

**Review of Luna María Ziirsén-Aineto's master thesis, *The Reconceptualization of Consent in Europe: A Feminist Discussion of the Limitations and Possibilities of Consent Laws in Scandinavia* (2023), submitted to Graduate Program in Gender Studies, Faculty of Humanities, Charles University, Prague. Supervisor: Ivy Helman, Ph.D.**

Luna María Ziirsén-Aineto's diploma thesis critically interrogates one of the central policies proposed by feminists globally, that is, the redefinition of rape not as the presence of coercion but as the absence of consent. In her thesis, the author skillfully and convincingly concludes that consent may be one step towards a less sexist and more feminist understanding of sex. However, its use in legal practice points to some serious considerations.

Luna's analytical work in the thesis is excellent. Even though some chapters could have been improved by revisions, the crucial, analytical chapters bring a consistent feminist critique of the implementation of the "consent legislation" in Denmark. As a gender studies student, Luna repeatedly points out that it is primarily the misrecognition of systemic gender (and racial) inequalities, ultimately making "consent" insufficient and potentially damaging.

The introductory chapter gets straight to the main goals of the thesis as it states its three research questions right in the first paragraph. Even though it is good to have research questions clearly stated in the Introduction, the reader needs more context to comprehend them and evaluate their relevance and precision. The context follows afterward.

The literature review extensively discusses feminist, queer, and philosophical literature on consent. It could have been complemented by a more extended introduction to the history of Danish legislation on sexual violence, including rape. The summary in the Introduction does not provide the necessary context for the reader to appreciate legislative and societal changes. Repeatedly, the author points to a recent shift to "gender neutrality" (p. 8 and elsewhere) in Denmark. However, what was the public opinion on gender-related issues and policies before this?

The three theoretical subchapters on feminist critiques of contemporary sex culture, consent laws, and law are relatively dense. The literature they review is well selected – though not chronologically, it proceeds from the radical-feminist critique of rape legislation (MacKinnon), through Kantian and liberal approaches to sexual violence and sexuality (Alcoff), to more complex theorizations (Cahill, Srinivasan). However, nowhere can the reader find why the author considers the particular feminist-philosophical approaches suitable for her project. (The subchapter on feminist philosophies of law provides the reader with an introductory differentiation between various strands of feminism, thus embedding the following critique in a broader disciplinary context.) The texts discussed are of various disciplinary backgrounds, which is a fact that deserves attention, too. The instructive summaries of individual scholarly texts follow fast one after another, with a limited comparison between them and no summaries of their contribution to the overall author's project. The author discusses them comparatively and extensively in the analytical chapter – but it is only an insufficient substitute for the work that should have been done in the literature review chapter.

The methodological chapter provides all essential information, including a subchapter on ethical considerations concerning discussing particular court cases of sexual violence. I appreciate the positionality chapter, which also discusses the author's political identifications.

Luna Ziirsen-Aineto chose to analyze the Danish prosecutor authority's report on implementing the recent consent-based rape legislation, including the particular cases mentioned in the report. The core of the thesis is then the four analytical subchapters focused on the definition of consent, "gender scripts," and negotiation of consent in the prosecutor's report and selected court cases. The fourth chapter aims at imagining alternative feminist perspectives on sex culture.

The "gender scripts" (Ryan) is the central concept through which the author explores the actual implementation of consent-based rape law. It suits the purpose of the thesis very well, as it enables her to interrogate the whole concept of consent critically. Even though it is not necessary, it could have been good to reflect on the theoretical underpinning of the concept. In the chapter on gender scripts, the author interestingly points to a double bind women find themselves in nowadays: they are "expected to effectively communicate their consent or refuse it [...], while they also simultaneously are encouraged to feel empowered by submitting sexually (Burkitt & Hamilton, 2012, p. 823)". As Luna Ziirsen-Aineto shows in detail in the following analysis, this complicates our understanding of the desirability of particular sex acts and effectively complicates our understanding of consent.

The thesis is most convincing when it shows how a seemingly gender-neutral concept of consent and well-intentioned policies built on it may, in fact, be harmful to women. As the author well explains, the liberal (or neoliberal) notion of consent aims at governing a reality interwoven with gender (as well as racial or economic) inequality, which is far from creating "equal opportunity" for anyone to "say no" (or to "say yes") to sexual intercourse. In a detailed analysis of court cases, Luna Ziirsen-Aineto shows that regardless of the consent-based legislation, in practice, "gender scripts" as interpretive frameworks used by the legal apparatus overwrite the meaning of court cases of sexual violence and distribute innocence and guilt accordingly.

In her thorough critique of the consent-based Danish rape law, the author inadvertently arrives at the question: if the consent-based legislation does not mitigate the devastating effects of sexual violence on women, at points even aggravates them, what solutions are there? The analysis of cases itself would make for a very good diploma thesis. But the author's profound engagement with alternative ideas of how sex culture could be organized (5.4) distinguishes the thesis. Following her social-constructionist approach, the author questions whether, under conditions of gender and racial inequality, we can arrive at "one story" in sexual-violence cases that the legal apparatus demands. Even though her theoretical proposals are not phrased in the language of the law, the author's emphasis on desire, intersubjectivity, and queer perspectives in our approaches to consent, are rather convincing. Apart from outstanding intersectional analysis in one of the final subchapters (5.4.3), the author arrives at a measured assessment of what consent-based law might do for us. She argues that the law acts on a symbolic level and should be used as a strategic (and non-exclusive) tool to reshape our sex culture.

The diploma thesis is written in a clear academic style. A few typos or grammar mistakes do not significantly affect the readability of the text. The reference list is extensive, and referencing is done correctly.

Apart from the questions and issues pointed out in my review so far, I would like Luna Ziirsen-Aineto respond to further discussion questions:

1. Relate the notion of "gender scripts" to the theories of gender you are acquainted with.

2. Is there a way to productively interpret the criterion of intersubjectivity in law? Could consent be reinterpreted so that it emphasizes the intersubjectivity of sexual acts?

To conclude: The submitted diploma thesis meets the criteria for a successful thesis. I recommend an “excellent” grade (1), and the candidate proceeds to the oral defense.

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