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Playing games/playing us

Foucault on sadomasochism

Abstract The impact of Foucault's work can still be felt across a range of academic disciplines. It is nevertheless important to remember that, for him, theoretical activity was intimately related to the concrete practices of self-transformation; as he acknowledged: 'I write in order to change myself.'¹ This avowal is especially pertinent when considering Foucault's work on the relationship between sex and power. For Foucault not only theorized about this topic; he was also actively involved in the S&M subculture of the 1970s. Although his explicit discussions of S&M are somewhat piecemeal, in this article I will show how they provide a useful point of access into his broader conception of power relations. Having first reconstructed Foucault's quasi-Sartrean account of creative self-transformation – specifically through one's sexuality – I will then explain why his defence of S&M (as embodying 'strategic' power) is insufficiently sensitive to the inherent ambiguities of this 'game'.

Key words consent · desire · identity · limits · pleasure · power · role-play · subjectivity · trust

The limit and transgression depend on each other for whatever destiny of being they possess: a limit could not exist if it were absolutely uncrossable and, reciprocally, transgression would be pointless if it merely crossed a limit composed of illusions and shadows. (Michel Foucault, *Aesthetics*, p. 73)

'I do not like it.' – Why? – 'I am not up to it.' – Has anyone ever answered like that? (Friedrich Nietzsche, *Beyond Good and Evil* (trans. R. J. Hollingdale [London: Penguin, 1990]), §185)

She knew that she had crossed the forbidden boundary, but she proceeded across it without objections and as a full participant. (Milan Kundera, *Laughable Loves*, p. 105)

1 Sex, pleasure and creativity

During the second half of the 20th century Foucault soon eclipsed Sartre as the quintessential French public intellectual. Nevertheless, significant Sartrean resonances can be heard in European philosophy long after existentialism became passé.² My concern here is not to defend Sartre against his numerous critics – Foucault included. Rather, what initially interest me are some of the latter's remarks on Sartre and how these provide a preliminary route into Foucault's own thinking about subjectivity, sex and power.

Foucault openly praises Sartre's anti-essentialism, and specifically his (albeit partial) avoidance of 'the idea of the self as something that is given to us'³ – a position neatly encapsulated in Sartre's formula 'existence precedes essence'.⁴ Because we are not governed by a divine or natural plan, according to which our 'true' selves would be delineated in advance,⁵ human beings are 'condemned to be free'.⁶ Lamentations aside,⁷ being 'condemned' to freedom means also that we are condemned to a fundamental responsibility for who we become, despite our considerable ingenuity at self-deception.⁸ For Sartre then, there simply is no clandestine truth about us that permits excavation. Rather, 'man' is 'nothing else but the sum of his actions, nothing else but what his life is'.⁹ It is here worth noting that Sartre's reservations about empirical (as opposed to existential) psychoanalysis hinge on the former's preoccupation with something hidden and essential: 'Empirical psychoanalysis . . . is based on the hypothesis of the existence of an unconscious psyche . . . [whereas] Existential psychoanalysis rejects the hypothesis of the unconscious'.¹⁰ He thus proceeds: 'We are not dealing with an unsolved riddle as the Freudians believe; all is there, luminous' rather than 'hidden'.¹¹ Existential psychoanalysis 'does not have to proceed from the fundamental "complex," which is exactly the choice of being, to an abstraction like the libido which would explain it'.¹² Rather, 'if it is entitled to exist', existential psychoanalysis is 'a method destined to bring to light . . . the subjective choice by which each living person makes himself a person'.¹³

To this extent Sartre's position is in keeping with Foucault's 'genealogy' of sexuality in vol. 1 of *The History of Sexuality* (and elsewhere).¹⁴ For here Foucault is similarly uncomfortable with the idea that our *sexual* identities – including our desires – are 'given' and thereby available for some form of confessional outpouring.¹⁵ In these quasi-historical reconstructions¹⁶ Foucault thus explores why it is 'that sexuality has been considered the privileged place where our deepest "truth" is read and expressed'? Indeed, he seems genuinely puzzled why, 'since Christianity, Western civilization has not stopped saying, "To know who you are, know what your sexuality is about"'. He proceeds:

Confession, the examination of conscience, all of the insistence on the secrets and the importance of the flesh . . . was a way of placing sexuality at the heart of existence and of connecting salvation to the mastery of sexuality's obscure movements. Sex was . . . that which had to be examined, watched over, confessed and transformed into discourse.¹⁷

According to Foucault then, it is this belief in the 'truth' of sexual identity (not only that there *is* such a truth, but also that *this* truth is of pivotal importance to deciphering who we are) that was responsible for an 'explosion'¹⁸ of discourses on/of sex, from the allegedly 'repressive' 18th century onwards.¹⁹ To put this in more Sartrean terms we might say that our propensity to pass 'everything having to do with sex through the endless mill of speech'²⁰ has been (and still is) driven by the assumption that our *essence* precedes our *existence*; that there *is* a 'hidden . . . secret'²¹ or 'deeply buried truth'²² about ourselves which is ripe for 'liberation'.²³

As already suggested, in this respect Foucault's position looks eminently Sartrean, and it is presumably this specific correlation that Foucault has in mind when praising Sartre's anti-essentialism. However, Foucault's admiration is not unqualified, for he immediately proceeds to bemoan that 'through the moral notion of authenticity' Sartre reverts back 'to the idea that we have to be ourselves – to be our true self'.²⁴ Whether Foucault's allegation is correct remains debatable. For here one might respond that all Sartrean 'authenticity' amounts to is the acknowledgement of our own freedom and responsibility to 'create ourselves', and as such the tension between these two ideas ('authenticity' and 'creativity') is only apparent. In short, 'authenticity' simply *is* reflective, responsible 'creativity'.²⁵ Still, Foucault does at least clarify what troubles him about Sartrean 'authenticity':

I think the only acceptable practical consequence of what Sartre has said is to link his theoretical insight to the practice of creativity – and not that of authenticity. From the idea that the self is not given to us, I think that there is only one practical consequence: we have to create ourselves as a work of art.²⁶

What is interesting here is Foucault's reference to self-creation, for this suggests a more positive dimension to what often appears a rather gloomy, 'pessimistic'²⁷ corpus of work. Although he is profoundly mistrustful of the very notion of 'liberation',²⁸ Foucault's anxiety is due to the liberationist's appeal (explicit or otherwise) to 'human nature'. For here liberation is seen to be possible only insofar as we can 'recover' or 'regain contact with'²⁹ our 'essence'. If such essentialism operates right across the socio-political spectrum – as arguably it does³⁰ – then it would indeed seem that Foucault presents a rather bleak picture of socio-political life. Yet despite these suspicions it is at this juncture that

an unexpected sense of hope emerges in his work.³¹ Specifically what I have in mind here are those passages where Foucault asks us to imagine a different future for *pleasure*. Thus, he speculates:

[W]e need to consider the possibility that one day, perhaps, in a different economy of bodies and pleasures, people will no longer quite understand how the ruses of sexuality, and the power that sustains its organization, were able to subject us to that austere monarchy of sex, so that we became dedicated to the endless task of forcing its secret, of exacting the truest of confessions from a shadow.³²

Doubtless much hinges on the tentative ‘perhaps’ in this passage, but Foucault’s imagining ‘a different economy of bodies and pleasures’ is a recurring theme in his later work. Indeed, he explicitly describes his project as an attempt to ‘get out from the philosophy of the subject, through a genealogy of the modern subject as a historical and cultural reality – which means as something that can eventually change’.³³ Of course, it is one thing to say that the future of ‘subjectivity’ remains *open* and another to suggest how that future might be *better* (more creative, pleasurable or enriching).³⁴ But there are moments where this possibility for change is depicted in a less equivocal way. Thus, Foucault talks of wanting to ‘promote new forms of subjectivity’,³⁵ ‘create a new way of life’,³⁶ and specifically of using ‘one’s sexuality . . . to arrive at a multiplicity of relationships’³⁷ and ‘new relational possibilities’.³⁸ In other words:

The art of living is to . . . create, with oneself and others, individualities, beings, relations, unnameable qualities. If one fails to do that in one’s life it isn’t worth living . . . An existence can be a perfect and sublime work. That’s something the Greeks understood, whereas we have completely forgotten it . . . To make of one’s being an object of art, that’s what is worth the effort.³⁹

Precisely what Foucault means by the creation of ‘individualities, beings’ and ‘unnameable qualities’ is hardly transparent. Nevertheless, it is clear that his interest in existential creativity is bound up with what constitutes a valuable life, of which sex is a part. For if we can free ourselves from the essentialist urge to posit ‘the truth of one’s sex’⁴⁰ – a ‘sexual desire’ that reveals our ‘deep identity’⁴¹ – then new possibilities for self-creation emerge.⁴² (As Foucault pithily remarks: ‘Sex is not a fatality: it’s a possibility for creative life’.⁴³) In this important sense Foucault wants us to become *less serious* about sexuality,⁴⁴ and instead approach pleasure (sexual or otherwise) in a spirit of experimental playfulness. The normative message here is clear: we should give up thinking of pleasure in terms of *discovering* hitherto unrecognized desires (which, for example, ‘derive from [our] natural instincts’⁴⁵), and instead understand pleasure as a way of *creating* desires through ‘using

our bodies⁴⁶ differently.⁴⁷ Despite appearances then, Foucault is not especially concerned with *sexual* pleasure, if by that is meant genital-oriented pleasure. For the ‘new relational possibilities’⁴⁸ he envisages would not necessarily be ‘sexual’ at all.⁴⁹ Indeed, if there is any residual sense of ‘liberation’ in Foucault’s work then it is the liberation *of* pleasure *from* explicitly sexual (genital-oriented) pleasure.⁵⁰ While he does occasionally talk of the need for ‘liberation’ from ‘certain conceptions about ourselves and our behavior’, and thus also from certain notions of ‘subjectivity’,⁵¹ Foucault’s wanting to liberate pleasure from explicitly *sexual* pleasure is just part and parcel of this broader liberatory picture. (The flip-side of Foucault’s anti-essentialism and desexualization of pleasure is that so-called ‘sex-crimes’ ought also to be desexualized.⁵²) For Foucault then, there is no significant boundary between sexual and non-sexual pleasure, and as such ‘we should be striving . . . toward a desexualization, to a general economy of pleasure that would not be sexually normed’.⁵³ In short, to sexualize pleasure is to restrict its creative, transformative possibilities.

2 The eroticization of power

The relationship between desire, pleasure and self-creation is discussed most concretely in Foucault’s intermittent reflections on S&M. Having experimented with such practices during the 1970s,⁵⁴ he therefore praises S&M for opening the possibilities of ‘produc[ing] pleasure with very odd things, very strange parts of our bodies, in very unusual situations’.⁵⁵ The crucial point here is (again) that S&M must be understood as creating *new* desires rather than expressing hidden, pre-existing ones. Indeed, Foucault is emphatic that the way ‘doctors, psychiatrists, and even liberation movements’ habitually speak ‘about desire, and never about pleasure’ is misguided. The tendency to think that “‘We have to liberate our desire’” ought therefore to be rejected, and instead we should focus on how to ‘create new pleasures. And then maybe desire will follow.’⁵⁶ On this account, pleasure comes first; desire (perhaps) later.

A question of motivation naturally arises here. For one obvious advantage of prioritizing desire (and the language of ‘discovery’ or ‘recovery’ over that of ‘creation’) in this context is that it provides some explanation of *why* we might engage in novel, hitherto unexplored sexual activities, or *why* we might seek to retrain ourselves and thereby generate ‘new’ desires. Believing that one has an underlying desire to be sexually dominated (a desire that can, for example, be retrospectively identified in one’s adolescent fantasies) might well provide a good enough reason to experiment with such practices in adulthood. This justificatory function is doubtless part of the attraction of thinking that

there *really is* an essential ‘truth of one’s sex’,⁵⁷ or, to again reverse Sartre’s formulation, that one’s ‘essence’ precedes one’s ‘existence’. It thus seems that Foucault must explain why, in the absence of such a desire or natural orientation, one might be motivated to *try* S&M in the first place? Foucault does not provide any clear answer to this question. Nevertheless, an answer can be reconstructed if we take seriously his emphasis on pleasure.⁵⁸ The claim here would, I think, be that our motivation for sexual experimentation does not need the engine of desire at all, but merely the possibility of our experiencing *different* – and presumably *more* or *better* – pleasures. (Although Foucault’s own relation to pleasure was apparently uneasy,⁵⁹ to ask *why* pleasure is worth pursuing would, one imagines, be as senseless to him as it would to Bentham.) S&M does not therefore have ‘anything to do with the disclosure or the uncovering of S&M tendencies deep within our unconscious’; it is ‘much more than that’:

[I]t’s the real creation of new possibilities of pleasure, which people had no idea about previously. The idea that S&M is related to a deep violence . . . is stupid. We know very well what all those people are doing is not aggressive; they are inventing new possibilities of pleasure . . . [I]t’s a kind of creation, a creative enterprise.⁶⁰

In a similar vein, here expressing his boredom with the popularization of Sade, Foucault advocates that we ‘invent with the body . . . a non-disciplinary eroticism: that of a body in a volatile and diffused state, with its chance encounters and unplanned pleasures’.⁶¹ This allusion to a ‘non-disciplinary eroticism’ may jar against what we customarily think of as sado-masochistic practice. But this apparent incongruity takes us to the very heart of Foucault’s understanding of S&M, and, not least, how this relates to power more generally. There is a long story to be told about Foucault’s preoccupation with power, but I believe that approaching this theme through his remarks on S&M is a more economical way of understanding both.

The first point to make here is that Foucault does not think that power relations (in general) can be adequately understood in terms of unilateral domination – of, for example, ‘the master and the slave’.⁶² While he maintains that *power* is ‘always present’, this is not to say that *oppression* is always present. Here again Foucault sounds notably Sartrean, suggesting that it is not only power that is all-pervasive, but that *freedom* too is found ‘everywhere’.⁶³

[W]hat I mean by *power relations* is the fact that we are in a strategic situation toward each other . . . So we are not trapped . . . It means that we always have possibilities, there are always possibilities of changing the situation . . . [T]here is no point where you are free from all power relations. But you can always change it. So what I’ve said does not mean that we are

always trapped, but that we are always free – well, anyway, that there is always the possibility of changing.⁶⁴

Despite the tentativeness of Foucault's allusion to freedom here, in his further remarks on the relation between power and 'resistance' this Sartrean emphasis becomes clearer:

[P]ower relations are possible only insofar as the subjects are free. If one of them were completely at the other's disposal and became his thing, an object on which he could wreak boundless and limitless violence, there wouldn't be any relations of power . . . Even when the power relation is completely out of balance, when it can truly be claimed that one side has 'total power' over the other, a power can be exercised over the other only insofar as the other still has the option of killing himself . . . or of killing the other person. This means that in power relations there is necessarily the possibility of resistance because if there were no possibility of resistance (of violent resistance, flight, deception, strategies capable of reversing the situation), there would be no power relations at all.⁶⁵

By 'power relations' then Foucault has in mind the various 'strategies by which individuals try to direct and control the conduct of others'.⁶⁶ He also thinks that the possibility for such strategies to degenerate into *mere* domination is minimal insofar as resistance and power are mutually dependent.⁶⁷ Clearly there could be situations where even suicide is not possible, but it is much harder to think of examples where *all* forms of resistance have been blocked – if only the 'minimum' resistance of saying 'no'.⁶⁸ (Although Foucault suggests that the 'torture and execution' of the concentration camps precluded 'any resistance', he nevertheless proceeds – again in Sartrean mood – that 'no matter how terrifying a given system may be, there always remain the possibilities of resistance, disobedience, and oppositional groupings'.⁶⁹) This then is why Foucault maintains that:

Power is not evil. Power is games of strategy . . . For example, let us take sexual or amorous relationships: to wield power over the other in a sort of open-ended strategic game where the situation may be reversed is not evil; it's part of love, of passion and sexual pleasure.⁷⁰

The key point here is that for power to be 'strategic' it must be open to the possibility of *reversal*.⁷¹ Only when such reversal is blocked – only when the rules of the 'game' become static – do we find ourselves in a position of *mere* domination or oppression.⁷²

This emphasis on the 'strategic' dimension of power figures prominently in Foucault's remarks on S&M.⁷³ While strategic power operates in all kinds of amorous situations (even 'between boys and girls when they are dancing on Saturday night'), such strategies are predominantly instrumental; they 'come before sex . . . in order to obtain sex'. In S&M,

however, these strategies operate ‘inside sex, as a convention of pleasure within a particular situation’,⁷⁴ and this is why Foucault refers to S&M as ‘the eroticization of strategic power’. The essential difference between strategic power and socio-political power is that the latter is ‘a strategic relation which has been stabilized through institutions’. By means of such institutionalization the ‘mobility’ in power relations becomes severely ‘limited’; in short ‘the strategic relations of people are made rigid’.⁷⁵ It would therefore seem that Foucault thinks of strategic power as more primordial or ‘spontaneous’⁷⁶ than social power: it is *as if* the ‘natural’ state of power – in its exercise between individuals – is essentially strategic, and only becomes (lamentably) ‘stabilized’ through the operation of social-political mechanisms. (This sounds like a curious rewriting of Rousseau’s ‘state of nature’, though doubtless Foucault would dismiss such a gloss as essentialist.⁷⁷) Such stabilizations of power Foucault thus contrasts to those found in S&M, for here we encounter a ‘strategic relation’ that is ‘always fluid’:

Of course, there are roles, but everybody knows very well that the roles can be reversed. Sometimes the scene begins with the master and slave, and at the end the slave has become the master. Or, even when the roles are stabilized, you know very well that it is always a game. Either the rules are transgressed, or there is an agreement, either explicit or tacit, that makes them aware of the boundaries . . . It is an acting-out of power structures by a strategic game that is able to give sexual pleasure or bodily pleasure.⁷⁸

There are a number of claims here that deserve critical attention, not least Foucault’s allusion to ‘explicit or tacit’ agreement. (I will return to this in a moment.) But the general point bears out what we have already said; namely, that the practice of S&M involves *strategic* power insofar as: (1) the specific power-roles of the practitioners can always be ‘reversed’, and (2) there are pre-established ‘boundaries’ to the game⁷⁹ that protect each player from being *merely* dominated by the other. These then are the two central claims. However, Foucault’s supplementary reflections on the master/slave relation in S&M add an interesting further dimension:

S&M is not a relationship between he (or she) who suffers and he (or she) who inflicts suffering, but between the master and the one on whom he exercises his mastery. What interests the practitioners of S&M is that the relationship is at the same time regulated and open . . . The master can lose in the S&M game if he finds he is unable to respond to the needs and trials of his victim. Conversely, the servant can lose if he fails to meet or can’t stand meeting the challenge thrown at him by the master. This mixture of rules and openness has the effect of intensifying sexual relations by introducing a perpetual novelty, a perpetual tension and a perpetual uncertainty, which the simple consummation of the act lacks.⁸⁰

So, both master *and* slave can 'fail' in the practice of S&M. Even the one who is (albeit *strategically*) dominated has a certain power over the dominator.⁸¹ Both parties are vulnerable insofar as both can 'lose in the S&M game', not merely by X failing to stimulate Y, but also by Y not responding adequately to the specific needs of X. As such, the 'success' of any S&M game is a precarious business. No matter how well defined the rules of S&M might be these can never be determinate enough to ensure mutual (though not necessarily orgasmic) fulfilment. Indeed, Foucault suggests that it is precisely this 'uncertainty' or 'tension' that both prompts experimentation *and* generates pleasure here. Given the 'game' metaphor, this element of risk is perfectly understandable. However, we must understand this uncertainty as being a structural feature (rather than merely an empirical failing), for if such rules *could* be determined in a strict sense, then the game would become too stabilized to facilitate the creation of new pleasures.⁸² (After all, many of these pleasures will be 'unplanned' and arise from mere 'chance'.⁸³) The 'openness' Foucault alludes to above therefore pertains, not merely to the possibility of shifting between specific game-*roles*, but also to the (necessary) possibility of overall game *failure*.

3 Consent, vulnerability and trust

There are then a number of interlocking themes in Foucault's account of S&M which require reconstruction. But there is one pivotal theme we have yet to discuss; namely, 'agreement'⁸⁴ or consent. Given Foucault's avowed 'systematic skepticism toward all anthropological universals'⁸⁵ it is astonishing how much of a burden he places on consent without subjecting it to critical analysis.⁸⁶ Indeed, this emphasis is not restricted to Foucault's defence of (adult) S&M, for it also figures in his reflections on child sexuality. Thus Foucault observes that 'where children are concerned, they are supposed to have a sexuality that can never be directed towards an adult, and that's that'. We simply assume that children 'are not capable of talking about themselves, of being sufficiently lucid'.⁸⁷ But according to him, to make this assumption 'that a child is incapable of explaining what happened [e.g. between himself and an adult] and incapable of giving his consent are two abuses that are intolerable, quite unacceptable'.⁸⁸ In a similar vein, here discussing the infamous Roman Polanski case, Foucault remarks that the girl involved 'seems to have been a consenting party'. He then proceeds (again rather cautiously) to ask whether it would be possible 'to propose a law that says: one may have with a consenting child, a child who doesn't refuse, any kind of relations . . . ?':

There are children who throw themselves at an adult at the age of ten – so? There are children who consent, who would be delighted, aren't there? . . . I'd be tempted to say: from the moment that the child doesn't refuse, there is no reason to punish any act . . . [O]ne would be tempted to say: it isn't true that one can get a child to do what it doesn't really want to, simply by exercising authority.⁸⁹

I do not want to get embroiled in the thorny question of adult–child sexual relations⁹⁰ – though Foucault's remarks on strategic power might be relevant in such a discussion. I refer to this topic merely to illustrate how far-reaching the concept of consent is in his work on sexuality.

Returning to S&M then, Foucault claims that 'even when the roles' become 'stabilized', the practitioners of S&M 'know very well that it is always a game'. In other words, 'there is an agreement, either explicit or tacit, that makes [the players] aware of the boundaries'.⁹¹ Now, a certain stabilization of power relations in S&M clearly can occur, and it is not difficult to imagine how this stabilization might itself constitute an entirely deliberate, mutually agreed part of the game. What then would Foucault say about such a scenario? Presumably that this sort of stabilization would be necessarily *temporary*; it would only operate within the confines of a *specific* game (assuming they can be easily individuated). One might, for example, surrender oneself to being dominated in an extremely unilateral, even brutal way – by being bound, beaten, cut, burnt, and so on.⁹² But even here the game can be halted at any point, depending on what signal (verbal or otherwise⁹³) the players have previously decided upon. Logistical problems aside, all this remains in the realm of *strategic* power insofar as there is a pre-established mechanism for bringing the game to a close – if only '*for the moment*'.⁹⁴

That the practice of S&M hinges on mutual trust is not, in itself, very remarkable, for without trust none of our social relations would function. The worry that emerges here is that given the specific nature of S&M activities (activities that can lend themselves especially well to becoming *mere* domination insofar as they 'act out'⁹⁵ such domination), the requisite levels of trust involved are treacherously high.⁹⁶ Likewise, while trust is a necessary component of intersubjective life *per se*, the breach of this trust rarely has such potentially traumatic implications as it does in S&M.⁹⁷ Having one's body physically constrained, being gagged, bound and/or 'tortured', places one in an unusually vulnerable situation. (Here, one might say, we become child-like in our trust-relations.⁹⁸) Indeed, as one S&M advocate points out, even before the S&M scene has begun, 'building your network of mutually trusted [partners]' is of pivotal importance, for '[t]he most difficult part of it all is the matter of developing trust on little more than eye contact'.⁹⁹ Moreover, and this returns us to an earlier point,

this excessive vulnerability is not incidental to the functioning of S&M itself. For it is this that generates a significant part of the *pleasure* of such practices.¹⁰⁰ As Bean thus warns, the ‘limits’ of pain one is ‘willing to withstand’ are crucially important ‘barriers’. Knowing that your S&M partner ‘can be trusted to respect your limits’ and that she or he ‘understands what those limits are’, is similarly vital. However, we are further cautioned, ‘having limits that are too restrictive or too timid can mean that you will never experience the liberating pleasures that make [S&M] . . . the irresistible sex-style it is for uncounted millions’. In other words:

If you always keep your pain-acceptance limits at the threshold of your existing ability to ‘bear’ the hurt, the limit will progress but you will not. You will find yourself inviting and taking more pain without moving a single inch closer to ecstasy. The ecstatic in leathersex is approached only in leaps. You have to overstep your supposed limits by giant steps to get there. If the limit just creeps up, you are effectively building up a psychic callus rather than moving toward the ecstatic leap. For this reason – and other obvious reasons like safety – you want to put yourself into the hands of Tops [S&M partners who are ‘in control’ of a specific scene] you trust *completely*.¹⁰¹

Let me be clear, I am not suggesting that S&M necessarily involves malice (or that its practitioners naturally harbour some ‘deep violence’¹⁰²), but rather that the *possibility* of such non-strategic eventualities has a productive function here. That a specific game *could* degenerate into *mere* domination – where the other stabilizes the power relation by barring one’s ability either to instigate role-reversal *or* to halt the game – is not merely *always possible*, but also *pleasure-generating* in its possibility. In other words, the possibility of transgressing the rules of the game – or of letting the game ‘play us’ – brings its own special pleasures to the proceedings. (I will return to this shortly.) Because, on Foucault’s account, we do not have legitimate recourse to a stable ‘identity’ in which to anchor our assessment of our (or the other’s) activities, then the possibility of our being ‘taken over’ by the game (and the role we play therein) seems increasingly threatening.¹⁰³ Because our identity is always in a process of ‘becoming’ (as is our *consent* always needing re-affirmation), then an enormous amount hinges on the contractual agreement to play the game responsibly, without deceit, with goodwill and respect.¹⁰⁴ Again, as Bean remarks:

The power exchange [in S&M] is a psychological-spiritual-sexual contract between two men [or women] that defines their roles and their relationship. It can last for a few minutes or for a lifetime. Unlike any other contract though, this one is never signed. Its terms are never settled. Every gesture, every sound, every audible breath can be either a confirmation or a renegotiation of the essence of the contract . . . Safety and sanity depends on an unconditional commitment to some agreeable form of consensuality.¹⁰⁵

There are two problems here. (1) The conditions of consent are prone to change even within a specific 'scene'; the *quality* of consent given at time t_1 may, after all, be very different from that given at t_2 , t_3 and so on.¹⁰⁶ (2) The aforementioned trust or goodwill cannot *itself* be manufactured through agreement or by contract (tacit or explicit), for such agreement or contract *relies upon* trust and goodwill.¹⁰⁷ Here, as Bean rightly notes, we must *already* be committed to 'some agreeable form of consensuality' *before* entering into 'the contract'. But if this is the case with even the most explicit written contracts,¹⁰⁸ then how much more ambiguous are the 'tacit'¹⁰⁹ agreements that Foucault alludes to?¹¹⁰

It is surprising then that Foucault should lean so heavily and uncritically on the concept of consent. By this I do not mean that we should abandon talk of consent, for it seems clear that consent ought to play *some* role in sexual practice. The question nevertheless remains: How much conceptual (and practical) work can consent actually do? As indispensable as consent might be, it is a concept that immediately begins to unravel under pressure. For even if we understand consent in a very commonsensical way (as Foucault appears to), difficult questions arise concerning what we can rightfully and reasonably consent *to*.¹¹¹ Arguably there are some activities which, by their very nature, suggest that consent given could not have been serious, rational or sufficiently well informed.¹¹² For example, is it possible to legitimately consent to acts of cannibalism, as apparently happened with Armin Meiwes and Bernd Brandes in 2003?¹¹³ Unless we are hard-nosed libertarians and believe that consent is a sufficient condition for sexual activity, in extreme cases like this many of us are inclined to question even the most explicit consent as epistemically, if not also morally, suspect.¹¹⁴ After all, as Reynolds notes, 'consenting to an act carries with it no qualification as to whether the act is ethically good or bad'.¹¹⁵ Likewise, if *X* consents to having sex with *Y* at some future time, even though *at that future time X* will likely resist *Y's* amorous advances, could this qualify as 'real' consent?¹¹⁶ Can one even consent to being *wholly* at the mercy of another's whims for a specific period of time? In other words, can one coherently consent to sacrificing one's consensual powers and rights *even for a moment*? Similar questions arise concerning the possibility of consenting *now* to someone having sex with us while we are asleep, unconscious or after we have died.¹¹⁷ (Less dramatically, we might raise questions about whether explicit consent transfers across 'single bouts of sex'.¹¹⁸) Given the unusual nature of the above examples, it might be objected that we cannot expect any concept to survive intact under such inhospitable conditions. But the problems of consent are not limited to these extreme examples.¹¹⁹ If we refine the commonsensical picture by distinguishing between explicit and tacit consent (again as Foucault seems to), then we face a number of additional problems. Indeed, even

taking explicit consent as the least problematic case (and overlooking the previous examples), it is not clear that 'ordinarily' one often *explicitly* consents to sex, if by this we mean *verbally*.¹²⁰ (Even when verbal consent *is* given, it is not given *throughout* or *at every stage* of a sexual liaison.¹²¹) Here, it seems, we need to extend the scope of explicit consent to encompass non-linguistic behaviour.¹²² So, one might argue that simply by X continuing to engage in a sexual act with Y, X's actions effectively state: 'I hereby consent to this.' But even if this is plausible, it is still not obvious what 'consent' actually means here. After all, one might reluctantly *let* another perform certain acts upon/with us (because we believe it is our marital duty, or through fear of reprisal or causing offence, emotional hurt and so on¹²³), but depending on the degree of reluctance involved this could hardly be considered a clear-cut case of consent – assuming such unambiguous cases exist.¹²⁴ Arguably much of our consensual behaviour (not only in sex) is of this latter sort; neither manifestly affirmative *nor* negative. It would therefore be erroneous to think that 'I *consent* to this' (even explicitly stated) is equivalent to 'I *want* this'; sometimes these coincide, but not always – not even in the bedroom.¹²⁵ While we tend to think of *explicit* consent in broadly linguistic terms (as either verbal or written¹²⁶) it is not obvious what communicative acts pertain to *tacit* consent. As already suggested, bodily behaviour is doubtless relevant here. But so too might context be an important factor; *tacit* consent would thereby consist of one's 'being-*here*' and 'playing-along'.¹²⁷ But the reasons and motivations for one's being-*here* and playing-along can be many and varied. Part of the problem is the fuzziness of the very concept of 'context' ('situation', or whatever the preferred terminology might be). After all, we are never free from *all* contexts. Neither are we ever in just one context at any given moment; contexts are amorphous in that they unfold over time, overlap, encompass and even override one another. Indeed, it would be mistaken to understand this complexity merely in terms of the multiplicity of competing contexts *all of the same sort*. For we simultaneously inhabit broad social, cultural and historical contexts, more local epistemic, ethical and political contexts, and also personal, affective contexts with singular others. Likewise, our 'being-in' these various contexts will only be more or less voluntary, depending on a variety of background conditions. Because of these complexities some contexts (such as cultural and historical contexts) will largely determine the nature and limits of our more local and personal contexts.¹²⁸ And as many feminists have argued, abstract appeals to consent and 'contract' often obscure the contingencies and distorting features of specific concrete situations.¹²⁹ More than any other theorist, one would have expected Foucault to have been sensitive to these intricate power dynamics.

4 Playing games (with Kundera)

I suggested above that within a specific S&M game the *possibility* of transgressing the rules brings its own distinctive pleasures. I also suggested that one way this might happen is by the game 'playing us'. This formulation is not as strange as it might first appear, for we have all played games (broadly conceived) where our sense of autonomy has been eroded. Indeed, this is one of the features of game-playing that is so pleasurable. Whether the games in question are teleologically oriented or open-ended 'play', we often say – not unintelligibly – that we 'lost ourselves' in the game.¹³⁰ To 'lose oneself' in one's activities is an everyday occurrence that rarely provokes anxiety. Likewise, to experience one's autonomy diminish in game-playing is, for the most part, as harmless as identifying with a character in literature or film.¹³¹ In the case of role-play (perhaps especially sexual role-play) however, certain ethical questions soon arise. What, for example, are we to think of sexual role-play which 'enacts' paedophilia or rape? If we feel uneasy about these sorts of 'games', is this because we believe that they reveal something 'deep' about the players' *actual* desires or inclinations? Why do so many of us here find it difficult to draw the customary fact/fiction distinction? I doubt there are easy answers to these questions. Still, it is clear that if we were to follow Foucault (and specifically reject the essentialist assumption that role-play reveals something 'deep' about the player), then such anxieties about paedophilia or rape role-play would lack foundation. Likewise, guilt and blame over what one enjoys *dreaming* about could similarly be judged to hinge on essentialist assumptions – as could *fantasizing* about sex with children, animals, the disfigured or the infirm (and so on). From a Foucauldian perspective our unease about all of these things would merely be symptomatic of our socio-historically conditioned fixation on sexuality, combined with a false (essentialist) picture of subjectivity.

Of course, the 'acting out' of paedophilia is just a specific sex-game, as is the acting-out of rape, for our mundane games of seduction involve more or less explicit role-playing strategies. It is here worth recalling that Sartre critiques some instances of such routine sexual role-play insofar as they provide fertile ground for 'bad faith'.¹³² Most striking in this regard are his remarks on flirtation – a topic curiously neglected in the so-called 'philosophy of sex' literature.¹³³ Thus, of a 'woman who has consented to go out with a particular man for the first time', Sartre writes:

She knows very well the intentions which the man who is speaking to her cherishes regarding her. She knows also that it will be necessary sooner or later for her to make a decision [about whether to sleep with him]. But she does not want to realise the urgency; she concerns herself only with what

is respectful and discreet in the attitude of her companion . . . If he says to her, 'I find you so attractive!' she disarms this phrase of its sexual background . . .¹³⁴

Here then the woman *chooses* to interpret her companion's behaviour in purely 'objective' terms. Despite her understanding of the situation (namely, that the man's intentions are sexual, whereas hers are, at best, ambiguous¹³⁵) she evades this by focusing on what is 'in the present', 'explicit' and 'immediate',¹³⁶ thereby 'stripping his behaviour of its character as part of a temporal development toward an end'.¹³⁷ On the one hand, she does *not* crave the man's amorous advances, for if his desires were explicitly stated they would 'humiliate and horrify her'. Yet, on the other hand, she does *not* want his benign 'respect' – which she could, after all, procure from friends or family. Thus, the specifically *sexual* nature of the man's attention is simultaneously unwelcome *and* desired; it is both threatening *and* productive. But not only does the woman refuse 'to apprehend . . . [his] desire for what it is', she similarly distances herself from her *own* behaviour. When the man takes her hand – thus (apparently) forcing her to make a decision – the woman does not withdraw, for this would 'break the troubled and unstable harmony which gives the hour its charm'.¹³⁸ Rather, she treats her hand as though it was only incidentally hers; a sort of phantom limb or 'passive object to which events . . . *happen*'. Sartre's critique of flirtation thus hinges on what he sees as the duality of the human condition (which is 'at once a *facticity* and a *transcendence*'¹³⁹) and, by implication, the inescapability of freedom and responsibility. Sartrean 'bad faith' thus occurs when we attempt to become either mere facticity *or* transcendence¹⁴⁰ – something we all routinely do in our amorous and sexual lives.

In the final part of this article I want to bring a number of these themes together by considering Kundera's short story 'The Hitchhiking Game', from his *Laughable Loves*, for this usefully illustrates how games of sexual role-play can indeed 'play *us*'. Despite Kundera's general pre-occupation with questions of sexuality and identity, in what follows I only want to highlight key moments in this narrative that bear directly on our previous discussion.

In 'The Hitchhiking Game' Kundera traces the misadventures of a young couple embarking on a vacation. In order to break the monotony of the drive ahead, the couple play the following game: while the young man pulls into a gas station, his partner proceeds along the motorway and pretends to hitchhike. Having refuelled, the man 'picks up' the girl whereby they both take on their respective roles as opportunist playboy and flirtatious hitchhiker. The game seems harmless enough. However, Kundera describes how these adopted roles soon generate suspicion as each partner begins to experience the other as sexualized in an

unfamiliar and disconcerting manner.¹⁴¹ Thus, early on in the story, the man attempts to halt the game; looking at the girl, her face seemed ‘completely convulsed’:

He felt sorry for her and longed for her usual, familiar expression . . . He leaned toward her, put his arm around her shoulders, and softly spoke the nickname he often used and with which he now wanted to stop the game. But the girl released herself and said: ‘You’re going a bit too fast!’ At this rebuff the young man said: ‘Excuse me, miss,’ and looked silently in front of him at the highway . . . He was furious with the girl for not listening to him and refusing to be herself when that was what he wanted.¹⁴²

From here the game immediately shifts ‘into a higher gear’, for ‘[f]iction was suddenly making an assault on real life’.¹⁴³ As the mutual alienation deepens, the young man soon suspects that, given ‘his girlfriend *knew* how to behave like a loose woman’, this ‘meant that she really was like that’; that ‘through the game’ she was in fact ‘becoming herself’.¹⁴⁴ Despite his growing aversion to the girl, the man nevertheless finds his carnal desires increasing. It seemed that hitherto the girl’s flesh ‘had been hidden’ from him ‘within clouds of compassion, tenderness, concern, love, and emotion’. But now, as if ‘for the first time’, he was really ‘*seeing* his girl’s body’.¹⁴⁵ As the game proceeds, she feels unable to protest against her lover’s growing hostility. Kundera accounts for this incapacity as follows:

Even in a game there lurks a lack of freedom; even a game is a trap for the players. If this had not been a game and they had really been two strangers, the hitchhiker could long ago have taken offense and left; but there’s no escape from a game . . . The girl knew that she had to accept whatever form the game might take, just because it was a game. She knew that the more extreme the game became, the more it would be a game and the more obediently she would have to play it . . . Just because it was only a game her soul was not afraid, did not oppose the game, and sank deeper into it as if drugged.¹⁴⁶

This, for our purposes at least, is the central claim in Kundera’s narrative; that no matter how freely one enters such a game, this freedom is immediately destabilized. ‘The Hitchhiking Game’ concludes in predictably traumatic events. For having booked into a motel, the young man can now hardly distinguish between his lover and the hitchhiker:

It seemed to him that the girl he loved was a creation of his desire, his thoughts, and his faith and that the *real* girl now standing in front of him was hopelessly *other*, hopelessly *alien*, hopelessly *polymorphous*. He hated her . . . The game merged with life. The game of humiliating the hitchhiker became only a pretext for humiliating his girl. The young man had forgotten that he was playing a game.¹⁴⁷

The girl is duly paid for sex and proceeds to undress on command. Naked and 'stripped' of her 'dissimulation', she reasonably thinks that 'now the whole game would end' with a 'gesture' from her partner, followed by 'their most intimate lovemaking'. But this tenderness is not forthcoming. Instead the man orders: 'Stay where you are, I want to have a good look at you', for now 'he longed only to treat her as a whore'. Despite the girl's 'pleading',¹⁴⁸ the young man reminds her that she has been paid for her services. During intercourse she attempts to halt the game by using her lover's name, but even this is ineffective; indeed, the girl's 'loud sobs' are eventually 'won over . . . [by] pleasure'.¹⁴⁹ The game does eventually wind down, but now the young man cannot bear to face his partner. Traumatized she appeals to him: 'I'm me, I'm me, I'm me . . .' Finally, in response to this 'pitiful tautology', the man 'call[s] compassion to his aid', although, we are told, 'he had to call it from afar, because it was nowhere near at hand'.¹⁵⁰

Kundera's story bears on our previous discussion by highlighting: (1) the fundamental importance *and* vulnerability of intersubjective trust; (2) the seemingly irresistible idea that the other's role-play reveals something 'deep' about his or her 'essence'; (3) the capacity of such a game to accommodate every eventuality (even one's trying to exit the game) and thereby 'play us'; and (4) the need to appeal to one's 'true identity' to end the game. Recalling our analysis of Foucault and S&M, we might therefore say that what Kundera illustrates is how role-playing can itself be a source of oppression. It is not merely that role-play can be used as a *tool* of oppression by one against another (though doubtless this can happen), but rather, that the game *itself* can become oppressive. This, I take it, is what Kundera is getting at when he remarks that 'in a game there lurks a lack of freedom; even a game is a trap for the players . . . there's no escape from a game'.¹⁵¹ Simply in virtue of the fact that the hitchhiking game *was a game* (that the man and girl were not *in fact* strangers, but only *acting out* their respective roles), neither player could withdraw without thereby being accused of simply *misunderstanding* what they were doing – namely, *playing a game*. (As Kundera notes: 'The girl knew that she had to accept whatever form the game might take, just because it was a game'.¹⁵²) It is not at all clear then that the boundaries of a game – perhaps especially sexual role-play – should be thought of as *limits*,¹⁵³ for these very boundaries provide new creative possibilities for exploration, experimentation and transgression.¹⁵⁴ If the girl in Kundera's story does not have a legitimate recourse to her 'identity' (if, as Foucault claims, 'identity' *itself* 'is only a game'¹⁵⁵), then why should the game not incorporate the potentially pleasure-generating transgression of its own boundaries? When the girl finally pleads 'I'm me, I'm me . . .' she cannot, on Foucault's account, be making an appeal to her nature or essence, for she has no such

essence. At most all she can be saying is: 'I do not like *this* game; can we play *another* one?' But this transcription surely trivializes her plea, for the girl does not simply want to play another, more familiar or tender game; rather, she wants to release both herself and her lover from game-playing *altogether*. This, albeit minimal, appeal to identity (to what one *is*) cannot be easily circumvented without losing grip of what it *means* to be humiliated, oppressed or damaged. One might respond to this charge by claiming that Foucault could allow for the possibility of *strategically* positing an identity. Indeed, he suggests as much in the following cautionary remarks:

[I]f identity is only a game, if it is only a procedure to have relations, social and sexual-pleasure relationships, it is useful. But if identity becomes the problem of sexual existence, and if people think that they have to 'uncover' their 'own identity,' and that their own identity has to become the law, the principle, the code of their existence; if the perennial question they ask is 'Does this thing conform to my identity?' then . . . they will turn back to a kind of ethics very close to the old heterosexual virility . . . [T]he relationships we have to have with ourselves are not ones of identity, rather, they must be relationships of differentiation, of creation, of innovation . . . We must not exclude identity if people find their pleasure through this identity, but we must not think of this identity as an ethical universal rule.¹⁵⁶

It seems then that Foucault would allow such a 'positing' of identity on broadly utilitarian grounds. Still, it is not clear either who/what would do the 'positing' here, or what status the 'identity' thereby 'posited' could have besides that of a pragmatically convenient fiction? This, it seems to me, is too thin, hypothetical and voluntaristic a notion of 'identity' to do the work necessary in Kundera's story. Thus, recalling Bean's remarks on S&M, one could interpret Kundera's girl as simply being closed to the 'ecstatic of leathersex'; tethered to her 'supposed limits', which are 'too restrictive or too timid', the girl lamentably refuses to take 'the ecstatic leap'.¹⁵⁷ We *could* interpret the situation in this way, but it is doubtful that we should.

According to Foucault, 'even when the roles [in S&M] are stabilized, you know very well that it is always a game'.¹⁵⁸ Moreover, this nominal awareness is sufficient to ensure that such stabilizations cannot constitute 'real' oppression or domination. For Foucault, sexual role-play frees us from the ominous lures of essentialism; there simply is no 'deep' subjective essence *within* which our desires are located, and *from* which they can be excavated and acted in accordance with. Indeed, for him there is *nothing but* games of power-play (recall what Foucault says about the universality of power, freedom and resistance); S&M is just one particularly instructive example. The problem, however, is that if there are only games, then it is not clear what the term 'game' is supposed to pick out. 'Game' is not only a 'blurred'¹⁵⁹ and (more or less) open

concept,¹⁶⁰ it is also a relative concept; ‘game-playing’ makes sense only insofar as it can be distinguished from *non*-game-playing activities.¹⁶¹ To be ‘only playing’ at one’s S&M role(s) thus presupposes that there is *some* distinction between simulation and reality; between what one *is* and what one is capable (and/or willing) of *doing* or *pretending to be*.

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Notes

- 1 Michel Foucault, *Power: Essential Works of Foucault 1954–1984*, vol. 3, ed. James D. Faubion (London: Penguin, 2001), p. 240.
- 2 See Christina Howells, ‘Conclusion: Sartre and the Deconstruction of the Subject’, in C. Howells (ed.) *The Cambridge Companion to Sartre* (Cambridge: Cambridge University Press, 1995); Christina Howells, *Derrida: Deconstruction from Phenomenology to Ethics* (Cambridge: Polity, 1999), ch. 6.
- 3 Michel Foucault, *Ethics, Subjectivity and Truth: The Essential Works*, vol. 1, ed. P. Rabinow, trans. R. Hurley *et al.* (Harmondsworth, Mx: Penguin, 1997), p. 262.
- 4 Jean-Paul Sartre, *Existentialism and Human Emotions* (New York: Citadel, 1987), p. 66. See also Jean-Paul Sartre, *Existentialism & Humanism*, trans. P. Mairet (London: Methuen, 1977), p. 26.
- 5 See Sartre, *Existentialism and Human Emotions*, p. 93; Sartre, *Existentialism & Humanism*, pp. 28–9.
- 6 *ibid.*, p. 34.
- 7 On the relationship between nihilism (including existentialism), lamentation and humour see John Marmysz, *Laughing at Nothing: Humor as a Response to Nihilism* (New York: State University of New York Press, 2003).
- 8 See Sartre’s analyses of ‘bad faith’, in his *Being and Nothingness: An Essay on Phenomenological Ontology*, trans. H. E. Barnes (London and New York: Routledge, 1993), ch. 2, and especially his description of flirtation (*ibid.*, pp. 55–6). I return to this later.
- 9 Sartre, *Existentialism & Humanism*, p. 41.
- 10 Sartre, *Existentialism and Human Emotions*, p. 72; see also *ibid.*, pp. 79–80; Michel Foucault, *Foucault Live: Collected Interviews, 1961–1984*, ed. S. Lotringer, trans. L. Hochroth and J. Johnston (New York: Semiotext(e), 1996), p. 298.
- 11 Sartre, *Existentialism and Human Emotions*, p. 73; see also p. 75.
- 12 *ibid.*, p. 76.
- 13 *ibid.*, p. 81. Sartre proceeds: ‘there is no irreducible taste or inclination. They all represent a certain appropriative choice of being. It is up to existential psychoanalysis to compare and classify them’ (*ibid.*, p. 89).
- 14 Of course, any similarities between Sartre and Foucault emerge against the backdrop of significant methodological dissimilarities – namely, Sartre’s

- phenomenological roots and Foucault's quasi-Nietzschean historicism. That said, and as we will see, 'freedom' is fundamental to both.
- 15 As early as 1963 Foucault remarks: 'We like to believe that sexuality has regained, in contemporary experience, its truth as a process of nature, a truth that has long been lingering in the shadows and hiding under various disguises – until now, that is, when our positive awareness allows us to decipher it so that it may at last emerge in the clear light of language'; see his *Aesthetics, Method, and Epistemology: The Essential Works*, vol. 2, ed. J. D. Faubion, trans. R. Hurley *et al.* (London: Penguin, 1998), p. 69. On Foucault and confession see Bob Plant (2006) 'The Confessing Animal in Foucault and Wittgenstein', *Journal of Religious Ethics* 34(4), pp. 533–59.
 - 16 The 'quasi' is important, for Foucault describes his work on madness as 'a kind of historical fiction' (*Foucault Live*, p. 301), and of *The History of Sexuality* he remarks: 'I am quite aware that I have never written anything but fictions' (*ibid.*, p. 213; see also *Power*, p. 242). Elsewhere Foucault describes his writings as 'fragments of autobiography', see his *Politics, Philosophy, Culture: Interviews and Other Writings, 1997–1984*, ed. L. D. Kritzman, trans. A. Sheridan *et al.* (London and New York: Routledge, 1988), p. 156; see also *Power*, p. 244. Foucault even proclaims: 'I am an experimenter and not a theorist . . . I'm an experimenter in the sense that I write in order to change myself . . . Each of my books is a way of carving out an object and of fabricating a method of analysis. Once my work is finished, through a kind of retrospective reflection on the experience I've just gone through, I can extrapolate the method the book ought to have followed' (*Power*, p. 240; see also pp. 241–3).
 - 17 Foucault, *Foucault Live*, p. 214.
 - 18 Michel Foucault, *The History of Sexuality*, vol. 1, trans. R. Hurley (London: Penguin, 1990), p. 17.
 - 19 On the 'explosion' of such discourses, the 'incitement' to speak about sex and the general transformation of sex into 'discourse' see *ibid.*, pp. 17–18, 20–1, 23–5, 27, 29–33, 34, 49, 53, 61, 69, 72, 77.
 - 20 *ibid.*, p. 21; see also *Aesthetics*, p. 85.
 - 21 Foucault, *Ethics*, p. 247.
 - 22 Foucault, *The History of Sexuality*, p. 69.
 - 23 *ibid.*, p. 159; see also *Foucault Live*, p. 219. It is an understatement when Foucault claims to 'mistrust the notion of human nature a little'; see his 'Human Nature: Justice versus Power', in A. I. Davidson (ed.) *Foucault and His Interlocutors* (Chicago, IL: University of Chicago Press, 1997), p. 109; see also pp. 110, 123, 131–2, 140. Asked for his views on naturalistic approaches to sexuality, Foucault is similarly coy: 'On this question I have absolutely nothing to say. "No comment" . . . I just don't believe in talking about things that go beyond my expertise. It's not my problem, and I don't like talking about things that are not really the object of my work. On this question I have only an opinion; since it is only an opinion, it is without interest' (*Ethics*, p. 142).
 - 24 *ibid.*, p. 262.
 - 25 Foucault can see only a 'guilt'-driven 'self-flagellation' (*Foucault Live*, p. 211) in the existentialist's preoccupation with responsibility. But while

- he may not care for Sartre's heroic posturing (specifically the vocabulary of 'anguish' and 'bad faith'), I doubt that the gulf between them is particularly wide.
- 26 Foucault, *Ethics*, p. 262.
 - 27 *ibid.*, p. 256.
 - 28 See Foucault, *Power*, p. 354. Again, as early as 1963 Foucault maintains: 'We have not in the least liberated sexuality' (*Aesthetics*, p. 69).
 - 29 Foucault, *Ethics*, p. 282.
 - 30 For a defence of appeals to the 'natural' in feminist theory, see Louise Anthony, "'Human Nature" and its Role in Feminist Theory', in J. A. Kourany (ed.) *Philosophy in a Feminist Voice: Critiques and Reconstructions* (Princeton, NJ: Princeton University Press, 1998), pp. 63–91; Martha Nussbaum, 'Women and Cultural Universals', in A. E. Cudd and R. O. Andreasen (eds) *Feminist Theory: A Philosophical Anthology* (Oxford: Blackwell, 2005), pp. 302–24.
 - 31 See also Foucault's remarks on 'optimism' in *Politics, Philosophy, Culture*, p. 156.
 - 32 Foucault, *The History of Sexuality*, p. 159.
 - 33 Foucault, *Ethics*, pp. 176–7. See also Foucault's remarks on philosophy and the possibility of thinking 'differently' in his *The Use of Pleasure: The History of Sexuality*, vol. 2, trans. R. Hurley (London: Penguin, 1992), pp. 8–9.
 - 34 I will not discuss the idea that *mere* futural 'openness' is somehow valuable in itself.
 - 35 Michel Foucault, 'The Subject and Power', in Hubert L. Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Brighton, Sx: Harvester, 1982), p. 216.
 - 36 Foucault, *Ethics*, p. 158.
 - 37 *ibid.*, p. 135.
 - 38 *ibid.*, p. 160.
 - 39 Foucault, *Foucault Live*, p. 317. See also Foucault's remarks on friendship and silence (*Ethics*, pp. 121–2). Regarding Foucault's attitude toward 'becoming gay' and its possibilities for reworking oneself, see Jon Simons, *Foucault & the Political* (London and New York: Routledge, 1995), p. 96ff.
 - 40 Foucault, *Ethics*, p. 135.
 - 41 *ibid.*, p. 128. See also Andrea Beckmann, "'Sexual Rights" and "Sexual Responsibilities" within Consensual "S/M" Practice', in M. Cowling and P. Reynolds (eds) *Making Sense of Sexual Consent* (Aldershot, Hants: Ashgate, 2004), p. 200.
 - 42 Beauvoir similarly remarks: 'Let us not forget that our lack of imagination always depopulates the future; for us it is only an abstraction . . . But the humanity of tomorrow will be living in its flesh and in its conscious liberty; that time will be its present and it will in turn prefer it. New relations of flesh and sentiment of which we have no conception will arise between the sexes . . . I fail to see that this present world is free from boredom or that liberty ever creates uniformity'; see Simone de Beauvoir, *The Second Sex*, ed. and trans. H. M. Parshley (London: Jonathan Cape, 1953), p. 686.

- 43 Foucault, *Ethics*, p. 163.
- 44 See Jana Sawicki, 'Foucault's Pleasures: Desexualising Queer Politics', in D. Taylor and K. Vintges (eds) *Feminism and the Final Foucault* (Urbana and Chicago: University of Illinois Press, 2004), p. 167. Despite Foucault's debt to Nietzsche, this point seems to run counter to the latter's claim that '[t]he degree and kind of a man's sexuality reach up into the ultimate pinnacle of his spirit'; see *Beyond Good and Evil*, trans. R. J. Hollingdale (Harmondsworth, Mx: Penguin, 1987), §75. Likewise, despite Foucault's avowed Nietzscheanism, he does not seem to take seriously Nietzsche's naturalism; see, for example, Brian Leiter, *Nietzsche on Morality* (London and New York: Routledge, 2002), ch. 1.
- 45 Foucault, *Ethics*, p. 142; see also *The Use of Pleasure*, p. 5ff.
- 46 Foucault, *Ethics*, p. 165.
- 47 This idea that desires are actively *formed* is evident in Sartre's claim that 'I am responsible for my very desire of fleeing responsibilities' (*Existentialism and Human Emotions*, p. 57; see also p. 92).
- 48 Foucault, *Ethics*, p. 160.
- 49 See David M. Halperin, *Saint Foucault: Towards a Gay Hagiography* (New York and Oxford: Oxford University Press, 1995), p. 87ff. On the poverty of 'genital' sexuality see Beckmann, "'Sexual Rights" and "Sexual Responsibilities"', pp. 195, 199. Robert Solomon is also highly critical of our 'over-genitalized conception of sexuality' insofar as this tends to equate 'sexual satisfaction' with the moment of orgasm. As he remarks: 'Orgasm is the "end" of sexual activity, perhaps, but only in the sense that swallowing is the "end" of tasting a Viennese torte'; see his 'Sexual Paradigms', in Alan Soble (ed.) *The Philosophy of Sex: Contemporary Readings* (Oxford: Rowman and Littlefield, 1997), p. 23. This, however, is as far as the affinity between Solomon and Foucault goes, for Solomon wants to shift the focus *away* from pleasure, and instead argue that sex has a quasi-linguistic form: 'Sexual activity consists in speaking what we might call "body language." It has its own grammar, delineated by the body, and its own phonetics of touch and movement. Its unit of meaningfulness, the bodily equivalent of a sentence, is the *gesture*' (ibid., p. 27). In pursuing this analogy between sex and language, Solomon thus provides a novel account of 'perversion'. For if sex is essentially communicative, then fetishism is akin to 'talking to someone else's shoes', while bestiality is like 'discussing Spinoza with a moderately intelligent sheep' (ibid., p. 28). Indeed, for Solomon, even '[e]ntertaining private fantasies and neglecting one's real sexual partner' is an 'innocent semantic perversion', while 'pretended tenderness and affection that reverses itself soon after orgasm is a potentially vicious perversion' (ibid., p. 29). For a critique of Solomon's position see Russell Vannoy, *Sex Without Love: A Philosophical Exploration* (New York: Prometheus, 1980), pp. 69–78.
- 50 See Foucault, *The Use of Pleasure*, p. 10. Note also Foucault's remarks quoted in Halperin, *Saint Foucault*, pp. 95–6.
- 51 Foucault, *Foucault Live*, p. 298.
- 52 As Foucault himself puts it: 'there are problems because what we're saying amounts to this: sexuality as such, in the body, has a preponderant place,

- the sexual organ isn't like a hand, hair, or a nose. It therefore has to be protected, surrounded, invested in any case with legislation that isn't that pertaining to the rest of the body.' Alternatively, one could claim that, for example, rape 'isn't a matter of sexuality, it's the physical violence that would be punished, without bringing in the fact that sexuality was involved' (*Politics, Philosophy, Culture*, pp. 201–2).
- 53 Foucault, *Foucault Live*, p. 212.
- 54 See James Miller, *The Passion of Michel Foucault* (London: Flamingo, 1994), p. 251ff.
- 55 Foucault, *Ethics*, p. 165. S&M enables its practitioners 'to make use of every part of the body as a sexual instrument' (ibid., p. 152).
- 56 ibid., p. 166. 'What we must work on . . . is not so much to liberate our desires but to make ourselves infinitely more susceptible to pleasure' (ibid., p. 137). In this sense Foucault is deeply voluntaristic about sexuality (see Jean Grimshaw, 'Ethics, Fantasy and Self-transformation', in Soble [ed.] *The Philosophy of Sex*, pp. 178–9) – although for him there is no stable desiring-subject, merely embodied (though malleable) 'sites' of pleasure.
- 57 Foucault, *Ethics*, p. 135.
- 58 This pleasure is not necessarily antithetical to our customary notions of 'pain'. For just as there is no significant boundary between sexual and non-sexual pleasures in Foucault's universe, neither is there such a boundary between pleasure and pain.
- 59 Foucault thus admits: 'I have real difficulty in experiencing pleasure. I think that pleasure is a very difficult behaviour.' Nevertheless, he proceeds: 'I hope I'll die of an overdose of pleasure of any kind' (ibid., p. 129). Elsewhere he fantasizes: 'If I won a few billion in the lottery, I would create an institute where people who would like to die would come spend a weekend, a week, or a month in pleasure, under drugs perhaps, in order to disappear afterward, as if erased' (*Power*, p. 380).
- 60 Foucault, *Ethics*, p. 165. Foucault's reference to the 'creation of new possibilities of pleasure, which people had no idea about previously' (ibid.) is interesting, not least because Halperin suggests that fist-fucking 'is, historically speaking, a new pleasure' (*Saint Foucault*, p. 92) – that is, a pleasure uniquely bequeathed to us in the 20th century.
- 61 Foucault, *Foucault Live*, p. 189.
- 62 Foucault, *Ethics*, p. 291; see also *The History of Sexuality*, pp. 83–5.
- 63 Foucault, *Ethics*, p. 292.
- 64 ibid., p. 167.
- 65 ibid., p. 292; see also *Foucault Live*, p. 224.
- 66 Foucault, *Ethics*, p. 298.
- 67 It would therefore seem that, for Foucault, mere oppression would not qualify as 'power' at all.
- 68 Foucault, *Ethics*, p. 168; see also *Politics, Philosophy, Culture*, p. 201.
- 69 Foucault, *Power*, p. 354.
- 70 Foucault, *Ethics*, p. 298.
- 71 Precisely what sort of 'possibility' (practical? logical? moral?) remains unclear.
- 72 See ibid., pp. 283, 299.

- 73 The main sources here are two interviews conducted with Foucault in the early 1980s: 'Sexual Choice, Sexual Act' and 'Sex, Power, and the Politics of Identity', from *Foucault Live*.
- 74 *ibid.*, p. 170. Precisely what qualifies as 'inside' and 'outside' sex is not clear. Indeed, this question is especially pertinent given that Foucault wants to desexualize 'pleasure'.
- 75 *ibid.*, p. 169.
- 76 *ibid.*, p. 224.
- 77 'Nothing is fundamental. That is what is interesting in the analysis of society' (Foucault, *Power*, p. 356). Such a reading would also, presumably, be to 'invoke a completely mythical past' (*ibid.*, p. 357; see also p. 359).
- 78 Foucault, *Ethics*, p. 169; see also 'The Subject and Power', p. 225.
- 79 On the use of 'safe words' in S&M see Joseph W. Bean, *Leathersex: A Guide for the Curious Outsider and the Serious Player* (Los Angeles, CA: Daedalus, 1994), pp. 14–18; Alan Soble, *Sexual Investigations* (New York and London: New York University Press, 1996), pp. 49–50. See also Erving Goffman's remarks on 'playfulness' (in both animals and humans), and specifically his allusions to the participants' power to 'refuse' and 'terminate the play', 'role switching', in his *Frame Analysis: An Essay on the Organisation of Experience* (New York: Harper Colophon, 1974), p. 42, and those 'Signs' which 'mark the beginning and termination of playfulness' (*ibid.*, p. 43; see also p. 49).
- 80 Foucault, *Ethics*, pp. 151–2.
- 81 See also Bean, *Leathersex*, pp. 34, 35, 187.
- 82 '[T]he idea of a program of proposals is dangerous. As soon as a program is presented, it becomes a law, and there's a prohibition against inventing . . . We must think that what exists is far from filling all possible spaces. To make a truly unavoidable challenge of the question: What can be played?' (Foucault, *Ethics*, pp. 139–40).
- 83 Foucault, *Foucault Live*, p. 189.
- 84 Foucault, *Ethics*, p. 169.
- 85 Foucault, *Aesthetics*, p. 461.
- 86 I would make the same criticism of Beckmann's 'postmodern' ("Sexual Rights" and "Sexual Responsibilities", p. 195) defence of S&M. For while she denounces 'liberal' (*ibid.*, p. 197), 'universalistic' (*ibid.*, p. 196) moral analyses as 'existentially flawed and alienating' (*ibid.*, p. 197; see also p. 202) – Beckmann proposes instead a vague 'personal ethics that is necessarily contextual and relational' and thus always 'implies the possibility of change' (*ibid.*, p. 195) – she proceeds to stress the superiority of consensual S&M (over 'normal' sex; see *ibid.*, pp. 196, 199, 200–1) as being grounded in 'internal reflection and external communication' (*ibid.*, p. 198; see also p. 206). It is not, however, clear how this emphasis on (presumably rational) reflection, communication ('relational negotiation' [*ibid.*, p. 196]) and consent works if one thinks that 'personhood' is *fundamentally* a 'process of becoming' (*ibid.*, p. 205; see also p. 202). Indeed, it is notable that despite her frequent appeals to Foucault, Beckmann fails to engage with his specific remarks on S&M. I would here also question Beckmann's methodology, for her reliance on the testimony of S&M practitioners is highly selective and thus, at best, anecdotal. Moreover, good

- Foucauldian questions might be raised about the emphasis (in Beckmann, if not also in the S&M ‘scene’ she describes) on *verbalization* – something Foucault is highly suspicious of in his genealogy of confessional practices.
- 87 Foucault, *Foucault Live*, p. 272. It is not clear how Foucault’s critical ‘genealogy’ of confession (in, for example, *The History of Sexuality*) relates to this claim about the child’s in/ability to talk about himself or herself with sufficient lucidity.
- 88 Foucault, *Foucault Live*, p. 273. See also Califia’s remarks on adult–child sex (quoted in Soble, *Sexual Investigations*, p. 32).
- 89 Foucault, *Politics, Philosophy, Culture*, pp. 204–5.
- 90 See David Archard, *Sexual Consent* (Oxford: Westview, 1998), pp. 126–9.
- 91 Foucault, *Ethics*, p. 169.
- 92 Regarding the sheer variety of S&M activities see Bean, *Leathersex*, ch. 3.
- 93 See *ibid.*, p. 35. Note also Bean’s remarks on the pleasures (and dangers) of verbal abuse in S&M (*ibid.*, pp. 66–8).
- 94 *ibid.*, p. 15. Even between an uncompromising sadist and masochist – neither of whom *wants* to experiment with role reversal – this possibility of ending the game must be present if *mere* domination is to be avoided.
- 95 See Foucault, *Ethics*, p. 169. I will leave aside the question of whether this ‘acting out’ is best understood as a mere repetition (even perhaps reinforcement) of social-political oppression, or as a subversive parody of such oppression (see Archard, *Sexual Consent*, p. 115). For an account of the latter (with specific reference to gender performativity) see Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (London and New York: Routledge, 1990), p. 128ff. Beckmann suggests that S&M can even be of therapeutic value for those who have suffered childhood abuse (“Sexual Rights” and “Sexual Responsibilities”, pp. 204–5).
- 96 On honesty in S&M see Bean, *Leathersex*, pp. 1, 14, 67.
- 97 See *ibid.*, p. 142.
- 98 See Raimond Gaita, *A Common Humanity: Thinking about Love and Truth and Justice* (London and New York: Routledge, 2000), p. 22; Lars Hertzberg, ‘On the Attitude of Trust’, *Inquiry* 31 (1988): 314–15, 320.
- 99 Bean, *Leathersex*, p. 9. See also Goffman’s remarks on make-believe and ‘the knowledge [here] that nothing practical will come of the doing’ (*Frame Analysis*, p. 48).
- 100 See Bean, *Leathersex*, pp. 66, 187.
- 101 *ibid.*, p. 73; in his 5th sentence, ‘callous’. Interestingly, Bean proceeds to advise: ‘Set your limits always beyond what you imagine them to be’ (*ibid.*; see also p. 131ff.). He also refers to this situation as being where ‘trust is flawless’ (*ibid.*, p. 73) and where one’s S&M partner is ‘perfectly trustworthy’ (*ibid.*, p. 74).
- 102 Foucault, *Ethics*, p. 165.
- 103 What some S&M practitioners describe as the ‘ecstasy’ of ego-dissolution (especially in more extreme forms of S&M), not to mention Foucault’s own obsession with ‘limit experiences’ (see Miller, *The Passion of Michel Foucault*), surely problematizes the pivotal role of ‘genuine’ consent here. See Foucault’s critical remarks on Sartre in *Power*, p. 248. Note also how Bean describes the more powerful S&M experiences: ‘In intense enough leathersex scenes . . . the effects prayed and meditated for are acted out

and realized. “Your will,” the bottom [partner] is saying, “not mine. I am nothing, you are all.” The “death” implied by the erasing of personal importance, the liberating effect of having no need to choose or decide, judge or prefer, carried on long enough, honestly enough, and intensely enough evokes states that are understandable only in either spiritual terms or to those of the most sophisticated psychology . . . Put simply, when a man approaches death, whether the momentary death of his ego or physical extinction, he is likely to be overcome by fear. When he approaches the same psychological and spiritual reality of death, with its physical implications as well, in a state of sexual arousal, he is in the presence of the creative force, the balancing and mitigating energy of becoming’ (*Leathersex*, pp. 185–6). Paul Reynolds also refers to a ‘non-communicative moment’ in sex; see his ‘The Quality of Consent: Sexual Consent, Culture, Communication, Knowledge and Ethics’, in Cowling and Reynolds (eds) *Making Sense of Sexual Consent*, p. 102.

- 104 The presumption of good-will in Foucault’s account can already be seen in his claim (cited earlier) that ‘[t]he master can lose in the S&M game if he finds he is unable to respond to the needs and trials of his victim. Conversely, the servant can lose if he fails to meet or can’t stand meeting the challenge thrown at him by the master’ (*Ethics*, pp. 151–2; see also Bean, *Leathersex*, p. 34).
- 105 Bean, *Leathersex*, pp. 34–5. According to Bean, one of the ‘mysteries about the power exchange’ in S&M is precisely ‘when the exchange begins’ (*ibid.*, p. 36). See also Bean’s remarks on the exceptionally high levels of trust at play in ‘fisting’ (*ibid.*, p. 49ff.).
- 106 Reynolds convincingly argues that ‘the quality of sexual consent’, not merely ‘whether consent has been given or not’ (‘The Quality of Consent’, p. 94; see also pp. 104–5, 106), has been somewhat neglected in the literature on sexual consent. Indeed, he suggests that shifting the focus onto *quality* of consent enables us to think more clearly about normative questions – not least, what constitutes a ‘free, healthy and positive sex life’ (*ibid.*, p. 95).
- 107 Beckmann emphasizes the ‘high level of internal reflection and external communication even before a “scene” is set up’ (“Sexual Rights” and “Sexual Responsibilities”, p. 198). (She likewise refers to S&M as a ‘trusting and safe, because controlled, context’ [*ibid.*, p. 204].) What Beckmann fails to note is how all such procedures nevertheless hinge upon a *pre-contractual* trust or good-will.
- 108 Even taking the most straightforward written contract as an example, this point is easily illustrated. For if we imagine including *within the explicit text* of such a contract a promise to respect the other (to not violate his or her trust, and so on), such respect will already be presupposed in the very *signing* of the contract itself. *At the very least* a minimal sincerity is necessarily presupposed in (and thereby transcends) all contractual agreements.
- 109 Foucault, *Ethics*, p. 169.
- 110 I am not suggesting that ‘tacit’ agreement is a bad thing; strictly speaking, it is neither good nor bad, but rather the backdrop against which human life ordinarily functions. Indeed, without such trust in others our worldly

- engagements would be impossible. On trust (and related topics) see Ludwig Wittgenstein, *On Certainty*, ed. G. E. M. Anscombe and G. H. von Wright, trans. D. Paul and G. E. M. Anscombe (Oxford: Blackwell, 1999), §§7, 103, 150, 283, 285, 337, 411, 414, 427, 431, 472–3, 559, 600; Anthony Giddens, *The Consequences of Modernity* (Cambridge: Polity, 1990), pp. 29–36, 79–124; Peter Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (London: Penguin, 1991), pp. 33–42; Paul Ricoeur, ‘Imagination, Testimony and Trust’, in R. Kearney and M. Dooley (eds) *Questioning Ethics: Contemporary Debates in Philosophy* (London and New York: Routledge, 1999), p. 17; Onora O’Neill, *A Question of Trust: The BBC Reith Lectures 2002* (Cambridge: Cambridge University Press, 2002); Jacques Derrida, ‘The Villanova Roundtable: a Conversation with Jacques Derrida’, in J. D. Caputo (ed.) *Deconstruction in a Nutshell: A Conversation with Jacques Derrida* (New York: Fordham University Press, 1997), p. 23; Jacques Derrida, *Without Alibi*, ed. and trans. P. Kamuf (Stanford, CA: Stanford University Press, 2002), p. 111; ‘I Have a Taste for the Secret’, in J. Derrida and M. Ferraris, *A Taste for the Secret*, ed. and trans. G. Donis, G. Donis and D. Webb (Cambridge: Polity, 2001), p. 73; *The Instant of My Death/Demeure: Fiction and Testimony*, trans. E. Rottenberg (Stanford, CA: Stanford University Press, 2000), pp. 40–1; Hertzberg, ‘On the Attitude of Trust’; Bob Plant, *Wittgenstein and Levinas: Ethical and Religious Thought* (London and New York: Routledge, 2005), chs 2 and 8.
- 111 The ongoing debates about even *voluntary* euthanasia are evidence of this.
- 112 S&M is sometimes viewed in this way; see, for example, R. R. Linden, D. R. Pagano, D. E. H. Russell and S. L. Star (eds) *Against Sadomasochism: A Radical Feminist Analysis* (San Francisco, CA: Frog in the Well, 1982); Patrick D. Hopkins, ‘Rethinking Sadomasochism: Feminism, Interpretation, and Simulation’, in Soble (ed.) *The Philosophy of Sex*; Melinda Vadas, ‘Reply to Patrick Hopkins’, also in Soble, *Philosophy of Sex*; Robin West, ‘The Harms of Consensual Sex’, also in Soble, *Philosophy of Sex*, pp. 263–8. On the ethics of female sexual fantasy about domination see Grimshaw, ‘Ethics, Fantasy and Self-transformation’.
- 113 In one of the most extraordinary cases in German criminal history, 42-year-old Meiwes ate Brandes after the latter responded to Meiwes’ internet advertisement for a young man willing to be eaten. (The advert was posted in 2001 and in total Meiwes met five other respondents.) After removing Brandes’ penis and cooking it for them both to eat, Meiwes eventually killed his ‘victim’ and, over the course of the next few weeks, ate a total of 20 kg of Brandes’ body. In a video recording Meiwes made of the proceedings, Brandes explicitly consents to what is about to happen.
- 114 This position we might call ‘paternalist’ (Soble, *Sexual Investigations*, p. 37).
- 115 Reynolds, ‘The Quality of Consent’, p. 102.
- 116 A similar scenario appears in Park Chan-Wook, *Oldboy*, Showeast (Tartan Asia Extreme Films), 2003. See also Soble, *Sexual Investigations*, p. 31.
- 117 *ibid.*, pp. 30–1.
- 118 See *ibid.*, pp. 55–7.

- 119 As Soble rightly notes: ‘How *specific* must consent be? The problem of vagueness arises here. When X agrees “to have sex” with Y, is X consenting to any caress that Y desires or any coital position selected by Y? How *explicit* must consent be? Might it be implied by nonverbal cues?’ (ibid., p. 43).
- 120 According to Reynolds, Pineau maintains that ‘the most specific and accurate’ form of sexual consent is ‘a verbal utterance’ (Reynolds, ‘The Quality of Consent’, p. 96). Indeed, Reynolds also seems to think that in a society where people are disinclined to ‘talk about sexual desire even when engaged in sex play’, then ‘indirect expressions of consent are a poor substitute’ (ibid., p. 103). It is also worth noting how explicit verbal consent can *itself* be eroticized and thereby subsumed into the seduction ‘game’ (see Soble, *Sexual Investigations*, pp. 51–2; Goffman, *Frame Analysis*, pp. 70–1).
- 121 See Soble’s discussion of Antioch University’s ‘Sexual Offence Policy’ (*Sexual Investigations*, p. 47ff.). Mark Cowling also discusses this in ‘Rape, Communicative Sexuality and Sex Education’, in Cowling and Reynolds (eds) *Making Sense of Sexual Consent*, p. 18ff.
- 122 As Reynolds puts it: ‘sexual consent involves not one but an ensemble of acts or affirmations’ (‘The Quality of Consent’, p. 95).
- 123 For similar examples see ibid., pp. 94, 104. As Reynolds notes of sexual consent more generally: ‘Consent decisions are often part of a relationship in which there is a history of and context to incidences of negotiation’ (ibid., p. 99).
- 124 Given that, in contemporary western society at least, so much sexual activity is alcohol-fuelled, it is problematic to describe such activities as truly consensual. It might be argued, however, that insofar as people *voluntarily* get drunk, then they consent to their drunkenness. Moreover, if they drink excessively *knowing full well* that when intoxicated they are prone to engage in certain sexual activities (ones they are likely to regret later), then why can we not say that such a person has consented to such risks (see Archard, *Sexual Consent*, pp. 45–6)? Clearly there is a difference between someone who chooses to get drunk and someone who is either tricked into getting drunk or forced to do so. Still, getting drunk is most often a gradual process – not a sudden transformation. Alcoholic intoxication can occur without any such intention of getting drunk. As such, the transference of consent from one’s voluntarily *beginning* to drink, to what one does when *inebriated* is far from straightforward, for the quality of consent will change throughout the process. Perhaps the use of some other drugs – whose effect is dramatic and more or less instantaneous – raises specific problems.
- 125 See Soble, *Sexual Investigations*, pp. 38–9.
- 126 Though some behaviours could arguably be considered *explicit* consent. Soble is slightly sceptical about this idea insofar as bodily ‘cues indicating sexual interest, and the kind of sexual interest, are fluid and vague’ (ibid., p. 44; see also p. 48). While this may be true, it is not obvious that verbal consent is wholly unambiguous. Indeed, *some* bodily ‘cues’ are as clear as any verbal cue might be; placing another’s hand on one’s genitals

- could* (depending on other factors) be as lucid as any verbal permission or request – and Soble seems to agree (see *ibid.*, p. 51). Still, it is true that sometimes ‘one’s body responds with pleasure to a touch but one’s mind disagrees with the body’s judgment’ (*ibid.*, pp. 48–9). But it is also true that the response of ‘one’s body’ to another’s (or one’s own) ‘touch’ can *generate* sexual interest in ‘one’s mind’; these phenomena are not then connected in a *unilateral* way.
- 127 One’s ‘playing by the rules of the game’ as Archard puts it (*Sexual Consent*, pp. 8–9). The contract of marriage was once thought to constitute an overarching sexual contract that pledged the woman’s *general* sexual availability to her husband. As such, ‘raping’ one’s own wife was a legal, if not also conceptual, impossibility (much like ‘stealing’ one’s own property).
- 128 See Reynolds, ‘The Quality of Consent’, p. 99.
- 129 See Alison Moore and Paul Reynolds, ‘Feminist Approaches to Sexual Consent: a Critical Appraisal’, in Cowling and Reynolds (eds) *Making Sense of Sexual Consent*, ch. 2. Some feminists might also raise questions about what *counts* (in patriarchal society) as ‘reasonable’ or ‘rational’ consent (see Reynolds, ‘The Quality of Consent’, p. 97). Still, this is presumably not to say that *all* ‘external’ pressures render consent impossible (see *ibid.*, p. 101; Soble, *Sexual Investigations*, pp. 34–6). Indeed, the idea of ‘pure’ consent – free from all such ‘external’ factors – seems as ill-conceived as the notion of ‘absolute’ freedom abstracted from all considerations of facticity. Arguably, whatever else consent is, it is counterfactual; namely, it only makes sense to talk of someone ‘consenting’ to p if not-p was also *possible* (even if not-p was only the *refusal* of doing p). This, I think, corresponds to Foucault’s claim that saying ‘no’ is the ‘minimum form of resistance’ (*Ethics*, p. 168).
- 130 Or that we ‘do not choose’ but rather ‘obey the rule[s] *blindly*’; see Ludwig Wittgenstein, *Philosophical Investigations* (Oxford: Blackwell, 1958), §219.
- 131 Of course, our capacity for ‘being moved’ by fictional characters is a puzzle to many philosophers, and certainly Plato did not think that identifying with fictional characters was harmless. Still, these anxieties belong (for the most part) in the philosophy classroom.
- 132 Sartre, *Being and Nothingness*, p. 56. For an overview of this topic see Thomas Martin, *Oppression and the Human Condition: An Introduction to Sartrean Existentialism* (Oxford: Rowman and Littlefield, 2002), ch. 2
- 133 Soble briefly refers to flirting in *Sexual Investigations*, pp. 43–5.
- 134 Sartre, *Being and Nothingness*, p. 55.
- 135 Martin agrees with Moi that Sartre is unjustified in claiming that the woman *knows* the man’s intentions (Martin, *Oppression and the Human Condition*, p. 35). I disagree; it is perfectly intelligible for Sartre to claim this, providing we do not place an undue epistemic burden on what ‘know’ entails here. That is to say, ‘knowing’ that another has sexual intentions toward us is no more peculiar or implausible a claim than ‘knowing’ that our neighbour despises us, that our government deceives us, or that our dog is hungry.

- 136 Sartre, *Being and Nothingness*, p. 55.
- 137 Martin, *Oppression and the Human Condition*, p. 31.
- 138 Sartre, *Being and Nothingness*, p. 55.
- 139 *ibid.*, p. 56.
- 140 See Martin, *Oppression and the Human Condition*, pp. 32–3.
- 141 Although Kundera focuses more on the *man's* suspicions here, we are told even before the game begins that the girl, though happy with her lover, 'was full of suspicions'; see his *Laughable Loves* (London: Faber and Faber, 1999), p. 82 – not least 'she really did believe that her young man enjoyed lying to women' (*ibid.*, p. 84). Likewise, early on in the game Kundera notes how the man 'looked exactly as she imagined him in her most agonizing hours of jealousy. She was alarmed at how he was flattering her and flirting with her (an unknown hitchhiker), and how seductive he was . . . She felt toward him a brief flash of intense hatred' (*ibid.*, pp. 85–6; see also p. 92).
- 142 *ibid.*, pp. 86–7. Earlier we are told that what the man valued most in the girl was her 'purity' (*ibid.*, p. 80).
- 143 *ibid.*, p. 90.
- 144 *ibid.*, pp. 94–5; see also p. 93. This assumption contrasts with the man's own attitude toward the game: 'he stopped making the gallant remarks with which he had wanted to flatter his girl in a roundabout way, and began to play the tough guy who treats women to the coarser aspects of his masculinity' (*ibid.*, p. 87).
- 145 *ibid.*, p. 95; see also Milan Kundera, *Identity* (London and Boston, MA: Faber and Faber, 1998), pp. 35ff., 114, 126. Kundera tells us that the girl had 'often longed to feel free and easy about her body, the way most of the women around her did' (*Laughable Loves*, p. 81), and likewise that the latter's 'mind-body dualism was alien to her. She was too much at one with her body; that is why she always felt such anxiety about it' (*ibid.*, p. 82). Despite this inability to abstract herself from her body, there is a hint of Sartrean 'bad faith' in the girl's 'miraculous ability to change the meaning of her actions after the event' (*ibid.*, p. 86).
- 146 *ibid.*, p. 99. This point is raised earlier in the story when Kundera writes: 'The girl's jealousy often irritated the young man, but this time he could easily overlook it for, after all, her words didn't apply to him but to an unknown driver' (*ibid.*, p. 84; see also p. 85), and likewise: 'The girl could forget herself and give herself up to her role. Her role? What was her role? . . . She was an artful seductress, cleverly knowing how to use her charms. The girl slipped into this silly, romantic part with an ease that astonished her and held her spellbound' (*ibid.*, p. 88; see also p. 96). Later, in the motel, the girl finds herself 'standing in front of him self-confident, insolent . . . and astonished at her sudden discovery of the gestures, heretofore unknown to her, of a slow, provocative striptease' (*ibid.*, p. 102).
- 147 *ibid.*, p. 101. 'You look like a whore' (*ibid.*, p. 98) the man tells her at one point, and later realizes that '*everything* was in the girl, that her soul was terrifyingly amorphous, that it held faithfulness and unfaithfulness, treachery and innocence, flirtatiousness and chastity' (*ibid.*, p. 100).
- 148 *ibid.*, p. 103. Kundera describes how the girl parades herself on a table so the man can 'see her body in all positions and from all sides, as he

- imagined other men had seen it and would see it' (ibid., p. 104). A similar scene appears in Jean-Paul Sartre, *Intimacy*, trans. L. Alexander (London: Panther, 1966), pp. 114–16.
- 149 Kundera, *Laughable Loves*, p. 105. During sex the man refuses to kiss the girl (ibid., p. 104).
- 150 ibid., p. 106.
- 151 ibid., p. 99.
- 152 ibid.
- 153 As Wittgenstein remarks: '[W]hen one draws a boundary it may be for various kinds of reason. If I surround an area with a fence or a line or otherwise, the purpose may be to prevent someone from getting in or out; but it may also be part of a game and the players be supposed, say, to jump over the boundary; or it may be to shew where the property of one man ends and that of another begins; and so on. So if I draw a boundary line that is not yet to say what I am drawing it for' (*Philosophical Investigations*, §499).
- 154 See Foucault, *Aesthetics*, p. 73 (quoted at the beginning of this article); Reynolds, 'The Quality of Consent', pp. 96–7.
- 155 Foucault, *Ethics*, p. 166.
- 156 ibid.
- 157 Bean, *Leathersex*, p. 73.
- 158 Foucault, *Ethics*, p. 169.
- 159 Wittgenstein, *Philosophical Investigations*, §71.
- 160 See ibid., §§66–70.
- 161 The serious/non-serious distinction is important here, for if game-playing is essentially 'non-serious' (at least in the sense that it says nothing about our 'deep' nature or essence), then there must be something that constitutes 'serious' activities. As Derrida argues against Austin's account of speech-acts, 'seriousness' and 'non-seriousness' are two sides of the same conceptual-linguistic coin, and as such we cannot eliminate the one (even for reasons of methodological simplicity) without thereby eliminating the other; see Jacques Derrida, *Margins of Philosophy*, trans. A. Bass (Brighton, Sx: Harvester, 1982), pp. 307–30. See also Goffman's remarks on the 'tricky frame difference' onstage 'between kissing and screwing' (*Frame Analysis*, p. 54, n. 27).