

The Problem with Sexual Promises*

Hallie Liberto

I first distinguish promises with positive sexual content (e.g., promises to perform sexual acts) and promises with negative sexual content (e.g., promises to refrain from sexual acts—as one does when making monogamy promises). I argue that sexual content—even positive sexual content—does not cause a promise to misfire. However, the content of some successful promises is such that a promisee ought not to accept the promise, and, if she does accept, she ought then to release her promisor from the promise. I argue that both positive and negative sexual promises have content of this kind.

Consider two different types of promises about sexual acts. First, there are promises that people make to engage in particular sexual activities. We do not tend to take these promises very seriously. We remind young people that they may change their minds about having sex at any time, no matter what they have said or done in the past, no matter what sort of expectations they have raised in their partners. We say they may change their minds at will and without reasons. If we are correct when we issue

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these reminders, then that must mean that promises to have sex are very different from most other types of promises. After all, permissibly breaking a promise ordinarily requires a reason, at the very least—typically a very powerful one. But promises to engage in sexual activities are not the only sexual promises we make, nor are they the most common. We often make promises to refrain from having sex with other people. We take these promises not to have sex very seriously.

This article explores both of these sexual promises—ones that I will refer to as *positive* and *negative* sexual promises throughout. However, my goal is not to accommodate or offer a theoretical explanation of our intuitions about these cases. Indeed, I hold that our intuitions about most sexual matters are deeply suspect.¹ Instead, I want to use the intuitions that we have about these positive and negative sexual promises as a starting point in my investigation. I will argue that sexual promises of either sort are problematic. However, what makes them problematic, I argue, has to do with the role of the promisees—those to whom the promises are made.

Take John and Jane, young adults in college. Enthusiastic about John's upcoming football game, Jane promises John that she will have sex with him after the football game if his team wins, as an incentive for him to train harder and perform his best in the game. I call this case **Football Game**. John's team wins. Would it be permissible for John to hold Jane to her promise, even if she no longer wants to have sex with him? This seems problematic. Most of us will think that he ought to release her from the promise. Indeed, as soon as the promise is uttered, and if John wants to have sex, John could respond, "I hope you do have sex with me, but I'm not going to hold you to that." Most of us think that this would be the decent thing to say.

Now take John and Jane ten years later. They are making promises to each other in the course of their marriage agreement. I call this case **Wedding**. Jane now promises John that she will not have sex with anyone else, whatever opportunities might arise. Most of us would not think that John was acting wrongfully if he accepted this promise or held Jane to this promise. We would not demand that John respond by saying, "I hope you don't have sex with other people, but I'm not going to hold you to that."

1. On this point I follow Tom Dougherty, who has recently noted the very flawed history of our moral intuitions about sexual cases—a history of condemning some sexual acts when they are, in fact, permissible (e.g., interracial or homosexual sex) and accepting other sexual acts when they are, in fact, impermissible (e.g., nonconsensual sex within marriage). Tom Dougherty, "Sex, Lies, and Consent," *Ethics* 123 (2013): 717–44.

In this article I am going to investigate the promisee, John, and his obligations in light of Jane's two promises. In order to conduct this inquiry, I first need to consider the various possibilities for what might be the promisor, Jane's, obligations. I conclude that no matter what her promissory obligations may be, or how and whether they are outweighed by competing moral considerations, John has a moral obligation to refuse both of these sexual promises or, failing that, to release her from them.

Section I handles the question: do positive sexual promises generate promissory obligation? I argue that they do. As the Football Game example stands, when Jane promises John to have sex with him, she incurs an obligation to have sex with him. This obligation might be outweighed by competing moral considerations, as with any promissory obligation. However, if John chooses to hold Jane to her word, Jane wrongs John by refraining from sexual activity with him. Section II responds to the question: is it morally permissible to accept positive sexual promises? I answer that it is not permissible. In fact, I argue that the content of certain promises generates an obligation for a promisee—an obligation to refuse the promise or, if already accepted, to release the promisor. I call these promises "overextensive" promises. I make a case that positive sexual promises are overextensive. Finally, in Section III, I argue that if positive sexual promises are overextensive, then so are negative sexual promises. We have an obligation to refuse promises made to us of the form: I will not have sex with anyone else. If we have already accepted such a promise from another, we must release him or her from it.

Thus, if I am successful, then this article will serve as a hefty blow against the moral acceptability of monogamy promises (although not against monogamy as a practice). For this reason, I should be very clear about what I take monogamy promises to encompass. Promises can be explicit or implicit. So, in any case in which both members of a couple take at least one person to have voluntarily incurred an obligation to refrain from having sex with people outside of the couple, then for the purposes of this article, that person has made a monogamy promise. A simple way of determining whether an implicit promise of this type has been made is to ask: would the members of this couple take the individual in question to be cheating if she or he had sex with someone external to the couple?² On the basis of my description, most ongoing romantic relationships involve monogamy promises. If my conclusions are correct, then most ongoing romantic relationships suffer from a serious moral problem.

2. Although it would not count as a monogamy promise, a negative sexual promise might be made by a member of a group. One person might promise that she will not have sex with anyone outside of the group. This article's conclusions about monogamy promises will also apply to such promises of sexual exclusivity as these.

Although this conclusion about monogamy promises is particularly ambitious, it is not the only or even the primary argument of the article. Section I argues that positive sexual promises succeed in generating promissory obligation. By itself, this argument should be interesting to those working on sexual ethics. The conclusion is certainly at odds with the advice that we give to young people—and the obligations that we tell them that they have incurred. Section II argues that the content of certain promises generates a duty in a promisee to refuse the promise or to release the promisor. The analysis of what I call *overextensive* promises should be interesting to those engaged in theorizing about promises, independently of my theses pertaining to sexual ethics. Finally, even if my reader rejects my proposal and analysis of overextensive promises in Section II, the conditional conclusion of Section III might still be convincing and interesting. After all, most people have the intuitions that I described at the outset: an intuition that John ought not to hold Jane to the promise in Football Game but certainly may hold her to the promise in Wedding. The last section contests this asymmetry.

I. ON WHETHER THE FOOTBALL GAME PROMISE OBLIGES JANE TO HAVE SEX WITH JOHN

First, it is important that we establish whether Jane's utterance in Football Game really counts as a promise and whether it obliges Jane to have sex with John (in the event that he does not offer her release). The answers to these questions will matter when we investigate John's obligations to Jane. Further, addressing these questions here provides me with an early opportunity to describe a variety of moral theories about promissory obligation. I take the arguments of this article to hold no matter which, if any, of these theories is correct. I am concerned with what Jane may or may not owe John. So, I limit my investigation to theories of promissory obligation that characterize promises as generating directed duties owed to the promisee, in particular. This leaves out some discussions of promising in the literature. For instance, John Rawls says that promise breaking is wrong because it is a form of free riding. We take advantage of the benefits of the social practice of promising without paying in (i.e., keeping our promises).³ However interesting this obligation might be, and however much it might correctly be described as a promissory obligation, it is what Jane owes to John in light of her promise that is the focus of my inquiry.⁴

3. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 344–50, and *Collected Essays* (Cambridge, MA: Harvard University Press, 1999), 60, 63.

4. I have elsewhere discussed the conditions that demarcate promissory obligation from other obligations that promises might generate. See Hallie Liberto, "Promissory Obligation:

In this article I assume that promissory obligation is a directed duty to a promisee such that the promisor *wrongs* the promisee by breaking the promise. This does not mean that a promisor does something impermissible by breaking a promise. The promisor might have overriding moral considerations for breaking his promise—considerations that override and do not dissolve the promissory obligation. In these cases, the promisor might wrong his promisee without acting impermissibly. For those who admit moral rights and who think that promises grant moral rights, we can say that promise breaking infringes the granted right, and this is how it wrongs the promisee. If the promise breaking is not morally justified, then the promisor violates the granted moral right held by the promisee.⁵ However, my arguments about promises do not in any way rely on a theory on which promises grant moral rights.

On most of the theories that I examine, a promise is a speech act (even if it is nonverbal), which means that a promise is a way of doing things with words—specifically, of giving oneself a new obligation.⁶ For this reason, it is important that I characterize Jane’s promise as a speech act that does not misfire. So, let us assume that Jane’s utterance is accompanied by all of the standard associated felicity conditions for promises as speech acts. For instance, Jane is sincere, Jane intends to do as she promises, and John believes that she intends to do as she promises.⁷ Jane intends for her promise to be morally binding. Both John and Jane take it to be the case that Jane now has a moral obligation (conditional on the outcome of the game) to have sex with John. Jane’s promise is voluntary; she is not coerced or deceived about the circumstances. In fact, John did not even solicit the promise from her. Further, John is not coerced or deceived when he accepts the promise.⁸ It seems that Jane’s attempted promise does not fail to be a promise in virtue of any of these structural and contextual features of the performance of the promise.

Against a Unified Account,” in *Oxford Studies in Normative Ethics*, ed. Mark Timmons (Oxford: Oxford University Press, 2017), 6:102–22.

5. This distinction between rights infringements and rights violations is implemented by Judith Jarvis Thomson, *The Realm of Rights* (Cambridge, MA: Harvard University Press, 1990).

6. See, e.g., J. L. Austin, *How to Do Things with Words*, ed. J. O. Urmson and Marina Sbisa (London: Oxford University Press, 1975).

7. *Ibid.*, 19.

8. David Owens makes a case that sometimes promises successfully generate obligations even when they are made in response to coercion or deception. He offers a nuanced explanation for when such methods employed to secure a promise from another person prevent the promise from successfully firing and when they do not. Owens also suggests that someone must not be coerced or deceived into providing uptake for a promise. David Owens, *Shaping the Normative Landscape* (Oxford: Oxford University Press, 2012), 231–32.

Does Jane's utterance generate the right sort of moral obligation in order for it to count as a promise? Let us examine a variety of the most popular, contemporary accounts of promissory obligation. These are the Expectation model, the Reliance model, the Trust model, and the Authority model.⁹ After each of my brief explanations of these theories, I will explain why Jane's utterance in *Football Game* counts as a promise.

T. M. Scanlon grounds promissory obligation in expectation. The expectation is generated by the promisor in the mind of the promisee. The promisee must prefer what is promised and believe that the promisor intends to perform what is promised.¹⁰ A broken promise frustrates the expectations generated by the promisor in the mind of the promisee, and it is this frustration of generated expectation that renders promise breaking wrongful. Humans have an important interest in having information about the future, for planning and anticipating events. Making a promise is like giving someone a map of some part of the future. Promise breaking renders the map faulty. Niko Kolodny and R. Jay Wallace have more recently modified this theory, suggesting that we have a hybrid obligation in the case of promises: arising from the value of complying with and promoting the social practice of promising and arising from the expectations we have generated in the promisee.¹¹ I focus only on the second grounding for the hybrid obligation (the one shared with Scanlon's account) since if the relevant expectations are generated, then frustrating those expectations will have deleterious effects on the social practice.

Now, in *Football Game*, Jane has certainly generated an expectation in John that, if he wins the game, she will have sex with him that night. If she does not have sex with him, she frustrates this expectation. The map of the future that she provided to him for navigating his life is no good. This is particularly problematic if he has been relying on that map when making other decisions.

For this reason, Judith Thomson grounds promissory obligation in reliance. She characterizes a promise as an accepted invitation for the promisee to rely on the promisor.¹² In order to make it clear that John is relying on Jane's promise, I will emphasize and add some parts to the

9. For the Trust model, see Daniel Friedrich and Nicholas Southwood, "Promises and Trust," in *Promises and Agreements*, ed. Hanoch Sheinman (Oxford: Oxford University Press, 2011), 277–94. For the Reliance model, see Thomson, *Realm of Rights*. For the Authority model, see David Owens, "A Simple Theory of Promising," *Philosophical Review* 115 (2006): 51–77, and *Shaping the Normative Landscape*. For the Expectation model, see T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998).

10. Scanlon, *What We Owe to Each Other*, 304.

11. See Niko Kolodny and R. Jay Wallace, "Promising and Practicing Revisited," *Philosophy and Public Affairs* 31 (2003): 119–54.

12. Thomson, *Realm of Rights*, 294–321.

story. John trains harder than he otherwise would before the game because of Jane's promise, forsaking some other recreational activities. John turns down other activities for the evening after the game—like a homecoming party, because he prefers to go home with Jane and have sex instead. When Jane made her promise to John, she invited him to rely on her in this way.

Daniel Friedrich and Nicholas Southwood argue that, instead, promissory obligation arises when we make a promise because, in promising, we invite someone to trust in our moral character. Promise breaking is wrongful insofar as it is a breach of this trust.¹³ Now, I have already stipulated that John and Jane both have come to believe that Jane is under promissory obligation to John. Her promise invites him to trust that she will not breach her obligation. If she does breach her obligation, he has some reason to doubt her moral character. After all, breaches of obligation are, at the very least, in tension with good moral character.

Finally, David Owens and Seana Shiffrin separately argue that promises grant a promisee authority over a promisor. For instance, Owens points out that before I promise to drive you home from a party, I can decide whether I will take you home (should you want the ride). However, after I make the promise, it is in your moral discretion to determine whether I drive you home from the party.¹⁴ Owens thinks that a promise is broken when the promisor fails to allow the promisee to decide whether the promisor performs what is promised.¹⁵ Failing to allow the promisee to exercise this discretion is failing to recognize the promisee's moral authority over the promisor. It amounts to violating a right held by the promisee. Owens thinks that humans have an authority interest (as opposed to an information interest) that promise keeping advances.

It is in both John's and Jane's interest to be able to hold such authority and to be able to grant such authority, at least in normal cases of promising.¹⁶ Is any such authority interest advanced when it comes to positive sexual promises? Perhaps. John's life will usually go better if he gets the things he dearly wants. Having some moral pull on Jane—being able to appeal to moral reasons in convincing her to have sex with him—gives him leverage in getting this thing that he wants. Further, there are various reasons why it might be in Jane's interest to be able to give someone else this authority. She might not be able to secure John as her date for the evening if she merely predicted that she would have sex with him. How-

13. Friedrich and Southwood, "Promises and Trust," 278–80.

14. Owens, "Simple Theory of Promising," 53–54.

15. Owens, *Shaping the Normative Landscape*, 227.

16. In what follows, when discussing Owens, sometimes I will say "moral discretionary power" instead of "having normative or moral authority over" since the discretion characterizes the authority. Switching off between phrases is a helpful reminder of what composes the authority for Owens.

ever, putting herself under a moral obligation to him through a promise might be what it takes to persuade him. John is in a more powerful position if Jane does not feel completely free to change her mind—and he knows it. This turns the promise into an empowering tool for Jane to use in negotiations or as a gift, of sorts, for John—since she knows that authority on this issue is of value to John.

Like Owens, Shiffrin thinks that the practice of promising is valuable because of the interest we have in giving each other moral claims on us. If one partner is more invested in a shared plan than is the other partner, a promise can have an equalizing effect. For instance, if John is more invested in the plan to have sex than is Jane, he might feel that unequal investment creates a problematic power dynamic between them. By making a promise to have sex, Jane can remove that power inequality—by giving John authority over her sexual conduct. His investment in the plan to have sex now plays an equal role in both of their deliberations about the evening—since Jane is giving John the authority to decide whether they will or will not have sex. Shiffrin says of the promise (from B to A): “[The promise] . . . actively affirms A’s status as a free person, capable and worthy of exercising sound judgment about what is to be done. B’s relinquishment and transfer of that power to A works to neutralize aspects of the situation’s hazards and to restore an equal standing between A and B in this local domain.”¹⁷ As long as John is more invested than is Jane in the domain of sex, they might not have (or might not feel that they have) equal standing in that domain. Jane can equalize that standing with a promise—handing over to John’s sound judgment what is to be done with respect to sex.

Jane also has an interest in being able to end the conversations that John might initiate as a means of keeping Jane in favor of the plan—ones that could be bothersome and reinforce the unequal standing between them (in the domain of sex). As Shiffrin says, “Promises are, interestingly, conversation-stoppers. So much so that if A were to persist with reasons in the face of B’s sincere promise, it would represent a certain insensitivity or thickness, even rudeness; it is like being a poor winner.”¹⁸

These theories of promissory obligation—ones grounded in expectation, reliance, trust, and authority—compose a comprehensive account of contemporary theories of promissory obligation as a directed duty. On all of the accounts of promissory obligation that ground the obligation in directed duties toward others, it seems that Jane’s utterance does not fail to be a promise in virtue of failing to generate a moral obligation that can appropriately be called a promissory obligation.

17. Seana Shiffrin, “Promising, Intimate Relationships, and Conventionalism,” *Philosophical Review* 117 (2008): 481–524, 508.

18. *Ibid.*, 506.

Arguably, there is another way that an attempted promise might fail to be a true promise. The content of the attempted promise might cause the promise to misfire. For instance, Shiffrin believes that we cannot make promises to do immoral things.¹⁹ Further, promises regarding only past choices and behavior fail to be promises (e.g., “I promise that I have finished my homework” is not a promise. If the speaker has not done her homework, and the speaker knows it, she has not broken a promise, she has told a lie).²⁰ Now let us consider, why might the content of Jane’s attempted promise prevent it from being an actual promise?

Is Jane promising to do something morally wrong? First, even if she were promising to do something wrong—perhaps because she would be gravely hurting her best friend who is in love with John—her promise probably would not misfire, as Shiffrin suggests. There are many compelling cases, raised by Owens and others, that demonstrate the success of immoral promises.²¹ However, even if Shiffrin is correct that promises with immoral content misfire, there is no feature of this case that renders the performance of the promise’s content immoral. (Assume that Jane does not have a best friend who is in love with John.)

Are there exclusionary conditions implicitly built into the content of Jane’s promise to John that free her of promissory obligation? Let me explain this question. Promises typically have built in “unless” clauses. For instance, imagine I promise to mow your lawn today. I am not under promissory obligation to you to mow your lawn today even if my child needs to be driven to the hospital.²² This is because I make my promise to you within a social context in which attending to my child in a real emergency is unquestionably an exceptional circumstance—a safe background assumption regarding the conditions under which I may refrain from mowing the lawn. The social context provides us with a shared understanding of the scope of my moral obligation to you. Of course, problems can arise when the promisor assumes a shared understanding that does not exist. Further, there is debate about whether exclusionary conditions have to be intended when a promise is made, and there is debate about what it means for an exclusionary condition to be intended. However, these debates should not matter here. The question that I need to answer is: are there “unless” clauses that save Jane from being under promissory obligation to John in the relevant cases—the cases in which she changes her mind about wanting to have sex with him.

19. Seana Shiffrin, “Immoral, Conflicting, and Redundant Promises,” in *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, ed. R. Jay Wallace, Rahul Kumar, and Samuel Freeman (Oxford: Oxford University Press, 2011), 155–78.

20. This assumes that the requirements of a lie are met. Those requirements are contentious (e.g., is deception necessary?).

21. See Owens, *Shaping the Normative Landscape*, 245–46.

22. *Ibid.*, 199.

Let us assume that there are some exclusionary conditions on Jane's promise. If her roommate needed a ride to the hospital, if she broke her leg, or if she became violently ill then it would be mutually understood that she was off the hook. However, it is probably not the case that John and Jane hold a mutual understanding that her promise does not hold in the event that she changes her mind and does not want to have sex. Otherwise, there would be no point to having made the promise in the first place—nor could it have truly counted as a promise. The exclusionary condition would be incompatible with both John and Jane coming to believe that Jane was under an obligation to have sex with John—something I stipulated earlier as a feature of the case that contributed to the felicitousness of Jane's speech act.

One way in which sex is considered to be different from many other subjects of moral investigation is that some of our moral and legal rights regarding sex are treated differently. We have a legal and a moral right against others having sex with us—a right that we can waive (when we give consent to a particular other).²³ In the legal realm, individuals cannot forfeit their right against others having sex with them. That is, we do not take away this right when someone commits a crime—even if the crime is of a sexual nature. (Of course, in the United States we do a pitiful job of enforcing people's sexual rights in prison.) Further, we do not allow people to alienate their right against others having sex with them.²⁴ When they waive their right through the process of consent, they retain the ability to unwaive the right at any time by withdrawing consent. If sexual rights were legally alienable, then a person could consent to future sexual acts, irrespective of her future preferences (her future will). So, if our legal treatment of the right against others having sex with us mirrors our moral right against others having sex with us, then this moral right is inalienable. Perhaps Jane's promise does misfire in virtue of its content. Perhaps she attempts to make a promise, but it does not 'go through' because the moral right against others having sex with us is inalienable.

Even if promises do grant rights to promisees, they do not grant the type of right that would interfere with or undermine Jane's power to refuse or withdraw consent. I believe that the feature of Jane granting John a right in Football Game that we find disturbing is that it seems to us that if John has been granted a right, then he may go ahead and have sex with Jane. Even on Owens's theory, which takes promises to grant rights, Jane is not transferring her bodily rights to John, even if this promise is suc-

23. Dougherty, "Sex, Lies, and Consent," 717–44.

24. For my take on the distinction between the waiving and alienating of sexual rights, see Hallie Liberto, "Normalizing Prostitution versus Normalizing the Alienation of Sexual Rights: A Response to Scott A. Anderson," *Ethics* 120 (2009): 138–45.

cessful. What John gains is the moral authority to determine an aspect of Jane's moral "landscape." John determines whether Jane will be wronging him if she fails to have sex with him. If he wants to have sex with her and she does not have sex with him, then she is guilty of breaking a promise.

This does not mean that John may permissibly have sex with Jane against her (present) will. Consider the case in which I promise my ruby ring to Mimi. I then change my mind and decide to keep it. I have wronged Mimi in breaking my promise. I may even have violated a moral right granted to Mimi by the promise—a right against my failing to let her decide whether I will give her the ring. However, Mimi is not within her rights to come take my ring from me. She has no right to the ring itself, just to my performance of the content of my promise. The same would be true if I promised her something that was not an object. Imagine that I promise I will stay for dinner. However, as dinnertime approaches, I change my mind and decide to leave. I breach my promissory obligation to Mimi; I might even violate a right. However, she is not within her rights to lock me in her house and prevent me from exiting. Her granted authority entitles her to have her choice honored, as it pertains to whether I will leave her house before dinner. This authority is certainly powerful enough that she can decide whether I will have wronged her when I leave her house. However, her granted authority is not to force me to comply with her decision.

Both Owens and Stephen Darwall have particularly shrewd accounts of what I owe to Mimi in this case. For Owens, honoring my promise to Mimi means that I must allow her decision to determine my behavior—something I fail to do in this case. My obligation is to pass the discretion into her hands. If I do not act in accordance with her decision, I have broken the promise.²⁵ Darwall explains that I have made myself accountable to Mimi in a certain way. I have given her a special role in governing my conduct—a role that requires my recognition.²⁶

When I do not stay for dinner, even though Mimi has not released me from my promise, I am failing to recognize her as the decider over the dinner decision. Yet, Mimi cannot exercise her authority except through my recognition of her as the decider. She is not permitted to lock me into her house. Analogously, if Jane chooses to break her promise in Football Game, John may not force her to perform the content of her promise. He does not have a moral right to the physical control of Jane's body.

25. Owens, *Shaping the Normative Landscape*, 227.

26. Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006), and "Demystifying Promises," in Sheinman, *Promises and Agreements*, 255–76. Throughout, I will be discussing Darwall's work in a way that does not remark on or rely on his overall well-known ethical theory.

If she decides to break her promise, then she does not consent to sex. In this case, John does not have permission to have sex with her.

I think that it is this final point that gets at the heart of what we mean when we tell young people that they can change their minds at any point in a sexual encounter, no matter what they have promised. We do not mean that they do no wrong to their promisees. We mean to tell them that they have bodily rights, moral and legal, that they can always arbitrate. They have a right against others having sex with them. They must always waive that right (through consent) in order for it to be permissible for someone else to have sex with them. A promise to have sex does not involve consent to sex and, even if it did, they can always withdraw their consent, even if they cannot withdraw their promise.²⁷

II. THE PROMISE MADE IN FOOTBALL GAME IS AN OVEREXTENSIVE PROMISE

John has a moral obligation to reject Jane's promise or, failing that, to release Jane from her promise in Football Game. Although most of the philosophical accounts of promises include an uptake condition, requiring that a promise be accepted by a promisee in order to generate an obligation, this requirement is not essential to my argument. I would like to leave open the possibility that the rejection of a promise might just count as immediate release. For this reason, I refer to the obligation that I introduce here as a duty to reject or release; however, I primarily focus on promissory release.

At first blush, this looks like an easy claim to defend. After all, most of us share the intuition that he ought to release her. However, it is not at all clear why we feel that he ought to release her. We do not think that promisees ordinarily must release promisors from their promissory obligations—at least not because of reasons that arise from the content of the promise itself. In what follows I argue that there is some promissory

27. In structuring my inquiry into sexual promises around Jane and John, I have made a choice with both costs and benefits. Here is a cost: Football Game advances a bad stereotype about the degree to which men versus women want sex. I treat the man as the character who might choose to appeal to a moral obligation in order to convince the woman to have sex that she does not want. Here is the benefit of using the cases that I have used: ordinarily when we tell young people that they may change their minds about having sex at any time, no matter what they have said or what expectations they have raised, we are telling this to young women. Ordinarily when we remind people that their dates do not owe them sex, no matter what has transpired in the evening (e.g., an expensive dinner, sexualized dancing), we are telling this to men. I chose a case in which a young woman promises to have sex with a man (rather than vice versa or by using a same-sex couple) because I wanted to tap into my reader's memory of having given this reminder to young people, or having received it, or having heard it be delivered to others. I want my reader to consider whether my explanation rings true, especially when consulting these memories.

content that gives rise to a reason to release a promisor. I appeal most directly to theoretical grounding for promises advanced by the authority model, described in Section I. However, I follow up my proposal with an explanation of why my conclusions are applicable to the other models of promissory obligation.

I here introduce a category of promises that I call *overextensive* promises. The content of an overextensive promise is objectionable in such a way that it provides us an obligation to refuse the offered promise or, failing that, to subsequently release promisors from the promissory obligation that they have incurred by making the promise. I could say “moral reason” instead of obligation. I certainly do not argue that the obligation is absolute. Certainly other moral considerations could outweigh the moral obligation described (in the same way that a promissory obligation can be outweighed by competing moral considerations). I use the words “moral obligation” instead of “moral reason” because I want it to be clear that the moral reason that John has to release Jane from overextensive promises is at least as strong as the promissory obligation that arises from her promises—and as constraining. I first make a case that overextensive promises exist and come in a few different types. Next, I explain why promises to have sex are overextensive.

Unlike other moral obligations that one person might have to another (e.g., of honesty, nonmaleficence, or any obligation arising from the need or suffering of the other person), honoring a promissory obligation involves substituting another person’s discretion for one’s own. In promising to X, a promisor commits to doing X unless the promisee decides against her doing X. She commits to allowing her promisee to deliberate about what she, the promisor, will do and make a decision that she will take on as her own. I adopt some language that alludes to a number of views that focus on this discretionary role of the promisee: Darwall’s account of promises, on which a promisor makes herself accountable to the promisee, and Owens’s and Shiffrin’s views, on which the promisee becomes the arbitrator of the decision regarding whether the content of the promise will be performed. From here on out, I often characterize the recognition given by a promisor to the promisee that is required to honor a promise as recognizing the promisee as the “decider.”

Unlike cases of decision making by proxy that arise in bioethics, the person who outsources her deliberations through a promise is not mentally incapacitated. Further, the deliberations made by the promisee are not meant to be deliberations made with the promisor’s best interests in mind—or with a goal of mirroring what her own deliberations would be.

For these reasons, we must be very careful of what promises we accept. If a person is mentally capable of making decisions for herself, then there are some decisions such that we should not make them for her—even with her agreement. For instance, if someone asks you to decide for

her where she will go to university, you should probably refuse. Instead, you should offer her advice to factor into her own deliberations. My claim is even weaker: there are some decisions that we should not be in charge of making for some other capable person—especially if our authority retains its normative power independently of any change in the person's will. There are some decisions that others need to make, and we should not allow them to grant us the role of decider.

What sort of content renders a promise overextensive? Various types of content have this result. We have a moral obligation to release people from promises they have made to do immoral things. (We will assume here that Owens is correct and that immoral promises do generate overrideable obligations. If he is wrong, then this will not count as a type of overextensive promise—since it is not a promise at all.) Imagine that you promise me that you will steal the necklace I want from a mutual acquaintance and give it to me. I accept your promise and hold you to it. Honoring this promise (fulfilling your promissory obligation) requires that you do as I have decided, which is to carry through with the theft—regardless of the competing moral considerations that ought to be factored into this deliberation and outweigh the promise. If you decide against stealing the necklace in light of these competing considerations, then you have failed to allow me to play my role as the decider. However, I ought not accept this promise or hold you to it. The option to refrain from stealing should be entirely available to you. For as long as you are under promissory obligation to me, that option is not available to you in one significant way. In honoring promissory obligation, it is entirely unavailable to you. For this reason, I should not accept the immoral promise. If I do accept it, I should release you from it as quickly as possible and leave you morally unhindered from deliberating toward permissible conduct.

A promise can also be overextensive because its content is exceedingly burdensome to perform. Promissory content is exceedingly burdensome if it comes at a terrible cost to one's well-being. For instance, take my impassioned promise, in the wake of your saving my child's life, to give you all the money I ever earn. You ought to release me from this promise. You should not take on the role of being the decider regarding whether I will do something so unreasonable with my finances and inconsistent with my long-term welfare. If the gratitude that inspired me to make the promise also inspires me to send you the money that I earn—year after year—well and good. However, being inspired to give such payments out of promissory obligation is no inspiration at all—it is a willingness to comply with the decision that was handed over to you when I made the promise. Similarly, imagine that a daughter promises her aging father that she will take care of him at home, no matter what. She knows that he does not want to enter a nursing home. However, it is clear to both of them he will live for a very long time and will always need intense caretaking—the sort that can

be efficiently managed by nurses at a residential facility but would require her to give up most of her other life pursuits if she were to care for him at home. Her father has an obligation to refuse this promise, and, failing that, he has an obligation to release her from it. He may permissibly allow her to give the home-care arrangement a try. However, he should not retain the role of being the decider. If she is going to drastically forsake her own interests, it should be entirely her own decision, at every stage.

What I have just described is a type of promissory content that is too burdensome; content like this is *quantitatively* problematic. I think that promissory content can also be *qualitatively* objectionable, in that it is not the right type of discretion to be arbitrated by another person. Promises might be qualitatively objectionable if their content is of the wrong kind to be transferred to another person's discretionary control.

I think a helpful way of framing this distinction is to think about other things that can be transferred—apart from the discretion transferred in promises—and to consider how these other things can be quantitatively versus qualitatively inappropriate. Imagine a young writer who is funded by a benefactor and who eventually gives the benefactor all of the royalties from her book, on the grounds that it would have never been produced without his financial help during her year of writing. We can also imagine that the royalties are more than the benefactor ever spent funding her writing, that they are her only earnings, and that the benefactor does not need the money. It seems that this is too big of a gift of gratitude—it is quantitatively problematic, and he should not accept it for this reason. However, imagine that she instead gives him the official authorship of her first creative work. This does not mean that she hands over the writing process to him—allows him to control the arch of the creative narrative. “Authorship” here picks out a special standing—to adopt the role of author as it is recognized by others and the discretionary powers that this role involves. His name is on her book—but she is still very much the creator of the book. Let us imagine that she has now written multiple books and that going unrecognized for her first would not in any way jeopardize her career or upset her deeply.

The gift may not be quantitatively problematic. However, the benefactor should still not accept this gift of gratitude. It is of the wrong kind. He should not have the recognized role of author when it comes to the book that she wrote. I think that promissory content can be problematic in this way too. Accepting the role of recognized decider about certain things pertaining to another person's life is like accepting the recognized role (even if not the creative role) of author for someone else's book. There are some roles that can only appropriately be held by one person, even if they do not cause grave harms to well-being.

Promises might be qualitatively objectionable if their content involves a commitment to allow the promisee to do something physically

or emotionally invasive to the promisor (e.g., a promise to donate a kidney, a promise to reveal a traumatic memory). I should not take on the role of decider about whether you will reveal a traumatic memory, unless I have a very powerful, overriding reason (e.g., I need your testimony in court to prosecute a dangerous criminal, and you will not provide it if I release you from your promise). It should come as no surprise that I count promises to have sex as overextensive because they fall into this last category. Promises to have sex are qualitatively objectionable.

Why? First, sexual activities are physically and often emotionally invasive. For instance, as Alan Wertheimer argues, rape is a worse sort of violation than many other types of assault, unwanted bodily contact, or theft because our sexual autonomy is such a crucial component of our well-being. Wertheimer believes that this importance is a product of evolution.²⁸ The human beings who produced the offspring most likely to survive were ones that attached a special import to sexual discretion and the control of sexual body parts. However, even if it is possible that humans like us could be socialized to require less sexual autonomy, what matters is that we are not so socialized. Almost everyone in our community of potential promisors is gravely harmed by sexual interference. Tom Dougherty, who, unlike Wertheimer, believes that it is the violation of sexual rights and not harm to a victim's well-being that is the unifying wrong of rape, argues that humanity's deep interest in sexual autonomy renders our sexual rights particularly morally weighty.²⁹

I do not mean to compare John's failure to release Jane from her promise in Football Game to rape or call it a violation of sexual rights. As you will see in the next section, I think that Jane's choice to fulfill her promissory obligation in Football Game is perfectly consensual. All that I mean to show is that there is broad support for the view that sexual autonomy matters in a special kind of way (perhaps because of nature, perhaps because of nurture). What people undergo sexually has the power to affect them deeply and uniquely. The decision to have sex should always be our own—not made for us by proxy. Keep in mind, I have pointed out that other moral considerations do not have this feature: making some other person the decider. For instance, choosing to have sex because of someone else's extreme sexual need/desire or because of gratitude is not problematic in the same kind of way. After all, if Jane has sex because she is grateful to John for a lovely back massage, then she is factoring a moral consideration into her deliberations about sex—and making a decision for herself. However, when she keeps her promise—if she truly gives John

28. Alan Wertheimer, *Consent to Sexual Relations* (Cambridge: Cambridge University Press, 2003).

29. Dougherty, "Sex, Lies, and Consent," 722–27.

the recognition of being the decider—then she is transferring her deliberations about having sex over to John.³⁰

Remember that the promissory obligation that I am considering in this article is of the directed sort. This type of promissory obligation describes something owed from the promisor to the promisee. For the same reason that we feel that moral debts should not come in the form of kidneys, moral debts should not come in the form of sex. Promises that generate debts of these types are qualitatively inappropriate. Philosophers writing on the topic of prostitution worry about the normalization of sex work: the possibility of sexual tasks being included in our employment contracts, sexual employment options discussed with teenagers during their high school career counseling, and the normalized advertising of sexual services. These all are objectionable insofar as they mix sex in with parts of our lives that we wish to be free of sexual aspects. We try to keep sex in a different category from other life projects and pursuits.³¹ One reason why sexual harassment is so damaging in the workplace is because it makes employees conscious of their sexuality in an environment where they would like to be able to focus fully on nonsexual endeavors. These concerns speak to the qualitatively different role that sex plays in our lives.

Sexual promises, much like promises to reveal traumatic memories and promises to render bodily organs, count as promises with qualitatively inappropriate content because of contingent features of human lives and psychologies. If there are individuals who count their own sexual choices as unimportant, or who treat those choices and trade-offs as qualitatively similar to financial choices and trade-offs, then we might think that such people can make sexual promises that are not over-extensive. We have to be careful. Just because someone treats a sexual choice like a financial choice in some respect does not mean that he takes the two to be in all ways qualitatively similar. For instance, even people who trade their sexual services for money do not want to be taxed through the extraction of sexual services or forced to pay compensatory

30. One very natural way to think of qualitatively objectionable promissory content is that, instead of compromising well-being, it compromises autonomy. Depending on one's theory of autonomy, this might be an accurate way of characterizing the distinction. However, I do not want to commit to any particular theory of autonomy here and want to leave room for there to be some other moral explanation for the inappropriateness that I have described.

31. On reasons against legalizing prostitution, see Scott. A. Anderson, "Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution," *Ethics* 112 (2002): 748–80. Anderson worries that enforceable sexual contracts, advertising sexual services, sexual career counseling, and corporate control over the sexual behavior of employees rendering sexual services are all things that diminish sexual autonomy. He says that this diminishment of sexual autonomy is worse than the reduction of general autonomy that comes from taking a job option off of the market.

damages in the form of sexual services in the event of a breached contract. Certainly, prostitutes do not want (nor do they have) weaker sexual moral rights than the rest of us hold against unwanted sex. If a prostitute does not give his consent to a sexual act, then having sex with him is as serious a moral wrong as having nonconsensual sex with a nonprostitute. In the same way, someone's making a sexual promise is no evidence that she thinks her own sexual choices are unimportant or that her sexual choices are qualitatively similar to monetary choices.

Before considering objections, let me explain why this proposed category of promises (i.e., overextensive promises and the three subcategories) should be recognized by all theories of promissory obligation that characterize the obligation as a directed duty. Throughout my presentation of the category and problematic nature of overextensive promises, I have relied heavily on the feature of the authority model that grants the promisee the role of "decider." Now, advocates of the expectation, reliance, and trust models of promissory obligation do not characterize the promisee as the "decider."³² However, on any theory, a promisee holds the authority to determine whether the promisor gets released from the promise.³³

Even if, on some theories, the promisee is not conferred the role of the decider about what the promisor will or will not do, the promisee is still the decider about what options he will make available to the promisor. Without promissory release, a promisor does not have the option to both refrain from keeping his word and also avoid committing a wrong. This amount of discretionary power, handed to a promisee through a promise, is itself concerning—for many of the reasons that I have articulated in this section—and constitutes one way of being a decider, even if not the only decider. For instance, if you and I together were deciding which of three movies to watch, and I eliminated an option, and then you eliminated an option, it would be fair to say that I had played a role of decider, even if you made the final selection between available options. This discretionary power does not have the same "proxy" role that the promisee's discretion enjoys on the authority model. The promisee does not take over the decision-making process—but he does still have the role of a decider.

Even consequentialists, who believe that the value of promise keeping can be measured against other things of value, will largely agree with

32. On Scanlon's view, e.g., someone might successfully keep a promise even if he is only motivated to act in accordance with the promissory content by completely independent reasons. Note that this is not true for all of the other theories described in Sec. I. Advocates of the reliance and trust models might say that the promisor that I have just described is not acting in a way that properly grounds the reliance and trust that he invited.

33. Even on a theory of promising in which the duty to keep one's promises is free floating, the promisee has this much authority over the promisor.

me on this point. Philip Pettit and Alastair Norcross think that there are some things of great value that can be achieved only by refraining from calculations about their comparative value.³⁴ Pettit thinks that this is true of friendship and the benefits that we get from being recognized as rights holders. For instance, we cannot have friendship in our lives if we deliberate on a case-by-case basis about the value of acting as a friend. Similarly, we cannot have meaningful promises if it is understood that we will pause and weigh these obligations against other moral and prudential considerations that arise (unless, as stated in Sec. I, the considerations that arise are ones that compose background exclusionary conditions on the scope of the promissory content).

This said, I will allow that the strength of the obligation to refuse or release people from overextensive promises is somewhat weaker on these alternate theories. However, the obligation is not so weak as to make the category of overextensive promises uninteresting on these accounts.

Let me now consider two objections, one briefly and another at greater length. First, what if Shiffrin is correct and immoral promises are not successful promises—do not generate moral obligations? Clearly, this would eliminate my first category of overextensive promises, I am happy to admit. However, one might also worry that, if she is correct, this will eliminate all overextensive promises. After all, the very reasons why these promises are overextensive are that they transfer problematic discretion into the hands of another person. If this transfer of discretion is problematic because it undercuts a promisor's autonomy or harms him in some way, then this means that the promises themselves, especially once uptaken, are immoral.

Recall that Shiffrin's restriction applies to the content of promises—not to the promises themselves. Her theoretical explanation for this is helpful for illuminating why her view will allow for overextensive promises belonging to my second two categories. Shiffrin, like Owens, grounds promissory obligation in authority. She believes that authority is transferred when we make promises. When we promise to do something immoral—like to steal the necklace—we do not have the requisite moral authority to make that promise. In contrast, the content of overburdensome promises and qualitatively inappropriate promises is within the control of the promisor. It is within the moral authority of a promisor to control her sexual behavior (as long as it is with willing partners). It is within the moral authority of a promisor to give up a kidney or give large sums of money to the person who saved her child's life—as per my ear-

34. Philip Pettit, "How the Consequentialist Can Recognize Rights," *Philosophical Quarterly* 38 (1988): 42–55; Alastair Norcross, "Act-Utilitarianism and Promissory Obligation," in Sheinman, *Promises and Agreements*, 217–36.

lier examples. So, the reason that Shiffrin has for rejecting immoral promises in general does not apply in these cases, when the content itself is not immoral.

The next objection has to do with reciprocity. The examples of overextensive promises that I have provided only contain information about what one person has promised to another. I do not consider cases in which there is a fair exchange involved in overextensive promise making. For instance, imagine that Alice promises her kidney to Bert, should he ever need it, but Bert makes a reciprocal promise to Alice, promising her whatever bodily organ or tissue she might require in the future. Wouldn't this reciprocity make it more permissible for each to hold the other to his or her promise? If so, then maybe John has no obligation to release Jane from her promise to have sex with him so long as he has made a reciprocal promise to have sex with her. Looking forward, this consideration could certainly apply to Wedding as well. After all, the promises exchanged in marriages are usually reciprocal.

However, reciprocity will not save a promise from being overextensive. If John had made a reciprocal promise to Jane, and if Bert had reciprocally promised a bodily organ to Alice, then that would improve these promissory situations in one respect: they would be fair. Yet, unfairness was not part of my explanation for why we should release people from overextensive promises. Overextensive promises generate obligations for promisors to do things that are seriously wrong or that gravely diminish their own well-being or to defer to someone else's discretion about choices that are physically/emotionally profound. We should not generate such obligations in others by accepting these promises. We should not sustain such obligations in others by holding people to these promises. These obligations are exacerbated by being unfair, but unfairness is not at the heart of what is wrong with overextensive promises.

Note that releasing someone from an overextensive promise might generate unfairness. Perhaps Bert has already donated part of his liver to Alice at the time when he comes to need her kidney. Perhaps John has made and kept a sexual promise to Jane already (perhaps a promise of oral sex), but she has not yet kept her promise to him. Do considerations of fairness ever outweigh our obligation to release people from overextensive promises? I will not try to answer that question definitively. I suspect that on some rare occasions, considerations of fairness do win out. However, let me point out that these sticky situations could be avoided entirely if people simply refused overextensive promises in the first place or released people from them more swiftly. Once we commit initial wrongs, and organize our lives in line with that behavior, it is more likely that we will encounter these conflicts. If a young lawyer takes a job with a firm that defends clients who harm the environment, he has a moral reason (perhaps even obligation) to quit. However, once he has been in the

firm for some years, he will have developed trusting relationships with his colleagues. Perhaps favors have been done for him that he has not yet repaid. The decision to quit becomes complicated. It should come as no surprise that a person who has accepted sexual promises (especially reciprocal monogamy promises—the topic of the next section) would find himself torn between competing moral considerations when he tried to do the right thing at a later stage.

Of course, overextensive promises could also be avoided if people did not make such promises. I have only discussed the resulting obligations of one who has made such promises and those to whom the promises have been made. I have not said whether it is immoral to make overextensive promises in the first place. However, keep in mind that promisors are the victims of overextensive promises. So, whether promise making is wrong will depend on whether we have self-regarding moral duties. If we do, then yes, overextensive promisors do themselves a wrong. However, the promisors' wrong is not ongoing; they do not have the moral power to release themselves from their promises. Only their promisees can release them.

III. THE PROMISE MADE IN WEDDING IS AN OVEREXTENSIVE PROMISE

In the last section, I presented and described the theoretical foundation for a new category of promises—ones that we ought to reject. I explained that positive sexual promises fell into this category. However, the applied conclusion of that section is one that is relatively uncontroversial: John should refuse Jane's promise to have sex with him, or, failing that, he should release Jane from her promise. In this section, I defend something considerably more controversial: if John has a moral obligation to refuse Jane's promise or release Jane from her promise in Football Game, then he also has a moral obligation to refuse Jane's promise or release her from her promise in Wedding.

Before going any further, I need to clarify the content of the promise in Wedding. The promises people make to each other in marriage are varied. There is typically an explicit or implicit promise not to have sex with others. There are other romantic promises, for instance, a promise to love one's spouse.³⁵ I am only addressing the sexual promise and no

35. Shiffrin makes an important distinction between promises with epistemic features and promises without them. For instance, a promise to refrain from having sex with anyone else involves no special knowledge about myself in the future. It will always be under a promisor's power to decide against having sex (unless she or he is a victim of rape, which most would not count as a breach of promise). However, when a newlywed promises to love her spouse forever, she is, arguably, making a promise that she does not know that she can keep. If her future emotional states are outside of her control, then this promise to love her partner might not even succeed as a promise (Shiffrin, "Promising, Intimate Relation-

other romantic promise. However, below I attend to the various ways that monogamy promises are bound up with other long-term commitments made in marriage—and how it might or might not be possible to disjoin these promises from other important commitments.

Here are the symmetrical features of the two cases that are relevant for determining whether Wedding is an overextensive promise. Both promises transfer to John the moral authority to determine whether Jane wrongs him when she makes a sexual choice different from what she promised. The content of both promises pertains to sex. Of course, carrying out a promise to refrain from sex involves no physical contact. However, it is not clear that physical contact plays a very large role in rendering sexual promises objectionable or the discretion that they grant invasive. For instance, watching a sexual video with another person, allowing another person to release sexual footage (either to the public or to specific individuals) that documents one's own sexual acts, recounting a traumatic sexual memory, the act of sitting proximally and watching another person perform a sexual act—these are examples of promissory content that certainly render a promise overextensive for qualitative reasons.

I plan to defend the analogy between Football Game and Wedding. Of course, the two cases are different. However, I argue that they are the same in all moral respects relevant to whether they count as overextensive promises. In what follows, I propose potential disanalogies (in italics) and I defeat them in turn.

The Disanalogy from Harm: *Having sex we do not desire produces a greater harm than does refraining from sex we desire.* If this were true, then the promissory content of Football Game would be more obviously overextensive than the promissory content of Wedding. However, recall that the promise in Football Game involves consensual sex that Jane might not choose to have if not for her promise (as opposed to the experience of being forced to have sex). In the course of their lives, most people will voluntarily choose to have sex that they would not otherwise want for the sake of a nonsexual reason. Perhaps one will have sex out of a reason of beneficence or in an attempt at procreation. These acts of sex may sometimes be unpleasant, if truly performed without any sexual desire, but they are not tantamount to sex against one's will.

On the flip side, refraining from sex can be very detrimental to one's welfare. Consider the circumstances of many gay men and women in the world who live in places where there are terrible penalties for ho-

ships, and Conventionalism"). Julia Driver makes a very compelling case that promises about things outside of our control can sometimes succeed as promises, and generate promissory obligation, but if they turn out to be impossible, then it is permissible to break them. Interestingly, she thinks that the promises are still broken in these cases. Ought Implies Can overrides the obligations, but it does not absolve someone from these obligations. Julia Driver, "Promising Too Much," in Sheinman, *Promises and Agreements*, 183–97.

mosexual sex. These people must often refrain from engaging in sexual activity for the sake of their own safety. They are deeply harmed by these circumstances.³⁶

I do not mean to say that refraining from desired sex is always more harmful than having undesired sex. I just mean to point out that it depends on the circumstances. It is precisely because neither of these harms is always (or even usually) a grave harm to a person that I do not list sexual promises as being quantitatively inappropriate, generally speaking. My comparison between the plight of gay people who cannot have sex and that of people having consensual sex that they do not desire is to illustrate this: having sex we do not desire is not categorically worse for us than is refraining to have sex that we do desire.

Disanalogy from Coercion: *Holding someone to a promise to have sex results in coercive sex, whereas holding someone to a promise not to have sex does not result in coercive sex.* The worry here is that Jane, in Football Game, does not have the moral option to both refrain from sex and to honor her promissory obligation. If she wants to avoid breaking her promise, she has to have sex. Of course, there would be coercion in Wedding as well. However, the coercion would not be coerced sex; it would be coerced refraining from sex—which seems less objectionable.

The element of Football Game that is shared by cases of coercion is that the coerced person, Jane, must choose between doing what the coercer, John, wants her to do and some bad alternative. However, we typically think that coercion requires a scenario in which one person, P, manipulates another person's, Q's, options, typically by making a threat that results in the situation wherein Q must choose between doing as P wants or some bad alternative.³⁷ For instance, if P threatens to shoot Q if Q does not hand over his wallet, then P has taken away Q's option of keeping both his life and his wallet.³⁸ However, in the case of promises, it is the

36. Of course, the negative attitudes toward gay people and the disrespect that discriminatory laws communicate to them are themselves harmful. Maybe the lack of sex is not itself a harm but is just a symptom of a real harm that they suffer—one that attacks their dignity and equality. I think that if the laws and penalty actually did deter people from engaging in sexual activities, then the loss of those sexual experiences constitutes a harm above and beyond the harms of insult and the experience of injustice.

37. Joel Feinberg describes it like this, "[The coercer] . . . has actively intervened in [the coercee's] option-network, to acquire control of the relevant option-switches; in particular he can close tight the conjunctive option that consists of [the coercee's] noncompliance with the demand and [the coercee's] avoidance of the threatened unwelcome consequences." Joel Feinberg, *Harm to Self* (New York: Oxford University Press, 1986), 198.

38. Robert Nozick, "Coercion," in *Philosophy, Science, and Method: Essays in Honor of Ernest Nagel*, ed. Sidney Morgenbesser, Patrick Suppes, and Morton White (New York: St. Martin's, 1969), 440–72; Scott Anderson, "Of Theories of Coercion, Two Axes, and the Importance of the Coercer," *Journal of Moral Philosophy* 5 (2008): 394–422; James Shaw, "The Morality of Blackmail," *Philosophy and Public Affairs* 40 (2012): 165–96.

promisor who chooses the terms of the promissory commitment. Jane voluntarily takes on the promissory obligation that leaves her in the following scenario: she cannot both choose to refrain from having sex with John as well as honor her obligation/avoid doing a wrong to John. Now, John has the power to release Jane from her promissory obligation. By holding her to the promise, he refuses to give Jane the conjunction of options just described. So, John has control over Jane's options, even if he did not manipulate those options in order to arrive at the existing, limited array. Some might argue that this is sufficient to count as coercion.³⁹

I am not going to make a case for whether holding someone to a promise is ever coercive. I think that the worry about coercion in cases of sexual agreements is really a worry about the undermining of sexual consent.⁴⁰ Yet, we do not typically think that the existence (or perception) of moral obligations undermines consent. For instance, we do not think that a blood or bone marrow donor is failing to provide morally valid consent in virtue of the fact that she donates for moral reasons (e.g., because she is an act utilitarian). Further, we do not think that a father who purchases a bicycle because of a moral obligation (e.g., because he promised his son that he would buy the bike) fails to give consent to the purchase. Perhaps the father's act of bicycle buying would count as non-consensual if the promise itself was solicited in a coercive way. Imagine that his wife, a famous authoress, threatens to use him as a miserly and noncommittal character in the short story she is writing if he does not make this promise to their son. Yet, Jane's promise to John is not coercively solicited.

Disanalogy from Benefit: *The promise in Wedding helps guarantee (or makes more likely) a set of circumstances of great value that are not guaranteed (or made more likely) by the promise in Football Game.* Note first that this dis-

39. Some believe that power imbalances, like those that exist in markets between people who enjoy vastly different financial circumstances, can generate the conditions for coercive offers; see Joan McGregor, "Bargaining Advantages and Coercion in the Market," *Philosophy Research Archives* 14 (1988): 23–50. Even Nozick allows that some offers can be coercive. For instance, if a slave owner offers to refrain from beating his slave on one occasion, in exchange for something he wants from the slave, this would count for Nozick as a coercive offer since the slave is entirely entitled to freedom from such beatings (Nozick, "Coercion," 450–51).

40. Sarah Conly has expertly pointed out that we often overstate the case (and in some cases understate the case) of how easily coercion may undermine consent. She points out that some manipulated alternatives (e.g., a pinch) are so minor that they cannot undermine consent. She also does not believe that consent can be undermined by legitimate coercion. For instance, if an employer threatens to fire an employee if he doesn't become more productive, his coercive method does not undermine the employee's consent to work harder. Similarly, a member of a romantic relationship might threaten a breakup if his or her partner does not want to have sex. Since sex is a legitimate item to want in a romantic relationship, the threat of breaking up does not undermine the partner's consent to sex. Sarah Conly, "Seduction, Rape, Coercion," *Ethics* 115 (2004): 96–121.

analogy does not serve as an objection to my claim that monogamy promises are overextensive promises and that we have an obligation to refuse them. This disanalogy merely suggests that there are competing moral considerations that outweigh the wrong of accepting or holding another to an overextensive promise. The idea here is that monogamy promises make it more likely that a couple will practice monogamy and that the practice of monogamy involves such valuable goods as justifies whatever means is necessary or helpful for achieving them.

What goods are we considering? The apparent benefits of monogamy that I take to be the best candidates, and that most often appear in literature pertaining to sexual ethics, are as follows. Monogamy promises might (i) promote the stability of the couple's relationship, (ii) raise the value or meaningfulness of the sexual act within the relationship, (iii) signal respect or love, and (iv) help maintain a promisor's strength of will to live how he or she, all things considered, wants to live. If this is true, then perhaps John does have the obligation that I have described to release Jane from her promise in Wedding, but it is outweighed by the moral value of i–iv (or some subset of i–iv), whereas, John's obligation to release Jane in Football Game is not so outweighed. Although this is not a devastating objection to my argument, it would certainly take the bite out of my conclusion as it pertains to monogamy promises. All I would have accomplished is to show that there is a moral problem with monogamy promises that is almost always overridden by the benefits of such promises. However, I contend that John's obligation to release Jane from her promise in Wedding is not outweighed by the list of valuable experiences and circumstances that we take to be the hallmarks of monogamy.

(i) Does the promise in Wedding promote the stability of the relationship? It is certainly possible that nonmonogamous relationships are less stable than monogamous relationships. This is an empirical speculation—there are no conclusive data to support or refute it. As Richard A. Wasserstrom points out, we should not confuse nonmonogamous relationships with breached monogamous relationships. The latter are relationships that have undergone betrayal and deception. Nonmonogamous relationships do not need to involve these elements.⁴¹ However, I will assume for the sake of argument that this speculation is true—that monogamy practices enhance relationship stability. Of course, a couple can live a monogamous lifestyle without making monogamy promises. (One can certainly make monogamy promises without living a monogamous lifestyle.) If both members of the couple really want to be in a monogamous relationship, then they can act monogamously without transferring sexual discretionary authority to each other through promises. Jane might want

41. Richard A. Wasserstrom, "Is Adultery Immoral?" *Philosophical Forum* 5 (1974): 513–28.

to refrain from having sex with other people even if John has no claim on her to refrain.

However, there is every reason to believe that monogamy promises are a big help in maintaining monogamy practices. Many people only engage in monogamy practices if they believe that the arrangement is mutual. If monogamy promises are what give people the assurances they need to engage in long-term monogamy practices, and monogamy practices promote relationship stability, then the promises themselves contribute to relationship stability. In this case, Wedding generates something of important moral value not generated by the promise in Football Game.

I will first respond by pointing out that monogamy promises promoting relationship stability do not generate a disanalogy between the two types of sexual promise under consideration. We can speculate about whether monogamy promotes stability in relationships. However, we know that sex promotes marital stability, as well as stability between cohabiting couples who are not married.⁴² In Football Game, John might say, “why should I release Jane from her promise? The promise might motivate her to do what she otherwise might not do: have sex with me. The sex is likely to promote the stability of our relationship.” My guess is that John’s retort would not change our intuitions about what he should do in Football Game. Also, note, it would seem completely insignificant if it was used to explain why John would not release Jane from either of the other categories of overextensive promises. Imagine Jane had promised to do something deeply immoral. We would not think that relationship stability was an important consideration for whether John should hold her to this promise.⁴³

Now, in general, promise keeping promotes a valuable practice—one of promising—in a relationship. Even if the value of this practice is not what grounds promissory obligation, it is still the case that a healthy practice of promising probably contributes to trust and cooperation—vital features of a stable relationship. However, the symmetry that I have

42. See Scott T. Yabiku and Constance Gager, “Sexual Frequency and the Stability of Marital and Cohabiting Unions,” *Journal of Marriage and Family* 71 (2009): 983–1000; Hsiu-Chen Yeh, Frederick O. Lorenz, K. A. S. Wickrama, Rand D. Conger, and Glen H. Elder Jr., “Relationships among Sexual Satisfaction, Marital Quality, and Marital Instability at Midlife,” *Journal of Family Psychology* 20 (2006): 329–43.

43. Wasserstrom defends a much more modest proposal against the claim that monogamy promotes marital stability. He argues merely that nonmonogamy is permissible. He thinks that even if something promotes marital stability, this does not give us a conclusive reason to engage in that practice. He asks us to imagine that couples might improve marital stability by engaging in “gustatory exclusivity” whereby they ate only bread and drank only water, except when they dined with each other. Surely, this practice would lead couples to many more meals together, which would improve relationships. However, he thinks that it is laughable that anyone would think this was a sufficient reason to engage in the practice (Wasserstrom, “Is Adultery Immoral?”).

described between positive promises to have sex and negative, monogamy promises also applies here. The keeping of promises to have sex, which are problematic for the reasons described in the last section, will have this feature of promoting the practice of promising, just like monogamy promises. If these specific promises were the only ones available to couples engaging in trust building and cooperation, then both types of sexual promises might be justified. However, there are many other promises that can do the same work, without the moral costs.⁴⁴

For the sake of relationship stability, members of a couple might promise to set aside time for sex, if it is mutually desired, on a regular basis. They might promise to seek counseling if their sex life fades. However, these are not promises that make it the case that one partner is wronging the other by choosing to refrain from sex on any particular occasion (or even in general). Similarly, members of a couple who care a lot about monogamy might exchange promises that they will communicate honestly with each other if either one of them ever has sex with someone outside of the relationship or plans to do so. This communication will allow the partners to reassess whether they want to stay in the relationship. John might decide to leave the relationship if Jane tells him she is having sex with a third party—but the decision should not be understood as a penalty.

Jane and John might even predict to each other (with the understanding that this is a mere and fallible prediction and not a commitment) that they will continue to want monogamous lifestyles. This prediction can help them decide whether they are fitting partners for each other—without transferring sexual discretionary authority through a promise. If Jane changes her mind, she might appropriately feel regretful that she did not make an accurate prediction.

John might want to secure a monogamy commitment so that he will not later find himself in a situation wherein he has to choose between breaking up his marriage or staying with Jane and tolerating her sexual choices. This is precisely the avenue of life planning that I think is cut off from John, morally speaking, however satisfying it might be to both him and Jane at the outset. I think we may not negotiate our futures with one another in this particular way—insofar as they relate to sex. If we have

44. Kolodny and Wallace (whose hybrid view I bracketed earlier in this article) do take the promotion of the practice of promising to be one of the grounding features of promissory obligation. If they are correct, this does not pose a problem for my main argument; I have argued that promisors of overextensive promises are obligated to keep their promises. However, on their view, there might be added value to sustaining any particular promise—if it contributes to the valuable practice of promising. Refusing a promise or releasing someone from a promise might be an opportunity lost. I believe that the fact that many other unproblematic promises are available to the members of the couple, combined with the problems I have described with overextensive promises, is sufficient to outweigh the opportunity cost involved in rejecting sexual promises.

strong desires for monogamy, then it is tempting to make these bargains. However, the moral obligation to refuse overextensive promises is not outweighed by the questionable value of securing long-term control over another person's morally permissible sexual options.

Compare this case to one in which Jane has predicted at the outset of their relationship that she will want to have children. This prediction might play a big role in John deciding to build a long-term relationship with Jane. If she later decides that being a mother is not something that she wants, then this results in a bad situation for John. He has to choose between his relationship with Jane, into which he has devoted years, and starting anew with someone else who does want to have children. Foreseeing this hardship, he could secure a promise from Jane that she will have children. As Shiffrin points out, this turns John's investment in parenthood into Jane's investment—insofar as the considerations that guide his decision are now the ones that guide hers.⁴⁵ The promise puts the decision into his hands—that is, if Jane honors the promise. However, unlike some of the cases that Shiffrin describes that contain unproblematic promissory content, the decision to become a parent should not be promised away into someone else's discretionary control. It is an overextensive promise, and John ought not to accept it. He ought not to accept the role of the decider about whether Jane will reproduce. He must take a risk when he gets involved with Jane—a considerable risk, since the life goal of coparenting with a long-term partner is very important to him.

Consider last a wealthy individual whose family is prone to kidney disease. He is very interested in making an arrangement with a poor college student that, if the wealthy person pays for the student's college expenses, the college student will donate a kidney to the wealthy person, should the wealthy person ever need one. Such a promise might make possible a plan that affords both people emotional and material security otherwise unavailable to them. However, there are ways of planning our lives and securing certain futures that are not available to us, morally speaking.

(ii) Perhaps monogamy promises raise the value of sex in the marital relationship. What makes this proposal initially attractive is that we tend to value things more when access to them is more exclusive or when they are rare goods. For instance, if a famous painting is kept in a private home instead of in a public museum, then it would be more special of an experience to go and see it. If a type of stone is very rare and not many people can own such stones, then it is more valuable than it would be if it were ubiquitous. So we might think that the sexual experiences afforded to us by our partners are more valuable if no one else may access them. Of course, monogamy practices might secure this exclusivity, but only

45. Shiffrin, "Promising, Intimate Relationships, and Conventionalism," 508.

monogamy promises make that exclusivity a matter of our authority, rather than a matter of our partner's authority.

Valuing either monogamy practices or monogamy promises for this reason is a way of objectifying our romantic partners.⁴⁶ When we treat our partner's sexuality as more valuable to us because access is limited, then we treat it in the same way that we treat a privately owned painting.⁴⁷ Property can be privately owned and accessed. Fortunately, in most of the world, people can no longer be privately owned. But private access to persons and their sexuality is maintained by the tradition of monogamy and monogamy promises.

(iii) There are important signals that societies develop for showing regard of various types. The making and keeping of monogamy promises is one of those signals. Sarah Buss describes the way that etiquette can be morally important, insofar as it signals respect.⁴⁸ For instance, if I shake hands with everyone except you, then I have done something that is not only a breach of etiquette but also morally problematic. If the etiquette norm is that monogamy promises are a sign of respect to our romantic partners, then this might mean that we are doing something wrong when we refuse to partake in such promising. Even though it might be unreasonable to do so, many people expect the victims of adultery to feel shame or embarrassment because they have been tricked, dishonored, or revealed to be sexually insufficient for their spouses' needs. We use derogatory phrases like, "she made a fool out of him," and refer to men as "cuckolds."

However, sometimes rules of etiquette that function as signals of respect should be changed or sidestepped because they are morally problematic. If I am sick and think I had better not shake your hand, then I have some options. I do not need to choose between disrespecting you and exposing you to my germs. I can just tell you that I am sick and apologize for not shaking your hand. In many parts of the United States, a

46. Weaver and Woollard, who ultimately argue that there is a good reason for choosing a monogamous lifestyle, similarly reject the view that a relationship or sexual act is more valuable just in virtue of being exclusive. They also worry that such a view might bear a resemblance to the values associated with ownership. Bryan R. Weaver and Fiona Woollard, "Marriage and the Norm of Monogamy," *Monist* 91 (2008): 506–22.

47. Martha Nussbaum argues that not all objectification of persons is problematic. For instance, it might sometimes be okay, even exhilarating and enriching, to treat another willing person as if he could not move or as if he could not act autonomously. However, the "ownership" form of objectification is more problematic, as it usually involves treating someone as an instrument. The connections I draw here between preferences for exclusive access and objectification relate to the type of objectification that treats persons as if they are owned. Martha Nussbaum, "Objectification," *Philosophy and Public Affairs* 24 (1995): 249–91.

48. Sarah Buss, "Appearing Respectful: The Moral Significance of Manners," *Ethics* 109 (1999): 795–826.

woman might be seen as rudely communicating that she does not have romantic interest in a man if she does not let him pay for her dinner on a date. However, this rule of etiquette sustains the dangerous norm that women need to be taken care of by their romantic partners and the norm that financial power belongs to men. The etiquette is also bad for men. Dating is much more expensive for them in virtue of these norms. With enough communication, one can sidestep this norm without giving offense. A woman on a date can say, "I worry that this practice is unfair to you and sustains a bad set of stereotypes for both men and women. So, I'd like to pay for meals half the time. However, I think it is romantic that you want to do something so generous. I really appreciate it." Similarly, a member of a couple can explain that his or her choice not to partake in monogamy promises is not a signal of disrespect or lack of love. Social signals are stand-ins for what we otherwise have to actively and explicitly communicate to each other. When social signals are tied to morally problematic practices (or temporarily dangerous ones—like my germ handshake), we can opt out of using the signal and still communicate our respect. In those cases, we must simply engage in active and explicit communication.

We can say the same thing about social signals for communicating love and deep affection. Some new romantic partners make monogamy promises because they are eager to demonstrate the love they feel for their partners. Giving up one's sexual freedom is something like a "trial by fire" that serves as a proof of love. However, just as real trials by fire should be eliminated because of their moral problems, monogamy promises should be eliminated or replaced with something that is not otherwise pernicious. Imagine donating a large percentage of one's savings to a well-run charity in honor of new love.

(iv) Perhaps monogamy promises help the promisor retain strength of will to behave how she or he, all things considered, wants to behave. David Owens calls these *prophylactic promises*.⁴⁹ For instance, imagine that you want to quit smoking, but you are worried that you will suffer from weakness of will and smoke a cigarette even though you truly do not want to do so. You make a promise to me that you will not have even one more cigarette. Now, when you are in situations in which you might otherwise cave, you can remember that you are under promissory obligation to me to abstain. This promissory obligation might motivate you to abstain even when your other reasons fail to motivate you. In this way, the promise serves to protect you from your own weak will. A monogamy promise might be a prophylactic promise if the promisor, all things considered, wanted to lead a monogamous lifestyle but knew that he might suffer from a weak will and have extramarital sex. He might want to promise

49. Owens, *Shaping the Normative Landscape*, 196.

his partner that he will be monogamous in hopes that the promissory obligation will motivate him to live the life he wants to live.⁵⁰

If a promisee does not care one hoot about whether the promise is kept, then the promise is not successful. A promisee needs to have some preference for what is promised (or else threats might count as promises and generate promissory obligation). Now, some prophylactic promises are also made for the sake of the promisee. For instance, if you are my friend and I care about you, then it will matter a lot to me that you quit smoking. In these cases, I see no difference between prophylactic promises and any other promise in terms of what obligation is being generated. The promisor stands to wrong the promisee if he breaks his promise. The promisee has the authority to release the promisor.

The promise has been made in order to protect the all-things-considered desires of the promisor. However, you change your preference about quitting smoking and realize that, for you, the enjoyment and social benefits outweigh the health costs of smoking. Despite changing your mind on this point, you would still be under promissory obligation to me, your promisee. I am still retaining the role of the decider about whether you smoke. Initially, my holding this role was helping to enforce your own all-things-considered judgment. However, now it is standing in the way of what you would rationally decide to do, if it were not for the promise. In the case of the promise not to smoke, the content probably does not render the promise problematic.

However, when it comes to monogamy promises, the analogous story is deeply problematic. Perhaps when the promisee is arbitrating his authority over the promisor in a way that enforces the all-things-considered desires of the promisor, the prophylactic promise looks innocuous—even good. However, if the promisor cannot release herself from the promise at whatever time she might change her mind, all things considered, then the prophylactic promise becomes as problematic as any other monogamy promise. If the promisor can release herself from the promise—but perhaps only on the condition that she truly changes her mind, all things considered, and is not acting on an irrational impulse—then prophylactic promises might not be overextensive. Although, they might only truly be pseudopromises. The reason that they are not overextensive is fully explained by my theory. These promises never did transfer true discretionary authority into the hands of the promisee. If the promisor is allowed to be the decider, even if only when she is capable of doing so rationally and deliberately, then the promisee does not hold the role of the decider.

50. A character in Joel Schumacher's movie *St. Elmo's Fire* wants to get married for this reason. He thinks his marriage vows will strengthen his will against sexual affairs. *St. Elmo's Fire*, directed by Joel Schumacher (Columbia Pictures Corporation, 1985).

IV. CONCLUSION

I have argued that promises to have sex are successful promises and are capable of generating binding moral obligations. I have argued that promises to have sex fall into a special category of promises that I call overextensive promises. Overextensive promises are promises with content such that promisees are required to reject the promise or, failing that, to release the promisor from the promise. I have argued that promises to have sex are no different from promises not to have sex, insofar as they are overextensive. This result means that we have an obligation to reject monogamy promises, and, failing that, we have an obligation to release people from them. The obligation can be overridden, much like promissory obligation can be overridden. However, I have argued that the virtues popularly associated with monogamy practices are not real or are not weighty enough to override the obligation to refuse these promises.

I have not argued that the practice of monogamy is morally problematic. I have suggested that many of the reasons for which people popularly favor it are suspect: there might be objectification involved. However, it seems to me entirely possible that a couple could live out a life-long monogamous relationship without partaking in any morally suspect behavior. Their lives would be something like that of the extreme patriot who decides to stop traveling abroad. The patriot does not want to give resources or attention to businesses in any other country but his own. He fears bringing diseases home from another country. He worries that if he spent too much time in just the right country he might fall in love with it and move there. If he does move home, he might never love his homeland in quite the same way that he loved it before. He wants to devote his time to getting to know his own country as well as he can, visiting its farthest reaches and learning its history. He has one life, and he wants to focus his experience of the world within a particular geography and culture.

Now, the sexual intimacies and experiences to be had among people are easily as varied as the geography and cultures that make up our globe. Lovers and foreign travel can both change our lives, make us see the world in new ways, and teach us devastating lessons about ourselves. The person who practices monogamy chooses to live his life narrowly along one dimension—but it can be a full life. Like the patriot refusing to travel abroad, he does not do anything wrong.