

Adult–Child Sex and the Limits of Liberal Sexual Morality

Agustín Malón

Received: 20 February 2014 / Revised: 20 September 2014 / Accepted: 20 November 2014
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Abstract This article is a critical review of the most common arguments in the specialized literature about the moral status of sexual relationships between adults and prepubescent children. The intent is to reveal how the usual ethical analysis of these experiences, done from a *general sexual morality*, with a Kantian and utilitarian basis, very clearly shows us the limits and contradictions of contemporary liberal morality regarding sexual matters. It leaves open the possibility that, under certain circumstances, these relationships may be morally admissible. Some shortcomings and contradictions in these liberal arguments suggest that it would be of interest to refer to other authors and ideas to value adult–child sex, approaches that are based on a *specific sexual morality* concerning the issue of sexual virtues and a more complex conception of human sexual desire. Some of the scientific implications of these moral issues are also discussed.

Keywords Children · Sexual abuse · Sexual morality · Pedophilia · Sexual consent

Introduction

This article has a dual purpose. On one hand, it is a critical review of the most common arguments in the specialized literature about the moral status of sexual relationships between adults and prepubescent children. On the other, it aims to reveal how the ethical analysis of these experiences very clearly shows us the limits and contradictions of contemporary liberal morality regarding sexual matters. Although, from the concept of Kantian or utilitarian-based ethics, we can outline multiple reasons to forbid these

experiences, all of them result in a basically prudential condemnation, always leaving the possibility open that, under certain circumstances, these relationships may be morally admissible.

This article aims to contribute to scientific research and professional practice, both of which are deeply imbued with moral elements which often pass unnoticed and give rise to great confusion, such as happens with the term “child sexual abuse” and its use as a scientific construct or with the diagnostic of pedophilia as a mental disorder (Malón, 2012). In addition, this outline for organizing the ethical problem can be used for social research into moral attitudes to the problem of erotic experiences between children and adults, as indeed is already the case in a project now in progress in Germany. I think this article also examines ideas that may be useful in tackling ethical issues when dealing with the therapeutic, legal and social aspects of pedophilia. Lastly, I believe that this type of conceptual analysis is enriching and necessary to researchers in respect of the caveat given by Finkelhor (1990b) when he states: “Ultimately, I do continue to believe that the prohibition on adult–child sexual contact is primarily a moral issue. While empirical findings have some relevance they are not the final arbiter” (p. 134).

I will begin by presenting the most common arguments for condemning sexual experiences between children and adults. These stem from the perspective of general morality, since it is understood that human sexuality, perceived as a morally neutral or even irrelevant issue of physical pleasure, does not pose any special ethical requirements. From this currently dominant perspective, sexual conduct should not therefore be morally assessed without using the same principles and theories that govern any other aspect of human existence. I will also present the common objections to these arguments, not, in many cases, to deny their relevance, but to show their contradictions and shortcomings with regards children. From these shortcomings and contradictions I will conclude the need to refer to other authors and approaches that are based not only on other ethical perspectives concerning

A. Malón (✉)
Faculty of Human Sciences and Education, University of Zaragoza,
22003 Huesca, Spain
e-mail: agustin.malon@unizar.es

the issue of sexual virtues, but also other concepts of human eroticism and their moral implications. With this I will leave the door open to a line of thought I will develop in a future work.

Most people feel an intense instinctive distaste for this type of events, a rejection that contains elements that are clearly aesthetic (Kershnar, 2001, p. 127). Although I do not believe we should dismiss these moral feelings, since they can reflect valuable moral intuitions, I think it is clear that they should not prevent us from rationally analyzing them to understand their meaning and justification. It is true, as Thomas (2002) stated, that the mere fact of ethically analyzing this phenomenon may seem superfluous if not immoral or dangerous to many, perhaps suggesting there are levels of severity-lightness where people perceive an absolute evil with no ambiguity. However, I feel that, particularly in the current climate of concern regarding matters of child sexual abuse or pedophilia, it is extremely necessary and pressing to study the “theories of what is wrong with adult–child sex when it is wrong and even to question whether it is always, or necessarily, wrong” (Card, 2002, p. 170). As Kershnar (2001, p. 129) also states, it is important to understand the right reasons for condemning what we already know to be immoral, since if we accept as valid reasons and arguments which are ultimately incorrect, they may then be used to support cases that really are morally unlawful and unjust. In turn, Thomas (2002) also highlights the importance of understanding what it is that makes these relationships truly wrong; if there are several reasons that make them immoral he adds that we should understand which are essential and which are secondary.

We may agree with the idea that those experiences in which violence and coercion are clearly present do not pose the same ethical problems as those that do not apparently involve these elements. Therefore, in order to define the purpose of our analysis as far as possible, I will begin by stating that we will be dealing with those experiences in which the child apparently gives consent and cooperates in the relationship either actively or passively, finding it a pleasant experience in one way or another. I am aware of how difficult it is for many people to accept this possibility, but empirical research shows that some children do behave in this manner (Malón, 2011).

I will speak in general terms of “adults,” which will be understood to mean people who have undergone the stage of adolescence, considered to be, on average, over 17 or 18 years old. By “child” I refer to those under the age of puberty, occurring generally at 12 or 13 years old. We may wonder if this categorization based on puberty, as a universal human reality—without denying its specific cultural characteristics—is morally relevant. If it is, it is because something happens around this age that marks a before and after with regards human sexual desire and this means that from an ethical point of view a child is not the same as an adolescent. A distinction which, incidentally, I believe loses relevance within the context of the contemporary sexual morality that we will analyze here.

Three Pairs of Concepts

I will start by mentioning three significant pairs of concepts that are relevant for organizing our analysis. Firstly, we should address the existence of (1) two important theories that can be called ethics of duty and of virtue; secondly, we can organize the concepts of sexuality in (2) two important perspectives that we can call “sensualist” and “intentionalist”; and lastly we must mention (3) two significant political-moral positions that can be defined as “liberal-permissive” and “conservative-restrictive.” I will briefly explain each of these and then group them together in the two ethical approaches I have found concerning the matter discussed here.

- (1) *Ethics of duty vs. ethics of virtue* In very general terms, an ethics of duty “holds that only judgments about right action are basic in morality, and that the virtuousness of traits is always derivative in some way from the prior rightness of actions (...). Conversely, an ethics of virtue in its pure form holds that only judgments about virtue are basic in morality, and that the rightness of actions is always somehow derivative from the virtuousness of traits” (Trianosky, 1990, p. 336). The relevant idea is that our ethical analysis of sexual relationships between children and adults will go down very different paths according to which ethical perspective is addressed. And even if choosing one or the other ethical approach may evidently lead to similar conclusions, they will undeniably stem from very different reasons that also have different practical implications.
- (2) *Sensualist vs. intentional concept of sexual desire* There is a common tendency to categorize the concept of sexual desire into two types that in one way or another seem to reflect the classic antinomy between body and spirit. Therefore, some authors have differentiated between a concept of “meaningful sex,” where sexual activity is an expression of love, and another concept of “casual sex” in which sexual activity is reduced to its hedonic dimension (Benatar, 2002); others have differentiated between the sensual and the passionate (Singer, 1980) or between appetite and desire (Scruton, 1986). For my part, I will be drawing on the differentiation proposed by Morgan (2003b) between a reductionist concept, which I will call *sensualist*, and another *intentional* concept of sexual desire.

The most representative text of the first concept is possibly the classic article by Goldman (1980) titled *Plain Sex* and, more recently, the work by Primoratz (1999) called *Ethics and Sex*. This concept of human eroticism, which Primoratz defines as “plainer sex,” is characterized by considering sexual desire as a desire for physical contact and the sexual pleasures this entails, so the resulting satisfaction consists simply of experiencing this contact and pleasure, as well as its intensification culminating, usually, in orgasm. Other phenomena such as love, affection, intimacy

or tenderness, etc., or the many motives that may coexist with the sexual experience, may be present, be ethically relevant, and can be emotionally pleasant. But all of them are considered to be epiphenomena that are substantially different to sexual pleasure per se; pleasure which, on the other hand, tends to be considered intrinsically good or at least morally neutral. Concepts like sexual normality and perversion cease to have any meaning, with the problem of consent, along with that of injury, being the Gordian knot for the ethical analysis of these experiences.

According to other authors, this concept is based on an erroneous philosophy of mind that does not correctly understand the relationship between consciousness and corporeality. To understand the phenomenon of desire and sexual conduct we need to address the “interpersonal intentionality” of the participants. The pleasure of physical contact is not the only thing, nor is it the most relevant point in philosophical or moral terms, but rather the mutual perception of the lovers. The key lies in their mutual recognition as subjects-objects of desire and the connection that they establish in the amorous encounter in their condition as embodied people. Hence the need for an *intentional* concept of sexual desire (Nagel, 1992; Scruton, 1986) which recognizes the existence of a sexual normality and its possible perversion. The attitudes of each participant towards themselves and each other, as well as what is happening between them both, are morally relevant, and mutual consent may not be enough to grant ethical legitimacy to a relationship.

- (3) *Liberal-permissive vs. conservative-restrictive ideologies.* This third categorization is, in fact, on another level of analysis, given that it has more to do with the direction that our positions regarding the previous two dimensions place us in. The only thing I would like to mention here is that, according to the categorization proposed by McKay (1998), we can talk in general terms of two large groups of “sexual ideologies” that he calls restrictive and permissive. The *restrictive* attitudes, typical of a traditional and politically conservative sexual morality, tend to cast a shadow of suspicion, fear and wariness over human eroticism that leads to the multiplication of rules, prohibitions, taboos and restrictions, limiting its expression to a very specific scope and purpose—i.e., love, marriage and procreation. In contrast, *permissive* ideologies, characteristic of liberal modernity, tend to view the topic of sexuality with a more relaxed, or even indifferent, attitude, giving individuals and groups more space to experience and express their eroticism according to their own tastes, desires, customs, etc. The result is a progressive deregulation of this issue, limiting the restrictions to cases that are absolutely necessary to ensure social harmony and basic rights.

We could say that what differentiates both attitudes is where the incriminating evidence lies: in permitting certain conducts or prohibiting them. For the liberal-permissive perspective sexuality should basically be a matter of individual autonomy that

must only be regulated when absolutely necessary; for those with a restrictive viewpoint, the complete opposite applies. In my opinion, this in turn implies that what differentiates these ideologies is the individual and collective significance given to sexual conduct. For the more permissive attitudes, as well documented in the economic approaches of authors such as Posner (1992), sex has scarcely any moral relevance; it simply is what it is. In contrast, a more restrictive attitude only makes sense if greater relevance and significance is given to this human dimension.

General Morality vs. Sexual Morality

We might think that in reality this last distinction between *liberal-permissive* and *conservative-restrictive* ideologies is superfluous, since to some extent it has already been included in the previous categories. Therefore, a sensualist concept of eroticism would implicitly include the stamp of permissiveness, while an intentional concept would lead to a more restrictive sexual ideology. Or that adopting a moral theory of a rational nature, concerned more about the conduct of the individuals than their character, would in turn also favor a more indifferent attitude, with the morality of virtues being more demanding in the idea of good eroticism. But this is not necessarily so. A sensualist concept of sexuality can lead to a clearly restrictive moral and political attitude, for example purely and simply for reasons of hygiene to prevent diseases. Seidman (1992) states specifically the radical feminism of the eighties resulting in a sort of revival of a much more restrictive ideology after the permissive stage of the sixties. In the feminist fight against pornography, sex as fun is interpreted as a reflection of a patriarchal structure in which women are seen as objects and not subjects, and are subject to men’s desires to control and to the violence, symbolic or real, that they use to achieve this (Dworkin, 1987b).

However, even with this important clarification, I think there is justification for thinking, along with Benn (1999), that there seems to be a sort of affinity between the different elements of these three pairs of categories. Hence, the permissive attitudes tend to base themselves on a sensualist concept of desire and an ethical theory of a rationalist, Kantian or utilitarian nature. The more restrictive attitudes, on the other hand, usually uphold an intentional concept of sexual desire and are based, in turn, on the ethical tradition of virtues.

This brings us to the wider debate regarding the existence of a *specific sexual morality* or whether, on the contrary, sexual conduct should be judged using the same elements with which we evaluate any other human relationship. Benn (1999) stated, correctly in my opinion, that in our society more consideration seems to be given to the idea that sex in itself does not have any special morality, taking the words of Singer as an example to define this viewpoint:

...the first thing ethics is not, is a set of prohibitions particularly concerned with sex. Sex raises no special moral issues at all. Decisions about sex may involve considerations of honesty, concern for others, prudence and so on, but there is nothing special about sex in this respect, for the same could be said of decisions driving a car. (Singer, quoted in Benn, 1999, p. 235)

The very widespread view of rape as aggression and not as sex is perhaps the most typical example of this perspective that the contemporary liberal thinking and feminism have both embraced. From this currently prominent viewpoint, it does not make much sense to talk of “sexual normality” unless it is from a merely statistical or at best medical perspective. This is a much more regulatory-legal approach to sexual morality where sexual conduct basically has limitations and where the problem is not so much the possible ideals but rather what should and shouldn’t be permitted.

The majority of authors that have written about sexual experiences between children and adults have done so from a liberal viewpoint with rather permissive implications with regards relationships between adults. Their conclusion has usually been to prohibit this type of behavior using arguments that are rationalist and based on an apparently *sensualist* concept of sexual desire. On the other hand, it is also true that the very few authors who have defended the legitimacy of these sexual relationships consented to with minors, have done so using the same parameters (i.e., Brongersma, 1986, 1990; Ehman, 2000; O’Carroll, 1980). In this case the legitimacy of the child’s assent was stressed, as was the absence of any harmfulness in an experience that is basically natural, pleasurable and morally irrelevant.

Standard Arguments to Condemn Adult–Child Sex

I have already mentioned that a characteristic trait of these ethical theories of duty is the concern more for the problem of permissibility of certain conducts rather than the possible virtues that may be concealed behind them. The idea of “good” tends to be reduced to the idea of “permissible,” which is more in line with contemporary moral pluralism. They are therefore ethics that seem to move naturally towards moral legalism and ultimately towards criminal law with which they are easily confused, in contrast to virtue ethics which are much more holistic and pedagogical in their ramifications.

If these rationalist ethics overlap with a sensualist concept of sexual desire, with its natural inclination to permissiveness, we then have the seed of what we call a “general” type of sexual morality. With this morality sexual acts are not good or bad because they are sexual, but because of extrinsic factors. Sexual conduct may have specific rules that are only suitable for governing this aspect of human behavior, in the same way that, as Goldman (1980) states, traffic signals are used to regulate traffic and

not business behavior. But these specific rules of sexual conduct always stem from general moral principles that are applicable to all aspects of moral existence. As Goldman concludes, all the moral implications of his sensualist concept of sexuality can be summed up very simply: there are none at all. He says that any analysis that attributes a moral significance to sexual experiences and relationships is incorrect.

For this author, summarizing the three main arguments that we will discuss to condemn (or defend) these experiences between children and adults, sexual relationships can only be considered immoral when (1) they are not reciprocal and only one of the participants benefits, with the other participant not benefitting or even being harmed in the exchange; (2) when they are not free exchanges that are rationally accepted by all the participants. For Goldman, these two arguments are sufficient, because although there may be a certain (3) objectification of the other person’s body in a sexual relationship, what matters is that their rights are respected and their personal dignity is recognized as in any other human interaction.

The case of objectification, which Goldman and others consider secondary in moral terms, seems to lie on the border between a general sexual morality and another, more specific morality. The problem is that objectification can be interpreted in different ways, having a more general interpretation in moral terms and another more specific one for sexual matters. It is not always easy to be sure what the authors are referring to, given the complexity of the concept and the phenomena they involve (Cahill, 2011; Nussbaum, 1995). Some address this concept in a similar way as they treat, for example, the problem of slavery, where there is complete instrumentalisation of the other as a person. This is the most common attitude in feminism and contemporary liberal thinking, and I will refer to this later on using the concepts of instrumentalisation and exploitation.

But this concept can also be interpreted as the objectification of the sexual experience itself which is unparalleled in other areas, in which case we would be dealing with an argument typical of a specific sexual morality. This would imply a reduction of the other to a body with no soul, to its material existence but not embodied. This makes the reciprocity of sexual desire impossible, which for some is a characteristic trait of the phenomena of perversion or obscenity (Nagel, 1992; Scruton, 1986).

We can arrange all the arguments that have been used for or against these experiences from the framework of a *general morality* in three large categories that I will define below giving a brief summary of their basic aspects, leaving the possible criticisms that may be made for each of them for another section.

Consent

Consent is, at present, a fundamental and unavoidable element of all ethical and legal analysis of sexual conduct. Its importance

undoubtedly stems from our consideration of sexual self-determination as a basic human right, essential for our personal fulfillment, well-being and happiness. A right that for the modern liberal approach lies basically in the capacity for giving or refusing consent to a sexual relationship (Archard, 2004, p. 105).

The impossibility of giving free, genuine and informed consent is the criterion most commonly used by experts and laymen alike to morally condemn sexual contact between children and adults. As Archard (2004) states, “The key to the wrong of sexual abuse is that the child does not consent and does not because it cannot” (p. 205). The appeal of this logic lies, apart from its apparent simplicity, in the fact that it allows these events to be morally judged using the same criteria as that applied to sexual relationships between adults, while avoiding the intrusion of other moral considerations. This perspective also seems to harmoniously combine the dual dimension of the moral and the legal, with the age of sexual consent being similarly treated as the age at which other morally and legally regulated conduct can be carried out—working, driving, getting married, drinking alcohol, leaving school.

In response to the arguments from authors like O’Carroll (1980) or Ehman (1984), critical of the strict demands we have established to accept sexual consent from children as valid, authors such as Primoratz (1999) or Archard (2004) defend these demands by saying that children do not have the necessary cognitive capacity. And although both authors agree that children do have sexuality, showing interest, feelings and sensations that are sexually pleasurable, neither seems to give moral relevance to this fact when addressing relationships with adults. Child sexuality is worthy of recognition and respect when it is limited to solitary activity or with equals, but never with adults. The argument in both cases is that the significance of this child sexuality is different to that of adults. A difference which, as we will see, has enormous relevance regarding the argumentative consistency of both authors and Primoratz in particular, who insists on a radically sensualist vision of human sexual desire.

As Finkelhor (1979) pointed out in his day, Primoratz also states that the child inevitably ends up being a prisoner that cannot really choose freely and independently. And this is because there is an essential problem of physical and psychological asymmetry, an imbalance of maturity and power, as well as social status, between both parties. The child usually sees adults as figures of authority simply because they are adults and tends to defer to them, making it difficult to refuse their advances and demands. It is true, as Primoratz admits, that not all sexual relationships between adults occur with equal conditions between the parties, but these imbalances between adults are the exception to the rule while it is the norm between children and adults. This links the question of consent with a second and important line of argument.

Instrumentalization and Exploitation

The principles of Kant’s ethical theories in the field of sexuality have often been reduced to a mere problem of consent, although maxims like not using people or the obligation of thinking about their well-being suggest other lines of argument (Morgan, 2003a). One of these is the argument that establishes that an essential moral objection to human relationships lies in the instrumentalisation of the other, which when applied to our subject of analysis, for many, would imply that “sexual interaction with a child inescapably involves the sexual using of another person” (Mappes, 1997, p. 166). For this reason we can distinguish two approaches that are closely linked. The first approach, referred to as exploitation, highlights the inevitable difference in power that exists between certain types of people, which makes a “freely consented to” sexual encounter virtually impossible. The second approach, which consists of the first version of the problem of objectification, reports the instrumentalisation that is made of the other as an object of sexual self-satisfaction.

These ideas, characteristic of feminism and which supplement the liberal argument of consent, mean that we need to be more rigorous with regards the requisites necessary for valid consent. Another aspect we need to bear in mind along with the arguments of instrumentalisation and exploitation, as well as the individual capacities, is the state of the social conditions in which this consent is given. Formal and abstract equality is not the same as real and specific equality (MacKinnon, 1989). And if this is true for women it is even more so for children.

...just as feminists have sought to define rape as an act of violence, not a sexual act, it is right to remember that what is at stake in sexual abuse of a child is the expression of superior power rather than an inapposite sexual relationship. For, although sexual abuse is classless, it is nevertheless the expression of deep-structured inequalities—between men and women, and between adults and children. (Archard, 2004, p. 205)

The most radical feminist views argue that sexual assault against women and children is the norm in our society and not the exception, since “consented” sexual relationships are nothing more than displays of a structural sexual violence. This, added to a concept of male desire as a desire to dominate (Dworkin, 1987a; MacKinnon, 1984), leads to the inevitable instrumentalisation and exploitation of women and, with it, children (Dworkin, 1987b, p. 103). No woman can truly consent, given that seduction is nothing more than concealed violence.

Although these types of extreme approaches are enormously controversial, provoking intense debates even within feminism (Shrage, 1994; Stan, 1995), they have certainly been very successful when dealing with children as victims, leading to practically unanimous agreement. Which is why we should not be

surprised that father-daughter incest has become for many the “paradigm of female sexual victimization” (Herman, 2000, p. 4) and, finally, any other sexual experience between a child and an adult has become the prototype of male oppression or even any form of oppression (Frye, 1984). Nowadays there are few images more powerful to symbolize the idea of the exploitation of the weak by the powerful.

Hence the rhetoric of violence and exploitation, based in this case on a generational inequality, has been another of the essential arguments for condemning sexual relationships with children. Even the expression “child sexual abuse”, now so prevalent, leads us straight to the idea of exploitation. It is a concept with powerful political and moral resonance that, not without discussion (Rind, Bauserman, & Tromovitch, 1998; Seto, 2008), has grown to be the scientific construct forming the basis of all the research and professional interventions in this field. Research that focuses, to a large extent, on proving the existence of damage and its intensity; and professional interventions that are largely concerned with discovering how to detect it, assess it and address it from a therapeutic point of view.

Damage

The presentation of the problem of child sexual abuse over the last three decades of the 20th century is largely due to the interest of social researchers, therapists, feminists and child protection groups, to raise society’s awareness of the scope and severity of the problem, decrying what they considered an alarming social indifference and passivity (Malón, 2004). One of the first ideas that needed questioning concerned the supposed lack of seriousness of a lot of these events, a belief that many saw to be widespread, among the public in general as well as among specialists, and sexologists in particular (Finkelhor, 1981; Herman, 1992).

Kinsey, Pomeroy, Martin, and Gebhard (1953) had compared the majority of these experiences to the fright a child may get from seeing an insect. Later on, within the framework of the sexual permissiveness of the 1960s, it was common for many authors to play down the importance of such events; even the taboo of incest was called into question as the product of an outdated and irrational sexual morality (Justice & Justice, 1979). At that time cases of pedophiles were compared by some to those of homosexuals, forming part of the agenda of groups for a general sexual reform (Foucault, Hocquenghem, & Danet, 1988; Rubin, 1992). Even from the rhetoric of children’s rights the alleged damage caused by such experiences was questioned and the emphasis was placed on the damage caused by the social, political and legal reaction (Farson, 1974). Although it is difficult to assess the scope of these more liberal attitudes regarding pedophilic relationships, there was an undeniably much more common belief that not all such experiences were abusive or destructive, with it being necessary to assess each case individually (Constantine, 1981). It is clear, for example, that in Europe pedophilia was, for a while,

viewed with a tolerance that would be completely unacceptable today (Guillebaud, 1998).

For many, this “amiable” view of pedophilia and other sexual oddities was the inevitable result of this sensualist concept in the extreme of human eroticism. An attitude which, thanks to authors like Kinsey, would promote a moral permissiveness that was especially problematic with regards children (Bancroft, 1998; Bulough, 1995). And perhaps the only counterbalance possible to this uneasy drift towards tolerance was, for many, to highlight the issue of the damage that these experiences could cause. Logic which, when applied to other areas, explains why feminism insists that the problem of pornography is “Not a moral issue” (MacKinnon, 1984), but rather a problem of empirical and demonstrable harmfulness.

The use of damage is the dream of the rational mind to decide on the regulation of sexual conduct without resorting to moral concepts. Therefore the question of the effects or consequences of sexual experiences also occupies an important place in the most radically liberal theories that trust scientific findings in order to make the right ethical and legal decisions (Green, 1992). Posner (1992) believed that as sexuality is an area susceptible to an economic analysis of cost/profit based on objective information, the State should therefore adopt an approach of absolute moral indifference. Legislators should start by dismissing all tendencies to overestimate the human value of sexuality when defining the limit between what is classed as an offence and what does not.

It is not surprising therefore that in the current evaluative framework of pluralism and the alleged neutrality of criminal law, the issue of sexual relationships between children and adults focuses time and again on an “objective” concept of the damage that empirical research should be able to clarify. In this regard, while it is true that scientific findings remain controversial and seem to suggest the existence of a wide range of reactions and consequences, specialized discourse usually approaches the phenomenon from what we could call the perspective of trauma, highlighting the suffering involved in experiences that are implicitly defined as violent, overwhelming or particularly cruel, something which is not otherwise that common in statistical terms (Finkelhor, 1990a).

Before addressing the section of the criticisms to these three arguments, I would like to emphasize two things. Firstly, the question of damage links up here in a circular manner with that of exploitation and the absence of consent, with the ensuing result reinforcing the damage. But it is also important to point out that the damage we refer to here can be scientifically objectified, normally by using clinical categories, theoretically independent of the moral particularities of each community, family or individual. This means that we are not referring to a moral type of damage; much less to a type of damage based on a certain concept of good sexuality, although both elements may be subtly present, often concealed, in the apparent objectivity of scientific discourse. I will come back to these issues in my conclusion as

they are extremely important for social research on child sexual abuse.

Objections

The objections that I will present below are not intended to entirely question the validity or relevance of these three arguments as they apply in most real cases. My intention is to show that, limiting ourselves to these three ethical criteria, it can be concluded that under certain circumstances sexual experiences between children and adults could be morally permissible. Therefore, starting with the question of consent, one of the most common criticisms is that many of the things we do with children can be done without the need for their “informed consent”—i.e., instill religious beliefs in them—and some of them even without their “assent” and against their will—i.e., making them go to school—(Ehman, 2000; Kershner, 2001; O’Carroll, 1980). And while the response may be given that sexual experiences may lead to added risks that do not arise in these other situations, what matters is that adults make sure that these risks do not occur or that they are only slight and that the child is well prepared to cope with them. Some have proposed for example that a third party should observe and supervise the relationship to guarantee the rights, the will and the safety of the child (Brongersma, 1980; Kershner, 2001). The fact that this “solution” is excessively complicated or even impossible in practice does not exclude it from being a counter-argument to bear in mind.

The idea is that children would be capable of consenting to a sexual relationship if they were given the means with which to do so. What matters is that the child, as in any other area, is adequately informed and prepared to understand and handle the “rules” that govern the sexual relationship (Ehman, 2000); the child must be aware what the relationship will entail and must be able to freely decide about any aspect of it. The core point, states Ehman (2000), is that the adult must assess whether the child, when he is a responsible adult, would accept the relationship under the same conditions.

Other critics resort to the contradiction resulting from the tolerance shown for sexual experiences between children of similar ages. If sexual games between children are tolerated, why shouldn’t they be accepted between children and adults? The argument that relationships between children are permissible because neither of the participants is responsible for what happens (Primoratz, 1999) is clearly misguided because this does not exempt the act from being morally wrong (Kershner, 2001). For many the only way out of this apparent contradiction seems to be to apply the criterion of exploitation which, as we have seen, is not an alternative to the criterion of consent but rather a variation of it, as it establishes certain extra conditions to make consent truly valid.

With regards to instrumentalisation and exploitation, it has been argued that although there are situations that the majority

would agree are exploitative, there are others for which the evaluation would not be quite so simple. Kershner (2001, p. 120) understands that an act is exploitative when one of the parties takes unfair advantage of the other using his advantageous position over the other. This imbalance in the capacity to negotiate an agreement may depend on external factors—resources and circumstances—or internal factors—intelligence, patience, information, etc. In the case of sexual relationships between children and adults, the latter would be exploiting the children if they obtain more from the relationship thanks to their advantageous position, which leads Kershner to conclude that the argument of exploitation is contingent, and may be applicable only in some cases.

Therefore, we could empirically research whether the child gets more or less out of the relationship than the adult. And in any case we know of relationships in which this exploitation was not present (Kershner, 2001, p. 122). The image of exploitation is directly related to both the motivation and the strategy used by the adult, but it is not inevitable in either case. Card (2002, p. 170), for example, does not consider valid the idea that coercion is always present in sexual relationships between children and adults due to the imbalance in power or authority: “That idea fails to recognize the difference between adults who honor a child’s preferences and those who do not.” The adult’s exploitation of the child does not depend on the inequality in power, but rather on the use the adult makes of that power.

On the other hand, the situation of inferiority and vulnerability of children acknowledges the need not only for more protection, but also for more freedom and autonomy. This is the opinion of some authors who state that what children really need is more information and more power to reject or accept the things adults may propose to them (Farson, 1974, p. 147). The problem is precisely the fact that children are taught to be submissive with adults, especially concerning sexual matters, where they are kept in dangerous ignorance that makes them especially vulnerable. Giving the child more information and more power would mean they could reject, refuse and say no, something that then puts us in the dangerous position where they could also say yes (Archard, 2004).

The argument of harmfulness has also been questioned (Brongersma, 1980; Ehman, 1984; Kershner, 2001; O’Carroll, 1980), even by those that reject these relationships (Krivacska, Free1, Gibb, & Kinnear, 2001; Underwager & Wakefield, 1994). It has been argued that under certain circumstances these experiences are not only harmless, but are in fact even positive and beneficial for the child. When there is no violence, coercion, deception, concealment, etc., some state that the negative consequences attributed to these events no longer exist. In these cases the simple will of the child to participate in a relationship they find pleasurable is more than enough to allow it.

We have seen how the question of damage has usually been addressed from the perspective of empirical research, trying to demonstrate by means of descriptive and correlation studies

whether these experiences have a negative effect on the short- or long-term biological, psychological or social development of the child. In this regard, as far as scientific research is concerned, we can only say that the hypothesis of damage has undeniably been contested and that the experts have not reached an agreement about either its presence or its intensity or even its origin (Clancy, 2009; Rind et al., 1998), with it being reasonable to conclude that at the moment science seems unable to provide a definitive answer. Schmidt (2002a) suggested that, where the polarized controversy surrounding the issue of *trauma* is concerned, the ethical problem of pedophilia should be tackled apart from any harm that may arise from such experiences, a point which, at most, would give us prudential reasons.

Authors such as Kershnar (2001, p. 129), who have defended the fact that damage should be the principal moral criterion, state that this puts the ball in the court of those who aim to prohibit these experiences, meaning they need to demonstrate that they are harmful experiences, in which cases they are harmful and with what level of probability and intensity. If the political decision to prohibit this conduct should be based on what empirical research tells us and this is not conclusive, then it cannot be prohibited until those who want this can demonstrate that there are clear reasons for doing so. Damage for Kershnar (2001) is based on what he calls “a setback to a person’s interest” (p. 129), therefore the analysis of the interests of the individuals involved, in this case the child and his parents, would be what determines whether experiences are damaging or not. His conclusion is that these experiences do not necessarily result in any type of damage.

Kershnar (2001) acknowledges the possible objection that his definition of damage is too narrow, leaving out other types of damage, for example damage to dignity or honor, but his response is that these aren’t necessarily present either (pp. 123–124). He also quotes hypothetical interests of children to preserve their virginity or purity and sexual innocence, which the child loses in any sexual relationship with an adult and which could affect them negatively in the future. But Kershnar’s response is that these interests depend on the values and ideologies of certain groups and people, and are perhaps not shared by others. In this case it should be parents who make the decision. But even if damage is caused, which is uncertain or may be slight and not too significant, parents should be allowed to permit the relationship if they wish, as happens for example with conduct like eating unhealthy food or watching a lot of television, etc., which are activities that children enjoy and which are tolerated by many parents (Kershnar, 2001, p. 130).

Limits and Contradictions

Beyond these objections, we could think that the standard arguments we have seen up to this point are indeed more than enough to morally and legally condemn these interactions. An approach that could be defended even as a mere prudential reason based on

the arguments examined above, especially concerning the issue of the child’s consent, the greater possibility of exploitation and the difficulty in preventing it in an area which is developed in privacy as occurs with sexual matters. Or, ultimately, based on the possibility of damage that even though it may be only hypothetical and sometimes caused by society’s reaction, makes it more plausible to opt for a cautious prohibition.

It is the alleged vulnerability of the child that justifies special prohibition that is not applied to adults. The fact that some children do not possess this vulnerability or that some adults are just as vulnerable as the majority of children, does not impede the general rule. These are exceptions that confirm the rule. As Card (2002) explains, in general children are not able to properly gauge whether an adult has good intentions, if they will take care of their needs and respect their genuine wishes, if they will be affectionate and attentive, if they will take the child’s pleasure into account, if they will not cause them any harm, etc. Many adults, even with the best of intentions, may not fulfill these conditions, blinded perhaps by their feelings and causing some type of suffering.

I judge it to be the case that, even if only for prudential reasons, this general rejection seems to be justified, especially when social condemnation is so intense in the large majority of people; when its undermining would entail altering fundamental aspects of our social and family structure; or when, contrary to the opinion of Ehman (1984, pp. 435–437), this prohibition does not seem to act against any of children’s fundamental rights or put their well-being at risk. This does not exclude the fact that the growing diligence and harshness of social reaction and legal intervention in this area may sometimes cause excessive or unnecessary damage for all those affected, but this can be avoided by altering how we react, not necessarily by abolishing the rule.

But prudence, and a legality that guarantees social harmony, are not the same as morality. It is not my principal aim to judge these facts, but to analyze the consistency and the limits of the different lines of arguments used when judging them. In this regard, the arguments analyzed so far contain significant gaps and contradictions that detract from the power of conviction of those that attempt to definitively condemn these relationships. This explains why the debate, although underground and difficult to approach in public, remains open. A recent opinion piece in *The Guardian* (Henley, 2013) questioned the most widespread beliefs about pedophilic relationships and the alleged damage they cause, raising an intense public controversy. And this is because, apparently, our moral rejection of these events seems to be based on circumstantial points that we cannot always take to be true. Hence a scientific study claiming to confirm the harmlessness of those relationships that have been consented to and that the victims have experienced in a positive manner (Rind et al., 1998), has the dubious honor of being the only scientific research that has received official reproval from the Congress of the United States of America (Oellerich, 2000; Ondersma et al., 2001; Rind, Bauserman, & Tromovitch, 2000; Wakefield, 2006).

While all the objections analyzed can be rejected arguing that in our current society it is very difficult to imagine a sexual relationship between an adult and a child that does not involve any of these problems, this does, however, leave the possibility open, hypothetical as it may be but not impossible, of building—as is the dream of many pedophiles and defenders of the emancipation of children—a society designed so that none of these things happen; a society in which it is in fact possible for children to consent giving them all the information necessary and supporting them with the opinions and advice of other adults; a society where the exploitation carried out by adults can be controlled and where harm, which would only occur in cases of violence, coercion and exploitation, would be more easily prevented. If society and people were better, all sexual relationships, reduced to a matter of harmless pleasure and morally inconsequential, would be permitted provided the participants had freely and truly given their consent.

Furthermore, the usual arguments mentioned here perhaps justify a prudent prohibition, but by no means do they explain the emotional intensity with which we reject these relationships or the severe legal punishments that are applied; nor do they explain why certain aspects are more immoral than others—i.e., relationships that are incestuous compared to those that are not. For many, discussing these questions may involve a type of moral intuitionism that would place our ethical opinions in the realm of our emotions, combined with the cultural traditions of each society, with individual sensitivities, etc., phenomena which although clearly existing, should be viewed warily from the perspective of a general sexual morality (Primoratz, 1999).

We have already seen how the authors that apply this ethical perspective, whether to condemn or defend these relationships, base their ideas on a sensualist concept of sexuality that does not pose moral demands that are any different from those in any other relationship. But from this view of human sexuality, as Benatar (2002) stated, it is very difficult to condemn phenomena like sexual relationships with children or to consider rape as a particularly serious act and qualitatively different from other physical assaults. In the case of children there are also logical contradictions that need to be analyzed.

Therefore for example, Primoratz understands that the child has less life experience and poorer psychological resources that seriously limit his awareness of himself and the world that surrounds him, a shortcoming that cannot be resolved as it might be with a badly informed adult. Then there is the issue of the child's consent, if it is in fact given, as it is not informed consent nor can it be. The problem with this approach is that it is not very clear what information or special conditions should be required to give consent to an experience that the author himself classes as mere physical pleasure with no moral significance—"plainer sex."

This is the line taken by many defenders of pedophilic relationships when they state that we should be able to separate simple and innocuous sexual pleasure from all its cumbersome

and suffocating moral regalia. This would mean that those responsible for the education and care of children would be left to make the appropriate decisions on this matter. Therefore, if a family or community wanted to teach their children to disregard values such as virginity, sexual purity or sexuality associated with commitment and love, "perhaps because they focus on developing their minds and view sexual pleasure as an innocent and insignificant release from their intellectually demanding projects" (Kershner, 2001, p. 123), then they would be free to do so.

The usual response to these provocative suggestions is undeniably weak and contradictory. I believe that this is due to the fact that when it comes to condemning these experiences with children, authors such as Primoratz, Goldman or Archard seem to take for granted, without venturing to explain in further detail, certain fundamental beliefs about the nature of sexual desire that go beyond this sensualist view. Some, like Archard (1998, p. 98) or Goldman, have explicitly acknowledged this detail, particularly in relation to children or incest; others, like Primoratz, have implied it in their arguments. If, for this author, sexuality is the mere desire for physical pleasure and children in fact have this sexuality, it is then difficult to understand his comment that "The actions which the adult interprets as sexually suggestive or even provocative are not meant as such by the child, but are rather expressions of curiosity or playfulness. Thus the whole interaction takes on sexual import for the adult, but not for the child" (Primoratz, 1999, p. 141). This leads us to suppose that this alleged difference between adult and child sexuality is morally relevant, but at no time does the writer clarify what this difference is, or what causes its ethical importance.

We could think his intention is to defend the position that children cannot feel sexual desire with the same intensity and structure that adults do. If as Primoratz says, sexual pleasure is manifested in the excitation of the sexual areas, perhaps he means that children do not yet have this capacity—for example, the capacity to have orgasms—and therefore they cannot experience this pleasure. But this argument fails on at least two counts; firstly, because this does not explain what could be wrong with the child receiving affectionate caresses and cuddles in return for masturbating the adult; this would even be possible with very small children, which would unquestionably seem absurd for most people. Secondly, because the awakening of this capacity to feel sexual pleasure occurs gradually and there are children who experience it, even though perhaps less intensely or only for passing moments, long before they reach adolescence.

According to Archard (1998, 2004), if the essential ethical problem lies in whether the child does or does not have the capacity necessary for sexual self-determination and at what time or under what conditions he acquires this capacity, an important question arises concerning the sexual awareness the child has. Hence the right to sex education and the use of information and sexual awareness with very young children is justified not only by the future prevention of pregnancies and diseases (Archard, 2000), but also as

a line of defense against possible abuse. However, Archard (2004) goes on to say that sex education and in particular the aspect aiming to teach children they have the right to say no, to protect their body from contact with others, for their sexual freedom, intimacy, etc., to be respected, must also implicitly acknowledge that the child can also say yes, and may voluntarily consent to these experiences that may be pleasurable, nice, tender, etc., for him. And he adds that this does not only happen after puberty but also before, because children are sexual beings throughout their whole childhood.

Therefore we should be wary, according to this author, of the idea that the sexual abuse of children is an act that is particularly horrific because it destroys their sexual innocence and perverts it. This belief, as well as being untrue, could even lead to a dangerous eroticization of children. These authors assert that it is not a case of going back to the idea of children being angels devoid of all sexual interest, denying them the possibility of sexual experimentation with their equals or the possibility of better sex education (Archard, 1998, pp. 118–119; Primoratz, 1999, p. 143). But for these authors the legitimate sexual interest and feelings of children do not have the same significance that they may have for an adult, in that there is a big difference in experience, needs, emotions, sense of responsibility, awareness of the consequences and implications of events and, above all, the difference in power between both parties.

However, if “It is not sex that is dangerous but the social relations which shape it” (Archard, 1998, pp. 127–128), what happens then if, as occurs quite frequently with pedophiles, the adult’s sexuality is experienced and expressed in a way that is more childish than mature, and is limited to the same gestures and conduct as those involved in first sexual discoveries (Lautmann, 1994)? If for Archard the sexual experience itself is morally neutral and initially harmless, with the only problem being the relations and the social context in which it occurs and the meanings thereby attributed to it, does he not then contradict this when he states that sexual abuse is a particularly vile and destructive form of abuse? If the problem is not the sex but the social relations which shape it, why attribute this enormous destructive power to these events and harbor this intense moral condemnation of the adult responsible? Neither Archard nor Primoratz manage to explain this convincingly, stating serious contradictions and always leaving the possibility open, although hypothetical, for a situation in which neither the type of relationship nor the social context turn what seems to be an “innocent” sexual experience into something morally reprehensible.

Conclusion

I have reviewed the arguments most commonly used when it comes to judging the moral permissibility of sexual experiences between children and adults. The authors, focusing on the issue of consent, exploitation and damage, seem to base their ideas on a sensualist concept of sexuality and the fundamental premises

of the ethics of duty, applying the same principles to the question of eroticism as they apply to any other field. I have also taken the principal criticisms to these arguments into consideration, concluding that there are sufficient reasons, even of a prudential nature, to uphold the social rejection of sexual relationships between adults and minors under a certain age. My aim, however, was focused on showing how these arguments are incapable of justifying a definitive and universal rejection of these relationships, as they always leave the possibility open that some of them are or could be morally permissible. The defenders of these relationships are not without real stories of children who have had positive sexual experiences with adults (Leahy, 1992; Sandfort, 1982; Wilson, 1981) and who do not seem to be negatively affected in their development as people.

However, scientific study of these experiences is full of moral premises that often go unnoticed but which, nevertheless, have a direct influence on the design for the research and interpretation of its findings. A good example is the widespread use of the term “child sexual abuse” as a scientific construct. The controversial article by Rind et al. (1998), which questioned the scientific use of the term to refer to cases where the child may have consented to and enjoyed the experience, revived an interesting ethical discussion among researchers. According to some critics, the problem with the study was not its empirical findings on the apparent harmlessness of many of these experiences, but their *interpretation*, which meant questioning the “basic societal value that sex with children is abuse” (Ondersma et al., 2001, p. 708).

The criticism focused on the fact that the authors had depreciated the moral severity of these cases by accepting that the children may have “consented,” which in turn suggests that some of these experiences were morally acceptable. Demonstrating that these experiences were not necessarily harmful if there was consent would mean starting from a very simplistic concept of both the meaning of “consent” and what we should understand by “harm”. Limiting ourselves to an empirically measurable concept, we leave aside for example “the possibility that a child might learn from an abuser that such experiences are normal and positive is one of the most concerning possible outcomes of CSA” (Ondersma et al., 2001, p. 709). This is an idea of harm, and what “abuse” means, that moves away from the scientific and medical approach and enters the field of a sexual virtue ethic and a specific idea of eroticism that is of value.

Likewise, scientific study on pedophilia is irrevocably imbued with moral elements that are not clarified and give rise to significant misunderstandings. In a special section of the *Archives of Sexual Behavior* (Zucker, 2002), the two main articles dealt with the issue of pedophilia as a mental disorder (Green, 2002) and its moral problems (Schmidt, 2002a). This category of diagnosis is hugely controversial and, in order to understand it, it seems “necessary rather to attend to the concept of perversion, of which paedophilia is the most feared embodiment today” (Malón, 2012, p. 1094). The problem is that considering it as a mental disorder becomes unsustainable when based on, as many of its critics do (Green, 2002;

Moser, 2002, 2009), a *sensualist* and morally neutral concept of sex which makes any idea of *sexual normality* impossible, or at least ethically irrelevant. Similarly, those who defend pedophilia as a mental disorder must, at least implicitly, hold to a more complex concept—i.e., intentional—of human eroticism that contains a specific idea of *natural* sexuality and its *perversion* (i.e., Wakefield, 2011).

On the other hand, the reasons given by Schmidt (2002a, 2002b) to reject on moral grounds these experiences, centered on the problem of consent—as well as recommending some prudence over the possibility of trauma—are most certainly debatable (Rind, 2002). In response to criticisms, Schmidt (2002b) pointed out that it is essential to answer the question of whether “Is there nothing special about adult–child sex?” But his argument is not convincing, mainly because he tries to sustain it without first addressing the question of whether eroticism in general poses special moral issues. However, it is important to observe how Schmidt (2002a) also occasionally upholds the existence of “differences in adult and child sexuality” (p. 476), questioning that naturalist view, which he identifies with Kinsey, according to which the sexual experiences of children and adults are basically the same. Unfortunately, Schmidt does not go very deeply into this idea, beyond a brief reference to how children and adults experience masturbation. However, only by demonstrating that there are one or more differences that are *morally significant* between both types of sexuality makes it possible to understand current moral condemnation of these facts, which is rather difficult from the point of view analyzed in this article.

As I have tried to show, one of the greatest weaknesses in these arguments lies in the fact that the authors attempt to uphold a sensualist concept of sexuality by recognizing and at the same time defending the existence of child sexuality, which makes their objections unconvincing regarding sexual relationships between children and adults, something which they do tolerate or even regard positively between children of similar ages or as solitary activities. But as well as putting forward considerable logical contradictions, these approaches are enormously limited when it comes to really understanding the complex moral reaction of most people with regards these events.

In my opinion their basic weakness stems from the belief that sex can be morally judged using the same criteria as that applied to any other relational experience, which implies reducing it as stated to a phenomenon of physical and genital pleasure which in itself has little or no moral relevance. But this is the same weakness that affects those who attempt to defend the legitimacy of these experiences and to promote a social, moral, and legal change regarding the issue. The problem is that if sexuality is this, the logical thing would be to arrive at the same conclusion as Goldman (1980) concerning the irrelevance of sexual pleasure compared to the well-being and happiness of individuals.

This view, as I said, undoubtedly favors the shift towards permissive attitudes, but at the same time it weakens the arguments of those who aim to do away with certain prohibitions currently in

force. Therefore, as Scruton (1986) or Geach (1994) put forward, the existential irrelevance of sex and the defense of permissiveness contradict the significance that many intend to attribute to human sexuality. If sexuality is something that is morally neutral and practically irrelevant in human terms, perhaps there are no reasons to prohibit anything but neither are there any reasons to make a change and permit these acts, as there is no clear justification for changing deep-rooted customs and moral beliefs of enormous value for most people (Cohen, 2002). The actual reason why this concept of sexual ethics is leading us towards increasingly permissive attitudes is what causes these attitudes to end up being unconvincing with regards promoting a social change of this magnitude.

Another significant problem that I find in these arguments that hinge on the criterion of sexual consent is that this consent is used in a rational sense—informed and free—comparable to the consent we may give in any other type of activity in terms of costs and benefits. But this view is unrealistic, since sexual consent is not the same as any other consent. In fact, there is nothing else like this consent, because, as the so-called intentionalist authors state, no other form of consent compromises the whole of the individual as an embodied being in the same way (Nagel, 1992; Scruton, 1986). The denial of this fact and its considerable consequences when it comes to understanding the problem of sexual morality explains these shortcomings as it explains why sexual experiences necessarily require a level of consent from children that is not needed in many other experiences we have with them.

All this brings us, as I mentioned in the introduction, to the need to refer to authors and approaches that have addressed the problem of sexual morality, and in particular sexual relationships between children and adults, from perspectives very different from those reviewed here so far. Not because they are not relevant, but because of the many limitations and contradictions they raise when addressing this issue. Problems which, in my opinion, can only be resolved if we also refer to the contributions of those who defend the existence of a specific sexual morality that stems from what we understand to be the particular structure of normal sexual desire; or at least a more estimable one, which is what we want to encourage in children.

This second significant perspective puts forward the idea that the experience of sexual desire and sexual encounters has unique traits that give them their own specific moral requirements. Therefore they need ethical analysis that while they must not disregard the rationalist principles of the ethics of duty, given that a sexual relationship is a human relationship after all, they must not be based exclusively on these principles. The problem of sexual relationships between children and adults is that they violate some of these requirements implicitly associated with normal sexual experiences between human beings. Only this can explain our deep-rooted moral rejection and at the same time our difficulty in explaining it.

To conclude, it is worth quoting the words of Goldman (1980) who, in his defense of a radically sensualist concept of sexuality

and his ethical approach based only on general moral principles, momentarily interrupts his reasoning to surprise us with the confession that “I believe this last case [adult–child sex] is the closest we can come to an action which is wrong *because* it is sexual” (pp. 131–132). This “because,” in italics in the original, I believe reflects a generalised moral intuition that should not be overlooked.

Acknowledgments This article has been produced within the Research Project on Child Sexual Abuse founded by the Government of Galicia, Spain (EM 2012/070), whose main researcher is José A. Ramos Vázquez.

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