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Against the ethicists: on the evils of ethical regulation

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Ethical regulation of social research has increased considerably in the UK in the past few years, not least as a result of the ESRC’s Research Ethics Framework. This article questions whether ethics committees are capable of making sound judgments about the ethics of what is proposed and practised in particular research projects. In addition, the legitimacy of such regulation is questioned, on ethical grounds. Finally, it is argued that increased regulation will not raise the ‘ethical standard’ of social science and will probably worsen the quality of what it produces.

Keywords: research ethics; ethical regulation; ethicists; ESRC Research Ethics Framework

In the second century CE, Sextus Empiricus, a Greek physician and philosopher, wrote a book called *Against the Ethicists*. In it, he challenged what he saw as the dogmatic claims to knowledge about what is good and what is bad made by Stoic philosophers. He declared that nothing is invariably good or invariably bad: rather, what is good or bad depends upon people and circumstances. My argument has something of the same character; though I am not arguing against Stoics but instead against more recent forms of ethicism. I see these as falling into two broad, albeit overlapping, categories. The first contains those whom I will call ethical enthusiasts, on the model of seventeenth- and eighteenth-century English liberal complaints about religious enthusiasts (see, e.g. Forster, 2005). These are people who give conventionally defined ethical issues too much priority, and/or interpret them in overly simple ways. The second category of ethicists comprises ethical regulators: those who are involved in or support the kind of ethical regulation of social research that is now becoming the norm. In this article, my main focus will be on the ethical regulators, and specifically on the claims to ethical authority made on behalf of, and in practice by, university ethics committees.

Recently, there has been significant growth in the ethical regulation of social science research in the UK, following a pattern established many years ago in the USA. This form of regulation began in the field of health, but has now spread to other areas. The Economic and Social Research Council’s (ESRC) Research Ethics Framework has been crucial here, both symbolically and materially. It makes ethical regulation of social science research by universities a requirement. Failure to comply rules out ESRC funding. In an interesting commentary on the Framework, Saville Kushner has referred to it as ‘a step change in the politics of social research’ (Kushner, 2006, p. 9). It is now increasingly required that plans for any social research project be subject to approval by an ethics committee, with the committee often demanding clarification and/or modification, and occasionally preventing the research from going ahead.
Against this background, I want to raise a number of questions about the rationale for
the sort of ethical regulation now being exercised over social science by research ethics
committees. It is important to recognize that their regulatory role involves a claim to consid-
erable authority. And this authority is based, presumably, on an appeal to expertise. In
effect, ethics committees claim the ability to determine what is and is not, would and would
not be, ethical in any particular research project, and to make better judgements about this
than the researcher(s) involved in the project being regulated. Against this, my argument
will be that:

(1) There are good reasons to believe that ethics committees are incapable of making
sound – and, even less, superior – ethical decisions about particular research
projects. Given this, the exercise of their authority will not improve the ‘ethical
quality’ of social science research.
(2) Strong doubts can be raised about the legitimacy of the control that ethics
committees now seek to exercise over researchers, these doubts themselves deriving
from ethical principles.
(3) There are likely to be serious, undesirable consequences of increased ethical
regulation.

Ethical expertise?
The regulation of social research by ethics committees implies that they have access to ethi-
cal expertise from some source. Putting aside any idea of direct revelation or of a formal
method that could reliably determine what is and is not ethically justifiable, it seems that
their claims to expertise must involve appeal to the knowledge and understanding of ethical
issues that has been built up collectively by researchers, for example as embodied in the
literature on this topic. However, if we look at this literature, we find considerable disagree-
ment, not just about particular cases or issues, but also about the very means by which
reasonable conclusions should be reached. This, in itself, undercuts any claim ethics
committees could make to expertise.

Lack of consensus among social scientists
There are at least three dimensions that structure differences in views about ethics among
social researchers.

First, there is the well-known philosophical conflict among meta-ethical positions. Usually,
this is represented as being between a deontological concern with duties or rights, focused on what is intrinsically good or bad, and a consequentialist preoccupation with the likely effects of actions, for example in terms of harm and benefit. There is a clear tension between these two approaches, though most of us probably use both of them in our everyday judgements. Furthermore, each approach taken alone can itself lead to conflicting advice. For instance, there can be conflicts among duties and/or among rights, as well as between the two. Similarly, there is much scope for disagreement about what constitutes serious harm, and about the likelihood of various harmful consequences. Furthermore, we may sometimes have to weigh different potential harms and benefits against one another; and there is no calculus for doing this.

It is also important to recognize that these two approaches do not exhaust meta-ethical
positions. A third one is virtue ethics, where the emphasis is on the nature of the good life
for human beings and the character traits that are required for this. There are also views
that place emphasis on ethical responsibilities arising from roles and relationships, for example those relating to kinship, friendship, colleagueship and citizenship (see Emmet, 1966, chap. 7; Larmore, 1987). Clearly, different ethical judgements are likely to result, depending upon the weight given to these various meta-ethical approaches, and how they are interpreted.

Disagreement can also arise at a more concrete level, arising from the tensions among the specific ethical concerns surrounding research. In fact, we can probably identify separate, albeit partially overlapping, discourses that focus on these various issues. They include:

- respecting the autonomy or rights of individuals and/or groups,
- not harming people, protecting individual and collective interests,
- taking account of people’s needs,
- dealing with people justly, for example, not exploiting them,
- treating equitably the various people encountered during the course of data collection, and
- respecting privacy and confidentiality.

We may often have to trade off each of these ethical concerns against one another, and also across individuals, groups and organizations. Different researchers tend to give varying priority to these concerns and to adopt different compromises among them. So, this is a second reason why they frequently disagree in their ethical judgements.

A third source of disagreement among researchers arises from the contrast between what we might call ethical enthusiasm and Machiavellianism. Ethical enthusiasm treats ethicality as the pre-eminent requirement, demanding that researchers exemplify ethical ideals. In other words, they are required to meet the highest ethical standards (on some interpretation). This can take a variety of forms. Edward Shils provides one version in his classic essay on ‘Social inquiry and the autonomy of the private sphere’ (Shils, 1959/1980). He treats the private sphere as sacred. As a result, in his view researchers’ attempts to find out people’s opinions or what they do behind the scenes, while legitimate, must be hedged around with the severest ethical restraints; especially given that, in his view (at least at the time he was writing), social science cannot contribute much to the public good. One of the constraints that he suggests is that interview data should be returned to informants for them to correct and alter. In other words, they should have control over it. This is an idea that was developed some years later in the field of education. For example, Walker writes:

In the hands of a skilled interviewer most people are inexperienced and will reveal things they do not intend. Only by allowing retrospective control of editing and release of data to informants can the case study worker protect his subjects from the penetrative power of the research as well as checking his own misinterpretations or misunderstandings. Ethically this involves taking the view that people own the facts of their lives and should be able to control the use that is made of them in research. (1993, p. 190)

Ethical enthusiasm can also be found in some other fields, for example, that of childhood studies. Here, Grave and Walsh suggest that one should ‘enter the field as though on one’s knees, requesting permission to be there. This posture is not merely an entry ploy but a posture that one maintains throughout the entire research’ (1998, p. 57). What I am calling ethical enthusiasm is also sometimes built into regulatory frameworks. For instance, the Belmont Report included the principle of beneficence as a key ethical principle, requiring that ‘persons are treated in an ethical manner not only by respecting their decisions and protecting them from harm, but also by making efforts to secure their well being’ (Belmont
Report, 1979, p. 5, emphasis added). Along the same lines, Pendlebury and Enslin (2002) have argued that researchers should promote the capabilities of those being researched as regards what is necessary for an improved quality of life.

By contrast with such ethical enthusiasm, those whom I am labelling Machiavellians argue that we may have to act unethically (in some senses) in order to achieve desirable goals. Very much in this spirit, commenting on the ESRC Framework, Kushner puts forward the apparent paradox that strategic dishonesty may sometimes be necessary in order for us to act in an ethical manner (Kushner, 2006, p. 10). This nicely captures the spirit of Machiavelli: he did not recommend the pursuit of evil ends but pointed out that the successful achievement of good ends may well involve doing bad things (see Skinner, 2000, pp. 41–53).8 Machiavellians often justify their approach on the grounds that we live in an imperfect world, or they may appeal to the base character of human nature. Explicit advocates of Machiavellianism in the field of social research were more prominent in the past than they are today (see Penn and Soothill 2007). A classic example is provided by Douglas (1976). He criticizes traditional views of research ethics for assuming that society is fundamentally cooperative in character, whereas (he argues) in fact societies inevitably involve conflict; as a result, misinformation, evasions, lies and the maintenance of fronts is routine. Douglas is hardly novel in this observation, of course. But the conclusion he draws is that in studying society researchers often cannot avoid engaging in evasion, misinformation and lies themselves. In the parallel case of so-called conflict methodology, developed at around the same time, such behaviour is treated as justified particularly in relation to research on state institutions, on the grounds that there is a public right to know, a rationale that is of course also frequently used by the news media.9

The question that all this raises is: given that there is such a lack of consensus within the research community, how can ethics committees claim the expertise required to legislate on what is and is not acceptable? There is insufficient common ground to do this with any legitimate authority. Nor is this the only reason why any claim to expertise on the part of ethics committees is unconvincing. Equally important is that what is and is not ethically acceptable as regards any particular research project depends upon the context in which it is to be carried out. And ethics committees will not usually have sufficient access to knowledge about this.

The situated character of practical judgements

There have been recurrent debates among philosophers and others about whether what ought to be done can be derived, in an at least quasi-logical fashion, from abstract principles, in the manner assumed by Kant; or from calculations of cost and benefit based on a small number of key facts about the situation concerned, as with some forms of utilitarianism. Many philosophers have denied this, some of them insisting on the situational or case-by-case character of sound ethical decision-making. On this view, any ethical principles must come out of, and are secondary to, ethical practice, rather than being its foundation; indeed, any appeal to principles may be portrayed as no more than a matter of post hoc legitimation, and/or as potentially leading to a distortion of sound ethical judgement.10

Neither of these extreme positions – what we might call principalism versus particularism – seems entirely plausible. It is much more likely that good practical thinking involves some dialectical interplay between judgement in terms of local considerations and guidance by principles, with each being interpreted and reinterpreted in light of the other. However, even this moderate, middle-of-the-road position creates severe problems for the idea that ethics committees can have the necessary expertise for ethical regulation. This necessarily
requires that decisions can be largely derived from principles, so that the information needed about the situation in which action is to take place is easily determined and minimal, and therefore can be included on an application form. This assumption is false.

Part of the knowledge that will be necessary to make any reasonable judgement about the ethical status of a research project, or of some aspect of it, concerns the particular types of method to be employed. In theory, this knowledge could be available to an ethics committee, but in practice, it is very unlikely that the members of any committee would have a comprehensive knowledge of research methodology, even collectively; as a result, there will be many projects about whose methods they are ignorant. But, in any case, the knowledge required extends well beyond this, especially in the case of those kinds of research carried out in so-called ‘natural’ settings that are not under the control of the researcher. Here, method is closely implicated with the particular, and changing, circumstances in those places where data are to be collected. In such research, it is unlikely to be possible for researchers to anticipate and describe all the relevant circumstances of their research to ethics committees. This problem is compounded where research design is a continual process rather than being fixed at the start, as in the case of much qualitative or ethnographic work. The proposed solution to this offered in the ESRC’s Research Ethics Framework is that qualitative work could be subject to continual ethical review, rather than just at the start. But while this may allow an ethics committee to be updated about the development of the research, it will still not provide them with the background knowledge of the research context that is necessary for making reasonable judgements.

Indeed, the image of the research process built into the rationale for ethical regulation neglects the unavoidable role of relatively autonomous, situated decision-making by researchers: right action cannot be produced by some process of pseudo-calculation; guidelines can only be guidelines not algorithmic rules that govern behaviour; and, as a result, there is always scope for reasonable disagreement about what is and is not, was or was not, acceptable behaviour in the circumstances. Furthermore, in this connection, it is worth pointing out that it is quite wrong to suggest that researchers are faced with ethical decisions per se. Rather, they make practical decisions which involve ethical considerations, but also considerations of other types, both prudential and methodological. One effect of recognizing this is that the ethics of any particular research project is inseparable from the other considerations that researchers must take into account. Once this is acknowledged, the brief of ethics committees would need to become, in effect, the whole process of doing research; it would incorporate the field of methodology as well. And there is a strong tendency for the remit of ethics committees to be expanded in this way. This is sometimes also done on the grounds that for research to be ethical it must be pursued effectively. But ethics committees are no better placed to judge methodology than they are to judge ethics. As already noted, they are unlikely to have the range of general knowledge required; and sound methodological judgements, like good ethical ones, are open to reasonable disagreement and depend upon local, situational awareness to which ethics committees have little access.

My general point here, then, is that an ethics committee will not have the contextual knowledge relevant to a particular study, and that such knowledge is essential in order to make sound ethical judgements about what is proposed. Moreover, if their remit is widened the problem simply becomes worse.

One response to this from those in favour of ethical regulation is the argument that it is an auditing process, rather than a matter of ethics committees themselves making decisions about how to carry out particular research projects. The proposal is that it is the responsibility of the researcher to engage in detailed reflection on the basis of all relevant information and value principles; to come to conclusions about what would and would not be ethical;
and then to demonstrate to the ethics committee that they have engaged in this process effectively. In other words, there is an obligation on researchers not just to undertake ethical reflection but also to provide a transparent account of this process in any submission to an ethics committee. The task of the ethics committee then would be to assess this decision-making process, to check that the appropriate kinds of reflection have been practised.

There are several problems with this argument. In particular, it assumes that it is possible to separate out procedure from substance. It may be possible for an ethics committee to make reasonable judgements about the formal characteristics of the account provided in an application for permission to carry out a particular research project, but this does not tell them about the adequacy of the reflection that it supposedly reports. This is partly because it is not possible to anticipate all the problems that might arise, nor is it worth attempting to do this. Nor is it feasible fully to explicate practical judgements, and especially not to do this to audiences who do not have the necessary background knowledge. Furthermore, the skills required for filling in ethics committee forms are likely to be different from those required for ethical reflection. Indeed, given that what is involved is ethical regulation, researchers will almost inevitably adopt a strategic approach to completing the form, taking into account what they believe are the assumptions of the ethics committee (see Israel & Hay, 2006, pp. 136–137). This is not to say that they will lie, though they may do so, but rather that how they formulate their proposals will reflect this strategic purpose. They would be foolish if they did not think strategically in this context. What we have here is the audit paradox: auditing processes do not capture the phenomena they claim to be auditing (Power, 1997).

My conclusion in the first part of this article, then, is that, for a variety of reasons, ethics committees cannot have the expertise required to carry out the task assigned to them as ethical regulators. In the next section I want to examine a different issue: the question of whether the kind of regulation that ethics committees seek to exercise can be justified.

The ethics of ethics committees

Here I want to raise the question of whether the operation of ethics committees amounts to an infringement of the rights, and (equally important) an undermining of the responsibilities, of researchers. A great deal of emphasis has been placed in the literature of research ethics on respecting the autonomy and integrity of those being researched, for example in upholding the principle of informed consent. Do we not need to give similar attention to the case of researchers?

In jurisprudence there have long been debates about the legitimacy of legislating morality. The issue goes back to early modern ideas about toleration and the role of the state. One of the forms of political liberalism that arose in the West from the seventeenth century onwards required that the state should restrict itself to formal, procedural matters, thereby placing a minimum of restrictions on people, especially as regards religion and morality. These were to be left to the consciences of individuals. Originally, these liberal ideas about the role of the state arose from the experience of religious wars: the aim was to minimize conflict both within and between national societies (Forster, 2005, chap. 1). However, over time, as is often the case, they came to be given a more positive justification, often in terms of valuing the autonomy of constituent communities and especially of individuals.

Against this background, it is striking that the regulation exercised by ethics committees is of a much stronger form even than that of the criminal and civil law. Ethics committees do not simply set principles that are to be observed by researchers, and then interpret these post facto where there is some suspicion that an offence has been committed. Instead, they
operate prospectively. In other words, they require researchers to spell out what they are going to do, and the committee then decides whether or not this is legitimate (and, in effect, whether researchers will actually be able to go ahead with the research). There are few other areas of life in which adult citizens are subjected to such a severe form of ethical regulation.13

Obviously, this might be justifiable if there were a considerable danger of severe harm, or some other major ethical risk. This exists, for example, in some areas of medical research. However, comparatively speaking, it is not true of most fields of social science enquiry. A characteristic strategy of ethicists is to appeal to the medical model as if the same level of potentially serious harm operated in social science. This is done, for instance, via reference to the experiments of Nazi doctors in concentration camps or the Tuskegee Syphilis Study.14 I suggest, however, that most people would not see social research as carrying implications, or as having consequences, of equivalent ethical significance. Nevertheless, in debates about the ethics of social science there is a tendency for ethical enthusiasts to lower the threshold of what counts as likely and serious harm, or what amounts to major ethical offence. Moral discourse provides much scope for doing this, given the multiple values to which appeal can be made and the sliding scales they involve. However, I suggest that the proper comparative standard against which to judge social research is the routine evaluation of levels of privacy invasion, autonomy infringement, and likely harm associated with ordinary, everyday forms of activity. If an occupational parallel is required, then journalism is probably a more appropriate one than medical research, for most kinds of social enquiry; albeit still one where the danger of harm is greater than with most social science.15 And, using either everyday comparison or an appropriate occupational standard, most social science would not be judged to involve major ethical problems. Furthermore, it is worth noting that, in their Research Ethics Framework document, the ESRC states that ‘almost without exception, social science research in the UK has been carried out to high ethical standards’ (ESRC, 2005, p. 1). While it is unclear how they could know this, the obvious question that arises is: if there is no evidence that there is substantial unethical behaviour on the part of social scientists, what is the justification for the draconian form of ethical regulation that has now been put in place?

It seems likely that one cause of the rise of ethical regulation is a fear of litigation on the part of universities and of the ESRC.16 We need to ask, though, whether litigation on any significant scale has been or will ever be stimulated by social research? To which the answer is that it has not been, and there is no obvious reason to suppose that it will be in the future. But, in any case, there are questions about how universities and funders should respond to any such threat, and whether ethical regulation will offer protection. Indeed, it may be that setting up regulatory ethics committees increases rather than reduces liability, since it amounts to a clear declaration of organizational responsibility for any unethical behaviour on the part of employees; where previously, given a collegial mode of operation, the organizational responsibility was less clear-cut and direct. However, even if the fear of litigation is well-grounded and ethical regulation is a solution to it, we can still reasonably ask whether this fear is a legitimate basis for ethical regulation, and especially regulation of the prospective kind now being implemented.

In summary, ethical regulation of social research represents an illegitimate attempt to legislate morality, one that cannot be justified by appeal to the ‘ethical risk’ involved. Furthermore, the tendency for the remit of ethics committees to be extended to cover the whole field of methodology greatly compounds the offence. It amounts not only to a bureaucratization of research but also to unwarranted restriction on the freedom of researchers.17
Consequences

The third argument against the growing ethical regulation of social research concerns its consequences. First of all, we might ask: is there any reason to believe that it will improve the ‘ethical quality’ of social science research? Given that there does not seem to be a serious problem to remedy here, and the severe difficulties involved in judging ethical acceptability, it is hard to understand how this claim could be sustained. By contrast, negative consequences are easier to identify.

One is that ethical regulation increases the amount of time and effort that is required to meet the administrative demands involved in bidding for funds and beginning research, demands that have already increased considerably in recent years. Furthermore, the inner dynamic of the regulatory process – the attempt to carry out an impossible task – is likely to multiply the level and depth of surveillance, for example the extent and frequency of reporting. In other words, ethical regulation will feed on its own failure. Already, some ethics committees require that they be notified if there is any significant change over the course of the research, and demand a final report which outlines what ethical problems were faced and how these were dealt with.

The significance of the administrative burden is sometimes downplayed by supporters of ethical regulation on the grounds that what is being required of researchers is only the sort of ethical and methodological reflection that they should engage in anyway. But this is disingenuous. As indicated earlier, what is required in order to satisfy an ethics committee is different from the kind of continual reflexive exploration of methodological and ethical issues in which researchers ought to be engaged during their enquiries. A very different audience is involved, and strategic thinking is essential in dealing with a regulatory authority.

There are further damaging consequences likely to follow from ethical regulation. First, on some occasions certain methods of data collection will be proposed by researchers but effectively ruled out by ethics committees. This relates not just to studies involving covert observation or other kinds of deception but also those where informed consent procedures are hard or impossible to apply. This is likely to make research on both powerful and marginalized groups more difficult, if not impossible, to carry out. Secondly, and perhaps even more commonly, there will be a general effect of discouraging those kinds of work for which researchers believe it will be difficult to get agreement from ethics committees, including (in addition to the examples already cited) research employing innovative methods or dealing with ‘difficult’ topics, groups or settings. This sort of discouragement can arise not just because researchers do not believe that an ethics committee will give such work the go-ahead, but also because they suspect that getting agreement will be excessively troublesome and time-consuming.

Another probable consequence of increased regulation is that researchers will become more cynical, or adopt a proceduralist mentality, simply complying in order to get agreement from ethics committees, worrying little about any discrepancy between what they say they are going to do and what they actually do. After all, as yet, there is no policing involved; though this could be a next step. Similarly, researchers may become more irresponsible: they may treat ethics committees as having taken over the responsibility for the ethics of what they are doing, so that they will engage in practices that, even if acceptable according to the letter of the law, are actually unethical in the particular context concerned. Moreover, they would be right to conclude that regulation, by its very nature, actually takes some of the responsibility for what is done away from them, not just as regards ethics but in broader methodological terms as well. This is inevitable, given the zero-sum character of
responsibility: if researchers are not able to make autonomous decisions but must comply with the specifications of ethics committees, then the latter take on some of the responsibility for what is done and its consequences. Any insistence otherwise by those committees would amount to an attempt to avoid accountability for their decisions and could itself be judged unethical.

The consequences outlined here are likely to worsen the quality of research, and probably also the quality of the ethical reflection involved in it. Doing research is difficult enough at the best of times, and if the obstacles are increased then it will become even harder to do well.

Conclusion

There seems to be an assumption in some quarters today that we cannot be ‘too ethical’ and that researchers should adhere to ‘the highest ethical standards’. However, this amounts to a form of ethical enthusiasm or moralism: ‘the vice of overdoing morality’ (Coady, 2005, p. 101). In our context here, moralism involves exaggerating the importance of abstract ethical principles as against the goal of producing good quality research findings, and as against what is required in order to make reasonable judgements about what can and should be done in particular contexts. Given the role they are expected to perform as regulators, this is a vice in which ethics committees are unavoidably implicated.

In other words, the increased ethical regulation now being imposed is not ethically justifiable: or, at least, no cogent justification for it has yet been provided, and there are several reasons why it can be judged unethical. There is little reason to believe that it will lead researchers to behave in more ethically appropriate ways, even in those respects where there is at least some agreement. Indeed, it may encourage cynicism about ethical requirements and/or irresponsibility, in the sense of a belief that ethics committees have now taken over the task of determining what is and is not ethically acceptable. Researchers will tend to be preoccupied with what will get through an ethics committee, not with what is and is not ethically justifiable. There also seem likely to be serious negative consequences of ethical regulation for the quality of research: it adds to bureaucratic demands for accountability, squeezing the time available for the reflective practice of research to a point where it becomes much harder to do what is already a difficult task.

Finally, as I explained in the first part of the article, there is little basis for any claim to expertise on the part of ethics committees, and therefore for the authority they claim to determine what is and is not ethical. There is little consensus among social scientists about what is and is not ethical, or even about how one should determine this. Furthermore, sound ethical judgement, like good practical research decision-making, demands contextual knowledge that is not available to ethics committees. For these reasons, they are in a weak position to legislate on what would and would not be ethical, even if it could be shown that they have the formal right to do this.

So, what is to be done? It seems to me that the increasing regime of ethical regulation must be challenged. At the very least, its costs must be made explicit and faced. Too often, those supporting it deny that negative consequences will arise. But there is already evidence, albeit at the moment only anecdotal, that these consequences are occurring. Nor is it an adequate defence to insist that these consequences were not intended. So we must address the likely consequences, not pretend that they will not (or should not) happen.

Similarly, the ethical arguments against ethical regulation should be taken seriously. The fact that these criticisms come from researchers, whose interests may be at odds with the
operation of ethics committees, should not be used to dismiss them. Everyone has interests, including those who serve on ethics committees, so this is not a reasonable ground for rejecting anyone’s views.

There are also questions for individual researchers. If they believe, as I do, that ethical regulation of the kind now in force is illegitimate, should they refuse to cooperate with ethics committees, in the way these now operate? Individual researchers, and research teams, must make their own judgements about this, taking due account of the context and the consequences. But some collective defence strategy may also be required.19

Let me end by making clear that I am not denying that ethics committees could have a worthwhile role. My opposition to them is restricted to their function as ethical regulators. They could, quite legitimately and usefully:

(1) offer advice,
(2) provide a forum in which ethical principles and their application can be discussed, and
(3) initiate discussion about problem cases.

However, anything more than this is wrong on both ethical and prudential grounds. Ethics committees have neither the authority nor the right to exercise the sort of regulation that they are now imposing on social science, with the backing of universities, other institutions, the ESRC and the government. Furthermore, the consequences of their interventions seem likely to be predominantly negative. Indeed, they threaten the future of social research as a worthwhile enterprise.

Notes
2. Exemption from scrutiny is usually allowed if it can be argued that the proposed research involves no significant ethical issues. But there is frequently considerable uncertainty about whether any particular project can be judged exempt and the tendency is to err on the side of regulation. For the ESRC’s research ethics framework, see http://www.esrc.ac.uk/ESRCInfoCentre/Images/ESRC_Re_Ethics_Frame_tcm6-11291.pdf. For information about the operation of ethics committees in UK universities, see Tinker & Coomber, 2004. There is, of course, considerable variation in how ethical regulation operates, though the current direction of change is clear. An earlier version of this article (Hammersley, 2006) dealt directly with the ESRC Framework (for other critiques of this, see Kushner, 2006; Penn & Soothill, 2007). Truman (2003) argues that there is a mismatch between formal regulation and the concerns of participants. For a history of ethical regulation, see Homan, 1991, chap. 2. For critical assessments of the current role of institutional review boards in the USA, particularly in relation to qualitative research, see Anthony, 2005; Cannella, 2004; Connolly & Reid, 2007; Coupal, 2005; Holland, 2007; Johnson, 2008; Koro-Ljungberg, Gemignani, Brodeur, & Kmiec, 2007; Lincoln, 2005; Lincoln & Tierney, 2004; Milne, 2005; Nelson, 2004; Patterson, 2008.
3. This amounts not just to ‘weighty counsel’ but to bureaucratic command: See Watt (1982) on the complex nature of authority. It is sometimes suggested that the main function of ethics committees is to encourage researchers to reflect on ethical aspects of their work, and to give them an opportunity to discuss these with colleagues, namely those on the ethics committee. However, even if the work of ethics committees has these effects, and this is debatable, they would not need to be regulatory authorities to do this; and, in fact, having a regulatory function probably detracts from any educative role. I will return to this issue at the end of the article.
5. On virtue ethics, see Annas (2006) and Statman (1997). For a comparison of deontological, consequentialist and virtue ethics positions, see Baron, Pettit, & Slote, 1997.
6. Other sources of conflict in views about ethics among researchers have been identified. See, for example, Christians’ (2005) discussion in the third edition of the Handbook of Qualitative
Research, where he contrasts liberal and communitarian approaches, the latter including feminist interpretations of an ethics of care (see, Held, 2006; Mauthner, Birch, Jessop, & Miller, 2002). There are also those who seek to draw on continental philosophical approaches, for example that of Levinas, which differ sharply from Anglo-American work (see, e.g. Standish, 2006; Usher, 2000).

7. For a critique of this proposal on the grounds that it could serve as a strategy to maximize the information available to researchers, see Jenkins (1993).

8. In line with the general tenor of my argument here, whether the ends that Machiavelli regarded as proper to a Prince – worldly honour and glory – are good or evil is open to dispute. The point is, though, that he himself did not see these ends as evil, but he did regard some of the means that were needed to pursue them as morally bad.

9. See Lehman and Young (1974). For a discussion of the conflict between publicity and confidentiality in the context of demands that educational institutions be accountable, see Pring, 1984).

10. On the arguments here, see Dancy (2004), McKeever and Ridge (2006); also see Jonsen and Toulmin (1988).

11. In addition, it is sometimes argued that research must be directed towards achieving worthwhile knowledge; in which case, ethics committees would also need sufficient substantive expertise to judge what is and is not a significant contribution within the relevant field.

12. For discussion of this, see Harris (1980, chap. 10), Hart (1962); and the chapters by Devlin and Hart in Dworkin (1977).

13. Perhaps the only exception is planning regulations, where permission must be granted before building begins. The reason for strong regulation here is fairly obvious; indeed it is in the interests of someone engaging in a building project to know before they invest money in it that it is not going to break the planning regulations and have to be pulled down. One counter-argument here would, of course, be that researchers are being regulated as employees; and this form of regulation is hardly unusual. However, this presupposes a concept of organizational form that is at odds with the collegial model which is characteristic of universities, albeit a model that is under increasing threat.

14. See Sugarman, Mastroianni, and Kahn (1998) for background material on the ethical regulation of medicine. While it is frequently cited as an example of unethical research, there is some dispute about the Tuskegee case (see Reverby, 2000; Shweder, 2004).

15. It is ironic that, in the face of problems in gaining agreement from an institutional review board for her ‘undercover ethnography’ of illegal trafficking of human organs, the anthropologist Nancy Scheper-Hughes arranged to be treated as if she were a member of the School of Journalism within her University. This, apparently, allowed permission to be given (see Scheper-Hughes, 2004, pp. 44–45). However, journalism also faces problems in dealing with ethical regulation (see Dash, 2007).

16. Another motive may be universities’ fear of bad publicity, in a climate in which they increasingly regard themselves as commercial operators seeking to attract students and to maximize their research income.

17. On the conflict between ethical regulation and academic freedom, see Hammersley (2007) and Tierney and Corwin (2007).

18. The problem is particularly acute in the health field (see Meehaghan et al., 2007). These authors quote a Department of Health statement that ‘the NHS is expected to manage risk, minimize bureaucracy, and facilitate research’, and they comment that in relation to large national health services research: ‘the NHS has achieved the opposite of the last two aims, and only looks likely to achieve the first by making it virtually impossible to conduct such studies at all’ (p. 153).

19. For a more reformist strategy, see Oakes (2002).

Notes on contributor
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References


