

When Your Spouse Falls in Love With AI

Artificial Intimacy and the Future of Fidelity in Family Law

Not long ago, an American woman described in a newspaper interview how her husband had begun spending long hours each evening speaking with an artificial-intelligence chatbot. At first she treated it as a harmless technological curiosity. But over time the conversations became increasingly intimate. The system remembered personal details about his life, asked about his emotions, and sometimes engaged in exchanges that resembled romantic dialogue.

When she asked him to stop, he refused. To him, the relationship did not feel like a technological game but like a genuine emotional connection.

When the story circulated online, reactions were divided. Some people dismissed it as a strange but harmless feature of the digital age. Others saw something far more troubling: infidelity.

Yet the situation raises a deeper problem. The relationship did not occur with another person.

It occurred with an algorithm.

And this is precisely where the legal difficulty begins.

For centuries, the legal concept of adultery rested on a simple assumption: marital betrayal occurs when a third person enters the relationship. Artificial intimacy challenges that assumption. It introduces a new possibility—betrayal without another human being.

The age of artificial intelligence may therefore confront family law with a new form of disloyalty: **infidelity without a third party**.

The question now facing the law is not merely technological. It concerns the future of one of the most fundamental ideas in private law: **marital fidelity**.

When the Law Protected Marriage

For much of modern legal history, adultery was not only a moral issue but also a legal one.

In the English and American common-law traditions, several civil causes of action developed during the eighteenth and nineteenth centuries in order to protect the institution of marriage. These actions were commonly known as “**heart-balm torts**.”

The most prominent of them was **alienation of affection**, a claim allowing a spouse to sue a third party who had interfered with the marital relationship and contributed to its breakdown.

Courts articulated the elements of the tort with relative clarity: the existence of a valid marriage, a relationship of affection between the spouses, and wrongful interference by a third party that caused the loss of that affection.

In **Sebastian v. Kluttz (1969)**, the North Carolina Court of Appeals explained that the plaintiff did not need to prove a perfect marriage. It was enough to show that a genuine marital relationship existed and that a third party's conduct contributed to its deterioration.

Similarly, in **Cannon v. Miller (1984)** the same court emphasized that the tort protects the central components of married life—affection, companionship, society, and comfort.

A later decision, **Hutelmyer v. Cox (1999)** reaffirmed that liability could arise even when the marriage had already been under strain, so long as the defendant's conduct contributed to its ultimate breakdown.

Not all courts, however, were comfortable with such judicial involvement in intimate relationships. In **Bearbower v. Merry (1978)** the Supreme Court of Iowa abolished the tort of alienation of affection, reasoning that courts should not serve as arenas for litigating the emotional lives of married couples.

These cases reflect a legal system struggling to define the appropriate boundary between law and intimacy.

The Retreat of the Law from Intimacy

During the twentieth century, family law underwent a profound transformation.

Many jurisdictions adopted systems of **no-fault divorce**, allowing spouses to dissolve their marriages without proving adultery or other marital wrongdoing. This change reflected a broader normative judgment: the state should not intrude excessively into the intimate lives of its citizens.

As a result, most American jurisdictions abolished the heart-balm torts.

Yet they did not disappear entirely. Even today, several states—including North Carolina, Mississippi, South Dakota, Utah, and Hawaii—continue to recognize claims for alienation of affection.

The persistence of these actions suggests that the law has never entirely abandoned the idea that marriage represents a relationship worthy of legal protection.

The Rise of Artificial Intimacy

Into this evolving legal landscape enters artificial intelligence.

In recent years, AI systems designed to function as digital companions have become increasingly sophisticated. These systems can conduct complex conversations, remember personal details, and simulate forms of empathy.

For many users the interaction remains casual. But for others, the experience develops into something deeper: emotional attachment.

Scholars studying human–technology relationships have long anticipated this possibility. The MIT sociologist **Sherry Turkle** famously argued that people often attribute emotional meaning to technological systems capable of simulating attention and empathy.

More recent research in human–computer interaction has described a related phenomenon known as “**artificial intimacy.**” Users may experience interactions with AI companions not merely as technological exchanges but as genuine social relationships.

This creates a situation that had never previously existed: a married individual may form a meaningful emotional bond with a non-human entity.

Intimacy and the Law

In legal doctrine, intimacy has always been understood as a human concept.

For centuries the law assumed that emotionally significant relationships occur between people. Concepts such as fidelity, betrayal, and trust were built upon that assumption.

Artificial intelligence begins to destabilize this framework.

When a digital system remembers personal details, responds to emotional conversations, and simulates empathy, many users experience the interaction as a form of personal connection.

Within the context of an existing marriage, such relationships blur the line between technological interaction and emotional intimacy.

For centuries the law knew how to deal with adultery between people.

Artificial intimacy forces it to confront a stranger possibility: **betrayal without another human being.**

Emerging Legal Implications

Even if the law has not yet formally recognized “digital infidelity,” courts are already encountering related issues.

Judicial systems have acknowledged that intimate behavior conducted through digital communication can be relevant in divorce proceedings.

In France, the **Cour de cassation** has accepted electronic communications as potential evidence of adultery in divorce litigation.

Similarly, German divorce law operates under the principle of marital breakdown embodied in **§1565 of the German Civil Code (BGB)**. Courts applying this provision may consider extramarital relationships as evidence that a marriage has irretrievably collapsed.

These developments suggest that even when intimacy occurs through digital channels, it may still affect the legal understanding of marital relationships.

A Possible Legal Concept: Digital Infidelity

The solution is not a return to nineteenth-century adultery law. Courts should not become arbiters of the private sexual lives of married couples.

Yet ignoring the phenomenon entirely is equally unsatisfactory. When new technologies fundamentally alter the ways in which human beings form emotional attachments, the law cannot continue to rely exclusively on concepts developed for a different social world.

It may therefore be useful to recognize a narrow conceptual category: **digital infidelity**.

Such recognition would not require the creation of a new tort. Rather, it could operate within existing legal frameworks.

Family courts might acknowledge that intimate relationships with AI systems can constitute evidence of a breakdown of marital trust within divorce proceedings.

Where such relationships involve substantial financial expenditures, they might also be relevant to doctrines such as **marital waste** in the division of property.

This approach would not revive the intrusive moral policing of earlier legal regimes. Instead, it would acknowledge that technological developments are reshaping the boundaries of human intimacy.

The Future of Marital Fidelity

For centuries the primary threat to marriage came from another person.

In the age of artificial intelligence, that threat may arise from somewhere entirely different.

Not from another human being—

but from an algorithm.

When the first such case reaches a courtroom, the question will no longer be theoretical.

It will be legal.

And it will be unprecedented:

Can marital fidelity be breached even when there is no human being on the other side of the relationship?

If the answer proves to be yes, the implications will be profound.

For the first time in history, the institution of marriage may find itself competing not with another person—but with a machine.