



LEGAL EXPERT COUNCIL

20 Sep 2023

CONVERSATIONS
ON
CONSENT



WE NEED

CONVERSATIONS ON CONSENT

Social and cultural norms around the world normalise sexual and gender-based violence. Excuses are made for perpetrators, while victims are blamed for their own assaults.

Through **Conversations on Consent** (CoC) we get people to speak about consent to foster a new norm based on empathy for one another.

The **Legal Expert Council** plays an important part in this endeavour.



Defining Consent

in Sexual Criminal Law

This comprehensive model consent law was put together based on the research and a number of workshops held by the Legal Expert Council.

To ensure bodily and sexual autonomy, integrity, and wellbeing consent must be obtained through honest, respectful, genuine, and open communication. The defendant has a responsibility to ensure there is consent. Consent must be obtained for each sexual act between the parties and can be withdrawn at any time. It must also be obtained for sexual activity in the digital realm to ensure the right to privacy, confidentiality, and non-defamation. It must be informed, voluntary, free without monetary compensation, retractable and unequivocal. Consent can only be given when one has capacity.

It will be assumed that consent can neither be obtained nor given in the context of power imbalance in terms of access to networks, resources and/or knowledge, unless the defendant proves otherwise. Such contexts include any form of inequality between the parties, including, but not limited to, inequality of access or liberties to any means, resulting or potentially resulting in any legal, economic, social, or other vulnerabilities.

The defendant can never obtain consent through threats, force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability or dependency. Consent cannot be obtained through insistence, manipulation, emotional threats, blackmail, or making the victim feel guilty for an action and presenting sexual behaviour as a way of compensation. Within this context, coercion is defined as intimidation, compulsion, domination, or control. Deception or false pretence may include – but is not limited to – evoking, taking advantage of, and failing to correct the victim's misunderstanding about the defendant's identity or situation, or the nature of the act.

It will be assumed that consent cannot be given tacitly through non-communication or inactivity. It cannot be given by someone who is unable to exercise free will, including a condition which prevents the giving of consent such as being in a state of unconsciousness, intoxication, sleep, illness, bodily injury, or under duress or distress. Everyone has the right to exercise their free will, bodily and mental integrity, autonomy, and self-determination, irrespective of sexual orientation, gender identity, gender expression or sex characteristics.



Legal Expert Council

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Désirée Attard (she/her)

Partner, ABB Legal

Désirée is a human rights lawyer and activist based in Malta, where she regularly represents clients before the Courts of Malta. In her role as legislative drafter and advisor for the Government of Malta, she led the legal team responsible for, among other reforms in the field of equality and civil liberties, the full transposition of the Istanbul

Convention in Malta's legal framework. She holds a Doctors of Law degree from the University of Malta, where she successfully defended her thesis, titled Abortion in Malta: Reviewing the Legal Stance from a Pro-Choice Perspective.

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Avani Bansal

Avani Bansal finished her Masters in Law from Harvard Law School and B.C.L. and M.Phil in Law from University of Oxford. She is currently practicing as an Advocate in the Supreme Court of India, New Delhi and is Founder of an eponymous chamber – Avani Bansal Chambers (ABC).

Avani is passionate about gender issues and women rights in India. She is the Founder of India's first digital newspaper for women – The Womb (www.thewomb.in). As part of her legal awareness drive, she presents 'Hamara Samvidhan' – on 'The Wire' – a weekly show where she explains the Indian Constitution in Hindi. She also runs her own legal awareness YouTube channel 'Hamara Kanoon'. She appears regularly on Live Law – India's biggest legal platform and writes regularly for Bar and Bench, Live Law, The Leaflet, Times of India amongst others. She is also currently the National Spokesperson of Indian Youth Congress & National Legal Aid Coordinator of Mahila Congress.

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Müge Demirkır

Müge Demirkır is since 2001 involved in human rights as a gender equality specialist for several NGOs in Turkey, including assisting abused children, women, and LGBTQI+ on legal issues. In addition, she has a background in project management, research, policy development, and governance in multicultural ecosystems. She

works in English, German, French and Turkish. She holds a Master's degree in Public Law and has published a book on "Violence and Domestic Violence Against Women," which mainly deals with the articles of the Istanbul Convention. She has an article titled "Rape As a Political Tool and As a Weapon of War," published in the Journal of Rule of Law, Transitional Justice, and Human Rights, Sarajevo, in 2018.



Eithne Dowds

Queen's University Belfast

Dr Eithne Dowds is a Senior Lecturer in the Law School at Queen's University Belfast. Her research focuses on the legal construction of the crime of rape, with a particular focus on formulations of sexual consent, in international and domestic criminal law. Her monograph, *Feminist Engagement with International Criminal Law*

(Hart 2019) explored the relationship between consent and coercion as elements of the crime of rape. More recently, her work has focused on the trend towards the adoption of affirmative notions of consent, as well as legal framings of the accused's mindset in respect of consent. Eithne has an interest in the law and procedure surrounding the prosecution of sexual offences more generally, co-editing a collection of papers on reform efforts in the context of Northern Ireland (Killeen, Dowds and McAlinden, *Sexual Offences on Trial*, 2021).



Katja Dunkel

DUNKEL RICHTER

Katja Dunkel works as a lawyer in media and copyright law in Berlin. Together with Rebecca Richter, she founded the law firm DUNKEL RICHTER Rechtsanwältinnen, which focuses on supporting women and people from the queer community in all questions of media law. Katja mainly deals with copyright and film law, but also advises on press law

related matters in the field of sexualized violence.



Kate Ellis

Centre for Women's Justice

Kate is a solicitor at the Centre for Women's Justice and represents clients in public and private law challenges against public authorities. She has developed a particular interest in challenging policy failings within the criminal justice system that disproportionately affect women and girls who have been subjected to male violence.

This has included monitoring and challenging the unprecedented decline in the volume of public prosecutions for rape since 2016, and assisting victims of abuse or exploitation who have themselves been wrongly criminalised by the state. Since working for the Centre for Women's Justice, Kate has acted in a number of legally significant and high-profile cases.



Thordis Elva

NORDREF

Thordis Elva is a writer, speaker and chair of the Nordic Digital Rights and Equality Foundation, an organization that works to expand equality and democracy online through research, legislation, policy reform and awareness-raising about digital violence and human rights on the internet. Thordis Elva has written award-winning films and

books that have been translated into 12 languages, as well as being an expert advisor to governments on violence against women. In 2017, she delivered her TED talk, which outlines her own experience of sexual violence, alongside her perpetrator. It's been viewed over ten million times. Thordis Elva's violence prevention work towards gender-equality earned her the title Woman of the Year in 2015. As a speaker, she has delivered keynotes at events hosted by the UN, the Nordic Council of Ministers, the Council of Europe, the European Union and the Nordic Council.



Jonathan Herring

Oxford University

Jonathan Herring is a Professor of Law at the University of Oxford and the DW Wolfe-Clarendon Fellow in Law at Exeter College, University of Oxford. He works in Criminal Law, Family Law and Medical Law and Ethics, focussing particularly on how the law regulates love, care and intimacy.

His books include Domestic Abuse and Human Rights, which is a powerful call to understand domestic abuse as a breach of human rights and Rough Sex and the Criminal Law (with Hannah Bows) which explores the killing of women during alleged 'rough sex'. He has written extensively on sexual violence against women, including two edited collections (with Camilla Pickles) on obstetric violence. His email is jonathan.herring@law.ox.ac.uk.



Sinem Hun

Genderscope

Sinem Hun is a dedicated professional with a passion for advocating for gender equality. She is a human rights lawyer and worked as a gender consultant for various organizations, including UNDP, ASEAN and GIZ. With over 10 years of experience, Sinem's work is extensively intersectional and deeply related to gender-based

violence against vulnerable groups such as refugee and Roma women and girls and LGBTI+ groups. She is the founder and CEO of Genderscope, a London based gender consultancy hub and Turkey Consultant of the European Council of Refugees and Exiles (ECRE).

Sinem holds a master's degree in European Advanced Interdisciplinary Studies from the College of Europe and Human Rights from the London School of Economics and Political Science (LSE) and is also a board member of the Society of Gender Professional, a Washington-based organisation.



Aslı Karataş

Sebuka

Aslı Karataş is a legal attorney, based in Istanbul, working as a gender expert, conducting gender trainings and consultancy services for the companies and institutions. She is the founder of sebuka initiative that conducts gender trainings and consultancy, besides social media accounts where she creates digital content on sexism in

workplace, sexist legislation and gender-neutral parenting. She has a book published named Sleeping Beauty has waken up on gender stereotypes in fairy tales.

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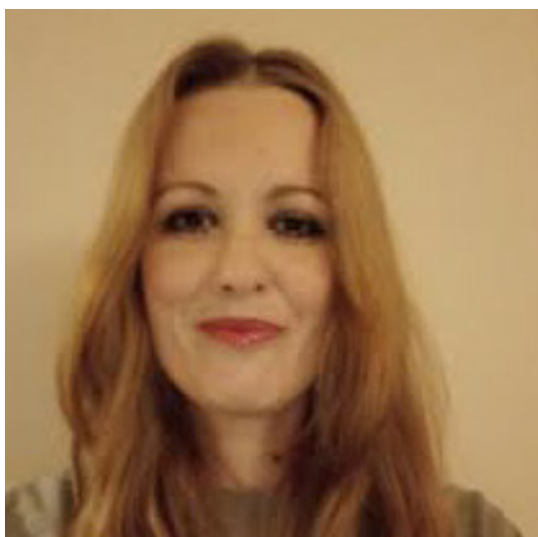


Alena Klatte

Anna Nackt

Alena Klatte is co-founder of the NGO Digital Dignity and the project Anna Nackt, which fights image-based sexual abuse on the internet and supports those affected. A survivor of image-based abuse herself, Alena started the petition #NotYourPorn to demand better regulation of adult content platforms, improvements to German criminal law and

additional resources for victim support structures. The petition reached >180,000 signatures, got picked up by the European Parliament and partially integrated into the draft text of the Digital Services Act. In addition, Alena consults NGOs and UN organizations on the topic of data governance and cyber violence.



Stamatina Liosi

Southampton Law School

Dr Stamatina Liosi completed her PhD at the University of Kent, in Canterbury, with a thesis on the Philosophy of Human and Socioeconomic Rights, before undertaking a Postdoc in Law and Bioethics at UCL Cancer Institute, and then a Postdoc in Law and Ethics at the Law School of the University of Hull. She has also worked as Teaching

Associate at the Centre of Ethics in Medicine of the Bristol Medical School. She joined Southampton Law School in 2021. Since 2020, Stamatina Liosi has collaborated with the Personal Genome Project (PGP) Harvard as a member of the PGP UK. She has, also, been a member of the UCL Cross-faculty Assay Development Team set up to assess alternative technologies to the COVID-19 technology used by Public Health England (PHE) and has, further, collaborated with the Institute of Population Health at King's College London on COVID-19 ethical and legal standards to be set as guidelines by the Secretariat of the WHO.



Mina Morova

Vinson & Elkins LLP

Mina Morova is an international arbitration practitioner based in Dubai, United Arab Emirates, specializing in construction and investor-state disputes. She is a member of the Vinson & Elkins LLP's International Dispute Resolution & Arbitration practice group. Her practice focuses on advising clients on a range of international complex

commercial litigation and arbitration matters. She has broad experience in a number of sectors, including in disputes related to the energy and construction industries. She holds a Bachelor of Arts in Comparative Literature from Princeton University, a Masters in Law and Economics from Sciences Po Law School and an LL.M. from Harvard Law School.



Charlotte Proudman

Goldsmith Chambers

Dr Charlotte Proudman is an award-winning barrister, Cambridge academic and campaigner fighting for women's rights in and out of court. Charlotte represents survivors of rape, domestic abuse and coercive and controlling behaviour in court whilst also challenging misconceptions across the sector. She uses her knowledge

and experience of the justice system to advocate for legal change to ensure protection and support for victims and survivors. Ranked as Legal 500's Leading Junior, Charlotte is described as: 'Charlotte is taking the protection of vulnerable women and children in the Family Court to the next level by a unique combination of academic rigour and unashamedly activist passion. She has made more of a contribution to changing the landscape around the conversation on violence against women and girls than any other junior at the family Bar. She is intellectually first class, an incisive advocate and absolutely fearless in vindicating the rights of some of the most vulnerable in society.'



Rebecca Richter

DUNKEL RICHTER

Rebecca Richter is a Berlin based lawyer at her own law firm DUNKEL RICHTER Rechtsanwältinnen with her partner Katja Dunkel. The Law firm specializes in Media Law (IT/Internet Law, Press Law and Freedom of Speech, Copyright Law, Trademark and Unfair Competition Law) and focuses especially on female and queer

clients. Rebecca works, among other things, in the area of press and statements law with clients who publicly speak out in the area of sexualised violence and #MeToo. She also advises and represents clients in the area of revenge porn and hate speech.



Jiyan Rojin

Freshfields Bruckhaus Deringer LLP

Jiyan is a corporate lawyer in the global transaction team in the Berlin office. She has an international background, having worked in London, Brussels and Berlin. She has studied in Brussels (LL.M in Public International Law), Berlin and London and has ample experience in international legal matters and transactions. Her practice

focuses on representing issuers and underwriters in connection with offerings of debt and equity securities, including high-yield bond offerings, IPOs and other corporate finance transactions, across a range of jurisdictions. focuses on representing issuers and underwriters in connection with offerings of debt and equity securities, including high-yield bond offerings, IPOs and other corporate finance transactions, across a range of jurisdictions.

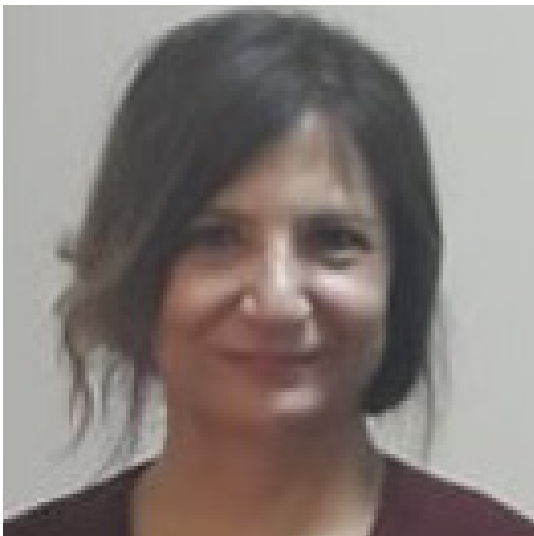


Emily Setty

University of Surrey

Dr Emily Setty is a Lecturer in Criminology at the University of Surrey. Her research focuses on young people's experiences of sex and relationships, in particular regarding the risks and harms they face in online and offline environments. Dr Setty explores issues to do with consent and the realities of young people's sexual consent cultures. Dr

Setty works closely with a range of applied policy and practice stakeholders to understand how best to support young people with the challenges of contemporary sex and relationship cultures. She is skilled in using a range of research methodologies and conducting research sensitively and ethically with young people and stakeholders. Dr Setty is currently leading a review of the Department for Education in England on harmful sexual behaviours in schools.



Gülriz Uygur

Ankara University

Prof. Uygur teaches Introduction to Law, Philosophy of Law, Gender and Law, and Law and Ethics. She introduced the Gender and Law Course and Domestic Violence Clinic and Human Rights Clinic as part of legal education in Turkey (Ankara University, Law Faculty, Undergraduate education program), as well as the course on Legal Ethics in 2006.

She is among the founders of Ankara University the Unit of Combatting Sexual Harassment and coordinator of this unit since 2011.



Sara De Vido

Ca' Foscari University of Venice

Sara De Vido is Associate Professor of International Law at Ca' Foscari University of Venice, Italy, where she teaches International Law and EU Law. She is an affiliate to the Manchester International Law Centre, UK. She is a delegate of the Rector for Gender Equality, and a member of the Centre for Human Rights at Ca' Foscari. She is also part

of the National Network on countering hate speech. She has been working on countering violence against women for years as an expert of the Istanbul Convention; her most recent book is *Violence against Women's Health in International Law* (MUP, 2020). She co-edited, with Lorena Sosa, a report for the European Commission on criminalisation of gender-based violence against women in 31 European States (November 2021). She is about to publish the commentary to the Council of Europe Istanbul Convention (Elgar, co-edited with M. Frulli) with the contribution of more than 70 authors.



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