

**THE SEX of ADULTERY:
THE SECULARIZATION of MORALITY in LAW**

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Abstract

Adultery has a tumultuous history of moralistic, religious, societal, and even legal chastisement. Views on adultery have been sexed, with considerable variation among female and male adulterers. No previous research has comparatively analyzed perceptions of different-sex and same-sex sexual conduct in the adulterous act. The purpose of the present research was to examine how sympathy for adulterers varied by the sex of the adulterer and the sex of the adulterer's paramour. A random sample of 166 respondents participating in an online vignette survey found that while the sex of the adulterer was not significantly related to how sympathetic they were for the adulterer, however, the respondents expressed significantly greater sympathy for adulterers who were the same (as compared to the different) sex as their paramours. Moreover, the study participants' self-reported sex and sociopolitical identities were significant with women (more than men) and liberals (more than conservatives) expressing significantly more sympathy for adulterers across all of the adultery scenarios. While the majority of participants found that the adulterer in the vignette had committed adultery to an extent, significant variations were found among these variables.

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I. THEORY

I. A. The Secularization of Morality in Law

The United States practices democratic secularism in that it maintains a separation between church and state. This separation nevertheless blurs in the juridical regulation of sexuality (Richardson and Seidman 2002). In U.S. law, Christian dogma has influenced the secular regulation of licit and illicit sexualities (Laurman et al. 1994; Freud 1966 [1920]; Foucault 1990 [1978]: 61). This influence resonates with the Christian pastoral, extending from the Old Testament, the New England colonies, to the present culture of the West (Laurman et al. 1994). Despite the increasing number of religiously unaffiliated Americans, Christian doctrine continues to manifest in the sociolegal outlook on sexuality in the U.S. (Pew Research Center 2012; Seabrook 2008; Laurman et al. 1994).

The modern interplay between church and state in U.S. law promotes a historical appreciation for traditional regulations of sexuality. At the outset of the mediaeval period in Europe, Christianity has regulated sexuality through Canon law (Moran 292). Michel Foucault (1990 [1985]) argues, “Christianity associated [the meaning of the sexual act] with evil, sin...and death” (37). Some Christians associate adultery and same-sex sexual conduct with sin based on Biblical passages that repressively condemn them as abominable acts of immorality (Olyan 1994). Historically, U.S. law has redolently mirrored the Christian interpretation of sexuality, and to some extent has upheld its repressive sanctions to maintain social order (Turley 2010; Richardson and Seidman 2002). Alan Bray’s (1982) research in *Homosexuality in Renaissance England* proposes during the Scientific Revolution, the regulation of sexuality shifted from religion to the state, from Canon to secular law. Although some scholars contend the origin of this separation dating much earlier, the modern regulation of sexuality in the U.S. continues to rest on Christian doctrine (Bray 1982).

The regulation of sexuality illustrates an accord rather than a separation between U.S. law and Christianity. According to Leslie J. Moran (2002), although their antilogy arises in timeless political issues, both U.S. law and Christianity coordinate in sexual regulation. Historically, U.S. law and Christianity have associated a nefariousness with aspects of sexuality that have challenged institutionalized models of sexual normativity (Foucault 1990 [1985]; Richardson and Seidman 2002: 7). Adultery and same-sex sexual conduct as such examples have threatened the sacredness of the marital institution, run counter to the aim of modern civilization, and subordinated the authority of the law (Austin 2011; Preface 2013: 35; Richardson

and Seidman 6-7). According to Diane Richardson and Steven Seidman (2002), the survival of civilization depends on high levels of sexual repression (6). Some believed adultery and same-sex sexual conduct had the power to destructively transform society, and it was in the interest of the church and the state to repress both (adultery and same-sex sexual conduct) (Richardson and Seidman 6). It is evident when lawmakers today advocate for the decriminalization of both these acts, why some insist that to decriminalize their “sinful” nature threatens U.S. moral order (Grossman and Friedman 2011).

Compared to seventeenth-century Massachusetts, official criminalization of adultery in modern U.S. law is rarely if ever exercised (Bronner 2012; Turley 2010). In spite of this, even today some label those who advocate for the elimination of adultery law as apostates (Friedman and Grossman 10). Although some efforts to repeal adultery laws are successful such as in Colorado, other efforts such as in New Hampshire, persist (“Bill to repeal of Colorado adultery law signed,” 2013; Leubsdorf 2013). According to Martin Marty and R. Scott Appleby (1994), their elimination in the U.S. proves slim, in part due to the “lingering Puritan influence.” To be removed, politicians must agree on these laws’ unconstitutionality and unnecessaryness. To demonstrate such opposition to adultery law, however, might appear to advocate against the Christian value of marriage and sexuality (Marty and Appleby 1994).

Given that dominant majorities typically possess the authority to codify their beliefs without usurping the law, it is rather difficult to justify the majority’s morality as unlawful (Marty and Appleby 161). The tradition of Thrasymachus illustrates the interplay between the Christian majority and the apostate in modern civilization. According to this tradition, the strongest party in society didactically exercises the law as a tool to control, dominate, and repress (Alexander 2006: 40-1). Friedrich Nietzsche (2003 [1913]) notes that it has been especially the aristocratic and high-minded in this party who self-proclaim themselves as society’s moral guardian, and who use their authority to achieve self-preservation through law (11). In the U.S., Christianity has prevailed in the law by exclusively defining sexuality as a “procreative end” within the legitimate couple (Durkheim 2010 [1893]; Foucault 1990 [1985]: 37, 63). As of April 2014, more than half the states in the U.S. uphold amendments that define marriage as a “procreative end” between a man and a woman (Turley 2010). The importance Christianity has imposed on procreation in marriage demonstrates why these amendments are upheld today in a seemingly secular age. Christianity has impelled U.S. law to

obligate its citizens to adhere to a favored, heteronormative sexuality (Bray 295). Although, this favoritism has tergiversated in the rise of secular law.

The prevailing U.S. legal discourse on sexuality proves to be irresolute, especially in the regulation of same-sex sexual conduct. Regulations of non-coital sexual acts in U.S. laws vacillate because of the social, legal, religious, and media cataclysms they have endured since the 1600s (Godbeer 1995). At the outset of the midtwentieth century, legal vagaries of same-sex sexual conduct ensued. Until 2003 when the United States Supreme Court (USSC) invalidated laws that criminally berated sodomy, they were upheld in 50 states in the 1960s, and 17 remaining states in the early 2000s (*Lawrence v. Texas*, 539 U.S. 558, 2003; Brinkley 2003). Since 2003 and as of April 2014, nearly half of all states and the District of Columbia now to some degree recognize same-sex relationships (Apuzzo 2014). After *U.S. v. Windsor* in 2013, the USSC struck down the section of the Defense of Marriage Act (DOMA) that excluded all but different-sex marriages, which led to the recognition and extension of federal benefits to same-sex marriages (Guillen 2013). The secularized regulation of same-sex sexual conduct in the U.S. overtime has ignited debates on the infringement of religious freedom, the degeneration of humanity, and the pursuit of justice and equality in U.S. law (Moon 2002).

Aside from the inclusion of same-sex sexual conduct in laws that penalize hate and discrimination toward this conduct and those known or suspected of doing them, an important question remains in regard to the sexual regulation of same-sex sexual conduct (Conklin 2013: 51-2). The question is, to what extent does the inclusion of same-sex sexual conduct in adultery law reflect an act of equality? One must consider whether or not by incorporating all sexual conducts into adultery law, whether this impacts beliefs about the morality of adultery. What constitutes sexual intercourse is what constitutes adultery in U.S. law. Certain states make no reference to other acts aside from coitus that constitute sexual intercourse in adultery law. Others are more comprehensive, and the rest make no reference of any kind (even to coitus) (Turley 2010). Although U.S. lawmakers entertain a myriad of categorical and terminological variation on this byzantine subject, the definitions of sexual intercourse in U.S. law nationwide lack in inclusivity, consistency, and to extent, clarity (Turley 2010).

The exclusion of same-sex sexual conduct in the exercise of adultery law limits the equality of the law, though, sustains Christian doctrine (Foucault 1978; Freud 1966 [1920]: 376). The focus on same-sex

sexual conduct in adultery law illustrates an insightful perspective on what constitutes sexual intercourse and what does not. The focus of the present research is to assess to what extent same-sex sexual conduct constitutes adultery, and the evidence of remorseful bias that favor the exclusion of same-sex sexual conduct in adultery law. In this thesis, I investigate the terminological meanings of sex and sexual intercourse within the framework of adultery law to determine whether the inclusion of same-sex sexual conduct in adultery is an act of equality or an act of austerity.

I. B. **The Moral Career of the Adulterer**

Michel Foucault (1990 [1978]) theorizes that individuals adhere to a code of heteronormative ethics imposed upon by a dominant majority in society. It is in the nature of Christianity (serving as the dominant majority in the U.S.) to codify its beliefs into law and to repressively regulate all forms of sexual conduct, particularly same-sex sexual conduct (21). In the U.S., this majority has administratively confined those who engage in same-sex sexual conduct into a “subrace” of sexuality in U.S. law. Foucault (1990 [1978]) writes:

There emerged a world of perversion which partook of that of legal or moral infraction, yet was not simply a variety of the latter. An entire sub-race was born...From the end of the eighteenth century to our own, they circulated through the pores of society; they were always hounded, but not always by laws; were often locked up, but not always in prisons; were sick perhaps, but scandalous, dangerous victims, prey to a strange evil that also bore the name of vice and sometimes crime (80-1).

In this passage, Foucault insists that individuals who practiced certain sexual acts (especially with those of the same sex) were deemed perverted to the extent that they encompassed a lower species of humanity. More specifically, these “perversions” were not the persons themselves; rather, their sexual acts and behaviors that seemingly contradicted nature (Foucault 62). U.S. law does not reference sexual identity but references these sexual acts in various form as aberrants of normal sexual development, or “genital neuroses” (Foucault 60; Moran 2002 295-6). U.S. laws do not directly speak of these acts as “homosexual” or “heterosexual;” but one might claim that they infer same-sex sexual conduct through archaic connotation, including sodomy, buggery, and indecency (Moran 302). In the U.S., these laws date to the dissemination of Puritanism throughout seventeenth-century New England (Moran 295-6). These laws during this time perhaps were exclusively targeted at a “sick, victimized” few, such as those who practiced same-sex sexual conduct (Moran 295-6; Foucault 80-1).

Foucault (1990 [1978]) posits that the introduction of “homosexual,” “heterosexual,” and “bisexual” identities originates with the medical sciences of the nineteenth century (70). Following this period, one’s

same-sex sexual conduct became an identity, a “case history,” and a “pathology” compared to different-sex sexual conduct (Foucault 1990 [1978] 70). According to Foucault (1990 [1978]), same-sex sexual conduct constituted a psychological, psychiatric, and medical category of perversion, and even today, according to Nicole Dungca, some would agree that same-sex sexual conduct (e.g., anal or oral copulation) constitutes a “mental illness” (Foucault 70; Dungca 2014). Individuals who engage in same-sex sexual conduct, who suffer from what George Chauncey (1982-3) calls an “identifiable condition,” avoid the stigma of this “condition” by adhering to the heteronormative ethics of society (114).

Erving Goffman (1963) hypothesizes that individuals who engage in same-sex sexual conduct would avoid stigma by adhering to a “moral career” (38). Persons who bear the stigma of their same-sex sexual conduct, according to Goffman (1963), interdependently reflect on themselves. They must commit to a standpoint of the heteronormative, sexual normal learned from others, then practice those beliefs of the wider society (Goffman 57; Aronson et al. 2010). Individuals who experience stigmatization for same-sex attraction, for committing adultery, or for both, undergo a process of impression management in which they maintain a “heterosexual” front to keep their aberrance unapparent from others (117; Foucault 1985:45; Aronson et al. 2010). According to Goffman (1963), upon appearance, individuals transform one another into normative expectancies that accord with the social performance of one’s self-presentation (12; Goffman 1959: 22). In retrospect, it is not the self but others (including the law) who identify the self. The individual—the suburban husband or wife for instance—by whom we are charmed and would be reluctant to label “faggot” or “muffin muncher,” we may note contradict our initial “sexual normative expectancy” when she or he commits adultery with, or confesses her or his attraction for those of the same sex (Goffman 13-4).

The extant literature on this subject has researched individuals who, while married to another of a different sex, declared their sexual attraction for those of the same sex. This literature has largely provided qualitative narratives of these specific individuals while also supporting Goffman’s theory on the moral career; however, it does not evaluate public perception of these individuals in the context of adultery. In this thesis, I observe participants’ sympathetic perceptions of adultery when it involves the repressed “homosexual” in comparison to the heterosexual adulterer.

II. A REVIEW OF THE LITERATURE

II. A. The Sex of Adultery

Although “adultery” and “infidelity” would appear synonymous, both focus on distinguishable matters in the context of marriage and divorce (White 2012). According to Sandi Varnado (2013), however, what is clear about these definitions nevertheless is that they are anything but. Regardless of how culturally dysphemistic both are, the concern with terms like adultery and infidelity despite their differences is that either requires additional analysis of precisely what is entailed in sexual intercourse. When two spouses seek divorce for example, one spouse may claim adultery as grounds for divorce (Varnado 383). Nevertheless, the interpretation of what constitutes adultery as grounds for divorce legally differs by state. Because not all states consistently identify the sexual acts that constitute adultery—given in what state the spouse files claim for the divorce, using adultery as grounds—each state determines if the sexual acts legally constitute adultery.

State statutes regarding sexual intercourse allot for a certain range of “qualifiable” sexual acts, with some ranges more exclusive than others. The New Hampshire General Court for instance does not define adultery but to a degree considers sexual intercourse as requiring penetration (N.H. Rev. Stat. § 632-A:2, 2012). Despite that New Hampshire’s statute includes adultery as grounds for divorce, it does not provide any further specification of what this entails (N.H. Rev. Stat. § 458:7, 2013). Thus, the more exclusive this range, the more limited the application of the adultery law.

In contrast, other states’ ranges prove to be considerably more inclusive. Unlike New Hampshire, the Judicial Branch of Connecticut defines sexual intercourse as genital-genital contact, oral-genital, anal-genital, or oral-anal, between persons of either sex, with real or artificial genital...“not requiring the emission of semen”...“for the purpose of sexual gratification or to humiliate or to degrade” (CT Stat. § 53a-65, 2005). Similarly, under New York’s Domestic Relations Law (DRL), the statute verifies adultery as “the commission of an act of sexual intercourse, oral or anal sexual conduct voluntarily performed” (N.Y. Dom. Rel. § 170(4), 2010).

Comparatively, if one spouse were to engage in sexual conduct with a paramour of the same sex, the states of Connecticut and New York would define this as adultery because they employ more inclusive definitions of sexual conduct. In the state of New Hampshire, the definition of adultery rests rather on statutory interpretation. Although this would not initially appear problematic, the New Hampshire Supreme

Court's (NHSC) interpretation provoked controversy when in one divorce case, it ruled that same-sex sexual conduct did not constitute sexual intercourse.

In 2003, Mr. Blanchflower filed for divorce due to the irreconcilable differences caused by his wife's adulterous affair with Ms. Mayer (*Blanchflower v. Blanchflower*, 150 N.H. 226, 2003; Nicolas 2011). The NHSC ruled in favor of Ms. Blanchflower and Ms. Mayer, declaring that the relationship between these women did not constitute adultery. Based on the definition of "sexual intercourse" provided by *Webster's Third New International Dictionary* upon which the NHSC relied, the NHSC ruled that because these women's sexual relationship did not involve coitus, it did not constitute sexual intercourse, and, did not constitute adultery. After deliberating over this case, the NHSC noted that its ruling did not discredit the value of same-sex relationships. The NHSC's interpretation, however, demonstrates the consequences of exclusivity in states' definitions of sexual intercourse. To the NHSC, the only sexual act that would have qualified as adultery would be coitus between those of the different sex (Nicolas 2011). Although not found guilty of committing adultery, Ms. Blanchflower and Ms. Mayer favored an archaic interpretation of sexuality that arguably vitiates the sexual aspect of their own relationship.

Prior to *Blanchflower v. Blanchflower*, a more provocative case was heard by the Supreme Court of South Carolina (SCSC) in which the court ruled against its own statute in regard to same-sex sexual conduct in adultery law. In 1991, RGM (the wife) filed for divorce from DEM (the husband) because they had been separated for the past year (S.C. Code Ann. § 20-3-10(5), 1976; Nicolas 2011). Despite entering counseling a few years into the marriage, RGM engaged in an extramarital relationship with another female; and the respondent, DEM, left RGM and their two children (RGM, Appellant v. DEM, Respondent. 306 S.C. 145, 1991). In 1989, RGM filed a complaint for divorce requesting sole custody of the two children, alimony, and equitable division of marital assets. The SCSC awarded custody of the children to the RGM and delineated visitation privileges and so forth to DEM (147). Upon filing an amended complaint for divorce on the statutory ground of adultery, the SCSC found that RGM was guilty of adultery and thereby was denied alimony (148). RGM refuted that she was guilty of adultery and challenged the lack of inclusion of same-sex sexual conduct in the state's definition of adultery (Under S.C. Code Ann. §§ 20-3-10 and 20-3-130). Based on the ruling in *Panhorst v. Panhorst* (1990), the SCSC defined adultery as "illicit intercourse between two persons, at least one of whom is married to someone other than the sexual partner" (RGM v. DEM 1991, 149).

Although the cases differ, both illustrate the potential consequences of both inclusive and exclusive legal definitions of sexual intercourse in adultery law. The NHSC did not recognize sexual intercourse between two persons of the same sex as constituting adultery because two persons of the same sex would not be capable of coitus. Whereas the SCSC ruled that same-sex intercourse constituted adultery, even to the extent of evoking a spouse's right to alimony. In this thesis, I contend that it is an obligation of the state to include same-sex sexual conduct or non-coital sexual acts in adultery law. U.S. law, even adultery law, must be applied equally to all sexual acts, regardless of the adulterer's sex. However, the sex of the adulterer and the sex of the paramour greatly influences what sexual intercourse entails in adultery law. For the purposes of equality, states must employ less sex-specific roles in their adultery statutes. One might contest that the adultery law functions as a test of sex and sexual equality, and is impacted by the degree of its inclusion. In addition to the U.S. adultery law, the characteristics of who "counts" as an adulterer in adultery laws in other regions of the world have been contested as markers of equality.

In China for example, according to Lisa Tran (2009), the state's twentieth century adultery law sparked tremendous controversy among women when it did not penalize men to the same extent it penalized them. Women's advocate groups campaigned for an egalitarian adultery law that did not exempt men from penalization (Tran 193). During the twentieth century, the adultery law in China glorified female chastity and the male's privilege to violate marital bonds (Tran 193). A myriad of women's associations ignited a public debate over the male's privileged sexuality, and these associations advocated for an adultery law that was sex neutral (Tran 194-7). The subject of this debate, nevertheless, was not adultery itself. The true subject was the establishment of equality between the sexes. This proves to be evident in regard to U.S. adultery law in that the subject of these laws is not adultery; rather, the privilege of procreative sexual acts.

Historically, same-sex sexual conduct or non-coital sexual acts in U.S. law have experienced tumultuous upheaval, from the rhetorical coprolalia of Puritanism of the seventeenth century to the ceremonial passage of same-sex marriage in the twenty-first century. The juridical recognition of same-sex sexual conduct and non-coital sexual acts in U.S. law, especially in adultery law, demonstrates a progressive movement towards the equality of all sexual acts. When the NHSC determined in *Blanchflower v. Blanchflower* that same-sex intercourse did not constitute adultery, mixed receptions ensued with some questioning whether this was an act of equality or an act of injustice. Following the NHSC's ruling, the Gay

and Lesbian Advocates and Defenders (GLAD) filed a brief to defend the recognition of same-sex sexual conduct in New Hampshire's adultery law ("Blanchflower v. Blanchflower and Mayer," 2003). GLAD decided that the NHSC did not disrespect same-sex relationships, and claimed to have found no act of discrimination. Peter Nicolas (2011) disagrees with GLAD, nonetheless, and finds the NHSC's ruling to be an act of injustice.

One could argue that NHSC's decision not to recognize same-sex sexual conduct in its adultery law may have been a progressive act of equality, but Nicolas (2011) contends that by not applying adultery law to same-sex sexual conduct would devalue same-sex and different-sex relationships alike (99). If sexual acts between individuals of the same sex do not constitute sexual intercourse in adultery law, neither should the sexual acts between those of the different sex (Nicolas 2011). The sex of the adulterer must not determine whether or not the act of adultery occurred. Since the eleventh century, the Christian pastoral has reigned over adultery law, and has interpreted it along the lines of the sex of the adulterer and the paramour (Deans 2010).

One might contend however, in spite of Nicolas's reasoning, that by excluding same-sex sexual conduct in adultery law would be an act of reconciliation in regard to the historical discrimination against those who engage in this conduct. This exclusion perhaps as a sympathetic gesture, then, may compensate for the centuries of stigmatization in the U.S. that those sexually attracted to their own sex have had to experience. Kirby Dick's (2009) documentary, *Outrage*, supports this viewpoint, and solaces those politicians who have lobbied for legislation against same-sex sexual conduct but who themselves discretely engage in same-sex relationships. One might suggest that those who hate themselves for their same-sex attraction, who marry another of the different sex to maintain face, might deserve some favoritism in regard to the extent they commit adultery with another of the same sex (Ziering and Dick 2009). If adultery law was not applied to affairs involving those of the same sex, however, some might argue that this is an act of injustice (Nicolas 2011). All sexual acts deserve equal recognition in U.S. law, and all sexual acts deserve to be valued similarly regardless of their historical or procreative value. The present research contends that it would be an act of disrespect not to include affairs between individuals of the same sex in adultery law.

II. B. **Why Commit Adultery**

The sex of the adulterer as perceived legally and culturally can then provocatively exemplify the quiddity of adultery. More specifically, it may illuminate how adulterers see themselves as moral figures, and why they pursue sexual gratification outside their marriage. The majority of the research on same-sex adultery focuses on the married man who engages in sexual relationships with other men (Gagnon and Simon 1973). This is evident not only in U.S. law with reference to terms such as “buggery” and “sodomy,” but in media presentations of the male-male relationship as well, from Gore Vidal (*The City and The Pillar*) to Ang Lee and Annie Proulx (the director and author of, respectively, *Brokeback Mountain*) (Moran 2002: 302-3). Despite the fact that this research proportionally lacks on the married woman (compared to the married man), all the narratives from this research offer insight into the self-concept of the adulterer, the spouse, and the contemporary aberrance of same-sex sexual conduct.

In the extant literature, researchers often exercise the term “mixed-orientation” to describe the marriage in which both spouses have competing sexual orientations. When a married woman for instance experiences sexual attraction for other women while married to a man (who presumably is oriented only toward women), researchers typically describe this as a “mixed-orientation marriage.” Although the term popularly appears throughout the literature, it is tenably imperialistic in its practice. Researchers who use this term presume that the spouse experiencing same-sex attraction introspectively identifies with a sexual orientation different from the other spouse (Klein and Schwartz 2001). Yet, according to Fritz Klein and Thomas R. Schwartz (2001), some married men who struggle with their sexuality continue to reconcile with the meanings of “straight,” “gay,” “bisexual,” and “bi-curious” (87). Moreover, it is evident based on countless interviews with public figures who reveal their attraction for others of the same sex, that most of them remain hesitant to associate with a sexual orientation toward those of the same sex (Ziering and Dick 2009; Voeller and Walters 1978; Dick 2009). To label these marriages as “mixed-orientation” then denies these individuals’ autonomy to self-label, their privacy in reconciling with their sexual attraction, and the effort they dedicate to their (different-sex) marriages. For even some of these individuals, they do not even register their own same-sex sexual conduct as part of their sexual orientation (Godbeer 1995: 93).

In *Gay New York*, George Chauncey (1994) provides a wealth of data on the gay culture in twentieth century urban America, discovering foremost that males who dealt with same-sex attraction often led

multiple lives—one in which they ingratiated themselves with a marriage to a woman, and another in which they coped with similar males dealing with same-sex attraction (273-80; Moran 2002). According to Chauncey (1994), “Identities are always relational, produced by the ways people affiliate themselves with or differentiate themselves from others—and are marked as different *by* others” [Emphasis in original text] (273). To affiliate one’s sexuality with an identity, a role, or a self-concept, one presumes to have a relative comfortability in disclosing that aspect of one’s sexuality. When some shroud their same-sex attraction or glorify their self-restraint, they bear a public mask to protect themselves from the stigma of these attractions (Foucault 1985: 39). Throughout the literature, many men in their narratives noted the need to protect themselves across social milieus or risk these attractions becoming public knowledge (Chauncey 273-4).

In their research on bisexual and gay husbands, Fritz Klein and Thomas R. Schwartz (2001) organized a comprehensive selection of narratives of married men who identify with same-sex attraction, and who have experienced Goffman’s theory on the moral career. In their research, Klein and Schwartz (2001) constructed a live chat room for these men to connect with one another. Some men in this research described their marriages either positively or negatively, from one of “comfort and familiarity” to “a sinking ship” (Klein and Schwartz 83-4). One respondent insisted that all long-term relationships nevertheless will be “fraught with complexity” (Klein and Schwartz 86). Klein and Schwartz’s investigation locates several themes in regard to why someone associating with same-sex attraction would marry another of the different sex. Some men found that by the time they identified with their same-sex attraction, it was too late. One 60-year old respondent wrote, “Those of us who are closer to the end...are understandably less interested in chucking our marriages and starting over” (Klein and Schwartz 87). Nearly all respondents in this research cited societal, familial, and religious pressures to not only marry a woman, but to maintain the marriage at all costs (Klein and Schwartz 84). In several cases, some respondents claimed that their wives strongly sought the success of the marriage to the extent of allowing their husbands to satisfy their same-sex attraction (Klein and Schwartz 85-6).

In this research, some respondents and their wives established an open marriage (Klein and Schwartz 89). These respondents noted that in doing so, it improved their marriages by allowing them to continue to love their wives and integrating their sexual attraction for other men (Klein and Schwartz 90-107, 403). In regard to their sexual orientation, most respondents debated how to label their sexuality. Some men

described several degrees of “bisexuality” with which they could identify, from capable of being sexually attracted to another man, both sexually and romantically attracted, to attracted to other men while wanting to remain married (Klein and Schwartz 93). All respondents found themselves attempting to fit into a “heterosexual” lifestyle through their marriage but were troubled by denying this non-heterosexual part of themselves (92-3, 401).

Similarly, women who struggle with same-sex attraction in their marriage experience similar degrees of ambivalence and uncertainty, but arguably face greater hardship. According to Moran (2002), women’s experience, socially and legally, differ from that of men (303). Similarly, those women who engage in same-sex sexual conduct experience society and the law differently compared with men (303). Carren Strock (2008) employs a research design similar to Klein and Schwartz (2001) to assess the women’s experience in this phenomenon. Strock (2008), who while married to her husband identified with same-sex attraction, investigates in her research other women who also identify with same-sex attraction during their marriages to men. In the research by Strock (2008) as well as Klein and Schwartz (2001), the women and the men alike reported having had been pressured to stay married by various factors. Although, Strock (2008) insists that women experience more financial pressures to stay married (to individuals of the different sex) (130-81).

According to Strock (2008) and Kathleen Gerson (2011), marriage disregards women’s interests beyond the confines of the relationship to their husband (Strock 130; Gerson 124). This perspective bears some historical credibility in the traditional outlook on marriage in which the husband served as an “economic motor,” and the wife, the “sentimental core” (Coontz 2005: 174). The respondents in this research noted that their ability to leave depended on their level of independency, financial and emotional, and whether they had children involved (Strock 133-4). Additionally, Strock’s (2008) respondents also reflected on their sexual orientation and their sexual identity. Most respondents initially refused to label themselves as lesbians (Strock 181). Typically, most respondents adopted “bisexual tags” as temporary identities following their marriage (Strock 185). Women and men alike noted in both these narratives the struggle to label their same-sex attraction as part of their identity, especially during their marriage. What is missing in the extant research is the evaluation of the other spouse—specifically, the narrative of the adulterer’s spouse.

Overall, researchers in this field ruminate on the most apposite method to study these marriages in their entirety. Creatively, some researchers gather information solely from the spouse of the adulterer. Case in

point, Barbara C. Hernandez and Colwick M. Wilson (2007) researched Seventh-day Adventist wives who married men whom identified with same-sex attraction. In their relationship, the respondents endured a sense of ambiguous loss—a physical, psychological, emotional distance manifested between herself and her husband (Boss 2006; Hernandez and Wilson 2007). In religiously-conservative “mixed-orientation” marriages, the female spouse’s experience is perhaps overlooked. In this research, the respondents reported that throughout their marriage, their husbands were sexually avoidant and emotionally absent (Hernandez and Wilson 187-8). The respondents, similar to the husbands in Strock’s (2008) research, reflected on feelings of sexual failure, role confusion, defectiveness, as well as emotional deprivation, rejection, and exhaustion (Hernandez and Wilson; Buxton 1994; Hays and Samuels 1989). They also reflected on their willingness to support their husbands, maintain their beliefs, as well as ensure the well-being of their children (Hernandez and Wilson 187-90). As one respondent describes, the ordeal was “a *sunrise* for him and a *sunset* for myself” once the marriage ended (Hernandez and Wilson 190).

Strock (2008), Hernandez, and Wilson (2007) prove in their research that by including the other spouse’s narrative in the research on the mixed-orientation marriage, and not solely that of the spouse reconciling with same-sex attraction, this field otherwise would lack comprehension. By evaluating both spouses in the context of the mixed-orientation marriage in which adultery occurs, the researchers understand how both are put on trial to similar extents. These “trials” might consist of brusque questioning, investigating why the adulterous spouses would even marry someone to whom they are not attracted; or how could the other spouse not have known about the other’s same-sex attraction. According to Kathryn Morgan (1998), individuals seek to recreate and sustain prescribed social roles out of necessity for their well-being and to avoid stigmatization. Sandra Bartky (1990) adds that individuals, both women and men, experience “repressive satisfactions” as they fulfill their needs established by and that which benefit the interests of the “collective” or dominant majority (Bartky 42; Durkheim 2010 [1893]). Women, for example, might marry to prescribe to cultural ideals of femininity, the feminine performance—all of which exclude economic independence (Barky 1990; Wolkomir 2004; Moran 2002: 303). Some women may find these ideals rewarding because they affirm their feminine identity. Whereas other women may find their conformity to these ideals discomfoting (Stombler and Martin 1994). Women may marry to comply with an “oppressive system of gender relations” to avoid social destitution and to attain financial security (Wolkomir 736; Coontz

2005: 218). Similarly, men may marry to comply with cultural ideals of masculinity and the masculine performance; but, they may not face these ideals to the same financial and social extent as women (Wolkomir 2004; Coontz 2005; Moran 2002).

Women may marry because it is culturally the inherent role of the female to “submit to another,” as Confucius purports, either solely because of their status as women, or because of their status as women who also are attracted to other women (Coontz 2005). Men too experience this normative expectancy, but because they derive an advantage, or “patriarchal dividend,” from their inherent status as men, they likely have greater mobility to overcome these obstacles (Connell 1995: 79; Wolkomir 735-6). Nevertheless, despite the differences in social pressure they face, women and men who are attracted to others of the same sex alike may find marriage to be an inherent part of their normal sexual development (Gagnon and Simon 1973: 184). Even in an improved age of egalitarianism regarding sex and sexual orientation in the U.S., the revolution lives on, unfinished—according to Kathleen Gerson (2011). These individuals may continue to endure potential sanctions, social and legal, if they fail to abide by their culture’s heteronormativity. According to Stephanie Coontz (2005), males may lose their standing if they fail to conform to certain class ideals of heterosexual masculinity and “breadwinning.” Females, likewise, may be labeled as “selfish” caregivers, scared into marriage by the rampant economic disadvantages women primarily endure (221, 245).

These adulterous, married individuals also may continue to stomach their intense religious socialization in which their aspiration to achieve adulthood can be attained only through marriage and their children (Coontz 320; Ortiz and Scott 1994). Based on these findings, the argument for equality to include same-sex sexual conduct in adultery thereby may tergiversate toward its exclusion. In the secularization of the state, U.S. law tenably has ameliorated the status of same-sex sexual conduct. Yet, it remains a moral issue whether or not if it is equal to exclude this conduct from adultery law based on the centuries of discriminatory stigmatization these individuals have undergone. Both adultery and same-sex sexual conduct alike have historically represented violative infringements against the ideal conception of heterosexual monogamy, and debaucheries contrary to the nature of “genitality” (Foucault 1978: 76-8). To determine whether the inclusion of same-sex sexual conduct in adultery law, and the specification of the sex of the adulterer and the paramour, serves as an act of equality must be further evaluated.

Inspired by the qualitative narratives and historical, social accounts presented in this review, the present research will address how sympathetic perceptions for the adulterer vacillate when the adulterer is either female or male, and the paramour, either of the same or different sex. I will address how participants' sympathy might reflect remorse for the sociolegal persecution of same-sex conduct in the U.S. and determine the implications of their sympathy for these different variables. In this research, greater emphasis will be placed on the adulterers themselves and their extramarital affairs compared with Hernandez and Wilson (2007), Strock (2008), as well as Klein and Schwartz (2001).

I hypothesize that participants will express greater sympathy toward female adulterers than male adulterers. Based on Gerson (2011), Strock (2008), Coontz (2005), Wolkomir (2004), and Bartky (1990), their research suggests that women are disadvantaged to the extent that they are forced into marriage to avoid certain cultural forms of stigmatization and disadvantaged economic positions. Moreover, I hypothesize that participants will express greater sympathy toward the scenarios in which the adulterer commits adultery with another of the same sex compared with the different sex. Based on the historical discrimination toward same-sex sexual conduct throughout U.S. law, I believe the majority of respondents will be more sympathetic (compared with different-sex conduct). However, I must contend that there are several social, legal implications if participants do sympathize for same-sex conduct. Overall, I believe this is a provocative assessment of the "mixed-orientation marriage" phenomenon that will contribute to the legacy of the existing research.

III. METHODS

III. A. Introduction

I constructed an original survey to determine variation in participants' sympathy by the adulterer's sex and the paramour's sex. To do this, I created four original vignettes in which I manipulated the adulterer's sex and the paramour's sex in order to measure how participants' sympathy statistically varied. The survey consisted of four main questions that asked participants (1) to express their initial reactions to each vignette in an open-ended response, (2) to reflect on their sympathy for the adulterer, (3) to what extent they believed the adulterer committed adultery, and (4) how the adulterer's spouse should respond to the sexual affair. The survey included two to four additional questions that asked participants if they had committed adultery, or if their spouse or partner had committed adultery. If participants answered positively to either question, they were asked an additional reflective question to the extent that they could sympathize with the adulterer or the adulterer's spouse. Overall, the purpose of this survey was to statistically determine whether participants sympathized more for a female adulterer, or sympathized more for an adulterer whose paramour was of the same sex.

III. B. 1. Participants

To assess perceptions of adultery by the adulterer's sex and paramour's sex, I administered an original survey to an online probability sample of participants. To secure a diverse, knowledgeable sample, a total of 166 participants were recruited online through Amazon Mechanical Turk. Amazon Mechanical Turk is an online, professional marketplace in which businesses and researchers can request workers or participants to complete their HITS (Human Intelligence Tasks). The quality of the participants' responses was ensured by limiting the availability of the survey to those on this website who were rated by other businesses and researchers as "Masters." This meant that participants who had in other HITS demonstrated high levels of consideration were the only ones allowed to participate. Overall, the 166 participants in this sample demonstrate great levels of introspection (based on their open-ended response) as well as acceptable levels diversity (based on their demographics). Although participants themselves selected to partake in this research from the Mechanical Turk website, they were randomly assigned by the website hosting the survey (the Qualtrics website) to complete only one of the four vignettes.

III. B. 2. Materials

I designed an original survey for this thesis that consisted of four vignettes. Each vignette consisted of either a male or a female adulterer, and a same-sex or different-sex paramour. The male adulterers in the vignettes were referred to as “Paul,” and the female adulterers were referred to as “Paula.” Below, a table lists all the vignettes in this experiment and identifies them with their two-digit code (e.g., “1A,” “4B”).

VIGNETTES		
PARAMOUR	ADULTERER	
	Male Adulterer	Female Adulterer
Same Sex Paramour	1A “Paul Same sex”	3A “Paula Same sex”
Different sex Paramour	2B “Paul Different sex”	4B “Paula Different sex”

Vignettes 1-2 involved the male adulterers, and vignettes 3-4, the female adulterers. Vignettes “A” involved a same-sex paramour, and vignettes “B,” a different sex-paramour. In this experiment, vignettes 2B and 4B served as the control vignettes, and 1A and 3A, the experimental. The survey and the vignettes are listed in the Appendix.

In all four vignettes, the adulterer was described as 34 years old, conservative and had been married to a spouse of the different sex for 10 years (e.g., Paul’s wife, “Patricia;” Paula’s husband, “Peter”). I purposely identified the protagonist as conservative based on K. Dick’s (2009 documentary, *Outrage*, in which conservative politicians who actively protested against same-sex rights had engaged in same-sex sexual conduct themselves. Those interviewed in this documentary expressed sympathy for these politicians who were leading a double life by both advocating against same-sex rights and being attracted to others of the same sex. By identifying the adulterers as conservative, I was able to evaluate if participants also found a discrepancy between political affiliation and sexual behavior or conduct.

Participants also read that the adulterer had always experienced “strong romantic attractions” toward those of the same sex (scenarios 1A, 3A) or the different sex (scenarios 2B, 4B). They additionally read that the adulterer had acted on those attractions through various “sexual relationships” during the marriage. I anticipated the likelihood that the definition of adultery would vary among participants. I decided to employ a relatively ambiguous phrase like “sexual relationships” to allude to the act of adultery committed (White 2012). As one participant noted in the open-ended response to the survey, however, there is a

distinction between “sexual relationship” and “physical infidelity.” While appreciative of this feedback, it was essential that I use an ambiguous phrase to allude to the act of adultery—that is, ambiguous to the extent that it would still constitute infidelity while simultaneously allotting for the variation among participants’ individual interpretations.

III. B. 3. **Design**

This experiment was a between-groups design because participants completed only one vignette. No participants were in a pretest or a posttest (responding to questions prior to or following the survey). Participants were randomly assigned to one of the four vignettes by the computer program in the website used for the survey administration (Qualtrics). Participants were randomly assigned to each of the four vignettes in equal numbers so that no vignette had considerably more or fewer participants.

The independent variables in this experiment were the adulterer’s sex (i.e., male [“Paul”] or female [“Paula”]), and the paramour’s sex (i.e., same-sex, different-sex). The dependent variable in this experiment was my operationalization of the concept, “sympathy.” In the survey, I constructed three specific questions to test my hypotheses. These questions ask general themes to measure sympathy, such the extent to which the adulterer cheated and how the spouse should respond to the infidelity.

III. B. 4. **Procedure**

I posted a link on Amazon Mechanical Turk to the Qualtrics website through which the participants could access the survey. Upon accessing the survey, the participants were promised compensation of \$0.50 to \$0.55 cents for their time and effort in completing the survey. Once the participants accessed the survey through the link on the Qualtrics site, they were informed of the nature of the survey, the confidentiality of their identities and their responses, and their freedom to exit the survey at any point. After agreeing to these terms, participants were randomly assigned to one of the four vignettes. Confidentiality and anonymity were likely most important for the particularly sensitive questions such as “Have you or your spouse or partner ever cheated?”. Once the participants completed the survey, they were debriefed and informed about the purpose of the survey, the reasoning behind its construction, and the potential benefit of the study. Finally, participants who completed the survey received their financial compensation through Mechanical Turk.

IV. RESULTS

IV. A. Descriptive Statistics

This sample ($N = 166$) consisted of a fair amount of variation amongst its demographic categories. Both males ($N = 82$) and females ($N = 84$) were equally represented in the data. The majority of participants identified within the age range of 25 to 34 ($N = 73$), with an additional though smaller majority identifying within the age range of 35 to 44 ($N = 45$). As far as race, while a great number identified as white or caucasian ($N = 113$), a considerable amount of participants identified as Asian, Indian, or Pacific Islander ($N = 29$). Regarding sexual orientation, a majority identified as heterosexual or straight ($N = 145$) with a minute portion of the sample identifying as homosexual, gay, or lesbian ($N = 5$) and others as bisexual ($N = 15$).

Furthermore, I asked participants how they generally identified their social, political values. Between “conservative” and “somewhat conservative,” only 24 participants identified with these categories (Conservative $N = 13$, Somewhat conservative $N = 11$). The majority of participants identified as “middle of the road” ($N = 50$) and as “somewhat liberal” ($N = 50$). The remaining participants identified themselves as “liberal” ($N = 42$).

IV. B. Open-Ended Question Response Analysis

After reading about Paul or Paula's adultery, participants were asked to provide an initial and qualitative reaction to the specific vignette they were assigned. This question to some extent served as a manipulation check, ensuring that participants completed the survey thoughtfully in a reasonable amount of time, especially given the brief nature of the survey. Overall, the majority of participants demonstrated considerable degrees of thoughtfulness in their reflections. While some participants described their emotions pithily, others described them in several sentences or in a few cases, a single paragraph. While the length of participants' responses vacillates across all four vignettes, the quality for the most part does not. Only participants' responses that demonstrated such quality, time-wise and reflection-wise, were included in the data.

All participants in this research indicated that they had simultaneously experienced several reactions in their response. Most participants often wrote having had experienced a combination of anger, annoyance, disgust, sympathy, and sadness in reaction to their vignette. Between scenarios **1A** (Paul and Same Sex Paramour) and **2B** (Paul and Different Sex Paramour), three participants in 1A noted that the sex of the

paramour was irrelevant in the context of adultery. Five participants in 2B noted particular sympathy or compassion for Paul's wife, Patricia. Out of the total who read either scenario 1A or 2B, only three participants specifically noted that Paul being conservative made him "hypocritical," "a big ass," and "bashing gays...to save face." Moreover, one participant in 1A wrote feeling sympathetic for Paul because the participant claimed to have been in a similar situation. In 2B, two participants noted similar feelings.

Between scenarios **3A** (Paula and Same Sex Paramour) and **4B** (Paula and Different Sex Paramour), a total of 11 participants in 4B noted in their responses feeling disgusted, 7 feeling angered, 4 feeling sadness, and 3 feeling sympathy. In 3A, in contrast, only 2 noted feeling disgusted, 4 angered, 8 sadness, and 3 sympathy. Across both scenarios, only 2 participants reflected on the fact that Paula identified as a conservative, expressing "shock" or finding a discrepancy between Paula's social, political values and her adultery. Moreover, the participants who read scenario 3A described similar emotions to those in 1A. Two participants in 3A specifically noted that the sex of the paramour did not matter in the context of adultery, claiming that regardless of the sex of either party, adultery is "wrong" or "unacceptable." Interestingly, 2 participants in 3A noted feeling sympathy for Paula's husband, Peter, and in 4B, four participants expressed similar feelings for Peter. In general, these participants described more sympathy for the spouse, writing for example that Paula's husband, Peter, deserves a better partner, that they feel sympathy for Peter, and that Paula is being unfair to him.

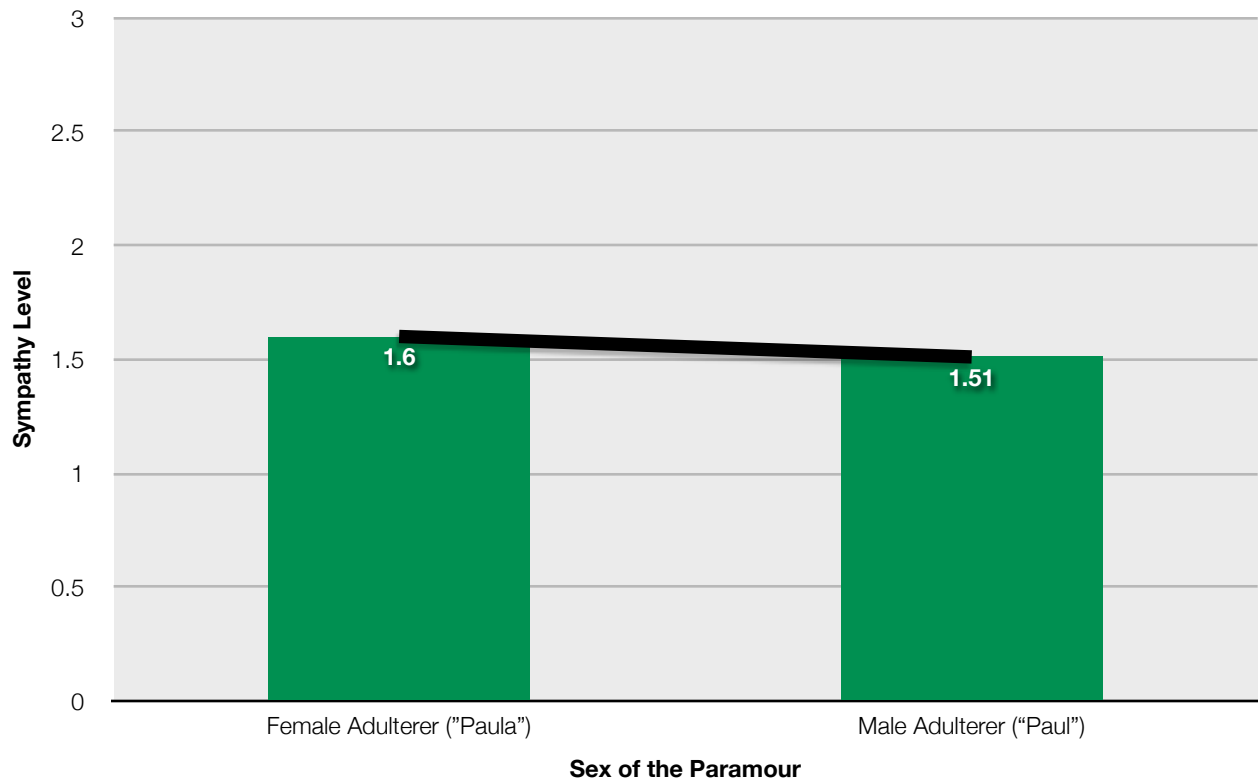
Across all the vignettes, one participant addressed the risk of the spouse contracting a sexually transmitted infection. This participant completed vignette 1A (Paul, same-sex), and wrote that Paul having sexual intercourse with other men could expose his wife, Patricia, to HIV and other infections. This participant's observation is researched in Hernandez and Wilson's (2007) investigation on Seventh-day Adventist women. In these women's narratives, most of them were concerned for contracting sexually transmitted infections had their husband engaged in extramarital affairs during the marriage.

Furthermore, only one participant touched on religious convictions in the response. In 1A, when Paul commits adultery with a paramour of the same sex, this participant insisted that Paul must suffer from "sexual confusion...initiated by the devil." All other participants provided only their immediate reactions, seemingly free from religious doctrine. While some did note that they found either protagonist "unfaithful," this did not appear to connote a religious euphemism.

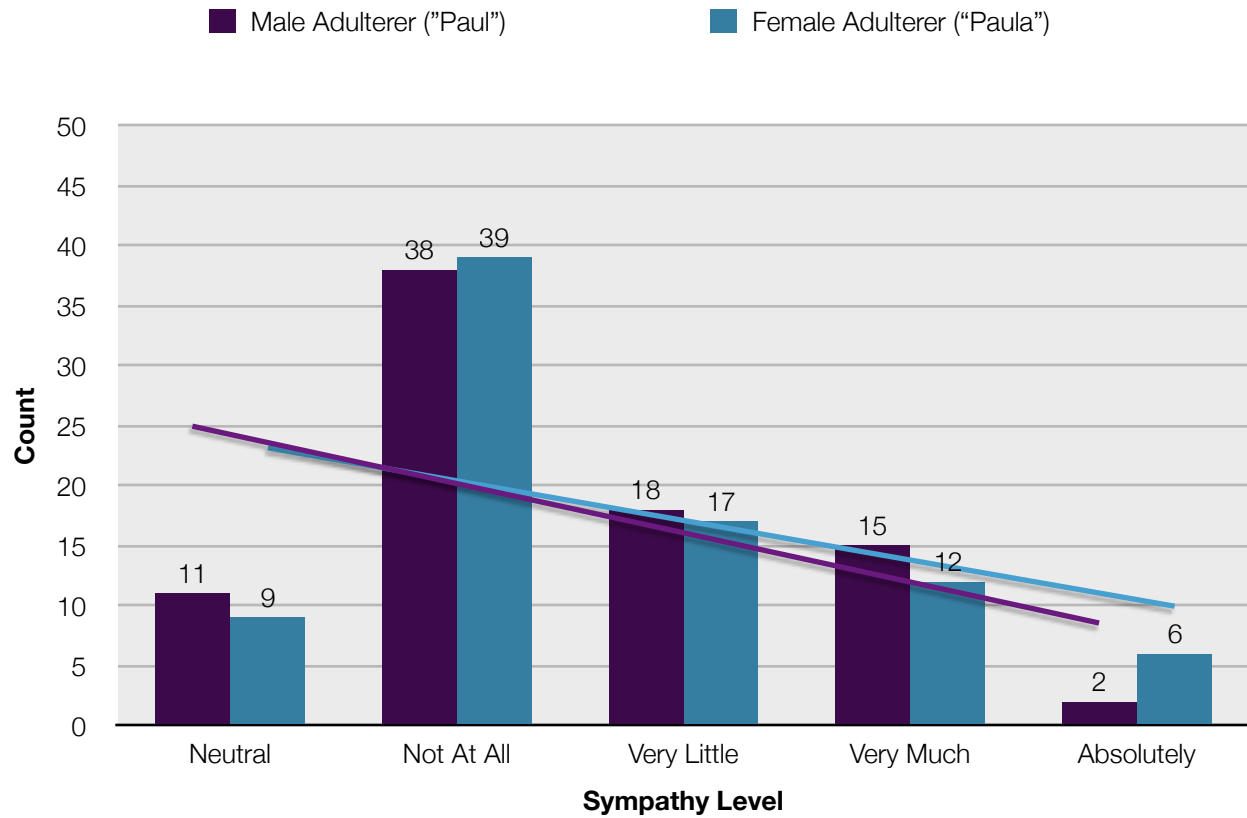
IV. C. The Sex of the Adulterer: Paul vs. Paula

In the sample, 84 participants total completed either condition 1A or 2B in which Paul was the adulterer ($N = 84$). Eighty-three participants completed either condition 3A or 4B in which Paula was the adulterer ($N = 83$). An independent samples t-test was conducted to compare participants' sympathy by the adulterer's sex. Results indicated no significant difference in participants' sympathy between female or male adulterer conditions. Participants did not sympathize more or less for an adulterer because of the adulterer's sex. Graphs C.1 and C.2 below illustrate participants' sympathy levels between male ("Paul") and female adulterer ("Paula") conditions.

Graph C.1. Sympathy by the Adulterer's Sex.



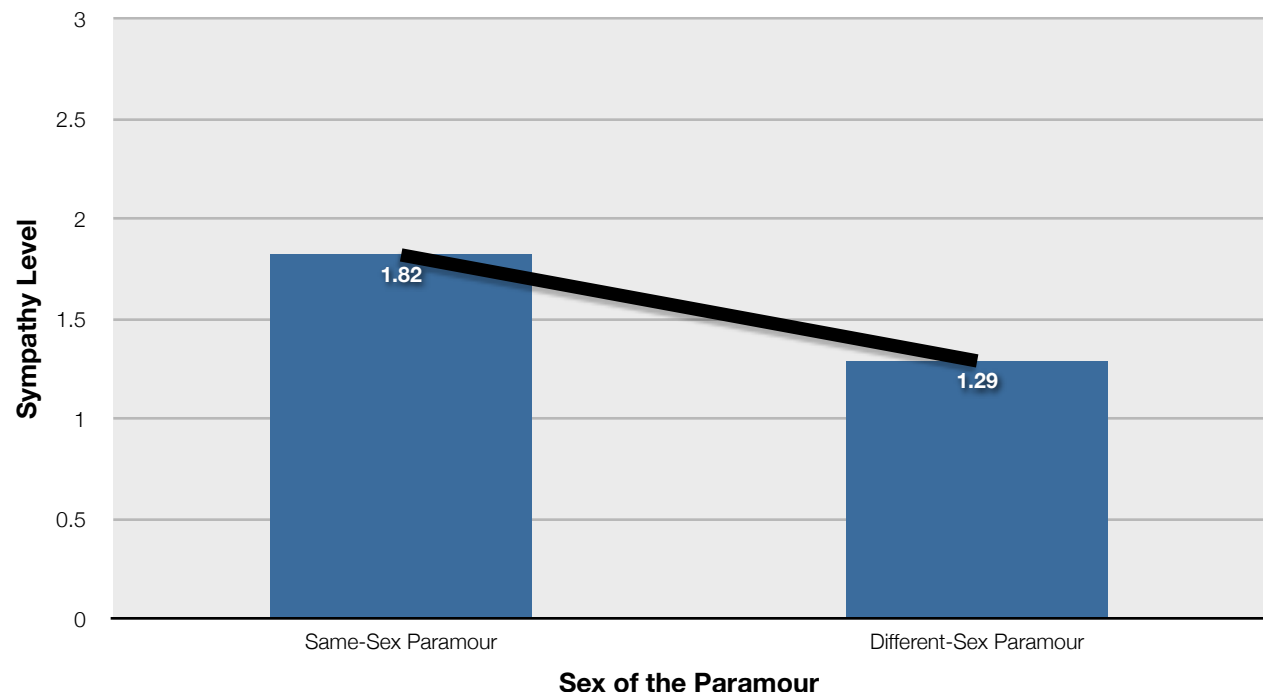
Graph C.2. Sympathy by the Adulterer's sex. Graph C.2 provides an overview of the distribution for how participants expressed sympathy by the adulterer's sex. This graph provides the number of participants who responded with each sympathy level (e.g., 1 = Not at all sympathetic; 2 = Very little sympathy; 3 = Very much sympathetic; 4 = Absolutely sympathetic). According to the results of the independent samples t-test, no significant difference was found between female and male adulterers in terms of participants' sympathy.



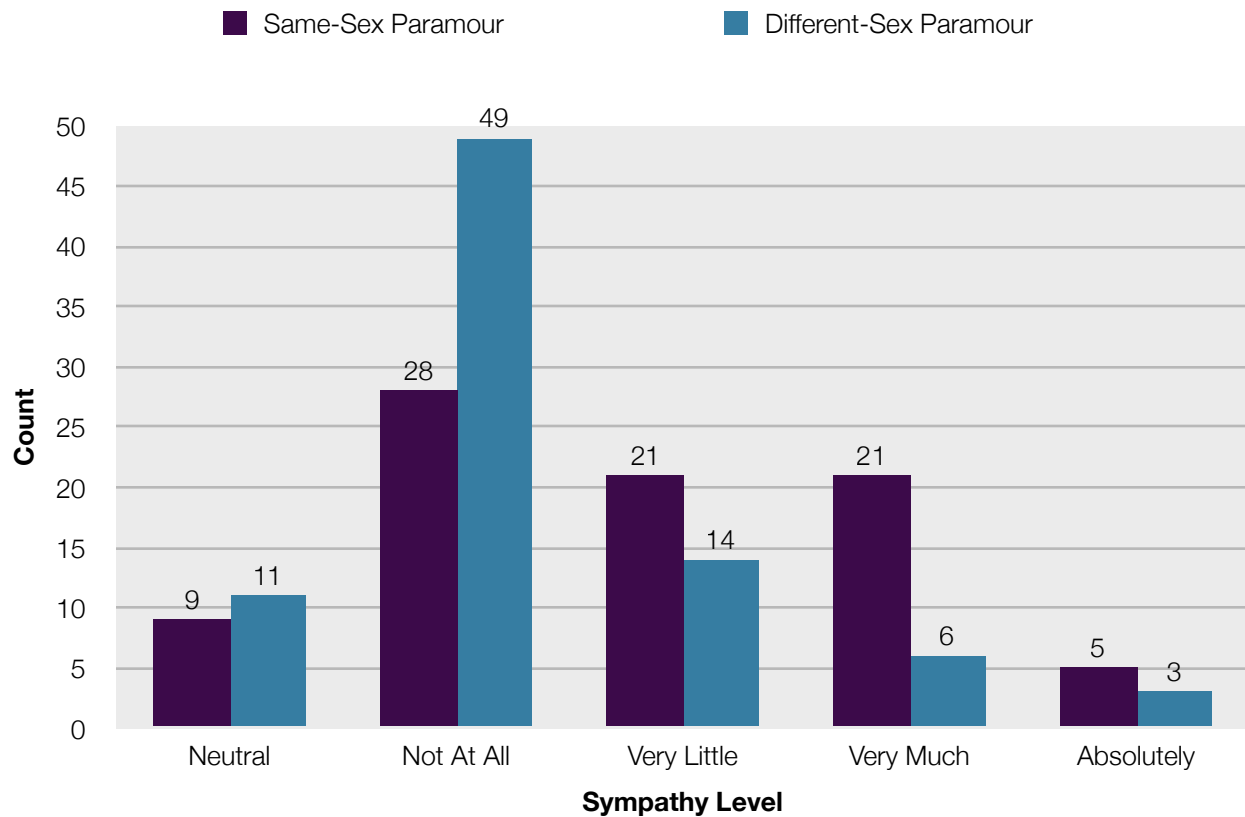
IV. D. The Sex of the Paramour: Same Sex vs. Different sex

In the sample, 84 participants completed either condition 1A or 3A in which the paramour was of the same sex ($N = 84$). Eighty-three participants completed either condition 2B or 4B in which the paramour was of the different sex ($N = 83$). An independent samples t-test was conducted to compare participants' sympathy in regard to the paramour's sex. There was a significant difference in the scores for the same-sex conditions ($M = 1.82$, $SD = 1.11$) and the different-sex conditions ($M = 1.29$, $SD = 0.92$); $t(165) = 3.40$, $p = 0.001$. In terms of the paramour's sex, participants expressed more sympathy for the same-sex paramour conditions compared with the different-sex paramour conditions. When the adulterer committed adultery with another of the same sex, participants were more likely to be sympathetic toward the adulterer. Graphs 2.1 and 2.2 below illustrate the distribution of participants' sympathy levels between the same-sex paramour and different-sex paramour conditions. Notably, results indicate a significant effect for the sex of the paramour, but not the sex of the adulterer.

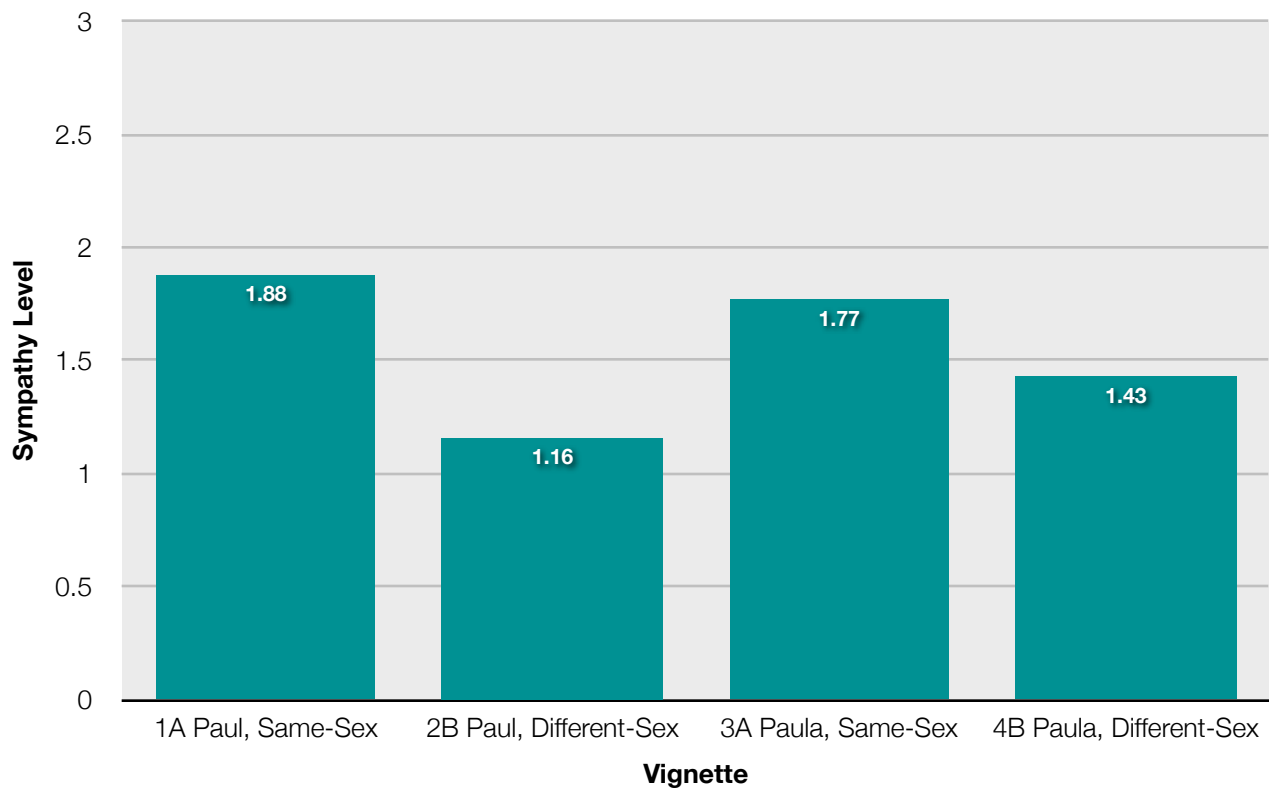
Graph D.1. Participant's Sympathy by the Paramour's Sex.



Graph D.2. Same-Sex Paramour vs. Different-Sex Paramour. Graph D.2 provides an overview of the distribution of participants' sympathy levels for same-sex and different-sex paramour conditions. This graph suggests a smaller mean for participants' sympathy for the different-sex condition compared with the same-sex condition. An original stem and leaf plot was performed indicating three outliers, meaning that three participants, who "Absolutely" sympathized for the adulterer in a different-sex condition, answered outside the normal distribution. Further analysis revealed, however, that when these three outliers were removed from the data, there was still a significant difference between these conditions in both the independent samples t-test and the univariate of analyses that were tested later.



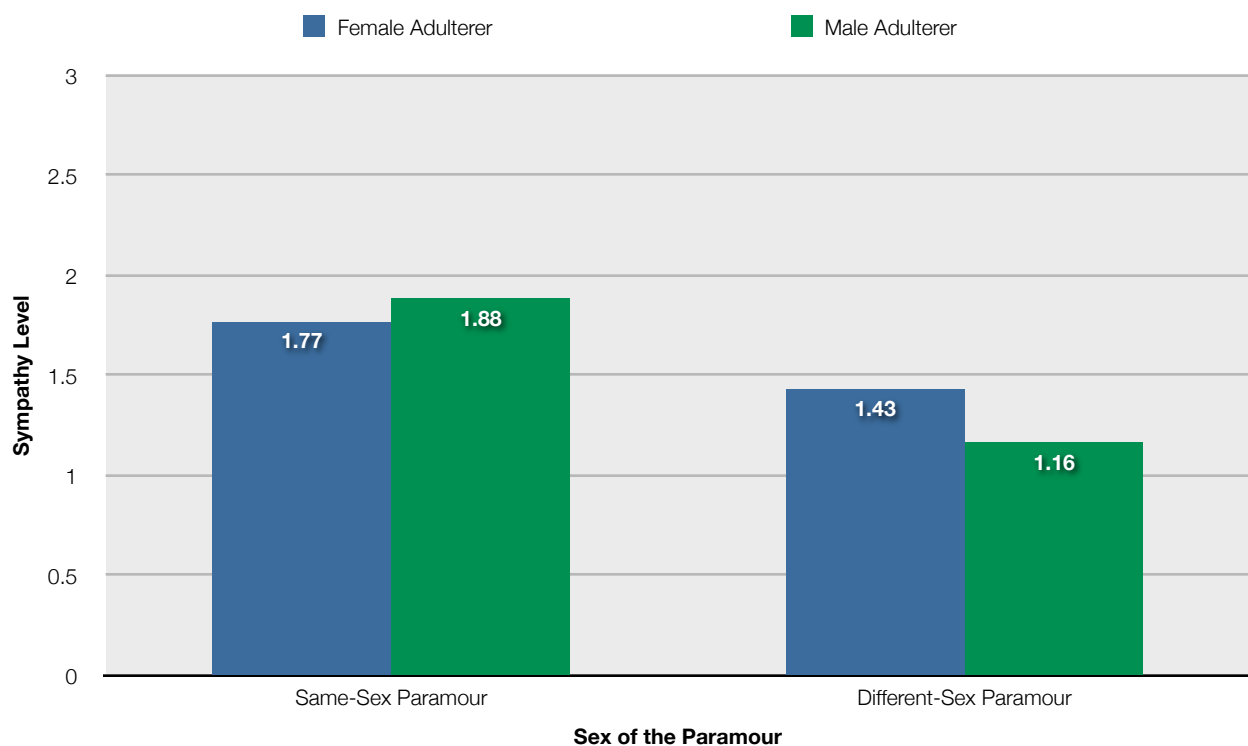
Graph D.3. Participant's Sympathy By Vignette. Graph D.3 illustrates participants' sympathy overall for each individual vignette. Originally, a stem and leaf plot was performed and indicated that there were several participants who responded outside the normal distribution in regard to their sympathy in their condition. The three outliers in the "Paul, Different-Sex Paramour" vignette were participants who indicated that they were "Very Much" sympathetic for the adulterer. The three outliers in the "Paula, Different-Sex Paramour" vignette were participants who indicated that they were "Absolutely" sympathetic for the adulterer. The additional outliers in the "Paul, Different-Sex Paramour" vignette were participants who claimed to be neutral with regard to their sympathy. These outliers were removed from the data in order to test their effect on the significance of the results. There was still a significant difference, in both the independent samples t-test and univariate of analyses tested later, between the same-sex and different-sex conditions, and still no significant difference between female and male adulterers.



IV. E. The Sex of the Adulterer & the Sex of the Paramour

A 2 X 2 (adulterer's sex x paramour's sex) factorial analysis of variance tested the effects of the adulterer's sex and the paramour's sex on participants' sympathy for the adulterer. The results indicated no main effect for the adulterer's sex, $F(1, 163) = .23, p = .63$. Participants did not express more sympathy for a female ($M = 1.60$) or a male ($M = 1.51$) adulterer. As hypothesized, I believed the participants would sympathize more for a female adulterer compared with a male adulterer, but this was not the case. The results, however, indicated a main effect for the paramour's sex, $F(1, 163) = 11.21, p = .001$. Participants were more likely to express sympathy for an adulterer whose paramour was of the same sex ($M = 1.82$) compared with when the paramour was of the different sex ($M = 1.29$). This effect proves my other hypothesis that the participants would sympathize more for the adulterer when there was same-sex sexual conduct. When the adulterer's paramour was of the same sex, participants were more likely to express sympathy. Overall, there was no significant interaction between the two factors, $F(1, 163) = 1.40, p = .24$. This indicates that participants' sympathy for the adulterer was relatively the same for both female ($M = 1.60$) and male ($M = 1.51$) adulterers. Results suggest that participants' sympathy for the adulterer was not due to the adulterer's sex, but it was due to the paramour's sex.

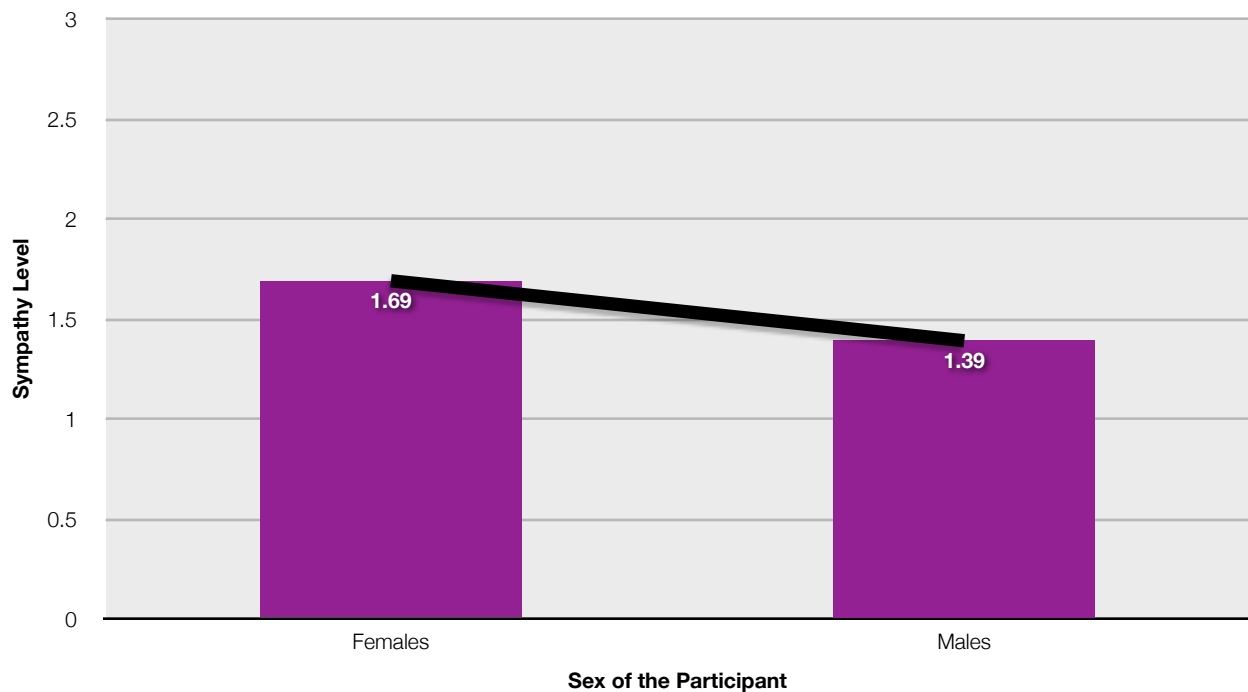
Graph E.1. Sympathy by the Adulterer's Sex and the Paramour's Sex.



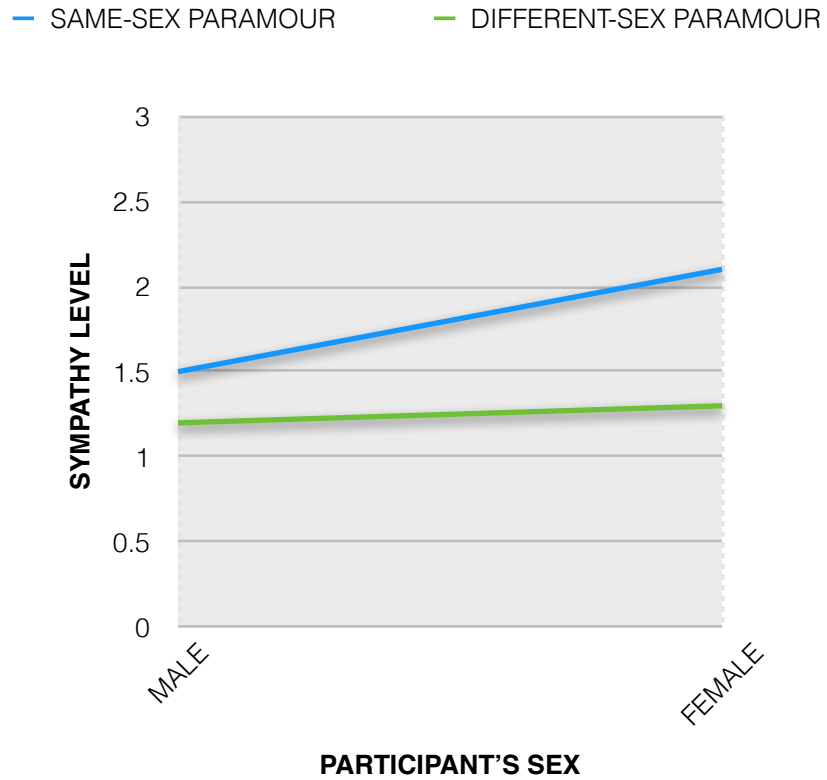
IV. F. The Sex of the Adulterer & the Sex of the Paramour & the Sex of the Participant

A 2 x 2 x 2 (adulterer's sex x paramour's sex x participants' sex) factorial analysis of variance tested the effects of the adulterer's sex, the paramour's sex, and the participant's sex on sympathy for the adulterer. Results indicated no significant interaction, $F(1, 158) = .40, p = .52$, proving there to be no significant effect between these factors on participants' sympathy. More results, however, indicated a marginally significant main effect for the sex of the participant, $F(1, 158) = 3.74, p = .06$. It would appear that female participants ($M = 2.07$) compared with male participants ($M = 1.55$) tended to express more sympathy when the adulterer's paramour was of the same sex. Both female and male participants, however, tended to express more sympathy when the adulterer's paramour was of the same sex compared with the different sex ($M = 1.28$ [Female participants]; $M = 1.24$ [Male participants]). Nevertheless, there is no significant main effect with regard to participants' sex and their sympathy.

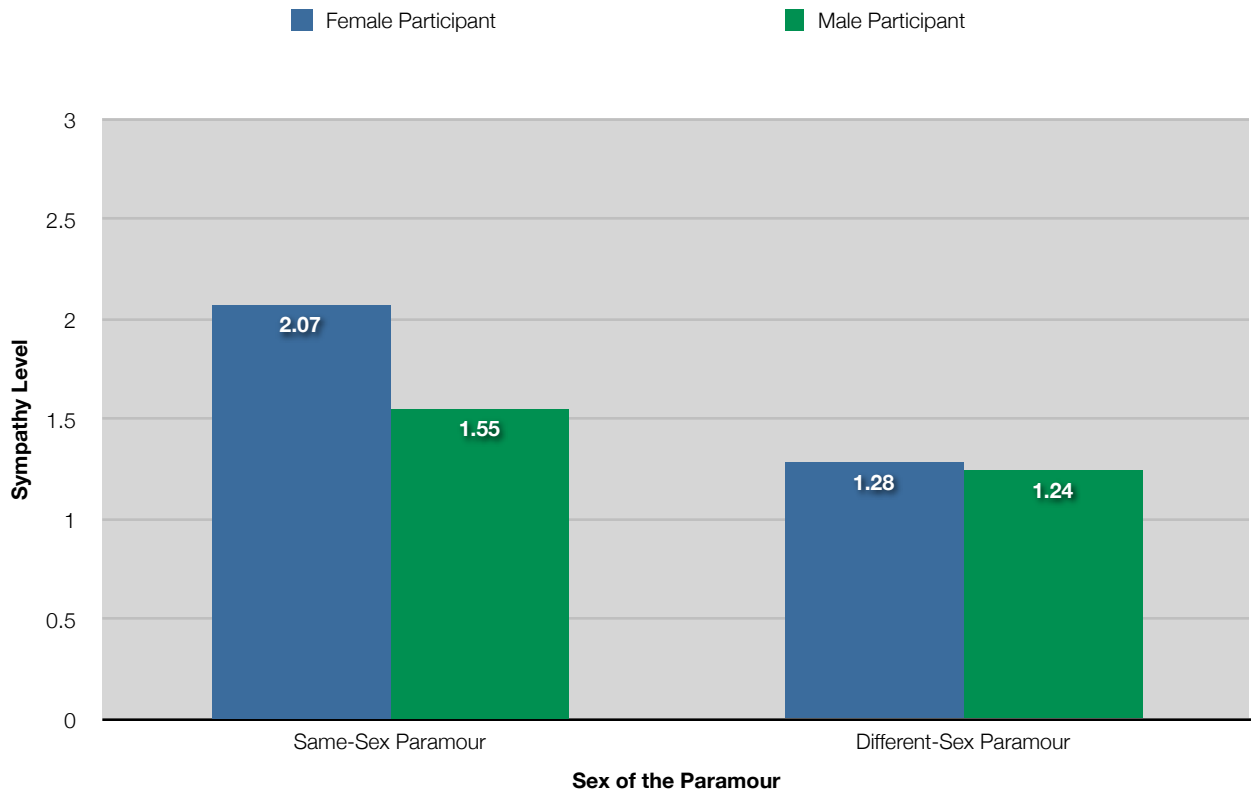
Graph F.1. Sympathy by the Participant's Sex.



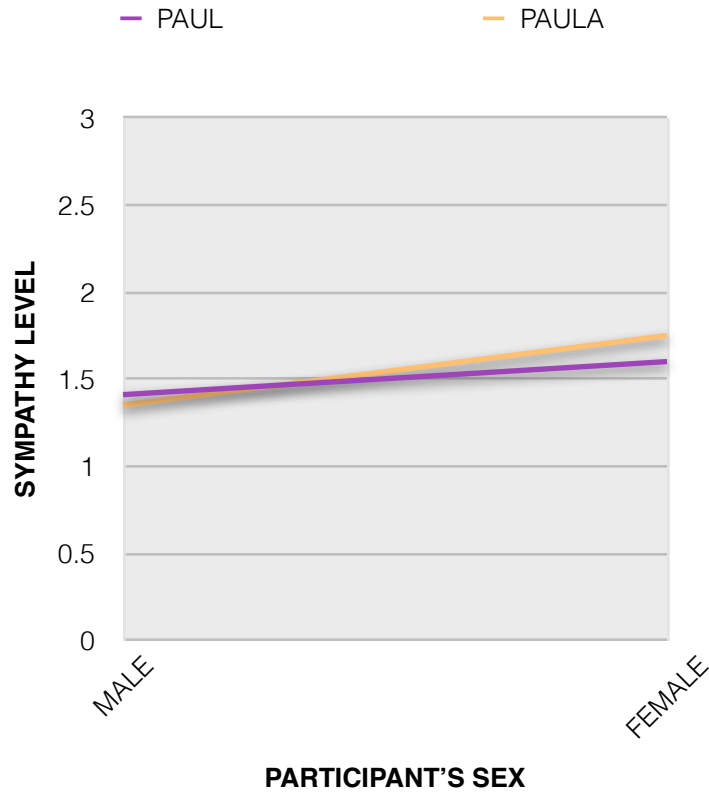
Graph F.2. Sympathy by the Participant's Sex and the Paramour's Sex.



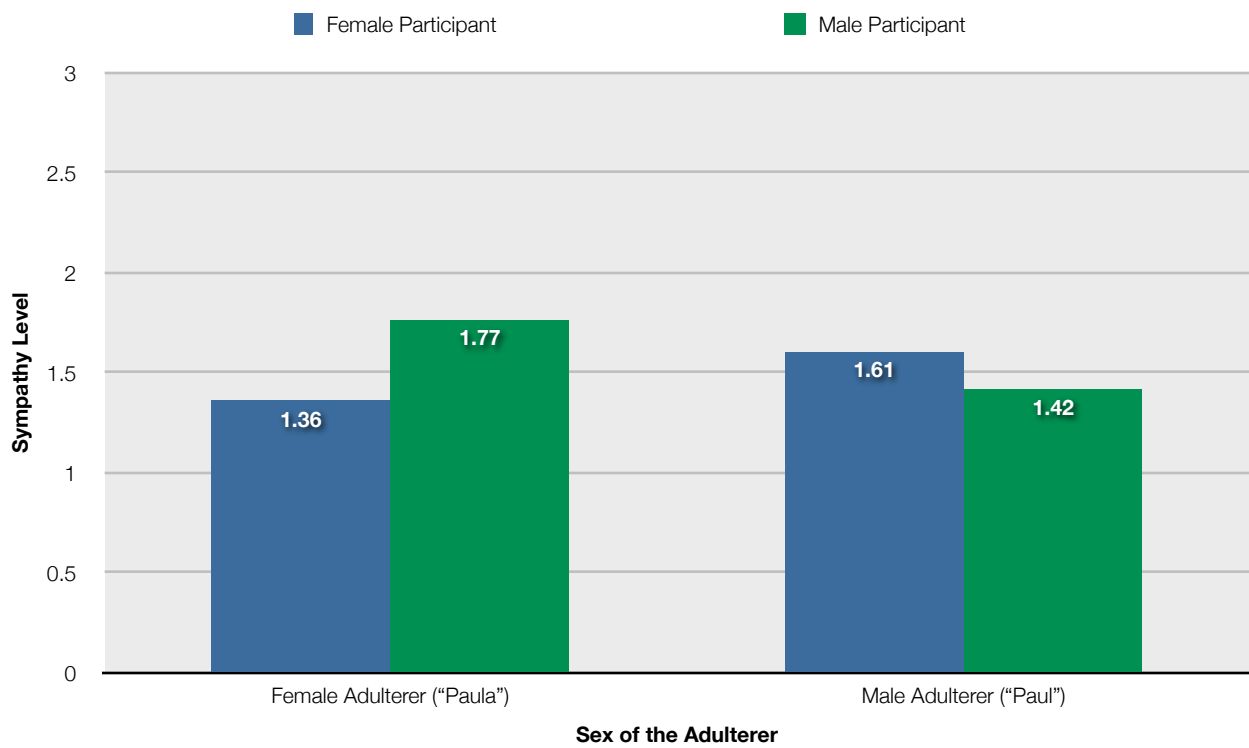
Graph F.3. Sympathy by the Participant's Sex and the Paramour's Sex.



Graph F.4. Sympathy by the Participant's Sex and the Adulterer's Sex.



Graph F.5. Sympathy by the Participant's Sex and the Adulterer's Sex:

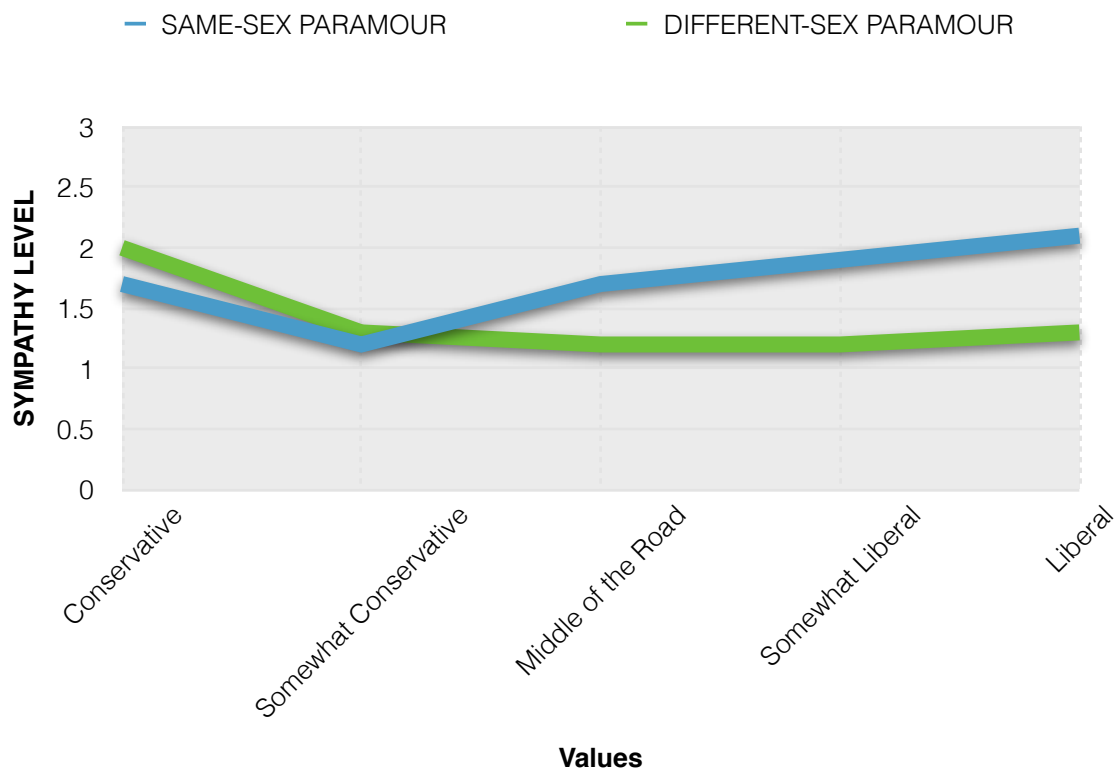


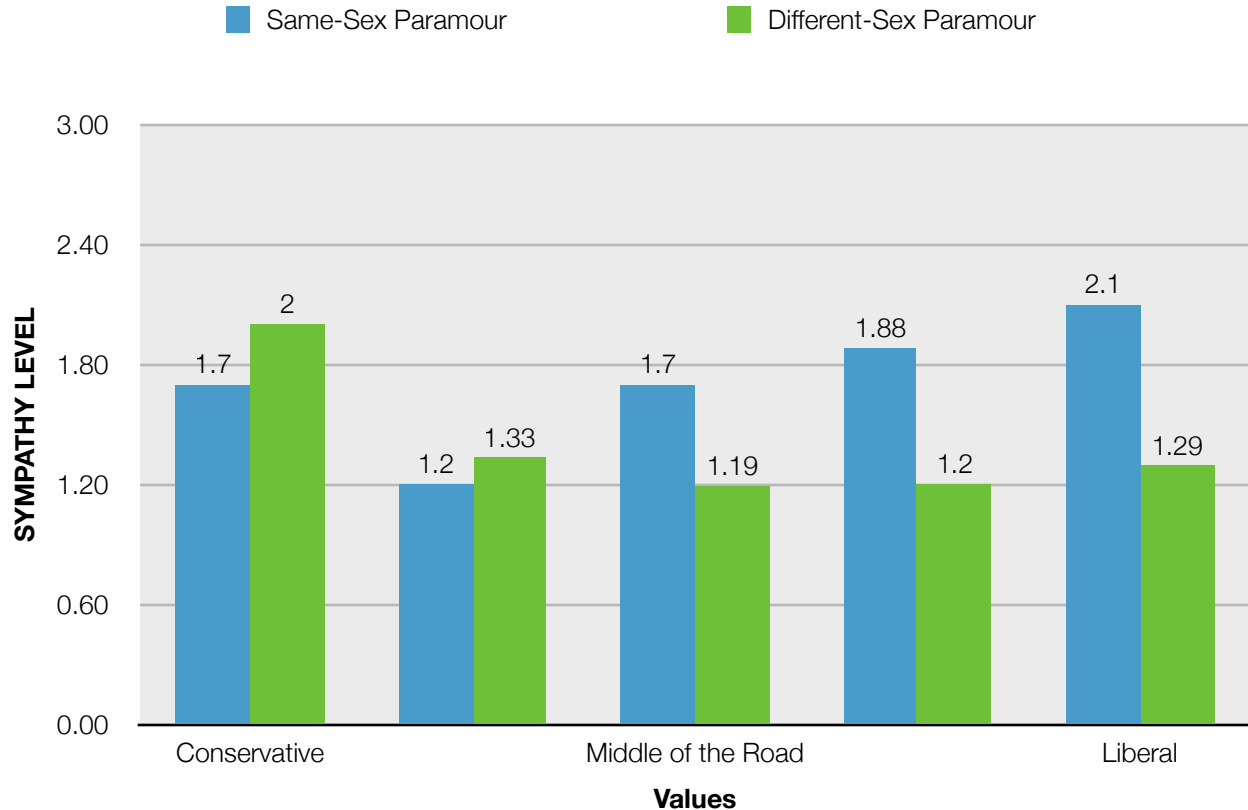
IV. G. The Paramour's Sex & The Participant's Values

A 2 x 2 (paramour's sex x participant's values) factorial analysis of variance tested the effects of the paramour's sex and participant's values on sympathy for the adulterer. Results did not indicate a significant main effect for participants' values, $F(1, 156) = .80, p = .54$. Further results did not indicate a significant interaction between the paramour's sex and participants' values, $F(1, 156) = .96, p = .43$, indicating that participants' political values did not have a significant effect for how they sympathized for either paramour condition.

Moreover, other results did not indicate a significant interaction between the adulterer's sex and participants' values, $F(1, 156) = 1.25, p = .30$. This proves that participants' political values did not have a significant effect on how participants sympathized for either a male or female adulterer. Overall, participants' values did not have a significant effect on how they sympathized for the adulterer or paramour based on sex. Participants' values did not determine their level of sympathy for the adulterer. Graphs G.1 and G.2 illustrate participants' sympathy by the paramour's sex and the participant's values.

Graph G.1. Participants' Sympathy by the Paramour's Sex and Participant's Values.



Graph G.2. Participants' Sympathy by the Paramour's Sex and Participant's Values.

IV. H. Whether the Participant Cheated on a Spouse or Partner

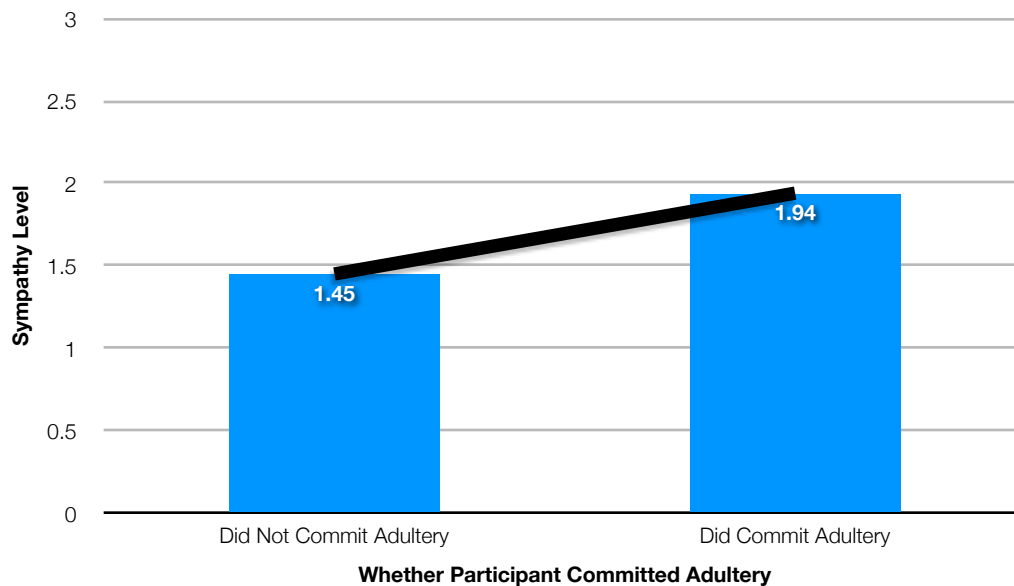
In the sample, a total of 35 participants reported having had committed adultery or cheated on their spouse or partner ($N = 35$). One-hundred thirty-three participants reported not having had committed adultery or cheated on their spouse or partner ($N = 131$). An independent samples t-test was conducted to compare the sympathy expressed in the participants' responses whether or not the participants themselves committed adultery or cheated. There was a significant difference in the scores between participants who reported having had committed adultery ($M = 1.94$, $SD = 1.30$) and participants who did not ($M = 1.45$, $SD = 1.00$); $t(164) = 2.50$, $p = 0.01$. These results suggest that the participants who never had committed adultery expressed less sympathy compared with participants who had committed adultery, who, in contrast, expressed more sympathy for the adulterer.

IV. I. Whether the Participant Cheated & the Paramour's sex

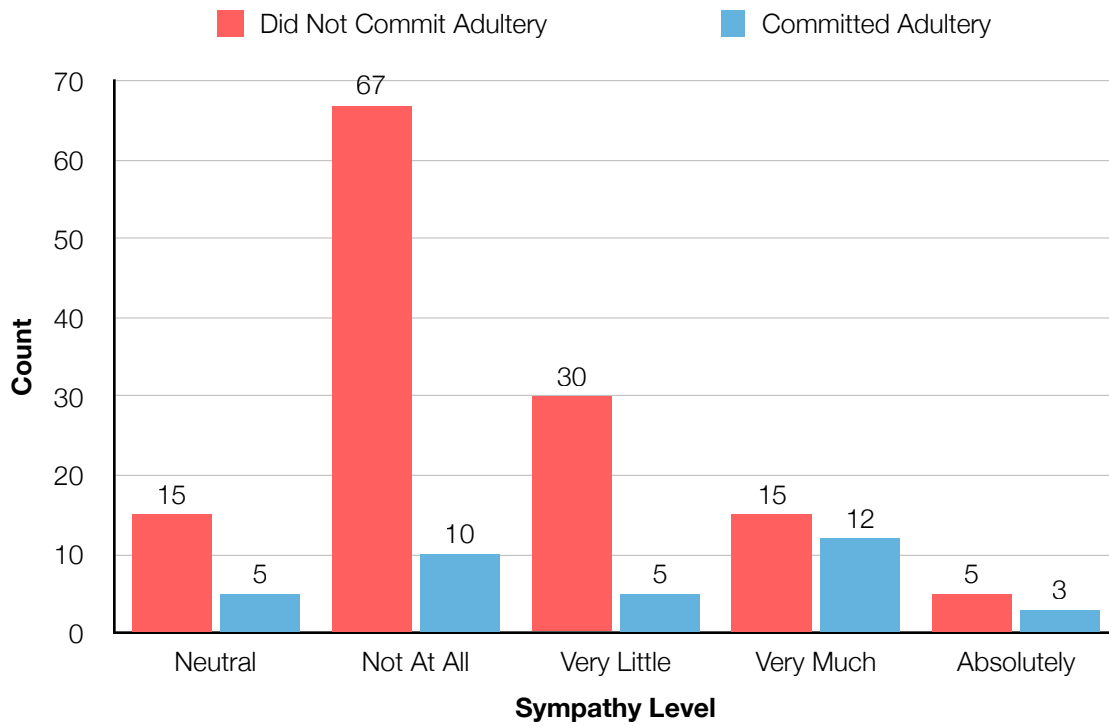
A 2×2 (whether the participant cheated \times the paramour's sex) factorial analysis of variance tested the effects of whether the participant committed adultery and the paramour's sex on sympathy for the

adulterer. Results did not indicate a significant interaction between the participant committing or not committing adultery and the paramour's sex on participant's sympathy levels, $F(1, 163) = .37, p = .546$. Further results, however, indicated a main effect for whether the participant had committed adultery, $F(1, 163) = 5.61, p = .019$. This suggests that participants who had committed adultery were more likely to express sympathy for the adulterer ($M = 1.94$) compared with participants who had not committed adultery ($M = 1.45$). Graphs I.1 and I.2 illustrate the differences in participants' sympathy for the adulterer, between participants who had cheated and had not.

Graph I.1. Whether the Participant Cheated and Participant's Sympathy Level.



Graph I.2. Whether the Participant Cheated and Participant's Sympathy Level.



V. DISCUSSION

The results of the survey indicate certain patterns that support and fail to support the hypotheses. Overall, these results raise certain questions in regard to the differences between women and men in the U.S., and same-sex versus different-sex sexual conduct in adultery. I evaluated participants' sympathy through an original survey that yielded several statistically significant results. I hypothesized that participants would be more sympathetic toward female adulterers and toward adulterers whose paramour was of the same sex. Although the participants were significantly more likely to express greater levels of sympathy toward the latter, there were no significant differences between female and male adulterers in terms of participants' sympathy. Based on the Christian glorification of female chastity and the association of women with "sinful sensuality," I hypothesized that the participants would be more sympathetic toward the female ("Paula") than the male ("Paul") protagonist (Tran 2009; Manning and Zuckerman 2005). Nevertheless, the participants did not demonstrate any greater level of sympathy toward the male protagonist ("Paul"). The lack of significance in this test may prove to some extent participants' egalitarian view on sex specifically in adultery, similar to the efforts described in the previous research by Lisa Tran (2009). Moreover, the lack of significance between female and male adulterers, and the significance between same-sex and different-sex conditions, might suggest that the reason why participants expressed sympathy was due to the adulterer's sexual conduct more so than the adulterer's sex.

My hypothesis that participants would be more sympathetic toward the adulterers whose paramour was of the same sex was supported by the results. Compared to adulterers whose paramour was of the different sex, participants were statistically more likely to express greater levels of sympathy for same-sex sexual conduct in adultery. Although these results yield statistical findings, they are unsettling to some extent. I hypothesized that participants would be more sympathetic toward the same-sex paramour conditions; however, I did so because I believe that participants' sympathy would possibly resonate with social or cultural remorse for the historical, legal, social discrimination that those who engage in same-sex sexual conduct have endured. The fact that participants were more sympathetic toward same-sex sexual conduct may potentially imply that they would support favoritism of same-sexual conduct in certain legal proceedings (at least to some extent). Favoritism, that is, if an adulterer committed adultery with another of the same sex, the adulterous spouse could still be entitled to certain rights, such as alimony (which was denied to the

adulterous spouse in *RGM* vs. *DEM*). If participants expressed greater levels of sympathy for one form of sexual conduct (e.g., same- versus different-sex) over another, perhaps they would favor an adultery law that sympathized with the sexual conduct that has endured the most historical ignominy.

From the tradition of Thrasymachus, U.S. law may continue to control, dominate, or repress sexuality, or even deem certain aspects of sexuality “perverted” (Freud 1966 [1920]: 376). Certain aspects of sexuality, especially those that are not for the purposes of procreation, have been more fastidiously maintained by society (Richardson and Seidman 2002: 6). Throughout the history of U.S. law, the social regulation on sexuality has arguably dithered based on the significance of religious influence, or religious terrorism to some regard (Richardson and Seidman 7; Conklin 2013: 54). The secularization of the U.S., and the declining significance of religion as a moral, authoritative figure among a growing minority of religiously unaffiliated Americans, has allotted for greater justice and greater equalities amongst all sexual conduct (Richardson and Seidman 7).

Overall, these results indicate several points. The first being that by expressing more sympathy for the same-sex paramour condition, participants could have acknowledged the U.S.’s historical, heteronormative domination and repression of same-sex sexual conduct. For those who live in the U.S., who have witnessed firsthand or learned of such events as the Stonewall Riots or the HIV/AIDS epidemic in the latter twentieth-century, might be acting out of remorse or guilt because of a “heterosexual” privilege (Goldstein 2009). “Heterosexual” privilege, according to Stacey Goldstein (2009), is when individuals, whose different-sex sexual conduct conforms to the sexual norm in one’s culture, do not have certain personal freedoms or rights with regard to their sexuality limited or forbidden by law; and, when these same individuals do not necessarily need to undergo certain forms of impression management with regard to how they identify or express their sexuality (Goldstein 2009).

With the introduction of medical sciences, as Foucault (1990 [1978]) postulates, what were once deemed “crimes against nature” and categorically labeled as sexual transgressions in U.S. law, now are “identities” and legally protected sexual acts to a certain extent (Moon 2002: 313). One could contend that the history of same-sex sexual conduct was a history of repression, but today, is an age of remorse. The results of this experiment justify to some extent why participants would express more sympathy for adulterers

whose paramour was of the same sex based on these individuals' historical experiences as deviants, who have been associated with the decay of civilization (Moon 322).

The second point that these results indicate (which coincides with the first) is the construction of identity in society and in law. Several participants in the open-ended response analysis reported a discrepancy between the adulterer's conservative identity and same-sex sexual conduct. Participants noted how hypocritical Paul and Paula were by sexually engaging with others of the same sex and by identifying as politically conservative. Foucault (1990 [1978]) contends that sexual identities emerged with the introduction of sexuality into the medical sciences (70). When the sexual act became a "personage," it was identified as part of person's identity (Foucault 1990 [1978]). In Dick's (2009) *Outrage*, and Hernandez and Wilson's (2007) research, individuals, who engage in same-sex sexual conduct, or witness their spouse engage in this conduct, often reflect on the meaning of the same-sex sexual act in relation to their politically, socially, religiously conservative identity. According to Goffman (1963), individuals who fail at the aforementioned theory of the "moral career," or who bear "bad moral records," in which their own, their spouse's, or others' actions or behaviors contradict social or cultural morality, are stigmatized with an inferior, marginalized status (137). The respondents in Hernandez and Wilson's (2007) research noted the process of reconciling their religious beliefs with their support of their husband's "bad, moral" sexuality, that, contradicted those beliefs (190). Moreover, the interviewees in *Outrage* tended to berate, and even to some extent performed "witchhunts" to seek out those politicians who engaged in same-sex sexual conduct while simultaneously petitioning against same-sex rights (Dick 2009).

According to Leslie J. Moran (2002), "Change might be advocated to recognize the legitimacy of [same-sex] sexuality and to reduce the negative effects of law that produce and perpetuate its inferior and marginal status" (300). In the context of adultery law, the specific reference or inclusion of same-sex sexual conduct (or non-coital sexual acts) would appear to further its inferior, marginalized status in society (Moran 300-2). Although, to equalize all sexual conduct, and perhaps further to equalize the sexes in U.S. law, all sexual conduct and all sexes must be included and to some extent regulated even in adultery law. The adultery law in the U.S. defines what constitutes sexual intercourse. It is the decay of civilization, not the progression, as well as an act of inequality when same-sex sexual conduct continues to be excluded from definitions of what entails sexual intercourse, even in the confines of a law that perverts adultery.

V. A. **Future Research**

Following this thesis, I would carry out further research differently with regard to certain phrasing in the vignettes and the manipulation or inclusion of certain variables. In this experiment, I primarily analyzed Question #2 because it was the most direct in terms of what it asked participants (“To what extent do you sympathize with the adulterer?”). It was straightforward in what it asks, compared with the other questions which required additional analysis on whether the participants were expressing sympathy for the adulterer or not. To measure sympathy again, I would reverse the focus on the spouse instead of the adulterer; and, I would include interviews and discussions with similar individuals who have experienced adultery firsthand (either as the adulterer or the other spouse). I would determine if participants’ were more sympathetic toward the spouse whose husband or wife committed adultery with another of the same or different sex. Although I did ask what participants believed would be the spouses’ most appropriate response to their spouse’s adultery, I believe that by making the spouse the focus of the survey, it would be a better assessment of what I intended to ask participants. Moreover, I would also manipulate other variables such as the adulterer’s political affiliation.

Although I explained why I intentionally identified the adulterer as “conservative,” I would hope to study how participants’ sympathy varied by the political affiliation (or lack thereof) (e.g., “liberal,” “libertarian,” “no affiliation”) of the adulterer, or the adulterer’s spouse. It is interesting to posit the extent to which sympathy could vary for the adulterer based on how the adulterer identifies politically, what sexual conduct the adulterer engages in, and how the participants identify politically. In addition to another political category, I would hope to include a “bisexual” category, in which the adulterer engages in sexual conduct with those of the same and different sex, and assess how political affiliation varies by sexual conduct. I believe this interaction could demonstrate some possible significance, although I would be uncertain of how participants’ sympathy would vacillate among these variables, especially “liberal” and “bisexual” vignettes in contrast with “conservative” and “same-sex/different sex paramour.”

Furthermore, I would find it rather provocative to revisit Question #3 (“To what extent did the adulterer commit adultery?”) and to manipulate the number of times the participants are told in the vignette that the adulterer had committed acts of adultery (e.g., 1-2 times, 3-4 times, 5+ times). This could illustrate the extent to which participants believe the adulterer committed adultery with regard to the amount of times

the adulterer sought sexual gratification outside the marriage. Additionally, with regard to “sexual gratification” or “sexual relationships,” I would manipulate the term I use to reference the adulterer’s extramarital affairs. Based on some of the participants’ suggestions, it would be intriguing to vary the language, from “sexual relationships” to “physical infidelity,” for example. This would be one of my main focuses in future research, given the extent that definitions and conceptions of adultery vary, and perceptions of “cheating” vary even within “open marriages”—marriages in which the spouses permit one another to seek sexual gratification from others (Oppenheimer 2011).

Additionally, if I were to include interviews and discussions with participants in future research, I would investigate each participant’s conceptions of marriage, religious affiliations, sexual identities or behaviors, and political affiliations. The general limitation of surveys is that while they provide understandings for how participants self-identify, they sometimes lack certain categories with which the participant would otherwise identify. I would hope by including this form of qualitative data I may further illustrate these results and ameliorate my understandings of participants’ identities and experiences, as well as construe how these factors impact participants’ sympathy.

I would test these alternative versions of the survey and the inclusion of interviews to assess how the manipulation of these factors affects the significance between the sex of the adulterers, the sex(es) of the paramour(s), the sex of the participants, and the values of the adulterer and the participants.

VI. APPENDIX

Vignettes **1A** and **2B**; “**Paul**”

- 1. Vignette 1A:** Paul is 34 years old and is conservative socially, religiously, and politically. Paul has been married for 10 years to his wife, Patricia. For as long as he can remember, however, Paul has experienced strong romantic attractions toward other men and has acted on these attractions by engaging in sexual relationships with other men during his marriage. While he is still attracted to his wife, Patricia, his feelings for other men persist, however.
- 2. Vignette 2B:** Paul is 34 years old and is conservative socially, religiously, and politically. Paul has been married for 10 years to his wife, Patricia. For as long as he can remember, however, Paul has experienced strong romantic attractions toward other women and has acted on these attractions by engaging in sexual relationships with other women during his marriage. While he is still attracted to his wife, Patricia, his feelings for other women persist, however.

Vignettes **3A** and **4B**; “**Paula**”

- 3. Vignette 3A.** Paula is 34 years old and is conservative socially, religiously, and politically. Paula has been married for 10 years to her husband, Peter. For as long as she can remember, however, Paula has experienced strong romantic attractions toward other women and has acted on these attractions by engaging in sexual relationships with other women during her marriage. While she is still attracted to her husband, Peter, her feelings for other women persist, however.
- 4. Vignette 4B:** Paula is 34 years old and is conservative socially, religiously, and politically. Paula has been married for 10 years to her husband, Peter. For as long as she can remember, however, Paula has experienced strong romantic attractions toward other men and has acted on these attractions by engaging in sexual relationships with other men during her marriage. While she is still attracted to her husband, Peter, her feelings for other men persist, however.

Survey

1. What emotions do you feel as you read about [Paul/a's] infidelity in the marriage?
 - [Open-ended question]
2. On a scale from 1 to 5, how much do you sympathize for [Paul/a]?
 - (0) Neutral, no position (Coded 0)
 - (1) Do not sympathize at all (Coded 1)
 - (2) Sympathize very little (Coded 2)
 - (3) Sympathize very much (Coded 3)
 - (4) Sympathize greatly (Coded 4)
3. To what extent do you consider what [Paul/a] did cheating?
 - (4) Not at all (Coded 4)
 - (3) Very little (Coded 3)
 - (2) Very much (Coded 2)
 - (1) Absolutely (Coded 1)
 - (0) Neutral, no position (Coded 0)
4. If [Paul/a] were to confront [his/her] spouse about [his/her] extramarital relationships, how do you believe the spouse should respond?
 - (0) Neutral, no position (Coded 0)
 - (1) Paul's spouse should divorce him and end all communication (Coded 1)
 - (2) Paul's spouse should divorce him (Coded 2)
 - (3) Paul's spouse should forgive him (Coded 3)
 - (4) Paul's spouse should forgive him and they should seek support together (Coded 4)
5. Have you been the spouse or partner of someone who cheated on you? Please, let me emphasize, this information is kept anonymous and will not be tied to any participant in any identifiable way.
 - Yes
 - No
 - Prefer not to respond

[If participants respond "Yes," they will be redirected to answer the following question]

- 5.1. If yes, to what extent can you relate to or empathize with [Paul/a's] spouse in this scenario?
 - (0) Neutral, no position (Coded 0)
 - (1) Not at all (Coded 1)
 - (2) Very little (Coded 2)
 - (3) Very much (Coded 3)
 - (4) Completely (Coded 4)
6. Have you ever cheated on a spouse or partner? Please, let me emphasize, this information is kept anonymous and will not be tied to any participant in any identifiable way.
 - Yes
 - No
 - Prefer not to respond

[If participants respond "Yes," they will be redirected to answer the following question]

- 6.1. If yes, to what extent can you relate to or empathize with [Paul/a] in this scenario?
 - (0) Neutral, no position (Coded 0)
 - (1) Not at all (Coded 1)
 - (2) Very little (Coded 2)
 - (3) Very much (Coded 3)
 - (4) Completely (Coded 4)

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