

How Do We Understand Sexual Pleasure in This Age of 'Consent'?

Societies tell us a lot about themselves by how they struggle over sex. Different places and generations have distinct sexual battlegrounds. From anti-miscegenation laws to criminal prohibitions of same-sex intimacy and sex work, these contests address with whom we can have sex, when, and under what conditions. At present, debates about the kind of sex that we should be having are focused on the issue of individual choice and sexual autonomy. We are living, it seems, in the age of consent.

The idea that consent to sexual activity should be the benchmark for deciding what constitutes legally permissible and socially desirable sex is far from obvious. This is in part because sex means very different things in different moments. Paid sex might indeed be conducive to transactional, negotiated terms in which the parties bargain and consent to specific acts for a set price. But not all sex can be – or should be – reduced to an atomistic meeting of the minds of two individuals. Sometimes what we want is not fully known to us in advance. The details of desire and satisfaction are often discovered, and produced, in the sexual moment. Rather than a question of individual will, sexual autonomy can be expressed through the interaction of two (or more) partners. Sex can be a uniquely utopian experience, in that the act of sexually relating creates novel ways of being together socially.

Women's sexual pleasure is often viewed as more complicated and less predictable than men's. Historically, this assumption has contributed to the over-regulation of female sexual and reproductive capacities. Rather than the exception, ambiguity

about exactly what is desired, and how that desire should be expressed, is the sexual norm. Women's emancipatory projects should therefore focus on ways of incorporating this fact, rather than shunning it.

The actualisation of the sexual self can happen at the same time that degrees of fear, repulsion and uncertainty – as well as excitement and intrigue – are present on both sides. In these moments, allowing ourselves to engage in intense personal vulnerability can make space for the production of liminal trust. This trust is based not on consent, but on a shared commitment to embrace the fact that sexual pleasure and danger often occupy the same space. Although sexual liminality encompasses the risk that conduct can cross over into the realm of bad sex, it can also be empowering because it acknowledges the potential for sexual encounters to change us, to recreate us, in unplanned ways.

Like informed consent to medical procedures, sexual consent is a contested legal construct that has evolved over time. It is a concept that the law uses to distinguish between criminal and non-criminal sex. But how do we determine whether consent is present or absent? Even the most affirmative consent-based sexual-assault jurisdictions, where consent is understood as the subjective product of the complainant's mind at the time of the alleged assault, rely on judicial constructs of consent. Outside emphatic 'yes' or 'no' situations, complainant testimony is combined with other kinds of evidence, including the verbal and non-verbal behaviour of both parties throughout the encounter. The judge must then decide whether, on the whole, both the claim of non-consent is believable, and whether the accused knew, or should have known, that consent was not present or had been withdrawn. From beginning to end, the law relies on different kinds of evidence and signs, direct and indirect, to build a construct of consent.

What this means is that consent is not a thing-in-itself, out

there to be found, either by a sexual partner or by a judge or jury. Consent is no more, or less, than an indicator of how a given society understands particular sexual behaviour. We declare consent to be absent at the point where we decide that sexual conduct crosses the threshold of what we consider a culturally acceptable level of coercion, compromise and risk.

Many feminists will respond that the problem is not with the nature of consent, but that the law does not go far enough. The law, in other words, should be adapted to track the cultural shifts demanded by #MeToo. Proponents of affirmative consent argue that sexual partners should actively seek clear signs of consent throughout a sexual encounter. 'Consent is sexy,' we are told. When a woman alleges an assault, we should believe her. The burden should shift to the defendant to show that he took reasonable steps in the circumstances to ascertain her consent. Changing our sexual behaviour to fit these expectations, we are told, will make for both a safer and sexier culture. What feminist in her right mind could disagree with that?


There are two major problems with this logic. First, as both conservative and 'pro-sex' feminists have long acknowledged, the binary on/off approach present in consent discourse does not reflect sexual reality in either a cultural or a legal sense. 'Consent' weaves in and out of sexual encounters in complex and unpredictable ways. The same sexual encounter, taken as a whole, can be variously humiliating yet titillating, disgusting yet intriguing, frightening and yet compelling. What is more, consensual sex is not the same thing as wanted sex; conversely, non-consensual sex is not the same as unwanted sex. Equating consent with unambiguous desire significantly alters the sort of sex that society deems permissible in troubling, namely regressive, directions.

The 'enthusiastic' consent frame advanced by other feminists, [including](#) Robin West, accounts for these difficulties by going even further. Highlighting the conditions of female oppression

under which 'normal', heterosexual relations take place, including within marriage, these feminists argue for the criminalisation of any sex – whether consensual or not – that is the product of coercion. Law, and society, should endorse only genuinely desired sex.

However, there is no reason to believe that even truly *wanted* sexual encounters correlate with good sex. Unwanted, or partially wanted, sex can still be sexy and transformative. Experimenting with pain or fear can shift previously anticipated sexual boundaries precisely because it engages vulnerable states of being. One can imagine that the appeal of choking, for example, resides at least partly in the genuineness of the fear that it provokes.

This is not to say that there are no limits in sex, but rather to propose that we devise limits that align with the erotic potential of the sexual encounter. Liminal trust is a space in which partners can explore the value of sexual experiences precisely because they directly engage the line between permissibility and impermissibility. Both affirmative and enthusiastic consent cast this kind of sexuality as deviant and criminal. That is a mistake.

#MeToo explicitly relies on patriarchy as both cultural context and target. It sees women as objects of sexualised male domination. Men, we are told, have an interest in furthering, or at least maintaining, misogynistic forms of social control over women. They are assumed to want to go 'as far' as they can before being confronted with a woman's expression of non-consent to sex. This picture provides, at best, an idiosyncratic and regressive picture of human sexuality. At worst, it encourages us to police sexuality in conservative ways. The real promise of the contemporary sex debate is that it opens up a new space in which to theorise the limits of truly adventurous and fulfilling sex. 

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