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Beyond Criticism of Ethics Review Boards: Strategies for Engaging Research Communities and Enhancing Ethical Review Processes

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Abstract
A growing body of literature critical of ethics review boards has drawn attention to the processes used to determine the ethical merit of research. Citing criticism on the bureaucratic nature of ethics review processes, this literature provides a useful provocation for (re)considering how the ethics review might be enacted. Much of this criticism focuses on how ethics review boards *deliberate,* with particular attention given to the lack of transparency and opportunities for researcher recourse that characterise ethics review processes. Centered specifically on the conduct of ethics review boards convened within university settings, this paper draws on these inherent criticisms to consider the ways that ethics review boards might enact more communicative and deliberative practices. Outlining a set of principles against which ethics review boards might establish strategies for engaging with researchers and research communities, this paper draws attention to how *Deliberative communication*, *Engagement with researchers* and the *Distribution of responsibility* for the ethics review might be enacted in the day-to-day practice of the university human ethics review board. This paper develops these themes via a conceptual lens derived from Habermas' (The theory of communicative action. Volume 1: Reason and the rationalization of society, 1984) articulation of 'communicative action' and Fraser's (Social Text, 25(26), 56–80, 1990) consideration of 'strong publics' to cast consideration of the role that human ethics review boards might play in supporting university research cultures. *Deliberative communication*, *Engagement with researchers* and the *Distribution of responsibility* provide useful conceptual prompts for considering how ethics review boards might undertake their work.

Keywords Research ethics · Ethical review · Deliberative communication · Communicative action · Strong public

Introduction

This paper emerges as a response to a growing literature critical of ethics review processes and the work of ethics review boards (Dingwall, 2008; Hammersley, 2009; Van den Hoonard & Hamilton, 2016; Gillam & Guillemin, 2018; Sikes & Piper, 2010). Prevailing themes within this literature highlight the "mandatory, hierarchical, and gatekeeping features of research ethics review" (Van den Hoonard & Hamilton, 2016, p. 5) and the

widening bureaucratic 'creep' over recent decades of ethics review processes (Greville et al., 2019; Haggerty, 2004; Hammersley, 2010; Johnson et al., 2020). The literature suggests that the ethics review is often regarded "as adversarial, and as creating unnecessary bureaucratic hurdles" (Gillam & Guillemin, 2018, p. 263), with Van den Hoonard and Hamilton (2016) going so far as to describe the experience of seeking ethics clearance as one of "near collective dismay, discomfort and disorientation about the process" (p. 5).

This growth in the literature warrants attention not only for the immediacy of this criticism, but for the perceptions it casts regarding the evaluation of research practice and the administration of ethics review processes. While aspects of this criticism remain valid and valuable for prompting reflexive deliberation on the role and function of the ethics review process, we argue that reflection on the principles that underpin the ethical conduct of research provides a focus for equivalent, but currently overlooked, attention. We suggest that an uneasy tension exists in the literature in these terms. The literature critical of the ethics review is somewhat preoccupied with the seeming obfuscation that the review process yields. A notable motif inherent to the literature draws attention to the imposition that seeking ethics clearance represents to researchers (researchers whose primary focus is the conduct of research), with such accounts relying on highly individualised and personalised descriptions of the constraints imposed by ethics review processes. Such accounts, however, largely fail to contextualise their arguments in terms of the wider function of the ethics review and the important implications that the consideration of research ethics prompts.

Although we note that such personalised accounts are *not* without value, demonstrably less attention is given to explanations of the significance of the ethics review process and the important functions that it can provide in supporting the design and conduct of research. This extends beyond evaluative judgments of what constitutes 'good' research conduct alone and we suggest that a *generative* capacity rests within the ethics review process to inform and enhance research cultures across university and institutional research settings. The ethics review process, enacted by an ethics review board that functions as the point of activation for dialogue around the ethical dimensions of research practice, holds significant potential to support researchers *and* inform research cultures. Yet, to date, little detail on these aspects of the ethical review process and the work of ethics review boards is chronicled.[1]

We draw on our own experiences as members of one such human research ethics review board, based in a regional university in Australia. The ethics review board that we represent has enacted processes geared toward the support of researchers and the nurturance of a productive research culture across our institution. In the following sections of this paper, we discuss how this practice has encouraged a deliberative and communicative climate of engagement and examine the principles underpinning this approach. By activating a practice premised on engagement and communication we suggest that ethics review boards open opportunities for deliberative consideration of research that engenders supportive and *productive* research cultures. We turn in the latter sections of this paper to discuss how ethics review boards might position their practice to achieve these ends.

We take as a guiding provocation Johnson et al.'s (2020) observation that, for many researchers, the ethics review represents an "adversarial rather than a communicative" (p.

[1] An exception is found in Allen's (2008) accounts. We draw on this example in the later sections of this paper and extend Allen's considerations of the participatory model he proposes.

742) function and that "close scrutiny, over-regulation, and obsessive control" (p. 742) define the general conduct of ethics review boards. Apart from noting that such views – although common enough – represent an unfortunate misunderstanding of the *intended* purpose of the ethics review, we suggest that engaging-with such criticism represents an important opportunity for review boards. A central theme within this paper coincides with this consideration of the role that ethics review boards play in supporting wider university research cultures, with the latter sections outlining how the work of the ethics review board might be positioned to generatively enhance the research climate of the university.

With this focus in mind, we conclude this paper by detailing a series of principles against which those responsible for the administration of ethics review processes might enact their work. Drawing conceptual prompts from Jürgen Habermas' (1984) deliberations on 'communicative action' and Nancy Fraser's (1990) notion of 'strong public', we outline how the ethics review can be conducted more deliberatively, with an intent toward enabling the institutional research climate.

Ethics Review Boards and the Place of the Ethics Review in Human Research

The review and assessment of the ethical dimensions of research is an essential component of research practice. It has emerged in response to historical instances where "the dignity, rights and welfare of research participants" (World Health Organisation, 2021) has not been ensured. Although the consideration of the ethical dimensions of research involving human participants has a long history (see, Sikes & Piper, 2010; Kitchener & Kitchener, 2009; Hammersley, 2009), contemporary ethics review processes derive their lineage from two key documents: the *Nuremberg* Code (1947), developed immediately following the Second World War and in response to human biological experimentation, and the World Medical Association's (1964) *Declaration at Helsinki: Ethical Principles for Research Involving Human Subjects* (Becker, 2005; Pressel, 2003).[2] These documents provide the foundation for contemporary guidelines and accompanying codes of conduct governing the ethical conduct of human research. Most significantly, they provide a perspective against which conceptualisations of research conduct and participation are framed.

Further consideration of the ethical implications of research involving humans have emerged in response to more recent contraventions of participants' safety and rights. High-profile cases including the *Tuskegee Study of Untreated Syphilis in the Negro Male* (commonly known as *Tuskegee Syphilis Study*) conducted in Alabama between 1932–1972 and

[2] These documents have led to the development of further codes and guidelines, including the United States National Commission for the Protection of Human Subjects' (1989) *Belmont Report: Principles of Ethical Research with Human Subjects*. The historical context that defines current ethical review processes is summarised in the following:

There has…been increased attention to ethical reflection about human research since the Second World War. The judgment of the Nuremberg military tribunal included ten principles about permissible medical experiments, since referred to as the *Nuremberg Code*. Discussion of these principles led the World Medical Assembly in 1964 to adopt what came to be known as the *Helsinki Declaration*, revised several times since then. The various international human rights instruments that have also emerged since the Second World War emphasise the importance of protecting human beings in many spheres of community life. During this period, written ethical guidelines have also been generated in many areas of research practice as an expression of professional responsibility. (Australian Government, 2007/2018, p. 3).

in which the African-American male participants were denied treatment for syphilis, and a later New Zealand study into the effects of cervical cancer conducted throughout the 1980s where "women with carcinoma in situ (CIS) of the cervix were followed but not treated" (Paul & Brookes, 2015, p. 12) have provoked consideration of the ethical implications of research and the function of ethics review processes.

In response to instances such as these, various discipline and profession-specific guidelines have been developed by national agencies and scientific and research communities. Prominent examples include the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct* (2017), British Sociological Association's *Statement of Ethical Practice* (2017), World Health Organisation's *Ensuring Ethical Standards and Procedures for Research with Human Beings* (2021), the Economic and Social Research Council's *Research Ethics: Our Core Principles* (2021) and, in context of the authors' own national jurisdiction, the Australian Government's National Health and Medical Research Council's *National Statement on Ethical Conduct in Human Research* (2007/2018).[3] Notably, a wide understanding of research activity and participation extends from these guidelines, with consideration of human participation in health, psychological and sociological research captured in conjunction with participation pertaining to medical research. Specific attention is also given within these guidelines to the ethical implications of research with 'vulnerable' and marginalised participant groups and the way that participants are informed, recruited and reported.

[3] As a summary of the guiding principles that frame the considerations of ethical conduct contained in these (and similar) documents, we offer the following typology as a summary of the key tenets common to contemporary guidelines. In general terms, most guidelines give attention to the following:

- *Research Design*: how is the research defined? What merit does this research maintain and what value does it hold? How will the methodological fidelity of stated procedures be ensured?
- *Benefits and Risks*: how are the inherent risks associated with the research weighed in terms of an intent toward nonmaleficence?
- *Participant Recruitment*: how will participants be informed of the research and recruited into its conduct?
- *Research Conduct*: how will the treatment of participants proceed as part of the research? How will participants be informed of developments in the research and its ongoing effects?
- *Presentation of Research Outcomes*: how will findings from the research be developed and disseminated? How will the storage and ongoing use and interpretation of data proceed?

The Australian Government National Health and Medical Research Council's *National Statement on Ethical Conduct in Human Research* (2007/2018) provides an indicative illustration of how these principles are articulated in contemporary codes and guidelines:

> The relationship between researchers and research participants is the ground on which human research is conducted… respect for human beings, research merit and integrity, justice, and beneficence help to shape that relationship as one of trust, mutual responsibility and ethical equality…
>
> The values of respect, research merit and integrity, justice, and beneficence have become prominent in the ethics of human research in the past six decades, and they provide a substantial and flexible framework for principles to guide the design, review and conduct of such research. (p. 9).

We note that particular attention toward *respect*, *merit*, *integrity*, *justice* and *beneficence* frame these considerations. For instance, this sentiment is outlined in the National Health and Medical Research Council's (2018) accompanying *Australian Code of Responsible Conduct of Research,* (2018). The code highlights that attention should be given to ensuring the following:

- Respect for research participants, the wider community, animals and the environment.
- Treat human participants and communities that are affected by the research with care and respect, giving appropriate consideration to the needs of minority groups or vulnerable people.
- Ensure that respect underpins all decisions and actions related to the care and use of animals in research.
- Minimise adverse effects of the research on the environment. (p. 5).

In general terms, most contemporary guidelines and codes of conduct governing research activity derive from prevailing principles associated with the *beneficence and nonmaleficence*, *fidelity and responsibility*, and *respect for people's rights and dignity* inherent to research design and conduct (American Psychological Association, 2017). Beyond these principles, attention is also given to the *professional integrity* of researchers, the nature of the *relationship between researcher and participant*, the *handling of data* and the *publication of research findings* (British Sociological Association, 2017). Indeed, common across the majority of contemporary guidelines are prescriptive codes that define 'good conduct' and that establish approaches to practice that specify how participants should be recruited into the research and informed of its purpose, along with provisions outlining how data generated from participation should be used and disseminated.

The role of the ethics review board is to ensure that these principles remain inherent to the design and conduct of research projects. The review of the ethical dimensions of a specified research project is undertaken to assess the appropriateness of the project's design and intended conduct and to ensure participants' rights and safety are protected. Review boards undertake to review applications for 'ethics clearance' to ensure that the benefits of the stated research outweigh the risks. This also extends to the consideration of the risk attributable to the researcher and the capacity for the research to be conducted safely.

Typically enacted via an application process, assessment of the ethical dimensions of the research proceeds in terms of the evaluation of descriptions and declarations detailed by researchers. In general terms, applications for ethics review require researchers to declare accounts of the purpose of the research and the planned conduct of the research intervention, with specific attention given to the methodological dimensions of the research, the nature of the intended engagement with participants and the strategies to be used in the formulation, storage and dissemination of research data. The ethics review board, usually constituted as a committee of reviewers and including institutional administrators, active researchers, discipline experts, clinicians, ethicists and informed lay persons, undertake the review of applications according to the guidelines specified by relevant institutional, national and research/professional community requirements.[4]

[4] As an indication of the minimum requirements for the constitution of a review board, the Australian Government National Health and Medical Research Council's *National Statement on Ethical Conduct in Human Research* (2007/2018) details the following membership requirements:

The constitution of the ethics review board is an important aspect of the review process. A wide range of expertise and disciplinary knowledge is typically sought in the membership, with 'pastoral' and 'lay' membership also a feature of most review boards' constitution. The Australian Government's National Health and Medical Research Council's (2007/2018) National Statement on Ethical Conduct in Human Research for example highlights that review board membership should include the following:

Composition of Human Research Ethics Committees [HREC].

5.1.29 The minimum membership of an HREC is eight. As far as possible:

(a) there should be equal numbers of men and women; and.

(b) at least one third of the members should be from outside the institution for which the HREC is reviewing research.

5.1.30 This minimum membership is:

(a) a chairperson, with suitable experience, whose other responsibilities will not impair the HREC's capacity to carry out its obligations under this National Statement;

(b) at least two lay people, one man and one woman, who have no affiliation with the institution and do not currently engage in medical, scientific, legal or academic work;

(c) at least one person with knowledge of, and current experience in, the professional care, counselling or treatment of people; for example, a nurse or allied health professional;

(d) at least one person who performs a pastoral care role in a community, for example, an Aboriginal elder, a minister of religion;

(e) at least one lawyer, where possible one who is not engaged to advise the institution; and.

While few would disagree with the principles that guide ethics reviews, criticisms inherent to the ethics review typically emerge in terms of how such principles are interpreted and plied into service of the review. We suggest that the problems that researchers invariably face have their foundation in the bureaucratic nature of the review process and the seeming imposition that this places on the conduct of research. Indeed, frustrations with the ethics review process often commence with the application itself and the incumbent systems utilised to operationalise the review process. Further, issues associated with differing understandings between researchers and review boards of what constitutes appropriate research practice and acceptable disciplinary conduct also provide points of tension, as do issues associated with dissimilar convictions toward divergent paradigmatic conventions. Differences between researcher and review board inclinations for specific modalities of research provide the potential for significant misunderstanding and frustration. This is especially pertinent in institutions where risk aversion toward unconventional and innovative forms of research present particular challenges for both researchers *and* ethics review boards (Hammersley, 2010; Hedgecoe, 2016; O'Neill, 2016).

We assert that both ethics review boards and researchers have a role to play in remediating these challenges. On the one hand, ethics review boards can commit to more transparent and deliberative processes for undertaking the ethics review. On the other, researchers can attend to developing deeper understandings of the ethical dimensions of their practice and the processes used to administrate ethics applications. While we are sensitive to Whitney's (2016) observation that "in the past half century, however, theory and practice have turned away from the balanced perspective of the early ethicists and toward an exclusive focus on subject protection" (p. vii), noting that this turn has had the effect of obscuring and decontextualising the fundamental principles underpinning the ethics review, we nonetheless emphasise that the core focus of the ethics review should be with ensuring that research activity remains appropriate and sensitive to the experience and safety of its human participants. It is, we suggest, important to retain this predominant bearing, and whether from the perspective of the ethics review board or that of the researcher, ensuring that this inherent characteristic of ethical practice is upheld provides an important point of orientation.

Footnote 4 (continued)

(f) at least two people with current research experience that is relevant to research proposals to be considered at the meetings they attend. These two members may be selected, according to need, from an established pool of inducted members with relevant expertise.

5.1.31 No member may be appointed in more than one of the categories listed in paragraph 5.1.30, but institutions are encouraged to establish a pool of inducted members in each category.

These members may attend meetings as needed to meet minimum HREC requirements, and may also be available to provide expertise for the research under review.

5.1.32 Wherever possible one or more of the members listed in 5.1.30 should be experienced in reflecting on and analysing ethical decision-making.

5.1.33 The institution should ensure that the HREC has access to the expertise necessary to enable it to address the ethical issues arising from the categories of research it is likely to consider.

This may necessitate going outside the HREC membership. (p. 87).

Criticism of Ethics Review Boards

Notwithstanding this sentiment, it remains that the literature critical of ethics review processes and ethics review boards is prolific. We suggest that this body of work can be categorised according to three prevailing themes, wherein criticism is centred on:

- the ethical review process and its impact on research conduct;
- the bureaucratic adjudication of ethical principles; and
- the practical conduct of the ethics review.

We have alluded to the first category of criticism in the opening sections of this paper, but a more nuanced rendering of this literature highlights the *imposition* that the ethics review represents (Allen, 2008; Johnson et al., 2020). Sikes and Piper (2010) offer a useful summary of the criticism inherent to this category and in setting out a sense of the imposition that researchers feel upon seeking ethics clearance, they note:

> So what are the problems with, and criticisms of, ethical review procedures? Although such procedures do offer a means of opening up research plans to wider view and authoritative discussion which can act as a safeguard for the well-being of those touched by any particular project, they can be viewed as acting in a manner that is antithetical to both ethical research practice and the exercise of academic freedom. (Sikes & Piper, 2010, p. 207).

Sikes and Piper (2010) go on to state "that ethics committees are not simply concerned with addressing ethical matters, but now have a tendency to act as gatekeepers, with their chief concern being the avoidance of controversy and litigation" (p. 207).

While we do not entirely disagree with this view and note that tendencies toward what is referred to as 'risk aversion' in higher education have had the effect of mediating practices of ethical review toward compliance and risk *management* (Hedgecoe, 2016; Truman, 2003), we nonetheless observe that this suggestion toward gatekeeping and controversy avoidance provides a limited account of the prerogatives guiding ethics review boards. The shortcomings of this argument are particularly evident when it is considered that ethics review boards are typically composed of active researchers and others engaged in the *support* of research activity; researchers who are also prone to processes of ethics review in their own work. Beyond what the literature currently suggests, it remains that the prerogatives held by those conducting reviews are not so easily characterised in such nefarious terms.

We argue that the challenge does not so much lie with an inherent desire for risk aversion, or worse, the active stymying of research activity through adherence to overly bureaucratic processes (Hammersley, 2009), but with a limited opportunity for dialogue and engagement between researchers and review boards. It occurs that the constitution of review boards and the processes that are applied to the conduct of the ethics review often limit the capacity for engagement and dialogue between researchers and boards. This, we suggest, represents a major challenge. While it is the case that ethics review processes are 'bureaucratic' by nature, and that this to some extent should be expected as both indicative of the wider institutional context of the university (Marginson & Considine, 2000) and as a manifestation of the structural requirements of a process intended to ensure fair and impartial assessment of research projects, the lack of transparency that some critics define as core to the problem is not so much an issue of bureaucratic arrangement but one tied to the practices employed for conducting reviews. Indeed, problems related to

limited transparency and poor communication can be attended to, with the bureaucratic structure of the review process even providing affordances for ensuring that this might occur.

For example, Davies' (2020) analysis of the review procedures applied in one South African university reveal how idiosyncratic approaches come to be enacted in specific institutions, indicating that the bureaucratic structure of the ethics review board can be mediated to support *or* confound the ethics review process. Allen (2008) details a further consideration of the limitations inherent to the ethics review process when noting that "it should be acknowledged that a combination of crippling workload and limited resources can make it difficult for a committee to do anything other than review the huge volume of new applications submitted to each meeting" (p. 108). Allen (2008) goes on to note that "there is simply not enough resources or time to enable the committee to be proactive in other areas" and that this 'crippling workload' limits the capacity of the ethics review board to take "a more active role in educational strategies or policy development" (p. 108). This latter point is important and one that we shall return to in the later sections of this paper, but in summary of this first category of the literature and its concerns for the 'imposition' of the ethics review process, we argue that these perceived failings of the review process represent challenges that can be attended to. Issues of imposition are able to be recognised and addressed, with this aspect of the experience of the ethics review not necessarily an outcome of the bureaucratic nature of the ethics review process per se.

This complexity of the function and prerogatives of the ethics review board is inherent to the second category of literature. Focused specifically on the bureaucratic reach of the ethics review board (Haggerty, 2004; Hammersley, 2010; McAreavey & Muir, 2011; Whitney, 2016), this literature queries the procedural conduct of the ethics review and the bureaucratic implications this holds for researchers and research conduct. Haggerty's (2004) conceptualisation of 'ethics creep' provides a poignant example of this criticism. Noting that "the concept of 'creep' has acquired a degree of sociological purchase in recent years as a means of denoting processes of unintended transformation and expansion of systems" (p. 394) Haggerty (2004) applies the concept to the work of ethics review boards, commenting that:

> …the concept of "creep" accentuates the types of unanticipated expansion that I am drawing attention to in relation to research ethics protocols. "Ethics creep" involves a dual process whereby the regulatory structure of the ethics bureaucracy is expanding outward, colonizing new groups, practices, and institutions, while at the same time intensifying the regulation of practices deemed to fall within its official ambit. (p. 394)

The central problem for Haggerty (2004) rests with the significant institutional power that these boards are presumed to hold. Making matters worse, Haggerty (2004) notes the lack of recourse researchers have to query and challenge review board decisions:

> While REBs [Research Ethics Boards] communicate their decisions and recommendations to individual applicants, they do not publicize these decisions. Moreover, each REB is the final arbiter for research issues within its domain. There is no appeal to a higher authority such as an "ethics Supreme Court." As such, there are no public documents for analysts to scrutinize in order to discern the authoritative positions on research ethics matters. (p. 394)

Ashcroft and Pfeffer's (2001) criticism of the 'secretive' nature of ethics review processes is also relevant here, but again we suggest that this perhaps more pointedly speaks

to issues of practice than it does a fundamental failing of the principles underpinning the ethics review itself. We note, following Allen (2008), that not all ethics review boards work in such a 'secretive' way and that there are examples of practice that illustrate how a more deliberative and 'open' review process might proceed (with Allen's accounts of his experiences in developing innovative practices in one Australian university indicative). Even so, the criticism inherent to this category of the literature provides a valuable point for consideration and represents one area where review boards might develop and enact their practice in the interests of open communication and engagement with researchers and research communities; a point to which we return below.

The third category of the literature corresponds with criticism associated with the practical conduct of the review itself (Allen et al., 2014; Dingwall, 2008; Hammersley, 2010; Schrag, 2011; Wynn & Israel, 2018). Gillam and Guillemin (2018) note that "although researchers generally see the ethics review process as important in principle, they also perceive the process as adversarial, and as creating unnecessary bureaucratic hurdles" (p. 263). A key element of this criticism corresponds with the capacity the review board has for adjudicating appropriately on the merits of specific modalities of research and, in particular, innovative expressions of research conduct. Johnson et al.' (2020) account is typical of such views and in detailing the nature of their immediate experiences, they note that factors including perceived bias within the review board for certain types of research and limited methodological expertise (in their case social science research exploring young peoples' sexualities) "combined to delay key stages of the research, compromised the integrity of parts of the research, and embroiled us in countless exchanges with the review boards over pedantic and esoteric compliance issues" (p. 755).

The problems identified by Gillam and Guillemin (2018), Johnson et al. (2020) and others (see, in particular, Allen et al., 2014) are significant and speak directly to how ethics review boards are perceived. But again, we suggest that these challenges correspond more with the practical enactment of the process of reviewing applications than they do the principles underpinning research ethics; problems that can be resolved without wholesale rejection of the ethics review process. For example, we suggest that ethics review boards would be well served to ensure that the board's membership includes wide disciplinary expertise and that, in instances where disciplinary and methodological knowledge is sparse, that *external* advice and input might be actively sought; including from researchers themselves. Further, maintaining collaborative relationships with researchers and seeking engagement and input will enable the ethics review board to avoid the pitfalls that Johnson et al. (2020) identify. It remains that the problems associated with uninformed and 'distant' review boards can be readily attended to and addressed; points, again, that we expand upon below.

With this criticism in mind, we turn now to consider how ethics review boards might facilitate more deliberative and communicative relationships with researchers and establish practices that support university research cultures. Although we emphasise that the criticisms presented in the literature remain significant and stand as representative of a general sentiment toward ethics review processes and ethics review boards, we stress that those responsible for the administration of ethics review processes have a responsibility to develop processes that are transparent, responsive and deliberative. Beyond representing an important manifestation of a university's assurance for research integrity, ethics review boards should endeavour to be active in advocating for processes that engage researchers and generatively support institutional research cultures. In the next section we consider how ethics review boards might achieve this goal and in doing so divide attention to considering i) the role that the ethics review board should play in engaging researchers, and ii) how ethics review boards might inform and nurture institutional research cultures.

Nurturing Generative Relationships: The Ethics Review Board and University Research Communities

In order to illustrate how a more deliberative relationship between the ethics review board and university research community might develop, we draw on two theoretical cues: the first derived from the work of Jürgen Habermas (1984) and his conceptualisation of 'communicative action' and the second from Nancy Fraser's (1990) consideration of 'strong' publics. Both have common roots in the formation and maintenance of relationships between groups (*communities* in particular) and although the theoretical foci of each rest specifically on the formation of democratic publics, the conceptualisations they provide are nonetheless relevant to universities, research communities and the work of ethics review boards. It is with consideration of how disparate groups might be drawn together that particular relevance is derived from Habermas' (1984) and Fraser's (1990) conceptualisations, and it is from these points of reference that we suggest that a viable approach for considering the relationship between the ethics review board and research communities can be formulated.

Communicative Action and the Ethics Review

Habermas' (1984) conceptualisation of 'communicative action' draws attention to the relational character of human interaction. Giving attention to the ways that deliberation and argumentation give form to these interactions, Habermas (1984) focusses attention on how understanding between individuals is generated as an outcome of deliberative communication:

> The term "reaching understanding" [*Verständigung*] means, at the minimum, that at least two speaking and acting subjects understand a linguistic expression in the same way. The meaning of an elementary expression consists in the contribution that it makes to the meaning of an acceptable speech act. And to understand what a speaker wants to say with such an act, the hearer has to know the conditions under which it can be accepted. (p. 307)

An important implication of this formulation rests with the relationality of the exchange between (in Habermas' terms) *speaker* and *hearer*. For Habermas (1984) communication provides the 'bridge' between these positions. As Habermas (1984) continues:

> As the medium for achieving understanding, speech acts serve: (a) to establish and renew interpersonal relations, whereby the speaker takes up a relation to something in the world of legitimate (social) orders; (b) to represent (or presuppose) states and events, whereby the speaker takes up a relation to something in the world of existing states of affairs; (c) to manifest experiences—that is, to represent oneself—whereby the speaker takes up a relation to something in the subjective world to which he has privileged access. (p. 308)

Extrapolated to account for the interactions that occur between ethics review boards and researchers, this model provides a useful illustration of the deliberations that might apply to the review process. It is important to note here that, by and large, researchers and review boards maintain 'privileged' (albeit divergent) positions of expertise;

for researchers, this pertains to disciplinary and methodological insight relevant to the modalities of particular types of research and the intricacies that define a discipline; for review boards, expertise is demonstrated through the arbitration of the inherent requirements specified by ethics guidelines and similar protocols that regulate research conduct. The bureaucratic requirement of the ethics review process amplifies this diametric positionality, situating the review board as the point of adjudication over researchers' intentions toward research. Highlighting how the differential prerogatives of research and the review process function, this dynamic establishes an oppositional relationship premised on the positionality that researchers and review boards hold. An antagonism of purpose functions as a foundational tenet of this relationship.

This dynamic is further complicated by the administration of the review process itself. In most universities, a 'form' based application provides the primary modality of communication between researchers and reviewers. Commencing with researchers' negotiation of the application form (usually an electronic document restricted to registered researchers), the exchange between researcher and reviewer proceeds as the researcher compiles an account of the proposed research and submits the application for review. The ethics review board engages the process of assessing the proposed research and adjudicating on the ethical dimensions of its intended conduct at this point, guided by prescribed sets of principles and protocols against which the application is measured. It is from this that an orientation toward the assessment of the application is derived. The relationship between researcher and reviewer is thus reduced to the level of the form, with the "textual mediation" (Smith, 1990) of the application (typically) providing the sole point of exchange between researcher and reviewer.

Clearly, the relationship between researchers and ethics review boards is *limited* by these terms of exchange. When reduced to the level of the 'form' and the textual mediation inherent to the application process, little opportunity is presented to formulate a deliberative relationship between researcher and review board, which in turn prescribes limited capacity for the negotiation of applications and the intricacies inherent to particular expressions of research. We extend these concerns by noting that such a 'distanced' and textually mediated relationship between researchers and review boards also provokes acquiescence and 'blind compliance' toward the ethics review as *process*, where innovative and contentious aspects of a research project run the risk of being eliminated, or worse, deliberately obscured or unreported in order to simplify the process and appease the (perceived) concerns of an ethics review board.

Given that a notable theme in the literature highlights perceptions of 'secrecy' and a seeming 'opaqueness' of review processes (Ashcroft & Pfeffer, 2001), modes of communication between review boards and researchers that remain impersonal and 'distanced' are particularly destructive to the formation of effective relationships (Dingwall, 2008; McAreavey & Muir, 2011). In order to "establish and renew interpersonal relations" (Habermas, 1984, p. 308) that enable both researchers and ethics review boards to feel engaged in the review process and to progress their respective prerogatives, developing and enacting processes that enable more deliberative exchanges is vital. This includes making available opportunities for engagement that move beyond narrowly rationalised textual mediations as the predominant (if not *sole*) mode of communication. The development of practices that enable researchers and ethics review boards to more fully engage in dialogue and arrive at a deliberative assessment of the ethical dimensions of research is called for.

The University Research Community as 'Strong' Public

In setting-out this consideration of the deliberative relationship captured in Habermas' (1984) model of communicative action, we draw from Nancy Fraser's (1990) conceptualisations of 'weak' and 'strong' publics to identify an end-point for such undertakings. In seeking to form 'strong' deliberative and communicative relationships with researchers, ethics review boards should undertake to establish open lines of communication that engage researchers and promote trust in the process of review and the capacity of reviewers. In the interests of meeting what Whitney (2016) calls a 'balanced ethics review', we argue that ethics review boards that deliberate *with* and seek insight *from* their research communities establish the foundations for strong networks of association that in turn nurture productive research climates within universities. Strong networks of association between ethics review boards and research communities emphasise the importance of communication and exchange whilst also setting in place practices that enable these lines of communication to function; both formally through well-defined processes and more informally through amenable and accessible review board members.

Fraser (1990) notes that 'strong' publics are those "whose discourse encompasses both opinion-formation and decision-making" (p. 75) and where deliberation provides a key modality of exchange. Conceptualising a university's research climate under the guise of a strong public draws into process the enactment of practices that enable researchers to engage with review boards and to seek advice and guidance. A strong public also encourages researchers to question decisions made by the ethics review board and to critique review practice with a view toward enhancing the processes used to adjudicate projects. A climate wherein researchers are actively incorporated into the process of the ethics review, and equally, where ethics review boards remain open and amenable to researcher inquiry and dialogue generates a 'strong public'. We suggest that ethics review boards that nurture such connections and associations with their research communities not only promote review processes that remain sensitive to methodological nuance and innovation but also enhance understandings of research ethics and review processes. By seeking to nurture such 'strong' associations and engage researchers and research communities as active participants in the review process, ethics review boards establish a deliberative and a supportive climate for research.

Communicative Action and Strong Publics in Practice: Nurturing the Relationship between Ethics Review Board and Research Communities as a Strong Public

Although useful as conceptual prompts for considering the function of ethics review boards, we note that the practical enactment of communicative action and the nurturance of strong publics requires further detail. In order to provide points of orientation for how communicative action and strong publics might find application in framing the conduct of ethics review boards, we draw on our own experiences over recent years in establishing a deliberative and communicative approach for engaging with our research communities.

The university within which we conduct our work is a regionally located Australian university offering degree programs across two Faculties; a Faculty with programs covering the broad areas of Business, Law, Education, Humanities and the Arts and another with programs in Health, Engineering and the Sciences. Comprehensive degree programs within these disciplines are supported by defined research agendas in cognate fields of inquiry,

with the ethics review board that we represent predominantly undertaking reviews for projects emergent from the Humanities, Education, Psychology, Nursing, Sport and Exercise Science, Biosciences, Physiology, Creative Arts and Business disciplines. Methodologically, we typically review projects that seek to apply field-based methods of inquiry, with ethnographic, survey, interview, physiological, art-based, and archival and documentary-based methods prominent.

With the criticism of ethics review boards noted above in mind, and in the interests of outlining a more practical set of principles against which ethics review boards might develop more deliberative relationships with their research communities, we suggest that attention should be given to the following:

Generating Lines of Communication

A vital first step toward activating a deliberative relationship between ethics review boards and researchers rests in ensuring that multiple lines of communication are made available. Communication between review boards and researchers should not be limited to "textual mediation" (Smith, 1990) of the ethics application alone and review boards would be well-placed to ensure that recognised points of contact are provided to researchers. Although this should include access to the board's membership and, in particular, the board's Chair and Executive (where this applies), we suggest that ensuring the provision of a recognised administrative officer who has responsibility for the day-to-day administration of the board provides an important, initial point of contact. Beyond being positioned to provide a 'human' face to the wider ethics review process, an administrative officer not directly involved in the review of applications also provides a somewhat 'impartial' contact point for researchers seeking advice and clarity of ethics processes. The administration officer also provides an important point of contact for researchers seeking to query review board decisions; arguably with a lesser chance of contention than might arise in instances where review board members themselves are positioned as primary points of contact.

While providing this more impartial point of contact for researchers, the administration officer should nonetheless remain in close contact with the review board and work to liaise closely with the board's Chair and Executive. In order to relay back to the review board insights drawn from discussions with researchers, the administration officer has an important role to play in providing this initial 'link' between the research communities and review board. To achieve this, the administration officer should maintain regular contact with the review board's Chair and Executive, but equally have access to institution-wide communication media. Maintaining the capacity to communicate directly from the ethics review board is important and provides the board with a direct line of communication to relay elements of practice, changes in legislation and review processes and more generally develop relationships with the research communities.

At the authors' home university, the review boards' *Ethics Officers* (two personnel working together under the auspice of a dedicated Ethics Office that has oversight of the university's human and animal ethics processes) hold capacity to communicate across the organisation and within various specialised research communications. This includes access to 'global' email and intranet applications, along with capacity to contribute to relevant university-wide research newsletters and digests. Providing a vital link with the university's research communities, the Ethics Officers provide an important point of contact for informing the review board and relaying relevant information from the Ethics Office across the university.

Ethics Review Board Outreach

Maintaining a proactive orientation toward engaging with a university's research communities is also important. An ethics review board that engages directly with researchers via such means as the delivery of specialist ethics workshops, attendance and presentations at relevant faculty and academic unit forums and the convening of 'drop-in' and information sessions, generates two outcomes; i) the enactment of a mode of engagement with researchers that is geared toward information sharing and professional development relevant to ethics review practice, and ii) the generation of a 'presence' by the ethics review board in university forums.

In the authors' university, the ethics review board is active in convening bespoke training workshops, drop-in information sessions for researchers (and higher-degree research candidates specifically) and presentations to university and research management committees. These forums provide an opportunity to present a 'human face' for the review board and to enhance understandings across the university of the board's work. Notably, the presence that these forums provide has established the foundation for more personalised relationship-building between review board personnel and the wider university community, which in turn has generated awareness of the board's work and the function of the ethics review process.

Engaging Disciplinary Expertise in the Review of Research

Hedgecoe's (2016) observation that "it is a truth commonly acknowledged by sociologists that prior ethics review of research…is unsuited for the oversight of social science (particularly qualitative social science)" (p. 486) speaks to a problematic perception regarding the function and appropriateness of the ethics review. Although indicating a view that is common enough amongst researchers who undertake their work using qualitative, interpretivist and idiographic methods, we highlight that an especially problematic implication of such a view corresponds with the expertise review boards are perceived to hold. When review boards are perceived as holding negative views about specific modes of research, or maintain limited expertise in the methodological conduct of such approaches, it is easy for criticism of the capacity of the review board to form.

For a review board to establish a position of recognised expertise and promote trust in the ethics process, a first consideration is to ensure that wide disciplinary and methodological expertise is resident within the review board's membership. Board expertise should be mapped against university research agendas and stated research priorities, along with any further notable research conducted by researchers across the institution. Ensuring that review board expertise matches the types of research conducted across the university forms an important consideration in the constitution of the review board. For example, recent growth in the bio-medical disciplines in our university and emphases on research conducted from perspectives that utilise specialist qualitative methods has generated an increase in complex applications that incorporate multipart research design, multiple participant groups and large, cross-discipline research teams. Accordingly, our human research ethics committee has needed to identify and recruit personnel with expertise in these fields and who can advise appropriately on the merit of applications.

Further consideration might then be given to enacting a process of 'reviewer advocacy', wherein review board members with specific expertise are called upon to lead reviews on applications that contain unique and innovative methodological applications. Reviewer advocates should be positioned to advise the review board on areas of specificity in

applications and be afforded the opportunity to relay insight to the review board as reviews are being conducted. The reviewer advocate should take responsibility for appraising the review board of the methodological intricacies of specific techniques and approaches associated with the conduct of these modes of research. Such advocacy might also extend to relevant board members making contact with researchers to initiate dialogue, should further detail on applications be required. Ensuring that appropriately qualified reviewers are engaged with researchers is vital for generating high quality reviews and nurturing researcher confidence in the process.

The ethics review board should also remain open to seeking input and advice from across the university's research communities. One way that this might be achieved is via the designation of nominated 'discipline experts' who can be called upon for insight into particular methods and advice on trends emergent in specific disciplines. In the authors' case, a cohort of active researchers each representing designated schools and academic units within the university provide contact points for seeking input and advice on discipline specific queries. These discipline experts are not regular members of the review board, but function as points of contact. These discipline experts also fulfil further liaison roles; including, as peer reviewers of initial application drafts and as conduits for the relay of information to faculty and academic units.

Engaging Researchers

The development of a collaborative approach that draws-in researchers as active participants in the review process and provides the opportunity for direct engagement between researchers and review boards presents as an important component of a deliberative approach to the ethics review. We note that when ethics review boards enact direct contact with researchers and generate relationships that enable the relay of insight and clarification, a productive foundation for collaboration and dialogue is formed.

In the authors' university, researchers have the opportunity to attend review board meetings and participate in discussions pertaining to their application. This provides a direct opportunity to seek clarification on points raised as these points are being discussed. Beyond this, and for applications that require more intensive attention, opportunities to meet with review board members (the Chair and Ethics Officers in particular) to discuss and develop the application provides researchers with the opportunity to more authoritatively revise the application and progress the research. As a means for moving beyond the "textual mediation" (Smith, 1990) of the application and to expedite the approval process, liaising directly with researchers has the effect of:

i) providing an interpersonal forum for the relay of board concerns regarding an application;
ii) opening opportunities for researchers to clarify and illuminate aspects of the project and ethics application; and
iii) identifying, in collaboration with the researcher, appropriate ways forward for revising and progressing applications.

Not only does this approach provide an opportunity for ensuring the development of stronger applications and shorter review times, but it also has an effect of generating a relationship between the review board and researchers.

Distributing Responsibility

Engaging researchers, discipline experts and school and academic unit-based advocates as active participants in the ethics review process speaks to the enactment of a *distributed* approach to the conduct of the ethics review. Although the ultimate responsibility for the adjudication of applications should remain with the review board, incorporating opportunities for input and the engagement of researchers distributes the locus of authority inherent to the evaluation of applications. In turn, this has the effect of distributing responsibility for ensuring that the ethical dimensions of projects are recognised and attended to.

One objective of a deliberative approach to the ethics review and the active engagement of researchers should be the raised awareness of the ethical dimensions of research and the ethics review process. If researchers are provided with a clear sense of the ethics requirements inherent to the ethics review process, and are provided with clear lines of communication to seek advice and provide input, a distributed responsibility for the research ethics process is generated. When researchers are cognisant of the processes inherent to the ethics review, responsibility for meeting these requirements is shared. Made possible via the nurturing of communication with researchers, a goal of an effective approach to ethics review should be the activation of a distributed responsibility for the ethics review where researchers take an active role in ensuring that the intended research takes account of its inherent ethical dimensions.

Conclusion

Generating a climate of deliberative engagement between researchers and the ethics review board presents as an important objective for those responsible for the administration of ethics processes. Indeed, we note that the outcomes of the deliberative approach detailed throughout this paper include the following:

Ethics review boards that generate deliberative approaches for working with researchers:

1. mitigate the *mystifying* aspects of the ethics review process;
2. promote a *generative*, rather than *antagonistic*, climate of support for research;
3. enhance, through deliberative engagement, ethics review practices; and
4. build stronger, more productive research communities.

This latter point is significant and we argue that a deliberative climate of engagement supports strong networks of association across the university. The effects of this are evident on two levels: in the most immediate sense, the quality of ethics applications improves as greater awareness of the ethical dimensions of research and the requirements of the ethics review process is nurtured. At a further level, the generation of a climate of support premised on open dialogue and deliberation emerges as the ethics review process is demystified and researchers actively engage with review boards. By engaging in dialogue *with* researchers, 'understanding' (following Habermas, 1984) develops in each direction; the ethics review board is afforded opportunity to more fully appreciate the intricacies of research practice, while researchers are provided with the opportunity to more fully engage in the process of the ethics review.

To close, we return to the criticism cited at the outset of this paper. A common theme evident in this literature corresponds with the mystifying aspects of the ethics review process,

with this complaint amplified when communication channels are obscured and 'distanced' from researchers. Attending to the formation of a deliberative relationship with researchers, where dialogue and the formation of strong networks provides a focus, the potential to respond to these challenges emerges. Ethics review boards hold significant responsibility to generate such a climate and stand to benefit greatly if initiatives that lead to the building of relationships, the explication of review processes and the generation of deliberative approaches to engagement can be met. We suggest that ethics review boards have this possibility within their purview, and that developing such a climate on these terms should present as a major objective for review boards.

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