Gowlett, and Dr. Bonnie Evans for your expertise and commitment to work in this space. Thanks also to the team at Teach Us Consent.
2. State education departments regulate both public and private school; however, private schools have relatively more independence in their affairs. They charge private tuition fees on top of the government funding they receive (Australian Government 2021; Lye and Hirschberg 2017). See also Ore, Adeshola (2022) *The Guardian* Private school funding in Australia has increased at five times rate of public schools, analysis shows | Australian education | The Guardian; Karl, Paul (2021) *The Guardian* Australian government funding for private schools still growing faster than for public | Australian education | The Guardian. Also see Save Our Schools SOS Australia—Fighting for Equity in Education (saveourschools.com.au).
3. Following Loney-Howes work, this chapter applies a feminist poststructuralist lens to understandings of discourse and power, where ‘to speak is to assume a subject position within discourse and to become subjected to the power and regulation of the discourse’ (Weedon 1997, 116). In doing so it also understands that ‘patriarchy implies a fundamental organisation of power on the basis of biological sex, an organisation which, from a poststructuralist perspective, is not natural and inevitable, but socially produced’ (123).
4. The use of social media as a form of feminist activism requires specific tools of analysis to manage the large quantities of rich and potentially ephemeral data, and research into sexual violence, and especially when this is in a digital media context, requires us to consider particular sensitivities as well as the potential for absences to be ignored. Following the work of digital communications scholar Aristeia Fotopoulou allows researchers to remember that digital feminist activism and, in our case these testimonies of trauma, engage in a type of ‘biodigital vulnerability’. That is, these are ‘contradictory spaces of both vulnerability and empowerment’ (2016, 4). Nvivo’s autocoding facility has the capacity to sort and code data into themes without the intervention of the researcher. Nvivo’s autocoding facility sorted the Teach Us Consent data into 15 themes (through a word text search) under the following headings: assault, boys, consent, education, friends, girls, party, private, school, sex, sexual, sexual assault, thing, times, and year. These autocode results were then used as a starting point to direct a keyword search to thematically

code the data. Nvivo has a group of “stop words”: these are words that it does *not* pick up on to avoid significant duplication. These include gender pronouns (such as he, she, him, her and so on). Adjusting these stop words to include, rather than exclude, these words confirms that most respondents to Contos’s original question: ‘have you ever been sexually assaulted by someone who went to an all-boys school?’ were women. Moreover, most of these testimonies related to heterosexual interactions and that males were by far the alleged perpetrators. Unlike other online platforms such as twitter or media like SMS (Short Message Service), there is ostensibly no limit to the length of testimony that can be uploaded on to the Teach Us Consent website. While there were some lengthy narratives of more than 4500 words, the average word length of the testimonies was 156. The testimonies that form the basis for analysis were imported using a webscraping tool, which gave us the capacity to download 3296 of the approximately 6700 that were stated to be on the website at the time of study.

5. Virginia Woolf famously said that for most of history, anonymous was a woman.

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Consent in Refugee and Migrant Communities

Abstract Approaches to gendered violence are generally based on a rights approach, encouraging women to seek help from the criminal justice system and services that might support them. But a victim’s rights approach to sexual violence and consent is only effective if women see those rights mirrored back at them in the help and protections they seek. Drawing on data from 19 semi-structured interviews with refugee and migrant antiviolence advocates in Australia, this chapter uses Sally Merry’s (Merry, *Human Rights Quarterly* 25:343–381, 2003) concept of a ‘rights consciousness’ to explore the tensions women might experience when problems related to gender are presented as a legal issue. Highlighting the tensions refugee and migrant women might face between taking on a rights defined self, and a self tied to family, kin and community, the findings explore three themes: “Marriage is Consent”, “Loyalty to Men”, and “Experiences with Justice”. Taken together, these findings advance the need to consider sexual violence and consent not just in individualistic legal terms, but as an issue of social justice that considers broader, intersecting inequalities. Rather than encouraging women to take up their rights, efforts should focus on how to ensure a rights approach is affirmed in responses to sexual violence and consent.

Keywords Consent · Sexual Violence · Refugees and Migrants · Law · Subjectivity · Human Rights

Gendered violence (GV) policies and interventions aim to consider the rights of victims/survivors, such as the right to safety, dignity, and justice and are linked to fundamental questions of personhood, citizenship, and equality (Roseman and Miller 2011). Policies and services often consider how

to include marginalised groups by making information accessible, such as translating information into different languages, or making individuals and identified communities aware of laws or other rules and behaviours, and where and how to access help (Love et al. 2017). While these are worthwhile approaches and work for some, they often fall down for a number of reasons, not least because we cannot expect a “one-size-fits-all” approach to work for all groups (Crenshaw 1989; Kapilashrami 2020; Ryan 2019). This chapter considers women’s cultural backgrounds and the ways consent might play out across refugee and migrant communities. However, “culture” is considered here by examining the tensions refugee and migrant women might experience between taking up their rights, structural barriers, and their obligations to family, kin, and community. As discussed in previous chapters, debates concerning consent raise many issues and tensions, and there is a need to consider how interventions addressing sexual violence (SV) might be viewed by women from racialised minorities.

Refugee and migrant women in Western countries such as Australia face a paradox when faced with mainstream GV policy, practices, and laws (May 2015). Representations of refugee and migrant women as vulnerable and coming from backwards and oppressive cultures simultaneously challenge them to take up and engage with Western conceptions of GV, such as those of affirmative consent as an enthusiastic yes. However, there is little regard for the realities of how these principles will be applied, or the implications that mainstream discourse and interventions seeking to address SV might have for women and their communities (Kagal et al. 2019). In Australia refugees and migrants already face significant absences in mainstream policies directing GV interventions and can experience racialising practices that limit their access to essential services (Ghafournia and Eastaer 2018; Maturi and Munro 2023; Vaughan et al. 2019). Sometimes accessing services and systems can entrench inequalities and disadvantages for women, such as poverty and homelessness (Maturi 2023), unintended legal consequences for seeking help (Douglas 2021; Sandra Walklate and Kate Fitz-Gibbon 2021), and risk interventions by other government departments, such as the Departments of Child Safety (Kaur and Atkin 2018) or Immigration (Segrave 2017). On the other hand, women might also be part of marginalised communities struggling with their own inequalities that might not consider gender a priority and can place women at further risk of violence (Bartolomei et al. 2013; Fisher 2013; Maturi 2022). Rather than encouraging women to take up their rights via current, mainstream interventions, this chapter serves as an invitation to groups directing GV interventions to consider efforts that focus on how to ensure a rights approach is affirmed in responses to SV and consent.

Using Sally Merry’s (2003) concept of a ‘rights consciousness’, this chapter explores the perspectives of 19 refugee and migrant anti-violence advocates on the affirmative consent campaign in Australia. Merry draws on post-structuralist critiques of subjectivity that posit the self as defined by multiple subjectivities. Heron (2005), for example, discusses the differences between

your social location, such as your gender, race, or class status, and your positionality. Your positionality draws from your own lived experience, values, and beliefs about how the world works, and thus undergird your actions (Goodkind et al. 2021). While an individual's sense of self might be a product of choice or agency in some contexts, the self might also be reproduced by dominant discourse and norms in changing historical and political contexts, and thus be determined, or influenced by, privilege, power, processes of inclusion and exclusion, and access to resources (Halley 2016). An individual's sense of self can therefore face certain contradictions: Merry's (2003) concept of a 'rights consciousness' describes the tensions women might experience when problems related to gender, such as SV and consent, are presented as a legal issue. In order for women to think their problems can be addressed by the law, what Merry describes as taking on a 'rights defined self', women need to have affirming experiences with systems and services and be able to reconcile these experiences with their ties to family, kin, and community.

The following section locates this research in an international context, considering the tensions between human rights discourse, law making, and the lived experiences of marginalised groups. The findings build on this context to highlight some of the complexities participants in this research raised for refugee and migrant women in relation to current discussions of consent, and how they may or may not come to take on a rights-defined self. Taken together, these findings advance the need to consider SV and consent not just in individualistic legal terms, but as an issue of social justice that considers broader, intersecting inequalities (Collins 2017).

THE LAW, HUMAN RIGHTS, AND SEXUAL AND GENDERED VIOLENCE

The ways that discourse of women's rights, as human rights, have travelled and been taken up across differing cultural contexts has been the subject of significant scholarship (Baines 2017; Merry 2011; Mohanty 2003). GV offences are a relative newcomer to human rights (Coates and Allotey 2023; Logie 2021). Despite the ongoing presence of violence against women throughout history, GV was not recognised as a human rights violation until the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1979 and, later, other international conventions and declarations, such the Beijing declaration in 1995 (Merry 2009). Criminalising GV offences have been on the feminist agenda since the 1800s, however, laws that are in place today can mostly be credited to the "siren call" for law reform that came out of the second wave of liberal feminism in the 1970s (Drakopoulou 2007). Along with equal rights in the workplace, and reproductive rights such as access to abortion, liberal feminists problematised the patriarchal family and sought laws to address practices such as sexual assault and domestic violence (Gruber 2020). Drawing on Foucault's theories of normativity, and Butler's (2011) understanding of gender as performative, Roseman and Miller (2011,

p. 318) highlight the contradictions between international regimes and law-making that ‘create the “new normal” for sexuality and rights’. Rather than rights afforded to a universal citizen subject, what makes a person a citizen is their ability to claim rights (see Altman 2001).

In Australia, human rights feature in national and state policy frameworks directing interventions aiming to address GV. However, references are scarce and couched in international terms, acknowledging a commitment to global efforts to reduce violence against women and children without considering how these rights might be implemented in an Australian context. Despite international obligations and being signatory to various conventions, human rights in Australia have been taken up and implemented in a “piece-meal” fashion (Sear and Mulcahy 2023). In Australia, there is no national “bill of rights”, unlike other Western countries built on liberal democracies (Australian Human Rights Commission). While most states have human rights “acts” or “charters”, at a national level each law that passes through parliament is assessed for what human rights it might engage, often civil or political rights. Proposed laws are then assessed for their compatibility with human rights, rationalising their legitimacy and justifying that they are “necessary”, “reasonable”, and “proportionate”. Sear and Mulcahy (2023, 2) point out, however, that:

crucially, even if a proposed new law would limit human rights, it can still be passed. Courts have very limited powers to adjudicate on human rights matters under the state and territory charters, meaning that the parliamentary scrutiny process is the dominant method for assessing and protecting human rights in Australia.

Australia’s track record regarding Asylum Seekers, with its offshore detention policies and temporary protection visas, provides one example of how state laws might limit human rights. Australia’s offshore detention policies have come to international attention for breaching human rights, however, there has been a lack of accountability or significant sanctions by the international community (Billings 2019; Boochani 2019). While the gendered nature of detention and offshore processing policies have received little attention in scholarship (Vasefi and Dehm 2022), of particular note to this chapter are sexual assault allegations made against guards and staff at the detention centre on Nauru (Freyer and McKay 2021). Sexual assault allegations made by women and children detained on Nauru have not made their way into SV and consent campaigns in Australia or garnered widespread attention from feminists in Australia. Human rights focus on the rights of the dominant majority, in this instance white, citizen, cis-women, while the case of women and children detained on Nauru demonstrate that:

People hold intersectional identities that also constrain the realization of sexual rights, including but not limited to race, disability, immigration and citizenship

status, gender, and socio-economic status; and no one is inherently vulnerable, rather structural forces such as rights violations constrain access to power, agency and opportunity. (Logie 2021, 3)

While human rights might seem to be a safe conceptual space to draw on for GV policy and practices, then, cultural difference seems to be a logical reason to blame, excuse, or erase violence when experienced by cultural “others”.

Rather than being absolute, international laws are supposed to act as a guide to social norms for sovereign states (Merry 2009). However, rights discourse is also a product of dominant norms; policy and practices based on rights-based approaches usually align with the norms and agendas of dominant groups (Spade and Willse 2014). This can go towards explaining why, despite international recognition of violence against women and girls, and the mobilisation of women’s rights via institutions such as the United Nations, there continues to be a failure to adequately consider GV as a human rights issue (Merry 2011). Carastathis et al. (2018) rightly point out that while various forms of domestic violence have been established as human rights violations, refugees are seldom considered for humanitarian protection based on interpersonal violence. Across the globe, domestic violence, which includes SV in intimate relationships, continues to remain hidden as a private matter in the home and is therefore often shielded from being seen as a human rights violation (Gerber and Castan 2021). Seeing as international law is only enforceable by nation states, if nation states do not take GV seriously, which continues to be the case in Australia, then GV as a human rights issue is left wanting too (Roy 2015).

Despite the limits of policies and laws addressing GV, women from marginalised groups continue to be targeted in campaigns addressing GV. In the 1980s and 90s, second-wave feminists came under critique for interventions aiming to address ‘harmful traditional practices’ (Merry 2011) in countries labelled under-developed and “backwards”, such as those in Asia, Africa, and the Middle East. Examples of harmful traditional practices might include female genital mutilation, honour killings, or forced marriage, and are often linked to human rights violations in cultures that hold family, kin, and community as important. In response to the institutionalisation and global travel of a gender equality agenda theorised around the experiences of white, middle-class women, there was a proliferation of difference in feminist scholarship in the 1980s and 90s, calling for the recognition of diversity and systemic racism evident in ongoing colonial practices (Collins 1990; Mernissi 1987; Mohanty 1988; Moreton-Robinson 2021). However, liberal feminists such as Okin (1999) suggested that respecting all cultures under the mantra of multiculturalism and diversity conflicted with liberal values of equality and freedom, as some values and practices of “other” cultures ‘reinforce inequality and violate the rights of women’. Despite any reactions or debates counter to this perspective, during this time the United Nations implemented a number of policies and declarations along similar lines to the sentiments of Okin

and other Western feminists which still stand today (Lombardo et al. 2017). CEDAW, for example, says ‘states should condemn Violence Against Women and should not invoke any custom, tradition, or religion or other consideration to avoid their obligation with respect to its elimination’ (Assembly 1993, article 4). The following findings provide insights into policy “gaps”, or rather the “limits of consent”, when considering the tensions refugee and migrant women might experience when faced with such binary definitions of terms and policy discourse.

IDEAS OF CONSENT

This chapter is based on 19 semi-structured interviews with refugee and migrant women anti-violence advocates in Australia, exploring their perspectives on responses to sexual violence and consent.¹ This research builds on a previous project exploring responses in human services to the issue of domestic violence and refugees (see Maturi 2022, 2023; Maturi & Munro, 2023). All the participants in this research agreed with the premise of affirmative consent: “my body = my consent”, women’s rights are human rights and the illegality of SV. However, participants often disagreed with mainstream media and education campaigns, or the delivery of the information. Participants suggested there were cultural nuances that were not taken into account in mainstream campaigns. Discussions also noted differences both between and within ethnic groups and communities, highlighting that a “one-size-fits-all model” cannot be applied to refugee and migrant women as a homogenous group. The participants in this research, for example, varied greatly in terms of their ethnic or religious backgrounds, their migration pathways and time in Australia, and their own opinions or positions regarding culture, violence, and consent. Participants often spoke from two different subject positions; as a worker or advocate, and as a member of their own ethnic or religious community. Regardless of social location or positionality, there were common themes that arose in the data, displaying the tensions refugee and migrants might face when presented with arguments that frame consent in terms of victim’s rights: 1. Marriage is consent, 2. Loyalty to men, and 3. Experiences with “justice”.

MARRIAGE IS CONSENT

Understanding under what conditions an individual victim comes to redefine her problem as an offense that violates her rights, rather than as a burden of everyday married life, is critical for the study of rights in social movements. (Merry 2003, 346)

Often rights rhetoric is directed at newly arrived refugees and migrants, based on a belief that women might not know what GV is and need education on laws and services available to help (Maturi 2023). Many participants linked

traditional gendered roles to cultural understandings of marriage. Marriage was described as important in many ethnic/racial and religious groups.

I said, “Tell me what your wedding day is gonna look like.”...They can tell you every fork, and the last bloody spoon—they can tell you exactly what their wedding day is gonna look like, and what cake, and how many people, and where, and who ...and how long, and whatever. “Tell me what’s gonna happen the day after you get married” [silence]

...The fact that [sex is] happening, that’s natural...never mind that I don’t get any pleasure out of that, never mind that I hate when it’s happening, never mind that I’m tired...never mind 150 other different things.” So, she puts up with it. She becomes sex on demand. He expects it. And this idea of enthusiastic consent...

The above participant identified as South Asian and 6th generation Australian. She said that many of the women in her community have similarly been in Australia for generations.

They are born in Australia, like myself, fifth generation, family has been here 50 years, but still has strong social and cultural connection to their homeland...So they understand social custom, community expectations, religious obligations, tradition, culture, all those things. There would be today second, and third, and fourth generation Australian girls born and brought up in this country who would still go back to their home country and have an arranged marriage—that’s the system. And people say, “Oh, well you haven’t assimilated. You haven’t acclimated. You haven’t done all those sorts of things.” They probably have and they’re being educated...but they understand that commitment to their cultural expectation.

It wasn’t always that women weren’t aware of or couldn’t define violence, or that they didn’t know where to get help, but that women might be tied by their obligations to family, kin, and community.

There’s that expectation that from [marriage], some women, they move in with their husband and his family. If the woman sleeps in a different bedroom, the whole family gets involved. Like, it’s really—I know in many cultures, the parents-in-law, the mother-in-law lives in the house with the couple...

So, you’re really talking about concepts that maybe for us—because we fought for gender equality and we fought for so many rights in our countries...But when you try to explain a concept like that to a woman who doesn’t know, she really doesn’t know.

This participant, from a Middle Eastern country, delineates between herself as a worker and advocate for women’s rights, and ‘a woman who doesn’t know’. Lifestyles, beliefs, and cultural practices might vary greatly between regions, they might also differ between individual families. There are many

countries in the Middle East, for example, each with different histories, politics, and cultural practices. Differences might also occur between cultural or religious groups, ethnicities within countries or regions, or even those coming from more urban areas where some might have greater access to education and resources than those from rural areas.

Despite these differences, many participants discussed that for refugee and migrant women they supported, as a burden of married life saying no to sex was not an option nor something that was considered. Participants said women would recognise physical abuse as domestic violence or might experience rape as non-consensual and sometimes violent sex, but they would put up with it because of obligations to family, kin, and community. A South American worker from a migrant service talked about how she framed the issue of SV as a human rights issue:

Women often don't identify SV in DV...You actually have to bring it up... women are more likely to respond and say, "Well, actually, he still demands it and I don't want it, but I still go along with it."...So, when you say, "Actually, that is assault. You have a right to say no." And it's a bit of a moment of ... "Oh, gosh, you mean I can actually say no?"...they'll give you the "Yeah, but it's my obligation. It's my role. I'm married. It's expected of me." I approach it with more of a—"It's abuse of your human rights because you have a right to be safe"

This participant said human rights discussions were particularly useful for women who had come as refugees, as they had often learned about human rights along the refugee journey. However, there still appeared to be discomfort around the terminology of "women's rights": 'I think they understand the idea that their right as a human person has been violated rather than knowing you have a right as a woman to say no'.

It was discussed in the interviews that in all relationships, and this includes Western cultures, it might be difficult to ascertain whether sex is consensual as per the definition of an "an enthusiastic yes". This young worker from a South American background discussed the pressure to conform to gendered expectations placed on women as sexually passive and pleasing, and the social sanctions that might come from saying no (Bay-Cheng 2010):

I can say no but then what? I'm going to be a crazy cat lady. There's definitely something wrong with me if I can't have a husband and children. Am I strong enough to face that reality and then have casual sex because I'm a cool single woman? No. Yes, I think I'm divided always because I think things are changing a lot...young people and people from all backgrounds saying what we want to say...but that is again fighting with that monster that has been with us for centuries.....I think it's going to take years. Generations even...I don't think I'm going to live to see a big change...

Taking on a rights-defined self as a subject position is a complex process shaped by dominant norms, and how those norms determine reasonable behaviour and, thus, autonomy and choice. When women do decide to take on the position of a rights-defined self, they are “trying it on for size” so to speak. Whether they maintain this subject position depends on various responses to this new self, and if it is worth it. ‘Those who press on....are people for whom this new position has something to offer. Perhaps they have less to lose from others who oppose them’ (Merry 2003, 350).

LOYALTY TO MEN

Her actions allow the law to define her husband/partner as a criminal under the surveillance and control of the state. A battered woman may be pressured by kin to feel she is a bad wife, while her partner may claim she is taking away his masculinity. The only way she can rescue him from this loss is to deflect the very legal sanctions she has called down upon him. It is hardly surprising that abused women will ask for help from the law, back away, and then ask again. (Merry 2003, 345)

In the interviews with refugee and migrant advocates, masculinity was often tied to culture. Other research on DFV—domestic and family violence—(Fisher 2013; Maturi 2022) has discussed in greater detail that refugee men, and some migrant men are dealing with changing gendered norms as part of the migration journey. A backlash to gender equality is discussed as resulting from a loss of culture, tradition, and status as “head of the family”, in a broader context of inequality and discrimination in the new host country. These same ideas were discussed in relation to sexual assault.

Often relating to experiences from their own culture, participants discussed that in some cultures women and men are not taught about dating and relationships, let alone sex.

My parents were very modern compared to some people I grew up with. But you basically don't have a relationship. You don't touch another male. You don't even have a boyfriend...I was not allowed to talk to a boy on the phone until I think I was 20...Sex is not really talked about until the night before your marriage...

We can't just educate the women and the men are sitting there having this expectation [of sex in marriage]. They've lived in privilege all their life. They don't want to lose that easily...sex is this thing which is so important in my community...it almost is attached to a man's manliness and his worth as a male in the community... they feel like it's their right because they've been denied this right all their life.

The loss of male privileges in the face of women's rights and equality, in this instance the right for women to say no to sex, was said to cause a backlash

from not only men but also from family and community. As discussed earlier, some ethnic communities were identified as having rigid customs and rules around family practices.

If we're talking about the family violence and you're wanting to explore SV...it's around what is your right to say no? What is the gendered norm?...The ramifications if you've entered into a marriage where there were dowry, the ramifications if you leave that relationship.

And, unfortunately...we would like to think that culturally-specific services, faith communities are going to be a harbour for people and often, just like any other church in the Western world, any other community group...they can often be very blaming...it's gonna be a silencing. You do risk being ostracised from your community because why didn't you work it out?...Why didn't you, woman, work this out?

It might be tempting here to consider practices rooted in tradition and kinship structures, such as arranged marriage, to be the problem. However, the construction of "woman" as homemaker, as the thread that holds the family, community, and society together, is familiar in Western culture and institutions as well. Women and men are expected to perform certain masculinities and femininities within and across differing cultural contexts. In this instance, for men who are experiencing a 'loss' of masculinity due to the migration experience, who might be seeing new legal rights and independence given to women and children, women might feel more pressure to forego a rights-defined self in order to 'recuperate his masculinity' (Merry 2003, 37). Women might feel the need to demonstrate loyalty to family and community or try to avoid sanctions, such as being ostracised or face additional violence.

Regarding reforms to sexual consent laws, there were fears for men who occupied subordinate status because of race, class, and citizenship. Deporting men for criminal offences came up. For ethnic groups in Australia who might be racialised and criminalised, such as African young people, there were fears that the whole community might get blamed for young people's misunderstandings over consent. In the following quote, we see a historically supported fear of black men being accused of assault because of their relations with white women.

There's example...Congolese community, they say their young people have some kind of court order...because they have a relationship with mainstream or a white community, and then they become in trouble because they understood the sign wrongly..."She came into my house, so what do I have to do? And she was in my bedroom. I kissed her, she kissed me. So, what is the problem?"

...and then they were been sharing it was a problem for very young people...sometimes I think they just listen but are not picking up on it, because—you know kind of—oh, this is a 'white' kind of law. Your mind is kind of partitioned.

The conflict between considering the subordinate status of men who might not have access to the cultural conditions that make a ‘good masculinity’, and what this means for women in a broader context of individual safety and equality, is something both scholarship and practitioners are currently grappling with (McCook 2022). That men (or women) from refugee and migrant communities might not see laws as relevant to them is an insight often overlooked in attempts to engage women as rights-bearing subjects. As Merry (2011) says, you cannot enforce a law that the majority of a population does not support. As discussed in the following section, responses from Western, masculine institutions such as the legal system might also reinforce this.

Overwhelmingly participants in this study discussed the need to develop strategies that focus on education and violence prevention, rather than criminalistic solutions that aim to hold perpetrators to account after the fact. Discussions of masculinity and changing gendered norms were not to shift the blame or to make excuses, but highlight the importance of addressing inequalities effecting men as well to increase the capacity of community to respond to violence. Some organisations were developing and implementing their own programs aimed at engaging men in violence prevention, based on community peace-building techniques.

We thought we were doing the right thing, a feminist thing by empowering the women...So I went to my CEO. I’m like, “We’re doing the wrong thing here. We are leaving the men behind and we actually need to empower them as well.” So, all of our programs now are offered just men and women, because we wanna empower the whole family, and this actually keeps her safe and it keeps them together, without the conflicts because we’ve just now stripped him of who he sees himself, his whole identity”.

In the context of the nation state, racism, and citizenship, for some saying #metoo might jeopardise not only their own safety and security, but that of their partners, husbands, or men from their particular ethnic, religious, or cultural communities (Kagal et al. 2019). Loyalty to men is thus a significant consideration in how women, or men for that matter, come to see themselves in terms of rights, and whether or not they come to take on rights defined self protected by the state.

Experiences with “Justice”

One of the powerful consequences of bringing gender violence cases to the attention of the legal system is the victim’s and perpetrator’s encounters with the new subjectivity defined within the discourses and practices of the law. Interactions with police officers, prosecutors, probation officers, judges, shelter workers, feminist advocates...affect the extent to which an individual victim is willing to take on this new identity. (Merry 2003, 346–347)

We have seen so far that women might go back and forth “trying on” a new rights-bearing subjectivity for size, drawing on various experiences in the communities they live and testing the reactions of husbands, partners, and extended family. Those who do come to reach out to the law or services for help have often experienced some kind of reinforcement/s to “press on”. This final section discusses responses by frontline services addressing domestic, family and SV, and the law.

Policies that have traditionally focused on DFV have a new focus on SV; the new National Plan to End Violence Against Women and their Children (2023–2032), for example, has changed the terminology of “domestic and family violence” (DFV) to ‘domestic, family, and sexual violence’, and this has quickly been adopted in the service sector. Most of the participants who participated in this research were from DFV services. SV was discussed as needing a more trauma-informed approach, rather than more action-oriented and legal approaches that DFV services usually take. It is important to note here that definitions of DFV in legislation also include SV. DFV workers often said they know that SV is usually present in relationships where there is DFV, but they would skim over it in risk assessment tools or initial discussions due to discomfort, and cite a lack of professional skills. Asked if she felt comfortable discussing SV with clients, this participant from a DFV-specific service, who was second-generation Italian, said:

I wouldn't say that I do, no...we definitely would refer on to....more specialists support workers...that would definitely be where my role ends in the sense of supporting the client with the healing or the unpacking of [SV] because we don't provide that more counselling role. And like I said, we could do that more hands-on stuff like support them to make a report to the police and that sort of stuff.

I wouldn't even, to be honest, know where to start. It's not even been a big conversation that I've had with somebody, if that makes sense.

This discomfort potentially reinforces SV as taboo and shameful, and thus has ramifications for how women come to define themselves in terms of a rights-defined self.

If services are taking up discourses of SV and consent, there is bound to be greater attention to women's vulnerability as victims of SV. This participant from a SV counselling service discussed the case of a client who was not aware she had been referred for sexual assault counselling.

With all the interpreters and the language barriers ... and in the middle of the session...she said to me, “I thought that I came here to access financial support?” And I said, “No, this is sexual assault counselling services”, and she laughed. She couldn't stop laughing and she said to me, “Do you think that I need help because I was raped? I need money...I don't think about that anymore. I just need food and I need to survive. I don't need support with this...Get me out of here. I need money.”

Merry (2003) talks about the ‘good victim’: The good victim is willing and obliging, she follows through with the help that she seeks and embodies the submissive, quiet, and well-behaved femininity expected of women who are vulnerable. Women who do not fit the image of the good victim, such as laughing at counsellors, denying that they need help, are reluctant to report to the police, or who are seen to be demanding welfare resources, for example money or housing instead of counselling, are seen as difficult, troublesome, underserving, and can be less likely to receive assistance. Workers might have limited services to offer outside of counselling and assistance to access legal help and become frustrated at not being able to meet the needs of clients (Maturi 2023).

The ‘good victim’ also came up in discussions of women accessing legal help for sexual assault. For women who could not speak English, or who might be emotional and seem to be acting irrational or aggressively, participants discussed the risk that police might not take the complaint seriously, might take the man’s side, or might even misidentify women as perpetrators of SV, as they so often do with DFV offences. Participants also discussed that women would sometimes experience racism, and sexism, from police. One participant was a survivor of DFV, and talked about the negative responses she received from police:

They made me feel bad...the police laughing on me, asking me, “Where you come from?” I say [Asian Country] and they’re laughing, I said, “What’s funny about?” –[they] laughing and then they do not believe, because some of the police are very, very, very nasty, and some they do sexual harassment themselves.

Asking women to take up an autonomous sense of self protected by the state, when they have experienced violence at the hands of the state, was often discussed as not only confusing women but making women cynical of the justice system to begin with. On this point, all of the participants who participated in this research discussed that the law was useful to provide a guide or benchmark to social norms, and what not to do. But there were also problems with the law. This manager from a migrant-specific service, who had been working in the GV sector for over 30 years, said:

In many ways, it makes almost our conversations with migrant and refugee communities easier...It may be culturally acceptable in some parts of your community but it is definitely against the law...[but] Legislation itself, it’s never enough. You need a range of support measures in place to hold that woman who reports it, to believe her, to reinforce the messages...if there is no support systems for victims in place, then they feel cheated by the law...when they don’t get the outcome that they deserve, what are the messages that we are enforcing? No one will believe you. I told you so. So it really gives some leverage to the abusive person to continue doing what he was doing.

As Halley et al. (2006, 337) say ‘punishing conduct as a crime does not “stop” or “end” it...rather, it enables a wide range of specific institutional actors to do a wide range of things’.

While affirmative consent interventions are aimed at people in intimate relationships, it was discussed that the Australian government and gender equality advocates turn a blind eye to other forms of GV, such as human trafficking. One participant had been running her own, self-funded organisation for over 10 years. She helps women in her community because she says they don’t get the help they need from mainstream services and systems.

They text me, ask me for help because I open the inbox 24 hours on my Facebook...the brothel or the massage shop that they do a prostitute job in the back. It’s like they lie to the young woman...“I will give you the student visa. I’ll give you the tourist visa but you come here and you can work as a farm-picking and you can work as a massage.” And someone picks them up from the airport and took their passport straight away, and sends them to the farm and got a sexual assault, sends them to the brothel, sends them to the massage shop and never got paid, and give them drugs for them to not run away, took their passport. It’s a very sad story. Some of them died too trying to escape.

The point to make here is not the vulnerability of women trafficked for illegal sex work, or their invisibility, as we know they exist. But, similar to women and children held in detention on Nauru, it is about the disposability of “strangers” (Ahmed 2000) who are unwanted by the nation state, and thus deemed unworthy of protection. The good victim defines the privileged subject of legal assistance and excludes others as unworthy of help (Merry 2003). While sanctions for those perpetrating violence might differ depending on their conferred privilege or subordinated status at the intersections of gender, class, race, and nation.

CONCLUSION

Applying Sally Merry’s concept of a ‘rights consciousness’, this chapter has problematised a victim’s rights approach to SV and consent. Tensions for refugee and migrant women might be considered as lying in ‘harmful traditional practices’, such as arranged marriage, that promote rigid gendered norms. However, they also lie in mainstream systems and institutions meant to protect.

Merry (2003, 347) says ‘an individual’s willingness to take on rights depends on her experience trying to assert them’. Accessing services and legal help has a profound effect on a person’s subjectivity; the very act of calling a service, walking into a police station, filling out forms, or charging their partner with a crime, is critical to how victim/survivors understand and take up their rights. Women notice when police laugh at them, or make sexist remarks, they can sense if social workers or health workers deem them

deserving or underserving of help, in some cases, this is made quite obvious to them. Women are profoundly effected by their experiences going through court for GV offences. Rather than encouraging women to take up their rights, then, efforts should focus on how to ensure a rights approach is affirmed in responses to SV.

Collins and Bilge (2020) suggest that human rights can only be actualised by viewing the different protected categories in relation to one another. When considering SV and consent, we should be just as outraged by illegal labour laws, Australia's treatment of asylum seekers, and the racism directed at refugee and migrant communities. Centring those most marginalised can reveal the generative potential of rights as existing outside of legal frameworks and discursive subjectivities defined by, or made by, laws and rights discourse. Conceptualising gendered violence interventions differently thus might involve looking beyond legal solutions and investing in community responses that address problematic gendered norms underlying all forms of violence.

NOTES

1. This was a qualitative study and used semi-structured interviews as method. Ethics approval was granted by the University of Queensland's HASS LNR Committee—2022/HE000098. Consent was obtained from all participants, who were given relevant information related to participation, withdrawal, use and storage of data, and confidentiality prior to interviews.

The research questions sought to understand:

How do women from refugee and migrant backgrounds conceptualise the affirmative consent campaign in Australia?

What do refugee and migrant women view as the limits, or the possibilities, of the affirmative consent campaign?

What are the experiences of refugee and migrant women on being included or excluded from campaigns addressing gender violence in Australia.

Purposive and snowball sampling were used to recruit participants. Organisations in Southeast Queensland, Sydney, and Melbourne were asked for permissions to contact their staff as potential participants. Organisations included migrant specific women's services, refugee resettlement organisations, or mainstream organisations (domestic, family, and SV specific) who have refugee/migrant programs. Community organisations and identified leaders representing ethnic communities in Australia were also contacted. Those who chose to participate were asked to pass on information about the project to potential participants who could contact the researcher directly to organise an interview. Most of the participants were from Southeast Queensland, 4 from Victoria.

20 semi-structured interviews were conducted. One was removed as it was discovered during the interview this participant did not identify as having a refugee and migrant background, but rather as having extensive history working with refugee and migrant women.

Participants by country*	Pathway to Australia.	Type of work	Work experience	Degree qualifications/ relevant experience
<i>Middle East</i>	Refugee = 7	Refugee	1–3 years = 6	Bachelor = 10
Lebanon = 1	Migrant = 8	Resettlement =	4–5 years = 2	Masters = 2
Iran = 1	Second Gen =	4	5–10 years = 4	PhD = 3
Syria = 1	3	Migrant	10–15 years =	No Qual = 4
<i>South Asia</i>	Third Gen or	Women’s	6	Churchill
Pakistan = 2	above = 1	Service = 8	15–20 years =	Fellow = 1
India = 1		Refugee and/or	0	Policy or
<i>Asia</i>		Migrant	> 20 years = 1	Taskforce
Myanmar = 1		program in a		Experience
Vietnam = 1		mainstream		(Australia) = 5
Thailand = 1		organisation:		International
Bangladesh =		Domestic		Experience = 3
1		Family Violence		
Nepal = 1		= 2		
<i>Europe</i>		Sexual Assault		
Italy = 1		= 1		
Bosnia = 1		Other = 1		
<i>Stb America</i>		Voluntary/		
Columbia = 1		Self-Funded		
Argentina = 1		Organisation =		
Chile = 1		2		
Bolivia = 1		Community		
<i>Africa</i>		Leader (not		
Sudan = 1		working in		
Ethiopia = 1		above) = 1		

*Participants are referred to by region only in the findings to protect confidentiality.

The interviews were flexible and allowed for conversation to develop. Interviews followed a guide that considered: (1) How participants define their relationship to the mainstream anti-violence movement in Australia; (2) Differences or similarities in how refugee and migrant women conceptualise affirmative consent compared to mainstream campaigns; (3) How participants view affirmative consent as playing out in the ‘real world’; (4) Alternatives to mainstream campaigns that might address SV and consent; and (5) The experiences of interview participants in GV consultation or policy-making processes.

Thematic analysis (open/axial coding) (Braun and Clarke 2006; Bryant and Charmaz 2007) was used to interpret the data. Identifying a central category that centred on women’s rights, the findings presented

in this chapter examine 3 themes: (1) Marriage is Consent, (2) Loyalty to Men, and (3) Experiences with ‘Justice’.

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Consent and Reproductive Coercion

Abstract This chapter maps a recent history of reproductive coercion and abuse in Australia centred on intimate partner relationships and familial relationships in the mid-to-late-twentieth century. Reproductive coercion and abuse are currently understood as the interference in another person's reproductive choices—forced termination of pregnancy, forced continuation of pregnancy, prohibiting contraceptive use, or imposing contraceptive use. This particular violation of consent in intimate partner and familial relationships has been documented as an extension of sexual violence under certain circumstances. Thus far, few scholarly works have focused on understanding the pervasiveness of this phenomenon in decades past. In heterosexual intimate partner relationships, manipulation, promises of marriage and love, and physical and sexual violence were used to enact reproductive coercion and abuse in quite explicit ways. When considering parents' role in making reproductive choices for their children, financial incentives, homelessness, and emotional manipulation were most frequently used. In the same ways that experiences of rape and sexual abuse hinge on notions of consent and bodily autonomy, reproductive coercion is a form of sexual and medical violence that violates an individual's right to make informed choices. Examining its history allows us to see how reproductive coercion and abuse are often coupled with other instances of sexual violence, and it facilitates a broader understanding of the ways in which autonomy and coercion operate in relationships.

Keywords Reproductive coercion • Consent • Abortion • Contraception • Birth control

As early as 1977, the *Report of the Royal Commission Into Human Relationships* in Australia noted: ‘There are instances known to [Family Planning Associations] in which a husband refuses to allow his wife contraceptive advice and, should she obtain this, attempts to throw away the supplies or even to remove the IUD. Where partners are in disagreement about family size the method of contraception may become a source of conflict’ (Evatt et al. 1977, 53–54). In contemporary terms, this would be identified as reproductive coercion and abuse, but this was a phenomenon not yet classified in the 1970s. In an era where the criminalisation of domestic violence and rape in marriage was understandably more urgent, nascent ideas around problematising the control of another person’s reproductive choices were not necessarily prioritised. The violence inherent in acts of reproductive coercion and abuse was briefly noted here by the Royal Commission, most disturbingly in the attempted removal of intrauterine devices by husbands, but it was not yet viewed as an exigent social problem that required intervention. Our present understanding of what constitutes reproductive coercion and abuse—non-consensual interference in another person’s reproductive outcomes—has only been recently understood socially and academically, but it has a long and insidious history.

Using Australia as a case study, this chapter will trace the evolution of consent and reproductive coercion since the “contraceptive revolution” of the 1960s and 1970s, where the rapid increase in medical interventions into birth control saw a parallel rise in the use and abuse of these technologies. The introduction of the oral contraceptive pill in the early 1960s was followed by increasingly reliable hormonal and barrier contraception, sterilisation techniques, and medical and surgical abortion procedures, largely due to medical innovation and commercial competition in the ensuing decades (Siedlecky and Wyndham 1990). The relative availability of these methods was beneficial for many who wanted to space out births or to avoid them altogether, but accessibility to new forms of pregnancy prevention also saw increased rates of control over reproducing bodies.

Reproductive coercion and abuse (RCA) sits at a curious intersection between sexual consent and medical consent, as it was and still remains enacted by intimate partners in sexual relationships and by medical authorities in institutional spaces. This chapter examines RCA in familial relationships from both intimate sexual partners and from parents, using evidence from the 1960s through to the present to show a long and consistent pattern of coercion and abuse that we recognise today. These violations of consent rest on assumptions of human rights: ‘the human right to engage in sexual relations, and the human right to reproduce or not’ (Ross and Solinger 2017, 10). Consent to sex does not rest on an assumption of consent to reproduce, and in some cases of RCA consent to sex is not freely given either. Women¹ who were most frequently targeted by partners and family were subject to systemic disadvantages and oppressions, including those who were working class, those who were First Nations, those with physical and intellectual disabilities, young women, and teenagers (Steele 2014; Elliott 2017; Tarzia et al. 2022). Because

these women were, and are still, subjected to economic and social barriers, they most often suffered coercion and abuse rendered through the removal of sexual and reproductive agency. Yet, there is limited evidence from the voices of these women themselves, as they have been silenced and marginalised in the spaces of consent and reproductive rights until relatively recently.

Reproductive coercion and abuse have historically been facilitated through medical, social, and legal frameworks, but have only recently become a topic of academic investigation (Price et al. 2022; Hickey et al. 2021; Munro 1994; Nelson 2003; Ross and Solinger 2017; Roberts 2017). The literature on RCA has situated this phenomenon through the lens of law, social work, and health, with a dearth of scholarship that examines its history, particularly since the 1960s (Wellington et al. 2021; Tarzia et al. 2022; Carter et al. 2021). Carter et al. (2021, 436) define reproductive coercion and abuse as repetitive behaviours used to dictate another person's reproductive choices, most notably the forced termination or continuation of pregnancies, or interference with contraception. Other studies have separated RCA into categories of "pregnancy preventing" and "pregnancy promoting" behaviours, but the historical sources lend themselves more readily to distinctions between "contraceptive interference" and "pregnancy control" (Sheeran et al. 2022). Here, contraceptive interference is defined as any tampering with or coercion around pre-conception devices or medicine, including the oral contraceptive pill, intrauterine devices, contraceptive implants, condoms, or other barrier methods. Pregnancy control concerns the forced termination or forced continuation of pregnancy. Scholarship that has been produced on coercion and reproduction has questioned the relationship between them for decades, but the concept of reproductive coercion and abuse as a distinct phenomenon is only recent—people who experienced violence while pregnant and its repercussions for choice were thought to be anomalies in domestic violence studies or studies on abortion (Wood et al. 1971; Hegarty et al. 2000). The link between this violence and controlling reproductive practices is what recent studies are driven to investigate and is apparent in the historical sources. The increase in discourse and practice of "choice" centred on reproductive autonomy in second-wave feminist circles, saw a parallel rise in discussions of coercion where women's voices were privileged perhaps for the first time in Western nations (Chancer 2019; Hughes 2002). There is no doubt that reproductive coercion as we understand it today has existed for much longer than the 1960s, but the inability to conceptualise the experience, the oppression of particular voices, and legal status of women in society meant that these experiences could not be articulated in ways familiar to us. The language of second-wave feminism meant the articulation of opinions and experiences that violated consent in more nuanced and complex ways.

RCA has been identified in historical international contexts, examining the control and surveillance over reproducing bodies in institutional settings. Sociologist Nicole Rousseau expounded on the inherent problems of the mid- to late-twentieth-century contraceptive revolutions that saw a 'national

emphasis on securing reproductive freedoms for White women while establishing *fertility control* for “other” populations’ (original emphasis) (2009, 131). This privileging of white reproductive freedoms to the detriment of Black individuals and communities is a product of a nation built on white supremacy, as other noted scholars have identified (Davis 2001; Roberts 2017; Nelson 2003). Scholarship that has examined the American past and reproductive rights has emphasised the role of institutional violence enacted against pregnant people, necessarily centring racial discourse, but has not yet looked historically at the role of family and domestic violence in facilitating RCA. Other settler-colonial states that have witnessed reproductive control at the hands of institutions include Canada, Aotearoa New Zealand, and South Africa, where, again, the historical record has focused primarily on medical authorities and government interventions in the reproductive sphere that have reinforced hierarchies of race and disability (Theobald 2017; Mackenzie et al. 2022; Petchesky and Judd 1998). This is a new area of research for historians, and it can be difficult to trace RCA through the lens of domestic and family violence before the twenty-first century as it appeared alongside other coercive behaviours or was normalised as a product of gendered relations in the home. Recent literature suggests rates of RCA in the United States are not dissimilar to Australia, with a 2018 survey of 27 published studies showing an estimated rate of RCA occurring in 5–13 percent of a sample of 16–29-year-olds when looking at intimate partner violence (Trister Grace and Anderson 2018). Other studies show comparable rates in Aotearoa New Zealand (Burry et al. 2020), Canada (Lévesque and Rousseau 2021), and the UK (Kambashi and Wilson 2022), with RCA occurring over the last decade. Without historical data, it is challenging to trace the development of this phenomenon in other nations to compare with Australian evidence, but comparable social movements, political advancements, and uptake in contraception and abortion technologies across the Anglosphere suggest similar patterns in historical data could be identified with further research.

As in other nations, the Australian literature on historical reproductive coercion focuses on state and institutional practices that enabled coercive reproductive practices to exist. In examining state-enforced reproductive coercion in Australia, Catherine Kevin and Karen Agutter analyse the history of forced fertility control in refugee women from the postwar period compared with the twenty-first century, noting the importance of government control and reproducing an Anglo nation (Kevin and Agutter 2018). This chapter is the first to examine the history of reproductive coercion in domestic and family relationships in Australia, through the fragments available in the historical record. In examining the entanglements of sexual and medical consent inherent within RCA, the right to make informed choices about sex and reproduction is at the centre of understanding where these movements began. While domestic and family violence was identified as a crucial problem within intimate heterosexual relationships during the 1970s feminist movement, much of

the focus was on physical and sexual violence (Featherstone 2021). Reproductive coercion was undoubtedly present in these relationships, but was not yet identifiable as a distinct phenomenon under the umbrella of sexual violence, particularly as it often occurred concurrently with sexual assault or rape and was seen as an afterthought.

Considering this, it is impossible to know the exact rates or frequency of RCA in the past. However, what we can use are qualitative methods that demonstrate how reproductive coercion was constructed and understood by victims, practitioners, researchers, activists, and social communities.² It is through extensive research in the archives and engaging with oral histories that an overarching narrative begins to emerge—we see the snippets and shadows of RCA surfacing when people have a safe and (sometimes) anonymous platform. This chapter first looks at how we can conceptualise RCA through the lens of consent. Crucial to sexual and medical consent is the notion of autonomy and how individuals feel empowered or disempowered to enact reproductive agency in their sexual relationships and in the medical domain. The chapter moves to examining how RCA is understood most identifiably: in heterosexual intimate partner relationships. I analyse qualitative data in the historical record to show the narrative of RCA over time, and how it is used in both contraceptive interference and pregnancy control within intimate relationships. Within intimate partner relationships, there are several themes that emerge when RCA is present, most notably using affection or marriage as manipulation and the correlation of fertility with masculinity—a common feature of sexual violence or coercion. Next, RCA inflicted by parents is examined in the context of domestic and family relationships, particularly towards young women and teenagers. There are intricacies involved in ascertaining coercive tactics from parents, as the age of sexual consent and informed medical consent complicate assertions of autonomy for teenagers and young people. Yet, there are clear instances of RCA enacted by parents that demonstrate relationships of control and fear, also prevalent in intimate partner violence. Ultimately, this research aims to establish a historical basis for RCA to trace patterns and narratives over time.

REPRODUCTIVE COERCION: INTIMATE PARTNER VIOLENCE

Where previous chapters in this book have thus far outlined experiences of sexual (non)consent, this chapter builds on those conceptualisations by thinking about intersections of sexual and medical consent through RCA. Although these two concepts are distinct in their positionality, both socially and legally, they overlap considerably when examining ideas of autonomy in sexed bodies. It is this idea of *autonomy* that is the impetus for understanding coercion and abuse in reproductive circumstances. In examining “proper” and “improper” understandings of autonomy and reproduction through the lens of self-government, Jennifer M. Denbow (2015) argues:

Political theory has historically produced the autonomous individual as male. Correspondingly, this tradition understands women as lacking self-governance. Women thereby seem to require the rule of men to ensure their proper governance. (p. 6)

When considering reproductive coercion, the “rule of men” Denbow refers to can be seen in heterosexual intimate partner relationships, within parental and family groups, and in medical institutions. It is the paternalistic governance of individual bodies that coalesces across different forms of RCA, rendered effective through fear and intimidation.

In the extant scholarship, historical understandings of consent have been defined through the lens of sexual relationships, but not necessarily reproductive ones. The Australian legal landscape in the 1970s did not articulate issues of sexual consent with much nuance: encounters that were not physically violent and perpetrated by strangers apparently became ambiguous in terms of consent (Featherstone 2021). Thus, the suggestion that controlling reproduction could be a violation of consent was too radical to conceptualise within a legal framework at this time. Recent scholarly interest in RCA has seen more concrete definitions emerge distinct from theoretical frameworks of sexual violence. Though current studies have noted ‘RCA shares commonalities with both intimate partner violence (IPV) and sexual violence (SV)’, differentiations have been made primarily on the basis of intent (Wellington et al. 2021, 424). As Tarzia and Hegarty (2021) argue, RCA should only constitute behaviours that intend to control pregnancy outcomes or interfere with contraception, and not other forms of violence that have incidental reproductive outcomes. They also argue that RCA enacted by intimate partners or family members is dictated by ‘male entitlement, fear and control’ (2021, 87). These elements of coercion are what I have sought in the historical record to capture this phenomenon, yet they are often perpetrated alongside instances of sexual violence in an attempt to reassert interpersonal power dynamics.

The term RCA has only recently been identified in scholarship when examining intimate partner relationships, influenced by increased understandings of and concern around coercion in the general population (McMahon and Paul McGorry 2020; Stark 2009). The incidence of RCA in intimate heterosexual relationships is likely the most identifiable occurrence of reproductive coercion, where one partner controls, or attempts to control, the other’s reproductive choices. As part of a broader pattern of coercive control, RCA is demonstrated through a number of methods in family and domestic violence interactions pertaining to the continuation or termination of pregnancy and the use or misuse of contraception. These methods include financial or social pressure to conform, verbal or physical threats to conform, or direct interference in contraceptive methods. Because of the ubiquitous and insidious nature of coercive practices, identifying RCA in the past is complicated, and women often did not realise what they were experiencing was a form of abuse, nor that they had any power to refuse consent. While it is difficult to definitively

ascertain the frequency of these sorts of behaviours in the past, the historical record provides glimpses into how RCA was experienced, usually from anonymous sources. On one hand, the anonymity of these people is a necessary safeguard against repercussions of disclosure; on the other hand, the absence of biographical detail poses a challenge to our ability to link the past to the present.

Yet there emerges a distinct narrative over the past sixty years from the archives, oral history sources, and empirical research, one of “pressure” and “force”. Within this body of evidence, there are two recognisable approaches to RCA: contraceptive interference and pregnancy control. Broader social commentary at the time acknowledged that “force” or persuasion might be used in family and domestic violence to determine sexual and reproductive outcomes. For example, one Melbourne woman in a 1980 *Australian Women’s Weekly* ‘Voice of the Australian Woman’ survey noted ‘I do not agree that [the father] should have the right to force the mother to have the child against her wishes’ (1980, 29). Here, there is no acknowledgement that this is “reproductive coercion” or that this is a particular identifiable problem, but the very mention of force hints at ubiquitous experiences that permeated relationships. Empirical studies conducted in the late-twentieth-century pertaining to birth control usage had incidental findings that intimated pressure or force was used in intimate relationships when considering contraception. In a 1971 study that examined knowledge and use of birth control amongst a sample of 209 working-class women from Melbourne, Wood et al. (1971) found that of the respondents who did not use birth control and did not wish to become pregnant, 9% listed ‘husband objects’ as the reason (p. 692). Two decades later in 1991, another study focusing on trends in contraception and sterilisation noted that ‘successful use of the pill or the IUD requires diligent use only by the female partner. The new methods are thus well-suited to the sexually active but unmarried woman if she fears that her partner’s cooperation might not be forthcoming’ (Santow, 1991, 207). Couched in the conciliatory language of “cooperation”, this nod to coercion indicates the need to use premeditated contraception not necessarily visible to sexual partners to avoid succumbing to situational pressure. Within both of these studies, there is no recognition of a distinct problem with a partner dictating contraceptive choices nor any suggestion of further research into this area, yet the frequency with which this occurred tacitly suggests an extant social problem across at least twenty years.

The competing functions of masculinity, fertility, and fidelity were often cited to justify coercive practices, where men attempted to solidify or regain power within intimate sexual relationships. Government inquiries uncovered quite explicit instances of RCA, but often the proposed recommendations failed to ascertain the extent of the problem and or even confine these behaviours to a singular phenomenon. The 1976 Report of the Commission of Inquiry into Poverty noted that behavioural barriers to using contraception amongst working-class people included the impetus to prove masculinity through high fertility. The Commission observed ‘For some men, getting

and keeping their wives pregnant is a means of overcoming fears of personal insecurity or of affirming their virility' (1976, 153). The Royal Commission into Human Relationships (1974–1977) attempted to investigate all aspects of sexual and family life in Australia, including attitudes to abortion, contraception, and pregnancy (Arrow 2014). In the final report, the commissioners reviewed 'the male role in contraception', and found the husband's 'objection to his wife's use of contraception is another problem' (Evatt et al. 1977, 53). Further, they reported that there were cases of the 'husband who refuses to allow his wife to use oral contraceptives or an IUD because of fears of marital infidelity is not uncommon' (Evatt et al. 1977, 53). The concern around infidelity was a reoccurring theme, also evidenced in an oral history interview with a woman living in Queensland during the 1980s:

My husband took advice from a priest who said that if he [husband] let me have a tubal ligation, then I would become promiscuous. He would be better off to have a vasectomy, and then it would be alright because he'd know what I was up to because I was still able to get pregnant. A lot of men would perhaps not have sought advice from a priest, and they may have been more than happy for their wife to take care of the problem rather than them have the snip. (Byrnes 2022)

This is a fairly intense example of coercive behaviour, where the husband resorted to extreme measures to ensure pregnancy did not occur (regardless of his wife's wishes) and to ostensibly remove the possibility of infidelity—assuming the husband believed extramarital affairs would result in pregnancy. While these small snippets of evidence demonstrate the existence of RCA in intimate relationships since the 1970s, it was not until the 2010s that empirical research was conducted on the role of coercion in domestic violence. Prior to this, some studies noted the presence of "emotional abuse" when researching pregnancy and domestic violence, but it did not extend to RCA (Hegarty 2002; Mazza et al. 1996; Webster et al. 1994; Taft and Watson 2004). For example, a 2000 study listed 'miscarriages' and 'unwanted pregnancy' in the potential clinical indicators of domestic violence in the *Medical Journal of Australia*, but the research was necessarily limited in its scope and did not recommend further study or engage in significant discussion (Hegarty et al. 2000).

Pregnancy control tactics are more readily identifiable in past sources, as the problem of an actual pregnancy was more urgent than the dilemma of a potential pregnancy as seen in contraceptive interference. Partners who committed pregnancy control violence demonstrated methods of financial abuse, emotional abuse, and sometimes sexual abuse to manipulate and explicitly coerce their victims. Instances involving sexual violence—recognisable to us now with present understandings of consent—were not uncommon, and highlighted established power dynamics within intimate relationships, where the exertion of power in assault was transferred to control over pregnant

bodies. One young woman who was sexually assaulted by her boyfriend experienced this quite explicitly:

My boyfriend and I went to a party and I drank a lot of beer and got drunk. My boyfriend took me back to my flat and put me back down on the bed and that's all I remember. The next day I went to my doctor. He examined me and said that I was pregnant. My boyfriend came around and said that he'd got me pregnant because he loved me. Then, he proposed. Shall I say yes or no? (*Dolly* 1971, 69)

This reader experience was anonymously submitted in 1971 to an advice column in the popular Australian teenage magazine *Dolly* (1970–2016) that covered wide-ranging issues in their articles on dating, sexual health, career advice, parental relationships, friendships, and fashion (Minton 2019). Here, this reader was more concerned with the idea of marrying her boyfriend than with the assault and coercion she was experiencing, likely lacking a concrete understanding of consent or assault as we might understand it today. Some of these experiences appeared incidentally in the literature, often in articles about the accessibility of abortion. In an article in the feminist magazine *Vashti's Voice* arguing for wider availability of abortion, Jenny, a 21-year-old activist, mentioned her boyfriend's response in passing: "To him my pregnancy was proof of his fertility and it was "our" baby. I remember him saying to me "you killed our baby". He even insisted on raping me the first night after my abortion, which I was told was dangerous" (*Vashti's Voice*, 1973, 4). Jenny's use of language shows the complicated ways in which bodily autonomy was constructed, with her almost detached tone around rape and coercion. When faced with the reality of pregnancy, responses from male partners appear much more dramatic and urgent than contraceptive interference—there is an obvious impetus for these partners to control pregnancy decisions in quite serious and forceful ways.

Other methods of RCA included using affection or the insistence of marriage to manipulate pregnancy outcomes. Another young woman articulated her own experience with her casual partner in 1974, noting:

He insisted on marriage. He kept making these speeches about how I wasn't going to get rid of his child, it was downright murder and I had no right to do it without his permission. ... I think right up till the operation [abortion], John hoped I might change my mind. He cooled it a lot, was nicer to me than ever before. Always bringing me flowers, doing little things for me that he'd never done before—like cooking dinner, washing up. But on the night of the abortion he didn't come to see me and I didn't see him for two days. He'd gone to Sydney to stay with his last girlfriend. (*Dolly* 1974, 51)

This is an experience of reproductive coercion that is perhaps more familiar in contemporaneous terms. John insisted on making choices on behalf of his partner, first through marriage and then through the refusal of abortion.

He used coercive tactics to change her mind including employing evocative language of “murder” and explicitly arguing that she needed his permission to undergo a termination. When the woman remained unconvinced, John changed strategies to manipulate her with ostensibly placid domesticity, before finally ignoring her after the abortion to signal his disapproval. This is an explicit example of what Carter et al. (2021) define as pressuring a person to continue a pregnancy through emotional manipulation (p. 436). While this illustrates a more nuanced approach to RCA, especially for the time, it is important to consider that marriage as a solution to pregnancy was also proposed in this period due to social pressures to avoid the (decreasing) stigma of children out of wedlock (Bongiorno 2012, 237).

Where the aforementioned cases of pregnancy control show coercion in order to continue a pregnancy, there are cases in the historical record that reveal RCA patterns to secure terminations. In casual relationships, most instances of abortion pressure manifested through funding the termination despite the pregnant person’s desire to remain pregnant. Funding for abortion at private clinics in Australia has been partially subsidised by Medicare (the national healthcare insurance provider) since 1975, though access differed significantly between states after legalisation slowly began in 1970 (Baird 2015, 2017). Funding was similar in the United States with Medicaid partially subsidising terminations until the Hyde Amendment was introduced in 1980 which prohibited federal funding for abortion except in extreme circumstances; whereas, in the UK, most terminations were at least partially funded by the National Health Service since the introduction of the *Abortion Act 1967* (Adashi and Occhiogrosso Abelman 2017; Cooper 2023). Because insurance did not fully fund terminations in Australia, abortion often remained financially inaccessible for many and was perceived as the most acute barrier to this healthcare. Therefore, the proposal to pay for this service was often used when attempting to coerce pregnant people into undergoing a termination. One young woman noted, ‘he’s offered to marry me or to give me money for an abortion. I don’t want to marry him, and I definitely don’t want to have an abortion. I just want to go ahead and have the baby, and raise it’ (Dolly 1971, 15). This is a less extreme version of coercion stemming from a casual relationship, where the continuation of pregnancy likely resulted in the male partner leaving the relationship instead.

In longer-term relationships or marriages, the threat of divorce or financial insecurity was most often used to control reproductive outcomes. In an oral history interview conducted with a pregnancy help-line counsellor who lived in Townsville during the 1980s, she noted that this form of coercion was not uncommon. The interviewee said in cases of married couples, the husband would say, ‘get rid of it, I don’t want another kid’ (Byrnes 2022). When asked to elaborate, she recalled one case where:

The husband insisted on an abortion and said he wouldn’t stay with her if she didn’t have it because he wasn’t going to support a fourth child. They had

three children already and the car could only carry three children, and they had a house with three bedrooms for the children. Their lives were already set, there was no room for a fourth child. (Byrnes 2022)

The withdrawal of financial support in long-term relationships conforms to current understandings of how RCA operates within a pattern of coercive control, depriving vulnerable people of their only source of income (Douglas and Kerr 2018). In some cases, money was given as an incentive to undergo a termination. Rosemary shared her story publicly, saying that when she got pregnant at 21 with Darren and decided to keep him, ‘Darren’s father handed me the money for the abortion. I threw it back and haven’t seen him since’ (*The Australian Women’s Weekly* 1972, 3). Financial insecurity contributed to limited options for pregnant people attempting to assert their reproductive agency and enabled coercive practices to be more easily enacted.

Alongside financial insecurity, there were other barriers to reproductive choice for communities who had limited access to sexual health services. In regional and remote towns, often with predominantly Aboriginal populations, doctors offered infrequent scheduled visits on monthly or quarterly rotations through an aeromedical service like the Royal Flying Doctor Service (1998). There were attempts from these sexual and reproductive health services to position Aboriginal men as resistant to contraception despite their partners’ wishes, but this needs to be carefully analysed within a broader narrative of coercive state control around non-white reproduction in a settler-colonial society. Obstetrician and gynaecologist, Dr. Robert Ellwood, who was Chairman of and worked within the Family Planning Association of Queensland’s Cairns branch, was motivated ‘to reach disadvantaged groups and by the nature of Far North Queensland, a vast region which spread west to the Gulf of Carpentaria, south as far as Ingham and north to the Torres Strait Islands... It also served a disproportionately high Indigenous population which was scattered throughout the region’ (Bannah 2001, 128). In Ellwood’s (1974) Chairman’s report, he stated that the Royal Flying Doctor Service (that often administered birth control to remote communities in the FNQ region) noted that in Aboriginal communities ‘the male resists sterilisation of their females. One or two vasectomies have been carried out... At present about 150–200 tubal ligations are done annually at the hospital’ (Ellwood 1974). Despite this notion of resistance from Aboriginal men, a significant number of tubal ligations were still performed on Aboriginal women, suggesting the relationship between Aboriginal men and women and contraceptive practices was much more complex than Family Planning or the Royal Flying Doctor Service anticipated. In a 1979 letter from Ellwood to Barton Clarke (FPAQ Council Chairman), Ellwood outlined recent findings from Aboriginal communities, attended to by the Royal Flying Doctor Service, the Aboriginal Health Program, and the Yarrabah Community Clinic. Ellwood noted:

1. There is apparently no communication on family planning matters between the female and (sic) males in the Aboriginal populations; the female (sic) consider it to be a purely female consideration while the males consider that basic wealth in life and old age is embodied in large families.
2. It follows therefore that the male will remove intrauterine devices and prevent the female from taking oral contraceptives unless she can do so covertly (Ellwood, 1979).

In either example, there was no elaboration on how Aboriginal men “resisted” sterilisation or contraceptive choices of Aboriginal women, perhaps demonstrating a justified wariness of state-sanctioned reproductive interference. There is also an absence of any explicit reference to informed consent when administering these contraceptive or sterilisation methods to Aboriginal women. Fertility control services in Far North Queensland have previously been accused of coercive practices interfering with Aboriginal people’s reproduction; thus, it is not impossible that these instances of ‘coercion’ Ellwood lack understanding of the historical and cultural nuances involved in reproductive choices for First Nations communities, and were not, in fact, coercion as we might understand it today (Tatz 2001; Moreton-Robinson 2000).

REPRODUCTIVE COERCION: PARENTAL INTERVENTION

One of the most challenging distinctions to make when researching RCA in familial settings is the issue of parental control and informed medical consent. The age of sexual consent in Australia differed by state but sat between 16 and 18 from the 1970s, yet the age of informed medical consent was 18. In an examination of child consent laws in Australia, John Devereux noted that the age of consent regarding sexual offences ‘has been interpreted by some to mean that a child is incapable of consenting to anything’, but that ultimately there is ambiguity in the law in regard to medical consent and children’s capacity to understand (Devereux 1991, 286). Laws in Australia were influenced by “Gillick competence”, which refers to a 1985 decision handed down in England and Wales which determined that a parent’s right to moderate their child’s medical treatment diminishes as the child’s maturity evolves enough to consent (*Gillick v West Norfolk and Wisbech AHA* 1985). The test case for Gillick competence centred on a GP’s right to administer contraception to children under the age of 16, and this evaluation of capacity has been taken up in Australian common law (*Department of Health & Community Services v JWB & SWB* 1992). As such, it is difficult to determine in historical sources whether a teenager has matured enough to consent and thus would be considered Gillick competent, and even more difficult to establish this pre-1985 before this was adopted in Australia.

Despite these methodological challenges, there is trace evidence of discourse around teenagers’ ability to consent to sex weighed up against their

ability to consent to reproductive choices in historical sources. Commissioners who led the Royal Commission into Human Relationships grappled with this socio-legal problem in a case of a girl younger than 16 who was pregnant:

“The girl concerned has already had sexual intercourse,” the commission deliberated. “The issue is whether she should have the child or have an abortion. The younger the age, the less ready she is to take on the responsibilities of motherhood.” The commission felt that counselling was essential and that girls under 16 should be encouraged to involve their parents. But, “provided she is capable of understanding and making a responsible decision and has had access to proper and thorough counselling, (our view is that) it is for the girl to decide whether to have the abortion or give birth to the child”. (*The Australian Women’s Weekly* 1977, 5)

Here, it is the capability of understanding the repercussions of reproductive outcomes that is the determining factor in this girl’s access to choice. The Commissioners also noted that the teen had already engaged in sex, suggesting a distinction between the responsibility required to have sex and responsibility required to become a parent. However, there is limited discernment between capacity to consent to sex and capacity to consent to termination, suggesting engagement with sexual intercourse and undergoing abortion require the same level of maturity and capacity to understand.

In the *Australian Women’s Weekly* in 1979, Paula Rhoden wrote in to ask, ‘My daughter’s abortion—did I make the right decision?’ about her 15-year-old child who became pregnant (p. 133). Rhoden immediately organised an abortion for her daughter, though it was unclear if the daughter consented to this procedure. In a follow-up article ‘Abortion: Did a Mother Make the Right Decision?’ parents themselves commented on Rhoden’s case, remarking on the issues around decision-making capacity in teenagers. An anonymous parent noted, ‘your daughter is still a child only preparing for childbearing, not ready to do it now’ (*The Australian Women’s Weekly* 1979, 125). These interventions in young people’s reproductive lives are not straightforward as they sit at the nexus of sexual and medical consent. If young people can consent to sex from a particular age, does that consent encompass responsibility for the outcomes of intercourse? This is a question we are still wrestling with today, and ascertaining its implications upon RCA from parents.

When researching younger peoples’ experiences with sex, consent, and reproduction, many of their choices are restricted by parents’ ideological attitudes or in some cases by direct force. As noted, there were ambiguities in the law that made it difficult to ascertain whether parental consent was required in some of these cases, or whether coercion was involved. In all of the RCA cases we have seen involving parental control, abortion or adoption are proposed universally. Some young people felt pressure from their parents to not raise a child for financial or age reasons, with one young woman noting in 1979: ‘My parents wanted me to have [an abortion] but I refused and ran away

to live with the baby's father. After three months he kicked me out and I went back to my family. I had nothing and my parents, who are in their 50s, didn't need a new baby to look after, so I made a hard decision. I agreed on adoption' (*The Australian Women's Weekly* 1979, 125). This decision was based on the requests of the woman's parents, where the child was not in their lives at all. By the time this young woman went to live with her parents again, she was likely over the legal gestation limit to obtain an abortion and turned to adoption as the solution. This is a much more ambiguous situation of financial and social pressure, where social security options were unavailable for financial support and the need for housing was urgent. In an explicit case of parental interference, a now 'married woman in NSW' reflected on her parents' involvement in coercion and abuse: 'At the age of 15, I was forced by my parents to undergo dangerous "surgery" and the results were both painful and traumatic. After marriage, I discovered that I had been rendered sterile by this illegal termination... At 15 I was naïve and frightened enough to comply with my parents' decision' (*The Australian Women's Weekly* 1980, 16). It is unclear whether the termination was obtained legally and unavoidable medical complications rendered the patient sterile, or whether the termination was illegal and performed under unsafe conditions, where sterility was a side effect of the botched abortion. In either circumstance, her reproductive choices were removed and the narrative of force and coercion is repeated.

Another case of repeated parental intervention came from a 1978 advice column in the *Australian Women's Weekly*, where a parent wrote in to ask about their 15-year-old daughter who was pregnant for the second time (p. 35). The parent noted that they assisted in procuring an abortion for the first pregnancy and insisted on the oral contraceptive pill afterwards, but the daughter refused to have an abortion for the second pregnancy and wanted to raise the baby. The parent called this decision 'lunacy' and asked how they could convince their daughter otherwise. There is an interesting intersection here between the capability to consent to sex and capability to make reproductive choices, where the parents are not necessarily condemning sex itself (and ensure the child is having safer sex on the pill) but are condemning the procreative outcomes of heterosexual intercourse. In extreme cases, parents of the young man involved would coerce the pregnant young woman into undergoing an abortion, reinforcing gendered expectations around the responsibility of pregnancy, where young men refused to be involved—a narrative that still permeates understandings of reproductive outcomes. At an early point in the narrative of RCA, in 1965 one 16-year-old became pregnant to her 19-year-old boyfriend and upon telling him, 'he said it would never work out, that we didn't have enough money, and that he didn't want the baby. His parents backed him up completely. His father even waylaid me on the station one night and yelled at me, and tried to bully me into having an abortion' (*The Australian Women's Weekly* 1965, 4). This experience is particularly harrowing even beyond coercion, as abortion was not yet decriminalised in any state nor was safe abortion accessible throughout Australia at this time.

In trying to establish experiences of RCA in the past, using the lens of domestic and family violence is a useful framework for analysis to determine the more insidious aspects of this abuse, but it can be difficult to separate historical social expectations from definitive instances of coercion. These fragments from the archival record can be carefully constructed to reveal moments of identifiable RCA within the domestic and family sphere. Yet, there are significantly more cases of social or financial pressure determining pregnancy outcomes that are representative of the era and are too ambiguous to conclusively classify as reproductive coercion with our modern understanding of the phenomena. As one commentator noted of the expectations of this time:

Most people, when they found out they were pregnant and unmarried, they were deserted. The boyfriend didn't want to know, the parents were so ashamed of you they didn't want to know, it would kill your grandmother, what would the neighbours say, we'll never be able to go to church again, we'll never be able to hold our heads up in society if you go ahead with this. So, there was enormous pressure put on women to have an abortion. (Byrnes 2022)

While the discourse of pressure and force is still evident here, to define these circumstances as reproductive coercion is ambitious when all decisions around contraception and pregnancy outcomes were a product of different social, familial, and financial concerns. Tracing RCA historically, particularly within domestic and family violence, remains a challenge but is necessary in understanding the way medical technology coupled with individual rights produces opportunities for agency and opportunities for abuse.

CONCLUSION

In examining RCA enacted by intimate partners and parents, this chapter has identified the existence of coercive practices that undermine notions of consent in the recent past. Analysing RCA to conceptualise understandings of consent and the body is a useful tool to demonstrate the complex negotiations that women entered in attempting to assert sexual and reproductive autonomy. While increased availability of contraception and abortion methods were empowering for some, it facilitated RCA in much more devious and implicit ways. At times, intimate partners used physical or sexual violence, or the threat of, to control reproductive outcomes and reinforce a power dynamic within relationship in which the removal of consent was at its very core. At other times, much more nuanced and subtle manipulations were used, including the proposal of marriage or declarations of love. The association between fertility and masculinity was a driving factor in 'keeping her constantly pregnant' or in refusing access to contraception or abortion. Parental involvement in young peoples' reproductive decisions sits at a much messier junction between the age of sexual consent and the age of informed medical consent.

Parents universally agitated for their pregnant children to undergo a termination or to submit to adoption services, regardless of their children's desires or ability to consent to these procedures.

Documenting a history of RCA is a methodological challenge, given the scarcity of sources and the problems of defining coercion. Yet, as this chapter has shown, there is definitive evidence of RCA in the past that emerged through qualitative sources to demonstrate an overarching narrative of fear, and pressure. The evidence reveals that little has changed discursively and in practice over the past sixty years, with the "rule of men" maintaining a stronghold over women's ability to consent. Though it is important to distinguish between sexual coercion and RCA, the denial of autonomy and exertion of interpersonal power is a commonality shared by both that is inflicted upon women through 'male entitlement, fear and control' (Tarzia and Hegarty 2021, 87). Tracing this history of RCA in Australia's recent past highlights the insidious nature of coercive control tactics, and how social and political norms can uphold inequality despite marked advancements in seemingly similar areas.

NOTES

1. While this research uses the term "women" to denote reproducing bodies, this is not to erase the experiences of trans or non-binary people who did not identify as women when considering reproductive coercion and abuse in the past. The historical sources conform to a binary gender model, particularly when thinking about medical issues or the capacity to reproduce. Where possible, we have avoided this bioessentialist language.
2. The research in this chapter comes from archival sources, oral history interviews, and empirical studies to show the development of RCA over time using an historical approach. The primary sources used in this chapter come from a thorough and systematic survey of published literature including: feminist journals and women's magazines (e.g., *Vashti's Voice* and *The Australian Women's Weekly*), medical journals (e.g., *Medical Journal of Australia* and *The Australian & New Zealand Journal of Obstetrics & Gynaecology*), government reports (e.g., *Report of the Royal Commission Into Human Relationships* and the *Report of the Royal Commission into Institutional Responses to Child Sexual Abuse*), Hansard reports for all states and the commonwealth, newspaper sources (e.g., *Sydney Morning Herald* and *Canberra Times*). I have also conducted extensive archival research, looking into the Family Planning Association records, the Royal Flying Doctor Service records, Children by Choice records, Women Who Want to be Women records, abortion inquests from Queensland, NSW, and Victoria, Winlaton Youth Training Centre records, Department of Health records, Victorian Women's Liberation and Lesbian Feminist Archives, and Victorian Women's Refugee Group records, amongst others.

Interwoven amongst the written records are oral history interviews conducted with activists and community members, who remember distinct instances of RCA in their own lived experiences. Interviews in the current research were approved under the Human Research Ethics conditions in accordance with the National Health and Medical Research Council guidelines, and these 7 semi-structured interviews were conducted with a doctor, a teacher, a Family Planning Association of Queensland employee, a nurse, activists, and a pregnancy counsellor. The participants in this research lived across regional and rural areas in Queensland, as well as residing in Brisbane and other major cities, to ensure a more representative sample. Participants' experiences with accessing or providing contraception and education services were discussed to form a meaningful aspect of the qualitative research in this research.

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Conclusions About Consent

Abstract This chapter begins with an analysis of one of the most infamous pieces of sex education in recent memory: the Milkshake video, which attempts to explain the concept of consent to teenagers through the analogy of a milkshake. While a particularly awful, clumsy, and even offensive example, this well-funded campaign speaks to the broader problem of explaining consent to young people. It is all too easy to get it wrong. This chapter brings together ideas of consent and affirmative consent that are encapsulated across our work. It highlights the benefits and opportunities of an affirmative consent model and the rich potential for a positive and safe sexual landscape. It also outlines the risks and potential problems, which occur in both theory and practice. This does not, however, lead us to the conclusion that affirmative consent should be abandoned as a framework for thinking about improving issues of sexual violence. Instead, we suggest that we might simply need to think more boldly and more deeply about affirmative consent and the ways that it might be operationalised within our contemporary cultures.

Keywords Affirmative consent • Consent • Sexual assault • Sexual violence • Bodily autonomy • Law

In 2021, Australia's conservative federal government released a new resource aimed at young people, focusing on sexual consent.¹ It caused an uproar and left an indelible imprint on all who saw it. The online video was set in a faux 1950s milkshake bar, with two ostensibly wholesome white teenagers sitting at a booth. The teenage girl Veronica asks her male companion Bailey—seemingly her boyfriend—if he would like to try her milkshake. He replies that he would then grabs the metal cup and takes a large sip. She immediately asks if

her milkshake is better than his. He thinks for a second and then replies that he prefers his own.

Ordinarily, this might simply be a controversy over chocolate versus caramel, but then the clip takes a strange turn. The young woman appears to be outraged by his choice. A strangely accented British voice-over begins, with the unseen male narrator asking: 'What happens when one takes action without an agreement?' The video heads back to focus on Veronica, who erupts fiendishly: 'You do, huh'. She immediately smears the young man's face with a creamy milkshake, saying 'Drink it, drink it all!'. She giggles senselessly, while the young man asks in a horrified tone, 'What are you doing?'

If the milkshake video begins with what appears to be a form of assault, the rest of the commentary features a range of other problematic actions and discourses too. Clips of Veronica and Bailey are interspersed with 'teaching moments', where the narrator talks through issues of bodily consent. In the second section of the video, the tricky interpersonal relationship between Veronica and Bailey is understood through a metaphor of 'moving the line', (a statement which is reinforced in bold white lettering across the bottom of the screen). Somewhat inexplicably, the narrator talks the viewer through a simple line drawn diagram which is entitled 'Drink my milkshake'. The diagram is divided into three zones in a row, a little like a sports pitch, with the line delineating the zone to the left as 'no', and the line delineating to the right as 'yes'. This leaves a curious space in the middle, which one can only assume is an ambiguous zone. There are also two little squat figures, presumably representing young people, one on each of the opposing lines. The voice-over explains: 'It's as if they were moving the yes line OVER the maybe zone, or the end zone, IGNORING your rich inner world'. Now green and labelled the Action Zone, the lines are gone and there is simply one zone, which the narrator suggests is a violation of 'individual freedoms and rights'. As the zone turns red, the narrator concludes, 'And that's not good!'

If this sounds confusing, that's because it is. The voice-over continues, flashing back now to our original couple, his face still smeared with the creamy substance, while she looks cutely into her cup. The narrator suggests that this kind of behaviour might be disrespectful, or at worst, abusive. Meanwhile, the pretty Veronica aggressively states, 'It's just a funny game, Bailey. I know you really like my milkshake'. The voice-over man asks, 'how does a line moving make you feel?'

We might hope for a better explanation now, surely. But we go to a new diagram, this time with the heading 'Get pizza?'. The original three boxes reappear, with the two squat figures and the No to the left and the Yes to the right. The voice-over suggests that 'Some decisions may be more important to you than others'. Moving the line, the male narrator suggests, on having pizza for dinner, may not upset a person as much as saying 'Can I touch your butt'. The acutely disembodied discussion is briefly embodied. Then, just as quickly we revert to the line drawing, and the voice-over says that, similarly, moving the line once might not matter, but if someone moves the line over

and over again, ‘then you might come to feel very upset’. The voice explains that is all very clear: whoever moves the line is breaking the rules, and whoever has the line moved is ‘entitled to feel upset’. The script flashes to the young man covered in cream and suggests that ‘you have every right to feel as upset as you like’, while his girlfriend giggles on. The young man asserts that now he feels angry, while she laughs and says flirtatiously, ‘oh you are just being silly’.

The video then moves to the third stage, a reconsideration of the relationship. This does not take the form of a discussion about a coercive relationship. Instead, it remains within the trope of romance. The young man then writes a pros and cons list—mainly pros about how pretty his abuser is—then asks himself poignantly, ‘is this a respectful relationship?’ The young woman is now playing a pinball machine, with a second young (black) man Oscar, seemingly a friend of both Bailey and Veronica. At this, the narrator suggests that after a moved line, ‘you might want to repair’ the relationship. In front of the pinball machine, the victim Bailey tells his girlfriend Veronica that sometimes he doesn’t like the way she treats him, and he suggests he is owed an apology. She giggles (only a little this time) and apologises ‘I’m sorry Bailey’ and explains that she knows he doesn’t want to drink her milkshake. She also notes that she plastered it all over his face.

Before the viewer gets complacent, however, the mood shifts to an alternate vision. The narrator suggests that if someone is repeatedly disrespectful or ‘moves the line’, then perhaps the relationship needs to be reconsidered. ‘Why am I here?’, asks the cream-smearing man, while Oscar looks on in alarm, and his girlfriend takes selfies of his greasy, milked face. Should you try to repair the relationship and get help, asks the narrator? Or ‘just walk away?’ At this point, the young woman physically grabs her boyfriend and pouts aggressively, ‘You don’t go anywhere!’ The narrator then concludes, ‘In extreme cases, you may feel unsafe to stay or leave’. Here, at last, we might expect some discussion about intimate partner abuse. Yet we are treated to more images of Veronica smearing more food—perhaps cereal—on Bailey’s face. The narrator begins to talk aloud about Veronica, asking whether or not she will recognise what she is doing, or continue to act in this way. At this point, the viewing is profoundly uncomfortable.

His face now smeared with cream and other food, Bailey blurts out to Veronica to get off him and says he hates her. Her grin quickly turns to submission, and she asks herself ‘What am I doing? I’m hurting Bailey to make myself feel more powerful. I have to stop this’. She apologises and asks for his forgiveness (if only all coercive relationships were so readily solved!). When he rejects her, she says ‘Please know I don’t want to be this way’, but he leaves, with the camera shot panning out to show Veronica and the friend/witness Oscar, now sitting at the bar. Veronica turns to Oscar and asks, ‘Am I a bad person?’, to which Oscar replies ‘Ahhhh, Veronica, I think you should talk to a professional’, and hands her a business card. He pats her kindly on the shoulder and leaves. She stares blankly at the card, which is a number for counselling

about respect (we note that Bailey, as the victim, is not given any advice to seek help).

The narrator concludes that relationships are hard work, voicing over the content of both fun images of the couple and their low points too. ‘Handling a disrespectful relationship can be upsetting, lonely, or even dangerous’, he suggests, while the visuals show Veronica again shoving cream all over Bailey’s face (by this stage, the cream is surely fetishized). The narrator concludes that young people can always find someone to support them, ‘no matter which side of the line you are on’, showing Bailey with his friends around the jukebox, while Veronica looks at the counsellor’s card and makes a phone call. The narrator finally cheerily promises that in the next video, we will learn about ‘stepping in’, whatever that might be.

This entire exchange is a little short of excruciating to watch and muddies ideas of consent with a peculiar twist on a coercive or abusive relationship. The Milkshake ad is an abominable way to try to explain sexual consent to young people: in fact, it might have been billed as consent education, but it does not deal with consent in any useful way. It is—dare we say—quite a creepy interpretation of consent, focusing on all the wrong things. Notably, it doesn’t mention the words ‘sex’ or ‘consent’ once. Its analogy has none of the simple yet clever charm of the cup of tea, where the meaning is somehow more obvious. In the milkshake clip, the target audience of teen viewers was left wondering, ‘Are they talking about *sex*?’. By refusing to use the words sex or consent, and by highlighting an abusive relationship, messages about choice and bodily autonomy are lost.

The pseudo-1950s setting, the white heterosexual couple, the smeared face, and the weird exaggerated even maniacal laughter of the ‘offender’ held no appeal to young people, or indeed to anyone much at all. This is a resource that verges on mockery about sexual violence and coercion, issues that will be deeply traumatic for many in the community. And of course, the gender inversion, where the woman is the offender and the male the victim, doesn’t help young people understand the most common forms of sexual abuse that they will likely encounter. This is not to say, of course, that men can’t be victims to female offenders, but for an entry-level script aimed at a generalist audience aged 14–17, it is hardly the most likely scenario, as Chanel Contos’ website has well shown (see Chapter 4). Is there also an undercurrent at work here? It’s hard to know whether this was a simple attempt to not offend men’s rights groups. Is it an attempt to divert from the reality of the statistics that show the commonality of men’s violence against women and girls, or is it a way to silence women’s voices even further? The inversion of gender roles probably achieves all of these objectives, while making it an alienating encounter for young women viewers.

Finally, conceptually, the video does not aid understanding of consent or affirmative consent. It presents the ‘maybe zone’ as a concept, with no useful explanation. While there are complexities to consenting to sex (especially in relation to power differentials), we would suggest that a ‘maybe zone’ is

unhelpful in discussing consent, without picking through these difficulties. All the talk of ‘moving the line’ is spectacularly unclear, and seems to suggest there is a profound ambiguity to consent, rather than empowering young people to assert their own desires. The milkshake video is anti-sex, in particular by discussing the moving of ‘the line’ as in itself threatening, going against decades of evidence that messaging about abstinence does not work (Society for Adolescent Health and Medicine, 2017). It would be more constructive to acknowledge that relationships do shift and grow, but that changes in sexual activity do need to be consensual.

At its core, the milkshake ad suggests that the government believed that teenagers do not have the maturity to deal with proper conversations about consent or sex and that these concepts need to be spoken to in the most oblique of ways. It goes against decades of sex education, which suggests that young people need to be given the tools to combat abuse, including correct terminology, basic ideas about the law, a reminder of the importance of sexual and gender autonomy, and a deeper understanding of power relationships. Those who have worked on sex education with young people—often for decades—openly acknowledge how difficult this can be, but a student-centric approach is critical, alongside a willingness to discuss the gendered components of sexual agency (Keddie, 2023).

The media was unequivocal in condemning the milkshake video and its budget, reported as AUD \$3.8 million—almost half of the Federal government’s \$7.8 m budget for the Respect Matters campaign (Zhou and Boseley 2021). The Federal government suggested that there had been widespread consultation with subject matter experts, as well as community members, teachers, and school leaders—though few would later own up to any involvement (Landis-Hanley 2021). Within days of it being live, the resource was pulled from distribution. On one hand, the entire incident was laughable, cringeworthy, and a poor reflection on a conservative government strikingly out of touch with young people. On the other hand, it was an enormous missed opportunity, at a moment when young people want and need concrete yet sophisticated information about consent and sexual violence. The misuse of taxpayer’s money is not as distressing as the wasted chance to produce something exceptionally good for young people.

While the Milkshake video is an extreme example, of how confused, convoluted, and just plain wrong sex education about consent can become, clear messaging around consent is nonetheless complex. In part, this is because affirmative consent itself is more multifaceted than it seems. At best, it offers an opportunity to engage in sexual encounters with openness, honesty, and good intent. It should force open the lines of communications in both new and existing relationships and help to forge bonds of intimacy based on mutual desire and understanding. It should allow individuals to enact and enhance bodily autonomy and shore up partnerships that are based on trust and genuine exchange.

Affirmative consent should, ideally, help protect against sexual violence. It will not, of course, protect against all sexual assault: some offenders will simply not care about the consent of their victim. Nor can affirmative consent help, necessarily, with the ‘he said, she said’ of the adversarial trial, where so much still depends on the words after the fact, and within the courtroom.

Yet affirmative consent can be a force for cultural change, where clear expectations are set by society that all partners need to be willing participants in any sexual encounter. Just as importantly, it can help with sexual encounters that occur at the edges of intended violence, where offenders miss social cues, have unrealistic or incorrect assumptions about their partner, or who plunge on if they are unsure. The articulation of ‘yes’ (whether verbal or nonverbal), combined with checking in to ensure the sexual activity is still wanted, may help people to understand their partner’s wishes, with more clarity and confidence. Normalising affirmative consent is important. It may take some time and practice, but clear expectations around the likely scripts of a sexual encounter should help to guide people as they navigate the tricky grey areas, and hence offer protection from both unwanted sex (where a person might agree, under sufferance) and outright assault.

Despite the optimism that a framework of affirmative consent can bring, this book has charted a series of problems with affirmative consent, both in theory and in practice. We have shown there can be gaps in recognising the cues of consent and non-consent, often due to expectations around gender roles, sexual scripts, and rape myths. Our quantitative survey shows that most young people have a reasonable theoretical understanding of consent. The majority can read non-consent in examples of emotional coercion and physical force, for instance. Many also understood passivity, including lying still, as a sign of non-consent. However, individual’s reactions are tempered by their pre-existing understandings of relationships and conceptualisations of sexual violence. It is harder, for example, for many people to read signs of sexual assault in longer-term relationships, where consent is more readily assumed. Further, some groups are more perceptive about non-consent than others: women, for instance, recognised non-consent at higher rates than men, while older participants recognised non-consent at lower rates than younger adults.

That young people do not always implement this knowledge in practice is, however, clear. Through an exploration of young women’s online testimonies, we have shown the vulnerabilities of girls and women to sexual assault—it is notable that the initial impetus to the Teach Us Consent website was amongst relatively privileged young women in affluent areas in Sydney. They were and are not immune to sexual violence. Their testimonies were a significant and brave attempt to challenge rape cultures, moving beyond the traditional criminal justice sector, to a distinctly feminist form of anti-rape activism. The agenda was widely adopted by young women. Speaking of sexual assault shifted the power relations, with women forcing through from silence to visibility, and laying witness to the violence and harm of non-consenting actions. In Australia, the testimonies led to widespread calls for better, age-appropriate

sex education on consent for all school children, to empower young women and other exposed groups, and to explain to young men the meanings of, and necessity for, consent. Sex education about consent was confirmed in 2022 by the Federal and State governments, and the Teach Us Consent project will be involved in design and delivery. As the testimonials reveal, in many of the sexual assaults listed by young women, consent was not requested or conveyed. Shifting a culture that allows for women's silence to be interpreted as consent will require a significant intervention, and one which carefully constructs and narrates affirmative consent, with substantive buy-in required from all partners.

This is, of course, one of the major problems with affirmative consent: it fails to speak to, and with, many diverse communities. Chapter 5 explored the ways consent and affirmative consent can be understood and reimaged amongst refugee and migrant groups, and the necessity of complex engagement with marginalised women and men. This is not the only significant gap. Affirmative consent is generally anticipated and explained in heteronormative, cis-gendered terms: the man actively seeking sex, the woman either agreeing (actively or passively), or refusing consent. There is little room in this explanation, or in the corresponding analysis of rape cultures, for the LGBTIQ+ community and especially amongst trans and non-binary folk, who are, nonetheless statistically vulnerable to sexual assault. While the law itself does not distinguish between genders in legislation or (theoretically) in case law, cultural and social narratives of affirmative consent need to be expanded well beyond gender binaries and sexual stereotypes, to include all groups at risk of abuse, as well as all potential offenders.

Our work has, therefore charted a series of problems and limitations of affirmative consent. This does not, however, lead us to the conclusion that it should be abandoned as a framework for thinking about improving issues of sexual violence. Instead, we suggest that we might simply need to think more *boldly* about affirmative consent.

Part of the appeal of affirmative consent has been its simplicity. It has a straightforward message, that can be readily utilised in slogans such as 'only yes means yes' or 'consent is sexy'. It translates to a poster, or a social media campaign, in ways that are accessible and easy digested, especially for young people. The success of the cup of tea video is a prime example, in the way it lays out a clear and simple message, not complicated by any of the intricacies of sex, intimate relationships, hook-up culture, or gender normativities and expectations. A 'cup of tea' exists in a vacuum. It is a great place to start talking about consent, especially with teenagers, but it is the tip of the iceberg. Messaging about sex, then, needs to be supported and underscored by more complex understandings of affirmative consent.

First, it is critical that affirmative consent be understood in sex-positive ways, especially for women and non-binary people. It's too easy to slip into a model of affirmative consent where men are imagined as the active partner or even the sexual aggressor, while women are defending their right to consent.

Of course, this can be one pattern. Nonetheless, it's important that we understand older girls and women as capable of pleasure and desire, and reassert this as central to the sexual experience. Sex cannot be articulated primarily as a defensive position, but rather needs to be understood as an opportunity. Indeed, how might women write themselves into active consent?

If we look into the definitions of affirmative consent, we see that there is a focus on the defining of affirmative consent, and also an articulation of what it not. Most American colleges have a version of affirmative consent in place. To take an example, the State University of New York (SUNY) defines affirmative consent as follows:

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression'. (SUNY website, ND)

Here, the college articulates that affirmative consent requires a verbal or nonverbal agreement to sex and that silence or passivity is not counted as consenting. The SUNY website also expands gendered notions of consent, to say that gender or sexual orientation do not impact on the way consent is understood. Similarly, jurisdictions where affirmative consent has been introduced, take a similar tact, with an emphasis on the legal parameters of a contractual agreement.

Nowhere in this sense of *contract* do we get a sense of the pleasure and joy in sex. Clearly, pleasure and desire are two of the key drivers of sexual contact, yet in these definitions of affirmative consent, there is no sense of sensuality or carnality or amusement or relaxation. So many of the key players to sexual contact are simply written out of current understandings of affirmative consent.

Further, women are left in affirmative consent largely as responders, urged from passivity to action, if only to respond to the advances of their more amorous (male) partner. There is no real sense of women being players, shapers, or agents. Even when gender neutrality is attempted (which, as in the SUNY example, it generally is), we read these documents through our cultural expectations and our own lived experiences. Men are coded as sexual agents, actors, and initiators. We unconsciously draw on long histories where male sexuality was and is understood as hydraulic and active (Featherstone, 2010). This leaves women as receptive, reactive, and immobilising. In drawing on these binaries, women are written out of the script of sexual autonomy, responding to rather than initiating sexual activities. As scholars of sexual and gendered violence, we too, deflect to a protective mode, where safety is core.

But we need to imagine affirmative consent as an opportunity to explore pleasure, recreation, fun, and desire, too, and this needs to be at the forefront of how sex and consent are explained to all young people.

Part of this, too, is breaking down the gender binaries that seem to slip into many models of affirmative consent. As Rona Torenz has suggested, heteronormativity is one power relation that has been invisibilised in discussions about consent (2021, 722). It's not just the milkshake video that appears relentlessly cis and heterosexual, but many of the scripts that encode affirmative consent end up being read and socialised within a gender binary. Yet understanding that consent is important for queer people, trans people, non-binary people and so on, is vital to any attempt to mitigate sexual violence within communities. All of this means that we need to drive affirmative consent via cultural, not legal, change and that we need to acknowledge sex and gender diversities to be central to any discussions about consent.

Second, we need to think far more about power within relationships, both during casual sex and in longer-term relationships. Centralising the idea of power into discussions of affirmative consent must be a priority, and it needs to operate sensitively at multiple levels. Affirmative consent cannot be reduced to a contractual engagement, delivered digitally by an app. Indeed, the mythical app is a common device used by naysayers to mock the concept of affirmative consent—this is perhaps the one thing we agree on—that there is not a technical solution! More seriously, however, any discussion of consent needs to interrogate the power of the individual to consent. There are many examples of power imbalances that render consent problematic, even amongst adults. An employee might agree to sex with their boss to keep their job; a wife might agree to sex with her husband, to keep the peace; a young girl might agree to sex with her boyfriend, so he doesn't stray.

In educating about affirmative consent, it is important to empower women and other groups to say no to unwanted sex, not to simply acquiesce because it is easier or expected or anticipated. The discussion about a right to bodily autonomy but also to pleasure and desire needs to be at the forefront of education about consent. If sex is unwanted, then questions need to be asked about power and sovereignty. While not all unwanted sex is criminal, there is also no obligation to have sex. We need to be unafraid to discuss this frankly with young people, and to define their bodily autonomy clearly. We need to strive towards a social, sexual, and political culture that acknowledges the bodily self-determination of women and all minority groups.

Obviously, however, ideas of consent become even more complicated in cases involving various forms of gendered violence, including domestic and family violence. Here, power imbalances are already in play, including the use of physical, sexual, financial, or emotional abuse. Women may lack the ability to refuse consent. Affirmative consent relies intrinsically on the autonomous subject, who can articulate 'yes' or 'no'. This is not the case where women feel vulnerable to violence, or indeed are already in a violent relationship. There are no easy fixes here, of course, and victims need access to a raft of

resources, including support for personal safety and financial well-being. Yet the power imbalance found here needs to be part of the conversation about affirmative consent—the simplistic messaging of ‘only yes means yes’ renders women enduring family and domestic violence invisible.

These are the tough, difficult, and thorny conversations we must have in the mainstream. We need to think through the concept of the rational subject and see how power imbalances do not allow some women to consent or refuse consent. In these instances, the problem is actually a bigger one than sex: the victim here is unable to maintain bodily autonomy in more ways than one. The vulnerability of women and other people to physical and sexual abuse needs to be tackled as part of a broader conversation, not simply one about consent, but the links between affirmative consent can be part of this discussion. Further, these need to be discussed not just in rape crisis centres and domestic violence services but as an integral part of the educative content about affirmative consent.

Third, thinking about consent needs to be a lifelong endeavour, not something aimed just at young people. We applaud moves to introduce better school-based sex education to children and young people: this is core to building a society where consent and bodily autonomy are the expectation, not add-ons. Yet, this can’t end when formal schooling is completed. Chapter Three, which focuses on understandings of consent from age 18 to 35, shows that consent is better recognised by the younger cohort, while the older participants had murkier interpretations. This sends a clear message that education about consent is not a ‘one-and-done’, but rather needs to be backed up by consistent reaffirming across the life cycle.

Fourth, we need to listen far more carefully to diverse groups and to ways that cultural specificity intersects with an affirmative consent message. This is not easy. It would be far simpler to hire a translator, to make generalist affirmative consent messages available to different cultural and language groups. This is, however, unlikely to be successful (Maturi, 2022). Migrant and refugee groups have multifarious backgrounds and needs, and each group will have its own frameworks and lived experiences for understanding sex, relationships, and potentially sexual violence. Within some cultures, there are distinct views on access to sex after marriage, and the consent of a wife is assumed: this means sexual assault can be a remote or extraneous concept. Further, it can be difficult for women to challenge ideas of masculinity and male privilege, while maintaining important cultural traditions. Programs to educate around consent and affirmative consent need to be co-designed and implemented with and by community groups, to ensure that outcomes are meaningful. Working with communities on human rights, individual autonomy and sex education can be more promising than mere criminalisation, and including men in these discussions has proven to be positive. But it’s not merely about providing structures for thinking about consent and sexual violence, or about criminalisation and legal solutions. Rather, we need a more complex engagement with

marginalised men and women, including deep financial, legal, and cultural support for victims as they navigate difficult terrains.

Finally, understandings of sexual consent need to be broadened, beyond the initial sexual experience. Our work on sexual and reproductive coercion highlights the vulnerability of women and pregnant people to abuse. While these forms of reproductive control might not initially seem to be related to consent or affirmative consent, thinking through the ways that bodily autonomy operates within relationships will help us to drive change around sexual consent in broader, more impactful ways.

Part of thinking through the conundrums of affirmative consent is about embracing the inherent messiness of sex and relationships. Consent to sex is, at the core, necessary for sovereignty, and is part of a suite of basic human rights. Acknowledging this is an important part of the feminist agenda, as is delineating the power relations that make it difficult for some women to say no, and for some women to say yes. We need to be unafraid of the grey areas, and of thinking through the boundaries of what is possible. We need to expect more of affirmative consent, than a simple slogan. We need to acknowledge the limitations of the model but strive to tackle these. We need to be braver and anticipate a richer framework, that is inclusive at its core. Ideas about affirmative consent need to be courageous and daring, but operationalised at a local level, so they are right for the precise audience. It's too easy to think that sexual violence is timeless and therefore normalised and never-ending. Affirmative consent will not solve all of the problems of gendered and sexual violence. Nonetheless, social and cultural change around affirmative consent is one important step towards bodily autonomy for *all* people. If we can complicate this next step, affirmative consent models will be richer, more precise, and undoubtedly more inclusive.

NOTES

1. The video can currently be viewed at <https://www.youtube.com/watch?v=n3aHhNKIcKU>. Last accessed June 2023.

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