

Uncovering young people's situational construction of sexual consent

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Abstract

Aim: To investigate how young Danes construct sexual consent generally, but also specifically in relation to heavy alcohol intoxication. **Methods:** Drawing on 30 qualitative in-depth interviews with young people, aged 19–25 years, and adopting a critical discursive psychological framework, we explored the interpretative repertoires that the participants made use of to construct sexual consent and the subject positions those repertoires enabled. **Results:** The participants made use of three interpretative repertoires that we named as follows: (1) sexual consent as an agreement between rational individuals; (2) sexual consent as a heteronormative practice; and (3) intoxicated sexual consent. **Discussion:** Young people draw on different repertoires when discussing sexual consent in general, sexual consent in relation to gendered practices and expectations, and sexual consent in relation to heavy alcohol intoxication. **Conclusion:** It is vital to keep the situational nature of young people's constructions of sexual consent in mind if we wish to understand and eventually reduce the number of non-consensual sexual experiences.

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Keywords

alcohol intoxication, interpretative repertoires, non-consensual sexual experience, sexual consent, subject positions, young people

Each year, a high number of young people, especially women and LGBTQIA+ people (Johnson et al., 2016; Lorenz & Ullman, 2016; Thomsen, 2022), are subjected to non-consensual sexual experiences (NSEs), i.e., “*sexual activities (fondling, oral sex, or vaginal and anal penetration) that involve a lack of consent and/or are instigated by manipulation, coercion, abuse of power, incapacitation, force, threats, and/or violence*” (Koss et al., 2007). Studies show that up to 50% of NSEs happen in relation to alcohol intoxication (Cowley, 2014; Heinskou et al., 2017; Lorenz & Ullman, 2016).¹ The high number of NSEs underline the importance of investigating how young people understand sexual consent both generally and in relation to alcohol intoxication.

Previous research on sexual consent is extensive. A strand of research has focused on young people’s definition of consent as either an “internal state of willingness”, an “act of explicitly agreeing to something” or as “non-verbal behaviors that indicate a person’s willingness to engage in sexual activity” (Fenner, 2017; Muehlenhard et al., 2016, pp. 462–463). Other researchers have pointed towards how young people understand sexual consent as a contract between two or more individuals about to have sex (cf. Beres, 2007; Loick, 2019; MacKinnon, 2016). Researchers argue that this understanding adheres to the neoliberal view of the self where humans are constructed as “*rational, adult, contract-making individuals in a free market of options*” (Adam, 2005, p. 344). Positioned in a neoliberal discourse, young people, across genders, are seen as having a free choice in relation to consent, which, at the same time, makes them responsible for their sexual encounters (Bay-Cheng, 2015; Bay-Cheng & Eliseo-Arras, 2008).

Other research has focused on how young people communicate sexual consent that is either verbally or non-verbally, or by a combination of

verbal and non-verbal communication strategies (Baldwin-White, 2021; Beres, 2010, 2014; Humphreys, 2007; Humphreys & Herold, 2007; Jozkowski et al., 2015). This is, however, not congruent with how many young people regard verbal communication of consent as the most “ideal” way to communicate consent in order to avoid misunderstanding each other’s sexual signals and, potentially, transgressing a person’s sexual boundaries (Holmström et al., 2020). The belief that NSEs happen due to miscommunication has been termed the “miscommunication hypothesis” (Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O’Byrne et al., 2006, 2008). However, research also shows that young people are actually good at interpreting signals of sexual intent, either verbally or non-verbally (Glance et al., 2021; Kitzinger & Frith, 1999). Therefore, it has also been argued that young people might claim miscommunication in order to justify NSEs (Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O’Byrne et al., 2006, 2008).

Given the growing realisation that sexual consent is a complex subject, researchers are increasingly considering the broader context where sexual consent takes place and influences the processes of consent. Feminist researchers have looked at how gendered power structures “not only externally constrain, but also permeate human subjectivity and agency to their core”, thus influencing young people’s possibilities in relation to consent (e.g., Cunniff Gilson, 2016; Mackenzie & Stoljar, 2000; Munro, 2008; Westlund, 2009). They have, therefore, criticised the definitions of consent that are based on a neoliberal discourse where young people are positioned as having a free choice in relation to consent (Cunniff Gilson, 2016; Mackenzie & Stoljar, 2000; Munro, 2008; Westlund, 2009). For example, the “male sexual drive discourse” is a pervasive gendered sexuality discourse that influences how men and

women's sexuality is viewed and puts them in unequal positions in relation to consent (Gavey, 2018). Positioned in the "male sexual drive discourse", women are seen as the "gatekeepers" in relation to consent and as the ones who merely have to respond to men's sexual initiatives (Gavey, 2018; Hollway, 1984a, 1984b). Since women are simultaneously positioned in the neoliberal discourse and are expected to be agentic in relation to their sexuality (e.g., Bay-Cheng & Eliseo-Arras, 2008; Bjonness et al., 2022; Jensen & Hunt, 2020), they have to balance between consenting to sex to avoid being perceived as "frigid", while also not consent "too much" to sex to avoid being perceived as "sluts" (e.g., Bjonness et al., 2022; Jensen & Hunt, 2020). This arguably explains the notion of "token resistance", where a woman's non-consent might be perceived as signalling consent, based on the logic that they might initially not consent in order to avoid being read as too "eager" to have sex (Baldwin-White, 2021). The "male sexual drive discourse" positions men as active sexually and as always desiring sex (Beres, 2014; Gavey, 2018; Gunnarsson, 2018; Hollway, 1984a). Therefore, they might feel pressured to consent to sex in order to live up to those more traditional notions of masculinity or not have a NSE recognised as such (Beres, 2014; Gavey, 2018; Gunnarsson, 2018; Hollway, 1984a).

Other researchers have focused on the norms and expectations surrounding alcohol intoxication as well as the physical contexts where alcohol intoxication take place that also seem to influence the processes of consent. As previous studies have pointed out, the effects of alcohol intoxication and the contexts where it takes place are saturated with social and cultural meaning (e.g., Douglas, 1987; Hunt & Frank, 2016; MacAndrew & Edgerton, 1969; Partanen, 1991). Drinking to intoxication plays a central role in young people's lives (e.g., Advocat & Lindsay, 2015; McCreanor et al., 2016; Measham & Brain, 2005; Tolstrup et al., 2019) and has been associated with flirting and hooking up (Fjær et al., 2015; Grazian, 2007;

Jensen et al., 2019; Østergaard, 2007; Peralta, 2010), allowing a behaviour that is different from "normal sober behavior" (Tutenges, 2012; Tutenges et al., 2020). This has sometimes resulted in sexually transgressive behaviours being excused, with the rationale being that the perpetrator was intoxicated by alcohol and, therefore, was not in control of their actions (Abbey, 2002, 2011; Abbey et al., 2001; Wegner et al., 2015). Other studies, such as for example Farris et al. (2010), emphasise how men can encourage women to consume alcohol because they expect women to be more sexually available when intoxicated, or interpret their cues as a sign of sexual interest. Patrick and Maggs (2009) point towards how young people intentionally consume alcohol with the belief that it will increase their sexual drive and decrease their inhibitions. Another strand of research emphasises that alcohol might cloud one's ability to give and receive consent to sexual activity (Loeber et al., 2009; Orchowski et al., 2022) or be the cause of a person being incapacitated and unable to consent to sexual activity (Koss et al., 2007). Hirsch et al. (2019) found that the physical places where parties are held also created certain expectations of sex to occur (Hirsch et al., 2019). Studies by Beres (2010, 2014) found that their participants viewed certain behaviours in heavy drinking contexts as indicators of consent. For example, if a person was willing to transition to a private location after the bar could be read as indicators of consent, while "relocating to the bedroom" could also be a cue that sex would follow (Beres, 2010, 2014). Research shows that such cues can sometimes make it harder for some people to say "no" to sex, since they are aware of the fact that an expectation has been built that consensual sex will occur (Holmström et al., 2020).

Overall, then, the abovementioned research shows the complexity of sexual consent as a scientific subject. While this research comes with important contributions in showing how context can influence the processes of consent and what young people perceive as consent, there is a paucity of research investigating how young

people draw on those different understandings of consent situationally, with what aims, purposes and implications. The aim of the present paper was, thus, to investigate how 30 young people aged 19–25 years construct sexual consent both in general and in relation to heavy alcohol intoxication. We take on a critical discursive psychological approach in order to identify which interpretative repertoires young people draw on to construct sexual consent and how broader discourses around gender, sexuality and intoxication influence their construction of consent (e.g., Davies & Harré, 1990; Potter & Wetherell, 1987). Investigating that can give us important information on what understandings young people draw on to construct sexual consent, which is vital if we wish to prevent and reduce the number of NSEs.

Analytical framework

Our analytical framework is informed by critical discursive psychology (Davies & Harré, 1990; Wetherell, 1998). This framework is regarded as a synthetic approach between ethnomethodological and conversation analytic traditions and post-structural or Foucauldian analysis (Wetherell, 1998). In other words, it focuses on how people use language in particular situations to talk phenomena in the world into being in different ways and accomplish specific actions, while, at the same time, taking the wider social and institutional frameworks that shape and enable this deployment (Potter, 2003; Potter & Wetherell, 1987; Wetherell, 1998). Language does not describe a pre-existing psychological reality; rather it gives meaning to the experiences out of the words that are available (Potter, 2003; Potter & Wetherell, 1987; Wetherell, 1998). The specific concepts that we employ in our analysis from this tradition are interpretative repertoires and subject positions (e.g., Davies & Harré, 1990; Wetherell, 1998).

An interpretative repertoire constitutes a certain and coherent way of talking about and making sense of a social phenomenon (Potter

& Wetherell, 1987). It is a culturally familiar and habitual line of argument comprising recognisable themes, common places and tropes (Potter & Wetherell, 1987; Wetherell & Potter, 1988, 1993; Wetherell et al., 1987). In a conversational context, interpretative repertoires are signalled by webs of culturally informed figures of speech, metaphors, vivid images and so on (Wetherell & Potter, 1993). These interpretative repertoires are the methods that members of a society have available to make sense of social phenomena (Potter & Wetherell, 1987) as, for example, sexual consent. A person's use of interpretative repertoires is not necessarily coherent as competing or even contradictory repertoires can be used by a person – depending on the conversational context, the specific themes, aims and purposes of the social situation in which it takes place. In other words, people make use of interpretative repertoires to accomplish something; for example, to improve their own or others' credibility or position when they interact socially (Potter & Wetherell, 1987) and to establish their accounts as factual and stable representations of the world (Potter, 1996).

Using interpretative repertoires can also have a broader, ideological effect such as rendering alternative ways of viewing a social phenomenon (in)visible (Wetherell, 1998). Therefore, even though many interpretative repertoires exist around sexual consent, some are more hegemonic and are, therefore, seen as more “natural”, “legitimate” or “common-sense” (Coelho & Ribeiro, 2014; Gavey, 1989). Which repertoires become dominant is a question of power hierarchies; those in power are in a position where they are better able to define the standards and norms that the rest of the society are expected to follow (Burr & Dick, 2017).

People's meaning making thus takes place in the realm of interpretative repertoires. Those repertoires make different subject positions available in a situation for people to take up (Davies & Harré, 1990) that are “saturated

with cultural meaning” (Søndergaard, 2002, p. 191) and hold specific possibilities for – in our case – how young people are able to think about and make sense of sexual consent and alcohol use. When people draw on interpretative repertoires, they – at the same time – position themselves and others (situationally) as, for example, “victim”, “perpetrator”, “guilty” or “(ir)responsible” in the process of narrating their experiences (see also Wetherell, 1998). A person is, however, not completely determined by the subject positions available to them, but can situationally engage in many and contradictory ones (Davies & Harré, 1990). Subject positions are, therefore, highly context dependent (Davies & Harré, 1990). Thus, variation and self-contradictory answers around sexual consent in relation to alcohol intoxication were, in our study, seen as a matter of how young people draw on different interpretative repertoires and take up different subject positions as they talk about this phenomenon. However, a person is never free to take up any subject position, as their conversational choices will always depend on which repertoires they have access to (Davies & Harré, 1990). Due to social power relations, in certain interactions and contexts, some subject positions will feel comfortable and easy while others will feel uncomfortable or problematic and thus require a huge amount of work and effort in order to be accepted (Edley, 2001; Wetherell, 1998).

Data, methods and analytical strategy

Our study is based on 30 in-depth, semi-structured qualitative interviews with young people aged 19–25 years, all of which were planned and conducted by the first author. An interview guide was developed that focused on the participants’ pleasurable and problematic sexual experiences and their understandings of sexual consent both in general but also in relation to heavy alcohol intoxication. The

questions were developed after extensive readings of scientific literature (Brinkmann & Kvale, 2015) around sexual consent, gender, sexuality and young people’s alcohol intoxication. A short survey was also developed that was used primarily for demographic purposes and to guide the recruitment strategy along the way.

In order to recruit participants for the study, the first author developed a post about the project stating that we were looking for young people aged 18–25 years who have had alcohol intoxicated sexual experiences and who were willing to share those experiences as well as their thoughts and opinions on sexual consent in an interview. The post was shared multiple times, both in the first author’s own online networks, but also in relevant online groups aimed at both Danish youth in general and LGBTQIA+ groups specifically. The reason for including LGBTQIA+ groups in this study was because we needed to have a balance between reaching saturation and having a diverse sample (Søndergaard, 1996). Since several of the groups had thousands of members, the post reached a wide audience of young people. In addition to the online recruitment, there was some chain referral. The (primarily) online recruitment strategy could mean that it was mostly young people who have access to social media who reached out to us. However, since social media are a big part of young people’s lives (Goodyear & Armour, 2019), we estimated that a large number of young Danes use social media as well. The self-selecting recruitment strategy could mean that only young people who were comfortable discussing their experiences reached out to us; therefore, the findings might primarily reflect those young people’s views.

Interviewing took place between May 2020 and March 2021. Due to the COVID-19 restrictions, 14 out of the 30 interviews were online. The interviews lasted 1–2 h. The face-to-face interviews were, due to the restrictions, conducted either at the participant’s or the researcher’s home, which helped to facilitate a friendly

and relaxed atmosphere (Sandberg et al., 2019). The online interviews were, in some cases, challenging due to primarily technical aspects, such as a poor Internet connection, which made some parts of the interviews inaudible. Luckily though, it was only a very small segment of talk that was lost. Despite the fact that online interviews can make it more difficult to create rapport between the interviewer and the participant (O'Connor & Madge, 2017), many of the participants expressed that they had had a good experience being interviewed. Some of them also stated that they preferred the online interview format and that the fact that they were given the opportunity of doing the interview online was the reason for their participation. At the end of the interview, all participants received a gift card worth 200 DKK (approximately 25 Euros) as a thank you for participating.

The interviews were recorded using an off-line dictaphone and transcribed using a transcription guide based on a denaturalised approach (Oliver et al., 2005), which is relevant when adopting a critical discursive psychological approach (Van Dijk, 1999).

The final sample consisted of 30 participants, 20 of whom identified as cisgender women, 7 as cisgender men, 2 as transgender and 1 as gender-fluid. In terms of sexuality, there were 10 participants who identified as heterosexual, 12 as bisexual, 3 as homosexual and 5 as "other" (pansexual, heteroflexible and queer). The sample is thus diverse in terms of sexuality, especially in relation to bisexuality, which could be due to how the first author recruited from her own personal social media profiles and the fact that she had a lot of LGBTQIA+ people in her network. In the analysis, we indicated gender, age and sexuality beside the name when quoting a participant.² Even though the sample was diverse, especially in relation to sexuality, the participants' construction of consent seemed to cut cross gender and sexuality, except in the third repertoire where there were some differences in the heterosexual and the LGBTQIA+ participants' discussions on the gendered aspects of sexual consent. A

reason that the participants' construction of consent cut cross gender and sexuality could be, as previous research shows, that some LGBTQIA+ people draw on similar discourses as heterosexual people in constructing consent (e.g., de Heer et al., 2021; Sternin et al., 2022). Another reason has to do with the fact that many of the bisexual female participants did not mention during the interview that they identified as such and only discussed sexual experiences with men. The fact that they identified as bisexual was, therefore, first known to the first author after the participants completed the short survey, which was always done at the end of the interview. As a result, the first author did not ask those participants any questions regarding differences in sexual consent between heterosexual and same-sex relationships, which could explain why many of the participants reflected on sexual consent in heterosexual relationships.

All interviews were coded in NVivo. An initial thematic coding of the interviews as a whole was conducted (Braun et al., 2019; Braun & Clarke, 2021) and the authors met several times to discuss potential themes and codes. The most general codes reflected the interview guide and overall knowledge ambition of the research project. For this paper, the analysis focused on the code "Sexual consent", which was based on questions that addressed how the participants discussed sexual consent and having sex under the influence of alcohol intoxication. This overall code was divided into three subcodes at the semantic level (Braun et al., 2019); the first subcode focused on how the participants defined sexual consent, the second subcode addressed how the participants communicate consent, while the third subcode reflected the participants' discussions around having alcohol intoxicated sex (e.g., whether they considered it morally ok to have sex while intoxicated, possible dilemmas that could arise when having intoxicated sex).

Even though the study had its epistemological basis in critical discursive psychology, the initial coding was done without deploying specific theoretical concepts in order to allow

“surprising” patterns in the data to emerge. When reading the subcodes, patterns seemed to emerge with regard to how the participants talked about and constructed sexual consent, which, after several rounds of refinement (Braun & Clarke, 2021), revealed the three repertoires and the subject positions they offered. Those three repertoires were not the only repertoires but were the most prevalent ones and the ones that answered the research question.

Ethics

The project was registered to the Danish Data Protection Agency. It follows their rules for storing sensitive data as well as GDPR rules and regulations at Aarhus University. It was approved by Aarhus University’s ethical review board. All participants gave oral and written consent and were informed orally and in writing about confidentiality, pseudonymisation and how to withdraw from the project, if needed. Moreover, the consent form stated that if they experience any discomfort after the interview, they could contact the researcher or relevant institutions (Kvale & Brinkmann, 2009).

When investigating such a sensitive topic, such as sexual consent (Dickson-Swift et al., 2009; Rosoff, 2018), it is important that the researcher creates a safe space for the participants where the focus is on listening and supporting their narratives (Hansen et al., 2021) and shows sincere appreciation to them for talking about such sensitive topics (Kvale & Brinkmann, 2009). Therefore, we were inspired by an approach called “teller-focused interview” that is well suited for experiences that are “complex, sensitive and difficult to bring up” (Hydén, 2014, p. 810). Since some of the participants’ narratives might be traumatic, the first author was careful not to ask too many questions if she felt there was a risk of triggering or re-traumatisation (Weber et al., 2022). If she felt a participant was emotionally influenced by the topics in the interview, she made sure to acknowledge these emotions and create a supportive space (Baxter & Babbie,

2003). At the same time, it is important to remember that there is a fine line between creating a safe space when interviewing about sensitive topics and actual therapy (Rossetto, 2014). The first author, therefore, also made sure to clarify that this was not a therapeutic setting and suggested public services that offer therapeutic help if needed. Those approaches proved to be fruitful, as several of the participants told the first author that they had experienced the interview situation as a non-judgemental and safe space.

Analysis

Overall, the participants made use of three interpretative repertoires when discussing sexual consent that we named as follows: (1) sexual consent as an agreement between rational individuals; (2) sexual consent as a heteronormative practice; and (3) intoxicated sexual consent. These repertoires were frequently used in conjunction with one another, for different aims and purposes. In order to create clarity, we present them one by one.

Sexual consent as an agreement between rational individuals

When discussing sexual consent and sexual consent communication, the participants made use of a repertoire that endorsed a primarily contractual view on sexual consent. As we will show below, they drew on a neoliberal discourse and articulated a lack of consent as a matter of miscommunication, which resembles what researchers before have referred to as the miscommunication hypothesis (see also Beres, 2007; Kitzinger & Frith, 1999; Loick, 2019; MacKinnon, 2016; O’Byrne et al., 2006, 2008). This repertoire enabled the subject position of the “rational self” that has a free choice, but also responsibility around making the “right” (rational) choice in relation to consent.

Many of the participants constructed sexual consent as a “mutual agreement” or “mutual understanding” between two or more people about to have sex, thus adhering to a contractual

view on sexual consent. Henrik (23/cis man/homosexual), for example, compared asking for sexual consent to a sales process, whereby “there has to be a mutual agreement on the price of the product”. Constructing sexual consent that way implies an understanding of sexual consent based on a logic of “market exchange” where consent is a form of negotiation between two or more people trying to reach a mutual agreement or understanding in relation to whether they should have sex together (e.g., Adam, 2005).

Some of our participants also emphasised responsibility around consent since they often used words that reflected a form of moral impediment, such as “should”, when discussing sexual consent. For example, some participants said that sexual consent “should be based on a true desire to have sex” (Melanie [22/cis-woman/heterosexual]), “should be based on a free choice” (Ashley [25/non-binary/bisexual]), and that giving and asking for consent “should be done continuously over the whole course of the sexual activity” (Mette [19/ciswoman/homosexual]). By using a word such as “should”, our participants constructed the subject position of the “rational self” that has a (moral) responsibility to make the “right” choice in relation to consent, more specifically: not coerce someone to have sex with them, to not have sex if they do not want to, and to continually ensure that consent is present throughout the whole sexual interaction.

Other participants emphasised this moral component of sexual consent by drawing on other, non-sexual everyday situations as they spoke, arguably to relate the topic to what constitutes good or appropriate (and, therefore, moral) social behaviour. Sanne (23/cis woman/hetero-flexible), for example, said:

Consent has to do with other things as well; I can ask ‘Can I borrow your charger for my phone?’ and then you can either say ‘yes’ or ‘no’. This applies to several situations, whether it’s asking for permission to use a charger or to have sex or if you would like a hug.

By comparing asking for consent to asking for permission to borrow another person’s charger, instead of just taking it without asking, Sanne invoked moral connotations of consent that it “should” be asked for politely, and not taken for granted that the other person wants to have sex. Consent was also constructed by Sanne as a “goods” someone can gain permission to access if they ask politely and as based on free choice, since she equated asking for consent to other activities (physical and non-physical) where someone can choose to either say “yes” or “no”, as easily as when asked to loan one’s charger. Furthermore, Sanne constructed consent as a mutual agreement, however, in a way that is conditioned on the other person giving permission.

The participants discussed their consent communication preferences by drawing on an understanding that resembled the “miscommunication hypothesis” (see also O’Byrne et al., 2006, 2008) and a neoliberal understanding of the self (see also Kitzinger & Frith, 1999; Loick, 2019; MacKinnon, 2016) in order to argue for those preferences. For example, Mina (20/cis woman/bisexual) said:

I prefer asking for consent verbally because that works really well for me. I think it is the most secure way to ask for consent because you can misunderstand body language. If one part doesn’t do anything, it can be read as “you didn’t resist”... where the other person might think “well, I did not indicate that I wanted this to happen either”. So, I think in many cases you can misunderstand each other, you know, when one part doesn’t know they have transgressed the other person’s boundaries, exactly because nothing has been said or because they haven’t asked (for consent).

Mette argued for her preference for verbal communication of consent by stating it as a personal preference in the beginning (“I prefer” and “works really well for me”). However, after that, she presented verbal communication

of consent as more ideal compared to non-verbal communication of consent (“I think it is the most secure way”). She backed up her argument by referring to how body language, more specifically non-resistance, can be read differently and for some people signal consent. She, therefore, drew on the notion that NSEs happen due to miscommunication. By arguing that the way to avoid miscommunication is by verbally communicating consent could imply a neoliberal understanding of the self that is equally positioned in relation to the other person (they are about to have sex with) and is, therefore, able to communicate consent (verbally) (see also Loick, 2019; MacKinnon, 2016).

Other participants, such as Thomas (23/cis man/heterosexual), used the miscommunication hypothesis and a neoliberal understanding of the self in order to argue for his preference for non-verbal communication of consent:

The way I personally prefer to give and ask for consent is physically... of course, what I experience might be different than what the other person experiences... so therefore it's a little tricky, but sometimes it's ok to find the "edge" [a person's sexual boundaries], you just shouldn't jump over that edge... because this is where it ends bad. So, I think sexual consent works best until a "no" is said.

Thomas addressed the potential risk that comes with his preference for non-verbal communication of sexual consent, which he described as a “difference in how the sexual interaction is experienced”, probably referring to how one person might think a sexual interaction is consensual whereas the other person might think otherwise. Thomas, therefore, also viewed miscommunication as a reason that NSEs happen. He acknowledged that communicating sexual consent non-verbally, makes it “a little tricky” as he risks transgressing another person’s boundaries. He tried to resolve that moral dilemma by arguing how it is “ok to find the edge”, indicating finding the other person’s sexual boundaries. Similarly to the

other participants, he presented a contractual view on sexual consent where consent is the “line” that transforms a NSE into a consensual one, and therefore, as long as a person’s sexual boundaries are not transgressed, the sexual encounter is morally ok and non-problematic (see also Beres, 2007; Loick, 2019; MacKinnon, 2016). The fact that he argued that non-consent should be communicated verbally from the person at the receiving end of the sexual interaction implies that he places responsibility on that person for communicating (non) consent verbally.

Sexual consent as a heteronormative practice

The participants made use of a second repertoire, constructing sexual consent as a gendered (primarily) heteronormative practice. Sexual consent was, therefore, constructed primarily as a practice between a man and a woman with the participants drawing on more traditional, gendered expectations in order to construct men and women’s consent. This provided different subject positions for men and women in relation to consent. Contrary to the first repertoire where consent was constructed in similar ways, across gender and sexuality, in this repertoire, there were differences in the heterosexual and the LGBTQIA+ participants’ construction of consent.

In this repertoire, several of the heterosexual participants constructed sexual consent by positioning women as the “gatekeepers” in relation to consent and men as the active ones sexually and the ones who had to ask for consent (see also Gavey, 2018; Hollway, 1984a, 1984b). For example, Thomas (23/cis man/heterosexual) talked about how it is a “woman’s last word” that counts as consent to sex, while Thea (21/cis woman/heterosexual) talked about how it was the man who was expected “to take (sexual) initiative”, “ask for the woman’s consent” and make sure she “actually wants to have sex”. Contrarily, many of the LGBTQIA+ participants seemed to either

challenge the notion of women as gatekeepers and men as the initiators of sexual activity, or, simultaneously, challenge as well as drawing on a similar notion when reflecting on their own sexual practices (see also de Heer et al., 2021; Sternin et al., 2022). Mette (19/cis woman/homosexual), for example, challenged that notion by positioning herself as the initiator of sexual activity and the women she pursues as the “gatekeepers” by talking about how she “picks up girls in a bar” and makes sure that “they give their consent” or “signal consent through their body language”. Jannik (25/cis man/homosexual), on the other hand, was one of the participants who seemed to simultaneously challenge and draw on a similar notion:

If I am the submissive [sexually] in a relationship, I don't want my partner to ask [for my consent] every time he wants to try something sexually. If I am the dominant [sexually], then I'm more like “Tell me your boundaries in advance, what I shouldn't do”; and if a “no” is said later on, I will respect it immediately.

In the beginning of the quote, Jannik challenged the subject position of the man as the sexual initiator by talking about how he, in some relationships, is the “submissive” sexually, while his partner is the “dominant” one and the one who will take sexual initiative. However, he also simultaneously seemed to be adhering to a view similar to the notion of women as gatekeepers and men as the initiators of sexual activity since he also constructed consent as the responsibility of the “submissive” partner who has to respond to the “dominant” partner. Previous literature has emphasised that the “top” (dominant) and the “bottom” (submissive) sexually within male homosexual relationships are often connected to masculine and feminine traits, respectively (e.g., Sternin et al., 2022). Therefore, by constructing consent as the responsibility of the “submissive” (and thus “feminine”) who has to respond to the “dominant” (and thus “masculine”) partner, Jannik simultaneously seemed

to be adhering to a view similar to the notion of women as gatekeepers and men as the initiators of sexual activity.

Several participants also seemed to be drawing on the gendered expectations that men's sexuality is a biological instinct, that they are always ready to have sex and should take every opportunity to have sex, which could mirror the “male sexual drive discourse” (Beres, 2014; Gavey, 2018; Gunnarsson, 2018; Hollway, 1984a, 1984b). Those expectations had implications for men's consent. Anton (21/cis man/heterosexual), for example, reflected on an alcohol intoxicated sexual experience of his and said:

Two very drunk girls at a party were very insisting and wanted me to go to the bathroom with them. They were holding a “stick” and tried to put it up my arse. In another situation, I would definitely be on board with it, but I just didn't feel like it that night. I think that had it been a very unpleasant situation, many guys wouldn't have had an easy time saying it. Because it's very hard for other guys to take it seriously. I mean, all my friends were like “Wow they wanted to have a threesome with you! I would have done it!” Having a threesome is at the top of the checklist among most of my friends. It's not as important whether you think it's exciting or not; if you have the chance, you take it. I think this is something that influences a lot of guys and it's hard to break out of.

Anton talked about how a man in an “unpleasant situation” (possibly referring to a man being the victim of NSE) could risk not being taken seriously. He could, therefore, be referring to how a man's non-consent might not be read as such (see also Gavey, 2018; Gunnarsson, 2018). To back up his argument, he referred to how his friends responded to his (unwanted) experience by saying that they would “have done it”, which could imply that they adhere to the view that men should take every opportunity they get to have sex

(Hollway, 1984a, 1984b). After that, he talked about how it is more important to take up the subject position of the man who always takes the chance to have sex than to take up the subject position where a man acts out of an actual desire to have sex and, therefore, not always consents to sex. He also talked about how this subject position as a “proper man” is hard to “break out of”. Anton seemed to take a critical distance to those expectations and, later on in the interview, he mentioned how he used to be influenced by those expectations when he was younger but had distanced himself from them later on. However, at the same time, it seems that he did not distance himself entirely from that position, since he said that “in another situation, I would definitely be on board with it”. Moreover, he constructed his experience as not an unpleasant one (despite being unwanted) by framing it in a hypothetical way (“had it been unpleasant”). Anton’s quote, therefore, points towards how hard it is for young men to break out of that position and how their non-consent might not be perceived as such.

Similar to Anton, some of the heterosexual participants seemed to simultaneously draw on those expectations while also challenging them; however, a higher number of LGBTQIA+ participants seemed to balance between drawing on those expectations while also challenging them. An example of that is Maja (25/cis woman/bisexual), who reflected on why men do not understand non-consent to sex and, therefore, commit sexual assault:

I think it has to do with poor upbringing. As a woman, you can only hope that a man will understand a no... because I also think it [men’s sexuality] is like an animal instinct; between animals, there isn’t any “yes” or “no”, it’s only like “are you horny? Then let’s go [have sex]!” So yes, it’s kind of an animal instinct... but it’s just about upbringing; I mean, it’s 100% the parents’ fault if people do not understand a “no”.

In the beginning of her quote, Maja attributed men’s perceived “inability” to understand

a woman’s non-consent to socialisation processes (i.e., “poor upbringing”), therefore challenging the notion that man’s sexuality is a result of biological processes (see also Hollway, 1984a). However, after that, she compared men’s sexuality to an “animal instinct” talking about how “between animals, there isn’t any ‘yes’ or ‘no’”, possibly referring to how consent communication is not something that she thinks happens between animals. Therefore, as with animals, men’s sexual desire (being “horny”) “overrules” consent communication. In addition, she seemed to be drawing on the notion that men’s sexuality is a result of biological processes by characterising it as an “instinct”. The fact that men’s sexuality is compared to something animalistic and an instinct contributes, in her view, to men’s perceived inability to understand a woman’s “non-consent”. However, she finished off by referring to socialisation processes again, therefore challenging the notion that men’s sexuality is a result of biological processes. In addition, she went on to use the more generic gender-neutral term “people” (instead of “men”), therefore constructing the inability to understand a person’s “non-consent” as something that is not specifically linked to men’s behaviour. Maja, therefore, both drew on as well as challenged the notion that men’s sexuality is a result of biological processes (see also Gavey, 2018; Hollway, 1984a).

Finally, some participants also drew on the gendered expectations that women should, simultaneously, be sexually agentic, but not too sexually agentic (see also Bjonness et al., 2022; Jensen & Hunt, 2020), which had implications for women’s consent. In this case, it was mostly heterosexual female participants that drew on those expectations. Line (21/cis woman/heterosexual) reflected on some of her experiences, talking about how the risk of being perceived as “boring” could influence women’s consent:

I think many young women have difficulty saying “no” [to sex] because they fear being

perceived as “boring”. When I’m out and guys try to ask me if I want to go home with them or if I want to kiss them and I’m like “no”, most of them are like “oh ok”. Unfortunately, however, there are some guys that get angry or aggressive... and because of that, some women might not say “no” next time it happens because they fear they will be called something bad.

Line explained women’s consent to unwanted sex by drawing on gendered expectations around sex where women who say “no” to sex, risk being perceived as “boring”. She constructed men as the active ones sexually and the women as gatekeepers (see also Gavey, 2018; Hollway, 1984a), since Line viewed women as the ones who respond to men’s sexual initiatives. Reflecting on her own experiences with saying no to men’s sexual initiatives, she talked about how some men responded by getting “angry” or “aggressive”. The risk of men getting aggressive as well as the risk of being perceived as “boring” contributes, according to Line, to women consenting to unwanted sex.

Other female participants, such as Jasmin (25/cis woman/heterosexual) addressed the risk that came, according to her, when women consented “too much” to sex:

Us women, we are very quickly labelled “whores” if we have sex with many people and, therefore, I think many women momentarily say yes to sex while drunk and the day after they regret it. And then the guy is blamed and that’s not fair. But then again if women really feel like they have been taken advantage of, that’s not ok either. I mean, it goes both ways [with consent], otherwise it’s sexual assault.

In the beginning of her quote, Jasmin drew on the gendered risk of women being perceived as “whores” if they have sex with “many people” in order to understand why some intoxicated women consent to sex they regret the day after. After that, Jasmin seemed to be

drawing on the neoliberal discourse by emphasising responsibility around consent (see also Bay-Cheng, 2015; Bay-Cheng & Eliseo-Arras, 2008). First, she attributed responsibility on women consenting to sex they regret later by talking about how it is “unfair” for the guy that is “blamed”. However, after that she talked about how consent “goes both ways”, therefore constructing consent as a mutual responsibility.

Intoxicated sexual consent

The participants drew on a third repertoire when discussing sexual consent under the influence of alcohol intoxication. In some cases, they drew on contradicting discourses on alcohol intoxication’s transformational effects on a person’s (sexual) behaviour, as emphasised by Fry (2011) (see also Tutenges, 2012; Tutenges et al., 2020). In other cases, they drew on the neoliberal discourse emphasising responsibility and making the right choice in relation to consent (Beres, 2007; Loick, 2019; MacKinnon, 2016), as well as an understanding that resembled the miscommunication hypothesis (Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O’Byrne et al., 2006, 2008). Therefore, this repertoire, made available the subject position of the “intoxicated self” that, in some cases, was constructed as different from the subject positions of the first and second repertoires, while, in other cases, it was simultaneously expected to act similarly to the “rational” self of the first repertoire.

Most participants constructed the “intoxicated self” as different than the “rational (sober) self” by drawing on discourses on alcohol’s transformational effects on (sexual) behaviour (see also Fry, 2011; Tutenges, 2012; Tutenges et al., 2020) that, in turn, influenced their construction of consent under the influence of alcohol intoxication. One of the ways the participants constructed the “intoxicated self” as an antithesis to the “rational self” was in relation to the ability to make the “right”/rational choice in relation to consent with many participants talking about how

alcohol intoxication could interfere with that ability. An example of this is Henrik (23/cis man/homosexual), who reflected on his alcohol intoxicated sexual encounters:

I haven't always been sure that I received a reasonable consent because so much alcohol was involved. Alcohol leaves you with the desire to have sex but setting that desire aside and saying "I know that I'm not going to have sex that I *actually* want to have" is gone, it's dampened by alcohol in a way. It's easy to say "I should definitely not have sex in that situation" while sober, but when drunk, you lose that inhibition.

According to Henrik, alcohol intoxication magnifies his sexual desire, which can result in him pursuing sex without being sure he has "received a reasonable consent" from the other person, something that he would not have done while sober. He distinguished between his "sober self", who would abstain from having sex if he was not sure that the other person had consented to sex, and his "intoxicated self" who acts out of a momentary and all-consuming desire to have sex. Alcohol intoxication was perceived as leading him to make the wrong or "non-rational" choice in relation to sex, which is emphasised by him saying that intoxicated sex is not something that he "*actually* wanted to have" (i.e., in a sober state) and the fact that he talked about how he, in a sober state, would never consider "having sex in that situation". Henrik's "intoxicated self", therefore, acts differently from the "rational self" of the first repertoire, where mutual consent was emphasised as important.

The "intoxicated self" was also constructed as an antithesis to the "rational self" in relation to sexual desire with many participants talking about how being intoxicated could result in them consenting to sex they did not desire. Kristina (25/cis woman/heterosexual), for example, said:

This whole thinking-things-through disappears. You do things because you want to do

them in that intoxicated state. I think that's why I've gone home with people that I could never see myself with; it wasn't something that I *actually* wanted, it's because my drunk self takes over and it's not rational at all.

Kristina reflected on some of her alcohol intoxicated sexual encounters and talked about how alcohol transforms her desire to have sex with a person when intoxicated and that this desire might be different and not congruent to her desire when sober ("it's not something that I *actually* wanted"). Her "intoxicated self", therefore, might, contrary to the "rational self" of the first repertoire, consent to sex that is either not desire-based or based on a momentary "false" desire and not a "true" (sober) desire. By using phrases such as "disappears", "my drunk self takes over" and "it's not rational at all", she reflects that she finds herself less able to act based on what she thinks is the rational thing to do, therefore once again setting up an antithesis between the "rational sober self" that would "think things through" and the "intoxicated, less-rational self" that "takes over".

Several participants simultaneously constructed a version of the "intoxicated self" that was not completely different from the "rational self", especially when they were discussing whether it was possible to have consensual sex with an intoxicated person. They emphasised that it was important that the person initiating the sexual encounter made sure that the other person was "conscious enough to make an informed decision about consent" (Magnus [19/cis man/bisexual]), "know whether the other person actually wants to have sex" (Katja [19/cis woman/bisexual]) and ensure that the other person is not "too drunk to know what they are doing" as they can risk regretting "their decision to have sex" (Amanda [22/cis woman/bisexual]). The abovementioned quotes construct a version of the "intoxicated self" as not completely different from the "rational self", since it is expected that the person initiating the sexual encounter has the ability and moral responsibility (despite being intoxicated) to make a rational choice

around consent (see also Beres, 2007; Loick, 2019; MacKinnon, 2016), i.e., making sure that the other person's consent is based on an "informed decision" and on a "true desire to have sex", as Katja emphasised. However, contrary to the second repertoire, the participants did not seem to draw on gendered notions with regard to who is responsible for consenting to sex, as they simply referred to how it was the responsibility of the "person initiating the sexual interaction" to ensure consent, rather than women's responsibility to consent to men's sexual initiatives.

Many participants also constructed a version of the "intoxicated self" that was both similar to and different to the "rational self" when discussing the communication of sexual consent in an alcohol intoxicated state. In this case, they mostly referred to matters related to miscommunication (see also Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O'Byrne et al., 2006, 2007), which was also characteristic of the first repertoire. However, alcohol intoxication seemed to increase the risk of misunderstanding one's sexual consent communication, therefore providing different consent communication possibilities for the "intoxicated self" compared to the "rational self". For example, Terese (21/cis woman/heterosexual) talked about how a person should "ask for consent [verbally] if they are unsure [whether the other person consents to sex]" on the one hand, while, on the other hand, also emphasised that a person "should be careful about assuming consent if the other person is *too* drunk". Henrik (23/cis man/homosexual) talked about the potential risk of having sex with an intoxicated person, which was, according to him, that one cannot be sure that their intoxicated partner "*actually* wants to have sex", despite that person claiming so. Sanne (23/cis woman/heteroflexible) argued that it was better "to get each other's consent to sex in a sober state", before having sex in an intoxicated state, since consent to sex in a sober state "was more reliable". Therefore, the participants seemed to draw on the notion that NSEs happen due to

miscommunication, which supports the "miscommunication hypothesis" (see also Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O'Byrne et al., 2006, 2008), similar to the first repertoire. On the other hand, however, alcohol intoxication was perceived as leading to a greater risk of miscommunication as the "intoxicated self" (in this case, the person at the receiving end of the sexual interaction) was viewed as less able to communicate reliable consent. In this case too, the participants did not seem to draw on gendered notions with regard to communicating sexual consent, as the participants used the neutral terms "person" or "partner" when discussing communicating sexual consent while intoxicated.

Discussion

The aim of the present study was to investigate how young people construct sexual consent both in general and in relation to heavy alcohol intoxication more specifically. Our study's results showed how young people's construction of consent is situational and contextual since they draw on different repertoires when discussing sexual consent in general, sexual consent in relation to gendered practices and expectations, and sexual consent under the influence of heavy alcohol intoxication.

While previous research has investigated the discourses that influence the processes of consent that resemble the repertoires found in this study, our study contributes to previous research by highlighting in what situations and with what aims and purposes young people draw on those repertoires to construct sexual consent. Our study showed that the participants drew on a neoliberal discourse (see also Beres, 2007; Loick, 2019; MacKinnon, 2016) and the miscommunication hypothesis (Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O'Byrne et al., 2006, 2008) when discussing sexual consent in general and when arguing for their sexual consent communication practices. When discussing sexual consent in relation to gendered practices and expectations,

many of the heterosexual participants drew on traditional masculine and feminine expectations in relation to sex and sexual consent (e.g., the “male sexual drive discourse”, “women as gatekeepers, men as sexual initiators” etc.). While studies have previously shown how young people draw on those traditional gendered expectations in relation to sex and sexual consent, our study contributes with highlighting how LGBTQIA+ people drew on those expectations, something that has been largely missing from previous research (e.g., de Heer et al., 2021; Sternin et al., 2022). Finally, when the participants discussed sexual consent under the influence of heavy alcohol intoxication, most of them drew on discourses on alcohol’s transformational effects on (sexual) behaviour (Tutenges, 2012; Tutenges et al., 2020) to make meaning of their alcohol intoxicated sexual encounters and why they would behave differently (compared to when sober) in relation to consent while intoxicated. Many of them, simultaneously, drew on a neoliberal discourse (Beres, 2007; Loick, 2019; MacKinnon, 2016) and the miscommunication hypothesis (Beres, 2022; Kitzinger & Frith, 1999; Maryn, 2021; O’Byrne et al., 2006, 2008) when discussing whether it was ok to have sex while intoxicated and consent communication under the influence of alcohol intoxication.

Our study also contributes to previous research by showing how alcohol intoxication challenges and transforms both the discourse of neoliberal rationality as well as dominant traditional gendered norms and expectations. While the neoliberal discourse positions young people as having a free choice, as well as a mutual responsibility around consent, alcohol intoxication was constructed by the participants as influencing what sexual interactions young people consented to, as well as also enabling them to have sex in a different way than when sober (i.e., having sex without being sure they had received consent from their partner). In addition, while more traditional gendered discourses place young men and women in opposing positions in relation to

consent, alcohol intoxication seemed to challenge those positions, and the responsibility for ensuring consent seemed to be placed on the person (regardless of gender) initiating the sexual interaction. In general, the different discourses around gender, sexuality and intoxication provide contradicting expectations around consent that can create a sense of ambivalence for young people, and they might be caught up on what the “rational choice” is with relation to consent.

Finally, our study contributes to previous research by highlighting what discourses around gender, sexuality and intoxication young people draw on, therefore also highlighting which discourses need to change. Those discourses could be the ones that lead to unhealthy perceptions of consent (see also Baldwin-White, 2021). The neoliberal discourse emphasising free choice and responsibility around consent can obscure the more traditional gendered sexuality discourses that put men and women in unequal positions in relation to consent (e.g., Gavey, 2018; Hollway, 1984a). This can result in young people disproportionately blaming themselves for consenting to unwanted sex. Young women might believe that a man being persistent with regard to sex is a normative part of a sexual experience and can obscure a potential NSE (Baldwin-White, 2021) or might find it hard to manoeuvre the contradictory expectations around when to consent to sex (e.g., Bjonness et al., 2022; Jensen & Hunt, 2020). Men can have a harder time discussing a NSE because of the expectation that they have an ever-present desire for sex (e.g., Gavey, 2018; Hollway, 1984a). This can be even more problematic in heavy drinking contexts where flirting, hooking up and one-night stands can be a normative expectation (Fjær et al., 2015; Grazian, 2007; Jensen & Hunt, 2020). On the other hand, it might excuse them from engaging in a NSE if their sexuality is viewed as a biological instinct, therefore something they have a hard time controlling (Anderson & Doherty, 2007; Meenagh, 2021). LGBTQIA+ people might find it hard to navigate sexual consent due to how sexual consent is often constructed

as a heterosexual practice, i.e., as a practice between a man and woman (e.g., de Heer et al., 2021; Sternin et al., 2022). As our study showed, in many cases, the LGBTQIA+ people seemed to adhere to the more traditional gendered (and heteronormative) expectations, which could signal the pervasiveness of those expectations (see also de Heer et al., 2021; Sternin et al., 2022). Fostering young people's awareness of the different discourses around sexual consent can lead them to challenge them, allowing for more nuanced norms and expectations to arise.

Overall, then, the present study contributes to the literature by highlighting the contextual nature of young people's construction of sexual consent. Keeping the complex and contextual nature of young people's construction of sexual consent in mind is vital if we wish to understand (and eventually reduce) the high number of NSEs happening both in general and in situations where heavy alcohol intoxication takes place.

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Note

- 1 The data on prevalence are based on self-reported measures and refer to sexual and intimate partner violence that only partially overlap with the concept of NSEs.
- 2 In terms of gender, we refer to either she/her, he/him or they/them, depending on how our participants themselves identify.

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