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Towards meaningful institutional change: responsive bureaucracy and the governance of anthropological ethics

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The variability of ethics procedures undermines their claim to universal validity and attests to their arbitrariness. What Shore calls ‘lighter-touch’ approaches – Finnish ethics committees work fast, while, even more constructively, Austrian officials respect disciplinary specificity – might strike New Zealand ethics administrators as careless and irresponsible. Furthermore, the best-intentioned structures can morph into mechanisms for enforcing conformism. Danish researchers, hitherto reportedly required to seek IRB clearance only for research on live human bodies, may now be following the Norwegians’ path to procedural proliferation. In the transition from Soviet to European Union (EU) bureaucracy, as Budilová and Jakoubek recount, administrators find few incentives to understand ethnography.

Shore calls for procedures tailored explicitly to anthropological methods. Such procedures might most usefully take the form of consultations conducted between fieldwork and write-up rather than before the initially inscrutable future of the fieldwork. This approach would acknowledge the unpredictability of human experience and, therefore, of all ethnographic research, but also create a suitable moment of ethical reflection regarding the probable – though still not entirely predictable – consequences of disclosure. The impact of the review process itself would be significantly clearer and – an ironic consequence – its long-term implications would be more predictable.

* * *

Predictability is indeed a central issue. The larger historical context itself has never been predictable. Half a century ago, as Papataxiarchis shows, no ethnographer could have foreseen today’s burgeoning engagement of local communities in global politics. Malinowski certainly did not anticipate such intense interconnectedness – a global situation that also generates the governmentality whereby Czech students, in Budilová and Jakoubek’s dispiriting

scenario, pre-emptively recoil: ‘Fieldwork? Better not’. Passivity, however, is not a necessary outcome. In global change, Papataxiarchis identifies new avenues for reflection on shifting relations that require revamped methodological orientations.

Papataxiarchis’ ethnography, like mine, draws heavily on friendship, with all its human complications. Friendship, as he argues, poses intense and volatile challenges. Some critics might also jump on the Czech students’ hesitant bandwagon to argue that the extractive nature of ethnography puts it on the wrong side of decolonization. Yet freedom of expression, as Laursen shows, is also a pressing ethical issue, and anthropologists are finding ways to make ethnography less exploitative.² While Malinowski may look like a condescending racist by today’s standards, his immersive fieldwork generated the conditions for today’s critique. This is not exonerating but an acknowledgement of past sins, implicit promises and the moral obligation to do (and listen³) better – another trajectory that few, treading Vereni’s ‘untrodden and uneasy paths’, could have predicted. Abandoning ethnographic practice would sacrifice that reflective, real-world moral education to unthinking conformism.

* * *

Universalists, nationalists and authoritarians all detest the serendipity of ethnographic methods and the exposures they portend. As we respond, we must also seek to strengthen mutual understanding between administrators and ethnographers. We must also, however, remain fiercely determined – through principled confrontation if necessary – to shield the ethical commitments of our own and related disciplines from policing disguised as scientific objectivity and ethical tutelage. Without that determination, as these articles demonstrate, our necessarily unpredictable research faces predictable disaster. ●

1. Warm thanks to Bhrigupati Singh and Anusorn Unno for valuable personal communications mentioned in this text.

2. See e.g. Chao (2024); Singh (2024).

3. Or ‘being present and paying attention’ (Lambek 2024: 75).

Chao, S. 2024. To write or not to write? Toward a hesitant anthropology. *American Ethnologist* 51: 63–71.

Lambek, M. 2024. Ethnography and ethical life. *American Ethnologist* 51: 72–77.

Singh, B. 2024. A decolonial birth for anthropology. *American Ethnologist* 51: 104–110.

Towards meaningful institutional change

Responsive bureaucracy and the governance of anthropological ethics

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To understand the ethics assemblage now engulfing anthropologists, we must move beyond the sense of injury accompanying the realization that the bureaucratic processes affecting our research do not work as we think they should. This affront at a failed promise takes centre stage in many anthropological critiques, in which bureaucracy appears less as a description than as an accusation. Such ritualistic uses of this concept threaten to foreclose the more generous emic readings on which anthropology frequently relies. Moreover, they also preclude more generative understandings of institutions’ inner workings crucial for identifying and targeting means of productive intervention.

Recuperative criticism of bureaucracy is needed now more than ever (Lea 2021: 68–70). If recent history is any indication, the ethics regimes that have emerged over the last 50 years are not going away, nor have several rounds of reform of existing legislation adequately addressed anthropologists’ concerns.¹ There is similarly little reason to hope for any near-term ethnography-friendly elaboration of the research-specific provisions in the European Union’s General Data Protection Regulation (cf. Corsin Jiménez 2018). This holds despite the expanding body of critical scholarship on these regimes’ many inadequacies. As Will van den Hoonaard laments, ‘To hope for, or to engineer, the collapse of ethics codes ... is unrealistic. The codes express the temper of the times and are here to stay’ (2011: 287).

Anthropologists’ efforts would thus be better directed towards finding or creating organizational layers that mediate between state agencies, on the one hand, and the research coalface, on the other, that more fully appreciate the ‘undesigned relationality’ entailed by anthropological ethnography (Bell 2019) – a feature that demands something quite different from what most of these regimes envision. The challenge is to ‘co-opt’ the regulation of research through (re)designing (new) institutional venues (Evans & Silbey 2022).

These should, on the one hand, encourage anticipatory reasoning by researchers and constructive probing by their peers around ethical research – and, whenever necessary, document these deliberations and evaluative decisions for due diligence purposes – while, on the other hand, recognizing that ethical practice is a deeply situated, relational and ongoing achievement. Anthropological ethics is only cultivable in pedagogical training, encounterable in the ‘field’ and in the representational practices of ethnographic writing (Bell 2014) and addressable in one’s dealings with interlocutors, colleagues and one’s ethnographic self (cf. Pels et al. 2018, especially 406–407).

Our modest ambition is to push the conversation about the bureaucratic regulation of research ethics in anthropology beyond critique and to provide a different lens that better facilitates the transformation of calls for collective action into meaningful institutional change (e.g. Herzfeld 2023; Maeckelbergh 2021). We first critically address

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1. On the failures of recent regulatory reform efforts in the United States and Canada, see Bell (2016); Lederman (2016); Schrag (2010; 2019).

2. The following description of the decentralized US IRB system follows Babb (2020), Halpern (2008), Heimer & Petty (2010) and Schrag (2010). See Fitzgerald & Philips (2006) for a comparative analysis of national systems with varying degrees of centralization.

3. Leiden University is the home institution of one of this article's authors, although he has no formal affiliation with the ERCSS.

4. The ERCSS functions independently from the faculty's two other ethics committees in the Institutes of Education & Child Studies and Psychology, which have institute-specific committees and procedures.

5. GDPR and its national elaborations are not research-specific regulations but apply to any instance and organization in which personal data are processed. GDPR grants the processing of personal data for scientific research a little more leeway insofar as the reasonable 'technical and organizational measures' researchers and research-performing organizations are expected to take to ensure the privacy and integrity of the data they collect (See Corsín Jiménez 2018.)

6. See Levine and Skedsvold's (2008: 502–503) recommendation of decentralizing IRBs within universities.

Babb, S.L. 2020. *Regulating human research: IRBs from peer review to compliance bureaucracy*. Stanford: Stanford University Press.

Bear, L., & Mathur, N. 2015. Introduction - Remaking the public good: A New anthropology of bureaucracy. *The Cambridge Journal of Anthropology*, 33(1), 18–34.

Bell, K. 2014. Resisting commensurability: Against informed consent as an anthropological virtue. *American Anthropologist* 116(3): 511–522.

— 2016. The more things change, the more they stay the same: The TCPS 2 and the institutional ethical oversight of social science research in Canada. In *The ethics rupture: Exploring alternatives to formal research-ethics review* (eds) W.C. van den Hoonaard & A. Hamilton. Toronto: University of Toronto Press.

— 2019. The 'problem' of undesigned relationality:

recent anthropological approaches to bureaucracy before reframing these conversations in terms of anthropological and sociological scholarship that focuses on the inner workings of compliance bureaucracies. Next, we look at the institutional dynamics that led to the enlarged remit and intensification of the work of institutional review boards (IRBs) in the United States. In the penultimate section, we pivot to the case of one specific ethics review committee currently in place at a European university. This case helps to elucidate the central but differential role that (inter)national legislation plays across jurisdictions in defining the specific objects of (ethics) regulation, how those objects are regulated, the nature of sanctions, the scale at which such sanctions are imposed and the implications this has for organizations and individuals involved in the research enterprise.

In the concluding section, we argue that comparisons of the institutionalization of ethics review under different regulatory regimes provide the knowledge anthropologists will need to carve out spaces of professional autonomy more effectively.

Thinking anthropologically about bureaucracy

Anthropological analysis and criticism of ethics regulation have primarily taken the form of cultural critique, characterized by its normative orientation – both towards excavating the ideological conceits of the regulations and their implementation and towards redirecting this new knowledge to improve the regulations. Herzfeld's (2023) recent piece on 'the bureaucratization of ethics' is an example of cultural critique, and the collective work of Rena Lederman (e.g. 2006; 2007; NRC 2014; Schrag 2019), as an anthropologist, IRB chairperson and policy adviser, is emblematic of normative enquiry linked with advocacy for regulatory reform.

This tradition aims to reveal the internally coherent but bounded set of epistemic, ethical and ontological assumptions embedded within the regulatory language, official guidelines and everyday practices of reviewers and administrators. These become sites for the unmasking of ideological foundations of concepts such as 'informed consent' (Bell 2014; van den Hoonaard 2011), 'data management' (Pels et al. 2018) or 'research' (Lederman 2007). Cultural critique takes the institutionalization of research ethics at its word – as a means of rationally organizing the pursuit and accomplishment of ethical practice – and then judges its implementation as a failure. While this literature has produced crucial insights, it has had limited discernible effect on policy.

Another body of contemporary anthropological and sociological scholarship on bureaucracies aims to disrupt the 'ready-to-hand evaluative impulse' of cultural critique and its orienting preoccupation with whether ethics regulations and institutions deliver on their promise (Lea 2021: 65). Jacob and Riles's study of IRBs and informed consent, for example, urges us to 'press the pause button on the ambient criticism of IRBs ... in the service of a larger theoretical and epistemological inquiry' (2007: 182–183).

This approach illuminates the fragmented and contradictory everyday worlds of bureaucratic institutions: the contingencies, ambiguities, leakages and wriggle-room endemic to the operation of complex organizations (e.g. Bear & Mathur 2015; Hoag & Hull 2017; Lea 2021). In so doing, it offers promising sites for pragmatic action, especially when augmented by sociological analyses of delegated modes of governance for regulatory compliance (e.g. Babb 2020; Halpern 2008; Huising & Silbey 2021). Completing Jacob and Riles's (2007) analogy, we believe the insights thus gleaned will be crucial when it is time to release the pause button and move from critique towards

finding the potential sites of more responsive ethics regulation (Hoag 2011).

Regulatory rigidity in US ethics governance

Many anthropologists of ethics review explicitly mention that their interest was first sparked by participation in an IRB (e.g. Babb 2020: 2; Herzfeld 2023: 3; Lederman 2006: 483). The review panel, where potentially harmful research is scrutinized, is a rich site for reflexive enquiry into the ethical conceptions of academics with diverse and often competing epistemic and methodological commitments. Such participant observation of their everyday work is a generative 'ethnographic response' for the anthropologist 'interpellat[ed] into bureaucratic practices' (Riles 2006: 16). As the more consequential sites of ethics governance have been relocated (at least in the United States) to other wings of the university's organogram, resting now with research administrators and the increasingly professionalized, non-academic staff of IRB offices, this fieldsite may have led anthropological analyses astray.²

Beginning in the late 1990s, IRB offices in US research organizations expanded in response to changes in the regulatory process and a dramatic enforcement crackdown by the federal government. This meant that IRB staff would increasingly oversee routine decision-making rather than professors or researchers. Their work primarily targets the quick and efficient allocation of each submission to a category (e.g. exempt, expedited review, full panel review); the dispatching of reviews to panels; studiously demanding and documenting that proper protocols and standard operating procedures are followed; and archiving submissions and approvals.

Meanwhile, higher-level decision-making over how universities would meet or even exceed the regulation – for example, whether to review only federally funded research, as legally required, or to demand this for *all* research – became concentrated among research administrators. This occurred against the backdrop of proliferating submissions, vague guidance about the law and risks to an institution's entire portfolio of federally sponsored research. Staff concerns and the lines of accountability consequently look forwards and upwards, institutionalizing compliance against potential government-initiated audits.

We have yet to see anthropological accounts of IRB staff members' form-filling and document handling, the arrangement of their offices, the cartoons and sticky notes attached to their computer monitors, their lunch-break conversations and uncertain career paths. Following the pattern of most ethnographies of bureaucracies, anthropological accounts of the ethics assemblage 'focus on those affected by bureaucracies rather than what goes on in the office' (Hull 2012: 252). Anthropologists do not consider their 'research subjects' the only affected party; they also see themselves as interpellated and acted upon.

Organizational sociologists have meanwhile provided vital analyses of the historical and institutional drivers of these shifts over the past two decades. Babb (2020) traces the forces that changed IRBs from a forum for intra-professional peer review into a compliance bureaucracy focused on efficiency and auditability. Halpern (2008) shows how the hybrid model of regulation in the United States, with controls and authority distributed between state and non-governmental institutions, led to systemic rigidity and over-zealous compliance by research institutions in the wake of the enforcement crackdown. These scholars' insights help explain why so many anthropological critiques appeared in the mid-2000s. Alongside more normatively oriented sociologists of regulatory governance (e.g. Evans & Silbey 2022; Huising & Silbey 2021), these scholars provide accounts of institutional dynamics

- Ethnographic fieldwork, dual roles and research ethics. *Ethnography* 20(1): 8-26.
- Corsin Jiménez, A. 2018. A data governance framework for ethnography. <https://digital.csic.es/handle/10261/172227>
- ERCSS (Ethics Review Committee Social Science) n.d. Ethics Review Committee of the Social Sciences ethics procedure and questions. <https://www.organisatiegids.universiteitleiden.nl/binaries/content/assets/sociale-wetenschappen/commissie-ethiek-maatschappijwetenschappen/ethical-procedure-and-questions.pdf>.
- European Commission 2021. Ethics and data protection, 5 July. https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/horizon/guidance/ethics-and-data-protection_he_en.pdf.
- Evans, J. & S.S. Silbey 2022. Co-opting regulation: Professional control through discretionary mobilization of legal prescriptions and expert knowledge. *Organization Science* 33(5): 2041-2064.
- Fitzgerald, M.H. & P.A. Phillips 2006. Centralized and non-centralized ethics review: A five nation study. *Accountability in Research* 13(1): 47-74.
- Halpern, S. 2008. Hybrid design, systemic rigidity: Institutional dynamics in human research oversight. *Regulation & Governance* 2(1): 85-102.
- Heimer, C.A. & J. Petty 2010. Bureaucratic ethics: IRBs and the legal regulation of human subjects research. *Annual Review of Law and Social Science* 6(1): 601-626.
- Herzfeld, M. 2023. Ethnographic responsibility: Can the bureaucratization of research ethics be ethical? *Anthropology Today* 39(3): 3-6.
- Hoag, C. 2011. Assembling partial perspectives: Thoughts on the anthropology of bureaucracy. *PolAR: Political and Legal Anthropology Review* 34(1): 81-94.
- & M.S. Hull 2017. A review of the anthropological literature on the civil service, 31 May. World Bank Policy Research Working Paper No. 8081.
- Huising, R. & S.S. Silbey 2021. Accountability infrastructures: Pragmatic compliance inside organizations. *Regulation & Governance* 15(S1): S40-62.
- Hull, M. 2012. Documents and bureaucracy. *Annual Review of Anthropology* 41:251-267.
- Jacob, M.A. & A. Riles 2007. The new bureaucracies of virtue: Introduction. *PolAR: Political and Legal Anthropology Review* 30(2): 181-191.
- Lea, T. 2021. Desiring bureaucracy. *Annual Review of Anthropology* 50(1): 59-74.

that could be strategically useful for anthropologists interested in taking the next steps beyond critique.

There has been little progress in making the US regulatory framework more responsive to anthropologists' concerns. Moreover, attempts to educate colleagues from other epistemic traditions usually fail, as Herzfeld (2023: 3) points out. So what alternatives might we have for effectively co-opting this compliance bureaucracy? How might we create suitable accountability infrastructures where the value of the situated and ongoing achievement of ethical anthropological practice is reflected to the anthropologist while also rendering these practices legible to the bureaucrats whose duty is to account to regulators?

Ethical and legal review in a European university

Before answering these questions, we briefly shift attention to another context and scale represented by a particular case: the Ethics Review Committee Social Sciences (ERCSS) in Leiden University's Faculty of Social and Behavioural Sciences (FSW).

Here, we follow Herzfeld's positive evaluation of anthropologists' efforts at Leiden University in the Netherlands (2023: 4, n 4).³ Approaching the US and Leiden examples comparatively illuminates the central role of (inter)national law in defining what a given ethics regime seeks to regulate, as well as the effects of different levels of intra-institutional regulatory delegation, to show how these affect the degrees of freedom that variously configured accountability infrastructures might grant to the subjects of regulation.

The ERCSS was initiated in the mid-2010s at the behest of the FSW Faculty Board to replace a previous cross-faculty ethics committee. Its working model was partly based on a process developed by anthropologists from another Dutch university to achieve greater efficiency and bring reviews closer to the disciplines in question. The committee presides over the three social science institutes housed within FSW – Cultural Anthropology & Development Sociology (CADS), Political Science (PoWe) and the Centre for Science & Technology Studies (CWTS) – and its membership consists of at least one PhD-holding affiliate from each of these institutes, whose service on the committee is compensated via time buy-outs.⁴ Importantly, this means that reviewers are 'disciplinary peers' to the extent that each member is from one of the three social science institutes within the faculty (rather than from either of the two behavioural science institutes), although the represented disciplines are diverse enough that a reviewer may not always share the epistemic and ethical commitments described in a proposal.

Submissions consist of a standardized questionnaire that asks for basic details about the applicant(s) and the research project; who is involved in the project; how the researchers envision relating to their interlocutors; what steps will be taken to gain consent for the interlocutors' participation; what types of personal data the researchers will collect; any negative consequences they foresee arising from these relations and protective measures that will need to be taken; plans for publishing the materials; and how the researchers will handle tensions between data protection and the sharing of information (ERCSS n.d.). Like American IRB offices, the ERCSS secretariat has a mediatory role, processing submissions, dispatching them to committee members for review and relaying questions, answers and final evaluations between the committee and the submitting researcher. The committee is also chaired by an individual who is the primary point of contact between other faculty- and university-level ethics governance bodies and with national stakeholders, including Nethics, the national social and behavioural sciences ethics council.

To streamline its work and promote quality over quantity, the committee delegates ethical review of projects conducted by Bachelor's and Master's students to their supervisors and review of PhD projects to the students' thesis committee members during the thesis proposal writing phase. Most of the committee's work is oriented towards larger, externally funded projects whose sponsors often require official university confirmation that the project has successfully passed ethical review. The committee members review submissions on a rolling, ad hoc basis, with a target turnaround window of 15 days. Objections to an ERCSS appraisal are brought for adjudication before a faculty-wide body.

Of note here is the critical dependency between the final approval of an ERCSS submission and a separate process that entails a review of a project's compliance with European and Dutch data protection and privacy legislation, which regulates the processing of personal data in research:⁵ the former being the General Data Protection Regulation (GDPR), the latter its national elaboration in the Dutch General Data Protection Regulation Implementation Act (UAVG). These reviews – locally called Data Protection Impact Assessments, or DPIAs – are handled by a privacy officer employed by the faculty and operate independently of the ERCSS.

The privacy officer's role is to evaluate the answers to another standardized questionnaire that researchers fill out, which aims to assess compliance and foreseeable challenges in meeting legal requirements. The questions prompt the researcher to address the types of data, modes of handling, storage, archiving and sharing throughout the project, and what risks the researcher envisions as possibly arising from the handling of personal data as defined under GDPR. These culminate in an overall risk assessment of a project, stratified across low/medium/high categories.

The final approval of an ERCSS submission depends on the committee's review and a positive signal from the privacy officer. For instance, in cases where an external sponsor such as the European Research Commission requires a formal letter attesting to a successful ethics review, the ERCSS will only submit the letter once the faculty's privacy officer first signs off on the DPIA. Such embedding of privacy review within the broader ethics review process ensures that this intermediating layer sufficiently meets the reporting requirements of the applicable regulatory regimes; it provides due diligence for *ethical* and *legal* aspects legible to the bureaucrats working above this institutional layer. At the same time, the ERCSS's work is also reflected to the anthropologist so that the bureaucrat's responses appear against the backdrop of knowledge of anthropological ethics.

Thinking bureaucratically about anthropology

Herzfeld compliments the anthropologists at Leiden for 'negotiating a more viable space of compromise for ethnographic research' (2023: 4 n. 4) Our rough comparison suggests what has been negotiated and the conditions that enabled it.

First, in comparison to the US IRB system, the ERCSS has achieved more responsiveness to the specificities of anthropological practice through several organizational strategies: reducing the number of submissions and subsequent need for efficiency by delegating some reviews further downwards (to students' supervisors); distinguishing ethical and legal aspects of review and embedding appropriate expertise and authority for each in the review process; and changing the level of delegation to achieve a better match between ethics committee and researchers, where closely aligned disciplinary communities must elaborate their form of anticipatory ethics review. These strategies would be recognized by proponents of

Fig. 1. Leiden University's Ethics Committee website.
Fig. 2. Leiden University's Faculty of Social and Behavioural Science (FSW).

Lederman, R. 2006. The perils of working at home: IRB 'mission creep' as context and content for an ethnography of disciplinary knowledges. *American Ethnologist* 33(4): 482-491.

— 2007. Comparative research: A modest proposal concerning the object of ethics regulation. *PolAR: Political and Legal Anthropology Review* 30(2): 305-327.

— 2016. Fieldwork double-bound in human research ethics reviews: Disciplinary competence, or regulatory compliance and the muting of disciplinary values. In *The ethics rupture: Exploring alternatives to formal research-ethics review* (eds) W.C. van den Hoonaard & A. Hamilton. Toronto: University of Toronto Press.

Levine, F.J. & P.R. Skedsvold 2008. Where the rubber meets the road: Aligning IRBs and research practice. *PS: Political Science & Politics* 41(3): 501-505.

Maackelbergh, M. 2021. Navigating conflicting instruments of data morality. In *Audio and digital ethnography: A practical and theoretical guide* (eds) C. Grasseni et al. London: Routledge.

NRC (National Research Council) 2014. *Proposed revisions to the Common Rule for the Protection of Human Subjects in the Behavioral and Social Sciences*. Washington, DC: National Academies Press.

Pels, P. et al. 2018. Data management in anthropology: The next phase in ethics governance? *Social Anthropology* 26(3): 391-413.

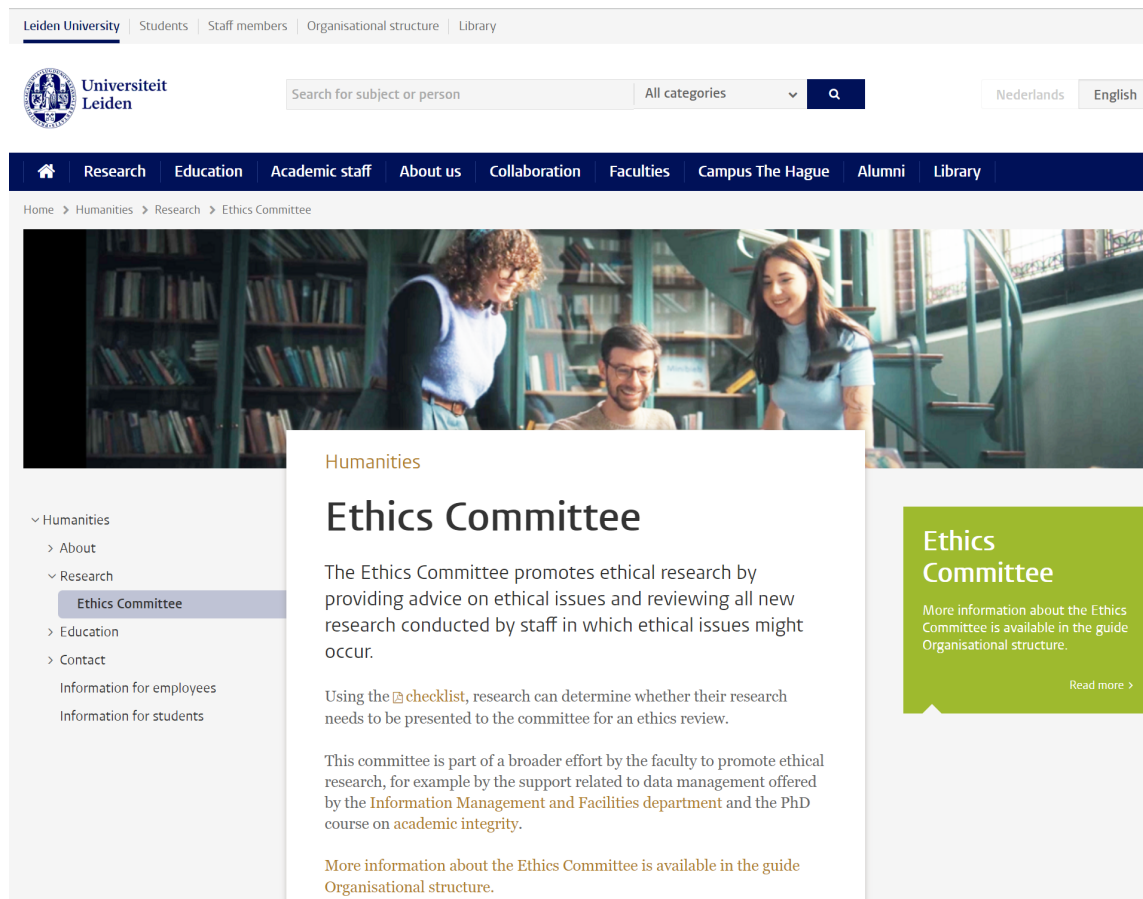
Riles, A. 2006. Introduction: In response. In *Documents: Artifacts of modern knowledge* (ed.) A. Riles. Ann Arbor: University of Michigan Press.

Schrag, Z.M. 2010. *Ethical imperialism*. Baltimore: Johns Hopkins University Press.

— 2019. Vexed again: Social scientists and the revision of the common rule, 2011-2018. *Journal of Law, Medicine & Ethics* 47(2): 254-263.

US Department of Health and Human Services, Office for Human Research Protections 2009. Compliance oversight procedures for evaluating institutions. <https://www.hhs.gov/sites/default/files/compliance-oversight-procedures-for-evaluating-institutions-2009.pdf>.

van den Hoonaard, W.C. 2011. *The seduction of ethics: Transforming the social sciences*. Toronto: University of Toronto Press.



delegated models of regulation, where responsibility for standards setting and enforcement are delegated to regulated organizations.

Most significantly for our comparison, Leiden's multiple review committees provide an example of intra-organizational delegation to accommodate significant internal variation (Huising & Silbey 2021: S52-53). The criticisms of IRBs as 'one-size-fits-all' and 'overly standardized' are signs of insufficient delegation within research institutions.⁶

Second, practices in the United States and the European Union differ concerning the laws and extra-legal regulations in place, the objects they seek to regulate, the scope of guidance for compliance and the scale of punitive sanctions for violation. In the United States, the kernel of ethics regulation is in the Code of Federal Regulations, which provides guidelines for organizing IRBs (Protection of Human Subjects, 45 CFR, §46, 2024). In this way, it is *ethics as such* that is regulated. Organizations whose research is sponsored by the 20 agencies that are signatories to the so-called Common Rule must comply with the regulations; failures to comply (and enforce compliance by those within the organization) may result in sanctions against individual researchers or even the withdrawal of approval of a university's Federal-Wide Assurance (FWA), entailing the suspension of all federal research funding (US Department of Health and Human Services 2009).

In the European Union (and with the Dutch UAVG, per our case here), it is not ethics but rather *the processing of personal data* whose regulation is legislatively backed; GDPR is the legal foundation of the compliance bureaucracies within European universities. This creates a conceptual distinction between *lawful* and *ethical* research, evidenced by advice from the European Commission's Directorate-General for Research and Innovation: 'While the EU's ethics review process is primarily concerned with ethics issues, your project must demonstrate compliance with the GDPR. However, the fact that your research is *legally permissible* does not necessarily mean that it



will be deemed ethical' (European Commission 2021: 4, former emphasis ours). This distinction produces two clearly defined jurisdictions over which variously professionalized actors exercise authority and a corresponding division of labour in how many universities adjudicate privacy and ethics reviews.

The ERCSS (n.d.), in a document explaining its procedures to researchers, states that it is 'eager to avoid turning ethics into a bureaucratic (and potentially void) ritual'. The space of compromise Herzfeld recognizes in Leiden, however, is the result not of a relative lack of bureaucracy but of a bureaucratic process under slightly different regulatory conditions and organizational arrangements. More granular understandings about how roles are defined and inhabited, the kind of pressures brought to bear on each and the distribution of discretion that issues from these different arrangements across jurisdictions help us better to pinpoint why different anthropological communities have more or less space to put their expertise into practice. This is the kind of knowledge needed to work towards more responsive compliance bureaucracies. ●