

Review of Sex, Love, and Gender: A Kantian Theory

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This book draws on Kant's philosophy to construct a compelling philosophical account of sex, love, and gender that speaks to the lives of heterosexual, polysexual, polyamorous people, as well as those belonging to the LGBTQIA community. What makes Varden's project unique is her sensitivity to sexual diversity, as well as her acknowledgement of the fact that we are *rational*, yet, also, *embodied*, *social* beings. In order to become healthy, affectionate and mindful gendered and sexual beings, she constantly reminds us, it is important to develop our full selves: our *animality*, *humanity*, and *rationality*.

In her book, the author puts forward a careful analysis of Kant's philosophy of virtue and right, while, at the same time, thoroughly examining Kant's often perplexing views on sexuality, love, and gender. Even though those who are unfamiliar with Kant's philosophy may find some parts of this book too advanced, it nonetheless makes an excellent introduction to Kant. The author offers an appealing reading of Kant's much criticized views on sex, love, and gender, making the reader eager to further engage with his philosophy. At the same time, this book has a lot to offer to those more familiar with Kant, as well as Kant scholars. Varden thoroughly engages with the existing Kantian literature on sex, love, and gender, and overcomes many of what has created puzzlement, scorn, and even a total abandonment of Kant's views, especially by feminist philosophers.

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Moreover, the author clearly and honestly brings to the readers' attention Kant's binary, sexist, heterosexist, and homophobic remarks, and yet deals with them in a fruitful manner. Varden does an excellent job exploring these problematic views of Kant's, and understanding how they found their way into his philosophy. This helps the reader understand how these views often also take root in us. In utilizing Kant's own safeguards against the influence of our prejudices, she opens the path towards freeing ourselves of the damaging and destructive patterns and systems of interaction, turning them into emotionally healthier and morally justifiable ones.

The book is divided into two parts. Part I deals with Kant's views on *virtue* (ethics). The author explains that her focus, in this part, is our effort as human beings to realize happiness and self-governance through virtuous internal freedom. Part II focuses on Kant's theory of *right* (justice), and our effort to realize flourishing human societies and self-governance through rightful external action.

Chapter 1, 'Sexual and Affectionate Love. Happiness and Moral Responsibility', offers an introduction to Kant's basic ideas about happiness and virtue, showing how they work together in full human lives. This is a very crucial chapter, especially for those who are not familiar with Kant's philosophy, which sets the stage for the discussions in the following chapters.

It starts with a helpful overview of the existing literature on Kant and issues concerning sex, love, and gender. The author then offers a careful examination and analysis of Kant's ideas about virtue and his account of human nature. Varden emphasizes the fact that, for Kant, *truthfulness* is our highest duty of virtue because it is essential for realizing ourselves well and acting morally responsibly. Kant's threefold account of human nature - the *predisposition to animality, humanity, and personality* - is thoroughly discussed in this chapter. Then, there follows a presentation of Kant's account of *perfect and imperfect duties*, as well as an account of the *highest good* for human beings, which is to strive to bring morality and happiness into union.

A thorough analysis of Kant's views on *sensible* and *moral character* is also included in this chapter. The author stresses the importance of developing moral character, and so acting in ways that are demanded by our duties to ourselves and others. Following this analysis, there is a detailed exposition of Kant's views on friendship (*perfect friendship*, which is impossible for human beings, and *moral friendship*, which is possible but rare) and its great importance for human beings.

In the conclusion of this chapter, Varden puts forward an important principle never to engage in non-consensual sex or affectionate love with anyone, as these are deeply disrespectful and destructive ways of relating to others. She explains that our challenge is to develop our ability to be affectionately loving, sexual beings in richer ways. Even

though our propensity to evil tempts us to do bad things, the author explains, our predisposition to good enables us to avoid problematic behaviors and become better human beings.

In chapter 2, 'Kant and Women', the author examines Kant's much criticized views on women. Defending Kant against some of the feminist criticisms he has received, she offers an alternative, more sympathetic, reading of his views on women. It is explained, in this chapter, how it is indeed possible to read Kant as holding, among other things, that women ought to strive towards full autonomy, that they should be viewed as men's equal at home, and that they should not be hindered in achieving active citizenship. Varden reveals some interesting features of Kant's account in comparing his views on the traditional genders with Beauvoir's, and is finally led to the conclusion that Kant's practical philosophy as a whole is not inherently anti-feminist.

The author explains how, in the *Anthropology*, it is possible to read Kant as holding that both men and women have a natural inclination to dominate, but have different ways of dominating, and how they complement each other. She also discusses the passage from 'Theory and Practice', according to which the nature of women makes it impossible for them to vote, as well as Kant's statements in the *Beautiful and the Sublime*, in which he expresses the doubt that women can be capable of principles. Moreover, the author mentions that, in the 'Doctrine of Right', Kant draws the man/woman distinction in his account of marriage, as well as in his discussion of active vs. passive citizens. His views, Varden explains, have often been read by feminists as affirming that men should be in charge of the family and that women should always be passive citizens, whose actions must be restricted in the domestic sphere.

The author makes it clear that, for Kant, there is no doubt that women can be morally (ethically and legally) responsible for their actions. Yet, what troubles him is whether they can actually be scholars and active citizens. Kant, however, never implies that there is something in women's genes that precludes them from active citizenship. His statements stem from his own observations and experience and they are never presented as an *a priori* truth. Moreover, no one can rightfully deny women the possibility of working themselves into active citizenship. In fact, the author argues, if Kant believed this, it would introduce a contradiction into his philosophical system by subjecting morality to his moral anthropology.

Varden emphasizes the fact that Kant does not advocate that it should be illegal, or would be unethical, to act contrary to the traditional ideals of gender, or that these ideals, as described by him, are moral ideals. On the contrary, he acknowledges that his views about women might have been an expression of his prejudices. She puts emphasis on Kant's core belief that the most important characteristic of human beings is their capacity to set and pursue ends of their own, which is what gives them dignity. Women, like men, do have this capacity, and thus they cannot be considered as unequal to men.

According to Varden, Kant wants his freedom writings to set the framework within which his contingent claims about men and women are accommodated. She points to the fact that, in his ethical and legal-political writings, with few exceptions, Kant uses gender-neutral terms. The author claims that, when Kant uses the terms ‘persons’ and ‘citizens’, he refers to both men and women, and not just men. Even though this would certainly make Kant’s philosophy appealing, however, some might still remain skeptical, or even unconvinced, that this is the case, given his pervasively sexist remarks throughout some of his works.

In chapter 3, ‘Kant on Sex. Reconsidered’, Varden expresses her worries concerning Kant’s cisist, binary, heterosexist, and homophobic ideas. She acknowledges the fact that he made a mistake in letting them run through his philosophical analysis, and offers an interesting explanation of the genesis of Kant’s own homophobia in discussing Kant’s intimate and special (albeit not sexual) relationship with Mr. Green. Instead of rejecting Kant’s problematic views altogether, however, the author emphasizes the importance of understanding them, in order to construct a better Kantian theory of sex, love, and gender.

Although Varden agrees with Kant that human sexuality is morally dangerous, she disagrees with his view that monogamous marriage between two heterosexual people is what solves the problem of unethical sexual activity, and that, in other relationships, sexual activity defiles humanity, and debases persons beneath the level of beasts. The author rightly holds that trying to live up to the traditional, heterosexist, binary social norms is neither desirable nor wise for all because these ideals are impossible and damaging to many people. For some, entering homosexual, polysexual or polyamorous arrangements or marriages is preferable. What is important is to do this in truthful, authentic ways that feel good and are morally justifiable for oneself and one’s partner(s). Varden argues successfully that this reconsidered account of human sexuality is what Kant *should* have argued given his core philosophical commitments.

Chapter 4, ‘Kant on Sexual Violence and Oppression’, is an intriguing chapter, in which Varden uses Kant’s philosophy to provide an excellent critique of sexual violence and wrongdoing. She draws on Kant’s discussion of human nature (the predisposition to good and the propensity to evil), as well as his views on ‘affect’ and ‘passions’, which make it more difficult to control our lives by means of our practical reason (morally). This enables the author to explain why it is so tempting for human beings to use sexual violence and, at the same time, why it is so extremely damaging to the victims. Besides disrespecting human beings’ personality, Varden emphasizes, sexual violence also attacks human beings both at the level of animality and at the level of humanity. It interferes with their emotional openness to others and their sense of being safe in the world. At the same time, sexual violence can be tempting because it makes human beings feel powerful, seen, sexually affirmed, and also because it can be a means of escaping the challenge of human beings’ moral self improvement. As the author explains, women, sex workers, polyamorous, polysexual, or members of the LGBTQIA community often deal with harassment and oppression in their lives, and are subjected to sexual violence.

This chapter also includes an interesting discussion of how sexual violence can be used as part of sexual, racial or ethnic oppression, in light of the passions for *honor* and *possession*. The sexual majorities (cis, straight, monogamous) develop a mania for honor, which silences the way of loving of polyamorous, polysexual, and members of the LGBTQIA community. The former deny equal recognition to the latter, as well as to sex workers, viewing them as socially lower and developing the passion of *wrath* (violent anger towards others). Regarding the mania for possession, some people, especially men, use money to buy sexual services and control the sex workers' sexuality. The fact that they can buy sex makes them feel in possession of vulnerable people, most commonly women.

The author proceeds to analyzing our duties regarding sexual oppression, arguing that we have a *perfect duty not to oppress others*, as well as a *perfect duty to resist and fight our own oppression and harassment*. This is a duty we have to ourselves and others. Moreover, we have imperfect duties to improve our abilities to deal with these kinds of wrongdoing and to assist others in their efforts to do so.

Varden then puts forward an astonishing discussion of Kant's account of *depraved hearts*, arguing that it can explain how sexual violence can be used as a tool in atrocities and when extreme violence takes place. The author explains that, when someone - driven by perverted forms of self-love - manages to stimulate hateful destructive political movements in order to oppress or destroy some groups of human beings, that person may be described by means of Kant's account of depraved hearts. That is, the person in question uses his reflective thinking capacities to cause human destruction. They are not themselves driven by passions, but are able to manipulate others into acting in affective and passionate ways and do morally horrible things to human beings.

In oppressive societies, women, sex workers, polyamorous, polysexual or members of the LGBTQIA community are usually the victims of sexualized violence as part of atrocities. In these cases, where people face what Kant calls a 'barbaric' condition, others are trying to wrong them *materially* (that is, they wrong these particular people) and *formally* (they wrong everyone by making rightful interaction impossible in principle). In order to defend themselves, Varden argues, they can use lies, or even lethal force (whenever rightful solutions are not possible), by doing wrong in the highest degree (formally). A more detailed discussion of the distinction between formal and material wrongdoing would have been helpful here, especially for those unfamiliar with Kant's philosophy, in order to fully grasp the force of the author's important and central argument.

In the conclusion of Part I, 'Reconciling Noumena and Embodied, Social Kantian Agents', Varden deals with versions of the Hegelian empty formalism objection, according to which the more embodied and social the Kantian conception of the human agent, the less it can capture Kant's emphasis on the noumenon.

The author explains why it is not effective, in developing a philosophical understanding of human sex, love, and gender, to start with the formal features of the account and then carry

these down to the complex human experience. She maintains that we should not shy away from the complexities of actual human lives when doing practical philosophy. Yet, Varden convincingly argues how her theory has not lost Kant's formalism. She emphasizes how the distinction between formal and material wrongdoing explains both how our practical reason commands us absolutely and yet how, in human lives, we can find ourselves in situations where formal wrongdoing is unavoidable, in order to avoid letting someone else do material and formal wrongdoing to us.

In Part II of her book, the author focuses again on our embodied, social, rational being, discussing Kant's ideas in the 'Doctrine of Right', where he outlines the basic structure of his theory of right. She first explains the basic ideas of Kant's legal-political philosophy, and then proceeds to discussing issues of sex, love, and gender from a legal-political point of view.

In the first chapter of Part II, chapter 5, 'The Innate Right to Freedom. Abortion, Sodomy, and Obscenity Laws', Varden argues that it is wrong, from the point of view of justice, to coercively outlaw or criminalize abortion, and non-procreative sexual activities, such as the making, possessing, exchanging or using erotic images. Denying people their basic rights to bodily integrity, speech, and privacy, in the ways that abortion, sodomy, and obscenity laws traditionally have done, Varden argues, are barbaric cases of state failures to provide basic conditions of rightful freedom to all its citizens.

Because we are *embodied beings*, restrictions on abortion and sexual activity are coercive restrictions on what we can do with our bodies. And since human bodies and persons are united from the point of view of right, laws that forbid abortion and non-procreative sexual activity are inconsistent with respect for legal personhood. Varden does not claim, however, that there are no rightful restrictions on abortions (time limits), or no limits to the kinds of sexual interactions that can be authorized by consent. The author argues that, from conception until the point at which the embryo/fetus is able to spontaneously act in a minimally rational, unified sense (and only the state can determine what this developmental stage is), it cannot be given legal personhood, and the law cannot coercively restrict abortion. Restricting abortion in this case would mean that pregnant persons are denied equal protection under the law. Furthermore, Varden explains, the state can enforce laws that restrict abortion only if it ensures that pregnant persons actually have access to safe abortions before the legal deadline.

The author then moves on to the question of whether Kant, by his condemnation of 'unnatural' sexual interaction, can justifiably mean that non-procreative sexual activities should be outlawed or criminalized, through sodomy or obscenity laws. The problem with binary, cisist, heterosexist restrictions on people's sexual activity authorized by consent, she explains, is that they involve a state organized wrongdoing. They deny those persons a right to bodily integrity, which is to deny them their legal personhood. She explains that, if Kant did hold this view, he was mistaken about his own theory since sexual interactions

that do not aim at procreation are not in conflict with our innate right to freedom. Sexual interactions are rightful so long as they are authorized by continuous consent. That is, only a lack of authorizing consent can make a sexual deed wrong in the legal sense. According to Varden, Kant's *considered opinion* should be that a legally responsible person has the right to choose which sexual ends they want to set.

The author then proceeds to discussing the so-called case of 'erotica'. She explains that Kant was a defender of free speech, since he thought that words do not have coercive power and do not have the physical power to hinder others' external freedom (with the exception of threats of coercion). In the author's view, erotica consists in images and speech and so it does not have coercive (physical) power. This implies that legally responsible persons have a right to make, have, exchange, and use erotica on their own and together with other legally responsible persons. However, what is a serious legal wrong, according to Varden, is unauthorized publication of others' erotic words and images, which can be emotionally devastating and ungrounding in violating people's privacy.

She finishes this chapter by acknowledging that human history is characterized by various kinds of oppression that find expression in erotic images and speech and so, when uncritically used, erotica can reinforce and perpetuate oppressive patterns of behavior. However, Varden believes that, beyond enforcing age limits, the law cannot outlaw the making or using of erotica.

It is unfortunate, however, that the author does not distinguish here between sexually explicit materials based on equality (erotica) and sexually explicit materials that include subordination (pornography). Even though her conclusion against outlawing erotica is to the point, the same is not obvious when it comes to pornography. It would have been useful to see Varden explore Catharine MacKinnon's and Rae Langton's views about pornography as a *speech act*. This is the case because, if these feminists are right that the free speech of pornographers compromises the free speech of women (in silencing them), then it could be argued that the making (and using) of pornography should be outlawed in order to protect free speech. Moreover, Varden should have defended more the view that pornography consists in images and speech, and so it does not have coercive power, addressing the concern, put forward by some anti-pornography feminists, that pornography is in fact an *act of subordination*.

In chapter 6, 'Marriage Right. Marriage and Trade in Sexual Services', Varden uses Kant's account of private right, more specifically status right and contract right, to provide accounts of marriage and trade in sexual services grounded on Kant's innate right to freedom.

Through marriage, Varden explains, the husband obtains a certain legal status within his wife's private life: that she shares a home, including a sexual life with him only, and that he has a say about decisions in the domestic sphere. In order to make status relations

rightful, the legal claims between the persons must be reciprocal. That is, husbands and wives must have legal claims to each other's person.

The author explains why it is so important for same sex couples, as well as those in symmetrical polyamorous relationships, to obtain a right to marry. She argues that denying these people the right to marry is to deprive them of their right to establish a rightful, shared, personal domestic sphere. The state forces them to remain in the state of nature, denying them access to the legal ways of sharing personal lives in the domestic setting that are in line with their innate right to freedom.

Regarding *polyamorous marriage*, the only problem, for Varden, is gender asymmetries. That is, they have tended to be contracts in which the husband gets a full claim to each of his several wives. This asymmetry correlates with the oppression of women. However, the problem of asymmetry can be solved by the law requiring important decisions to be explicitly authorized by all persons.

The author then discusses Nussbaum's *civil union certifications*, which are legally binding contracts between two or more persons regarding a reciprocal, personal commitment with respect to some aspect of their private lives, explaining why it does not fare well. She also discusses Nussbaum's position, according to which the *expressive aspect* of marriage ceremony should be private only (not public). The author argues that it is neither surprising nor unfortunate that human beings want to integrate an expressive element into the legal ceremony. Even though people may well choose not to include this element, they should nonetheless always have the right to do so. This is because marriage ceremony provides the opportunity to express and affirm one's commitment to love and care for one another in the full sense.

After the discussion of marriage, there follows a very important discussion of rightful trade in sexual services. Varden explains that, for Kant, contracts do not give directly a right to a thing, but enable the rightful transfer or rightful possessions between people. If the promisor fails to deliver the promise, they are entitled to compensation, but not necessarily to the thing(s) or service(s) contracted. In the case of sex workers, this implies that, if they fail or no longer want to deliver the sexual services they have been paid to deliver, the customers do not have a claim to have the services delivered, but a right to reimbursement and possibly compensation. If the buyers fails to respect the sellers' change of mind and resort to force to complete the sexual interaction, this is battery, which is a more serious kind of wrongdoing than breach of contract. Lack of authorizing consent always makes sexual interactions legally wrong.

Chapter 7, 'Public Right. Systemic Justice', deals the failure of legal-political institutions to treat women and sexual or gendered minorities in rightful ways. Varden argues that constitutive of good reform efforts is a state's public recognition of its own failures to secure the rights of various vulnerable groups. In order to establish a minimally just state, a

set of legal principles that secure each citizen's innate right to freedom, which include rights to rightful honor, free speech, bodily integrity, private property, contract right and status right, is essential.

The *republic* is the only legal-political condition in which citizens enjoy basic rights of freedom, so it is the only condition compatible with reform of existing legal-political principles. All morally responsible citizens in the republic enjoy conditions in which they can work themselves into active participants in the public institutional framework.

Concerning free speech and public displays of erotica, the author argues that Kant's defense of free speech is compatible with outlawing certain displays of erotica in public places. The state can and should regulate where these public displays are made available because it rightfully regulates the ways in which private citizens can use public spaces. Children and adults with certain cognitive disabilities have a right not to be subjected to explicit sexualized or erotic writings and images, until they are capable of being morally responsible for their own sexuality. For this reason, just states will not legally permit public displays of erotica.

Varden explains that, even though Kant makes it clear that seditious speech should be outlawed (since a right to destroy the state and return to the state of nature would be a right to annihilate right), this does not imply that anyone is politically obligated to obey barbarous laws that deprive them of their most basic innate or private rights. For example, if a state criminalizes abortion or expressions of one's LGBTQIA identity, it denies some citizens the right to have their rights to bodily integrity protected. The enforcement of such laws is barbarism, which means that women and sexual or gendered minorities do not wrong materially anyone when they resist such violence. They undertake only formal wrongdoing, whereas those who take part in such violence against them engage in both formal and material wrongdoing.

Similarly, according to Varden, if erotica as such is criminalized, or if people who choose to sell sexual services or goods are criminalized, the state fails to be minimally just. If people use force to protect themselves in these cases, they do not commit material wrongdoing against anyone, even though they engage in formal wrongdoing. In contrast, those who participate in such uses of violence against sex workers, women, or people who enjoy erotica engage in both formal and material wrongdoing. Again, a distinction between erotica and pornography would have been useful here as it is not obvious why the state fails to be minimally just if it criminalizes pornography (as opposed to erotica), or that pornographers' and pornography consumers' use of force does not constitute material wrongdoing against anyone.

An interesting discussion of *stalking*, *blackmail*, and *sexual harassment* is also offered in this chapter. These are three ways of unjust behaviors that usually target people because of their sexuality and gender. Varden explains how these behaviors can be deeply harmful

(physically and psychologically) for human beings, and argues that the law should treat them as particularly heinous and serious, harshly punishing the perpetrators.

In this chapter, the author also engages with the issue of poverty as systemic injustice, successfully replying to the criticism put forward by some Kantians according to which Kant's position fails to address issues of economic justice in general, as well as the problem of poverty in particular. The author puts forward a liberal republican interpretation, according to which considerations of economic justice lie at the heart of Kant's conception of right because unconditional poverty relief is a minimal condition of the rightful state. Unless unconditional poverty relief is guaranteed by the state, the possibility of poor persons exercising external freedom is subject to the arbitrary choices of the richer people, which means that the state is not minimally just.

In the remaining of this chapter, Varden explains how we can move from *minimally just* to *robustly just* states. She does an excellent job discussing how we can reform our inherited, imperfect public institutions so that they can better enable and protect rightful, sexual, loving and/or gendered relations for each and all.

Concerning abortion and sex work, in these transitory stages, when the state is not yet able to protect its vulnerable citizens, and because most states are incapable of providing their citizens with safe shelters or conditions under which those who sell sexual services can do so in safe, private establishments, the states may reasonably abstain from positing enforcing laws that make it illegal to sell sexual services on the streets. Moreover, Varden explains, the state should take legal steps to improve the situation of these workers by placing them at the center of the process of developing laws and policies that facilitate a transition to better future conditions. This is because sex workers know a lot about the challenges they face and, importantly, because these laws are about their persons, bodies, and lives.

Similarly, when a state cannot guarantee access to safe abortions for all women, it should give pregnant women the right to decide when in the pregnancy to abort, enforcing no time limits. Finally, Varden argues, when a state is unable to provide safe exist routes for women who are subjected to domestic abuse, it should permit those women to plead self-defense, even in cases where they have planned the killing of their abusive husbands.

Given Kant's account of human nature, the author argues, it is important to provide shelters for the poor, since privacy is essential in human beings' efforts at realizing their animality and humanity in emotionally healthy and morally responsible ways. Having access to private, intimate spaces helps to ground the lives of human beings in the relationships with themselves and others. Moreover, Varden emphasizes, securing access to homes for each and all is a good way to fight problems of violence against people of gendered minorities and of domestic abuse. Making paths for transitioning from emergency houses to safe homes available to escaped violated spouses should be a primary

legal-political concern for any minimally just state. In this way, survivors of violations such as assault, battery, rape, or harassment can have access to a safe place to heal.

Constitutive of our reform efforts, Varden holds, should be the state's public recognition of its own current and historical failures to protect vulnerable groups. Because legal-political institutions are made for and by human beings, it is important that this process also includes public apologies. It is a good sign, then, that some public leaders in recent years have apologized for their states' failures in relation to sexual or gendered minorities.

The author concludes Part II of her book, 'Justice as Rightful, Human Freedom', by arguing that we must build legal-political institutions designed for human beings, that wisely deal with the challenges stemming from our human nature and particular histories and cultural circumstances. We must seek to reform our legal-political institutions so that we can get rid of the bad effects of historical oppression and make the institutions better means through which human beings can realize their rights.

The way Varden has divided her book into these two parts, carefully distinguishing between virtue and right, is crucial in order to correctly and fully comprehend the issues she discusses. However, it would have been good to see the author explore the relationship between the two more. It would have been interesting to see some of the main issues discussed in this book both from the point of view of virtue and that of right. For example, regarding abortion and sex work, which are thoroughly examined in this book from the point of view of right, the reader is left with the curiosity about the conclusions that could be drawn from the point of view of virtue.

In any case, the author has successfully offered a comprehensive Kantian theory of sex, love, and gender, which takes seriously the fact that human beings are rational and yet also embodied and social. This simple, but important fact is often unacknowledged by Kant scholars. Varden takes into consideration the fact that our human embodied sociality should not be viewed as something we should feel embarrassed about, try to rid ourselves of, or abstract away from, but is, rather, an important part of who we are. In this way, the author's theory can adequately address many important philosophical issues, and overcome a number of problems and puzzles that other theories have stumbled upon.

Varden's Kantian theory is a theory for human beings – embodied, social, and rational creatures. Moreover, it is a theory that shows a profound sensitivity to the complexities of human beings' lives concerning issues of sex, love, and gender. Going beyond Kant's homophobic, binary, cisist, and heterosexist stereotypes and prejudices, Varden offers a theory of sex, love, and gender that also captures the lives and moral struggles of polyamorous, polysexual people as well as those belonging to the LGBQIA community.

