

Essays in Philosophy

A Biannual Journal

Vol. 2 No. 2

Sexual Use and What To Do About It: Internalist and Externalist Sexual Ethics¹

Abstract

I begin by describing the hideous nature of sexuality, that which makes sexual desire and activity morally suspicious, or at least what we have been told about the moral foulness of sex by, in particular, Immanuel Kant, but also by some of his predecessors (e.g., Augustine) and by some contemporary philosophers.² A problem arises because acting on sexual desire, given this Kantian account of sex, apparently conflicts with the Categorical Imperative. I then propose a typology of possible solutions to this sex problem and critically discuss recent philosophical ethics of sex that fall into the typology's various categories.

1. The Nature of Sex

A person who sexually desires another person objectifies that other, both before and during sexual activity. Certain types of manipulation and deception seem required prior to engaging in sex, or are so common as to appear part of the nature of the sexual experience.³ The other's body, his or her lips, thighs, buttocks, and toes, are desired as the arousing parts they are, distinct from the person.⁴ The other's body and compliant actions are tools one uses for one's own sexual pleasure, and the other becomes fungible, both replaceable and functional. The sexual act itself is peculiar, with its uncontrollable arousal, involuntary jerkings, and its yearning to master and consume the other's body. During the act, a person both loses control of himself and loses regard for the humanity of the other. Sexuality is a threat to the other's personhood; but the one who is in the grip of desire also loses personhood. The one who desires depends on the whims of another person to gain satisfaction, and becomes as a result a jellyfish, vulnerable to the demands and manipulations of the other.⁵ Merely having sexual desire can be experienced as coercive; someone who proposes an irresistible sexual offer may be exploiting someone made weak by sexual desire.⁶ Moreover, the one who gives in to the other's desire willingly makes a tool of himself or herself.⁷ Those engaged in sex make themselves into objects for each other merely for the sake of sexual pleasure. Hence both persons are reduced to the animal level.⁸ Finally, the power of the sexual urge makes it dangerous.⁹ Sexual desire is inelastic, the passion most likely to challenge reason, compelling us to seek satisfaction even when doing so involves dark-alley gropings, microbiologically filthy acts, or slinking around the White House.

Sexuality, then, is morally dubious and, to boot, a royal pain. Kant made this point in more general terms, claiming that humans would be delighted to be free of such promptings:

Inclinations themselves, as sources of needs, are so far from having an absolute value to

make them desirable for their own sake that it must rather be the universal wish of every rational being to be wholly free from them.¹⁰

I am not sure I believe these claims, but for my purpose that is irrelevant, for many philosophers, with good reason, have taken them seriously. In some moods, I might reply to this description of sexuality by muttering a Woody Allen type of joke: “Is sex an autonomy-killing, mind-numbing, subhuman passion? Yes, but only when it's good.” But here I want to examine how sexual acts could be moral, if this description is right.

2. Sex and the Second Formulation

Michael Ruse has explained how a moral problem arises in acting on sexual desire:

The starting point to sex is the sheer desire of a person for the body of another. One wants to feel the skin, to smell the hair, to see the eyes—one wants to bring one's own genitals into contact with those of the other. . . . This gets dangerously close to treating the other as a means to the fulfillment of one's own sexual desire—as an object, rather than as an end.¹¹

We should add, to make the point more comprehensively Kantian, that the desire to be touched, to be thrilled by the touch of the other, to be the object of someone else's desire, is just as much “the starting point” that raises the moral problem.

Because the sex problem arises from the intersection of a Kantian view of the nature of sexuality and Kantian ethics, let us review the Second Formulation: “Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.” Or “man . . . *exists* as an end in himself, *not merely as a means* for arbitrary use by this or that will: he must in all his actions, whether they are directed to himself or to other rational beings, always be viewed *at the same time as an end.*”¹² So, how can sexual desire be expressed and satisfied without merely using the other or treating the other as a fungible object, and without treating the self as an object? How can sexual activity be planned and carried out while “at the same time” treating the other and the self as persons, while treating their “humanity” as an end, while confirming their autonomy and rationality? Of course, the Second Formulation directs us not to treat ourselves and others *merely* as means. It is permissible to treat another and ourselves as a means as long as we are also treated as persons or our humanity is treated as an end. How can this be done?

Persons' providing free and informed consent is, in general for Kant, necessary but not sufficient for satisfying the Second Formulation. In addition, treating someone as a person, for Kant, includes taking on the other's ends as if they were one's own ends. Kant writes in the *Groundwork*, “the ends of a subject who is an end in himself must, if this conception is to have its *full* effect in me, be also, as far as possible, *my* ends.”¹³ And I must take on the other's ends for their own sake, not because that is an effective way to advance my own goals in using the other. It is further required, when I treat another as a means, that the other can take on my ends, my purpose, in so using him. Kant likely expressed this condition in the *Groundwork*: “the man who has a mind to make a false promise to others will see at once that he is intending to make use of another man *merely as a*

means to an end he does not share. For the man whom I seek to use for my own purposes by such a promise cannot possibly agree with my way of behaving to him, and so cannot himself share the end of [my] action.”¹⁴

I now display a conceptual typology of various types of solution to this sex problem, and discuss whether solutions that occupy different logical locations in the typology conform with the Second Formulation. There are five types of solution: behavioral internalist, psychological internalist, thin externalist, thick minimalist externalist, and thick extended externalist. I define and discuss examples of each type in that order.

3. Internalist Solutions to the Sex Problem

Internalist solutions to the sex problem advise us to modify the character of sexual activity so that persons engaged in it satisfy the Second Formulation. For internalists, restraints on how sexual acts are carried out, or restraints on the natural expression of the impulse, must exist. Consent, then, is necessary for the morality of sexual acts, but not sufficient. (Note that one might internally fix a sexual act so that *qua* sexual act the act is unobjectionable, but the act might be wrong for other reasons, e.g., it might be adulterous.) There are two internalisms: *behavioral* internalism, according to which the physical components of sexual acts make the moral difference, and *psychological* internalism, according to which certain attitudes must be present during sexual activity.

3a. Behavioral Internalism

Alan Goldman defines “sexual desire” as the “desire for contact with another person's body and for the pleasure which such contact produces. . . . The desire for another's body is . . . the desire for the pleasure that physical contact brings.”¹⁵ Since sexual desire is a desire for one's self-interested pleasure, it is understandable that Goldman senses a Kantian problem with sex. Thus Goldman writes that sexual acts “invariably involve at different stages the manipulation of one's partner for one's own pleasure” and thereby, he notes, seem to violate the Second Formulation, which, on Goldman's truncated rendition, “holds that one ought not to treat another as a means to such private ends.”¹⁶ The Kantian sex problem is one that Goldman must deal with, because he rejects a utilitarian approach to sexual ethics. Goldman asserts that from a Kantian view, “using other individuals for personal benefit,” in sex or elsewhere, is “immoral only when [the acts] are one-sided, when the benefits are not mutual.”¹⁷ Goldman proposes, then, that

Even in an act which by its nature “objectifies” the other, one recognizes a partner as a subject with demands and desires by yielding to those desires, by allowing oneself to be a sexual object as well, by giving pleasure or ensuring that the pleasures of the act are mutual.¹⁸

This sexual moral principle—make sure that you provide sexual pleasure to your partner, that is, make the other's ends your own—seems plausible. In this way, Goldman's proposal seems at least in spirit consistent with the Second Formulation.¹⁹

But *why* might one sexually please the other? One answer is sexual hedonism: pleasing the other contributes to one's own pleasure. How so? By inducing the other, through either the other's sexual

arousal or gratitude, to act to furnish pleasure to oneself. Or because doing so satisfies one's desire to exert power or influence over the other. Or because in providing pleasure we get pleasure by witnessing the effects of our exertions.²⁰ Or by inducing the other to hold us in an esteem that may heighten our arousal. Or because in giving pleasure to the other we identify with her arousal and pleasure, which identification increases our own pleasure.²¹ Or because giving pleasure alleviates or prevents feelings of guilt, or because doing so makes us feel good that we have fulfilled a duty or a promise.

Another answer is that providing pleasure to the other can be done just for the sake of pleasing the other, just because you know the other person has sexual needs and has hopes for their satisfaction. The sexual satisfaction of the other is taken as an end in itself, as something valuable in its own right, not as something that has instrumental value. It follows that in some circumstances you must be willing to please the other sexually when doing so does not contribute to your own satisfaction, or even runs counter to it. The last scenario is the kind of case Kant likes to focus on in the *Groundwork*, cases that single out the motive of benevolence or duty from motives based on inclination.

By the way, according to the Marquis de Sade, sexual desire is absolutely egoistic; it is concerned only with its own satisfaction, not caring a whit about the pleasure of the other. This Kantian claim is compatible, in principle, with one's receiving sexual pleasure from providing pleasure to the other, when providing that pleasure is a mechanism for increasing one's pleasure. Sade, however, does not take the thesis in that direction. Instead, Sade asserts that the pleasure of the other is an impediment to or a distraction from one's own sexual pleasure, that allowing the other to pursue her pleasure at the same time is to undermine one's own pleasure.²² I think we recognize the truth here: when both persons attempt to satisfy their own sexual desire, their frantic grabblings sometimes result in sexually incongruous bodies. The sexual satisfaction of one person often requires the passive acquiescence of the other, an abandonment to what one wants and how she wants it—in Goldman's language, one must allow the other to treat oneself as an object.

I have categorized Goldman as a behavioral internalist because all he insists on, to make sexual activity moral, is providing pleasure for the other. He never claims that providing pleasure be done with a benevolent motive or purity of purpose. But this feature of his proposal is exactly why it fails, in its *own* terms. If providing pleasure to the other is just a mechanism for attaining one's own pleasure, providing pleasure continues to treat the other merely as a means. Since giving pleasure to the other is instrumental in obtaining my pleasure, this internalism has not succeeded in *fixing* the nature of the sexual act. Providing pleasure can be a genuine internalist solution, by changing the nature of the sexual act, only if it is an unconditional giving.

Goldman's proposal fails to accommodate his Kantian commitments. When Kant claims that we must treat the other as a person by taking on his ends as our own—by providing sexual pleasure, if that is his end—Kant does not mean that as a hypothetical, as if taking on the other's ends were a mechanism for getting the other person to allow us to treat him as a means. We must not take on the other's ends as our own simply because doing so is useful for us in generating our own pleasure or achieving our own sexual goals. Attitude, for Kant, is also morally important, not only behavior, even if that behavior has beneficial effects for the other. Sharing the ends of the other means viewing them as valuable in their own right. Further, for Kant, we may take on the ends of the other

as our own only if the other's ends are themselves morally permissible: I may “make the other's ends my ends provided only that these are not immoral.”²³ Given the objectification involved in sex, as admitted by Goldman, the moral permissibility of seeking sexual pleasure, the moral permissibility of this end, has not yet been established for either party. To be told that it is permissible for one person to objectify another in sexual activity if the other also objectifies the first, with the first's allowance, does not answer the question. Goldman also ignores, in Kant's statement of the Second Formulation, that we must respect humanity *in one's own person*. To make an object of oneself for the sake of the other's sexual pleasure, as Goldman recommends, apparently violates that prescription.

Goldman has, in effect, changed the problem from one of sexual objectification to one of distributive justice. Sex is permissible, on his view, if the pleasure is mutual, and the way to make sexual activity moral is to make it nonmorally good for both participants. Objectification remains, but it is permissible, because the objectification is reciprocal and the act is mutually beneficial. Goldman's internalism attempts to change the nature of the sexual act, from what it is essentially to what it might be were we to embrace better bedroom behavior—avoiding raw selfishness. Both parties must add the giving of pleasure to an act that is by its nature self-centered. Even though in one sense Goldman makes sex moral by making it *more* nonmorally good, for the other party, he also makes sex moral by making it *less* nonmorally good, for the self, since sexual urgings must be restrained. What is morally wrong in sex is that only one person experiences pleasure and only one bears the burden of providing it; this is what Goldman means by saying that “one-sided” sex is immoral. The benefits of receiving pleasure, and the burdens of the restraint of pleasure and of providing it to the other, must be passed around to everyone. This is accomplished, for Goldman, by an equal distribution of being used as an object.

Suppose, instead, that both parties are expected to inject *unconditional* giving into a self-centered activity. If altruistic giving were easy, given our natures, there would be less reason for thinking that sexual desire tends to use the other person in a self-centered way to begin with. To the extent that the sexual impulse is self-interested, it becomes implausible that the sexual impulse could be controlled by a moral command to provide pleasure unconditionally. The point is not only that a duty to provide pleasure unconditionally threatens the nonmoral goodness of the sexual act, that it reduces the sexual satisfaction of both persons. Fulfilling such a duty, if we assume Goldman's definition of sexual desire, may be unlikely.²⁴

3b. Psychological Internalism

We have seen that if Goldman wants to fix the sexual act internally, he needs to insist not merely on performing behaviors that produce pleasure for the other, but on producing pleasure for a certain reason. In this way, we move from behavioral to psychological internalism, which claims that sexual acts must be accompanied and restrained by certain attitudes, the presence of which ensure the satisfaction of the Second Formulation.

At one point in her essay “Defining Wrong and Defining Rape,” Jean Hampton lays out a view that is similar to Goldman's, in which the occurrence of mutual pleasure alone solves the problem:

when sex is as much about pleasing another as it is about pleasing oneself, it certainly doesn't involve using another as a means and actually incorporates the idea of respect

and concern for another's needs.²⁵

Providing sexual pleasure to the other, then, seems to satisfy Kant's Second Formulation. But Hampton goes beyond Goldman in attempting to understand the depth of sexual activity:

one's humanity is perhaps never more engaged than in the sexual act. But it is not only present in the experience; more important, it is "at stake" in the sense that each partner puts him/herself in a position where the behavior of the other can either confirm it or threaten it, celebrate it or abuse it.²⁶

This point is Kantian: sex is metaphysically or psychologically dangerous. Hampton continues:

If this is right, then I do not see how, for most normal human beings, sexual passion is heightened if one's sexual partner behaves in a way that one finds personally humiliating or that induces in one shame or self-hatred or that makes one feel like a "thing." . . . Whatever sexual passion is, such emotions seem antithetical to it, and such emotions are markers of the disrespect that destroys the morality of the experience. . . . [W]hat makes a sexual act morally right is also what provides the groundwork for the experience of emotions and pleasures that make for "good sex."²⁷

If the wrongness of the act is a function of its diminishing nature, then that wrongness can be present even if, *ex ante*, each party consented to the sex. So . . . consent is *never by itself* that which makes a sexual act morally right. . . . Lovemaking is a set of experiences . . . which includes attitudes and behaviors that are different in kind from the attitudes and behaviors involved in morally wrongful sex.²⁸

Hampton's thesis is that sexual activity must be accompanied by certain humanity-affirming attitudes that manifest themselves in that activity. Attitudes that repudiate humanity are morally wrong and destructive of mutual pleasure.²⁹ Since, in Hampton's internalism, why the persons produce pleasure for each other is morally relevant, her view seems consistent with Kant's Second Formulation.

It is apparently Hampton's view that casual sex, in which both persons seek to satisfy their own randomness, is morally wrong, since it is not likely to be robustly humanity-affirming. And sadomasochistic sexual acts are morally wrong, because they involve humanity-denying attitudes. Yet casual sex, as objectifying as it can be, and sadomasochistic sexual acts, as humiliating as they can be, often produce sexual pleasure. Hence a problem in Hampton's view: she thinks, as does Goldman, that morally permissible sex involves mutual sexual pleasing, that the morality of a sexual activity depends on its nonmoral goodness, and, further, that disrespectful attitudes destroy that mutual pleasure. But are disrespectful attitudes wrong because they destroy the other's sexual pleasure or, instead, just because they are disrespectful? If Hampton's argument is that disrespectful attitudes that occur during sexual encounters are morally wrong because they are disrespectful, then sadomasochistic sexual activities are morally wrong even if they do, *contra* Hampton's intuition, produce pleasure. But if her argument is that disrespectful attitudes are wrong just when they destroy the pleasure of the experience for the other person, then sadomasochism does not turn out to be wrong.

Hampton might mean that a sexual act is morally permissible only if it is *both* mutually pleasure-producing *and* incorporates humanity-affirming attitudes. This dual test for the morality of sexuality rules out casual sex between strangers, prostitution, and sadomasochistic sexuality, no matter how sexually satisfying these activities are. But in Hampton's essay I could find no criterion of "humanity-affirming" other than "produces mutual pleasure." This is why Hampton does have trouble rejecting sadomasochism. Consider what the lesbian sadomasochist Pat Califia has said about sadomasochism: "The things that seem beautiful, inspiring, and life-affirming to me seem ugly, hateful, and ludicrous to most other people."³⁰ As far as I can tell, Califia means "provides sexual pleasure" by "life-affirming." If so, there is no disagreement in principle between Hampton and Califia, if Hampton means "provides pleasure" by "humanity-affirming." What Hampton does not take seriously is Califia's observation that humiliating attitudes expressed during sex can, even for normal people, produce mutual pleasure.

4. Externalist Solutions to the Sex Problem

According to *externalism*, morality requires that we place restraints on the conditions under which sexual activities are performed; properly setting the background context in which sexual acts occur enables persons to satisfy the Second Formulation. One distinction among externalisms is that between *minimalist* externalism, which claims that morality requires that only the context of the sexual activity be set, and the sexual acts may be whatever they turn out to be, and *extended* externalism, which claims that setting the context will also affect the character of the sexual acts. Another distinction among externalisms is that between *thin* externalism, according to which free and informed consent is both necessary and sufficient for the morality of sexual acts (with a trivial *ceteris paribus* clause), and *thick* externalism, which claims that something beyond consent is required for the morality of sexual activity.

4a. Thin Externalism

In Thomas Mappes' theory of sexual morality, only weak contextual constraints are required. The giving of free and informed consent by the persons involved in a sexual encounter is both necessary and sufficient for the morality of sexual activity, that is, for making permissible the sexual use of one person by another. Consent is not sufficient for the morality of sexual acts *simpliciter*, because even though a sexual act might be morally permissible *qua* sexual act, it still might be, for example, adulterous. Mappes's position is a thin minimalist externalism. Indeed, thin externalism, defined as making consent both necessary and sufficient, must also be minimalist. This moral criterion is contentless, or fully procedural: it does not evaluate the form or the nature of the sexual act (what body parts are involved; in what manner the acts are done), but only the antecedent and concurrent conditions in which sexual activity takes place. In principle, the acts engaged in need not even produce (mutual) sexual pleasure for the persons, an implication different from Goldman's internalism.³¹

Mappes, while developing his Kantian sexual ethics, begins by repeating a point made frequently about such ethics:

According to a fundamental Kantian principle, it is morally wrong for A to use B *merely as a means* (to achieve A's ends). Kant's principle does not rule out A using B as a

means, only A using B *merely* as a means, that is, in a way incompatible with respect for B as a person.

Then Mappes lays out his central thesis:

A immorally uses B if and only if A intentionally acts in a way that violates the requirement that B's involvement with A's ends be based on B's voluntary informed consent.³²

For Mappes the presence of free and informed consent—no deception and no coercive force or threats—satisfies the Second Formulation, since each person's providing consent ensures that they are not *merely* or *wrongfully* using each other. Mappes intends that his principle be applied to any activity, sexual or otherwise. He believes, along with Goldman, that sexual activity should be governed by moral principles that apply in general to human behavior.

Having advanced this interpretation of what satisfies the Second Formulation in sexual matters, Mappes spends almost all his essay discussing various situations that might involve the violation of the consent criterion taken as a necessary condition. He discusses what counts as deception or coercion, in which case sexual activity made possible by such maneuvers would be morally wrong. These cases can be intriguing. But, putting aside for now the question about the sufficiency of consent, note that not everyone agrees that in sexual (or other) contexts free and informed consent is necessary. Jeffrie Murphy, for one, has raised doubts:

“Have sex with me or I will find another girlfriend” strikes me (assuming normal circumstances) as a morally permissible threat, and “Have sex with me and I will marry you” strikes me (assuming the offer is genuine) as a morally permissible offer. . . . We negotiate our way through most of life with schemes of threats and offers . . . and I see no reason why the realm of sexuality should be utterly insulated from this very normal way of being human.³³

Both “Have sex with me or I will find another girlfriend” and “Marry me or I will never sleep with you again” seem to be coercive yet permissible threats, but sexual activity obtained by the employment of these statements involves immoral use, on Mappes's criterion. Similarly, it is not difficult to imagine circumstances in which deception in sexual contexts is not morally wrong, beyond the universal and innocuous practice of deceptive physical primping. Mappes claims that my *withholding* information from the other person, information that one believes would influence the other's decision as to whether to have sexual relations with me, is deception that makes subsequent sexual activity between us morally wrong.³⁴ But if I withhold the fact that I have an especially large or small penis, and withholding that fact about my sexual anatomy plays a role in your agreeing to engage in sex with me, it is not obviously true that my obtaining sex through this particular deception-by-omission is wrong. I suspect that what such cases tend to show is that we cannot rely comprehensively on a consent criterion to answer all our questions about morality, sexual or otherwise. Does the other person have a *right* to know the size of my penis while deliberating whether to have sex with me? What types of coercive threat do we have a *right* to employ in trying to achieve our goals?³⁵ These significant questions cannot be answered by a consent criterion; they also suggest that reading the Second Formulation as Mappes does, such that consent by itself

satisfies the Second Formulation, is wrong.

Indeed, Mappes provides little reason for accepting his unKantian notion that consent is sufficient for the satisfaction of the Second Formulation. He writes that “respect for persons entails that each of us recognize the rightful authority of other persons (as rational beings) to conduct their individual lives as they see fit,”³⁶ which suggests the following kind of argument: Allowing the other's consent to control when the other may be used for my sexual or other ends is to respect that person by taking her autonomy, her ability to reason and make choices, seriously, while not to allow the other to make the decision about when to be used for my sexual or other ends is disrespectfully paternalistic. If the other's consent is sufficient, that shows that I respect her choice of ends, sexual or otherwise; or that even if I do not respect her particular choice of ends, at least I show respect for her ends-making capability. And taking the other's consent as sufficient can be a way of taking on the other's sexual or other ends as my own, as well as her taking on my sexual or other ends in my proposing to use her. According to such an argument, perhaps the best way to read the Second Formulation is as a pronouncement of moral libertarianism.

Even if the argument makes some Kantian sense, Mappes's sexual principle seems to miss the point. The Kantian problem about sexuality is not only that one person might make false promises or employ force or threats in order to gain sex. The sex problem arises for Kant even in those cases, or especially in those cases, in which both persons give perfectly free and informed consent. Thin externalism does not get to the heart of this problem. Perhaps no liberal philosophy that borders on moral libertarianism could sense it as a problem; at any rate, no minimalism could. The only sort of sexual objectification that Mappes considers in his essay is that which arises with coercion, most dramatically in rape.³⁷ Nothing in his essay deals with what Kant and other philosophers discern as the intrinsically objectifying nature of sexuality.

It is an interesting question why consent does not, for Kant, solve the sex problem. It seems so obvious, to many today, that Mappes's consent criterion solves the sex problem, that we wonder exactly what Kant was doing in his critique of sexuality. Kant's rejection of Mappes's solution suggests that Kant perceived deeper problems in sexual desire and activity than Mappes acknowledges. In the *Lectures*, Kant apparently accepts a Mappesian consent criterion regarding work-for-hire, and then rejects it for sexual activity:

Man [may], of course, use another human being as an instrument for his services; he [may] use his hands, his feet, and even all his powers; he [may] use him for his own purposes with the other's consent. But there is no way in which a human being can be made an Object of indulgence for another except through sexual impulse.³⁸

Kant finds something problematic about sexual interaction that does not occur during, say, a tennis game between two people, while Mappes sees no moral difference between playing tennis with someone and playing with their genitals. As Goldman does, Mappes assimilates sexual activity to all other human activities. Whether Mappes's proposal flies, then, depends in part on whether sex is not so different from other human activities that consent is not too weak a criterion in this area of life. This disagreement between those who view sexual activity as something special, and those who would lump all human interactions together, requires further philosophical thought.

4b. Thick Externalism

Let us see if thick externalism, according to which more stringent contextual constraints are required for the morality of sexual activity, offers something more substantial. My central example is Martha Nussbaum's essay "Objectification," in which Nussbaum submits that the Kantian sex problem is solved when sexual activity is confined to a context of an abiding, mutually respectful, and mutually regarding relationship. However, Nussbaum advances both thick minimalist externalism and thick extended externalism. On her view, the context of an abiding respectful relationship makes noxious objectification during sexual activity morally *permissible*; and the context of an abiding respectful relationship turns what might have been noxious objectification into something *good*, a valuable type of objectification (a thesis she derives from her reading of D. H. Lawrence).

4b1. Thick Minimalist Externalism

In several passages of Nussbaum's essay, she proposes a minimalist externalism, which claims that sexual objectification is morally permissible in the context of an abiding, mutually respectful relationship. To start, consider this modest statement of her thesis:

If I am lying around with my lover on the bed and use his stomach as a pillow, there seems to be nothing at all baneful about this [instrumental objectification], provided that I do so with his consent . . . and without causing him unwanted pain, provided, as well, that I do so in the context of a relationship in which he is generally treated as more than a pillow. This suggests that what is problematic is not instrumentalization per se but treating someone *primarily* or *merely* as an instrument [e.g., a pillow]. The overall context of the relationship thus becomes fundamental.³⁹

We can modify this passage so that Nussbaum's general point about objectification-in-context can be applied more directly to the sex problem:

If I am lying around with my lover on the bed and use his penis for my sexual satisfaction, there seems to be nothing at all baneful about this instrumental objectification, provided that I do so with his consent . . . and without causing him unwanted pain, provided, as well, that I do so in the context of a relationship in which he is generally treated as more than a penis. This suggests that what is problematic is not instrumentalization per se but treating someone *primarily* or *merely* as an instrument [e.g., a penis]. The overall context of the relationship thus becomes fundamental.

There are other passages in Nussbaum's essay that express her minimalism: "when there is a loss in subjectivity in the moment of lovemaking, this can be and frequently is accompanied by an intense concern for the subjectivity of the partner at other moments."⁴⁰ Again: "When there is a loss of autonomy in sex, the context . . . can be . . . one in which, on the whole, autonomy is respected and promoted"⁴¹ And, finally, "Denial of autonomy and denial of subjectivity are objectionable if they persist throughout an adult relationship, but as phases in a relationship characterized by mutual regard they can be all right."⁴²

One of Nussbaum's theses, then, is that a loss of autonomy and individuality in sex, and the

reduction of a person to his sexual body or its parts, in which he becomes a fungible object, are morally acceptable when they occur in a psychologically healthy and morally sound relationship, one in which one's personhood is generally acknowledged. This solution to the sex problem seems plausible. It confirms the common intuition that one difference between morally permissible sexual acts and those that are wrongful because they are merely mutual use is the difference between sexual acts that occur in the context of a loving relationship and those that occur in the absence of love. Further, it appeals to our willingness to bless, tolerate, or exculpate whatever nastiness occurs in bed between two people *as long as* the rest, and the larger segment, of their relationship is morally sound.

But this solution to the sex problem is inconsistent with Kant's Second Formulation, for that moral principle requires that a person be treated as an end *at the same time* she is treated as a means. Nussbaum's idea seems to be that small, sexually vulgar chunks of a couple's relationship, small pieces of noxious sexual objectification, are made moral in virtue of the larger and more frequent heavenly chunks of respect that comprise the relationship. But it is not, in general, right (except, perhaps, for a utilitarian) that my treating you badly today is *justified* or *excusable* if I treated you admirably yesterday and will treat you superbly tomorrow. Kant says do not treat someone merely as means, but by that qualification Kant does not mean that treating someone as a means at *some* time is permissible as long as he is treated as a person at *other* times. That Nussbaum's minimalist solution to the sex problem violates the Second Formulation in this way is not the fault of the particulars of her account; the problem does not lie in whether the background context is described as one of mutual respect, or love, or marriage. Any version of thick minimalist externalism violates Kant's prescription that someone who is treated as a means be treated *at the same time* as an end. This is so because, unlike internalism, minimalist externalism makes no attempt to improve the sexual act; it leaves it exactly as it is, as essentially objectifying or instrumental.

4b2. Thick Extended Externalism

Thick extended externalism tries to have it both ways: to justify sexual activity when it occurs within the proper context and to fix the nature of the sexual acts that occur in that context. Nussbaum's second proposal would seem to stand a better chance of conforming with the Second Formulation. In explaining the thesis that objectification is a wonderful or good thing in the proper context, Nussbaum says that in Lawrence's *Lady Chatterley's Lover*,

there is a sense in which both parties put aside their individuality and become identified with their bodily organs. They see one another in terms of those organs. And yet Kant's suggestion that in all such focusing on parts there is denial of humanity seems quite wrong. . . . The intense focusing of attention on the bodily parts seems an addition, rather than a subtraction.⁴³

Nussbaum means that being reduced to one's body or its parts is an addition to personhood, not a subtraction, *as long as* the background of an abiding, mutually respectful relationship exists, as she assumes it did between Lady Constance and Oliver Mellors. Here Nussbaum claims that sexual objectification, the reduction of a person to flesh, the loss of autonomy and individuality, can be a good thing.

Nussbaum goes so far in this reasoning as to make the astonishing assertion that "In Lawrence,

being treated as a cunt is a permission to expand the sphere of one's activity and fulfillment."⁴⁴ In the ablutionary context of an abiding, mutually respectful relationship, it is permissible and good for persons to descend fully to their bodies, to become identified with their genitals, because in the rest of the relationship they are treated as whole persons. Or perhaps the addition of this sexual objectification *makes* their personhood whole, so that without a descent into their flesh they would remain partial persons. This is suggested when Nussbaum writes, "Lawrence shows how a kind of sexual objectification . . . , how the very surrender of autonomy in a certain sort of sex act can free energies that can be used to make the self whole and full."⁴⁵ I suppose it is a metaphysical truth that to be whole, I must realize all my potential. But some of this potential, it is reasonable to think, should not be realized, because it would be immoral to do so. I may supplement or attain the fullness of my humanity only in ways that are moral. And whether adding to my personhood the identification of myself with my genitals is moral is precisely the question at issue. Merely because the reduction of myself to my genitals is an expansion of my spheres of activity does little to justify it.

In any event, one implication of the requirement of an abiding, mutually respectful relationship worries me, whether this background context is part of minimalist or extended externalism: casual sex is morally wrong. Sexual objectification makes wrong sexual acts that transpire between strangers or those who do not have much mutual regard for each other. There is no background context of the requisite sort that would justify objectification or transform it into something good. Casual sex is a descent to the level of the genitals with nothing for the persons to hang on to, nothing by which they can pull themselves back up to personhood when sex is over. Nussbaum is explicit about this conservative trend in her thought:

For in the absence of any narrative history with the person, how can desire attend to anything else but the incidental, and how can one do more than use the body of the other as a tool of one's own states? . . . Can one really treat someone with . . . respect and concern . . . if one has sex with him in the anonymous spirit? . . . The instrumental treatment of human beings, the treatment of human beings as tools of the purposes of another, is always morally problematic; if it does not take place in a larger context of regard for humanity it is a central form of the morally objectionable.⁴⁶

It is one thing to point out that Nussbaum's thick externalism is inimical to casual sex; many would agree with her. Yet there is another point. If noxious sexual objectification is permissible or made into something good only in the context of an abiding, mutually respectful relationship, engaging in sexual activity may not be employed in getting a relationship underway. The persons may not engage in sexual activity early in their acquaintance, before they know whether they will have such a relationship, because the objectification of that premature sex could not be redeemed or cleansed. But, we know, engaging in sexual activity, even when the persons do not know each other well, often reveals to them important information about whether to pursue a relationship, whether to make it abiding. This is another aspect of Nussbaum's conservative turn: the persons must first have an abiding, mutually respectful relationship before engaging in sexual activity. It would be unconvincing to argue that sexual objectification in the early stages of the relationship is morally permissible, after all, because that sexual activity might contribute to the formation of an abiding relationship that later does succeed in eliminating or cleansing sexual objectification. That argument repeats the dubious claim that morally bad segments of a relationship are justified or excused in

virtue of the larger or more frequent morally good segments of that relationship.

Let me close my discussion of Nussbaum by examining her account of sadomasochism. In response to her own question, “can sadomasochistic sexual acts ever have a simply Lawrentian character, rather than a more sinister character?,” Nussbaum replies:

There seems to be no . . . reason why the answer . . . cannot be “yes.” I have no very clear intuitions on this point, . . . but it would seem that some narrative descriptions of sadomasochistic activity do plausibly attribute to its consensual form a kind of Lawrentian character in which the willingness to be vulnerable to the infliction of pain . . . manifests a more complete trust and receptivity than could be found in other sexual acts. Pat Califia's . . . short story [“Jessie”] is one example of such a portrayal.⁴⁷

This is unconvincing (it also sounds like a Hamptonian psychological internalism). Califia describes in her short story a first encounter between strangers who meet at a party. In the sexual encounter described by Califia, there is no background context of an abiding, let alone mutually respectful, relationship. This means that the nature of their sexual activity is irrelevant to the main point, that each, as a stranger to the other, must on Nussbaum's own account be merely using each other. Something that Califia writes in “Jessie” makes a mockery of, or deconstructs, Nussbaum's proposal:

I hardly know you—I don't know if you play piano, I don't know what kind of business it is you run, I don't know your shoe size—but I know you better than anyone else in the world.⁴⁸

If Nussbaum wants to justify sadomasochistic sexual acts, she must say that *in the context of an abiding, mutually respectful relationship* either (1) sadomasochistic sexuality is permissible, no matter how brutal, or (2) sadomasochism is permissible because, in such a context, it can be good, an expansion of the couple's humanity.

5. Metaphilosophical Finale

Kant's own solution to the sex problem is that sexual activity is permissible only in the context of a heterosexual, lifelong, monogamous marriage.⁴⁹ Thus Kant's position is a thick externalism, but an externalism that is, I think, minimalist.⁵⁰ This huge topic requires a separate, lengthy essay in its own right.⁵¹ I want to comment, however, on a shrewd observation about Kant's solution made by Howard Williams:

[A]n important premiss of Kant's argument is that sexual relations necessarily involve treating oneself and one's partner as things. . . . [T]o demonstrate convincingly that marriage is the only ethically desirable context for sex, Kant ought to start from better premisses than these.⁵²

Let me explain what is interesting here. Baumrin argues that if we want to justify sexual activity *at all*, we should start by admitting the worst: “I begin . . . by admitting the most damaging facts . . . that any theory of sexual morality must countenance,” viz., that “Human sexual interaction is

essentially manipulative—physically, psychologically, emotionally, and even intellectually.” Starting with premises about sexuality any less ugly or more optimistic would make justifying sexual activity too easy. Williams's point is that if we want to justify the specific claim that sex is *permissible only in marriage*, starting with Kantian premises about the nature of sex makes *that* task too easy. If sex is in its essence wholesome, or if, as in Mappes and Goldman, sexual activity does not differ significantly from other human activities, it becomes easier both to justify sexual activity and to justify sex outside of marriage. Those, including many Christian philosophers, who assume the worst about sex gain an advantage in defending the view that sexuality must be restricted to matrimony. This procedure is copied in a milder way by Nussbaum and Hampton, who reject casual sex. The convincing intellectual trick would be to assume the *best* about sex, that it is by its nature wholesome, and then argue, *anyway*, that it should be restricted to marriage or that casual sex is wrong. (What might that optimistic account of sex look like?) Perhaps the liberals Baumrin and Goldman are trying to pull off the reverse trick, in that they admit the worst about sexuality and still come out with a permissive sexual morality. But in admitting the worst, how do they avoid concluding, with Kant, that sex is permissible only in marriage? Perhaps they succeed, or think they do, only by reading the Second Formulation in a very narrow or easily satisfied way.

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NOTES

1. An early, short, and rough version of this essay ("Kant on Sex") was presented at a meeting of The Society for the Philosophy of Sex and Love, held during the Central Division meetings of the American Philosophical Association, New Orleans, May 8, 1999. I thank Laura D. Kaplan, who was in the audience during that presentation, and Natalie Brender, who served as commentator. Another version ("Sexual Use"), very close to what appears here in this journal, was presented at Washburn University (Topeka, Kan.) as the Keynote Lecture of the 54th Mountain-Plains Philosophy Conference, October 13, 2000. I thank the members of the audience for their questions and, especially, Russell Jacobs and the other organizers of the Conference for their kind invitation and generous hospitality. I am also grateful for Edward Johnson's many useful suggestions.
2. Kant's views on sexuality are mainly in *Lectures on Ethics* [ca. 1780], trans. Louis Infield (Indianapolis, Ind.: Hackett, 1963), pp. 162-71, and *The Metaphysics of Morals* [1797], trans. Mary Gregor (Cambridge, Eng.: Cambridge University Press, 1996), pp. 61-64, 126-28, 178-80. On the similarity between the views of Kant and those of Catharine MacKinnon and Andrea Dworkin, see Barbara Herman, "Could It Be Worth Thinking About Kant On Sex and Marriage?" in Louise Antony and Charlotte Witt, eds., *A Mind of One's Own: Feminist Essays on Reason and Objectivity* (Boulder, Colo.: Westview, 1993), pp. 49-67.
3. See Bernard Baumrin, "Sexual Immorality Delineated," in Robert Baker and Frederick Elliston, eds., *Philosophy and Sex*, 2nd edn. (Buffalo, N.Y. Prometheus, 1984), pp. 300-11, at pp. 300-302.
4. "[S]exuality is not an inclination which one human being has for another as such, but is an inclination for the sex of another. . . . [O]nly her sex is the object of his desires. . . . [A]ll men and women do their best to make not their human nature but their sex more alluring" (Kant, *Lectures*, p. 164).

5. "In desire you are compromised in the eyes of the object of desire, since you have displayed that you have designs which are vulnerable to his intentions" (Roger Scruton, *Sexual Desire: A Moral Philosophy of the Erotic* [New York: Free Press, 1986], p. 82).
6. See Virginia Held, "Coercion and Coercive Offers," in J. Roland Pennock and John W. Chapman, eds., *Coercion: Nomos VIX* (Chicago, Ill.: Aldine, 1972), pp. 49-62, at p. 58.
7. "For the natural use that one sex makes of the other's sexual organs is *enjoyment*, for which one gives oneself up to the other. In this act a human being makes himself into a thing, which conflicts with the right of humanity in his own person" (Kant, *Metaphysics*, p. 62).
8. "If . . . a man wishes to satisfy his desire, and a woman hers, they stimulate each other's desire; their inclinations meet, but their object is not human nature but sex, and each of them dishonours the human nature of the other. They make of humanity an instrument for the satisfaction of their lusts and inclinations, and dishonour it by placing it on a level with animal nature" (Kant, *Lectures*, p. 164).
9. For Adam Smith, "the passion by which nature unites the two sexes . . . [is] the most furious of the passions" (*The Theory of Moral Sentiments* [New York: Augustus M. Kelley, 1966], part 1, sect. 2, chap. 1, p. 33).
10. *Groundwork of the Metaphysic of Morals*, trans. H. J. Paton (New York: Harper Torchbooks, 1964), pp. 95-96 (428).
11. "Is Homosexuality Bad Sexuality?" in Robert Stewart, ed., *Philosophical Perspectives on Sex and Love* (New York: Oxford University Press, 1995), pp. 113-24, at p. 113.
12. *Groundwork*, p. 96 (429); p. 95 (428).
13. *Groundwork*, p. 98 (430).
14. *Groundwork*, p. 97 (429). See Christine Korsgaard, "Creating the Kingdom of Ends: Reciprocity and Responsibility in Personal Relations," *Philosophical Perspectives* 6, *Ethics* (1992), pp. 305-32 at p. 309.
15. "Plain Sex," in Alan Soble, ed., *Philosophy of Sex*, 3rd edn. (Lanham, Md.: Rowman and Littlefield, 1997), pp. 39-55, at p. 40.
16. *Ibid.*, p. 51.
17. *Ibid.*
18. *Ibid.*
19. David Archard's position is similar to Goldman's; see *Sexual Consent* (Boulder, Colo.: Westview, 1998), p. 41.

20. See Thomas Hobbes: "the delight men take in delighting, is not sensual, but a pleasure or joy of the mind consisting in the imagination of the power they have so much to please" ("Human Nature, or the Fundamental Elements of Policy," in *The English Works of Thomas Hobbes*, vol. IV, ed. Sir William Molesworth [Germany: Scientia Verlag Aalen, 1966], chap. 9, sect. 15, p. 48).
21. See Thomas Nagel, "Sexual Perversion," in *Philosophy of Sex*, 3rd edition, pp. 9-20.
22. *Justine, Philosophy in the Bedroom, and Other Writings*, trans. Richard Seaver and Austryn Wainhouse (New York: Grove Press, 1965), in *Philosophy in the Bedroom*, pp. 343-44.
23. *Metaphysics*, p. 199.
24. Another problem for Goldman is that requiring that persons inject unconditional giving into sexual activity is incompatible with the thrust of "Plain Sex," which is devoted to undermining restrictive in favor of permissive sexual ethics. Casual sex between people who do not issue any commitments, consensual sex between perfect strangers, and prostitution, which liberal sexual ethics usually permit, are unlikely places to find altruistic sexual giving.
25. "Defining Wrong and Defining Rape," in Keith Burgess-Jackson, ed., *A Most Detestable Crime: New Philosophical Essays on Rape* (New York: Oxford University Press, 1999), pp. 118-56, at p. 147.
26. *Ibid.*, p. 147.
27. *Ibid.*, pp. 147-48.
28. *Ibid.*, p. 150.
29. A similar view is in Alan Donagan, *The Theory of Morality* (Chicago, Ill.: University of Chicago Press, 1977), pp. 107-108.
30. "Introduction," *Macho Sluts* (Los Angeles, Cal.: Alyson Books, 1988), p. 9.
31. I interpret Baumrin's theory of sexual ethics as an amalgam of Mappes's thin externalism and Goldman's behavioral internalism. For Baumrin, consent is necessary and sufficient for the morality of sexual activity, as in Mappes; but Baumrin also thinks that each person consents, in particular, to be the instrument for the sexual satisfaction of the other, as in Goldman.
32. "Sexual Morality and the Concept of Using Another Person," in Thomas Mappes and Jane Zembaty, eds., *Social Ethics*, 4th edn. (New York: McGraw-Hill, 1992), pp. 203-16, at pp. 203-204.
33. "Some Ruminations on Women, Violence, and the Criminal Law," in Jules Coleman and Allen Buchanan, eds., *In Harm's Way: Essays in Honor of Joel Feinberg* (Cambridge, Eng.: Cambridge University Press, 1994), pp. 209-30, at p. 218.
34. "Sexual Morality and the Concept of Using Another Person," p. 207.

35. Alan Wertheimer agrees that rights are at issue. On that basis he argues that “Have sex with me or I will find another girlfriend” is *not* coercive, because it violates no rights. See “Consent and Sexual Relations,” *Legal Theory* 2:2 (1996), pp. 89-112, at pp. 103-104.
36. “Sexual Morality and the Concept of Using Another Person,” p. 204.
37. *Ibid.*, pp. 207-208.
38. *Lectures*, p.163. See pp. 162-63: “Amongst our inclinations there is one which is directed towards other human beings. They themselves, and not their work and services, are its Objects of enjoyment. . . . [T]here is no way in which a human being can be made an Object of indulgence for another except through sexual impulse.”
39. “Objectification,” in *Sex and Social Justice* (New York: Oxford University Press, 1999), pp. 213-39, at p. 223.
40. *Ibid.*, p. 230.
41. *Ibid.*
42. *Ibid.*, p. 238.
43. *Ibid.*, pp. 229-30.
44. *Ibid.*, p. 233.
45. *Ibid.*, p. 231.
46. *Ibid.*, pp. 237-38.
47. *Ibid.*, pp. 232-33.
48. “Jessie,” in *Macho Sluts*, pp. 28-62, at p. 60. This was said by the top, Jessie, to her bottom, Liz, the morning after their sexual encounter.
49. See *Lectures*, p. 167; *Metaphysics*, p. 62.
50. Nussbaum reads Kant as a minimalist (“Objectification,” p. 425n28), while Robert Baker and Frederick Elliston (“Introduction,” *Philosophy and Sex*, 2nd edition, pp. 17-18) read Kant as an extended externalist, for whom marital altruism eliminates sexual objectification. Good evidence that Kant is a minimalist is his letter (July 10, 1797) to C. G. Schütz (*Philosophical Correspondence: 1759-99*, trans. Arnulf Zweig [Chicago, Ill.: University of Chicago Press, 1967], pp. 235-36). Kant's definition of marriage also suggests minimalism: “Sexual union in accordance with principle is *marriage* . . . that is, the union of two persons of different sexes for lifelong possession of each other's sexual attributes” (*Metaphysics*, p. 62).
51. Some interesting studies of Kant on sex are Vincent Cooke, “Kant, Teleology, and Sexual Ethics,” *International Philosophical Quarterly* 31:1 (1991), pp. 3-13; Susan Meld Shell, *The*

Embodiment of Reason: Kant on Spirit, Generation, and Community (Chicago, Ill.: University of Chicago Press, 1996) and *The Rights of Reason: A Study of Kant's Philosophy and Politics* (Toronto, Can.: University of Toronto Press, 1980); Irving Singer, *The Nature of Love, vol. 2: Courty and Romantic* (Chicago, Ill.: University of Chicago Press, 1984); Keith Ward, *The Development of Kant's View of Ethics* (Oxford, Eng.: Basil Blackwell, 1972); Allen Wood, *Kant's Ethical Thought* (Cambridge, Eng.: Cambridge University Press, 1999).

52. *Kant's Political Philosophy*, p. 117.

53. "Sexual Immorality Delineated," pp. 301, 300.

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