

Animals, Deviance, and Sex

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By

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INTRODUCTION

Animals, Deviance, and Sex discusses animal sexuality and human-animal relationships. Animal sexuality and human sexuality may involve pornography, fetishism, reproduction, birth control, breeding, bestiality, and other provocative or intriguing themes discussed throughout this book. *Animals, Deviance, and Sex* examines animals' (including bugs') sexual behavior, mating, reproduction, and physiology. Research about art, religion, science, popular culture, tradition, subculture, and law ground rich analyses that develop fresh discussions about deviance. The text presents data; compelling anecdotal evidence and stories; and examples of case law. *Animals, Deviance, and Sex* mainly discusses the U.S. justice system and American culture; and yet, this text includes discussions about international systems, foreign nations, endangered species from around the world, international taboos, world religions, remote practices, and Europe's influence on the U.S. Each chapter in *Animals, Deviance, and Sex* introduces sociological questions about bright line taboos and morally gray areas in human-animal relationships. *Animals, Deviance, and Sex* does not moralize sexual deviance; but it compares animals' sexuality to human concepts of morality. Furthermore, this book asks whether sexuality in the animal kingdom could be instructive for humans' social policies and law; and whether human law fairly criminalizes or decriminalizes particular sexual activities, including those involving or demonstrated by animals.

Animals, Deviance, and Sex analyzes deviance using terms, such as "morality," "species," "law," and "nature." It compares human behavior to animal behavior to question whether humans' sexual behavior deviates from animals' sexual behavior; whether humans view animals' sexual behavior as being deviant, and whether humans create double standards for some or all animals, including humans. This book explores animals' sexual interests, including their interests in human sexuality; and looks at humans' rationales for classifying sexual normalcy and deviance. *Animals, Deviance, and Sex* also introduces the idea that some humans may be sexually aroused by fetishizing and sexualizing animals. This book questions whether human-animal sexual contact is fundamentally immoral; thus, ought to be considered taboo under all circumstances,

including forcible commercial breeding and non-injurious intimacy with animal companions.

Animal companions may silently witness the most intimate and immoral aspects of human society. They may witness sex, rape, abortion, masturbation, and other private and controversial experiences. Animals are not legally prohibited from looking at taboo material or events, such as child pornography or child sexual abuse; yet, humans may face criminal charges for subjecting animals to some experiences that psychologically disturb them, such as child sexual abuse. Sexual battery laws may indirectly protect pets from abusive guardians by aggravating charges when pets are involved.

Although animals are permitted to watch humans experience sexual pleasure, and humans are permitted to watch animals experience sexual pleasure, human-animal sexual pleasure tends to be highly limited, taboo, and regulated by law. Humans may face criminal charges for sexually gratifying animals. Even nonphysical expressions of human-animal fantasies, such as bestiality literature, may be punishable under morality-based laws.

Obscenity is discussed repeatedly throughout *Animals, Deviance, and Sex*, for example in Chapters One, Four, Six, 11, and 12. Obscenity is evaluated using the *Miller* test, a three-prong test established by the U.S. Supreme Court in *Miller v. California* (1973). The *Miller* test asks the following three questions:

- (a) [W]hether “the average person, applying contemporary community standards” would find that the work, taken as a whole, appeals to the prurient interest. . . (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value (*Miller v. California*, 1973, p. 39).

The *Miller* test requires the government to prove that depictions present in the community broke applicable law (*Miller v. California*, 1973). Presence in the community includes private hard drives and local internet servers. Obscenity statutes prohibiting depictions that appeal to prurient or shameful interests in sex may generally mirror language used in the *Miller* test (*Miller v. California*, 1973). The *Miller* test requires that an allegedly obscene work, when taken as a whole, must appeal to prurient interest (*Miller v. California*, 1973). The *Miller* test uses offensiveness to

an average member of the community as the touchstone of obscenity jurisprudence (*Miller v. California*, 1973). Illegal explicit depictions, including but not limited to song lyrics, cartoons, literature, and films, which are offensive to the local community, are legally obscene. Typically, legally obscene works, as a whole, lack serious value. The First Amendment will protect legally obscene depictions if they possess more than *de minimis* redeeming social value, such as scientific, artistic, political, or literary value, which must be evaluated in light of national standards. Expert testimony demonstrating that a work, taken as a whole, possesses nationally recognizable value does not prove that a work should be protected, but expert testimony may persuade the court; however, defendants are not required to present expert testimony. Regionally or internationally recognized value does not satisfy *Miller*'s requirement for nationally recognizable value (Cusack, 2014; *Miller v. California*, 1973).

For thousands of years, speech, including art, language, and visual depictions, has described sex and sexuality. Human and animal sexual activity and sexuality are linked by subcultural and nuanced speech, such as symbolism and double entendre. Sexual speech is lawful as long as it is inexplicit or inoffensive to the community where it is used. For example, depictions of virile animals have been used symbolically by cultures and religions for thousands of years. Symbolic depictions of sexually aroused animals may not appeal to prurient interest in sex. Generally, obscenity laws do not prohibit depictions of animals' erect penises when depictions sufficiently possess redeeming value. For example, depictions of humans causing manual-genital contact during standard farm animal breeding procedures may communicate breeding protocol. Thus, they may be protected by the First Amendment.

Animals may not be prosecuted for creating, distributing, or possessing obscene depictions of human-animal sex. However, legislators may eventually need to consider animal-generated obscenity because animals are increasingly using cameras and may soon upload and distribute depictions. This contention may not be all that imaginative considering the fact that, in some instances, animals have demonstrated strong preferences for watching pornographic depictions of humans and animals.

Numerous sexual fetishes and fantasies incorporate themes inspired by crimes against nature, such as puppy play; eroticization of stuffed animals; or copulating on fur rugs. Fantasies cannot be criminalized like speech; yet, harmful fetishes and sex acts may be prosecuted. Intentional infliction of harm is not protected under the substantive due process right to privacy,

which protects consensual sex between adults in private (*Lawrence v. Texas*, 2003). Thus, sadomasochistic or harmful acts, such as extreme forms of puppy play, may be prosecuted. The First Amendment does not necessarily protect sex acts and fetishes protected by the 14th Amendment. Thus, explicit depictions of fetishes appealing to prurient interest may be prosecuted if they offend average members of the local community and depictions lack redeeming value.

“Crimes against nature” describes moral constraints against non-procreative or unnatural sex. Historically, crimes against nature included sodomy and bestiality. State police power was used to codify normal sexuality in most states. Laws prohibiting sodomy became unenforceable in 2003 after the U.S. Supreme Court decided *Lawrence v. Texas*; yet after *Lawrence*, bestiality laws remained enforceable (*Lawrence v. Texas*, 2003). Most bestiality statutes were designed to prohibit penetrative contact; thus, some jurisdictions increased ramifications for injurious human-animal sexual contact to fortify morality laws. Likelihood of successful prosecution also increased due to codification of anticruelty statutes prohibiting human-animal sexual contact.

Historically, necrophilia, like sodomy and bestiality, has been classified as a crime against nature. Like voluntary bestiality and consensual sodomy, necrophilia has been described as a “victimless crime.” Although human victims may not be directly harmed, societal morality--and allegedly, a perpetrator’s soul--are corrupted by crimes against nature. However, necrophilia involving animals is so rare, and possibly, inconceivable to legislatures that prohibitions against necrophilic bestiality are only codified in a few jurisdictions. Legislatures may have overlooked necrophilic bestiality because they failed to identify any human or animal victims, who require protection from actual harm or indignity, which implicitly acknowledges that necrophilic bestiality is a victimless crime. Taboos against necrophilic bestiality arguably may be codified or socially enforced for safety and health reasons; however, taboos possibly may be purely moral. This contention may be evident in light of the fact that laws do not prevent humans from deriving gustatory pleasure from eating animal corpses. Safety and health rationales, as applied to necrophilic bestiality, may be somewhat irrational because laws do not prohibit individuals from consuming putrid meat. Perhaps as morality-based crimes against nature have been phased-out of legal codes, codifying particularized proscriptions against necrophilic bestiality may have become irrelevant to legislators.

All sexual contact with animals is nonconsensual insofar as animals legally can neither withhold nor grant consent. This is true irrespective of whether animals experience pain or pleasure; or whether sexual contact is pursuant to lawful breeding practices or unlawful bestiality. Animals cannot consent to have harmless, pleasurable, voluntary sex with humans; and animals cannot withhold consent to be bred. Historically, wet nursing has not been considered to be a crime against nature even though human-animal sexual contact ostensibly results from oral-mammary penetration (e.g. suckling teats, nipples, etc.). Oral-mammary contact between two adults would be considered sexual; however, similar to a mother-child relationship, human-animal suckling has been acceptable for hundreds, possibly thousands, of years. Presently, pet breastfeeding may be viewed quizzically or suspiciously by some Westerners; yet, Europeans and Americans consume hundreds of millions of tons of animal milk each year.

Human moral values may be temporal and relative. Some societal moral constraints have been imposed on animals' bodies; but, humans' relaxed attitudes towards certain aspects of animals' sexuality, including public autoeroticism and humping, demonstrate that humans may only moralize animals' bodies in some instances. Ethical principles may discourage humans from unfettered affectation of animals' bodies; for example, performing unnecessary or controversial cosmetic procedures on animals, such as hymen restoration, which relate to humans' sexual or reproductive preferences (Fox, 2010). Cosmetic hymen restoration for humans, and especially for animals, may be viewed by Western society as absurdity even though Americans and most of the world value virginity. Other cosmetic surgeries, such as sex change operations, may be considered medically necessary for humans due to gender dysphoria; however, traditional and conservative humans may consider human sex reassignment to be immoral, like crimes against nature. Animals have yet to be diagnosed with gender dysphoria necessitating sex change; thus, potential ethical implications of reassigning animals' sexes may compel exploratory analyses.

Successful human mating strategies may undergird human morals guiding family structure. Human family structures, which often correspond with beliefs in major world religions, are mainly polygamous and monogamous. Humans tend not to practice orgiastic mating, possibly because of reduced opportunities for gene selection. For the most part, humans are legally and socially obligated to care for their offspring, which may be more difficult if orgy participants were unidentifiable. However,

countless species of animals only breed during orgies or breed with mating partners, who do not co-parent. Animal companions in the U.S. may be treated like members of a family, but American humans are not socially or legally required to treat animal companions like children; and American humans do not have parental rights over animals. American humans' marriages to animals are void. Yet, throughout history, and presently in some remote regions, humans and animals publically have been married for various reasons, including redressing bestiality. While many subspecies may voluntarily or forcibly hybridize, humans and animals have not been known to reproduce together, which would likely be evidence of bestiality. Human-animal hybridization would potentially cause society and legislators to reevaluate "crimes against nature." Although human-animal mating is allegedly impossible, laboratory investigations demonstrate that human and animal cells artificially may be developed into a single stem cell.

Animals, Deviance, and Sex offers a captivating and thorough analysis of deviance, norms, morality, sexuality, and tradition by turning readers onto new ideas integrating biology, culture, law, and policy; and examining family, history, humanity, society, species, taboos, and trends. *Animals, Deviance, and Sex*'s Conclusion section summarizes the contents, as well as the ethos of this book, which is that "deviance" is a human term that classifies human, animal, and human-animal sexualities using fixed concepts disguising complex and fluid behaviors, bodies, and relationships.

ONE

DOGGY STYLE: SLIGHTLY GRAY SEX ACTS INVOLVING ANIMAL COMPANIONS

Introduction

Human-animal relationships may involve bonding and sharing. Humans may experience more intimacy with animals than they do with most other people. Human-animal companions may share intimacy by physically touching or sharing private moments. Taboos and laws against bestiality delimit the scope of these interactions; yet, parameters of socially acceptable human-animal intimacy may be largely undefined. The law requires neither bonding nor companionship in order for humans and animals to experience or arouse certain legal forms of sexual pleasure.

Obscenity: *Miller v. California*

The First Amendment typically protects live performances, exhibitions, simulations, and depictions of sexual content, including photographs, films, and drawings, unless they are obscene. Obscene content is unprotected speech because it corrupts society. “Obscenity” may be defined by legislatures; and it may be evaluated according to precedence on a case-by-case basis using the *Miller* test (*Miller v. California*, 1973). Several cases have expounded on or narrowed the *Miller* test (*Miller v. California*, 1973; Cusack, 2015). Generally, actual child pornography is not evaluated using the *Miller* test because the *Miller* test is used to determine whether sexual material is protected; but child pornography is never legal (*Miller v. California*, 1973; *U.S. v. Williams*, 2008). Simulated child pornography may be evaluated using the *Miller* test; and is often found to be obscene; however, it may be protected speech in some jurisdictions (*Miller v. California*, 1973). Under *Stanley v. Georgia* (1969), adults may legally view obscenity in the privacy of their homes (*McKaye v. Brown*, 1991). However, distributing or depicting

obscenity to children is always illegal; and often, distributing protected images of sex, including pornography, to children is illegal. A few jurisdictions permit adults (e.g. parents) to expose children to pornography (Cusack, 2014).

The *Miller* test has three main components (Miller v. California, 1973). First, it holds that material is obscene when an average person using community standards would find that material appeals to shameful, morbid, or prurient interest in sex. Material is supposed to be considered as a whole; however, courts have often looked at solitary images individually to hold that each image is obscene; or courts have found that certain portions of a performance were indecent, thereby tainting the entire work. An average member of the community is a typical member, not an average art-lover, fetishist, or pornography purveyor. Community standards are not delimited by geographic boundaries; but often, courts will rule that a county, tri-county, or statewide area is a community. Second, patently offensive works are obscene when they specifically depict sexual conduct defined in applicable laws. Obscenity may include “normal or perverted, actual or simulated” sex (Miller v. California, 1973, p. 25).

[Obscene depictions may] include but are not limited to sexual intercourse, sodomy, and sexual bestiality...masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs (Brown v. Texas, 1991, pp. 7-8).

Third, courts may find that material is legally obscene; but defendants cannot be convicted if the material possesses redeeming literary, artistic, political, or scientific value. Redeeming value is more than *de minimis*; and it is recognizable to experts throughout the country, not experts in the local community, as possessing value at a national-level.

Voyeurism

Lawmakers believe that live sex shows are corruptive to minors (Cusack, 2014). In many jurisdictions, the government also prohibits adults from transmitting pornography to minors because it allegedly corrupts minors’ morals and characters. Witnessing sexual material allegedly lowers minors’ respect for traditional relationships and society;

and they are subsequently corrupted interpersonally and socially. Many lawmakers and courts have explained that minors become attracted to vice and deviance after being exposed to pornography. Pornography depicting bestiality is typically classified as obscenity, which is illegal to transmit to adults and minors. However, explicit depictions of animals mating, whether presented in a live show or through media, are generally legal and accessible to children. For example, minors may watch a neighbor's dogs mate without that neighbor facing any criminal consequences; but if those neighbors knowingly permit a minor to witness human copulation, then the neighbors may be charged with corruption, exhibitionism, and other charges.



Fig. 1.1 Child stands at zoo's Animal Baby Making Zone. Credited to: Peter Tarry/Dobson Agency

Another example is that minors may watch videos on social media of animals mating. Videos may be explicit, including depictions of erections, excrement, and ejaculation. These are discussed further in Chapters 12 and 13. Neither social media websites nor minors or their parents may be legally culpable under normal circumstances. Despite some physical and biological similarities between human mating and animal mating, society

has little interest in classifying animal mating as live sex shows, pornography, or obscenity. Yet, Sigmund Freud surmised that in the unconscious mind of a child, human mating may seem similar to animal mating. In one case study, Freud wondered whether his patient, Wolf Man, may have suffered from nightmares about wolves in trees because as a child, Wolf Man had observed his parents having sex in “doggy style” position.

Courts may not inquire as to whether depictions of animals mating corrupt minors unless depictions appeal to prurient interest; offend the community; and lack redeeming value (*Miller v. California*, 1973). Courts and legislatures generally do not consider whether minors, who are permitted to watch animals mate, could develop deviant fetishes for bestiality. Indeed, fetishists could legally arrange to watch animals mate, for example, by visiting the zoo or cohabiting with dogs. Laws do not forbid sexually aroused people from watching animal breeding or mating unless an animal is sexually abused; obscenity is produced; a voyeur masturbates in public; a male human appears in public in a turgid state; or other applicable laws are broken. In many cases, zoophiles could seek work in animal industries and participate in breeding processes by lawfully masturbating animals pursuant to industry-standard breeding practices (Cusack, 2013). This is discussed in Chapter Three. Some jurisdictions forbid interspecies manual-genital contact for the purpose of arousing a human; yet, mental fantasies cannot effectively be regulated when breeders physically follow standard protocol. Similarly, animals participate in sex acts that could eroticize voyeurs or fetishists; and research studies may explicitly document these sex acts. For example, one researcher spent approximately three years and 2,000 hours watching squirrels masturbate in Namibia (Waterman, 2010). She graphically depicted her observations.

An oral masturbation was recorded when a male sat with head lowered and an erect penis in his mouth, being stimulated with both mouth (fellatio) and forepaws (masturbation), while the lower torso moved forward and backwards in thrusting motions, finally culminating in an apparent ejaculation, after which the male appeared to consume the ejaculate (Waterman, 2010).

Her depiction is explicit, yet possesses scientific value. Thus, irrespective of whether any readers are eroticized by her work, it may merit First Amendment protection.

On the internet, anonymous fetishists have disclosed that they experience sexual arousal while privately watching videos that depict animals mating (Yahoo.com, 2008). Responses by commenters to these kinds of posts typically lack condemnation; and many offer *laissez faire* support to fetishists. Some posters encourage fetishists to draw a moral line between harming actual animals and watching animals mate; while others question whether becoming aroused to videos of animals mating is spiritually healthy. However, forum commenters do not seem to ask whether a fetishist is a minor; and whether the explicit mating videos are corruptive. Some discussants evaluate the propriety of masturbating while watching these videos. Masturbating while watching live or depicted animal mating is likely to be legal as long as fetishists are in private because adults have a right to masturbate in private; and laws do not directly prohibit private exposure of one's genitals to animals (Young, 2008). Yet, right to privacy does not necessarily create a right to masturbate while animals watch, even though domesticated animals are quasi-property, because the act could potentially violate decency laws. For example, Arkansas' indecent exposure statute, when broadly construed, may be prohibitive.

A person commits indecent exposure if, with purpose to arouse or gratify the sexual desire of himself or of any other person, he exposes his sex organs...[u]nder circumstances in which he knows his conduct is likely to cause affront or alarm (Ark. Code § 5-14-112, 2010).

Yet, legislatures and courts may not be directly concerned with animals witnessing human public indecency. For example, when animal owners witness indecent exposure, courts will not inquire whether animal companions also observed a defendant's genitals (State v. Baker, 1999). Courts will inquire whether a defendant masturbated in the public view where other humans could potentially have witnessed the defendant masturbating.

Breeding facilities, such as zoos, may intentionally expose animals to humans in order to arouse animals. Some animals develop fetishistic attractions to certain physical characteristics (e.g. blonde human females); and breeding facilities may permit animals to view objects of their sexual attraction in order to instigate masturbation (Cusack, 2016). For example, one former zoo employee described the regularity with which a blonde female zookeeper made herself visible at a male orangutan's habitat to stimulate and arouse the orangutan (Straight Dope, 2011). While the orangutan was aroused, zookeepers would attempt to mate the aroused primate or collect a sperm sample. Their practices, which possess an

element of interspecies sexuality, are likely legal as long as the female zookeeper was agreeable and the animal was not sexually abused. However, orangutans in captivity do not always publically masturbate as a result of fetishism or voyeurism; orangutans may publically masturbate to demonstrate dominance over zookeepers or to elicit attention. Some humans held in captivity, for example, prison inmates, also publically masturbate to demonstrate dominance; be deviant; and elicit attention (Cusack, 2013).

Heavy petting

Some petting is acceptable and considered to be innocent. Yet, moral boundaries for human-animal affection are not well-regulated or clearly defined by society; for example, there appears to be no consensus about which areas of a dog's belly or hindquarters are off-limits to human petting. Human society spends little time analyzing how much of a dog's body may be pet before bestiality ensues. Genital rubbing is taboo sexual contact; but taboo sexual contact may not include petting a dog's groin. A boundary may be crossed when a dog is sexually aroused by groin petting; but this is not necessarily a legal standard. Statutes typically prohibit oral-genital and genital-genital contact or penetration; but some jurisdictions also prohibit manual-genital contact. However, manual contact with a dog's groin resulting in a dog's arousal does not demonstrate manual-genital contact or sexual abuse *per se*. Evidence of a defendant's intent and criminal activity must be proven beyond a reasonable doubt. Ethical, moral, and legal questions could be raised by animals humping human hands when humans do not willfully cause or encourage humping behavior, especially in jurisdictions where manual contact is illegal (Hall, 2005). Reasonable humans are likely expected by society to remove their hands from any position that an animal may hump while creating manual-genital contact.

Persons, who attempt to circumvent bestiality laws, may engage in heavy petting with an animal while simultaneously engaging in intercourse with another human. By petting an animal during intercourse, parties have likely not broken any laws. Nevertheless, they have likely bent several social mores, including prohibitions against multiparty sexual contact and nonconsensual erotic contact. Legislatures may contemplate multiparty sexual experiences involving animals; yet they may only punish carnal knowledge. Minnesota's legislature, for example, punishes any person, who causes another to witness carnal knowledge with an animal, but the

legislature does not define “carnal knowledge” to include heavily petting an animal during human-human sexual activity. Minnesota case law states that carnal knowledge usually only includes sodomy and intercourse, but that the legislature must have contemplated human masturbation of animals; yet case law does not describe any form of heavy petting in the definition of “carnal knowledge” (Durante & Farberov, 2012; *State v. Bonynge*, 1989). Some legislatures and courts could potentially include heavy petting under definitions of “carnal knowledge” or “bestiality” especially if human masturbation or penetration is concurrently performed; or if heavy petting is documented in an obscene manner. For example, in Maine the definition of “bestiality” includes contact during which a person “[u]ses any part of the person's body or an object to sexually stimulate an animal” (MRS 42 §1031 1(I)(4), 2015). Sexual stimulation may include heavy petting.

In jurisdictions intending to prevent abusive masturbation of animals, cases may turn on legislatures’ definitions and courts’ statutory interpretations of “masturbation” or “sexual contact.” The definition of “masturbation” could include groin touching, not solely genital touching. For example, in Arizona, bestiality includes sexual contact with an animal (A.R.S. §13-1411, 2014). Arizona’s definition of “sexual contact” includes

direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact (A.R.S. §13-1401, 2014).

It seems that heavy petting could be prosecuted in Arizona. However, due to the inclusion of the term “female breast” in this definition, it seems as if the definition of “sexual contact” provided by the legislature and included in Arizona’s bestiality statute, arguably, could only apply to humans; but if courts did apply it to animals, then potentially all belly rubbing could be criminalized because dogs have several nipples across their abdomens and chests (A.R.S. §13-1401, 2014). Other statutes, such as Georgia’s bestiality statute, are clearer and directly exclude heavy petting and manual masturbation or fondling from definitions of “bestiality” (O.C.G.A. § 16-6-6, 2010). Georgia’s statute specifies that bestiality is only committed when a person “performs or submits to any sexual act with an animal involving the sex organs of the one and the mouth, anus, penis, or vagina of the other” (O.C.G.A. § 16-6-6, 2010). Georgia’s law implicitly allows oral-oral, oral-anal, and anal-anal sexual contact. The statute does not overtly prohibit manual sexual contact of any kind. Thus, it seems as if some animals may legally be fondled in a few jurisdictions;

although, more jurisdictions are punishing manual contact with animals' genitals pursuant to discoveries of obscene depictions documenting bestiality.

Legally, animals are incapable of consenting; yet, some humans claim that animals can sexually consent by erotically rubbing humans or initiating heavy petting. For example, one man who worked as a photographer at an amusement park claimed that a female dolphin positioned herself in a manner to force him to rub her. The photographer claims to have realized that she was consenting to sex; and then he made love to her. The pair allegedly carried on a love affair for approximately six months in the presence of a male dolphin, who was the female dolphin's pool mate (Otis, 2014). Margaret Howe Lovatt, a researcher, confessed to a similar affair with a dolphin, who allegedly would rub his genitals on her leg or hand. Lovatt claims that she acquiesced to relieve the dolphin's sexual itch.

Some animals may desire or attempt carnally to know humans; and sometimes, humans may be aware that animals seem willing to create nonconsensual sexual contact with humans. For example, a woman rehabilitating orangutans understood that she could be overpowered by them; and yet, she was prepared to be raped by them (Singer, 2001). This possibility seemed to be part of her job and the risk of interacting with orangutans. She excused her rape-supportive attitude toward orangutan males by explaining that orangutans' penises are approximately three and one-third inches, which allegedly was sexually unthreatening to her (CARTA, n.d.; Singer, 2001).

Bestiality laws are intended to protect animals from sexual abuse and deter humans from committing immoral acts. However, animals may not behave like sexually innocent parties, even when they are perceived as being powerless. The law does not regulate sexually forward animal behavior, such as humping, unless humans intentionally participate in contravention of applicable statutes. Although humans may be prosecuted for humping animals or willingly allowing animals to hump them, animals cannot be prosecuted for humping humans. Yet, animals, who spontaneously and independently rape humans, may be deemed "vicious" and destroyed.

Experimentation

Sexual experimentation between minors may be normal; but under some statutory rape laws, sexual experimentation can result in criminal charges against one or both minors for child sexual abuse. Juveniles, who engage in heavy petting with each other, could be found guilty of child sexual abuse (Martin & Pruett, 1998). Arguably, under some statutes, children, who self-pleasure by masturbating, could be guilty of child sexual abuse (Idaho Code Ann. § 18-1508, 2015; State ex rel Z.C., 2007; Young, 2008). Similarly, when children innocently sexually experiment with animals, they may be charged with child sexual abuse for exposing themselves to bestiality under statutes that prevent any person from exposing a child to bestiality. Voluntary, mutually pleasurable, non-harmful experimentation between juveniles and animals may be described as a “victimless crime.” Nevertheless, victimless crimes may be prosecutable under a state’s morality power. The spirit of law intends to protect the innocent, but overly zealous enforcement may lead to absurd results; or to results that are not contemplated by lawmakers. Lawmakers may design inclusive statutes that err on the side of caution in the best interest of children. Legislatures sometimes broadly formulate statutory wording to protect children because under-inclusive statutes would inevitably result in serious harms effectively being decriminalized. Therefore, in some jurisdictions, children, who experiment with animals, could be guilty of child sexual abuse and bestiality even though statutes are meant to protect children from sexual abuse (Pandora’s Aquarium, 2010). For example, under Idaho Code § 18-1507(a), ““bestiality” means any sexual connection in any manner between a human being and any animal” (2015). Idaho Code § 18-1508 relies on the definition in § 18-1507(a) to criminalize any manual, genital, anal, or oral sexual connection between animals and humans involving a child (2015). Thus, a minor who experiments with an animal using his or her hand could be guilty of child abuse. Even though children may not intend to harm animals, they may also be charged with bestiality.

Parents could be charged with child neglect for failing adequately to supervise children, who sexually experiment with animals; or for willfully ignoring abusive sexual experimentation. If parents are aware that sexual experimentation was recorded on a “nanny cam” or cellphone, but they fail to erase the recording immediately or surrender it to authorities, then they could be guilty of a range of serious crimes, including possession of child pornography and obscenity (Bach v. Kentucky, 1985; Hutton, 2014). A

child could also be guilty of the same crimes if the minor records sexual experimentation.

Some critics argue that governmental regulation of normal childhood sexuality is excessive. They point to anecdotal and scientific evidence demonstrating that certain kinds of experimentation may be age-appropriate; thus, inappropriate experimentation is only deviant at specific stages of maturity. For example, experimentation with animals is considered to be abnormal for adolescents (Bita, 2012). Excessive control over childhood sexuality may ultimately create paradoxes in children's minds (Ginsberg v. New York, 1968). Paradoxical thinking may become likelier when children are encouraged by government sponsored educational programs to learn about "oral sex and mutual masturbation...porn stars, vibrators, and bestiality, and a whole lot more" (Martel, 2011). Yet, government sponsored abstinence education may create a different paradox. Abstinence education may teach children that sexual contact between humans may potentially result in pregnancy and disease transmission; however, abstinence education does not warn students about potential disease transmission during sexual experimentation with animals; or teach that human-animal sexual contact does not result in human pregnancy (42 U.S.C. § 710, 2010; Jones, 2002).

Some adults, who sexually experimented as minors with animals, may reflect on the experience as being a mistake, but not a crime. For example, one anonymous commenter posted the following comment on an internet discussion board:

This is terribly humiliating to post even being anonymous. When I was around 11 or 12, I engaged in some sexual experimentation that I have obsessive guilt about....I am seeking constant reassurance that I'm not a disgusting horrible person because of this. So what I did was, like I said, around age 11-12, I, along with 2 of my friends, had sexual "contact" with a dog. What's even worse is I did it several times while I was by myself. There was never penetration, I have absolutely no sexual desire toward animals and I infact [sic] think it's disgusting. It has been over 10 years since this happened and I still obsess and can't let it go. I also am pretty sure that I looked up child porn a couple of times, and again, I was 11 or 12, think it's gross and have no unhealthy attraction to children but I am terrified that I am some kind of pedophile (Psych Central, 2014).

This anonymous commenter expresses remorse; and seems to believe that her experimentation was immoral, but the commenter does not claim to deserve criminal punishment. None of the replies in this commenter's

thread mention criminal punishment for child abuse, animal abuse, or crimes against nature. Respondents mainly encouraged the commenter to self-forgive and forget. One respondent specified that the commenter's guilt was excessively onerous supposing that pedophilia could only be perpetrated by an adult, not a child; ergo, the commenter should not feel guilty about sexually experimenting with another child.

I think there are a lot of people that have done things that horrify them. I think moving on and realizing that kids that age experiment is important. A lot of kids experiment with other kids. It's not pedophilia if both parties are kids. I brought this up with my own therapist because I was beating myself up over a sexual experience I had when I was 11....You are not horrible (Psych Central, 2014).

According to the American Psychiatric Association (APA), minors, who are at least 16-years-old, may suffer from pedophilia if they problematically fantasize about or sexually contact children, who are at least five years younger; however, the respondent's belief is not uncommon or inaccurate in this case (APA, 2013).

You were a kid, so its [sic] not pedophilia. Kids are naturally curious. I did some 'weird' things when I was young, that are so embarrassing its kinda [sic] funny in a way. But I realized, that I didn't know it was wrong, and had no evil intentions, therefore I can forgive myself (Psych Central, 2014).

Each respondent seemed to be oblivious to the commenter's guilty disclosure about childhood experimentation with human-animal orgies and bestiality. Respondents seemed to rely on the basic legal premise that a person is not guilty of an offense if the person lacks criminal intent. However, many statutory rape statues do not require criminal intent insofar as persons are strictly liable for having sexual contact with children. A respondent described the commenter's sexual history as an innocent childhood mistake.

I can tell that you are no freak, or any other bad thing you might be thinking you are, because of this experience. The fact that you regret and are very worried about it, shows in fact how sane you are!...Its [sic] normal. Please know that I do not judge you AT ALL for anything as silly and distant in the past as that....I have experience[d] a similar issue in the past. But finally, I forgave myself. I feel normal, in that aspect, again (Psych Central, 2014).

This comment espouses a relatively normal idea that public confession and self-forgiveness are cleansing processes that remove burdensome guilty feelings. Self-acceptance by the commenter is likely encouraged by respondents because they believe that the commenter was innocently experimenting; and therefore, not guilty of any crimes.

Conclusion

Animals may witness humans having sex; and humans may view sexually aroused animals. Courts do not inquire into private voyeurism or fetishism unless it involves obscenity, indecency, or other harmful conduct. Because depictions of aroused animals typically possess redeeming value, depictions may be non-obscene. It may be legal for humans and animals to masturbate simultaneously in private; however, humans may not publically masturbate, yet animals may. Many bestiality laws permit a substantial amount of sexual contact between humans and animals. One reason may be that lawmakers view some human-animal affection as being morally, legally, and socially acceptable. However, lawmakers broadly construct laws to protect children from sexual abuse, which may potentially result in children being prosecuted for non-harmful and voluntary sexual experimentation with animals, other children, or their own genitals.

TWO

NONCONSENT

Introduction

Legal consent is assent freely given to participate in a specific sex act with a particular party. Typically, adults may legally consent to participate in pornography and sex. Generally, adults do not have a right to consent to bestiality, necrophilia, prostitution, or any other prohibited act. Animals have no right to consent to sex. However, they have no right to refuse insemination performed by breeders. Yet, human morality laws seem to protect animals from a few sexual indignities.

Necrophilia

Laws prohibiting “crimes against nature” may consider necrophilia to be in the same class of depravity as bestiality, discussed in Chapters One and Nine, because neither living animals nor dead bodies can consent to sex (Baker v. Keisling, 1991; Minn. Stat. Ann. § 609.294, 2014). A few states prohibit necrophilia under statutes forbidding desecration of a corpse; or necrophilia may aggravate desecration; yet, some statutes specifically criminalize desecration of human remains, but not animal remains (Cusack, 2011). Some states regulate corpse handling under health codes. For example, under California’s Health and Safety Code, a misdemeanor violation will be charged for

[e]very person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law (Cal. Health & Saf. Code § 7050.5, 2015).

Typically, only the most egregious violations are punished as felonies. California’s Health and Safety Code increases the penalty to a felony for

[e]very person who willfully...commits an act of sexual penetration on, or has sexual contact with, any remains known to be human, without authority of law (Cal. Health & Saf. Code § 7052, 2015).

A plain reading of the statute suggests that occasions may be possible during which sex with a corpse is authorized by law.

Some states, such as Minnesota, directly criminalize necrophilic bestiality. Minnesota's statute criminalizes sex with any dead body as bestiality.

Whoever carnally knows a dead body or an animal or bird is guilty of bestiality, which is a misdemeanor. If knowingly done in the presence of another the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000 or both (Minn. Stat. Ann. § 609.294, 2014).

On its face, the statute criminalizes orgiastic and voyeuristic acts, but it is likely designed to punish child abuse, domestic violence, ritual abuse, and torture (Baker v. Keisling, 1991; Cusack, 2011; Cusack, 2015; Foderaro, 1989).

Laws prohibiting crimes against nature do not directly forbid humans from copulating with dead animals when cruelty and bestiality statutes only criminalize sexual activity with living animals. For example, Florida's cruelty statute prohibiting sex with animals relies on a definition of "animal" that means "every living...creature" (Fla. Stat. Ann. § 828.126, 2014). New York's statute prohibits "sexual conduct with an animal or a dead human body" (NY CLS Penal § 130.20(3), 2014). Legislators paired bestiality with necrophilia because they are both morally gruesome, but the statute does not directly prohibit sex with a dead animal. In states that fail to prohibit bestiality, and instead, generally use anticruelty statutes to prosecute bestiality, necrophilia with an animal may also fall through a legal loophole, perhaps because sex with an animal's corpse does not harm that animal. The government could potentially prosecute necrophilia with animals under other statutes, such as domestic violence statutes, unlawful dissection statutes, or statutes generally criminalizing health hazards.

Sexualization of animal byproducts raises philosophical questions about how humans intellectually and psychosexually compartmentalize necrophilic bestiality. Use of leather objects, animal rugs, taxidermy, meats, cheese containing rennet, and other portions and byproducts of