

## Limits of Consent: The Exceptional Case of Reproduction in Healthcare

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### Abstract:

The review discusses the edited volume *Narratives of Consent and Reproductive Subjects: Tales of Invisibility* by Samatha Halliday, Rebecca Brione, and Jacqueline Nicholls. These authors elaborate on the limits of consent in reproductive and maternity care in the United Kingdom's or Wales's healthcare system. Through legal and policy analyses, the book demonstrates how reproductive subjects are rendered invisible during pregnancy and childbirth, showing that even under a patient-centered healthcare model, reproduction requires exceptional considerations in consent.

**Grenzwertige Zustimmung: Schwangerschafts- und Geburtsversorgung als Sonderfall im Gesundheitswesen**

### German Abstract:

Die Rezension bespricht den Sammelband *Narratives of Consent and Reproductive Subjects: Tales of Invisibility*, herausgegeben von Samantha Halliday, Rebecca Brione und Jacqueline Nicholls. Die Autor\_innen diskutieren die Grenzen von Konsens in der Schwangerschafts- und Geburtsversorgung im Vereinigten Königreich und in Wales. Trotz eines patient\_innenzentrierten Modells innerhalb der analysierten Gesundheitssysteme verdeutlichen die Beiträge, dass die Umsetzung medizinischer Entscheidungsfragen von Schwangeren als Sonderfall betrachtet werden muss.

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Halliday, Samantha, Rebecca Brione and Jacqueline Nicholls (eds.). *Narratives of Consent and Reproductive Subjects: Tales of Invisibility*. London, UK: Routledge, 2025. 278 Pages, 152 EUR. ISBN: 978-1-032-20264-8.

Consent and choice demonstrate two essential concepts in healthcare, once established to guarantee bodily autonomy, safety, and agency for patients. Securing consent as the basis of decision-making processes during healthcare encounters is not only a moral and ethical obligation for medical professionals, but is also supported by “policy documents, clinical guidelines and the law” (p. 1).

In 2015, the UK healthcare system underwent a change in legal obligations on consent following the *Montgomery vs Lanarkshire* case, in which Nadine Montgomery successfully claimed that she was not properly informed about the option of a caesarean section, leading to health issues for her child. While the subsequent guidelines of the General Medical Council (GMC) promoted a patient-centered model and intended to strengthen consent practices, the volume *Narratives of Consent and Reproductive Subjects: Tales of Invisibility*, edited by Samantha Halliday, Rebecca Brione, and Jacqueline Nicholls from 2025, highlights the very persistent limits of consent in reproduction and maternity care since the court ruling and beyond.

Patient-centered care, which opposes biomedical paternalism and emphasizes shared decision-making between doctors and patients, has been incorporated with varying degrees of success into the agendas of leading healthcare institutions since at least the mid to late 20th century. For instance, in 2024, *The Lancet* launched the Commission on People-Centered Care for Universal Health Coverage, emphasizing both the long-standing debate of patient-centered care and the ongoing need for engaging patients themselves in the processes of decision-making in health services (Duong et. al., 2024, “For and With People: Announcing the Lancet

Global Health Commission on People-centred Care for Universal Health Coverage and a Call for Commissioner Nominations." *The Lancet Global Health*, 12(7), E1089–E1090.).

Published ten years after *Montgomery vs Lanarkshire*, the edited volume *Narratives of Consent and Reproductive Subjects* offers a critical examination of medical consent policies that, if poorly aligned with lived experiences, likely result in premature implementations within the healthcare system. The compendium illustrates an interdisciplinary endeavor of nine well-established authors in fields such as socio-legal studies, linguistics, bioethics, healthcare law, and psychology, among others. The featured studies all conduct legal and policy analyses of reproduction and maternity care in the UK or Wales. Each chapter offers a gripping introduction, in which the main concepts and theories used are explained, followed by a method section. Next to an appealing structure, within their writing, the authors refer quite frequently to one another, showing a shared understanding of the issue at stake, and creating an atmosphere that speaks of an intensive and meaningful exchange in the process of producing this work. Ultimately, by applying different theoretical perspectives, the volume reveals how an inadequate framework of consent in reproductive and maternity care impacts multiple dimensions of practice, experience, and decision-making.

What is consent? In healthcare guidelines, documents, and policy, one usually finds the adaptation of *informed consent*, which boils down to the act of receiving sufficient information about a medical therapy or procedure from a doctor, so that a patient can make an informed decision. A growing discourse on securing consent and patients' rights in healthcare, accumulated by *Montgomery vs Lanarkshire*, however led to the GMC's guidelines change in 2015: A shared decision-making process and consent in healthcare thus includes that "doctors must try to find out what matters to patients so that they can share relevant information about the benefits and harms of proposed options and reasonable alternatives" (p. 6). Hence, since 2015, doctors have been legally obliged to seek out what a patient considers relevant to their treatment and to disclose it to them. The volume clearly shows the unreal assumption of the GMC that suggests this regulation would increase a shared decision-making process and secure consent between doctors and patients. Instead, doctors reflect that the change in guidelines has increased their fear of legal action against them. Therefore, they tend to mechanically list

all potential risks, even if these are irrelevant or contrary to a patient's desire not to receive certain information.

Jacqueline Nicholls' chapter elaborates on the faulty conceptualization of consent in UK law and policy in terms of women's lived experiences in reproductive and maternity care. She shows clearly how reproduction is exceptional in healthcare because "it is noticeable that in the literature and case law the pregnant person is not portrayed as an individual patient" (p. 12). In practice, the authors speak of a "*Two-patient Scenario*," by which a woman's choice is secondary to the potential risk posed to the foetus she is carrying (p. 12). Throughout the volume, the fetus-centered approach in maternity care is criticized by examples that illustrate the limited choice for a caesarean section or home birth when doctors do not consent based on potential risk to the foetus. The exploration of risk narratives in maternity care occurs in different chapters by which the authors analyze how normative expectations of 'good motherhood' restrict a pregnant person's choice. If medical advice is turned down based on individual choice, pregnant persons are quickly labeled irrational, unmoral or a 'bad mother': "Those who fail to conform attract 'moral censure' from others, [...] this issue is particularly pronounced when a person in labor seeks to make a decision which does not align with medical norms, or with the recommendations of healthcare professionals" (p. 188).

In her chapter, Samantha Halliday shows that risk narratives not only apply to decisions that might pose a risk to the foetus's well-being, but pregnant persons diagnosed with mental illnesses are seen and acted upon risks themselves. "The existence of mental illness acts as a red flag [...] in the discussions that follow it is not the mental illness, nor the pregnancy, but rather the pregnant person who is regarded as the source of the risk" (p. 84). But mental illnesses are not the only perceived risk in maternity care. Eli Ansari's and Katherine Maslowski's chapter "You Speak and Nobody Hears: Racialisation of Pregnancy and Birth in the UK" shows how Black and Brown pregnant persons face an increased risk of experiencing severe harm (p. 154). Furthermore, other chapters of the volume examine language barriers, surrogacy, disability, and the COVID-19 pandemic to highlight the limits of current laws and policies on consent in reproduction and maternity care in the UK.

The book shows how concepts like consent, choice, autonomy, capacity or invisibility can hardly be grasped by law under a one-size-fits-all approach. Rather, the authors state not only a clear critique towards the current state of consent in reproduction and maternity care but suggest improvements that focus on the different needs of individual patients with regards to the specific contexts they are situated in. One such suggestion is the demand for *explicit consent* that “will be required for any intervention or procedure in reproductive care due to the personal nature of the decisions to be made” (p. 5). Here, the authors stress the importance of personal choice in decision-making processes in maternity care, while foregrounding the patient’s subjectivity and vulnerability. Another suggestion indicates the need to acknowledge that discriminatory practices such as *othering*, examined by healthcare professionals, disproportionately affect Black and Brown women in maternity care. “Dismantling stereotypes and assumptions of Black women as tough and Brown women as fragile and submissive would [...] allow them to exercise their right to consent in a meaningful way” (p. 169).

To conclude, the volume entails meaningful and detailed observations of entrenched structures that invisibilize marginalized voices in reproductive and maternity care. The book authentically strives for genuine change to improve the experience of reproduction at its core. It is an outstanding read for anyone seeking to understand the lived restrictions and complexities of laws and policies on consent, which may initially seem effective but tend to fail in practice.