Northumbria Research Link

SAME-SEX MARRIAGE AND THE SEXUAL HIERARCHY: CONSTRUCTING THE HOMONORMATIVE AND HOMORADICAL LEGAL IDENTITIES

ALEXANDER JOHN PAUL MAINE

PhD

2019

SAME-SEX MARRIAGE AND THE SEXUAL HIERARCHY: CONSTRUCTING THE HOMONORMATIVE AND HOMORADICAL LEGAL IDENTITIES

ALEXANDER JOHN PAUL MAINE

A thesis submitted in partial fulfilment
of the requirements of the
University of Northumbria at Newcastle
for the degree of
Doctor of Philosophy

Research undertaken in the
Faculty of Business and Law

October 2019

Abstract

This thesis investigates the impact of the Marriage (Same-Sex Couples) Act 2013 in England and Wales on the lived experiences of LGBTQ individuals. The Act, which legalised same-sex marriage in England and Wales, is argued to contribute to a 'sexual hierarchy' in which certain forms of sexuality and sexual identity are ascribed value by law and society. This is significant in developing understanding of the law's role in constructing and regulating sexual behaviour.

The thesis contributes to studies in gender, sexuality, and the law, and in family law, in providing a seminal qualitative assessment of the 2013 Act using queer theory. In doing so, it constructs homonormativity and the homoradical as identities existing within the sexual hierarchy. Not only does this thesis investigate the impact of the Act, it also assesses the lived experiences of LGBTQ individuals in relation to the passing of the legislation – including their views on equality, normativity, and sexuality. As such, it significantly adds to existing LGBTQ narratives.

Utilising semi-structured interviews with 29 self-identified LGBTQ individuals, the thesis is qualitative in nature. It uses mixed-method sampling to create rich interview data and unique visual data. Applying a queer theory analysis, the study has found that the 2013 Act reinforces the sexual hierarchy in the construction of the homonormative and the homoradical as concurrent LGBTQ identities.

In constructing the sexual hierarchy, this study has made visible the ways in which same-sex marriage reinforces and upholds heteronormative institutions. It confirms marriage to be a social and legislative organiser that reaffirms the centrality of the legal regulation of sexuality and the construction of 'good' and 'bad' sexuality. The thesis will argue that consummation requirements should be abandoned as a precursor to further reform to disestablish the sexual hierarchy, thereby advancing social acceptance of LGBTQ identity and non-normative sexuality.

Contents

List of Figures

Acknowledgments

Declaration

I declare that the work contained in this thesis has not been submitted for any other award and that it is all my own work. I also confirm that this work fully acknowledges opinions, ideas, and contributions from the work of others.

Any ethical clearance for the research presented in this thesis has been approved. Approval has been sought and granted by the University Ethics Committee on 11 February 2016.

I declare that the Word Count of this thesis is 84,612 words.

Name: Alexander John Paul Maine

Signature:

Date:

1
Introduction

The Marriage (Same-Sex Couples) Act 2013 legalised same-sex marriage in England and Wales, allowing same-sex couples to enter into marriage for the first time in the United Kingdom. This change in the law is a significant development in the relationship of law and sexuality that may profoundly affect the lives of LGBTQ individuals. This thesis will investigate the impact of the Act and the ways in which it affects LGBTQ individuals in order to reveal the ways in which the law constructs a 'sexual hierarchy'. The sexual hierarchy is the system in which society and law ascribe value, recognition, and respect to certain forms of sexual acts and identities.

This is an interpretive socio-legal study, designed to enrich societal discourse[1] through the production of knowledge and by exploring the 'direct methods of the operation and impact of law and legal processes in society'.[2] Therefore, the intersectional issues of marriage, gender, sexuality, law, and society all contribute to an understanding of the processes and features of law and sexuality. The 2013 Act is argued to contribute to a sexual hierarchy, investigations of which are significant in developing understanding of the law's role in constructing and regulating sexual behaviour. In doing so, this study will construct the 'homonormative' and 'homoradical' identities by using empirical qualitative data to assess the nature of such identities using the lived experiences of LGBTQ individuals. The homonormative and homoradical identities may be described as factions of LGBTQ cultures or communities that follow assimilationist politics of equality, or radical anti-assimilationist sexual identities. This research will build on Gayle Rubin's sexual hierarchy[3] by reassessing its continued existence following same-sex marriage. It will also build on the work of Sarah Beresford, providing empirical evidence to support and give weight to the proposed reform of the Matrimonial

---

[1] C Geertz, 'Thick Description: Toward an Interpretive Theory of Culture' in C Geertz, *The Interpretation of Cultures* (Basic Books 1973).

[2] J Baldwin and G Davis, 'Empirical Research in Law' in P Cane and M Tushnet (eds), *The Oxford Handbook of Legal Studies* (Oxford University Press 2003).

[3] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

Causes Act 1973[4] in recognising same-sex consummation. The study will provide evidence to aid in understanding the ways in which LGBTQ people perceive and experience same-sex marriage – a significant contribution to knowledge in the first decade of the existence of same-sex marriage in England and Wales.

1.1 Research Question

This thesis will answer the following research question:

> How does the Marriage (Same-Sex Couples) Act 2013 result in the construction of the contrasting *homonormative* and *homoradical* socio-legal identities, in turn affecting the experience and perspectives of LGBTQ narratives of the sexual hierarchy?

In answering this question, the study will construct the sexual hierarchy as a socio-legal system that ascribes value to certain sexual identities and practices. The hierarchy values marital heterosexual sexuality at the top,[5] with same-sex couples typically falling below this: the homonormative and homoradical will be constructed within this, with some LGBTQ behaviours acquiring more social privilege than others and therefore occupying a higher place in the hierarchy. Homonormativity and the homoradical will be constructed and will function towards certain ends via acceptance and rejection of dominant societal standards, with homonormativity arguably extending the 'truth regime'[6] of heteronormativity, in which relationships and identities become culturally intelligible. This hierarchy, as identified by Gayle Rubin's seminal work *Thinking Sex*,[7] will inform the dominant discussions of sexuality in this thesis, and the impact of same-sex marriage on such a hierarchy will demonstrate the role the law may have in regulating and constructing sexuality. In answering the research question, this thesis will discuss the lived experiences of same-sex marriage, alongside the role of sex and sexuality in such experience, assessing the impact that experience may have on the sexual hierarchy. The thesis will use empirical qualitative and visual data collected over a six-month period in 2016 with a diverse group of 29 LGBTQ individuals, who recounted their experiences concerning the impact of same-sex marriage and their perceptions of equality,

---

[4] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[5] *Hyde v Hyde and Woodhouse* (1866) LR 1 PD 130 at 133 per Lord Penzance.

[6] M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978).

[7] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

sexuality, and society. These lived experiences are vital in queer research in order to ensure that queer voices are highlighted and heard.[8]

1.2 Terminology

This study will rely on the construction of the sexual hierarchy using significant concepts identified in queer theory,[9] in particular in recognising heteronormativity and homonormativity, and in constructing the homoradical. The use of such terms will now be clarified, as will some of the key terms used in the analysis of the project.

Heteronormativity

Heteronormativity describes the social norm in which heterosexuality is seen as a 'default' position. Heteronormativity has been described as the 'truth regime',[10] in which gender, sexuality, and desire coalesce,[11] and in which heterosexuality is assumed, privileged, and naturalised in a society that 'straightens' the 'slant' of queer desire.[12] Heteronormativity assumes that heterosexuality is the natural alignment of sexuality and gender, presupposing that all individuals are heterosexual, or 'straight', until stated otherwise.[13] This study will conceptualise heteronormativity as a specific set of actions and behaviours that society upholds as natural and matrimonial. Heteronormativity upholds heterosexuality as dominant within discussions of 'good' and 'bad' sexuality. It is at the top of the sexual hierarchy as the most

---

[8] D Levy and C Johnson, 'What Does the Q Mean? Including Queer Voices in Qualitative Research' (2011) 11 *Qualitative Social Work* 134.

[9] In particular, this thesis will rely on the work of Rubin, Foucault, Duggan, and Warner, important voices in the field of queer theory, to construct heteronormativity and homonormativity. See especially G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984); M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978); L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002); M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000).

[10] M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978).

[11] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

[12] S Ahmed, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 562.

[13] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151; M Do Mar Castro Varela, N Dhawan, and A Engel, 'Hegemony and Heteronormativity: Revisiting "The Political" in Queer Politics' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011).

socially and legally valued form of 'good' sexuality and constitutes the 'correct' alignment of men and women.[14] Heteronormativity may arguably sustain and foster the sexual hierarchy in creating an expectation of heterosexuality, monogamy, and procreativity.[15]

Homonormativity

Homonormativity describes a dominant politics of liberal equality that upholds and sustains desexualised and depoliticised perspectives of same-sex couples. Homonormativity was coined by queer activists in the 1990s and academically defined by Lisa Duggan, who described it as a politic of assimilation.[16] Homonormativity may be viewed as a conduit of heteronormativity, a form of identity and relationship that closely mirrors and reinforces heteronormativity and that 'straightens' queer politics.[17] This study will focus on Duggan's definition of homonormativity[18] as a means of critically investigating the role it may play in society, constructing normalised, privatised marital relationships anchored in domesticity. These relationships may rely on a particular image of domestic coupledom for same-sex couples. They present a set of assumptions regarding sexuality and gender that this research will challenge.

Homoradical

The term 'homoradical' was coined at the beginning of this research as a reaction to the growing homonormative discourse surrounding same-sex marriage. It will be a contribution to knowledge made by this research. The homoradical could be described as an 'anti-assimilationist politic', one that is actively sexualised and politicised. It describes a sexualised body of queer identity, one that rejects normative discourse surrounding homosexuality. The homoradical may be excluded from heteronormativity due to the active pursuit of sex outside

---

[14] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 334.

[15] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

[16] L Duggan, *The Twilight of Equality? Neoliberalism, Cultural Politics and the Attack on Democracy* (Beacon Press 2003).

[17] S Ahmed, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 567.

[18] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 178.

of the normative realm, including public, group, kink, bareback, and non-monogamous sex.[19] The homoradical maintains behaviour as a form of resistance against heteronormativity – a queer challenge to the depoliticising and desexualising effects of homonormativity. The homoradical may be viewed as antithetical to the image produced by marriage and as existing at the 'outer limits' of Rubin's charmed circle.[20] Therefore, the homoradical provides a means of assessing how elements such as public sex, group sex, or risky sex construct non-normative sexuality that may be at odds with expectations of marital conjugality. The homoradical will thus be considered to represent the 'bad' gay, in sitting outside of societal norms, and will be constructed and discussed in the substantive analysis of the data.

Privatisation

Privatisation refers to the neoliberal goal of government policy that encourages economic expansion and the minimisation of state interference in social governance.[21] Neoliberalism refers to the dominant free market economic and social policy that encourages the private family structure: 'A primary goal of neoliberalism's policy agenda for both economic expansion and social governance is privatisation, in particular the "rolling back" of the state and the transfer of "public" services and functions to private (for profit) interests.'[22] Privatisation therefore entails the restriction of state interference from private actors and encourages the coupling of marital relationships that promotes economic independence[23] and enables self-governing subjects to become 'normal' citizens.[24] Privatisation will be used in this thesis to refer to a neoliberal politics that encourages traditional family narratives that are reliant on domesticity and economic independence, promoting a form of successful relationship that corresponds with the construction of homonormativity.

---

[19] These terms will be discussed in detail in the following chapters.

[20] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 150.

[21] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.

[22] Ibid., 516.

[23] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 178.

[24] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.

Normalisation

The process of normalisation deploys the 'sameness' of same-sex and different-sex couples and emphasises equal rights and integrationist approaches to achieve social change,[25] thus creating a 'normal' standard of relationship recognition. Butler has discussed the effects of normalisation in relation to same-sex marriage as a means of conferring and constraining legitimacy to married couples via social acceptability.[26] She discusses the fluid nature of norms and normalisation as a process by which we recognise humanity, so that 'norms of recognition function to produce and deproduce the notion of the human',[27] and how this recognition of rights that correspond with 'permissible' relationships entails the process of normalisation.[28] Social norms, therefore, are dependent on the implicit standard of normalisation,[29] offering social legitimacy to relationships that can be deemed 'normal', which may correspond with heteronormative expectations. The right to marry has been described as the ultimate act of normalisation[30] and an idealised package of socio-sexual relations.[31]

LGBTQ

The term 'LGBTQ' has been used in this research to represent a coalition of lesbian, gay, bisexual, transgender, and queer individuals and populations. This has been chosen as an indicative term of deviation from normative descriptions of sexuality and gender, distinguishing these populations from heterosexual, or 'straight', populations. Rather than use the term 'non-heterosexual', or merely 'LGB', LGBTQ is used in order to attempt to represent all those who align with an identity on the LGBTQ spectrum, specifically taking into account those who identify as transgender or queer. Q, for queer, is used in order to signify a coalition of self-identification that entails the abandonment of specific LGB identities, which may rely more strictly on gender binaries. Queer entails a disruption of 'dominant ways of knowing

---

[25] Ibid.

[26] J Butler, *Undoing Gender* (Routledge 2004) 26.

[27] Ibid., 32.

[28] Ibid.

[29] Ibid., 41.

[30] E Wolfson, 'Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique' (1994) 21 *New York University Review of Law and Social Change* 567; J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001).

[31] M Wolkomir, 'Making Heteronormative Reconciliations: The Story of Romantic Love, Sexuality, and Gender in Mixed-Orientation Marriages' (2009) 23(4) *Gender & Society* 494.

about sex, gender, and sexualities'[32] that addresses 'silences' imposed by narrow identity politics that further the needs of gay men alone.[33] As such, it is important to recognise and represent the views of all those who may be affected by same-sex marriage.

Same-sex marriage

'Same-sex marriage' will be used throughout this study to represent the legal terminology of the institution and the legislation. To call it 'equal' or 'gay' marriage may not accurately reflect the terminology of the institution, nor represent the participants of the study. 'Same-sex marriage' indicates the examination of the legislative provisions of the 2013 Act and the recognition of the specific nature of the legislation.

1.3 Queer Theory

Queer theory will be used to analyse the arguably normative structures of law and marriage, in order to investigate the marginalisation and devaluation of homosexuality in dominant hierarchies of sexuality.[34] Queer theory will be used to construct the normative and the radical in this research, assessing the sexual hierarchy that marriage (and same-sex marriage) may represent.[35] Muñoz states that the central ideal of queer theory is its transformative potential:[36] as such, this research will use queer theory in order to explore the transformative potential of same-sex marriage. Queer theory provides a relevant form of analysis that allows for the exploration of the lived experiences and narratives of LGBTQ people,[37] seeking out and

---

[32] P Willis, '"Queer Eye" for Social Work: Rethinking Pedagogy and Practice in Same-Sex Attracted Young People' (2007) 60 *Australian Social Work* 183.

[33] N Cobb, 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"' (2010) 37 *Journal of Law and Society* 620, 645.

[34] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996) 41; M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 82; L Duggan, 'Making It Perfectly Queer' (1997) 22 *Socialist Review* 223; G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

[35] F Valdes, 'Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex", "Gender", and "Sexual Orientation" in Euro-American Law and Society' (1995) 83 *California Law Review* 1, 349.

[36] Muñoz J, *Cruising Utopia: The Then and There of Queer Futurity* (NYUP 2009) 1.

[37] F Valdes, 'Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex", "Gender", and "Sexual Orientation" in Euro-American Law and Society' (1995) 83 *California Law Review* 1, 349.

celebrating sexuality and focusing specifically on the intersections of gender, sexuality, and normative law and society.[38]

1.3.1 Meaning

'Queer' may be argued to encompass a coalition of LGBTQ self-identification, one that moves beyond heterosexual and homosexual binaries and maintains a radical approach to conceptualising sexuality.[39] It has developed as an academic discipline unaligned with a specific identity category.[40] Defining *queer* – and queer theory – is a difficult task.[41] It may refer to the 'multiple ways that sexual practice, sexual fantasy, and sexual identity fail to line up consistently'[42] and it is argued to be deliberately disruptive to social norms.[43] Queer theory emerged in the late 1980s and early 90s, out of feminist and post-structuralist academia and activism, informed by the work of Foucault[44] and Lacan.[45] De Lauretis was the first to define the term. She stated that queer theory conveys a double emphasis 'on the conceptual and speculative work involved in discourse production, and on the necessary critical work of deconstructing our own discourses and their constructed silences'.[46] The term 'discourse production' relies on the construction of truth in the discussion of aspects of reality, using Foucauldian social-constructionism[47] in order to deconstruct the realities and truths surrounding theories of sexuality and desire. Halperin has noted that De Lauretis sought to make 'theory queer (that is, to challenge the heterosexist underpinnings and assumptions of

---

[38] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 18; G Filax et al., 'Queer Theory/Lesbian and Gay Approaches' in B Somekh and C Lewin (eds), *Research Methods in the Social Sciences* (Sage 2004) 81.

[39] D Halperin, 'The Normalization of Queer Theory' (2003) 45(2) *Journal of Homosexuality* 339.

[40] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996) 2.

[41] J Halley, 'Queer Theory by Men' in M Fineman, J Jackson, and A Romero (eds), *Feminist and Queer Legal Theory: Intimate Encounters, Uncomfortable Conversations* (Ashgate 2009) 26; D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 12.

[42] S Marcus, 'Queer Theory for Everyone: A Review Essay' (2005) 31(1) *Signs* 196.

[43] D Halperin, 'The Normalization of Queer Theory' (2003) 45(2) *Journal of Homosexuality* 339, 340.

[44] Notably, Foucault's *The History of Sexuality* (1976).

[45] Both Foucault and Lacan investigate psychoanalysis, following the earlier work of Freud. Their works investigate the construction of the self and subjectivity and have been instrumental in the construction of queer theory. See S O'Sullivan, 'Lacan's Ethics and Foucault's "Care of Self": Two Diagrams of the Production of Subjectivity (and of the Subject's Relation to the Truth)' (2010) 10 *Parrhesia* 51.

[46] T De Lauretis, 'Queer Theory: Lesbian and Gays Sexualities, An Introduction' (1991) 3 *differences: A Journal of Feminist Cultural Studies* iii, iv.

[47] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 16.

what conventionally passed for "theory" in academic circles) and to queer theory (to call attention to everything that is perverse about the project of theorising sexual desire and sexual pleasure)'.[48]

Foucault has been instrumental in queer theory in recognising sexuality through the lens of social constructionism.[49] He noted how homosexuality came into existence as an identity due to the legal and social regulation of sodomy,[50] constructed as a deviant form of life.[51] Social constructionism is relevant to queer theory in recognising the variant ways in which sexuality may be constituted and conceptualised according to socio-sexual practice and identity.[52] Foucault further discussed the role of power enforcing social regulation as 'bio-power',[53] disciplining the individual and controlling the population through reproduction and morality, ensuring that sexuality faces continuous regulatory and corrective mechanisms.[54] Foucault recognises sex as a product of regulatory power relations, demonstrative of the importance he places on normalisation, subjectivity, and knowledge as effects of power.[55] This is significant in investigating such mechanisms and in producing discourse that reveals a reality that may be inconsistent with established norms. Sedgwick goes on to define queer theory as 'the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone's gender, of anyone's sexuality aren't made (or can't be made) to signify monolithically'.[56] Sedgwick presents queer identity as a form of expression, divorced from biologism,[57] that is able to explore multiple ways to constitute sex and sexuality, and as a 'source' of transformational energy[58] that has the potential to alter dominant understandings of sexuality and gender.

---

[48] D Halperin, 'The Normalization of Queer Theory' (2003) 45(2) *Journal of Homosexuality* 339, 340.

[49] M Foucault, *The History of Sexuality: An Introduction* (Penguin, 1978) 105.

[50] Ibid., 43.

[51] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 19.

[52] E Sedgwick, *Epistemology of the Closet* (California University Press 1990) 2; D Halperin, *One Hundred Years of Homosexuality, and Other Essays on Greek Love* (Routledge 1990) 26.

[53] M Foucault, *The History of Sexuality: An Introduction* (Penguin, 1978) 139.

[54] A Stein and K Plummer, '"I Can't Even Think Straight": "Queer" Theory and the Missing Sexual Revolution in Sociology' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 134.

[55] J Halley, *Split Decisions: How and Why to Take a Break from Feminism* (Princeton 2008) 121.

[56] E Sedgwick, *Tendencies* (Routledge 1994) 7.

[57] E Sedgwick, 'Queer Performativity' (1993) 1 *GLQ: A Journal of Lesbian and Gay Studies* 13.

[58] Ibid., 4.

Queer theory may provide a means of investigating sexuality, through which sex and gender may be understood as cultural notions and performative constructions.[59] Queer describes 'those gestures or analytical models that dramatise incoherencies in the allegedly stable relations between chromosomal sex, gender, and sexual desire'.[60] Thus, queer resists models of stability that claim and reinforce heterosexuality, and instead focuses on mismatches between sex, gender, and desire.'[61] A key element of queer theory's resistance to stability is Butler's theory of performativity in the questioning of biologism and identity,[62] denaturalising such categories through deconstruction[63] in social constructionism. There are, however, different approaches to queer theory and theorists are not unitary. This thesis will recognise these different approaches. Queer is arguably not only about sexuality, gender, class, and nation, but also about affect, citizenship, friendship, kinship, marginality, performativity, and subversion.[64] It thus will be used in order to account for the different approaches and perspectives of certain theorists. Gayle Rubin's articulation of the sexual hierarchy will substantially inform this study in the use of queer theory in the critical examination of the socio-sexual organisation of sexuality. Rubin's *Thinking Sex*[65] arose in the context of the feminist 'sex wars' of the 1970s and 80s. By 'showing that same-sex eroticisms and cross-gender behaviour were historically and culturally specific, social construction cleared away obsolete assumptions, generated new research programs, and legitimized new topics'.[66] On reflection, Rubin has stated that the essay demonstrates 'protoqueerness', addressing cross-identifications and multiple subject positions in analysing intersecting sexuality issues[67] in the early 1980s. Queer theory will therefore allow for an investigation of the intersecting ways in which law may affect and construct identity or practice. This study will thus use queer theory, defined as a specific theoretical lens, to discuss

---

[59] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 16.

[60] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996) 3.

[61] Ibid.

[62] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999).

[63] L Duggan, 'Queering the State' (1994) 39 *Social Text* 1.

[64] H Love, 'Queers ___ This' in J Halley and A Parker (eds), *After Sex: On Writing Since Queer Theory* (Duke University Press 2011) 182.

[65] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

[66] G Rubin, 'Blood under the Bridge: Reflections on "Thinking Sex"' (2011) 17(1) *GLQ: A Journal of Lesbian and Gay Studies* 15, 17.

[67] Ibid., 40.

the experiences and narratives of LGBTQ populations and non-normative sexuality within the marital structure.

In discussing the meaning ascribed to, and the use of, queer theory, it is important to discuss its relevance to marriage. Marriage is a social, cultural, and legal organiser that has arguably regulated sexuality through the creation of legally recognised familial relationships in which sex may take place. It is firmly associated with the procreative heterosexual family.[68] Some queer theorists may be opposed to marriage, as it appears to limit sexual liberation – a key component of queer theory. Marriage may arguably establish legal and social boundaries, in presupposing the monogamous, domestic location of sex, and the privileging of marital relationships above others.[69] Warner notes how it selectively legitimates some couples at the expense of others.[70] Halley has noted how same-sex marriage endorses the regulation and normalisation of same-sex relationships, in the guise of rights and recognition,[71] by bringing them into the marital fold. This would lead to a strengthening of the distinction between the married and the unmarried, a more simple and more powerful mode of social ordering that would make unmarried sex '*weirder*'.[72] Halberstam advocates the use of a queer agenda to craft alternatives to liberal entitlement to rights – alternatives that do not focus on domesticity or reproduction[73] and that embrace the 'potentiality of a life unscripted by the conventions of family, inheritance, and child rearing'.[74] Therefore, the existence of same-sex marriage may be seen as antithetical both to sexual liberation and to traditional marriage discourse. In the introduction of same-sex marriage, queer theory becomes an important tool in analysing and critiquing such structures in order to produce discourses of truth and to deconstruct the

---

[68] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

[69] L Berlant and M Warner, 'Sex in Public' (1998) 24 *Critical Inquiry* 547, 548; M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000).

[70] M Warner, 'Beyond Gay Marriage' in W Brown and J Halley (eds), *Left Legalism/Left Critique* (Duke University Press 2002) 260.

[71] J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001) 99.

[72] Ibid., 100.

[73] J Halberstam, 'The Anti-Social Turn in Queer Studies' (2008) 5(2) *Graduate Journal of Social Science* 140, 154.

[74] J Halberstam, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives* (New York University Press 2005) 152.

supposedly rigid structures of marital law, voicing and pursuing the lived experiences[75] of LGBTQ populations in relation to same-sex marriage and to suggest further reform.

1.3.2 Why Queer Theory?

Freccero has written that the task of queer theory lies in unsettling heteronormativity,[76] the presumption of universal heterosexuality that marriage has arguably upheld.[77] Thus, queer theory will be used to investigate the unsettling of the heteronormative foundations of marriage in the creation of same-sex marriage. Queer theory is a significant tool in the analysis of the potential normativity of law and marriage, and the ability to make visible the practices of non-normative sexuality contrasted against marriage as a familial organiser. Queer theory is relevant today in the exploration and celebration of sexuality, taking into account the multifarious ways in which sexuality may manifest, and is a significant tool in the analysis and questioning of the fluidity and expression of sexuality: 'It is at the core of queer thinking to continuously question the identities constructed through binary oppositions that result in the system of two mandatory sexes, two consequential genders, and one normal sexuality.'[78] Further, queer theory specifically addresses the lived experiences of LGBTQ people, paying particular attention to issues of gender and sexuality, and is therefore an appropriate means to analyse the data of this study. As marriage may be seen as antithetical to queer sexuality, and many queer theorists have argued against its introduction, this provides all the more reason to use queer theory to investigate its impact on sexuality. In doing so, it may be possible to *queer* perspectives and narratives of marriage, in the subversion of norms regarding its function and purpose, as LGBTQ populations may disturb[79] traditional marriage boundaries. Therefore, queer theory may make visible, critique, and separate the normal (statistically determined) from the normative (morally determined),[80] in order to recognise the lived reality of marriage that

---

[75] S Ahmed, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 544.

[76] C Freccero, 'Queer Times' in J Halley and A Parker, *After Sex: On Writing Since Queer Theory* (Duke University Press 2011) 17.

[77] M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978).

[78] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 18; G Filax et al., 'Queer Theory/Lesbian and Gay Approaches' in B Somekh and C Lewin (eds), *Research Methods in the Social Sciences* (Sage 2004) 81.

[79] S Ahmed, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543, 565.

[80] N Giffney, 'Denormatizing Queer Theory: More Than (Simply) Lesbian and Gay Studies' (2004) 5 *Feminist Theory* 75.

may be separate from the normative expectations of the institution. It has been argued that norms of recognition function to produce and deproduce the notion of the human,[81] which may be important to consider in the ways in which legal rights confer citizenship through the recognition of relationships. This conferral of citizenship and production of humanity will be considered in more detail in chapter 5.

Rubin stated, in reflection on her 1984 *Thinking Sex*, that she 'did not see feminism as the best tool for the job of getting leverage over issues of sexual variation'.[82] She called for the development of a specific and autonomous theory associated with investigations of sexuality in order to understand the direct oppression of sexual minorities.[83] This recognises the use of queer theory as an appropriate method for investigating sexuality and same-sex marriage. Queer theory will therefore be a more effective means of interrogating such a structure than feminist or liberal rights-based arguments. While there are various feminist approaches that may be relevant to discussions of same-sex marriage,[84] Rubin's statement – in conjunction with her sexual hierarchy theory – will provide an important basis throughout this study for the use of queer theory as a tool to investigate sexuality. Feminist legal theory has been an immensely significant area of theory and activism, providing a critical basis for interrogating the patriarchal underpinnings of law. Liberal rights-based approaches have also dealt with the issue from an equality perspective. Both approaches have significant strengths in their potential critique of the law; however, neither can appropriately address the multifarious elements of gender and sexuality that will be dealt with in this study. Feminism may focus more specifically on women's experiences and therefore may be insufficiently inclusive to discuss the impact of marriage on all genders and the ways in which sexuality may be subordinated.[85] Rubin's sexual hierarchy recognises sexuality as a social construction and has conceptualised factors that demarcate 'good' and 'bad' sexuality, while different factions of feminism may focus specifically on biologism – an aspect that this study will avoid. Queer theory will allow for an analysis that recognises these multifarious elements of sexuality and gender. This may also

---

[81] J Butler, *Undoing Gender* (Routledge 2004) 32.

[82] G Rubin and J Butler, 'Sexual Traffic: Interview' in E Weed and N Schor, *Feminism Meets Queer Theory* (Indiana University Press,1997) 97.

[83] J Halley, *Split Decisions: How and Why to Take a Break from Feminism* (Princeton 2008) 118.

[84] Such as N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013); R Auchmuty, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 101.

[85] J Halley, *Split Decisions: How and Why to Take a Break from Feminism* (Princeton 2008) 28.

account for the ways in which LGBTQ experience may change the institution of marriage, moving beyond liberal arguments[86] that call for the extension and availability of marriage but recognise the ways in which marriage may contribute to the existence of the sexual hierarchy.

Traditional marriage narratives arguably rely on rigid categories of sex, gender, and sexuality,[87] whereas same-sex marriage may make visible the 'mismatches' in these identity categories, rejecting absolute and naturalised views of identity[88] and celebrating the disruption of normative alignments of gender and sexuality.[89] This analysis will investigate the impact of marriage on sexuality and identity, allowing perspectives to emerge that focus on the lived experiences of sexuality in the wake of law reform and thereby producing narratives that demonstrate the 'truth' of same-sex marriage.[90] Queer theory will be particularly important when investigating lived experiences of sex and sexuality, in making visible those key elements of practice and identity formation and in highlighting the queer voices[91] of those who may live outside of the conjugal frame or maintain non-monogamous or quasi-marital organisations of sexuality in order to reveal the 'reality' and 'truth' of such sexuality.[92]

1.3.3 How

Queer theory will be used in this thesis as a means of critically analysing the role of sexual identity, sex, and same-sex marriage. Using queer theory, the thesis will argue that the sexual hierarchy continues to exist. It will call for the abolition of the hierarchy in order to fully recognise the existence of diverse – and often deviant – sexuality, unsettling heteronormativity. In doing so, the thesis will seek to construct homonormativity and the homoradical as elements of the sexual hierarchy and will recognise the role of law in constructing such a hierarchy. Lisa Duggan conceptualised homonormativity using queer theory as a recognition of the

---

[86] A Sullivan, *Virtually Normal: An Argument about Homosexuality* (Picador 1995).

[87] M Foucault, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978).

[88] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 18.

[89] D Halperin, 'The Normalization of Queer Theory' (2003) 45(2) *Journal of Homosexuality* 339, 341.

[90] T De Lauretis, 'Queer Theory: Lesbian and Gays Sexualities, An Introduction' (1991) 3 *differences: A Journal of Feminist Cultural Studies* iii, iv; M Foucault, *The History of Sexuality: An Introduction* (Penguin, 1978) 105.

[91] D Levy and C Johnson, 'What Does the Q Mean? Including Queer Voices in Qualitative Research' (2011) 11 *Qualitative Social Work* 134.

[92] J Butler, *Undoing Gender* (Routledge 2004) 27.

heteronormative strategies used by prominent gay rights activism in the 1990s.[93] Her work will therefore be used in this thesis to assess the continuing relevance of queer theory to same-sex marriage debates in the United Kingdom. Marriage has indeed been a concern of queer theorists. Bersani has noted how the 'insistence' on the right to marry has 'helped make [LGBTQ people] more acceptable to straight people by allowing them to think that we have the same conjugal dreams as they do'.[94] This demonstrates the role of assimilationism in the production of acceptance for LGBTQ populations that relies on the similarities of dyadic, normative relationships. The homoradical will be conceptualised as an oppositional character to the homonormative, in contrast to the 'acceptability politics' that may be associated with same-sex marriage. The homoradical will be constructed as 'not quite' living in the norm, exploring what Ahmed recognises as the 'costs and damage' incurred when one does not reproduce normativity.[95] Ahmed conceptualises queer as an embrace of the failure to reproduce norms as form of life.[96] Further, the investigation of the 'enjoyment of the negativity of shame, an enjoyment of that which has been designated shameful by normative culture',[97] is significant in the discussion of non-normative sexuality.

Sex will be centred in discussions of the lived experiences of LGBTQ participants, reintroducing the sexual into marriage – which will be argued to be *desexualised* – in order to demonstrate the ways in which LGBTQ people have the potential to *queer* marriage.[98] This will interrogate the meaning of marriage – traditionally heterosexual, monogamous, and dyadic – and explore the new meanings and experiences attributed to same-sex marriage. Some queer and feminist theorists have argued that marriage should be abolished in order to fulfil sexual liberation from patriarchal and normative institutions.[99] However, following the passing of the

---

[93] Such as the Independent Gay Forum and authors such as Andrew Sullivan: A Sullivan, *Virtually Normal: An Argument about Homosexuality* (Picador 1995).

[94] L Bersani and A Phillips, *Intimacies* (University of Chicago Press 2008) 33.

[95] S Ahmed, *The Cultural Politics of Emotion* (2nd edn, Edinburgh University Press 2005) 146.

[96] Ibid., 146.

[97] Ibid., 146.

[98] D Gonzalez-Salzberg, *Sexuality and Transsexuality under the European Convention on Human Rights* (Hart 2019) 20.

[99] N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013); R Auchmuty, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 101; L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002).

2013 Act, it is important to assess the impact of the new legislation and the ways in which LGBTQ populations may practise and experience marriage.

Marriage remains of great significance to same-sex couples, as demonstrated by its widespread support and popularity.[100] Therefore, it is critical to investigate its lived reality. Hocquenghem has written of the ways in which coupledom and marriage may be seen as antithetical to queer sexual liberation. He alludes to the examination of the individual 'functions' or 'openness' of marriage as an important feature to investigate:

> All those who see the reactionary spectre of marriage in the institution of coupledom, no matter how it functions and how open it is, all those who devote most of their energy to only participating in short-lived couplings, might be terrified of this. But how could I speak of gays and of the revolution, without this preliminary avowal? Of course, I can only say it without any self-justification, without defending myself, without considering this particular avatar of homosexuality to be the necessary path to follow.[101]

Hocquenghem maintains that there is no necessary essential experience of marriage and relationships, which is important to recognise when interviewing a diverse group of LGBTQ participants. This research will assess the queer experiences of marriage in society, constructing the normative and radical reaction, in investigating the effect of the legal institution on coupledom and sexuality. Married and single LGBTQ people will be recruited in order to recount the experiences of those who have and have not entered into the institution. Using queer theory to unsettle the heteronormative value attached to marriage, the study will recognise the ways in which marriage may be *queered* by same-sex couples. This will take into account the intersectional construction of identity in relation to coupling and sexuality. Warner has argued that queer theory resists the notion that the state should be allowed to accord legitimacy to any form of sexuality.[102] In light of the creation of same-sex marriage, however, it is imperative to investigate the impact of such legitimation. Thus, this research will investigate the potentiality of the queering of marriage, unsettling heteronormativity in law. As

---

[100] This can be demonstrated by the Irish and Australian public votes in favour of legislating for same-sex marriage, as well as the 15,000 same-sex marriages taking place in England and Wales in 2015, and the average of 6,000 taking place in each of the following years: Office for National Statistics, *Marriages in England and Wales: 2015*, <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2015#main-points> accessed 5 April 2018.

[101] G Hocquenghem, *The Screwball Asses* (trans N Wedell, Semiotext(e) 2010) 71.

[102] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 88.

such, queer legal theory presents law as a dynamic, unstable, and unpredictable struggle,[103] which will therefore be used to deconstruct normative and disciplinary[104] aspects of law:[105] 'legal theory that is queer is legal scholarship that is oppositional or at odds with – and thus in relation to – that which is normal or dominant.'[106] Queer legal theory can therefore 'signify a self-conscious, self-defined, and self-sustaining body of liberational legal scholarship that voices and pursues the interests of sexual minorities as its particular contribution toward the end of sex/gender subordination'.[107]

This study will use queer legal theory in order to investigate the lived truth of same-sex marriage, deconstructing the heteronormative nature of marriage and critically analysing its meaning and function, producing a body of liberational scholarship that pursues the interests of sexual minorities. This will construct the sexual hierarchy in order to view the ways in which law and society ascribe value to certain behaviours, assessing the dynamic interaction of sexuality and identity with and against overlapping cultural rules of normality.[108] In doing so, the homonormative and the homoradical will be constructed as a means of determining behaviour and attitudes of the participants as radical or normative in the upholding of the sexual hierarchy. Queer theory, therefore, provides an appropriate and rigorous means of critically analysing the institution of marriage, renegotiating boundaries of marriage and identity,[109] and deconstructing the normative and disciplinary aspects of law and norms of recognition.[110]

1.4 Contribution to Knowledge

This thesis will contribute to the literature in the fields of gender, sexuality and law, and family law, through an exploration of the socio-legal impact of same-sex marriage using empirical

---

[103] C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995) 140.

[104] Ibid., 3.

[105] A Romero, 'Methodological Descriptions: "Feminist" and "Queer" Legal Theories' (2007) 19 *Yale Journal of Law and Feminism* 227, at 254.

[106] Ibid., 254.

[107] F Valdes, 'Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex", "Gender", and "Sexual Orientation" in Euro-American Law and Society' (1995) 83 *California Law Review* 1, 349.

[108] G Filax et al., 'Queer Theory/Lesbian and Gay Approaches' in B Somekh and C Lewin (eds), *Research Methods in the Social Sciences* (Sage 2004) 81–82; A Romero, 'Methodological Descriptions: "Feminist" and "Queer" Legal Theories' (2007) 19 *Yale Journal of Law and Feminism* 227, 254.

[109] K Namaste, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 199.

[110] J Butler, *Undoing Gender* (Routledge 2004) 32.

evidence. This empirical evidence will illustrate the experiences of a diverse group of LGBTQ participants in the north-east of England following the recent introduction of same-sex marriage. The study will provide an evaluation of Rubin's sexual hierarchy in the context of recently legalised same-sex marriage in the United Kingdom. This will construct the homonormative and the homoradical and will argue for the continued existence of a sexual hierarchy that values and promotes normative sexuality. The homonormative – largely represented by and accepted via same-sex marriage – will be argued to exhibit behaviour and attitudes that correspond with heteronormativity and assimilation, relying on equality-based legal reform and improved social attitudes to gain social privilege and legal recognition. The homoradical, it is argued, maintains a reactionary behaviour as a form of resistance against heteronormativity, a queer challenge against the depoliticising and desexualising effects of homonormativity. The homoradical will be significant to same-sex marriage as being antithetical to the image produced by marriage, and will constitute a significant contribution to knowledge through this previous unexplored term. The construction of both these terms then allows for a discussion of the continued existence of the sexual hierarchy following the 2013 Act.

Sarah Beresford has argued that the Matrimonial Causes Act 1973 should be amended to include a definition of consummation that recognises same-sex intercourse and is reliant on the self-definition of sexual acts.[111] This research will give weight to that argument, using empirical evidence to demonstrate the importance of such reform in legitimating and recognising non-heterosexual sexual intercourse. It will be argued throughout this thesis that, in accordance with the data, sex should be recognised within the marriage structure through the introduction of consummation requirements in same-sex marriage, in order to queer marriage and disrupt the heteronormative legal definition of sex. Therefore, this study's contribution to knowledge is significant in recounting the lived experiences of same-sex marriage, in exhibiting the ways in which the sexual hierarchy is constructed, and in pointing towards legal reform that may alter, deconstruct, or diminish the sexual hierarchy.

---

[111] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

1.5 Significance

This research will be significant in assessing the United Kingdom's experience of same-sex marriage in the first decade of the legislation, placing particular significance on the personal narratives and lived experiences of the LGBTQ participants who contributed to the study. Marriage – as a social, cultural, and familial organiser – is predicated on the determination and categorisation of sexuality and identity. It has a deep-rooted social significance that is culturally anchored within the realms of domesticity and citizenship.[112] As argued by Weeks, 'marriage links people on the basis of custom, law and frequently religion, but its forms are in constant development, even flux'.[113] As such, the redefinition of marriage to include relationships between couples of the same sex provides a significant area of research, particularly through the legitimacy and visibility of couples who have historically been stigmatised. This study of the impact of the Marriage (Same-Sex Couples) Act 2013 is significant in investigating and highlighting the reinforcing of the centrality of marriage and heteronormativity. In examining the sexual hierarchy (which is particularly informed by Rubin's 1984 work *Thinking Sex*,[114] although I acknowledge that this is not a universal concept) in the light of same-sex marriage, the impact of shifting social and legal paradigms regarding homosexuality will be made visible, adding to a large body of research. The conceptualisation of the homonormative and the homoradical is significant in assessing the law's role in constructing normative and radical identities and behaviour. However, this research will posit that such a view relies on normative discourse and therefore points towards additional social and legal reform that will assist in the further legitimisation and acceptance of pluralised sexual identity.

1.6 Structure

Following this introduction, chapter 2 will discuss the legal provisions on which same-sex marriage – and other important familial and sexual law – rests and will set the scene for the following discussion of the 2013 Act. Chapter 3 will consist of an exhaustive narrative literature review that assesses previous work on marriage, LGBTQ identity, and queer theory. Chapter 4 will detail the methods and methodology followed in the construction of the research

---

[112] S Phelan, *Sexual Strangers: Gays, Lesbians, and Dilemmas of Citizenship* (Temple University Press 2001).

[113] J Weeks, *The Languages of Sexuality* (Routledge 2011) 107.

[114] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 154.

questions and the collection of the empirical data, which were integral to investigating the impact of the legislation. Chapters 5, 6, and 7 will analyse the data collected, utilising the transcripts of the lived experiences of the participants and the visual methods they themselves drew in order to visualise the sexual hierarchy. Chapters 5 and 6 will construct the homonormative and homoradical identities respectively. Homonormativity, as coined by Warner[115] and expanded on by Duggan, is noted to be the dominant politics of liberal equality-driven agendas. It upholds rather than contests dominant heteronormative assumptions and institutions.[116] The homoradical, as coined by this research, is the reaction to the homonormative. It resists the domestication and desexualisation of LGBTQ bodies and politics. Chapter 7 will then construct the sexual hierarchy in the light of the homonormative and homoradical bodies, assessing their interaction and identity. This will inform a discussion of the ways in which law regulates and constructs sexuality, and how heteronormativity remains a dominant institution within a society that is reliant on binaries of 'good' and 'bad' sexuality. Chapter 8 will then conclude this study by considering whether same-sex marriage indeed provides a 'political sedative',[117] or whether it has the potential to radically alter the ways in which law affects the construction of sexuality within society, and the implicit effects of the sexual hierarchy.

Throughout this study, the structure of the 2013 legislation and associated law will be scrutinised in order to understand its effect on society and sexuality. This examination of sexuality will assist in discovering the socio-legal expectations and distinctions between notions of good and bad sexuality, and the distinctions between the public and private, querying and queering these binaries. Furthermore, research into this area will assist understandings of the role of relationship recognition, while exploring the attitudes and views of LGBTQ individuals and populations in the age of increased visibility and acceptance of their sexuality. Ultimately, this will highlight the experiences and the narratives of LGBTQ people regarding the passing of the Marriage (Same-Sex Couples) Act 2013: this credits the importance of queer

---

[115] M Warner, 'Homo-Narcissism; or, Heterosexuality' in J Boone and M Cadden (eds), *Engendering Men* (Routledge 1990).

[116] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 179.

[117] Ibid., 191.

voices and lived experiences as being integral to analysis. The knowledge gained in this study will contribute to narratives regarding LGBTQ sexuality and the lived reality of law.

2
The Legal Background of Same-Sex Marriage

This chapter will focus on the legal institution of marriage within the United Kingdom, along with various familial and sexual laws that affect the legal recognition and regulation of LGBTQ relationships and sexuality on which this thesis will rely. Marriage has historically acted as a familial organiser, capable of categorising gender and sexuality and enforcing a sexual morality.[1] The institution of marriage is predicated primarily on the ideal of 'the voluntary union for life of one man and one woman to the exclusion of all others'.[2] This ideal promoted by the law of exclusive commitment supports traditionalist notions of heteronormativity. It has been described as a 'sacramental' institution,[3] which Rubin has called (prior to same-sex marriage) a form of sexual apartheid.[4] This chapter will provide the legal background to same-sex marriage, setting out the significant provisions of the 2013 Act that will allow for analysis of the so-called sexual apartheid.

2.1 Sexual Reform

In charting the legal journey of same-sex marriage, it is important to note the decriminalisation and deregulation of same-sex activity. Section 1(1) of the Sexual Offences Act 1967, following the 1957 Wolfenden Report, legalised private consensual sexual intercourse between two men above the age of 21 in England and Wales.[5] The Act, however, only partially decriminalised gay male sex: it maintained sanctions for sex that occurred outside of the private realm. The

---

[1] J Weeks, *Sexuality* (3rd edn, Routledge 2009) 32.

[2] *Hyde v Hyde and Woodhouse* (1866) LR 1 PD 130 at 133 per Lord Penzance.

[3] K O'Donovan, *Family Law Matters* (Pluto 1993) 47.

[4] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 167.

[5] Homosexual acts were decriminalised in Scotland by the Criminal Justice (Scotland) Act 1980: 'Subject to the provisions of this section, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of twenty-one years.' Northern Ireland followed with the Homosexual Offences (Northern Ireland) Order 1982 after *Dudgeon v United Kingdom* (Application no. 7525/76), which held that the criminalisation of homosexuality was a breach of the right to privacy in Article 8 of the European Convention on Human Rights.

Act intended to move sex away from public spaces, in order to deter the public nuisance of cottaging (the pursuance of sex in public lavatories). Section 71 of the Sexual Offences Act 2003 also carries this provision, criminalising sex that takes place in a lavatory to which 'the public have or are permitted to have access'[6] as a means of restricting forms of gay sex that may take place in a public space. In 1993, in *R v Brown*,[7] the consensual sadomasochistic activity of a group of men was prosecuted under sections 20 and 47 of the Offences Against the Persons Act 1861, further representing the limits of the law's tolerance for deviant sexual expression and its delineation of right and wrong sexual behaviour.[8] The age of consent for men was lowered from 21 to 18 in 1994,[9] and to 16 in the Sexual Offences Amendment Act 2000.[10] There has never been a statutory age of consent for lesbian sex. Lesbian activity has not been directly criminalised in the same way as has gay sexuality; however, it has been viewed as immoral and as an abnormal sexual category, argued by Doan to be a threat to hegemonic masculinity.[11] This, Doan states, led to the failed attempt to extend the Criminal Law Amendment Act 1885 to cover gross indecency between women.[12] Such criminalisation (and attempted criminalisation) reiterates the importance of shifts to accept LGBTQ sexuality. It thus represents the origins of the sexual hierarchy, in which criminalisation was a key factor in the oppression of non-normative consensual sexuality.

2.2 Marriage in England and Wales before 2013

The main provisions for heterosexual marriage are established in the Marriage Act 1949 and the Matrimonial Causes Act 1973. The latter Act stipulates the ideal parameters and functions of a marriage, as well as the grounds on which a marriage may be void or voidable. Those grounds – which were recognised by the law until 2013, when the Act was amended – require that the parties are not within the prohibited degrees of blood relations; that neither party is

---

[6] Sexual Offences Act 1967, s 2(b).

[7] *R v Brown* [1993] UKHL 19.

[8] V Munro, 'Dev'l-in Disguise? Harm, Privacy and the Sexual Offences Act 2003' in V Munro and C Stychin (eds), *Sexuality and the Law* (Routledge 2007) 4.

[9] Criminal Justice and Public Order Act 1994, s 143.

[10] Sexual Offences (Amendment) Act 2000, s 1(3).

[11] L Doan, '"Gross Indecency between Women": Policing Lesbians or Policing Lesbian Police?' (1997) 6(4) *Social & Legal Studies* 533.

[12] Joint Select Committee of the House of Lords and the House of Commons (1920) *Minutes of Evidence Taken Before the Joint Select Committee on the Criminal Law Amendment Bill* (HMSO, 936) para. 1479.

under the age of 16 or a party to another marriage (polygamous marriage); and that the parties are, respectively, male and female.[13] Section 12 of the Act also requires mandatory penile–vagina penetration in order to avoid the marriage being voidable. The voidable marriage thus insists on the centrality of penetrative heterosexuality as a marital requirement:[14] without consummation, it may be argued, a couple is considered insufficiently intimate to fulfil a marriage. The implications of this in same-sex marriage will be discussed throughout this thesis. The construction of marriage is an important factor for gender and sexuality within English and Welsh law. This thesis will interrogate the role of marriage in order to assess the ways in which legal recognition affects the lived experiences of the sexual minority populations who are newly introduced to it.

2.3 Incremental Familial Development

The decreasing significance of marriage was noted in the courts at the turn of the 21st century in *Fitzpatrick v Sterling Housing Association*,[15] a case in which citizenship rights usually associated with heterosexual, marital, familial relationships were awarded to a cohabiting, unmarried, homosexual male relationship. Marriage rates have declined considerably in post-war Britain. Prior to the passing of the 2013 Act, the Office for National Statistics envisioned that by 2033, 42% of the adult population would be married, in contrast to 49% in 2008.[16] This decrease demonstrates the view of marriage as a lifestyle choice rather than an imperative.[17] It reflects the decision of the court in *Fitzpatrick*,[18] in which marriage, though denied to same-sex couples at the time, was shown to be unnecessary when allocating spousal benefits.[19] This case began a trend of incremental developments in the common law that recognised the familial

---

[13] Matrimonial Causes Act 1973, s 11.

[14] C Stychin, 'Not (Quite) a Horse and Carriage: The Civil Partnership Act 2004' (2006) 14 *Feminist Legal Studies* 79.

[15] *Fitzpatrick v Sterling Housing Association Ltd* [2000] 1 FCR 21 at 52. See also R Auchmuty, 'Law and the Power of Feminism: How Marriage Lost Its Power to Oppress Women' (2012) 2 *Feminist Legal Studies* 71.

[16] Office for National Statistics, *Marital Status Population Projections* (2010).

[17] A Barlow, S Duncan, and G James, *Cohabitation, Marriage and the Law* (Hart 2005) 49.

[18] *Fitzpatrick v Sterling Housing Association Ltd* [2000] 1 FCR 21 HL.

[19] While, notably, the Supreme Court ruled that to deny a surviving *unmarried* spouse their Widowed Parent's Allowance was in breach of Article 14, when read with Article 8, of the European Convention on Human Rights, reaffirming the decreasing significance of marriage: *In the matter of an application by Siobhan McLaughlin for Judicial Review (Northern Ireland)* [2018] UKSC 48.

rights of same-sex couples. *Ghaidan v Godin-Mendoza*[20] accepted that a same-sex couple could be living 'as husband or wife', while *Secretary of State v M* held that a same-sex couple could constitute a family.[21] *Wilkinson v Kitzinger*[22] further entrenched civil partnerships as a sufficient substitute for marriage in the courts. These cases undermined the insistence that families were founded on heterosexuality and marriage. In charting the development of LGBTQ rights, the inclusion of only those relationships that fit within familial models demonstrates the exclusionary nature of some rights discourses. It is also important to note that, historically, in lieu of formal relationship recognition, non-legal 'marriages' were a part of some queer cultures,[23] although these will not form part of the substantive analysis in this thesis. The thesis will discuss familial and marriage rights and will not focus on other civil rights, such as employment protections and non-discrimination rights. The assessment of familial rights lends itself to discussion of the sexual hierarchy as a means of investigating the structures of law that are predicated on sexuality as a precursor to familial relationships.

2.4 The Civil Partnership Act 2004

The Civil Partnership Act 2004 aimed to provide same-sex couples with a form of legal recognition. As explained by Sir Mark Potter in *Wilkinson v Kitzinger*:

> Parliament has taken steps by enacting the CPA to accord to same-sex relationships effectively all the rights, responsibilities, benefits and advantages of civil marriage save the name, and thereby to remove the legal, social and economic disadvantages suffered by homosexuals who wish to join stable long-term relationships.[24]

However, there are distinctions between marriage and civil partnerships that label civil partnerships as a 'parody' of marriage[25] and as 'not marriage'.[26] Civil partnerships are a civil institution and do not require any distinct vows to be stated.[27] Neither adultery nor non-

---

[20] *Ghaidan v Godin-Mendoza* [2004] UKHL 30.

[21] *Secretary of State for Work and Pension v M* [2006] 1 FCR 497 at [506] per Lord Nichols.

[22] *Wilkinson v Kitzinger* [2006] EWHC 2022 (Fam).

[23] E Schecter et al., 'Shall We Marry? Legal Marriage as a Commitment Event in Same-Sex Relationships' (2008) 54(4) *Journal of Homosexuality* 400.

[24] *Wilkinson v Kitzinger* [2006] EWHC 2022 (Fam) at [122] per Sir Mark Potter.

[25] Baroness O'Cathain, *Hansard*, HL Deb 22 April 2004, vol 405.

[26] C Stychin, '"Las Vegas Is Not Where We Are": Queer Readings of the Civil Partnership Act' (2006) 25 *Political Geography* 899, 902.

[27] While the legal civil partnership is purely civil, some churches, such as the Quaker Church, do allow civil partnerships and same-sex marriages to take place in their congregations.

consummation may be used as a factor in civil partnership dissolution.[28] However, it is important to recognise that many value civil partnerships as a form of relationship recognition that is free from the historical baggage of marriage. This is particularly important as the Supreme Court has ruled that barring heterosexual couples from civil partnerships represents a breach of Article 14, read with Article 8, of the European Convention of Human Rights[29] in regards to discrimination and private family life. The court has declared this to be incompatible with the Human Rights Act 1998.[30] These differences between civil partnership and marriage, which may not present any practical disadvantages to same-sex couples, do serve to devalue civil partnerships – particularly with the advent of same-sex marriage – through the hierarchical organisation of relationship recognition.[31] The effects of this devaluation will be discussed in chapter 7 in relation to the sexual hierarchy. The introduction of civil partnerships was followed by the Human Fertilisation and Embryology Act 2008, which extended greater familial rights to same-sex couples in the use of embryonic fertilisation. Same-sex parenting will not be discussed in this study, but it will inform notions of LGBTQ family life.

In the years that followed, the campaign for same-sex marriage gained ground. It is important to assess civil partnership and marriage simultaneously, as legal indicators of the sexual hierarchy in which one institution may be viewed as being 'above' the other. Civil partnerships have been viewed as a lesser form of relationship recognition than marriage, displaying all the characteristics of marriage without the legal[32] or social status, in effect continuing the privileging of heterosexuality in law and society.

2.5 The Marriage (Same-Sex Couples) Act 2013

Same-sex marriage gained royal assent in July 2013 after its passage through Parliament, passing the Commons with a majority of 366 to 161. Liberal Democrat Baroness Featherstone credits herself as introducing and championing the Act, as she notes in her book *Equal Ever*

---

[28] Civil Partnership Act 2004, s 50. Venereal disease does not constitute a ground for voiding civil partnerships, as it does for same-sex marriages. However, this will not form any part of the discussion of this thesis.

[29] European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

[30] *Steinfeld and Keidan v Secretary of State for the International Development* [2018] UKSC 32.

[31] A Maine, 'The Hierarchy of Marriage and Civil Partnerships: Diversifying Relationship Recognition' in F Hamilton and G Noto La Diega (eds), *Same-Sex Relationships Law and Social Change* (Routledge forthcoming).

[32] C Stychin, '"Las Vegas Is Not Where We Are": Queer Readings of the Civil Partnership Act' (2006) 25 *Political Geography* 899, 902.

After,[33] while former Conservative Prime Minister David Cameron claims same-sex marriage as one of his proudest achievements.[34] Much of the opposition to the Act had religious underpinnings, leading the government to assure religious groups that same-sex marriage would not be forced upon them.[35] This assurance was manifested in the legislation by the 'Quadruple Lock', which allows religious organisations and their representatives to act in accordance with their doctrines and beliefs. Importantly, the legislation limits notions of adultery and consummation to heterosexual marriage. This restriction stems from the inability of Parliament to adequately define sexual intercourse outside of the heterosexual model. As will be argued in this thesis, the effect of this legislative anomaly is that same-sex marriage does not in fact constitute *equal* marriage.

The redefinition of the parameters of marriage in the 2013 Act provides a mechanism for converting existing civil partnerships into marriage.[36] The Act recognises same-sex marriages entered into outside of England and Wales, while providing that marriages entered into in England and Wales will be recognised as civil partnerships in Scotland and Northern Ireland. Scotland legislated for same-sex marriage through the Marriage and Civil Partnership (Scotland) Act 2014.[37] The Act amends the Gender Recognition Act 2004 to enable existing marriages to continue if one or both partners change their legal gender,[38] while also providing that marriage for same-sex couples has the same effect as for heterosexual couples. These statutory provisions generally work towards notions of equality and dignity, founded in a respect for the solemnity of a married couple. However, as with the Civil Partnership Act 2004,[39] sexual intercourse remains defined purely in heterosexual terms, as it is omitted from

---

[33] L Featherstone, *Equal Ever After: The Fight for Same-Sex Marriage – and How I Made It Happen* (Biteback Publishing 2016).

[34] Mr Cameron, during his final Prime Minister's Questions, stated: 'There are 30,000 gay people in our country who, in the past six years, have been able to get married. That is real progress. I will never forget the day at No. 10 when one of the people who works very close to the front door said to me, "I'm not that interested in politics, Mr Cameron, but because of something your lot have done, I am able to marry the person I've loved all my life this weekend." There are many amazing moments in this job, but that was one of my favourites.' HC 13 July 2016, vol 613, col 286.

[35] HC 11 December 2012, col 156.

[36] Marriage (Same-Sex Couples) Act 2013, s 9.

[37] Marriage (Same-Sex Couples) Act 2013, s 10; Sch 2.

[38] Marriage (Same-Sex Couples) Act 2013, s 12; Sch 5.

[39] Civil Partnership Act 2005, s 50.

the legislation. This leads to provisions of the 2013 Act remaining unequal, while Northern Irish same-sex couples did not, until late 2019, have the right to marry.

Section 3 of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 amends section 1 of the Matrimonial Causes Act 1973 to insert a provision that '[o]nly conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this section'.[40] This bars adultery from divorce proceedings involving same-sex couples, who may still rely on unreasonable behaviour, desertion, two years' separation with consent, or five years' separation.[41] Section 4 of Schedule 4 states that consummation – previously essential to the validation of heterosexual marriage – does not apply to married same-sex couples, amending the Matrimonial Causes Act 1973 as to the grounds on which a marriage is voidable. The removal of adultery and consummation from same-sex marriage extends from the legal definition of sexual intercourse, defined as the full penetration of the vagina with the penis, as identified in *D v A*[42] as 'ordinary and complete'. The removal of adultery from same-sex marriage means that divorcing same-sex couples must instead use 'unreasonable behaviour' as a fact attributing to the irretrievable breakdown of their marriage,[43] as sexual activity between a spouse and a third party of the same-sex does not constitute adulterous behaviour. Therefore, the definition of sexual intercourse creates specific inequalities in the legislation. Same-sex couples thus may not rely on adultery in divorce, should they want to, and instead would have to rely on the other four grounds – which they may not feel are appropriate. However, it should be noted that the government has stated its intention to introduce no-fault divorce in 2019[44] in order to make the process less acrimonious and less expensive. Same-sex couples also may not rely on nullity proceedings and would have to rely on divorce proceedings. This bars same-sex couples from certain financial provision orders, property sharing orders, and pension sharing orders.[45]

---

[40] Marriage (Same-Sex Couples) Act 2013, Sch 4 s 3.

[41] Matrimonial Causes Act 1973, s 1(a).

[42] *D v A* (1845) 1 Rob Ecc 279.

[43] Matrimonial Causes Act 1973, s 1(2)(b).

[44] Lord Chancellor David Gauke: 'While we will always uphold the institution of marriage, it cannot be right that our outdated law creates or increases conflict between divorcing couples. So I have listened to calls for reform and firmly believe now is the right time to end this unnecessary blame game for good.' O Bowcott, 'No-Fault Divorce Coming "as Soon as Parliamentary Time Allows"', *The Guardian*, London, 9 April 2019, <https://www.theguardian.com/law/2019/apr/09/no-fault-divorce-law-coming-as-soon-as-parliamentary-time-allows> accessed 9 April 2019.

[45] Matrimonial Causes Act 1973, ss 23, 24, 25.

A final issue within the 2013 Act that will be discussed in this thesis[46] is the restriction of same-sex couples from religious marriage. The Quadruple Lock (1) ensures that no religious organisation or individual can be compelled to marry same-sex couples; (2) requires religious organisations to 'opt-in' if they wish to perform same-sex marriages; (3) amends the Equality Act 2010 to bar discrimination claims regarding the lock; and (4) ensures that the legislation does not affect the canon law of the Church of England.[47] The Quadruple Lock is a means of excluding religion from same-sex marriage in order to appease religious institutions.[48] In doing so, the law has not only validated an assumption that homosexuality is incompatible with some religions (while there are certainly many branches of religions that accept homosexuality), but also actively opposes progressive recognition of the value placed on religion by some LGBTQ people and the beneficial effects possible if same-sex marriages were to take place with religious legitimacy. The inequality of same-sex marriage is thereby reinforced, as with the removal of sexual intercourse from legal discourse of same-sex marriage, as the legislature attempts to balance religious and LGBTQ rights.[49] This study will focus primarily on the issues of sex and sexuality within same-sex marriage and will not discuss the impact of the Quadruple Lock in detail, as it is outside the remit of this research – despite its apparent implications for equality.

The impact of the provisions of the 2013 Act will be discussed in their socio-legal context and analysed in relation to the lived experiences of the LGBTQ individuals who have taken part in this study. The legislation, while extending an important institution to same-sex couples, is in need of discussion and analysis in assessing the distinct sociological and legal changes that have occurred in not only the half-century from which homosexual sex was decriminalised, but also the past two decades in the growing familial reform for same-sex couples. The international development of same-sex marriage also indicates the significance of the

---

[46] Another significant issue within the Act for transgender people is the 'spousal veto', contained in Schedule 5, which amends the Gender Recognition Act 2004. This provision states that if a married applicant wishes to transition, a statutory declaration by the applicant's spouse must be made, stating that the spouse consents to the issuing of a Gender Recognition Certificate: Marriage (Same-Sex Couples) Act 2013, Sch 5, Pt 1. This study will not, however, focus on the impact of such provisions.

[47] Marriage (Same-Sex Couples) Act 2013, s 2.

[48] N Sagovsky, 'Hooker, Warburton, Coleridge and the "Quadruple Lock": State and Church in the Twenty-First Century' (2014) 16 *Ecclesiastical Law Journal* 140.

[49] J Weeks, *Sexuality* (2nd edn, Routledge 2003) 130.

institution, not only to LGBTQ populations as a milestone and signifier of equality, but also in reinforcing the centrality of the institution within public life.

2.6 Same-Sex Marriage Developing around the World

It is important to note that LGBTQ rights in the United Kingdom have not developed in isolation. Beginning in the latter half of the 20th century and continuing into the 21st century, LGBTQ legal rights and social standing have undergone a dramatic transformation. Throughout the Western world, jurisdictions began the process of legislating for the legalisation of gay sex. LGBTQ activism grew as a response to the oppression faced from heteronormative governance, while same-sex marriage is now a burgeoning Western norm. The Netherlands introduced legal same-sex marriage in 2001, followed by Belgium in 2003; Spain and Canada in 2005; South Africa in 2006; Norway and Sweden in 2009; Iceland, Portugal, and Argentina in 2010; Denmark and various states in the United States and Central America in 2012; France, Brazil, New Zealand, and Uruguay in 2013; and Luxembourg in 2015. This research began in 2015, a year after the British same-sex marriage legislation came into force in 2014. During the period in which this thesis was researched and written, the US Supreme Court[50] held in 2015 that it was unconstitutional to withhold marriage from same-sex couples; Columbia in 2016 and Germany, Malta, and Finland in 2017 legislated for same-sex marriage; and the Irish public and the Australian public voted for same-sex marriage in 2015 and 2017, respectively. Austria legalised same-sex marriage in 2019, while Taiwan became the first Asian country to do so in that same year. Czechia's government has expressed support for same-sex marriage and the Inter-American Court of Human Rights has ruled that same-sex marriage should be recognised by signatories.[51] It is worth noting the continued opposition to same-sex marriage in many conservative countries. Some countries withhold significant legal and social rights from LGBTQ populations. Same-sex sex is criminalised in the Middle East, Asia (prior to Taiwan), much of Africa, Eastern Europe, and Russia. At the time of writing, the devolved Northern Irish Assembly maintained its opposition to same-sex marriage from British

---

[50] *James Obergefell, et al., Petitioners v Richard Hodges, Director, Ohio Department of Health, et al.* 576 US 135 S Ct 2584.

[51] Pew Research Centre, 'Gay Marriage around the World', 3 August 2017, <http://www.pewforum.org/2017/08/08/gay-marriage-around-the-world-2013/> accessed 6 December 2017; BBC News, 'Inter-American Human Rights Court Backs Same-Sex Marriage', *BBC News*, 10 January 2018, <http://www.bbc.co.uk/news/world-latin-america-42633891> accessed 23 January 2018.

citizens.[52] However, legalisation of same-sex marriage has taken place automatically in Northern Ireland on 21 October 2019, as the devolved government remains suspended following the Northern Ireland (Executive Formation) Act 2019. The developing trend around the world demonstrates the rights-based focus of same-sex marriage, with human rights instruments reflecting the importance of equality and freedom from discrimination.

The European Convention of Human Rights continues to reserve the Article 12 right to marry to heterosexual people, yet many LGBTQ cases have relied on the Article 8 right to privacy and family life to preserve fundamental rights for same-sex couples.[53] Despite this, *Schalk and Kopf v Austria*[54] determined that the Convention does not oblige states to provide same-sex marriage, although member states do have a positive obligation to recognise rights for same-sex couples confined to the facts existing on the ground in Western Europe, as decided in *Oliari v Italy*.[55] Similarly, the *Coman* case in the Court of Justice of the European Union confirmed that the term 'spouse' is gender neutral when applied to free movement and, as such, member states should recognise the same-sex spouse of a citizen moving between states.[56] However, this research focuses primarily on experiences of same-sex marriage in the United Kingdom, which is ultimately reliant on common law and parliamentary legislation, and will not consider other jurisdictions in detail. As there is no European (European Union or European Convention on Human Rights) consensus on same-sex marriage,[57] these narratives have been excluded in order to focus on the impact of the 2013 Act.

2.7 Conclusion

This chapter has highlighted only some of the legislative and common law examples that may affect the lived experiences of LGBTQ issues, particularly those that concern sex and sexuality.

---

[52] J Evans and J Tonge, 'Partisan and Religious Drivers of Moral Conservatism: Same-Sex Marriage and Abortion in Northern Ireland' (2016) 1–2 *Party Politics* 1.

[53] See P Johnson, '"The Choice of Wording Must Be Regarded as Deliberate": Same-Sex Marriage and Article 12 of the European Convention on Human Rights' (2015) 40(2) *European Law Review* 207; J Scherpe, 'Same-Sex Couples Have Family Life' (2010) 69 *Cambridge Law Journal* 463.

[54] *Schalk and Kopf v Austria* (Application no. 30141/04).

[55] *Oliari v Italy* (Application nos. 18766/11 and 36030/11).

[56] *Relu Adrian Coman v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne Case* C673/16.

[57] F Hamilton, 'The Differing Treatment of Same Sex Couples by European Union Law and the European Convention on Human Rights: The European Union Concept of Citizenship' (2015) 2(1) *Journal of International and Comparative Law* 87.

Issues surrounding gender – particularly regarding transitioning – have not been touched upon, as these do not fall within the scope of this study into the impact of same-sex marriage. The chapter has provided an overview of the familial development of law leading to the introduction of increased relationship recognition for same-sex couples, destabilising the centrality of heterosexuality in law. This leads to the question of the impact of such destabilisation, and how same-sex couples are affected by the changes in law – in particular, the sexual hierarchy. Such familial reform indicates and promotes the privatisation of same-sex couples, which can arguably point to the growth of homonormativity. This growth, in turn, bolsters traditional narratives of functional family law, assessing the function of familial relationships rather than their form. The legal background will therefore inform discussion of the sexual hierarchy, and the ways in which sexual behaviour and relationships are affected by the law's rewarding of certain kinds of behaviour. This will lead to the conclusion that the heterosexual consummation requirement reaffirms the sexual hierarchy and should be altered in order to recognise the validity of sex between married same-sex couples. Following this chapter, the existing literature regarding the sexual hierarchy, same-sex marriage, and other forms of relationship and sexual recognition will be discussed.

3
Literature Review

3.1 Introduction

This review will be narrative in nature, intending to be reflective of the diverse literature in this field. It will focus on qualitative research in order to develop knowledge of the intersectional issues of marriage, gender, sexuality, law, and society. This approach will therefore take account of, but will not be limited to, discussion of queer theory – specifically, homonormativity and the provisions of the Marriage (Same-Sex Couples) Act 2013 and the Civil Partnership Act 2004. Further, this review will discuss matters of sexuality, identity, assimilation, and feminist interpretations of marriage. First, this chapter will assess literature concerning the sexual hierarchy and queer theory. It will then move on to discuss literature on issues including homonormativity, previous empirical studies, assimilation, arguments regarding equality, consummation, feminist theory, and power.

This approach will allow discussion of the history of the field of law and sexuality and its specific links with marital law as a means of deconstructing the meanings of 'good' and 'bad' sexuality. This will develop understanding of how and where there are significant gaps in knowledge relating to the experiences and legal narratives of LGBTQ and same-sex marriage. It will not be appropriate to employ a systematic literature review, as this would unduly restrict the literature to strict criteria[1] and would ultimately exclude relevant multidisciplinary texts and bodies of research. An exhaustive narrative review will provide a strong foundation with which to evaluate pre-existing theory[2] and the data collected.

---

[1] A Bryman, *Social Research Methods* (4th edn, Oxford University Press 2012).

[2] C Hart, *Doing a Literature Review* (Sage 1998) 13.

3.2 Rubin's Charmed Circle as Early Queer Theory

In a primary and seminal text of queer legal theory, entitled 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality',[3] Rubin illustrates the sexual hierarchy through a 'charmed circle' that visually conceptualises the socio-legal constructions of 'good' and 'bad' sex and sexuality, on which this study will rely. This work is significant to the study in its construction of the hierarchy of sexuality and relationship recognition. Rubin's use of queer theory and social constructionism influences and guides this research into the divisions between good and bad sexuality, enabling discussion of the homonormative and homoradical. The charmed circle follows the modern Western appraisal of sex acts according to a hierarchical system, which privileges reproductive marriage and heterosexuality.[4] Rubin is the primary author of the sexual hierarchy, which consists of:

> Marital, reproductive heterosexuals are alone at the top of the erotic pyramid. Clamouring below are unmarried monogamous heterosexuals in couples, followed by most other heterosexuals. Solitary sex floats ambiguously. The powerful nineteenth century stigma on masturbation lingers in less potent, modified forms, such as the idea that masturbation is an inferior substitute for partnered encounters. Stable, long-term lesbian and gay male couples are verging on respectability, but bar dykes and promiscuous gay men are hovering just above the groups at the very bottom of the pyramid. The most despised sexual castes currently include transsexuals, transvestites, fetishists, sadomasochists, sex workers such as prostitutes and porn models, and the lowliest of all, those whose eroticism transgresses generational boundaries.[5]

---

[3] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

[4] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 40.

[5] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.
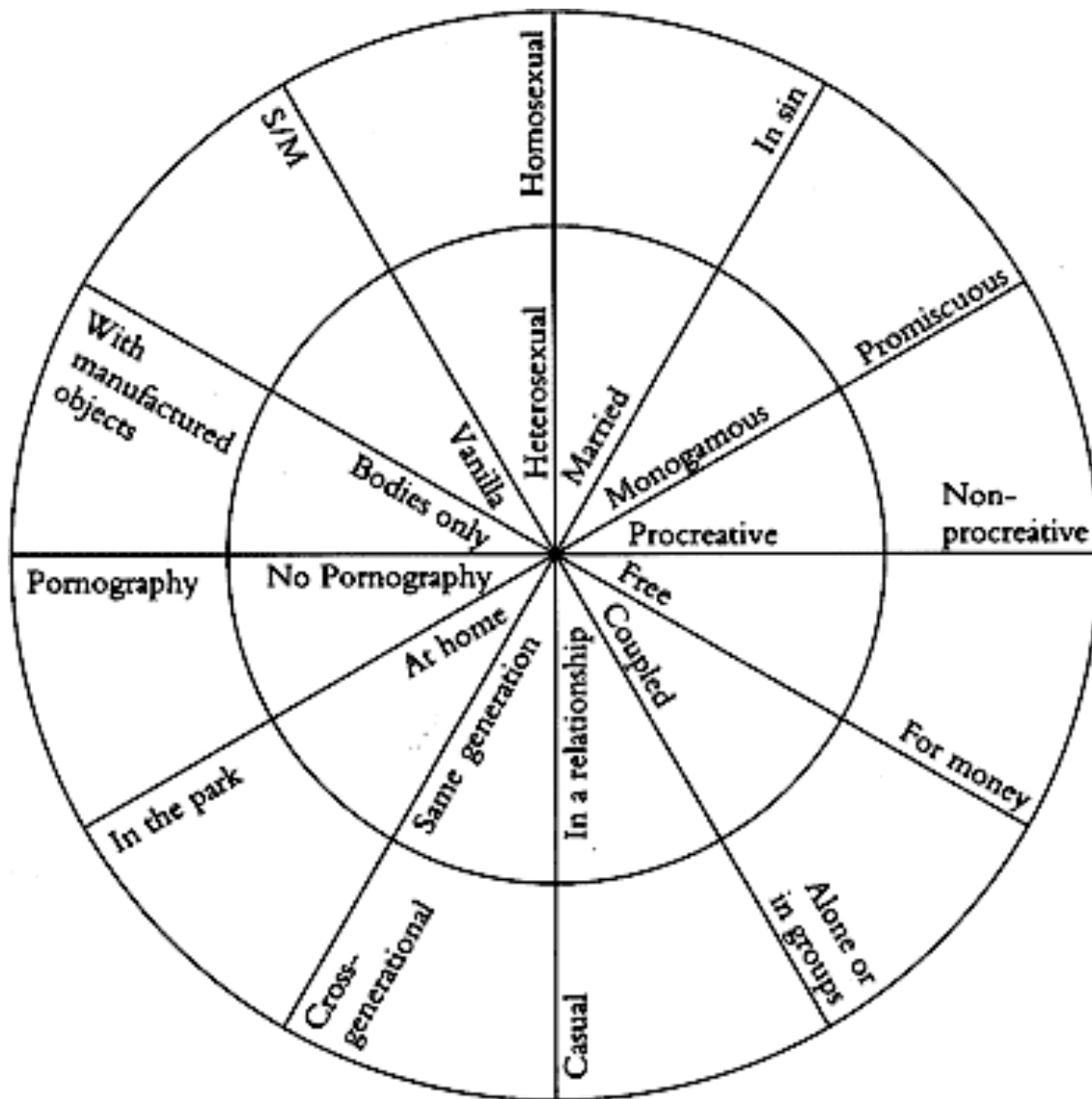
Figure 1: Rubin's Charmed Circle[6]

Rubin's sexual hierarchy theory has informed this study of the ways in which law regulates and categorises sexuality throughout modern queer theory. It will guide this study's use of queer theory. Conceptualising the sexual hierarchy through the charmed circle, Rubin states that those at the centre of the circle are rewarded by society and those at the outer edges are stigmatised and criminalised, using the last socially respectable form of prejudice.[7] Separated by the 'line of respectability' are the outer edges of the circle, which represent notions of 'bad' sexuality – the 'bar dykes and promiscuous gay men' who flout sexual norms regarding gender

---

[6] Ibid., 153.
[7] Ibid., 152.

and monogamy. Written over 31 years before the commencement (in 2015) of this research, Rubin's work still resonates within contemporary analysis of law and sexuality in an assessment of the legal value awarded to relationships and sexual behaviour. The integration of married same-sex couples into the charmed circle and the effects that this may have are integral elements of this research. This will also allow for a contextual exploration and analysis of the homoradical. The homoradical, as an identity being constructed within this research, can be defined by those who exist at the outer edges of the charmed circle and who identify as those excluded from the inner circle. Therefore, the sexual hierarchy and its line of respectability will be a key indicator of the distinction between the homoradical and the homonormative in law and society, while the charmed circle can be used as a visual indicator of the queer spectrum of the hierarchy post-same-sex marriage.

Rubin notes the way in which deviant sexual practices draw on a 'pre-existing discursive structure which invents victims in order to justify treating "vices" as crimes'.[8] This relates to the legal context of the 1980s in which many sexual acts, particularly between two or more men, were criminalised. The discussion is still relevant today in the continued criminalisation of other sexual activities, such as public sex[9] and cottaging,[10] and in the lack of recognition of forms of sexual intercourse between members of the same sex. This may indicate, as Vaid argues, that gay sex is not only a political statement, but also a direct challenge to heteronormative government:

> because the fact of government repression arguably makes every act of gay male sex a condemnation of government and religion, most men did (and still do) see their sexual and emotional freedom in stark political terms: moralism versus libertarianism.[11]

Rubin goes on to state that this sexual rebellion underlies why gay men are opposed to the closing of gay saunas, sex clubs, and other queer spaces in which sex is delivered.[12] Such opposition has again become an issue, due to the gentrification and 'cleansing' of queer spaces.[13] This notion of sexual rebellion will be investigated in this study. Moralism against

---

[8] Ibid., 163.

[9] Sexual Offences Act 2003, s 71.

[10] P Johnson, 'Ordinary Folk and Cottaging: Law, Morality, and Public Sex' (2007) 34 *Journal of Law and Society* 520.

[11] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 63.

[12] Ibid., 63.

[13] See T Rasmussen, 'What the Loss of London's Gay Saunas Means for Us', *Dazed & Confused*, 10 February 2016, <http://www.dazeddigital.com/artsandculture/article/29714/1/what-the-loss-of-london-s-gay-saunas-

liberalism goes to the heart of the marriage issue in relation to the homonormative and the homoradical: the homoradical encapsulates liberalism through the advocating of pluralised recognition of relationships, whereas the homonormative relies on the moralism inherent in state recognition of conjugal sexuality.

Rubin broadly rejects any feminist theory, particularly radical feminism, as reactionary,[14] in order to pursue a queer, sex-positive position, celebrating pornography and sadomasochistic sex. She states that 'feminist thought simply lacks angles of vision which can fully encompass the social organisation of sexuality'.[15] Rubin therefore develops queer theory in order to visualise and analyse sexual practices and to critique normative structures of law and society that stigmatise. However, this rejection of feminism does not sufficiently take into account intersectional feminist theory, which will be considered in this study when using the literature. Although written prior to mainstream arguments for same-sex marriage, Rubin succinctly articulates the tension between what is now the homonormative and the homoradical; she states that 'in political life, it is all too easy to marginalise radicals, and to attempt to buy acceptance for a moderate position by portraying others as extremists'.[16] Rubin's work has been used throughout this study, creating a framework to investigate the sexual hierarchy. It will form the basis for the development of visual methods and analytical frameworks for the evaluation of the homonormative and the homoradical.

A final issue to note, however, is the importance of looking contextually at Rubin's sexual hierarchy and its binaries, as a key feature of queer theory is its understanding that human nature cannot be captured holistically by simple binaries.[17] Rubin's hierarchy was conceptualised at a time when the majority of homosexual behaviour was only partially decriminalised. Homosexuals and same-sex couples had no access to the centre of the circle: they were socially excluded and received no legal recognition. The line of respectability demarcates the boundaries between good and bad – normative and deviant – sex, with those

---

means-for-us> accessed 27 April 2016; J Williams, 'Another of London's Gay Saunas Closes Its Doors', *PinkNews*, 17 February 2016, <http://www.pinknews.co.uk/2016/02/17/another-of-londons-gay-saunas-closes-its-doors/> accessed 27 April 2016.

[14] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 163.

[15] Ibid., 170.

[16] Ibid., 167.

[17] A Few-Demo et al., 'Queer Theory, Intersectionality, and LGBT-Parent Families: Transformative Critical Pedagogy in Family Theory' (2016) 8 *Journal of Family Theory and Review* 74.

above the line being deemed respectable and those below not. Therefore, in order to truly provide a queer insight, these boundaries should note the fluidity that comprises queer and LGBTQ identities. So, in order to reassess the circle contextually in the era of same-sex marriage, it is crucial to locate married homosexual couples on the circle. It is even more important, however, to note that married same-sex couples may also practise sexual activity that can be classified as existing at the outer edges, such as non-monogamy, promiscuity, group sex, kink sex, or public sex. As such, it is important to construct the sexual hierarchy as a spectrum, allowing for queer analysis. Therefore, the line of respectability will not be a defining feature used within the data collection. The legal and societal changes of LGBTQ acceptance will necessitate the use of visual methods to allow participants to create their own charmed circles, aiding in the analysis of the continued existence of the sexual hierarchy.

3.3 Queer Theory in Previous Literature

In Altman's *Homosexual: Oppression and Liberation*,[18] the developing gay liberation of the late 1960s and early 70s is discussed from a contemporary perspective. This contrasts to his more recent work, which looks at the wider attention given to gay rights and its polarisation.[19] *Homosexual* documents the meanings and drive behind the gay liberation movement, uprooting the most basic and deep-seated norms of society and the heterosexual family structure.[20] This specific gay liberation can be seen as a precursor to queer theory as an academic standpoint, through the development of a theory and practice from the experience[21] of being presented as an inferior and deviant sexuality. The book presents two forms of gay liberation: one recognising homosexuality as a shared norm; the other advocating a fluid, liberated self that transcends behavioural identity-based norms. Altman states that homosexuality is fundamentally a social norm derived from sexual behaviour,[22] yet, in order to gain liberation, notions of norms should be shed:

---

[18] D Altman, *Homosexual: Oppression and Liberation* (Angus and Robertson 1972).

[19] D Altman and J Symons, *Queer Wars: The New Global Polarization over Gay Rights* (Polity Press 2016).

[20] Ibid., 8.

[21] Ibid., 139.

[22] Ibid., 8.

> Liberation entails not just freedom from sexual restraint, but also freedom for the fulfilment of human potential, a large part of which has been unnecessarily restricted by tradition, prejudice and the requirements of social organisation.[23]

Altman's early noting of a queer consciousness exhibits the core themes of the transgression of normative ideals and structures in order to advocate a fluid and deviant personality that moves beyond hetero/homo divisions. Weeks has gone so far as to say that Altman's liberation entails a fortunate anticipation of, and intrinsic development to, queer theory.[24] He argues that this then entails a construction of a heightened sense of consciousness and an awareness of queer's position in society and 'a comprehension that we are not so much fucked up, as fucked over'.[25] This comprehension shows the need for reflexivity in the queer theory and an awareness of the ways in which queer theory advocates certain positions against the norm. Although they existed prior to mainstream arguments advocating same-sex marriage, it is clear that perspectives such as Altman's would not recognise the right to marry as necessary, or integral, to liberation, as marriage becomes a validation for good sexuality based within social organisation and tradition. These perspectives would negate the need for marriage altogether and, as noted by Weeks, the spirit of queer radical politics is close to that of early gay liberation.[26]

In *Queer Theory,*[27] Jagose produced an account of the development of queer theory in the mid-1990s that accurately reviews the burgeoning queer culture and academic discussion around it, leading on from Altman's *Homosexual*. Gay liberation was then committed to a radical and extensive transformation of social structures and values[28] that was to manifest itself within queer theory:

> Gay liberation understood that the marginalisation and devaluation of homosexuality was effected by that dominant and rigidly hierarchical conceptualisation of sex and gender which constituted the social norm. In order to liberate homosexuality, gay liberation was committed to eradicating fixed notions of femininity and masculinity: that move would

---

[23] Ibid., 83.

[24] J Weeks, *Making Sexual History* (Polity Press 2000) 75.

[25] D Altman, *Homosexual: Oppression and Liberation* (Angus and Robertson 1972) 224.

[26] J Weeks, *Making Sexual History* (Polity Press 2000) 83.

[27] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996).

[28] Ibid., 40.

similarly liberate any other group oppressed by what it critiqued as normative sex and gender roles.[29]

Queer theory therefore underpins this research in order to assess same-sex marriage and its construction of the homonormative and homoradical in the ability to critique normative institutions and the standards implicit within them. Jagose notes that the construction of homosexuality developed through a negotiation of essentialism and constructionism, a trait visible today in queer theory's division of deviance and normativity. Jagose assesses Butler's *Gender Trouble* as a seminal piece that is from a predominantly feminist perspective, yet one that is aware of the often assumed heterosexuality of feminism.

Butler notes the transformative potential of queer theory through the ways in which queer bodies transgress essentialism. Using linguistic analysis, she discusses what it means to have identity and how this can be applied to LGBTQ subcultures, further arguing that identity categories that are presumed foundational to feminist politics limit and constrain cultural possibilities to strict gender confines.[30] Butler identifies the heteronormative matrix, in which gender, sexuality, and desire coalesce as pervasive to contemporary feminism. Butler's theorising of specific gender performativity is instrumental in developing further LGBTQ academic thought that is relevant particularly to trans studies, but also to discussion of Sedgwick's queer performativity. Sedgwick thus described queer as a form of presentation, rather than an essential sexual category:[31] 'queerness seems to hinge much more on radically and explicitly on a person's undertaking particular, performative acts of experimental self-perception and filiation.'[32] Therefore, queer, as a performative construction and as a theoretical standpoint is appropriate to this project as a method of interrogating the performative aspects of legality and social acceptance within marital law. This standpoint is utilised by Duggan as queer allows for a critique of the divisions between the normative and the deviant: 'This new [queer] community is unified only by a shared dissent from the dominant organisation of sex and gender.'[33] The liberal gay agenda is said to uphold – and not contest – the dominant organisation. Queer acts as a critique of liberalism due to queer's focus on political

---

[29] Ibid., 41.

[30] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

[31] C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995).

[32] E Sedgwick, 'Queer Performativity' (1993) 1 *GLQ: A Journal of Lesbian and Gay Studies* 13.

[33] L Duggan, 'Making It Perfectly Queer' (1997) 22 *Socialist Review* 223.

marginalisation,[34] thus keeping the possibility of radical change alive[35] within queer politics. Therefore, this construction of queer is a relevant method of understanding and critiquing normative politics and dominant gender and sexuality binaries.

3.4 Homonormativity

Duggan's work in 'The New Homonormativity: The Sexual Politics of Neoliberalism'[36] provides a seminal queer critique of the emerging homonormative body in American politics in the late 1990s. This vision of homonormativity arose as a result of the mainstreaming of a 'gay culture', the changing goals of the gay movement, and the redefining of an 'acceptable' body of gay politics. Duggan's definition is crucial to later work on homonormativity and its interplay with heteronormativity, the homoradical, and queer theory. Duggan stated:

> The new neoliberal sexual politics of the IGF [Independent Gay Forum] might be termed the *new homonormativity* – it is a politics that does not contest the dominant heteronormative assumptions and institutions but upholds and sustains them while promising the possibility of a demobilised gay constituency and a privatised, depoliticised gay culture anchored in domesticity and consumption.[37]

The IGF was a group of LGBTQ activists that positioned itself against disruptive queer politics and anti-gay conservatism, establishing an arguably 'centrist' middle ground. Duggan argues that this position focused on a fight for equality of domestic privacy, access to the free markets, and patriotism[38] and became dominant in LGBTQ movements. This focus has manifested itself in the fight for 'equal' marriage, familial parenthood law reform, access to the military, and other attempts to ensure liberal equality for homosexuals and heterosexuals. As such, Duggan's work provides an insight into the development of the same-sex marriage agenda and gives basis to the politics of sameness and 'ordinariness' of the same-sex couples that warranted the granting of marriage rights.

The depoliticisation of gay identity and culture is the defining factor of queer critiques of homonormativity and the ways in which this mutes liberationist and queer identities,

---

[34] Ibid., 228.

[35] Ibid., 228.

[36] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002).

[37] Ibid., 179.

[38] Ibid., 179.

homogenising the gay agenda. Duggan states that the demobilisation and privatisation that marriage facilitates mean that:

> There is no vision of a collective, democratic public culture or of an ongoing engagement with contentious, cantankerous queer politics. Instead we have been administered a kind of political sedative – we get marriage and the military then we go home and cook dinner, forever.[39]

Duggan argues that marriage as a political sedative entails an acceptance of domestic confinement and a corporate culture[40] into gay American politics and promotes the privatisation of couple relationships. The privatisation of marriage relies on domestication, with presumed economic independence and private sexuality, yet presenting a public status. Duggan's 'The New Homonormativity' draws heavily on Sullivan's *Virtually Normal*.[41] Sullivan is a leading figure in the IGF who argued for the acceptance of homosexuality, due to its inevitability and its resemblance to traditional heterosexual forms of existence and relationships. He uses his personal experience as a white, educated, gay man to argue that homosexuality, within his own personal circumstances, rendered him virtually normal and therefore deserving of citizenship and marital rights. The book focuses on the four main political views in the arguments for and against formal equality in a primarily US-focused account: prohibitionist, liberationist, conservative, and liberal. After consideration of these views, Sullivan attempts to situate the virtually normal homosexual in the centre of debates through a homosexual politics that 'tackles the heart of prejudice against homosexuals while leaving bigots their freedom. This politics marries the clarity of liberalism with the intuition of conservatism'.[42]

Sullivan states that this politics (which, when married with Duggan's work, becomes synonymous with homonormativity) advocates formal equality yet does not attempt to alter private opinion regarding homosexuality. This approach utilises an unobtrusive approach from the state as to the regulation of (sexual) lives, on the assumption that the virtually normal homosexual is a law-abiding good citizen. According to Duggan, 'Sullivan aims to construct a new public/private distinction that mobilises gay equality rhetoric on behalf of a miniaturised

---

[39] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 191.

[40] Ibid., 192.

[41] A Sullivan, *Virtually Normal: An Argument about Homosexuality* (Picador 1995).

[42] Ibid., 186.

state and constricted public life'.[43] Sullivan therefore implicitly relies on Rubin's sexual hierarchy theory[44] and accepts that heterosexuality deserves to reside as the most privileged form of sexual expression and that the virtually normal homosexual should do nothing to alter this but attempt replication. Most interestingly, Sullivan states that:

> It is of course, not the least of the ironies of this politics – and of this predominantly political argument – that, in the last resort, its objectives are in some sense not political at all. … [W]e now have to be political in order to be prepolitical … we have to embrace politics if only ultimately to be free of it.[45]

This indicates the adoption of the equality agenda as the main driving force within the LGBT movement of the late 1990s and early 2000s. The development of a political movement based on homonormativity was a turning point in the gay liberation campaign of the late 20th century. It is relevant now to see how and why the homonormative movement has had political effect throughout common law countries and how the Marriage (Same-Sex Couples) Act 2013 may be viewed as a result of this.

Brown has gone on to criticise homonormativity studies as denigrating the ordinary gay lives of those living outside of large cities.[46] He argues that homonormativity has arisen as a product of liberalised attitudes in cities, positive media representations of lesbian and gay people, businesses capitalising on such representations, and anti-discrimination laws. However, Brown states that critiques of homonormativity overlook the fact that these are practices of ordinary gay lives, and such critiques ostracise and invalidate the lives of 'ordinary' gay and lesbian populations. Brown argues that critiquing such practices overlooks the benefits that homonormativity offers, such as allowing gay and lesbian populations to socialise openly and not face discrimination. He goes on to state that in recognising homonormativity differently, studies may help to reconceptualise sexuality studies and contribute to a new sexual politics rooted in the heterogeneity of everyday social relations.[47] This view will be considered in the light of the homoradical, keeping in mind that the homonormative and the homoradical may

---

[43] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 190.

[44] See G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

[45] A Sullivan, *Virtually Normal: An Argument about Homosexuality* (Picador 1995) 187.

[46] G Brown, 'Homonormativity: A Metropolitan Concept that Denigrates "Ordinary" Gay Lives' (2012) 59 *Journal of Homosexuality* 1065.

[47] Ibid., 1071.

not function like binary identities. This study seeks to explore the routine, and the exceptional, in constructing and critiquing homonormativity and the homoradical in the light of the sexual hierarchy. The study seeks not to denigrate the lived experiences, but rather to voice the truth of such experiences.

In *Undoing Gender*, Butler has addressed notions of normalisation and its effect on marginalised sexualities. She posits that the viability of individual personhood is fundamentally dependent on social norms.[48] These social norms, although they are not rules and do not hold the same power as law, nevertheless operate within social practices through the implicit standard of normalisation.[49] Butler's book focuses on wide-ranging aspects of sexuality, gender, gender and sex reassignment, and incest, but her investigation of marginalised sexuality and normalisation is the most pressing aspect of her work in relation to this study. With regard to arguments surrounding same-sex marriage, Butler states that:

> efforts to promote lesbian and gay marriage also promote a norm that threatens to render illegitimate and abject those sexual arrangements that do not comply with the marriage norm in either its existing or its revisable form.[50]

Such a statement accurately presents the feelings of many queer theorists, in particular echoing Warner's[51] and Rubin's fears that same-sex marriage is merely a method of dividing the good gay and the bad queer, which will account for the analysis of the sexual hierarchy in this study. Butler notes that marriage is thus seen as an exclusive and valued social arrangement that is designed to regulate queer lives, and that non-marital kinship becomes 'illegible' and 'unviable' when marriage forms the basis of the definition of family.[52] This argument goes on to recognise an apparent incompatibility of queer theory with marriage, as marriage calls for the establishment of identity through the requirement of female/female, male/male, or female/male. Epistemological claims of priority[53] belong to those who exhibit normative gender performances within their relationships.

---

[48] J Butler, *Undoing Gender* (Routledge 2004) 2.

[49] Ibid., 41.

[50] Ibid., 5.

[51] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000).

[52] J Butler, *Undoing Gender* (Routledge 2004) 5.

[53] Ibid., 7.

In Seidman's edited collection *Queer Theory/Sociology*, theorists present their opinions on how sociology can develop a queer theory that is suited to critiquing the hetero/homo divide. Predominantly, Weeks states that it is 'important to observe that there is no automatic relationship between social categorisation and individual sense of self or identity'.[54] This deconstruction of the rigid structures of identity is tantamount to queer theory and its manifestation within a queer sociology. As such, this lends itself to the investigation and deconstruction of identities inherent in the socio-legal interaction with sexuality. Namaste supports this view by damning the hierarchical system that the categorisation of identity itself supports. Namaste posits that the adoption of a homosexual identity strengthens the position of heterosexuality itself[55] and that queerness must be used to abandon this structure and hierarchy:

> Queer theory recognises the impossibility of moving outside current conceptions of sexuality. We cannot assert ourselves to be entirely outside heterosexuality, nor entirely inside, because each of these terms achieves its meaning in relation to the other. What we can do, queer theory suggests, is negotiate these limits. We can think about the *how* of these boundaries – not merely the fact that they exist but also how they are created, regulated, and contested. The emphasis on the production and management of heterosexuality and homosexuality characterises the poststructuralist queer theory.[56]

Namaste suggests that positioning oneself within a deviant identity only serves to reaffirm the 'naturalness' of heterosexuality, and that the most effective form of resistance would be to refuse both the hetero- and homo- identities[57] in order to move beyond the sexual binary. This critique may be related to critiques of the binary used by Rubin's sexual hierarchy and its reliance on the good/bad categories. As Stein and Plummer note, queer theory entails this move beyond such binaries through a 'plea for massive transgression of all conventional categorisations and analyses – a Sadean/Nietzschean breaking of all boundaries around gender/the erotic/the interpersonal, and a plea for dissidence'.[58] Therefore, it can be seen that relying on such binaries not only perpetuates but also upholds sexual hierarchies. It is important to ask how these binaries are perpetuated in the responses from those LGBTQ people affected by the marital legislation. For this reason, the homonormative and homoradical will not be used

---

[54] J Weeks, 'The Construction of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 59.

[55] K Namaste, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 201.

[56] Ibid., 199.

[57] Ibid., 206.

[58] A Stein and K Plummer, '"I Can't Even Think Straight": "Queer" Theory and the Missing Sexual Revolution in Sociology' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 134.

as binary identities, but rather as behaviour traits that serve to demonstrate the existence of a social and legal sexual hierarchy.

In 'Symbolic Interactionism and the Forms of Homosexuality', Plummer finds that the societal reaction of hostility towards homosexuality brings an exaggerated concern with matters of homosexuality and a strong potential for polarisation.[59] Thus, LGBT activism has always been a reaction to oppression and hostility within society. This leads to an important question of how – in a society in which homosexuality is increasingly accepted and legally sanctioned (in some forms) – it is that the homosexual is either polarised or politically sedated when they are less likely to face oppression. Plummer goes on to conclude that a decrease in polarisation may result in individuals occupying simultaneously heterosexual and homosexual roles, accompanying a decrease in the exclusivity of sexuality.[60] This will form a key aspect of the analysis, in investigating the effect of time on the normalising or stigmatising of certain forms of identity.

3.5 Previous Empirical Studies

It is important to assess historical empirical research in order to gain insight into its successes and failures, while influencing the use of queer theory in this study. Crucial to discussion of the creation of queer families is Weeks, Heaphy, and Donovan's *Same-Sex Intimacies: Families of Choice and Other Life Experiments.*[61] This work comprises sociological empirical research investigating how gay and lesbian people form their own notions of family and relationships, in lieu of formal relationship recognition. The study sampled 96 individuals – of whom 32 were couple units – who identified as 'non-heterosexual', intending to provide empirical insights into the changing form of domestic organisation, identity, and belonging, as well as the developing LGBTQ culture.[62] The research was conducted in 1995 and 1996, prior to significant legal developments such as *Fitzpatrick v Sterling Housing Association*[63] and the Civil Partnership Act 2004, and so there is little legal content. Nonetheless, it is significant in

---

[59] K Plummer, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

[60] Ibid., 81.

[61] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

[62] Ibid., 200.

[63] *Fitzpatrick v Sterling Housing Association* [2001] 1 AC 27.

assessing homosexuality in the absence of legal reform in favour of LGBTQ rights. The distinctions that may be made between then and now, in the era of same-sex marriage in the United Kingdom, are worthy of exhaustive discussion. The study focuses largely on the creation of families of choice as a result of being denied 'natural' or legal familial rights or recognition. It delves into aspects of sexuality, the effects of friendship, contextual issues of non-heterosexual relationships, and notions of the home, parenting, and intimate citizenship. The culmination of these aspects of same-sex families is influential to this work, as a precursor to the burgeoning impact of same-sex marriage on law and society.

Prior to the introduction of civil partnerships, Weeks et al. have focused on the social acceptance of same-sex couples in lieu of legally recognised relationships. Therefore, in relation to this research project, the study by Weeks et al. may be used comparatively in order to see the effects of the change in the law and whether, and to what extent, if any, homonormativity and the homoradical are constructed or castigated within law and society. The assimilation[64] of the homonormative is a notable concept within queer theory, seen as reductive to core understandings of (homo)sexuality.[65] However, respondents in *Families of Choice* correspond with the notion that a queer family then queers the notion of the family, rather than the family normalising the queer:

> The appropriation of the term *family* is not an assimilationist strategy of finding respectability in general society. We are not *degaying* or *delesbianising* ourselves by describing ourselves as family. In fact, we are queering the notion of family and creating families reflective of our life choices. Our expanded pluralist uses of family are politically destructive of the ethic of traditional family values.[66]

This reaffirmation of the stance against normalisation of the family and of queerness in 1997 may be at odds with the legalisation of same-sex marriage two decades later, which may arguably limit the queer challenge.[67] With a focus on the transformation of intimacy[68] within non-heterosexual relationships, *Families of Choice* primarily relates to the nature of power and

---

[64] S Phelan, *Sexual Strangers: Gays, Lesbians, and Dilemmas of Citizenship* (Temple University Press 2001).

[65] D Richardson, 'Locating Sexualities: From Here to Normality' (2004) 7(4) *Sexualities* 391.

[66] RE Goss, 'Queering Procreative Privilege: Coming Out as Families' in RE Goss and A Strongheart (eds), *Our Families, Our Values: Snapshots of Queer Kinship* (The Harrington Park Press 1997).

[67] M Warner, 'Normal and Normaller: Beyond Gay Marriage' (1999) 2 *GLQ: A Journal of Lesbian and Gay Studies* 119.

[68] A Giddens, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Polity Press 1992).

gendered roles within these same-sex relationships. Many of the respondents claim that their relationships are nothing like heterosexual relationships and do not adhere to gendered roles and divisions, corresponding with Auchmuty's statements regarding the familial order of egalitarianism that rejects such division.[69] This stance provides parallels to the highly gendered legal realms of family law, marital law, and the courts, and therefore its analysis will be a core element of this project. In queering the notion of family, the homonormative and homoradical will be shown to be fluid categories. Entering into marriage does not automatically confirm a normative status, with acts such as non-monogamy or polyamory queering preconceptions of the familial and marriage.

Notably, while some participants in the study are in favour of marriage, a respondent of the study by Weeks et al. said that 'trying to tailor heterosexual laws and understanding towards gay relationships is bound to fail'.[70] This provides a direct illustration of one of the core issues of same-sex marriage and is a key feature of this study. A fundamental feature of queer kinship has been the redefinition of familial boundaries and binaries, and it is essential to question whether this still holds in the era of same-sex marriage. Weeks et al. find a contradiction between the prevailing attitudes within the data: that of difference and equivalence. In the 21st century, it would appear that the equivalence of same-sex couples has been the emphasised factor in LGBTQ rights campaigns and otherwise, reaffirming the normative centrality of marriage and efforts to promote good sexuality, and lessening the distinctive radical, queer challenge. Therefore, it is clear that in the era of same-sex marriage, these notions of difference and equivalence should be re-examined. It is argued by the respondents in *Families of Choice* that the marriage model is entirely unsuited to same-sex couples and unfairly advantages the couple: 'marriage is perceived as a restrictive institution of the state, epitomising the worst aspects of heterosexuality with its prescribed gendered roles and unequal power balance'.[71] Without a pre-assigned institutional framework of formal commitment,[72] same-sex couples are free to avoid the status quo and to construct their own versions of family. Same-sex marriage therefore provides this institutional framework and may (intentionally or unintentionally)

---

[69] R Auchmuty, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 214.

[70] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 46.

[71] Ibid., 193.

[72] Ibid., 105.

readjust this freedom, leading to the structured homonormativity. This study is therefore an important milestone for early exploration of LGBT familial sociology. However, Weeks et al.'s work may be criticised for setting a precedent for similarly conducted research: 'the new sociology and history of same-sex intimacies has been narrowly focused on the social origin and development of lesbian and gay male identities and communities among almost exclusively white, middle-class Europeans and Americans.'[73] Acknowledging this may highlight a crucial class- and race-related element of homonormativity and the ways in which it is constructed.

Heaphy, Smart, and Einarsdottir conducted a follow-up sociological study in 2009 and 2010, after the enactment of the Civil Partnership Act 2004, intending to shed light on the lived experiences touched upon in *Families of Choice* situated[74] in legally recognised relationships. *Same-Sex Marriages: New Generations, New Relationships* provides important narratives from 50 young couples – 25 lesbian pairings and 25 gay male pairings – in legally recognised civil partnership, broadly following the same sampling methods as adapted in the earlier study by Weeks et al. The changes in the decade between the studies and the generational change in attitudes exemplify important social shifts in the acceptance of LGBTQ narratives relating to legal relationship recognition and the increasing assimilation of normative legal structures:

> Unlike previous generations of lesbians and gay men who, because of the lack of cultural guidelines and social supports for their identities and relationships, had little choice but to engage in life experiments, the partners in our study neither claimed nor wanted to be at the vanguard of radical relational life.[75]

This study is given the name *Same-Sex Marriages*, as it relates to the perceptions given by participants that a civil partnership is akin to the heterosexual construction of marriage, as perceived at the time the research was conducted. Using legal consciousness studies, Hull has perceived this as acting 'with the law'[76] through the appropriation of law's terms and practice in defining their relationships[77], manipulating law for their own advantage. It is unclear at this

---

[73] S Seidman, 'Identity and Politics in a "Postmodern" Gay Culture: Some Historical and Conceptual Notes' in M Warner (ed), *Fear of a Queer Planet: Queer Politics and Social Theory* (University of Minnesota Press 1993) 105.

[74] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 5.

[75] Ibid., 21.

[76] P Ewick and S Silbey, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998) 47.

[77] K Hull, 'The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage' (2003) 28 *Law and Social Inquiry* 632.

point whether this radically deconstructs the nature of formal relationship convention or whether it merely assimilates with convention – an issue that is integral to constructions of the homonormative and the homoradical. This study, exhibiting the apparent interchangeable nature of the terms, would seem to give weight to assimilationist theory, which states that same-sex marriage will lead to the diminished salience of LGBTQ identity.[78] This theory will be tested in this research in assessing the impact of marriage on LGBTQ identity.

The study by Heaphy, Smart, and Einarsdottir found that the legally recognised couple was privileged and therefore perpetuated the homonormative assumption of a depoliticised, demobilised gay constituency. This may then highlight the fact that the younger generations who participated were less affected by coming out and therefore were less distanced from traditional communities, as older generations were stigmatised and ostracised from traditional communities in the 2001 study by Weeks et al. The work of Heaphy et al. exhibits the potential of civil partnerships to destabilise the notion of gendered relationships through the creation of a new form of relationship recognition that is only available to partners of the same sex. The study provides an insight into the ways in which the young couples who readily participated in such a form of relationship recognition demonstrated a desire or willingness to assimilate same-sex relationships to prevailing social norms:

> [O]ur interviewees' relational biographies suggest that a generational shift is occurring in some contexts with respects to the possibilities of same-sex relationships … These generational developments could equally be associated with loss: of what some see as the radical creative potential of same-sex and queer relationships for undoing the oppressive relational and social orders.[79]

Therefore, this study provides important data into the developing attitudes held by those same-sex couples who choose to use the law to recognise their relationship, implying a desire to benefit from this. The distinctions between this study and the 2001 study by Weeks et al. have clear effects on the data collected. Younger respondents and legal structures drew a more normatively inclined sample, and so there may be a clear correlation between the age of respondents and the willingness to perform a formalised relationship that is broadly

---

[78] M Bernstein, 'Same-Sex Marriage and the Assimilationist Dilemma: A Research Agenda on Marriage Equality and the Future of LGBTQ Activism, Politics, Communities, and Identities' (2018) *Journal of Homosexuality* <https://www.tandfonline.com/doi/pdf/10.1080/00918369.2017.1423211?needAccess=true> accessed 5 March 2018.

[79] Ibid., 82.

assimilating or non-'radical'. As was seen in *Same-Sex Intimacies*, the broadly older participants who were interviewed at a time when prejudice and homophobia were still entrenched in law[80] exhibited attitudes that were primarily against the loss of the radical creative potential of same-sex and queer relationships[81] against heteronormative society. This is a direct contrast to the younger participants in this study, who were presumably less affected by 'coming out', who faced less stigma than those 20 years beforehand, and who were therefore less distanced from their traditional communities. This has had an effect on the research:

> For many critics, the risk inherent in claiming the 'right' to marriage or marriage-like legal arrangements is that it endorses the monogamous couple as the only legitimate focus of sexuality and redraws – as opposed to fundamentally challenges – sexual hierarchies. In this respect, marriage (be it heterosexual or same-sex) potentially tames queer sexualities, and more radical approaches to sex and relationships (e.g. non-monogamy and polyamory) could be further marginalised and the relational imaginary further restricted. Thus, same-sex marriage risks neutralising the potential that same-sex relationships have previously been thought to have for challenging the norms, values and power associated with disciplined sexualities.[82]

This statement from Heaphy et al. demonstrates the concern held by many queer theorists of the assimilationist and sedative effects that equality-based reforms may have in too readily applying a perspective of sameness rather than tolerance in terms of sexual difference. This has provided ample opportunity for research addressing this issue in the light of the Marriage (Same-Sex Couples) Act 2013 in order to evaluate the attitudes towards such assimilationist arguments and whether same-sex marriage, as legally defined, sedates the politically engaged queer identity and tames bad sexuality. The method used in this research interviewing civil partners in a couple provides interesting results in terms of understanding the couple narratives sociologically and exhibits the complex flows of power,[83] yet this may then hinder discussion of personal narratives with law, with which this research is concerned.

---

[80] See the discussion of section 28 of the Local Government Act 1988 in C Stychin, 'Of Prohibitions and Promotions' in C Stychin (ed), *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995); J Weeks, 'Pretended Family Relationships' in D Clark (ed), *Marriage, Domestic Life and Social Change: Writings for Jacqueline Burgoyne* (Tavistock 1991).

[81] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 82.

[82] Ibid., 132.

[83] K Plummer, *Telling Sexual Stories* (Routledge 1995).

Further empirical studies have investigated the impact of legal reform on LGBTQ narratives. In *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives*,[84] Harding demonstrates how the introduction of legally recognised relationships informs the views of LGBTQ people and their relationship with the law. Using legal consciousness theory, the study investigates the ways in which people approach, use, and think about law in relation to same-sex relationship recognition. This is relevant to developing socio-legal study within the areas of gender, sexuality, and law:

> Legality operates, then, as both an interpretive framework and a set of resources with which and through which the social world (including that part known as law) is constituted.[85]

Harding's study used large-scale multi-methods, including online qualitative and quantitative studies, in order to collect narratives in response to fixed questions that did not involve further interaction with the researcher. The internet was used in order to achieve a large and diverse sample, owing to the unrealistic possibility of achieving a representative sample of LGBT respondents,[86] which further benefitted from snowball and strategic opportunistic sampling. Broadly, the study found significant importance attached to legal recognition and equality in the United States and Canada, though this significance was declining in the United Kingdom – a factor potentially correlating with declining marriage rates. From this, respondents strongly adhered to 'sameness' arguments and contended that the power of the law would be appropriate to change social attitudes. Civil partnerships were not seen as enough to tackle inequality. Rights and citizenship discourses were used to argue for equal marriage, a conceptualisation that emphasises a desire for formal equality.

In order to develop Ewick's legal consciousness theory to its maximum potential, Harding uses the theory of power and resistance to conceptualise the interaction of lesbian and gay men with the law and the state. In this, individuals or groups *resist* the *power* of the state, which Harding has categorised as stabilising, moderating, and fracturing resistance. The power of the state in this context has been read as the insistence of 'legal heteronormativity',[87] with queer sexualities

---

[84] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011).

[85] P Ewick and S Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago University Press 1998) 323.

[86] J Fish, 'Sampling Lesbians: How to Get 1000 Lesbians to Complete a Questionnaire' (1999) 9 *Feminism & Psychology* 229.

[87] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011) 35.

acting in resistance to this. Stabilising resistance, Harding states, should be seen as the constant antithesis to disciplinary power relations – namely, showing extreme disregard for normative behaviours, acting as a constant counterbalance to the power of the state, and moving outside of norms created through power relations. Moderating resistance is shown to be a less violent and radical response to the power of the state in its control of an individual's life. According to Harding, this involves public expressions of resistance that seek to place non-normative ideas in the public domain,[88] such as gay pride marches or even verbal acts – for example, calling a civil partnership a marriage in order to undermine the significant societal distinction. Fracturing resistance is resistance that may have no lasting effect against power, but which nonetheless causes the power to engage with resistant thought. The case of *Wilkinson v Kitzinger*[89] embodies this fractured resistance. Although the couple failed in their attempt to have their Canadian marriage recognised in the United Kingdom, the courts had to engage with them and therefore validate their relationship and sexuality. The significance of such resistance is important to note when analysing the responses of participants as they posit themselves in relation to the law, constructing the power held by the law over LGBTQ people.

Harding uses Butler's analysis of resistance and assimilation in queer studies in order to demonstrate how power is used by the state to repress resistance:

> Power can act upon a subject only if it imposes norms of recognisability on that subject's existence. Further, the subject must desire recognition, and so find himself or herself fundamentally attached to the categories that guarantee social existence.[90]

Power operates to make same-sex marriage recognisable, utilising assimilation. This stems from the desire of same-sex couples for recognition from the state, thereby demonstrating the desirable nature of marriage and constructing the (homo)norm as something desirable. However, Harding argues that only through submission to power may there be any resistance to it, allowing for the transformation of normative conventions through the transgressions of sexuality and gender roles in marital law.[91] In order to interrogate this further, it will be important to see how those who have not submitted to the normative institution of marriage

---

[88] Ibid., 47.

[89] *Wilkinson v Kitzinger* [2006] EWHC 835 (Fam).

[90] J Butler, 'Bodies and Power Revisited' in D Taylor and K Vintges (eds), *Feminist and the Final Foucault* (University of Illinois Press 2004).

[91] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011) 54.

feel that they transgress societal norms. Homoradical resistance may be seen to be the stabilising resistance offered by Harding as a means of enforcing lasting change (disturbing dominant narratives on sexuality) on society, while the homonormative rejects resistance as it accepts the labels offered by the law.

Research from the Netherlands, where same-sex marriage was legalised in 2001, may be considered in the construction of homonormativity. As the country that first introduced marriage rights for same-sex couples, Holland has a unique experience in allowing same-sex marriage yet having little need to challenge dominant power roles in gender, sexuality, and society. In 'Is This What Equality Looks Like?',[92] Robinson uses empirical research to assess the socio-legal implications of legal same-sex marriage over nearly 20 years and how this forges a form of homonormativity through the construction of a homogenous gay identity. As with other researchers, Robinson asks whether assimilation can be transformative through strategic positioning in order to enact change,[93] yet his research implies that it cannot. This question will be applied in this research in order to gain knowledge of the UK experience. Robinson used in-depth interviews to analyse the impact of homonormativity and heteronormativity on the lives of nine LGBTQ people in Dutch society. This small-scale study is important in analysing the effects of normativity as constructed through law and thus has been influential on the method of this work and its findings. However, Robinson's study may not be representative of larger LGBTQ groups. Using Goffman's theory on stigma[94] and Butler's theory of normalisation,[95] Robinson has found that homonormativity leads to the creation of feelings of shame and fear upon LGBTQ individuals. These feelings are particularly felt by those whose sexuality is deviant, whose gender or sexuality is queer, or who act in a way that is not deemed traditional. Particularly prevalent is the notion that gender non-conformity is socially reread to imply sexually non-normativity and to transgress the public/private division of sexuality.[96]

> To justify marginalising and stigmatising the LGBT community, heteronormativity uses the non-conformers to legitimise the inferiority of the group as a whole. To be recognised

---

[92] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 327.

[93] A Hequembourg and J Arditi, 'Fractured Resistances: The Debate over Assimilation among Gays and Lesbians in the United States' (1999) 40 *Sociological Quarterly* 663.

[94] E Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Simon & Schuster 1963).

[95] J Butler, *Undoing Gender* (Routledge 2004).

[96] S Keuzenkamp, *Acceptance of Homosexuality in the Netherlands 2011: International Comparison, Trends, and Current Situation* (The Netherlands Institution for Social Research 2011).

by society, gays and lesbians enact homonormativity, contributing to the reification of socio-sexual norms and to the constitution of a correct 'man' or 'woman'.[97]

Robinson's research is significant as an exploration of the ways in which homonormativity is detrimental to LGBTQ lives, impeding equality through social stigma.[98] However, the study is not sufficiently large to capture a developed and wide-ranging view of the construction of homonormativity within Dutch society. Only nine participants were used due to the difficulties of locating sexual minorities and the apparent lack of an LGBT community in the Netherlands.[99] The effects of such homonormativity, and whether such a silence exists in the United Kingdom, will be discussed in the later analysis.

3.6 Assimilation Literature

Neary has noted the effects of assimilationist and normalising arguments in the Irish experience of same-sex marriage.[100] With Ireland having become the first country to legislate for same-sex marriage following a constitutional referendum, Neary advocates looking past pro/con arguments regarding same-sex marriage.[101] She discusses LGBTQ political pragmatism and real-life cultural change leading to normalisation in Ireland, as the images, rhetoric, and discourse surrounding the referendum typically used a respectable female image to represent the benefits of marriage, while those against would rely on the notion of the dangerous, irresponsible homosexual male.[102] The respectable image displayed a 'portrait of monogamy, fidelity and love'[103] as a means of firmly cementing the idea of similarity of needs between heterosexual and homosexual couples, while portraying a politics of choice around marriage, unaware of its classed, gendered, and racialised consequences.[104] This discourse, Neary argues, created a stance in which normalisation and narratives of love and commitment established

---

[97] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 334.

[98] Ibid., 336.

[99] Ibid., 330.

[100] A Neary, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 757.

[101] Ibid.

[102] Ibid., 771.

[103] Ibid., 771.

[104] Ibid., 760.

legitimacy, sanitising and normalising same-sex couples and delegitimising those who did not conform to this image.[105]

Neary goes on to conclude that the consequences of this respectability politics is the lack of awareness and the shutting down of arguments for the alternative. She contends that 'the formidable legal force of [civil partnership]/marriage played a role in closing down radical alternatives and opportunities for broader discussion about kinship and sexual citizenship in Ireland'.[106] Neary makes a considerable contribution to the issues of respectability politics that surround same-sex marriage debates, while noting how these can have a large impact on referenda that rely on the public consciousness, such as in Ireland. However, this is a less relevant and a less nuanced way to address the situation in the United Kingdom, where marriage arose from the will of Parliament. This gives reason to conduct empirical work in lieu of a referendum into public attitudes, and to give a more nuanced view of the impact of same-sex marriage that moves beyond pros and cons.

In 'Desiring Sameness', Richardson assesses the implications of a neoliberal politics that informs the normalisation of LGBTQ populations. She defines neoliberalism as pro-corporate economic and social politics that aim to roll back state power through privatisation and individualisation – in a similar vein to Duggan's arguments – with the current equality-based gay movement seeking incorporation into the mainstream.[107] Richardson criticises this neoliberal equality, as she argues that it rests on the notion that LGBTQ populations have the same needs and interests and that it thereby constructs a socially homogenous interpretation of equality.[108] This, she argues, culminates in the construction of a normative lesbian and gay citizenship, desexualised and domesticated through norms of proper place and responsibility that are associated with heteronormative coupledom.[109] This construction of the normative, she argues, causes a visible shift in attitude, with LGBTQ populations who previously lived in fear

---

[105] Ibid., 774.

[106] Ibid., 766.

[107] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 519.

[108] Ibid., 520.

[109] Ibid., 521.

beginning to police their behaviour in order to be 'normal' and to achieve respectability.[110] Richardson goes on to conclude:

> The rise of neoliberal sexual politics of normalisation is based on a whole set of assumptions that require critical analysis: the taken for granted meanings and value attached to 'being normal', assumptions about what constitutes ordinary sexual and intimate relationships and 'lifestyles', the continuing tradition of regarding sexuality as a key indicator of normality, and the idea that there is something we can call 'normal'.[111]

This notion of normal is arguably based within respectability and performativity, but it is also lodged within biologism and 'naturalness'. Critical discussions of normality and the constitution of 'ordinary' sexuality and lifestyles will thus form a substantial theme within the analysis of this thesis.

Macedo's *Just Married*[112] discusses the arguments for and against same-sex marriage from an American perspective, which is highly inclusive of, and sometimes reliant on, conservative, Judeo-Christian morality and reasoning[113] and is therefore reliant on assimilation. Macedo attempts to occupy a central ground that is distanced from queer liberalism and closer to conservatism as a means of justifying same-sex marriage, promoting familiarisation, and privileging monogamous marriage. Macedo roots his discussion on sex and sexuality within notions of good versus bad sex discourse, firmly favouring the notion of the good homosexual. Many conservative critics of same-sex marriage advocate that marriage can only be performed by a man and a woman, as only heterosexual couples can consummate: 'The norms that define marriage – "*twoness*" permanence and exclusivity – depend on coitus and its natural orientation to procreation and new life.'[114] Macedo goes on to refute this claim by using commonsense arguments that rely on the beneficial nature of a stable home to children as a means of rejecting the natural law argument that focuses so strictly on heterosexual consummation: 'In other words, according to these philosophers, it is the baby-making sex and *not the babies* that makes sense of marital norms of twoness (monogamy) permanence and exclusivity.'[115] This argument

---

[110] Ibid., 523.

[111] Ibid., 523.

[112] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015).

[113] A Maine, 'Book Review: Stephen Macedo, Just Married: Same-Sex Couples, Monogamy and the Future of Marriage (Princeton University Press, 2015)' (2017) 6 *Feminists@Law*.

[114] Ibid., 42.

[115] Ibid., 42.

then leads to the impossibility of marriage between same-sex couples, rather than the denial of a right to marry in conservative arguments. Macedo then goes on to reference the sexual hierarchy constructed by religion – in particular, Catholicism. He states that society views 'good sex' as the way in which the Catholic Church judges all sex that is not marital procreative sex as immoral or bad.[116] Although this heterosexist and discriminatory attitude is rejected by Macedo, he arguably upholds this sexual hierarchy by stating that anonymous, promiscuous sex could be seen as self-destructive.

Macedo presents condomless homosexual sex as 'bad' unless it is within the confines of marriage – an argument that pressures gay men to identify as the good gay citizen 'to the degree that they can alienate themselves from the transgressive jouissance of unprotected sex which is its necessary accompaniment'.[117] When relying on this notion of the good sex and sexuality, Macedo upholds sexual hierarchies and maintains the centrality of normative marriage, seeking to include good married gays within this hierarchy. Therefore, Macedo's argument seeks marriage in order to create an equality that is limited to the privileged monogamous same-sex couple.

3.7 Delivering Equality

In 'Reproducing the Homonormative Family', Garwood discusses[118] the implications of the Human Fertilisation and Embryology Act 2008 (HFEA) and its means of constructing homonormativity, specifically privileging biologism as a means of undermining queer familial structures. She explores how the HFEA, in conjunction with the Marriage (Same-Sex Couples) Act 2013 and the Civil Partnership Act 2004, upholds the traditional model of how the family *ought* to be formed, focusing on the two-parent model and binary constructions of both homosexual/heterosexual and male/female.[119] These binaries and distinctions rest on the neoliberal legal assumption of the 'good' same-sex family that mimics the heterosexual nuclear family: typically, the two married or civil partnered parents become parents through adoption

---

[116] Ibid., 47.

[117] J Russell, 'Bio-Power and Biohazards: A Projective System Reading of Gay Men's Community-Based HIV Prevention' (2005) 7 *Journal of Culture, Health and Sexuality* 156.

[118] E Garwood, 'Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-Sex Reproductive Law' (2016) 17 *Journal of International Women's Studies* 5.

[119] Ibid., 6.

or artificial insemination. The 'normalising discourse of heteronormativity' reinforces the idea of the socially acceptable subject and the social exclusion of those not fit to form familial relations,[120] such as people in non-monogamous partnerships or those who have non-normative sexualities or genders.

Garwood states that biopower is used by the HFEA as a form of governmentality that enables capitalist control of bodies and reproduction, embodying heteronormative ideals that are authorised by neoliberal discourses.[121] These neo-liberal discourses can be identified as the entitlement to a right to marry and a broader right to family life, which many underpin as reasons to allow for same-sex marriage and the recognition of same-sex familial relationships. However, she goes on to argue that same-sex marriage highlights the way in which family law can be changed without disrupting the neoliberal logic of the stable, personally responsible, economically and socially productive couple,[122] thereby excluding and stigmatising queer social or familial organisation that is neither productive, respectable, nor coupled. Garwood contends that deviations from the model of the two-parent monogamous pairing are erased or limited under the HFEA 2008.[123] She uses Butler's argument that, under these provisions, non-monogamy and polyamory become 'unintelligible and unspeakable' in the normative family setting.[124] As such, notions of good and bad sexuality seem to hinge on what is seen as natural, and deviations render sexuality bad. This naturalises heterosexuality and monogamy in order to promote a form of homogenised sexuality. Those homosexuals who can replicate that homogenised sexuality are thus awarded good, homonormative status.

Nussbaum has, prior to the decision of the US Supreme Court in *Obergefell v Hodges*,[125] written that there should be a universal right to marry, irrespective of sex, again drawing on equality arguments. She argues that religious unions and civil unions should be separated, therefore leaving the notion of an equal marriage to the state, enforcing a right for all to marry.[126] Nussbaum argues that the exclusion from marriage of same-sex relationships became

---

[120] Ibid., 7.

[121] Ibid., 7–8.

[122] Ibid., 10.

[123] Ibid., 12.

[124] J Butler, 'Is Kinship Always Heterosexual?' (2002) 13 *differences: A Journal of Feminist Cultural Studies* 18.

[125] *James Obergefell, et al., Petitioners v Richard Hodges, Director, Ohio Department of Health, et al.* 576 US 135 S Ct 2584.

[126] M Nussbaum, 'A Right to Marry?' (2010) 98 *California Law Review* 667.

intolerable and that the similarity of the goals of those who wished to marry, whether heterosexual or homosexual, strongly advocated for a right to marry.[127] This right to marry can then be seen as being fuelled by homonormative discourses, particularly when bearing in mind Nussbaum's notion of similarity. Warner claims that these arguments of similarity and universalism lead to the naturalisation of marriage, which works to end opportunities for re-examining the regulatory work of marriage.[128] He sees this work as a form of social engineering that allows for the bundling of legal rights and privileges to couples, which have no necessary relation.[129] Nussbaum's argument of a universal right to marry is more suited to the American constitutional system, due to the rights instilled in it. In relation to the UK dualist legal system, the argument does not hold up as well. As has been repeatedly stated by the Strasbourg courts, the European Court of Human Rights does not provide a right to same-sex marriage based on a level of consensus,[130] and same-sex marriage in the United Kingdom is a result of parliamentary legislation. Therefore, it is less prudent to use the language of rights, but more important to assess Warner's fear of the naturalisation of marriage and the effects of this on the sexual hierarchy.

3.8 Queerness and Deviation

In this section, a developing queer legal theory will be discussed in order to inform the use of queerness in this study. In *Law's Desire: Sexuality and the Limits of Justice,*[131] Stychin presents a queer legal theory that seeks to investigate the structured divisions that exist in law between perceptions of socially accepted homosexuality and what is seen to be immoral and unacceptable. This division, described by Stychin in 1995, is still relevant to discussions of the homonormative and homoradical. *Law's Desire* uses doctrinal post-structural analysis of case law and statutory law from the United States, Canada, and the United Kingdom in order to present the ways in which (homo)sexuality and queer sexuality are constructed and regulated within legal structures. He argues that although law has been used as a repressive force against

---

[127] Ibid., 688.

[128] M Warner, 'Response to Martha Nussbaum' (2010) 98 *California Law Review* 721.

[129] Ibid., 727.

[130] See *Schalk and Kopf v Austria* (2011) EHRR 20.

[131] C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995).

the LGBTQ, law as a focus on struggle can be dynamic, unstable, and unpredictable, and therefore queer:[132]

> Identities come to be formed in part through the exercise of power (including law) in oppressive ways. But, in addition, identities can be articulated and consolidated through acts of hegemonic resistance and political process. The articulation of coherent, oppositional identities is an important aspect of that struggle. … The concept of performativity facilitates a constructionist view of identities by suggesting that there is nothing essential or immutable in the way that we conceive of sexual (and other) identities.[133]

The theory is closely related to critical approaches of deconstruction and post-structuralism in analysing sexual categories enforced and constructed in law. Contextually, Stychin's theory and *Law's Desire* focus heavily on prejudicial treatment of law and the struggle for equality before the law in 1995, when discrimination was legally entrenched, based on the notion of queer identities as marginalised subjecthood.[134] Therefore, queerness in an era of marriage and familial rights being afforded to the LGBTQ is constructed as continual opposition to dominant trends such 'equality' and normativity.

In his discussion of section 28, Stychin states that the legislature's focus on 'pretend' families demonstrates a stance against 'the legitimacy of the lesbian and gay *family*, rather than with the promiscuous sexual encounter which many Parliamentarians argued was endemic to (male) homosexuality'.[135] This is in contrast to Parliament's implicit promotion of same-sex family life in the 2013 Act, which is particularly relevant when taking into account Stychin's consideration of *R v Brown* as a signifying event in the redefinition of the normative. *Brown* criminalised consensual sadomasochistic sex in a group of queer men. Stychin notes such events as being:

> symbolic in that they reaffirm definitions of normalcy, and are designed to expurgate the gay man from the realm of the social to a pathologised sphere of decay, illness, and to an avoidably brutal, and, ironically, seductive death. Thus, these narratives link sex to death and serve as modern parables about homosexuality and the threat of epidemic.[136]

---

[132] Ibid., 140.

[133] Ibid., 8.

[134] Ibid., 29.

[135] Ibid., 47.

[136] Ibid., 117.

R v Brown imposed normative sexual values on the othered homosexual sadomasochists who had taken part in the activities deemed to be criminal: 'Subject to the respect for private life embodied in the Act of 1967, Parliament has retained criminal sanctions against the practice, dissemination and encouragement of homosexual activities.'[137] Homonormativity, therefore, may seek to rectify the damage done by the prohibition of 'pretend families'[138] through the creation of same-sex families that demonstrate their 'sameness' as deserving of equality, while the homoradical may still conduct behaviour deemed criminal in *R v Brown*. This may lead to the implication that the homonormative is a desexed 'normal' identity, free of contagion,[139] and that the homoradical is still associated with dangerous activities. Such notions will form a substantial part of the analysis of this thesis.

Boellstorff has similarly applied a queer (anthropological) perspective to the issue of whether same-sex marriage *should* be available and how this would in turn construct a normative or radical identity. In the use of a queer identity as a radical identity, Boellstorff states that same-sex marriage has the intrinsic potential to be deemed radical 'since it appears to threaten aspects of the gender norms that help constitute at least some heteronormative discourses'.[140] This has the potential to subvert the reading as queer as a by-product, but one that is dependent on normativity: 'the term *queer* itself marks this stance of being always already within, in bed with, complicit and contaminated by, the normative with which it engages.'[141] This view therefore facilitates the notion that while queer may attempt to distance itself from the realm of normativity and to criticise it, it is therefore unable to ever exist without such normativity. This paradoxical construction of queer allows for the construction of a queer marriage and downplays arguments that any same-sex marriage automatically constructs homonormativity:

> Thus same-sex marriage is not necessarily an assimilationist act reinscribing monogamy and the nuclear family, any more than queer subjectivity necessarily inscribes a medicalised discourse of deviant homosexuality.[142]

---

[137] *R v Brown* (1993) 97 Cr. App. R. 44 at 50 per Lord Templeman.

[138] Local Government Act 1988, s 28.

[139] *R v Brown* (1993) 97 Cr. App. R. 44 at 126.

[140] Boellstorff T, 'When Marriage Falls: Queer Coincidences in Straight Time' (2007) 13 *GLQ: A Journal of Lesbian and Gay Studies* 236.

[141] Ibid., 241.

[142] Ibid., 242.

Boellstorff uses this perspective to argue that queer theory should move beyond binary arguments of whether queer people should or should not marry, and instead to ask 'in what ways can our acts from within a system of power do more than sustain or not sustain that system?'[143] This therefore advocates the transformative potential of same-sex marriage, despite the sedation that academics such as Duggan believe harms queer activism. The notion of a system of power relates to Harding's and Butler's work on resistance to power, encapsulating Ewick's legal consciousness theory. In asking how the LGBT might sustain a system of power, Boellstorff's use of queer theory advocates an acceptance of the legitimating power of the law, rather than an avoidance or rejection of it. However, Boellstorff also recognises Butler's assertion that:

> to be legitimated by the state is to enter into the terms of legitimation offered there and to find that one's public and recognisable sense of personhood is fundamentally dependent on the lexicon of that legitimation.[144]

Butler's article discusses the purchase of legitimacy through marriage.[145] This legitimacy, she argues, is entirely dependent on the state's ratification and justification of desire,[146] in order to become universalised as a homogenous identity. This legitimated 'public sex',[147] however, is in stark contrast to the reality of the UK same-sex marriage legislation by which same-sex intercourse is not afforded the special status of consummation that is afforded to heterosexual sex. Therefore, we see the truth in the fact that sexual legitimation is contingent on the state as a means of the regulation of desire. Butler goes on to state that:

> legitimation is double-edged: it is crucial that, politically, we lay claim to intelligibility and recognisability; and it is crucial, politically, that we maintain a critical and transformative relation to the norms that govern what will and will not count as an intelligible and recognisable alliance and kinship.[148]

This advocating of a reflexive manipulation of marriage through a critical queer gaze maintains the transformative power of queer marriage. The potential of same-sex marriage to amend the institution and the sexual hierarchy relies on the queering of the boundaries, and the

---

[143] Ibid., 234.

[144] J Butler, 'Is Kinship Always Heterosexual?' (2002) 13 *differences: A Journal of Feminist Cultural Studies* 17.

[145] Ibid., 18.

[146] Ibid., 22.

[147] Ibid., 23.

[148] Ibid., 28.

composition, of marriage, with same-sex marriage fundamentally altering its definition and significance, in stark contrast to Duggan's political sedative argument. However, Warner argues that same-sex marriage has a counter-effect to the non-married: stigmatising and punishing their decisions and behaviour. In *The Trouble with Normal*, he contends:

> As long as people marry, the state will continue to regulate the lives of those who do not marry … it will criminalise our consensual sex. It will stipulate at what age and in what kind of space we can have sex. It will send the police to harass sex workers and cruisers. It will restrict our access to sexually explicit material. All this and more the state will justify because these sexual relations take place outside of marriage.[149]

Warner is highly critical of the respectability politics within the mainstream lesbian and gay movements of the late 1990s that facilitated same-sex marriage and yet ignored sexual queer perspectives.[150] He calls into question the division of the good gay and the bad queer, predominantly through the policing and regulation of public sex and those arguing for marital rights through normativity, particularly writers such as Sullivan. Warner argues that Sullivan divorces homosexuality first from sex and then from politics,[151] a continuing trend throughout the literature. Ultimately, Warner is critical of marriage as an institution and of those who marry, be they heterosexual or homosexual. This, he argues, is because, despite a same-sex couple's best intentions to put into effect the transformative potential of queer marriage, 'marrying consolidates and sustains the normativity of marriage'[152] through the public performance of a traditional, heterosexual, assimilationist ritual. Such a view will be considered in this research as a means of constructing the sexual hierarchy outside of the marriage model. The quote automatically presumes that those who are married perform good sexuality, and those who are not perform bad sexuality. However, to automatically assume that those participants who are married do not perform queerness and may not be seen as the homoradical would be to apply a normative perspective upon the data.

Ashford, in '(Homo)normative Legal Discourses and the Queer Challenge', has also used Rubin's sexual hierarchy to illustrate distinctions between the good homonormative gay and

---

[149] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

[150] Ibid., 50.

[151] Ibid., 60.

[152] Ibid., 109.

the bad homoradical queer.[153] The construction of the homonormative, Ashford argues, is directly challenged by 'deviant' sexual acts of queer rebellion. Ashford has noted that the homonormative is anchored in domesticity, aligned with discourse constructing good sexuality as married sexuality. He states that queer is then to be seen as oppositional to homonormative, thereby rejecting those elements that assimilate same-sex sexuality with heterosexuality:

> Queer derives meaning from its oppositional relationship to the norm. Thus the legal 'norms' of monogamy, consumerism and reproduction remain intact within the discourse of civil partnerships and same-sex marriage. Queer is, however, an ever-shifting theoretical position.[154]

This theoretical position, which forms the basis of critique of the homonormative, also informs construction of the homoradical through defining those whose sexuality is informed by homo-discourses yet who refuse to be assimilated into norms that are constructed through familial legislation. The act of defiance and transgression of the norm therefore renders the transgressive individual at odds with law's marital allowances and popular LGBT activist movements, manifest within notions of bad sexuality from which same-sex marriage offers sanctity. This quote justifies the use of queer theory as appropriate to analyse the workings of same-sex marriage and the construction of identity, particularly in the opposition to the norm that the homoradical offers. Ashford's work therefore contributes to discussion of the queer and homoradical through the examination of certain acts that constitute the radical queer identity in rebelling against the sanitising of the gay identity through marriage and family:

> Despite over forty years passing since the legislation of 'homosexual acts' between men, the law continues to create a sexual closet for those identities that not only defy the (hetero)normative but the emergent assimilationist (homo)normative.[155]

It remains to be seen whether same-sex marriage has affected this 'sexual closet'. The Sexual Offences Act 1967 was influenced by the Wolfenden Report, which argued that homosexuality should be tolerated rather than criminalised, focusing on the harm principle. In 'Homosexuality and the Law: the Construction of Wolfenden Homonormativity in 1950s England', Suffee argued that the report and its coinciding television broadcast first constructed the

---

[153] C Ashford, '(Homo)normative Legal Discourses and the Queer Challenges' (2011) *Durham Law Review* 77.
[154] Ibid., 84.
[155] Ibid., 95.

homonormative male.[156] Suffee discusses the construction of homonormativity within the Duggan/queer lens, and thus argues that Wolfenden was used to further the acceptance of a privatised homosexual whose outward expressions of sexuality, particularly those that were public, remained criminal. This was done through the construction of a homosexual who was virtually normal and who polices his own desire[157] in order to act within the realm of heteronormative society. The production of the homonormative is reliant on the assimilation of mainstream society with the white, heteronormative, monogamous, nationalistic, and middle-class gay man whose sexuality could be contained and hidden. Thus, despite the tolerance of private homosexual acts between consenting adults, homosexual activity was not accepted in public due to its apparent power of seduction[158] and perversion. An attempt, however, was made to curtail the perceived effect of this seduction on the family in an attempt to bar the homosexual, normative or otherwise:

> [A] homosexual act would not occur in heterosexual married men who have children and that the homosexual act is not an event that would disrupt a family. … [I]mplicit in this suggestion is the idea that homosexual acts have less power, less meaning, and less endurance than heterosexual acts.[159]

The attempt to curtail homosexual activity and to limit public expression can be seen in law today. This hierarchical division is implemented in the removal of sex from the same-sex marriage legislation, and in the specific offences against sex in public spaces. In contrast to the situation in the 21st century, the exclusion of the homoradical from acceptable society and law, but the welcoming of the homonormative family, alludes to the continuing illegitimacy of homosexual intercourse and thus leads to efforts to curtail homosexual activity when it occurs outside of the private family home or on the outer limits of the charmed circle. Gleeson has also noted how the 1967 Act did not direct society to permit or tolerate homosexuality, but rather constructed a restrictive legitimacy of homosexuality.[160] Thus, Suffee, using historical

---

[156] R Suffee, 'Homosexuality and the Law: The Construction of Wolfenden Homonormativity in 1950s England' (2015) 62 *Journal of Homosexuality* 250.

[157] Ibid., 274.

[158] See C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995) 126.

[159] R Suffee, 'Homosexuality and the Law: The Construction of Wolfenden Homonormativity in 1950s England' (2015) 62 *Journal of Homosexuality* 272.

[160] K Gleeson, 'Freudian Slips and Coteries of Vice: The Sexual Offences Act of 1967' (2008) 27 P*arliamentary History* 409.

media analysis, traces the origins of homonormativity to a legally constructed identity. It is important to ask how this constructed homonormativity exerts pressures today.

3.9 Consummation

The removal of sex from same-sex marriage has been noted in many texts to indicate the legal substantiation of a sexual hierarchy and the continued privileging[161] of heterosexuality and heterosexual intercourse, in both the civil partnership and same-sex marriage legislation. As noted by Stychin,[162] Heaphy et al.,[163] and Barker,[164] the legal exclusion of gay sex in section 3 of Schedule 4 to the 2013 Act (see chapter 2) reinforces a sexual hierarchy through a statutorily fortified recognition and requirement of sexual activity. However, as stated by Barker, the absence of sex in same-sex legally recognised relationships offers the potential for transgressive and transformative relationships on the social workings of legally recognised relationships.[165] Heaphy et al.'s study notes how polyamory and specifically non-monogamy are far more readily accepted in same-sex relationships due to an 'erotic ethics'[166] shared by homosexuals that emphasises sexual freedom and separates sex from the conventional meanings that it is afforded in heterosexual relationships. Stychin critically interrogates the Civil Partnership Act 2004 and how the legislation exacerbates the exclusion of some forms of relationships from dominant legal forms, particularly noting how the exclusion of sexual intercourse between same-sex partners undermines the point of joining together a couple and reinforces the privileging of heterosexual sex. The findings presented are noteworthy in their belief in the potential for legally recognised same-sex relationships to transform and evolve the

---

[161] J Weeks, B Heaphy, and Donovan C, *Same Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 40.

[162] C Stychin, 'Not (Quite) a Horse and Carriage: The Civil Partnership Act 2004' (2006) 14 *Feminist Legal Studies* 79.

[163] B Heaphy, C Donovan, and J Weeks, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe et al. (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014).

[164] N Barker, 'Sex and the Civil Partnership Act: The Future of (Non) Conjugality?' (2006) 14 *Feminist Legal Studies* 241.

[165] Ibid., 242.

[166] B Heaphy, C Donovan, and J Weeks, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe et al. (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014) 167.

normative institution of relationship recognition. This will benefit the exploration of the 'equality' of same-sex marriage.

Crompton has argued that the overall message of equality is undermined by removing sex, creating a legally asexual union.[167] She argues that the law has acknowledged that gay sex exists only in a negative, criminalising sense, and has yet to validate its existence in marriage. Therefore, familial recognition of same-sex relationships rests on the sexless legacy of cases such as *Fitzpatrick*, in which Lord Hutton equated same-sex relationships to those of elderly spinster relationships, or heterosexual relationships in which sex no longer takes places.[168] This comparison was made in order to justify the exclusion of some forms of relationships that were eligible for protection under the Rent Act 1977. In the judgment, Lord Hutton maintained the importance of a sexual relationship between partners, but could not distinguish between a once-sexual relationship of two elderly gay men and a sexless relationship of spinster sisters. This equation constructs same-sex relationships as sexless and fails to recognise the significance of such relationships, even more so failing to recognise the significance of sex to these relationships. This, Crompton argues, is representative of the ways in which the law has refused to acknowledge or value same-sex sex in the same manner as heterosexual sex, therefore reaffirming the sexual hierarchy:

> The argument is a non-sequitur given the non-romantic nature of blood relationships and the criminality of any blood-relative sex. Even to attempt the argument shows a profound refusal to see a civil partnership as sexual in a way that is likely different in its meaning to that in a heterosexual marriage.[169]

Crompton goes on to argue that sexual relationships between same-sex partners should be recognised to the same extent as are those between married heterosexuals, to avoid the dilution of its symbolic significance.[170] This significance accords to her wish to insert adultery and consummation within same-sex marriage as a crucial defining factor, as 'commitment and faithfulness should be at the heart of same-sex marriage'.[171] She would do this by focusing on intimacy and fidelity, rather than phallocentric penetration, therefore advocating a redefinition of sexual intercourse that focuses on physical and emotional sex. This, however, fails to

---

[167] L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564.

[168] *Fitzpatrick v Sterling Housing Association* [2001] 1 AC 27 at 306 per Lord Hutton.

[169] L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564, 566.

[170] Ibid., 566.

[171] Ibid., 569.

recognise the redefinition of commitment and faithfulness that may take place within marriage, particularly through the transformative potential of same-sex marriage, in which non-monogamy may be more prevalent. Crompton goes on to critique Norrie's stance, which advocates the abandonment of marriage by the LGBTQ, stating that *Fitzpatrick* led to same-sex couples being judged on heterosexual standards – meaning that they were required to emulate those standards before they could access their statutory rights.[172] Norrie notes that to rely on same-sex marriage to achieve equality is misconceived. He argues that real equality can only be gained through recognising the legitimacy of a variety of forms of domestic relationship and advocates for the re-examination of commitment and fidelity.[173] Both Norrie's and Crompton's articles therefore recognise the importance of validating same-sex sexuality and sexual practices within relationship recognition, and the need to analyse how, when, and why LGBTQ bodies practise and develop their sex in or outside of legally recognised relationships.

Beresford has stated that the 2013 Act was a missed opportunity to re-examine and redefine the law's understandings of sexuality and to relieve marriage of its patriarchal normative values.[174] She argues this by assessing the lack of consummation or adultery within same-sex marriage as a legally enforced inequality that specifically acts to the detriment of married lesbians. Heterosexual marriages are legally required to be sexual unions and thus law 'institutionalises norms of sexual behaviour by measuring these activities against the standard of "naturalness" of heterosexual activity'.[175] She argues that not only does this deny lesbians and gay men as sexual beings, it also deprives them of legal remedies solely on the grounds of orientation, thus acting as direct discrimination.

However, most prevalently, Beresford argues that this is largely detrimental to lesbians due to the importance afforded to emotional and sexual intimacy in sexual relationships, as distinct from gay men, who are more likely to disconnect sex from emotions in relationships.[176] This

---

[172] K Norrie, 'Marriage Is for Heterosexuals: May the Rest of Us Be Saved from It' (2000) 12 *Child and Family Law Quarterly* 364.

[173] Ibid., 366.

[174] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[175] Ibid., 4.

[176] D Frederick and M Fales, 'Upset over Sexual versus Emotional Infidelity among Gay, Lesbian, Bisexual, and Heterosexual Adults' (2016) 45 *Archives of Sexual Behaviour* 175.

detriment comes as an acknowledgement of primarily a lack of formal equality, due to the unequal legislation. It also comes as a recognition of the fundamentally phallocentric definition of sexual intercourse within the law. In order to rectify this and remove the phallocentric and androcentric understandings of sexual activity,[177] Beresford would redefine sexual acts amounting to adultery and consummation as those that result in orgasm (this definition will be discussed in chapter 7). This definition calls into question the legitimacy of penetrative consummation and recognises the need to validate and confirm the symbolic and utilitarian importance of consummation to married same-sex couples. She argues that it would allow for a definition of sexual activity that does not rely on penile–vaginal sex and that would allow for the recognition of the importance of emotion that is tied into lesbian sexual acts. Beresford states that it is thus a failing of law not to differentiate between emotional and sexual infidelity. Allowing legislative recognition of lesbian-specific consummation would allow for the potentiality of law as a liberating force to be realised for the lesbian legal subject.[178] Predominantly, Beresford argues that:

> Marriage as representative of normative behaviour can be liberated (at least partially) from heteronormativity by fundamentally altering the legal discourse and jurisprudence surrounding intimate sexual relations.[179]

This therefore recognises the need to move beyond heteronormative legal forms of familial functioning. Beresford advocates for the pluralisation of relationship recognition, for which same-sex marriage could be a starting point, recognising the diversity of intimate relationships.[180] However, she notes that without any form of adultery or consummation within same-sex marriage, meaning no formal equality, there is no chance of progression to a more substantive vision of equality. It is therefore important to bear this vision in mind, particularly when assessing the data collected from participants within this study. Should consummation and adultery be included, or should they be removed from all recognised relationships? The lack of validation for gay sex serves to continuously reinforce the sexual hierarchy. Therefore, this thesis will build on Beresford's argument and argue that a form of consummation should be included in same-sex marriage, in order to disturb the heteronormative nature of legally

---

[177] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 11.

[178] Ibid., 16.

[179] Ibid., 16.

[180] Ibid., 21.

recognised sexual intercourse. Beresford's article focuses on lesbian relationships specifically, and therefore does not address the implications of the lack of consummation for men's marriages. Her definition of consummation will be used in the analysis and will be applied to all the LGBTQ participants in this study, in order to develop and adapt such a definition and to argue that consummation should be included. Beresford's definition will be used above that of Crompton's, in order to focus specifically on the sexual act and the self-identification of such, rather than relying on the emotional aspect of sex, as argued by Crompton. Following this discussion of the role of consummation in this sexualised queer theoretical view, I will now assess queer and feminist intersections relevant to the research.

3.10 Queer and Feminist Intersections

Moving on from the legal hierarchies enforced in relationship recognition, this section will delve into the queer and feminist comments regarding the issue and will point to intersections between the varied schools of thought. Robson has theorised in *Sappho Goes to Law School*[181] a lesbian legal theory that sits as an intersection between feminist and queer legal theory. She specifically looks at the detrimental ways in which law may affect lesbians through postmodernist, feminist, and queer legal theory. When discussing arguments for same-same marriage in the US, Robson also discussed extra-jurisdictional legalisations and the Defence of Marriage Act 1996, while taking a feminist and lesbian view. She notes that views in LGBTQ politics and feminism differ regarding whether marriage is appropriate. However, she maintains a neutral view in stating that problems inherent in marriage will not deter those who perceive marriage as a symbolic equality issue for LGBTQ populations.[182] Despite this, utilising feminist and queer theory arguments, Robson argues that marriage, be it heterosexual or homosexual, should be abolished as a 'formalistic legal relation' and the 'sanctioning of intimate relations' as an imperialist act of state power.[183] Robson takes the view of Barker in wishing for the transformative power of same-sex relationships to alter the institution of marriage:

---

[181] R Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998).

[182] Ibid., 149.

[183] Ibid., 150.

> Thus, the same-sex marriage issue is an opportunity to challenge not only the status of lesbians but the status of the state's recognition and imposition of intimate relations for its subjects through its legal regime.[184]

This view will be prevalent within this research in advocating for the transformation of traditional perspectives on marriage. However, she takes a much more radical view and an attempt to alter state–individual relations through the transformation of marital law, rather than marital social norms. This feminist view may therefore be related to queer theory; much of queer theory insists on the breaking down of marital norms in order to create greater individual freedom and remove the state's legal dominance over the coupled ideal. Radical feminist critiques of marriage insist on the removal of marriage as the legally fortified method of subjugating women and allowing for state control. Therefore, there are intersections between radical feminist and queer theory views in the strong objections to marriage, as extrapolated by Barker.

In *Not the Marrying Kind*,[185] Barker explicitly creates a radical feminist critique of same-sex marriage while utilising aspects of queer critique. She assesses arguments for gay marriage from a feminist perspective, drawing on the queer values of the Gay Liberation Front using second wave socialist feminism and queer theoretical insights to critique the marriage model. Barker states that queer legal theory, like radical and socialist feminism, provides a cultural critique of the liberal gay agenda,[186] while both queer theory and radical feminism assert that sexuality is socially constructed. However, the radical feminist viewpoint argues that female sexuality has been constructed as subordinate.[187] Therefore, queer theory is a more appropriate and relevant theoretical framework to adopt in critiquing same-sex marriage due to its inclusiveness of deviant sexualities, rather than a damning of sexuality and a denial of autonomy. Barker notes that there are important insights to be gained from queer theory in its critique of the exclusionary nature of same-sex marriage:

---

[184] Ibid., 151.

[185] N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013).

[186] Ibid., 9.

[187] C Delphy and D Leonard, *Familiar Exploitation: A New Analysis of Marriage in Contemporary Western Societies* (Polity Press 1992).

> Queer theoretical frameworks are particularly helpful in highlighting the relationships and forms of sexuality that would continue to be excluded and/or stigmatised after same-sex marriage is available.[188]

She examines the legal implications of marriage and recognises that the cultural expectations and meanings of marriage do not necessarily have any consistency with the legal implications. These cultural expectations, she notes, entail the structure of marriage being consistent with sexuality, monogamy, commitment, consummation, and protection. Those who fail to embody such expectations are thus excluded and stigmatised as deviants who are unsuitable for marriage. Barker evaluates litigation struggles throughout the world in which there have been attempts to recognise same-sex relationships and the fact that often this brings about little in the way of protection. Leading from this, she argues that the transformation of marriage through the inclusion of same-sex couples would not have the power to radically alter society and that the public/private distinction of marriage is still detrimental to women. Legal consequences of access to marriage have class- and gender-based differential impacts,[189] which are often financially based. It can be seen that 'emphasising sameness means that the potential for same-sex marriage to positively impact on the institution as a whole is limited'.[190] Thus, we see conflict between those who see the transformative power of gender and sexuality, and those who view marriage as a form of assimilation that is blind to gender distinctions. As shown previously in the Dutch experience,[191] this research will pose the question of whether this has become the reality in the UK jurisdiction.

Barker goes on to state that cases such as *Fitzpatrick* and *Ghaidan v Godin-Mendoza*[192] stipulate 'responsible behaviour', encouraging a form of homonormativity that is anchored in respectability politics and familial rights. Barker goes on to state that 'the agenda of inclusion necessarily has a corollary of exclusion; the "responsible" is in opposition to the "irresponsible"'.[193] From this critique, further feminist analysis has implications in a queer analysis. Auchmuty's 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy'[194]

---

[188] N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013) 12.

[189] Ibid., 127.

[190] Ibid., 127.

[191] See BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 327.

[192] *Fitzpatrick* and *Ghaidan v Godin-Mendoza* [2004] UKHL 30.

[193] Ibid., 173.

[194] R Auchmuty, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 101.

is relevant in its arguments against assimilation. Prior to the Civil Partnership Act 2004, Auchmuty saw the advent of same-sex marriage as inevitable. Therefore, the issue becomes how the LGBTQ can influence the process of such legalisation, what they intend to do with it, and how far-reaching and how predictable the consequences of legally recognised same-sex relationships will be. Auchmuty states that marriage is primarily a means for social control rather than any meaningful change or benefit to LGBTQ – that it is, in principle, privileged and, in practice, irrelevant. It is important when considering this view to keep in mind the fact that marriage rates in the United Kingdom have been steadily declining in the past decade and the legalisation of same-sex marriage may be an attempt to stem this decline: 'history shows that when ideologically significant institutions find themselves under threat, the solution that often presents itself is to strengthen them by opening their ranks to new blood.'[195] Therefore, this ideological privileging of the couple demonstrates normativity due to society's history of familial formation based on heterosexuality,[196] which is inappropriate to the construction of egalitarian same-sex relationships.[197] These responses to same-sex marriage proposals are relevant in their critique of the assimilation to normativity that may happen with legally recognised same-sex marriage, aptly articulated within their feminist underpinnings. However, it is far more appropriate to utilise queer theory to critically analyse the law in relation to sexuality over gender, moving beyond binary oppositions and analysis. This is an important feature when recognising the fluidity of the sexual hierarchy, moving beyond simple binaries of sexual identity.

Polikoff argues that it is not the provision of same-sex marriage that is the most contentious issue in US family law and policy, but the affording of 'special rights' to married couples and therefore the continuing privilege of the marital relationship.[198] She states that this privileging then amounts to the discrimination of those familial relationships that do not reflect the normative nuclear family image that is built upon the marriage of a monogamous couple. Polikoff insists that familial recognition should rest on the caring relationships between groups, irrespective of sexuality, sexual intimacy, or legally recognised relationships, and would therefore allow for the privileging of non-normative forms of family. Polikoff then relies on a

---

[195] Ibid., 117.
[196] Ibid., 122.
[197] Ibid., 214.
[198] N Polikoff, *Beyond (Straight and Gay) Marriage* (Beacon Press 2008).

feminist approach to relationship valuation that seeks to rectify issues that marriage would not solve, which then adds to the queer goal of removing sexuality-based or class-based boundaries to societal change. Therefore, Polikoff argues, marriage does not allow for the advocacy of a more diverse and pluralistic society. Rather, it ratifies and upholds the sexual hierarchy and the charmed circle of the privileged heterosexual couple – with the homosexual couple behind and the unmarried below. These feminist theories may be used to build on the queer critique of marriage. However, in their focus on gendered subjugation, they would be inappropriate to a full discussion of the extent of the sexual hierarchy.

Meeks and Stein have used feminist and queer theory in order to assess arguments for marriage in a 'post-queer' world, in which the LGBTQ exists far closer to the mainstream of social life than ever before.[199] They recognise that marriage can be argued to have inevitable flaws, as critiqued by queer theory, in conforming to a heterosexual script and strengthening views that sexual behaviour should be used as a moral indicator.[200] However, Meeks and Stein argue that marriage, same-sex or otherwise, should be seen as a dynamic and transformative institution. They contend that same-sex marriage can only lead to further queer legitimacy, therefore entailing heightened reflexivity within marital law and having the potential to transform society through the re-evaluation of familial values. They argue that, fundamentally, marriage must be redefined in order to curb hegemonic assumed heterosexuality:

> Heterosexual dominance rests on the claim that heterosexuality is foundational to civilisation, making marriage a natural right. Same-sex marriage would expose the fallacy of this claim, forcing heterosexuals to view their relationships as deliberately enacted social practices, 'life-styles' that are dependent on recognition of the state, rather than inevitable, 'natural' accomplishments.[201]

Although this may be a key indicator of the transformative power of same-sex marriage, Meeks and Stein recognise that in granting legitimacy to those who can pass as normal in order to achieve a homonormative status, this then exacerbates the situation of those who practise non-normative forms of intimacy or belong to non-standard households.[202] Therefore, same-sex

---

[199] C Meeks and A Stein, 'Refiguring the Family: Towards a Post-Queer Politics of Gay and Lesbian Marriage' in D Richardson, J McLaughlin, and M Casey (eds), *Intersections between Feminist and Queer Theory* (Palgrave 2006) 138.

[200] Ibid., 137.

[201] Ibid., 138.

[202] Ibid., 145.

marriage must be open to expanded reflexivity[203] in order for it to transgress societal expectations and fulfil its radical potential. Consequently, their argument rests on the notion that although marriage is an exclusionary institution that separates the good homonormative from the queer homoradical, the post-queer reality of contemporary lesbian and gay life must be confronted.[204] This means that marriage should be accepted as a positive thing for the LGBTQ and it is from this platform that societal expectations of relationship recognition can evolve, further developing consciousness of the existence and forms of same-sex relationships. This post-queer perspective will be kept in mind throughout this research, recognising the need to probe further into the participant's hidden lives. Although there is now a mainstream gay culture, sexualities may still be hidden, and so it is important to investigate how participants discuss such topics, and if they continue to hide aspects of their sexuality in an attempt to achieve respectability. Respectability is a ubiquitous signifier of class[205] and as such the work of Skeggs in *Formations of Class and Gender* will be an important indicator of the ways in which respectability and class tie into the construction of homonormativity, which is inherently linked to economic and social success. This research will probe decisions made regarding the upholding of class distinctions and respectability, and the silences around such decisions.

3.11 Gay Rights

Further to notions of class, rights-based discourse is a significant area in relation to the granting of marriage rights. Halperin discusses this tension between identity and illegitimacy in *How to Be Gay*.[206] He states that the popular politics of gay rights, rather than fighting for radical change, will not benefit LGBTQ populations as it relies upon, and reinforces, the sexual hierarchy and the charmed circle:

> Social acceptance, the decriminalisation of gay sex, the legalisation of homosexual social and sexual institutions, the removals of barriers to same-sex marriage … should not be confused with the end of sexual normativity, let alone the collapse of heterosexual dominance.[207]

---

[203] Ibid., 152.

[204] Ibid., 154.

[205] B Skeggs, *Formations of Class and Gender* (Sage 1997) 1.

[206] D Halperin, *How to Be Gay* (Harvard University Press 2012).

[207] Ibid., 442.

This argument states that in integrating LGBTQ sexual identity into larger society, gay people are embracing heterosexual norms; in doing so, Halperin argues, they accept heterosexual dominance and promote it.[208] This argument, which has resonated within other bodies of research[209] and within the data collected in this research, is of key importance and will form a major part of the discussion of data below. This assimilationist argument has been discussed in Rimmerman's *The Politics of Gay Rights*, which asks how the limits of liberal democracy affect LGBTQ politics:

> In recent years, the lesbian and gay movement has embraced a narrow form of identity politics that is rooted in a top-down, hierarchical approach that embraces the language and framework of liberal democratic institutions, interest group liberalism, and pluralist democracy. In doing so, there have been increasing conflicts among those who consider themselves assimilationists, who typically embrace 'insider' political strategies, and liberationists, who are often associated with 'outsider' and grassroots political strategies.[210]

This statement directly relates to the queer critique of identity politics and the ways in which they may lead to laws that are exclusionary and are largely based on a hegemonic, white, middle-class gay identity. Rimmerman's collection focuses on the American politics of gay rights and the unlikely, at the time, event of same-sex marriage being voted for across the 50 states. He reinforces his argument by enlisting Vaid's assertion that in pursuing civil rights, 'we consciously chose legal reform, political access, visibility, and legitimation over the long-term goals of cultural acceptance, social transformation, understanding and liberation'.[211] This view advocates that legality and legitimation may constitute a useful method of gaining civil rights, but they do not allow for the inclusion of the many facets of LGBT (or queer) life – particularly when a legal civil rights campaign may rest on a homogenous identity-based movement. This may contribute to the way in which homonormativity has become the dominant expression of gay identity, hiding the dirty truths of gay sex and sexuality. Cohen has also argued that an LGBTQ movement based on civil rights can only lead to assimilation.[212] In Vaid's *Virtual Equality*, she argues that the mainstreaming of gay rights through the political

---

[208] Ibid., 443.

[209] See K Namaste, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996).

[210] C Rimmerman, 'Beyond Political Mainstreaming: Reflections on Lesbian and Gay Organisations and the Grassroots' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000) 55.

[211] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 106.

[212] C Cohen, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor, and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000) 437.

process does little to further gay liberation and instead marginalises it in order to appear as a minority issue, rather than one that affects a large proportion of the population. This reflects arguments that to position oneself within the homosexual identity, one must presume that this identity is deviant and therefore of lower status than heterosexuality.[213]

In *Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?*, Cohen goes on to argue that despite a liberal gay and lesbian agenda only ever having assimilationist potential, the truly radical or transformative politics has not resulted from queer activism.[214] Stating that 'queer theory stands in direct contrast to the normalising tendencies of hegemonic sexuality rooted in ideas of static, stable sexual identities and behaviours',[215] Cohen calls for a radical movement that is primarily based not on the sexual deviancy but on opposition to all norms, through race- and class-based distinctions:

> Instead of destabilising the assumed categories and binaries of sexual identity, queer politics has served to reinforce simple dichotomies between heterosexual and everything 'queer'. An understanding of the ways in which power informs and constitutes privileged and marginalised subjects on both sides of this dichotomy have been left unexamined.[216]

This perspective echoes the argument that in positioning oneself as homosexual or queer, one upholds and substantiates the sexual hierarchy of valued heterosexuality and othered homosexuality. The dichotomy of power between the marginalised will be examined in this study by asking how the state has imposed normative values on the marginalised and how the hierarchy is constructed. Cohen is evidently dubious of the argument that the hierarchy applies only to those of sexual non-normativity. She also calls for a recognition of those heterosexuals who would be deemed queer, such as poor single mothers of colour and others who transgress the traditional white, middle-class family narrative. This allows Cohen to challenge the monolithic understanding of heterosexuality.[217] Her perspective is relevant as a form of criticism of the limits of queer theory; however, it is unlikely that it will inform this study, due to all participants being non-heterosexual. Nonetheless, the perspective may be useful in critiquing the intersections of race and class. Cohen's work serves to remind us that queer

---

[213] K Namaste, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 206.

[214] C Cohen, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000) 438.

[215] Ibid., 438.

[216] Ibid., 438.

[217] Ibid., 452.

theory primarily entails a rejection from the norm, yet one that need not be based on the homosexual/heterosexual divide. Queer theory exists as a form of fluidity, as does the sexual hierarchy. However, this provides a disconnect in using queer as an identity, due to the fact that queer eschews identity. Butler has commented that the recognition of queer identity is certainly a positive step. However, queer theory calls for the rejection of the policing of identity and therefore is incompatible with the concept of queer identity.[218] Cohen has noted that the world of queer theory is mainly self-indulgent and has the interests of gay men at heart. These issues will be discussed in the methodology of this study. They inform the intent of this research to offer wide-ranging responses of LGBTQ people to same-sex marriage legislation.

3.12 Binaries of Power

Hequembourg and Arditi have argued in 'Fractured Resistances'[219] that in striving to acquire legal rights that allow for same-sex relationship recognition, queer familial relationships are erased – as noted by Weeks et al.[220] This aspiration relies on normalisation, with the assumed gay identity embracing mainstream categorisations of power:[221]

> Resistance is effected by grounding one's identity on a sphere (sexuality) that violates the grounds of self-definition in mainstream society and that refuses the domestication of sexuality that it entails – on a sphere and on practices, that is, that are in a condition of exteriority in relation to the dominant, generative practices of power.[222]

Hequembourg and Arditi's piece therefore reaffirms the assimilationist connection of the homonormative with the domestic and marriage. They go on to state that this identity has been constructed out of a neoliberal narrative and is not focused on sexual identity or desire, therefore reflecting the continuing narrative of the desexed homonormative identity. Hequembourg and Arditi explicitly criticise Bawer's assertion[223] that the LGBT are not sexual

---

[218] S Ahmed, 'Interview with Judith Butler' (2016) 19 *Sexualities* 489.

[219] A Hequembourg and J Arditi, 'Fractured Resistances: The Debate over Assimilation among Gays and Lesbians in the United States' (1999) 40 *Sociological Quarterly* 663.

[220] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

[221] Ibid., 664.

[222] Ibid., 664.

[223] B Bawer, *A Place at the Table: The Gay Individual in American Society* (Simon and Schuster 2004).

beings, but *human* beings[224] – a means of emphasising the *sameness* of the non-heterosexual and the heterosexual, erasing difference and emphasising the liberal entitlement to civil rights of marriage. They rebut this homonormative notion, arguing that one can resist assimilation by asserting one's sexual identity:

> The affirmation of desire, the orientation of one's existence around desire, and the practice of an unrestricted, multiple, fluid sexuality form the core of an identity that opposes mainstream modes of being at their most fundamental level.[225]

Reaffirming and celebrating desire can thus reflect the actions of the homoradical in encompassing sexuality in every movement, acting as a constant resistance against assimilation towards the heteronormative goal of a hidden sexuality. However, Hequembourg and Arditi also echo the argument made by Heaphy et al., that assimilation into heteronormative institutions has the potential to be a transformative strategy in challenging the status quo and 'widening the conceptual field of what resistance means'.[226] They insist that LGBTQ familial resistance – explicitly named by Hequembourg and Arditi as lesbian-headed families – is as effective as flagrant resistance against heteronormativity.[227] In this study, the transformative potential of same-sex marriage will be evaluated in the light of participant responses.

In 'Hegemony and Heteronormativity', Do Mar Castro Varela et al. have sought to better understand the complex interplay of social power relations and domination, particularly with regard to the normalisation of heteronormativity and queer politics.[228] Their collection therefore seeks to delve into the construction of hegemony and its implicit reinforcing of heteronormativity in social relations, focusing mainly on the Gramscian conception of hegemony as a form of social dominance exerted through a governing class.[229] This forms the basis of their reconsideration of queer politics as a narrow critique of normative heterosexuality and the gender binary. It is important to note the message that queer politics seeks to analyse

---

[224] A Hequembourg and J Arditi, 'Fractured Resistances: The Debate over Assimilation among Gays and Lesbians in the United States' (1999) 40 *Sociological Quarterly* 663, 667.

[225] Ibid., 664.

[226] Ibid., 667.

[227] Ibid., 667.

[228] M Do Mar Castro Varela, N Dhawan, and A Engel, 'Hegemony and Heteronormativity: Revisiting "The Political" in Queer Politics' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011).

[229] A Gramsci, *The Antonio Gramsci Reader: Selected Writings 1916–1935* (New York University Press 2000).

and transform institutions, socio-cultural processes, political structures, and global politics[230] in order to provide a critique of normativity that is worth consideration. Do Mar Castro Varela et al. go on to state that in taking this approach, queer theory is complicit in the adoption of hegemonic discourses of heterosexuality:

> If we accept that queer politics is complicit in hegemonic discourses, for example in the context of neoliberal individualism, this does not mean that the subversive potential of queer theory and politics is forfeited. Rather, hegemony as an ongoing struggle makes us ask anew: what does it mean today to undermine and subvert systems of compulsory heterosexuality and heteronormativity while acknowledging the differences of concrete geo-political, socio-material and symbolic conditions?[231]

From this perspective of queer theory, it becomes clear that their argument relies on an intersectional queer politics that does not rely fundamentally on the singular 'queer' but rather seeks to explore differences from those who are not the hegemonic ruling class. This approach will be applied in this research by taking into account the class- and gender-based differences among my participants. Thus, queer theory can articulate the struggles against hegemonic formations and offer possibilities of making visible issues within these formations and enabling open-ended, experimental alliance politics.[232] The conception of same-sex marriage has been discussed in a later part of the collection in a chapter by Do Mar Castro Varela and Dhawan, in which they recognise that relationship recognition rights for lesbian and gay couples reinforce the hegemony of the institution of marriage and of the heterosexual imaginary.[233] They then argue, using Butler's theory of normalisation, that same-sex marriage would stabilise the hierarchy of legitimate and illegitimate intimate relations, thus leaving lesbian and gay couples vulnerable to normative violence.[234] They ask whether, in mimicking heterosexual marriage with subverted gender, same-sex marriage can be counter-hegemonic. This political argument can be instrumental in assessing the impact of the legislation outside of the

---

[230] M Do Mar Castro Varela, N Dhawan, and A Engel, 'Hegemony and Heteronormativity: Revisiting "The Political" in Queer Politics' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011) 2.

[231] Ibid., 19.

[232] Ibid., 20.

[233] M Do Mar Castro Varela and N Dhawan, 'Normative Dilemmas and the Hegemony of Counter-Hegemony' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011) 91.

[234] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999).

normativity framework and looking further afield beyond the implications for the participants in my study.

However, in recognising the personal impact on their participants, Do Mar Castro Varela and Dhawan note that norms not only normalise an individual, they also valorise by rewarding compliance and punishing deviance. Thus, although same-sex marriage may have the potential to be counter-hegemonic, the institution of marriage itself upholds normative/deviant boundaries. This is recognised by the authors, who state: 'Our brief analysis unfolds that same-sex marriage can neither be read as a simple counter-hegemonic practice nor as something that is straightforwardly complicit with the hegemonic order.'[235] This work will be used in analysing the data. However, it is important to note the fluidity of the sexual hierarchy, and to focus on fluidity rather than binaries.

3.13 Developing the Homoradical

When analysing risk assessment in insurance law using queer theory, Cobb has accurately articulated the fact that identity and behaviour must be deconstructed – particularly in regard to risky behaviour and sexuality. In 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"',[236] Cobb argues that not only was asking an insurance applicant if they were gay discriminatory, it was also insufficient to account for the risk that is involved surrounding HIV transmission – along with being unreliable, unnecessary, and unfair. The question ignored the fact that HIV/AIDS is not inherently connected to the gay identity. Cobb also notes that relationship recognition and parenthood play an important role in underwriting practices, being significant to insurance companies as determinants of an individual's role in the nuclear family.[237] He points out that 'one's choice of relationship is a questionable basis for generalising about the sexual activity that takes place within (and beyond) it'.[238]

---

[235] M Do Mar Castro Varela and N Dhawan, 'Normative Dilemmas and the Hegemony of Counter-Hegemony' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011) 116.

[236] N Cobb, 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"' (2010) 37 *Journal of Law and Society* 620.

[237] R Austin, 'The Insurance Classification Controversy' (1983) 131 *University of Pennsylvania Law Review* 538.

[238] N Cobb, 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"' (2010) 37 *Journal of Law and Society* 633.

Cobb represents marriage as a bastion of maturity, longevity, and responsibility, noting the ways in which law, through the medium of insurance companies, assumes the monogamy of applicants and therefore their low-risk status. This demonstrates the forming of a marriage identity, stamping a heteronormative stereotype on those who commit to marriage. Cobb also notes the stereotyping of the single gay as someone who has a propensity for risky behaviour, evidently feeding into Stychin's narrative of decay, illness, and seduction. Cobb goes on to argue that the legitimacy of a claim to the esteem held in marriage derives from a powerful 'common sense' rhetoric[239] that exists due to the naturalness of heterosexual marriage. This legitimation quickly unravels in response to different forms of relationships and is particularly relevant to same-sex marriage due to its current transformative state. This therefore is relevant in assessing the interaction of law with the lives of those who have acceded to same-sex marriage. It informs the data of this research in the assessment of risky sexual behaviours, reactions to HIV transmission, and notions of (non)monogamy. Cobb concludes that the narrow identity politics of homonormativity only serve to benefit the already privileged white gay male and do little to assist the politics of HIV:

> What is needed instead is a more radical – or queerer – politics, adequately equipped to address the silences invariably imposed by the pursuit of a narrow identity politics designed to further the needs of gay men alone.[240]

Most importantly, this research serves to show how queer theory can displace the notions of heteronormativity and homonormativity that inform other aspects of law in their interaction with marriage law in order to present the truth of lived experience.

Mowlabocus in *Gaydar Culture*[241] has extensively investigated the ways in which online spaces can be queered and used by gay men, and how online spaces can then queer physical spaces through hybridisation. This study is particularly important, as it provides research into how online LGBTQ dating apps and websites can be used (as shown in this research and discussed in the later methodology). The study also critiques the construction of a sexless homonormativity, and in turn constructs a homoradical identity in the form of the public, barebacking, sexed gay identity. Mowlabocus sees gay dating or sex as virtual environments

---

[239] Ibid., 633.

[240] Ibid., 645.

[241] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010).

that remain outside of the framework of normative gay male sexuality,[242] meaning that their users, however normal they may appear to be, can never truly be homonormative. This, in turn, provides an interesting point to consider when sampling participants for this research. According to Mowlabocus, the vision of homonormativity has been fashioned around a stereotypical image of the gay man that is lacking sex:

> Young gay men are on the receiving end of a sexual identity increasingly devoid of sexuality.[243]

This notion of desexualisation resonates with homonormative literature[244] and may be reflective of the law, in which gay sex is still not legitimated in same-sex marriage. Thus, it is important to note how sexual identity is constructed by LGBTQ participants, who are encouraged to hide their sexuality. One of the primary reasons for this lack of sex within sexuality, and its exclusion from marriage, may be seen as the remnants of the HIV/AIDS epidemic and continued attempts to contain it. Fear of HIV/AIDS has inhibited discussions of sex and personal choice, stigmatising those who move beyond proscribed boundaries of safety and risk. The 'discursive framework of HIV prevention work has forestalled any recognition of unprotected sex as a personal choice'.[245] This definition, therefore, has led to the implication that bareback, or condomless, sex between men could only ever be viewed as wrong due to the associated risk and stigma.[246] This research has picked up on this notion. It has been important in assessing, with the participants, how they construct notions of risk in sex; in particular, whether they identify as barebackers or whether they bareback anyway, and in what circumstances. Barebacking has been said to acquire an identity as a 'practice and a subculture that has been *formed* as a result of stigma and condemnation'[247] (original emphasis), yet it will be important to assess how, or whether, this identity is adapted by the participants and whether this is seen as a radical act of queer defiance, or merely an issue of individual choice.[248]

---

[242] Ibid., 118.

[243] Ibid., 144.

[244] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002).

[245] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 154.

[246] Ibid., 155.

[247] Ibid., 157.

[248] Ibid., 163.

Adam has recognised the ways in which the safe-sex ethic that has permeated discussions of (homo)sexual activity since the HIV/AIDS crisis has refashioned homosexuality into a model for good citizenship that has become tamed and made responsible and governable by such discourses.[249] Elaborating on the formation of barebacking as an identity, he notes that 'raw' sex becomes justifiable through a 'rhetoric of individualism, personal responsibility, consenting adults, and contractual interaction'.[250] This justification will be scrutinised in the data collected as it has been an important issue among participants and their constructed need or willingness to bareback. Bareback sex is relevant to this study in the identification of radical behaviour. Although the issue of bareback sex is predominantly one that affects gay men, the issue of protected sex or risky sex has also been approached in interviews with lesbian participants. This has produced varying results. Adam goes on to conclude that the choice to bareback or to evoke the barebacker identity relies on individualised neoliberal reasoning, with most of his participants also being HIV positive. The study demonstrated the impact of the status of both partners in negotiating condom use or further protections, casting doubts on the earlier definitions of bareback in Mowlabocus's work. Finally, Adam writes:

> Even among barebackers who invoke neoliberal discourse most directly in the care of the self, there are clearly a host of competing discourses, drawn from romance, masculine adventure, gay solidarity, communitarianism, and so on, that can come to the fore, according to circumstance.[251]

This statement demonstrates the importance afforded to the decision to bareback. Those who embody the bareback identity can then be seen as embodying the homoradical identity as one that actively rejects the homonormative. This will be drawn out of the data collected, particularly noting the discourses that arrive in relation to when, and with whom, a participant will bareback. In analysing radical behaviour and redefined boundaries regarding relationships, it is also important to assess non-monogamy.

---

[249] B Adam, 'Constructing the Neo-Liberal Sexual Actor: Responsibility and Care of the Self in the Discourse of Barebackers' (2005) 7 *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care* 333.

[250] Ibid., 339.

[251] Ibid., 345.

3.14 Non-Monogamy

One of the key reoccurring themes within this research has been that of non-monogamy and polyamory. It has been noted that both practices are far more prevalent in LGBTQ relationships and that monogamy is intrinsically linked to heteronormativity.[252] *Understanding Non-Monogamies* seeks to bring together research that develops understanding of the ways in which non-monogamy is coordinated and understood within relationships. Although the collection is predominantly based on mainly heterosexual forms of non-monogamy, with a large focus on the swinging movement, the collection appropriately deconstructs non-monogamy within an LGBTQ context. Adam has found that same-sex couples are not bound by limits imposed by heteronormativity and therefore possess the potential to create innovative relationships, constructed without the baggage of patriarchy or traditionalist gender roles.[253] This relies on the notion that monogamy within same-sex relationships is not a restrictive rule but an active choice,[254] a theme that the participants within this research have echoed. This chapter is noteworthy in its finding that Adam's participants, the majority of whom were in non-monogamous relationships of many forms, described contemporary gay marriage debates as irrelevant or not influential to their relationships and their arrangements regarding their non-monogamy,[255] reiterating the absence of a heteronormative structure in same-sex relationships.

Bauer has argued that the prevalence of non-monogamous practices in the dyke+/queer BDSM sphere has the subversive effect of reversing mononormativity, with the monogamous becoming a pressured minority.[256] He goes on to state that the mononormative matrix is 'a complex power relation, which (re)produces hierarchically arranged patterns of intimate relation, which devalues, marginalises, excludes and "others" those patterns of intimacy which

---

[252] R Bauer, 'Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 145.

[253] B Adam, 'Relationship Innovation in Male Couples' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 55.

[254] Hickson F et al., 'Maintenance of Open Gay Relationships' in R Bor and J Elford (eds), *The Family and HIV* (Cassell 1994).

[255] B Adam, 'Relationship Innovation in Male Couples' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 67.

[256] R Bauer, 'Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 142.

do not correspond to the normative apparatus of the monogamous model'.[257] Such statements can be used to relate the homoradical to both the non-monogamous and the queer BDSM spheres, as a sexual identity that does not conform to normative coupled, vanilla practice, and one that has been othered. Consensual, negotiated, and openly lived non-monogamy is most often found in sexual minorities such as the gay male, bisexual, and BDSM communities,[258] and therefore may be at odds with the cultural expectation of monogamy in marriage.

Wilkinson has recognised that non-monogamy can be used as a tool within the broader queer political agenda, rejecting monogamy as a political limitation.[259] She then calls for wider recognition of the move beyond non-monogamy into polyamory: 'discussions about mononormativity should not just be limited to a matter of sexual politics; in order to make a queer political intervention, polyamorous politics must make a move from identity to affinity'.[260] Wilkinson thus states, in an argument that resembles that of Polikoff, that there is no reason why a coupled relationship should be privileged above all other relationships, and that a recognition of the potential of polyamory and a rejection of mononormativity would transform the political and legal structures that regulate intimate relationships.[261] Sheff notes the ways in which polyamory can be used to challenge heterocentric norms. She states that advocates of equality should support same-sex marriage and polyamorous marriage, yet simultaneously act to disengage privileges and benefits from marital or familial status[262] – again writing in the same vein as Polikoff. This acknowledges the symbolic importance that is afforded to marriage, yet also calls for a rethinking of the legal benefits that then work to the detriment of those who are excluded from marriage. Notably, Sheff has found that non-monogamy is so common among gay men that it is to be regarded as a norm of the gay community and therefore as not requiring any separate identity or organisation around it – unlike heterosexual or lesbian polyamory.[263] Non-monogamy, as a defining feature of the sex lives of many LGBTQ people and a prominent feature of the wider sexual landscape, will thus

---

[257] Ibid., 145

[258] Ibid., 146

[259] E Wilkinson, 'What's Queer about Non-Monogamy Now?' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 255.

[260] Ibid., 244.

[261] Ibid., 253.

[262] E Sheff, 'Polyamorous Families, Same-Sex Marriage, and the Slippery Slope' (2011) 40 *Journal of Contemporary Ethnography* 510.

[263] Ibid., 497.

be a crucial indicator of the sexual hierarchy and the impact of same-sex marriage. This issue will provide insight into whether marriage has acted to encourage same-sex monogamy, or whether non-monogamy allows for the transformation of marriage beyond its mononormative boundaries. This will be further discussed in relation to the data collected and the construction of the sexual hierarchy.

3.15 Conclusion

This narrative literature review has examined the work of queer theorists and legal theorists, investigating many areas where sociology and law intersect, and has delved into those areas in which sexuality is restrained or liberated. The review has allowed for an extensive investigation of areas of queer theory, law relating to same-sex marriage, intersectional issues, and perspectives and concepts relevant to the research. It has sought out significant gaps in the knowledge and has strengthened the justifications for conducting such research. Corresponding with the research question, this review suggests that same-sex marriage feeds into a sexual hierarchy that encompasses normative and radical identities. The literature review has identified the following gaps in knowledge: a lack of empirical research in place after the Marriage (Same-Sex Couples) Act 2013, particularly relating to the construction of homonormativity in the United Kingdom; a lack of research regarding the homoradical and how this is constructed or lived through participants; and a lack of investigation with regard to those who see themselves as excluded from the institution of marriage. This construction of the homoradical requires examination of those who exhibit their sexuality or sexual practice publicly and openly, in the face of the hidden homonormative sexuality, encompassing such acts such as barebacking, public sex, group sex, and risky sex. Issues of non-monogamy require examination in order to assess norms of monogamy and their recognition. This will also encompass an examination of the effects of certain provisions of the law, particularly the exclusion of adultery and consummation from the Marriage (Same-Sex Couples) Act 2013. A re-examination of Rubin's sexual hierarchy has proved necessary in examining how the sexual boundaries, expectations, and values may have shifted in the wake of the redefinition of marriage. Theories of legal consciousness, stigmatisation, and normalisation have also proved important and will be used in the analysis of data. This will facilitate a greater understanding of the workings and impact of same-sex marriage, identifying potential changes to relationship recognition that may allow a reconsideration of Rubin's sexual hierarchy.

4
Methodology

4.1 Introduction

This project utilised qualitative queer legal methodologies in order to collect data that accurately reflects the construction of socio-legal identities as a result of the Marriage (Same-Sex Couples) Act 2013. Drawing on the narratives and perspectives of LGBTQ participants, this research has allowed for substantive analysis of the ways in which LGBTQ individuals assimilate, resist, or conform to various legal reforms that confer marital and familial rights on same-sex couples. This ethnographic study has gathered data that relates to the lived experiences and perspectives of LGBTQ individuals from the perspective of an LGBTQ researcher. In order to better understand a queer methodology, this study must qualitatively account for its object of inquiry.[1] Rubin and Babbie point out that all qualitative inquiry is consistent with grounded theory,[2] which is theory that is generated from an inductive methodology. This leads to the identification of emerging radical and normative identities from a methodology that infers theory through experience. Such investigation is usually described as naturalistic or ethnographic research, emphasising the study of a culture from the point of view of the people who inhabit that culture. As Appleby explains, 'these studies focus on the construction of norms, labelling, linguistic expressions, understandings, and assumptions that people use to make sense of their everyday activities or to behave in socially acceptable ways'.[3] This study has utilised these methods in order to produce and analyse reliable data that accurately reflects the impact of same-sex marriage and the construction of socio-legal identities.

Queer theory provides a mechanism within this study to challenge the rigid binaries of law and its effect on LGBTQ identity and sexuality. Queer theory's task lies in 'visibilizing, critiquing, and separating the normal (statistically determined) from the normative (morally

---

[1] D Warner, 'Towards a Queer Methodology' (2004) 1 *Qualitative Research in Psychology* 334.

[2] A Rubin and E Babbie, *Research Methods for Social Work* (Brooks/Cole Publishing Company 1993).

[3] GA Appleby, 'Interviewing Working-Class Gay Men over the Internet' (2008) 12 *Journal of Gay and Lesbian Social Services* 134.

determined)',[4] and is therefore inherently critical of normative discourse and resistant to the categorisation and limiting of sexual identities.[5] Levy and Johnson state that queer research should be a means of highlighting queer voices[6] and offering them a chance to challenge heteronormative discourse. Qualitative research, as a means of voicing this queer critique through empirical work, gives 'due emphasis to the meanings, experiences and views' of the participants,[7] yet also allows for discussion of the interactional relationships between the individual, organisational functioning, and social movements.[8] Therefore, from a deconstructive position, this contributes to the acknowledgment that sociology is involved in producing narratives and 'contingent knowledge that is open to contestation and, at best, can provide the basis for diverse interpretations of the social world'.[9]

Qualitative in nature, this research aspires to capture the narratives of LGBTQ individuals as an affirmation of their identities in order to present their relationships and life choices as viable and valid.[10] Quantitative research would not have been appropriate, owing to the difficulty of establishing a sampling frame[11] in relation to homosexuality: this is particularly relevant as quantitative studies would also unduly restrict the collection of data to statistics. The use of semi-structured interviews provided 'a way of exploring shifting nuances of identity by providing brief life-histories of the subjects, and allows for the development of narratives of "intimate" and "family life"'.[12] Qualitative research therefore creates an emphasis on human interaction that is central to queer research. It has been noted that:

---

[4] N Giffney, 'Denormatizing Queer Theory: More Than (Simply) Lesbian and Gay Studies' (2004) 5 *Feminist Theory* 75.

[5] K Browne, 'Selling My Queer Soul or Queerying Quantitative Research' (2008) 31 *Sociological Research Online* 9.

[6] D Levy and C Johnson, 'What Does the Q Mean? Including Queer Voices in Qualitative Research' (2011) 11 *Qualitative Social Work* 134.

[7] Pope C and Mays N, 'Qualitative Research: Reaching the Parts Other Methods Cannot Reach: An Introduction to Qualitative Methods in Health and Health Services Research' (1995) 311 *British Medical Journal* 4.

[8] A Strauss and J Corbin, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (Sage 1990) 17.

[9] B Heaphy, 'The Sociology of Lesbian and Gay Reflexivity or Reflexive Sociology' (2008) 13 *Sociological Research Online* 8.

[10] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 6.

[11] B Heaphy, J Weeks, and C Donovan, '"That's Like My Life": Researching Stories of Non-Heterosexual Relationships' (1998) 1 *Sexualities* 454.

[12] Ibid., 455.

> Every time we engage human subjects in research, we face the values, norms and ethical formations of our participants. … [I]t means that the ability to form lines of communication, forums for negotiation, connections of understanding, perspectives on difference, claims for justice, the possibility to create new kinds of kindred alliances, and so on, demand that the research can establish trust and common linkages through a complex set of terms, both their own and their participants.[13]

The interaction of the homonormative and the homoradical with the establishment of same-sex marriage therefore requires qualitative data that is reliant on the narratives of respondents and their understandings, perspectives, and experiences, thus allowing for extensive queer analysis. As stated by Warner, 'ultimately [a queer methodology] would be a methodology that understands the performative nature of identity and does not seek to found the social in the biological'.[14] Following on from the ethical considerations discussed below, this methodology will then discuss positionality, professionalism, sampling, interview technique, visual methods, and analysis methods.

4.2 Ethical Considerations

This study has followed the social justice theory of ethical research, which focuses on an awareness of the need to redress inequalities by giving precedence to the voices of marginalised groups.[15] This builds on the human rights-based theory of ethics, that every person must be treated with dignity and respect, aiming at all times to avoid any harm. Lincoln states that ethical considerations must uphold the credibility, transferability, dependability, confirmability, and authenticity of the research. She goes on to qualify the notion of authenticity, further stating that authenticity has been expanded to include ontological, educative, catalytic, and tactical authenticity. These qualifications ensure improved understandings of participants and their constructions of reality as imperatives for constructive data, expose constructions of reality and associated values, and aid in the creation of social justice.[16]

---

[13] M Detamore, 'Queer(y)ing the Ethics of Research Methods: Towards a Politics of Intimacy in Researcher/Researched Relations' in K Browne and C Nash (eds), *Queer Methods and Methodologies* (Ashgate 2010) 169.

[14] D Warner, 'Towards a Queer Methodology' (2004) 1 *Qualitative Research in Psychology* 335.

[15] H Simons, 'Ethics in Evaluation' in I Shaw, J Greene and M Melvin (eds), *The Sage Handbook of Evaluation* (Sage 2006) 243.

[16] Y Lincoln, 'Ethical Practices in Qualitative Research' in D Mertens and P Ginsberg (eds), *Handbook of Social Research Ethics* (Sage 2009) 150.

This research utilises and maintains this theory, while protecting those marginalised groups from harm. The ethical principles of informed consent, the right to privacy, and the protection from harm[17] were conformed to at all times, having been approved by the Northumbria University Ethics Committee. When the researcher approached participants, all were made aware of the approval of the university. Each recorded interview contains a preamble (see appendices) and all participants gave audio consent by stating that they were happy to discuss the questions in the interview. Prior to the interview, participants were provided with four questions that set out the structure of the interview. All were made aware of the fact that marriage, equality, and sexuality would be discussed. When one participant, prior to the interview, indicated her refusal to discuss sexuality, that entire section of questioning was omitted in order to accommodate her wishes. When meeting for the interview, participants were provided with the Informed Consent Form[18] and duly signed two copies, one of which was retained and one of which was given to the participants for their records. All participants were advised that they were under no obligation to answer all questions, that they had a right to withdraw at any time, and that they could ask to view their data at any time.

Interviews took place in public spaces, with the majority being conducted in small interview rooms in Northumbria Law School. Three took place in a café or pub and one took place in the home of an elderly female participant, at the request of these participants in order to assure that they were comfortable. Whenever interviews took place outside of the law school, efforts were made to ensure that a personal contact knew of my location and the estimated time at which the interview would be finished. After the interview ended, my contact was made aware that I was safe. The locations were chosen in order to ensure that neither the participants nor I were at risk of harm, while also allowing for open, friendly chatting. The participant who chose to be interviewed at home did so to ensure privacy. Occasionally, interviews in public spaces were disrupted due to external noise or interruptions. However, this was not to the detriment of the data. In using these spaces, care was taken to ensure that there was equality between the participants and myself.

All identifiable data was stored separately from the Informed Consent Form and was anonymised after transcription, being identifiable by date. This identifiable data was then kept

---

[17] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 142.

[18] See appendices.

separately from the collected data in a locked file. All visual data and transcriptions were grouped by date of interview and stored in a folder that was itself stored in a separate locked file. Word documents and PDFs of the transcripts and data were stored in anonymous files on a password-protected computer. Digital recordings of the interviews were made on a password-protected iPad and stored in a password-protected recording app.

In conducting this research in line with ethical principles, the lived experiences and reality of the participants can be effectively and accurately recounted. Efforts were taken to ensure that participants did not see themselves as subjects. They were 'joining' the research as co-creators of knowledge, rather than being 'knowable'.[19] The participants were aware of my own place within the researcher group (see section 4.3 below) and were able to react accordingly. In this scholarship, upholding the ethical principles that support social justice is of paramount importance in maintaining the credibility and authenticity of the research.[20]

4.3 Researcher Identity

Heaphy states that LGBTQ people may live highly reflexive forms of existence, underpinned by self-determination and a creative ethos, due to the lack of institutionalisation and norms available prior to recent familial legal reforms.[21] This reflexive form of existence is recognised within this study; queer research should be reflective of its mission, its expectations, and its implications. This research into the socio-legal impact of same-sex marriage and the construction of homonormativity and the homoradical is situated within a legal framework. It is therefore expected to critique the normative law as an enabler of the sexual hierarchy, thus emphasising the need for explicit and critical reflection on the dynamics of difference and power[22] that are central to queer narratives. One of the key issues for research into small groups of LGBTQ individuals is the temptation to present research as if it illuminates general experience, driven by an overly affirmative agenda,[23] which Cohen has described as self-

---

[19] G Cannella and Y Lincoln, 'Ethics, Research Regulations, and Critical Social Science' in N Denzin and Y Lincoln (eds), *Sage Handbook on Qualitative Research* (5th edn, Sage 2018) 85.

[20] Y Lincoln, 'Ethical Practices in Qualitative Research' in D Mertens and P Ginsberg (eds), *Handbook of Social Research Ethics* (Sage 2009) 150.

[21] B Heaphy, 'The Sociology of Lesbian and Gay Reflexivity or Reflexive Sociology' (2008) *13 Sociological Research Online* 3.

[22] Ibid., 10.

[23] Ibid., 5.

indulgent and pandering to the interests of gay men alone.[24] As noted by Heaphy, the 'effects of such affirmative, normative and political thrusts should be considered. One way to do this is to ask whose experience is valorised in our accounts of lesbian and gay reflexivity, and whose is made visible'.[25]

As a researcher, it is important to be aware of my own positionality and to ensure that this is reflected upon in this work. Warren and Rasmussen have found that sex and gender are two crucial factors to consider when embarking on sexuality research: 'being female or male has made a difference in some situations (gender), in combination with a mutual youthfulness and attractiveness that casts us as potential sex objects in the eyes of some respondents (sex)'.[26]As a self-identified gay cisgendered male researcher, I possess an insider perspective in the area of LGBTQ studies in law and sexuality and may be seen as an active member of a sexualised group, though I cannot claim to be an insider to lesbian, bisexual, or trans groups. Good research incorporates both this *etic*, research-focused view, and also the *emic*, insider view[27] in order to come to a rational and balanced conclusion that is neither short-sighted nor biased.[28] As a researcher who is a member of the researched group, according to LaSala, I possess a unique positioning that allows me to elicit emic perspectives but also to understand their importance.[29] Along with this, it has been found that minority groups wish to be interviewed by a member of their own minority due to shared interests and a desire to rectify societal misconceptions[30] through the creation of research and the publication of their experiences.

---

[24] C Cohen, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor, and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000) 437.

[25] B Heaphy, 'The Sociology of Lesbian and Gay Reflexivity or Reflexive Sociology' (2008) 13 *Sociological Research Online* 5.

[26] C Warren and P Rasmussen, 'Sex and Gender in Field Research' (1977) 6(3) *Urban Life* 350.

[27] See J Lett, 'Emics and Etics: Notes on the Epistemology of Anthropology' in T Headland, K Pike, and M Harris (eds), *Emics and Etics: The Insider Outsider Debate* (Sage 1990); K Pike, 'On the Emics and Etics of Pike and Harris' in R Headland and M McClelland (eds), *Emics and Etics: The Insider/Outsider Debate* (Sage 1990); R Sands and M McClelland, 'Emic and Etic Perspectives in Ethnographic Research on the Interdisciplinary Team' in E Sherman and W Reid (eds), *Qualitative Research in Social Work* (Columbia University Press 1995).

[28] See R Sands and M McClelland, ''Emic and Etic Perspectives in Ethnographic Research on the Interdisciplinary Team' in E Sherman and W Reid (eds), *Qualitative Research in Social Work* (Columbia University Press 1995); H Simon, 'Scientific Discovery and the Psychology of Problem Solving' in R Colodny (ed), *Mind and Cosmos: Essays in Contemporary Science and Philosophy* (University of Pittsburgh Press 1966); W Wimsatt, 'Heuristics and the Study of Human Behaviour' in D Friske and R Shweder (eds), *Metatheory in Social Science* (University of Chicago Press 1986).

[29] M LaSala, 'When Interviewing "Family": Maximising the Insider Advantage in the Qualitative Study of Lesbians and Gay Men' (2008) 15 *Journal of Gay and Lesbian Social Services* 15.

[30] See J Gwaltney, *Drylongso: A Self-Portrait of Black America* (Random House 1980); M Maykovich, 'The Difficulties of a Minority Researcher in Minority Communities' (1977) 33 *Journal of Social Issues* 108.

From this, it has been shown that gay researchers are more likely to be trusted and therefore to encourage a more honest response from gay participants.[31] This has been made clear during this research, with participants frequently asking about my sexual orientation. Coming out, as stated by Mowlabocus, is a way of making oneself visible and throwing 'one's queerness into relief against a heteronormative background' that would render it invisible.[32] It is also important to note not only that shared sexual identity creates solidarity, it can also contribute to and transform the production of research knowledge through shared understanding and constructed analysis.[33] In researching women's voices, using the emic and etic perspective became even more important. My position in relation to these participants was as a member of a presupposed shared group (being LGBTQ), while maintaining gender and sexuality-based differences – particularly with regard to a different lived experience of sexuality. This research could have focused solely on the experiences of gay and bisexual men, but research cannot claim to illuminate the impact of same-sex marriage if it does not feature women, as this would erase their experiences.

However, there is the potential for negative and biased effects resulting from my standing as an 'insider' researcher and my reliance on the emic perspective. In terms of cultural phenomena and understanding, inside investigators may take for granted that they know how their participants may understand common cultural phenomena.[34] Laslett and Rapoport note that common experiences may mistakenly project the researcher's own feelings, biasing the data and excluding etic perspectives.[35] Participants may also create bias through a perceived hostility towards the researcher due to power imbalances, meaning that they may be reluctant to admit vulnerabilities with a researcher who is seen as a part of a sexual community.[36] This may be coupled with the fact that, as a researcher, I am only likely to share sexual orientation

---

[31] See M LaSala, 'Coupled Gay Men, Parents and In-Laws: Intergenerational Disapproval and the Need for a Thick Skin' (1998) 79 *Families in Society* 585; M LaSala, 'The Importance of Partners to Lesbians' Intergenerational Relationships' (2001) 25 *Social Work Research* 27.

[32] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 93.

[33] J Thomas and D Williams, 'Getting Off on Sex Research: A Methodological Commentary on the Sexual Desires of Sex Researchers' (2016) 19 *Sexualities* 83, 85. See also D Kulick and M Willson, *Taboo: Sex, Identity and Erotic Subjectivity in Anthropological Fieldwork* (Routledge 1995).

[34] V Kanuha, '"Being Native" versus "Going Native": Conducting Social Work Research as an Insider' (2000) 45 *Social Work* 439.

[35] B Laslett and R Rapoport, 'Collaborative Interviewing and Interactive Research' (1975) *37 Journal of Marriage and the Family* 968.

[36] Ibid., 968.

as a characteristic with participants, and therefore it is impossible to be a completely 'native' researcher.[37] Aguilar[38] and Rhodes[39] have both found that participants may fear gossip, particularly within a small community, which may be particularly prevalent within a relatively small city such as Newcastle.

I cannot claim to be an insider researcher when working with a lesbian or transgender sample. Therefore, I have been aware of the gendered differences between myself and female and trans/non-binary participants. I have attempted, as far as possible, not to be influenced by these differences and to ensure that I am interviewing with good intentions. However, I had fewer women and non-binary participants. I was arguably able to build a friendly rapport with lesbian participants by taking time to reach out for lesbian narratives and by using respectful interviewing techniques that led to a common goal of developing knowledge of LGBTQ studies. It was critically important to feature male and female participants in order to better reflect the diverse nature of LGBTQ identities. However, due to the sampling style, it was not possible to achieve equal gender representation.

Participants were assured that this research would uphold ethical standards by maximising its trustworthiness. This was achieved by ensuring confidentiality, developing and maintaining self-awareness, avoiding dual relationships with participants, and maintaining prolonged engagements with them.[40] LaSala advocates this stance as a means of building relationships with participants. He reports that 'extended engagement and asking similar questions in different ways enabled me to identify and clarify such discrepancies and to gain a richer understanding of the respondents' perceptions'.[41] These principles foster developed, trusted, and reliable relationships with participants. At the same time, establishing links between the

---

[37] D Messerschmidt, 'On Anthropology "At Home"' in D Messerschmidt (ed), *Anthropologists at Home in North America: Methods and Issues in the Study of One's Own Society* (Cambridge University Press 1981).

[38] J Aguilar, 'Insider Research: An Ethnography of a Debate' in A Messerschmidt (ed), *Anthropologists at Home in North America: Methods and Issues in the Study of One's Own Society* (Cambridge University Press 1981).

[39] P Rhodes, 'Race-of-Interviewer Effects: A Brief Comment' (1994) 28 *Sociology: The Journal of the British Sociological Association* 547.

[40] M LaSala, 'When Interviewing "Family": Maximising the Insider Advantage in the Qualitative Study of Lesbians and Gay Men' (2008) 15 *Journal of Gay and Lesbian Social Services* 15, 22.

[41] Ibid., 26.

emic and etic perspectives within the research allows for balanced data that eradicates researcher bias.[42]

4.4 Professionalism in Research

Sex and sexuality have previously been seen as antithetical to professionalism.[43] It has been important throughout this research to maintain a standard of professional ethics that has been defined as principles of conduct based on a specific set of values that guide appropriate professional behaviour.[44] Due to the fact that personal and professional values informed choices made throughout the research,[45] it has been important to ensure that this social research is socially responsible.[46] Throughout the process, I have been aware of the consequences of research.[47] Professionalism can be defined as acting in a way in which I:

> adhere to the ethical principles of [the] profession when conducting research on LGBT populations, especially because such studies always occur within a complex, changing, and often hostile socio-political environment.[48]

As such, when researching sensitive issues and discussing sexual practice in sexualised spaces such as online dating apps, it has been important to maintain a researcher status and not use the account personally. When navigating an online space, I have presented an image of myself that emphasises the professionalism of the work being conducted (see section 4.5). It has been important to maintain a boundary between the public and the private, while acknowledging the fact that sex typically falls into the private.[49] Deverell has stated that it has become unrealistic and limiting to organise our lives into two distinct spheres of work and social life. This has

---

[42] Ibid., 26.

[43] K Deverell, *Sex, Work and Professionalism: Working in HIV/AIDS* (Social Aspects of AIDS, Routledge 2001) 17.

[44] D Cournoyer and W Klein, *Research Methods for Social Work* (Allyn and Bacon 2000).

[45] J Martin and W Meezan, 'Applying Ethical Standards to Research and Evaluations Involving Lesbian, Gay, Bisexual, and Transgender Populations' in J Martin and W Meezan (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Taylor & Francis 2009) 19.

[46] D Padgett, *Qualitative Methods in Social Work Research: Challenges and Rewards* (Sage 1998).

[47] J Martin and W Meezan, 'Applying Ethical Standards to Research and Evaluations Involving Lesbian, Gay, Bisexual, and Transgender Populations' in J Martin and W Meezan (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Taylor & Francis 2009) 23.

[48] Ibid., 35.

[49] K Deverell, *Sex, Work and Professionalism: Working in HIV/AIDS* (Social Aspects of AIDS, Routledge 2001) 4.

been important to reflect upon, especially since I have actively used gay lifestyle apps to reach out to participants outside of office hours in order to achieve the highest visibility on apps that have most traffic in the evening. The interviews, which were semi-structured, developed mutual participation observations.[50] The participants and I co-created a narrative that was fuelled by an appropriate distance between the researcher and the researched. It has also been important to keep in mind that although professionalism is important in this research, it is not guaranteed to illicit trustworthy data in sexuality research. It is more important to foster a relationship through casual communication.[51] This friendly relationship was also aided by the participants and I both being LGBTQ and therefore my position as an 'insider'. It has been important, therefore, to set the boundaries of the relationship,[52] ensuring that it was not too personal or too casual. I did this by steering conversation away from areas that were too off topic, or if it became centred on myself. My shared sexuality with some participants enriched the work, but it also meant that there was – particularly when interviewing other gay men – the potential for boundary confusion.[53] I avoided this by maintaining an appropriate barrier between the participants and myself, ensuring that they were aware of the parameters of the interview. If a participant breached that barrier, conversation was steered away and standards were reemphasised.

4.5 Sampling

Mixed recruitment methods were used in order to highlight the social, cultural, and geographical positioning[54] of certain values and issues. This was complemented by the use of mixed method sampling, in which snowball sampling was used, coinciding with advertisements placed with LGBTQ social media, as well as local social groups and venues. These advertisements, therefore, relied on the self-identification of the respondents as 'non-heterosexual'. This method of sampling was important to this project. The approach was directed at respondents who self-identify as being LGBTQ, and thus fundamentally different

---

[50] Silverman D, 'On Throwing away the Ladders: Rewriting the Theory of Organisations', paper presented at the Towards a New Theory of Organisation Conference, Keele University (1991) 79.

[51] K Deverell, *Sex, Work and Professionalism: Working in HIV/AIDS* (Social Aspects of AIDS, Routledge 2001) 139.

[52] Ibid., 139.

[53] Ibid., 68.

[54] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 455.

from heterosexual, yet not did not demand a sexual categorisation from participants. LGBTQ includes those who are lesbian, gay, bisexual, transgender, or queer. This has allowed Weeks et al. to 'acknowledge the existence of a diversity of historically subordinate sexual identities',[55] while also ensuring that their respondents have made an informed choice to respond, knowing that they will be discussing and contemplating upon their own sexuality. However, I have purposely sought out LGBTQ individuals in order to recognise those separate sexual categories. Self-identification has thus been used, as it 'has been a central part of the development of politics, community development, policy development and language since then to the point where there is a widely accepted usage of lesbian, gay, bisexual, transgender to encompass the principle population groups of this sexuality coalition'.[56] Therefore, in the recognition of a sexuality *coalition*, it has been important to the research to acknowledge my own position as an LGBTQ researcher. This has been beneficial to the research and to the creation of a healthy researcher–researched relationship. It is common to refer to 'non-heterosexual men' or 'men who have sex with men (MSM)' in research looking into sexual practice and sexuality, an acknowledgement that there may be no causal link between sexual practice and self-defined 'gay' sexuality and identity. However, a 'wider explicit reliance on intersectionality emphasises the need for a constant confrontation with the limitations of categories of analysis'.[57] Therefore, relying on a broad term such as LGBTQ allows participants to feel an affinity with the research, but also to reflect on how such issues would affect the research. Using 'non-heterosexual' or 'MSM', in contrast, may not create the affinity needed to discuss the implications of same-sex marriage on identity. The disclosure of the researcher's gender and sexuality has also been noted by Weeks et al. as being beneficial to the researcher–respondent interaction, as perceived commonality (as a non-heterosexual person) can have a role in determining the extent to which trust develops within the interview, as reaffirmed by Oakley,[58] Finch,[59] and Dunne.[60]

---

[55] Ibid., 457.

[56] B Cant and A Taket, 'Editorial Introduction: Special Section on Methodology and LGBT People' (2008) 13 *Sociological Research Online* 20.

[57] M Beetar, 'Intersectional (Un)Belongings: Lived Experiences of Xenophobia and Homophobia' (2016) 30 *Agenda* 2.

[58] A Oakley, 'Interviewing Women: A Contradiction in Terms' in H Roberts (ed), *Doing Feminist Research* (Routledge & Kegan Paul 1981).

[59] J Finch, *'It's Great to Have Someone to Talk To': The Ethics and Politics of Interviewing Women* (Social Researching: Politics, Problems, Practice, Routledge & Kegan Paul 1984).

[60] G Dunne, *Lesbian Lifestyles: Women's Work and the Politics of Sexuality* (Macmillan 1997).

Parks et al. have found that 'sample selection and measurement are elements of the research process most affected by the way that sexual orientation is conceptualised and translated into operational terms'.[61] This, therefore, has informed the processes used in the sampling for this study. In order to be comfortable participating in research that focuses not only on sexual practice but also on sexual identity and identity formation, participants must thus be 'out of the closet' and open to receive and respond to recruitments efforts.[62] Therefore, it has been essential to utilise the label 'LGBTQ' in order to provide a specific definition of those whom I am contacting. The term and the identification within such a term allow greater access to the accompanying opportunities for support and affiliation. It has, therefore, been important to rely upon the term,[63] both in calling for participants and in my own identification as an LGBT researcher. The use of the phrase 'non-heterosexual' would be unapproachable and ill-advised in communicating to a large group of people on certain platforms, such as emails or dating apps. The LGBTQ label can also provide a level of detail that facilitates comparisons and improves understandings of the research being produced and therefore can help to develop participant responses.[64] This research focuses on all identities within the LGBTQ acronym, and as such the call for participants is open to all genders. The choice of LGBTQ emphasises a variety of queer voices. Although an equal representation of all genders would have been preferred, this was not possible. The research design intends to highlight women's and men's voices equally with regards to same-sex marriage legislation and the sexual hierarchy.[65]

This study has utilised online sampling, snowball sampling, and purposive sampling that allowed for a wide-ranging sample of LGBTQ individuals in the local Newcastle area and further afield in the United Kingdom. LGBTQ populations have turned to online environments as a non-threatening space in which to form connections and then to break down the boundaries of physical and virtual spaces.[66] Due to their popularity and wide-ranging demographic, apps

---

[61] C Parks, T Hughes and L Werkmeister-Rozas, 'Defining Sexual Identity and Sexual Orientation in Research with Lesbians, Gay Men, and Bisexuals' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009) 75.

[62] Ibid., 85.

[63] Ibid., 85.

[64] Ibid., 93.

[65] J Finch, *'It's Great to Have Someone to Talk To': The Ethics and Politics of Interviewing Women* (Social Researching: Politics, Problems, Practice, Routledge & Kegan Paul 1984).

[66] CVD Wiele and ST Tong, 'Breaking Boundaries: The Uses and Gratifications of Grindr', paper presented at UbiComp '14, ACM International Joint Conference on Pervasive and Ubiquitous Computing (13–17 September 2014) 619.

are an appropriate and useful tool to use in identifying potential participants for this study. This also provides an insight into the narratives of both the legal homonormative and homoradical constructions and the way in which same-sex marriage affects gay life in the United Kingdom. Cyber-ethnographies enable the exploration of sex and sexuality at close quarters.[67] Therefore, dating and networking apps that centre on LGBTQ – specifically, gay male – sexuality enabled this research to achieve a diverse sample of LGBTQ participants. Lifestyle apps provide a level of anonymity, and therefore allow access to those 'who are less active' in the 'community', who have been shown to have a lower probability of participation. It has been demonstrated that using technology-based sampling allows access to those who are not highly active.[68]

Queer virtual space is dominated by image.[69] Self-presentation is an important strategy of avoiding stigma and unwanted attention.[70] It provides a means of displaying the user as an object to be browsed and yet, simultaneously, the user is constructed as a consumer. The selection of an image is a matter of asking the question: How do I want to be seen?[71] Therefore, the choice of image with which to present myself as a researcher was significant. It should be noted that, in general, profiles without an attached image are usually rejected.[72]

---

[67] C Ashford, 'Queer Theory, Cyber-Ethnographies and Researching Online Sex Environments' (2009) 18 *Information and Communications Technology Law* 304.

[68] H Corliss, S Cochran, and V Mays, 'Sampling Approaches to Studying Mental Health Concerns in the Lesbian, Gay, and Bisexual Community' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009) 133.

[69] Ibid., 297.

[70] Birnholtz J et al., 'Identity, Identification and Identifiability: The Language of Self-Presentation on a Location-Based Mobile Dating App', Proceedings of the 16th International Conference on Human–Computer Interaction with Mobile Devices and Services.

[71] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 92.

[72] G Brown, B Maycock, and S Burns, '"Your Picture Is Your Bait": Use and Meaning of Cyberspace among Men' (2005) 42 *Journal of Sex Research* 63.
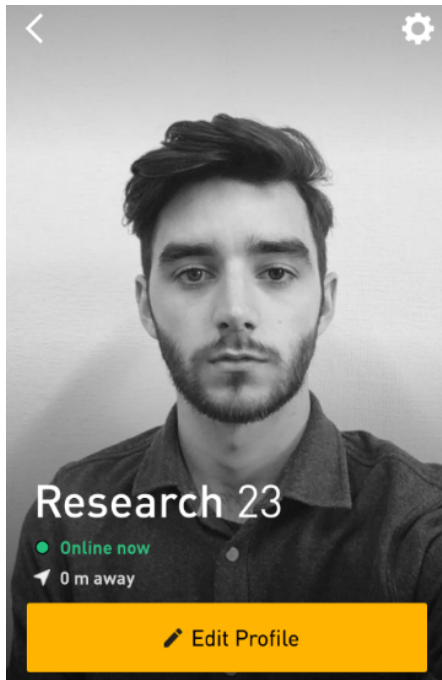
Figure 2: Grindr Profile Image
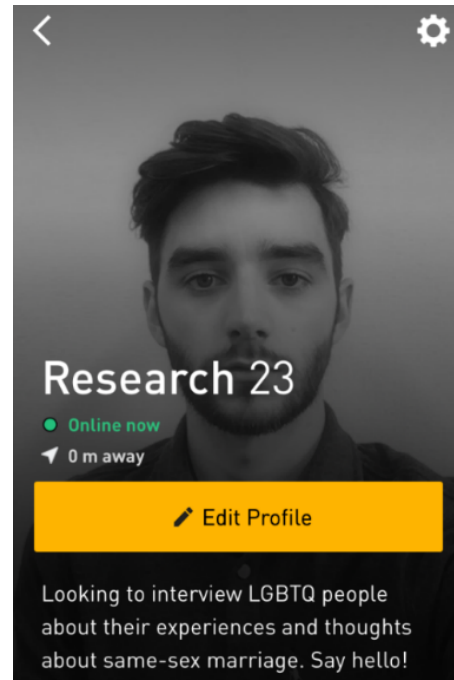
Figure 3: Grindr Tagline

In order to manoeuvre through online spaces such as gay men's lifestyle apps, I presented an image of myself as a researcher that would allow for gay male participants to recognise me, to feel non-threatened, and to be willing to talk with me. At the same time, using a picture of my face on an online profile demonstrated an investment in the visibility of a space.[73] I presented a black-and-white image of myself in front of a plain background in order to construct a professional and safe relationship with the participants while interacting in an online landscape. The image also individualised myself as a user and assisted participants in identifying with me as a young gay man.[74]

---

[73] Ibid., 103.

[74] R Jones, '"You Show Me Yours, I'll Show You Mine": The Negotiation of Shifts from Textual to Visual Modes in Computer-Mediated Interaction among Gay Men' (2005) 4 *Visual Communications* 69.
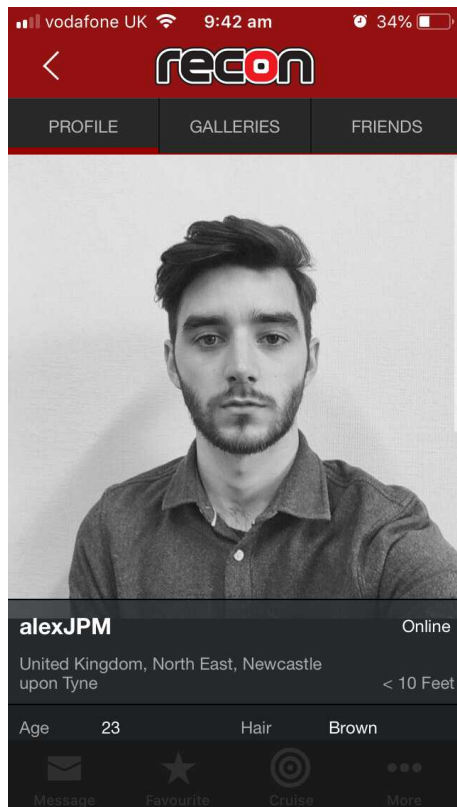
Figure 4: Recon Profile Image
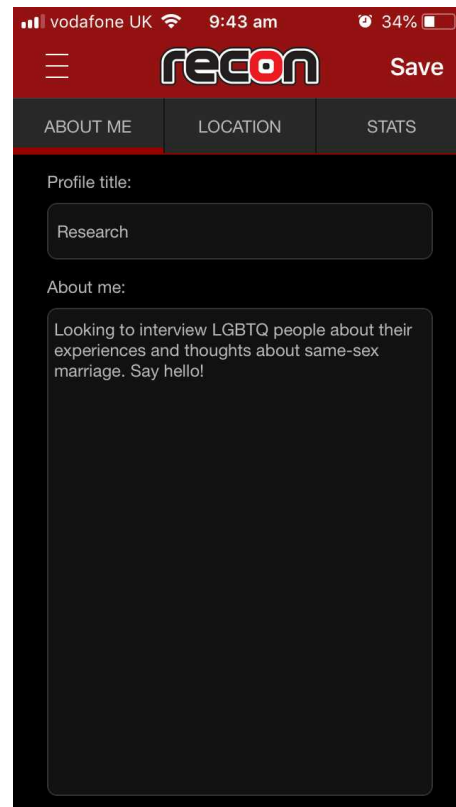
Figure 5: Recon Tagline

The images and taglines shown in Figure 2 through Figure 6 were used on the apps Grindr, Recon, and Jack'd, respectively, and adhered to their photo guidelines. Both Grindr and Jack'd represent a typical profile; however, the image used for Recon is notably desexualised. The inclusion of my weight and height were compulsory on the Jack'd app. The identification of researcher has been beneficial in accruing gay research participants, demonstrating the 'active audience' assumption[75] that those who view my profile are aware of, and will actively seek out, media that fulfils their social and psychological needs.[76]

---

[75] E Katz, JG Bulmer, and M Gurevitch, 'Uses and Gratifications Research' (1973) 37 *Public Opinions Quarterly* 509.

[76] CVD Wiele and ST Tong, 'Breaking Boundaries: The Uses and Gratifications of Grindr', paper presented at UbiComp '14, ACM International Joint Conference on Pervasive and Ubiquitous Computing (13–17 September 2014) 621.
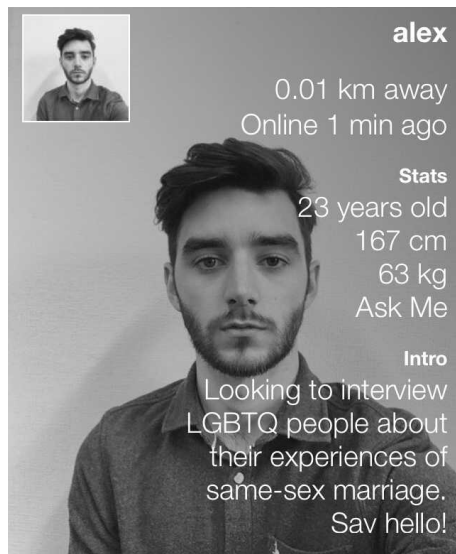
Figure 6: Jack'd Profile and Tagline

This has two implications: first, that participants will approach my profile because they are attracted to a young gay male on a gay-orientated networking site for sexual purposes; and second, that the data collected is likely to be reliable and worthy of discussion, as those who come forward to commit to the research will have made a choice to approach my profile and discuss same-sex marriage. Warren and Rasmussen have found that sexual attraction can be utilised as a research strategy facilitating data: '[S]exual attraction can be a factor, and can be used as a strategy, in obtaining access or data. The absence of sexual attraction may inhibit the collection of some types of data and facilitate the collection of others.'[77] Although my profile did attract participants who viewed 'research' as an ulterior motive for the use of apps as sexual spaces, it did not hinder the collection of data once a researcher–researched relationship had been established. These apps are predominantly used by, and marketed for, self-identifying gay, bisexual, or queer men; however, they may be used by anyone else who does not identify as such. As it is important to devise sampling strategies that reach out to diverse LGBT populations,[78] I primarily used snowball sampling and purposive online email sampling in order to achieve a lesbian sample. Although lesbian dating apps exist, they are less popular than apps for gay men. As a male researcher, my image would also not have been welcome

---

[77] C Warren and P Rasmussen, 'Sex and Gender in Field Research' (1977) 6 *Urban Life* 357.

[78] D Elze, 'Strategies for Recruiting and Protecting Gay, Lesbian, Bisexual, and Transgender Youths in the Research Process' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009).

within the female virtual space, as some of these apps are inaccessible to men.[79] Fish states that other methods of sampling, such as snowball sampling, are more suited and more likely to accrue participants in the context of lesbian samples.[80] However, due to the success of using male online spaces, more male than female participants came forward. Therefore, lesbian voices, though highlighted, feature less than male voices in this research, This may correlate with Cohen's statement that queer theory often has the interests of gay men at heart.[81] In seeking to dispel this assumption, the research acknowledges that the research design, in addition to the researcher's positionality, may emphasis men's voices more than those of women. This does not, however, reduce the importance of women's voices in such discourse.

4.6 Online Sampling

While not all gay men or women use gay lifestyle apps, they continue to pervade the everyday lives of many gay men[82] in a way that does not apply to women. Gay lifestyle apps spatialise sexual sociality, giving rise to digitally mediated socialities of homosexually interested men.[83] As use of these apps is not universal, other sampling methods were used to locate participants who were not active online users.

Apps may be used for socialising and for seeking out romantic or sexual partners, potentially putting users in touch with other nearby app users. In order to achieve a sample of gay men, three gay dating/sex apps were used: Jack'd, Grindr, and Recon. Recon, which is the most sexualised app, provided access to participants who represented this sexualisation. This is because Recon is primarily used for BDSM sexual encounters, and actively markets itself accordingly, with users ranging across a wide demographic. It describes itself as 'The world's largest website for gay, bi and curious men into fetish, leather and kink'.[84] These users are

---

[79] See D Berliner, 'The Anthropologist in the Middle of a Tug-of-War' (2008) 11 *Men and Masculinities* 174.

[80] J Fish, 'Sampling Lesbians: How to Get 1000 Lesbians to Complete a Questionnaire' (1999) 9 *Feminism & Psychology* 229.

[81] C Cohen, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor, and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000) 437.

[82] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 84.

[83] C Blackwell, J Birnholtz, and C Abbot, 'Seeing and Being Seen: Co-Situation and Impression Formation Using Grindr, a Location-Aware Dating App' (2014) 17 *New Media and Society* 1117, 1119.

[84] T101 Limited, 'Recon – Gay Fetish Profiles. Men, Leather and More', *iTunes*, <https://itunes.apple.com/gb/app/recon-gay-fetish-profiles./id346152901?mt=8> accessed 11 April 2016.

likely to position themselves within the 'kink-BDSM' identity and therefore to incorporate their fetishes within their sexual and social lives. Recon allows users to present a profile of themselves, including public and private photo albums (the app actively encourages users to post pictures of themselves in their fetish gear); a description of themselves; their fetishes and sexual practices (such as 'Safe-Sex' or 'Dominant/Submissive'); and their 'tribe' (such as Leather, Rubber, Daddy, or Fist). The use of this app provided participants who were most likely to identity with the homoradical, eschewing the desexualised aspects of the homonormative.

While Recon is an overtly sexualised spaced, Jack'd makes efforts to be desexualised: 'You're more than a headless torso. Jack'd is the best way to make new friends, start a relationship or keep it casual with the most profile options, multiple pics and endless matching.'[85] Jack'd promotes itself as primarily aimed at those looking to find relationships. It offers a more 'vanilla' normative sexual identity that focuses on relationship formation.[86] Interestingly, Jack'd has been found to exhibit the exclusion of femininity in similar ways to Grindr and Recon, through the user-generated policing of masculine bodies.[87] Jack'd is widely used internationally, with a large majority of users being under the age of 30. It has been found that most of the young Jack'd users (68%) are in favour of same-sex marriage – a higher rate than for older gay men.[88] This factor may correlate with Plummer's theory of polarisation[89] and resistance to heteronormative structures. However, no users of Jack'd agreed to take part in this research.

Grindr is the largest and most popular gay dating/sex app. It has the highest usage in the United Kingdom and 2 million users worldwide.[90] Grindr is marketed as the world's largest gay

---

[85] Lucid Dreams LLC, 'Jack'd – Gay Chat & Dating', *iTunes*, <https://itunes.apple.com/gb/app/jackd-gay-chat-dating/id350426804?mt=8> accessed 11 April 2016.

[86] J Haigh, 'Jack'd CEO Adam Segel: "Gay Apps Aren't Just for Sex"', *Attitude*, 20 July 2014, <http://attitude.co.uk/jackd-ceo-interview/> accessed 4 May 2016.

[87] M Bartone, 'Jack'd, a Mobile Social Networking Application and Gender Performance: A Site of Exclusion within a Site of Inclusion' (2017) 64 *Journal of Homosexuality* 1.

[88] PR News Wire, 'Days before Legal Marriage in the UK, Jack'd Survey Finds Younger UK Gay Men More Likely to Get Married Than Older Counterparts', *PR News Wire*, 27 March 2014, <http://www.prnewswire.com/news-releases/days-before-legal-marriage-in-the-uk-jackd-survey-finds-younger-uk-gay-men-more-likely-to-get-married-than-older-counterparts-252589541.html> accessed 4 May 2016.

[89] See K Plummer, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

[90] Grindr LLC, 'Grindr – Gay, Same Sex, Bi, Social Network to Chat and Meet Guys', *iTunes*, <https://itunes.apple.com/gb/app/grindr-gay-same-sex-bi-social/id308956623?mt=8> accessed 11 April 2016.

networking app. Grindr may be used by married couples or single people, either to find partners for non-monogamous practices or for group sex, to meet new non-sexual gay friends, or to find monogamous relationships or friendship.[91] The app presents profiles as thumbnails of a user's desired profile image in a grid-pattern listing basic details. This leads through to a main page, which can provide further details – submitted or omitted at the user's discretion – including age, ethnicity, body features, what the user is looking for, and which tribe the user feels that he belongs to (such as Bear, Daddy, Jock, or Twink).[92] Grindr also provides interactive categories that show the user's motivations in using the app: chat, network, friends, dates, relationships, and right now. The app will primarily provide local users, as its parameters display those within a general radius of 0–5 miles. Grindr was an efficient and effective tool for the identification and recruitment of research participants, with participants being highly motivated and altruistic in previous studies.[93] It was also a highly effective tool for the sampling of gay men who wished to participate in this study.

4.6.1 Use of Apps

In order to avoid any overlap, I created a new profile on each app using a new email address. I also removed my personal profile from Grindr. I was familiar with Grindr's layout and was able to navigate the virtual space, enabling me to develop conversations through a shared understanding of contextual public behaviour.[94] This guided my behaviour and my impression on others.[95] All three apps are free to use, but they come with additional in-app purchases of fuller membership allowing for more developed profiles. Due to financial limitations and the effectiveness of the apps, it was decided that the subscription memberships were not necessary in order to achieve the sample. The terms and conditions or user guidelines of all three sites also create normative behaviour within the sites. Jack'd and Grindr both restrict certain content, including images depicting nudity, sex acts, sex toys, sexually suggestive images, unprotected

---

[91] D Gudelunas, 'There's an App for That: The Uses and Gratifications of Online Social Networks for Gay Men' (2012) 16 *Society and Culture* 34.

[92] See E Tziallas, 'Gamified Eroticism: Gay Male "Social Networking" Applications and Self-Pornography' (2015) 19 *Sexuality and Culture* 759.

[93] ER Burrel et al., 'Use of the Location-Based Social Networking Application GRINDR as a Recruitment Tool in Rectal Microbicide Development Research' (2012) 16 *AIDS Behaviour* 1816.

[94] E Goffman, *Behaviour in Public Places: Notes on the Social Organization of Gatherings* (The Free Press 1963).

[95] C Blackwell, J Birnholtz, and C Abbot, 'Seeing and Being Seen: Co-Situation and Impression Formation Using Grindr, a Location-Aware Dating App' (2014) 17 *New Media and Society* 1117, 1121.

sex, drugs, violence, and racism. Grindr's guidelines say that it is 'Just trying to keep it clean, folks'.[96] Recon, in contrast, does not provide such guidelines; nor are they incorporated into its terms of use. Recon states that members must not use the app in a way that is offensive, illegal, or discriminatory, nor interfere with another user's enjoyment of Recon. It also actively encourages the disclosure of one's sexual practices, such as protected or unprotected sex. This explicitly creates a stark comparison between an app that allows the creation only of normative 'safe' profiles, and those apps that actively encourage the disclosure of a person's reasoning and motivations behind the use of such an app – in this case, the motivations behind a fetish. While the research profile did not reveal this information, this is an important consideration when assessing a participant's motivation in relation to sexuality and constructing the homoradical.

As noted above, Recon actively encourages users to upload images of themselves in fetish wear. This provides an issue of how, as a researcher, I can fit into the norms of the site and how I can manoeuvre through a far more sexualised space. This has not affected my use of Jack'd or Grindr. However, as there is an expectation for Recon users to appear in fetish wear (or without clothing), my appearance as a research on Recon marked me as an outsider. As noted by LaSala,[97] as an outsider to the fetish users of Recon, I was put in a position where I had to approach participants as I was not being approached. Some users were put off by the words 'same-sex marriage' on my profile, insisting that they did not know much about it, or they did not agree with it, and they did not want to be involved. Therefore, in order to form my identity within the app, I actively sought out participants in order to maintain a presence and to become a familiar sight. This allowed my profile to become recognisable. I also approached Recon users whom I knew personally and asked them to spread the word of my research, utilising them as gatekeepers.

This analysis demonstrates that the three apps have different expectations of users that allow for a greater demographic and a broader participant base. Jack'd can be seen as the most wide-ranging and non-selective app that anyone might use. However, it has a low level of usage[98]

---

[96] Grindr, User Guidelines <http://www.grindr.com/profile-guidelines/> accessed 19 May 2016.

[97] M LaSala, 'When Interviewing "Family": Maximising the Insider Advantage in the Qualitative Study of Lesbians and Gay Men' (2008) 15 *Journal of Gay and Lesbian Social Services* 15, 22.

[98] B Miller, '"Dude, Where's Your Face?" Self-Presentation, Self-Description, and Partner Preferences on a Social Networking Application for Men Who Have Sex with Men: A Content Analysis' (2015) 19 *Sexuality and Culture* 637.

and did not yield any participants. This app can therefore be seen as the most normative of all three, due to the way in which it distances itself from sex in its marketing and through its users. Grindr – the most widely used app – offers a large mix of those looking for friends, chats, relationships, or sex, with these categories easily intermingling.[99] Therefore, is it clear that Grindr occupies a middle ground between the normative Jack'd and the radical Recon. The latter is the most obviously overtly sexualised app and it is generally expected that users are mostly looking for sex. Recon provided 10% of the participants in this study.

4.6.2 Pilot Study

Using the Grindr profile and tagline shown in Figure 2 and Figure 3, a pilot study was conducted. This profile proved successful, with a large number of potential participants in the vicinity being drawn to my profile and interested in discussing the research project. Of the many who initially contacted me, eight provided further contact details and were relied upon in the main collection of data, and one was selected to participate in a pilot study. General responses indicated their initial interest in the research. I then divulged what an interview would entail and what would be discussed, noting the sensitive content of the area of research into sexuality and sexual practice. Some users did approach my profile asking primarily for sexual relations. Others asked whether research would then lead to sexual relations, or whether 'research' was merely a code word or a new method of 'hooking up'. I responded to these questions by explaining that this research had professional and ethical standards and therefore would not lead to sexual relations with the participants. Some responded to this by blocking my profile or simply ignoring the message and not messaging back, while others expressed further interest in the research. The language used was professional but friendly. I adapted my language to reflect the users of the apps, as has been incorporated into the interviews.

Users of Grindr and other apps are interested in who is physically proximate. Therefore, it has been important to use the apps in various locations.[100] As Grindr utilises a geo-locating algorithm, my profile was live for between one and three hours in different situations in the Newcastle area: the city centre, an urban residential area, and a suburban residential area. This

---

[99] C Blackwell, J Birnholtz, and C Abbot, 'Seeing and Being Seen: Co-Situation and Impression Formation Using Grindr, a Location-Aware Dating App' (2014) 17 *New Media and Society* 1117.

[100] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 90.

has allowed for a large visibility on the app; however, the reach of the call was primarily urban. A large number of those who viewed the profile were under 30, due to the proximity to the two Newcastle universities and the demographics of a city centre at certain times, such as in the evening. Using the geo-located apps has thus meant that participants may have accessed my research profile within the Newcastle city centre area, as this was where the profile was mostly visible when online. Therefore, the study is geographically located within the north-east of England, with Newcastle – the largest and most economically active city – acting as a capital of the region. This may have affected the study in providing participants who were likely to engage more fully with the LGBTQ commercial scene in a metropolitan city than would those in more rural or deprived areas of the region.

Therefore, although Grindr and other online tools may be very helpful in accruing research participants, these participants may then be homogenous as representatives of a group of male online users of an app that is geographically situated. The demographics of the areas in which the geo-located app was used for the pilot study almost certainly affected results. Although the researcher profile was online throughout the daytime in the city centre, its visibility was limited to those using the app. Older users who may work during the daytime in the city centre were therefore less likely to use the app during working hours. It is notable that many of those who approached my profile were younger men. Using the profile in the evening in residential areas produced differing results, with older men more often approaching my profile. Some of these men were married or in relationships, which provides a useful sample of those who have experienced same-sex marriage. It is clear that these apps encourage gay men to be always moving online, in order to achieve maximum visibility and discoverability to users.[101] Blackwell et al. have described this as being 'co-situational', in effect queering straight spaces in virtual queer spaces.[102]

Some of the key disadvantages of using these male-focused apps are the exclusion of potential women participants and the fact that not all gay and bisexual men use dating apps. It may be expected that when in a relationship, one should not use such apps (although this is not always the case, as some men in relationships use the apps for social purposes or for non-monogamous

---

[101] E Tziallas, 'Gamified Eroticism: Gay Male "Social Networking" Applications and Self-Pornography' (2015) 19 *Sexuality and Culture* 763.

[102] C Blackwell, J Birnholtz, and C Abbot, 'Seeing and Being Seen: Co-Situation and Impression Formation Using Grindr, a Location-Aware Dating App' (2014) 17 *New Media and Society* 1117.

purposes) and this may relate to the fact that many of the respondents were single at the time and told me 'I don't know much about marriage'. Not only do many men in relationships not use these apps, many single men may choose to cruise for sexual encounters or relationships in public spaces, sexualised spaces, or queer spaces, rather than online. As has been found by Tziallas, many men who do use the apps do not actually wish to meet up in person, and the by-products of the act (that is, 'DIY amateur porn platforms') are the ultimate goal of many users.[103] This has been evident within sampling on the app: many users approached my profile and struck up conversation; however, once it became clear that I was using the app for research and would not participate in the sending or receiving of sexual images, they would leave the conversation. This also occurred in situations where the user approached to enquire as to the research and initially agreeing to participate, but then ignored my messages or removed my profile when I asked for further details in order to arrange a meeting. For these varied reasons – most significantly, the lack of female participants – it is crucial to utilise other methods of queer sampling.

4.6.3 Email Sampling

Due to my identity as a male researcher, it would have been inappropriate to establish myself on dating or networking apps for lesbian women. I have therefore used other methods to enlist female participants and other male participants who were not accessed through apps. In using email sampling, some of the issues faced on lifestyle apps (such as a high number of similar participants, or participants seeking sex) were minimised. In using email sampling, a high degree of professionalism was maintained, while a more diverse sample in terms of age was also collected. In this regard, an outsider perspective was a necessary and welcome factor, as participants sought to voice their experiences and opinions to wider audiences.

As Chair of the North East LGBTQ Lawyers Association, I had access to a mailing list. Using this list, I sent an email detailing my research and asking for participants. Email advertising has been efficient through the resulting snowball sampling,[104] and this has been important in

---

[103] E Tziallas, 'Gamified Eroticism: Gay Male "Social Networking" Applications and Self-Pornography' (2015) 19 *Sexuality and Culture* 764.

[104] K Hash and S Spencer, '"You've Got Subjects": The Promise of the Internet in Research with Lesbian, Gay, Bisexual, and Transgender Populations' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009) 239.

accessing more diverse participants. The internet has allowed my research to examine areas that have traditionally been considered too sensitive.[105] Due to the prevalence of spam and other unwanted communications, it has therefore been important to establish the research as credible[106] when approaching new people via email. I did this by writing simple and direct[107] emails discussing briefly what the research is, how data will be collected, whom I was hoping to approach, and that the research had been approved by the Northumbria University Ethics Committee. Mailing lists for lesbian social groups distributed a call for participants to their members. Further opportunistic and strategic sampling has been more appropriate in finding lesbian participants and has worked to achieve a broad sample in a wide age range. Lesbian-specific social groups, sports teams, and general LGBTQ mailing lists were approached. This proved successful, leading to a varied group of participants. Ultimately, women accounted for 31% of the sample.

In using such sampling methods, a disparity became evident between men and women in the number of participants who may practise homonormative or homoradical behaviours. Participants who were contacted through more traditional or conservative means such as emails, rather than fetish-based apps such as Recon, may have been less inclined to discuss, or participate in, practices that could be deemed homoradical. Online spaces such as Recon or Grindr rely on the construction of an identity that is considered relevant to the space, such as the homoradical. However, online sampling through methods such as email is less likely to rely on the construction of sexed identities. Therefore, it has been important to discover a wide range of participants from email samples, snowball samples, and apps. From the initial coding process, it became clear that a more homogenous group was emerging from the data, particularly including white, middle-class men and women who more typically demonstrated homonormative sexual practices. From this, it became clear that there was a need to involve different participants from a more varied sampling process.[108]

---

[105] Ibid., 239.

[106] Ibid., 242.

[107] Ibid., 239.

[108] K Charmaz, 'Qualitative Interviewing and Grounded Theory Analysis' in J Grubium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 684.
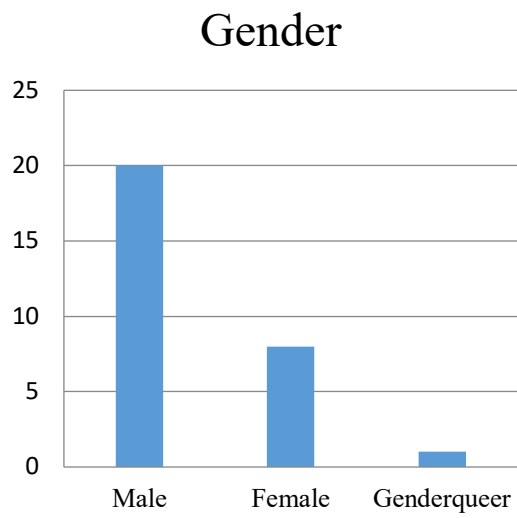
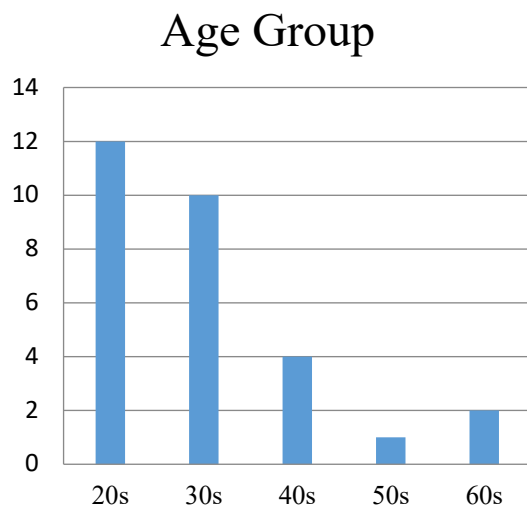## 4.7 Participant Demographics

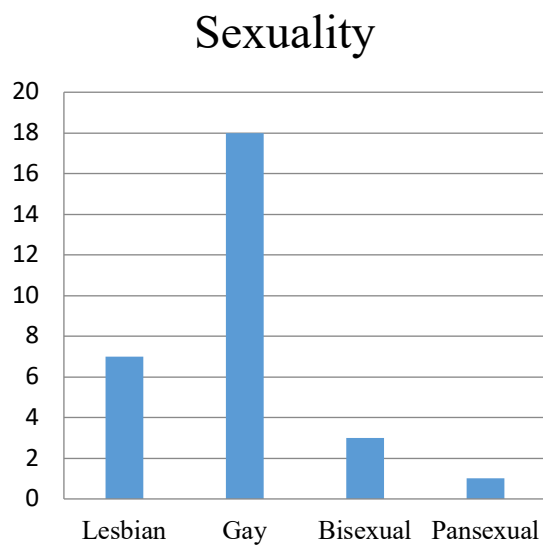*Figure 7: Gender of Participants*

Figure 8: Age of Participants

Sexuality

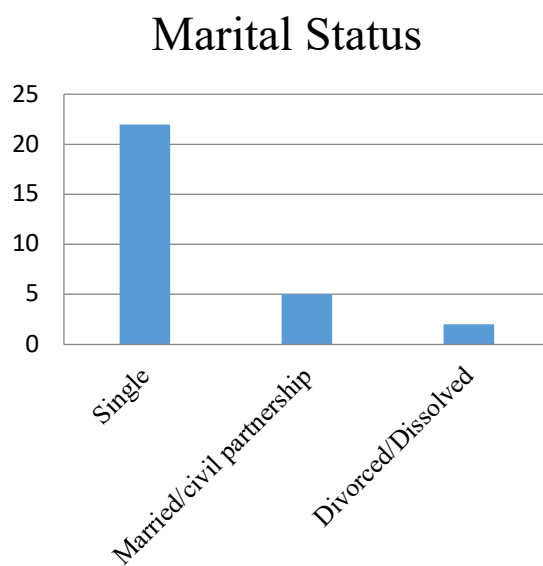**Figure 9: Sexuality of Participants**

Marital Status

Figure 10: Marital Status of Participants

Figure 7 through Figure 10 above show the self-identified demographics of the 29 participants who took part in this study. Due to this self-identification (meaning that each category in the bar charts was determined by the participant when prompted to identify their gender, sexuality, age, and marital status), the data resists normative categorisation by avoiding imposing the researcher's preconceptions. All participants identified their sexuality as 'gay', 'lesbian', 'bisexual', or 'pansexual'.[109] They identified their gender as male, female, or non-binary. Marital status was determined as being single (inclusive of cohabitees and long-term relationships), married, or divorced (inclusive of dissolved civil partnerships). In 2015, the first year in which same-sex marriage was available, 6,493 same-sex couples married, while 9,153 converted their civil partnerships to marriage.[110] By using the acronym 'LGBTQ', this study seeks to encompass lesbian, gay, bisexual, transgender, and queer individuals and populations. In this study, 'queer' is used to signify those who identify outside of the lesbian, gay, or bisexual categories and are not heterosexual.

The data makes clear that young (20s and 30s) single gay men were the largest demographic group to take part in this study. As noted by LaSala, this weighting may be attributed to participants actively seeking out researchers with similar traits and sexual identity.[111] The data was provided by the participants themselves, self-identifying their gender and providing other details on a form before the recording started. Figure 10 groups together marriage and civil partnerships as a form of relationship recognition, as it does for the processes of divorce and dissolution. This research features both married and single (or divorced/dissolved) participants. It aims to seek out the lived experience of same-sex marriage for LGBTQ individuals in general, rather than more narrowly focusing on those who have gone through with marriage.

The majority of the participants were white, British, and living in (if not originating from) the north-east of England, although some participants originated from mainland Europe or South America. The participants were a mix of socio-economic backgrounds and some held degree-level qualifications (or were in the process of attaining one). One participant identified outside

---

[109] Distinct from bisexuality in sexual attraction not confined to the gender binary. See C Belous and M Bauman 'What's in a Name? Exploring Pansexuality Online' (2017) 17(1) *Journal of Bisexuality* 58.

[110] Office for National Statistics, *Marriages in England and Wales: 2015*, <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2015#main-points> accessed 5 April 2018.

[111] See M LaSala, 'Coupled Gay Men, Parents and In-Laws: Intergenerational Disapproval and the Need for a Thick Skin' (1998) 79 *Families in Society* 585; M LaSala, 'The Importance of Partners to Lesbians' Intergenerational Relationships' (2001) 25 *Social Work Research* 27.

of the male/female binary, as feminine-polarised genderqueer. These participants present a mixed representation of those LGBTQ individuals living in the north-east of England. It is important to note the difficulty in achieving a representative sample of LGBTQ populations.

4.8 Interviews

Interviews with a broad sample of LGBTQ individuals have been used in this project in order to create negotiated, contextually based results[112] that reflect their experiences, perspectives, and consciousness of the law and same-sex marriage reform. Interviews allow access to areas of reality that would otherwise remain inaccessible, such as subjective experience and attitudes.[113] Semi-structured interviews were thus utilised in order to lend greater depth[114] to the data collected and to allow for the probing and expansion of the participant responses. This approach creates a balance between participant and researcher that provides room for negotiation and discussion of the issues presented.[115] The researcher is thus able to remain in control of the interview while also being able to follow new leads as they arise.[116] The quality of data depends, then, on the skill of the interviewer and the ability to establish rapport, follow up leads, and demonstrate attention and interest.[117] This has been an immensely important factor when interviewing participants from a broad age range, varied social classes, and different genders. It has been observed that interviews have moved from the traditional focus on the activities of everyday life to also encompass the constructive work involved in producing order in everyday life.[118] Below, I outline how interviews have been used in this project to create data that accurately reflects the impact of same-sex marriage and how, in turn, in constructs the sexual hierarchy.

---

[112] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 119.

[113] A Peräkylä, 'Analysing Talk and Text' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Materials* (3rd edn, Sage 2008) 351.

[114] Ibid., 129.

[115] G Hitchcock and D Hughes, *Researcher and the Teacher: A Qualitative Introduction to School-Based Research* (Routledge 1989) 83.

[116] HR Bernard, *Research Methods in Cultural Anthropology* (Sage 1988).

[117] G Partington, 'Qualitative Research Interviews: Identifying Problems in Technique' (2001) 11 *Issues in Educational Research* 7.

[118] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 119.

4.8.1 Arrangements

Once prospective participants had indicated their interest, a time and place to meet were discussed. Initially, at the pilot study stage, public spaces such as cafés were chosen in order to conduct the interview in neutral, open spaces, so that participants would feel at ease. However, at later transcription stages, these public spaces proved to be a hindrance due to issues of loud background noise. In addition, the proximity of members of the public occasionally gave rise to situations in which the sensitive nature of the content of the interview was not appropriate in these spaces. Therefore, most subsequent interviews were held in the private interview rooms of the Law School. Other arrangements were made at the request of the participant, including in a pub or in the home of one elderly participant. Private rooms allowed for privacy and therefore elicited much richer data from the participants, who felt at ease to discuss aspects of their sexuality and were not under pressure. They were thus able to provide clear interview recordings without fear of being 'outed' or of their personal information being heard by other members of the public.

4.8.2 Questions

The interview questions were chosen in order to provide varied and rich answers that would feed into the wider research question of how the 2013 Act affects the sexual hierarchy and the homonormative and homoradical identities. Prior to the interview, participants were provided with four questions that form the basis of the rest of the interview, acting as a structure for the interview to follow, but also as a prompt for the participant to recognise and think about the issues discussed prior to meeting.

These questions were:

1. Tell me about your thoughts on same-sex marriage in general

2. Tell me about how you feel that same-sex marriage has impacted on society

3. I'm interested in the ways LGBTQ people develop different sexual practices and how this affects them and wider society. Please could you take some time to describe to me what sexual practices you may or may not engage in with your partner or partners, on a regular, or sporadic basis

4. Do you think that same-sex marriage means that gay people are now equal?

The questions allowed for a broad range of discussion, prompting long narratives with in-depth explanations of the participant's thoughts, experiences, perspectives, and explanations of their actions. Interviews lasted from 45 to 90 minutes, with an average length of one hour. The first two sets of questions, which focused on the participant's personal and societal experiences of same-sex marriage, elicited responses corresponding to homonormative themes. The third set often represented homoradical themes. The fourth set related to the sexual hierarchy. Together, these questions construct a frame within which the narrative answer to the research question exists.[119] This allowed for a largely unstructured discussion to follow, broadly relating to the sub-questions that fit within each main question. These sub-questions were as follows:

1. Can you please tell me about your thoughts on same-sex marriage in general

    a. On a scale of 1 to 10 (1 being not important at all, 10 being essential) how important is marriage to you? Could you explain your score?

    b. Can you tell me about any personal experiences you may have of same-sex marriage?

    c. Can you please talk me through an average day and the way in which these experiences may impact on it?

    d. Can you tell me of any symbolic impact that same-sex marriage has had on you?

2. Tell me about how you feel that gay marriage has impacted on society

    a. On a scale of 1 to 10 (1 being unaccepted, 10 being completely accepted) do you feel more socially accepted as a gay person in the UK now that we have same-sex marriage? Could you explain your score?

    b. Do you feel more respected now that same-sex marriage is legal? How so?

    c. Do you feel that there are expectations on you to act a certain way in society, through behaviour or actions?

    d. How do you think that gay people are different to straight people? Why is that?

    e. Can you tell me if you think that marriage is a good thing for gay people?

---

[119] G Partington, 'Qualitative Research Interviews: Identifying Problems in Technique' (2001) 11 *Issues in Educational Research* 2.

f.   Can you tell me if you think that marriage, same-sex or straight, is a good thing, in general?

3.   I'm interested in the ways LGBTQ people develop different sexual practices and how this affects them and wider society. Please could you take some time to describe to me what sexual practices you may or may not engage in with your partner or partners, on a regular, or sporadic basis

a.   On a scale of 1 to 10 (1 being very 'normal', and 10 being 'abnormal'), could you rate your sexual practices? Why have you given this score?

b.   Would you say something like an open relationship is abnormal?

c.   So are you in an open relationship? How do you define this?

d.   Do you think that being in an open relationship is the same as being 'slutty'?

e.   Can you please tell me if you have 'kinky' sex? How would you describe this and your kinks?

f.   Do you have 'risky' sex? Can you tell me why you would describe it as risky?

g.   Do you have sex in public spaces or in certain gay spaces, such as saunas or clubs? If so, why do you go to these places? If not, why not?

h.   Do you ever take part in group sex? How do you define this?

i.   Do you ever use condoms or do you bareback? Can you tell me more about this, such as when and why? PrEP?

j.   Regarding these sexual practices, do you then think that same-sex marriages should be traditional?

4.   Do you think that same-sex marriage means that gay people are now completely equal?

a.   Do you know about the differences between straight and same-sex marriage?

b.   Tell me what your thoughts are about the fact that gay sex is still classed as illegitimate

c.   Do you think the law has more of an impact on LGBT people now that there is same-sex marriage?

d.   Do you think that more needs to be done for LGBT rights?

e. What other issues do you think the LGBT face? Do you think same-sex marriage solves these issues?

f. Do you think that same-sex marriage should be like a traditional marriage? Why?

Semi-structured interviewing thus allows deviation from this script where questions do not apply or need to be altered. For instance, 'Do you have bareback sex?' does not apply in the same way to lesbians as it relies on penile penetration, which is generally less central to lesbian sex. In other cases, evaluations of risky sexual behaviour could lead to the bareback question being omitted completely as it had already been discussed.

These questions were developed in order to achieve a general initial response to the advent of same-sex marriage and to probe any personal experiences of same-sex marriage. This was relevant if the participant is, or has been, married, while also being important to gauge the impact of marriage for non-married people. The first set of questions therefore concerns the personal aspects of relationship recognition. The second set then investigates participants' perceptions of the societal implications of same-sex marriage, particularly with regard to their interactions with wider society and how they view other members of the LGBTQ. The third section is intended to discuss sexual practices and their correspondence to normative or radical identities and how these affect participants or their relationships. Questions regarding sexuality were important in order to gauge how the sexual hierarchy is manifest when dealing explicitly with sexual practice and corresponding identity. This assists in constructing the homoradical as a sexualised identity in contrast to the desexualised homonormative. The fourth group of questions aims to investigate participants' perceptions of legal mechanisms and the politics of LGBTQ activism related to the provision of same-sex marriage. These questions thus ensured that a sustained dialogue was created between the researcher and the participant, allowing for an in-depth discussion of the intersections between same-sex marriage law reform and sexuality. At the end of the interview, participants were presented with the visual methods to complete. This will be discussed in section 4.9 below.

4.8.3 Interview Style

Face-to-face interviews were used in order to maximise data creation and contextual understandings through direct synchronous communications.[120] These face-to-face interviews allowed for shared understanding of social cues and for the interview to become informal and relaxed. The standardisation of interview technique ensured that all interviews largely followed the same structure, and that all participants physically interacted with myself as a researcher and were able to complete the visual methods in person. This physical presence then led to a collaborative effort to create interview dialogue.[121] Through this technique, the conversation between the interviewer and the interviewee creates rich narrative data. The interviewer prompts discussion but does not lead to conclusions, instead allowing participants to form their own conclusions as they discuss their lived experiences.

Chase has stated that it is of the utmost importance to use the researcher's supportive voice to push the narrator interviewee into the limelight.[122] This calls for an empathetic stance of neutrality.[123] Kong et al. also emphasise the importance of removing barriers between the LGBTQ interviewer and interviewee in fostering a friendly relationship.[124] Frey and Fontana advocate a partnership between the two actors that works together to create a narrative,[125] removing power structures that may obstruct the interviewee from providing an accurate portrayal of their experiences. It has been important to not interrupt interviewees, and to not lead them into saying certain things. Supportive nods of agreement were more appropriate than excess verbalisation,[126] as demonstrated in the transcripts.

---

[120] R Opdenakker, 'Advantages and Disadvantages of Four Interview Techniques in Qualitative Research' (2006) 7 *Forum: Qualitative Social Research* 2.

[121] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 116.

[122] S Chase, 'Narrative Inquiry: Multiple Lenses, Approaches, Voices' in Denzin N and Lincoln Y (eds), *Collecting and Interpreting Qualitative Materials* (Sage 2008) 75.

[123] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 116.

[124] T Kong, D Mahoney, and K Plummer, 'Queering the Interview' in J Gubrium and J Holstein (eds), *Handbook of Qualitative Research: Context and Method* (Sage 2002) 254.

[125] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 117.

[126] G Partington, 'Qualitative Research Interviews: Identifying Problems in Technique' (2001) 11 *Issues in Educational Research* 2.

While maintaining a researcher divide, the interviewer should be friendly, courteous, conversational, and unbiased in order to put the interviewee at ease and enable them to talk freely and fully.[127] As evidenced within this study's data, a friendly relationship was established with the participants. This allowed for rich in-depth data, creating the interview as a form of discourse that was jointly constructed by the interviewee and the researcher.[128] In order to challenge the meanings offered, particularly if the participant used either localised or community-specific terms, the 'focused awareness' style of listening was applied. This entailed attending closely to interviewee's words and taking no meanings for granted.[129]

4.8.4 Issues within the Interview

This research has been conducted from the emic perspective, with my positioning as an LGBTQ (specifically, a gay cisgendered male) researcher being used to my advantage, through fostering better relationships with participants and allowing for the participants to relate to and understand the motivations for conducting such research into the lives of the LGBTQ. However, my identity as a male researcher has had implications, particularly when interviewing women participants. Interviewer characteristics (such as age or gender) are more likely to have an effect on less structured forms of interview[130] due to the interview's flexible and non-standard nature, and therefore using semi-structured interviews that allow for a broad discussion of sexual practice may become difficult. This was the case in one interview where, before the interview began, a woman participant stated via email that she would not discuss sexual practice. Therefore, all questions related to this issue were omitted from the questioning. Although this meant that a large section of the interview was not completed, rich data was nonetheless collected throughout due to the participant's narrative. Unfortunately, the participant refused to complete the visual methods element of the interview due to the wording used in relation to her, which will be discussed below. This participant stated that I was a 'complete stranger' and that she was not prepared to discuss sexuality with me. It is a fair assumption that this may have been influenced by my male gender identity. This participant

---

[127] C Selltiz et al., *Research Methods in Social Relations* (Methuen 1965) 576.

[128] T Schwandt, *Qualitative Inquiry: A Dictionary of Terms* (Sage 1997) 79.

[129] D Jack, 'Ways of Listening to Depressed Women in Qualitative Research: Interview Techniques and Analyses' (1999) 40 *Canadian Psychology* 92.

[130] E Singer and S Presser, *Survey Research Methods* (University of Chicago Press 1989).

did, however, assume that I was gay, explaining during the interview that 'otherwise you wouldn't be doing this work'. Fontana and Frey have noted that the:

> Sex of interviewer and sex of interviewee make a difference because the interview takes place within the cultural boundaries of a paternalistic social system in which masculine identities are differentiated from feminine ones.[131]

This may explain why the participant was unwilling to broach matters of sexuality with a male researcher. However, due to the content of the study and my identity as an LGBTQ researcher, these issues were transcended and the participant answered the remaining questions fully.

Issues with the interview (of which there were very few) were dealt with swiftly, allowing the participants to suggest alternative arrangements, answering any questions the participants had, and expressing feelings that were generally in agreement with those of the participants. This created a more equal researcher–participant relationship that aided conversation and data collection.[132] Once established, this friendly relationship allowed participants to feel free to contact me again with further questions, or to provide possible new participants.

4.9 Visual Methods

The use of visual methodologies in research can streamline the presentation of data, ease the interpretation of findings, and communicate the results with greater precision.[133] This has been increasingly necessary within this field of research, practically assisting in the reinterpretation of Rubin's sexual hierarchy. Qualitative methods and research may be especially subject to misinterpretation and may be in particular need of clarifying instruments. This may allow for enhanced presentation[134] in order to create a distinct contribution to knowledge and to allow for greater understanding of the impact of same-sex marriage. A visual methodology was created and implemented in order to gain a better understanding of how the participants viewed their sexuality in relation to society and whether they felt that society viewed them as 'good'

---

[131] A Fontana and J Frey, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008) 135.

[132] Ibid., 137.

[133] J Mahoney and R Vanderpoel, 'Set Diagrams and Qualitative Research' (2015) 48 *Comparative Political Studies* 66.

[134] Ibid., 66.

or 'bad'. The use of such visual engagement provides stimuli for participants[135] and, as such, it is important to acknowledge the potential for this research.[136] The visual methods were essential in order to reconceptualise and re-evaluate Rubin's sexual hierarchy and charmed circle, which will create an opportunity to redraw it.

Participants were tasked, at the end of an interview, with marking on a diagram where they felt their sexuality should be placed, on a scale of good and bad (see Figure 11). They were then tasked with judging where their sexual practices would fit on a segmented circle (see Figure 12), which resembles Rubin's charmed circle sexual hierarchy system. This created a useful tool for summarising and illustrating descriptive findings,[137] but also a means of re-creating and reinterpreting a representation of queer theory.
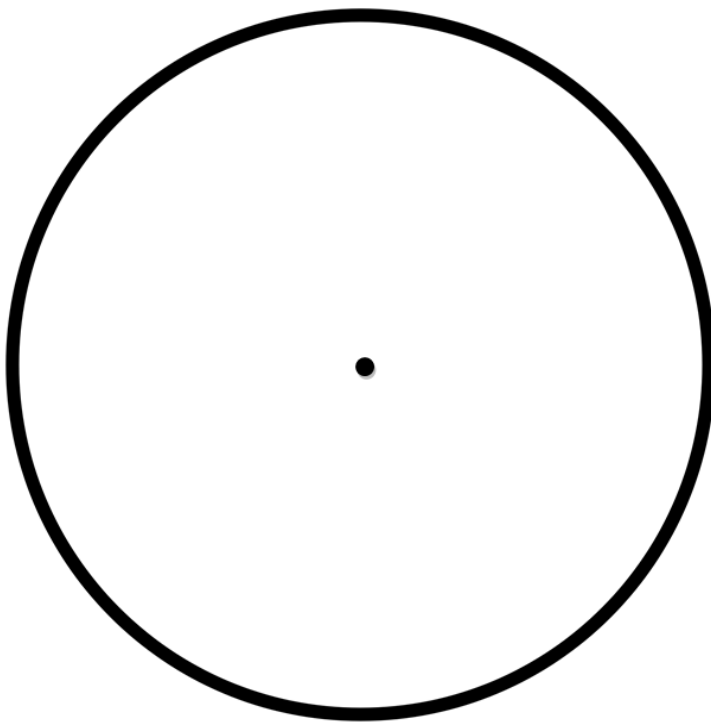
Figure 11: Visual Data Set 1

---

[135] A Bryman, *Social Research Methods* (4th edn, Oxford University Press 2012) 476.

[136] D Harper, 'What's New Visually?' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Materials* (Sage 2008) 202.

[137] J Mahoney and R Vanderpoel, 'Set Diagrams and Qualitative Research' (2015) 48 *Comparative Political Studies* 95.
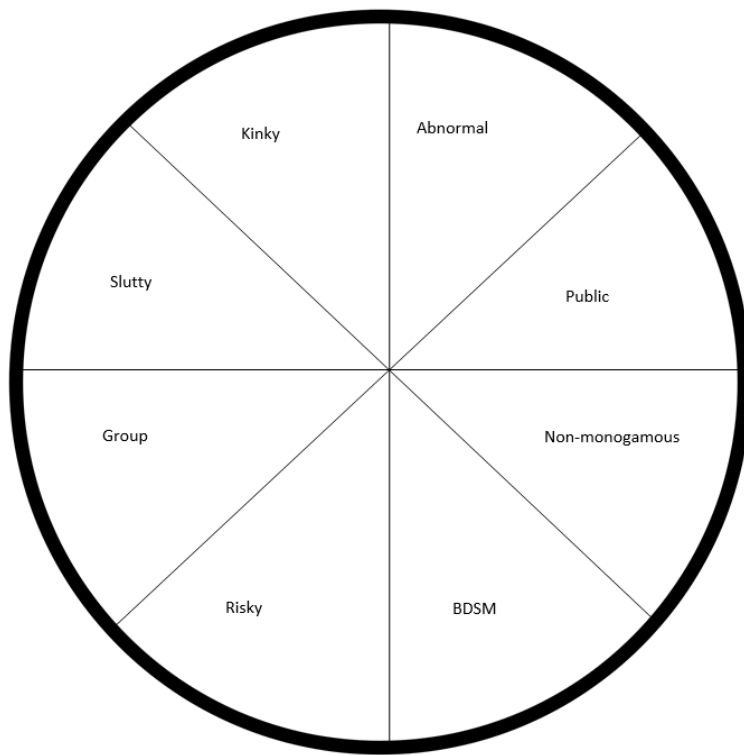
Figure 12: Visual Data Set 2

The first diagram that the participants were asked to complete was a plain circle with a black circle at its centre. The centre circle, they were told, represents 'good' valued sexuality, and the outer edge of the circle represents 'bad' sexuality. The participants were asked to draw where they felt their sexuality would fit on this spectrum. The second circle is a simplified version of Rubin's charmed circle, split into eight segments, each representing a different sexual practice. The centre of the circle again represents 'good' sexuality and the outer limits represent 'bad' sexuality. The participant was asked to indicate where they would fit within each segment. If the participants participated in, or identified with, a segment, they would exist on the outer edges, as this indicated a negative societal view. If they did not take part in such a practice, they would be closer to the centre. These methods were created in order to allow participants to draw their own circle in relation to their own sexual practices, and thus to explain why they thought their sexual practices could be seen as 'good' or 'bad' without explicitly asking them the question. This redrawing of the charmed circle allows for a re-evaluation of the sexual hierarchy in the light of same-sex marriage.

The segmented circle, which closely resembles Rubin's original, features the categories of abnormal, public, non-monogamous, BDSM, risky, group, slutty, and kinky. These segments were chosen as a means of simplifying and adapting a modern take on the labels used in Rubin's circle, using less judgmental – yet still occasionally divisive – language. For instance, 'homosexual/heterosexual' and 'married/in sin' were removed from my diagram as the sample was of an LGBTQ population and it would have been unhelpful to use terms such as 'married' or 'single'. Notably, the 'line of respectability' that separates good from bad in Rubin's circle has been removed in my diagrams. Although issues of respectability will be discussed in later chapters, removing the barriers within the diagrams provides fluidity and allows participants to explain in greater detail why they have placed themselves in particular positions. This also allows them to describe what they would see as factors affecting their place within the circles.

The labels chosen for these diagrams intend to reflect the issues discussed earlier in the interview and to allow for a reconstruction of Rubin's charmed circle. This is relevant in the investigation of the social and legal factors relating to sex and sexuality. These labels have been chosen as a way of developing the notion of the homoradical firmly rooted in sex, and assessing how elements such as public sex, group sex, or risky sex construct a comparison with normative ideals of sex and sexuality. The participant is asked to indicate where they fit in the relevant segment, in a fashion similar to a Likert scale. This is then used to demonstrate the ways in which good and bad sexuality are conceptualised. Although there is no 'vanilla' segment, the participants may demonstrate that to be in the centre of the circle is an adequate representation of vanilla sex as being explicitly *not* kinky, public, or grouped. This allows for participants to provide opinions that may have been hidden in some interviews because the participants felt that it would have been inappropriate to discuss matters such as BDSM or kink sex while being recorded, or they may have felt put off by my presence. It may also allow participants to note things that they had forgotten about, or most importantly justify why they take such a stance on an issue, or why the feel that this aspect of sexual practice is important to them. Interestingly, it may also create distinctions between what the participant has already said by offering a different perspective. This different perspective then allows for further discussion to investigate what the participant may not have discussed earlier.

The use of a good and bad scale functions within both circles. The use of these two corresponding scales allows for comparisons to be drawn between them, creating a stimulating and interactive way to present and assess data[138] and to further reconceptualise the sexual hierarchy.

4.10 Transcription

After interviews were recorded on a locked personal iPad, accessible via a passcode-protected recording app, interviews were transcribed by myself. This involved a lengthy process of listening to each participant's responses and producing verbatim transcripts of both the participant's and my own observations and comments during the interview. It was important to ensure that the interview transcripts are verbatim accounts of what had transpired[139] and that they are of high quality. In order to ensure a quality transcription, grammar, intonations, the use of non-standard language (such as 'erm', 'um', and 'er'), pauses, broken sentences, interruptions, and quotation marks[140] were used, preserving the participant's original meaning and allowing for a more nuanced investigation into their comments. It has been noted that verbal interactions vary widely from written prose and therefore the transcriptions reflect this, including all remarks or sections that may be inarticulate, disjointed, or incoherent.[141] Thus, in including these factors of natural speech, the transcripts include *chronemic* communication, which notes the pacing and use of silence in transcripts and has been included as a way of indicating uncertainty and the thought process.[142]

Transcribing my own interviews rather than outsourcing the work to a research assistant or online service means that I maintained a close relationship with the data and was always aware of the context and meanings of the answers given, while also being in control of how and when the interviews took place. While most interviews took place in small private meeting rooms,

---

[138] Ibid., 95.

[139] B Poland, 'Transcription Quality' in J Gubrium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 631. See also G McCracken, *The Long Interview* (Sage 1988); B Patton, *Qualitative Evaluation and Research Methods* (2nd edn, Sage 1990).

[140] B Poland, 'Transcription Quality' in J Gubrium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 632.

[141] S Kvale, 'The 1000-Page Question' (1988) 6 *Phenomenology & Pedagogy* 90.

[142] R Gordon, *Interviewing: Strategy, Techniques, and Tactics* (3rd edn, Dorsey 1980) 335.

some took place in public in cafés or pubs. Although sound quality was reduced in that latter group of interviews, this did not affect the overall quality of the recording.

In order to preserve the participants' anonymity, any reference to their names, the names of other people whom they mentioned, or other identifying factors – such as their place of work – were removed during the transcription process. From these transcription methods, I have accessible data that preserves each participant's anonymity, complies with ethical considerations, provides a large amount of data to be analysed, and demonstrates the success of the interview process.

4.11 Analysis Process

Charmaz has identified the constructivist method of grounded theory analysis, which has been used in this research. The constructivist method has been used over the objectivist approach:

> [T]he constructivist approach places priority on the phenomena of study and sees both data and analysis as created from the shared experiences of research and participants and the researcher's relationships with the participants. … Constructivists study how participants construct meanings and actions, and they do so from as close to the inside of the experience as they can get.[143]

The constructivist method does not take all data as evidential fact, as does the objectivist method. Instead, it sees data as an interpretive portrayal of the participant's experiences, in which the researcher and the participant work together in order to create meaning. Data should reflect the researcher's and the participants' mutual constructions. The research is thus affected by the participants' worlds[144] and, accordingly, is interpreted through the researcher's own experiences and opinions. This method has been utilised in this research in order to construct the participants' reality and to analyse the ways in which they present their experiences. May has noted that interview narratives are performative acts and that the researcher should treat them as a form of social action like any other, rather than taking them as a universal truth.[145] It is also, therefore, important to recognise the ways in which data is located in its context, which

---

[143] K Charmaz, 'Qualitative Interviewing and Grounded Theory Analysis' in J Grubium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 677.

[144] Ibid., 677.

[145] R May, *Talking at Trena's: Everyday Conversations at an African-American Tavern* (New York University Press 2001).

may include the context of the specific interview, the context of the individual's life, and the contextual aspects of the study within society and history.[146] Therefore, in-depth interviewing is used to explore, rather than interrogate, a participant's experiences within the social setting, which in this case is the LGBTQ experience of relationship recognition in the context of recently legalised same-sex marriage.

Charmaz's coding method has been used in order to label, separate, and organise data[147] as an important first step in the generation of theory. The method has three main processes: initial coding, focused coding, and theoretical coding. While initially coding, I made the first analytical decisions based on the data. In the first step, I analysed each line of data and produced codes for each line of information. Coding each line with active terms, as Charmaz has noted, prompts the researcher to link specific interview statements to key processes that affect individuals or specific groups.[148] This process involved reading through each transcript and assigning codes to each unique piece of information as it was stated, creating an exhaustive list of initial codes. Selective coding followed, using the most frequently appearing initial codes to sort, synthesise, and conceptualise large amounts of data.[149] NVivo software was used in order to aid coding and store new codes in 'nodes' of data, which assisted when approaching the initial codes and beginning the analysis process. Figure 13 shows an example of these codes.

---

[146] K Charmaz, 'Qualitative Interviewing and Grounded Theory Analysis' in J Grubium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 679.

[147] K Charmaz, 'The Grounded Theory Method: An Explication and Interpretation' in R Emerson (ed), *Contemporary Field Research: A Collection of Readings* (Little Brown 1983) 186.

[148] K Charmaz, 'Qualitative Interviewing and Grounded Theory Analysis' in J Grubium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001) 684.

[149] Ibid., 684.

Name	Sources	References
Abnormality	11	18
Acceptance	2	4
Acceptance in younger people	4	8
Activism	5	7
Adoption	1	1
Adultery	24	45
Against marriage	2	3
Age of consent	1	2
Ageism	1	1
AIDS	2	3
Alienation	1	1
Alternative ways of existence	6	16
Anal sex	2	2
Apathy	4	14
Armed forces	2	5
Attitudes towards same-sex marriage	2	6
Background	4	16
Bad sexuality	15	24
Banter	1	1
Bareback	11	25
BDSM	10	11
Being accepted	2	3
Benefits of marriage	7	7

Figure 13: Example Coding Sets

The use of this coding method has allowed for extensive analysis of the data within themes. The codes were split into three broad groups, corresponding with the three analysis chapters: homonormative, homoradical, and the sexual hierarchy.

4.12 Conclusion

This methodology has demonstrated the reliability and academic rigour of this study. The research has utilised an appropriate conceptual framework, queer theory, and an ethically sound means of enquiry into the normative construction of law, identity, and the sexual hierarchy. The methodology and methods used in this study have proven to be an appropriate way of conducting qualitative research that investigates lived human experience, particularly one that focuses on non-normative sexuality. The demographics of the participants indicate that young gay men are more fully represented than other groups. However, this does not detract from the rich data collected. In conducting this research, the everyday activities and lived experiences of the participants in relation to their sexuality and same-sex marriage will be revealed, constructing understanding of the reform in law and its

effect on behaviour.[150] This chapter has thus recounted the process of data collection and analysis that has occupied a substantial amount of time during the three years of this study. The analysis of the rich data collected, which consists of approximately 300,000 words of transcription from a diverse group of LGBTQ participants, is presented in the chapters that follow.

---

[150] GA Appleby, 'Interviewing Working-Class Gay Men over the Internet' (2008) 12 *Journal of Gay and Lesbian Social Services* 134.

5
The Construction of the Homonormative Identity

5.1 Introduction

In this chapter, the empirical data collected will be used in order to assess how, if at all, same-sex marriage is a successful 'political sedative'[1] to LGBTQ identity, and to assess whether same-sex marriage affects or helps in the construction of homonormativity in the United Kingdom, post-2013, as a politic of assimilation.[2] The homonormative identity is one that is said to be the depoliticised, demobilised,[3] domestic gay identity, which stabilises and reinforces, rather than contests, heteronormative institutions.[4] Same-sex marriage will be argued to represent such a normative institution. In constructing homonormativity, this study will draw on Warner's 'good gay'[5] in order to assess how value and validation through marriage accredit sexuality and sexual practice and may stigmatise those sexual relations that take place outside of marriage.

This construction of homonormativity will draw on the many themes that have emerged within the research. These include trends of normalisation, assimilation, monogamy, and traditional relationship values surrounding marriage. Marriage is clearly popular[6] and is legally rewarded as an institution,[7] which may encourage couples to enter into the institution. However, marriage

---

[1] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 191.

[2] L Duggan, *The Twilight of Equality? Neoliberalism, Cultural Politics and the Attack on Democracy* (Beacon Press 2003).

[3] Ibid., 179.

[4] Ibid., 179.

[5] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

[6] This can be demonstrated by both the Irish and Australian public votes in favour of legislating for same-sex marriage, and by the 15,000 same-sex marriages that took place in England and Wales in 2015, with an average of 6,000 taking place in the following years: Office for National Statistics, *Marriages in England and Wales: 2015*, <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2015#main-points> accessed 5 April 2018.

[7] Notably, the law provides some financial benefit to married couples in the Married Couples' Allowance, allowing the reduction of the tax bill for (low-earning) cohabiting married couples. The Bill was introduced by the government in order to recognise marriage in the tax system: Finance Act 2014, s 11.

may therefore be criticised as promoting a form of successful relationship that is reliant on privatisation[8] and domesticity, assimilating queer relationships into a heteronormative framework. This chapter will use social constructionism and grounded theory to delve into the construction of homonormativity, as expressed by participants during the interviews.[9] These themes will reveal how the recognition of marital same-sex relationships constructs the normalised, domesticated same-sex couple as one for which sex and sexuality are diminished as a characteristic or lifestyle that is deviant from the norm.[10] Representations of the charmed circle, particularly those seen to be within the line of respectability, in the data collection are used to demonstrate the ways in which normativity and 'good' sexuality are conceptualised by the participants. The chapter will assess the role of legal relationship recognition in the creation of equality and the family. It will consequently build an image of the homonormative identity with same-sex marriage as a facilitator of access to the sexual hierarchy, fortifying the centrality of marriage within that hierarchy.

5.2 Equality and Marriage

The open question[11] of 'What are your thoughts on same-sex marriage in general?' evoked varied and emotive responses. These responses often promote the centrality of marriage within the lives of LGBTQ people as a means of validating their citizenship, sexuality, and relationship choices. Analysing the responses to this question creates a rhetoric of the meaning and impact of same-sex marriage. The analysis also assesses the defining features of same-sex marriage, including equality. One of the most prevalent and oft-repeated issues first uttered by participants has been the importance of equality via the elimination of institutional barriers against certain groups[12] and the hegemonic liberal equality paradigm.[13] Equality was discussed in each interview, with each participant explicitly referencing it on average three times per

---

[8] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.

[9] A Rubin and E Babbie, *Research Methods for Social Work* (Brooks/Cole Publishing Company 1993); GA Appleby, 'Interviewing Working-Class Gay Men over the Internet' (2008) 12 *Journal of Gay and Lesbian Social Services* 134.

[10] S Boyd, 'Family Law and Sexuality: Feminist Engagements' (1999) 8 *Social and Legal Studies* 369.

[11] G Partington, 'Qualitative Research Interviews: Identifying Problems in Technique' (2001) 11 *Issues in Educational Research* 2.

[12] B Hepple, *Equality: The New Legal Framework* (Hart 2011) 2.

[13] D Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994) 32.

interview. In many instances, equality was their first point of discussion:

> Erm, I think it's good in terms of equality, I'm not a massive fan of marriage anyway but I think it's good that it's there, that we have the same things in place as heterosexual people. That's pretty much it, in a nutshell, if I agree with marriage or not, it's the idea of having rights. I think it's good in those terms. (*Single gay man, 33b*)

This participant immediately relates marriage to equality, furthering Weeks's findings regarding the importance of equal legal rights and citizenship.[14] He separates his own feelings of marriage from the apparent universal benefit of the provision of same-sex marriage – leaving same-sex couples on a par with heterosexuals – in removing discriminatory standards.[15] The notion of being equal in opportunity[16] and capability[17] allows for gay relationships to feel valued in society. Hepple has stated that 'if people belonging to a particular group have not been afforded equal treatment to the rest of the population that is a reflection of the fact that they have not been valued equally'.[18] This notion of equality relates directly to Eekelaar's arguments in which the provision of legal equality does little to further substantive equality as an active improvement on the lives of LGBTQ people.[19] As such, the provision of legal marriage equality may have little tangible benefit to those who do not marry; however, it may have a large symbolic effect. This participant has made reference to the unequal treatment prior to same-sex marriage as an indication of the undervalued status of LGBTQ people in relation to heterosexuals, with marriage going some way to rectifying this by including those able to marry.[20] However, he arguably does not personally benefit from same-sex marriage and it is thus otherwise non-consequential to him. This system of valuing certain identities and sexualities may indicate the implicit ways in which the sexual hierarchy[21] is founded and conceptualised in society and often present in rhetoric within the data.

---

[14] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 46.

[15] D Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994) 5.

[16] B Hepple, *Equality: The New Legal Framework* (Hart 2011) 23.

[17] A Sen, *Development as Freedom* (Oxford University Press 1999).

[18] Ibid., 15.

[19] J Eekelaar, 'Perceptions of Equality: The Road to Same-Sex Marriage in England and Wales' (2014) 28 *International Journal of Law, Policy and the Family* 4.

[20] D Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994) 6.

[21] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

The positive impact of equality reoccurs throughout the data:

> I think the fact that we have the right, the legal right to marry is a positive move towards inclusion, towards equality. (*Single (dissolved civil partnership) gay man, 36*)

Marriage as a legal right is equated with inclusion, in keeping with Herman's notion that rights reforms plays a large part in encouraging acceptance and openness regarding sexuality.[22] Creating the right of LGBTQ people to marry may promote the positive legal recognition of lesbian and gay sexuality (as opposed to historic social and legal oppression[23]) and may further feelings of self-worth, citizenship, and community identity.'[24] This community identity has also been reinforced by the participant's use of the word 'we': 'we have the right' to marry may invoke the communal beneficiary of marriage as the lesbian and gay 'community'. The idea of inclusion may reinforce notions of citizenship and community, which may allow the responsible homosexual to assimilate into normal society through marriage or the availability of marriage.[25] This communal beneficiary may contribute to a perception of marriage as being a universal good – a perspective that was elicited by another participant:

> Erm, well obviously a good thing, yeah obviously a good thing, equality, everyone should be equal in the law as well as everything else, I dunno, it's not as if it came as a shock, it was sort of long overdue for everyone, that's about it really, equality for everyone. (*Single (dissolved civil partnership) gay man, 46*)

The participant refers to marriage as a universal good that should be universally available, relying on the centrality of equality-based arguments. Being 'overdue' may refer to a belief that law needed to 'catch-up' with societal attitudes in order to provide full protection for same-sex couples, beyond that of civil partnerships. This may necessitate same-sex marriage as a form of protection and recognition, which Brown has argued is indicative of homonormativity.[26] Equality of opportunity[27] is evocative of accessibility and justice.[28] A

---

[22] D Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994) 6.

[23] See C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995).

[24] D Herman, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994) 4.

[25] N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013) 173.

[26] G Brown, 'Homonormativity: A Metropolitan Concept that Denigrates "Ordinary" Gay Lives' (2012) 59 *Journal of Homosexuality* 1065.

[27] B Hepple, *Equality: The New Legal Framework* (Hart 2011) 23.

[28] J Eekelaar, 'Perceptions of Equality: The Road to Same-Sex Marriage in England and Wales' (2014) 28 *International Journal of Law, Policy and the Family* 4.

further participant similarly relied on universality and fairness, with universal fairness constructing equality of opportunity as an important factor in improved treatment and access for LGBTQ populations. This centrality within society is reinforced further by another participant:

> Erm, so I'm quite positive about it, it's, erm, you know, I think any, as a provision, you know, given by society should be given on an equal to all members of that society, erm, with that in mind though, I don't think I'd necessarily get married. (*Single gay man, 32*)

The focus on marriage as a central part of society that should be open to all underscores the importance of the universal recognition of relationships and the elimination of discrimination. This equality of access, however, would not be utilised by this participant, drawing the line between the provision of marriage as a beneficial institution for some and the participant's choice of whether to join that institution. This personal view posits marriage as a universal benefit to society, rather than to the individual. It thus indicates that the significance of same-sex marriage lies in improved social standing, rather than the mere fact of couples enjoying marital benefits.

A significant feature of same-sex marriage to emerge from the data was the removal of barriers, and of difference in treatment, which may ultimately demonstrate a correlation between perceptions of marriage and discrimination. The participant quoted below saw the denial of marriage as a structural inequality between LGBTQ people and heterosexuals that may have been remedied by the ability to marry:

> Hmm, generally I think it's quite a good thing, I think it goes a long way to resolving some of the outstanding issues between gay and straight people in terms of equality. (*Single gay man, 26*)

For this participant, the denial of marriage rights is a major issue of contention between heterosexual and LGBTQ people. The participant arguably indicates that heterosexual people benefit from the sexual hierarchy, holding power over sexual minorities.[29] This creation of a minority group at the behest of the powerful relies on the 'dominant liberal understanding of "minority", affirmed by human rights law' as a 'group of people with a shared culture and history … as applied to sexuality, the minority paradigm has constructed lesbians and gay men

---

[29] S Jackson, 'Sexuality, Heterosexuality and Gender Hierarchy: Getting Our Priorities Straight' in C Ingraham (ed), *Thinking Straight: The Power, Promise and Paradox of Heterosexuality* (Taylor & Francis 2004) 15.

as a homogenous group'.[30] The creation of a homogenous grouping furthers equality-driven causes and promotes marriage as a 'one-size-fits-all' institution. This homogenisation of the LGBTQ, concurrently with the homogenisation of heterosexuals within marriage, may also further sameness and normalisation arguments.[31] Equality of status has emerged as an important theme, broached by another participant, with same-sex marriage rectifying the disparities between marriage and civil partnerships:

> … and it sort of brings gay people into an equal standing with straight people as well, because with civil partnerships, although there was also a step in the right direction, it was still, kind of, putting them into a different category, erm, I dunno … (*Single gay man, 21*)

(See Figure 14 and Figure 15.)
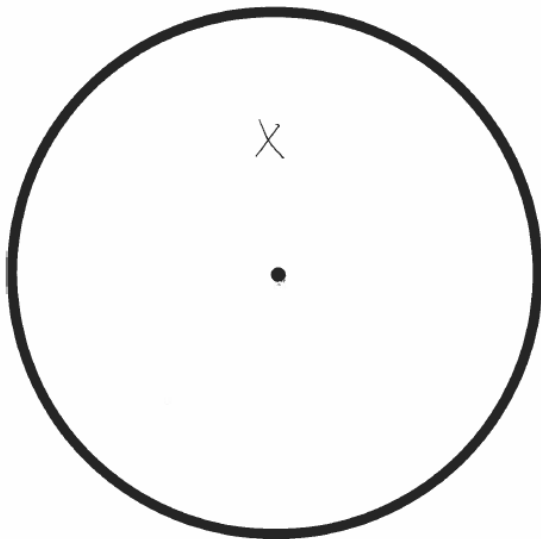
Figure 14: Single Gay Man, 21   **Figure 15: Single Gay Man, 21**
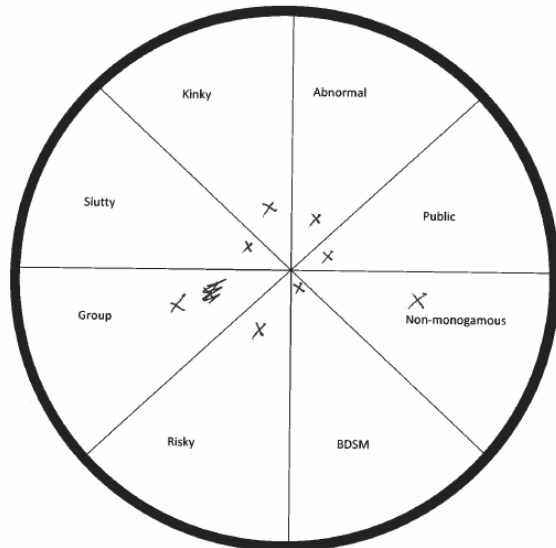
The participant, a gay undergraduate student in his early 20s, sees marriage as a form of equality in citizenship, representative of the steps taken to ensure that LGBTQ and non-LGBTQ people are recognised in society as equal. This participant makes reference to the hierarchy of relationship recognition established by the Marriage (Same-Sex Couples) Act 2013 and the Civil Partnership Act 2004. Civil partnerships may be seen as a lesser form of

---

[30] Ibid., 50.

[31] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 519.

marriage, despite popular calls for them to be 'marriage in all but name':[32] socially and legally, they do not provide the equality that many see same-sex marriage as providing. Research has shown that, prior to same-sex marriage, many saw civil partnerships as being akin to legally recognised marriage.[33] However, it is clear that, since the advent of same-sex marriage, the hierarchical comparisons between same-sex marriage and civil partnerships are becoming evident and may be exposed within narratives due to their explicit 'not marriage' nature. This arguably constructs the sexual hierarchy of relationship recognition while also demonstrating the importance to LGBTQ people of equality, achieved through marriage. This equality provides a means of assessing the acceptance of same-sex relationships and LGBTQ sexualities. Other participants recognised the validity that equality brings to their relationships:

> I think it's positive in terms of equality, not just equality, in how, not just equality, but in how we're perceived in terms of relationships but also the legal aspect as well, erm, and I think, kind of, er, [sigh] it's given a sort of verification to same-sex relationships that wasn't there before. (*Married gay man, 43*)

For this participant, it was important to be viewed as equal, which validated his relationship. This verification echoes with Rostosky et al.'s study, which found that legal relationship recognition facilitated feelings of social validation and legal verification[34] based in citizenship and personhood. Improved perceptions of same-sex couples may entail the shrugging off of prejudicial stereotypes that feature promiscuity and instability and the recognition of the commitment and stability that are inherent in same-sex marriage. The perception of equality is, therefore, a significant factor in the verification of same-sex relationships. The participant quoted below goes further, believing that it is even more important for same-sex couples to marry in order to prove such a point:

> Erm, I think it's more important than straight people getting married, it's erm, you know because it's saying we love who we love, it's more symbolic that. (*Single lesbian, 27*)

---

[32] B Hale, 'Unmarried Couples in Family Law' (2004) 34 *Family Law* 419.

[33] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 5.

[34] S Rostosky, 'Same-Sex Couples' Decisions and Experiences of Marriage in the Context of Minority Stress: Interviews from a Population-Based Longitudinal Study' (2016) *Journal of Homosexuality* 4.

This participant thus posits same-sex marriage as being important not only in verifying LGBTQ relationships, but also in ascribing to these relationships the societal value that has historically been denied to them and reserved for heterosexual relationships.
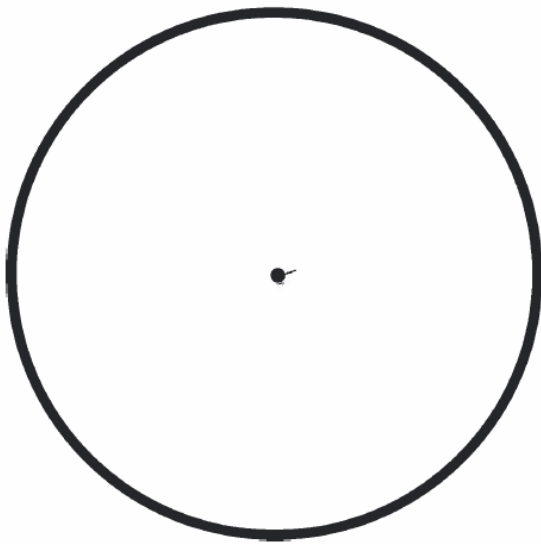
Figure 16: Single Lesbian, 27
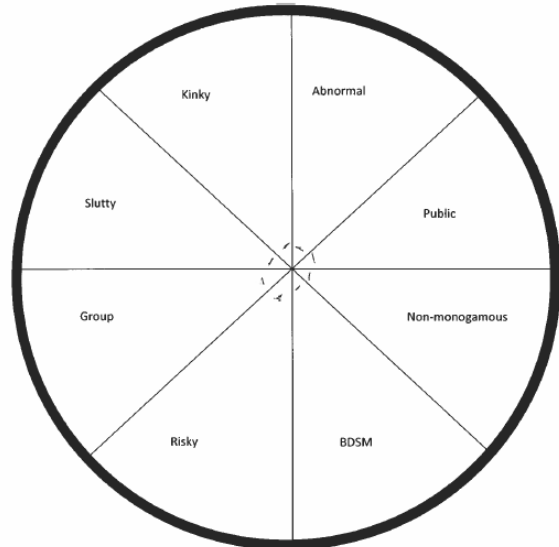
Figure 17: Single Lesbian, 27

The participant's comments may reinforce the importance of equality-based reform in providing an avenue for the recognition of same-sex relationships as being in the same form and function as traditional marriage. This may be ascribed homonormative value when viewed as assimilatory, promoting marriage as a conduit for validation and acceptance. This may be shown in the participant's visual data (see Figure 17), in which she marks herself as firmly at the extremes of good sexuality, avoiding any implication that homosexuality may disturb her right to marry. The promotion of marriage through equality is seen as beneficial to all participants as a means of validating homosexuality and same-sex relationships. This validation is key when assessing rights discourse within the empirical data.

5.3 The Right to Marry

Perceptions of an inalienable right to marry, although not provided for by international human rights instruments (the European Court of Human Rights does not require states to provide same-sex marriage, but it does require member states to recognise same-sex

relationships to some extent[35]), may indicate a perception that marriage is a fundamental right of citizenship. Such discourse reflects arguments regarding equality and may demonstrate the deep-rooted significance of marriage as being related to personhood and rights. In this section, the wide-ranging narratives of 'rights' will be discussed.

The issue of rights as essential was articulated in the following way by one participant:

> That's pretty much it in a nutshell, if I agree with marriage or not, it's the idea of having rights. I think it's good in those terms. (*Single gay man, 33b*)

The 'idea of having rights' encompasses the legal acceptance of LGBTQ identities, fulfilling a recurring narrative of 'gay rights' activism. However, when discussing rights discourse, security was often a principle concern for participants. Security may be a substantial aspect of same-sex marriage and may be indicative of the legal rights inherent in normative ideals of citizenship:

> … and the rights and the legal side of inheriting, and pensions, and so on, that before were not recognised, is a massive improvement. (*Single (dissolved civil partnership) gay man, 36*)

The participant quoted above equated the right to marry with the legal security and protections afforded by marriage. This security, predicated on property, indicates a privileging of property as a means of securing legal status that provides protection for his relationship. Nedesky notes the importance of property as expressive and constitutive of personhood,[36] therefore reinforcing the centrality of marriage as a personal means of ensuring propriety and citizenship. The availability of marriage thus represents a form of agency and power, in the ability to safeguard one's property, but also refers to the significance of being recognised by the state, which is constitutive of citizenship:

---

[35] See *Schalk and Kopf v Austria* (Application no. 30141/04); *Oliari v Italy* (Application nos. 18766/11 and 36030/11). See also F Hamilton, 'The Differing Treatment of Same Sex Couples by European Union Law and the European Convention on Human Rights: The European Union Concept of Citizenship' (2015) 2(1) *Journal of International and Comparative Law* 87; F Hamilton, 'Strategies to Achieve Same-Sex Marriage and the Method of Incrementalist Change' (2016) 25 *Florida Journal of Transnational Law and Policy* 121; P Johnson, '"The Choice of Wording Must Be Regarded as Deliberate": Same-Sex Marriage and Article 12 of the European Convention on Human Rights' (2015) 40(2) *European Law Review* 207.

[36] J Nedesky, 'Law, Boundaries, and the Bounded Self' in R Post (ed), *Law and the Order of Culture* (University of California Press 1991) 162.

> Because, again, I think again that it is about having rights, and being recognised. (*Single (dissolved civil partnership) gay man, 36*)

The recognition of sexuality and sexual identities acknowledges that they are immutable, while the recognition of same-sex relationships acknowledges that they are deserving of protection. This demonstrates the significance attached to marriage as a legal institution. The participants state that this protection amounts to fundamental rights, reflecting equality between LGBTQ and heterosexual couples. Such narratives present marriage as the ultimate arbiter of rights, informing their decision to marry:[37]

> [W]e decided that we need to, sort of, there was a facility to be married, erm, it was a legal document, erm, and it gave me rights as any other spouse, and that's the primary, not the only reason, but the primary reason why we entered into a gay marriage. (*Married gay man, 43*)

Marriage here can be seen to facilitate parity with heterosexual couples in being afforded protection. It thus enacts a form of sameness that is based on functionality, in which they are as deserving of the rights created by the state 'as any other spouse'. Entering into this institution validates their coupling and provides rights to protect their spousal property, which is the main reason they married.

Another participant views rights within a broader concern regarding recognition and visibility that may demonstrate far-reaching significance:

> Erm … yeah I think it's, we're now, I think gay rights are sort of on a tick list, of things we need to like, just issues we need to sort out, to make sure everything is okay, yeah, the fight's won, erm, but no, I think it's helped with acceptance in general, that would be my strongest point. (*Single gay man, 27*)

Gay rights being a 'tick list' makes implicit reference to broader societal trends promoting equality. Under the Equality Act 2010, sexual orientation became a protected characteristic as a means of creating transformative equality that aimed to dismantle systemic inequalities and to eradicate poverty and disadvantage through the removal of economic barriers.[38] The participant invokes the positive duty of the state to provide conditions in which human dignity is protected,[39] thus linking legal rights with notions of dignity. Here, the participant

---

[37] N Mulé, 'Same-Sex Marriage and Canadian Relationship Recognition – One Step Forward, Two Steps Back: A Critical Liberationist Perspective' (2010) 22 *Journal of Gay & Lesbian Social Services* 77.

[38] B Hepple, *Equality: The New Legal Framework* (Hart 2011) 22.

[39] Ibid., 16.

conceptualises law as a procedural method of protection in which LGBTQ rights are now fully accepted and part of the institution and establishment of law. This may demonstrate Foucault's governmentality in the shaping of societal relationships,[40] in which the 'tick list' of equality measures informs the construction of legal power and the guaranteeing of rights for LGBTQ populations. The participant notes that same-sex marriage and the representation of LGBTQ visibility further cement and develop social acceptance as a result of legal change. The benefits of this have been noted by other participants:

> So I think it's a good concept that people get equal rights, no matter who your partners are, I think that's the main thing, whether you call it marriage or not, I think it's important you have equal rights, I think that's it. (*Married gay man, 32*)

Universal equal rights are conceptualised as being necessary, yet this participant deems the status of civil partnerships and marriage immaterial, with both symbolising equal rights. The implications of the stages of recognition for same-sex relationships (from no recognition, to civil partnerships, to marriage) have led other participants to view same-sex marriage as the final point of the route to equality and acceptance:

> … and certainly in my lifetime, I've seen a massive move towards recognising LGBTQ rights and I think that, sort of, same-sex marriage was really the final point to that. (*Single gay man, 33a*)

This participant consolidates the earlier statements regarding the Equality Act 2010 and other developments in law and society in the recognition of LGBTQ rights. He notes the changing social views of same-sex couples as being transformative to LGBTQ rights. This is in keeping with Plummer's theory of polarisation,[41] which can here be used to show decreased polarisation of homosexuality among younger people in a world that some have termed 'post-queer'.[42] Facing less systematic inequality, levels of polarisation decrease as the younger LGBTQ people find less reason to develop attitudes against heteronormativity, signifying a generational shift.[43] Same-sex marriage, Plummer states, then confirms and solidifies this transition and becomes

---

[40] N Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge University Press 1999) 15.

[41] K Plummer, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

[42] C Meeks and A Stein, 'Refiguring the Family: Towards a Post-Queer Politics of Gay and Lesbian Marriage' in D Richardson, J McLaughlin, and M Casey (eds), *Intersections between Feminist and Queer Theory* (Palgrave 2006) 138.

[43] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 82.

the pinnacle of gay rights, and a final point in their recognition, denoting the achievement of rights. This represents marriage as a significant institution, representing legal rights and recognition for LGBTQ people.

5.4 Mainstreaming and Normalisation

The awarding of legal rights to LGBTQ populations arguably entails the process of mainstreaming and normalisation. Including LGBTQ populations in the political, legal, and social mainstream, as argued by Rimmerman, allows access to various civil rights systems, yet fails to protect LGBTQ people once they are within that system.[44] The process of normalisation will be argued to rely on assimilation and 'sameness' to emphasise equal rights and integrationist approaches to create 'normal' standards of relationship recognition.[45] In the interview excerpt below, the participant explains her perspective of mainstreaming:

> Participant: 'It used to be, like, we're in it together, but now, if you're an acceptable gay person, you're accepted into that mainstream.'
>
> Researcher: 'What do you think it means to be that acceptable gay person?'
>
> Participant: 'Well I think a gay man, first of all, is the usual, if my mam were to think of a gay couple, she would automatically think of gay men, two men in a monogamous relationship, acceptable body as well, so the successful male body, erm, white, non-religious, all of these things that people associate with a white, middle-class lifestyle, is the acceptable, yeah.' (*Single lesbian, 21*)

The mainstreaming of LGBTQ identity is, the participant argues, inclusive of a specific image of LGBTQ identity and sexuality that is acceptable to the (hetero)norm. This solidarity entails setting aside differences as a group defined by its non-heterosexuality. Formby has noted this, stating that the 'singular use of the LGBT acronym could be tactically deployed in activism and advocacy regarding LGBT rights'.[46] The homogenised acceptable gay identity and its legitimation has been argued to have diminished solidarity movements that mobilised those

---

[44] C Rimmerman, 'Beyond Political Mainstreaming: Reflections on Lesbian and Gay Organisations and the Grassroots' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000) 56.

[45] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.

[46] E Formby, *Exploring LGBT Spaces and Communities* (Routledge 2017) 35.

who were against the norm,[47] as the mainstreaming of the acceptable is a necessary conduit for the unacceptable. The acceptable is then conceptualised as the monogamous, healthy, white, successful gay male couple,[48] while the marginalised may represent the homoradical. The sexual hierarchy is thus constructed to value those with particular normalised performative identities.

The participant then goes on to note the ways in which, she believes, heteronormative society excludes and stigmatises deviant sexualities from relationship norms:

> Whereas like straight people, they have those regulations that help them set up those relationships, help them create this mainstream image, but I'm not allowed that, I have to figure that out, and even when I have figured that out, it counts for nothing, so that's not good, and it's just another way that there's absolutely no equality in it, it's just a show, just a big commercial show. (*Single lesbian, 21*)

The cultural images of heteronormative society are manifest in many ways. The nuclear family, presumed monogamy, parenting roles, and gender roles all play a part in constructing the mainstream image (in keeping with Butler's notion of the heteronormative matrix[49]) from which this participant feels excluded. Being excluded from heteronormative relationship structures reinforces the findings of Weeks et al.'s early study in which LGBTQ relationships formed 'families of choice'[50] in their restriction from biological families and legally recognised relationships. In the absence of these structures, the 'expanded pluralist uses of family are politically destructive of the ethic of traditional family values'.[51] This political destruction reinforces the ways in which the participant feels excluded, as her only way to embrace these structures is through commercialisation. Despite marriage being available, this participant does not feel that this assists her in constructing her own 'family of choice' in providing a heteronormative model for a lesbian relationship. This mainstreaming, then, arguably delegitimises calls for liberation, understanding, and tolerance of difference[52] in an attempt to further the goals of economic success based on the monogamous model. As evidenced in her

---

[47] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 106.

[48] C Cohen, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor, and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000) 438.

[49] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187

[50] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

[51] RE Goss, 'Queering Procreative Privilege: Coming Out as Families' in RE Goss and AS Strongheart (eds), *Our Families, Our Values: Snapshots of Queer Kinship* (The Harrington Park Press 1997).

[52] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 106.

visual data (see Figure 18), in which the participant marked where she felt she fits between notions of good and bad sexuality, she sits closer to the outer edges, representative of her active choice of rejecting normativity:

> I don't want to be part of that heteronormativity, I do wanna destabilise things and I do wanna threaten things, and I think I should be more open about it, but a lot of people would see me and go oh you're right in the middle of that pretty circle, yeah, but if they knew what I thought and what I actually did, I'd be well away from it. (*Single lesbian, 21*)

The participant notes her performative image as one that does not betray her sexual identity or her sexual politics, which may be argued to demonstrate use of the public/private divide. Through this, homonormativity constructs an identity for her in the assumption that she is in a socially acceptable relationship and therefore performs the image of a sexuality that is good, normal, or natural.[53] This may demonstrate the mainstreaming of gay identity, in presuming a standard of sexuality that is more traditionally aligned with a young woman in an apparently monogamous vanilla relationship.
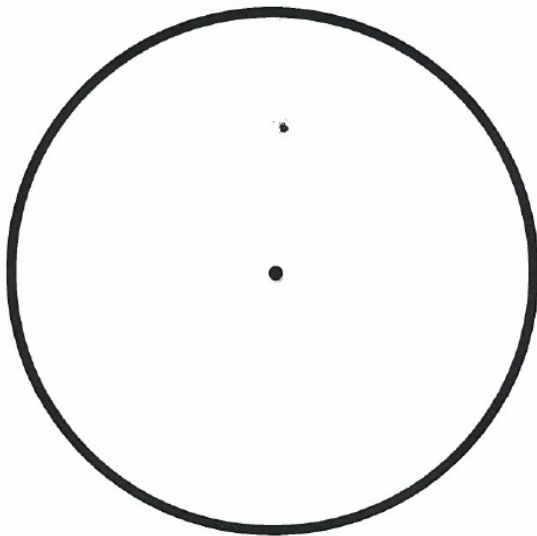

Figure 18: Single Lesbian, 21

---

[53] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

Another participant also viewed sexual minorities as now being part of the mainstream, as a consequence of normalisation:

> … erm, so it's erm, it's made it much more mainstream to be part of a sexual minority I suppose, it's made it much more 'normal' in inverted commas, erm … (*Single gay man, 32*)

This participant invokes the normalisation of the gay identity. However, this is reliant on that gay identity being a 'sexual minority': a minority status indicates the acceptance and legitimation of the minority as a conduit to the (heterosexual) majority. This normalisation, therefore, may be shown to inflict self-regulation[54] in order to follow the social norms of the mainstream. This construction of the normalised minority being accepted into the mainstream reinforces Seidman and Meeks's statement that 'civic individualism has shaped a friendly cultural environment for a politics of normalisation, while forming an inhospitable cultural context for a liberationist or transformative politics'.[55]
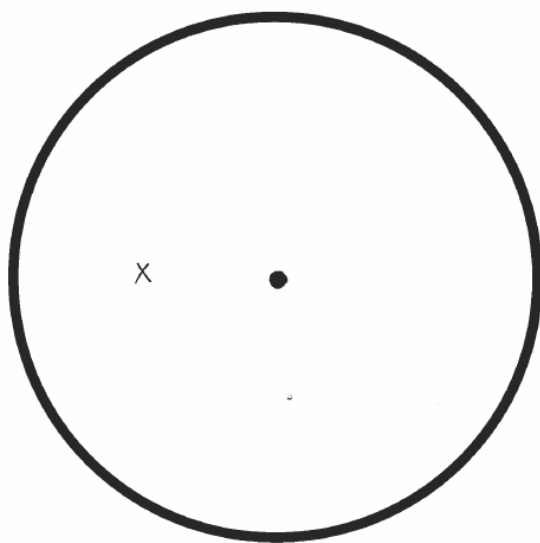
Figure 19: Single Gay Man, 32
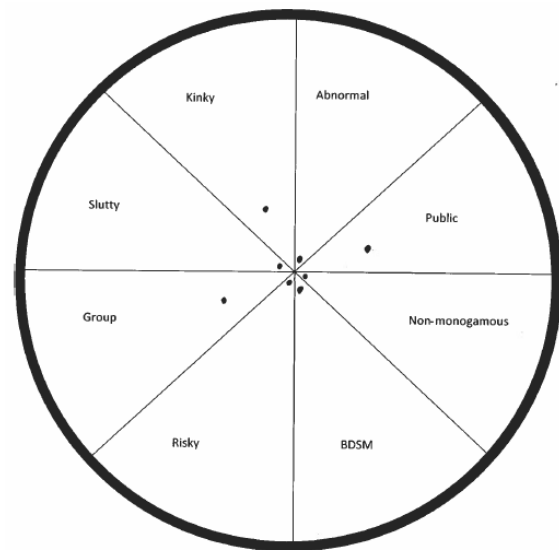
Figure 20: Single Gay Man, 32

This inhospitable culture for transformative politics may reinforce the public/private divide, in which sexual conduct and expression is hidden, while mainstreaming an acceptable gay identity. The participant represents this on his charmed circle diagrams (see Figure 19 and

---

[54] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 331.

[55] S Seidman and C Meeks, 'The Politics of Authenticity: Civic Individualism and the Cultural Roots of Gay Normalisation' (2011) 5 *Cultural Sociology* 519.

Figure 20). The second circle represents his attempts to occupy space on the side of good sexuality, in his avoidance of practising those non-normative activities. However, the first circle demonstrates the participant's own reservations about being gay, in which he felt that he could not occupy space within good sexuality. He explained:

> So here, this would be like classic, traditional, heterosexual couple, erm, okay. I suppose sort of here, this would be like total deviant, paedophile or something like that, erm, well, okay erm I think I, as a fairly ordinary gay person, I think I'm probably gonna be somewhere between the two. (*Single gay man, 32*)

The participant, in being an 'ordinary gay person', posits his sexuality as still marking him apart from traditional heterosexuality. Despite normalisation and mainstreaming, he nonetheless segregates LGBTQ populations from the 'good sexuality' position, demonstrating the implicit acceptance of the sexual hierarchy. The participant's data is largely in keeping with Rubin's original 'line of respectability' that marked the first charmed circle. This line, Rubin states, stands between sexual order and chaos,[56] which this participant claims to successfully straddle, as a coupled (*order*) gay man (*chaos*). This positioning demonstrates the ways in which sexual stigma has been maintained as the only acceptable form of prejudice[57] – one that has lingered and in part contributed to the construction of the homonormative identity as one that clings to and thrives on the stigmatisation of *certain types* of homosexuals, and the acceptance and validation of others, therefore leading to the mainstreaming of a certain image of good sexuality.

It may thus be seen that sexual minorities are accepted insofar as they have rights that have been granted by their normality, yet they are still in a category of 'other'. However, in response to this mainstream, many accept this politics of normalisation as beneficial:

> Yeah! Yeah definitely, erm, there was loads of arguments that they were trying to like tame the gay community by making them more conservative and giving them little boxes and families that they can fit into, but I'd rather have the freedom to do it and do it, than be denied the right to do it and want to do it, so if gay radicals still wanna go on, kicking off about life then fine, let them do it, but they don't have to get married if they don't want to and they feel like it's dampening down their big outrageous spirit, but erm, no, I'd more than happily do it, so. (*Single gay man, 27*)

---

[56] Ibid., 152.

[57] Ibid., 152.

This participant reflects the individualism that Seidman and Meeks noted to further normativity,[58] and as such relates this to the availability of marriage. Having the individual choice to marry distances this participant from the radical queer body who is 'kicking off' about the normalising consequences of same-sex marriage. Individualism may rely on the binary between self and society, in which the needs of the self surpass those of the intangible society.[59] Having the freedom to marry and this distancing from 'gay radicals' may arguably demonstrate the further depoliticisation of the homonormative identity[60] as efforts are made to promote a mainstream image, which may marginalise those who are seen as being against the norm of marriage equality. This reinforces Robinson's notion[61] that those who do not fit within the socio-sexual norms of binaries and monogamies, and those who do not conform to marriage norms, are delegitimised in order to encourage the further legitimation of normative identities. The mainstreaming of LGBTQ rights is arguably predicated on the mainstreaming of the monogamous lesbian and gay couple, as therefore deserving of their place as good citizens,[62] and thereby constituting legitimacy to married couples via social acceptability.[63] This reinforces the sexual hierarchy in promoting the homonormative identity and a specific relationship norm that benefits the individual taking part in it.

The mainstreaming of LGBTQ relationships and families goes hand-in-hand with their normalisation. The normalisation of these relationships is predicated on resembling heteronormative standards of relationship recognition and public conduct. It is therefore firmly behavioural based, overlooking material differences such as gender and sexuality and normalising a specific kind of identity. 'Norms of recognition function to produce and deproduce the notion of the human'[64] and offer social legitimacy. This is in contrast to mainstreaming, which, for the purposes of this study, relies on the building of public image and consciousness of a certain type of LGBTQ identity.

---

[58] S Seidman and C Meeks, 'The Politics of Authenticity: Civic Individualism and the Cultural Roots of Gay Normalisation' (2011) 5 *Cultural Sociology* 519.

[59] Ibid., 523.

[60] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002).

[61] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 334.

[62] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.

[63] J Butler, *Undoing Gender* (Routledge 2004) 26.

[64] Ibid., 32.

One participant explained:

> [Y]ou just, if you do love somebody and you want to get married, then you get married, and that's sort of a new thing for gay people, but, it should be normal anyway … Yes, for the reasons I've mentioned, it kind of, just makes being gay no different to being straight in that area of life, erm … just, yeah, I suppose just having the same treatment. (*Single gay man, 21*)

The use of love to establish legitimacy resonates with Neary's statement that normalisation is a conduit for excluding and stigmatising sexuality that does not feature love,[65] while it may also reflect Rubin's statement that sex should require a normative justification, such as taking place within marriage.[66] A recognisable relationship structure that displays monogamy and fidelity[67] as universal factors is therefore deserving of the recognition and benefits of marriage, which seeks to remove the structural and social differences that this participant notes. This may be indicative of the minimisation of difference and the increasing homogeny of homonormativity in an attempt to fit within the marital structure as a result of normalisation.

Other participants noted the inevitability of marriage as a signifier of the effects of normalisation and wider acceptance and celebration:

> I think, there was a lot of acceptance when it happened, erm, and people sort of celebrated it, and kind of, if people were in the media making up rubbish excuses about why it shouldn't be that a gay couple can get married, it was sort of disputed and ridiculed, I think that kind of conversation that was happening in society about gay marriage sort of raised the issue, and made people consider that actually there's no difference between a gay couple getting married and a straight couple getting married. (*Single gay man, 21*)

The wider acceptance of same-sex marriage, Macedo argues, is validated through the ridiculing of those who are against marriage as being irrational and ill-founded,[68] due to the place that LGBTQ people occupy in mainstream popular society. The popularisation of the debate demonstrates a further willingness to discuss the viability of same-sex marriage couples, couched in terms of them having the same needs and desires to get married as are attributed to

---

[65] A Neary, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 774.

[66] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 170.

[67] A Neary, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 774, 757.

[68] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015) 25.

heterosexuals, and an entitlement to receive the same benefits. This arguably demonstrates the familiarisation of gay rights,[69] albeit dependent on the breaking down of barriers that obstruct LGBTQ families.[70] Familiarisation indicates the inclusion of the LGBTQ into heteronormative structures, articulated in the following way by one participant:

> So heterosexual people have had that for a long time, now we've, gay people have got – let's call it 'gay marriage', equal marriage which I prefer, but it's not quite equal – it, it normalises it, because you've got parity there, and anything that creates parity means 'oh well we're the same'. (*Pansexual (poly) feminine polarised genderqueer, single, 42*)

Same-sex marriage is here seen as providing an equal starting point in the creation of family and marriage. Equality in opportunity to marry constructs normality through recognisable and universal terms, such as husband and wife, despite the introduction of same-sex husbands and wives. The universal nature of such terms has been confirmed in case law in which a same-sex couple was deemed to be living 'as husband and wife'[71] and the decentralisation of sex was no barrier to fulfilling the roles within marriage.

The same participant further confirmed this by qualifying those who may benefit from this marital parity:

> But within that largely cisgender heterosexual community it's basically facilitated them to go 'oh yeah they're just like us', and that normalised people in their minds. (*Single pansexual (poly) feminine-polarised genderqueer, 42*)

The participant affirms that same-sex marriage has allowed those within the heteronormative and cis-normative[72] communities to reconceptualise their view of LGBTQ communities, one that focuses on further cis-normative and homonormative images. Therefore, those who 'benefit' from marriage arguably fall within the recognisable marriage form, in which gender

---

[69] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013).

[70] A Diduck, 'Shifting Familiarity' (2005) 58(1) *Current Legal Problems* 247.

[71] *Mendoza v Ghaidan* [2004] UKHL 30.

[72] The normative cisgendering assumption: M Worthen, 'Hetero-Cis–Normativity and the Gendering of Transphobia' (2016) 17 *International Journal of Transgenderism* 31.

and sexuality are not contested,[73] relying on heterosexual/homosexual, and man/woman binaries and further fortifying the marriage norm from which they feel excluded.[74]

The normalisation of same-sex marriage will be argued to provide a standard of acceptance for some participants, as it becomes a legal and social fact of life:

> [P]eople just accept that gay marriage is just the norm, is as normal, well some people will never accept that but most people will just shut up about it because they know that they're not gonna change it. (*Single (dissolved civil partnership) gay man, 46*)

Same-sex marriage being accepted into the norm confirms not only the effects of the 2013 Act as a piece of widely accepted and celebrated piece of legislation, but also the decentralisation of heterosexuality from marriage, enabling the altering of social and jurisprudential discussion.[75] The right to marry is described by Wolfson as the ultimate act of normalisation,[76] entailing an acceptance of dominant social structures of rights, recognition, and regulation. This is manifest in the encouragement and praise of same-sex marriage and the normalisation of marital same-sex relationships.

While participants viewed the mainstreaming of LGBTQ as a benefit of same-sex marriage, one participant discussed his perceptions of the impact it may have on the construction of identity:

> Erm, in general, yes, er, I know that there are a lot of people in the gay community that think, well actually, we don't need that, and actually are we not just subscribing to, erm, subscribing to, erm, you know the social norms and are we not just losing our identity? I don't know, and I've thought about that, I haven't really come down and settled on an answer for that one, I might feel different. For us, it, erm, it was a commitment to each other, end of story really. (*Married gay man, 50*)

This participant recognises the widely held concern that assimilation into a marital norm minimises the diversity of sexual identity and constructs a socially homogenous interpretation

---

[73] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999).

[74] S Westwood, '"My Friends Are My Family": An Argument about the Limitations of Contemporary Law's Recognition of Relationships in Later Life' (2013) 35 *Journal of Social Welfare and Family Law* 348.

[75] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 16.

[76] E Wolfson, 'Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique' (1994) 21 *New York University Review of Law and Social Change* 567; J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001).

of sexual 'normality'.[77] While he has not made up his mind, he is able to validate his commitment through marriage,[78] and as such has not settled on an opinion regarding whether this entails a loss of identity for him. This validation of commitment follows the strong theme that has emerged through the coding of 'sameness' as a validation and facilitator of marriage and homonormativity.

The availability of marriage may facilitate acceptance and wellbeing through the interpretive framework of law, as argued by one participant to contribute to mainstreaming and acceptance:[79]

> [I]t's sort of one less thing where they feel they're gonna be treated differently and not have the same life that a straight person would, and therefore that might sort of help them to accept that and to live life as an openly gay person. (*Single gay man, 21*)

The participant suggests that the same opportunities to create a family and to live without fear of discrimination are a benefit of same-sex marriage. Here we see how marriage facilitates the breaking down of traditional barriers faced by LGBTQ people in forming a family[80] and a 'normal' life. This breaking down of barriers and the facilitating of the homosexual relationship offers emotional wellbeing, in contrast to the traditional exclusion from family. Such breaking down of barriers and the mainstreaming of openly gay lives may demonstrate a reversed polarisation effect:[81] a reduced backlash against LGBTQ identities leads to decreasing levels of polarisation and therefore a willingness to accept the norm, into which LGBTQ people have been welcome. This reflects Heaphy et al.'s findings that decreased stigmatisation led to decreased critical reflexivity.[82]

---

[77] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 520.

[78] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 191.

[79] P Ewick and S Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago University Press 1998) 323.

[80] A Diduck, 'Shifting Familiarity' (2005) 58(1) *Current Legal Problems* 247.

[81] K Plummer, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

[82] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 61.

The assumption of dominant societal roles is evident in the words of one participant:

> But, I don't know, I haven't got that much to say about it, to me it's not same-sex marriage, it's just marriage, like I see it all as just one thing. (*Single gay man, 21*)

This excerpt may be seen as a direct example of assimilation, demonstrating its inherency to marriage debates and the importance afforded to same-sex marriage in this instance. This assimilation can be defined as the embracing of heterosexual norms,[83] which is clearly evident as this young gay man eradicates the differences in legislation and society that have separated same-sex marriage and traditional marriage. In keeping with Plummer's theory on polarisation,[84] many young people do not see this distinction as they have grown up in a largely tolerant society. This eradication and the attempt to define marriage as encapsulating homosexuality assimilates and signifies the importance attached to marriage as an institution. This importance may also prove true Auchmuty's claim that the opening of marriage to LGBTQ people was an attempt to bolster the institution – and therefore heteronormativity[85] – thereby contributing to rising marriage rates and reinforcing the centrality of the institution. This is in keeping with the argument that the right to marry is the ultimate act of normalisation.[86] The idea of marriage as an act of normalisation may be reflected by the following participant:

> But, obviously when … same-sex marriage was given the go ahead in this country, I went and got married, as normal people do. (*Married gay man, 34*)

Here, 'normal people' are conceptualised as the rational married couple, fitting within the dyadic structure of marital relationship recognition, fulfilling the norm and committing to a stable relationship. As such, the participant, being in a coupled relationship, took advantage of the United Kingdom's legal reform and entered into a marriage. This may demonstrate Butler's theory of normalisation,[87] in which social practices operate through the implicit standards of

---

[83] D Halperin, *How to Be Gay* (Harvard University Press 2012) 443.

[84] K Plummer, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 81.

[85] R Auchmuty, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 117.

[86] E Wolfson, 'Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique' (1994) 21 *New York University Review of Law and Social Change* 567; J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001).

[87] J Butler, *Undoing Gender* (Routledge 2004) 41.

normality, creating pressure to abide by social rules and awarding legitimacy to those who do.[88] Same-sex marriage therefore facilitates becoming part of normality by following the social rule for dyadic romantic couples. Concurrently, this follows Butler's statement that this standard of the 'normal' married couple then stigmatises and renders illegitimate those whose sexual arrangements are outside of this coupled norm,[89] and this illegitimacy therefore creates the distinction between the homonormative and the homoradical, as one is legitimised and normalised, while the other is delegitimised and ignored, thereby re-establishing a hierarchy of relationships.

The legitimation and normalisation of gay sexuality and relationships may be seen to be a defining feature of marriage and an indication of homonormativity:

> … erm, so yes I suppose it has impacted, and perhaps that's a good thing, perhaps that might help adjust gay culture a bit, because obviously at the minute it is quite promiscuous in general, and perhaps enabling, enabling marriage will kind of go somewhere to more solidifying it and put it on more similar footing to heterosexual relations. (*Single gay man, 26*)

Same-sex marriage is praised as a means of enabling the respectability of promiscuous and non-domestic LGBTQ identities from the outer edges of the charmed circle and above the line of respectability.[90] Providing for a legally sanctioned gay coupling and the participant's willingness to embrace this demonstrates the ways in which homonormativity was lacking validation from the state[91] (despite the already-established civil partnership). Thus, same-sex marriage may signify the accepted status of the conforming homosexual. This may further be used to exert pressure on the non-conforming homosexual to abide by normative standards of sex and sexuality through the standards of assimilation and normalisation. Such issues around accepting or non-conforming images of LGBTQ sexuality thus rely heavily on notions of respectability, visibility, and image.

---

[88] Ibid., 26.

[89] Ibid., 5.

[90] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

[91] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015) 122.

5.5 Visibility and Image

Visibility and image narratives often emerge in the data as informing participants' decisions to exhibit certain facets of their sexuality that often rely on respectability and indicators of class. The participant quoted below takes the view that marriage is not only a signifier but also a facilitator of reduced promiscuity and increased respectability for LGBTQ communities and thus furthers homonormativity through the normalisation of coupled same-sex dyads. When asked about perpetuating stereotypes and whether the notion of promiscuity sets heterosexuals and homosexuals apart, he replied:

> Does it set us apart? Erm, yeah I think it doesn't help because I think, fundamentally, people will always get on better with people who are similar to them, er I think that that's just human … so if, er, looking at those men for example, in the Pride parade, if you would see them and think I don't like them, they're very off-putting, they're not like me, they're kind of sexually deviant, and then it's difficult to just attribute it to just those people as well, it spreads out and starts to affect the rest of the gay community as well, so it has quite big effects, and I think that does separate us a lot, erm, but the trouble is, there are plenty of people who are just pretty much mainstream, very ordinary people but they always go unnoticed. (*Single gay man, 32*)

This participant posits sexualised stereotypes as negatively affecting the ways in which LGBTQ people – in particular, gay men – are viewed by wider society, suggesting that the differences that are perceived set back equality and acceptance due to subliminal prejudices. From this, the participant attempts, much like Sullivan, to locate the virtually normal[92] homosexual as being within the mainstream and undeserving of negative portrayals as sexual beings. This allows for the persistence of some prejudice against those homosexuals who are seen to deserve it,[93] such as those who publicly display their fetishism at a Pride parade. It has been noted that 'the often fairly explicitly sexualised nature of, say, the annual *mardi gras* [Sydney's Pride festival] means that is doesn't always fit in with the "inclusive" – for which, read "family" – spirit of many other such events'.[94] These events rely on a form of cosmopolitanism in which the spaces in which Pride festivals exist are not regulated by moral (hetero)norms,[95] as they are far removed from the traditionally heterosexual space of the

---

[92] A Sullivan, *Virtually Normal: An Argument about Homosexuality* (Picador 1995).

[93] Ibid., 186.

[94] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 75; K Markwell, 'Mardi Gras Tourism and the Construction of Sydney as an International Gay and Lesbian City' (2002) 8 *GLQ: A Journal of Lesbian and Gay Studies* 90.

[95] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 77.

suburban home.[96] However, the public setting of Pride festivals and the visibility of fetishism on display cross the public/private divide, exposing deviant sexuality in public, transgressing both heteronormativity and homonormativity. Such discussions are important in the contrast between overtly sexual public Prides and the public status of marriage.

Sexual deviancy being displayed as a specifically LGBTQ notion resonates with historical conceptions of homosexuality and therefore seeks to undo the progressive work of homonormativity in making the homosexual an arguably desexualised body.[97] This clearly constructs Rubin's line of respectability[98] between those who are mainstream (whose sexuality goes unnoticed) and those fetishists who are out in public. The participant sees these fetishists as encroaching upon that line, moving the boundaries of respectability to encourage further 'deviancy', potentially demonstrative of evolving perceptions of the sexual hierarchy and valued sexuality.

Respectability is a ubiquitous signifier of class,[99] on which homonormativity arguably relies. Homonormativity may represent a middle-class aspiration that seeks to reproduce gendered masculine and feminine roles, while 'marriage automatically confers bourgeois respectability on its participants':[100]

> Erm I suppose the idea is that you're, it's a sort of public display of the sort of strength of your couple, so really it's a sort of outside perspective to you, but to me, in my couple, it's not important if we're married or not, the feelings are the main thing, but for other people looking at us, if we were to say we're married, they might have a different idea of who we are, they might think 'oh okay so they're not the kind of typical, gay, promiscuous couple, they're much more serious' and then the kind of knock on effect is 'oh they're more like us, they're married, I'm married too, just that I'm married to a woman and he's married to a man', erm, and so it comes back to this whole idea of analysing your similarities and differences, it makes you more similar and means that you would probably, you're probably more like to be able to accept each other, so yeah it's definitely a good thing, I'm definitely very glad that we can be married. (*Single gay man, 32*)

---

[96] C Barrett, 'Queering the Home' (2015) 12 *Home Cultures: The Journal of Architecture, Design, and Domestic Space* 200.

[97] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 179.

[98] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

[99] B Skeggs, *Formations of Class and Gender* (Sage 1997) 1.

[100] S De Beauvoir, *The Second Sex* (Vintage [1952] 1989); L Marso, 'Marriage and Bourgeois Respectability' (2010) 6 *Politics and Gender* 146.

The participant goes on to note how marriage, in comparison to the public representations of fetishism, is instead a public expression of normality – a status of good sexuality. Although he states that marriage would not affect his relationship emotionally, he does recognise that the outward expression of marriage would confer legitimacy and respectability. This implies that unmarried couples are less worthy of respect.[101] The participant thus echoes Marso's statement that 'to be married is to practice legitimate and appropriate sex, provide a suitable home for children without the obvious help of the state, … and participate in the promise of a bright future anchored in secure and stable values'.[102] Respectability may confer not only legitimacy through sex and sexuality, but also citizenship.[103] To be seen as 'more like us' demonstrates similarity and legitimacy, indicating successful integration into heteronormative society. In achieving this, the participant wishes to fit adequately within the heteronormative ideal so that he and his partner are not stigmatised as being not serious or mature enough as a couple. His distancing from the typical promiscuous gay couple also reinforces his reliance on the presumed monogamy offered by respectable marriage, without questioning possibilities outside of this. This reflects De Beauvoir's statement that respectable bourgeois happiness entails 'a gilded mediocrity lacking ambition and passion, aimless days indefinitely repeated, life that slips away gently towards death without questioning its purpose'.[104] This participant reflects this description by accepting and legitimating assimilation and reinforcing heteronormative ideals. He may be criticised by some for doing nothing to question or alter such norms, depoliticising and demobilising his gay identity, which may illustrate Vaid's statement that in choosing legal acceptance, we lose the ability to conduct change.[105]

5.6 Responsibility, Respect, and Maturity

Respectability is said to be predicated on a complex set of practices and representations that define appropriate and acceptable modes of behaviour, language, and appearance that are manifested as both social rules and moral codes.[106] These moral codes and social rules are

---

[101] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 82.

[102] L Marso, 'Marriage and Bourgeois Respectability' (2010) 6 *Politics and Gender* 149.

[103] B Skeggs, *Formations of Class and Gender* (Sage 1997) 3.

[104] S De Beauvoir, *The Second Sex* (Vintage [1952] 1989) 447.

[105] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 106.

[106] B Skeggs, *Formations of Class and Gender* (Sage 1997) 46.

arguably intrinsically linked with marriage, which was reflected on by one participant in the following way:

> And also, those of us who aren't interested in getting married, it kind of devalues our relationships, I've been with my partner for 25 years, it might be 26 sadly, and I just think you know, who could not respect that? (*Single lesbian, 68*)

Noting the longevity of her relationship, this participant rejects the notion that marriage should invite social privilege above unmarried relationships. Such privileging of marriage, in the participant's view, implies a devaluation of other relationships, echoing Warner's statement that unmarried relationships are less valued.[107] However, this participant relies on the notion of long-term maturity and monogamy as factors warranting respectability as a couple. Thus, although the participant rejects the marriage model, she partakes in – and sustains – the normative social relationship recognition that falls within the homonormative relationship model. This is in keeping with Cobb's theory that relationship recognition and longevity are markers for good citizenship[108] and, in turn, fulfils the role of the good gay. In marking out the longevity of relationship status, homonormativity is sustained through the indication of private personal success.[109]

Longevity, maturity, and responsibility emerged from the data as key indicators of respectability:

> I think it does add a degree of maturity to it, in that it does kind of put more of an emphasis in that there is more of an option now in terms of settling down with one partner and you can have your relationship, erm, which is helped if you will from marriage, it doesn't mean that that option is much more viable than it was, erm, so I mean yes, probably about someone at my stage of life, settling down with someone seems much more sensible if you see. (*Single gay man, 26*)

Settling down may represent a 'sensible' option, with marriage facilitating a secure relationship. Domestication was available to LGBTQ people prior to marriage. However, the advent of marriage represents the shift of the public/private divide, in which gay domestication becomes a public fact of life, while neoliberal privatisation may encourage economic

---

[107] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 82.

[108] N Cobb, 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"' (2010) 37 *Journal of Law and Society* 633.

[109] U Beck and E Beck-Gernsheim, *The Normal Chaos of Love* (Polity Press 1995).

independence and citizenship.[110] The domestic, as manifested by the ordinary, becomes a space in which societal ideals are sustained or contested,[111] and as such it is important to investigate the ways in which LGBTQ relationships or families sustain or contest the dominant normative discourse that surrounds the everyday ritual of the domestic. The incremental development of spousal, property, and parenting[112] rights for gay couples has, as this participant views it, been crystallised through same-sex marriage as a facilitator and symbol of these life choices. Marriage is seen as an enabler of this domestication and of the relationship form, 'helping' a couple to stay together and reaffirming their commitment through the legal sanctioning[113] of their relationship.

> I think anyone who's married in general probably feels a bit more respected than just living together … I think probably it legitimises LGBT relationships a little bit. Erm, you know you *can* get married, erm, and it, kind of, not that you need it, but yeah it changes the way people see you in terms of, because if you, if you don't know any LGBT people and what have you, you don't have that inside knowledge that they can live in a monogamous, long-term relationship and things like that, so I think it changes, it brings on a respect in terms of legitimising, so yeah. (*Single lesbian, 29*)

This participant reinforces the notion that marriage garners social respect through the recognition of a legitimised relationship that may rely on a performative manner of responsibility and maturity.[114] In noting that some wider society has an 'inside knowledge' that same-sex couples are capable of having long-term monogamous relationships, she posits this exclusive knowledge as something that does not transcend the public/private divide. The legitimising of relationships through marriage may be analysed using Ewick's legal consciousness theory as the participants are acting 'with the law',[115] appropriating its terms and practices in the defining of their relationships in order to benefit from the legal protection offered and to conduct a form of assimilation.[116] The participant thus informs her discussion of

---

[110] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 178.

[111] C Barrett, 'Queering the Home' (2015) 12 *Home Cultures: The Journal of Architecture, Design, and Domestic Space* 194.

[112] E Garwood, 'Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-Sex Reproductive Law' (2016) 17 *Journal of International Women's Studies* 5.

[113] R Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998) 150.

[114] N Barker, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013) 173.

[115] P Ewick and S Silbey, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998) 47.

[116] K Hull, 'The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage' (2003) 28 *Law and Social Inquiry* 632.

marriage through the notion of the legal status quo, offering little or no resistance to dominant forms of power[117] and, in turn, accepting her place within that hierarchy, in which it will be argued that same-sex marriage remains a lesser form of marriage (to be discussed in chapter 7). In appropriating the power of legal protection, homonormativity becomes instilled with privilege, using the 2013 Act to reinforce social respectability. This is enacted through 'the way people see you', in that respect is garnered through the appearance and performativity of the monogamous married couple.

This use of privilege and respect was reflected by a married participant:

> Hmm, more respected … I think, in a way, yes, because I think there's, um, a lot of misunderstanding about gay people being very kind of, fickle … so I think now that gay people can actually get married and that they want to show this commitment, that does make garner respect, because people can measure it on their own terms, in that respect … Yeah, because getting married is a respectful thing to do isn't it, and you're showing commitment to a person. (*Married gay man, 34*)

The notion of fickleness and respect resonates with the earlier quote and with public perceptions of same-sex couples and the perceived inability to have a long-term monogamous relationship. Marriage is conceptualised as the 'respectful' thing to do. A couple respects others by inviting them to attend the wedding and by allowing them to view their relationship in normative terms. Marriage thus becomes a conduit for reflecting and validating marriage as a social institution. Marriage is presented as a signifier of maturity that is universal,[118] having previously been withheld from gay couples who were thus unable to demonstrate their commitment and therefore presumed promiscuous.

This presumption of promiscuity is noted by one participant to be antithetical to narratives of respectability:

> I think, I had this conversation over the summer and was saying how like, the community wants to be respected, but it's hard to earn someone's respect when you don't respect people within the community, like if you know someone in the community who's cheated, you kind of, it sounds really bad, you do get a reputation, as a community, that you sleep around and that you, like, this and that, so it's hard to like, be respected if that's what you do, if you're so open about it. Obviously if you do it privately, like you're doing it and it's nobody else's business, but if you're flaunting it and you're like 'yeah I don't care who I

---

[117] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011) 35.

[118] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015) 73.

sleep with, I'll sleep with anyone', then it's like, well, people just generally won't respect you, maybe. (*Single gay man, 30*)

The participant posits that displays of sexuality have a negative impact on the LGBTQ community as a whole, affecting images of respectability. There is a conflict here between the freedom to have non-normative relationships and the taming effect of marriage,[119] with the participant lamenting the implications of being associated with promiscuity. 'Flaunting' one's non-monogamous, or promiscuous, sex life may offend the notion that sex and sexuality should be private and thus reinforce the lower place of promiscuous sex on the sexual hierarchy. This is at odds with the respectability of marriage and perpetuates a transgression of the public/private divide: in bringing debauched and deviant sexual representations into the public eye, Pride has been recounted as a further flaunting of an explicit representation of LGBTQ identity.

> It's the same with Pride, I don't like Pride because the image it creates is not how I live my life, or want to live my life, I don't want to be associated with it, I mean I like the origins of it but I don't like what it has turned into, a half-naked party on a boat, in Amsterdam, I think it's just ridiculous. (*Married gay man, 32*)

Originating from (and married in) the Netherlands, this participant draws a distinction between his married life and the lives of those who do not conform to a marital image and instead flaunt their sexuality publicly (despite some authors arguing that the commercialisation of such queer bodies feeds into neoliberal cultural citizenship[120]). This statement is in keeping with Robinson's findings[121] that deviation from homonormativity in the Netherlands is linked to feelings of shame and stigmatisation,[122] which relates to an 'act normal' mentality[123] that Robinson states pervades Dutch LGBTQ culture. This may also reinforce the image of marriage as one that discourages such behaviour through domestication and mandatory monogamy. The visual representations created by the Amsterdam Pride parade do not represent the married life of this participant, and therefore construct a bad representation of sexuality that is outside of the norm. The public flaunting of this sexualised image leads to the intensification

---

[119] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 132.

[120] L Johnson, *Queering Tourism: Paradoxical Performances at Gay Pride Parades* (Routledge 2005) 1.

[121] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 327.

[122] E Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Simon & Schuster 1963).

[123] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 331.

of an already commodified and individualistic gay sexuality,[124] which has led to the routing of civic value within commercial value.[125] Alderson has noted that this sexualisation is predicated on material value and the 'colonisation of gay male sexuality by a market which appealed to the private desires of consumers and thus structured the ethos of the material subculture'.[126] This commodification aids depoliticisation as political displays that were once transgressive are 'corporatised, regulated, and controlled'.[127] The consolidation of the material subculture has 'witnessed, and almost certainly contributed to, a simultaneous erosion of support for explicitly political activism'.[128] Thus, the commodification of Pride and queer bodies[129] not only feeds homonormative discourse, it also disrupts heteronormative respectability, crossing the public/private divide.

The implications of promiscuity emerged as a dominant concern regarding respect for same-sex marriage, and often coincided with perceptions of the 'novelty' of the institution:

> The other problem is that it's seen as a novelty, I don't think we get respect for being married, I think we'll always have to have the prefix 'gay' before we say it, 'gay wedding', 'I'm going to a lesbian wedding', why can't it just be a wedding, why do we have to trivialise it in a way, so I don't think we necessarily get respect for it, and we don't get respect for having monogamous relationships either, I think we're presumed to be, what's a nice way of putting it, I think we're presumed to be quite promiscuous as a community, and so people think it must be a minority who must be getting married, and we're not representing people in committed relationships, they aren't the norm in the community. Not that it matters, I think, [laughs] whatever floats your boat, but I feel like when people are looking into the community, they don't respect it, they trivialise it. (*Single lesbian, 22*)

This excerpt demonstrates that the perceptions and prejudices have not yet been removed for this participant. The participant's statement may reflect the heterosexual panorama[130] in which only heterosexual relationships are given visibility.[131] Reinterpreting this panorama in modern

---

[124] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 73.

[125] E O'Clarke, *Virtuous Vice: Homoeroticism and the Public Sphere* (Duke University Press 2000) 11.

[126] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 75.

[127] L Johnson, *Queering Tourism: Paradoxical Performances at Gay Pride Parades* (Routledge 2005) 1.

[128] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 75.

[129] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996) 3; L Johnson, *Queering Tourism: Paradoxical Performances at Gay Pride Parades* (Routledge 2005) 11.

[130] Blasius M, *Gay and Lesbian Politics: Sexuality and the Emergence of a New Ethic* (Philadelphia University Press 1994).

[131] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 54.

times demonstrates that same-sex relationships have gained visibility, but they are visible only in their distinctiveness from heterosexuality. This visibility arising from difference demonstrates that although same-sex couples may be allowed to marry, they are still stigmatised as deviating from the heterosexual norm. Marriage here can be seen as an act of moderating resistance: the participant wishes monogamous same-sex couples to be recognised as such, in order to avoid trivialisation. Moderating resistance, therefore, as used by Harding as a form of legal consciousness, involves resisting the power of the heteronormative state[132] in order to effect significant societal change. In this case, moderating resistance does not lead to lasting change regarding relationship recognition or structure, such as the abolishing of gender roles or sexual hierarchies. Instead, it intends to engage the state and to effect social understandings[133] of same-sex marriage and LGBTQ monogamy, reinforcing homonormativity in the just-like-you discourse. Visibility, in this matter, is of vital importance in the enactment of normativity and garnering respect.

This acceptance of same-sex marriage reinforces the power of marriage to garner respect for LGBTQ communities through similarities and the mainstreaming of the couple. Here, legality acts as a facilitator for social acceptance and provides a perspective that is different from the findings of Weeks et al. that social acceptance paved the way for legality. Mainstreaming, respect, and acceptance are further linked by another participant:

> As a gay person? I feel like it's just not as issue so much, erm, you can refer to your partner and there, there'll be no like 'oh my gosh', quite often it's like 'oh yeah', that's just how it is, so yeah I think there's more, I won't say respect, but acceptance, and just, just it's acknowledged … (*Single gay woman, 36*)

The continued acknowledgement of same-sex relationships then leads to their commonplace as cultural norms, in which relationships (reliant on normative expectations) are accepted.[134] Marriage reinforces the respect that was already accorded to long-term couples, irrespective of homosexuality or heterosexuality, and therefore reiterates the breaking down of familial barriers.[135] The effect of those broken-down barriers is the increased visibility and acceptance of sexuality, which this participant – in contrast to the participants discussed earlier in this

---

[132] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011) 85.

[133] Ibid., 47.

[134] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

[135] A Diduck, 'Shifting Familiarity' (2005) 58(1) *Current Legal Problems* 247.

chapter – does not feel has been affected by marriage. Here, marriage is the culmination of acceptance, rather than its starting point, which demands mandatory respect due to the impact of law:

> Erm, don't know if I feel more respected, I feel like people *have* to respect me more, people have to be quiet if they don't agree. I don't think that it … maybe forces people to challenge themselves a bit more. (*Single bisexual woman, 26*)

The mandatory respect conferred by marriage represents the power of law to accord a social status to an individual. The legislation is thus used by this participant to disavow negative attitudes towards homosexuality. It acts as a legislative confirmation of same-sex couples falling into the relationship ideal[136] and, due to the inherent status of marriage, reinforces ideals of the sexual hierarchy.

A final note on respectability corresponds distinctly with class and profession, further adding weight to the link between homonormativity and notions of class and economic success, potentially drawing on the mandatory respect of marriage:

> Erm, I think I'm respected for who I am and what I do, not my sexual orientation, but you'll have to ask other people that. How people view, if they see what I do and see who I am before they find out that I'm gay, or they find out I'm gay and then perceive me to be something else before they actually see the talents and the skills, I don't know. It doesn't really factor. (*Married gay man, 50*)

This participant attempts to reduce the effect that his sexuality has on his respectable image. He therefore aims to create a desexualised image of himself in order to maintain the professional image that he has constructed. He recognises that concealing aspects of his identity may be detrimental to his professional life:

> And actually if you're hiding your personal, you won't build up, my business is built on relationships, you need your personal relationships. (*Married gay man, 50*)

Marriage was therefore important in allowing his identity to be presented in a professional environment as part of a respected, legitimised, state-sanctioned relationship. In this way, marriage acts as a facilitator for managing his social and sexual life in order to balance the

---

[136] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 80.

needs of his professional life.[137] He is thus able to build the personal relationships needed for his business to function and also to create boundaries between the social and the sexual[138] that follow the dominant assumed exclusion of sexuality from professionalism.[139] Homonormativity therefore can manifest within social and professional respectability as a means of confining sexuality to the domestic sphere, creating the appropriate time and place for sexuality by restricting it to the confines of marriage.

5.7 Marriage Offering Protection

Marriage, as an accumulation of legal rights, has emerged throughout the data as a form of security. This is often couched within the protection of property rights and inheritance. However, the queer is not immune from the commodifying tendencies of capitalist culture.[140] The potential for subversive activities to be normalised, packaged, and reappropriated[141] is amplified within marriage.

Inheritance is a traditionally heteronormative model that favours the procreative transfer of property predicated on legally sanctioned relationships. It is now open to, and used by, LGBTQ populations. Marriage, therefore, provides an important right in the protection of a couple's assets:

> I bought the house we're living in, literally within the first few weeks of us being together, er, so the house is solely in my name and there is certain things I'd like to formalise around that, and I think marriage would help that. (*Single gay man, 33a*)

Here, the participant notes the importance of stability for his home and his relationship, and the possibility of using same-sex marriage to facilitate this. This statement is predicated on the beneficial legalities of marriage as an indicator of stability and the awarding of next-of-kin status. The bestowal of status is a crucial tenet of self-ownership and proprietary autonomy.

---

[137] K Deverell, *Sex, Work and Professionalism: Working in HIV/AIDS* (Social Aspects of AIDS, Routledge 2001) 80.

[138] Ibid., 126.

[139] Ibid., 127.

[140] M Hennessy, 'Queer Visibility in Commodity Culture' (1995) 95 *Cultural Critique* 31.

[141] M Dawes, 'Queer Property, Queer Persons: Self-Ownership and Beyond' (1999) 8 *Social and Legal Studies* 330.

The protection of assets was a significant factor influencing another participant's consideration of marriage:

> [T]he protection that marriage gives is really quite important, and that's why I see it as a good thing, and that's why I think we needed it really, because potentially, if my partner died, my partner died, my partner's 10 years older than me, I'd lose the house, so, if we don't get married, yeah, it's gonna put me in quite a difficult position. (*Single lesbian, 36*)

Marriage gives couples the chance to organise their property, as a precursor for a more secure financial standing and homelife in the face of mortality. If marriage is to be seen as a signifier of homonormativity, then property acts to establish and maintain this through legal mechanisms that support normative behaviour, demonstrating Hennessy's statement that the queer is not immune from capitalist culture.[142] However, it is also important to read the queering of gender norms within this statement. The participant and her partner cohabit a property and maintain their rights upon it, despite issues arising after the death of the older partner. This queers gender norms. Dawes has stated that '*being* property characterises the female condition, while *having* it denotes self-owning masculinity'.[143] Therefore, self-owning masculinity is queered in order to strengthen the couple and their rights to property, indicating a move away from the typical gender roles associated with heteronormativity. The home is used in non-heteronormative ways in order to affirm identities.[144] The participant firmly rejects notions of bad sexuality, occupying the very centre of both charmed circle diagrams (see Figure 21 and Figure 22). This illustrates a separation of sex from behaviour, occupying homonormativity while also demonstrating the desire for marriage as a facilitator of stability.

---

[142] M Hennessy, 'Queer Visibility in Commodity Culture' (1995) 95 *Cultural Critique* 31.

[143] M Dawes, 'Queer Property, Queer Persons: Self-Ownership and Beyond' (1999) 8 *Social and Legal Studies* 340.

[144] A Gorman-Murray, 'Homeboys: Use of Home by Gay Australian Men' (2006) 7 *Social and Cultural Geography* 53; A Gorman-Murray, 'Gay and Lesbian Couples at Home: Identity Work in Domestic Space' (2006) 3 *Home Cultures: The Journal of Architecture, Design, and Domestic Space* 145; A Gorman-Murray, 'Constructing Domestic Ideals: Queering the Australian Home' (2007) 38 *Australian Geographer* 195.
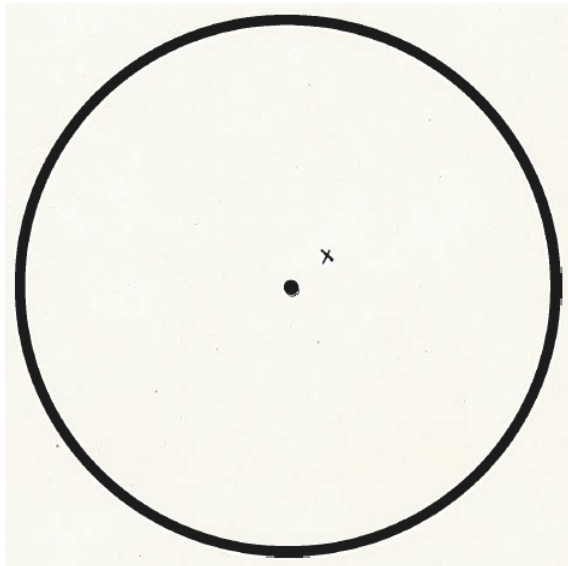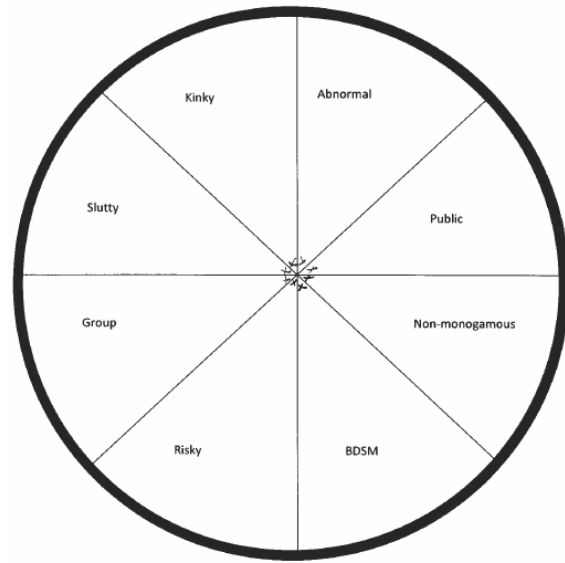
Figure 21: Single Lesbian, 36   *Figure 22: Single Lesbian, 36*

Stability, legal recognition, and security interlink with property concerns and protection, creating connections between emotional security through the domestic:

> When I was single, I used to feel, in a way, there was nothing settled, it was not, there was uncertainty, definitely. (*Single (dissolved civil partnership) gay man, 36*)

This uncertainty is indicative of the ways in which marriage offers stability, while the single state is uncertain, unfixed, and unstable.[145] It is in keeping with Rubin's theorising that the single individual does not adequately fulfil the requisite coupledom needed[146] in order to benefit from the societal and legal privileging of marriage. This privileging not only provides security and stability for the participant, it has also become part of his identity:

> When I married, there was security, I felt that there was a very established commitment towards my partner and that became part of my identity, it was a very interesting … And that, was through being married, so for me, being married gave me the identity of having something solid with somebody. (*Single (dissolved civil partnership) gay man, 36*)

---

[145] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 50.

[146] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

Marriage is constructed as a form of identity and commitment, protecting the couple from outside influences though the acceptance of legal recognition. Thus, by conduit, homonormativity becomes a form of sexual identity that encompasses not only homosexuality, but also conformity and normativity as constructions integral to its existence. Here, the law actively shapes the form of homonormativity by offering legal protections to these privileged constructions of coupled sexuality.

5.8 Recognition of 'Good' Sexuality

Marriage relies on narratives of 'good sexuality' through the legal recognition of a relationship, which Rubin has argued to be the only justifiable location for sex.[147] The recognition offered by marriage is arguably reliant on the heteronormative model, which will now be argued to be a signifier of *good* sexuality:

> I dunno, I just think that we've done this, we've got a civil partnership because it was the best thing at the time, but now there's better recognition as well, but to me that's if you always wanted to be in that straight-laced, heteronormative system and just buying into it further. (*Single lesbian, 21*)

'Buying into' this model further entails the assimilation[148] of dominant social roles that validate and reinforce heteronormativity, as marriage represents a structure. This improved recognition over civil partnerships may demonstrate the importance afforded to the label 'marriage' as a social marker of respect and status. However, as the participant notes, to buy into that respect and status is to buy into normative social standards that are based on the privileging of certain forms of family and relationship.[149] The participant explained:

> I think it puts you under a lot of – yes, it gives you the recognition, and the legal recognition, everything that goes with it, but ultimately, you've put yourself under those set of expectations, you've changed the criteria on the way your relationship is judged and the way you're judged. (*Single lesbian, 21*)

---

[147] Ibid., 150.

[148] S Phelan, *Sexual Strangers: Gays, Lesbians, and Dilemmas of Citizenship* (Temple University Press 2001).

[149] E Garwood, 'Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-Sex Reproductive Law' (2016) 17 *Journal of International Women's Studies* 5.

These expectations are manifest with the homonormative image of the private, domesticated, monogamous, and happy same-sex couple,[150] from which follows the process of delegitimising those who do not fall within this model.[151] This is in keeping with Warner's dividing of the good from the bad gay subject in the regulation of the sex lives that take place outside of marriage.[152] As Neary has stated, a 'portrait of monogamy, fidelity and love'[153] has become imperative to debates surrounding marriage. Law has arguably mandated such behaviour through the construction and recognition of 'good' sexuality:

> Erm … I think maybe the fact that it is legal means that the law does have more control in that the law does consider it an option, and maybe it is a way of moulding us into fitting us into, transferring it from them to us, like 'oh look at them they can get married as well and they have nice monogamous relationships and a dog and they just happen to have sex with someone of the same gender', and maybe it is a way of controlling us in a way and making sure that the deviant sort becomes normalised. (*Single lesbian, 22*)

This identifies a direct form of assimilation and normalisation in marriage as a form of control and relationship regulation that is predicated on homonormativity and the rewarding of good sexual behaviour. The normalisation of same-sex couples based on their sameness enforces neoliberal economics and domestic privatisation[154] as a means of minimising the state and its economic liabilities[155] and enforcing equality-driven reform that reduces diversity to similarity in order to gain respect and recognition. In the courts, this sameness has arguably been affirmed in *Fitzpatrick*[156] and *Ghaidan*,[157] in which this normative standard of relationship was identified as deserving legal protection. Being in a loving, longstanding, monogamous relationship, or living 'as husband and wife', gave a mandate for legal protection and support, thus demonstrating the recognition of 'good' sexuality through coupled domestic relationships.

---

[150] A Neary, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 771.

[151] Ibid., 774.

[152] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

[153] Ibid., 771.

[154] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 519.

[155] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 75.

[156] *Fitzpatrick v Sterling Housing Association* [2001] 1 AC 27.

[157] *Ghaidan v Godin-Mendoza* [2004] UKHL 30.

Another participant discussed his positive reaction to being able to marry as a recognition of his ability to form a marital relationship:

> Not really, and I found it really interesting when they started talking about, it was for me, it was fabulous, it was a huge breaking point in law, when being gay, we're gonna recognise you legally, it was awesome. (*Single (dissolved civil partnership) gay man, 36*)

Despite civil partnerships and various familial legal reforms that have taken place over the past 20 years, this participant nonetheless viewed marriage as a 'huge breaking point'. This may demonstrate the ways in which marriage is upheld as the ultimate form of legal recognition. In this insistence, we can see homonormativity being constructed as an identity that is grateful for marriage as a legal goal – one that may arguably create a depoliticised[158] culture that is reliant on the construction of good sexuality and that rewards and privileges marital relationships.

Such narratives may form the homonormative identity as one that can benefit from and enact these privileges through the form of respectability, individualism, and privatisation. Participants viewed marriage as a means of the law positively changing social views, through the recognition of same-sex couples:

> So, I think again, law … can influence positively to that, and contribute positively to people's views and identity. (*Single (dissolved civil partnership) gay man, 36*)

The law's positive influence on identity and perspective demonstrates how homonormativity has been enacted as an identity related to familial relationship recognition. The participant quoted below notes the importance of conforming to societal standards related to notions of citizenship and personhood. He states that marriage is fundamentally important to lived society:

> Yeah I suppose if you want to conform to the society that we have, then you probably, if you have a strong couple then you probably should, it's gonna save you a lot of hassle when it comes to all this fiddly law stuff, so I think yeah, whether you want to or not, you kind of have to, so yeah really it's kind of an indirect pressure, no one is telling you obviously, you have to do it but then behind it, it's saying if you want this, if you want access to this, then you have to do it, so it's kind of indirectly forcing you to. (*Single gay man, 32*)

---

[158] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 179.

Fundamental to his conception of marriage is the 'good couple'. It is clear that the notion of good sexuality is integral to this statement, as marriage may be argued to provide a means of fitting 'deviant' sexualities[159] within pre-existing models of relationship recognition.[160] The good couple is then recognised by the law and afforded social privilege through the universal standards of marriage and coupledom. In order to distance himself from perceptions of bad sexuality, social respect is needed and enforced through financial, social, and legal pressures that are manifest within marriage. Through this, the participant posits good sexuality as integral to marriage, relying on the sexual hierarchy to recognise and privilege those who enact a form of ideated good sexuality. Same-sex relationships may arguably disturb heteronormativity to an extent, in removing marriage's assumption of heterosexuality. However, homonormativity ultimately upholds and maintains its structures through the ideating of the couple and the valorising of its institutions, thus reinforcing the sexual hierarchy.

5.9 Conclusion

Throughout this chapter, same-sex marriage has been argued to be representative of homonormativity in facilitating access by same-sex couples to the institution of marriage and to standards of relationship recognition that rely on assimilation and normalisation.[161] However, further wide-ranging familial reform, social attitudes, and sexual standards have wide-reaching implications in the construction and maintenance of homonormativity as a significant social norm that is predicated on domesticity, mainstreaming, and the respectability of LGBTQ communities. Same-sex marriage was not the advent of these trends, but it may validate and fortify them. The legal structures that contribute to the garnering of respectability, the privatisation of responsibility, expectations of monogamy, and the burden of class structures also contribute to and fulfil Duggan's homonormativity.[162] This ultimately constructs good sexuality, in which the good gay is recognised by law and society for conforming to respectable and legitimate relationship standards and, in doing so, may acquire

---

[159] S Boyd, 'Family Law and Sexuality: Feminist Engagements' (1999) 8 *Social and Legal Studies* 369.

[160] Ibid., 369.

[161] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516; J Butler, *Undoing Gender* (Routledge 2004) 26.

[162] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 191.

'straight privilege'.[163] This may diminish the centrality of sexuality as an identity trait. Yet, at the same time, it reaffirms the notion of assimilation, insisting that same-sex couples share the same desires, needs, and prejudices that are used to maintain the heteronormative matrix.[164] Gender, desire, and sexuality are minimised as factors that contribute to identity. Relationship structures and tropes are thus reappropriated and enforced, constructing homonormativity as a form of identity and relationship that closely mirrors and reinforces heteronormativity within Rubin's line of respectability.[165] Same-sex marriage is arguably the means by which normative behaviour is socially and legally symbolised and represented. As such, behaviour that may be deemed homoradical will continue to be seen as 'weirder'[166] or stigmatised,[167] due to the legitimation of some same-sex couples at the expense of others.[168]

---

[163] M Bernstein Sycamore, 'There's More to Life Than Platinum: Challenging the Tyranny of Sweatshop-Produced Rainbow Flags and Participatory Patriarchy' in M Bernstein Sycamore (ed), *That's Revolting!: Queer Strategies for Resisting Assimilation* (Soft Skull Press 2004) 1.

[164] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

[165] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[166] J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001) 99.

[167] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

[168] M Warner, 'Beyond Gay Marriage' in W Brown and J Halley (eds), *Left Legalism/Left Critique* (Duke University Press 2002) 260.

6
The Construction of the
Homoradical Identity

6.1 Introduction

The homoradical identity has been constructed from this empirical study. It is a reaction to the emergence and validation of the homonormative identity, rejecting the normative behaviours that are furthered by same-sex marriage. It is an identity pushed to the peripheries of the sexual hierarchy, or the 'outer limits' of the charmed circle, crossing Rubin's line of respectability.[1] Using the empirical data collected during this study in consideration with the categories of Rubin's charmed circle, the homoradical will be described as a body that actively takes steps to oppose the normativity advanced by familiarisation and assimilation put forward by marriage. A revised version of Rubin's circle will be used – with segments of kink sex, public sex, non-monogamy, risk, abnormal sex, and slutty sexual behaviour – as part of the qualitative and visual data collected from the participants of this study. The visual data will demonstrate how the homoradical exists at the 'outer limits' of the sexual hierarchy, manifesting due to sexual activities and practices that are constructed as 'bad' sexuality as an act of hegemonic resistance and political process.[2] The homoradical will thus be constructed noting the potential to alter preconceived notions of intimacy, sex, and relationships; renegotiated monogamy; the queering of the domestic and public space; and pleasure, pain, and kink sex. In doing so, the homoradical may be recognised for this potential in the resistance posed to normative narratives surrounding LGBTQ sexuality and same-sex marriage. The homoradical reinvigorates and reinforces the sexual challenge posed by queer bodies and identities, denouncing erotic injustice and sexual oppression.[3] Rubin stated that sexual behaviour has to be justified by marriage, procreation, or love[4] in order to represent good sexuality: this chapter will delve into 'unjustified' sexuality and present the lived experiences of such non-normative, anti-

---

[1] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[2] J Butler, *Undoing Gender* (Routledge 2004) 8.

[3] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 149.

[4] Ibid., 150.

assimilationist identity, concluding that the homoradical deviates from the normative practices that same-sex marriage reinforces.

6.2 Redefined Relationship Boundaries

A significant theme to emerge from the data was the potential of LGBTQ relationships to redefine and renegotiate socially held norms regarding relationship boundaries and definitions, which is argued to be a trait of the homoradical. This transformative potential[5] is central to queer theory and may be used to argue for the extension of relationship recognition, from a model that focuses on coupled and domesticated relationships, to pluralised recognition that accounts for diverse and non-normative relationship structures.[6] Renegotiating the boundaries of casual sexual relationships and friendships emerges from the empirical data as a clear theme and may demonstrate the sexual liberation of the participants, deconstructing preconceived heteronormative relationship boundaries:

> Yeah, erm, so … so nowadays I mean I'm single, I, erm, in terms of meeting new people or in terms of friendships I have with new people, erm I'd happily develop friendships with people, and chat with people and have a coffee, erm, I'd happily have friends who I'd have sex with, and that would be quite a relaxed relationship, I'd happily go on dates and develop a relationship, but that's, that's certainly not something I would do as often, it's not a consideration I have at the meantime, it's more kind of, you know, to kind of put it crudely, if someone says they are looking for Mister Right, I am right at the opposite end of what that means [laughs] … So I'd happily make a friendship and I'd happily have that friendship be sexual as well, or I'd happily hook up with someone as a random thing, as a one off thing, as it might happen occasionally. And that's been the case for a couple of years, yeah. (*Single gay man, 25*)

This participant recounts the ways in which sexual relationships and friendships are traditionally separated, whereas for him they have become interlinked, and boundaries between sexless friendships and relationships have been removed. This links to Giddens's notion of the transformation of intimacy,[7] in which sexuality, freed from the restrains of reproduction, is decentred and granted further fluidity, coined by Giddens to be 'plastic sexuality'.[8] This plastic

---

[5] Muñoz J, *Cruising Utopia: The Then and There of Queer Futurity* (NYUP 2009) 1.

[6] C Meeks and A Stein, 'Refiguring the Family: Towards a Post-Queer Politics of Gay and Lesbian Marriage' in D Richardson, J McLaughlin, and M Casey (eds), *Intersections between Feminist and Queer Theory* (Palgrave 2006) 138.

[7] A Giddens, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Polity Press 1992).

[8] Ibid., 2.

sexuality is centred around the emergence of the contraceptive pill and female autonomy in women's sexual liberation and reproductive choice. However, this is in marked contrast to the LGBTQ, who have further freedom to develop practices outside of the heteronormative model, free from pre-described social norms. This has created the opportunity to develop a new sexual ethic that is not dependent on strict rules and boundaries. Thus, sexuality has become the property of the autonomous individual.[9] This participant embodies that liberation from external prescription. In the creation of sexualised friendships that do not become emotionally or sexually monogamous, the participant demonstrates the creation of internally referential systems that serve to benefit the individual and that do not adhere to heteronormative structures.[10]

In his publication nearing the end of the AIDS epidemic in 1999, Nardi found that sex among gay male friendship groups had diminished as men were seeking monogamous intimacy in order to prevent transmission.[11] However, as the epidemic has become decentralised to narratives of gay male sex through the mitigation of transmission risk, the potentiality of sex as a radical tool to change social standards has become more prevalent. Therefore, sex outside of relationships, and outside of marriage, may take on further significance. The same participant demonstrates the transforming standards of intimacy that follow on from sexual liberation and improved healthcare.[12] He went on to state:

> So my view on that has changed over the last few years, erm, but I've certainly become more open to more casual relationships than I was. But, I think, maybe the next question is to what extent has marriage affected that, erm, I don't think same-sex marriage has affected that, I think that's my personal shift more than anything else. (*Single gay man, 25*)

For him, same-sex marriage has not instigated a move towards normativity, as has been evidenced in the previous chapter. He has rejected the ideated coupled relationship proscribed by marriage. Through this, he reinforces Hosking's notion that gay men have methods of maintaining emotionally and sexually satisfactory relationships that are neither monogamous,

---

[9] H Worth, A Reid, and K McMillan, 'Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships' (2002) 38 *Journal of Sociology* 237.

[10] B Heaphy, C Donovan, and J Weeks, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe et al. (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014).

[11] M Lasala, 'Monogamy of the Heart' (2004) 17 *Journal of Gay & Lesbian Social Services* 9.

[12] P Nardi, *Gay Men's Friendships: Invincible Communities* (University of Chicago Press 1999) 75.

exclusive, nor traditional coupled relationships.[13] In this participant's personal shift towards more casual relationships, he reaffirms the homoradical notion that is excluded from normative discourses, which focus on the privatisation of coupled relationships. In pluralising and expanding the range of sexual or emotional relationships available to him, he indicates a rejection of the values that are manifest within marriage:

> I think, I think there's a big discussion to be had in the next few decades about what relationships are and should be, and as an established thing for a century, maybe longer, that monogamy is what it should be, erm, I think that is gonna change, you know it changed before then, we've had this for a long time; I think it's starting to crack, and I find that interesting both at a personal level and at a social, let's chat about it for a few hours level, and I think you know, I like, I like the idea of a monogamous marital relationship, I don't like that being the thing, the only thing. (*Single gay man, 25*)

In advocating for a pluralising of recognised relationships, the participant demonstrates resistance to the coupled hegemony of marital law and presumed monogamy. In this, the participant presents a departure from familial language and goals, in contrast to Weeks's statement that lesbians and gay men are predisposed to idealise coupled relations.[14] It is important to note that some participants had a desire to oppose normativity and others coincidentally fell into such patterns. Thus, it may be argued that the homoradical identity is far removed from highly conventionalised relationship standards, as found in other studies, Rather, it represents ever-expanding and redefined relationship standards and structures.[15]

6.3 Non-Monogamy

An integral feature of the redefinition of boundaries and relationship standards is the use and construction of non-monogamous sexual activities and understandings. The homoradical 'non-monogamist' thereby reaffirms the use of sex (sexual intercourse or other sexual acts) as a means to create their own standards of relationship and intimacy, in defiance of legal and social expectations of monogamy:

> Well, it's one of your later questions, but I would describe myself as, like, a non-monogamist, erm, that's not to say I might not get married in later life, but it's just not

---

[13] W Hosking, 'Satisfaction with Open Sexual Agreements in Australian Gay Men's Relationships: The Role of the Perceived Discrepancies in Benefit' (2013) 42 *Archive of Sexual Behaviour* 1309.

[14] J Weeks, *Invented Moralities: Sexual Values in the Age of Uncertainty* (Columbia University Press 1995) 36.

[15] H Worth, A Reid, and K McMillan, 'Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships' (2002) 38 *Journal of Sociology* 237, 242.

something that, for some people, like, if you're watching *Don't Tell the Bride*, for a lot of people it seems to be very, very important to them, everything that it means, whereas I feel a bit outside that. (*Single gay man, 27*)

Introducing the term, and self-identifying as, 'non-monogamist' demonstrates this participant's affirmation of non-monogamy. This self-identification is an important observation made by the participant. In constructing his own sexual identity and the homoradical identity through self-reflection, he affirms a commitment to non-normative sexuality and positioning himself in opposition to social norms of monogamy. This is a rejection of the depoliticisation that Duggan notes to be integral to the homonormative identity.[16] By this process of self-reflection and through engaging with moderating resistance to normativity,[17] the homoradical identity is constructed as one that is 'outside' of traditional marriage narratives, as noted by the participant, resisting the state's power to interfere with his individuality. The participant references popular culture that focuses on marriage and weddings[18] – narratives in which he feels unrepresented. A culture of marriage is implicit within the participant's data, stating how it is not 'important' to him – while to others it may be extremely important. Although the participant may not have been fully aware of Rubin's sexual hierarchy, he implicitly puts himself at the 'outer edges'[19] by stating that he feels 'outside' of the traditional marriage culture that focuses on normative social expectations of sex and relationships. This traditional expectation is central to the sexual hierarchy, which values the heterosexual nuclear family – which could be seen as the centre of Rubin's circle – as being 'sanctifiable, safe, healthy, mature, legal, or politically correct'.[20]

Marriage has been described as a restriction on the freedom to form relationships[21] – which has long been a part of LGBTQ culture – through either the construction of 'families of choice'[22]

---

[16] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 179.

[17] R Harding, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011) 35.

[18] *Don't Tell the Bride* is a reality television programme in which a groom plans his wedding without any input from his partner (usually the bride, although there are some same-sex marriages or civil partnerships involved): <http://www.channel4.com/programmes/dont-tell-the-bride>.

[19] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[20] Ibid., 152.

[21] G Hocquenghem, *The Screwball Asses* (trans N Wedell, Semiotext(e) 2010) 25.

[22] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 200.

or the establishment of non-monogamy as a norm within gay culture.[23] This is touched upon by the participant quoted below, who calls for legal recognition of non-monogamous relationships:

> [I]n this respect the law as well needs to recognise the fact that people want to have open relationships and that wouldn't trigger the adultery clause or whatever, and I think we need to be more aware of the fact that people are doing things that aren't classified as normative, yeah. (*Single lesbian, 22*)

Calling for active recognition of non-normative sexual relationships that fall outside the monogamous dyad may demonstrate resistance to the normative socio-legal structures that presume monogamy. In traditional marriage, non-monogamy (defined as adultery) is a factor attributing to the irretrievable breakdown of the marriage. In calling for the recognition of non-monogamy, this participant notes its prevalence and acceptance in LGBTQ populations, as demonstrated by many of the participants. This is not to presume that the unavailability of adultery in same-sex divorce proceedings represents a recognition of non-monogamy. However, the omission of adultery may have positive effects in allowing for more nuanced understandings of open relationships that are not proof of an irretrievable breakdown. The participant's comments may be taken to demonstrate the transformative potential of married same-sex couples in developing notions of non-monogamy and cultural acceptance of such practices.

Same-sex marriage is often presented as a symbolic victory[24] in achieving rights for same-sex couples, and as something to which LGBTQ people should aspire. However, the participant quoted below disputes this and rejects the notion that same-sex marriage is an aspirational structure. He maintains the presumption of monogamy inherent to marriage:

> Erm, and I mind that, erm, I mind marriage becoming this symbol for gay relationships, erm, if people wanna have sex with those they're in love with and get married to people they're in love with, great. What about those who have sex with people they don't love, what if you want to have sex with two people, or be with them both, you know, what about all of those things? (*Single gay man, 25*)

---

[23] M Lasala, 'Monogamy of the Heart' (2004) 17 *Journal of Gay & Lesbian Social Services* 21.

[24] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015) 25.

The participant notes the importance of marriage for those who can successfully fall within the monogamous marriage model, yet critiques and exposes the exclusive nature of marital law. In symbolising gay relationships, marriage and homonormativity have become inherently linked. This may be indicative of the pervading normalisation of the married couple that fails to represent non-monogamy and polyamorous populations, serving to ostracise such practices due to their 'otherness' to the marital norm. In stating this, the participant echoes Warner's statement that:

> As long as people marry, the state will continue to regulate the lives of those who do not marry … it will criminalise our consensual sex. It will stipulate at what age and in what kind of space we can have sex. It will send the police to harass sex workers and cruisers. It will restrict our access to sexually explicit material. All this and more the state will justify because these sexual relations take place outside of marriage.[25]

This serves to demonstrate that same-sex marriage is at once inclusive and exclusionary, stigmatising those whose sexuality does not fall within the proscribed successful coupling. According to the participant, polyamorous, non-monogamous, or promiscuous people are neither represented nor rewarded by marriage. In keeping with Warner's statement, nor are those who use pornography, sex workers, or public sex environments. Such activities and identities firmly align with the homoradical as one that rejects normative attitudes towards sex and sexuality and is pushed to the edge of the charmed circle. The homoradical thus encompasses sexual activity as a form of identity, maintaining an approach to non-monogamy that fulfils ideals of sexual liberation and rejects mononormative discourse.

6.4 Sex Outside of Relationships

Sex outside of relationships represents the renegotiation of monogamous boundaries occurring both within and outside of recognised relationships. It may be used to demonstrate the ways in which LGBTQ populations practise forms of sexuality that were previously antithetical to discourse surrounding marriage:

> I don't go searching for sex a lot, I mean, I am on apps and all the rest of it, obviously how I met you, but a lot of it, more I look for friends more than anything, but if you meet someone you connect with, *fucking woof*, you're hot, sex is sex at the end of the day and I tell my other half everything I do, and he tells me everything too, so that's it, but more, I

---

[25] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

don't, meaningless just wham-bam sex doesn't work for me, I don't go looking for that anymore, or very rarely, sometimes the hot weather drives you nuts [laughs]. (*Single (dissolved civil partnership) gay man, 46*)

This participant demonstrates the ways in which gay men are able to compartmentalise[26] sex and emotion, engaging in non-monogamous sex without feelings of jealousy and betrayal: 'sex is sex'. This statement represents the ways in which sex is essentialised as an experience or activity that is meaningless beyond its primary purpose of achieving sexual satisfaction. For this participant, communication and openness with his partner are essential in order for extra-dyadic sex to take place and to protect their primary relationship.[27] However, these extra-dyadic sexual encounters may take place with friends met through dating apps, in contrast to data which shows that non-monogamous partners regularly have no emotional connection.[28] In developing friendships through sex, the homoradical moves beyond normative boundaries separating emotion from sexual practice outside of relationship boundaries. Therefore, in establishing his own relationship guidelines and rules, this participant refuses to adhere to classical marital monogamy and rejects previously held notions of emotional fidelity.

An important aspect of non-monogamy is the disestablishing of normative notions of coupledom and commitment. This participant explains that this is a meaningful feature of his non-monogamy:

> So in a way, if the expectation is because of being married, married being the same as, say, straight married people, it is not, because we cannot overrule the fact that we are gay but different, we might agree on different sexual practices that straight people don't … So, in a way with my current partner, we have agreed not to have boundaries, not to have restrictions and not to have any of that that actually made my previous marriage collapse. But, in a way that makes me love him and want him more, rather than the random, if I meet people and we have a meeting, whatever it is, sex, a beer, it is fine, there is no, we are redefining commitment in a way, and it's possibly weird because you might think that there is a threat of jealousy, or having a better person in a way, but it doesn't. (*Single (dissolved civil partnership) gay man, 36*)

---

[26] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117.

[27] M Lasala, 'Monogamy of the Heart' (2004) 17 *Journal of Gay & Lesbian Social Services* 21.

[28] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117, 118.

For this participant, despite having been in a civil partnership that has since dissolved, his current relationship is constructed 'from scratch',[29] without the restrictions that inhibited his civil partnership. This entails the abandoning of established monogamy rules, demonstrating that he and his partner express their sexuality as outside of the heterosexual norm. This notion of being outside not only corresponds with the sexual hierarchy and the exclusion of the homoradical from normative standards, it also emphasises the importance of such self-recognition and the ability to redefine commitment. By assessing this positioning as a homosexual norm, one which may be argued is self-inflicted, it becomes possible to understand open relationships and monogamy from an LGBTQ-specific context[30] and thus better understand the role of monogamy. Rejecting respectability politics reinforces the sexual queer[31] as an integral part of the homoradical identity, one that does not abide by social or legal rules regarding monogamy and sexual relationships. In his redefinition of commitment, this participant emphasises the importance of self-reflection to the homoradical and the active attempts to destabilise heteronormative standards implicit in relationships.

Self-reflection and attempts to destabilise construct the homoradical as a political body, manifest as a reactionary force to normative tendencies. Worth et al. have stated that, to some LGBTQ persons, monogamy is a signifier of a successful relationship and that 'without the trappings of traditional heterosexual familial commitments, monogamy becomes even more important as external reference point and signifier of the relationship'.[32] However, the opposite is true for this participant. He rejects notions that monogamy equates with success and instead develops further relationship standards and functions. For this participant, allowing sex to perform a function outside of his relationship provides for personal reflection and sexual freedom and is key to the non-monogamist identity.

---

[29] B Heaphy, C Donovan, and J Weeks, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe et al. (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014) 168.

[30] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117, 118.

[31] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 50.

[32] H Worth, A Reid, and K McMillan, 'Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships' (2002) 38 *Journal of Sociology* 237, 248.

The participant quoted below discusses the ways in which his sexual activity outside of relationships has allowed him to conceptualise further relationship models to suit his sexual desire and needs, emphasising the ability to redefine commitment:

> I think people have accepted that, not that I go out looking for things, particularly in a relationship, it's always been the case of if you've slept with someone, just tell us, er, please don't sleep with my brothers, there's usually one of her brothers, or any of their colleagues that I have a crush on, don't sleep with them. It's half the sport [laughs] so I don't think it will change, it's always been open, I would quite happily have a relationship with a man and a woman at the same time, as I have in the past, er … I would quite happily have a husband and wife, or I would call it a husband and wife at the same time. (*Single bisexual man, 28*)

This participant thus advocates for the broadening of marriage in order to move beyond dyadic pairings and include polygamous relationships, appropriating the terms of marriage to serve his relationships. This is reminiscent of Weeks's statement that, prior to same-sex marriage, those in civil partnerships often appropriated the language of marriage in order to remove difference between the two.[33] On this occasion, however, the participant would appropriate the language of marriage in a new way, reaffirming his bisexuality and legitimising it, at once queering notions of marriage yet also demonstrating a normative lens from which the label of marriage becomes a necessity. The legitimising of polyamorous relationships has been seen as an attempt to 'tame' radical sex,[34] and using marital labels may be another example of this. However, this demonstrates the ways in which the homoradical may attempt to redefine the institution of marriage by using radical sex as a tool to implement social change, with sex outside of coupled relationships and the public expression of this as a destabilising act. Calling for the legitimation of non-dyadic relationships calls into question bigamy law and would seek to disturb the sexual hierarchy by changing the structures of relationships deserving of protection. As shown below, the participant also creates situations in which sex, though non-consensually non-monogamous, breaks established relationship boundaries:

> My partners have always said if you're in a city, ask us first, if not go to Grindr [laughs] er, if they're around, if they're not around, fair enough. I guess that's just because they got annoyed, either because they're horny or whatever, but, er, they kind of get pissed off if I go and sleep with someone if they're right next door [laughs] er, no so it won't change, I

---

[33] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 43.

[34] N Rambukkana, 'Uncomfortable Bridges: The Bisexual Politics of Outing Polyamory' (2008) 4 *Journal of Bisexuality 1*43.

won't change, er, I could but I don't see it happening, and I think it just depends on the person you end up in a relationship with. (*Single bisexual man, 28*)

From this statement, it is clear that sex and sexual expression form an important aspect of the participant's lifestyle – one that is more important than the wishes of his partners. By stating that he will not change in the advent of marriage – and despite using the labels of marriage – he refuses to let marriage alter the ways in which he forms his radical sex patterns and performs his identity. This reaffirms the commitment to non-normative sexualities as a form of personality development and the maintaining of a non-monogamist or homoradical identity. This may be used to affirm the 'pride in promiscuity',[35] which is often associated with gay male sexuality, and to demonstrate the significance of non-monogamy and the ability to redefine relationship boundaries through sex.

Promiscuity, or 'sluttiness', as a character trait identified within the data has come to represent the homoradical as a means of disrupting and challenging normative boundaries surrounding sex, particularly sex with multiple partners, outside of relationship boundaries. By being slutty, or to identify as a slut, is to actively embrace 'slutdom' and therefore confirm an identity trait of sexual freedom that transgresses conventional gender roles[36] (with slut traditionally being a gendered term towards women) and relationship norms.

As one participant explained:

> It's really hard because you're trying to think about what you do with society at large, I'll put myself half way … [laughs] with regards to how that word is used in society, I think by normal society at large, I think I'd be classed as a slut … (*Single gay man, 30*)

This participant placed himself halfway to the edge on the 'Kinky' circle segment, while further to the edge of 'Slutty' (see Figure 23). While recognising that heteronormative standards would label his sexual freedom as slutty, he reclaims the term 'slutty' to denote sexual freedom.

---

[35] R Ringer, 'Constituting Non-Monogamies' in M Bernstein and R Reimann (eds), *Queer Families, Queer Politics: Challenging Culture and the State* (Columbia University Press 2001) 137.

[36] B McDavitt and M Mutchler, '"Dude, You're Such a Slut!" Barriers and Facilitators of Sexual Communication among Young Gay Men and Their Best Friends' (2014) 29 *Journal of Adolescent Research* 464, 476.
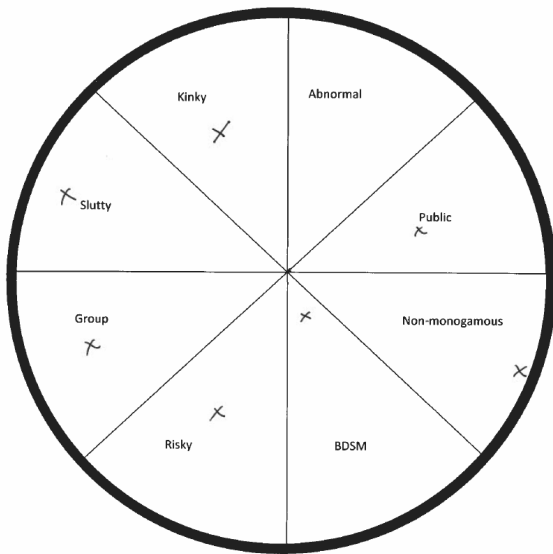
Figure 23: Single Gay Man, 30

Statements such as 'sex is sex' emphasise the ways in which sex outside of relationships is conceptualised as a 'means-to-an-end', while also creating new meanings for notions of faithfulness and commitment. It is important to note that the participant quoted below is married, reaffirming the significance of redefining commitment:

> I wouldn't be opposed to having sex with someone else, if that was, because I wasn't necessarily consider it as being unfaithful, because he would do the same thing, if he was in the same situation … I just think society deems it as abnormal, but individually, as a couple, we have an agreement that sex is sex. (*Married gay man, 43*)

This participant positions his own and his partner's sexual activity as being abnormal in relation to society, in keeping with Vaid's statement that gay sex is always a direct challenge to heteronormative government.[37] The participant and his husband reflect the compartmentalisation[38] theory, separating notions of marriage from sexuality and actively representing homoradical sexuality.

---

[37] U Vaid, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 63.

[38] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117, 135.

Another married participant similarly discussed the difference between an open relationship and sex outside of the relationship:

> Participant: 'I wouldn't say it's open but we're not, we don't have this exclusive that yes, we're … we can meet who we want, shag who we want, when, but … so we both don't do that, but there are …'
>
> Researcher: 'Just when the opportunity arises?'
>
> Participant: 'There are elements, yeah, we're not on this constant mission to shag random people, it's just … we're all human, just because you're married to someone, doesn't mean that you can only ever be attracted to them, and you only ever want to sleep with them, and you're quite open to that.' (*Married gay man, 34*)

This participant constructs open relationships as being promiscuous, using visceral language to evoke images of rampant sex, whereas the sex outside of his relationship occurs in a more planned manner. His visual data demonstrates how non-monogamous sex is an important part of his sexual practices, but also how this may be construed as slutty due to his marital status (see Figure 24).
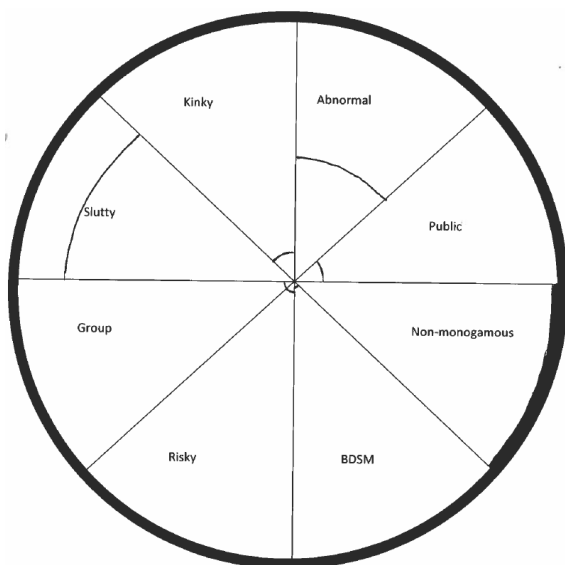

Figure 24: Married Gay Man, 34

It is important to note that these married participants are actively redefining what it means to be married and how to experience a marriage, expanding what the private confines of marriage are, by inviting other sexual partners into the domestic setting. This, therefore, has the potential to transform understandings of marriage. Practising 'bad' sex while in the confines of 'good' marriage may inform discussion of how the homonormative and homoradical are performative,

with the public image of marriage cloaking the lived truth of sexuality. This participant's confirmation that, within his relationship, sex with other men is not considered to be infidelity or unfaithfulness is in direct contrast to Macedo's statement that marital non-monogamy constitutes a break in faith with the partner and with wider society.[39]

One participant noted the implications of a marriage-like institution 'cloaking' his non-monogamous practices, with marital relationships presuming, like Macedo, monogamous behaviour.[40] This may further contribute to the transformative potential of marriage to alter understandings of non-monogamous relationships:

> I think if you're in a non-traditional relationship like I am, based in a tradition of marriage almost, then, that, those two layers because increasingly more complex for people to take in, which kind of goes back to what I said earlier, if you want hook-ups or whatever, if you wanna meet another person, you get the 'but you're …' if they find out you're civil partnered, they do go 'but you're civil partnered, how can you do that?' or often the word they use is marriage, which I also find really interesting, so they don't recognise the fact that the civil partnerships are there to protect, but you try to explain that, you get the words marriage flashing up. (*Bisexual civil partnered man, 36*)

This participant recognises the apparent inconsistences of being in a non-monogamous relationship that is based within the presumed monogamy of a civil partnership. This is important in relation to his use of the word 'marriage', which establishes monogamy as a standard within recognised relationships and yet also confirms Heaphy et al.'s findings that often civil partnerships and marriage are thought to be the same thing.[41] The participant's 'two layers' represent the public/private divide, which the participant notes as having a tangible impact on the ways in which he performs his partnered identity and the ways in which he has a functioning sex life outside of his civil partnership. However, this presumption of monogamy is manifest within civil partnerships and same-sex marriage, as Worth et al. have noted, due to monogamy being an external reference point and signifier of relationship success.[42] As such, this participant is aware of the social expectations associated with civil partnerships and marriage, as are his extra-dyadic partners. For these partners, marriage and presumed

---

[39] S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015) 72.

[40] Ibid.

[41] B Heaphy, C Smart, and A Einarsdottir, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013) 5.

[42] H Worth, A Reid, and K McMillan, 'Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships' (2002) 38 *Journal of Sociology* 237, 248.

monogamy form a barrier to sex that is a result of societal expectations, reinforcing the notion of the desexualised homonormative. For the participant, the civil partnership is a method of legal protection. However, he experiences issues when his sexual partners attach societal value through the mislabelling of marriage. This notion of attached value is touched upon by the participant:

> Now, at the moment, my thinking is, is that, whilst I don't want to ever undervalue marriage for other people, the thought of only having sex with one other person until the day I die, makes me a little bit ill [laughs] and so I just don't think that's realistic for me, and so I think that, erm, I could – don't get me wrong – I could do that, should the relationship change to that, should we have a discussion about that, I would respect it and never cheat or do that, but at the moment, I don't think either of us are at the right place to do that yet, if that makes any sense. (*Bisexual civil partnered man, 36*)

This then reaffirms the importance of sex as a destabilising tool to this participant and the importance of non-normative or non-traditional relationships. The homoradical is such an identity where sex is an integral part of one's sexual identity, far removed from the desexualised nature of the homonormative and same-sex marriage. The participant's reference to undervaluing monogamous marriage presents an interesting parallel to the traditional sexual hierarchy: in Rubin's structure,[43] the monogamous heterosexual marriage sits at the top as the most socially valued and respected form of sexual expression. By suggesting that, for him, non-monogamy is more valued than conforming to mono-normative socially held values, this participant presents his own sexual hierarchy, in which his non-monogamous relationship and his sexual activities with others take priority. This represents a queering of the sexual hierarchy. The participant notes the ways in which his own sexuality would subsume traditional heterosexuality as the most valued, and therefore queer the sexual hierarchy as one that favours non-monogamy. However, as shown by Figure 26, the participant conforms to the traditional sexual hierarchy when placing himself on the charmed circle, existing at the outer edges in order to indicate his practice of bad sexuality, which is at odds with normative constructions.

---

[43] G Rubin, 'Thinking Sex: Notes for a Radical Theory of The Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.
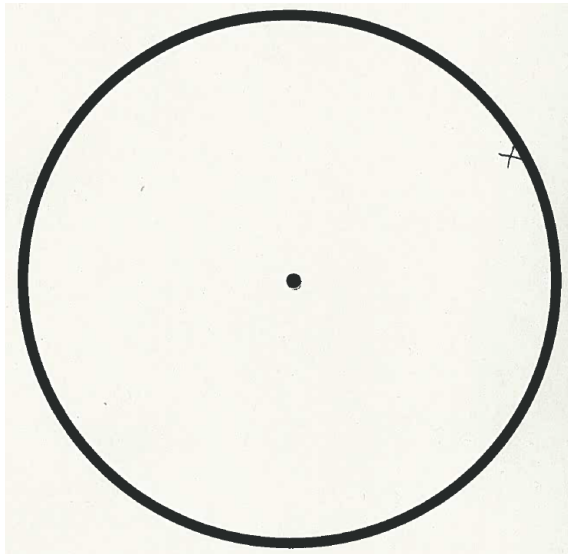
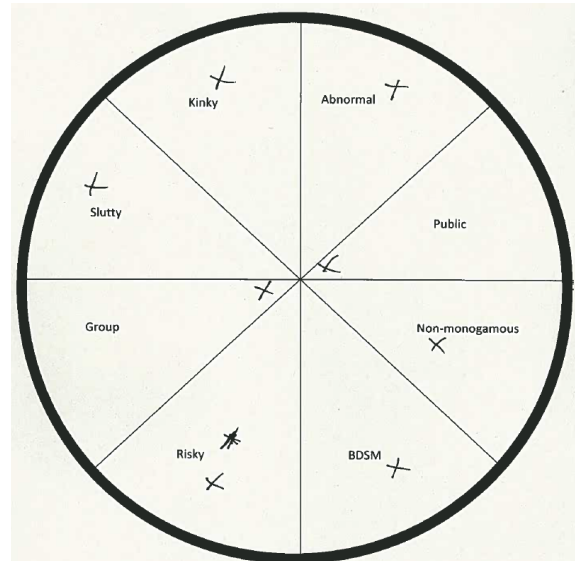***Figure 25: Bisexual Civil Partnered Man, 36***   ***Figure 26: Bisexual Civil Partnered Man, 36***

The homoradical arguably has the power to queer the sexual hierarchy in the subversion of socio-sexual norms and the prioritising and valorising of traditionally 'bad' sexual practices. The 'subsection' of gay society, as noted by the participant quoted below, represents an identity that may not assimilate to the norm of 'straight privilege'[44] that has been seen by many to radically reduce the potential of the queer challenge:

> [Y]ou've got a subsection that think that we shouldn't be mainstream and that we should
> … have sex with everyone. (*Married gay man, 32*)

This participant recognises a group of LGBTQ people who actively resist normativity through the use of sex as a destabilising tool, in order to resist the mainstream, which he sees as including marriage. His position arguably represents the anti-assimilationist stance of the homoradical, which may therefore be viewed as a promiscuous minority of the LGBTQ community that actively seeks to distance itself from the homonormative and heteronormative mainstream. This mainstream is arguably represented by same-sex marriage, as a conduit for social acceptance and normalisation.[45]

---

[44] M Bernstein Sycamore, 'There's More to Life Than Platinum: Challenging the Tyranny of Sweatshop-Produced Rainbow Flags and Participatory Patriarchy' in M Bernstein Sycamore (ed), *That's Revolting!: Queer Strategies for Resisting Assimilation* (Soft Skull Press 2004) 1.

[45] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 516.
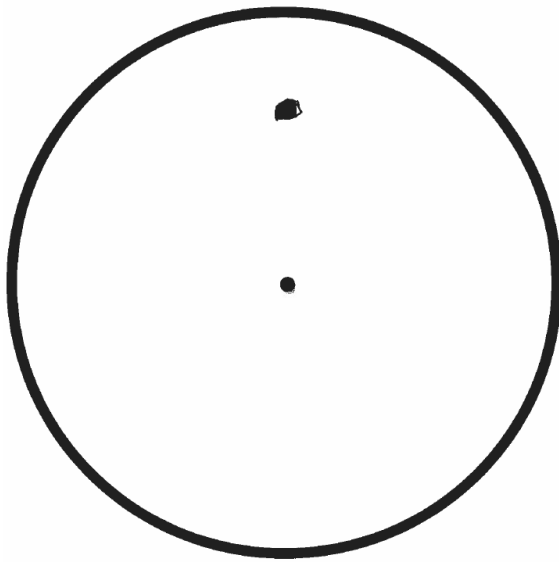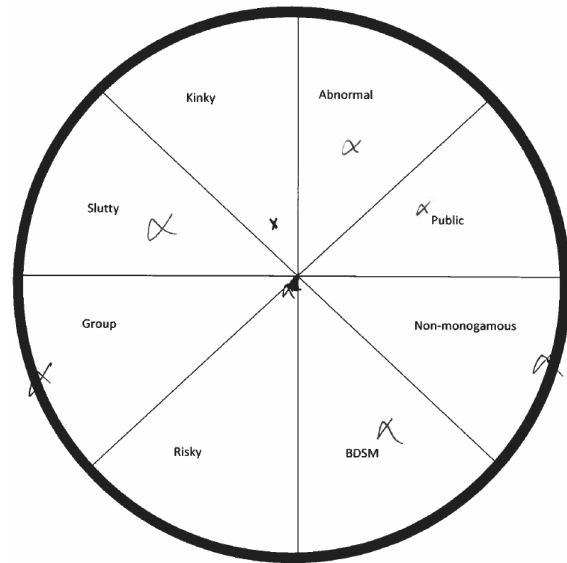
Figure 27: Married Gay Man, 32

Figure 28: Married Gay Man, 32

The participant goes on to state that '[same-sex marriage] is normal, get over yourself'. The normalisation of marriage may indicate the growth of marriage as a default behaviour, assuming the pursuit of the coupled institution and conferring social acceptability.[46] To have sex with multiple partners, taking part in promiscuous or 'slutty' sex, would be to become part of this subsection that actively seeks out such behaviour, deliberately using sex in order to avoid the mainstreaming that has become part of homonormative discourses. This participant did practise non-monogamous sex outside of his marriage, yet he heavily qualified this by stating that he would not regularly act upon it. He explained that there is a 'very narrow pool of partners' in the region. Therefore, the participant maintained a public image of monogamy, arguably reinforcing the performative nature of the homonormative. He is able to perform publicly a respectable married identity, while maintaining the potential to resist mononormativity. His visual data (see Figure 27 and Figure 28) may demonstrate his feelings of exclusion from normative validations of sexuality, as he places himself at the outer limits of both circles. The data may be used to demonstrate the possibility of queering marriage, as deviant 'bad' sexuality becomes marital, and the non-monogamous sex of the participant may disestablish monogamous norms through same-sex marriage.

---

[46] J Butler, *Undoing Gender* (Routledge 2004) 26.

6.5 Polyamory

Returning to the ways in which polyamory has the potential to construct the homoradical identity as a form of sexual emancipation,[47] a recurring theme to emerge from the data is the lack of legal protection afforded to polyamorous relationships. Same-sex marriage fails to address this issue.

One participant observed that:

> I know people who are in polyamorous and polygamous relationships and there's nothing legal about that as far as I'm aware, and I don't know any statistics, it might be more common in the LGBT community, so we need to keep pushing for that. (*Single lesbian, 22*)

The participant notes that LGBTQ populations are likely to deviate from the heteronormative and mono-normative model. Polyamory, literally 'many love', is the practice of maintaining multiple sexual and emotional relationships. Marriage, as a heteronormative model, fails to recognise or provide for such relations. As such, same-sex marriage that is predicated on coupled legal monogamy fails to adequately provide any recognition or security for polyamorous relationships, which may take many forms. It can be said that those relationships that exist outside of the realm of state recognition can be classed as sex radical and therefore as rejecting and resisting mononormative state interference. This form of state and social interference is picked up by another participant:

> Erm, so I think, sure people are free to be polyamorous, but you know, much more than they were 10, 20 years ago, but are they free enough in my opinion, no. (*Single gay man, 25*)

This participant notes the freedom to exercise multi-partner relationships, as well as the system of social stigma, which may prevent the public expression of such relationships. In breaking fundamental norms surrounding not only sexual but also emotional monogamy, polyamorous relationships act to destabilise narratives surrounding heteronormative relationships in which love, desire, and gender converge.[48] The participant notes that marriage may subsume the homoradical potential to disturb dominant monogamous discourses:

---

[47] J Haritaworn, C Lin, and C Klesse, 'Poly/logue: A Critical Introduction to Polyamory' (2006) 9 *Sexualities* 515, 518.

[48] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

> And, erm, if marriage becomes more part of the gay person's lifestyle, I guess I, I do worry a bit, because the, the one avenue, yeah put it like this, the one avenue I see for polyamory being discussed more openly is from LGBTQ people, and at the same time as we're hoping, I'm hoping that might happen, the big bastion of LGBTQ rights is a monogamous relationship, and I don't like that. (*Single gay man, 25*)

For this participant, only the LGBTQ community has the potential to disturb heteronormativity through polyamory as a means of deconstructing enforced monogamy. At the same time, he hopes that marriage does not subsume further radical reform. This may be due to the construction of uniquely LGBTQ identities that are opposed to dominant social discourses. This relates to the construction of polyamory as something that one *is*, rather than something that one *does*.[49] In constructing polyamory as an identity to be performed, rather than as an action, the practice takes on meaning in a similar fashion to the creation of sexual identities. It is therefore resonant with the important factor of self-identification and the politicisation of identity utilised by the homoradical.

Another participant incorporated polyamory as part of their self-identified sexual identity, in line with their pansexuality (being the only participant to identify as neither lesbian, gay, nor bisexual). This participant may be used to demonstrate a re-evaluation of not only commitment, but also the sexual hierarchy. When asked to expand on this meaning, the participant noted:

> Okay, so when I experimented and I went out there, I guess I probably practised, in hindsight, I probably practised bad polyamory, erm, so for me the world was like, yeah, it's an all-you-can-eat buffet, and I want to make as many connections as I could because I lost my, lost my family, lost my partner, and all of a sudden I was making new families, and new partners, and there was no rule-setting, and it was just very random and I very quickly discovered that this didn't work when you didn't have any good rules set, and yeah, you upset people. (*Single pansexual (poly) feminine polarised genderqueer, 42*)

For this participant, who not only practised polyamory but also identified as polyamorous (poly), there were many issues to unpack within the field of 'bad' sexuality. Even when practising polyamory, hierarchies were constructed. However, this hierarchy is reliant on the construction of rules that are reminiscent to Rubin's democratic morality,[50] explained in chapter 3. In the construction of rules that rely on consent and consideration for one's partner, rather than on social shame and stigma, this hierarchy allows for a more nuanced approach to

---

[49] M Barker, '"This Is My Partner, and This Is My … Partner's Partner": Constructing a Polyamorous Identity in a Monogamous World' (2004) 18 *Journal of Constructivist Psychology* 75.

[50] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

sex and sexuality, rejecting the privileging of mononormativity.[51] Mononormativity universalises and naturalises the exclusive dyadic structure of the couple, essentialised as a foundation of human experience.[52] Polyamory then presupposes, and is reliant on, consensual, responsible, open, or negotiated non-monogamy.[53] It actively rejects mononormativity and insists on democratic morality, as noted by the participant's construction of bad polyamory. The construction of a set of rules thus allows for a kinship of choice,[54] reflecting a break from the traditional family model. While it may be argued that this privileging is reliant on normative notions that legitimise loving relations and continue to reject purely sexual relations, it is important to note that multi-partner loving relations still have potential to liberate. This potential is noted by the participant:

> Participant: 'I could very happily have that compact with one person as well, and the compact itself might be different with the different people I meet and engage with, and have relationships with, because our relationships are inherently different so why would any agreement we have basically be the same?'

> Researcher: 'Yeah. Do you think it's important that, if you were going to have a multiple partner relationship, do you think the law should recognise that, or is that something you'd make yourself?'

> Participant: 'I think it would be to our benefit if it was actually recognised by law, and there was a framework for that to actually occur, I think without that framework, well it, it, you don't have protections in quite the same way.' (*Single pansexual (poly) feminine polarised genderqueer, 42*)

While calling for protections to be extended, the participant notes that multi-partner relationships allow for a pluralising of the forms of relationships that can exist, based on inherent differences caused by deviation from the mononormative model. This therefore adds to the continuous redrawing of the line between good and bad sex,[55] from which deviation – as encompassed by the homoradical – leads to those taking part in polyamorous relationships continually evaluating their relationships and sex with multiple partners. The participant advocates for a reformed vision of how the law evaluates relationships, calling for legal

---

[51] R Bauer, 'Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 142.

[52] R Bauer, *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries* (Palgrave Macmillan 2014) 117.

[53] Ibid., 117.

[54] Ibid., 117.

[55] P Ho, 'The (Charmed) Circle Game: Reflections on Sexual Hierarchy through Multiple Sexual Relationships' (2006) 9 *Sexualities* 548.

recognition for multi-partner relationships and thus acting with the law as a form of resistance. Such recognition would therefore go further to disestablish the sexual hierarchy. In the diversification of relationship recognition, the power that heteronormativity holds in the hierarchy may be altered, owing to the transformative potential of queer sexuality.[56] By providing for polyamorous relationships, the law would take steps in developing its traditional interaction with sexuality that has historically only regulated and rejected multi-partner relationships, primarily through the enforcing of mononormative marriage.

6.6 Queering Public and Private (Sexual) Space

Warner noted in 2000 that same-sex marriage would lead to the policing of the kind of space in which LGBTQ people have sex[57] as a means of constraining such activity to the confines of the marital home. Homonormativity is arguably sustained and reliant on the concept of domesticity and the domestication of same-sex couples. In contrast to this, it will be argued that the homoradical actively opposes and resists this domestication through sexual practices that transgress the traditional private boundaries of the home, particularly utilising public sex environments (PSEs) or public sex venues (PSVs). PSEs categorise the various settings that serve the purpose of engaging in public sex and are regularly referred to as cruising grounds or cottaging,[58] while PSVs represent those commercial sex venues such as gay saunas or sex clubs. The term 'cruising' is used here to refer to the active searching for, and negotiation of, sex with a stranger usually found (or taking place) in a public space,[59] while 'cottaging' entails the use of public bathrooms or toilets for sex with others in the space. In analysing these sexual practices and the perspectives of the LGBTQ participants who describe them, it is possible to demonstrate the ways in which the homoradical actively resists encroaching normativity by transgressing social norms of privacy around sex[60] and by redefining and transgressing the public/private divide. Drawing on from Warner's statement on the policing of non-private sex

---

[56] Muñoz J, *Cruising Utopia: The Then and There of Queer Futurity* (NYUP 2009) 1.

[57] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 96.

[58] J Frankis and P Flowers, 'Men Who Have Sex with Men (MSM) in Public Sex Environments (PSEs): A Systematic Review of Quantitative Literature' (2005) 17 *AIDS Care* 273.

[59] D Aveline, 'A Typology of Perceived HIV/AIDS Risk-Reduction Strategies Used by Men Who "Cruise" Other Men for Anonymous Sex' (1995) 32 *Journal of Sex Research* 202.

[60] M Atkins and M Laing, 'Walking the Beat and Doing Business: Exploring Spaces of Male Sex Work and Public Sex' (2012) 15 *Sexualities* 622, 623.

as a matter of privacy,[61] it is crucial to investigate the ways in which the homoradical resists this and its relevance to the construction of the sexual hierarchy.

Public sex is socially and historically significant in the development of gay sexuality. The use of PSEs has been fundamental in sexual identity formation as a means of discovering and having sex when doing so was either illegal or socially stigmatised. One participant notes the role of PSEs:

> I can't say I haven't, 'cause I have been to saunas, probably a lot more when I was younger, finding the, kind of, gay world, but it wouldn't be our go to, to be honest, I don't think … it's a more sexualised environment, definitely compared to the straight external world. (*Married gay man, 34*)

PSEs were then a gateway to the 'gay world', a means of accessing not only sex, but also other gay men. They were therefore crucial in this participant's identity formation and sexual development in accessing sex. Although the participant may not currently use saunas (despite still being open to them), we see the effects of his age and marriage in precluding the use of such venues. As he now no longer needs saunas to discover sex or the 'gay world', he posits this world as separate from the external heterosexual world and simultaneously constructs PSVs as private locations that are exclusionary to the wider heteronormative society. This may position sexuality as central to the homoradical identity, as one practising sex in a PSV may appears at odds with discourses surrounding marriage. The homonormativity that seeks to discourage sexuality is at odds with the historical reasons that lie behind the functioning of saunas.

Another participant explained:

> I know for a lot of people, I have friends in their 30s and 40s who probably have similar attitudes to me, but have had sex or still do have sex in certain open spaces because when they were my age, they had to, they couldn't have sex in doors because that was where people would know about it, it couldn't be a thing for them. I've never had that consideration; I've always had the option of my own space in which I'm comfortable. (*Single gay man, 25*)

This participant notes the changing socio-legal landscape that has facilitated the move of sex from public to private spaces, yet he recognises the impossibility of this for some who live with

---

[61] P Johnson, 'Ordinary Folk and Cottaging: Law, Morality, and Public Sex' (2007) 34 *Journal of Law and Society* 520.

family members to whom they are not 'out'. This resonates with Aitkins and Laing, who state that the presumption of private sex is central to legal frameworks:

> The normative notion that sexual encounters should be performed behind curtains, closed doors and within four walls is not only central to legal frameworks, but is important in the context of understanding societal readings of privacy imbued and embodied in sexual relations.[62]

The domestication and privatisation of same-sex couples relies on socially held expectations of cohabitation, allowing for legitimate sex to take place in a domestic setting. This does not, however, account for individuals who cannot have sex in their domestic setting, while the participant affords no consideration of those who *want* to attend, and utilise, PSEs or PSVs outside of the privatised legal framework for sex. In contrast to the historical consideration of saunas as a location that is exempt from prejudice and homophobia due to the construction of queer spaces, the participant notes how PSEs and PSVs may be important spaces for gay socialisation:

> I'd happily actually go to one just to see what it was like, it's interesting, and I have a friend who enjoys sex with large, he enjoys group sex and for him it's a, it's just a real thing of his that that's what he wants to do, but for him, that's social interaction as well, I was fascinated by how he spoke about it, as he would go to a sauna, ideally with one or two friends of his, erm, and they might do things or they might not, it depends on the friendship, it's more that this is like a, similar to a group session at the pub, or this is kind of like those kind of sessions that happen now where people meet new people and go for activity days, and they go for a bonding session, and he likes that. So I find that really interesting and erm, but it's not a personal appeal. (*Single gay man, 25*)

In comparison to the often anonymous sexual nature of PSEs and PSVs, attending saunas and using them for group sex allow, in this example, for the development of casual sexual friendships that are central to developing and maintaining sexual identity.[63] This deviates from homonormativity, which has been argued to minimise sexual discourses, through the queering of the boundaries of sexual relationships, of spatial temporality, and of casual friendship ethics that transgress the privacy of sex and the publicity of friendship. Saunas and PSVs are thus constructed as sources of community building, which is at odds with the depoliticising and demobilised nature of homonormativity. In his visual data (see Figure 29 and Figure 30), the participant quoted above positions himself well outside of the first circle. Due to his use of

---

[62] M Atkins and M Laing, 'Walking the Beat and Doing Business: Exploring Spaces of Male Sex Work and Public Sex' (2012) 15 *Sexualities* 622, 623.

[63] C Klesse, 'Polyamory and Its "Others": Contesting the Terms of Non-Monogamy' (2006) 9 *Sexualities* 569.

non-monogamous sex and the sexually fluid nature of his friendships and relationships, he felt that he partook in bad sexuality. This positioning illustrates the place of the homoradical in the charmed circle.
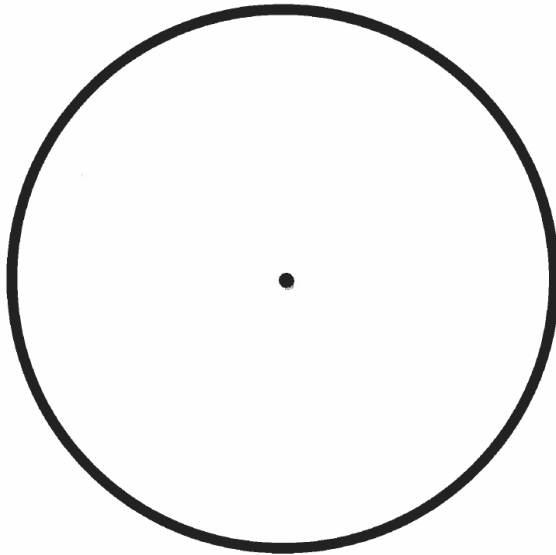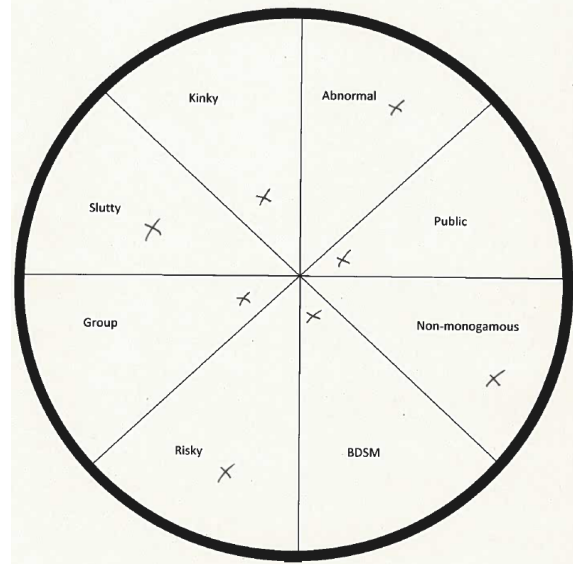

Figure 29: Single Gay Man, 25   **Figure 30: Single Gay Man, 25**

The sauna as a culturally embedded source of community emerges from the data as a significant element of the homoradical identity, one that is at odds with heteronormative society:

> I think, for some people, yes, and for some others, I feel like we might lose aspects of community in a way, things like the nightlife or the, things like I dunno, gay saunas, are we going down a path towards heteronormative, but instead of man, woman, it's two people of the same-sex or whatever, so I think it's gonna be interesting to see what happens in 30 years' time when people from the 1980s LGBT community, when they're older or dead, whether we'll be much more heteronormative, I don't want us to be, I want us to be different, I think. (*Single lesbian, 22*)

Due to the ever-increasing trend of gay saunas and other LGBTQ venues closing[64] as a result of growing gentrification and rising rents in cities around the United Kingdom, the participant fears that the community associated with these venues may be lost. She also makes a direct reference to the changing parameters of heteronormativity, with shifts to include same-sex

---

[64] J Williams, 'Another of London's Gay Saunas Closes Its Doors', *PinkNews*, 17 February 2016, <http://www.pinknews.co.uk/2016/02/17/another-of-londons-gay-saunas-closes-its-doors/> accessed 27 April 2016.

couples allowing normativity in which gender or social orientation becomes irrelevant and the coupling of individuals gains precedence as an expected and legitimised standard. The dismantling of gay community that exists through LGBTQ ghettos or nightlife venues may contribute to the removal of the shared history[65] and solidarity[66] that these places have fostered as safe spaces – often historically associated with developing pride and defeating isolation[67] – and may aid in further demobilisation and depoliticisation. It is important to note this participant's active opposition to such normative assimilation. She states that she actively wishes to be different and to maintain important aspects of LGBTQ identity. In using the example of public sex, which as an important facet of historic LGBTQ identity and sexuality, a contrast is presented. Public sex is seen to be diametrically opposed to the notion of marriage as the appropriate location for sex. Through this, marriage as a public status encourages the privatisation of sex, encouraging sex within the domestic setting and removing the need to pursue sex in public environments or spaces. Resistance to this may demonstrate the further queering of marriage and the queering of the sexual hierarchy as the homoradical pursues public sex.

PSEs and PSVs may be used as tools to build and maintain sexual communities, groups, 'tribes', or 'scenes', where people can meet and interact with others who share similar identities, kinks, or fetishes. The construction of a sexual community may be seen as antithetical to homonormativity and in opposition to traditionally desexualised normative discourse, which arguably relies on individualisation and privatisation.

One participant who was part of the leather scene community offered his perceptions of PSEs and PSVs:

> Uhm I'm not a big public sex fan, I do in sex clubs, in leather clubs or like that, I don't do toilets, I don't do saunas and shit like that, again I think that's a young man's game. (*Single (dissolved civil partnership) gay man, 46*)

---

[65] B Kelly et al., 'Exploring the Gay Community Question: Neighborhood and Network Influences on the Experience of Community among Urban Gay Men' (2013) 55 *Sociological Quarterly* 23.

[66] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

[67] A Bérubé, 'The History of Gay Bathhouses' in E Colter et al. (eds), *Policing Public Sex: Queer Politics and the Future of AIDS Activism* (South End Press 1996).

Utilising commercial sex environments that allow for the cultivation of a sexual community may demonstrate the significance of sex and sexuality to relationship building. PSEs, PSVs and tribe communities have developed markedly different social functions. Saunas and bathhouses are characterised by relative anonymity, non-verbal discourse, and de-personalised social rituals.[68] The leather community, in contrast, is said to be one that celebrates gay male masculinity and BDSM sexuality,[69] historically challenging homonormativity through 'queer sex acts and polyamorous kinship models that challenge a gay political agenda based on marriage and the nuclear family unit as the centrepiece of capitalist consumption'.[70] In constructing the notion of community, the PSE or PSV becomes a vital site in which otherwise 'deviant' sexual subcultures, kinks, and identities may be publicly visualised and exercised, queering the use of public space.

The same participant echoes this by emphasising the construction of a social community and intimate friendships[71] that are focused on one element (in his case, the leather community), rather than merely using sexual spaces for individualistic reasons:

> [I]t's like another part of the social evening out I suppose, if you're into the leather scene, and yeah if you're out and mingle with people who are into the same thing as you, again, the herd thing, I suppose in some ways, you feel good doing that, and it's social, you meet up with mates. (*Single (dissolved civil partnership) gay man, 46*)

Thus, being an active member of the leather scene adds another layer to the participant's use of PSVs and LGBTQ-specific nightlife venues. This form of community thus entails the construction of not only a specific sexual image (made famous by iconic art, such as works by Tom of Finland,[72] that fetishizes hyper-masculinity[73]) but also an identity that corresponds to the sexualised image. Being 'into the same thing' creates the 'herd' of the leather scene that allows for the incorporation of sexual identity and a fetish identity, which is integral to the maintenance of an identity opposed to assimilatory homonormativity. Actively seeking

---

[68] D Haubrich et al., 'Gay and Bisexual Men's Experiences of Bathhouse Culture and Sex: "Looking for Love in All the Wrong Places"' (2004) 6 *Culture, Health & Sexuality* 19.

[69] J Tyburczy, 'Leather Anatomy: Cripping Homonormativity at International Mr. Leather' (2014) 8 *Journal of Literary & Cultural Disability Studies* 275.

[70] Ibid., 278.

[71] C Klesse, 'Polyamory and Its "Others": Contesting the Terms of Non-Monogamy' (2006) 9 *Sexualities* 569.

[72] D Hanson, *The Little Book of Tom Finland: Military Men* (Taschen 2016) 9.

[73] M Lahti, 'Dressing Up in Power: Tom of Finland and Gay Male Body Politics' (2008) 35 *Journal of Homosexuality* 185.

encounters with sexual subcultures results in feelings of being 'in' or 'out' of place, according to the participant's desires and expectations, and therefore plays an essential part in identity management and construction.[74] Maintaining a commitment to a sexual identity and community therefore demonstrates the centrality of sexuality to the homoradical identity, which is at odds with the desexualisation of the homonormative and representative of the parallels constructed by the sexual hierarchy.

6.7 Public Sex Venues

> Queers reemphasised the sexual – especially the boys, who had their own special bathhouses wherein they could do precisely that.[75]

This quote from Queen recognises the importance of bathhouses (gay saunas) in incorporating and emphasising sexuality as a key component of 'gay life'. The use of PSVs for gay sexual development may be important indicators of the homoradical. Discourse surrounding the use of PSEs and PSVs for either sexual or non-sexual purposes is often fraught with justifications and parallel narratives that indicate the negative social discourse surrounding these spaces:

> Participant: 'Sauna would, kind of, be the closest to that, erm, but again, not really. I mean when I go to the sauna, I usually do it because I'm stressed out, I *love* steam rooms, the sauna, the heat, it is wonderful for relaxation.'
>
> Researcher: 'If you come from a hot country it must be cold here.'
>
> Participant: '[laughs] Yeah so, yeah actually, a lot in the winter, I do need heat, I definitely need heat, so I do like the, just feeling comfortable being naked, being in a hot place, I adore that, unfortunately, my heating system is not that good, [laughs] so, so I cannot do it at home. … Sometimes I go and have sex in the sauna when it happens, but it is not necessarily, kind of, the … the thought behind going to the sauna, it is managing expectation because most of the time, it is just not the kind of crowd that you would engage in sex with, and so you expect sex. I know that, if I'm horny and I want sex and I go to the sauna, the likelihood is I will be very disappointed and depressed probably. So, just managing the expectations, I will know I will not do it for sex, I do it for relaxation purposes, I do it to be happy, it is good. Most of the time anyway.' (*Single (dissolved civil partnership) gay man, 36*)

---

[74] G Waitt and K Markwell, *Gay Tourism: Culture and Context* (Haworth Hospitality Press 2006) 186.

[75] C Queen, 'Never a Bridesmaid, Never a Bride' in M Bernstein Sycamore (ed), *That's Revolting: Queer Strategies for Resisting Assimilation* (Soft Skull Publishing 2004).

The participant (originating from South America) posits his visits to the sauna as pragmatic. He claims to be utilising the PSV for its features (such as steam rooms, hot tubs, and sauna rooms), rather than for the primary purpose of sex in a public venue. He thus constructs a parallel narrative to justify his attendance. Despite the participant's rationale for visiting the sauna, he discloses that he does have some expectation that sex will take place, but then qualifies that this sex is coincidental. Being depressed or disappointed by the sex available in the sauna demonstrates his frustration at the ways in which expectations of sexual encounters may not live up to reality. This frustration is evocative of Haubrich et al.'s statement that the sauna or bathhouse is an environment in which 'participants described themselves and others in moralistic terms, indicative of holding internalised societal beliefs about gay sexual prowess and promiscuity'.[76]

The implications of such social norms are felt by another participant:

> I mean I don't tell a lot of people that I go to a sauna, the only people that know that I do that are very close gay friends of mine and I think the only reason I told them because they have done as well and I think on the whole, I mean I was even embarrassed telling you here, even though it's anonymised and everything, and generally I'm quite sexually open and I don't really do shame or anything like that but you know, some things you're made to feel bad about just because they're not the norm. (*Single gay man, 30*)

This participant thus demonstrates sites of identity management, mediating the disclosure of personal embarrassment and discomfort in using PSVs[77] and the breaking of social norms surrounding the 'appropriate' location for sex. He has disclosed his use of saunas only to gay friends who have also visited them, indicating that pejorative meanings are attached to sauna use – perhaps due to its deviation from the domestic ideal of sex. The participant feared that even in an interview environment, there may be underlying stigma attached to sauna use, despite being assured of the neutrality and ethical awareness of the situation. The participant notes his emotional conflict at having used the sauna[78] due to external pressures that cast negative light on such activities. In doing so, the heteronormative and homonormative attitudes that encourage domesticated sex construct narratives of shame, which causes the participant to disconnect his 'emotional and sexual needs from appraisals of the bathhouse environment'.[79]

---

[76] D Haubrich et al., 'Gay and Bisexual Men's Experiences of Bathhouse Culture and Sex: "Looking for Love in All the Wrong Places"' (2004) 6 *Culture, Health & Sexuality* 19.

[77] Ibid., 25.

[78] Ibid., 25.

[79] Ibid., 25.

However, the participant goes on to note the ways in which he uses saunas, PSEs, or PSVs in order to *validate* his sexuality as 'deviant'.[80] He is thus reliant on the social stigma emanating from discourses that seek to exclude public sex from 'good sexuality' narratives:

> Erm … for the first one, well I say public but it's outdoors, it's not like having sex in the middle of Jesmond Dene on a summer's day, you could probably do that in the *tiergarten* Berlin and no one would bat an eyelid, but that's the Germans for you. Erm, it's definitely a thrill, for the first one, erm, like I brought it up, I was in, I mean I've got chronic depression, and I was in therapy for that but also anxiety, chiefly for anxiety but we hit on, in some sessions, for the depression, erm, and it is something that I indulge in when I'm not feeling too great about myself, I dunno if it's like a fulfilment of my own self-esteem, like I feel like I'm a worthless piece of shit therefore I indulge in behaviours that prove that, erm, but yeah I do do that. (*Single gay man, 30*)

Reliant on the construction of the sexual hierarchy, the participant may be interpreted as using the sauna as an instance of 'bad' sexuality because of its negative connotations. He relates his use of these venues to his mental health issues. To this effect, he posits using the sauna as a self-destructive environment, in which the desire to seek sex outside of the domestic is pathologised and stigmatised. In recognising, and actively seeking to indulge in, such behaviours, the homoradical defies social convention dictating how sex and relationships should be conducted.

Parallel narratives running through the discourse of PSEs and PSVs may reflect their negative portrayal. The identification of these spaces with 'bad' sexuality may be apparent in the words of the two participants who are next discussed.

The first of these participants recounted:

> And so, I have had sex in saunas, but it's been a by-product of thinking I'll use the sauna as a hotel overnight, and so, I've kind of thought to myself in a drunken state, 'oh fuck it' and opened the door, but it's always been still one to one. (*Civil partnered bisexual man, 36*)

This participant notes the incidence of sex in a PSV as occurring due to momentary arousal. He deliberately entered a PSV for non-sexual purposes but has then succumbed to the sexual nature[81] of the space. In doing so, the participant repurposed the nature of the PSV by excluding sexual partners. However, in allowing a sexual partner into a private stall at the sauna, the

---

[80] S Boyd, 'Family Law and Sexuality: Feminist Engagements' (1999) 8 *Social and Legal Studies* 369.

[81] C Queen, 'Never a Bridesmaid, Never a Bride' in M Bernstein Sycamore (ed), *That's Revolting: Queer Strategies for Resisting Assimilation* (Soft Skull Publishing 2004).

momentary sex that takes places invigorates the sexual nature of the space, becoming equally important and unimportant as an indicator of the ways in which sex and sexuality are central to the homoradical identity. And yet the encounter is also transient and lacking the traditional emotional baggage associated with normative sex.

The second participant, a lesbian woman, uses public spaces as PSEs, including outdoor recreational areas:

> Yeah bars, clubs, erm, some famous landmarks [laughs] it's quite easy for girls, erm, yeah in public spaces yeah. I think it's more likely to happen in gay spaces as well, erm, for me I think it's just the, you're, it's more open for you to be allowed to kiss and then obviously that is a bit of a thrill in itself if you're not allowed to, and that can lead to other stuff. In the past that's been more of a feature, especially when I was single, erm, but at the minute yeah, with this current partner I do. (*Single lesbian, 29*)

This participant produces a markedly different narrative regarding having sex in public spaces. She does not attend PSEs and PSVs for the explicit purposes of having sex. Instead, for her, sex occurs in public spaces due to individual momentary instances. However, in her use of commercial gay venues (pubs and clubs), she notes the ease in which public sex may be available – in particular, being 'easier' for women. For this participant, the thrill of transgressing social norms,[82] but also of transgressing the legal limits of public expressions of sexuality, plays a part. Public sexual acts are not illegal per se,[83] unless they cause offence to others. However, public sex in a lavatory (cottaging) is criminalised by section 71 of the Sexual Offences Act 2003 and is almost exclusively applied to gay male sex.[84] This criminalisation may further the notion of gay sex as a nuisance, ultimately contributing to notions of bad sexuality. Johnson notes how this highlights the tension between the emerging tolerant and equitable approaches to homosexuality, and the heterosexist and conservative views of sex and morality.[85] Representations of public sex, Johnson notes, contrast sharply to discourses of the respectable 'courting couple'[86] and therefore demonstrate the ways in which the homoradical

---

[82] M Atkins and M Laing, 'Walking the Beat and Doing Business: Exploring Spaces of Male Sex Work and Public Sex' (2012) 15 *Sexualities* 622.

[83] P Johnson, 'Ordinary Folk and Cottaging: Law, Morality, and Public Sex' (2007) 34 *Journal of Law and Society* 520.

[84] Ibid., 522.

[85] Ibid., 526.

[86] Ibid., 533.

may be conceptualised, using public expressions of sexuality, against the norms of the sexual hierarchy.

6.8 'Let's Go Outside'

This section[87] will discuss the role of non-domestic sex as demonstrative of the homoradical's anti-assimilationist behaviour in resisting norms of domestic sex. Non-domestic sex emerged from the data as a dominant theme that is reliant on the active sexualisation of public spaces and as a form of resistance to the homogenising image of marriage. The participant quoted below actively uses, and seeks out, public sex venues and environments, not only locally but also when travelling. At the same time, he maintains a strict separation between his public sex and his domestic environment:

> I'm not gonna say it's, well, I would say Newcastle, if I'm out in Newcastle, I'm not gonna say every weekend, but maybe once or twice a month I would go to saunas, certainly if I'm away to other cities, I will experience what the saunas are like there, and like I said the dark rooms in the cruise bars, irrespective of which city it is, erm, activity-wise when it comes to it, you know, when I would look at holiday wise, I do look for things which are very much the gay venues so I can be who I want, when I want and some of them where we look at, you know, I would look to see what kind of – attractions is the wrong word – but part of those venues that, of you know, will they promote or will they accept the sexual interaction as well, it's going to happen on holiday but you know how easy or how blatant is it in certain places. (*Single gay man, 44*)

This demonstrates a form of travel or tourism that incorporates non-normative sexual behaviours, activities which have been described by Pritchard as an escape from the heterosexism of home areas.[88] Using PSVs in other cities demonstrates the importance of the availability of the type of sex that occurs in such spaces – which is typically anonymous. This form of sexual activity also allows the participant to experience new cities and adds additional layers to his travel and social experiences:

---

[87] The late singer George Michael was arrested in 1998 for engaging in a 'lewd act' in a California public bathroom. He went on to glamorise his arrest and enjoyment of cottaging in the song 'Outside*'* (Epic Records, 1998). The lyrics of the song may represent the attitude of others who take part in public sex within this study: 'I think I'm done with the sofa/I think I'm done with the hall.'

[88] A Pritchard, N Morgan, and D Sedgely, 'Exploring Issues of Space and Sexuality in Manchester's Gay Village' in M Robinson et al. (eds), *Reflections on International Tourism: Developments in Urban and Rural Tourism* (Business Education Publishers 2000) 267.

> For those who can afford to travel, gay metropolitan spaces conceptualised through the body can operate to (re)sexualise tourists' bodies and therefore many offer important venues where gay men can be or do become themselves.[89]

Therefore, in incorporating sexualised spaces into his travels, the participant reemphasises and consolidates his sexual identity. This identity becomes a central element to his life, reiterating the importance to the homoradical, as an actively sexualised identity, of transgressing social norms regarding sex. It is common for unattached gay men to seek recreational sex on holiday.[90] In using these spaces, planning his travels accordingly, and contributing to the gay economy, the participant centralises and signifies his sexuality beyond incidental use. As stated by Binnie and Valentine, sex in gay spaces not only offers an escape from heterosexism, it also allows for the consolidation of sexual identity:

> Consequently, 'gay space' as a travel destination can fulfil multiple same-sex desires that through anonymous encounters may help confirm existing and constitute new social, political, and sexual identities. Such encounters are understood to be validating and empowering to sexual minorities who have been excluded and disenfranchised many times and from many places by the heterosexual coding of urban space.[91]

As such, PSE and PSVs become sites of active resistance against heteronormativity and their use becomes a central element of the homoradical identity. However, as noted by Waitt and Markwell, the commercialisation of gay spaces and venues ultimately relies on the capitalistic commodification of gay bodies and identity. This commercialisation is not inclusive of those identities and bodies that fail to resemble the hegemonic masculinity encapsulated within homonormativity. Thus, 'good' gay spaces – which are commercially viable and desexualised – reinforce the sexual hierarchy, by which bad gay spaces are stigmatised. Cruising grounds, public sex culture, sadomasochism, skinheads and leather gays[92] are excluded from the realms of good gay space. These may be seen to represent homoradical spaces that actively represent and support public sex.

---

[89] G Waitt and K Markwell, *Gay Tourism: Culture and Context* (Haworth Hospitality Press 2006) 160.

[90] S Cliff and S Forrest, 'Factors Associated with Gay Men's Sexual Behaviours and Risk on Holiday' (1999) 11 *AIDS Care* 281.

[91] J Binnie and G Valentine, 'Geographies of Sexuality – A Review of Progress' (1999) 23 *Progress in Human Geography* 186.

[92] G Waitt and K Markwell, *Gay Tourism: Culture and Context* (Haworth Hospitality Press 2006) 189.

In seeking out 'the physical aspect' of sex, the participant forsakes his identity in order to pursue anonymity in public spaces. This compartmentalisation[93] may demonstrate the ways in which the homoradical views sex. Public sex is thus important as a signifier of the retreat from normativity, which gay men are more ready to compartmentalise. As such, the participant deconstructs traditional narratives regarding sex and emotional need, relying instead on sex and physical satisfaction to 'reemphasise the sexual'.[94] The participant advocates separating the sexual setting of the sauna or club from his everyday life. This extends to the separation of sex from the domestic:

> There's very few sexual activities that I actually have in my own household because I see that my house is erm my sanctuary, my fortress, who, I don't, because of the sexual activities that I have that are anonymous, it's something that you know to let somebody into my house gives some sort of emotional attachment because they have an insight into my life, erm so for me to sit on the outside of the circle it is to go to the saunas, the sex in the pubs, it is the cruising areas the use of the sex industry, the pornography, the Grindr, the social networking sites on the cruising, looking for sex. (*Single gay man, 44*)

The participant notes the importance of his own anonymity, and that of others, in sexual practices. He therefore does not allow these partners into his home, avoiding any form of attachment. In this way, he queers the boundaries of home as a safe space for sex, removing sex from his home and utilising the sexualised space of PSEs and PSVs. With explicit reference to the construction of his own sexual hierarchy circle, the participant places himself as outside of the norm in excluding sex from his home, in order to uphold the emotional separation of sex from the domestic. In liberating sex from the domestic, the participant embraces a sexuality that is seen as deviant and that is excluded from the charmed circle. This sexuality exists on the outer limits,[95] as it deviates from the heterosexual norm. In the use of cruising areas and cottaging sites, the participant also flouts the privacy of the domestic setting as an approved sexual location, with same-sex marriage presuming a substitute domestic location for sex.

---

[93] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117, 135.

[94] C Queen, 'Never a Bridesmaid, Never a Bride' in M Bernstein Sycamore (ed), *That's Revolting: Queer Strategies for Resisting Assimilation* (Soft Skull Publishing 2004).

[95] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

6.9 Kink Sex and the Homoradical

Kink practices and identities of the participants will be discussed in this section in order to construct the homoradical as emerging through the embodiment of 'bad' sex in the sexual hierarchy, at odds with the normative image of marriage. Kink sex was a significant aspect of Rubin's original discussions of the sexual hierarchy, epitomising the bad sexuality of LGBTQ communities. Encompassing bondage, discipline, domination and submission, sadism, and masochism[96] (BDSM), kink sexuality will call for an exploration of how non-normative sexual practices and fetishes are incorporated into the lives of the participants and how they relate to the homoradical and the sexual hierarchy. Kink and BDSM sexual practices are used as a signifier of non-normativity and the homoradical, as 'the community of normalcy recognises itself through the rejection of the sexual other and through its fortification of the boundaries around sexual citizenship'.[97] In recognising the importance of kink to LGBTQ sexuality, the contrast between normative and radical will become apparent, representative of perceptions of good and bad sexuality.

Kink identity and practice were often presented as an 'extreme' of sexuality, one that was opposed to 'good' conceptions of sex. One participant explicitly contrasts law (and constructs a personification of law) against sexual practices, particularly noting the distancing from vanilla domesticated sex, which may be seen to represent good sex:

> Just because it's extreme to some white, middle class vanilla-loving, missionary sex person
> in Westminster, doesn't mean it's extreme for someone else, Jesus Christ, go to some clubs
> in Berlin, they'd have a fucking heart attack. (*Single gay man, 27*)

Here, the participant explicitly contrasts the homosexual object to the legal subject, and the construction and creation of law. In doing so, 'Westminster' (in representing not only Parliament, but also lawmakers) inherently proscribes vanilla monogamy, which may clearly represent the creation and stipulation of marriage and its further focus on procreational familial norms. In ascribing personhood to the law through the linking of MPs, the participant paints kink practitioners as being at odds with this, implicating the law (and marriage) as vanilla, classed, and desexualised. To be a kink practitioner, then, is to embrace those sexual practices

---

[96] J Gray, 'What Do B&D, S&M, D&S, "Top", "Bottom" Mean' (soc.subculture.bondage-bdsm, 1997) <http://www.leathernroses.com/generalbdsm/ssbbfaqdefines.htm> accessed 31 May 2017.

[97] U Khan, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014) 20.

that are not legally sanctioned or socially approved and, therefore, that exist on the lower rungs of the hierarchy as not 'normal':

> Never into S&M or anything like that, but within the realms of … dare I say normal? Which is like, what is normal? (*Married gay man, 43*)

Kink and BDSM are often defined by the practising person as performative acts that appropriate social hierarchies, restage power imbalances, and re-signify pain within consensual contexts.[98] Kink, often more performative than BDSM, relies heavily on the creation of fantasy as an expression of identity. This entails moving beyond sex and performing and enacting certain roles and pleasures, indicating a further construction of kink sex as a practice that is rooted in radical sex politics:

> And for me, the fetishisation of sports clothes, quintessential masculine tropes, American football, traditionally masculine jobs, mechanics and that stuff, but then more traditional kink stuff like PVC, rubber, leather, leather harnesses, jockstraps, but then also the nature of the sexual activity, like the BDSM, the tying up and watersports and whatever else. (*Single gay man, 30*)

For this participant, kink is manifest in three ways: through the expression of masculine fashion and sportswear (often expressed publicly); through the clothing and gear associated with kink; and through physical sex acts, including sadomasochism, bondage, and urolagnia. Thus, the performative aspects of kink and the homoradical encompass the physical act, yet also the performance of costume, and represent a significant investment in sex, going beyond the physical act and maintaining a kink identity that can be said to fulfil the homoradical.

Kink sex is further associated with criminal sexual activity, denoting its status as an 'extreme' or radical sexual practice and identity:

> I would say, what would I count as freaky? Erm well just like, I do quite like a bit of bondage once and again, and obviously that lad who used to do those rape role-plays, bang into that … I'm just quite open minded, that's all. (*Single gay man, 27*)

The reference to 'that lad' is to a particular sexual partner who initiated rape role-play for sexual pleasure. Such an activity can be seen to be a replication and representation of illegality in sex, reliant on constructing a lack of consent and forced sex (earlier in the interview, the participant had referred to the partner as a previous fiancé). The activities that fall within his

---

[98] Ibid., 10.

limits may be deemed as extreme, particularly in the practice of rape role-play (with a mutual acquaintance, indicating mutual consent). This goes beyond the typical importance of consent and the appearance of consent in BDSM play. To the outsider, it feeds into the presumption that BDSM is an inherently abusive practice.[99] The appearance and presumption of kink and BDSM as dangerous or abusive sexual practices posit such practices as radical or deviant and inherent to the homoradical use of sex as a tool to destabilise and transgress social norms regarding pleasure, intimacy, and pain:

> I like to be hurt [laughs] I dunno if that sounds bad, but other people think it is, like if I'm with my friends and I'm getting changed and I've got like bruises and scratches and cuts and everything, they're like 'shit, what's she done to you, are you okay?', I'm like yes it was consensual, everything's fine, but yeah my straight friends struggle with that the most, and they always say, because I live in a shared house, why would you wanna do that when you know we're upstairs, I'm like well you're not in the room with me so I don't … (*Single lesbian, 21*)

The participant who enjoys masochism (sexual excitement in receiving pain) recounts the stigma faced by peers. This is in keeping with Khan's statement that kink sex re-signifies and sexualises hierarchical relationships and incites taboo[100] as representative of the queering of the sexual hierarchy. The issue of private space and homoradical sex is further developed here, as the taboo incited by kink sex is taken upon by heterosexual housemates and constructed as dangerous in a private space that presumes heteronormative and vanilla sex. The disparity with lesbian and gay participants and their heterosexual friends may present further differences in perceptions of gender and safety, presuming that women are less predisposed to exercise sexual agency. Sadomasochism is thus constructed as something visible and blatant, with the marks left from kink sex indicating vulnerability and damage[101] – irrespective of the participant's consent and enjoyment. Thus, to note kink and BDSM as being merely performative neglects the embodied and affected dimensions of such activities.[102] Within this heteronormative lens, the participant's agency is removed, despite the sex taking place in a private space. Bauer has noted that 'as opposed to heteronormative acts, non-normative sexual and gender expressions are severely restricted and policed in the public and private realm, belying the liberal notion of

---

[99] U Khan, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014) 283.

[100] Ibid., 18.

[101] Ibid., 282.

[102] R Bauer, *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries* (Palgrave Macmillan 2014) 71.

a right to privacy'.[103] The participant signifies how kink homoradical sex is at odds with heteronormative space, particularly in the shared private space of their home, and acts to demonstrate a rejection of homonormativity.

Prejudice against kink identity is a theme resonant of the judgments from *R v Brown*, in which gay BDSM was castigated as uncivilised and immoral: the practice of sadism, as 'pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilised'.[104] In constructing society as civility and sexual pleasure as adverse to this, the hierarchy is formed as a means of justifying the legal exclusion and criminalisation of certain sexual behaviours. Such 'perverted and depraved sexual desire'[105] led to the criminalisation of gay sadomasochism in the case, yet this participant openly engages in such conduct. Khan has stated that *Brown* 'is a form of pollution management, which attempts to repair the cherished cultural dichotomies by articulating disgust and expelling the transgressors, justified through an essentialisation of human sexuality, and a purported concern over public health and safety'.[106] This pollution management assumes the supposed contagion[107] that gay and bisexual men are guilty of spreading through conducting deviant sexual acts.

In *Brown*, Lord Mustill uses the social hierarchy in order to embody the law as a distinct identity, further stigmatising the sadomasochism practitioner, by stating that 'normal people' would naturally be revolted by sadomasochistic behaviour. Mustill counts himself as among the 'normal people',[108] privileging his own perspective from the top of the hierarchy. This viewpoint extends to the ways in which law and society control and manufacture the hierarchy, as a system of supposedly rational notions of sexuality from which marriage becomes normalised and natural. Thus, posing as the homoradical, and taking part in BDSM behaviour, is deemed irrational, risky, and representative of a 'bad' sexuality that is at odds with sexual norms.

---

[103] Ibid., 107.

[104] *R v Brown* (1993) 97 Cr. App. 44 at 52 per Lord Templeman.

[105] *R v Brown* (1993) 97 Cr. App. 44 at 67 per Lord Lowry.

[106] U Khan, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014) 228.

[107] C Stychin, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995) 126.

[108] U Khan, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014) 229.

Kink has emerged as a fundamental facet of identity and lifestyle, one that signifies the incorporation of an active sexuality that is at odds with the desexualisation furthered by homonormativity:

> But even certain kinks, people don't seem to think of it as a kinky or sexual activity, er, it's an important lifestyle, just who they are. Er, as they are, as a person, same as some people feel they're a different sexuality, which I completely understand. (*Single bisexual man, 28*)

In constructing kink as a lifestyle, it becomes intrinsically linked to this practitioner's identity. The participant, a kink practitioner, noted the significant role that kink has played in his life. He stated that 'society frowns on pretty much anything I like to do' in order to indicate his space on the outer limits of the sexual hierarchy. Kink and BDSM practices are shown to be indicative of an attitude that prioritises and maximises queer sexual potential, at odds with homonormative tendencies to remove and hide sexuality. Thus, the homoradical may eschew the sexual hierarchy in devoting their lifestyle to 'bad' categories of sexuality. Khan has stated that, traditionally, 'investigations of s/m frequently find that the fault line between normal sexuality and pathological sexuality is fragile and in need of reinforcement from psychological diagnoses, criminal investigation, feminist education, and moralising stories'. However, the data in this study has demonstrated that participants are frequently exhibiting and practising kink behaviour as a regular and constructive element of their sexuality, moving beyond boundaries of sex that may be safe or sanctionable, and instead developing their own practices beyond the line of respectability. In this way, they continuously utilise non-normative sex as a destabilising tool, resisting the normative consequences of same-sex marriage and homonormativity.

6.10 Conclusion

The homoradical questions traditional social and legal norms surrounding sex, challenging that which seeks to discourage sexual behaviour that transcends traditional boundaries of monogamy, domesticity, and sexuality. This contributes to the potential to queer marriage in the redefinition of sexual boundaries. LGBTQ people have the potential to queer marriage through non-monogamy, subverting mononormative expectations, or through the transgression of the traditional boundaries of relationships, sex, privacy, and friendship – identifiable as sex

that exists at the 'outer limits' of the charmed circle, and thus at the bottom of the sexual hierarchy.

This chapter has constructed the homoradical as existing in opposition to the homonormative, which has been manifest and represented by same-sex marriage as an all-encompassing trend towards monogamy and domesticity. The homoradical demonstrates the significance and prevalence of sex outside of the domestic realm, through non-monogamous, non-domestic, or non-vanilla sex. This amounts to resistance against heteronormativity. In breaking down such relationship boundaries, the homoradical calls into question the centrality of marital law to LGBTQ populations and the ways in which law interacts with and seeks to regulate sexuality through the proffering of norms of sexuality. The homoradical may be conceptualised as a reaffirmation of sexuality that celebrates liberational, non-monogamous, promiscuous, and public expressions of sex. Therefore, the homoradical occupies a space below the homonormative and the heteronormative on the sexual hierarchy. The homoradical thus deviates from normative practices, while same-sex marriage reinforces normative standards and institutions and further stigmatises non-marital sexuality.[109] The homoradical may be said to queer the sexual hierarchy in actively occupying and enjoying its space on the hierarchy, liberated from heteronormative sexual standards. In the next chapter, the homoradical and the homonormative will be examined within the sexual hierarchy, assessing the ways in which heteronormative structures of law shape and fuel stigma, value, and prejudice within society.

---

[109] J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001) 99.

7
The Construction of the
Sexual Hierarchy

7.1 Introduction

The sexual hierarchy[1] has been conceptualised throughout this research as a socio-legal system that ascribes value to certain sexual identities and practices – one that typically values marital, heterosexual sexuality the most, with LGBTQ populations falling below this. LGBTQ populations may further be divided between 'good' and 'bad' gays, as this chapter will discuss. The chapter will construct the sexual hierarchy using the homonormative and homoradical in order to reconceptualise Gayle Rubin's 1984 hierarchy,[2] enabling perceptions of the impact of same-sex marriage to become visible, along with changing socio-sexual norms. It is then important to construct that hierarchy according to the evidence within the data, representing the lived experiences and perceptions of what that hierarchy involves and investigating whether Rubin's sexual hierarchy and charmed circle truly reflect the current state of sexual value in the advent of same-sex marriage. It is of critical importance to interrogate the hierarchy in order to assess the impact that same-sex marriage has had on the societal and legal structure and norms that are ingrained within public life. Those whose behaviour is high on the hierarchy are 'rewarded with certified mental health, respectability, legality, social and physical mobility, institutional support and material benefits', while those whose sexuality falls lower are subjected to presumptions of illness, disreputability, and even criminality.[3] The diagram used in Rubin's work has been adapted, with the participants allocating their own space on the visualisation of the sexual hierarchy. Most of these diagrams are included within this chapter. Using these visual aids, the participants' narratives will construct the sexual hierarchy after the advent of same-sex marriage.

---

[1] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

[2] Ibid., 151.

[3] Ibid., 151.

This chapter will demonstrate how law, society, and the heteronormative, homonormative, and homoradical interact, coexist, and regulate one another, and will consider whether, as Bernstein argues, state-sanctioned matrimony delivers strains of nationalism, patriotism, consumerism, and patriarchy[4] in the guise of assimilation. Using the perceptions of the sexual hierarchy and the visual data collected, the ways in which marriage – and society as a whole – has affected the LGBTQ lived experiences of sexuality will become evident. This chapter will then conclude that same-sex marriage reinforces the sexual hierarchy. It will offer proposals for the disestablishing of this sexual hierarchy in the recognition and validation of sex between married same-sex partners, as exists in the consummation requirement of traditional marriage.

7.2 Good Sexuality/Bad Sexuality

Perceptions of the distinctions between 'good' and 'bad' sexuality will be constructed using the lived experiences of the participants and their visual data. As explained in chapter 4, the visual data allowed the participants to redraw Rubin's traditional charmed circle, which segmented those sexual forms that were valued, or 'charmed', and those that transgressed the line of respectability to the 'outer limits'.[5] In the circles to which the participants have contributed, the outer ring of both sets of circles represents 'bad' sexuality and the inner parts of the circles represent 'good' sexuality. Each participant marked themselves within (or outside of) this circle, in a similar fashion to a Likert scale, in order to demonstrate whether they viewed their sexuality as good or bad.

One participant noted how her image and performativity of certain relationships and sexuality affected perceptions – both her own and those of other people – of her sexuality as being good or bad. In particular, she noted how this perception was affected by the gender of her partner:

> This is good and this is bad? Oh … I think, like, my perceptions and my experiences are maybe not representative of bisexual people, because I've only been in one same-sex relationship … oh, I dunno … this is good? Yeah, I feel I'm here, yeah … but then I think, it completely depends what kind of relationship I'm in, like, I think, if I was gonna get married to someone who was the same-sex gender, and go through that whole process and

---

[4] M Bernstein Sycamore, 'There's More to Life Than Platinum: Challenging the Tyranny of Sweatshop-Produced Rainbow Flags and Participatory Patriarchy' in M Bernstein Sycamore (ed), *That's Revolting!: Queer Strategies for Resisting Assimilation* (Soft Skull Press 2004) 2.

[5] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

be in that relationship, I'd find it more difficult, so that would be there, yeah. (*Single bisexual woman, 26*)

This participant felt that a relationship with a different-sex partner would be met with less stigma and prejudice than one with a same-sex partner (see Figure 31). Her view may be reliant on a form of performative bisexuality, in which deviation from the heterosexual norm indicates differing forms of value, and the fact that relationships are often judged at face value. Bisexuality would thus be invisible in a different-gender couple, despite either partner's actual sexual orientation. This occurs as a direct consequence of the heteronormative matrix, in which the coalescence of sex, gender, and desire represents uniformity, but also constrains cultural possibilities to strict gender confines[6] that may represent the assumption of heterosexuality.[7]
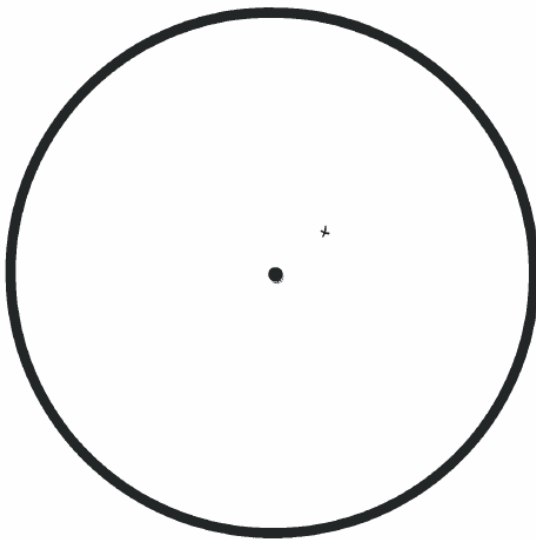
Figure 31: Single Bisexual Woman, 26

This participant may have a relationship with another woman that pushes her towards the outer limits of the circle as she transgresses the (hetero)norm. But this relationship is hidden, allowing her to exist closer to the centre of the circle, representing 'good' sexuality. The participant notes the ways in which, despite same-sex marriage being law, there are still societal boundaries and obstructions that would make the process of marrying and declaring such a

---

[6] J Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999) 187.

[7] D Richardson, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 523.

relationship publicly problematic.[8] This is an example of the role of visibility and image in constructing the sexual hierarchy, and the continued stigma faced by those on the lower rungs of the hierarchy.[9] Therefore, the queerness that comes from a same-sex relationship depends on the undertaking of performative acts of self-perception and filiation.[10]

In line with Sedgewick's notion of queer performativity, the undertaking of such identity and affiliation is noted by another participant:

> Erm, where I fit? Okay, if I had to be honest and open about everything I've practised or practised and do, I would argue that society places me probably there, on the outside of the circle. And that's multiple layers of open relationship, non-belief in marriage, and even my bisexuality comes under that … and yeah, I am, publicly, I appear to be the good gay. I've got the outward, I've got this normative civil partnership life, and a home, and a cat, and a loving relationship, but behind that, and that's what I hate about this, it creates this, you have to speak about it in discussion a bit, these two sides. When they are one. But behind that is all the other stuff that is practised, erm, which is probably no different to a large amount of heterosexual marriages, to be fair, so yeah. I'm on the other side, the bad gay, definitely. (*Civil partnered bisexual man, 36*)

This demonstrates another instance in which a participant's relationship status – he is in a legally recognised same-sex relationship – presents a homonormative image that is in line with the domesticated, demobilised view of the successful gay male relationship.[11] This performative positioning presents the participant and his partner as respectable and successful. Yet the participant notes three positions that demark him as being part of the homoradical, and therefore distanced from the valued sexuality of the inner circle (see Figure 32): his non-monogamy, his refusal to adhere to marriage, and his bisexuality. These factors are in direct opposition to the homonormative identity, and therefore denote 'bad' sexuality within a recognised relationship.

---

[8] K Namaste, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996) 199.

[9] A Neary, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 771.

[10] E Sedgwick, 'Queer Performativity' (1993) 1 *GLQ: A Journal of Lesbian and Gay Studies* 13.

[11] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 179.
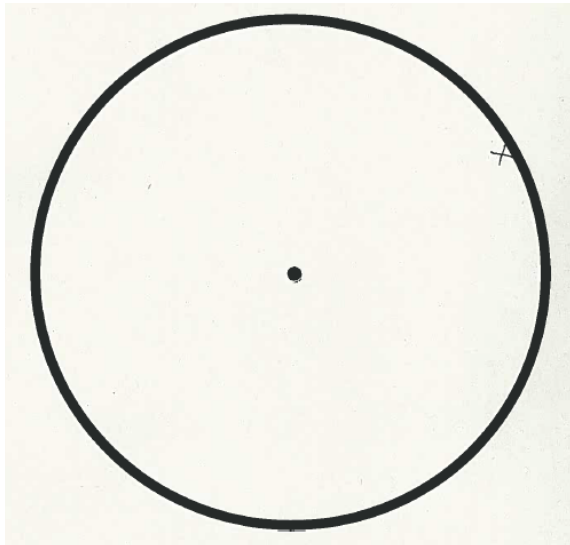
Figure 32: Civil Partnered Bisexual Man, 36

The homonormative identity arguably represents monogamy, marriage, and homosexuality as a standard. In his deviation from monogamy and marriage, this participant represents his active sexuality as a personal choice, one that opposes normativity. Non-monogamy represents an attempt to destabilise the sexual hierarchy by rejecting the focus on monogamy as a form of valued sexuality and practice,[12] destabilising the supposed ideal of relationships. However, the participant's decision to enter into a civil partnership may be argued to represent a form of normativity in embracing a legally recognised relationship that is intended to represent and reflect marriage, as noted in the quote. As such, two identities are constructed – one public and one private. The private identity is one in which sexuality is practised and embodied, while the public identity represents the performance of an acceptable partnered image. This may be indicative of the homogenising effect of homonormativity and the performance of 'good' sexuality in hiding 'bad' sexuality, despite the participant's insistence that he is a 'bad gay'.

The performance of 'good sexuality' is often associated with an ideal that presupposes that the couple is financially stable, able to live independently of the state, and committed to a form of respectability.[13] In deviating from this, the participant quoted below fears facing stigma and othering from those who hold preconceived notions of what the normative gay ideal should be. The notion of what is 'good' sexuality has arguably expanded from exclusively heterosexual

---

[12] R Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998) 151.

[13] B Skeggs, *Formations of Class and Gender* (Sage 1997) 1.

to include homosexuality, predicated on those who can mirror the successful, normative image as closely as possible. This is clearly a stressful positioning:

> … and I struggle with that, I dunno if I want to be that ideal type, but also that idea of a good life as well, do I want that, or actually no, I fight for this, I really believe that this is a bad thing, because it is really easy now to buy into this, like, gay marriage, and then you're gonna have a successful life, so I do struggle with that. (*Single lesbian, 21*)

The promotion of normativity that is reliant on marriage may represent a loss of liberation and its potential,[14] inducing class-based anxiety. It presents the participant with a personal dilemma that causes direct feelings of being 'unnecessarily restricted by tradition, prejudice and the requirements of social organisation'.[15] The participant indicates a loss of identity and community by succumbing to state-sanctioned coupledom, which presumes the privatisation of the couple.

Good and bad sexuality were often identified as relying on public image and sexual expression, demonstrating their performative nature:

> … although think about that, and you look at the Bigg Market on a Friday, Saturday night, I don't think that's good sexual practice either, so I think that, if you ask most people what is normal sexual practice, it would be monogamous, single relationship, long-term, erm, sort of very vanilla, not necessarily into the bondage kind of thing, so that links to where I'd associate myself with, that's very much the relationship I'm in, although whether that's normal or not is something that I think is starting to be questioned, and not just in gay relationships, but straight relationships as well, people who are starting to experiment, who are looking at different forms of sexuality and different practices. (*Single gay man, 33a*)

This participant distances himself from sexual expression – heterosexual or homosexual – that appears to deviate from monogamous and domesticated 'good' sexuality. In positioning heterosexual sex that may take place in a busy nightlife area in Newcastle-upon-Tyne as existing lower on the sexual hierarchy, the participant notes how promiscuity amounts to bad sexuality, irrespective of orientation. In distancing himself from promiscuity, he considers that he has a 'normal' sexuality that relies on monogamy – arguably constructing normality as the private exclusive couple – as an acceptable form of sexuality.[16] The participant places himself

---

[14] D Altman, *Homosexual: Oppression and Liberation* (Angus and Robertson 1972) 8.

[15] Ibid., 83.

[16] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 195; M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 82.

very close to the centre of the circle (see Figure 33) in order to demonstrate that his partnership should be recognised as a good form of sexuality. However, this is at the expense of stigmatising those who transgress norms of respectability and monogamy.
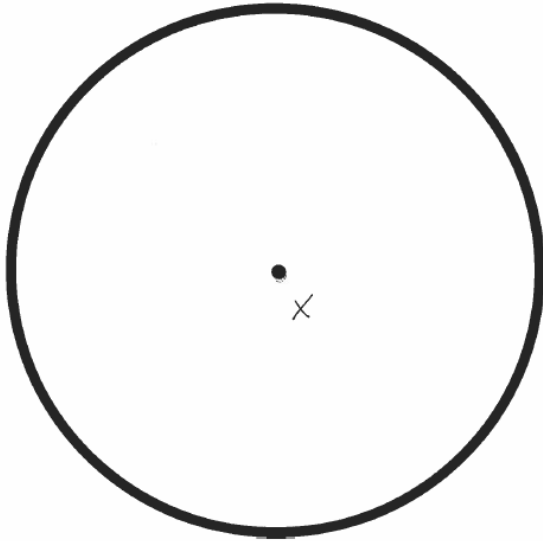

Figure 33: Single Gay Man, 33a

Ho has stated that '"in the context of individualisation, increased reflexivity, de-traditionalisation and the de-stabilisation of the homosexual-heterosexual binary" … practices of intimacy and sexuality can no longer – if indeed they could ever – be understood solely through such concepts as sex hierarchy, charmed circle and outer limits'.[17] This may be used to argue that Rubin's charmed circle no longer reflects the reality of LGBTQ experience. As Ho states, the sexual hierarchy is no longer accurate in assessing the 'natural' beliefs of what is good or normal, due to the pluralisation of different forms of sexual behaviour and relationship.

Moving beyond this, the queering of the sexual hierarchy is represented by the participant quoted below. He rejects traditional notions of good and bad sexuality by accepting a promiscuous label, but he recognises the differing levels that are attached to it. The hierarchical organisation of sexuality is thus reinterpreted and turned on its head:

---

[17] P Ho, 'The (Charmed) Circle Game: Reflections on Sexual Hierarchy through Multiple Sexual Relationships' (2006) 9 *Sexualities* 561, quoting S Roseneil and S Budgeon, 'Cultures of Intimacy and Care beyond "the Family": Personal Life and Social Change in the Early 21st Century' (2004) 52 *Current Sociology* 135.

Participant: 'Slutty, is that just me being really promiscuous?'

Researcher: 'Yeah.'

Participant: 'I think it's absolutely fine if that's what you want to do, I'm not a very good slut but I'm a bit of a slut.' (*Single gay man, 33b*)

By identifying as *partly* a slut, but not a successful – or fully realised – slut, the participant arguably queers the sexual hierarchy by ascribing a hierarchical classification of 'slut', with good slut indicating success at promiscuity, reinforcing Ringer's statements regarding gay men's 'pride in promiscuity'.[18] Rubin noted that 'bar dykes and promiscuous gay men are hovering just above the groups at the very bottom of the pyramid',[19] in contrast to monogamous gay couples, who were able to receive some form of respectability. By stating that he is not a very *good* slut, and therefore not a fully realised promiscuous gay man, he arguably queers what it means to enact good sexuality. Being a 'good slut', in this form of hierarchy, would be to ascribe value to sluttiness, and place it at the top of a reformed charmed circle, where sexual promiscuity and sexual liberation are more valued than normativity and sexual monogamy (see Figure 34).
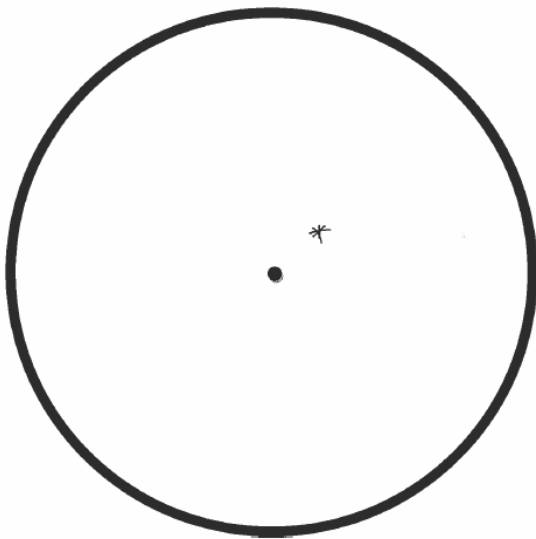

Figure 34: Single Gay Man, 33b

---

[18] R Ringer, 'Constituting Non-Monogamies' in M Bernstein and R Reimann (eds), *Queer Families, Queer Politics: Challenging Culture and the State* (Columbia University Press 2001) 137.

[19] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

This queering of the sexual hierarchy, where homoradical identities are given value, demonstrates reflexivity in the celebration of 'deviant' behaviour, indicating resistance to dominant sexual conventions in the face of sexual freedom.[20] Sexual freedom thus becomes the most valued aspect in a queer sexual hierarchy. With regard to the segmented circle (see Figure 35), however, the participant discusses how he oscillated between degrees of good and bad sexuality, demonstrating the fluid nature of the hierarchy:

> I'm totally non-monogamous because I am not in a relationship, whether I think it's good or bad … Okay can I change your scale? I think you should do it like, asterisks for what I do and diamonds for whether it's good or bad, it's confusing otherwise. So monogamous or not, I think both are good, whatever works for each individual, BDSM, um I do a little bit of that, and I think it's good as long as you're not doing yourself long-term damage or exposing yourself to any diseases, risky is obviously very bad and I don't do any of it, group is absolutely fine as long as you're not making yourself mental, I've not done it, slutty, is that just me being really promiscuous? (*Single gay man, 33b*)
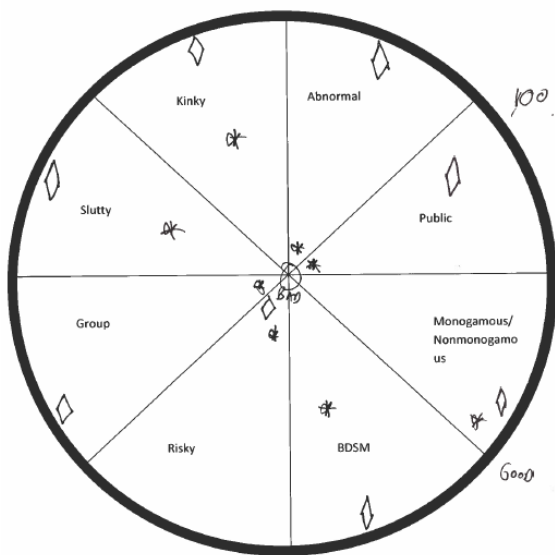

Figure 35: Single Gay Man, 33b

---

[20] B McDavitt and M Mutchler, '"Dude, You're Such a Slut!" Barriers and Facilitators of Sexual Communication among Young Gay Men and Their Best Friends' (2014) 29 *Journal of Adolescent Research* 464, 476.

This participant's statements demonstrate the competing justifications apparent in allocating binaries between good and bad sexuality, yet also the ways in which a binary is an inadequate way to split sexuality. Few-Demo has noted that human nature cannot be captured holistically by simple binaries,[21] as demonstrated by the participant as he moves between binaries of good and bad. He uses diamonds to signify society's view, stating that society views all of the segments as evidence of bad sexuality. The asterisks represent his own position: in the (non)monogamy and slutty categories, he sees himself as encompassing the non-monogamist identity, while being only slightly slutty. Rather than relying on moralistic views of sexuality, the participant asserts that the only forms of bad sexuality are those that inflict harm on oneself or on others. This is firmly in keeping with Rubin's democratic morality,[22] which places higher importance on consent, consideration, and the quantity and quality of pleasure, rather than relying on sexual moralism. It is relevant to the sexual hierarchy in deconstructing the notions of justifications for sex. In presenting a system in which sexual satisfaction and enjoyment are more important than normative standards of marriage and commitment, it queers the sexual hierarchy. It thus becomes possible to conceptualise a queer sexual hierarchy in which behaviour that was previously stigmatised as unjustifiable and deviant is now celebrated and accepted, predominantly by LGBTQ populations.

One participant used the term 'alternative' to describe the way in which she perceived her sexuality, indicating that lesbianism was the factor that positioned her between good and bad sexuality. She went on to explain:

> Erm, because I'm not what society sees as good sexuality, straight, heterosexual sexuality, erm, I'd put myself somewhere in the middle because that isn't about me, it's about what people view as alternative sexuality, what they say is alternative sexuality, erm, so in societies eyes, I wouldn't necessarily be good sexuality, but in my own eyes, I am, so yeah. (*Single lesbian, 61*)

(See Figure 36 and Figure 37.)

---

[21] A Few-Demo et al., 'Queer Theory, Intersectionality, and LGBT-Parent Families: Transformative Critical Pedagogy in Family Theory' (2016) 8 *Journal of Family Theory and Review* 74.

[22] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.
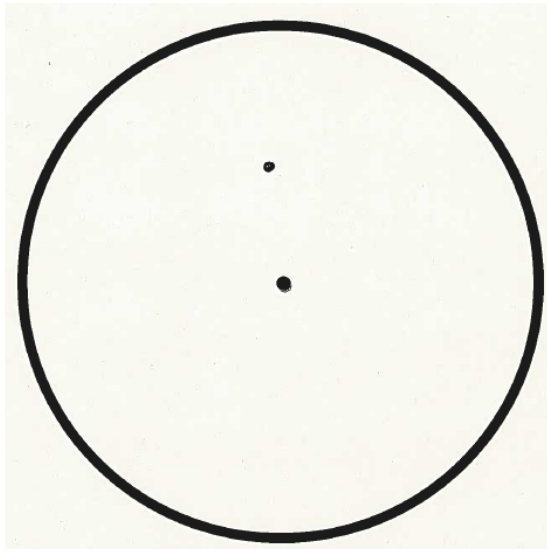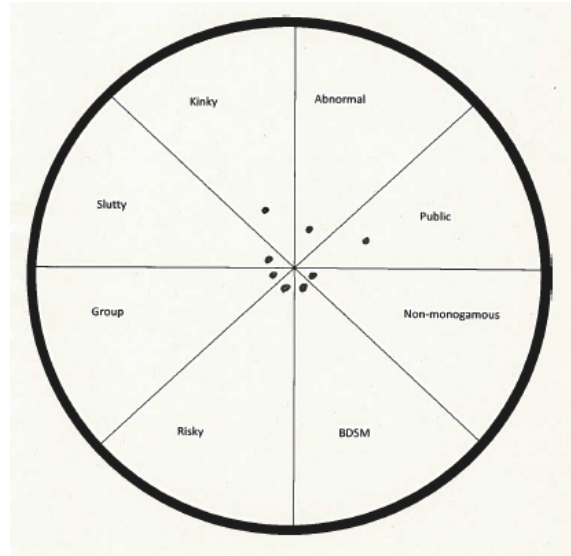
Figure 36: Single Lesbian, 61

Figure 37: Single Lesbian, 61

This participant's markings on the second circle represent not only her hesitation to discuss sexuality with an unfamiliar researcher, but also the difficulty she found to categorise certain types of sexual practices that were not in keeping with the intimacy and emotion she attached to sex. This is resonant with Frederick and Fales's findings that lesbian women find it harder than gay men to compartmentalise[23] sex and emotion[24] and therefore are less likely to practise such behaviour.

Another participant also constructed his sexuality against his perceptions and experiences of societal views of good and bad:

> Participant: 'Good is just like normal sexuality I guess? Er, probably like, there?'
>
> Researcher: 'Okay and why is that?'
>
> Participant: 'Erm, so, like obviously you have people who aren't okay with my sexuality but I've never personally experienced any form of discrimination because of it, so far, that I know of, erm, and everybody who I've told, I've not come across one person who I've told and they've not been okay … so they're the people who I interact with most [20–30 year olds], I've never had any like, never had any bad reaction to it, I just feel quite

---

[23] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117.

[24] D Frederick and M Fales, 'Upset over Sexual versus Emotional Infidelity among Gay, Lesbian, Bisexual, and Heterosexual Adults' (2016) 45 *Archives of Sexual Behaviour* 175.

comfortable. Obviously there is like, a little bit of discrimination which is why it's not in the centre.' (*Single gay man, 20*)

In positioning himself close to the centre of the circle (see Figure 38), the participant equates good with normality, implicitly normalising his sexual status as a gay man with a monogamous vanilla sex life that adheres to normative notions of relationship ideal.
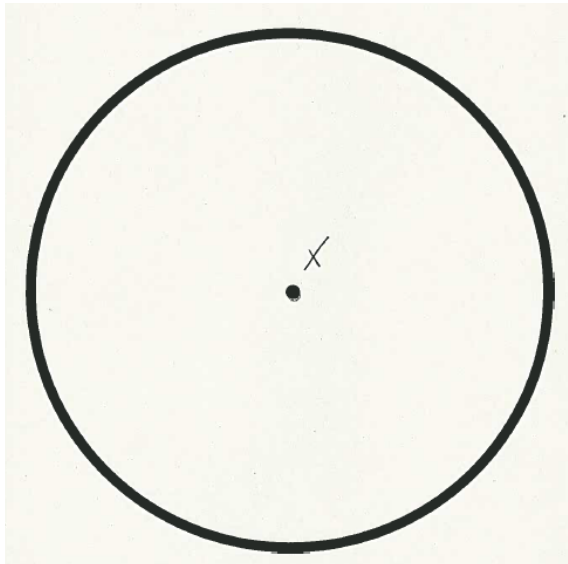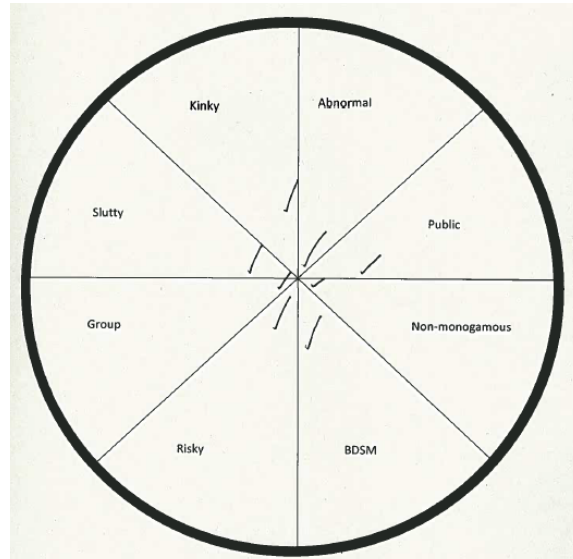

Figure 38: Single Gay Man, 20

Figure 39: Single Gay Man, 20

The participant also noted that his age has precluded him from facing direct discrimination. Being a young and middle-class white man who had worked as a model may allow for him to benefit from the 'halo' effect, by which physical attractiveness leads his other characteristics to be judged positively.[25] This contributes to the fact that he has not faced any discrimination. It also allows him to occupy space within homonormativity as a successful, able-bodied gay man, and therefore to benefit from the sexual hierarchy in the reflection of heteronormative notions of success. As such, in constructing this normal sexuality and firmly identifying with the homonormative identity, the participant relies on the sexual hierarchy as a means of enabling his own social privilege via the mainstreaming and acceptance of metropolitan gay identity.

---

[25] S Hung, C Nieh, and P Hsieh, 'Unconscious Processing of Facial Attractiveness: Invisible Attractive Faces Orient Visual Attention' (2016) 6 *Scientific Reports (Nature Publisher Group)* 37117.

7.3 The Outer Limits

Rubin's 'outer limits' refers to a popular sci-fi television programme from the 1960s.[26] The phrase is used to illustrate bad and deviant sexuality. The participants discussed below all marked themselves at the outer limits of their charmed circles. They may be used to demonstrate an affiliation with such bad sexuality that may be deemed antithetical to same-sex marriage. The visual data in this section represents the participants existing at the outer limits – as 'moral outcasts' of the public community.[27]

Only one participant vocalised marriage issues from a trans perspective, which was explained in this way:

> Because I think that, a lot of how I see gender and sexuality is really challenging to people, regardless of their own sexualities and genders, and the people I tend to find who kind of get this the most, it tends to be the non-binary people, erm, and what they've facilitated and done is because of their gender orientation, they're able to bring the sexuality question down in a way that cisgendered people, sexually diverse people don't, because they're still catching everything in cisgendered physical narrative, and until you can actually do that, you're one step away from it, so it's about that person's internal identity themselves that facilitates that. And society is predominantly, I think society certainly if you were talking in the way I would expect, and again, I mean, the more hetero-, cis-normative someone is, the closer they're to that, and the more further out someone is, and if you're doing a cross-section of sexuality and of gender identity, those factors will just take them further and further out. That's, kind of, the way it plays out in my head anyway. (*Single pansexual (poly) feminine polarised genderqueer, 42*)

For this participant, the centre of the circle represents heteronormativity and cis-normativity. The participant deviates from the 'normality' of being cisgender, and thus their gender identity had a large effect on their sexuality and its standing in society.[28]

---

[26] *The Outer Limits* (Daystar Productions, 1963).

[27] U Khan, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014) 229.

[28] M Worthen, 'Hetero-Cis–Normativity and the Gendering of Transphobia' (2016) 17 *International Journal of Transgenderism* 31.
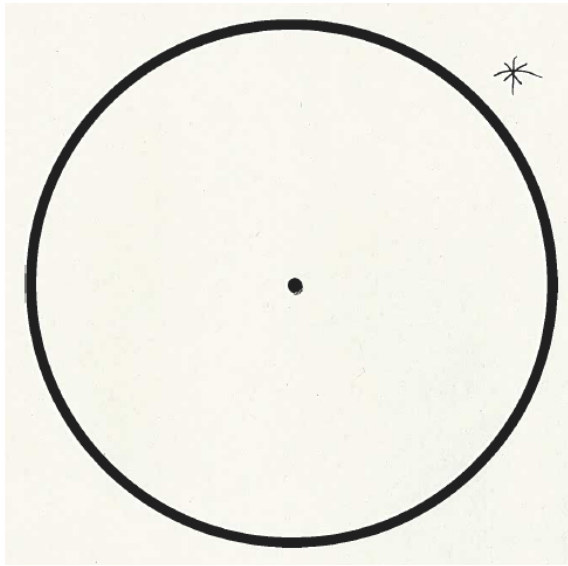
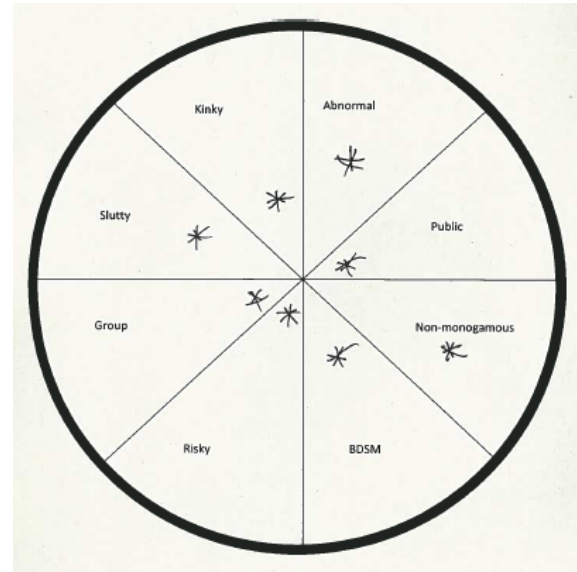*Figure 40: Single Pansexual (Poly) Feminine Polarised Genderqueer, 42*

Figure 41: Single Pansexual (Poly) Feminine Polarised Genderqueer, 42

The participant has positioned themselves entirely outside the circle of good or bad sexuality and also identifies outside of the gender binary (see Figure 40 and Figure 41), which primarily relies on male/female.[29] Thus, it is not only the participant's sexuality but also their gender that pushes them beyond the outer edges of the circle, indicating their 'bad' sexuality *and* gender. This demonstrates castigation from the sexual hierarchy that goes beyond what Rubin stated, in which it was only those who transgress laws of consent and generational sex who were below the hierarchy.[30] The participant notes how their gender identity, in which they do not identify as a transwoman or a woman, is challenging to understand for hetero/cis-normative populations and therefore is understood best by those non-binary communities. It may be argued that good sexuality maintains cisgendered narratives through the conflation of gender and sexuality.

Exclusion from the charmed circle may be signified – as above – in the rejection of gender binaries, while for others it may be due to their political stance. Another participant who felt excluded from the charmed circle visual method was a lesbian woman who maintained that her sexuality was political (see Figure 42).

---

[29] Ibid., 31.

[30] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151
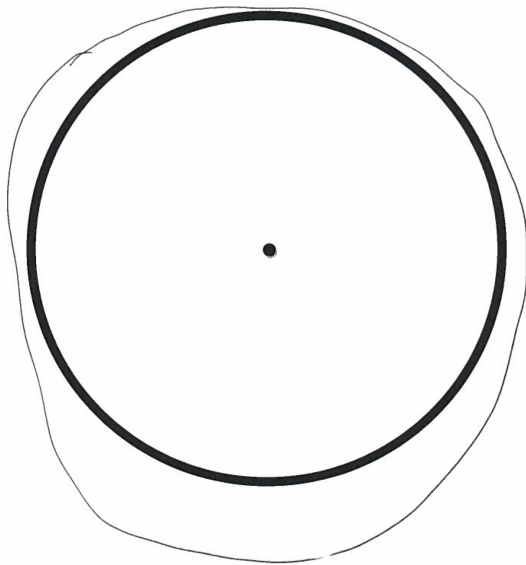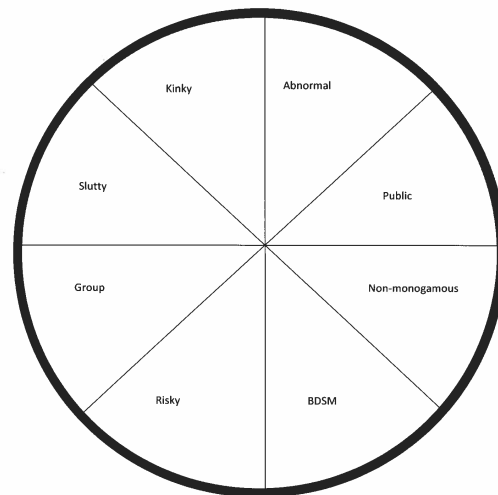
Figure 42: Single Lesbian, 68

Figure 43: Single Lesbian, 68

This participant refused to fill in the segmented circle (see Figure 43), stating:

> Oh … kinky, what is kinky, that's a really, I've got to criticise the word, that's something my mum would use, fortunately she's dead, I hope the word died with her, and slutty, that's generally used for women, but it's used for gay men amongst gay men isn't it, oh I can't be doing with this, I'm sorry, the language is beyond me. (*Single lesbian, 68*)

In rejecting the charmed circle due to the language used and a reluctance to discuss her sexuality with a stranger, this participant altered the course of the interview. Noting the predominantly gendered use of the word 'slut' as a pejorative term, she refers to the prejudice often faced by women with sexual ownership and also to the way in which many gay men have reclaimed the word.[31] This – whether negative or positive – indicates how hierarchies are being re-appropriated in order to claim positivity in 'slutdom', representing sexual liberation. The participant went on to state, in relation to the outer limits:

> Well I would think we were very bad. Because we're penis-rejecting, and the penis is god. I think, yeah, I would think we'd be, this is bad? Oh I think we'd be outside that … really. (*Single lesbian, 68*)

From this quote, we can see a rejection of heteronormativity. The participant maintains her status as a 'political lesbian', while also rejecting patriarchal masculinity. This rejection, she

---

[31] R Ringer, 'Constituting Non-Monogamies' in M Bernstein and R Reimann (eds), *Queer Families, Queer Politics: Challenging Culture and the State* (Columbia University Press 2001) 137.

claims, is inherent to her lesbianism and is an active political choice. In rejecting phallocentric and androcentric understandings of sexual activity,[32] she rejects the charmed circle, and indeed the research diagram. By mockingly deifying the phallus, she reaffirms her view of the centrality of masculinity within culture, which may exclude and stigmatise those who reject the penis. Traditional marriage – containing the legally required penetration of consummation – arguably reaffirms lesbian otherness, as penetration may never occur within some lesbian relationships (while others may achieve penetration with dildos or strap-ons). Therefore, traditional notions of consummation have legally and socially upheld patriarchal relations, which may reaffirm Robson's critique that marriage is a 'formalistic legal relation' that sanctions intimate relations as an imperialist act of state power.[33] The participant then went on to qualify her position at the outer limits of the charmed circle:

> But yeah, so I'd put myself outside, I hope I'm out! I hope I'm in the bad lands, who wants to be in?! You know there is a bit of that, a kind of up yours sort of thing, we like who we are, we like what we do. (*Single lesbian, 68*)

The participant rejects the popular view that LGBTQ people are 'born this way' – which is often used to 'combat accusations that LGBT people choose to embrace non-normative identities'[34] – in order to reaffirm her political stance. However, this statement faces critique for essentialising identity in order to force the intolerant to tolerate non-normative identities, presenting a form of assimilation that restricts autonomy. In resisting this, and in stating that her identity as a lesbian is a political choice, the participant directly opposes homonormativity and its depoliticising tendencies. This political choice may be representative of the lesbian separatist movement, which promoted group consciousness and solidarity among women,[35] in order to overcome not only oppression from mandatory heterosexuality, but also marginalisation from a predominantly gay male movement. 'As lesbians came to see their social status as defined by patriarchal social and cultural norms, many came to believe that lesbian separatism was "the logical outcome of feminism, the quintessential expression of the

---

[32] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 11.

[33] R Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998) 150.

[34] J Bennett, '"Born This Way": Queer Vernacular and the Politics of Origins' (2014) 11 *Communication and Critical/Cultural Studies* 214.

[35] J Schroedel and P Fiber, 'Lesbian and Gay Policy Priorities: Commonality and Difference' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000) 99.

personal as political'".[36] As an opposing force against homonormativity, this lesbian politicised reflexivity may demonstrate the ways in which homonormativity is primarily concerned with the representation of gay men as model citizens, marginalising not only the experiences but also the sexuality of lesbian women[37] and presuming masculinity as an idealised gender expression. This may indicate that female sexuality – particularly lesbian sexuality – is placed at a lower rung of the sexual hierarchy than male sexuality, which is exacerbated further by the participant's position outside of the charmed circle and beyond the outer limits.

Another participant's sexual practice furthered his exclusion from the charmed circle, advancing the narrative that society views such practices as deviant and at the limits of socio-sexual value:

> Participant: 'Oh right, so this is where society sees as bad, this is where society sees as normal? I think everything's good, but society sees bad, okay, so just draw a line? I'd go off the page.'
>
> Researcher: 'So you think you'd be there?'
>
> Participant: 'Er, off the page, everything I do, everyone would think was wrong, er, my parents don't really care what I get up to, they're fine with everything, but in the same circumstances, er, I don't even have my tonsils taken out in October and there's certain things in my house I wouldn't want them to see, well I wouldn't really care but it would be nicer for them not have to see it, so yeah, er, most things I would do in society would be frowned upon. I've been to Pride before but I wouldn't go in a jockstrap to pride and walk around, so … yeah, er, society frowns on pretty much anything I like to do.' (*Single bisexual man, 28*)

This participant draws a distinction between what society sees as normal and his own enjoyment and his BDSM identity (see Figure 44 and Figure 45). He posits society's views of his sexuality as negative, reaffirming his place 'off the page' of the charmed circle due to his self-identified sadist behaviour (as discussed in chapter 6). This behaviour, he states, is frowned upon by society as a deviation from normal sex and relationships, demonstrating his embrace

---

[36] V Taylor and N Whittier, 'Collective Identity in Social Movement Communities' in A Morris and CM Mueller (eds), *Frontiers in Social Movement Theory* (Yale University Press 1992) 108; J Schroedel and P Fiber, 'Lesbian and Gay Policy Priorities: Commonality and Difference' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000) 99.

[37] C Delphy and D Leonard, *Familiar Exploitation: A New Analysis of Marriage in Contemporary Western Societies* (Polity Press 1992).

of deviant sexuality, in contrast to Rubin's statement that most people have difficulty grasping the fact that their sexuality is repulsive to wider society.[38]
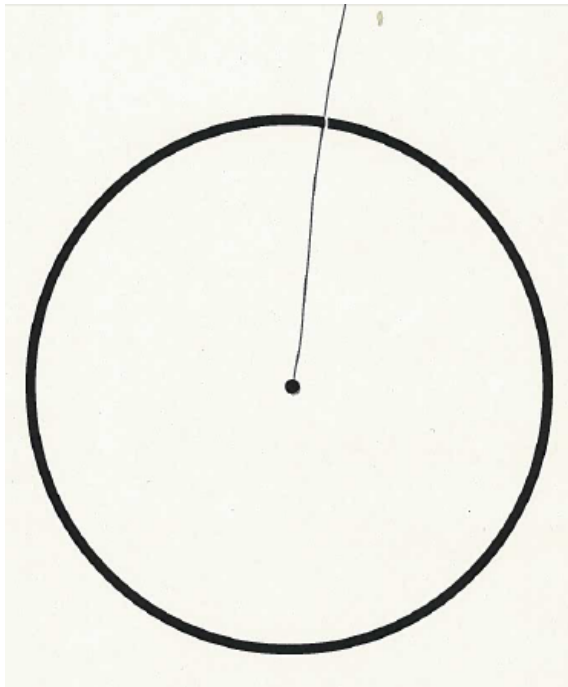

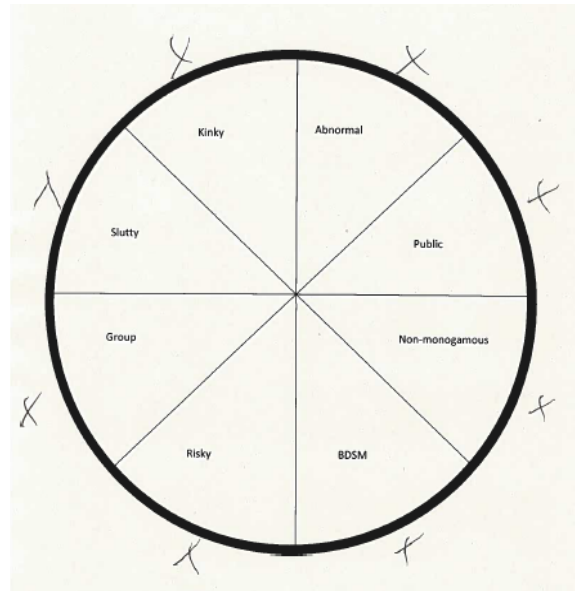*Figure 44: Single Bisexual Man, 28*

Figure 45: Single Bisexual Man, 28

In representing the homoradical, and in perceiving his own sexuality as being completely outside of the sexual hierarchy, this participant demonstrates the ways in which marriage may fail to reflect such sexuality, as the law aims to incorporate coupled, domestic good sexuality. The practice of bad sexuality, and the comments of participants who marked themselves as outside of the circle, demonstrate the ways in which lesbian women, transgender people, and BDSM practitioners may feel excluded and rejected from the sexual hierarchy. This implicitly upholds and sustains notions of good sexuality through a system of socio-sexual value that is ascribed to marital domesticity.

7.4 Normality, Abnormality, and Boring

Participants were asked to mark on their circles whether they believed their sexuality was 'abnormal' in order for the participants to reflect on their perceptions of their own actions in

---

[38] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 154.

relation to those of others in society, particularly following discussion of the normalisation of LGBTQ identity. Issues raised often broached the views of society as a supposedly homogenous body alongside the visibility and openness of sexuality:

> Participant: 'Within the circle? [laughs] I'd be about there, seriously, I mean … but who you asking, society at large or? Individuals within society, because it depends on which member of society you think, you could ask my next door neighbours where they think, you could ask the people on the street, the preachers, and it would be there, so which, are you asking me to make across the board?'
>
> Researcher: 'Yeah.'
>
> Participant: 'And that's very like a conservative guess.'
>
> Researcher: 'So you think that's because you're gay, that's pushing you out?'
>
> Participant: 'And that's there because some people would have it there, and some people would have it there, so I'm going 50/50, so some people's opinions are counteracting other people's opinions out, if you got 10 different people and asked 10 different people, 5 might be there, and 5 might be there, so I'm just going in the middle ground.' (*Married gay man, 43*)
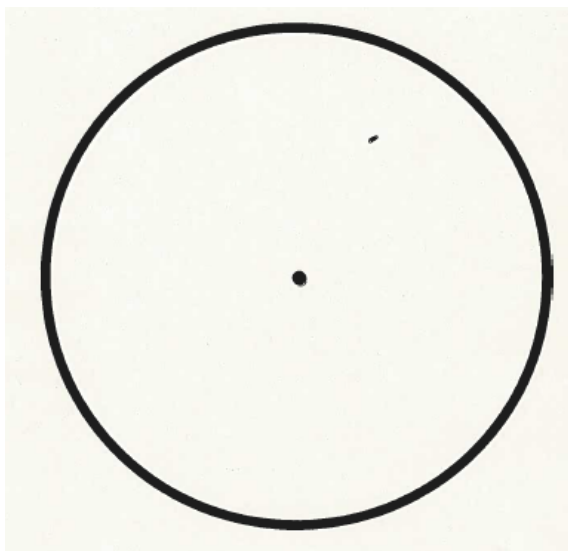
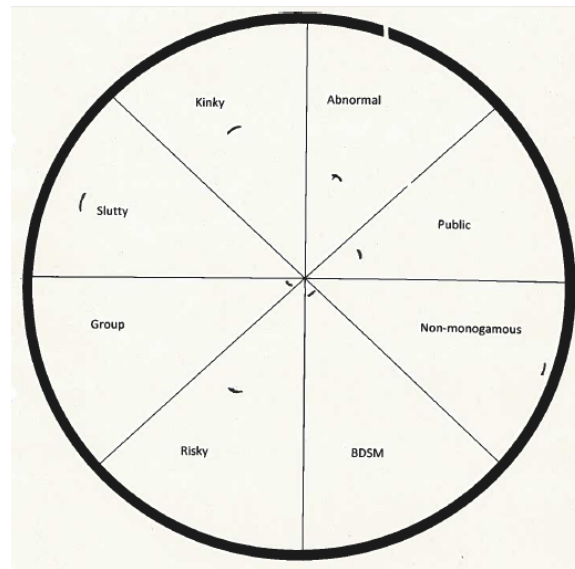(See Figure 46 and Figure 47.)

Figure 46: Married Gay Man, 43

Figure 47: Married Gay Man, 43

This participant believes that society pushes him further towards the outer edges of the circle, despite his marital status. In explaining this position, he reveals his ways of conceptualising the hierarchy by constructing his own sexuality against society at large, religion, and those with

whom he interacts on an everyday basis. Because of this, he recognises that on the circle he would be pushed further towards the outer limits, accompanied by justifications of his public and non-monogamous sex – despite his marital status, which arguably represents good sexuality.

Many participants used the notion of abnormality to contrast LGBTQ populations and wider society. Often, those who marked themselves as being close to the centre of the circles often described themselves as sexually 'normal' or even 'boring'. When asked 'On a scale of 1 to 10 (1 being very 'normal', and 10 being 'abnormal'), could you rate your sexual practices? Why have you given this score?', the participants were prompted to evaluate not only how they felt about their own sexual practices, but also how those practices compared to the practices of others in the wider society. Using this 1–10 scale allowed for the construction of normality to be comparative, with the participants regularly contrasting their own views of normality against those of wider heteronormative society, or even against the views of LGBTQ populations. One such participant noted:

> Participant: 'In sexual practices? Erm, in comparison with other gays or in comparison with society at large?'
>
> Researcher: 'Both.'
>
> Participant: 'Okay well in comparison with other gays, I would put myself at a 1 maybe 2, I think that's quite normal for a lot of gay men, and I think for society on the whole, it would be quite higher, I'd be more likely to say 8.' (*Single gay man, 30*)

In constructing the normality of gay men's sex lives, the participant believes this to be different from that of wider society. The implicit effects of the sexual hierarchy are evident in constructing gay male sexuality as abnormal and as adverse to the normality of the heterosexual population. The participant justifies this by stating that promiscuity and the use of social media and sex apps allow for a normalising of 'slutty' behaviour that eschews restrictive relationship boundaries. This freedom and reconstruction of normality are resonant within Weeks's statement that 'as we culturally prioritise individual choice and the acceptance of diversity, commitment becomes increasingly a matter of negotiation rather than ascription'.[39] Therefore, in advocating the normality of apparent promiscuity and individualism within gay

---

[39] J Weeks, *Making Sexual History* (Polity Press 2000) 215.

communities, heteronormativity, with its high focus on coupled domesticity, appears at odds with gay sex lives (as shown by the participant occupying space outside of the first circle: see Figure 48). Gay sexuality may thus have the potential to radically alter perceptions of monogamy, domesticity, and privacy within marriage.
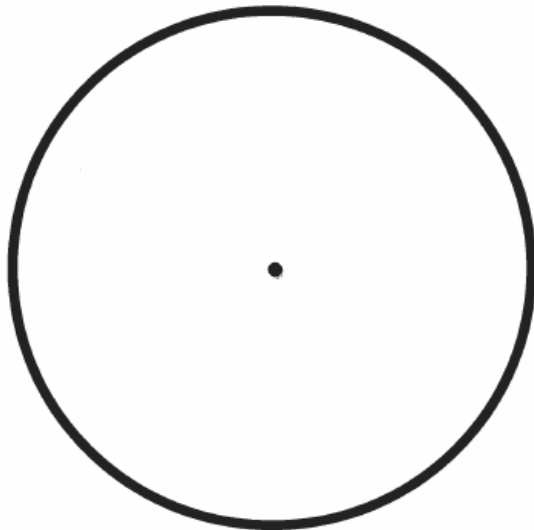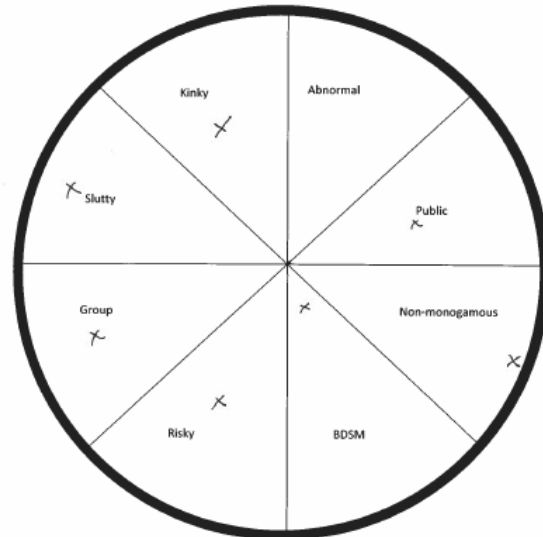

Figure 48: Single Gay Man, 30   *Figure 49: Single Gay Man, 30*

Other participants also noted how they – or their sexual behaviours – were 'boring', often indicating an attempt to deflect references to their sexuality when discussing perceptions of abnormality and normality:

> Oh okay, sorry … hmm … dunno, I think I'm just really boring [laughs] I mean, potentially slutty but I don't really like the word, but yeah I know, it conveys what you mean … abnormal, dunno, depends abnormal means. (*Single bisexual woman, 26*)

Some participants identified their behaviour as boring when filling out the segmented circle, while others conflated monogamy with boring sex:

> Erm … I think I'm probably quite boring, monogamous, yeah, it's quite a difficult one for me to answer. (*Single lesbian, 36*)

Alongside the conflation of monogamous and boring, participants also related vanilla non-BDSM sex with boring sexuality, which may reflect their unease or lack of familiarity with the questions that had previously been asked of them during the interview:

> My sexual practices? Very vanilla. Erm, 2, no is 10 normal? 1 normal? Well, just you know, 1, very boring, basic things, nothing out of the ordinary, sort of thing. (*Single gay man, 21*)

These answers may conflate monogamy, non-kinky (meaning, for example, not BDSM), and vanilla sexual practices, relating them to boring and normal sexual practices. This may relate to Rubin's vision of a sexual order that is safe, healthy, and mature,[40] as opposed to the erratic behaviour of those whose sexuality transgresses sexual boundaries. The construction of the latter stems from the apparent popularisation of promiscuity and kink identities in mainstream media and discourse, which capitalise on the sexualisation of desire.[41] This perspective may be affected by the increasingly sexualised nature of society. Participants noted the mainstreaming of kink, which largely relies on the objectification of able-bodied female bodies and the tolerance of more promiscuous sexual attitudes.[42] They may have taken this to mean that their sexual practices were boring or 'tame', compared to the normalised discourse within society, with homosexuality or heterosexuality being irrelevant. This leads on from Rubin's statement that, in the 1980s, coupled homosexual sex began to be recognised by society as a socially legitimate form of sexual coupledom[43] and this served to reinforce the sexual hierarchy by a system of legitimation. This is reflective of Stychin's statement that it would become 'easy for gay politics to become politically conservative in an era of gay marriage and same-sex partnership benefits',[44] due to human rights victories and full claims to citizenship. The popularisation of transient relationships has reinforced views of homosexual people as being incapable of forming legitimate loving relationships. Thus, the idea that LGBTQ populations are predisposed to chaotic transient relationships legitimises those who ascribe to normative relationship boundaries, while stigmatising those who embody the homoradical.

---

[40] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[41] M Weiss, 'Mainstreaming Kink: The Politics of BDSM Representation in U.S. Popular Media' (2006) 50 *Journal of Homosexuality* 103 (128).

[42] Ibid., 128.

[43] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[44] C Stychin, 'Same-Sex Sexualities and the Globalisation of Human Rights Discourse' (2004) 49 *McGill Law Journal* 951.

For the participant quoted below, other issues of gender and sexuality contribute to the discussion of the normality of her sexuality, hinging on pathologised narratives concerning BDSM sexuality:

> Participant: 'Erm, well I think it's completely normal to me, erm, but from gauging other people's responses and understandings, it would be like 7, 8.'
>
> Researcher: 'That's quite high, why do you think it would be that high – because the kink or the gender?'
>
> Participant: 'Both, I think, I don't think it, it's not, people don't have a problem with it, I think it's a lack of understanding, but why would they understand it if they're not with someone who questions their gender or doesn't want to be male or female, why would they question that? … so they think there's something wrong with me, or there's something, like a psychological thing, they can't just understand that I like that, and that's it, so, I think a lot of people would see it as not normal sex because it's not vanilla and it's not always missionary position, I think that's what they struggle with' (*Single lesbian, 21*)

Again, the participant constructs her own normality that is at odds with that of wider society. While her sexuality and practices are normal to her, they encompass wider social norms of harm such as bloodletting and erotic-asphyxiation. In undertaking behaviour that resembles or inflicts some form of harm, however consensual,[45] the participant represents a form of sexuality that is at odds with common notions that sex *should* be free from any forms of pain. The participant therefore transgresses socio-sexual values of sex and pain, reinforcing her place at the bottom of the sexual hierarchy through *abnormal* sexual practice.

Another participant notes how his own perceptions of normality may be vastly different from those of people around him, recognising the importance of the self-assessment of such normality:

> 1, I'm totally normal. I think I'm normal but I'm sure a lot of my friends, when I talk about my sex life think I'm a 10 but I think I'm totally normal, there are lots of other people out there that would happily be normal with me, doing your abnormal shit, I guess sex is about not being scared of stuff, you shouldn't do anything you're uncomfortable with, so as long as there's two people being comfortable doing stuff that they both agree on, then it's all normal. (*Single (dissolved civil partnership) gay man, 46*)

The participant places himself at 1 on the scale, but he notes how this may be totally abnormal to his friends and wider society, demonstrating a reflexive account of his own sexuality and the

---

[45] C Moser and J Madeson, *Bound to Be Free: The SM Experience* (Continuum 1996) 71; R Bauer, *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries* (Palgrave Macmillan 2014) 77.

sexual hierarchy. This is predicated on his kink and BDSM practices (as shown in Figure 50 and Figure 51). He firmly identifies as belonging to the leather community, of which kink is a large indicator.
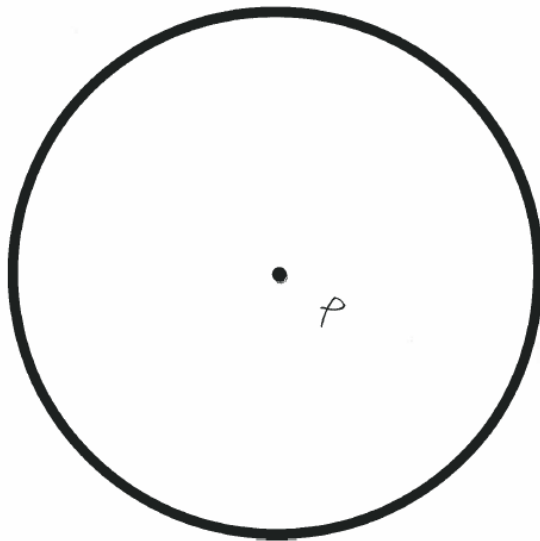

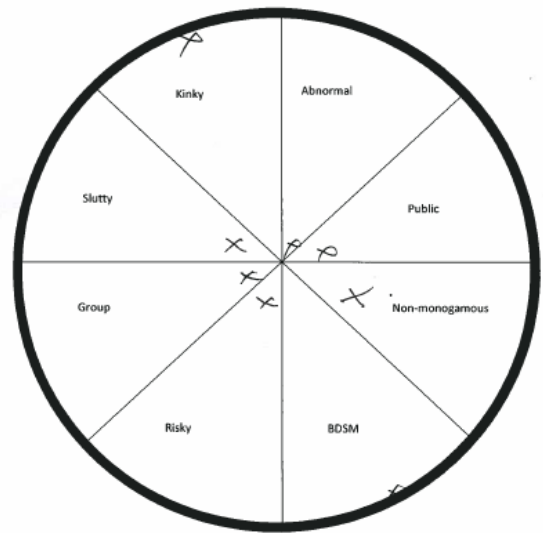**Figure 50: Single (Dissolved Civil Partnership) Gay Man, 46**

Figure 51: Single (Dissolved Civil Partnership) Gay Man, 46

BDSM communities have largely evolved in modern times as a result of being excluded from society[46] and this participant's statement reflects that situation. Those whose sexual practice may be seen as abnormal are able to create communities and kinships that are predicated on the mutual respect of sexual practices and the enjoyment of certain kinks and fetishes. The forming of these communities is often in contrast to the heteronormative notion that sex and sexuality are to be confined to coupled pairings, as opposed to the often communal and grouped sexuality that takes place within BDSM communities. For the people who belong to these communities, shared participation in a sexual practice constructs a queered sexual hierarchy in which their own sexuality is valued within a group. This allows for a politics of affinity[47] and reaffirms socio-sexual relationships that transcend societal values of pain, pleasure, monogamy, and intimacy, in keeping with Weeks et al.'s families of choice.[48]

---

[46] R Bauer, *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries* (Palgrave Macmillan 2014) 17.

[47] D Harraway, *Simians, Cyborgs, and Women. The Reinvention of Nature* (Routledge 1991) 155.

[48] The notion that, particularly prior to the introduction of civil partnerships and same-sex marriage, queer people often constructed their own families of choice, in lieu of legal recognition of relationships: J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

Another participant constructs his place on the sexual hierarchy as one that is broadly in keeping with Rubin's sexual hierarchy, with his sexual practice hovering above the illegality of non-consensual intergenerational sex and bestiality,[49] despite being open to other forms of 'deviant' or abnormal sexual practice:

> Participant: 'Oh shit, I think, based off the manner of what I practise and what I've done, I probably sit at – I think there's always more to do, and there's stuff I definitely haven't done – so I'd probably sit at about a, about an 8, maybe, I would say, and there are some areas that I think are off limits or that I'm not interested in, erm, so socially, wouldn't be interested in paedophilia, or wouldn't be interested in animal sex, unless it's someone dressed as an animal then I'll fuck him [laughs] but yeah.'

> Researcher: 'So you think the dressing up, that's separated from the animal sex?'

> Participant: 'Oh yeah totally, it's a totally different thing, erm, it's more that, erm, pup play is about the façade, the façade of pup, rather than actually shagging an animal, erm, and it also comes from a different, well I'd imagine, someone who practises bestiality, there's no consent there, whereas there is with that, with pup play.' (*Civil partnered bisexual man, 36*)

This deviant sexual practice is manifest within the participant's practice of 'pup play'. Pup play is a 'form of role-play in which adult humans adopt characteristics that mimic the behaviour of young dogs'.[50] This behaviour, which the participant maintains is a form of role-playing and a façade that allows for a sexualised safe-space in which consent is maintained, is practised as a beneficial addition to sexual practices. However, another participant has a different interpretation:

> Me? Well me, I'd say, because there's been people on Grindr and I've spoken to and they've asked me to do a list of things and they're like 'well you're not that open-minded are you?' and it's like well I'm pretty open minded! So I'd say I'm probably a 7, because I do like some freaky shit, but, like I'm nowhere near those people that dress up as puppies and all that rubber stuff, like that upsets me, I don't like things that look like people but aren't people, I find it very stressful, no to gimps, and no to people dressed up as puppies. (*Single gay man, 27*)

(See Figure 52 and Figure 53.)

---

[49] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 151.

[50] Wignall L and McCormack M, 'An Exploratory Study of a New Kink Activity: "Pup Play"' (2017) 46(3) *Archives of Sexual Behaviour* 801.
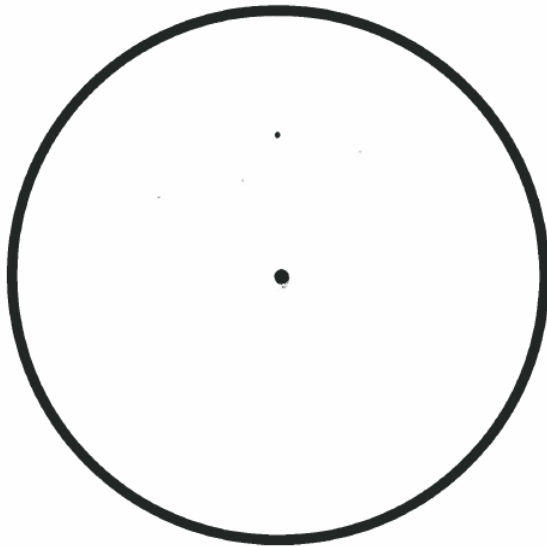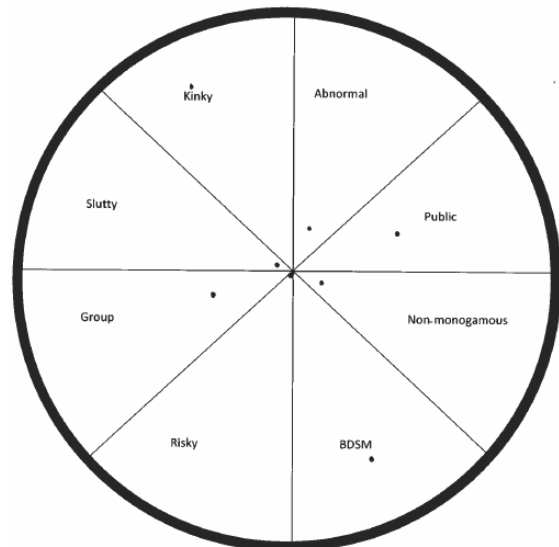
Figure 52: Single Gay Man, 27   **Figure 53: Single Gay Man, 27**

This participant maintains his position at a mid-point on the first circle by admitting to sexual activity that incorporates 'freaky shit', but he justifies this by distancing himself from kink activities such as pup play and dehumanisation. This posits the loss of identity that accompanies dehumanisation as stressful and as an indicator that this form of sexuality is damaging. It is in contrast to the earlier participant who enthusiastically participated in such practices as a façade, allowing him to play with notions of identity in order to indulge in sexual pleasure. These perceptions act as an important indicator of the ways in which the sexual hierarchy is constructed, and how the homoradical is abnormal in comparison to the homonormative. The homoradical practises acts that are considered aberrant and dangerous.

The sexual hierarchy arguably relies on the normalisation of sexuality, predicated on heteronormative and homonormative identities and practices. Deviation from these standards was often constructed by the participants as abnormality within LGBTQ populations. One such participant notes the ways in which perceptions of abnormality directly correlate with valuations of sexuality and practice:

> I mean to be honest, among the friends that I've got, my sexual practices are quite abnormal because a lot of the friends that I've got are, they swing a lot more, things like saunas, they're into the bondage, that kind of thing and it's kind of like our relationship is actually a lot more, as I say, vanilla than their practices, so, probably around about the 8, comparing myself to other people who are around me, but if you look at the way in which society looks at things, it would probably be closer to about 1 or 2, so very difficult. (*Single gay man, 33a*)

This participant's sexuality became abnormal in relation to that of his peers, due to his participation in vanilla sexual practices. By avoiding non-monogamy, bondage, and the use of PSVs, the participant believes that he is an outlier among his friends, and as such becomes abnormal (see Figure 54 and Figure 55). The fact that he stands out from the pack as an outlier suggests that the majority of his gay friendship group normalises such homoradical sexual practices. This may indicate the normalisation of the homoradical within certain gay male friendship groups, as non-normative sexual practices become more widely accepted within that demographic. However, in wider, heteronormative society, the participant's vanilla sex life may be considered to be in keeping with normative standards, indicating the mainstreaming of homonormative gay identities. Such normalisation of homonormative identities may demonstrate the continued existence of the sexual hierarchy, as those sexual identities that may be considered 'non-marital' are delegitimised and made 'weirder'.[51] The participant's markers on the visual data represent his self-determined position close to the centre of good sexuality, as someone who practises 'normal' sex.

Figure 54: Single Gay Man, 33a   *Figure 55: Single Gay Man, 33a*
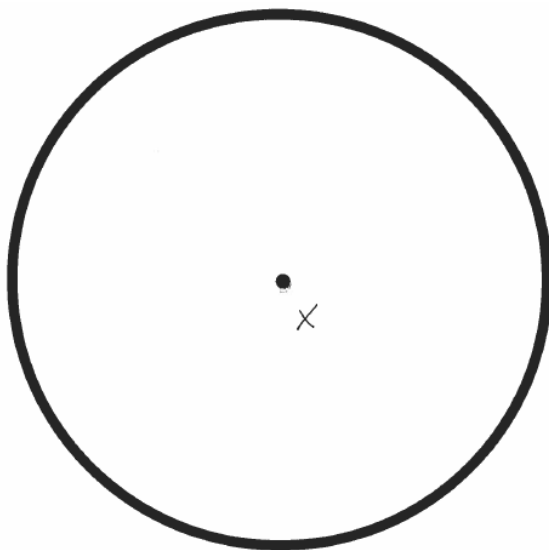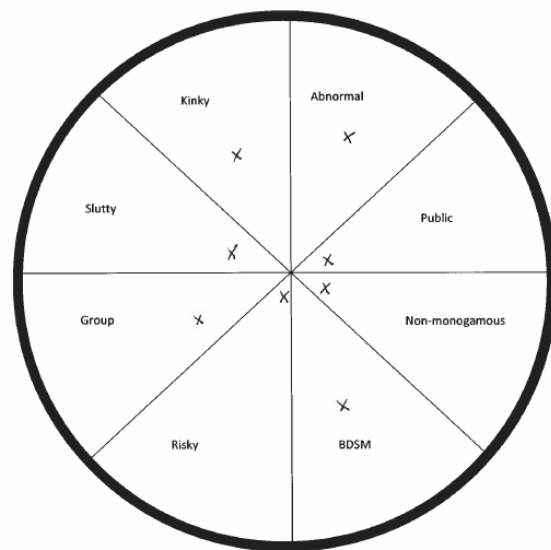
---

[51] J Halley, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001) 99; M Warner, 'Beyond Gay Marriage' in W Brown and J Halley (eds), *Left Legalism/Left Critique* (Duke University Press 2002) 260.

This may be seen to be in stark contrast to another participant, who stated that he would be at the 'abnormal' end of the normal–abnormal scale precisely because of the sexual acts in which he took part:

> Participant: 'I'm probably gonna go on the other, probably about 7 or an 8 on that one.'
>
> Researcher: 'Is that because of the saunas, dark rooms, sex workers?'
>
> Participant: 'Yeah, I think for me it's the breadth of things I like and that I look for, you know the different activities and venues and different media to get where I want and what I want.' (*Single gay man, 46*)

This participant, who has group sex at PSEs and PSVs and also uses sex workers and pornography, sees himself as outside of public norms of sexuality (see Figure 56 and Figure 57), and may be labelled a barebacker and cruiser.[52] The participant's self-assessment may be contrasted with that in the earlier quote, in which 8 on the scale indicated abnormality within LGBTQ populations, rather than abnormality within heterosexual population.

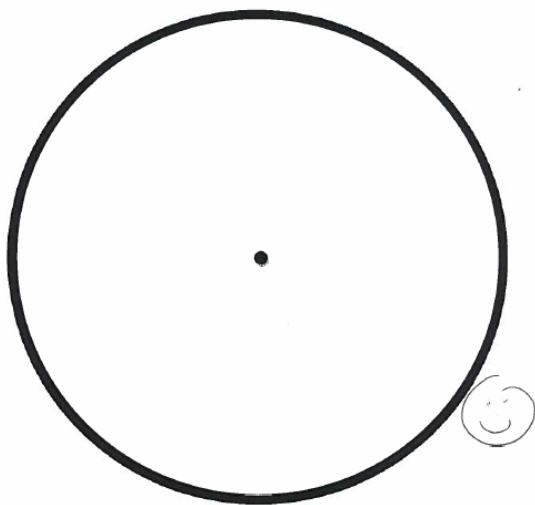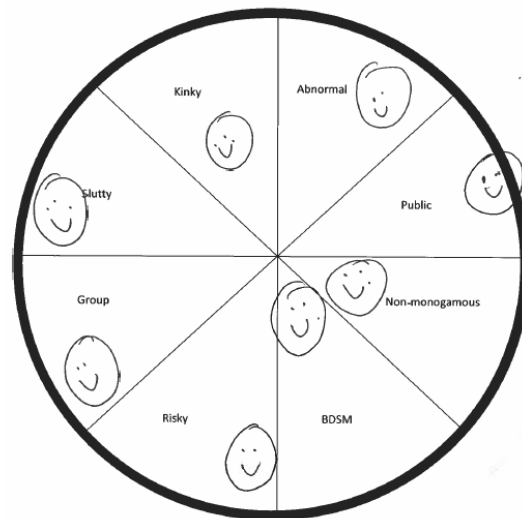*Figure 56: Single Gay Man, 46*   *Figure 57: Single Gay Man, 46*

Because he participates in sexual practices that transcend norms of intimacy, either through 'unsafe' sex with multiple people or in the exchange of capital for sex, he faces stigma. His

---

[52] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 157.

visual data represents his position on the sexual hierarchy, outside of the realms of good sexuality, with the second circle correspondingly demonstrating how he regularly participates in, and identifies within, 'abnormal' sexuality – although smiley faces may demonstrate that he is happy with this. This can further reinforce the notion of a social hierarchy, in which certain behaviours and practices invite social stigma.

7.5 Perceptions of Violence against Same-Sex Couples

The impact of same-sex marriage has been an important component in the public visualisation of LGBTQ relationships and in the everyday experiences of LGBTQ people. However, participants often discussed their fear of prejudice, homophobia, and even violence, arguably reinforcing the notion of a social sexual hierarchy. Having become increasingly visible through legislation and resultant media coverage, same-sex relationships may now be able to enter the norm of everyday life. This may encourage couples to be more 'out' in everyday life.[53] However, the safety and regulation of public space are often a key concern to LGBTQ people as they feel the effects of the social sexual hierarchy. Data from a 2017 Stonewall survey of 5,000 LGBTQ people indicated that 38% of respondents avoided holding hands in public due to fear of violence, with the number rising to 58% among gay men.[54] In the north-east, 35% of LGBTQ people had experienced a hate crime or incident in the previous 12 months.[55] Such figures correspond with narratives emerging from the data, in which participants often stated that their actions in public were not affected by same-sex marriage. Despite same-sex marriage representing a public image of coupledom, the sexual hierarchy is arguably present in public space in the fear that some LGBTQ people have of publicly showing their sexuality:

> … because it doesn't change anything, it doesn't change our position, it doesn't stop anyone being prejudiced, you know we never hold hands in the street, I love it when I see young women holding hands in the street, I think 'I wish we could do that' but we've spent too long looking over our shoulders. (*Single lesbian, 68*)

The participant thus perceives societal prejudice, as faced by lesbian women, as a barrier to public acceptance and safety. She states that the advent of same-sex marriage does not

---

[53] M Bernstein, 'Same-Sex Marriage and the Future of the LGBT Movement' (2015) 29 *Gender & Society* 323.

[54] BBC News, 'Gay Men "Afraid to Hold Hands in Public", Survey Finds', *BBC News*, 7 September 2017, <http://www.bbc.co.uk/news/uk-41179976> accessed 7 September 2017.

[55] C Bachmann and B Gooch, *LGBT in Britain: Hate Crime and Discrimination* (Stonewall 2017).

sufficiently alter society to allow for public expressions of LGBTQ sexuality or relationships, noting her continued fear of homophobia. The same concerns emerged from the younger queer women in this study, who also felt that their safety is threatened if they actively and openly exhibit their sexuality:

> [I]f you wanna hold hands in public, if you want to kiss in public, you have to think about that and there's, as a straight person I don't think that would be a thing, so there's always that inequality there, yes I can get married, but I still don't know if I'd be able to kiss my own wife in public, so I don't think anything good has come from it, in terms of pushing equality. (*Single lesbian, 21*)

This threat is manifested as an inequality of public space that directly reinforces the sexual hierarchy as a means of maintaining the privileging and assumption of heterosexuality, with LGBTQ individuals fearing to deviate from this. Marriage, according to the participant quoted above, does not affect this, since even married same-sex couples would face the same threat. Therefore, it may be stated that assimilation goes so far as to hide overt displays of sexuality in order to maintain formal face-value equality, but it does little to advance substantive social equality. Such formal equality may also reinforce notions of homonormativity as a means of regulating public space, which may be done to avoid the attentions of those with homophobic or prejudicial views.

In order to avoid violence or stigma, participants often discussed self-regulation of their behaviour:

> [S]o that one I find quite hard to answer because I think I'm quite protected from that, in terms of how I would know it felt to hold hands in the street, to kiss in the street and that sort of stuff, 'cause I regulate quite a lot as well, I would say. But that comes from me really, not from everyone else, I think, so, I find that one quite hard to answer. (*Single lesbian, 29*)

For this participant, her public representations of her sexuality and her reluctance to demonstrate any overt show of affection may be seen to be at odds with her markings on the sexual hierarchy circle, in which she positions herself towards the outer limits of the 'public' segment. From the visual data collected and from her oral evidence, it emerged that this participant often had public sex; however, she nonetheless regulated her actions and presentations in public space. The regulation of open displays of affection or intimacy with a partner may confirm societal standards that impose discretion on LGBTQ couples or groups,

which is argued by Robinson to reinforce homonormativity.[56] The participant's markings on the circle may identify her as part of the homoradical, but the compelling forces of heteronormativity insist that she is unable to exhibit or demonstrate her queer identity in public.
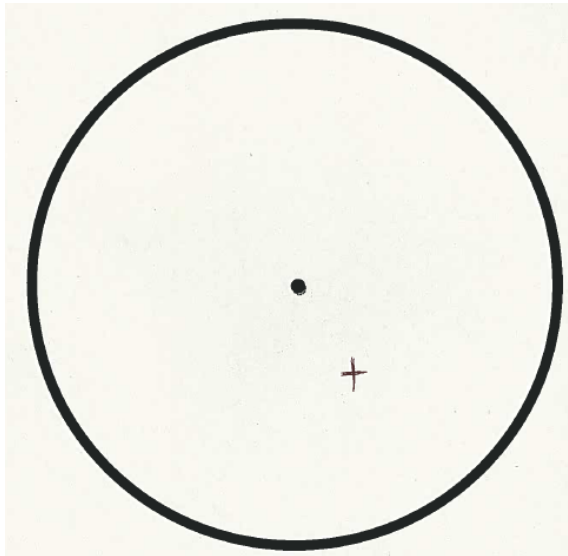
Figure 58: Single Lesbian, 29
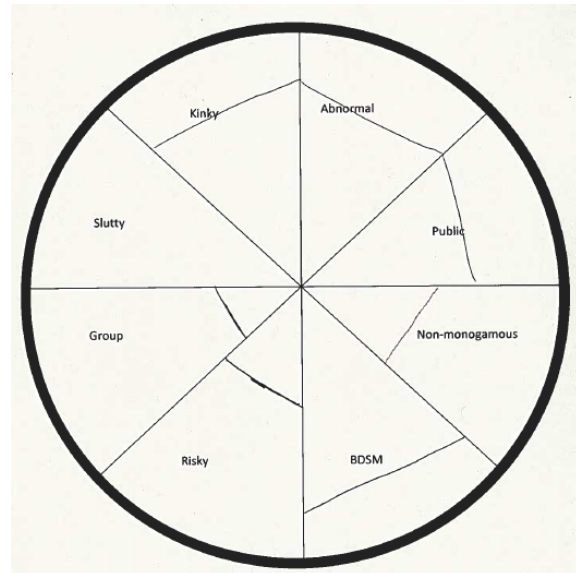
Figure 59: Single Lesbian, 29

A male participant also notes the disparity between general public spaces and spaces that accommodate LGBTQ identity, further demonstrating the extent to which LGBTQ people may regulate their behaviour:

> Do I feel that I need to have separate gay bars? No I don't but I do because I can actually hold my boyfriend's, my husband's hand in there, I can feel open there, but actually they're horrible and I don't like going there. (*Married gay man, 50*)

Gay bars – a form of commercial gay community space – are here presented as a form of sanctuary in which one is able to be open about one's sexuality. These gay spaces, often known as gay ghettos,[57] allow for the queering of space within a society that often relies on a form of segregation. In doing so, hierarchies are enforced through the colonisation of space by hetero- and homosexual services and spaces. Gay spaces often occupy areas that are, traditionally, less

---

[56] BA Robinson, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 334.

[57] K Browne and L Bakshi, 'We Are Here to Party? Lesbian, Gay, Bisexual and Trans Leisurescapes beyond Commercial Gay Scenes' (2011) 30 *Leisure Studies* 179.

economically successful, on the outskirts of central urban areas.[58] This may be argued to reflect the existence of a social sexual hierarchy, as places centred on LGBTQ identity are segregated from mainstream public space.

Thus, through the self-regulation of LGBTQ behaviour due to fears of violence and homophobia, it may be argued that the sexual hierarchy is reinforced. Displays of LGBTQ sexuality are discouraged and LGBTQ people often fear expressing themselves. Participants did not believe that the advent of same-sex marriage has had much of an impact on this, with society continuing to be heteronormative. This demonstrates the force – and also the pervasive nature – of the sexual hierarchy, in which legally substantiated hierarchies are socially reflected. Next, following narratives regarding the establishment of a social sexual hierarchy that reinforces positions of 'good' and 'bad' sexuality, the analysis of the legal hierarchy contained within the Marriage (Same-Sex Couples) Act 2013 will be discussed.

7.6 Legal Hierarchies of Sexual Activity

Following discussion of the ways in which a social sexual hierarchy is established in the data, this section will now turn to hierarchies existing in the legislation governing same-sex marriage. In this section, it will be argued that the Marriage (Same-Sex Couples) Act 2013, coupled with the Matrimonial Causes Act 1973, has created an inequality that further reinforces a hierarchy of registered relationships, and that the 1973 Act should be reformed. Consummation is defined as the penetration of the vagina with the penis, reliant on a legal definition of sexual intercourse as heterosexual,[59] and is required in order to avoid a marriage becoming voidable.[60] Marriages that have not been consummated are voidable, meaning that they may be annulled but remain legitimate.[61] Nullity is the process by which a marriage is ended owing to the incapacity or wilful refusal to consummate, and arguably implies that marriages are sexual unions, whereas civil partnerships and same-sex marriages do not retain the same requirement.[62] The annulment provisions may thus be argued to reinforce the

---

[58] D Alderson, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 73.

[59] *Dennis v Dennis* [1995] 2 All ER 51 MCA.

[60] Matrimonial Causes Act 1973, s 12.

[61] Ibid., s 12.

[62] Provided in section 4 of Schedule 4 to the Marriage (Same-Sex Couples) Act 2013, which amends section 12 of the Matrimonial Causes Act 1973 to state that consummation requirements do not apply to same-sex couples;

centrality of heterosexuality in traditional marriage law, requiring the act of heterosexual penetration and therefore maintaining a legal sexual hierarchy that recognises and prioritises one form of sexual intercourse above others. Beresford has argued that heteropatriarchal notions of sex erase queer sexuality from marriage and reinforce phallocentric definitions of sex.[63] Following on from Beresford,[64] it will be argued here, using the empirical evidence, that the Matrimonial Couples Act 1973 should be amended to include a provision defining consummation as a self-defined act of sexual activity between married couples in order to recognise the sexual intercourse of same-sex couples.

The data will demonstrate that consummation is an important issue for participants, many of whom noted that the consummation provisions belie the fact that same-sex marriage is 'equal marriage'. By failing to recognise same-sex sex within marriage, the law further reinforces the sexual hierarchy. Therefore, it will be argued, the definition of sexual intercourse should be reformed in order to recognise the sexual intercourse of same-sex couples and to provide same-sex couples with the remedy of nullity. In advocating for the introduction of consummation, essentialist definitions of sex will be avoided. Such definitions are currently perpetuated in the law's requirement for heteronormative penetration. Instead, the revised legislation can rely on Beresford's work, as well as the Canadian court's discussion of self-identified sexual activity. Categorisation of strict sexual behaviour would, it is argued, be counterintuitive to sexual liberation in arbitrarily focusing on a specific act of, say, penetrative or oral sex.[65]

It may be argued as well that consummation requirements should be removed from marriage entirely – thereby abolishing the legal categorisation of sex, which may further notions that marriage is the appropriate location for state-recognised sex. It may also be argued that having sex as the basis of any marriage is outdated and potentially isolates and excludes asexual relationships, preserving the notion that marriage must always be a sexual relationship. This

---

S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 470.

[63] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 468.

[64] Ibid., p 474.

[65] Consummation as it stands is defined as the 'ordinary and complete' penetration in the case of *D v A* (1845) 1 Rob Ecc 279. This research will use Beresford's definition: 'Consummation shall be taken to mean sexual activity between two spouses married to each other. Sexual activity is to include that at least one of the parties experiences orgasm (self-defined).' S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 486.

may be against the wishes of some couples.[66] Therefore, removing consummation may create parity between same-sex and traditional marriage, avoiding the need to define what constitutes sexual intercourse and avoiding the implication that sex is a *right* within marriage.[67] The lack of recognition of same-sex intercourse in same-sex marriage may be viewed as a benefit to some, who may believe that the law should not interfere with the private sex lives of married couples.[68] These are all valid arguments that demonstrate the ways in which marriage may be conceptualised as an entirely private institution, in which married couples are free to determine the terms of their own relationship. This would certainly create equality and would go some way to disestablish the sexual hierarchy, as legal inequalities and the legal recognition and validation of heterosexual sexual intercourse would be removed.

However, entirely removing consummation requirements from same-sex and traditional marriage may 'risk perpetuating the idea that gay men and lesbians are not sexual beings'[69] and may also risk the further desexualisation of same-sex relationships. Desexualisation is associated with homonormativity in the distancing of sexual identity from sexuality.[70] It may demonstrate the assimilation of LGBTQ identity into heteronormativity, as LGBTQ sexuality is not recognised by the law. By recognising sexual intercourse between same-sex and different-sex couples, the law would provide a means of broadening the concept of consummation from heteronormative penetration to acts of sexual activity that are inclusive of diverse sexuality. This would enable couples to define their own sexual experiences. It would also allow for a 'queerer' form of marriage, one that does not rely on the essential categories of male/female penetration. The definition would apply only to consummation and it would apply in same-sex and different-sex marriages. This would be significant in providing same-sex couples with the ability to seek a nullity order. At the same time, it would provide equality within marriage that would disestablish the hierarchical recognition of sexual intercourse. It

---

[66] M Wolkomir, 'Making Heteronormative Reconciliations: The Story of Romantic Love, Sexuality, and Gender in Mixed-Orientation Marriages' (2009) 23(4) *Gender & Society* 494.

[67] Such an implication may resonate with the defendant's argument in *R v R* [1991] UKHL 12 that a wife gives irrevocable consent to sexual intercourse through marriage.

[68] A view exemplified by the increasing privatisation of family law, following a principle of non-intervention: D Norgrove, *Family Justice Review* (Ministry of Justice, Department for Education and the Welsh Government 2011). See also H Fink and J Carbone, 'Between Private Ordering and Public Fiat: A New Paradigm for Family Law Decision-Making' (2003) 5 *Journal of Law and Family Studies* 1; J Herring, *The Woman Who Tickled Too Much* (Pearson 2009).

[69] Ibid., 470.

[70] S Mowlabocus, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010) 144.

would not be used to alter any criminal law definitions of sexual intercourse in order to maintain the criminal law's focus on harmful sexual behaviour. A focus on criminal law is outside the remit of this research.

Warner has contended that queer theory should resist attempts to legitimate some forms of sex over others[71] – a claim that may be used to argue against same-sex marriage altogether, as he does. However, following its enactment, the 2013 Act maintains a disparity between heterosexual and same-sex marriage, as the former legitimates sexual intercourse through consummation while the latter does not. The legitimation of heterosexual sex through consummation reinforces a hierarchy of recognised sex. Therefore, in order to end the prioritising of heterosexuality in law in line with Warner's call, the law should recognise sex within same-sex marriages as consummation, just as it does for sex within different-sex marriages. Consummation may be conceptualised as a historical concept, one that may be viewed as having little relevance to modern law and modern marriages. Theorists such as Warner may also view the legitimating of any form of sex – heterosexual or homosexual – as antithetical to queer liberation.[72] However, the continued existence of consummation as a legal requirement in traditional marriage – despite being one that is little known and rarely relied upon – maintains its important symbolic and utilitarian value.[73] It also represents a formal inequality within the legislation, arguably concerning the 'untameability'[74] of gay relationships and the issue that only through heterosexuality can sexual behaviour be constituted.[75]

While arguing that consummation should be introduced to same-sex marriage, this argument does not follow through to adultery for divorce provisions. Adultery provisions may be described as heteronormative and indeed 'mononormative',[76] reliant on heterosexual definitions of sex and expectations of monogamy. The thesis will argue for the removal of

---

[71] M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 88.

[72] Ibid., 88.

[73] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 486.

[74] C Stychin, '"Las Vegas Is Not Where We Are": Queer Readings of the Civil Partnership Act' (2006) 25 *Political Geography* 899, 907.

[75] Ibid.

[76] R Bauer, 'Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 144.

adultery from divorce proceeding, following the same principle that adultery is reliant on heteronormative underpinnings[77] and the law should no longer impose essentialist categorisations on sexual intercourse. This falls in line with the government's intention to introduce 'no-fault' divorce legislation in 2019.[78] The change to family law proceedings comes in the wake of *Owens v Owens*,[79] in which the Supreme Court would not recognise the unreasonable behaviour of a respondent and therefore would not grant a divorce to the petitioner. Such reform may allow for proceedings that are less acrimonious because they are not based on blame. It may also reflect the possibility of more nuanced understandings of non-monogamy in the law, as non-monogamous behaviour may no longer be a signifier of 'bad' sexual behaviour and may come to be seen as a more acceptable standard in same-sex marriages. This reform is due to take place as soon as parliamentary time allows. In reforming divorce, the law's focus on ascribing blame would be removed. As a result, the use of heterosexual intercourse to determine fault would also be removed, meaning that sex outside of marriage – which may reflect the non-monogamous activity of some of the participants in this study – may no longer be seen as a 'deal-breaker'. While the introduction of no-fault divorce may further alleviate the need to provide nullity proceedings, as consummation still remains a requirement in traditional marriage, the law should be reformed in order to provide recognition of same-sex intercourse. This may disturb the heteronormative basis of law and provide the potential to queer marriage through the recognition of the existence of non-heteronormative sexuality, thus truly realising same-sex marriage encompassing sex.

Although the government had initially intended for the courts to find a definition of same-sex sexual intercourse,[80] Parliament made the decision to exclude this requirement from same-sex marriage. This was due to the apparent difficulties in drafting and defining same-sex intercourse. It is noteworthy that the Canadian courts have defined sexual activity amounting to adultery in same-sex marriage as being representative of a break in the marital bond, drawing

---

[77] *Dennis v Dennis* [1995] 2 All ER 51 MCA.

[78] Lord Chancellor David Gauke: 'While we will always uphold the institution of marriage, it cannot be right that our outdated law creates or increases conflict between divorcing couples. So I have listened to calls for reform and firmly believe now is the right time to end this unnecessary blame game for good.' O Bowcott, 'No-Fault Divorce Coming "as Soon as Parliamentary Time Allows"', *The Guardian*, London, 9 April 2019, <https://www.theguardian.com/law/2019/apr/09/no-fault-divorce-law-coming-as-soon-as-parliamentary-time-allows> accessed 9 April 2019.

[79] *Owens v Owens* [2018] UKSC 41.

[80] Government Equalities Office, *Equal Marriage: A Consultation Paper.* (2012).

equivalence between adultery in heterosexual and same-sex marriage. The Canadian courts found no need to precisely define what constitutes a 'sexual act'.[81] However, as reflected on by Baroness Stowell, Parliament did not recognise any form of sexual intercourse outside of penis–vaginal penetration and did not view this to be an inequality:

> The Government do not believe that the Bill's approach to adultery and non-consummation for same-sex couples represents an inequality with opposite-sex couples. We believe the Bill makes appropriate provision for same-sex couples, while ensuring that the law for opposite-sex couples remains exactly as it is now.[82]

Despite the government's stance that the law does not constitute an inequality, the formal exclusion of nullity proceedings from same-sex marriage[83] restricts same-sex couples from accessing the financial provision orders, property adjustment orders, and pension-sharing orders[84] provided for in the Matrimonial Causes Act. It is therefore discriminatory,[85] depriving married same-sex couples of the legal remedy of nullity available to heterosexuals.[86] Although couples may seek these orders through divorce proceedings, their barring from nullity proceedings demonstrates the discriminatory nature of the law due to its focus on heteronormative penetration. Following Beresford's argument, the introduction of consummation to same-sex marriage would arguably recognise the existence, validity, and importance of sex[87] in same-sex relationships. It would also go some way to altering the sexual hierarchy. The recognition may provide a means of disestablishing the sexual hierarchy and heteronormativity by changing the legal definition of sexual intercourse and therefore resexualising and queering marriage, in contrast to the arguably desexualised homonormative image of marriage. The current law is significant, as this definition of sex may perpetuate

---

[81] 'Intimate sexual activity outside of marriage may represent a violation of the marital bond and be devastating to the spouse and the marital bond regardless of the specific nature of the sexual act performed': *P (SE) v P (DD)* 2005 Carswell BC 2137.

[82] Baroness Stowell, HL Deb, 19 June 2013 col 379.

[83] Provided in section 4 of Schedule 4 to Marriage (Same-Sex Couples) Act 2013, which amends section 12 of the Matrimonial Causes Act 1973 to state that consummation requirements do not apply to same-sex couples.

[84] Matrimonial Causes Act 1973, ss 23, 24, 25.

[85] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 484.

[86] The ONS has compiled data to show that in an average of 110,000 divorces per year, there are 300 decrees of nullity. In 2015, 2016, and 2017, there were up to 350 divorces of same-sex couples per year. Office for National Statistics, Divorce in England and Wales (2017) https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/divorce/datasets/divorcesinenglandandwales (accessed 10 June 2019).

[87] Ibid., 468.

heteronormative assumptions surrounding marriage. It is therefore important to investigate the impact of the law and the views of participants who are unable to legally consummate their own marriages.

Sections 3 and 4 of Schedule 4 to the Marriage (Same-Sex Couples) Act 2013 read:

Divorce

3　(1)　Section 1 of the Matrimonial Causes Act 1973 (divorce on breakdown of marriage) is amended as follows.

　　(2)　After subsection (5) insert —

　　　　'(6)　Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this section.'.

Annulment of marriage

4　(1)　Section 12 of the Matrimonial Causes Act 1973 (grounds on which a marriage is voidable) is amended as follows.

　　(2)　The existing provision of section 12 becomes subsection (1) of that section.

　　(3)　After that subsection (1) insert —

　　　　'(2)　Paragraphs (a) and (b) of subsection (1) do not apply to the marriage of a same sex couple.'.

Section 3 bars same-sex couples from relying on the lack of consummation or adultery in divorce or annulment. It effectively removes mention of sexual intercourse from same-sex marriage. Through consummation, the law requires penile penetration of the vagina in order to avoid the marriage becoming 'voidable',[88] a requirement that does not apply to same-sex marriage. The majority of participants, as will be discussed below, were not aware of the provisions of Schedule 4, Part 3 of the 2013 Act, in which the divorce or annulment of a marriage on the grounds of adultery or lack of consummation does not apply to same-sex marriages (as discussed in chapter 2).[89] However all participants were certain of the importance of equality in marriage legislation (as discussed in chapter 5 and below). Although this has

---

[88] Matrimonial Causes Act 1973, s 12.
[89] Marriage (Same-Sex Couples) Act 2013, Sch 4, Pt 3, s 4(3).

been discussed before with regard to same-sex marriage and civil partnerships,[90] it has not yet been a feature of empirical research. In this section, the participant's reactions to the law will be discussed, leading into proposals for reform.

Same-sex marriage was often equated with 'equal marriage' and presented by the participants as a legal tool to formally achieve the same status as heterosexuals and thus benefit from that status. Many, upon learning that gay sex was not included in the legal definition of sex, questioned the intentions of Parliament and the validity of same-sex marriage:

> That's quite annoying, that, that, that, erm, that's almost as if to kind of devalue the marriage, erm, do you, that kind of seems as if marriage between a same-sex couple, erm, is less important, erm, than a marriage between a heterosexual couple. I must admit I didn't realise that, erm, no I don't think that's particularly good at all, it's, it's, seems to be going more down the route of you're calling it marriage but actually it's not equal at all, no that's quite interesting. And I didn't realise that the Church of England wasn't allowed to perform same-sex marriages. (*Single gay man, 26*)

This participant views the removal of sex from same-sex marriage as devaluing it, affording less legal significance to same-sex marriages than to heterosexual marriages by not recognised the sex within those relationships in the same way. In doing so, it may be argued that the law has rejected the symbolic significance[91] of recognising a sexual relationship. Separating couples may still seek such orders; however, they must divorce rather than rely on what may be more appropriate nullity proceedings.

The recognition of a marriage entails the state recognising the right to, and the importance of, a sexual union that allows for the building of a shared life around it. The removal of sex, therefore, may represent a significant legislative anomaly in the failure to redefine marital sex. This was the view taken by one participant, who noted it to be an invalidation of same-sex intercourse:

> Well it's quite, that's a thing that I did know about and I find it quite interesting that it hasn't been pushed as a, what it's been 3 years now, it hasn't been pushed at all as a thing that needs to be changed at all, erm, and I think it's again, it's an invalidation of our sexual practices and our sexualities and that it still can't be written into law for some reason, and

---

[90] See C Stychin, 'Not (Quite) a Horse and Carriage: The Civil Partnership Act 2004' (2006) 14 *Feminist Legal Studies* 79; N Barker, 'Sex and the Civil Partnership Act: The Future of (Non) Conjugality?' (2006) 14 *Feminist Legal Studies* 241; L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564; S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[91] L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564, 566.

> I think it probably just, I dunno if it goes back to that religious idea again of marriage is still about one man, one woman in a way, so I don't know if we've actually achieved full marriage equality in that respect either. (*Single lesbian, 21*)

This participant (see Figure 60 and Figure 61) believes that in failing to recognise the consummation of same-sex couples, Parliament has failed to deliver equality – an important feature of same-sex marriage to LGBTQ people.[92] She echoes Beresford's statement that sex should be redefined in order to remove the naturalness of heterosexuality.[93]
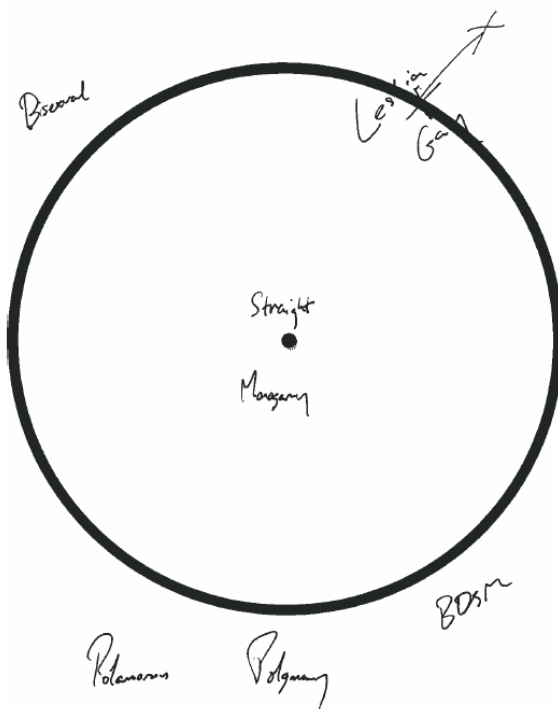
Figure 60: Single Lesbian, 21   *Figure 61: Single Lesbian, 21*
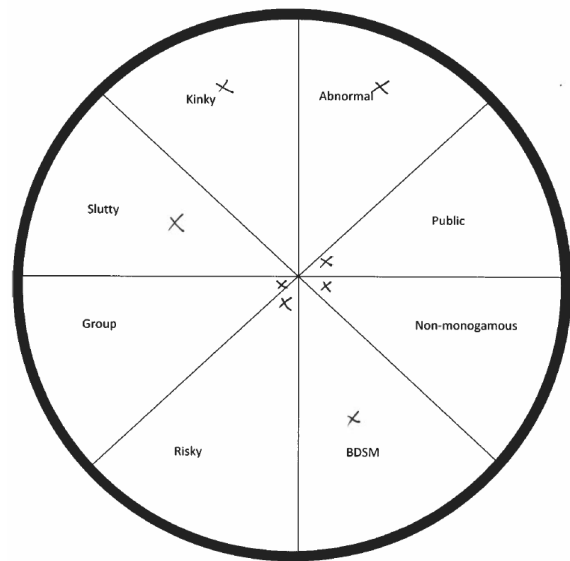
Destabilising the heteronormative nature of consummation in this way may then validate non-heteronormative practices. The law would thus move away from its 'one man, one woman' focus and achieve 'full marriage equality' with regard to recognising sex and sexuality. The notion of invalidating LGBTQ sex reinforces phallocentric and androcentric understandings of sexual activity[94] that may echo historical and social opinions regarding homosexual sex,

---

[92] As discussed in chapter 5. See also J Eekelaar, 'Perceptions of Equality: The Road to Same-Sex Marriage in England and Wales' (2014) 28 *International Journal of Law, Policy and the Family* 4.

[93] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[94] Ibid., 11.

whether 'deviant',[95] unnatural, or 'pretend'.[96] By removing sex from marriage, the legislation preserves notions that same-sex marriage is not fully realised marriage due to the lack of legitimate consummation, as defined by *D v A*,[97] in which only 'ordinary and complete' sexual intercourse consummated a marriage.

It could be argued that the current position actually puts same-sex couples in a stronger position by recognising their marriage without the need for consummation, enabling them to form their own sexual relationship without an act of state-recognised sex. However, the legal recognition of heterosexual sex deprives same-sex couples of the opportunity to legally consummate their marriages, thus upholding the sexual hierarchy by preserving a distinction between same-sex and traditional marriage. This is an issue for one married participant who feels excluded by such provisions:

> [B]ut looking at a very local aspect, I would guess, not just guess, I would know that some people would be like but yeah it's not really a marriage, it has some … gimmicky, gimmickyness to it from some people's perspective, erm, and I suppose some straight couples, particularly who've been married for some years, 'oh how long's that gonna last?', I still think there is a lot of, well, it's just kind of, I'm struggling for the right word, it's just kind of kowtowing to the gays, and just you know, playing at the gays you know, let them have their sort of moment, it's a bit of a phase. (*Married gay man, 43*)

The participant's certainty that society may view same-sex marriage as invalid, a gimmick, or short-lived demonstrates fears of homophobia and prejudice.[98] It calls into question the validity of his relationship and his own personal decision to marry. The lack of a requirement of consummation in his marriage fuels this fear. This may demonstrate the assumption of heterosexuality in marriage – which current consummation requirements serve to uphold – confirming his belief that social standards hold heterosexuality as superior and as the only form of 'real' marriage. The participant's speculation that LGBTQ populations may be viewed as fickle in their relationships (which one participant called a 'myth') goes against the fundamental reasons to marry and as such reduces the significance of the decision.

---

[95] S Boyd, 'Family Law and Sexuality: Feminist Engagements' (1999) 8 *Social and Legal Studies* 369.

[96] Language notably used in section 28 of the Local Government Act 1988.

[97] *D v A* (1845) 1 Rob Ecc 279.

[98] For discussion of the media response and parliamentary discussion, see L Featherstone, *Equal Ever After: The Fight for Same-Sex Marriage – and How I Made It Happen* (Biteback 2016). For a US perspective of the arguments against same-sex marriage, see S Macedo, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015).

The disparity between traditional marriage and same-sex marriage provoked an animated reaction from another participant:

> But you can in a straight marriage? What a load of rubbish! My answer, do people still get divorced on grounds of adultery? Oh, well that devalues sex doesn't it, you can't have sex unless you're um, you know, you do penetrative sex, you know, … that's discriminatory actually isn't it. (*Single lesbian, 68*)

This participant views the removal of sex[99] as fundamentally devaluing sex and same-sex marriage. Her view that this is discriminatory resonates with Beresford's article,[100] particularly in the lack of recognition of viable sexual intercourse. This may further amount to discrimination as LGBTQ populations receive prejudicial treatment from the law, with homosexual petitioners specifically barred from nullity due to their sexual practices. By removing consummation and adultery, it may be argued, the law implies that LGBTQ people are incapable of 'real' or 'meaningful' sex. This reemphasises the phallocentric nature of the legal definition of sex and therefore devalues all deviations. The participant went on to express amusement and incredulity:

> How hilarious, is that because you can't mention sex and the sexual act, it's so averse and disgusting, they couldn't define it? Oh right, penetration in the missionary position? Oh how interesting, I like that, well it just shows how bloody stupid the whole thing is. So because we don't have sex the way they do, it can't even be mentioned? … Yeah compared to the standard heterosexual, oh my god, oh I love that, so it is a spoof without sex, how sad, how very, very sad, oh it's hilarious. Jesus wept. Oh my god, this is it isn't it, when people say we want equality, we want to be like them, what we wake up with is completely stupid, because we are not like them and we don't want to be. (*Single lesbian, 68*)

For her, the lack of recognition of sexual practice demonstrates the insincere nature of the 2013 Act, which she sees as a sacrifice of dignity for LGBTQ populations. This may stem from the ways in which marriage is often seen as a solution, or the pinnacle of gay rights,[101] through the lens of assimilation, in which strategic positioning is used to enact change[102] at the expense of preserving the idiosyncrasies of the diverse group for which change is happening. The lack of recognition for same-sex sex does not disturb the wider societal definitions of what constitutes

---

[99] See chapter 2; see also Marriage (Same-Sex Couples) Act 2013, Sch 4, s 4(3).

[100] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[101] C Ashford, A Maine, and G Zago, 'Normative Behaviour, Moral Boundaries, and the State' in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar forthcoming 2020).

[102] A Hequembourg and J Arditi, 'Fractured Resistances: The Debate over Assimilation among Gays and Lesbians in the United States' (1999) 40 *Sociological Quarterly* 663.

legitimate sexual intercourse. Therefore, redefining sex may qualify the radical potential of gay sex to re-evaluate the sexual hierarchy and remove heterosexual dominance. The participant questions the motives of equality-based legislation, believing marriage to be rooted within the sexual hierarchy, and presents a firmly anti-assimilationist stance. Her comments, and others quoted in this section, may demonstrate how same-sex marriage, to an extent, does not fully deliver equality because it fails to recognise the sex of same-sex couples. The participant maintains that LGBTQ populations are inherently different from heterosexuals and should therefore oppose assimilation into heteronormative institutions. A hierarchy of relationships may be established in the failure to recognise same-sex intercourse, therefore preserving the socio-legal presumption of heteronormativity.

7.7 Reforming the Definition of Sex

The above discussion establishes the legal hierarchy of relationships, fortified by the exclusion of consummation and adultery from same-sex marriage. It will now be argued that the legal definition of sexual intercourse should be altered, allowing for the recognition of same-sex sex, using empirical data to build on Beresford's and Crompton's arguments.[103] Beresford drafted an amendment to section 12 of the Matrimonial Causes Act 1973, which states: 'Consummation shall be taken to mean sexual activity between two spouses married to each other. Sexual activity is to include that at least one of the parties experiences orgasm (self-defined).'[104] Crompton argues that consummation should be included as a symbolic indication of commitment.[105] The inclusion of orgasm and self-definition would require married couples to reflect on the nature of their sexual activity and therefore would allow the law to recognise the diversity and variety of non-normative sex that may take place. Doing so would allow for alternative legal understandings of sex that avoid heteronormative and patriarchal connotations.[106]

---

[103] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468; L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564, 569.

[104] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 474.

[105] L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564, 569.

[106] Ibid., 473.

Redefining the legal definition of consummation may allow same-sex marriage to realise its potential to alter dominant understandings of sexuality and, it will be argued, to reduce the focus on androcentric penetrative intercourse and monogamy. By considering the reactions of participants to the disparity in recognition, it becomes possible to conceptualise such reform as focusing on the recognition of the self-identified sexual practices of same-sex couples. This would avoid the need for essentialist definitions:

> Yeah, I get your point but in a way, is the definition because of biology? Straight people just have men, women, top bottom kind of thing, gay sex is different, so to what extent, I don't know, having oral intercourse with somebody is sex? To what extent kissing somebody because of, if you are married to a woman then you go and kiss a bloke, is that sex? It is a tricky thing, I don't think we can or we shouldn't try and define what sex is, ticking boxes, have you, have you? Making a formula for what sex is, when you might not even touch someone, just buy a webcam and have some … exchange of sexual pleasure in a way, without touching the actual person, so it is very tricky to define sex … but in a way I think this is just bringing up the discussion of we are far more diverse than we think we are and I think that is a positive thing and acknowledging that you don't have to be only A or B, there is a lot more in between. (*Civil partnered bisexual man, 36*)

In the regulation and requirement of legitimate sexual practices, the state's proscriptive stance excludes same-sex couples. This exclusion feeds into the notion that although LGBTQ populations may benefit from the institution of marriage, this does not extend to sexual recognition. However, in being freed from heteronormative definitions of penetrative sex, it becomes possible for LGBTQ people to actively develop and sustain sexual practices or partnerships that existed outside of the heteronormative binary prior to same-sex marriage. They can thus construct sexuality from scratch,[107] avoiding the control that heterosexual couples face. In the early years of same-sex marriage, this takes on further significance in the potential to challenge the state's imposition of sexual norms.[108] The lack of recognition, therefore, becomes a form of freedom from the law's attempts to define heterosexual sex. Thus, in order to remove the inequality in law and feed further into liberation discourse regarding sexuality, consummation should be self-identified by couples, owing to the personal and idiosyncratic ways of expressing sexual activity that would not be regulated by essentialist requirements of penetration. This would fulfil the goal of liberation and allow for equality, in

---

[107] B Heaphy, C Donovan, and J Weeks, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe et al. (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014) 168.

[108] R Robson, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998) 151.

line with the harmonisation of legislative provisions, while abandoning proscriptive sexual definitions.

A married male participant felt aggrieved by the law's treatment of his sexuality and the ways in which this devalued the emotional ties linking him to his husband. He therefore questioned the current definition:

> Participant: 'Well if it, you can't have equality in marriage if you have them excluded can you? … and how do you, and, consummation, of a marriage, if that's defined by having sexual intercourse with a penis in a vagina, as opposed to a penis in somebody's backside, then it's nonsense, it's nonsense, because consummation of a marriage is not just a physical thing, it's actually a mental and emotional thing, I believe so, erm, yeah, I think consummation of a marriage is that, as well as the physicality.'
>
> Researcher: 'So you think it's definitely related to emotion as well as?'
>
> Participant: 'Oh god yeah, absolutely no doubt about it, because actually through marriage, I think I said there, I hadn't realised how much, erm, my marriage to him would touch me emotionally, and actually I think I'd probably not had the opportunity to think about it, I'd probably not explored it in my own mind until you'd asked that question as well, erm, yeah, I probably will given me a stronger argument about what consummates marriage as well in the future which is helpful. Erm, yeah, I do think that, I think that deeper commitment towards each other is that, and you know, is consummating a marriage a one-off event? Who knows.' (*Married gay man, 50*)

This participant gives voice to the strong dissent against the current legal arrangements and calls into question the heteronormative nature of the definition. Constructing consummation as not only a physical act, but also a deeply emotional one echoes Beresford's statements regarding sex between women[109] (which may contrast some gay men's compartmentalised[110] attitudes towards sex and emotion). The participant reemphasises Crompton's statement that 'commitment and faithfulness should be at the heart of same-sex marriage',[111] and interestingly states that consummation is not just a 'one-off event'. This denotes the significance of a continuing sexual relationship throughout marriage and is at odds with the case law, which only requires one act of penetrative sex.[112] The participant equates the penetrative nature of gay male and heterosexual sex and states that consummation is the emotional bonding of two

---

[109] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

[110] K Bonello and M Cross, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117.

[111] L Crompton, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564, 569.

[112] *Dredge v Dredge* [1947] 1 All ER 29; *P v P* [1964] 3 All ER 919.

married people, thereby questioning the legitimacy and relevance of a law that recognises only penis–vagina sex as a marital requirement. He then goes on to discuss the restriction from adultery in divorce proceedings:

> [I]f you've got a contract to have an open relationship, irrespective of whether it's a gay relationship or a heterosexual relationship, where does adultery play in that? I don't know. If say for instance, a heterosexual couple gets married and they say within this marriage we are gonna have an open relationship and that's their bond and their contract, but actually the legal status says actually you can't have that contract between yourself, so that's effectively what the law is saying, and then you go on in that practice and somebody thinks actually I don't want that and you're an adulterer, is that fair, is that right? I'm not asking the question, just exploring it. So equally, erm, why would adultery be in heterosexual marriage and not be in same-sex marriage … why would it be in both? Why would it be in either? Dunno, that's an interesting one, I need to think about that one a bit more. (*Married gay man, 50*)

The participant (see Figure 62 and Figure 63) does not draw a link between the exclusion of consummation and adultery. For him, the concept of consummation is an affront to his relationship, making him feel excluded and delegitimising his marriage. However, he recognises the right of both same-sex and heterosexual couples to organise their own non-monogamous relationships, questioning the law's interference and its imposition of monogamous norms for heterosexual couples and calling for the removal of monogamous presumptions in same-sex marriage.
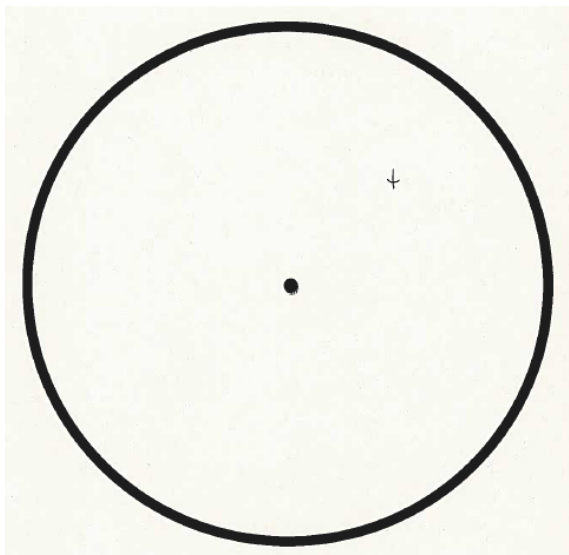

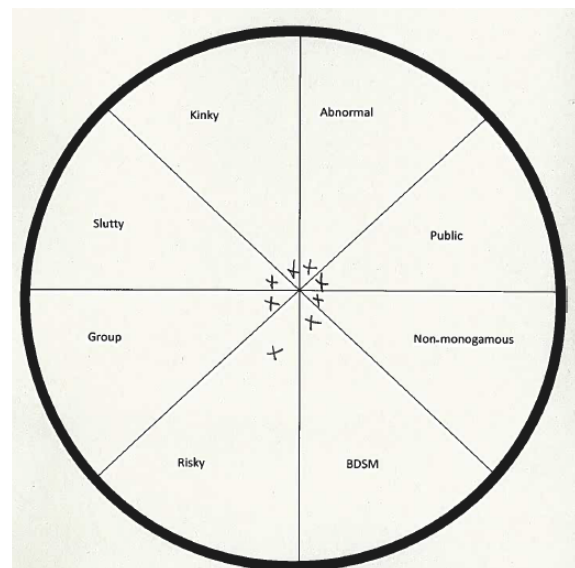*Figure 62: Married Gay Man, 50*

Figure 63: Married Gay Man, 50

The heteronormative definition of adultery is not applicable to same-sex relationships,[113] which causes the participant to question whether it is right for the law to interfere. Arguably, the omission of adultery in the same-sex marriage legislation does indeed allow for more nuanced understandings of non-monogamy, taking into account, as the participant recounts, the ways in which some couples negotiate non-monogamous boundaries – which should not be an indicator of an 'irretrievable breakdown' in marriage. The distinction between adultery and consummation is significant: in recognising consummation, the law is actively validating and recognising the sexuality of the married couple, whereas adultery amounts to a recognition of 'bad' sexual practice, with its occurrence amounting to ground for the irretrievable breakdown of marriage. In distinguishing between the two, it may become possible to avoid the heteronormative and mononormative underpinnings of marriage.

Another participant lamented the ways in which the legal system fails to recognise LGBTQ sexuality. She echoes calls for heteronormative law to move beyond penetrative consummation:

> I will also say that, it's a shame that we can't explore alternative ways within the legal system, rather than, to be us, rather than being like straight people. (*Single lesbian, 61*)

This participant sees same-sex marriage as a means of assimilating LGBTQ relationships into a heterosexual model, giving weight to calls for diversifying the law's recognition of sex. This statement resonates with Weeks et al.'s study, which argued that 'trying to tailor heterosexual laws and understanding towards gay relationships is bound to fail'.[114] Such a statement is particularly important coming from a lesbian participant, who may not practise phallocentric penetrative sex, reinforcing Beresford's argument that penetrative consummation erases lesbian sexuality.[115] Another lesbian participant also echoed this, but discussed the ways in which she practised penetrative sex as a means of subverting gender norms:

> I suppose I, the biggest thing we do at the moment, and especially related to my gender, is that we do strap-on, and in a way, we do actually – [partner] never uses it, I'm the one that always uses it, erm, so that's the common thing for us to do at the moment, … I think it might be, partially the gender identity, because erm, kind of what that means and how it's

---

[113] 'Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of this section': Matrimonial Causes Act 1973, s 1(6).

[114] J Weeks, B Heaphy, and C Donovan, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001) 46.

[115] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 469.

embodied and in the sex and what happens between us, it does feel very different to when you have no strap-on. (*Single lesbian, 22*)

This participant and her partner use sex toys, such as a strap-on, that allow the participants to enjoy the experience and positions of penetration[116] without involving a man. Another participant also touches on the subversion of such sexual acts:

[T]he feminist part of me thinks it's brilliant that I can seek penetration and want it and get it without it being connected to that essential male, and I think that's, that destabilises things a little bit. (*Single lesbian, 21*)

The above discussion demonstrates the significance of self-identified acts of consummation. Self-identification allows married couples to define their own sexual acts, as a marked separation from the heterosexual nature of penis–vagina penetration. In requiring a form of self-identified consummation, marriage may be queered by taking into account expanding experiences of sex and moving away from essentialist heteronormative definitions. The focus of marriage law can then be re-orientated[117] to accurately reflect the truth of sexual activity.

We have seen how the recognition of heterosexual sex as deserving of consummation status, and as a factor in divorce (through adultery), reinforces the sexual hierarchy by enshrining heterosexual sex as natural and necessary – and, if outside of the marriage, unjustifiable. Therefore, in the construction of legally recognised same-sex relationships, consummation should be recognised in order to validate the sexual relationships and allow LGBTQ people to define their sexual experiences outside of heteronormative biological essentialism. This further contributes to what one of the participants quoted above described as 'alternative ways' of relationships and identities. It may also allow for a deconstruction of the sexual hierarchy, in which no form of sex or sexuality is valued above another. This should not, however, hinder the introduction of no-fault divorce and the abandonment of adultery provisions. Some couples negotiate non-monogamous boundaries and this should not be an indicator of an irretrievable breakdown in their marriage.

---

[116] A Ronson, R Milhausen, and J Wood, 'Reasons for Having Sex among Lesbian Women' (2012) 21(1) *Canadian Journal of Human Sexuality* 17.

[117] Ibid., 468.

7.8 Conclusion

The sexual hierarchy is implicit in the everyday lived experiences of the people who took part in this study, which has drawn on participants' perceptions of their sexuality, their ability to publicly express their sexuality, and their use of the visual tools to reconceptualise Rubin's original charmed circle.[118] The hierarchy is perceived by participants to be a barrier to achieving true equality. It may inform their choices of whether to marry – which may garner social respect – or to resist structures of normativity. It is clear, then, that the sexual hierarchy enforces socially held distinctions between 'good' and 'bad' sexuality, which the law upholds in the recognition of specific forms of sexual activity as a means of disciplining and normalising the self.[119] Therefore, good sexuality may encapsulate both heteronormative and homonormative sex taking place within the realms of relationships and marriage. Bad sexuality may be used to describe the homoradical practising sexuality at the outer limits of the charmed circle. This is reflected in the visual data included in this study, in which participants illustrate their own perceptions of their sexuality and practice.

It is particularly important to note the role of consummation and adultery in constructing a legal hierarchy of relationships: the legal valuation of heterosexuality is maintained, as only heterosexual sex is recognised and validated by the law. In order to rectify this, consummation requirements should recognise the existence and validity of same-sex intercourse. The data in this study provides evidence that supports Beresford's recommendation to include a definition of consummation in same-sex marriage.[120] The construction of normality – particularly through the normalisation of same-sex marriage and homonormativity – may construct the homoradical as abnormal, and the hierarchical organisation of sexuality may be used to illustrate the reinforcement of a sexual hierarchy. This analysis may be used to illustrate the impact of same-sex marriage, through reinforcing the sexual hierarchy in the awarding of marital status to same-sex couples.

---

[118] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 152.

[119] C Stychin, 'Same-Sex Sexualities and the Globalisation of Human Rights Discourse' (2004) 49 *McGill Law Journal* 951, 967.

[120] S Beresford, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468, 469.

8
Conclusion

8.1 Reflections on the Research Process

Rubin stated in 1984 that the denial of marriage rights for same-sex couples amounted to a form of sexual apartheid, resulting from structures of power, behaviour, and prejudice.[1] Using analysis of the Marriage (Same-Sex Couples) Act 2013, and of the recounted experiences of LGBTQ participants, this study will now conclude that the extension of marriage to same-sex couples furthers such norms of power and behaviour through the developing role of homonormativity, and retains a form of exclusion in regards to the homoradical. Although this could not be said to amount to a sexual apartheid, structures of normativity are maintained and contribute to the sexual hierarchy. These structures have been recounted in the lived experiences of the 29 participants – married or single – who dedicated their time to this study and who have explained how the passing of the 2013 Act has had an effect on the consciousness of LGBTQ individuals.

This topic was chosen in order to investigate the impact of a change in legislation that was symbolically important not only for LGBTQ communities, but also for the wider society – particularly as marriage has an emblematic status that is fundamental to social norms. The impact of the legislation has been – and will continue to be – felt in the fields of gender, sexuality, and law, and family law. It has had significant effect in the field of sociology and LGBTQ identity studies. This area of law and society is important to me professionally, as a researcher, and personally, as a gay man. The specific research question and framework were chosen not only to voice the lived experiences of LGBTQ individuals, but also to provide those individuals with an impression of the importance of such research. Participants have expressed their opinions in order to produce discourse that reflects their reality and their perceptions of the impact of power[2] and that investigates the marginalisation and devaluation of

---

[1] G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984) 159.

[2] J Halley, *Split Decisions: How and Why to Take a Break from Feminism* (Princeton 2008) 121.

homosexuality in dominant hierarchies of sexuality,[3] which is particularly significant following the recent introduction of same-sex marriage in England and Wales.

The use of visual methods in this study has allowed for a reconceptualisation of Rubin's charmed circle as a means of visualising the sexual hierarchy. With participants creating their own charmed circles, the notion of 'good' and 'bad' sexuality was expanded: these perceptions, which were once dependent on identity categories and relationship recognition, now more closely resemble dependence on performative gender expression and sexual acts. The visual data illustrates the flexibility that LGBTQ populations now enjoy in comparison to the immovability of sexual standards in Rubin's hierarchy, which was defined by the line of respectability. However, despite the enactment of the 2013 legislation, entering into same-sex marriage does not necessarily guarantee good sexuality, nor does same-sex marriage benefit all LGBTQ people. Further, this thesis concludes that while same-sex marriage has offered tangible benefits to some – and has had a profound effect in raising the consciousness of LGBTQ individuals – it has also reinforced the sexual hierarchy in which heteronormativity and homonormativity are sustained by the legal recognition of a normative form of relationship.

8.2 Research Question

How does the Marriage (Same-Sex Couples) Act 2013 construct the contrasting *homonormative* and *homoradical* socio-legal identities, in turn affecting the experience and perspectives of LGBTQ narratives of the sexual hierarchy?

This research has provided an answer to this question in multiple ways. The homonormative identity benefits from same-sex marriage as an enabler of class-based recognition of a successful relationship. The homonormative identity is constructed by the legislation in the legitimation of the ideated same-sex couple, which may benefit from marriage. The homoradical's sexual activities, however, are seen to be outside of the realms of marriage, domesticity, and respectability. In constructing these two identities, the sexual hierarchy is supported and reinforced by the 2013 Act, which enforces socially held distinctions between

---

[3] A Jagose, *Queer Theory: An Introduction* (New York University Press 1996) 41; M Warner, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000) 82; L Duggan, 'Making It Perfectly Queer' (1997) 22 *Socialist Review* 223; G Rubin, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

what is good and bad in society. The Act rewards coupled relationships, often without benefit to those whose relationships breach the coupled dyad or reach beyond the private domestic sphere.

The sexual hierarchy is further entrenched by the 2013 Act in the removal of sex from same-sex marriage via the lack of recognition of consummation, and by the restriction of adultery proceedings in divorce. As a result, the participants in this study felt inequality, discrimination, and a lack of validity afforded by Parliament to their sexuality and sexual expression. The lived experience of the sexual hierarchy in the light of same-sex marriage provides an opportunity to celebrate the awarding of marriage. Therefore, in order to fully realise the 'equality' of same-sex marriage, consummation requirements should be introduced in order to fully recognise and validate the sexuality of those who enter into the institution. In constructing both identities, the homonormative and homoradical exist as concurrent identities on the hierarchy, yet they are still positioned below heteronormativity. This is a significant exploration in the imposition of social norms by the law, in which a normative ideal of relationship recognition is presented as a form of social status and therefore represents the interplay of law, society, and sexuality.

8.3 Factual and Conceptual Conclusions

The analysis and discussion of the data correspond to the homonormative, homoradical, and sexual hierarchy. Homonormativity facilitates same-sex access to the normative institution of marriage and standards of relationship recognition. However, further wide-ranging familial reform, social attitudes, and sexual standards have wide-reaching implications in the construction and maintaining of homonormativity. The legal structures that contribute to the maintenance of wealth, the privatisation of responsibility, and the burden of respectability and class structures also contribute to the pervading normativity that fulfils Duggan's homonormativity.[4] The legislation of same-sex marriage fulfils homonormativity by demobilising and domesticating LGBTQ individuals and relationships. This study reveals the further desexualisation advanced by homonormativity as a means of gaining respectability and distancing the homonormative from deviant narratives. Homonormativity is a conduit to

---

[4] L Duggan, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002) 191.

assimilationism and respectability, with participants who exhibit homonormative attitudes maintaining their citizenship and normality through a 'politic of assimilation'.[5]

The homoradical – by breaking down such boundaries of normative relationships and by practising sexuality that exists on the sexual hierarchy as 'bad' – calls into question the centrality of marital law to LGBTQ populations and the ways in which law interacts with, and seeks to regulate sexuality through, the proffering of the desired socio-legal shape of sexuality. Thus, the homoradical has been argued to be an 'anti-assimilationist politic'. The homoradical exhibits active sexuality in the face of the desexualised homonormative. As such, it occupies a lower space on the hierarchy, existing at the 'outer limits' of the charmed circle. In this, the homoradical transgresses normative boundaries, rejecting the standards of heteronormative society, which homonormativity maintains. However, as marriage is pervasive throughout society, the normative tendencies of marriage and the offering of financial and social benefits that accompany relationship recognition may subsume the homoradical's radical potential. Participants may have practised 'radical' sex acts, yet a public presentation of normativity sustains and maintains the heteronormative structures that they did not make efforts to resist.

The sexual hierarchy is thus informed by the interaction of the homonormative and the homoradical, where the homonormative occupies a space of higher value than the homoradical in wider society. The forms of relationship recognition available in the law also inform this hierarchy: heterosexual marriage maintains a space at the top of the sexual hierarchy as the most legally and socially valued form of sexuality. Same-sex marriage now occupies a space below this, gaining legal recognition for same-sex couples and intending to allow them the same benefits and meanings as enjoyed by heterosexual couples. However, the stigma faced by the LGBTQ in heteronormative society, and the continued lack of recognition for gay sex in the exclusion of adultery and consummation from the legislation, amount to a devaluing and delegitimising of gay sexuality. Therefore, consummation within same-sex marriage should be recognised in order to rectify the inequality and to provide potential to queer marriage. Civil partnerships continue to occupy a space below both heterosexual marriage and same-sex marriage.

---

[5] L Duggan, *The Twilight of Equality? Neoliberalism, Cultural Politics and the Attack on Democracy* (Beacon Press 2003).

This thesis has used queer theory in order to critically analyse the role of sexual identity, sex, and same-sex marriage. The thesis has thereby argued that the sexual hierarchy continues to exist. It has suggested reform that may unsettle the heteronormative nature of marital law.

The research approach and methodology used in this research have led to conclusions that rely on the direct statements and lived experiences of the participants, as well as further doctrinal analysis of the legislative provisions concerning relationship recognition. Queer theory has been appropriate for this methodology, reinforcing the cultural and theoretical significance of queer theory in analysing normative law and sexuality beyond the parameters that feminist theory would have provided. In reviewing sexual norms rather than gender norms, this study has gained a wider scope in assessing the impact of marriage on LGBTQ individuals. Issues such as the gendered impact of marriage on women have already been extensively investigated in other research.

The law's interaction with, and regulation of, sexuality – primarily exercised through marriage – is evident throughout this study. Marriage is constructed as a means of controlling those forms of acceptable and normative relationships. Predicated on privatisation, domestication, and monogamy, marriage acts to create social attitudes that maintain sexuality as only appropriate or justified within marriage. Sexual practice existing outside of marriage – particularly gay sex that transgresses private coupled norms – still exists as 'bad' sexuality and still maintains its hidden quality, which is not considered appropriate or justified in heteronormative society.

A key conclusion of this research – one that will have a direct impact on the workings of, or the disestablishment of, the sexual hierarchy – is in relation to consummation and adultery. Much of the power attributed to heterosexuality, in constructing and confirming heteronormativity at the top of the hierarchy, is maintained by the legal ideation and enforcement of penetrative heterosexual sex. The exclusion of this act from same-sex marriages and civil partnerships thus constructs those relationships as being entitled to lesser forms of recognition. The solution, I argue, is to provide a form of consummation within same-sex marriage and civil partnerships, in order to re-sexualise marriage and destabilise heteronormative definitions. It is important to rely on the self-identification of such consummation in order to avoid essentialising sexual acts. This would be done by amending the Matrimonial Causes Act 1973 to recognise sexual intercourse as a self-defined act,

removing the penetrative requirement of the law. This research has demonstrated the desire of participants to have their sex recognised and to be seen as symbolically equal with married heterosexual couples. Although this reform could be mirrored with regard to adultery, I do not believe that the concept of adultery should be introduced to the legislation. In order to reflect the nature of non-monogamous same-sex relationships, and break down the mononormative focus of marriage, and following the anticipated introduction of no-fault divorce, adultery proceedings should be removed from marriage. Through the reform of both consummation and adultery, the legal manifestation of the sexual hierarchy may be altered, removing the emphasis on heterosexuality and placing the current forms of relationship recognition on a level field. Same-sex marriage goes so far as to disturb the centrality of heterosexuality in marriage law. However, it ultimately upholds and maintains the structures of the sexual hierarchy, particularly in relation to consummation.

A further, more radical, option of reform may lie in expanding and diversifying forms of relationship recognition, in order to recognise relationships that fall outside of the coupled dyad. In recognising polyamorous relationships, civil partnerships, civil unions, religious marriages, non-religious partnerships, and designated beneficiary agreements, the power and value that marriage has will be diluted as other forms of relationships become similarly valued. In creating new forms of relationship recognition, the law would add validity, legitimacy, and visibility to those relationships and forms of sexuality that do not yet enjoy such status – which the participants of this study have noted as a reality. This thesis argues not that marriage or relationship recognition should be abolished, but rather that the means by which law regulates relationships should be expanded beyond the heteronormative model that upholds the sexual hierarchy. It is acknowledged that an expanded pluralist use of family may be politically destructive of traditional family values and therefore may lead to the radical alteration of normative family forms. Due to the entrenched nature of marriage and family in the United Kingdom's legal system and in society, the author does not advocate this as it remains an impractical option. Instead, the recognition of same-sex sex via consummation is arguably an achievable goal in the disestablishing of the sexual hierarchy.

8.4 Contribution to Knowledge

This study has assessed the impact of the Marriage (Same-Sex Couples) Act 2013 in constructing the homonormative and homoradical identities, and in constructing and sustaining the sexual hierarchy as a means of reinforcing the centrality of marriage and heteronormativity.

The study has bridged the gap in literature that existed after the passing of the 2013 Act. It has investigated the impact of the Act using empirical socio-legal evidence. In constructing both the homonormative and the homoradical, a modern reassessment of the sexual hierarchy became possible. This reassessment furthers the existing literature with regards not only to the sexual hierarchy, but also to the functioning and meanings afforded to LGBTQ coupling, LGBTQ singleness, and the lived experiences of being LGBTQ in the event of lawful nationwide same-sex marriage. The study represents the participants' perceptions of societal views of same-sex marriage and its effect in social relations and standing. Ultimately, this research shines light on the experiences and narratives of LGBTQ peoples with regard to the passing of the 2013 Act. The research credits the importance of queer voices and lived experiences as an integral part of its analysis. This knowledge contributes to narratives regarding LGBTQ sexuality and the lived reality of law.

The reassessment of the sexual hierarchy contributes to narratives surrounding the rewarding of certain forms of relationships, particularly those that centre on the recognition of the 'conjugal' whole. It develops the literature on unrecognised relationships and highlights studies on monogamy, non-monogamy, and polyamory. This study has noted the importance of reforming and recognising the legal definition of sexual intercourse outside of the current heteronormative definition in order to disestablish the focus on penetrative sexuality, using empirical evidence to substantiate Beresford's argument. The study has further discussed issues regarding the awarding of rights to LGBTQ people, with marriage appearing as a fundamental right and symbol of citizenship.

The research represents the culmination of significant shifts in the familiarisation of LGBTQ sexuality, yet it does not attempt to investigate LGBTQ parenting or children. It does begin to investigate the sexual practices of married LGBTQ relationships, initially finding the growing trend of normativity within this population. However, there are discrepancies between men and women in their sexual practices, in monogamy, and in their willingness to discuss such issues with a male researcher. The familiarisation with LGBTQ populations represents the social and legal change that has accompanied the growing acceptance of gay and lesbian identities. This research notes those who are excluded from this familiarisation, as some identities and practices are seen as antithetical to the familial. It is also important to note that some identities do not wish to be included in such familial discourse. The sexual hierarchy may be conceptualised as shown in Figure 64.

Heteronormativity

(married heterosexuals, cohabiting heterosexuals, privatised, domesticated, presumed monogamy, procreative)

Homonormativity

(married homosexuals, cohabiting homosexuals, privatised, domesticated, presumed monogamy, non-procreative)

Homoradical

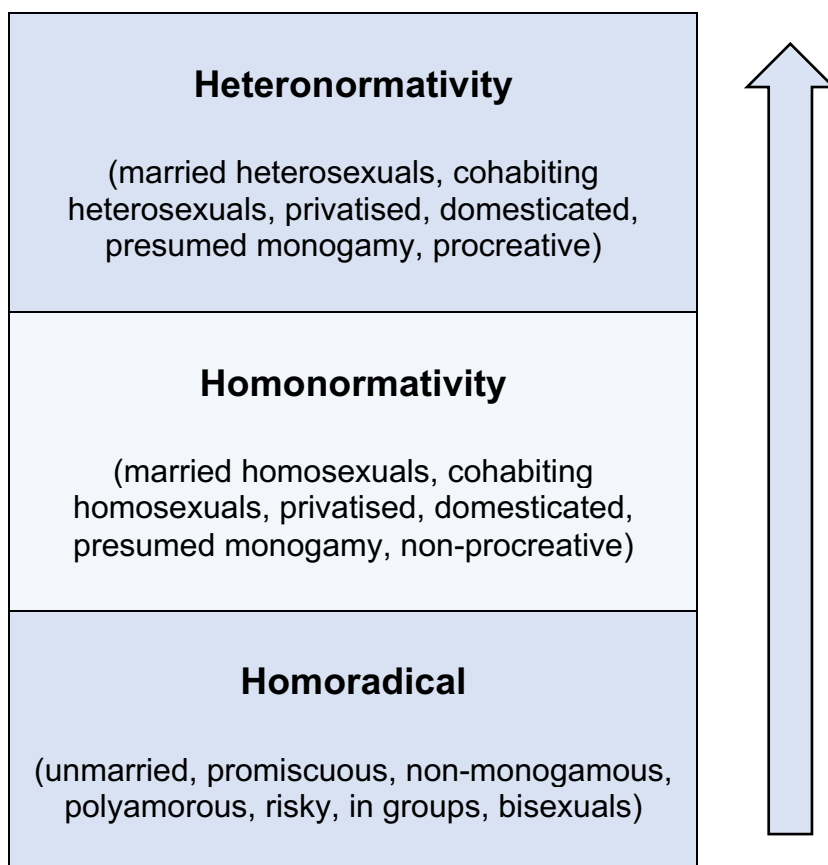(unmarried, promiscuous, non-monogamous, polyamorous, risky, in groups, bisexuals)

Figure 64: Hierarchical Attribution of Value

This hierarchy is maintained, as evidenced by the participants, through a system of acceptance and exclusion, in which the rewarding of normative behaviour comes at the price of the stigmatisation of non-normative behaviour. Same-sex marriage reinforces the myriad of social, legal, and cultural factors that construct the hierarchy, thus contributing to the enforcing of social norms regarding sexual behaviour. The legal factors and institutions can be seen in Figure 65, which notes the hierarchical attribution of legal value in which the labels, meanings, and legal protection of institutions are set out. This becomes the legal mechanism for enforcing the hierarchy and reinforcing the centrality of heterosexuality. Heteronormativity is maintained by law and society as the most socially and legally valued identity, with traditional marriage using a focus on penetrative consummation to sit above same-sex marriage. Same-sex marriage has acquired symbolic status above that of civil partnerships, while legally recognised relationships trump unrecognised relationships.

Traditional Marriage

Same-Sex Marriage

Civil Partnerships

Cohabitating Relationships
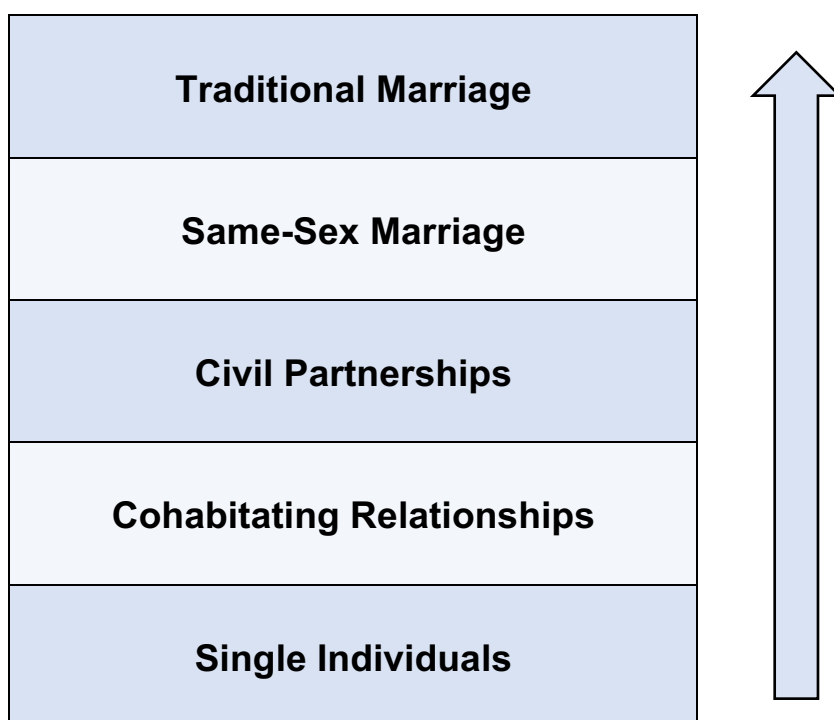
Single Individuals

Figure 65: Legal Attribution of Value

Figure 66 demonstrates the views of the participants in relation to notions good and bad sexuality, which still maintain the same elements of the sexual hierarchy.
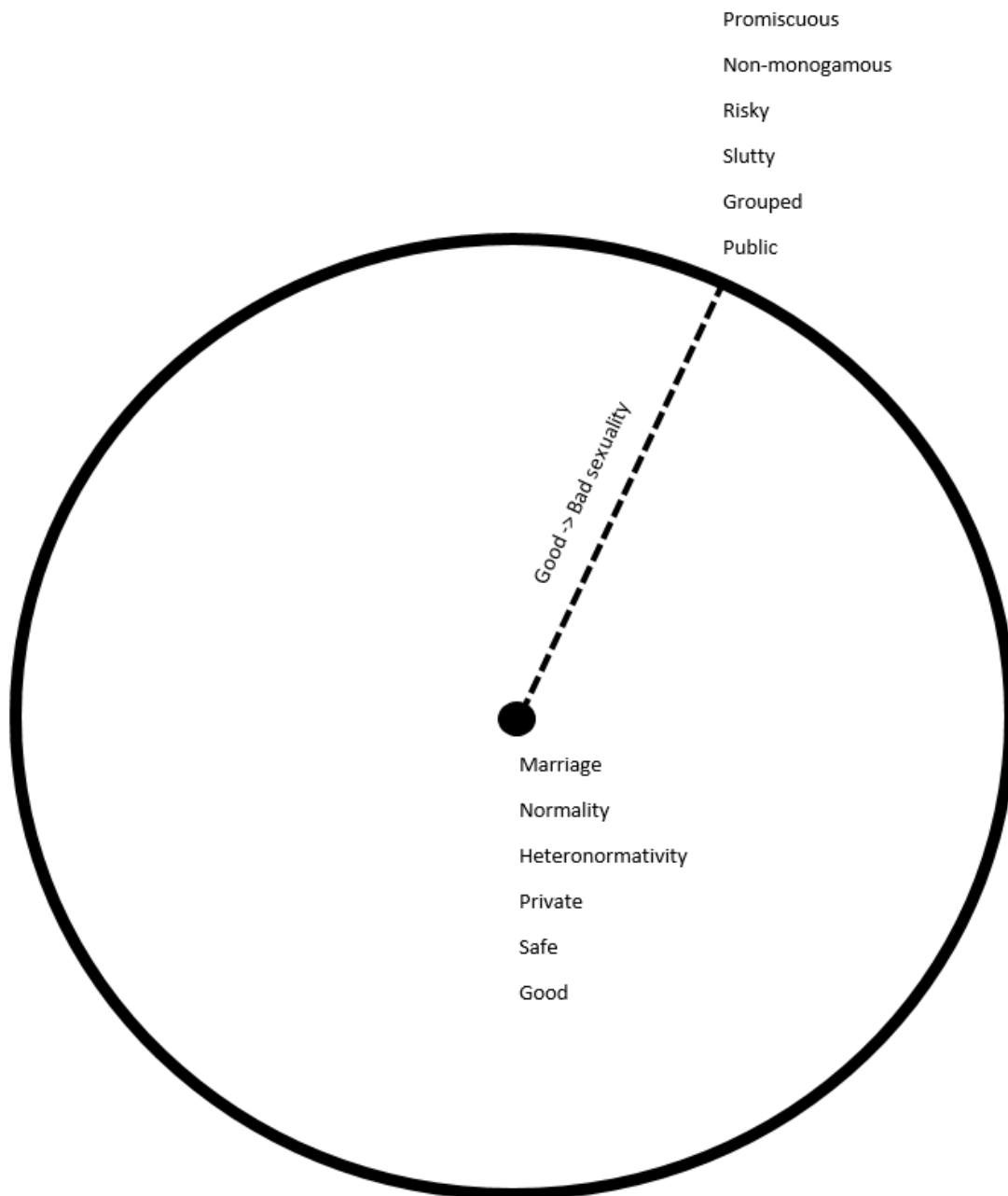

Figure 66: The New Charmed Circle

The use of 29 semi-structured interviews and queer theory as conceptual tools has presented this data as reliable evidence regarding the lived experiences of LGBTQ individuals in the north-east of England. Using such a methodology allowed for the direct engagement of the participants with myself as a researcher and with the area, causing them to give new voice to the issue. This has led to the nascent research area of homonormativity within the United Kingdom, while the previously unrecognised homoradical has also emerged from the research. This research has proven the hypothesis that same-sex marriage does reinforce the sexual hierarchy in the rewarding of the homonormative at the expense of the homoradical. The findings present important research areas that will inform my later research and will also inform the fields of gender, sexuality, and the law, as well as family law.

The significance of this thesis lies not only in the investigation of the 2013 Act and its implications, but also in the analysis more widely of the impact of law on sexuality. The Act is a significant legal reform for those who take advantage of the legislation. For society as a whole, it represents a new milestone in the law's approach to the regulation of homosexuality, moving from criminalisation to marital relationships in 48 years. This study therefore represents a significant investigation into the ways in which law influences the construction of sexual identity. The personal narratives included in this research testify directly to the impact of the legislation on LGBTQ lives.

8.5 Limitations

The most prevalent limitation of this study is due to the unequal gender representation of the participants. As noted in the methodology, the majority of the participants were younger, single gay men. This may present a more homogenous view of the impact of same-sex marriage and the sexual hierarchy. Unfortunately, due to the form of sampling and the low take-up of women participants, fewer women participated in the research. These women therefore cannot be said to be a representative sample of lesbian or bisexual women in the north-east. However, further studies have found that genuine samples are unachievable.[6] Moreover, the attempt to include women's voices in this research is itself of paramount importance. In representing men, women, and gender-variant participants, the study aimed to be more representative of the

---

[6] B Adam, 'Relationship Innovation in Male Couples' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010) 57.

experiences of the local LGBTQ population. However, had this study only interviewed men, or had it only interviewed women, it would be markedly different in representing a lesbian or gay sample. As has been shown, the women who participated in this study were more likely to exhibit homonormative viewpoints, whereas the men more generally represented the homoradical. It will be important to focus further on the experiences of lesbian and bisexual women in order to better understand the gendered nature of the sexual hierarchy. However, had this study focused only on one gender within the LGBTQ spectrum, this would have unduly silenced the valid opinions of other LGBTQ people regarding same-sex marriage.

This study has used queer theory. It is therefore critical of the normative and maintains a critical stance against marriage and the sexual hierarchy. Using a rights-based perspective, different outcomes may have emerged, and the author recognises the importance of this approach in securing the right to marry.

The 29 participants in this study represent a diverse group. However, a larger sample would provide more lived experiences and opinions relating to the core premise. Most of the participants were in their 20s or 30s. Had more participants been older, different perspectives may have been presented; these disparities are nonetheless evident in the comparisons between younger and older participants in the study. However, it remains vitally important to investigate the lived experiences of younger LGBTQ peoples, particularly in relation to notions of 'post-gay' theory and declining homophobia. A larger sample may also have provided more participants from different backgrounds, particularly considering that most participants in this study were from a mixture of white working-class and middle-class backgrounds – which is representative of the overall makeup of the geographic area. However, practicalities must be applied and, due to the large breadth of data collected with 29 participants, more participants may not have been possible. Had this study been conducted in London, or other major cities in the United Kingdom, there may have been different results. Particularly in London, the homoradical may have been more accurately represented had this study focused more on gay lifestyle app use, or kink lifestyles, because of London's larger LGBTQ populations and more diverse demographics. As such, this study (despite having some non-British participants) is geographically located within the north-east of England and focuses on the law of England and Wales. Further studies in other locations will present different conclusions.

8.6 Future Research Agenda

This research has provided a starting point for developing research into the sexual hierarchy and notions of normative/non-normative sexual identity in the age of same-sex relationship recognition. From legal, sociological, and socio-legal perspectives, the implications of same-sex marriage on the sexual hierarchy still present many opportunities for research, particularly for those who represent gendered differences for men or women. The implications of further familiarisation with LGBTQ populations – particularly via the normative lens – is in need of discussion, along with the functioning of LGBTQ divorce and parenting, and the implications of the stratification of civil partnerships and marriage. Further analysis of the equality-driven agenda and the implications of the unequal provisions and treatment of sexual intercourse will also be discussed in order to further assess the impact of the law on sexuality. The sexual hierarchy in relation to the homoradical and their sexual practices also provides a strong avenue for further research, particularly in the notions of the queering of the sexual hierarchy.

This research will have implications for practice and policy in informing discussion on how same-sex marriages often function and on the practices in which many LGBTQ couples take part, such as non-monogamy and the altered meanings afforded to sex and sexuality. This study may be used to inform policy regarding the definition of sexual intercourse. It may form the basis for future research intending to reform the concept of consummation in developing literature regarding the sexual hierarchy. This may further inform policy regarding the construction of anti-discrimination measures, helping us to understand notions of assimilation and other normative measures.

The conceptualisation of the sexual hierarchy, the homonormative, and the homoradical informs knowledge relating to the impact and interaction of the law with sexuality and society. Future research will further develop the knowledge created in this study, validating and reinforcing its findings as same-sex marriage develops as an institution.

9
Bibliography

9.1 Cases

9.1.1 United Kingdom Cases

Baxter v Baxter [1948] AC 274.

D-E v A-G, Falsely Calling Herself D-E (1845) 1 Rob Ecc 279.

Dredge v Dredge [1947] 1 All ER 29.

Fitzpatrick v Sterling Housing Association Ltd [2001] 1 AC 27, [1999] UKHL 42.

Ghaidan v Godin-Mendoza [2004] UKHL 30.

Hyde v Hyde and Woodhouse (1866) LR 1 PD 130 (133).

Lawrence v Gallagher [2012] EWCA Civ 394.

In the matter of an application by Siobhan McLaughlin for Judicial Review (Northern Ireland) [2018] UKSC 48.

Re P [2008] UKHL 38.

P v P [1964] 3 All ER 919.

R v Brown [1993] UKHL 19; [1994] 1 AC 212.

R v R [1991] UKHL 12.

Secretary of State for Work and Pension v M [2006] 1 FCR 497.

Wilkinson v Kitzinger [2006] EWHC 2022 (Fam).

Steinfeld and Keidan v Secretary of State for the International Development [2018] UKSC 32.

9.1.2 European Convention on Human Rights Cases

Dudgeon v United Kingdom (Application no. 7525/76).

Oliari v Italy (Application nos. 18766/11 and 36030/11).

Schalk and Kopf v Austria (Application no. 30141/04).

9.1.3 European Union Case

Relu Adrian Coman v Inspectoratul General pentru Imigrări and Ministerul Afacerilor Interne Case C-673/16.

9.1.4 Cases from Other Jurisdictions

James Obergefell, et al., Petitioners v Richard Hodges, Director, Ohio Department of Health, et al. 576 US 135 S Ct 2584.

P (SE) v P (DD) 2005 Carswell BC 2137.

9.2 Legislation

Civil Partnership Act 2004.

Criminal Justice and Public Order Act 1994.

Gender Recognition Act 2004.

Human Fertilisation and Embryology Act 2008.

Local Government Act 1988.

Marriage (Same-Sex Couples) Act 2013.

Matrimonial Causes Act 1973.

Northern Ireland (Executive Formation) Act 2019

Offences Against the Person Act 1861.

Sexual Offences Act 1967.

Sexual Offences (Amendment) Act 2000.

9.3 International Convention

European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

9.4 Literature

9.4.1 Books, Reports, and Journal Articles

Adam B, 'Constructing the Neo-Liberal Sexual Actor: Responsibility and Care of the Self in the Discourse of Barebackers' (2005) 7 *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care* 333.

Adam B, 'Relationship Innovation in Male Couples' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010).

Aguilar J, 'Insider Research: An Ethnography of a Debate' in A Messerschmidt (ed), *Anthropologists at Home in North America: Methods and Issues in the Study of One's Own Society* (Cambridge University Press 1981).

Ahmed S, *The Cultural Politics of Emotion* (2nd edn, Edinburgh University Press 2005).

Ahmed S, 'Interview with Judith Butler' (2016) 19 *Sexualities* 489.

Ahmed S, 'Orientations: Towards a Queer Phenomenology' (2006) 12(4) *GLQ: A Journal of Lesbian and Gay Studies* 543.

Alderson D, 'Queer Cosmopolitanism: Place, Politics, Citizenship and Queer as Folk' (2005) 55 *New Formations* 75.

Altman D, *Homosexual: Oppression and Liberation* (Angus and Robertson 1972).

Altman D and Symons J, *Queer Wars: The New Global Polarization over Gay Rights* (Polity Press 2016).

Appleby GA, 'Interviewing Working-Class Gay Men over the Internet' (2008) 12 *Journal of Gay and Lesbian Social Services* 134.

Ashford C, '(Homo)normative Legal Discourses and the Queer Challenges' (2011) *Durham Law Review* 77.

Ashford C, 'Queer Theory, Cyber-Ethnographies and Researching Online Sex Environments' (2009) 18 *Information and Communications Technology Law* 304.

Ashford C, Maine A, and Zago G, 'Normative Behaviour, Moral Boundaries, and the State' in C Ashford and A Maine (eds), *Research Handbook on Gender, Sexuality and Law* (Edward Elgar forthcoming 2020).

Atkins M and Laing M, 'Walking the Beat and Doing Business: Exploring Spaces of Male Sex Work and Public Sex' (2012) 15 *Sexualities* 622.

Auchmuty R, 'Law and the Power of Feminism: How Marriage Lost Its Power to Oppress Women' (2012) 2 *Feminist Legal Studies* 71.

Auchmuty R, 'Same-Sex Marriage Revived: Feminist Critique and Legal Strategy' (2004) 14(1) *Feminism & Psychology* 101.

Austin R, 'The Insurance Classification Controversy' (1983) 131 *University of Pennsylvania Law Review* 538.

Aveline D, 'A Typology of Perceived HIV/AIDS Risk-Reduction Strategies Used by Men Who "Cruise" Other Men for Anonymous Sex' (1995) 32 *Journal of Sex Research* 202.

Bachmann C and Gooch B, *LGBT in Britain: Hate Crime and Discrimination* (Stonewall 2017).

Bainham A, 'Sexualities, Sexual Relations and the Law' in S Schlater, M Richards and A Bainham (eds), *Body Lore and Laws* (Cambridge Socio-Legal Group 2002).

Baldwin J and Davis G, 'Empirical Research in Law' in P Cane and M Tushnet (eds), *The Oxford Handbook of Legal Studies* (Oxford University Press 2003).

Barker M, '"This Is My Partner, and This Is My … Partner's Partner": Constructing a Polyamorous Identity in a Monogamous World' (2004) 18 *Journal of Constructivist Psychology* 75.

Barker N, *Not the Marrying Kind: A Feminist Critique of Same-Sex Marriage* (Palgrave Macmillan 2013).

Barker N, 'Sex and the Civil Partnership Act: The Future of (Non) Conjugality?' (2006) 14 *Feminist Legal Studies* 241.

Barlow A, Burgoyne C and Smithson J, 'The Living Together Campaign — The Impact on Cohabitants' (2008) 37 *Family Law* 165.

Barlow A, Duncan S, and James G, *Cohabitation, Marriage and the Law* (Hart 2005).

Barrett C, 'Queering the Home' (2015) 12 *Home Cultures: The Journal of Architecture, Design, and Domestic Space* 200.

Bartone M, 'Jack'd, a Mobile Social Networking Application and Gender Performance: A Site of Exclusion within a Site of Inclusion' (2017) 64 *Journal of Homosexuality* 1.

Bauer R, 'Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010).

Bauer R, *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries* (Palgrave Macmillan 2014).

Bawer B, *A Place at the Table: The Gay Individual in American Society* (Simon and Schuster 2004).

Beck U and Beck-Gernsheim E, *The Normal Chaos of Love* (Polity Press 1995).

Beetar M, 'Intersectional (Un)Belongings: Lived Experiences of Xenophobia and Homophobia' (2016) 30 *Agenda* 2.

Belous C and Bauman M, 'What's in a Name? Exploring Pansexuality Online' (2017) 17(1) *Journal of Bisexuality* 58.

Bendall C, 'A Break away from the (Hetero)norm?: Lawrence v Gallagher [2012] 1 FCR 557; [2012] EWCA Civ 394' (2013) 21 *Feminist Legal Studies* 303.

Bennett J, '"Born This Way": Queer Vernacular and the Politics of Origins' (2014) 11 *Communication and Critical/Cultural Studies* 214.

Beresford S, 'We're All Same (Sex) Now?: Lesbian (Same) Sex; Consummation; Adultery and Marriage' (2016) 12(5) *Journal of GLBT Family Studies* 468.

Berlant L and Warner M, 'Sex in Public' (1998) 24 *Critical Inquiry* 547.

Berliner D, 'The Anthropologist in the Middle of a Tug-of-War' (2008) 11 *Men and Masculinities* 174.

Bernard HR, *Research Methods in Cultural Anthropology* (Sage 1988).

Bernstein M, 'Same-Sex Marriage and the Future of the LGBT Movement' (2015) 29 *Gender & Society* 323.

Bernstein Sycamore M, 'There's More to Life Than Platinum: Challenging the Tyranny of Sweatshop-Produced Rainbow Flags and Participatory Patriarchy' in M Bernstein Sycamore (ed), *That's Revolting!: Queer Strategies for Resisting Assimilation* (Soft Skull Press 2004).

Bersani L and Phillips A, *Intimacies* (University of Chicago Press 2008).

Bérubé A, 'The History of Gay Bathhouses' in E Colter et al. (eds), *Policing Public Sex: Queer Politics and the Future of AIDS Activism* (South End Press 1996).

Binnie J and Valentine G, 'Geographies of Sexuality – A Review of Progress' (1999) 23 *Progress in Human Geography* 186.

Birnholtz J, Fitzpatrick C, Handel M, and Brubaker JR, 'Identity, Identification and Identifiability: The Language of Self-Presentation on a Location-Based Mobile Dating App', Proceedings of the 16th International Conference on Human–Computer Interaction with Mobile Devices and Services.

Blackwell C, Birnholtz J, and Abbot C, 'Seeing and Being Seen: Co-Situation and Impression Formation Using Grindr, a Location-Aware Dating App' (2014) 17 *New Media and Society* 1117.

Blasius M, *Gay and Lesbian Politics: Sexuality and the Emergence of a New Ethic* (Philadelphia University Press 1994).

Boellstorff T, 'When Marriage Falls: Queer Coincidences in Straight Time' (2007) 13 *GLQ: A Journal of Lesbian and Gay Studies* 236.

Bonello K and Cross M, 'Gay Monogamy: I Love You but I Can't Have Sex with Only You' (2010) 57 *Journal of Homosexuality* 117.

Boyd S, 'Family Law and Sexuality: Feminist Engagements' (1999) 8 *Social and Legal Studies* 369.

Boyd S and Young C, '"From Same-Sex to No Sex"? Trends towards Recognition of (Same-Sex) Relationships in Canada' (2003) 1 *Law and Sexuality* 757.

Brown G, 'Homonormativity: A Metropolitan Concept that Denigrates "Ordinary" Gay Lives' (2012) 59 *Journal of Homosexuality* 1065.

Brown G, Maycock B, and Burns S, '"Your Picture Is Your Bait": Use and Meaning of Cyberspace among Men' (2005) 42 *Journal of Sex Research* 63.

Browne K, 'Selling My Queer Soul or Queerying Quantitative Research' (2008) 31 *Sociological Research Online* 9.

Browne K and Bakshi L, 'We Are Here to Party? Lesbian, Gay, Bisexual and Trans Leisurescapes beyond Commercial Gay Scenes' (2011) 30 *Leisure Studies* 179.

Bryman A, *Social Research Methods* (4th edn, Oxford University Press 2012).

Burrel ER, Pines HA, Robbie E, Coleman L, Murphy RD, Hess KL, Anton P, and Gorbach PM, 'Use of the Location-Based Social Networking Application GRINDR as a Recruitment Tool in Rectal Microbicide Development Research' (2012) 16 *AIDS Behaviour* 1816.

Butler J, 'Bodies and Power Revisited' in D Taylor and K Vintges (eds), *Feminist and the Final Foucault* (University of Illinois Press 2004).

Butler J, *Gender Trouble: Feminism and the Subversion of Identity* (2nd edn, Routledge 1999).

Butler J, 'Is Kinship Always Heterosexual?' (2002) 13 *differences: A Journal of Feminist Cultural Studies* 18.

Butler J, *Undoing Gender* (Routledge 2004).

Califia P, 'Legal Sodomy Is Political Foreplay' in Bernstein Sycamore M (ed), *That's Revolting: Queer Strategies for Resisting Assimilation* (Soft Skull Publishing 2004) 97.

Calogero R, 'A Test of Objectification Theory: The Effect of the Male Gaze on Appearance Concerns in College Women' (2004) 28 *Psychology of Women Quarterly* 16.

Cannella G and Lincoln Y, 'Ethics, Research Regulations, and Critical Social Science' in N Denzin and Y Lincoln (eds), *Sage Handbook on Qualitative Research* (5th edn, Sage 2018).

Cant B and Taket A, 'Editorial Introduction: Special Section on Methodology and LGBT People' (2008) 13 *Sociological Research Online* 20.

Charmaz K, 'The Grounded Theory Method: An Explication and Interpretation' in R Emerson (ed), *Contemporary Field Research: A Collection of Readings* (Little Brown 1983).

Charmaz K, 'Qualitative Interviewing and Grounded Theory Analysis' in J Grubium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001).

Chase S, 'Narrative Inquiry: Multiple Lenses, Approaches, Voices' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Materials* (Sage 2008).

Cliff S and Forrest S, 'Factors Associated with Gay Men's Sexual Behaviours and Risk on Holiday' (1999) 11 *AIDS Care* 281.

Cobb N, 'Queer(ed) Risks: Life Insurance, HIV/AIDS, and the "Gay Question"' (2010) 37 *Journal of Law and Society* 620.

Cohen C, 'Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?' in L Richardson, V Taylor, and N Whittier (eds), *Feminist Frontiers* (6th edn, McGraw Hill 2000).

Collier R, *Masculinity, Law and the Family* (Routledge 1995).

Corliss H, Cochran S, and Mays V, 'Sampling Approaches to Studying Mental Health Concerns in the Lesbian, Gay, and Bisexual Community' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009).

Cournoyer D and Klein W, *Research Methods for Social Work* (Allyn and Bacon 2000).

Crompton L, 'Where's the Sex in Same-Sex Marriage?' (2013) 43 *Family Law* 564.

Dawes M, 'Queer Property, Queer Persons: Self-Ownership and Beyond' (1999) 8 *Social and Legal Studies* 330.

De Beauvoir S, *The Second Sex* (Vintage [1952] 1989).

De Lauretis T, 'Queer Theory: Lesbian and Gays Sexualities, An Introduction' (1991) 3 *differences: A Journal of Feminist Cultural Studies* iii.

Delphy C and Leonard D, *Familiar Exploitation: A New Analysis of Marriage in Contemporary Western Societies* (Polity Press 1992).

Detamore M, 'Queer(y)ing the Ethics of Research Methods: Towards a Politics of Intimacy in Researcher/Researched Relations' in K Browne and C Nash (eds), *Queer Methods and Methodologies* (Ashgate 2010).

Deverell K, Sex, *Work and Professionalism: Working in HIV/AIDS* (Social Aspects of AIDS, Routledge 2001).

Diduck A, 'Shifting Familiarity' (2005) 58(1) *Current Legal Problems* 247.

Do Mar Castro Varela M and Dhawan N, 'Normative Dilemmas and the Hegemony of Counter-Hegemony' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011).

Do Mar Castro Varela M, Dhawan N, and Engel A, 'Hegemony and Heteronormativity: Revisiting "The Political" in Queer Politics' in M Do Mar Castro Varela, N Dhawan, and A Engel (eds), *Hegemony and Heteronormativity: Revisiting 'The Political' in Queer Politics* (Ashgate 2011).

Doan L, '"Gross Indecency between Women": Policing Lesbians or Policing Lesbian Police?' (1997) 6(4) *Social & Legal Studies* 533.

Duggan L, 'Making It Perfectly Queer' (1997) 22 *Socialist Review* 223.

Duggan L, 'The New Homonormativity: The Sexual Politics of Neoliberalism' in D Nelson and R Castronovo (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Duke University Press 2002).

Duggan L, 'Queering the State' (1994) 39 *Social Text* 1.

Duggan L, *The Twilight of Equality? Neoliberalism, Cultural Politics and the Attack on Democracy* (Beacon Press 2003).

Duncan D, 'Out of the Closet and into the Gym: Gay Men and Body Image in Melbourne, Australia' (2007) 15 *Journal of Men's Studies* 331.

Dunne G, *Lesbian Lifestyles: Women's Work and the Politics of Sexuality* (Macmillan 1997).

Eekelaar J, *Family Law and Social Policy* (2nd edn, Weidenfeld & Nicholson 1984).

Eekelaar J, 'Perceptions of Equality: The Road to Same-Sex Marriage in England and Wales' (2014) 28 *International Journal of Law, Policy and the Family* 4.

Elze D, 'Strategies for Recruiting and Protecting Gay, Lesbian, Bisexual, and Transgender Youths in the Research Process' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009).

Evans J and Tonge J, 'Partisan and Religious Drivers of Moral Conservatism: Same-Sex Marriage and Abortion in Northern Ireland' (2016) 1–2 *Party Politics*.

Ewick P and Silbey S, *The Common Place of Law: Stories from Everyday Life* (University of Chicago Press 1998) 47.

Featherstone L, *Equal Ever After: The Fight for Same-Sex Marriage – and How I Made It Happen* (Biteback Publishing 2016).

Ferguson R, A*berrations in Black: Towards a Queer of Colour Critique* (University of Minnesota Press 2004).

Few-Demo A, Humble A, Curran M, and Lloyd S, 'Queer Theory, Intersectionality, and LGBT-Parent Families: Transformative Critical Pedagogy in Family Theory' (2016) 8 *Journal of Family Theory and Review* 74.

Filax G, Sumara D, Davis B, and Shogan D, 'Queer Theory/Lesbian and Gay Approaches' in B Somekh and C Lewin (eds), *Research Methods in the Social Sciences* (Sage 2004).

Finch J, *'It's Great to Have Someone to Talk To': The Ethics and Politics of Interviewing Women* (Social Researching: Politics, Problems, Practice, Routledge & Kegan Paul 1984).

Fink H and Carbone J, 'Between Private Ordering and Public Fiat: A New Paradigm for Family Law Decision-Making' (2003) 5 *Journal of Law and Family Studies* 1.

Fish J, 'Sampling Lesbians: How to Get 1000 Lesbians to Complete a Questionnaire' (1999) 9 *Feminism & Psychology* 229.

Fontana A and Frey J, 'The Interview: From Neutral Stance to Political Involvement' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material* (Sage 2008).

Formby E, *Exploring LGBT Spaces and Communities* (Routledge 2017).

Foucault M, *The History of Sexuality: An Introduction* (1st edn, Vintage Books 1978).

Frankis J and Flowers P, 'Men Who Have Sex with Men (MSM) in Public Sex Environments (PSEs): A Systematic Review of Quantitative Literature' (2005) *17 AIDS Care* 273.

Freccero C, 'Queer Times' in J Halley and A Parker, *After Sex: On Writing Since Queer Theory* (Duke University Press 2011).

Frederick D and Fales M, 'Upset over Sexual versus Emotional Infidelity among Gay, Lesbian, Bisexual, and Heterosexual Adults' (2016) 45 *Archives of Sexual Behaviour* 175.

Garwood E, 'Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-Sex Reproductive Law' (2016) 17 *Journal of International Women's Studies* 5.

Geertz C, 'Thick Description: Toward an Interpretive Theory of Culture' in C Geertz, *The Interpretation of Cultures* (Basic Books 1973).

Giddens A, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Polity Press 1992).

Giffney N, 'Denormatizing Queer Theory: More Than (Simply) Lesbian and Gay Studies' (2004) 5 *Feminist Theory* 75.

Gleeson K, 'Freudian Slips and Coteries of Vice: The Sexual Offences Act of 1967' (2008) 27 *Parliamentary History* 409.

Goffman E, *Behaviour in Public Places: Notes on the Social Organization of Gatherings* (The Free Press 1963).

Goffman E, *Stigma: Notes on the Management of Spoiled Identity* (Simon & Schuster 1963).

Gonzalez-Salzberg D, *Sexuality and Transsexuality under the European Convention on Human Rights (*Hart 2019).

Gordon R, *Interviewing: Strategy, Techniques, and Tactics* (3rd edn, Dorsey 1980).

Gorman-Murray A, 'Constructing Domestic Ideals: Queering the Australian Home' (2007) 38 *Australian Geographer* 195.

Gorman-Murray A, 'Gay and Lesbian Couples at Home: Identity Work in Domestic Space' (2006) 3 *Home Cultures: The Journal of Architecture, Design, and Domestic Space* 145.

Gorman-Murray A, 'Homeboys: Use of Home by Gay Australian Men' (2006) 7 *Social and Cultural Geography* 53.

Goss RE, 'Queering Procreative Privilege: Coming Out as Families' in RE Goss and AS Strongheart (eds), *Our Families, Our Values: Snapshots of Queer Kinship* (The Harrington Park Press 1997).

Government Equalities Office, *Equal Marriage: A Consultation Paper* (2012).

Gramsci A, *The Antonio Gramsci Reader: Selected Writings 1916–1935* (New York University Press 2000).

Gudelunas D, 'There's an App for That: The Uses and Gratifications of Online Social Networks for Gay Men' (2012) 16 *Society and Culture* 347.

Gwaltney J, *Drylongso: A Self-Portrait of Black America* (Random House 1980).

Halberstam J, 'The Anti-Social Turn in Queer Studies' (2008) 5(2) *Graduate Journal of Social Science* 140.

Halberstam J, *In a Queer Time and Place: Transgender Bodies, Subcultural Lives* (New York University Press 2005).

Hale B, 'Unmarried Couples in Family Law' (2004) *34 Family Law* 419.

Halley J, 'Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate' in R Wintermute and M Andenaes (eds), *Legal Recognition of Same-Sex Partnerships* (Hart 2001).

Halley J, 'Queer Theory by Men' in M Fineman, J Jackson, and A Romero (eds), *Feminist and Queer Legal Theory: Intimate Encounters, Uncomfortable Conversations* (Ashgate 2009).

Halley J, *Split Decisions: How and Why to Take a Break from Feminism* (Princeton 2008).

Halperin D, *How to Be Gay* (Harvard University Press 2012).

Halperin D, 'The Normalization of Queer Theory' (2003) 45(2) *Journal of Homosexuality* 339.

Halperin D, *One Hundred Years of Homosexuality, and Other Essays on Greek Love* (Routledge 1990).

Hamilton F, 'The Differing Treatment of Same Sex Couples by European Union Law and the European Convention on Human Rights: The European Union Concept of Citizenship' (2015) 2(1) *Journal of International and Comparative Law* 87.

Hamilton F, 'Strategies to Achieve Same-Sex Marriage and the Method of Incrementalist Change' (2016) 25 *Florida Journal of Transnational Law and Policy* 121.

Hanson D, *The Little Book of Tom Finland: Military Men* (Taschen 2016).

Harding R, *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives* (Routledge 2011).

Haritaworn J, Lin C, and Klesse C, 'Poly/logue: A Critical Introduction to Polyamory' (2006) 9 *Sexualities* 515.

Harper D, 'What's New Visually?' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Materials* (Sage 2008).

Harraway D, *Simians, Cyborgs, and Women. The Reinvention of Nature* (Routledge 1991).

Hart C, *Doing a Literature Review* (Sage 1998).

Hartman-Linck J, 'Keeping Bisexuality Alive: Maintaining Bisexual Visibility in Monogamous Relationships' (2014) 14 *Journal of Bisexuality* 177.

Hash K and Spencer S, '"You've Got Subjects": The Promise of the Internet in Research with Lesbian, Gay, Bisexual, and Transgender Populations' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009).

Haubrich D, Myers T, Calzavara L, Ryder K, and Medved W, 'Gay and Bisexual Men's Experiences of Bathhouse Culture and Sex: "Looking for Love in All the Wrong Places"' (2004) 6 *Culture, Health & Sexuality* 19.

Heaphy B, 'The Sociology of Lesbian and Gay Reflexivity or Reflexive Sociology' (2008) 13 *Sociological Research Online* 8.

Heaphy B, Donovan C, and Weeks J, 'A Different Affair? Openness and Nonmonogamy in Same Sex Relationships' in J Duncombe, K Harrison, G Allan and D Marsden, (eds), *The State of Affairs: Explorations in Infidelity and Commitment* (Routledge 2014).

Heaphy B, Smart C, and Einarsdottir A, *Same-Sex Marriages: New Generations, New Relationships* (Palgrave Macmillan 2013).

Heaphy B, Weeks J and Donovan C, '"That's Like My Life": Researching Stories of Non-Heterosexual Relationships' (1998) 1 *Sexualities* 453.

Hennessy M, 'Queer Visibility in Commodity Culture' (1995) 95 *Cultural Critique* 31.

Hepple B, *Equality: The New Legal Framework* (Hart 2011).

Hequembourg A and Arditi J, 'Fractured Resistances: The Debate over Assimilationism among Gays and Lesbians in the United States' (1999) 40 *Sociological Quarterly* 663.

Herman D, *Rights of Passage: Struggles for Lesbian and Gay Legal Equality* (University of Toronto Press 1994).

Herring J, *The Woman Who Tickled Too Much* (Pearson 2009).

Hickson F, Davies P, Hunt A, Weatherburn P, McManus T and Coxon A, 'Maintenance of Open Gay Relationships' in R Bor and J Elford (eds), *The Family and HIV* (Cassell 1994).

Hitchcock G and Hughes D, *Researcher and the Teacher: A Qualitative Introduction to School-Based Research* (Routledge 1989).

Ho P, 'The (Charmed) Circle Game: Reflections on Sexual Hierarchy through Multiple Sexual Relationships' (2006) 9 *Sexualities* 548.

Hocquenghem G, *The Screwball Asses* (trans N Wedell, Semiotext(e) 2010).

Hosking W, 'Satisfaction with Open Sexual Agreements in Australian Gay Men's Relationships: The Role of the Perceived Discrepancies in Benefit' (2013) 42 *Archive of Sexual Behaviour* 1309.

Hull K, 'The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage' (2003) *28 Law and Social Inquiry* 632.

Hung S, Nieh C, and Hsieh P, 'Unconscious Processing of Facial Attractiveness: Invisible Attractive Faces Orient Visual Attention' (2016) 6 *Scientific Reports* (Nature Publisher Group) 37117.

Ingraham C, 'The Heterosexual Imaginary: Feminist Sociology and the Theories of Gender' (1994) 12 *Sociological Theory* 203.

Irvine J, 'A Place in the Rainbow: Theorizing Lesbian and Gay Culture' (1994) 12 *Sociological Theory* 232.

Jack D, 'Ways of Listening to Depressed Women in Qualitative Research: Interview Techniques and Analyses' (1999) 40 *Canadian Psychology* 92.

Jackson S, 'Sexuality, Heterosexuality and Gender Hierarchy: Getting Our Priorities Straight' in C Ingraham (ed), *Thinking Straight: The Power, Promise and Paradox of Heterosexuality* (Taylor & Francis 2004).

Jagose A, *Queer Theory: An Introduction* (New York University Press 1996).

Johnson L, *Queering Tourism: Paradoxical Performances at Gay Pride Parades* (Routledge 2005).

Johnson P, '"The Choice of Wording Must Be Regarded as Deliberate": Same-Sex Marriage and Article 12 of the European Convention on Human Rights' (2015) 40(2) *European Law Review* 207.

Johnson P, 'Ordinary Folk and Cottaging: Law, Morality, and Public Sex' (2007) 34 *Journal of Law and Society* 520.

Joint Select Committee of the House of Lords and the House of Commons (1920) *Minutes of Evidence Taken Before the Joint Select Committee on the Criminal Law Amendment Bill* (HMSO, 936).

Jones R, '"You Show Me Yours, I'll Show You Mine": The Negotiation of Shifts from Textual to Visual Modes in Computer-Mediated Interaction among Gay Men' (2005) 4 *Visual Communications* 69.

Kanuha V, '"Being Native" versus "Going Native": Conducting Social Work Research as an Insider' (2000) 45 *Social Work* 439.

Katz E, Bulmer JG, and Gurevitch M, 'Uses and Gratifications Research' (1973) 37 *Public Opinions Quarterly* 509.

Kelly B, Carpiano R, Easterbrook A, and Parsons J, 'Exploring the Gay Community Question: Neighborhood and Network Influences on the Experience of Community among Urban Gay Men' (2013) 55 *Sociological Quarterly* 23.

Keuzenkamp S, *Acceptance of Homosexuality in the Netherlands 2011: International Comparison, Trends, and Current Situation* (The Netherlands Institution for Social Research 2011).

Khan U, *Vicarious Kinks: S/M in the Socio-Legal Imaginary* (University of Toronto Press 2014).

Klesse C, 'Polyamory and Its "Others": Contesting the Terms of Non-Monogamy' (2006) 9 *Sexualities* 576.

Kong T, Mahoney D, and Plummer K, 'Queering the Interview' in J Gubrium and J Holstein (eds), *Handbook of Qualitative Research: Context and Method* (Sage 2002).

Kulick D and Willson M, *Taboo: Sex, Identity and Erotic Subjectivity in Anthropological Fieldwork* (Routledge 1995).

Kvale S, 'The 1000-Page Question' (1988) 6 *Phenomenology & Pedagogy* 90.

Lahti M, 'Dressing Up in Power: Tom of Finland and Gay Male Body Politics' (2008) 35 *Journal of Homosexuality* 185.

Lamble S, 'Unknowable Bodies, Unthinkable Sexualities: Lesbian and Transgender Legal Invisibility in the Toronto Women's Bathhouse Raid' (2009) 18 *Social & Legal Studies* 112.

LaSala M, 'Coupled Gay Men, Parents and In-Laws: Intergenerational Disapproval and the Need for a Thick Skin' (1998) 79 *Families in Society* 585.

LaSala M, 'The Importance of Partners to Lesbians' Intergenerational Relationships' (2001) 25 *Social Work Research* 27.

Lasala M, 'Monogamy of the Heart' (2004) 17 *Journal of Gay & Lesbian Social Services* 9.

LaSala M, 'When Interviewing "Family": Maximising the Insider Advantage in the Qualitative Study of Lesbians and Gay Men' (2008) 15 *Journal of Gay and Lesbian Social Services* 15.

Laslett B and Rapoport R, 'Collaborative Interviewing and Interactive Research' (1975) 37 *Journal of Marriage and the Family* 968.

Lett J, 'Emics and Etics: Notes on the Epistemology of Anthropology' in T Headland, K Pike, and M Harris (eds), *Emics and Etics: The Insider Outsider Debate* (Sage 1990).

Levy D and Johnson C, 'What Does the Q Mean? Including Queer Voices in Qualitative Research' (2011) 11 *Qualitative Social Work* 134.

Lincoln Y, 'Ethical Practices in Qualitative Research' in D Mertens and P Ginsberg (eds), *Handbook of Social Research Ethics* (Sage 2009).

Love H, 'Queers ___ This' in J Halley and A Parker (eds), *After Sex: On Writing Since Queer Theory* (Duke University Press 2011).

Macedo S, *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage* (Princeton University Press 2015).

Mahoney J and Vanderpoel R, 'Set Diagrams and Qualitative Research' (2015) 48 *Comparative Political Studies* 66.

Maine A, 'Book Review: Stephen Macedo, Just Married: Same-Sex Couples, Monogamy and the Future of Marriage (Princeton University Press, 2015)' (2017) 6 *Feminists@Law*.

Maine A, 'The Hierarchy of Marriage and Civil Partnerships: Diversifying Relationship Recognition' in F Hamilton and G Noto La Diega (eds), *Same-Sex Relationships, Law and Social Change* (Routledge forthcoming).

Marcus S, 'Queer Theory for Everyone: A Review Essay' (2005) 31(1) *Signs* 196.

Markwell K, 'Mardi Gras Tourism and the Construction of Sydney as an International Gay and Lesbian City' (2002) 8 *GLQ: A Journal of Lesbian and Gay Studies* 90.

Marso L, 'Marriage and Bourgeois Respectability' (2010) 6 *Politics and Gender* 146.

Martin J and Meezan W, 'Applying Ethical Standards to Research and Evaluations Involving Lesbian, Gay, Bisexual, and Transgender Populations' in J Martin and W Meezan (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Taylor & Francis 2009).

May R, *Talking at Trena's: Everyday Conversations at an African-American Tavern* (New York University Press 2001).

Maykovich M, 'The Difficulties of a Minority Researcher in Minority Communities' (1977) 33 *Journal of Social Issues* 108.

McCracken G, *The Long Interview* (Sage 1988).

McDavitt B and Mutchler M, '"Dude, You're Such a Slut!" Barriers and Facilitators of Sexual Communication among Young Gay Men and Their Best Friends' (2014) 29 *Journal of Adolescent Research* 464.

Meeks C and Stein A, 'Refiguring the Family: Towards a Post-Queer Politics of Gay and Lesbian Marriage' in D Richardson, J McLaughlin, and M Casey (eds), *Intersections between Feminist and Queer Theory* (Palgrave 2006).

Messerschmidt D, 'On Anthropology "At Home"' in D Messerschmidt (ed), *Anthropologists at Home in North America: Methods and Issues in the Study of One's Own Society* (Cambridge University Press 1981).

Miller B, '"Dude, Where's Your Face?" Self-Presentation, Self-Description, and Partner Preferences on a Social Networking Application for Men Who Have Sex with Men: A Content Analysis' (2015) 19 *Sexuality and Culture* 637.

Moser C and Madeson J, *Bound to Be Free: The SM Experience* (Continuum 1996).

Mowlabocus S, *Gaydar Culture: Gay Men, Technology and Embodiment in the Digital Age* (Routledge 2010).

Mulé N, 'Same-Sex Marriage and Canadian Relationship Recognition – One Step Forward, Two Steps Back: A Critical Liberationist Perspective' (2010) 22 *Journal of Gay & Lesbian Social Services* 77.

Munro V, 'Dev'l-in Disguise? Harm, Privacy and the Sexual Offences Act 2003' in V Munro and C Stychin (eds), *Sexuality and the Law* (Routledge 2007).

Namaste K, 'The Politics of Inside/Out: Queer Theory, Poststructuralism, and a Sociological Approach to Sexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996).

Nardi P, *Gay Men's Friendships: Invincible Communities* (University of Chicago Press 1999) 75.

Neary A, 'Civil Partnership and Marriage: LGBT-Q Political Pragmatism and the Normalization Imperative' (2016) 19 *Sexualities* 757.

Nedesky J, 'Law, Boundaries, and the Bounded Self' in R Post (ed), *Law and the Order of Culture* (University of California Press 1991).

Norgrove D, *Family Justice Review* (Ministry of Justice, Department for Education and the Welsh Government 2011).

Norrie K, 'Marriage Is for Heterosexuals: May the Rest of Us Be Saved from It' (2000) 12 *Child and Family Law Quarterly* 364.

Nussbaum M, 'A Right to Marry?' (2010) 98 *California Law Review* 667.

O'Clarke E, *Virtuous Vice: Homoeroticism and the Public Sphere* (Duke University Press 2000).

O'Donovan, K, *Family Law Matters* (Pluto 1993).

O'Sullivan S, 'Lacan's Ethics and Foucault's "Care of Self": Two Diagrams of the Production of Subjectivity (and of the Subject's Relation to the Truth)' (2010) 10 *Parrhesia* 51.

Oakley A, 'Interviewing Women: A Contradiction in Terms' in H Roberts (ed), *Doing Feminist Research* (Routledge & Kegan Paul 1981).

Office for National Statistics, *Marital Status Population Projections* (2010).

Opdenakker R, 'Advantages and Disadvantages of Four Interview Techniques in Qualitative Research' (2006) 7 *Forum: Qualitative Social Research* 2.

Padgett D, *Qualitative Methods in Social Work Research: Challenges and Rewards* (Sage 1998).

Parks C, Hughes T and Werkmeister-Rozas L, 'Defining Sexual Identity and Sexual Orientation in Research with Lesbians, Gay Men, and Bisexuals' in W Meezan and J Martin (eds), *Handbook of Research with Lesbian, Gay, Bisexual, and Transgender Populations* (Routledge 2009).

Partington G, 'Qualitative Research Interviews: Identifying Problems in Technique' (2001) 11 *Issues in Educational Research* 7.

Patton B, *Qualitative Evaluation and Research Methods* (2nd edn, Sage 1990).

Peräkylä A, 'Analysing Talk and Text' in N Denzin and Y Lincoln (eds), *Collecting and Interpreting Qualitative Material*s (3rd edn, Sage 2008).

Phelan S, *Sexual Strangers: Gays, Lesbians, and Dilemmas of Citizenship* (Temple University Press 2001).

Pike K, 'On the Emics and Etics of Pike and Harris' in R Headland and M McClelland (eds), *Emics and Etics: The Insider/Outsider Debate* (Sage 1990).

Pinsof D and Haselton M, 'The Effect of the Promiscuity Stereotype on Opposition to Gay Rights' (2017) 12 *PLOS ONE* 2.

Plummer K, 'Symbolic Interactionism and the Forms of Homosexuality' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996).

Plummer K, *Telling Sexual Stories* (Routledge 1995).

Poland B, 'Transcription Quality' in J Gubrium and J Holstein (eds), *Handbook of Interview Research* (Sage 2001).

Polikoff N, *Beyond (Straight and Gay) Marriage* (Beacon Press 2008).

Pope C and Mays N, 'Qualitative Research: Reaching the Parts Other Methods Cannot Reach: An Introduction to Qualitative Methods in Health and Health Services Research' (1995) 311 *British Medical Journal* 4.

Pritchard A, Morgan N, and Sedgely D, 'Exploring Issues of Space and Sexuality in Manchester's Gay Village' in M Robinson, R Sharpley, N Evans, P Long, and J Swarbrooke (eds), *Reflections on International Tourism: Developments in Urban and Rural Tourism* (Business Education Publishers 2000).

Puar J, 'Rethinking Homonationalism' (2013) 45 *International Journal of Middle East Studies* 337.

Queen C, 'Never a Bridesmaid, Never a Bride' in M Bernstein Sycamore (ed), *That's Revolting: Queer Strategies for Resisting Assimilation* (Soft Skull Publishing 2004).

Rambukkana N, 'Uncomfortable Bridges: The Bisexual Politics of Outing Polyamory' (2008) 4 *Journal of Bisexuality* 143.

Rhodes P, 'Race-of-Interviewer Effects: A Brief Comment' (1994) 28 *Sociology: The Journal of the British Sociological Association* 547.

Richardson D, 'Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation' (2005) 37 *Antipodes* 519.

Richardson D, 'Locating Sexualities: From Here to Normality' (2004) 7(4) *Sexualities* 391.

Rimmerman C, 'Beyond Political Mainstreaming: Reflections on Lesbian and Gay Organisations and the Grassroots' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000).

Ringer R, 'Constituting Non-Monogamies' in M Bernstein and R Reimann (eds), *Queer Families, Queer Politics: Challenging Culture and the State* (Columbia University Press 2001).

Robinson BA, 'Is This What Equality Looks Like?' (2012) 9 *Sexuality Research and Social Policy* 327.

Robson R, *Sappho Goes to Law School: Fragments in Lesbian Legal Theory* (Columbia University Press 1998).

Romero A, 'Methodological Descriptions: "Feminist" and "Queer" Legal Theories' (2007) 19 *Yale Journal of Law and Feminism* 227.

Ronson A, Milhausen R, and Wood J, 'Reasons for Having Sex among Lesbian Women' (2012) 21(1) *Canadian Journal of Human Sexuality* 17.

Rose N, *Powers of Freedom: Reframing Political Thought* (Cambridge University Press 1999).

Roseneil S and Budgeon S, 'Cultures of Intimacy and Care beyond "the Family": Personal Life and Social Change in the Early 21st Century' (2004) 52 *Current Sociology* 135.

Rostosky S, 'Same-Sex Couples' Decisions and Experiences of Marriage in the Context of Minority Stress: Interviews from a Population-Based Longitudinal Study' (2016) *Journal of Homosexuality* 4.

Rubin G, 'Blood under the Bridge: Reflections on "Thinking Sex"' (2011) 17(1) *GLQ: A Journal of Lesbian and Gay Studies* 15.

Rubin G, 'Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality' in CS Vance (ed), *Pleasure and Danger: Exploring Female Sexuality* (Routledge 1984).

Rubin A and Babbie E, *Research Methods for Social Work* (Brooks/Cole Publishing Company 1993).

Rubin G and Butler J, 'Sexual Traffic: Interview' in E Weed and N Schor (eds), *Feminism Meets Queer Theory* (Indiana University Press 1997).

Russell J, 'Bio-Power and Biohazards: A Projective System Reading of Gay Men's Community-Based HIV Prevention' (2005) 7 *Journal of Culture, Health and Sexuality* 156.

Sagovsky N, 'Hooker, Warburton, Coleridge and the "Quadruple Lock": State and Church in the Twenty-First Century' (2014) 16 *Ecclesiastical Law Journal* 140.

Sanchez F and Vilain E, '"Straight-Acting Gays": The Relationship between Masculine Consciousness, Anti-Effeminacy, and Negative Gay Identity' (2012) 41 *Archives of Sexual Behaviour* 111.

Sands R and McClelland M, 'Emic and Etic Perspectives in Ethnographic Research on the Interdisciplinary Team' in E Sherman and W Reid (eds), *Qualitative Research in Social Work* (Columbia University Press 1995).

Schecter E, Tracy AJ, Page KV, and Luong G, 'Shall We Marry? Legal Marriage as a Commitment Event in Same-Sex Relationships' (2008) 54(4) *Journal of Homosexuality* 400.

Scherpe J, 'Same-Sex Couples Have Family Life' (2010) 69 *Cambridge Law Journal* 463.

Schroedel J and Fiber P, 'Lesbian and Gay Policy Priorities: Commonality and Difference' in C Rimmerman, K Wald, and C Wilcox (eds), *The Politics of Gay Rights* (University of Chicago Press 2000).

Schwandt T, *Qualitative Inquiry: A Dictionary of Terms* (Sage 1997).

Sedgwick E, *Epistemology of the Closet* (California University Press 1990)

Sedgwick E, 'Queer Performativity' (1993) 1 *GLQ: A Journal of Lesbian and Gay Studies* 13.

Seidman S, 'Identity and Politics in a "Postmodern" Gay Culture: Some Historical and Conceptual Notes' in M Warner (ed), *Fear of a Queer Planet: Queer Politics and Social Theory* (University of Minnesota Press 1993).

Seidman S and Meeks C, 'The Politics of Authenticity: Civic Individualism and the Cultural Roots of Gay Normalisation' (2011) 5 *Cultural Sociology* 519.

Selltiz C, Jahoda M, Deutsch M, Cook S, Chein I and Proshansky HM, *Research Methods in Social Relations* (Methuen 1965).

Sen A, *Development as Freedom* (Oxford University Press 1999).

Sheff E, 'Polyamorous Families, Same-Sex Marriage, and the Slippery Slope' (2011) 40 *Journal of Contemporary Ethnography* 510.

Silverman D, 'On Throwing away the Ladders: Rewriting the Theory of Organisations', paper presented at the Towards a New Theory of Organisation Conference, Keele University (1991).

Simons H, 'Ethics in Evaluation' in I Shaw, J Greene and M Melvin (eds), *The Sage Handbook of Evaluation* (Sage 2006).

Simon H, 'Scientific Discovery and the Psychology of Problem Solving' in R Colodny (ed), *Mind and Cosmos: Essays in Contemporary Science and Philosophy* (University of Pittsburgh Press 1966).

Singer E and Presser S, *Survey Research Methods* (University of Chicago Press 1989).

Skeggs B, *Formations of Class and Gender* (Sage 1997).

Smith A, 'The Regulation of Lesbian Sexuality through Erasure: The Case of Jennifer Saunders' in J Dean (ed), *Feminism and the New Democracy: Resisting the Political* (Sage 1997).

Stein A and Plummer K, '"I Can't Even Think Straight": "Queer" Theory and the Missing Sexual Revolution in Sociology' in S Seidman (ed), *Queer Theory/Sociology* (Blackwell 1996).

Strauss A and Corbin J, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (Sage 1990).

Stychin C, '"Las Vegas Is Not Where We Are": Queer Readings of the Civil Partnership Act' (2006) 25 *Political Geography* 899.

Stychin C, *Law's Desire: Sexuality and the Limits of Justice* (Routledge 1995).

Stychin C, 'Not (Quite) a Horse and Carriage: The Civil Partnership Act 2004' (2006) 14 *Feminist Legal Studies* 79.

Stychin C, 'Same-Sex Sexualities and the Globalisation of Human Rights Discourse' (2004) 49 *McGill Law Journal* 951.

Suffee R, 'Homosexuality and the Law: The Construction of Wolfenden Homonormativity in 1950s England' (2015) 62 *Journal of Homosexuality* 250.

Sullivan A, *Virtually Normal: An Argument about Homosexuality* (Picador 1995).

Taylor V and Whittier N, 'Collective Identity in Social Movement Communities' in A Morris and CM Mueller (eds), *Frontiers in Social Movement Theory* (Yale University Press 1992).

Thomas J and Williams D, 'Getting Off on Sex Research: A Methodological Commentary on the Sexual Desires of Sex Researchers' (2016) 19 *Sexualities* 83.

Thomas-Dusing C, 'The Marriage Alternative: Civil Unions, Domestic Partnerships, or Designated Beneficiary Agreements' (2014) 17 *Journal of Gender, Race, and Justice* 163.

Tyburczy J, 'Leather Anatomy: Cripping Homonormativity at International Mr. Leather' (2014) 8 *Journal of Literary & Cultural Disability Studies* 275.

Tziallas E, 'Gamified Eroticism: Gay Male "Social Networking" Applications and Self-Pornography' (2015) 19 *Sexuality and Culture* 759.

Vaid U, *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation* (Anchor Books 1996) 63.

Valdes F, 'Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex", "Gender", and "Sexual Orientation" in Euro-American Law and Society' (1995) 83 *California Law Review* 1.

Waitt G and Markwell K, *Gay Tourism: Culture and Context* (Haworth Hospitality Press 2006).

Warner D, 'Towards a Queer Methodology' (2004) 1 *Qualitative Research in Psychology* 334.

Warner M, 'Beyond Gay Marriage' in W Brown and J Halley (eds), *Left Legalism/Left Critique* (Duke University Press 2002).

Warner M, 'Homo-Narcissism; or, Heterosexuality' in J Boone and M Cadden (eds), *Engendering Men* (Routledge 1990).

Warner M, 'Normal and Normaller: Beyond Gay Marriage' (1999) 2 *GLQ: A Journal of Lesbian and Gay Studies* 119.

Warner M, 'Response to Martha Nussbaum' (2010) 98 *California Law Review* 721.

Warner M, *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life* (2nd edn, Harvard University Press 2000).

Warren C and Rasmussen P, 'Sex and Gender in Field Research' (1977) 6(3) *Urban Life* 350.

Weeks J, *Coming Out* (Quartet Books 1977).

Weeks J, 'The Construction of Homosexuality' in Seidman S (ed), *Queer Theory/Sociology* (Blackwell 1996).

Weeks J, *Invented Moralities: Sexual Values in the Age of Uncertainty* (Columbia University Press 1995).

Weeks J, *The Languages of Sexuality* (Routledge 2011).

Weeks J, *Making Sexual History* (Polity Press 2000).

Weeks J, 'Pretended Family Relationships' in D Clark (ed), *Marriage, Domestic Life and Social Change: Writings for Jacqueline Burgoyne* (Tavistock 1991).

Weeks J, *Sexuality* (2nd edn, Routledge 2003).

Weeks J, *Sexuality* (3rd edn, Routledge 2009).

Weeks J, Heaphy B, and Donovan C, *Same-Sex Intimacies: Families of Choice and Other Life Experiments* (Routledge 2001).

Weiss M, 'Mainstreaming Kink: The Politics of BDSM Representation in U.S. Popular Media' (2006) 50 *Journal of Homosexuality* 103.

Weiss M, *Techniques of Pleasure: BDSM and the Circuits of Sexuality* (Duke University Press 2011).

Westwood S, '"My Friends Are My Family": An Argument about the Limitations of Contemporary Law's Recognition of Relationships in Later Life' (2013) 35 *Journal of Social Welfare and Family Law* 348.

Wiele CVD and Tong ST, 'Breaking Boundaries: The Uses and Gratifications of Grindr', paper presented at UbiComp '14, ACM International Joint Conference on Pervasive and Ubiquitous Computing (13–17 September 2014).

Wignall L and McCormack M, 'An Exploratory Study of a New Kink Activity: "Pup Play"' (2015) 46(3) *Archives of Sexual Behaviour* 801.

Wilkinson E, 'What's Queer about Non-Monogamy Now?' in M Barker and D Langdridge (eds), *Understanding Non-Monogamies* (Routledge 2010).

Willis P, '"Queer Eye" for Social Work: Rethinking Pedagogy and Practice in Same-Sex Attracted Young People' (2007) 60 *Australian Social Work* 183.

Wimsatt W, 'Heuristics and the Study of Human Behaviour' in D Friske and R Shweder (eds), *Metatheory in Social Science* (University of Chicago Press 1986).

Wolfson E, 'Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique' (1994) 21 *New York University Review of Law and Social Change* 567.

Wolkomir M, 'Making Heteronormative Reconciliations: The Story of Romantic Love, Sexuality, and Gender in Mixed-Orientation Marriages' (2009) 23(4) *Gender & Society* 494.

Worth H, Reid A, and McMillan K, 'Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships' (2002) 38 *Journal of Sociology* 237.

Worthen M, 'Hetero-Cis–Normativity and the Gendering of Transphobia' (2016) 17 *International Journal of Transgenderism* 31.

9.4.2 Internet Materials

BBC News, 'Inter-American Human Rights Court Backs Same-Sex Marriage', *BBC News*, 10 January 2018, <http://www.bbc.co.uk/news/world-latin-america-42633891> accessed 23 January 2018.

BBC News, 'Gay Men "Afraid to Hold Hands in Public"', Survey Finds', *BBC News*, 7 September 2017, <http://www.bbc.co.uk/news/uk-41179976> accessed 7 September 2017.

Bernstein M, 'Same-Sex Marriage and the Assimilationist Dilemma: A Research Agenda on Marriage Equality and the Future of LGBTQ Activism, Politics, Communities, and Identities' (2018) *Journal of Homosexuality* <https://www.tandfonline.com/doi/pdf/10.1080/00918369.2017.1423211?needAccess=true> accessed 5 March 2018.

Bowcott O, 'No-Fault Divorce Coming "as Soon as Parliamentary Time Allows"', *The Guardian*, London, 9 April 2019, <https://www.theguardian.com/law/2019/apr/09/no-fault-divorce-law-coming-as-soon-as-parliamentary-time-allows> accessed 9 April 2019

Essig L, 'Heteroflexibility', *Salon*, 15 November 2000, <https://www.salon.com/2000/11/15/heteroflexibility/> accessed 26 July 2017.

Gray J, 'What Do B&D, S&M, D&S, "Top", "Bottom" Mean', 1997, *soc.subculture.bondage-bdsm*, <http://www.leathernroses.com/generalbdsm/ssbbfaqdefines.htm> accessed 31 May 2017.

Grindr LLC, 'Grindr – Gay, Same Sex, Bi, Social Network to Chat and Meet Guys', *iTune*s, <https://itunes.apple.com/gb/app/grindr-gay-same-sex-bi-social/id308956623?mt=8> accessed 11 April 2016.

Haigh J, 'Jack'd CEO Adam Segel: "Gay Apps Aren't Just for Sex"', *Attitude*, 20 July 2014, <http://attitude.co.uk/jackd-ceo-interview/> accessed 4 May 2016.

Lucid Dreams LLC, 'Jack'd – Gay Chat & Dating', *iTunes,* <https://itunes.apple.com/gb/app/jackd-gay-chat-dating/id350426804?mt=8> accessed 11 April 2016.

Office for National Statistics, *Marriages in England and Wales: 2015* <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/marriagecohabitationandcivilpartnerships/bulletins/marriagesinenglandandwalesprovisional/2015#main-points> accessed 5 April 2018.

Pew Research Centre, 'Gay Marriage around the World', 3 August 2017, <http://www.pewforum.org/2017/08/08/gay-marriage-around-the-world-2013/> accessed 6 December 2017.

PR News Wire, 'Days before Legal Marriage in the UK, Jack'd Survey Finds Younger UK Gay Men More Likely to Get Married Than Older Counterparts', *PR News Wire*, 27 March 2014, <http://www.prnewswire.com/news-releases/days-before-legal-marriage-in-the-uk-jackd-survey-finds-younger-uk-gay-men-more-likely-to-get-married-than-older-counterparts-252589541.html> accessed 4 May 2016.

Rasmussen T, 'What the Loss of London's Gay Saunas Means for Us', *Dazed & Confused*, 10 February 2016, <http://www.dazeddigital.com/artsandculture/article/29714/1/what-the-loss-of-london-s-gay-saunas-means-for-us> accessed 27 April 2016.

T101 Limited, 'Recon – Gay Fetish Profiles. Men, Leather and More', *iTunes,* <https://itunes.apple.com/gb/app/recon-gay-fetish-profiles./id346152901?mt=8> accessed 11 April 2016.

Williams J, 'Another of London's Gay Saunas Closes Its Doors', *PinkNews*, 17 February 2016, <http://www.pinknews.co.uk/2016/02/17/another-of-londons-gay-saunas-closes-its-doors/> accessed 27 April 2016.

10
Appendix

10.1 Informed Consent Form

Faculty of Business and Law

Informed Consent Form for research participants

Title of Study:	Same-Sex Marriage and the Homonormative Legal Identity: The emergence and effect of the Homonormative and Homoradical identities on LGBTQ legal narratives
Person(s) conducting the research:	Alexander Maine
Programme of study:	PhD in Law
Address of the researcher for correspondence:	012, 3 Ellison Terrace, Northumbria University, NE1 8ST
Telephone:	07747577227
E-mail:	alexander.maine@northumbria.ac.uk
Description of the broad nature of the research:	This research will investigate the Marriage (Same Sex Couples Act) 2013 and its effect on same-sex relationships, its effect on law, and perceptions of the legal regulation of same-sex relationships, sexuality, and gender. This will then reveal the construction of homonormativity within the English law.
Description of the involvement expected of participants including the broad nature of questions to be answered or events to be observed or activities to be undertaken, and the expected time commitment:	After signing this form to indicate their willingness to participants, participants will be required to conduct a face-to-face interview, lasting around 90 minutes, answering 5–10 open questions and having discussion about their experiences of law and their relationship. This will be all be recorded and may be published, yet will be anonymised.
Description of how the data you provide will be securely stored and/or destroyed upon completion of the project.	Any data I collect from the interviews will firstly be recorded on a microphone recording device. The audio will be transcribed and stored on the university system. Electronic copies of the data (word documents and audio) will be stored securely on a password protected university computer, and will be backed up to a password protected laptop. Any paper documents will be stored in a locked cupboard in my office, on campus. Extracts of the data may be shared or viewed by the supervision team and, in addition to a PhD thesis, other publications may be generated based on the data. All documentation will be made anonymous prior to maintain participant confidentiality.

Information obtained in this study, including this consent form, will be kept strictly confidential (i.e. will not be passed to others) and anonymous (i.e. individuals and organisations will not be identified *unless this is expressly excluded in the details given above*).

Data obtained through this research may be reproduced and published in a variety of forms and for a variety of audiences related to the broad nature of the research detailed above. It will not be used for purposes other than those outlined above without your permission.

Participation is entirely voluntary and participants may withdraw at any time.

By signing this consent form, you are indicating that you fully understand the above information and agree to participate in this study on the basis of the above information.

Participant's signature: Date:

Student's signature: Date:

Please keep one copy of this form for your own records

10.2 Participant Questionnaire

Hello

Thank you for agreeing to participate in my research into the impact of same-sex marriage in the United Kingdom.

Before our interview, please could you provide the following details and bring this document with you when we meet:

Age:

Gender:

Sexual orientation:

Marital status:

Partner(s)' gender:

Partner(s)' sexual orientation:

Partner(s)' marital status:

Please could you read the following questions and think about them in preparation for us to discuss in our interview:

1.   Tell me about your thoughts on same-sex marriage in general

2.   Tell me about how you feel that gay marriage has impacted on society

3.   I'm interested in the ways LGBTQ people develop different sexual practices and how this affects them and wider society. Please could you take some time to described to me what sexual practices you may or may not engage in with your partner or partners, on a regular, or sporadic basis

4.   Do you think that gay marriage means that gay people are now equal?

northumbria
UNIVERSITY NEWCASTLE

10.3 Interview Script

Thank you for agreeing to take part in this doctoral research today. This research intends to see how the Marriage (Same-Sex Couples) Act 2013 has impacted on the LGBTQ community and how different people use and react to the legislation, and will therefore discuss aspects of sexuality and sexual practice. The research has been approved by the Northumbria University Ethics Board, all research is confidential and will only be shared between myself and the research team, and will be completely anonymised when published. You have a right to withdraw at any time, and a right to see your data at any time. If there are any questions you are uncomfortable with, you do not have to answer them. Can I ask once again that you are happy to proceed? Great, thank you.

Pilot study questions:

1. **Can you please tell me about your thoughts on same-sex marriage in general**

    a. On a scale of 1 to 10 (1 being not important at all, 10 being essential) how important is marriage to you? Could you explain your score?

    b. Can you tell me about any personal experiences you may have of gay marriage?

    c. Can you please talk me through an average day and the way in which these experiences may impact on it?

    d. Can you tell me of any symbolic impact that has gay marriage had on you?

2. **Tell me about how you feel that gay marriage has impacted on society**

    a. On a scale of 1 to 10 (1 being unaccepted, 10 being completely accepted) do you feel more socially accepted as a gay person in the UK now that we have gay marriage? Could you explain your score?

    b. Do you feel more respected now that gay marriage is legal? How so?

    c. Do you feel that there are expectations on you to act a certain way in society, through behaviour or actions?

    d. How do you think that gay people are different to straight people? Why is that?

    e. Can you tell me if you think that marriage is a good thing for gay people?

f. Can you tell me if you think that marriage, gay or straight, is a good thing, in general?

3. **I'm interested in the ways LGBTQ people develop different sexual practices and how effects this them and wider society. Please could you take some time to describe to me what sexual practices you may or may not engage in with your partner or partners, on a regular, or sporadic basis**

a. On a scale of 1 to 10 (1 being very 'normal', and 10 being 'abnormal'), could you rate your sexual practices? Why have you given this score?

b. Would you say something like an open relationship is abnormal?

c. So are you in an open relationship? How do you define this?

d. Do you think that being in an open relationship is the same as being 'slutty'?

e. Can you please tell me if you have 'kinky' sex? How would you describe this and your kinks?

f. Do you have 'risky' sex? Can you tell me why you would describe it as risky?

g. Do you have sex in public spaces or in certain gay spaces, such as saunas or clubs? If so, why do you go to these places? If not, why not?

h. Do you ever take part in group sex? How do you define this?

i. Do you ever use condoms or do you bareback? Can you tell me more about this, such as when and why? PrEP?

j. Regarding these sexual practices, do you then think that same-sex marriages should be traditional?

4. **Do you think that gay marriage means that gay people are now completely equal?**

a. Do you know about the differences between straight and gay marriage?

b. Tell me what your thoughts are about the fact that gay sex is still classed as illegitimate

c. Do you think the law has more of an impact on LGBT people now that there is same-sex marriage?

d.   Do you think that more needs to be done for LGBT rights?

e.   What other issues do you think the LGBT face? Do you think gay marriage solves these issues?

f.   Do you think that gay marriage should be like a traditional marriage? Why?

Please can you imagine that the outer edge of this circle represents disrespected, 'bad' sexual practices and 'bad' sexualities. The inner part of the circle represents 'good', well respected and valued sexualities. Could you please draw on the circle, where you feel like your sexuality would fit in, and explain why?
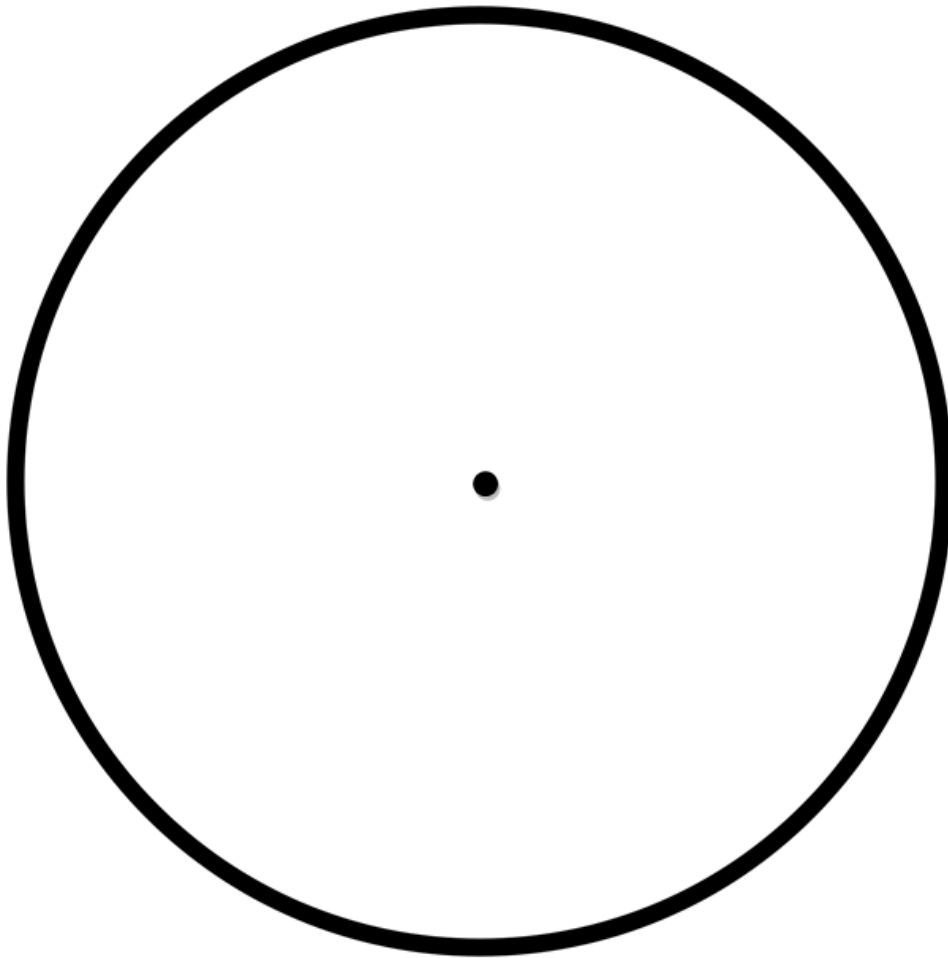
Now on the next circle, could you indicate in the same way, where you fit in each segment, with the inside meaning less of each category, and the outer edge meaning more so, e.g. if you were on the outside of 'risky, you would take part in risky sexual behaviour regularly.

Date:

10.4 Visual Data Sheets

Please can you imagine that the outer edge of this circle represents disrespected, 'bad' sexual practices and 'bad' sexualities. The inner part of the circle represents 'good', well respected and valued sexualities. Could you please draw on the circle, where you feel like your sexuality would fit in, and explain why?

Date:

Now on the next circle, could you indicate in the same way, where you fit in each segment, with the inside meaning less of each category, and the outer edge meaning more so, e.g. if you were on the outside of 'risky, you would take part in risky sexual behaviour regularly.

Date:

Kinky

Abnormal

Slutty

Public

Group

Non-monogamous

Risky

BDSM
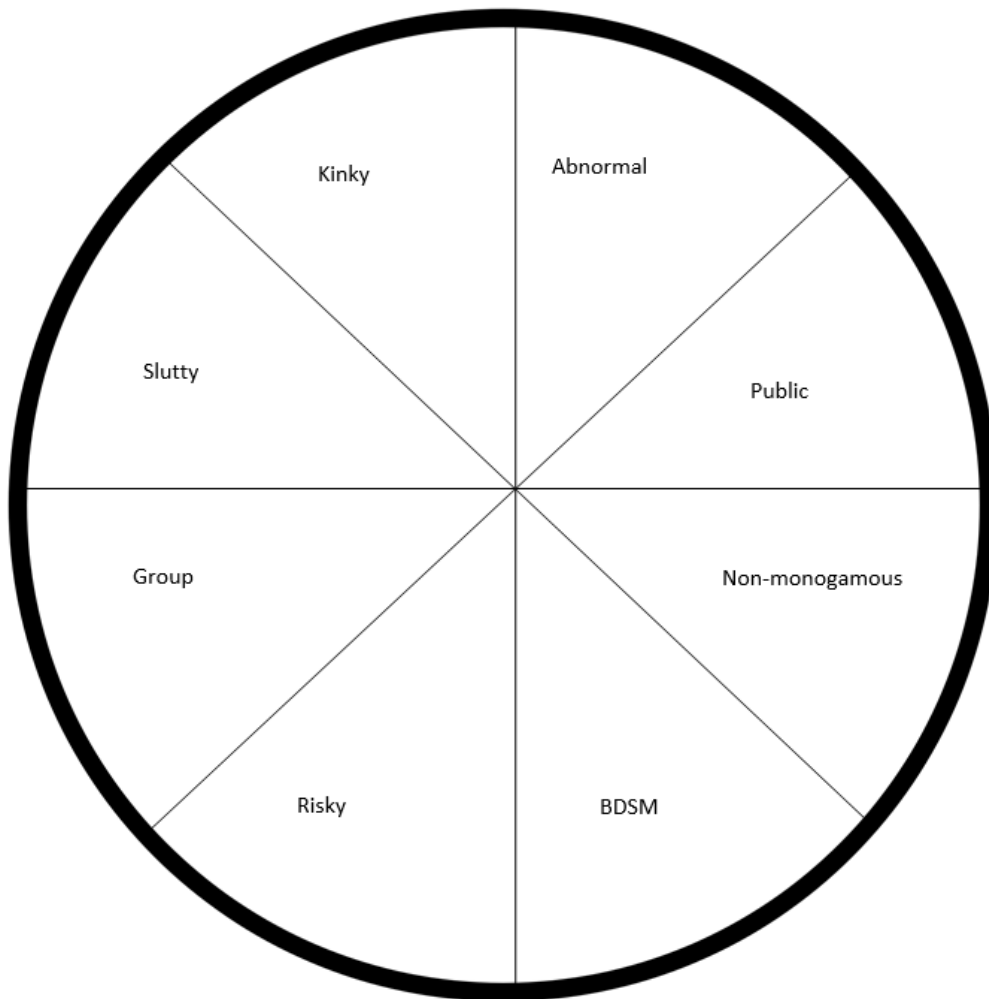
Scale: centre of circle means less of each category, outer edge of circle means more so