Consent

In philosophy, consent is a crucial, normative power that allows individuals to alter the structure of rights and obligations, transforming actions that would otherwise be impermissible (like touching someone, taking property, or exercising authority) into permissible ones
It is considered a cornerstone of personal autonomy, self-governance, and moral interaction, particularly within liberal thought.

Here is a breakdown of the philosophical aspects of consent:

1. The Nature and Function of Consent

- **"Moral Magic"** (Transformation) **:** Philosophers often describe consent as a form of "moral magic" that changes the moral status of an act. For example, it turns trespassing into a social visit or assault into a medical procedure.
- **Normative power:** It is the ability to change one's own rights and obligations, such as waving a right to privacy or bodily integrity
- **Autonomy Protection (Gate Opener Model):** The primary value of consent is to protect an individual's autonomy—their control over their own body, property and actions.
- **Relational Model:** Beyond just controlling access, consent is essential for building and maintaining valuable interpersonal relationships based on mutual respect and understanding.
- **Defining "Consent Properly So-Called":** True consent is a positive, communicative act (express or tacit) that consciously changes rights/obligations. It is distinct from mere submission, acquiescence, or "pro-attitudes" like approval or liking.

2. Conditions for Valid Consent

For consent to be morally binding, it must meet several criteria:

- **Competence:** The person must have the mental capacity to understand and decide.
- **Informed:** The person must know what they are agreeing to (e.g., risks, nature of the act).
- **Voluntary:** The consent must be freely given, not extracted through coercion, threats, or extreme manipulation.
- **Intention (clear/conscious):** The act must intentionally convey consent to alter moral relations.

3. Key perspectives

- **Behavioural vs mental:** The behavioural view requires explicit communication (words/actions), while the mental view argues a genuine internal decision is sufficient. Most theories adopt a hybrid approach requiring both
- **Liberal tradition (Locke):** asserts that legitimate authority stems from the consent of the governed.

- **Bioethics:** Emphasises informed consent, shifting power to the patient and away from paternalistic “doctor knows best.”

4. Types of Consent in Philosophy
   - **Actual vs. Hypothetical:** Actual consent is given in real-time (expressed or implied). Hypothetical consent refers to what a rational person *would* agree to, often used to justify social contracts or medical treatment for unconscious patients.
   - **Express vs. Tacit:** Express consent is spoken or written. Tacit consent is given through actions or silence in a context where a choice is clearly being made.
   - **Affirmative Consent ("Yes means Yes"):** This model requires active, ongoing, and unambiguous communication of consent, rather than merely "no means no".

5. Key Philosophical Applications
   - **Medical Ethics:** Informed consent is central to patient autonomy, ensuring they can veto treatments even against expert advice.
   - **Political Philosophy (Consent of the Governed):** Locke and Hobbes argued that the legitimacy of the state rests on the consent of the people, a foundational principle of social contract theory.
   - **Sexual Ethics:** Consent is the dividing line between sexual acts and sexual assault/rape, serving as a critical requirement for ethical sexual engagement.
   - **Legal Philosophy:** The maxim *volenti non fit injuria* ("the willing person is not wronged") forms the basis for contractual law and liability.

6. Challenges and Critiques
   - **The "Coherent Subject" Problem:** Critics argue that consent assumes a perfectly rational, consistent, and "coherent" subject, ignoring that individuals may have conflicting desires or unconscious motivations.
   - **Contextual Coercion:** Philosophers debate whether situations lacking good alternatives (e.g., extreme poverty) make consent truly involuntary.
   - **Validity of "Manufactured" Consent:** As noted in Chomsky/Herman's *Manufacturing Consent*, public consent can be engineered by power structures, rendering it socially manufactured rather than genuinely free.

In summary, consent is not merely saying "yes" but a complex, normative mechanism that serves as a protective barrier around individual autonomy while also facilitating voluntary social interactions.