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## The Ethics of Sexual Objectification: Autonomy and Consent

PATRICIA MARINO

*University of Waterloo, Canada*

**ABSTRACT** *It is now a sort of platitude that sexual objectification is wrong. As is often pointed out, however, some objectification seems morally permissible and even quite appealing -- as when lovers are so inflamed by passion that they temporarily fail to attend to the complexity and humanity of their partners. Some, such as Nussbaum, have argued that what renders objectification benign is the right sort of relationship between the participants; symmetry, mutuality, and intimacy render objectification less troubling. On this line of thought, pornography, prostitution, and some kinds of casual sex are inherently morally suspect. I argue against this view: what matters is simply respect for autonomy, and whether the objectification is consensual. Intimacy, I explain, can make objectification more morally worrisome rather than less, and symmetry and mutuality are not relevant. The proper background political and social context, however, is crucial, since only in its presence can consent be genuine. I defend the consent account against the objection that there is something paradoxical in consent to objectification, and I conclude that given the right background conditions, there is nothing wrong with anonymous, one-sided, or just-for-sexual-pleasure kinds of sexual objectification.*

It is now a sort of platitude that sexual objectification is wrong. As is often pointed out, however, the situation is complex: much sexual activity seems to involve some kind of objectification or use of another, sometimes in ways that seem morally permissible and even quite appealing -- as when lovers are so inflamed by passion that they temporarily fail to attend to the complexity and humanity of their partners. But the platitude figures in many discussions about the wrongs of pornography, prostitution, and some kinds of casual sex; in these interactions, the thinking goes, a person is

*Correspondence Address:* Patricia Marino, Department of Philosophy, University of Waterloo, Waterloo, ON, M4Y 2X3, CANADA. Email: pmarino@uwaterloo.ca

"objectified," used as a mere means for sexual pleasure, treated as an object in a way that is morally wrong.<sup>1</sup> This raises the question, just when is sexual objectification benign, and when isn't it?

Reflecting on this question in a 1995 book review, Cass Sunstein suggests a possible intuitive answer: "Within a context of equality, respect, and consent, objectification -- not at all an easy concept to define -- may not be so troublesome."<sup>2</sup> This raises the obvious questions, What context is relevant and how? How should we evaluate equality and respect? How should we understand consent?

With respect to questions about context, there are two ways of thinking: on the one hand, we might focus on the context of the participants and their relationship, and even on the particular mode of interaction at hand, and on the other, we might look to the background social and political context against which the action takes place. Taking the former approach is one way to establish what I think of as the "standard view": that while objectification can be morally permissible as a part of intimate, loving sex between those who care about one another, it is generally otherwise morally wrong, and this is why pornography, prostitution, and some kinds of casual sex are inherently morally suspect.<sup>3</sup> The standard view tries to find a middle way between the pessimistic view that all sexual activity, because it involves the use of another, is morally tainted, and the libertarian view that all sexual activity, as long as it is consensual, is morally benign.

I'll argue here that the standard view is false, because there is no such middle way. The crux of the matter with respect to the ethics of objectification, I claim, has to do with respect for a person's autonomy, and not with other qualities of a relationship or a

particular interaction. Therefore, proper context is indeed crucial, but it is the background social and political context that matters most, because background equality is necessary for genuine consent. The qualities of the relationship matter only insofar as they, too, render meaningful consent possible.

Worries over the inherent immorality of these practices, then, come legitimately from two sources: the practices may be questionable because background conditions are such that consent cannot be genuine, or they may be questionable for reasons that have little to do with objectification and use. There is, then, no general line of thought from the fact that practice X is objectifying to the conclusion that it is morally wrong -- even *prima facie* morally wrong.<sup>4</sup>

In the first section, I explain Martha Nussbaum's elegant analysis of the concept of objectification; her argument, as I see it, represents the strongest support for taking the relationship of the participants into account, and thus the strongest support for a view like the standard view. In section II, I explain why intimacy, symmetry, and mutuality cannot be the factors determining the moral status of sexual objectification, whether they are understood to apply to the relationship overall or to the mode of a particular interaction, and in section III, I argue that consent is such a determining factor. So objectification is morally benign when in accordance with respect for autonomy.

#### I. Martha Nussbaum on context: intimacy, symmetry and mutuality

In an attempt to flesh out Sunstein's intuition in a plausible way, Martha Nussbaum focuses on the fact that there are lots of ways to treat someone as an object:

Instrumentality: the objectifier treats the object as a tool of his or her purposes; Denial of autonomy: the objectifier treats the object as lacking in autonomy and self-determination; Inertness: The objectifier treats the object as lacking in agency, and perhaps also in activity; Fungibility: the objectifier treats the object as (a) interchangeable with other objects of the same type, and/or (b) with objects of other types; Violability: the objectifier treats the object as lacking in bodily integrity, as something that it is permissible to break up, smash, or break into; Ownership: the objectifier treats the object as something that is owned by another, can be bought or sold, etc., and Denial of Subjectivity: the objectifier treats the object as something whose experience and feelings (if any) need not be taken into account (1995, p. 257).

Though these are interdependent and often found together, she explains, they can also be found separately. While a ball-point pen is usually treated with most or all of these attitudes, a Monet painting may be inert and owned, but not violable or fungible. Slaves are owned, their subjectivity and autonomy are denied, and they are used instrumentally, but they are not inert and need not be fungible. The pessimist view, that all sexual activity involves some morally wrong activity, Nussbaum says, conflates these senses of objectification; for example, Catherine MacKinnon and Andrea Dworkin in their pessimist-leaning theories, fail to notice that the interconnections between them are not conceptual or necessary. For example, a beloved child may be appropriately denied autonomy without being treated as owned, fungible, or a mere means.

And indeed, she argues, the various modes of objectification come with greatly varying moral aspects. In some cases, Nussbaum argues, objectification can be a

wonderful part of sexual life, and nothing to be feared or shunned. In Lady Chatterley's Lover, Nussbaum finds characters who become sexually inflamed by one another partly through a process of objectification: they reduce one another to body parts; they stop seeing one another fully as individuals; they surrender -- and ask others to surrender -- autonomy, agency, subjectivity in their being overcome with sexual passion. Nussbaum finds this passion enlivening, and particularly wholesome and admirable. But what makes it morally acceptable? "Why," Nussbaum asks, "is Lawrentian objectification benign, if it is?"

We must point to the absence of instrumentalization, and to the closely connected fact that the objectification is symmetrical and mutual -- and in both cases, undertaken in a context of mutual respect and rough social equality. The surrender of autonomy and even of agency and subjectivity are joyous, a kind of victorious achievement in the prison-house of English respectability. (1995, p. 275).

Being sexual objectified in this way is partly to be sexually awakened, to be fully autonomous and expressive in a new way, to be whole.

But just to be used for another's purposes is not like this. It is when objectification involves instrumental use and the denial of the autonomy of the other that it involves a moral wrong; these are the most pressing forms of objectification and often lead to the others. As an example, Nussbaum cites with disapproval the kind of objectification depicted in the erotic classic novel, Story of O (Réage 1954). Here, O gives herself up entirely into sexual slavery for a master, Sir Stephen, and describes, from the first-person point of view, how strangely thrilling and sexually exciting the experience is. Here, Nussbaum agrees with Dworkin that O's objectification is a moral

violation: O, Nussbaum says, is treated as inert, fungible, and owned, these following from the way she is instrumentally used and her autonomy is denied.<sup>5</sup>

For Dworkin, O's case provides an apt parallel for the case of most women, who are generally morally violated in marriage and sex. As I've said, Nussbaum disagrees with this "pessimistic" view. First, as she suggests in the passage cited, some kinds of sexual objectification do not involve denials of autonomy and instrumental use. But more strikingly, she says that even using a person as a mere means to satisfy one's sexual urges need not be bad, as long as it is done in the right context and in the right way: if I use my lover's stomach as a pillow, she says, this is morally acceptable as long as our relationship is one in which he is treated as a fully human the rest of the time, and he doesn't mind what I am doing. What this shows, she explains, is that "what is problematic is not instrumentalization per se, but treating someone primarily or merely as an instrument" (1995, p. 265). Sir Stephen's treatment of O fails this vindicating exception because of the nature of their relationship, which is, indeed, strange and one-sided.

To have the kind of relationship in which objectification is benign, Nussbaum suggests, one needs a certain kind of intimacy or at least what she calls a "narrative history." "For in the absence of any narrative history with the person," she asks, "how can desire attend to anything else but the incidental, and how can one do more than use the body of the other as a tool of one's own states?" (1995, p. 287). From the Lawrence discussion, it seems that symmetry and mutuality are also important. I am not sure what the difference is, exactly, between these, but one thing she suggests is this: that while

symmetry involves each person using the other in a roughly comparable way, mutuality requires that each person's use of the other be linked together. For example, in describing Lawrentian sex, she says that lust forces one character, Brangwen, to experience his wife as a thing, and that this leads him not to instrumental use, but to giving up his own personhood in response. Let's call this mutuality.

In summarizing her view, Nussbaum writes, "It would appear that Kant, MacKinnon, and Dworkin are correct in one central insight: that the instrumental treatment of human beings as tools of the purposes of another, is always morally problematic; if it does not take place in a larger context of regard for humanity, it is a central form of the morally objectionable" (Nussbaum 1995, p. 289). On the face of it, this statement is ambiguous with respect to the question, What is the relevant context of regard for humanity? While Nussbaum obviously considers background social and political equality to be important, and takes consent to be essential, she puts more emphasis on the qualities of the relationship and the mode of interaction. These considerations of the relationship and context, she suggests, are not important merely for the possibility of consent, but are there to render use that is otherwise problematic, less so. While Nussbaum is careful not to give a list of conditions, it seems fair to say that on her view, symmetry, mutuality, and a kind of intimacy are important for morally benign objectification.<sup>6</sup>

Interpreting Nussbaum this way leads to the "standard view": use can be morally benign in certain contexts, but because pornography, prostitution, and some kinds of casual sex involve sexual objectification that is one-sided, or anonymous, they are

morally wrong; this wrongness is inherent in the acts themselves, because they involve using a person -- primarily, merely -- as an instrument in the absence of ameliorating conditions. This also helps us flesh out one interpretation of "some kinds of casual sex": it is one-sided, anonymous, or just-for-sexual-pleasure casual sex that is morally suspect.<sup>7</sup>

## II. Two kinds of instrumental use, and the irrelevance of intimacy, symmetry, and mutuality

But this way of arguing for the standard view fails. Even the best sexual objectification involves a weak kind of instrumental use, while intimacy, symmetry, and mutuality cannot play a vindicating role for instrumental use of any kind. For what kind of instrumental use of another is generally morally problematic, but rendered morally permissible by these elements? In this section I'll argue there is no such conception of instrumental use. Instrumental use, as I'll show in the following section, is morally benign when, and only when, it is in accordance with respect for autonomy.<sup>8</sup>

First, consider the specific claim that using someone instrumentally can be moral if done in an otherwise respectful relationship. As Alan Soble has pointed out, there is something immediately odd about this. For how could the fact that A usually treats B with respect on most occasions make it permissible to treat B as a mere means on other occasions? (Soble 2001, p. 241).<sup>9</sup> Usually when we say that one mustn't treat someone "merely" as a means, we mean not that it is permissible to treat them only as a means at some times in some ways as long as they are treated as ends at other times in other ways, but rather that one mustn't treat a person as a means without treating them as, at the same



time, an end in themselves.

In fact, contexts of intimacy, symmetry, and mutuality can make instrumental use more morally troubling rather than less. Consider again the story of using one's lover as a pillow. Nussbaum's sense of what makes this benign is that the lover is (tacitly) consenting, and is, in the context of the relationship, a full human participant. But considerations about the relationship become less obviously salient when we start considering permutations. Strange as it would be, there seems to be nothing wrong with putting an ad up on Craigslist, offering hourly wages for work as a pillow for a hardworking philosopher. And of course, one is often used by employers in this way, in the absence of intimacy, symmetry, and mutuality, and this is morally benign.<sup>10</sup>

Conversely, instrumental use of various kinds in otherwise respectful relationships can be quite morally troubling. Consider, for example, a wife whose husband is affectionate and helpful, and who explains to her, in the most loving way, that what he needs in life is a helpmate, a partner in life, and what he really needs help with in life is typing: he needs someone to type his manuscript. Imagine this wife is a great typist, but feels the work is beneath her talents -- a poor use of her time. If this happens in the context of a happy relationship, it is easy to imagine that it would feel cold and unloving to say "No," -- that one would be almost unable not to say "Yes" to such a request.<sup>11</sup> And yet it is easy to imagine that the request might feel manipulative, and that the wife would feel herself instrumentally used in a way she did not enjoy or want. Being in relationships puts complicated demands on the participants, demands that are sometimes welcome and sometimes not. It would be easier to refuse such a request in almost any

other context. One is certainly not being used in any troublesome way if a stranger offers a few dollars per page for typing, and one may take the job or leave it. If one's intimates ask the question, things become more complicated.

Perhaps one may point out that what is really going on in this typing story is that because the wife feels coerced by intimacy she cannot give genuine consent. And it may seem this cuts against my general claim, since in the pillow story, Nussbaum is careful to point out that her lover is consenting. But even if this right, what it suggests is that in contexts of intimacy, consent is even murkier and harder to understand than in contexts involving strangers. And I think this is true: the complexities of intimate relationships ensure that the participants are involved in a web of interwoven requests, demands, and favors. And if consent is important to the morality of instrumental use -- as it seems to be and I'll argue below that it is -- then our lack of confidence renders such use more morally worrisome than in clearer cases. And so my general points stands: intimacy may make use more morally troubling rather than less.

The fact that someone can choose to be used -- as a pillow, or a worker, or a typist - - suggests that there is some unclarity in the idea of "using a person as a mere means." Let me distinguish two versions of this. In the strong sense, this might involve utter disregard for the autonomy of the other person: A uses B as a genuine tool of A's purposes, really as a thing, when A fails to consider B's decisions, when A coerces B, or deceives B or simply forces B to do what A wants. Such use is always morally problematic; and intimacy, symmetry, and mutuality do not seem to help, nor do they create special conditions under which such use may be benign. Clearly A may not violate

B's autonomy just because A and B are in an otherwise respectful relationship, and A's use of B in this sense could not be morally improved by the fact that B uses A also in this sense, or by the fact that A and B's use of one another lead them, in mutuality, to violate one another's autonomy. That this kind of use is always wrong is consistent with what Nussbaum says: in the story of a lover-used-as-a-pillow, she is careful to point out that he is tacitly consenting. So there is no surprise here. Let's call this "strong instrumental use."

The second kind of instrumental use does not involve violations of autonomy: it is the way we treat a person when we do not care about their ends, or take their general wishes and desires into account.<sup>12</sup> This seems to be the relevant kind of use in the pillow story: I do ask my lover "May I put my head here?" But I do not worry about whether he has some unexpressed desire to go into the kitchen or check his email. I figure if he decides he wants to get up he'll protest. The difference is subtle but important: we may respect a person's autonomy by respecting their decisions in the appropriate domains, while simply not concerning ourselves with their wishes and desires in general. We fail to make their ends our own. If we treat someone in such a way that they further ends of our own, consensually, while we do not concern ourselves with their ends, this is what I call "weak instrumental use."

To see the difference, consider these examples. If we decide to drive to work together, and split the driving by half, and I do not worry about whether you would prefer doing less of the driving, or no driving at all, this is consistent with respect for autonomy and is weak instrumental use. If I hold a gun to your head and force you to drive me, this

is strong instrumental use. If I hire you to do some typing for me, and I do not ask myself whether the wage is sufficient for you to buy new school clothes for your adopted grandchildren, or whether you enjoy the work, this is weak instrumental use. If I coerce you into typing for me, this is strong instrumental use, regardless of whether I am paying. If you mow my lawn, because I'm too weak to do so, or because you're just a nice guy, and I let you, this is weak instrumental use; if I deceive you or trick you into doing so, this is strong instrumental use. Weak use involves respecting a person's stated permissions, while ignoring the full range of their wishes and desires.

This "weak" kind of instrumental use is, I claim, one of central importance in thinking about sexual morality, and is usefully distinguished from violations of autonomy. If A has sex with B in a way that is non-consensual, this is one kind of moral situation; this is generally morally wrong. If A has sex with B and fails to take all of B's ends and desires into account, while respecting B's autonomy and self-determination, this is a quite different moral situation (and is, I'll argue below, morally benign, if consensual, whatever the relationship of the participants). This kind of behavior on the part of A is highly characteristic of "sexual use" as we ordinarily think of it. It covers cases in which A is so lost in passion that A temporarily ignores B's desires and wishes, using B to satisfy or increase A's own pleasure; it covers cases in which B wants to be dominated in sex, and asks to have his or her wishes ignored; and it covers cases in which A is self-centered and self-absorbed and just doesn't bother to take B's desires and wishes into consideration. It covers actions such as A using B's body to stimulate or excite his penis, A allowing his or her thigh, or hands, or whatever, to be used to stimulate or excite B's

clitoris, and A's being sexually stimulated by B's appearance. Strong instrumental use, on the other hand, covers cases like rape, which are obviously in a different moral category from these weaker kinds of use.

Understood this way, it is not at all clear that Lawrentian sex is, as Nussbaum says, free from instrumentalization; the process of becoming sexually inflamed by another person often involves a temporarily self-absorbed focus on one's own pleasure, and this self-absorption is often taken as a sign of satisfying passion in one's partner. Indeed, it is because this sort of instrumental use in this latter kind of context seems so appealing that sexual use is puzzling in the first place. It is not only appealing to the user, it is appealing to the usee: a partner who is moved by intense desire and sexual excitement to become momentarily focused on his or her self is often taken to be part of the ideal sexual encounter. This seems, indeed, part of what Nussbaum finds admirable in Lawrentian sex.

But what is crucial here is that this kind of instrumental use may be -- may even typically be -- more morally troubling in contexts of intimacy than otherwise, and isn't affected by symmetry and mutuality. If the man in my example asks his wife to type his paper, respecting her autonomy but failing to consider her desires and wishes, this seems somewhat strange in their context of intimacy. We tend to have an intuition that cases of being "lost in passion" provide good reasons to use another instrumentally, and that being selfish is a bad reason to use another instrumentally, but notice that having a sexually selfish partner when one wants attention is probably more upsetting in cases of intimacy than in cases involving strangers. And if an employer fails to ask his typists about their

desires and wishes but respects their autonomy -- by, say, obeying laws about wages and so on -- this is benign.

Symmetry and mutuality do not seem to matter in the right way here either. If partners each ignore one another's desires and wishes symmetrically, how could this improve use that is otherwise problematic? It doesn't seem to help to think that A's ignoring B's desires is prompted by B's ignoring of A's.<sup>13</sup> Even if the relationship of the participants is caring and respectful in all domains but one, and then they use one another only in this domain -- ignoring one another's desires and wishes -- this doesn't seem to make such use any better. Unless, of course, they want and agree to do so. Presumably the idea that symmetry and mutuality matter comes from an intuition that pleasure in sex should be spread around equally. But there is no moral rule that this must be so if the participants do not want it to be so, and certainly there are sex acts in which A may forego A's own pleasure to focus on B, purely out of excitement or the desire to make B happy. And this shows it is the choices of the participants that matter, not symmetry or mutuality.<sup>14</sup> Of course if one partner feels coerced into "choosing" to be sexually used, there is a moral problem, but all this shows is that consent is a difficult matter, and as I've said, it can be more difficult in cases of intimacy. I discuss consent further in the next section. For neither kind of instrumental use is intimacy, symmetry, or mutuality morally significant in rendering use permissible.

In the passage cited, Nussbaum makes reference to a "surrender" of autonomy as part of Lawrentian objectification. It's not clear what exactly this entails, and how it is related to consensual instrumental use, but perhaps one might try the following as an

explanation of the importance of the relationship: A certain special way of interacting sexually allows us to nuance the distinction between the two kinds of instrumental use; as long as we are generally attentive to our lovers' desires and wishes, we might say, we can temporarily behave as animals, acting impulsively toward one another without having to worry about the other person and whether he or she would want to be objectified in the relevant ways. Only in contexts of intimacy and care is this mode of relationship possible.

It is plausible to think that a certain kind of attention and respect for the other must suffuse any morally permissible objectification; as I explain below, such attention and respect will always be needed to understand whether the participation of our partners is in a mood of ongoing consent. But this -- rather minimal -- attention and respect is just as likely to be possible among strangers as it is among intimates, and does not suffer from being one-sided. It requires only a basic system of communication of one's wishes; in difficult cases one can always simply ask how the other person is feeling. Nussbaum herself seems to acknowledge this when she suggests, in an otherwise puzzling passage, that a certain kind of sado-masochistic sex can be morally acceptable, and cites as an example a short story that features an encounter between two strangers.<sup>15</sup>

Accurate information about whether one's partner's choices are genuine or coerced can be easier to come by in cases involving strangers than in cases involving intimates, for reasons I've already mentioned. Those in ongoing, caring relationships often find themselves in a web of complex exchanges of favors and so on, and symmetry and mutuality can create demands for reciprocity. So "just asking" is certainly not less

effective in one-sided or anonymous cases of use.

Perhaps the claim is that what is necessary goes beyond such minimal attention and respect. Recall Nussbaum's question about casual sex: "In the absence of any narrative history with the person, how can desire attend to anything else but the incidental, and how can one do more than use the body of the other as a tool of one's own states?" Her worry here is more about fungibility -- which she associates with a kind of politically suspect and superficial interest in race, class and the like -- than about instrumental use. Notice first that the claim as it stands seems false: strangers can have passionate sex in which they hang on one another's every word and glance. And this attentiveness need not be to what is incidental: we do not think that a conversation between strangers is one in which we can attend only to the incidental, or that a conversation between strangers involves using a person as a means to conversational pleasure.<sup>16</sup> It is striking that it is not obvious from the Lawrence passages that the characters involved are not strangers, since the conversation described involves mostly their anatomy, and seems a conversation that could happen between any two people, whether they know one another or not.

But perhaps what lies behind the thought is that what matters is the mode of interaction; narrative history or intimacy simply make such a mode of interaction more likely. Thinking this way might give us a new interpretation, and a new idea: it is not the context that really matters, it is the mode of interaction; the restrictions on context are there only because it seems that a certain context tends to enable this mode of interaction. This would be consistent with the idea that in exceptional circumstances such a mode of interaction could happen between strangers, but would point to a new kind of context as



crucial -- that of the sexual activity itself.<sup>17</sup>

Various theorists have thought that the relevant context is the one of the interaction. Proponents of such an approach typically point to mutuality, a fair distribution of pleasure, and the right kind of psychological states as crucial to morally benign sexual use. With respect to the first, I have argued above that if there is a kind of use that is generally morally problematic, then mutuality cannot render it morally benign. I have also argued above that it is not equality that matters in sex, but rather the choices of the participants. And notice further that psychological states are notoriously unpredictable, beyond our control, and often unknown to us.<sup>18</sup> This seems especially so in the sexual context: A may have sex with B to get back at A's spouse while thinking that the sex is done out of wholesome desires; often these are the kind of psychological facts that we come to realize about ourselves years after the fact.

Perhaps one might try to circumvent these difficulties by pointing to a very particular role for mutuality: as a way of understanding the reasons given for consent. What matters in sex, one might say, isn't simply that consent is given, but also why consent is given. If it is given freely, openly, in a spirit of generosity, that is good, but if it is given in a spirit of a contract, an exchange, getting something for something, this is bad; it is bad because it commodifies sexual activity. I discuss this toward the end of section III, where I argue that we already think of sex this way, insofar as demands for equal sexual pleasure often do seem appropriate.

I conclude that however we understand "instrumental use" -- as involving violations of autonomy or as the simple failure to take into account the desires and wishes of

another -- nothing about the context of the relationship, or the mode of interaction, can generally make instrumental use more morally acceptable. In that case, whatever problems sexual instrumental use has in contexts of anonymity and one-sidedness, it has in all cases.

### III. Consent to sexual use and sexual objectification

I take it that strong sexual instrumental use -- acting in ways that violate consent -- is generally morally wrong; I won't discuss this further. If I am right about the distinction, however, our next question is, when, if ever, is it appropriate to sexually instrumentally use people in other ways? The answer I am going to pursue is, whenever they consent to, or ask for, or want, to be used in this way -- whenever, that is, autonomy is not being violated. And I'll argue the same moral applies to other forms of objectification -- they are benign when in accordance with respect for autonomy.<sup>19</sup> I share the intuition suggested above that equality and respect are essential for morally acceptable objectification, but I will argue that what matters is largely background social and political equality, and that the reason these matter is that only in their presence is consent genuine; the context of the relationship is significant only in the minimal sense that the relationship must not be used to coercive ends, as it is, say, when an employer demands sex for promotion. If this is right, the crux of the moral matter when it comes to sexual objectification is simply respect for autonomy.

Let me start with consent to use. On Thomas Mappes's consent-based theory of sexual relations, for A's treatment of B to be morally benign requires that B's involvement

with A's ends be based on "B's voluntary informed consent" (Mappes 1987, p. 249).<sup>20</sup> It follows, he says, that immoral use of another can arise either through coercion or through deception. In the case in which B's consent is genuine and the moral status secured, Mappes says that A hasn't "used" B at all, since the kind of "use" that is relevant and of interest here is the kind that would be morally questionable, and this arises only when autonomy has been violated (Mappes 249-150). This means that while one may consent to sexual activities involving another's ends, one may not, strictly speaking, consent to being used, since once one consents, one is no longer being used. This is a standard way consent-based theories treat the morality of sexual use.

But I claim that one *can* consent to being used. This may sound like a verbal quibble, but it is not. I said above that the weaker kind of instrumental use, in which consent is respected but one's desires and wishes are ignored, is a highly significant one in the sexual realm, and the examples I mentioned show that there is an important moral question as to when it is morally benign. But consent here is not to any particular activity, it is rather to a certain mode of interaction. Typically, in the kind of example mentioned above, in which passion causes A to temporarily pursue A's own pleasure and ignore B's desires and wishes, B won't mind, because B wants A to have this experience; it's often part of what one hopes for in having sex with another person. This shows that there is an important question of sexual use that a standard sexual consent theory leaves unaddressed.

Notice: consenting to be used frequently goes beyond consent to a particular interaction. Imagine I dress up in a micro-mini skirt and high-heels, intending to give

sexual pleasure to those who see me, and unconcerned about both the nature of that pleasure and whether it is reciprocated, it seems I have consented not just to being looked at, but to being looked at in a certain range of ways, unspecified in advance, and also to a certain mode of interaction. If I put sexually suggestive pictures up on the internet (as many people of both sexes do), intending for others to see them and sexually enjoy them, it doesn't seem quite right to say that I am consenting to an interaction; what I'm consenting to is being used for sexual pleasure. This suggests that it makes more sense to say that one can consent to being used than to say that consensual activities are ones in which a person is not used after all; it is in this sense that we have more than a mere verbal quibble.

So how does one consent to such a mode of interaction? It may seem that there is a sort of paradox here, since respecting autonomy requires paying attention to personhood, whereas agreeing to be weakly instrumentally used involves having one's personhood ignored. But in fact A can respect B's autonomy while using B sexually as a means in this weaker way. To see how the mechanics of this work, consider the case of consensual role-playing involving sexual dominance and submissiveness. In such role playing, respect for consent is necessary and deeply felt; nonetheless, to be instrumentally used -- and objectified -- in the sense I am describing can in some cases be an important part of the interaction. Those who engage in such role playing have practices set up that will allow them to signal to one another whether B's consent is ongoing -- special words, gestures, etc. -- even while B is being treated as an object, having his or her wishes and desires in a certain sense ignored.

I propose that we can understand the combination of consent and weak instrumental use in the ordinary sexual domain similarly. A uses B in the weakly instrumental way when A generally ignores B's particular desires and wishes, and uses B to pursue his own ends, but is attentive to whether B's consent -- both to particular practices and to the use itself -- is ongoing. We do consent in these ways by saying things like "Do whatever you want," or "I'm yours," but consent can be given silently or tacitly too. Of course, in real life, our practices involving consent in sex often go wrong: people have different ideas and expectations, the participants may make incorrect assumptions about the other's state of mind. In real life one does not pause to ask for consent for every new interaction, and even if one did, this would not ensure that things go smoothly. I cannot always control my own states of mind, or even predict them, and this means I may not be fully in control of when I am and am not "using" someone as a tool of my own purposes as opposed to simply enjoying sex in some togetherness kind of way.

Indeed, sex is risky. But the fact that we can have painful misunderstandings does not show that there is something wrong with the idea that consent is what matters, it only shows that consent is sometimes difficult to accurately determine. Perhaps one might object that this is where love and intimacy are relevant. But in fact the risks of misunderstandings apply in cases of intimacy, symmetry and mutuality as much as anywhere else -- as I argued in section II, perhaps even more so -- and as I explained there, the stakes in cases of intimacy are often much higher -- we have so much more to lose. What is desirable in minimizing mishaps and misunderstandings is a kind of attentiveness to one's sexual partners, but this attentiveness is certainly possible among

strangers and in a range of relationships. Indeed, as my discussion shows, it is often easier to judge whether a stranger's consent feels free and uncoerced than it is to judge that of our intimates, since intimates feel such a complex range of emotions toward one another. So, we have a preliminary conclusion that consent to weak instrumental use is possible.

As I mentioned above, non-sexual weak instrumental use is common; it arises in contexts of employment, contracts, exchanges of favors, and so on. In these context it is benign. So, absent concerns about the specialness of sex, it will be benign in the sexual context as well.

And now we're in a position to discuss other kinds of objectification, since the choice to participate is relevant in the same way and informs us about the morality of choosing to be objectified across the board. Notice that other kinds of objectification are generally taken to be benign in non-sexual contexts when they are consistent with respect for autonomy: workers are appropriately treated as fungible, and their feelings need not be taken into account at all times. We can choose to have our physical bodies "violated" -- as we do in, say, consenting to cosmetic surgery. We can choose to be treated as inert, however strange that would be. Ownership, however, does seem to be generally morally wrong, because it violates autonomy. So unless the sexual context is special (and I discuss this below), all kinds of sexual objectification are morally benign when in accord with respect for autonomy.

I claim that my consent-to-objectification approach supports, rather than undermines, the rich Nussbaumian analysis of objectification into its different types.

Notice, if we say, along with Mappes, that when one consents one is no longer being "used" at all, then it would be natural to say that when objectification in general is consensual this is not "objectification" at all. Even if we do say this, my main points about the ethics of use still stand: it is respect for autonomy that is morally significant rather than other aspects of use. But, in parallel with what I said about use, to deny that one can choose to be objectified seems a description less faithful to the facts than to say simply that one chooses to be objectified, and indeed, if we deny this, we can no longer even employ the Nussbaumian analysis meaningfully to consensual interactions. This would be a loss, since it is clearly a delicate, nuanced, and informative way of thinking about the various kinds of objectification. For this reason one ought rather to say that one can consent to being objectified.

If I am right about consent and objectification, respect for autonomy and consent are what matter, and in this case, it is the background context that is most important, since it is crucial to ensuring that consent is possible and genuine. Insofar as society is so organized that some persons must allow themselves to be used or otherwise objectified -- because they are poor, because they are regarded as non-autonomous, because they are simply regarded as sexual objects and therefore always used -- there isn't morally acceptable sexual use. Thus sexism and inequality of various kinds can make sexual use morally problematic because they make consent impossible. One possibility along these lines might be that because of sexist cultural pressures, our "desires" or "choices" to be used in these ways can never really be autonomous ones -- they are always "adaptive preferences."<sup>21</sup> It follows that as long as background conditions are right, there is nothing

wrong with one-sided, anonymous, or just-for-sexual-pleasure objectification. And then there is no general argument that because they objectify persons, pornography, prostitution, and one-sided, anonymous, or just-for-sexual-pleasure casual sex are wrong. So the standard view is false; it is wrong to say that while objectification can be morally permissible as a part of intimate, loving sex between those who care about one another, it is otherwise morally wrong; it is wrong to say that this is why pornography, prostitution, and one-sided, anonymous, or just-for-sexual-pleasure casual sex are inherently morally suspect.<sup>22</sup> They are suspect, if at all, because of sexism and inequality.<sup>23</sup> This is the way in which "context" matters.

My particular conclusion about the morality of sexual objectification depends on an assumption that from the morality of consensual objectification in general we can determine the morality of consensual objectification in sex. And this assumption, of course, does not hold if there is something special about sex -- if there is something particular about the sexual context that entails that *here*, consent to use and objectification is not sufficient. Perhaps along these lines one may say that there is something special about the sexual context that consent to objectification is not sufficient because of something particular about the nature of sexuality.

Notice, first, however, that this line of thought concedes the basic falsity of the standard view, since on that view it is in virtue of the general wrongness of objectification, not because of specifics about sexuality, that sexual objectification can be morally wrong even when consensual. Indeed, Nussbaum and others take care to discuss use and objectification as a general class of wrongs, from which the wrongness of various



sexual practices are inferred. If I am right about consensual objectification and weak instrumental use in general, such a line of argument is no longer open. Instead, the suggestion here would be that in sex in particular, consensual objectification may be morally wrong.

What is special about sex that might make this so? The most common thought along these lines focuses, again, on use: because sex can be intimate and renders us vulnerable, it is wrong to use someone in this domain in ways that would be perfectly permissible in other domains. But in other domains of life that are intimate and render us vulnerable, instrumental use is perfectly acceptable when consensual. Being taken care of in illness or old age can be very intimate and often places us in vulnerable conditions. Some memoirs recount moving stories of adult children caring for their ill and old parents; the caring sometimes brings about a great intimacy between them, and certainly the ill or older person is highly vulnerable. And how do we tend to see use in this situation? If I am old, and need my child's help getting into and out of the bathtub, I may use him this way, and this can be loving and caring. But if I have no children, I will find someone else to help me, and it seems that while I may trade services of another kind, I may simply pay my helper. What matters is that I respect my helper's autonomy by paying him properly, keeping up my end of the bargain, and being respectful in the ordinary way. These are the same concerns that should matter in the sexual case.

Perhaps one may say that what is special about the sexual context is that in this context, what matters is why consent is given. The reason, one may say, that instrumental use in loving sex is different from weak instrumental use in pornography,

prostitution, and one-sided, anonymous, or just-for-pleasure casual sex is because the latter is too much like a worker's contract: when I want to please my lover out of love or lust, this is admirable, but when I want to please my lover to get something in return, this is not admirable, and may be bad. These practices turn sex into too much of a deal, an exchange of goods. This thought is sometimes expressed by saying that the practices "commodify" sexual activity or sexual agents -- treating pleasure or persons as market goods -- when they should be special and uncommodifiable.

Notice again, this still concedes the basic falsity of the standard view, since it concedes that it is not merely in virtue of some act objectifying a person that such practices are wrong. But I claim there is a further problem with this commodification claim. Many people thinking about sexual use have an intuition that somehow the proper distribution of pleasure in sex is morally relevant to use.<sup>24</sup> I argued in section II that it is not the equality that matters but rather the choices of the participants. That said, it seems the participants are reasonable if they insist on a certain amount of pleasure. If A expects that after giving B oral sex he or she will be deserving of a certain amount of reciprocity, and if B expects so too, this seems morally just fine, and sexually appropriate. But thinking this way treats sexual pleasure and sexual agents, in a way, as commodities to be exchanged under certain agreed on conditions. So we already tend to think of sex as involving an exchange of services of a kind.

It's possible that seeing sex in this implicit contract way can be uncomfortable or strange, but I think a refusal to see it this way can be worse. A reluctance to appreciate this aspect of sex may lead people to hope and wish even more for that elusive item, the

simultaneous perfect sexual ecstasy, and to look down on or even disapprove of sex that seems to render this problematic, such as oral or anal sex. In extreme cases this may fuel a kind of prejudice against homosexual sex. But it is wrong to think that moral or good sex must involve this particular kind of mutuality. Consider the heterosexual case. We now know that the primary sexual organ for women is the clitoris, and we know also that those activities that are best for stimulating the clitoris in just the right way are not always those that are maximally stimulating for a woman's partner. Sometimes, maybe, but often not. The woman who asks, in the name of fairness, for a temporary focus on her own pleasure is doing nothing wrong, and thus thinking of sexual pleasure as a commodity does not violate our ordinary understanding.

I conclude here that since one can consent to objectification and weak instrumental use, since consent is the crucial matter in other cases of objectification and weak instrumental use, and since weak instrumental use is characteristic of the best sexual objectification, consent should be the criterion for the morality of objectification in the sexual context as well.

My conclusions about consent lead to a prima facie argument for the morality of pornography, prostitution, and one-sided, anonymous, or just-for-sexual-pleasure casual sex, under the right background conditions. These, if consensual, involve weak instrumental use, which is benign. I say "prima facie" here advisedly, since there are many other arguments for moral concern over these practices, and I cannot consider them

all here. I hope to have at least established that it is not enough to say, "These practices objectify persons and for this reason they are inherently wrong," and to have shown why, when one says, with Nussbaum, unless instrumental use takes place "in a larger context of regard for humanity," it is "a central form of the morally objectionable," what matters is not the context of the nature of the relationship but rather the ways in which background context -- especially background social and political context -- allow for genuine consent and for respect for autonomy.

As I mentioned in section III, one possibility for proper worry over objectification might go something like this: because of sexist cultural conditions, choices to be used or objectified can never be genuine choices; they are always "adaptive preferences," reflecting "deformed desires," -- choices made in response to the pressures of non-ideal surroundings, rather than choices that express one's own self. This possibility is consistent with everything I have said here, and raises difficult questions about just what kind of background political and social equality are necessary for benign objectification.<sup>25</sup> In some places, Nussbaum suggests that the kinds of objectification she deems morally problematic lead to, or create, or reflect various kinds of inequality, or that instrumental use (of a seemingly weak kind) will lead to denials of autonomy. Such claims are also consistent with what I have said here, and raise difficult questions about the creation and impact of cultural conditions, and about the psychology of using and choosing to be used.<sup>26</sup> What I hope to have shown is why these various questions the right questions to ask; I leave answering them for another occasion.

Nothing in this direction challenges my overall claims that intimacy, symmetry, and

mutuality are not necessary for morally benign sexual objectification; that respect for autonomy is the only morally significant item in the ethics of sexual objectification; and that to say that some practice sexually objectifies a person is not, in itself, to say that the practice is wrong.<sup>27</sup>

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<sup>1</sup> Those pursuing such a line of thought vary in their judgments about the proper boundaries, so what is troubling casual sex for some may not be for others, and some may not include casual sex at all. But the kinds of casual sex I have in mind here as mostly likely to be considered along with pornography and prostitution are those in which the sex is undertaken for the purpose of an exchange of sexual pleasure and excitement, and is either asymmetrical with respect to desire (which I call "one-sided" casual sex) or happens between persons who don't know one another (which I call "anonymous" casual sex).

<sup>2</sup> Cass Sunstein (1995); a review of Nadine Strossen (1995). Martha Nussbaum cites this passage in her (1995) paper, "Objectification," pointing out that the review is largely a negative one of Strossen's positive defense of pornography.

<sup>3</sup> It seems to me this view is "standard" in the following sense: that when people generally claim that what is wrong with these practices is that they objectify persons, they usually have something like this in mind.

<sup>4</sup> I discuss only inherent wrongness here; it is still possible that various practices are wrong in virtue of their consequences. Below I consider the possibility that when objectification is morally permissible it should no longer be called "objectification."

<sup>5</sup> See Dworkin (1974). With respect to Nussbaum's claims, it is striking that while the instrumentality of the use is highly emphasized, these other kinds of objectification are notably absent. O is never treated as fungible: Sir Stephen keeps no other slaves, and the other women who figure in the book are fascinating and unusual. For example, the one other woman Sir Stephen shows interest in is Jacqueline, a beautiful model that O has photographed. His interest arises because of O's: O herself is fascinated by Jacqueline. And of course she is not inert, since her ability to obey is crucial. Since she is given the opportunity to leave, we cannot say that she is owned. For the same reason I doubt her autonomy is denied. In fact, in the story O's choice to stay in her relationship is treated as a genuine choice, and the author takes pains to give O a rich ordinary life to which she could return, and to describe various moments at which O is, indeed, explicitly given the option to simply leave (see e.g. p. 187, when Eric asks her to marry him). One may complain that such a story is implausible and even sinisterly so, but this is a different complaint from the one being raised here about O's use. See also note 26.

<sup>6</sup> As Alan Soble (2001) has argued, it is not quite clear what precise conditions Nussbaum has in mind for the morality of sexual use to be secured. Sometimes she focuses on the context of the relationship, other times on the quality of a particular interaction. I

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consider both in what follows. Also, I have changed "narrative history" to intimacy, which seems to me intuitive and faithful to the spirit of her analysis.

<sup>7</sup> Nussbaum does not draw these conclusions in her paper but they seem to follow from her discussion and they are consistent with her discussions of a sado-masochistic story and of *Playboy*. The claim about casual sex also fits with Nussbaum's discussion of a scene in a novel by Alan Hollinghurst, describing gay sex in an anonymous and carefree spirit. She notes Hollinghurst's description of the way the race and class of the men figure into the scene, along with observations about penis size and so on, and says that these aspects of the use violate a kind of democratic and egalitarian approach to sex. This is where she raises the point about narrative history mentioned above. Such a characterization fits also, I believe, with the ordinary sense in which people often claim that sex is immorally objectifying.

<sup>8</sup> I focus on instrumental use here and in most of this paper because it figures so prominently in Nussbaum's overall conclusion, and because it generally looms largest in the line of the thought from objectification to morally impermissibility central to the standard view. I discuss other forms of objectification in section III.

<sup>9</sup> Soble concludes that "Nussbaum's] solution to the sex problem is inconsistent with Kant's Second Formulation, for that moral principle requires that a person be treated as an end *at the same time* he or she is being treated as a means" (emphasis in original).

<sup>10</sup> One might criticize this on Marxist grounds; at one point Nussbaum refers to MacKinnon's claim that "sexuality is to feminism what work is to Marxism" (1995, p. 263). At least descriptively, I think it is safe to say that being used by employers is regarded as morally benign when done consensually and with ordinary respect.

<sup>11</sup> I am assuming here that there is no simple alternative solution -- that the parties involved are too poor to, say, simply hire another typist.

<sup>12</sup> Weak instrumental use seems to come close here to denial of subjectivity, but the difference is that subjectivity concerns feelings while instrumental use concerns desires and ends.

<sup>13</sup> Here I am in agreement with Alan Goldman when he writes, "The egotistical desire that one's partner be aroused by one's own desire does not seem a primary element of the sexual urge, and during sex acts one may like one's partner to be sometimes active and aroused, sometimes more passive" and ". . . [sometimes the] awareness of an avid desire in one's partner can be merely distracting." (1977, p. 278).

<sup>14</sup> Some optimists may hope that good sex will have simultaneous pleasure in all cases, so no choices are even necessary. I argue in section III that this is too optimistic about sexual pleasure.

<sup>15</sup> The story is Pat Califia's "Jenny," in her (1984). Soble points out how poorly the suggestion fits with Nussbaum's overall account (2001, p. 244).

<sup>16</sup> The fact that sex involves bodies does not seem a relevant difference here, since phone sex raises the same questions about use that physical sex does.

<sup>17</sup> That is what Soble calls "Internalism." For an internalist suggestion that what matters is the proper distribution of pleasure, see Goldman (1977), pp. 282-283, and for an

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internalist view that what matters is the right psychological attitude, see Jean Hampton (1999). For discussion see Soble (2001, pp. 229-235).

<sup>18</sup> For more on this theme, see my (2007).

<sup>19</sup> "Respect for autonomy" is itself a complex notion, given the way our choices are shaped by our cultural surroundings. But notice that whatever one thinks about the possibility of genuine consent or autonomy, my point still stands that intimacy, symmetry, or mutuality are not what distinguishes morally benign use, either directly or by increasing our confidence that consent is genuine. Of course, one may still think that pornography, prostitution, and one-sided or anonymous casual sex are wrong on grounds that they cannot be legitimately chosen in certain cultural conditions. This is consistent with what I have said here, though I am doubtful of its truth. I say a bit more about this below in the conclusion, and discuss it in more depth in my (forthcoming) paper, "Sexual Use, Sexual Autonomy, and 'Adaptive Preferences.'" There I argue that in a range of cases in which opting-out costs are low, one respects sexual autonomy best by trusting stated preferences.

<sup>20</sup> For a full discussion of consent in a similar spirit see Wertheimer (2003).

<sup>21</sup> I discuss this a bit more below in the conclusion, and in greater detail in my (forthcoming) paper, "Sexual Use, Sexual Autonomy, and 'Adaptive Preferences.'"

<sup>22</sup> I leave open the possibility that these practices are bad because they lead to bad consequences, including the possibility that consensual instrumental use leads to non-consensual kinds of objectification.

<sup>23</sup> This may include the power-inequalities of the participants, if this can be used to coerce.

<sup>24</sup> As I mentioned, Goldman stresses the importance of reciprocity and fair distribution of pleasure; see his (1977), pp. 282-283.

<sup>25</sup> One interesting thought in this direction is the possibility that consenting to be used may create conditions in which the consent of others cannot be genuine because the costs of opting out are high. For example, if every woman consents to X, the pressure to do X grows; the choice to consent to X may then become "adaptive" and fail to be genuine. I pursue these questions and this line of thought in my (forthcoming).

<sup>26</sup> In discussing *Story of O*, a violent pornographic story, and a *Playboy* pictorial, Nussbaum suggests there are denials of autonomy, and thus immoral objectification, involved; though she does not discuss consent in the given cases. This is striking, because in fact, in *Story of O*, O is given the option to leave; in the pornographic story the use begins while a woman is sleeping but it is made clear later on that the interaction is one of mutual pleasure and interest; and in the *Playboy* pictorial Nicolette Sheridan is pictured playing tennis in a tiny skirt that flies up to show her ass. On the face of it, these are roughly consistent with respect for autonomy, so it is puzzling that there is no argument to the contrary. Perhaps one might want to say here is that for particular reasons, consent in these cases cannot be genuine, or that the practices instantiated create sexist conditions under which choice is impossible. Both of these would be consistent with my claims here about the importance of autonomy and consent. Thanks to Alan Soble for sending me a scan of the Sheridan photo.

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