

Civilization and sadomasochism

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HOUSE OF LORDS

(Case notes)

The appellants belonged to a group of sado-masochistic homosexuals who over a ten-year period from 19XX willingly participated in the commission of acts of violence against each other, including genital torture, for the sexual pleasure which it engendered in the giving and receiving of pain. The passive partner or victim in each case consented to the acts being committed and suffered no permanent injury. The activities took place in private at a number of different locations, including rooms equipped as torture chambers at the homes of three of the appellants. Video cameras were used to record the activities and the resulting tapes were then copied and distributed amongst members of the group. The tapes were not sold

or used other than for the delectation of members of the group. The appellants were tried on charges of assault occasioning actual bodily harm, contrary to s 47 [a] of the Offences against the Person Act 1861, and unlawful wounding, contrary to s 20 [b] of that Act. The Crown's case was based very largely on the contents of the video tapes. Following a ruling by the trial judge that the consent of the victim afforded no defence to the charges, the appellants pleaded guilty and were sentenced to terms of imprisonment. The appellants appealed against their convictions, contending that a person could not be guilty of assault occasioning actual bodily harm or unlawful wounding in respect of acts carried out in private with the consent of the victim.

Lord Stanley:

My Lords, the appellants were convicted of assaults occasioning actual bodily harm contrary to s 47 of the Offences against the Person Act 1861. Three of the appellants were also convicted of wounding contrary to s 20 of the 1861 Act. I have had the advantage of reading in draft the speeches of your Lordships. I agree with the reasoning and conclusions of my noble and learned friends Lord Y and Lord Z of T_____. I suggest that the following points should be noted. If the immediate and direct purpose of our life is not suffering then our existence is the most ill adapted to its purpose in the world; for it is absurd to suppose that the endless affliction of which the world

is everywhere full, and which arises out of the need and distress pertaining essentially to life, should be purposeless and accidental. Each individual misfortune, to be sure, seems an exceptional occurrence; but misfortune in general is the rule. A quick test of the assertion that enjoyment outweighs pain in the world, or that they are at any rate balanced, would be to compare the feelings of an animal engaged in eating another with those of the animal being eaten. The whole world is at the throat of the world, everybody feels angry, short-changed, cheated, everybody is despondent, disillusioned.

However, it has been asserted that every pain contains within itself the possibility of a feeling of pleasure. The dangers involved in administering violence must have been appreciated by the appellants because, so it was said by their counsel, each victim was given a code word which he could pronounce when excessive harm or pain was caused. The efficiency of this precaution, when taken, depends on the circumstances and on the personalities involved.

The enjoyment of pain is an aim which was originally masochistic, but can only become an instinctual aim in someone who was originally sadistic. However, no one can feel the pain of another.

Your Lordships were further informed that the activities of the appellants, who are middle-aged men, were conducted in secret and in

a highly controlled manner, that code words were used by the receiver when he could no longer bear the pain inflicted upon him and that when fish-hooks were inserted through the penis they were sterilised first. None of the appellants however had any medical qualifications and there was, of course, no referee present such as there would be in a boxing or football match. More closely considered, what happens is this: man deliberately intensifies his needs, which are scarcely harder to satisfy than those of an animal, so as to intensify his pleasure.

Lord Exeter:

I accept that consent cannot be said simply to be a defence to any act which one person does to another. A line has to be drawn. Nothing which we have said is intended to cast doubt upon the accepted legality of properly conducted games and sports, lawful chastisement or correction, reasonable surgical interference, dangerous exhibitions, etc. Work, worry, toil and trouble are indeed the lot of men almost their whole life long. And yet if every desire were satisfied as soon as it arose, how would men occupy their lives, how would they pass the time? Imagine this race transported to a Utopia where everything grows of its own accord and turkeys fly around ready roasted, where lovers find one another without any delay and keep one another without any difficulty; in such a place some men would die of boredom or hang themselves, some would fight and kill one another, and thus they would create for themselves more suffering

than nature inflicts on them as it is.

Lord Smiley:

Oh, there are plenty of people, he observed, who never misbehave save when passion spurs them to ill; later, the fire gone out of them, their now calm spirit peacefully returns to the path of virtue and, thus passing their life going from strife to error and from error to remorse, they end their days in such a way there is no telling just what roles they have enacted on earth. Such persons, he continued, must surely be miserable: forever drifting, continually undecided, their entire life is spent detesting in the morning what they did the evening before. Certain to repent of the pleasures they taste, they take their delight in quaking, in such sort they become at once virtuous in crime and criminal in virtue. O Tania, where now is that warm cunt of yours, those fat heavy garters, those soft bulging thighs? I shoot hot bolts into you Tania. I make your ovaries incandescent. I am fucking you Tania so that you'll stay fucked!

Lord Sheridan:

My Lords, this is a case about the criminal law of violence. In my opinion it should be a case about the criminal law of private sexual relations, if about anything at all. Right or wrong, the point is easily made; physical pleasure is a sensual experience no different from pure seeing or the pure sensation with which a fine fruit fills the

tongue; it is a great unending experience which is given us, a knowing of the world, the fullness and the glory of all knowing. And it is not our acceptance of it that is bad; the bad thing is that most people misuse and squander this experience and apply it as a stimulant to the tired spots of their lives and as distraction instead of rallying towards exalted moments. We have tasted and tested too much lover. Through a chink too wide, there comes no wonder. Society is entitled and bound to protect itself against a cult of violence. Pleasure derived from the infliction of pain is an evil thing. Cruelty is uncivilized.

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