



# **Sidelined by the Guidelines: Reflections on the Limitations of Standard Informed Consent Procedures for the Conduct of Ethical Research**

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## **Abstract**

Conventional informed consent guidelines as exemplified by Canada's research ethics policy statement and applied by Institutional Research Boards (IRBs) presuppose an individuated liberal humanist research subject that is incommensurate with the subjectivities of many actual research participants as they experience them, and as the theoretical perspectives used in much qualitative research conceptualise them. I use the example of my ethnographic research in northern Pakistan to demonstrate that abiding by IRB guidelines for informed consent would have the effect of disciplining and normalising both my research participants and my research. Based on my own research experiences I suggest

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four guiding practices for informed consent in community centred research: that it be collective, progressive, oral, and negotiated. The paper ends by stressing the importance of examining research ethics policies and procedures as a way to reflect critically on the disciplining and normalising institutional context within which our research practices and outcomes are shaped.

In the past two decades qualitative research methods have assumed an institutionally legitimised place in Human Geography's practice and disciplinary self understandings.<sup>2</sup> More geographers are conducting qualitative research than ever before, more such research is published, and more students are receiving training in qualitative methodology. To the extent that more qualitative research also means more "research with human participants," geographical research is increasingly shaped in the context of review by Institutional Research Boards (IRBs) or Research Ethics Boards (REB), especially as the ethics review process itself becomes more regulated and more strictly enforced in North American, European, Australian and Aotearoan universities.<sup>3</sup> Interrogating the mediating, sometimes constitutive, effects of REB review on the conduct of qualitative research in Geography should be an aspect of the critical reflexivity that qualitative researchers often employ as part of their approach (Sultana, 2007). By critical reflexivity I mean researchers' endeavours to situate themselves in relation to the people and social worlds they are studying and to the fields of power that constitute those relationships, in order both to describe the epistemological characteristics of the academic knowledge they produce and to interrogate the micro-political processes involved in its production. My own efforts to reflect on the expectations expressed in Canada's *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* (Canadian Institutes of Health Research *et al.*, 1998), and applied by my own institution's Research Ethics Board, inspire the conclusion that for my research – and much other qualitative research in the social sciences and humanities – the *Tri-Council Policy Statement* deals poorly with practical, theoretical, and political issues relevant to what might be described as "deep qualitative research" (i.e., research that applies methodological principles of holism, naturalism and induction, and not just qualitative data gathering

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<sup>2</sup> The inclusion in *Progress in Human Geography* of progress reports on qualitative methods, beginning in 1992, is a good rough indication of the growing legitimacy of qualitative approaches in English language human geography.

<sup>3</sup> For access to a large selection of Canadian and international research ethics policy statements, guidelines, and procedures see <http://pre.ethics.gc.ca/english/links/links.cfm>.

techniques; see Patton, 1980, 40-43), and gets in the way of meeting the Tri-Council's own guiding ethical principles.<sup>4</sup>

My purpose here is to develop these criticisms in relation to the Tri-Council's treatment of its fundamental principle of *respect for free and informed consent* (Canadian Institutes of Health Research *et al.*, 1998, 2.1-2.12). I begin with my central argument: that conventional informed consent guidelines as exemplified by the Tri-Council Policy Statement presuppose an individuated liberal humanist research subject that is incommensurate with the subjectivities of our actual research participants as they experience them, and as the theoretical perspectives upon which much qualitative research is based conceptualise them. I then describe some practical issues that influence the process of gaining informed consent in my own research context – community based, long term, ethnographic research – as a way to demonstrate some of the problems presented by the Tri-Council's conceptualisation of research subjects, before suggesting four practices of informed consent that I think are especially important for the sort of qualitative research I conduct. After a brief discussion of “bureaucratic ethics” and “methodological conservatism” as contexts for current struggles to reorient research ethics policy, the paper concludes by arguing that when the Tri-Council's informed consent policy guidelines are applied stringently to settings where people do not live their lives as archetypal liberal humanist subjects they have the effect of disciplining and normalising research participants; an outcome that is antithetical to what most qualitative researchers hope for their research.

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<sup>4</sup> The *Tri-Council Policy Statement's* (1998, 1.5-1.6) list of guiding ethical principles includes respect for human dignity, respect for free and informed consent, respect for vulnerable persons, respect for privacy and confidentiality, respect for justice and inclusiveness, balancing harms and benefits, minimizing harm, and maximizing benefit. The policy statement, like documents serving similar purposes in most other European and North American contexts, is based substantially on a series of earlier benchmark documents including, most notably, World Medical Organization (1964), The National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research (1979), Council for International Organisations of Medical Sciences (1993), UNESCO (1994), and The National Committee for Research Ethics in the Social Sciences and Humanities (1994). The most influential of these is *The Belmont Report* (The National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research, 1979), which outlines three foundational ethical principles, as follows (1979, Section B):

- respect for persons: promoting the autonomy of (autonomous) persons, with courtesy and respect for individuals as persons, including those who are not autonomous;
- beneficence: maximising good outcomes for science, humanity and individual research participants while avoiding or minimising unnecessary risk, harm or wrong;
- justice: ensuring reasonable, non-exploitative, and carefully considered procedures and their fair administration; fair distribution of costs and benefits among persons and groups (i.e., those who bear the risks of research should be those who benefit from it).

See Martin (2007) and Israel and Hay (2006) for more detailed treatments of the origins and development of “bureaucratized research ethics” (Martin, 2007, 320).

It may seem, as I progress, that I am speaking as a frustrated qualitative researcher who feels that the sort of informed consent guidelines outlined in the Tri-Council Policy Statement are poorly designed for the sort of research I want to do. This is only half the story. I served on the Brock University Research Ethics Board for nine years, three of them as chair. I am deeply committed to the ideal of ethics review, and as chair of an REB I came to appreciate how complex is the task of developing policy guidelines and commensurate procedures (see also Askins, 2007). I offer the criticisms below in a spirit of constructive engagement, and as part of a growing body of literature – including a recent *ACME* special thematic issue on “participatory ethics” (see Cahill *et al.*, 2007) – that questions the implications of the current climate of “bureaucratized research ethics” (Martin, 2007, 320) in Canada and elsewhere for the conduct of qualitative research (see also Thrift, 2003; Christians, 2005; Lincoln, 2005).

Voluntary informed consent is recognised as one of the foundational tenets of ethically responsible research, according to the logic that people have the right to know that they are being researched, what the research is about, and what is expected of them as participants. They also have the right not to be researched unless they provide their explicit agreement. The argument is that while we may not be harming people by researching them without their consent, we *are* wronging them. The Tri-Council Policy Statement deals with this particular principle of ethically responsible research by assuming that research participants are individuated subjects who are more-or-less autonomous of social ties and obligations, as well as literate, adult, and accustomed to relating to others in the context of formal contractual arrangements. These individuated subjects are understood as the authors or owners of the data researchers collect. In Megan Blake’s words, as the primary units of data provision “the researched are positioned as vessels that empty themselves into research indiscriminately” (Blake, 2007, 414). Section 2 of the Tri-Council Policy Statement, sub-titled Free and Informed Consent, is structured almost entirely around this figure of an individuated research subject, and most REB guidelines for eliciting informed consent reproduce it.<sup>5</sup>

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<sup>5</sup> This focus on individuality is unsurprising, given the extent to which the formulation of research ethics policy (a) relies on a liberal humanist understanding of ethics in relation to individual autonomy (see Christians, 2005), and (b) has historically been dominated by biomedical and psychological understandings of the human individual, and biomedical research concerns. To give a quick sense of just how central the assumption of an individuated research subject is to the Tri-Council’s understanding of informed consent, here is its summary description of “free and informed consent” in a section titled “Guiding Ethical Principles” (1998, 1.5):

Individuals are generally presumed to have the capacity and right to make free and informed decisions. Respect for persons thus means respecting the exercise of individual consent. In practical terms within the ethics review process, the principle of respect for

Deviations from this norm can be dealt with within many standard ethics protocols, and the Tri-Council Policy Statement pays attention to a variety of exceptions, but they are dealt with exactly as exceptions or deviations from a norm, which itself remains unaltered.<sup>6</sup>

I am concerned by three problems with assuming this type of individuality. First, the individuated humanist subject implicit in conventional consent procedures is incommensurate with the ways subjectivity is conceived in many of the social and cultural theories that provide the conceptual foundations for much current social research, and especially qualitative research. I am thinking of those theories of subjectivity that do not assume a tight one-to-one equivalence or correspondence between a corporeal body and a unitary, discrete, autonomous and independent subjectivity (Young, 1990; Pratt, 1992; Pile and Thrift, 1995; Sibley, 1995; Rose, 1997; Thrift, 2003; Butler, 2004; Davies and Dwyer, 2007). Second, assuming an individuated research subject also assumes that research is structured primarily by a set of discrete relationships between a researcher and individual research participants. Even in circumstances where researchers may be interested in interactions or relations among participants, the consent process involves a vertically ordered agreement between a researcher and individual subjects; considerable improvisation is required to incorporate horizontal relations among participants into consent procedures. Focus groups provide a familiar example of this sort of situation. How does one phrase a consent letter – which is essentially a researcher's agreement with a participant – to express the researcher's faith in her expectation that focus group participants will honour their horizontal obligation to protect one another's confidentiality? I have seen a number of awkward attempts to modify a standardised consent form to deal with this issue; these convince me that a conscientious answer to this question must depart from the normative model of a predominantly vertically integrated relationship between a researcher and individual participants. Third, qualitative research strives to engage research participants in the contexts of their everyday lives and relationships (i.e., it is naturalistic; Lincoln and Guba, 1985), and emphasises the epistemological and ethical importance of establishing relationships of mutuality between researchers and participants (Eide and Kahn, 2008). Implicit in these characteristics is an

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persons translates into the dialogue, process, rights, duties and requirements for free and informed consent by the research subject.

<sup>6</sup> I should note that the Brock University REB has been supportive and accommodative of my efforts to modify standard consent procedures to conform to my theoretical commitments and understandings of my prospective research participants. Many REB members share my frustration with the clumsiness of standard procedures for qualitative research, and welcome well-conceived deviations. I should also acknowledge that as a former REB Chair I am perhaps unusually well positioned to negotiate with the REB over these matters.

approach to ethics that focuses on “the relational commitment of persons to each other, where decisions are made in the context of their environment” (Larkin *et al.*, 2008, 235). Such a relational ethics treats research relationships as collaborative, “work[s] with the differences between collaborators, searching for mutual understanding,” is “based on the notion of difference in relation, constituted in an intersubjective manner in the context of always/already existing configurations of self and community” and “requires that we are sensitive to the contingency of things” (Routledge, 2002, 487; see also Slater, 1997; Whatmore, 1997). The relational ethical (and epistemological) basis of much qualitative research risks being undermined by a liberal code of ethics that emphasises the discrete and stable rights of research subjects as autonomous individuals who are isolated from one another and whose interactions with researchers are unidirectional and standardised.

These problems may be illustrated in the context of my own research in northern Pakistan. Most of my work since 1988 has focused on Shimshal, a community of about 110 households located at 3,000m in the Northern Areas’ Karakoram mountains. Everyone who lives in Shimshal belongs to a household that owns land, herds livestock, and shares formally in the yields and responsibilities of common property resources: irrigation water, pastures and woodlands. Households are situated in an intricate network of formal social affiliations at several scales; the immediate neighbourhood, the extended lineage, the clan, the *jamaat* (congregation, parish), and the community are the most important. The groupings formed through these formal affiliations are best understood as simultaneously distinct collective decision making bodies, components of a larger community wide decision making polity, and nested sites of negotiation, obligation, and identity within which individuals structure their lives. The largest decision-making body internal to the community is the council of household heads. All community members are represented in this council by the male head of their household, and also by their neighbourhood, lineage, and clan elders, each of whom is responsible for representing somewhat different sets of interests. Decisions taken in this forum are consensual – the product of long discussions within the village council – and they seldom emerge without traveling back and forth, often several times, between the village council and the smaller decision making units. All of this is done orally, face-to-face, and without written records. Although perhaps a half of the population reads and writes in Urdu, the language of everyday life is Wakhi, which does not have a written form.

I have been involved in three multi-year research projects in Shimshal. In the first project I investigated the implications of a set of NGO development interventions on social organisation and identity (Butz, 1995, 1996, 1998). I was particularly interested in how the community adjusted to the imposition of a new layer of decision making – something called a “village organisation” – on top of the

community's existing social and political structure. The second project studied the community's involvement in northern Pakistan's growing adventure tourism industry, with a focus on the lives of Shimshali porters, the men who carry trekkers' and climbers' luggage (Butz, 2002, 2006; MacDonald and Butz, 1998). This research was guided by an interest in the ways contemporary tourism reproduces labour relations between porters and foreign visitors that were codified during the colonial era. I have recently begun a third project, to examine how the construction of a jeep road to the village influences Shimshalis' understandings of themselves and their community, and shapes their interactions with down-country Pakistan. My main research methods are participant observation and unstructured conversations: basically situating myself in the community, watching, talking to people, participating in community affairs to the extent I am allowed, and following leads that emerge over time as important. Each project has involved multiple visits to Shimshal, of several months each. A model of informed consent based on a vertically structured agreement between the researcher and individuated research participant presents several practical problems in this research context.

First, while I am eager *not* to adopt a "super-organic" (Jackson, 1989) approach to community that would understand Shimshal as a coherent and unified totality, I am nevertheless less interested in understanding specific individuals' opinions and experiences than I am with discerning the way a community of interacting and differentially situated individuals deals with externally driven changes. I am interested primarily in collecting information that helps me say something about the discourses and material practices that circulate in the community. What individuals do and say in my presence provides much of the information I need, but there is no exclusive correspondence between who is providing me with information and whose lives are being represented in my interpretation. Part of informed consent is the consent to be represented. What does it mean for an individual to provide consent to be represented, when the ramifications of that representation extend far beyond the individual participant? Indeed, given my research topics, the representations I construct to interpret what I learn from individual participants almost certainly influence how the community as a whole is understood and treated by development NGOs, adventure tourism agencies, and the Pakistani state. That is part of the point. Community members are aware of this, and most refuse to cooperate individually with my research in the absence of some sort of collective consent at the community level (see Evans, 2004; Ruttan, 2004; Bradley, 2007). This sort of issue is clearly not unique to my research context, but is relevant to many cases where identifiable and historically subordinated minorities are being represented. In these circumstances, prospective research participants are often concerned to maintain some sort of collective control over how they are collectively represented, and for good reason.

Second, although it was obvious from the start of each project that my main research interactions would be with a limited number of individuals and households, my research is nevertheless 'on' the whole community. It is impossible to separate participants from non-participants in any meaningful way. This is especially evident with methods like participant observation and conversational interviewing, both of which rely extensively on impromptu, unstructured, and unbounded group interactions. Even when I interview individuals formally, they are usually speaking self consciously on behalf of some social unit larger than themselves, and almost always in the presence – and with the contributions – of assorted onlookers. To associate voluntary and informed consent with the permission of individual participants, and in the context of temporally and socially discrete "research interactions" such as an interview or observational session, is impractical and inadequate. This problem is relevant to research on any tightly knit unit of social organisation that has developed its own internal culture (e.g., workplace or classroom based research, or research on so called subcultures).

Third, given the community's location and the nature of my research, I am required to live in the village. In the absence of any hotels or rental accommodations, that means living as part of a household. Consent to conduct research also involves consent to live in the village, to share in community resources, to enjoy the patronage of a particular household and lineage grouping, to be an intrusive presence in the lives of all community members. These are all permissions that must be negotiated collectively, and not with individual research participants. The issue of permission to intrude into the life of a community – and not just the life of an individual – pertains to almost all participatory research.

Fourth, even if I want to structure my research so that individualised consent is appropriate, the convention of using a written and signed consent form would be difficult and inconvenient, not least because many of my participants are not literate in any language. Moreover, given historical and contemporary political conditions in northern Pakistan, few Shimshalis would willingly sign any document even if they could read it for themselves. This raises the important question of how individual consent can be negotiated and documented in an oral society, or rather, in any setting where people are reluctant to be pinned down in writing – and the world is full of these sorts of settings.

Fifth, the research I do, like much qualitative research and almost all ethnography, is emergent and inductive, and needs to unfold progressively over a long time period. It is also opportunistic; it must take advantage of unanticipated opportunities. It means little, in this context, to present participants with a standardised consent agreement at the beginning of a field season, or even at the beginning of a discrete research interaction. What would it contain? It is almost

inevitably deceptive to ask an IRB to approve that consent agreement before one even sets foot in the research setting. A more progressive or continuous approach to consent is necessary in circumstances like mine, and in many other research contexts.

Sixth, I am faced in Shimshal with a group of research participants who understand themselves largely in terms of their responsibility for and to a variety of units of identity and social organisation larger than themselves; they do not yet live their everyday lives as individuated subjects. The concept of individualised consent is disorienting to most Shimshalis, and when imposed leads frequently to confusion and misunderstandings. Shimshali research participants feel that a conventional individual-oriented consent process exposes them more than it protects them. I will return to this final issue below, when I talk about the normalising and disciplinary implications of informed consent procedures for participants in research.

At this point I want to draw from my research experiences in Shimshal to suggest that in many circumstances informed consent should be *collective, progressive, oral, and negotiated*. I do not understand these practices as exhaustive or universal, but I do think they pertain to a broader range of qualitative research than the context I have derived them from (including, for example, research with aboriginal communities, neighbourhood studies, so called subculture studies, research in classroom settings, research on minority cultures, research on transient communities, workplace research). Nor are these principles antithetical to the Tri-Council Guidelines, but they do imply a considerable change in emphasis; a reconfiguration of what is considered ‘normal,’ including, especially, a willingness to depart in practice from the liberal humanist research subject as normative.<sup>7</sup> I deal briefly with each practice in turn.

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<sup>7</sup> The Tri-Council guidelines treat *oral* consent as extraordinary, but permit it “where there are good reasons for not recording consent in writing” (1998, 2.1). Depending on how the phrase “process of free and informed consent” is interpreted in the following quotation, there may be room in Article 2.4 of the guidelines for limited *progressive* and *negotiated* consent: “throughout the process of free and informed consent, the researcher must ensure that prospective subjects are given adequate opportunities to discuss and contemplate their participation” (1998, 2.5). There are no provisions for *collective* consent in the Guidelines, although there are guidelines for third party consent under certain circumstances (1998, 2.9-2.11). This is not surprising, given the Policy’s understanding of research subjects as autonomous and individuated. Note, in contrast, that the *Indigenous Research Protection Act* advocates collective consent as part of its “Principle of Fully Informed Consent After Full Disclosure and Consultation,” which states that “research should not be conducted until there has been full consultation with all potentially affected Tribal communities and individuals, and each such community and individual has approved the research after full disclosure” (Indigenous People’s Council on Biocolonialism, no date, Section 5.1a), and in its description of “Traditional Indigenous Intellectual Property” as “a communal right held by the

In many research contexts informed consent has to be *collective* to be practical or meaningful. There are two reasons for this. First, only a collective consent procedure deals adequately with situations where the implications of the research process and the resulting representations extend beyond individual research participants; it is the only way to involve all of the people who are likely to be concretely impacted by the research. Second, only collective consent deals well with circumstances where all members of an identified subject population are likely to be research participants, but in ways, at times, and to extents that cannot be anticipated in advance. It frees the researcher to follow a range of unanticipated leads without violating the conditions of consent. I should stress that consent by a "gatekeeper" or "third party consent" (e.g., by a school headmistress, pastor, or community leader) on behalf of a group of participants is not the same as collective consent. As a practical matter, collective consent probably works best if it can use existing structures of collective decision making. In Shimshal I have been able to use the village council, and the smaller formal bodies that are nested within it, to establish what I think is quite thorough and meaningful collective consent. In fact, the community insisted on it.

In many circumstances it may be important also to understand consent as *progressive*, in two senses. First, in long term, emergent research consent is most meaningful if it is sought and offered a little bit at a time. Progressive consent means that the realm of consent expands (or diminishes) as trust and understanding develops (or erodes) between a researcher and the participant group. In my case, after a series of formal presentations to the village council I was given permission to stay with a particular household in the village, and to collect descriptive information about agricultural and pastoral land use, but only under the constant supervision of two men who had been assigned to me. Only after three months and several more meetings was I given formal consent to roam more freely throughout the village, and interact informally with a larger group of people. My latitude of collective consent continues to expand with each visit to Shimshal, as the community's understanding of my research and trust in my motives increases. Second, consent should be progressive in the sense of moving progressively back and forth across scales of social organisation. This is part of collective decision-making. In Shimshal, consent from the village council means that clan elders, lineage elders, and household heads discuss the issue of my research with their constituents, before offering their opinions in council. The result is a sort of nested consent; all households agree that I should be allowed to proceed with certain research activities in the village, but without necessarily allowing me to interact directly with members of their household. That more intimate scale of consent

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Tribe, and in some instances by individuals" (Section 3.14). See also Craine *et al.* (2004), Evans (2004), Ruttan (2004), and Berg *et al.* (2007).

requires additional negotiations with specific clan, lineage or household groupings. Even after a twenty year relationship with the community I have less constrained access to some lineages and households than others, despite the fact that they have all consented to me conducting research in the community. The behavioural consent provided – or not – by individual participants is only the smallest in a nested range of scales at which consent is offered. In many circumstances the methodological issue of access overlaps a lot with the ethical issue of voluntary and informed consent; if consent is to be progressive, it may take a long time to get the kind of full access we think we need, but we may be able to negotiate partial access early in the research relationship. Progressive consent initially places a variety of limiting conditions on collective consent, with the understanding that some of these will gradually be removed if the research relationship develops as anticipated.

It is important to acknowledge that communities like Shimshal are neither monolithic nor devoid of internal exclusions and power relationships. Within each of the nested units of decision making I have described some persons' interests are taken more seriously than others, and in general – although not without considerable variation and complexity – men with wealth, education and lineage seniority have a disproportionate influence on decisions that are taken at each level. In this context, ostensibly collective consent easily becomes the consent of community elites on behalf of their constituents. Efforts by researchers to nurture – rather than merely tolerate – an ethic of progressive consent, and to treat the active and always contingent behavioural consent of prospective individual participants as an important part of progressive consent, can help to diminish this risk of marginalisation and false collectivity. It helps if researchers are able to take the time to gain some understanding of how and according to what principles collective decisions are made in their research setting. In my experience, asking permission to seek such understanding by attending formal decision making fora (e.g., the council of household heads) allows formal leaders to provide an early stage of progressive consent without much risk and without overstepping their authority, while also giving researchers a chance to gain insights that help them progress to more intimate scales of informed and non-coerced consent.

Collective and progressive consent also suggests that in many cases consent should be achieved *verbally*, whether or not participants are literate, simply because it will involve lots of negotiations and flexible understandings among researchers and participants that cannot be expressed contractually. This has to be the case in Shimshal. I can think of many other research contexts where a concise written consent statement would fail adequately to represent the complexity of an agreement between a researcher and a group of participants, and also actively inhibit the development of collective and progressive consent. I think that as highly literate researchers we sometimes overestimate the extent to which many people feel protected by written agreements, and underestimate the degree to which

they may feel exposed, constrained, embarrassed, and humiliated by written agreements.

Finally, each of these practices implies – or assumes— that consent should be *negotiated*, and subject to a continual process of negotiation, which takes two forms: negotiation among a group of prospective participants, and negotiation between participants and researcher. The result will be consent that is more meaningful and consensual, more fully context-specific, and more commensurate with a relational approach to research ethics that emphasises sensitivity to contingency. Unless we are content to imagine situations where the capacity of prospective participants to shape the conduct of research is – and should be – limited to the dichotomous choice of accepting or rejecting a predetermined research protocol, we have no choice but to engage in a negotiated consent process (which is also, necessarily, a process of negotiating research design and objectives more generally). To do otherwise in places like Shimshal would be to misjudge relations of power in the research field as well as to betray the collaborative sensibility that is central to relational ethics and much qualitative research. As Paul Routledge observes in the context of his own field research in Goa, while a range of privileges undoubtedly accrue to Western researchers, “the power to define the field of collaboration belonged as much (if not more) to [his] collaborators as to [him]” (2002, 489). And so it should be. In purely practical terms, a researcher is likely to end up with greater access to data if participants' input into consent agreements extends beyond the option of accepting or rejecting a standardised document.

Jürgen Habermas' (1981) distinction between instrumental and communicative action helps to highlight the wider implications of these four proposed practices of informed consent. According to Habermas (1981) instrumental action is oriented to technical manipulation and control, and communicative action to the ideal of intersubjective understanding and consensus among individuals. The former is outcome oriented, the latter process oriented. For Habermas, communicative action is ethically prior to instrumental action, in that the justice of an outcome is contingent on the justice of the process that yielded it. In contemporary modernity, he argues, the communicative effort to reach consensus is frequently sacrificed to the imperative of bureaucratic efficiency.<sup>8</sup> It is hard not to view “bureaucratized research ethics,” and especially its adherence to the one-size-fits-all model of the individuated liberal humanist research subject, in

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<sup>8</sup> Habermas (1981) elaborates this as part of his theory of the inner colonization of the lifeworld. I do not share Habermas' unwavering commitment to the enlightenment ideal of emancipation through rationalization, and do not accept his modernist social philosophy, but I appreciate some of his ‘sub-theories’ for their clarity as heuristics.

these terms. When it is assumed that the problem of voluntary informed consent is solved by asking participants individually to sign written consent agreements regardless of the research context, then a fully communicative appreciation of the adjectives *voluntary* and *informed* is subordinated to the instrumental purposes of monitoring and control attached to the noun *consent*.<sup>9</sup> The standard approach to consent streamlines the IRB's task of monitoring research, while the institution protects itself with a vertically organised accountability trail (see Bradley, 2007), and exerts bureaucratic control over researchers, research methodology, and research participants.<sup>10</sup> In satisfying these instrumental requirements the conventional model of informed consent undermines the potential for researchers to engage participants communicatively in the process of shaping the conditions of their participation to suit the contingencies of social context and self-understanding.

Each of the practices I describe above interferes with the temptation to treat the consent process just instrumentally, and emphasises its communicative value as part of a larger "ethics of encounter" (Slater, 1997, 59) or "ethics of intersubjectivity" (68). If Yvonna Lincoln is correct in noting a growing emphasis in qualitative research on "collaboration between researchers and those researched, high levels of interactivity, and new mandates for a reformulated communitarian and democratic ethics in the field" (Lincoln, 2005, 166), then similar practices of informed consent are likely to be appropriate beyond the contingencies of my research in Shimshal. But that is something researchers need to be encouraged to determine in the context of their own research. IRB application protocols should be opened up to facilitate informed consent practices that respond sensitively to contingency and context. This is likely to mean extending the principles of collectivity, progressiveness, and negotiation back into the IRB application process itself, as well as forward to shape interactions between researchers and prospective participants. Such a change would make ethics review even more time-consuming

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<sup>9</sup> See James Scott's discussion of "state simplification techniques" in his book *Seeing Like a State* (1998).

<sup>10</sup> Nigel Thrift (2003, 115) understands IRBs as part of a larger instrumentally oriented "audit culture" that has grown up around academic knowledge production:

These forms of culture are means of systematising the academic labour process so that it is measurable and predictable, and therefore open to greater control. This goal is achieved through an attendant army of new kinds of audit professional, a number of whom are 'dealers in virtue' who are there to audit academic ethics. Once these cultures take hold, they tend to grow as the new cadres of activist audit professionals spread out in search of further fields in which to apply their skills of scrutiny. Not least among the elements of the academic labour process that is open to this professionalisation of scrutiny is ethics.

– although perhaps less frustrating – for researchers, and would be meaningful only if accompanied by a deeper reorientation of the research ethics policy framework away from the entrenched presumption that *all* research subjects are individuated liberal humanist subjects.

Unfortunately, and despite some vaguely encouraging wording in Section 6 of the Tri-Council Policy Statement on “Research Involving Aboriginal Peoples,”<sup>11</sup> I think that the sort of reorientation of research ethics I am advocating flows against important recent currents in institutional approaches to academic knowledge production. Yvonna Lincoln (2005), in the most recent *Handbook of Qualitative Research*, focuses on the National Research Council report *Scientific Research in Education* (2002) to warn of a resurgence of “methodological conservatism” across universities and other research institutions in the United States and elsewhere.<sup>12</sup> She sees the report’s strong emphasis on “evidence-based research and ‘scientifically based education research’” (Lincoln, 2005, 166) as indicative of “a return to some presumed ‘golden age’ of methodological purity (and innocence) when broad consensus on the constituent elements of science supposedly reigned” (165), and she warns of the consequences of such a methodological retrenchment for “the promise and democratic and pluralist ethics of qualitative research” (165). According to Lincoln (2005, 171):

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<sup>11</sup> The four-page section of the Tri-Council Policy Statement on “Research Involving Aboriginal Peoples” does not establish specific policies, ostensibly because there has not yet been sufficient consultation with researchers or Aboriginal Peoples themselves (Canadian Institutes of Health Research *et al.*, 1998, 6.1), but among a list of “Good Practices” it encourages researchers to “respect the culture, traditions and knowledge of the Aboriginal group;” “conceptualise and conduct research with Aboriginal groups as a partnership;” “involve the group in the design of the project;” and “examine how the research may be shaped to address the needs and concerns of the group” (6.3). A brief discussion of situations where “members are interviewed as spokespersons for the group as a whole” introduces – but does not address – the issue of “when it is legitimate for researchers to interview individuals in their own right as individuals, without regard to the interests of the group as a whole and without seeking permission from any group authority or spokesperson or, conversely, when the approval of the community as a whole should be required” (6.3). While the Policy Statement’s advocacy of collaborative research practices is encouraging, its framing of the important issue of relations between research participants and their larger social units shows how committed the Tri-Council Policy Statement is to a liberal humanist conceptualisation of the subject, which makes its endorsement of collaboration seem superficial and disingenuous.

<sup>12</sup> Lincoln also cites the No Child Left Behind Act of 2001 as evidence of institutionalized methodological conservatism in the USA. Arguments similar to Lincoln’s have been made in British (Trinder and Reynolds, 2000), Australian (Davies, 2003) and other contexts. The articles in a special issue of *Qualitative Inquiry* (Volume 10, Number 1, 2004) offer detailed analyses of the National Research Council Report, and relate it to similar policy documents in other countries (see Lincoln and Cannella, 2004).

Although the [National Research Council] report does not disallow qualitative research as a strategy or set of methods that may produce evidence for research purposes, its clear focus on objectivity and causal connections, as well as generalisability, indicates a distinctly modernist and experimental bent that acts to freeze out inquiry models that take explicit account of alternative epistemologies or the emergent critiques of contemporary science that make alternative epistemologies so compelling and socially trenchant.

For Lincoln (2005, 178) the political implications of methodological conservatism are clear:

Most important, these conservative discourses act to stamp out inquiry – particularly, but not exclusively, qualitative inquiry – aimed at democratic action and liberatory, antioppressive, social justice-oriented aims. They also act to silence voices that have only in the past quarter century begun to be heard in any great numbers – voices of the poor, of the members of underrepresented groups, of the disabled, the oppressed, and post-colonial peoples, among others.

Lincoln (2005, 173; see also Thrift, 2003) includes IRBs among the “range of administrative and managerial structures” that circumscribe research along these methodologically conservative lines. IRBs are more likely to have this effect if they operate in a policy context in which the only possible research participant is a normatively autonomous and individuated liberal humanist subject. Indeed, I think such a conception of the subject is a key element of methodological conservatism in the social sciences (i.e., one of its resources and one of its ambitions), and is itself an important impediment to the development and practice of alternative epistemologies and an accompanying relational approach to ethics. If Lincoln is correct in her diagnosis of a resurgent methodological conservatism and of the part IRBs play in operationalising it, then the task of redesigning IRB application protocols to facilitate informed consent practices that respond sensitively to contingency, context and qualitative epistemologies and the larger struggle to dismantle the hegemony of a liberal humanist view of research participants are especially difficult and that much more urgent.

The stakes in this struggle are high for qualitative researchers seeking to employ a relational epistemology and ethics in the conduct of anti-oppressive research, and even higher for members of the marginalised groups among whom we study. It is our research participants who bear the effects of the careless assumptions that institutionalised research makes about who they are and how they want to interact with researchers. In Shimshal, as elsewhere, the conventional individuated and vertically structured consent process that is assumed as the norm

in most REB policies takes a rich – and richly contested – set of obligations and entitlements that currently link community members to one another in a socially and culturally meaningful way, and translates them into an inflexible, contractual, and vertical relationship between individuated research subjects and the researcher. In the process, it ignores Shimshalis understandings of themselves, and requires that they either exclude themselves from research or conform to an assumed norm: to either do as they are told, or to be excluded from the process through which cross cultural knowledge about themselves is created. In other words, it violates the Tri-Council's own definition of competence to provide consent, which is “the ability of prospective subjects to give informed consent in accord with their own fundamental values” (Canadian Institutes of Health Research *et al.*, 1998, 2.9), as well as “respect for human dignity” (1.5), and which is described in the guidelines as “the cardinal principle of modern research ethics” (1.5). This is a process of discipline and normalisation, which serves the needs of bureaucratic simplification (see Scott, 1998), and perhaps of research efficiency, but which is antithetical to the ideal of voluntary informed consent even as set out by the Tri-Council. Surely, any self reflexive attempt to understand how people structure their lives should not begin with a consent procedure that interferes with the self understandings that provide the foundations for that structuring.

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If the purpose of critical reflexivity is to help researchers understand how our situatedness (institutionally, personally, and in terms of historically structured power relations) *vis-à-vis* the social worlds we study influences the knowledge we produce and the implications of our research practice ‘on the ground,’ then the research ethics procedures we employ and their underlying ideologies are important objects of critical reflection. In this piece I have used the example of my own research to trace some problems with how the principle of voluntary informed consent is treated in Canada’s Tri-Council Policy Statement. I develop a critique of the disciplining and normalising implications of Canada’s Tri-Council Policy guidelines’ underlying presumption of an autonomous, individualised, liberal humanist research subject that I think pertains more widely than to my own research or to research governed by the Tri-Council. I argue more specifically that the Tri-Council’s guidelines for informed consent conform poorly to the social settings in which I do research, with potentially disruptive effects on the academic knowledge my research produces and on the self-understandings of the people I do research with. My experience has been that four (modestly) alternative practices of voluntary informed consent – namely, that it be collective, progressive, negotiated and oral – can diminish these disruptive effects and foster an ethics of relationality and mutuality. These practices will not pertain in all research settings, and must be understood as local and contingent aspects of the larger project of dismantling the hegemony of the liberal humanist research subject within research ethics policy.

Although I have focused here on the principle of voluntary informed consent, the treatment of other guiding research ethics principles outlined in the Tri-Council Policy Statement and in other research ethics policy statements should also be exposed to scrutiny as part of the process of critical reflexivity.

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