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TWO VIEWS OF SEXUAL ETHICS: PROMISCUITY, PEDOPHILIA, AND RAPE

David Benatar

ABSTRACT: Many people think that promiscuity is morally acceptable, but rape and pedophilia are heinous. I argue, however, that the view of sexual ethics that underlies an acceptance of promiscuity is inconsistent with regarding (1) rape as worse than other forms of coercion or assault, or (2) (many) sex acts with willing children as wrong at all. And the view of sexual ethics that would *fully* explain the wrong of rape and pedophilia would also rule out promiscuity. I intend this argument neither as a case against promiscuity nor as either a mitigation of rape or a partial defense of pedophilia. My purpose is to highlight an inconsistency in many people's judgements. Whether one avoids the inconsistency by extending or limiting the range of practices one condemns, will depend on which underlying view of the ethics of sex one accepts.

The sexual revolution did not overthrow taboos about sex, but rather only restricted the number of practices regarded as taboo. Some sexual behaviors that were formally condemned are now tolerated or even endorsed. Others continue to be viewed with the opprobrium formerly dispensed to a broader range of sexual conduct. Promiscuity, for example, is widely accepted, but rape and pedophilia continue to be reviled.

On the face of it, this cluster of views—accepting promiscuity but regarding rape and pedophilia as heinous—seems perfectly defensible. I shall argue, however, that the view of sexual ethics that underlies an acceptance of promiscuity is inconsistent with regarding (1) rape as worse than other forms of coercion or assault, or (2) (many) sex acts with willing children as wrong at all. And the view of sexual ethics that would *fully* explain the wrong of rape and pedophilia would also rule out promiscuity. I intend this argument neither as a case against promiscuity

nor as either a mitigation of rape or a partial defense of pedophilia. My purpose is to highlight an inconsistency in many people's judgements. Whether one avoids the inconsistency by extending or limiting the range of practices one condemns, will depend on which underlying view of the ethics of sex one accepts.

There are many views about the ethics of sex, but not all of these bear on the issues at hand. Consider, for instance, the view that a necessary condition of a sexual activity's being morally acceptable is that it carry the possibility of procreation.¹ While this view would be directly relevant to the practice of contraception, it would provide no way of morally judging promiscuity, pedophilia, or rape *per se*. Under some conditions, all of these practices would have procreative possibility.² Under others, none of them would. I shall restrict my attention to two views of sexual ethics that have special relevance to the three sexual practices I am considering.

TWO VIEWS OF SEXUAL ETHICS

The first of these is the view that for sex to be morally acceptable, it must be an expression of (romantic) love. It must, in other words, signify feelings of affection that are commensurate with the intimacy of the sexual activity. On this view a sexual union can be acceptable only if it reflects the reciprocal love and affection of the parties to that union. We might call this the *significance view* (or, alternatively, the *love view*) of sex, because it requires sex to signify love in order for it to be permissible.

On an alternative view of sexual ethics—what we might call the *casual view*—sex need not have this significance in order to be morally permissible. Sexual pleasure, according to this view, is morally like any other pleasure and may be enjoyed subject only to the usual sorts of moral constraints. A gastronomic delight, obtained via theft of a culinary delicacy, would be morally impermissible, but where no general moral principle (such as a prohibition on theft) applies, there can be no fault with engaging in gourmet pleasures. Having meals with a string of strangers or mere acquaintances is not condemnable as “casual gastronomy,” “eating around,” or “culinary promiscuity.” Similarly, according to the casual view, erotic pleasures may permissibly be obtained from sex with strangers or mere acquaintances. There need not be any love or affection. (Nor need there always be pleasure. Just as a meal or a theatre performance might not be pleasurable and is not for that reason morally impermissible, so sex is not, nor ought, always to be pleasurable.)

Both the significance view and the casual view are moral claims about when people *may* engage in sex. They are not descriptive claims about when people *do* engage in sex. Clearly both kinds of sex *do* occur. Sometimes sex does reflect love. Sometimes it does not.

IMPLICATIONS OF THE TWO VIEWS

A sexually promiscuous person is somebody who is casual about sex—somebody for whom sex is not (or need not be) laden with romantic significance. (As promiscuity is obviously a matter of degree, for the most promiscuous people sex need not even be *tinged* with romantic significance.) This is not to say that the sexually promiscuous will have sex with simply anybody. Even the promiscuous can exercise some discretion in their choice of sexual partners just as the gastronomically “promiscuous” may be discriminating in the sort of people with whom they may wish to dine. The sexually promiscuous person is not one who is entirely indiscriminating about sexual partners, but rather somebody for whom romantic attachments are not a relevant consideration in choosing a sexual partner. It is thus clear why promiscuity is frowned upon by advocates of the significance view of sex. The promiscuous person treats as insignificant that which ought to be significant.

The significance view also has an explanation of why pedophilia is wrong. Children, it could be argued, are unable to appreciate the full significance that sexual activity should have.³ This is not to suggest that children are asexual beings, but rather that they may lack the capacity to understand how sex expresses a certain kind of love. Having sex with a child is thus to treat the child as a mere means to attaining erotic pleasure without consideration of the mental states of which the provision of that pleasure should be an expression. Even if the child is sexually aroused, that arousal is not an expression of the requisite sorts of feelings. If the child is beyond infancy, the experience, in addition to being objectifying, may be deeply bewildering and traumatising.

The significance view of sex also provides an explanation of the special wrong of rape. On this view, raping people—forcing them to have sex—is not like forcing them to engage in other activities, such as going to the opera or to dinner. It is to compel a person to engage in an activity that should be an expression of deep affection. To forcibly strip it of that significance is to treat a vitally important component of sexual activity as though it were a mere trifle. It thus expresses extreme indifference to the deepest aspects of the person whose body is used for the rapist's gratification.

In defending promiscuous or casual sex, it has often been observed that not everybody thinks that sex must be an expression of love or affection. Many people, it is said, take the casual view of sex. For them, as I have said, sex is just another kind of pleasure and is permissible in the absence of love or affection. It is quite clear why this casual view does indeed entail the acceptability of promiscuous sex. What is often not realized, however, is that this view of sexual ethics leaves without adequate support the common judgements that are made about pedophilia and rape. I consider each of these two practices in turn.

If sex is morally just like other (pleasurable) activities and bears no special significance, why may it not be enjoyed with children? One common answer is that sex (with an adult⁴) can be harmful to a child. In the most extreme cases, including those involving physical force or those in which an adult copulates with a very small child, physical damage to the child can result. But clearly not all pedophilic acts are of this kind. Many, perhaps most, pedophilic acts are non-penetrative and do not employ physical force. Psychological harm is probably more common than physical damage. It is not clear, however, as a number of authors writing on this topic have noted, to what extent that harm is the result of the sexual encounter itself and to what extent it is the result of the secrecy and taboo that surrounds that sexual activity.⁵ Insofar as a thorough embracing of the casual view of sex would eliminate those harms, the defender of this view cannot appeal to them in forming a principled objection to sexual interaction between adults and children. Because a society in which there were no taboos on pedophilia would avoid harm resulting from taboos on such activities and would simultaneously be inclusive of the pedophile's sexual orientation, it has everything to recommend it for defenders of the casual view.⁶ At the most, advocates of this view can say that the current psychological harms impose temporary⁷ moral constraints on sex with those children who, given their unfortunate puritanical upbringing or circumstances, would experience psychological trauma. Even such children may not be damaged by every kind of sexual interaction with an adult. For example, there is reason to believe that, where the child is a willing participant, the harm is either significantly attenuated or absent.⁸

Here it might be objected that although a child may sometimes appear to be a willing participant in sexual conduct with an adult, it is impossible for a child to give genuine consent to sexual activity.⁹ For this reason, it might be argued, it is always wrong to engage in sexual relations with a child. Now, while this claim is entirely plausible on the significance view of sexual ethics, one is hard-pressed to explain how it is compatible with the casual view. What is it about sex, so understood,

that a child is unable to consent to it? On this view, sex need carry no special significance and thus there is nothing that a child needs to understand in order to enter into a permissible sexual encounter. In response, it might be suggested that what a child needs to understand are the possible health risks associated with (casual) sex. That response, however, will not suffice to rule out all that those opposed to pedophilia wish to rule out. First, some sexual activities—most especially the non-invasive ones—do not carry significant health risks. Second, where children themselves are not thought competent to evaluate the risks of an activity, it is usually thought that a parent or guardian may, within certain risk limits, make the assessment on the child's behalf. Thus a parent may decide to give a child a taste of alcohol, allow a child to read certain kinds of books, or permit a child to participate in a sport that carries risks. If sex need be no more significant than other such activities, it is hard to see why its risks (especially when, as a result of safe sex, these are relatively small) and not those of the other activities (even when the latter are greater) constitute grounds for categorically excluding children and invalidating the consent which they or their parents give.

There is another consent-related objection that might be raised against pedophilia.¹⁰ It might be argued that given the differences between adults and children, it is not possible for an adult and a child to understand one another's motives for wanting to have sex. The mutual unintelligibility of their motives makes it impossible for each party to know even roughly what the encounter means to the other and the absence of this information compromises the validity of the consent. Although this objection, like the previous one, is thoroughly plausible on the significance view, it lacks force on the casual view. Notice that the absence of mutual intelligibility of motives is not thought to be an objection to those activities with children, such as playing a game, that are not thought to carry the significance attributed to sex by the significance view. A child might be quite oblivious that the adult is playing the game only to give the child pleasure and that the adult may even be losing the game on purpose in order to enhance the child's pleasure or to build the child's sense of self-esteem. Yet, this is not thought to constitute grounds for invalidating a child's ability to consent to game playing with adults. The need for some mutual intelligibility of motive arises only if sex is significant.

Nor is it evident, on the casual view (unless it is coupled with a child-liberationist position), why children need consent at all. If a parent may pressure or force a child into participating in a sport (on grounds of "character-building"), or into going to the opera (on grounds of "learning to appreciate the arts"), why may a parent not coerce or pressure a child into sex? Perhaps a parent believes that treating sex as one

does other aspects of life forestalls neurosis in the child and that gaining sexual experience while young is an advantage. If the evidence were sufficiently inconclusive that reasonable people could disagree about whether children really did benefit from an early sexual start, then those defenders of the casual view who also accept paternalism toward children, would have to allow parents to decide for their children.

Whether or not interference with a child's freedom is justified, few people think that it is acceptable to interfere with the freedom of adults by, for example, forcing them to take up sport, go to the opera, or eat something (irrespective of whether it would be good for them). Those who accept this, even if they have the casual view of sexual ethics, have grounds for finding rape (of adults) morally defective. To rape people is to force them to do something that they do not want to do. Rape is an unwarranted interference with a person's body and freedom. The problem, for the defenders of the casual view is that it need be no more serious an interference than would be forcing somebody to eat something, for example. Thus, although the casual view can explain why rape is wrong, it cannot explain why it is a special kind of wrong. One qualification needs to be added. Perhaps a proponent of the casual view could recognize that rape is especially wrong for those who do not share the casual view—that is, for those who believe (mistakenly, according to the casual view) that sex ought to be significant. A suitable analogy would be that of forcing somebody to eat a pork sausage. The seriousness of such an interference would be much greater if the person on whom one forced this meal were a vegetarian (or a Jew or a Muslim) than if he were not. A particular violation of somebody's freedom can be either more or less significant, depending on that person's attitudes. Although some may be willing to accept that rape is especially wrong only when committed against somebody who holds the significance view of sex, many would not. Many feminists, for example, have argued at length for the irrelevance, in rape trials, of a woman's sexual history. But if the casual view is correct, then her sexual history would be evidence—although not conclusive evidence—of her view of sexual ethics. This in turn would be relevant to determining how great a harm the rape was (but not to *whether* it was rape and thus to whether it was harmful). Raping somebody for whom sex has as little significance (of the sort under consideration) as eating a tomato, would be like forcing somebody to eat a tomato. Raping somebody for whom sex is deeply significant would be much worse. Although a significance view of sex might also allow such distinctions between the severity of different rapes, it can at least explain why rape of *anybody* is more serious than forcing somebody to eat a tomato.

CHOOSING BETWEEN THE VIEWS

Is there any way of choosing between the significance and casual views of sex? Some might take the foregoing reflections to speak in favor of or against one of the views. Those who are convinced that promiscuity is morally permissible may be inclined to think that the casual view must be correct because it supports this judgement. Others, who believe that pedophilia is wrong and that rape is a special kind of evil and is unlike other violations of a person's body or autonomy, may think that the significance view is correct given that it can support these judgements.

There are other factors that are also relevant to evaluating each of these views of sexual ethics. Consider first those that speak in favor of the significance view. This view fits well with judgements most people make about forms of intimacy that, although not sexual practices themselves, are not unrelated to the intimacies of sex: (1) casually sharing news of one's venereal disease (a) with a mere acquaintance, or (b) with one's spouse or other close family member; (2) Undressing (a) in the street, or (b) in front of one's spouse in the privacy of one's bedroom. Very few people would feel exactly the same about (a) as about (b) in either of these examples. This would suggest that most people think that intimacies are appropriately shared only with those to whom one is close, even if they disagree about just how close one has to be in order to share a certain level of intimacy. The significance view seems to capture an important psychological feature about humans. Although descriptive psychological claims do not entail normative judgements, any moral view that attempted to deny immutable psychological traits characteristic of all (or almost all) humans would be defective.

But are these psychological traits really universal or are they rather cultural products, found only among some peoples? There are examples of societies that are much less restrictive about sex (including sex with children) than is ours, just as there are societies in which there are many more taboos than in ours pertaining to food and eating. It is too easy to assume that the way we feel about sex and food is the way all people do. If so, and if others are better off for their more open views of sex, then the defender of the casual view may have a message of sexual liberation that would be worth heeding.¹¹ This is not to say that it would be an easy matter (even for an individual, let alone a whole society) to abandon a significance view and thoroughly embrace the casual view. But if the casual view is the preferable one then even if it would be difficult to adopt it would nonetheless be a view to which people ought to strive. One way to do this would be to rear children with the casual view.

Whether viewing sex as significant is characteristic of all humanity or only of certain human cultures is clearly an empirical issue that psychologists, anthropologists, and others would be best suited to determine. This matter cannot be settled here. In the absence of such a determination and of a convincing argument for one or the other view of sexual ethics, the appropriate response is agnosticism (of the theoretical even if not the practical form). Neither form of agnosticism would permit one to follow *both* views—the one for the pedophilia and rape issues and the other for the promiscuity issue. At least at the theoretical level, the choices we make should be consistent if they are to avoid the comfortable acquiescence to whatever happens to be the current mores. Agnosticism about the correct view of sex, like agnosticism on any other issue, is not to be confused with indifference. One may care deeply about an issue while realising that the available evidence is insufficient to make a judgement on it. Caring deeply, however, should not stand in the way of a dispassionate assessment of the evidence. There is a great danger that in matters pertaining to current sexual taboos, clear thinking will be in short supply.

Hybrids of the two views may be possible. For instance, it may be thought that sex is not quite like other pleasures, but neither need it be linked to the deepest forms of romantic love. On one such view, it might be sufficient that one *like*¹² (rather than love) somebody in order to copulate. However, no such mixed view would resolve our problem. Any view that took a sufficiently light view of sex that would justify promiscuity would have difficulty ruling out all pedophilia or classifying rape as the *special* wrong it is usually thought to be.

Nor do I think that a non-hybrid intermediate view will be able to drive a moral wedge between promiscuity, on the one hand, and rape and pedophilia, on the other. Such an intermediate view would (as the casual view does) deny that sex must be an expression of romantic affection, but (in common with the significance view) deny that sex is like other pleasures. Although I obviously cannot anticipate every possible way in which such a view might be developed, I find it hard to imagine how any version could distinguish promiscuity from rape and pedophilia. Consider two versions of an allegedly intermediate view that have been put to me.

The first of these¹³ is that although sex need not be an expression of romantic affection, it is unlike other pleasures in that it is intimate or private. The latter part of this claim might be understood as being either descriptive or normative. The descriptive claim is that most people prefer to engage in sex (i) with intimates¹⁴ or (ii) away from the view of others. The normative claim is that people *ought* to engage in sex

only (i) with intimates or (ii) away from the view of others. If the basis for (some or other of) these claims is that sex is or ought to be a deep expression of a romantic affection, then the view under discussion is either support for or a disguised version of the significance view rather than an alternative intermediate view. I cannot think of other reasons why sex is morally permissible only *between intimates*, but perhaps there is some such reason why sex is or ought to be *private*. If there is, then there would be an intermediate view between the significance and casual views. But what would be wrong, on this intermediate view, with *private* sex between an adult and a willing child? And why would coerced private sex be worse than other kinds of coerced activities in private? I suspect that any plausible answer to these questions would have to appeal to the normative significance of sex as an expression of affection and any such appeal could not lead to a special condemnation of rape and all pedophilia without also implying a condemnation of promiscuity.

The second version of an allegedly non-hybrid intermediate view that has been suggested to me is that sex is unlike other pleasures because it is “personally involving ([that is,] psycho-dynamically complex)” in ways that other pleasures are not.¹⁵ However, it seems that any interpretation of the view that sex is personally involving would be, or would lend support to, a significance view of sex. It would surely be inappropriate, at least as a moral ideal, to engage in personally involving behaviors with those (such as mere acquaintances) with whom personal involvement (at the relevantly complex or deep level) is not really possible. If that is so, then I cannot see how the second non-hybrid intermediate view can succeed in driving a wedge between promiscuity on the one hand, and rape and pedophilia on the other.

The above conclusions should obviously be extremely troubling to those who approve of promiscuity but who abhor pedophilia and rape. My deliberations show, however, that this should provide little cause for self-satisfaction on the part of those who condemn promiscuity along with rape and all pedophilia. Their moral judgements about these practices may be consistent but it remains an open question whether they are consistently right or consistently wrong. Which it is will depend on which of the rival views of sexual ethics is better. Until that matter is resolved, adherents of both the significance view and the casual view have cause for unease.¹⁶

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NOTES

1. My own view is that if the possibility of procreation has anything to do with the moral acceptability of sex, then the *absence* rather than the presence of such a possibility is a necessary condition for sex's moral acceptability. The foundation for this admittedly unusual view is my argument that coming into existence is always a harm and therefore to bring somebody into existence is always to inflict a harm. (See my "Why It Is Better Never to Come Into Existence," *American Philosophical Quarterly*, vol. 34, no. 3 (July 1997), pp. 345–355.) It follows that it is procreative rather than non-procreative sex that bears the burden on moral justification.

2. Sexual intercourse with a pre-pubescent child has no procreative possibility. Those opposed to pedophilia, at least in our society, include under the rubric of "pedophilia" not only sex with such children, but also with pubescent children, where procreation is a possibility. I assume then, that the procreative condition is not the grounds on which they oppose pedophilia.

3. Adherents of the significance view need not take all pedophilia to be wrong. They might think that children (beyond a certain age) *can* understand the full significance of sex. I am thus claiming only that the significance view has a way of arguing that pedophilia is wrong, not that it has to argue in that way.

4. It is interesting that many of those who take pedophilia to be harmful do not have the same reprobation for sex between two people both of whom are (in the relevant sense) children.

5. Alfred Kinsey *et al.*, *Sexual Behavior in the Human Female* (Philadelphia: W. B. Saunders Co., 1953), pp. 120–121. Robert Ehman, "Adult-Child Sex," in *Philosophy and Sex* (New Revised Edition), ed. Robert Baker and Frederick Elliston (Buffalo, N.Y.: Prometheus Books, 1984), p. 436. Igor Primoratz, *Ethics and Sex* (London: Routledge, 1999), p. 138. A commentator on my paper when I presented it a conference (see note 16 below) claimed that there is much evidence to suggest that the harm does not result from the taboo. In support of this claim, she cited Anna Luise Kirkengen's *Inscribed Bodies: Health Impact of Childhood Sexual Abuse* (Dordrecht: Kluwer, 2001). I, however, am unable to find any support for her claim in this work. The book does deal with the adverse affects of sexual interactions with children. However, the question of whether it is the sexual interactions themselves or the taboos against them that cause harm, is a specialized question that, as far as I can tell, is not addressed in this book. I mention the source in fairness to my commentator and for the benefit of those readers who wish to examine it for themselves.

6. Allen Buchanan has argued, in the context of a different debate, that the "morality of inclusion" requires that co-operative frameworks be made more inclusive where this is possible without unreasonable cost. (See his "The Morality of Inclusion," *Social Philosophy and Policy*, vol. 10, no. 2, pp. 233–257.) Notice that even those ways of satisfying pedophilic preferences that do not involve actual children—such as child pornography that is either synthesised (that is, without using real models or actors) or is produced by adults being represented as children—are also abhorred, even where adult

pornography is not. This suggests that the common abhorrence of pedophilia is not fully explained by the harm it is believed to do to the children involved.

7. That is, until the taboos can be eliminated.

8. T. G. M. Sandfort, "The Argument for Adult-Child Sexual Contact: A Critical Appraisal and New Data," in *The Sexual Abuse of Children: Theory and Research*, Volume 1, ed. William O'Donohue and James H. Geer (Hillsdale, N.J.: Lawrence Erlbaum Associates, 1992); Bruce Rind, Philip Tromovitch, and Robert Bauserman, "A Meta-Analytic Examination of Assumed Properties of Child Sexual Abuse Using College Samples," *Psychological Bulletin*, vol. 124, no.1 (1998), pp. 22–53.

9. See, for example, David Finkelhor, "What's Wrong With Sex Between Adults and Children: Ethics and the Problem of Sexual Abuse," *American Journal of Orthopsychiatry*, vol. 49, no. 4 (1979), pp. 692–697.

10. This objection was raised by an anonymous reviewer for *Public Affairs Quarterly*.

11. Of course, such benefits would have to be offset against the risks of sexually transmitted diseases, or steps would have to be taken within a sexual life governed by the casual view to minimize such risks.

12. In this context, "like" cannot mean "sexually attracted to" because that would be too weak to differentiate it from the pure hedonist view. Instead it would have to mean something like "have psychological affections-less-than-love for."

13. I am grateful to Raja Halwani for putting this to me and for suggesting that I raise and respond to the possibility of a non-hybrid intermediate view.

14. This appears not to be true of the promiscuous unless one stipulates that anybody with whom one has sex is thereby an intimate.

15. This view was suggested to me by an anonymous reviewer for *Public Affairs Quarterly*.

16. An earlier version of this paper was presented at a meeting of the Society for the Philosophy of Sex and Love at the Eastern Division meeting of the American Philosophical Association on 30 December 2001. I am grateful to the University of Cape Town's University Research Committee, as well as the International Science Liaison of the (South African) National Research Foundation for providing funding that enabled me to attend and participate in this meeting.