

Mary, Did You Consent?

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ABSTRACT: The Christian and Islamic doctrine of the Virgin Birth claims God asexually impregnated the Virgin Mary with Jesus. Orthodox Christians and Muslims are likewise committed to two further facts: Mary's impregnation was fully consensual, and God never acts immorally. Call these Virgin Consent and Divine Goodness, respectively. I argue the conjunction of Virgin Birth, Virgin Consent, and Divine Goodness form an inconsistent triad and that Virgin Birth is false. First, I contend that under plausible views of coercion, Mary was coerced into accepting God's offer. Second, I show God's non-disclosure of critical information about his character and intentions for Jesus undermined Mary's informed consent. Third, I argue Mary's promise of fidelity to Joseph entails Mary lacks sole moral authority to consent to divine impregnation, and that Joseph's consent was also necessary. Thus, Virgin Consent is false.

1. INTRODUCTION

The Nicene Creed, the Apostles' Creed, and the Gospels of Saint Matthew (1:18-23) and Saint Luke (1:26-28) testify that Jesus was conceived by God and born of the Virgin Mary. Thus, they endorse:

VIRGIN BIRTH:

God asexually impregnated the Virgin Mary with Jesus.

This is widely believed to be an *essential* teaching of Christian theism (Crisp 2008; Pawl 2011: chapter 1) and an important teaching of Islamic theism (Thurkill 2007; Abboud 2014). If so, then arguments against the Virgin Birth are arguments against Christian theism.

I shall argue that VIRGIN BIRTH is false because Mary could not have consented to God's offer asexually to impregnate her. For Christian theists inclined to think God would have acted impermissibly by impregnating Mary without her consent yet are committed to divine moral perfection, my arguments entail the conjunction of VIRGIN BIRTH and the following theses form an inconsistent triad:

VIRGIN CONSENT:

God's asexual impregnation of the Virgin Mary with Jesus was consensual for Mary, God, and any other parties whose consent was necessary for all-things-considered permissibility.¹

¹ Jonathan Jenkins Ichikawa (2020) disputes this view. However, his alternative proposal doesn't make matters easier for VIRGIN CONSENT.

DIVINE GOODNESS:

God's actions are never all-things-considered morally impermissible.

The success of my arguments entails at least one of these claims is false. I assume rejecting VIRGIN BIRTH is preferable to rejecting either VIRGIN CONSENT or DIVINE GOODNESS. The falsity of the former would permit God to bypass Mary's consent entirely or impregnate her even if she turned him down. The falsity of the latter entails an amoral divine nature.² As Jack Mulder writes,

[It] scarcely appears negotiable for Christians that Mary's consent to bear Jesus was free. God, after all, is not a rapist, and however extraordinary her pregnancy, it is God who is the child's (only) father and Mary his mother, and this relationship cannot give place to coercion. (Mulder 2012: 123)

Before beginning, I shall speculate about what beliefs Mary likely held at the time of the Annunciation, the event at which the angel Gabriel made known God's offer of impregnation to Mary, who was then betrothed to Joseph. But first, attentiveness to Mary's social situation is called for. Amy Peeler, a biblical scholar, describes Mary in the following way:

She is female, Jewish, young, unmarried, and a virgin. Later Luke reveals that she is poor (2:23-4). None of these social identities put her on the side of power. Quite to the contrary, she is about as vulnerable as a person could be in the first century, especially as the story unfolds and she is found pregnant before her betrothal became a consummated marriage. (Peeler 2020: 75)

In light of this, I propose that Mary likely believed (whether explicitly or implicitly) *all* of the following propositions:

- (B1) *I am morally obligated always to obey God's commands.*
- (B2) *I am morally obligated to do what I reasonably can to save humankind.*
- (B3) *I am morally obligated to remain faithful to Joseph.*
- (B4) *I am morally prohibited from questioning or bargaining with God.*
- (B5) *I am morally prohibited from having sex / reproducing with my parents.*
- (B6) *I would do almost anything to save humankind or those I love.*
- (B7) *I am God's child and God is my Parent/Father/Mother.*
- (B8) *There is only one God existing as a single person, Yahweh.*
- (B9) *Offers from God would, if accepted, significantly benefit me, those I love, or all humankind.*
- (B10) *Any child I bear will be (merely) human / I will not be God's parent.*
- (B11) *Any child I bear will be loved and protected by God / God has not preordained my child's torture and murder.*

B1, B4, and B9 follow from Mary's belief in God's supreme goodness and moral authority. B3 follows from Mary's presumably consensual betrothal to Joseph. B2 and B6 are beliefs any

² Mark Murphy (2017) denies God's *moral* goodness and hold that God lacks moral obligations. However, Murphy's view should be viewed more as a barrier to VIRGIN CONSENT than DIVINE GOODNESS.

morally decent person (including Mary, who by all accounts was morally decent) would hold. As a devout Jew, Mary very likely accepted B5, as Judaism prohibits incest between parents and children; a strictly monotheistic (i.e., unitarian) view of God (B8); and is likely to have viewed herself as God's child (B7). Finally, B10 and B11 are beliefs virtually everyone has, and so Mary (probably) also held them. Below, I contend Mary's holding *any* of these beliefs, much less *all* of them, undermines her consent to God's offer of pregnancy. I shall furthermore assume several broadly accepted views about the nature of consent:

WAIVING:

If *S* consents to agent *R*'s *A*-ing (or proposing to *A*) at time *t*, then *S* waives their right against *R*'s *A*-ing (or proposing to *A*) at *t*.

FREEDOM:

If *S* consents to agent *R*'s *A*-ing (or proposing to *A*) at time *t*, then *S* is not coerced to consent to *R*'s *A*-ing (or proposing to *A*) at *t*.

INFORMED:

If *S* consents to agent *R*'s *A*-ing (or proposing to *A*) at time *t*, then *S* is sufficiently informed about *R*'s *A*-ing (or proposing to *A*) at *t*.

The argumentative portion of the essay has three parts. First, I show that if Mary held any of the beliefs described in B1-B7, then she was *coerced* into accepting God's offer and that coercion is incompatible with consent. Second, I show that if Mary held either B8, B9, or B10, then her consent was undermined by deception or non-disclosure. Third, I argue that Mary lacked the moral authority to consent to reproduce with God in virtue of her promise of fidelity to Joseph (B3).

2. COERCION

Unsurprisingly, there are any number of accounts of coercion. I shall focus on four commonplace ways in which coercion is present and undermines consent: incentivizing, manipulating desires, power differentials, and moral coercion.

2.1. Incentives

Robert Nozick's (1969) influential and enduring view of consent identifies six criteria for *P* coercing *Q*:

1. *P* aims to keep *Q* from choosing to perform action *A*;
2. *P* communicates a claim to *Q*;
3. *P*'s claim indicates that if *Q* performs *A*, then *P* will bring about some consequence that would make *Q*'s *A*-ing less desirable to *Q* than *Q*'s not *A*-ing;
4. *P*'s claim is credible to *Q*;
5. *Q* does not do *A*;
6. Part of *Q*'s reason for not doing *A* is to lessen the likelihood that *P* will bring about the consequence announced in (3). (Nozick 1969: 441-445)

Nozick claims that coercion need not involve a *threat* to make the coerced worse-off and offers the following example to demonstrate it:

Skipped Beating

Slaveowner regularly beats Slave. One day Slaveowner proposes to spare Slave his regular beating if and only if Slave now does A. (Nozick 1969: 450-1)

Nozick infers that because Slave wouldn't be worse-off by refraining from doing A, it follows that Slaveowner's request that Slave do A is an *offer*, not a threat. Nevertheless, it's a *coercive* offer and thus undermines Mary's consent. Mary's encounter with God (via God's messenger, Gabriel) satisfies each of these conditions:

1. God aims to keep Mary from choosing to reject his offer of pregnancy;
2. God communicates a claim to Mary (via Gabriel);
3. God's claim indicates that if Mary rejects his offer of pregnancy, then God will bring about some consequence (i.e., not saving or creating uncertainty about whether he will save humanity) that would make Mary's rejection of his offer of pregnancy less desirable to Mary than Mary's accepting the offer;
4. God's claim is credible to Mary;
5. Mary does not reject God's offer of pregnancy;
6. Part of Mary's reason for not rejecting God's offer of pregnancy is to lessen the likelihood that God will bring about the consequence announced in (3).³

God aims for Mary's acceptance and thus aims to prevent her rejection. God is clear that Mary's acceptance of his offer would accomplish some great good or prevent some great evil for humanity, either of which is more preferable than the status quo. In short, God *incentivizes* his offer. David Zimmerman's (1981) account centers on coercive *wage* offers and disputes Nozick's normative account of coercion, instead proposing the following account of *P* coercing *Q*:

1. *Q* is in circumstance *E1*;
2. *P* offers to bring about circumstance *E2* for *Q*, effectively removing *Q* from *E1*, if *Q* does A;
3. *Q* would prefer *E2* to *E1*;
4. *Q* would prefer *E3* to *E1* and *E2*;
5. *P* is responsible for the fact that *Q* is in circumstance *E1*.

Using Zimmerman's own words:

There is an independent rationale for insisting on this distinction, in any event, for a coercive offer is not merely an extremely unattractive offer which *Q* cannot afford to

³ Murray's (1993: 35) view is that divine hiddenness is necessary for humans to freely accept God's offer of redemption, and he claims the cognitive effects of sin (whether Original Sin or voluntary sin) accomplish this. However, Mulder (2012) defends Mary's Immaculate Conception on precisely opposite grounds, arguing that the presence of Original Sin would invariably result in Mary accepting God's offer of impregnation out of fear, and that 'rightly-ordered' desires maximize rather than inhibit freedom (Mulder 2012: 131).

refuse: it is all-important *how* *Q* came to be in such a vulnerable position. I would claim that for *P*'s offer to be genuinely coercive it must be the case that *he actively prevents Q from being in the alternative pre-proposal situation Q strongly prefers*. (Zimmerman 1981: 133)

For Zimmerman, coercion is thus not mere exploitation: Whereas *B* wrongs *Q* only by offering an exploitative wage, *A* offers an exploitative wage *and* "places *Q* in a dependent position where he is vulnerable to exploitation" (Zimmerman 1981: 134).

On Zimmerman's account, God exploits Mary's vulnerability as someone who requires divine rescue from sin and death or cares deeply about others who require such rescue.⁴ However, the human predicament is not God's doing but rather humanity's, as they freely chose to sin. Thus, it may appear that God's exploitation of Mary's vulnerability is not coercive. But this objection fails. First, even if humanity's punishment is morally justified, it doesn't follow that Mary can consent to God's offer. As John McMillan (2014), Jesper Ryberg and Thomas Petersen (2014), and Elizabeth Shaw (2019) have argued, when persons are justifiably incarcerated by the state and are offered early release contingent upon surgical or chemical castration, those offers remain coercive. Second, God's free decisions to save humanity via the particular means of Mary's womb place Mary in a uniquely vulnerable position she needn't have been in. On most accounts of the Incarnation, God's selection of Mary was contingent and, like Incarnation itself, unnecessary to accomplish salvation. It is plausible that among God's many redemptive options were ones that didn't require use of Mary's (or anyone's) womb, infidelity to Joseph, or the torture and unjust execution of Mary's child.

Lastly, consider Virginia Held's (1972) view of coercion. Held claims sufficiently powerful inducements to accept offers are coercive. She considers a case in which unmarried, sexual cohabitation is disqualifying for welfare benefits and asks,

Would we agree that since the city offered the goods of welfare payments to all those who met the minimal requirements for them, and since offers are not coercive, the welfare mother's sexual abstinence was uncoerced? ... It seems fair play to say that gifts are among the rarest of entities in the political and public realms. And I think it reasonable to conclude that as an inducement to accept an offer approaches a high level, it approaches coercion proportionality. (Held 1972: 57)

Thus, for Held, a sufficiently high degree of 'inducement' is sufficient for coercion. Worries about the adverse effects of inducement on consent are commonplace in bioethics (Grady 2001; Kishore 2006; Largent *et al* 2012; Elton forthcoming). Held uses the distinction between rape and consensual sex to illustrate the nature of inducement:

Consider the distinction between rape and seduction. In one case constraint and threat are operative, in the other inducement and offer. If the degree of inducement is set high enough in the case of seduction, there may seem to be little difference in the extent of coercion involved. (Held 1972: 58)

⁴ Cf. Onora O'Neill (1991: 183).

Saving grace is both rarer and more important than welfare benefits. Thus, it offers a maximally powerful inducement to accept. Thus (on Held's account), God's offer to Mary is coercive.

2.2. Manipulating Desires

Harry Frankfurt's (1988) view is that coercion is incompatible with free action. Thus, it's also incompatible with free consent. Borrowing Nozick's example of a butcher with a monopoly, Frankfurt claims that the butcher's raising the price of meat can acquire "the character of a threat" if three conditions are satisfied: (i) the customer *depends* on the butcher's meat, (ii) the customer *needs* meat, and (iii) the butcher *exploits* that dependency. For something to count as exploitation, Frankfurt claims "it may be appropriate to take into account the price at which similar benefits have been conferred in the past" (Frankfurt 1988: 34). Price hikes are one case where a person "would prefer to have a different motive for acting" (Frankfurt 1988: 44). Thus, for Frankfurt:

When P coerces Q into doing A, then Q does not do A freely or of his own free will. It is also true in a sense that P subjects Q to his will, or that he replaces Q's will with his own: Q's motive is not one which Q wants, but one which P causes him to have. (Frankfurt 1988: 44-5)

Assume Mary accepted God's offer on the basis of some desire. What was the desire? Likely operative were desires to obey God's commands and trust God (B1 and B9), to save humanity and those she loved (B2 and B6), and to avoid questioning or bargaining with God (B4). However, as Mary already loved Joseph and had pledged her sexual and reproductive fidelity to him (B3), she would very likely have preferred to reproduce *exclusively* with Joseph. Thus, when Mary reproduced with God, she would have preferred a different motive for acting as she did: namely, out of a desire for creating a family with Joseph. Thus, Mary's dependency on God for salvation, combined with a preference for a different desire-motivation for her reproductive act, jointly entail that her action was coerced. Thus, on Frankfurt's account, Mary's action wasn't free. Thus, it wasn't consensual.

Beyond identifying the motivating desire, we should also inquire *how* Mary came to desire accepting God's offer. John Christman argues that only actions resulting from "autonomously formed desires" are free (Christman 1988: 112):

[We] can imagine a person who lives a completely subservient life, and who also identifies with the first-order desires that constitute such a life. Socialization, education, and conditioning throughout the person's upbringing lead her to see, let us say, the life of a subservient housewife as her true calling.... Obviously, however, she is a manipulated individual whose choice of life-style and values are not her own in a real sense. Her values, even at the second level, are the product of her upbringing and conditioning. (Christman 1988: 113)

However, Christman's account is too broad. Our valuing a moral life is (partially) a product of our upbringing and conditioning (Street 2016). But it's false to claim that actions motivated by that

desire aren't free.⁵ Despite this shortcoming, it's apparent that Christman is on to something here: that *how* we acquired our action-motivating desires is relevant to the freedom of those actions. Enter Gideon Yaffe (2003), who distinguishes between *neutral* and *manipulating* causes of action-motivating desires. Whereas coercers use existing desires to motivate action, manipulators *instill* or *implant* new desires (or reasons) for action. Yaffe calls the latter 'indoctrination' and illustrates it with the following example:

Cult Funding

For instance, a cult leader might manage to convince the new followers to give him, say, fifty percent of their annual incomes so as to promote his welfare, perhaps because he convinces them that he is worthy of their money while they are not.... By manipulating them, he causes them to recognize and respond to those features of the world which give *him* reason to have them act in particular ways. That is, he indoctrinates them. (Yaffe 2003: 340-1)

For Yaffe, indoctrination undermines freedom since when "we fall into the hands of indoctrinators, fewer lives are available to us than are available to us when we are simply the unlucky victims of neutral causal forces" (Yaffe 2003: 345). As a manipulator's power increases, "the less that could have happened to intervene to create an agent who responds to reasons in some way other than the way in which the manipulator designs" (Yaffe 2003: 345). God's infinite power and persuasiveness therefore *maximally* restricts the number of opportunities to intervene and prevent Mary from responding to reasons God instills in her. Moreover, God's position as the founder and principal promoter of Judaism instilled any number of beliefs in Mary that would have motivated her to accept divine impregnation, including B1, B2, B4, B5, B6, B9, and B11. Were Mary to have acted on the basis of God-instilled desires to (for example) obey him unconditionally, God would have undermined her consent by manipulating her. Thus, on Yaffe's account of indoctrinated desires, Mary's action-motivating desire was manipulated and therefore unfree. Thus, she didn't consent.

2.3. Power Differentials

Joan McGregor (1989) defends a power-based view of consent wherein *asymmetrical bargaining power* undermines consent for the weaker party. As illustration, she uses the following example:

Ms. Impecunious has a baby who will die without an operation. Alas she has no money and no way of getting any. She is approached by a lecherous millionaire who puts the following proposal to her: If you agree to become my mistress, I will pay for the operation on your baby. (McGregor 1989: 24)

Noting that standard accounts of coercion at the time would characterize only the *former* case as containing a coercive offer, McGregor comments:

⁵ This doesn't entail that our moral beliefs and values can't be used to manipulate or coerce us. They can, as I explain in section 2.4. Cf. Chwang (2009: 126-7), who distinguishes between 'legitimate' and 'illegitimate' causes for beliefs. On Chwang's view, causes "that involve circumvention of the subject's rational faculties, that is, brainwashing," then "prior consent was impotent" (2009: 127).

The problem with [this] case and others like it is that the proposer is able to secure compliance (to a very exploitative deal) only because of his victim's weak bargaining power (or desperate situation). He uses the evil state of affairs, i.e., the baby's preventable death, in the same way that the gunman does, *viz.*, as his insurance for compliance. (McGregor 1989: 24)

Whereas Zimmerman holds that what matters is whether the 'proposer' is *responsible* for the initial poor conditions, McGregor's claims that account "ignores the power relationships that occur when there are radically disparate bargaining strengths" and "does not count as coercive those situations in which the least well off find themselves" (McGregor 1989: 24). For McGregor, therefore, consent is fundamentally a matter of power. Applied in an economic context, McGregor writes:

Bargaining power plays a central role in the cooperative deal one can negotiate; indeed, what one can rationally expect to secure from negotiations is determined by it. The terms by which any two agents will cooperate (e.g., exchange their goods), can be explained by the *bargaining advantages* of the agents. Bargaining advantages are a function of a number of background factors; for instance: one's knowledge of the subject of the negotiation, one's wealth (which among other things gives one the ability to wait and which affects one's attitude toward risk), one's business savvy, what one possesses that others want (this includes abilities and talents), and the alternatives open to one. (McGregor 1989: 31)

Additionally, "rules that restrain or liberate" (McGregor 1989: 31) one's bargaining power are critical to ascertaining someone's bargaining power. If one is talented at deception but deception is a prohibited advantage, this affects one's bargaining power. McGregor is clear that not all exploitative advantages undermine consent, but she claims that coercive advantages necessarily do so. Under what conditions is asymmetrical bargaining power a coercive advantage? McGregor identifies two conditions that are jointly sufficient for a coercive power advantage:

1. *Dependence*: "As the available alternatives get fewer the advantage, and hence the power, becomes greater. Dependence comes from the weaker party having no options. This opens the door for the stronger party to *use* the dependence to secure a better deal than he might otherwise have been able to secure. Having the weaker party dependent is essential since only then is it the case that the weaker party must deal with *this* person. Dependency of the victim can be *created* by the stronger party or, given certain states of affairs in the market, the stronger party may find himself with others dependent on him" (McGregor 1989: 34).
2. *Ability to Cause or Prevent Harm*: "...what the stronger party can do or fail to do that the weaker party is dependent on him for. The proposer can then play on that evil to secure assent from the weaker party. Imagine a case of a drowning swimmer on an isolated lake who is approached by a boater who proposes to save the swimmer for the fee of \$10,000. In this case the boater has the advantages of dependence and the ability to prevent an evil" (McGregor 1989: 34).

As Onora O'Neill succinctly explains,

Agents become victims not just because they are poor, ignorant, unskilled, or physically or emotionally feeble, but because they are confronted by others who are richer, more knowledgeable, more skillful or physically or emotionally stronger, and prepared to exploit their advantage. Power depends on differentials. (O'Neill 1991: 191-2)

Thus, coercion occurs when the more advantaged party *uses* their power advantage to secure assent from the lesser party. God approaches Mary not as her equal, but *as her God*. It's difficult to conceive a starker power asymmetry; the rules of the God-creature relationship are liberating for God but restraining for creatures like Mary.⁶ As Jeffrey Gauthier observes, women consenting to sex is problematic “under the coercive conditions of a sexist society” (Gauthier 1999: 72). He explains position as follows:

Crucially, consent theory assumes that each party possesses the requisite autonomy to reject the terms of contracts that are not in her best interest. By assuming that all human beings possess freedom and autonomy, however, consent theory ignores the fact that the concrete capacity to act responsibly and in one's self-interest depends critically on having that capacity respected in the institutions and practices of a society.... Where institutional respect for the autonomy of members of a particular class is absent, members of that class will find themselves in a double-bind when the law expects them to act as if they were simply autonomous. (Gauthier 1999: 73)

With such a legal presumption in place, “certain types of sexual ‘offers’ may be coercive even when women, under conditions of generalized fear, consent to them” (Gauthier 1999: 73). Since rape sometimes results in pregnancy, these worries hold for unconsensual pregnancies as well as rape. Gauthier's concerns extend not only to the coercive conditions of a sexist society, but to other social contexts where certain exchanges are coercive in virtue of power differentials and the potential to exploit. As examples, consider examples of sex within the following contexts:

Parent-Child Context

Parent, aged 30, asks Child, aged 15, for a sexual favor.

Professor-Student Context

Professor asks Student, who is enrolled in Professor's course, for a sexual favor.

The inability of children to consent is not the *only* operative worry for sex between Parent and Child. Indeed, perhaps a 15-year-old *can* consent to sex in some contexts. The deeper problem is that they are unable to consent to sex *with their parent* precisely *because* of the (natural) institutional power of parents over children. Linda Martín Alcoff, for example, argues that children are nevertheless sexually assaulted in cases “where consent was produced by structural conditions of economic dependency, or was caused by emotional confusion, or was given in an attempt to help or protect others in the family” (Alcoff 2018: 81). Insofar as children assent to parent-child sex because of their economic dependency or a desire to please them, they lack power within the relevant parent-child ‘institution’. Commenting on the *Professor-Student Context*, Audrey Yap remarks,

⁶ Cf. McGregor (2005). See also Asirvatham (2018), Haire *et al* (2018), Kongsholm and Kappel (2017: 437-8), McMillan (2014), Klitzman (2013), and Hui (2011).

I argue that power dynamics in these cases can create situations in which professors believe themselves to be in a consensual romantic relationship with a student, but the student perceives the relationship as one they are unable to leave or control. That is, while they might be technically capable of turning down advances—refusals are not being silenced—they might believe (correctly in some cases) that such refusals might have difficult to detect negative effects on their prospective careers. (Yap 2019: 57-8)

Yap, with partial approval, cites Canadian Criminal Code 1985 according to which “no consent is obtained where the complainant submits or does not resist by reason of...authority” (Yap 2019: 56). Thus,

We can take it for granted, as per the legal definition, that if authority is *exercised* in order to secure agreement to a sexual encounter, then consent is not present. But that this is put in terms of the exercise of authority suggests that some kind of appeal to that authority needs to be present, or some way of making the authority salient to the other party’s decision. Institutional power that is simply part of the background context of a relationship does not seem to be authority that is actively exercised. (Yap 2019: 57)

On Yap’s view of power-over relationships, it’s important whether Professor, *qua* Professor, solicits sex from Student. Among the ways of making this salient would be to point out their status as Student’s professor when soliciting sex. If they do so, their authority is exercised to secure agreement and thus consent is undermined. Thus, the way power is structured within academic institutions is asymmetric and, where such power (or authority) is invoked, can easily undermine consent.⁷ Moreover, as the following context shows, there are some contexts wherein authority is *invariably* exercised:

Guard-Inmate Context

Guard, who watches over Inmate and has control over her prison life, asks Inmate for a sexual favor.

The Prison Rape Elimination Act (PREA), passed in 2012, as well as the Eighth Amendment of the U.S. Constitution, prohibit prison guards from having sex with inmates. As Megan Coker remarks, “[In] short, the coercive environment of imprisonment and the position of power guards enjoy over inmates suggest inmates cannot really consent to sexual contact with their guards” (Coker 2014: 443, note 40). The Ninth Circuit partially reaffirmed this judgment in *Wood v. Beauclair*, ruling that inmates are entitled to a *presumption* that their sexual encounters with guards were nonconsensual in virtue of power differentials.⁸ Insofar as persons are prisoners and guards, there exists a remarkably large power differential between them. Elizabeth Reid, herself a victim of guard rape while at the Washington Corrections Center for Women, writes about her experience with guards during her work release:

⁷ Cf. Srinivasan (2020), who locates the ethical problem not in power differentials but in pedagogical and patriarchal failure on Professor’s part. The same plausibly holds for *parental* and *patriarchal* failures on God’s part, as Mary believed God was her parent (B5 and B7) and as first-century Judaism was a patriarchal religion in which women were voiceless.

⁸ Cf. Penland (2015: 527-9) for more on the role of sexual consent prisons.

They became friendly and personal with the inmates. Some flirted with the women. Some made sexual remarks about the women. They would touch you sometimes when they were talking to you—a hand on your shoulder here, a touch on your back there. On the surface, it appeared harmless. But it wasn't. They were still guards, and they still had that power over us. They could send us back to prison. They could send us back to prison with more time. They were just as powerful as cops. And their word was always believed over ours. So a hand on your shoulder was not something you could pull away from, even if you wanted to. (Reid 2013: 2089)

Students can drop courses and professors can enjoy academic leave, but inmates exercise considerably less control. Consider one final context:

God-Creature Context

God, whom Creature recognizes as all-powerful and the ultimate normative authority, asks Creature for a sexual favor.

Like the *Guard-Inmate Context*, the *God-Creature Context* is one in which God has absolute power and authority (or at least far more authority than any creature). And God's power over each and every creature is *inescapable*: There is quite literally nowhere in the universe one can evade the reach of God's power and authority. Thus, God's power over creatures is both inexhaustible and inescapable. At the Annunciation, the angel Gabriel makes clear that God, in his position of ultimate power and authority, "shall" cause Mary to bear a son named Jesus.⁹ By invoking his name, then, God *exercises* his power; it is not merely a feature of the background relationship between God and Mary. Thus, on Yap's view, consent would not be present for Mary.

Like sexist institutions, religious institutions that designate God as the supreme authority are ones that have little respect for lesser authorities participating in that institution, including individual worshippers. At the very least, the exercise of such authority in the *God-Creature Context* mirrors the power-over undermining of consent illustrated in the *Parent-Child*, *Professor-Student*, and *Guard-Inmate* contexts. In each context, the distribution of power and its subsequent exercise nullify the 'consent' of the weaker parties.

2.4. Moral Coercion

Saba Bazargan-Forward characterizes *moral coercion* as wronging the coerced party "in that her aim—specifically, her commitment to morality—is being leveraged to serve as a means in furtherance of an unjust end" (2014: 9).¹⁰ He cites Terrence McConnell's description of what McConnell calls *moral blackmailing*:

⁹ Ann Cahill characterizes sexual assault as cases in which "the only salient factors are the assailant's desires and intentions," which (to use Cahill's language) eclipse the victim's subjectivity, leaving them unable to "affect the interaction" (2014: 315). Something similar might be said about cases in which the victim's desires and attentions receive non-zero weight but are considered far less important than the perpetrator's desires and intentions. Under such an extension, God's apparent prioritization of his own intentions and desires over Mary's (who presumably desired and intended to be faithful to Joseph) might qualify as an instance of asexual, reproductive assault on Cahill's view. However, I lack the space to explore this possibility here.

¹⁰ Cf. O'Neill (1991), 185-9.

For reasons that are not always easy to explain, we are especially repulsed by the idea of one moral agent manipulating the other. This is, of course, what happens in cases of moral blackmail. The blackmailer attempts to get a person to do certain acts by threatening to do something much worse. To the extent that the person complies with these demands, he is surrendering his moral autonomy. He is, in a sense, a puppet in the blackmailer's hands. (McConnell 1981: 562)

Bazargan-Forward then concludes:

[W]hen C1 morally coerces C2, the aims that are hacked are not merely aims that C2 is *entitled* to have—*i.e.*, procedural commitments—but aims that both C1 and C2 are *obligated* to have—*i.e.*, moral commitments.... But if there are decisive reasons for C2 to accede to moral coercion, then by definition she is not morally permitted to refrain. Violating prudential requirements is discretionary in a way that violating moral requirement is not. So even if the psychological pressure associated with both sorts of coercion are equal in severity, moral coercion can trap its victim in a way that non-moral coercion cannot, by foreclosing any moral permission to do other than what C1 wants. (Bazargan-Forward 2014: 9)

Mary's assent to God's offer is *morally obligatory* in virtue of the fact that God "foreclosed an option to do otherwise" (Bazargan-Forward 2014: 10) to satisfy her obligation to save humankind: namely, by narrowing the options for human redemption such that Mary's assent was instrumental and accidentally necessary.¹¹ Indeed, Mary possessed zero normative control over whether humanity might be saved *by some other means*, and thus was not in a reasonable moral position to refuse God's offer. Thus, Bazargan-Forward endorses the following view of moral coercion:

MORAL COERCION

If *S* consents to agent *R*'s *A*-ing (or proposing to *A*) at time *t*, then *R* didn't morally foreclose for *S* some permissible alternative to *A*-ing at *t*.

Moral coercion is present at the Annunciation due to Mary's moral beliefs: she's obligated always to obey God's commands (B1), do what she reasonably can to save humankind (B2), and refrain from questioning or bargaining with God (B4). She also believes that God's offers would, if accepted, benefit her or others (B9). By failing to provide Mary with alternatives, he leaves her without normative power and therefore boxes her into an obligation to honor his request *sans* questioning or bargaining (B1 and B4) and thereby benefit herself, those she loves, or humankind generally (B2 and B9). Thus, at the Annunciation, God morally coerces Mary into accepting his offer of pregnancy. Thus, Mary didn't consent to be impregnated by God.

James Rocha offers a distinct account of moral coercion grounded in autonomously formed moral boundaries. He begins with the following example:

¹¹ Cf. Murray (1993: 30). David Estlund (2008) advocates what he calls *normative consent*: the view that persons can acquire moral obligations in cases where, were they given the chance to consent to the obligation, they ought to consent to it. However, Estlund's view concerns pre-existing obligations and not moral coercion. Saunders (2010) uses Estlund's normative consent to defend an opt-out organ donation public policy. For replies to Estlund, see Koltonski (2013), Manson (2013), and Frank (2016). For a reply to Saunders, see Potts et al (2010).

Promotion

Hal is Vera's supervisor at a food services company that is expanding into the global market. The company decides to staff its international offices with workers from the US. Hal must send one of his employees either to the new Paris or Bucharest office. Vera, while happy to accept a new foreign assignment with much higher pay, would much prefer Paris. Unfortunately, the company has randomly assigned her to Bucharest. Hal, knowing the content and strength of Vera's preferences, offers to change her to Paris in exchange for sex. If Vera refuses, she will simply be assigned to Bucharest, which has the benefit not only of higher pay, but it also gets her away from Hal. (Rocha 2011: 203-4)

Rocha notes that on some accounts, it should be up to Vera how "to define her sexual and gendered identity" (2011: 205). However, he thinks an extension of this yields a helpful account as to how Hal's offer to Vera is coercive. He claims that autonomy is about *self-legislating standards*, and that most people have "standards that represent the appropriate uses for, and limits to," their sexuality, including "which areas of life the agent chooses to incorporate sex into, and those areas she, often actively, excludes it from" (Rocha 2011: 205-206). If Vera's existing sexuality standards are *incompatible* with using sex to advance her career, then Hal's offer violates her autonomy *by intruding into the decision process itself*:

Sexual harassment, then, is primarily not about sex, but power. Here it is about the power of a male supervisor to put his influence where he should know it doesn't belong: in the formation of his female employee's sexuality standards. (Rocha 2011: 211)

Rocha further claims that Hal's sexual offer undermines Vera's autonomy irrespective of what she chooses since he *presupposes* Vera wishes to be treated as a sex object (Rocha 2011: 212). As a result, Hal treats Vera as a mere object:

It is immoral for Hal to attempt to combine two spheres of someone else's standards that respect for that person's autonomy would keep separate. Hal attempts to combine the sphere of Vera's sexuality standards with her career standards sphere. This combination attempt—made simply by presenting an offer—treats Vera as a sex object in the business world. (Rocha 2011: 213)

Hal's offer is not for Vera to be sexually autonomous *and* career autonomous, but rather for Vera to become *his* sex object. By treating Vera this way with his presumptuous offer, Hal's offer is coercive and renders Vera's consent to his *actual* offer impossible. Accepting the former offer entails a (partial) abdication of autonomy; the latter is impossible as it is not being offered.

Rocha's account of sexual harassment offers is easily adapted to impregnation. The same reasonable presumption against impregnation-as-a-means-to-career-advancement exists widely in the workplace. Were Hal to make Vera's reassignment to Paris conditional on her agreeing to be asexually impregnated by Hal, this would show similar disrespect for her autonomy, treating her as a mere 'workplace womb' rather than a co-parent and co-equal, autonomous co-worker. With the exception of relationships in which reproduction resides in the same 'standard sphere', offers that presuppose a willingness to procreate violate autonomy.

Returning to Mary, let's consider a relevant subset of her deeply held moral beliefs: She is morally prohibited from reproducing with her parent and God is her parent (B5 and B7) and morally obligated to remain faithful to Joseph in sexual and reproductive matters (B3). God's offer to Mary thus intrudes into spheres in which Mary has conflicting moral commitments, obligating her to reproduce with someone she regards as her (spiritual) parent and break her promise of fidelity to Joseph. On Rocha's account, God forces Mary to betray her autonomously formed commitments and makes her an offer to which she can't rationally consent without rejecting her moral beliefs. Thus, God's offer to Mary is one to which she can't, *as the self-formed moral agent she is*, consent.

3. DECEPTION / NON-DISCLOSURE

3.1. Dougherty's Deal-Breaker Account

Tom Dougherty defends the view that consent to sex is undermined in cases where assent to sex is predicated on deception. He offers the following case as an example:

Hippie Sex

...suppose that Chloe meets a hippie, Victoria, on a night out. Victoria makes it clear that she wants to have sex only with someone who shares her love of nature and peace. Consequently, Chloe falsely claims to have spent time in a war zone as a humanitarian, when in fact she was there on military service. When Victoria asks whether she likes animals, Chloe omits the truth—"only to eat or to hunt"—and pretends to love petting them and watching them in the wild. As a result of this deception, the two spend a night together. My claim is that Victoria did not validly consent to sex with Chloe. (Dougherty 2013: 728)

He then offers his analysis:

On this view, someone does not validly consent to a sexual encounter when deceived about its 'core' features, such as the interaction's not being a genuine medical procedure or the other person's not being one's usual romantic partner. When someone is misled about these core features, then her will is not sufficiently implicated in the act for it to be consensual. But on the other hand, someone may validly consent even when misled about the encounter's peripheral features, such as the other person's natural hair color, occupation, or romantic intentions. (Dougherty 2013: 728-9)

Consent matters at least as much for pregnancy as for sex. Thus, if God deceives Mary in order to secure her assent to pregnancy, then Mary's ability to consent is undermined. Let's assume that God never *deceives* Mary in the sense that he never misleads her about anything. He does not, for example, tell Mary that her child will live forever or conquer Rome. Nevertheless, God *does* appear to *conceal*, or *fail to disclose*, certain facts to Mary, including that her son will be divine, would raise people from the dead, and would later be captured, brutally tortured, crucified, and raised from the dead himself, only to depart her at a young age. Does concealment undermine consent on Dougherty's view?

This touches on an important issue that is linked to our main topic of deception: concealment. This raises the question of what duties people have to inform their sexual partners about themselves to avoid false beliefs about deal breakers. But this question is a nuanced one. Toward the goal of mutually consensual sex, some epistemic labor may be required on both sides. If someone has a highly idiosyncratic sexual preference—say, he only wants to sleep with people whose star sign is Pisces—then it may be his responsibility to disclose this preference, rather than his partner’s responsibility to inquire into whether he has this preference. (Dougherty 2013: 741, fn.52)

A mother as morally upstanding would surely want the best life for her child, which she would likely believe precludes being captured, brutally tortured, and crucified (even if he is later raised from the dead). It would also be of critical importance to her, as it is most parents, that her child outlives her. Relatedly, the short life of her son, as well as its apparently miserable end, would have had a profoundly negative impact on Mary’s mental health. On the plausible assumption that these desires are sufficiently important to Mary that she would have refused God’s offer or would have expressed a desire to consider the offer further, then Mary is insufficiently informed about the ‘core’ features of her pregnancy and therefore didn’t consent to them.¹²

Let’s assume that although these things matter greatly to Mary, she would assent to pregnancy even if God disclosed them to her. Suppose also that God knows this counterfactual. Does it follow that God’s non-disclosure, since it wouldn’t have changed the outcome anyway, doesn’t undermine Mary’s consent? In that case, such facts would not be *deal-breakers* in Dougherty’s sense and would therefore not undermine consent (Dougherty 2013: 740). Thus, under the assumption that these revelations wouldn’t have changed Mary’s choice to accept God’s offer, her consent is not undermined on Dougherty’s account. However, Dougherty’s commitment to what I call DEAL-BREAKER is ruinous to his account. Here’s how I understand that principle:

DEAL-BREAKER:

If S makes offer O to person S* at time t, S* accepts O at t, S conceals fact F from S* at t, and the disclosure of F at t wouldn’t have changed S*’s choice to accept O at t, then S* consented to O at t.

Hallie Liberto differs with Dougherty and argues that deception rarely undermines consent, but argues that it does in certain cases:

Appealing to the standards of informed consent for research subjects for guidance in the sexual realm will get us the result that *at least* the following topics of deceit undermine sexual consent: deceit about sexually transmitted diseases and infections; deceit about the number of sexual partners one has had in the past and the methods of protection against

¹² Kongsholm and Kappel (2017) defend a *trust-based* view of consent on which consent is possible *sans* information about the proposed action, noting that patients often consent to medical procedures on the basis of trust in their physician rather than the information the physician provides. Perhaps Mary simply trusted God to do what’s best. However, Kongsholm and Kappel’s proposal implies that consent is present in cases like *Morning Confession*, *Unconscious Sex*, and *Secret Recording* below provided Sadiq, Susan, and Liam trust their sexual partners. Moreover, Kongsholm and Kappel are explicit that trust-based consent is incompatible with coercion, manipulation, and exploitation.

STDs and STIs used in those encounters; deceit about the use of birth control; deceit about one's intentions regarding the length or nature of the relationship; and deceit about whether the sexual encounter is being recorded using an audio or visual recording device. (Liberto 2017: 139)

Liberto adds that, within bioethics, "research subjects must be informed if their material will be used in a particular way" (Liberto 2017: 139). Liberto is unclear which of these is important to *disclose* to achieve informed consent, but failure to disclose some of them, like failing to disclose an STD or whether one is recording the sex, would undermine consent. Thus, for Liberto, the non-disclosure of certain facts can undermine informed consent. To see why, consider the following case:

Morning Confession

Ken, who knows he has an STD, solicits sex from Sadiq but consciously fails to disclose his STD to Sadiq, who agrees to have sex with Ken. The next morning, Ken informs Sadiq that he has an STD. Sadiq is surprised but says, "Had I known that, I would have had sex with you anyway."

Did Sadiq consent to sex with Ken prior to having sex? No, because Ken's non-disclosure of his STD is *reasonably relevant* to Sadiq's decision to have sex with Ken. This is true even if Ken *would have* consented had Ken disclosed the STD.¹³ To think of this another way, ask whether Sadiq would be in his *moral* rights to make the following complaint to Ken: "Although I would have had sex with you anyway, you wronged me by not revealing that fact to me prior to having sex." It seems Ken is morally liable to such correction, as well as further legal admonishment and punishment. Perhaps we should say that Sadiq waives his right to legal action, but not to the sex — to punishing or pursuing reparations the act, but not the act itself.¹⁴ Thus, DEAL-BREAKER is false. For those inclined to resist this conclusion, consider a further case:

Unconscious Sex

Neveah finds her roommate Susan passed out drunk in their apartment. Neveah wants to have sex with Susan but can't ask Susan, as Susan is unconscious. However, Neveah is psychic and knows that if she has sex with Susan now, while Susan is unconscious, then Susan will later find out about it and will say to Neveah, "I realize I was unconscious, but I would have had sex with you had I been fully conscious, alert, and rational. So, I don't object to your actions."

It's *very* implausible to say that Neveah had consensual sex with Susan. Otherwise, there would be no consent-based objection to having sex with people don't *now* consent but *will* later. But there is. The only difference between this case and *Morning Confession* is that Sadiq was conscious and

¹³ Eric Chwang (2009) defends a view of *subsequent consent* (or *retroactive consent*) that he believes can justify past actions for which there was no prior consent. However, cases like *Morning Confession* and *Unconscious Sex* provide powerful (if not decisive) evidence to reject Chwang's view.

¹⁴ Chwang claims that waiving one's right to press charges or demand compensation is "all we require for prior consent" (2009: 121). However, the mere fact that a person declines to press charges against some infringement of their legal rights hardly implies they *consented* to such infringement: Amish pacifists refuse to violently defend themselves yet don't consent to being killed. One can waive one's derivative right to enforce one's non-derivative right without thereby waiving one's non-derivative right.

verbally assented to Ken's offer of sex. However, in that case, it's counterfactual doing all the consensual work on Dougherty's account: If Sadiq *wouldn't* have had sex with Ken had he known about Ken's STD, their sex wouldn't have been consensual on Dougherty's account. And the same counterfactual is doing all the consensual work in *Unconscious Sex*. Thus, if sex in the latter case is nonconsensual, so is sex in the former. Consider one more example:

Secret Recording

Isabella proposes sex to Liam, which he accepts. Unbeknownst to Liam, Isabella secretly videotapes their sexual encounter. The next morning, Liam discovers the videotape and asks Isabella whether she taped them having sex. Isabella confesses she did. Liam pauses and then says, "That's fine with me. I would have taped us too!"

Did Liam consent to his sexual encounter with Isabella? If he did, it was only after they had sex, which is too late for him to have provided *sufficiently informed* consent to being videotaped at the time of the taping. The standard view of informed consent is that it must occur *prior to* what's consented to, not after. Otherwise, virtually any treatment done to anyone would be consensual provided one knew they would provide informed consent after the fact. Thus, the DEAL-BREAKER is false. Instead, I propose the following principle:

REASONABLE RELEVANCE:

If S makes offer O to person S* at time *t*, S* accepts O at *t*, S conceals some fact F from S* at *t*, and F is reasonably relevant or important to accepting (or deliberating about accepting O), then S* didn't consent to O at *t*.

This explains our intuitions about *Morning Confession*, *Unconscious Sex*, and *Secret Recording*. Sex that risks contracting an STD, unconscious sex, and secretly recorded sex are all things persons can reasonably reject. Thus, their disclosure is reasonably relevant to sufficiently informed consent.

3.2. Matey's Moral Character Account

Jennifer Matey's (Forthcoming) account problematizes non-disclosure and further illustrates the explanatory importance of REASONABLE RELEVANCE:

What I am proposing isn't so different from the principle of informed consent that is already widely accepted in medical ethics. If a doctor recommends a medical procedure to a patient but prevents them from knowing about potential bad outcomes, the patient's consent to the procedure is not valid. *And this is true regardless of whether or not their consent would have depended in a counterfactual sense on that information.* (Forthcoming: 17, emphasis mine)

On Matey's view, deception or non-disclosure of "morally valenced character traits—the kinds of traits that we think of as virtues and vices, play an important role in how people understand the people they give consent to" and that consent is morally significant because "it facilitates a person's ability to live the sort of life they intend and desire" (Matey forthcoming:19). Thus, on

Matey's account, the *mere disclosure* of these facts is critical to ensure consent.¹⁵ And it's not hard to see why: Lacking knowledge about your partner's important character traits, as well as lacking knowledge about what their core intentions are regarding sexual intercourse (which speaks to their character), effectively conceal both *who* your sexual partner is and *what* they want. Facts about one's moral character, as well as the morality of one's intentions for sex and the relationship in which sex (or reproduction) occurs, are a subset of facts that are reasonably relevant to one's decision to accept offers of sex, relationships, reproduction, and the like. Thus, REASONABLE RELEVANCE can accommodate Matey's account under a broader principle of sufficiently informed consent.

Does God fail to disclose morally valanced character traits to Mary prior to impregnating her? For starters, God failed to disclose to Mary his plan for Jesus to be 'a lamb unto the slaughter', brutally murdered at the hands of his accusers and securing salvation for all. A preexisting willingness and intention to sacrifice one's child is a significant aspect of someone's character, much as Abraham's willingness to sacrifice Isaac was. Were a medical researcher to harvest embryos from a research subject *without* informing the subject their intention to grow an adult human and then sacrifice her, we would hardly say the research subject consented despite lacking this information. God also failed to disclose the mysterious nature of the Triune Godhead to Mary: that three are one and that her conception would be caused by multiple parties (i.e., the Father and the Holy Spirit). For Christians, the triune nature of God is a central feature of God's moral character and identity. And if Mary was immaculately conceived, God failed to disclose that he specially designed Mary to accept his offer—analogous to a doctor inoculating a patient to desire to please and trust that doctor yet failing to disclose to the patient that they have been inoculated for this purpose. On Matey's view and under REASONABLE RELEVANCE, failure to disclose such facts undermines Mary's informed consent even if Mary would have accepted had she known them. Thus, keeping the morally relevant details about himself and his plan quiet, God undermines Mary's consent.

4. MORAL AUTHORITY

Thus far, I have assumed a rights-waiving conception of consent on which consenting to *p* entails waiving one's right that *not-p*. A necessary condition of waiving one's right that *not-p* is that one has the *moral authority* or (moral standing) to do so. Thus, for example, if someone else *shares* your right that *not-p*, then their consent is for consenting to *p*. This is true, for example, in cases of shared property in which there is more than one legitimate claimant whose consent is needed for a transfer, as well as in cases of consensual promise-making in which new rights are conferred. Thus, we should endorse the following principle:

SHARED CONSENT

If *S* and *Q* share a right against *R*'s *A*-ing (or proposing to *A*) at time *t*, then *R*'s *A*-ing (or proposing to *A*) is consensual only if both *S* and *Q* consent to *R*'s *A*-ing (or proposing to *A*) at *t*.

¹⁵ Matey's concern is with *informed consent*, but she is clear that consent is absent without informed consent.

Prior to the Annunciation, both Mary and Joseph had made (consensual) promises of sexual and reproductive fidelity to each other. In so doing, Joseph acquired a right against Mary that she not be unfaithful to him in those ways. As Joseph's right is non-enforceable, Mary can retract her consent at any time, but she will still have wronged Joseph in virtue of breaking her promise to him. That is, Joseph has a right not to Mary's body, but to her keeping her promise. Because Joseph has this right against Mary, she lacks the moral authority *alone* to consent to sexual or reproductive with individuals other than Joseph, including God. Thus, Mary can't (on her own) waive her right against being impregnated by God, and therefore can't consent to be impregnated by God, and God violates Joseph's rights by making Mary an offer of infidelity. Thus, God himself lacks the moral authority to make the offer exclusively to Mary, as opposed to both Mary and Joseph.

5. CONCLUSION

The conjunction of VIRGIN BIRTH, VIRGIN CONSENT, and DIVINE GOODNESS form an inconsistent triad. Among the principal causes for undermined consent are coercion and insufficiently informed consent. First, I argued that FREEDOM isn't satisfied in Mary's case because God offers improved conditions, manipulates her desires, exercises his (nonconsensual) power and authority advantage, and morally coerces Mary. Second, I argued INFORMED isn't satisfied because God fails to disclose reasonably relevant facts about his reproductive intentions and his moral character. Third, I argued that Mary's promise of fidelity to Joseph entail that his consent was necessary for God's impregnation of Mary to be adequately consensual. Thus, VIRGIN CONSENT is false. Thus, if DIVINE GOODNESS is true, VIRGIN BIRTH is false.

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