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ONE BODY
BUT MANY KINDS OF SEX AND PROCREATION:
A LIBERAL RESPONSE

Broadly speaking there are two normative approaches to the question of what is sexually permissible. There is a liberal approach that accords individual consent a central and determinative role. In simple terms on this account whatever appropriately informed mature individuals voluntarily agree to and which does not seriously adversely affect the interests of others (third parties) is allowed. By contrast there is, again in general outline, a conservative approach—one grounded in a view of sex as either essentially reproductive or as necessarily expressive of love—that rules out as impermissible a range of sexual activities that do not fulfill the proper end of sex. The conservative approach is normally associated with Christian commitments, although it need not be. The two approaches will neatly line up on either sides of a division of opinion as to the permissibility of certain kinds of sexual activity. Thus, extra-marital sex, same-sex sex, and non-procreative sex are judged immoral on the latter but not on the former view.

I subscribe to a liberal view. Pruss defends a conservative view. He also offers this defense explicitly as one of ‘Christian sexual ethics’. This defense is welcome inasmuch the liberal orthodoxy tends to prevail in the philosophical literature. Moreover, Pruss’ defense is full, considered, intelligent, scholarly, remarkably comprehensive in its treatment of all the possible issues, and packed full of arguments. The claim made by several reviewers quoted on the book’s cover to the effect that it is likely to become a standard text of Christian sexual ethics seems entirely merited.

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The conclusions Pruss draws are recognizably those of Catholic orthodoxy: anything other than the loving sexual union of married heterosexual husband and wife that ‘strives’ for reproduction is illicit. Nevertheless, the defense is nuanced inasmuch as Pruss draws on the two strands of conservative thinking about sex—the ‘Thomistic’ strand that emphasizes the biological, and essentially reproductive, character of sex, and the ‘personalist’ strand that insists upon the nature of sex as an expression of committed love. This at least gives the work a considerable and rewarding richness.

Pruss is also committed to a defense that is both philosophical and theological. He insists that his central claims are ‘independently plausible, and can be studied through philosophical methods’ (2). The liberal philosopher of sex is thus enjoined to take seriously and to give considered critical attention to this defense of a non-liberal view.

Is the defense persuasive? I don’t think so. Proper evaluation of all the claims made by Pruss would necessitate a much longer reply than is possible here. I will later concentrate on the case he outlines in Chapter 10 on ‘Reproduction and Technology’. Before doing so, I want to spend some time, first, to make an important concession and then, second, to offer some general comments on Pruss’ argumentative strategies.

First, I make the concession. The liberal is often minded to view sex as nothing special. By which I mean that sexual activity is viewed simply as a human activity governed by the rules of presumed individual freedom subject to the freely given consent of others that govern all interpersonal behavior. Thus my consent to sex is essentially no different in kind from the consent I might give to any activity involving others, and a sexual activity is rendered morally licit by that giving of consent in just the same way as any non-sexual activity would be. Now some at least of those who defend the liberal view are disposed to characterize sex as *sui generis*. This does not mean that the liberal view needs to be abandoned; nor that consent will not play the determinative normative role that this view accords it. It does mean that a full moral appreciation of sexual activity needs to be sensitive to its distinctive character. Thus, for instance, the wrong of rape will not be captured simply and exhaustively in the thought that the victim did not consent to sex. Or one might be morally troubled by prostitution even if satisfied that the prostitute does enter freely into a contract with her clients.

I make this concession in order to acknowledge that the liberal view should not, even to its most ardent defenders, be thought a straightforward account. I also make it in order to emphasize the important point that the

putatively *sui generis* nature of sex need not be as it is stated to be by Pruss and other defenders of the conservative view. That is, I can agree with Pruss that ‘sexual behavior is a very important facet of human life,’ (5), that there is something very special about sexual activity, and that it has an enormous significance for us. I can even agree that we ought to hold humans to ‘a higher standard in sexual behavior’ (336). However I would deny that the explanation for this lies in the proper purpose of sex as procreative or as expressive of a loving union. Thus, for my own part, I have tried to combine a liberal view of sexual permissibility, underpinned by individual consent, with a proper acknowledgement of the wrong that is done in violating another person’s embodied sexual integrity.¹ The general point is this: liberals may be in danger of leaving something out of their normative account of sex; however the gap is not to be filled by what the conservative account tells us about sex.

Now, second, I want to make some general comments about Pruss’ argumentative strategy. First, as noted earlier, he insists that his account is both philosophical and theological, and is independently plausible on philosophical grounds. I am not sure he consistently redeems his initial promise. Take one key example. Pruss thinks that an ethics of love should underpin a defensible approach to sexual morality. The book as a whole articulates the view that sex that does not give expression to the lifelong loving commitment of married partners is wrong. Pruss asserts that the ‘central ethical concept in the New Testament is love’ (8) and that this notion of love informs his sexual ethics.

How can he persuade a non-Christian? He states that a non-theological reason to think the ethics of love true is ‘that a central aspect of loving someone is willing that good things should happen to him or her, and not willing that bad things should happen to him or her (20). But this is surely unhelpfully broad and imprecise. It makes an ethics of love equivalent to those principles of beneficence and non-maleficence that any ethical theory could endorse as uncontroversial.

Of course Pruss wants further to argue that there are ‘appropriate’ ways to love others. However that is a matter for distinct and subsequent argument. Merely stating that love should be taken to mean willing the good of the other does not suffice to show that a Christian ethics is plausible to a non-Christian.

¹ “The Wrong of Rape,” *Philosophical Quarterly* 57 (228) 2007: 374–393.

A second worry about Pruss' argumentative strategy is that it appears to view moral judgment both as the only evaluative judgment possible and as essentially disjunctive. Thus an evaluation of any sexual activity must be moral and must be that the activity is either permitted or forbidden. This does not have to be the case and assuming it is closes off the possibility of a range of evaluative judgments one could make about some sexual activities.

I think thus that a liberal might grant that a prostitute freely sells her sexual services but worry (as Peter de Marneffe has done recently²) that her behavior is so seriously self-harming as to give grounds to overrule her autonomous choices. This is not to judge that what she does is immoral; it is to conclude that, in her case at least, there is a proper limit to the freedom to do what is seriously imprudent. Or the liberal might judge that the life of prostitution is demeaning, degrading, unattractive, thereby falling far short of the flourishing and fulfilling life that a liberal like J.S. Mill would wish all mature persons to use their freedom to live. Again, this is not to conclude that prostitution is immoral but to say that in terms of what Mill would term the 'art of living'³ it counts as an aesthetically displeasing choice of life.

Neither of these possible evaluations of prostitution amount to the conclusion that what the prostitute does is morally illicit. The general point—made forcefully by Igor Primoratz⁴—is that some instance of sexual activity might be judged both morally permissible and less than ideal. One can engage in consensual and licit but morally sub-optimal or mistaken, imprudent and ugly behavior. This allows the liberal to express worries about someone who has casual sex with strangers without having to judge that what she (or he) does is immoral.

By contrast Pruss feels obliged to move from the concession that an argument has not shown that something—in this case the use of a condom—is morally wrong but only less than the consummation of romantic love (267) to providing an argument that inasmuch as it does fall short in this manner it *is* immoral. However, what is wrong with allowing that unromantic sex is less than romantic sex but morally licit nevertheless?

A third concern with Pruss' argumentative strategy is his tendency to move from certain kinds of factual claim to others and thence to normative conclusions. Nowhere is this more striking than in his 'aliens' argument for the significance of sexual activity (132-137). Pruss thinks we would have

² Peter de MARNEFFE, *Liberalism and Prostitution* (Oxford: Oxford University Press, 2010).

³ Alan RYAN, "John Stuart Mill's art of living," *The Listener*, 21 October (1965): 620–622.

⁴ Igor PRIMORATZ, *Ethics and Sex* (London: Routledge, 1999).

problems explaining to the alien who reproduces asexually what sexual activity and sexual organs are. He thinks mention would have to be made of reproduction. This seems true. But Pruss moves to the further claim that reproduction matters a great deal and that this is why we attach great importance to sexuality. Indeed he moves still further to the claim that what humans are doing when they have sex is striving to reproduce, and still further again to the normative claim that those who have sex without striving to reproduce are, *ceteris paribus*, acting immorally.

Now I am aware that Pruss has a separate argument against a hedonistic characterization of sex. But to show how quickly his argument above runs, simply substitute pleasure for reproduction and thereby reach the conclusion that those who have sex without striving for pleasure act wrongly. I don't offer this as valid argument, quite the contrary, but it looks like an analogue of the 'alien' argument in respect of reproduction. Any failings of an 'alien' argument to demonstrate the normative significance of sexual pleasure would afflict one that aimed to show the significance of reproduction.

Indeed I don't think we explanatorily short-change the alien if we say that sexual activity is engaged in for a number of reasons—reproduction, to express love and to experience pleasure amongst them—that it is extraordinarily important to humans because it has various functions, but that it does not have to be engaged in for only any one of these to the exclusion of the others.

Pruss also exploits the 'alien' argument to establish his normative conclusion by trading on an ambiguity. Reproduction matters objectively inasmuch as it is good that there are future generations of humans (although even this is not uncontroversial⁵). It does not follow that reproduction is important to each of us. He assumes that if sex has a reproductive function (and cannot be explained fully to the alien without mentioning it) then this is its defining function. A liberal can happily concede that sex is reproductive without having to allow that this is all that sex is, nor that this is the only thing that might explain its significance for humans.

I said that Pruss has an argument against the hedonistic view that sex is or could be about mutual pleasure. This principally turns on the idea that the experience of pleasure does not have independent value (118). For Pruss pleasure only has value when one is taking pleasure in something that is in

⁵ David BENATAR, *Better Never to Have Been: The Harm of Coming into Existence* (Oxford: Oxford University Press, 2008); James LENMAN, 'On Becoming Extinct,' *Pacific Philosophical Quarterly* 83 (2002): 253–269.

itself good. He is right to rule out the idea that pleasure as such is valuable inasmuch as we want to regard sadistic satisfaction and *Schadenfreude* as worthless if not necessarily unworthy pleasures. But what is not valuable about pleasure in what is neither good nor bad? Indeed what is not valuable about pleasure in what the liberal sees as morally licit sex, for example that between two consenting adults? Pruss seems to rule this out on the basis of an appeal to the idea of a ‘satisfaction pill’ (120) in a case where one effortlessly did what was morally alright for selfish reasons. However the objection here is not to what one takes pleasure in (the morally unobjectionable) but to the manner in which such pleasure is produced. One did not really do (or rather not really do for good reason) that which was morally unobjectionable and to that extent the pleasure is false.

The obvious analogy is Robert Nozick’s ‘experience machine’ and his own suggestion of why we would not wish merely to have the experiences of a successful life: ‘we want to *do* things, and not just have the experience of doing them’.⁶ Incidentally I think that this line of response will also work to show why the Orgasmatron (from the film *Sleeper*), invoked by Pruss, does not give the kind of sexual pleasure some would want to have. Woody Allen’s line in the film echoes Nozick (even if his own character’s trial of the machine seems to gainsay his assertion!): ‘I don’t like anything with moving parts that are not my own’.

Later in the book Pruss asserts that sexual pleasure outside a ‘one-flesh sexual union’ of married partners is ‘not veridical’ (329). But the claim of its non-veridicality—and we should surely grant that occasional unmarried sexual partners do experience *something*—is ambiguous between that of its being pleasure in what is not in fact valuable and that of its being pleasure in what was not in fact really done. Pruss’ explicit comparison with a non-veridical visual experience of a pink elephant suggests he thinks of the non-veridicality of sexual pleasure in the latter sense. And this makes sense of his earlier example of the satisfaction pill.

However, the ruling out as empty or valueless of sexual pleasure that is not ‘real’ or ‘true’ needs carefully to distinguish between pleasure in what was falsely believed to have been done, pleasure in what was done effortlessly (and does not somehow merit pleasure), and pleasure in what was indeed done but that has no independent value.

If I take gustatory pleasure in a meal that was not cooked by me (and whose production is morally unobjectionable) do I not take real (actually ex-

⁶ Robert NOZICK, *Anarchy, State, and Utopia* (Oxford: Basil Blackwell, 1974), 43.

perienced) pleasure in something (the consumption of a meal) that has no independent value but is not morally objectionable? Is my pleasure in eating non-veridical? I cannot see why it is.

And so after these rather lengthy preliminary thoughts I turn to Chapter 10. I concentrate on this particular chapter both out of my own philosophical and practical interest (I am a Member of the United Kingdom's Human Fertilisation and Embryology Authority that regulates fertility treatment) and because it is a chapter that is not directly about sex. In this chapter Pruss offers a number of reasons why artificial reproduction is morally impermissible. To his credit Pruss does not appeal to the immorality of creating surplus embryos and discarding some; nor to the idea that the use of donor gametes amounts to adultery. Rather he seeks to show why, just as sex that does not strive to reproduce is wrong, so also is reproduction that is non-sexual.

Let me take each argument in turn. First there is the claim that gamete donors (and, of course, only some forms of IVF use donors) act wrongly in failing to discharge their responsibility of being parents to the child derived from their genes. This claim turns on the assertion that the parental duty—however that arises—is not just a duty to ensure that one's children are adequately cared for, but one to provide that care oneself. Now I want simply to deny that this is so, and I have myself explicitly distinguished between a parental obligation and parental responsibilities.⁷ I think a parental obligation—to ensure that a child one has caused to exist enjoys a decent life—does not of itself entail parental responsibilities—actually providing the care of the child.

The basic claim Pruss makes is distinguishable from an accusation that gamete donors somehow act irresponsibly in bringing a child into existence without adequate assurance that the child will be cared for.⁸ In effect the charge against the donor is that he or she fails to discharge their parental *obligation*. The response to this charge would be that properly organized, monitored and regulated systems of artificial reproduction that use donors can reasonably be assumed to ensure that those who make use of their facilities and donated gametes are adequate prospective parents. Thus gamete donors who donate within such a system *do* act responsibly.⁹ Indeed the 'wel-

⁷ David ARCHARD, "The Obligations and Responsibilities of Parenthood," in *Procreation and Parenthood: The Ethics of Bearing and Rearing Children*, ed. David Archard and David Benatar (Oxford: Oxford University Press, 2010): 103–127.

⁸ David BENATAR, "The Unbearable Lightness of Bringing into Being," *Journal of Applied Philosophy* 16, 2 (1999): 345–55.

⁹ Tim BAYNE, "Gamete Donation and Parental Responsibility," *Journal of Applied Philosophy* 20,1 (2003): 77–87.

fare of the child' provision in the United Kingdom legislation governing licensed IVF is designed precisely to ensure this.

Pruss' second argument appeals to the truth of his general view that only marital sexual union that strives to reproduce is morally licit. If coitus should be reproductive, so the argument seems to go, reproduction should be coital. This looks fallacious. From the truth of, 'I should only Φ if I am thereby trying to achieve P,' it does not follow that I should only try to achieve P by Φ -ing.

A distinct claim is that, somehow, those who use non-coital reproduction thereby diminish the value and significance of coital reproduction. In fact Pruss talks about the 'felt' significance of coital reproduction. The assertion that 'anecdotal evidence suggests that [fertility] treatments can lead a couple to have negative feelings about sexuality' is entirely unsupported and unworthy of a serious academic text. A couple might be resigned to the fact—on the basis of all the tests done—that they cannot have children 'naturally' and opt to have them by artificial means. This could leave them to have, and to enjoy, sex as a pure expression of their romantic love for one another and not as, in perhaps large part, an endlessly frustrating striving to reproduce.

Pruss' third argument against fertility treatment is that there is something wrong with an activity whose sole and express purpose is the creation of another human being. It is wrong in respect of sexual union since the pursuit of a single end (reproduction) would be at the expense of the love of and desire for the conjugal other.

I agree that it does indeed seem wrong for a couple to engage in sex always and only to reproduce. Yet a couple could set out, on propitious occasions, to procreate but recognize the following truth: it is self-defeating in some cases to aim to secure P, and it is indeed better to secure P, if that is what is intended, by not having in mind that one is trying to secure P. It is hard to go to sleep by consciously striving to do so; it is hard, similarly, to feel sexy if one is only thinking of procreating. It is thus not clear why a couple could not have sex and have only the aim of reproducing even if that exclusive aim was not in their mind at the time of the sex.

Having procreation as the sole and express purpose of fertility treatment is said by Pruss to be wrong because it treats the child as an 'artefact'. The reasoning seems to be as follows: a couple using fertility treatment aim to have a child. But that child, if it comes into being, will then exist only as that which they sought to make. It will be defined by their procreative purpose. The couple cannot seek to bring into the existence the particular child

who will have value as a distinct, indeed unique, being, because they cannot aim in advance to create what will only have that value once born. For they cannot aim to create what does not yet exist.

The use of 'artefact' is surely unduly pejorative. Couples who procreate naturally also 'make' a child in a not unreasonable employment of this word. What they 'make' is of course a unique being whose nature they cannot know in advance. A couple who 'make' a child by using IVF similarly aim to bring into being someone whose nature they cannot know in advance. Their purpose is to create whosoever shall come to exist and who can be the recipient of their unconditional love. If that purpose renders the child an 'artefact' it does so in a morally innocent manner. A treasured and priceless object can be 'made'. A 'made' child is not merely an instrument to serve the ends of the parents. For what is 'made' is intended to be an end in its own right.

A fourth argument against fertility treatment appeals to the idea that a child is a 'gift' and we should not presume to make what will (or will not) be given to us. Yet 'gifts' require givers and it is hard to see how this argument does not presume a divine benefactor. No-one can be guaranteed to be a parent. However, if becoming a parent is rendered not as a gift but as a matter of good luck or fortune then that argument against fertility treatment lacks force. Indeed it is hard to see why if one could take steps to increase the probability of a fortunate outcome one should not do so.

Consider the view that a terrible disease is a 'gift' and that it is not for us to demand that it not be given. If we can reduce the chances of contracting a serious medical condition we should surely do so, and it would be unreasonable to leave it to chance and to luck whether we suffer it.

I conclude with some brief comments about the relationship between the views Pruss defends and ordinary commonsense morality as revealed in belief and practice. At one point, in discussing contraception, Pruss asserts that its use has been universally condemned by the Christian churches, and that there are no good arguments plausible on Christian grounds for its permissibility. This, he adds, would give Christians good reasons to conclude that it is impermissible. He then adds a curious 'furthermore': 'we should take Christian tradition (as well as scripture) to be particularly reliable in sexual matters' (280). I set to one side for reasons already rehearsed the claim that this is because Christianity is a religion and ethics of love.

What is striking about Pruss' 'furthermore' is how far the teachings of the Church on sexual matters is *not* taken as reliable in sexual matters. This is

not just so for non-Christians who generally espouse what has been termed a liberal view, even if with caution, conditions, and caveats. It is not so also for believers. A number of recent reports have revealed that there is now a clear divergence between the views on matters such as abortion, contraception, extra-marital sex, and even gay marriage of those who profess themselves Catholics, and who are happy or proud to be so, in, and the official doctrines of the Church. That divergence is significant and growing.

Similarly Pruss states that the view that we should have children only as the fruit of marriage is ‘still widely held in our society’ (413). It is not. The number of couples who have children whilst unmarried is, in most European countries, now equal to or greater than those who have them in wedlock. Moreover, further analysis shows this not to be a case of using co-habitation as a preparation for eventual marriage. Increasing numbers of couples choose not to marry *and* to have children.

Now Pruss can, as he does, deny that change is moral progress. He can insist that the standards of sexual behavior he defends in this book are, sadly, more departed from than honored and followed. What he cannot do is insist that the views he defends continue to chime with the beliefs and practices of a majority of the populations of Western liberal societies. Whether, having acknowledged this fact as he should, he sees reason to change his views is an entirely different matter.

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JEDNO CIAŁO,
LE CZ RÓŻNE TYPY AKTÓW SEKSUALNYCH I PROKREACYJNYCH:
ODPOWIEDŹ LIBERALNA

Streszczenie

W artykule dokonuję porównania liberalnego oraz konserwatywnego podejścia w kwestii moralności stosunków płciowych. Opowiadam się za podejściem liberalnym, uznającym szczególnie charakter stosunków płciowych, jednocześnie zwracam uwagę na filozoficzno-teologiczną akceptację podejścia przeciwnego u Prussa. Krytykuję argumentacyjną strategię Prussa ze względu na jej trzy elementy: pojmowanie miłości chrześcijańskiej jako równoważnej dobroczynności, dopuszczenie jedynie moralnej oceny seksualności, zbyt pochopne przechodzenie od pewnych zdań fakualnych do innych, a następnie do wniosków o charakterze normatywnym. Jego stanowisko w kwestii moralnej niedopuszczalności niewerydycznej przyjemności opiera się na wieloznaczności pojęcia „rzeczywistej” przyjemności.

W artykule bronię dopuszczalności zapłodnienia pozaustrojowego, formułując następujące trzy tezy: dawcy gamet mogą wywiązać się ze swoich obowiązków rodzicielskich; rozrodczość nie musi odbywać się wyłącznie w drodze stosunku płciowego; poddający się tego rodzaju leczeniu nie muszą traktować poczętego w ten sposób dziecka w sposób niewłaściwy, tj. czysto instrumentalnie. Na koniec zwracam uwagę na rozbieżność między poglądami Prussa a poglądami większości ludzi, w tym rosnącej liczby katolików.

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Summary

I contrast a liberal and a conservative approach to the morality of sex, endorsing the former with a concession as to the special nature of sex, and note Pruss' philosophical and theological endorsement of the latter. I criticize his argumentative strategy in three regards: first, he defends Christian love as equivalent to benevolence; second, he allows for only a moral evaluation of sex; third, he moves too quickly from some factual claims to others, and thence to normative conclusions. His account of the moral impermissibility of non-veridical pleasures trades on ambiguities in 'real' pleasure.

I respond to three arguments Pruss offers against IVF: gamete donors can discharge their parental obligations; reproduction need not only be by coitus; and those who use fertility treatment need not thereby do wrong in treating any resultant child as an 'artefact'.

I conclude with critical observations about the distance between Pruss' views and those commonly held by most people, including increasing numbers of Catholics.

Słowa kluczowe: etyka seksualna, stosunek płciowy, prokreacja, Alexander R. Pruss.

Key words: sexual ethics, sex, procreation, Alexander R. Pruss.

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