

Spring 2020

The Contemporary Porn Debate - Perceptions of Sexual Health of Porn Actors, The 2013 HIV crisis, and Recognizing the Complexities of the Porn Industry

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Keywords

HIV, Porn, Pornography, Health

Disciplines

Community Health | Feminist, Gender, and Sexuality Studies | Lesbian, Gay, Bisexual, and Transgender Studies | Women's Studies

Comments

Written as a Senior Capstone in Women, Gender, & Sexuality Studies.

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Between August 2012 and January 2013, four adult film performers based in California tested positive for HIV which triggered a moratorium on production, and led the state of California to mandate condom usage in the industry under the Safer Sex in the Adult Industry Act – otherwise referred to as Measure B. The goal of this research is to explore how the discourse surrounding health in the adult film industry, specifically sexual health in relation to the adult film performers during this event, is reflective of contemporary anti-pornography sentiments. These sentiments and biases ultimately lead to regulations of the industry that were not reflective of the adult film performers’ perceptions/concerns in regards to their own occupational safety and health. Therefore these contemporary debates surrounding mandating condom usage in the porn industry demonstrate a disconnect between the opinions expressed in media and in academia versus those expressed by the industry and in its own actors’ testimonies. This discourse also in turn eschews the real complexities of the pornography industry, excluding certain narratives including those of queer porn actors. Listening to these narratives and making an effort to understand these complexities surrounding the industry are important and necessary steps to properly work towards supporting the work, health, and empowerment of adult film actors.

Gettysburg College
May 2020

Table of Contents

Introduction	Pg. 3
History of Anti-pornography Feminism	Pg. 5
Feminist & Queer Poststructuralist Theoretical Framework	Pg. 6
Methodology	Pg. 8
Safer Sex in the Adult Film Industry Act – Measure B	Pg. 10
Sentiments Surrounding the Industry in the Media and Scholarship	Pg. 11
Erasure of Actors’ Opinions & Experiences	Pg. 16
Queer Discourse and Bareback Pornography	Pg. 21
Conclusion & Moving Forward	Pg. 24
Bibliography	Pg. 27

Introduction

Discourse surrounding the adult film industry has always been rife with controversy, particularly pertaining to feminist analysis and discourse. Feminist activist Andrea Dworkin was one of the first outspoken figures to criticize the legalization of pornography in 1967 for its graphic portrayals of the victimization of women. Later on, more contemporary debates developed surrounding the industry, including arguments against the policing of women's bodies with respect to sex work/adult film actors, and the industry's potential for becoming a positive tool for sexual knowledge and empowerment. This debate, coined by scholars as the "porn wars," has become increasingly complex and pervasive in the field of feminism and within society as the industry has advanced technologically. In looking into the discourse surrounding pornography today, *health* - that is, the overall mental and physical condition of the adult film actors - is often a hot topic of debate, and sexual health is most notably discussed. The sexual health of adult film actors has become extremely controversial, as stereotypes about the actors and attitudes surrounding their health have often been used to condemn the industry and/or advocate for its regulation. Efforts by the Division of Occupational Safety and Health, of the state of California (Cal/ OSHA), such as mandating condom use, offers an example of how the politics and positions surrounding health issues in the porn industry have lent themselves to a careful analysis of this complex ongoing debate.

One example of an anti-pornography discourse and its impact is the HIV crisis of 2013 in Southern California. In 2013, an HIV outbreak infected 4 adult film actors, which triggered a moratorium on production and led the state of California to mandate condom usage in the industry. My research explores how the discourse surrounding health in the adult film industry,

specifically sexual health in relation to the adult film actors around this event, is reflective of contemporary anti-pornography/porn industry debates. In my analysis of the language used in academia and in newspaper archives surrounding the health of the porn actors and the industry, I interrogate the popular and academic discourse surrounding the 2013 HIV crisis and how it contrasts with the testimonies of the adult film actors themselves about their sexual health. I also explore the ways in which descriptions of the industry are reflective of anti-pornography sentiments and examine how these biases influence efforts to regulate the industry, such as mandating condom usage while eschewing the complexities of the real situation at hand.

I argue that the contemporary debates surrounding mandating condom usage in the porn industry are reflective of anti-pornography biases and sentiments, and these sentiments consequently demonstrate a very real disconnect between the opinions expressed in media and in academia versus those expressed by the industry and in its own actors' testimonies. The sentiments actually expressed by adult film performers reflected how condoms actually create risks of their own, therefore the legislation demonstrated a failure to understand the inner workings of the adult film industry and professional sex performance. This discourse in turn eschews the real complexities of the pornography industry, excluding certain narratives including those of queer porn actors. Listening to these narratives and making an effort to understand these complexities surrounding the industry are important and necessary steps to properly work towards supporting the work, health, and empowerment of adult film actors.

History of Anti-pornography Feminism

Efforts to regulate pornography as form of expression date back to the end of the 20th century, where feminist activists Andrea Dworkin and Catherine MacKinnon were key spokespersons in the feminist movement advocating for the censorship of pornography. Both Dworkin and MacKinnon defined pornography as “the graphic sexually explicit subordination of women through pictures or words” (Segal, 1993, pg 96). They firmly believed that pornography and its portrayal of women inherently contributed to the subordination and violence against women and should therefore be subject to censorship. This argument soon led to the growth of a feminist anti-pornography movement in the 1980s. This movement took a legal turn as Dworkin and MacKinnon, in response to local grassroots movements in Minneapolis, drafted a civil-rights anti-pornography ordinance legislation that would extend a speech right to women, children, and the trans communities who may have been injured in or through the production, trafficking, or use of pornography (Womyn’s press 1992). The political process included lengthy hearings in which women gave evidence about the effects of pornography on their lives, and as a result, these hearings helped produce a political atmosphere in which pornography was considered to be a serious social issue (Lancey, 1993, pg. 106). The United States Court of Appeals ultimately found the ordinance to be unconstitutional in 1985, in support of our constitution’s standards of freedom of expression, hence pornography’s continued presence today.

From that point forward, these anti-pornography arguments have been contested by feminist activists coming from a variety of different backgrounds and expertise, with contrasting

views of the pornography industry. For example, civil liberties activist Nadine Strossen in her piece “A Feminist Critique of ‘the’ Feminist Critique of Pornography” written in 1993, also offers a feminist critique of the efforts by activists such as Dworkin and MacKinnon in their criticisms of pornography. Strossen in her paper effectively highlights the problems inherent to the censorship schemes constructed from anti-pornography arguments. One of these problems is that these arguments divert attention and resources from actual constructive and meaningful steps to address the societal problems that the censorship of pornography aimed to tackle, namely violence against women (1993, pg. 105). For example, Strossen shows that government censorship inherently enables the power of the government to impose on others *their* views about what forms of sexuality are politically or morally correct (1993, pg. 176). Strossen argues that allowing the government to define the criteria for assessing subordination, under the positions of Dworkin and MacKinnon, essentially undermines a woman's bodily autonomy. Strossen also argues that a more complex analysis of this manifold issue is necessary in order to truly understand the inner workings of such a complex industry and its impact on the women who are involved or affected by it.

Feminist & Queer Poststructuralist Theoretical Framework

Incorporating both feminist and queer theoretical frameworks in my analyses and utilizing a feminist poststructuralist approach in my discourse analysis, I analyze the intertextualized discourse in academic, activist, and journalist texts/sources as well as spoken interactions by the subjects that are the adult film performers. Stuart Hall defines discourse as “ways of referring to or constructing knowledge about a particular topic of practice: a cluster (or

formation) of ideas, images, and practices, which provide ways of talking about, forms of knowledge and conduct associated with, a particular topic, social activity, or institutional site in society” (1997, pg.6). I will particularly be drawing upon the poststructuralist principles of complexity, plurality, ambiguity, connection, recognition, diversity, textual playfulness, functionality and transformation (Frost & Frauk, pg. 49). A feminist and Queer poststructuralist framework makes the most sense for my research as I conduct a discourse analysis, and in following this method, I hope to uncover the complexities of the porn industry and the constituent parts that form the identities of porn actors while challenging the current norms and perceptions towards them. In essence, I examine the biases in discourse and the subsequent erasures of the porn actors’ voices in these scholarly and popular conversations. In my research I draw from scholars such as Sharon Marcus and Isabelle Barker in my application of poststructuralist theory to reflect the ways in which we need to deconstruct how we understand our own sexuality in relation to the sex industry (2000, pg. 63). My ultimate goal is to unearth the foundations of an unjust world in hopes of reimagining a more sex positive world home to dynamic and fully embodied feminine subjects (2000, pg. 51). While doing so it is important that I practice reflexivity in my data analysis and interpretation, acknowledging my point of view, positionality, and knowledge production as a college-educated woman.

I will also utilizing a post structuralist perspective in my queer analysis, as queer studies scholar Tyler M. Argüello describes this perspective as qualifying as a literary movement and a cultural theory that works to deconstruct the binaries and hierarchies that are often result from modern industrialist logic (2016, pg. 5). As Argüello describes, “such deconstruction often begins by recentering the human subject and rejecting the essentializing tendencies that lead to

counting, categorizing, and homogenizing human experiences. Instead, postmodernism has an obsession with difference, the local (context), the particular, and positionalities” (2016, pg. 3). Thus, there is a great deal of value on utilizing a poststructuralist/postmodernist approach for analyzing all discourse on pornography, particularly in discussions surrounding queer pornography, as they are often a group that is subjected to labels and binaries. In analyzing the conversations surrounding bareback pornography in queer discourse, I hope to deconstruct the binaries and hierarchies (both in the industry itself and in its analysis) associated with the very construction of the homosexual experience, and uncover the erasure and misrepresentation of gay men in the porn industry.

Methodology

Practicing discourse analysis requires drawing upon language used in the descriptions of experiences and events, which is essential in identifying the narrator's goals, such as to persuade or argue (Frost & Frauke, 2014). Discourse analysis thus challenges societal accepted social norms and are done so through the exploration of rhetoric, while also highlighting the constituent parts that form identity and perceptions of identity (pg. 49). Thus, I am taking a feminist poststructuralist discourse analysis approach to my research, by analyzing this intertextualized discourse in my chosen texts.

For my research, I gathered 20 primary sources from peer-reviewed academic journals on the topic of health in relation to pornography, the porn industry, porn actors, and the 2013 HIV crisis. I also collected newspaper articles about the HIV crisis in regards to the porn industry published in 2013 and which are now available on the web. My goal was to obtain a variety of the most prominent news articles that report on the HIV crisis in the porn industry to develop an

understanding of the general public's perceptions of the industry. Searching MUSCAT Plus, and entering "Newspaper Search" as the source type, I then entered key words "California AND HIV crisis AND porn*" in order to narrow my search, as well as narrowing the publication date to around 2011-2015. In addition, I also used the Access World News Engine and limited my news article search to the USA, also searching key words "California AND HIV AND Pornography" and searching dates around 2011-2015. I also used additional newspaper articles found using Google search engine, using the same dates and key words. After collecting my sources, I decided to use 7 peer reviewed articles and 7 newspaper articles (see lists in annex 1 & 2) for my discourse analysis that I believe were the most reflective of the sentiments surrounding the industry and its actors during this time period. In my comprehensive discourse analysis, I analyzed language used in relation to the industry in general, especially during the 2013 HIV crisis and to what extent these academic articles and newspaper articles compare to one another in their sentiments regarding the porn industry and how related biases expressed in these texts may have had an influence in the efforts to regulate the industry. Attention was paid to the selection of words and phrases, and to the way meaning is given to these concepts and constructs and established norms that I would then interpret. Essentially, the language used by these publications will become my main evidence for how I interpret the sentiments towards the industry expressed through my selected texts that have intentions to persuade for or against the regulations of the industry and its actors.

Finally, I compare these constructed sentiments found in scholarly literature and news media to the understanding and accounts of porn actors themselves. Given the limited time and resources at my disposal, I gathered these narratives through secondary sources, particularly

scholar Chauntelle Anne Tibbal's study "Anything That Forces Itself Into My Vagina Is By Definition Raping Me" - Adult Film Performers and Occupational Safety and Health," (2012) and Bailey J. Langner's commentary "Unprotected: Condoms, Bareback Porn, and the First Amendment"(2015). Giving voice to the subjects of this debate, especially surrounding the topic of sexual health, is going to be crucial in understanding the complexities .

Safer Sex in the Adult Film Industry Act – Measure B

It is evident in the academic and journalistic literature I reviewed that efforts to mandate condom usage have been at the forefront of the discourse surrounding health in the porn industry. What sparked this debate was the HIV outbreak in California porn industry production centers. Between August 2012 and January 2013, at least four adult film performers based in California tested positive for HIV.

Many scholarly sources begin this discussion by introducing how in November 2012, Los Angeles County voters passed Measure B, an act which created a complex regulatory process for adult film producers in efforts to promote the sexual health of the actors in response to this crisis. The process consisted of mandatory public health training and warrantless administrative searches (Langner, 2015; Bergman, 2014; Allport, 2012; Grudzen, & Kerndt, 2007). The passage of Measure B sparked an immediate response from the pornography industry, as they filed a law suit against the measure. The law suit argued that Measure B violated their first amendment right to portray condomless sex in pornography. In December 2014 however, the 9th circuit upheld the decision maintaining the constitutionality of Measure B. Notably, the mainstream discourse surrounding the Measure B campaign largely consisted of arguments from academics, activists,

and lawyers, who argued for the importance of regulating the adult film industry particularly following the HIV crisis in 2013.

There were two sides of the debate: scholars from both academic and legal perspectives argued in support of these mandates and demanded stricter regulations of the industry, citing the health hazards that come with working in the industry (de Cesare, 2006; Gold, Bergman, 2014), and the financial and legal vulnerability of porn actors (Allport, 2012; Perrin, P. C., Madanat et al, 2008; Bergman, 2014). Those in opposition, both scholars and professionals of the pornography industry, cited the violation of their first amendment rights (Shachner, 2014 & Tibbals, 2012), proclaiming that Measure B institutes the policing of porn actor's bodies (Tibbals, 2012 & Sbardellati, 2013), and erases the specificity of non-heterosexual porn, such as the bareback pornography from the discussion (Langner, 2015). Most importantly, scholars have also argued how the legislation fails as a means of improving the sexual health of porn actors (Shachner, 2014).

Sentiments Surrounding the Industry in the Media and Scholarship

Beginning with the legalization of pornography in 1967 and fueled by growing debates over the industry's effect on society and health, there have been noticeable efforts to regulate the industry, particularly by the media and academia: two avenues which possess considerable power to influence our understandings of our culture and society (Frost & Elichao, 2014). Thus, analyzing the discourse and accompanying language about the adult film industry and its actors in the scholarly literature as well as in news media is a crucial step in deepening our understanding of the complexities of these campaigns. Hence, in looking at the language used in

describing the industry, we are able to gain an insight into the sentiments and perceptions of the authors.

To start, in scholarly and antiporn feminist activist literature, pornography is often introduced with powerful language, such as “thriving worldwide empire,” “explosive worldwide economic growth” (de Cesare, 2006), “prosperous powerhouse,” and similar descriptions, situating the industry as a force that is growing at an alarming rate (Dworkin, 2000; Allport, 2012). I would also argue that the words used in this context also express strong negative connotations. There is also a great deal of emphasis put on the wealth of the industry while highlighting how it is getting away with few government regulatory processes. Many scholarly papers introduce pornography as a “multi-billion dollar industry” (Gold, 2015; de Cesare, 2006), and how the industry “overcomes the legal barriers to the production of adult films and generates several billion dollars per year” (Chase, 2012, pg. 214). Similarly, Cesare states, “Notwithstanding its status as one of the largest industries in a heavily regulated state, the adult film industry has flourished for decades without a discernible trace of government oversight” (2006, pg. 673). While these statements pertaining to the wealth and lucrative character of the industry are factually correct, it is important that we examine *how* these statements are presented, that is, I argue in a manner that expresses negative undertones as with the use of the words “empire” and “explosive” in examples given above. Additionally, these sources refer to the pornography industry as one single entity, rather than to the particular companies/websites that are responsible for this wealth - such as pornhub.com. For example, it is important to consider

that there are a multitude of platforms that offer independent, low budget, feminist porn that are not represented by such statements.

However, in further conducting a discourse analysis of these academic articles, it was interesting how occupational safety is described in the context of the pornography industry. For example, in a commentary entitled “An Industrial Hygienist Looks at Porn,” Deborah Gold, former Deputy Chief for Cal/OSHA, describes the occupational infectious disease risks in the adult film industry. Gold explains the physiological effects of the sexual acts involved, explaining that during the production of adult films, there are exposures to semen, anal secretion, and vaginal secretions, as well as blood that may be present due to tissue trauma (2015, pg.184). She then discusses how blood, semen, and vaginal secretions are known to transmit blood borne pathogens, including immunodeficiency viruses and more (2015, pg.184). These exaggeratory descriptions of the physiological aspects of pornography is intended to draw out visceral reactions from the reader. Another example of the use of extreme description is demonstrated by Gruzden and Kerndt in their paper “The Adult Film Industry: Time to Regulate?” published in 2007 where they describe the high risk practices in porn such as “simultaneous double penetration (double-anal and vaginal-anal intercourse) and repeated facial ejaculations”(pg. 126). This focus of extreme fetish porn serves as an example of a rhetorical strategy intended to incite fear. There are extreme descriptions of the performers as well, such as the words of former US surgeon general Jocelyn Elders, who stated “These folks are a reservoir. They don’t just have sex with one another. They have sex with regular people outside their businesses - doctors, lawyers, teachers, your next door neighbor” (2006, pg. 684). Such extreme depictions and descriptions

focusing on extreme practices the academic literature conclusively serve to dramatize and draw out visceral reactions from readers in order to further an anti-pornography agenda.

Similarly, the descriptions of the industry in the academic works are anthropomorphizing to a fault by making it seem as if the industry expresses real human emotions: for example “the adult film industry has enjoyed tremendous growth in recent decades in terms of legality, revenue, and cultural influence” (de Cesare, 2006 pg. 671) and “the adult entertainment industry believes that it can and should regulate itself” (Allport, 2012 pg.657). Similarly, “In just a few decades, the adult film industry has grown from underground and largely illegal to virtual ubiquity” (Bergman, 2014 pg. 189) and descriptions of how the industry has endured ongoing threats of criminal prosecution (Chase, 2012 pg. 213). These exaggerated descriptions make the reader perceive the pornography industry as if it were personified as a feeling human with emotions and desire, and in this case... a desire to take over.

Another avenue informing this discourse can be compared through analyzing the sentiments expressed in the media outlets, particularly when looking into the sentiments expressed during the HIV crisis. Therefore, I am analyzing media outlets covering the 2013 HIV crisis in the industry and the legal pursuits that followed in California. Looking at the most respected sources available on the web in 2013 such as *The Guardian*, and *The New York Times*, it was particularly intriguing to see how much more factual the articles appear to be in contrast to the scholarly academic papers published on the very same crisis. These sources emphasized a timeline of events with all parties involved, rather than distinguishable opinions surrounding the event. However, in a close analysis, we are still able to distinguish underlying negative

sentiments regarding the industry in newspapers as well. What is found both in newspapers and in scholarly articles are the negative descriptions of the industry and its character, once again producing an anthropomorphizing effect especially when describing the industry having a propensity to lie, or act in greed. For example, in the *Health Care* Section of the *San Francisco Business Times* (2014), the title of the article “Kink.com threatens to flee state over pornography condom bill” (Young 2014) insinuates that Kink.com, as its own entity, is actively doing this malicious act. The word choice such as *threatens to flee*, I speculate, is intended for click-bait, an effort to produce a response from readers. Interestingly, while this is the title of the article, later on the event is contextualized in further detail, revealing that as the owner of Kink.com is the one behind these threats. Other quotes taken from the *San Francisco Business Times*, such as “The industry denied it for years. Sure, there are porn stars who have contracted HIV, but never on set, at least not since 2004” and “The big lie the industry has been saying all these years, there are no on-set transmissions, has been proven to be untrue” all relate to one another using words and phrases containing negative connotations and attributions which generate a negative image of the industry.

Authors critiquing this anti-pornography discourse, such as feminist academic and activist Lynne Segal in 1993, argue that this pattern is harmful because it has the potential to produce guilt and anxiety around sexuality, as well as further complicate the complexities within our personal experiences of sexual arousal and activity in a sexually repressive society (1993). Author Nadine Strossen (1993) has argued that there is an evident imbalance in the ways that we tend to understand the pornography industry due to the negative perceptions and legal

discussions surrounding the issue of pornography. An example of this very point is the discourse surrounding the efforts to mandate condom usage in the industry. Therefore, I argue that these narratives about the industry reflect what has now come to be the contemporary anti-pornography sentiments that are prevalent throughout our culture: that is, describing the porn industry as a threat; unhealthy, malicious, and dirty as an entity, as well as harmful to the actors involved. However, these sentiments have been a topic of debate ever since the legalization of pornography. When focusing on the testimonies of the porn actors themselves, we are able to witness how these biases and efforts to regulate the industry do not actually benefit the health of the adult film actors like we might expect. In uncovering this disconnect between industry and public opinion, we are able to get a better grasp of the complexities of the adult film industry.

Erasure of Actors' Opinions & Experiences

These sentiments and biases surrounding the porn industry are reflective of a disconnect between adult film production and adult film performers' testimonies, versus the efforts to regulate the industry such as mandating condom usage. Sociologist Chauntelle Anne Tibbals in her study "Anything That Forces Itself Into My Vagina Is By Definition Raping Me" - Adult Film Performers and Occupational Safety and Health," which was published in 2012 in the Stanford law and Policy Review, consists of in-depth interviews with 24 women and men currently working as adult performers during the peak of this HIV crisis. The participants were recruited through a snowball sampling method, in which Tibbals sent out a call for participants to five adult industry talent and modeling agencies located in the Los Angeles area and asked each agency to circulate the call among the performers. She importantly notes that, although her

sample cannot be considered representative of all performers working in Southern California's adult industry, major themes were illustrated (pg. 239). Tibbals' study offers us insight into adult film performers' perspectives regarding their occupational safety and health. This study found that the actors, all of whom work in Southern California's adult film production industry emphasized the importance of personal choice. Every participant in the study emphasized this very point and maintained that they should (and currently do) control their body's workplace activities, as well as what is put into or on it (pg. 250). Further, the majority of interviewees expressed the belief that the regulations are a violation of their individual body autonomy and civil rights. While the legislators want to ensure protection for the porn actors through Measure B, believing that barrier protection offers "flawless fortification against such exposures," Tibbals argues the contrary, calling it inappropriate and overbroad. She claims that condoms break and can be used improperly, as can dental dams, gloves, goggles, etc. (pg. 251). She makes these claims based on the responses of the performers she interviewed about the health risks associated with their chosen occupation. Tibbals' interviewees expressed sentiments such as:

"Our work is risky. But I feel that performers understand that risk" (Performer M, pg. 242)

"It's your personal risk, it's your own choice" (Performer J, pg. 242)

"I think we all know the risks associated with our jobs just like anyone else does who has a job that may be hazardous to them, and that's why we get paid well. We take risks just like anyone else" (Performer O, pg. 242)

Many female adult film performers expressed their preferences in working without condoms because of both ease of work, as well as avoiding harm during the long hours of filming on set. These actors note that because of these long hours, consistent condom usage often leads to an increased risk of ripping, chafing, and burning (pg. 242). Tibbals explains how both latex itself

and the lubricant on the condom necessary to use the condom properly were described as powerful physical irritants by the female porn actors. For example, as one adult film actor mentions “some people are allergic to condoms, and condoms are always hit or miss when it comes to how your body’s going to react. One time I swelled up like a balloon and couldn’t work because of whatever was on the condom” (Performer H, pg. 243). Clearly, these sentiments do not demonstrate a positive and safe outcome for the mandate of condom usage and routine checks. And it appears as if the concerns of the porn actors were overlooked in these political and legal discussions. This is not to say that adult film actors are against condom usage all together. For example, one participant expresses their mixed feelings, stating:

“As far as work goes, I think it’s probably easier without condoms especially for the men; but on the other side of it, condoms still help prevent those diseases that we don’t get tested for like herpes... so I’m kind of 50/50. I can see where people would want them and where they would. There are pros and cons to both sides.” (Performer R, pg. 244)

Additionally, other studies have also cited performers’ differing views surrounding condom usage in porn. For example, Deborah Gold cites that performers have publicly discussed differing views about condoms during the Measure B campaign. During public advisory meetings held by Cal/OSHA, some performers have stated that they have successfully requested condoms to be used in scenes and others have stated that they have been denied work due to their preference for condom usage (2015, pg. 186). Other performers have stated that the production of porn requires them to perform in penetrative sexual acts for prolonged periods of time, and that the use of condoms increases chafing (2015, pg.186).

Herein lies the disconnect; porn industry outsiders’ limited understanding of occupational health, partnered with intrinsic biases towards the industry as a whole, seems to inform current

policy and regulatory efforts that do not reflect what the performers themselves view as proper protection and occupational health. In fact, Tibbals notes that condoms create risks of their own, and that this legislation demonstrates a failure to understand the inner workings of the adult industry as well as the mechanics of professional sex performance (2012, pg. 251). A reluctance to involve the adult film industry and its actors in the conversation, likely due to biases surrounding the industry, only prevents us from addressing the true complexities of the industry. Hence, Anne Tibbals argues that a further understanding of the adult production industry is necessary in order to properly protect the health and well being of adult film actors. Current regulations and their inadequacies must be addressed as we now uncover the complexities of this debate, and the opinions of the adult film actors must be taken into consideration as well.

Tibbals is not the first to critique the regulation of the industry. Legal scholar Nicola Yancey in her paper “Theory into Practice? Pornography and the Public/Private Dichotomy” published in 1993 explains at length how the legal reform strategies towards pornography are a topic of concern. Yancey explores this debate in the context of Dworkin and Mackinnon’s ordinance efforts that were referenced in the previous section, and illuminates the unjustified inferences from the theory of public/private critique of the political practice of regulation. In short, she argues that at a discursive level, the implications of a legislative strategy seem at best, uncertain and at worst, damaging (1993, pg.109). In essence, she argues that the idea that feminist critique must always engender reformist regulatory practice is an unfortunate elision. Yancey explains,

“the inference from the reconstruction of pornography as a political issue to the strategy of legislating against it seems to be unjustified. First, it takes an unduly narrow view of the power and role of feminist critique conceived as a form of political practice.

Secondly, it falls into the trap of thinking that as feminist lawyers we have to be lawyers first and feminists second - in other words, that we have to find legal solutions to all the problems identified by feminist critique. As a general assumption this is dangerous, for questions about law reform are essentially strategic and have to be assessed carefully in the context of particular reform possibilities” (Yancey, 1993, pg. 110).

This point Yancey made in 1993 is still relevant today in regards to efforts to regulate the pornography industry by use of condoms as we see reflected in Tibbals’ study. Efforts from a feminist standpoint to mandate condom usage are not only coming from a narrow point of view on the issue, but also use morality, and the health of the porn actors, as a means to justify legislative efforts that essentially lead to a failure in understanding the complexities of such efforts and their consequences. Both Tibbals and Yancey argue that legislative reform in the complex case of pornography, and to regard it as the invariable core of feminist legal politics, essentially leads to an exaggeration of the power of such reform, and is a counterproductive feminist strategy (1993, pg. 111).

Queer Discourse and Bareback Pornography

This disconnect between the porn actors’ and public opinion is also present when addressing queer discourse surrounding heteronormativity and the assimilationist agenda in LGBTQ politics, as well as the general stigma surrounding HIV in queer culture and politics.

Legal scholar Bailey J. Langner in his academic commentary “Unprotected: Condoms, Bareback Porn, and the First Amendment,” explains how the gay porn industry has been excluded from the

debate surrounding Measure B entirely. Although the mainstream arguments of the Measure B campaign implicitly pertained to both gay and straight porn, Langner argues that opponents of Measure B failed to raise arguments that specifically pertained to the gay porn industry, which he believes could have strengthened the opponents' case. For example, although the majority of male actors in gay porn wear condoms, within the gay male community and the gay porn industry there exists a subculture of "barebacking," a term that refers to the intentional act of engaging in unprotected anal sex (2015 pg. 13). The political messages underlying barebacking porn provides us with another way to critique the campaign supporting Measure B and offers insight into the larger discussion of queer sexual politics.

The exclusion of bareback pornography from the Measure B lawsuit and campaign could have stemmed from the fact that the LGBTQ community has yet to attain any legal and social equality in the United States. This inequality, which often results in the oppression of the gay community and renders LGBTQ issues invisible to mainstream society, ultimately led to the exclusion of bareback porn from the Measure B discussion. However, this discussion becomes increasingly relevant in queer discourse when discussing the HIV/AIDS epidemic, where the gay male community was particularly targeted. Thus, liberating the gay community from the stigmas surrounding HIV is largely what the author argues for when stating "despite a visible and monumental shift toward safer sex practices within the gay community, gay men continue to experience increased stigmatization as carriers of AIDS, and are subject to a double standard when it comes to safe sex practices" (2015 pg.124). Essentially, supporters of the Measure B campaign failed to consider these harsh stigmas associated with the gay male community

specifically and the impacts of such campaigns. In reflecting on Langner's piece, I illustrate how bareback pornography acts as a liberatory agent in the realm of queer sexuality and politics, further strengthening my argument surrounding the complexities of the industry and the need to draw attention to these invisibilized narratives.

The disconnect that Measure B's supporters fail to consider here is the fact that bareback sex has the potential to convey messages about the transgressive nature of the gay community. Langner argues that the act of barebacking stands as the subculture's rejection of HIV/AIDS as a factor for controlling their sexuality and identities as queer men (2015 pg. 219). Consequently, the portrayal of barebacking can be argued as having the propensity to liberate gay men from the politics of respectability that is now deeply embedded in LGBT assimilationist culture strategies (2015 pg. 223). According to legal scholar Alexander Birkhold,

“Engaging in and depicting bareback sex is an important political and artistic expression, particularly within the gay community. Bareback sex emblemizes sexual freedom and an ‘outlook of sexual life that, in important ways, has long shaped an animated gay male sexuality as thought and practice. In short, barebacking is a sexual identity that communicates uniquely significant sexual, personal, and political ideas.” (2015, pg. 214)

Similarly, porn performer Will Clark explains how barebacking “reflects our need to be edgy and defiant in a world where being gay used to be edgy and defiant and every day has become more and more commonspace” (2015 pg. 215). Langner further argues that this is precisely the point of barebacking that is often overlooked, and that this act of rebelling against the assimilation and homonormativity of the mainstream LGBT agenda is one valid rationale for the existence of the barebacking subculture (2015 pg. 122). By engaging in unprotected sex, a poststructuralist approach could argue, these men are refusing to perform homonormative

identity as a strategic social function; instead, they are making a political statement through this empowering act. Especially in regards to HIV/AIDS, though there has been a great deal of improvement in the safer sex practices within the gay community, gay men continue to carry this stigma, and thus are inevitably subjected to a double standard when it comes to safe sex practices. Therefore it is crucial to understand this perspective and consider the subculture of barebacking as a liberatory agent that would, in turn, be negatively impacted by regulatory campaigns such as Measure B.

The politics of sexuality and sexual expression, specifically in queer culture, has been theorized by a number of scholars. Historian and activist Lisa Duggan, in her piece “The New Homonormativity: The Sexual Politics of Neoliberalism,” coins the term *new homonormativity*, describing it as a politics that does not contest dominant heteronormative assumptions and institutions, but rather upholds and sustains them (Duggan 2002). Duggan defines this new era of gay and lesbian culture and the pressures to fit the mold of the “good gay citizen,” providing examples such as being monogamous, to look and act “normal,” etc. Barebacking is a transformative example of how this subgroup is publically owning their sexual desires and practices without shame, actively going against the assimilationist politics surrounding “New Heteronormativity” (Duggan 2002). As Langner states, “members of the subgroup and those associated with bareback porn production repeatedly emphasize that barebackers are not in denial about the realities of HIV/AIDS, nor is the barebacking community naively attempting to return to a pre-AIDS version of gay sex (2015 pg. 143). Instead, members of the barebacking

subgroup refuse to be intimidated by HIV or let fear of the disease control their sex lives (2015 pg. 219).

An emphasis on opening up a dialogue about sexual freedoms within a marginalized community such as that of queer porn actors remains hard to come by when the industry is already under such scrutiny. Langner ends his commentary with again stating that barebackers were effectively denied an opportunity to challenge any future mandate because of their exclusion from the Measure B conversation. In moving forward, it is crucial to consider the narratives of queer porn and how queer culture faces these dynamic issues surrounding sexual politics.

Conclusion & Moving Forward

Through my discourse analysis of academic papers and newspaper articles, I have illustrated how contemporary debates surrounding mandating condom usage in the porn industry are reflective of anti pornography biases and sentiments; both in the field of academia and in the press. When working towards the health and safety of the performers, it is evident that these sentiments consequently demonstrate a very real disconnect between the opinions expressed in media and in academia versus those expressed by the industry and in its own actors' testimonies. According to the study done by Chauntelle Anne Tibbals, we saw how adult film performers do not find condoms helpful and in some cases, are actually counter productive. According to Bailey Langer's piece, the essential act of barebacking works as a liberatory agent for gay men who carry stigmas surrounding their sexuality. This disconnect, when it comes to both LGBTQ biases

(ie assuming barebacking is unhealthy, when it really can be seen as revolutionary/empowering) and legal regulation (should we be instituting overarching laws when many performers cite their preference for no regulation?) eschews the real subjectivities of the porn actors perceptions and experiences, and the industry itself. Considering the subjectivity of these matters is imperative when pushing for seemingly feminist/health forward- measures to be enacted, such as Measure B. It has become clear in my research that while the media and academia take one stance, ultimately leading to these legal regulations, many of the porn actors take another. This discourse in turn eschews the real complexities of the pornography industry, leaving behind certain the narratives of the porn actors. Listening to these narratives and making an effort to understand these complexities surrounding the industry are necessary steps to properly work towards supporting the work, health, and empowerment of adult film actors. In moving forward, involving adult film actors in these discussions surrounding their occupational health, and brainstorming alternative ways to protect these workers (perhaps proposing ways we can increase accessibility for STD testing) would be a promising outlook on this ongoing debate.

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