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ARTICLE

Open and Closed Committees

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Introduction

In 'Secret ethics business?' Gillam questions whether the workings of Human Research Ethics Committees should be treated as confidential.¹ She focuses on ethics committees' meetings and asks if what we can call the 'confidentiality argument' is valid and ethical. She presents arguments for why the workings of these committees should be open, and like many others, cites a need for accountability and transparency.

We found Gillam's article of particular interest because all her points, including the arguments for and against open committee meetings, have come up in our research. In fact since late 2002 we have used the expression 'secret ethics committee business', an intentional word play, in presentations of early findings. Furthermore, Gillam's arguments are consistent with ones we have put forward for why ethics committees should be more open. However, we present this case based not so much on ethical arguments, although they are definitely relevant, but on the idea that greater openness seems to resolve some common problems with and complaints about ethics committees and the researchers who submit applications to them. We think that one result of more openness is more ethical review of applications, more ethically sound applications, and a higher and more widely shared ethical standard for conducting research. The information presented here suggests that open committees are more ethically consistent with the ethical standards set by these committees for researchers. Researchers are expected to be open in relation to their research policies and procedures. Ethics committees should hold themselves to the same standard.

We came to the same conclusions as Gillam through a different process. We came to them through research on the ethical review process as culture and cultural process. Our position is based on experiences trying to obtain permission to observe committees, and extensive formal² and informal interviews with people in four countries (Australia, Canada, New Zealand, and the United States of America), observations of committee meeting in three of these countries, the collection of instrumental or cases studies, and an extensive (and on-going) review of the literature and documents.

The idea of open vs closed committees first arose early in the research when we were refused permission to observe some committees in Australia. To date we have approached 32 committees and observed

19. Most had no problem with being observed and some reported that people regularly do so. All four refusals have been in Australia. Two meetings for which permission had been granted were cancelled at the last minute either because they had no applications to review (all had undergone expedited review) or the schedule had to be change for other reasons. Three were missed for logistical reasons related to travel dates. The remaining committees have given permission to observe and we are making arrangements to do so. We have evidence that at least two observed committees experienced some angst about extending permission, but in the end members seemed comfortable with their decision. We have been told that these committees, and at least two of the committees that refused, had extensive discussions about the observation request before making their decision. The only explanation for refusal, when one was offered, related to concerns about confidentiality. For some committees we had to sign confidentiality agreements.

In a 1988 survey of committees in Australia, the most recent data we have, McNeill, Berglund, and Webster^{3,4} reported that 30 percent of committees reported their meetings were closed, 4 percent were open to the public, and the rest were 'open' to invited visitors and researchers. In our research, committees in all the sites report that they may request a researcher's attendance if they have had or expect problems with the review and researchers can request the opportunity to present their case. Only one committee expected every researcher to attend the meeting. Researchers generally attend only for the period during which they address questions related to their application.

The fact that requests to observe had been refused and many committees consider their meetings closed raises important questions. However, instead of concentrating on whether meetings are open or closed, we would like to expand the question to explore whether the committee and its processes are opened or closed. Taking this broader view helps us better understand that closed meetings are only one small aspect of a much larger and more critical issue that has implications that include attitudes towards review processes and the ethical conduct of research. There is abundant evidence in the literature that attitudes towards review are often negative, particularly in relation to non-medical research. If this situation is to change, then some committees are going to need to think about significant structural and process issues. Opening up the review process and making it transparent and accessible will not resolve all the problems. Even the most open committees still have significant issues to address and there will always be some researchers and committee members who will be difficult. Nevertheless, our data encourage us to support more open committees. In Australia at least, a move in this direction needs to be supported by policy at the national level.

The Open to Closed Continuum

Initially, we developed a dichotomous open/closed model based only on whether permission to observe was granted or not. An open committee allowed observation by non-members; a closed committee did not. As the data accumulated, it became apparent that this dichotomy was too simplistic. Committees were not simply open or closed; there was a continuum.

This continuum relates to an overall sense, presentation, or an 'attitude' associated with the committee and the review process. It is about accessibility, transparency, the nature of relationships between all parties involved, and trust. The continuum involves a set of characteristics, not all of which have to be present or present in the same way — only one of which involves allowed observation. There is a considerable amount of variability within and across these characteristics.

Most of the committees (in our opinion and that of our informants) seem to be located near the centre of the continuum. Only one committee met nearly all the developing criteria for a closed committee. Many committees, even during the process of this research, appeared to be moving more towards the open end.

The structure and process of review are dynamic and in a constant state of change or flux. Committees are always responding to local, national, and international situations, policy changes, and the need to respond to new approaches to research. Participation in this research or hearing about some of the results, by raising some core issues for key people, also evoked change in some situations.

This idea of the continuum provided insights into all aspects of the review process. As the idea developed, we tried it out during interviews and presentations. This not only served to refine the idea, but also acted as a form of validation. Nearly everyone could relate to the general idea and locate committees they were involved in at some point on the continuum. This suggests the general idea has validity.

As data accumulated and analyses progressed this idea became central to understanding not only the review process, but also the nature of the relationships involved. The more open a committee, the more positive the relationships. Researchers might still view the process as a 'necessary evil', but they accepted it and some recognised that it could have positive implications, such as raising their awareness of ethical issues they had not identified. They generally did not focus their attention or any frustration on the committee and its members. On the other hand, the more closed the committee the more likely there was a sense of antagonism. Researchers often had few positive comments about these committees, their processes, or their decisions.

That the relationship between researchers and committees could be confrontational and antagonistic is a core theme in this research, the literature on ethics committees and the ethical review of research, particularly that associated with alternative paradigms. This was noted in the Australian report on a national review of ethics

committees.⁵ Thus, although this sense of antagonism seems to often relate to particular kinds of research (e.g., social science research), it is not necessarily related to (or only related to) the kind of research. The primary explanation lies elsewhere and is far more complex. The idea of open and closed committees seems to have some explanatory power in this regard.

Characteristics of Open and Closed Committees

Our idea of open and closed committees parallels the anthropological use of open and closed 'predicaments'⁶ or 'societies'.⁷ Closed predicaments are characterised by a lack of awareness of alternatives to an established body of tenets and a 'sacredness' of beliefs, where threats to them are seen as a threat of chaos and result in intense anxiety. Open predicaments are characterised by a greater comfort with ambiguity. There is a highly developed awareness of alternatives, a diminished sense of the sacredness of beliefs, and less anxiety about potential threats to them. Using Sahlins' characterisation, Douglas notes that an open entity can be seen as formative, while the closed is seen as prescriptive. The opened deals lightly with its past. Like its moral and political options, its categories of thought are open to negotiation. Closed societies, with the tendency to be prescriptive, tend to have a dogmatic style of discourse. Their stability supports the validity of their version of the world — and their version of reality upholds their stability. In the closed context, forcing events into a pre-existing hierarchy of forms protects established categories of thought. Nothing that can happen can be completely new. The social order is eternal and is projected into the past and into the future in a relatively immutable form. In Horton's characterization, the open is associated with scientific thought.

There are many criteria or characteristics that can be used to determine whether a committee and its review process are open or closed. The table below provides some these. The lists are not exhaustive. No committee has all the characteristics in either column, nor do all characteristics have equal weight or importance. The lists should not be seen as an endorsement of any characteristic. There is much resistance to some of the items on the lists, especially the open list, and many items evoke strong emotional reactions. We will address some of these in the next section.

We have used five key headings: accessibility and relationships, website, communication, process and decision-making, and educational programs. Website might seem an odd category, one that could be placed under accessibility, but we have separated it because the nature of the committee's website often offers clues about the nature of the committee. Note that the columns represent the extreme ends of the continuum. No single committee would have all of the characteristics in either column.

| Closed | Open |
|--|---|
| <i>Accessibility and Relationships</i> | |
| In general an inaccessible committee. | Accessible committee. |
| Researchers do not know (are not allowed to know) who is on the committee. | Names of members (or at least key people) listed on website or otherwise readily available. |
| Committee members are not allowed to directly contact researchers. | Researchers and committee members allowed, often even encouraged, to interact. |
| Researchers are not allowed to directly contact a committee member other than the ethics officer. | Ethics officer may encourage researchers to contact one or more committee members and help facilitate the contact. |
| Implicit and explicit forms of discouragement about contacting the committee or interaction with any member prior to submission. Contact may be considered as a form of unethical behaviour. | Attempts to establish atmosphere where researchers will consult with one or more committee members or administrative staff prior to submitting an application. Such contact may be considered as evidence of the researchers' sincerity about conducting ethical research and complying with the process. |
| Committee may be a depersonalised, 'faceless' entity (almost non-human). | The committee has a public and personalised 'face'. This may include the Chair, the Ethics Officer, or any members of the committee. Often the Ethics Officer is the 'face' of the committee. |
| No sense of a relationship with the committee or any of its members even when these people may be known from other contexts. | A sense of a positive, helpful relationship between the committee and its members and researchers based on the common goal of developing, supporting, and facilitating the most ethical research. |
| The discourse about researchers often implies they are untrustworthy and in need of guidance and oversight by the committee. | Researchers are generally treated as valued and responsible people. |
| Researchers may be invited to a meeting to answer questions, but often only on the invitation of the committee and for 'problem' cases. | Researchers often invited to a meeting (sometimes required) to present their case, answer or ask questions. |
| Often great angst about allowing observation if someone makes a request. Permission may or may not be given. | Researchers and others can request to attend and these requests are simply a formality as they are free to attend. |
| Observation by non-members generally not allowed. | Observation of meetings by interested parties allowed, may even be encouraged. |
| Dates for submission available, but dates and location of meetings may or may not be available. | Information on dates and location for the meetings is available. |
| <i>Website</i> | |
| Difficult to find and negotiate website. | Easy to find and use website. |
| Website terse and bureaucratic, unfriendly or depersonalised. | Website presents an open, welcoming message, a sense of personalisation. |

| | |
|---|---|
| Often difficult to find contact information. May not be associated with a person. | Contact information easy to find. |
| FAQs (frequently asked questions) are directive or negative in tone. | FAQ section on website expressed in positive, helpful tone. |
| <i>Communication</i> | |
| Closed communication. | Open and transparent communication. |
| Communication mostly by decontextualised letters and email. | Communication open and direct (written and verbal), prior to meeting and usually within days of the meeting. Information on relevant context often presented at least verbally. |
| Emphasis on maintaining a 'paper trail'. All interactions with researchers are fully documented in writing so there will be no 'misunderstandings' in the future. | Record keeping is important, but is more flexible. Thus for example, the record may contain a reference to communication with a researcher being assigned to a member of the committee and the results of this communication may or may not be fully documented in writing. |
| All communication, including minutes of the meeting, is considered strictly confidential. Although annual reports may list applications reviewed. | Full minutes, a version of them, or a detailed report available, sometimes on a website. |
| May be extensive delays in communicating with researchers. Letters may need to be reviewed by several people before sent to researcher. | Verbal or written communication with researchers within days of the meeting (sometimes within 24 hours). |
| <i>Process and Decision Making</i> | |
| Rule-based, often 'black and white' thinking and decision-making. Use past decisions and guidelines (standards, regulations) as established rules so everyone is treated the same in an attempt to maintain consistency. | Flexible. Case-based with each case approached as a new entity. Use past decisions and guidelines (standards, regulations) only as guides for decision-making. |
| Focus on complying with procedures and regulations. | Focus on facilitating ethically responsible research. |
| Focus on filling in the right forms 'correctly'. Much attention to information sheets and consent forms, including whether they have used the 'correct' template and letterhead. Often considerable attention to things like punctuation and grammar. | Leave most issues related to forms and grammar and punctuation to ethics officers or others. In terms of information sheets and forms the focus is on uncommon ethical issues. |
| Ethics Officer's role is primarily administrative and generally does not actively participate in committee discussion or decision-making. | Ethics Officer treated as a key and essential member of the team. May play an active role in the decision-making process by providing information. May be a voting member of the committee. |
| Rarely consult with outside experts. | Often consult with outside experts, may even be part of the standard review process (e.g., departmental review before application comes to the committee). |