The Difference Between Passive Subjects and Autonomous Actors: Proposing an Orientation Toward Consent in Library and Information Science

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ABSTRACT

To participate in most aspects of society, individuals are constantly required to share their data. From students in LIS courses to patients forced to enter information into third party software to check into medical appointments, we all have to “consent” to live our lives. While we are presented with consent forms full of legalese constantly, opportunities to opt out are rare. This critical essay posits that to prepare our students to become ethical members of information professions, LIS educators must center consent as a core ethical value. Using a scoping review approach, we explore consent as a distinct topic in LIS literature. We then propose an orientation towards consent that can center human rights, individual autonomy, and care in LIS work.

ALISE RESEARCH TAXONOMY TOPICS

information ethics; information rights; archives; big data; students.

AUTHOR KEYWORDS

consent; ethical collection practices; ethical LIS classrooms; data exploitation; personal data.

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INTRODUCTION

The use of generative artificial intelligence (AI) in library and information science (LIS) reveals opportunities for innovation and ethical challenges (Haffenden et al., 2023; Lund & Wang, 2023; Youngman et al., 2023). This critical essay posits that to prepare our students to become ethical members of information professions, LIS educators must center consent as a core ethical value. Using a scoping review approach, we explore consent as a distinct topic in LIS literature. We then propose an orientation towards consent that can center human rights, individual autonomy, and care in LIS work.

BACKGROUND

An act of consent is an autonomous choice to allow an outside party to perform an action that without consent would be a violation—transforming a home intruder into a welcome visitor (Schermer et al., 2014, p. 172). Informed consent is a key part of LIS research studies (Brettle, 2012). However, beyond informed consent in human subject research, consent may be underemphasized in LIS. When examining LIS codes of conduct we found that the concept of consent was not invoked by any of them. While several codes of conduct stress the importance of privacy, they do not explicitly connect privacy protections with individual autonomy through the giving or denying of consent. Masotina and Spagnolli (2022) explain that policies for explicit consent are born out of the position that "consent notices should not just provide information but do so in a way that the users can understand. Privacy notifications and security warnings, instead, seem quite ineffective in empowering users to protect their online privacy and security" (p. 2106). By tying one's privacy to their consent, that person is transformed from the subject whose privacy is violated to the actor who makes informed decisions about when, where, and with whom to share private data.

While efforts to promote return of archived data to its original communities aim to repair harm done through past violations of consent, the subject/actor dichotomy is visible in countless LIS collections that have been created through consent violations (Holton, 2017). Ghaddar (2021) explains that violations of consent are not anomalies, but rather that they define archives in colonial settings, where "the lack of consent that animates them, underscores their selective nature and many silences, as well as the lack of legitimate authority over the Indigenous knowledge, cultural materials and languages they contain" (p. 64). Similarly, Croft et al. (2019) explore questions of consent for Aboriginal Australian language archives by describing how Gurindji cultural heritage materials have been housed in a university and subject to an embargo. Croft (herself an Aboriginal educator) addresses the catastrophic impact of waiting for the embargo to lift as many elder members would no longer be living: "By that time what is held in the archives will truly be dead. It is too much to bear, it is much too late" (Croft et al., 2019, p. 187).

LIS classrooms are also sites where consent can be upheld and violated. Advances in online education and on-site classroom technology have increased opportunities for students while also enabling violations of student consent. These include remote exam proctoring that violates student rights and displays biases against neurodivergent students, pressure on students to reveal their homes on Zoom cameras, surveillance of student activities in learning management systems, and third-party student data collection (Hatfield, 2023). Though we may not hear our students complain about them, our choices as educators to mandate "cameras on" and offer no alternatives to remote proctoring leave our students without an actual ability to consent, as opting out would result in harm to their educational standing. As Schermer et al., (2014) explain individuals actual consent cannot happen in environments where there is "no real choice" (p. 181).

SCOPING REVIEW

To provide insight into how consent is understood by both LIS practitioners and scholars, we first conducted a simple search of Library & Information Science Source (LISS) for the word, "consent." To ensure that perspectives of LIS educators were also covered in the scoping review, we then conducted an additional search of Education Resources Information Center (ERIC), using the terms "consent AND LIS," "consent AND librar*," "consent AND information science." Finally, an additional search of the Journal of Education for Library and Information Science for the term "consent" anywhere in full text results was also included to ensure coverage of research from the LIS education field. Results were limited to peer-reviewed articles published in the last 10 years. We further eliminated articles that only mention consent procedurally in a single sentence about gaining informed consent from study subjects.

The final result includes 67 peer-reviewed articles that address the topic of consent as it relates to issues of library and information science, archivy, or informatics. In examining the results further, the articles come from 29 individual journals—these include 18 library and information science journals, nine multidisciplinary journals, and three health informatics/medical library journals. A grounded theory investigation of the articles' full texts resulted in three major consent topics in the research: *consent issues with health data*; *consent in LIS settings*; and *consent as a human right*. These topics often overlapped with many articles touching on more than one of the major topics given attention.

The first topic, *consent issues with health data*, is evident in 24 of the articles in the results. A large focus of these articles is personal health data sharing for medical research. Unsurprisingly, policy and law are discussed in relation to health data sharing and consent in multiple articles, with the General Data Protection Regulation (GDPR) as the subject of seven of the 23 articles within the consent issues with health data topic. While policies and laws like the GDPR are enacted to protect patient privacy through the promotion of their consent when it comes to personal data sharing and exploitation, the results include articles that portray consent as a barrier to research. For example, using a survey of public opinions, Schmit et al. (2021) point out "notable incongruence between public preferences and current US data protection laws" and argue for "more robust public health and research data use exceptions to align laws with public preferences" (p. 1).

However, other researchers exploring this topic stress the need for patient consent in data sharing for medical research. Pierce and Felver (2021) describe their work to create an archive of "available diverse photographs for use in teaching pathophysiology and clinical pharmacology courses to nursing students" as prioritizing consent (p. 473). They explain, "Consent remained essential to the project's design, as many of the subjects of these photos have been treated unethically throughout the history of medical research" (p. 474).

In addition to the topic of *consent issues with health data*, Pierce and Felver's work on medical archives also belongs to the second overarching topic found in the scoping analysis, *consent in LIS settings*. This topic, found in 21 of the articles, addresses consent considerations in LIS practice and in the LIS classroom. Patron consent (and the lack of it) to private data disclosure with third parties has been and continues to be a topic of growing concern—especially as libraries increasingly partner with proprietary corporations for user services like eBook borrowing and digital collection management. Consent is also a key aspect of the ethics of creating collections for LIS practitioners. While the field has a troubling history of ignoring the issues of consent and intellectual property violations—especially with materials of minoritized communities—present-day practices routinely include consent forms as part of the collection process. Though consent forms are part of both ethical and legal practice of collecting, Tummino et al. (2021) explain that when collecting personal materials and information from individuals participating in digital archival initiatives, reiterating and asking for consent multiple times is important to ensure transparency. They explain their consent practices in collecting oral histories, saying, "In our case, even after all consent forms were signed, we reiterated that the program would be archived and fully accessible online after the event. Speakers must understand where their image, opinions, and conversations will be publicly available" (p. 7).

The topic of *consent in LIS settings* applies to educational LIS settings as well. LIS educators and practitioners who work with students may be expected to participate in student data collection without much consideration for consent. Huang et al. (2021) state that "collection of data on students' behavior and their personal background without consent or clear parameters puts students under unwanted surveillance" (p. 358). However, it is not only students who lack consent in these processes. Jones et al. (2023) point out that "librarians often lack institutional power to push back against learning analytics initiatives when they raise ethics concerns" (p. 489). Nonetheless, while LIS practitioners, educators, and students may be subject to these processes, the results also show that LIS education has a role to play in creating a culture of critical thinking that pushes back against consent violations in the age of big data. Per Marty (2022), "Our overarching goal as LIS educators should be to encourage students to question their assumptions and think critically about the information technologies they use daily" (p. 434).

Finally, *consent as a human right* is discussed as a key topic in 30 articles in the results. The exploitation of personal data is a primary focus of many of these articles as the devaluation of consent continues to persist in the age of big data. Disturbingly, the rise of generative AI has made exploitation through sexual violence increasingly accessible. Kirchengast (2020) explains that deepfake-capable-tech is "often installed on smart technology mobile phone cameras, as filters to enhance user experience and enjoyment," meaning that there is now a very low barrier to entry to technology that "may be used to create highly convincing fake images without consent, including pornographic images" (p. 309). Exploitation of personal data, both real and AI generated, is often tied to unequal power relations in personal, professional, and academic relationships. Newsome et al. (2013) examine the "coercion-consent boundary" that defines the unequal power relations between employees and management (p. 3). Meanwhile, Jones et al. (2023) describe the lack of student consent in higher education settings. They explain, "Lacking any real regulation, higher education institutions aggregate, analyze, and use student data for seemingly innumerable purposes" (p. 486).

Relatedly, several authors explore the importance of research ethics for the conversation about exploitation and autonomy. Harlan (2016) argues that "the context of institutional research [is one] where consent is often presumed" (p. 7). This assumed consent and technological innovations have made big data sets of personal information very accessible for researchers. However, as Mai (2016) explains, researchers have a responsibility to not misuse the personal data that is collected but rather to "determine when and how it is ethically responsible to analyze the information, what to look for in the data, which questions to ask of the data" (p. 194).

AN ARGUMENT FOR AN ORIENTATION TOWARDS CONSENT IN LIS

The scoping review results show that consent is not always centered by researchers with Schmit et al. (2021) suggesting that the public agrees with prioritizing research over consent. However, there is reason to question how aware the public may be regarding how much of their personal data is exploited as they participate in day-to-day activities. Despite the ubiquity of consent notices, in the age of networked information and big data, consent forms are designed to devalue consent. Mai (2016) explains that consent forms are confusing and lead to individuals sharing data "without having read or fully understood the consent form" (p. 193).

To participate in most aspects of society, individuals are constantly required to share their data. From our students in our LIS courses to any one of us when we are forced to enter our information into third party software to check into our medical appointments, we have to "consent" to live our lives. While we are presented with consent forms full of legalese constantly, opportunities to opt out are rare. It is unsurprising that members of the public may feel like their consent does not actually matter as Schmit et al. (2021) and Mai (2016) suggest. Because if we feel that our consent matters, but that we have no option to say "no," we must accept that our human rights are being violated. Their very design ensures that consent forms are confusing to understand and yet easy to click "yes" to, thus encouraging a passive consent rather than a critical engagement. We argue that rather than encouraging further devaluation of consent, we as LIS researchers could investigate why the public views consent in this way.

Similarly, rather than participate in the constant surveillance of our students, we as LIS educators could argue for the importance of consent in our classrooms. We can encourage our students to think critically about consent and data exploitation by refusing to utilize proctoring software in class assignments, by explicitly asking for student consent when we use their data, and by being transparent about what drives our decisions in the classroom and our ethics in the LIS field. Furthermore, we can and should make consent a topic of inquiry in our lesson plans on Internet use. Ask students to explore what happens when they click "deny" on a consent form. Facilitate discussions on the prevalence of enhanced cookie consent screens. Ask students to explore the ethical implications of our professional organizations, including the American Library Association, using enhanced cookies to track user data.

An explicit consent orientation in LIS curriculum is also vital for those of us who steward LIS collections or work with collections as part of our research. Just as it is important to utilize emerging technologies in making collections accessible to users, we need to advocate for that utilization to be ethical. An orientation towards consent pushes LIS professionals to be responsible to both patrons and to the subjects of the collections that patrons are accessing. An example of such an orientation towards consent is given by Sutherland (2023) who in discussing digitization of collections that depict enslaved people highlights how digitization "exacerbates the inability of the historical subjects of the archives of Atlantic slavery to construct their own agency, realities, or representations in the present" (p. 30). By embracing consent and care, Sutherland does not argue against technology. Rather, she highlights the "life-affirming Black archival praxis" that Black memory workers prioritize in their work which has "consistently emphasized care—care in and for the work, caring for one another—as central to any Black memory work ethos" (p.159).

As Sutherland shows, LIS educators, researchers, and practitioners can act as advocates for care and consent in our work. We can shift the dominant narratives around consent in LIS by arguing that the cost of violating human rights in any capacity far outweighs any research gains to be had. It is arguably our duty to amplify this shift by acknowledging where LIS has failed, actively seeking out opportunities to repair and repatriate, and being vigilant in adopting new practices that have human interests at heart as we chart our way deeper into new domains of generative AI. In terms of building and mending damaged trust, it will be important for LIS (and research disciplines at large) to internalize the mentality that there cannot be too much transparency when navigating research with human subjects and their data.

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