

Article

BDSM and the Complexity of Consent: Navigating Inclusion and Exclusion

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Abstract: Consent is a foundational component of BDSM (Bondage/Discipline, Dominance/Submission, Sadism/Masochism). It distinguishes non-normative, consensual practices from instances of abuse and exploitation. Its centrality within BDSM, however, underscores the complexity of consent as a constitutive mechanism that facilitates varied intersubjective engagements, from continuous negotiation and aftercare to the use of safe words. The ontological basis of consent within BDSM relies on a model of subjective autonomy wherein individuals actively shape their desires and boundaries within a consensual framework. This paper argues that a significant motivation for many BDSM practitioners lies in the desire to subvert autonomy by engaging in acts that challenge traditional consent boundaries. However, reliance on a purely liberal interpretation of consent often marginalizes such subversive expressions, thereby pushing certain BDSM practices and individuals toward pathological or criminal categorization. Here, I propose an ethical framework grounded in a liberal consent model, which is open to the inclusion of these marginalized practices, thus, fostering a more inclusive understanding of BDSM subjectivity.

Keywords: BDSM; consent; autonomy; neoliberalism; consent non-consensually

1. Introduction

The intersection between consent and sexuality determines the way in which human interactions are governed. The way in which sexual agency accomplishes its goals is through decisions that establish sexual needs and desires. In the case of sexuality, consent is, by definition, a covert or overt act that separates between pathological and criminal to non-pathological and non-permitted behavior [1,2]. It differentiates between abusive actions, such as rape and marital abuse, and contrasts them with the full range of sexual fantasies and desires expressed through mutually agreeable statements and gestures between the involved parties. In the BDSM acronym, which includes bondage and domination/sadism and masochism, this diagnosis is even more valid when the consent is examined under every statement and action. This is due to the fact that it includes practices, such as inflicting pain and humiliation, which are subject to constant suspicion regarding the very ability of a rational agent who is sovereign over his body and his will to accept them. Here, the way in which the sexual agent operates under consensual intersubjective engagement reflects one's intentions and operates under the full awareness to one's own will. It is the initial BDSM condition—a sexual behavior different from pathological and criminal sexual assault.

The aim of this paper is to critically examine the cultural and social interpretations of consent as they have evolved within the institutional framework of BDSM over the past few decades. It will be shown that these interpretations often function as a constrained force, excluding certain desires and motivations inherent in BDSM practice. The development of consensual norms in BDSM will be traced. The paper will deal not only with those that



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serve as a generative and constitutive mechanism shaping BDSM thought and practices but also those that are an exclusionary mechanism that marginalize fantasies and behaviors that do not conform to its prevailing logic—particularly those driven by the desire to act against one's intentions and to experience distressing and intense sensations. This discussion necessitates a critical exploration of the formation of the BDSM communal life and culture through two complementary stages. First, the cultural construction of consent within BDSM, framed by liberal assumptions as a structural power that both creates and enriches sexuality while simultaneously excluding contingent fantasies, desires, and behaviors will be investigated. At this stage, the paper will engage in the concept of consent as it relates to an autonomous liberal definition, which has been validated through neoliberal rationale. Secondly, a new critical question will be posed, one that lays the groundwork for an ethical argument, acknowledging the desire to act against one's will and to experience sensations that are often framed negatively within a liberal epistemology. This exploration seeks to reposition such desires within the BDSM discourse as non-pathological and permissible behaviors, challenging established notions of consent and agency.

The question of consent and its deviations in BDSM is far from self-evident, given the inherent heterogeneity of its practices and identities. BDSM encompasses a wide range of activities and connections, from diverse intersecting forms, such as LGBTQIA and BDSM and even racially charged dynamics, to distinctions between sadomasochism and dominant/submissive relationships [3–6]. The role of consent in BDSM can be examined through its immanent universal core as the eroticization of power dynamics [7], while also considering how consensual processes are shaped by the flexible, and often unpredictable, dynamics of BDSM power relations. In this paper, less emphasis will be placed on the heterogeneous forms of BDSM. Instead, I aim to analyze the construction of consensual relationships within BDSM culture, exploring how these dynamics create and exclude particular forms of BDSM thinking and practice [8]. This analysis will consider the complex interplay of power eroticization while highlighting the contingent and experimental possibilities underlying consensual expectations in BDSM social frameworks.

In order to meet this goal, the main argument of this paper will be developed in several steps: first, I will present the changes in the consensual argument in BDSM, especially through secondary literature argument and evidence, as a part of the liberal autonomy assumption. Second, I will expose the requirement and the initial enjoyment of willingness as some of the prominent mechanisms of BDSM fantasy and behavioral construction. Lastly, I will present the politically excluded act of BDSM consensual construction through liberal agency, by exemplary discussion over an ethnographic case and a legislative verdict.

2. BDSM vs. Consensually

The radical shift in the status of BDSM over the last few decades reflects a transformation from a clinical and pathological label to a social and cultural conceptualization as a minor sexual behavior and identity. Prior to this change, BDSM—particularly in the context of sadomasochism—was defined in Western discourse as a manifestation of brutality and cruelty, associated with pathological interference. It was often viewed as a form of extreme sexual imagination and practice, particularly within the homosexual leather subculture, which was marginalized and criminalized [9–12]. Since the 1970s, as part of the process of acceptance for practices and sexual orientations that challenge heteronormative hegemony, BDSM habits have increasingly transcended the private sphere under the pathological and criminal shed to enter the public realm [13]. This shift is evident in the movement from the confines of LGBTQ subculture to a more diverse segment of society. This transformation is particularly illustrated by the emergence of BDSM consumer culture, influenced by

neoliberal principles, as seen in the market for BDSM toys and apparel, as well as through organized communities advocating for BDSM practices [3].

In the context of diverse sexual discourses, from productive frameworks to the democratization of sexual pleasure in a neoliberal atmosphere, the acronym BDSM has gained visibility as a form of minor sexual pleasure [12]. It is increasingly recognized not as a pathological tendency defining an individual's identity through brutal sexuality, but rather as part of a broader spectrum of sexual imagination. While BDSM may present challenges, it is understood as a contingent, intersubjective source of pleasure [14]: visual representations of BDSM practices, such as whipping, bondage, and mental and physical domination, have secured a unique place in popular culture, peaking with the widespread success of the novel and film *Fifty Shades of Grey* [10,15,16]. BDSM practices and intersubjective engagements are increasingly institutionalized through organized events, workshops, and parties, becoming more prevalent in consumer culture. Virtual platforms for dating and the consumption of sexual stimuli have also become central [3,9,13,17]. Furthermore, since 2013, the American Psychiatric Association's DSM-5 has removed various BDSM practices from the clinical category, with several studies indicating that individuals who engage in BDSM consensually exhibit psychological and sociological health that differs from compulsive pathological sadism [18–20].

Perhaps the most significant expression of this change is the finding from multiple studies indicating that between 10 and 25% of the population identifies as having sexual fantasies and behaviors that fall under the BDSM definition [6,20]. The prevalence of BDSM within the normative general population is supported by statistical and demographic evidence, revealing that BDSM practitioners tend to exhibit lower levels of neuroticism, higher extraversion, greater openness to new experiences, and enhanced subjective well-being compared to non-BDSM control groups [4]. Moreover, BDSM practice has been identified as a fulfilling leisure activity that empowers participants through spiritual and transcendental experiences, fosters a sense of thrill, and contributes to the development or enrichment of individual subjective identity [5,21,22].

Consent is a fundamental element in establishing permissible sexual activity and plays a crucial role in shifting BDSM from a pathologized stigma to a more publicly visible practice. In the context of BDSM, this emphasis on consent is particularly significant, as it contrasts with practices that may involve humiliation and pain, raising questions about security and bodily dignity. Therefore, the institutional development of BDSM within cultural and social realms is influenced not only by formal consent but also by the gradual evolution of consensual norms that validate the behavior of BDSM practitioners [2,23,24]. These conditions have shaped BDSM activities as acceptable in public discourse, particularly through the well-known mottos "Safe, Sane, and Consensual" (SSC) and "Risk-Aware Consensual Kink" (RACK) [13,14,17,19,24,25]. SSC emphasizes that all consensual interactions should ensure participants' safety and mental stability, safeguarding against severe irreversible harm. In contrast, RACK acknowledges that BDSM can involve calculated risks, where participants may challenge their health and mental well-being for the sake of pleasurable experiences. RACK serves as a response to the mainstream institutionalization of SSC by rejecting the notion of strict bodily preservation and the stigmatization of mental stability among BDSM practitioners. Instead, it embraces risk-taking as a component of consensual engagement, allowing individuals to explore their boundaries and desires while negotiating the fine line between health, sanity, and the fulfillment of fantasies that cross them within a consensual framework.

The tension between Safe, Sane, and Consensual (SSC) and Risk-Aware Consensual Kink (RACK) not only establishes consensual norms that validate BDSM activities but also shapes the very nature of BDSM fantasies and behaviors. These consensual

norms—whether viewed as a rigid preservation of bodily and mental stability or as a balance of risk-taking—constitute the subjective experiences of practitioners as they navigate the discursive rules surrounding BDSM [2,13,17,19,24,26]. The influence of BDSM consensual norms has evolved according to the degree of commitment and intensity exhibited by its participants [3,27]. Regardless of this evolution, the external rules that define the permissible content of BDSM activities are crucial in shaping the fantasies that individuals can conceptualize, the statements that can be expressed in social BDSM contexts, and the behaviors that contribute to one's pleasurable experiences, sometimes even influencing personal identity. In the following pages, I will review how pleasurable production within BDSM is established under these consensual norms through three dimensions emerging from contemporary literature on the BDSM community and culture: negotiation, non-consensual consent, and the distinction between fiction and reality.

2.1. Negotiation

Negotiation is the process of establishing consent in any BDSM scene or relationship, representing an explicit mutual agreement on which activities are permissible [3,19]. Acceptable BDSM practices are predicated thorough negotiation, which reflects the power dynamics between participants. This negotiation establishes the boundaries of power distribution between the dominant (top) and submissive (bottom) partners [28]. Additionally, participants' decisions are influenced by social status, such as gender and race. These factors collectively shape the power that individuals exert within the negotiated framework.

The necessity of consent depends on how individuals express their precise will and desire to determine acceptable BDSM practices [19,25]. This includes a formal agreement to engage in BDSM activities, precise details that shape participants' fantasies and satisfaction (such as the specifics of intersubjective engagement, the limits of the practice, and the location of the activities), as well as the underlying conditions under which they can explore their boundaries to enhance their subjective experiences [25,29]. In this context, pleasurable production emerges from a negotiated agreement in which both parties consent not only to the activities but also to the ways in which they may test their limits.

Negotiation is the primary discursive activity in BDSM consent, and it plays a key role in defining the conceptual boundaries of BDSM, particularly in distinguishing it from criminal sexual assault [11]. This process permeates all aspects of BDSM interactions, especially in short-term relationships, from simple pre-scene discussions about the activities that will take place, to more complex, long-term relationships. In long-term relationships, negotiations may involve lengthy, in-person discussions that foster a strong mental connection and mutual understanding. This allows participants to challenge themselves and each other by crossing physical and mental boundaries [19].

The power dynamics involved in negotiation have two significant social and political implications: first, negotiation, especially in edge play or long-term relationships, requires a strong foundation of emotional closeness and trust, built on shared BDSM experiences with the partner [19,30]. As Bauer suggests in his ethnographic research, BDSM offers a new model for intimate relationships, where mutual vulnerability is essential due to the need to express evolving needs and desires. This contrasts with "vanilla" relationships, where consent to sexual and intimate interactions is often given in advance, resulting in a lack of closeness that develops over time [28,31]. Bauer identifies this closeness as particularly prevalent in LTGB BDSM intimacy. In this context, BDSM intersubjective engagement provides a nuanced model of intimacy wherein erotic needs and desires are discussed openly. Preferences within BDSM can shift through the hierarchical dynamics established between partners, where the delineation of roles—specifically the "top" and "bottom"—supplants traditional gender divisions [31]. Furthermore, regarding the negotiation process within

LTGB, BDSM serves as an alternative intimate framework that challenges heteronormative dictates. This distinction between LTGB BDSM and heterosexual BDSM emphasizes a relational mode not grounded in heteronormative scripts, but instead one that actively subverts and reconfigures them through the unique erotic activities and relationships characteristic of LTGB BDSM communities.

Second, negotiation requires sovereign subjects who are fully aware of their own needs, capable of articulating their desires, and able to express any health concerns or boundaries. Both parties—the top and the bottom—must come to a mutual agreement on what the scene or relationship will involve, and communicate their hard limits clearly [19,30,32]. This emphasis on negotiation underscores the presence of a sovereign subject in BDSM, one who is not only self-aware but also actively engaged in fulfilling their desires and maintaining autonomy. This level of self-awareness and agency, central to BDSM practices, may be more pronounced than in other forms of institutionalized social relations.

2.2. *Nonconsensual Consent*

Building on the consensual norms of SSC and RACK, consensual non consent (CNC) presents a complex layering of autonomy and surrender within BDSM practice. Under this framework, the top and the bottom agree to construct a scene that reflects the top's desires, engaging in various heterogeneous practices—from physical pain infliction, such as branding and bondage, to mental forms of light or severe humiliation [2,23]. During the scene, the bottom's desire will become irrelevant (and sometimes even a catalyst for the top's pleasure), as they are expected to respond to demands that may contradict their personal desires. Evidence from participants in BDSM communities has shown that the desire to establish the bottom's humiliation is often fulfilled through the symbolic or material elimination of the bottom's will, serving as a sign of complete submission [28].

Consensual non consent (CNC) does not align with the liberal assumption of autonomy, which conditions decision making on the premise of voluntary and informed agreement among all participants [28]. For coping with this problem, the emergence of CNC within BDSM is institutionally structured as a safe and sane practice, carefully managing risk within this inherently risky framework. Tools are created to give the bottom control over their ostensibly non-consensual state. One of the most common mechanisms for balancing the top's control and preventing oppression or one-sided violence is the use of a safe word [19]. A safe word, agreed upon before engaging in BDSM activities, allows the bottom to end or modify the scene, thus, maintaining a balance between their loss of control and the preservation of their physical and mental well-being. It ensures that even in a context where the bottom's will is symbolically erased, they can regain control at any moment. However, the safe word is not the only way to balance this dynamic. Non-verbal cues, such as physical gestures or facial expressions that signal discomfort, or the top's attentiveness to the complex needs of the bottom, can also maintain the equilibrium between initial consent and its apparent absence during the scene [2,17,31]. This form of balance is particularly prevalent in relationships characterized by deep emotional closeness, where the use of a safe word might be seen as unnecessary or even detrimental to the spontaneity and thrill of the engagement.

However, the tools that balance between non-consent and the mechanisms by which the bottom regains control within a calculated risk framework are not established with a clear-cut solution but rather as an ongoing negotiation within a complex power exchange. Therefore, misunderstandings in the power dynamic can arise due to miscommunication, particularly in the absence of a safe word [23,24]. Moreover, the extent to which participants can push their mental and physical limits raises significant concerns, particularly about acting beyond one's initial consent [17,24]. As a result, questions arise regarding

how individuals can maintain control over their boundaries. This can occur due to miscommunication and the poor interpretation of statements and gestures by their partners. This situation also introduces the concept of false consciousness, wherein a submissive partner may believe that their humiliating state accurately reflects their intentions, when in fact it may merely signify a response to distress or a conditioned expectation of social inferiority, such as those associated with gender. These concerns will play a significant role in the subsequent sections of this paper, as they are central to its overarching argument. A broader discussion regarding the clarification of autonomy within a liberal consensual framework will be further developed in the next section, with a specific focus on the interplay between neoliberal governmental decisions and the construction of subjectivity. At this juncture, it is evident that BDSM engagements often entail complex dynamics, and the question of consent remains tenuous in certain practices, especially those that challenge conventional boundaries.

2.3. Outside/Inside Dichotomy: Reality and Fiction

A key element in understanding BDSM in contemporary clinical practice is the clear separation between consensual BDSM behaviors and pathological expressions of sadism and masochism. The DSM-5 [18] reflects this distinction by acknowledging that consensual BDSM activities, though non-normative, can be part of a healthy lifestyle. This stands in contrast to non-consensual or abusive behaviors, which remain categorized as pathological [18]. The medical recognition of BDSM is strictly confined to the boundaries of the BDSM scene, with consent deemed valid only within these limits. Any expression of such behaviors outside the controlled BDSM context—such as in daily life, workplaces, or family settings—is viewed as a potential psychological or sociological disorder. In other words, the consent to experience pain or domination by another person does not indicate a mental disorder as long as these activities are confined to the BDSM scene and do not permeate real-life settings like parenting, professional environments, or marriage [10]. The distinction between an abusive relationship and a healthy BDSM relationship lies in the partners' ability to clearly differentiate between BDSM activities and everyday life [19,23]. This separation is equally relevant when considering the hierarchical dynamics between the dominant (top) and submissive (bottom) roles. Although hierarchical disparities may also exist in real life, the critical difference in healthy relationships is that these discrepancies are much milder and do not spill over into daily interactions.

The separation between fiction and reality in BDSM is not only expressed through the division between confined, artificial spaces and daily life but also through the nature of the dominant—submissive relationship. According to this perspective, the consent of the submissive (bottom) is valid only to the extent that they feel secure and unthreatened [13,33–35]. This consent relies on the creation of a fictive realm, where the bottom experiences an intense thrill from fear or humiliation, without feeling genuinely endangered and with a full willingness to remain in the situation [35]. This artificial space is clearly distinguished from real-life situations of humiliation or fear, where the individual feels genuinely threatened or uncomfortable, thereby prompting a desire to escape. For example, this distinction separates consensual erotic power exchanges in a BDSM scene—where both the dominant (top) and submissive (bottom) derive pleasure from the sense of humiliation within a shared feeling of safety—from cases of domestic abuse, such as a battered woman. In the latter scenario, the woman's consent to remain in the relationship is invalid because it arises from paralyzing fear rather than mutual security. Even in situations where submissives are driven by an actual threat during a power exchange involving suffering and distress, their desire to escape invalidates any supposed consent. When the individual feels compelled to return repeatedly due to such

distress, this crosses the boundary of consent and enters the realm of pathology, rendering the relationship cruel and abusive.

As Stear argues, the separation between reality and fiction in BDSM is analogous to the difference between the real fear experienced in an abusive relationship and the controlled fear one feels while watching a horror film. In BDSM, valid consent arises from a mutual creation, where the dominant (top) and submissive (bottom) function both as creators and spectators of the experience [35]. This distinction not only reflects the separation between pathological sadism or criminal tendencies and healthy, non-normative sexual practices but also stems from a broader political ethic. This is especially evident in response to radical feminist critiques, which argue that BDSM replicates social hierarchies of injustice in intimate relationships [13,33–36]. The response to this critical accusation, often raised by the sex-positive critical stream as part of its radical liberal perspective, extends to debates surrounding prostitution and pornography. BDSM does not simply reproduce power differentials that mirror gender, racial, or other forms of social oppression. Rather, the separation between the mental states of the participants creates a confined space, distinct from real life, where these power dynamics are not replicated but transformed into a source of pleasurable engagement. By exaggerating these power relations and exposing their contingency, BDSM becomes a form of parody or critique, rather than a reinforcement of social inequality [13,14,37,38]. Weiss highlights this separation as a key validation of BDSM consent, noting that the external social environment can sometimes shape the self-judgment of BDSM practitioners [13]. This separation allows BDSM participants to distinguish their consensual activities from the oppressive dynamics present in the broader society, framing their interactions as consensual, pleasurable, and distinct from the inequalities that permeate real-life power structure

2.4. The Desire to Act Against One's Will: Consensual Norm via Structural Power

The question of consent in BDSM is fundamentally rooted in the concept of autonomy within a liberal framework. Autonomy in liberalism is defined in various contexts, culminating in the notion that consensual agreements must be voluntary, informed, explicit, and based on a full understanding of previously agreed-upon parameters [28,39]. This premise upholds the principle of rational comprehension among all parties involved, equipping them with the necessary knowledge to make informed decisions. In complex intersubjective engagements, autonomy necessitates the capacity to accept responsibility for decisions made within a consensual context [40]. Participants must also consider factors beyond mere rational and physical abilities—these include valid social considerations such as mutual respect for bodily dignity, acceptable cultural interpretations of well-being, and so forth. However, the question of autonomy becomes blurred and even problematic if knowledge gaps exist between parties. Moreover, there are ways in which one party can constrain the possibilities of the other, and existing social disparities can also cloud the issue of independence [24,40]. As articulated through various interpretations of liberal autonomy, particularly from a post-structuralist perspective, every intersubjective interaction occurs within a power framework, with autonomy being delineated by its limitations [41–43]. In this context, consent is determined by the flexibility afforded to both parties to express their own wishes and desires within the structural confines of cultural and social power.

The consensual ingredients of BDSM as a structural tool that builds consensual framework creates a social framework, which is based on liberal autonomy and the condition for one's desire's and intended expression. As Weiss argues in her ethnographic research, consensual norms in BDSM are not rigid directives but rather flexible guidelines that allow for the creation of new forms of pleasurable production through complex intersubjective engagement [15]. These norms do not function as arbitrary rules dictating specific behav-

iors; more accurately, they serve as structural tools—such as negotiated boundaries, the use of safe words, and an understanding of partners' needs—that facilitate an open dialog. This dialog enables participants to challenge both mind and body within a nuanced power dynamic, while maintaining health and emotional stability. However, this flexibility is contingent on the presence of an active agent whose sovereignty over their own will is fundamental to the initial condition of consent. The individual's autonomy over their body is expressed within a distinct, protected space, where desires are realized through careful negotiation. Even in situations where the individuals feel they are acting against their will; they are afforded the opportunity to regain control over their actions and awareness at any given moment. This dynamic is not solely dependent on the liberal definition of autonomy; rather, it creates its own conditions. It rejects a naive liberal doctrine that perceives autonomy as existing independently of structural power. Instead, it acknowledges the power disparities that arise from mutually pleasurable exchanges and existing personal and social differentiations. As flexible external rules, these distinctions are subject to change through reflexive mutual interpretation, thereby enhancing subjective construction as a fundamental aspect of autonomous creativity.

The centrality of the active agent in BDSM under liberal autonomous creativity derives from the democratization of sexuality through consensual intersubjective processes. The connection between sexual democratization and consent has been critically examined through the analytical lens of Foucault and his successors, particularly in relation to the shift from disciplinary to neoliberal biopolitical frameworks in the constitution of the modern subject [42,44]. By the late twentieth century, the passive agent, defined by external normative dictates, receded in importance compared to the neoliberal active agent [13,45–47]. In this context, individuality is less understood as a fixed set of values and significations determining one's tendencies and behaviors. Instead, it is conceptualized as a human resource, one that is invested in a landscape of risk and opportunity to maximize desired outcomes [42]. These developments are particularly evident in the shift in societal views on homosexuality within liberal societies—from being labeled an inferior sexual orientation, which defines subject identity, to becoming a sexual desire embedded in a market of sexuality, subject to supply and demand [13].

The consensual dynamics of BDSM further signify this transition from a passive agent, historically stigmatized as embodying brutality or illness, to an active agent which invests fantasies and desires within a calculated framework of risk in a safe, negotiated environment. This environment fosters the creation of varied forms of pleasure through mutual social relationships [15,24,48]. Here, the neoliberal active agent's profile is open to a myriad of entrepreneurial possibilities, realized through mechanisms like negotiation and the creation of a consensual, safe, and entrepreneurial atmosphere. This process hinges on the existence of an active agent—individuals fully aware of their desires, investing in them with full consciousness to create shared benefits, particularly through the pursuit of sexual pleasure.

The integration of the neoliberal agent within the BDSM consensual process is not without complexity or contradiction. This tension arises particularly when viewed through the lens of the nominal characterization of domination in psychological and sociological literature. In these contexts, domination is typically defined as the exertion of control over others, driven by underlying psychological motives such as the need for authority, validation, or superiority. The dominated, in turn, is often understood to experience psychological states of anxiety, frustration, resentment, or helplessness, losing the capacity for autonomous choice and becoming subordinated to the extent of the control imposed upon them [49–52]. Orthodox sociological and psychological analyses traditionally interpret domination in negative terms, often as detrimental to health and well-being, even when it is

part of broader cultural hegemonic structures [53–56]. The classification of sadomasochism as a paraphilic perversion has its roots, directly or indirectly, in this critical framework, where it is seen as an extension of negative, distressing experiences [8–10].

In contrast, the literature on BDSM that treats these practices as socially constructed phenomena, attentive to the experiences of its practitioners, reframes consensual domination as a departure from the negative connotations of traditional power dynamics [57,58]. Instead, it positions dominant–submissive relationships as contexts where the desire to dominate or submit is channeled into the production of pleasure. Here, phenomenological, ethnographic, and positive theoretical frameworks reconfigure sensations of humiliation and loss of control as experiences of empowerment, transcendence, and sexual satisfaction [58,59]. These effects are reinforced through practices such as aftercare, where the submissive partner has the opportunity to interpret and reframe the experience positively, and through open communication, allowing one to surrender control within consensual boundaries [6,13,27,60]. Biological evidence and literature indicate that BDSM may have significant biological effects, particularly in the intricate relationship between pleasure and pain facilitated by the endocannabinoid system. This is similar to the way in which the stressful effect of BDSM leads to heightened sexual arousal, and the implication of power differentiation, even in social terms, as a catalyst for erotic sensation [61,62]. In this context, the active capability of the BDSM agent also emerges in the profile of the submissive, who actively constructs their own pleasurable experience in line with their personal desires and beneficial interests. The submissive’s agency is not diminished by their role; it is rather expressed through the deliberate, consensual act of surrendering control, thus, reframing traditional notions of domination within a framework of mutual benefit and satisfaction.

Dymock identifies a necessary yet problematic connection between desire and pleasure as a dominant social apparatus that excludes some of the core motivational drives within BDSM [62]. According to her, the social acceptance of BDSM, framed through the lens of desire–pleasure, tends to include only those fantasies and practices that align with notions of harmony, reproduction, and self-preservation, while rejecting those driven by elements of destruction, compulsion, aggression, and repetition. This is evident in the way practices like erotic asphyxiation are marginalized within the normative frameworks of BDSM, as they cannot be easily reconciled with positive interpretations of the sex drive [62,63]. Dymock argues that this process of normalization, particularly within the BDSM community, stems from a failure to acknowledge the central role of the death drive in BDSM motivations, reducing permissible expressions and practices to those aligned with the life instinct alone (the use of the term death drive is similar to the way that Freud used it, that is as an aspiration for retreat, relaxation, and the balance against life instinct. Admittedly, Dymock refers to Lacan’s interpretation, but this difference is less relevant for us). Drawing on Lacanian theory, Dymock emphasizes that a crucial aspect of BDSM lies in the pursuit of sensations that border on the extreme—such as humiliation, helplessness, and the erotic interplay at the edge of extinction, where subjectivity itself is deconstructed and shattered [62,64]. At this intersection, experiences of suffering and discomfort are not merely incidental but integral to the dynamics of BDSM. These sensations are transferred into a framework of prohibition, where they paradoxically incite passivity and a diminishment of energy. Therefore, BDSM cannot be confined to positive sensations of pleasure and security alone; experiences of suffering, fear, shame, discomfort, and even disgust or rejection are essential components of BDSM fantasies and practices, driving the motivations of its participants. The attempt to strictly limit BDSM desires to positive, pleasurable production, thus, functions as a mechanism of normative exclusion, reinforcing a restrictive and sanitized version of the practice.

In a further psychoanalytic exploration, Saketopoulou exposed an additional dimension of neo liberal domination by challenging the absoluteness of consent in BDSM. She does this by examining the tension between the ego and the unconscious [66]. Drawing on Freudian theory, she conceptualizes the ego as a schematically constructed aggregate of forces that mediates external pressures to maintain the stability of the organism. Within this framework, any new experience that does not align with the ego's schematic form is met with resistance and inhibition. Saketopoulou introduces the concept of an "overwhelming" state, which mingles the well-regulated functioning of the ego with moments of disaggregation. Here, external stimuli, though intense, do not completely disrupt the ego's stability [67]. Instead, they blend with and momentarily disorganize the structural scheme, leading to a transient effect where the ego's coherence is partially shattered [67]. This interplay between the intact ego and the forces that disaggregate it reflects a state where the ego is destabilized, producing sensations that combine pleasure with anguish and suffering.

The destabilization of the ego due to overwhelming experiences deters conscious actions such as planning or orchestration, as it bypasses the systematic constructive mechanisms typically required for such processes. In this context, consent, with its basis in deliberate awareness and systematic decision making, stands in contrast to the blending, aggregative form of overwhelming sensation [67]. Saketopoulou identifies overwhelming experiences as pathways to experimental practices that enrich one's existence, allowing for heightened sensations and modes of thought that transcend the ego's conventional boundaries [67]. In an innovative reinterpretation, she critiques the liberal ethos of autonomy, framing the liberal agent as a socially constituted subjectivity that excludes practices and ways of thinking, which contradict the consensual, systematic processes inherent in the ego's structure. According to Saketopoulou, BDSM emerges as a central erotic practice within the realm of overwhelming, edgy experiences. Drawing on Bataille, she conceptualizes the sensation of losing control over body and mind—submitting oneself to another's influence and experiencing pleasure derived from the suffering of pain—as an entry point into the overwhelming. She describes this state as "a lowering of internal defensive, resistive barriers that seek to keep things stable, rather than something one actively does or implements" [67]. Thus, BDSM practices that eschew consensual construction represent a particularly intense and renewed sphere of thrilling experience. An illustrative example, which Saketopoulou discusses, is the experience of queer theorist Tim Dean during his participation in a gay men's sex club, where he engaged in piss play. Saketopoulou frames this as an "intense expression of overwhelming", capturing the interplay between ego stability and moments of disaggregation. Dean's experience exemplifies Saketopoulou's notion of overwhelming in BDSM, reflecting the dynamic tension between destabilization and subjective transformation.

"He pushed me to my knees. . . encouraging me to work his soft cock through the mess of his jockstrap. My mouth registered that the jockstrap was already damp. when I became aware that he was gently pissing through my jock, the tasteless warm fluid flooding my lips, I spontaneously ejaculated. Both his piss and my body's response took my completely surprise. I did not consent- and would not have consented—to being pissed on: yet I loved it. That night the man in the leather cap, whose face I never saw, gave me the gift of erotic astonishment". [67]

Dean describes himself as a top who loves to give but hates to receive. In his account, an anonymous man, whose face he never saw, gently guided him into actions that were not aligned with his conscious will and seemed to contradict his affirmative consent. Saketopoulou argues that what occurred was not against Dean's consent but beyond it, and it is this dynamic that animated his sense of erotic astonishment [67]. The term "beyond" is

crucial in this context. The unexpected and thrilling pleasure Dean experienced did not stem from his identity as a top or bottom but emerged from the way his ego was shattered by an event that could not be orchestrated or planned, thus, lying outside the scope of affirmative consent. In this context, consent is not merely a matter of affirmative acknowledgment; it rather exists within a consensual framework that may extend beyond explicit verbal agreement. Erotic arousal becomes indicative of pleasurable intensity, demonstrating the agent's active participation in the dynamics of power. When the stranger surprises Dean but continues with the dominant actions in response to Dean's positive reactions, this reflects a part of the consensual process, where the stranger's response aligns with Dean's pleasure. In this interaction the intersubjective engagement highlights implied consent, evidenced by the signals of pleasure and the stranger's reactions. The question of crossing the boundaries of pleasure remains pertinent; for example, if the act of urination were to diminish rather than enhance Dean's erotic arousal, it exists within the shattering of the ego as a new experiential phenomenon. This area remains vague and ill-defined in Dean's case, necessitating further exploration to fully understand the intricate interplay between consent, pleasure, and the limits of experiential engagement.

Unlike Dymock, who emphasizes the absence of pleasure in states where consent is loosened or ambiguous, Saketopoulou presents Dean's experience as a form of extreme pleasurable production that occurs in sheer moments when any remnants of conscious, planned consent have dissipated. Both Dymock and Saketopoulou open a critical dialog within psychoanalytic discourse but from different angles. They apply psychoanalytic tools to the study of BDSM, a domain historically relegated by such frameworks to the realm of the pathological, particularly through practices and mental states like whipping, branding, humiliation, and submission, which have been seen as expressions of infantile sexuality and the death drive [10]. However, in contrast to Freud and his successors, Dymock and Saketopoulou use these psychoanalytic tools to expose how the democratization of sexuality in the context of BDSM can function as a dominant social apparatus. This apparatus tends to exclude BDSM practitioners whose erotic thrills do not conform to the neoliberal framework of consent, thereby relegating behaviors and desires that fall outside expectable norms to pathological identification. The tension between psychological and social constructionist approaches in BDSM studies reveals a critical turning point. While academic and social movements have worked to de-pathologize and decriminalize BDSM, this shift also risks reinforcing a narrow view of what constitutes acceptable behavior. By using psychoanalytic insights, Dymock and Saketopoulou help to uncover new forms of erotic experience and motivation that do not align with typical neoliberal consent frameworks. Rather than seeking to include these motivations within a pathologizing lens, their analysis allows for a broader understanding of BDSM that recognizes and validates the complexity of desire, moving beyond the binary of healthy versus pathological.

3. Acting Behind Consent: BDSM Consensual Building Under Exclusive/Inclusive Tension

The constitution of BDSM practice and identity is fundamentally anchored in the establishment of consensual norms, representing a unique interpretation of the liberal autonomous subject. Rooted in a neoliberal perspective, which operates outside traditional market logic, this framework constrains the concept of consent to the contingent investment of BDSM desire for pleasurable production, relying on individuals' capacity to assume responsibility for their desires and actions. This consensual construction shapes the inclusive social dynamics of BDSM communities within the context of sexual pluralism and democratization. However, this framework also excludes a wide range of fantasies and practices that drive BDSM activity, particularly those reflecting the desire to act against

one's own intentions and those that embrace non-pleasurable pain and anguish. In contrast to liberal notions of autonomy, this exclusion constructs BDSM culture through the negation and annulment of contingent desires, influencing the social and political rights of BDSM practitioners within a narrowly defined spectrum—albeit one that aspires to be broader—of neoliberal agency [65,68].

In the following pages, I will discuss this inclusive/exclusive dynamic through two discursive realms that shape the institutional constitution of BDSM practice and identity. First, a descriptive analysis of BDSM community building through the lens of submissive experiences, will be provided, drawing from contemporary ethnographic research. Second, I will explore legislative discourse as a site that both reflects and contributes to the dominance of neoliberal subjectivity, framing BDSM through a one-dimensional lens of consent.

3.1. Acting Against Consent but Fearing Social Implications: Sub-Immanent Feelings

“The last two times I’ve seen that guy, he would probably consider me a vague acquaintance, he’s hurt me in a way I didn’t consent. I actually don’t care about it. . . actually, if I have chemistry with Someone, if they hurt me without my consent, I actually tend not to care. What I am saying essentially is that what this guy has done to me is very, very not okay. . . but he picked up the right person, right? But its not okay, and I’m not someone who care ever do, well I thought it was kind a hot so therefore no-one else should have a problem with it, and they shouldn’t be complaining, and its actually it’s okay because it was a kind a negotiated” [24].

The case referenced above draws from contemporary ethnographic research by Fanghanel, which examines an instance within a BDSM community where the participant engages in a sexual encounter with a prominent member [24]. In this scenario, the speaker appears to act contrary to her stated desires, leading Fanghanel to categorize this interaction as a case where “no” ostensibly becomes “yes”. Despite expressing discomfort and a lack of explicit consent, the participant also describes finding arousal in the experience of engaging in an act she initially resisted. However, Fanghanel does not elaborate on the specific elements that contribute to this sense of arousal. From a psychoanalytic perspective, as discussed in the preceding chapter, this raises an intriguing question about the interplay between power, submission, and desire.

The critical aspect of this case lies in the intersection of citizenship, neoliberalism, and the formation of BDSM communities. Fanghanel describes affirmative consent, particularly as articulated through the discursive frameworks of SSC and RACK, as a fundamental element that shapes the core identity of BDSM communities. The process of community-building has been characterized by the adaptation of external values, especially those emphasizing autonomy and free choice, to help navigate members’ desires within a shared set of principles. This development is part of a broader governmental strategy, shaped by neoliberal rationality, where control shifts from state-driven bureaucratic oversight to the community’s adoption of external legal and cultural norms as a foundation for internal regulation [13,66,69]. Weiss identifies this neoliberal approach as central to the citizenship framework through which BDSM communities advocate for both individual and collective rights, seeking legal recognition of BDSM practices and the freedom to participate openly in the market of goods and services [13].

In Fanghanel’s ethnography, the participant experiences sexual arousal from acting against her own consent, but she ultimately rejects this desire, arguing that it would cause harm to other community members. She does not elaborate on the specific nature of this harm, nor does she weigh it against her own desires. However, her rejection of her internal urge to act against her will reflects how the principle of individual autonomy,

embodied through consensual processes, is upheld as a supreme value within her mind. This autonomy is not merely a personal choice but rather imposed as a mode of thinking, enforced upon the individual as an external mandate shaping her bodily expression, while she adopts it against her mere desire. This adherence can be rationalized by various arguments, such as preventing the infiltration of pathological sadism into the community, minimizing the risk of miscommunication, and so on [9,13]. Yet, the most significant aspect of the participant's testimony is the way community cohesion is developed through an internalized process, where BDSM practitioners construct their own identities by excluding any existential possibility that deviates from the norms of consensual engagement. This process effectively binds individuals to the "consensual chain", suppressing practices or even thoughts that might venture beyond these established boundaries.

3.2. *Take My Breath Away: Legislative Discourse and Citizenship Exclusion*

The legislative realm plays a central role in shaping sexual minority rights, as laws and rulings partially define the rights of sexual agents and the boundaries of their expression [70,71]. The gradual democratization of BDSM desires, along with their communal and cultural manifestations, has led to a series of legal rulings in Western democracies. On the one hand, these rulings acknowledge the right to engage in sexual behaviors that deviate from heteronormative norms, while on the other, they aim to preserve traditional moral codes and safeguard participants from exploitation and harm. In recent decades, legal traditions have increasingly framed the criminalization of BDSM around instances of significant or irreversible harm, thereby drawing a legal line between consensual acts and those deemed prosecutable [72,73]. This framework has given rise to differing interpretations across jurisdictions: in some states, heteronormative biases remain central to the law, while in others, legal standards are rooted more in principles of individual autonomy and the liberalization of desire. This latter approach has allowed for a broader range of consensual BDSM activities to be excluded from criminal sanctions, reflecting a shift toward recognizing the self-determined agency of BDSM practitioners [73].

The following legal analysis of *R. v. J.A.* illustrates the ways in which the legal system's interpretations of consent may impose limitations on BDSM practices, highlighting the tension between autonomy and control in the context of BDSM. In this case, J.A. and K.D., a married couple, initiated consensual sexual activity, with K.D. consenting in advance to being suffocated by J.A. until she lost consciousness [74]. Following her loss of consciousness, J.A. inserted a dildo into her rectum. Upon regaining consciousness, the couple continued to engage in intercourse, culminating in complete penetration. However, several weeks later, K.D. filed a complaint with the police, alleging that although she had consented to losing consciousness via suffocation, she had not consented to sexual penetration while in an unconscious state. An indictment was filed against J.A., although K.D. later retracted her complaint, admitting that her initial report was influenced by a desire for revenge against J.A. due to a custody dispute. Despite K.D.'s retraction, the court convicted J.A. of sexual assault, a conviction upheld at both the trial level and on appeal, including at the Supreme Court level [74].

In both courts, the reasons for the conviction differed. While the lower court's judgment was based on viewing kinky behavior as problematic, the Supreme Court grounded its decision on the invalidity of consent that was given only in advance [74,75]. According to the Supreme Court, participation in socially agreeable engagements requires continuous verification of the partner's consent through active communication [74]. This form of consent must extend to each activity within the shared engagement. Thus, consent given solely in advance is deemed insufficient because it lacks the capacity to account for the partner's consent at each stage of the interaction. In the *J.A.* case, this meant that advance consent to

enter an unconscious state was invalid, as K.D., once unconscious, could not communicate or give active consent to subsequent sexual acts. This verdict reflects a judgmental attitude toward the questions of agency and unconsciousness in relation to consensual validation. It signifies an inherent absence of agency in an unconscious state, wherein any decision or judgment is rendered void. Within this framework, risk-taking is not validated, not necessarily due to the content being deemed dangerous or unexpected within social norms, but rather because of the absence of an agent capable of making informed decisions in that context.

Khan [75] analyzes this ruling, arguing that it overlooks the nuances of queer identity, instead interpreting the absence of consciousness during a sexual act as inherently problematic, likely to result in miscommunication and potentially mental or physical harm—an interpretation rooted in hegemonic sexual paradigms. In contrast, within queer frameworks, as seen in BDSM practices involving bondage, pain, and submission, unconscious states carry an expectation of the unknown as a form of pleasurable experience. Downing [34] captures this sentiment, suggesting, “Wanting something dangerous, despite or because of the lack of a guaranteed safety clause, could be a valid version of an ethics of pleasure”.

Downing and Khan effectively highlight the judicial failures concerning queer sensitivity; however, it is my contention that the judge’s conviction reveals a non-sensitivity to queer attitudes in broader contexts, specifically ignoring certain interests within BDSM participation, as referred to by Halbestram as “queer time” [76]. In this context, the judge’s decision does not outright reject the notion that BDSM practitioners may prefer risk over security. Instead, it invalidates the capacity for making decisions regarding the preference for danger when the individual lacks agency during a state of unconsciousness. This legal point of view underscored by Halestorm’s assertion that “hegemonic constructions of time and space are uniquely gendered and sexualized” in two complementary realms referred to in BDSM sexuality [76]. First, queer sexual time, motivated by BDSM dynamics, allows for the desire to concentrate public decision making at a single point in time disconnected from another temporal marker [77,78]. Thus, risk-taking within queer time is likely constituted by the limited implications of decision making, which focuses on the present moment while potentially absolving individuals from responsibility for future consequences. This dynamic persists even in contexts, such as our case, where actions are driven by nearly immediate demands. In contrast, hegemonic neoliberal time necessitates a consideration of both time and utility. This framework creates continuity and allows for decision making at visible points in time. Second, the absence of decision making within queer time is grounded in the desire for passivity, as noted by Bataille [67]. In this unconscious state, the BDSM agent’s desires are established. In the context of liberal reasoning, the legalization and normalization of BDSM practices require an agent’s existence, characterized by constant activity, even if this activity arises from mere reactions to the exertion of another’s power. Thus, the capability for a neoliberal initiative is predicated on a continuous contingent response to external stimuli, negotiated and withdrawn at any given moment.

Here, neoliberal mechanisms replace traditional disciplinary models, not merely by excluding marginalized individuals from normative boundaries on the basis of identity alone, but by designating them as “deviant” by conditioning the existence of agency on the constant demonstration of active decision-making capabilities. In this context, a bottom, as represented by K.D., is situated within the pathological realm for choosing a state of unconsciousness, which, according to the court, negates her ability to take responsibility for her actions and thoughts. Similarly, the top is considered within the criminal sphere, with the court assigning criminal culpability to his perceived failure to require continuous and active recognition from his partner at every stage of their shared activity.

An illustrative example of this neoliberal mechanism of exclusion is seen in academic commentary, especially within feminist discourse, which supports the court's decision through a normalized reading of the trial details. This perspective often minimizes K.D.'s indications of consent by framing her as a "battered woman" incapable of acting in her own interests, thereby underscoring her vulnerability. Arguments in favor of the ruling frequently invoke the couple's history of violence—a factor that, even according to the judges, bears no direct relevance to the specific incident in question [75,79–81]. My intention here is not to wholly invalidate this interpretation, but rather to highlight how this liberal reading limits rights by aligning behaviors exclusively with neoliberal reasoning, ultimately categorizing evidence within an externally imposed framework.

4. Discussion and Summary

Recognizing the consensual framework within BDSM as part of sexual democratization and liberalization—a form of social and political domination—does not negate the fundamental role of consent as an intrinsic condition of BDSM practices. Following Foucault's argument that power operates as a constitutive mode of knowledge and subjectivity, shaping the boundaries of discourse and behavior, we see that consent remains central to BDSM as both a regulatory and generative force [42,43]. Consequently, the model of subjectivity as an autonomous agent—one that crafts intersubjective encounters through mutually negotiated dynamics—serves as the core mechanism that redefines acts of erotic power exchange, from whipping to psychological humiliation, transforming them from socially perceived "pathological" behavior into practices that enrich individual identity and human experience. In this context, the manner in which individuals can shape their thinking and practices within a framework of power fundamentally conditions the existence of decision-making. This perspective positions consent as a minimal function of the autonomous agent, enabling a reactive force against any structural, personal, or social imposition. Consequently, visible BDSM behavior that does not align with this condition cannot be disentangled from the operations of power that disregard the reactive function of the agent. Such behavior is thus framed within oppressive and exploitative intersubjective engagements, highlighting the complexities of agency and consent within BDSM dynamics. Throughout this paper, I argue that when viewed through the lens of liberal autonomy as a mode of power—rather than as an abstract ideology—this transformation reveals both productive and exclusionary dimensions [44,46]. While consent and agency foster a framework for rich, dynamic identity expression within BDSM, this context simultaneously excludes conflicting fantasies and practices that resist the norms of their subjectivity source.

The inherent tension within BDSM consent, balancing between its constitutive and exclusive aspects, raises critical questions: does the exclusion of certain practices and identities that challenge consensual norms—particularly those emphasizing the absence of consent and "negative" experiences like suffering or distress as essential components—necessitate their relegation to the pathological or criminal spheres, outside the conceptual bounds of BDSM? Might this exclusionary stance lead to a process of sterilization that denies fundamental facets of BDSM, effectively establishing a new form of social and political control, as restrictive as previous frameworks? Therefore, how might we envision an ethics of consent that, on the one hand, upholds the necessity of building consent within liberal and neoliberal paradigms, while, on the other, allows space for fantasies and practices that do not fully align with these models? Such ethics would aim to reconcile the need for structured consent with the complex desires and non-normative experiences integral to BDSM, offering a pathway for a more inclusive understanding of consent within BDSM.

The main aim of this paper is to bring these questions to light as central issues, presenting a new set of challenges in BDSM practice and identity that warrant further research

and exploration. I propose a queer reading that seeks to initiate a fresh dialog for engaging with these complex questions. My goal is not to provide a systematic analysis of these issues but rather to open a pathway for critical examination. This queer reading, of course, functions as a critique that resists and destabilizes heteronormative structures [75,82]. Yet it extends beyond that: it aims to reveal the constructive processes behind categorical norms and to subvert their foundational logic as acts of disruption and disorder, creating a critical lens that both enriches conceptual discussions and expands human experience [75,83]. In following this critical trajectory, within the consensual roots of BDSM, I aim to uncover a new, contingent interpretation that intensifies the reasoning behind consent beyond neoliberal normalization. This approach aspires to honor the layered complexities of BDSM, recognizing both the normative forces at play and the potential for alternative, subversive meanings within the consensual structures of BDSM practice.

The connection between trust, intimacy, and consent can suggest a queer re-interpretation of BDSM dynamics. As Fanghanel argues, trust is foundational to BDSM practice as it involves “edge work”—pushing boundaries within a consensual framework [24]. Trust, thus, forms the ontological basis of security in BDSM engagement, where the participant, particularly the bottom, surrenders control over their body and emotions to another, with the understanding that this power exchange will be used for mutual benefit. In this context, trust becomes the foundation of consent, framed within a neoliberal perspective as a calculated, risk-taking endeavor grounded in mutual creativity. However, Fanghanel’s reduction in trust, solely as a mechanism of security, is too narrow, as it relies on a positive emotional interpretation that conforms to consensual norms. To expand this perspective, Bauer offers a compelling re-interpretation of intimacy, which both aligns with and pushes against the neoliberal framework of trust by broadening its boundaries [28,31]. Bauer conceptualizes intimacy in a BDSM queer context not as a means for one person to exclusively expose their innermost feelings, but as the capacity to evoke a profound and sometimes disquieting excitement in the other—mentally, spiritually, and physically [28]. He proposes this transformative interpretation as part of a critique of hegemonic, heteronormative understandings of BDSM, thus, opening BDSM discourse to experiences and erotic thrills that may fall outside the traditional sphere of positive security [28,31]. Following Bauer’s insight, I propose that the connection between trust and intimacy serves as a foundational principle of consensual BDSM practices. In this view, consensual agency, whether top or bottom, requires each participant to engage in a willingness to surrender one’s desires and will to the other, with trust that their partner will work to produce physical and mental thrills—erotic and otherwise—that stimulate their emotional and physical landscapes, fulfilling the purpose of the encounter.

The relationship between trust and intimacy establishes a novel framework for understanding agency within BDSM consent. In this context, the agent is defined as an individual possessing the capacity to act and think, which is contingent on the deliberate choice to engage in intense thrills through intersubjective interactions rooted in trust. This dynamic subverts the reduction in sensation to mere positive values, fostering a unique form of decision making. It shifts the responsibility for decision making to the partner, while retaining the foundational choice to enter into a relationship characterized by the interplay of erotic and mental stimulation. This process redefines the validation of consent from a framework of mutual pleasure-building, involving calculated risk-taking and continuous negotiation with the option to withdraw, to a more minimalistic consensual approach. It is based on the responsible transfer of decision making and relational planning to the dominant, or top, partner. It subverts the egalitarian liberal paradigm, transforming intimate relations through a queer lens. Such transformation finds resonance in Foucault’s and his successors’ interpretations of love and Eros in ancient Greece [84,85] and aligns with partial analyses

in BDSM studies [13]. While the full development of the queer critique of egalitarianism lies beyond the scope of this paper, the primary research interest here is to illuminate inclusive practices and identities within BDSM, as explored in detail throughout. This perspective provides a foundation to examine how inclusive practices can encompass states of unconsciousness and non-awareness, as well as the generation of emotive responses within the consensual framework of BDSM. On the one hand, they are rooted in a participant's choice to surrender themselves to another—a decision that distinctly separates inclusive BDSM practices from sexual oppression or assault. On the other, they create space for intrinsic BDSM motivations that might otherwise be excluded by conventional consensual paradigms.

This critical framework requires clarification. For one thing, it suggests the most radical motivations for engaging in edgy BDSM practices and identifying with BDSM culture. Behaviors in BDSM that do not align with these motivations are validated according to the consensual frameworks of SSC and, perhaps, RACK, as these developed through BDSM's liberalized historical evolution. Second, the concepts of trust and intimacy in BDSM cannot be interpreted through conventional intersubjective lenses, such as closeness or long-term familiarity. For example, the case of Dean in Section 3 does not derive meaning from closeness or care but rather from the thrill created in the dynamic between top and bottom roles.

Moreover, the ethical implications of engaging in radical BDSM relationships and practices shift the way individuals and the broader BDSM community navigate their behavior, aligning it with a responsible transformation under the top's control. This shift does not disregard the bottom's perspective, desires, or calculated considerations but repositions the ethical framework, placing the question of appropriate behavior and even mutual decision making predominantly in the top's hands. This raises critical questions about agency and responsibility within BDSM practices: how can the transfer of absolute control be ethically grounded in trust? What parameters link trust to the intense physical and emotional experiences that validate consent? Is surrendering autonomy an acceptable trade-off in a liberal society, or does it risk enabling oppressive dynamics, such as those found in patriarchal or racialized relational patterns? Furthermore, if risks of exploitation and oppression are mitigated, how can the bottom's agency as a bodily and desiring entity be meaningfully acknowledged? These inquiries invite further examination and critical reflection in the field of BDSM studies.

5. Conclusions

This paper has examined the evolution of consensual norms within BDSM, highlighting the complex dynamics that influence societal perceptions and institutional frameworks. It has been argued that the transition of BDSM from a classification of pathology and criminality to a recognized, albeit minor, form of legitimate sexuality is a product of sexual democratization. This shift is largely facilitated by a liberal interpretation of autonomy within a neoliberal context, wherein the distinction between reality and fiction is essential. Furthermore, a negotiated process that allows for withdrawal plays a crucial role in establishing consent, particularly through frameworks like Safe, Sane, and Consensual (SSC) and Risk-Aware Consensual Kink (RACK). Moreover, the paper identifies that certain psychological motivations inherent in BDSM practices can subvert the intended functionality of consensual engagement by engaging a desire to act against one's will and intention, revealing a form of neoliberal subversion. Such motivations result in pursuits of sensations and experiences—such as humiliation and the crossing of bodily boundaries—that challenge conventional liberal frameworks, which often categorize these feelings as negative. The

institutionalization of BDSM seemingly operates under a paradoxical tension, exercising social inclusion at the expense of exclusion regarding these motivations.

Initial evidence, drawn from the development of the BDSM community alongside relevant legislative verdicts, supports these hypotheses and underscores the ongoing negotiation of norms within this subculture. Additionally, a queer reading of the dynamics of exclusivity and inclusivity presents further insights, particularly regarding the transfer of consensual responsibility to the dominant agent within BDSM. The significance of theoretical development and initial evidence in this context lies in critically examining the limitations of liberal arguments surrounding consent within BDSM practices. By proposing a new ethical framework for validation, this approach seeks to expand the scope of what constitutes valid consent, thereby encompassing a broader range of statements and practices that motivate BDSM practitioners. This shift not only addresses existing limitations but also enriches the understanding of consent as it operates within the BDSM community.

The findings and arguments presented suggest the need for continued exploration of BDSM's societal implications, encouraging a re-examination of normative frameworks that may still marginalize certain practices. Future research should consider these dynamics in greater depth, particularly as they relate to issues of power, identity, and the evolving landscape of sexual expression.

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References

1. Beres, M.A. 'Spontanées' sexuel consent: An analyses of sexuel consent littérature. *Féminisme Psychol.* **2007**, *17*, 93–108. [[CrossRef](#)]
2. Pitagora, D. Consent vs. coercion: BDSM interactions highlight a fine but immutable line. *New Sch. Psychol. Bull.* **2013**, *10*, 27–36.
3. Newmahr, S. *Playing on the Edge: Sadoomasochism, Risk, and Intimacy*; Indiana University Press: Bloomington, IN, USA, 2011.
4. Particia, P.; Cardoso, D.; Henriques, R. Sexual satisfaction and distress in sexual functioning in a sample of BDSM Community: A comparison study Between BDSM and Non-BDSM Contexts. *J. Sex. Med.* **2015**, *12*, 1052–1061.
5. Richard, S. Reimagining Kink: Transformation, growth and healing through BDSM. *J. Humanist Psychol.* **2024**, *64*, 987–992.
6. Sprott, R.A.; Vivid, J.; Vilkin, E.; Swallow, L.; Lev, E.M.; Orejudos, J.; Schnittman, D. A queer boundary: How sex and BDSM interact for people who identify as kinky. *Sexualities* **2021**, *24*, 708–732. [[CrossRef](#)]
7. Kraft-Ebbing, R. *Psychopathia Sexualis*; Staples Press: New York, NY, USA, 1965; Original work published 1886.
8. Freud, S. *Psychopathology of Everyday Life*; Penguin Books: London, UK, 1938.
9. American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders*, 5th ed.; American Psychiatric Association: Washington, DC, USA, 2003.
10. Weinberg, J.D. *Consensual Violence: Sex, Sports, and the Politics of Injury*; University of California Press: Berkeley, CA, USA, 2016.
11. Giddens, A. *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies*; John Wiley & Sons: Hoboken, NJ, USA, 2013.
12. Weiss, M. *Techniques of Pleasure: BDSM and the Circuits of Sexuality*; Duke University Press: Durham, NC, USA, 2011.
13. Parchev, O.; Langdridge, D. BDSM under security: Radical resistance via contingent subjectivities. *Sexualities* **2018**, *21*, 194–211. [[CrossRef](#)]
14. Weiss, M.D. Mainstreaming kink: The politics of BDSM representation in US popular media. *J. Homosex.* **2006**, *50*, 103–132. [[CrossRef](#)]
15. Downing, L. Safewording! Kinkphobia and gender normativity in Fifty Shades of Grey. *Psychol. Sex.* **2013**, *4*, 92–102.
16. Williams, J. Sadoomasochism to BDSM: Discourse across disciplines. *Limina* **2016**, *22*, 67–83.
17. Carlström, C. BDSM—The antithesis of good Swedish sex? *Sexualities* **2019**, *22*, 1164–1181. [[CrossRef](#)]
18. Dunkley, C.R.; Brotto, L.A. The role of consent in the context of BDSM. *Sex. Abus.* **2020**, *32*, 657–678. [[CrossRef](#)] [[PubMed](#)]

19. Holvoet, L.; Huys, W.; Coppens, V.; Seeuws, J.; Goethals, K.; Morrens, M. Fifty shade of Belgian grey: The prevalence of BDSM-related Fantasies activities in general population. *J. Sex. Med.* **2017**, *14*, 1152–1159. [[CrossRef](#)] [[PubMed](#)]
20. Ryff, C.D. Psychological well-being revisited: Advances in the science and practice of eudaimonia. *Psychother. Psychosom.* **2014**, *83*, 10–28. [[CrossRef](#)] [[PubMed](#)]
21. Joyal, C.; Carpentier, J. The prevalence of paraphilic interests a behavior in general population: A principal survey. *J. Sex Res.* **2017**, *54*, 161–171. [[CrossRef](#)]
22. Jozifkova, E. Consensual sadomasochistic sex (BDSM): The roots, the risks, and the distinctions between BDSM and violence. *Curr. Psychiatry Rep.* **2013**, *15*, 392. [[CrossRef](#)]
23. Fanghanel, A. Asking for it: BDSM sexual practice and the trouble of consent. *Sexualities* **2020**, *23*, 269–286. [[CrossRef](#)]
24. Williams, D.J.; Thomas, J.N.; Prior, E.E.; Christensen, M.C. From “SSC” and “RACK” to the “4Cs”: Introducing a new framework for negotiating BDSM participation. *Electron. J. Hum. Sex.* **2014**, *17*, 1–10.
25. Parchev, O. BDSM and total power exchange: Between inclusion and exclusion. *Sexualities* **2023**, april. [[CrossRef](#)]
26. Newmahr, S. Rethinking kink: Sadomasochism as serious leisure. *Qual. Sociol.* **2010**, *33*, 313–331. [[CrossRef](#)]
27. Bauer, R. *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries*; Springer: Berlin/Heidelberg, Germany, 2014.
28. Fulkerson, A. *Bound by Consent: Concepts of Consent Within the Leather and Bondage, Domination, Sadomasochism (BDSM) Communities*; Wichita State University: Wichita, KS, USA, 2010.
29. Holt, K. Blacklisted: Boundaries, violations, and retaliatory behavior in the BDSM community. *Deviant Behav.* **2016**, *37*, 917–930. [[CrossRef](#)]
30. Bauer, R. Queering consent: Negotiating critical consent in les-bi-trans-queer BDSM contexts. *Sexualities* **2021**, *24*, 767–783. [[CrossRef](#)]
31. Dancer, P.L.; Kleinplatz, P.J.; Moser, C. 24/7 SM Slavery. *J. Homosex.* **2006**, *50*, 81–101. [[CrossRef](#)] [[PubMed](#)]
32. Hopkins, P.D. Rethinking sadomasochism: Feminism, interpretation, and simulation. *Hypatia* **1993**, *9*, 116–141. [[CrossRef](#)]
33. Downing, L. On the limits of sexual ethics: The phenomenology of autassassinophilia. *Sex. Cult.* **2005**, *8*, 3–17. [[CrossRef](#)]
34. Stear, N.H. Sadomasochism as make-believe. *Hypatia* **2009**, *24*, 21–38. [[CrossRef](#)]
35. Linden, R.R. Introduction: Against sadomasochism. In *Against Sadomasochism: A Radical Feminist Analysis*; Robin, R.L., Pagano, D.R., Russell, D.E.H., Leigh Star, S., Eds.; Frog in the Well: East Palo Alto, CA, USA, 1982; pp. 1–15.
36. McClintock, A. *Maid to Order: Commercial Fetishism and Gender Power*; Social Text, No. 37; Duke University Press: Durham, NC, USA, 1993; pp. 87–116.
37. Cruz, A. *The Color of Kink: Black Women, BDSM, and Pornography*; NYU Press: New York, NY, USA, 2016; Volume 26.
38. Nafsika, A. The role of consent in sadomasochism practice. *Res Publica* **2002**, *8*, 141–155.
39. Nielsen, M.E.J. Safe, Sane and Consensual—Consent and the ethics of BDSM. *Int. J. Appl. Philos.* **2010**, *24*, 265–288. [[CrossRef](#)]
40. Judith, B. *Bodies That Matter*; Harvard University Press: Cambridge, MA, USA, 1993.
41. Foucault, M. *Security, Territory, Population: Lectures at the Collège de France, 1977–1978*; Senellart, M., Ed.; Burchell, G., Translator; Palgrave MacMillan: London, UK, 2008.
42. David, H. *Critical Resistance*; M.I.T.: London, UK, 2004.
43. Foucault, M. *The Birth of Bio Politics: Lectures at the Collège de France, 1977–1978*; Senellart, M., Ed.; Burchell, G., Translator; Palgrave MacMillan: London, UK, 2007.
44. Rose, N. The politics of life itself. *Theory Cult. Soc.* **2001**, *18*, 1–30. [[CrossRef](#)]
45. Rabinow, P.; Rose, N. Foucault today. In *Essential Foucault: Selections from the Essential Work of Foucault in 1954–1984*; Rabinow, P., Rose, N., Eds.; New Press: New York, NY, USA, 2003.
46. Rose, N. *The Politics of Life Itself: Biomedicine, Power, and Subjectivity in the Twenty-First Century*; Princeton University Press: Princeton, NJ, USA, 2006.
47. McWhorter, L. Queer economies. *Foucault Stud.* **2012**, *14*, 61–78. [[CrossRef](#)]
48. Fromm, E. *Escape from Freedom*; Farrar & Rinehart: New York, NY, USA, 1941.
49. Weber, M. *Economy and Society: An Outline of Interpretive Sociology*; Roth, G., Wittich, C., Eds.; University of California Press: Berkeley, CA, USA, 1978; Original work published 1922.
50. Fiske, S.T. *Social Beings: Core Motives in Social Psychology*, 2nd ed.; Wiley: Hoboken, NJ, USA, 2010.
51. Zimbardo, P.G. *The Lucifer Effect: Understanding How Good People Turn Evil*; Random House: New York, NY, USA, 2007.
52. Gramsci, A. *Selections from the Prison Notebooks*; Hoare, Q., Smith, G.N., Eds. and Translators; International Publishers: New York, NY, USA, 1971.
53. Seligman, M.E.P. *Helplessness: On Depression, Development, and Death*; W. H. Freeman: San Francisco, CA, USA, 1975.
54. Bandura, A. *Social Foundations of Thought and Action: A Social Cognitive Theory*; Prentice-Hall: Englewood Cliffs, NJ, USA, 1986.
55. Bourdieu, P. *The Logic of Practice*; Nice, R., Translator; Stanford University Press: Stanford, CA, USA, 1990; Original work published 1980.
56. Langdridge, D.; Butt, T. The erotic construction of power exchange. *J. Constr. Psychol.* **2005**, *18*, 65–73. [[CrossRef](#)]

57. Andrea, B. Foucault understanding of consensual BDSM: An empirical grounded exploration of the laboratory of life. *Psychol. Sex. Rev.* **2011**, *2*, 43–53.
58. Carlström, C. Emotions, power and BDSM: The stance of the ethnographer. In *The Power of BDSM: Play, Communities, and Consent in the 21st Century*; Simula, B.L., Bauer, R., Wignall, L., Eds.; Oxford University Press: Oxford, UK, 2023; pp. 284–298.
59. Taylor, G.W.; Ussher, J.M. Making sense of S&M: A discourse analytic account. *Sexualities* **2001**, *4*, 293–314.
60. Wythes, E.; Morrens, M. The Biology of BDSM: Systematic review. *Sex. Med.* **2022**, *19*, 144–157.
61. Carter, C.S. The oxytocin-vasopressin pathway in the context of love and fear. *Front. Endocrinol.* **2017**, *8*, 356. [CrossRef]
62. Dymock, A. But femsub is broken too! On the normalization of BDSM and the problem of pleasure. *Psychol. Sex.* **2012**, *3*, 54–68.
63. Wiseman, J. The Medical Realities of Breath Control Play. 1997. Available online: <https://www.evilm Monk.org/a/breath.cfm> (accessed on 1 May 2022).
64. Downing, L. Beyond safety: Erotic asphyxiation and the limits of SM discourse. In *Safe, Sane and Consensual: Contemporary Perspectives on Sadomasochism*; Barker, M., Langdridge, D., Eds.; Palgrave-Macmillan: London, UK, 2007.
65. Richardson, D. Rethinking sexual citizenship. *Sociology* **2017**, *51*, 208–224. [CrossRef]
66. Saketopoulou, A. Risking sexuality beyond consent: Overwhelm and traumatizations that incite. *Psychoanal. Q.* **2020**, *89*, 771–811. [CrossRef]
67. Sabsay, L. The emergence of the other sexual citizen: Orientalism and the modernization of sexuality. *Citizen. Stud.* **2013**, *16*, 605–623. [CrossRef]
68. Richardson, D.; Monro, S. *Sexuality, Equality and Diversity*; Palgrave Macmillan: Basingstoke, UK, 2012.
69. Miller, P.; Rose, N. *Governing the Present: Administering Economic, Social and Personal Life*; Polity Press: Malden, MA, USA, 2008.
70. Rhotten, J. Queer feminist analysis of BDSM jurisprudence. *Berkely Law J.* **2022**, *22*, 97–135.
71. Cecilia, B.; Andrea, M.; Zhara, P. Access to sexual rights of people living with disabilities: Assumptions, evidences and policy outcomes. *Arch. Sex. Behav.* **2023**, *52*, 3201–3255.
72. Weait, M. Sadomasochism and the law. In *Safe, Sane and Consensual: Contemporary Perspectives on Sadomasochism*; Langdridge, D., Barker, M., Eds.; Palgrave-Macmillan: London, UK, 2007; pp. 63–82.
73. Jenny, S. *Commonwealth Appleby*; H2O; Harvard Law: Cambridge, MA, USA, 2015.
74. R.V.A (J) 2008 ONCJ (Trial Decision): R. v. J. a (2011) 2 S.C.R. 440 (Supreme Court of Canada Decision). Available online: <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/7942/index.do> (accessed on 25 December 2024).
75. Ummni, K. Take my breath away. *Onati Socio Leg. Ser.* **2016**, *6*, 1205–1215.
76. Halberstam, J. *In a Queer Time and Place: Transgender Bodies, Subculture Lives*; New York University Press: New York, NY, USA, 2005.
77. Gilles, D. *Difference and Repetition*; Patton, P., Translator; Athlone: London, UK, 1994.
78. Michel, F. Nietzsche, History, Genealogy. In *Aesthetics, Epistemology, Methodology*; Rabinow, P., Ed.; New Press: New York, NY, USA, 1997.
79. Busby, K. Every breath you take: Erotic Asphyxiation, vengeful Wives, and other enduring Myths in Spousal Sexual Assault Prosecutions. *Can. J. Women Law* **2012**, *24*, 328–358. [CrossRef]
80. Craig, E. Capacity to consent to sexual risk. *New Crim. Law Rev.* **2014**, *17*, 103–134. [CrossRef]
81. Gotell, L. Governing Heterosexuality to specific consent: Interrogating the government effect of R.v. J. A. *Can. J. Women Law* **2012**, *24*, 359–388. [CrossRef]
82. Nikolas, R. Sexualities and accounting: A queer theory perspective. *Crit. Perspect. Account.* **2016**, *35*, 111–120.
83. Foucault, M. *The History of Sexuality*; Hurley, R., Translator; 1977-7 Pantheon: New York, NY, USA, 1978.
84. Foucault, M. *The Use of Pleasure: History of Sexuality*; Vintage Books: New York, NY, USA, 1984; Volume 2.
85. David, H. *How to Do History of Sexuality*; University Press: Chicago, IL, USA, 2002.

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