



Consent Counts FAQ

1. What is consent?

Consent is a clear positive expression of willingness by words or action in the context of all the circumstances. Consent is the mutual creation of agreed “yes” not just the absence of “no.” Consent may be withdrawn at any point, regardless of what has been previously negotiated orally or in writing.

2. Will a scene or relationship contract protect me?

A scene contract is not a legally binding contract, and will not be enforced or recognized by any court.

3. Can someone give consent in advance? What happens if they withdraw consent in the midst of the act?

Even if your activities have been pre-negotiated, anyone can withdraw consent at any time. You do not have to justify or validate the different reasons or need for an end to the activities.

4. How does use of drugs or alcohol change one's ability to legally consent?

Any altered state of mind affect's one's ability to legally consent. The consenter must be able to understand what they are consenting to. Consent obtained from someone who is impaired is no consent at all.

5. What happens if a someone gets so into "sub space" that they lose the ability to communicate?

This can pose a potential legal problem, similar to use of drugs or alcohol. The consenter may later claim a desire – but inability – to withdraw consent.

6. Can someone with a mental disorder consent?

This is a complicated and grey area of the law. While those who are have mental disorders certainly have the right to sex, in some cases they may not be capable of understanding fully what they are consenting to.

7. Why is NCSF focusing on decriminalization versus legalization?

In addition to the fact that legalization is more difficult to achieve politically and socially, legalization opens the door for increased government regulation, which is not to our advantage.

8. What is the legal difference in using “safe, sane and consensual” versus “RACK” (Risk Aware Consensual Kink)?

“Safe, sane and consensual” is a term developed by the leather community over a period of many decades and is the basis for the BDSM versus Abuse statement. RACK is a more recent term and poses a potential legal problem for those who use this term. If something goes wrong in a scene, use of RACK suggests that one knew that the behavior that they were engaging in was risky, but chose to do it anyway.

9. Is BDSM consent subject to the same minimum age of consent legal rules as are applied in rape cases?

The answer is yes.

10. Does a long-term consent agreement, such as in a Master/slave relationship constitute blanket consent for all BDSM activities?

No. Again, a scene or relationship "contract" is not a legal contract and a person can withdraw consent at any time, regardless of the M/s "contract."