



## The Subjectivity of Sex(ual Inclusion)

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### **Abstract**

The term ‘sexual inclusion’ is commonly taken to refer to the adjustment of our social and educational practices to counteract prejudices that are connected to sex. The project of sexual inclusion can be used, for example, to advocate against the discrimination of the LGBTQIA+ (lesbian, gay, bisexual, trans, queer, intersex, asexual, ally and others) community or certain unconventional BDSM (bondage and discipline, dominance and submission, sadism, and masochism) dynamics and activities. This essay, however, takes sexual inclusion as the project that promotes the equal and largely indiscriminatory opportunity for each person to engage in meaningful and pleasurable nonmorally good sexual experiences, because, as I will argue, sex is part of what it means to live a flourishing and good human life. This essay focuses specifically on nonmorally good sex, how we experience it, and its fundamental role in promoting sexual inclusion – if one does not experience nonmorally good sex, one cannot feel or be considered as being sexually included. To have a better grasp on the project of sexual inclusion and what it is, I discuss the different mechanisms that can lead to sexual *exclusion* and how experiencing sexual exclusion can hinder our progress towards living a good and flourishing life. I conclude that due to its subjective nature, the experience of nonmorally good sex itself challenges and limits us in our pursuit of the advancement and achievement of sexual inclusion. Engaging in a sexual activity with another person due to the motivating reasons to provide that person with a nonmorally good sexual experience (with the goal of advancing their sexual inclusion), is not an input-output kind of process. If we are unable to guarantee nonmorally good sex for others, the result is that we cannot guarantee their sexual inclusion either.

### **About the Author**

Shirah Theron is an MA (Philosophy) student. Her research focuses on sexual ethics and philosophy of sex, and she wishes to do further research in the fields of psychology and sexology. She loves tutoring her undergrad students and believes that philosophical knowledge and reason are fundamental in problem-solving and serve as the most important tools to navigate our future world. She also loves cats.

## Introducing... A Sex Life for All?

Sex<sup>1</sup> and sexuality pertain to human desires and activities that involve the search for and attainment of sexual pleasure and satisfaction, as well as human desires and activities that involve the creation of new human beings. The philosophy of sex, then, is the conceptual and normative exploration of these vast domains (Soble & Halwani, 2017:1-2). We tend to think that we all know what sex is. However, there is much to discover once we try to analyse sex, and how it relates to morality, society and the self. What is more, sexual activity is almost never free from moral and cultural influence, leaving sex embedded in layers of complex ties and associations (Goldman, 2017:54). This complicates any attempt to develop a simple, straightforward understanding of sex. Alan Goldman even goes so far as to question whether we should spend our time, as philosophers, pondering these questions within the realm of sex – to which Alan Soble and Raja Halwani give the tongue-in-cheek reply: “Perhaps sex should not be a cornerstone of value, but, alas, given who we are, it is” (2017:5).

<sup>1</sup> In this essay, *sex* is to refer to *any and all consensual sexual activity that involves at least two persons* – not only the heteronormative common thought of penis-vagina penetrative sex.

<sup>2</sup> It is also important to acknowledge that different sexual experiences can be pleasurable and meaningful to different people. Danaher strongly encourages a pluralistic approach to “meaningful sexual experiences” in order to not exclude sexual experiences that might be uncommonly considered meaningful to some (2020:7-8). In this essay, I focus specifically on the “nonmorally good” aspect of sexual experiences that promote sexual inclusion.

This essay will focus on the project of sexual inclusion, which I will refer to as the promotion of equal and largely indiscriminatory opportunity for each person to engage in meaningful<sup>2</sup> and pleasurable nonmorally good<sup>3</sup> sexual experiences. I will argue that having the opportunity to experience sexual pleasure is often part of what it means to live a good and flourishing life<sup>4</sup>. I will focus specifically on nonmorally good sex, how we experience it, the role it plays in sexual inclusion and will argue that, because of its very subjective nature, it is difficult to drive forward the project of sexual inclusion. I argue that, if one does not experience nonmorally good sex, one cannot feel or be considered as being sexually included. If we are unable to guarantee nonmorally good sex for others, the result is that we cannot guarantee their sexual inclusion either. Apart from the physiological aspects of being denied the opportunity to have pleasurable and meaningful sexual experiences (particularly when craving such an experience), sexual exclusion may result in feelings of social rejection and great psychological suffering – potentially hampering the progress towards a flourishing life<sup>5</sup>.

<sup>3</sup> Within philosophy of sex, “nonmorally good” is one of four ways we evaluate sex. I expand on these evaluations in this essay.

<sup>4</sup> John Danaher adds: “Having a sex life is usually taken to be part of what it takes to be a mature member of society. So much so that some people don’t feel themselves to be fully human in its absence” (2020:5-6).

<sup>5</sup> This essay remains neutral on whether we ought to drive forward the project of sexual inclusion, despite its challenges. The main objective for this essay is to look at the very foundational part

## The Moral and Nonmoral Evaluations of Sex

Within the philosophy of sex, there are four evaluative distinctions to be made regarding sexual activity and sexual behaviour: morally good and bad, and nonmorally good and bad (Soble & Halwani, 2017:8-11). Morally good sex<sup>6</sup> can refer to activities such as mutually consensual sex or only having sex with a monogamous partner. When the sex activity causes some form of unwanted harm, such as in cases of rape, adultery or paedophilia, it is considered morally bad sex. On the other hand, evaluating sexual behaviour and activity in a nonmoral manner merely takes into account what we expect the sexual activity to provide – and what we usually expect is some sort of pleasure. Nonmorally good sex refers to a sexual activity that provides sexual pleasure to the participants that is physically or emotionally satisfying. A nonmorally good sexual experience would require some degree of sexual arousal and pleasure (up to and including orgasm). However, since many kicks and kinks are received by different people in different ways, it is quite difficult to get more precise than that. Nonmorally bad sex is boring, tedious, or even unpleasant. Sexual experiences can be judged in degrees of nonmorally good and nonmorally bad, but always leans towards one or the other. Engaging in sex

of being and feeling sexually included: experiencing nonmorally good sex.

<sup>6</sup> Morally good sex as explained by Soble and Halwani would be morally *permissible* sex, as opposed to morally bad sex which is morally *impermissible*.

with the aim of promoting the other person's sexual inclusion, for example, need not entail *significant* nonmorally good sexual experiences for them. Nevertheless, for the project of sexual inclusion the person must experience the sex as nonmorally good to *some extent* for it to be beneficial to them in any way.

To be able to experience nonmorally good sex in the first place, one usually requires some level of desire and sexual arousal. We need to understand what is vital to sexual arousal and desire in order to clarify what is needed to promote the project of sexual inclusion. In the section that follows, I discuss the conscious workings of these aspects that are required for sexual pleasure.

## The Conscious Workings of Sexual Arousal and Desire

Thomas Nagel did not only focus on the qualia of bats; he also tried to think through some of the issues related to human sexual arousal and desire (Nagel, 2017). Nagel takes as his starting point Sartre's view of human sexual arousal. Sartre argues that in order for sexual arousal to take place between humans, both need to entirely reduce the other to an object<sup>7</sup> (Sartre, 1956). During arousal and the experience of sexual desire, the other person perceives me as a sexual object just as I do

<sup>7</sup> Sartre says that the goal of sexual desire is carried out by kind of "double reciprocal incarnation" and that this is achieved in the following way: "I make myself flesh in order to impel the Other to realize *for herself* and *for me* her own flesh, and my caresses cause my flesh to be born for me in so far as it is for the Other *flesh causing her to be born as flesh*" (Sartre, 1965:391, Sartre's italics).

them. Therefore, Sartre posits that it is impossible to include the other person as a subject into my realm once I perceive them with sexual desire, and vice versa (1956:392-393). My subjectivity has no room in the other person's world when they objectify me via their sexual desire.

Nagel is intrigued by this idea, and agrees that sexual desire does involve some kind of perception (2017:44). However, he argues, contra Sartre, that *mutual* sexual desire contains a more complicated system of "superimposed mutual perceptions" (ibid.:44). I do not only perceive the *other* person as a sexual object, but also *myself*. Similarly, the other person also objectifies themselves. Nagel's key point here is not so much about reducing each other entirely to the level of an object, but that experiencing sexual desire and arousal for another person involves (and requires) *awareness* of oneself and one's own sexual desire and arousal for the other. He then paints a scenario of Romeo and Juliet in a bar with many mirrors surrounding them to better explain how the "proliferation of levels of mutual awareness it involves is an example of a type of complexity that typifies human interactions" (ibid.:45). Below I give a summarised version:

Romeo and Juliet sit across from one another at the bar. Romeo notices (and perceives) Juliet. Romeo regards<sup>8</sup> Juliet with sexual desire (and finds her physically attractive). Juliet notices (and

perceives) Romeo. Juliet regards Romeo with sexual desire (and finds him physically attractive). Romeo senses that Juliet is sensing someone. Romeo senses that Juliet is sensing him. Juliet senses that Romeo is sensing someone. Juliet senses that Romeo is sensing her. Romeo senses that Juliet senses that he is sensing her. Juliet senses that Romeo senses that she is sensing him.

Nagel points out that sexual arousal might, "begin with a person's sensing that he is sensed and being assailed by the perception of the other person's desire, rather than merely by the perception of the person" (ibid.: 45). He notes that the Romeo-Juliet scenario is quite structured and that it might not play out in such an orderly fashion in the real world (ibid.). Nonetheless, this scenario gives us some insight into the basic framework of how human sexual desire, arousal and their interaction with each other work. This complex structure and framework of sexual experience with another person involves my sexual arousal being grounded in the acknowledgement of my own desire, as well as my desire for the other person's recognition of my desire for them – and the other way around. Therefore, sexual desire lies not only in the perception of the other person and in finding them attractive. It is also important that the other person is aware of my sexual desire for them, and is aroused by it. As Nagel puts it, sexual activity with another person, "involves a desire that one's

<sup>8</sup> Nagel calls this 'regarding her with sexual desire' "sensing" (2017:44-45).

partner be aroused by the recognition of one's desire that he or she be aroused" (ibid.:46).

I think that Nagel's account of human sexual arousal and desire is convincing. It shows some of the intricacies of sexual desire and arousal, particularly its subjective nature. Since my sexual arousal relies on me being aroused by the other person's arousal and vice versa, my sexual arousal very much depends on my subjective experience of the potentially arousing situation. Sexual arousal and desire are required for nonmorally good sex with another person. This means that, according to Nagel's view, nonmorally good sex would be intricately embedded in multiple levels of awareness by the participating parties. If it was not arousing for me on all those intricate levels, then it would not result in nonmorally good sex. This fairly complicates the possibility to merely *give* someone nonmorally good sex, since the actualisation of sexual pleasure relies on a particularly subjective experience. This subjective experience will also be highly dependent on a person's subjective sexual *preferences*. My sexual preferences are extremely subjective and can greatly influence my level of sexual arousal and the potential of experiencing nonmorally good sex. That is to say that it is more or less impossible to guarantee another person's sexual pleasure,

precisely due to the nature of experiencing sexual pleasure.

### **The Flourishing View of Sex**

After determining how sexual desire and arousal influences the nature of nonmorally good sex and how we experience it, we need to understand how the experience of sexual pleasure positively contributes to our lives and promote the project of sexual inclusion. Determining how sexual arousal and desire *works* and how we *value* sex are crucial matters in better understanding any argument regarding sex, particularly nonmorally good sex. In Tracy de Boer's MA Thesis, titled *Disability and Sexual Justice*, her flourishing view of sex shows to be the most all-encompassing view of how we value sex. It looks at the role of sex and how it can greatly contribute to the growth and healthy development of the physical, emotional and psychological self. Other views of sex, such as the hedonistic view<sup>9</sup> or the procreative view<sup>10</sup>, understand sex only as something primarily physical. The flourishing view includes both pleasure and procreation as aspects of the physical nature of sex, while also recognising its potential connection to other social and political goods, such as human intimacy, connection and identity. It thus remains safe to say that the sex referred to in the flourishing view is nonmorally good to begin with.

<sup>9</sup> On the hedonistic view, the value of sex is located exclusively in the physical pleasure created by sexual activity (De Boer, 2014:7).

<sup>10</sup> The procreative view of sex takes reproduction as the ultimate or proper goal of sex (De Boer, 2014:10).

On De Boer's view, sex is part of a flourishing and good human life. "Human flourishing" is a concept that De Boer borrows from Martha Nussbaum. Nussbaum notes that Aristotle refers to human flourishing (often used as a translation of the Ancient Greek *eudaimonia*) as the ultimate goal of a human being (2011:125-126). According to Nussbaum's Human Capabilities Approach, there are certain essential human functioning capabilities without which a life would be so impoverished that it would not count as a worthwhile life (ibid.:160). This approach points out the essential "beings and doings" that form integral parts of our humanity (ibid.:28). With this, she means that, "being able to have good health, adequate nutrition, adequate shelter, *opportunities for sexual satisfaction*<sup>11</sup> and choice in reproduction, and mobility" does indeed form part of a list of fundamental human capabilities that are considered essential to a good human life (ibid., own emphasis). Nussbaum further claims that, "a life that lacks any one of these capabilities, no matter what else it has, will fall short of being a good human life" (ibid.:85).

Many of us would agree that sexual pleasure is significant in a way that other physical pleasures are not. Mitchell Tepper views pleasure as life-affirming and something that adds significant

meaning to our lives – especially *sexual* pleasure (2000:288):

Sexual pleasure is particularly powerful in making one feel alive. It is an antidote to pain, both physical and emotional. Sexual pleasure can enhance an intimate relationship. It can add a sense of connectedness to the world or to each other. It can heal a sense of emotional isolation so many of us feel even though we are socially integrated. It can help build our immunity against media messages that can make us feel as if we don't deserve pleasure.

Hence, I argue, we ought to fully acknowledge sexual pleasure and its value to us if we are to understand sex. As Tepper (2000:288) has indicated, sex<sup>12</sup> is not only inherently physical, but also inherently *social* in its manifestation. The collaborative and social component of sex with another person involves a certain level of reciprocity: partners ought to take each other's pleasure and desire into account in a crucial way (De Boer, 2014:16). Sex with a selfish partner does not typically lead to enjoyable nonmorally good sex for the other person which could, in turn,

<sup>11</sup> Having the opportunity for sexual satisfaction and experiencing sexual satisfaction *pro tanto* are not one and the same. However, it is the case that this opportunity is to lead to actualizing the experience, at least at one point or another in the person's life, if the person so wishes.

<sup>12</sup> Even though sexual pleasure can be experienced by oneself (through masturbation, for example) without another person present, Tepper here specifically refers to sexual pleasure as experienced when engaged in a sexual activity with (at least) one other person.

hinder their flourishing in the ways that sex usually could contribute towards.

Sex (and by extension, sexuality) contributes to one's identity in a significant way as well. Sexual identity refers to, "how a person conceives of themselves with respect to their sexual orientation" (Bettcher, 2017:120). Moreover, sexuality is often seen as one of the most important aspects of whichever identities a person may have overall. In a more comprehensive sense of *political* identity, for example, sexual agency or sexual identity may affirm inclusion in the human community (Siebers, 2008:136). That is to say that having the opportunity to participate in sexual activities (i.e., to be sexually included) is something we seem to value for reasons outside of the sexual acts themselves, and *that* sexuality forms part of what it means to live a good and flourishing life.

### **The Mechanisms of Sexual Exclusion**

John Danaher (2020) posits that there are people (men, women and non-binary persons) who are sexually excluded, who lack access to a sex life and who acutely experience this lack. In order to have a better grasp of what sexual exclusion refers to, we need to first understand how it arises. I argue that being denied nonmorally good sexual experiences and/or experiencing its acute lacking

can lead to sexual exclusion. Danaher suggests that it can occur at the hands of three different mechanisms of sexual exclusion, namely personal, social and natural mechanisms (2020:9-10). These mechanisms can operate individually or, as is more often the case, they can overlap. In other words, it is more often than not the case that persons experiencing sexual exclusion do so due to more than one type of mechanism<sup>13</sup> at play.

Personal mechanisms have to do with the features or characteristics of the person who is being excluded. These could involve, for example, someone's prejudicial attitudes towards potential sexual partners, excessive romantic idealism, sexual shyness and awkwardness, or certain mental and/or physical disabilities or struggles that interfere with their sex lives. However, I must mention that there are some personal mechanisms leading to sexual exclusion that cannot be incorporated to form part of the project of sexual inclusion. The reason for this is usually that including these mechanisms might lead to morally bad and impermissible sexual conduct being allowed in the name of sexual inclusion. In 2019, for example, *The Guardian* published a report on a 36-year-old heterosexual man, referred to as JB, who is autistic. JB is unable to understand the importance of consent in a sexual interaction with

<sup>13</sup> This essay focuses on the importance of experiencing nonmorally good sex in order to be and feel sexually included. The lack of nonmorally good sex along with any of the three main mechanisms can lead to sexual exclusion, but it is not only this lack of experiencing nonmorally good sex that can lead to sexual exclusion. For example, if a gay person is sexually excluded

through social mechanisms because they live in a highly religious and homophobic society, then this is also problem for sexual inclusion. This social mechanism might lead to the person's sexual exclusion on a societal level, and it would then be followed by a lack of nonmorally good sex, which would further sexually exclude them.

another person, but according to the ruling of the court of protection, he must be allowed to pursue sexual relationships with other people. A report from a clinical psychologist stated that JB showed “moderate risk” to sexually offending women, adding that he cannot understand that a woman’s consent is relevant in sexual situations, nor that attempting sex without consent is likely to be a criminal offence (Hill, 2019). Despite this, the judge ruled that insisting or forcing JB to understand the issues of consent before he is allowed to pursue sexual relationships with women would be discriminatory, for it would “impose on him a burden which a capacious individual may not share” (ibid.). JB has never been charged with any criminal offence, but his local authority has imposed significant restrictions on his freedoms since he has been subjected to a care plan in 2014. The judge stated that engaging in sexual activities with other people is a “primal expression of our humanity and existence as sexual beings,” and that, “[i]t is an essential part of our basic DNA as reproductive human beings” (ibid.). According to the judge, JB has made it very clear that he desperately wishes to find a girlfriend with whom he can build and maintain a relationship. The judge also added: “Sexual relations form a fundamental aspect of our humanity, common to all regardless of whether an individual suffers from some impairment of the mind” (ibid.). However, the local authority took the case to the appeal court,

which found in its favour and a year later overturned the previous ruling. A legal commentator noted that this “new ruling rebalances the law to allow for protection of the uncapacious person and others as well as promoting their autonomy” (Hill, 2020). JB’s story is an example of an instance in which personal mechanisms that result in sexual exclusion cannot be worked through or used to drive the project of sexual inclusion, as consent remains the touchstone of morally permissible sex<sup>14</sup>.

In the case of social mechanisms of sexual exclusion, the exclusion arises from the properties or features of other people or social institutions from which sexual exclusion can arise. Prejudicial attitudes toward the social group to whom the excluded person belongs, discriminatory ideologies, and laws and social norms are all examples of such social mechanisms. Someone like JB might be said to be a victim of personal and social mechanisms that lead to his sexual exclusion. The overturning of his ruling strongly insists that the capacity to understand the issues of consent within the realm of sexual relations is legally (and morally) non-negotiable. Another example of social sexual exclusion would be laws criminalising consensual (and presumably non-consensual) homosexual sexual conduct, as do still exist in Malaysia, Indonesia and many African countries. The maximum punishment for sex

<sup>14</sup> On this point, see Primoratz, I. ‘Sexual Morality: Is Consent Enough?’ (2001) 4(3) *Ethical Theory and Moral Practice*, pp. 201-218.



between men and sex between women in these countries range from monetary fines to 100 lashes, life imprisonment and death by stoning (Human Dignity Trust, 2020).

The third type of mechanism Danaher identifies, is the natural mechanism. Mechanisms of this kind are usually related to the procreative view of sex. Evolutionary psychology suggests that there are human instincts and drives that have evolved over the course of time which might influence people to prefer and favour certain kinds of sexual experiences and/or partner traits above others. Until recently, women have been thought to possess no distinctive sexual preferences during the fertile phase of their menstrual cycle. However, much evidence now exists that they do (Gangestad & Thornhill, 2008). The function of oestrous is not to obtain sperm from just any male. Rather, oestrous females should be discriminating and “prefer to mate with good sires for offspring” (Gangestad & Thornhill, 2008: 996). Research shows that heterosexual women’s preferences for certain masculine traits (such as masculine facial features, bodily masculinity and symmetry, tall height, masculine vocal qualities) appear to be intensified when women are in the fertile-phase of their cycles. This means that, in theory, men who do *not* have these features may be sexually

excluded by women (who have these preferences). And interestingly enough, men who appeared to be sexually faithful were less sexually attractive to fertile-phase women. In other words, studies<sup>15</sup> show that fertile women are particularly attracted to men who appear that they would not be faithful (probably because they possess features those women find attractive in sex partners) (ibid.: 996). This example aims to show that natural mechanisms that lead to sexual exclusion are more difficult to break down and address when trying to advance the project of sexual inclusion.

The problem of sexual *exclusion* stems from the fact that some people are being excluded from pleasurable and meaningful sexual experience for various reasons, and so are living a less rich and flourishing life than others who do have access and opportunities to these meaningful sexual experiences (and want them). Sexual *inclusion*, then, would refer to whatever it is we can do to work against sexual exclusion<sup>16</sup>.

## Conclusion

Danaher (along with Nussbaum and De Boer) argues that pleasurable, nonmorally good sexual experience ought to be treated as something that people should be able to experience as part of a good and flourishing life. For if done right, sexual

<sup>15</sup> Not a lot of research has been done on ‘human oestrus’ after Gangestad & Thornhill (2008). For similar research on this topic, see Miller, G., Tybur, J. and Jordan, B., 2007. Ovulatory cycle effects on tip earnings by lap dancers: economic evidence for human estrus?. *Evolution and Human Behavior*, 28(6), pp.375-381, as well as Gangestad, S. and Haselton, M., 2015. Human estrus:

implications for relationship science. *Current Opinion in Psychology*, 1, pp.45-51.

<sup>16</sup> Examples of acts of being more sexually inclusive would include altering personal sexual preferences and/or engaging in sexual activity with less discrimination towards your sexual partners. Danaher (2020) goes into more detail about these acts and the issues that may arise with them, like sexual entitlement.

experiences are in themselves pleasurable and meaningful, and even culturally and/or personally significant to people (as explained in the flourishing view of sex). The absence<sup>17</sup> of sex is a struggle for many people. Given the views covered in this essay, there appears to be little reason to deny that everyone ought to have the opportunity to be able to experience sexual pleasure in a beneficial and nonmorally good manner, as part of a good and flourishing human life. This is precisely the objective of sexual inclusion. However, here one is reminded of the well-known ethical principle: ‘ought implies can’ (McConnell, 1989). If we ought to sexually include more people, it means that we *can* sexually include more people – that if we commit a certain action, there is a guaranteed outcome in some sense that drives the ‘ought’.

Sexual pleasure, how we value sex, and how we experiencing nonmorally good sex is inherently *subjective*. The very subjective nature of nonmorally good sexual experiences, as explained through the multiple levels of awareness of sexual desire and arousal, and the flourishing view of sex, then, limits us in our pursuit of the advancement and achievement of sexual inclusion. Engaging in a sexual activity with another person due to the motivating reasons to provide that person with a nonmorally good sexual experience (with the goal of advancing their sexual inclusion), is not an

input-output kind of process. Having a sexual experience that is nonmorally good can only, in fact, be judged from your very own point of view. This means that no other person can guarantee your experience of nonmorally good sex. If we are unable to guarantee nonmorally good sex for others, the result is that we cannot guarantee their sexual inclusion either! And, if one does not experience nonmorally good sex, one cannot feel or be considered as being sexually included. This is what makes the project of sexual inclusion difficult. You can tell your sexual partner exactly how, where and for how long you like it, but your partner cannot *give* you a nonmorally good sexual experience. Certainly, open communication before, during and after sexual activities improves the chances of experiencing sexual pleasure (if open communication is what is desired), but the experience of nonmorally good sex is never a *given*. That is to say, there is no ‘sexual input’ that will guarantee nonmorally good sex as the ‘sexual output’. Perhaps not being able to control the outcome of promoting sexual inclusion should be acknowledged by all parties involved when engaging in sexual activities, as one can only hope for the outcome to be nonmorally good, or even great!

<sup>17</sup> However, there are certainly some people who choose to be celibate for various reasons, or they have low libidos or even live happily asexual. These people can live perfectly good and fulfilling

lives. It is important to point out that this essay refers to the issue of sexual exclusion specifically for those who wish to be sexually included.

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