

Crossovers and Consent

Underlying Assumptions in Porn Health Protocol

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At the 2019 Adult Video News (AVN) convention, the Free Speech Coalition—a porn industry trade association—organized a panel on HIV stigma and prevention. The goal was to review advances in HIV science and how these might impact on-set HIV prevention. Key topics covered were PrEP (Pre-Exposure Prophylaxis, a drug regimen to prevent HIV acquisition) and the principle of U=U (Undetectable = Untransmittable; that is, HIV+ people with a suppressed viral load are not infectious). Tension was palpable during the event, and there was a great deal of controversy in its wake. Attendees were divided on if and how these advances should impact the way on-set prevention is handled. Discussion of hypothetical changes to the current straight-industry protocols set Twitter aflame with gossip, fear, and outrage.

Health research about porn typically focuses on the potential porn has to influence viewers' sexual health behaviours (e.g. Harkness et al. 2015; Lim et al. 2016). Rarely do the health practices used in porn production itself become the object of inquiry. The porn industry, as Heather Berg and Constance Penley describe it, is not some “monolithic, static, or internally consistent body” but rather made up of “dynamic networks of workers, management, and institutions that take part in the production process of adult film” (Berg and Penley 2016, 160). These industry networks have always expressed an interest in ensuring worker health and safety. But as the AVN panel demonstrated, they do not always agree upon the best way to do so. All film production entails an on-screen/off-screen compromise between the envisioned final product and performer needs and capacities. Porn production offers fertile ground for investigating this tension between the ambitions of art/commerce and the protection of worker health. The “use” of porn, in this instance, is that it brings into relief broader assumptions around what a worker is, who is responsible for them, and what those responsibilities should entail.

In this paper, I suggest that the notion of consent acts as the basis for sexual health protocol in mainstream straight porn production. I further suggest that this is problematic, and demonstrate alternative policy visions offered by gay and queer production procedures. After a brief description of my methods, I sketch the porn industries with which my research deals. I then evoke the controversial figure of the “crossover” performer (cismen working in both gay and straight porn) to illustrate the role played by choice and bodily autonomy in conversations about porn health protocol. An emphasis on informed consent, I argue,

presupposes three questionable interrelated assertions: that workers' bodies are discrete, individualized, immunological entities; that some form of asymmetry between these workers is required to determine occupational health and safety rights and responsibilities; and that in the absence of some other asymmetry, the ableist protection of a "clean" (i.e. pathogen-negative) body is imposed, with discriminatory implications. I then look to differences in how gay and queer porn productions operate to suggest other approaches.

Methods

This paper draws on my PhD research, which applies critical interpretive medical anthropology to the politics of occupational health protocols in pornography. I have been involved in the porn industry since 2002 and official data collection for this project was conducted between 2016 and 2020. This included participant observation on four film sets in the United States, at eleven major industry events (trade shows, award shows, and film festivals) in Canada, the United States of America, and Germany, and online (e.g. Twitter, key industry media outlets and newsletters, etc.). I conducted forty unstructured interviews, primarily with current performers and performer/producers, but also with directors, marketing and tech professionals, and lawyers working with adult industry clients. I transcribed interviews verbatim, returned them to participants so they could review and edit if desired, and thematically coded all by hand. This research received ethical approval from Memorial University (file #: 20180439-ME).

It is common to impose a pseudonym upon participants to protect their confidentiality, particularly when they are framed as "vulnerable" by some outside institution, as is often the case with research dealing in sex (Irvine 2012; Webber and Brunger 2018). However, this denial of authorship can be an expression of undue paternalism (Gustafson and Brunger 2014). My consent process explicitly asked participants how they wanted to be cited in related publications. Many chose to be identified, as they wished to be credited for their thoughts and ideas. Direct quotes are therefore cited with the name, stage name, or pseudonym of the participants' choosing. Some quotations have been lightly edited for readability.

An Industry Sketch

Historically the porn industry has been concentrated in California, largely due to legal and infrastructural factors. A 1988 California Supreme Court decision, *California v. Freeman*, legalized pornography production in the state (Shachner 2014, 350), and Hollywood offers all the necessary film production resources (Sullivan and McKee 2015, 36). The industry has decentralized in recent years due to factors such as rising production costs, falling profits, and a general increase in mobile and "gig" economic structures, combined with the development of technological platforms that support independent production and dissemination. Additionally, Measure B, which mandates condom use in LA County, has led to out-migration of production (Berg and Penley 2016; Sullivan and McKee 2015). Nevertheless, California continues to play a central role in the global industry both ideologically, as the apex of the porn imaginary, and materially, as the site

of important institutions like major production companies, trade associations, health and community services, and media and award show outlets. Throughout the 2000s and to some degree today, the California landscape can generally be divided into two primary sectors: the “straight” industry concentrated in Southern California (mainly Los Angeles and the San Fernando Valley) and specializing in heterosexual content, which includes some “girl-girl” and transwomen content; and the gay, queer, and kink industries located more in Northern California and the San Francisco Bay area (Tibbals 2012, 233–36).

Therefore, the industry is often spoken of in binary terms, having a “gay side” and a “straight side”. The two sides have adopted different safer sex protocols. The “straight side” relies largely on STI and HIV testing according to “PASS” standards (Performer Availability Screening Services), a database service operated by the Free Speech Coalition¹ since 2012 (following the closure of a similar system, Adult Industry Medical, that operated from 1998 to 2011; Shachner 2014, 352–59). The PASS protocol mandates that in order to perform, talent must have tested negative for HIV RNA, Hepatitis B, Hepatitis C, syphilis, trichomoniasis, gonorrhea, and chlamydia, within the preceding fourteen days. At the time of writing, performers could avail themselves of services at approximately 500 draw centres linked to one of three private labs participating in the PASS network (at a cost of about \$140 to \$280 USD, usually paid by the performer). Producers can then access the third-party PASS database, and while they cannot see a performer’s full test results, they will see a green or red check, indicating that a performer either does or does not have a current negative test on file. Some sets may also use condoms, and some performers may elect to take PrEP, but these are not standard practice. If a performer ever tests HIV+, they are barred from using the PASS system in the future.

For the “gay side”, on the other hand, things are generally less standardized, as it is more common to use some combination of testing, condoms, and/or PrEP. Some gay productions use condoms with no testing while others use testing and no condoms. PrEP is used widely by HIV negative performers, and some productions may not use testing or condoms. HIV+ performers are not uncommon, given that contemporary anti-retrovirals make it relatively easy to achieve an undetectable viral load, impeding transmission of the virus (Eisinger, Dieffenbach, & Fauci 2019). The PASS system is used by some studios, typically those whose parent company also owns major straight studios and has standardized sexual health protocols across all brands. But since PASS excludes anyone who has ever tested positive for HIV, many gay studios do not opt in (Clark-Flory 2019).

Much debate over health in porn—and the crux of the controversy surrounding the AVN panel—has been over the relative risk of working with those often disparagingly referred to as “crossover” performers: cismen who perform with both ciswomen in straight porn and other cismen in gay porn (whether or not working with transwomen makes someone crossover seems to be in flux at the moment, as porn centring transwomen shifts from a marginal “fetish” category to a mainstream straight market).

Some performers believe that working with these men represents a greater risk of contracting HIV on set, assuming that cismen who work with other cismen engage in sexual activity and/or drug use that makes them more likely to come into contact with HIV. This issue intensified following the tragic death of performer August Ames in 2017, who died by suicide after being met with criticism for tweeting that she would not work with a man who had performed in gay porn (Horn 2017). Occupational health has proven a perennial and divisive topic ever since.

The decision not to work with crossover talent is framed as a matter of health management and risk reduction. The argument is that men who have sex with men are more likely to have HIV, so avoidance is not indicative of homophobia or discrimination but rather a statistical risk calculation. For example, when Ames was rebuffed for her initial tweet, she responded:

NOT homophobic. Most girls don't shoot with guys who have shot gay porn, for safety. That's just how it is with me. I'm not putting my body at risk, i don't know what they do in their private lives. [@AugustAmesxxx, December 3 2017]

Challengers of this position point out that anyone working on a straight set has to go through the PASS system regardless. Performer Adela put it succinctly in our conversation:

If we put faith in the testing system, then that's it. It doesn't matter if someone does crossover porn, it doesn't matter if someone escorts. It doesn't matter. We accept that the testing protocol we've established is going to protect us based on the science behind it.

Performers also point out that we rarely know much about the private sex lives of the people we work with. As Charlotte Sartre, who was on the AVN panel in question, told me:

You can't limit like, "oh I'm not gonna fuck *this* type of or *this* class of performer who's done this because I'm taking a calculated risk". We have no idea what anybody's doing off camera. Anytime you have your scene partner's test in your hand, you're taking it at face value. But the fact is, you just don't know what actually has gone on.

Adela and Charlotte acknowledge that it is impossible for scene partners to know one another's risk profiles with total transparency. For them, PASS testing operates as a rigorous barometer. Other performers, however, express doubt: the PASS system tests for HIV using the viral RNA test rather than the antigen/antibody test (Ag/Ab). Some fear that HIV+ performers with an undetectable viral load could "slip through" unbeknownst to their scene partners, appearing to be HIV negative on paper but in fact carrying the virus. As with the rationale behind the criminalization of HIV non-disclosure, these performers argue that informed consent requires certain knowledge of their scene-partners' HIV status, because otherwise relevant risk-assessment information is missing. Failure to obtain informed consent, the argument goes, is tantamount to sexual assault. This subset of performers demanded that the Ag/Ab test be added to PASS protocol, so that anyone who had ever tested positive for HIV would be detected regardless of their

viral load. This would expose invisible infections, perform the work of disclosure, and ensure fully informed consent is possible.

Requiring an Ag/Ab test, or simply refusing to work with crossover talent, are both presented as expressions of one's right to exercise bodily autonomy. Or rather, that bodily autonomy is an occupational right that can be *secured* through the disclosure of certain kinds of information. Tweets in this vein focus on how performers have "the right to decide what I allow with my body" [@APAGunion, April 24, 2018], sometimes including hashtags like #mybodymychoice [@alanaevansxxx, January 23, 2018]. Similar sentiments were expressed in interviews I've conducted, including one with performer Jasmine Lefleur who said, "I didn't agree with the statement that August Ames made, but I respected her opinion and what she said because it is our bodies and it's her choice."

The precedence of personal choice stems partly from a liberal sex worker rights movement deeply invested in the neoliberal rhetoric of choice. Mainstream sex worker movements have often attempted to justify sex work by positioning it as "legitimate" work that, when *chosen*, is personally satisfying and fulfilling (Berg 2014).² Additionally, however, is the fact that the only framework available for thinking about how to choose individuals to perform sex acts with has been borrowed from a recreational sexual consent model. Necessarily so: there is no model of consent specifically designed around sexual labour wherein all involved parties are labourers (and not clients); there is no specific framework to address sexual labour gone wrong (what we might call "breaches of contract" in other domains). Sexual consent becomes the default criteria. Is this problematic?

Karla O'Regan undertakes a genealogy of consent, illustrating how the concept is presumed ahistorical and self-evident. Debate about consent tends to focus on if and how it can be communicated, rather than on what it actually *is*. The "content of consent," O'Regan writes, "is left to presumptions about its heralded foundations in personal autonomy and free action" (O'Regan 2020, 7). Understood as an expression of individual autonomy, the idea of consent is invested in preserving and idolizing the myth of a universal, "individualized agency" that ignores and obscures social inequalities (7). I suggest that because of its presumed foundation in autonomy, recreational sexual consent is not an appropriate basis for ethical occupational health practice. As the following sections argue, the very notions of informed consent and bodily autonomy fail to appreciate the reality of material bodies. A consent model also invokes ableist solutions to the ways that occupational health typically distributes rights and responsibilities. By failing to adapt to the unique dilemma posed by workplace sex, this solution risks ostracizing the very performers that health policies are intended to protect. I now address these three issues in turn.

Discrete Bodies

"A challenge for HIV prevention" writes Mark Davis, is "its reliance on individualised action that does not address the 'we' of sexual practice and therefore joint action" (Davis 2008, 190). Sex, and therefore sexual health, is a collective project. Like all viruses, bacteria, and parasites, STIs connect bodies,

even those that don't touch directly. They have a way of revealing the inherent *we-ness* of even the most ardently individualized lives. Lotus Lain cut to the heart of this reality while talking with me about how some performers avoid working with crossover talent as part of their sexual health plan:

[I don't understand] that whole sense of security that people give themselves when they put barriers in front of working with "crossover" talent. Because my argument to that is always: what is it when you're doing a threesome, or a gangbang? Or those double anal penetration or double pussy penetration scenes? Is that not literally a crossover scene happening right there in the very same vagina holes? Or anus holes?...[Even] if you're not working with crossover, if you're not doing those kinds of scenes, even if you're just doing one-on-one, boy/girl sex, who's to say that girl didn't just do a scene with someone that does crossover work? Or did a scene with a girl who does scenes with crossover? Like, we're all connected.

Here Lotus points out how any decision that treats one's own body and the bodies of scene partners as discrete entities ignores the *inextricability* of one performer from another. Margaret Little (1999) has pointed out the fallacy of discourse based on "the premise that people are physically demarcated" (295). While she was writing about abortion rhetoric, I would argue that sex work similarly:

asks us to face the morality and politics of intertwinement and enmeshment with a conceptual framework that is...poorly suited to the task. A tradition that imagines persons as physically separate [doesn't] do well when analyzing situations in which persons aren't as it imagines them. (297)

When it comes to thinking about sex and consent, the notion of autonomy has sometimes been swapped out for the idea of "bodily integrity" because, as Matthew Wait (2007) writes, "autonomy" falsely treats bodies as "nothing more than the vehicles through which mentally formulated choices by people of full capacity are realised" (Wait 2007, 108). But while the shift to "bodily integrity" might avoid certain assumptions around agency, it retains other assumptions around wholeness: "such a shift ignores, or discounts, the fact that human beings lack the very bodily integrity which is justification for that shift" (109–110). The notion of bodily autonomy has important symbolic value that is crucial to honour when grappling with best practices around disclosure and consent. But the idea of discrete bodies has little *material* value. Bodies are porous. There are no decisions, no disclosures, that can socially detach the body and render it impermeable.

There exist many critiques of individualism—both the mythical ideal itself, and the ethnocentric binarism with which it is contrasted to the notion of humans as relational beings or "dividuals" (Smith 2012)—and of the idea that autonomy is absolute and universal, versus being a set of inherently constrained choices. I am far from the first to suggest that "bodily autonomy" is not an ideal foundation for ethical decision-making and political practice. In this instance, however, it is not just sexual consent that is at stake, but also work. Does the context of *work* change things? Does the permeability of bodies matter differently when sex is work, and if so, how should this be reflected in occupational health and safety policy? For the work context invites additional questions around responsibility: who is

responsible for who, and what rights do people have to secure an income? Most critiques of consent focus on a “reformulation (and expansion) of the procedural requirements of consent, thus leaving its foundations in autonomy intact” (O’Regan 2020, 10). What might be true were we to renounce this foundation in autonomy? Are there instances where one’s right to have work should override someone else’s right to reject scene partners in the name of autonomy?

The question is uncomfortable, because when we consider it in terms of recreational sex, people should obviously be entitled to select their sex partners according to whatever criteria they like, no matter how racist, homophobic, ableist, or otherwise problematic it might be. In recreation, this means some people might be refused sex, but in porn production, this means that some people are refused work. Is the inability to secure employment a different kind of issue than the inability to secure recreational sex, and is that cause for concern? Yes, it is, when we take up the position of those who are edged out of the performer pool.

Some people should be edged out: those who act disrespectfully towards scene partners and repeatedly violate their boundaries. The industry has regularly grappled with how to call out performers who exhibit a track record of abusive conduct. Lacking more formal grievance procedures, performers’ individual “no” lists (which name specific performers people refuse to work with) are one of the best ways that talent can exert power to remove people from the pool. The experience of a bodily boundary violation at work can feel indistinguishable from the experience of a boundary violation in one’s private sex life, and consent (however inadequate) is the framework we have to think through that experience.

The type of rejection that concerns me, and to which “bodily autonomy” is perhaps improperly applied, is the universal rejection of a *type* of performer because of their real or imagined pathogen status, especially when there are alternative ways to manage safer sex that would enable those people to work without posing exceptional risk to their scene partners. Application of the logic of sexual consent, not just to sexual acts that constitute a breach of contract (i.e. the performance of sex acts different from what performers agreed upon, or which did not stop when safe words or other indicators were used) but to STI and HIV testing and disclosure mandates, broadens the impact of individual consent in important ways. If crossover performers are refused work based on stigma or generalizations about HIV, despite there being no actual risk of transmission, do they have a right to claim labour discrimination? Not according to a consent-based occupational health logic. Why not? Partly because of how occupational health and safety policies are typically structured, to which I now turn.

Asymmetry

Occupational health and safety has traditionally depended on asymmetry between workers/clients or employers/workers to determine who is responsible for whom and the direction of liability. Workplace safety either a) regulates conduct between providers and clients, where the provider is burdened with the task of ensuring a safe environment or procedure for the client (e.g. restaurant food safety, aesthetician services, or health care practices), or b) regulates contact

between workers and certain substances or conditions, where the employer is burdened with ensuring workers are safe (e.g. procedures to protect against contamination by toxic chemicals, the risks of using dangerous equipment, or exposure to environmental harms in the workplace). In both instances, a hierarchy is assumed or imposed. One entity is responsible for conducting certain practices or procedures that protect another; the protective relationship is not reciprocal.

Porn production, however, is different. While direct service sex work like dancing or escorting can be plugged into the asymmetry framework, porn performance entails protecting performers from one another.³ This means regulating a *symmetrical* relationship. If both workers are simultaneously the person to be protected and the potential source of danger, what does this do to our traditional understanding of occupational health? Who is burdened with ensuring worker safety? How, in this instance, might occupational health protocols discriminate against the very workers they are supposed to protect? Here we have entered a tricky ethical conundrum where we must balance multiple kinds of rights between equivalent workers. When sexual performance is our source of livelihood, economic justice and fair hiring practices must reside, no matter how uncomfortably, alongside matters of consent and bodily autonomy.

Claims of possible job discrimination are usually met with the defense that informed consent on the part of pathogen-negative performers takes precedence over any rights on the part of positive performers. As Eric, who directs for gay companies, told me:

Personally, I think the entire industry should be tested only. The real conflict comes from how the gay industry allows so many HIV+ performers to work, which I have a problem with. But I have to suppress that opinion when working in that environment. It's an unpopular opinion. They see it as job discrimination. I see it as seeking a healthy work environment.

Later, he conceded a more nuanced approach: "The HIV+ guys can work together, and if somebody wants to work with an HIV+ performer they can sign the release. No problem. It's not about discrimination. It's about providing a safe and informed workplace."

Eric's two philosophies—that no workplace is safe if HIV+ performers are present, or that HIV+ performers can work safely contingent on legalistic standards of informed consent—demonstrate how consent is stretched to fit different scenarios, while maintaining its foundation in a particular sense of autonomy. It is difficult to imagine otherwise. An intriguing alternative was raised by Charlotte Sartre, as we discussed the possibility of undetectable (and therefore non-infectious) HIV+ performers "passing" a PASS test and being cleared to work in straight porn:

The way I see it, if somebody takes the test, the next day they go to work with me. I don't know this person. Their test says negative. If they're undetectable, I end up not getting HIV and I never really find out that they had HIV, how is that hurting me? If anything, I would be more burdened with the information and the fear.

Charlotte offers a perspective where an HIV negative person's right to certain information does not override a non-infectious HIV+ person's right to work. This defies the pathogenic asymmetry that typically structures porn health policy, whereby protection (symbolic or otherwise) of STI negativity takes unquestioned precedence over any competing worker rights. I explore this issue more in the next section.

The Morality of Negativity

In order to establish the kind of asymmetry that simplifies the distribution of occupational health rights and responsibilities, STI negativity and positivity are positioned in hierarchical opposition to one another. Pathogen-negative persons are the object of protection; or rather, negative persons are the only one's able to be protected, inasmuch as a (real or presumed) positive person is beyond protection—they have already fallen victim to the target of protection. This presumption takes for granted that the only acceptable goal of occupational health is to identify and reject those with a positive status so as to maintain a worker's negative status, and where the preservation of pathogen-negativity is prioritized over any other needs that pathogen-positive workers might have.

It is crucial here to recognize that many performers and activists would like to see PASS, or some parallel program, include HIV+ performers so that they could avail of an equally structured system of STI and viral load testing. This idea was floated hypothetically at the AVN panel discussed at the outset of this paper and is what provoked the massive negative response. That some HIV negative performers would consent to work with HIV+ performers is seen by many as reckless and delusional, because consent, while ostensibly ensuring personal freedom, actually entails “a series of unspoken presumptions about what is ‘normal’ human behaviour,” such that “the availability of consent hinges on the ‘reasonableness’ of the defendant's⁴ conduct” (O'Regan 2020, 5–6).

The emphasis on maintaining pathogen-negativity serves many ends. For one, it offers a defense against governmental and non-profit entities that try to regulate (or some would argue, stifle) porn production via health policy. As performer Courtney D told me:

Performers with HIV are treated with a mixture of a bogeyman, *ew gross* kind of thing, as well as a bit of “this gives us a bad name, having performers with HIV”... There's so much pressure from political organizations that are trying to commute the spread of HIV within the adult industry that it seems like in order to be taken seriously within that debate, the industry has to position itself also against performers with HIV.

Because of pornography's precarious social and legal standing, the industry is pressured into taking an abolitionist stance to HIV in order to ward off groups like the AIDS Healthcare Foundation and various California public health departments. These organizations have repeatedly lobbied to impose health policies that are not informed by current porn professionals, but rather modelled off of healthcare blood borne pathogen protocol and completely incompatible with porn production. The industry has argued that external regulation is

unnecessary given the success of their voluntary, self-regulatory measures, with the PASS system lauded for its rigor and effectiveness. Free Speech Coalition press releases regarding health issues in the industry often remind readers, in some variation or another, that “[t]he adult film industry has not seen an on-set transmission of HIV on a PASS-regulated set in over a decade” (FSC 2018) or “we have not had a transmission of the [human immunodeficiency] virus on a PASS-compliant set since 2004” (FSC 2019).

In this way, the industry has positioned itself as not only *not* irresponsible, but as setting an enviable standard for sexual health that is far superior to what external agencies suggest or what the average civilian does. The frequency, transparency, and effectiveness of PASS testing protocol is exceptional, and deserves the accolades it receives. Most of the performers I spoke with, whether they had access to PASS or not (draw centres are scarce throughout Canada, non-existent in Europe, and, where they exist, prohibitively expensive for many lower-earning or part-time performers) considered PASS an ideal system and a worthy model. The key critiques, when present, were that a) the cost usually falls upon performers, b) that site-specific swabbing is unavailable or costs extra, enabling the undetected spread of certain STIs, and c) that window periods (the period of infectivity between contraction and detectability) always present a risk beyond mitigation. Otherwise, most people felt that PASS strikes the correct balance between enabling the work to be done effectively within an acceptable level of risk. Indeed, many of the performers I spoke with said they prefer to only have sex with other porn performers, believing these individuals are more risk-aware and conscious of their sexual health:

We’re tested every fourteen days. That is literally twenty-three more times than the average American. *If* that person makes it to their yearly physical. I have met tons of people that haven’t been to the doctor in years. That scares me because they have no idea what their status is.... I don’t hook up with people outside of the porn industry because I’m terrified. And I’m not the only one. There’s many performers that know: if you go out into the wild, you will come back with something. [Ash Hollywood]

Or as Chanel Preston said “the reality is most performers I know care about their health more than other people, and they’re more aware of it, and a lot of them don’t even have intercourse with people outside of the industry just out of fear that they’re the ones that are gonna give them an STD.”

Online, performers also promote the notion of the porn industry as a sexual health role model. They often mention PASS protocol in media interviews to counter mainstream assumptions about pornography production. For example, veteran performer Nina Hartley told the Huffington Post: “I have had over 165 negative HIV and STI tests...I have been tested every three to four weeks for the last twelve years. How many people out there actually know their HIV status? Testing works for us, and condoms work for outsiders” (Williams 2012). Many performers also tweet when they have just been tested. Certainly, this is a form of promotion, indicating their availability to work with the goal of obtaining bookings, but many also take the opportunity to advocate for testing, using

hashtags (some more problematic than others) like #knowyourstatus, #healthfirst, #stdfree, and #teamclean.

Finally, some performers explained that PASS protocol now informs how they conduct their personal sex lives. For example, Delirious Hunter told me:

I feel [working in porn] is actually much safer than just meeting someone at a club or anything like that. It's even changed my negotiations with friends.... Now whenever I look at a partner, it's like "ok, here's the deal, you have to get tested and if you want to continue playing, you must continue to keep up on the testing. Because I am not gonna let you fuck up my life".... I don't have a lot of trust in other people. And I also don't trust when, even some friends just saying, "oh, well let me just go to my doctor and I'll give you a paper copy." I'm like "nope, Talent Testing has a civilian version, it's called I Know My Status.com".

I Know My Status refers to a testing service powered by Talent Testing Services, which was at the time of writing the largest and most popular lab network participating in the PASS system. They launched www.iknowmystatus.com for civilians, with the telling catch phrase, "Test Like a Porn Star". Their advertising uses "testing like a porn star" as short-hand for rapid, reliable, high-tech testing. This capitalizes on the idea that porn performers achieve the height of sexual responsibility.

In many ways, this label is well deserved: the PASS protocol has done a commendable job of preventing HIV and other STI transmissions on-set. Frequent testing and disclosure are sensible occupational health protocols, and it makes sense that performers want to work in conditions that minimize their risk of STIs and HIV. For many, it is an obvious material truth that being pathogen-negative, if possible, is preferable to being pathogen-positive: symptoms can be uncomfortable and painful, including the structural symptoms of living in an ableist, pathogen-moralizing society. When the porn industry responds to accusations of sexual "irresponsibility" *within the terms of debate* set by critics, however, it perpetuates those same structural symptoms and makes no allowance for workers with current or incurable STIs or HIV. As an industry advocate, I participate in this defense myself; mainstream antagonists don't leave us much choice. But the wider implication of this defense is that it can limit the conversation of sexual ethics to "being responsible," and equate "responsibility" with the maintenance of a pathogen-free body/work setting (versus advocating for other kinds of harm reduction that could enable STI and HIV infected people to work).

The imperative to be negative can be read as a form of ableism, inasmuch as it normalizes and prioritizes a (real or imagined) pathogen-free body and buttresses discrimination against certain sexual subjects. Is there a way to enable workers to take occupational health precautions as they see fit without reinforcing STI stigma, and without limiting the possibilities for "healthy" (read: "rational") sex and safer sex options? Referring to the practices of gay and queer porn productions, as I do in the next section, offers some alternatives.

Explicit Access

While perceived promiscuity and HIV risk is precisely a common point of stigmatization for both sex workers and gay communities, the debate over crossover talent is framed by some as a clash between sex worker and gay politics. In a new iteration of the disconnect between gay and sex worker movements, “gay rights” were seen by many as a threat to the health of (straight, female) porn performers. As Becki L. Ross (2018) writes, gay men and sex working women share many of the same oppressive forces and political goals, since both “homosexuality and prostitution were administered by medico-moral authorities as sources of maladjustment, degeneration, and threats to the health of the white-settler nation” (257). Additionally, both

navigated oppressive forces within institutional apparatuses of the law, organized religion, families, politics, mass media, medicine, and education. In the mid-80s a new moral panic—AIDS—targeted “hookers” and “faggots” as sexually spoiled and fatally promiscuous. The pain and shame of imposed and internalized stigma necessitated subcultural formations as bulwarks against hate and violence. (258–59)

Despite this, the seeming natural ally-ship between gay men and sex working women never really took off, largely because when homosexuality was decriminalized and depathologized (but sex work was not), the mainstream gay movement embarked on a rights-based project of homonormative acceptance and assimilation. Straight industry debate over crossover performers replicates these dynamics, although now rearranged, framing straight porn performers as respectable community members, and those with or suspected of having HIV as gay infiltrators.

Many gay and queer porn studios have a different relationship to HIV and sexual health than straight studios. HIV is not something which infiltrates the community, but rather coheres it. “I have a responsibility to a community and a tradition,” writes Paul Morris of his gay studio, Treasure Island Media (Morris and Passonen 2014, 216). His explanation divorces respectability from pathogen-negativity, rejecting the imperative of safety as it is typically understood:

TIM is two things, basically. We’re a developing and living archive of real male sexual experience. And we’re a laboratory that performs experiments that the men involved in our community propose.... Most gay porn hides behind a façade of “safeness.” But in my case, the men in my work are considered prized for being damaged, for having taken what conservative gays deem “the ultimate risk” and lost. (217)

Tellingly, Treasure Island Media is one of the few studios to have signed the Porn Producers for Safety Against Discrimination pledge (<https://ppsdpledge.com/>). The first statement in the pledge, authored by porn performer and activist Jason Domino, asserts that

Having reviewed and discussed available trial results and medical information, we accept that individuals living with HIV who maintain an undetectable viral load cannot pass on the virus to their sexual partners. As such, we encourage people living with HIV with an undetectable viral

load to approach us for work as performers without fear of discrimination. Aside from Treasure Island Media, the other sites or studios that openly and explicitly allow STI/HIV+ people to work are largely gay or queer-identified. This is perhaps unsurprising, given the historical connection between queer communities and movements for justice around sexual health and HIV status. Whatever the epidemiology of STIs and HIV today, queer communities have a history of advocating for the rights of HIV+ folks. Queer, trans, kinky, sex working, and HIV+ communities are historically and persistently policed by public health and law enforcement agencies, be it through the criminalization of HIV non-disclosure and sex work, or through the shaming, blaming, and disproportionate responsabilization of targeted prevention campaigns. A strong desire not to replicate such policing animates these communities. What remains is a legacy of fighting discrimination faced by people living with STIs and HIV, and of honing expertise in safer sex methods beyond testing, such as barriers and lubricants, strategic positioning, serosorting, and non-fluid-exchanging play (Webber 2018; see also Schieber 2018). This broadening of what constitutes safer sex (and by extension, occupational health) opens porn work to those who are excluded by a rigid testing system. Robert McRuer writes that both queer and disability rights movements are “cultures...founded on access” (McRuer 2003, 99). Access is a fundamental political goal for these movements because “another world can exist in which an incredible variety of bodies and minds are valued” (McRuer and Wilkerson 2003, 14), and everyone is enriched by this heterogeneity. By adopting a broader notion of occupational health and a broader usage of the concept of consent, studios that explicitly hire HIV and STI positive performers critique pathogen-ableism by enshrining their right to be sexually expressive, while directly challenging the economic marginalization of performers barred from the industry because of their serostatus. I illustrate these methods and motivations more below.

Alternatives to Asymmetry

During a panel on Ethical Porn Production held at the 2018 Toronto International Porn Festival, performer and director Icy Winters lamented that by not allowing performers with STIs to work, the mainstream straight porn industry shames people for having STIs. Given the variety of options for preventing transmission, she argued, there is no reason to bar pathogen-positive folks from sexual performance. Doing so insinuates that people with STIs/HIV have forfeited the right to be sexual beings.

In our interview, queer producer Kate Sinclair agreed. She states that “as a society, we insist, ‘you’ve got HIV, you’re no longer a sexual person. You don’t get to enjoy things’. That’s pretty much it. It excludes those people from the porn world.” At the time of our interview Kate Sinclair had not yet worked with any openly HIV+ performers, but her policy allows for it. The FAQ on her site, Ciné Sinclair, includes the header: “I’d like to perform, but I have an STI.” The posted response says that all performers need to produce a recent STI test, and that “a safer sex conversation must be had before the shoot can go ahead.” However, “Having an STI does not mean that you are not able to

work as a performer for Ciné Sinclair. It does mean that your partner deserves to be informed, and that they will be, by you. If the partner consents to using barriers, the shoot will go ahead as planned” (<https://www.cinesinclair.com/faq/>).

I asked Kate to expand on the motivations behind this decision. She recounted an incident where performers had disclosed, only after shooting, that they carried the herpes simplex virus. The situation made her ask herself, “why did these people not feel like they could disclose?” She continued:

Realizing that people won’t come forward with things if they feel like the money they’re gonna make, their job, is in jeopardy, I was like: ok, well, rather than crack down on it, I’m just gonna be like, “declare everything and we’ll find a way to make sure you get your money. We’ll shoot something. We won’t endanger your livelihood because of this.”

She describes this approach as a way to “put my money where my mouth is, to put myself at risk in that way, because people are putting themselves in a vulnerable position for me [when they] perform”. The decision is thus a “very deliberate act” that aims to balance performers’ bodily autonomy with their financial security. To do this, Kate employs a variety of harm reduction techniques on set. Of her process, she says:

I don’t require to see the tests.... But we are required to have the conversation and have it as honestly as possible.... Especially for queer people: maybe there is any number of things keeping them from seeing a doctor for these things. But I do want people to be as open and honest as they can be, and if they come forward and say, “I haven’t been tested in 6 months,” that’s honest too. Then their scene partner can be like, “you know what, I’m actually not comfortable,” and they’re empowered to do that.

As this last point attests, the inclusion of pathogen-positive performers does not override the value placed on informed consent but complicates and stretches the principle in important ways. For one, Kate addresses the structural parameters and inequalities that can impede the ideal of informed consent (such as the disincentive queer people might have to seek healthcare, see Paine 2018). She also explicitly acknowledges the unique role of labour, whereby material need and potential financial gain inform the consent equation.

Informed consent is also stretched in subsequent points of the Porn Producers for Safety Against Discrimination pledge:

Performers who are not living with HIV will have the opportunity to agree to work with other performers who are undetectable... We will also make reasonable effort to educate all performers about HIV and other STIs, including that people living with HIV maintaining an Undetectable Viral Load can’t pass HIV on. Along with advice on testing, condom use and accessing PrEP/PEP.

As noted above, informed consent procedures usually default towards protecting the decision not to work with performers who are HIV+, assuming this is what most “rational” HIV negative performers will choose. In this pledge, however, the right to *accept* work with HIV+ people is emphasized, as many people in the porn industry are comfortable doing so when policy allows them to. Also addressed

here is the matter of education in defining when consent is truly informed, by underscoring how many people are ignorant of the latest HIV science and prevention methods.

What modifications to straight policy might we draw from these queer ways? Porn health protocols could reconsider how they prioritize pathogen negativity, by integrating matters of financial and social justice alongside matters of individual consent. Advocates on the AVN panel with which this paper opened suggested the possibility of building an additional testing system, to be used by HIV+ performers with an undetectable viral load and those open to working with them. Another option would be a flexible/modular system where performers could be pooled and matched according to their STI/HIV status, personal boundaries around exposure, and preferred harm reduction methods. Whatever shape it might take, the point is that alternative designs are possible when we disrupt assumptions about what is considered a rational health choice, and what constitutes informed consent to make such a choice. The next phase of this project aims to work with industry stakeholders to concretely reimagine occupational health protocols and procedures.

Conclusion

Workplace health and safety in the straight porn industry is shaped by decision-making frameworks that were never designed with pornography in mind. Interrogating how standard notions of consent and occupational health are applied to porn reveals the problematic assumptions of these models. It is crucial to trouble these and strive towards fair working conditions for *all* porn workers. Gay and queer studios offer some alternatives, as these communities have contended with sexual health in different and deeper ways. Whatever changes to policy and protocol occur, they must emerge from within communities of porn professionals and porn-adjacent service providers. External bodies—such as government and non-profits—should not have a role in enforcing “solutions”. As it stands, however, performers must too often be suited to a protocol, rather than the protocol suited to performers. A testing and disclosure process that utilizes a wider variety of harm reduction techniques may be one way to create more flexible protocol.

Beyond supporting the immediate needs of performers, it is useful to examine porn health policy because porn is uniquely positioned to illuminate what is taken for granted about bodies, sex, health, work, risk, and responsibility; and what is considered a rational way to navigate those things. While we can and should put porn to use in these ways, it would also be a mistake to overemphasize porn’s uniqueness. In the same way that the umbrella term “sex work” can erase the variability between different jobs that happen to deal in sex, so has it erased the many points of commonality that sex work jobs have with different kinds of “straight work.” Viewing assumptions about the body-at-work as they arise in the context of porn can enable us to see how else these assumptions fail us, who else doesn’t easily fit within them, and what else slips through the cracks left by them.

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Notes

1. Since the writing of this paper, PASS has undergone several changes that are not reflected in its description here. PASS now operates as an independent organization, has introduced COVID-19 protocols in addition to STI/HIV testing, and the network of affiliated testing facilities has fluctuated. The author has also joined the PASS Board of Directors.
2. This liberal defense contributes to classist discrimination against certain sex workers (a system known colloquially as “the whorearchy”) by securing rights and respect only for the most upwardly mobile, racially-, geographically-, and class-privileged individuals.
3. Reviewing the regulation of legalized prostitution demonstrates this. For example, Nevada requires that “legal courtesans” (as they are referred to on their licenses) adhere to a STI testing regimen that can include restrictions of their movement (not being allowed to leave the brothel during shifts) and having to get a fresh test once they go off-sight for a given number of hours, whereas clients do not need to provide any kind of proof of testing, although clients with penises must wear condoms for all penetrative acts, akin to a “no shirt, no shoes, no service” mandate of responsabilizing customers to contribute to overall occupational health and safety status (Nevada Administrative Code 441A; Nevada Revised Statute 201.358).
4. As the language indicates, O’Regan is referring to the allocation of legal consent in judicial contexts, however I think the argument holds for other standardized norms, such as occupational policies and community standards.

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