

# “Ethics Ready”? Governing Research Through Informed Consent Procedures

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## Abstract

Social Scientists using ethnographic methods are increasingly confronted with ethical clearance procedures imposed by universities, national authorities, professional organizations and funders. In this article, we focus on informed consent procedures in particular and discuss how they govern fieldwork interactions. To do so, we first show how ethical clearance procedures in Europe have been influenced by biomedical science, creating a risk of “governing the social science research in the name of ethics” (Haggerty, 2004) through “anticipatory regulatory regimes” (Murphy and Dingwall, 2007). We subsequently discuss the implementation of ethical procedures negotiated with an ethical review panel in the framework of an EU-funded project in migration studies. In doing so, we show how Research Ethics Committees (RECs) can incentivize researchers to comply with ethical guidelines and procedures in order to be considered as “ethics ready” by the funder. Providing examples of different ethnographic situations, we argue that —while informed consent procedures might reinforce participants’ vulnerabilities— they can also activate their desire to assert power. The article concludes with three recommendations that call for a redefinition of the relationships between institutions, researchers and participants through a co-construction of research ethics.

## Keywords

research ethics, European research council, informed consent, ethnography, migration

## Introduction

Social Scientists using ethnographic methods are increasingly confronted with ethical clearance procedures imposed by different Research Ethics Committees (RECs)<sup>1</sup> such as universities, national authorities, professional organizations and funders. In the case of the project discussed in this article — which focused on immigrants’ and their families’ access to welfare in host and home countries— sensitive issues such as the precarious status of some participants, the collection of personal information related to their well-being and the potential stigmatization that research could generate against certain ‘migrant communities’, raised several ethical concerns.

The literature on ethics in migration studies has extensively explored the complexity of working with people in the context of migration, especially in the case of persons in situations of vulnerability such as irregular migrants and refugees (Van Liempt & Bilger, 2010; Düvell et al., 2010; Zapata-Barrero & Yalaz, 2018). Indeed, particular precautions have to be considered when conducting research on migration, especially in

relation to issues of informed consent, anonymity and data storage. The assumption that migrants are inherently ‘vulnerable’, and the idea that research could exacerbate vulnerability, implies therefore an ethical preoccupation for ‘protection measures’. Informed consent procedures<sup>2</sup> are one of the main responses to this issue. The underlying assumption is that —since every research process entails uncertainty— the participants ought to be in a position to appreciate the risks and the benefits. Traditionally, ‘vulnerable participants’ are persons who are considered, for different reasons, relatively or completely incapable of protecting their own interests. Responses to this issue have generally been addressed by

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strengthening the informed consent procedure and by anticipating harmful events. Research ethics have thus generally sought to mitigate power and knowledge asymmetries between the researcher and the participants.

However, scholars have drawn attention to the paternalistic framing of vulnerability, which tends to infantilize the respondents through tutelary protection (Souza Lima, 2010; Lugones, 2012; Vivas Romero, 2017). Indeed, informed consent procedures do not take into account the unstable interplay of power relations that takes place in an ethnographic situation. We therefore question the relevance of standards that are framed around vulnerability concerns due to their biomedical legacy. Despite the abundant literature about the specificity of qualitative and ethnographic research practices in social science, many RECs still largely rely on standard procedures used in biomedical research. If consent is indubitably a major lever to properly address vulnerability, one could wonder whether its usual bureaucratic implementation—a contractual procedure set in advance—really meets ethical expectations in an ethnographic context.

Anthropologists have long been concerned about ethics. In the US, the Society for Applied Anthropology set in 1971 the pioneering guidelines and ‘principles of professional responsibility’ (Pels et al., 2018, p. 392) that came to dominate Anglophone anthropology. In Francophone anthropology, it was only in the 1990s that collective efforts to engage in reflexive analysis were initiated (Fassin, 2006). Fassin summed up this late development in these terms:

“ [Traditionally], ethics was considered to be embodied in the anthropologist or sociologist, whose moral integrity and scientific rigor were sufficient guarantees of respect for ethics. Social scientists were the best judges of the rules and limits they had to impose themselves. This self-defined and self-referential accountability was their ethical code, which did not have to be written, certified, and assessed” (2006, p. 522–523).

In the 1990s, a groundbreaking “ethical turn” (Fassin, 2014) took place with the construction of sub-discipline fields such as the ethnography of moralities (Howell, 1997), and the anthropology of ethics (Laidlaw, 2002; Faubion, 2011). With the increasing emergence of RECs in the 2000s, the methodological inadequacy of standard biomedical ethical procedures in fieldwork-based disciplines began to be discussed. Ethnographers (Bosk & De Vries, 2004; Lederman, 2006; Librett & Perrone, 2010) specifically addressed the problematic imposition of bureaucratic procedures such as informed consent. This literature highlights the remarkably poor fit between RECs and ethnography and expresses severe criticism of the use of top-down informed consent procedures. While most of this literature is limited to a criticism of RECs procedures, some authors intended to build “ethical escape routes” (Katz, 2006) and further alternatives to obtain consent (Duneier, 2001) that underline the specificity of “ethnographic consent” (Fassin, 2008). Engaged in that field, Fassin invites

anthropologists to (re)invent their own models (2006) while Metro (2014, p. 181) proposes to “devote more energy to theorizing and documenting consent processes”.

### Goals of the Article

In this article, our analysis aims to contribute to these constructive paths while not questioning the legitimacy and absolute necessity of informed consent. Rather, we question its materialization through instruments such as informed consent procedures. As suggested by Yuill, one could also wonder whether informed consent procedures represent a “symbol of bureaucracy and governmentality” (Yuill, 2018, p. 37). We therefore argue that informed consent procedures govern the conduct of research institutions as well as researchers and research participants. Ethical clearance procedures in Europe create thus a risk of “governing the social science research *in the name of ethics*” (Haggerty, 2004). Among other research ethics imperatives such as ensuring anonymity, giving back and benefit sharing, we therefore decide to focus on informed consent, the cornerstone of funders and RECs ethical clearance procedures. Providing examples of different ethnographic situations, we argue that informed consent procedures ambiguously reinforce participants’ vulnerabilities as they do not properly respond to the ethical concerns they intend to address. Moreover, we argue that those procedures also activate participants’ desire to gain power over the interaction. We suggest therefore that it is ethically important to analyze more carefully how the relationships that gradually develop between the researcher and the participants will bring into play the power at their disposal. This power is not only determined by the place they each occupy in the society or groups to which they belong, but also by their capacity for action in the specific fieldwork setting. The reality is more complex than a pre-set of asymmetrical positions between researchers and participants and more sophisticated accounts of power are therefore needed (Smith, 2006, p. 644).

In this article, we first argue that “anticipatory regimes” (Murphy & Dingwall, 2007) that are typically used in biomedicine ethical regulations tend to pre-establish the terms of the research situation and the interactions involved. In the framework of an EU-funded project we then discuss the implementation of “ethics ready” procedures in an ethnographic research project, focusing in particular on informed consent procedures. Overall, we call for rebalancing power relationships between institutions, researchers and participants through a co-construction of research ethics.

### Social Sciences and Humanities Ethics in the European Context

To understand the increasing ethical expectations of academic institutions and funding agencies, it is necessary to examine the long-term evolution of European research

policies. In 2005, the prioritization of research ethics materialized in the European Charter for Researchers and has since been adopted by most national agencies and universities across the EU.<sup>3</sup> With the creation of the European Research Council (hereafter ERC) in 2007, new research fields such as security and information technologies received attention because of their expected social impact (Hirsch et al., 2009, p. 756). In this context, research ethics became “pivotal to achieve real research excellence”.<sup>4</sup> To address ethical issues properly, the EU provided some expertise tools to reinforce the collaboration between the research ethics units of the Research and Innovation DG and distant independent experts.<sup>5</sup> At the same time, it also granted greater weight to the formal ethical procedures conducted by national or local authorities in charge of research ethics within Member States. At the university level, this process fostered the development of specialized ethics boards and procedures designed to fit the frame of the EU research policies. In line with this trend of formalizing ethical clearance processes, the European Commission itself, as well as the ERC, started to regularly issue detailed documentation to guide researchers in completing their ethics self-assessments.<sup>6</sup> In doing so, it progressively shaped ethics assessment tools at the national and university levels and more generally, contributed to building an integrated ethics assessment system.

### *From Biomedical Regulation to SSH Ethical Governance: History and Debates*

An interesting feature of European guidelines on research ethics is that it does not target specific disciplinary areas. Instead, they focus on well-recognized and identified ethical issues regarding either human and non-human beings involved in the research (e.g. human embryos and fetuses, human beings, personal data, environment, health and safety) and the use of research findings (e.g. misuse and dual use). Such transdisciplinary structuration, we argue, can be explained by the process through which ethics assessments were formalized in the EU.

While Member States maintain significant prerogatives in adopting legal and ethical regulations, a number of international conventions have historically shaped these national standards.<sup>7</sup> While these reference texts were originally dedicated to biomedical research involving human subjects, their basic principles progressively extended their scope, encompassing *all* research involving humans, whatever the ‘involvement’ is. Involvement thus progressively encompassed subjects of observation, research collaborators or any person or group potentially affected by the incidental and unintentional impact of research projects. In short, Social Sciences and Humanities (SSH) ethical guidelines and checklists are designed after the ones used in biomedical science and usually appear in the “human beings” section of such documents.

While the respect for “ethical principles” and values attached to human dignity may seem self-evident and is intertwined with the development of social sciences, the implementation of formal ethical regulations within the field of SSH research was not a smooth process. As noted by Vassy and Keller (2008), ethical procedures in European SSH research had historically mostly consisted in loose forms of control by peers and academic societies and later evolved into formal processes.

In North American social sciences, Vassy and Keller studied the debates around the use of IRBs and identified a risk that a form of “ethical government” would sooner or later be imposed from the outside. To mitigate this risk, they suggested alleviating the lack of explicit and formalized ethical regulation and strengthening the autonomy of the discipline in determining ethical procedures. Indeed, IRBs and similar boards did not only exert undue bureaucratic and technocratic power over SSH scientific communities — which Van den Hoonaard (2001, p. 26) called the “orchestration of a moral panic” — but tended to reshape the research itself by putting in question the traditional methodologies of qualitative research. In other words, “governing the social science research *in the name of ethics*” (Haggerty, 2004, our emphasis) revealed to be the problematic backstage of the proclaimed ‘ethical governance’. In a key publication, Dingwall (2006) showed that the rise of review boards and ethical regulation in the UK was in no way a response to an evident need for regulations in the sector of SSH to protect ‘vulnerable persons’ from abusive practices.<sup>8</sup> In this author’s view, the extension of isomorphic ethical regulations is to be understood firstly in political and institutional terms: it was part of a race for legitimacy and access to material resources in a competitive environment. This context, for instance, led the UK Economic and Social Research Council (ESRC) to align with the longstanding standards of the Health Department research funds. It is therefore unsurprising that the SSH researchers found themselves trapped by regulations that were, for the most part, foreign to their own practices.

This tension became particularly acute when the use of ‘signed consent forms’ imported from medical research — the ‘cornerstone of all Western ethical codes’ (Charbonneau, 1984, p. 21, p. 21)— was imposed on ethnographic practices. In 2001, Van den Hoonaard already identified the numerous difficulties and risks faced by researchers using signed consent forms: the difficulty to use them with groups “living on the margins of society”, occupying positions of power and prestige or operating in “areas of secrecy”; the potential destruction of anonymity; the risk for participants not to be able to participate in the research if they refuse to sign a consent form; the impossibility for the researcher and the participants to define jointly in advance the risks of the research; the suspicion among the interviewees that the consent form serves above all to protect the research institution or the researcher; and the interference with academic freedom when standard

consent forms are imposed on researchers (Van den Hoonaard, 2001, p. 28–31).

As summed up by Parker, the main concerns about informed consent among ethnographers were “related to the fact that it has tended to be interpreted in anticipatory terms, i.e. based on the idea that implications of the research, its methodology and research questions can be anticipated, discussed and agreed to before the research has begun”, whereas “the research undertaken is based upon the tentative development of research questions and analysis in the context of emergent relationships of trust” (Parker, 2007, p. 2252).

### *The Emergence of a Reflexive Approach to SSH Research Ethics in Europe*

It can be argued that—in the implementation of ethics in the SSH field—the European Commission has followed a similar path to that in the United Kingdom and North America. However, while scholars have denounced the establishment of ethics as a “technocratic governance tool” (Littoz-Monnet, 2016), they have not called for a full rejection of ethical scrutiny within SSH research but have instead called for a re-examination of SSH ethical issues. Considering the importation of biomedical approaches of ethics to SSH research “belittles the creative power of social relations” (Strathern, 2000, p. 259), scholars advocated for efforts “to develop and strengthen professional models of regulation which emphasize education, training and mutual accountability” (Murphy & Dingwall, 2007). These efforts have resulted in numerous publications—such as *The Handbook of Qualitative Research Ethics* (Iphofen & Tolich, 2018)—and ethics self-assessment documentation designed by funders (Iphofen, 2013).

One of the most important achievements of the ongoing ethical reflection within ethnography is the idea of an “emergent ethics” (Pels, 2000, p. 163). As noted by Parker (2007, p. 2253–54), what constitutes ethical research practices should be the result of an ongoing process of intersubjective negotiation and agreement between the researcher and the participant. This process takes place in “cross-cultural encounters” where the different worlds and values of the researcher and of the participant intersect. From this perspective, there is no “one-size-fits-all” anticipatory ethics. On the contrary, the integration of ethics into ethnography calls for continuous collective reflection, mutual training and sharing of experiences among scholars of different social science disciplines using ethnography.

This is all the more critical as professional models of ethical regulation from biomedicine remain dominant in European ethics review procedures, such as those of the ERC. The overall assessment process is still fraught with tensions that make the requirements conflictual with their very aim (i.e. supporting the development of an ethical

awareness and attitude among researchers). In the next section of this article, our aim is thus to contribute to this collective reflection. Discussing the process through which we obtained informed consent in two ethnographic fieldworks in migration studies, we question the ‘protective’ function that IC procedures imported from the biomedical context are supposed to play for research participants.

### **From Being “Ethics Ready” in the Office to Experiencing “Ethically Important Moments” in the Field: Insights from Two Ethnographies in Migration Studies**

In this section, we wish to illustrate the predicament in which researchers find themselves after being awarded a large research grant by a public funder. Large funders such as the European Research Council proceed with an ethical check of selected projects in order to identify potential difficulties that have not been satisfactorily discussed in the proposal. With this process, the funder aims to make research projects “ethics ready”. This label entails that the project has been approved by an ethical review panel made of peers in charge of ensuring the project’s compliance with disciplinary ethical standards. Most importantly, it also confirms that the project is compliant with a large body of ethical guidelines contained in technical documents issued by the funder. The whole process consists in a lengthy and highly formalized exchange of written documents between the principal investigator (hereafter P.I.) and the ethical board set up by the funder.

“Migration, Transnationalism and Social Protection in (post) crisis Europe” (MiTSoPro) is a research project funded by the European Research Council that aimed at shedding light on the formal and informal cross-border strategies by which immigrants and their families respond to social risks. The project presented a number of ethically sensitive issues that had been raised by the P.I. Jean-Michel Laffleur already upon submission of the project. At the individual level, the precarious status of potential participants and the collection of personal information related to their well-being required additional attention in the eyes of the funder. In addition, at a more macro level, ethical reviewers were concerned by the potential stigmatization that research could generate against certain ‘migrant communities’ in need of social protection. From the funder’s perspective, both preoccupations were falling under the researcher’s ethical obligations of “doing no harm”.

To overcome these concerns, the ethics review panel of the ERC asked the P.I. to provide extensive details on the process through which informed consent of participants would be obtained and in particular to provide a copy of the information sheet and the consent form that was going to be used with participants. This request placed the P.I. in front of a serious

predicament: A tension arose between being “ethics ready” from a bureaucratic standpoint and being “ethics ready” in terms of being able to operate in the field. To be considered “ethics ready”, the P.I had to first obtain the approval of the ethics board of his university on the process proposed before submitting for approval to the funder’s ethical board. To address the above-mentioned tension, the P.I. suggested an intermediary solution: researchers would provide information sheets and ask for written consent from all participants unless they explicitly refused to sign any document (which was expected to occur with undocumented migrants for instance). In case of refusal of signing the IC form, participants would be asked to confirm consent orally at several points in time during the interview. This solution was eventually approved by the funder.

As part of the collective research project, two PhD candidates —Carole Wenger and Félicien de Heusch— joined the project to conduct ethnographies. Félicien focused on Senegalese migrants’ transnational activities around body repatriation and Carole on Tunisian migrants’<sup>9</sup> transnational healthcare practices. Both researchers undertook multi-sited ethnography: in Spain, Belgium and Senegal in the first case and in France, Belgium and Tunisia in the second case. The two ethnographers designed their research methodology with a very diverse range of actors in mind including immigrants, civil society actors and public authorities in different countries. For example, in the case of Carole, this implied fieldwork involving immigrants, their family members in the homeland as well as healthcare professionals. As part of her investigation on medical return,<sup>10</sup> she also conducted fieldwork within private clinics in Tunis, namely within medically assisted procreation centers. For Félicien, the fieldwork involved participant observation with immigrants’ associations in Brussels and transnational families in Senegal, as well as semi-structured interviews with documented and undocumented immigrants in both Brussels and Valencia. All of these respondents participated in the ‘ethnographic situations’ that the researchers focused on. From the perspective of the ethnographers, all these actors had their own knowledge and legitimacy to speak about these issues from their position as (un)documented migrants, association leaders, families, public officials or healthcare practitioners.

Before fieldwork began, the instructions indicated by the ethnographers’ supervisor seemed crystal clear: consent forms had to be signed by participants or oral consent had to be recorded —not once but three times— in the course of each interview. With those guidelines in mind, the researchers were considered “ethics ready” by the funder to start their exploratory fieldwork. In the three subsections below, we however show that this “ethics ready” did not necessarily prepare the researcher well for “ethically important moments” (Guillemin & Gillam, 2004) that require responses and adaptations of the ethnographers’ practices throughout the research process.

### *Informed Consent Procedures as “Inappropriate Behaviour”*

As shown by Murphy and Dingwall (2007) and discussed above, consent in ethnographical practices has long been debated in SSH research. Today, it is clear that “informed consent in ethnography is neither achievable nor demonstrable in the terms set by anticipatory regulatory regimes that take clinical research or biomedical experimentation as their paradigm cases” (ibid., p. 2225). The paradigmatic informed consent of biomedical ethics and law indeed requires *prior* and *informed* consent via written procedures. All these characteristics “led to the legalistic, contractual approach” (ibid., p. 2225) and to “bureaucratic practices” (ibid., p. 2224) that prevail today. These settings contrast strongly with the ones established by ethnographic practices. Ethnographers are often better described as *guests* who have to spend a lot of time in a particular environment, and with research participants that can be considered as *hosts*. Becoming a guest takes time and creates implicit and explicit “expectations of proper behaviour” (ibid., p. 2225). Trust is therefore needed and the process remains fragile throughout the ethnography.

When Carole visited a participant’s family in Tunisia who had invited her to an *Aïd* celebration, following the pre-approved guidelines highlighted these challenges. *Aïd al-Adha*<sup>11</sup> gathers families in a festive atmosphere and is one of the most important Muslim celebrations of the year. Why sign a document to protect each other in case of litigation when interacting in a family environment and trusting atmosphere? In a context of immersion into the family life for the *Aïd* celebration, reducing the relationship to that of “a researcher and a participant” by asking to record a verbal consent or by signing a consent form would have obviously been socially and emotionally inappropriate but also methodologically inadequate.

Similarly, conducting fieldwork in the holy city of Touba during the large religious pilgrimage of Serigne Touba<sup>12</sup> in Senegal raised similar challenges for Félicien. The capital city of the Mouride brotherhood, located in mainland Senegal, is indeed a place where religious codes of conduct seem to take precedence over other norms. In such a fieldwork setting, it appeared evident that handing a consent form to participants would have been out of place. In this case, following religious ethical codes of conduct seemed to be the most appropriate way. It was not only needed to gain access to the fieldwork and confidence of participants but also for complying with the rules of the social space in which the researcher entered.

These examples show that, out of politeness and respect for the more or less formal “codes of conduct” in place in these settings, the relationship could not be reduced to a mere question of access to fieldwork. As noted by Iphofen, “[...] it is difficult to separate good behaviour as a researcher from good behaviour as a person. Ethical practice in social research is about being a ‘good’ researcher at the same time as being a ‘good’ human being” (Iphofen, 2009, p. 3). In other words, the

“codes of conduct” that guide researchers and those that regulate social relations in a specific fieldwork setting should both be taken into account in a complementary manner rather than in hierarchical or conflictual manner where one would supersede the other.

### When Informed Consent Procedures Feel More “Threatening” Than “Protective”

As stated in the beginning of this article, one could wonder to what extent consent forms represent a “symbol of bureaucracy and governmentality” (Yuill, 2018, p. 37) and can thus, change the dynamic of an exchange, induce formality or even provoke mistrust and discomfort. Indeed, in specific contexts, these symbols of bureaucracy and “governmentality” can be perceived as threatening rather than protective.

In the framework of her research on medically assisted procreation, Carole was conducting fieldwork within a fertility clinic in Tunis. The strong stigma that surrounds the use of assisted reproductive technologies (ARTs) leads to the invisibilization of infertility issues in the public space. Investigating intimacy in such a context implies being discrete, paying special attention to issues of anonymity and taking into account the emotional nature of these therapeutic journeys (Puaud, 2012; Laplantine, 2020). One day as the researcher was conducting participant observation in the waiting room, a woman walked in and a conversation started. After Carole explained the purpose of the research and informed her about the research project setting, the conversation went on. The researcher wanted to make sure to respect part of the procedure approved by the funder and thus carried on to present the consent form explaining to her once again the research project and the principle of confidentiality and anonymity. At this moment, the attitude of the patient suddenly changed and she became suspicious. Carole did not insist and suggested she could take the document home to read it at a quieter time. But the participant refused as she did not want any proof that she had visited the clinic. Giving her name, signing the document or even just going back home with it was perceived as potentially harmful; only the intimacy and the anonymity of the waiting room got her to ‘consent’ to talk to the researcher.

Rigid informed consent procedures are at odds with the informal process of negotiation that is essential to ethnographic fieldwork (Yuill, 2018, p. 38). It can therefore provoke reactions of misunderstanding, deception or even fear. This confirms that gaining participants’ trust to discuss sensitive or intimate topics is only possible through more nuanced and subtle modalities than signing a form or recording an audio consent. Moreover, this materialization of consent is in fact enforcing the consent rather than really negotiating it. As Pels and colleagues note, it is signing away “[...] respondents’ rightful claims to knowledge shared with researchers” (Pels et al., 2018, p. 394). In line with this argument, we believe that bringing a consent form to the field, with the so-called idea of

ensuring the protection of participants, can hinder the participants’ possibilities to withdraw or renegotiate their consent. In that sense, consent forms can in certain circumstances make participants somewhat *more* vulnerable than *less*. This is the main contradiction of informed consent procedures which—as highlighted by Bradburd (2006, p. 497)—“appear to exist to legitimate and protect the university more than the subject”.

### Informed Consent Procedures as Indicators of Power Asymmetries

Assuming that he was “ethics ready”, Félicien conducted his first interview with Lamine,<sup>13</sup> a Brussels-based Senegalese artist struggling with establishing his legal residence in Belgium. Upon explaining the informed consent procedure to his interviewee, the researcher was struck that Lamine interrupted him arguing that he already knew about the research project and had given his (unrecorded) oral consent. In order to try to follow at least part of the procedure approved by the University’s REC and the funder, Félicien asked the interviewee if he could formally express his consent once more on the record. Lamine refused arguing that it was not necessary because he felt he had already consented by accepting to take part in the interview. The participant was not understanding the sense of the procedure. There was a sense of mismatch between the *modus operandi* the researcher tried to follow and the expectations of the interviewee.

This episode illustrates that—even when the researcher and the participant seem to occupy clearly unequal positions—research participants in situations of ‘vulnerability’ are not necessarily deprived of the “exercise of power”. As noted by Foucault (1994 [1982]), one can always have the capacity of resistance which, in the case of research participants, can consist of refusing to give formal consent. One could of course argue that, in the case presented above, the informed consent procedure plays its intended role: it *empowered* the participant in the interaction with the researcher. However, we believe that the process at play is more complex. The refusal, we suggest, is a reaction to what is perceived as a threat upon one’s capacity to set the terms of the interaction itself. Asking for explicit consent when mutual trust has supposedly already been given does indeed change the nature of the interaction: it extracts the researcher from the relationship he is supposed to be part of and creates a distance with the participant that causes discomfort. In this case, the ‘quasi-contractual’ *modus operandi* agreed with the funder partly deprived the participant of the ability to shape the terms of the relationship with the researcher. It thus threatened not only the non-contractual social dynamics that ethnographers largely rely on to collect data, but it also questioned the fair balance of power between participants and researchers in the field.

During the research project, we also experienced difficulties with pre-set informed consent procedures in our interactions with healthcare professionals. Even in a clinic where the researcher seems to be sharing a common formal language with participants—the one of medical bureaucracy—the implementation of the consent form procedure significantly impacted their interactions. Carole had set a clear protocol in which the consent form was supposed to be her “entry ticket” to fertility centers: before being able to conduct observations and dialogue with patients in the waiting room, she first sought authorization from the management of the fertility centers. In most of them, presenting herself at the reception with the form gave credentials to her demand for access. In this case, embodying the institutional *modus operandi* was facilitating access to the field. However, in one center, she handed the document at the reception and was later called in an office by the administrative assistant who noted: “Your document says ‘healthcare practices’ and not just ‘medically assisted procreation’. You need to go back down to the first floor to get the authorization of the general director of the clinic” (fieldnotes from interaction with administrative assistant, Tunis, 2019). In this case, using the language of bureaucracy to set the rules guiding the interactions on the field triggered suspicion and activated a ‘procedural’ response from potential participants in the research.

A last example of procedural responses from participants to our informed consent procedure came more unexpectedly from a Brussels-based association that organizes the repatriation of bodies of Senegalese migrants to their homeland. Félicien initially sought to establish contacts with this organization by sending multiple emails and showing up at the association’s offices to explain his project. His efforts finally paid off and he was invited to attend a first meeting to present in detail his research to a group of—mainly older male—association leaders. Following this first invitation, the researcher was invited for a second meeting which he assumed was a sign that he was about to start data collection with members of the association. On the contrary, that meeting revealed that the association required further documentation before authorizing the researcher to start fieldwork. Félicien was now expected to send an application form including not only the consent document approved by the REC and the funder but also a letter from his supervisor and a CV. This had to be submitted both via email and regular mail. What this revealed is that the association had its own ‘ethical committee’ with its own timing and rules. After 2 months, Félicien finally received a formal positive response from the association that was authorizing his presence. In spite of this formal validation, distrust remained among certain members of the collective and, later on, the association withdrew the researcher’s access to the field.

In this last example, presenting a printed document with the ethnographers’ institutional affiliation came as a legitimizing tool for accessing the field. In spite of using the formal language used with institutional respondents, the process

suggested by the researcher did not appear formal enough nor fitting the rules set by the association itself. Indeed, the association had set its own rules to protect itself and was not satisfied with the consent form procedure that the researcher was offering. When going on the field, one therefore needs to question the assumption that the procedure will provide ‘order’ in a fieldwork setting—such as the immigrants’ association—preconceived as lacking formalization. In the examples above, power relations on ‘who sets the ethical rules’ were therefore somehow inverted: researchers were not ‘governing the field’ and could not pretend to be in full control of the consent process and rules.

### **Conclusion: Three Recommendations to Move from “Contractual Rituals” to “Co-Construction” in Research Ethics**

Starting from the challenges met by social scientists upon responding to ethical clearance procedures, this article aimed to address the following question: how do consent form procedures govern fieldwork interactions?

In the first part of the article we analyzed how the legacy of biomedical sciences in ethical clearance procedures in Europe opened the risk of “governing the social science research in the name of ethics” (Haggerty, 2004) through “anticipatory regulatory regimes” (Murphy & Dingwall, 2007). We subsequently argued that informed consent procedures operate as instruments that ‘govern the field’, influencing the way research is conducted and the interactions between actors. Highlighting those risks, we have nonetheless argued that conducting ethnographic research and, more broadly, using qualitative methodologies of course cannot entail ignoring ethical concerns. In this conclusion, we therefore wish to highlight three recommendations that should guide Funders, Universities and their Research Ethics Committees as well as researchers towards a more reflexive approach to research ethics.

#### *Addressing Power Relations in Ethnographies Through the Co-Construction of Research Ethics*

As described above, research ethics have always sought to mitigate power and knowledge asymmetries between the researcher and the participants. In the biomedical field, this question is most often addressed in terms of ‘protecting the vulnerable’ from abusive research (Callahan, 2012, p. 18). ‘The vulnerable’ is narrowly pre-identified as persons considered incapable of protecting their own interests. As for the risks (and thus, the vulnerabilities) induced by the experiment itself, they are supposed to be exhaustively mapped by the trial protocol and explicitly described in the consent form. Following this logic, a given consent attests to the fact that the commitment has not been obtained by force. The implicit assumption of such anticipatory regulatory regimes is that the

question of power relations can be solved beforehand and that informed consent *solves* the problem itself.

Our case studies suggest that, in the ethnographic context, pre-identifying ‘the vulnerable’ in terms of specific categories is very uncertain. There is a bias in systematizing migration with vulnerability and disempowerment as a starting point of analysis. It also suggests that mapping the risks in advance, although useful, won’t tell us everything about the possible vulnerabilities induced as they heavily depend on the singularity of each situation and of the interaction allowed by the very situation. More importantly, our case studies highlight that consent procedures do not solve the power issue but instead make it fully visible. Indeed, informed consent procedures involve objects —the form, the pencil, the recorder— and particular gestures. This “operatory chain” (Leroi-Gourhan, 1964) by which obtaining consent become “quasi-contractual rituals” (Pels et al., 2018, p. 394) activates power relations and highlights the researchers and participants’ respective capacities to shape the terms of the interaction itself.

This assessment does not entail that power relations are intrinsically good or bad, nor does it mean that informed consent is inadequate to face the issue of power balance. It suggests however that it is ethically relevant to examine the interplay of powers, including those fueled by specific research rituals, and to do it *with* the participants. Power is, after all, a capacity to participate, that is, to be active in a process and be recognized as such. In the ethnographic context, the ethical scrutiny of power relations is however even more than an ethical requirement, it is a condition for the production of reliable knowledge. Hence, in line with prior findings (Fernandes, 2013; Vivas Romero, 2017), co-constructive approaches to ethnographic fieldwork seem a very promising way forward. Concretely, this means associating the ‘field’ to the research process and being receptive to its own expectations, rules and criticisms. In short, we argue in favour of a bottom-up approach to ethics governance where the researchers —together with the respondents— set out moral obligations and define ethical conduct.

### ***Embedding Ethical Concerns Throughout the Research Process***

Based on our experience in a large-scale EU-funded project on the topic of immigration, we showed how funders’ ethical guidelines and procedures encourage researchers to adapt their practices in order to be considered “ethics ready” from a bureaucratic perspective. On the field, this approach created a dissonance between the respect of the commitment made to the funder and one’s ability to perform a reflexive ethnography. The researchers resolved this dilemma by showing a continuous preoccupation for ethics that went beyond an *a priori* categorization of participants as “vulnerable” and

beyond the agreed upon ethical procedures that —in practice— were putting in question the participants’ capacity of action.

For this reason, we argue that ensuring participants’ consent throughout the whole research process should be at the heart of ethical preoccupations. However, it should be addressed differently than through informed consent procedures requested by Research Ethics Committees. Ethics cannot be confined to mere formal anticipatory procedures, but requires long-spanning efforts with sensitivity, responsiveness and a capacity to learn and adapt during the fieldwork itself.

As we have shown, researchers are confronted with very contrasted situations during fieldwork. This requires them to be attentive to formal and informal rules that come with each ethnographic setting. This capacity to adapt enables the researchers to determine what is the most appropriate course of action to ensure informed consent from the participants. This may entail respecting specific “codes of conduct” associated with each fieldwork setting (E.g. religious, family-based or administrative written and unwritten rules guiding interactions in that setting) or taking part in a gift/counter gift economy. In order to avoid damaging the relationship with participants, these considerations should thus be given precedence over a blind implementation of pre-agreed ethical guidelines from RECs. In practice, this requires ethnographers to take a moment after preliminary fieldwork to evaluate, reflect and potentially adapt processes to ensure that the most suitable techniques are used to ensure informed consent in each specific fieldwork setting. Overall, patience, receptivity and openness to engage or adapt informed consent procedures according to the fieldwork setting and to the relationship built with the participant are therefore fundamental requirements for the implementation of co-constructive approaches of research ethics that we are calling for.

### ***Promoting Training and Dialogue Between Institutions and Researchers Around Ethical Challenges in Research***

A key argument of this article is that ethical clearance procedures are essential but should better take in consideration the reality of ethnographic methods. Similarly, they should acknowledge that, the disciplines that use such methods have developed their own ethical guidelines that are often regulated by professional organizations and taught in master and PhD programmes. Yuill (2018), for instance, notes that anthropological research is already regulated in several ways. Among them, the code of conduct of the Association of Social Anthropology (ASA) puts emphasis on researchers’ self-governance in the area of ethics, underlines the need for reflexivity, and highlights the need to train and put moral obligations at the center of ethical



reflections (see also [American Anthropological Association, 1971](#), [Association Française des Anthropologues, 1993](#)).

Beyond university courses and the recommendation of professional organizations, we believe that ensuring that researchers have adequate means to train in the area of research ethics should also be a core concern of Funders, Universities and Research Ethics Committees. Encouraging the development of courses, seminars and conferences on research ethics should therefore also be part of the missions of these institutions. Doing so, it would contribute to ensuring that researchers are well trained to respond adequately to unexpected research developments and ethical challenges as well as to safeguard the core principle of ‘doing no harm’ to research participants. In short, we are calling for a redefinition of the relationships between institutions (Funders, RECs and universities) and researchers to work jointly towards creating an “ethical climate of research” ([Plattner, 2006](#), p. 527). In this new relation in which co-construction of research ethics would find a prominent place, all the actors involved in ethical clearance procedures would be invited to collaborate—not only in specific bureaucratic interactions—but also in the design of a research environment in which—from grant writing to results’ dissemination—ethical concerns are present at every stage of research processes.

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### Notes

1. By RECs we are referring to an heterogeneous set of institutions dedicated to “ethics clearance” including the European Research Council Research Ethics Committee and Institutional Review Boards (IRBs)—as they are known in North America. We will use the corresponding acronyms when specifically referring to one institution or another.
2. With the term “Informed consent procedures”, we are referring to a heterogeneous set of techniques that include securing written

consent and recording oral consent. Both procedures are inspired by the language of control of Western bureaucracy and differ from the original key importance of a (non-procedural) informed consent.

3. <https://euraxess.ec.europa.eu/jobs/charter>
4. <https://ec.europa.eu/programmes/horizon2020/en/h2020-section/ethics>
5. See for instance SINAPSE, a “web communication platform offering tools to promote a better use of expertise in EU policy making and governance”.
6. Horizon 2020 Programme, *Guidance, How to Complete your Ethics Self-Assessment Ethics Self-Assessment step by step* (ERC Executive agency).
7. As shown by the 1964 World Medical Association (WMA) Declaration of Helsinki, the World Health Organization (WHO) Manilla Declaration of 1981, the guidelines issued by the Council for International Organizations of Medical Sciences (CIOMS) Since 1982 Or the 1997 European Convention of Oviedo on Bioethics
8. A strong movement towards ethical and legal regulation of biomedical research involving humans began in the late 1960’s and continued throughout the 1970’s. It came about partly under the pressure of a large social movement sparked by many abusive practices in research and fueled by the evidence of their discriminatory character. Indeed, abusive practices affected particularly “vulnerable” people: racialized persons, children or elderly people. This led to the 1979 Belmont Report, (*Ethical Principles and Guidelines for the Protection of Human Subjects of Research*) and to the 1981 *Common Rule* of ethics that governed the IRBs for oversight of human research. The *Common Rule* was substantially revised in 2018 and constitutes the baseline standard of ethics that any government-funded research has to comply with.
9. A comparative paper on both Senegalese and Tunisian cases and body repatriation before and during the COVID-19 pandemic is fruit of the team work (see de [Heusch et al., 2022](#)).
10. Medical return refers to the practice of emigrants returning to their home country for specific healthcare needs.
11. This celebration commemorates the strength of Ibrahim’s faith in his God symbolized by the episode where he accepts to sacrifice, on God’s order, his son Ismaël. In memory of Ibrahim’s devotion to his God, Muslim families sacrifice a sheep.
12. Serigne Touba is the founder of the Sufi-inspired Mouride brotherhood.
13. All names appearing in this paper were changed to ensure research participants’ anonymity.

### References

- American Anthropological Association. (1971). *Principles of professional responsibilities*. <http://www.aaanet.org/stmets/ethstmnt.htm>
- Association Française des Anthropologues. (1993). Éthique professionnelle et expérience de terrain. In *Journal des*

- Anthropologues*, 50–51. [https://www.persee.fr/issue/jda\\_1156-0428\\_1992\\_num\\_50\\_1](https://www.persee.fr/issue/jda_1156-0428_1992_num_50_1)
- Bosk, C. L., & De Vries, R. G. (2004). Bureaucracies of mass deception: Institutional review boards and the ethics of ethnographic research. *The Annals of the American Academy of Political and Social Science*, 595(1), 249–263. <https://doi.org/10.1177/0002716204266913>
- Bradburd, D. (2006). Fuzzy boundaries and hard rules: Unfunded research and the IRB. *American Ethnologist*, 33(4), 492–498. <https://doi.org/10.1525/ae.2006.33.4.492>
- Callahan, D. (2012). *The Roots of Bioethics. Health, progress, Technology, Death*. Oxford University Press.
- Charbonneau, R. (1984). Ethics in human research. *The IDRC Reports*, 13(1), 20–21.
- Dingwall, R. (2006). Confronting the anti-democrats: The unethical nature of ethical regulation in social science. *Medical Sociology Online*, 1(1), 51–58.
- Duneier, M. (2001). On the evolution of Sidewalk. In R. Emerson (Ed.), *Contemporary field research: Perspectives and formulations* (pp. 167–187). Waveland Press.
- Düvell, F., Triandafyllidou, A., & Vollmer, B. (2010). Ethical issues in irregular migration research in Europe. *Population, Space and Place*, 16(3), 227–239. <https://doi.org/10.1002/psp.590>
- Fassin, D. (2006). The end of ethnography as collateral damage of ethical regulation? *American Ethnologist*, 33(4), 522–524. <https://doi.org/10.1525/ae.2006.33.4.522>
- Fassin, D. (2008). L'éthique, au-delà de la règle: Réflexions autour d'une enquête ethnographique sur les pratiques de soins en Afrique du Sud. *Sociétés Contemporaines*, 71(3), 117–135. <https://doi.org/10.3917/soco.071.0117>
- Fassin, D. (2014). The ethical turn in anthropology: Promises and uncertainties. *Hau: Journal of Ethnographic Theory*, 4(1), 429–435. <https://doi.org/10.14318/hau4.1.025>
- Faubion, J. (2011). *An anthropology of ethics*. Cambridge University Press.
- Fernandes, L. (2013). *Transnational feminism in the United States: Knowledge, ethics, and power*. NYU Press.
- Foucault, M. (1994 [1982]). *Dits et écrits*.
- Guillemin, M., & Gillam, L. (2004). Ethics, reflexivity and “ethically important moments” in research. *Qualitative Inquiry*, 10(2), 261–280. <https://doi.org/10.1177/1077800403262360>
- Haggerty, K. D. (2004). Ethics creep: Governing social science research in the name of ethics. *Qualitative Sociology*, 27(4), 391–414. <https://doi.org/10.1023/b:quas.0000049239.15922.a3>
- Heusch, F., Wenger, C., & Lafleur, J. M. (2022). États et diasporas face à la mort en migration : Une analyse comparée des cas sénégalais et tunisien avant et pendant la pandémie de la COVID-19. *Revue européenne des migrations internationales*, 38(38), 37–62. <https://doi.org/10.4000/remi.19950>
- Hirsch, F., Karatzas, I., & Zilgalvis, P. (2009). Intégrer l'éthique dans les programmes de recherche de l'Union européenne. *Médecine/Sciences*, 25(8-9), 756–760. <https://doi.org/10.1051/medsci/2009258-9756>
- Hoonard, W. C. (2008). Is research-ethics review a moral panic? *Canadian Review of Sociology/Revue canadienne de sociologie*, 38(1), 19–36. <https://doi.org/10.1111/j.1755-618x.2001.tb00601.x>
- Howell, S. (1997). *The ethnography of moralities*. Routledge.
- Iphofen, R. (2009). *Ethical Decision making. A practical guide*. Palgrave Macmillan.
- Iphofen, R. (AcSS) (2013). *Research ethics in ethnography/anthropology*. European Commission [https://ec.europa.eu/research/participants/data/ref/h2020/other/hi/ethics-guide-ethnog-anthrop\\_en.pdf](https://ec.europa.eu/research/participants/data/ref/h2020/other/hi/ethics-guide-ethnog-anthrop_en.pdf)
- Iphofen, R., & Tolich, M. (2018). *The SAGE Handbook of qualitative research ethics*. Sage.
- Katz, J. (2006). Ethical escape routes for underground ethnographers. *American Ethnologist*, 33(4), 499. <https://doi.org/10.1525/ae.2006.33.4.499>
- Laidlaw, J. (2002). For an anthropology of ethics and freedom. *Journal of the Royal Anthropological Institute*, 8(2), 311–332. <https://doi.org/10.1111/1467-9655.00110>
- Laplantine, F. (2020). *Penser l'intime*. CNRS.
- 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. <https://doi.org/10.1525/ae.2006.33.4.482>
- Leroi-Gourhan, A. (1964). *Le geste et la parole: Technique et langage*. Albin Michel.
- Librett, M., & Perrone, D. (2010). “Apples and oranges: Ethnography and the IRB. *Qualitative Research*, 6(10), 729–747. <https://doi.org/10.1177/1468794110380548>
- Littoz-Monnet, A. (2016). L'expertise éthique, un outil de gouvernance technocratique. *Revue Française D'éthique Appliquée*, 2(2), 5–7. <https://doi.org/10.3917/rfeap.002.0005>
- Lugones, M. G. (2012). *Obrando em autos, obrando em vidas: Formas y fórmulas de Protección Judicial en los Tribunales Preventivos de Menores de Córdoba, Argentina, a comienzos del siglo XXI*. E-Papers.
- Metro, R. (2014). From the form to the face to face: IRBs, ethnographic researchers, and human subjects translate consent. *Anthropology and Education Quarterly*, 45(2), 167–184. <https://doi.org/10.1111/aeq.12057>
- Murphy, E., & Dingwall, R. (2007). Informed consent, anticipatory regulation and ethnographic practice. *Social Science and Medicine*, 65(11), 2223–2234. <https://doi.org/10.1016/j.socscimed.2007.08.008>
- Parker, M. (2007). Ethnography/ethics. *Social Science and Medicine*, 65(11), 2248–2259. <https://doi.org/10.1016/j.socscimed.2007.08.003>
- Pels, P. (2000). The trickster's dilemma: Ethics and the technologies of the anthropological self. In M. Strathern (Ed.), *Audit Culture: Anthropological studies in accountability, ethics and the academy* (pp. 135–170) Routledge.
- Pels, P., Boog, I., Henrike Florusbosch, J., Kripe, Z., Minter, T., Postma, M., Sleebom-Faulkner, M., Simpson, B., Dilger, H., Schönhuth, M., von Poser, A., Castillo, R. C. A., Lederman, R., & Richards-Rissetto, H. (2018). Data management in anthropology: The next phase in ethics governance? *Social Anthropology*, 26(3), 391–413. <https://doi.org/10.1111/1469-8676.12526>

- Plattner, S. (2006). Comment on IRB regulation of ethnographic research. *American Ethnologist*, 33(4), 525–528. <https://doi.org/10.1525/ae.2006.33.4.525>
- Puaud, D. (2012). L'Empathie méthodologique » en travail social. *Pensée Plurielle*, 30-31(2), 97–110. <https://doi.org/10.3917/pp.030.0097>
- Smith, K. E. (2006). Problematising power relations in 'elite' interviews. *Geoforum*, 37(4), 643–653. <https://doi.org/10.1016/j.geoforum.2005.11.002>
- Souza Lima, A. C. D. (2010). Poder tutelar y formación del Estado en brasil: Notas a partir de la creación del Servicio de Protección a los indios y localización de Trabajadores nacionales. *Desacatos. Revista de Ciencias Sociales*, 33(1), 53–66. <https://doi.org/10.29340/33.354>
- Strathern, M. (2000). Accountability and ethnography. In M. Strathern (Ed.), *Audit Culture: Anthropological studies in accountability, ethics and the academy* (pp. 279–304). Routledge.
- Van Liempt, I., & Bilger, V. (2010). *The ethics of migration research methodology: Dealing with Vulnerable migrants*. Sussex Academic Press.
- Vassy, C., & Keller, R. (2008). Faut-il contrôler les aspects éthiques de la recherche en sciences sociales, et comment. *Mouvements*, 55-56(3), 128–141. <https://doi.org/10.3917/mouv.055.0128>
- Vivas Romero, M. (2017). Entre mutation et métissage. Co-construction d'une ethnographie émancipatrice et féministe. *Émulation, revue des jeunes chercheuses et chercheurs en Sciences Sociales*, 22(1), 35–50. <https://doi.org/10.14428/emulations.022.003>
- Yuill, C. (2018). Is anthropology legal? Anthropology and the EU general data protection regulation. *Anthropology in Action*, 25(2), 36–41. <https://doi.org/10.3167/aia.2018.250205>
- Zapata-Barrero, R., & Yalaz, E. (Eds.), (2018). *Qualitative research in European migration studies*. Springer.