

# CONSENT

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November 11, 2025

## RECOMMENDED CITATION

mohammad looti (2025). *CONSENT*. PSYCHOLOGICAL SCALES. Retrieved from <https://scales.arabpsychology.com/?p=68812>

## CONSENT

**Primary Disciplinary Field(s):** Ethics, Law, Medicine, Psychology, Philosophy

### 1. Core Definition

The concept of **consent** represents a fundamental pillar of modern ethical practice, personal autonomy, and legal jurisprudence. At its most basic level, consent is defined as the willing acquiescence or endorsement rendered by an individual, granting permission for a specific action, intervention, or relationship to proceed. This agreement must be an act of self-determination, affirming the right of every individual to control their own body and decisions. As applied within the fields of medicine, research, and psychological remediation, consent functions as the formal authorization given by a person for treatment, engagement in study, or both. The crucial qualifier is that this permission must be rendered freely and knowingly, transforming simple agreement into a robust ethical and legal safeguard.

The core distinction between mere agreement and valid consent lies in the informational prerequisites. For consent to be ethically and legally sound, the individual providing the authorization must be **completely aware** of the parameters of the proposed activity. This includes a thorough disclosure of the remediation or research process, its methodology, the potential advantages, and, critically, the possible disadvantages, side effects, or risks involved. Without this comprehensive understanding--often referred to as **informed consent**--the agreement is ethically void because the decision is not fully autonomous. For instance, in clinical settings, analogous to the scenario where "Janel had to sign forms authorizing her consent for the surgery," the signed documentation serves as tangible evidence that the requisite information was provided, understood, and willingly accepted by the patient.

### 2. Necessary Components of Informed Consent

Modern bioethics and research standards mandate that valid consent must satisfy three interconnected foundational criteria. These components ensure that the authorization is not merely a bureaucratic formality but a meaningful exercise of individual rights and personal agency. When any one of these three elements is compromised, the legitimacy of the consent is challenged, often leading to ethical violations or legal nullification. These standards were largely codified following atrocities revealed in the mid-20th century, cementing the global requirement for respecting participant and patient sovereignty.

The three essential pillars of informed consent--voluntariness, capacity, and information--must coexist harmoniously. Ethical review boards and institutional review boards (IRBs) globally operate on the premise that unless a person possesses the cognitive ability to weigh the disclosed

information and is free from external pressure, any ensuing agreement cannot be treated as valid consent. The burden of ensuring these requirements are met rests heavily on the professional proposing the action, whether that is a physician, a researcher, or a therapist.

**Voluntariness:** Consent must be given freely, without coercion, duress, manipulation, or undue influence. This requires an environment where the individual feels they have the genuine option to refuse or withdraw participation at any time without fear of penalty or loss of benefits to which they are otherwise entitled.

**Capacity (Competence):** The person must possess the mental ability (cognitive and psychological) to understand the nature of the information presented, appreciate the consequences of their decision, and rationally manipulate the information to make a decision about the proposed action. Capacity is often context-specific and may fluctuate due to illness, age, or temporary impairment.

**Disclosure (Information):** Comprehensive and understandable information must be provided regarding the purpose, procedures, risks, benefits, alternatives (including the alternative of non-treatment or non-participation), and the right to withdraw without prejudice. The information must be presented in a manner that is accessible, avoiding overly technical jargon.

### 3. Historical and Philosophical Foundations

The formal concept of **consent** has deep philosophical roots, tracing back to Enlightenment thinkers who emphasized individual liberty and autonomy. Philosophers such as Immanuel Kant championed the idea that rational beings should be treated as ends in themselves, never merely as means to an end, reinforcing the intrinsic value of self-determination. John Stuart Mill's focus on liberty and the harm principle further supported the notion that individuals should be free to make choices about their own lives, provided those choices do not harm others, making authorization a prerequisite for interference.

The transformation of consent from a philosophical ideal into a codified requirement began most dramatically in the legal and medical spheres in the 20th century. While early common law recognized the principle that medical procedures performed without authorization constituted battery, the modern standard of *\*informed\** consent gained prominence after World War II. The revelations of unethical and horrific human experimentation during the conflict led directly to the 1947 Nuremberg Code, which begins by stating, "The voluntary consent of the human subject is absolutely essential." This document provided the first internationally recognized framework demanding voluntary, well-informed, and capacitated participation in research.

Subsequent developments, including the Declaration of Helsinki (1964) and the U.S. National Research Act of 1974 (which created the Belmont Report), progressively refined and broadened the ethical scope of informed consent, making it the central regulatory mechanism for all research

involving human subjects worldwide. These documents institutionalized the requirement for review by ethics committees (IRBs) and mandated detailed consent procedures, shifting the burden from simply obtaining a signature to ensuring genuine comprehension and voluntary participation.

#### 4. Modalities and Types of Consent

Consent can be expressed or inferred, depending on the context and urgency of the situation. The modality through which consent is given often dictates the level of legal scrutiny applied to the authorization, particularly in high-stakes environments like surgical procedures or binding contractual agreements. Recognizing these distinctions is crucial for professionals operating across legal and ethical boundaries.

**Express Consent:** This is clear, unambiguous authorization, which may be provided either verbally or, most commonly, in writing. Written consent is the gold standard for invasive medical procedures, clinical trials, and formal contracts because it provides undeniable documentation of the agreement, addressing the disclosure and capacity requirements explicitly.

**Implied Consent:** This type of consent is inferred from the actions, conduct, or circumstances surrounding the individual. For example, if a patient schedules an appointment, walks into a phlebotomist's office, and extends their arm for a blood draw, their actions imply consent to the simple procedure, even if no explicit verbal authorization was requested at that moment. Implied consent is typically limited to non-invasive, routine, or low-risk actions.

**Presumed Consent (Tacit Consent):** In specific emergency medical situations where a patient is unconscious, incapacitated, or otherwise unable to provide explicit authorization, and immediate intervention is necessary to save life or limb, medical professionals often operate under the doctrine of presumed consent. This legal principle assumes that the patient would consent to life-saving treatment if they were able to communicate, based on the general human desire for self-preservation. This is an exception to the requirement for express consent and is strictly limited to emergencies.

#### 5. Significance in Psychology and Remediation

In psychological and psychiatric remediation, consent takes on additional complexity due to the nature of the therapeutic relationship and the often sensitive, subjective nature of the interventions. Psychotherapy requires **informed consent** not only for the initiation of treatment but also often for changes in treatment modalities or the introduction of novel techniques. The focus in this disciplinary context includes ensuring the client understands the limits of confidentiality, the process of therapy (which may involve painful or challenging disclosures), the credentials of the therapist, and the potential for treatment failure or adverse reactions.

Furthermore, consent in psychological practice must address the risk of therapeutic misconception-

-a situation where a patient participating in a research trial mistakenly believes the primary goal of the trial is to benefit them personally (treatment), rather than to gather generalizable scientific knowledge. Ethical practice mandates clear delineation between treatment protocols and research protocols, ensuring the participant understands whether they are receiving standard care or experimental procedures. The power imbalance inherent in the client-therapist relationship also necessitates heightened scrutiny regarding voluntariness, guarding against subtle forms of coercion or undue influence stemming from the client's trust or dependence on the clinician.

## 6. Challenges to Voluntariness and Capacity

Despite the robust framework surrounding informed consent, practical application often encounters significant challenges, particularly concerning voluntariness and capacity in vulnerable populations. **Vulnerable populations**--such as children, prisoners, individuals with severe cognitive impairments, the critically ill, or those in highly dependent relationships--may struggle to exercise true autonomy. In these cases, the risk of coercion, however subtle, is magnified.

For minors, consent is typically handled by a parent or legal guardian (proxy consent). However, ethical guidelines increasingly require *\*assent\** from the minor, meaning their affirmative agreement or willingness to participate, even if they lack the legal capacity to give full consent. For individuals with fluctuating or impaired cognitive capacity, determining competence for decision-making is a complex process, often requiring specialized assessments. The principle of **substituted judgment**--where a proxy decision-maker attempts to make the choice the patient would have made if capacitated--is frequently employed, although this remains ethically fraught, especially when the patient's prior wishes are unclear. Economic coercion, where participation in a study or procedure is tied to receiving monetary compensation or access to otherwise unavailable care, also poses a substantial threat to the authenticity of voluntary consent.

## 7. Debates and Ethical Limitations

Contemporary debates surrounding consent focus on the limitations of the current models in dynamic or large-scale contexts, such as genetic research or large data collection initiatives. The rise of biobanking and genomic studies presents the challenge of **broad consent**, where individuals agree to the future, unspecified use of their biological samples and data. Critics argue that agreeing to future, unknown research purposes violates the principle of specificity inherent in classical informed consent. This has led to discussions about "tiered consent" or "dynamic consent," allowing participants to actively manage and update their authorization preferences over time.

Furthermore, the concept of **withdrawal of consent** is essential but often complicated in practice. While individuals always retain the right to withdraw, the ethical and legal implications of

withdrawing consent from research--especially after data processing has begun or samples have been analyzed--must be clearly communicated upfront. The ongoing discussion centers on how to balance the integrity of scientific research with the absolute, unconditional right of the individual to revoke their authorization at any stage, ensuring that their decision is respected without punitive measures.

## Further Reading

[Informed consent \(Wikipedia\)](#)

[Autonomy in Moral and Political Philosophy \(Stanford Encyclopedia of Philosophy\)](#)

[Declaration of Helsinki \(World Medical Association\)](#)

[Nuremberg Code](#)

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