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“Problematic” Sexual Behaviors: Clinical and Legal Aspects

Abstract

There is a vast scientific literature on psychiatric pathologies but research on the sexual problems that secondarily accompany them is still lacking. Among the few issues which in this area still manage to overcome an evident generalized resistance of patients to treating the subject and which can be the purpose of further study, beyond the sexual dysfunctions caused by drugs and the greater risk of contracting sexually transmitted diseases (STDs) we have focused in our bibliographical research on problematic sexual behaviors (PSBs). In particular, we have examined PSBs that complicate axis 2 disorders, usually the field of dynamic psychotherapy, while with reference to axis 1 only those present in bipolar disorder, because of the fact that this last, in its “*ultra-rapid*” cycles, is located by some authors in the symptom spectrum of borderline personality disorders. Lastly, our in-depth analysis, with the exclusion of paraphilic disorders already nosologically well classified in the DSM-5 with code F65, focused on the still poorly defined legal implications of PSBs secondary to personality disorders (PDs), with the purpose of contributing to a greater consideration of the argument in favor of adequate legal protection of patients and health professionals involved in this particular aspect of psycho-behavioral pathologies.

Keywords

Problematic sexual behaviors, personality disorders sexuality, cluster A sexual aspects, cluster B sexual aspects, cluster C sexual aspects, bipolar disorder sexuality, sexting laws, revenge porn laws.

Introduction

While accepting the universally shared premise that sexual life should be considered a free right located in a relational context of sacred and private intimacy with oneself and with any other person as long as they consent, the legal limit of the psychophysical and/or moral damage that certain sexual behaviors can cause must be accurately considered. Clinical practice has led to the classification into different categories of those problematic sexual behaviors (PSBs) that seek erotic satisfaction (paraphilias) and those that arise from the need to fill a feeling of emptiness (personality disorders/PDs), even if finally both are located in a dimensional continuum which sees them originate from the initial failed relationship with a maternal figure an affectively who is distracted or possessively overprotective and in any case experienced by the newborn as unnaturally hostile to his own survival. To avoid confusion at the epistemological level, we should distinguish between a sexual behavior defined as problematic because it is the active cause and one defined as the passive consequence of one's own or someone else's psycho-behavioral disorder. However, at a clinical level, in the context of a couple relationship, the usefulness of this differentiation actually ends up disappearing as we find both conditions mutually triggering each other without interruption in a single temporal dynamic characterized by the typical alternation of cyclic disorders. In extreme cases, the causes and effects of problematic sexual behaviors can interact with each other so closely that they overlap, causing the very painful paradoxical mixed state of restrained hypersexuality: a conflictual experience characterized simultaneously by orgasmic anxiety and paralyzing depression.

1. “Problematic” sexual behavior (PSB) in psychiatry

There is a vast scientific literature on psychiatric pathologies but research on the sexual problems that secondarily accompany them is still lacking.¹ In this

¹ L. Bossini, V. Fortini, I. Casolaro, C. Caterini, D. Koukouna, F. Cecchini & A. Fagiolini, *Sexual dysfunctions, psychiatric diseases and quality of life: a review*, “*Psichiatria Polska*” (2014), 48(4), pp. 715–726; L. A. Labbate & S. B. Lare, *Sexual dysfunction in male psychiatric outpatients: validity of the Massachusetts General Hospital Sexual Functioning Questionnaire*, “*Psychotherapy and Psychosomatics*” (2001), 70(4), pp. 221–225; S. J. Rizvi, N. W. Yeung.

observational context, beyond drug-induced sexual dysfunctions and the increased risk of contracting sexually transmitted diseases (STDs), PSBs can be framed which complicate axis 2 disorders and "ultra-fast cycling" bipolar disorder due to symptoms that can be found in the clinical spectrum of borderline personality disorders.² It is necessary to start from the assumption that individuals with PDs tend to have altered levels of empathy and a search for intimacy, with differences that may depend on the specific type of disorder. According to Collazzoni and colleagues, the organization of the personality seems to be closely linked to the "sexual function," defined as an intention linked to any seduction strategy and all sexual behaviors; consequently, the personality has a strong influence on relational and intimate life in a variety of ways.³ Unfortunately, the analysis of the literature that investigates the sexual and seductive sphere in these disorders, as we will see in detail in the next paragraphs, is limited and mostly focused on the borderline disorder belonging to the dramatic-unpredictable cluster B of personality with evidence of major histories of child sexual abuse, the presence of sexual dysfunctions, and paraphilic interests. In contrast, the bizarre-eccentric cluster has fewer items, with the schizoid personality disorder being the least studied.

& S. H. Kennedy, *Instruments to measure sexual dysfunction in community and psychiatric populations*, "Journal of Psychosomatic Research" (2011) 70 (1), pp. 99–109; J. F. Magidson, A. J. Blashill, M. M. Wall, I. C. Balan, S. Wang, C. W. Lejuez & C. Blanco, *Relationship between psychiatric disorders and sexually transmitted diseases in a nationally representative sample*, "Journal of psychosomatic research" (2014), 76(4), pp. 322–328; R. T. Segraves, *Sexual side – effects of psychiatric drugs*, "The International Journal of Psychiatry in Medicine" (1989) 18 (3), pp. 243–252; M. Swan & L. J. Wilson, *Sexual and marital problems in a psychiatric out – patient population*, "British Journal of Psychiatry" (1979), 135 (4), pp. 310–314; K. R. Wylie, D. Steward, N. Seivewright, D. Smith & S. Walters, *Prevalence of sexual dysfunction in three psychiatric outpatient settings: A drug misuse service, an alcohol misuse service and a general adult psychiatry clinic*, "Sexual and Relationship Therapy" (2002) 17 (2), pp. 149–160.

² J. G. Gunderson, I. Weinberg, M. T. Daversa, K. D. Kueppenbender, M. C. Zanarini, T. Shea, A. E. Skodol, C. A. Sanislow, S. Yen, C. Leslie, L. C. Morey, C. M. Grilo, T. H. McGlashan, R. L. Stout., I. Dyck, *Descriptive and longitudinal observations on the relationship of borderline personality and bipolar disorder*, "American Journal of Psychiatry" (2006) 163, pp. 1173–1178.

³ A. Collazzoni, G. Ciocca, E. Limoncin, C. Marucci, D. Mollaioli, S. Di Sante, G. Di Lorenzo, C. Niolu, A. Siracusano, M. Maggi, G. Castellini, A. Rossi, E.A. Jannini, *Mating Strategies and Sexual Functioning in Personality Disorders: A Comprehensive Review of Literature*, "Sexual Medicine Review" (2017) Oct. 5(4), pp. 414–428.

1.1. PSB in cluster A

Problematic sexual behaviors within PDs Cluster A are generally due to a strong inability to establish intimate relationships due to emotional disinterest, jealousy and an easy correlation with homo and transphobic ideologies. In particular, these attitudes are associated with:

- 1.1a) The paranoid personality (PPD) which is characterized by anger, suspiciousness and jealousy towards one's partner, as well as emotions capable at times of leading to violent episodes.⁴ Currently, all of the studies that focus on the relationship between paranoia and criminal offenses exclusively concern subjects suffering from a delusional paranoid disorder. However, subjects with single paranoid personality disorder, without any associated delusional disorder, are not uncommon in forensic practice. In a recent retrospective study, the first describing the medico-legal acting-out of subjects with paranoid personality disorder, 4 women and 102 men, including 27 subjects with associated paranoid delusional disorder, were divided into two groups and compared: verbal and physical but non-sexual violence, committed in a delusional logic, was found among delusional subjects, while the forms of violence were more multiform in the single paranoid personality disorder group, frequently including sexual violence (35% of rapes). This diversity of committed offenses was found in their forensic antecedents. In these subjects, the logic of omnipotence may have overruled the logic of revenge.⁵
- 1.1b) The schizoid personality which is not interested in entering into intimacy with the other to the point of maturing a real asexuality.⁶
- 1.1c) The schizotypal personality which presents an ambivalent intimate relational sphere in that, despite the tendency to isolation and a pervasive fear of the other, it seems not to disdain imaginatively the opportunities

⁴ K. L. Disney, Y. Weinstein, T. F. Oltmanns, *Personality disorder symptoms are differentially related to divorce frequency*, "Journal of Family psychology" (2012) Dec. 26(6), pp. 959–965.

⁵ M. Bouthier, V. Mahé, *Paranoid personality disorder and criminal offense*, "L'Encéphale" (2019) Apr. 45(2), pp. 162–168.

⁶ N. S. Holtzman, M. J. Strube, *Above and beyond short-term mating, long-term mating is uniquely tied to human personality*, "Evolutionary Psychology" (2013) Dec 16. 11(5), pp. 1101–1129.

to attract sexual partners, correlating impulsivity (which motivates active search for a partner) and a desire for unusual sexual experiences.⁷

1.2. PSB in cluster B

Problematic sexual behaviors within PDs Cluster B are generally characterized by confusion, suffering and indifference. In particular, these attitudes are associated with:

1.2a) The antisocial personality. However, based on the literature as a whole, it seemed impossible to determine a coherent mode of sexual functioning of dissocial persons and to establish a causal relationship between sexual dysfunction and dissocial personality disorder. Nonetheless, it is possible to indicate a group of more characteristic dysfunctional sexual behaviors such as the preference for short-term relationships.⁸

The intimacy of the antisocial tends to consist in night calls to possible sexual partners with the exclusive purpose of satisfying sexual needs, or in violent sexual practices.⁹ A recent meta-analysis including PsycINFO, PubMed, and Sociological Abstracts, yielded 3988 results. After removing irrelevant articles, 163 studies were included in the analysis, representing 189 individual samples that confirmed PDs significantly and positively related to intimate partner violence (IPV) perpetration. Antisocial and borderline PDs demonstrated the most robust effect sizes across both perpetration and victimization.¹⁰

1.2b) The histrionic personality, in particular the female one, moved by timidly unexpressed fantasies, constantly seeks to seduce most of the people it meets, even when they do not feel any sexual attraction, and to consider

⁷ D. Nettle, H. Clegg, *Schizotypy, creativity and mating success in humans*, "Proceedings of the Royal Society B: Biological Sciences. Royal Society of London (England)" (2006) Mar 7 273(1586), pp. 611–615.

⁸ M. Janus, A. Szulc, *Sexuality of dissocial persons*, "Psychiatria Polska" (2016) 50(1), pp. 187–196.

⁹ P. K. Jonason, G. D. Webster, D. P. Schmitt, N.P. Li, L. Crysel, *Antihero in Popular Culture: Life History Theory and the Dark Triad Personality Traits*, "Review of General Psychology". First Published June 1, (2012) Research Article <https://doi.org/10.1037/a0027914>.

¹⁰ L.K. Collison, R. Donald, D. R. Lynam, *Personality disorders as predictors of intimate partner violence: A meta-analysis*, "Clinical Psychology Review" (2021) Aug. 88:102.

the established relationships closer than they actually are.¹¹ Narcissists who are generally manipulative, superficial, vain and fickle, tend to implement their sexual impulses above all to narcissistically confirm their seductive abilities. Thus they expose themselves to an embarrassing sexting for friends and family¹² and to the uncontrolled use of pornography¹³ as well as to easy orgasmic dysfunctions associated with lack of desire, low assertiveness, erotophobia and betrayals due to dissatisfaction with married life.¹⁴

1.2c) The borderline personality (BPD), which is highly studied in the relational and sexual field because it is subject to emotional instability and a deficit in self-representation, with a strong relational precariousness linked to dissatisfaction, episodes of violence, early marriages and unwanted pregnancies.¹⁵

Borderline people with a lack of empathy tend to misunderstand the emotional expressions of their partners, resulting in a strong fear of abandonment.¹⁶ Their comorbidity with paraphilic disorders is frequent, especially in cases where they suffer from sexual dysfunction.¹⁷ Women

¹¹ K. L. Disney, Y. Weinstein, T. F. Oltmanns, *Personality disorder symptoms are differentially related to divorce frequency*, "Journal of Family Psychology" (2012) Dec. 26(6), pp. 959–965; J. H. French, S. Shrestha, *Histrionic Personality Disorder*, in: "StatPearls [Internet]. Treasure Island (FL)": StatPearls Publishing; 2022 Jan. 2021 Oct 1. A. Hughes, G. Brewer, R. Khan, *Sexual Coercion by Women: The Influence of Pornography and Narcissistic and Histrionic Personality Disorder Traits*, "Archives of Sexual Behavior" (2020) Apr. 49(3), pp. 885–894.

¹² C. J. Ferguson, *Sexting Behaviors Among Young Hispanic Women: Incidence and Association with Other High-risk Sexual Behaviors*, "Psychiatric Quarterly" (2010) 82(3), pp. 239–243.

¹³ A. Hughes, G. Brewer, R. Khan, *Sexual Coercion by Women: The Influence of Pornography and Narcissistic and Histrionic Personality Disorder Traits*, "Archives of Sexual Behaviour" (2020) Apr. 49(3), pp. 885–894.

¹⁴ C. Apt, D. F. Hurlbert, *The sexual attitudes, behavior, and relationships of women with histrionic personality disorder*, "Journal of Sex and Marital Therapy" Summer (1994) 20(2), pp. 125–133.

¹⁵ S.E. Daley, D. Burge, C. Hammen, *Borderline Personality Disorder Symptoms as Predictors of 4-Year Romantic Relationship Dysfunction in Young Women Addressing Issues of Specificity*, "Journal of Abnormal Psychology" August 2000 Vol. 109, No. 3, pp. 451–460.

¹⁶ A. D. Marshall, A. Holtzworth-Munroe, *Recognition of wives' emotional expressions: a mechanism in the relationship between psychopathology and intimate partner violence perpetration*. "Journal of Family Psychology" (2010) Feb. 24(1), pp. 21–30.

¹⁷ A. Prunas, R. Bernorio, *Dimensions of Personality Organization and Sexual Life in a Community Sample of Women*, "Journal of Sex and Marital Therapy" (2016) 42(2), pp. 158–164.

with borderline personality disorder who have suffered a traumatic event, such as sexual abuse, can develop sexual dysfunctions or sexually risky behaviors such as prostitution and unprotected sexual promiscuity with the risk of contracting STDs.¹⁸ People with BPD tend to report being homosexual or bisexual more frequently than individuals with other PDs.¹⁹ According to the APA (2013), BPD is characterized from a sexual point of view by at least 6 months of hyperactivity practiced with multiple partners, even unknown ones, and fed with fantasies, auto-eroticism or virtual realities, to the detriment of stable romantic relationships and a healthy social life. A problematic sexual behavior therefore not so much in quality as in quantity, therefore not paraphilic, that is to say aimed at orgasmic satisfaction, but compensating in a pervasive way for an unbearable sense of emptiness and fear of abandonment (for the right to childhood denied by an early adultization). In borderline adolescents (12–17 years old), early sexual initiation, frequentation of numerous partners and the non-use of condoms can promote sexually transmitted infections and unwanted pregnancies due to a lower self-efficacy in refusing sexual proposals in unsafe situations for their health, especially in the absence of psycho-educational and preventive interventions aimed at limiting them.²⁰

- 1.2d) The narcissistic personality, especially male, tends to prefer casual sexual relations or "*friends with benefits*" rather than long-term relationships. On the other hand, narcissists tend to hang out with people with personality traits similar to theirs.²¹

¹⁸ M. S. Harned, D. W. Pantalone, E. F. Ward-Ciesielski, T. R. Lynch, M. M. Linehan, *The prevalence and correlates of sexual risk behaviors and sexually transmitted infections in outpatients with borderline personality disorder*, "The Journal of Nervous and Mental Disease" (2011) Nov. 199(11), pp. 832–838.

¹⁹ R. A. Sansone, L. A. Sansone, *Gender patterns in borderline personality disorder*, "Innovations in Clinical Neuroscience" (2011) May. 8(5), pp. 16–20.

²⁰ S. Choukas-Bradley, A. E. Hipwell, S. R. Roberts, A. J. Maheux, S. D. Stepp, *Developmental Trajectories of Adolescent Girls' Borderline Personality Symptoms and Sexual Risk Behaviors*, "Journal of Abnormal Child Psychology" (2020) Dec. 48(12), pp. 1649–1658.

²¹ P. K. Jonason, G. D. Webster, D. P. Schmitt, N.P. Li, L. Crysel, *Antihero in Popular Culture: Life History Theory and the Dark Triad Personality Traits*, "Review of General Psychology" First Published June 1, (2012) Research Article <https://doi.org/10.1037/a0027914>.

Hyperfocusing on oneself promotes infidelity and boredom in the narcissist that leads to seeking new, more satisfying stimuli. Problematic sexual conduct fueled by fantasies of unlimited success, power, love, and beauty, as well as excessive requests for attention or admiration, prompts narcissists to exploit others for their own interests and to react angrily to the humiliation provoked by their criticism.²² Kernberg locates the DNp in the borderline organization of personality, along a continuum that goes from a healthy narcissism to a pathological one in which the affective needs of the other are inseparable from their own and are prone to subordination to them.²³ According to Gabbard,²⁴ the pathological narcissist is devoid of empathy, incapable of loving and caring for others, whom he even exploits. He may appear in love when the object of his desire for conquest is not available. In such situations the narcissist experiences helplessness and frustration, thus implementing a phase of careful courtship, called “love bombing,” “future faking” (making life plans together with the partner), “gaslighting” (psychological manipulation that causes the other to doubt their own thoughts), with the aim of making the victim fall into his trap. The prey is usually an empathic person, who often needs to fill a great emotional void, is extremely in need of love, and is easy to hook. In this phase of courtship the woman may believe that the man is actually in love; in reality it is all a strategy that aims at sexual conquest. Once the victim has been conquered and sexual intercourse has been consummated, the narcissist loses interest in the “love” object, becomes terribly indifferent and often disappears suddenly (ghosting), or returns to looking for a partner only to satisfy his sexual needs again. The numerous and varied sexual conquests are intended to confirm the narcissist’s virile potency or to silence the anguish associated with doubts about his sexual identity. Individuals with a narcissistic personality structure have a strong capacity for sexual arousal, but are unable to invest emotionally. This is because at the

²² H. Kohut, *The Analysis of the Self*, New York: International Universities Press, 1971.

²³ O. F. Kernberg, *Borderline conditions and pathological narcissism*, “Northvale: Aronson” 1975; O. F. Kernberg, *Boundaries and structure in love relations*, “Journal of the American Psychoanalytic Association” (1977), 25(1), pp. 81–114; O. F. Kernberg, *The couple’s constructive and destructive superego functions*, “Journal of the American Psychoanalytic Association” (1993) 41(3), pp. 653–677; O. F. Kernberg, *Limitations to the capacity to love*, “The International Journal of Psychoanalysis” (2011) Dec. 92(6), pp. 1501–1515.

²⁴ G. O. Gabbard, H. Crisp-Han, *The many faces of narcissism*, “World Psychiatry” (2016) Jun. 15(2), pp. 115–116; G. O. Gabbard, H. Crisp-Han, *Narcissism and Its Discontents: Diagnostic Dilemmas and Treatment Strategies With Narcissistic Patients*, American Psychiatric Publishing, Inc. (2018).

base of the disorder there is a deep narcissistic wound which consists in the fact that the future narcissistic child was not reflected during his childhood in the attachment figures, therefore he did not feel recognized and seen for his real needs and wants. The child was a tool to feed the parents' egos, almost like a beautiful object held up for admiration, so it had to be perfect. The parents, not having recognized and mirrored the child, prevented him from developing a healthy recognition of his own emotional states. Over time these people began to feel the anger that has "the unconscious goal of canceling the offense of those who dared to oppose, misunderstand, disagree or overshadow them."²⁵

During the sexual act the narcissistic person is very focused on his physical appearance, on his performance and on the pursuit of admiration, rather than on the partner. The narcissist has a promiscuous sexuality that is closely connected to sexual arousal towards an unavailable prey that he tries to reach at all costs driven by anger, frustration and envy. At an unconscious level, the desire to want to ruin the object of conquest, through devaluation, runs parallel. This is in fact what happens once the sexual relationship is consummated: the woman, believing in falling in love, hopes to be able to establish an intimate relationship; the man, instead, becomes totally indifferent to these requests and triggers a process of devaluation and humiliation towards the woman. Having conquered the prey, the narcissist just wants to escape from the danger of intimacy and go in search of new prey. The narcissist has a marked devaluation of female sexuality, and a clear rejection of the woman's need for intimacy. For this reason, the sexual preferences of his partners are not taken into consideration; this is a direct consequence of his inability to love and make a serious personal commitment to them.

1.3. PSB in cluster C

Cluster C personality disorders present a set of conflicting elements such as fear, dissatisfaction and need of others. Inside it are located:

- 1.3a) The obsessive-compulsive personality whose perfectionism correlates with constant moments of stress and marital dissatisfaction.²⁶

²⁵ H. Kohut, *The Analysis of the Self*, New York: International Universities Press 1971.

²⁶ J. H. Porcerelli, R. Cogan, S. Hibbard, *Personality characteristics of partner violent men: a q-sort approach*, "Journal of Personality Disorders" 18(2), (2004), pp. 151–162, © 2004 The Guilford Press.

1.3b) The dependent personality who, hyperfocused on the avoidance of abandonment, implements morbid behaviors destined to often obtain the opposite effect.²⁷ Emotionally dependent people in a couple relationship usually show: a) fear of abandonment and rejection with the need to be loved precisely by those who do not reciprocate, with an attraction that grows in proportion to the rejection;²⁸ b) high levels of jealousy, angry and resentful possessiveness;²⁹ c) difficulty in managing negative emotions;³⁰ d) denial of any individual need and desire to establish a symbiotic relationship; e) lack of feelings of love and difficulty to break away. The scientific literature shows that high addictive traits are present in men who abuse partners,³¹ right at the moment of a possible rejection.³²

Although high levels of emotional dependence are theoretically related to the risk of perpetuation of abuse in both sexes, the crime report sees abuse by men prevailing due to their different coping strategies. In fact, they tend to externalize anger towards objects and people as well as controlling, intimidating and preventing them from breaking up the relationship.³³ While women, more prone to internalization strategies such as isolation and emotional closure, are more at risk of abuse and tolerant submission.

²⁷ M. Okuda, J. Picazo, M. Olfson, D. S. Hasin, S. M. Liu, S. Bernardi, C. Blanco, *Prevalence and Correlates of Anger in the Community: Results from a National Survey*, "CNS Spectrums" 2015 Apr; 20(2), pp. 130–139.

²⁸ M. Mongrain, L. C. Vettese, V. Shuster & N. Kendal, *Perceptual Biases, Affect, and Behavior in the Relationships of Dependents and Self-Critics*, "Journal of Personality and Social Psychology" (1998) 75(1), pp. 230–241.

²⁹ C. R. Bush, J. P. Bush & J. Jennings, *Effects of jealousy threats on relationship perceptions and emotions*, "Journal of Social and Personal Relationships" (1988), 5(3), pp. 285–303.

³⁰ A. Casillas & L. A. Clark, *Dependency, impulsivity, and self-harm: Traits hypothesized to underlie the association between cluster B personality and substance use disorders*, "Journal of Personality Disorders" (2002), 16(5), pp. 424–436.

³¹ M. H. Bornstein, (2006). Parenting Science and Practice. In K. A. Renninger, I. E. Sigel, W. Damon, & R. M. Lerner (Eds.), *Handbook of child psychology: Child psychology in practice* (pp. 893–949). John Wiley & Sons Inc.

³² D.G. Dutton, *Intimate Abusiveness*, "Clinical psychology and science practice" Volume 2, Issue 3 Sept. 1995, pp. 207–224.

³³ C.M. Murphy, S.L. Meyer & K.D. O'Leary, *Dependency characteristics of partner assaultive men*, "Journal of Abnormal Psychology" (1994), 103(4), pp. 729–735.

- 1.3c) The avoidant personality typical of individuals with a tendency to prefer sexual intercourse and relationships with people who feel similar to them or suffer from social phobia, and with whom they feel more at ease.³⁴

1.4. PSB and Bipolar Disorder

With regard to problematic sexual behaviors, the interruption of couple relationships influenced by the cyclical mood and the so-called hypersexuality induced by mania would seem peculiar to bipolar disorder (BD). Since the second half of the last century, literature has proposed and subsequently confirmed the correlation between the cyclical nature of mood and fluctuations in libido towards more seductive and provocative attitudes, especially in the female gender in the manic phases;³⁵ and vice versa towards a decrease in attraction in depressive ones. Abrupt and hardly manageable inversions of libidinal tendency, felt by bipolar disorder as a worsening or vice versa, especially in women, as an improvement in general state of health,³⁶ were found in the phases of switch from one extreme to the other, without particular differences between type one or two bipolarity. As a result of this last peculiarity, the sexual attitude is confirmed as a precious indicator in the differential diagnosis between bipolar and unipolar depression.³⁷ Although the manic phase exposes more to sexually risky behaviors such as flirting, masturbation, prostitution and unprotected sex, a bipolar person, unlike their partner, especially in the depressive phase is able to maintain a good

³⁴ K. Isomura, M. Boman, C. Rück, E. Serlachius, H. Larsson, P. Lichtenstein & D. Mataix-Cols, *Population-based, multi-generational family clustering study of social anxiety disorder and avoidant personality disorder*, "Psychological Medicine" (2014), 45(8), pp. 1581–1589.

³⁵ J.B. Allison & W.P. Wilson, *Sexual behavior of manic patients: a preliminary report*, "Southern Medical Journal" (1960) 53 (7), pp. 870–874; P.J. Clayton, F.N. Jr Pitts & G. Winokur, *Affective disorder IV. Mania*, "Comprehensive Psychiatry" (1963) 6(5), pp. 313–322; G.A. Carlson & F.K. Goodwin (1973). *The stages of mania: a longitudinal analysis of the manic episode*, "Archives of General Psychiatry" (1973) 28(2), pp. 221–228.

³⁶ K.R. Jamison, R.H. Gerner, C. Hammen & C. Padesky, *Clouds and silver linings: positive experiences associated with primary affective disorders*, "The American Journal of Psychiatry" (1980) 137(2), pp. 198–202.

³⁷ M. Mazza, D. Harnic, V. Catalano, M. Di Nicola, A. Bruschi, P. Bria & S. Mazza, *Sexual behavior in women with bipolar disorder*, "Journal of affective disorders" (2011), 131(1–3), pp. 364–367.

marital adaptation and an often still good sexual satisfaction despite the higher incidence of dysfunctions that accompanies the mood deflection.³⁸

2. PSB and legal repercussions

With two different judgments delivered by the Supreme Court of Italy in the first semester of 2005 (n. 9163/2005 of 25 January–8 March 2005, and n. 16574 of 31 March 2005), Italian legislation also accepted that, in order to acknowledge total or partial insanity, “*severe personality disorders*” also fall within the category of so-called “*mental illnesses*.” Because of these two sentences, PDs can also become responsible for a scientifically shared disposition to function as a cause that is able to eliminate or greatly diminish the ability to have intelligence and will. The person who has committed a crime can then become not chargeable if a PD inhibits, in full or in part, their ability to have intelligence and will at the moment they committed a crime.³⁹ In other words, a second level of analysis is introduced which, while not ignoring the nosographic model, overcomes and integrates it in introducing the notion of mental (mal) functioning. Manifestations of PDs are generally recognizable during adolescence, or even earlier, and continue through most of adult life, although they may become less noticeable in middle or old age. Therefore, in the field of forensic assessment, simple PDs (whether serious or not), as such, identify a life history and a clinical path where it is necessary to grasp from time to time the “*illness value*” of related acts that can involve different aspects of a form of behavior, such as sexual behavior.

The clinical problem, and the consequent forensic psychiatric evaluation of a severe personality disorder (however complex it may be), is to document, in the light of the clinical history, the results of the psychodiagnostic investigations, of the modalities that preceded, accompanied and followed the crime, if the disorder has (or has not) manifested itself in a qualitatively or quantitatively

³⁸ R. Mahadevan, N. R. Nik Jaafar, H. Sidi, M. Midin & S. Das, *Is increate libido an atypical symptom of bipolar depression? An interesting case*, “*Journal of Sexual Medicine*” (2013) 10 (3), pp. 883–886.

³⁹ F. Frati & A. Pellegrino, *Il problema dell'imputabilità nei soggetti con Disturbi della Personalità alla luce dei più recenti orientamenti giuridici e clinici*, “*Bollettino d'informazione dell'Ordine degli Psicologi dell'Emilia-Romagna*” (2005) X, 3, pp. 2–8.

sufficient manner to confer "*sickness value*" on the crime committed.⁴⁰ In the United States, according to epidemiological surveys carried out on a large scale in 2000, the percentage of adult women who were reported to have suffered physical or sexual violence with intentionality (of the act or the threat of the act), force and excess, by the partner (IPV), ranged from 20% to 25% (National Institute of Justice-NCJ- 183644, August 2000). By 2011 over 10% of murders were committed by the companions of the victims (FBI Preliminary Semiannual Uniform Crime Report, January–June, 2011). In Italy in the same years 31.5% of 16–70 year olds (6 million 788 thousand) were found to have suffered some form of physical or sexual violence in the course of their lives. In particular, 20.2% (4 million 353 thousand) had suffered physical violence; 21% (4 million 520 thousand), sexual harassment; and 5.4% (1 million 157 thousand), rape (652 thousand) and attempted rape (746 thousands). All of this must be located in an "*integrated vision*" of mental illness that involves biological, psychological and socio-relational variables. Amongst these last, on the legal landscape, in addition to intimate partner violence (IPV), the two most recent phenomena of PSBs produced by the restrictions of the Covid-19 pandemic have also acquired importance: revenge porn and sexting.⁴¹

Revenge porn

In 2020 approximately 223 million Americans used social media, with that number only continuing to rise into 2021. Approximately 84% of Americans aged 18–29 are users of social media. For the roughly 70% of Americans who currently use social media, checking their profile is a part of their daily routine. Moreover, an estimated 4 out of 5 adults have sent or received an explicit text or photo. The COVID-19 pandemic has posed a serious danger to citizens because the number of messages sent on dating apps has increased over 70%. This combination of factors makes it easy to see how someone could quickly become a victim of revenge porn. In 2016, 10 million people, or 2% of Americans, had reported being victims of nonconsensual porn. Revenge porn refers to websites which cater to those wishing to exploit, harass, or otherwise antagonize their

⁴⁰ U. Fornari, *Do serious personality disorders fall within the concept of infirmity?*, "Criminal Cassation" Edition Giuffrè Volume: XLVI / 1 (2006), pp. 274–280.

⁴¹ F. Centonze, *Imputability, mental vice and personality disorders*, "Italian Review of Criminal Law and Procedure" (2005) (1), pp. 247–300 <http://hdl.handle.net/10807/8938>.

ex-partners using pornographic images and videos which were obtained during their relationship.⁴² In 2019, a larger study suggested that the problem has only grown, showing a 400% increase in the number of victims since 2016. At the present time 48 American States plus Washington D.C. and Guam have criminalized revenge porn, and with an increasing number of people reporting victimization, their courts have upheld their State's current revenge porn laws.⁴³ The Italian legal system, with article 10 of law n.69 of 19 July 2019, introduced the crime of revenge porn and decreed it punishable with imprisonment from one to six years and with a fine from 5,000 to 15,000 euros for offenders. The person responsible for revenge porn refers to anyone who is in possession of sexually explicit videos or images of third parties and disseminates them without permission. The law punishes anyone who, for any reason, disseminates these images, also contributing at a later time to their diffusion, while any previous emotional bond with the victim constitutes an aggravating circumstance, as does the choice of computerized means for dissemination.

Sexting

Sexting, defined as the receipt and forwarding of nude, semi-nude or sexually explicit images by the sender or someone known to the sender via digital forms of communication, has become a common practice among teenagers, fostered by the increasingly early use of mobile phones. Young people often send messages without properly thinking about the content of the images. In studies on the subject, the percentages of minors who send sexual images range from 4 to 25 percent, depending on the age of the young people interviewed, the content of the messages and other factors. Since the transfer and display of sexually explicit material when the subject is a minor can be considered child pornography, there can be serious legal consequences. Several States have enacted legislation to help differentiate between child pornography and child sexting. The trend reflected in the statutes was that minors involved in sexting without other aggravating circumstances should be charged with a less serious offense. There is no clear national consensus on how sexting carried out by minors is judged,

⁴² T. Lonardo, T. Martland, D. White, *A Legal Examination of Revenge Pornography and Cyber-Harassment*, "Journal of Digital Forensics, Security and Law" Vol. 11, Article 8 (2016).

⁴³ C. Carter, *An Update on the Legal Landscape of Revenge Porn*, "Attorney General Journal" November 16, (2021).

in fact the legal outcomes vary from criminal charges to the absence of charges. Episodes of sexting followed by suicide are also described.⁴⁴

More than 40 studies have shown that teen sexting is associated with the incidence of increased sexual behavior. US State sexting laws vary widely, from decriminalization to misdemeanor charges or harsh criminal prosecution for child pornography. Separating consensual sexting from non-consensual sexting and actual child pornography is a critical step for law enforcement and policymakers to adjust to rampant digital technology. In a recent article published in "Pediatrics" in 2019, the authors argue that consensual sexting between adolescents does not justify the involvement of law enforcement, but rather is a health and education problem that is best addressed in the family, in schools and in primary care.⁴⁵ Different definitions of sexting behavior have led to very different estimates of its prevalence, although some studies have documented relatively high rates among adolescents. Since adolescence is the period in people's lives when the psychological tasks of identity consolidation and intimate relationship development become primary, it is not surprising that many teens use sexting as a way of practicing the skills associated with successful completion of these tasks. The prosecution of sexting cases, therefore, raises many legal and ethical issues. Violators may be prosecuted under State or federal child pornography laws or specific State sexting laws. In the United States, teenage sexting laws, particularly in cases of consensual sex swapping, question whom they should protect from what and its association with mental health problems.⁴⁶ While many scholars consider consensual sexting harmless and normal in development, the potential involvement of young people in cases of cyberbullying, revenge porn and child pornography has ignited public fear and anxiety, resulting in a messy patchwork of legal responses that are often disproportionately punitive. In a survey of the legal parameters surrounding youth sexting in Canada, it was found that while the rationale of current youth protection legislation is appropriate, its method of implementation is misleading. Legal reform promoted in this nation refers to child pornography and online harm laws only when the case involves

⁴⁴ M. R. Lorang, D. E. McNiel, R.L. Binder, *Minors and Sexting: Legal Implications*, "Journal of the American Academy of Psychiatry and Law" (2016) Mar. 44 (1), pp. 73–81.

⁴⁵ V. C. Strasburger, H. Zimmerman, J. R. Temple, S. Madigan, *Sexting, and the Law*, "Pediatrics" (2019) May. 143(5).

⁴⁶ B. Holyoada, J. Landess, R. Sorrentino, S. H. Friedman, *Trouble at teens' fingertips: Youth sexting and the law*, "Behavioral Science and the Law" (2018) Mar. 36(2), pp. 170–181. doi: 10.1002/bsl.2335. Epub 2018 Mar 2.

an adult perpetrator and suggests a more nuanced and gradual pattern when the behavior involves juvenile sexting participants.⁴⁷

Conclusion

We have seen how PDs complicate personality construction, entangling the normal sexual evolutionary process with the fundamental stages of relational life from its earliest manifestations. Already in the maternal-fetal exchange from the sixth month of gestation we find the prerequisites of an attachment that will mark the future safety of the individual,⁴⁸ as the unborn child, although not yet able to use a verbal memory due to the immaturity of the brain structures in charge of it, will archive in his unconscious memory all the experiences lived more or less traumatically awaiting their recognition and definition from two years on.⁴⁹ Therefore it seemed interesting to us to look for the manifestation of PSBs in the various PDs that can be used as traces of this psychodynamic path. The recurrent dissociative defense in cluster A, the dysphoric externalization and the implosive internalization present in clusters B and C, find specific expressions of sexual distress in the respective PDs. In the legal field, despite the tendency of each State to standardize laws and judgments regarding PSBs, international legislation struggles to align itself with the spreading of telematic virtual relationships that have anticipated, at an age that cannot be legally prosecuted, socially dangerous attitudes where the exploratory needs of the adolescent and the pathological curiosity of the adult converge on the same sexual object.⁵⁰ This difficulty has led to the transfer of the concept of dimensional continuity to forensic psychopathology as well, redefining the fragile boundary of an often conscious but not always aware consent between teensexting,

⁴⁷ J. R. Lee, K. M. Darcy, *Sexting: What's Law Got to Do with It?*, "Archives of Sexual Behaviour" (2021) Feb. 50(2), pp. 563–573.

⁴⁸ F. Borghini, F. Garzia, G. Borghini & A. Borghini, *The Psychology of Security, Emergency and Risk*, WIT Press, 2016.

⁴⁹ M. Mancia, *Implicit memory and early unrepressed unconscious: their role in the therapeutic process (how the neurosciences can contribute to psychoanalysis)*, "The International Journal of Psychoanalysis" (2006) Feb. 87(Pt 1), pp. 83–103.

⁵⁰ K. O'Connor, M. Drouin, N. Yergens & G. Newsham, *Sexting Legislation in the United States and Abroad: A Call for Uniformity*, "International Journal of Cyber Criminology" Vol. 11 Issue 2 July – December 2017.

cyberbullying, revenge porn and child pornography. These are elements that often trigger an unhealthy autoeroticism prematurely capable of fueling the aggressive-passive violence of the future malignant narcissist and exploding in the psychophysical destruction of the partner. On the other hand, the same PSBs could be structured, with the same results as IPV, in the disinhibition of the histrionic, in the promiscuous instability of the borderline or in the cold aggressiveness of the antisocial. Executioners and victims intertwine their relative personality defects in a cyclical bipolarity of roles as happens with the neurotic perfectionism of the obsessive personality that struggles to contain sexual instinct and exposes its rigid models of management of affections to the bullying of the most aggressive partners, to the dependence of those that are most insecure or to easy avoidance by those who do not feel that they want to compete.

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