**Promiscuity, Paedophilia, Rape, and the Significance of the Sexual**

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***Abstract***

This paper uses a dilemma presented by David Benatar to explore the challenges that ‘Sexual Liberals’ face in giving a satisfactory account of sexual ethics. A satisfactory Sexual Liberal account of sexual ethics must be able to fully explain the wrongness of sexual assault without implying that sexual activity should be restricted to those in love. The assumption that this is impossible may be due to mistakes in our thinking about sexual assault. However, even when such mistakes are resolved, producing a satisfactory account of sexual ethics requires Sexual Liberals to confront the significance of the sexual in human life. I describe an account of sexual desire that explains the significance of the sexual in human life without forcing us to endorse a restrictive sexual ethics.

This paper uses a dilemma presented by David Benatar[[1]](#endnote-1) as a framework to explore the challenges that ‘Sexual Liberals’ face in reaching a satisfactory account of sexual ethics. A satisfactory account of sexual ethics for Sexual Liberals must be able to fully explain the harms suffered by victims of sexual assault without implying that sexual activity should be restricted to those in love. Mistakes in our thinking about sexual assault can make it difficult to see how such an account is possible. However, even when such mistakes are resolved, I argue that, ultimately, producing a satisfactory account of sexual ethics requires Sexual Liberals to confront one of the most fundamental questions in the philosophy of sex: Why is sex different from other pleasurable activities? I show that we have reason to think it will be possible to explain the significance of the sexual in human life without being forced to endorse a restrictive sexual ethics. I discuss how one promising account of sexual desire could be used to do this.

Showing that we can recognise the significance of the sexual without adopting a restrictive sexual ethics is practically important as well as theoretically significant. It is needed to help those who have had bad sexual encounters to understand the harm they have suffered. When I was thirteen, I was a victim of statutory rape. The damage this did was compounded by the fact that it took me a long time to recognise that something very bad had happened to me. This was in part because it was easier to think that nothing bad had happened. I think it was also because the ways of thinking about the sexual realm that were available to me at the time were unhelpful. The sex education I was offered either simply emphasised the positive aspects of sex and the need for protection against sexually transmitted diseases or presented sex as a deep commitment. I sorely needed a better view of sexual ethics, a view that could recognise the harm I had suffered without forcing me to adopt a deeply restrictive sexual ethics. Such an account is still needed for many today.

Sexual Liberals endorse a popular set of attitudes towards sexual activity. They hold that promiscuity is morally unproblematic, but that rape and paedophilia[[2]](#endnote-2) are particularly heinous crimes. Benatar argues that this set of attitudes is unstable. He claims “… the view of sexual ethics that underlies an acceptance of promiscuity is inconsistent with regarding (1) rape as worse than other forms of coercion and assault, or (2) (many) sex acts with willing children as wrong at all. And the view of sexual ethics that would fully explain the wrong of rape and paedophilia would also rule out promiscuity.”[[3]](#endnote-3) The core of Benatar’s argument is that unless we see sex as significant or special, as unlike other pleasurable activities, we cannot see rape as worse than other forms of coercion and we cannot see some sexual interactions with children as wrong at all. However, Benatar argues, if we see sex as significant or special, then we must hold that casual sex is wrong.

If Benatar is right, it appears that the Sexual Liberal is faced with a devastating dilemma: they must either condemn promiscuity or soften their attitudes to rape and paedophilia. Neither option is acceptable. I argue that the dilemma presented by Benatar is false. He has not shown that we need to choose between these two options.

I begin by briefly laying out Benatar’s argument. I then identify two possible routes to Benatar’s Dilemma. The first route involves two assumptions (1) that rape and paedophilia involve sex, the same activity engaged in during consensual sex, but simply lacking consent; (2) that the comparative wrongness of doing something to someone without their consent is determined by the value of the coerced activity. I show that these assumptions, and the resulting version of Benatar’s dilemma, rest on mistakes about the nature and wrongness of sexual assault. This discussion does not attribute these mistakes to Benatar himself. There is a much stronger route to Benatar’s Dilemma. Nonetheless, these mistakes explain why many people may find Benatar’s argument extremely tempting and, indeed, implicitly accept it. These mistakes can make it difficult to see how a fully satisfying Liberal Sexual ethics is possible. It is in part because it helps us to uncover these widespread mistakes in how we tend to think about sexual assault that it is so important to engage with Benatar’s paper. Moreover, identifying this possible mistaken route to Benatar’s Dilemma helps us to better understand the real challenge Benatar poses for the Sexual Liberal.

In the next section, I discuss that challenge. I identify a second route to Benatar’s Dilemma. Although rape and paedophilia do not involve sex, they are *sexual* assaults, and to understand their wrongness requires an account of the importance of the sexual in human life, specifically the value of sexual autonomy and sexual integrity. Benatar’s Dilemma can thus also arise because of the worry that any account that explains the importance of the sexual must imply that sex is a deeply significant activity that should be restricted to those in love.

Finally, I will argue that we have reason to think Sexual Liberals can produce an account of the significance of the sexual that supports a satisfactory sexual ethics. I will outline a promising account based on Seiriol Morgan’s analysis of sexual desire.

*Benatar’s Argument*

Benatar describes two key views of sexual ethics: the significance view and the casual view. According to the Significance View, sex is only permissible if it is an expression of romantic love.[[4]](#endnote-4) The Casual View denies that sex must be an expression of love in order to be acceptable. On the Casual View, sex is morally like any other pleasurable activity, subject only to the normal constraints that limit all interactions with others.[[5]](#endnote-5) Benatar claims that neither the Significance View nor the Casual View can support the set of attitudes the Sexual Liberal wants to endorse. The Significance View is able to fully explain the wrongness of rape and paedophilia, but it condemns promiscuity. The Casual View implies that promiscuity is morally unproblematic, but leaves rape as no more wrong than other forms of coercion – and cannot condemn some acts of paedophilia at all.

Benatar defines “the promiscuous person” as “somebody for whom sex is not (or need not be) laden with romantic significance”.[[6]](#endnote-6) He explicitly notes that someone can be promiscuous without being entirely sexually indiscriminate. “Promiscuity” in Benatar’s sense is something of a term of art. We would not normally call someone who had one sexual encounter every five years with a good friend whom they did not love ‘promiscuous’. However on pretty much any understanding of promiscuity[[7]](#endnote-7), it seems quite clear that promiscuity will be ruled out by the Significance View and seen as morally unproblematic by the Casual View.

On both the Significance View and the Casual View, rape is wrong as an unwarranted interference with another’s freedom.[[8]](#endnote-8) However, on the Casual View, it is difficult to explain why rape is more serious than other forms of assault. If sex is no different from other pleasurable activities, why is rape different from being forced to take part in any other normally pleasurable activity?

As Benatar notes, those who hold the Casual View can recognise some rapes as more serious than other forms of assault. Suppose the victim believes that sex should be an expression of love. Those who hold the Casual View would say that this victim is mistaken. Nonetheless, they could hold that because this victim (wrongly) regards sex as significant, it is more serious to force her to have sex than to force her to engage in an activity that she does not regard as significant. Benatar draws an analogy with forcing someone who is vegetarian or who keeps kosher to eat a pork sausage. The omnivorous atheist can recognise that the victim’s belief that it is wrong to eat pork sausages make it more seriously wrong to force them to do so, even if the omnivorous atheist sees the victim’s belief as mistaken.[[9]](#endnote-9) But, of course, the position that a rape is a very serious wrong if and only if the victim mistakenly holds a Significance View of sex is not acceptable to Sexual Liberals. We want to be able to say that all rapes are very seriously wrong.

Benatar’s choice of analogy is interesting. He argues that the Casual View leaves rape “no more serious than would be forcing someone to eat something.”[[10]](#endnote-10) Just as with rape, force-feeding is an invasion of one’s body. When the victim is not unconscious or utterly subdued by threats or other forms of control, feeding someone against their will involves physically forcing something into a resistant orifice, often leaving the victim bruised and bleeding. Even if physical force is not used, the loss of control over what goes into one’s body is horrifying. When Benatar writes of rape being no “more serious than forcing someone to eat a tomato” he may seem to underestimate the violation of force-feeding. Many people I discuss this with read the example as if it is supposed to be humorous. This might be because of the focus on single specific food: we wonder why a tomato has been chosen. There may also be something about the associations that violence involving tomatoes conjures up. A lot of people believe that dissatisfied theatre audiences used to throw rotten tomatoes at incompetent performers. This trope is well known enough and generally seen as unobjectionable. We see this in, for example, how easily the name of the website, “Rotten Tomatoes”, which gives an overview of critics and audience’s responses to films, is understood. This apparent lightheartedness of the example and the absence of explicit recognition of what the force feeding entails certainly tempts his readers to underestimate this violation.[[11]](#endnote-11)

This observation might tempt us to accept this horn of Benatar’s Dilemma. Once we recognise how much of a violation force-feeding is, it might not seem so bad to say that rape is no worse than force-feeding. Indeed, I will argue later that the Sexual Liberal *can* accept an account according to which rape and force-feeding are equally wrong *so long as* this depends on holding that we have vastly underestimated the importance of gastronomic autonomy. As I see it, the key challenge for the Sexual Liberal is not to justify comparative intuitions, but to provide an adequate account of the special wrongness of rape. *Both* rape *and* force-feeding might be much more seriously wrong than other forms of assault. However, as I will argue, the acceptability of that response depends upon an account of why both the sexual realm and the gastronomic realm have a special significance. Appealing merely to the additional wrongs associated with penetration leaves the special wrongness of rape disconnected from its sexual nature – and indeed from the wrongness of other sexual assaults. Non-penetrative *sexual* assault seems significantly worse than non-penetrative *non-sexual* assault. To explain this, it seems that we must explain why the fact that an assault is sexual makes such a difference.

Benatar claims that the Significance View has a good explanation of why paedophilia is wrong. “Children, it could be argued, are unable to appreciate the full significance that sexual activity should have…Having sex with a child is thus to treat the child as a mere means to obtaining erotic pleasure without consideration of the mental states of which the provision of that pleasure should be an expression… If the child is beyond infancy, the experience, in addition to being objectifying, may be deeply bewildering and traumatising.”[[12]](#endnote-12)

In contrast, he argues, the Casual View is not able to explain why non-penetrative paedophilic acts that do not employ physical force and in which the child appears willing are wrong.

The holder of the Casual View might try to show that these paedophilic acts are wrong by appeal to the massive psychological harm suffered by victims of paedophilia. Benatar dismisses this response by noting that it is not clear to what extent these harms are due to the secrecy and taboo that surrounds paedophilia rather than to something harmful about paedophilia itself. If general acceptance of the Casual View would eliminate those harms, then the defender of the Casual View cannot appeal to them to support “a principled objection” to paedophilia.[[13]](#endnote-13)

I have some concerns about Benatar’s claim that the empirical evidence is unclear about whether the psychological trauma associated with paedophilia is merely the result of taboo.[[14]](#endnote-14) Nonetheless, Benatar’s objection does not rest on this empirical claim. A full explanation of the wrongness of paedophilia should not depend on appeal to psychological harm. Intuitively, paedophilia is wrong even if it does not result in later suffering. Indeed, it seems that as the reason the victims of paedophilia often suffer such great trauma is precisely because something very bad has happened to them. By this, I do not mean simply that they have often had a horrible experience. Someone might suffer greatly after child sex abuse even if the experience itself wasn’t horrible, even if they were unconscious throughout and only found out later. We need an account of the ethics of sex that does not leave this aspect of the suffering caused by paedophilia mysterious. It does not seem as if the Casual View can do this: if sex is just like any other pleasurable activity, then it is not clear why it would be particularly horrific to find out about sexual interactions of which you had no knowledge.

The holder of the Casual View might then argue that the child is unable to give valid consent to sex. However, Benatar claims that on the Casual View, in which sex need not carry any special significance, it is unclear why the valid consent of the child (where this involves something more than simply the child appearing willing to participate at the time) is necessary. It cannot be that they can’t assess the health risks, because we are generally happy for parents to assess risks on their child’s behalf. It cannot be that the child does not understand the adult’s motivations, because lack of mutual intelligibility of motives is only a problem if the activity is significant. Benatar gives the example of an adult playing a game with a child only to give the child pleasure.

To recap, Benatar’s dilemma for the Sexual Liberal is that the Significance View can fully explain the wrongness of rape and paedophilia but condemns promiscuity while the Casual View sees promiscuity as morally unproblematic, but struggles to fully explain the wrongness of rape and paedophilia. Benatar also argues that no alternative view of sexual ethics will be able avoid this problem.

First, he considers “hybrid views”, on which sex needs to have some kind of significance to be acceptable but need not be linked to the deepest form of love. For example, we might hold that you need to like someone to have sex with them. Benatar dismisses a hybrid solution because “Any view that took a sufficiently light view of sex that would justify promiscuity would have difficulty ruling out all paedophilia or classifying rape as the *special* wrong it is usually thought to be.”[[15]](#endnote-15)

Benatar also dismisses escaping the dilemma using a “non-hybrid intermediate view” which rejects the tie between sex and love but holds that sex has some other feature that makes it unlike other pleasures. He argues that views that sex is intimate or private either end up as disguised versions of the significance view or struggle to fully explain the wrongness of private rape or private paedophilia. He also argues that the view that sex is different from other pleasures because it is “personally involving” supports the Significance View. “It would surely be inappropriate, at least as a moral ideal, to engage in personally involving behaviours with those (such as mere acquaintances) with whom personal involvement (at the relevantly complex or deep level) is not really possible.”[[16]](#endnote-16)

The core of Benatar’s argument is that in order to fully explain the wrongness of rape and paedophilia, we need to find something special about sex. In order to recognise rape and paedophilia as the heinous crimes they are, he thinks sex needs to be very special. But, he suspects, whatever it is we appeal to in order to explain why sex is so special, will also make it wrong to have sex with those we do not love. In the next two sections, I will identify two mistakes about rape and paedophilia, from which Benatar’s conclusion follows. I do not attribute these mistakes to Benatar himself. I’ll later show that there is a stronger route to Benatar’s Dilemma. My claim is that these are widespread mistakes that explain why many people may find Benatar’s argument extremely tempting.

*Mistaken Assumption1: Assuming that Rape and Paedophilia are Sex*

One false assumption that might make it tempting to accept Benatar’s argument is the mistaken assumption that rape and paedophilia involve sex, where this is assumed to be the same activity that takes place during consensual sex. Rape and paedophilia do not involve sex in this way. It is thus a mistake to try to explain the wrongness of rape by appeal to the ‘significance’ of consensual sex.

As David Archard notes, the way that we talk about rape often implicitly frames it as sex minus consent. Archard quotes Ross Harrison and Richard Posner claiming, respectively: “What principally distinguishes rape from normal sexual activity is the consent of the raped woman” and “All that distinguishes [rape] from ordinary sexual intercourse is lack of consent.”[[17]](#endnote-17) Other examples are easy to find. Jean Hampton comments: “I once heard a law professor say that ‘consent turns an act of rape into an act of lovemaking.’”[[18]](#endnote-18) As Archard comments: “This manner of description suggests that normal sex is sex plus consent, whereas rape is sex minus consent.”[[19]](#endnote-19) The implication is that both consensual sex and rape involve the same activity: having sex.

Susan Brison has written a moving and profound exploration of the philosophical significance of her own rape. She describes characterisations such as Harrison’s as “unwittingly further illustrating the need for the victim’s perspective”.[[20]](#endnote-20) She argues: “There is no parallel to this in the case of other crimes. Try, ‘What principally distinguishes theft from normal gift-giving is the consent of the person stolen from.’ We don’t think of theft as ‘gift-giving minus consent.’ We don’t think of murder as ‘assisted-suicide minus consent.’… In the cases of both theft and murder, the notion of violation seems built into our conceptions of the physical acts constituting the crimes, so it is inconceivable that one could consent to the act in question.”[[21]](#endnote-21) [[22]](#endnote-22)

In a similar vein, Timothy Chambers argues that rape does not involve ‘having sex’. “A rapist coerces a person into certain bodily motions. But to term these forced motions as ‘having sex’ adds insult to the initial assault. It only makes sense if… our image of sex is seriously stunted: an image, which renders irrelevant a woman’s state of mind and whether she exercised her autonomy. But that’s just obscene.”[[23]](#endnote-23)

Rape does not involve having sex, where this is assumed to be the same activity that we take part in during consensual sex. The rapist and his victim are not doing the same thing that a couple (or group) having consensual sex are doing. Lack of consent does not just change the permissibility of the activity. Lack of consent changes what is being done.

This response may seem to rely on a specific theory of sex. There is a neutral description of most of the acts described: theft and gift-giving are both forms of appropriation; murder and assisted suicide are both ways of being causally relevant to another’s death. Perhaps, we can imagine a neutral description of the bodily motions that could be common to both rape and consensual sex. Someone might think that insofar as the same bodily movements are involved, there is some sense in which the activities are the same. Benatar could argue that we need a sexual ethics that holds that there is something special about sex to justify seeing consensual sex and rape as different activities. Perhaps the holder of the Casual View, who sees sex as no different from other normally pleasurable activities, is not entitled to make this distinction. [[24]](#endnote-24)

This objection focuses on what the rapist is doing. In many cases of rape, the victim does not perform the same bodily movements as someone engaging in consensual sex. When someone is unconscious or is struggling, then, even if their body is moved around in certain ways, then they cannot be said to be *making* these movements. If these movements are not something they are *doing*, they cannot count as ‘doing the same thing’ in virtue of making those movements. To use Benatar’s favoured example, it seems ridiculous to describe someone who is having food forced down their throat as eating.[[25]](#endnote-25) We do not have to see sex as different from other normally pleasurable activities to deny that the victim who is physically manipulated by her attacker is having sex.

However, this response isn’t quite enough for my purposes. First, although only the claim the victim of rape is not having sex is needed for my argument, I want to argue that the rapist is not having sex (where this is understood as the same activity that partners’ engage in during consensual sex) and that the victim and the rapist do not (collectively) have sex. [[26]](#endnote-26) Second, I also want to argue that a victim of rape who is coerced without being physically manipulated does not have sex. This is harder to show. We may well describe someone who is forced to put food into their mouth, chew and swallow as eating. Similarly it may seem that we should describe someone forced to actively perform the relevant motions as having sex.[[27]](#endnote-27)

Nonetheless, I hold that we can make these claims without seeing sex as different from other normally pleasurable activities. ‘Having sex’ seems to me to imply a joint activity. The fact that one person is being coerced often means that the group is not collectively performing the same joint activity and that the neither the coerced agents, nor the other agents are doing the same thing they would be doing in a joint activity. For example, two people are not (collectively) having a conversation if one of them is being forced to speak. Neither the person who is being forced to speak nor their respondent is ‘doing the same thing’ they would be doing in a conversation. Similarly, I claim that two people are not (collectively) having sex if one of them has not consented and that neither the victim nor the rapist is having sex. In each of these cases, what the person does is determined by much more than how their body moves. Just because the same bodily movements are involved does not make it the same activity. Someone can hold that sex is just like any other pleasurable activity without thinking that what we do during sex should be understood purely in terms of bodily movement.

My key point does not hang on the meaning of the phrase ‘having sex’. I favour reserving the term ‘having sex’ for consensual interactions. As noted, ‘having sex’ seems to me to imply a joint activity. I use the term ‘sexual encounter’ to cover both consensual and non-consensual interpersonal sexual activity. However, someone could accept my key point and wish to use the term ‘having sex’ for the wider, neutral concept. My key point is that being raped does not involve having sex, *where this is understood as* *the same joint activity that agents engage in during consensual sex*.

I’ve focused mostly on the conceptualisation of rape here. However, everything that has been said here about rape can also be applied to the sexual abuse of children. Sexual abuse of children is not sex. It is not the same activity that consenting adults engage in but in which one of the participants just happens to be a child. The age of the child changes not just the permissibility of the activity, but also what is being done.[[28]](#endnote-28)

*Mistaken Assumption 2: The Value of ϕ View*

Archard links the mistaken assumption that rape is sex to a mistaken account of how wrong a given instance of violating autonomy is. I’ll call this view *The Value of ϕ View* and, like Archard, describe the view before criticising it.

According to the value of ϕ view, all violations of autonomy are equally wrong insofar as they deny someone her power of choice. To explain why one violation of autonomy is worse than another, we thus have to look at what is done without consent. How valuable or important is that thing to the victim? The comparative wrongness of A doing ϕ to B without B’s consent is explained by the value of ϕ to B. The more valuable or important ϕ is to B, the more wrong it is for A to do ϕ to B without B’s consent. In Archard’s example, according to the value of ϕ view, “If I use her car without her consent, this is worse than using her lawnmower without her consent if, and to the degree that, using Smith’s car has a greater value for Smith than using Smith’s lawnmower has for Smith.”[[29]](#endnote-29)

When we combine the value of ϕ view and the view that rape is sex minus consent, we get the view that the wrongness of rape is determined by the value of consensual sex: “Rape is more or less wrong than any other non-consensual activity to the degree that sex is more or less valuable to the person who engages in or undergoes it than the other activities.”[[30]](#endnote-30) If it is assumed that the wrongness of rape is determined by the value of consensual sex, then it might seem that Benatar is right that ““Any view that took a sufficiently light view of sex that would justify promiscuity would have difficulty ruling out all paedophilia or classifying rape as the *special* wrong it is usually thought to be.”[[31]](#endnote-31)

This pair of views also seems to underlie Jeffrie Murphy’s position that it is implausible to hold that the rape of a sex worker is as serious as the rape of any other woman because of her attitude towards sex: “The prostitute might seem to regard her sexuality, not as a sacred and mysterious aspect of her self-identity, but rather as a commodity to be traded on the market.”[[32]](#endnote-32) Murphy seems to be assuming that we can read off the wrongness of rape from the value the victim places on sex: he thus concludes that, because (he assumes) the sex worker does not see sex as sacred, rape of a sex worker is not a serious wrong.[[33]](#endnote-33)

In response to Murphy’s example, Archard asks us to consider another case: a celibate. “She is someone who has had a number of sexual experiences, none of them especially unpleasant, but who has come to the conclusion that she does not enjoy, or more accurately, does not value sex.”[[34]](#endnote-34) Archard asks us whether, given the celibate he describes[[35]](#endnote-35) does not value sex, she is any less seriously wronged if she is raped than anyone else would be. As intuitively the answer is no, he takes this as a counterexample against the combination of the value of ϕ view and the view that rape is sex minus consent.[[36]](#endnote-36)

Archard is correct to reject these views. I have already argued that rape should not be seen as sex minus consent. However, we will see more clearly why the value of ϕ view also needs to be rejected if we re-examine the celibate and sex worker cases. Archard seems to assume that we can say of both the celibate he describes and the sex worker that they do not value sex. But in one case, we have someone who is said not to value sex because she prefers not to have sex. In the other case, we have someone who is said not to value sex because she is prepared to have sex for money. Neither of these seem to align well with the type of value that it is at stake when it is suggested that using Smith’s car without her consent will be worse than using Smith’s lawnmower without her consent “if, and to the degree that, using Smith’s car has a greater value for Smith than using Smith’s lawnmower has for Smith.”[[37]](#endnote-37) The value of ϕ view is not just wrong. The view is not well-formed because it is not clear what kind of valuing is at stake.

The car/ lawnmower example is misleading. It so happens that the most salient thing that Smith loses if you use her car without her consent is the opportunity to use her car herself. But if you rape me, the most salient thing that I lose is not the opportunity to have sex with myself. What I lose is the opportunity not to be sexually assaulted by you. In general, when A ϕ’s B without B’s consent, what B loses is not the opportunity to ϕ, but control over whether A ϕ‘s her. The argument for the value of ϕ view gained any initial plausibility because it was illustrated by an example of using someone’s tools without their consent – and the reason that most people value having control over whether their tools are used is because they want to be able to use those tools themselves.

Thus the reasoning behind the value of ϕ view really supports a value of control over ϕ view: the wrongness of A ϕ’ing B without B’s consent is determined by how valuable it is for A to be able to control whether people ϕ her. I deliberately put this in terms of “how valuable it is for A” rather than “how much A values”. It may be very valuable for A to be able to control whether people ϕ her even if A does not recognise this.[[38]](#endnote-38)

I’ll remain neutral on whether there are any cases in which the contribution of the value of an activity (on some understanding of that phrase) is independent of the value of control.[[39]](#endnote-39) I’m open to the possibility of cases where the ‘value of the activity’ is the key factor in determining how wrong is it to do that activity to someone without their consent. All I need for my argument is to rebut the claim that, in all cases, the value of the activity is the single, determining factor.

This gives us an additional reason to reject the idea that the badness of rape must be assessed by appeal to the ‘value’ of consensual sex. The wrongness of someone doing something to you without your consent is not (or not only) a function of how much you ‘value’ that activity. It matters how valuable it is for you to have control over people doing that thing to you. In other words, in assessing the wrongness of rape, we may appeal not just to the ‘value’ of sex for the victim but also to the value of sexual autonomy.

Similar objections apply to assumptions that we need to explain the wrongness of paedophilia by appeal to the significance of consensual sex. The wrongness to a child of not having something done to her without her consent is not determined (or not solely determined) by the value to the child of that activity. The child’s interest in not having that thing done to her without her consent matters too. Because children aren’t generally considered to be autonomous, it might not make sense to talk about the child’s interest in sexual autonomy. Sexual autonomy involves control over what happens to one sexually. Sexual autonomy can be undermined by being prevented from exercising sexual choice *either* by being prevented from saying no to a sexual encounter *or* by being prevented from saying yes to consensual sexual encounters. Instead, we might say that the wrongness of paedophilia should be explained by appeal to the value to the child of sexual integrity, together with an explanation of why any sexual interaction between an adult and a child counts as a violation of sexual integrity. As I understand it, sexual integrity involves the absence of sexual violation. Sexual violation includes, but may not be limited to, sex without the appropriate consent. On this approach, to explain the wrongness of paedophilia, we must explain why sex with an adult requires a kind of consent that a child cannot give – and so why any sexual interaction between an adult and a child is a violation of sexual integrity - and why sexual integrity is so important.

*Problem Postponed: The Value of Sexual Autonomy*

I have a shown that there is one bad route to Benatar’s Dilemma. We are making a mistake if we accept Benatar’s Dilemma because we think that rape and paedophilia are non-consensual sex acts and that the wrongness of such acts is solely determined by the value of consensual sex. As noted, even if Benatar himself does not hold these mistaken views, it was worthwhile addressing this route to Benatar’s Dilemma. This is because many people do seem to hold such mistaken views and so many people will mistakenly accept Benatar’s Dilemma on these grounds. I now argue that, even if we reject the version of Benatar’s Dilemma based on these mistaken views, Benatar’s Dilemma does still pose a challenge to the Sexual Liberal. The Casual View, on which sex is like any other pleasure, is not able to fully explain the wrongness of rape and paedophilia. Although rape and paedophilia do not involve sex, they are sexual assaults, and to understand their wrongness requires an account of the importance of the sexual in human life, specifically the value of sexual autonomy and sexual integrity.

In the 1970s and 1980s, there was a widespread movement to reconceptualise rape as violence rather than sex. This was a response to longstanding assumptions that rape was either simply imagined by “hysterical women” or a source of sexual pleasure, which the victim unconsciously desires even as she verbally rejects it.[[40]](#endnote-40) The campaign was so successful that many began to think not only that rape is not sex, but also that rape is not *sexual*. Thus in 1980, Warner summarised: “It is now generally accepted by criminologists, psychologists, and other professionals working with rapists and rape victims that rape is not primarily a sexual crime, it is a crime of violence.”[[41]](#endnote-41)

Rape is not the same activity as consensual sex: the person who is raped is not having sex (where this is understood as the same activity as consensual sex); the rapist is not having sex (where this is understood as the same activity as consensual sex). Nonetheless, I think we can, and must, hold that rape is sexual. As Stephen Law notes: “To say that rape is sexual is not to say, or imply, the woman enjoys it or consents to it in some way. It does not entail that two individuals ‘have sex’ (which *does* suggest consent on both sides).”[[42]](#endnote-42)

Law continues: “Note that the sexual aspect of rape is typically why the man does it. He does not rape to be violent, and it just happens to be violence of a sexual nature (as if he would have been just as happy to, say, hit her). Refusing to call rape a sexual act obliterates this aspect – an aspect which usually makes it a more serious form of assault than mere physical, violent assault (in which say, one man physically assaults another by forcing his fingers into the other’s mouth.)”[[43]](#endnote-43)

I am concerned about Law’s appeal to the motivation of rapists. Some rapes may be motivated by lust, others by the desire to display power or simply by misogyny. Nonetheless, Law is right that rape does not “just happen” to be sexual violence. It is not a mere coincidence that rape involves the insertion of objects into the mouth, vagina or anus in a horrific parody of consensual sexual intercourse. It is not an unimportant side effect that sexual assault involves acts such as groping someone’s breasts. These acts are sexual even if the perpetrator’s primary motivation is not lust. And, in each case, explaining what has happened and why it is so bad requires us to recognise the activity as sexual. Even if the perpetrator would have been just as happy to hit the victim, if he had done so he would not have committed the same crime and he would not have wronged her in the same way. Explaining the special wrongness of rape and other forms of sexual assault must involve recognising them as sexual – and explaining why the fact that they are sexual makes them worse than otherwise comparable forms of assault.

The same applies to sexual abuse of children. Paedophiles and their victims do not have sex. Nonetheless, sexual abuse is still sexual. Indeed, some acts of sexual abuse of children would not be abusive if they were not sexual: a game with your child that your child is willing to play and that leads to no physical damage is not normally abuse; a sexual ‘game’ with your child which your child is willing to play and that leads to no physical damage is sexual abuse. So to fully explain the wrongness of sexual abuse of children, we need to recognise them as sexual – and to explain what the significance of the sexual is.

It follows that the Casual View of Sex, as described by Benatar, cannot fully explain the wrongness of rape and paedophilia. To fully explain the wrongness of these acts, we need an account of why the fact that an assault is sexual changes how bad it is. I argued above that the wrongness of rape and paedophilia is not determined by the value of consensual sex. However, it does depend upon the value of sexual autonomy and sexual integrity. Rape is worse than other forms of coercion in so far as sexual autonomy is more important than other aspects of autonomy. Sex with children is wrong in itself (even if it has no additional wrong-making features) insofar as sexual integrity is a key interest for the child. Thus to fully explain the wrongness of rape and paedophilia, we cannot see sex as just the same as any pleasurable activity. We need to explain why sexual autonomy and sexual integrity matter so much.

There is thus a route to Benatar’s Dilemma which doesn’t lead through the mistaken assumptions I discussed above. This version of the Dilemma is based on a worry about whether we can explain the special importance of sexual autonomy and sexual integrity without committing ourselves to a restrictive sexual ethics. The thought is that we need to identify something special about the sexual realm to explain the special importance of sexual autonomy and sexual integrity – and that, once we do that, we will end up concluding that this ‘special’ realm should be reserved for those we love.

*Response to Benatar’s Dilemma: an alternative sexual ethics*

I won’t provide or defend a complete theory of what is special about the sexual here. Instead, I will explore one account of sexual desire and indicate how such an account might be used to pick out some of the ways in which the sexual is special without committing us to the view that sexual promiscuity is immoral. Seiriol Morgan argues that sexual desire is an animal appetite that may be transformed by the way in which humans assign meaning to the world.[[44]](#endnote-44) We see a similar phenomenon with hunger: a basic animal appetite for food can be transformed into more complex desires, such as the desire for my mother’s homemade soup or for delightful concoctions from the most expensive restaurant in town. The pleasure we get from food is transformed by the significance we attribute to it. Morgan argues that we should understand sex in a similar way as ‘essentially open to significance’.[[45]](#endnote-45) However, crucially, there are many different ways that meaning can transform sex: sexual desire can be bound up with love, humiliation, respect, admiration, or many other attitudes.[[46]](#endnote-46)

Morgan’s account offers an explanation of some key features of the sexual realm. The sexual is both rooted in one of the most primitive and most powerful bodily urges and able to implicate a huge variety of complex human attitudes. Partly because of this, it is able to give rise to intense experiences, either pleasurable or painful. How people treat us sexually has significant implications for their attitudes toward us as embodied persons.

On this account, the sexual is special and important, but this does not imply that sexual encounters must be restricted to those we love. Benatar’s Dilemma conflates two questions: (1)How important is the sexual? (2) What makes a sexual encounter ethically good?[[47]](#endnote-47) Benatar appears to assume that if the sexual realm is important or special, then a sexual encounter is only good if it involves people who are very special to us, people that we love deeply. But why should this be the standard by which to assess sexual encounters? Suppose we think that the sexual is special because sexual interactions have significant implications for the attitudes of others to us as embodied persons. It would then make sense to think that sexual encounters are good so long as they express good attitudes. Love is not the only good attitude. We could say that sexual encounters are good insofar as they are respectful, whole-hearted, reciprocal, mutually pleasurable, rich and fulfilling and bad insofar as they are coercive, manipulative, selfish and degrading.[[48]](#endnote-48)

I’ve given one account of sexual desire and argued that this account allows us to recognise the importance of the sexual without adopting a restrictive sexual ethic. This is not supposed to show that only this account can meet Benatar’s challenge. Morgan’s account of sexual desire is *one way* to explain the way in which the sexual combines powerful primitive bodily urges and complex human emotions. This observation is *one way* to explain the power of sex to give rise to intense experiences. And all this is *one way* to explain why how people treat us sexually has significant implications for their attitudes to us as embodied persons – which is *one way* to see the sexual as important. There are many other ways to endorse a sexual ethic according to which the sexual is special and it is important for sexual encounters to be good, without implying that sex should be restricted to people in love.

This understanding of the significance of the sexual is in line with other domains in which we see autonomy and integrity as extremely important but do not frown on ‘promiscuity’. Creative autonomy and integrity is extremely important – but we do not expect the artist to only draw things and places that she loves. Creative integrity is compatible with drawing many things, so long as they are an authentic expression of the artist’s ideas. Similarly, autonomy and integrity of thought and expression matter – to have someone take control of what you think or what you say is a deeply disturbing prospect – but no one things that for this reason it is wrong to think anything but deeply significant thoughts.

This approach to sexual ethics sees promiscuity as defined by Benatar, and as generally understood, as morally unproblematic. Someone could have a lot of sex with comparative strangers, which was always joyful and wholehearted.[[49]](#endnote-49) The approach may not endorse promiscuity if this is understood as a lack of discrimination about sex. For we may well hold that if the sexual is important we should take care when deciding whether to have sex. We should make sure that our desire to have sex is wholehearted and that everyone involved will feel good. This view makes sense of sexual regret: regret for undergoing a sexual experience that was bad in some way.[[50]](#endnote-50) Nonetheless, even this kind of promiscuity is not condemned in the sense in which traditional sexual ethics condemns promiscuity. The person who makes bad sexual decisions which harm only herself is not doing anything morally wrong.

This view also implies that rape is a very serious wrong. Rape violates a key interest in sexual autonomy. Because of the importance of the sexual realm, rape in itself is more seriously wrong than non-sexual penetrative assault in itself (other things being equal). Similarly, other forms of sexual assault are more seriously wrong than comparable forms of non-sexual assault.

It can also explain the wrongness of sexual interactions with children that would not be wrong if they were not sexual. Some sexual interactions with children have no wrong making features other than the fact that they are sexual: no force or threats are used; no physical harm is done to the child. To explain the wrongness of such encounters we need to appeal to the wrongness of having a sexual interaction with a child. This view explains the wrongness of such encounters because, although children do not have an interest in sexual autonomy, they do have an interest in sexual integrity. The view of sexuality described above can explain why sexual interaction between an adult and a child can lead to serious trauma: sexual interactions combine powerful bodily urges and primitive emotions, give rise to intense experiences and have implications for attitudes towards us as embodied persons. Children are neither cognitively nor emotionally equipped to deal with this kind of experience.[[51]](#endnote-51) Moreover, having someone decide on your behalf that you should participate in activities with these kinds of implications is prima facie objectionable. Thus sex with an adult should require a kind of consent that children are not able to give, and therefore that any sexual interaction between an adult and a child is a violation of sexual integrity. This view explains the wrongness of adult-child sex without endorsing a restrictive sexual ethics: sexual interactions can be cognitively and emotionally challenging, and having decisions for your about sexual interactions can be objectionable, even if sex does not need to be with someone special to be good.

I’ve argued that rape is more serious than non-sexual penetrative assault and that sexual autonomy and sexual integrity have a special importance. However, I have also argued that creative autonomy and integrity and mental autonomy and integrity have a special importance. This leaves it open that assaults on creativity or on the mind may be as bad, or even worse than, sexual assaults. I regard this as a feature rather than a bug. Although I want to argue that rape is a special kind of wrong, I do not want to argue that it is the worst possible wrong. In order to successfully dissolve Benatar’s Dilemma, one does not need to claim that the sexual is the most important realm. The most plausible position seems to me to be one that identifies the sexual as an important realm, but leaves it open that there are perhaps several other equally important realms.[[52]](#endnote-52)

What about the original claim that rape is worse than force-feeding? It might seem that the Morgan-inspired account cannot explain this because it cannot explain why the sexual realm matters more than the gustatory realm. On Morgan’s view, hunger is also an animal appetite than can be transformed by significance. The gustatory is thus also both rooted in one of the most primitive and most powerful bodily urges and able to implicate a huge variety of complex human attitudes. Food can be used to express love and plays a complex role in human social life.[[53]](#endnote-53) Reflection on these features of food provides further evidence that we may be seriously underestimating the wrong of force-feeding if we think that it is not a particularly serious kind of wrong. I do not think it is a serious problem for the Sexual Liberal if it ends up that we cannot show that rape is worse than force-feeding *because our intuitions about force-feeding seriously underestimate its wrongness.*  The worry for the Sexual Liberal is that they cannot fully explain the wrongness of rape. It is not a problem for them if they have a theory that implies that both rape and force-feeding are more serious than non-sexual/ non-gustatory penetrative assaults. In addition, unlike the somewhat similar response discussed earlier, which involved recognising rape and force-feeding as equally bad on the grounds that they both involve forced penetration, this response gives an explanation of the special wrongness of rape that is rooted in the special (if not unique) importance of the sexual.

Nonetheless, there may be some avenues that are worth exploring to try to justify the view that sexual assaults are more serious, or serious in a different way, than gustatory assaults. Both sex and food can implicate a huge variety of complex human attitudes. They each play a complex role in human social life. But they do not play the same role. The sexual seems to be primarily interpersonal in a way that eating is not. When two people eat together, they can share pleasure in the food they eat, and the nature of that pleasure can be transformed by their understanding of this food as shared food, and possibly as food made by one for the other as an expression of an attitude or emotion. But when two people have sex, they experience pleasure in what they do to and with each other’s bodies and that pleasure is transformed by the significance they attribute to the others’ actions and the attitudes that are expressed. This means that sexual encounters seem to have more significant implications for others’ attitudes to us as embodied beings.

This does not imply that any sex that is not interpersonal is thereby bad. Sex that is not interpersonal may simply lack implications for a person’s attitudes towards other persons as embodied being. Lacking implications is not the same as implying bad attitudes. Moreover, non-interpersonal sex can express good attitudes towards *oneself* as an embodied being.

I’ve argued that the Sexual Liberal can explain why sexual interactions with adults require a kind of consent which children cannot give by appealing to the way in which sexual interactions combine powerful bodily urges and primitive emotions, give rise to intense experiences and have implications for attitudes towards us as embodied persons. Could the same reasoning imply that for an adult and a child to share food requires a kind of consent that children cannot give? Recognising the importance of food in human life does make us see that it would be deeply wrong to “link a child’s first memories regarding *food* with feelings of confusion and powerlessness”. But, given that if children do not eat, they will die, we cannot avoid trauma surrounding food simply by deciding not to feed the child. In contrast, avoiding sex between adults and children is a simple way to avoid that source of trauma surrounding sex. Whether or not, the considerations above can be used to show that sexual assault in general is worse than gustatory assault, sex is certainly different from food when it comes to children.

*Conclusion*

Benatar presents the Sexual Liberal with a dilemma. He claims that she cannot both see promiscuity as morally unproblematic and fully explain the wrongness of rape and paedophilia. She must either condemn promiscuity or revise her attitudes toward rape and paedophilia. I have argued that this is a false dilemma. We do not have to choose between these two unacceptable options. In doing so, I have used Benatar’s Dilemma as a framework to explore mistakes that many people make in their understanding of sexual assault and argue that to produce an adequate sexual ethics, Sexual Liberals must account for the significance of the sexual in human life.

I described two routes to Benatar’s Dilemma. The first route involves two mistaken assumptions: the mistaken assumption that rape and paedophilia involve sex, the same activity as consensual sex, and the ‘Value of **ϕ**’ view: that the comparative wrongness of doing something to someone without their consent is determined by the value to them of the coerced activity. These two mistakes combine to suggest that we should explain the wrongness of rape and paedophilia by looking at the ‘value’ of consensual sex – leading to Benatar’s Dilemma.

However, I argued that there is an alternative route to Benatar’s Dilemma that does not involve these mistakes. Although rape and paedophilia are not sex, they are sexual. It is the fact that they are sexual that makes them such horrific wrongs. To fully explain the wrongness of rape and paedophilia, we need to see the sexual as important. The Casual View, on which sex is like any other potentially pleasurable activity, cannot fully explain the wrongness of rape and paedophilia. This deeper version of Benatar’s Dilemma is based on the worry that if the sexual matters so much, then sex must only be permissible if it matters a lot – in other words we should only have sex with those we love. To provide a satisfactory sexual ethics, the Sexual Liberal must confront the fundamental question: what makes the sexual special?

Finally, I argue that we can recognise the importance of the sexual in human life without endorsing a restrictive sexual ethic. We do this by separating the question of how much the sexual matters from the question of what makes sexual encounters good or permissible. The sexual matters a lot, and it matters a lot whether sexual encounters are good, but sex does not need to be ‘significant’ to be good.

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**References**

Archard, David. “The Wrong of Rape”, Philosophical Quarterly 57, no. 228 (2007): 374-93.

Benatar, David. “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape” Public Affairs Quarterly 16, No. 3 (2002):191-201

Brison, Susan J. Aftermath, Violence and the Remaking of a Self Princeton, NJ: Princeton University Press, 2002.

Chambers, Timothy. “No, You Can’t Steal A Kiss.” Think 21, Vol. 8 (2009): 63-67.

Hampton, Jean. “Defining Wrong and Defining Rape.” In Burgess-Jackson, Keith (ed). A Most Detestable Crime New York, NY: Oxford University Press, 1999:118-156.

Harrison, Ross. “Rape – a Case Study in Political Philosophy.” In S. Tomaselli and R. Porter (eds), Rape: an Historical and Cultural Inquiry Oxford, UK: Blackwell, 1986: 41-56.

Law, Stephen. “Rape *is* a sex act.” Think 21, Vol. 8 (2009): 69-70.

Murphy, Jeffrie. “Some Ruminations on Women, Violence, and the Criminal Law.” In J. Coleman and A. Buchanan (eds) In Harm’s Way: Essays in Honour of Joel Feinberg Cambridge UK: Cambridge University Press, 1994: 209-30

Morgan, Seiriol. “Dark Desires.” Ethical Theory and Moral Practice6 (2003): 377–410.

------ “Sex in the Head,” Journal of Applied Philosophy*,* 20, No. 1 (2003): 1-16.

Muehlenhard, Charlene L., Danoff-Burg, Sharon, Powch, Irene. “Is Rape Sex or Violence? Conceptual Issues and Implications” in Buss, David M. and Malamuth, Neil M. (eds). Sex, Power, Conflict: Evolutionary and Feminist Perspectives Oxford University Press, 1996. Reprinted in Baker, Robert B., Wininger, Katheleen J. and Elliston, Frederick A. Philosophy and Sex 3rd Edition. Amerhest, NY: Prometheus Books, 1998: 621-639.

Posner, Richard. Sex and Reason Cambridge, MA: Harvard University Press, 1992.

Warner, C.G. (ed) Rape and Sexual Assault: Management and Intervention Germantown, Md: Aspen Systems, 1980.

1. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”. [↑](#endnote-ref-1)
2. I follow Benatar in using the term paedophilia to refer to both the sexual attraction to children and to sexual activity informed by this attraction, including but not limited to direct sexual interactions with children. I take it that if a view were unable to show that some forms of sexual interaction with children were wrong, it would also struggle to show that the attraction, or activities springing from the attraction but not involving actually interacting with children, were wrong. The question about whether a paedophiliac sexual desire that is not acted on is morally wrong is a very interesting one. However, if such desires are not wrong, this is not going to be because the desire is morally unproblematic, but because of some broader truth about the limits of moral evaluation. It will be a problem for any view of sexual ethics if it cannot explain why paedophilia which is not acted upon is morally worrying. I thank Lyons Hardy and Hannah Miller for discussion of this point. [↑](#endnote-ref-2)
3. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 191. [↑](#endnote-ref-3)
4. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 192. [↑](#endnote-ref-4)
5. Ibid. [↑](#endnote-ref-5)
6. He also describes the promiscuous person as “somebody for whom romantic attachments are not a relevant consideration in choosing a sexual partner” (Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 193.) This is an odd definition. Even if you enjoy sex without love, you may well still, other things being equal, be more likely to have sex with someone if you are in love with them. [↑](#endnote-ref-6)
7. The exception is the view that any sex outside marriage or any non-procreative sex counts as promiscuity. This view would count some sex which the significance view sees as acceptable as a manifestation of promiscuity. [↑](#endnote-ref-7)
8. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 196. [↑](#endnote-ref-8)
9. Ibid. [↑](#endnote-ref-9)
10. Ibid. [↑](#endnote-ref-10)
11. Ibid. [↑](#endnote-ref-11)
12. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 193. [↑](#endnote-ref-12)
13. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 194. [↑](#endnote-ref-13)
14. I do not include discussion of these doubts due to considerations of space, and because the empirical point is incidental to both Benatar’s argument and my own. [↑](#endnote-ref-14)
15. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 198. [↑](#endnote-ref-15)
16. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 199. [↑](#endnote-ref-16)
17. Harrison, “Rape – a Case Study in Political Philosophy”, 52; Posner, Sex and Reason, 388, quoted in Archard, “The Wrong of Rape”, 384. [↑](#endnote-ref-17)
18. Hampton, “Defining Wrong and Defining Rape,” 134. [↑](#endnote-ref-18)
19. Archard, “The Wrong of Rape”, 384. [↑](#endnote-ref-19)
20. S.J. Brison, Aftermath, Violence and the Remaking of a Self, 6. Brison’s analogy is quoted in Archard, “The Wrong of Rape”. This is where I first came across the analogy. [↑](#endnote-ref-20)
21. Ibid, 6-7. [↑](#endnote-ref-21)
22. The observation that the violations result from the absence of consent does not undermine Brison’s point. She is not denying that the lack of consent is the reason that the acts are violations. She is noting that when consent is lacking, in these cases, we no longer think of the person as engaging in the same activity. I thank an anonymous referee for pressing me on this. [↑](#endnote-ref-22)
23. Chambers, “No, You Can’t Steal A Kiss”, 4. [↑](#endnote-ref-23)
24. This discussion was originally in response to an objection from Chris Bennett. The discussion was further developed in response to an anonymous referee. I thank both Chris Bennett and the anonymous referee. [↑](#endnote-ref-24)
25. See Archard’s discussion of a similar example from Murphy (Archard, “The Wrong of Rape”, 386; Murphy, “Some Ruminations on Women, Violence, and the Criminal Law”, 214). [↑](#endnote-ref-25)
26. I thank David Boonin for pressing me to clarify this. [↑](#endnote-ref-26)
27. I thank the anonymous referee for pressing me on this. [↑](#endnote-ref-27)
28. Someone may be happy to grant that a rapist and his victim do not count as having sex, but be reluctant to accept that consent is necessary for sex. It seems tempting to say that animals have sex, and that children can have sex with each other or adults with diminished understanding can have sex with each other, even if they do not have the capacity for consent. I do not think animals, children and adults lacking the capacities for consent count as performing *the same activity* that fully consenting adults engage in when having sex. However, rape and child sex abuse is also a different activity than that involved in a sexual encounter where none of the participants are capable of consent. We can either use the term ‘having sex’ for sexual interactions between consenting adults or use it to include both interactions between consenting adults and between parties who are equally incapable of consent. In either case, it will remain true that rape does not involve the victim having sex. If we go for the more inclusive understanding of sex, my claim that consent is necessary for an activity to count as sex will need to be modified. I thank Joe Saunders for pressing me on this. [↑](#endnote-ref-28)
29. Archard, “The Wrong of Rape” 383. [↑](#endnote-ref-29)
30. Ibid, 383. [↑](#endnote-ref-30)
31. Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 198. [↑](#endnote-ref-31)
32. Murphy, “Some Ruminations on Women, Violence, and the Criminal Law”, 214 quoted by Archard, “The Wrong of Rape,” 385. [↑](#endnote-ref-32)
33. There are other problems with Murphy’s view. For example, the assumption that the fact that a person engages in sex work tells us about her attitude to her sexuality ignores the question of whether the sex worker had a meaningful choice about whether to become a sex worker or not. [↑](#endnote-ref-33)
34. Archard, “The Wrong of Rape,” 387. [↑](#endnote-ref-34)
35. The celibate that Archard describes see sex as something with neither positive value nor negative value. This is not true of all celibates. Another celibate may see sex as something that has a negative value. Someone may want to say that the second celibate ‘values sex’. This does not undermine the argument – which depends only on the description being true of this particular celibate – and indeed seems to bolster my later claim that the value of ϕ view is not well-formed because it is not clear what kind of valuing is at stake. Thank you to the anonymous referee who pressed me on this. [↑](#endnote-ref-35)
36. The Celibate is only a counterexample to versions of the value of ϕ view according to which the wrongness of coercing A to ϕ depends on how much A values ϕ i.e. on A’s beliefs about the value of ϕ. Someone who held the Significance View could say that raping both the sex worker and the celibate is a serious wrong, even if they do not value sex, because, whatever their beliefs, sex is extremely valuable for them. [↑](#endnote-ref-36)
37. Archard, “The Wrong of Rape,” 383. [↑](#endnote-ref-37)
38. I thank Gerald Lang and an anonymous referee for pressing me on this. [↑](#endnote-ref-38)
39. I thank the anonymous referee who helped me to see I needed to recognize this possibility. [↑](#endnote-ref-39)
40. Muehlenhard, Danoff-Burg, Powch. “Is Rape Sex or Violence? Conceptual Issues and Implications,” 623. [↑](#endnote-ref-40)
41. Warner, Rape and Sexual Assault: Management and Intervention, 94. Cited in Muehlenhard, Danoff-Burg, Powch. “Is Rape Sex or Violence? Conceptual Issues and Implications,” 633. [↑](#endnote-ref-41)
42. Law,“Rape *is* a sex act,” 69 [↑](#endnote-ref-42)
43. Ibid. [↑](#endnote-ref-43)
44. Morgan, “Sex in the Head,” 5-7. [↑](#endnote-ref-44)
45. Morgan, “Sex in the Head,” p. 7. [↑](#endnote-ref-45)
46. See Morgan, “Sex in the Head,” p. 7-8. See also Morgan, “Dark Desires.” [↑](#endnote-ref-46)
47. I use the term ‘ethically good’ rather than ‘morally permissible’. Although Benatar sometimes talks in terms of ‘condemning promiscuity’ and the significance account picks out a necessary condition for sex to count as permissible, it seems like Benatar sometimes wants to make a weaker claim: that we must at least see promiscuity as ethically bad even if we do not think it is morally impermissible. For example, in rejecting the alternative view that sex is special because it is “personally involving” in ways that other pleasures are not, he argued: “It would surely be inappropriate, *at least as a moral ideal*, to engage in personally behaviour with those, such as mere acquaintances, with whom personal involvement at the relevant deep or complex level is not possible.” (Benatar, “Two Views of Sexual Ethics: Promiscuity, Pedophilia, and Rape”, 198. Italics added.) I want to argue against even this weaker claim. I do not think the Sexual Liberal must recognize anything ethically bad about promiscuity. [↑](#endnote-ref-47)
48. See Morgan, “Dark Desires”, See also Hampton, “Defining Wrong and Defining Rape,” 148- 150 [↑](#endnote-ref-48)
49. See Hampton, “Defining Wrong and Defining Rape,” 145 for a lovely description of joyful promiscuity. [↑](#endnote-ref-49)
50. See Hampton, “Defining Wrong and Defining Rape,” 150 for an argument that we must recognize ways in which sex may consensual and yet still morally bad. [↑](#endnote-ref-50)
51. I thank Jennifer Filson Moses for discussion of the psychological impacts of child abuse. [↑](#endnote-ref-51)
52. I thank Alison Toop and Jessica Begon for discussion on this point. [↑](#endnote-ref-52)
53. I thank Gerald Lang for discussion on this point. [↑](#endnote-ref-53)