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1997**Forum: Sexual Morality and the Possibility of "Same-Sex Marriage"****\*135 WHAT SEX CAN BE: SELF-ALIENATION, ILLUSION, OR ONE-FLESH UNION**Patrick Lee, [Robert P. George \[FN1\]](#)

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This article concerns the morality of sexual acts. Why, the reader may ask, should it appear in a journal of jurisprudence? The law of marriage has long embodied the understanding that marriage, as a moral reality, is an inherently heterosexual institution. Nowhere is this more evident than in the legal rules regarding the consummation of marriage by, and only by, sexual acts which are reproductive in type. These rules, and the understanding of marriage from which they flow, have been called into question by people who propose the revision of marriage law on the ground that acts traditionally condemned as sodomitical may, in some cases, be the moral equivalent of reproductive-type acts. In particular, advocates of "same-sex marriage" claim that sound moral analysis demonstrates that homosexual sex can unify the whole lives of people as committed partners in just the way that the reproductive-type acts of spouses actualize and enable them to experience their true marital union. In this article we shall show that sexual acts are morally right only within marriage. Understanding this will enable one to see why nonmarital sexual acts, including homosexual acts, are intrinsically incapable of actualizing true marital union, and why the law ought not to treat such acts as equivalent in human significance to marital acts. Indeed, we shall argue that nonmarital sexual acts are always and in principle contrary to an intrinsic personal good, and as such harm the character of those freely choosing to engage in them.

It is often assumed in treatments of sexual ethics that the central argument from natural law theory against nonmarital sexual acts is simply that such acts are unnatural, that is, contrary to the direction inscribed in the reproductive or procreative power. This argument, often described as "the perverted faculty argument," is easily disposed of. [\[FN1\]](#) It is then assumed that \*136 only prejudice motivates the conviction that homosexual acts, for example, are morally wrong. [\[FN2\]](#)

Some contemporary natural law theorists, however, have articulated much more powerful arguments in sexual ethics. In this article we present a natural law argument for the proposition that sexual acts are morally right only within marriage, an argument first developed in detail by Germain Grisez, [\[FN3\]](#) and subsequently presented by others influenced by his thought. [\[FN4\]](#)

The argument we propose centers on the choice to engage in a nonmarital sexual act, and the relationship between this choice and what is genuinely fulfilling for the persons involved in that act. We argue that in order for a choice to engage in sex to be respectful of the basic, intrinsic goods of persons, this choice must (1) respect the integration of the person as bodily with the person as intentional agent, and (2) constitute a choice to participate in the real and basic good of marital union, rather than to induce in oneself and one's partner(s) a merely illusory experience of interpersonal unity. We shall argue that chaste marital intercourse [\[FN5\]](#) is really and literally love-making, that it really consummates or renews the marriage, that is, the two-in-one-flesh unity of a man and a woman. And we shall argue that if sexual acts do not consummate or renew marriage, they involve either self-alienation (and so violate the first requirement) or constitute the pursuit of a merely illusory experience (and so violate the second requirement). So, if our view is right, sex offers a unique and profound human possibility, a possibility denied, incidentally, by liberationists who claim to have a more enlightened and appreciative view of sex. At the same time, the abuse of sex is a degradation of persons, justifying the cautious attitude toward sex adopted by some of history's most profound thinkers.

Under what conditions is a sexual act morally right? There are, basically, three positions contending for dominance in the contemporary debate. First, some hold the "liberationist" position that as long as no other, more general moral norms are violated, such as those prohibiting lying, deception, exploitation, and so on, sexual acts are morally good (or, at least,

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innocent), since they are pleasurable. Second, others adopt the "liberal" view that sexual acts between people are morally right as long as they in some way express genuine love or affection; the relationship such acts symbolize or express, on this view, need not be marital. Third, the position we shall argue for is the "traditional" view that to be morally right sexual acts must \*137 embody or actualize marital union. In section one we criticize the liberationist position. In section two we explain how in marriage sexual acts initiate or renew marital communion. In section three we criticize the liberal position. In section four we reply to objections. And in section five we argue that only the traditional position can give a plausible account of why incest, pedophilia, bestiality, sex with multiple partners, and so on, are morally wrong.

### I. Sex and Pleasure

On the first view, while some sexual acts may have a tremendous emotional (or other) significance or depth, there is no valid reason why all sexual acts must have such significance. In fact, on this view, as long as concerns about health, honesty, and liberty are met, there is nothing wrong with even the most promiscuous forms of sexual behavior. Frederick Elliston presents an argument for this position:

For at least some of the people some of the time sex is fun. Whatever else may be true of it, at the barest level sex remains an intensely pleasing physical activity. . . . Granted the two earlier provisos [no coercion, no deception], sex is good for this reason, if for no other. [\[FN6\]](#)

Later he sums up this view: "Insofar as promiscuity maximizes the pleasures that can be derived from sex, it is good; and insofar as the prohibition against promiscuity is a limitation on the pleasures to be derived from sex, it is unwarranted—in a word, 'bad.'" [\[FN7\]](#) He adds that one can, arguing in the spirit of John Stuart Mill, maintain that "the freedom to be promiscuous can contribute to the full growth of the human personality." [\[FN8\]](#)

Among the implications of this view, it would seem to follow that there is nothing wrong, at least in principle, with prostitution. For if it is pleasant for one party, why may it not be legitimately profitable for the other party? Proponents of the moral permissibility of prostitution grant that there is often coercion, exploitation, and other bad effects associated with prostitution. But, they argue, these are not necessary or inevitable features of commercial sex. On this basis, Lars Ericsson concludes that prostitution should be viewed as morally upright: "If two adults voluntarily consent to an economic arrangement concerning sexual activity and this activity takes place in private, it seems plainly absurd to maintain that there is something intrinsically wrong with it." [\[FN9\]](#)

\*138 However, we argue that it is wrong to treat one's body, or another's, as a mere extrinsic instrument, and that this is done in sexual acts chosen for the sole immediate purpose of pleasure (even when there is an ulterior end, such as commercial gain or relaxation). Sexual acts done for the sole immediate purpose of pleasure, and not intended as embodying or expressing personal communion, constitute mere masturbation, either solitary or mutual. And we shall argue that masturbation is objectively morally wrong.

It is often said that there are two types of pleasure: first, a specific type of sensation, such as the taste of an apple, or the euphoric sensation produced by a drug; second, an aspect of an activity, desired for its own sake, of which one is conscious, such as the pleasure in playing tennis (not a specific sensation, but the enjoyment or satisfaction of the game as a whole). Clearly, in this second sense of "pleasure" it is impossible literally to choose the activity for the sake of the pleasure. "To play tennis for the sake of the pleasure it produces," (in this sense) is actually just to play tennis for its own sake. [\[FN10\]](#) However, there is also a third type of pleasure. While playing tennis, one has the experience or consciousness of playing tennis, and one enjoys this experience. That experience can, of course, be artificially produced. One can have the experience of playing tennis without actually doing so. Of course, not all experiences are artificially produced. Still, the experience of an activity is (or can be) distinct from the activity itself, and so it is possible to pursue the activity for the sake of the experience. So, "pleasure" may refer either to: (1) a sensation, (2) an aspect of an activity (of which one is conscious), or (3) the experience of an activity, whether one is actually engaging in the activity or not.

As a result, the phrase, "pursue an activity for the sake of the pleasure," is ambiguous. It could mean three different things, corresponding to the three different senses of "pleasure." If the pleasure sought is actually an aspect of an activity that is genuinely fulfilling, then, obviously, the choice need not be morally wrong. [\[FN11\]](#) However, if the pleasure sought is a particular sensation or an experience distinct from the fulfilling activity, then the pleasure sought may not be connected to an

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activity that actualizes a human good. If the pleasure is chosen as separate from a real human good, and it is chosen instead of pursuing a real good, then the choice is morally wrong. Our choices ought to be in accord with a respect and love for real human goods, precisely because such goods are intrinsic aspects of the well-**\*139** being and fulfillment of human persons-ourselves and others. So, just as we should not be deterred by contrary emotions from choosing a genuine good, so we should not be deterred from choosing a real good by a mere desire for pleasure. [\[FN12\]](#) However, a choice to pursue pleasure apart from a real good may also involve a denigration of one's bodily self. If one chooses to actualize one's bodily, sexual power as an extrinsic means to producing an effect in one's consciousness, then one separates in one's choice oneself as bodily from oneself as intentional agent. The content of such a choice includes the dis-integration attendant upon a reduction of one's bodily self to the level of an extrinsic instrument.

How does such a choice include dis-integration? It is not that a perfection is pursued in which the body does not in some sense share. For, since we are bodily beings, there are no such perfections. Nor is it the same as, say, a student-athlete who merely has trouble harmonizing his athletic pursuits with his studies. A simple lack of integration is not necessarily morally problematic. Nor is it that in such acts the body is ignored, for there is, of course, intense attention toward the body. Rather, the problem is that in such a choice one treats the body as a mere extrinsic means: one regards the body as something outside or apart from the subject, and so as a mere object. A certain contempt for the body inheres in such choices. [\[FN13\]](#) An analogy will clarify the point. Suppose a husband begins to regard his wife as a mere servant, or as a mere means toward his own ends. To regard her in this way in itself diminishes the personal harmony between them. He has ceased to regard her as an end in herself, as a subject, and regards her as merely a means, merely an object. His relation to her, then, lacks what it should have. This is true even before he performs any external act to manifest this defect in his relation to her. Something similar happens **\*140** with the masturbator and his body, only here the disharmony involves different aspects of the same person, rather than two distinct persons. The masturbator treats his body as a mere means in relation to a feeling, a feeling regarded not in its reality (as a bodily act), but simply in its aspect as feeling. And so the body is regarded as a mere extrinsic means in relation to the goal of a certain type of feeling. The body is regarded as something outside the self, not as an aspect of the subject, and so as a mere object. Therefore, the choice to masturbate is a choice whose object includes a disharmony between the conscious aspect of the self and the bodily aspect of the self.

Not every use of another person or of parts of one's body is wrong. Treating one's body, or another's, as an extrinsic instrument (extrinsic to the person as intentional agent) is wrong, however, precisely because it separates in one's intention the person as bodily from the person as intentional agent. And in that way it includes personal dis-integration in the object of the choice.

What is it for A to use B? A uses B when A has a purpose to attain and A moves B to produce or help produce this purpose. The relation between user and used is not symmetrical. If the purpose for which B works is equally a purpose of B, then A is not using B to attain that purpose; rather, the relation is one of cooperation for a common good. On the other hand, if B does want to help A, it does not follow necessarily that he is not being used at all by A. If the purpose is A's primarily, even if (as a result of their interaction) B is willing to help A attain his purpose, then A is using B.

But A may use B either as an extrinsic instrument or as an intrinsic instrument. One uses an instrument as intrinsic to oneself when, for example, one uses one's hand to write, one's legs to walk, and so on. Indeed, parts of one's body are called organs, a word derived from the Greek word for instruments. How do extrinsic instruments, such as hammers, lawn mowers, and so on, differ? And, more to the point, what is it in A's attitude that is inconsistent with his regarding B as intrinsic to himself? Part of the difference consists in the nature of B. A hammer is an extrinsic instrument partly because it is not internally oriented toward the purpose of pounding nails. Therefore-and this is the decisive point-when Jones uses the hammer to pound nails, the subject of the action is Jones, not Jones plus the hammer as aspects of a larger whole. A hand is an intrinsic instrument because it is internally oriented to the whole, rather than its own activities being oriented to a further, alien purpose. Therefore, the hand shares in the activities of the whole, of which it is a part. Where the instrument is intrinsic, there is a unitary activity in which this part shares; where the instrument is extrinsic (or is treated as extrinsic), there are several activities, and the activities of the extrinsic objects (which have their own quite distinct teleology) are extrinsically oriented to a purpose external to them.

**\*141** How does this apply to the body (other persons' bodies and one's own) in sexual acts? The body, or rather, parts of the body, can be used in two ways. Where the body is treated as extrinsic to the person, the body is used for purposes external to

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the "person," and so is a stranger to the purpose(s) for which it is (now) conscripted. Where the body is rightly treated as intrinsic to the person, there is a unitary activity, and various bodily actions share in this activity, not being oriented to extrinsic purposes. This applies to sexual acts. If in the sexual act a man and woman act for the sake of bodily marital unity, their action qua intentional agents and their action qua bodies are one and the same; for their intention is precisely this bodily union, as an intrinsic aspect and the biological matrix of their total marital communion. However, this is not the case in masturbatory acts. Or rather, in a masturbatory act, with respect to its intentionality, the bodily act and the intentional act are not the same. [\[FN14\]](#) This is true in masturbation involving two or more people as well as in solitary masturbation. With two parties: John uses Susan's body to obtain sexual pleasure. In that case her personal presence is irrelevant; that it is Susan, and not some other woman, is irrelevant, is not essential, to the intentional action he is performing, which is getting gratification or pleasure. But similarly in solitary masturbation: here, of course, it does matter whose body it is, but it does not matter what sort of stimulation produces the pleasures the masturbator desires. Whether the cause of the pleasurable sensation be a caress, a poke, or an electrical stimulus in the brain, is irrelevant. Thus, what happens in his body is irrelevant, so long as it produces the end desired, a certain sort of experience. (This, of course, is in striking contrast to chaste marital intercourse.) So in masturbatory acts the body is treated as an extrinsic instrument. In one's intentional act there is a separation-a disintegration-of the self as bodily and the (same) self as personal.

The integration of the various aspects of the self in action or in self-awareness is a basic human good, an intrinsic aspect of fulfillment, the lack of which is a privation. The integration consists, partly, in an awareness and appreciation (which may, of course, be quite informal) of the ontological unity of the different aspects of the self. Also, the inner harmony certainly includes a love of self and a certain degree of self-esteem. Privations in these areas are privations in self-integration. [\[FN15\]](#) A choice to use one's body as an extrinsic instrument includes in its object self-alienation. So, the use of one's own body, or of another person's body, as an instrument extrinsic \*142 to the self or selves as personal agents, unavoidably violates the basic human good of self-integration.

Thus, masturbation, whether solitary, or with two or more participants, is morally wrong. To be morally right a sexual act must involve more than a fair and nonviolent pursuit of pleasure. [\[FN16\]](#)

## II. Sex and Marriage

What we have said so far might seem consistent with the position that sex is morally right as long as the persons involved love each other, or at least have a certain affection for each other, [\[FN17\]](#) and their sexual acts express that love or affection. On this view, no moral norm requires that one be married to someone to have sex with him or her. It is enough if two people (of opposite sexes or the same sex) have a friendly relationship.

To see why this view is mistaken, we must first see (in a general way) what marriage is and what values are realized by chaste sexual intercourse within marriage.

There are three main views of marriage. First, some thinkers have held that marriage is an institution which is defined by its instrumental relation to procreation. [\[FN18\]](#) On this view, marriage is essentially a contractual union, and its extrinsic purpose is the conceiving and raising of children. Proponents of this view usually hold that marriage should also, ideally, involve a friendship between the husband and wife. Marital union involves an agreement concerning acts of sexual intercourse, and sexual intercourse within marriage is conceived not only as serving procreation, but also, secondarily, as symbolizing the marital friendship. Still, the relationship between husband and wife is conceived as in itself non-bodily, and sexual intercourse is viewed as extrinsic (an extrinsic means) to the marital friendship.

A second view, certainly more popular these days, is that marriage is essentially a friendship, procreation is an extrinsic addition, and sexual acts are extrinsic symbols or expressions of love or of the couple's personal communion. On this view there is no intrinsic or essential relationship between marriage and procreation. A couple may wish to have children, \*143 and having children may even be viewed as contributing to their marital relationship. But procreation is not viewed as intrinsically linked with marriage. As a consequence, on this view there is no reason why "marriage" should refer only to man-woman relationships, or, to express the same point in a different way, why (if this view is consistently worked out, which is not always the case) there is any morally significant difference between homosexual and heterosexual relationships.

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The third view of marriage is the one we propose. On this view, marriage is the community formed by a man and a woman who publicly consent to share their whole lives, in a type of relationship oriented toward the begetting, nurturing, and educating of children together. This openness to procreation, as the community's natural fulfillment, distinguishes this community from other types. It makes sexual intercourse within it appropriate, because in such a community sexual intercourse can immediately actualize (initiate or renew) the good of marriage.

On this third view, marriage is good in itself, and not merely an instrumental good in relation to procreation, considered as an extrinsic good. At the same time, marriage is naturally fulfilled or unfolds in bearing and bringing up children; children are not related to marriage merely as an extrinsic addition or afterthought. Thus, if a married couple do not have children for some reason, their marriage is fully a marriage and remains good in itself (which is difficult to maintain on the first view), but also lacks its complete natural fulfillment (which is denied on the second view). [\[FN19\]](#)

In this type of community, sexual intercourse is not merely an extrinsic symbol or a pursuit of pleasure. In sexual intercourse between a man and a woman (whether married or not), a real organic union is established. This is a literal, biological point. Human beings are organisms, albeit of a particular type. [\[FN20\]](#) An organic action is one in which several bodily parts-tissues, cells, molecules, atoms, and so on-participate. Digestion, for example, involves several smaller, chemical actions of individual cells. But the several components of digestion form a unitary, single action. The subject of this action is the organism. So the organism is a composite, made up of billions of parts. Its unity is manifested and understood in its actions. Now, for most actions, such as sensation, digestion, walking, and so on, individual male or female organisms are complete units. The male or female animal organism uses various materials as energy or instruments to perform its actions, but there is no internal orientation of its bodily parts to any larger whole of which it is a part, with respect to those actions. (This is precisely why we recognize individual male and female organisms as **\*144** distinct, complete organisms, in most contexts.) However, with respect to one function the male and the female are not complete, and that function, of course, is reproduction. In reproductive activity the bodily parts of the male and the bodily parts of the female participate in a single action, coitus, which is oriented to reproduction (though not every act of coitus is reproductive), so that the subject of the action is the male and the female as a unit. [\[FN21\]](#) Coitus is a unitary action in which the male and the female become literally one organism. [\[FN22\]](#) In marital intercourse, this bodily unity is an aspect- indeed, the biological matrix-of the couple's comprehensive marital communion.

Now, when a couple chooses to form the kind of community distinguished by its openness and orientation to procreation, then the organic unity effected in sexual intercourse has a continuity with their community. In sexual intercourse they unite (become one) precisely in that respect in which their community is distinct and naturally fulfilled. So this bodily unity is not extrinsic to their emotional and spiritual unity. The bodily, emotional, and spiritual are the different levels of a unitary, multi-leveled personal communion. Therefore, in such a community sexual intercourse actualizes the multi-leveled personal communion. The sexual intercourse of spouses is not an extrinsic symbol of their love, or a mere means in relation to procreation. Rather, their sexual intercourse embodies, or actualizes, their marital communion. In that way the chaste sexual intercourse of husband and wife instantiates a basic human good: the good of marital union.

In sexual intercourse, the husband and the wife become one organism, but they do so precisely as man and woman, precisely as potential father and mother. Thus, in this act they share their procreative power (even if some **\*145** condition distinct from their sexual act makes procreation impossible). [\[FN23\]](#) The full exercise or fulfillment of this potential would include conception, gestation, bearing and raising the child, that is, bringing the child, the concrete prolongation and fruit of their love, to maturity physically, emotionally, intellectually, and morally. Thus in their sexuality, in the procreative potential which they share with each other, there is a dynamism toward fatherhood and motherhood, and so, a dynamism which extends the present unity of the spouses indefinitely into the future. This reality is the basis for the profound significance that most people sense or feel is attached to sexual intercourse.

We do not, of course, deny that there are relationships in the first two senses-contractual unions in the first case, and friendships in the second case. In some societies men have viewed their wives only as mothers of their children, and have sought romantic relationships elsewhere (as on the first view). Also, many couples today regularly perform sexual acts together, but view their relationships as having nothing inherently to do with procreation (as on the second view). Both of these types of relationships have at times been called "marriage." But our position is that these are specifically distinct from the intrinsic good of marriage.

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In the first two types of relationship, sexual acts are extrinsic to the personal communion of the couple. Only in the third type, only in marriage as a one-flesh union of spouses, is the sexual intercourse part of, or constitutive of, the personal bodily communion itself.

### III. Sex, Love, and Affection

So far we have argued that engaging in sex merely for pleasure is wrong in that it separates in one's intention the person as bodily (both oneself and the other) from the person as intentional agent, treating the body as a sub-personal, extrinsic instrument. So, unless the sexual act embodies or actualizes a real union of persons, it will involve the instrumentalization of both the other person(s) and oneself. We now argue that only in marriage can sexual acts constitute a real union of persons. There are four common types of nonmarital sexual acts: masturbation (solitary or mutual), sodomy, fornication, and adultery. We do not formally discuss adultery here: if masturbation and fornication are wrong, then adultery, which involves additional moral defects, is certainly wrong. We considered the morality of masturbation above, pp. 139- 142. In this section we discuss sodomy and fornication.

#### \*146 A. Sodomy

By "sodomy" here is meant (1) anal or oral intercourse between persons of the same sex, or (2) anal or oral intercourse between persons of opposite sexes (even if married), if it is intended to bring about complete sexual satisfaction apart from penile-vaginal intercourse. If a couple use their sexual organs for the sake of experiencing pleasure or even for the sake of an experience of unity, but do not become one organism, then their act does not actually effect unity. If Susan, for example, masturbates John to orgasm or applies oral stimulation to him to bring him to orgasm, no real unity has been effected. That is, although bodily parts are conjoined, and so there is juxtaposition and contact, the participants do not unite biologically; they do not become the subject of a single act, and so do not literally become "one flesh." They may be doing this in order simply to obtain or share pleasure. In that case the act is really an instance of mutual masturbation, and is as self-alienating as any other instance of masturbation. However, they might intend their act as in some way an expression of their love for each other. They might argue that this act is no different from the penile-vaginal intercourse they performed two nights before, except that this one involves a merely technical or physical variation—a rearrangement of "plumbing."

However, in sodomitical acts, whether between persons of the same sex or opposite sexes, between unmarried or married persons, the participants do not unite biologically. Moreover, an experience of pleasure, just as such, is not shared. Although each person may experience pleasure, they experience pleasure each as an individual, not as a unit. For a truly common good, there must be more than experience; the experiences must be subordinated to a truly common act that is genuinely fulfilling (and as such provides a more than merely instrumental reason for action). If, on the contrary, the activities are subordinated to the pleasurable experiences, if the physical stimulation administered to one another is merely a means to attain what are (and can only be) individual, private gratifications, then unity is not achieved.

We could express this point in a different way. It is clear that in some sexual acts couples are engaging in the activity simply as a means of having (and giving each other) a pleasurable experience. In that case, we have argued, they are instrumentalizing their bodies in order to obtain an effect in their consciousnesses. Moreover, such acts do not really foster bodily communion between the participants, and may actually drive them apart, since the gratifications are private experiences, not shared activities. Now, what feature must a sexual act have so that one is not merely using another's body (and one's own)? The answer is that it must be an act in which a real good is realized or participated in. If this is so, then it is an act in which the two share and therefore become one in jointly performing this act. In that case, their pleasurable experiences will be aspects of a real good, rather than their acts being subordinated to the pleasurable experiences. Now, in the case of chaste marital intercourse, spouses participate in the real \*147 good of marital bodily union. In marital intercourse the man and the woman become organically one in an act of copulation, and this physical union initiates or renews their total marital communion: that is, distinct from the pleasurable experiences, there is an identifiable, real act and basic human good in which they share, namely, the act of initiating or renewing their marital union in their becoming organically one.

Confusion may arise on this point. It might seem that we are begging the question. For we are saying, first, that there must be some real act, definable independently of its pleasure, in which the couple share—a common good—in order for their act to be unifying. And yet we then say that with married people the act which they share is their becoming truly one, that is, one

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organism. Aren't we saying that the common act that makes them one is their becoming one? And if their common act can be their becoming one, why can't homosexuals (or, for that matter, heterosexuals) do this in sodomitical acts?

The answer is that there are three types of unity referred to here: unity of persons, unity of action (which promotes or actualizes the unity of persons), and the organic unity of male and female in coitus. It is true in general, for any two (or more) people, that actions which they perform make them one only if there is a real, common good of their actions (unity of action). The common good could be health (sharing a meal), aesthetic experience (going to a play or movie), play (bridge, checkers), and so on. In each case there is a unity of action, that is, an action sharing in a real, common good, performed jointly. Moreover, this unity of action promotes or actualizes interpersonal unity, or unity of persons. In the case of the sexual act of a married couple, their act of physically or organically becoming one (organic unity) is the common good, the shared pursuit of which (unity of action) also brings about or enhances their interpersonal unity (unity of persons). But if the participants in a sexual act do not become physically or organically one, then, whatever goods they may be seeking as ulterior ends, their immediate goal is mere pleasure or illusory experience. So there is in such an experience no common good, the common pursuit of which makes them one. There is no real unity of action to effect or enhance their interpersonal unity. So in that case, although they may intend or wish otherwise, their act is in reality a using of their own and each others' bodies as a means of obtaining a pleasurable experience, which might include the illusory experience of a union which they are not by this action promoting or effecting in any way.

#### B. Fornication

There must, then, be an organic unity so that there is a common good in the sexual act. But, as we showed above, in section one, this organic union is an instance of a real human good only if it is an aspect of a real union of the persons. If they are united as one organism but are not united in other aspects of their lives or selves, then they are treating their bodies as extrinsic \*148 instruments. [FN24] But suppose a heterosexual couple has a friendship, and is even planning marriage in the future. They have intercourse, and intend their act not just as an experience of pleasure, but (perhaps confusedly) as an embodiment of their personal, but not-yet-marital, communion. In this case they really do become one flesh in the sexual act, and so their act seems to be a sharing in a common good. They become one flesh, and they intend this union to be an actualization and experience of their (less- than-marital) personal communion. What about this type of act, which has traditionally been designated as "fornication"?

Discussing precisely this issue, Germain Grisez replied:

However, the part of the good of marital communion which fornicators choose, bodily union, is not an intelligible good apart from the whole. Although bodily union provides an experience of intimacy, by itself it realizes only the natural capacity of a male individual and a female individual to mate. Sexual mating contributes to an intelligible good, which fulfills persons, only insofar as it is one element of the complete communion by which a man and a woman become, as it were, one person. [FN25]

In other words, an interpersonal communion is actualized only by an act that is proper to it.

The interrelationship of family members, for example, is actualized and experienced in the family meal. Friends actualize and experience their relationship in conversation. Sexual activity does not actualize an ordinary friendship. But reproductive-type acts, acts in which spouses become one flesh and share their procreative potentiality, actualize and enable them to experience this specific type of personal communion. Only if they are married, only if they consent to marriage, does their becoming one organism actualize (initiate or renew) a basic human good—the good of marriage. Thus, only if they have a truly marital relationship can their sexual act embody their personal communion.

In sum, in chaste marital intercourse the couple act in a fully integrated way. Each bodily person relates to the other precisely as a bodily person, because they become one physically and personally. In nonmarital sexual acts, however, either the participants unite in a bodily way but not as actualizing a personal communion (fornication), or they do not really unite at all but use their bodies for an illusory experience of bodily unity or for private gratifications (masturbation, sodomy).

#### \*149 IV. Objections

There are three important objections to our position, and it will clarify matters to consider them.

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Objection 1:

First, it has been objected that this argument would entail that the sexual acts of sterile married couples are also immoral, and everyone recognizes that is not the case. Paul Weithman has called this "the sterility objection" (an objection he does not himself advance). [\[FN26\]](#) Stephen Macedo argues as follows:

If there is no possibility of procreation, then sterile couples are, like homosexuals, incapable of sex acts "open to procreation." What is the point of sex in an infertile marriage? Not procreation; the partners (let us assume) know that they are infertile. If they have sex, it is for pleasure and to express their love, or friendship, or some other shared good. It will be for precisely the same reasons that committed, loving gay couples have sex. Why are these good reasons for sterile or elderly married couples but not for gay and lesbian couples? [\[FN27\]](#)

Macedo argues further that the only reason why homosexual couples cannot perform sexual acts suited to procreation is that they lack "the physical equipment (the 'biological complementarity') such that anyone could have children by doing what they do in bed." [\[FN28\]](#) In other words, sterile married couples merely lack some physical condition that would enable them to procreate. But exactly the same situation obtains in the case of homosexual couples. Clearly, the objection concludes, sexual acts between sterile married couples can be morally right; therefore, there is no reason why sexual acts between homosexual couples cannot also be morally right.

Regardless of whether one agrees that the difference is morally significant, the two types of acts do have a clear difference. As Macedo admits, no one could have children by performing sodomitical acts. Yet this is not true of the type of act performed by sterile married couples when they \*150 engage in penile-vaginal intercourse. People who are not temporarily or permanently infertile could procreate by performing exactly the same type of act which the infertile married couple perform and by which they consummate or actualize their marital communion. The difference between sterile and fertile married couples is not a difference in what they do. Rather, it is a difference in a distinct condition which affects what may result from what they do. However, the difference between any heterosexual couple engaging in penile-vaginal intercourse and a homosexual couple is much more than that. The lack of complementarity in homosexual couples is a condition which renders it impossible for them to perform the kind of act which makes them organically one.

If a married couple become sterile, this does not change what they have been doing in bed: they still perform the same kind of act they have been doing perhaps for years. Similarly, a fertile married couple may have sexual intercourse several times during a week. If conception results, they may not know which act of sexual intercourse caused it. Still, all of their acts are the kind of acts which could result in procreation. Their sexual acts later in life, for example, after the female spouse has become infertile, are still the kind of acts which could result in procreation—the difference is not a difference in what they do—the kind of act—but in a condition extrinsic to what they do.

This is a clear difference. Is it morally significant? Indeed it is. The heterosexual couple who engage in a reproductive-type act truly become one body, one organism. If they have given marital consent, then this act initiates or renews their marital communion. The good of marriage is a multi-leveled union. The sexual intercourse of a married couple is an aspect (and, as we have said, the biological basis) of this multi-leveled union and so, given marital consent, it initiates or renews that union. If an otherwise eligible heterosexual couple have consented to join their lives in a total personal communion, a communion that is naturally fulfilled in bearing and raising children (whether or not the non-behavioral conditions of procreation obtain for them), then this act initiates or renews that union: it embodies the kind of communion they have, that is, a procreative one. The homosexual couple, on the other hand, lacks not just a condition enabling their act to be procreative, but a precondition of the formation by them of the kind of personal union which is initiated or renewed by marital acts. [\[FN29\]](#)

\*151 Some analogies may clarify the point we are making. Suppose Smith has a temporary digestive disorder so that, although he can eat, he frequently vomits, and thus many of his meals are not digested. As a consequence, when Smith sits down to eat a meal he cannot be sure whether this particular one will result in increased nourishment. Still, he continues to eat, and his meals as a set are ordered to his nourishment. When Smith eats he is exercising his digestive system: what he does is the same for every meal, though many individual instances do not result in nourishment. He is engaging in nourishing activity, even if this particular act does not nourish, because he is performing the behavior that is in his power, which is capable in some instances of nourishing. One could say that he is performing a nourishing-type act.

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This means that Smith would be performing a nourishing-type act even if- perhaps because full digestion led to time-consuming elimination-he hoped that this particular act did not result in nourishment. Moreover, his eating would still be a nourishing-type act if his disorder got worse, his stomach was closed, and he obtained his nourishment intravenously. In that case, he might eat in order to exercise that part of his digestive system still functioning, or to share a meal with a friend. [\[FN30\]](#)

Likewise with reproductive-type acts. Reproduction, or procreation, is not an action directly under our control. Its conditions are non-behavioral as well as behavioral. What is performed is an act which in some instances may result in procreation. Moreover-and here reproduction is distinct from other acts-by performing that act the male and the female become one organism, two-in-one- flesh. When that one-flesh unity is an aspect of a total marital communion, it is a rational and sufficient motive and justification for that act. But humans (and other mammals) become one flesh (one organism) only if they perform the type of act which in some instances procreates, only if they perform a reproductive-type act.

Objection 2:

We have argued that if a sexual act does not embody a personal communion, then it instrumentalizes the body in pursuit of pleasure or of an illusory experience of personal communion, and that in order to embody a personal communion there must be a commitment to a stable personal relationship suited to acts of this sort (in other words, marriage), and it must be an act in which the two initiate or renew their procreative communion by achieving a real physical or biological union. There are two ways of directly challenging this argument. One way denies our claim that nonmarital acts cannot achieve a real union. The other grants that in nonmarital sexual acts \*152 the participants instrumentalize the body, but denies that instrumentalizing the body is in itself wrong.

So a second objection is to argue that nonmarital acts do sometimes realize a basic, common good, that they do, sometimes, somehow embody or express a personal communion. There are three variations on this. The first is to say that such acts symbolize the personal union of the participants, and that in this way such acts contribute to or strengthen the participants' personal relationship. One might argue that sexual acts foster personal communion because they are a sign or expression of love. But if that is so, then why can't sexual acts involving multiple partners, or between partners of the same sex symbolize love or affection? And why must a couple (or group) have a community suited for procreation (i.e., be married) in order validly to express their love sexually?

It is true that chaste sexual acts are signs or symbols of personal union. However, sexual acts are in their immediate reality much more than symbols. The question is whether the reality that is more than symbolic will involve depersonalization. When one waves at someone, or smiles at someone, or shakes her hand, the gesture is of itself rather trivial, but partly through convention and partly through natural association, it signifies a cordial act of will or emotion. The same is true of a hug or a non-passionate kiss. But insofar as these acts are symbols, the thought is moved away from the sign to the will or emotion which it signifies. [\[FN31\]](#) However, in a sexual act there is a desire directed toward the body and the desire of the other. The participants' attention is riveted on the action itself. And the desire and attention is not just toward the physical presence of the other (as in a hug). So the action is not primarily a sign for some other reality. Indeed, sexual acts are symbolically powerful precisely because of what sexual intercourse between a man and woman is in reality.

It is true, however, that someone may have sex with another in order to signify something as an ulterior end. For example, an otherwise unwilling teen girl may consent to have sex with her boyfriend in order to show him how much she cares. Still, the immediate reality of the sexual act is not a mere sign. And so if there is not a real union of which the sexual act is a part-in other words if it is not a marital act-then the bodily presence of the other, and the personal presence of the other in his or her body, is used for the sake of the experience of the sexual act, even if that experience has as an ulterior end some signification. In other words, if doing X in itself \*153 involves instrumentalizing the body, it does not cease to do so if one does X for the sake of an ulterior end, in this case, signification.

A second variation on this objection (viz., the denial that sodomitical acts instrumentalize the self as bodily) is to claim that sex is simply a type of gift. In sex the participants give each other pleasure, and this giving strengthens or expresses a personal communion. It is an exchange of gifts, and the gift is pleasure.

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The difficulty here is that this position presupposes a hedonistic theory of value. Pleasure is not by itself an intrinsic good, but is really good only as an aspect of a genuinely fulfilling activity (pp. 138-139). So pleasure by itself does not constitute a fitting gift. If pleasure, apart from participation in a real good, is not truly fulfilling, then giving this experience, or enabling someone else to have this experience, is not a true gift.

A third variation on this argument is to say that there is, in some way, a real bodily unity in sexual acts not suited to procreation, that is, in sodomitical acts. Thus, Michael Perry poses the following question:

The nonprocreative sexual conduct of a man and a woman in a lifelong, monogamous relationship of faithful love can be morally licit if it "actualizes" and "allows them to experience" their friendship as a sexual- spiritual union of profound depth and richness. Why, then, can't the sexual conduct of a man and a man or of a woman and a woman also be morally licit- why cannot it also be worthy of those who would be truly, fully human-if it actualizes and allows them to experience their friendship as a lifelong, monogamous, faithful, loving sexual-spiritual union of profound depth and richness? [\[FN32\]](#)

The answer to this is that not just any act will allow a couple to experience their unity. What is it about a sexual act that enables it to embody a personal communion? The fact that it gives intense pleasure is certainly not what enables it to do so, for many acts do that, without having that kind of implication.

No act-sexual or otherwise-can be just an experience of and actualization of a friendship. Friendship is a unity constituted by common pursuit of genuine goods such as health, knowledge, play, [\[FN33\]](#) and so on. Thus, \*154 friendship is actualized and experienced only in the common pursuit or realization of other genuine goods. [\[FN34\]](#) In truly marital acts the genuine, common good is the bodily, organic union of spouses, as a non- instrumental aspect and biological basis of the overall (multi-leveled) reality of their marriage. But no actual organic unity is present in sodomitical acts, and there is not any other human good instantiated by such acts. So, sodomitical acts do not (in any substantial and morally significant sense) unify the two (or more) persons who perform them on each others' bodies.

### Objection 3:

A final objection to our overall argument is to admit that in sodomitical acts the body is instrumentalized, but to deny that instrumentalizing the body is in itself morally wrong. Michael Perry expresses this objection as follows:

Why is conduct morally bad simply because it involves one in treating one's body 'as an instrument to be used in the service of one's consciously experiencing self'? [quoting from John Finnis's article] Assume that from time to time I choose to eat a food that is utterly without nutritional value (and so does me no physical good) but that it is otherwise harmless and satisfies my appetite for a particular taste or sensation. Assume, too, that I do not thereby fail to eat, or make it more likely that someday I will fail to eat, the nutritional foods I need. Have I thereby done something that 'dis-integrates me precisely as an acting person'? [\[FN35\]](#)

Stephen Macedo also considers analogies with eating, and argues that the sort of pursuit of pleasure which clearly does no damage to persons' self- integration in regard to our eating and drinking must similarly be judged harmless when it comes to sexual acts:

Or as Sabl suggested to me, suppose a person lost his capacity to digest but not the capacity to eat, so that nutrition had to be delivered intravenously. Would it then be immoral to eat for the sake of mere pleasure, or perhaps for the sake of pleasure as well as the camaraderie of dining companions? [\[FN36\]](#)

This appeal to an analogy with eating could be construed in two different ways. On the one hand, one could use the analogy to support a claim that instrumentalizing the body is not of itself wrong. In other words, one would say that eating just for pleasure does instrumentalize the body, but eating \*155 just for pleasure is clearly not wrong, and so instrumentalizing the body is not always wrong (this is Perry's argument). On the other hand, one could argue that, although instrumentalizing the body is wrong, still, eating just for pleasure is clearly not wrong, so one can perform an activity- including sex-just for pleasure without instrumentalizing the body. We reply that "eating just for pleasure" is not necessarily wrong, but that is because it does not involve treating the body as an extrinsic instrument.

First of all, to regard one's body as an extrinsic instrument is immoral because it involves a contempt for the body; it involves treating the body as if it were outside oneself, a sub-personal object. To treat one's body as a mere object is a violation of the

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basic good of self-integration (see above, pp. 141-142). Since we are our bodies (and do not merely inhabit them), it is treating a person (ourselves) as a sub-personal object. With respect to eating, "to eat simply for the sake of pleasure" is not the same in its moral significance as having sex simply for the sake of the pleasure when it does not embody a marital communion. Often, one might choose to eat simply because one is hungry, and one might then take no thought of any intrinsic good, such as health. Still, what one chooses is an intelligible activity that is, at least to some degree, really fulfilling. (Even if for some reason one can't digest one's food, the eating exercises part of one's digestive capacity and one chooses a nourishing-type act, of which the pleasure is an aspect.)

Similarly, such acts as twiddling one's thumbs, tapping one's foot, or chewing sugarless gum, are rightly enjoyed simply as physical activities, exercises of one's physical capacities; but that, of course, is not the central reality in a sexual act. One chooses the activity of eating, and the pleasure is a felt aspect of that activity. Such a choice is not necessarily wrong, though it could be wrong for reasons other than its relation to pleasure. Also, it would not be wrong, as we said above (p. 151), for someone who for some reason could not obtain nourishment from his food at all, to eat for the sake of exercising that part of his digestive system which still functions, for the camaraderie fostered by that common activity, and for the pleasure in the activity. Of course, it is wrong to allow one's mere desire for the pleasure of eating to cause one to eat excessively. To do so is to commit the immoral act of gluttony. However, the wrongness of gluttony does not seem to consist, primarily, at any rate, in self-alienation.

Masturbatory or sodomitical sex is quite different. Here the physical activities (stroking, rubbing) are chosen as merely extrinsic means of producing an effect (gratification) in consciousness, the only thing chosen for its own sake. Although someone who cannot obtain nourishment from his food can still perform that behavior which is suited to nourish (of which one is aware, at some level), the analogous point is not true of masturbatory \*156 or sodomitical sex acts. Such acts are not suited to reproduction: they are not, in our parlance, "reproductive-type acts."

#### V. Nonmarital Sexual Acts, Multiple Partners, Incest, Bestiality

Most people recognize that incest, bestiality, and pedophilia, as well as promiscuity, prostitution, and group sex, are morally wrong. Nevertheless, it is not clear how such activities could be immoral if the explanation of the meaning and nature of sexual acts proposed by those opposing our view were correct. If sex is rightly understood and practiced as merely a sign of affection, then why would it not be an appropriate sign to express to one's child, by an adult to his or her friend of minor age, or even to one's pet? If sex is a sign of affection, why would it be improper to use it to express one's gratitude to one's parents or one's teachers? No one sees anything wrong with sharing beautiful music with such people, or sharing a meal with several people at one sitting. Some parents at times give their children massages, to relax them or to help them sleep if they are extremely tense. But what is it about sex that makes it improper in such circumstances?

There must be some feature of sex which distinguishes it from activities which are appropriately shared with children, one's parents, in groups, and so on. But what is that feature? Being an intense and pleasurable sign of affection—the only trait distinctive of sex according to many who oppose our view—provides not the slightest reason to refrain from sexual acts in those contexts. Our view, on the contrary, provides an intelligible answer: sexual acts are such that either they embody a marital communion—a communion that is possible only in reproductive-type acts between a man and a woman, in a marital relationship—or they involve instrumentalizing the body for the sake of an illusory experience or a fantasy of marital union, an illusion or a fantasy that is especially inappropriate with children, one's parents, and so on.

Replying to Hadley Arkes's suggestion that permitting homosexual acts would logically compromise the principle forbidding incest, Stephen Macedo fails to perceive the force of this argument. Macedo writes: "Incest, of course, would lead to a horrible and revolting form of vulnerability for children." [EN37] But if sex is essentially what Macedo claims it to be—simply an intense sign of affection—it is hard to see why extending it to children would in any way exploit their vulnerability, or why it would be "horrible and revolting." Only if sex necessarily involves more than expressing an extrinsic sign of affection, only if there is some reality made present, or simulated, a reality that is unfitting with a child or with one's parent, or with strangers, or in groups, can there be anything truly unfitting about incest.

\*157 In sum, in choosing to engage in sexual activity one adopts an attitude toward the relationship between the body and consciousness in both oneself and others with whom one has sex, and one relates to the basic good of personal communion.

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To engage in sex merely for pleasure separates in one's intention the person as bodily from the person as intentional agent, treating the body (both one's own and others') as a sub-personal object. Moreover, sexual acts aimed at expressing affection or love but outside marriage are choices of an illusory experience. Only if there is a common good realized in and by the sexual act-making the couple one in the cooperative participation in the common good-do the participants treat each other and themselves as unified bodily persons (and, thus, with respect), and embody a real, basic good. For only then is their pleasure or experience an aspect of participation in a real good, rather than an individual, private gratification or illusory experience. In marital acts, the spouses become two-in-one-flesh, and this bodily union is an aspect of their total marital communion, actualizing (initiating or renewing) their marriage. Only if two persons truly unite biologically, and only if this biological union is an aspect of a total personal communion, does their sexual act embody a genuine, common good. And the sexual act can be an aspect of a total personal communion-that is, actualize or make present their personal communion-only if the personal communion is of the sort that is naturally prolonged and fulfilled in procreation, and the sexual act is a reproductive-type act making them truly two-in-one-flesh. Thus, only in marriage can sexual acts realize a common good rather than induce self- alienation or produce a merely illusory experience of personal unity.

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[FN1]. It is not clear, for example, that acting against the orientation of a biological power is necessarily wrong; nor is it clear that sodomitical and other nonmarital acts are really contrary to the orientation of a biological power. It is worth noting that Pope John Paul II is among the recent natural law theorists who decline to use the perverted faculty argument. Cf. *Familiaris Consortio*, Part III. The Pope specifically rejects this sort of argument in *Veritatis Splendor*, #48.

[FN2]. See, for example, Andrew Sullivan, *Virtually Normal: An Argument about Homosexuality* (New York: Alfred Knopf, 1995), 19-55.

[FN3]. Germain G. Grisez, *The Way of the Lord Jesus, Volume 2: Living a Christian Life* (Quincy, IL.: Franciscan Press, 1993), 633-656.

[FN4]. John Finnis, "Law, Morality, and 'Sexual Orientation,'" *Notre Dame Journal of Law, Ethics and Public Policy* 9 (1995): 11-39; Robert P. George and Gerard V. Bradley, "Marriage and the Liberal Imagination," *Georgetown Law Review* 84 (1995): 301-320.

[FN5]. By "chaste" marital intercourse is meant marital intercourse that is done with mutual respect and the right intentions.

[FN6]. Frederick Elliston, "In Defense of Promiscuity," in *Philosophical Perspectives on Sex and Love*, Robert M. Stewart, ed. (New York: Oxford University Press, 1995), 152.

[FN7]. *Ibid.*

[FN8]. *Ibid.* Mill himself, it should be noted, did not advocate promiscuity.

[FN9]. Lars O. Ericsson, "Charges Against Prostitution: An Attempt at Philosophical Assessment," *Ethics* 90 (1980): 335-366, at 338-339.

[FN10]. One could not enjoy it unless it was desired for its own sake or was a means to something else. On the position that there are two senses of "pleasure," cf. William Alston, "Pleasure," in *Encyclopedia of Philosophy*; J.L. Cowan, *Pleasure and Pain: A Study in Philosophical Psychology* (London: Macmillan, 1968); Dan Brock, "The Use of Drugs for Pleasure: Some Philosophical Issues," in *Feeling Good and Doing Better: Ethics and Nontherapeutic Drug Use*, Thomas Murray, Willard Gaylin, and Ruth Macklin, eds. (Clifton, NJ: Humana, 1984), 83-106.

[FN11]. The choice could be wrong for reasons not connected with its relation to pleasure. It could involve injustice, neglecting other duties, and so on.

[FN12]. Sometimes simulating an activity is not a pursuit of sheer pleasure or an experience bereft of real fulfillment, but a form of play: for example, simulating the flying of an airplane, or the coaching of a football team, as in computer games.

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Why couldn't having sex with Susan be justified as "playing house," that is, playing husband and wife? Note, first, that if this were so it would justify adultery as well as premarital sexual relations. Note also that no one thinks it wrong for John and Susan to pretend to be husband and wife in a play or movie, provided they do not engage in acts intended to be sexually arousing. The difference is that when people engage in sex their sexual desire and their physical activity are aimed at something quite real, the sexual arousal, and bodily contact or union with the other, making sexual acts quite different from saying lines in a play or movie or other types of simulation. It is clear, then, that the fundamental act in sex is not play (although there may, of course, be some playfulness during their sexual act).

[FN13]. It is in this way, for example, that one might take heroin. A drug addict takes heroin simply for the feeling; how he gets that feeling, what reality that feeling is attached to (in this case, a change in the chemicals in his brain) is completely irrelevant. Thus, he is using his body to get that feeling. His end is the conscious feeling, as a content. His means is a chemical change produced in his body. But he treats his body as a mere extrinsic means, as a mere object, not as an intrinsic aspect of the subject, which in reality it is. Such a choice inherently involves contempt for the body.

[FN14]. So, the point is not that the act violates the nature of the teleology of the bodily part, as if the act were a violation of a bodily part. That would be the same as the argument that certain acts are wrong solely because they are unnatural. Rather, the point is that the body is not treated as an aspect of the subject of the action, and so is treated as an extrinsic tool.

[FN15]. One may be deprived of self-integration through no fault of one's own, just as one can be deprived of physical health (which consists to a great extent in physical integration) through no fault of one's own.

[FN16]. We think it is important to note the logical link between solitary masturbation and other nonmarital sexual acts. Many philosophers and theologians hold that solitary masturbation is not in itself morally wrong, but hold that prostitution and promiscuity are wrong. We, however, doubt the coherence of such a position. If doing something by oneself is morally acceptable, then, unless some incidental injustice is committed when it is done with another, it is hard to see why doing the same thing with someone else's assistance should be wrong.

[FN17]. And consider that people can develop a certain affection for each other quickly, indeed, moments after meeting each other for the first time.

[FN18]. In *De bono coniugali* St. Augustine held explicitly that marriage is an instrumental good. He added, however, that ideally there should be a friendship between husband and wife, and that this friendship is intrinsically good.

[FN19]. For this reason the couple may wish to adopt a child or join together in some other parental-like activity.

[FN20]. See Patrick Lee, "Human Beings are Animals," *International Philosophical Quarterly* 37 (1997): 291-304; David Braine, *The Human Person: Animal and Spirit* (Notre Dame, IN: University of Notre Dame Press, 1992), 69- 130, 228-290.

[FN21]. It is important to note that the teleology of sexual acts belongs to them as groups primarily. That is, one cannot say that each and every sperm is designed to join with an ovum, so that if this particular one does not it has failed. If so, it would be hard to explain teleologically why there are millions of sperms ejaculated in intercourse. Rather, the design of the bodies is that some sperm or other at some time or other join with an ovum. The same is true with individual instances of sexual intercourse. That is, the functional orientation belongs to acts of sexual intercourse as a group, primarily, and only indirectly to the individual acts. The individual act of intercourse is not directly oriented to reproduction; one could say that it is indirectly oriented to reproduction, as a member of a set, some of which, if all goes well (and the agents respect the basic good of life in its transmission) will be reproductive.

[FN22]. Of course, not every instance of two entities sharing in an action are instances of two entities becoming one organism. In this case, however, the potentiality for a specific type of act, reproduction, can be actualized only in cooperation with the opposite sex of the species. The reproductive bodily parts are internally oriented toward actuation together with the bodily parts of the opposite sex. Thus, the same feature which shows that the various bodily parts of a single horse or human constitute a single organism, is found in the bodily parts of the male and the female engaging in a reproductive-type act. So they are literally, not merely metaphorically, one organism. Also, strictly speaking, men and woman engaging in sexual acts do not choose to reproduce, though they can choose to perform reproductive-type acts, with reproduction as their goal.

[FN23]. See below, pp. 149-151.

[FN24]. See above, pp. 139-142.

[FN25]. Germain Grisez, *The Way of the Lord Jesus, Volume 2: Living a Christian Life* (Quincy, IL.: Franciscan Press, 1993), 651.

[FN26]. Paul Weithman, "Natural Law, Morality, and Sexual Complementarity," in *Sex, Preference, and Family: Essays on Law and Nature*, David M. Estlund and Martha C. Nussbaum, eds. (New York: Oxford University Press, 1997).

[FN27]. Stephen Macedo, "Homosexuality and the Conservative Mind," *Georgetown Law Journal* 84 (1995): 261-300, at 278. George and Bradley, in reply, observe that pleasure and expressions of feeling are not, in truth, the justifying point of sexual relations between spouses; the justifying point is, rather, the intrinsic good of marriage itself considered as a one-flesh communion of persons consummated and actualized by acts which, qua reproductive in type, unite the spouses biologically and interpersonally. See "Marriage and the Liberal Imagination," *op. cit.*

[FN28]. Macedo, "Homosexuality and the Conservative Mind," 278-279.

[FN29]. Notice that there are two distinct points regarding homosexual acts: (1) homosexual partners cannot form the kind of personal communion with each other which is embodied by reproductive-type acts; (2) nor can they perform with each other a reproductive-type act, that is, their sexual acts do not unite them biologically.

[FN30]. Also see below, pp. 154-156.

[FN31]. In hugging, there also seems to be an enjoyment of the simple presence or closeness of the one hugged.

[FN32]. Michael J. Perry, "The Morality of Homosexual Conduct: A Response to John Finnis," *Notre Dame Journal of Law, Ethics and Public Policy* 9 (1994): 41- 74, at 56.

[FN33]. As an intrinsic good, to be sure, play provides a basic reason for action. However, the good of play should not be equated with doing whatever one pleases. That would collapse play as a reason into a non-rational motive. Play, precisely as a rational motive, gives one reason to pursue more or less complex, frequently rule-based, activities (such as chess or football). It does not provide a reason to do whatever one happens to want to do simply because one believes that pleasure is to be obtained by doing it.

[FN34]. Nothing in our analysis implies that friendship is merely instrumental to other goods. On the contrary, friendship is intrinsically valuable. See John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), 88.

[FN35]. *Ibid.*

[FN36]. Macedo, "Homosexuality and the Conservative Mind," p. 282, n. 85.

[FN37]. *Ibid.*, 288.

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