

Sex, truth, and law: Rereading Foucault's *History of Sexuality* after volume 4, *The Confessions of the Flesh*

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1 | INTRODUCTION

Foucault's historical studies were motivated by problems he identified in the present and there is no reason to think that *History of Sexuality* is different in this regard.¹ But that raises a question no reader of *The Confessions of the Flesh* can escape: How is a scholarly 426-page treatise on the Church Fathers relevant to the contemporary world, or, at least, to concerns that emerged from Foucault's own historical present?² The question is only highlighted by the absence of explicit links between the past and the present in Foucault's text, which was published posthumously, in 2018, as the fourth and final volume of *History of Sexuality*. This book had been advertised as forthcoming already in 1984, when volumes 2 and 3 were published weeks before Foucault's death.³ Therefore, it is hardly an exaggeration to say that only now, in light of the perspective the long-awaited final volume offers, are we in a position to assess Foucault's *History of Sexuality* project as a whole. At the same time, this broader context is vital for understanding the philosophical significance of volume 4, which remains, no doubt due to its unfinished state, strikingly silent about the *philosophical* aim of the meticulous historical work, as Foucault himself understood it. Therefore, the question of contemporary significance needs to be examined both with respect to the project overall and, specifically, by asking what role the analyses of baptism, repentance, libido, virginity, and marriage, which fill out volume 4, might play in it.

2 | HISTORY OF SEXUALITY AS CRITIQUE

Foucault's *History of Sexuality* is *critical* history in Nietzsche's (1997: 75-77) sense of using history to liberate us from elements of the past that continue to define the present. It is well known that, according to Foucault, the genealogical aim of critical work is to enlarge the scope of discursive possibility that sets limits to the work of freedom subjects can

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undertake. Such critique might be characterized as “the critique of constitution,” because it undertakes to investigate how the given limits of intelligibility have been constituted in order to destabilize their apparent inevitability (Säynäjoki & Tiisala, 2023). It is not difficult to recognize this orientation in Foucault’s *History of Sexuality*, which studies how sexual relations have been constituted as a topic of ethical significance, not always and everywhere, but in the history of Western culture, through a series of different problematizations. In short, Foucault asks, how is sex constituted as a topic of ethics for us? And, relatedly, how is the subject constituted as an ethical subject of sexual desire?

Foucault identifies three historically successive problematizations that constitute different ethical experiences of sexual relations, including the self’s relation to itself: (1) the problem of the use of pleasures (sexual and others) in Greek and Roman antiquity; (2) the problem of sexual desire as a manifestation of human sinfulness that requires redemption in Christianity; (3) the problem of abnormal sexuality, as theorized downstream from nineteenth-century psychiatry.⁴ Schematically, Foucault’s aim is to destabilize the psychiatric problematization, and the alternative approach he sketches out in terms of “aesthetics of existence,” in a series interviews, takes up and elaborates aspects of the ancient problematization of sexual relations in terms of an ethical use of pleasures. Given this shape of the project, however, the role of Christianity and volume 4 appear all the more puzzling. When Foucault explains that the project aims to provide “a historical ontology of ourselves” (Foucault, 1983, pp. 237–38), his motivating experience is the given psychiatric problematization of sexuality, which makes sexual relations unthinkable without a concern with abnormality. Our problem, after all, is perversion, not sin. Or, at any rate, this is what Foucault clearly assumes about his audience. Therefore, it may seem that the entire project could be conducted just as effectively without volume 4 on Christian sexual ethics.

In fact, however, a book on Christianity is the only element in common between Foucault’s original and radically revised plans for *History of Sexuality*. The project was announced originally in 1976 as a six-volume series, where volume 2 would be a book on Christianity, with a historical focus on the sixteenth and seventeenth centuries, to be followed by four studies each exploring a different topic and related strategy of power that coalesce in the modern apparatus of sexuality.⁵ But instead of publishing these four studies on modern sexuality, in 1984 Foucault published volumes 2 and 3 that investigate sexual ethics as an element of the use of pleasures in antiquity. And volume 4 on Christianity, during the period of the Church Fathers, follows chronologically the studies of Greek and Roman antiquity. Therefore, despite the periodization of Foucault’s engagement with Christianity changed, one can still say that he used the book on Christianity as the pivot around which the rest of the project turned, as he shifted its orientation from modernity to the ancient world. This uniquely stable status of Christianity in the changing configurations of *History of Sexuality* suggests that in order to fully grasp the project’s character as a historical ontology of ourselves one needs to identify a philosophical link between *The Confessions of the Flesh* and Foucault’s own historical present.

The task is to identify elements in the Christian problematization of sexual relations that still organize the ethical experience in our, or at least Foucault’s, historical present. To that end, consider the last sentence of *The Confessions of the Flesh*, where Foucault refers to the emergence of “the analytic of the subject of concupiscence” in the sexual ethics of early Christianity, as follows: “There one finds connected, through links our culture has tightened rather than loosened up, sex, truth, and law.” (p. 361). As we know from volume 1, Foucault argues that the modern attempt to know and govern sexuality as an object of science has taken up and only intensified these links. Thus, the triangle sex-truth-law constitutes a grid of intelligibility that can be fleshed out in a number of different ways. Hence it can provide an underlying continuity between two very different problematizations of sexual relations that rely on Christian theology and a psychiatric theory of sexuality, respectively.

In what follows, I will focus on this grid of intelligibility to articulate some of the connections between the past and the present, specifically between volumes 4 and 1, that help explain why *The Confessions of the Flesh* plays a key role in Foucault’s critical project. In particular, the historical perspective volume 4 provides will help us to see why Foucault’s target is not simply the given psychiatric theory of sexuality or even the very idea to apply the distinction between the normal and the pathological to sexual relations. Instead, Foucault’s ultimate target is the very grid of intelligibility that makes sexual relations unthinkable to us, as ethical subjects, without links to truth and law. *The Confessions of the Flesh* shows that this target is much older and more deeply entrenched than the modern idea of *scientia sexualis*. A psychiatric theory of normal sexuality and its perversions is a particular, distinctively modern,

variation of the grid of intelligibility in which the ethical significance of sexual relations is inseparable from questions of truth and law that emerged in Christian sexual ethics during the period of the Church Fathers. If volume 4 investigates how sexual relations as a topic of ethical significance has become inseparable from truth and law, it is Foucault's ultimate aim with *History of Sexuality* to loosen up these connections that seem obvious and inevitable. In other words, Foucault's critical history aims to liberate us not only from the very idea of a science of sexuality but, more fundamentally, from the grid of intelligibility that makes the topic of sexual relations seem unthinkable, from an ethical perspective, without considerations of truth and law.

3 | SEX AND LAW

Foucault argues in *The Confessions of the Flesh* that Augustine plays a decisive role in the forging of a link between sex and law. It is common in the history of ethics to recognize Augustine as a key figure who lays the foundation for the approach where questions of moral philosophy are framed in terms of the will, which then culminates in Kant's conception of the moral law as the will's ultimate determining ground. In light of Foucault's discussion, however, it is interesting to ask to what extent this general orientation toward the will in ethics resulted from the singular answer Augustine formulated to the problem that sexual relations posed to early Christian thinkers. Here, the will and law are inseparable, because God's will is the source of the moral law. Yet, it is not that sexual relations as such constitute an ethical problem, according to Augustine. In fact, contrary to his predecessors, Augustine maintains that between Adam and Eve there was sex in paradise before the Fall and it was in accordance with God's will. After all, God had endowed Adam with a penis that, not unlike his limbs, was under Adam's voluntary control, so that the first humans could fulfill God's command to procreate and fill the Earth. Sex becomes an ethical problem, according to Augustine, only as a result of the human disobedience against God. As a result of the Fall, the constitution of the human will is irretrievably transformed. As punishment, because the first humans disobeyed his will, God created *libido*, an integral component of the will that nevertheless escapes voluntary control. Before the Fall, Adam was subordinated to God's will just like Adam's penis was under his own voluntary control. There was no *libido*. But this chain of command was broken when the humans ate from the Tree of Knowledge of Good and Evil. In the sinful predicament that follows, humans are plagued by *libido* as a punishment that is simultaneously a reminder of the original act of disobedience. By rising to erection against Adam's will, his penis re-enacts the episode of human disobedience against God's will.

Thus, while evil enters the world through disobedience against God's will, sexual desire as *libido* becomes an ethical problem because it is a perennial manifestation of that evil. Although the *telos* of Christian sexual ethics is the cancelation of evil, that is, the redemption of sin, there is no cancelation of *libido*, but one needs to find a way to live with it. Virginity and marriage, Foucault explains, take shape as two ethical strategies to secure salvation, but only the latter, of course, can be extended through society over time: "Marriage is essentially a limitation. [...] Marriage is a way, next to or rather below virginity, to regulate the question of concupiscence, which lies equally at the heart of the morality of marriage and of the ascetic procedures by those who rejected all marital relations. Concupiscence is the common object for the rules on the status of marriage and for the *tekhnê* of exercising virginity." (Foucault, 2018, p. 273). Thus understood, marriage is a "[c]hiasma of salvation" (Foucault, 2018, p. 278) wherein the fate of the spouses is coordinated through a symmetrical responsibility to limit the concupiscence of the other. Thus, the institution of marriage provides a legal solution to sexual relations as a topic of ethical concern. And it becomes a further development of this legal strategy, in the modern context of bio-politics, to criminalize sexual behaviors such as homosexuality that, according to a psychiatric theory, exhibit a perversion of the sexual instinct.

4 | SEX AND TRUTH

It is important to appreciate that truth plays a role also in the ancient problematization of sexual relations in terms of the ethical use of pleasures. Therefore, what emerges in early Christianity is rather a new role for truth as an element

of ethical experience. The novelty is twofold: it concerns the status of the self as an object of self-knowledge and the obligation to seek and speak the truth about oneself.

On the one hand, the self becomes constituted as an object of self-knowledge in a way that is detached from practical reasoning. What is new is not the ethical importance of self-knowledge as such, but, again, the transformation is more specific. Reflection on one's own thoughts, emotions, and desires is also required in the spiritual exercises of Stoic moral psychology, for instance. What changes, Foucault argues, is that for the sake of which one is obligated to examine one's own mind. Reflection is no longer motivated by the goal to instill dispositions of virtuous action, but the motivation is removed from agency. One is obligated to examine one's own mind in order to disclose the truth about oneself as a sinner, to thereby renounce the sinful self, and seek redemption through subordination to God's will. This task of self-disclosure requires a new way for one to relate to oneself as the object of self-knowledge, as Foucault explains in the fifth lecture of the course "The Discourse of Self-Disclosure" delivered in Toronto, in 1982: "What I wanted to show is that self-knowledge was in principle a procedure to control the acquisition, the assimilation of truth. Thus it has a permanent role to play, a permanent function to serve. But this self-knowledge does not constitute the self as a specific and autonomous object of a true discourse. Its task is not to discover the hidden reality of what we are." (Foucault, 2017, p. 134). Thus, what Christianity brings about, according to Foucault, is a conception of the self as a specific and autonomous object of discourse that reveals, when discovered, the hidden reality of what one is, namely a sinner—and, in the modern context, as we will see, a delinquent or a pervert.

Relatedly, on the other hand, Christianity introduces tasks of self-examination and the communication of its results as a new type of work one is required to undertake as an ethical subject. Through the practice of confession, initially developed only in monasteries, the epistemic and practical transformations are coordinated and reinforced: the self as an *object* of hermeneutical investigation and an ongoing *inquiry* into this domain of knowledge. As a result, Foucault argues, a new form of ethical subjectivity takes shape. One is required, ethically, to relate to oneself as an object of endless inquiry whose results need to be regularly reported to an authority figure. This line of ethical work emerged in monasteries during the period of the Church Fathers, but in 1215 it was institutionalized as a sacrament for all Christians.

However, given the genealogical connection Foucault seeks to establish between the contemporary form of ethical subjectivity and the history of Christian confession, the absence of the Reformation from this history is striking. Of course, the discrepancy between Catholic and Protestant perspectives did not escape Foucault, whose archived manuscript on sixteenth-century Christianity studies it, among other topics (Foucault, 1983, pp. 231, 249). Yet, from the Protestant perspective, it seems that the Reformation abruptly disrupts the connection between the past and present forms of ethical subjectivity Foucault claims to be tracing. In volume 1, Foucault claims that the human being has become a confessing animal in the West, but from the Protestant viewpoint this seems simply false. I, for one, born and raised in Finland, and thus reading Foucault's *History of Sexuality* from a perspective of a secular culture thoroughly influenced by centuries of Lutheran theology, find the practice and idea of confession unfamiliar and completely inessential to Christianity as I know it. After all, the good news, according to Luther, delivered to me and other kindergartners by a guitar-playing pastor, was that there is nothing you need to do for the sake of salvation—no truth obligations for sure, but nothing else either, because *in principle* there is nothing one can do to promote one's salvation, which is based on the divine grace that now extends to all sinners thanks to Jesus' death on the cross.

5 | WHOSE HISTORICAL ONTOLOGY?

Reading *The Confessions of the Flesh* reminded me of a photograph where the young Foucault, perhaps 10 years old and still known as Paul-Michel, is dressed up as an altar boy, posing with hands in prayer (Ewald, 2004, p. 35). Keeping in mind Foucault's Catholic upbringing, it is worth asking who can expect *History*

of *Sexuality*, especially now after its completion with *The Confessions of the Flesh*, to speak to their ethical experience, specifically to the form of ethical subjectivity, as it is intended to do, given that the practice of confession plays a key role in bridging the past and the present. Any critical use of history has a limited audience, but perhaps *The Confessions of the Flesh* reveals that in the case of Foucault's *History of Sexuality* the audience is narrower than has been recognized.

Here, I cannot do justice to this complex issue, but let me explain how the hermeneutical model of self-knowledge appears in Foucault's diagnosis of the present more generally. It appears consistently in his critical engagement with the human sciences, sometimes under the suggestive characterization "anthropological doubling." It is Foucault's guiding concern that the modern legal authority no longer judges simply actions, but also the individuals whose actions they are. Thus, with the help of modern human sciences such as criminology and psychiatry, law extends its reach from actions to individuals, from behavior to personality. Behind a sexual act, there is a personality type, either normal or pathological, to be known and governed. Behind a crime, at least in some cases, lurks a criminal personality. Perverts and delinquents *double*, indeed replace, actions as the target of governing, giving rise to a strategy of normalization with respect to the abnormal and to one of social defense against the so-called dangerous individuals. According to Foucault's diagnosis, as a result of this anthropological doubling legal authority cannot even be exercised without asking the accused to speak the truth about themselves, about who they are, in addition to what they have done.

It may seem obvious that it is relevant, in many cases, to try to know the person behind the crime, but this is what Foucault wants us to be able to question. Similarly, Foucault opposes the idea of a sexual identity behind a sexual act that could be discovered through a hermeneutics of the self, be it reported to a pastor or to a psychiatrist. We can see now how the anthropological doubling and the hermeneutics of the self are related: from two distinct perspectives, third-personal and first-personal, they solicit an inquiry into the self as an object that could be discovered, classified, and governed as an object of *theoretical* reason—for instance, as an object of *scientia sexualis*, as opposed to the different type of relation one establishes to oneself as an agent of practical reason in *ars erotica*. Importantly, though, therapeutic practice, even if theoretically based on psychosciences, need not require from the patient that she adopt such a hermeneutical relation to herself. But that is how, according to Foucault, the psychiatric problematization of sexuality makes us relate to ourselves as ethical subjects of sexual desire:

By creating this imaginary element that is "sex," the apparatus of sexuality has put in play one of the most essential principles of its functioning: the desire for sex—desire to have it, desire to access it, to discover it, to liberate it, to put it in words, to represent it in truth. It has constituted "the sex" itself as desirable. And this desirability of the sex that attaches each one of us to the injunction to know it, to reveal its law and power; it is this desirability that has made us believe that against all power we affirm the rights of our sex, when in fact it attaches us to the apparatus of sexuality that made the black glow of sex arise from the depths of who we are as a mirage in which we believe to recognize ourselves.

(Foucault, 1976, p. 207)

In this passage from volume 1, Foucault attributes to the psychiatric problematization the hermeneutical model of self-knowledge whose emergence in early Christianity he studies in *The Confessions of the Flesh*. Foucault clearly suggests that as ethical subjects of sexual desire we continue to relate to ourselves in terms of the hermeneutical model that obligates one to seek and speak the truth about oneself. We see this in the preoccupation with "sex" as a hidden object, whose adequate expression is allegedly repressed, but whose liberation through verbal expression would give the speaker access to true identity. This notion of the speaker's benefit, Foucault argues, takes up the model of the Christian requirement for self-disclosure as a sinner through confession, even if one intends to express one's sexual identity as an act of liberation.⁶

In both cases, despite the millennium that separates them, Foucault identifies the same form of ethical subjectivity, that is, the same way for one to relate to oneself, which is organized as a quest for truth. *History of Sexuality* is therefore aptly described as “a queer critique,” given Foucault's aim to problematize this form of ethical subjectivity, including the correlated idea of “sex” as an object everyone should try to discover from within as a basis for a stable sexual identity.⁷ When Foucault (1976, p. 208) famously suggests that diverse bodies, pleasures, and knowledges [*savoirs*] be deployed as resistance against the apparatus of sexuality, it is crucial that these resources do not enable an attribution of sexual identities, unlike thoughts about sex and desire. But it is important to emphasize that Foucault is nonetheless an ardent supporter of the rights of sexual minorities, although he opposes the idea of a sexual identity as the basis of ethics or politics.

In my sense, as much as it can be important, tactically, at a certain moment, to be able to say: “I am homosexual,” it is important in the long run, within a larger strategy, that the question of knowing what one is sexually must not be posed. The issue is therefore not of affirming one's sexual identity, but of rejecting from sexuality and from different forms of sexuality the right to identify who one is. One must refuse the *obligation* whereby one is to identify oneself through and by a type of sexuality.

(Foucault, 2012, p. 254, added emphasis)

As we have seen, it is precisely this obligation to seek and speak the truth about oneself in order to define who one is, whose emergence Foucault studies in *The Confession of the Flesh*. In light of passages like this, it is apparent that Foucault's genealogical motivation that reaches back to the period of the Church Fathers arises from an aversion to the model of self-knowledge that invites a theoretical inquiry into the self as a determinate object with a stable identity. One might have thought that this quest for truth originates from the modern emergence of human sciences, but Foucault shows that its roots in the Western culture go as deep as the history of the Christian obligations to seek and speak the truth about oneself.

In *The Anti-Christ*, Nietzsche (2005, p. 62) laments that “we all still have bad instincts, Christian instincts in our bodies.” I have argued that the overarching argument of Foucault's *History of Sexuality* should be read as a genealogical diagnosis of this condition. Our ethical experience of sexual relations may have left the Christian problematization of the flesh behind, but as ethical subjects we continue to relate to ourselves through a hermeneutical model that is based on truth-obligations that first emerged as a new type of ethical work in the period of the Church Fathers. It is this feature Foucault has in mind, when he states that *History of Sexuality* provides a historical ontology of ourselves, with a focus on ethical subjectivity. And that is why the project's genealogical aim is not merely to overthrow the psychiatric problematization of sexual relations as either normal or pathological, but to help overcome the very grid of intelligibility sex-truth-law in our constitution as ethical subjects of sexual desire. I have no space to discuss the normative specificity of the notion of the law Foucault seeks to replace with an aesthetics of existence, so let me end with a brief, potentially provocative, observation on the side of truth. As we have seen, Foucault's *History of Sexuality* seeks to reclaim, specifically in the field of sexual relations, the idea that the self must be created, not discovered. Since this practical orientation constitutes the core of existentialism, one should not be surprised that Sartre (1992, pp. 107–108) and Beauvoir (2010, pp. 417–436) offer descriptions of sexual relations that share Foucault's vehement opposition to sexual identity. In existentialist terms, embracing such an identity would constitute an instance of “bad faith.” In *Being and Nothingness*, Sartre (1992, p. 113) writes: “With bad faith a truth appears, a method of thinking, a type of being which is like that of objects.” Is this not the mode of thinking that defines the self's relation to itself in the model of self-knowledge that emerges from the truth-obligations of early Christianity, according to Foucault's analysis in *The Confessions of the Flesh*, and is later elaborated, in the modern context of biopolitics, on the basis of a theory of normal sexuality? Only after the completion of *History of Sexuality* with *The Confessions of the Flesh* can one clearly see this thread in Foucault's overarching argument: Even if we have lost religious faith, Christian heritage lives on in our tendency to embrace bad faith in sexual relations.

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ENDNOTES

- ¹ For a statement of this source of motivation, in general, see Foucault (1988, p. 11).
- ² I will be referring to the French original, Foucault (2018). The translations from Foucault's text are mine, but some of the cited texts (1983, 1988) appeared originally in English, including (2013) which had been translated into English from Foucault's French original that has been lost.
- ³ Volume 4 remained unpublished due to Foucault's prohibition of posthumous publications. However, as his partner Daniel Defert (2012) explains, in the course of the decades that followed, the interpretation of this prohibition was gradually relaxed. When Gallimard published volume 4, in 2018, Frédéric Gros had compiled the edition from two drafts, one handwritten and one typed. Originally, both texts were only included in the personal archive Foucault had bequeathed to Defert. In 2018, however, this archive had been housed already for five years at the Bibliothèque nationale de France, in Paris, offering researchers access to Foucault's unpublished manuscripts. Upon moving the archive to the B.N.F., Defert (2012) explained that his decision as well as the stream of posthumous publications that followed, which had to be authorized by the Foucault family for copyrights, were meant to ensure that Foucault's work be available equally to everyone, regardless of academic credentials that might be required for gaining access to the the B.N.F. archive.
- ⁴ For an illuminating account of the conceptual preconditions of the psychiatric problematization, which supplements Foucault's account, see Davidson (2001).
- ⁵ However, through several drafts, the historical focus of Foucault's book on Christianity shifted to the period of the early Church Fathers, as he learned more about the history of Christian practices of confession and self-examination. For an excellent account of this process, see Elden (2016).
- ⁶ For a critical discussion of the idea of the speaker's benefit, or "enunciator's payoff," see Foucault (1975/2013, p. 152).
- ⁷ Cf. Halperin (n.d.).

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