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Sexual Consent as Transcendence: A Phenomenological Understanding

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Consent to sex is a topic of much research, particularly with the goal of optimizing sex education for youth, college students, and military service personnel. Sex educators have tended to err on the side of clear and concise definitions of consent for ease of instruction. However, the sexual science literature has steadily shown that the navigation of consent to sexuality activity is much more nuanced, situated and contextual. When consent is conceptualized as a yes or no answer to particular sexual acts or sexual activity altogether, it overlooks the dynamic nature of how people experience consenting. This article examines consent in the sexual science research literature and then considers these findings through the lens of some of the contributions of phenomenological philosophy. We then discuss the experience of consent as a dialogic process that can lead to moments of transcendence of the self and deep reverence for the other, despite some moments of lack of clarity or ambiguity within the same sexual act.

Keywords: *sexuality, consent, sexual consent, relationality, embodiment, transcendence, temporality, Merleau-Ponty, Martin Buber, I-Thou*

Consent is an important construct in the sexual science discourse. It is one of the defining characteristics of healthy and legal sexual activity, as distinct from the various categories of pathological, criminal, and socially or relationally problematic sexual behavior (APA, 2013; Department of Justice, 2017). Concretely defining consent in the context of sexuality in practice, however, has been, and continues to be, challenging and elusive. Current legal definitions are dependent on several other terms, not all of which have meanings that are universally understood. Definitions of consent use words that can have subjective meanings such as: *Capacity to consent*; *freedom from coercion*; and, *mutually understood agreement to engage in a sexual act* (Department of Justice, 2017; Rape Abuse and Incest National Network, 2018). When consent is applied and interpreted in legal discourse, it is often not without problems, lack of clarity, and significant consequence (Busch & MacGregor, 2009; Weiss, 2010; West, 1996).

Sex educators have strived to clarify, articulate and teach youth, college students, military personnel, and others, ways to assure that there is consent to sex prior to engaging in sexual activities (deFur, 2016a). These same educators acknowledge that what they teach is necessarily simplified in order to help others gather a yes or no response to an entire sexual act, and is largely aligned with the need to prevent legal recourse (deFur, 2016b; A look at teaching sexual consent, 2016).

The *Diagnostic and Statistical Manual of Mental Disorders – 5* (APA, 2013) also puts forth a definition of paraphilic disorders, which are relevant for this discussion, as some of the paraphilias include desires for those who are unwilling or unable to give legal consent. Discernment as to the meaning of terms within the definition of *legal consent* is also not always concretely clear for clinicians and is left to interpretation and assessment in cases of forensic and clinical practice (APA, 2013). Sexual consent in practice between people outside of the legal and clinical realms, however, is also subject to various

issues such as achieving intersubjective agreement through interpretation of meanings in the moment and without an outside other as arbiter. It is this process of interpersonal consent navigation that will be the focus of this article.

What follows includes a review of the sexual science literature on consent. This review situates the concept of consent within the current discourse of sexuality, behavior, and research. In order to consider the experience of sexual consent through phenomenological understandings, it is helpful to first identify how social scientists conceptualize consent. We then discuss sexual consent from the philosophical perspectives of phenomenology, leveraging Husserl's ideas of intentionality and Merleau-Ponty's subsequent work on embodied intentionality. We then offer a consideration of the I-Thou framework of transpersonal transcendence (Buber, 1932/1990) as potentially illuminating the experience of sexual consent as a dialogic process. We argue that sexual consent is a process that is lived through time as a series of moments, and not a static response given at a particular moment in time. The way that consent is navigated as a lived experience through time, however, is inherently related to the structure of consciousness—as an embodied, relational, and temporal, activity, in a context or environment. Because a person's lived experience and their experience of the other and the environment is constantly changing with each passing moment, consent is a renewable act in each moment—an opportunity to engage consciousness in dialogue with the other at each moment and an opportunity to transcend the self through consensual sexual experiences.

Before beginning, however, it is important to make the intentions and limitations of this discussion clear. What follows deconstructs the meaning and process of sexual consent and will leave areas of ambiguity. This should not be taken to imply support of non-consensual sexual activities, unwanted sexual activities, rape, sexual assault, sexual abuse, or rape culture. This particular paper is an attempt at further understanding how consent occurs as a lived experience. This discussion is distinct from the need to educate others or address the legal dimension of consent in a mechanical or applied fashion and as such

is to be applied only to the self in a reflective manner by way of describing the lived experience of consent from a philosophical perspective.

Any theorizing about sexual consent should be considered with the utmost concern for the implications of those who may have diminished capacity, agency, or power in any given relational or structural dynamic—regardless of how challenging defining these groups or experiences may be. In addition, sexuality itself, according to Dillon (1992), a phenomenologist who has written extensively on the subject, is described as “resid[ing] within a matrix of value-laden historically-situated ideas and emotions”—all of which imbue sexuality with meaning that is not necessarily inherent or universal, and therefore can be thematized and questioned (Dillon, 1992, p. 182). Given its complexity and importance within relationships and the larger social and structural contexts in which it resides, it is with great reverence and humility that we approach the topic of sexual consent.

Sexual Consent in Sexual Science Research

Sexual consent is an important part of healthy sexual relationships that is gaining much attention in public discourse—especially in the college and university setting (Beres & MacDonald, 2015). Sexual consent in sexual science research has been discussed as taking many forms: an explicit agreement, a behavior indicative of willingness, a feeling or decision, a discrete event or as an ongoing/continuous process, something that must be given explicitly, or even something that can be assumed based on past behavior or relationship structure (Muehlenhard, Humphreys, Jozkowski, & Peterson, 2016), each with potential problems in lack of clarity. Researchers of sexual consent have measured consent in a number of ways (Beres, 2007; Humphreys & Brousseau, 2010; Jozkowski, Peterson, Sanders, Dennis, & Reece, 2014; O'Sullivan & Byers, 1996; Peterson & Muehlenhard, 2007). Throughout this discourse, there have been a number of proposed paradigms that frame the discussion about consent as a decision-making process.

In a report commissioned by the Sexuality Information and Education Council of the United

States (SIECUS), Muehlenhard (1995/1996) examined the complexities of consent and conceptualized it in two ways: A mental act and a verbal act. The mental act is described as an internal decision about the willingness to engage or desire to engage sexually. The verbal act is the external concrete expression verbally to engage. Muehlenhard (1995/1996) ultimately recognized both mental and verbal acts as problematic, as consent in practice is often obtained nonverbally (Beres, Herold, & Maitland, 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2013; Jozkowski & Wiersma, 2015; Muehlenhard, Powch, Phelps, & Giusti, 1992). These two ideas are later identified by researchers as two separate concepts and are decoupled from the verbal requirement. Jozkowski (2011) and Jozkowski and Weirisma (2015) discussed the ideas of internal and external consent, which allows for the process of non-verbal communication (Hickman & Muehlenhard, 1999) externally in addition to verbal communication. In this model, consent is seen as an internal process of *deciding* whether or not to engage in a sexual activity as well as an external process of *making that decision known* to others in both verbal and non-verbal ways. Muehlenhard et al. (2016) mentioned that people who are ambivalent about sex may be reluctant to discuss sex or avoid thinking about engaging in an activity, thus making both the internal and external processes more challenging. This experience of ambivalence, self-judgment or self-censure are crucial possibilities to consider when examining consent to sexual behavior (Beres, Senn, & McCaw, 2014).

Another model of sexual consent proposed by Petersen and Muehlenhard (2007) considered that the internal decision to engage in sex is perhaps more complicated. They offer the idea that sexual wantedness and sexual willingness are two different issues. In their conceptualization, wantedness is a desire for a sexual activity while willingness indicates an agreement to engage in a specific act. This particular model allows for the decision-making of the subject to include many more options that are known to occur. For example in this paradigm, a sexual encounter can include four general internal dispositions: 1. consensual and wanted sex, 2. consensual and unwanted sex, 3. non-consensual

and wanted sex and 4. non-consensual and unwanted sex. Jozkowski (2011) sees all of these as internalized processes—consent being an internal decision involving both desire and willingness (or not) that is then made external or transparent to the partner or not.

Consenting to unwanted sex is a rather common experience. In one study, 50% of women and 26% of men in committed relationships were found to have consented to unwanted sex (O'Sullivan & Allgeier, 1998). Consenting to unwanted sex occurs for a number of reasons: The desire to satisfy a partner's needs which conflict with one's own; promoting intimacy; avoiding relationship tension; avoiding hurt feelings; feeling obligated; and, enhancing the sexual relationship (Reneau & Muehlenhard, 2005). The phenomenon is so common that new terminology has been coined to define aspects of this experience. For example, compliant sex was coined by Walker (1997) or when experienced as a way of maintaining a relationship, maintenance sex (Cossman, 2007; Plaxton, 2015; Poehler, 2014).

In viewing sexual consent as having a number of components such as desire and willingness to engage in the behavior, Williams et al. (2014) considered yet another component: value or expected outcome. This is particularly salient because one often consents to activities not having had the benefit of hindsight to know how they will turn out. This is easily understood by considering the example of BDSM/Kink. Williams et al. (2014) considered consent in this context on three levels: Surface consent (i.e., the verbal yes or no to engage in activity), scene consent (consenting to and negotiating the mechanics of in-scene communication), and deep consent. For Williams et al., deep consent encompasses an awareness of the deeper, unknown psychological aspects of an activity—that will only be available to analyze and discuss in hindsight, after the scene is complete. It is in this retrospective analysis that the interpretation of an activity can influence a person's view of their own consent, which is related to hindsight bias, widely studied in decision-making literature on risk and uncertainty (Fischhoff, 1975; Fischhoff & Beyth, 1975).

Humphreys and Brousseau (2010) conceptualized consent on two continua: verbal to nonverbal and direct to indirect. They noted the varied ways that consent has been found to be communicated, including: A verbal question and answer; smiling, pulling toward; touching; or, other nonverbal cues that communicate willingness to engage in sexual activity. Consent is then also assessed by directness (referencing the explicit activity; e.g., “Do you want to have sex with me?”) or indirectness (more nuanced hints at an activity; e.g., “Would you like to go upstairs?”). The more subtle, nuanced acceptance or rejection of sexual invitations in conjunction with perceived sexual scripts or gender roles have more potential to cause confusion or be misinterpreted (Jozkowski et al., 2014). In a study of college students and sexual consent by Hickman and Muehlenhard (1999), responses were classified as: 1. Direct verbal communication; 2. Direct nonverbal communication; 3. Indirect verbal communication; 4. Indirect nonverbal communication; 5. Intoxication; and 6. No response signals. Some researchers argue that unless a refusal of sexual willingness is communicated directly and verbally, it may be miscommunicated (Burkett & Hamilton, 2012; O’Byrne, Hansen, & Rapley, 2008; O’Byrne, Rapley, & Hansen, 2006; Starfelt, Young, Palk, & White, 2015). Cultural and individual meanings of both words and gestures can further complicate understanding and clarity of subtle communications hence the goal of educators to urge people to use direct verbal means.

Some researchers have identified consent as an ongoing, continuous process (Beres, 2014; Humphreys, 2004). Consent is something given or obtained and can be renewed as sexual behavior continues. Signs given for a partner to continue—termed “active participation” by Beres (2010, p. 8)—communicate to a partner that one is engaged in and consenting as the sexual activity progresses. People check for this ongoing consent in social cues that indicate enjoyment and comfort, rather than discomfort (Beres, 2010). This process of being open and aware to the communications of desires in an ongoing manner is what Pineau (1989) called “communicative sexuality” (p. 235).

Consent communication has even deeper components that are understudied. Researchers have raised many philosophical issues: What of consenting to the act one imagines will be enjoyable and then the act is not in actuality anything like how one imagines but is technically the act to which one consented? Does this constitute lack of consent? Does one consent to an act? Or does one consent to attempting to approximate the fantasy of what that act may be? What occurs when one is ambivalent? For some, ambivalent desire can change (in both directions) with ongoing activity. Even when one communicates directly (which is subjectively understood), what does “have sex” mean? Does it have a contextual definition or does it require more discussion each time? These questions and more remain.

The communication of consent, regardless, is a complex process. Beres (2007) pointed to the ambiguity with which researchers discuss sexual consent. Calling the phenomenon “spontaneous consent,” she noted that many researchers simply assume that there is a common understanding of consent in the field. While the explicit definition remains simultaneously multitudinous and elusive, the reliance on an assumed understanding, suggests an ontological reality of the phenomenon.

The above discussion of consent as an ongoing, continuous process of communicating one’s desire and willingness to engage in sexual activity is the clearest manifestation of the phenomenology of consent as it is lived in the sexual science literature. Beres and Farvid (2010) analyzed young heterosexual women’s engagement in casual sex in the context of Foucault’s *rapport à soi*—or the relationship one has with oneself. In their study, they found women exhibited “care for the self” when they exhibited a unity of desire and action—engaging in sexuality when they desired it, and refusing or setting limits when they did not want to engage in sexual activity. Consistent with Foucault’s sexual ethics, Beres and Farvid (2010) contextualized these women’s experiences as acting in accordance with their beliefs. This process of knowing and acting in accordance with one’s internal desires in connection with another willing and engaged other through time,

is not often discussed or contextualized in the embodied relationship that one has with the self and others. What follows is a discussion of some of the philosophical ideas from the phenomenological and transpersonal traditions that might be used to consider these notions of consent more deeply.

Sexual Consent and Phenomenology

Sexual consent can be considered through the phenomenological philosophical idea of intentionality, or an instance of consciousness of something. For Husserl, intentionality is the process through which consciousness directs itself toward an object (in this case, another person who may or not be consenting to sex) in the outside world, and makes meaning (Zahavi, 2003). What is critically important here is the idea that for Husserl, “intentionality is not merely a feature of one’s consciousness of actually existing objects, but also something that characterizes fantasies, predictions, recollections and so forth and that Husserl also argued that the intended object is not itself a part of or contained in consciousness” (Zahavi, 2003, p. 19). This implies that the object in question may or may not exist in actuality and this is a critical issue when it comes to consent. For example, if consciousness directs itself toward an object understood as sexual consent, this can be a fantasy insofar as in actuality consent is not at all how the other person is living the experience. Husserl discussed these issues by suggesting that “all consciousness is consciousness of something as something. In this way the matter specifies the object as this object in a certain way. It delivers the ‘interpretive sense’ of the object” (Gallagher, 2012, p. 67).

Husserl also discussed active and passive forms of intentionality. Intentionality in an active sense, directs itself toward the outside object—grasps objects given to consciousness—and names them for consciousness through the interpretive sense discussed above. However, intentionality in the passive sense is pre-theoretical, is always intending, is constituting and constituted by the object it intends. Husserl described the relationship between active and passive synthesis in a great deal of detail but to summarize for this discussion, he noted, “what was ‘pre-theoretically’ conscious

and objective comes ‘properly’ to consciousness in its own objectivity in the subsequent ‘unveiling’ reflective theoretical grasp” (1912/1989, p. 13). This is important relative to sexual consent in that it allows for the idea not only that one can misinterpret consent but also that one can potentially experience either desire or willingness but these experiences—desire or willingness—may not even be named for oneself in the moment and as such will not be available for articulation to a partner if they are passively intended.

Building on Husserl’s ideas, Merleau-Ponty (1945/2012) in his discussion of the passive intentionality of sexuality in particular, in *Phenomenology of Perception*, suggested first that all subjects of intentionality are body-subjects, making the point that consciousness is fundamentally embodied. He then posited that all sexuality is the “body-subject’s concrete, spatial and pre-reflective directedness towards the lived world” (Merleau-Ponty, as cited by Reuter, 1999, p. 71). What is most interesting for the current discussion of sexual consent is the *pre-reflective* and *embodied* quality of consciousness Merleau-Ponty described. He continued,

Insofar as I have hands, feet, a body, I sustain around me intentions which are not dependent on my decisions and which affect my surroundings in a way that I do not choose. This isn’t accomplished through will or intellectualization but through conversations or gesture (Merleau-Ponty, 1945/2012, p. 440).

Many theorists in the sexual science literature on consent, noted above, also discuss the embodied quality of sexual consent that is sometimes communicated through conversation or through gesture (Humphreys & Brusseau, 2010; Muehlenhard, 1995/1996; Muehlenhard, Humphreys, Jozkowski, & Peterson, 2016). Merleau-Ponty (1945/2012) pointed out, specifically, that sexual intentionality is not a *decision* that is considered in a reflective (or actively intended) manner *per se*, nor is the intention necessarily going to impact the surroundings (in this case, another body-subject) in the desired manner. Instead it is passively intended and existing in an embodied and lived manner in relationship to

another subject who also has intentionality directed toward the lived world in both passive and active forms. For Merleau-Ponty (1945/2012), “[t]here is an erotic ‘comprehension’ that is not of the order of the understanding, given that the understanding comprehends by seeing an experience under an idea whereas desire comprehends blindly by linking one body to another” (Merleau-Ponty, 1945/2012, p. 159). The embodied experience of eroticism as passively intended is thus implicated in Merleau-Ponty’s description as separate and distinct from the processes of deciding, reflecting upon, or understanding in the cognitive sense.

Returning to the issue of consent in the sexual science literature, as discussed above, the multitude of definitions of consent as a process of deciding and articulating to the other this decision in a concrete manner at a moment in time are largely inconsistent with the thinking of Merleau-Ponty (1945/2012) and with phenomenological understandings of the issue. The idea of consent as a verbal or gesture of acceptance, desire, or willingness to engage that is lived in an embodied sense at a particular moment in time is consistent with his thinking and with phenomenological understandings of lived experience. Dillon (1987) discussed this issue and argued that erotic temporality, in particular, includes a reciprocal synchronous opening of one to another in an embodied manner in the moment. He noted that once the reciprocity or synchronous quality ends, eroticism takes a turn for at least one of the participants if not both to another meaning (e.g., unwanted touching, lack of desire; Dillon, 1987). For Husserl (1920/2001), “streaming consciousness [through time] constantly projects a protentional horizon ahead of itself, ... expectations can really only be fulfilled through perceptions. Thus, they are also essentially susceptible to disappointment” (p. 263) ... and surprise. For this reason, consent to an act (which will be ongoing as a series of moments in time) is not possible because consciousness is always lived through time both projecting forward in the form of fantasies and desires but also living in the moment in the form of experience and embodiment.

To illustrate this point more clearly, consent to the entirety of an act includes anticipation of how the act will proceed from the moment of consent

into the future as noted above. Anticipation is a different quality of consciousness than the pre-reflective quality of passive synthesis described above. It is precisely this quality of anticipation that constitutes the experience as a protentional horizon ahead of itself as distinct from the state of embodied eroticism that occurs in the moment linking two bodies together as Merleau-Ponty describes. As the moments pass in real-time from the beginning of a sexual act, there may be a set of different embodied passively experienced intentions, which are sometimes actively synthesized, in each moment.

Perception brings something new Potentially, the motivation can be evident to me and it can be of a force that outweighs all counter forces; it may even happen that no counter forces are at work, and further, that none of them can be exhibited in the past. But it is certainly clear that it is a perception that first decides, and that something new can be a slap in the face to all expectation (Husserl, 1920/2001, p. 263).

He continued, “The ego living toward the future also naturally experiences what arrives right at the moment when it has become present and when the ego actually perceives it” (1920/2001, p. 264). Some of these moments may include in the case of a sexual act, a dissipation of eroticism, or distractions, other shifts in intentionality (e.g., anxiety occurs, pain or discomfort occurs, one becomes aware of the dog barking incessantly and this occupies consciousness momentarily, one partner realizes they are too intoxicated to enjoy the sex they have just consented to, or an erection or lubrication are not sufficient) which may be experienced as something more like “the sex act to which I consented to in the past and anticipated I would desire in the future is now no longer the sex act I wish to consent to part-way through the act in the moment.” It can also be the opposite experience whereby one or both participants anticipate specifically not wanting to engage in sex at all but instead embrace or caress one another and this is not experienced as erotic or sexual. Perhaps then later they come to experience a shift in passive intentionality as described above. Through gesture (in this case an embrace), the initial consent is to touch one another in what is actively

intended as a non-sexual manner, and only later becomes “consent to have sex” as the perceptions of the moments that pass into the future animate the embodied passive intentions, somewhere afterward. Consent to an entire act, which in itself is comprised of a multitude of many moments each of which can include changes in feelings, desires, or dynamic responses from the partner or the environment, therefore in practice is only really consent to *begin* the act. This consent is potentially available to be renewed or changed each moment. Consent could thus be redefined as the willingness or openness to engage in a sexual dialogue through words or gesture and could be renewed each moment throughout the temporal arc of the real-time embodied experience. This is most in alignment with the process-oriented understanding of consent suggested by Muehlenhard et al. (2016).

Buber and the Dialogic Aspects of Consent

Sexual consent—while being renewable in each moment—also requires that the pre-reflective embodied intentionality is *accurately conveyed and read by the other(s) as consent moment to moment* to participate in the *same act*, all the while that intentions might be pre-reflectively occurring for each of the participants. Here, Martin Buber’s (1932/2004) ideas of the I-Thou relationship are useful as illuminating dialogic engagement with the other as a full and complete subjectivity (which includes as Husserl would have it, a stream of intentionality occurring in each moment). For Buber, there are two types of relationships: the I-It, which understands the world as comprised of objects in space and time, and the I-Thou, which are two-way dialogic relationships, characterized by mutuality, transcendence and presence. Buber describes the present, “like the eternal now of the mystic, it is the present of intensity and wholeness and exists insofar as meeting and relation exist” (Friedman, 1960, p. 58). The Thou therefore, cannot be understood in terms of its location in a reductive temporal and causal framework. I-Thou relationships are constituted in such relational encounters and named for Buber *the between*. The between is difficult to describe because it, like with pre-reflective embodied passive synthesis, exists separately from reflection which

makes the between the object of reflection, and is inconsistent with the notion itself. According to Buber (1958),

[Thou] ... is not a thing among things and does not consist of things. Thus human being is not He or She, bounded from every other He or She, a specific point in space and time within the net of the world...But with no neighbor, and whole in himself, he is Thou and fills the heavens. This does not mean that nothing exists except himself. But all else lives in his light” (p. 8).

This account of the I-Thou is a transcendent experience beyond the self and other and outside of time and space and as a function of deep presence.

For Buber, however, temporality and reflection inherently come to bear on the I-Thou experience, which is similar to how Husserl described the synthesis of consciousness as inherently toggling back and forth between active and passive synthesis. Buber noted that while I-Thou relationships are transcendent and expansive, the I-It experiences make possible the more mundane projects of living. “It is not possible to live in the bare present. Life would be quite consumed if precautions were not taken to subdue the present” (Buber, 1958, p. 34). Buber also noted that while not every other is experienced for each I as a Thou, every I-Thou relationship must become an I-It relationship at some point, only to be available to return to an I-Thou at another point in time (Buber, 1958, pp. 16-17). For Buber the *willingness* to be open to the possibility of an I-Thou relationship on the part of both parties is what makes it possible. The specific quality of openness and willingness to enter into a dialogue of mutuality of two subjects is key to understanding the issue of sexual consent as a process of attending to the consciousness of the self and other in the moment as the moments pass. Entering into the between, transcending the self to embrace a dialogic mutual space that is timeless and borne of presence, is required so that one can attend to the moment to moment passing stream of consciousness of the Thou as consenting.

It may be helpful to offer an example. If one notices one’s partner from across the table and notes that he or she is attractive, feels desire and imagines

or anticipates a series of acts that may follow, this is consistent with the I-It mode of relating. In this moment while there is interest in the other, the focus is on the subjective experience of one's own desires and not necessarily have the desires of the other as his or her own subjectivity been engaged. One might be conscious of the need at that same moment to suspend this fantasy and put the children to bed or tend to guests or some other mundane task and again the I-It mode of relating makes it possible to attend to the responsibilities of social life and home life, for example. It is only later, with willingness that one comes to open to the possibility of the other and his or her subjectivity, allowing for the possibility for an I-Thou relationship through presence that a transformation can occur. It is this willingness, and welcoming of the full subjectivity of the other with his or her intentionality, that defines the I-Thou position. And this position allows for a moment-to-moment dialogic engagement with the subjectivity and its intentionality. It is Buber's framework of I-Thou that we offer here to deepen the discussion on sexual consent from a mere process of embodied intentionality to a willingness to be in dialogic presence to the other as the basis for transcendent sexual consent.

Discussion

Phenomenological understandings of intentionality, embodied intentionality and active and passive synthesis when applied to the issue of sexual consent reveal the process by which as embodied pre-reflective conscious subjects we give consent as distinct from decision-making processes that can be articulated clearly and verbally. This explains the gray areas that occur with respect to consent. The issues of anticipation, temporality, and changes in consciousness, between active (reflective) consciousness and passive synthesis that is always present, represents the potentiality for moment to moment changes in desire, willingness to engage and therefore, consent. Sexual consent, therefore, can be phenomenologically understood as a process that is lived as each moment passes and cannot be conceived of as consent to an entire act through time for any particular subject.

The complex issue of synchronous bi-directional consent in the moment between two

subjects (who are also objects of consciousness of the other), all the while that consciousness is engaging both actively and passively, requires, if we apply Buber's ideas, a degree of willingness and openness in a reciprocal manner, to engage the other as a subject, at a particular moment in time, in his/her/their own right. A stance that transcends the self in this manner, as in Buber's I-Thou framework, is helpful for engaging the relational dialogical space that Buber called *the between* even if it is ephemeral. One is able to access the between through willingness and openness to the other in dialogue in the moment, as the moments pass in pre-reflective embodied engagement, if the other is also similarly willing to engage. While likely peppered with moments of I-It relationality and distraction from the present moment within the totality of the entire experience of the sexual act, one is always able to renew the willingness and openness to the I-Thou and to consent anew through choice.

While it might be preferable to have a notion of consent that is dependent on capacity to decide, freedom from coercion, based on decision-making and clear verbal agreements for the entirety of the sexual act so as to avoid ambiguity and problems, from a phenomenological perspective, consciousness does not synthesize embodied pre-reflective sexual intentions in a manner conducive to these ideas. The phenomenological perspective coupled with Buber's ideas of the between, helps to explain why studies show that most sexual consent is navigated nonverbally (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2013; Jozkowski & Wiersma, 2015; Muehlenhard et al., 1992). While consent as a decision to engage fully in an act throughout the entire act is not possible, the transpersonal reverence and presence to the moment and the Thou, discussed by Buber is what provides the transcendence of the self through the I-Thou relationship into the between. From within this stance mutual dialogic engagement in each moment allows for ongoing renewed consent.

In some respects, research has identified this concept of consent as ongoing (Beres, 2010; Beres, 2014; Humphreys, 2004) and that some educators and scholars have identified important

skills needed to assess for consent in an ongoing-manner (Jozkowski, 2015; Pineau, 1989). Some educators are also designing (Carmody, 2015) and assessing (Carmody, 2015) programs that begin to address these complexities, supplying skills for seeking and giving clarity in sexual encounters in an ongoing way. With this deconstruction of consent, then, perhaps a greater number of educators might more uniformly aim to focus on developing skills and ethical perspectives that are aligned with helping people to become willing to engage in ongoing presence and dialogue with the other(s) with whom we engage sexually rather than on garnering a simple yes or no at a specific point in time. With this phenomenological understanding of consent, a more nuanced discussion of sexual ethics providing deeper understandings of the responsibilities faced for engaging with others is warranted.

Conclusion

Through broadening the understanding of consent to sexual activity from a binary yes or no decision to engage in an entire sexual act, to an understanding of consent as an ongoing, continuous process of consciousness and dialogic engagement with another subject, we aim to describe how consent may be lived. We also offer a direction for theorizing ethical engagement with another throughout this continuous lived process—expanding the discussion from “when a person gave some idealized version of pure consent” to “how consent was experienced throughout the arc of the temporal engagement with the other.” If Husserl and Merleau-Ponty are correct in their analysis of consciousness and intentionality and Buber is correct in identifying a transcendent I-Thou relationship, then the focus for consent theory may well shift to willingness to engage the other in the I-Thou relationship rather than willingness to engage in a sexual act.

The consequences of consent defined in this manner—a willingness to engage the other in an I-Thou relationship sexually—leaves room for many more possibilities than any of the options offered by the current sexual science literature and more accurately describes lived experiences of sexual engagement than is currently discussed in sexual science discourse. The experience of

desire, willingness, and communication of consent in whatever manner it occurs is sometimes experienced pre-consciously or ambiguously and may change over time within the entire sexual act. For example, consent may also change as one comes to experience real-time what one just consented to based on how one imagined it would be in the future but now that the moment is occurring it is actually different than expected (either for better or worse). Perhaps many acts that are called consensual have moments of consent (desire and wantedness is present and it matches what one agentically made known to a partner in some fashion) and moments when one uses their agency to adjust from disappointing or uncomfortable sensations that were not anticipated, toward more clearly desired, and therefore consensual, experiences. With an increased understanding of the phenomenology of consent, its temporal dimensions and the need for ongoing dialogic engagement with the other as a sexual subject, it becomes possible to better articulate and support experiences of ethical sexual engagement that deepen connections to oneself and others, and to allow for sexual transcendence to Buber’s between for moments at a time. While we have only alluded to the willingness required to begin to enter the I-Thou, this suggests that a more thorough set of skills and activities to engage is perhaps warranted in teaching ethical sexual practices. While this level of specificity is outside the scope of this paper and would require attention to the educational, psychological, and ethical aspects that are also present in sexual encounters, we believe that such a direction is worth pursuing and developing in future discussions.

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