Introduction

- Notorious adulterers such as Franklin D. Roosevelt and John F. Kennedy had no difficulty getting away with their sexual shenanigans in a fairly straitlaced America. So how did Bill Clinton get impeached in the times of *Sex and the City*? Why is carnal wrongdoing such a common theme in contemporary public and political life even though Americans have lost much of their puritanism since the sixties and even though empirical evidence shows little difference in sexual practices and attitudes between the United States and other Western countries? What underlies the rise of sexual politics?
- Most French politicians of the twentieth century relied on illegal funds. This was no secret, but the issue was scarcely raised until the late 1980s. Then, all of a sudden, things changed; the hitherto common and tolerated finance schemes became unbearable. At least nine hundred elected officials, including fifty-three former or sitting ministers and one former prime minister, were placed under examination for corruption during the 1990s. Moreover, the formerly untouchable grandees were brought down mostly by a group of legal officials who had traditionally occupied one of the lowest rungs in the French judiciary. By the end of the decade, the French judiciary, which had long been subordinate to the other branches of government, had snatched relative independence from executive authority and enhanced its status for the first time since the Revolution. How does ordinary, largely accommodated behavior by political magnates suddenly become outrageous and subject to pursuits by nobodies?

- One can hardly think of a more perfect victim of nineteenth-century English puritanism than Oscar Wilde. The famous dramatist was tried twice and convicted in 1895 with legally inferior evidence, as a result of which he served two years in prison for consensual sexual acts. He passed away in exile, a penniless pariah. But Victorians had not always been this cruel on Wilde, whose sexual inclinations were no secret in London for a long time before his demise. In fact, although he was the subject of much badmouthing, Wilde was also the star of the literary and social scene, winning praise from all quarters. It was not just him. Homosexuality laws were rarely enforced in nineteenth-century England, and many Victorian men known to have the same predilections as Wilde not only evaded social scorn but often reached the highest positions in society. Why would Victorians be seemingly so inconsistent vis-à-vis homosexuals? What is the logic of their notorious hypocrisy?
- Disgrace has come to hover over American presidents in the recent decades. Nixon was forced to step down. Clinton was impeached. Reagan was not, but came close. Legion are cabinet members and White House staffers who have been harried by the media and the law with accusations of misbehavior. Yet isn't common wisdom on the modern presidency that it is an imperial office with ever-swelling powers and freedom from oversight? Has the imperial presidency molted into the imperiled presidency?
- Manet's *Le Déjeuner sur l'herbe* was bashed by most critics for being both ugly and immoral when it was exhibited in 1863, but the famous painting brought modernism to prominence. Why has transgression, both aesthetic and moral, been so central to the development of modern art and the self-definition of the modern artist? What is the strategic and moral logic of artistic provocation? Under which conditions is it more likely to be successful? How and why do aesthetic decisions become moral ones both for artists and their audiences? Has the transition from modernism to postmodernism changed transgression in art?

This book develops a theory of scandal to address these puzzles and problems. The cases just described might seem very different, and much ink has been spilled over them. I will show here, however, that they all have to do with transgression and public reactions to it and that thus none of them can be resolved without a proper understanding of scandal. The theory I propose will allow us to explain wide-ranging phenomena such as Victorian attitudes toward homosexuals, corruption and the fight against it in France, sexual politics in the contemporary United States, artistic modernism, and the American presidency. While doing so, I will also be able to address in a nonnormative fashion central questions regarding morality: Why do we find so much inconsistency in social and legal reactions to wrongdoing? How does publicity alter the meaning and effects of transgression and shape our response to it? How can those with low rank subject those with high status to their ethical aggression? How can transgression as well as outrage be deployed to self-aggrandize? How can morality and publicity be used as successful weapons in social, political, and artistic conflict? Why are conservative cultures often more tolerant of sexual wrongdoing? When and how do transgression and public reactions to it become transformative? This book will show that the set of behavior that we encounter in scandals of all kinds – behavior that engages in various ways with transgression – is a large yet ignored part of our moral repertoire.

In the pages that follow, I consider when wrongdoings generate scandals and when they do not. This will require us to understand scandal as lived experience – more specifically, as the disruptive publicity of transgression. The logic of this phenomenon can only be captured by analyzing when and how publicized transgressions contaminate, provoke, normalize, and tempt. But, as I will show, the cognitive and emotional experience of scandals is shaped by the structure of relationships among those who are involved in or exposed to them. My approach explains variations in the effects, frequency, elicited reactions, outcomes, and strategic uses of scandals. It also allows us to examine how scandals are dealt with and the various arrangements to prevent them from happening.

On Scandal is a study in morality. It is mostly about norm work – a set of actions that encompass committing, publicizing, sanctioning, and responding to transgression – by artists, politicians, legal officials, as well as private citizens. Such practices have a moral character not in the sense of being right according to some absolute standard but rather because they either come with or seem to require some kind of moral justification. Study of scandal reveals that norm work is profoundly shaped by the anticipated and actual effects of publicity – and not simply by the values in society. In particular, I will show how publicity accounts for the significant and otherwise inexplicable variations in legal and social reactions to wrongdoing. A good deal of hypocrisy in the world – alas obviously not all of it – will thereby be explained. Scandal derives an important part of its force from publicity, an emergent and transformative social form that radically alters the meaning and import of wrongdoing. By thinking about scandal, we will acquire insights into the nature of publicity, the role of morality in political conflict and art, the strategic use of transgression, and the conditions for successfully attacking elites.

Scandals are salient social phenomena with singular dramatic intensity. They are also ubiquitous. It is difficult to browse a newspaper, trace the history of a nation or organization, think about the development of modern art, engage in gossip among friends and relatives, or read a novel without coming across these key events. Scandals may seem ephemeral and frivolous. But they come in small and big sizes, ludic and grave modes: compare the routine reporting of the assorted inanities of Britney Spears on American television with the repercussions of the horrors of the Abu Ghraib prison in Iraq. Furthermore, what might start out as a minor incident – a third-rate burglary, as in the Watergate scandal, or the court-martial of an obscure captain of the French army, as in the Dreyfus affair – might eventually bring down a president or galvanize a nation. In effect, scandals can mobilize much emotional energy, at times with momentous consequences.

We come across scandal in all areas of life. It has come to occupy the center stage in Western democracies during the recent decades, especially by contributing to the decline in public confidence. Since

the rise of modernism, scandal is intricately linked to artistic activity; it has been in effect an engine of aesthetic dynamism. More generally, scandal plays a pivotal part in the implementation, solidification, and transformation of norms in all domains of life. And since scandal is the public event par excellence, any account of the public sphere and its contemporary transformations is sorely lacking without a grasp of its essence.

Scandal is a disruptive, profane thing. But it also opens up various opportunities for some, who may decide to participate in it. Scandal is the very stuff that much of conflict is made of in society, politics, and art. In all these sectors, consequential challenges against and among elites often take the form of scandal-generating provocations and denunciations. A good deal of moral conflict in the public sphere is actualized in scandals, even though it is mostly high-profile, heavily scripted, drawn-out, and widely reported instances that are identified as such. This book, then, does not simply consider rare events such as presidential impeachments but covers a wide and seemingly heterogeneous array of social phenomena. A protean form, scandal underlies all kinds of events and processes in public that have to do with actual, alleged, or apparent transgressions: a high-profile trial, a scene at a wedding, a political purge, a gallery opening, a cause célèbre, a catastrophe that instigates recriminations, a heretical act in the open, an organizational wrangle spun out of control, a witch hunt, an instance of civil disobedience, an anticorruption campaign, a publicity stunt, or a congressional hearing. Scandals are not only significant in terms of their actual effects. Insofar as their intended or unintended effects on third parties are anticipated, there will be individual and collective efforts to prevent or defuse them. Dealing with scandal, which may require sizeable resources, is an ongoing activity of individuals, groups, and organizations.

Scandal matters also in terms of what it reveals. As the most salient public occurrence, it throws into full relief the social dynamics of publicity. And the royal road – or, in any case, one royal road – to understanding the social organization and cultural code of a specific time and place is paved by its scandals, both actual and averted. I believe that the analyses of scandals in this book will illuminate

previously misunderstood aspects of the contexts in which they have erupted. I will attempt to rectify or improve, with the aid of my theory of scandal, our grasp of things as disparate as Victorian England, the modern American presidency, contemporary sexual politics, modern art, legalization of politics, and moral crusades.

Here is a quick overview of what is to come. In the first chapter, I propose a general account of scandal. I study the lived experience, strategic use, and interactional character of scandals, but I also underline the structural factors that underlie and affect their making. The rest of the book fleshes out the empirical implications of the model laid out in the first chapter by considering all kinds of scandals, big or small, in different social and historical contexts.

The second chapter analyzes the seemingly inconsistent Victorian attitudes toward homosexuality (one of the most scandalous sins of the period) and the unfolding of the Oscar Wilde affair. I show here how scandal reveals the dramaturgical dimension of the public sphere and the central yet often ignored effects of publicity on the legal and societal reactions to wrong doing.

The third and the fourth chapters are about the incidence and effects of political scandal in Western democracies. One overarching issue in this book is the role of scandal in elite conflict and competition. These two chapters reveal how scandal is often used strategically by political, legal, and media elites in their struggles with each other and among themselves. I focus on the American presidency in the third chapter. I investigate the structural and conjunctural factors that render a given president vulnerable or immune to moral attack, as well as those that have a bearing on the likelihood and success of scandalmongering against the White House. This also enables me to consider the contradictions of the modern presidency and the developments that have undermined presidential power since the late sixties. I examine the strategic use of political scandal and the conditions for undertaking successful ethical assaults against the high and mighty in the fourth chapter. The case is the corruption investigations in France during the 1990s and 2000s.

The fifth chapter treats the escalation of sex scandals in the United States since the seventies, which, I argue, was paradoxically made

possible only by the sexual liberalization of the sixties. Here, I explore the intimate connection between sex and scandal and explicate the rise of sexual politics in the United States since the 1970s.

The sixth chapter is on artistic transgression and the reactions it generates. I expound in this section on the strategic logic of provocation in modern and contemporary art. I also maintain that art scandals unveil the moral aspect of artistic production and reception.

The conclusion points to some of the moral ambiguities of scandal.

ONE

The Disruptive Publicity of Transgression

"SCANDAL is gossip made tedious by morality," wrote Oscar Wilde in *Lady Windermere's Fan*. The Victorian wit had a capital point. Scandals are intensely moral phenomena, and they do generate a goodly sprinkling of unoriginal, sanctimonious cant. I am not only referring to punitive narrow-mindedness about minor private sins – the kind that Wilde had in mind. It is through scandal that all inquisitional moralizers, from Maximilien de Robespierre to Joe McCarthy, make their mark in history.

Yet Wilde was decidedly understating the difference between gossip and scandal. The former is private, the latter public. However toothsome and trifling, gossip usually has a moral core, whereas scandals are hardly all dull. In fact, they can be tragic. When he was gossiped about, Wilde was the star of London. In the wake of his scandalous trials, he became a convict – and later a reviled outcast. Since scandals can at times be quite grave affairs, often having to do with the common good, they can spark serious public discourse. Two distinct yet implicit views underlie such thinking. Let us start by considering them, so that I can then propose my own approach to scandal.

The first perspective focuses on significant transgressions such as political or corporate corruption that elicit (or should elicit) reaction once publicized.[1] We can call this the objectivist view, for it is primarily concerned with real misconduct. Watergate would thus be a case study of – or would be explained by – the organizational pathologies of the Nixon White House and its imperial leanings. Similarly, the Enron affair of 2001 would be the ineluctable culmination of the irrational stock market exuberance of the 1990s or an illustration of

the unchecked corporate greed of the same decade. The objectivist approach treats scandals as the proverbial iceberg tip – as events in which the usually concealed corrupt components of social systems are revealed to the public. One is to disregard the brouhaha surrounding the exposure so that the deep structures that have enabled the deviance can be dispassionately dissected.

The other position regards scandals as socially construted phenomena and thus puts the stress on the public reactions to transgressions. Let us call this the constructivist view.[2] Scandal can take on different guises here. Watergate could be seen as a grand ritual of renewal through which Americans asserted their core values.[3] In an analogous fashion, scandals that give rise to national controversies (for example, the Lewinsky affair) could be understood as events revealing or reenacting the cultural divisions in society. Or, in more general terms, scandal can function as a social control mechanism, through which public opinion, for better or worse, reigns supreme and discourages us from acting up. Finally, for more cynical constructivists, scandal is a moral panic fashioned or exploited by elites to manipulate mass perceptions.

The two views are not simply academic or intellectual fancies. Journalists, as well as those embroiled in scandals themselves, use them, too. One is not always an objectivist or a constructivist, however. A given person will tend to go back and forth between focusing on a real transgression and on the reactions to it, depending on the specific scandal. Denouncers usually adopt an objectivist perspective. The denouncees and their advocates, on the other hand, subscribe to a moralistic version of constructivism. Hence, Republicans regarded the Lewinsky affair as the result of Bill Clinton's outrageous conduct. In contrast, for the Democrats the scandal was created out of whole cloth by the president's enemies to destroy him. Media are often grilled for superficially covering only sensational transgressions and personalizing them, instead of discussing the ostensibly much more important structural and impersonal issues that lay underneath them. This is, of course, objectivist thinking. Yet the same critics can also be, in a constructivist fashion, censorious of journalists for blowing things out of proportion, for creating "pseudo-events."[4] An extreme

example of the latter would be the celebrity scandal, a genre specializing in the trivial trespasses of famous people, suspected of being little more than publicity stunts.

Sociologists indulge in a high dose of constructivism when they label mobilization around causes such as obesity or drunk-driving as moral panics. There is often a debunking, if not a denunciatory, spirit at work here: from a constructivist perspective, scandals can be quite consequential with sundry nefarious results. They can distort reality. Substituting popular justice for legal justice, giving free rein to pent-up resentments, and creating scapegoats, they can bring about witch hunts. Or more insidiously, scandal, or the presentation of news as such, can bestow dignity to what is vacuous, shamelessly expose what should remain private, corrode privacy norms, and pollute the public sphere. A distinction is therefore frequently made between news and scandal – especially by respectable journalists. Hence, the winner of the 1896 contest organized by Adolph Ochs, the owner of the *New York Times*, for the journal masthead logo: "All the World's News, but not a School for Scandal."[5]

The objectivist and constructivist views say important things about scandal. Yet they are also marred by problems, and they miss the underlying logic of the phenomenon. Despite its valuable insights into the making of transgressive behavior, the objectivist position, ironically, often suffers from a normative streak: it reproduces the grievances of the victims or denouncers of misbehavior. Treating scandals as the epiphenomena of transgressions, it ignores that the latter need not be authenticated to occasion the former. Think of all the ramifications of the Whitewater affair of the nineties, including the impeachment of the president, which had little to do with the unproved charges of real estate fraud attributed to the Clintons. Sometimes mere allegations can elicit more reaction than uncontested revelations. And, as we will see time and again in this book, unpublicized yet well-known transgressions do not occasion scandals at all. There is no correlation, no direct relationship between rule breaking and scandal.

As for constructivism, it rightfully reminds us that reactions to transgressions cannot be derived from the transgressions themselves.