

COUNTDOWN ON SPANNER

69 COWCROSS STREET, LONDON EC1M 6BP

September 1992

Dear Friend,

Thank you for your request for more information on how you can support Countdown On Spanner.

Whether or not you are a SadoMasochist, your sexual civil liberties were curtailed this year by an Appeal Court Ruling which ruled that people who engage in SadoMasochistic sex can be found guilty of assault and sent to prison.

The Ruling argues that consent is NOT a defence in sexual acts where the court feels actual bodily harm has been committed. The Ruling was made at an Appeal by 5 (of 16) men convicted in 1991. Some of these men still face three and a half years in prison if the next appeal fails.

Countdown on Spanner began in August 1992 with a public meeting attended by over 100 people. It now meets weekly in London and we hope that other similar groups will start up in other British cities. The Ruling, made at the trial, expressly included heterosexuals, bisexuals, lesbians and gays. The Countdown On Spanner is made up of, and welcomes, SadoMasochists of ALL sexualities and our supporters. This Campaign has already won the support of SM and related groups across North America and Europe

Amongst our supporters we already include SM Gays, SM Dykes, Der Putsch, The Sadie Maisie Club, The Torture Garden, The Block, The Market Tavern, Skin Two, Zeitgeist, Regulation, Sh!, and have received support from Expectation and The Scala.

Enclosed is our Infopack which contains the following:

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| A | Background to the Case | E | Our Conclusions |
| B | Media and Public Reaction | F | About Countdown On Spanner |
| C | Effects and Implications | G | Part I of the Lobby Campaign |
| D | A Definition of SadoMasochism H/I | | What Else You Can Do |

We also enclose a poster that you may be able to display and that advertises our meetings, a list of forthcoming events, a copy of the badges available, and Form SM1 which, if you decide to support the campaign, you should fill in and return to us.

Thank you again for reading this pack, and we look forward to hearing from you soon.

Yours,

Kellan Farshea
For The Education Unit



SM: LEGALITY. VALIDITY. EQUALITY

COUNTDOWN ON SPANNER - INFOPACK

A. The Case

In December 1990, 16 men were convicted as a result of a police investigation organised by the Obscene Publications Squad and called "Operation Spanner". 11 of these men were convicted of "assault" and given prison sentences. The trial Judge described the sentences as "lenient" because he recognised that none of these men realised that the acts could be classed as assault. Both at the trial and the subsequent appeal (in February 1992) the courts accepted that:

- ▼ these "assaults" had occurred with the full consent of all the men involved including all of the men who were "assaulted"
- ▼ all the activities occurred in private
- ▼ the "injuries" had not been permanent nor required any medical treatment
- ▼ no complaint had been made to the police

All these "offenses" occurred in the context of SadoMasochist sex such as flagellation and piercing and whilst some of these activities had been recorded on video, none of the men were prosecuted under the Obscene Publications Act.

The Trial and Appeal Court judges ruled that consent was never a defence in cases of assault intended to give sexual pleasure. In fact, according to Lord Lane, the Appeal Court judge and then Lord Chief Justice, **"the question of consent was immaterial"**.

Citing only legal precedent (one 57 year-old case) and not parliamentary law, the court ruled that "bodily harm" included any "hurt or injury" calculated to interfere with "health or comfort" as long as the "injury" was more than transient or trifling. Lord Lane accepted that these "injuries" were not permanent but ruled that they were more than trifling or transient.

At the Trial, the Judge, Judge Rant, stated that **"the courts must draw a line between what is acceptable in a civilised society and what is not"**. Lord Lane, at the Appeal, argued that it was not **"in the public interest"** to allow people to cause each other actual bodily harm for no **"good reason"**. He concluded that **"SadoMasochistic libido"** did not come within the category of "good reason". (Unlike, apparently, boxing).

The Appeal Court upheld the convictions but dramatically reduced the Trial Courts' supposedly "lenient" sentences. He reiterated Judge Rant's assertion that "leniency" was only being extended because the defendants had no way of knowing that they were committing an offence BUT in future people should expect heavier sentences.

One particularly disturbing aspect of this case was the (mis)use of conspiracy laws. Some of the men were, initially, charged with conspiracy and this meant that all the men had to be tried in front of the Central Criminal Court rather than a magistrates court. (Magistrates cannot set legal precedent). However, when the case came to court all the conspiracy charges were dropped without any explanation whatsoever.

Another incredible aspect of the case resulted in another "new law" by legal precedent. Some of the men were convicted of aiding and abetting assaults when they, themselves, were the alleged "victims".

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B. Media and Public Reaction

During the trial the tabloid media and *The Independent* published an number of censorious and inflammatory articles about the men's activities including publishing their names and addresses. Afterwards, however, much of the "quality" press condemned the Judgement. The Times called it **"illiberal nonsense"** and criticised the courts for criminalising activities without reference to Parliament.

This theme was supported by Liberty (formerly the National Council for Civil Liberties), whose spokesperson, Andrew Puddephat, argued that it was **"not for judges to decide what is acceptable in a civilised society... There are important principles about individual liberty. These issues are best not left to judges."**

The Haldane Society also supported this line and their spokesman, Keir Starmer, said that morality was **"a question for Parliament, not the judiciary"**.

After the Appeal failed, *The Independent* described Lord Lane's doctrine as a **"very dubious doctrine"**. Liberty saw it as a **"worrying judgement"** and *The Times* religious affairs correspondent argued that by making consent irrelevant, the judgement was no different to the views on sex held by St Augustine in the 4th Century.

The Independent Editorial went on to ask: **"whether it is any business of the law to protect people from themselves when the public is not involved"**.

And John Naughton, writing in *The Observer*, followed the theme: **"the bewigged boobies of the law have no right to go poking about in people's bedrooms"**.

After the Appeal, Channel 4 ran a short documentary on *Free for All* which was voted one of the two best of these films. This was made by SadoMasochists protesting these judgements.

At its 1991 conference NALGO passed two notions criticising the Trial Courts Ruling.

C. Effects and Implications

This case hinged on the Ruling that consent was **"immaterial"** in cases of **"sadoMasochistic libido"**. But by denying the importance of consent, the Trial and Appeal Court judges have attacked our right as individuals to decide what to do with our own bodies. Consent is crucial in all human interaction. It is what distinguishes invited attention from unwanted harassment and it is, obviously, what distinguishes sexual intercourse from rape. It is interesting to compare the legal situation now facing consenting SadoMasochists with that experienced by victims of domestic violence. In deciding whether to prosecute the perpetrators of domestic violence, the police use the following definition of assault:

"The intentional application of force to the person by another without his (sic) consent." - (The House of Commons Select Committee on Violence In Marriage -1974)

Even so, studies have shown that only 20% of cases of domestic violence are actually prosecuted even where the assault was described as **"life-threatening"** and the victims wanted prosecutions to take place.

It is, therefore, ironic to say the least, that the police should spend over £3 million prosecuting fully consenting SadoMasochists, none of whom had complained to the police, and yet time and time again they fail to prosecute the perpetrators of real assaults, even when the victims wish prosecutions to take place.

Even more bizarre, as *The Independent* pointed out, was that the courts relied on the notions of **"in the public interest"** and **"good reason"**. The courts ruled that it was not **"in the public interest"** that people should be able to **"harm"** each other for **"no good reason"**.

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The courts have already decided that boxing, where the victims can, and do, end up with serious brain damage, is legal. Presumably sport and money-making is a "good reason" (and this being Britain) sex is not.

The assertion that "in the public interest" should be used as a basis for what is or is not legal is patently absurd. Innumerable activities from train spotting to hang gliding may not be "in the public interest" but are not to be regarded as illegal. Presumably the distinguishing element in this case was, yet again, the sexual one. This is highlighted by the effect of the rulings on body piercings.

The courts have decided that piercings are only legal as long as they are not performed to give or obtain sexual gratification. This means that if a person only experiences pain during a piercing it is legal, but if they also obtain pleasure then it constitutes a serious criminal assault and they face long prison sentences.

D. What Is SadoMasochism?

The term SadoMasochism encompasses an enormously diverse range of experiences. However, the Education Unit of Countdown On Spanner (a mixed sexuality campaign of SadoMasochists and our supporters) have produced the following working definition:

SADOMASOCHISM is obtaining pleasure from a power exchange and/or pain in consensual sex play and/or sexual fantasy.

SADOMASOCHIST SEX is, by definition, consensual.

Non-consensual sex is an abuse of power and is, therefore, sexual violence, not SadoMasochist sex.

There are no predetermined roles in SadoMasochist sex and sexual identity. Power relations in SadoMasochism are defined by choice.

E. Conclusions

Clearly the Spanner case represents an attack on our sexual civil liberties and our individual autonomy - the right to control our own bodies. Furthermore, the ludicrous contradictions inherent in these judgements have also brought the law into disrepute.

But perhaps the most important issue is that the law has been changed without reference to Parliament, but by the Police and Judiciary. The basis of these prosecutions, the (mis)use of the Conspiracy Laws and the disregard for the importance of consent, all point to these Rulings being made, not on an interpretation of Law, but on the moral agenda of the Obscene Publications Squad and some sections of the British Judiciary.

It is the responsibility of Parliament to make law, Judges to interpret law, and the Police to enforce the law. When policemen begin to make law, Spanner is the result.

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F. Countdown on Spanner

Countdown On Spanner is a mixed sexuality campaign that meets weekly in London and has the following aims:

- ▼ To reverse the Appeal Court Ruling.
- ▼ To demand that consent be considered a "good reason" for our involvement in activities affecting our person.
- ▼ To demand the right to own and control our own bodies.
- ▼ To demand the recognition that SadoMasochism is a valid, sensual and legitimate part of human sexuality.

The next Appeal (and our last under British Law) is on December 1st and takes place before the Law Lords. Our legal advice suggests that the Law Lords are open to some influence from public opinion - therefore this campaign aims to publicise the absurdities and injustices of the Trial and Appeal Court Judgements with a view to their being overturned by the Law Lords.

The Campaign has gained the support of a wide cross-section of SadoMasochists - gay, lesbian, heterosexual and bisexual - as well as the support of non-SadoMasochists. But this campaign can only work if as many people as possible are involved.

Countdown On Spanner is using a variety of Campaigning tools but the most accessible and possibly important is the Lobby.