Agency, Responsibility, and the Limits of Sexual Consent

A Dissertation Presented

by

Caleb Ward

to

The Graduate School

in Partial Fulfillment of the

Requirements

for the Degree of

Doctor of Philosophy

in

Philosophy

Stony Brook University

December 2020

Stony Brook University
The Graduate School

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Abstract of the Dissertation

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2020

In both popular and scholarly discussions, sexual consent is gaining traction as the central moral consideration in how people should treat one another in sexual encounters. However, while the concept of consent has been indispensable to oppose many forms of sexual violence, consent-based sexual ethics struggle to account for the phenomenological complexity of sexual intimacy and the social and structural pressures that often surround sexual communication and behavior. Feminist structural critique and social research on the prevalence of violation even within consensual sex suggest that consent is insufficient to ground responsibility; a more fundamental orientation toward the value of *sexual agency* provides a better foundation for sexual ethics. Using feminist critical theory, phenomenology, and black feminist thought, this dissertation develops a socially situated and relational notion of sexual agency and diagnoses how such agency is neglected in prevailing discussions of consent in moral philosophy and legal theory. I argue that the ethical question of responsibility to another in a sexual encounter—apart from juridical considerations—should be reframed around the value of each person's socially situated practices of agency. Preceding and extending beyond the obligation to gain valid consent for an action, responsibility demands adapting one's intentions and behaviors in response to the wider range of another's communicative expressions of agency. However, communicative expressions can be ambiguous or overdetermined by social context and cultural norms; they often offer only provisional traces of agency. To address this inherent uncertainty in intimacy, I propose drawing on insights from Emmanuel Levinas about the dynamic, open-ended nature of relationality, responsibility, and communication. Responsibility toward another does not depend on securing certainty about their "yes" or "no," but requires responding continuously under conditions of uncertainty and ambiguity, adapting behaviors and intentions to make room for another's agency despite its opacity.

For Béla

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ACKNOWLEDGMENTS

The production of this dissertation—and my own formation as a person who became able to write it—has depended on more relationships, material supports, intellectual guides, and inspirations than I can adequately recognize here.

When I first talked to Megan Craig about advising this project in late 2015, I hoped to learn from how she approaches philosophy as a creative practice integrated into life. Over the past five years, she has been a crucial mentor and advocate for me, as well as an inspiration for holding my own philosophical intuitions accountable to the complexity of experience. Mary Rawlinson and Eva Kittay, my readers at Stony Brook, have also inspired and guided me; in different ways, each has modeled how feminist philosophy at its best combines an incisive critical vision and a personal investment in a question that matters—and they have also demanded this from my own work. I owe Mary a special gratitude for her advocacy and for her tireless efforts to fund my graduate assistantship over the years. As external readers, Linda Martín Alcoff and Amia Srinivasan have also had an impact on this project through their generosity of time and intellectual energy, and writing to them as interlocutors in this text has been invigorating and clarifying.

Many people have read and commented on sections of the dissertation, and our exchanges have shaped both this work and my thinking as a whole. I have benefited immeasurably from sustained conversations, in many cases extending over years, with Audrey Ellis, Hannah Bacon, Elena Granik, Jenny Strandberg, Anne O'Byrne, Stephen Darwall, Ann Cahill, Kris Sealey, Sarah LaChance Adams, Oli Stephano, Lori Gallegos de Castillo, and Jonathan Knutzen. Hilkje Hänel deserves special recognition not only for being a longstanding interlocutor, but also for giving thoughtful feedback on the penultimate drafts of the first two chapters.

In the earliest stages, the ideas that became this dissertation germinated with the help of discussions with Eva Boodman, Alyssa Adamson, Vicky Hesford, Lisa Guenther, Lisa Diedrich, Emma

INTRODUCTION

Ethics imposes itself on life because my behaviors and actions unavoidably affect others in ways infused with value. The questions of moral philosophy spiral out from this site of contact: Does value precede us, or is it created by us? Is responsibility a function of our positions relative to one another, or does it emerge as a practice only through our encounters? Does knowledge provide the ground for ethical action, or does the challenge of ethical action reveal the limits of knowing? No matter how diligently such foundational questions are pursued, however, the theorist cannot leave behind the relational mesh of living. On the contrary, to philosophize is itself a practice and project pursued within a particular, relationally situated life, where the original challenge of ethical contact continually reasserts itself and makes claims on me, demanding more of my own actions and commitments and revealing the inadequacies of every theory.

This dissertation examines responsibility to another in sexual encounters, specifically in light of the fact that sexual behaviors can have uniquely intimate effects on others and on ourselves. I investigate how people's responsibilities toward one another are shaped both by subjective features of their encounters—each person's experience, agency, will, desires, projects, and so forth—as well as by objective features: their personal and social histories, cultural context, and the social structural factors that frame how they encounter one another and what transpires. In doing so, I take up and elaborate on foundational moral insights of twentieth-century feminist thought, most centrally the value attributed to agency for women and others who are often denied say over the sexual aspects of their lives. I take a critical distance, however, from the most prevalent stream in contemporary discussions of sexual ethics—both popular and theoretical—which largely articulates responsibilities between partners under a rubric provided by the concept of sexual consent. The dissertation is an extended effort to grapple with the ethical features of sexual intimacy—both those conveyed by the notion of consent and those consent fails to express.

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I argue that the nature of responsibility to another in a sexual encounter exceeds the explanation provided by contemporary conceptions of the norm of consent, including both popular understandings and the standard philosophical view that consent is a moral power of giving permission. This is the case because new ethical responsibilities toward another continuously arise as an encounter unfolds, and those responsibilities are framed by structural factors that a moral norm of consent struggles to acknowledge. A person's responsibility to another in sexual intimacy goes beyond the clear requirements of soliciting consent, respecting refusal, and allowing consent to be revoked, because consent is itself only valuable insofar as it emerges from and expresses another's agency. Agency, I argue, is a complex practice that cannot be conveyed in a simple moment of communication. Across the dissertation, I develop a positive account of sexual ethics that identifies as essential to responsibility in sexual encounters not only that a person not be coerced, but that each person *respond to another in a particular, agency-sensitive way*, including responding to that person's expressions of consent, refusal, ambivalence, enjoyment, trepidation, and so forth. This approach to locating consent within sexual ethics has novel implications: for one, it enables articulation of my responsibilities in an encounter to which another consents, where they nonetheless experience harms of violation.[1]

Agency

The first and perhaps most politically motivated presupposition of the argument is the value attributed to agency, particularly to the sexual agency of those who are often denied agency and authority over sexual aspects of their lives. I describe in chapter one how the valorization of agency is a basic tenet of feminist sexual ethics, and it has travelled under a number of different names through history and across cultural contexts. I there set out my basic conception of agency as a temporally extended, contextually specific practice of pursuing life projects, which I adopt from feminist activism and anthropology. I then flesh out that notion of agency in chapters two and three using insights from phenomenologically informed critical theory—particularly from Ann Cahill and Linda Martín Alcoff—and the black feminist thought of Audre Lorde. I reject idealized views that take agency as the uninhibited or autonomous authorship of actions, because such views overlook the embeddedness of all practices of agency within social structures and historical context, which sometimes facilitate and sometimes obstruct our projects.

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[1] In social research and popular feminist commentaries, these situations have been called "compliant sex," "unjust sex," "unwanted sex," and, perhaps less helpfully, "gray rape."

By focusing on a wider conception of agency instead of autonomy, I tacitly acknowledge the validity of what is now a longstanding tradition of feminist critique of Kantian, will-based accounts of personhood and moral efficacy.[2] I join those critiques in rejecting the classically liberal premise that the unit of morality is the autonomous actor, interchangeable and isolable as the author of moral action. However, I formulate my conception of agency in such a way as not to raise barriers against the most insightful approaches to autonomy in contemporary liberal discussions, such as some forms of "relational autonomy" and other nuanced revisions of Kantianism that seek sincerely to accommodate more adequate views of personhood, relationality, and social structure.[3] Ultimately, feminists across many traditions share the political and moral commitment to the value of agency—particularly the agency of women and others whose life projects are unjustly obstructed and disregarded. I see wide potential for philosophically pluralist work in sexual ethics in the name of agency and its analogues.

However, I also recognize that some contemporary discourses in feminist theory—new materialism, some feminist queer theory, and feminist affect theory, perhaps—hear the word 'agency' as positing too stable a subject and baselessly privileging the individual human actor over other, more plural communities and assemblages at work in an interconnected world (or universe). I acknowledge some genuine tensions between my agency-based account of ethics and these strands of feminist theory. However, I urge skeptical theorists to take a nonexclusive view of which questions ought to be pursued and how. For me to investigate questions of agency, relationality, and responsibility to others should not interfere with other theorists investigating the intensities and flows of pleasure and other affects in erotic entanglements. The important commonality among our approaches is that none of us should deny that all reflection is informed by an actual, concrete perspective: the perspectival positionality from which I theorize, which is the same singular perspective from which I pursue and experience human eroticism—and experience vulnerability to intimate harms. That is the perspective of a human organism within a particular sociocultural context, embedded in human (and non-human)

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[2] See, for example, Robin May Schott, *Cognition and Eros: A Critique of the Kantian Paradigm* (University Park: Pennsylvania State University Press, 1993 [1988]).

[3] See essays collected in Catriona Mackenzie and Natalie Stoljar, eds., *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (Oxford: Oxford University Press, 2000); and Sue Campbell et al., eds., *Embodiment and Agency* (University Park: Pennsylvania State University Press, 2009). For political limitations of some arguments from a notion of "relational autonomy," see Serene J. Khader, "The Feminist Case Against Relational Autonomy," *Journal of Moral Philosophy* 17, no. 5 (2020): 499–526.

relations that create the possibility of sense-making. To recognize this perspectival nature of human life drastically widens possibilities for making feminist political claims, and it does not require positing a transcendental, self-consistent subjectivity, an atomistic view of individuals, a mind ruling over a body, or other unwarranted, hierarchical abstractions that the interdiscipline of feminist theory is correct to denounce.

Responsibility

My account of responsibility is guided by the value I attribute to agency and by a phenomenologically informed appreciation of the dynamism and ambiguity that infuse human relationality. These two commitments shape my answer to the question, "What is my responsibility to another in a sexual encounter?" However, more remains to be said about what I take the word 'responsibility' to mean—that is, what responsibility is and what a theory about it should do.

In analytic ethics, two interrelated approaches to moral responsibility predominate, one metaethical and another normative.[4] Philosophers in analytic metaethics have sought for several decades to define moral responsibility in such a way that it might be the criterion for moral personhood, that is, to determine who is an appropriate target of blame, praise, and/or demands for justification.[5] In normative ethics, theorists apply this approach on a narrower scale to identify responsibility for particular actions, with the aim to justify holding a person to account for wronging. Both these views draw on longstanding notions of the moral significance of causal attribution (or imputability) of wrongful actions, as well as the idea of accountability as a status belonging to a rational human being in the moral community.[6] These theories aim to justify moral appraisal—that is, judgment—of an actor in regard to their actions, and for this purpose the term 'responsibility' appears as a predicate

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[4] See T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Belknap Press of Harvard University Press, 1998), 248–294.

[5] The status and nature of free will play a central role in these debates. See, e.g., David Shoemaker, "Attributability, Answerability, and Accountability: Toward a Wider Theory of Moral Responsibility," *Ethics* 121, no. 3 (2011): 602–32; and Angela M. Smith, "Responsibility as Answerability," *Inquiry* 58, no. 2 (2015): 99–126. The current debate in metaethics is primarily influenced by P. F. Strawson, "Freedom and Resentment," *Proceedings of the British Academy* 48 (1962): 1–25.

[6] See Gary Watson, "Two Faces of Responsibility," *Philosophical Topics* 24, no. 2 (1996): 227–48. The notion of *answerability*, sometimes treated as an alternative to attributability and accountability, is also framed as a feature of the moral status of human persons: that is, we are answerable to others, including when they call us to account. See Smith, "Responsibility as Answerability."

that the philosopher or judge applies in particular cases to describe a relation between a human being and a given action or effect.

I acknowledge that the traditional questions of responsibility and the distribution of blame have an important role to play for feminist sexual ethics: we need to be able to say, for example, that survivors' self-blame is misplaced, and that violators owe something in light of their wrongful actions. However, approaching responsibility in that dimension alone cannot support a rich, relational view of sexual ethics. In chapter one, I describe the limitations of the "administrative point of view" that governs mainstream philosophical discussions of responsibility, which sees the function of moral philosophy as drawing the line between right and wrong and justifying juridical distribution of blame and praise.[7]

The notion of responsibility that I pursue in this dissertation departs both substantively and methodologically from these debates. Rather than focus on the relation between a person and an action or event that has already taken place, I investigate responsibility in the present sense that describes how I should behave in particular relations with others: the responsibility I have to my friend Sanjoy who is seeking political asylum, to my partner Michèle, to my son Béla, and so forth. Responsibility in these relationships is shaped not only by the nature of the relationships themselves, but also by the social context in which each relation is embedded and the ways in which each of us is never a fully informed deliberator or completely empowered actor. The responsibility present in these relations exerts a pull on my behaviors and attitudes—that is, responsibility here is normative in an ethical sense—but it is not reducible to a list of specific obligations or a formula for when I am blameworthy for my failures. The practice of responsibility in the sense I pursue in this dissertation is a directional way of relating toward someone over time, sensitive both to the nature of the relationship and the context in which it unfolds. Rather than draw the line between right and wrong, with the implication that avoiding wronging will preserve my clear conscience, responsibility here flags ways in which another exerts claims on my behaviors, that is, sites where failures or trespasses will produce for me obligations of repair. This is fitting for sexual ethics for several reasons, but especially because of the personal, relational nature of sexual intimacy, in both its obligations and the harms that take place when things go awry.

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[7] On the administrative point of view, see Claudia Card, *The Unnatural Lottery: Character and Moral Luck* (Philadelphia: Temple University Press, 1996), 25. See discussion in chapter one, section three.

The ethics of sexual intimacy is also dependent on social and cultural context in a way that theoretical reflection cannot afford to ignore. Responsibility in sexual intimacy always takes place under nonideal conditions, in the midst of wrongs and harms currently taking place—societally or personally—that already influence each person's subjectivity, relations, and agential possibilities for action. An idealized approach to theorizing responsibility misses the substantial influence of dynamics of power in a particular society on prevailing sexual practices and their effects—particularly how those dynamics shape who engages in which practices and what kind of agency is involved. Moreover, in sex perhaps more than in other areas of life, we interpret, understand, and rationalize about events in response to the social norms and discourses that circulate in our particular time and place. These include models of sexual relationship, whether social norms surrounding marriage, dating, or casual sex, expectations around sexual communication, and prevailing social values like monogamy, women's sexual availability, feminine purity, and so forth. These contingent contextual factors play a central role in our experiences of sexual encounters and our reflections and interpretations of what has taken place, and they are thus likely to be deeply relevant for our responsibilities to one another.[8] Any account of responsibility in sexual encounters should be formulated in response to such realities, and to theorize sexual ethics in this way cannot avoid staking a political position relative to dominant social practices and frames of reference—a position that is reflected in what a theory takes seriously, what it brackets, and what motivating values it points to for our obligations to one another.

Levinas

Explanation is also needed to establish the relationship between my project and the philosophy of Emmanuel Levinas, who supplies the framework for the conception of responsibility that is the focus of chapter four and the starting point for my original account in chapter five. My use of Levinas is motivated by several features of his ethical thought: his commitment to the "I" perspective for moral reflection, his prioritization of the sensed urgency of relationality over principles as the basis for moral value, his account of communication as the unfinished, ongoing appeal made by "saying" and "expression," his emphasis on the fundamental unknowability of another person, and his articu-

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[8] On the epistemic effects and political ramifications of contextual factors surrounding sex and sexuality, see Linda Martín Alcoff, *Rape and Resistance* (Cambridge: Polity Press, 2018).

lation of the pervasive condition of relationality—exposure and vulnerability to others—that charac-
terizes human existence before I even arrive on the scene as a self-conscious "I."[9] Levinas describes
responsibility as a dynamic, directional relation toward another, the condition of being solicited by
one who approaches and addresses me from beyond the horizon of my knowledge and power.

While Levinas himself proffers a sexist and phenomenologically inadequate description of the
erotic, his broader framing of ethics and responsibility is apt for theorizing ethics in sexual intimacy.[10]
Levinas captures how an encounter with another is always capable of disrupting one's everyday un-
derstanding of self and world—a possibility experienced acutely in sexual intimacy, where the façade
of the everyday can be particularly fragile. This is attested by the potential in an intimate encounter
that something transformatively positive might transpire—such as intense feelings of pleasure or di-
vinity or the inauguration of a previously impossible human connection—or that an experience might
collapse into feelings of disgust, objectification, or a traumatic violation of one's sense of corporeal
and agential selfhood.[11] Levinas's paradoxical description of the total vulnerability and total power of
the other person rings especially true for sexual situations. In every intimate encounter, I risk harming
another because I cannot secure how my behaviors will be received, nor what effects and meanings
they will produce. Yet, the intimacy of the encounter is dependent on my openness to also risk being
harmed; in intimacy, multiple layers of vulnerability are always at play.

The problems with Levinas for feminist work, however, run deeper than his stereotyped and
phenomenologically impoverished account of sexual intimacy. The roles of terms like "the feminine,"
"fraternity," and "paternity" in his work have led feminist philosophers to criticize him for replicating
classic philosophical disavowals of the feminine, for locating woman outside of reason, language, and
signification, for identifying the ethical relation to another as a relation to a brother (that is, between
men), and for taking the paternal relation of father toward son as the paradigm relation of

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[9] I draw especially from Levinas's two major works, *Totality and Infinity: An Essay on Exteriority*, trans.
Alphonso Lingis (Pittsburgh: Duquesne University Press, 1961 [1979]); and *Otherwise than Being or Be-
yond Essence*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1974 [1981]).

[10] I address Levinas's account of the erotic in chapter four, section two.

[11] These dual directions have become a pervasive theme of both feminism and queer theory. For
foundational texts influencing this trajectory, see Carole S. Vance, ed., *Pleasure and Danger: Exploring
Female Sexuality* (Boston: Routledge, 1984); and Leo Bersani, "Is the Rectum a Grave?," *October* 43
(1987): 197–222.

parenthood.[12] I am uninterested in attempting to redeem Levinas against these feminist critiques, above all because many of the charges against him are justified. Instead, my approach to Levinas aims to harvest what is useful from his work, while discarding what cannot be digested for feminist ethics and politics.[13]

My tactical use of Levinas frees me from some of the orthodoxies that constrain those who would seek to produce an account that remains internal to the paradigm of his thought. While I adopt his basic metaethical position on the sources of moral good and responsibility, I am not bound to reconcile my account with his hyperbolic language of infinite demand, "passivity more passive than all passivity," and so forth.[14] Levinas signals a special usage of the concept of the infinite, which I need not engage, and many of his extreme invocations serve rhetorical purposes that interweave with the philosophical movement of his claims.[15] Instead of demonstrating loyal adherence to the Levinasian account, I am moved first by my commitment to the adequacy of my theorizing to the world I live in—particularly insofar as every discussion of sexual agency and responsibility has concrete political effects, and greater effects on some than on others.

For Levinasians, my emphasis on agency in particular may seem discordant with the passivity that characterizes responsibility in Levinas' thought. I hope a close reading of my positive account of responsibility in chapter five will dispel this concern; the focal point of responsibility on my account is the agency of another, not the self-certainty and knowledge of the self. Nonetheless, it is also valuable to keep in mind a warning expressed by Linda Martín Alcoff in an early book review, where she writes that the way one chooses and deploys a theoretical lens always reflects a particular understanding of the problem to be addressed and what one hopes to do about it. Heeding her warning, my goal

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[12] See Luce Irigaray, *An Ethics of Sexual Difference*, trans. Carolyn Burke and Gillian C. Gill (Ithaca: Cornell University Press, 1993 [1984]), 185–217; Stella Sandford, *The Metaphysics of Love: Gender and Transcendence in Levinas* (London: Athlone Press, 2000); and Ellie Anderson, "From Existential Alterity to Ethical Reciprocity: Beauvoir's Alternative to Levinas," *Continental Philosophy Review* 52, no. 2 (2019): 171–89.

[13] In this, I emulate the use of Levinas by Lisa Guenther, Jill Stauffer, and Judith Butler, rather than follow Tina Chanter in attempting to vindicate Levinas against his feminist critics.

[14] Levinas, *Otherwise than Being*, 14–15.

[15] See discussion in Megan Craig, *Levinas and James: Toward a Pragmatic Phenomenology* (Bloomington: Indiana University Press, 2010), 62–64.

is not "to articulate a conception of resistant agency consonant with the canonical restrictions of post-structuralist theory" or of any other philosophical text.[16] Instead, I am answerable to the actual descriptions of agency given by those resisting the social contexts that expose them to sexual coercion and exploitation—that is, the agency people actually value and pursue in their lives, which I argue is the concrete source of the ethical solicitation of responsibility.

Consent

My approach to sexual ethics and responsibility puts sexual agency at the center, and it calls into question the philosophical orthodoxy that presupposes that sexual consent is a "moral power" like promising or gift-giving that has a primary moral effect of giving permission. Rather than focus on how consent performs its alleged "moral magic" of lifting another's obligations, I scrutinize in chapter one the obligations that persist despite a person's consent, which reveal an ongoing responsibility to another that is obscured in purely consent-based accounts of sexual ethics.[17] In chapter two I intensify the argument by raising several objections to the norm of sexual consent from feminist critical theory, which examines how consent can fail to reflect a robust practice of agency in a society where rape culture and other unjust social patterns and structures frame our behaviors, beliefs, desires, and interpretations of our lives. Given the many situations in which people consent to sexual encounters but nonetheless experience sexual violation, I argue that the principle of consent falls short as a determinant of moral responsibility and obligations, even if practices of consenting remain significant in the qualitative character of our relationships of responsibility.

There is much at stake in calling into question the normative ideal of sexual consent, since a robust concept of consent has been one of the most effective feminist tools for achieving political and legal progress against sexual violence. The idea that consent is morally decisive has enabled feminist legal reformers in several countries to shift rape laws away from force-based definitions—which have glaring loopholes for establishing culpability of perpetrators—and toward new definitions aiming to recognize women's agency and autonomy as morally authoritative in their sexual encounters. In both popular discourse and the law across many societies, sexual consent has become the primary

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[16] Alcoff, "On Mastering Master Discourses," *American Literary History* 5, no. 2 (1993): 342.

[17] The phrase "moral magic" comes from Heidi Hurd, "The Moral Magic of Consent," *Legal Theory* 2, no. 2 (1996): 124.

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framework for denouncing clear-cut sexual assault and coercion, especially situations where a refusal of sexual contact is overpowered or ignored, or where a person is sexually assaulted when unconscious.

This project sets out from the view that the evolution of the consent ideal reflects some deep truths about sexual ethics but also obscures significant aspects of responsibility in sexual intimacy. I suggest that the clear-cut situations of coercive sexual assault that motivate juridical discourse around sexual consent are not reliable guideposts for understanding the situation of sexual intimacy as such, which is often ambiguous and steered simultaneously by practices of agency and pernicious social expectations. The view that consent must draw the line between sex and rape was a feminist political achievement, but it has been adopted by mainstream moral and legal theorists in ways that limit the moral imagination. The norm of sexual consent has become overinflated in moral theory, which obscures its feminist origins as a mere proxy for a person's agency over what takes place in their sexual encounters. Instead of producing more nuanced, feminist-informed views of sexual ethics, the over-investment in the legal notion of consent has fueled a skeptical stance among mainstream theorists toward feminist claims that consent is often not a good avatar of sexual agency. Many legal and moral theorists worry that scrutinizing how consent fails to live up to the ideal of sexual agency (or, in their terms, autonomy) will lead to the uncomfortable claim that many situations of everyday sex should be categorized as rape, and to the paternalistic view that women are somehow not autonomous agents in their sexual decisions.

The reality is that sexual violation is an unexceptional, everyday occurrence for many women and others. Moreover, women are not in fact fully autonomous agents in their sexual decisions—and neither is anybody else. The ideal of full autonomy is the wrong paradigm to apply in examining how people practice agency over their sexual encounters and how those encounters fit into their lives. Despite the efficacy of sexual consent as a criterion for condemning sexual coercion and assault, consent as a moral norm is not so useful for identifying what is wrong with other situations that cause sexual violation, such as more ambiguous encounters, transactional encounters, and situations where consent is given to sex that is unwanted, unwelcome, and experienced as a violation. To appreciate the ethical contours of these encounters requires attending to how the meanings of consent and its normative moral effects differ according to differences of sex, gender, and other dimensions of social specificity, which requires an appreciation of concrete differences in what is at stake and what is possible within particular social contexts.

We do not learn more about responsibility in all sexual encounters by identifying more precisely the line at which sex becomes justifiably defined as rape. Rather, a more nuanced approach to

both agency and responsibility is needed. To begin philosophical investigation of responsibility and sexual ethics from the consent-based definition of rape is to invert the relationship between moral theory and the law, pursuing a backwards methodology for moral philosophy. The juridical definition of the crime of rape should not be the starting point for moral reflection about the nature and significance of consent; juridical definitions should respond to ethical complexity, not steer the investigation of that complexity. In this case, philosophers should set out from an examination of the character of sexual agency and lived experiences of violation in both consensual and nonconsensual situations to scrutinize consent and better articulate responsibility to others in sexual encounters.

My Motivations

I began this dissertation in earnest in autumn 2016, although its germ was a paper written in 2014 about inadequacies of the concept of sexual consent and some ameliorative possibilities in Audre Lorde's thought. The popular discussions surrounding consent in my US context at that time focused on the power and pitfalls of affirmative definitions of consent (that is, the idea that only expressions of affirmation or agreement should count as consent), campus sexual assault, and the effects of social media in increasing the visibility of assaults against unconscious women and girls. A viral post on a blog called *Rockstar Dinosaur Pirate Princess* compared consent to offering someone a cup of tea, and there was a widespread message in popular feminism that consent is "not actually that complicated."[18] My intuition was that only focusing on situations where consent *shouldn't* be that complicated—situations of rape and clear boundary violation—might obscure a wider ambiguity often present in sexual intimacy that the theoretical tools of moral philosophy were perhaps ill-suited to describe. Following my longstanding interest in how ethical encounters demand more than what principles and personal knowledge can adequately prepare me for—a view I have since come to recognize as Levinasian—I thought I would draw on feminist phenomenological insights about sexual intimacy to correct some shortcomings of the juridical notion of consent.

Looking back from 2020, it seems significant that this was before I knew the name of Larry Nasser, before the fall of Harvey Weinstein, before the resurgence of #MeToo, before there was a President Donald Trump or a Justice Brett Kavanaugh. But it was after Bill Cosby, after Jerry

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[18] The now well-known "cup of tea" consent analogy was originally posted at Emmaline May, "Consent: Not Actually That Complicated," *Rockstar Dinosaur Pirate Princess* (blog), March 8, 2015, https://rockstardinosaurpirateprincess.wordpress.com/2015/03/02/consent-not-actually-that-complicated/.

Sandusky, after Dominique Strauss-Kahn, after President Bill Clinton and Justice Clarence Thomas, after Roman Polanski and Woody Allen, and after the Catholic Church as an institution was revealed as sheltering a global pedophile ring. In some ways, it turns out not much changed over those four years. What did change, however, is how people are talking about consent and sexual violation, particularly how people in unexpected places are talking about power and the role of structural influences that constrain possibilities for refusing sex.

Perhaps the intervening event with the greatest influence on the trajectory of this project was the publication in 2018 of Linda Martín Alcoff's book, *Rape and Resistance*. Alcoff's book frames the global expansion of the #MeToo movement as a moment where societies are being called on to renegotiate their responses to survivors of sexual violation, while the marginalized place of survivors in both public and private discourses continues to serve as a barrier against political change. She presents compelling, original arguments about the nature of experience and testimony, the harms of violation, the work of resistance, and the limits of conceptual resources like consent as tools for survivor agency, as well as the uses and abuses of Foucault for sexual ethics. Reading Alcoff's book, I was faced with a philosophical sophistication toward these issues and a sensitivity to life—born out of lived survivor experience—that I couldn't hope to equal or replicate. Instead of attempting to do so, I did what was in reach from my position: I listened to Alcoff, and I reconsidered where I was placing my own philosophical emphasis and which questions I was leaving unasked. After pinpointing my few disagreements with her analysis, I reconceived my project as an effort to bring this brand of perceptive social analysis to the register of ethics and responsibility to another person.[19] This motivated me to stop shying away from the problems posed by social structure and the influence of pernicious discourses in one's sexual self-understanding; I recognized that phenomenology alone could not correct the errors of mainstream sexual ethics to provide a new framing for responsibility in sexual encounters. Even on the intimate, personal level, responsibility requires grappling with how one's positionality constrains social possibilities for both action and interpretation.

Argument and Structure of the Dissertation

The overarching claim of the dissertation is that an expansive notion of sexual agency should be the key value orienting responsibility to another in a sexual encounter, replacing the moral norm

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[19] My only real disagreement argued here, however slight, is that my critique of the norm of consent does not require the thoroughgoing dismissal of consent's moral significance, which Alcoff seems to favor. See chapter two, section three.

of sexual consent. I develop this thesis through three streams of argument: demonstrating the inadequacy of conventional, permission-giving accounts of sexual consent, developing an expansive notion of agency that is both sensitive to social context and temporally extended to consider the life projects a person pursues, and articulating a positive account of responsibility in sexual intimacy as responding to the agency of another, despite the impossibility of stable knowledge or certainty about the content of their agency over time. These three streams of argumentation interweave across five chapters, with the critique of consent at the forefront in chapter one and much of chapter two, the account of agency coming to the fore in chapters two and three, and the articulation of responsibility as response prominent in chapters four and five.

Chapter one introduces the basic commitment to the value of sexual agency shared across feminist claims about sexual ethics, which has motivated the growing focus on the moral norm of sexual consent since the 1970s. In current debates in moral and legal theory, however, consent is presupposed to operate as a "moral transformative" that waives another's obligations, which has led the concept of sexual consent in those discussions to stray from the agency that originally grounded consent's moral authority. I diagnose several drawbacks of legalistic frameworks for sexual ethics, before demonstrating that the minimalist view of sexual consent as a practice of permission giving is untenable in light of the fact that people regularly consent to sex that is nonetheless unwanted and unwelcome, and they often, as a result, suffer harms to their ongoing capacities to practice agency over their sexual lives. I close by suggesting that conventional accounts of morally transformative consent overlook how consent does not simply ease obligations by giving permission but engenders new obligations for a partner to respond in certain agency-sensitive ways.

Chapter two identifies two key insights of feminist structural critiques of consent: that consent can only reflect sexual agency if there is a socially viable possibility of refusal, and that unjust social structures and pernicious discourses can undermine the subjective conditions of agency, including a person's desires and self-understanding, which further weakens the connection between sexual consent and agency. I consider the limits of early radical feminist articulations of these claims, and I argue that the failure of consent as a principle does not mean that theorists should ignore consenting as a practice that carries moral significance with respect to agency. Expanded accounts of sexual agency and sexual subjectivity in the work of Ann Cahill and Linda Martín Alcoff bring nuance to the insights of feminist structural critique in a way that can provide guiding values for sexual ethics.

In chapter three, I further extend my conception of sexual agency by examining agency practiced in opposition to pernicious social norms and impoverished epistemic resources for interpreting

one's life. Audre Lorde locates the basis for her considered actions and life projects in the knowledge she attributes to feeling deeply, and her agency is oriented toward an aim of self-preservation of her multiple identities—as black, woman, lesbian, poet, and so forth. By taking seriously Lorde's account of agential praxis, my conception of agency expands to include additional subjective dimensions: feelings, where a person is coming from, and where they are going with their life. I explore implications for sexual ethics by applying this analysis to two sexual encounters Lorde describes in her writing, in which the context of her agency becomes central to her partners' ethical responses to her—not only whether she consents and whether she can refuse, but also whether her partners respond in a way that acknowledges the value and quality of the agency she expresses in her sexual communication.

Chapter four seeks to establish a philosophical basis for the responsibility to respond to the agency of another, given the ambiguity that often persists when we seek to know another's experience, will, and other aspects of their subjectivity. Levinas describes responsibility as arising when I am faced with the proximity or approach of another who addresses me from beyond the horizon of my perception and knowledge. According to Levinas, the transcendence of the other person—including their vulnerability, expressiveness, and, I add, the subjective basis for their agency—is the source of ethical claims on my actions. Transcendence cannot be grasped directly through another's communications understood as fixed signs, however, but only by way of the living expressiveness of ongoing conversation—which I define expansively to include words, utterances, gestures, and postures—the meaning of which only emerges in a relation that continues unfolding over time. This lends theoretical support to the shift in attention from consent as giving permission to a dynamic view of sexual communication, in which consenting is at best a temporary mode of agential expression that continues to evolve, bringing new obligations for another's behaviors to change in response. To adapt Levinasian ethics to the situation of sexual intimacy, I address how Levinas's account of expression can be expanded to take into account the crucial influence of social and historical context surrounding an encounter.

Chapter five articulates a positive account of responsibility as responding to another's expressions of agency, which does not rely on an ideal of transparency or certainty about the meaning of another's signs. I identify one precondition and four orientations (what I call desiderata) that responsibility to another must take up. I posit a basic, ethically significant distinction between the ambiguity characteristic of all sexual relationality and the muddling effects on judgment produced by pernicious social contexts, which encourage in some people an arrogant self-certainty while undermining the capacities of others to make sense of their experiences. To the extent that my agency is served by such a pernicious social context at the expense of the agency of others, then responsibility requires that I

develop a critical sense of my social positionality—perhaps implicit, always culturally mediated—that can resist the distorting effects of the social norms and discourses therein. This disrupts a privileged sense of entitlement and arrogant self-certainty, opening the way for other orientations that enable practicing responsibility toward another. In sexual and sexualizing encounters with another, I argue, responsibility demands (1) that I sense that they have an agency beyond what motivations or experiences I might project on them; (2) that I receive their expressions as calling into question my self-certainty; (3) that I respond to them by acknowledging the value of their agency, always only partially known; and (4) that this responsiveness continues dynamically as our encounter unfolds. Such acknowledgment requires that I change my intentions and behaviors in response to another—that their agency matters to me materially and concretely—which might entail moving differently, creating a space of hesitation, pausing to listen or asking a question, or examining my own desires and allowing them to evolve.

In the afterword, I enumerate the benefits of my accounts of agency and responsibility for sexual ethics and feminist politics. My approach aims to extend the horizon of moral reflection to scrutinize a wider range of harms to sexual agency—including harms that can take place despite a person's consent. In place of questions of what should reasonably be known about another's will and who is to blame for gaps in knowledge, my account identifies a persistent responsibility to respond to another's agency as an ongoing challenge, particularly in societies shaped by unjust sexual norms and practices. I hope the ambiguity and dynamism I describe as morally significant aspects of intimacy resonate with my readers' own lived experiences. And I hope my account opens a new avenue of inquiry useful for feminist politics, by aligning efforts to change pernicious social norms and structures with the ethical challenge of responding to the agency of others.

CHAPTER ONE
FEMINIST COMMITMENTS AND THE NORM OF SEXUAL CONSENT

It is a relatively recent development that sexual consent has gained a central role in both popular and academic discussions of right and wrong in sex, following from a major feminist intervention into *how* moral theorizing is done and *by whom*. In newly expanded roles across societies, feminist voices over the past fifty years have demanded that sexual ethics—that is, theories and normative judgments about right and wrong in sex—answer to a basic feminist claim that women ought to have agency over the sexual aspect of their lives. The contemporary moral norm of sexual consent was originally mobilized to pursue this claim.

However, the norm of consent has been taken up in academic philosophy and legal theory in ways broadly disconnected from this aim, with analyses often focusing on definitional and evidentiary concerns while losing sight of the significance of agency. Moral philosophers have analyzed consent at length as a moral power of giving permission, with effects on obligations dependent on both the conditions surrounding its expression and how it is interpreted and understood by another. Their aim has been to identify what counts as consent, where lines of permissibility should be drawn, and which claims of ignorance or mistake about another's consent are reasonable and therefore excuse culpability for behaviors that cause sexual violation. While these moral analyses attend to the possibilities of coercion, deception, and miscommunication in a given moment of apparent consent, they rarely consider how agency persists dynamically within an encounter, how agency is practiced over the course of a person's life, or how agency depends on a wider societal context in which agency is enacted—a curious omission given that the value of agency (usually formulated as autonomy) is ostensibly the source of consent's moral significance in the first place. These questions are crucial to evaluate whether consent actually expresses agency in everyday sexual encounters and how responsibility to another in a sexual encounter should be construed.

Setting out from the feminist commitment at the heart of consent-based sexual ethics, this chapter argues that the moral significance of positive sexual consent—that is, its ability to change another's rights and obligations—is more complex than has previously been acknowledged. While current philosophical debates about sexual consent clarify the challenges of legal judgment, they presuppose a morally transformative, permission-giving model of consent detached from the more complicated reality of how agency and consenting interrelate. By considering the common phenomenon of unwanted sex that is nonetheless consensual (that is, uncoerced and intentionally agreed to), I argue that the permission-giving model of consent is inadequate as a representation of how the value of agency comes to bear on sexual ethics. While a refusal of consent has a straightforward moral authority to end a sexual encounter, the ethical influence of positive sexual consent does not straightforwardly give permission on its own. Rather, the salutary moral effect theorists attribute to consent presupposes that an expression of consenting is received in a particular, agency-responsive way. This continuous responsiveness to another's agency proves—over the course of this dissertation—to be the foundation of responsibility in sexual intimacy.

This chapter proceeds in five sections. First, I examine how the contemporary concept of sexual consent arrived as a common norm for sexual ethics, tracing it to the increasing influence of feminist political commitments and moral intuitions based on women's experiences of sexual violence and exploitation. I articulate a conception of agency that I take to be a fundamental motivator for feminist interventions into sexual ethics. In section two, I briefly summarize analytic debates over the nature of consent as a mental state or a communicative action, and I trace how feminist movements for legal reform have interpreted consent according to this rubric. Section three argues that theoretical analyses of sexual consent are hampered by their investment in serving legal judgment, and I cast doubt on the notion of morally transformative consent while arguing for a normative conception of responsibility that attends to ongoing personal obligations of moral repair. Section four identifies agential harms that can follow from consensual sex that is nonetheless unwanted and unwelcome, and I argue that these harms demonstrate that the assumed permission-giving function of consent cannot be grounded in the traditional liberal value of autonomy or free agency. The fifth and final section turns to the positive question of responsibility, arguing that the morally felicitous effects attributed to consent actually depend on consent garnering the right kind of response from another.

I.   Feminist Moral Intuitions and Political Commitments about Sexual Ethics

The recent emergence of consent as both a central norm for sexual ethics and an increasingly widely held feminist moral intuition reflects a fundamental shift.[20] Before the second half of the twentieth century, public interpretive tools for judging right and wrong in sex were largely grounded in nature-based assertions buttressed by religious discourses, ideals of societal or racial virtue, notions of male property or guardianship rights, and sexist claims about women couched in the terms of sociology, psychology, and biology.[21] In contrast, feminist moral assessments of sex originated in personal and communal practices of interpreting concrete experiences, especially women's experiences of sexual violation and exploitation, whose experiential harms did not fit neatly within existing justifications. In this way, feminist arguments are grounded in a *basic feminist political commitment about sexual ethics*: Women's moral assessments, based in interpretations of experiences, are valid sources of moral judgment and political demand regarding sexual social norms.

Rather than approaching particular cases through universal claims—e.g., about the sanctity of procreation, social ideals of the family or childrearing, or the nature of human psychology—feminist sexual ethics acknowledge the moral intuitions that arise from concrete experiences of sexual coercion and violence and set out to develop politically efficacious critiques of the patterns of oppression those experiences make visible. This has never required affording absolute authority to the moral assessments of every particular woman; rather, it is a methodological commitment that locates women's experiences as a source of reasons that can contest the pantheon of existing (historically male) justifications in sexual ethics.

Since the 1970s, feminist activism and critique have facilitated the revaluation of existing societal narratives about right and wrong in sexual encounters, largely by demanding recognition of previously unacknowledged harms of sexual violation: not only harms of personal physical injury but also harms to one's community and family, harms to the role one's body plays in one's sense of selfhood, harms of distorting one's sexual identity and damaging one's relationships, and the harm of

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[20] I use *norm* in its moral sense to refer to the morally prescriptive view that sexual consent should guide judgments and actions. I retain this usage throughout the dissertation, using *social norms* instead when I refer to prevailing expectations and behaviors in a given society or social context. This is not to imply that moral norms can be formulated without the influence of social norms; on the contrary, the interaction between the two registers is especially important for sexual ethics. See Linda Martín Alcoff, *Rape and Resistance* (Cambridge: Polity, 2018), 76–109. Thank you to Amelia Wirts for pushing me on this point.

[21] See Estelle B. Freedman, *Redefining Rape: Sexual Violence in the Era of Suffrage and Segregation* (Cambridge, MA: Harvard University Press, 2013); and Gayle Rubin, "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," in *Pleasure and Danger*, 267–93.

undermining one's ability to direct one's life as a whole in one's social context. This has motivated a *basic feminist moral claim about sexual ethics*: Women (and others disempowered by prevailing social practices) ought to have agency to steer whether and how they participate in sexual encounters. While this claim is universalizable to the agency of all people in sexual encounters, feminist sexual ethics and politics historically began with a focus on the devalorized agency of women in particular. In the decades since, however, the insight has been expanded through an appreciation of how sexual agency is undermined for people in other social positions, including children, disabled people, trans and genderqueer people, incarcerated people, and sex workers of all genders, and there has been a growing recognition of the role of sexual coercion and exploitation in compulsory heterosexuality, racial dehumanization, colonization, and other harms experienced by people facing a variety of forms of oppression.[22]

Over the years and around the world, the basic feminist moral claim has been articulated in a variety of culturally and historically specific ways: as self-determination, as sexual integrity, as sovereignty, as freedom, as choice, as autonomy, as the possibility of pursuing pleasure or acting on desire, and countless others. Across these aspirations, however, is the common thread that one should have significant say over what happens in the sexual area of one's life, which contributes directly to having a meaningful role in directing one's life as a whole. This is the core of what I describe in this dissertation as *sexual agency*, which I take to be integrated with a person's agency writ large. While I flesh out agency in more detail in chapters two and three, a few initial remarks here will help frame the discussion.

It should already be clear that the notion of agency valorized by feminist commitments is thicker than the common philosophical notion of agency as the capacity for action (that is, intentional causal intervention, oriented toward an end, taken to be good).[23] Agency in the sense that is of interest to feminist politics is closer to what Sherry Ortner describes as the "agency of projects," which is the practice of directing one's life in accordance with the pursuits, always culturally specific, that "infuse

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[22] See Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," *Signs* 5, no. 4 (1980): 631–60; Angela Davis, *Women, Race and Class* (London: Women's Press, 1982); Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, rev. ed. (New York: Routledge, 2000 [1990]), 123–48; and Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis: University of Minnesota Press, 2015).

[23] Sally Haslanger, "Agency within Structures and Warranted Resistance: Response to Commentators," *Australasian Philosophical Review* 3, no. 1 (2019): 111.

life with meaning and purpose."[24] The agency at stake for feminist resistance is temporally extended and contextualized in this way, about pursuing a shape of living within a community or society rather than a localized relationship to a particular intended action. Moreover, the value attributed to agency does not imply that being an "agent" is the basic form of personhood. All people are "embedded in webs of relations," such that "whatever 'agency' they seem to 'have' as individuals is in reality something that is always in fact interactively negotiated."[25] To actualize agency is to shape one's life within the context of one's valued relationships (family, kin, communities) under material social conditions that include overlapping differentials of power. Agency is thus not merely something that individual actors "have" but something that is *achieved* in various ways, and it has normative significance as something that *should be achievable* in some fitting sense for everyone.

Social conditions can be oppressive, Ortner suggests, in large part because they have pernicious distributive effects on who enjoys the wide practice of agency in this sense. The agency to pursue projects is "disrupted in and disallowed to subordinates" while it "flourishes *as* power for the powerful," and it is the agency of projects "that the less powerful seek to nourish and protect by creating or protecting sites, literally or metaphorically, 'on the margins of power'."[26] However, agency as the pursuit of projects is not reducible to the push and pull of resistance under oppression; projects pursued are never wholly prescribed by an oppressive social context.[27] Rather, the agency of projects is pursued across everyday life, moving in and out of the shadow of oppression as "people seek to accomplish valued things within a framework of their own terms, their own categories of value."[28]

For sex and sexuality, agency in this wider sense entails not only influence over what happens in particular encounters but also being able to pursue one's projects—including sexual relationships

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[24] Ortner, *Anthropology and Social Theory: Culture, Power, and the Acting Subject* (Durham: Duke University Press, 2006), 145. Ortner describes these pursuits as the "serious games" invested with value in one's cultural context.

[25] Ortner, *Anthropology and Social Theory*, 151–52. See also Alisa Bierria, "Missing in Action: Violence, Power, and Discerning Agency," *Hypatia* 29, no. 1 (2014): 129–45.

[26] Ortner, *Anthropology and Social Theory*, 144.

[27] In this sense, the agency of projects avoids the pitfall of fixating on agency as it exists solely along the axis of oppression and willful resistance. See Laura M. Ahearn, "Language and Agency," *Annual Review of Anthropology* 30, no. 1 (2001): 116.

[28] Ortner, *Anthropology and Social Theory*, 145. The degree to which the values pursued are *actually* on people's own terms will be discussed in chapter two.

that one finds valuable—without being obstructed by experiences of sexual violation and their ongoing harms.[29] For this reason, the basic feminist moral commitment to the value of agency motivates both a political demand that oppressive social conditions be transformed and a moral revalorization of the subjective conditions out of which agency emerges: that is, the will, desires, experiences, feelings, and valued projects, including those that have historically been ignored by accounts of right and wrong in sex.

Over the past several decades, the norm of sexual consent has emerged as the primary means by which the value of sexual agency has entered moral, legal, and political debate. Backed by feminist articulations of the harms of sexual assault and social critique of rape's political role in women's subordination, sexual consent has begun to supplant traditional, masculinist judgments of sexual ethics in legal systems and popular discourses in many societies.[30] Although persistent rape myths, ideals of feminine purity, and other misogynistic rationalizations continue to prevent uptake, political demands in the name of sexual consent have forced mainstream moral and legal discourses in most societies to at least grapple with the claim that the agency of women has bearing on how sexual encounters ought to be shaped. Consent has been a lever for feminists to reform institutions to acknowledge the wrongness of sexual violence and coercion, to sharpen mechanisms for holding perpetrators accountable, and to recognize the rights of victims and the moral significance of the harms they suffer.[31]

In the US, feminist efforts beginning in the late 1970s mounted a largely successful legal campaign to redefine rape as nonconsensual sex rather than a species of physical assault, making it a question of a person's will or choice—de jure if not de facto. While legislation governing rape and

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[29] See chapter two, section four.

[30] In the English-speaking world, this shift was initially motivated by a wave of activism and several key theoretical contributions in the 1970s, including Susan Griffin, "Rape: The All-American Crime," *Ramparts* 10 (1971): 26–35; Kate Millett, *Sexual Politics* (Garden City: Doubleday, 1970); and Susan Brownmiller, *Against Our Will: Men, Women, and Rape* (New York: Simon & Schuster, 1975). Although the movement gained mainstream purchase at that time, its US roots run deep in black women's resistance to racialized sexual violence, most famously the political efforts of Ida B. Wells in the 1890s. See Danielle L. McGuire, *At the Dark End of the Street: Black Women, Rape, and Resistance—a New History of the Civil Rights Movement from Rosa Parks to the Rise of Black Power* (New York: Vintage Books, 2011).

[31] This social change has been driven for the most part by the voices of survivors, which in many places have pushed back against prevailing myths about sexual violation and have increased pressure on institutions. This has continued and intensified in recent years with the #MeToo movement. See Alcoff, *Rape and Resistance*, for discussion of necessary social and epistemic conditions for survivors to make politically empowered demands for change.

other sex crimes for centuries considered a woman's will as a relevant factor, twentieth-century feminism for the first time shifted the role of the will from taxonomic—distinguishing between crimes of seduction and crimes of force—to normative, that is, determining permissible from impermissible sex.[32] Scholars and activists in the 1980s strengthened the role of consent by widening legal and popular understandings of sexual coercion beyond the perpetrator's use of force and victim's physical resistance and by contesting the idea that legal marriage makes sex definitionally consensual.[33] In the late 1980s through the 1990s, growing public awareness of "date rape" and acquaintance sexual assault continued to expand mainstream support for the consent norm,[34] and the first two decades of the 2000s have increased attention to the wrongness of sexual contact with victims who are unconscious or incapacitated.[35] Most recently, in the late 2010s, the global expansion of the #MeToo movement has brought renewed attention to how differentials of power or status—rather than force or its threat—are leveraged for sexual coercion.

While consent has been a powerful concept for denouncing sexual coercion in many forms, the norm of sexual consent from a feminist perspective is only adequate insofar as it aligns with the presupposition of the value of sexual agency, that is, insofar as a focus on consent actually succeeds in putting agency at the center of women's (and others') sexual encounters. To this end, feminist discussions of sexual consent on blogs, social media, and in general-audience publications (at least in English) have coalesced around three consent-based obligations taken to be intuitive, which I call the *popular feminist norms of consent*. These claim that anyone who initiates sexual contact is obligated (1) to

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[32] See Freedman, *Redefining Rape*, 33–51.

[33] A watershed moment for reassessing rape in US criminal law was Susan Estrich's powerful essay, "Rape," *Yale Law Journal* 95, no. 6 (1986): 1087–184. For a representative argument against resistance provisions and the force requirement in criminal definitions of rape, see Lynne N. Henderson, "What Makes Rape a Crime," *Berkeley Women's Law Journal* 3 (1987): 193–229. However, the definition of rape as non-consensual sex was never a universal position among feminist reformers of rape law. Robin West contrasts feminist definitions of rape that focus on force (e.g., those of Catharine MacKinnon) with those that focus on non-consent (e.g., those of Estrich and Henderson) in "A Comment on Consent, Sex, and Rape," *Legal Theory* 2, no. 2 (1996): 233–51.

[34] For an influential contribution, see Lois Pineau, "Date Rape: A Feminist Analysis," *Law and Philosophy* 8, no. 2 (1989): 217–43.

[35] Consider the US mass-media coverage of the 2012 Steubenville High School rape case, the 2013 Vanderbilt rape case, the Bill Cosby sexual assault cases (widely publicized in 2014), and the "Stanford swimmer" trial of Brock Turner in 2015. Depressingly, more than two decades after the mid-1990s media panic about the threat of "date-rape drugs," popular opinion in the US is still ambivalent about whether men who assault unconscious women have committed serious wrongs.

ensure another person's agreement or affirmation of any sexual behavior, (2) to respect a person's refusal (or incapacity to agree), and (3) to make it possible for another person at any time to withdraw from or end an encounter. These obligations are responsive to some important aspects of sexual agency for women and others, and they are probably necessary—although I will argue they are not sufficient—as a framework for sexual ethics.

II.   Moral Transformation and Debates About the Nature of Consent

Working largely independently of feminist commitments, most analytic ethicists and legal theorists set out from the assumption that sexual consent, like consent in other situations, has a special power of transforming the pattern of obligations between individuals, specifically making permissible another person's actions that would otherwise constitute a prohibited transgression. Methodologically, analytic theorists approach the project of understanding consent as a task of clarifying its form and function as a moral power or "moral transformative" akin to promise, command, or gift-giving.[36] The key questions to this end are (1) what kind of thing must consent be to have its morally transformative effect in sexual as in other areas of life; and (2) what are the conditions of moral validity under which consent fully and felicitously gives permission?

Theorists have for the most part answered the first question by arguing either that (1) consent is a mental state or attitude, such as an intention or feeling of agreement or endorsement, or (2) consent requires a communicative action or behavior that enacts or indicates (or reasonably ought to be understood as enacting or indicating) permission, agreement, or endorsement.[37] These two positions

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[36] Consent is described as a "moral transformative" performing "moral magic" by Heidi M. Hurd in "The Moral Magic of Consent," *Legal Theory* 2, no. 2 (1996): 124. Alan Wertheimer makes "morally transformative" consent the focus of his inquiry in "Consent and Sexual Relations," *Legal Theory* 2, no. 2 (1996): 89–112. Many analyses begin with quotes from either Wertheimer or Hurd. See, e.g., David Archard, *Sexual Consent* (Boulder: Westview Press, 1998); Peter Westen, *The Logic of Consent: The Diversity and Deceptiveness of Consent as a Defense to Criminal Conduct* (Burlington: Ashgate, 2004); Vera Bergelson, "The Meaning of Consent," *Ohio State Journal of Criminal Law* 12 (2014): 171–80; John Kleinig, "The Nature of Consent," in *The Ethics of Consent: Theory and Practice*, ed. Franklin G. Miller and Alan Wertheimer (Oxford: Oxford University Press, 2009), 3–24; Joan McGregor, "Sexual Consent," in *The International Encyclopedia of Ethics* (Malden: Wiley-Blackwell, 2013); and Igor Primoratz, "Sexual Morality: Is Consent Enough?," *Ethical Theory and Moral Practice* 4, no. 3 (2001): 201–18.

[37] Note that I have grouped together in the second, communicative camp those that argue that consent *just is* a performative communicative act and those that hold the more plausible view that communicative consent includes both mental and public aspects. In support of the communicative account, see Archard, *Sexual Consent*, Nathan Brett, "Sexual Offenses and Consent," *Canadian Journal of Law and*

diverge in some apparently significant ways: where the attitudinal account tethers consent's moral significance to the value of the will or subjective attitude alone, performative consent theorists typically argue, in analogy to promising and similar moral powers, that the foundation of consent's moral transformative effect is the power to change another's reasons for acting.[38]

Among supporters of both attitudinal and communicative views, there is relative consensus on what makes consent morally valid for effecting a transformation in obligations: a person, who is competent, conscious, and reasonably well informed, must consent intentionally (that is, on purpose) and volitionally (that is, without coercion).[39] While attitudinal and communicative consent theorists disagree on how these aspects of valid consent should be interpreted and weighed, all agree that some subjective agency condition of a consenting person plays a necessary role—especially that person's will or intention. The "hard cases" that motivate continuing debate among ethicists about consent typically raise questions about what should count as coercion, competence, sufficient information, and reasonable mistake as to whether another person has consented.

It is rarely acknowledged in these debates that the norm of sexual consent has its origins in feminist political struggle—that is, that the feminist commitment to agency is the only reason we are having these discussions about sexual consent in the first place. Analytic theorists evaluate sexual consent under the assumption that it is a moral power like other forms of consent—the power to transform another's obligations, as that enacted in medical, contractual, and political contexts—with

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Jurisprudence 11, no. 1 (1998): 69–88; Patricia Kazan, "Sexual Assault and the Problem of Consent," in *Violence Against Women: Philosophical Perspectives*, ed. Stanley French, Wanda Teays, and Laura Purdy (Ithaca: Cornell University Press, 1998), 27–42; Alan Wertheimer, *Consent to Sexual Relations* (Cambridge: Cambridge University Press, 2003); Joan McGregor, *Is It Rape? On Acquaintance Rape and Taking Women's Consent Seriously* (New York: Routledge, 2005); and Kleinig, "The Nature of Consent." In support of the attitudinal account, see Hurd, "The Moral Magic of Consent"; Mark Dsouza, "The Power to Consent and the Criminal Law," University of Cambridge Faculty of Law Research Paper no. 9 (2013); Larry Alexander, "The Ontology of Consent," *Analytic Philosophy* 55, no. 1 (2014): 102–13; and Kimberly Kessler Ferzan, "Consent, Culpability, and the Law of Rape," Ohio *State Journal of Criminal Law* 13 (2016): 397–440.

[38] See, e.g., Neil C. Manson, "Permissive Consent: A Robust Reason-Changing Account," *Philosophical Studies* 173, no. 12 (2016): 3317–34; Wertheimer, *Consent to Sexual Relations*, 121; and McGregor, "Sexual Consent," 4835–36.

[39] See, for example, Wertheimer, *Consent to Sexual Relations*. While Wertheimer there defends a purely behavioral conception of consent, his account of consent's "moral validity" incorporates all these dimension that have become standard in the debate. See also John Kleinig, "Paternalism and Consent," in *The Routledge Handbook of the Ethics of Consent*, ed. Andreas Müller and Peter Schaber (London: Routledge, 2018), 142–43.

a universal structure and the same normative effects for all. Rarely do theorists address how a particular theory of consent might have different effects or plausibility for women or for others whose sexual agency has been denied in the past.[40] Whether this indicates an epistemic distortion or a laudable objectivity hinges on whether women's agency is fully encompassed within a liberal ideal of universal autonomy—a question that I will not and do not need to adjudicate here.[41]

With an eye toward supporting women's agency within legal proceedings, feminist legal theorists and activists have by and large supported the increased codification of consent and the shift from attitudinal to communicative accounts.[42] Feminists of the 1970s inherited the prevailing attitudinal conception of consent from statutes and case law, from philosophical discussions of political consent, and from portrayals in literature, sex manuals, and other popular media.[43] However, they found that sexist courtrooms that foster skepticism about the reliability of women's testimony use a subjective, mental notion of consent as justification for the court to put the complainant herself on trial. In a society that devalues and dismisses women's testimony, a woman cannot demonstrate that she did not attitudinally consent simply by telling the court under oath that she did not want or agree to a sexual encounter; the court would also seek to deduce her mental state at the time of the encounter from her sexual history, clothing, relationship with the accused, physical resistance or lack thereof, and so

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[40] A notable exception is Stephen Schulhofer. See *Unwanted Sex: The Culture of Intimidation and the Failure of Law* (Cambridge, MA: Harvard University Press, 1998, rev. ed. 2000). The popular influence of the #MeToo movement and the increasing presence of survivors' voices in and out of the academy may influence ethicists to rethink this approach in the next generation of scholarship on the topic.

[41] A dismissal of autonomy is not necessary to my argument at this stage, although, as will become clear in the ensuing chapters, I believe agency in the wider sense I have outlined is difficult to harmonize with the ideal of autonomy. I acknowledge, however, that autonomy-based framings of sexual ethics have become far more compelling in light of feminist interventions into liberalism on behalf of the relational character of human autonomy and the tensions between liberty and embodied intersubjectivity. See, for example, Catriona Mackenzie and Natalie Stoljar, eds., *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (Oxford: Oxford University Press, 2000); Drucilla Cornell, *At the Heart of Freedom: Feminism, Sex, and Equality* (Princeton: Princeton University Press, 1998); and Sarah Clark Miller, *The Ethics of Need: Agency, Dignity, and Obligation* (New York: Routledge, 2012).

[42] This historical account of feminist legal activism is indebted to Kazan, "Sexual Assault and the Problem of Consent."

[43] See Brett, "Sexual Offenses and Consent."

forth.[44] In a bid to advance the agency of sexual assault victims in the courts, feminist legal activists advocated a communicative conception of consent. The hope was that redefining consent according to objective communicative actions might shift the burden of proof away from the personal interrogation of the complainant's sexual history and personal character. In short, feminist support for performative consent was motivated by the hope that "no" might come to actually mean "no."

Of course, any survivor of sexual assault, ally to survivors, or feminist onlooker knows well that the shift to performative consent has not decisively elevated women's agency as intended. Victims are still interrogated about their personal lives, and legal judgments and public discourse continue to be shaped by rape myths and other distortions about the nature of women's sexual communication and consent.[45] In courtrooms, the claim that it was reasonable to mistake the victim to have consented continues to be an effective excuse to avoid culpability. The "reasonable person" referenced by judges, jurors, and legal theorists to test such claims is too often not expected to have the ability to recognize how genuine, morally valid consent differs from uncomfortable passivity or coerced acquiescence.[46] In short, the bar for moral perceptiveness by men in sexual encounters is often set very low.

Increasingly detailed theorization of consent has also only been of limited use against the deep cultural reserve of justifications for dismissing the moral relevance of women's experiences and the value of their testimony. It remains unclear whether this situation will shift as the communicative notion of consent continues its evolution into affirmative consent, that is, the position that positive affirmation must be communicated for the moral transformation of consent to take place.[47] It seems

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[44] The wide range of tools for undermining women's testimony of attitudinal consent is on full display in the editors' note, "Forcible and Statutory Rape: An Exploration of the Operation and Objectives of the Consent Standard," *Yale Law Journal* 62, no. 1 (1952): 55–83.

[45] See Andrew E. Taslitz, *Rape and the Culture of the Courtroom* (New York: New York University Press, 1999), on how the behavior of police, prosecutors, judges, and jurors continue to discount victims even after the passage of US rape law reforms in the 1980s and 1990s.

[46] Philosophers have also argued for the wide reasonableness of mistaken consent in the case of rape; see Douglas N. Husak and George C. Thomas, "Rapes without Rapists: Consent and Reasonable Mistake," *Noûs* 35, no. 1 (2001): 86–117. Husak's and Thomas's argument depends on assumptions about the nature of genuine sexual miscommunication and its prevalence, which have been widely disproven by empirical research in Western cultural settings (see, e.g., Melanie Beres, "Sexual Miscommunication? Untangling Assumptions about Sexual Communication between Casual Sex Partners," *Culture, Health & Sexuality* 12, no. 1 [2010]: 1–14).

[47] See Schulhofer, *Unwanted Sex*; and Tom Dougherty, "*Yes Means Yes*: Consent as Communication," *Philosophy & Public Affairs* 43, no. 3 (2015): 224–53. Affirmative consent doesn't imply that *only* an

likely that a norm of affirmative consent provides more opportunities for women and others to steer their sexual encounters and to gain more power in legal settings, where it can undermine *mens rea* defenses by more easily grounding liability for negligence (such as culpability for failing to establish a person's affirmative consent) or by making rape and sexual assault strict liability offenses (in which intent is immaterial).[48] However, the gains made possible by affirmative consent in legal settings will have to counterbalance the emergence of new excuses and justifications that devalue women's agency. The recent appearance of prototype "consent apps" designed to secure legal evidence of another's consent suggests that an increasingly contractual understanding of sexual communication can be exploited to erode agency to modify or withdraw consent in the midst of a sexual encounter, while endorsing and justifying the low bar for men's moral perceptiveness.[49]

III.   Theorizing Sexual Ethics Beyond the Constraints of the Law

In both analytic theorizations of consent and strategic feminist deployments and modifications of the concept, an overarching concern about legal application and ramifications for criminal complaints has defined the debate. This reflects a methodological assumption among many moral philosophers that moral theory and legal prescription go hand in hand. Moral theorizing is often pursued as a project of articulating which actions are morally wrong and therefore impermissible, while the legal application of moral theory, theorists aver, should identify the subset of morally impermissible actions for which culpability justifies the use of coercive state power in punishment or correction.[50] There are several contested assumptions about law, justification, and responsibility tacitly enshrined in this methodological starting point, and they exert a significant influence on moral reflection. There is by no means consensus on the question of what role coercive force should play in a society and how it might

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explicit, verbal "yes" means "yes," nor should it be confused with the separate popular feminist standard of "enthusiastic consent."

[48] See, for example, Marcia W. Baron, "'I Thought She Consented,'" *Noûs* 35, sup1 (2001): 1–32, which advances the *mens rea* claim that unreasonable mistakes regarding a partner's consent do not exculpate.

[49] See John Danaher, "Could There Ever Be an App for That? Consent Apps and the Problem of Sexual Assault," *Criminal Law and Philosophy* 12, no. 1 (2018): 143–65; and Kate Lockwood Harris, "Yes Means Yes and No Means No, but Both These Mantras Need to Go: Communication Myths in Consent Education and Anti-Rape Activism," *Journal of Applied Communication Research* 46, no. 2 (2018): 155–78.

[50] See, e.g., Wertheimer, *Consent to Sexual Relations*, 5–7.

be justified—and, perhaps more urgently, about who should decide.[51] If there is wide agreement that the primary purpose of the legal system should be to pursue justice, it remains an open question whether the aim of justice should be conceived as appropriate punishment or as effective repair. Moreover, even among those who agree that state force is sometimes justified either to mete out punishment or coerce participation in reparation, there is disagreement about what conditions justify it—for example, to what degree it should be indexed to the wrongness of the crime, to the needs or wishes of the victim, or to the person of the offender. By orienting moral reflections using legal criteria of culpability, liability, justification, excuse, negligence, and so forth, philosophers treat these more foundational questions as settled, limiting analysis to those aspects of moral life readily legible and valorized by legal systems in their contingent, present form, imperfect and provincial though they might be.

Responsibility and the administrative point of view

When it understands itself as contiguous with legal judgment, moral theorizing adopts what Claudia Card describes as the "administrative point of view," which looks backward at actions already accomplished with the aim of distributing "punishment and reward, praise or blame, excuses, mitigation, and so on."[52] Ethicists theorize from the empowered position that directs state coercion, or at least the position of providing those who have that power with well-reasoned arguments. María Lugones diagnoses this as the "strategist perspective," in which philosophical theorizing is undertaken under the assumption that "the powerful are the theoretician's brothers: they get to play with the hand-me-downs of each other's imaginations."[53] Theorizing in this way risks maintaining a distance from concrete life and the effects of one's theories, especially as lived by the less advantaged, whose experiences are less likely to inform the moral intuitions of the strategist or administrator. This has

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[51] On the open questions of sovereignty and the role of criminal justice in tribal law treatment of rape, see Deer, *The Beginning and End of Rape.* More generally, see Walter Benjamin, "Critique of Violence," in *Reflections: Essays, Aphorisms, Autobiographical Writings,* trans. Edmund Jephcott (New York: Schocken Books, 1978 [1921]), 277–300.

[52] Card, *The Unnatural Lottery: Character and Moral Luck* (Philadelphia: Temple University Press, 1996), 25; cited in Kathryn J. Norlock, "The Challenges of Extreme Moral Stress: Claudia Card's Contributions to the Formation of Nonideal Ethical Theory," *Metaphilosophy* 47, no. 4/5 (2016): 488–503.

[53] Lugones, *Pilgrimages/Peregrinajes: Theorizing Coalition against Multiple Oppressions* (Lanham: Rowman & Littlefield, 2003), 207.

urgent and immediate implications for whether the theories produced and the policies that follow from them actually align with justice or moral good.[54]

Less visibly, the orientation of the philosopher as administrator creates a distortion in the range of what is thinkable for moral reflection. When moral theorists have in mind the aim to answer the administrative question of whether some wrong justifies coercive state action, moral intuitions about the situation in question can become bundled with ideas about evidence and procedure—despite these being nonmoral concerns contingent to the particular apparatus of state justice. The objectivity of third-party assessments and the perspective of the "reasonable person" take on outsized authority, while subjective experiences hidden from the administrator are treated as less important. With a hammer firmly in hand, the theorist judges problems to be interesting according to how easily they can be construed as nails.

One effect of the administrative point of view is that moral reflection adopts a manner of idealization typical of the law. Events and actions are categorized into well-defined types—e.g., theft, promise, tokening consent, rape—that take place between actors playing particular roles. The particularities of the people who fill the roles of perpetrator and victim—or defendant and claimant—in a given case are considered only insofar as they are taken to be salient to judgment: histories, identities, and life projects are bracketed unless they bear directly on the question of culpability. Linda Martín Alcoff argues, however, that, in many cases, who these people are is actually essential for adequate moral reflection and legal judgment. In institutional settings, legal procedures and prescriptions have differing effects for different people: a prison sentence for a queer or trans defendant, for example, is far more likely to bring with it sexual assault at the hands of prison employees or other inmates.[55] The same can be said of the role of complainant; appearing and being cross-examined in court, submitting statements, undergoing invasive collection of evidence, and interacting with law enforcement officials all entail burdens unequally felt depending on a person's gender, race, class, personal or familial histories of trauma, and ongoing life projects that are disrupted.[56]

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[54] This concern is addressed in transnational feminist work such as Serene J. Khader, *Decolonizing Universalism: A Transnational Feminist Ethic* (New York: Oxford University Press, 2019).

[55] Gabriel Arkles, "Regulating Prison Sexual Violence," *Northeastern University Law Journal* 7, no. 1 (2015): 71–130.

[56] See Alcoff, *Rape and Resistance*. For particular obstacles facing women of color, see Jamillah Bowman Williams, "Maximizing #MeToo: Intersectionality and the Movement," *Boston College Law Review* (forthcoming).

For moral reflection, abstracting away from who people are can prevent reliable interpretation and evaluation of what has taken place.[57] As I discuss in chapter two, structural influences on events and behaviors tend to drop out of analysis, even as they shape who occupies which positions and how people make choices about their lives. To neglect the fact that perpetrators of sexual assault are typically men, for example, hides how cultural expectations of low emotional intelligence and moral perceptiveness for men operate to excuse culpability for their harmful actions, because ignorance about another's experience and agency in an encounter appear reasonable to both moral reflection and legal judgment.[58]

Patricia Williams describes how "legal language flattens and confines in absolutes the complexity of meaning inherent in any given problem," propagating "exclusive categories and definitional polarities, the drawing of bright lines and clear taxonomies that purport to make life simpler in the face of life's complication."[59] As long as sexual ethics is approached from the administrative point of view seeking to draw the line between permissible and impermissible behavior, the ethical role of consent in intimate encounters remains partially obscured. Of course, feminist legal reform remains necessary to encourage the law to "get it right" in assigning blame for paradigmatic cases of coercion, as well as for sexual assault of unconscious victims. However, moral theorizing about sex ought not to be limited to that project, nor is a theory developed for that purpose likely to capture the wider picture of responsibility in sexual encounters useful beyond mere compliance with the law.

What, then, can be said about moral responsibility without committing to the administrative point of view? In chapter four I use the work of Emmanuel Levinas to set up a more first-person conception of responsibility, which I argue is productive for thinking ethics in intimate encounters

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[57] On the errors of "abstracting away" from features that are actually salient, see Charles W. Mills, "'Ideal Theory' as Ideology," *Hypatia* 20, no. 3 (2005): 165–84.

[58] In a different context, Charles Mills calls this privileging of ignorance over knowledge the "epistemology of ignorance," which encourages and rewards "averting one's eyes from certain uncomfortable factual and moral truths, ignoring the evidence, being blind to things they should see" (Mills, "The Racial Contract as Methodology (Not Hypothesis)," *Philosophia Africana* 5, no. 1 [2002]: 86). The moral validation of male ignorance in sex is widespread in public discourse; see, for example, Bari Weiss, "Aziz Ansari Is Guilty. Of Not Being a Mind Reader.," *New York Times*, January 15, 2018, https://www.nytimes.com/2018/01/15/opinion/aziz-ansari-babe-sexual-harassment.html. In contrast, women—whether positioned as victims or accused of sexual assault—are typically portrayed as savvy and manipulative.

[59] Williams, *The Alchemy of Race and Rights: Diary of a Law Professor* (Cambridge, MA: Harvard University Press, 1991), 6, 8.

(both sexual and otherwise), and chapter five articulates the content of responsibility to another person in a sexual encounter understood in that framework. However, a few preliminary remarks here will clarify what I take the word 'responsibility' to mean in this context, which determines what kind of account this will be and what is at stake. Quoting Herbert Fingarette, Card suggests that departing from the administrative point of view enables reflection on responsibility as "acceptance, commitment, care, and concern," relational features of moral life overlooked in the legal drive to attribute wrongs to actors, assess blameworthiness, and demand accountability. While I would not ground responsibility in the particular terms Card uses, I join her in valorizing a directional, personal orientation of responsibility, which I see as a difference in method and emphasis rather than a question of definition. Mine is a normative conception of responsibility that describes a personal relation (that is, responsibility *to another*) rather than a predicate describing a connection between an actor and an act or event (i.e., responsibility *for* F). I describe this conception of responsibility as normative because it sets out to answer a normative question about the texture of right and wrong as we encounter one another, identifying responsibility as a practice enacted toward others. This differentiates it from the ongoing metaethical debate of the 1990s and early 2000s, which seeks to identify a description of responsibility (e.g., as accountability, attributability, or answerability) according to which persons can be said to be morally responsible and therefore members of the moral community.[60]

Responsibility *to another* foregrounds how ethics in intimate, interpersonal encounters has a relational character, by which I mark two essential features. First, relations are fundamentally durational: they always persist from a past and onward into a future. The specific obligations entailed by responsibility in relation to another person thus change over time as relations and their contexts shift. Second, relations are personal in the sense that our behaviors and attitudes affect particular other people, and those effects have moral valence fundamentally connected to who those people are—their subjectivity, identity, experience, and agency. Wrongs under this rubric are not those actions falling on the wrong side of the administrative line between permissible and impermissible, nor are they only those that after the fact justify me being held to account. Rather, wrongs are behaviors that reflect a failure of responsibility, by which I mean those that harm others in ways that in the midst of an ongoing relationship generate personal obligations—typically obligations to act in new, different ways that contribute to repair or restitution. Responsibility and obligations are here understood as

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[60] See, for example, David Shoemaker, "Attributability, Answerability, and Accountability: Toward a Wider Theory of Moral Responsibility," *Ethics* 121, no. 3 (2011): 602–32; and Angela M. Smith, "Responsibility as Answerability," *Inquiry* 58, no. 2 (2015): 99–126.

highly contextual and unfolding along an ongoing relational timeline, in which wrongs and repair might—or might not—take place.[61]

While this idea is influenced by restorative and transformative justice movements, it is far less radical in its scope and should therefore be less controversial for sexual ethics. I emphatically do not suggest some action of a violator can necessarily "repair" the harms of a sexual boundary violation, nor that violators should have a direct role in recovery, in restoration, or in a victim's reclamation of agency after the fact. Rather, I claim that, as an encounter unfolds, wrongs produce new obligations on violators to do *something*—something they would not otherwise have been obligated to do if they had not failed in their responsibility. This is reflected in everyday social behavior, which is typically under continuous revision in light of an ethical texture we perceive in our effects on others. *How* I ought to act differently in response to my effects on others is a question that must be taken up by ethics (and moral epistemology), but responsibility in every relation presupposes a responsiveness to what has already taken place and an openness to ongoing revision. My primary focus is on how this more substantive normative view of responsibility calls for us to behave differently in lived sexual encounters; I do not prescribe how it ought to be taken up by the law.

Consent cannot be assumed to be morally transformative

For sexual ethics, the administrative point of view sets up a distorted perception of consent's moral effects, endemic to both attitudinal and communicative theories of consent. When theorists assert that consent is a transformative moral power to make permissible acts that would otherwise be wrong, they unjustifiably presuppose that consent's juridical function and moral effects are the same. Describing what they take as consent's morally transformative power, theorists often begin their arguments with lists of parallel examples: "consent turns a trespass into a dinner party; a battery into a handshake; a theft into a gift; an invasion of privacy into an intimate moment," and so forth.[62] These theorists are right that, in juridical settings, consent is normally considered a justification for actions

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[61] Responsibility is also contextual in the sociocultural sense, in that wrongs can follow from behaviors that are part of larger cultural practices rather than from discrete, intentional actions. This is of particular importance to ethical relating in intimate settings. An adequate notion of responsibility must thus look beyond the question of whether harmful effects are imputable to particular agents.

[62] Hurd, "Moral Magic of Consent," 123. Similar lists are given in Wertheimer, "What Is Consent? And Is It Important?," *Buffalo Criminal Law Review* 3, no. 2 (2000): 559; Alexander, "Ontology of Consent," 102; Bergelson, "Meaning of Consent," 171; and Primoratz, "Sexual Morality," 201.

that could otherwise be described as theft, trespassing, and so forth; the presence or absence of consent in principle is the key criterion to enable *differentiation* between permissible and impermissible when evaluating this class of events in the past. Yet, it does not follow from this that consent enacts a moral *transformation* of wrong into not-wrong; consent's epistemic role for those in the courtroom, reflecting after the fact, does not indicate its moral role when enacted within a relation unfolding in time. For example, it is manifestly inadequate to describe consenting as a power of moral transformation enjoyed by, say, a victim of a theft in progress; consent cannot be enacted as a theft is taking place to lift another's obligation and transform oneself from victim to gift-giver.[63] For people figuring out how to live their lives in pursuit of their projects, the tape cannot be played forward and backwards; consent cannot be added after the fact, and positing the hypothetical effects of consent, taken as a counterfactual, is of only limited utility for describing the actual moral complexity of experience.

In the case of consent and sexual assault, Susan Brison and David Archard have each highlighted that consent does not constitute the difference between rape and sex, regardless of how rape is defined in the law. Archard argues that nonconsensual sex is best understood as a cohesive, fundamentally harmful event substantively different from "sex, minus consent."[64] Brison writes that for rape as for theft and other boundary infractions, "the notion of violation seems built into our conceptions of the physical act constituting the crime, so it is inconceivable that one could consent to the act in question."[65] I agree with these observations, and they are intuitive from a feminist perspective that takes seriously the theories and accounts of survivors.[66] I believe they also have implications for theorizing sexual ethics beyond the task of distinguishing between rape and not-rape. Putting aside the challenges of legal categorization, moral reflection can acknowledge other aspects alongside consent that are also crucial to the moral character of our encounters and the nature of the responsibilities they produce—not only whether actions have been consented to, but who the people are and how they are positioned relative to each other, how consented-to activities qualitatively unfold, who has

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[63] At best, it might be possible to give forgiveness in the midst of a wrong committed against me, but it certainly is not possible to give permission.

[64] Archard, "The Wrong of Rape," *Philosophical Quarterly* 57, no. 228 (2007): 383–84.

[65] Brison, *Aftermath: Violence and the Remaking of a Self* (Princeton: Princeton University Press, 2002), 6–7.

[66] Note, however, Ann Cahill's important phenomenological argument in *Rethinking Rape* (Ithaca: Cornell University Press, 2001) that drawing too sharp a line between rape and sex overlooks the intimate, sexual character of many harms of rape.

agency over what might take place, and how an encounter fits into each person's life as a whole. These dimensions cannot be transformed by consent, but they demand attention.

Moral reflection about sexual ethics will be more nuanced and adequate to life if it recognizes that all sexual communication, including consenting, takes place within a relation unfolding in time, with a history and context that may be morally significant. While the model of moral transformation places the moments of proposition and consent at time zero, with the permissibility or impermissibility of the actions that follow unfolding from there, our lived, relational encounters do not have this character. The proposition to which consent responds always comes in the middle of an intersubjective situation, which has an immediate history of what has come before and thus might already bear a variety of ethically salient features. If that context includes violations that have already taken place—as when a person has harassed or been sexually aggressive in the past, or if they have initiated our encounter when I was not fully awake or aware—consenting to another's proposition for what to do next cannot decisively transform the ethical character of the relation as a whole. It cannot be presupposed that parties in consensual encounters set out from a situation of equality and right with respect to one another.[67] The ethical meaning of consent itself is an effect that follows from the dynamic ethical shape of a relation; the moral effects of consenting are contextual, neither radically voluntaristic nor entirely dependent on what has come before. It follows that what is important about consent for responsibility in sexual encounters is not contained in the moment of consent alone, but unfolds over time and depends on the agency, behaviors, subjective experiences, and the social positionality and context of all involved.

IV.   Unwanted Sex and the Inadequacy of Consent as Permission Giving

I have suggested that moral philosophy's legalistic orientation encourages unsubstantiated assumptions about the role of consent in sexual ethics, especially the view that consent is a moral power enacting a moral transformation. In this section, I flesh out this claim by examining more precisely

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[67] Franklin Miller and Alan Wertheimer address limitations of moral transformation approaches to consent by shifting to a "fair transaction" framing, which on its surface might seem promising for the problem described here. Their aim, however, is a unified theory of consent applicable across medical, legal, sexual, and other domains, which entails a fatally reductive view of responsibility in intersubjective encounters as mirroring that of contractual obligation (see my discussion in section five), while underestimating the salience of an unjust social structure (see my chapter two). See Miller and Wertheimer, "Preface to a Theory of Consent Transactions: Beyond Valid Consent," in *The Ethics of Consent*, 79–105.

the tension between permission-giving—the basic moral effect widely attributed to consent—and the agency supposed to be the source of consent's moral value and validity. Since the mid 1990s, feminist researchers and commentators have increasingly drawn attention to the prevalence of unwanted sexual encounters that cannot be accurately described as nonconsensual. Often examined in the social sciences under the labels "consent to unwanted sex" or "compliant sex," these situations are not characterized by force or interpersonal coercion, but they are often bundled with harms (particularly to women) that merit further examination.[68] Writing in 2009, Robin West observes that discussions and portrayals of sex—consensual, uncoerced, ostensibly "normal" sex—in popular media, medical literature, institutional policies, and everyday discourse disproportionately focus on certain risks and harms, such as unplanned pregnancy, sexually transmitted infections, adultery, and heartbreak, while virtually ignoring the harms connected to unwanted or unwelcome consensual sex. Regarding the latter harms, she writes, "we don't tend to notice them, we don't dwell on them, we certainly don't use law's regulatory apparatus so as to deter or compensate for them, we don't (much) make movies or write novels about them, and we don't warn our [children] against them."[69] Attending to the harms that persist despite sexual consent—especially those harms that affect ongoing practices of agency—casts doubt on the permission-giving moral effect attributed to sexual consent both by theorists and in the popular moral imaginary.

Consensual sex that is unwanted, undesirous, or unwelcome

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[68] Researchers began studying these situations in response to difficulties in empirical studies of "token resistance" in the context of legal debates about the definitions of rape and sexual assault. See, for example, Sarah J. Walker, "When 'No' Becomes 'Yes': Why Girls and Women Consent to Unwanted Sex," *Applied and Preventive Psychology* 6, no. 3 (1997): 157–66; and the literature review in Emily A. Impett and Letitia A. Peplau, "Sexual Compliance: Gender, Motivational, and Relationship Perspectives," *Journal of Sex Research* 40, no. 1 (2003): 87–100. More recent research includes Nicola Gavey, *Just Sex?: The Cultural Scaffolding of Rape* (New York: Routledge, 2005); Charlene L. Muehlenhard and Zoë D. Peterson, "Wanting and Not Wanting Sex: The Missing Discourse of Ambivalence," *Feminism and Psychology* 15, no. 1 (2005): 15–20; and Laina Y. Bay-Cheng and Rebecca K. Eliseo-Arras, "The Making of Unwanted Sex: Gendered and Neoliberal Norms in College Women's Unwanted Sexual Experiences," *Journal of Sex Research* 45, no. 4 (2008): 386–97.

[69] West, "Sex, Law, and Consent," in Miller and Wertheimer, *The Ethics of Consent*, 239. The mainstream rise of the #MeToo movement in 2017 has opened public discourse considerably to discussions of unwanted sex and "gray areas" of consent and coercion.

It is instructive to distinguish from the outset between *unwanted*, *undesirous*, and *unwelcome* sex and to justify carving up life along these conceptual lines. All three modifiers describe subjective experiences of encounters, experiences that are both informed by and formative of a person's agency in the context of a life. The *wantedness* of a sexual encounter is dependent on reasons—relational, physical, emotional, and instrumental—that contribute to positive or negative attitudes and motivations around an encounter. A sexual encounter might be wanted for some reasons—sexual desire or pursuit of pleasure, a feeling of closeness, romantic ideals, peer approval, the opportunity to make a living, and others—and simultaneously not wanted for others, such as social repercussions, possibilities of physical discomfort or pain, or the risk that a partner will behave unpleasantly or dangerously. These reasons can and do coexist, influence one another, and shift in salience over time, which is evidence of the complicated and ambiguous nature of sexual intimacy and the sexual dimension of subjectivity and experience.[70]

Sexual desire is a particularly motivating reason that shapes the wantedness or unwantedness of an encounter, and the recognition, interpretation, and pursuit of sexual desires are central to practices of sexual agency in most people's lives. Feminists in recent years, however, have identified shortcomings with the intuitive view that a person's desire should play the determining role in whether or not they participate in a sexual encounter. Sexual desire and agency are complexly interrelated, and a number of valuable reasons might motivate a person to pursue and participate willingly in a sexual encounter in the absence of sexual desire. For example, Ann Cahill has drawn attention to research showing that desire may be responsive rather than spontaneous for some people—particularly for some women—which suggests that pursuing sex in the absence of desire in some circumstances is justifiably motivated by a hope or intention for sexual desire to materialize.[71] Moreover, sex admits of

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[70] On complexity within the construction "unwanted sex," see Muehlenhard and Peterson, "Wanting and Not Wanting Sex"; and Peterson and Muehlenhard, "Conceptualizing the 'Wantedness' of Women's Consensual and Nonconsensual Sexual Experiences: Implications for How Women Label Their Experiences With Rape," *Journal of Sex Research* 44, no. 1 (2007): 72–88. See discussion of ambiguity in sexual intimacy in chapter five, section two.

[71] Rosemary Basson, "The Female Sexual Response: A Different Model," *Journal of Sex and Marital Therapy* 26, no. 1 (2000): 51–65, cited in Cahill, "Recognition, Desire, and Unjust Sex," *Hypatia* 29, no. 2 (2014): 311. Cahill identifies the risk of importing an implicitly masculine understanding of sexual subjectivity when sexual agency is defined as the power to align sex with spontaneous desires. Note, as well, the phenomenological complexity Cahill recognizes in desire itself. Many empirical studies limit their notion of desire to sexual arousal, which risks overlooking the subjective aspect of desire that is often experienced as more important to agency than desire's physiological aspect. See discussion and literature review in Cahill, "Recognition, Desire, and Unjust Sex," 303–19.

a much wider range of meanings and effects than the pursuit and fulfillment of desire and pleasure, which accordingly supplies a wider range of motivations. People have sex because they seek to experiment with or affirm their sexual identity, love someone, feel sorry for someone, want to get pregnant, want to shake up their lives, want to express gratitude, or want to stay in an intimate relationship valuable for other reasons. These reasons might be independent from sexual desire to varying degrees, and each may align with or run contrary to a person's agency to steer their sexual encounters and to pursue other broader projects and interests in their life.

While wanted but undesirous sex is possible and may be unproblematic in some cases, a healthy sense of agency with respect to one's own sexuality probably cannot be completely divorced from sexual desire. To regularly have sex—even freely chosen—in the absence of desire indicates something amiss in the context and norms that shape a person's life, especially when that person is a woman or otherwise likely to be disadvantaged by prevailing social practices. Alcoff expresses a justifiable suspicion that situations where the will to have sex peels away from sexual desire may not be ethically neutral, even in cases where a person chooses to have sex as a practice of care or generosity. Women more than men find themselves in such situations, and they are more likely to have a sense of sexual identity shaped by societal expectations about duties of selflessness and caring and by attenuated expectations for whether sex will be arousing, pleasurable, or comfortable.[72]

The care-based relational motivations listed above as potentially agential reasons for having sex in the absence of desire might more often arise in encounters that are not only undesirous but broadly unwanted, where these same reasons might constrain a person's agency, such as by making it difficult to refuse sexual advances from a friend or acquaintance. People often choose to have sex they do not desire for reasons that may not reflect that they have agency over their overarching life possibilities, such as to garner approval from peers or from a higher-status sexual partner, to facilitate economic survival and stability for themselves or their children, or to avoid an argument that could turn physically or emotionally violent—or, quite commonly, to be able to get some sleep. Sex might also be motivated by a sense of obligation or desire to conform, as when women "follow through" with unwanted sex because they feel they are obligated not to "lead someone on" after flirting or

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[72] See *Rape and Resistance*, 132–34. See also the discussion of sexual gift-giving in Rebecca Kukla, "That's What She Said: The Language of Sexual Negotiation," *Ethics* 129 (2018): 70–97; and Melissa Burkett and Karine Hamilton, "Postfeminist Sexual Agency: Young Women's Negotiations of Sexual Consent," *Sexualities* 15, no. 7 (2012): 815–33.

making out—what Margaret Jackson has described as the "coital imperative."[73] An identity-based sense of duty might also motivate acquiescence to unwanted sex, such as for a married woman who understands her social role as wife to entail sexual availability or an "obligation to nurture,"[74] or for a young gay man who may feel that fulfilling the sexual demands of an older partner is his only way into a community where he is unfamiliar with social norms.[75]

Further, while people engage in sexual encounters for diverse reasons, some more or less pernicious, there are overwhelmingly negative indicators such as fear, disgust, a sense of being treated as an object for use, or the violation of deep-seated values, that make encounters unambiguously unwanted and undeniably harmful for those who suffer them. West borrows the notion of *unwelcomeness* from the definition of sexual harassment to capture the subjective attitude toward relationships that are consented to but clearly run counter to a person's intentions and life projects.[76] Whereas unwanted sex can refer to an encounter about which a person is ambivalent or one that is generally positive but ends up more physical than a person would have actively chosen, a sexual encounter that is not welcome is an intrusion into one's life that complicates and obstructs one's other aims and intentions. Thus, a sexual encounter that is unwelcome is always unwanted, but sex may also be described as unwanted when there are more equivocal competing reasons at play.[77] I argue below that the fact that people consent to unwelcome sex—and suffer clear agential harms as a result—indicates that even morally valid consent does not cleanly enact the permission-giving attributed to it. However, for the

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[73] See Margaret Jackson, "Sex Research and the Construction of Sexuality: A Tool of Male Supremacy?," *Women's Studies International Forum* 7, no. 1 (1984): 43–51. Following Jackson, Nicola Gavey has empirically mapped how the coital imperative shapes women's interpretations of their sexual encounters. See Gavey, *Just Sex?*, 171–230.

[74] West, "Sex, Law, and Consent," 236. This sense of spousal obligation has continued well after women were formally entitled to say no to unwanted sex with their husbands. West writes, "as a casual perusal of advice columns and women's magazines from the mid- to late twentieth century will show (or just ask your mother), married women continued to consent to unwanted marital sex out of a learned conviction that their lack of desire evidenced their own problematic and neurotic frigidity, an alienation from their own suppressed desires, or just a selfish unwillingness to get along" (ibid.).

[75] See Virginia Braun et al., "Sexual Coercion Among Gay and Bisexual Men in Aotearoa/New Zealand," *Journal of Homosexuality* 56, no. 3 (2009): 336–60.

[76] See West, "Law's Nobility," *Yale Journal of Law and Feminism*, no. 17 (2005): 385–458. Note, however, that West's own use of these terms shifts across her writings.

[77] Contrast this with Gavey's more directly agency-based definition of "unwanted sex" as "occasions when women didn't feel like they had a choice; when the sense of obligation and pressure is too strong" (Gavey, *Just Sex?*, 136).

dissertation's overarching investigation of how consent, agency, and responsibility are intertwined in sexual ethics, the more variable experience of *wanting or not wanting* will be a primary reference point, because it reflects the phenomenological complexity of how our encounters (and their meanings and interpretations) shift over time.

Agential harms of unwanted and unwelcome sex

Regarding the harms of unwelcome sex, West writes: "The sex to which we consent, when it is contrary to our desires and when within the context of relationships that are less than welcome in our lives, can alienate us from our bodies, our subjective pains and pleasures, our needs, our interests, our true preferences, our histories, and our futures. Unwelcome sex can carry all of these harms, yet be fully consensual."[78] While not all situations of consensual-but-unwanted sex have this form, it is common in empirical studies (and across anecdotal conversations) to hear people—especially women—describe encounters in which they feign desire or pleasure despite feeling frightened or physically uncomfortable, dissociate themselves from the bodily experience of sex, and suspend consideration of their own pleasures or desires in the hopes that pleasing a partner will make an encounter end as quickly as possible.[79] Fear, dissociation, and the intent to escape are responses associated with coerced sex, but the encounters in question do not reflect the hallmarks of personal coercion as recognized in discussions of morally valid consent.[80] People—especially young people—often describe consenting to sex because it feels appropriate to perceived social norms and then, as the encounter continues, going along with another's sexual initiative even if things get "pretty bad," because they feel it is easier, will avoid confrontation, or is less likely to have social ramifications.[81]

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[78] West, "Sex, Law, and Consent," 245–46. Note that West's insight remains valid even if we retain skepticism about the idea of authentic selfhood implied by her phrase "true preferences."

[79] See Impett and Peplau, "Sexual Compliance"; and Gavey, *Just Sex?*. Note that empirical descriptions of these patterns are mostly limited to the populations overrepresented in English-language qualitative social research, including especially university students in western Europe, the US, Canada, Australia, and New Zealand.

[80] Chapter two discusses in depth the possibility that social structural inequality and cultural factors might be considered coercive in these situations, even if personal behaviors are not in these cases coercive. For the purposes of the present argument, however, what matters is that mainstream permission-giving consent theory tracks these situations as consensual.

[81] Burkett and Hamilton, "Postfeminist Sexual Agency: Young Women's Negotiations of Sexual Consent," 824. See also Peggy Orenstein, *Girls & Sex: Navigating the Complicated New Landscape* (New York: Harper, 2016).

The apparent absence of outright coercion, however, does not mean the subjective experiences of fear, discomfort, or alienation are irrelevant as indicators that invite closer scrutiny of the ethics of consensual sex. On the contrary, that this cluster of responses is unexceptional—perhaps not normal, but deeply familiar for many women and others—indicates a prevalent category of harms whose moral character is disregarded when consent is taken as simply giving permission and thereby lifting the moral objectionability (at least with regard to agency) of a sexual encounter.

Unwanted sex can expose a person to important *agential harms* that should not be overlooked. For a person who regularly engages in consensual-but-unwanted sex in the context of a long-term relationship, harmful effects can include erosion of agency over time, specifically in the degradation of what West calls the "hedonic connections" among "anticipated pleasure, felt desire, choice, the process of choice-formation (preference, and the process of preference-formation), and act."[82] When action is routinely oriented by the pleasures and desires of another to the exclusion of the self, West speculates, there can be long-term harms to "personal integrity, creativity, productivity, and even political understanding."[83] The will and energy required to draw boundaries may become depleted, and, in the long run, one may lose the capacities to align one's actions with one's own pleasures or desires, to be able to say no to increasingly unwelcome demands, and to feel at home in one's body.[84]

Divesting from a minimalist, permission-giving conception of consent

In light of the agential harms of consensual-but-unwanted sex, a person's consent is unreliable as an indicator that an encounter or activity is aligned with agency. When sex is not only unpleasurable or undesirous but fully unwelcome, the consensuality of the encounter is not the determining factor

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[82] West, "Desperately Seeking a Moralist," *Harvard Journal of Law & Gender* 29 (2006): 28–29.

[83] Ibid., 28. In more recent discussions West identifies political disadvantages stemming from unwanted sex in a liberal society that assigns responsibility for actions according to ideals of rational choice and self-interest. See West, "Consensual Sexual Dysphoria: A Challenge for Campus Life," *Journal of Legal Education* 66 (2017): 804–21.

[84] For an extended meditation on how unwanted sexual experiences shape a woman's capacity to say no, see Kaitlin Prest, "No," *The Heart* podcast miniseries, accessed February 10, 2018, http://www.theheartradio.org/no-episodes/. For effects of unwanted sex on body image and feeling at home in one's body, see Gavey, *Just Sex?*, 137–38.

for whether agential harms take place. It follows that consensual encounters ought not to be afforded prima facie the positive value they are assigned in liberal discourse and moral theory.[85] West writes,

> Consensual acts of commerce, labor, or sexual intercourse are not morally good simply because they are not coerced . . . [their morality] depends upon the value of the worlds they create, which in turn depends in part upon the worth of the relationships they contain. . . . If it follows from the fact of consent that relationships or transactions to which we have consented strengthen our sense of autonomy or leave us better off, they do so by virtue of our human motivations and capabilities. At best, then, it is only contingently and not analytically true that expressly consensual states of affairs are congenial to autonomy or that they maximize the well-being of those who consent.[86]

Whether or not we embrace West's consequentialism, her argument diagnoses an important causal confusion in moral claims made on behalf of the proximate autonomy to choose to consent: the autonomy surrounding an action is dependent on conditions of possibility produced by actions and relations that have come before. To valorize a person's sexual consent solely because it is an expression of autonomy—that is, in the absence of any other features that make the consented-to relation good, fulfilling, or agency enhancing—is inadequate and incomplete unless we also valorize the relations and conditions that enable such an action of consenting to actually express a person's autonomy or agency. Given that unwelcome but consensual sex over time can cause the degradation of sexual agency and autonomy, a minimalist view of consent as permission-giving cannot be justified straightforwardly by the value afforded to those terms.

When pressed to acknowledge the harms of consensual-but-unwanted sex, mainstream ethicists have hesitated to assign responsibility to consent-seekers; the harms of unwanted sex are perceived as following from the autonomous choice of a consent-giver. These cases are typically approached by scrutinizing the validity conditions of the consent in question, and, if no form of coercion or deception can be found, biting the bullet and describing such situations as regrettable but acceptably agential. The harms of consensual-but-unwanted sex, moral theorists argue, do not point to any additional, agency-sensitive responsibilities or culpability on the part of another. David Archard

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[85] West argues largely in response to the ascendance of libertarianism in US legal and moral thought in the 1980s, based on a minimalist view of consent as both necessary and sufficient to ethics. She specifically opposes Richard Posner's influential "law and economics school," which argues that consensual transactions definitionally produce wealth and that wealth-production is the ground for moral good. See West, "Authority, Autonomy, and Choice: The Role of Consent in the Moral and Political Visions of Franz Kafka and Richard Posner," *Harvard Law Review* 99, no. 2 (1985): 384–428.

[86] West, "Authority, Autonomy, and Choice," 399–400.

describes "a traditional wife who loathes sex with her husband and takes measures to avoid it wherever and whenever she can. Nevertheless she agrees to it when avoidance is no longer possible."[87] In Archard's words, "sad as it is," this is awful but consensual sex. To him, this means the moral transformation of consent has taken place.[88] Similarly, Joan McGregor mentions the distinction between *nonconsensual* and *unwanted* sex only to equate the former with "wrongful, harmful sex," while the latter is merely "unfortunate" in the same way as regrettable sex might be.[89] For Alan Wertheimer, experiences of violation that take place in encounters where consent has been validly given are cases of harm without wrongdoing, and Larry Alexander makes clear that on his view an actor is not culpable for causing another's experience of violation if the other person signifies that they consent.[90]

Adopting the administrative point of view, consent theorists point to the potential problems of paternalism that accompany questioning the moral power of consent in these situations. Their worry is that scrutinizing whether consent really gives permission in such cases will undermine consent-givers' "positive autonomy" to direct their own lives. Archard avers that "the value of consent lies not simply in licensing the prohibition of unwelcome sexual relations but also, and just as importantly, in allowing the embracing of welcome relations."[91] In Wertheimer's terms, "we respect an agent's positive autonomy when we make it possible for her to *render it permissible for others to engage in sexual relations with her*."[92] Consent theorists take this to indicate good reasons for the moral adminis-

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[87] Archard, omnibus book review, *Journal of Applied Philosophy* 24, no. 2 (2007): 215.

[88] In fairness to Archard, he does suggest there is probably something else morally wrong with such a sexual relation. However, if he takes consent to give permission, and he is satisfied that the consent condition has been fulfilled, the additional wrongs that he does not specify must in his view violate something other than agency. See also Archard, *Sexual Consent*, 5.

[89] McGregor, *Is It Rape?*, 87.

[90] Wertheimer, *Consent to Sexual Relations*; and Alexander, "Ontology of Consent." Perhaps the #MeToo movement's public demand that feminist perspectives be taken seriously in moral evaluations of sexual norms will inspire academic discussions of consent to adopt more nuanced positions about unwanted sex.

[91] Archard, omnibus book review, 211. See Schulhofer, *Unwanted Sex*, for an extended consideration of how consent laws ought to protect both positive and negative sexual autonomy.

[92] Wertheimer, *Consent to Sexual Relations*, 3, emphasis mine. Of course, Wertheimer is not suggesting that this is the *only* way to respect a person's positive autonomy, but he takes this to be the notion of positive sexual autonomy relevant to theorizing consent.

trator to "permit" such consensual-but-unwanted encounters, because discounting the power of consent to give permission even in unwanted encounters risks infantilizing people—especially women—and might erode their agency.

Several key omissions mar such claims made on behalf of positive autonomy, several of which I discuss in more detail in chapter two. First, Wertheimer's formulation especially highlights how consent as permission-giving is taken unproblematically to stand in for the agency to pursue one's own desires and pleasures.[93] Second, claims on behalf of permission-giving consent as a sacrosanct expression of autonomy presuppose that the role of the moral administrator is to act as though consent-givers already enjoy the social underpinnings of autonomy, rather than take steps to achieve those conditions on their behalf. The reality is that many people—and especially women—are denied the necessary baseline of power and efficacy as agents and communicators in the social world, including both epistemic resources to make sense of experiences and appropriate social uptake to appear as a credible knower to others.[94]

Third, and perhaps most puzzlingly, the appeal to respect positive autonomy by valorizing consent to unwanted sex ignores women's legitimate demands to exercise positive autonomy to do things other than have sex with men. The agential harms of unwanted sex show that positive autonomy in women's sexual lives—and lives as a whole—is causally dependent on what might be called (reductively, in my view) the "negative autonomy" to be free from sexist expectations, sexual intrusion, and the attenuation of agency that they produce. If an investment in women's positive autonomy means that women's sexual consent should be treated as authoritative, then the administrator should also seek to remedy situations where a woman is unable to exercise positive autonomy to accept a man's invitation to drink wine in his apartment without having sex, to smile at or have a friendly conversation with a stranger without having to fight him off later, or to wear whatever she wants to a date without being denounced as a tease if she does not want to have sex afterwards. Particular male-coded social expectations prevent women from seamlessly enjoying the agency to do these actions,

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[93] See chapter two, section one.

[94] See José Medina, *The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and the Social Imagination* (Oxford: Oxford University Press, 2013); Kristie Dotson and Marita Gilbert, "Curious Disappearances: Affectability Imbalances and Process-Based Invisibility," *Hypatia* 29, no. 4 (2014): 873–88; and Alcoff, *Rape and Resistance*. See discussion in chapter two, section four.

and those expectations are widely accepted as defensible under a notion of reasonableness that endorses instead of ameliorates societal limitations on women's autonomy.[95]

If we take seriously the agential harms of unwanted sex—and the fact that those harms result regularly from consensual sexual encounters—the assumption that sexual consent gives permission and transforms another's responsibility for such harms seems suspiciously dogmatic. On the contrary, I take the persistence of those harms despite the presence of consent to support a prima facie skepticism about whether consent actually operates as a moral power in this way. If people not only consent to unwanted and unwelcome sex, but that sex also limits their freedom and agency in the long run, then the presupposed value of freedom attributed to consensual transactions as such loses its justification. The proximate exercise of autonomy or choice to give permission for a particular unwanted sex act conflicts with the agency necessary to practice freedom over the course of a life. Note that this failure of the minimalist view of permission-giving consent does not depend on accepting the wider, perhaps controversial conception of agency I suggested in section one. A liberal (or libertarian) theorist committed to a traditional notion of autonomy must also acknowledge that a person's future autonomy has value alongside the autonomy they enact in the present.

V.   The Responsibility to Respond to Another's Expression of Consent

The foregoing discussion illuminates how consent to a sexual encounter can and often does detach from the conditions of a person's agency, highlighting the inadequacy of the assumption that sexual consent has a cleanly permission-giving moral significance. It also demonstrates one reason that the idealized conception of permission-giving consent fails to be a faithful avatar of the basic feminist commitment to women's agency to shape sexual encounters.[96] Yet, I believe practices of consenting in the context of ongoing sexual communication are particularly important in our responsibility to one another—and I will argue as much in chapters two and five—although they do not give permission or suspend obligations. A more nuanced account of the relationship between consent, responsibility, and agency is needed to expose the underlying conditions that give consent this significance.

Mainstream moral theories of sex and consent are correct that many consensual encounters are morally unproblematic, and that consent—or something similar to it, like affirmation, agreement,

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[95] See, e.g., Husak and Thomas, "Rapes without Rapists."

[96] Much of the next chapter is dedicated to another reason, namely the inadequacy of consent-based ethics to account for the effects of social structural forces on the choices of women and others.

or willingness—is necessary (although not sufficient) for an encounter to avoid serious moral wrongs. Moreover, moral theorists and feminist commentators alike locate a consenting person's agency as a central feature that makes consent morally significant, even if agency is sometimes conceived as overly localized rather than extended across one's life projects and integrated with one's embodied subjectivity.[97] However, a key, unacknowledged presupposition subtends the usual understanding of morally felicitous consent in moral theory and popular feminist discourse. Namely, the ideal of consensual sex depends not only on a person consenting volitionally and intentionally and (I would add) in line with their ongoing agency, but it assumes that their consent is *responded to* by a partner in a way that continues to valorize that agency as the encounter unfolds over time. In other words, instead of exerting a unilateral moral power to waive a partner's obligations, felicitous practices of consenting have positive moral effects only provisionally, by calling on a partner to respond in a certain way. Even under the best of circumstances, consent requires a shift in another's behaviors and intentions that makes that agency behind consent make a difference. In chapter five I will examine what this entails and how it fits into a wider responsiveness to the expressions of another person in an intimate encounter. In the remainder of this chapter, however, I will suggest only that some response to consent is needed, that the response should be in some way oriented toward another's agency, and that this response is part of an ongoing, dynamic practice of responsibility that continues throughout our relations.

Consider an example. I'm at a party, a bit tipsy, and have enjoyed some flirtatious chemistry with a man I don't know very well. As the evening progresses, he becomes more assertive in his expressions of interest, which I find charming and appealing in part because I'm kind of drunk (but not sloppy) and in part because I'm usually romantically involved with women. When we end up in a room alone together, he quickly begins rubbing up against me. I feel up for an adventure, so I indicate that I welcome this, although I'm a little disquieted by his aggressive style. Things do not go as I hope. He pursues his pleasure selfishly and too roughly for my comfort, and the encounter is over before I really have a chance to process what is happening.

I encourage not categorizing this encounter as merely bad sex, an error of judgment, or a situation of sexual incompatibility (although it may also be these things); some failure of responsibility is present in this encounter that demands moral reflection. I argue that I would be justified in feeling

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[97] I flesh out a more adequate conception of agency in chapters two and three.

that this person wronged me—and, despite my genuine consent at the outset, I would be right to feel a sense of violation related to the ineffectiveness of my agency in what took place.[98]

My expression of consent here in some way does not produce the goods associated with consensual sex, and I argue that this is because it does not garner the appropriate response. My consent must mean something to the other person and have an effect on their behaviors and intentions if they are to avoid wronging me. This sexual partner fails in his responsibility to me because he is indifferent to the subjective basis of my agency in our encounter—not only whether I find it pleasurable, but whether I feel violated and whether my willingness persists. Because he does not acknowledge my agency as salient to his actions, my consent cannot be said to suspend his obligations and justify those actions in a way that washes away his particular responsibility to me. My willing consent must be met by some response from my partner that expresses that my agency is of value to him, or at least that it places a legitimate claim on him to shift his actions and intentions. If my partner does not allow my subjective experience to influence him, or if his behavior expresses disdain for my agency, I am nonetheless wronged despite my consent.[99]

My claim is that sexual consent requires a certain kind of response to have a positive moral effect, and I take this structure to be similar to some other relational practices often theorized as moral powers. An invitation or an offer of a gift, for example, must also be accepted in order to have morally salutary effects on the obligations between people. A person who rejects a gift and then takes what was offered anyway commits a wrong, and this is the result of that person's failure to respond to the offer in a way that acknowledges the value of the agency of another. This response requirement will not seem wholly foreign to those who theorize consent primarily as a communicative action, because it is analogous to J. L. Austin's concept of felicity conditions, or what must accompany a speech act for it successfully to take on illocutionary force to have its full intended effect.[100] While Austin focuses on the authority to pronounce a verdict or the requisite sincerity to produce a real apology, Stephen

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[98] Note, however, that I do not mean to claim that the wrong suffered here should constitute rape according to any legal definition. I claim only that a wrong is present that creates an obligation for repair.

[99] For the analytic debate about the nature of consent, this response condition suggests that a communication of agency plays a central role in consenting. Public communication enables my partner to respond appropriately to my consent, even if the attitudinal model might be right that my consent can predate and determine that communication.

[100] Austin, *How to Do Things with Words* (Cambridge, MA: Harvard University Press, 1975).

Darwall highlights how some performatives, such as promising, have second-personal felicity conditions: they only become successful in light of another person's response. As Darwall points out, while promising is the moral power to create an obligation where previously there was none, one cannot unilaterally enact this moral transformation simply by declaring an intention to promise.[101] The person to whom a promise is addressed must accept the promise, or the intended change to obligations fails; this moment of acceptance is a felicity condition for promising.

Rather than treating sexual consent as a moral transformative, however, I suggest thinking about it within a more dynamic pattern of responsibility between people, where important roles are played by agency, the will, and subjective experience, especially the possible experience of violation. This approach reflects what I take to be a structural difference, overlooked by most consent theorists, between consent in sexual and other interpersonal relations, on the one hand, and consent in explicitly contractual settings, where consent is broadly accepted as effective without requiring a response or acknowledgment beyond mere compliance with the parameters to which consent has been given.

In contractual scenarios, consent is formalized as a moral power to authorize a medical procedure, to establish a binding contract for property or services, or to ratify political representation, and a valid act of consent in response to a proposal effectively waives the consenter's rights with respect to the agreed-upon transaction. So long as the contracting parties satisfy the subject- and act-based validity conditions, morally effective consent in these settings either requires no response (other than fulfilling one's obligations), as in the case of medical consent or political endorsement, or requires a response to the contract itself, as when a person countersigns to finalize a property agreement. In neither case is a response *to the other person* needed to make permissible the action that has been agreed upon; the signature, ballot, or medical consent form is taken to represent exhaustively the will of the consenting party. In contrast, I have argued that sexual consent must be recognized and responded to by one's partner for it to have the moral effect widely attributed to it. Something about the nature of interpersonal encounters—perhaps not all, but certainly in intimate settings like erotic, familial, or

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[101] Darwall, *Honor, History, and Relationship: Essays in Second-Personal Ethics II* (Oxford: Oxford University Press, 2013), 147.

some caregiving settings—introduces an ethical requirement to respond to a person's subjective experience and agency as the site of potential harm and as the source of the moral significance of consenting.[102]

Why does the moral structure of consent differ between face-to-face and contractual settings in this way? I provide a Levinasian explanation of relational responsibility in chapter four, but a brief provisional analysis at this point may prove clarifying. One essential component of consent in medical and legal settings is that the transaction in question is framed by stable roles and a purported institutional assurance of the equal standing of contractors under the law. Consent to a medical procedure gives permission without requiring a response because the person to whom consent is expressed is a medical caregiver, whose role includes not only honoring consent, but *caring*—that is, substantively responding to the needs of a patient. The responsibility of a medical professional is constituted by this ongoing obligation to provide care, which should not be conflated with the agential authority of the patient's consent. Similarly—although this is more controversial—the efficacy of the consent enacted when signing a contract for property or services is supposed to be guaranteed by the signatories' equal standing under the law, which is (ostensibly) built into the practice of contracting itself. While there are good, structural reasons to be suspicious of whether substantive equality is actually guaranteed by the formal equality that legitimates legal contracts, this conceit of reciprocal authority between contractors is essential to the practice of contracting, and it claims to secure in advance that an agreed-upon transaction expresses respect for the autonomy of all parties. When the background condition of the legal personhood of the consenter (ostensibly) programs their authority into the procedure of contracting in this way, then personally acknowledging the validity of a contractor's ongoing agency is not necessary for that person's consent to have its presumed moral effect.

In intimate, interpersonal encounters, on the other hand, there can be no institutional or procedural assurance of the equality of the propositioning and consent-giving parties. The value and efficacy of the agency of each person cannot be guaranteed in the way professed by the practice of

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[102] Note that the same is not true of refusing or withholding consent, which manifestly reinforces the impermissibility of an action in all settings, whether contractual or personal, and requires no response to shift another's obligations. To refuse another's proposal is to demand explicitly that they change their intentions, whereas to consent to a proposal solicits another's responsibility more indirectly. I discuss the authority of sexual refusal in chapter five, section six.

contracting. A person who makes a proposition must be personally responsive to another as the relation continues over time; that person must actually change their intentions and behaviors in response to another's expressions of agency, including consenting.

I believe this is the case because sexual encounters take place within more dynamic, interpersonal relations characterized by the proximity of one another, what Levinas calls the "face-to-face."[103] This proximity persists throughout a relation, weaving a shifting ethical sense through every encounter as responsibilities between people continuously unfold. Such proximity is pushed into the background in contractual and medical settings, where the primary relation of responsibility is supposed to take place in the interaction between a person and the legally binding document to be understood and ratified. Of course, human proximity often punctures the formality of contracting for services, with results that often reveal the inadequacy of the conceit of contracting. Contracts for performing care work, sex work, or other affective labor often demand from a person something that is not sufficiently acknowledged by the procedural guarantees of employment contracts.[104] Similarly, in the medical setting, the relational responsibilities that arise in the proximal encounter between caregiver and patient continually undermine the authority of the impersonal informed consent agreement.[105] These possibilities betray a deeper, relational responsibility at work prior to the institutional responsibilities that inform standard moral intuitions about consent.

VI.   Conclusion

I have set out from the feminist commitment to the value of sexual agency, which I take to be the basic foundation for responsibility to another in a sexual encounter, logically and morally prior to the norm of sexual consent. After marking some limitations of standard philosophical approaches to consent, I have argued that consent ought not to be understood as a unilateral act of giving permission or waiving another's obligation, as it is in the standard view, but as an act of communicative expression

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[103] Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1979 [1961]). I discuss the phenomenology of proximity to another person in chapter four.

[104] I have avoided sex work and other explicitly transactional sex in my analysis of consent in part because of how social and moral norms of commercial exchange displace the face-to-face relational context in which responsibility unfolds.

[105] For discussion of tensions between the "logic of choice" in contemporary medical practice and the "logic of care" that acknowledges the encounter with the patient, see Annemarie Mol, *The Logic of Care: Health and the Problem of Patient Choice* (London: Routledge, 2008).

that calls for a response. For consent to have a felicitous effect on the pattern of responsibility in an interpersonal relation, another person must shift their actions and intentions in response, valorizing the ongoing agency and subjective experience behind the expression of consent.

Although I describe the ethical significance of consenting in terms that appear complex in relation to conventional, permission-giving accounts, my hope is that appreciating the relational setting surrounding sexual consent can locate responsibility at a lower level of abstraction relative to intimacy as it is experienced—as oriented toward another, rather than arising only from a sign of consent to be judged as either valid or morally deficient. Juridical conceptions of responsibility as blameworthiness and accountability encourage people to take reasonable precautions that sex is consensual to avoid culpably wronging another person. In contrast, responsibility to another calls for more: not only avoiding wronging but valuing the agency and experience surrounding consent, which means trying to avoid harming as well. In a sexual encounter, this means continuously adapting one's behavior, attitudes, and intentions contextually in response to another. Concretely, I can valorize another's agency through listening, asking a question, creating a space of hesitation, asserting or giving way with respect to my own desires, even revising my desires and allowing them to change—such active responsiveness in sexual intimacy is essential for responsibility to another, as I discuss in detail in chapter five.

Note that I have so far not addressed two crucial issues with respect to the ethical effects and validity of consent. First, I have not here examined why a person *ought* to respond to the agency of another in the way described, only why such a response is necessary for an encounter to be fully consensual in the salutary sense that implies that responsibility between partners is fulfilled. The answer to the *ought* question will require articulating some of the background conditions that surround any interpersonal encounter. In chapter four, I argue that this background condition of ethics is better theorized using a Levinasian conception of responsibility rather than a Kantian notion of the equality and the value of human dignity. Chapter five shows how the Levinasian approach can yield insights into how we should treat one another in sexual encounters, despite the ambiguity of sexual intimacy and the complex roles of social structures in our behaviors and desires.

Second, perhaps more pressingly, I have not yet evaluated how inequality of power between people influences the ethics of sexual consent. What does responsiveness look like if the persistent distribution of men into active, propositioning roles and women into passive, consenting roles undermines the validity of consent in these situations? I will begin to address this question in chapter two, where I discuss radical feminist critiques of consent and the question of responsibility to another

under unjust social structures. Attending to the influences of social structure there makes possible a more detailed explanation of sexual agency, which I will extend in chapter three.

CHAPTER TWO
STRUCTURAL CRITIQUE AND THE VALUE OF SEXUAL AGENCY

Chapter one identified the core ethical insight behind feminist conceptions of sexual consent, while questioning how that insight has been taken up in legal theory and moral philosophy. I argued that feminist intervention into sexual ethics has been driven by a normative commitment to the value of agency in sexual encounters, which rests on a methodological commitment to the validity of moral insights that come from women's experiences and interpretations of right and wrong. Despite other functions of consent—juridical, justificatory, definitional, and so forth—feminist efforts to valorize and strengthen sexual consent as a norm have been motivated by this claim to the moral relevance of subjective experiences and agency in sexual encounters for women and for others who are often subjected to sexual coercion and exploitation.

In most legal and philosophical discussions surrounding consent today, however, this basic value at the heart of the feminist notion of sexual consent has been eclipsed by definitional and evidentiary concerns. Moral philosophers and legal theorists often trace the moral power of consenting to its purported function as a moment of contracting or giving permission. They evaluate the moral validity of consent on the basis of whether coercion is present, but they fail to consider how the encounter in question fits into the broader agency of a person's life.[106]

This chapter draws on feminist critical theory to examine how structural conditions influence sexual agency and the ethics of sexual encounters. Since the 1980s, feminist critical theorists have argued that discursive norms and other social structures undermine women's agency over their sexual experiences. In the face of unjust contextual forces, the norm of sexual consent is unreliable as a

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[106] I define agency as the capacity and practice of directing one's life in accordance with the pursuits that give one's life meaning and purpose, and I noted that this practice is always relationally embedded and responsive to social and material conditions of a given context. See chapter one, section one.

representation of agency and therefore insufficient as determinant of right and wrong in sexual encounters. I argue, however, that the conclusion does not follow that the idea of consensual sex—and practices of consenting—ought to be abandoned as ethical considerations when conceiving of responsibility to another in sexual intimacy.[107] Instead I reject certain libertarian and contractualist conceptions of consent, while retaining the feminist commitments that originally invested consent with value for sexual ethics. This requires a more nuanced understanding of sexual agency, which I explore in this chapter and the next.

In section one, I articulate two radical feminist insights about the role of structural forces in curtailing some people's capacities to refuse sex and in shaping the desires and intentions that in part constitute sexual agency. I argue that these insights demand a far-reaching shift in the considerations that go into sexual ethics. In section two, I show how theorists like Catharine MacKinnon and Carole Pateman err, however, when they infer that consent can have no moral significance whatsoever. Section three argues that MacKinnon's and Pateman's conclusions overlook women's qualitative, moral interpretations of their experiences, thereby preventing examination of the distinctive characteristics of harms and wrongs that take place within consensual encounters. In turn, this blind spot hinders the development of a nuanced account of responsibility able to describe such situations.

In the fourth section, I turn to two contemporary feminist philosophers, Ann Cahill and Linda Martín Alcoff, for approaches to sexual agency that build on feminist structural critique by considering both the effects of discursive conditions and those of subjective experience in producing the sexual self. Their sophisticated accounts incorporate insights from phenomenology of the body and Foucauldian critical theory, enabling more apt political claims about the need to change both institutional and discursive conditions that surround sex in various societal contexts. Although both are skeptical of the norm of consent, Cahill's and Alcoff's analyses give central consideration to consensual-but-unwelcome sexual encounters, and their work makes possible feminist political responses that address key questions about why people consent in such situations, what harms are attendant to such encounters, and what features of a society ought to be changed to disrupt those unjust patterns. I conclude by considering how sexual ethics can adopt a phenomenologically informed notion of sexual agency as an underlying value for responsibility to another in sexual encounters.

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[107] By responsibility to another, I mean the practice of treating another person according to the moral obligations that inhere in a relation, which are always undergoing change and include obligations of repair when another is harmed. See chapter one, section three.

I. Two Structural Insights of Radical Feminism

In chapter one I argued that the minimalist ideal of permission-giving consent is inadequate as a norm even for liberal accounts of sexual ethics because it fails to accommodate the moral significance of the distinctive agential harms that can accompany consensual sex. For strategic reasons, I constructed the argument in chapter one for the most part within the liberal parameters that subsume agency under the value of autonomy, which is taken to be dependent on the proximate reasons that motivate people to act (that is, whether choices are coerced, well-informed, and so forth). However, feminist political thought has had its most profound impact by bringing contextual factors to the forefront of analyses of sex and sexual violation, demanding attention be turned from the proximate reasons for women's choices and toward the structural conditions surrounding practices of agency. This line of argumentation originated with radical feminism.

Writing in the 1980s, Carole Pateman and Catharine MacKinnon each draw analogies with Marxist critique of the employment contract to reject the validity of so-called consensual sex on the grounds that consent constitutes an agreement not entered into by free and equal participants. Pateman argues that women's sexual subordination to men is the product of a historical exclusion from the equality of agency and power presupposed by contract theory writ large.[108] She argues that contracts in general legitimate and formalize relations of domination and subordination already presupposed as natural. She writes in *The Sexual Contract* (1988): "capitalists can exploit workers and husbands can exploit wives because workers and wives are constituted as subordinates through the employment contract and the marriage contract. . . . In contract theory universal freedom is always an hypothesis, a story, a political fiction. Contract always generates political right in the form of relations of domination and subordination."[109] MacKinnon extends this foundational critique to encompass present-day practices and institutions, which perpetuate women's subordination to men. She argues that women are violated and exploited in sexual relations, consensual or not, because women's freedom is constrained through present iterations of patriarchal institutions and ideologies.[110] Thus, both argue, like

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[108] See Pateman, "Women and Consent," *Political Theory* 8, no. 2 (1980): 149–68; and Pateman, *The Sexual Contract* (Stanford: Stanford University Press, 1988).

[109] Pateman, *The Sexual Contract*, 8.

[110] See especially MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Cambridge, MA: Harvard University Press, 1987); and MacKinnon, *Toward a Feminist Theory of the State* (Cambridge, MA: Harvard University Press, 1989).

Robin West, that the positive value afforded to consensual relations as such levels a façade of legitimacy for relations that do not serve women's actual interests.[111]

Pateman's and MacKinnon's critiques express two key structural insights that have become central to contemporary feminist critical analyses of consent. First, what I will call the "socially available options" insight: no ideal of consent can validly express a person's agency if societal, political, or discursive forces make refusal of sex costly or impossible.[112] In Pateman's words, "unless refusal of consent or withdrawal of consent are real possibilities, we can no longer speak of 'consent' in any genuine sense."[113] This follows from the idea—today intuitive to most feminists—that the practice of consent, like all choices, is located within a social and political context, and injustice within that context can strip legitimacy of the choices that emerge from it.[114] Women's sexual agency can be restricted due to material limitations, as when the possibility of refusing consent is bundled with other drawbacks such as loss of security, social connectivity, or financial stability, or due to discursive and cultural limitations on women, as when a revocation or denial of consent is likely to be targeted with social approbation—such as pressures not to violate norms of femininity. In either case, social context includes structural features that induce women to consent to unwanted sex or stay in unhappy relationships because they cannot—or believe they cannot—afford to do otherwise.

The second insight can be called the "oppressive subject-formation" insight, which recognizes that oppressive structural conditions not only exert pressures from outside but also determine possibilities from within. This insight recognizes that the subjective basis of agency, including a person's

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[111] See Robin West, "Authority, Autonomy, and Choice: The Role of Consent in the Moral and Political Visions of Franz Kafka and Richard Posner," *Harvard Law Review* 99, no. 2 (1985): 384–428; see discussion in chapter one, section three.

[112] I use a gender-neutral formulation, "a person's agency," because feminist insights since the 1980s have expanded to recognize adverse effects of structural forces on sexual agency for many who are not women. However, it should be noted that for radical feminists these insights were insights into women's condition in particular.

[113] Pateman, "Women and Consent," 150. Onora O'Neill arrives at the same point from a strikingly different direction in her Kantian discussion in "Between Consenting Adults," *Philosophy & Public Affairs* 14, no. 3 (1985): 259.

[114] Sally Haslanger describes this as the "choice architecture" surrounding agency within a social structure in "What Is a (Social) Structural Explanation?," *Philosophical Studies* 173, no. 1 (2016): 113–30. Mary Rawlinson calls this a "culture of possibilities"; see Rawlinson, "Liminal Agencies: Literature as Moral Philosophy," in *Literature and Philosophy: A Guide to Contemporary Debates*, ed. David Rudrum (London: Palgrave-Macmillan, 2006), 129–41; and Rawlinson, *Just Life: Bioethics and the Future of Sexual Difference* (New York: Columbia University Press, 2016), 69–71.

will, desires, and interpretations of their life, can be shaped and undermined by dominant discourses of male superiority, white supremacy, and heteronormativity. MacKinnon expresses this insight when she focuses on the role of women's desires and attitudes in reinforcing and perpetuating relations of subordination. She develops a forceful account of how dominant discourses support the ideology of patriarchy, thereby producing internalized misogyny in women that leads to choosing and even desiring their own sexual subservience. She writes that "love of violation, variously termed female masochism and consent, comes to define female sexuality, legitimating this political system by concealing the force on which it is based."[115]

Even rejecting the universalizing ambitions of MacKinnon's "critique of desire"—as liberals, queer theorists, and most feminists have overwhelmingly done, as I discuss below—we can acknowledge that her critique expresses a useful insight into the thoroughgoing role of the social in constructing subjectivity.[116] If the will and desires are shaped by—or at least highly responsive to—discursive forces that devalue women's agency, then the freedom ostensibly expressed by consent actually only provides an appearance of choice constrained to a narrow range of options. Even if a woman has a legally recognized right to reject unwanted sexual overtures, for example, her understanding of her own identity as a woman in her social context might require that she sooner or later commit herself to serving a man whose needs and demands she places above her own. Depending on her subject position and the epistemic resources available to her to understand and interpret her life, she may take this to be natural, unavoidable, or even fair without conceiving of alternative possible arrangements. If discursive possibilities shape our desires, motivations, and interpretations of our experiences in these sorts of ways, then the role of discourses and ideologies in practices of agency must also become a site for feminist analysis and critique.

In the past two decades, feminist social scientists have undertaken empirical research to articulate these influences on subject formation in more detail. Nicola Gavey uses a Foucauldian lens to examine women's interpretations of sexual encounters, identifying three particularly powerful "discourses of normative heterosexuality" that undermine women's ability to exert agency to avoid sexual violation.[117] These are the *coital imperative*, which takes all sex as "naturally" leading to heterosexual

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[115] MacKinnon, *Toward a Feminist Theory of the State*, 141.

[116] The radical feminist "critique of desire" is diagnosed as such in Robin West, "Law's Nobility," *Yale Journal of Law and Feminism*, no. 17 (2005): 388.

[117] See Gavey, *Just Sex?: The Cultural Scaffolding of Rape* (New York: Routledge, 2005), 102–35.

intercourse and male orgasm; the *have–hold discourse*, which ties the possibility of a lasting relationship with a man to a woman's sexual availability to him; and the *male sex-drive discourse*, which holds male desire and arousal to be an irrational and unstoppable force of nature. These discourses operate in both option-limiting and subject-formative ways. By authorizing male ignorance, these discourses narrow women's agency to avoid unwanted sex by making refusal only possible through explicit confrontation (that is, tactful ways of turning down sex will not work), while simultaneously making even direct refusal less likely to succeed.[118] This heightens the costs and suppresses the benefits of refusing unwanted sex. Further, as internalized narratives, these discourses supply justifications for why women *ought* not refuse sex—such as imperatives not to be a "tease," not to "lead someone on," or not to refuse sex when a man is already aroused—while entitling men to the role of actively pursuing and initiating sex.

In a social context where such discourses are widely accepted and naturalized, the structural insights of radical feminism have shed light on an additional problem with the norm of sexual consent. As both Pateman and MacKinnon point out and many have repeated, the model of sexual consent presupposes an asymmetrical structure of sexual relations and initiative: one party offers the terms of an encounter and another accepts or rejects.[119] MacKinnon writes: "consent is supposed to be women's form of control over intercourse, different from but equal to the custom of male initiative. Man proposes, woman disposes. Even the ideal is not mutual. Apart from the disparate consequences of refusal, this model does not envision a situation the woman controls being placed in, or choices she frames."[120] Along similar lines, Pateman notes:

> The conventional use of 'consent' helps reinforce the beliefs about the 'natural' characters of the sexes [as unequal] . . . [I]n the relationship between the sexes, it is always women who are held to consent to men. The 'naturally' superior, active, and sexually

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[118] See Celia Kitzinger and Hannah Frith, "Just Say No? The Use of Conversation Analysis in Developing a Feminist Perspective on Sexual Refusal," *Discourse & Society* 10, no. 3 (1999): 293–316.

[119] See, for example, Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995), 162–63; Ann J. Cahill, *Rethinking Rape* (Ithaca: Cornell University Press, 2001), 173; Michelle J. Anderson, "Negotiating Sex," *Southern California Law Review* 78 (2005): 108–9; and Rebecca Kukla, "That's What She Said: The Language of Sexual Negotiation," *Ethics* 129 (2018): 75–76.

[120] MacKinnon, *Toward a Feminist Theory of the State*, 174.

aggressive male makes an initiative, or offers a contract, to which a 'naturally' subor-
dinate, passive woman 'consents.' An egalitarian sexual relationship cannot rest on this
basis.[121]

Whether or not absolute egalitarianism is an appropriate sexual ideal—many have suggested it is not—
the asymmetry Pateman diagnoses tends unjustly to reinforce men's authority and devalue women's
agency in a society where power is already pervasively patterned according to heterosexual (and white)
male privilege. The norm of consent can reify unjust sexual roles by distributing power and responsi-
bility across consent-seeking and consenting (active and passive) positions. It becomes a persistent
pattern that, as Ann Cahill diagnoses, "women are not endowed with the power to construct their
own desirable ends, but are expected to respond to situations constructed for them by others."[122]
Moreover, the same structural forces that prevent women from constructing and pursuing their own
ends also make it more likely that women's responses to the propositions of others will be subjected
unfairly to pressures that run against their legitimate desires, interests, or life projects, further under-
mining the possibility of consent to align with women's agency.

This has concrete negative effects not only for consent's adequacy as a moral criterion, but
also for its descriptive role as an epistemic device for making sense of our experiences—particularly
for survivors of sexual violation. Linda Martín Alcoff argues in *Rape and Resistance* (2018) that an over-
investment in the explanatory power of consent can undermine the interpretive abilities of those who
have suffered violation by "implicitly reinforcing retrograde gender norms," because "an exclusive
focus on consent [in assessing violation] concords with normative heterosexual non-reciprocity in the
ability to pursue desires and pleasures."[123] At best, the norm of sexual consent allows this gendered
inequality to persist undisturbed by critique. At worst, the valorization of consent makes this gendered
shape appear just and legitimate, obscuring alternative explanations of responsibility, sexual ethics,
and justice.

II.   Limitations of Radical Feminist Critiques of Consent

The insights of radical feminist structural critique are vital for understanding the conditions
surrounding agency in sexual encounters, and they suggest good reasons to use caution in relying on

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[121] Pateman, "Women and Consent," 164.

[122] Cahill, *Rethinking Rape*, 173.

[123] Alcoff, *Rape and Resistance: Understanding the Complexities of Sexual Violation* (Cambridge: Polity Press, 2018), 130; 138.

consent for moral judgment or for articulating the nature of ethical responsibility in sex. Indeed, Pateman's claim that consent is essentially tied to inequitable practices of contracting and MacKinnon's argument that sexual consent is morally meaningless under conditions of male supremacy raise the prospect that consent might be irredeemably flawed for sexual ethics. However, Pateman's and MacKinnon's arguments for the decisive dismissal of consent suffer from limitations that produce obstacles for feminist ethics and politics, fueling the need for more nuanced discussions of structure, agency, and consent.

Fueled by the incisiveness of their structural framing, Pateman and MacKinnon both tend to universalize their causal explanations of women's oppression, obscuring rather than illuminating the particular ambiguities of lived encounters that motivate feminist investigations of sexual ethics. They interpret the sociopolitical and discursive limitations on women's agency respectively as the material and ideological prongs of patriarchal domination, and they take these parts to work together seamlessly to subordinate women to men in relations of domination. Because of this view of women's oppression, they dismiss the concept of consent—and the notion that there is moral relevance in the distinction between consensual and nonconsensual sex—as another facet of patriarchal ideology justifying women's subordination. Radical feminism in its original form replaces the exclusive focus on individual choice of liberal-libertarian accounts with a single-minded attention to structure, but such an inversion produces a similarly partial view of the ethics of intimate encounters.

Feminist critical theorists have convincingly criticized Pateman and MacKinnon for key errors in theorizing both politics and epistemology. First, Judith Butler argues that both MacKinnon and Pateman construe power as overly unidirectional, overlooking sites of possible resistance: "the view of domination as a causal determinism underestimates the complex routes by which power operates, the inadvertent sites that it mobilizes, the differentiated mechanisms of its deployment."[124] Along the same vein, Nancy Fraser argues that Pateman's focus on the master/subject model of inequality as the fundamental harm of both contract and patriarchy misses how oppression is mediated in other ways, including through commodification, racialization, and class inequality.[125] Without naming MacKinnon or Pateman, Patricia Hill Collins observes that "the structural, disciplinary, hegemonic, and interpersonal domains of power work together to produce particular patterns of domination," and to reduce

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[124] Butler, "Review: Disorderly Woman," *Transition*, no. 53 (1991): 94.

[125] See Fraser, "Beyond the Master/Subject Model: Reflections on Carole Pateman's *Sexual Contract*," *Social Text*, no. 37 (1993): 173–81.

those patterns to a singular, universal subordination of women by men is to miss important qualitative differences within the phenomenon of oppression.[126]

In addition to neglecting the qualitative differences among forms of power, radical feminists are criticized for ignoring the ambiguous nature of the relationship between discourse and subjectivity. Drucilla Cornell presents perhaps the earliest authoritative critique of connections among subjectivity, sexual agency, and freedom in MacKinnon's work, arguing that MacKinnon evacuates the possibility of women's sexual agency by overstating the coercive power of masculine sexual norms, thus positing women as *by definition* unfree and incapable of speaking or willing for themselves in the sexual aspects of their lives.[127] Because MacKinnon identifies sex and sexual desire as completely colonized by patriarchal value systems, Cornell argues, MacKinnon is "unable to affirm feminine sexual difference as other than victimization"; that is, women's sexuality is portrayed as unavoidably contrary to their freedom.[128]

Cornell argues that this becomes a methodological problem for MacKinnon insofar as she is forced by her argument to dismiss women's views, desires, and values as false consciousness, which means she "cannot account for the very feminist point of view that she argues must be incorporated" to transform the role of the state in gendered power relations. Susan Brison defends MacKinnon by pointing out the latter's early acknowledgment of the methodological inadequacy of "false consciousness" critique, where MacKinnon writes that such an approach suffers from an excessive investment in the claim of objectivity and "cannot explain experience as it is experienced by those who experience it."[129] However, the early essay's interesting dual methodological critique of both objectivity and subjectivism tapers in later work into precisely the kinds of claims made on behalf of objective truth against which her early work cautions. MacKinnon seems in later work only to acknowledge false

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[126] Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, revised 10th anniversary ed. (New York: Routledge, 2000 [1990]), 203.

[127] Cornell, "Review: Sexual Difference, the Feminine, and Equivalency: A Critique of MacKinnon's *Toward a Feminist Theory of the State*," *Yale Law Journal* 100, no. 7 (1991): 2247–75.

[128] Ibid., 2248. See also Ann J. Cahill, "Recognition, Desire, and Unjust Sex," *Hypatia* 29, no. 2 (2014): 304–9.

[129] MacKinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence," *Signs* 8, no. 4 [1983]: 638n5; quoted in Brison, "Can We End the Feminist 'Sex Wars' Now? Comments on Linda Martín Alcoff, *Rape and Resistance: Understanding the Complexities of Sexual Violation*," *Philosophical Studies* 177, no. 2 (2020): 303–9.

consciousness as a political challenge, while ignoring the epistemological problem built into the concept. She argues that social transformation will get women to shake off their complacency, framing such intervention as an "epistemology of a politics of the powerless," but this risks reinscribing the vanguardist view that some (the "powerless") suffer from false consciousness that can be transformed through feminist critique.[130]

Beyond these well-known critiques, Pateman and MacKinnon's arguments manifest other problems when looked to as ground for feminist sexual ethics. I will consider two problems in detail: the reduction of consenting to contract and the presumption that coercion persists in consensual encounters.

Dangers of reducing consent to contracting

Contemporary feminist critics of consent often reiterate Pateman's view that the norm of sexual consent is essentially steeped in contractualism, and Pateman is regularly cited as decisively demonstrating that moral significance cannot be attributed to sexual consent without reinscribing a liberal contractual framework of validity.[131] Many point out the historical origins of consent as a term in legal and contractual discourses, and feminists are right to be concerned along these lines, because much is at stake.[132] If consent is essentially a contractual phenomenon, then using consent for considerations of responsibility in sexual encounters brings with it substantial problems. As Pateman convincingly argues, liberal ideals of contracting can obscure power differentials between parties, creating a fiction of equality that masks substantive inequalities across gender, class, and other lines that mark the positions of the contractors. Moreover, the norm of consent (as contract) imports inadequate phenomenological views of human relationality as fundamentally contractual and of the self as an autonomous

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[130] MacKinnon, *Feminism Unmodified*, 164.

[131] See, e.g., Daniel Loick, "'… As If It Were a Thing.' A Feminist Critique of Consent," *Constellations* 27, no. 3 (2020): 412–22; and Alisa Kessel, "The Cruel Optimism of Sexual Consent," *Contemporary Political Theory* 19, no. 3 (2020): 359–80.

[132] Alcoff writes that "consent is a concept imported from a liberal contract model of social relations" (*Rape and Resistance*, 126). See also Cahill, *Rethinking Rape*, 171–75. But contrast these accounts with the historical reconstruction in Maria Drakopoulou, "Feminism and Consent: A Genealogical Inquiry," in *Choice and Consent: Feminist Engagements with Law and Subjectivity*, ed. Rosemary Hunter and Sharon Cowan (Abingdon: Routledge-Cavendish, 2007), 9–38.

mind with authority and proprietorship over the body.[133] Concretely, if consent is reducible to contract in a strict sense, then consenting to a sexual encounter risks introducing new, problematic obligations for the consenting party: the obligation to permit another to do what has been consented to (that is, the commitment to perform) and the obligation to desist from claiming damages for any harms experienced in participation in a consented-upon act.

Critical theorists are clearly correct to reject contractual notions of sexual consent that valorize the fair transaction while remaining indifferent to women's wider agency and experiences of sex and sexual communication. However, a closer appraisal of Pateman's argument is needed to see whether sexual consent is actually reducible to contracting in the way that would produce the phenomenological and political problems Pateman and others have identified. I suggest here that the contractual frame is merely one (particularly hegemonic) conception of consent that is often imposed after the fact, but it is not intrinsic to the concept of consent itself, and particularly not to the notion of *consenting* as a practice, which is most relevant to responsibility in the relational sense I propose.

Pateman's argument begins from the empirical observation that equality for women fails to adhere in the ostensibly consent-based realms of marriage and sex, as indicated by wives' economic dependence on and submission to the authority of their husbands as well as by women's lack of control (or legal recourse) in questions of sexual access to their bodies.[134] The most important step in her argument is the claim that women's inability to exert control over their sexual lives through consent is the product of an originary exclusion from the free and equal community of contractors. Having suggested this causal explanation, she masterfully dives into the history of contract theory to formulate an argument against the validity of contractual obligations as such. She argues forcefully that the obligations produced by contracts are morally invalid insofar as contracting presupposes a notion of self-proprietorship over one's body and capacities, which in turn grounds a relation of domination when a more precarious individual must obligate their bodily powers to another who is more secure. She presents a thoroughgoing critique of the subordination of women to men in social contract theory, which she argues demonstrates that sexual consent—as contract—cannot have its widely recognized effect on the moral character of a sexual encounter.

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[133] On the issue of self-proprietorship, see Pateman, "Self-Ownership and Property in the Person: Democratization and a Tale of Two Concepts," *Journal of Political Philosophy* 10, no. 1 (2002): 20–53; and Ngaire Naffine, "The Legal Structure of Self-Ownership: Or the Self-Possessed Man and the Woman Possessed," *Journal of Law and Society* 25, no. 2 (1998): 193–212.

[134] This argument is first sketched out in "Women and Consent" and elaborated in *The Sexual Contract.*

As a critique of liberal contractualism and its conceits, Pateman's argument is convincing, and her account of the myth of equal personhood and the exclusion of women as eligible contractors explains many persistent obstacles women face in pursuing equitable legal treatment. However, her conclusion that this vacates the ethical significance of sexual consent is unsupported. The abductive structure of her argument—setting out from injustices of today and looking backward for a plausible explanation—assumes rather than argues the connection between sexual consent and the act of agreement to a contract, and she presupposes rather than demonstrates the causal influence of early modern contract theory on contemporary social practices. Wendy Brown notes that the legacy of social contract theory is likely more complex than Pateman acknowledges under neoliberal social conditions, at "a time in which both liberalism and women's subordination may well be sustained without contract."[135]

Pateman's analysis of early modern texts cannot provide the kind of evidence needed to support her claim that sexual consent today is *essentially* a rights-waiving, contractual practice. The fact that legal institutions offer systematically flawed, disempowering interpretations of women's consent indicates that the legacy of social contract theory's exclusions may well be alive in the law, but it does not show that sexual consenting is analytically reducible to contract, or that practices of consenting inherently reinscribe liberal notions of bodily self-proprietorship and a contractual social world. Rather, it means we should be even more skeptical about embracing the contractual conception of consent over and against the other significant roles consent plays—as a communicative practice, as a possible expression of sexual agency, or as a tool that might have feminist potential. As Judith Butler writes, it may be that "we make a mistake by confusing the juridical model of consent with the kind of "yes"-saying and "no"-saying that happens in the midst of sexual encounters and dilemmas."[136]

Everyday experiences of engaging in actual practices of sexual consent support this pragmatic stance. Outside of explicitly commodified, contractual encounters like sex work and pornography, people often do not experience practices of sexual consenting as acts of contracting; we for the most part experience our expressions of consenting as taking place within ongoing, intersubjective sexual encounters and relations, often navigating among complex webs of interests and dimensions of desire, wantedness, and unwantedness. Although it would be naïve to draw a clear line between commodified

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[135] Brown, *States of Injury*, 137.

[136] Judith Butler, "Sexual Consent: Some Thoughts on Psychoanalysis and Law," *Columbia Journal of Gender and Law* 21, no. 2 (2011): 22.

and uncommodified sex, as if some sexual encounters are inherently innocent of gendered structures of commodification, it is also not warranted to take conditions of explicit sexual commodification to be paradigmatic. I believe commodification is better understood as having variable effects on interpersonal relationships across times and places. Feminist critique—using radical feminism's two structural insights—has rightfully demanded that sex work, pornography, and transactional sex both explicit and implicit be scrutinized as part of many women's everyday experiences. However, the notion of sexual consent at work in contractual encounters starts out from a tightly contractual notion of consent (i.e., consenting as taking on a contractual obligation). As a result, a critique of consent that takes sex work as its paradigm case is likely to produce a critique of the function of consent in *contractual sex* rather than a critique of *consensual sex* as such; it presupposes the conflation between consent and contract, without looking at how practices of consenting at times do not fit contractual terms.

While Pateman's critique of the history of social contract theory is compelling, it is not a critique of consent as such (and certainly not of sexual consent); it is a critique of a story we tell about the legitimacy of political power and the origins of liberal society, including the notion that contracting is the basic unit of human relation. If the social contract story rests on false, sexist premises, as she argues persuasively, it means that contractual arrangements are suspect and liberal democracy may be unjustified. It also means that institutions should not judge interpersonal responsibilities and violations as questions of whether or not contractual obligations are fulfilled.[137] It does not mean, however, that people are mistaken when they describe the experience of consenting or refusing consent to sex as having moral relevance, as I will discuss in the next section.

Linda Martín Alcoff describes in *Rape and Resistance* how the normative discourse of consent risks importing contractual views of relationality not because consent is *essentially* contractual, but because consent "*resonates*" with background discourses that reflect "liberal political traditions of contract in which free agents are imagined to enter into volitional relations that carry obligations and responsibilities."[138] It seems right to me that an overreliance on the notion of consent might have negative epistemic effects as a result of this connection, ensnaring our agential practices and moral interpretations in legal and contractual concerns. With a contractual understanding of consent, we are likely to

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[137] See my argument in chapter one, section five on the difference between consent in interpersonal encounters and the procedural consent of medical, political, and contractual agreements, in which consent to a contractual relation produces obligations.

[138] Alcoff, *Rape and Resistance*, 153, emphasis mine.

overemphasize the importance of explicit terms of agreement while overlooking the context that surrounds our relationships. Further, an overinvestment in consent for sexual ethics will not help people resist the overbearing influence of market forces on desire and pleasure, which have a far more direct bearing on our contemporary sexual self-understanding than social contract theory.[139]

While reflections on sexual ethics must take seriously the epistemic problems Alcoff traces to the legalistic discourse of consent, contemporary theorists who accept Pateman's conflation of consent and contract introduce obstacles to their own analyses of sexual intersubjectivity. Instead of building bridges to the validity of popular feminist intuitions about consent—that one ought to seek agreement, respect another's refusal or inability to consent, and create conditions where a person can end or redirect an encounter—thoroughgoing critics of consent have to re-describe everyday experience and formulate competing norms. To abolish consent as a figure of ethical significance risks preventing much-needed coalition-building across feminist activists and sex educators who are already repurposing and redefining consent to make it more responsive and more phenomenologically apt for the ambiguity of erotic intimacy. I would argue that decolonizing the term 'consent,' as Alcoff seeks to do, ought to dislodge the contractualist conception of sexual consent but retain the concept of consent as an ethically charged practice—consent*ing*—while recognizing its complicated relationship with the feminist value of sexual agency. This would be to revalorize the original feminist insights that motivated the shift to consent-based ethics, which I have described in chapter one, while recognizing that the term continues to be contested. Where Alcoff argues that the norm of consent is constantly undone by a faulty, contractual understanding of temporality and the will, I would locate those phenomenological failings in the official discourses that assign consent a contract-like meaning and interpret consent to be a simple, "morally transformative" act of giving permission.[140] Other ethical meanings are possible if consent is conceived as a durational, interpersonal practice that goes beyond

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[139] Alcoff points out that capitalism and commodification in many societies have replaced traditional patriarchal ideologies as the central influence on sexual subject-formation: "object choice and the associations between social values and forms of sexual persona are [today] over-determined by visual cultures created primarily out of market considerations" (*Rape and Resistance*, 134).

[140] See Alcoff, *Rape and Resistance*, 159–60. See my argument against permission-giving consent in chapter one, sections three and four. Kelly Oliver makes a point similar to my own when she emphasizes the shortcoming of "consent as contract" while arguing that consent should be reimagined. See Oliver, *Response Ethics* (London: Rowman & Littlefield International, 2019), 196–200.

the exchange of a token of contractual obligation, with significance for ongoing practices of responsibility.[141]

Resisting the "coercion tunnel"

Where Pateman interprets the concept of consent as a tool for continuing women's subordination by other means, MacKinnon suggests that the norm of consent actually continues women's subordination by the same means: structural coercion. While MacKinnon's critique offers perhaps the most distilled version of radical feminism's key structural insights—particularly what I have called oppressive subject-formation—her account considerably narrows methodological possibilities for rethinking sexual ethics and sexual agency. I argue that this is the case because her argument, even more so than that of Pateman, departs from the basic feminist political commitment that women's moral assessments, based in interpretations of experiences, are valid sources of moral judgment and political demand regarding sexual social norms.[142] By interpreting subjectivity as wholly constituted by transhistorical power relations, MacKinnon paves over the complexity of women's agency as it is actually practiced in particular lives and the nuances expressed in women's diverse interpretations of experiences. Focusing on what she takes to be women's objective interests, she assumes that pre-given power differentials within any relation under patriarchy determine the possibilities of an encounter to such a degree that a person's subjective experience—especially the experience of whether or not an encounter is wanted, desirous, or welcome—is at best merely an epiphenomenon.

Robin West argues persuasively that MacKinnon's analysis discourages feminists from examining the complex harms of violation in consensual encounters—ironically replicating the obscuring effect of the minimalist ethic of permission-giving consent itself.[143] If sexual violation is always the result of either personal or structural coercion, as MacKinnon seems to hold, then there is no use looking more closely at the distinctive agential harms that can be suffered in situations in which people consent to or affirm sex—situations in which agency may at the same time be exercised and inhibited. West calls this blinkered critique the "coercion tunnel," which "requires us to say . . . that consensual

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[141] Both Alcoff and Oliver gesture toward these possibilities when they reference the "interactive, *intersubjective* engagement" associated with consent as *con-sentire*, "feeling with" another, but the positive features of such an ethic remain underdefined (Alcoff, *Rape and Resistance*, 129). I develop a different account of a positive sexual ethics in chapter five.

[142] See chapter one, section one.

[143] See discussion in chapter one, section four.

sex is harmful, if it is, only because or to the extent that it shares in the attributes of non-consensual sex. But this might not be true—the harms caused by consensual sex might be just as important, just as serious, but nevertheless *different* from the harms caused by non-consensual sex."[144] By pursuing the coercion tunnel, radical feminist critique reproduces a basic assumption of libertarianism and classical liberalism: that wrongs cannot coexist with valid acts of agency. The implication is that practicing agency under attenuated conditions is morally no different than being the victim of coercion, which suggests that the integrity of the truly autonomous subject here remains the basis of moral judgment.[145] Ann Cahill notes the inadequacy of this logic: "that women's choices are limited does not necessarily indicate that women are precluded from making any choices whatsoever [as MacKinnon suggests]; that particular extension of the argument assumes a polarity (choice versus coercion) that is more properly a continuum."[146]

Methodologically, the early tendency of feminist structural critique to collapse complexity into the coercion tunnel is a product of an overinvestment in the moral significance attributed to causal explanation. Equipped with a theory of overarching male domination, MacKinnon and others identify women's choices as coerced if they can be causally traced to that structure. (I believe this follows from a notion of social construction that would later become more sophisticated in response to some of the critiques cited above, as well as to so-called postmodern challenges posed by Judith Butler and others in the 1990s.) For the purposes of retaining and deepening the insights of radical feminism, structural critique must push beyond this reductive frame without losing the materialist orientation that distinguishes it from psychoanalytic or deconstructive modes of analysis. Crucially, widening the focus beyond the causal efficacy of transhistorical patriarchy is necessary to make possible analysis of local contexts of sexual agency, including the particular structural effects shaping the lives of people of color, working-class women, indigenous people, disabled people, queer, trans, and nonbinary people, as well as incarcerated people, undocumented people, and refugees. Sally Haslanger provides a

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[144] West, "The Harms of Consensual Sex," *American Philosophical Association Newsletters* 94, no. 2 (1995); reprinted in Alan Soble, ed., *The Philosophy of Sex: Contemporary Readings*, 4th ed. (Lanham: Rowman & Littlefield, 2002), 322, emphasis original. West coins the term 'coercion tunnel' in "Desperately Seeking a Moralist," *Harvard Journal of Law & Gender* 29 (2006): 23.

[145] For one of the earliest critiques of MacKinnon's value of autonomy as unfettered freedom, see West, "The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory," *Wisconsin Women's Law Journal* 3 (1987): 81–145.

[146] Cahill, *Rethinking Rape*, 46. For further discussion, see Cahill, "Recognition, Desire, and Unjust Sex," 304–9.

model for such analysis when she encourages explanations to look beyond the question of whether a phenomenon (such as consenting to sex) is directly *caused* by a surrounding social structure. She notes that "structural constraints need not be a matter of causal processes that trigger action; social constraints set limits, organize thought and communication, create a choice architecture; in short, they structure the possibility space for agency."[147] Methodologically, I take this to imply that the critique of agency-limiting structures—including the critique of consent in its juridical, contractual form—must be balanced with a nuanced consideration of how agency is enacted, experienced, and interpreted in social and cultural context.

III.   Taking Seriously the Agential Value Attributed to Consenting

I have suggested that Pateman's and MacKinnon's most trenchant dismissals of consent founder when faced with how consenting is practiced and experienced in everyday life, in the context of concrete and often ambiguous encounters and relations rather than in legal or institutional discourses. Where a minimalist ethic of consent fails by refusing to acknowledge ethical implications of the violations present in consensual encounters, MacKinnon's and Pateman's dismissals of consent whole cloth obscure the character of these encounters by taking them to be essentially explainable by sexual coercion, on the one hand, or to be based in fundamentally unfair acts of contracting, on the other. As a result, I suggest that the feminist imperative to decenter the notion of contractual or permission-giving consent is joined by a corresponding imperative: not to dismiss outright the possibility that consenting is ethically significant for responsibility to another. Otherwise, feminist critique risks replacing the administrative point of view of mainstream normative ethics with a similarly third-person perspective of structural critique, losing sight of how agency for each person plays across the dialectic between structure and experience. Attending to the diversity of values at play in women's and others' interpretations of lived experiences turns attention to how practices of communicative expression, including expressions of consenting, might influence responsibility in ways that have been overlooked by the dominant narratives of both consent-based ethics and structural critique.[148]

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[147] Haslanger, "What Is a (Social) Structural Explanation?", 127.

[148] *Expression* refers to the wide range of behaviors—speech, movements, acts, utterances, and bodily comportment—that form the basis for relationality and intersubjectivity. I discuss this concept in detail in chapter four, section five, and I discuss the role of expression in sexual ethics in chapter five, especially sections five and six.

When people reflect on sexual experiences, many identify *whether or not and how they expressed consent* as features of great importance in how they interpret encounters after the fact, including the types of harm and wrongs bundled into experiences of violation.[149] As I have already noted, Alcoff compellingly argues that libertarian and neoliberal discourses surrounding consent often hinder rather than aid survivors as they seek to make moral sense out of experiences of violation; for many, the norm of permission-giving consent is a vehicle for self-blame because it invokes an unfulfillable cultural ideal of autonomous selfhood and neoliberal personal responsibility.[150] However, interpretations of sexual experiences vary widely depending on whether encounters are baldly coercive, relatively consensual, or genuinely ambiguous or ambivalent. When people attribute moral significance to consent—even when they have experienced sexual violation—they often indicate that their own practices of consenting relate importantly to their sense of agency. The norm of consent in these accounts does not always appear as a justification or victim-blaming mechanism in the way that concerns Alcoff; in many cases there does not appear to be a pernicious libertarian ideology at work, where consent would be the only determinant of right and wrong. At times, consenting seems instead to provide a useful reference point—a point of possible agency—for at least some people seeking to interpret the ethical contours of their experiences. If we take seriously the original feminist political commitment about valuing women's interpretations of sexual ethics, there seems to be a good reason to give at least prima facie authority to moral evaluations that attribute importance to practices of consenting in sexual encounters. We often experience expressions of consenting as connected to what we feel, want, or will, backed by varying degrees of agency and taking place within ongoing, intersubjective sexual relationships.

Consent can be insufficient as a moral determinant of right and wrong, overinvested with cultural baggage that can fuel epistemic injustices against victims of sexual assault, but at the same time highly relevant for a person's experience of agency in a sexual encounter. Consider as an example

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[149] See, for example, interviews in Gavey, *Just Sex?*.

[150] See Alcoff, *Rape and Resistance*, 110–75. I will discuss Alcoff's analysis of self-interpretation and sexual subjectivity in section four. For effects of neoliberal norms on interpretations of responsibility in sex, see Melissa Burkett and Karine Hamilton, "Postfeminist Sexual Agency: Young Women's Negotiations of Sexual Consent," *Sexualities* 15, no. 7 (2012): 815–33; Laina Y. Bay-Cheng and Rebecca K. Eliseo-Arras, "The Making of Unwanted Sex: Gendered and Neoliberal Norms in College Women's Unwanted Sexual Experiences," *Journal of Sex Research* 45, no. 4 (2008): 386–97; and Barry D. Adam, "Constructing the Neoliberal Sexual Actor: Responsibility and Care of the Self in the Discourse of Barebackers," *Culture, Health & Sexuality* 7, no. 4 (2005): 333–46.

Kristen Roupenian's short story, "Cat Person," which focuses on the interior experience of Margot, a female college student ambivalently participating in a sexual encounter with a relatively unknown, older man.[151] This story is thought provoking because the encounter is complicated, which makes it close to life. Margot initiates many of the steps that propel the encounter toward intercourse, often in pursuit of a glimpsed feeling of desire that she hopes will win out over her simultaneous feelings of repulsion. But it never does. As her lack of desire and the man's relational and sexual incompetence contribute to her sense that the encounter as a whole is unwanted, Margot finds herself in a situation where she is unable to do what it would take to extricate herself:

> But the thought of what it would take to stop what she had set in motion was overwhelming; it would require an amount of tact and gentleness that she felt was impossible to summon. It wasn't that she was scared he would try to force her to do something against her will but that insisting that they stop now, after everything she'd done to push this forward, would make her seem spoiled and capricious.

If we take her inner narrative at face value, her inability to stop the encounter stems from two dimensions of gender socialization: a misplaced sense of responsibility to preserve the fragile feelings of her partner and a will not to be judged—fairly or unfairly—for violating social norms. (Note that, while she is not afraid in this moment, she does earlier in the evening imagine her powerlessness in the face of nightmare scenarios where her partner tries to rape or murder her.) Instead of ending the encounter, she first actively tries to steer it toward more possibilities for pleasure, before becoming resigned to the fact that "her last chance of enjoying this encounter had disappeared, but that she would carry through with it until it was over." After predictably bad sex that ends with him "collapsed on her like a tree falling," Margot "marveled at herself for a while, at the mystery of this person who had just done this bizarre, inexplicable thing."

That the outcome of this encounter is ultimately unwanted—regardless of the fact that she communicates uncoerced consent—is a strong indication that her partner failed in his responsibility to her, particularly insofar as he is unresponsive to her agency and subjective experience given his position of relative social empowerment.[152] In this respect, the story sheds light on the limits of consent as a norm for moral judgment. Yet, at the same time, her practices of consenting remain highly

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[151] Roupenian, "Cat Person," *The New Yorker*, December 11, 2017, https://www.newyorker.com/magazine/2017/12/11/cat-person.

[152] See chapter five for the detailed conception of responsibility to a sexual partner that frames this interpretation.

relevant for her experience of agency, attenuated as it might be. She reflects on the oddness of her decision to have sex with this man whom she on balance finds repulsive. While the unjust structural and discursive context that fuels some of her decisions remains hidden to her, she nonetheless experiences her actions as part of a dynamic relationship with her own agency. As we assess the ethical failure of her partner, it would be overly reductive to dismiss her active role in pursuing the encounter as the product of a hidden coercion and therefore morally meaningless. Though the encounter ultimately is experienced as violating in some way, it is clearly not violating in the same way as it would have been had she been directly coerced or compelled and not actively—even agentially—participated in shaping it.

If the experienced difference between consent and non-consent is disregarded, the particular character of agency and the harms that follow from agency's compromise become obscured in analysis. West writes generously that "we *do* need to address the conditions, states of mind, and social structures that so overwhelmingly prompt, suggest, or compel women to consent to sex they don't desire or want: That is the deepest, most vital, and most profoundly historic claim at the heart of MacKinnon's reconstruction of radical feminism."[153] However, she continues, addressing these conditions is not facilitated by focusing only on how their effects are rapelike. When a person feels that they have actively consented, affirmed, or pursued an encounter, it often labels at least a glimmer of agency, although every enactment of agency is provisional, impure, and compromised by unjust societal structures. Of course, this moral importance attributed to consenting is not absolutely authoritative; victims of sexual coercion and violence often blame themselves for not doing more to get out of an encounter even when the possibilities for refusal are highly constrained. But Roupenian's example shows that there are also non-coercive cases where acts of consenting play a significant role in how we experience the moral importance of our own agency. This suggests that expressions of consenting or affirming sex can be especially significant forms of sexual communication, and their ethical significance should not be overlooked when formulating a notion of responsibility to another based in sexual agency.

The lived, moral relevance of consenting is evident even in situations that shade more closely toward coercion, such as where a person acquiesces to unwanted sex to avoid the risk that another person might forcefully overpower a refusal. Such encounters are clearly inadequately described as consensual (regardless of whether they would be judged so in a court of law), but some who have such

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[153] Robin West, "Sex, Law, and Consent," 230.

experiences interpret them through a lens that takes their expressions of consenting to be morally important dimensions—both for strategically exerting agency as far as they can and for interpreting the moral trespass involved. In some of Nicola Gavey's interviews, respondents describe acquiescing to unwanted sex because they feel—correctly or incorrectly—that they are unable to end an encounter, and their narratives often describe enactment of an attenuated agency to steer the qualitative character of their encounters in a direction likely to entail less violence or less of a violation of dignity.[154] A feeling of being coerced to have sex (or a belief, reasonable in many societies, that one is likely to be forced to) plays a central role in many such encounters, which indicates that the supposed "consent" that is expressed is not the kind of robust agential participation that a person should have in their sexual lives.[155] However, interpretations of these experiences sometimes reflect the *meaningfulness* of practices of consenting as valuable expressions of agency. Even if people actually experience themselves as lacking the power to determine whether or not they have sex in these situations, their strategic acquiescence serves in many cases (though of course not all) as a means of retaining some efficacy and sense of themselves as agents.

Of course, such attenuated, quasi-consent should not be understood as giving permission, and clearly there are other, more empowering forms of agential action that should be accessible in such situations.[156] Gavey and Lois Pineau both describe feeling empowered by successfully averting sexual encounters that they later came to interpret as attempted rapes.[157] Mary Gaitskill describes actively confronting the risk in such a situation with an acquaintance: "taking one of his hands in both of mine, looking him in the eyes, and saying, 'If this comes to a fight you would win, but it would be very ugly

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[154] See, e.g., Gavey, *Just Sex?*, 157–64.

[155] Alcoff writes, "when social scientists find that women report consenting, or giving in to pressure, as a way, in their mind, to *avoid being raped*, what is brought into relief are the fluid and overlapping realities of our categories of coercive and non-coercive heterosexual sex. If one has sex only to avoid being raped, the subsequent event is a violation of agency" (*Rape and Resistance*, 114, emphasis in original).

[156] For how pressures on women to have sex should be judged differently from the standards applied to pressures on choices in other areas of life, see Scott Anderson, "Sex Under Pressure: Jerks, Boorish Behavior, and Gender Hierarchy," *Res Publica* 11, no. 4 (2005): 349–69.

[157] See Gavey, *Just Sex?*, 183–85; and Pineau, "A Response to My Critics," in *Date Rape: Feminism, Philosophy, and the Law*, ed. Leslie Francis (University Park: Pennsylvania State University Press, 1996), 104–5 (cited in Gavey, *Just Sex?*).

for both of us. Is that really what you want?"[158] But not every situation permits of such an action, and not every person is able to risk such a gesture. For one who complies rather than resists in situations of not-quite-coercion, the unwelcome sexual encounter may be experienced as a lesser harm than baldly coercive sexual assault precisely because it is more similar to consensual sex. The model of consenting to sex is seen as being not only strategically useful for avoiding physical harm, but also as having a morally significant connection to sexual agency.

Alcoff cautions that theorists should avoid paving over this zone of ambiguity between coercion and non-coercion, a risk that comes from dismissing the complexity of lived experience and agency. She writes,

> I want to follow Nicola Gavey's advice to resist using concepts of 'false consciousness' to explain the ways in which women will sometimes avoid using the term 'rape' for events that would seem to fall under this rubric . . . . We might be understandably tempted to describe the event in this instance as simply rape, but Gavey urges us to retain a sense of women's subjectivity or first-person point of view. Even within abusive relationships, women are sometimes busily engaged in interpreting their experiences to try to make sense of them and to find ways to protect themselves, as well as in trying to enlarge the range of their choices.[159]

When people describe experiences of violation in sex to which they have consented—not only in the coercion-adjacent cases just described, but in a wider range of situations—it is essential that their insights be acknowledged and reflected upon. As I have shown in chapter one, to do so productively calls into question the authority of a minimalist notion of permission-giving consent. However, when people also attribute moral significance to whether they consent—emphasizing that practices of consenting can also be agential, even under compromised circumstances—their views ought to be taken seriously as well. The complex, qualitative role played by consent in reflection on agency and on the moral valence of sexual experiences suggests that consenting—not only the unambiguous "yes" posited as a legal ideal, but the wide range of practices by which people express affirmation, acceptance, or other modes of openness—is a particularly ethically meaningful form of communication in intimate encounters, imperfect, temporary, and equivocal though it may be.

Alcoff convincingly argues for the need for critical sensitivity to epistemic distortions that can affect both theoretical analysis and first-person accounts of sexual violation. Drawing on Pateman,

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[158] Gaitskill, "On Not Being a Victim: Sex, Rape, and the Trouble with Following Rules," *Harper's*, March 1994, 44.

[159] Alcoff, *Rape and Resistance*, 115.

she ties the shortcoming of normative discourses of consent to a wider conflict between ideal and non-ideal theory—i.e., the question of whether norms should be established beforehand, or whether a more pragmatic process is needed that examines the likely effects of norms under real-world conditions. She argues that norms constructed with ideal conditions in mind can have the reverse effect of what is intended when conditions are not ideal, both in theoretical application and in how they shape our reflections as we seek to make sense of our lives.[160] As an alternative, she writes, "we need to establish corrective norms that can address current realities, rather than idealized norms that ignore the conditions in which they will be applied."[161]

My chapters four and five articulate an approach to sexual ethics that I believe avoids the problem of idealized norms, but I am convinced that the moral significance of practices of consenting should have a place within that theory. My hope is that attending to women's (and others') everyday perceptions of the moral relevance of consenting can help counteract some of the tendencies of ideal theory that plague philosophical conceptions of sexual consent.[162] The diverse ways consenting is practiced and interpreted suggest that consent is not only or essentially an idealized norm, as it is deployed in courtrooms and other juridical settings, but a (contested) signifier that can be used to make moral claims based on experiences located in people's actual lives. While the principle of permission-giving consent—taken as a moral transformation—is clearly limited to ideal conditions, consenting taken as a *practice* is not a product of ideal theory, and we can examine its effects on relational responsibility. This might require talking about consenting as a mode of communicative expression, feeling, or experience—as survivors talk about it when they meaningfully say "I did not consent"—or conceiving of consenting as constructing responsibilities, as when people talk about their desires and hopes for a sexual encounter as aiming toward consent. If we can retain diverse meanings of consenting, then perhaps reflections on relational responsibility can think consent with the nuance lost in consent's deployment as a juridical marker. This is to keep consenting connected to the value of sexual agency that motivated its original feminist adoption.

The foregoing discussion suggests that consent is not ethically important because of its validity as a principle, but because consenting as a practice is an expression that points toward a person's

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[160] *Rape and Resistance*, 154, citing Jeffrey Gauthier, "Consent, Coercion, and Sexual Autonomy," in *A Most Detestable Crime: New Philosophical Essays on Rape*, ed. Keith Burgess-Jackson (New York: Oxford University Press, 1999), 71–91.

[161] *Rape and Resistance*, 154.

[162] See chapter one, section three.

subjectivity and expresses agency in some form. The persistent sense, from lived experience, that there is often an ethically and morally important difference between consensual and nonconsensual encounters is a sign that consent may be complexly related to agency and responsibility in ways that ought to be unpacked rather than disregarded. This claim does not require that consent be an authentic avatar for a person's interests or agency; moral reflection must sustain the dialectical relation between the complexity of lived experience and radical feminism's structural insights into the limits of consent. This requires structural critique and phenomenology to mutually inform one another.

IV.   Contemporary Phenomenological Conceptions of Sexual Agency

What would an adequate account of responsibility to another in a sexual encounter look like if it recognized the value of agency both within and beyond consenting, while also acknowledging the influences of discourses and other social structures on the self and on our relations? Ann Cahill and Linda Martín Alcoff have developed finer-grained views of the intersection between subjectivity and structure that largely move beyond the limitations of MacKinnon's coercion tunnel and critique of desire and Pateman's notion of gendered domination under the guise of contract. Using phenomenology and Foucauldian critical theory, Cahill and Alcoff give accounts of agency and subjectivity that recognize the pervasive influence of the structural, the immediacy of personal experience, and the temporal extension of agency that I have described in chapter one as the "agency of projects."[163] I take their contributions, though still relatively recent, as establishing a new starting point for philosophical analysis of sexual agency and violation.[164] The remainder of this chapter focuses on the promise these approaches have to integrate the structural insights I have identified above into sexual ethics. While both Cahill and Alcoff are primarily interested in improving accounts of sexual violation and identifying social possibilities for resistance, I suggest that their insights are also indispensable for the question of responsibility to another.

Sexual agency for a situated, embodied subject

Cahill and Alcoff each set out to correct failures in philosophical explanations of sexual harm by giving closer attention to embodiment and to the discourses that frame women's (and others')

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[163] See chapter one, section one.

[164] Susan Brison agrees, suggesting that Alcoff's account in particular might constitute a dialectical step beyond entrenched feminist positions on the relationship between power and freedom in women's sexual practices. See Brison, "Can We End the Feminist 'Sex Wars' Now?".

experiences and possibilities for action. They argue that the self—understood as the "I" that feels, interprets, wills, and acts—emerges only in its intrinsic embodiment and embeddedness in human relations.[165] Both one's sense of selfhood and one's agential practices of subjectivity are constituted narratively over time, according to a particular location within history, society, and multivalent discourses. In this way, Cahill and Alcoff each recognize a wide base of causes that determine who a self is and what it can do, challenging any conception of the self centered on faculties of rational deliberation and autonomous will.

When sexual violation is considered in this light, a variety of harmful effects become newly visible. In *Rethinking Rape*, Cahill details how sexual violence affects not just the self as a putatively autonomous actor, but the whole, agential body-self—simultaneously actor, experiencing subject, and agent of interpretation.[166] Drawing on a generation of feminist theorists informed by phenomenology and psychoanalytic theory, she highlights how selfhood entails an integration between body, conscious mind, and relations with others.[167] Sex, sexuality, and sexual specificity (that is, being sexed) have special existential importance for embodied human subjectivity, both because of how they shape experience and because of how they are imbued with meaning by society. This makes possible the particularly profound harms of sexual violence. Extending an account initially proposed by Maurice Merleau-Ponty, Cahill writes that sexuality is "not to be understood as a possession [belonging to] an essentially intellectual, disembodied being, but rather as an ineluctable element of being, a facet of personhood no less relevant than one's capacity for rational thought. My sexuality is a central part of my being; it is not something that I 'own' and can give away, because such a model of possession implies that 'I' exist as myself separate from my sexuality."[168] In the terms of Heideggerian phenomenology that inform this tradition, this is to say that one's sexuality is an *existentiale*, that is, a feature of human life

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[165] Although their claims and philosophical commitments diverge, Cahill and Alcoff largely share a view of embodied selfhood and agency, which Cahill articulates and Alcoff extends in more epistemological directions. See Alcoff, *Rape and Resistance*, 122–23.

[166] Cahill, *Rethinking Rape*, 128–33.

[167] Cahill's account of embodied intersubjectivity is influenced by Rosi Braidotti, Elizabeth Grosz, Judith Butler, Moira Gatens, and Luce Irigaray. See *Rethinking Rape*, 71–108. She also draws on the more explicitly phenomenological work of Iris Marion Young and Sandra Bartky to describe how women's political and social status manifests in bodily comportment.

[168] Cahill, *Rethinking Rape*, 182–83. Cf. Maurice Merleau-Ponty, *Phenomenology of Perception*, trans. Donald A. Landes (New York: Routledge, 2012 [1945]), 156–78.

fundamental to the meaningful structure of existence.[169] In other words, the sexual aspect of my existence—like my embodiment as such—is not grasped as a phenomenon that presents itself to consciousness; it is always grasped as already a part of the consciousness that reflects upon it.

From this phenomenological foundation, Cahill deepens the justification for Pateman's rejection of a self-proprietorship model of sexual autonomy: sexuality is fundamentally misconstrued if it is treated as a quality or possession of a subject. It follows directly that moral evaluations of sexual encounters cannot rest on notions of justice borrowed from the exchange of goods or balancing of interests—as they sometimes do in both liberal and radical feminist discussions—but must take seriously how sexual engagement has a wide range of effects and meanings both for the self and for another. The effects of a sexual encounter—and therefore also of sexual violation—are enacted on the material arrangement of the body, sensations (e.g., pleasure or pain), desires, affects, and changing understandings of self that constitute subjectivity. Accordingly, it is inadequate, as I have noted at the beginning of this chapter, for the patriarchal model of male exchange of women merely to be replaced with a model where "man proposes, woman disposes."[170] Going further, however, Cahill's insight points out that it is also insufficient even if women gain the power both to propose *and* to dispose with their sexuality; the kind of autonomy enshrined as ideal for property relations is fundamentally inadequate for conceiving of how our sexuality fits within our socially embedded lives and ongoing agential practices.

Cahill's phenomenological account in *Rethinking Rape* indicates how sexual violation—and rape in particular—has effects on agency at the same time more particular and more fundamental than the harm to autonomy posited by liberal theory. First, the harms of rape are more particular because they affect women as women and men as men (and, I am sure she would add today, trans individuals as trans) in sex-specific ways not adequately conceptualized according to autonomy or property-based models.[171] Second, the harm suffered by a rape victim is more fundamental than a harm to their autonomous standing, because it often disturbs the corporeal, sexually specific basis of selfhood, which can have enduring, traumatic effects. A victim's future agency is undermined by rape's effects on that person's habituation as a body-self able to move about in the world, which includes navigating social

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[169] See Martin Heidegger, *Being and Time*, trans. John Macquarrie and Edward Robinson (Oxford: Blackwell, 1962 [1927]), 67–77.

[170] MacKinnon, *Toward a Feminist Theory of the State*, 174.

[171] Drawing on Luce Irigaray, Cahill argues that the inadequacy of many theoretical accounts of rape stems from their neglect of sexual difference.

landscapes shaped by particular, culturally specific discourses.[172] Alcoff expresses a similar insight when she observes that the effects of sexual violation often go beyond physical pain or the sense of losing autonomy over one's body; they "change the way we inhabit our bodies, our neighborhoods, our families, our social networks, and our lives."[173]

In light of the basic existential meaningfulness of sexuality for embodied selfhood—and the gendered and sexed variation in how that meaning is taken up—violations of sexual agency are experienced as uniquely intimate harms. Adopting some of Pateman's claims and supplementing them with phenomenological points, Cahill argues that the violations that produce these harms are indexed rather poorly by the distinction between consensual and nonconsensual sex.[174] In later essays, she proposes instead that what she calls "unjust sex" is wrong—regardless of whether a person consents—because of the lack of value or recognition afforded to the ongoing desires and agency of another person.[175] She argues that unjust, unwanted sex, even in the absence of coercion, often entails a wrong that arises from the failure to recognize another "as an active element in the creation of an intersubjective interaction."[176] This is to deny the efficacy of that person's sexual agency.

Cahill articulates agency as an emergent feature of the body-self, both arising from and expressed through our encounters with others. In the sexual setting, agency is the capability to shape the sexual interactions in which one engages—to "contribute meaningfully to the quality of the sexual interaction in question."[177] Cahill continues:

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[172] See also Susan Brison, *Aftermath: Violence and the Remaking of a Self* (Princeton: Princeton University Press, 2002).

[173] Alcoff, *Rape and Resistance*, 110.

[174] Cahill begins her argument for rejecting the norm of consent by reproducing Pateman's historical reduction of consenting to contracting, which I have argued against in section two. While I give more provisional reasons to reassess the norm of consent, I think Cahill is right to focus directly on sexual agency as the feature of life that gives consent ethical meaning. See Cahill, *Rape and Resistance*, 171–75.

[175] In an earlier book, Cahill articulates this wrong as a violation of an Irigarayan imperative of recognizing the difference of one's partner in such a way that they are not made derivative to one's own projects. She offers the harm of "derivatization" as a less dualistic alternative to the concept of objectification in everyday feminist discourse. See *Overcoming Objectification: A Carnal Ethics* (New York: Routledge, 2011), 32–55.

[176] "Unjust Sex vs. Rape," 754.

[177] Ibid.

> To have sexual agency is to be recognized and effective as an active element in the creation of an intersubjective interaction . . . . A robustly intersubjective sexual interaction is imbued with each person's sexual agency, while at the same time it constructs that sexual agency (not from scratch, of course; but the interaction makes a contribution, whether slight or substantial, to the ongoing becoming of that agency). A sexual subject does not merely have sexual agency prior to any given sexual interaction, as a kind of freestanding capacity or resource; rather, both the existence and the quality of that sexual agency emanates from sexual (and other) interactions.[178]

Because one's subjectivity as a body-self is mutable and fundamentally relational, agency is always heteronomous—it is "profoundly affected by bodily interactions with other subjects, specific environments, objects, and discourses of inequality."[179] Yet, agency grows out of and expresses a person's history and sense of selfhood, which impart on it great importance and value in everyday experience.

Cahill packs a lot into these descriptions of agency, and I suggest adopting most but not all of her points. I agree with Cahill's focus on the ethical significance of the effectiveness of sexual agency in one's interactions, and I value her point that agency is causally complex in the sense that it is both exerted in and produced by our encounters and relations. I also share her view that agency ought not to be conceptualized as a "freestanding capacity or resource" that one has or does not have prior to a given encounter.

However, although Cahill describes agency as dynamic and unfolding in time, I have the sense at times that the question she takes to be ethically salient is whether or not a person *has* agency within a given encounter, which has an ambiguous relationship with whether one's agency is *recognized*. On my view, which I gestured toward in chapter one, agency is best understood not as something one *has*, but as something one does, practices, enacts, or actualizes. Agency in the face of oppression, I suggested, is achieved as one pursues one's projects, and the normative significance of agency's value lies in the claim that this agency of projects should be efficacious in some fitting sense for everyone. As a consequence of these commitments, I avoid emphasizing *recognition* of one's agency by others as a fundamental aspect of what it is to "have sexual agency."[180] Instead of calling for recognition—and I concede that this may be a minor quibble with Cahill—I focus on how others materially respond to

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[178] Ibid.

[179] Ibid. In her attention to the heteronomous forces that constitute embodied agency, Cahill aims to sever her account decisively from the idea of "utter sexual autonomy," which she sees as a misguided ideal of "an individualized ability to act in the world free from the influence of others" (ibid.).

[180] In this I follow Alisa Bierria's critique of social-uptake theories of agency; see Bierria, "Missing in Action: Violence, Power, and Discerning Agency," *Hypatia* 29, no. 1 (2014): 129–45.

one's practices of agency. Practicing agency is something that all people do, but the achievement of efficacy in the pursuit of one's projects depends on others' *acknowledgment* of that agency; not just that a person recognize agency "as efficacious, ethically necessary, and valuable," but that they change their behaviors and intentions in response.[181]

Cahill describes how sexual assault—including coercion, force, or violation of someone who is incapacitated—is "an overcoming of [another's sexual] agency, or a denial of it, or a dismantling of it," whereas unwanted sex in the absence of coercion can entail a subtler manipulation of sexual agency.[182] In what Cahill categorizes as unjust sex, "the woman's sexual agency is truncated unethically, in that her agency is precluded from having a sufficiently efficacious influence on the particular inter-action."[183] This sounds closer to what I describe above. Cahill writes of such situations,

> Because her agency is merely providing a kind of ethical cover to the interaction being offered, the interaction itself does not enhance either her sexual agency (that is, it does not empower her to become more knowledgeable or forthright about her sexual needs, desires, and interests in the context of this particular relationship) nor, most likely, does it broaden her sexual subjectivity by creating more possibilities. In this sense, the interaction most likely does not contribute positively to her sexual becoming or flour-ishing. Thus, her sexual agency is hijacked, used not to forward her interests, but in fact to undermine them, particularly those interests that are related to her always-de-veloping sexual subjectivity.[184]

This excerpt highlights at least two important aspects of the self that can be undermined in unwanted sex. First, there is sexual agency as a person's capacity to know what they want or need and take action toward those aims—to actualize what Robin West calls the "hedonic connections" between desires, pleasure, preferences, and intentions.[185] Sex that is unwanted often does not foster the self-awareness

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[181] Cahill, "Unjust Sex vs. Rape," 758. Responsive acknowledgment of the agency of another is a major component of responsibility in intimate encounters as I outline it in chapter five. Note, however, that social recognition is essential for *developing* agency, even if acknowledgment may be more important than recognition for *practicing* agency. I thank Hilkje Hänel for highlighting this point.

[182] Cahill, "Unjust Sex vs. Rape," 757.

[183] Ibid., 756.

[184] Ibid., 755. Note that, although she uses the word 'knowledgeable,' Cahill by no means posits an ideal of self-transparency for sexuality. She makes clear elsewhere that, "as becoming, embodied (in-ter)subjects, sexual partners do not have complete and unfettered access to their own desires, nor is language of any sort capable of representing those desires in precisely accurate terms" (Cahill, "Recog-nition, Desire, and Unjust Sex," 316).

[185] West, "Desperately Seeking a Moralist," *Harvard Journal of Law & Gender* 29 (2006): 28–29. See chapter one, section four.

and capacities for self-expression that can strengthen agency along this dimension—neither in the immediate relationship in question, as Cahill emphasizes, nor in the ongoing ability to practice agency in the future, as I suggested in chapter one. This ongoing question of agency is the site of the second aspect of the harm of such encounters: the effect on the future possibilities of a person to participate in sex of which they can co-construct the meaning—sex whose shape and meaning will not be defined either by what has come before in one's personal history or by the imperatives provided by sometimes-harmful social norms and discourses. This is the dimension of harm to one's *sexual subjectivity*, which can be broadened or constricted by the things we do to and with one another in our encounters.

Sexual subjectivity and the agency of self-making

Linda Martín Alcoff elaborates on sexual subjectivity as a normative concept in *Rape and Resistance*, where she identifies it as a central locus of harm from sexual violation. For Alcoff, sexual subjectivity describes one's conception of and relationship with oneself, including self-directed beliefs, perceptions, feelings, and emotions that together support practices of sexual agency in one's life. It is a wide concept, which includes "desire, pleasure, will, and, most importantly, one's concernful and agential self-making," where the latter always takes place in response to cultural discourses that make particular meanings salient as we interpret our past sexual experiences and the roles we might play in future encounters.[186] Unlike normatively charged psychological concepts like sexual health, sexual flourishing, sexual confidence, or self-esteem, sexual subjectivity is a fundamentally dynamic and continuously shifting aim.[187] This is the case because the interpretive practices that produce self-understanding and enable self-making are highly context-dependent. My sexual subjectivity undergoes changes as I age, as my relationships change (I may become a father, lose a life partner, or begin dating an abusive person), and as my cultural milieu shifts both in terms of which communities I am a part of and what interpretive tools are available (such as #MeToo, perhaps). These shifting contextual factors each influence how I negotiate and renegotiate my own interpretations of past sexual experiences—particularly experiences of violation—which can play a central role in my conception of who I am, where I am coming from, and what projects are available, suitable, or desirable in my life.

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[186] Alcoff, *Rape and Resistance*, 144.

[187] Alcoff emphasizes this in her "Response" to commentators on *Rape and Resistance* in *Philosophical Studies* 177, no. 2 (2020): 311–20.

Alcoff's analysis identifies two major sources of harm to sexual subjectivity. First, she argues that sexual violation should be reconceived not as a harm to autonomy, integrity, or sexual flourishing, but as "inhibiting the very possibility of sexual self-making. What is violated is not a substantive set of normative or normal desires, but the practical activity of caring for the self. Trauma atrophies possibilities."[188] Second, pernicious discourses, such as the discourses of normative heterosexuality described in the first section of this chapter, have a profound effect on the formation and possibilities of sexual subjectivity. Especially for those who suffer sexual violation, culturally prevalent discourses allow sexual experiences to take on some meanings and not others, thereby producing canalized possibilities for victims to interpret their lives. Alcoff's account is especially rich as an analysis of how structure interacts with agency for survivors naming and interpreting lived experiences, and she carefully considers the effects of this dialectic on survivors' agential involvement in who they are and who they become over an extended temporal horizon.

Sexual subjectivity, that is, the "concernful making relationship to ourselves as sexual subjects," is dependent on available epistemic resources—language, concepts, norms, interpretive frameworks—within our particular cultural contexts, as well as on relational ties with other people with and for whom we generate our narratives.[189] The bases for subjectivity and agency are thus fundamentally heteronomous, indicating that behaviors and choices are already in some sense "downstream" from many of the most crucial influences that shape our lives. This supports a complex notion of agency that looks beyond the causal origins of one's actions and the possibility of a spontaneous or free will. Alcoff highlights the central role of discourses and social structures in subject formation, but she develops an account of the relationship between discourse and agency that carefully avoids the trap of the coercion tunnel, where agency would appear to collapse entirely in the face of oppressive discourses. To this end, Alcoff argues against Judith Butler, Joan Scott, and others who overemphasize the constraints imposed by discourse on experience and self-making. She rejects the common metaphor of "scripts" used in many poststructuralist discussions of sexual norms, in its place proposing the language of "affordances" adopted from pioneering environmental psychologist James Gibson to

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[188] Alcoff, *Rape and Resistance*, 145. This is a significant contribution to philosophical debate about the nature of sexual harms.

[189] Alcoff, *Rape and Resistance*, 121. See also Brison, *Aftermath*.

describe the opportunities for action present in an environment.[190] Where the notion of scripts suggests a psychological automatism of repetition, the language of affordances points to how interpretive possibilities are presented to us and able to be taken up in different ways, keeping visible how agency is directed not only toward proximate aims for action but also points "upstream," as we navigate even highly constraining discourses to try to make sense of our lives to better pursue our ongoing projects.

Effects of discourses on a person's subjectivity vary widely according to particularities of one's situatedness within a social context, because discursive structures and formulations operate across multiple axes—gender identity, sexuality, race, ability, religion, citizenship status, and so forth. For example, a discourse that normatively enforces practices of veiling might narrow one woman's agential relationship with her sexual subjectivity by limiting the possible ways she is permitted to relate to herself as a body in public spaces. For another woman, however, such a discourse may expand her agential capabilities by displacing dominant discourses of commodification and objectification of the body, providing room to develop her own interpretations of her body's sexual meanings. The effects of the practice in question will vary widely among people with their own particular histories, experiences, and social locations within their families, institutions, and societies as a whole.[191] Those effects will always, however, be closely tied to the history and cultural context surrounding that discourse—for example, whether a norming practice is imposed by occupying powers or transmitted with other ancestral knowledges.[192] The imperative to unveil imposed by a historically colonial power might be experienced as divesting a woman of her spiritual standing, possibilities for political dissent, or of her membership in her social community, for example, and those primary effects might in turn undermine

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[190] Alcoff, *Rape and Resistance*, 73–75.

[191] See Falguni A. Sheth, *Toward a Political Philosophy of Race* (Albany: SUNY Press, 2009), 104–6; see also Sheth, *Unruly Women: Race, Neoliberalism, and Hijab* (Oxford: Oxford University Press, forthcoming), on particular effects of veiling practices for black women in the US.

[192] For an example of the widely varying effects of normative discourses and practices—and the importance of listening to how attributions of meaning are contested—see Wairimũ Ngarũiya Njambi's discussion of genital cutting and women's agency in Njambi, "*Irua Ria Atumia* and Anticolonial Struggles among the Gĩkũyũ of Kenya: A Counternarrative on 'Female Genital Mutilation,'" in Oyèrónké Oyěwùmí, ed., *Gender Epistemologies in Africa: Gendering Traditions, Spaces, Social Institutions, and Identities* (New York: Palgrave Macmillan, 2011), 179–97.

her sense of agency over her sexual identity, her choice of intimate partners, and so forth.[193] This speaks to the necessity of intersectional analysis.

The self is both cause and effect: we are active, willful agents even as that agency can only be enacted in response to possibilities made available by our social location. Discursive structures frame agency by presenting a range of meanings that can be produced by actions or attributed to experiences—meanings that shape both intentions and the possible effects of our behaviors. A person participates to varying degrees in the process of self-formation by adopting diverse stances toward existing discursive possibilities—embracing, resisting, or remaking them where possible. For sexual selfhood in particular, this requires interpreting and navigating prevalent discourses about one's sexuality and sexual experiences, recognizing and resisting those that undermine one's abilities to interpret one's life while embracing those that facilitate the pursuit of considered life projects, desires, pleasures, and so forth.

Alcoff argues that the poststructuralist critique of experience as a mere product of anonymous discourses—championed by Joan Scott—overlooks both the agential possibilities of this moment of interpretation and the ambiguous role of embodiment in experience. Alcoff intervenes in this longstanding feminist debate by rejecting poststructuralist skepticism while retaining key concepts from Foucault and the feminist structural insight of oppressive subject-formation. Experience, she argues, is material and intersubjective, intertwined with events that happen to a body-self in a shared reality. At the same time, the social positionality of that body-self with respect to practices and discourses (what Foucault calls the "historical a priori") shapes the interpretations and many effects of those events.[194] Experiences are thus not neutral or raw, plastic material on which anonymous social discourses bestow meaning; rather, a person's particular body and social location concretely shape which events might take place and the possible effects those events might have. The materiality of the body—including its sexual specificity—thus has a primary role in shaping sexual experiences and their ongoing effects. Alcoff writes, "the meanings that can be foisted on bodies have to work within material parameters. . . . It is critical to remain attentive to the interactions between both elements—

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[193] See Alia Al-Saji, "The Racialization of Muslim Veils: A Philosophical Analysis," *Philosophy & Social Criticism* 36, no. 8 (2010): 875–902. More generally, see Serene J. Khader, *Adaptive Preferences and Women's Empowerment* (Oxford: Oxford University Press, 2011).

[194] Alcoff, *Rape and Resistance*, 56–75. Cf. Scott, "The Evidence of Experience," *Critical Inquiry* 17, no. 4 (1991): 773–97. See also Johanna Oksala, "In Defense of Experience," *Hypatia* 29, no. 2 (2014): 388–403.

material bodies and discursive contexts—if we want to understand any given event."[195] Discourses determine what interpretations will be ready to hand as we reflect on experiences of sexual violation, but they provide affordances rather than scripts for interpretation, and they cannot fully displace the role of the body in sexual subjectivity.

Understood as responsive to rather than determined by the affordances of a particular cultural and historical location, survivors' interpretations of sexual experiences can be epistemically valid—they can point toward objectively true assessments of real events—and at the same time be mediated by pernicious social norms that undermine agency. However, the value and significance of sexual subjectivity goes beyond its epistemic importance in developing better informed self-understanding and arriving at more accurate interpretations and judgment of our experiences—despite society-wide investments in juridical processes and institutions that value the objective truth of testimony above all else. The moral value attributed to sexual subjectivity is tied not just to the value inherent to knowing but to how certain practices of subjectivity become the agential power to direct our lives. The practice of concernful self-regard and self-making enables a person to exert agency over future possibilities for action and relation, including agency over how sexual encounters in the future might align with desires, considered feelings, and life projects. In this way, sexual subjectivity describes a feedback loop between discourse and bodily action: the agency a person develops to navigate discursive forces that bear on their subjectivity supports that person's capacities to shape future sexual encounters, which in turn will have effects that ripple through who a person is, what they are able to do, and how they interpret their life. In this sense, sexual subjectivity is a meta-agential practice, that is, a practice of agency that produces the conditions for future agency.

Alcoff demonstrates this with a discussion of the role of shame in survivors' interpretations of experiences of violation.[196] Survivor shame is an affective response and interpretive lens encouraged by particular, culturally specific discourses that do not foster sexual subjectivity, including both age-old ideals of feminine purity and contemporary (neoliberal) investments in the ideal that women, pre-supposed as liberated and empowered, *should* be able to avoid or forcefully refuse sex if it is not

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[195] *Rape and Resistance*, 123. Thus, Alcoff moves beyond the feminist/gender studies controversy of the 1990s over whether the notion of discursive performativity entails voluntarism over "matter," and especially the materiality of the body.

[196] *Rape and Resistance*, 119–21.

wanted.[197] By grappling with trauma in a supportive community that offers alternative, agency-fostering interpretive resources, a survivor may develop a more accurate understanding of what took place (both in terms of clearer knowledge of what happened and a better assessment of the event's moral valency of right or wrong), which might shift this feeling of shame into a more apt feeling of anger.[198] The value of this shift, however, is not merely its movement from falsity toward truth or accuracy in understanding and moral judgment; "in the shift from 'shame' to 'anger' there is a shift not merely in descriptive terms but also in relation to power."[199] The essential value of developing sexual subjectivity is the movement for the survivor themselves from a position of paralysis to a position of agential possibility with respect to the ongoing projects and relations in their life.

By emphasizing the dimension of sexual subjectivity in agency, Alcoff balances a deep appreciation for the importance we attribute to subjective experience with a sober political consciousness of how power, discourse, and other social structures can have insidious effects on subjectivity and on our agential possibilities. Perhaps most importantly in her view, her account recognizes a relationship between agency and discourse that can accommodate shared projects of resistance; agency in the form of sexual subjectivity enables people to contribute to changing discursive structures themselves, especially when people work together to imagine and generate alternative social arrangements. For the purposes of theorizing sexual ethics, Alcoff proposes her notion of sexual agency as a strategic concept that can incorporate multiple facets of sexual experience, allowing for a more differentiated understanding of the nature of sexual violation and the moral failures that violation entails. She explicitly proposes this framing as an alternative to consent-based moral evaluations because she sees it as integrating the importance of the will, desires, pleasures, and epistemic standing in a way that more deeply

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[197] Analogous discourses obstruct sexual subjectivity for men and other non-women who suffer sexual violation. See, for example, Virginia Braun et al., "'Risk' and Sexual Coercion among Gay and Bisexual Men in Aotearoa/New Zealand: Key Informant Accounts," *Culture, Health & Sexuality* 11, no. 2 (2009): 111–24; and Adam, "Constructing the Neoliberal Sexual Actor."

[198] Alcoff writes, "parched linguistic contexts can make it difficult to find the right words to express an experience, or to think through how to understand what experience one has just had." Citing the work of José Medina, she continues: "it is not brave individuals who have augmented the parched linguistic deserts of the dominant spaces so much as the collective incursions made by marginalized groups who alter, and improve, the concepts, terms, and meanings available to all" (*Rape and Resistance*, 211). On the significance of moral aptness for anger, see Amia Srinivasan, "The Aptness of Anger," *Journal of Political Philosophy* 26, no. 2 (2017): 123–44.

[199] Alcoff, *Rape and Resistance*, 146.

reflects the harms that follow from violation.[200] Whereas the norm of consent foregrounds the event of giving permission or the attitude of willingness considered at the time of an encounter, a focus on sexual subjectivity recognizes the ongoing process of negotiating one's sexual selfhood and making sense of one's own sexual experiences—each an open-ended process that ought also to be valorized in an account of dynamic responsibility to another.

V.   Conclusion: A Guiding Value for Feminist Politics and Sexual Ethics

Cahill's and Alcoff's accounts—along with resonant work by contemporary feminists such as Johanna Oksala, Sara Ahmed, Nancy Fraser, Sally Haslanger, Nancy Bauer, Sarah Clark Miller, and many others—represent a dialectical step forward in the project of describing and analyzing the relationship between agency and structure, providing a better foundation for feminist political action regarding sexual violation as compared to radical feminism in its earlier forms. They deepen the original structural insight into the socially available options for women by articulating how embodiment, social context, and agency in its immediate and long-term dimensions are more tightly woven than previously acknowledged, which enables appreciation of a wider range of contextual, choice-limiting influences beyond the transhistorical subordination of women to men. This approach facilitates better feminist critiques of institutions—like universities or prisons—that legitimate or mystify sexual violation, while opening up analysis of the particular effects of unjust structures on the lives of women of color, working-class women, native and indigenous women, disabled people, and genderqueer, trans, and nonbinary people, among others.

Further, Cahill's and especially Alcoff's approaches build on the insight of women's oppressive subject-formation by looking more closely at how the discourses in circulation provide affordances that shape epistemic resources—concepts and explanatory lenses—through which we interpret, judge, and assign meaning to our experiences and choices. In everyday sexual encounters, our choices and actions reflect orientations toward certain prevailing discourses, and our agency to resist some discourses while embracing others is dependent on both the epistemic resources at our disposal and the development of a sense of agential efficacy of the self—i.e., an empowered sexual subjectivity. This

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[200] Alcoff, *Rape and Resistance*, 144. While Alcoff takes consent to have an inherently contractual nature, a position I have opposed, our motivations for criticizing consent are broadly aligned. She is especially concerned that the norm of consent leaves unchallenged common situations of heterosexual non-reciprocity, such as situations I discuss in chapter one, where the circumstances surrounding unwanted sex fall short of coercion but nonetheless prevent women from exercising agency over their encounters.

avoids the trap of MacKinnon's "critique of desire," and it recasts society's suppression of survivors' interpretations as a question of epistemic injustice and not only one of power and domination.[201]

Carrying the structural insights of radical feminism in these directions, Cahill and Alcoff enable a more compelling foundation for critique of agency-constraining institutions and practices and of discourses that alienate the bodily aspect of the self and deaden women's (and others') capacities to engage in their own sexual self-making. As Alcoff argues in *Rape and Resistance*, much political work is needed to support the agency of women and others who are structurally disadvantaged, so they can more meaningfully shape sexual encounters to foster sexual subjectivity. This requires dismantling cultural justifications of male sexual entitlement, countering public discourses, including in legal settings, that devalue women's agency, and changing the material conditions that put some people—especially prison inmates, migrants, refugees, and sex workers of all genders—in positions of increased precarity. Rich conceptions of sexual agency and sexual subjectivity can ground these political projects in a way that non-structural notions of the norm of sexual consent cannot.

For the purposes of theorizing sexual ethics, the capacious conceptions of agency and sexual subjectivity supply a promising orientation for responsibility to another in a sexual encounter. The moral character of sexual encounters can be understood to follow from the inherent value afforded to sexual agency and sexual subjectivity without overlooking the roles of power and structure in shaping sexual choices in both the short and the long term. This recommends a feminist agency-based approach over the conventional grounding ideal of universal autonomy and the value of personal choice, which often struggle when faced with nonideal structural conditions and when considered over a longer temporal horizon. To respond to another's agency and avoid undermining a person's sexual subjectivity into the future require pursuing relations that do not erode another person's epistemic and interpretive resources to make sense of experiences, allowing that person to actively participate in the production of their sexual self. On a societal level, this can be translated into a concrete political prescription for how sexual ethics should be approached: we must acknowledge a collective responsibility to rethink "what counts as normal, or commonplace, sex, as well as what counts as normative, or morally blameless, sex" in light of an improved understanding of the nature of sexual

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[201] See *Rape and Resistance*, 123–25.

violation.[202] For interpersonal responsibility within a sexual encounter, however, the implications of the value of agency and sexual subjectivity demand more analysis.

By integrating key structural insights into the ethical sphere, a feminist, agency-based sexual ethics supports the rejection of both the minimalist ethic of consent (that is, consent as necessary and sufficient to make an encounter morally permissible) and the standard philosophical account of consent as giving permission and lifting an obligation. I have argued, however—and this is perhaps my only significant point of divergence from Alcoff and Cahill—that practices of consenting play a role in relational responsibility in sexual encounters. The moral significance experienced as emanating from sexual communications of consenting and affirming—even under compromised agential conditions—suggests that consent does more than provide an ideological cloak of legitimacy for structural injustice and the morally reprehensible behavior of others. Without accepting the oversimplifications of contractual or permission-giving conceptions of consent, I include consenting in the wider range of sexual expressions that solicit responsibility of another, as I discuss in chapters four and five.

What does it look like for another's sexual agency and sexual subjectivity to be taken up as the values that provide an ongoing orientation for responsibility to that person, rather than as criteria, like consent, that might be fulfilled and renegotiated only at salient moments in an encounter? If sexual agency is an emergent feature of self that unfolds intersubjectively over time, as I agree with both Cahill and Alcoff that it is, then it cannot be supplied to a person in advance like the right to vote or the legally enshrined authority to dispose of one's property as one sees fit. Instead, a person's sexual agency only emerges concretely in an encounter through the actual relations among a person's behaviors, desires, feelings, intentions, and projects, which means it becomes present to a partner in real time in a way that is always only potentially efficacious, always vulnerable to foreclosure.

To build sexual ethics on the framework of agency understood in the way that has emerged here requires figuring out how the value of another's agency becomes present to me in the interchange of everyday relationality—that is, how another can solicit the concrete changes to my actions that responsibility demands. How ought this responsibility to be enacted in an encounter that takes place in the midst of uncertainty, in light of both the inherent ambiguity of intersubjective intimacy and the challenges posed by a particular social setting permeated by discourses that both obscure and shape

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[202] Alcoff, *Rape and Resistance*, 113. The particular actions called for by each person's responsibility for social change might be articulated according to the roles people occupy within the unjust structure, as Robin Zheng argues in "What Is My Role in Changing the System? A New Model of Responsibility for Structural Injustice," *Ethical Theory and Moral Practice* 21, no. 4 (August 2018): 869–85.

sexual subjectivity for both myself and another person? The question of how another's agency and subjectivity are grasped to motivate responsibility in an intimate encounter will be a primary theme addressed in chapters four and five. First, however, further reflection is needed on how particular contexts of agency formation affect responsibility, especially when agency is enacted as a practice of resistance under constraining social conditions such as racism, sexism, and heteronormativity. With a focus on the life and work of Audre Lorde, the next chapter examines how a socially situated, oppositional agency, emerging from a concernful practice of self-making, can structure responsibility in intimate relations and produce novel demands for sexual ethics.

CHAPTER THREE
AUDRE LORDE'S OPPOSITIONAL AGENCY, RESISTANCE, AND EROTIC RESPONSIBILITY

In a striking interview with fellow poet Adrienne Rich, Audre Lorde describes how being asked for justification of what she intuitively feels to be true is experienced as an attack, "a total wipe-out of my modus, my way of perceiving and formulating."[203] Rich bristles at this characterization, and the conversation continues:

> *Adrienne*: There are times when I simply cannot assume that I know what you know, unless you show me what you mean. . . . Help me to perceive what you perceive. That's what I'm trying to say to you.
> *Audre*: But documentation does not help one perceive. At best it only analyzes the perception. At worst, it provides a screen by which to avoid concentrating on the core revelation, [to avoid] following it down to how it feels. Again, knowledge and under-standing. They can function in concert, but they don't replace each other. . . . I don't know about you, Adrienne, but I have a difficult enough time making my perceptions verbal, tapping that deep place, forming that handle, and documentation at that point is often useless. Perceptions precede analysis just as visions precede action or accom-plishments. (SO 104)

The conversation progresses with a conciliatory tone. Rich acknowledges that Lorde's poems are themselves a form of documentation and that her own demand for evidence is motivated in part by resistance, as a white woman, to Lorde's perceptions of the racist world they share—resistance to the changes to her life demanded by recognizing her own complicity.

Rich's feeling of resistance reflects a truth about Lorde's work: Lorde calls for her listener to respond, to make changes. Lorde writes about feeling, survival, solidarity, and global justice to pose a

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[203] Lorde, "An Interview: Audre Lorde and Adrienne Rich," in *Sister Outsider: Essays and Speeches* (Free-dom: Crossing Press, 1984; hereafter cited as SO), 104. A shorter version of this chapter published as Caleb Ward, "Feeling, Knowledge, Self-Preservation: Audre Lorde's Oppositional Agency and Some Implications for Ethics," *Journal of the American Philosophical Association* (2020).

confrontation to others, so that her reflections and analyses may be taken up and put to use.[204] Her first commitment is to aid those, like her, struggling against multiple forms of racialized, gendered, and sexualized oppression. But she also writes to demand something of those, like Rich, whose similarities to her (as women, as lesbians, or as poets) position them to become allies across differences of race; she demands that they not turn away from "the cold winds of self-scrutiny."[205]

What does it look like for philosophers to heed Lorde's call for self-scrutiny, not only by transforming the institutional and interpersonal politics that govern the discipline, but by taking seriously Lorde's insights, valuing the black feminist perspective that produces them, and allowing philosophical positions and motivations to be reshaped in response? A close reading of Lorde's work reveals her challenge to theorists to produce writing and thought more adequate to the complexities of agency, selfhood, and relationality—especially as those aspects of life are shaped by oppression in its many dimensions. Yet, while her stature in social theory and cultural criticism continues to grow, scant attention has been paid to the implications of her work for ethics.[206] Theorists across disciplines have drawn on Lorde to explore racialized experience, identity, and resistance,[207] as well as solidarity and coalitional politics across difference.[208] Independently, Lorde has become a primary reference point for philosophical work on anger, especially in its political dimensions.[209] Feminist thinkers have

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[204] Fellow black feminist poet June Jordan writes: "Hers is not an obscure nor a stingy offering of ephemeral, optional considerations you may or may not examine at your leisure. Her work is a poetry to be used, to be guided by, to be changed by, deeply" ("Introduction at American Academy of Poets, 1977," quoted in Tamara Lea Spira, "The Geopolitics of the Erotic: Audre Lorde's Mexico and the Decolonization of the Revolutionary Imagination," in *Audre Lorde's Transnational Legacies*, ed. Stella Bolaki and Sabine Broeck [Amherst: University of Massachusetts Press, 2015], 177).

[205] Lorde, "Uses of Anger: Women Responding to Racism," in SO, 132.

[206] One exception is Ruth Ginzberg, "Philosophy Is Not a Luxury," in *Feminist Ethics*, ed. Claudia Card (Lawrence: University Press of Kansas, 1991), 126–45.

[207] See Sara Ahmed, *The Cultural Politics of Emotion* (New York: Routledge, 2014 [2004]); Jennifer C. Nash, "Practicing Love: Black Feminism, Love-Politics, and Post-Intersectionality," *Meridians* 11, no. 2 (2013): 1–24; AnaLouise Keating, *Transformation Now! Toward a Post-Oppositional Politics of Change* (Urbana: University of Illinois Press, 2013), 89–110.

[208] See Mariana Ortega, "Being Lovingly, Knowingly Ignorant: White Feminism and Women of Color," *Hypatia* 21, no. 3 (2006): 56–74; and Devonya N. Havis, "'Now, How You Sound': Considering a Different Philosophical Praxis," *Hypatia* 29, no. 1 (2014): 237–52.

[209] See, for example, Diana Tietjens Meyers, *Being Yourself: Essays on Identity, Action, and Social Life* (Lanham: Rowman & Littlefield, 2004), 145–55; Lisa Tessman, *Burdened Virtues: Virtue Ethics for Liberatory Struggles* (Oxford: Oxford University Press, 2005), 116–22; Amia Srinivasan, "The Aptness of Anger,"

also long valued Lorde's concept of the erotic, which is treated with increasing nuance in contemporary discussions, although further philosophical exploration would be beneficial.[210] Outside these projects, however, it is still too often the case that Lorde is quoted without context or only included as a name in lists of black and queer feminist thinkers. I believe rich philosophical insights have not yet been appreciated for lack of a more comprehensive, contextualized understanding of Lorde's thought.

This chapter is a meditation on the agency that Lorde describes as supporting her considered actions and on how philosophical approaches to ethics might learn from it, especially how it might inform analyses of responsibility in intimate encounters.[211] In sections one and two, I examine Lorde's descriptions of how she uses the knowledge that comes from feeling deeply to pursue survival. I identify five figures in her account that articulate how she develops and practices agency in opposition to intersecting forces of disempowerment: self-preservation, knowing by feeling deeply, poetry, the erotic, and "not looking the other way" from her experience.[212] In section three, I explore how attending to the validity of Lorde's oppositional agency might disrupt common assumptions in moral theory and sexual ethics—specifically, presenting a different challenge to the centrality of sexual consent in responsibility to another in a sexual encounter. Reading two vignettes from Lorde's semi-autobiographical writing, I argue that her encounters ought to be contextualized within her oppositional agency, and that attending to that agency reveals a particular character of responsibility beyond soliciting and respecting a partner's consent.

Journal of Political Philosophy 26, no. 2 (2017): 123–44; Fulden Ibrahimhakkioglu, "The Revolutionary Politics of Love: Pussy Riot and Punk Rock as Feminist Practice," in *New Philosophies of Sex and Love: Thinking through Desire*, ed. Sarah LaChance Adams, Christopher M. Davidson, and Caroline R. Lundquist (London: Rowman & Littlefield International, 2017), 125–43; Myisha Cherry, "Love, Anger, and Racial Justice," in *The Routledge Handbook of Love in Philosophy*, ed. Adrienne M. Martin (New York: Routledge, 2019), 157–68.

[210] See contemporary discussions of the erotic in Christa Davis Acampora, "Authorizing Desire: Erotic Poetics and the *Aisthesis* of Freedom in Morrison and Shange," in *Unmaking Race, Remaking Soul: Transformative Aesthetics and the Practice of Freedom*, ed. Acampora and Angela L. Cotten (Albany: State University of New York Press, 2007), 59–78; Angela Willey, *Undoing Monogamy: The Politics of Science and the Possibilities of Biology* (Durham: Duke University Press, 2016), 125–39; and Amber Jamilla Musser, *Sensual Excess: Queer Femininity and Brown Jouissance* (New York: New York University Press, 2018).

[211] Note that by responsibility, I mean responsibility *to another*, in the relational, first-personal sense of the ongoing practice of responding to another in ethically appropriate ways—particularly to one's obligations in light of how one's behaviors can harm another. I do not mean the administrative question of identifying who caused harm, apportioning blame, and articulating just deserts. See chapter one, section three.

[212] Lorde, "Uses of the Erotic: The Erotic as Power," in SO, 58.

I.   The Agency to Pursue Self-Preservation

Lorde articulates her selfhood according to dynamic identity markers—black, lesbian, feminist, mother, poet, cancer survivor—that each require active sustenance in a society invested in denying her value and undermining her agency. She writes, "I am constantly defining my selves, for I am, as we all are, made up of so many different parts. But when those selves war within me, I am immobilized, and when they move in harmony, or allowance, I am enriched, made strong."[213] Lorde uses the term 'self-preservation' to refer to the project of developing and integrating these facets of self in the absence of hermeneutical resources (that is, interpretive tools) or empowering conventions to support the human relationships she seeks. Self-preservation includes fostering integrity, learning to balance among the inner tensions of her multiplicitous identity, and resisting societal forces that threaten to impose on her a "narrow individuation of self" tethered to one mode of living (for example, as black or as a lesbian) at the expense of the others.[214] Specifically, Lorde seeks to resist the pitfalls of internalized racism, misogyny, and homophobia that block the personal and communal relationships of mutual support that she (like other black and queer women) needs to survive. The task of self-preservation demands active practices of making sense of her life, developing her own terms to define her life projects, and creating relationships that go against the impoverished models made available by her society.[215]

While not reducible to subsistence, self-preservation can be a matter of life and death because, Lorde tells us, the suppression or subjugation of aspects of the self can have catastrophic effects. She describes in her writing how the women in her past who did not survive were those who were forced to neglect or deny life to a part of themselves. In her novel-memoir, *Zami: A New Spelling of My Name* (1982), she reflects, "many of us wound up dead or demented, and many of us were distorted by the

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[213] Lorde, "Self-Definition and My Poetry," in *I Am Your Sister: Collected and Unpublished Writings of Audre Lorde*, ed. Rudolph P. Byrd, Johnetta Betsch Cole, and Beverly Guy-Sheftall (Oxford: Oxford University Press, 2009; hereafter IAYS), 156.

[214] She reflects on her years of early adulthood as a lesbian: "each of us had our own needs and pursuits, and many different alliances. Self-preservation warned some of us that we could not afford to settle for one easy definition" (Lorde, *Zami: A New Spelling of My Name* [Freedom: Crossing Press, 1982], 226; hereafter cited as Z).

[215] In the words of María Lugones, "resisting intermeshed oppressions is activity in response to forces training one into multifaceted, subservient inhabitations of power-mined intersubjective spaces" (Lugones, "Tactical Strategies of the Streetwalker," in *Pilgrimages/Peregrinajes: Theorizing Coalition against Multiple Oppressions* [Lanham: Rowman & Littlefield, 2003], 223).

many fronts we had to fight upon" (Z 225).[216] In three terse, heartbreaking sentences, she tells the story of Muff, another black lesbian in the predominantly white, 1950s New York gay scene: "She sat on the same seat in the same dark corner of the Pony Stable Bar drinking the same gin year after year. One day she slipped off onto the floor and died of a stroke right there between the stools. We found out later her real name was Josephine" (Z 178). In Lorde's telling, this is Muff's whole story: a life cornered into stagnation within a tragically narrow expression of selfhood, with nobody close enough to learn the aspects of that self—including her other names (a central theme in *Zami*), where she came from—whose expression might have brought other possibilities.

The term 'self-preservation' for Lorde does not connote the persistence of a static identity, but an active unfolding of particular aspects of her selfhood in her relationships and life activities. It is a dynamic process of self-making that cannot avoid responding to external constraints; to survive, she writes, "for Black/Poet/Women is synonymous with grow" (IAYS 158). In a social environment that denies her status as a person or an agent, Lorde cannot flourish merely by maintaining her standing. Her agency to pursue projects and relations that give life meaning requires actively bending her surroundings into a shape that can support her multiple identities—"seeking a now that can breed futures."[217] Self-preservation also requires finding her own epistemic resources for self-understanding, as I discuss in the next section. These challenges of fostering agency and a dynamic sense of selfhood in a hostile society are core concerns of decolonial and black feminist thought.[218] As Frantz Fanon

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[216] *Zami* is a long-form prose piece about coming of age, what Lorde calls her "biomythography." For detailed discussion of uses of memory and mythology for self-definition in this piece, see AnaLouise Keating, "Making 'Our Shattered Faces Whole': The Black Goddess and Audre Lorde's Revision of Patriarchal Myth," *Frontiers* 13, no. 1 (1992): 20–33; and Anh Hua, "Audre Lorde's *Zami*, Erotic Embodied Memory, and the Affirmation of Difference," *Frontiers* 36, no. 1 (2015): 113–35. For how *Zami* should be read in relation to historical truth, see also Alexis de Veaux, *Warrior Poet: A Biography of Audre Lorde* (New York: Norton, 2004), 13.

[217] Lorde, "Litany for Survival," in *The Black Unicorn* (New York: Norton, 1978), 31. See discussion of the agency of projects in chapter one, section one.

[218] See, e.g., M. Jacqui Alexander, *Pedagogies of Crossing: Meditations on Feminism, Sexual Politics, Memory, and the Sacred* (Durham: Duke University Press, 2005): "the fact of the matter is that there is no other work but the work of creating and re-creating ourselves within the context of community" (308). See also the discussion of Linda Martín Alcoff's account of concernful self-making in chapter two, section four.

and others have argued, racialization and other forms of oppression obstruct the capacities to perceive, to know, and to intend that are the building blocks of agency in this sense.[219]

Because the different faces of her identity must be able to grow and change, Lorde cannot achieve self-preservation simply by orienting her actions toward safety or securing herself against possibilities of upheaval and pain in her life. To pursue security instead of self-preservation, according to Lorde, is to dedicate oneself to a doomed project of insulating against the world, numbing oneself to the feelings that inexorably arise in a life where a person and her loved ones cannot avoid struggle.[220] Security promises to make subsistence possible, but it also allows one's definitions and expressions of self to be dictated by an oppressive social context, foreclosing the development of agency, or a capacity and power of self-making within one's chosen and unchosen communities. It also cuts off feelings that, as we shall see, may be indispensable for the development of knowledge and resistance.

In *Zami*, Lorde explicitly dramatizes the commitment to self-preservation over security. She describes lying curled up in bed the night before her eighteenth birthday, enduring waves of excruciating pain as a coiled Foley catheter—that "cruel benefactor"—hardens in her uterus. Waiting for her body to expel the unwanted fetus inside her, she identifies her action as self-preservation: "Even more than my leaving home, this action which was tearing my guts apart and from which I could die except I wasn't going to—this action was a kind of shift from safety towards self-preservation. It was a choice of pains. That's what living was all about. I clung to that and tried to feel only proud. I had not given in. I had not been merely the eye on the ceiling until it was too late" (Z 111). Here Lorde pursues a form of self-making that entails choosing among pains while simultaneously working to generate new possibilities. In contrast to an impervious shell of security that enables the subsistence of a fossilized self, self-preservation is the pursuit of expression that reflects some form of self-making, even if sometimes limited to choosing one's pains in a manner loyal or responsive to one's feelings of selfhood. Framing agency as a "choice of pains" makes plain that self-preservation is not the pursuit of an ideal of full subjectivity, of autonomous powers and freedom for a self comfortably at home in a stable location of identity. To make life livable—to establish "real resistance to the deaths we are expected

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[219] See discussions in Fanon, *Black Skin, White Masks*, trans. Richard Philcox (New York: Grove Press, 2008 [1952]); and Lewis R. Gordon, *Bad Faith and Antiblack Racism* (Amherst, NY: Humanity Books, 1995).

[220] This shape of living is exemplified in Lorde's work by the figure of her mother, who is absorbed in futile efforts at cultivating a shell for her daughters, so that they might be "forged into some pain-resistant replica of herself" (Z 101).

to live"—is the only substantive mode of survival available to a person pervasively denied value and agency by default structures of her society (SO 38).

II. Lorde's Epistemic Foundations for Agency and Resistance

Across her work, Lorde expresses repeatedly that the knowledge she gains from feeling is the key to aligning her actions toward self-preservation.[221] She elaborates on this frame for agency in her theoretical discussions of poetry, the erotic, and the imperative to face feelings such as anger and fear.[222]

Feeling deeply as a source of knowledge

Patricia Hill Collins writes, "Black women's empowerment involves rejecting the dimensions of knowledge that perpetuate objectification, commodification, and exploitation" in favor of "those dimensions of our individual, group, and formal educational ways of knowing that foster our humanity."[223] Because prevalent values and dominant sources of knowledge at best accommodate—and at worst actively perpetuate—justifications for devaluing lives like hers, Lorde cannot develop possibilities for self-preservation by gaining fluency in master discourses. There are inevitably moments where societal hostilities puncture the privileges afforded by dominant modes of knowing—for example, an encounter with the police, an attempt to report sexual assault, or an everyday experience of racist

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[221] See, for example, "Poetry Is Not a Luxury," in SO, 37; and "A Burst of Light: Living with Cancer," collected in IAYS, 149.

[222] See Lorde, "Poetry is Not a Luxury"; "Uses of the Erotic"; "The Uses of Anger"; and "Eye to Eye: Black Women, Hatred, and Anger"; all collected in SO. See also Lorde, "Turning the Beat Around: Lesbian Parenting 1986"; and "My Words Will Be There"; collected in IAYS.

[223] Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, revised ed. (New York: Routledge, 2000 [1990]), 308.

exclusion from public space.[224] Thus, Lorde must look elsewhere to find reliable epistemic resources—both informational and hermeneutical—for understanding the realities of her life.[225]

For Lorde, feeling deeply is the source of information necessary for pursuing her project of self-preservation. Dedicated to reading and learning from a young age, Lorde discovered there were aspects of her experience—necessities imposed on her as she navigated a racist environment—that pointed toward truths about the world for which she found no evidence or explanation in the formal educational resources of books or school. She felt on a daily basis the effects of invisible forces shaping her possibilities, but the logic of those forces remained shrouded in mystery. Communal modes of articulating this knowledge also eluded her, as she was isolated from black peers, and her parents stubbornly avoided discussion of the oppressive forces affecting their lives. As she matured and sought to make sense of her situation, it became clearer to her that the conventional wisdom shared by her white peers and their parents fell short of explaining what she began to know, through living, to be true.

With the failure of formal and communal explanations, Lorde turned inward to focus on her individual perception of the truths that governed her survival—truths both about herself and about the world. She found that feeling was the dimension of her experience that attested to those truths, and she learned to pay attention to feeling as a way of perceiving what remained implicit in her racist and sexist surroundings.

Poetry to produce knowledge and understanding

Thematically in *Zami* and explicitly in the interview with Rich, Lorde describes her organic experience of thought as "bubbling up" from a chaos of feeling, as lacking organization or structure

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[224] Patricia Williams explores such experiences extensively in *The Alchemy of Race and Rights: Diary of a Law Professor* (Cambridge, MA: Harvard University Press, 1991). Her account of epistemic exclusions that follow from physical racial exclusion is discussed in detail in Kristie Dotson, "A Cautionary Tale: On Limiting Epistemic Oppression," *Frontiers* 33, no. 1 (2012): 26–28. See also Kristie Dotson and Marita Gilbert, "Curious Disappearances: Affectability Imbalances and Process-Based Invisibility," *Hypatia* 29, no. 4 (2014): 873–88.

[225] Informational resources purport to explain the world, while hermeneutical resources enable a person to interpret and make sense of experiences both to themselves and to others. For this distinction, see Miranda Fricker, "Epistemic Contribution as a Central Human Capability," in *The Equal Society: Essays on Equality in Theory and Practice*, ed. George Hull (Lanham: Lexington Books, 2015), 76; cited in Emmalon Davis, "On Epistemic Appropriation," *Ethics* 128, no. 4 (2018).

to enable it to be crafted into something resembling analytic understanding (SO 83). She says of her early adulthood,

> [thinking was a process] I had come to suspect because I had seen so many errors committed in its name, and I had come not to respect it. On the other hand, I was also afraid of it because there were inescapable conclusions or convictions I had come to about my own life, my own feelings, that defied thought. And I wasn't going to let them go. . . . But I couldn't analyze or understand them because they didn't make the kind of sense I had been taught to expect through understanding. There were things I knew and couldn't say. And I couldn't understand them. (SO 87–88)

She found herself confused and alienated, not only lacking the intellectual understanding required to conform in school, but also lacking recognition that the knowledge she needed for self-preservation could be found in the insights provided by her feelings. (Notice Lorde's distinction between knowledge and understanding, which persists across her writings: knowledge is perception and awareness of reality that one recognizes and valorizes as reasons for acting, while understanding is the intellectual mode of examining, analyzing, and explaining such knowledge.) Frustrated with the resources for understanding available to her, she learned to produce poetic images that would enable her felt perceptions to develop into something that could be used and shared to motivate action.

Lorde writes, "it is through poetry that we give name to those ideas which are—until the poem—nameless and formless, about to be birthed, but already felt" (SO 36). Through poetry, Lorde examines and valorizes as knowledge what she feels deeply, enabling her to express, act on, and share that knowledge with others. Prior to finding her poetic voice, she explains, "all I had was the sense that I had to hold on to these feelings and that I had to air them in some way" (SO 88). By learning to express herself poetically, she clarifies this confused lifeline of feeling and molds it into something that can be more properly described as knowledge: "When I wrote something that finally had it, I would say it aloud and it would come alive, become real. It would start repeating itself and I'd know, that's struck, that's true. Like a bell. Something struck true. And there the words would be" (SO 88). She discovered poetry as a bridge between the chaotic depths of feeling and the world in which action and communication must take place.[226]

Thus, feeling, knowing, and understanding are the three major figures in Lorde's practical epistemology. Feeling is the core element—not emotions or sensations, per se, but a chaotic wellspring

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[226] For discussion, see Gloria T. Hull, "Living on the Line: Audre Lorde and *Our Dead Behind Us*," in *Changing Our Own Words: Essays on Criticism, Theory, and Writing by Black Women*, ed. Cheryl A. Wall (New York: Routledge, 1990), 169–72.

of perception, something inside whose often-obscure presence presses on her consciousness.[227] According to Lorde, this deep feeling at times presents itself as confusion, but it can also give rise to a knowledge of who she is, of what society demands of her, and of what she should be unwilling to give up. This knowledge, when it can be achieved, serves as ground for her actions, and she attributes to it her successes at surviving and preserving her multifaceted identity. Such knowing arises prior to the analytic modes of thought—for example, logical reasoning, prose writing—that build an understanding that enables an idea to be manipulated and discussed.

Epistemologists may be skeptical of this account of poetry and felt knowledge.[228] Lorde departs from the view that knowledge is developed as a product of honing the understanding: according to Lorde's interpretation of her experience, it is not the case that she reflects rationally on her feelings to gain an analytic understanding that can confer epistemic validity (that is, to *justify* her true beliefs). Instead, her account shows the development of a kind of knowledge that grows directly from the feelings partially hidden in her experience. This knowledge to Lorde is something deeper than and prior to understanding: it is "that dark and true depth which understanding serves, waits upon, and makes accessible through language to ourselves and others," as she writes in her famous open letter to Mary Daly (SO 68). If epistemologically heterodox, this theme is familiar in aesthetic discussions of poetry. In the words of Stanley Cavell, "there is a natural problem of *making* such experiences [of inner self] known . . . because one hasn't forms of words at one's command to release those feelings, and hasn't anyone else whose interest in helping to find the words one trusts. (Someone would have to *have* these feelings to know what I feel.) Here is a source of our gratitude to poetry."[229] For Lorde, a deep feeling valorized through poetry as conscious knowledge can align actions toward self-preservation, aided by but not dependent on understanding.

Although her account is controversial, taking seriously Lorde's analysis of her experience can productively trouble assumptions about the status and origins of knowledge with respect to action. By locating knowledge in her deep feelings, Lorde attests that knowing is a value-laden practice in the

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[227] She warns that sensation can be trivial, confused, and even stripped of feeling, as in the hypersensational production of pornography (SO 54). However, she sometimes uses the word 'sense' interchangeably with feeling and perception—a usage that dovetails with the discussion of Levinasian relational ethics in chapter three and its elaboration in four.

[228] But see Alexis Shotwell, *Knowing Otherwise: Race, Gender, and Implicit Understanding* (University Park: Pennsylvania State University Press, 2011), 24–28.

[229] Cavell, "Knowing and Acknowledging," in *Must We Mean What We Say? A Book of Essays*, 2nd ed. (Cambridge: Cambridge University Press, 2002 [1969]), 245, emphasis original.

context of her life—a recurring theme in black feminist thought.[230] The value of her claims to knowledge emanates from a more personal source than the formal validity or truth value of her propositional beliefs; it comes from how what she feels to be true can serve her self-preservation. In other words, publicly validated modes of analysis and understanding are only valuable to her insofar as they expand possibilities for survival, which they only do when directed by her deeper, full-bodied sense of what is true and what is right. She makes this position more or less explicit in her conversation with Adrienne Rich: "Rationality is not unnecessary. It serves the chaos of knowledge. It serves feeling. It serves to get from this place to that place. But if you don't honor those places, then the road is meaningless. . . . I don't see feel/think as a dichotomy. I see them as a choice of ways and combinations" (SO 100–1).

When deep feeling is valorized as a source of knowledge, Lorde claims, understanding becomes an aid to a greater vision of self-preservation, which for her is by necessity a vision of future possibilities that depart from present realities: "the possible shapes of what has not been before exist only in that back place, where we keep those unnamed, untamed longings for something different and beyond what is now called possible, and to which our understanding can only build roads" (SO 101).[231] However, for such longings to become reality, the chaotic wellspring of feeling must become clarified and raised to a form that enables it to motivate one's pursuit of actions and relationships.

III.   Motivating Action through the Power of the Erotic

Because Lorde's agency meets constant friction from her social context, she requires significant energy to fuel the work of grappling with feeling, expressing feeling in poetry, and acting on the knowledge thereby distilled. In perhaps her most widely read essay, "Uses of the Erotic," Lorde describes the erotic as the power that provides energy for self-preservation—energy to integrate pursuits around "making our lives and the lives of our children richer and more possible" (SO 55). Not necessarily sexual, the erotic becomes available when a person allows themself to feel deeply, and it makes possible the affirmation of those deep feelings—through poetry in Lorde's case, as described above—as a knowledge that they can then find ways of bringing to action. Describing the erotic in terms of

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[230] See Collins, *Black Feminist Thought*, 284–85.

[231] See discussion in Kara Keeling, *Queer Times, Black Futures* (New York: New York University Press, 2019), xi–xvi.

feeling, knowledge, and understanding, Lorde writes obliquely that feeling "is the first and most powerful guiding light toward any understanding. And understanding is a handmaiden which can only wait upon, or clarify, that knowledge, deeply born. The erotic is the nurturer or nursemaid of all our deepest knowledge" (SO 56). By nurturing her felt knowledge, the erotic enables her to "live from within outward," mobilizing her perceptions to give purpose to her actions of resistance and to illuminate their impact (SO 58).

Lorde's description of the erotic contests the distinction between sex and other creative, intimate encounters, but she does not suggest that all intimate activities are inherently erotic. The erotic is not just a matter of what we do, but a qualitative way of doing these things: "a question of how acutely and fully we can feel in the doing" (SO 54). This suggests, contra some interpretations, that Lorde's project is not a call for sexuality to permeate all areas of life.[232] Further, it is limiting to read the erotic as primarily a question of desire, as Christa Acampora does; *feeling* is more central than desire for the erotic power to drive Lorde's agency.[233] Lorde describes how the kind of deep feeling that activates the erotic can take place in the private engagement of a person with her work—"dancing, building a bookcase, writing a poem, examining an idea"—or in a shared undertaking. Essential to the erotic is opening oneself to what is felt in such practices, which enables valorizing those feelings as knowledge that can then organize one's actions.[234]

By focusing on the erotic as a power, my interpretation differs slightly from that proffered by Alexis Shotwell in *Knowing Otherwise* (2011). Shotwell describes the erotic as an "affective feeling-scape with political content," itself a source of implicit knowledge.[235] She takes poetry's function to be linking the erotic to "more traditional ways of knowing"—that is, to what Lorde calls understanding.[236] I have

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[232] Roderick Ferguson and Cynthia Willett both seem to suggest that Lorde's erotic is a call for sexuality to permeate all areas of life. See Ferguson, "Of Sensual Matters: On Audre Lorde's 'Poetry Is Not a Luxury' and 'Uses of the Erotic,'" *Women's Studies Quarterly* 40, no. 3/4 (2012): 298; and Willett, *Interspecies Ethics* (New York: Columbia University Press, 2014), 23.

[233] Compare to Acampora, "Authorizing Desire," 71–72. Despite this limitation, Acampora's interpretation is generative for connecting the erotic to the role of imagination in practices of freedom.

[234] Note that Lorde develops and proffers her account of the erotic from her particular subject position, and she does not profess to describe a universal structure of experience with the same meanings and effects for all. While it is a deep resource for Lorde, the erotic as she describes it may not be accessible for someone socially invested with privilege and a sense of entitlement. I thank Andrea Warmack for emphasizing this point.

[235] Shotwell, *Knowing Otherwise*, 25.

[236] Ibid., 27.

described above, however, how the source of knowledge for Lorde is feeling itself, and the function of poetry is to bring deep feeling to the surface, where it can be recognized as knowledge and enjoy the potential for understanding. Contra Shotwell, I read Lorde's erotic as the power that accompanies feeling deeply, that can motivate both the poetic work of self-recognition and other actions that move out from it.[237] Ultimately, however, the ambiguities between the functions of poetry and the erotic in Lorde's descriptions are productive and probably intentional; they highlight how power and perception are inseparable in the movement toward self-preservation through expression and action.

"Uses of the Erotic" has given rise to a number of competing interpretations in part because Lorde uses metaphor and imagery to describe the erotic without defining it. In her words, the erotic is a "source of power and information," "a resource within each of us that lies in a deeply female and spiritual plane," a "measure between the beginnings of our sense of self and the chaos of our strongest feelings," and an "internal sense of satisfaction" (SO 53–54). These varied formulations have led some to interpret the erotic statically as a description of desire or a prescription of how sex ought to be shaped, overlooking its context as a key term within Lorde's praxis of everyday self-preservation.[238] Further, Lorde's valorization of deep feelings has raised concerns from both rationalists and post-structuralists that the erotic presupposes an ostensibly authentic core of self. This contributes to a sense among critics that the notion of the erotic is perhaps tragically optimistic: how can one know whether such feelings necessarily point one toward good rather than harmful actions?[239] And what of the exclusions that may be authorized by the characterization of the erotic as lying "in a deeply female and spiritual plane" (SO 53)? The apparent problem of gender essentialism has led some feminists and queer theorists to criticize Lorde as an exemplar of "cultural feminism," that is, the movement to (re)valorize the feminine or womanly traits devalued by patriarchy.[240]

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[237] In this, my reading is more closely aligned with the analysis in Keating, *Transformation Now!*, 89–110.

[238] See, for example, Martha C. Nussbaum, "Objectification," *Philosophy & Public Affairs* 24, no. 4 (1995): 249–91.

[239] Cheryl Hall, for example, groups Lorde with other feminists to whom she attributes the misguided assumption "that our deepest feelings, passions, and desires are for the best." Her argument, however, suffers from a decontextualization of Audre Lorde's account: Hall misses the imperative of self-preservation behind Lorde's epistemology of feeling, and she overlooks Lorde's writings about transforming negative affects into energy for action. See Hall, "Politics, Ethics, and the 'Uses of the Erotic': Why Feminist Theorists Need to Think about the Psyche," in *Daring to Be Good: Essays in Feminist Ethico-Politics*, ed. Bat-Ami Bar On and Ann Ferguson (New York: Routledge, 1998), 3–14.

[240] On cultural feminism, see discussion in Linda Alcoff, "Cultural Feminism versus Post-Structuralism: The Identity Crisis in Feminist Theory," *Signs* 13, no. 3 (1988): 405–36.

These questions raised by Lorde's descriptions of the erotic demand serious consideration. While I do not explore these challenges in detail here, I hope my discussion in this chapter draws attention to some resources internal to Lorde's thought that can support future work in this area. Lorde's commitment to the truth of deep feelings cannot be properly understood when decontextualized from her praxis of oppositional agency and from the teleology of self-preservation that orients her life. Those worried about the problem of the authenticity of feelings should also consider Lorde's nuanced writings about the political and social dimensions of negative feelings and the work required to convert them into fuel for self-preservation, as discussed below. For those concerned about gender essentialism, there might also be resources, as some have suggested, in Lorde's notion of the self as continuously undergoing change across every dimension of identity.[241] Others have read Lorde as deploying a tactical or strategic essentialism that is politically useful for one whose subject position is often under attack.[242]

For the purposes of this chapter, however, a methodological commitment persuades me to look beyond the controversies surrounding Lorde's erotic. To consider sincerely Lorde's wider account of oppositional knowledge developed from feeling requires that her interpretive insights about her life be granted provisional testimonial authority. Lorde's valorization of her deepest feelings comes from a less skeptical tradition of social critique than those ascendant in philosophy and cultural theory of the late twentieth century. Her account structurally favors the certainty and commitment made possible by feeling deeply because certainty has a different value for a subject in her subject position; her assertion of the possibility of actually knowing herself is developed in opposition to slippery, noxious discourses that seek to define and undermine her. For those whose agency is served by dominant social discourses, certainty can feed ignorance instead of building knowledge, but for Lorde, building an oppositional knowledge of self is a necessary basis for agency. I suggest taking Lorde at her word that the power she calls the erotic is central to her own survival and self-preservation; my philosopher's task is to understand more clearly how that fits into her overall agential praxis.

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[241] For an indirect defense of Lorde along these lines, see Alcoff, "Cultural Feminism versus Post-Structuralism," 412. For a discussion of a nonessentialist lesbian identity in Lorde's erotic, see Ruth Ginzberg, "Audre Lorde's (Nonessentialist) Lesbian Eros," *Hypatia* 7, no. 4 (1992): 73–90.

[242] See Brenda Carr, "'A Woman Speaks… I Am Woman and Not White': Politics of Voice, Tactical Essentialism, and Cultural Intervention in Audre Lorde's Activist Poetics and Practice," *College Literature* 20, no. 2 (1993): 133–53. Gayatri Spivak coined the notion of strategic essentialism in "Criticism, Feminism and the Institution," interview by Elizabeth Gross, *Thesis Eleven* 10–11, no. 1 (1985): 175–87.

Coalitional politics and not looking the other way from feeling

In the context of an inhospitable social and epistemic environment, the erotic mode of relating to feelings facilitates the "ability to posit, to vision" new possibilities for survival and self-preservation (IAYS 165). Lorde writes: "Once we recognize we can feel deeply, we can love deeply, we can feel joy, then we will demand that all parts of our lives produce that kind of joy. And when they do not, we will ask, 'Why don't they?' And it is the asking that will lead us inevitably toward change" (IAYS 163). The enormous popular impact of "Uses of the Erotic" among feminists—especially in the 1980s and 1990s—has largely resulted from this focus on women's access to joy that has been suppressed by dominant, patriarchal value systems. However, on Lorde's account, the power of the erotic extends beyond valorizing the knowledge that comes from positive feelings; negative feelings are also important resources for informing and directing action. In *The Cancer Journals* (1980), Lorde writes how the imperative to feel joy can be used to suppress actual feelings of pain, thereby obscuring the knowledge of feeling and closing avenues for action.[243]

Lorde articulates how oppression operates not only by imposing limits on her from outside, but by injecting hostility that works from within through her feelings and beliefs.[244] She writes, "it is easier to deal with the external manifestations of racism and sexism than it is to deal with the results of those distortions internalized within our consciousness of ourselves and one another" (SO 147). She experiences societal responses to her race, gender, and sexuality that vacillate between utter indifference and naked animosity, generating feelings of fear, pain, and anger. Lorde asserts that those feelings can either be turned into strength and power or become terrible weaknesses. She describes pain as "an experience that must be recognized, named, and then used in some way in order for the experience to change, to be transformed into something else, strength or knowledge or action" (SO 171). Anger is similarly "loaded with information and energy" as a source of knowledge (SO 127), but Lorde cautions how living with her anger has required "learning to use it before it laid my visions to waste" (SO 124). When unrecognized and unacknowledged, such feelings become corrosive to her capabilities of survival and change; they threaten the project of self-preservation, bringing bodily and

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[243] See Sara Ahmed, *The Promise of Happiness* (Durham: Duke University Press, 2010), 83; for discussion of agency in *Cancer Journals*, see Amber Jamilla Musser, *Sensational Flesh: Race, Power, and Masochism* (New York: New York University Press, 2014), 118–50.

[244] Compare this to the two structural insights of radical feminism, discussed in chapter two, section one.

mental deterioration and the dissolution of relationships that could foster solidarity and empower-ment.[245] Lorde describes how accessing the erotic in deep feelings—both of joy and of pain—depends on the courage to *not look the other way* from feelings that arise in our actions (SO 58–59). This is the form of attentiveness required to use the knowledge provided by such feelings, while avoiding being engulfed or hollowed out by them.

While I have so far emphasized Lorde's description of her personal sources of knowledge and action, self-preservation also vitally depends on communal resistance to group-based oppression, which requires fostering solidarity and establishing coalitions among the oppressed. Lorde uses the figure of *not looking the other way* to express opening to possibilities for such collaboration. In *Zami*, Lorde describes arriving as a young woman in Mexico City: "I started to break my life-long habit of looking down at my feet as I walked along the street. There was always so much to see, and so many interesting and open faces to read, that I practiced holding my head up as I walked, and the sun felt hot and good on my face" (156). Not averting her gaze, she can see herself reflected in the "brown faces of every hue meeting mine"—a mode of self-recognition reinforced in the literary narrative by the sensation of warm sunlight (156). This motif persists in her writing on black women's solidarity, where she focuses on why black women literally and figuratively look the other way from one another rather than engage with the pain, fear, and other feelings that arise in their encounters.[246]

Feelings play a central role in Lorde's coalitional politics. She tells us, "the sharing of joy, whether physical, emotional, psychic, or intellectual, forms a bridge between the sharers which can be the basis for understanding much of what is not shared between them, and lessens the threat of their difference" (SO 56). The ability to grapple with deep feelings and externalize them thus enables the kind of "complex communication" that María Lugones identifies as a foundation for collaboration among people for whom oppression takes different forms.[247] There is political potential in affective,

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[245] She warns that "the rage that feels illicit or unjustified is kept secret, unnamed, and preserved for-ever" (Lorde, "Eye to Eye," in SO, 167). A moment of despair in *Zami* illustrates the internal dimen-sion of this deterioration—loss of vision, loss of voice: "All the pains in my life that I had lived and never felt flew around my head like grey bats; they pecked at my eyes and built nests in my throat and under the center of my breastbone" (Z 236).

[246] In "Eye to Eye," she writes about the imperative not to look the other way from her internalized fear of blackness: "I fight nightmare images inside my own self, see them, own them, know that they did not destroy me before and will not destroy me now if I speak them out, admit how they have scarred me" (SO 165).

[247] See Lugones, "On Complex Communication," *Hypatia* 21, no. 3 (2006): 75–85. I thank Kris Sealey for drawing my attention to this connection.

bodily connection, which is irreducible to the stricter notion of shared understanding or intellectually grasping another's struggle. Lorde writes, "I have a particular feeling, knowledge, and understanding for those sisters with whom I have danced hard, played, or even fought. This deep participation has often been the forerunner for joint concerted actions not possible before" (SO 59).

In summary, the erotic power of feeling deeply is the condition of possibility for an oppositional, felt knowledge to emerge to guide action—both personal and communal—as a corrective to the inadequate epistemic resources dominant in society. A person's access to the erotic is constrained through oppression, which prevents recognizing the value of feelings, thereby limiting political capacity to enact change. The imperative not to look the other way from feelings—and from the similarities and differences they make visible—is required if the erotic is to open resistant modes for relationship and shared action.

IV.   Oppositional Agency and Responsibility in Erotic Intimacy

Lorde's conception of living according to a deeply felt knowledge is controversial for moral psychology from the European tradition. Her unorthodox epistemology threatens the authority of principle-based moral reasoning, and her teleology of living toward self-preservation centers a defiantly interested value over any appeal to impartiality or universal good. However, insofar as moral theory—and feminist ethics in particular—is invested in the value of agency, freedom, or autonomy, Lorde's oppositional agency poses a challenge that cannot be ignored. If agency has the shape described above for Lorde and, perhaps, for others in similarly marginalized subject positions, then ethical prescriptions and moral intuitions based on the value of agency as such must be revised in response.

The remainder of this chapter considers some implications of Lorde's oppositional agency for sexual ethics, where insights from Lorde's thought might help ethical theories better grapple with the nonideal character of social reality. I will present two examples from Lorde's work that can perhaps show how her oppositional agency calls for a shift in moral intuitions that might enrich standard, consent-based notions of responsibility to a sexual partner.

In chapter one, I described the rise of feminist-informed moral intuitions and ethico-legal prescriptions about sexual intimacy, motivated by a basic commitment to the value of women's agency over whether and how they participate in sexual encounters. Over the past fifty years, feminist theorists and activists have demanded that the commitment to agency be enshrined in consent-based legal and social standards for sexual intimacy, even as many reflexively subject those standards to criticism

for failing to reflect and protect people's actual agency within sexual encounters—especially when agency is undermined by oppression across social markers of gender identity, ability, sexual orientation, class, race, citizenship or immigration status, and incarceration.[248]

Today, some version of the commitment to the value of sexual agency drives virtually all popular feminist political movements against sexual violation, and sexual consent has emerged as a common lever for political change across many societies. However, the specific features of an appropriate norm of sexual consent remain controversial—and not only to critics from the right. As I described in chapter one, ethical and legal theorists have for twenty-five years debated the definition, nature, and conditions of moral validity of consent,[249] while, as discussed in chapter two, feminist critical theorists have pointed to the potentially inadequate phenomenological and political assumptions that the norm of consent may entail.[250]

I have described in chapter one how most formal ethicists have come to share a position we can call the standard philosophical view of sexual consent, independent of feminist moral intuitions. This view is that a sexual activity is morally permissible only when both people (who are competent, conscious, and reasonably well informed) act intentionally (that is, on purpose) and volitionally (that is, without coercion) in a way discernable to one another as consenting to that activity.[251] Ensuing debate among ethicists about consent typically cash out the appropriate parameters of coercion, sufficient information, and other limitations on the moral validity of consent.

The standard philosophical view is founded on several interconnected assumptions about the nature of consent, with two of particular interest to those concerned with the question of women's sexual agency. It assumes that (1) consent is *permissive*, that is, consent's central moral effect is to lift another's obligation by making a normally prohibited act permissible; and (2) the moral power of

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[248] See discussion in chapter two. See especially Linda Martín Alcoff, *Rape and Resistance* (Cambridge: Polity Press, 2018); and Joseph J. Fischel, *Screw Consent: A Better Politics of Sexual Justice* (Berkeley: University of California Press, 2019).

[249] See David Archard, "Sexual Consent," in *The Routledge Handbook of the Ethics of Consent*, ed. Andreas Müller and Peter Schaber (London: Routledge, 2018), 174–84.

[250] For a summary of feminist critiques of consent, see Ellie Anderson, "Women in Philosophy: The Limits of Consent in Sexual Ethics," *Blog of the APA* (blog), April 24, 2019, https://blog.apaonline.org/2019/04/24/women-in-philosophy-the-limits-of-consent-in-sexual-ethics/.

[251] See discussion in chapter one, section two. As I discuss there, some understand consent to be a purely mental phenomenon, but all agree that the discernibility of consent in a person's communications is significant for responsibility to another.

consent is dependent on *social norms* governing communication, that is, the moral force of an expression of consent requires that it align significantly with preexisting conventions for indicating permission and for interpreting what is to be permitted.[252] These assumptions are of particular concern to feminists for several reasons, which I have highlighted in chapters one and two. First, they focus on local expressions of autonomy rather than on how larger contextual factors might be ethically relevant to sexual encounters, including how a person's choice to give permission in the present might take place within a life context in which agency is curtailed. They also leave unexamined the interpersonal effects of power and unjust social structures on how sexual acts are proposed and by whom.[253] Finally, they do not address the possibility that some prevailing social norms surrounding sex might undermine women's agency.[254] If consent is reliant on existing conventions of sexual communication, then the consent norm cannot disrupt prevailing conventions that already devalue women's agency and authority, such as conventions of male initiative, ideals of female purity that valorize token resistance, or the coital imperative that castigates women for "leading him on."[255]

My intuition is that Lorde's thought can productively challenge the assumptions of the standard view, and that it can do so in a way that steers philosophical consideration of sexual consent back toward the core feminist commitment to the importance of women's agency. Without attempting to give a watertight argument for this position, I hope to show that an appreciation of Lorde's feeling-based agency in her first-person accounts of sexual encounters can facilitate some novel insights in this direction. I proceed by relating two situations in which Lorde describes acting on a considered intention to pursue sexual intimacy. In each case, her positive expression of that intention is taken up differently by her partner, leading to divergent outcomes.

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[252] See Tom Dougherty, "*Yes Means Yes*: Consent as Communication," *Philosophy & Public Affairs* 43, no. 3 (2015): 224–53; Joan McGregor, "Sexual Consent," in *The International Encyclopedia of Ethics*, ed. Hugh LaFollette (Malden: Blackwell, 2013); David Owens, "The Possibility of Consent," *Ratio* 24, no. 4 (2011): 402–21; Japa Pallikkathayil, "Consent to Sexual Interactions," *Politics, Philosophy & Economics* 19, no. 2 (2020): 107–27; but cf. Larry Alexander, "The Ontology of Consent," *Analytic Philosophy* 55, no. 1 (2014): 102–13, for a statement of the 'mental account' of consent that retains the first assumption but rejects the second.

[253] See especially chapter two, section one.

[254] See chapter one, section four, and extended discussion in chapter two.

[255] See Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy & Public Affairs* 22, no. 4 (1993): 293–330; and Rebecca Kukla, "That's What She Said: The Language of Sexual Negotiation," *Ethics* 129 (2018): 70–97.

First, while discussing failures of black solidarity toward her as a lesbian, Lorde offers an anecdote:

> Like when your Black brother calls you a ball-buster and tricks you up into his apartment and tries to do it to you against the kitchen cabinets just, he says, to take you down a peg or two, when all the time you'd only gone up there to begin with fully intending to get a little in the first place (because all the girls I knew who were possibilities were too damn complicating, and I was plain and simply horny as hell). I finally got out of being raped although not mauled by leaving behind a ring and a batch of lies and it was the first time in my life since I'd left my parents' house that I was in a physical situation which I couldn't handle physically—in other words, the bastard was stronger than I was. (Z 181–82)

Here, Audre (the character) tries to act on something she feels, perhaps not so deeply: she just wants to "get a little." However, as Amber Musser observes, Lorde's sexuality requires that she always "negotiate the terrain of her own desires while grappling with the contradictions within her subject position."[256] While a woman's desire for casual sex with a man is usually culturally legible and supported by social norms in Lorde's context, for Lorde to act on that desire while pursuing the self-preservation I have explained in section one requires a degree of subversion of prevailing conventions for heterosexual encounters. The man in this encounter, however, denies her agency to make such a solicitation while retaining self-preservation. The man sees Lorde, a women-oriented woman seeking to "get a little" on her own terms, as an affront: she is someone in need of being brought "down a peg or two." Instead of simply accepting or turning down her come-on, he refuses to acknowledge the validity of her agency. He asserts a violent frame for their encounter that ensures that they cannot have sex in a way that accommodates the agency of both. Lorde suggests—both here and elsewhere—that such sexual violence against lesbians and other "women-identified women" in the black community is a result of misogynistic, homophobic conventions of heterosexuality, as well as internalized racist expectations of black women's subservience.[257]

To understand the failure of responsibility that here leads to violation, I suggest we should resist localizing the wrong in the moment where he does not respect her refusal—that is, the moment the encounter becomes coercion and therefore nonconsensual. Rather, I propose that the origin of the violation is in the failure to hear or accommodate Audre's positive agency to author her actions; it

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[256] Musser, *Sensational Flesh*, 57.

[257] See Lorde, "Scratching the Surface: Some Notes on Barriers to Women and Loving," in SO, 45–52.

is a failure in his response to her initial solicitation. More than acting locally against her consent, the man rejects her agential possibility for consensual engagement. He fails to hear and respond to her expression of interest as a valid moral address, as pointing toward Audre's agency and toward the value of her self-preservation. This failure suggests that sexual ethics ought to consider more than whether an expression indicates a yes or a no according to its fit with prevailing conventions. Responsibility to another also entails responding to the qualitative features of a "yes"—not only whether it is *really* a yes (that is, whether it is volitional, intentional, and informed), but what agency it expresses and what quality of intimacy it pursues.

A reader skeptical of using Lorde's feelings-based epistemology for ethics might argue that this man also acts from feelings—perhaps feelings of fear, repulsion, or shame—and that we cannot claim validity for Audre's feelings as the basis of her agency without also valorizing his own. However, the valorization of feeling as a source of knowledge need not be morally relativistic in this way. Some feelings are invested in the destruction of other people, and the actions that such feelings inspire can be condemned uncontroversially for the harms they cause to oneself and to others. According to Lorde, such feelings are usually also of minimal value for developing knowledge toward self-preservation.[258] The insight posed by Lorde's account instead suggests that a certain way of feeling deeply might shed light on the prejudices of convention that blind people to the conditions needed for their survival. For Audre's partner—about whom we can only speculate—this might require *not looking the other way* from the feelings that motivate his violence toward her. Raising those feelings to knowledge might in turn enable the recognition of how toxic and often racist ideals of manhood can destroy possibilities for human acknowledgment.[259]

Consider another intimate example from *Zami*. Narrating an encounter with a much older, white woman, Lorde describes a transformation of capacities. From previously being lost in her feeling as a child and adolescent, here Lorde begins to feel agency in self-authorship, which arises from not looking the other way from her feelings and the knowledge they provide her. She writes:

> Night after night we had talked until dawn in this room about language and poetry and love and the good conduct of living. Yet we were strangers. As I stood there looking at Eudora, the impossible became easier, almost simple. Desire gave me courage, where it had once made me speechless. With almost no thought I heard myself saying,
> 'I want to sleep with you.'

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[258] She discusses how hate, for example, provides no vision for survival; see "Eye to Eye," in SO, 152.

[259] See bell hooks, *We Real Cool: Black Men and Masculinity* (New York: Routledge, 2004).

> 'I don't know if I can,' she said, still softly, touching the sunken place on her night-shirt where her left breast should have been. 'And you don't mind this?'
>
> I had wondered so often how it would feel under my hands, my lips, this different part of her. Mind? I felt my love spread like a shower of light surrounding me and this woman before me. I reached over and touched Eudora's face with my hands.
>
> 'Are you sure?' Her eyes were still on my face.
>
> 'Yes, Eudora. [. . .] I'm very sure.' . . . As I spoke the words, I felt them touch and give life to a new reality within me, some half-known self come of age, moving out to meet her. (Z 166–67)

Audre feels her capacities grow, and raising that feeling to speech closes a chapter of speechlessness that had constrained her earlier life. This is self-preservation in Lorde's dynamic sense, preservation of her "half-known self" made possible through speaking from the knowledge afforded by feeling deeply.[260]

Ethicists judging this encounter under the standard rubric of valid consent will define Eudora's responsibility to Audre based on whether the power differentials between them undermine consensuality. There might be reason to doubt the validity of Audre's affirmation if the encounter is judged according to conventions governing heterosexual consent: consent across differentials of age, race, and experience does not align with societal norms or (some) moral intuitions about the distribution of power necessary to ground an equitable sexual relationship.

Without detracting from the urgency of examining the effects of power differentials on sexual agency, I propose that we resist reading the ethical content of Audre's utterance—"Yes, Eudora, I'm very sure"—as a simple moment of clear consent to be evaluated for validity. Understanding Eudora's responsibility requires situating Audre's "yes" within Audre's form of agency, not merely evaluating whether Audre's words validly give permission. This encounter should be read as Audre's attempt to act on the knowledge that comes from a feeling—to move toward newly minted possibilities of self-preservation. Whether Eudora chooses to sleep with her or not, to acknowledge and valorize Audre's agency here requires more than making sure Audre has the opportunity to say no. It requires responding to her "yes" in a way that acknowledges its significance—acknowledging that her expression of agency has an origin in feeling and a trajectory toward a new mode of relating that might expand

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[260] This encounter as described in *Zami* is of questionable historical veracity, since Lorde's personal journals of the period do not discuss her relationship with Eudora in sexual terms. In any case, the story as conveyed in *Zami* stands as an example of the agential self-preservation or self-making that Lorde sees as possible through the erotic. See de Veaux, *Warrior Poet*, 52.

possibilities for self-preservation.[261] Eudora's responsibility, whether in taking up the offer or turning it down, is to acknowledge through her response that for Audre something more is at stake—that Audre's agency is not reducible to maintaining her standing in the face of differentials of power.[262] If Eudora had more direct power over Audre—if she were a man or young Audre's professor—it would introduce further layers of responsibility that shape how this ought to be done, but it would not diminish the importance of acknowledging the validity of Lorde's agency in this way.

In both encounters, I have suggested that Lorde's expression of consent ought to be understood as calling for a response from her partner. But how much must Lorde's partners know of her feelings to respond adequately to her? Are they not afflicted, like Adrienne Rich in the exchange opening this chapter, with an inability to know what Lorde knows and feels? Because Lorde's feelings develop in opposition to dominant hermeneutical resources—particularly those of the 1950s United States, where these events take place—her partners certainly cannot take their cues from available sexual conventions. I cannot decisively resolve the question of whether one can access another's feeling in the way necessary to support this kind of responsibility. I want to highlight, however, that other resources may be available to complicate the role of knowing in such an endeavor, articulating a form of knowing *in the service of acting* that Lorde's account brings to the fore. In "Knowing and Acknowledging," Cavell describes *acknowledgment* as the mode by which we can be said to "know" another person's inner experience of a feeling. To know in a way that acknowledges, he explains, brings with it the "requirement that I do something or reveal something on the basis of that knowledge."[263] The second-personal statement, "I know your pain"—Cavell's primary example—only attains its everyday meaning if it expresses sympathy, and it only succeeds in expressing sympathy "because your suffering makes a claim upon me. It is not enough that I know (am certain) that you suffer—I must do or reveal something (whatever can be done). In a word, I must acknowledge it, otherwise I do not know what '(your or his) being in pain' means."[264]

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[261] On the connection between black women's sexual love and practices of freedom, see Lindsey Stewart, "Work the Root: Black Feminism, Hoodoo Love Rituals, and Practices of Freedom," *Hypatia* 32, no. 1 (2017): 103–18.

[262] On how black women's practices of agency disappear from moral reflection, see Alisa Bierria, "Missing in Action: Violence, Power, and Discerning Agency," *Hypatia* 29, no. 1 (2014): 129–45.

[263] Cavell, *Must We Mean What We Say?*, 237.

[264] Ibid., 243.

Because Lorde's actions are motivated by a knowledge that comes from feeling, her partners cannot adequately grasp (that is, know) the meaning of her expressions of desire or will unless they begin to *acknowledge* the feeling that those actions express. Since self-preservation for Lorde requires generating new possibilities for relating—what Sara Ahmed calls novel proximities and lines of contact—Lorde's agential expressions of sexual interest and consent are calls for her partners to follow her into new modes of connection.[265] Lorde's actions and expressions place a claim on her partners, and her partners' responses ought to acknowledge the moral validity of that claim as an expression of agency.[266]

Of course, for Audre's actions to be acknowledged in this way requires that her affirmation be heard as a proposal to create something new—it requires uptake that already goes beyond heterosexual conventions of giving permission for sex. While convention clearly has a role to play here, it is not sufficient to guide her partners in the hermeneutic moment of recognizing the moral meaning of her consent as it relates to her agency; her consent is not simply a giving of permission or a solicitation of sex, but an invitation into a different shape of sexual relating. Here, perhaps *not looking the other way* from feeling might make possible a richer responsiveness to the meaning that emerges from Audre's expressions of consent. In the same way that not looking the other way opens up the political possibilities discussed above, in the erotic encounter it might provide the opportunity for a partner to appreciate the agency toward self-preservation that drives Audre's queer attestations. Such a form of attentiveness might occasion Lorde's partners to acknowledge her project of self-preservation and to examine what feelings participation in that project might produce for themselves.

The promise of not looking the other way is that it might enable two people to grapple with feelings—and other subjective dimensions of agency, including where a person is coming from and where they are going—that in principle remain opaque to one another, supporting their intimacy despite the lack of ground to secure against the risk of misrecognition. This insight provides the speculative kernel of the argument that will unfold in the next two chapters. Crucially, however, Lorde also should not evade her own responsibility to remain attentive to the others with whom she pursues sexual agency. The stories not told in her writing include those where her lovers found her to be forceful and manipulative, and where she used her revered status in lesbian circles—that is, her own

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[265] Ahmed, *Queer Phenomenology: Orientations, Objects, Others* (Durham: Duke University Press, 2006).

[266] This is a key insight into responsibility to another in intimate encounters, which I will develop further in chapters four and five.

privilege in a particular social context—to prioritize over the agency of others her own desire for sexual connection.[267] (Indeed, Audre in the first encounter above seems breezily willing to instrumentalize her male partner for sexual purposes.) This nonlinear causal relationship between power and agency in Lorde's encounters points toward an ambiguity or multi-directionality of responsibility that merits further examination in future work.[268]

In the first example, Audre's partner refuses to respond to her in a way that admits value to her agency; instead, he denies the moral relevance of her feelings and will and forecloses her pursuit of self-preservation. He looks the other way from both the value of Audre's self-preservation and from his own power to loosen the grip of harmful conventions, and he thus fails to fulfill his responsibility to her. (He also refuses to base his action on the question of whether or not she consents, but this unambiguous wrong is a consequence of his refusal to acknowledge the moral claim posed by Audre's agency).

In the second case, Eudora responds to Audre's subversion of convention by recognizing and responding to—*acknowledging*—the basis of Audre's actions in a feeling-based agency to pursue self-preservation. The felicity of the encounter does not follow from a transparent match between how the two interpret Audre's "yes, I'm very sure." Rather, the lovers each face the inadequacy of socially available models for making sense of Audre's utterance in this moment, and together they create a new shape for intimate relating. Note that the limited usefulness of conventions to make sense of this encounter is a failure of social norms, not a failure of communicative conventions that make such an agreement intelligible and recognizable as carrying illocutionary force. While Lorde's utterance is clearly interpretable as a performative of affirmation, judging the *validity* of her act of consent—that is, whether it is intentional, volitional, competent—depends on social norms (and moral intuitions) to interpret the situation and her mental state. These are the conventions Lorde confounds, because her self-preservation requires resisting prevailing understandings of what desire, autonomy, competence, and so forth entail—both under heteronormative social norms that pretend to universality and under the separate norms foisted onto black women, lesbians, and others who do not live along prescribed

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[267] de Veaux, *Warrior Poet*, 126–29, 241.

[268] I integrate the privilege of social context into my account of responsibility in chapter five, section three.

lines of sociality.[269] In the face of inadequate conventions, an act of shared creation such as that be-tween Audre and Eudora requires that partners not only respect each other's refusals, but also respond to each other's affirmations in ways that acknowledge and valorize the feelings and agency—in this case the project of self-preservation—behind those expressions of consent.

V.   Conclusion: Generating New Forms of Relationality

Returning to the assumptions subtending the standard philosophical account of sexual con-sent, fruitful questions arise when we read Lorde's encounters contextually, with an appreciation of her account of agency. First, it seems that responsibility to another in a sexual encounter may be poorly mapped by a notion of consent-as-permission, since an expression of consent or desire gains its value and significance—not only its moral validity—from the agency of the person who expresses it. Rather than simply give permission, consent demands a certain kind of response from a partner so that the value of this agential background is properly acknowledged. Specifically, Lorde's partners may be ob-ligated to respond to her consent in ways that acknowledge the validity of her agency to pursue self-preservation. Second, Lorde's examples suggest that an act of consenting can call into question the value invested in conventions of meaning and behavior; it can reveal the need for new forms of inter-pretation and new models for intimacy. Responsibility to another in sexual intimacy sometimes de-mands pushing beyond the affordances of those norms.

I have described Lorde's account of feeling, knowing, and acting toward self-preservation as a model for oppositional agency when one's social context erodes possibilities of knowledge and sur-vival. With the growing philosophical interest in Lorde's work, I hope contextualizing her thought within this frame contributes to new insight into her concept of the erotic and her account of the role of feelings in coalition building. I have also suggested that considering Lorde's oppositional agency in this light can reveal something about how moral intuitions should evolve in response to nonideal social conditions, a question of central importance for current discussions of sexual consent.

I have also sought to demonstrate that drawing on Lorde's life and thought as a source of philosophical insight can introduce productive tensions in debates about ethics, agency, and value, perhaps holding theorists more accountable to the lives we attempt to understand and shape. For sexual ethics, Lorde's work encourages looking beyond assumptions about the moral significance of

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[269] In this way, Lorde's mode of intimate relationality can be said to be queer in the sense Sara Ahmed gives the word: her desire does not follow the lines of sociality and convention that structure both societal norms and prevailing moral intuitions. See Ahmed, *Queer Phenomenology*, 157–80.

consent to appreciate how a person's responsibility is oriented also toward the qualitative character of the agency that supports expressions of consent or affirmation. Responsibility to another in a sexual encounter requires more than soliciting agreement, recognizing a yes as a giving of permission, and respecting a no as a refusal under prevailing conventions. Lorde's agency—acting on felt knowledge toward self-preservation—reminds us that social norms are invested with value, and desires and intentions must often be pursued in opposition to the transparency that prevailing conventions might provide. Responsibility to another requires responding to the possibility that intimacy together might require inventing new meanings through our relations and actions.

CHAPTER FOUR
A LEVINASIAN CONCEPTION OF RESPONSIBILITY

I have argued thus far that a shift in sexual ethics is needed if the value of another's agency in its multiple dimensions is successfully to steer our notions of responsibility in intimate relations. I have shown how consent-based theories have fallen short of this aim, both because of their inadequate acknowledgment of social structural influences and because their focus on the momentary status of the will overlooks longer-term questions, such as whether consensual sex is unwanted or unwelcome in the context of a person's life. The agency that sexual ethics should valorize, I have claimed, is the practice of pursuing the projects that give sense to a person's life, which are always culturally specific and defined in conjunction with the valued relations that surround one. Agency in this sense goes beyond the traditional ideal of an efficacious will to include a wider range of embodied subjective dimensions—experiencing, desiring, feeling (including having a sense of right and wrong)—as well as one's ongoing practice of concernful self-making within a particular social location. By examining the oppositional form of agency enacted by Audre Lorde, I have shown how acknowledging another's agency on this description can require participating in forms of relationality that run contrary to societal norms. Thus, to practice responsibility to another, oriented toward the value of their agency, can require suspending the certainty offered by ready-to-hand interpretations of our encounters, laying bare the need to forge new conventions and interpretive resources.

This chapter begins to specify a notion of responsibility that can do the work called for in the discussion to this point. How should responsibility to another be formulated if it is to take on the dynamism and sensitivity to another's agency and subjective experience that I have suggested are necessary for intimate ethics? I introduce Emmanuel Levinas's account of responsibility as an approach that locates the origin of ethics in relationality and the challenge of encountering another person, who always addresses me from beyond my own knowledge and power. The first-person perspectival character of Levinasian ethics takes seriously the opacity of another's agency and subjective experience,

moving beyond the perspective of a "reasonable person" that inevitably struggles to resist distortions and blind spots in dominant discursive and social conventions around sex and sexuality.[270] I treat Levinas's conception of responsibility in detail across the first five sections of this chapter, addressing along the way Levinas's critique of conventional moral philosophy (section two), some convergences between Levinas and feminist thought (section three), and implications for erotic intimacy (sections four and five) that I will develop in more detail in the next chapter. In the sixth section, I address a basic tension that arises between structural critique—an indispensable tool for feminist analysis—and the personal, intimate focus of Levinasian ethics.

I do not and cannot defend Levinas against all feminist critique; his theorization of "the feminine," his notions of "paternity" and "fraternity," and his phenomenology of the erotic deserve much of the criticism they have received from feminist commentators.[271] I do seek to show, however, that Levinas's account of ethics is capacious enough to be used for feminist purposes without it needing to be purified of these major flaws.[272] I argue that Levinas's careful attention to the personal register—the intimacy of encountering another—can be adopted alongside critique of social structures and discourses. Doing so makes available an array of Levinasian resources for formulating ethics in erotic life, perhaps most importantly a notion of responsibility as responding to the call of the other person, which enables articulation of why another's expressions—including both verbal and nonverbal expressions of consenting or affirmation—are of crucial ethical importance in sexual communication. This supports the project of developing a responsive, agency-based sexual ethics.

## I.	Ethical Alterity and the "I" Perspective

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[270] See discussion in chapter one, sections two and three.

[271] For feminist critiques of Levinas, including both his conception of the feminine and the erotic, see Luce Irigaray, "The Fecundity of the Caress: A Reading of Levinas, *Totality and Infinity* Section IV, B, 'The Phenomenology of Eros,'" first published in English in *Face to Face with Levinas*, ed. Richard A. Cohen, trans. Carolyn Burke (Albany: SUNY Press, 1985), 231–55. See also Stella Sandford, *The Metaphysics of Love: Gender and Transcendence in Levinas* (London: Athlone Press, 2000).

[272] My use of Levinasian ethics for feminist aims follows a tradition in feminist phenomenology: see, for example, Kelly Oliver, *Witnessing: Beyond Recognition* (Minneapolis: University of Minnesota Press, 2001); Rosalyn Diprose, *Corporeal Generosity: On Giving with Nietzsche, Merleau-Ponty, and Levinas* (Albany: SUNY Press, 2002); Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2004); and Lisa Guenther, *The Gift of the Other: Levinas and the Politics of Reproduction* (Albany: SUNY Press, 2006). For arguments for and against feminist appropriations of Levinas, see the essays collected in Tina Chanter, ed., *Feminist Interpretations of Emmanuel Levinas* (University Park: Pennsylvania State University Press, 2001).

Perhaps Levinas's fundamental insight is that the ethical claim of another person and my responsibility to them precede any principle that can be formulated to guide action. His most basic articulation of this position is the claim that the for-the-other under all its names—ethics, dialogue, or morality—"is not a branch of philosophy, but first philosophy."[273] This means my responsibility to another cannot derive from that person's status—as a human like me, as having a rational will, as being created by God, and so forth—or from any other value taken to be fundamentally shared or to command overarching validity. Setting out from a phenomenological attentiveness to selfhood and relationality, Levinas rejects the tendency of ethics to categorize the epithets 'I' and 'you' as "individuals of a common concept"; to do so depends on a maneuver of abstraction that misses both what it is to be a self and what is other about another person (TI 39).[274] Instead, he locates at the basis of ethics a preexisting responsibility to another, which is overlooked and obscured by the emphasis placed by conventional ethical theory on freedom and moral personhood.[275]

Levinas describes responsibility as arising from the irreducible difference, or alterity, of another person—what I will sometimes call their *ethical alterity* for the sake of clarity—which differs in kind from the general logical difference of negation (between I and not-I) or the phenomenological difference between consciousness and object.[276] When I encounter another person, he argues, I do

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[273] Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1979 [1961]; hereafter TI), 304. See also "Ethics as First Philosophy," in *The Levinas Reader*, ed. Seán Hand (Oxford: Blackwell, 1989; originally published 1984); "The Proximity of the Other," in Levinas, *Alterity and Transcendence*, trans. Michael B. Smith (London: Athlone Press, 1999 [1995]), 97; and Levinas, *In the Time of the Nations*, trans. Michael B. Smith (Bloomington: Indiana University Press, 1994 [1988]), 178.

[274] In-text citations reference Levinas, *Totality and Infinity* (as TI); and Levinas, *Otherwise than Being or Beyond Essence*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1981 [1974]), hereafter OTB.

[275] I use the terms 'another,' 'the other person,' and 'another person,' to translate Levinas's *l'autrui* and *l'Autrui*, which are conventionally (but inconsistently) translated as "the Other." I use this terminology in part to avoid a Lacanian misreading of the distinction between other and Other. More importantly, my rendering emphasizes Levinas's primary differentiation between the impersonal other, *l'autre* or *l'Autre*, which is the opposite of *le même* (the same) or *l'un* (the one), and the personal, human other, *l'autrui* or *l'Autrui*, which is opposed to *le moi* or *le soi*, the "I" or the reflexive self. The significance of Levinas's capitalization is secondary to this fundamental terminological distinction.

[276] I use the term *ethical alterity* to avoid confusion among philosophical meanings assigned to "alterity." Levinas's alterity is not to be conflated with the sociological othering discussed in postcolonial theory (as in the work of Gayatri Spivak), and it has no connection to the abstract principle of alterity traced in psychoanalysis and cultural theory (as in work by Cornelius Castoriadis or Jean Baudrillard).

not grasp them primarily in the paradigm of sense data or as a perceptual thing recognized as an "alter ego" and interpreted as having a special significance.[277] Rather, the difference between myself and another is a relational difference that continuously unfolds in time, a movement rather than merely a differing of properties. The relation to another is centrally an opening of communication, in which the world becomes sharable as sense [*sens*] and significance.[278] As such, the relation of alterity with another is fundamental to human existence and experience: I am a consciousness that perceives and interprets because existence is already imbued with a sense and significance that arises from and can be shared in this relationality. Encountering another person, "one does not question oneself concerning him; one questions him"—and, crucially, one is questioned by him (TI 47). It is through a relation with that which is beyond my grasp in another person—which I will describe below as the other person's *transcendence*—that communication and meaning are possible. Navigating the fissure of ethical alterity is of central importance to how I orient my life, even as that alterity resists thematization. Because of their ethical alterity, another person is not first grasped as intelligible, cognized and assessed for significance through interpretation, but as an intelligence, themselves an origin of signification—the original source of meaningfulness or sense for all signifiers.

Ethical alterity is not a difference distinguishing two people from each other or one self from another self; rather, it is the relation between the self and another person. To articulate this alterity, Levinas is committed to the methodological view that ethics can only ever be treated from the first-person perspective—the perspective of a speaking and reflecting "I," who, as we will see, is always an impermanent and precarious subject.[279] While moral philosophers traditionally seek to articulate the

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Levinasian alterity—ethical alterity—is the relationship of difference between oneself and another person.

[277] Levinas argues contra Edmund Husserl. See Husserl, *Cartesian Meditations: An Introduction to Phenomenology*, trans. Dorion Cairns (Dordrecht: Springer, 1960 [1933]), 89–151.

[278] Levinas's *sens* is usually translated as either "sense," "significance," or "meaning"; I favor the former two, but I have retained the latter at times for clarity, especially in the term 'meaningfulness' which is difficult to render otherwise. He emphasizes that *sens* is grasped through the senses and not only through cognition, which means readers do well to keep both the corporeal and the epistemological implications of the word in mind. See Levinas, "Meaning and Sense," in *Basic Philosophical Writings*, ed. Adriaan T. Peperzak, Simon Critchley, and Robert Bernasconi (Bloomington: Indiana University Press, 1996), 33–64.

[279] Levinas associates *le soi* (the self) and *le moi* (the "I," or me) with this precarious, dynamic perspective of selfhood as it is lived. This should be contrasted with *le Moi*, or the ego. See Jill Stauffer, "Speaking Truth to Reconciliation: Political Transition, Recovery, and the Work of Time," *Humanity* 4, no. 1 (2013): 27–48.

good and the right for human beings taken as an ontologically significant category, Levinas dismisses this categorial distinction as insufficiently fundamental. Prior to any effort of categorization, the starting point of ethics is perspectival rather than ontological: before ethics can be about "humanity in general," it must grapple with a responsibility that arises for an "I," for one who has a sense of selfhood or subjectivity, consciousness, and the meaningfulness of the world in a lived present.[280]

In Levinas's account, the perspectival "I" includes the sense of being an agent and knower, but it is also a *feeling* perspective, and the sense of the world, that is, its significance or meaningfulness, reaches me across both these dimensions. I have an intentional consciousness and will—I cognize, interpret, reflect, speak, and act—and I am also the one who feels, enjoys, and "lives from" the sensuous world.[281] It is always *I* who grasp my world in these ways, and this sense of being an "I" is irreducible to conceptual or categorical description of "the ego," "subjectivity," or "human being."[282]

Being an "I" is characterized by a sense of interiority—a "psychism"—that locates my experience, consciousness, and agency.[283] Levinas argues that the most original and personal manifestation of this interiority is enjoyment, the pure "egoism of life," rather than knowing or willing (TI 112). Enjoyment is naïve self-engrossment, "not a psychological state among others . . . but the very pulsation of the I," which motivates without requiring any justification (TI 113). More than an end in itself, it is the good of life present in all our pursuits: "life is affectivity and sentiment; to live is to enjoy life" (TI 115). Thus, Levinas rejects the idea that life rests on bare necessities that would be valuable only instrumentally by enabling us to pursue the good life. We do not eat or care for ourselves because of the causal necessity of those acts as ground for other pursuits. Rather, I eat to live because life itself— and eating itself—is experienced as value, and the activities that make up my life are valuable to me

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[280] This perspectival approach reflects the formal influence of Martin Heidegger, particularly of the first division of *Being and Time*, where Heidegger argues that an analysis of *Dasein*—that being which takes its own Being as an issue—must begin from the everyday perspective of *Dasein* itself. See *Being and Time*, trans. John Macquarrie and Edward Robinson (Oxford: Blackwell, 1962 [1927]), 168. Levinas thematizes this starting point explicitly in *De l'existence à l'existant* (1947), and he later writes that "one can no longer say what the ego or I is. From now on one has to speak in the first person" (OTB 82).

[281] Levinas examines non-intentional aspects of the "I" perspective in his early discussions of the anonymity of fatigue and insomnia. See Levinas, *Existence and Existents*, trans. Alphonso Lingis (The Hague: Martinus Nijhoff, 1978 [1947]), 29–36, 65–67.

[282] Levinas writes, "'me' is not an inimitable nuance of *Jemeinigkeit* [i.e., ownness] that would be added on to a being belonging to the genus "soul" or "man" or "individual," and would thus be common to several souls, men and individuals" (OTB 126).

[283] For extensive analysis of interiority, see *Totality and Infinity*, 109–183.

because of enjoyment.[284] Levinas writes, "the bare fact of life is never bare. . . . Life's relation with the very conditions of its life becomes the nourishment and content of that life. Life is love of life, a relation with contents that are not my being but more dear than my being: thinking, eating, sleeping, reading, working, warming oneself in the sun" (TI 112).

Life as enjoyment is personal. Even if we rejoice together, or if I rejoice at the success of another, I live from this rejoicing because the happiness is mine; it is experienced in the present as requiring reference to no relation outside the self. This structure leads Levinas to describe the essence of enjoyment as the "transmutation of the other into the same": "an energy that is other . . . becomes, in enjoyment, my own energy, my strength, me. All enjoyment is in this sense alimentation" (TI 115). Levinas writes, "egoist without reference to another person [*à autrui*], I am alone [in enjoyment] without solitude, innocently egoist and alone. Not against . . . but entirely deaf to another person [*à autrui*], outside of all communication and all refusal to communicate—without ears, like a hungry stomach" (TI 134).

Layered over the basic affective interiority of enjoyment, my sense of being an "I" reaches a higher density in the familiar capacities of subjectivity: representation, consciousness, the will, expression. These capacities enable me to feel at home in the world and adopt a sense of self-assuredness and power, that is, to take myself to be a freedom. This sense of myself as a freedom, over and against the world around me, is an affirmation of the interiority and separation of the self: when I reflect on myself as knower and actor, as is the custom of philosophy, I set up a dualism between self and world. The world appears as an obstacle that freedom works to overcome, which I grasp through knowledge and manipulate—or *should* be able to do so—through a will endowed with power.[285] Like the "I" of enjoyment, this sense of subjectivity is aggressively absorptive in relation to the world: everything I encounter or perceive becomes grist for my knowledge, understanding, experience, narrative, or sense of reality, and therefore all is grasped in relation to the sense of "I" as a cognizing self. As a freedom,

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[284] Levinas would not deny that humans can become habituated to experience much of life as purely instrumental: to relate to food and shelter as mere necessities that enable, for example, the projects of earning money, pursuing knowledge, or gaining power. Such single-minded pursuits, however, reflect an imposed—perhaps self-imposed—alienation of oneself from the sense immediately available in living.

[285] Jill Stauffer argues that, while philosophers have begun successfully challenging this reductive conception of the autonomous self, it remains a dominant cultural influence in societies where responsibility and relationality are understood through the lens of liberal legalism. See Stauffer, *Ethical Loneliness: The Injustice of Not Being Heard* (New York: Columbia University Press, 2015), 1–33.

I organize my actions, informed by this knowledge, toward my own system of ends: enjoyment, happiness, goals, and projects whose meaningfulness I feel as mine even if they involve and require others.

However, the sense of independence presupposed in my claim to selfhood turns out to be mistaken; insofar as I take myself to be essentially consciousness and intentional subject, I overlook a fundamental state of dependence and heteronomy, which is the source of responsibility. For this reason, Levinas's insistence on the perspectival character of ethics is not a naïve return to the liberal heroism of personal responsibility, whereby the acts of a good will might enable one to attain moral purity despite the injustices of one's social context. The "I" perspective, although at first blush an unlikely avenue toward a politically informed ethics, does not here collapse into the privatized notion of responsibility often deployed in both liberal and conservative discourses to obscure the effects of unjust social structures and to deflect responsibility for complicity.[286] At the end of this chapter and throughout the next, I explore possibilities for supplementing Levinasian insights with attention to social structures and discursive norms, making the return to the "I" perspective an enriched return that might begin to address problems that liberal ethics have struggled to resolve.

II.   Responsibility Arises from Proximity and Relationality

Adopting Hegel as his adversary, Levinas elaborates on the primacy of relationality:

> The oneself has not issued from its own initiative, as it claims in the plays and figures of consciousness on the way to the unity of an Idea. In that Idea, coinciding with itself, free inasmuch as it is a totality which leaves nothing outside, and thus, fully reasonable, the oneself posits itself as an always convertible term in a relation, [as] a self-consciousness. But the oneself is hypostasized in another way. It is bound in a knot that cannot be undone in a responsibility for others. (OTB 105)

My pretense of a "sovereign and active subjectivity" surreptitiously rests on a prior mode of being in proximity to and exposed to another; I exist in the accusative form, as one passively acted upon, before "I" can be a nominative subject, an actor (OTB 47). Thus, my presupposition is groundless that I, myself, am a freedom; heteronomy is embedded within my sense of interiority. I have a rich sense of the meaningfulness attached to being an "I"—my life is not only itself meaningful but the paradigm for all meaning—and this meaningfulness depends on *proximity* to an interlocutor. An other-directed sensibility, which Levinas calls *obsession*, is already in place in the structure of my selfhood, which makes

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[286] See Judith Butler, *Notes toward a Performative Theory of Assembly* (Cambridge, MA: Harvard University Press, 2015), especially 193–218.

other people *approach* me as signifying, not only appear to me as entities in the world. This approach of others in turn gives sense to my own speech, actions, and expressions—not merely as a condition of possibility that enables sense or meaning to be present rather than absent, but inaugurating meaning as a category, making meaning meaningful. Prior to the content of any address or claim, the state of proximity, being approached and addressed, acts on me as this sense-giving force. Inherent in my condition of being a sensing, corporeal self, I am in proximity to an interlocutor. Levinas describes this as "the for-the-other of one's own materiality" (OTB 74), which is intimately intertwined with the immediacy of enjoyment and pain: "proximity, immediacy, is to enjoy and to suffer by the other. But I can enjoy and suffer by the other only because I am-for-the-other, am signification" (OTB 90).

The fundamental relationality to others is not reducible to knowing, comprehension, or recognition of another; it is not because I know the other person to be like me that I address my actions, speech, and expressions to them. Rather, my actions, speech, and expressions only have sense—i.e., can only become expressive—insofar as another is already present as my interlocutor.[287] Regardless of what I know of the concrete other people who surround me, my communicative, expressive form of living reflects that relating to them is of fundamental concern to me. Prior to reflection or judgment, consciousness is constituted in response to their presence—especially to the presence of *this* one, who addresses me and to whom I address myself. Levinas writes in an early essay, "the other (*autrui*) is not an object of comprehension first and an interlocutor second. The two relations are intertwined. In other words, the comprehension of the other (*autrui*) is inseparable from his invocation."[288]

The empirical aspect of this claim is uncontroversial: there is a prehistory of relating to caregivers predating every individual human subjectivity. The beginnings of this relationship in early childhood are outside the realm of experience in that they constitute the self that becomes a conscious, experiencing being; relationality is thus a pre-original "attachment that has already been made, as something irreversibly past, prior to all memory and all recall" (OTB 104). However, Levinas argues that the "for-the-other in the midst of identity" is pervasive and enduring, not merely a chapter of

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[287] Levinas thematizes proximity with the metaphor of "fraternity," aiming to preserve the singularity of individuals while suggesting "the community of a shared father" (TI 214, trans. corrected). In addition to its problematically gendered form, this metaphor betrays the influence of an insufficiently self-critical French patriotism on his thought: Levinas aims to subvert facile notions of *liberté* and *égalité* with a robust and pre-originary *fraternité*, but he fails to acknowledge the exclusions that found the imperial community. See John E. Drabinski, *Levinas and the Postcolonial: Race, Nation, Other* (Edinburgh: Edinburgh University Press, 2011).

[288] Levinas, "Is Ontology Fundamental?", in *Basic Philosophical Writings*, 6.

dependency in one's historical biography (OTB 153). The reverberations of relationality are constantly felt in everyday life, in every use of language or act of communication, every moment of expression that carries the possibility of being heard, interpreted, or perceived by another.[289] The presence of another—an interlocutor, one who might listen and respond, one who might care, one who might call on me to justify myself—is presupposed by the structure of selfhood, as internal time consciousness is presupposed by the body's process of aging.[290]

The ground-level proximity Levinas identifies is not merely an ontological reality—an "is"—formulated to help us better describe human life. Rather, from the first-person perspective, relationality describes a lived directionality in human existence, an ethicality that from the outset constitutes an "ought." As my interlocutor, another person is not a passive listener but solicits me and continuously assigns me meaning to which our ongoing communication—and my every possible behavior—always responds. Levinas locates this directionality as the pre-original condition of responsibility, which philosophy has for the most part failed to articulate because of its traditional focus on processes of interpreting and conceptualizing objects of perception. Another person, as ethical alterity, solicits my responsive expressions and actions by addressing me, not only demanding that I justify myself (as contemporary, reactive-attitudes-based accounts of responsibility emphasize), but also in conversation, teaching, caring, and engaging me in other relations. This relationality in which I am enmeshed makes me responsible to others, that is, continually obligated to steer my behaviors, actions, and life projects according to the claims others make of me.

Responsibility on this original, interpersonal level is the cause rather than an effect of the reactive attitudes and practices of holding responsible that characterize social life; responsibility to another is presupposed by "all interpersonal praise, recompense, and punishment" (OTB 117).[291] This

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[289] Levinas's "for-the-other of my own materiality" is a neighbor to Annette Baier's point that built into the structure of being a person is the social and temporal fact that we "come after and before other persons." Baier writes that persons are "essentially successors, heirs to other persons who formed and cared for them" (Baier, *Postures of the Mind: Essays on Mind and Morals* [Minneapolis: University of Minnesota Press, 1985], 85). Levinas and Baier agree that to be an "I" is to stand in proximity to others and that this entails a responsibility to respond in an ongoing pattern of relationality.

[290] Levinas often uses aging as an analogy to the passivity and corporeality of exposure to the other. See, e.g., OTB 88.

[291] Responsibility in analytic metaethics is often defined by practices of holding responsible motivated by reactive attitudes like praise or blame, inspired by P. F. Strawson's "Freedom and Resentment," *Proceedings of the British Academy* 48 (1962): 1–25. For an influential account, see, e.g., R. Jay Wallace,

responsibility to others is attested in my sense of being a self, which includes an obsession with being perceivable and addressable by other people and a foundational recognition that my response to the address of another matters. Prior to anything that I can do or be, the order to responsibility arises from my being-for-the-other in relationality. Levinas writes, "there is a paradox in responsibility, in that I am obliged without this obligation having begun in me, as though an order slipped into my consciousness like a thief" (OTB 13).[292]

Levinas thematizes responsibility as taking "the bread out of one's own mouth, to nourish the hunger of another" to emphasize how relationality disrupts the most intimate interiority of enjoyment and need (OTB 56). As a sensing, bodily creature, I live from enjoyment and am vulnerable to sickness, hunger, suffering; the body is "that by which the self is susceptibility itself" (OTB 195n12). Yet, as a relational creature sensitized to meaning, the value present to my senses in enjoyment and the pain of deprivation never have a merely private significance. From very early in life, my sensation and vulnerability are interwoven with a sensibility for others; my enjoyment gains a significance that orients and frames my sense of selfhood, and my need has a sense that I thematize and communicate beyond its bare causal role in enabling survival. Levinas describes how relationality precipitates "this changing of being into signification" (OTB 14). That is, in proximity even my immediate feeling of hunger is an ethical phenomenon rather than mere biological sensation—it involves me in responsibility both because its significance discloses my relationality and because, if I eat, there is always another who remains hungry.[293]

Responsibility and the Moral Sentiments (Cambridge, MA: Harvard University Press, 1996). Note that Strawsonian approaches are appealing in part because they evade the problem of determinism and free will, which Levinas also escapes by locating ethics prior to freedom and by approaching ethics from the first-person perspective. For the self, the question of free will is merely academic.

[292] Levinas scholars disagree over whether this abandons or extends the Kantian framework of universal law. On one hand, Levinas identifies as heteronomous that responsibility which Kant recuperates as autonomous. Levinas describes as "eminently exterior" what "concerns me and circumscribes me and orders me by my own voice," whereas Kant claims that the universal law arises within me as well, that I give it to myself from within my rational reflection (OTB 147). On the other hand, Levinas seems to replicate at least the form of Kant's account by embedding responsibility at the ground level of subjectivity, like the universal law. See Levinas's discussions of Kant, OTB 129 and 148. For analysis, see Gabriela Basterra, *The Subject of Freedom: Kant, Levinas* (New York: Fordham University Press, 2015); and Catherine Chalier, *What Ought I to Do? Morality in Kant and Levinas*, trans. Jane Marie Todd (Ithaca: Cornell University Press, 2002 [1998]).

[293] Experienced readers of Levinas will recognize how this section parallels the paradigmatic shift in Levinas, from *Totality and Infinity*'s (1961) comfort and sense of being at home in interiority to the later

With an eye toward my subsequent argument about Levinasian responsibility and sexual ethics, it bears noting here that Levinas equivocates on the above-described connection between the sensuality of enjoyment and ethical relationality in his woefully inadequate phenomenology of eros.[294] Levinas's account of erotic intimacy is marred by abstractions, unredeemable on my view, about the nature of femininity, about the role and experience of women in erotic intimacy, and about the heterosexual, coital directionality of eroticism.[295] These abstractions in part lead him to the conclusion that the erotic cannot open onto the ethical situation of responsibility; the erotic equivocates between two modes of sensation that each withdraw from the robust sense-making of relationality. First, in sexual intimacy on his account, the psychism of the "I" is undone not by the approach of another but by an anonymous, elemental carnality that engulfs the lovers; the caress "loses itself in a being that dissipates as though into an impersonal dream" (TI 259). Yet, simultaneously, he claims, the interiority and separation of the "I" is reaffirmed in the erotic through the continual return inward toward sensuality and enjoyment—"to love is also to love oneself in love, and thus to return to oneself" (TI 266). Thus, he claims, sex cannot open onto the "for-the-other of one's own materiality" that manifests in sense and meaningfulness, exemplified by discourse and dialogue (OTB 74). Between the withdrawal from discourse into the "non-signifyingness of the lustful" and the absorption in one's own selfhood (TI 260), erotic intimacy ends up being a situation in which expression and signification recede, and the relation with the (feminine-coded) beloved does not engender responsibility but instead is "enacted in play . . . as with a young animal" (TI 263). An erotic encounter is for Levinas an impossible site for the truly ethical relation with a transcendent other person.

Levinas has been widely and justifiably taken to task for his sexist assumptions and omissions, flagrant even in the language of description that orients his discussion: modesty, profanation, and virginity, as well as the (feminine) beloved encountered as an "irresponsible animality which does not

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emphasis on fragmentation, hunger, and exposure to the elements in *Otherwise than Being or Beyond Essence* (1974). On my reading, Levinas's thought bears significant continuity between these two texts.

[294] For Levinas's account of eros, see TI 254–78.

[295] It is especially curious that Levinas focuses on procreation (that is, what he calls "fecundity" and "paternity") as the key to redeeming the sexual relation from its indeterminate moral status. This move reproduces Kant's infamous conclusion that only the possibility of producing a child within marriage (as a "unity of will") can reconcile the objectifying nature of sex with the imperative to treat others always as ends in themselves. See Immanuel Kant, *Lectures on Ethics* (Cambridge: Cambridge University Press, 1997), 22–25, and 155–60; see discussion in Barbara Herman, "Could It Be Worth Thinking about Kant on Sex and Marriage?," in *A Mind of One's Own: Feminist Essays on Reason and Objectivity*, ed. Louise M. Antony and Charlotte E. Witt (Boulder: Westview Press, 1993), 53–72.

speak true words" (TI 263).[296] He seems to rely on romantic male fantasies of feminine purity, while seemingly reducing female subjectivity to its embodied character, passively receiving the (male) caress. Meanwhile, fecundity is described as taking place entirely within the sphere of paternity and filiality—the relationship of father and son unmediated by a mother or a process of bodily generativity or birthing.[297] Clearly no adequate account of erotic intimacy can rest on these terms. On my reading, the failure of Levinas's account of the erotic is also fundamentally phenomenological in that it poses a stark opposition between sensory enjoyment and discourse, overlooking how people communicate and express to one another within the wide range of activities today recognizable as sex. For these reasons, although I find value and insight in Levinas's accounts of relationality, responsibility, and communication as such, my application of those ideas to sexual intimacy in this chapter and the next departs wholly from Levinas's phenomenology of the erotic.

III. The Singularity of the "I" and Levinas's Critique of Moral Philosophy

By adopting the perspectival "I" and tracing *my* responsibility to my fundamental conditions of proximity and relationality, Levinas's ethical thought occasions a consideration of a basic characteristic of selfhood that often goes unacknowledged by moral theory: the singularity or uniqueness of the "I." An interlocutor does not levy a generic demand for responsibility addressed to someone, to anyone. Nor is it enough to say that responsibility is always particular to a given person in a given situation. Rather, the solicitation of responsibility from another person is each time addressed to *me*. It could be to anyone perhaps, but in this case, it is to me. Responsibility is in this way *personal* rather than merely particular. The subject of ethics "is *someone* . . . someone who, in the absence of anyone is called upon to be someone, and cannot slip away from this call. The subject is inseparable from this appeal or this election, which cannot be declined" (OTB 53, emphasis original). The solicitation of another calls on me in all the dimensions that make me a someone: my sense of selfhood as interiority or psychism, my self-interpretations, the facets of my identity, my social history and community. I am

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[296] The first, most influential feminist critique of Levinas's account of eros is Irigaray, "The Fecundity of the Caress." See also Sandford, *The Metaphysics of Love*; and Bettina Bergo, *Levinas Between Ethics and Politics: For the Beauty That Adorns the Earth* (Dordrecht: Kluwer Academic, 1999), 105–31.

[297] See TI 267–86. Irigaray brilliantly reconstructs Levinas's narrative to consider the future of the female beloved, the sexual other who becomes the mother in fecundity, whose desires are unspoken in Levinas's text. Speaking through this disavowed subject, Irigaray relocates the transcendent away from the paternal relationship of father to son, i.e., the difference of generations, to the caress itself—that is, the difference of sexual desire and pleasure.

called on as a self who has been given everything: not only the causal ground for any human to survive (food, shelter, care) or to become a subject (cultural formation, acquisition of language and other means of communication), but also all that has gone into becoming this singular one, the one that I am.

The epithet "I" is my own, unique and not generalizable or interchangeable with any other content, and Levinas argues that this rich sense of singularity is a product of the solicitation of responsibility: "here the unicity of the 'I' [*moi*] first acquires a meaning—where it is no longer a question of the ego [*Moi*], but of me [*moi*]. The subject which is no longer an ego but which I am cannot be generalized; it is not a subject in general; we have moved from the ego to me who am me and no one else" (OTB 13–14).[298] He continues: "the word *I* means *here I am*, answering for everything and for everyone" (OTB 112).[299] To announce my presence as "I" is to be and have been solicited, to be called to respond and to bear the enduring effects of having failed in my responsibilities and having been failed through other people's violations and inadequacies. The vulnerability entailed by relationality thus plays a constitutive role in ipseity, that is, the enduring self-sameness of the self: "the self in its skin both is exposed to the exterior (which does not happen to things) and obsessed by the others in this naked exposure. Does not the self take hold of itself through the very impossibility of slipping away from its own identity, toward which, when persecuted, it withdraws?" (OTB 112).

This description of the "impossibility of slipping away" from myself may ring true to a reader who has spent time in proximity to another person suffering from extreme deprivation—homelessness, imprisonment, crushing poverty, trauma, or disease. Once I find myself fully in relation with that person, such as in intimate conversation, any request or expression of need they make is addressed to *me*, and my own efforts to communicate betray my investment in justifying the position from which I speak. The exposure of another asks that I change my life: to share the roof I have over my head, to give over what money is in my bank account, or to turn my time and energy to their service. In my egoistic interiority, I experience this demand as a challenge to my freedom, and most of the time I mobilize justifications and excuses to escape it. Levinas traces the discomfort of such demands to their

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[298] Translation adapted to reflect Levinas's distinction between "*le moi*" and "*le Moi*," with the former translated as 'the "I"' or "me" in a personal, perspectival sense, and the latter as "the ego" in the impersonal, ontological sense, as an entity in the world. This modification is largely in line with the revisions by Critchley and Peperzak in *Basic Philosophical Writings*, 120. See also note 279.

[299] As will become clear in the next section, this sense of exposure is only present for the word 'I' as a saying, asserting my perspectival existence, not for 'I' as a said, which might be a simple pronoun that replaces "the ego," "the self," or "a subjectivity."

power to assign me a sense that displaces my conceit of personal freedom. In relation with this person, I am assigned significance as one who comes up short, who shirks my responsibility to them insofar as I will not do what it takes to respond to their need. Any justification I use for my actions—the placation that I have done enough, that there is nothing that can be done, or that "I can't help everyone"—merely asserts my power to give myself permission to turn away from the need of this person addressing me. Thus, I withdraw into the delusion of my freedom and interiority, relocating morality within the self, within my own knowledge and calculations, and away from the relation of exposure to another.

In such a confrontation, the meaning I have as an individual, a unique self, is inescapably recast relative to my failure to deliver or live up to what is being asked, and this responsibility solicits me prior to moral reasoning. The appeal of another does not provide a reason for action that enters my deliberations alongside my existing intentions, values, and interests. Even if I, too, am fighting starvation, my sensibility for the other's need ensures that responsibility remains an issue for me so long as we remain in the proximity of relation.[300] Instead, as the fundamental directionality of my existence, "proximity . . . signifies a reason before the thematization of signification by a thinking subject, before the assembling of terms in a present, a pre-original reason that does not proceed from any initiative of the subject" (OTB 166). For Levinas, responsibility is thus fundamentally opposed to the ideal of a "clear conscience" that persists through European moral philosophy at least since Aquinas.[301] I am called to answer and thereby riveted to the "I" that I am, without recourse to the leverage of excuses or the benefit of any power—including the power of argumentation—I might exert to soften this demand. While the question of holding others accountable is important politically, responsibility in this ethical sense faces the self alone; it is not negotiable using the currency of rationalization and

[300] Levinas's accounts of the ethical demand should be read keeping in mind his years spent imprisoned during World War II, where each person is simultaneously in dire need and called upon by the vulnerability of others. In bourgeois circumstances, however, the exposure of another is rarely impossible to address; I have space under my roof and other worldly possessions to offer the refugee or another person in dire need. To reorganize my life to become the person who offers these things is to take on one significance I am assigned by another.

[301] See Søren Overgaard, "Against a Clear Conscience: A Levinasian Response to Williams's Challenge," in *Levinas and Analytic Philosophy: Second-Person Normativity and the Moral Life*, ed. Michael Fagenblat and Melis Erdur (London: Routledge, 2019). Levinas is particularly critical of the exaltation of conscience in existential phenomenology, exemplified by Heidegger's account of the "resoluteness" of conscience that calls the self back to itself. See Heidegger, *Being and Time*, II.2.

justification. It may be true that, considered from an ontological perspective, the other person is likewise solicited by and answerable to me. But that symmetry does not empower or entitle me to disregard or evade another's demand; the other person remains the source of my singular significance.

The idea that responsibility arises from relationality itself is explicitly or implicitly present in many strains of moral philosophy, but its full implications are not appreciated when philosophers attempt to justify responsibility against the presupposition that personal freedom is of fundamental value.[302] This prejudice produces narrower theories of responsibility, attributing it to evolutionary advantage, defining it as a set of psychological responses to the actions of others, or treating it as a logical extension of human freedom itself. Each of these divest from the relational dimension of responsibility, instead grappling with responsibility as a foreign force that mires the free subject in contingency or facticity.[303] To approach ethics in this way ignores the possibility that human relationality might fall outside the dichotomy between freedom and contingency and that responsibility might have its roots in a value deeper than personal freedom.

On Levinas's account there is no free will with respect to responsibility, but not because of determinism in the usual sense. Rather, responsibility is prior to the will; the will is a structure of selfhood that emerges only in a subject who is already relational and therefore solicited by responsibility.[304] The value of freedom is secondary to proximity, which, I have claimed, is the original source of ethical value for any "I." If Levinas is right that "responsibility is what first enables one to catch

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[302] Despite Levinas's foundational rejection of conventional moral theory, a recent interest in Levinas has developed in analytic metaethics, where he is compared with Stephen Darwall's *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006), and Danish Christian philosopher K. E. Løgstrup's *The Ethical Demand* (Notre Dame: University of Notre Dame Press, 1997 [1956]). For an overview of analytic readings of Levinas, see Kevin Houser, "Levinas and Analytic Philosophy: Towards an Ethical Metaphysics of Reasons," in *Oxford Handbook of Levinas*, ed. Michael L. Morgan (Oxford: Oxford University Press, 2018); and M. Fagenblat and Melis Erdur, eds., *Levinas and Analytic Philosophy: Second-Person Normativity and the Moral Life* (London: Routledge, 2019).

[303] The role of freedom in intersubjectivity here is also at play in the legalistic framing of responsibility; see chapter one, section three.

[304] Bernasconi explains how Levinas's infinite responsibility transcends intention, subverting the Kantian claim that ought implies can. See Bernasconi, "Before Whom and for What? Accountability and the Invention of Ministerial, Hyperbolic, and Infinite Responsibility," in *Difficulties of Ethical Life*, ed. Shannon Sullivan and Dennis J. Schmidt (New York: Fordham University Press, 2008), 131–46. The rejection of "ought implies can" has proponents in analytic moral philosophy as well, with some similar motivations; see Brian Talbot, "The Best Argument for 'Ought Implies Can' Is a Better Argument Against 'Ought Implies Can,'" *Ergo* 3, no. 14 (2016): 377–402.

sight of and conceive of value," it follows that morality and moral reasoning are not reducible to having true beliefs about the good and detecting the right mode of action; those are just the epiphenomena of responsibility (OTB 123). The "I" never stands alone as "a being endowed with certain qualities called moral, which it would bear as a substance bears attributes, or which it would take on as accidents in its becoming" (OTB 117).

The fundamental demand of Levinasian responsibility is that I answer to another person, but his account of responsibility differs in at least three important ways from the notion of responsibility as answerability in analytic ethics. In "Responsibility as Answerability," Angela Smith describes an agent as responsible for an action or attitude if it would make sense for them to be asked to justify that action or attitude and if they are an appropriate target for some morally charged response, such as praise, blame, social approbation, and so forth.[305] Smith argues that this condition of responsibility is a function purely of the reason-responsiveness of the agent with respect to the action or attitude in question; it obtains independently of whether there happens to be a person present with the standing to demand justification.[306] The notion of answerability at work in Levinasian ethics differs first in that responsibility in Levinas's sense is *to* another prior to being *for* an action; the condition of being answerable comes prior to my actions, and to behave according to responsibility is to let that answerability to another shape my behaviors. In this sense, responsibility here is a relation between people rather than between a person and an action.[307]

Second, answerability is not an attribute I have by virtue of my membership in a community of reason-users, who can demand justification and reach similar conclusions by independently evaluating the reasons given. Rather, on the Levinasian account responsibility arises from the role of relationality in what it is to be a self—what could be described as an existential condition rather a status. Note that this points to perhaps the fundamental difference between the assumptions of Strawsonian metaethics and those of Levinasian ethics, which arises from the Kantianism of the former: for Kant, relationality follows from our shared use of reason, whereas for Levinas, my use of reason is only possible because of the relationality that precedes my subjectivity. Thus, where Kant begins already in the world of adults, Levinas sets out from the perspective of the child.

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[305] Smith, "Responsibility as Answerability," *Inquiry* 58, no. 2 (2015): 99–126.

[306] Note that Smith's position shares Levinas's rejection of volition-based accounts of responsibility.

[307] See my discussion of responsibility in chapter one, section three.

Third, the hypothetical interlocutor in Smith's account—that *someone might* demand responsibility of me—is not needed for answerability in Levinas's sense, because the notion of responsibility at work here follows from my actual embeddedness in human relations. Responsibility here is grounded in the concrete interlocutors that actually face me, whose alterity calls me into question through their exposure to me, as I describe in more detail below. Rather than the condition of being addressable, answerability here consists of the condition of being and having been addressed.

If the free will arises only in a subject already responsible—one who is and has been addressed by another—it can only resist or appear to overcome responsibility insofar as it formulates an alibi to permit itself to forget that responsibility, to deny the claim of another. In the history of western philosophy, many such alibis have been widely adopted: the philosopher in his study has often chosen to bracket the food he lives from and the dependence and caregiving that undergirds his ideals of full autonomy, free will, and clear-sighted cognition. By considering the ego (rather than "I" or "me") as the subject of ethics, Western moral philosophy each time leaves the door open to exceptions when it comes to the responsibilities of the self, of the one who reflects:

> Apperceiving itself as universal, it [i.e., the perspective of pure moral theory] has already slipped away from the responsibilities to which I—always contrasting with the ego—am bound, and for which I cannot ask replacements. The ego, in consciousness reflecting on itself, . . . protected by its unrendable form of being a universal subject, escapes its own critical eye by its spontaneity [that is, its claim to freedom of the will], which permits it to take refuge in this very eye that judges it. The negativity in which the ego is detached from itself to look at itself is, from all points of view, a recuperation of the self. (OTB 92)[308]

Grounding human value in the personal freedom of the will holds open an avenue for the ego to escape responsibility: if another suffers harm, the salient question becomes whether or not one is to blame, whether one's actions can be justified or excused. Ignorance, reasonable mistake, confusion, intoxication, and arriving too early or too late all become bargaining chips to argue that harmful behaviors were not actions committed—or omitted—in full knowledge. Casuistry, the art of excuses and justifications, is thus native to the basic assumptions of conventional moral philosophy, and it can be

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[308] Levinas's critique of moral rationalism bears interesting similarities to Hegel's critique of good conscience as "the beautiful soul" in Hegel, *Phenomenology of Spirit*, trans. A. V. Miller (Oxford: Oxford University Press, 1977 [1807]), ¶¶657–68.

used to reverse engineer justification for moral intuitions that may be entirely contingent on the positionality of the theorist.[309] Neglect for the more originary responsibility to another person—either in favor of utility or another principle—has perhaps facilitated the great, centuries-long failures of modern Western moral theory to effectively oppose colonialist and misogynist logics and exploitation of humans for their labor, despite the celebration of ostensibly universal ideals of human worth, equality, and freedom.

Although Levinas has long been criticized by feminist philosophers, Levinas's critique of moral philosophy resonates deeply with many methods and arguments of feminist ethics. One foundational feminist methodological commitment, for example, is that the claims of moral philosophy should be judged by their effects on the people whose lives they aim to shape—a position that peels away the practice of moral theorizing from lived morality in a way congruent with Levinas's claim that responsibility in every encounter is prior to moral principles.[310] Levinas's perspectival commitment to living ethics in the personal present resembles Claudia Card's rejection of "the administrative point of view" and its fixation on retroactive judgment, as well as María Lugones's critique of "the strategist position," disengaged from the street-level effects of oppression and activities of resistance.[311] Setting out from this commitment, many feminist philosophers have argued that human vulnerability, interdependence, and collectivity reveal values prior to those captured by abstract, ostensibly universal laws. Similarly, Levinas's emphasis on the affective dimension of responsibility finds an analogue in feminist approaches that focus on the overlooked ethical significance of feeling in moral psychology.[312]

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[309] Bernasconi writes, "much of the history of ethics can be read as the history of excuses" ("Before Whom and for What?", 132).

[310] See, for example, Annette Baier, "Extending the Limits of Moral Theory," *Journal of Philosophy* 83, no. 10 (1986): 538–45; and Margaret Urban Walker, *Moral Understandings: A Feminist Study in Ethics*, 2nd ed., (New York: Oxford University Press, 2007 [1997]), 83–106.

[311] Card, *The Unnatural Lottery: Character and Moral Luck* (Philadelphia: Temple University Press, 1996), 25; cited in Kathryn J. Norlock, "The Challenges of Extreme Moral Stress: Claudia Card's Contributions to the Formation of Nonideal Ethical Theory," *Metaphilosophy* 47, no. 4–5 (2016): 488–503; and Lugones, "Tactical Strategies of the Streetwalker," in *Pilgrimages/Peregrinajes: Theorizing Coalition against Multiple Oppressions* (Lanham: Rowman & Littlefield, 2003), 207. See discussion in chapter one, section three.

[312] Carol Gilligan valorizes emotional and relational intelligence in her groundbreaking critique, *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, MA: Harvard University Press, 1982). See also Margaret Olivia Little, "Seeing and Caring: The Role of Affect in Feminist Moral

Feminists have also shared Levinas's suspicions about the blind spots of will-based ethics, likewise rejecting accounts of freedom that frame relationality as a limitation on the individual's freedom of the will. Care ethicists have extensively examined the unchosen responsibilities arising in relations between caregivers and dependents, which are fundamental to ethics in that all people are at some point dependent recipients of care.[313] In recent years, feminist and other critical phenomenologists have developed a growing focus on responsibilities arising from racial privilege, prejudice, and ignorance—unchosen conditions that frame rather than follow from a person's will and action. Many have built on Levinas's concepts of substitution, proximity, and exposure to describe responsibility for injustices that precede our arrival and are ingrained in social structures and discourses that we cannot help but inherit.[314] When theorists focus only on consciousness, knowledge, and the "uncaused cause" of the will in such cases, an other-facing responsibility is overlooked, and it can only be retrieved when the responsible subject is conceived as relational prior to their separation as a knower and autonomous actor. In Levinasian ethics, responsibility becomes a matter of how I ought to respond rather than a question of how obligations and accountability should be distributed and by whom. Ethics is an ongoing process of reconciliation, without recourse to a final calculation.[315]

IV.   The Priority of the Saying over the Said, and the Sense of Sexual Communication

Levinas argues that relationality and proximity to another are prior to "the naïve spontaneity of the ego." In every action, behavior, or expression, there is an implicit and vulnerable "here I am!" that opens me to another's power to assign significance to me (OTB 91). He claims that this vulnerability, which he describes as *exposure*, imparts an ethical structure on the relational practices of human

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Epistemology," *Hypatia* 10, no. 3 (August 1995): 117–37; and Annette Baier, *Moral Prejudices* (Cambridge, MA: Harvard University Press, 1995). Black feminists since Audre Lorde have also valorized feelings, especially anger, as a source of moral insight. See, for example, Myisha Cherry, "The Errors and Limitations of Our 'Anger-Evaluating' Ways," in *The Moral Psychology of Anger*, ed. Myisha Cherry and Owen Flanagan (Lanham: Rowman & Littlefield, 2018), 49–65.

[313] See, for example, Eva Feder Kittay, *Love's Labor: Essays on Women, Equality, and Dependency* (New York: Routledge, 1999).

[314] Levinas has influenced politically engaged work by Jill Stauffer, Lisa Guenther, Sara Ahmed, Alexis Shotwell, Rosalyn Diprose, Judith Butler, Simone Drichel, and Kelly Oliver, among others.

[315] Levinas thus refuses both consequentialism and Kantianism, in that he rejects the retrospective position of judgment whether applied to an action's effects or to the will behind that action. This is the jumping-off point for Derrida's intervention into law and justice. See "Deconstruction and the Possibility of Justice," Special issue, *Cardozo Law Review* 11, no. 5/6 (1990): 920–1726.

life. Yet, this ethical aspect of relationality is elusive when intersubjectivity is examined as a series of actions and speech acts. The ongoing interchange of relating to one another generates sense in ways that go beyond the exchange of signs or balancing of interests. To better describe this living production of sense and significance in human relations, Levinas marks a distinction between two forms of communication or signification: the saying [*le dire*] and the said [*le dit*].[316] The saying is living expression for a creature with language, an ongoing communication between humans in dialogue.[317] Always coming before and after another saying, it is never reducible to "a simple 'intention to address a message'"; it is the diachronic unfolding of sense within relationality (OTB 48). In contrast, the said is the crystallized artifact of saying, a sign considered in terms of its central purpose to convey its content. Where saying is the mode by which relation and expression unfold, the said provides the language of thought and reflection. Through the said, I can present propositions that might be true or false and analyze what is unchanging about things, making possible deliberation, judgment, and philosophy.

Every saying intrinsically becomes a said, but the process of saying, its form, invests saying with a sense beyond the content it signifies. Saying entails saying *to another*; its significance comes from the living diachrony of relation, which cannot be present in its entirety in the artifact left behind, that is, in the content named by the said. This relational dimension endows saying with sense apart from the values of clarity, truth, or efficacy traditionally attributed to language in its descriptive and performative modes. As relational, there is an earnestness always present in saying, even in telling lies: saying entails a "sincerity or veracity which the exchange of information, the interpretation and decoding of signs, already presupposes" (OTB 92). This is "the veracity of the approach, of proximity," the exposure of the self by venturing to generate sense and significance with an interlocutor, which makes every saying "a statement of the 'here I am' which is identified with nothing but the very voice that states and delivers itself, the voice that signifies" (OTB 143).[318] Having this form, saying always

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[316] Levinas introduces this distinction in "Le Dire et Le Dit," *Le Nouveau Commerce*, no. 18/19 (1971): 21–48, which is later integrated into *Otherwise than Being or Beyond Essence*.

[317] There is controversy over whether Levinas's ethics can be applied to nonhuman animals or organic entities such as ecosystems. While Levinas himself seems unapologetically to espouse human exceptionalism, some have argued that at least some nonhuman animals have ethical alterity. See Peter Atterton and Tamra Wright, eds., *Face-to-Face with Animals: Levinas and the Animal Question* (Albany: SUNY Press, 2019).

[318] For Levinas, saying paradigmatically unfolds in spoken discourse, but it is also possible in other forms of human communication. We can consider the signing body, for example, for which saying takes the form of the ongoing sense produced by movements and gestures. Like the verbal saying, the signing body expresses beyond the content it indicates.

exceeds its content; signification or sense in saying is intertwined with the future and past, as it follows on from what has come before and is subject to revision through continuing discourse.

Levinas pushes philosophy to look beyond the said and examine the signification proper to saying, where the relational, ethical character of communication and all sharing of sense is attested. He argues in defense of relationality that "the 'giving out of signs' would amount to a prior representation of these signs, as though speaking consisted in translating thoughts into words and consequently in having been first *for-oneself* and *at home with oneself* . . . . The relationship with another person [*rapport à autrui*] would then extend forth as an intentionality, out of a subject posited in itself and for itself" (OTB 48). To posit the self as prior to relationality is symptomatic of the delusions of grandeur that plague consciousness and the psychism of the self—reproduced in the methods of classical phenomenology, which focus on *intentionality* as the basic structure of sense-making.[319] Levinas writes, "saying is a communication, to be sure, but as a condition for all communication, as exposure" (OTB 48). Exposure to another is presupposed in any intention I form to make signs and in the capacity of those signs to signify.

Living, relational communication depends on the ethical condition of exposure, not only the cognitive capacities of interlocutors to use language, hear each other, and interpret signs. The meaningfulness of my expression, which I experience as issuing from my freedom and agency, actually hinges on a passivity to become signification at the hands of another, as the saying moves out toward them.[320] Whatever content is to be communicated, the form of saying entails "the risky uncovering of oneself . . . in the sense that one discloses oneself by neglecting one's defenses, leaving a shelter, exposing oneself to outrage, to insults and wounding" (OTB 48–49). In my exposure to another, my expressions (and the singular "I" that expresses) take on a meaning over which I can exert no freedom: "the subject of saying does not give signs, it becomes a sign" (OTB 49). Insofar as "I" am always the subject of saying, this passivity and exposure characterize what it is to be a self: to be assigned meaning by another as a singular "I," what I have above described as being called to responsibility by another.

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[319] Levinas is critical of the continued role of intentionality in phenomenological description from Husserl to Maurice Merleau-Ponty.

[320] If this claim sounds overly metaphysical from the perspective of philosophy of language, it is because Levinas's concept of the saying aims to retrieve the metaphysical, fundamentally ethical basis of all language, prior to its pragmatics or semantics. He indicates this obliquely by writing that "saying . . . is the proximity of the one to the other, the commitment of an approach, the one for the other, the very signifyingness of signification" (OTB 5).

The distinction between saying and said has immense methodological implications for theorizing ethics. Levinas criticizes philosophy for taking the said as the paradigm in which meaning and truth are possible, focusing on necessary work of mapping propositions, definitions, and essences but overlooking the exposure to another that characterizes all saying.[321] He acknowledges that the congealing of the saying into the said is a necessary movement, and it is no less unavoidable that the said be the most proximate material for philosophical reflection. However, to appreciate the living movement of ethics and responsibility, he implores that we not let the said fully eclipse and replace the saying. Levinas writes,

> In all its analyses of language contemporary philosophy insists, and indeed rightly, on [language's] hermeneutical structure and on the cultural effort of the incarnate being that expresses itself. Has a third dimension not been forgotten: the direction toward the other person [*Autrui*] who is not only the collaborator and the neighbor of our cultural work of expression . . . but the interlocutor, he to whom expression expresses, for whom celebration celebrates, both term of an orientation and primary signification? In other words, expression, before being a celebration of being, is a relationship with him to whom I express the expression and whose presence is already required for my cultural gesture of expression to be produced. The other person [*Autrui*] . . . is neither a cultural signification nor a simple given. He is *sense* primordially, for he gives sense to expression itself, for it is only by him that a phenomenon as a meaning is, of itself, introduced into being.[322]

Moral philosophy misses its mark when it "reduces, by an abuse of language, saying to the said and all sense to interest" (OTB 16). This mistake seems to concern Levinas especially in light of phenomenology's focus on intentionality as the structure of consciousness, but it is just as applicable as a critique of mid-century analytic philosophy, which—under the influence of logical positivism—treats the question of morality as reducible to the question of how "morality talk" can be propositionally

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[321] By attending to the performative function of speech, J. L. Austin moved toward this relationality, but he continued to assess meaning by attributing illocutionary force to a said, rather than considering saying within living discourse. I know of no evidence that Levinas read Austin, although Austin's work on performative utterances was available in French as early as 1962. For a discussion of how the two thinkers might find common ground, see Stanley Cavell, *Philosophy the Day after Tomorrow* (Cambridge, MA: Belknap Press, 2005), 152.

[322] Levinas, "Meaning and Sense," 52, emphasis original.

valid.[323] In contrast, Levinas's methodological commitments are oriented by the pursuit of the impossible task of writing about the movement of the saying without collapsing it always into the said: "the *otherwise than being* [i.e., ethics] is stated in a saying that must also be unsaid in order to thus tear the *otherwise than being* from the said in which it already comes to signify but a *being otherwise*" (OTB 7, emphasis original). Adriaan Peperzak clarifies this comment: "if the thematizing language of philosophy constitutes a said, it can neither replace nor engulf the saying but rather must always refer to it as the prephilosophical language to which it owes its own existence and meaning, although it is also indispensable for the saying."[324]

In Levinas's formulation of saying, reflecting his earlier account of proximity, the notion of personal freedom twists back on itself: my freedom can only be meaningful or valuable because I am signification to another person, passively and prior to that freedom. The exposure of saying is antecedent to freedom because it is not taken up through an act of revealing or exposing myself; the passivity of exposure is not a *stance* of passivity that can be adopted as an active choice (see OTB 15). Instead, I find myself already exposed because my selfhood entails the proximity of an interlocutor who exceeds my power or control, a "for whom" that is a condition of my expression and signification—even if I choose to remain silent. There is no choice or freedom over whether or not to expose myself in this way.

There is real risk involved in exposure: the interlocutor addressed in saying is not a guarantor of justice or the good.[325] Although I might conceive myself as a free subject, all my aims and hopes

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[323] This strand wends from C. L. Stevenson's *Ethics and Language* (1944) to Stephen Toulmin's *Reason in Ethics* (1948) to R. M. Hare's *The Language of Morals* (1952). Whether or not Levinas read these foundational texts of analytic ethics, he no doubt was aware of their trajectory. Analytic moral philosophy today reflects a discipline-wide interest in more relational concepts, including Strawson's reactive attitudes, Austin's performatives, and Darwall's second-person standpoint. The degree to which these concepts reflect or contradict Levinas's metaethical insights remains up for debate.

[324] Levinas, *Basic Philosophical Writings*, 186n16.

[325] In this way, Levinas's *l'Autrui* is not an extension of God, and I submit that his is not a theological ethics. In the asymmetry Levinas identifies with ethical alterity, there is a sense in which *l'Autrui* has absolute power over me, but there is no natural law guaranteeing their infinite goodness. The power wielded by *l'Autrui* is perhaps more capricious, like the God of the Pentateuch, but it is nonetheless not the power of the law and lawgiving. This is overlooked by some of Levinas's secular critics. See Samuel Moyn, *Origins of the Other: Emmanuel Levinas between Revelation and Ethics* (Ithaca: Cornell University Press, 2005); and Alain Badiou, *Ethics: An Essay on the Understanding of Evil*, trans. Peter Hallward (London: Verso, 2001 [1998]), 22. See discussion in Megan Craig, *Levinas and James: Toward a Pragmatic Phenomenology* (Bloomington: Indiana University Press, 2010), 62–64.

may be betrayed by the signification I actually have for another. In expression, I may be divested of my sense of myself; I might fail to be what I intend or believe myself to be. Levinas thematizes this divestiture of subjectivity in Pushkin's *Boris Godunov*: "laughter at the bottom of the gesture that points me out, shame and fear of the ego, the 'accusative' where everything designates me and assigns me, awakening in a headlong fall—all this is the unconditionality of the subject behind its sovereignty" (OTB 195n15). The priority of this accusative form—the acted-upon, direct object form in English— appears abundantly in everyday life, where another's attention and reception of me matters prior to my action. When I speak in everyday contexts, I am already responding to this pending judgment by seeking to be intelligible to others, and to falter in this effort is often deeply disturbing. For this reason, Levinas claims that "the self is the very fact of being exposed under the accusative that cannot be taken up [*sous l'accusatif non assumable*], where the ego supports the others, unlike the certainty of the ego that rejoins itself in freedom" (OTB 118). Fanon describes a mode of this accusative in *Black Skins, White Masks*, where he articulates how the intentional act of reaching for a cigarette is disrupted under the racializing perception of the white gaze. His subjectivity is made vulnerable by its exposure to others, particularly by the possibility of being subjected to the "racial epidermal schema" that denies his interiority.[326] This power of the other—manifest in the power to racialize me (as black, as Jew), but not limited to it—falls under what Levinas describes as "exposure to the outrages of the other [*l'autre*]" (OTB 139).

While Levinas argues that the form of saying entails total exposure and vulnerability, I propose that this risk can be compounded when saying uncovers particularly intimate content. All saying or expression offers me up to the other as signification, risking that I become thematized, that my saying might congeal into a said that loses its living relationship to my actual, perspectival life. However, when my expression extends toward another person a gesture of my feelings, my desires, my fears, my enjoyment, my hopes, or my will—in short, when its content in addition to its form expresses my intimate interiority—the possibility that those things be assigned a meaning by my interlocutor has a special significance. I am vulnerable to special harms: I can be debased, denied value, silenced, or divested of my sense of selfhood in particularly deep-cutting ways.

To attend to the intimate risk of saying provides a novel and compelling frame for theorizing sexual communication. If Levinas is right that the ethical sense of saying exceeds that of the said, then

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[326] Fanon, *Black Skin, White Masks*, trans. Richard Philcox (New York: Grove Press, 2008 [1952]), 90–91. See discussion in Sara Ahmed, *Queer Phenomenology: Orientations, Objects, Others* (Durham: Duke University Press, 2006), 109–12.

something crucial is overlooked by a sexual ethics that focuses on sexual consent as performing a moral transformation, as I discussed at length in chapter one. All sexual communication is engaged in shaping an ongoing relation, whether I say "mmmm," touch someone's hand, or tell someone explicitly what I like or what I do not want to do. Such communicative actions are not primarily concerned with describing an inner experience or enacting a performative—the outcome of a said. After the fact, judges and philosophers might attribute performative effects to some utterances, but in doing so they focus on communication as an exchange of signs and actions rather than as a saying that continuously unfolds in relationality. Considered as a said, my communication is evaluated for whether I "actually" feel the things communicated—that is, whether the sign given accurately maps onto a content—or whether a content is communicated in a way likely to be understood by a reasonable interlocutor. This misses much of the exposure and ethical appeal of saying

All sexual communication, as saying, expresses something of one's interiority while simultaneously extending an appeal to another that shapes the unfolding relation. The directionality of this appeal is not adequately described as producing new obligations by giving another person "reasons for acting," as many contend in conventional approaches.[327] The most tenuous and ambiguous communication also directs an encounter, even when saying falls short of the clarity that would give a validly binding reason (e.g., by making a said count as consent or refusal). Even my ambiguous intimate expressions engage another person in dialogue, exposing something of me and appealing to another to respond—perhaps appealing to them to leave me alone, whether or not I have the energy or power to insist on it directly. The ethical import of my saying is not merely its status as producing one reason among many, entering into a calculation of reasons and interests that might be decided by my partner for or against responding to me.

Of course, the focus on the said as a reason for action orients the judgment and force of social institutions, and it can therefore also provide affordances for certain kinds of agency. The existence of a juridical definition of consent, for example, enables one to communicate in ways designed to meet or fall short of that definition, such as by saying "I do not consent to this!" if another person fails to respond to more informal cues of refusal. Such a saying intentionally collapses itself into a said; the intention to deliver a sign eclipses the relationality of saying. The statement seeks to make clear to a partner that failure to respond will count as assault, which is unambiguously forbidden according to

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[327] For example, Neil C. Manson, "Permissive Consent: A Robust Reason-Changing Account," *Philosophical Studies* 173, no. 12 (2016): 3317–34.

the law and at least nominally unacceptable under social norms.[328] This is to communicate to another that it is not just you and me here, but also the law, since that person has proved unwilling or unable to respond to the ethical claim of proximity in saying. By communicating in this way, a person invokes what Levinas calls the presence of the third—another party outside of the encounter: society, justice— to exert a force of necessity beyond ethics to shape another's actions.[329] Levinas writes, "the State . . . does not untie the knots [of responsibility, of proximity, of ambiguity], but cuts them. The said thematizes the interrupted dialogue or the dialogue delayed by silences, failure, or delirium, but the intervals are not recuperated" (OTB 170). The law enables the responsibility of the one-for-the-other to be replaced with accountability built around the status of fact and the content of the said, thereby providing a normative theme to guide action. If the law is structured and administered justly—no more than an idealized fantasy in most societies—this mode of communication may provide a valuable backstop to prevent sexual violation. However, even an ideal law covers over my responsibility insofar as it permits me to ignore the proximity of another and attend only to the status of the said—a "reverting of contact into consciousness and into a discourse that states and that is logical, in which the communicated theme is more important than the contact of communication" (OTB 193n29). Even if I stop when another person states that they do not consent, I have already failed in my responsibility to them by collapsing their saying into the said and the sense of our relation into a weighing of interests.

While I will discuss the authoritative demand placed on another by a sexual refusal in chapter five, the important lesson from attending to the saying alongside the said is that responsibility to another is present before a relation is reduced to the struggle of attaining recognition for a "no." That struggle of interests follows from prior moral failures of responsibility, which I will specify. The important question for moral responsibility is how a person's saying, always temporary, fits into and shifts an ongoing encounter—not how it creates and waives obligations but how it appeals to another, upstream from the obligations that become visible after the fact. Understood as saying in this way, consenting and other modes of affirmation have ethical significance not reducible to their moral effect

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[328] This example is based on an acquaintance's description of an encounter in which, lacking the power to stop her boyfriend from sexually assaulting her, she sought instead to make absolutely clear to him that what he was doing would be unforgivable and potentially prosecutable.

[329] For discussion of the many functions of the third in Levinas, see Robert Bernasconi, "The Third Party: Levinas on the Intersection of the Ethical and the Political," *Journal of the British Society for Phenomenology* 30, no. 1 (1999): 76–87.

as a said. This is why, as I have argued in various ways over the first three chapters, prevailing theories of sexual ethics need to focus less on consent as an artifact and more on consenting and other practices of intimate communication, which call for continuous responsiveness.

V.   Encountering the Face of Another Person as Expression

The question of responding to the exposure of saying receives its most direct treatment in *Totality and Infinity*, where the living relationality of saying is thematized as the *expression* of another.[330] Levinas describes how the encounter with what he calls "the face" of another [*le visage d'autrui*] calls into question my presupposed sense of self-certainty and being at home in the world. The face is the trace of ethical alterity that approaches me in the living present, and it reveals as an "epiphany" the transcendence, or absolute exteriority, of the other, which calls me to responsibility.

Although Levinas's *le visage* is universally translated in English as "the face," he does not mean the physical face or its features per se. Rather, *le visage* is that which expresses, the expressiveness of another.[331] The "face" is the active site of communication, where I meet another's expressive saying— where they are both meaningful to me and present as an interlocutor, assigning me signification. The face names the locus of expression, the privileged point where signification reaches me from another person despite the perspectival impossibility of knowing another through and through. Expression is the activity of the other person in which their transcendence—their alterity—comes to bear on my experience, in which I meet a trace of the aspect of another that is hidden from my own perception and consciousness. This includes any behavior through which another approaches me as an interlocutor, as one with whom I can be in relation: spoken words as well as sounds, looks, gestures, and

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[330] Levinas's full theoretical treatment of the saying and the said is in *Otherwise than Being*, where he largely abandons the project of describing how the exposure of another is *experienced* as soliciting a response. Despite the risk of anachronism, my return here to the more phenomenological discussion of responsibility in *Totality and Infinity* is justified by the structural similarity between his discussion of saying and the expressiveness attributed to the face in the earlier text, as well as textual evidence of this connection in *Otherwise than Being*. Compare, for example, the discussion of language in TI, 72–77, with OTB, 48–51.

[331] The translation of *le visage* has fueled a misreading of Levinas as attributing almost magical powers to the physical face, especially when Levinasian approaches are applied in practice-based disciplines like nursing, psychiatry, and education. For a cautionary discussion, see Diane Perpich, "Don't Try This at Home: Levinas and Applied Ethics," in *Totality and Infinity at 50*, ed. Scott Davidson and Perpich (Pittsburgh: Duquesne University Press, 2012), 127–52. *Le visage* could be translated as "countenance," a word that perhaps suggests the depth of expressiveness lacking from "the face."

postures.[332] Although Levinas associates expression paradigmatically with language, it is not the propositional power of words that is of primary importance but their potential for living expressiveness. The expressiveness of another makes discourse a relation rather than merely an exchange.

In expression, another person makes present to me the open-endedness and exposure of saying, making sense and signification across the unbridgeable distance between us. Conveying meaningfulness in this way, the face is, in the words of Bettina Bergo, "the self-presentation that simultaneously gives as it withdraws . . . [into] the density of human expression, to which unconditional access is debarred."[333] Ethical alterity is thus a relation with another who is both the source of expression and present in some way in the expression itself, while remaining transcendent.[334] Levinas writes, "what is expressed is not just a thought. . . . It is also the other who is present in thought. Expression renders present what is communicated and the one who is communicating; they are both in the expression."[335] Expressing from a "height" above and beyond my consciousness, the face of the other resists my capacities of cognizing, perceiving, naming, manipulating, or predicting by which I typically absorb and manage my world (TI 67). The aspect or sense of another person which is present in expression exceeds representation: the face "at each instant overflows the idea [of the other] that thought might carry away" from our encounter (TI 51). As such, the encounter with another's expressiveness opens onto their transcendence in relation to me, and the face's resistance to absorption into my interiority calls into question my self-certainty and freedom—my will, my expansive knowledge, my security, authority, and enjoyment—that grounds subjectivity.

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[332] Levinas writes that "gestures and acts produced can become, like words, a revelation, that is, as we will see, a teaching" (TI 67). However, perhaps in critique of Jean-Paul Sartre, Levinas cautions against conflating expression with works achieved, which point only to "the agent in his absence" and miss the ongoing relationality of saying (TI 66).

[333] Bergo, "The Face in Levinas: Toward a Phenomenology of Substitution," *Angelaki* 16, no. 1 (2011): 27.

[334] Akin to this, Merleau-Ponty argues that we do not grasp the so-called inner experience of others through representation but rather holistically, where the inner and the outer are part of the same movement of feeling, emotion, or thought. This is to say that expression always includes something of the other person, even if it can never be all of the other person. See Merleau-Ponty, *Phenomenology of Perception*, trans. Donald A. Landes (New York: Routledge, 2012 [1945]), 179–205. Wittgenstein arrives at a similar point in his later writing; see discussion in Søren Overgaard, "Rethinking Other Minds: Wittgenstein and Levinas on Expression," *Inquiry* 48, no. 3 (2005): 249–74.

[335] Levinas, "Freedom and Command," in *Collected Philosophical Papers*, trans. Alphonso Lingis (Dordrecht: Martinus Nijhoff, 1987), 20–21.

The encounter with the face is the situation where the unconditional responsibility of proximity comes to bear on me.[336] I feel myself called into question by the face, and through it I sense the weight of the debt of relationality. In this encounter, I can grasp the other person as both totally exposed—that is, vulnerable to being silenced by me—and totally commanding, inescapably assigning me meaning and demanding my response.[337] On the one hand, the other person is vulnerable in expression as one fundamentally still in the process of becoming—already a participant in discourse but exposed in saying as contingent and fragile.[338] At the same time, the face of another commands a change in me; it demands that my life not unfold seamlessly according to the easy at-homeness enshrined in everyday intentional action and the ideal of full autonomous self-possession. This demand is not conveyed through a moment of recognizing the humanity of another or gaining knowledge of a moral truth; recognition and knowledge would both return to the paradigm of interiority and the "psychism" of selfhood described at the beginning of this chapter. Rather, the face disturbs the machinery of subjectivity in such a way that the face's epiphany can only be sensed affectively, as a rupture or break that leads to being "torn from oneself despite oneself . . . [to be] torn from the complacency in oneself characteristic of enjoyment, snatching the bread from one's mouth" (OTB 74). Instead of operating through representation, the responsibility engendered by the face intervenes at the level of the sensible prior to the intelligible; I am affected by the approach of the face beyond how I interpret the signs expression might communicate.

I take expression and the face to be crucial concepts for an ethics of sexual intimacy, particularly when we seek to decenter the norm of consent and prioritize the feminist commitment to the value of sexual agency. In Levinas's description of the ethical encounter, he identifies a rich texture of sense and ethical solicitation that arises from expression, wholly separate from the question of whether a given expression effectively communicates a content or enacts a performative. This suggests that the

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[336] I use "encounter with the face" instead of "the face-to-face" to avoid an ambiguity in Levinas's term, *le face à face*, which in translation seems erroneously to suggest a symmetrical meeting of two faces (*visages*). *Le face à face* has a primarily spatial meaning: it implies an encounter that is frontal and direct rather than oblique. This meaning is independent from the special meaning of *le visage*.

[337] Levinas discusses at length the possibility of murder, and how it extinguishes another's expressiveness but fails to eradicate their ethical demand. Murder is a flight from rather than mastery of responsibility. This is evident in Plato's myth of Gyges: responsibility only decisively loses its claim when one is absolutely removed from human relationality, an impossibility. See TI 90.

[338] This resonates with Linda Martín Alcoff's account of subjectivity as ongoing concernful self-making; see discussion in chapter two, section four.

wider range of sexual communication solicits another person, beyond the juridically valorized communicative acts that come to count as consent. Here is clear resonance with the notion that responsibility to another in a sexual encounter entails responding to their expressions—including consenting and refusing, but also every ambiguous expression laden with sense that may not yet be decipherable. I will develop this account of sexual ethics in the next chapter.

Further, the notion of the face as the trace of transcendence points to how another's expressions bring me into contact with aspects of another that are in principle beyond the reach of cognition or certainty. This includes their subjective experience—feelings, desires, sensations, emotions—as well as their relational context, where they are coming from personally, and what projects they are trying to pursue in their lives. In short, the transcendence of the other includes the subjective features that produce and support their agency, which is attested to me in some always-incomplete sense by their expressions.[339] Although, as discussed above, Levinas implausibly denies that the ethical value of saying (as sense-making) persists in the erotic, he does acknowledge that the encounter with the face can be expansive and intimate beyond spoken dialogue: "the whole body—a hand or curve of the shoulder—can express as the face" (TI 262). Thus, the expression that attests to me another's transcendence can reach me across verbal and bodily communications, in movements, posture, gestures, and sounds. The task of receiving the solicitation of another's agency through these oblique modes of expression is central to responsibility, as I will discuss in chapter five.

VI.   Unjust Social Context and the Ethics of the Face

Levinas's ethics of the face is usually not emphasized when he is used in support of feminist critique because his descriptions seem to locate a primordial scene of ethics naïve to social power relations and everyday prejudices. This concern grows from two potentially serious flaws in the ethics of the face. First, Levinas describes the alterity of the face as unconnected to the particular (gendered, raced, etc.) features of a concrete other person. And second, in several places he indicates that the face's call to responsibility acts on us independently of social context. These concerns have significant

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[339] Some will surely read Levinas's focus on a nearly infinite passivity as a reason to hesitate to valorize agency as I do. However, it is an error to universalize Levinas's account of passivity as an ontological claim about the nature of human relationality. As I have argued, Levinasian ethics should be read first and foremost as a perspectival approach to responsibility, which means his claims of infinite passivity describe the passivity of the "I" before another, not the passivity of all human beings.

consequences for the validity and efficacy of a Levinasian approach to sexual ethics, and I discuss them in turn.

First, many have criticized Levinas for positing the face as an abstract alterity, ignoring concrete differences of sex, gender, and race.[340] I argue that this critique is misplaced when directed at Levinasian alterity, although it expresses a concern that all ethics and political philosophy should heed carefully. Levinas indeed characterizes the face as other to me without consideration of how my interlocutor's gender or race differs from my own.[341] Alterity in Levinas's sense—the alterity that makes life ethical—is the relation that arises with another who expresses; it is not the concrete difference of their body, social situation, or history, but their position as expressive that makes them absolutely exterior to the perspective of an "I." However, this is not an abstract difference emptied of content. If we share Levinas's commitment to locating ethics in the concrete perspective of "I," the ethical salience of differences like race or gender unfold diachronically through the encounter with another—an encounter that is fundamentally ethical because of another person's alterity, that is, their capacity to express and address me.

To ask whether the face of the other person *in itself* is racialized or gendered is to treat the face as a representation. On the contrary, the face in itself cannot have a gender or race because there is no face *in itself*.[342] The face of another *is* only in an encounter, and only there does it solicit me ethically. This is Levinas's point when he writes that the face "does not signify an *indeterminate* phenomenon; its ambiguity is not an indetermination of a noema, but an *invitation* to the fine risk of approach qua

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[340] Irigaray reads Levinas as positing an abstract alterity prior to sexual difference, which cannot be reconciled with her commitment to sexual difference as irreducible. This position is also reiterated by Elizabeth Grosz, particularly through her reading of Jacques Derrida, "At This Very Moment in This Work Here I Am," in *Re-Reading Levinas*, ed. Robert Bernasconi and Simon Critchley, trans. Ruben Berezdivin and Peggy Kamuf (Bloomington: Indiana University Press, 1991), 143–190. For discussion, see Kate Ince, "Questions to Luce Irigaray," *Hypatia* 11, no. 2 (1996): 122–40. In critical philosophy of race, the sense that Levinasian alterity is overly abstract has often led to his thought being avoided entirely, with the exception of several Levinas scholars—Robert Bernasconi, Diane Perpich, John Drabinski, and others—who have sought to make bridges.

[341] It is more complicated with respect to differences between sexes. In his early work, Levinas refers to sexual difference as a paradigmatic form of alterity, although his position changes over time. For an authoritative discussion, see Sandford, *The Metaphysics of Love*.

[342] Drichel suggests this argument in "Face to Face with the Other Other: Levinas versus the Postcolonial," *Levinas Studies* 7 (2012): 21–42. The challenge of describing the face without reproducing the gesture of representation is central to Derrida's critique of Levinas in "Violence and Metaphysics," in *Writing and Difference*, trans. Alan Bass (London: Routledge, 2001 [1967]), 79–153.

approach, to the exposure of one to the other" (OTB 94, emphasis mine). As the situation of relational encounter as such, the ethical alterity of the face should not be read as generic or emptied of content; it is the condition of possibility for all ethically salient differences between us, because the meaning of those differences arises from and in our relationality. This is useful for anti-racist and anti-sexist ethics because it describes how the gender or race of another can have existential and ethical significance beyond what arises from categorical descriptions of bodily presentation and social history. More than a merely intellectual engagement with histories of others' subjection—where I, the privileged subject, retain access to the whole range of excuses and justifications to avoid responsibility—the privileges of whiteness or maleness must be subjected to the affective impact of encounters that call them into question.

The second concern, about the role of social context in the encounter with the face, poses a deeper challenge to Levinas's ethics. Critical philosophy of the past fifty years has demonstrated myriad ways societal norms and structures shape how a person expresses and how those expressions are received by another.[343] However, in Levinas's fervency about the primordial status of the ethical encounter, he seems to describe the solicitation of the face as transcending the social, and the expressiveness of another's face as being prior to their context. In contrast with the ethical encounter with the face, he claims that society teaches me to take another's clothing, appearance, and role as essential when we meet, which "covers over all ambiguities with a cloak of sincerity and makes them mundane."[344] The call to responsibility expressed by the face ostensibly acts independently of social context, cutting through power relations and everyday prejudices. But isn't the expressiveness of a person constituted in part by the sociocultural "clothing" they wear and the clothing others before them have worn? For example, my discussion of Audre Lorde's agency in chapter three could be read as a narrative of how a particular context provides affordances for agency and expression. Further, every encounter is framed by a context with particular affordances—often marked by racist and misogynist discourses—which might prevent me from being moved by the ethical epiphany of the face. In the case of Lorde, her first, abusive would-be sexual partner (in chapter three, section four) is embedded within social meanings—homophobia and misogyny, perhaps—that seem to circumscribe his sense of her and ability to receive her appeal.

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[343] See, for example, the discussions in chapter two, sections one and four.

[344] Levinas, *Existence and Existents*, 31.

Gendered and racialized features of another person *mean something to me* independently of that person's expressiveness, and my own social habituation can lead me to see another person *as* something, obscuring the face that would attest the other person's ethical alterity and thereby insulating me from demands for responsibility. This is particularly salient for race: there is a white mode of seeing blackness, for example, that circumscribes possibilities for encounter.[345] Levinas's reference to the encounter with the face as an affective instant of unknowing—a naïveté before the perceptual categorization of another—rings hollow in light of what we know about the implicit knowledge by which prejudices based on visible markers are reproduced.[346] While locating the transcendent meaningfulness of another in their expressions, Levinas dismisses the possibility that meaningfulness might also depend on social affordances for receiving the expression of another.[347] As I have described in chapter two, social context not only shapes cognitive interpretations and beliefs but also habituates us to particular affects, feelings, and desires. Consider again the role feelings play in Lorde's life and how her feelings are fundamentally made available by her social positioning. My response to another always emerges from a milieu of influences contingent on my sociohistorical positioning, which means in every encounter there is some return to my investment in my own interiority—an undeniable failure to heed the call of another's absolute exteriority.

To adapt Levinasian ethics to this more profound challenge requires softening Levinas's early claims about the primordial nature of the face-to-face but taking seriously the perspectival character of his descriptions of the disruption of the encounter with another. Levinas posits the face as a trace

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[345] See Linda Martín Alcoff, *Visible Identities: Race, Gender, and the Self* (Oxford: Oxford University Press, 2006).

[346] See Alia Al-Saji, "A Phenomenology of Hesitation: Interrupting Racializing Habits of Seeing," in *Living Alterities: Phenomenology, Embodiment, and Race*, ed. Emily S. Lee (Albany: SUNY Press, 2014), 133–72; and Alexis Shotwell, *Knowing Otherwise: Race, Gender, and Implicit Understanding* (University Park: Pennsylvania State University Press, 2011). Al-Saji argues that in the case of racism, for example, affect and perception cannot be peeled apart in this way: "the nonreflective level at which perception and affect operate function to hide the ways in which these operations are mediated and constituted by a history and culture of racism, effectively naturalizing what is seen and felt" (Al-Saji, "Phenomenology of Hesitation," 140).

[347] John Drabinski, for example, argues that the sheer singularity Levinas attributes to the face is only possible against a horizon of Western-ness: "a common history is what makes the solely singular possible" (Drabinski, *Levinas and the Postcolonial*, 44). This is a compelling framing of Levinas's limitations, although I wonder if Drabinski makes too sharp a distinction between singularity and difference (cf. Lisa Guenther's response to Jean-Luc Marion in Guenther, "The Ethics and Politics of Otherness: Negotiating Alterity and Racial Difference," *PhiloSOPHIA* 1, no. 2 (2011): 195–214).

of transcendence, which gives it the power to perforate my everyday mode of grasping. This does not entail that my encounter with the face of another transcend history, however, but only that there is something of the other—their ethical alterity—that goes beyond what is readily available from the past. In *Totality and Infinity*, Levinas writes that "though of myself I am not exterior to history, I do find in another person [*autrui*] a point that is absolute with regard to history . . . History is worked over by the ruptures of history, in which a judgment is borne upon it. When man[348] truly approaches the other person [*Autrui*], he is uprooted from history" (TI 52). Rather than read the final sentence here as a gesture of closure, locating the encounter with the face outside history, I suggest that Levinas attributes to the encounter a power to change the relation between a person and history: I am "uprooted from history." Recall Levinas's claim that my uniqueness as "I" stems from being called to responsibility personally, as *me*, the one that I am. One of the key insights of contemporary feminist phenomenology and critical theory is that history and social context are not surface effects playing over the depths of subjectivity, but constitutive factors for one's sense of selfhood.[349] By writing, "of myself I am not exterior to history," Levinas, too, seems here to adopt the view that there is no authentic self independent of one's sociohistorical context. It follows that the singular "I" that I am includes a present past of material and discursive forces that follow from my sociohistorical situation and reproduce me within it. Therefore, social and structural context should not be treated as facticity, the backdrop for a Sartrean freedom to be enacted in every moment, but recognized as integral to the personalness of responsibility—both in the demand that another person places on *me as me* and in my responsibility to *this one*, to the other person who expresses to me.

In this sense, social context is not a curtain dropped between the self and another, concealing the face. Expression does not require an externalization of "inner truth" that risks being buried under

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[348] Levinas's gendered language in this passage reflects how his account only describes a man approaching the other person. While it does not excuse his essentializing assumptions about femininity, Levinas's thoroughgoing commitment to the "I" perspective explains his male-oriented view to some degree. Levinas does not suggest that only a man has the sense of mastery and ipseity of an "I," but he evidently assumes that his reader is also a man and that masculine persons are adequate representatives of humanity.

[349] This is already evident in radical feminist insights about ideology and false consciousness, discussed in chapter two, and it becomes more fully developed in feminist views after Foucault, such as that of Alcoff discussed in section four of that chapter. The constitutive role of the social in subjectivity is also a central insight in the structuralist turn to "practice theory" in anthropology and sociology. See Pierre Bourdieu, *Outline of a Theory of Practice*, trans. Richard Nice, (Cambridge: Cambridge University Press, 1977 [1972]).

social and discursive practices. Rather, the sociohistorical is part of both the singularity of the self and the diachrony of the face, the past in its present. The past is worn by the face as more than weathering on a statue; the traces of the past are attested in expression, and something of them can be sensed in our relation or encounter. Yet, the singular past of another person is unknowable to me, and thus itself part of what is transcendent of them; what John Drabinski calls the "incarnate historiography" of the other person is part of their alterity.[350] A person's social position is in this way baked into their singularity as the one who addresses me, insofar as that positionality is a part of their transcendent subjectivity and agency.

The other person does not (and cannot) present to me a thematization or conceptualization of social positionality. Rather a person's singularity is each time the concrete manifestation of some positionality: a person living out some positionality and expressing from it. Thus, in consideration of the sociohistorical traces playing in the self and in the expression of another, the diachrony present in the encounter with the face is even deeper than Levinas acknowledges: it not only attests to the transcendence of another, but to their emplacement within a world and a history that may be very different from my own.[351] This highlights the possibility that the encounter with another can open up the contingency inherent to our social contexts to possible destabilization—particularly for those contexts that deform rather than facilitate relationality.

The promise of the ethics of the face is thus that it describes how an encounter might call into question not only my relation to myself, but the location of my selfhood within the framing conditions surrounding our encounter. While I am no doubt heavily invested in who I take myself to be and to have been, the encounter with another might create a crack in the façade of self-certainty, a momentary opportunity for hesitation or divestment from interiority.[352] This is not to say that the face of the other has the power to explode colonialism, patriarchy, and other hegemonic discourses; rather, its intervention is to affect the self who inescapably lives within those sociohistorical frames, which might change how I inhabit and take up the affordances of that context. This explains why whiteness and male privilege can both be experienced as fragile in the face of demands made by concrete others;

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[350] Drabinski, *Levinas and the Postcolonial*, 44.

[351] The sense of *world* here follows María Lugones, "Playfulness, 'World'-Travelling, and Loving Perception," *Hypatia* 2, no. 2 (1987): 3–19.

[352] See Al-Saji, "Phenomenology of Hesitation." The potential of hesitation is discussed in chapter five, section five.

such privileges can become uncertain when I am exposed to being called into question by the alterity of another human, by another's expression from beyond me that impedes my habitual "seeing as."

When privilege is invested with state power and a discursive armory of self-justifications, it is able to flee its fragility by insulating me from the call of the face. In the case of male privilege, this problem can only be remedied through feminist critique and political transformation, which must reshape my cultural and institutional context to soften these barriers to relationality. Political intervention is the only recourse for resistance against structures that create hard barriers against the conditions of possibility for ethical encounter: structures that police who is allowed close enough to encounter at all, for example. Levinas's ethics of intimacy cannot rewrite laws, transform social precarity, or tear down walls and demolish checkpoints that filter others before they can approach me.[353]

But the disruption imposed by an ethics of encounter is also vital for political change; political action must always labor to remain justified with respect to the situation in which I find myself with others. Knowledge of what social justice demands is always provisional, subject to revision and vulnerable to collapse according to the shape of others' lives and what those other people actually express. I read this ethical self-critique of politics in Levinas's statement in *Totality and Infinity* that "reflection can, to be sure, become aware of the face to face, but … [this] involves a calling into question of oneself, a critical attitude which is itself produced in face of the other and under his authority" (TI 81). For this reason—that the ethical may continue to shape the political—structural critique requires a basis in the actual voices of those whom it seeks to benefit, and social transformation that moves toward relationality must be complexly coalitional, based in concrete relationality and encounters.[354] For an individual, an "I," this is not a stripping away of habitual perception so much as a disruption, a moment of disorientation, in which the expression of another is heard as the "invitation to the fine

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[353] In *Strange Encounters: Embodied Others in Post-Coloniality* (London: Routledge, 2000), Sara Ahmed discusses how the ethics of the face cannot overcome the problem of structural limits to "the conditions of possibility for us meeting here and now" (145). See also Judith Butler, *Precarious Life*. Levinas would argue that such exclusion is the result of a preemptive foreclosure of ethics, what he thematizes in the introduction to *Totality and Infinity* as the state of politics and war.

[354] Lugones writes that "in complex communication [among those who are oppressed] we create and cement relational identities, meanings that did not precede the encounter, ways of life that transcend nationalisms, root identities, and other simplifications of our imaginations" (Lugones, "On Complex Communication," *Hypatia* 21, no. 3 [2006]: 75–85).

risk of approach" (OTB 94).[355] I can never fully empathize or appreciate the positionality of another person in its entirety, but, as Iris Marion Young writes, I can "acknowledge the difference, interval [between us], that others drag behind them shadows and histories, scars and traces, that do not become present in our communication."[356] While the first step of political action is always to locate the self within a collectivity, the relationality that can make a political project right or wrong depends on that collectivity being challenged by the disruption posed by another: the rupture of history that enables judgment and repair in the present. While this does not yet define what exactly is called for in response, it highlights how the encounter with the face brings the possibility of a retroactive challenge to my own history of freedom and action and my own justifications: "history is worked over by the ruptures of history."[357]

VII.   Conclusion

Levinasian conceptual resources—the "I" perspective, proximity, relationality, the priority of the saying over the said, and the demand of the expressive other—are appealing for politically engaged ethics because they articulate how responsibility can act on us prior to subjectivity or consciousness. This means ethical life in the present includes responsibility to repair wrongs predating my freedom and knowledge: the settler justification, "my ancestors hadn't even arrived here yet," loses its power to excuse, as does the phrase, accompanying a man's description of his sexualizing behavior in the past, "that was before #MeToo, so I would never act that way today." Even when a cultural change in epistemic resources enables critical reinterpretation of my past actions and experiences, my responsibility predates that shift; when it comes to another person's appeal, I am responsible also for my ignorance.

The earlier chapters of this dissertation explored how responsibility to another person in sexual encounters is both more inclusive and more fundamental than the responsibility to respect consent

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[355] See Ami Harbin, *Disorientation and Moral Life* (Oxford: Oxford University Press, 2016). Harbin does not engage Levinas, but her account of the role of disorientation in ethics can be read as second-generation Levinasian, as she cites Ahmed and Butler as primary influences.

[356] Young, *Intersecting Voices: Dilemmas of Gender, Political Philosophy, and Policy* (Princeton: Princeton University Press, 1997), 53; quoted in Lynne Huffer, *Are the Lips a Grave?: A Queer Feminist on the Ethics of Sex* (New York: Columbia University Press, 2013), 71.

[357] This principle is at work in institutional and interpersonal projects of truth and reconciliation. See Jill Stauffer, *Ethical Loneliness: The Injustice of Not Being Heard* (New York: Columbia University Press, 2015).

and refusal. With his regrounding of ethics in the exposure of relationality with another person, Levinas provides a metaethical basis for this claim. If both value and signification originate in proximity to another, as I claimed in chapter four, then the relation with that person poses more direct claims of responsibility on me than any obligation that can be produced by (or deduced from) a particular moment of communication, considered as an artifact-like said. What is known about another person in any given moment is both expanded and displaced by their ongoing expressions; the dynamic unfolding of another's alterity is the direct source of ethical demand. As a result, regardless of what another has communicated to me, no decisive action can be taken in advance to secure my behaviors from failing morally, trespassing, or harming them.[358]

Instead, the Levinasian framing suggests that responsibility can only be enacted over time, in continuous response to the expressing of another. For sexual encounters, this relational dynamism of responsibility is especially salient and unavoidable because intimacy always entails a certain kind of exposure to another, and my sexual and sexualizing behaviors can leave particularly vivid and immediate impressions on my own embodied selfhood and that of another.[359] Because of the dynamism of intimate encounters and the direct effects of our behaviors in them, the responsibility to another in sexual intimacy is especially insulated from the large-scale concerns of distributive justice or third-party judgment that Levinas describes as displacing the ethical appeal of the face. This fortifies the position that sexual consent cannot be adequately considered merely as a said, enacting a moral transformation by giving permission, but should always be located as a saying, within a wider discourse of expressions that unfolds diachronically in relation with another.[360] Among the bodily and verbal expressions made in sexual intimacy, the practices we have come to define as consenting shape responsibility, but they are merely one way among many by which the alterity of another calls on me to respond.

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[358] Recognizing the distinction between moral failings, wrongs, and harms, I mean to highlight the common impossibility of achieving moral purity and of ensuring unharmful consequences for one's behaviors.

[359] See chapter two, section four for the phenomenological basis of this claim.

[360] This supports my argument in chapter one that permission-giving views of consent miss how responding to another has a decisive impact on whether or not a consensual relationship is actually morally felicitous.

CHAPTER FIVE
AMBIGUITY, SOCIAL CONTEXT, AND RESPONDING TO EXPRESSIONS OF AGENCY

This project has from the outset been motivated by the core commitment that the value of sexual agency is central to sexual ethics, logically and ethically prior to any normative effect that might follow from consent. I suggested in chapter one that this feminist commitment means that responsibility to another in a sexual encounter requires an orientation of responsiveness, in which one's behaviors shift so as not to degrade or obstruct the agency of another.[361] In chapter two, I used feminist critical theory and phenomenology to argue that communications of consent or affirmation, which always take place within a social context, only gain moral sense from the agency that gives rise to and is expressed in them—even as that agency is dynamic and mutable according to socially situated possibilities of sexual subjectivity.

Chapter three examined how the moral importance of another's agency can be acknowledged when agency is practiced in opposition to impoverished social norms and discourses. It argued that responsibility to another under such conditions requires more than merely detecting whether another's communicative expression is valid consent and then adapting behaviors to respect that person's right to consent to or to refuse sexual contact. A capacious notion of responsibility to another in sexual ethics includes a responsiveness to what may not be made evident through communication, such as feelings and felt aims and desires, where a person is coming from, and where they are trying to go with their lives. The portrait of agency that has emerged over the course of the first three chapters braids together these aspects of selfhood—the will, experience of what is taking place, feelings (including

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[361] Note that by *responsibility* I mean the relational responsibility *to* another, rather than the juridical responsibility *for* an action. My interest is in obligations to another, including obligations of repair for ethical failings, not in questions of culpability, attribution of wrongs, or how violators should be held accountable. See chapter one, section three.

feelings of right and wrong), embodied life context, capacities of concernful self-making, and the pursuit of projects—which in principle are dynamic and not fully graspable to another through direct knowledge or inference.

Perhaps unexpectedly, the Levinasian framework discussed in chapter four can be appropriated to facilitate this agency-based feminist approach to sexual ethics. Levinas's investment in the passivity of the self in responsibility—always subjected, undergoing the demand of another—provides a metaethical basis for the imperative of responsiveness in the face of another's agency. The fundamental value I have attributed to agency in the wide sense I have described is part of the value Levinas locates in another person's transcendence, which he argues is the source of sense and responsibility.[362] Another's agency can never be fully transparent; it only reaches me by way of their expressions, including their verbal and nonverbal communications, the way they present themselves, the relations they pursue, and how they act and move through the shared social world. To relate to another's agency is to orient oneself toward their ethical alterity—i.e., their approach or address to me from beyond my horizons as a self—and the ethical appeal of the agency of another cannot be decisively disentangled from their exposure and sensitivity to be affected by me, that is, the urgency of their vulnerability to be harmed. Accordingly, I will use the words 'transcendence' and 'alterity' interchangeably to refer to how another person approaches and addresses me from beyond the horizon of knowledge or prediction, and the qualitative sense of their expressions and the way they experience their vulnerability to me can never be made fully transparent.

To ground ethical value in the alterity or transcendence of another calls into question both my freedom to choose the right action and the casuistry by which I might defend that freedom against ethical critique—the well-worn excuses and justifications for failure. This is crucial for ethics in erotic encounters, where ambiguity and uncertainty about another's experience or will have often been mobilized to excuse behaviors that fail to respond to the appeal of another, often justifying actions that cause violation and other harms. Further, where sex and intimacy are framed by pernicious social norms, intuitions about right and wrong are often distorted and insulated against claims of others, and an impoverished vocabulary hinders sexual communication. The result is that conventional, principle-based ethics often fail when applied to our sexual lives as they are lived.

In contrast, Levinas emphasizes that the responsibility called for by the face of another is ongoing and dynamic; it cannot be fulfilled in the sense associated with a good conscience and a

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[362] See chapter four, sections one and two.

positive ledger of rights and wrongs. When responsibility begins with the directional appeal of another's expressions in the intimacy of encounter, my behaviors are recognized as charged with ethical significance despite ambiguity and uncertainty. I am tasked with continuing to navigate relationality rather than merely avoiding blameworthiness; I must remain responsive to shifting claims that ensnare me and assign me my singular sense as "I."[363] According to this framing, responsibility can be articulated despite both the ambiguity inherent to intimacy and the obscuring effect of pernicious social norms; indeed, responsibility intertwines with the political imperative to change those norms.[364]

This chapter develops in detail a conception of responsibility as responding to another person, retaining the feminist valorization of agency—particularly agency for those in structurally disadvantaged positions—and the Levinasian sensibility that another's agency can only come to bear on me and make claims on my comportment through their expressions, which rarely ground certainty about what is owed. The decisive questions for practicing responsibility in intimate encounters are: (1) How can I hear the appeal of another's agency in their expressiveness? and (2) How ought I to behave in response? Given both the ambiguity inherent to erotic intimacy and the ethical distortions imposed on sex and sexuality by pernicious social and discursive norms, the answers to these questions cannot rest on transparency or knowledge about another's inner life.

I identify one precondition and four desiderata for actualizing responsibility to another in a sexual encounter, which describe how a person can be open to the value and significance of another's agency, receive another's expressions as making an ethical appeal, and respond both appropriately and dynamically as a relation unfolds—all from a particular positionality within a sociocultural context with limited affordances. In section one, I introduce these desiderata as practices or orientations of responsibility, and I address several points of overarching significance for the argument, including the role of expression in this account. Section two articulates the important distinction between the ambiguity constitutive of intimacy and the obscurantism imposed by pernicious social norms and structures, with the latter producing mystification and uncertainty for some and an arrogant self-certainty and sense of entitlement for others.

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[363] See discussion in chapter four, section three.

[364] My attention to the social and political positionality of a subject is the point where my approach most stretches a Levinasian framing for ethics. But see my discussion in chapter four, section six for a possible amelioration of this tension. See also Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (London: Verso, 2004).

Sections three through six then develop the desiderata in detail. My first major claim, in section three, is that responsibility to another depends on the precondition of having a grasp of the social contextual influences that surround and position each of us within our personal relations. I then articulate in sections four and five the modes of sensing and receiving another so their expressions can be heard as a trace of agency that demands a response. Finally, in section six I describe how ongoing behaviors ought to change to acknowledge the value of the agency of another, even as that agency is always uncertain from the perspective of the self. Because such responsiveness is dependent on the affordances of the social context surrounding a relation, this notion of sexual ethics demands a feminist political stance against pernicious social structures and norms that undermine possibilities for ethical relationality.

I. Introducing a Precondition and Four Desiderata for Responsibility to Another in a Sexual Encounter

On the conventional view of ethics and responsibility, the task of respecting another's will, autonomy, or agency is logically dependent on an imperative to knowledge: to know enough of another to assess obligations and act appropriately. This is the climate in which moral theorists attribute an outsized authority to another's token of consent. Operating under the presupposition that ideal consent gives permission, most theorists assess obligations according to whether there is sufficient evidence to reasonably infer that another has communicated consent intentionally and without coercion.[365] If these knowledge conditions are adequately fulfilled—or would seem so to a reasonable person—then the token of consent is taken to be an appropriate proxy for another's personal autonomy, agency, or freedom.

Feminists for decades have observed how, when things go awry, this framing tends to allow responsibility to be inverted between parties.[366] A person whose actions cause violation is excused if they acted on a reasonable belief that another validly consented, while one who is violated is often

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[365] Those who define consent purely as a mental state disagree, basing *culpability* on reasonable knowledge, while defining *wronging* to have taken place even without knowledge. However, sharply distinguishing wronging from moral culpability erodes the moral significance of wronging: the important distinction between a *wrong* and a *harm* (e.g., a tragic accident) becomes blurred. See, e.g., Larry Alexander, "The Ontology of Consent," *Analytic Philosophy* 55, no. 1 (2014): 102–113. See chapter one, section two.

[366] See, for example, Louise du Toit, "The Conditions of Consent," in *Choice and Consent: Feminist Engagements with Law and Subjectivity*, ed. Rosemary Hunter and Sharon Cowan (Abingdon: Routledge-Cavendish, 2007), 58–73.

held responsible for failing to express clear refusal or for misleadingly indicating that their acquiescence was uncoerced. This inversion of responsibility fits seamlessly into a legal context friendly to men who have been accused—especially when they are white—and hostile to anyone who has suffered sexual violation. For this reason, feminist theorists and activists have focused critique and intervention on the political problem of victims' devalued epistemic and testimonial authority.

Alongside this political problem, however, I see the injustice of prevalent interpretations of sexual ethics also to be symptomatic of a fundamental ethical limitation of tying responsibility in intimate encounters to knowledge of others. This inadequacy plays out on two registers. First, on the sociopolitical register, theorists' focus on what can reasonably be known tends to bracket structural influences on behaviors (such as social positioning that might lead someone to consent to an unwelcome encounter) and limitations imposed by available epistemic resources that might distort what appears "reasonable" in a given society (for example, widely held rape myths). Second, on the phenomenological register, the model of deliberative action based on knowing another's will presupposes that a particular communicative action conveys agency decisively, externalizing another's inner, autonomous state of willing. This underestimates the living dynamism of another's agency, which shifts over time and often cannot be made sufficiently transparent in a single moment of communication.[367] Our explicit communications have a complex relationship to our subjective experiences. Most saliently, communicative expression can trail behind feelings of wanting or not wanting something to take place, or, conversely, expression can actively change those feelings and bring them into focus, as when Audre Lorde describes her poetry "touch and give life to a new reality within me."[368] The sense and significance of what we express to one another often only takes on a stable form as our communication continues.[369]

In contrast to an ethics that starts with transparent communication and informed deliberation, the Levinasian framework I have described in chapter four sets out by locating value in the transcendence of another, without indexing my responsibility to the degree to which another's inner life becomes known or can be reasonably inferred. This supports a normative conception of responsibility

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[367] I discuss refusal as the primary (perhaps only) example of authoritative communication of agency in section six.

[368] Lorde, *Zami: A New Spelling of My Name* (Freedom: Crossing Press, 1982), 167; see discussion in chapter three, section two.

[369] See discussion of sexual communication and Levinas's distinction between the saying and the said in chapter four, section four.

as answering to another's expressions, which are traces of an alterity charged with a directionality of value—an agency and vulnerability that are irreducible and indecipherable but nonetheless make demands on me.[370] Communication retains a central role, but its moral importance does not hinge on either a definitional question of whether the criteria of morally valid consent are fulfilled or an informational question of whether a reasonable person should grasp the meaning conveyed. Instead, practices of consenting and other modes of intimate communication—utterances, postures, movements, and bodily comportment—shape responsibility to another because of how these practices *express* as saying, which is always temporary and diachronic. Consenting in intimate relations differs from situations of contract or medical consent, as I have argued, because of this diachrony of meaning located in consenting as saying rather than a said.[371]

More than an externalized representation of inner experience, expression is itself part of another's subjectivity, enacted through the affordances of a particular social and discursive context. A primary insight of Ann Cahill, Linda Martín Alcoff, and other phenomenologically informed feminist critical theorists is that agency is not only the impetus of action but also emerges through action itself, in response to the relational ways in which our actions are taken up by others and feed back into our self-interpretations.[372] Implicated in agency in this way, a person's expression entails exposure by bringing them into relation with me and making them vulnerable to my response, including the meanings I make of them. The expressions that make up sexual communication—whether expressions of pleasure, desires, affirmation, refusal, ambivalence, or something else—are especially loaded with this intimate vulnerability, particularly because of how sexuality is intertwined with selfhood and how

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[370] I describe this as a *normative* conception of responsibility because it sets out to answer a normative question of how I should act, identifying responsibility as a practice enacted toward others. I am not engaging in the metaethical debate over what definition of "responsibility" enables it to delineate members of the moral community and to ground demands for justification.

[371] See chapter one, section five.

[372] On this point, see especially Sara Ahmed, *Queer Phenomenology: Orientations, Objects, Others* (Durham: Duke University Press, 2006); and Rosalyn Diprose, *Corporeal Generosity: On Giving with Nietzsche, Merleau-Ponty, and Levinas* (Albany: SUNY Press, 2002), 59–72. Note that Alcoff avoids using the term 'expression' out of concern that it erases this role of actions in producing subjectivity. See Alcoff, *Rape and Resistance* (Cambridge: Polity Press, 2018), 78.

agency can be transgressed by bodily proximity and touch.[373] For these reasons, intimate relating exposes a person to special harms, many of which are exacerbated particularly for women, trans-men, and genderqueer individuals because of pernicious social norms that assign debasing cultural meanings to their gendered and sexed bodies, deny their transcendence, and dismiss the value of their agency and subjective experience.

In light of these considerations, I argue that, whether or not another person expresses something codable as consent or refusal according to available theoretical rubrics, responsibility to them requires that I heed their expressions and respond—that is, take up the "fine risk of approach" toward the subjective experience and ongoing agency behind their communication to me.[374] To do this demands that I resist social norms that obscure the transcendence of another person and impoverish our possibilities for relating. I develop this position through interconnected desiderata that structure the content of the responsibility I have to another in erotic intimacy. These are not necessary and sufficient conditions for an action, encounter, or relation to be *permissible* instead of *impermissible*, *right* instead of *wrong*, or even more right and less wrong. Rather, they are facets of a practice of relational responsibility—a method rather than a recipe for ethical relating—which means they point to where behavior in an encounter may ethically fail and therefore call for repair.[375]

The first consideration is a broadly necessary precondition or zero point for responsibility to another in sexual encounters. It is not a practice or orientation toward another per se, but a self-reflexive practice or habit of mind that makes responsibility in intimacy with another possible:

(0) having a *critical cultural sense*, perhaps implicit, of how I am situated within and served by a social context relative to another. That this sense is *critical* entails that I have some

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[373] However, the exposure of intimate expression is not purely a result of bodily proximity and vulnerability to being touched by another. Eroticism mediated by virtual technology similarly exposes me to the possibility of another's specularization or rejection, with the added vulnerability that comes with every intimate saying being recordable and distributable as a said. See Kelly Oliver, "Rape as Spectator Sport and Creepshot Entertainment: Social Media and the Valorization of Lack of Consent," in *Response Ethics* (London: Rowman & Littlefield International, 2019), 181–204.

[374] Emmanuel Levinas, *Otherwise than Being or Beyond Essence*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1981 [1974]), 94.

[375] Beauvoir famously writes, "ethics does not furnish recipes any more than do science and art. One can merely propose methods" (*The Ethics of Ambiguity*, trans. Bernard Frechtman [New York: Citadel Press, 1976 (1947)], 134). See chapter one, section three for my approach to theorizing responsibility on the relational rather than administrative register.

grasp of the imperative to resist norms that are harmful or insulate me from responsibility.

One of the reasons a sense of positionality is essential from the outset is because many societies are marred by stark differentials in who can practice what kind of agency over what takes place in sexual encounters—differentials between who proposes and who disposes, between who is or is not objectified or fetishized, and between who can afford to buy and who has few options other than to sell. The vast majority of people have some implicit sense of where they stand within at least some of those differentials and the discourses that produce them.

A person disadvantaged by their social context in salient ways learns tactics to help their agency not be ignored or suppressed in sex as in other areas of life. As such, differentials of power in positionality affect the scope of what is demanded by responsibility to another. When a person in that position asserts their boundaries by refusing another's sexual advance, for example, their action should be understood first as self-preservation, not as a question of ethics, obligation, or justice.[376] While refusal has some ethical aspects—better or worse ways of communicating in such moments, perhaps—it is for many first and foremost a pragmatic skill of survival, and it would be an example of *abstracting away* from salient features of the social world to scrutinize such an action on the same register that, say, a relatively advantaged person should be scrutinized for their pursuit of sex.[377] There is no symmetry between the agency to refuse sex and a purported "positive agency" to pursue sex, because the social, political, and personal harms that often follow from unwanted sex make the former agency constitutive of the latter.[378] This category distinction is also politically important: responsibility should not be theorized as a burden when our behaviors are motivated by trying to avoid sexual violation or relations that undermine agency.

The other four desiderata are moments in the practice of responsible relating, behaviors or orientations toward another that align an encounter with the value of another's agency and as a result reduce possibilities of harm. These are:

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[376] See discussion of self-preservation in chapter three, section one.

[377] I define this bifurcation between advantaged and disadvantaged social positionality in section two and discuss it further in section three. On the error of "abstracting away from realities crucial to our comprehension of the actual workings of injustice," see Charles W. Mills, "'Ideal Theory' as Ideology," *Hypatia* 20, no. 3 (2005): 170.

[378] Contra Douglas N. Husak and George C. Thomas, "Rapes without Rapists: Consent and Reasonable Mistake," *Noûs* 35, no. 1 (2001): 117n90.

(1) sensing the opacity of another, that is, grasping that they have agency and subjective experience beyond my access;

(2) receiving another's expressions as calling into question my self-certainty;

(3) responding to another by changing my behavior to acknowledge the value of their agency and subjective experience; and

(4) maintaining relational dynamism, or an ongoing responsiveness to another's agency as it continues to emerge through their expressions.

These orientations toward another are necessary for a sexual relation to foster another's agency, although they are often actualized implicitly, almost imperceptibly, or in culturally specific ways that may not be easily recognizable from a particular position of reflection. They are present in everyday, mutually wanted sexual encounters experienced by all involved as fulfilling and agency-enhancing. However, these desiderata are not limited to describing morally ideal cases. Often, intimate partners come up against moments where agential involvement crumbles or is blocked, whether because pernicious social roles steer their relation, because personal histories of violation come to the surface, or due to failed communication across the ambiguity that (I will argue) is inherent to sexual intimacy. The desiderata designate the sites where these breakdowns can take place and, correspondingly, where responsibility calls for new behaviors in response to the new ethical situation created.

The moments of responsibility do not necessarily begin volitionally in me. Point (1) calls for a mode of sensing or perceiving another, while the reception of another described in point (2) might be a passive moment of being acted upon, as in the Levinasian accusative discussed in chapter four. Point (3), my response to the agency of another, often entails action, but it may also be actualized in many other shapes in different situations and cultural contexts: by creating a space of hesitation, by listening or asking a question, by professing or suppressing my own desires, or, perhaps most importantly, by allowing my intentions to be changed. While they are not strictly actions, these four desiderata are aspects of my behavior for which I am answerable to another person. My failures in these moments cause violation that requires repair, and, specifically, such failures assign special obligations to *me* personally.[379] In intimate relationality, I am responsible beyond my actions: for my postures, my orientations, and my style or qualitative way of doing things.

These features also blur the distinction between *who I am* and *what I do*, broadening responsibility in sexual intimacy across that divide. Actualizing the desiderata of responsibility depends on my

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[379] Compare to the discussion of the singularity of the "I" in chapter four, section three.

capacities for responsiveness and my tolerance for ambiguity. These aspects of intimate relating are facilitated or obstructed not only by the affordances of my position in a social context but also by my personal intimate style of relating—that is, my habituation within that context—and my agential actions. As such, I can become more or less able to hear the appeal of another, more or less receptive to the disruption of my self-certainty, and more or less responsive—and willing to respond—to another. While it is perhaps unorthodox to extend responsibility beyond actions in this way, this aligns with our everyday moral assessments of experiences of sexual intimacy: the *who* of another person is often a central concern in what kind of relation I want to pursue, including what level of physical intimacy and what expectations accompany it, and especially whether I experience an encounter as violating. The qualitative aspects of my behavior and perception can have outsized effects on whether my encounter with another person allows their agency to play its appropriate role. Even without acting to coerce or pressure, my behavior can reflect an arrogance or indifference to another that makes them feel violated, and I argue that this is a failure of my responsibility to them.

I describe the desiderata individually in greater detail in sections three through six, but one more methodological point is in order. Contrary to sexual ethics' traditional ideal of a stable, committed relationship characterized by respect and trust, I propose that insights into ethical responsibility to another are most accessible and constructive in those moments where a relationship or more temporary alliance must navigate ambiguity. My reference points, usually implicit, are thus more informal liaisons and periods of inflection in relationships, where our sexual encounters may contribute especially to the dynamic development of sexual subjectivity and agency. I have in mind how people navigate the challenging sexual social norms of adolescence, discover and pursue shifts in sexual identity or orientation, return to sexual intimacy after childbirth, respond to and live with trauma, or undergo shifting senses of sexuality through illness and aging. I also take it as axiomatic that relations of responsibility in sexual intimacy have existed across times and places; that is, good intimate practices are not the invention or achievement of the present historical era or of any particular culture.[380] I wager

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[380] Sexual ethics has historically struggled to escape a modern European cultural paradigm, which is tragically ironic because the emergence of that paradigm has been materially and culturally marked by pervasive sexualized violence against colonized and enslaved people and their descendants. See Anne McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995); Pamela D. Bridgewater, "Un/Re/Dis Covering Slave Breeding in Thirteenth Amendment Jurisprudence," *Washington and Lee Race and Ethnic Ancestry Law Journal* 7 (2001): 11–43; and Kimberly Gisele Wallace-Sanders, ed., *Skin Deep, Spirit Strong: The Black Female Body in American Culture* (Ann Arbor: University of Michigan Press, 2002).

that, across sociohistorical contexts, ethical practices of sexual intimacy have always entailed some understanding of context and some attentiveness to another, an effort not to harm another in light of their experience and the overall shape and direction of their life.

II.   Ambiguity vs. the Obscurantism of Pernicious Social Contexts: Two Registers of Uncertainty in Intimate Encounters

My proposed framework for responsibility does not depend on grounding ethical action in clear communication of the will or in certainty about the self or another. Instead, the common thread through the moments named above is the persistent condition of uncertainty in intimate encounters. The sense of another's opacity (desideratum 1) entails recognizing another's agency as uncertain from my perspective, which contributes to a disruption of my own self-certainty (des. 2). The imperative to respond to another (des. 3) dynamically over the course of an encounter (des. 4) always takes place in light of my uncertainty of another's agency, which only reveals itself partially through expressions unfolding in time. This unavoidable uncertainty reflected across all the moments of responsibility contrasts with the precondition of having a positive cultural sense of one's context, and I account for this tension by clarifying between the ambiguity inherent to intimacy and the contingent obscuring of relationality that results from pernicious social norms.

Constitutive ambiguity in intimacy

One reason intimate relationality is experienced as intensely dynamic and laden with meaning is its inherent ambiguity, both on the subjective register of my experiencing and sensing as a body and self—what I will follow Ann Cahill in calling a *body-self*—and on the intersubjective register, where I relate to another person.[381] I describe this as intimacy's constitutive ambiguity, which follows from the complexity of the phenomena that make up erotic experience. In the erotic, the sense of enduring self-sameness that grounds consciousness must always accommodate the continuously changing character of embodied selfhood: physical changes, sensations of arousal, pleasure, or pain, as well as shifts of my own feelings, intentions, desires, and my sense of right or wrong about what is taking place.[382]

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[381] Cahill, *Rethinking Rape* (Ithaca: Cornell University Press, 2001), 130.

[382] The general phenomenological observations about sexual intimacy described here are shared across many thinkers, most of whom draw strands from Maurice Merleau-Ponty, *Phenomenology of Perception*, trans. Donald A. Landes (New York: Routledge, 2012 [1945]), 156–78; and Simone de Beauvoir, *The Second Sex*, trans. Constance Borde and Sheila Malovany-Chevalier (New York: Doubleday, 2012

As a result, even in its most mundane manifestations, the erotic poses a complex relation to self: Talia Mae Bettcher argues persuasively, for example, that mere sexual attraction is not a simple intentionality toward an object but includes a non-transparent, eroticized, and gendered experience of self.[383]

Sex, desire, and pleasure have long been seen as having the potential for extreme effects that might exceed, undo, or destroy subjectivity.[384] As a body-self, erotic intimacy can dissolve my consciousness into transcendent enjoyment or split it away from my body and collapse my subjective experience into pain or violation. The non-transparent relation to self in intimate encounters often results in moments of emotional and physical ambivalence, where one comes up against stubborn limits of transparency about one's own desire and feelings, which are sometimes felt to undermine the deliberative capacities associated with the rational will.[385] Sappho's characterization of eros still rings true after two and a half millennia: "Eros the melter of limbs (now again) stirs me—sweetbitter unmanageable creature who steals in."[386]

These ambiguities of the subjective experience of the erotic are multiplied in relationality and intersubjectivity: as Beauvoir famously argues, my sense of being an *I* always coexists with the apparent contradiction posed by another's grasp of me as object in the world.[387] The multiplicity and ambiguity of meaning that arise from our encounters with others are unavoidable so long as we move through the world simultaneously as willful subjects for ourselves and bodily objects for others. Maurice Merleau-Ponty attributes a special ambiguity to the fact of sexual embodiment, which pervades existence and carries a "general signification" even when it is not consciously experienced as such.[388] In what

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[1949]). See, for example, Ann J. Cahill, *Overcoming Objectification: A Carnal Ethics* (New York: Routledge, 2011), 143–58. Cahill and other feminist philosophers adapt classical phenomenology to better address sexual difference by drawing on resources in Luce Irigaray; see, e.g., Irigaray, *This Sex Which Is Not One*, trans. Catherine Porter (Ithaca: Cornell University Press, 1985 [1977]).

[383] Bettcher, "When Selves Have Sex: What the Phenomenology of Trans Sexuality Can Teach About Sexual Orientation," *Journal of Homosexuality* 61, no. 5 (2014): 605–20.

[384] The theme of erotic excess has been prominent in feminist and queer theory that adopts a conception of *jouissance* from the Lacanian lineage of psychoanalytic theory. See, for example, Elizabeth Grosz, *Space, Time, and Perversion: Essays on the Politics of Bodies* (New York: Routledge, 1995).

[385] On the limits of self-transparency, see Cahill, *Rethinking Rape*, 71–108; and "Recognition, Desire, and Unjust Sex," *Hypatia* 29, no. 2 (2014): 316.

[386] Sappho, *If Not, Winter: Fragments of Sappho*, trans. Anne Carson [New York: Vintage Books, 2002], 265.

[387] Beauvoir, *The Ethics of Ambiguity*.

[388] Merleau-Ponty, *Phenomenology of Perception*, 172.

Merleau-Ponty identifies as the vague atmosphere of sexuality that suffuses human existence in general, there is an opening of vulnerability to others: another can in principle, through their behaviors, pull the sexual aspect of my selfhood to the foreground, whether in seduction or in violation. Reading Merleau-Ponty with Beauvoir, Rosalyn Diprose elaborates: "sex is not safe precisely insofar as it opens the self to indeterminate possibilities through exploiting the ambiguity of being a body-for-itself-for-others."[389] For this reason among others, sexual violation is itself ambiguous, taking on multiple meanings over time and continually having unforeseen effects as life continues.[390] Cahill argues that the responsiveness of the body-self to others is the ground for both the profound injury of rape and the possibility of resilience. She writes, "the intersubjectivity necessitated by a bodily existence includes a vulnerability that rape exploits, but it also includes an openness, an ongoing process of development that limits the power of the rapist."[391] This is the openness of ambiguity, manifest in the possibility of ongoing narrativizing and meaning-making and in the ability of sexual subjectivity—one's sense of oneself as a sexual subject—to adapt and be remade.[392]

More proximately, in encounters where the erotic comes to the forefront, the communication, including communicative touch, with which we bridge ambiguity is often itself unstable and uncertain as a conduit of sharing meaning. In addition to permitting competing interpretations for others, intimate expression is in itself often fleeting in its signification, underdetermined by intentionality or the will, and open to revision. Priorities change, ambivalence can collapse into repulsion or expand into desire, and a wanted encounter can always become unwanted in reaction to the behaviors of another or one's own affective response.[393] We often experience our own boundaries relative to another as

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[389] Diprose, *Corporeal Generosity*, 88. See also Caleb Ward and Ellie Anderson, "The Ethical Significance of Being an Erotic Object," in *Palgrave Handbook of Sexual Ethics*, ed. David Boonin (New York: Palgrave Macmillan, forthcoming).

[390] See discussion in Alcoff, *Rape and Resistance*, 61–62.

[391] Cahill, *Rethinking Rape*, 138. For discussion of Cahill's notion of embodied sexual agency, see chapter two, section four.

[392] On narrative self-making after trauma, see Susan J. Brison, *Aftermath: Violence and the Remaking of a Self* (Princeton: Princeton University Press, 2002). See discussion of sexual subjectivity in chapter two, section four.

[393] Phenomenologically, an unwanted encounter could perhaps also become wanted, but such situations have limited utility for reflecting on sexual ethics. Empirical evidence of such shifts is scant under any robust description of "wanted"; *ambivalence* provides a better rubric. Further, to consider the ethics of such cases comes at a great cost methodologically, because it risks obscuring far more prevalent,

incompletely understood and shifting over time, undermining possibilities of both self-transparency and clear boundary-setting with another. Ambiguity and lack of transparency are thus inherent aspects of intimate intersubjectivity under even ideal social circumstances.

Obscurantism of an unjust social context

But sexual intimacy does not take place under ideal circumstances. The uncertainty that follows from the constitutive ambiguity of intimacy is exacerbated and complicated by the fact that intimacy is always located within a contingent sociohistorical context, with particular affordances for how we receive one another and how we experience and interpret our encounters.[394] A given discursive context frames every encounter by supplying recognizable modes of communication, offering ready-to-hand interpretations of another's expressions, and supporting underlying assumptions about who we are and what we are doing. Thus, social and cultural context provides a range of social norms governing how relationality can take shape in practice, while further promoting particular affective responses as "appropriate" to the shapes of our encounters.[395] Originating in structures over which we have limited agency, these affordances shape how we communicate and how our communicative expressions affect others, facilitating some relational possibilities while constraining others. As such, the ambiguous space of intimate relation is never a primordial site of togetherness; alongside the constitutive ambiguity of intimacy, there are selective, contingent points of over- or underdetermination of meaning introduced by discursive norms and practices that frame our communication and behavior.[396]

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morally problematic phenomena, such as situations where a person acquiesces to sex out of resignation or feelings of powerlessness. For discussions of the dynamics of ambivalent sex, see Charlene L. Muehlenhard and Zoë D. Peterson, "Wanting and Not Wanting Sex: The Missing Discourse of Ambivalence," *Feminism and Psychology* 15, no. 1 (2005): 15–20; and Muehlenhard and Carie S. Rodgers, "Token Resistance to Sex: New Perspectives on an Old Stereotype," *Psychology of Women Quarterly* 22, no. 3 (1998): 443–63.

[394] I follow Alcoff in borrowing the language of affordances from environmental psychologist James Gibson, although we use the word in a discursive and structural sense that departs from Gibson's focus on perception of material objects. See chapter two, section four.

[395] For a discussion of the "feeling rules" that "govern how people try or try not to feel in ways 'appropriate to the situation'," see Arlie Russell Hochschild, "Emotion Work, Feeling Rules, and Social Structure," *American Journal of Sociology* 85, no. 3 (1979): 552.

[396] Contrast this claim with the description of the "closed society" of lovers in Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1979

One of the harms of oppressive contexts is to narrow possibilities for relationality, with an attendant constriction of the meanings and experiences that can follow from our encounters. Alcoff describes in detail how being situated within an unjust sociocultural context provides a range of discursive possibilities for meaning-making—for making sense of our lives both internally and communally—that reinforce pernicious power relations.[397] Some meanings that might emerge in our intimate encounters are foreclosed by what Nicola Gavey calls dominant discourses of normative heterosexuality, which provide a cultural vocabulary that brings specific meanings to the fore in both self-interpretations and communication. Gavey describes, for example, how interpretations of experiences are often structured by a male sex-drive discourse, which takes male sexual desire to be unremitting and satisfiable only through orgasm, and the related "coital imperative," which understands penetrative, penis-in-vagina intercourse as the natural outcome of all heterosexual eroticism.[398] Rape myths also provide scaffolding for dominant attitudes and interpretations of sex, shaping both how people interpret the factual events of sexual encounters (e.g., "that's not really rape") and how they explain and apportion responsibility for harms (e.g., "she was asking for it").[399] In Levinasian terms, such a pernicious context accelerates the collapse of the saying into a fixed vocabulary of saids. This in turn facilitates the "outrages of the other" that bring not only the risk of misrecognition, i.e., being seen as what one is not, but the threat of what might be called social and epistemic capture, i.e., being cut off from robust relationality and from possibilities of agential participation in making sense out of our lives.[400]

Under a persistently heteronormative and misogynistic discursive context, the way some people communicate about sex and intimacy tends to be denied its fuller texture of meaning. This foreclosure of discursive possibilities acutely affects all women in heterosexual encounters, but its effects

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[1961]), 265. Affordances for communication and behavior are also determined by an intimate encounter's particular place (spare bedroom, shared tent, corner office, car, unkempt public park), time (before breakfast, in the middle of the night, right when I need to take my blood sugar), and material infrastructure (this shirt, that fire-resistant sofa), particularly as those affect a person's sense of safety, security, and agential possibilities.

[397] Alcoff, *Rape and Resistance*, 73–75.

[398] Gavey convincingly demonstrates the effects of these discourses on women's self-understanding in empirical research collected in *Just Sex?: The Cultural Scaffolding of Rape* (New York: Routledge, 2005). See discussion in chapter two, section one.

[399] See Hilkje Charlotte Hänel, *What Is Rape? Social Theory and Conceptual Analysis* (Bielefeld: Transcript, 2018), 35.

[400] The risk of capture is abundantly clear in the situation of intersecting axes of oppression to which Lorde develops her oppositional agency, discussed in chapter three.

are also evident for sex workers of all genders, for genderqueer people, for disabled people, for racialized men, and for others in marginalized social positions in intimate relationships of all kinds.[401] Rather than allowing the ambiguous and partially known contours of another's will and sexual desire to emerge in real-time through open-ended communication with another, a pernicious discursive context tends to crystallize some communicative expression into a fixed vocabulary of signs. For women in encounters with men, any hint of affirmation can be taken to be agreement to sex, hesitation can be read as submission, refusal can be given the meaning of capricious selfishness, expressions of enjoyment can become signifiers of animal abandon, and so forth according to prevalent tropes. These meanings are not interpreted as moments in an ongoing conversation or intimate relation, but as fossilized features assigned to another.

Discourses of male sexual entitlement exert a gravitational pull that displaces the saying with a ready-to-hand vocabulary tinged with misogyny: she led him on, she's an animal in heat, she consented, etc. Such signifiers afforded by a cultural time and place are what Sara Ahmed calls "sticky signs," and they support suppressing or skipping over consideration of another's agency and the exposure of their saying.[402] One of the most immediate effects of these discourses is to undermine the ability of women and others successfully to refuse unwanted sex, a challenge I turn to later in this chapter.[403] However, even when a person seeks to communicate something other than refusal, these discursive limitations prevent engagement in the kind of high-quality, ongoing sexual communication described by Quill Kukla as "not just prevent[ing] harm" but "enabl[ing] forms of agency, pleasure, and fulfillment that would not otherwise be possible."[404]

While an unjust social context fosters uncertainty about sexual relations for those it disempowers, it often encourages an arrogant mode of certainty for those whom it privileges, which can from the outset foreclose responsiveness to another. Of course, no absolute distinction can be made between these groups, as every context has multiple axes of privilege and disadvantage that become salient in different moments. However, for the purpose of this discussion, I take a person's agency to

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[401] For empirical studies of how non-heterosexual relationships are affected by normative heterosexual patterns, see Virginia Braun et al., "Sexual Coercion Among Gay and Bisexual Men in Aotearoa/New Zealand," *Journal of Homosexuality* 56, no. 3 (2009): 336–60; and Christine Murray et al., "Same-Sex Intimate Partner Violence," *Journal of LGBT Issues in Counseling* 1, no. 4 (2008): 7–30.

[402] Ahmed, *The Cultural Politics of Emotion* (New York: Routledge, 2014 [2004]), 89–92.

[403] See Gavey, *Just Sex?*, 136–55.

[404] Kukla, "That's What She Said: The Language of Sexual Negotiation," *Ethics* 129 (2018): 74.

be served or advantaged by a social context when the following conditions for the most part obtain: their sense of being an "I" includes feeling at home as a body-self moving through the social world, their context provides a functionally supportive epistemic basis for interpreting experiences, and they are empowered (at least relatively speaking) both to pursue proximate intentional actions and to shape their broader life trajectory.[405]

As a man socially and psychologically invested with normative heterosexual entitlement, I have a sense of self-certainty in my agency and intention that can insulate me against another person's actual communicative solicitations in a sexual setting. Even if I am insecure about my attractiveness or fear being rejected, my intentions and actions reflect a certainty that any sexual intimacy that does transpire should be oriented around my desire and pursuit of pleasure, encouraged by the coital imperative and other discourses of normative heterosexuality. In my certainty about my own desires and operative ideals of attraction, I foist controlling images onto others, who may be constrained to fulfill those desires because of my social power and the absence of alternative, more liberatory relational and discursive possibilities.[406]

In intimate encounters, self-certainty in my interpretations of another person and in my justifications for action can motivate sexual behaviors strikingly unresponsive to another person, while making it fairly easy to excuse or justify my ethical failures. If I have a sense of sexual entitlement reinforced by a cultural vocabulary of rape myths and discourses of normative heterosexuality, I am not deterred when another's posture or behavior reveals tension or unwelcomeness in our encounter. I feel that my pursuit of a specific kind of interaction is in line with social norms—supported by the sense that, if another person is hurt by my behavior, I will not (and should not) be held accountable.[407]

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[405] My provisional definition of agential advantage includes the subjective dimension of feeling at home in the world, but it otherwise overlaps with Alcoff's definition of privilege as "to be in a more favorable, mobile, and dominant position vis-à-vis the structures of power/knowledge in a society" (Alcoff, "The Problem of Speaking for Others," *Cultural Critique*, no. 20 [1991]: 30n4).

[406] See discussion of controlling images in Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, revised 10th anniversary ed. (New York: Routledge, 2000 [1990]), 97–121.

[407] In an especially acute example of arrogant certainty, Rachel O'Neill's ethnography of the UK "seduction" community details how pick-up artists approach sexual intimacy as having rules given by evolutionary psychology, which can be exploited to make a woman's refusal very difficult. Men are trained in the self-described "science" of seduction, which "not only thoroughly rationalises sex but excuses men from having to engage with women as relational subjects" (O'Neill, *Seduction: Men, Masculinity, and Mediated Intimacy* [Cambridge: Polity Press, 2018], 90).

The conceit of certainty about the meaning of another's expressions feeds this entitlement by ensuring that I cannot be called into question; the plausibility that "no" means "yes" is grounded in certainty that I know what another person wants, needs, or will put up with. My perceptions and interpretations remain unchallenged and unchallengeable by another person.

III.   Developing a Critical Cultural Sense of Social Positionality

The arrogant certainty produced by power and privilege cannot be undermined without political intervention into the discursive practices and institutional structures that propagate and reward it. Such intervention must withdraw the power and invulnerability bestowed on men as a class, while simultaneously repairing distortions in dominant interpretive tools for understanding sex and sexuality.[408] The widespread impact of the #MeToo movement has been one step toward the first aim, although its limitations have become clear as victims continue to be denied agency in practices of law enforcement and investigation, in judicial proceedings, and especially in media portrayals of their claims. In *Rape and Resistance*, Alcoff argues persuasively that the second aim, to improve socially available epistemic resources, is best served by ensuring that survivors and others who have been marginalized or silenced are empowered to contest the false narratives of rape myths and discourses of normative heterosexuality.[409]

Resistance to the obscurantism of unjust social structures demands political activism on both interrelated dimensions, material and discursive, to reduce power imbalances that undermine sexual agency and to divest from discourses that curtail sexual subjectivity for women and others. Such political intervention has an important effect on the ethics of interpersonal relations in sexual intimacy, as it enhances possibilities for relationality, encouraging more complexity in how we develop and communicate intentions and desires and widening the range of considerations when we hold one another accountable for harms.

Alongside the political imperative to transform unjust social structures for the future, there is an ethical imperative to navigate and resist those structures as they come to bear on everyday life "in

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[408] All men do not benefit equally from sexual empowerment and invulnerability to claims of abuse. Those privileges are bestowed on men as a class, but other social forces—including racism and gender normativity—police who counts as a full member of that class and when.

[409] See Alcoff, *Rape and Resistance*, 23–55.

the unjust meantime," as Alison Jaggar would say.[410] To this end, I argue that a critical orientation toward one's own social positionality is a precondition for relating ethically with another in a sexual encounter, the zero-point for responsibility:

> (0) having a *critical cultural sense*, perhaps implicit, of how I am situated within and served by a social context relative to another. That this sense is *critical* entails that I have some grasp of the imperative to resist social norms that are harmful or insulate me from my responsibility.

Ethical relating in sexual intimacy is made possible by an awareness of one's social location, often present in an implicit sense of "knowing how" rather than developed intellectually as theory, which enables an encounter to become more sensitive to agency.[411] I call this awareness a *cultural* sense because it develops from one's existing relationships, community resources, or cultural milieu, which take contrasting forms depending on one's social position.

The vast majority of people implicitly sense where they stand within at least some social differentials of power and the discourses that produce them. For any person in a position of relative precarity under prevailing social structures, their particular position "forces and enables specific modes of reading and knowing the dominant."[412] Some salient aspects of that positionality are always held in common with others—with other poor women, other black women, other queer people of color, other similarly disabled people, and so forth. Consequently, relations within that community often foster the cultural know-how to navigate one's position in that context. Whether or not it is articulated theoretically, this cultural sense enables skillful actions and responses to others that can enhance agency. Lorde, for example, describes how she *feels* the limitations of her social context, and her feelings become a source of critical insight needed to forge agency-sustaining relationships.[413]

Studies of feminine embodiment suggest that most people socialized as women in societies shaped by normative heterosexuality gain from an early age at least an implicit sense of the relative

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[410] Jaggar, "Thinking about Justice in the Unjust Meantime," *Feminist Philosophy Quarterly* 5, no. 2 (2019): Article 9.

[411] For discussion of several dimensions of implicit knowledge, see Alexis Shotwell, *Knowing Otherwise: Race, Gender, and Implicit Understanding* (University Park: Pennsylvania State University Press, 2011).

[412] Chandra Talpade Mohanty, *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity* (Durham: Duke University Press, 2003), 122.

[413] See discussion in chapter three, section two.

precarity of their agency over sexual intimacy.[414] Many gather cultural knowledge for surviving oppressive sexual social norms from other women—mothers, sisters, aunts, teachers, family friends, or peers. However, that knowledge is often bundled with other pernicious norms, such as ideals of purity, modesty, or self-surveillance that can themselves reproduce rape myths (for example, that wearing a short skirt or walking alone at night is "asking for it"). In contrast, for trans women and other non-men who were assigned male at birth, the development of cultural knowledge for survival often has a different trajectory, supporting different norms and affording different resources for resistance. While heavily policed and targeted under dominant social norms surrounding gender and sexual intimacy, trans women often must find resources for surviving precarious positionalities through communities of care outside the family, which may not be readily available until adulthood.[415] This contributes to the special exposure to sexual violation and sexualized violence suffered by many trans women and other queer and gender-nonconforming people, especially those who are intimate with men.[416]

Every particular positionality offers some points of leverage for this sense of situatedness to become *critical* and facilitate agency over what takes place in one's life. One of the hallmarks of feminism—since probably before the word existed—has been the project to develop new cultural knowledge of pernicious social forces, moving beyond mere subsistence toward a critical orientation toward one's context.[417] Such a critical cultural sense enables the invention of new, non-sacrificial possibilities of survival that are also avenues for resistance. In chapter three, I described this for Lorde as the project of *self-preservation*. Grasping her situatedness within a particularly pernicious social context, Lorde lives toward self-preservation over the course of her life by increasingly rejecting relations where the influence of the dominant oppressive context is especially strong (e.g., intimate relationships with men and, later in life, with overly privileged white women). Instead, she connects with a wider community of fellow poets, women of color, and queer women to set up an alternative infrastructure

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[414] This is often documented in phenomenological studies of feminine embodiment and how women occupy public space. See, for example, Cahill, *Rethinking Rape*, 152–61, discussing especially Sandra Lee Bartky, *Femininity and Domination: Studies in the Phenomenology of Oppression* (New York: Routledge, 1990).

[415] See Kami A. Kosenko, "Contextual Influences on Sexual Risk-Taking in the Transgender Community," *Journal of Sex Research* 48, no. 2/3 (2011): 285–96.

[416] See analysis of abusive "reality enforcement" against trans people in Talia Mae Bettcher, "Trans Women and 'Interpretive Intimacy': Some Initial Reflections," in *The Essential Handbook of Women's Sexuality: Diversity, Health, and Violence*, ed. D. Castañeda, vol. 2 (Santa Barbara: Praeger, 2013), 51–68.

[417] See Bartky, "Toward a Phenomenology of Feminist Consciousness," in *Femininity and Domination*, 11–21.

for more sustaining relations. Throughout history, setting up such alternative spaces with better available shapes of intimate relationality has been a central mode of communal resistance—though of course not the only one—to the obfuscation and disempowerment that follows from social norms and structures framing sexual intimacy.

There is a philosophically interesting bifurcation in the imperative to gain a critical cultural sense of one's social context, which falls along the often-messy fault line between those whose agency is obstructed or eroded by dominant social structures and those who are empowered and facilitated by their position within that context. I have just described how, in the former case, a culturally mediated sense of one's situatedness is motivated by necessities internal to one's situation: both the bare necessity for subsistence and the thicker necessity of pursuing one's life projects, which may require collective forms of resistance. These necessities exert continual pressure in the direction of critical consciousness, against the obscurantism imposed by an impoverished social context. In contrast, for those generally privileged in their social context, the development of critical cultural understanding of positionality must be motivated more externally. For heterosexual cis men, a certain kind of sexual agency, autonomy, and empowerment is both typical and taken to be the norm, making critical reflection on the production of that privilege feel costly and unnatural. As such an agent empowered within my social context, I effortlessly gain an implicit, uncritical cultural sense of my relative social position by learning that potential intimate partners tend to accommodate my sexual initiative-taking, that my expressions of sexual frustration, anger, emotional vulnerability, or coldness have an effect on my partners that sometimes enables me to get what I want, and that sexual encounters seamlessly revolve around my pleasure. This implicit knowledge plainly supports the arrogant self-certainty described above, empowering me to disregard others rather than fostering the habits of responsiveness necessary for ethical relating.

Developing a *critical* cultural sense of my contextualization is necessary to begin to fracture the reproduction of pernicious social norms in my behaviors toward others, and for this reason I consider it a precondition for responsibility in intimacy. To loosen the grip of arrogant self-certainty—and thereby make me more receptive to the appeal of another—I need a sense of where I stand and how my agency is invested with a power that has differential effects on others, including special possibilities of harm. This might occur at the level of intellectual knowledge: I might learn about the definition of privilege and its psychological effects, about the perspectives and histories of those who are oppressed, or about pernicious social norms and the ways my own actions reproduce them. Information about

unconscious bias, for example, might motivate me to hesitate in my assumptions about another, increasing the likelihood that I critically examine my intentions and heed what another expresses to me in our communication.

However, the constitutive ambiguity of intimacy and the fact that another's agency evades knowledge together suggest that intellectual intervention will often not be enough to dislodge me from my privileged self-understanding. If I grasp too tightly my intellectual knowledge about privilege or about the histories of oppression that I presume frame another's experience, this knowledge itself becomes an extension of my arrogant self-certainty. I might foist a paternalistic understanding of another's agency on that person, thinking my intellectual understanding means I can know their personal history and experience, while my feminist credentials might insulate me from being called into question.[418] Even insofar as another person's agency is shaped by objectively knowable social conditions deconstructible by theoretical analysis, that person's agency emerges only in their subjective response to those conditions, always dynamically shifting over time. The risk of an overly intellectual knowledge of my social positionality is that I become enamored with my own thematization of what another person experiences and desires, instead of responding to another's actual communicative expressions of agency and vulnerability in our encounter.[419]

To enhance my responsiveness to the agency of others, an ongoing process of resistance is needed against the "sticky signs" provided by dominant sexual social norms. Rather than a principle or theoretical schema, this demands an ongoing, relational hermeneutic of locating myself with respect to another within a wider context. In an often implicit, everyday sense, I need to grasp that who I am and where I stand invests my actions with meanings and effects that may not be obvious to me, acting from the privileged sense of "naïve spontaneity of the ego."[420] Insofar as it is critical, this cultural sense of positionality is a *counter-knowledge* relative to dominant discursive norms: it reveals a social dimension

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[418] This latter phenomenon plays out painfully within activist movements around the world. See the essays collected in Ching-In Chen et al., eds., *The Revolution Starts at Home: Confronting Partner Abuse in Activist Communities* (CARA, n.d.).

[419] Pat Parker writes in her poem, "For the white person who wants to know how to be my friend": "The first thing you do is to forget that i'm Black. / Second, you must never forget that i'm Black" (anthologized in Gloria Anzaldúa, ed., *Making Face, Making Soul/Haciendo Caras: Creative and Critical Perspectives by Feminists of Color* [San Francisco: Aunt Lute Books, 1990], 297).

[420] Levinas, *Otherwise than Being or Beyond Essence*, trans. Alphonso Lingis (Pittsburgh: Duquesne University Press, 1981 [1974]), 91.

of how we affect one another that discursive norms otherwise make appear mysterious, justified, or unavoidably *just the way things are.*

The critical sense of positionality can develop from relationships within one's family or community of upbringing, from personal experiences of vulnerability or the vulnerability of loved ones, from sex education or participation in particular sexual communities, or from one's own resistance practices toward other dimensions of oppression.[421] I take it as axiomatic that the appropriate sensitivity to one's own positionality and privilege can emerge from any cultural context, although some societies are more or less efficient at policing adherence to prevailing norms and at obscuring those norms' construction. In US and European contexts, for example, sexual social norms operate acutely at the level of visible sexuality and the objectification of sexualized and raced bodies, and those norms' effects on agency are obscured by ideologies of individualism and consumerism.[422] Despite this obscurantism, the cultural importance of beauty standards and body norms generates particular affordances for resistance. A heterosexual man with a visible disability, for example, experiences marginalization relative to dominant body norms, which might begin to sensitize him to the limitations his society enforces on bodily agency for others unlike him. Despite the privilege invested in him as a straight man, he might gain an appreciation, perhaps implicit, of how women are affected by his power relative to them in intimate encounters.[423] While one can never decisively relinquish a privileged posi-

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[421] Where did the process of my own critical sense of my positionality begin? Probably not until my early twenties, although I was lucky to have progressive and perceptive parents, a close relationship with my older sister, and strong female friends and intimate partners along the way who made me into the kind of person who would be receptive to the required shift in my self-understanding. As a young teen, however, I received the implicit peer socialization that more physical intimacy is always better, and "hooking up" consists of keeping on trying things until the other person stops you. While I never consciously considered pressuring anyone or cajoling if someone indicated they weren't interested, I uncritically inhabited my privileged position of active initiator in the social context surrounding teenage intimacy. If I didn't cause serious harm—and I emphasize the word 'if'—it was mostly due to blind luck.

[422] See Cressida J. Heyes, *Self-Transformations: Foucault, Ethics, and Normalized Bodies* (Oxford: Oxford University Press, 2007); see also the essays collected in Sherri Irvin, ed., *Body Aesthetics* (Oxford: Oxford University Press, 2016).

[423] Amia Srinivasan makes a similar point with respect to the possibility for critical consciousness among gay men, despite the racism, classism, and other prejudices that run rampant in many gay communities: "white, able-bodied cis straight people . . . aren't much in the habit of thinking there's anything wrong with how they have sex. By contrast, gay men—even the beautiful, white, rich, able-

tion within one's social context, to gain a critical sense of that positionality enables responsibility insofar as that sense produces the opportunity for changing behavior—for making one more curious and responsive in how they sense another's agency.

I have argued that a critical grasp of one's relative positionality is necessary to resist the distortions that often obstruct ethical relating in sexual intimacy, and that this sense is a precondition for responsibility to another in erotic encounters. However, this self-reflexive cultural sense is not itself the whole story of responsibility or ethical relationality. A critical cultural knowledge makes possible resistance to the obscurantism produced by some social structures, but it offers only limited guidance for how one ought to respond to the ethical claims posed by another in intimate relating. For sexual encounters to be appropriately shaped by the agency of all involved, it is not enough that we act out of critical consciousness and empowerment relative to our social contexts. Given how my social context invests power in my agency, another person's ability to shape the substantive direction of our sexual encounter requires that I respond to them, changing my behaviors to allow their agency to play a dynamic role.[424] This can only take place in real time as an encounter unfolds, by taking up specific orientations toward another in light of the uncertainty and ambiguity that surrounds our relation. In what follows, I describe these orientations in detail as desiderata (1) through (4) for responsibility in sexual intimacy.

IV.   Sensing the Opacity of Another's Agency and Subjectivity

I argued at the outset of this chapter that the ethical significance of another's expressions arises from the source of those expressions in another's alterity—specifically that person's agency in the wider sense, which intertwines the will, experiences, feelings, and embodied life context and projects. Given the transcendence (relative to me) of these aspects of another and the ambiguity that surrounds both self-knowledge and erotic intersubjectivity, it is neither feasible nor desirable to pursue an ideal of transparency with regard to the agency of another. Feminist theorists across disciplines broadly

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bodied ones—know that who we have sex with, and how, is a political question" (Srinivasan, "Does Anyone Have the Right to Sex?," *London Review of Books*, March 22, 2018).

[424] The ethical primacy of the self–other relation risks being overlooked when ethics is considered only in its dimension as a self-relation or a relation between the self and discourse, as Foucault frames it in *The History of Sexuality* (New York: Random House, 1976–1986). While I share many of her commitments, I see this as a limitation of the sexual ethics outlined in Lynne Huffer's *Are the Lips a Grave?: A Queer Feminist on the Ethics of Sex* (New York: Columbia University Press, 2013).

agree with this view, particularly those working in phenomenology and adjacent traditions.[425] The value and persistence of ambiguity in intimacy is acknowledged even by many who advocate legal formulations of affirmative consent that reduce ambiguity by requiring transparent agreement at every step. Through such measures, activists and policymakers often deploy a *strategic* reduction of ambiguity: knowing that intimacy is ambiguous, they use that ambiguity to provide women with a lever to exert agency over their sexual encounters.[426] The constitutive ambiguity of intimacy ensures it is never possible to secure transparent knowledge of the meanings of another's actions, speech, and movements—including how they map onto and express a person's agency.

The first desideratum—a practice or orientation—for responsibility, after the precondition of a critical cultural sense of my positionality, is:

> (1) sensing the opacity of another, that is, grasping that they have agency and subjective experience beyond my access.

This is to sense that another has a rich inner life, to receive them as approaching and addressing me from beyond what I can presume to know of them, including beyond what I might deduce or predict. In Levinasian terms, this means I encounter another's alterity, which is presupposed in every encounter with the expressive "face" of another.[427] The crux of this claim is that my responsibility to another demands that, upon their approach, I sense that they are an agential and sensitive interlocutor. I should be somehow interested, curious, or otherwise solicited by their "who" rather than only "what" they are, which includes sensing that they are a source of volition, one who feels, one who experiences our encounter, or one who is exposed and vulnerable to being harmed. In a given moment I may not sense another's transcendence across all these aspects, but the aspects are bundled together, and each is

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[425] See, e.g., Diprose, *Corporeal Generosity*; Huffer, *Are the Lips a Grave?*; and Alcoff, *Rape and Resistance*. Many feminists, especially those influenced by queer theory and psychoanalysis, also attribute transformative potential to the ambiguity and risk that accompanies sexual pleasure and the erotic. See, e.g., Elizabeth Grosz, *Space, Time, and Perversion*; and Lauren Berlant and Michael Warner, "Sex in Public," *Critical Inquiry* 24, no. 2 (1998): 547–66.

[426] See, for example, Amanda Taub, "'Yes Means Yes' Is about Much More than Rape," *Vox*, October 13, 2014, https://www.vox.com/2014/10/10/6952227/rape-culture-is-a-tax-on-women-CA-yes-means-yes-dierks-katz. Tom Dougherty makes a similar argument within the framework of the analytic philosophical debate about consent, emphasizing the role of "due diligence" in affirmative consent; see Dougherty, "Affirmative Consent and Due Diligence," *Philosophy & Public Affairs* 46, no. 1 (2018): 90–112. See discussion of affirmative consent and hesitation in section five.

[427] Recall that for Levinas *le visage* or "the face" is not the literal face, but any aspect of another that expresses. See discussion in chapter four, section five.

invested with value from the same source.[428] Sensing another in this way entails an implicit recognition that value and meaning are not personal categories existing only from the perspective of the self; another person experiences our encounter, and their experience is causally intertwined with that person's agency. The opacity of another gives me an inkling of the richness and singularity of their internal life—a glimmer of the relationality that makes another the one, as Levinas describes, "to whom expression expresses, for whom celebration celebrates."[429]

I use *opacity* to suggest how a surface can affirm that there is depth behind it without revealing what lies beyond: another's approach attests their agency without revealing or signifying its content.[430] This contrasts most sharply with transparency, which would be direct recognition of the structure and content of another's subjectivity—an impossibility if we accept the premises of Levinasian alterity and the constitutive ambiguity of intimacy. In addition, however, opacity should also be distinguished from obscurity, where the latter suggests that the depth of another is hidden from view by some epistemic barrier to receiving them.

The imperative to sense another's transcendent agency provides ground for rejecting objectification, instrumentalization, and other basic wrongs that any moral theory must condemn. In this sense, this desideratum pursues the same germ of humanism valorized by the most perceptive contemporary liberal approaches. This point shares with many sexual ethics the view that I wrong another by approaching them as a piece of sexual furniture, by reducing them purely to their physical appear-

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[428] On the source of moral value in alterity and proximity of another, see chapter four, sections one and two.

[429] Levinas, "Meaning and Sense," in *Basic Philosophical Writings*, ed. Adriaan T. Peperzak, Simon Critchley, and Robert Bernasconi (Bloomington: Indiana University Press, 1996), 52.

[430] My use of opacity departs from that of Amber Musser and Édouard Glissant, although I am inspired by both. In *Sensual Excess: Queer Femininity and Brown Jouissance* (New York: New York University Press, 2018), Musser uses opacity to figure one way black and brown bodies perform resistance against the denial of their interiority. The term for her thus captures an importantly specific practice of what I have called oppositional agency, and her notion of opacity cannot and should not be universalized or generalized to all people in intimate encounters. For Glissant, opacity refers to a particular political and epistemological affordance of resistance for colonized peoples. See Édouard Glissant, *Poetics of Relation*, trans. Betsy Wing (Ann Arbor: University of Michigan Press, 1997 [1990]); for discussion see Benjamin P. Davis, "The Politics of Édouard Glissant's Right to Opacity," *CLR James Journal* 25, no. 1/2 (2019): 59–70.

ance, or by grasping them only as an instrumental tool for some aim—problems Rae Langton describes as "sexual solipsism."[431] Further, I fail to be responsible to another when I project on them a stereotyped inner life that I see as fait accompli of evolutionary psychology, a product only of their social role, or following from some racial, physical, or other feature I attribute to them. Such projections follow from my arrogant certainty, which fixates on the possibility that another's behaviors and beliefs can be subjected to my predictions and manipulations.[432] If it is complete, the failure to grasp another as agential and the failure to sense the opacity of that agency block any further possibility of relationality.

Why opacity rather than reciprocal recognition of equality?

While it produces some similar conclusions to liberal humanist ethics, this requirement that I sense another's agency as opaque and transcendent enables a better theorization of responsibility in ambiguous and asymmetrical relations. Contemporary moral theories, particularly in analytic ethics, often ground obligations to another in another's status as a free, reasons-responsive agent like myself, which endows another with the same moral authority as my own to demand recognition and just treatment. Those theories' first desideratum of responsibility, then, is recognition of another's standing to make moral claims, which entails a reciprocal respect for another grounded in what they fundamentally share with the self: freedom and rationality.[433] In chapter four, I described an alternative origin story for ethics: namely, Levinas's argument that meaning and value originate from the affective

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[431] See Rae Langton, *Sexual Solipsism: Philosophical Essays on Pornography and Objectification* (Oxford: Oxford University Press, 2009).

[432] As observed above (see note 407), this arrogant certainty is the fundamental ethical failure of the so-called seduction community. The other wrongs of pickup artists typically follow from this initial failure to sense the opacity of another and the inherent value of their inner life.

[433] Stephen Darwall embeds this within any possibility of moral responsibility, arguing that every moral claim we make on one another *presupposes* reciprocal respect for their moral authority on these grounds. He writes, to "make claims on and demands of one another at all, I argue, you and I must presuppose that we share a common second-personal authority, competence, and responsibility simply as free and rational agents" (Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* [Cambridge, MA: Harvard University Press, 2006], 5).

power of the transcendence of another relative to the self, which he argues is prior both logically and phenomenologically to what moral theorists today call reason-responsiveness.[434]

It may be that the concept of rationality has evolved enough over the past several decades—partially in response to deep-cutting feminist critiques—to recognize the central roles of feeling, emotion, and other non-intellectual capacities in practical reasoning. On such a capacious view, there is some space for reading Levinas as himself presupposing some form of reasons-responsiveness among interlocutors, insofar as they encounter one another discursively in a way that produces sense among them.[435] However, the significance Levinas attributes to another's approach cannot be reconciled with the value liberal moral theory invests in a conception of freedom as spontaneity of the will. The approach of an interlocutor is the moment in which my own spontaneity or naïve assumption of my own freedom is curtailed; I am called by them to respond, and even my silence is assigned significance in proximity to them. Here, another makes a demand of me by their approach, and their ethical alterity replaces the notion of "moral standing" to make such a demand. What I may grasp as their freedom or spontaneity is not a recognition of likeness with myself but a point of contrast with my own unfreedom relative to all they demand of me—what Levinas calls their assignation or accusation of me.[436] In their proximity and exposure to me, another does not address me as a moral equal, asking that I rationalize or justify my behaviors; rather, the appeal of another addresses me from a height, and it calls on me to change my life.[437] Sensing the opacity of another thus could be said to entail recognizing them as the source of valid moral claims, but not because of that person's equal moral status as a rational human being. Instead, through the encounter with another as agential in this way, I sense their special status relative to myself: they are the singular, expressive site of opacity in a world that otherwise can be known and absorbed into my mastery and self-certainty.

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[434] By prior phenomenologically, I mean that it appears from the "I" perspective, without requiring adoption of the viewpoint of abstract rational reflection. Darwall moves toward this phenomenological insight with his description of the primacy of the "second-person standpoint" in the ethical texture of everyday life. However, Levinas would reject how Darwall's second-personal standpoint seamlessly gives way to deliberation and the weighing of reasons, which Levinas identifies with the ego's delusion of sovereignty. See chapter four, section three.

[435] Both Levinas's theory and my notion of opacity are at odds, however, with the straightforward popular conception of empathy, which suggests a too-direct grasp of the feelings of another.

[436] See chapter four, sections two and three.

[437] Levinas develops the motif of the "height" from which another addresses me throughout *Totality and Infinity*; see, e.g., 66–67.

The emphasis on opacity rather than transparency has several implications for relational ethics. One upshot is that obligations of care that I have toward others, such as dependents, can arise from their inner life even if they are only capable of limited communication to me. Eva Kittay describes a relationship with Sesha, her profoundly disabled adult daughter, characterized by Kittay's responsibility to and for her, which requires a care indexed to Sesha's experience and how she inhabits her life. These aspects of Sesha are transcendent in that they cannot be known or inferred in any strictly reliable sense, making the particular care that Sesha wants and needs often far from transparent. However, the responsibility Kittay describes as CARE requires continually moving toward what Sesha expresses, responding to her in a way that recognizes the opacity of what matters to her but also fits within their ongoing relationship.[438] Responsibility here has a directionality without transparency, and its content—that is, what should be done—is graspable only in an unfolding personal relationship with Sesha. What responsibility to Sesha entails in this relation cannot be deduced from values of autonomy, dignity, or health alone, although a well-considered, culturally specific appreciation of those values might facilitate the kind of relationship valuable to Sesha.

Notions of dignity and moral personhood based in categorical status distinctions risk covering over the ethical relevance of each person's singular agency, sense of their life, and embeddedness in relations. Note that this is a claim about ethics rather than a metaethical claim about the source of moral normativity. My claim is that the normative ethical demands particular to intimate relating require that I sense another's singular transcendence and opacity as the one that they are, not merely see another as a free and rational agent like me. I believe the best moral theorists across traditions are interested in how value and the good appear in the other encountered as singular in the way I describe; some try to show the compatibility of that singularity with rights and duties based in universal equality and freedom, whereas others use it for critique, to demonstrate the methodological limitations of moral philosophy as it has conventionally been pursued.[439]

In intimate relationships, the imperative of sensing the opacity of another humanizes them in the way I have described without demanding that my reception of them be facilitated by a moment of

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[438] See Kittay, *Learning From My Daughter: The Value and Care of Disabled Minds* (Oxford: Oxford University Press, 2019).

[439] A great contribution of feminist moral philosophy in both liberal and critical traditions has been its sensitivity to the singularity and social situatedness of each person. This methodological orientation has enabled critique of moral theory's accommodation of sexism, colonialism, and the exploitation of laboring bodies—accommodation that has persisted for centuries despite the avowal of universal principles.

recognizing their status and authority as human in a general sense.[440] By valorizing their opacity rather than their transparency as another like me, I am oriented toward the direct ethical pull of what another actually expresses to me, rather than refracting my responsibility through the interpretive lens of a principle—with the inherent question of whether another *counts as*—to guide my deliberations. The moral standing suggested by this sense of another is more specific to them than human equality and may therefore be especially well-suited to derail sexual harms and wrongs. Sarah Clark Miller suggests that sexual violence never targets a person's humanity as such but singles out and devalues some aspect "more specific than one's humanity," namely one's particularity as "female, Black, trans*, disabled, queer."[441] She writes that "it is not one's general humanity, but rather the specificity of human identity that makes one a mark for sexual violation."[442] At the moment I encounter another, my ethical obligations to them are specific to me and follow from the claim they place on me as the person they are, expressing themselves to me, not from their membership status in the privileged category. For this reason, Levinas writes, "humanism has to be denounced only because it is not sufficiently human"; humanism's focus on principles and universalized duty obscures the singular humanity of this other as my interlocutor, who approaches both as agential and as vulnerable to me.[443]

V.   Receiving Another's Expressions as Calling Me into Question

I have so far claimed that responsibility is motivated by the value of another's agency, which is an aspect of another transcendent to me. I must have a sense of another's opacity, I have argued, to receive another's approach as an interlocutor with a rich interiority hidden from me, whose agency and sensitivity to me gives my behaviors an ethical, relational sense. Yet, a sense of the opacity of another as an agential, experiencing interlocutor is only the first step toward an ethical mode of relating; it does not yet illuminate the behaviors called for in my responsibility to that person. What responsibility requires depends on the specific content of another's agency, which follows from their

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[440] There may be an implicit recognition that takes place, as Darwall suggests, but if so, it is first and foremost a recognition of another as an interlocutor, not a recognition of them as categorically like myself. Levinas is adamantly opposed to a recognition framework for describing the encounter with alterity, but for my purposes the question is mostly semantic.

[441] Miller, "Resisting Sexual Violence: What Empathy Offers," in *Analyzing Violence Against Women*, ed. Wanda Teays (Cham: Springer, 2019), 71.

[442] Ibid.

[443] Levinas, *Otherwise than Being*, 128.

will, experiences, feelings, life context, and directionality of their projects—all of which are dynamic and only knowable incompletely. These dimensions of another's agency resist certainty, but I receive their traces through the expressions by which another addresses me: speech, utterances, postures, movements, touch, and bodily comportment. Another's actual, specific expressions are the salient moments in our encounter that solicit me and create the situation within which my responses might acknowledge or valorize that person's agency.

To receive the expressions of another as an ethical solicitation, I must resist the obscurantism of an unjust social context, which, as I have discussed, often assigns formulaic meanings that obscure the sense and expressiveness of another. Yet, insofar as inadequate affordances of a social context to some degree shape my own beliefs, interpretive resources, and affective responses, my routine perception must be disrupted for me to receive the expressions of another as pointing toward that person's actual agency. I have argued above in section three that it is insufficient (although often necessary) to combat the false narratives of rape culture by gaining knowledge about histories and effects of oppression and the mechanisms of structural violence. In light of the arrogant, misplaced certainty that often mars behaviors in sexual encounters, a person who would claim to know another's desire, will, or feeling for any reason independent of that other person's actual expressions must be interrogated: How can you be so sure?

This motivates the second desideratum for responsibility to another in a sexual encounter:

(2) receiving another's expressions as calling into question my self-certainty.

Responsibility to another in sexual intimacy requires that their expressions challenge me by disrupting both my intentionality, that is, my aim toward a particular action or encounter, and my claim to certainty—about my knowledge and power, about the content of another's signs, about the condition of another's agency or desires—which insulates me from hearing and heeding those expressions. This entails a suspension of investment in my own desires and presuppositions and a slackening of the drive to predict and know the truth of another's experience.

For a privileged person socially invested with a taken-for-granted sense of authority and self-possession, this calling into question may be experienced as an intrusion: unfamiliar, uncanny, and perhaps unwelcome. It can startlingly bring to the forefront the heteronomy of one's intentions and desires—one's exposure to rejection and being assigned a meaning—and one's otherwise-obscured vulnerability to being changed by an encounter. For many heterosexual men, for example, a female partner's active, agential assertion of particular desires, preferences, or intentions in a sexual encounter

can be interpreted as threatening or inappropriate, particularly when those assertions cut against expectations fostered by dominant sexual social norms and normative discourses of male sexual entitlement.[444] As one served by my social context, I tend to notice when another's expression fails to conform to my expectations and interferes with my intentions—that is, with how I imagine and hope for an encounter to take place—while overlooking the deeper significance of how that expression is connected to that person's agency and experience. This is anecdotally evident in my own teenaged experiences, where, if someone expressed that they weren't interested when I tried to kiss them, I thought I must have said something wrong or chosen the wrong moment. It didn't occur to me that another person's response might centrally express their own agency and desires, and that I simply might not be in their plans. Gavey and co-researchers have documented a similarly dismissive (albeit more insidious) reception among heterosexual men to women's expressions about condom use. In one interview, the respondent describes her partner's arrogant response to her insistence that they use a condom: "ohh no, it's all right, I trust you."[445]

Insofar as the expressions of another are always received through the senses—heard, seen, and felt—the disruption of self-certainty requires a departure from the sensing and perceiving operative in everyday perception. Levinas describes how touch and vision can be tools by which interiority extends itself, reaching out to grasp another as object to be mastered—a movement evident in what Marilyn Frye describes as "arrogant perception."[446] In sexual intimacy governed by the discourse of permission-giving consent, such an extension of interiority can justify itself through a certain kind of hearing, which insulates one from responsibility insofar as one listens only for confirmation of the other's consent, hearing only what ratifies one's own socially privileged intention. Under social conditions that encourage seeing another as something or someone of lesser value, disrupting this alimentative perception requires seeing, hearing, and certainly touching otherwise—sensory modes of

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[444] Such strongly negative reactions may arise in part from the inversion of becoming vulnerable to the demands of an otherwise subordinated other. This might be the case, for example, in the violent encounter discussed in chapter three, where Lorde deals with the man who tries to "take [her] down a peg or two." See discussion of subordination and entitlement Kate Manne, *Down Girl: The Logic of Misogyny* (New York: Oxford University Press, 2018), 106–32.

[445] Gavey et al., "'If It's Not on, It's Not on'—or Is It? Discursive Constraints on Women's Condom Use," *Gender & Society* 15, no. 6 (2001): 923.

[446] Frye, "In and Out of Harm's Way: Arrogance and Love," in *The Politics of Reality: Essays in Feminist Theory* (Freedom: Crossing Press, 1983), 52–83.

resistance to pernicious social norms only made possible through the critical cultural sense described above in section three.

Feminist thought indicates encouraging possibilities for the seeing, hearing, and feeling otherwise that might open one up to being disrupted by another's expressions, particularly by their expressions of agency. Frye describes how the objectifying, instrumentalizing vision of the "arrogant eye" can be displaced by the "loving eye," which "knows the independence of the other . . . [and] pays a certain sort of attention."[447] Perhaps receiving the expressions of another in the mode of responsibility requires that I untether my vision from the desires that drive it and let it be tuned to the invisible infrastructure of relationality—another's alterity and our vulnerability to one another that is testified in their approach. Similarly, the listening that seeks to accrue justification and maintain my naïve sense of freedom can give way to what Gloria Anzaldúa calls a "multilevel kind of listening . . . you listen with both outer ear and inner ear. . . . a different way of being in tune with people and the environment."[448] This "different way of being in tune" requires going beyond the calculation of interests and obligations that Levinas ties convincingly to so-called Western notions of intersubjectivity. In the words of María Lugones, "careful not to drop the sign (word, gesture, movement), we find ourselves negotiating not just the seductions of common sense and the power of simplification, but also the difficulties of hearing multivocalities and poli-rhythms in the contestatory negotiation of these barriers."[449] Finally, perhaps the violating touch motivated by arrogant certainty can be avoided in favor of a touching that proliferates rather than abrogates differences. In direct critique of Levinas's failed phenomenology of the erotic, Luce Irigaray thematizes the relational touch as caress, meeting one another in non-oppositional difference that makes possible a loving and letting be across the interval of separation.[450]

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[447] Ibid. 75.

[448] Anzaldúa, *Interviews/Entrevistas*, ed. AnaLouise Keating (New York: Routledge, 2000), 286.

[449] Lugones, "Tactical Strategies of the Streetwalker," in *Pilgrimages/Peregrinajes: Theorizing Coalition against Multiple Oppressions* (Lanham: Rowman & Littlefield, 2003), 228.

[450] Irigaray, *An Ethics of Sexual Difference*, trans. Carolyn Burke and Gillian C. Gill (Ithaca: Cornell University Press, 1993 [1984]), 185–217. Note that the caress is also depicted as a moment of transcendence in Levinas's early writings. See discussion in Diane Perpich, "From the Caress to the Word: Transcendence and the Feminine in the Philosophy of Emmanuel Levinas," in *Feminist Interpretations of Emmanuel Levinas*, ed. Tina Chanter (University Park: Pennsylvania State University Press, 2001), 28–52.

It is important, however, not to idealize these suggestive modes of sensing as practices that can simply be adopted to guarantee a relationality open to the agency of another as well as my own. The constitutive ambiguity of erotic intimacy ensures that the approach of another can at any time lead in unexpected, perilous directions, even when perceiving and communicating across the most loving gaze or caress. Misrecognition and misconstrual are persistent possibilities of every encounter, and it can never in principle be foreseen where a person will lose connection with another's agency, where unanticipated meanings will arise, and where novel responses to one another will be called for.

Hesitation and disruption of perceptual habits

To receive another's expressions as traces of that person's alterity, perception must be freed from serving the efficient, self-contained synapse from desire to intention to action—particularly for a privileged actor. Alia Al-Saji's reflections on a critical mode of *hesitation* in perception shed light on how this disruption might take place. While Al-Saji examines how hesitation affects racializing perception in particular—especially racializing vision, for which she provides a sophisticated phenomenology—an analogous hesitation in perception in our intimate encounters might facilitate receiving another's expressions in the way I have described.

Al-Saji draws on Maurice Merleau-Ponty and Frantz Fanon to show how vision is not a morally neutral capacity; its practice depends on and reflects "sedimented habits of seeing" responsive to "the tacit ways our bodies relate to and move in the world, allowing certain aspects of that world to be foregrounded" (138).[451] Yet, unlike other habits, which are contextually fluid and reinvent themselves, the habituation of racializing vision has an affective rigidity that insulates it against revision. Racializing perception closes down the "*receptivity* of vision: its ability to be affected, to be touched, by that which lies beyond or beneath its habitual objectifying schemas" (140, emphasis original). Racializing perceptions are experienced as justified and natural because they are intertwined with affects that, despite being experienced as immediate, are themselves habituated and encouraged by pernicious social discourses and histories. Al-Saji describes how the affect of repulsion toward another, for example, naturalizes the fantasy that race is a fundamental characteristic carried by the object of perception, rather than a historically contingent discourse that shapes the perceiver.

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[451] In-text citations in this section refer to Al-Saji, "A Phenomenology of Hesitation: Interrupting Racializing Habits of Seeing," in *Living Alterities: Phenomenology, Embodiment, and Race*, ed. Emily S. Lee (Albany: SUNY Press, 2014), 133–72.

Like racializing perception, the reception of another as eroticized (or, conversely, as de-eroti-cized) is motivated by affective investments often experienced as natural and self-justifying. Feelings of attraction, desire, or shame that shape behaviors and interpretations in a sexual encounter with another are fostered by a social context, even as they sometimes appear to arise singularly from within the subject (as in the case of *my* sexual tastes or *my* shame) or from another (as in *their* sexiness or ugliness).[452] For some, the affordances of that context facilitate a rigid perception that reduces another to their potential as a sexual partner, which results in the same numbing of responsiveness in relation to others that Al-Saji describes: "eliding nuance, modulation, and adaptive effort in responding to singular others and divergent situations" (142).

Al-Saji locates a particular kind of hesitation that can bring to the fore how the discursive structures behind such affects are contingent rather than natural, which has the potential to dislodge the perceptual habits characteristic of racializing vision. She identifies several effects of hesitation for privileged subjects that I take to be relevant as well for how a person in a position of advantage might be called into question by another's expressions in sexual intimacy. A hesitation first slows things down, enabling the affects that accompany seeing-as to be felt more deeply and disrupting their re-flexive force. Instead of stubbornly natural and self-explanatory, affects in the interval of hesitation might be located as tendencies arising within a particular time, place, and social positionality, which might strip away some of their power to obfuscate and justify. Second, hesitation enables affective investments to flow and respond to the settings in which they arise, reopening them to the ambiguous influence of a "lived-through bodily awareness" (148) of another that is foreclosed by the "comfort, seamlessness, and expansiveness" projected by the "reflexes of white privilege" (150). This finally allows my affective response to another to "resume its course as *tendency*; it is unfrozen, able to become otherwise and to respond differently" (148, emphasis original). Thus, hesitation encourages me to feel "the incompleteness, both of affect and of that to which affect responds" (148). In Lorde's terms, this is to feel deeply and not to look the other way from what is felt.[453] In Levinasian terms, it might enable me to receive the expression of another as a saying rather than a said, as soliciting an ongoing response

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[452] See discussion of unjust sexual attractions and desires in Ann J. Cahill, "Sexual Desire, Inequality, and the Process of Transformation," in *Body Aesthetics*, ed. Sherri Irvin (Oxford: Oxford University Press, 2016), 281–98.

[453] See discussion in chapter three, section three.

rather than delivering a content that I immediately absorb into my interpretations and intentions with respect to another.[454]

It is important to recognize the significant disanalogies between the rigidity of racializing perception and the repetition of heteronormativity and other harmful sexual discourses and behaviors. Whereas racializing perception compulsively overdetermines itself by a "'historico-racial schema,' the past constructed as myth, stereotype, distorted and isolated remnant," normative heterosexual perception is more fundamentally oriented by capitalist forces of commodification and fetishization in the present, which provide affordances for contemporary sexual identities and practices (141). As such, Al-Saji's emphasis on critical practices of memory that make hesitation productive for anti-racist resistance should perhaps be replaced, in the case of erotic perception, with a critical positioning of oneself relative to the images and pressures of commercial media and its reverberations in one's social milieu. This aligns with the notion of a critical cultural sense of one's social positionality I have described above as the precondition for responsibility. Informed by such a critical orientation, a hesitation of both perception and action in intimacy might open an interval in which another's agency and experience can come to the fore, in which I might hear their expressions point to something that otherwise could not have been sensed.

The notion of hesitation in erotic intentions and behaviors is latent in familiar, feminist-informed ideals of caring, respect, or attentiveness in our sexual encounters. As Alcoff notes, given human capacities for nuanced communication and attunement, the "interactive, intersubjective engagement, in which each partner stays attuned to the emotional states and experiences of the other(s)" is, in principle, "not that difficult to accomplish, especially in intimate encounters in which all five senses may be enlivened."[455] I suggest that hesitation is part of the answer to the question of how we get there from here, given that, under status quo social conditions, the five senses are overdetermined by pernicious discursive norms and structural inequalities. Al-Saji cautions that hesitation cannot be expected to do all the work of resisting habit and remaking social norms, however; it is a necessary enabling factor but not a sufficient action that can be intentionally adopted as an antidote to racializing habit. Read in this way—as, I suggest, a method rather than a recipe[456]—the promise of hesitation is

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[454] See chapter four, section four.

[455] Alcoff, *Rape and Resistance*, 129.

[456] See Beauvoir, *The Ethics of Ambiguity*, 134.

to be realized through "the creation of situations and attachments that bring hesitation about, as well as attention to ways of holding hesitation open and allowing it to become productive" (149).

I propose thinking the recent feminist movement for "affirmative consent" in these terms. I am heedful of concerns that formalized requirements of a clear and unmistakable "yes" for every sexual act expands the category of impermissible sex to include many ambiguous or unproblematic encounters.[457] On the other hand, I am also sympathetic to the political response to this critique, which frames affirmative consent as an intervention aimed at shifting the burden of proof when violation takes place and introducing new, countervailing risks for those who have an arrogant certainty in their sexually entitlement.[458] Beyond this transactional approach, however, I suggest that a norm of affirmative consent is most fruitful if it is designed as an ethical intervention to create a situation of hesitation, disrupting the efficient synapse from perception to desire to intention. To be sensitized to the presence or absence of affirmations of another can foster a moment of hesitation and opening of perception in a sexual encounter, encouraging a receptiveness to expressions of agency that might enable arrogant certainty to be called into question. Alongside the political calculus, I propose that the efficacy of affirmative consent policies and practices be judged according to whether they successfully facilitate a responsiveness to agency. By allowing intentions and presuppositions to be questioned, hesitation should enable an encounter to unfold according to another's agency as well as one's own.

Implications for oppositional agency

Imperatives for hesitation, being called into question, and receiving another's appeal as displacing self-certainty are manifestly compelling when the "I" refers to a subject in a position of relative power to steer an encounter, such as one invested with the power and authority attributed to normative masculinity. For such men, hesitation and responsiveness to another's expressions entails accepting heteronomy in one's actions and giving up some of one's own power or control over a situation.

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[457] See, e.g., Janet Halley, "The Move to Affirmative Consent," *Signs* 42, no. 1 (2016): 257–79; and Aya Gruber, "Consent Confusion," *Cardozo Law Review* 38 (2016): 415–58. There have, however, been many attempts to formalize more context-sensitive accounts of affirmative consent, beginning with Lois Pineau, "A Response to My Critics," in *Date Rape: Feminism, Philosophy, and the Law*, ed. Leslie Francis (University Park: Pennsylvania State University Press, 1996), 63–107; and continuing in recent years with Tom Dougherty, "Affirmative Consent and Due Diligence"; and Japa Pallikkathayil, "Consent to Sexual Interactions," *Politics, Philosophy & Economics* 19, no. 2 (2020): 107–27.

[458] See, for example, Ezra Klein, "'Yes Means Yes' Is a Terrible Law, and I Completely Support It," *Vox*, October 13, 2014, https://www.vox.com/2014/10/13/6966847/yes-means-yes-is-a-terrible-bill-and-i-completely-support-it.

This clearly opposes the arrogant certainty, indifference, or privileged ignorance toward another's internal life that can easily lead to sexual violation whether or not another person expresses consent.

However, the notion of softening self-certainty and being called into question has different implications for one whose agency faces persistent friction within their social context.[459] For one in a precarious subject position, the hesitation that allows desires and intentions to be changed may well erode that person's sexual subjectivity and possibilities for agency. The call of another who occupies a more privileged position will often be a call to accommodate demands of whiteness, male entitlement, or emotional domination, and being called into question again and again in that way has a corrosive effect. For Lorde, whose agency depends on a deep valorization of feelings in opposition to discourses that disempower her, allowing herself to be called into question might threaten her most important source of knowledge and power. It would be self-defeating to respond to such demands of another with the hesitation and attentiveness seemingly required by a Levinasian ethics.

Al-Saji addresses a similar objection in her account of hesitation, and she draws a useful distinction between the paralyzing, habituated hesitancy imposed by social norms over time (e.g., the "I cannot" feminine bodily schema discussed by Iris Marion Young) and the productive hesitation that revalorizes the latent relationality and ambiguity in our habituated responses to others. The paralyzing effect of the former is imposed in part, she argues, by the false ideal of a seamless "I can," which is impossible to attain and "elides other ways of *acting hesitantly* in which habit is not unhearing and hesitation not immobilizing" (154, emphasis original). To escape paralyzing hesitation itself, she suggests, requires the latter "critical and responsive form of hesitation" that recognizes that agency depends on relationality and is itself ambiguous (154).

For the habits surrounding sexual agency and sexual subjectivity, this suggests that the critical sense of one's own positionality takes on an additional valence. As I suggested at the outset of this chapter, the cultural knowledge developed by those heavily disadvantaged by their context is often not a question of responsibility to another so much as a necessity for survival. Asserting and retaining sexual agency in the face of pernicious social norms requires a constant effort of drawing boundaries and refusing the demands of others, which raises the threat of being consumed from within by what Lorde describes as the project of securitization, that is, insulating oneself against the risks of feeling

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[459] Of course, most people occupy privileged positions in some contexts, with respect to particular salient discourses, while facing disadvantage to their agency in other situations, and these positionalities can shift over the course of a life or within an ongoing relation. The observations here apply equally to stable, enduring subject positions and to those occupied temporarily in a particular context.

and intimacy.[460] For one who refuses to be called into question by another in every encounter, subjectivity becomes rigid, limiting the projects that can be actualized and sapping the energy to pursue them.

To actualize agency in its relational, dynamic form on the one hand requires avoiding and escaping encounters where another seeks—knowingly or unknowingly—to entrap or annex one's agency for their own projects. On the other hand, agency in opposition to dominant social norms also requires a network of relations that valorize and reaffirm the resistant epistemic resources to critique those norms.[461] To develop supportive connections—including within sexual relationships that facilitate continued remaking of sexual subjectivity—survivors must retain a sense of the opacity of others as also vulnerable and perhaps complexly situated within pernicious social structures and histories of violation. Sarah Clark Miller describes how building relationality among survivors requires receiving other survivors' accounts as calling into question one's self-certainty about the meanings and effects of one's own and others' experiences, certainty about what "real" violation looks like, and the minimizing impulse to understand what happened to oneself as "not that bad," which numbs one to one's own suffering and to that of others.[462] While asserting one's self-certainty is sometimes a necessity for enacting agency, being called into question remains the orientation which enables productive, agency-enhancing relations of solidarity to take form. The potential for transformative connections among survivors of sexual violence depends on testimony being received as an opening of relationality and an ongoing saying—that is, a history whose meaning is continually in the process of emerging. In contrast, when so-called consciousness-raising efforts consist of assigning meaning to the experiences of others, they appropriate rather than empower.[463]

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[460] See discussion in chapter three, section one. Alcoff attributes the grinding, daily effort of securitization to limitations of the dominant sexual imaginary. She calls for amelioration in the form of "an enlarged idea of one's relation to one's sexual self beyond the goal of protection and harm avoidance," for which she prescribes wider, low-risk opportunities for experimentation with sexual self-making (Alcoff, *Rape and Resistance*, 143).

[461] See Alcoff, *Rape and Resistance*, 23–55.

[462] Miller, "Resisting Sexual Violence"; Miller comments on the editor's introduction to Roxane Gay, ed., *Not That Bad: Dispatches from Rape Culture* (New York: HarperCollins, 2018).

[463] For example, see Hilkje Hänel's critique of the German survivor movement *Definitionsmacht*, which encourages those who have experienced sexual violation to identify their experiences as assault and press charges. See Hänel, *What Is Rape?*, 233–42.

VI. Responding to the Dynamic Expressions of Another's Agency

I have claimed that the moral significance of another's expressions in an intimate encounter derives from how those expressions relate to a person's agency, and that agency is a dynamic product of a person's will, experiences, feelings, life context, and projects. Given the processual and partially unknowable character of agency on this description, to orient my behaviors toward the value of another's agency in an intimate setting requires an ongoing responsiveness to their expressions. My responsibility thus does not end in a particular, justified action but calls for behaviors that respond continuously as an encounter shifts and another's expressions unfold. I describe this dynamic responsiveness in the final two desiderata for responsibility to another in a sexual encounter:

> (3) responding to another by changing my behavior to acknowledge the value of their agency and subjective experience; and

> (4) maintaining relational dynamism, or an ongoing responsiveness to another's agency as it continues to emerge through their expressions.

To behave responsibly toward another is to change my behaviors in response to their expressions, reflecting that their agency and experience have value. On a basic level, this is to pay attention to how I affect another person and to allow that person's expressions to influence my intentions, assumptions, and behaviors. If I desire and hope that a sexual encounter with someone will materialize in a particular way, my responsibility to that person is not simply to ensure that there is no moral obstacle to actualizing my intentions. Rather, I ought to shift my intentions and behaviors to fit salient aspects of the situation as things unfold between us. This extends the first two desiderata in that my behaviors are oriented toward another's approach from beyond my own interiority, and their expressions call into question my preexisting intentionality and desires.

When I hear another express outright refusal to some aspect of a sexual encounter, my responsibility to them clearly entails that I make responsive changes to my intentions and behaviors. To fail to conform my actions to such an expression is to assert my own self-certain intentionality and deny the value and validity of another's agency—as well as to deny the significance of another's experience of being harmed that will almost certainly follow. However, most expressions fall short of such clarity and finality. Sexual communication is often oblique and ongoing, with much left unsaid or only expressed over time through a combination of explicit speech, other utterances, facial expressions, movements, touch, and bodily postures. My sense of another's expressions may be riddled by the obscurantism of our social context, which frames both how they communicate and how I receive

them. When another's expressions appear ambiguous, vague, or tentatively affirmative, appropriate responses are circumspect: slowing down or hesitating, soliciting another by asking a question, listening or looking for shifts in body language, making eye contact, scrutinizing my own intentions, verbally seeking reaffirmation that something is okay, and countless more. Whatever my response to another, I wrong them if I do not keep the space of our relation open for their agency to continue to be expressed and influence my behaviors over time.[464]

Another's ongoing expressions appeal to me continuously by sketching that person's agency, giving traces of that persons' experiences, feelings, desires, intentions, embodied life context and projects. These dimensions of agency are dynamic to varying degrees—feelings and intentions tend to shift more rapidly than, say, life projects—and differentially sensitive to my own actions and behaviors. However, insofar as these dimensions are at once continuously changing and incompletely known, responding to another's agency requires remaining in a dynamic relation with another rather than taking their expressions as licensing me to act. Sustained over the course of an encounter, such responsiveness appears as a qualitative way of doing things—a style—that conveys a kind of presence and receptiveness.[465] Such a style, insofar as it is oriented toward agency as well as sensory experience, is not necessarily (or only) a question of aesthetic attunement to the good of another's pleasure or fulfillment of their desires; it is also a mode of actualizing responsibility to another.[466]

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[464] Kelly Oliver briefly proposes a similar notion of response-based responsibility to a sexual partner in both *Response Ethics* (196–200) and *Hunting Girls: Sexual Violence from* The Hunger Games *to Campus Rape* (New York: Columbia University Press, 2016), 161–62. Motivated by the etymology of consent as "feeling with" and the Levinasian ambiguity between sensing as grasping meaning and sensing as feeling sensations, she suggests a sexual ethics built on sensing an *agreement of feeling*, which requires "attentive, thoughtful responsibility" to "attend to the responses of one's interlocutor" (*Response Ethics*, 198). Though I share Oliver's motivations, my account differs slightly because, where Oliver focuses on feelings and desires, I foreground another's agency, which I take to encompass feelings, desires, but also more contextual and temporally extended factors. I also emphasize more strongly how, beyond attending to another, an adequate response requires changing one's own behaviors and intentions.

[465] See Diprose, *Corporeal Generosity*, for development of the phenomenological notion of corporeal style in the context of erotic intimacy.

[466] Here there might be continuity between the relational features of good (pleasurable and fulfilling) sex and morally good sex (i.e., sex that reflects responsibility to another), which is overlooked when ethicists focus only on identifying criteria of moral permissibility. Recall that, instead of drawing the line of moral permissibility for sex, my account seeks to identify where failures in responsibility to another produce obligations of moral repair. See chapter one, section three.

By focusing on the agency and alterity behind every expression, this account substantially widens the range of another's communicative actions considered ethically salient for enacting responsibility to another. Rather than focus only on the "morally transformative" efficacy of consent or refusal, this notion of responsibility requires responding to what is agential in all expressions, even expressions that are ambiguous, are obscured by pernicious social structures, or reflect a self-making in transition. This justifies my displacement of the view that consent cleanly and unilaterally gives permission (argued in chapter one), and it casts doubt on the red-light/green-light model of consent that tends to dominate popular discussions of sexual communication. Responding to another takes place over time, and even expressions of consenting call for an ongoing responsiveness—moments of hesitation and a style of attentiveness—to keep an encounter open to another's sexual agency.

I described in chapter one how, in some encounters, apparently consenting expressions may actually be a product of acquiescence to demands out of a feeling of pressure or ambivalence, even in the absence of coercion. Even when consent has been validly given according to a legal or theoretical ideal, however, communication and attention to another's expression must remain ongoing if both people are to have an agential role in how an encounter continues to unfold. Responding to another in the ways I describe keeps open the agency-enhancing possibility of continued dialogue and new expressions of desire or will, which might call for the encounter to go somewhere different. Like all saying, positive expressions of affirmation or consenting unfold over time, soliciting responses from me whether or not I can—or reasonably should be able to—interpret them confidently as signs conveying content (that is, as *said*). Expression is always revisable and only brings provisional justification for any response, but it is the most immediate trace available to grasp another's alterity, the source of moral value in our relation. We as theorists can only acknowledge this situation in theories of sexual ethics if we are willing to recognize obligations to others that may not be documentable or enforceable before a moral or legal arbiter.[467]

A sexual moral psychology that focuses on opacity and responding to the expressions of another protects against the error of taking another's token of consent as a sufficient avatar for autonomy. With these orientations toward another, one does not receive consent as giving permission while ignoring that a wider agency is at work across the gamut of another's expressions. If I am right that the content of responsibility follows from another's agency, imperfectly known to me, then it is an unnecessary and potentially costly movement of abstraction to filter another's actual expressions

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[467] See discussion in chapter one, section three.

through the criteria of valid consent, which becomes the heuristic for determining morally good action. To do so risks indexing my action to the duty to gain another's consent, potentially insulating me from the singularity of the other person's actual presence to me, that is, the saying through which they express their actual agency from beyond me. This is especially important in a social context that encourages conceiving of ourselves and others in transactional, legalistic terms, where sexual consent becomes compartmentalized along with other decisions people make about their property and interests.[468] To orient behaviors toward another's actual expressions affords that person more agency over an ongoing encounter.

Ideally, an ethical responsiveness might be said to prevail when all take on equally active roles shaping what takes place, with each person able to communicate desires and boundaries as they arise and become known. Many popular feminist accounts of good sexual practices promote this model, which is clearly more supportive of agency than current sexual social norms in mainstream US culture.[469] Realistically, however, social positionalities and cultural norms often make such a shape of relating impossible, and, in some cases, not even desirable. In some societies, moving toward ideals of open communicativeness about sex may require massive changes to other cultural practices and values that may be essential to the agency of women and others precariously situated.[470] Further, in settings where the erotic has profoundly different social meanings—which might be valuable to a person's agency and sense of selfhood in a variety of ways—this ideal may also not be desirable even if it were unproblematically achievable.[471] Every person's expressiveness in an intimate encounter comes from their own culturally specific location and particular, personal history of sexual subjectivity, and responding ethically to a person's agency will take different forms across different modes of intimacy, responsive to the affordances of a social context.

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[468] See, Alcoff, *Rape and Resistance*, 110–47; and Cahill, *Overcoming Objectification*, for cautions against the compartmentalization of our erotic, corporeal selfhood.

[469] See, for example, Thomas MacAulay Millar, "Toward a Performance Model of Sex," in *Yes Means Yes! Visions of Female Sexual Power & a World without Rape*, ed. Jaclyn Friedman and Jessica Valenti (Berkeley: Seal Press, 2008), 29–41.

[470] See Serene J. Khader, *Decolonizing Universalism: A Transnational Feminist Ethic* (New York: Oxford University Press, 2019), especially her discussion of transition costs for gender justice, 71–75.

[471] See case studies in Sherry B. Ortner and Harriet Whitehead, eds., *Sexual Meanings: The Cultural Construction of Gender and Sexuality* (Cambridge: Cambridge University Press, 1981); and Christine Helliwell, "'It's Only a Penis': Rape, Feminism, and Difference," *Signs* 25, no. 3 (2000): 789–816.

Any account of responsibility to another in sexual encounters must address the fact that for many people sexual subjectivity and sexual agency are constituted in response to histories of victimization and sexual violation. Survivors describe (and theorize) agency as variable and heavily dependent on context—the societal context in which they must develop sexual subjectivity, the particular contexts that surround relationships and encounters, and the personal relational context of a community of support within which past trauma can be narrativized and grappled with.[472] To integrate into sexual ethics a realistic appreciation of survivorship as an ongoing practice of sexual subjectivity requires letting go of the implicit idealization of sexual violation as "a single, temporally-bound, spatially-discrete event" with a valorized *before* and a devastating *after*.[473] For many survivors of childhood sexual abuse, there is no sexual subjectivity "before" violation; many describe an assault as the point at which sexuality gained a concrete sense in their consciousness.[474] Clark Miller suggests that violation itself is often "durationally sustained (or incessantly repetitive) and spatially extended" through the social forces of rape culture writ large, and this violative social context becomes the backdrop against which a survivor must work to (re)claim agency over the sexual aspects of their life.[475] As such, a rigorous notion of responsibility to another in sexual encounters must recognize that responsive behaviors are often solicited in the midst of situations that are already morally problematic—structurally, culturally, or personally. Responsibility to another continues to exert its pull in sexual relationships in which violation has taken place in the past, and sexual ethics—if it is to be capacious—must include figuring out how to be responsive to another's agency in the face of the ongoing, "spatially expansive and temporally incessant" forms of violence endemic to a heteronormative, misogynistic culture, such as "street harassment, internalization of sexist attitudes, and the pervasive sense of feeling unsafe."[476]

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[472] See Brison, *Aftermath*; Lena Palacios, "'Ain't No Justice … It's Just Us': Girls Organizing against Sexual and Carceral Violence," in *Girlhood and the Politics of Place*, ed. Claudia Mitchell and Carrie Rentschler (New York: Berghahn Books, 2016), 279–95; Alcoff, *Rape and Resistance*; and Miller, "Resisting Sexual Violence."

[473] Miller, "Resisting Sexual Violence," 67. On the temporality of trauma, see Hannah Bacon, "Bearing With: An Intersubjective Ethics and Politics of Durational Trauma" (PhD diss., Stony Brook University, 2020).

[474] See, e.g., Alcoff, *Rape and Resistance*; and Leah Lakshmi Piepzna-Samarasinha, "What It Feels Like When It Finally Comes: Surviving Incest in Real Life," in *Yes Means Yes!*, 93–106.

[475] Miller, "Resisting Sexual Violence," 67–68. Sarah Deer identifies rape for indigenous women as "an enduring violence that spans generations" (Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* [Minneapolis: University of Minnesota Press, 2015], xi).

[476] Miller, "Resisting Sexual Violence," 68.

Such unjust background conditions often provide the context in which my response is called for, whether or not I have had a direct hand in producing those conditions. The challenge of actualizing my responsibility to another is to make my behaviors responsive to another's sexual agency in the middle of things, recognizing that the harms or ambiguities that came before continue to take on new sense as we grapple with them in our ongoing relation.[477]

To have a critical cultural sense of my own situatedness and a sensibility for the opacity of another enables me to acknowledge through my behaviors that, although another's sexual subjectivity is opaque to me—including, perhaps, whether or not they are a survivor and what that means to them—that sexual subjectivity is centrally important to how they experience, make sense of, and exert agency over our encounter. If I am open to receiving their expressions as calling me into question, I might become sensitized to how our current encounter already extends harms of the past or moves within a fraught range of possibilities. Even in fully consensual encounters, another person's agency can require that I behave in certain ways responsive both to past wrongs and to ongoing wrongs in the social context surrounding us. In other words, wrongs and harms that have already taken place—regardless of my own role in them—continue to generate obligations in light of their effects on another's agency and subjectivity.

A comment on the authority of refusal

By deepening consideration of context and widening the expressions considered to be salient for responsibility, this account affords refusal or unwillingness in a sexual encounter authority as an appeal to another to change their behavior, whether or not refusal is clearly or unequivocally expressed. I see this as an improvement over sexual ethics grounded in conventional notions of moral powers and moral address, both in this theory's ability to track interpersonal ethical considerations and in its political implications. On standard accounts, an expression of refusal (or withdrawal of consent) is afforded moral authority (i.e., it is a moral reason another ought to change their actions) because of either (1) the fact that it reflects autonomy, that is, an inner state of the will, or (2) the high likelihood that a person who communicates refusal will experience harm if their refusal is ignored.[478]

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[477] The question of how to be a good partner to a survivor of sexual violation has received scant philosophical attention, although there is abundant discussion in psychology and applied fields.

[478] Historically, moral and legal theorists have paid a great deal of attention to the pragmatic potential for an initial refusal to be meant coyly, ironically, or playfully, with the attendant implication that

Most ethicists in the analytic tradition evaluate whether or not such expressions are felicitous as moral performatives based on whether they are recognizable as refusing or withdrawing consent according to dominant discursive norms—that is, how they affect public reasons for another person to act.[479]

However, based on feminist analyses of sexual communication, we know of a wide range of expressions, with varying degrees of clarity, that emanate from the agential intention, will, or feeling of not wanting to have sex with someone.[480] Some expressions reveal or betray unwillingness rather than reaching out to convey it, while others are intentionally pursued as a means of communicating refusal. Celia Kitzinger and Hannah Frith have identified a range of mechanisms in women's everyday expression of the latter kind: delays, pauses, or hesitations, statements prefaced by 'well' or 'uh,' palliatives,[481] and accounts that seek to explain, justify, or excuse oneself from turning down an invitation. Such expressions, often communicated repeatedly or in a series, reach out over time to appeal to another person to change their behavior, even if any single utterance may fall short of conveying an uncontroversial sign of refusal. A purportedly reasonable person will not be a reliable judge in such situations, if they interpret according to prevailing social norms and conventions for sexual communication, which in many societies are shaped by discourses that make women's sexual refusal in particular exceedingly difficult and costly to communicate.[482]

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ignoring a refusal may not cause violation. Even when it does not cause violation for these reasons, however, failing to respond to another's refusal undermines that person's agency over whether or not they can effectively refuse in the future, when it might not be meant playfully. For this reason, an expression of refusal demands a particular change to one's actions in response, from a variety of metaethical positions. See, e.g., Susan Estrich, *Real Rape* (Cambridge, MA: Harvard University Press, 1987); and Alan Wertheimer, "What Is Consent? And Is It Important?," *Buffalo Criminal Law Review* 3, no. 2 (2000): 576.

[479] See, e.g., Neil C. Manson, "Permissive Consent: A Robust Reason-Changing Account," *Philosophical Studies* 173, no. 12 (2016): 3317–34. This view, applied to *withdrawal of consent* if not to refusal writ large, follows from all moral transformation accounts of consent that take consent to be necessarily public; see, e.g., David Owens, "The Possibility of Consent," *Ratio* 24, no. 4 (2011): 402–21; and Tom Dougherty, "*Yes Means Yes*: Consent as Communication," *Philosophy & Public Affairs* 43, no. 3 (2015): 224–53.

[480] Kitzinger and Frith, "Just Say No? The Use of Conversation Analysis in Developing a Feminist Perspective on Sexual Refusal," *Discourse & Society* 10, no. 3 (1999): 301.

[481] Palliatives are "appreciations, apologies, token agreements etc. which serve to alleviate the pain caused by the refusal" (ibid.).

[482] This motivated feminist legal theorists in the 1980s and early 1990s to advocate a "reasonable woman" standard for the law. See, e.g., Naomi R. Cahn, "Looseness of Legal Language: The Reasonable Woman Standard in Theory and in Practice," *Cornell Law Review* 77 (1992): 1398–446.

Setting out from the view that sexual communication is primarily relational and durational, like any act of saying, it becomes possible to recognize the ethical significance of the wider range of expressions that aim toward escaping or ending a sexual encounter. When another person's expressions reach out to convey refusal, whether or not I recognize it, my responsibility is not dependent on whether their communication enacts a moral transformation, that is, whether their expressions justify calling it sexual assault or some other infraction if I continue touching them. Many expressions of unwillingness or unwantedness seek to move toward conveying refusal but are derailed along the way, often by actions or behaviors of another who is unable or unwilling to sense that refusal is forthcoming.

I argue that such expressions need not crystallize into fully actualized "moral performatives" to exert a claim on me.[483] It may be the case that another's expressions require that I respond in a particular way—maybe that I pick up on a cue or ask a follow-up question—to become fully formed, clear refusal that might be described by theorists as felicitously performative. One way I am responsible to another is thus to remain responsive in a way that makes such an expression of refusal more possible. This responsiveness can be described as an openness that my sense of authority and active intentionality might be called into question, hesitating or avoiding positing my own desires or will in place of another's agency, which would foreclose the relation I have to them. To make this a habitual aspect of sex requires an attentiveness to the affective dimension of an encounter—not just what is being done by whom, but how an encounter is unfolding and the mood that surrounds it. This is an especially difficult skill to cultivate in a society that understands intimacy according to the coital imperative and exerts a social norm that ideal sex calls for continuous, hyperbolic performances of pleasure and desire.

Another implication of my account is that an expression of refusal solicits a person to change their behaviors independently of the likelihood or certainty that someone "really means it." While the will of another person, as part of their agency, is a source of moral claim in expression, responsibility does not get activated only when I ascertain that an expression has some relation to the will. Levinas is right to decry the limited understanding of human subjectivity that leads us to take the will as the only, essential ground for moral demand.[484] A Levinasian account of communication recognizes that any expression calls for a response—for changing actions and rerouting a relation—even when it is

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[483] See chapter one, section two for discussion of moral performatives.

[484] See Levinas, *Otherwise than Being*, 197n24.

unknown where that expression comes from or how it "maps onto" anything about another person's experience. When another grimaces, stops reciprocating or responding to my touch, or says to me, "Hey!"—whatever their motivation—they push onto me the unavoidable truth that the meanings and effects of my actions spiral out beyond my power or freedom as actor. That other person assigns me meaning through their vulnerability to be affected by me. Uncertainty about another person's refusal—such as about whether it is meant ironically or what action it refers to—does not undermine or mitigate the responsibility assigned to me. Instead, it demands that kind of hesitation, listening, or question asking that might help my response become oriented by the value of another's agency, subjectivity, and vulnerability to me.

Of course, I am always capable of ignoring or explaining away another person's challenge, denying or tempering my responsibility to them. As I have suggested in chapter four, my society provides a readymade array of justifications and excuses to facilitate this flight from responsibility and restore the clear conscience despite the other person's address. These are reflected in the legal system that steers much discourse about right and wrong in Western theory and cultures. I can always invoke countervailing values and rights as justification, on the one hand—such as the value of my own positive autonomy to pursue sex—or limitations of my knowledge or intention that excuse me for how my actions affect others, on the other. From the perspective of proximity, ongoing relationality, and responsibility to another person (rather than responsibility before God or the law), such maneuvers are defenses against ethical critique but not against responsibility itself. The response demanded by another, always under conditions of uncertainty or ambiguity, is never merely to pursue a clarification of meaning for the sake of knowing and securing ethical action against error. Rather, I am obligated to another to change my behaviors in response to that person's agency, which requires continuing to navigate ambiguity and remaining attentive and responsive to the shifting claims that emanate from another and entwine our relationality.

VII.   Conclusion

Setting out from the value of an expansive notion of sexual agency that has motivated the dissertation as a whole, this chapter has articulated four moments of responsibility to another person in a sexual encounter, framed by an overarching obligation to critically grasp one's social context. I have developed these desiderata—sensing the opacity of another, being called into question by their expressions, and responding to them in a way that acknowledges the value of their agency and experience dynamically over time—to map where my responsibility to another makes demands on me, that

is, where my failures in relation to another create obligations of repair. The Levinasian flavor of this account is motivated by my view that agency is a complex, contextually responsive aspect of another that is both transcendent relative to me and present in some way through the traces offered by their expressions.

I am sympathetic to the reader who objects that all these considerations for intimate relationality seem arduous, and that what I describe here sounds like an ideal mode of responsiveness to another rather than a baseline for responsibility. To that reader, it bears repeating that these desiderata do not describe criteria for drawing the line of permissibility, a rubric to judge wrongdoing, or a recipe to guide actions. Instead, I hope the moments of responsibility described in this chapter offer a method: to think ethical responsibility to another as a challenge of orienting oneself toward another's agency under conditions of intimate ambiguity, as well as in resistance to the obscurantism of a nonideal social context. The sensitivity and creativity required to maintain an ethical orientation toward another's agency cannot be sustained across all our relations; the responsibility I describe is as much about how we should respond to lapses as it is about how we treat one another when things are going well. To this end, I have sought to describe the moments where I owe something to another, where my failures produce ongoing obligations that, if not taken up, will continue to harm another and dissolve possibilities for ongoing relationality. Given the corporeal, social, and cultural density of significance of sexual intimacy, it should come as no surprise that responsibility to a sexual partner is a difficult and complex challenge, but some comfort should also come from the knowledge that people across societies throughout history have found ways to navigate it and forge generative, agentially empowering modes of relating, moving in and out of the shadow of oppression.

For the purposes of feminist political resistance, I acknowledge that the method of relational ethics I have pursued is far less efficient than existing feminist political resources to transform unjust social structures and to hold people accountable for sexual violation. My commitment to a durational responsibility sensitive to the *saying* rather than merely the *said* can have only a limited effect, for example, on juridical proceedings, which (perhaps necessarily) rely on an evental conception of obligation and wrongs, reflected on after the fact.

However, the imperatives of responsiveness to another suggested by these desiderata do offer some tools for shifting how we think about our treatment of one another in intimate relationality, which might be able to supplement other crucial feminist efforts. I believe my account is particularly useful for understanding the moral failures—alongside unjust structural pressures—that produce violation in consensual-but-unwanted sex and in encounters that take place in the grey areas on the

margins of even increasingly specific definitions of consent. To valorize agency in a sexual encounter requires more than a transformed social context; there must be some form of ethical responsiveness to another's expressions of agency. My account highlights the need, in the context of discussions around #MeToo, for those most likely to cause violation to learn to act otherwise, namely by becoming habituated to orient behaviors around another's agency—their expressions of will, subjective experience, feelings, social context, embodied history, and projects—rather than toward a purity ideal of moral blamelessness, promised by the recipe of securing sexual consent.

AFTERWORD
SOCIAL CRITIQUE ON THE ETHICAL REGISTER: FOUR BENEFITS FOR FEMINIST POLITICS AND SEXUAL ETHICS

This dissertation has worked to introduce complexity into sexual ethics, both on behalf of structural critique and through attention to the ambiguity of intimacy and the messy particularity of responsibility to another in ongoing, lived encounters. My hope is that this enriches conventional sexual ethics not only with an appreciation of structural influences writ large—which is long over-due—but with a fresh recognition of how acting ethically toward another must balance both respon-siveness to another's agency and a critical cultural sense of one's own social positionality.

The guiding commitment throughout has been the view that agency in a wide sense—socially situated and temporally extended—is the source of value that should guide behaviors in intimate en-counters. Alongside this substantive moral claim has been the methodological commitment to theorize ethics independently of the administrative point of view, that is, to take my cues from the ongoing experience of lived relationality rather than thinking responsibility only within the limits of the legal imaginary, with its focus on culpability and blame. To limit moral reflection to drawing lines of per-missibility and attributing responsibility for harms is to answer only a narrow set of questions, while avoiding addressing the fundamentally ambiguous, ongoing nature of relationality that is the distinc-tive form of our lives together.

One of the principal advantages of my account of sexual ethics is that it does not require that we know in advance what sexuality is, what sexual subjects or bodies are capable of, or what meanings a society will assign to the erotic dimension of life. These factors are all contingent on a historical moment within a particular society, and they change over time—sometimes more rapidly than we could have imagined. By identifying responsibility with the project of attending to the agential textures of intimate relationality with another, I have made way for a dynamic orientation toward new sites of intimacy and changing social meanings as they arise. New modes of agential expression and new ways

of responding to another become available all the time, which means the ethics of response, as Levinas would agree, resists full disclosure; it cannot become absolutely prescriptive in the manner of a principle or recipe. The best we can do is offer methods.

Many claims and explorations have spiraled out from my dual commitments to agency and relationality. In chapter one, I argued against the view that consent is a morally transformative moment of giving permission, drawing attention to common situations in which consent is given to sex that is nonetheless unwanted, which can cause significant harms to ongoing practices of agency. I suggested there that something is overlooked in theoretical reflections on morally felicitous consent: the ongoing responsiveness of a partner, which is necessary for the continued acknowledgment of the value of agency even after consent has been given.

I then expanded the discussion in chapter two to acknowledge the unavoidable influence of social structures and discourses in sexual intimacy. I examined the benefits and limitations of radical feminist structural critique, identifying key insights into how an unjust social structure limits the possibilities of consent to adequately represent a person's agency. These insights are deepened in contemporary, phenomenologically informed accounts of embodied sexual agency and self-making, which I adopted into my notion of sexual agency with very few reservations. Along the way, I suggested that consenting, taken as a practice rather than a principle, should not be completely dismissed as a potentially ethically salient expression of agency.

In chapter three, I further expanded the bundle of experiences and practices that make up agency through an exploration of the particular, oppositional practice of agency that guides Audre Lorde's life and thought. Lorde's emphasis on feeling as a primary building block of agency completed the departure from transparency- or knowledge-based notions of responsibility—as demonstrated in the intimate moments where she solicits her sexual partners to respond to her agency. This pivoted my attention to the focus in the final chapters on navigating the fundamental ethical puzzle of responding to the subjective character of another's agency and experience, even though that subjectivity is inherently beyond the reach of direct cognition. To address this puzzle, chapter four sketched a Levinasian framework for responsibility, which valorizes transcendence of another while escaping the paradigm of knowledge or certainty and the "clear conscience" orientation of conventional Western moral philosophy. By thinking sexual communication as a mode of *saying* rather than a *said*, another's expressions can be valorized as the traces of their transcendence that reach me and make claims on me.

I argued at the end of chapter four that a focus on the expressiveness of another need not adopt a naïve stance toward the affordances of the social context in which we encounter each other. In chapter five, I took up the challenge of specifying an account of responsibility centered on the fundamental value of agency within a social context. I described how ethical responsiveness to another person can be steered by another's communicative expressions, but responsibility is not indexed to knowledge, certainty, or transparency in relation to another's subjectivity. Instead, responsibility entails adopting certain orientations and behaviors toward another's agency and subjective experience—subjective conditions that are opaque in principle but graspable to some degree through another's expressions.

The ethical desiderata I identified in chapter five were pitched to the level of personal behaviors and orientations toward others, but they should not in any way compete with or displace feminist political efforts to overhaul institutions, discourses, and social practices to make sex more agential—and, potentially, more diverse in meaning—for women and others whose sexual agency is routinely curtailed. Conversely, my hope is that the proposed conceptualization of responsibility to a sexual other can supplement and aid feminist critique. By way of conclusion, I identify here several novel directions I hope have been opened by this approach for sexual ethics and politics, with opportunity for further feminist analysis and activism.

(1) Recognizing a wider range of ethical failures in sexual encounters, beyond coercion

By overinvesting in consent as permission-giving, conventional sexual ethics focuses intently on the line between what is or is not coercion, which it takes to be the central determinant between right and wrong in sexual encounters. I have argued throughout this dissertation that this view is unacceptably narrow. In chapter one, I argued that the minimalist ethic of consent fails to recognize the persistent, agential harms related to consensual-but-unwanted sex, and in chapter two, I showed how what Robin West calls the "coercion tunnel" circumscribes radical feminist approaches to sexual ethics. As a corrective, I presented Linda Martín Alcoff's notion of sexual subjectivity as a dimension of agency that can be harmed by sexual experiences and relationships in the absence of coercion. My description in chapter three of Audre Lorde's encounter with Eudora highlighted how enabling Lorde to exert agency over her life requires more than ensuring that she is not coerced; it requires responding to her in a way that acknowledges the wider context of her agency, including something of her projects and mode of perceiving and understanding her life.

If responsibility entails responding to another's expressions to acknowledge the legitimacy and value of their agency, as I have argued in chapter five, then it is evident that a person who fastidiously secures their partner's consent for all actions may still fail in respect to their responsibility to that person. I might be alert to the ethical importance of consent and therefore strive to avoid coercive behaviors, yet nonetheless wrong another by pursuing consent single-mindedly, overlooking the central significance of another's ongoing agency and the quality of their experience. Such an insensitivity might follow from my failure to grasp critically my own social positionality (what I labeled the precondition for responsibility), or it might result from my inattentiveness or indifference to another person's inner life (my desideratum 1). I might be so secure in myself as one of the "good guys" that my own self-certainty blocks my ability to sense my position of power over another or the actual trepidations underlying another's expressions (des. 2). Perhaps worst of all, I might use my society's normative investment in sexual consent strategically, taking another's consent as a license to do consented-upon things in cruel or dismissive ways. I might refuse to change my desires, intentions, and/or behaviors in response to another's agency, either in a given moment or as the expressions of another shift over time (des. 3 and 4). Each of these possibilities involves a failure of responsibility, and each can follow if I am sensitized to another's consent without being sensitized to the significance of their will, desires, feelings, or projects, and to how those things can change over time.

The formalism of consent discourse in contemporary popular and philosophical sexual ethics encourages people above all to develop awareness of whether consent is present. A consent-seeking subject aiming to secure the permissibility of an encounter can easily lose sensitivity to the expressions of agency and experience of another, for whom the encounter may still be experienced as violating. One of the strengths of my account is that it indexes ethical failures more closely to another person's subjective experiences of violation, without exclusively locating sexual violation in physical actions or trespasses. In this I hope to reaffirm Sarah Clark Miller's analysis of sexual violence and violation as also taking "affective, attitudinal, and cognitive forms."[485] Future work might further unpack and specify the qualitative variety of failures this involves, including how those failures should be addressed—individually and society-wide—and how this notion of responsibility interfaces with other ideas of morality, legal permissibility, and justice.

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[485] Miller, "Resisting Sexual Violence: What Empathy Offers," in *Analyzing Violence Against Women*, ed. Wanda Teays (Cham: Springer, 2019), 67.

(2) Richer analysis of consensual-but-unwanted sex, with implications for accountability and repair

By articulating a wider range of ethical failures, this account of responsibility better explains the ethical textures of situations of consensual-but-unwanted sex. As I indicate in chapter one, following Robin West, it is a mistake to treat these situations as outliers; they are widely prevalent in many people's everyday experience of sex and sexuality, especially those of heterosexual women in liberal, so-called Western societies. Conventional approaches to sexual ethics often ignore these cases or treat them as exceptional. In contrast, structural critique in feminist philosophy and feminist psychology have focused on the social forces and discourses that lead women to consent to unwanted sex, providing an important causal, explanatory account.[486] My account of responsibility turns attention also to the behavior of the person who pursues sex in those situations, locating, in conjunction with structural affordances, a failure of responsibility that can be understood as another cause of the particular sexual violation that can ensue. The desiderata of responsibility articulated in chapter five make clear that at least some of the wrongs that take place in consensual-but-unwanted sex are attributable to the behavior of a consent-seeking sexual partner who pushes the encounter forward and fails to receive and respond to another's expressions, including expressions that come to count as consent.

There is a particular failure of responsibility on the part of a person who passively accepts another's consent as a clean act of giving permission—i.e., as erasing responsibility rather than engendering it. The person who takes another's consent at face value—often but not always after eliciting it through bullying, coaxing, or cajoling—is not merely a beneficiary of the affordances of pernicious social structures and normative discourses of heterosexuality. They have also failed in their obligations to another, insofar as they refuse to heed the call to respond to another's consent or acquiescence in a way that addresses the ethical significance of that person's agency and the experience and feeling of which expression is a trace. This failure of responsibility is both personal and a result of social affordances, and it makes possible the harms that often follow from consensual-but-unwanted sex.

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[486] See, e.g., Nicola Gavey, *Just Sex?: The Cultural Scaffolding of Rape* (New York: Routledge, 2005); Laina Y. Bay-Cheng and Rebecca K. Eliseo-Arras, "The Making of Unwanted Sex: Gendered and Neoliberal Norms in College Women's Unwanted Sexual Experiences," *Journal of Sex Research* 45, no. 4 (2008): 386–97; and Sarah J. Walker, "When 'No' Becomes 'Yes': Why Girls and Women Consent to Unwanted Sex," *Applied and Preventive Psychology* 6, no. 3 (1997): 157–66. See Ann Cahill's philosophical discussion of these studies in "Recognition, Desire, and Unjust Sex," *Hypatia* 29, no. 2 (2014): 303–19; and "Unjust Sex vs. Rape," *Hypatia* 31, no. 4 (2016): 746–61.

Amelioration of such harms requires a shift in how we understand sexual ethics, to widen both awareness of social situatedness and the interpretive resources by which we grasp another's agency—their feelings, will, where they are coming from and going, and so forth. Yet, the ethical failure evades detection again if we as theorists simply replace moral reflection with social critique; here, as I have suggested, structural critique and phenomenology must work together.[487] The needed shift in sexual ethics is already underway in work such as Quill Kukla's account of the language of sexual negotiation and Joseph Fischel's articulation of how a genuinely democratic sexual politics could take form.[488] I have sought to contribute to these efforts by articulating the appropriate orientations and behaviors toward another in ethical terms, adopting the Levinasian notions of relationality and responsibility that I take to capture best the way in which the meaningfulness and value of another can be grasped in intimate encounters. My hope is that rethinking sexual ethics in the way I have outlined can open new space for acknowledging the validity of the harms suffered in consensual-but-unwanted sex without overlooking the responsibility of the consent-seeking partner who fails to respond to another's sexual agency.

Retaining a sense of the failure of responsibility involved in consensual-but-unwanted sex may make available alternative avenues for accountability and justice, both within and beyond juridical settings. A person who has unwanted sex in the absence of coercion often blames themselves for violation they might experience, which is consistent with the interpretive affordances of consent-based sexual ethics—not only the minimalist ethic of consent but any view that takes consent as an agential power that essentially gives permission.[489] I have discussed in chapter one how philosophical literature

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[487] See chapter two, section three. Note that articulating personal responsibility alongside structural causal analysis has been a central project of critical philosophy of race. To adapt those insights to sexual ethics would be a fruitful avenue for future work. See Alcoff, *The Future of Whiteness* (Cambridge: Polity Press, 2015); and Barbara Applebaum, *Being White, Being Good: White Complicity, White Moral Responsibility, and Social Justice Pedagogy* (Lanham: Lexington Books, 2010). See also Eva Boodman, "White Ignorance and Complicit Responsibility" (PhD diss., Stony Brook University, 2017).

[488] Kukla, "That's What She Said: The Language of Sexual Negotiation," *Ethics* 129 (2018): 70–97; and Fischel, *Screw Consent: A Better Politics of Sexual Justice* (Berkeley: University of California Press, 2019).

[489] Although social templates for victim-blaming have existed since long before the rise of neo-liberalism, researchers have connected contemporary tendencies of victim self-blame to neoliberal discourses of personal responsibility and the stigma of victimhood. See Laina Y. Bay-Cheng and Rebecca K. Eliseo-Arras, "The Making of Unwanted Sex: Gendered and Neoliberal Norms in College Women's Unwanted Sexual Experiences," *Journal of Sex Research* 45, no. 4 (2008): 386–97. On the privatization of risk and care among gay men, see Barry D. Adam, "Constructing the Neoliberal Sexual

on consent often dismisses the violation experienced in consensual-but-unwanted sex as harm without wrongdoing or as following from a wrong without culpability. Beyond softening self-blame in light of the unjust context in which such encounters take place, my account suggests that the one who pushes such an encounter forward is a more appropriate target for blame.[490] Rather than scrutinizing the agency of a person who consents to unwanted sex, this approach examines how the other person— the one empowered by social context—fails to act responsively to their partner. The view that there has been an ethical failure by that person—out of ignorance, arrogant self-certainty, insensitivity to another's opacity, or a lack of hesitation or responsiveness—may not be decisive for reorienting conventional justice, but it may be able to chip away at the neoliberal conceptions of agency and responsibility that obstruct attempts at healing, reparation, and, where appropriate, restorative justice.[491]

(3) Expanded possibilities for ethically positive sexual practices, including in different cultural contexts

I have intentionally framed the task of responding to the expressions of another in open terms, as a project that can be fulfilled in a variety of ways. I have articulated this as going beyond what I called in chapter one the popular feminist norms of sexual consent, which include (a) ensuring another's (preferably enthusiastic) consent, (b) respecting refusal and/or recognizing when someone is unable to consent, and (c) allowing a person to withdraw consent at any time.[492] Those guidelines provide valuable heuristics and for the most part articulate real moral obligations, pointing toward the same basic commitments to valorize agency that motivates my account. However, framed in terms of consent, they do not explain the wider range of behaviors in sexual encounters needed to enact responsibility to another. On the one hand, the prescriptions are insufficient: one can take the steps identified and still wrong another in the ways I have just described as characteristic of consensual-but-

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Actor: Responsibility and Care of the Self in the Discourse of Barebackers," *Culture, Health & Sexuality* 7, no. 4 (2005): 333–46.

[490] It is a separate question whether and under what circumstances a particular failure of responsibility might be criminal.

[491] The use of restorative justice is controversial for sexual offenses. I believe, however, that there are situations where its benefits outweigh the risks. Restorative justice seems especially promising for relationships in which consensual-but-unwanted sex takes place over time, within a relationship itself valuable for other reasons that make salvaging it a worthwhile project.

[492] I highlight these prescriptions because they have gained widespread currency across mainstream feminist discourse, but there are of course many other non-academic feminist perspectives on consent and intimate responsibility, some of which I have already discussed.

unwanted sex. Beyond that, however, the guidelines provided by popular feminism do not capture how people skillfully navigate sexual communication in more ambiguous settings, such as those characterized by ambivalent feelings, those where there is a lack of shared language or common expectations (perhaps because of mismatching social positionalities or histories of sexual violation), or those where desires and risks are incompletely known.

When we frame responsibility as responding to another's ongoing expressions, rather than tethering it to permission-giving moments of consent, a sexual encounter can be recognized as presenting many opportunities to respond, redirect, and be changed in ways that acknowledge the value of the agency and subjectivity of another in the midst of ambiguity. A person can behave in ethically skillful ways in an intimate encounter not only by making sure they and another are willing participants at all times, but also by changing plans, improvising, anticipating what another may or may not be up for, and finding appropriate moments of playfulness and moments for checking in. When communication breaks down, expectations mismatch, or another's expressive signals are missed, ethically positive behaviors might include picking up on and reacting to changes in mood, asking a question, apologizing, or making clear that physical intimacy can end right now without the need for justification. Many of these behaviors are habituated rather than fully intentional; as I have noted, a central part of the challenge of responsibility is to train our desires and modes of perceiving another to go beyond the affordances of a pernicious social context.

Compared with conventional liberal models, my approach is more capacious to recognize the ethical validity of the diverse ways people across cultures act responsibly in erotic relations. To respond to another's agential capacities in the way that I valorize does not require that one adopt a liberal conception of autonomy, nor does it demand a theoretical grasp of the effects of discourses on the freedom of the subject. Rather, people in different cultural contexts create a multitude of ways of honoring sexual partners' agency and subjective experiences of sex, reflecting a wide range of value systems and a variety of affordances of prevalent discourses and counterdiscourses. I have suggested that people in those ethical encounters have in common a sense of the societal context that frames their behaviors, as well as a responsiveness to agency and subjective experience—i.e., to how an encounter fits into another's life—and attentiveness to the effects of an encounter on future becomings for individuals, relationships, and communities.[493]

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[493] For exemplary feminist ethnography investigating alternative conceptions of sexual agency, see Christine Helliwell, "'It's Only a Penis': Rape, Feminism, and Difference," *Signs* 25, no. 3 (2000): 789–816.

(4) New points of social and institutional intervention to valorize sexual agency beyond consent

I have chosen to put another's agency at the center of responsibility, while emphasizing the constitutive ambiguity and obscurant social structures that frame intimate encounters. This has meant setting aside questions of judging permissibility, legal culpability, evidence and other procedures for juridical deliberation, and the appropriate form of justice for violators. I am confident that this framing for my argument has enabled a more nuanced, relational treatment of ethics in sexual intimacy, but I acknowledge that it leaves unanswered many important questions for feminist political action, which often uses legal and other disciplinary policies as levers for change. I recognize the need for more just laws, policies, and procedures surrounding sexual violation, although I remain ambivalent about what role both criminal and civil law should play in this (or any) area of interpersonal conflict.[494] Deeper reflection on the particular capacities and liberatory potential of the law in a particular society is needed before legal conclusions can be drawn from my account of relational ethics; this will have to wait until future work.

However, the desiderata I identify for responsibility to another can be used to motivate changes to sexual discourses and practices through other, non-juridical avenues, especially through uptake in structural, institutional, and cultural areas of society that do not require reducing real-life ambiguity to a binary judgment of permissibility. Beyond the coercive force of laws and institutional disciplinary policies, our sexual practices are also influenced by portrayals in popular media and advertising, norms fostered in sex education, and the language and content of everyday conversations among family, friends, and acquaintances. These discursive, cultural areas of social life each shape sexual practices and can play different roles in shifting perspectives of right and wrong in sexual encounters to look beyond consent and attend instead to sexual agency. The challenge is to make such a shift oppositional not only by denouncing ethically problematic status-quo sexual practices, but also by resisting and displacing status-quo justificatory discourses of male entitlement, privileged ignorance, and neoliberal self-interest that shape those practices. Such a shift works in tandem with a program for epistemic empowerment, such as that articulated in Alcoff's *Rape and Resistance*, by supporting societal uptake of the feminist valorization of women's agency, including among men and others in

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[494] See Chloë Taylor, "Anti-Carceral Feminism and Sexual Assault—A Defense: A Critique of the Critique of the Critique of Carceral Feminism," *Social Philosophy Today* 34 (2018): 29–49.

positions of relative advantage. Indeed, Alcoff's attention to how news media take up and filter survivor voices exemplifies this approach to extra-legal avenues of institutional change.

I take sex education to be an especially promising avenue for feminist intervention of this kind because it is public, politically negotiable, and relatively insulated (at least for now) from market interests that profoundly shape discourses about sex and sexuality in commercial media. Furthermore, sex education's flexibility both pedagogically and in its content enables it to reflect variation across cultures and contexts according to salient values and local affordances for agency.[495]

In the US, mainstream sex education in some states and school districts is currently feminist-informed in that it focuses on teaching the ethical importance of sexual agency, but most programs teach the value of agency indirectly according to the norm of sexual consent.[496] In many places consent is taught according to its legal definition as a standard for permissible sex, which, students are obliquely informed, must be respected because of the penalties faced by offenders.[497] Where sex education is taught in a more feminist light—particularly in more progressive institutions of higher education—the goal seems to be to instill in young people the popular feminist imperatives to seek consent, recognize that consent is definitionally impossible for those who are asleep or heavily impaired, and allow consent to be withdrawn. Shifts in policy from "no means no" to "only yes means yes" do not guarantee any substantive change to these basic normative commitments; in the absence of sex education

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[495] The growing Japanese feminist movement to teach consent-based sex education in universities shows one possible shape for culturally specific intervention. See Misha Cade, "Getting the Word out on Sexual Consent to University Students in Tokyo," *Japan Times*, June 16, 2019, https://www.japan-times.co.jp/community/2019/06/16/voices/getting-word-sexual-consent-university-students-to-kyo/. Note, however, that such efforts identifying themselves as "feminist" often become intertwined with questions of colonialism and Western cultural hegemony; the article cited above is revealingly categorized in the *Japan Times* under the tag "Foreign Agenda."

[496] What I am calling "mainstream sex education in the US" has shifted considerably in the past twenty years, in many places evolving from abstinence-only curricula to an emphasis on consent and "safer sex," including use of condoms and other contraceptives. This remains a battleground in the US culture wars.

[497] This is the case at Stony Brook University, where the sexual misconduct awareness training for students and employees alike is tellingly entitled "ReportIt. Ending sexual misconduct" and focuses on the definitions of consent in state law and university policy, on how to recognize whether an infraction has happened, and on where to report them ("Training, Prevention, and Awareness Programs and Resources," *Stony Brook University Office of Equity and Access*, https://www.stony-brook.edu/commcms/oea/training/, accessed Sept. 1, 2020).

that encourages the hesitation I have described in section five of the final chapter, embracing affirmative consent is largely a procedural change to redefine what counts as a violation and motivate more explicit communicative practices to solicit consent.

The popular moral norms of consent are limited if they operate as heuristics by standing in for another's agency, obscuring the effects of both pernicious social contexts and the constitutive ambiguity of intimacy. As I have suggested in chapter five, moral reasoning is deficient when people are taught to attend to consent without sensing or seeking to respond to the underlying agency that gives consent its moral significance. Contemporary efforts to improve sex education from explicitly feminist organizations seem to recognize this risk, and they take steps toward more responsive models of sexual ethics. In contrast to the institutionalized consent trainings offered by most US universities, which focus on knowing the law and learning the skills of judgment to apply it in complex situations, Planned Parenthood, for example, encourages the use of common-sense responsiveness to another's cues: heeding body language, recognizing and responding to another person's signals, paying attention to their feelings, and respecting the boundaries they communicate. In a video called "When Someone Isn't Quite Sure If They Want to Have Sex," the narrator opines that "consent's all about watching, listening, and asking. And being honest with ourselves about what the other person is trying to communicate."[498] This is an improved framing, particularly the point about being honest with oneself about what another expresses, which acknowledges research that genuine sexual miscommunication may actually be fairly rare.[499] Yet, persistent in the Planned Parenthood videos is the view that consent is an authentic avatar of agency, which suggests that attentiveness to another is aimed at picking up whether or not they consent rather than at any deeper sense of how the encounter might fit into their agency. The video advises communication to secure the status of another's consent against uncertainty: "it is important to pause and check in with your partner to make sure they are certain with giving sexual consent before moving forward."[500] While this advice is productive as a moment of hesitation, in which another can express their agency, the notion of certainty in consenting seems to

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[498] "When Someone Isn't Quite Sure If They Want to Have Sex | Planned Parenthood Video," https://www.youtube.com/watch?v=D-8isMT2u9A, accessed Sept. 1, 2020.

[499] See, e.g., Melanie Beres, "Sexual Miscommunication? Untangling Assumptions about Sexual Communication between Casual Sex Partners," *Culture, Health & Sexuality* 12, no. 1 (2010): 1–14; and Rachael O'Byrne et al., "'If a Girl Doesn't Say "No"…': Young Men, Rape and Claims of 'Insufficient Knowledge,'" *Journal of Community & Applied Social Psychology* 18, no. 3 (2008): 168–93.

[500] YouTube video description, "When Someone Isn't Quite Sure."

transfer responsibility away from ongoing attentiveness: if my partner states that they are certain that they consent, I seem to have been fully released from my obligation to attend to them. If they change their mind, it would seem the onus is on them to make clear that something is going wrong.

An approach to sex education that figures responsibility to another as responding to them over time gives the value of a partner's agency a more direct role. Sex education can encourage an awareness that one's own desires and intentions ought to change in response to another's expressions, whether those expressions reveal consent, affirmation, ambivalence, or disgust. If a person can learn to become sensitized to another's sexual agency and subjectivity in a sexual encounter as it unfolds, there are abundant opportunities for that person to receive and respond to a partner in ways that prevent an ambivalent or complicated experience from collapsing into unwantedness or violation for that person.

Such an approach is already visible in some sex education activism, especially in anarchist and queer communities. While this kind of activist sex education in the English-speaking world often uses the umbrella term "good consent practices," the practices they valorize are typically oriented toward assuring the agency and positive experience of intimate partners within pernicious power structures—particularly focusing on experiences of desire and pleasure and the particular needs of survivors—rather than toward the question of presence or absence of consent. One zine about rape culture in activist communities highlights the error by which "the need for good consent practices becomes confused with the belief that informing people about consent will transform our communities, as though rape were the result of ignorance and misinformation, rather than deeply entrenched structures of power."[501] Another suggests a temporally extended, relational notion of agency like the one for which I have advocated, describing consent as "a free, fluid ongoing discussion and negotiation about what our desires are, what we want for ourselves in our lives, and what we want for the people we're either intimate with or in relationships with at any level."[502]

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[501] "Betrayal: A Critical Analysis of Rape Culture in Anarchist Subcultures," zine (Words to Fire Press, 2013), 4.

[502] "How to Put Together Your Own Participatory, Community-Specific, Radical Consent Workshop," (Breaking the Silence, 2010). See also Cindy Crabb, ed., *Learning Good Consent: On Healthy Relationships and Survivor Support* (Chico: AK Press, 2016), which developed out of a classic zine, "Support" (Microcosm Publishing, 2002).

Activists make use of the established popular feminist valorization of consent while simultaneously leaving the term itself open for negotiation and consensus-building: materials encourage people to sit down and ask one another, "What does consent mean to you?"[503] "Good consent practices" in feminist zines and pamphlets usually include abundant communication about boundaries, sexual preferences and needs, and desires both before and during a sexual encounter, as well as a willingness to own up and respond to calls for accountability from another person and the community when boundaries are violated. One central point in activist accounts is the view that both pleasure and boundaries for each person are connected to that person's sexual history, which includes positionality relative to social injustices and experiences in the past of varying degrees of violation.[504] By lifting up a dynamic, situated conception of agency and looking beyond gaining and respecting consent, I hope my account lends support for this work.

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[503] See, e.g., Crabb, *Learning Good Consent*; and Hysteria Collective, "Let's Talk Consent," zine (n.d.). Some activist sources, however, seek to simplify consent by defining it merely as giving permission, which limits their efficacy to promote the kind of responsiveness to another they seek to foster. See, for example, Cheyenne Neckmonster, "Ask First! Resources for Supporters, Survivors, and Perpetrators of Sexual Assault," zine, (n.d.): "consent is permission or allowance, often given verbally, to engage in any potentially triggering act, or an act that is otherwise 'intimate' or personal."

[504] See Chen et al., *The Revolution Starts at Home*; and Crabb, *Learning Good Consent*; and the work of queer sex educator Karen B. K. Chan, whose website, "Fluid Exchange," (http://www.fluidexchange.org/) includes many resources.

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