

[Type here]

How Sexbots will Trigger a Consent Revolution

By Victoria Brooks

WHY WE LIKE IT: *We've read a couple essays by this radical feminist author and in both cases she manages to raise hackles by drawing our awareness to some controversial aspect of life in 'The Matrix'. Here Brooks tackles the thorny issue of sexual consent, adroitly readdressing the problem as it exists between heterosexual men and the women they choose to sleep with—women (and by extension, sexbots) who may find themselves compromised or compelled to participate—even when they have expressed the desire not to do so. A cogent, inspired disruption of the status quo that pushes against comfort zones and challenges fundamental assumptions in the heterosexual dynamic. Brooks is an articulate, impassioned social crusader with scopes squarely set on a straight-jacketed, gender-static adversarial ethos. It's the kind of writing that changes society when enough people get behind it. Quote: 'In helping us understand the problems at the foundations of consent, sexbots have the power to bring us to re-evaluate the use of the concept entirely.' And 'Consent keeps us focused on appearances and not experiences.'*

Sexbots have begun to look a lot like us, with life-like flesh and skin, as well as real-sounding orgasms. These notionally female robots can be constructed in whatever image the customer desires, with options as to breast, nipple and lip size, vulva type, and 'manner'(one can select from a range of pornographic caricatures from domineering to intelligent and 'sluttish' to prudish). These sex robots do not look nor act like real women, but rather like a male-centered, commercially packaged fantasy. The commercial potential is undeniable, with the industry worth already in the region of £30 billion.

Despite the sex robot's augmented appearance, they are constructed clearly to appear human, and to be active, *consenting* partners in sex with human beings, mainly heterosexual men. Especially in the context of the #MeToo movement, there is increasing awareness of the problems of applying the man-made concept of consent to our robotic sexual partners. In helping us understand the problems at the foundation of consent, sexbots have the power to bring us to re-evaluate the use of the concept entirely.

First, sexbots cannot, by law, consent. Although they might be able to make the 'right noises', they cannot *legally* consent since they are not legal persons. At present, sex with a robot is always non-consensual. To prove a sexual offence there must be a lack of consent and belief that the complainant was consenting. Consent is when a

[Type here]

human being has the 'freedom and capacity' to agree to the sex as their own choice. The offence of 'rape' occurs where there is no consent, together with intentional penetration of the anus, vagina or mouth of the complainant with a penis, without reasonable belief that the complainant was consenting. The wording varies across jurisdictions, but the elements of the offence at law are largely the same. Given that a robot cannot have capacity (since they do not have human consciousness) nor can they have freedom (since they have no human agency), and given that humans know this, full sex with a robot is always, technically, rape.

Beyond this legal argument, there is an ethical argument too. Consent keeps us focused on appearances and not experiences. To consent, our partners need to have an intricate appreciation of the range of pleasure and suffering within human sexuality, knowing what they want and what they don't, and not just giving an appearance of this. Indeed this is what an ethical human desires. Take for instance, Samantha the sexbot, who was allegedly sexually 'assaulted' under human law.

Arguments against concern for any sex robot in this situation are that they cannot, in the human sense, suffer. Whilst this may be true, if our basis for deciding that something non-human is not entitled to legal protection because it does not *appear* to be suffering—not that it is *not* suffering—then we find evidence for Slavoj Žižek's assertion that human legal and ethical regimes are not worth saving. What is worse, is that given the industry is booming, it seems that the male consumers of sex-robots prefer it this way.

Consent currently endorses this view and is retained as the 'gold standard' of ethical sex. With #MeToo and decades of feminism, humans are yet to achieve an understanding of how women communicate suffering and desire in sex. I argue that the reason for this is that consent itself is rooted in male heterosexuality (both gaze and desire). This manifests in both the *mens rea* or 'criminal intent' required for an offence of rape, and the construction of the crucial term 'freedom' that is intrinsic to consent. The priority of the male gaze is confirmed by placing emphasis on the offender's perception of whether the victim is consenting, by holding that 'lack' of belief in consent satisfies criminal intent for sexual offences. The law is explicitly saying that part of the evaluation of consent is the offender's perception, and that 'appearances' are prioritized over the complainant's reality of the sexual encounter. The ways in which the law accepts women's freedom can be curtailed (and therefore that she is not consenting) shows that it knows nothing of women's sexual experiences.

The limits to freedom the law explicitly accepts are the threat of violence (to self or others), involuntary intoxication (drugging), being unconscious at the time, deception or impersonation. Yet contemporary feminism has accepted especially in light of #MeToo, that these are not the only, nor are they the most likely restrictions of women's freedoms. An example of this is emotionally and psychologically abusive relationships. This point is forcefully made by the controversial (and contested in the field) second-wave feminist Germaine Greer, who tells us that instances of such non-consensual sex and long-term suffering are incalculable. While this may not be rape at knife-point, this is still violent and traumatic rape over many years, yet implicitly sanctioned by law. The present conception of consent would mean a woman in this situation would have difficulty providing evidence that she was not 'free'. Traditional

[Type here]

victim-blaming arguments and domestic violence myths arise here in asking 'why didn't she leave', further attesting to the limited construction of freedom.

Whether focus remains on the victim's state of drunkenness, her clothing or demeanour (was she flirting? Did she kiss him?) the court prioritizes how the woman appeared, and whether the offender was therefore justified in his actions. Feminist Andrea Dworkin said that 'getting fucked and being owned are inseparably the same...they are sex for women under male dominance as a social system'. In valuing the offender's perception, affirming his actions and sexuality, law uses consent to retain male entitlement at the centre of sexuality.

This is further entrenched through the court process. Feminist legal thinker Catherine MacKinnon, argued the law is deaf to the suffering (and desires) of women's bodies, in not giving them the space nor the language to express their traumas and desires. This shows when the trauma of the offence, and in cases of domestic violence, the abuse, continues by extension into a hostile court process. The process can be horrific for victims, with low conviction rates once a case comes to trial (often many months after the crime). A rigorously cross-examined victim must explain to prejudiced judges and juries—in a courtroom not built for them, nor for the discussion of sex—why they were not free, and why the offender should not have assumed consent.

The consent-crisis brought about by our robot partners is demanding that we must de-centre consent, to imagine an ethical sexual future. This will involve seeking the meaning of sexual freedom, without male pleasure at its centre. It is then necessary to consider how humans with our perceptual limitations can begin reconfiguring (or abandoning altogether) the concept of consent as a foundation to our sexual ethics. Consent is harmful for women, that is more than half of the world. Our current system of consent is an echo of a patriarchal legal system that has oppressed women and is founded in white supremacy to oppress women of colour.

AUTHOR'S NOTE: *Post #MeToo, it is essential that we revisit ethical and legal frameworks that set the standard for sexual relationships. I was inspired to write this piece since the case of Samantha the Sexbot which caused me to feel discomfort at the way humans will treat something that does not have the appearance of human consciousness. It seems that consciousness is a big problem for humans, causing us to have an arrogance which blocks us from connecting with all kinds of suffering. I thought this essay was important to write since it reminds us that our laws reinforce this arrogance and that #MeToo, and now the rise of sexbots, calls us to rethink the law, even the very concept of consent.*

BIO: Victoria Brooks is a writer and researcher on sexual ethics. She has published academic, media and fictional pieces on the connection between philosophy and sex. She uses her queer desire to create new worlds and to challenge ethical frameworks that do not fit women's sexualities. Her book *Fucking Law: the Search for Sexual Ethics* will be published in June 2019 by Zero Books. She is currently working on an academic project on consent and queer sex clubs, while also writing an anthology of erotic fiction and philosophy. She lives in London, UK.

[Type here]