



# Sexual Orientation: An Overview of the Moral Issues



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# Introduction

- **A vexing issue**
  - **Conflicting feelings on both sides.**
    - Is common ground possible?
  - **Sexual orientation does not seem to be a matter of choice**
- **The cost of discrimination**
  - **Teen suicide ?**

# Martha Nussbaum

- Ernst Freund Professor of Law and Ethics, University of Chicago
- Also appointed in:
  - Philosophy Department,
  - Divinity School.
  - Associate in the Classics Department and the
  - Political Science Department,
  - an Affiliate of the Committee on Southern Asian Studies
  - Board Member of the Human Rights Program
  - Committee on Social Thought



For a short biographical sketch, see:

<http://www.law.uchicago.edu/faculty/nussbaum/>



# Whose Rights?

- Who is to be protected?
  - “those who stably and characteristically desire to engage in sexual conduct with a member or members of the same sex (whether or not they also desire sexual conduct with the opposite sex)”
  - Sexual conduct: “bodily conduct intended to lead to orgasm on the part of one or both parties”



# What Rights?

- The right to be protected against violence
- The right to have consensual adult sexual relations without criminal penalty
- The right to be free from discrimination in housing, employment and education
- The right to military service
- The right to marriage and/or the legal and social benefits of marriage
- The right to retain custody of children and/or to adopt



# Arguments against Homosexuality

- Religious Arguments
- Intrinsic Arguments
- Extrinsic Arguments



# Religious Arguments

- **Textual Arguments**
- **Tradition Arguments**
  - **Great variance within religious traditions**
  - **Compatibility between a specific religious tradition and:**
    - **gay sex acts**
    - **gay life style**
- **The act and the agent**



# Intrinsic Arguments

- **These arguments claim that there is something *intrinsically* immoral about homosexuality**
- **The Argument from Nature**
  - **Two senses of natural: descriptive and normative**
- **Sex and Procreation**
  - **Does this exclude too much?**



# Extrinsic Arguments

- **These arguments claim that there are factors *associated with* homosexuality, but not intrinsic to it, that make it morally objectionable**
  - **Example: alleged lack of committed relationships**



# Is Sexual Orientation a Matter of Choice?

- Although sexual behavior is a matter of choice, sexual orientation seems to be set very early in life and not a matter of choice.
- Just as most heterosexual do not consciously choose their sexual orientation, so too presumably most gays and lesbians do not choose their sexual orientation, although they may have to choose whether to acknowledge it or not—to themselves and to others.
- **Nuffield Council on Bioethics**: "There are numerous problems with genetic and other biological research into sexual orientation which mean that any reported findings must be viewed with caution." (2002)



# Models of the Place of Sexual Orientation in Society

- **Traditional Model**
- **Liberal Model**
- **Polymorphous Model**



# Traditional Model

- **Condemns at least homosexual acts, usually also homosexual orientation**
- **Often religiously-based**
- **May offer both intrinsic and extrinsic arguments**



# Liberal Model

- **Emphasizes the importance of:**
  - Individual autonomy
  - Right to privacy
- **Example: “Don’t ask, don’t tell”**



# Polymorphous Model

- **Claims that whatever brings pleasure is good**
- **People find pleasure in different ways**



# Levels of Acceptance

- As we think about this issue, distinguish among:
  - **Tolerance**--e.g., “Don’t ask, don’t tell”
  - **Acceptance**: Gays and lesbians should not be discouraged from expressing their sexual orientation
  - **Endorsement**: gay and lesbian “lifestyles” should be presented as a valid and valuable option--e.g., in school curricula.