

Consent: Sexual Agency in Historical Perspective

History 200-0 22/Gender & Sexuality Studies 321-0-20
Winter 2020
M W 3:30-4:50
Kresge 2335

Instructor: Scott De Orio, PhD
sadeorio@northwestern.edu
Office: Harris 242
Office hours: Tuesdays 2-4 pm or by appointment or phone



Figure 7. "Wanted: Mohammed el-Prick, born in Algeria, living in France. This man is dangerous! Liable to kill! Rape! Steal! Plunder! etc., etc. To find him, you won't have to look very far . . . all around you, there are 700,000 just like him!" *Europe-action* 22 (October 1964), back cover.

Reproduced in Todd Shepard, *Sex, France, and Arab Men, 1962-1979* (2018)

“The subordination of women in traditional Hindu society provided a useful rationale for the continuation of British rule in India. I will argue that the concern about the condition of Indian women did not arise from a general interest in the status of women; rather, it was motivated by the political necessity of demonstrating the inferiority of Indian, particularly Bengali, masculinity.”
Mrinalini Sinha, “Gender and Imperialism: Colonial Policy and the Ideology of Moral Imperialism in Late Nineteenth-Century Bengal”

“[A] great deal of sex law does not distinguish between consensual and coercive behavior. Only rape law contains such a distinction.”
—Gayle Rubin, “Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality”

Course Description

“Consent” is the ubiquitous standard used both by ordinary people and by legal institutions to distinguish between sexual activity that is harmful versus that which is non-harmful. The way in which consent has been historically constructed has also been problematic in multiple ways that privilege the interests of some people while disadvantaging and marginalizing others. The way in which consent is defined affects whether victims of sexual assault can obtain justice in court. The law has also historically defined many non-normative “queer” behaviors—such as sex work, sex in public, the sexual conduct of HIV-positive people, and underage sex—as always and necessarily harmful and inherently non-consensual. We will also pay special attention to how ideas of consent have played out in diverse colonial contexts as a strategy of social control over people of color.

Learning Objectives

- Understand and explain major topics and issues related to the history of the notion of consent as it relates to sexual behavior
- Develop critical-thinking skills such as evaluating historical evidence and strategic reading
- Develop cultural competency about issues of social diversity such as gender, sexuality, race, class, and age

Evaluation Method

- Attendance and participation (20%)
 - Discussion is a valuable space of experimentation that facilitates making new connections and creating new ideas
 - Contribute to large-group discussion at least once per class period (this is

- actually really important to me)
- 1 unexcused absence no questions asked, email me otherwise
- More than four unexcused absences may result in a failing grade
- Keyword writing assignments (3x20%=60%)
 - The goal of the assignment is to facilitate a discussion focusing on a single key word, theme, or concept related to the readings for that week
 - The three assignments will gradually build in complexity and instructions for each of them are available on Canvas
 - About 3 double-spaced pages
 - Upload to Canvas by 5 pm on January 31, February 21, and March 16
- Short assignments (4x5%=20%)
 - Strategic reading (January 8)
 - Brainstorming (January 24)
 - Primary source research (February 7)
 - Reverse outline (February 28)

Course Notes

- All readings are available on Canvas or online
- An especially valuable resource for help with writing is the History Writing Center (<https://www.history.northwestern.edu/undergraduate/advising/history-writing-center.html>), operates Mondays 11–4 in Harris L35
- Students can find useful resources for safety and security, academic support, and mental and physical health and well-being at the NUhelp website (<https://www.northwestern.edu/nuhelp>) and app.
- Academic integrity: Plagiarism is prohibited. The NU policy on academic dishonesty is available at <http://www.northwestern.edu/provost/policies/academic-integrity/index.html>

Schedule

Week 1: the contemporary politics of sexual consent

Jan. 6

- Introduction to the course
- Laura Kipnis, "What Regrets about a Hasty, High-Profile #MeToo Resignation Reveal," *Guardian*, July 24, 2019, sec. Opinion, <https://www.theguardian.com/commentisfree/2019/jul/24/al-franken-resignation-metoo>
- "France to Set Age of Sexual Consent at 15," *BBC News*, March 6, 2018, sec. Europe, <https://www.bbc.com/news/world-europe-43300313>
- Michelle Basch, "DC Bill Aims to Decriminalize Prostitution Involving Consenting Adults," *WTOP*, June 3, 2019, <https://wtop.com/dc/2019/06/d->

[c-bill-aims-to-decriminalize-prostitution-for-consenting-adults/](#).

Jan. 8

- Joseph J. Fischel, "Transcendent Homosexuals and Dangerous Sex Offenders: Sexual Harm and Freedom in the Judicial Imaginary," *Duke Journal of Gender Law & Policy* 17, no. 277 (2010): 277–311.
- Primary source: *Lawrence v. Texas* (2003), <https://www.oyez.org/cases/2002/02-102>

Week 2: how the idea of the contract shapes our lives and social institutions

Jan. 13

- Amy Dru Stanley, preface and chapter 1, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), ix–59.
- Primary source: "Declaration of Sentiments and Resolutions" (Seneca Falls, NY, 1848)
- Primary source: Mary Wollstonecraft, *A Vindication of the Rights of Woman* (1792)
- Primary source: Harriet Beecher Stowe, *Uncle Tom's Cabin* (1852), <https://archive.org/details/uncletomscabin00stow/page/n10>

Jan. 15

- Amy Dru Stanley, "The Purchase of Women" in *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (New York: Cambridge University Press, 1998), 218–263.
- Primary source: Charles Loring Brace, "The dangerous classes of New York and twenty years' work among them" (1872)
- Primary source: William Sanger, "The history of prostitution: its extent, causes and effects throughout the world" (1859)

Week 3: sexual assault and consent

Jan. 20: NO CLASS for MLK Day

Jan. 22

- Marie Gottschalk, introduction and "Not the Usual Suspects: Feminists, Women's Groups and the Anti-Rape Movement," in *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006), 1–17, 115–138.
- Primary source: Cheryl Corley, "President Johnson's Crime Commission

Report, 50 Years Later," NPR.org, October 6, 2017, <https://www.npr.org/2017/10/06/542487124/president-johnson-s-crime-commission-report-50-years-later>.

- Primary source: Lisa Brodyaga et al., "Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies" (Law Enforcement Assistance Administration, 1974)

Week 4

Jan. 27

- Estelle B. Freedman, *Redefining Rape: Sexual Violence in the Era of Suffrage and Segregation* (Cambridge, MA: Harvard University Press, 2013).
- E-book available via library website
- Primary source: Mary Wollstonecraft, *Maria; Or, The Wrongs of Woman* (1798)
- Primary source: New York Historical Society resource on New York state's married women's property law

Jan. 29

- Brian Connolly, *Domestic Intimacies: Incest and the Liberal Subject in Nineteenth-Century America* (Philadelphia: University of Pennsylvania Press, 2014), 1–49.

Week 5: queer sex and consent

Feb. 3

- Gayle S. Rubin, "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," in *The Lesbian and Gay Studies Reader*, ed. Henry Abelove, Michèle Aina Barale, and David M. Halperin (New York: Routledge, 1993), 3–44. (Original work published in 1984).
- Primary source: "Judiciary Committee Hears 'Consenting Adult' Testimony," *Gay Community News*, March 24, 1979.
- Primary source: Bruce Mirken, "CHP Sting Nabs Gays at Transbay Terminal," *San Francisco Bay Times*, June 25, 1998.

Feb. 5

- Field trip to the Leather Archives & Museum (6418 N Greenview Ave in Rogers Park)

Week 6: colonialism and consent

Feb. 10

- Judith Surkis, *Sex, Law, and Sovereignty in French Algeria, 1830–1930* (Ithaca, NY: Cornell University Press, 2019).

Feb. 12

- Todd Shepard, *Sex, France, and Arab Men, 1962–1979* (Chicago: University of Chicago Press, 2018), 1–41.

Week 7

Feb. 17

- Mrinalini Sinha, "Gender and Imperialism: Colonial Policy and the Ideology of Moral Imperialism in Late Nineteenth-Century Bengal," in *Changing Men: New Directions in Research on Men and Masculinity*, ed. Michael S. Kimmel (New Delhi: Sage Publications, 1987), 217–231.
- Primary source: James Mill, *The History of British India* (1817)

Feb. 19

- Bianca Premo, *Children of the Father King: Youth, Authority, and Legal Minority in Colonial Lima* (Chapel Hill, NC: University of North Carolina Press, 2005), 1–18.

Week 8

Feb. 24

- Elizabeth Thornberry, introduction: "Writing the History of Rape" in *Colonizing Consent: Rape and Governance in South Africa's Eastern Cape* (New York: Cambridge University Press, 2018), 1–35.
- Primary source: "South Africa's Cyril Ramaphosa urges action against 'rape crisis'" (*BBC News*, 2019)
- Primary source: Colonel Maclean, *Compendium of Kafir Laws & Customs* (1906)

Feb. 26

- Nayan Shah, *Stranger Intimacy: Contesting Race, Sexuality and the Law in the North American West* (Berkeley: University of California Press, 2012).

Week 9: young people and consent

Mar. 2

- Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885–1920* (Chapel Hill: University of North Carolina Press, 1995), 1–62.
- Primary source: Sara Ganim, "Gay Florida Teen Kaitlyn Hunt Pleads No Contest in Underage Sex Case," *CNN*, October 9, 2013, <http://www.cnn.com/2013/10/03/justice/florida-kaitlyn-hunt-plea-deal/index.html>.

Mar. 4

- Steven Angelides, *The Fear of Child Sexuality* (Chicago: University of Chicago Press, 2019), ix–xxxi.
- Primary source: Jane Rule, "Teaching Sexuality," *Body Politic*, June 1979.

Week 10

Mar. 9

- Synthesizing the course: discussion about overarching themes