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## Article

# Queering Marriage: The Homoradical and Anti-Normativity

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**Abstract:** This article explores ‘bad’ sex in an age of same-sex marriage, through an analysis of the ‘homoradical’ as a rejection of both hetero and homo-normativities. Drawing on qualitative data from 29 LGBTQ interviewees, the article considers resistance to the discursive privileging of same-sex marriage in the context of Gayle Rubin’s theories of respectability and sexual hierarchies. These hierarchies constitute a ‘charmed circle’ of accepted sexual practices which are traditionally justified by marriage, procreation and/or love. It examines non-normative sexuality through the example of the lived experiences of non-normative, anti-assimilationist identities, particularly non-monogamy, public sex, and kink sex, showing how the ‘homoradical’ deviates from the normative practices that same-sex marriage reinforces.

**Keywords:** same-sex marriage; sexuality; queer theory; heteronormativity; homonormativity

## 1. Introduction

The Marriage (Same-Sex Couples) Act 2013 (hereafter, the 2013 Act) allowed same-sex couples to enter into a marriage for the first time in England and Wales.<sup>1</sup> This change in the law is a significant development in the relationship of law and sexuality, and is of particular significance for LGBTQ people who are now be seen as ‘equal’, ‘normal’, or ‘the same as’ different-sex couples when formally recognizing their relationship. LGBTQ people’s sexuality was seen, traditionally, as antithetical to marriage; abject, immoral, and dangerous. In the 1980s, LGBTQ couples were described by Parliament as ‘a pretended family relationship’ in s28 of the Local Government Act, while the Marriage (Same-Sex Couples) Act 2013 explicitly removes the sex from same-sex marriage by omitting adultery and consummation provisions (see [Maine 2021](#)). Marriage is representative of notions of ‘good sex’, as the legitimate and appropriate location for sex and procreation to take place: marriage’s introduction occupied a large swathe of LGBTQ rights campaigns for the best part of the last decade, and reaffirms the normative centrality of marriage and promotions of good gay, bad queer narratives ([Ashford et al. 2020](#)). This article seeks to highlight the queer challenge to the normative ideals of marriage and, particularly, the homonormative ideals of same-sex marriage.

Heteronormativity describes the social norm in which heterosexuality is seen as a ‘default’ position. Heteronormativity sustains and fosters a sexual hierarchy ([Rubin 1984](#)) in creating an expectation of heterosexuality, monogamy, and procreativity. Comparatively, homonormativity may be viewed as a conduit of heteronormativity, a form of identity and relationship that closely mirrors and reinforces heteronormativity and that ‘straightens’ queer politics. Homonormativity describes a dominant politics of liberal equality that upholds and sustains desexualised and depoliticised perspectives of same-sex couples, defined by [Duggan \(2003\)](#) as a ‘politic of assimilation’.

The homoradical is an ‘anti-assimilationist politic’, an actively sexualised and politicised queer experience that contests homonormativity. It describes a sexualised body of queer identity, one that rejects normative discourse surrounding homosexuality. The

<sup>1</sup> Scotland followed with the Marriage and Civil Partnership (Scotland) Act 2014 and Northern Ireland with the Northern Ireland (Executive Formation etc) Act 2019.



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homoradical may pursue sex outside of the normative realm, including public, kink, and non-monogamous sex. The homoradical maintains behaviour as a form of resistance against heteronormativity—a queer challenge to the depoliticising and desexualising effects of homonormativity. The homoradical may be viewed as antithetical to the image produced by marriage and as existing at the ‘outer limits’ of Rubin’s charmed circle (Rubin 1984). Therefore, the homoradical provides a means of assessing how elements such as public sex, group sex, or risky sex construct non-normative sexuality that may be at odds with expectations of marital conjugality. The homoradical will thus be considered to represent the ‘bad’ gay, in sitting outside of societal norms, and will be constructed and discussed in the substantive analysis of the data. Such an investigation into the impact of marriage on those who actively reject marriage, or even those who do marry but subvert the traditional expectations of marriage, being monogamous, domestic, and private, is significant in the highlighting of the queering of marriage, and the impact same-sex marriage has had on groups of LGBTQ people. This article, will therefore, highlight and celebrate these notions of ‘bad sex’ and construct the homoradical as a body rejecting homonormative discourses.

A societal and cultural monogamous expectation remains integral to marriage, despite adultery being removed as a factor for divorce by the Divorce, Dissolution and Separation Act 2020. In this article, the legal and cultural expectations of marriage will be discussed, to express how monogamy is still seen as a central tenet expected of marriage, while highlighting how queer people often successfully negotiated their non-monogamous relationships. This article will highlight how cultural expectations of marriage can reshape particular couples’ intimacies as distinct from the legal ideas of “being married” or “being able to get married”.

Aspects of sex and sexuality in the wake of the 2013 legislation will be examined, and the lived experiences and constructed narratives of those who can be said to practice and embody ‘bad sex’ and sexuality will be highlighted. This examination of sexuality will assist in discovering the socio-legal expectations and distinctions between notions of good and bad sexuality, and the distinctions between the public and private, querying and queering these binaries. In doing so, this article will construct the ‘homoradical’ as a significant departure from the homonormative, substantiated by same-sex marriage. Following the below literature review and methodology, this article will first examine the role of non-monogamy and polyamory as activities with the potential to transform the traditionally monogamous institution of marriage. Then, the article will discuss the role of public sex, as antithetical to the domestic, private marriage relationship, and further touch upon the legality of such sex. Finally, the role and importance of kink sex will be examined, as a site of identity-building and transgression of legal norms. The article will conclude by stating the potential of the homoradical to queer marriage norms.

## 2. Literature Review

The 2013 Act has been argued to contribute to a ‘sexual hierarchy’ (Rubin 1984), particularly in the reaffirmation of conjugal, coupled relationships that are representative of a ‘gold standard’ of relationship recognition (Ashford et al. 2020; Maine 2020) in a normative sense, one that further validates and upholds the ‘naturalness’ and inherent conjugality of heterosexual marriage (Maine 2021) and the naturalness of coupled, dyadic relationships. Recognition, as it is, validates and rewards conjugal couples: if the law were to adopt a more diverse policy of reform, a greater range of relationships could be recognized, abandoning the dyadic focus of the law. However, this would still maintain a tension between the queer rejection of recognition as a normative good, and the role of law in validating conjugal relationships.

Marriage upholds the rights and privileges of those who are married, and ‘selectively legitimises’ (Warner 2002) those who chose to happily ‘settle down’. The right to marry has been described as an idealized package of socio-sexual relations (Halley 2001; Wolkomir 2009). The redefinition of marriage to include same-sex couples deploys the process of normalization, reliant on the ‘sameness’ of same-sex and different-sex couples, emphasising

equal rights and integrationist approaches to achieve social change, creating a 'normal' standard of relationship recognition (Richardson 2005). Butler (2004a) has discussed the effects of normalisation in relation to same-sex marriage as a means of conferring and constraining legitimacy to married couples via social acceptability. They discuss the fluid nature of norms and normalisation as a process by which we recognise humanity, so that 'norms of recognition function to produce and deproduce the notion of the human', which entails the process of recognition as a form of normalization, corresponding with humanization as the ultimate act of normalization (Halley 2001). Social norms, therefore, are dependent on the implicit standard of normalisation, offering social legitimacy to relationships that can be deemed 'normal', which may correspond with heteronormative expectations. This article will instead investigate those who actively reject such acts of normalization.

Marriage is often related to homonationalism as reliant on the promotion of LGBTQ rights alongside nationalist or xenophobic sentiments: marriage rights have been used by commentators to advance narratives that Western nations are safe, tolerant, and accepting of LGBTQ citizens while simultaneously rejecting asylum seekers or being used to denigrate the rights of LGBTQ people in the Middle East and Africa for example. Marriage has been criticized for being a validating and valorizing function for white gay men, often at the expense of other marginalized groups (Sycamore 2004). Puar (2007) has written that the inclusion of some queers in mainstream society depends on the production of populations of Orientalized others. Puar states that heteronormative ideology is further accompanied by homonormative ideologies that replicate racial, class, and gender ideals, typified by the creation of same-sex marriage at the expense of greater sexuality and gender diversity reform. Cossman (2019) and Franke (2015) further note the gendered and classed elements of marriage debates which seek to privilege the lives of white gay men while failing to address trans or women's issues. It is important to contextualize this research within these narratives and recognize that this research takes place in Britain which often deploys homonationalist narratives, such as in the promotion of marriage rights while deporting LGBTQ asylum seekers, or in the Government's hostile environment toward trans people (Sharpe 2020).

There is a wealth of empirical literature undertaken in Britain in the last two decades regarding same-sex intimacy. Crucial to the discussion of the creation of queer families is Weeks, Heaphy, and Donovan's *Same-Sex Intimacies* (Weeks et al. 2001). Their sociological empirical research investigates how LGBTQ people form their own notions of family and relationships, in lieu of formal relationship recognition, and provides empirical insights into the changing form of domestic organisation, identity, and belonging, as well as the developing LGBTQ culture. This study found that, in lieu of legal recognition, language was appropriated to lend legitimacy to same-sex relationships, not as a form of assimilation, but as a form of queering family relationships. Heaphy et al. (2013) conducted a follow-up study in 2009 and 2010, after the enactment of the Civil Partnership Act 2004, intending to shed light on the lived experiences situated in legally recognised relationships in Same-Sex Marriages. The changes in the decade between the studies and the generational change in attitudes exemplify important social shifts in the acceptance of LGBTQ narratives relating to legal relationship recognition and the increasing assimilation of normative legal structures.

'Unlike previous generations of lesbians and gay men who, because of the lack of cultural guidelines and social supports for their identities and relationships, had little choice but to engage in life experiments, the partners in our study neither claimed nor wanted to be at the vanguard of radical relational life' (Heaphy et al. 2013, p. 21).

Their study relates to the perceptions given by participants that a civil partnership is akin to the heterosexual construction of marriage (prior to the introduction of same-sex marriage in 2013). This may be analysed using legal consciousness studies (Ewick and Silbey 1998), and particularly Hull's findings. The quote can be interpreted as acting 'with the law' (Hull 2003) through the appropriation of law's terms and practice in defining their relationships, manipulating law for their own advantage. It is unclear at this point whether this

radically deconstructs the nature of formal relationship convention, or whether it merely assimilates with convention—an issue that is integral to constructions of the homonormative and the homoradical. This study, exhibiting the apparent interchangeable nature of the terms civil partnership and marriage, would seem to give weight to assimilationist theory, which states that same-sex marriage will lead to the diminished salience of LGBTQ identity.

Further empirical studies have investigated the impact of legal reform on LGBTQ narratives. In *Regulating Sexuality*, [Harding \(2011\)](#) demonstrates how the introduction of legally recognised relationships informs the views of LGBTQ people and their relationship with the law. Using legal consciousness theory, the study investigates the ways in which people approach, use, and think about law in relation to same-sex relationship recognition. Broadly, the study found significant importance attached to legal recognition and equality in the United States and Canada, though this significance was declining in the United Kingdom—a factor potentially correlating with declining marriage rates.

Harding uses Butler's analysis of resistance and assimilation in queer studies in order to demonstrate how power is productive of meaning and discursive categories: 'Power can act upon a subject only if it imposes norms of recognisability on that subject's existence. Further, the subject must desire recognition, and so find themselves fundamentally attached to the categories that guarantee social existence' ([Butler 2004b](#)). Power operates to make same-sex marriage recognisable, stemming from the desire of same-sex couples for recognition from the state, thereby demonstrating the desirable nature of marriage. However, Harding argues that only through submission to power may there be any resistance to it, allowing for the transformation of normative conventions through the transgressions of sexuality and gender roles in marital law ([Harding 2011](#), p. 54).

In 'Is This What Equality Looks Like?', [Robinson \(2012\)](#) uses empirical research to assess the socio-legal implications of legal same-sex marriage in the Netherlands, and how this forges a form of homonormativity through the construction of a homogenous gay identity. As with other researchers, Robinson asks whether assimilation can be transformative through strategic positioning to enact change, yet his research implies that it cannot. Robinson has found that homonormativity leads to the creation of feelings of shame and fear upon LGBTQ individuals. These feelings are particularly felt by those whose sexuality is perceived to be deviant ([Boyd 1999](#)), whose gender or sexuality is queer, or who act in a way that is not deemed traditional. Particularly prevalent is the notion that gender non-conformity is socially reread to imply sexual non-normativity and to transgress the public/private division of sexuality. [Palazzo \(2021\)](#) has further discussed the role of law in valorizing dyadic relationships and further seeks to broaden the realm of relationship recognition, to recognize polyamorous relationships. This, Palazzo argues, would entail the recognition of 'new families' in order to account for the diversity of queer experience.

The previous empirical studies focusing on same-sex intimacy and marriage have emphasized the role law takes in promoting a domesticated ideal of coupledom. They have largely focused on same-sex couple's efforts to assimilate and the role of law in affecting social change, which suggests that ever increasing recognition of same-sex couples necessarily correlates with positive social change regarding LGBTQ identity, if not necessarily sexuality. The lack of empirical evidence following the Marriage (Same-Sex Couples) Act 2013 is clear, particularly that which relates to the construction of homonormativity in the United Kingdom; the articulation of the homoradical and how this is constructed or lived through participants is a unique contribution arising from this research.

### 3. Theory and Methods

Qualitative in nature, this research aspires to capture the narratives of queer individuals and construct meaning attributed to those legal realities. The study sought to highlight the experiences of queer people and the impact of same-sex marriage, particularly focusing on the role of sex and sexuality and the potential to queer marriage. Participants were asked about their experiences of marriage and whether its introduction had any impact on their sex, sexuality, and sexual practices. Situated in Newcastle Upon Tyne, mixed recruit-

ment methods were used to highlight the social, cultural, and geographical positioning of certain values and issues; snowball sampling was used (Etikan et al. 2016), coinciding with advertisements placed with LGBTQ social media, as well as local social groups and venues. Semi-structured interviews were conducted with 29 self-identified LGBTQ people aged between 20 and 68 years old. Participants self-identified as LGBTQ, and included trans and cisgender men, women, and non-binary participants. Two-thirds of the participants were legally single (inclusive of those in long-term relationships or cohabiting), and one third were married or in a civil partnership, while the remainder had been in a different-sex marriage or a civil partnership, since dissolved. Attention should be drawn to the fact that most participants were cisgender white men which highlights the gendered, racialized and classed dimensions of marriage and state intimacies. Previously, marriage rights were predominantly described as being for the benefit of middle-class, white gay men and failing to address broader structural inequalities—particularly structural racism (Bernstein 2015). As discussed by Cossman and Franke above, such discussions of marriage and sexuality often focus on the privileged men who are able to successfully enter into such institutions, along with the positionality of the researcher in queer spaces. While the gendered and racialized dimensions of marriage are relevant to broader discussion of marriage in the United Kingdom, quantitative data regarding the demographics of same-sex marriage is not available, and discussion about marriage uptake for LGBT people of colour is speculative.

The ethical principles of informed consent, the right to privacy, and the protection from harm were conformed to at all times, having been approved by the Northumbria University Ethics Committee. The study was conducted in accordance with the social justice theory of ethics, which focuses on the voices of marginalised populations. Semi-structured interviews were used in order to broadcast the voices of the LGBTQ people, emphasising their lived experiences and realities. Participants were asked open-ended questions about marriage and sexuality that could unfold in a conversational manner (Longhurst 2003). This line of questioning allowed for an informative investigation of LGBTQ participants' responses and discourse in relation to the definition of sexual intercourse, providing evidence of how law could be informed by discourse production and lived queer experience, demonstrating the significance of symbolic legal recognition of relationships but also the rejection of normative values of family law.

The methods of this study were designed with queer theory in mind, as an interpretive tool to make sense of the data and generate findings. In the process of interpretation, queer theory informed the analysis by constructing narratives that highlighted the role of normative sexuality when discussing the introduction of same-sex marriage. Queer theory has been used to question the privileging of certain norms (Kepros 1999) and family forms, and highlight the inconsistencies of the lived experiences of queer people when approaching such topics. It has informed the analysis by emphasizing the incoherence of dominant normativities within relationship recognition and the actions taken by or advocated by the participants. While there may be criticism that using such a lens may pre-commit the research to certain findings, the use of empirical methods with constructivist theoretical discussion is an important means of highlighting the lived experiences of sexual and gender minorities.

Queer legal theory serves as a lens through which to interrogate and highlight the experiences and narratives of LGBTQ populations and non-normative sexuality, in particular as a useful tool within marriage literature, complementing empirical methods to highlight and investigate the marginalisation and devaluation of non-heterosexuality in legal hierarchies of sexuality. It is anti-heteronormative and anti-essentialist, seeking to divorce legal narratives from biologism and to investigate the construction, discipline and regulation of same-sex relationships (Zanghellini 2009). Queer theory has transformative potential that facilitates analysis of the lived experiences and narratives of LGBTQ individuals, focusing on the intersections of gender, sexuality, law, and society. Queer theory informs an investigation of the intersecting ways in which law affects and constructs identity or practice, helps us to explore multiple ways to constitute sex and sexuality, and acts as a

'source' of transformational energy against normativity (Muñoz 2009; Gonzalez-Salzburg 2019). Heteronormativity has been described as the 'truth regime' (Foucault 1978), in which gender, sexuality, and desire coalesce (Butler 1999, p. 187), and in which heterosexuality is assumed, privileged, and naturalised in a society that 'straightens' the 'slant' of queer desire (Ahmed 2006, p. 562). Heteronormativity upholds heterosexuality as dominant within discussions of 'good' and 'bad' sexuality, constituting the 'correct' alignment of men and women (Robinson 2012), which marriage maintains as an arbiter of gender binaries and roles. This article uses queer theory to analyse qualitative data that seeks to reflect the lived experiences of LGBTQ participants as a result of the introduction of same-sex marriage. Drawing on the narratives and perspectives of LGBTQ participants, this research examines how LGBTQ individuals assimilate, resist or conform to various legal reforms that confer marital and familial rights on same-sex couples.

#### 4. Redefining Relationships, Non-Monogamy and Polyamory

Marriage presumes and presupposes monogamy, as a dyadic, coupled structure, reliant on establishing the couple as an exclusive co-dependent structure, independent of the state (Roseneil et al. 2020). Prior to the introduction of no-fault divorce in the UK via the Divorce, Dissolution and Separation Act 2020, the occasion of adultery satisfied the ground that a marriage had irrevocably broken down (s1(2) Matrimonial Causes Act 1973), demonstrating adultery's deep rooted significance. Non-monogamy has the potential to redefine the parameters of relationships, and fundamentally alter the normative conception of conjugality. Therefore, I argue in this article that the homoradical's potential as a theoretical construct can point to the politically radical valence of all queer non-monogamy, even when those who practice it are oblivious to the fact they are doing anything political. The subversion of established social and legal norms of sexual behaviour nevertheless entails a radical socio-sexual consequence, despite a lack of intent, even a lack of knowledge of contemplation.

Bauer states that the mononormative matrix is 'a complex power relation, which (re)produces hierarchically arranged patterns of intimate relation, which devalues, marginalises, excludes and "others" those patterns of intimacy which do not correspond to the normative apparatus of the monogamous model' (Bauer 2010, p. 145). Mononormativity universalises and naturalises the exclusive dyadic structure of the couple, essentialised as a foundation of human experience; LGBTQ people generally practice open, consensual non-monogamy to a greater extent than non-LGBTQ people, according to Bauer (2014), a key differentiation from heterosexual non-monogamy being the greater levels of social acceptance. A significant theme to emerge from the data was the potential of LGBTQ relationships to redefine and renegotiate socially held norms regarding relationship boundaries and definitions, which I argue to be a trait of the homoradical. This transformative potential is central to queer theory and may be used to argue for the extension of relationship recognition, from a model that focuses on coupled and domesticated relationships, to pluralised recognition that accounts for diverse and non-normative relationship structures (Meeks and Stein 2006). However, this does then entail the accepting of certain norms of recognizability and intelligibility: renegotiating the boundaries of casual sexual relationships and friendships emerges from the empirical data as a clear theme, deconstructing preconceived heteronormative relationship boundaries:

*'I'd happily have friends who I'd have sex with, and that would be quite a relaxed relationship, I'd happily go on dates and develop a relationship, but that's, that's certainly not something I would do as often, it's not a consideration I have at the meantime, it's more kind of, you know, to kind of put it crudely, if someone says they are looking for Mister Right, I am right at the opposite end of what that means [laughs] ... So I'd happily make a friendship and I'd happily have that friendship be sexual as well, or I'd happily hook up with someone as a random thing, as a one off thing, as it might happen occasionally.'* (Single gay man, 25)

This participant recounts the ways in which sexual relationships and friendships are traditionally separated, whereas for him they have become interlinked, and boundaries between sexless friendships and relationships have been removed. Giddens (1992) has noted the transformation of intimacy, in which sexuality, freed from the restraints of reproduction, is decentred and granted further fluidity, for which Giddens has coined the expression ‘plastic sexuality’. This has created the opportunity to develop a new sexual ethic that is not dependent on strict rules and boundaries, creating the potentiality to develop their sexual acts free from pre-described social norms (Weeks et al. 2001; Lasala 2004). In the creation of sexualised friendships that do not become emotionally or sexually monogamous, the participant demonstrates the creation of internally referential systems that do not rely on traditional normative emotional structures in the pursuit of sex outside of committed relationships. I hypothesise that the transforming standards of intimacy this participant practices are enabled by sexual liberation. He went on to state:

*‘So my view on that has changed over the last few years, erm, but I’ve certainly become more open to more casual relationships than I was. But, I think, maybe the next question is to what extent has marriage affected that, erm, I don’t think same-sex marriage has affected that, I think that’s my personal shift more than anything else.’*

He says his greater openness in recent years has happened regardless of policy on marriage. It may be argued that implicit in his comments is a recognition that the introduction of marriage *might* have made him, as an act of resistance, more inclined towards casual/sex than he formerly was, although this may be disputed as a personal choice, rather than political. It is clear, for example, that having multiple sexual partners need not be “political” or “radical”, as Bersani might suggest (Bersani 1998), however, breaking from monogamy necessarily entails an implicit rejection of the hegemonic nature of monogamy (Bauer 2010). The participant reflects Hosking’s (2013) notion that gay men have methods of maintaining emotionally and sexually satisfactory relationships that are neither monogamous, exclusive, nor traditional coupled relationships. In pluralising and expanding the range of sexual or emotional relationships available to him, he indicates a rejection of at least some of the values manifest within marriage, while presumably endorsing some of the values of monogamous marriage insofar as he likes the *idea* of it, while rejecting its hegemony.

*‘I think, I think there’s a big discussion to be had in the next few decades about what relationships are and should be, and as an established thing for a century, maybe longer, that monogamy is what it should be, erm, I think that is gonna change, you know it changed before then, we’ve had this for a long time; I think it’s starting to crack, and I find that interesting both at a personal level and at a social, let’s chat about it for a few hours level, and I think you know, I like, I like the idea of a monogamous marital relationship, I don’t like that being the thing, the only thing.’* (Single gay man, 25)

The participant explores greater social recognition of pluralized forms of relationships as potential evidence of resistance to the coupled hegemony of marital law and presumed monogamy and there appears to be a political will animating his non-monogamy. The participant’s comments, while not directly related to the introduction of no-fault divorce, can be read alongside it, implicating the symbolic change that no-fault divorce’s introduction may establish in the ‘cracking’ of the monogamous imperative of marriage. In this, the participant presents a departure from familial language and goals, in contrast to Weeks’s (1995, p. 36) reporting that, according to some empirical studies, lesbians and gay men are predisposed to idealise coupled relations. It is important to note that some participants had a desire to oppose normativity and others coincidentally fell into such antinormative patterns. Either way, the homoradical identity, as I constructed in this study on the basis of participants’ experiences, is far removed from highly conventionalised relationship standards, representing ever-expanding and redefined relationship standards and structures.

An integral feature of the redefinition of boundaries and relationship standards is the use and construction of non-monogamous sexual activities and understandings. The

‘non-monogamist’ reaffirms the use of sex as a means to create their own standards of relationship and intimacy, in defiance of legal and social expectations of monogamy:

*‘I would describe myself as, like, a non-monogamist, erm, that’s not to say I might not get married in later life, but it’s just not something that, for some people, like, if you’re watching Don’t Tell the Bride, for a lot of people it seems to be very, very important to them, everything that it means, whereas I feel a bit outside that.’* (Single gay man, 27)

Self-identifying as a ‘non-monogamist’ suggests a commitment to non-normative sexuality, and a positioning in opposition to social norms of monogamy. While this participant’s words do not make it clear whether or not he conceives of his sexual practices in political terms, [Duggan \(2002\)](#) notes that depoliticisation is integral to homonormative identity. Taking this into account, it is important to consider the possibility that practices such as those of this participant may be (and sometimes there is evidence that they are) underpinned by a process of self-reflection involving deliberate resistance to normativity. While it cannot be said that the participant frames this as a deliberate rejection of normative legal structures (particularly adultery), the incorporation of non-monogamy as an identity is an important development in establishing the homoradical as a theoretical construct, ‘outside’ of traditional marriage narratives, for which self-reflection is an important component. The homoradical resists the traditional marital institution and its social and cultural expectations, resisting homonormativity.

#### 4.1. Constructing Non-Monogamies

Non-monogamy in marriage disestablishes normative notions of coupledness and commitment. This participant explains that this is a meaningful feature of his non-monogamy:

*‘So in a way, if the expectation is because of being married, married being the same as, say, straight married people, it is not, because we cannot overrule the fact that we are gay but different, we might agree on different sexual practices that straight people don’t . . . So, in a way with my current partner, we have agreed not to have boundaries, not to have restrictions and not to have any of that that actually made my previous marriage collapse. But, in a way that makes me love him and want him more, rather than the random, if I meet people and we have a meeting, whatever it is, sex, a beer, it is fine, there is no, we are redefining commitment in a way, and it’s possibly weird because you might think that there is a threat of jealousy, or having a better person in a way, but it doesn’t.’* (Single (dissolved civil partnership) gay man, 36)

The participant’s current relationship is constructed ‘from scratch’, ([Heaphy et al. 2014](#), p. 168) without the monogamous expectations that inhibited his previous relationship. His comments regarding redefining commitment are integral to narratives of queering marriage: by extending relationships outside of marriage’s dyadic structure, marriage becomes unintelligible as a monogamous institution. The participant’s lack of boundaries do, while not enacted with political consciousness, still retain a political valence. By doing so, there is an implicit rejection of respectability politics and monogamy, reinforcing sexuality as an integral part of the homoradical identity. This emphasises the importance of self-reflection and the deconstruction of mononormativity implicit in most relationships. [Worth et al. \(2002, p. 248\)](#) have stated that, to some LGBTQ persons, monogamy is a signifier of a successful relationship and that ‘without the trappings of traditional heterosexual familial commitments, monogamy becomes even more important as external reference point and signifier of the relationship’. However, the opposite is true for this participant; he rejects notions that monogamy equates relationship success.

Statements such as, ‘sex is sex’ emphasise the ways in which sex outside of committed relationships is conceptualised as a ‘means-to-an-end’, while also creating new meanings for notions of faithfulness and commitment. It is important to note that the participant quoted below is married, reaffirming the significance of redefining commitment:

*‘I wouldn’t be opposed to having sex with someone else, if that was, because I wasn’t necessarily consider it as being unfaithful, because he would do the same thing, if he was*

*in the same situation . . . I just think society deems it as abnormal, but individually, as a couple, we have an agreement that sex is sex.* (Married gay man, 43)

This participant positions his own and his partner's sexual activity as being abnormal in relation to society, in keeping with Vaid's (1996) statement that gay sex is always a direct challenge to heteronormative government. The participant and his husband reflect compartmentalisation (Bonello and Cross 2010), separating their romantic emotion from their sexual partners. Married participants are actively redefining what it means to be married and how to experience a marriage, expanding what the private confines of marriage are, by redefining the domestic setting. This, therefore, has the potential to transform understandings of marriage, however the participant did not consider the law of marriage or divorce as relevant to his sexuality. This participant's confirmation that, within his relationship, sex with other men is not considered to be infidelity or unfaithfulness is in direct contrast to Macedo's (2015, p. 72) statement that marital non-monogamy constitutes a break in faith with the partner and with wider society.

One participant noted the implications of a marriage-like institution 'cloaking' his non-monogamous practices, with marital relationships presuming, like Macedo, monogamous behaviour:

*'I think if you're in a non-traditional relationship like I am, based in a tradition of marriage almost, then, that, those two layers because increasingly more complex for people to take in, which kind of goes back to what I said earlier, if you want hook-ups or whatever, if you wanna meet another person, you get the 'but you're . . . ' if they find out you're civil partnered, they do go 'but you're civil partnered, how can you do that?' or often the word they use is marriage, which I also find really interesting, so they don't recognise the fact that the civil partnerships are there to protect, but you try to explain that, you get the words marriage flashing up.'* (Bisexual civil partnered man, 36)

This participant recognises the apparent inconsistencies of being in a non-monogamous relationship that is based within the presumed monogamy of a civil partnership. Civil partnerships do not legally require monogamy (s44 of the Civil Partnership Act 2004), however a presumption of monogamy is manifest within civil partnerships and same-sex marriage, as Worth et al. (2002) have noted, due to monogamy being an external reference point and signifier of relationship success. The participant's 'two layers' represent a public/private divide, which the participant notes as having a tangible impact on the ways in which he performs his partnered identity and the ways in which he has a functioning sex life outside of his civil partnership. This participant is aware of the social expectations associated with civil partnerships and marriage, as are his extra-dyadic partners. For these partners, marriage and presumed monogamy form a barrier to extra-marital sex that is a result of societal expectations, reinforcing the notion of the sexually domesticated homonormative. The homoradical, in reaction to this would seek to reject such domestication.

#### 4.2. Recognising Non-Monogamy

Hocquenghem (2010) has described marriage as a restriction on the freedom to form relationships. Relationships outside of, and often antithetical to marriage, have long been a part of LGBTQ culture, through either the construction of 'families of choice' (Weeks et al. 2001) or the establishment of non-monogamy as a norm within gay culture (Lasala 2004). This is touched upon by the participant quoted below, who calls for legal recognition of non-monogamous relationships:

*'[I]n this respect the law as well needs to recognise the fact that people want to have open relationships and that wouldn't trigger the adultery clause or whatever, and I think we need to be more aware of the fact that people are doing things that aren't classified as normative, yeah.'* (Single lesbian, 22)

The 'legal recognition' of non-monogamy that this participant has in mind could arguably be said to have already occurred via the removal of adultery from the grounds on which civil partnerships and same-sex marriage can be dissolved. That the more recent

reforms in the Divorce, Dissolution and Separation Act 2020 effectively remove the salience of monogamy from heterosexual marriages as well, demonstrates that queers pioneer new practices of intimacy; that these acquire political significance to the extent that the law is forced to take notice; and that this in turn has the potential to spillover and transform mainstream heteronormative society itself.

It could be argued that the inapplicability of adultery in same-sex divorce proceedings represents a presumption of non-monogamy in same-sex marriage (as was noted in the Commons during debates on the Civil Partnership Act 2004; see [Stychin 2006a, 2006b](#)). Though, I hypothesise that this was instead due to a reluctance to accord same-sex partners the same legal significance as intercourse between different-sex partners ([Maine 2021](#)). The introduction of no-fault divorce in the Divorce, Dissolution and Separation Act 2020 removes adultery as a factor in divorce which should have a positive effect and further reduce the law's focus on extra-marital sex as a factor contributing to the breakdown of a marriage.

Same-sex marriage is often presented as a symbolic victory ([Macedo 2015](#), p. 25; [Ashford et al. 2020](#)) in achieving rights for same-sex couples, and as something to which LGBTQ people should aspire. However, the participant quoted below disputes this and rejects the notion that same-sex marriage is an aspirational structure. He maintains the presumption of monogamy inherent to marriage:

*'Erm, and I mind that, erm, I mind marriage becoming this symbol for gay relationships, erm, if people wanna have sex with those they're in love with and get married to people they're in love with, great. What about those who have sex with people they don't love, what if you want to have sex with two people, or be with them both, you know, what about all of those things?'* (Single gay man, 25)

The participant notes the importance of marriage for those who can successfully fall within the monogamous marriage model, yet critiques and exposes the exclusive nature of marital law. Marriage and homonormativity have become inherently linked in symbolising gay relationships. This may be indicative of the pervading normalisation of the married couple that fails to represent non-monogamy and polyamorous populations, serving to ostracise such practices due to their 'otherness' to the marital norm. In stating this, the participant echoes Warner's statement that:

*'As long as people marry, the state will continue to regulate the lives of those who do not marry . . . it will criminalise our consensual sex. It will stipulate at what age and in what kind of space we can have sex. It will send the police to harass sex workers and cruisers. It will restrict our access to sexually explicit material. All this and more the state will justify because these sexual relations take place outside of marriage.'* ([Warner 2000](#), p. 96)

This view of marriage frames it as at once inclusive and exclusionary, reliant on normative attitudes and proscribed successful coupling. However, while marriage no longer assumes monogamy (at least not legally), culturally it is typically assumed to be a monogamous institution, carrying, according to the participant an implicit monogamous stereotype that further entrenches a coupled norm.

#### 4.3. Polyamory

A recurring theme to emerge from the data is the lack of legal protection afforded to polyamorous relationships. Same-sex marriage fails to address this issue and maintains a dyadic focus (see [Palazzo 2021](#)). The participant quoted below discusses the ways in which his sexual activity outside of relationships has allowed him to conceptualise further relationship models to suit his sexual desire and needs, emphasising the ability to redefine commitment:

*'I think people have accepted that, not that I go out looking for things, particularly in a relationship, it's always been the case of if you've slept with someone, just tell us, er, please don't sleep with my brothers, there's usually one of her brothers, or any of their*

*colleagues that I have a crush on, don't sleep with them. It's half the sport [laughs] so I don't think it will change, it's always been open, I would quite happily have a relationship with a man and a woman at the same time, as I have in the past, er ... I would quite happily have a husband and wife, or I would call it a husband and wife at the same time.'* (Single bisexual man, 28)

This participant would informally broaden his marital relationships, satisfying his urges in a way he wants, indicating the fun and pleasure associated with this: 'it's half the sport'. However, even if this participant's intimate practices seem to be ultimately driven by pleasure, non-monogamy, as I argued above, has political valence in and of itself, regardless of whether it has been engaged in with a political consciousness. The participant's use of the term husband or wife for a non-legal relationship resonates with [Heaphy et al.'s \(2013\)](#) pre-same-sex marriage finding that those in civil partnerships often appropriated the language of marriage, while the participant jokingly indicates a willingness to appropriate marital language for polyamorous bisexual groupings.

The legitimising of polyamorous relationships has been described as an attempt to tame radical sex ([Rambukkana 2008](#)) by applying normative hegemonic frameworks; however, the institution of marriage could be altered by radical sex as a tool to implement social change, with multi-partner relationships and the public expression of this as a destabilising act. Calling for the legitimisation of non-dyadic relationships calls into question bigamy law and would seek to disturb the sexual hierarchy by changing the structures of relationships deserving of protection. One participant observed that:

*'I know people who are in polyamorous and polygamous relationships and there's nothing legal about that as far as I'm aware, and I don't know any statistics, it might be more common in the LGBT community, so we need to keep pushing for that.'* (Single lesbian, 22)

The participant notes that LGBTQ populations are likely to deviate from the heteronormative and mono-normative model. Polyamory, literally 'many love', is the practice of maintaining multiple sexual and emotional relationships. However, despite adultery no longer carrying its legal significance, marriage is still strictly dyadic. If any party to a marriage is already married, the latter marriage will be automatically void (according to s11 of the Matrimonial Causes Act 1973, applicable in the UK), and further, the parties may have committed the crime of bigamy if they attempt to marry while still married due to s57 Offences Against the Person Act 1861, described as having little justification ([Barton 2004](#)). The attachment of a criminal offence to polygamous marital relations further confirms the law's resistance to redefining marriage outside of its traditional, dyadic pairings.

There is, however, a tension between the desire for recognition of polyamorous relationships and the desire for, and value of, non-interference. Polyamorous relationships that exist outside of the realm of state recognition can be classed as sex radical and therefore as rejecting and resisting mononormative state interference, and have been argued to contribute to greater levels of love, sex, and honesty, that may actually strengthen marriage ([Den Otter 2018](#)). By remaining unrecognised, polyamorous relationships are free from prescriptive legal rules, which would inevitably require specificity in the determining of which polyamorous relationships are capable of recognition. This form of state and social interference is picked up by another participant:

*'Erm, so I think, sure people are free to be polyamorous, but you know, much more than they were 10, 20 years ago, but are they free enough in my opinion, no.'* (Single gay man, 25)

The participant implicitly refers to a social stigma surrounding polyamorous relationships which may be framed as a call to open up discussion around polyamory so it can be pursued more freely. The participant notes that marriage may subsume the homoradical potential to disturb dominant monogamous discourses:

*'And, erm, if marriage becomes more part of the gay person's lifestyle, I guess I, I do worry a bit, because the, the one avenue, yeah put it like this, the one avenue I see for*

*polyamory being discussed more openly is from LGBTQ people, and at the same time as we're hoping, I'm hoping that might happen, the big bastion of LGBTQ rights is a monogamous relationship, and I don't like that.'* (Single gay man, 25)

For this participant, LGBTQ people are in a privileged position to disturb heteronormativity through polyamory as a means of deconstructing mononormativity. At the same time, he hopes that marriage does not subsume further radical reform. Another participant incorporated polyamory as part of their self-identified sexual identity, in line with their pansexuality (being the only participant to identify as neither lesbian, gay, nor bisexual). When asked to expand on their identification, they participant said:

*'Okay, so when I experimented and I went out there, I guess I probably practised, in hindsight, I probably practised bad polyamory, erm, so for me the world was like, yeah, it's an all-you-can-eat buffet, and I want to make as many connections as I could because I lost my, lost my family, lost my partner, and all of a sudden I was making new families, and new partners, and there was no rule-setting, and it was just very random and I very quickly discovered that this didn't work when you didn't have any good rules set, and yeah, you upset people.'* (Single pansexual (poly) feminine polarised genderqueer, 42)

The participant, who not only practised polyamory, but also identified as polyamorous, viewed themselves as practicing bad forms of intimacy, without any negotiated rules which the participant deems to be important. The participant practiced what could be described as 'thoughtless' polyamory when lacking rules that upset people that they entered into relationships with. In the construction of rules that rely on consent and consideration for one's partner, rather than on social shame and stigma, this hierarchy allows for a more nuanced approach to sex and sexuality, rejecting the privileging of mononormativity. Polyamory is distinct from promiscuity, presupposes, and is reliant on, consensual, responsible, open, or negotiated non-monogamy (but this is not to say that promiscuity is inherently 'bad' and remains a valued practice to many). It actively rejects mononormativity and insists on democratic morality, as noted by the participant's description of bad polyamory. The construction of a set of rules thus allows for a kinship of choice, reflecting a break from the traditional family model. While it may be argued that this privileging is reliant on norms of care that apply to interactions with people recognized as worthy of concern that continue to reject purely sexual relations, it is important to note that multi-partner loving relations still have potential to disturb and unsettle hetero- and mononormativity.

*'I think it would be to our benefit if it was actually recognised by law, and there was a framework for that to actually occur, I think without that framework, well it, it, you don't have protections in quite the same way.'* (Single pansexual (poly) feminine polarised genderqueer, 42)

While calling for protections to be extended, the participant notes that multi-partner relationships allow for a pluralising of the forms of relationships that can exist, based on inherent differences caused by deviation from the mononormative model. This therefore adds to the continuous redrawing of the line between good and bad sex, the use of law as a tool to define the parameters of good and bad sex. Recognizing polyamorous relationships could be a means of delineating good sex. The participant advocates for a reformed vision of how the law evaluates relationships, calling for legal recognition for multi-partner relationships and thus acting with the law as a form of resistance. In the diversification of relationship recognition, the power that heteronormativity holds in the hierarchy may be altered, owing to the transformative potential of queer sexuality.

##### **5. 'Let's Go Outside': Queering the Public/Private**

Warner noted in 2000 that same-sex marriage would lead to the policing of the spaces in which LGBTQ people have sex, as a means of constraining such activity to the confines of the marital home (96). However, public sex has long been a feature of LGBTQ sexuality, particularly for gay men. Homonormativity is sustained by and reliant on the concept of

domesticity and the domestication of same-sex couples (Duggan 2002) and I argue that the homoradical actively opposes and resists domestication through sexual practices that transgress the traditional private boundaries of the home, particularly utilising public sex environments (PSEs) or public sex venues (PSVs). These spaces are ultimately politically salient in the transgression of social and legal norms regarding sex (Ashford 2012). PSEs categorise the various settings that serve the purpose of engaging in public sex and are regularly referred to as ‘cruising grounds’ or ‘cottaging’, while PSVs represent those commercial sex venues such as gay saunas or sex clubs. The term ‘cruising’ is used here to refer to the active searching for, and negotiation of sex with a stranger usually found (or taking place) in a public outdoor space, while ‘cottaging’ entails the use of public bathrooms or toilets for sex with others in the space. Cottaging is criminalised under s71 Sexual Offences Act 2003. In analysing these sexual practices and the perspectives of the LGBTQ participants who describe them, it is possible to demonstrate the ways in which the homoradical actively resists normativity by transgressing social norms of privacy around sex (Atkins and Laing 2012) and by redefining and transgressing the public/private divide. Drawing on Warner’s statement on the policing of non-private sex as a matter of privacy, it is crucial to investigate the ways in which the homoradical resists this.

Public sex is socially and historically significant in the development of gay men’s sexuality, particularly. The use of PSEs has been fundamental in sexual identity formation as a means of discovering and having sex when doing so was either illegal or socially stigmatized (see works by Ashford and O’Brian 2008; Ashford 2009, 2012). One participant describes his past use of PSEs:

*‘I can’t say I haven’t, ‘cause I have been to saunas, probably a lot more when I was younger, finding the, kind of, gay world, but it wouldn’t be our go to, to be honest, I don’t think . . . it’s a more sexualised environment, definitely compared to the straight external world.’ (Married gay man, 34)*

As a gateway to the ‘gay world’, a means of accessing not only sex, but also other gay men, PSEs have been a crucial site of identity formation and sexual development for many gay men. As he now no longer needs saunas to discover sex or the ‘gay world’, he posits this world as separate from the external heterosexual world and simultaneously constructs PSVs as private locations that are exclusionary to the wider heteronormative society. This may position sex in a PSV as at odds with discourses surrounding marriage which rely on private, domestic locations, at odds with the historical functioning of saunas. Another participant explained:

*‘I know for a lot of people, I have friends in their 30s and 40s who probably have similar attitudes to me, but have had sex or still do have sex in certain open spaces because when they were my age, they had to, they couldn’t have sex indoors because that was where people would know about it, it couldn’t be a thing for them. I’ve never had that consideration; I’ve always had the option of my own space in which I’m comfortable.’ (Single gay man, 25)*

This participant notes the changing socio-legal landscape that has facilitated the move of sex from public to private spaces, yet he recognises the impossibility of this for some who live with family members to whom they are not ‘out’. This resonates with Atkins and Laing, who state that the presumption of private sex is central to legal frameworks.

‘The normative notion that sexual encounters should be performed behind curtains, closed doors and within four walls is not only central to legal frameworks, but is important in the context of understanding societal readings of privacy imbued and embodied in sexual relations’ (Atkins and Laing 2012, p. 623).

Such frameworks also privilege sex for people who can afford their own private spaces, or control them. There are people excluded from this category for reasons other than sexual identity, for instance homeless people, teenagers, the elderly, disabled people, and sex workers of all genders. *Rose v DPP* [2006] EWHC 852 (Admin), [2006] 1 WLR 2626 can be used to specifically illustrate the issue homeless people have in safely and legally

engaging in sex. In the case, the defendant was charged with outraging public decency by performing a sex act in the early hours of the morning in a bank foyer which was open to the public and visible from outside, though no complaint was made by anyone during the act. A complaint was only made when the bank manager watched CCTV footage the next day. The conviction was appealed on the basis that the offence was not made out if only one person had seen, or could have seen, the act in question, and therefore there was no 'public' element to establish the offence in the instant case. While, in this case the defendant successfully appealed their case, it serves to demonstrate the difficulties certain groups face when seeking out sex in public spaces.

Sex in public spaces is therefore an important form of socio-sexual relations for certain groups. In addition to the historical consideration of public sex venues and environments as a sexualized queer space, the participant notes how these spaces may be important spaces for gay socialising:

*'I'd happily actually go to one just to see what it was like, it's interesting, and I have a friend who enjoys sex with large, he enjoys group sex and for him it's a, it's just a real thing of his that that's what he wants to do, but for him, that's social interaction as well, I was fascinated by how he spoke about it, as he would go to a sauna, ideally with one or two friends of his, erm, and they might do things or they might not, it depends on the friendship, it's more that this is like a, similar to a group session at the pub, or this is kind of like those kind of sessions that happen now where people meet new people and go for activity days, and they go for a bonding session, and he likes that. So I find that really interesting and erm, but it's not a personal appeal.'* (Single gay man, 25)

This deviates from homonormativity, which has been argued to minimise sexual discourses, through the queering of the boundaries of sexual relationships, of spatial temporality, and of casual friendship ethics that transgress the privacy of sex and the publicity of friendship. Gay saunas and PSVs are thus constructed as sources of community building, which is at odds with the depoliticising and domesticated nature of homonormativity and demonstrative of the homoradical's anti-assimilationist behaviour in resisting norms of domestic sex. Non-domestic sex emerges from the data as a dominant theme that is reliant on the active sexualisation of public spaces and as a form of resistance to the homogenising image of marriage. The participant quoted below actively uses, and seeks out, public sex venues and environments, not only locally but also when travelling. At the same time, he maintains a strict separation between his public sex and his domestic environment:

*'I'm not gonna say it's, well, I would say, Newcastle, if I'm out in Newcastle, I'm not gonna say every weekend, but maybe once or twice a month I would go to saunas, certainly if I'm away to other cities, I will experience what the saunas are like there, and like I said the dark rooms in the cruise bars, irrespective of which city it is, erm, activity-wise when it comes to it, you know, when I would look at holiday wise, I do look for things which are very much the gay venues so I can be who I want, when I want and some of them where we look at, you know, I would look to see what kind of—attractions is the wrong word—but part of those venues that, of you know, will they promote or will they accept the sexual interaction as well, it's going to happen on holiday but you know how easy or how blatant is it in certain places.'* (Single gay man, 44)

This demonstrates a form of travel or tourism that incorporates non-normative sexual behaviours, activities which have been described by [Pritchard et al. \(2000\)](#) as an escape from the heterosexism of home areas ([Clift and Forrest 1999](#)). Using PSVs in other cities demonstrates the importance of the availability of the type of sex that occurs in such spaces—which is typically anonymous. In incorporating sexualised spaces into his travels, the participant reemphasises and consolidates his sexual identity, particularly by stating *'so I can be who I want, when I want'* (emphasis added). This demonstrates non-normative sex as a central element to his life, reiterating the of an actively sexualised identity, of transgressing social norms regarding sex.

*'There's very few sexual activities that I actually have in my own household because I see that my house is erm my sanctuary, my fortress, who, I don't, because of the sexual activities that I have that are anonymous, it's something that you know to let somebody into my house gives some sort of emotional attachment because they have an insight into my life, erm so for me to sit on the outside of the circle it is to go to the saunas, the sex in the pubs, it is the cruising areas the use of the sex industry, the pornography, the Grindr, the social networking sites on the cruising, looking for sex.'* (Single gay man, 44)

The participant notes the importance of his own anonymity, and that of others, in sexual practices. He therefore does not allow these partners into his home, avoiding any form of attachment. In this way, he queers the boundaries of home as a safe space for sex, removing sex from his home and utilising the sexualised space of PSEs and PSVs. In separating sex from the domestic, the homoradical embraces a sexuality that is seen as deviant and that exists at the bottom of the sexual hierarchy (Rubin 1984). In the use of cruising areas and cottaging sites, the homoradical rejects the assumed domesticity of sex. This contradicts the supposed safe and sanctifiable justification for sex that marriage provides, and further demonstrates that the occasion of same-sex marriage does not fully preclude the need for, and use of public sex for LGBTQ people.

## 6. Kink

Kink practices and identities of the participants will be discussed in this section in order to construct the homoradical as emerging through the embodiment of 'bad' sex in the sexual hierarchy, at odds with the normative image of marriage, and have been noted by Rubin to be 'the most despised sexual castes currently include transsexuals, transvestites, fetishists, sadomasochists, sex workers such as prostitutes and porn models' (Rubin 1984, p. 151). Kink and BDSM are often defined by the practising person as performative acts that appropriate social hierarchies, restage power imbalances, and re-signify pain within consensual contexts. Kink relies heavily on the creation of fantasy as an expression of identity. This entails moving beyond sex and performing and enacting certain roles and pleasures, indicating a further construction of some kink sex as a practice that is rooted in radical sex politics, but not, necessarily all kink sex. Kink identity and practice were often presented by participants as an 'extreme' of sexuality, one that was opposed to 'good' conceptions of sex. One participant explicitly contrasts law (and constructs a personification of law) against kink sexual practices, particularly noting their distancing from vanilla domesticated sex, which may be seen to represent good sex:

*'Just because it's extreme to some white, middle class vanilla-loving, missionary sex person in Westminster, doesn't mean it's extreme for someone else, Jesus Christ, go to some clubs in Berlin, they'd have a fucking heart attack.'* (Single gay man, 27)

Here, the participant explicitly contrasts the homosexual object to the legal subject, and the construction and creation of law. In doing so, 'Westminster' (in representing not only Parliament, but also lawmakers) inherently prescribes hegemonic vanilla monogamy, which may clearly represent the creation and stipulation of marriage and its further focus on procreational familial norms. In ascribing personhood to the law through the linking of MPs, the participant paints kink practitioners as being at odds with this, implicating the law (and marriage) as vanilla, classed, and desexualised. Kink sex was a significant aspect of Rubin's (1984) original discussions of the sexual hierarchy, as opposed to the safe and sanctifiable sex presupposed in marriage. Kink and BDSM sexual practices are used as a signifier of non-normativity and the homoradical, as 'the community of normalcy recognises itself through the rejection of the sexual other and through its fortification of the boundaries around sexual citizenship' (Khan 2014, p. 20). To be a kink practitioner, then, is to embrace those sexual practices that are not legally sanctioned or socially approved.

Kink sexuality is continually reaffirmed to be 'abnormal' or associated with 'deviant' (see Khan 2014) forms of sexuality. That is, sexuality which deviates from traditional, safe, and sanctifiable means:

*'Never into S&M or anything like that, but within the realms of . . . dare I say normal? Which is like, what is normal?'* (Married gay man, 43)

Kink sex is also associated with criminal sexual activity, as an 'extreme' sexual practice: *'I would say, what would I count as freaky? Erm well just like, I do quite like a bit of bondage once and again, and obviously that lad who used to do those rape role-plays, bang into that . . . I'm just quite open minded, that's all.'* (Single gay man, 27)

The reference to 'that lad' is to a particular sexual partner who initiated rape role-play for sexual pleasure. Such an activity can be seen to be a replication and fetishisation of non-consensual sex, (earlier in the interview, the participant had referred to the partner as a previous fiancé), particularly in the practice of rape role-play with a mutual acquaintance, indicating overt negotiation of consent and limit-setting. To the outsider, it feeds into the presumption that BDSM is an inherently abusive practice (Khan 2014). The appearance and presumption of kink and BDSM as dangerous or abusive sexual practices posit such practices as radical or deviant and inherent to the homoradical use of sex as a tool to destabilise and transgress social norms regarding pleasure, intimacy, and pain:

*'I like to be hurt [laughs] I dunno if that sounds bad, but other people think it is, like if I'm with my friends and I'm getting changed and I've got like bruises and scratches and cuts and everything, they're like 'shit, what's she done to you, are you okay?', I'm like yes it was consensual, everything's fine, but yeah my straight friends struggle with that the most, and they always say, because I live in a shared house, why would you wanna do that when you know we're upstairs, I'm like well you're not in the room with me so I don't . . . '* (Single lesbian, 21)

The participant who enjoys masochism (sexual excitement in receiving pain) recounts her peers' misplaced concern and faulty assumptions. This is in keeping with Khan's statement that kink sex re-signifies hierarchical relationships (Khan 2014). The issue of private space and homoradical sex is further developed here, as the taboo incited by kink sex is taken upon by heterosexual housemates and constructed as dangerous in a private space (which it often can be when non-consensual or with abusive partners). Sado-masochism is thus constructed as something visible and blatant, with the marks left from kink sex indicating vulnerability and damage (Khan 2014, p. 282)—irrespective of the participant's consent and enjoyment. Within this heteronormative lens, the participant's agency is removed, despite the sex taking place in a private space. Bauer has noted that 'as opposed to heteronormative acts, non-normative sexual and gender expressions are severely restricted and policed in the public and private realm, belying the liberal notion of a right to privacy' (ibid., p. 107). The participant signifies how kink homoradical sex is at odds with heteronormative space, particularly in the shared private space of their home, and acts to demonstrate a rejection of homonormativity.

Prejudice against kink identity is a theme resonant of the judgments from *R v Brown* (1993) 97 Cr. App. 44, in which gay BDSM was castigated as uncivilised and immoral: the practice of sadism, as 'pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilised', ((1993) 97 Cr. App. 44 at 52 per Lord Templeman). The outcome of *Brown* has recently been incorporated into legislation by s71 Domestic Abuse Act 2021, which states that consent to serious harm for sexual gratification not a defence in 'rough sex' cases. Thus, posing as the homoradical, and taking part in BDSM behaviour, is deemed irrational, risky, and representative of a 'bad' sexuality that is at odds with sexual norms.

Kink has emerged as a fundamental facet of identity and lifestyle, one that signifies the incorporation of an active sexuality that is at odds with the sexual domestication furthered by homonormativity:

*'But even certain kinks, people don't seem to think of it as a kinky or sexual activity, er, it's an important lifestyle, just who they are. Er, as they are, as a person, same as some people feel they're a different sexuality, which I completely understand.'* (Single bisexual man, 28)

In constructing kink as a lifestyle, it becomes intrinsically linked to this practitioner's identity. The participant, a kink practitioner, noted the significant role that kink has played in his life. He stated that 'society frowns on pretty much anything I like to do' indicating his space outside respectable sexuality. Kink and BDSM practices are shown to be indicative of an attitude that prioritises and maximises queer sexual potential, at odds with homonormative tendencies to remove and hide sexuality. Thus, the homoradical may eschew the sexual hierarchy in devoting their lifestyle to 'bad' categories of sexuality. Khan has stated that, traditionally, 'investigations of s/m frequently find that the fault line between normal sexuality and pathological sexuality is fragile and in need of reinforcement from psychological diagnoses, criminal investigation, feminist education, and moralising stories' (Khan 2014). However, the data in this study has demonstrated that participants are frequently exhibiting and practising kink behaviour as a regular and constructive element of their sexuality, moving beyond boundaries of sex that may be safe or sanctionable, and instead developing their own practices beyond the line of respectability. In this way, they continuously utilise non-normative sex as a destabilising tool, resisting the normative consequences of same-sex marriage and homonormativity.

## 7. Conclusions

The homoradical questions traditional social and legal norms surrounding sex, challenging that which seeks to discourage sexual behaviour that transcends traditional boundaries of monogamy, domesticity, and risk/pain. LGBTQ people have the potential to queer marriage through non-monogamy, subverting mononormative expectations, or through the transgression of the traditional boundaries of relationships, sex, privacy, and friendship—identifiable as sex that exists at the 'outer limits' of Rubin's charmed circle. The potential to queer marriage thus arises from those who choose to enter into it and transgress its social and legal boundaries, or by those who seek to change the fundamental nature of marriage as a dyadic structure, while remaining 'sensitive to the contingency of gender and sexual identity categories' (Zanghellini 2009, p. 2). Investigations into non-normative sexuality within an age of homonormative marriage are significant as an exploration of the emergence of new norms within themes of gender, sexuality and law, and also highlighting the lived experiences of LGBTQ people following the granting of familial rights.

The construction of the homoradical, as at odds with homonormativity, seeks to understand the continuous role of sex and sexuality in the lives of queer people. To act in radical ways, such as the seeking sex out of committed relationships, public sex and kink sex may not always be politically motivated but retains a political valence. This entails the subversion of established social and legal norms of sexual behaviour nevertheless entails a radical socio-sexual consequence, despite a lack of intent, even a lack of knowledge of contemplation. As such, not all those in this study would recognize or accept the term 'homoradical' but it remains a tool for the recognition of queer sexual actions that challenge the normative status-quo. The homoradical's potential as a theoretical construct, points to the politically radical potential of queer sexuality, even when those who practice it are oblivious to the fact they are doing anything political. The subversion of established social and legal norms and the pursuit of sex outside the realm of the sanctifiable and domestic is worthy of investigation.

This article has constructed the homoradical despite same-sex marriage as an all-encompassing trend towards monogamy and domesticity. The homoradical demonstrates the significance and prevalence of sex outside of the domestic realm, through non-monogamous, non-domestic, or non-vanilla sex. This amounts to resistance against heteronormativity and mononormativity. In breaking down such relationship boundaries, the homoradical calls into question the centrality of marital law to LGBTQ populations and the ways in which law interacts with and seeks to regulate sexuality through the proffering of norms of sexuality.

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## References

### Primary Sources

*R v Brown* (1993) 97 Cr. App. 44

*Rose v DPP* [2006] EWHC 852 (Admin), [2006] 1 WLR 2626

### Secondary Sources

- Ahmed, Sara. 2006. Orientations: Towards a Queer Phenomenology. *GLQ: A Journal of Lesbian and Gay Studies* 12: 543. [\[CrossRef\]](#)
- Ashford, Chris. 2009. Queer Theory, Cyber-Ethnographies and Researching Online Sex Environments. *Information and Communications Technology Law* 18: 304. [\[CrossRef\]](#)
- Ashford, Chris. 2012. From cruising to dogging: The surveillance and consumption of public sex. In *Out of the Ordinary: Representations of LGBT Lives*. Edited by I. Rivers and R. Ward. Cambridge: Cambridge Scholars, pp. 77–92, 145.
- Ashford, Chris, Maine Alexander, and Giuseppe Zago. 2020. Normative Behaviour, Moral Boundaries, and the State. In *Research Handbook on Gender, Sexuality and Law*. Edited by Chris Ashford and Alexander Maine. Cheltenham: Edward Elgar, p. 409.
- Ashford, Chris, and Michael O'Brian. 2008. Privacy and the public/private divide. *Information and Communications Technology Law* 17: 1. [\[CrossRef\]](#)
- Atkins, Michael, and Mary Laing. 2012. Walking the Beat and Doing Business: Exploring Spaces of Male Sex Work and Public Sex. *Sexualities* 15: 622. [\[CrossRef\]](#)
- Barton, Chris. 2004. Bigamy and Marriage—horse and carriage. *Family Law* 34: 517.
- Bauer, Robin. 2010. Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse. In *Understanding Non-Monogamies*. Edited by Meg Barker and Darren Langdrige. London: Routledge.
- Bauer, Robin. 2014. *Queer BDSM Intimacies: Critical Consent and Pushing Boundaries*. New York: Palgrave Macmillan, p. 117.
- Bernstein, Mary. 2015. Same-Sex Marriage and the Future of the LGBT Movement. *Gender and Society* 29: 321–37. [\[CrossRef\]](#)
- Sycamore, Mattilda Bernstein. 2004. There's More to Life Than Platinum: Challenging the Tyranny of Sweat-shop-Produced Rainbow Flags and Participatory Patriarchy. In *That's Revolting!: Queer Strategies for Resisting Assimilation*. Edited by Mattilda Bernstein Sycamore. New York: Soft Skull Press.
- Bersani, Leo. 1998. Against Monogamy. *Oxford Literary Review* 20: 1. [\[CrossRef\]](#)
- Bonello, Kristoff, and Malcolm Cross. 2010. Gay Monogamy: I Love You but I Can't Have Sex with Only You. *Journal of Homosexuality* 57: 117. [\[CrossRef\]](#)
- Boyd, Susan. 1999. Family Law and Sexuality: Feminist Engagements. *Social and Legal Studies* 8: 369. [\[CrossRef\]](#)
- Butler, Judith. 1999. *Gender Trouble: Feminism and the Subversion of Identity*, 2nd ed. London: Routledge, p. 187.
- Butler, Judith. 2004a. Bodies and Power Revisited. In *Feminist and the Final Foucault*. Edited by Diana Taylor and Karen Vintges. Urbana: University of Illinois Press.
- Butler, Judith. 2004b. *Undoing Gender*. London: Routledge.
- Clift, Stephen, and Stephen Forrest. 1999. Factors Associated with Gay Men's Sexual Behaviours and Risk on Holiday. *AIDS Care* 11: 281. [\[CrossRef\]](#)
- Cossmann, Brenda. 2019. Queering Queer Legal Studies: An Unreconstructed Ode to Eve Sedgwick (and Others). *Critical Analysis of Law* 6: 1.
- Den Otter, Ronald. 2018. A perfectionist argument for legal recognition of polyamorous relationships. In *Philosophical Foundations of Family and Children's Law*. Edited by E. Brake and L. Ferguson. Oxford: Oxford University Press.
- Duggan, Lisa. 2002. The New Homonormativity: The Sexual Politics of Neoliberalism. In *Materializing Democracy: Toward a Revitalized Cultural Politics*. Edited by Dana Nelson and Russ Castronovo. Durham: Duke University Press, p. 178.
- Duggan, Lisa. 2003. *The Twilight of Equality? Neoliberalism, Cultural Politics and the Attack on Democracy*. Boston: Beacon Press.
- Etikan, Ilker, Rukayya Alkassim, and Sulaiman Abubakar. 2016. Comparison of snowball sampling and sequential sampling tech-nique. *Biometrics and Biostatistics International Journal* 3: 6–7. [\[CrossRef\]](#)
- Ewick, Patrick, and Susan Silbey. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press.

- Foucault, Michel. 1978. *The History of Sexuality: An Introduction*, 1st ed. New York: Vintage Books.
- Franke, Katherine. 2015. *Wedlocked: The Perils of Marriage Equality*. New York: NYU Press.
- Giddens, Anthony. 1992. *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies*. Cambridge: Polity Press.
- Gonzalez-Salzburg, Damien. 2019. *Sexuality and Transsexuality under the European Convention on Human Rights*. London: Hart.
- Halley, Janet. 2001. Recognition, Rights, Regulation, Normalisation: Rhetorics of Justification in the Same-Sex Marriage Debate. In *Legal Recognition of Same-Sex Partnerships*. Edited by Wintermute Rovert and Andenaes Mads. London: Hart.
- Harding, Rosie. 2011. *Regulating Sexuality: Legal Consciousness in Lesbian and Gay Lives*. London: Routledge.
- Heaphy, Brian, Carol Smart, and Anna Einarsdottir. 2013. *Same-Sex Marriages: New Generations, New Relationships*. New York: Palgrave Macmillan.
- Heaphy, Brian, Catherine Donovan, and Jeffrey Weeks. 2014. A Different Affair? Openness and Nonmonogamy in Same Sex Relationships. In *The State of Affairs: Explorations in Infidelity and Commitment*. Edited by Jean Ed Duncombe, Kaeren Harrison, Graham Allan and Dennis Marsden. London: Routledge, p. 168.
- Hocquenghem, Guy. 2010. *The Screwball Asses*. Translated by Wedell Noura. Los Angeles: Semiotext(e).
- Hosking, Warwick. 2013. Satisfaction with Open Sexual Agreements in Australian Gay Men's Relationships: The Role of the Perceived Discrepancies in Benefit. *Archive of Sexual Behaviour* 42: 1309. [[CrossRef](#)] [[PubMed](#)]
- Hull, Kathleen. 2003. The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage. *Law and Social Inquiry* 28: 632. [[CrossRef](#)]
- Khan, Ummni. 2014. *Vicarious Kinks: S/M in the Socio-Legal Imaginary*. Toronto: University of Toronto Press, p. 283.
- Kepros, Laurie Rose. 1999. Queer theory: Weed or seed in the garden of legal theory? *Law and Sexuality* 9: 279.
- Lasala, Michael. 2004. Monogamy of the Heart. *Journal of Gay & Lesbian Social Services* 17: 21.
- Longhurst, Robyn. 2003. Semi-structured interviews and focus groups. *Key Methods in Geography* 3: 143.
- Macedo, Stephen. 2015. *Just Married: Same-Sex Couples, Monogamy and the Future of Marriage*. Princeton: Princeton University Press.
- Maine, Alexander. 2020. The Hierarchy of Marriage and Civil Partnerships: Diversifying Relationship Recognition. In *Same-Sex Relationships, Law and Social Change*. Edited by Frances Hamilton and Guido Noto La Diega. London: Routledge, p. 209.
- Maine, Alexander. 2021. Queer(y)ing Consummation: An Empirical Reflection on the Marriage (Same Sex Couples) Act 2013 and the role of Consummation. *Child and Family Law Quarterly* 33: 143.
- Meeks, Chet, and Arlene Stein. 2006. Refiguring the Family: Towards a Post-Queer Politics of Gay and Lesbian Marriage. In *Intersections between Feminist and Queer Theory*. Edited by Diane Richardson, Janice McLaughlin and Mark Casey. New York: Palgrave Macmillan.
- Muñoz, José. 2009. *Cruising Utopia: The Then and There of Queer Futurity*. New York: New York University Press.
- Palazzo, Nausica. 2021. *Legal Recognition of Non-Conjugal Families: New frontiers in Family Law in the US, Canada and Europe*. London: Hart.
- Pritchard, Annette, Nigel Morgan, and Diane Sedgely. 2000. Exploring Issues of Space and Sexuality in Manchester's Gay Village. In *Reflections on International Tourism: Developments in Urban and Rural Tourism*. Edited by Mike Robinson. Sunderland: Business Education Publishers, p. 267.
- Puar, Jasbir. 2007. *Terrorist Assemblages: Homonationalism in Queer Times*. Duke: Duke University Press.
- Rambukkana, Nathan. 2008. Uncomfortable Bridges: The Bisexual Politics of Outing Polyamory. *Journal of Bisexuality* 4: 143. [[CrossRef](#)]
- Richardson, Diane. 2005. Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation. *Antipodes* 37: 516.
- Robinson, Brandon. 2012. Is This What Equality Looks Like? *Sexuality Research and Social Policy* 9: 334. [[CrossRef](#)]
- Roseneil, Sasha, Isabel Crowhurst, Tone Hellesund, Ana Santos, and Mariya Stoilova. 2020. *The Tenacity of the Couple Norm: Intimate citizenship regimes in a changing Europe*. London: UCL Press.
- Rubin, Gayle. 1984. Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality. In *Pleasure and Danger: Exploring Female Sexuality*. Edited by Carole Vance. London: Routledge, p. 151.
- Sharpe, Alex. 2020. Will Gender Self-Declaration Undermine Women's Rights and Lead to an Increase in Harms? *Modern Law Review* 83: 539–57. [[CrossRef](#)]
- Stychin, Carl. 2006a. "Las Vegas Is Not Where We Are": Queer Readings of the Civil Partnership Act. *Political Geography* 25: 899. [[CrossRef](#)]
- Stychin, Carl. 2006b. Not (Quite) a Horse and Carriage: The Civil Partnership Act 2004. *Feminist Legal Studies* 14: 79. [[CrossRef](#)]
- Vaid, Urvashi. 1996. *Virtual Equality: The Mainstreaming of Lesbian and Gay Liberation*. Garden City: Anchor Books, p. 63.
- Warner, Michael. 2000. *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life*, 2nd ed. Harvard: Harvard University Press, p. 96.
- Warner, Michael. 2002. Beyond Gay Marriage. In *Left Legalism/Left Critique*. Edited by W. Brown and J. Halley. Duke: Duke University Press, p. 260.
- Weeks, Jeffrey. 1995. *Invented Moralities: Sexual Values in the Age of Uncertainty*. New York: Columbia University Press.
- Weeks, Jeffrey, Brian Heaphy, and Catherine Donovan. 2001. *Same-Sex Intimacies: Families of Choice and Other Life Experiments*. London: Routledge.
- Wolkomir, Michelle. 2009. Making Heteronormative Reconciliations: The Story of Romantic Love, Sexuality, and Gender in Mixed-Orientation Marriages. *Gender & Society* 23: 494.

- Worth, Heather, Alison Reid, and Karen McMillan. 2002. Somewhere over the Rainbow: Love, Trust and Monogamy in Gay Relationships. *Journal of Sociology* 38: 237. [[CrossRef](#)]
- Zanghellini, Alcardo. 2009. Queer, anti-normativity, counter-normativity and abjection. *Griffith Law Review* 18: 1. [[CrossRef](#)]