

Between Autonomy and Vulnerability. Rethinking Informed Consent in a Relational Perspective

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Abstract: The article takes the interplay between autonomy and vulnerability into consideration, arguing that the informed consent procedures should be rethought in a relational perspective, so as to improve patients' right to self-determination. The article aims to demonstrate that communicative contexts and power relations are as relevant as the quantity or the quality of information provided, as well as their form, modality, and effects. In order to discuss this topic, the recent Italian Act No. 219/2017 is analysed: more than other legal instruments, it explicitly asks to take the specific condition of every person into account, and to adapt the informative process to the needs of the patient. The precondition of a free and informed consent, besides the information received, is the relationship of trust between the parties involved, and the consistency between their modes of interaction and the necessity to keep a mutual trust. In that sense, the information is adequate and relevant as a function of the kind of relationship between the parties. The article argues that even if such a goal is largely outside the reach of the legislator, the legal system can settle the condition to make the relationship of trust possible.

Keywords: Autonomy, Vulnerability, Informed consent, Relational context, Trust.

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