Consent

Chris Philo and Eric Laurier

[Start box]

Key Points

- Consent is more than a signature on a form, it is processual and not a one-off.
- The seeking and giving of consent varies by time, place, and cohort
- Some groups can be marginalised by the concept of consent

[End box]

Introduction: Starting

Consent is usually regarded as a foundational component of research ethics, in that it entails potential human research subjects – people – indicating, or not, their willingness to participate in a research project. The start of a project often hinges on the researcher, whether professor or undergraduate, securing such consent: without it, put bluntly, nothing can happen. Consent is clearly important, and most would agree that research should not be conducted *on* people

without their consent, and there are lamentable examples of such consent-free research occurring – such as historical 'medical' experiments on captive populations (see Darling and Wilson, this volume). It must be acknowledged that studies can have dramatic, maybe adverse, consequences for research subjects, notably in the likes of medical-clinical research trials, but even in human-geographical inquiries there may be consequences, perhaps deleterious ones, when an individual relates painful parts of a life-history, answers questions about intimate matters or is observed in the course of doing something (going on a march, chairing a meeting, painting a mural). Before commencing a project, a researcher should discern what is expected of their research subjects and identify possible risks to these participants, so that they can be clear about such expectations and risks when seeking the latter's consent to being involved.

There are human geography projects where consent may not be an issue: ones involving pre-existing data that is publicly available (such as in censuses) or historical ones where the research subjects are departed (although even here it may be necessary to seek consent from relatives and descendants if, say, the ambition is to use an individual's personal papers (see Alderman and Inwood, this volume)). In most cases, however, consent should be sought, whether informally, with people somehow signalling their agreement to participate, or formally, with people being asked to sign 'consent forms' after being provided with 'information sheets' about the project in question. At this stage, certain basics need to be agreed: about the extent of a participant's anonymity and about the extent to which they might be allowed to view, alter or redact data relating to them (Wilson, this volume). The upshot in the formal case is to create an auditable paper-trail of consent-seeking and -giving, what might be cast as a 'mini-contract' between researcher and researched. Such formalities are increasingly demanded in the context of formal ethics review/approval procedures (operated by universities, health services and other authorities) that must be negotiated in order for a

project to start. Arguably, though, such procedures serve to abstract consent into a 'technical' matter, one divorced from the messy realities of what actually occurs on the rough ground of research, or to create an insurmountable barrier to some projects ever beginning.

Consent as process

'Consent' is a complicated and over-burdened criterion for starting and stopping the involvement of persons in research projects. The complexity of consent is revealed in, often traumatic, legal cases over whether someone did, or did not, 'consent' to the actions – commonly sexual advances – of another. Here consent lies in the nexus of divergent and convergent desires, intimacy, verbal and non-verbal proposals, acceptances and resistances, ambiguity and assumptions, pleasing and displeasing others: at some point one party wanting things to stop and the other to continue. Trying to decide whether one party has wronged the other is then bound into whether consent might or might not be adjudged to have been given. While sexual encounters may seem a troubling way to begin a discussion of 'consent' with respect to the ethics of undertaking research, there is warrant in immediately acknowledging the difficulties of deciding what consent entails and judging whether it has been given or refused. It raises the question of whether signing a consent form ahead of any encounter necessarily solves the problems that may surface as encounters unfold and situations change. It also discloses a deeper problem that swirls around the starting and stopping of research projects in relation to the ongoingness of consent and its negotiation.

Given that research projects are ongoing encounters between researcher and researched, it is inappropriate to assume that consent given at the start of a research project – let us say, when

a project participant reads/signs a consent form – is then straightforwardly given throughout a project. Departing from involvement in a research project at any time is usually permitted, and expressly stated in the consent form, and yet the signing of the form can easily be taken as the moment of becoming and *remaining* a consenting participant. A principal message of our comments is that consent is processual, not a one-off decision, and that the possibility of the research participant and/or researcher stopping the process, not only at the beginning but also much further into the research encounter, should be factored into project work. The implication is that researchers should, on a regular basis, monitor and, when appropriate, seek to confirm that a participant is happy to continue 'consenting' to their involvement. Yet, the problem arises of how this ongoing checking can be done in ways that do not then seem to question much that is implicit in the relationship between researcher and researched. Constant questioning of what the researcher and researched assume to be known-in-common, indeed taken on trust, may be destructive of research relationships and the very trust needed to sustain them. Even so, researcher and researched should still be oriented towards when events or courses of action arise that require returning to the question of consent. To explore this issue further, we will work through episodes from our projects to consider how consent and its possible withdrawal shows up on the rough ground, and hence to provide some guidance – if provisional and partial – with respect to the issues just raised.

Who can give consent?

A first problem is: who is entitled to give consent. Legally, there are categories of individual who are not thought straightforwardly able to give their 'consent' because they are not considered to possess the necessary intellectual/reflexive capacity and are unable to be

informed adequately. In response to this exclusion, various geographers working with children, and people with learning disabilities have disputed 'adultist/ageist' or 'ableist' assumptions about consent (see Horton et al., this volume). They point to specific methods that can be creatively deployed to seek consent with/from such cohorts (Holt *et al.*, 2019; Murray, 2018). Nonetheless, for such categories of people, what entails 'consent' remains contentious and may involve seeking 'consent' from proxies (usually parents/guardians), which is never entirely satisfactory (see Gillespie, this volume, for tricky questions concerning consent and animals).

There are other categories of human subject who are – due to their circumstances – regarded as 'vulnerable' (socially, culturally, maybe politically or religiously) and for whom there could be 'consent' issues (see Darling, this volume). Sometimes the assumptions here are problematic, making knee-jerk judgements about people and their cognitive capacity. Such an example arose in relation to Nancy Hansen, one of Chris's PhD students, who had a mobility impairment and was looking to interview others with physical impairments. She received feedback on an ethics application where doubt was cast on the capacity of her participants to understand information sheets and to give their 'consent': suffice to say, Hansen fiercely critiqued this glib equation of physical disability with mental unsoundness (Hansen and Philo, 2007).

In Chris's recent research relating to a project requiring NHS clearance, questions arose about the extent to which people with mental health problems are sufficiently *compos mentis* to give 'consent'. There are members of ethics committees who believe that social scientists should not do (non-essential) qualitative research on/with people with mental health problems. Before

starting the project, Chris had to create a detailed annex to a funding application, quoting from the likes of the Royal College of Psychiatrists, to justify why research on/with such people is crucial and arguing against simple judgements that effectively deny people with mental health problems the opportunity to be the subjects of – and actively to engage in – social-scientific research. The issues here revolve around more than just consent, of course, but in a practical sense much rebounds upon the technical-procedural question of whether consent can be given in a manner acceptable to formal ethical review procedures.

To underline, though, researchers do need to make a very careful appraisal of vulnerabilities in their 'target' cohort for a research project that might be germane to the latter's giving of 'consent' to participate: for instance, is there the possibility that individuals might be fearful about not giving their 'consent', perhaps because they fear being perceived as uncooperative in a medical or legal context. In situations where people are persuaded to participate in something that they do not want to do, the research can arguably become **coercive.** There are many reasons why somebody might feel more or less compelled to consent to participate in a piece of research. For example, while the practice of giving gift vouchers to participants has become a common way of compensating participants for their time, it is worth considering how, or if, payments might become coercive, especially in contexts where research participants are not financially secure (Head, 2009). More specifically, it might interfere with whether participants feel able to withdraw their consent later in the process: would they worry about having to return vouchers (which will probably be given at the outset of a project)?

If a research project is using a gatekeeper, it is also important to consider the nature of the researcher's relationship with potential participants. When Eric was studying one café chain,

the upper management placed him in branches where he was then left to discern, through conversations and the responses of co-workers to his presence, whether individuals felt obliged by management to participate. Relatedly, if the gatekeeper is ta key service provider, perhaps a coordinator at a homeless shelter or an aid worker, is there a risk that service users might worry about losing their access to services if they do not agree to participate in a research project supported by the service provider?

In many cases an appraisal of what factors influence consent requires a reflection on expectations. Participants routinely have unrealistic expectations about what the research might achieve, and it could be these expectations that shape their decision to consent. For instance, asylum-seekers might wrongly expect that their involvement in research will support their ongoing applications for asylum (see Darling, this volume). Trying to flush out expectations early and late, and being clear with respondents what the project is likely to achieve, what it can and cannot do, helps to build the ongoing conversation around consent. .

Spaces of consent in doubt

There are forms of research where, in its eventfulness and unpredictability, researchers can run into rather different complexities of consent and how potential participants are informed about a project. In ethnomethodological studies based in participative work with an observational perspective, it can feature individuals who may not even know that 'research' is going on (Laurier, 2001; Wilson, 2011). To be sure, many observational projects will work directly with a select cohort of participants who have been recruited for the research, informed and hence rendered able to give (or not) their 'informed consent'. In the 'mobile office' research that Eric

and Chris carried out in the 1990s (Laurier and Philo, 2003), we recruited a handful of car-based office workers. Eric shadowed each worker during their working day, sitting in their cars with them, talking to them on the move, and latterly videoing them while they were driving, when parked up or loading their work materials. These individuals obviously knew Eric was there and 'consented' to his presence. There were, of course, specific stipulations made when seeking consent at the outset, to do with what data we would use (excluding, for instance, anything that might reveal commercially sensitive information about work practices). A large part of the ongoing, processual consent was managed by Eric when he was present with these subjects, which was solely for the car-based parts of their working day. When they entered their central offices or met with clients on their premises, Eric remained in the car or made his way elsewhere to write-up fieldnotes. The field research stopped and started when car doors opened and closed, dictated by both formally set, and more informally negotiated, parameters of consent.

That said, the consent process continued, in a transformed state, once the car journeys were complete. Short edited videos were made about each participant's working day as a gift back to them, and Eric set up a sociable event to show the videos, to allow for group discussion of working life on the road and to mark his exit from doing the fieldwork. It was on watching the videos that one of the participants then became uncomfortable. Eric met with her privately after the event, where she revealed that she had not previously understood to what she was consenting, and it was only at this late stage that she was grasping what it meant to participate in a research project. Not only did she want the video destroyed, she also wished to withdraw all her other data from the project. While Eric tried to reassure her, he also accepted her right to withdraw her consent, even at such a late stage. Despite being 'informed' at point of recruitment and seemingly aware throughout, a research subject's understanding of what it is

to be a subject of research is almost always less than that of the researcher and will alter, sometimes dramatically, as their participation through a project continues. Moreover, it is usually towards the latter phases of a project that a subject begins to realise how they appear in a project and to understand what the project itself is about: and so, to reiterate, we stress the need to regard consent as processual, not a one-off.

There are then public realm research projects where consent is more assumed, fleeting and tricky than our cars example, precisely because the research design is deliberately 'naturalistic' and place-based. Consent is assumed because recordings are being made in places where people are appearing 'in public': they are showing their public selves, which are taken to be widely available to others. To enter public spaces is arguably to consent to be a member of the public, which is of course why some members of society do shy away from public spaces (Boyle, 2018). Eric regularly teaches a qualitative methods course where his students attend public places to observe members of the public going about their public lives in busy places like city streets, shopping centres and railway stations. As such, anyone can potentially drift into and out of the research site: it cannot be controlled. The model of consent drawn upon by researchers and students when studying such public spaces is hence 'parasitic' on the assumed consent of persons as routinely appearing in public and managing their self-presentation here for an array of unacquainted other members of the public. It is hard to imagine how their consent could be ethically sought in advance, and envisaging tactics for seeking their consent 'after the event' is almost as difficult The latter might involve catching individuals afterwards to let them know they have been recorded – noted, filmed, taped – in a research project and asking consent for these 'recordings' of them to be retained and used for research purposes, but this solution is awkward and relies on large teams to secure the permissions *post hoc*. There are research ethicists who believe that such research should not be done in the first place, but

there are others who will accept the significance of such research and accept that here the 'gold standard' of 'informed consent' will have to be replaced solely by the researcher scrupulously anonymising the recordings.

There are places where publics gather and encounter each other that allow the researcher both to construct and to draw upon the spatialisation of consent. In Eric and Chris's studies of cafés and the public sphere (Laurier and Philo, 2006a, 2006b, 2006c), we worked in cafés where the staff were informed of what we were doing and had given their consent for us to record what happens on their premises. In these sites, cameras placed on tripods were clearly visible, so much so that they were verging on being distracting and disruptive. A few customers used the space to show non-verbally their *non*-consent by moving out of shot, while others took pleasure in disrupting the recording process by making funny faces (Laurier and Philo 2006c, see Figure 1). Eric was himself on site (in a T-shirt with the university logo). Customers were forewarned with posters in the windows or doorways, and information leaflets about the project were left on tables, the latter indicating that the filming was part of social research, but that anyone uncomfortable about being part of the research (being observed, recorded on film and potentially thereby furnishing 'data' for our research) should speak to Eric or contact us (via phone or email). Some potential customers, upon spotting what was happening, stopped at the door and did not enter the café, thereby exiting the project immediately: in effect they were *non*-consenting.

[Insert Figure 1 here]

Only a small number of customers asked for their images and voices to be erased from the

recordings, withdrawing or *non*-consenting in another way. Interestingly, they also tended to provide accounts for why they should be erased: because they were supposed to be at work that day (and were not), because the nature of their meeting was confidential, or because they were meeting someone who they should not have been meeting! While the reasons are interesting in themselves, that these customers felt obliged to offer accounts also points toward the tangle around consent that lies at the heart of this chapter. In providing an account, customers displayed an awareness that their departure from the project might harm it in some way, thus, implicitly perhaps, demonstrating a recognition of the value of the research and our right to be there. They were, then, treating the starting or stopping of the research encounter in this kind of setting as one that stood in need of reasons (Barnett, 2008)

Further features of what customers assumed they were consenting to became apparent to us when in one café, while Eric was eating his lunch, he left the tripod in the same position for half an hour. He was approached by the customers at the table in shot to say that they had given him plenty of their time and could he now stop recording them and move the camera somewhere else. A request that can be construed as a partial or conditional withdrawal of consent, it also raises questions about the participants' understanding of to what they were consenting. Eric apologised profusely and shifted the camera to another location in the café. These customers were not sensitive to being recorded as part of the café space but by the long concentration on *just* them, which led to the impression that they were being picked out as *particular* customers. Their complaint also helped Eric to refine his own practice of regularly moving the cameras around the café, to avoid making individual customers feel targeted and making it visible that café customers were being dealt with as a collective. Customers highlighted how the duration of recording and the absence of other customers being recorded shaped the conditions of their consent: when they felt singled out, they revoked their consent

to what, in their eyes, had become a different form of research encounter.

Conclusion: Ending

Our aim above has been to sketch out some of the basic considerations central to the place of consent in the wider horizon of research ethics, particularly addressing: the seeking and giving of consent, varying by time, place and cohort; the reality of consent as processual, not a one-off decision, and the need for ethical research to regard consent as more than simply getting signatures on the initial consent forms; and the complications arising in more observational projects, notably ones in the public realm where effecting a tight control over who is present and formally consenting, or not, is difficult if not impossible. Moreover, from our sketches of how research subjects have stopped their engagement with our research projects, we hope to have given some insight into how consent shows up in the messy realities of both doing research with groups 'marginalised' by the concept of consent and doing research in different kinds of worldly spaces. It is not just that we need to allow participants to stop the research at any time, we need to be attentive to the occasions when and where we expect consent to emerge and how such spaces are constructed, and in so doing also push ourselves to accept people stopping their involvement on those occasions where we did not expect them to stop.

Recommended Reading

Laurier, E., and Philo, C. (2006c) 'Natural problems of naturalistic video data' in Knoblauch, H., Schnettler, B., Raab, J. & Soeffner, H.-G. (eds.) *Video Analysis: Methodology and*

Methods. Qualitative Audiovisual Data Analysis in Sociology, Oxford: Peter Lang, pp.183-192.

This reading explains the setup and management of our 'naturalistic' field research in cafés, reflecting on the difficulties arising, in studies of the public realm which are, of necessity, highly fluid and open-ended, hence complicating how matters of consent are usually handled.

Mondada, L. (2013) 'Ethics in action: anonymization as a participant's concern and a participant's practice' *Human Studies*, https://doi.org/10.1007/s10746-013-9286-9.
In this article, Mondada analyses how anonymisation as a problem emerges during a research encounter. She moves away then from ethics at the point of permission by an ethics committee to much further in the process where participants are then being sensitive about what can be seen and heard in a recording.

Murray, V. (2018) 'Co-producing knowledge: reflections on research on the residential geographies of learning disability' *Area*, pre-print 10.1111/area.12491.

Drawing on in-depth co-productive work alongside people with learning disabilities, this reading shows the creative methods that can be deployed in order to gain the consent/trust – and the active participative involvement – of people sometimes considered by research ethicists as too 'vulnerable' to be enlisted in qualitative social-scientific research.