

What is Sex? What is Sexuality? What is Sexual Ethics?

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Summary

This chapter summarizes the basic problems in defining the central terms in sexual ethics in three sections – What is sex? What is sexuality? What is sexual ethics? Each section begins with five discussion starters, which are useful for eliciting common positions and intuitions and for initially demonstrating some of the complexity of the concepts of sexual ethics. These starters are followed by analytic outlines of the issues and concepts important in discussions of sexual ethics. Each section ends with 15 decision cases (most of which are drawn from real-world examples, common college experiences, and court cases), which are useful for showing the practical consequences of the philosophical analysis of the concepts, for providing cases for debate, and for covering numerous contested contemporary issues that are not dealt with in depth in the following chapters.

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Section 1: What is Sex?

1.1 Discussion Starters

1. If your parents asked you if you had had sex yet, what do you think they would mean by that? How would you know how to answer? If a physician asked you when was the last time you were sexually active, what do you think the physician would mean by that? How would you know how to answer? If a police officer asked you if you had had sex with someone they were questioning, what do you think they would mean by that? How would you know how to answer? Do you think your definitions would match theirs? What are the different consequences of having different definitions in each of those cases?
2. What does it mean for a man and a woman to “go all the way”? What does it mean for a woman and a woman to “go all the way”? What does it mean for a man and man to “go all the way”? Are your answers consistent?
3. Sometimes people joke in response to being asked if they have had sex recently: Does having sex with myself count? But is this a joke? Is masturbating having sex with yourself? Or is having sex with yourself impossible? If masturbation is not considered sex, then why has it been looked down on in so many sexual ethics systems? If masturbation is sex, are you cheating on your spouse if you masturbate? If another person masturbated you, would that count as sex or not? Why would another person make the difference? Are your answers consistent?
4. Zorax is an extraterrestrial anthropologist who has been observing human behavior and is confused by this sex thing. Can you help him out? For example, Zorax has stealthily observed one situation where one human male started kissing another human male at a party and the two of them stumbled into a bathroom where one of them slid his finger into the other’s rectum and rubbed his prostate. In another situation at a similar party, one male put his finger inside another male’s rectum after the second male passed out drunk on his couch. In a third situation, one male physician put his finger inside another male’s rectum and felt his prostate during an annual medical exam. To Zorax, these are all instances of the same physical behavior but apparently some are sexual and some are not. He understands there are differences in consent here, but he wants to know about the sex distinctions. Can you explain this to Zorax?

He also wants to know if it would make a difference if the patient undergoing a physical experienced a pleasurable erotic sensation during the examination? And what if the physician was same man in the first party situation?

5. In discussing the problems of defining sex, several bloggers just say we should have a relativist position in which people define sex for themselves, claiming that no one definition is appropriate for everyone. For example:

- “Of course people have been arguing for years that we should get away from this need to define sex so specifically, but maybe seeing that other people do indeed engage in many activities that they consider sex . . . will help more people feel comfortable defining sex for themselves. Which is really how it should be – not a single definition that everyone uses but a personal one. Sex is whatever you want to do when you get physically intimate with another person.” (Pisaster, 2011).
- “I’d say that for me, at this point, I’d love to be able to define sex by simply saying “Sex could earnestly be absolutely anything for a given person.” (Corinna, 2018).
- “The short answer is that sex can mean many different things to many different people. There’s not one universal definition of sex but a variety of perspectives.” (GoAskAlice!, 2017).

But are these positions workable? If sex means whatever an individual wants, then what sense could we make of the claims that “sex requires consent” or “she is guilty of having sex with a minor” or “he could be charged with sexual harassment for asking for sexual favors” or “we should offer more sex education” or “she is a victim of sex trafficking” or any of a number of such statements?

1.2 The Problem of Definitions

Thinking analytically about the subject matter of a book on sexual ethics is both important and somewhat more complicated than might be expected. It’s not unusual when people hear about sexual ethics that they think it all centers around debating the morality of some particular sexual act. Is it right or wrong? Should it be legal or illegal? Is it good for us or bad? Is it something a good person would do or a bad person would do? Is it consensual or forced? Is it perverted or normal? But in many cases, we need to back up some and ask this question: What is it? What is the *it* we are talking about? What is sex?

Even asking that question can be imprecise. We could be asking a psychological question about the emotional importance of sex in human life. We could be asking a biological question about procreation and how reproductively dimorphic organisms generate offspring. We could be asking an anatomical question about how to distinguish bodies and genitalia. Although all these questions may come into play in the issues debated in this book, ethics is going to be about judging the morality of actions and their related intentions and motivations. *Sexual* ethics then will be about analyzing and judging the morality of actions classified as sexual. So, what makes an action a *sexual* act as distinguished from a *non-sexual* act? When can we correctly claim that sex occurred? Why use the term “sex” to describe some behaviors and not others? When we make laws about sex, what exactly are we covering?

We might start trying to understand these issues by looking up the term “sex” in a dictionary, focusing on the definitions not related to gender or anatomy but rather those about behavior. Wouldn’t that help? Here are a few dictionary examples:

- sexual activity, especially sexual intercourse (American Heritage Dictionary, 2016)
- (chiefly with reference to people) sexual activity, including specifically sexual intercourse (Oxford University Press, 2020)
- coitus (Vocabulary.com, nd.)
- physical activity between people involving the sexual organs (Cambridge University Press, 2021).
- physical activity in which people touch each other’s bodies, kiss each other, etc.: physical activity that is related to and often includes sexual intercourse; sexually motivated phenomena or behavior (Merriam-Webster, nd.-a)
- the activity in which people kiss and touch each other’s sexual organs, which may also include sexual intercourse (Macmillan Dictionary, 2009–2021).

Notice a few things about these definitions (these are just samples but look at a hundred dictionaries and you will find mostly similar entries).

First, they tend to be circular. Sex will be defined as sexual intercourse or sexual behavior or sexual activity or physical activity related to sexual intercourse. That’s not going to help. In looking to define sex, we are asking about what makes something sexual.

Second, some definitions, instead of being directly circular, will give synonyms, such as coitus. However,

when you look up the word coitus, you find “sexual intercourse, especially between a man and a woman.” (Dictionary.com, nd.). When you look up sexual intercourse, you find “sexual activity between two people; especially: sexual activity in which a man puts his penis into the vagina of a woman.” (Merriam-Webster, nd.-b). Now we’re back to circular – sex is coitus, coitus is sex. Even the male/female and penis/vagina wording is given as an example of sexual activity or intercourse particularly connoted by “coitus” – suggesting non-coital forms of sex.

Third, there are definitions that are more broadly behavioral, such as “physical activity between people involving the sexual organs or physical activity in which people touch, kiss, etc.” This is less circular and would help with some distinctions. These kinds of definitions could help us determine that an asteroid orbiting the sun is not an example of sex (since it doesn’t involve people or genitals) but it won’t always help us determine more specific things about people. “Activity between people involving the sexual organs” leaves us asking both what makes an organ sexual (are breasts? are fallopian tubes? are anuses? are mouths?) and whether any type of activity counts (is a vasectomy a sexual act since it involves physical activity touching sexual organs?). “Physical activity where people kiss, touch, etc.” probably needs no explication as to how unhelpfully broad it is.

Fourth, some definitions get more behaviorally specific, such as a man putting his penis into the vagina of a woman. That could be very helpful in making distinctions because it is much clearer. However, think about the way in which we use the term “sex” in language – which is all that dictionaries record in the first place. Do we use “sex” to describe anything other than penis-in-vagina? If we do, what makes those other activities sex?

Complicating the situation further, these formal dictionary definitions only cover the barest minimum of language dealing with sex. Think not only of formal synonyms for sex but the vast array of slang synonyms (if they are synonyms) for sex (if it is sex): hooked up, messed around, go all the way, third base, fornicate, got physical, were intimate, copulated, made love, screwed, slept together, made out, had relations, carnal knowledge, coupled, fooled around, mated, got some nookie, roll in the hay, hit the sheets, were in sexual union, experience sexual congress, consummated the relationship, bedded, bred, breed, lay together, lay down with, did it, do it, make it, shagged, fucked, got laid, got lucky, got busy, hit a home run, got some tail, got some ass, got some pussy, got some dick, took it up the ass, did the

horizontal tango, made babies, got nasty, got naughty, rooted, ravished, sexed up, did the nasty, got some, got down and dirty, humped, scored, banged, bumped uglies, nailed her/him, rode her/him, boned her/him, put the P in the V, pounded, got a dicking, buggered, got into some hanky-panky, one-night stand, bonked, bagged, blew, sucked, ate, had a romp, had a quickie, hopped in the sack, knew in the Biblical sense, shtupped, diddled, hit it, knocked boots, booty call, boffed, dipped the wick, fiddled the flower, hid the sausage, got a hot beef injection, made whoopee, skrog, spank the monkey, hid the cannoli, get some stankie on the hang down, got busy, did the deed, boink, going to the boneyard, made a deposit, balled, and got a bit of the old slap and tickle – just to mention some of the more contemporary ones. You could also add slang from earlier historical periods – make a beast with two backs, give her a green gown, shoot twixt wind and water, get your corn ground, grope for a trout in a peculiar river, get your ashes hauled, and ride a dragon upon St. George (Okrent, 2014; Thorpe, 2015). It seems that it is important in language (these are only English examples here but there are many, many slang terms for sex in most languages) to refer obliquely to sex. But are these in fact all referring to the same thing? Could you substitute “engaged in sex” for every one of them?

It is important to recognize that there is a difference between the terms we use to describe behavior and the behavior itself. There is a difference between the objective fact of what physical action occurred, the objective fact of what psychological state the agent was in when the physical action occurred, and the subjective choice of words used to describe the physical action. A penis entering a vagina to a distance of x either happened or didn’t. A vagina pressing against a mouth and tongue either happened or didn’t. A finger entering an anus to a distance of x either happened or didn’t. Behavioral events a , b , c , . . . either happened or didn’t. Whether we call those acts “sex” as a moral and forensic term is a more complicated social process, but the acts stand alone.

We can thus distinguish between behavior or action and the way that behavior is conceptualized or interpreted. In some contexts, the conceptualization and interpretation is the most important thing – for example, whether or not the action counts as ending virginity, or counts as a crime, or counts as a Title IX violation, or counts as adultery. In some contexts, the behavior or action is the most important thing and our social interpretations of the action are irrelevant – for example, whether or not an act provides a physical vector for HIV

transmission or whether or not the act could lead to pregnancy.

Depending on what you are interested in then, it is very important to ask the specific question you want answered. If you are a physician trying to determine the likelihood that someone may have been exposed to HIV, then what you really want to know is whether some specific body-fluid-exchanging actions occurred, not whether someone conceptualizes themselves as sexually active or not. This kind of issue was brought to light in a 2010 study on what sorts of behaviors people described as “having sex” (Sanders et al., 2010). The study (reported by the authors as the first of its kind) was published by researchers from the Kinsey Institute for Research in Sex, Gender, and Reproduction, and several other notable academic institutions. It had been known for some time that there were problems in surveys and polls that tried to investigate sexual behavior – memory error, self-reporting biases, and biased questions. However, not much attention had been paid to the basic question of what counted as “sex” itself. The authors decided to ask about specific behaviors. The stem question for the random phone survey (486 valid responders) was simply: “Would you say you ‘had sex’ with someone if the most intimate behaviour you engaged in was . . .” followed by 14 specific descriptions of behaviors. Respondents could simply answer “yes” or “no.” Behavioral descriptions included “You had oral contact with a partner’s genitals?,” “Penile–vaginal intercourse?,” “Penile–vaginal intercourse with no female orgasm?,” “Penile–anal intercourse, but very brief?,” and others. While the study revealed a number of very interesting results, for purposes here it is enough to point out just a few things: only about 50% of respondents considered the use of hands on genitals to be “sex”; only about 70% of respondents considered oral contact with genitals to be “sex”; about 5% of those polled thought whether or not a man ejaculated made a difference to whether penis–vagina intercourse was “sex”; 95% of people thought penis–vagina intercourse was “sex” but only 80% of people considered penis–anus intercourse “sex.” One hundred percent of males in the 18–29-year-old age group called penile–vaginal intercourse with a condom sex, but only 82% of men age 65 or older considered intercourse with a condom to be sex.

The consequences of these different definitions can be important. It could account for why significant numbers of patients with sexually transmitted diseases report that they have never had sex. It might mean that for 20% of respondents, gay cis-men are not capable of having sex since penis–vagina intercourse cannot happen and

penis–anus intercourse doesn’t count. It could explain why a “virgin” doesn’t consider herself to be lying even though she regularly has penile–anal intercourse. It could explain why a man who regularly has penile–anal intercourse with other men, but never has a penis inserted into his anus doesn’t consider himself gay or bisexual because he doesn’t have “sex” with other men. In short, it could account for a lot of confusing responses, medical issues, and identity pronouncements.

1.3 *Solutions to the Problem of Definitions*

Given the complications of defining sex, we might go one of two directions in trying to settle the issue. One option would be to say anything goes – let people define sex however they want, let there be lots of different definitions, and make it all purely subjective. While this may seem tempting at first, there is a very serious and probably fatal downside to going this way. Issues of sexual ethics (and the directly related issues of sexual laws) are not just personal issues – they are social and political issues involving interactions between people. They are part of a public discourse in which we have to rely on shared terminology to make real-world decisions. The issue of definitions is not just an intellectual puzzle or an observation about vocabulary. It can’t be dismissed by saying “it’s all just semantics” – after all, “semantics” refers to the meaning of words and what we mean by words has a huge practical impact on our lives, personally, morally, medically, and legally. If we are going to make any sense of common claims (whether you are for or against those claims) such as “there should be laws against sexual harassment” or “rape is sex without consent” or “gonorrhea is a sexually transmitted disease” or “he lied to her about having sex with another woman” then we cannot just say “everyone defines sex however they want.” We need to share definitions and we need to be clear on what those definitions are when we are in situations where clarity of meaning is important to making a decision.

A second option then would be to say let’s just stipulate a definition of sex. Let’s just decide, lay out the definition, and agree to that. This is a more promising direction to take because at least it satisfies the requirement that we have definitions to work with in making decisions that are socially and publicly consequential. This is also what we often actually do sometimes when we make laws or regulations or standards (though we also often assume we already have a shared definition of “sex” and don’t specify exactly what we mean). However, while the second option may be the direction we have to go, it

does not always settle the issues. Much of what is debated in society is what to include and what not to include under the term “sex.” If we already have principles and values regarding the morality of sex, there can be a drive to include more and more under the definition of sex in order to capture more and more under existing restrictions or protections. For example, if there is already a rule against sexual harassment, some people will be motivated to include more actions under the definition of sexual harassment in order to regulate those actions. An original meaning might have just meant *quid pro quo* sexual favors but later be expanded to include making any statements about a person’s sex that someone might perceive as offensive. The US Equal Employment Opportunity Commission, in fact, now explicitly states that “sexual harassment” does not need to be “sexual” in nature but can include making offensive gender-related comments. Sometimes this is referred to as “mission creep” or “definition creep,” referring to the continual expansion of what a term refers to past its original meaning.

There is an intellectual and emotional back-and-forth here with regard to definitions. We need definitions to help us make moral and legal judgments, but sometimes prior moral and emotional judgments will inform how we set up our definitions. Both moral judgments using definitions and moral judgments about definitions themselves must then be subject to critical scrutiny.

1.4 *Decision Cases*

1. *Is she a virgin?* Ashley is a senior in college who is engaged to be married soon after graduation. She has proudly told her fiancé, Brandon, that she is a virgin. However, you know for a fact that Ashley has had penis–anus intercourse many times with several different men on campus. You heard her talking once about how she only defines real sex as vagina–penis intercourse and her primary reason for anal intercourse has been to maintain her status as a virgin. Your friend Darius, who is gay, says Ashley is deceiving herself and her fiancé and that if anal intercourse doesn’t count as sex then he must be a virgin too and always will be. So, what would you argue? Is Ashley lying? Is she telling the truth? Is she misleading Brandon? Why hasn’t she told Brandon about what she has done? Does she define sex incorrectly? Does she have a suspect motivation for her definition? If Brandon asked you if Ashley has ever had sex with another man, what should you say? If he asked you if Ashley was an honest person, what should you say?

2. *Did he commit adultery?* Hector and Alina are a married couple with a 3-year old daughter. Hector works a solid 9–5 job and on his off time regularly plays a character on a massive multiplayer online role-playing fantasy game. As his character, he begins a relationship with another player. He chats a lot with her. They go on quests together. They share intimate feelings. Eventually, they begin describing their sexual fantasies to each other and write in detail what they (as their characters) would do with each other. She tells him (in character) that she loves him and Hector (in character) says the same to her. They spend on average between 1 and 2 hours a day interacting with each other. They have never met in real life or had any conversation except through the game. Eventually, Hector's character pops the question and they decide to get married at a castle. They invite other characters from the game to the ceremony. Meanwhile, Alina has been getting increasingly frustrated and angry about how much time Hector spends on the game. One night, when Hector is reading a bedtime story to their daughter, Alina logs in to the game as Hector and reads some of the archived exchanges with his in-game wife. She gets furious and hurt, accuses him of cheating on her, and tells him she can't believe he would do this to her. Hector says it's not him, it's his character, it's all online, and it's nothing like cheating. So, what would you argue here? Did Hector cheat? Is Alina's anger justified? Is her hurt justified? Does she have grounds for divorce? Can Hector be a good husband while carrying on the online relationship?
3. *Was he raped?* Carla and Mark have been dating for six months and have a very active sex life. One sex game they have enjoyed includes Carla blindfolding Mark, leading him around, and then touching, sucking, and edging his penis until he orgasms. One night, Carla decides it would be exciting to try something with Mark she has seen in porn. She blindfolds him as usual, goes through the usual foreplay and teasing, but then unknown to Mark, a gay friend of hers named Joel quietly comes into the room and sucks Mark instead of her, while she makes the usual sounds to trick Mark into thinking it is her. When Mark orgasms, Carla pulls off the blindfold to surprise him, saying what she just saw was so hot. Mark, however, is furious and horrified. He says she is sick and he could charge her and Joel with sexual assault. Carla tells him he is overreacting and just needs to lighten up. Joel gets angry too and says the only reason Mark is upset is because it was a man and if it had been a woman, he wouldn't be acting this way and he certainly wouldn't think of it as sexual assault. Joel also says that if Mark thinks he was raped then he'll have to admit that in the future he has had sex with a man. Mark says he did not do any such thing. Carla says that doesn't make any sense. How should you analyze this situation? Did Mark have sex with a man? Was Mark raped? If so, by whom – Carla or Joel or both? If Carla and Mark had done this before with another woman and Mark was not upset, does that change anything? What would that say about Mark's character? What does it say about Carla's character that she would do this? What does it say about Joel's?
4. *Did she hire a prostitute?* Charlotte has a medical condition called pelvic floor dysfunction that causes serious pain during sexual intercourse. She has seen a physical therapist for several months who has been treating her with a medically recognized treatment called intravaginal massage and this has helped quite a bit. However, her insurance has run out and she needs more therapy. Having heard about a massage parlor where the employees actually bring clients to orgasm for extra money, Charlotte makes an appointment, explains her situation to the masseuse and pays her to do the intravaginal massage. Charlotte does not experience orgasms during these sessions, but it is pleasurable to further release the tight muscles and it costs far, far less than seeing a physical therapist without insurance. One day, during her appointment, the massage parlor is raided by the police and she is arrested. She argues that she was not paying for sex but instead therapy. The police don't believe her but say if that was true, then she might be charged with soliciting someone to practice medicine without a license. If you were Charlotte's lawyer, what argument would you make to defend her against charges of soliciting prostitution? If you were a prosecutor, what argument would you make that she had broken prostitution laws?
5. *Did he lie about having sex?* In 1998, US President Bill Clinton was impeached (only the second president at that time to be so) and brought to trial in the Senate on charges of perjury and obstruction of justice. The charges were connected to a 1994 sexual harassment lawsuit filed against him by former Arkansas state employee Paula Jones related to his

time as Arkansas' governor. Trying to show a pattern of inappropriate sexual behavior with women, Jones' lawyers put Monica Lewinsky (a former intern who had told a friend she had had a "sexual relationship" with the president) on their witness list. Jones' attorneys asked the presiding judge to approve a formal definition of "sexual relations," of which the judge approved only the first part – a narrow description of sexual relations as "contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of a person with an intent to arouse or gratify the sexual desire of any person" (The Washington Post Company, 1998). In his deposition, Clinton stated that he never had "sexual relations" with Lewinsky. That statement was the ground for the perjury charge. However, Clinton's legal team argued that the approved definition did not include certain actions, thus he did not lie, thus there was no perjury. The indirect claim here seemed to be that even if Lewinsky had performed oral sex on Clinton, the deposition question asked if *he* had sexual relations with her, not if *she* had sexual relations with him. The definition of sex the judge approved made it possible that she could have had sexual relations with him and yet he not have had sexual relations with her (notice "mouth" is not in the definition, so putting a mouth on a penis falls under the sex definition because it counts as contacting genitalia but putting a penis on a mouth does not) (Lacayo, 1998; Tiersma, 2004). So, did Clinton perjure himself? How would you judge Clinton's character as a result of him making this argument?

6. *Did they make child pornography?* In 2011, MTV began airing a show titled *Skins* about the drug- and sex-related activities of teenagers. Following its British original, the show hired actors ranging in age from 15 to 19. The show depicted numerous scenes of suggestive poses, exposed breasts, heavy foreplay, and in one case a naked 17-year-old (whose constant erections were an ongoing joke in the show) running down the street (Stelter, 2011). The Parents Television Council asked the Justice Department to investigate whether the program violated federal child pornography laws, which define child pornography (in section 2256 of Title 18, US Code) as "any visual depiction of sexually explicit conduct involving a minor (someone under 18 years of age)." The law elaborates by stating "the legal definition of sexually explicit conduct

does not require that an image depict a child engaging in sexual activity. A picture of a naked child may constitute illegal child pornography if it is sufficiently sexually suggestive" (US Department of Justice, 2020). The show was canceled before a second season. Do the actions of the minor actors in this show meet the standard of "sexually explicit conduct"? Could MTV have been charged with producing child pornography? Should MTV have been charged? Regardless of the legal issues, was MTV doing something good, bad, useful, or shameful by producing this program? Were the actors doing something good, bad, useful, or shameful in participating in it? Should there even be such a law? When, if ever, should adults intervene in minors' sexual activities?

7. *What were they doing?* In 2015, hackers broke into the Ashley Madison website – a site that billed users for helping them set up adulterous affairs. Once things had settled down from the release of users' names, the company revealed that they had used tens of thousands of "fembots" or small computer programs that pretended to be human women in order to make it look like more women were using the site and to help draw in male customers (Pagliery, 2016). Most men had no idea they were chatting with programs. Some stories described these men as believing they were having online affairs when actually they were just alone, talking to code. Do the sexually explicit conversations men had with these programs count as infidelity or even as "conversations" at all? Were they cheating on their wives if no one else was there? How do the motives and beliefs and intentions of the men play into moral judgments of their activities? Can there be honorable motivations in paying for such a site?
8. *Did she commit adultery?* In 2003 in New Hampshire, David Branchflower filed for divorce on the grounds of irreconcilable differences. Later, however, he amended his petition, arguing that that his wife had been engaged in a continuous adulterous affair with another woman – Robin Mayer. Mayer asked the court to dismiss the amended petition, arguing that a homosexual relationship with a person married to someone else cannot constitute adultery under New Hampshire law. The trial court disagreed and allowed the petition, but Mayer appealed. The New Hampshire Supreme Court took up the case. Although the relevant statute allowed for adultery as a ground for divorce, it did

not define adultery. The justices, therefore, in an attempt to apply the “plain and ordinary meaning” of the term, looked to Webster’s Third New International Dictionary, which defined adultery as “voluntary sexual intercourse” between a married person and someone other than their spouse. Then, they looked to the definition of “sexual intercourse” which was described as “coitus.” Then, they looked to the definition of “coitus,” which was itself described as “insertion of the penis into the vagina.” Given these definitions, the court ruled that two women cannot engage in sexual intercourse and thus could not commit adultery with each other (and so the women won their case). In the majority’s opinion, any other standard used (such as the dissenting opinion’s “intimate sexual activity”) “would permit a hundred different judges and masters to decide just what individual acts are so sexually intimate as to meet the definition” (*Branchflower v. Branchflower*, 2003). Did the court decide rightly? Does a principle of respecting LGBTQ sexuality require treating the women’s activities as genuine adultery?

9. *Are you masturbating?* A technology company creates a new type of wearable tech – a haptic data suit. The suit reproduces the same kinds of sensations of touch and feeling and pressure that a person would experience if they were actually in physical contact with an object, even though they are not. This lets whoever wears the suit engage in remote operations that feel just like the real thing. Although marketed at first for activities like gaming, remote surgery, remote music performances, simulated computer keyboard use, testing the feel of new clothing, and test-driving a new car, the technology instantly starts getting used for “virtual sex.” But this opens up a big set of questions. If you have virtual sex with another person, but, of course, are only being touched by the suit, are you really having sex? Are you being masturbated by someone? If you use a sex program rather than interact with another person are you being masturbated by a machine? Can you have sex with a machine? Is masturbation itself questionable? Is it a perversion of something that is supposed to be shared with another person? What is the motivation for having sex without getting close to another person? What other questions can you come up with and how would you answer them?
10. *Is it adultery if she can’t get pregnant?* In many cultures and legal systems, adultery is grounds for

divorce (or criminal charges) and can affect alimony, child custody, and inheritance. Adultery has usually been understood to mean voluntary sexual intercourse between a married person and someone he or she is not married to. In one famous Canadian case, however, a judge ruled that the essence of adultery was introducing the possibility of having a child outside the marriage – so, even artificial insemination by donor with no sexual intercourse would count as adultery. “The fact that it has been held that anything short of actual sexual intercourse . . . does not constitute adultery, really tends to strengthen my view that it is not the moral turpitude that is involved, but the invasion of the reproductive function . . . Sexual intercourse is adulterous because in the case of the woman it involves the possibility of introducing into the family of the husband a false strain of blood. Any act on the part of the wife which does that would, therefore, be adulterous” (*Orford v. Orford*, 1921). This position seems to be held by a number of people who grew up before the birth control pill was common. In one 2010 study, nearly 20% of men over the age of 65 said that using a condom meant penile–vaginal intercourse did not count as sex (Sanders et al., 2010). More recently, in 2020, a man in the UK was sentenced to four years in prison for rape because he poked holes in a condom he used for sex. Although the sexual act itself was consensual, using a sabotaged condom was ruled to be rape and the judge was quoted as saying the man was fortunate that the woman did not get pregnant (Greenway, 2020). So, how important is potential procreation to defining sex and adultery? Is the key element of the wrongness of adultery not “moral turpitude” but reproductive lies? If a married woman secretly stopped using birth control, would that count as raping her husband, to parallel the UK case? If she used sperm from a donor (without any intercourse) to impregnate herself without her husband knowing about it, is she guilty of a kind of adultery? Could he divorce her on the grounds of adultery? If not adultery, then what marital violation did she commit? What exactly is morally objectionable about adultery?

11. *Is this a case of rape?* In 2012, the US Department of Justice changed the definition of rape for purposes of the Uniform Crime Reporting system. Rape was previously defined as “The carnal knowledge of a female forcibly and against her will.” The

new definition says rape is “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” This new broadened definition allowed for the concept of male rape victims and object rape. Now consider this situation: A man grabs a woman in a parking garage. He drags her into a van, ties her hands, tapes her mouth, holds her down, and vaginally penetrates her with a bottle. After several minutes, he pushes her out of the van and drives away. Did the man rape the woman? Yes, according to the criminal reporting definition. However, notice that the man did not have sex with the woman, in the sense that any of his sex organs were involved. So, it appears that either rape no longer has to involve sex (rape is penetration, not “sex”) or that sex can be asymmetrical (with one person having sex and the other person not – the woman experienced forced sex but the perpetrator did not have sex at all). Also, consider a variation of the situation in which the man did not use a bottle to penetrate the woman’s vagina, but instead used a dildo to forcibly, involuntarily penetrate the woman’s mouth. Did the man rape the woman? No, according to the criminal reporting definition. Oral penetration only counts as rape if a sex organ is used. If he had used his penis, then it would be rape. So, it appears that the penis is important for oral penetration rape, but not for vaginal or anal penetration rape. Why? Are these good definitions? What do we really want from rape laws in the first place? What are we trying to achieve?

12. *Did she have sex, but didn't know it?* Julie, a 17-year-old mentally disabled girl lives in a residential institution run by the state. She has been told by one of the night employees that needs to have “physical therapy” – a term she is familiar with from treatments during the day helping her deal with a congenital spinal curvature. The employee comes to her room each night and put his fingers in her vagina, stimulating her to orgasm, which she enjoys. Although Julie is familiar with the idea that sex is “a penis in a vagina that makes babies,” she doesn’t think of this as sex and only thinks of it as fun physical therapy. Is Julie having sex but doesn’t know she is? Is Julie being harmed? Disrespected? Used? Helped? Forced? What makes the night employee’s actions objectionable? If someone were to find out what was happening and put a stop to it

and decided to explain to Julie what happened, what should they say to explain what was actually happening instead of physical therapy?

13. *Did he think he had sex, but didn't?* On the animated Fox television series *Family Guy* (Season 5, episode 1), Peter (an adult male with limited intelligence) goes to see his family physician for a flu vaccine. Dr. Hartman realizes from looking at Peter’s medical record that he has never had a prostate examination, which is recommended for a man his age. The doctor tells Peter he needs to have a prostate exam and Peter agrees to it, not knowing what it means. When the doctor inserts his finger, Peter freaks out. He feels sexually violated, says he had no idea that’s what a prostate exam was and shows signs of traumatic stress. When he tells his wife that he was raped, she mocks him for being idiotic. Peter then becomes more and more upset and finally takes Dr. Hartman to court for sexual assault. Although intended to be farcical, does Peter have a case? If he didn’t know what a prostate exam was and subjectively experienced it as rape, was it rape? Or, as his wife seems to think, is he intellectually responsible for knowing the difference?
14. *Were you sexually harassed?* Sexual harassment is a crime. The US Equal Employment Opportunity Commission states that sexual harassment can include “unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person’s sex . . . it is illegal to harass a woman by making offensive comments about women in general . . . the law doesn’t prohibit simple teasing, offhand comments, or isolated incidents that are not very serious” (U.S. Equal Employment Opportunity Commission, nd.). What counts as “sexual,” of a “sexual nature,” or “offensive” is not agreed on, however. A 2017 national poll showed, for instance, that while most people agreed that “intentionally groping or kissing without consent” was sexual harassment, 80% of women said intentional touching of *any* sort without consent was sexual harassment, 50% of minorities said hugging without consent was sexual harassment, and 56% of minority women said unwanted compliments about their appearance was sexual harassment. As for what did not count as sexual harassment, 44% of respondents said telling dirty jokes did not count, and nearly 20% of

millennials (people born between 1982 and 2004) said sending nude selfies to someone did not count (Kahn, 2017; Huang and Kahn, nd.). So, literally, Alan could tell Kara her new dress really looks great on her and Kara could believe she has been sexually harassed. Kara, on the other hand, could send nude photos of herself to Alan and not believe she was sexually harassing him. How do you know when sexual harassment has happened? Does the attitude or motivation matter?

15. *Did I have sex?* On various forums and advice sites, people post questions asking about whether or not some experience they recently had counts as sex. Sometimes they are just curious. Sometimes they are disagreeing with someone else. Sometimes it is important to them because they want to be able to say they are still a virgin. Sometimes it is important to them to keep track of the number of people they have had sex with, to fit their idea of whether they are a slut or a stud. Here are a few real examples (typos and misspellings left in). How should their questions be answered? How should the motivations for their questions be judged?

- (i) so first off my boyfriend and i have never had sex. okay two nights ago my boyfriend and i were messing around on the couch (like he was rubbing himself on me but not going in) and he kind of slipped and went in maybe an inch or so but not all the way and he quickly pulled out without thrusting or anything. but i dont know if i can call it sex because by deffinition sex is when a penis is put in to a vigina although i would think there would have to be more to it then that. so my question is did my boyfriend and i have sex? do i have to count him now? does he have to count me? (Anonymous, 2011).
- (ii) Well awhile ago before I was with my boyfriend, I was fooling around with this guy. I told him point blank no full on sex, not unless we were in a relationship. Well we were messing around and I think he put his penis in me or the tip like once or he at least tried to since I felt a little pressure but I pushed him back and said NO. If anything it was at the most one thrust, but I wasn't sure since this guy was not at all well endowed I don't think it would have been considered sex but it really bothers me since I have already set a strict limit on the number of

people I would sleep with in my life and it really bothers me. I want to make sure this wouldn't have been considered sex. Thanks! (Average Joe, 2012).

- (iii) Does it count as having sex if you dont come? I was having it last night but i had too much alcohol so i couldnt come . . . it sucked so bad and was embarrassing . . . (Fozzy13, 2009).
- (iv) does it count as sex if you put yer dick in only ONCE and dont go back in at all cuz of lack of condom? Ive wondered this for many years and would tell me exactly when I technically lost my virginity or not (Jester78, 2009).
- (v) A few weeks ago some friends and I were discussing the recent date of a male member of the group. He said that he did not have sex on his date. But, after he described the encounter (in which both he and his partner had an orgasm, but did not have intercourse) one of our friends disagreed with him and argued that sex did occur. So who's right? (Muise, 2011).

Section 2: What is Sexuality?

2.1 Discussion Starters

1. How would you describe the difference between sexual behavior, sexual identity, sexual attraction, and emotional attraction? To what extent do these phenomena tend to match up? To what extent do they tend to conflict?
2. You have a girlfriend or a boyfriend you have been together with for a while. You are very much in love. You plan to get married. Suddenly, because of something they could not control (a magic spell, a science fiction scenario accident), they change sex. Would you stay in a sexual and romantic relationship with them? Would you still get married? If yes, does that mean sexual anatomy is not important and anyone could fall in love with anyone? If no, does that mean you are sexist or homophobic or heterophobic, or does it just mean that sexual anatomy is important in relationships? What does your answer mean?
3. Sometimes anthropologists claim that some cultures have "third genders" (or more). Famously, these include the Two-Spirits of North America, the Hijra

of South Asia, the Kathoey of Thailand, the Muxe of Zapotecan Mexico, the Khanith of Oman, the Fa'afafine of Samoa, the Mahu of Hawaii, the Femminiello of Naples, the Burrnesha of Albania, and even the Uranians of 19th Century Germany and England. However, these "third genders" are often described as "female souls in male bodies," "feminine men," "masculine women," "people with both male and female souls," "men who take feminine roles," "between women and men," "another kind of woman," "a second type of a man," "men who wear women's clothes," and "women who decide to live as men." In these descriptions, the binary of female and male is very evident. The "third gender" nomenclature can thus seem questionable, since "third" suggests something different altogether while most of the descriptions instead suggest admixtures of two. What would it take for a culture to have a genuine "third gender" that was not a combination or crossover of the two genders? Are there any "third genders" that would meet this standard?

4. The gay social networking app Grindr is extremely popular among gay men, often used for sexual hookups. It is common for men using Grindr to check out statistics and explicit pictures on a profile, meet for no-strings-attached sex, and then move on. Several attempts have been made to create a Grindr for both lesbians and heterosexuals that would allow for similar NSA hookups for women and women, or men and women but none has been successful. Other apps such as Tinder have succeeded but work very differently (with hardly anything comparable to naked torso and genital pictures of women looking for casual hookups). Why does the format of an app like Grindr work so well for gay men but not for lesbians or straight women?
5. Is sexuality on a continuum? For years, bisexuality was seen by many people as an unlikely sexual orientation. Gay people often said "bisexuals" just hadn't come to terms with the fact that they were gay. Straight people often said the same thing, or that "bisexuals" were just straight people trying to be edgy. Bisexuals resented this and it came to be called "bisexual erasure." Then, another claim started to be made – that everyone is really bisexual. Some may be more or less bisexual, but everyone has "tendencies" and there is hardly anyone that is really 100% straight or gay – they just hide their desires. This came to be the idea that sexuality is on a continuum. Some even thought that if there were no social

disapprobation for same-sex attraction and behavior, sexuality would be a bell curve, with bisexuality the most common. So, one claim was that there were really no bisexuals. The other claim was that everyone was really bisexual. A recent major study sheds light on the issue, but in a complicated way. The study shows that the large majority of people are completely straight, with their desires, attractions, behavior, and identities all totally straight-consistent. However, a very small proportion of people are not straight, and their sexualities do show a greater variety and fluidity. So, what is the most accurate way to think of the statistical distribution of sexuality?

2.2 Definitions

To say that sexuality can be complicated is an understatement. In fact, the degree to which sexuality is complicated is itself a point of contention. Some describe sexuality as nearly infinitely variable, while some describe sexuality as relatively simple with its variability widely overstated. Any comprehensive discussion of sexuality is beyond the scope of this book, but it is useful to outline the terrain of sexuality, particularly as it bears on sexual ethics and sexual law.

Sexuality can be usefully considered as a cluster concept divided into at least four areas: biology, behavior, attraction, and identity. Biology refers to physical facts about the body – the most obvious being reproductive anatomy and genetics, though this could include neurological, hormonal, and other physiological traits. Behavior refers to the actions people actually engage in – what sexual actions do they perform and with whom or what? Attraction refers to the sexual desire people experience – what types of bodies, personalities, objects, and activities are sexually arousing? Identity refers to how a person thinks of or describes themselves – to what extent does any aspect of their sexuality fit into thinking of themselves as a certain kind of person?

There are two important things to realize about these four areas. First, they are not necessarily connected to each other in exclusive ways (although statistically there are very consistent patterns). Second, different areas are more or less important for specific purposes.

Regarding the first realization, the four areas of sexuality can cross over in multiple ways. One's sexual anatomy could be male, but gender identity be female (a transgendered woman). One's gender identity could be female but sexual attraction be toward females (a homosexual woman). One's sexual anatomy and

gender identity could be male and have a sexual attraction toward females, but sexual behavior be to engage with other males (prison situations, prostitution, and gay-for-pay pornography). In fact, if you lay out a simple grid with just three categories of sexuality (sexual anatomy, gender identity, and sexual orientation) and had only two possible options (male and female) for anatomy and identity, and had three possible options (male, female, and both) for orientation, you would have 12 possible combinations.

<i>Sexual Anatomy</i>	<i>Gender Identity</i>	<i>Sexual Orientation</i>	<i>Description</i>
M	M	M	Gay man
M	M	F	Straight man
M	M	MF	Bisexual man
M	F	M	Straight transwoman
M	F	F	Lesbian transwoman
M	F	MF	Bisexual transwoman
F	M	M	Gay transman
F	M	F	Straight transman
F	M	MF	Bisexual transman
F	F	M	Straight woman
F	F	F	Lesbian
F	F	MF	Bisexual woman

If you added categories or options, you could increase the possibilities exponentially. For example, if you added the options of intersexed to anatomy and nonbinary to identity, you would have 27 possibilities. If you broke down the sexual orientation category into options for male, female, transgender, intersexed, and nonbinary, then you would have 45 sexual identities. If you added a new category of genetic sex with three distinct options (XX, XY, and other), you would have 135 possibilities, and if affectional orientation were included as a different category, you would have between 405 and 18,225 sexuality options (depending on how elaborately and specifically you separated out concepts).

And this only includes qualities typically associated with sexuality. But what about people who are particularly (or primarily or only) attracted to redheads? Does that count as a sexual orientation? Do we add that in? It's certainly a logical possibility and there are people who say

they have a particular attraction to redheads. If we do that, though, we could also add blondes, brunettes, shaved heads, and literally thousands of other qualities. Is someone attracted to tall people? Short people? Is someone particularly attracted to intelligence (calling themselves sapiosexuals)? What about attraction to strength, to morality, to recklessness, to big feet, to small ears, to gravelly voices, and to being born on a Thursday? Combining the possibilities literally leads to infinitely many possible sexualities (actual sexualities limited only by the number of actual human beings). Upon hearing that, some people may cheer, thinking that the more the better and that having an infinite number of sexualities is somehow freeing or exciting or gloriously variegated. However, thinking in terms of sexuality as infinitely variable is problematic for practical and moral reasons.

Practically speaking, it is important when considering any question about the importance of sex and sexuality that we look at numbers. In the pursuit of respect for diversity, many people will point to a phenomenon (such as self-identified "asexuals" for instance) and claim that this phenomenon shows sexuality is not universal or is merely a social construction. This sort of generalization is made even easier in the current environment where technologically mediated communication and searchable information databases allow for nearly all phenomena to achieve visibility by merely clicking a link (boiled Brussels sprouts recipes are just as easy to find on the Internet as cheesecake recipes but that does not indicate the foods are equally popular). While it is true that the existence of one asexual does prove that sexuality is not universal, without an appreciation of numbers, the presence of an asexual tells us virtually nothing usefully generalizable about human beings. So, if the logical possibility of an infinite number of sexualities would lead us to answer the question "What is human sexuality like?", by simply saying "infinitely variable!" we would be ignoring statistically and evolutionarily important information that would be valuable in describing human behavior, explaining human behavior, making predictions about human behavior, and making policies for human behavior. It is true, for example, that there are human beings who are 8 feet tall. Without some statistical situating of those numbers, however, the fact that there are 8-foot-tall humans is nearly useless for predicting the height of people we will come across, for explaining the most common architectural conventions, or for helping us design seats on new airplanes. When we find out that there are only three known living people over 8 feet tall, which is about 0.0000000004% of the world population, we see that

people over 8 feet tall are extreme outliers and provide virtually no useful information generalizable to the human population (other than that it is biophysically possible to be that height). That doesn't mean those people are not valuable or shouldn't be treated well – it simply means that when asking questions about human nature, predicting human behavior, or making social spending arrangements, the over-8-feet-tall category is statistically negligible. Similarly, if it turns out that the (limited amount of) research done to determine the frequency of asexuality shows that less than 1% of people are asexual, then its existence will not tell us much about human psychology and sociology at large. It would be statistically unjustified to say “well, then, there are sexual people and asexual people, so sexuality is just one more variation and you can't say that humans are sexual beings.” Think of how much human history, human psychology, and human political analysis would be abandoned if we no longer thought of the human species as a sexual species. Asexuality is merely a sample case here. The point is that it is important to take numbers and statistics into account in order to understand human nature.

Morally speaking, this does not mean, of course, that asexual people (or any particular sexual minority) should not be treated equally. There is no direct implication from statistics to moral standing. However, numbers can be morally important. For example, if we are asking whether sex and sexuality are important aspects of human life, important aspects of being human, someone might point to the existence of asexuality as proof that sex cannot be considered a “basic human good” or a “fundamental quality” because there are people who can lead satisfying lives without sexual behavior or perhaps even sexual desire. For any ethical or legal system that bases rights protection on whether or not something is a basic human good, or a fundamental human quality, then, sex and sexuality would not deserve fundamental protection.

2.3 *Contextual Categorizations*

This leads us back to the second realization mentioned above. Different classifications of sexuality are used for different purposes. Consider an anatomy professor at a medical school. For purposes of training future surgeons, internal medicine specialists, urologists, and gynecologists how to be good at their work, the actual shape of bodies is most important – how structures connect and function. What sexual desires a patient has or what gender identity a patient has may be irrelevant.

Consider an epidemiologist at a public health office. For purposes of predicting the spread of sexually-transmitted diseases, the behavior of people is most important. Surveying local areas to find out who identifies as gay or straight is not nearly as important as surveying local areas to find out who engages in specific physical acts with whom. For example, several studies have shown that there can be significant discordance between self-reported sexual identity and sexual behavior – and this is strongly affected by ethnicity, class, and social group. There are men who have sex with men exclusively, but say they are heterosexual (and are disproportionately racial minorities) (Pathela et al., 2006). There are men who say they are straight but have life-long histories of sex with men (Zellner et al., 2009). Men in this category are significantly less likely to use condoms or to be tested for HIV (Pathela et al., 2006) and more likely to have sexual transmitted diseases (Zellner et al., 2009) than men who report being gay or bisexual. One study on adolescents reported no consistent pattern describing the categories of identity, attraction, and behavior for those who were not exclusively heterosexual, with behavior accounting for only 31% of those who endorsed some form of non-heterosexuality (Igartua et al., 2009). Thus, for public health tracking, the category of MSM (men who have sex with men – a purely behavioral category) is central.

Consider a political scientist. For purposes of predicting voting behavior, one category that might be important would be identity. Since people who describe themselves as LGBT are more likely to vote for Democratic candidates, it may be useful in explaining why a particular municipal area is more likely to vote for one party rather than another to know the percentage of people who identify as LGBT.

Consider a judge. For purposes of ruling on whether or not a state law unduly burdens or unfairly selects a group for certain kinds of treatment under the law, the court will subject the law to a specific level of “scrutiny” – a legal term referring to how high of a standard a state must meet in order to justify the law as constitutional. The highest level of scrutiny (strict scrutiny) often places heavy emphasis on whether the distinguishing characteristics of the group are immutable, meaning that they are innate and unchangeable. The nature of sexual attraction has been held to be very important here. If the attraction that homosexuals feel is immutable, then it may be that the only way for them to achieve a satisfying and important good in society (romantic relationships) is to be free to pursue same-sex

relationships. As such, sexual orientation is central, and laws forbidding homosexual relationships have been held unconstitutional.

To say, however, that there are multiple categorizations of sexuality is not to say that all categorizations of sexuality are true. Claims of sexuality, like any other claims, can be true or false. People can be mistaken about sexuality (for example, believing that homosexuality must be a condition not affected by biology but only by childraising practices). It is also true that a person can misunderstand their own sexuality as they might misunderstand someone else's. The notion that whatever someone says about their own sexuality must be true implies a kind of asocial and context-free omniscience that would be highly unlikely for fallible, social creatures such as human beings. For example, a man who claims to be straight but regularly has sex with other men could be confusingly categorized as a "straight man who has sex with men" but could also be much more easily categorized as a closeted homosexual man who has various social, political, and personal reasons not to describe himself or think of himself as gay. People often think of themselves as one thing when they really are another and this has morally analyzable content. Someone may claim not to be racist, for example, when they really are, and they clearly have motivating reasons to think they are not racist.

The moral content of sexuality for sexual ethics can arise in several ways. The nature of sexuality may be relevant for moral standing (as with the case of immutable characteristics under the law). The character of someone may be in question if they make claims about their sexuality that are at odds with their behavior (as with people who claim to be straight but engage in homosexual acts). The consequences of someone's sexuality may be beneficial or detrimental to themselves and others (being aroused by caring versus being aroused by hurting). The duties related to someone's sexuality may be different (avoiding children if one is a pedophile). In all these cases, sexuality is itself something to be questioned, analyzed, assessed, and understood, with knee-jerk reactions of "reject aberrant sexualities" or "accept all sexualities" as equally insufficient for genuine moral assessment.

2.4 Decision Cases

1. *Is he a pedophile?* In 2017, former Chief Justice of the Alabama Supreme Court Roy Moore ran for Senator of Alabama in a special election. During

campaigning, several women accused him of sexual misconduct that occurred years before, including when some of the women were between the ages of 14 and 18 and he was over 30 (Bump, 2017). As a result, Moore was labeled in some media outlets as a "pedophile" (Broverman, 2018) and a "child molester" (Al Jazeera, 2017). However, the notion of what counts as a "child" has changed considerably over time (remember Juliet was 13 years old and Romeo assumed to be around 16 and that it was not uncommon for 13- and 14-year-old girls to marry prior to 1950). The older notion that childhood is largely over at puberty (contrasted to the modern concept of an extended "adolescence") is still somewhat reflected in US marriage laws. The Pew Research Center reports that over 57,000 minors (between 15 and 17) in the United States were married as of 2014 (McClendon and Sandstrom, 2016). Two states even allow 13-year-old girls and 14-year-old boys to marry. So, should Moore be considered a "pedophile"? Or has the creation of a legally extended childhood also created a new class of criminal and pervert that did not exist before? What are the motivations for describing someone as a pedophile?

2. *Is she really bisexual?* Michelle is a professor at a local college. Before graduate school, she only had heterosexual relationships, only expressed romantic and sexual interests in men, and had never been a part of the LGBT community. When she went to graduate school, however, she was in a program that included a large component of women's studies that was critical of heterosexual privilege. While in the program, she decided to date some women and had a couple of sexual experiences with women. She began to call herself bisexual. After she graduated and left to take a college job in another state, however, she never pursued any other romantic or sexual relationships with women, soon married a man, had children, and attends all the standard social functions that her other married, heterosexual colleagues do. She still calls herself bisexual, often asserting this as part of what makes her especially appropriate to direct programs and teach courses in gender and sexuality and be the "out" advisor to the LGBT student group. Straight friends and colleagues never think of her as anything but straight. Gay colleagues dismiss her claims about being bisexual, referring to her as a LUG – Lesbian Until Graduation – a derogatory

term used to imply her graduate school sexual experiences were safe, “cool,” and affectations of a particular academic culture rather than expressions of a genuine sexual orientation that they have had to deal with their entire lives. They are also annoyed that she now uses those few experiences to benefit her career. Is this woman bisexual? Is there anything wrong with her using bisexual identity in her career? Are the criticisms of her just or unjust?

3. *Did he do the same thing she did?* At a campus fraternity party, Madison gets somewhat drunk and publicly makes out with another girl. Everyone whoops at them and cheers and laughs. She’s never done that before and enjoys the attention but says she’s not gay or bi. Her boyfriend, Ethan also thought it was funny and even kind of hot. They laugh about it later and think of it as no big deal. However, later in the semester, they are at another fraternity party, but this time Ethan gets drunk and publicly makes out with another guy. People stare but this time there are no whoops and cheers, just confusion. He’s never done that before and thought it was fun but says he’s not gay or bi. Madison does *not* think this is funny or hot. She freaks out. Ethan says it’s no big deal. He was just drunk and being spontaneous. Madison isn’t okay with that. What’s going on here? Are the situations different? Does it mean something different when she made out with another girl than when he made out with another guy? Or is she overreacting? Or is she justified in thinking what Ethan did suggests something more than what she did?
4. *Does this violate the rule or not?* The Roman Catholic Church has a rule that only men can be priests. In one parish, it is discovered that one of the priests who has served the church faithfully for 20 years was born female and transitioned to male 25 years ago. Members of the church bring the issue before the Bishop, claiming that the “priest” is not a man, that sex reassignment does not change gender, that “she” lied to the church, that all “her” sacramental actions are invalid, and that “she” should be removed immediately. The priest, however, says that he has not violated Church teachings. He agrees with the church members that sex reassignment surgery did not change his gender, instead arguing that he was always male because what makes a man a man is his neurologically based inner gender identity, and that his earlier female anatomy was just a developmental birth defect now corrected. His

brain and spirit have always been male. Irrespective of your assessment of the Church’s position on transgendered people or the male-only priesthood, is this person violating the Church’s rule on male-only priests or not? He is not arguing the Church’s rule is wrong; he is arguing that he is not violating the rule. What is the most accurate way of looking at it? And if this is what the priest thought, was it dishonest not to share his history with Church authorities?

5. *Is this a sexual orientation?* Kayla is a white woman who says she is only attracted to black men. She only dates black men, only has sex with black men, and only wants to marry a black man. She doesn’t think of this as a political stance and she doesn’t hate non-black men. She says she doesn’t know why she only likes black men – she just does. To her, it is just her sexual orientation, just as some people are only attracted to men and some are only attracted to women. But several people who know Kayla have a hard time believing this and criticize her character. Some people accuse her of being racist. Some accuse her of being a racial fetishist. Some people accuse her of being rebellious. Some people accuse her of trying to prove how liberal she is by only dating black men. Some people say gender-based sexual attraction is biological but race-based attraction is not, so it can’t be a true innate sexual orientation. What is most likely to be true? Is this her sexual orientation? Is racial attraction something different from anatomical attraction? Is Kayla’s attraction morally neutral or morally valenced?
6. *Is he really straight?* Adam’s favorite sexual activity is pegging with his girlfriend (being penetrated anally by a woman wearing a strap-on dildo). He strongly prefers this to all other sexual activity. In fact, he prefers it to vaginal intercourse. His friends think this is kind of strange. Finally, one of his friends flat out tells him that he must be gay, but just hasn’t come to terms with it. Adam says no, he isn’t. He is only attracted to women. His friend asks him how he can be straight if he doesn’t like vaginal sex. Is Adam straight? Or completely straight? Are his friends making a mistake? Or what? How likely is it that Adam is self-deceived? How likely is it that Adam’s friend is making some sort of category error? What if his girlfriend sometimes pretends to be a man during pegging? Does that change anything?
7. *Is sexuality important to being human?* Calvin does not want to have any sexual feelings at all. He is

actively online asking for help with finding some treatment, some medication, or surgery that could permanently eliminate all sexual desire, sexual arousal, and sexual feelings of any kind. He has heard about Depo-Provera shots but that seems time-consuming and inconvenient. He's hoping to find something that will erase his sexuality entirely. In some ways, Calvin is seeking what numerous people in history have sought, though for various reasons – people who thought libido was the source of the world's troubles, people who thought the only way to have a truly spiritual life was to extinguish the physical as much as possible, people who thought masturbation and rampant sexual desire caused diseases, and people who thought sexual desire was animalistic and dirty. However, most organized religions and most popular movements have condemned these anti-sexuality views as heretical, inhuman, self-hating, and in conflict with human nature. Indeed, many people in history have also praised human sexuality and argued that it was a crucial part of the human experience. These arguments have been used in various liberation movements (women's liberation, gay liberation, and the sexual revolution) to value sexuality and to free people from socially imposed guilt. So, is Calvin making a mistake? Is he failing to see that sexuality is human and valuable? Or is it false that sexuality is an important human trait that should be valued and cherished, and that in reality it is neither here nor there? The answer that "anyone should be able to do whatever makes them feel good" doesn't get at the problem. If there is no problem with what Calvin wants, then that means sexuality is *not* inherently valuable. And if sexuality is not inherently valuable or crucial, then the claim that all people must be able to explore and express and accept their sexuality *because of sexuality's inherent importance* is wrong. What should Calvin believe about sexuality? What should he do? How would you analyze Calvin's motivations?

8. *Can a bromance be more rewarding than a romance?*

Jackson is straight, very conventionally masculine, and has had sex with lots of women. By the time he was a senior in college, he had had sex with close to a hundred women. He had only had a few short-lived romantic relationships with women, however, and felt that every time he was in a relationship, suddenly he had all these obligations to do things he didn't enjoy, hang out with people he didn't care

for, be careful of what he said, make sure to be available all the time, account for his whereabouts, and talk about things he had no interest in. One day, in a class on contemporary moral issues, he told the whole class that he was totally supportive of gay marriage – but not for the typical reasons. He supported same-sex marriage because he thought the ideal family situation would be for him to marry his male best friend, Eric. They had been best friends since 4th grade, always been there for each other, never had any conflicts, liked to hunt and fish and watch football together, and felt totally comfortable. They were just friends – nothing sexual between them, ever. Jackson thought the perfect situation would be to marry Eric, adopt kids, and they could both sleep with however many women they wanted to – sex with women, but not having to deal with romances with women. The class reacted very skeptically to Jackson's plan, thinking there must be something else going on, thinking that either he was closeted, or that he was sexist, or that he was afraid of commitment. However, some recent qualitative research has suggested that Jackson may have company. A study of male college students asked to compare their "bromances" to their heterosexual romances found that the men described their close male friendships as emotionally open, trusting, and stable. They also described the absence of judgment, the lack of boundaries, and the easier conflict resolution with male friends as leading to more socially fulfilling and emotionally stable relationships than relationships with girlfriends (Robinson et al., 2019). So, can a bromance be a viable long-term substitution for marriage? Is there anything to criticize here about Jackson's character or motivations?

9. *Can a campus sexual identity organization possibly be inclusive enough?*

A college campus group is in discussion about whether to change their name – again. Years ago, when the group was started, it was just called the Gay and Lesbian Student Union. Then, it was changed later to Campus Pride, in order to include friends and allies. Later it was reorganized by Student Life to be the Campus LGBT group – to make sure it included bisexuals and transgender students. Now, however, new members are demanding that the name be even more inclusive. Some want to change it to LGBTQIA to include intersexed, queer/questioning, and asexual. This had led to quite a

fight. Some members say the whole thing is too unwieldy. Some members say adding “asexuals” to the group makes no sense – it would be like students who claim to have no ethnic or racial identity joining the Campus Students of Color Coalition. Some students want it to be even more inclusive – LGBTQIP2SAA, including pansexuals, allies, and Native American Two-Spirits. Some students say just use the term “queer” because it includes everyone except heterosexuals. Allies don’t like that. When told “queer” can include allied heterosexuals as well, someone asks “so it’s just a group for everyone?” Finally, one student, Aaron, stands up and makes the point that he is gay, male, votes Republican, and thinks the most important political goals were opening up the military and marriage to gay people. But, he is aware that the person sitting next to him, Jade, is pagan, socialist, queer, trans, uses the pronoun “they” and thinks marriage and the military are oppressive patriarchal institutions that no one should support. And he knows that the person in front of him – Mara – is an atheist, anarchist, and radical lesbian who opposes allowing transwomen in women-only events. So, Aaron suggests, why don’t we just disband? There is nothing we have in common enough to be a group. What should the group do? Rename? Disband? Break into smaller identity groups? What?

10. *If you can self-identify gender, can you also self-identify age?* The term “agefluid” appears to have originally been created by Internet trolls to mock the concept of gender fluidity. The concept (represented by the black silhouette of an adult male bending down and reaching out to a small boy, but with a white silhouette of a young girl inside the adult male) was that if gender can be fluid and people can identify with a gender that does not match their sexual anatomy, then age could also be fluid, with people identifying with an age that does not match their chronological anatomy. The intended mockery was that this would defend what appeared to be child molestation and that there were no limits to what could be “fluid.” While the origin of “agefluid” seems to have been satire, however, it was taken seriously (what does it say about our culture that satire is not discernible?). Some people defended it, saying “transage” was on par with “transgender.” One YouTube personality responded to a comment making fun of transage by saying: “I’m telling you guys, you better watch out.

You make fun of these things today and tomorrow you’re labeled as not so good things because we reacted to transage the way other people reacted to transgender . . .” (Onisionspeaks). Individuals have also acted on the transage concept seriously. Emile Ratelbrand, a Dutch citizen, petitioned to legally change his age from 69 to 49, saying that he feels and identifies as 49, not 69, and argued that his petition was no different than if he were asking to legally change his gender based on how he feels and identifies (Brenoff, 2019). In another case, the person formally known as Paul Wolscht, a father of seven children, transitioned to female after realizing her transgender status at age 46. However, the transition was not to a 46-year-old woman but to a 6-year-old girl, named Stefoknee Wolscht (James, 2015). Stefoknee identifies as a 6-year-old girl and lives as a 6-year-old girl in many ways, including living with friends who function as adoptive parents. So, is being transage just like being transgender? Or is there a fundamental difference? How do we distinguish what traits can be fluid and what traits cannot?

11. *Is there something bad about this sexual desire?* Xavier is an African-American young man who is in college, has good grades, stays active, has a good relationship with his family, and plans to go into business. He is gay and open about it, but he is not open about one big element of his sexual desires. His major turn-on is raceplay. Raceplay is a controversial type of kink sexual practice where the participants role-play (Jones, 2013). It often works with dominant and submissive roles based on historical racist power dynamics. Commonly, one Black partner will play the “slave” to a White partner’s “master” and the White partner will use racial epithets, humiliating verbal abuse, and physical roughness to dominate the Black partner while the Black partner will submit, beg, obey, and otherwise serve the White partner. This is the type of raceplay that turns Xavier on. There are many other raceplay forms – Asian women pretending to be subservient geishas to White partners, Native Americans pretending to be captured by Whites, and even “reversals” in which Black dominant partners “conquer” White partners and enforce the superiority of the Black race over weak, effeminate, white males, and so on. Xavier has only told a couple of friends that he is into this and both of them reacted in horror, telling him that he was

- sick, or that he had obviously internalized racist self-hatred, or that something else was wrong with him. Xavier insists it is just for fun and is no different than nurse/patient role playing or teacher/student roleplaying. He says his partners are not racist and everyone knows it is just a game. Is there something wrong with Xavier? Are his sexual desires messed up? Perverted? Politically dangerous? Does he have a psychological problem? Is this just another sexual desire and behavior that doesn't hurt anyone? Can Xavier enjoy this sexual activity and still be a strong, honest, person? Can his partners enjoy this sexual activity and be good, non-racist people?
12. *Are they really what they say they are?* Mateo is 23 and describes himself as straight. Yet, he regularly has sex with men. Because he always takes the top position, he seems to think that doesn't count as being gay or bi – because he says the essence of being gay is to be sexually passive. Isaiah is 26 and identifies as straight but is also on the “down-low,” having sex with more men than women. He would never say he is bi or gay and thinks of his down-low activities as totally separate from his real life. Brianna is 14 and describes herself as bisexual, although she has never had any sexual or romantic contact with a girl and doesn't pursue any. But most of her friends think of themselves as counterculture and also say they are bi, or pan, and she feels like she must be too or she wouldn't like hanging out with them. Blake identifies as gay, is very out about it, goes to gay pride parades, and has gay rights bumper stickers on his car. He says he is very gay, loves men, and could never think of himself as anything but gay. However, Blake has never dated, made out, or had sex with a man. In fact, he dates women, sleeps with women, and watches straight porn focusing on women. Even when attractive men come on to him, Blake ignores them and hits on women. Is Mateo straight? Is Isaiah straight? Is Brianna bisexual? Is Blake gay? And importantly, does Blake's situation seem stranger than the others? Given various social forces such as high homophobia in certain communities (“down-low”) or a coolness factor among trendy teenagers (“bisexual chic”) and the virtual non-existence of cases like Blake's, how seriously should we take how someone “identifies”? What are the various psychological and political motivations for identifying one way rather than another?
 13. *Is this a “legitimate” sexuality?* Amanda says she is in love with a chandelier, and she means it literally. Sandy was in love with the Twin Towers and felt widowed when they were destroyed. Bill is in love with an iBook. Edward falls in love and lust with cars, writing poetry to them, singing to them, talking to them, and has had sex with over 1,000 of them (typically penis-into-tailpipe or rubbing against them). Joachim used to be in love with a Hammond organ but for the last few years has been in love with a steam locomotive. Eija-Ritta was in love with the Berlin Wall and ritually “married” it, changing her last name to Mauer (German for “wall”) and was devastated when it was torn down in 1989 (Thadeusz, 2007). Erika is in love with the Eiffel Tower and also married it. All these people are objectophiles (or objectum sexuals) (Griffiths, 2013). They are not using objects as mere fetishes (the way someone might get turned on by high heels or lingerie). They maintain that the object itself is the desired sexual, and sometimes, romantic partner. Some, but not all, are animists – believing that the objects have spirits and consciousnesses. Some objectophiles have formed organizations to make connections with others, to push for acceptance, and to denounce films and television programs that showcase them as freaks (objectum-sexuality.org) Some sex researchers recommended seeing objectophilia as a legitimate sexual orientation rather than a paraphilia (Marsh, 2010). Some researchers say it should not be considered pathological because objectophiles do not harm anyone (Griffiths, 2013). So, is objectophilia “legitimate” – a true sexual orientation and not a paraphilia? Is harm the only thing to consider, or is delusion an appropriate consideration as well? Are objectophiles missing out on rewarding human relationships? What is the practical result of treating objectophilia as “legitimate”? What would be done that wouldn't be done otherwise? Can a relationship with an object be a genuine or good relationship?
 14. *What terms best describe some sexual desires?* In several online forums about sexuality, it has now become considered inappropriate, offensive, or “politically incorrect” to use certain terms. People sexually attracted to children have been called “pedophiles” but now want the term “minor-attracted persons” or “MAPS” to be used. Bestiality has been used to describe people sexually

attracted to animals but now the term “zoophilia” is preferred. Partly, the terminology is trying to indicate the difference between attraction and behavior (MAPS are not necessarily engaging in sexual activity with children). Partly, it is to reduce the stigma (“beasts” as opposed to “other species”). What terms should be used? Is it always important to use terms that don’t offend or is it sometimes important to use terms that include a sense of moral disapproval?

15. *Can you change your sexual orientation?* For years, opponents of gay rights often said homosexuality was “just a phase” or a “choice,” while many gay people strongly argued that their sexuality was innate and immutable (a position relied on in *Obergefell v. Hodges* – the US Supreme Court ruling that legalized gay marriage). Lately, however, it has become more popular for a variety of people to say that sexuality is “fluid” or chosen, and can change over time, or even from day to day. At the same time, sexual orientation conversion therapy is often rejected as a legitimate medical treatment by state regulators because medical authorities say it does not work and causes more trouble than it corrects. All of these claims together cannot be right. Sexual orientation cannot be both fixed and fluid, innate and chosen, impossible to change and possible to change. So, how do all these claims relate to each other? What is the difference between sexuality being “fluid” and it being a “phase”? If sexuality can change, why wouldn’t conversion therapy work for those motivated to seek it out and be recognized as a legitimate psychotherapy? What about the feeling many LGBT people have that their sexuality was innate from early childhood and impossible for culture to change?

Section 3: What is Sexual Ethics?

3.1 Discussion Starters

1. In Argentina the age of consent is 13 (with some restrictions). In some US states, the age of consent is 18. If a 25-year-old US citizen has sex with a 13-year-old in the US, it is automatically rape (or criminal sexual abuse). If he does it in Argentina, it is not. Presumably this would be legally true even if the 13-year-old were the same person in both cases. Is it immoral for a 25-year-old to have sex with a

13-year-old in the US? Is it immoral for a 25-year-old to have sex with a 13-year-old in Argentina? Does the moral permissibility of sex change when crossing national borders? Why are there different ages of consent to start with? Are people able to consent at different ages in different cultures?

2. The long-running television program *Law and Order: Special Victims Unit* opens each episode with this line: “In the criminal justice system, sexually based offenses are considered especially heinous.” The *Special Victims Unit* is an entire unit of detectives, sets of laws, and sets of punishments dedicated specifically to sex crimes. But why? Why “special”? Why should sex have its own criminal code? Why wouldn’t the crimes of rape, sexual assault, and sexual harassment not already be covered by assault, battery, extortion, and harassment law? If the harm in rape is the violence, then why add extra punishment for sexuality? (Foucault, 1988).
3. There are numerous textbooks and university courses on applied ethics issues, such as medical ethics, environmental ethics, business ethics, sports ethics, and engineering ethics. There are very few dedicated classes and textbooks about sexual ethics, however. But why? Sex and sexuality are huge issues in politics, the law, religion, and in universities. So, why aren’t sexual ethics classes more common?
4. In your sexual ethics class, the professor wants to show several pornographic scenes of various sorts when covering the section on pornography. The professor argues that in a class on advertising, students are required to watch actual ads to get a sense of what is being discussed. In a class on drawing, students are required to draw nude models to get a sense of how to sketch human anatomy. In a class on zoology, students are required to dissect fetal pigs to get experience with organ systems. So, why not show pornography, and require watching it, since part of the issue in pornography is defining it and whether it counts as free speech? The Dean is balking, arguing that conservative students will claim they are being forced to pay to watch immoral obscenity and liberal students will claim they are being forced to stay in a sexually hostile environment that could cause trauma. Is there something about pornography that is relevantly different from tasks in the advertising, art, and zoology classes?
5. How morally permissible is it to have sex with the following people (on a scale from totally immoral, somewhat immoral, neutral, somewhat moral, to

totally moral)? Is there a consistent principle that guides your ranking?

- Someone you are in love with.
- Someone you don't know and will never meet again.
- Someone offering you \$500 for sex.
- A professor on campus you are currently taking a class from.
- A professor on campus you will never take a class from.
- Someone you don't like romantically but who has a huge romantic crush on you.
- Someone you are not attracted to but feel sorry for because no one else is attracted to them either.
- A 15-year-old.
- Someone 30 years older than you.
- A married couple who occasionally like to have threeways.
- A woman whose husband will watch you have sex with her but not participate.
- Your first cousin.
- A mentally handicapped person who says they want to have sex with you.
- Someone who tells you several times they want to have sex with you, then gets drunk, and passes out on your bed.
- An ex who you know wants to get back together but with whom you don't want to get back together.

3.2 *Methods of Ethics*

In thinking about sexual ethics, there is first the question of whether there is, or should be, any such thing. Sometimes people take a stance that sexuality and sexual behavior is mostly private and that “what someone does in their own bedroom” is only their business. As long as they aren't hurting anyone, it's consensual, and they are adults, sex is a private matter and not up for discussions of moral judgment by others. Taking that approach, one might think that the answer to nearly every question raised in this book would be some sort of appeal to privacy and the claim that there shouldn't even be a debate. That position would curtail most discussions about many of the alleged issues.

Notice, however, that this is itself an ethical stance. It does not avoid ethical issues; it makes a set of specific, non-neutral, ethical claims. It says that sexual issues have some kind of exceptional status in society by being largely “private” and as such it is beyond the reach of

moral judgment, social approbation, or legal regulation. That carves out a realm of “privacy” that shelters sex from analysis – but why, and except for masturbation, doesn't sex mostly involve interaction with other beings? It also says that within this private realm, most sex is permissible – meaning that it should be allowed and that other people should not try to restrict it. But that is a moral claim. That specifically says that this set of activities has the moral status of being justified in some way and that it would be morally wrong of others to interfere. It also says that the key elements of this morally justified sexual activity is that participants are adults, consent, and that they do not hurt anyone. Those are moral claims as well, appealing to moral rules that defend certain types of activity, and suggest that sexual activity that involved children or was not consensual or that hurt someone would somehow be unjustified, immoral, not protected by privacy. But why is age relevant? Why is consent so important? Why is not hurting others the line to be drawn? And what counts as being old enough, as consenting, and hurting?

You can see then that just saying “as long as they are consenting adults and aren't hurting anyone else” is not a neutral stance and is not avoiding any moral discussion. It is a specific moral stance that opposes others and appeals to specific criteria for justifying actions. These specific moral criteria need explanation and justification and they could be challenged. Imagine someone making a similar kind of exceptionalist claim about business. Sometimes, people will defend their actions by saying “it's not personal, it's just business,” and by this they seem to be saying that in the specific realm of business, actions that are normally criticized, such as lying, cheating, misleading, betraying, being selfish, being unfair, and pursuing money above all else, are happening in some kind of special, exempt sphere. If you lied, cheated, betrayed, or were unfair to someone in a “personal” (private) relationship, then you would be doing something wrong, but in the realm of business, these actions are somehow protected, or expected, or a known element of some game. Interestingly, this sort of claim about business seems to be a twist on the claim about sexuality – actions are morally justified in a public (business) arena that would not be justified if they were in the private arena. However, the existence of business ethics classes, business ethics textbooks, business ethics codes, and tons of business ethics regulations attests to the perception that merely being in the area of business does not exempt someone from morality. Neither is sexuality exempt and it can be shown that even the

claim of sexual exceptionalism appeals to specific moral principles.

So, if sex is an area where ethical arguments can be made, the next question is how to go about answering the ethical questions that arise. What methods do you use? In this sense, sexual ethics is in the same boat as any other set of applied ethical problems, like medical ethics, or environmental ethics, or engineering ethics. Most applied ethics questions implicitly or explicitly draw on ethical theory, which is a set of principles used to determine what actions are right or wrong. However, there are different ethical theories that disagree with each other on what principles should be used. While the nature and content of ethical theories are important, there isn't space in an introduction like this to go into the depth that theory deserves. What will be useful, and what will have to suffice, for being able to discuss sexual ethics questions is to summarize the basic kinds of values that different ethical theories focus on in answering questions. There are four commonly discussed classes of ethical theories that emphasize different values.

Duty-based ethics: These kinds of ethical theories posit that actions (and/or motivations for action) have some kind of moral quality about them that make the actions right or wrong in themselves. Called "deontological" theories (from the Greek "deon" meaning "duty," "obligation," "necessity"), this kind of ethical theory typically follows some principle of respect for a moral rule. For example, one of the most influential duty-based theories defended by philosopher Immanuel Kant states that we should always treat human beings as ends-in-themselves and never merely as means to some other end. Lying to people, for instance, is a way to manipulate and use people to achieve some other goal and since people are rational beings with their own moral worth, it is always immoral to manipulate and use them merely as a way to accomplish some other goal. That treats them as just an object in the world to be used. You should never lie to people, then. Another type of deontological theory focuses on rights, arguing that people have certain moral qualities called rights (human rights or natural rights or fundamental rights) that impose duties on other people independent of any agreements, contracts, goals, or consequences. As such, we are all obligated (have a duty) to respect those rights. If people have a fundamental right to free speech, it would be wrong for any person or government to obstruct someone's free speech. When it comes to sexual ethics, then, a deontological approach would focus on whether the actions being considered used other people as a means to an end, what rights

people do or do not have, and whether some sexual practices respected human beings as rational beings.

Consequence-based ethics: These kinds of ethical theories posit that actions are right or wrong depending on the consequences the actions tend to produce. Called "teleological ethics" (from the Greek "telos" meaning "purpose," "end," "result") or just consequentialist ethics, this kind of ethical theory typically points to how much good (happiness, satisfaction, reduction of suffering) an action can produce to determine if it is the right thing to do. We are always obligated to perform the action that does (or reasonably appears that it will do) the most good. As such, there is far less emphasis on following specific moral rules and more emphasis on doing the most good. Lying to people, for instance, can be the right or wrong thing to do based on what is accomplished by the lie. If lying ends up creating more pain, suffering, dissatisfaction, or unhappiness than telling the truth (which in general it probably does), then you shouldn't lie. However, if lying can be seen in a particular situation to lead to more good than bad, then lying is not only permissible, but it is the right thing to do. The goal is always to try to figure out how much good or bad an action will likely create. When it comes to sexual ethics, then, a consequentialist approach would focus on the consequences of a sexual action or a law regulating sexual action and go with what does the most good. There is very little interest in rights (and certainly no interest in some kind of innate, fundamental right) because rights are often used to thwart good consequences in the interest of protecting individuals' personal preferences.

Character-based ethics: These kinds of ethical theories focus less on rules of action and more on the character of the agent considering an action. Central to character-based ethics is the concept of virtue, which is a character trait developed to the point of excellence. It is a thorough disposition to consistently act in certain ways so that the motivation is second-nature or fundamental to the person. Typical virtues include generosity, self-discipline, courage, honesty, modesty, friendliness, patience, and temperance. Lying to people, for instance, is typically motivated by selfishness, manipulativeness, cowardice, and unfriendliness and is therefore to be avoided. However, this not for the deontological reason of respecting a rule that says "do not lie" or the consequentialist reason of just producing the most happiness but is rather motivated by the desire to be a good, strong, virtuous person. When it comes to sexual ethics, then, a virtues approach would focus on the character of the person who is making decisions and acting in certain ways. Are they

motivated by the desire to be a good person or are they motivated by vices such selfishness, weakness, insecurity, self-indulgence, intolerance, tactlessness, hypocrisy, or laziness?

Natural-law based ethics: These kinds of ethical theories focus on the nature of human beings (biological, psychological, spiritual, and social) and the belief that real, objective moral obligations stem from that nature. Since humans are rational beings – they are not programmed robots but can think, deliberate, and respond to reasons – they are capable of understanding their own natures and acting morally in ways that are consistent with that nature. Historically, natural law ethics has been informed by the concept of God as the creator of human nature and legislator of divine intent. However, unlike the idea that God simply creates rules, the notion here is that humans are a specific kind of creation with a practical rationality that makes acting consistently with our nature both knowable and obligatory (and if God or nature had made us different, then we would have different natures and different moral obligations). Common to natural law ethics is the claim that there are basic goods for human beings (resulting from the kind of beings we are) – a list that typically includes life, health, friendship, knowledge, aesthetic experience, peace, and community (among others). Lying to people, for instance, is typically rejected as morally permissible because lying is directly opposed to knowledge and anything that undermines a basic good is wrong. When it comes to sexual ethics, natural law tends to include sex as an obvious part of human nature but emphasizes that sex and sexuality have purposes related to their function that can be understood from examining the nature of human beings both biologically and socially. Any sexual act that interfered with this nature or perverted or corrupted this nature would be a violation of practical rationality and morality.

3.3 *Moral Psychology and Analysis*

Another part of thinking about ethical judgments is moral psychology, which is the study of how people make moral decisions. Moral psychology does not typically try to show whether a decision is morally right or wrong but tries to empirically investigate what elements of a situation or elements of human emotion and cognition led to a particular judgment of right or wrong. One thing that moral psychology has discovered that is particularly relevant to sexual ethics is that our emotional reactions to sex tend to be strong and immediate. One

way this phenomenon works is a tendency to believe certain things are morally right or wrong but be swept up in the heat of the moment and engage in activities that intellectually we are morally opposed to. Having sex with someone when you believe it is a bad idea, but passion overtakes you, is a common example – leading to regret and guilt later. Another way moral psychology relates to sexual ethics is by showing that sometimes people have visceral reactions to a sexual event – strongly opposing it or being disgusted by it – but when you try to get them to explain their moral judgment, they are unable to. A famous example of this is a study (multiple variations have been tested) that used the story of a couple who knew each other well and who had sex with each other. Most people judged the sexual activity to be permissible, but when it was revealed that the couple were brother and sister, they changed their view sharply and said it was wrong. When asked why it was wrong, people tended to say that it was because they might have children with birth defects or because they must have been abused as children. The interesting result, however, was that even when the story was changed to make it clear that there would be no pregnancy and that neither person had been abused and that it was consensual, and so on, very few people reversed their position and said it was allowable. They stayed with their judgment that it was wrong. They didn't know why – it just was (Haidt 2001). Moral psychologists tend to use biobehavioral and evolutionary explanations for this – evolutionarily, interbreeding does tend to lead to birth defects and lower genetic variation, so many animals, including humans, developed a strong aversion to mating with close relatives. That aversion is widespread and hard to react against. This does not mean that incest must therefore be morally wrong, but it does give some evidence as to why the incest taboo is so cross-culturally common.

All of the ethical theories mentioned above and aspects of moral psychology will come into play in making judgments about the morality of sexual actions and sexual relationships. It is important, however, for any analysis of sexual ethics to be clear on what is being described, what the agents know or believe, what the likely motivations of the agents are, what the likely consequences of the actions are, whether the actions are going to interfere with basic human goods, and whether the immediate reaction to a situation is based on principles or an instinctual emotional response. Paying attention to all these factors will help with having a civil, clear, discussion about cases.

3.4 Decision Cases

1. *Can it be justified civil disobedience not to report a sexual assault?* Karen comes to her favorite teacher's office – Professor Mills – to talk about an important issue that has been bothering her. She trusts Professor Mills and has talked with him before about personal problems. In this case, she wants to talk about having been aggressively sexually touched by a male student at a college party. She tells Professor Mills that she just wants to talk about what happened and she absolutely does not want any authorities to be told or involved. She says that is really important to her. Professor Mills interrupts her after she has already quickly said that the issue was one of sexual assault to tell her that new Title IX regulations require all college employees to be mandatory reporters – meaning that now Title IX requires professors to report sexual assault situations regardless of what the student wants. The federal government now expressly forbids teachers to be confidantes to students about sexual misconduct matters. Karen bursts into tears and begs Mills to promise that he won't tell anyone. She wasn't raped. She told the guy off. She just needs to talk about it to process it. Then, Karen says in the very class she took with Professor Mills last semester, they had a whole section on civil disobedience. She asks Professor Mills why he can't just do that? What should Professor Mills do? Is Karen's request of Mills itself moral? Does it make a difference if Mills conceives of not reporting the incident as a type of civil disobedience? Is the federal regulation just to begin with?
2. *Should you be able to sue the "other woman"?* The state legislature is debating a bill that would make it legal to sue a person for "alienation of affection" – allowing married people whose spouses cheated on them to sue not only their spouse for divorce and alimony, but also to sue the person they had the affair with for monetary damages (FindLaw 2019). Several other states already have such a law. The main argument for the bill is that the "other woman" or "other man" is just as much a part of the cause of the breakup of the marriage as the cheating spouse, conspiring with the cheating spouse to break their contract, and as such, has harmed the faithful spouse. The main argument against the bill is that spouses have made contractual promises to remain sexually faithful to each other, but the "other man" or "other woman" have made no such promises or contracts, so it is inappropriate to punish them for someone else's promise-breaking. Should the bill be passed or not? What sorts of considerations should come into play?
3. *Who should be allowed in the locker room?* A local commercial gym and fitness center provides large locker rooms for their clients and wants everyone to feel safe and comfortable. One client is a transgendered person who has had no reassignment surgeries and who has a clearly masculine voice and masculine body. This client uses the women's locker room, states that she considers herself female, and says she would feel very uncomfortable using the men's locker room. A cisgendered female client is very upset by this and complains to the management that she feels very uncomfortable and threatened by the presence of a man changing clothes near her in the locker room and that this person should either use the men's locker room or use a private bathroom to change. What should the manager do? Is this an issue of rights? Is this an issue of beliefs? Is this an issue of character? What should the manager take into account?
4. *Should she be charged with child pornography?* The state criminalizes commerce in child pornography and part of the regulatory definition of the act includes "sending pictures of children under the age of 17 that show the children nude or engaged in sexual activity." Ashley, a 15-year-old girl at a local high school is heavily flirting with Omar, a 16-year-old boy at the same school. Several times she sends him selfies of her breasts and once sends him a picture of herself completely nude. A teacher's aide happens to see her sending one of the pics and alerts the principal, who confiscates the phone. The principal is required by law to report any instances of child sexual endangerment to authorities and so calls the police. Should the police arrest Ashley for producing and distributing child pornography? The criminal statute does not mention anything about the age of the person who distributes pictures or the relation of the subject to the sender or the intent of the sender. Does intention matter? Has Ashley done something wrong? Is this what the legislature had in mind? Does that matter?
5. *Should the doctor tell the wife?* Dr. Weathersby is a family physician and the primary healthcare

provider for the entire Robertson family. As a physician, she has at least two obligations to her patients – to keep all personal medical information confidential and to provide her patients with all the necessary information useful to them for the treatment and prevention of illnesses. Dr. Weathersby is in a bind, however. Mr. Robertson just tested positive for HIV. He apparently picked up the STD from a prostitute he paid for sex while on business travel. The doctor strongly recommends that Mr. Robertson tell his wife – who is also Weathersby's patient. He says he will think about it but seems to be unsure and gives no indication that he will stop having sex with his wife. Should Dr. Weathersby tell the wife anything? If so, what?

6. *Is this a faithful act or a loophole to get around religious principles?* On several University campuses, particularly in the UK, some Shia Muslims increasingly make use of nikah mut'ah, the ancient practice of temporary marriage. The contemporary practice consists of an agreed-upon fixed duration of time ranging from one hour to months to 99 years, various optional stipulations, and a dowry followed by a formal dissolution of the marriage. Some college students and other young people use nikah mut'ah to get to know a potential mate before committing to a full marriage. Some use it for dating. Some use it for sex since Shariah (Islamic law) does not permit sex outside marriage. While some Muslims see temporary marriages as a religiously legitimate practice, others – particularly Sunni Muslims – have criticized the way it is practiced by college students as nothing more than a loophole used for violating the spirit of the laws against fornication and prostitution. The prostitution element is particularly germane since even temporary marriages require a dowry to be paid (although some people use a merely symbolic dowry). Is nikah mut'ah being used improperly? Is there a morally important distinction between the spirit and the letter of the law? Are those students who engage in nikah mut'ah virtuously making use of the practice?
7. *Should schools show children sex videos?* Dr. Eastman is a prominent child psychologist who has done lots of serious and well-received academic research. While being interviewed on a morning news show, he suggests that school sex education programs should show children (starting in the first grade) explicit videos of adults having sex. He is quickly

denounced as a pervert, a radical university nutcase, and a crazy libertine. However, he later explains that this is not about thinking it is good to be more open about sexuality. Rather, his argument is that studies show that the ubiquity of Internet and computer access and the impossibility of reliable pornography filters means there is a 90% chance a child will see at least one pornographic video online by age 8 and 20 or more by age 10 – and even higher numbers of sexually explicit still images. Many of these videos (commercial and amateur) include scenes of unsafe sex, rough sex, group sex, profanity, sexist language, extreme age differences, and degrading sexual acts of all sorts. In fact, a simple query through some major search engines (such as Microsoft's BING) can quickly and easily produce images and videos of sex with animals, coprophagia, scatology, and bloodletting – even when one doesn't directly search for those terms. Dr. Eastman says that there are two real-world options – either show children healthy, educational, explicit sex videos and explain what is happening and help them understand sex or show them nothing and they will see online porn anyway. What should sex education programs do? Are there other options?

8. *Should a feminist work there?* Samantha is a college student and works at a Hooters restaurant where she is required to wear tight clothing and cleavage-revealing shirts. On campus she actively argues for women's rights and feminist awareness. When confronted by peers who object to her job as inconsistent with her values, Samantha says making huge tips off of stupid sexist men is totally consistent with her feminist values. Her feminist friends criticize her by saying she could say the same thing about stripping or prostitution or a Black person being in a minstrel show. Is Samantha being consistent? Is it moral for her to work at Hooters? Does she have the right attitude? How will her actions affect others? What will her actions do to her own moral character?
9. *Should he be charged with sexual assault?* Jason and Corey met in a class at their college and started dating three years ago. They began the relationship by flirting, watching movies in Jason's dorm room where Jason would lean up against him, and sometimes put his hand on Corey's thigh. Eventually that led to them having sex regularly. They often slept in the same bed in one's or the other's dorm

room and Jason would sometimes wake Corey by kissing him while he was still asleep and continuing to kiss him even when he said he was sleepy and wanted to go back to sleep. A couple for two and half years, Corey eventually broke up with Jason, seemingly amicably. After the breakup, however, Corey began having problems with alcohol and sought counseling. Part of the counseling included attending a session for the University's Title IX sexual assault training, which emphasized the University's requirement of ongoing verbal affirmative consent for all sexual activity. After attending the training program, and talking more with the counselor, Corey reevaluated his previous relationship with Jason and eventually formally accused him of sexual assault. Corey said that Jason putting his hand on his thigh without asking and kissing him while he was still asleep constituted sexual assault. Jason considered this all innocent flirting and affection. The University investigated, agreed with Corey, and placed a notice of a guilty charge of serious sexual transgressions on Jason's transcript. Jason sued the school for defamation, invasion of privacy, and emotional distress, and publicly accused the school of having gone weirdly overboard in its zeal about sexual assault. Was the school's decision correct? Was their policy a good one? Should Jason have been found guilty? Did he receive due process? What was Corey's responsibility in all this? (Note: see *Doe v. Brandeis Univ.*, 2016).

10. *Who should be allowed to play on the team?* Keisha is a college athlete and trained hard to compete in both volleyball and softball, even getting an athletic scholarship. In the most recent volleyball game with her college's main rival, her team was trounced, a loss attributed mainly to the tremendous performance of their rival's newest member, Candice. Candice is a transgender woman. She was recognized and presented as male until her sophomore year in college, when she told everyone she identified as female and was transgender. Both colleges recently adopted regulations stating that students would be classified as whatever gender they identified as. Keisha is now formally protesting Candice's participation in women's sports. Consistent with statistics on average female/male weight and height differences, Candice is 30 pounds heavier than most of the women on her team and 5 inches taller. Candice argues that she is

a woman and should be accepted on the women's team just as any other woman, regardless of her size, just as any larger or taller ciswoman would be. Keisha argues that the whole point of having college women's sports protected by Title IX is to give women the chance to participate in sports. If gender was never considered, and the only things that mattered were size, speed, and skill, then all college sports would be open to everyone, but practically speaking, very few women would get to participate because of their average smaller size, strength, and height. However, since Candice has the same size, strength, and height advantages as an average man, is genetically male, and had higher levels of testosterone during puberty, she has the same advantages an average man would have if he competed against women in volleyball. Keisha has even heard rumors that their rival team's coach is actively recruiting other transgender women to take advantage of their typically greater strength and size. She argues that this is fundamentally unfair and violates Title IX. So, should Candice be allowed to compete in women's volleyball? Should Keisha even be making this complaint? What are the arguments? What is at stake?

11. *Is this just part of doing business?* While managing an important business trip to the Republic of East Nomia, you learn that public physical affection between men is common. During business meetings and business dinners, it is not unusual for the male managers you are working with to place their hand on your male employees' thighs, to rub their backs, or to drape their arm around their shoulders. You learn this has no sexual connotation in the culture at all, having no more significance than a handshake. However, one of the male employees on your team – Jeffrey – is extremely uncomfortable and anxious about this practice. He says it makes him feel like he is being molested and asks to be excused from further meetings, pointing out that he would never be expected to put up with this behavior back at home and he wouldn't be subject to it on this trip if he were female. However, you need Jeffrey because he is the singular expert in certain areas and if any questions about those areas should arise (which is to be expected), he will need to answer them. If he doesn't attend and questions arise, your negotiations will be seriously hampered and you and your company will come across as ill-prepared. You could ask the local male managers not to touch

him, but your cultural advisor says they will certainly be offended and confused because such behavior is entirely innocent to them. Jeffrey's perception of sexual imposition would be perceived as culturally offensive to your clients. So, what should you require of your male employee? What is Jeffrey obligated to do? Are the managers in East Nomian culture obligated to respect Jeffrey's culture? Would it make any difference if Jeffrey were a woman who would be subject to such touching? Does it make a difference that the touching is not intended as sexual?

12. *How much should he be punished?* Police Officer David Rojas was recently charged with fondling the breasts of a dead woman's body. Local television news reported that Rojas and his partner were called to investigate what seemed to be a dead body – which is indeed what they found. While his partner went back to their patrol car to get some paperwork, Rojas turned off his body-cam and fondled the corpse's breast. Unknown to Rojas, a two-minute buffer on the body-cam kept recording and his behavior was discovered (Puente and Winton, 2019). How severely should Officer Rojas be punished? Or should he be punished at all? Should he be fired? Should he be executed? Should he be fined? Should he be imprisoned? Should he be let go? Most of the reasons given for laws against this kind of touching (sexual assault) are about the harm it does the victim, but can a corpse be harmed? In fact, the officer was not charged with sexual assault, but a felony count of having "sexual contact with human remains without authority," which seems to be about the degree society finds touching dead bodies disgusting more than about whether it harms anyone or violates any duties to anyone. Sources familiar with the case were quoted as saying the officer's behavior was "beyond the pale." The police officers union called the behavior "vile," "abhorrent," and "an affront to every law enforcement professional" and said they would not stand with the officer or assist him in any defense. Under current state law, the officer could go to prison for three years. What should happen? What was wrong with what he did? Is what he did unnatural? Is what he did disrespectful? Is what he did harming someone? Is what he did perverse?
13. *Should their honors be removed?* The issue of withdrawing honors or destroying historical monuments

has recently become highly contentious. Confederate statues have been pulled down because the people they honored were fighting, in part, to defend slavery. Street and town names have been changed because the people they honored were later discovered to be anti-Semitic. University buildings have had names changed because the people they honored espoused anti-Native American policies. So, what about honors given to people later found to be guilty or suspected of sexual crimes or sexual immorality? For example, Vanessa Williams was the first African-American woman to be crowned Miss America (crowned in 1983 for the year 1984). Shortly before her reign was over, however, Penthouse magazine announced it would publish nude photos of Williams that had been taken two years before while she was working as a photographer's assistant – photos that showed her in "compromising" positions with another nude woman. Williams resigned her position as Miss America, under pressure from the pageant organization. Over 30 years later, however, she was offered a public apology by the Miss America CEO. More recently, openly gay conservative provocateur Milo Yiannopoulos stated in an interview that some of the concerns about alleged child molestation were based on an "arbitrary and oppressive idea of consent" and that in many cases, sexual relationships between minor boys and older men were consensual and emotionally helpful (Hersher, 2017). He also made a joking reference to a sexual act he performed on a priest while he was underage and expressed gratitude for the experience. Following a backlash, he had to resign from his position as news editor at Breitbart News, his speaking invitation at the American Conservative Union was rescinded, and his book deal with Simon and Schuster was canceled. Even more recently, there have been calls to remove the walk-of-fame stars for Kevin Spacey and Michael Jackson as a result of their apparent sexual molestations of boys. Some have even argued that radio stations should stop playing Michael Jackson's songs. What is the right thing to do in these cases? Does retaining the honor legitimate the actions? Does removing the honor help any victims? 30 years from now could sex between adults and children be seen as morally acceptable and organizations be expected to apologize to Yiannopoulos as they did to Williams?

14. *Is their sexual orientation and behavior morally different from other legal sexual orientations and*

behavior? The desire to have sex with animals used to be called bestiality and people who had sex with animals bestiaphiles (or some variant spelling). However, recently, people who are sexually attracted to animals have begun to be more open and advocate for the moral acceptance of their desires and actions. A German group, ZETA (Zoophiles Engagement für Toleranz und Aufklärung) advocates for a better understanding of zoophiles (a preferred term), stating: “There indeed exists – even if this seems to be unimaginable in the flood of (mis-)information – a group of zoosexual people who love and respect their animals as well as honour their volition.” (Zeta-Verien, nd.). The German advocacy group may be especially visible since the German government in 2012 passed a tough law against sex with animals. One zoophile advocate – Michael – argues that: “The actions of society are nearly the same as they were against homosexuals 30 years ago . . . We are doing the same things homosexuals did – we go out in public, we show our faces. You have more fear and hatred of things you do not know.” (Moore, 2012). Interestingly, one of the main reasons the German government passed a new law was to move away from Biblical and natural law moral prohibitions on sex with animals as “abominations” to a reasoning based on perceived harm to the animal or the lack of consent of the animal. The head of the parliamentary committee seeking the change in the law stated “Sexual interaction is problematic because it can lead to harm and emotional disorder of animals . . . It’s not proven that animals would enjoy sexual interaction with humans.” (Moore, 2012). But is that the best reason to oppose sex with animals? After all, animals do not consent to be used for food, to be pets, to not be pets, to stay in the wild, to be ridden for transportation, to be used in experiments, or to be killed by other animals. Why is sex special? And regarding harm, is all sex with animals harmful? As one zoophile defender argues, “The accusation

that a dog who licks peanut butter off your hand is getting a treat, while the same dog licking peanut butter off [your genitals] is being sexually abused is absurd.” (Moore, 2012). So, should sex with animals be illegal? Why or why not? Do issues of unnaturalness, perversion, and human dignity play a part in the law? If harm and consent are the only issues, how likely is it that zoosexuality will remain illegal in the future?

15. *Should sex with robots be illegal?* Personal robots are just beginning to be commercially available. While some are simple tools, such as vacuum cleaners, others are more anthropomorphic, with faces, limbs, expressions, and voices. For example, the Japanese company Softbank sells a personal robot called Pepper that has a face, arms, fingers, and the ability to move autonomously and respond differently to different human emotions. One of the requirements for purchasing a Pepper is that owners must sign a contract saying they will not use the robot for “the purpose of sexual or indecent behavior” nor will they develop any obscene or sexual apps (Lott-Lavigna, 2015). The reason for this requirement is not entirely clear, though it seems partly to have to do with not using the robot to stalk other people. Others, however, have argued that it should be illegal to have sex with robots – not so much because of the robot’s rights but because having sex with robots will supposedly increase the likelihood that women and children will be sexually objectified or abused. Meanwhile, other companies are developing robots specifically for the purpose of sex (e.g., Roxxxy and Rocky by the True Companion company). As robots become more sophisticated, they could be designed for any sexual purpose and designed to resemble any race, age, or gender. Should sex with robots be regulated? Why or why not? How different is this moral issue from others discussed in this book given the differences of harm and consent? Can someone have a good reason for wanting to have sex with a robot? Can they have bad reasons?

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