The new boundaries of academic integrity

RESEARCH ETHICS 3

The New Boundaries of Academic Integrity

Michelle Bergadaà, Paulo Peixoto (Editors)

IRAFPA
Institute for Research and Action on Fraud and Plagiarism in Academia

Globethics

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Editors: Michelle Bergadaà & Paulo Peixoto

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CONTENTS

INTRODUCTION

Michelle Bergadaà, Paulo Peixoto

This book is the English version of *Les nouvelles frontières de l'intégrité académique,* originally published in 2023 by Michelle Bergadaà as part of Editions EMS's "Questions de société" collection.[*] Some modifications have been made for this English edition, the third book in the "Research Ethics" collection following *Academic Integrity. A Call for Research and Action,* edited by Michelle Bergadaà and Paulo Peixoto. This book brings together a selection of texts presented at the second IRAFPA International Colloquium, which took place at the University of Coimbra (Portugal) from 16 to 18 June 2022. It is the outcome of a long process of maturation, since the authors were able to submit proposals for papers beforehand. The proposals were evaluated and commented on to ensure and improve their suitability for the theme of the conference; that is, the extent to which the proposal aimed to discuss the new frontiers of integrity in a changing academic world. The format of this biannual event seeks to favour open and cross-cutting debate, which has allowed authors from the last edition to compare their points of view with those of other authors from 14 different countries and then intensify a wide-ranging debate and closer scrutiny by submitting their work for publication in this book.

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1. The Integrity Science Movement

The "integrity science movement" that we are trying to achieve through IRAFPA seeks to guarantee the reliability and credibility of research and scientific publications, ensuring that the universe of knowledge production and dissemination is guided by principles based on responsibility and ethics. Issues related to ethics in research, academic honesty, transparency of methods and results, good scientific practice, responsibility in communicating results, integrity in the field of science and teaching, formalized and externally audited institutional ethical commitment, and training for integrity are some of the issues that fuel the dynamics of the integrity science movement. In essence, this movement and the initiatives that shape it seek to involve all branches of science to address issues concerning academic and scientific integrity. Thus, the movement seeks to create and consolidate a scientific corpus that can give shape to an "integrity science". Integrity science is moulded on the intersection of research and action and is based on a theoretical and methodological framework that emerges from interactions (scientific events, publications, advanced training actions, institutional certification) between professionals from different scientific fields.

2. Multidisciplinarity, Interdisciplinarity, Transdisciplinarity

Multidisciplinarity is a structuring principle of our work, and this book is an example of that. By bringing together various branches of the sciences, we assume that each discipline, with its specific perspective, contributes to addressing ethical issues and integrity challenges. From there, by adopting an interdisciplinary approach, it is essential to ensure the cross-validation of intellectual proposals that vary with disciplinary perspectives. By identifying and emphasizing common problems, we aim to

create a more holistic approach, capable of integrating methods and knowledge from a range of disciplines at the different levels of analysis where disciplinary differences are subject to debate. As well as ensuring a more complete understanding of problems relating to ethics and integrity, the integrity science movement puts in place a transdisciplinary approach, as it allows the values, experiences, and perspectives of the movement's participants to be integrated into the corpus of integrity science. The new frontiers of integrity science lie in the endeavour to ensure a transition from multidisciplinarity to transdisciplinarity, thereby overcoming the traditional frontiers of knowledge and guaranteeing more extensive participation by experts from various scientific and professional fields, backgrounds, and cultures.

3. The Scientific Branch of Integrity Science

Integrity science, combining research and action, is an undeniable necessity in today's complex academic and scientific world. This book, together with IRAFPA's other publications and initiatives, is a contribution to addressing this complexity. The emerging scientific branch of integrity science requires more interdisciplinary approaches; a literature review and contextualization appropriate to the topic; a clear definition of the objectives and scope of intervention of this scientific branch; a structured set of dedicated scientific events that structurally broaden and enhance the debate and create research networks; the definition of a conceptual and methodological framework that guides research and action; the creation of advanced training programmes designed to create experts in the field; and the inclusion of relevant pedagogical content in academic curricula. We believe that the collective effort of which this book is a part is making an indelible contribution to the creation of a community of destiny that is also a community of action, favouring the institutionalization and

recognition of a new branch of science and the consolidation of a scientific community dedicated to issues of integrity and ethics.

4. The Chapters and their Dimensions

4.1. Dimension 1: Narrative Personal Journeys

This book contains 10 chapters centred around three dimensions. It includes three compelling chapters (1, 3, and 8) that narrate personal journeys, shedding light on the pivotal circumstances that propelled the authors into dedicating themselves to their respective research and action themes. Through IRAFPA's events and publications, we have come to understand that the field of integrity science truly takes shape when opportunities are presented for the shared exploration of common experiences. This is particularly significant when these opportunities serve as a platform for not only personal support but also emotional, social, and practical assistance. What emerges from this collaborative space, which is gradually transforming into a hub for consolidating knowledge, is the essence of a destination community. The recognition of shared experiences, often challenging or distressing, not only deepens the sense of belonging but also forges enduring bonds of identity. These ties persist over time, fostering motivation and commitment to shared causes or objectives. Through these narratives, this book illustrates how the exchange of personal journeys can transcend individual experiences, giving rise to a collective identity that serves as a driving force for collaborative endeavours in the realm of integrity science.

4.2. Dimension 2: Academic Social Responsibility

The leading edge of integrity science is pioneering a shift towards academic social responsibility, anchored in the co-creation of an ethical framework aligned with the tenets of the ethics of conviction. Chapters 2, 4, 7, 9, and 10 of this book convincingly assert that the efficacy of

communities of action depends primarily on their mobilization capabilities, the incorporation of diverse perspectives, and seamless collaboration among members. The pivotal role these communities play in fostering more equitable societies and confronting pressing issues is rooted in their collective efforts to devise mechanisms, delineate procedures, and jointly tackle specific causes, problems, or objectives related to the complexities of academic and scientific integrity.

4.3. Dimension 3: Training and the Establishment of Robust Mechanisms

Chapters 5 and 6 of this comprehensive book shed light on the pivotal significance of in-depth training and the establishment of robust mechanisms. These measures are aimed at not only guiding doctoral students but also introducing the broader student body to the ethical standards and academic and scientific integrity that are paramount in higher education. The challenge lies in ensuring that ethics serves as the bedrock of research, especially within an educational landscape where incoming students bear a cultural imprint that frequently distorts the principles of academic responsibility. In the pursuit of this ambitious objective, it becomes imperative to actively champion student engagement within a community of destiny. Furthermore, there is a pressing need to empower students as catalysts within a dynamic community of action. This strategic approach is not only fundamental to ensuring the sustained professional development and autonomy of students but, more significantly, plays a pivotal role in seamlessly integrating them into the academic environment. It also serves the critical purpose of maintaining their alignment with the highest standards of research practices, thereby contributing to the broader ethos of academic excellence.

1

CONFLICTS OF INTEREST AND PUBLICATIONS: 20 YEARS OF OBSERVATIONS IN MEDICINE

Hervé Maisonneuve

1. Introduction

Since the 1990s, I have investigated the problems of relationships and conflicts of interest in the biomedical field through publications.[*] Since 2009, I have published a blog on journals and scientific integrity. I have been looking at the main developments I have observed, in terms of concepts, research areas, or the awareness of those involved in the research. I have relied on posts from my blog and articles and books from my library.

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After qualifying as a doctor (1979), I became involved in a learned society (EASE, European Association of Science Editors). Later, I chaired EASE (1994-1997) and created the association's journal (*European Science Editing*). From the 1990s onwards, my involvement in medical writing, my initial job in clinical development in the pharmaceutical industry, and my academic activities have led me to reflect on the problems of misconduct in science.

I began publishing letters and articles on malpractice in medical research in 1990. It was not until 2000 that I began to publish more on misconduct, and I started my blog in 2009. I began speaking more freely when I retired (2014).

Cases of misconduct were initially described through the lens of the malfunctions observed in scientific journals; relatively few were addressed from the perspective of universities and research institutions. Such misconduct can be classified as fraud (fabrication and falsification of data, plagiarism) and dubious or questionable research practices. In the literature, these dubious practices seem to be discussed less frequently than fraud, even though they are common and affect at least half of all publications (Horton, 2015). In 2022, the *Revues et Intégrité* blog contained more than 3,000 posts on the workings of publications and integrity issues, and nearly 200 posts listed with the keyword "relationships of interest". I have more than 20 books on conflict of interest in my library. These issues have been approached from different perspectives. I have observed how relationships of interest are perceived, particularly in the biomedical community and areas where public health is threatened (e.g., agri-food, tobacco, asbestos, lead, etc.).

2. The Current Dilemma in Managing Conflicts of Interest

There are many approaches to regulating relationships and conflicts of interest. These schools of thought have evolved, and organizations vary in their policies on conflicts of interest. For a while, researchers with relationships of interest may be excluded, and then a change in strategy may allow them to be accepted. Strategies evolve.

There are three schools of thought:

- **The Witch-hunt** banishes experts with conflicts of interest. At prestigious journals (e.g., *British Medical Journal*), these experts may never be asked to write training articles, editorials, or even literature reviews. In the case of public agencies and learned societies, experts may not serve on groups that advise on decision-making or draft practice recommendations. Regarding research articles, no restrictions apply, provided that interests are declared, which is logical. However, journals and institutions sometimes overlook the situation of reviewers, who are often anonymous when assessing a manuscript or research project. Furthermore, there are variations in practice among journals and institutions.

- **Transparency** refers to asking authors and experts to fill in forms several pages long providing all the information about their activities and relationships. These take the form of free declarations that are accessible on websites. Such declarations are not checked by journals or institutions, and under-declarations are frequent. In fact, checking them is impossible, so there are endless disputes over how to correct them.

- **Tolerance** considers that non-financial conflicts cannot be avoided; thus, there is no point in declaring them. Conflicts of interest are myths that jeopardize innovation and reveal an anti-industry movement (Stossel, 2015). Tolerance is justified because declarations of interest generate significant, even unnecessary, administrative work. Financial interests may be declared; however, this is left up to the discretion of the researcher, who declares only interests directly related to the work presented. There is no point in declaring everything. Various positions have been expressed, such as "having many relationships fosters the independence of the researcher" or "No conflict, no interest" (Nipp & Moy, 2016,).

3. A Brief History of Conflicts of Interest: Insufficient Research

Publications on the theme of "conflict of interest" in biomedicine are slowly increasing every year in the PubMed database. Depending on the search terms and limiting ourselves to the titles of articles containing "conflict of interest", between 200 and 400 articles are indexed per year; this increase began in the 2000s. The PubMed database soon had 7,000 articles with the search query *conflict* of interest[TI] OR "Conflict of Interest"[MAJR:NoExp]*. Few high-quality research articles have been identified: most are editorials, comments, opinions, and literature reviews. More evidence is needed in every scientific field that analyses conflicts of interest.

Since the Second World War, there have been several phases (Hauray et al., 2022): first, these notions emerged in reference to the proximity between government departments and private organizations. Subsequently, these issues were adopted by the biomedical research

community, once biomedical research entrepreneurs arrived on the scene. This was followed by international expansion and the use of these concepts to describe the influence of major pharmaceutical groups and agri-food groups. The last phase is marked by the politicization of conflicts of interest and the formalization of procedures to manage them.

Conflicts of interest are analysed differently depending on the field of research. All researchers analyse a common base (definitions and management), but they apply visions specific to each scientific community. For some, money is key, because it makes it possible to value and classify interests or even avoid certain behaviours. Non-financial interests, which are impossible to manage or avoid, are less important than financial ones. In medicine, conflicts of interest have been widely studied, in relation to scientific publications, medical training, drafting of practice recommendations, and clinical practice (Lo & Field, 2009). Most definitions apply the concepts described in the Bible, namely that "no one can serve two masters", explaining that a decision is difficult when two interests conflict (*The Holy Bible,* Matthew 6:24-34).

Biomedical researchers were the first to describe the relationships between public institutions and private industry in the fields of health products, agri-food, and tobacco. The first book I bought on the topic was published in 1992 (Porter & Malone, 1992). This book shows the birth of these concepts, describing collaborations between institutions and the private research sector in the 1970s and 1980s. The driving forces behind research in the 1990s were curiosity, altruism, and glory; money was not the predominant motivation. Institutions, rather than researchers, were on the front line.

Gradually, the editors of biomedical journals have sought to improve transparency. They have slowly added requirements concerning relationships of interest to their instructions to authors. Controversy arose between those who demanded such declarations for all articles and those

who required them mainly for research articles. Some medical journals refuse contributions such as editorials, literature reviews, and commentaries if the authors have relationships of interest. In a large sample of high-impact-factor medical journals, it was estimated that, in 1997, 16% of journals required authors to declare conflicts of interest, whereas in 2008, 89% of journals had this requirement (Blum et al., 2009). Although requested in the instructions to authors, some journals do not mention relationships of interest for all articles: if authors "forget", some journals make no demands, as this is deemed to be unnecessary administrative work.

Lawyers and administrators tend to discuss the regulations and moral aspects of relationships of interest, sometimes comparing them between countries (Rodwin, 1993, 2011). Conflicts of interest refer to trust and loyalty. They examine the introduction and interpretation of conflicts of interest in laws and regulations, as well as possible sanctions. The authors describe the consequences of conflicts of interest in health scandals. Going after the responsible researchers is not enough: the relationship between public and private institutions needs to be reviewed. Governments want to intervene to regulate these relationships of interest, for example, by creating administrative bases for all contracts between industries and health care professionals. Relationships of interest have major economic consequences, and some people even wonder whether all research should be publicly funded.

Economists believe that articles give researchers market value (Moosa, 2018). A researcher who publishes acquires value in the labour market and is allocated resources more easily. Sociologists also describe these mechanisms, whereby researchers and higher education establishments tend to maintain their domination (Merton, 1968). Like their colleagues in other sciences, they highlight the excesses of the "Publish or Perish" model. These are consequences of neoliberalism and

globalization, which have treated higher education as a private good. Researchers have moved away from teaching and other activities to concentrate on the volume of their publications, while reducing their quality.

Social science researchers explore the consequences for society and institutions, along with ways of preventing these abuses (Hauray et al., 2022). They note that, in some prestigious medical journals, over 75% of articles are signed by authors with relationships of interest and this has a major impact on the dissemination of knowledge. They describe the consequences for society such as abusive drug prescriptions linked to the manipulation of experts (e.g., antidepressants, antirheumatics, and antidiabetics). The concepts of manufacturing ignorance and creating doubt characterize these publications, which are designed to serve the interests of the industry at the expense of the interests of science and the public. Industries sometimes fund researchers and/or opaque institutions to conduct research on obscure theories. Experts who have been influenced may propose such theories to scientific communities and the general public. Industry management of opinion leaders is highly professional, and this has consequences for health. Some industries hinder, oppose, or delay publications, whereas others influence research by providing funding in areas of no value to public health.

Sociologists and toxicologists such as Henri Pézerat and Annie Thébaud-Mony have devoted their professional lives to studying relationships and conflicts of interest in the field of public health. They have gone further in their reasoning, suggesting that some researchers are following mainstream thinking. They describe the corruption of science in the service of the private interests of industrial groups and their shareholders, with the complicity of the state (Thébaud-Mony, 2014). The number of cancer cases has increased sharply over the last 30 to 50 years. Under the leadership of epidemiologists and oncologists, resources are directed towards cancer treatment. The financial stakes are high (for diagnosis and

treatment). However, few resources have been devoted to identifying environmental causes and eliminating the agents responsible for cancers. That would be detrimental to industries aware that their products are carcinogenic. The public is satisfied with this situation.

4. Increasing Bureaucratization of the Process: Which Taxonomy Should We Choose?

One excellent American study is of particular interest (Kesselheim et al., 2012). The researchers compared clinical trial abstracts submitted to 503 internists. These abstracts either did or did not have declarations of relationships of interest; they were assigned randomly. The study's conclusion is worrying. The doctors were very good at characterizing the quality and rigour of the research presented. Declarations of interest had a negative impact on their perception of the conclusions, irrespective of the quality of the work. There is a gradation between "no disclosure of relationships", "existence of public relationships" (National Institutes of Health, in this case), and existence of "industrial relationships". Relationships with public-sector organizations have a negative influence on perceptions but less so than industrial relationships. The absence of personal or financial connections seems to reassure readers.

There is no taxonomy common to all players and areas of science. Scientific journals and public institutions use terms without specifying the variations and nuances in the concepts: public declaration of interest, relationships of interest, conflicts of interest, financial relationships or conflicts, non-financial relationships or conflicts, competing interests, disclosures, relationships, and activities.

The temporality of the relations to be declared varies; should only relationships from the last three or five years be considered or must one go back further? Should only research-related relationships, or all potential

relationships, be declared? Should we declare the relationships of spouses and children? There is additional confusion as some people clearly distinguish between relationships and conflicts of interest, whereas others equate the two concepts. How should formulas such as "the authors have not submitted a declaration" or "the authors have no conflict of interest related to this work" be interpreted?

In 1984, the editor-in-chief of the *New England Journal of Medicine* announced in an editorial the introduction of a policy of declaring relationships of interest (Relman, 1984). The *Journal of the American Medical Association (JAMA)* followed suit the next year. In 2002, the *New England Journal of Medicine* relaxed its rules (Drazen & Curfman, 2002). In 2006, *JAMA* required authors to sign a declaration of relationships of interest and to disclose these relationships at the end of the article (Blum et al., 2009). The relations in question were essentially financial. In 2018, journals in the *Nature* group strengthened their requirements by requesting a declaration of non-financial relationships (Anonymous, 2018). In 2019, the ICMJE group reviewed its recommendations and reporting forms. The terms "financial and non-financial relationships and activities" have now replaced the term "conflict of interest" in the declaration forms (ICMJE, 2023).

It is up to the reader to judge whether or not there is a conflict of interest. The reader has information about the relations and must assess whether there is a conflict of interest and judge the article accordingly. This requires critical thinking. Little information is available on how readers, users, and the general public perceive these concepts. Is it a matter of declaring relationships of interest without declaring conflicts of interest? This semantic nuance is worth thinking about in the context of the bureaucratization of declarations.

5. The Conflicts of Interest in Biomedical Journals

A book by Richard Smith, a former editor of the *British Medical Journal,* presents the trenchant opinion that prestigious biomedical journals are the armed wing of the pharmaceutical industry (Smith, 2006). He echoed the positions of the editors of the *New England Journal of Medicine,* in particular Arnold Relman and Marcia Angell, who had to fight to explain that medicine was for sale and lost their editorial positions (Steinbrook et al., 2015). There are major conflicts within journals, particularly those prestigious journals whose staggering revenues depend on pharmaceutical advertising and the sale of reprints (the right to reproduce published articles that are sold to industry to be distributed to prescribing doctors). The market prices of reprints sold by high-impact journals to the pharmaceutical industry are not publicly available. Discussions between experts on social networks estimate that the average price is one million dollars.

There are many cases of misconduct, which are often revealed as a result of information divulged by whistle-blowers. There is a lot of concealed money in medicine. Some cases have led to corrections by journals but rarely to articles being retracted. Connections between opinion leaders, directors of learned societies, and industries are common (Moynihan et al., 2020). I will discuss two cases, but they are far from uncommon. They show that journals publish what authors disclose without checking the validity of their statements.

In the case of the *Journal of Spinal Disorders & Techniques,* the editor-in-chief was an orthopaedic surgeon specializing in spinal prostheses (Fauber, 2009). His journal published numerous articles on research funded by an industrial company (70 favourable articles in 56 issues between 2002 and 2009). The editor-in-chief is said to have received US $20 million from the manufacturers of these prostheses. No relationships of

interest were declared by the journal or its editor-in-chief. How common is this type of behaviour? And how many editors-in-chief are loyal to particular schools of thought or beliefs (e.g., religious, anti-abortion, against medical aid in dying), with or without financial stakes, in making decisions that should be neutral and factual?

Dr José Baselga was a renowned expert and head of the Department of Oncology at the Memorial Sloan Kettering Cancer Center, New York (Ornstein & Thomas, 2018). He was also the editor-in-chief of an oncology journal, chairman of working groups in learned societies, and member of six boards of directors of pharmaceutical companies. He did not disclose any relationships of interest in his approximately 100 published articles. According to data in the ProPublica database, he received several million dollars from the pharmaceutical industry. It was revelations in the *New York Times* that prompted the journals to react, in particular, by correcting the declarations of relationships of interest in 17 articles published in prestigious journals. This case shows the passivity, if not naivety, of the communities of researchers and editors of scientific journals. Dr Baselga eventually resigned from his position at the hospital to take up a post as the medical director of a pharmaceutical company.

The COVID-19 crisis provided evidence of a suspected but poorly described phenomenon. There were no data on the practices of journals that preferentially accepted articles by certain authors, regardless of their interest or quality. The practices of Prof. Didier Raoult's team in Marseille eventually aroused many people's suspicions, as described in detail by Locher et al. (2022). The institute that Prof. Raoult heads up also controls several journals. Several researchers employed by this institute are influential members of editorial boards and even editors-in-chief. Researchers on the Marseille team publish a great deal in these so-called self-promoting journals (their manuscripts are never rejected), which have extremely short publication turnaround times. However, such journals may earn a

certain reputation in the scientific community… Occasionally, researchers draw attention to the need to disclose the interests of editors-in-chief, editorial board members, and even reviewers (Dal-Ré et al., 2020). The relationships of interest of editors and editorial board members should be accessible on journal websites, but they rarely are. At the very least, reviewers' potential conflicts of interest should be declared to editors-in-chief.

Some journals have no explicit policy regarding declarations of interest in their instructions to authors. Most of these journals also fail to specify the protection of whistle-blowers and the policy in force regarding researchers found guilty of misconduct. Some journals that do have guidelines do not apply them. These are mainly small, lower-quality journals that do not have the resources of the prestigious journals. The same can be true of journals in non-English languages or profit-oriented journals that do not control their publication content.

However, there is an alternative to these obvious conflicts of interest. When it comes to research on smoking, some medical journals refuse to consider studies that are partially or wholly funded by the tobacco industry. Prestigious journals from the PLOS and BMJ groups have implemented these strategies (Godlee et al., 2013). Why would scientific journals not apply the strategies they use to exclude research funded by the tobacco industry to also exclude publications funded by industry in other areas of research? Some biomedical journals in our field, the French journal *Prescrire*, do not accept pharmaceutical advertising or publications by authors with relationships of interest. These journals are financed solely by subscriptions from readers who, like the editors, have a militant spirit. This business model shows that readers are prepared to pay the price of independence. However, let us be realistic; this not-for-profit model has only been adopted by a few scientific journals.

6. Mapping Shows a World that is Neither Regulated Nor Transparent

Several countries have databases for identifying potential conflicts of interest. Industries disclose all financial flows directed to researchers and research teams (fees, collaboration contracts, and travel and hospitality expenses). These databases enable one to compare the information with the relationships declared during the research. Some authors also suggest that national databases should be created containing all the up-to-date declarations of researchers' relationships of interest (Lichter & McKinney, 2012). In 2021, some researchers conducted a scoping review showing the existence of a major network of relationships between health care product industries and all parts of the health care ecosystem (Chimonas et al., 2021). The authors analysed 538 articles from 37 countries. Unfortunately, despite the number of publications, not all the potential relationships were sufficiently described. For example, there is a great deal of discussion about the behaviour of health care professionals, but less about administrations and governments.

Several questions remain at this stage of our investigation. Would the most studied relationships of interest be those involving research published in journals? Are relationships disclosed and managed in relation to oral training in universities? Are relations between groups of experts who select the products purchased by a health care establishment more or less significant and better controlled than those involving the authors of a publication? We have not mentioned conflicts of interest in clinical practice, which have been well studied (e.g., excessive prescription of biological or radiological tests to be carried out by the practice of a spouse or a child with a different family name).

Outside the field of relationships and conflicts connected to publications, the behaviour of opinion leaders has been investigated according to their level of involvement with the health care industry. Public websites

can be used to trace sums allocated to researchers in the medical field. In France, virtually all learned societies have at least one board member with industrial relationships (Clinckemaillie et al., 2022). It has been observed that the practices of French GPs with no industrial relationships outperformed those with relationships (Goupil et al., 2019). Finding a network of relations that is insufficiently regulated, poorly controlled, and even opaque, these authors called for more research and regulation in the interests of citizens and confidence in the health care system.

During the SARS-CoV-2 pandemic, there were numerous debates about the relationships of interest of researchers who spoke in public about treatments and vaccines. These debates were sometimes violent; for example, researchers linked to Gilead, particularly in the field of AIDS, spoke out against hydroxychloroquine and promoted Gilead's future development of COVID-19 treatments. It was speculated that the experts' opinions depended on the amount of compensation they received from Gilead. A journalist summarized this situation in an article that cited the reactions of infectious disease specialists (Gutierrez, 2020). This case shows how difficult it is to interpret the impact of relationships and conflicts of interest because hydroxychloroquine did not in fact work against COVID-19. So were these experts expressing opinions based on the absence of evidence or were they favouring Gilead?

7. Conclusion

Conflicts of interest will always exist; fortunately, we all have relationships of interest. This article describes three strategies for managing them: witch-hunting, transparency, and tolerance. If it were up to me, I would opt for an impossible combination of these three strategies.

- **Witch-hunting** implies depriving ourselves of competent experts who have been identified by industry precisely because of

their skills. Their knowledge of all sectors of research is an asset if they know how to manage different opinions fairly and choose wisely. Some of these experts are indeed intelligent and highly persuasive; should we do without them? Exclusion is a policy that showed its flaws during Prohibition (and McCarthyism) in the United States. A medical example: Can a circumcised man write an article about circumcision? The witch-hunt strategy calls for his exclusion, but who is to say he is not qualified to write the manuscript?

- **Tolerance**, for all its risks, appears to me to be a reasonable position. We must have confidence in people: most researchers are honest. Deviant researchers comprise a minority. We all possess values of altruism, integrity, and honesty that should not be systematically doubted. Tolerance has the advantage of not adding to administrative red tape, which consumes time and resources. It requires a critical mindset to interpret facts.
- **Transparency** allows for the bureaucracy that appeals to our leaders. I have always defended this principle; however, I have often suffered as a result. I am a self-employed manager and shareholder in a commercial company (H2MW) for which I provide training and publish a blog. All of our financial data are easily accessible (registry office and www.transparence.sante.gouv.fr). Following my public denunciation of the deviant practices of researchers in Marseille, social media have spread the word that, in 2021, this limited company received €26,000 from the pharmaceutical industry, which was true, but which was supposed to explain my views on the researchers in Marseille. Wonderful! This caused me a lot of trouble on social media, and defending myself would only have increased the suspicion and mistrust. Uninformed members of the public have assumed that

this money is in my pocket, whereas it is supporting charitable activities, my business expenses, and the maintenance of a website open to all.

Transparency also has its limitations: disclosure of any kind of relationship, including a public relationship, leads to suspicion. However, let us have faith.

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2

TEXTUAL IMITATIONS AND ARTIFICIAL INTELLIGENCE: A PROSPECTIVE ESSAY ON ACADEMIC FRAUD

Ludovic Jeanne

1. Introduction

Academic integrity, whether associated with research or teaching activities[1], is closely linked to the fight against academic fraud. [*] In this struggle, the balance and dynamics of resources and strategies play an important role. In particular, the ability of organizations and their

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[1] This research benefited from the insights and scientific skills of Mr Alexis Lechervy (Lecturer and researcher at GREYC – UMR CNRS 6072, University of Caen) and Mr Denis Escudier (Associate Director of MomentTech and Vice-President of Datalab Normandie).

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dedicated staff to detect fraud plays a critical role. This is because, from the perspective of the sociology of deviance (Becker, 1963), potential fraudsters' anticipation of the ease or difficulty with which they can be unmasked and socially sanctioned is one of the criteria of their "definition of the situation" and, therefore, of their behaviour. Moreover, this balance is not stable over time and the emergence of new technologies reminds us of this increasingly acutely. Since the production of research articles has become the criterion for valuing individuals and institutions, all the mechanisms put in place by research ethics committees are not sufficient to curb fraud, which becomes evident only at the very end of the production chain.

Thus, this chapter focuses on a particular aspect of our questioning of the current situation: the potential opportunities offered by artificial intelligence (AI) in terms of producing an "original" and meaningful text, but without (or almost without) any writing work by the declared author and, therefore, without the related construction of the author's thoughts.

Based on the case of an AI platform dedicated to the semi-automatic generation of "original" texts, this work aims to analyse the implications of these new tools from the point of view of both the potential fraudster and the organizations in the Higher Education, Research, and Innovation (HERI) sector, which strive to train students in integrity and take action against fraud.

Two main questions guide this prospective reflection: What are the potential consequences of the emergence of such technology for academic integrity? And does AI applied to the production of texts announce the disappearance of plagiarism in favour of the predominance of another type of fraud? It is also necessary to clarify the extent to which and under what circumstances the use of AI, in the form of a semi-automatic or automatic text generator, could be considered an academic fraud.

2. Producing "Original" but "Authorless" Texts: an Exploration of the Capabilities of the Speedwrite Platform

An experimental approach appears appropriate to assess the potential effects both of new technologies and of new modes of research administration (the two are intertwined) on research integrity (Arnold, 2014; Cabanac & Labbé, 2021; Labbé, 2016). Therefore, we conducted an experiment on the Speedwrite platform. This mainly involved selecting a text and having it processed by the platform to produce a new "original" text. Choices were made according to the following methodological logic: isolate a textual production from a clearly identified author and produce an imitation of it under the best performance conditions announced by the designers of the tool while minimizing the necessary work for the "fraudster-experimenter". Thus, the first choice was to choose a text in English: the Speedwrite platform was originally designed to operate in English or in languages that are rather close to it (e.g., Spanish and French). The creators warn about the underperformance of their tool for extremely dissimilar languages, such as Arabic and Mandarin.

The selected text focuses on one of the experimenter's fields of expertise in order to facilitate adaptation and post-production improvements. The goal was to end up with an "original" final text that would be able to pass the test of a similarity detection platform while intervening as little as possible with the text produced by AI. The similarity detection platform that we used was Turnitin.

Our choice to retain only one text to transform using the Speedwrite platform aimed to optimally test the machine's capabilities. Indeed, one of the platform's "promises" is that the text produced cannot be identified as plagiarism using existing tools. For statistical reasons, increasing the number of input texts can only be a facilitating factor for the process of producing an original output text. The challenge appears much greater if there is only one input text. The platform itself explicitly encourages the

user to utilize multiple input texts.

We also retained a relatively short text so we could truly test the capabilities of the Speedwrite platform. Indeed, as indicated above, text generation mechanisms are fundamentally statistical (Labbé, 2016); the smaller the textual corpus, the greater the risk that the platform's ability to reformulate without causing undesirable similarities will be challenged.

The selected text was first "cleaned up" by applying the rules presented in Table 1. Then, the resulting text—called the "cleaned test text"—was entered into the Speedwrite platform, paragraph by paragraph. Since the platform can only produce a new and original text from relatively short sequences of words, it almost always requests that the inputted paragraphs be divided (Document 1 and the following documents). Depending on the case and its size, the initial paragraph could be divided into two, three, or four. Then, a simple click to request a "prediction" and the platform produced a new "original" text from the original text as follows:

Document 1. Step 1: Copy and paste the source text (left) and calibrate it

Too long. Shorten or split	**Title: Untitled**
The invitation to write progress reports on geography and ethics recognizes the significance of a new disciplinary interface. Indications of a "moral turn" are evident in various conference programmes and publications. It was first clearly signalled in the proceedings of a conference organized by the Social and Cultural Geography Study	

Group of the Institute of British Geographers, the introduction to which called for an engagement with ethics or moral philosophy, involving "the articulation of the moral and the spatial" (Philo, 1991: 26). Then there was a session entitled "Rethinking metatheory: ethics, difference and universals" at the 1994 meeting of the Association of American Geographers, which generated a special issue of Society and Space (15(1), 1997) introduced by an essay on a normative turn in social theory (Sayer and Storper, 1997), along with articles linking social justice with broader considerations of the good life (Smith, 1997), rethinking geopolitical encounters (Slater, 1997), and exploring aspects of identity relevant to a relational ethics (Whatmore, 1997). There was a session on "A/moral geographies" at the 1995 IBG conference, and links between geography and ethics featured at the 1997 meetings of both the RGS (with IBG) and the AAG, with the promise of more to come in 1998.	
Split paragraph	

Document 2. Step 2: Calibration done, launch the production of "predictions"

Ready to predict (F2 or Ctrl+Q).	**Title: Untitled**
The invitation to write progress reports on geography and ethics recognizes the significance of a new disciplinary interface. Indications of a "moral turn" are evident in various conference programmes and publications. It was first clearly signalled in the proceedings of a conference organized by the Social and Cultural Geography Study Group of the Institute of British Geographers, the introduction to which called for an engagement with ethics or moral philosophy, involving "the articulation of the moral and the spatial" (Philo, 1991: 26).	
Predict	
Then there was a session entitled "Rethinking metatheory: ethics, difference and universals" at the 1994 meeting of the Association of American Geographers, which generated a special issue of Society and Space (15(1), 1997) introduced by an essay on a normative turn in social theory (Sayer and Storper, 1997), along with articles linking	

social justice with broader considerations of the good life (Smith, 1997), rethinking geopolitical encounters (Slater, 1997), and exploring aspects of identity relevant to a relational ethics (Whatmore, 1997). There was a session on "A/moral geographies" at the 1995 IBG conference, and links between geography and ethics featured at the 1997 meetings of both the RGS (with IBG) and the AAG, with the promise of more to come in 1998.	

Document 3. Step 3: Imitated text (right)

Ready to predict (F2 or Ctrl+Q).	**Title: Untitled (6 unsaved)**
The invitation to write progress reports on geography and ethics recognizes the significance of a new disciplinary interface. Indications of a "moral turn" are evident in various conference programmes and publications. It was first clearly signalled in the proceedings of a conference organized by the Social and Cultural Geography Study Group of the Institute of British Geographers, the introduction to which called for an engagement with ethics or moral philosophy, involving	The invitation to submit progress reports on the development of ethics and geography recognizes the significance of the new disciplinary interface. In various publications and conferences, the signs of a moral turns have been presented. During the 1994 meeting of the American Geographers Association, a session entitled Rethinking metatheory was held. It brought together various articles

"the articulation of the moral and the spatial" (Philo, 1991: 26).	about the normative shift in social theory and how it relates to the good life. Among the articles was an essay by Sayer and Storper on the subject. In 1995, a session on moral geographies was held at the IBG conference. In 1997, a similar discussion was heldat the AAG and RGS meetings. The promise of more sessions on topics related to geography and ethics is expected in 1998.
Then there was a session entitled "Rethinking metatheory: ethics, difference and universals" at the 1994 meeting of the Association of American Geographers, which generated a special issue of Society and Space (15(1), 1997) introduced by an essay on a normative turn in social theory (Sayer and Storper, 1997), along with articles linking social justice with broader considerations of the good life (Smith, 1997), rethinking geopolitical encounters (Slater, 1997), and exploring aspects of identity relevant to a relational ethics (Whatmore, 1997).	
There was a session on "A/moral geographies" at the 1995 IBG conference, and links between geography and ethics featured at the 1997 meetings of both the RGS (with IBG) and the AAG, with the promise of more to come in 1998.	
Predict	

The resulting text called "raw imitation" (no. 1) was then edited and adapted or clarified to bring it closer to a finalized text ("reworked imitation", no. 2). Therefore, the initial analysis is based on four textual objects in English (Table 1).

Table 1

The Methodological Device and the Initial Results[2]

Text	Author	Words	Charac-	Variation	Similarity	Remarks
Original	David M. Smith	4,501	25,285			Smith, D. M. (1997). Geography and ethics: A moral turn? *Progress in Human Geography*, *21*(4), 583–590. https://doi.org/10.1191/030913297673492951
Cleaned Test	David M. Smith	3,051	16,762	–33.71%		Removal of citations Removal of chapter numbering Removal of traces of the original author and publisher Removal of acknowledgements Removal of bibliography Removal of header and footer mentions

[2] David M. Smith is a real author, Professor Emeritus of Geography at Queen Mary University of London. Donald Fake is a fictional author to whom we attribute, in this text, the use of the Speedwrite platform to produce the two texts called 'Imitation' no. 1 and no. 2.

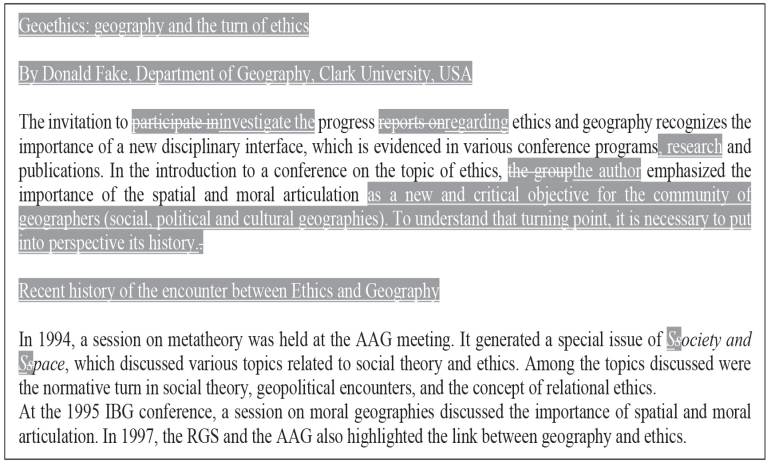
Raw Imitation EN (no. 1) Donald Fake	2,174 11, 259 −32.83%		Transfer to Speedwrite
Reworked imitation EN (no. 2) Donald Fake	2,363 12, 405	15 %	Editing, minimal reformulations (in Word track changes mode) with the help of DeepL by Donald Fake. Reinstatement of a few bibliographical references.

The reduction in the length of the text from one step to another is due to processing by the experimenter, on one hand, and to processing by the platform, on the other hand. Thus, the abridgement between the "original" text and the "cleaned test" text is mainly due to the deletions indicated in Table 1. However, the reductions in the text length between the "cleaned test" text and "imitation" texts no. 1 and no. 2 (respectively, −32.83% and −25.99%) are mainly due to the processing applied by the platform. In particular, the platform eliminated the numerous bibliographical references included in the body of the 'original' text and preserved in the previous stage.

Moreover, the selected text included several passages consisting of rather long lists: these passages were drastically condensed by the platform. This highlights an effect of the processing applied by the platform to produce the output text—it tends to be shorter than the textual material

used as input and this reduction does not affect different syntactic forms in the same way.

The production of the 'reworked imitation' text then clarified and structured the presentation of the text as follows:



Geoethics: geography and the turn of ethics

By Donald Fake, Department of Geography, Clark University, USA

The invitation to ~~participate in~~investigate the progress ~~reports on~~regarding ethics and geography recognizes the importance of a new disciplinary interface, which is evidenced in various conference programs, research and publications. In the introduction to a conference on the topic of ethics, ~~the group~~the author emphasized the importance of the spatial and moral articulation as a new and critical objective for the community of geographers (social, political and cultural geographies). To understand that turning point, it is necessary to put into perspective its history.~~.~~

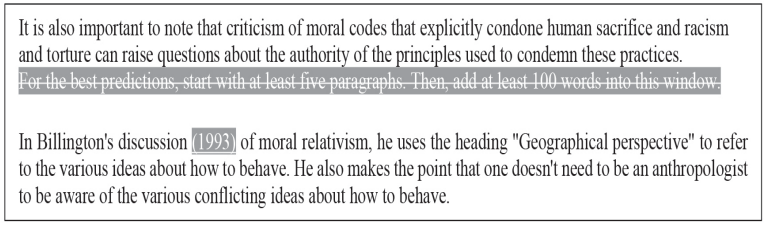
Recent history of the encounter between Ethics and Geography

In 1994, a session on metatheory was held at the AAG meeting. It generated a special issue of *S~~s~~society and S~~s~~pace*, which discussed various topics related to social theory and ethics. Among the topics discussed were the normative turn in social theory, geopolitical encounters, and the concept of relational ethics.
At the 1995 IBG conference, a session on moral geographies discussed the importance of spatial and moral articulation. In 1997, the RGS and the AAG also highlighted the link between geography and ethics.

Document 4. Editing with additional corrections by Donald Fake (transcribed sample)

This process also made it possible to eliminate "garbage" from the Speedwrite platform's processing:

Document 5. "Garbage removal" in the "Raw Imitation" text by Donald Fake (transcribed sample)



It is also important to note that criticism of moral codes that explicitly condone human sacrifice and racism and torture can raise questions about the authority of the principles used to condemn these practices.
~~For the best predictions, start with at least five paragraphs. Then, add at least 100 words into this window.~~

In Billington's discussion (1993) of moral relativism, he uses the heading "Geographical perspective" to refer to the various ideas about how to behave. He also makes the point that one doesn't need to be an anthropologist to be aware of the various conflicting ideas about how to behave.

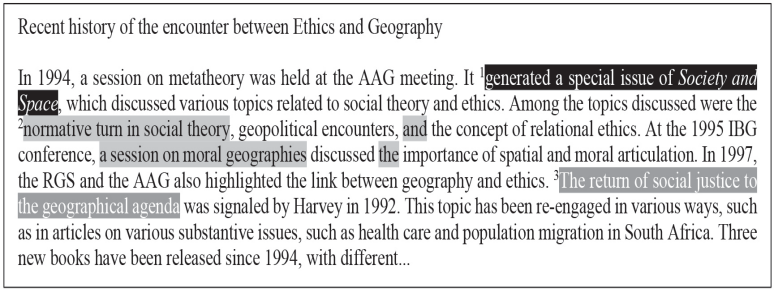
Furthermore, this phase also made it possible to reintegrate bibliographical references, to a limited extent, in order to produce a text that

appears relatively "natural". Once this was done, the "reworked imitation" text was completed by giving it a title and an author name. The final result of this process was tested on the Turnitin platform. The test yielded a 15% similarity rating.

Thereafter, the "reworked imitation" (no. 2) text was tested with a English-speaking, bilingual human operator, who confirmed that the text appeared "natural". The complete Turnitin report was then examined and the textual corpus tested from the interactive interface was examined. This revealed that, in this exploratory case—even though the resulting similarity rate was rather low—the Turnitin platform nevertheless connected the imitation text (no. 2) produced using the Speedwrite platform with its source, that is, the original text by David M. Smith.

Indeed, working with the interactive interface, it was possible to verify that source 1, given a 12% similarity rating, *was still related to the original text*. The second and third sources were related to other texts by the same author. However, the Turnitin report reveals that an authority in charge of investigating a suspicion of plagiarism would not have sufficient evidence to prove that Donald Fake had plagiarized. Indeed, the text tested was essentially rated as presented below:

Document 6. Identification of similarity by Turnitin (transcribed sample)


Recent history of the encounter between Ethics and Geography

In 1994, a session on metatheory was held at the AAG meeting. It [1]generated a special issue of *Society and Space*, which discussed various topics related to social theory and ethics. Among the topics discussed were the [2]normative turn in social theory, geopolitical encounters, and the concept of relational ethics. At the 1995 IBG conference, a session on moral geographies discussed the importance of spatial and moral articulation. In 1997, the RGS and the AAG also highlighted the link between geography and ethics. [3]The return of social justice to the geographical agenda was signaled by Harvey in 1992. This topic has been re-engaged in various ways, such as in articles on various substantive issues, such as health care and population migration in South Africa. Three new books have been released since 1994, with different...

On the other hand, there were entire paragraphs in which no similarities were detected. Therefore, it is possible to conclude that, despite the constraints imposed in this experiment, the Speedwrite platform was able to produce meaningful text, which appeared original and for which a verification authority would be unable to establish indisputable plagiarism. Yet, we know that Donald Fake wrote virtually nothing of the text we call the "imitation". Indeed, a quick count reveals that Donald Fake wrote 122 words in the body of the text. His bibliography is 128 words long, which means that, according to the statistics in Table 1, Donald Fake actually wrote 5.45% of the final imitation text, which he also edited in its entirety so he could write these 122 words. Therefore, overall, the "commercial promise" of the Speedwrite platform is kept, particularly since, with just a little work, the generated text appears "natural" to the reader, unlike other tools that produce meaningless texts but enable the manipulation of scientific information systems (Cabanac & Labbé, 2021; Labbé, 2016).

A second phase of experimentation was conducted to test the cross-linguistic question. Donald Fake's "Reworked imitation EN no. 2" text was inputted into the DeepL platform to be translated from English to French. The result, "Raw imitation FR no. 1", was then reworked by Rackham Pirat, who had helped himself to Donald Fake's text through translation. This yielded the "Reworked imitation FR no. 2" text (Table 2).

Table 2

The Methodological Device and Additional Results[3]

Text	Author	Words	Charac-ters	Variation	Similarity	Remarks
Original	**David M. Smith**	4,501	25,285			Smith, D. M. (1997). "Geography and ethics: A moral turn?", *Progress in Human Geography, 21*(4), 583–590. https://doi.org/10.1191/030913297673492951
Cleaned test	**David M. Smith**	3,051	16,762	–33.71%		Removal of citations Removal of chapter numbering Removal of traces of the original author and publisher Removal of acknowledgements Removal of bibliography Removal of header and footer mentions

[3] Rackham Pirat is another fictional author to whom we attribute in this text the use of the DeepL platform to produce the two texts called 'Imitation FR' no. 1 and no. 2. Donald Fake is the author of the earlier texts 'Imitation EN' no. 1 and no. 2.

Raw Imitation EN (no. 1)	**Donald Fake**	2,174	11,259	–32.83%		Transfer to Speedwrite
Reworked Imitation EN (no. 2)	**Donald Fake**	2,363	12,405	–25.99%	15%	Editing, minimal reformulations (in Word “track changes” mode) with the help of DeepL by Donald Fake. Reinstatement of a few bibliographical references.
Raw Imitation FR (no. 1)	**Rackham Pirat**	2,533	13,917	–16.97%		DeepL translation of Reworked Imitation EN (no. 2)

Reworked Imitation FR (no. 2)	**Rackham Pirat**	2,491	13,714	–18.18%	6%/87%	Editing, minimal reformulations (in Word "track changes" mode) by Rackham Pirat

It is interesting to note that switching from one language to another reduces the abridgement effect observed between the "cleaned test" text and its English avatars. But the most notable result is that the similarity index reduces to 6% as long as Donald Fake's text is not taken into account by the similarity detection tool. When the Turnitin platform takes Donald Fake's text into account, the index rises to 87% and points towards this text, which had already been submitted to the platform. It appears that, if Rackham Pirat had done everything himself (EN-EN imitation with Speedwrite, then EN-FR translation with DeepL), then nothing would have been detectable: the similarity index would be rather low and no relevant source referred to. Thus, academic fraud appears difficult to detect when we combine several AI-based tools and work cross-linguistically. Therefore, these tools represent a significant potential for fraud.

This should encourage the continuation of research efforts on the part of the platforms that help detect academic fraud, particularly since it is evident that the texts produced violate several principles of academic integrity. *But we cannot call this plagiarism, at least not in the "typical" sense of plagiarism.*

As presented in Tables 1 and 2, a choice was made to call this type of text an "imitation". This choice was made in the sense of an "artificial reproduction of the operation of an apparatus, a machine, a system, a

phenomenon, using a model or a computer program, for the purposes of study, demonstration, or explanation" (www.cnrtl.fr, our translation). One could say that this imitation "tries [...] to deceive others by imitating the appearance of a real thing" (www.cnrtl.fr, our translation). The ideas that have been retained are "ersatz" and "simulation". Indeed, the Speedwrite platform succeeds in simulating the writing process engaged in by human intelligence and producing a final text that is therefore an ersatz human intellectual production—that is, meaningful, authentic, and original. Therefore, we propose to call this type of academic fraud an "imitation", which is in line with the work on text generators (Labbé, 2016), which indicates that these tools aim to *imitate* not only natural linguistic processes but also the linguistic norms of a given scientific environment.

3. The Potential Adverse Effects of AI Imitation Fraud

A priori, the potential harm caused by this type of fraud is significant. Here, we rely on the work IRAFPA has done since its creation in 2016 to complete its recommendations to qualify academic delinquency.[4] One way to approach this question is to examine the features it has in common with plagiarism. Concretely, if we refer to the "ten consequences of plagiarism" (Bergadaà, 2015b), there is almost no difference between plagiarism and imitation in terms of their consequences. Indeed, if we take these 10 consequences and characterize the two types of fraud, the result is as shown in Table 3.

[4] https://irafpa.org/en/methods/investigating-cases-of-plagiarism/the-ten-consequences-of-plagiarism/

Table 3

Imitation Compared to Plagiarism in Light of the 10 Consequences of Plagiarism

	Consequences of Plagiarism (Bergadaà, 2015b)	Plagiarism	AI Imitation
1	Theft of an original creation and concealment of original authors/ sources	YES	YES
2	Breaking of the chain of knowledge	YES	YES
3	Infringement of the original author's subsequent right to publish without citing the plagiarist/fraudster	YES	NO
4	Dissolution of the meaning of the fraudulent work	YES	YES
5	Fraud against society and access to undue social benefits	YES	YES
6	Inducement to sloppy or untidy research	YES	YES
7	Malfunction of and disorder in scientific publishing and journals	YES	YES
8	Inhibition of competent researchers and of the 'right' to error	YES	YES
9	Damage to the image of HERI organizations and of the scientific community in society	YES	YES
10	Rising economic cost of fighting fraud	YES	YES

This analytical framework leads us to put forward the following three conclusions:

1. Imitation is clearly a fraud, because it directly causes 9 of the 10 consequences of plagiarism and all these consequences are violations of academic integrity.
2. The only aspect in which imitation appears to differ from plagiarism is that it does not directly jeopardize the subsequent right of the original author to publish without citing the fraudster: if the former does not identify any contribution of the latter in relation to their own previously published text, they could have the latitude to exclude it from their bibliographies (if the original author has published their work previously);
3. A text can be meaningful, original (in the legal sense: without antecedents) while still being fraudulent because it is not authentically produced by the author.

In fact, the second conclusion is problematic, particularly in the field of research. It is true that the author who is "robbed" is absolutely not compelled to cite the thief and, simultaneously, in the selected scenario, their own text, which came earlier. But it is possible to argue that the robbed author—potentially without knowing it or being aware of it—is, if not compelled, at least induced to cite the thief. Indeed, when working in a given scientific field, it is good practice not only to be aware of all the relevant literature but also to cite it. Thus, in our case, David Smith might find himself citing Donald Fake (and even Rackham Pirat), while remaining unaware that Donald Fake stole his words and did not produce an effective and original study. When David Smith reads Donald Fake's words, he might at most be surprised by the similarity of their ideas. In this experimental example, David Smith is the unwitting victim of

Donald Fake.

On the other hand, the text produced by Donald Fake is definitely a fake. As a matter of fact, he used David Smith's text in its entirety to produce his own text, doing practically no work of his own; by publishing it, he suggests to readers that it is genuinely the fruit of his own research. Therefore, imitation fraud creates the possibility that we will encounter texts that will be original, in the sense that they will have no antecedents, but which have not been written and even less "thought of" by their declared author. As with plagiarism, the challenge lies in the lack of intellectual creation and, therefore, the prospect of collective impoverishment at the intellectual, cultural, and scientific levels.

But then, how should we interpret Table 3 if the 10 consequences of plagiarism highlighted by Bergadaà (2015b) are also recognizable consequences of imitation? Should we conclude that an imitation is actually plagiarism? Or should we deduce that the "10 consequences" proposed by Bergadaà (2015b) have a more general value and do not concern plagiarism alone? We propose that the second question should be answered in the affirmative. We consider that what we could call "the model of the 10 consequences" is a *relevant analytical framework* to characterize any academic fraud with regard to written productions (in particular, criteria 2, 4, 5, 8, 9, and 10).

4. Prospective Analysis of the Impact of AI Tools on a Typology of Academic Fraud

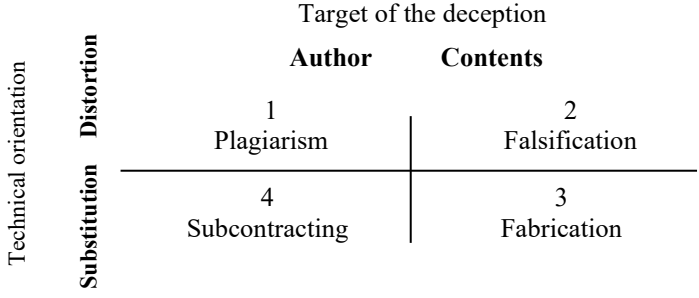
Just as plagiarism and its massification are directly linked to the emergence of the internet (Bergadaà, 2015a), the maturation of new information and communication technologies can only augur the appearance of new frauds (with regard to processes, behaviours, or consequences) or a change in the typology of academic fraud. Our predictive hypothesis is that AI and some of its potentialities, which we explore here, will lead to

this change. This in turn leads to a necessary questioning of the evolution of the typology of the main methods of academic fraud, at least with regard to the production of a text with a declared author; however, the scope of academic fraud is broader than this aspect of the production of scientific knowledge.

How can such a typology of methods be described today? First, it should be noted that a review of both the scientific literature and the publications of academic integrity stakeholders suggests that the currently dominant type of academic fraud is still plagiarism. Nevertheless, other frauds are well described in this specialized literature. Of particular note is the falsification ("forging") and fabrication of data or information, referred to using different names and at different levels of detail (Ben-Yehuda, 1986; Gutwirth & Christiaens, 2015). Nevertheless, a scrutiny of this typology and the application of a substruction methodology (Lazarsfeld, 1970; see also Becker, 1998: "property space analysis") make it possible to define a property space in which a fourth type of fraud appears in addition to those three. The fourth one is subcontracting (Figure 1), which is too often confused with plagiarism, whereas we propose to distinguish the two.

Figure 1

Property Space Related to a Typology of the Main Methods of Academic Fraud



The property space described in Figure 1 makes it possible to characterize, distinguish, and articulate four major types of processes based on the target of the deception, on one hand, and the technical orientation mobilized, on the other hand. This gives us four ideal types of academic fraud which, in a concrete situation, do not necessarily exclude each other, but can instead be combined or associated in the acts committed, the concrete procedures implemented, and their fraudulent textual results. Therefore, it is necessary to explain each ideal type in more detail:

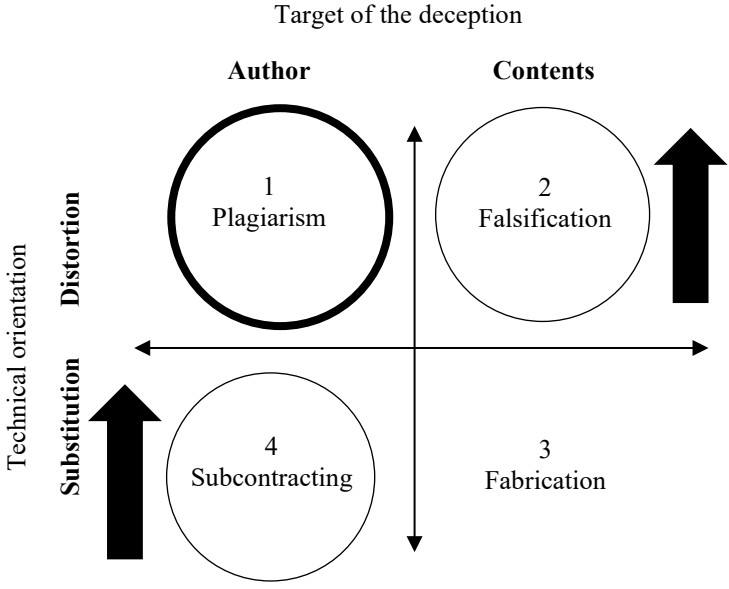
- Plagiarism: The process of copying, in a more or less literal form, a written text produced by someone else while attributing the production to oneself. Therefore, in this approach, plagiarism fraud concerns the actual author of the textual object. There is a direct victim—the plagiarized individual whose text the plagiarist appropriates by means of masking techniques that may be more or less sophisticated.
- Falsification: Processes that aim to or have the effect of distorting information, data, results, or a theoretical text to make them conform to a line of thought or conclusions established *a priori*.
- Fabrication: Processes consisting of describing or creating information or data that were never collected or produced, presenting treatments that were never carried out, or a text that was never "written".
- Subcontracting: The process of having a research text written by a third party who is paid or rewarded in some manner, while the "client" takes credit for its production. Therefore, in a typical case of subcontracting, there is no victim.

This leads us to the current model described in Figure 2: plagiarism as the dominant academic fraud process, and falsification and

subcontracting as complementary frauds.[5] Various indicators and observations suggest that there has been an increase in subcontracting and falsification in recent years.

Figure 2

Hypothesis Concerning the Current Dynamics of Academic Fraud



By describing the ideal types of academic fraud in this way, it is possible to better understand the potential consequences of the emergence of imitation fraud using AI. Let us first examine subcontracting fraud: a client has a text written by another person and claims to be the author, which is a widespread practice in publishing. Indeed, without being able to

[5] The few quantifications we have available suggest that the dominance of different kinds of fraud probably varies significantly from one scientific field to another (see, in particular, Henriet & Ouzoulias, 2021).

quantitatively assess how widespread this fraud is currently,[6] the emergence of AI and its potential ability to write "original" texts could have the effect of pulling the rug out from under some of the beneficiaries of this intellectual delinquency market. In other words, it would affect this little-known business by tending to make it disappear.

Platforms such as Speedwrite can make subcontractors irrelevant, particularly since it appears likely that fraud using an AI platform will be much more economically competitive. As we face the future, this leads us to wonder about the possible evolution of the field of intellectual and scientific deviance. Indeed, if AI imitation fraud makes plagiarism irrelevant (particularly since, unlike plagiarism, it cannot be detected by tools that look only for textual similarities), it would also make subcontracting fraud irrelevant (particularly since, unlike subcontracting, its cost is extremely low and it requires very little work). This is also the hypothesis adopted by Abd-Elaal et al. (2019). It would lead us to a new situation described in Figure 3, if we consider imitation as a variant of "fabrication" that applies to a text and not to data or results. A text resulting from AI imitation is indeed "a text that has never been written by anyone".

According to this hypothesis, in all likelihood, plagiarism is destined to disappear since the same AI that opens up the possibility of imitation fraud has already created the possibility of a much more effective fight against plagiarism. If we rely on the potential that our experiment appears to reveal, imitation fraud has advantages that no other type of fraud offers:

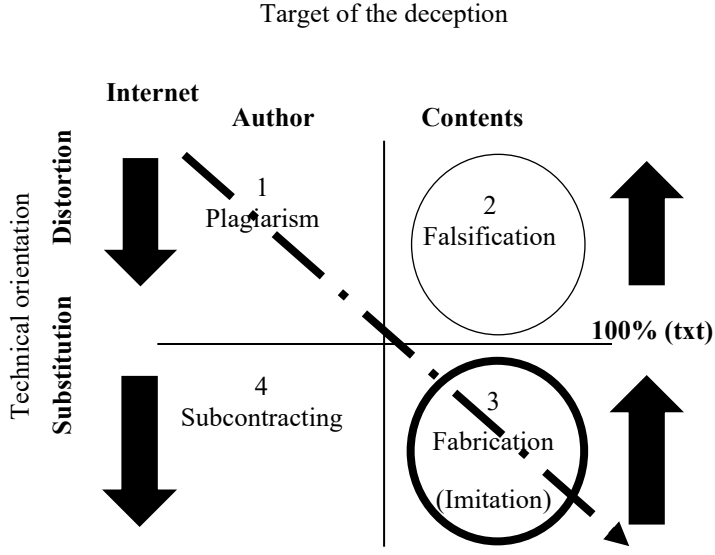
- Speed and flexibility of production.
- Undetectability (or rather "undecidability") using most current textual similarity detection tools.

[6] The offers observable on the internet and social media and their ongoing proliferation indicate that this kind of fraud is probably widespread: it is no longer a marginal phenomenon.

– Low cost: from US $20 per month to US $100 for one year, with a production rate of 6,000 “predictions” per month for the platform used. The text produced by Donald Fake (Tables 1 and 2) represents approximately 150 “predictions”.

Figure 3

Hypothesis Concerning an AI-Induced Dynamics of Academic Fraud



Considering all this, it is easy to imagine that the problem will arise not only in the production of documents published by researchers in scientific journals but also in the production of master’s and doctoral dissertations that conclude with the awarding of a state diploma.

In this section, we have analysed property spaces that allow for ideal types of fraud, but there is an important limitation: these frauds relate to the document issued and not to the entire research process. Thus, certain types of fraud or misconduct escape this typology (e.g., theft of

experimental data[7]). Therefore, research on property spaces to describe and characterize all the facts and processes of academic fraud remains open.

5. An Urgent Challenge for Academic Integrity

The prospects opened up by platforms such as Speedwrite[8] and, more broadly, by the application of AI to text production pose new challenges for the gatekeepers of academic or scientific integrity, as well as the associated institutions or laboratories. In particular, these developments may require clarification regarding something that may have appeared to be clear in the past: What is academic or scientific work? How much work or which segments of knowledge production processes can be "delegated" to machines?

Obviously, the emergence of new fraudulent processes based on new technologies inevitably raises the question of their detection. In this regard, it is not too implausible to believe that AI itself will be what makes it possible to fight against the fraudulent use of AI, just as the internet has made it possible to fight against the fraudulent use of the internet, particularly plagiarism. Experiments using AI to prevent/combat the risk of academic fraud exist and already appear to have given satisfactory results with regard to university examinations (Ajmi, 2021). However, insofar as we do not currently have sufficiently powerful and proven tools to reliably detect imitations produced by AI, it is legitimate to worry about this imprecisely delimited period between the emergence of a new fraud opportunity and the time when we become able to effectively detect it.

After the emergence of the internet, it took approximately 10 years

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[7] This important limitation was identified based on the work of Decullier and Sèdes (2022).

[8] This includes the recent public controversy surrounding OpenAI.

before we saw the massification of plagiarism practices (Bergadaà, 2015a). Therefore, we have rather a short time to prepare ourselves to handle the new fraudulent practice of imitation, because the first technological developments are already over 15 years old (Abd-Elaal et al., 2019; Arnold, 2014).[9] Strictly speaking, these are not "new" technologies (consider the Ike Antkare case in 2010: Arnold, 2014; Labbé, 2016), but the technologies are maturing and are now being made accessible to an increasingly wide audience. Thus, academia did not adequately anticipate the emergence of this new situation affecting academic integrity.

Fortunately, private technology players engaged in the fight against plagiarism have seen this new breakthrough coming and have been able to prepare for it. Numerous start-ups are also engaged in research and innovation processes related to these issues (Roten et al., 2023). The market for the detection of AI productions promises to be a rather prosperous one because numerous public and private actors will require tools capable of differentiating a human production from an AI production.

Beyond this race against the clock to reduce the time until we are able to fight against a new form of academic delinquency, there is the problem of (technological) one-upmanship and educational, dissuasive, or repressive escalation: Where are we going? Asking this question is a way of suggesting that the answer to intellectual fraud can only very partially rely on tools to detect or prevent it. Indeed, reasoning in terms of a fraud/countermeasures dichotomy locks in an escalation of innovations that we do not believe will end any time soon.

Thus, while developing countermeasures in the short term, it is clearly necessary to engage in critical analysis of the sociological,

[9] The first automatic text generator was developed by Jeremy Stribling, Max Krohn, and Dan Aguayo (then students at the Massachusetts Institute of technology) in 2005: https://pdos.csail.mit.edu/archive/scigen/. They generated a text and submitted it to a computer science conference to test its acceptability to a human reader. The text was accepted for the conference (Abd-Elaal et al., 2019).

organizational, political, and ethical frameworks within which this escalation process takes place. Thus the axiological emptiness in which our students and colleagues find themselves, sometimes against their will, is a much more important problem to tackle head-on than the technological problem of AI able to detect an imitation text.

The fight against academic fraud should not get bogged down in diversions (Gutwirth & Christiaens, 2015). Therefore, it is important to indicate that the magnitude of the possibilities now opened up by AI could obscure what we believe is essential for the integrity of science: linking research to integrity, intrinsically and in its very essence.

How can we picture a fight against fraud that is not at risk of diverting our attention (Gutwirth & Christiaens, 2015)? The capitulation of science and scientific communities to the rules of Randian liberalism is and remains the root of the problem, and not the appearance of a technology, even though it is necessary to develop accurate knowledge of the technology. This implies philosophically promoting integrity directly with our colleagues, our students, and our organizations.

6. Conclusion: Academic Integrity and Public or Private Decision-making

The prospect of students and researchers using AI tools to produce texts without thinking about them or writing them—but which could pass through the barriers of grading and assessment—overturns several issues that are fundamental to the academic order:

- the sociological and political validity of the social benefits of holding university (or other) degrees and diplomas;
- the political and sociological acceptability of scientific results published in books or journals.

These socio-technical developments raise problems concerning

public confidence in the value attributed to diplomas (and, therefore, in the legitimacy of their holders), as well as in the value attributed to published scientific knowledge (particularly its reliability). Underlying this question of public confidence in the productions of the entire HERI system lies an even more fundamental problem for our democracies: trust in and legitimacy of public- and private-sector decision-making. Indeed, how can citizens trust and judge legitimate decisions that would make them

- doubt the skills and real knowledge of decision-makers (not to mention their "merits"), and
- doubt the reliability of the knowledge on the basis of which these decisions are made or justified?

From this perspective, the probable emergence of imitation fraud would not revolutionize the fundamental ethical situation. However, it appears to have the potential to aggravate (and perhaps accelerate) the political, social, and economic risks associated with the proliferation of intellectual fraud and related deviant behaviour. Therefore, the structuring and strengthening of the movement for integrity sciences remains an absolute necessity for our democracies and for the exercise of effective academic social responsibility (Bergadaà, 2020) by all HERI stakeholders.

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3

THE COUNTERWEIGHT OF THE PERFORMATIVE SPEECH OF INTEGRITY SCIENCES

Michelle Bergadaà

1. Introduction

How can we guarantee the search for academic truth when a current of sensationalism is shaking up both the academic world and the media when it comes to dubious scientific conduct?[*] Naoyuki Nakao,[10] Diederik Stapel,[11] Olivier Voinnet,[12] Didier Raoult[13]… Every country and

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[10] Samp et al. (2012).

[11] Battacharjee (2013).

[12] Schneider (2018).

[13] Casassus (2022).

every discipline is affected. The numerous scandals of recent years are fuelling civil society's distrust of our profession. Our collective book, *Academic Integrity – A Call to Research and Action* (Bergadaà & Peixoto, 2023) is evidence of this trend.

Since 31 March 2004, the date of our first newsletter to the academic community, 20 years have passed: years in which, through trial and error, we have learned how to publicly express the "sciences of integrity".

The audience was vast: professors and researchers, as well as heads of institutions, editors of academic journals and books, journalists, and observers from civil society. Considering the urgency of academic integrity issues, it was necessary to adopt a performative approach. By "performativity", we refer to the work of Austin (1991), for whom performative statements are those that perform, by their very utterance, the action they designate. "I now pronounce you husband and wife", says the mayor. A statement is performative because it is founded on an institution. These performative acts modify reality, beyond the thought they express (Charaudeau, 2005). The narrative plot, in our case, stems from the fact that IRAFPA was created in 2016, when we had conceptually defined all the devices for transforming speech into fact. Thus, IRAFPA naturally emerged because, little by little, our words had become performative.

To understand how IRAFPA's own style of expression has developed, we analysed comments made in the 92 issues of the IRAFPA newsletter since 2004. With more than 18,000 subscribers, plus IRAFPA's LinkedIn subscribers, self-criticism in terms of expression is permanent: the aim is to gain acceptance for a message that, at least until 2016, ran counter to the institutional *omertà* governing academic misconduct.

Six successive periods have occurred during which turning points appeared in our movement for the science of integrity. The analysis presented below highlights these epiphanies.

2. "Truth-Telling"

Between 2004 and 2008, the years when we discovered our field of research and action, what began as a conversation between peers spread to a wider audience. We soon had 15,000 subscribers to our newsletter. They came from 113 different institutions, 13 countries, and 17 scientific disciplines.

The "truth-telling" we favour is based above all on our refusal to accept the fatalistic reality that the race to publish and obtain funding and the tightening of administrative order in our establishments are detrimental to our mission of creating and disseminating knowledge. We all know this, ever since the first decade of the Internet revolutionized a vocation that is tending to "professionalize" itself with the increased use of quantitative productivity indices.

None of the expressions we use in our messages are the accidental fruit of our creativity. They are all rooted in a contextual analysis that enables our readers/listeners to recognize the "territory" of integrity as their own. For example, since its creation in 2004, our website has been Responsable.unige.ch, in reference to Jonas (1984). This philosopher anchors his concept of proactive responsibility by recommending that, before making decisions, we ask ourselves not about our desires but about our fears for a future in danger. Another example: if we opt for the expression "plagiarizer" rather than "plagiarist", it is because we are studying the pragmatic relationship of the social actor with the object "knowledge"—their active behaviour—whereas the philosopher uses "plagiarist" to designate an attribute of an individual. The expression "knowledge delinquents", for its part, is chosen in response to directors of institutions who protect themselves by buying licences to operate similarity detection software, then claiming that they are exempt from any suspicion of negligence. Magical thinking or bad faith? "Knowledge

delinquents", whether students or researchers, act shamelessly until they are named as such.

This "truth-telling" works because we benefit from the stable anchorage of "academic freedom". For Engel (2020), this academic freedom emerges from the cognitive virtues accepted as the appropriate response in terms of moderation in judgement. Thus, this academic freedom is still constrained by our responsibility. Receiving frequent messages from distressed peers and working with some 50 of them during those first four years, we quickly learned to discipline our emotions.

After all, all our interlocutors expected us to be sympathetic, but above all to clarify their situation. From the outset, our "truth-telling" was based on contextual reframing, specifying the level of apprehension at which our discourse takes place. The aim is to show our interlocutors where the subject under discussion is situated in space (micro, meso, macro) and in time (short, medium, and long term). This initial framing is important, because the behaviour of knowledge offenders always impacts their colleagues, their publishers, and their environment.

This objective contextualization of cases is radically different from that of the legal system. Lawsuits brought by victims of plagiarism last so long that those victims become exhausted. On 15 July 2007, we set the tone for what would become our anchor point—an anchor point we would reaffirm in newsletter 90, 15 years later. We wrote:

> "I no longer believe in those who exclusively adopt the causal logic dear to the legislator. I think it is futile to consider only the safeguarding of local systems, by punishing particular cases revealed by chance. Moreover, it is hypocritical to keep sanctions 'personal and confidential'. The only result is to hurt the person who receives them; their effect on the system is insignificant. On the contrary, I advocate the logic of consequence, a sense of responsibility towards the societal future in progress, the

> intelligence of the situation, without concessions and without pointless refuges. More than an international perspective, I call for a global one. [our translation]"

Our freedom of expression quickly exasperated some members of the academic community, who sought to gag us. Faced with the generalized *omertà* of the system and the threats of these "people of certainty", who believe they are acting from conviction, we will always remain unmoved. Threats have never advanced democratic debate. They only show the weakness of those who make them. And so, the clearer the threats became, the more convinced we became that our academic freedom obliged us to speak with the utmost rigour.

3. The Effectiveness of Whistle-Blower and Researcher Discourse

The years from 2008 to 2012 were just as intense as the previous period. Our effectiveness increased because, although there were still few of us talking about academic misconduct, we were all aware of our effectiveness: we now knew how to express ourselves to animate a system that had been frozen in a posture of systemic *omertà*.

And so, on 13 April 2010, we resolutely put our words into action, inspired by Austin (1991):

> "I say unto you that a 'researcher', Deputy Director General of a major French school and editor of a scientific journal, translated word for word a chapter of a book published by a doctoral student with a French publisher, then published it at McGraw-Hill under his own name.
>
> I say unto you that the French publisher, the legal owner of this original work, would have preferred not to face such a confrontation with McGraw-Hill.

> I say unto you that the higher education institution where this dishonest colleague practises cannot sanction students who plagiarize until it has settled this case.
> I say unto you that all representatives of major schools and university presidents are concerned. They must now reassure us of their determination to protect knowledge, to protect us, and to protect our students. [our translation]"

It may sound grandiloquent, but it worked, because 48 hours after this publication, the offender was dismissed.

During these years of awakening of the academic community, a permanent democratic and dialectical debate, in the sense of Hegel (1993), took place. In Germany, a wiki open to the public[14] allowed over ten thousand people to go over the 475 pages and 1,200 notes of Defence Minister Guttenberg's thesis with a fine-tooth comb. It was publicly revealed that 67.94% of the work had been borrowed from other authors who were not cited (or were misquoted). The thesis was revoked by the University of Bayreuth on 23 February 2011. In France, the situation is quite different. This led to the Derambarsh affair, masterfully covered by Soufron (2023).

In 2008–2010, a determined whistle-blower named Hervé Maisonneuve created a blog that is widely read in the medical community.[15] He raises the alarm by describing situations that have just occurred, such as articles retracted due to fraud or plagiarism. Another whistle-blower, Jean-Noël Darde, single-handedly breaks the codes of *omertà* with his accusatory blog,[16] which relentlessly denounces academic misconduct in the field of plagiarism. In return, the violence of the attacks by some of his colleagues is staggering: some accused him of

[14] GutenPlag Wiki: https://guttenplag.fandom.com/de/wiki/GuttenPlag_Wiki.

[15] Revues et Intégrité: https://www.redactionmedicale.fr.

[16] Archéologie du 'copier-coller': http://archeologie-copier-coller.com.

being "just a lecturer", and therefore a failed researcher who is not part of their world. While Jean-Noël Darde was denouncing the excesses of a system, his opponents reduced his actions to an inter-individual conflict. In human and intellectual terms, this is inappropriate.

We therefore decided to remain a *full professor* protected by the system, so as to be able to denounce its abuses and leave the major high-profile cases to newspapers and whistle-blowers.

Our aim is to enable our peers to present their experiences and stories of misconduct in the routine of everyday life. Our empirical research-interaction method helps our readers and listeners to move continuously from the real world to its interpretation through anonymized cases, whose narrative resembles that of a *Cluedo*-style[17] detective story. For each case written up as an investigation, we obtain over a hundred responses, which allow us to conduct an inductive analysis. The transcripts were used to illustrate one of our first books (Bergadaà, 2015; translated as Bergadaà, 2021). One of our best-known contributions was the profiles of knowledge delinquents as they relate to the values and norms of our profession (Bergadaà, 2012b). We published some 25 of our case analyses in the following years, either as working papers or as articles in scientific journals.

On 23 January 2012, one of these studies enabled us to identify institutional managers as being responsible for the total social fact—in Mauss's (1973) sense—of academic misconduct. We reveal the central ambiguities that taint the university's knowledge-related mission, as well as the decision-making ambiguities that constrain the profession of professor-researcher (Bergadaà, 2012a). It is up to the leaders to resolve these ambiguities. Ten years later, at the ethics committee[18] of Université de Pau et des Pays de l'Adour (UPPA, in France), we are still using this

[17] The game known as *Clue* in North America.

[18] UPPA: https://organisation.univ-pau.fr/fr/organisation/instances/comite-d-ethique.html.

dynamic method of presenting anonymized cases and open-ended questions, in a stylized manner (Uhaldeborde, 2023).

4. Sincerity, Truth, and Veracity

The years from 2012 to 2015 saw a real turning point in our performative speech. We had acquired the fragile certainty that no knowledge delinquent would ever dare attack us, because it was common knowledge that we told the truth… Then occurred our worst emotional experience of the last 20 years, but also the most constructive.

On 1 June 2014, we published a case under the title [translated] "The heavier it gets, the more make-or-break the situation is" and introduced it with these words:

> "Here's a case that was submitted to us a little over two years ago. It's a 'heavy' case, because the alleged plagiarizer is currently vice-president, research at a university with over 18,000 students. The person is an outstanding professor in France. We therefore proceeded as usual: on the basis of the work of experts in this scientific field. We asked them to analyse three samples of this author's output, one recent, one dating back at least 20 years, and one from 10 years ago. This allows us to identify the roots of the *modus operandi*, and how it changed over time. That's where our research ends. [our translation]"

And, to prove our point, we placed anonymized samples from the case on our site. What we then thought was a demonstration of the tools to be used to prove the facts and avoid rumours turned out to have the opposite effect. After all, specialists in the field quickly recognized their discipline and identified the accused plagiarizer. They circulated the information widely, and it was picked up by the media. The person in question sued me, thanks to the functional (legal) protection of his institution, claiming

€150,000 in damages for defamation, plus the costs of inserting the forthcoming judgement in the newspapers that reported the case (*Le Monde, Libération, Le Nouvel Observateur,* and *Le Dauphiné libéré*).

What a lesson! A sender says what they believe to be true. But the story is always relative to the person living it and telling it. Our human culture (and this transcends cultural relativism) demands this veracity, this posture of authenticity recognized by receivers (Williams, 2006), who will forgive errors and omissions if they are unintentional. Even stupidity is excused as long as it is sincere. So, when an offender says loud and clear that he is the victim of jealous colleagues, he is vouching for this truthfulness on behalf of people close to him.

With some excellent lawyers,[19] we discovered the intricacies of the legal world and learn two new terms related to *veracity*. In all countries, there are, with varying degrees of ease, two possible defences when one is sued for defamation: the "exception of truth" and, if that is not upheld, "good faith", both of which constitute "supporting facts". The exception of truth—or *exceptio veritatis*—will be accepted if it is certain and based on the facts for which one is accused. Proving this is very difficult, and acquittals based on the exception of truth are very rare.

Because we were sued in France, a group of researchers specializing in our adversary's field adopted and fine-tuned our working methodology. I am extremely grateful for the work of these "lapidaries" of the French, Italian, and English languages (depending on the source of the "borrowings"). These researchers masterfully demonstrated plagiarism in seven separate publications produced between 1989 and 2012. They compiled a 228-page file of comparative tables. In their foreword, they wrote: *"In the absence of national and international mechanisms for dealing with plagiarism and scientific fraud, professional security is not guaranteed for the many researchers who have compiled this dossier.*

[19] Thanks to the legal protection of the canton of Geneva, where I am a civil servant.

They prefer to remain anonymous" [our translation]. So, these experts expressed themselves "sincerely", freely, and without apprehension… anonymously.

After that, things moved fast. The file enabled the press to make up its mind about the "truth" thus told, for instance in a column in *Le Monde.* Then, an administrative investigation was launched against the researcher who was attacking us by their university. And then we heard no more about a libel suit. We published the methodology in the book that identified us in the eyes of everyone—academics and the general public—as an expert in academic plagiarism (Bergadaà, 2015, 2021). The violence of this affair enabled us to publicly establish our reputation for "veracity".

And we became extremely adept at detecting sincerity in the words of those who came to us as either victims or witnesses. We know how to explain to them that the "veracity" of their testimony depends solely on the "truth" of the facts they are denouncing, and that this analysis of the facts must be understood as an "etic" (external and objective) posture, and not an "emic" (internal and subjective) one. This first encounter with the legal order showed us, if proof were needed, that when violence does not destroy us, it makes us stronger.

5. The Power of Collective Talk

In 2015 and 2016, IRAFPA's performativity became a collective work, formalized by the creation of a scientific association on 18 June 2016.

Many researchers are attracted by the IRAFPA network. Although opportunists do not stay long, it is more difficult to identify and retain the genuinely motivated. Theories of *motivation*, along the lines of Nuttin (1996), consider that if the "ideal stage of self" is not too distant from the "perceived current stage", there is no recognition of a problem and

therefore no motivation to act. It is usually when one is a victim of, or witness to, academic delinquency that one becomes aware of the problem. But all motivation is accompanied by obstacles to action, such as availability in the face of demands from all sides, or the need to publish for a young researcher. So the initial excitement quickly fades, if it is not stimulated anew. We try to rekindle it with regular publications on our LinkedIn and Web TV channels.

Involvement is a much more interesting concept for defining academic integrity. Since the seminal work of Becker (1960), we have known that, if an object is not very involving for a person, a conative (or action) reflex will operate. Thus, even an uninvolved researcher will reflexively apply ethical standards that have been imposed upon them. On the other hand, if the object becomes truly involving for the individual, they grasp it cognitively. They start to think about it and want to discuss it. The different facets of involvement that are activated vary from person to person: curiosity about a new and stimulating field, concern, self-image, etc. We easily recognize peers with different levels of involvement in our debates and symposia.

The *mobilization* of IRAFPA members is of an altogether different nature. It is rooted in the very identity of the researcher-actor. For Lahire (1998), humans in society are not uniform. Over the course of their existence, everyone incorporates their experience into patterns of action that are activated according to the new contexts that arise. From this point of view, social action stems from identity (socio-psychology), rather than the other way round (psycho-sociology). Our research has shown four main dimensions of identity (Bergadaà, 2020, chap. 5) when it comes to academic integrity. Compassion and generous impulses generate bonds. From Aristotle to Lévinas, this perception of the other implies that we do not have to reason in terms of duty or choice. The victim of misconduct triggers in us a compelling intent towards solidarity.

At another level, the social bond in Mauss's (1973) sense is based on a principle of reciprocity. This total social fact transcends the interests of the individuals who enact it. The social bond is *de facto* broken by knowledge delinquents who, by deceiving the people around them, also deceive the academic system. A third dimension of identity is the preservation of the academic ideal in people who commit themselves to the defence of integrity. You do not *do* research; you *are* a researcher. The perspective of an abstract and universal humanity is conceived of as communion with a human "whole" (Komter, 2005). A fourth dimension is social justice, which is not dependent on an abstract community as before. Here, the aim is always greater social equity, and actors who see institutions—academic or social—as incapable of re-establishing justice apply this perspective of solidarity. They act to reduce arbitrariness (Godbout & Caillé, 2000), since fraudsters present curricula vitae enabling them to take the place of more honest researchers. In so doing, they also seize power in our system.

6. Accuracy and the Power of Terminology

In the years from 2016 to 2020, we found that democratic debate could only take place if everyone shared the same corpus of values. Otherwise, it is a dialogue of the deaf: since the dawn of time, philosophers, sociologists, jurists, and scientists have sought to impose their own definitions of *ethics* and *integrity*. It is confusing. We know that we cannot develop the integrity sciences without a solid foundation, even though we come from such diverse cultures and disciplines. This determination to find the right terms together is essential.

Our first collective decision was to identify ourselves as researchers and actors *for* academic integrity, not just as activists *against* academic misconduct.

Conceptually, this seems trivial, because if you do not call misconduct by its name, you cannot talk about integrity. Of course, we had defined what we call *academic misconduct* carried out by *knowledge delinquents* years earlier. But the semantic consolidation of integrity sciences is a different matter. Why? Because, for example, numerous French institutions use the term *integrity referents*, while others, in the medical sciences, prefer the use of *ethics*, and this same term can transform itself into *virtue ethics,* become standardized or professional ethics, and so on.

At IRAFPA, the search for the right term is carried out very classically, using a structuralist approach, in line with Charaudeau's (2005) proposals, which enable us to build up a stable corpus and homogenize our essential vocabulary: *ethics, responsibility, integrity, morality,* but also *knowledge delinquent, manipulator, fraudster, cheater,* as well as *central ambiguity, action ambiguity,* not to mention *motivation, involvement, mobilization,* etc.

In line with Peirce (1978), we examine the triadic relationship between "interpretant (or its signified)", "objects of reference addressed" and "the sign as signifier". For example, if "I" (the interpretant) want to say "integrity" (the signified), I will define its facets by their relationship with the "objective/subjective" and "system/individual" axes. Just as the "knowledge delinquent" incorporates four "root" objects: manipulator, fraudster, cut-and-paste tinkerer, and cheater. These are defined by their relationship to the "norms" and "values" axes.

We have therefore defined integrity on our website[20] in two parts:

> I – *Integrity is defined as: "State of a thing, of a whole, which is whole, which has all its parts"* (CNRTL, France).[21] Thus, we define the research object "Integrity" by its four dimensions:

[20] IRAFPA Guidelines for Academic Integrity: https://irafpa.org/en/about-us/rules-of-academic-integrity/.

[21] Centre National de Ressources Textuelles et Lexicales: https://www.cnrtl.fr.

> morality, deontology, formal ethics and responsibility. If only one of them is affected, integrity breaks down. But not every instance of integrity failure impacts all of its dimensions. Fortunately, otherwise we would not be able to bring any mediation to a successful conclusion.
>
> II – *Integrity is defined as:* "*Character, quality of a person of integrity, incorruptible, whose conduct and actions are irreproachable"* (CNRTL, France). Thus, we aim—in our teaching and our certifications of institutions—to develop and enhance these qualities in all those who wish to do so.

Some terminology takes years to become stable. Other terms are immediately adopted and validated by our community. Our corpus is constantly evolving. For example, what is an *academic sanction*?

7. Frankness or Freedom?

The years 2020 to 2022 were dedicated to frankness, especially in IRAFPA's summer schools. According to Williams (2006), humanity needs to exchange true information in order to survive: in other words, information that gives "meaning", that is, significance, but also direction for action. It is all about openness. In fact, you can only be frank if the other person asks you to. The challenge is to say what the other person, the receiver, does not always want to hear, or does not yet understand. The sender must have the necessary empathy, knowing how to remain neutral and free from any feeling of sympathy that would hinder frankness. But frankness can only be expressed if it is based on genuine goodwill. Otherwise, the receiver could be needlessly hurt, believing they are losing face.

At our IRAFPA summer schools for "integrity advisers", we encourage participants to identify other participants' attitudes towards integrity,

right from the first morning. It is by reciprocally observing their differences and complementarities that they can achieve openness, towards themselves and others (Popescu, 2023). Through this interactive work, we recognize:

- those who refer to a Kantian or virtue ethics type of morality by their belief that objective morality is a law imposed on humanity. Kant (1724–1804) saw morality as the product of a reasoning being. To this end, the philosopher insisted on the freedom to be rational. His moral imperative is 'Act as if the maxim of your action were to become through your will a universal law of nature'. Kant's morality is a matter not of choice but of constraint.

- Participants who refer to normative ethics are also situated in the objective morality perspective at the ontological level, but they move beyond individualism to conceive of the social system. For Socrates (469–399 BCE), for example, ethics is the political instrument that enables a government to guide its citizens to a happy life. So, where morality commands an actor, working through their conscience, ethics recommends that they act according to the framework in which they operate. When we speak of 'objective perspective' and 'social order', we mean that this is where legislators find their sphere of action. *De facto,* it is also the reference space for those of our peers who refer to organizational regulations.

- Meanwhile, our peers who apply a consequentialist view of actions will often refer to professional deontology. The term *deontology* came to the fore in classical utilitarianism, which developed in the wake of the work of Bentham (1748–1832). Its first principle is that action should have as its goal the pursuit of a certain happiness for the greatest number of fellow citizens. To this was added the pragmatic perspective of Peirce (1839–1914): however beautiful an idea, it is the success of the action that will be its sole judge.

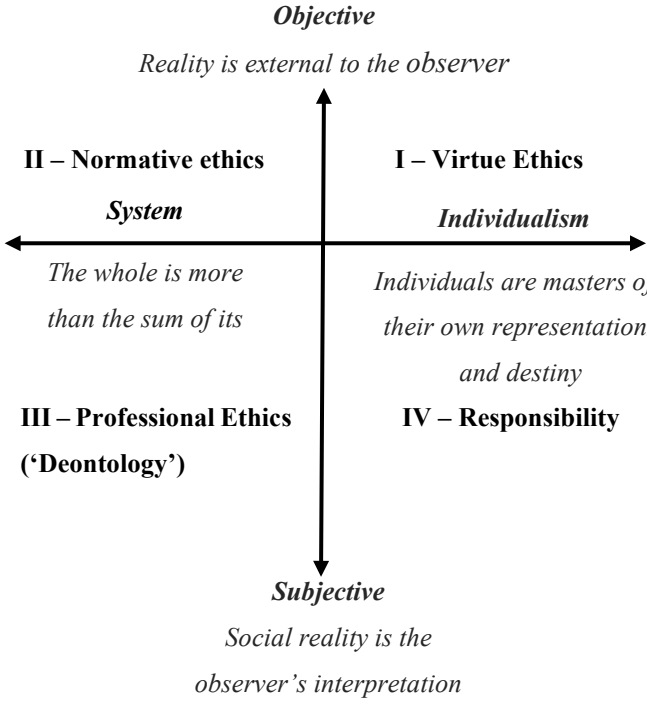
Today, deontology is defined as the set of rules and duties that govern a profession, the conduct of those who exercise it, and relations between them and their customers or the public.

- Finally, participants who situate their actions within the framework of an assumed interactionism express themselves more in terms of responsibility. To be responsible, in effect, is to accept that nothing and no one can lessen the consequences of what we do or do not do, because to be responsible is to be accountable for one's actions and non-actions. For Lévinas (1991), we are responsible for others without worrying about reciprocation. Jonas (1984) considers that the unprecedented context of technological transformation no longer allows us to rely on our objective knowledge to act. For the first time in the history of humanity, responsibility has taken priority over formal ethics, deontology, and individual morality.

Visually, we can show these alternatives in Figure 1. On one axis, we present the ontological nature of integrity, depending on whether we adopt an objectivist or subjectivist view of reality, and on the other axis, the voluntarist character of the actor who decides independently of the constraints of the system or the system that takes precedence over purely individual motivation.

Figure 1

The structural roots of integrity



8. Conclusion

IRAFPA's performative speech was not set down in a day. It has been developed over the course of communications, colloquia, summer schools, mediations, and certifications. Collectively, we have measured the power of attraction of these "integrity sciences" that we were in the process of building.

For performative speech can only be a collective act. The hormone oxytocin, which generates trust in human relationships (Kosfeld et al., 2005), is rarely secreted in our establishments. Symbolic violence is

much more prevalent. During our summer schools or colloquia, exercises facilitate *parrhēsia* in the sense in which the Greeks used the term: speech freed from the techniques of rhetoric as Foucault understood it (Rojas, 2012).

Our performativity takes on its full meaning between research and action, between the individual and the community, between the academic space and the social space. So, now that we have outlined the six roots of our performative speech, we look forward to discovering what the future holds for us!

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4

CITIZEN PARTICIPATION IN RESEARCH AND INNOVATION: BENEFITS, RISKS AND CONDITIONS OF AN ETHICAL APPROACH

Kalli Giannelos, Bernard Reber

1. Introduction

In the context of scientific and technological development, participatory practices (citizens and stakeholders) introduce new audiences that can be beneficial to research projects or evaluation processes, if they are accompanied by greater consideration of ethical issues, going beyond the mere assessment of *ethical compliance*.[*] Participatory practices can also

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involve simple consultations or fairly elaborate deliberative formats, going so far as exploring ethical pluralism at work, which complicates what the famous political philosopher John Rawls (1993) has called the difficulties of judgement. The meeting of ethics and participation, with exposure to the moral intuitions of non-ethicists, extends to this point, if quality deliberation is to be achieved. The contribution of an ethical participatory activity to research and innovation (R&I) can improve the overall quality and legitimacy of the R&I process. However, establishing adequate and qualitative participatory processes is not a new concern; more importantly, it is not self-evident, despite several attempts to frame and guide the participation of heterogeneous audiences of ordinary citizens accompanied by experts in evaluating innovations (Blok et al., 2015; Davidson, 1998; Fiorino, 1990; Rowe & Frewer, 2000, 2005; Slocum, 2003). It is even more difficult if such participation is to be responsible and ethical. Without appropriate guidance, it is difficult to navigate the variety of configurations of public participation in R&I and to ensure that the participatory process is appropriate, legitimate, and consistent with notions of responsibility, integrity, and accountability.

Beyond disciplinary boundaries, exploring the link between participation and ethical principles allows us to investigate the conditions in which research ethics committees (RECs) could benefit from ethical participatory practices. Indeed, the encounter between ethics as a specific domain and participation, in the context of R&I, can lead to a two-way virtuous circle. This article focuses on the conditions in which RECs can benefit from ethical participatory practices. Two hypotheses are explored here: the first is that participatory practices could add value to the current functioning of European regulatory bodies dealing with ethics, both in the evaluation of R&I processes involving participants and in the agency processes involving participants, if it is considered that ethical guidance should take place from the very beginning of R&I processes (Van den

Hoven, 2014). An *ethics framework* would provide guidance for the design, implementation, and evaluation of participatory practices whenever they might be useful. The second hypothesis is that the degree of connection and fit of these participatory practices with ethics is variable; therefore, the value added by these participatory practices is also variable. This has implications for the ethical quality of these participatory practices.

Both ethics and participation have multiple meanings, and RECs do not necessarily cover the whole spectrum of ethics but mainly ensure legal compliance (regulations). The adoption of an *ethics framework* for participatory practices will be explored here both from the point of view of standard ethical processes and from the point of view of contributing to the R&I processes themselves.[22]

2. Benefits and Risks of Participation in Research and Innovation

Public participation processes have become an ever-expanding field, with very different objectives: facing the shortcomings of expert-led governance, correcting democratic deficits in policy-making (Fung, 2009), strengthening the democratic fabric (Fagotto & Fung, 2014), effectively addressing moral disagreements in politics (Gutmann & Thompson, 2004), and empowering a broader social base (Stirling, 2005).

From the perspective of responsible research and innovation (RRI) and responsible innovation,[23] the concept of responsibility raises questions about the future direction we seek as a society (Owen & Pansera, 2019) and proposes a more responsive approach to major societal challenges (European Commission, 2014; Von Schomberg, 2013), through a

[22] This article extends the arguments presented by Giannelos and Reber (2022).

[23] RRI is a policy discourse that was initiated by the European Commission (Science and Society programme), while responsible innovation has academic roots.

broader understanding of responsibility to society or to stakeholders (Van de Poel & Sand, 2018). Responsible innovation is a way of dealing with radical uncertainty (Grinbaum & Groves, 2013), while public dialogue—or deliberation—can be seen as a process suitable for uncertain futures, such that decision-making has to cope with limited scientific knowledge, and the risk of serious and/or irreversible damage if certain assumptions prove to be correct (Reber, 2016). Thus, in line with responsible innovation, R&I processes are required to adhere to principles of sustainability, social desirability and ethical acceptability (Von Schomberg, 2013), and responsibility is distributed across a network of actors (Doorn, 2012; Stilgoe, 2013). In an approach rooted in responsible innovation, notions of democratic governance, responsiveness, and accountability are key concepts that invite ethical, inclusive deliberations, which would include broader perspectives in terms of audiences and stakeholders (Owen et al., 2012).

The introduction of new audiences into the expert environment of R&I creates *benefits*, but also *risks,* which we will discuss below. These risks arise when the principles of accountability and integrity are not sufficiently explored or defined and remain at the level of unwarranted assumptions.

The *benefits of participation* include the implementation of responsible research and innovation (and its six pillars: participation, ethics, governance, open science, science education, and gender), and the establishment of *public dialogue.* Responsible development of R&I involves addressing research, science, and technology developments through public dialogue, which serves four main purposes: gaining public acceptance, informing governance about the future societal consequences of R&I developments, making science and technology governance more accountable, and increasing public understanding to avoid tensions (Sykes & Macnaghten, 2013). However, there are still grey areas when it comes to

innovation processes that are more responsive to societal needs and values and able to anticipate societal uses and consequences (Van de Poel & Sand, 2018).

The introduction of new audiences also entails risks, particularly because of a sometimes limited understanding of and approach to ethics, leading to inappropriate participatory processes, a widening of the gap between government and the general public, a low added value of participation (which impacts its legitimacy and may even lead to cynicism in the case of broken promises), and finally, processes that reveal show structural weaknesses. The added value of public participation in ethics depends on its fit with ethical requirements. If it is implemented in institutionalized contexts, public participation acquires the value of adding legitimacy to expert-led configurations. A lack of time and resources to properly design, implement, and monitor participatory processes can also create a disconnect with the fundamental principles adopted by the organizing institutions. The involvement of human participants in any R&I process demands high ethical standards that go beyond standard procedures. The dividing line is therefore between a participatory process and an *ethical* participatory process.

From conception to *ex post* evaluation, participatory practices need to be subject to *ethical reflection* that highlights the issues, values, and norms in tension in the context under consideration, taking into account the pluralism of values and moral theories, but also the objectives pursued: which target groups should be engaged and how? From the perspective of responsibility in R&I—and considering the different normative meanings of responsibility (Doorn, 2012; Pellé & Reber, 2016; Reber, 2019; Van de Poel & Sand, 2018)—ethics goes far beyond compliance procedures, tending towards an ethical analysis, as a space for deliberation that allows for discussions about values in society, based on different perceptions of right and wrong (Brom et al., 2015). This ethical analysis focuses on ethical practices (compliance with ethical norms) and

guides reflection on dilemmas when moral principles conflict with one another. It is accompanied by an evaluation based on ethical principles (values, norms), which include individual rights, benefit-harm principles, justice principles, and virtues (Shelley-Egan et al., 2015). Participatory methods in R&I are both a democratic approach and a means of enriching the assessment and decision-making related to the specific developments under consideration: different conceptions could result in gaps in the distribution of responsibilities due to pluralistic conceptions of responsibility (Doorn, 2012; Pellé & Reber, 2016; Reber, 2019).

3. Participation in Research Ethics Committees

Several types of organizations with a role in ethics review operate at the local, regional, national, and international levels, including RECs, national ethics committees, and research funding organizations (RFOs).[24] In Europe, RECs rarely adopt participatory practices formally, as participatory practices are not particularly common in European regulatory and ethics bodies, except in the case of biomedical research (Giannelos et al., 2022). The rather weak integration of participatory practices stems from a vague definition of public participation and its associated objectives. Given the considerable variability of participatory configurations in terms of their nature (activity, participants, resources), objectives, and outcomes, this plurality of configurations blurs the definition and the link to ethical grounds. RECs are confronted with participatory practices

[24] This list extends to REC associations and networks; government organizations and councils; universities and research institutes; associations of universities and research institutes; academies of science and associations of academies of science; academic and professional R&I organizations; companies and trade and industry associations; civil society organizations; standards, certification, and accreditation organizations; university ethics centres; and departments and individuals (see Shelley-Egan et al., 2015).

mainly in the context of reviewing research proposals involving human participants, in relation to the main principles of bioethics: autonomy, beneficence, non-maleficence, and justice. These principles can be found in both non-legally binding and legally binding instruments. They are based on the fundamental principle of the primacy of the human being over all other interests. In cases where participants are involved in the work of the RECs, these ethical principles are valid but not sufficient to ensure ethical participation. These cases do not cover the full range of participants who may be involved but are representative of the specific types of audiences that European regulatory bodies[25] typically deal with. Outside the health sector, general categories are used: this is characteristic of general participatory mechanisms that do not necessarily have a deeper connection to ethical grounds. In other words, participatory approaches are underdeveloped in their institutionalized formalization.

Two possibilities follow from this observation: either regulators do not particularly need public participation mechanisms, or regulators do not have an overall framework that would facilitate a broader or more sophisticated approach to participation. In the first case, the lack of participation mechanisms could limit their activities to expert-driven processes. In the second case, the lack of a stabilized framework is not a problem specific to regulators, as it may also affect RECs as direct beneficiaries. However, the French experiment with the *États généraux de la bioéthique* (bioethics convention) (Reber, 2010) took place three times in three different ways (publicized, confined, disseminated), although it was forgotten in the announcement of a possible (national) Citizens' Convention on end-of-life issues,[26] which are easier to manage than bioethics in general. However, the link between ethics and participation is not a field

[25] RECs, research integrity bodies, ethics councils and ethics advisory bodies, professional organizations or NGOs, and EU institutions.

[26] See https://www.lecese.fr/actualites/convention-citoyenne-cese-sur-la-fin-de-vie-premiere-reunion-du-comite-de-gouvernance

of reflection for philosophers: the fields to which this approach is applied are those that tend to be overtaken by reality. These observations mean that the philosophical method needs to be improved and evaluated.

In the context of RECs' work, participation can be considered either at the level of the research project under review or at the REC's initiative. The added value of an *ethics framework* could be seen at all stages of R&I processes, complementing the RECs' current functions and activities. In all cases, an *ethics framework* for participation would provide benchmarks for establishing feedback mechanisms and increasing the responsibility and accountability of the research and innovation process to the participants involved.

4. Proposal for a General *Ethics Framework*

An empirical study carried out as part of the European PRO-Ethics project[27] explored the contours of ethics in the case of participatory practices—involving citizens and stakeholders in R&I processes—and identified gaps in the treatment of ethics and moral values.[28] A survey of European RFOs[29] examined the ethical underpinnings that these agencies strive for in their activities, in order to determine the basis on which the ethical dimension of participatory practices is constructed in each case,

[27] The PRO-Ethics project (*Participatory Real Life Experiments in Research and Innovation Funding Organisations on Ethics*) is a European project (Horizon 2020) involving a consortium of 15 partner institutions (including academic institutions, international organizations, and RFOs). The project, which runs from 2020 to 2024, is attempting to define the path towards ethical participation in research and innovation processes in Europe.

[28] For a more in-depth approach to these issues, see Giannelos et al. (2022).

[29] The sample studied was limited to 10 RFOs across Europe, which were investigated using two surveys and contextualizing interviews about their practices.

taking into account the different normative meanings of responsibility. It is surprising to find that understandings and approaches to what ethics is are very different. This is also true for participatory experiences: general conceptions of what ethics is vary (Reber, 2011). Furthermore, the RFOs showed a tendency towards operationalization and legal compliance in their practices, rather than in-depth ethical reflections on those practices.

In practice, these R&I actors are targeting different ethical foundations. It has been observed that these RFOs understand ethics according to different conceptions: moral problems, moral values, moral theories, or conceptions that are closer to legal compliance than to ethical reflection—including the European framework for RRI and national or European regulatory frameworks. Because these actors are drawing on different ethical foundations, they apply different understandings of ethics in their activities, rather than a homogeneous approach. This empirical study showed that the main ethical motives cited by RFOs are, first, compliance with national laws; second, compliance with European laws; and third, compliance with moral values. These results undoubtedly indicate that, among the ethical motives cited by RFOs, compliance with the law currently takes precedence over ethical concerns.

To continue this research[30] on how to define ethical participation in the context of R&I, and in light of these findings, an *ethics framework* for participatory practices has been designed. Although the target audience of this *ethics framework* is mainly European RFOs, it can also be extended to any institution concerned with participatory practices or ethics in R&I. The limited understanding of ethics and public participation mechanisms is the reason for this *ethics framework*. This observation is guided by the initial intuition that there are advantages in linking ethics and participation. Moreover, given the heterogeneity of the "citizens" and "stakeholders" categories, more specific categories of participants and

[30] This research was carried out by the authors of this paper within the framework of the European PRO-Ethics project.

specific categories of participatory activities would allow a better analysis of who participates, when, working towards what outcomes, and with what kind of moral justification.

From this perspective, the purpose of such an *ethics framework* is twofold: it would first offer common classifications, providing the possibility of shared benchmarks in terms of participatory activities and participants, as well as in terms of the ethical concerns to be taken into account. Second, such an *ethics framework* would provide a set of guidelines, to guide the design, implementation, and evaluation of ethical participatory practices. Such an *ethics framework* would finally respond to the difficulty of defining what ethical participation is, on the one hand, and of benefiting from a useful ethics framework, on the other, both at the operational level (design, implementation) and at the evaluation level (assessment and justification of the added value of public participation initiatives).

5. The Ethics of Participation: Testing a Flexible, Pluralist Theoretical Framework

The conditions for the design, implementation, and monitoring of ethical participatory practices (in the sense of an ethical way of introducing new publics into R&I processes) require us to move beyond the issue of legal compliance. In the context of institutionalized public participation, the meaning of accountability and integrity come up against the need for a case-by-case approach and the need to consider the whole chronology of the participatory process. This would imply incorporating the dimensions of anticipation, reflection, and inclusion into policy and decision-making with a variety of audiences and stakeholders. Matching the types of participants, the type of participatory activity, and the overall configuration in terms of resource allocation and expectations is also essential to achieve ethical participation. An ethical approach implies moving

beyond its legalistic form (found in *soft law* and ethical compliance systems) towards a reflexive form of accountability.

Several difficulties can be expected in the implementation of an ethical participatory process. First, given ethical pluralism, there are several paths that can be taken beyond the standard, ethically under-determined ethical procedures. As a flexible reflection on processes, options and choices, ethical expertise ensures that responsibility governs the R&I processes under consideration. Furthermore, a thorough ethical analysis requires the identification of ethical aspects (e.g., moral dilemmas, ethical issues) related to a specific project or topic as well as the recognition of conflicting ethical issues, if any. Finally, financial and human resources can be a barrier. Other barriers have been identified, such as R&I institutions' capacity to engage in ethical participation. These obstacles, which also affect RECs, are linked to unequal conditions: unequal structural resources (human or financial), poor valuation of ethical expertise, and organizational constraints that limit the capacity to pursue a participatory initiative over time. Overall, the main conditions for success are the ability to follow through with all stages of the participatory process, from launch to *ex post* evaluation, the ability to provide appropriate resources, and the ability to identify the limits of knowledge and seek external expertise. In addition, RFOs' unequal understanding and capacity to consider the added value of ethics to R&I is another difficulty (Giannelos et al., 2022). This calls for the development of responsive mechanisms that push the boundaries of existing ethical review procedures beyond their standard form, in line with the responsible innovation perspective.

An *ethics framework* allows for flexibility and contextual translation of suggested actions on a case-by-case basis: as a flexible construction, this framework assumes that, without contextual adaptation, a universal recipe for ethical participation would be counterproductive. In this respect, the *ethics framework* provides stable definitions and categories for key participatory features (types of activities and participants); as a

whole, it functions as both a roadmap and a checklist. Therefore, RFOs, RECs, or any other regulatory body or R&I institution considering assessing, proposing, or introducing public participation mechanisms in their own activities can refer to this guidance, regardless of the context. Thus, the categories introduced in the proposed *ethics framework* can be applied flexibly, according to different groupings. For example, participants can be categorized according to their degree of involvement in the R&I process, distinguishing between relevant target groups (e.g., patients or young people), end users and consumers, and finally laypersons —including so-called *citizen science*.

6. Conclusion

The added value of public participation for ethics depends on its fit with ethical needs. There is a real danger in seeing it as a miracle solution, since participatory practices have become a trend—participatory or deliberative—without necessarily having the means to link them to ethics. Certainly, ethical evaluations can benefit from participatory practices, simply because they diversify the formalized processes and sometimes disrupt the usual viewpoints by introducing an empirical collection of critical factors. Above all, this is an opportunity to better understand the modes of questioning themselves and to imagine new responses to accompany this research when compromises are found. In the context of responsible innovation, the participation of citizens and stakeholders can have an important leverage effect on scientific and technological developments. To achieve this, however, guidelines are needed. The guidelines we have identified here point to the need for a flexible ethics framework, with an adaptive orientation, to ensure that ethics and participation can optimally merge and produce two outcomes: more ethical participation that respects participants and participation that enriches ethical reflection.

So far, RECs have favoured a limited approach to citizen participation, although an important precedent is the case of biomedical research, where participant involvement is framed by regulations (both binding and non-binding). However, ethical participation is not limited to the application of existing ethical principles, and institutionalized participatory processes would benefit from a general common orientation. To ensure ethical participation, the common adoption of stable meanings and tools to effectively assess the right conditions and added value throughout the life cycle would ensure that participation is only used when the right conditions are met. Citizens' and stakeholders' participation in R&I can be a lever for ethics, provided that the participation itself is ethical. This meeting of the two worlds of participation and ethics has already taken place, for example in France with the three *États généraux de la bioéthique* (Reber, 2010). However, these were highly improvisational. Let us hope that the Citizens' Convention on assisted dying, which recently took place in France, will prove to be less so. It is unlikely that its steering committee will draw on these reflections, but it is nonetheless true that these questions will guide its analysis and evaluation.

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5

SUPERVISING A DOCTORAL THESIS: OBSTACLES TO RESPONSIBLE SUPERVISION IN THE CAMEROONIAN CONTEXT

Emmanuel Kamdem

1. Introduction

> *"Hello, Professor. I apologize for coming to you, having read your published articles and books, to ask you to agree to supervise my doctoral thesis, which I've practically finished writing. All I need is for your name to be mentioned as my thesis supervisor, so that I can be authorized to defend it."*
>
> *"Dear Colleague, I am urgently requesting you to be a member of the jury for three doctoral theses completed under my supervision and scheduled for defence next week. It is imperative that these doctoral students complete and submit their applications for the open positions."*

These two personal quotations illustrate the surprise and astonishment that raised questions about the risks and temptations likely to have a

negative impact on the academic integrity of a doctoral thesis supervisor.[*] The first quotation comes from a conversation with a doctoral student, who was supposedly supervised by a thesis supervisor. The unavailability of the supervisor and the complexity of the thesis topic caused the supervisor to leave the student to fend for himself. The second extract comes from a conversation with a fellow instructor who was determined to have his doctoral students defend their theses. This hasty defence was intended to enable the doctoral candidates to meet the conditions required for recruitment to assistant positions at their university. In both cases, my response was categorically negative. Such requests have a strong negative impact on the way PhDs are produced with "theses of convenience". The questions raised by these two quotations are important for the scientific community in Cameroonian universities and African universities in general. For several years now, these universities have been experiencing exponential growth in the number of doctoral students and PhDs. This situation has led to recurrent strikes by university graduates with doctorates. They are demanding access to jobs as research professors within the universities, if they cannot find them elsewhere, notably in companies and other professional organizations.

This chapter is structured around three main themes: (1) the problematization and questioning of the subject; (2) contextualization and literature review; and (3) recommendations for improving the conditions (in the Cameroonian context) in which the profession of university research professor is exercised. It is understood that the professional careers

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[*] Emmanuel Kamdem is Professor Emeritus for the University of Douala.

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of research professor are strongly determined by their ability to successfully complete a doctoral thesis.

2. Problematization and Questioning

For some years now, the supervision and defence of doctoral theses have been the subject of increasingly heated debate in the Cameroonian university community. We will confine our discussion to classic doctoral theses, whose national designation is Doctorate/PhD. Current national legislation does not allow public universities to offer training courses for the professional doctorate known by the acronym DBA (Doctorate in Business Administration). This type of doctorate is increasingly offered by private universities, as part of the offshoring of international or foreign doctoral programmes.

The debates discussed in this chapter focus on a number of current concerns, linked to the problem of unsatisfactory thesis supervision. These include the selection criteria for doctoral candidates (taking into account the results obtained in the master's program); the scientific qualifications of the thesis supervisor (specialist or non-specialist in the research field); the structuring and formalization of the academic curriculum in the doctoral programme (scheduling and running of doctoral follow-up seminars); how the student's doctoral project will be financed (own resources, university contributions, company contributions, etc.); duration of doctoral training (beyond the three years provided for in cycle D of the university curriculum); the constitution of defence juries (impacts of personal ties between the doctoral student and jury members or between jury members); preliminary anti-plagiarism control of the thesis before authorization to defend (carried out in some of the country's universities, but not in others); the professional prospects of doctoral students (teaching and research, public administration, private enterprise, international organizations, etc.); and holding the title of "Doctor"

(increasingly seen as a distinctive national mark of individual value in Cameroonian society).

All these concerns raise a variety of questions, mainly at three levels. First, there is the justification for the doctoral project and its management by the doctoral student: what are the motivations for embarking on a doctoral programme? Second, we see the choice of subject and thesis supervisor: how does the collaboration between the supervisor and the doctoral student develop throughout the thesis process? Finally, there is the doctor's professional future at the end of their academic career: what do they do after defending the thesis? These three questions are linked by a common thread of deciphering the activity of thesis supervision in the face of the urgency of academic integrity (Bergadaà & Peixoto, 2021).

This deciphering helps us to understand the difficulties and opportunities encountered in carrying out this activity in the context of Cameroonian universities, where the issues and questions at the heart of this chapter are still unexplored avenues of research. Consequently, this chapter is primarily an opinion piece to stimulate future work and new publications. The activity of supervising a doctoral thesis, like any other activity, requires one to step back and revisit past or present experiences. This is possible as soon as one adopts a reflexive posture, as defined by Moriceau and Soparnot (2019, p. 14): 'Reflexivity consists in trying to understand what one is doing' [our translation]. This process is fundamental to the recapitulation of a pedagogical experience, in the form of a phenomenological narrative (Balleux, 2005) or a heuristic account of practice (Pesqueux, 2022). Two types of empirical data are mobilized in this text: (1) the lessons learned from our personal teaching experience in Cameroon, as supervisor of 11 theses, chair of the juries for 7 theses, and jury secretary for 9 theses, all of which were defended between April 2004 and August 2021; and (2) secondary empirical data, particularly data collected from available university archives.

3. Contextualization and Literature Review

This section focuses on contextualization and a literature review on the topic.

3.1. National and organizational contextualization

The first significant factor in Cameroon's national education context, in the master's (research orientation) and doctoral cycles, is non-compliance with current regulations. These two extracts from recent letters from the Minister of State for Higher Education to university rectors illustrate this point very well.

Box 1

Circular Letter no. 21/00006/MINESUP/SG/DAAQ/DAJ of 22 October 2021

> *It has come to my attention that, despite the regulations in force and the instructions of the Prime Minister, Head of Government (...), many state universities are demonstrating non-compliance with the said regulations characterized by, among other things, non-conformity of the academic profile of certain students selected for Master's II and Thesis degrees; defence of Doctorate/PhD Theses in breach of regulations; failure to respect the length of time required to complete a Thesis; the very high number of students supervised by certain instructors; students supervised by instructors from outside their home university, outside the framework of a Thesis co-supervision.* [our translation]

Box 2

Letter to a University Rector on the Supervision of Research Work at State Universities, 11 July 2022

> *Further to the non-observance of certain rules relating to the monitoring and evaluation of research work for master's and doctoral degrees in several state universities,*
>
> *I have the honour of reminding you, especially with regard to the institution for which you are responsible, that it is imperative to ensure that:*
>
> *the defence of a doctoral thesis is conditional on the prior (joint) publication of an article related to the thesis topic;*
>
> *cases where students are supervised by an instructor not attached to the University of (...) are transformed into co-supervision of the thesis;*
>
> *the right to a certificate of defence and diploma is respected for candidates who have properly defended their dissertations and theses.*
>
> *A mission (...) will visit the institution for which you are responsible, to ensure compliance with these measures (...).* [our translation]

The circular letter (Box 1) and the letter (Box 2) reiterate the need to comply with a previous regulatory document setting out the procedures for supervising theses and dissertations in Cameroonian universities.[31] It contains numerous elements that, in other university contexts, would

[31] *Order no. 18/00617/MINESUP/SG/DAJ of 30 July 2018.*

have called into question the supervision of theses and triggered the invalidation of the doctoral curriculum these students were following. Three of the situations identified above, concerning the discrepancy between rules and reality, are observed within the university in question: the non-conformity of the academic profiles of certain students selected for enrolment in the research master's and PhD programmes (the decisions of selection juries are sometimes influenced by certain members' personal ties to candidates); thesis defences that do not comply with regulations (e.g., without prior formal publication of the defence authorization); and failure to comply with thesis residency requirements (very few students defend their theses within the prescribed three-year period, and some manage to do so only five or six years after their first registration for the doctoral programme).

The second contextual factor is organizational. It refers to the situation observed in the Cameroonian public university in which we are interested. During a given academic year (2020–2021), there was a considerable discrepancy between the number of students authorized to register for theses in economics and management courses (233), on the one hand, and the number of students authorized to defend their theses in these programmes (35), on the other. The following two tables illustrate this paradox.

Table 1

Number of Students Authorized to Register for a Thesis: Doctoral School of Social Sciences and Humanities, Doctoral Training Unit in Economics and Applied Management (2020–2021 Academic Year)

Research structure	Number of students
Applied Economics and Management Laboratory (LEMA)	125

Applied Economics and Theory Laboratory (LETA)	108
Total	233

Source: Archival documents.

Table 2

Number of Students Authorized to Defend Theses: Doctoral School of Social Sciences and Humanities, Doctoral Training Unit in Economics and Applied Management (2020–2021 Academic Year)

Field of specialization	**Number of students**
Management sciences	19
Economic sciences	16
Total	35

Source: Archival documents.

To avoid a biased understanding of the situation, a few comments are in order concerning the comparison of these tables. The common factors are the doctoral training discipline (management sciences and economics) and the academic year (2020–2021). The difference lies mainly in the fact that the 35 students authorized to defend their theses (Table 2) were not enrolled in the same academic year, but in successive previous years. None of these 35 doctoral students completed and defended their thesis within the regulatory timeframe of three academic years for cycle D (doctorate). They did so within a period ranging between three and six years. The main relevant factor to remember when comparing these two tables is the considerable discrepancy between enrolments in the doctoral programme (233) and actual authorizations to defend theses (35). In other words, few students enrolled in the doctoral programme manage to

complete their studies and defend their theses. This reflects a very low success rate in the doctoral programme. Finally, of the 35 theses defended, 28 were supervised by a single professor and 7 were co-supervised by two professors.

Two main indicators, taken from the extract from the ministerial letter in Box 1, help us to understand this paradox. The non-conformity of a thesis student's profile can undoubtedly be a source of difficulty or even conflict with their thesis supervisor. This usually leads to a breakdown in collaboration. Failure to respect the length of the thesis residency period (generally well beyond the three academic years allowed in the Licence-Master's-Doctorate cycle) is likely to lead to discouragement or even quitting on the part of both the thesis supervisor and the doctoral student. On the other hand, it appears that the maximum number of theses formally allocated to each instructor in the same academic year was respected (5). We can therefore deduce that some of these doctoral students have greatly exceeded the regulatory duration of the doctoral programme, after the master's degree (three years).

There are several possible reasons for the failures observed in this cycle. The main ones identified are the selection process at entry; the thesis supervisor's unavailability to provide regular follow-up for the doctoral student; the doctoral student's unavailability, if they are forced to spend time looking for financial resources to complete the thesis; and the doctoral student's difficulty accessing documentary resources. These reasons help us understand why and how thesis supervisors can find themselves enmeshed in a haphazard and unaccountable supervisory process. The thesis supervisor's position of responsibility therefore comes up against a contingent situation comparable to the double bind described by Bateson (1972). The supervisor's personal desire, experienced as a necessary constraint to succeed in their mission as thesis supervisor, is confronted with the various constraints they must accept to achieve success.

The brief literature review in the following section focuses on some of these constraints.

3.2. Insights from the literature

It is surprising and incomprehensible that the observations made above have not given rise to research work and publications on how doctoral research is conducted and supervised in Cameroon. This is a highly sensitive issue, which has a considerable and lasting impact on the career path of both the thesis supervisor and the doctoral researcher. However, this field has been explored by authors in other African countries. The available publications shed light on the difficulties encountered by African researchers in their national contexts. We will confine ourselves here mainly to those related to the supervision (by the professor) or execution (by the doctoral student) of doctoral research: the limitation of local resources for funding research; the researcher's dependence on foreign funding; and the experience of the power relationship between the supervisor and the researcher.

The scarcity or complete absence of local funding severely limits the scope of research projects. In some countries, research bonuses are paid to higher education instructors to supplement their salaries, which do not always enable them to meet their minimum living expenses (food, health, housing, children's education, etc.). The local context of community life helps us to understand why one person's salary is very often the main resource for the subsistence of an extended human community (children, parents, other relatives, neighbours, etc.). To mitigate this situation, researchers and doctoral students often spend more time on lucrative consultancy activities and end up abandoning their research projects (Olivier de Sardan, 2011). In other words, the financial resources derived from consulting are a wage supplement that fails to address the fundamental problem of the economic vulnerability of the academic profession.

African researchers involved in international scientific partnership networks must obligatorily submit to the terms and conditions imposed by the foreign organizations supporting them in their research (Ridde, 2021). These organizations' objectives are not always related to the major concerns of African societies. This often results in research that is cut off from reality and has limited impacts (managerial, societal, theoretical) in African contexts. The issue relates to the economic and political stakes of funding African research by international institutions (Droz & Mayor, 2009; Gaillard, 1994; Ouattara & Ridde, 2013; Vidal, 2014).

The power relationship between instructors and researchers (especially PhD students) observed in other places, such as Canada (Carillon & Ridde, 2018) is also observed in Africa. For example, Kojoué-Kamga (2017) analyses the difficult and laborious academic journey of African doctoral researchers who are virtually abandoned by their research supervisors. Her analysis is based on accounts collected from PhD students in various African countries (Burkina Faso, Cameroon, Mozambique, Senegal, Tunisia). These difficulties help us to understand why theses are produced without reference points, without deadlines, without libraries, without funding, without computers, and without effective supervision. The only resource doctoral students can really mobilize is their personal determination to complete the thesis and obtain the coveted academic title of "Doctor", which is increasingly valued in African societies. The subject, content, results, and impact of the thesis are of little importance. All that matters is the parchment obtained and the social prestige that goes with it. Under these conditions, the supervision of theses does not obey the formal academic regulations with which the thesis supervisor and the doctoral student ought to comply. These two players in the doctoral process operate within a relational dynamic that is built up and developed randomly and circumstantially, depending on each one's motivations and behaviours.

In the same vein, Kojoué-Kamga (2018) analyses the lessons doctoral students can learn from this ordeal. At the end of the doctoral process (whether successful or unsuccessful), doctoral students emerge seasoned and almost transfigured. They have experienced suffering and pain that have transformed them and prepared them better to face future obstacles in their career path, with or without a doctoral thesis. Ultimately, the painful doctoral experience enables the doctoral student to develop a capacity for resilience that will be extremely useful in other life circumstances (Anaut & Cyrulnik, 2014). In this sense, there is no doubt that the thesis process, however unsatisfactory it may be, can still be a source of academic or scientific resilience for the doctoral researcher.

Upstream analyses reveal a persistent malaise that has affected the entire African education system for some years now, linked to the precariousness and difficult conditions of practice of the teaching profession (Mékindé et al., 2022). So how do we deal with the difficulties of supervising theses (for the instructor) and preparing theses (for the doctoral student)? These difficulties, as we have just emphasized, can also give rise to opportunities for both parties. The following section explores a number of ways to make thesis supervision a truly and sustainably responsible activity.

4. Recommendations to Empower Stakeholders

Given the strong similarity of the problems raised and the difficulties identified in most African countries, the recommendations formulated are not limited to the empirical and academic field of Cameroon. They could be implemented in all African epistemic communities on the continent. Bergadaà (2020, ch. 6) proposes the implementation of a dynamic working "towards academic social responsibility", with reference to the corporate social responsibility framework. The task now is to build academic

social responsibility together, and to develop an ethic that is also conceived of systemically. Our recommendations are therefore structured around several thematic axes listed below and address four main groups of decision-makers for implementation: thesis supervisors and doctoral students; university teaching and research institutions; international university institutional partners; and national policy-makers.

4.1 The responsibilities of thesis supervisors and doctoral students

These two players are grouped together because it is sometimes difficult to differentiate each one's responsibility for the success or failure of a doctoral project.

Thesis supervisor's profile

Although it is possible to accept that a thesis jury president is not necessarily a specialist in the thesis research field, it is crucial to recognize that thesis supervisors absolutely must have basic knowledge of the subject of the theses they are supervising. This knowledge can be acquired at various levels: their previous academic career and the degree obtained; and the quality of their scientific publications in relation to the thesis subject. These requirements are fundamental, insofar as the thesis supervisor's responsibility is to guide the doctoral student in conducting their research and the choices they must make (conceptual, theoretical, epistemological, methodological, etc.). This is only possible if the thesis supervisor has the proven skills to guide the doctoral student towards the best possible choices. Consequently, a thesis supervisor who is approached by a doctoral student should have the courage and intellectual honesty to respond negatively to this request, if appropriate, and to direct the doctoral student towards a better-qualified colleague.

Access to scientific documentation

This problem has long had a detrimental impact on the quality of defended theses, making it difficult to recommend that they be published.

Fortunately, the current context of increased digitization of university documentation opens up enormous opportunities for African researchers. Their limited ability to travel abroad is substantially offset by the opportunities offered by virtual mobility and internet research (Kamdem, 2021; Kamdem & Nkouandou Njiemessa, 2021). The COVID-19 pandemic undoubtedly generated sustainable positive impacts that facilitate distance working, teaching, and research in African contexts.

Anti-plagiarism checking of theses prior to defence

This is yet another sensitive issue that explains some of the difficulties of thesis supervision in Cameroonian universities. Few doctoral theses are formally subject to anti-plagiarism checks before they are defended. Here are a few examples of behaviours that might be considered to be academic plagiarism (Bergadaà, 2015): publication under one's own name of the results of work and discoveries of third parties; obtaining the status of co-author of a publication without making an essential contribution to the work; deliberate omission of the names of collaborators who have made essential contributions to a project; deliberate naming of someone as a co-author when they have not contributed to the project; deliberate omission of essential contributions by other authors on the same subject (incomplete reference list); intentionally erroneous quotations from real or alleged third-party work; incorrect indication of the stage of publication of one's own work (e.g., "in press", when the manuscript has not yet been accepted); and self-plagiarism or deliberate omission of references to one's own previous work (e.g., publication in one language of an article already published in another language).

Doctoral students have primary responsibility for the academic integrity of their theses. Theses should be formally submitted with the results of an anti-plagiarism check carried out with currently available software tools, many of which can be accessed free of charge on the internet.

However, it is true that the reliability of some of the software currently in use still poses problems. For example, an author cited several times in a text is counted the same number of times in the final tally, which considerably increases the final percentage of similarities and suspected plagiarism.

4.2 The responsibility of university teaching and research institutions

Forecasting student and teaching staff numbers

It is important to ensure that candidates for "research-oriented" courses (Master's, Doctorate) are selected within the framework of multi-year programming of changes in the numbers of students and instructors (Ebot Ashu, 2016). Among other things, this involves a comparative assessment of instructor departures, particularly those whose retirement dates are known in advance. Tracking retirements over a given period provides a rough estimate of the positions available for future recruitment. Unfortunately, in many African countries, the creation of teaching positions in universities is often a response to prevent or resolve social conflicts caused by "unemployed PhDs".

Academic supervision of doctoral students

African universities are only starting to implement procedures and terms for the academic supervision of doctoral students. This is also the case in France, where the introduction of pedagogical management of the doctoral cycle is still in its infancy. For a long time, African doctoral students had to work individually, sometimes with only occasional meetings with their thesis supervisors. This explains why the three-year deadline for thesis preparation is rarely respected. The current experience of the Cameroonian university on which we are focusing bears witness to a positive change. Since the academic year 2021–2022, students in the research master's and doctoral programmes have been formally monitored in tutored seminars. These students are now obliged to attend

research seminars, at the end of which they are awarded a formal grade that determines whether they will be admitted to the next level.

Disseminating a culture of academic integrity and implementing a flexible system of sanctions

Academic integrity is not acquired spontaneously. It is the result of a long and difficult process, fraught with obstacles and resistance from various parties. The process could therefore consist in designing and providing teaching on academic integrity, right from the first year of university education. In most African countries, this issue is only partially and belatedly addressed in the doctoral cycle, where the main concern is academic plagiarism. Disseminating a culture of academic integrity is a preventive measure against the risk of plagiarism. When plagiarism is proven, sanctions (academic and/or administrative) are necessary and must be applied flexibly, depending on whether the plagiarism is circumstantial (due to ignorance) or deliberate (intentional).

4.3 The responsibility of university institutional partners

Funding thesis projects and compensating thesis supervisors

This concern is an important factor in understanding the difficult Cameroonian context. It is therefore a determinant in the responsible supervision and management of theses. It is less obvious for two categories of doctoral students: those who have already been recruited as assistants (before defending their thesis) and are for that work; and those who are working on their thesis while holding down a paid job that enables them to partially finance their research work. The latter case describes virtually all doctoral students, regardless of their field of research. The recommendation here is to strongly encourage mutually beneficial collaboration between companies and professional organizations, academic institutions, and PhD students. This presupposes that the students' research projects, in all disciplinary fields, are rooted and

"actionable" in African contexts (Kamdem et al., 2021), so they can generate sustainable managerial and societal impacts. These impacts are translated in terms of the performative transformation of managerial practices likely to guide organizational leaders' decisions.

Although most African and Cameroonian universities make formal provision for the payment of dissertation fees, this does not always happen, given the reduction in budgets, which in any case are earmarked mainly for investment in the upgrading of badly deteriorated infrastructure. As a result, it is not uncommon for university managers to invoke the lack of a budget as an argument to justify the late scheduling of thesis defences, for which the university covers the necessary costs.

Co-supervision of theses nationally and internationally

The internationalization of university teaching and research involves the creation of networks of excellence to facilitate the mobility of instructors, researchers, and doctoral students. These networks generally operate within the framework of national and international scientific associations. They provide an opportunity for PhD supervisors and students to work together across organizational, national, and international boundaries.

4.4 The responsibility of national policy-makers

Decentralized procedures for reforming and updating curricula

The reform and updating of academic curricula are generally slow and difficult in African universities. This situation is a consequence of the strong state control over higher education in general (public and private). To enable universities to produce graduates whose profiles are compatible with the expectations of professional environments, it is absolutely essential to considerably reduce the time lag between the design of the desired reforms and their implementation. This is a question of higher education policy, for which the primary responsibility lies with the government authority in charge of the sector.

Contractual formalization of thesis supervision

It is up to government authorities to innovate in the procedural management of thesis supervision. Validation by university presidents or rectors could be formalized in a tripartite contract between the doctoral student, the thesis supervisor, and the university manager. This contract should clearly specify the terms and conditions of the thesis process and the levels of responsibility of each of the contracting parties. This innovation is a crucial step on the road to responsible supervision of doctoral theses.

5. Conclusion

Formulating these recommendations from the perspective of academic social responsibility, following a managerial systemic approach, as we have just outlined, calls for profound, innovative, and sustainable transformations in African universities. With a few rare exceptions, mainly in South Africa and Egypt, our universities are at the bottom of the currently available rankings. Beyond the initial concern with supervising a doctoral thesis, this chapter opens up avenues of research and response for future performative transformations of teaching and research within Cameroonian and African universities. These transformations should produce sustainable impacts, considerably improving their world ranking.

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6

PREVALENCE AND TRENDS IN DISHONEST BEHAVIOUR AMONG SPANISH MASTER'S AND PHD STUDENTS

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1. Introduction

The apparent lack of academic honesty in Spanish higher education has been a topic of interest to many researchers[32]: What types of fraudulent behaviour do students engage in?[*] Why do they do it? And what

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countermeasures can be taken? Ten years ago, Comas et al. (2011, p. 210) pointed out that the literature on the academic integrity of Spanish university students was very scanty, and little empirical effort had been made to examine this issue from different perspectives and for different groups. Because this is a recurring phenomenon, there has been a substantial revival of interest in this topic, as evidenced by studies by Espiñeira-Bellón et al. (2020), Cebrián-Robles et al. (2020), and Pérez-Crego et al. (2022) and by efforts directed at these practices by a range of academic sectors (institutions, faculty, students, etc.) to raise awareness within the higher education establishment.

These efforts take the form of regulations and institutional protocols penalizing this type of behaviour and laws aimed at reforming the guidelines for dealing with misconduct within the university community. These corrective mechanisms are intended to deter possible dishonest behaviour by students. Thus, the fact that an institution has academic regulations and codes of conduct addressing academic integrity that are public and known to the university community discourages students from engaging in improper practices (Cerdà-Navarro et al., 2022).

In addition to these advances in the rules addressing integrity, there are other instruments in the sphere of academic social responsibility (Bergadaà, 2020, ch. 6), such as implementing programmes to take action against academic fraud, creating integrity committees, and establishing good practices in the generation and transmission of knowledge. Actions of this kind should involve faculty members, researchers, and institutions collectively to ensure quality education. However, these academic stakeholders cannot necessarily always find common ground, because their priorities relate to "parallel worlds": "Students [may resort] to plagiarism to achieve the best grades; university teachers [are] concerned about

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publishing and being visible; and institutions [are] concerned with meeting the accreditation criteria and the reputation of their degrees" (Gallent Torres & Tello Fons, 2023, p. 72). As a result, their views on countering academic dishonesty may never converge.

Dishonest behaviour of any kind is unacceptable, regardless of the country, university, or academic discipline where it occurs, because, as Benghozi (2021, p. 93) put it, there is no version of "cultural relativism" that would make certain practices acceptable depending on the country or field. The principles and approaches put forward must therefore be the same for all academic institutions, regardless of geographic location or the specific discipline concerned.

The study discussed in this chapter presents an analysis of the prevalence and characteristics of misconduct disclosed in the past five years, especially in the postgraduate studies programmes at the University of Valencia. Postgraduate studies are the level for which the fewest empirical data are available. In this respect, heads of postgraduate programmes can be helpful as key informants, and their opinions can be excellent points of reference, since their roles as directors of master's and doctoral programmes, co-ordinators, and members of academic committees place them in a privileged position to gain insights regarding the programmes they supervise and to implement possible changes in those programmes.

The study is based on the results presented by the authors at the 2nd IRAFPA International Colloquium on Research and Action on Academic Integrity, held in Coimbra (Gallent & Comas, 2022).[33] In the following pages, we focus on analysing significant discrepancies in the participants'

[33] Readers can consult that article to check the descriptive analyses carried out and the frequency tables for the 24 dishonest practices identified, their prevalence, trends, variable distribution, and the most frequent response categories for each type of misconduct.

different academic fields and on categorizing the types of behaviour, their prevalence, and perceived trends.

2. The Study

The object of our study was to survey heads of postgraduate studies at the University of Valencia (UV) to ascertain the perceived prevalence of certain dubious student behaviours and trends in misconduct over the last five years. To this end, the following research questions (RQ) were posed:

RQ 1. What are the most prevalent types of misconduct according to the postgraduate academic heads, and what is the level of consensus among them?

RQ 2. Are there significant differences in perceived prevalence depending on the academic field?

RQ 3. According to those same informants, which dishonest practices have increased most and which have decreased most in recent years and what is the level of consensus among them?

RQ 4. Are there significant differences in the perceived trends depending on academic discipline?

To analyse the potential differences in participants' perceptions, the sample of academic heads was subdivided into two groups: heads in the Humanities and Social Sciences (abbreviated CSH in Spanish) and heads in the Health Sciences, Sciences, and Engineering (abbreviated SCI in Spanish). Student's t-test for independent samples was used to calculate significant differences between responses by the two groups.

The research protocol followed is described in Box 1.

Box 1

Research Methodology

1. Sample

This study sampled 237 academic heads responsible for postgraduate studies at the University of Valencia. Sample characteristics were as follows: 58.2% men and 41.8% women with a mean age of 53.4 years (SD=8.89). In terms of academic disciplines, 44.7% worked in social sciences and law, 19.8% in arts and humanities, 16% in health sciences, and 19.4% in science, engineering, and architecture. As for their university teaching experience, 94.1% had more than 10 years, 5.1% had 4 to 10 years, and just 0.8% had 1 to 3 years. Their experience managing postgraduate programmes was as follows: 75.9% had more than 10 years' experience, and 46.4% had 4 to 10 years.

Participants were recruited by first consulting the UV web directory to compile the contact details of the academic heads for all official postgraduate degree programmes (n=751). The academic heads were then sent an email inviting them to respond to the specially designed digitized survey questionnaire, together with an information document explaining the study and including information on the privacy policy and data processing.

Up to three reminder emails were sent between April and June 2021, and the questionnaire response period was closed at the end of June 2021. The response rate was 31.55%, an acceptable percentage according to the benchmark rates published by Kittleson (1997) and Sheehan and Hoy (1999).

2. Instruments and measures

The survey questionnaire focused on 24 forms of dishonest academic malpractice. These practices were compiled based on the questionnaires used in the earlier studies by Henning et al. (2020) and Sureda-Negre et al. (2020). The questionnaire was validated by 10 national experts in academic integrity. In a pilot test, the questionnaire was administered to 12 former postgraduate heads at three Spanish universities other than the one where the study was conducted.

The questionnaire consisted of blocks of questions on the prevalence of and trends in the practices to be rated by the participants according to the following scales:

a) The frequency scale for prevalence was 1 = never, 2 = rarely, 3 = sometimes, 4 = often, and 5 = very often.

b) The scale for trends in the past five years was 1 = much less, 2 = somewhat less, 3 = no change, 4 = substantially more, and 5 = much more.

3. Analysis

The statistical analysis was carried out using the SPSS statistical software package, v. 24.

For data analysis, the data were recoded, and the responses were grouped into three categories in order to reduce dispersion and assess response trends more accurately. For "prevalence", responses 1 = never and 2 = rarely were grouped together, and responses 4 = often and 5 = very often into were also grouped together. The same was done for "trend": responses 1 = much less and 2 = somewhat less were grouped together, and so were

responses 4 = substantially more and 5 = much more. Thus, the combined scales used in the analysis were, for prevalence, 1 = never or rarely, 2 = sometimes, and 3 = often or very often, and for trend, 1 = much or somewhat less, 2 = no change, and 3 = substantially or much more.

We first analysed mean values for each response category for the 24 forms of misconduct considered. We then analysed the rate of consensus in the responses by calculating the percentage of agreement for each question and the free marginal multi-rater kappa for each dishonest practice as a measure of the degree of agreement among the academic heads (Warrens, 2010).

The most common interpretations of the kappa index are those provided by Fleiss (1981): values between 0.40 and 0.60 = average agreement, between 0.61 and 0.75 = substantial agreement, and greater than 0.75 = nearly complete agreement; and by Altman (1991): values less than 0.20 = poor agreement, between 0.21 and 0.40 = fair agreement, between 0.41 and 0.60 = moderate agreement; between 0.61 and 0.80 = substantial agreement, and greater than 0.81 = nearly complete agreement. In this study, a Fleiss kappa index value of greater than 0.40 was considered an acceptable degree of consensus. This corresponds to the Fleiss category of "average" and the Altman category of "moderate".

3. Survey Results

Most participants in the study considered many of the dishonest practices to be rare in postgraduate studies (Table 1). The five most prevalent practices were those related to exams, in descending order of frequency: (1) making up excuses as justification for late submission of work, absences, or non-performance of academic obligations; (2) quoting directly without citing the source or quoting indirectly (paraphrasing)

without citing the source in a graded assignment; (3) dividing work up into multiple publications ("salami slicing"); (4) using technology to copy in an online assignment; and (5) allowing another student to copy in a graded assignment.

At the other end of the spectrum, the least common dishonest practices were, in ascending order: (1) leaving the name of a classmate off an assignment they helped write; (2) stealing/obtaining the questions for a forthcoming exam; (3) falsifying official documents (language aptitude certificates, transcripts, diplomas, etc.) to meet assessment requirements; (4) obtaining favourable treatment from administrative or academic staff for personal benefit; and (5) copying in exams using specially prepared crib sheets.

For 11 of the 24 practices considered, there was broad consensus (above 60%) in the responses, especially for questions 8, 6, 18, and 11. The mean degree of consensus for all questions analysed was 45.4%.

Shifting the focus to a comparison of perceived prevalence by the heads of the CSH and SCI degree programmes, the first aspect that emerges is that, in general, the CSH postgraduate heads awarded higher scores for prevalence than the SCI heads for most of the dishonest practices considered (16 out of 24). However, the discrepancies between the two groups were not particularly large: for 9 of the 24 conducts analysed, there was highly significant agreement in the scores assigned by each group. The results suggest that practices such as letting one's work be copied, plagiarism and self-plagiarism, or downloading work from the internet occur significantly more frequently in the CSH degree programmes than in the SCI degree programmes.

On the other hand, practices such as using technological devices to cheat, identity theft, and falsifying or fabricating data are more frequent in the SCI degree programmes. The results nonetheless point to two different patterns for the two groups of disciplines: misconduct in CSH

fields is related to the more "traditional" forms of academic dishonesty, especially those involving writing assignments and submitting finished work, whereas in the SCI fields, the prevalence was higher for misconduct specifically connected to fieldwork or data collection and to using technology as a means to copy/cheat.

Table 1

Perceived Prevalence of the Dishonest Practices Considered

Practice	**Total mean**	**Consensus level**	**Mean CSH score**	**Mean SCI score**	**Two-way significance**
PREVALENCE of exam-related misconduct					
1. Copying in exams using specially prepared crib sheets.	1.19	70.5 %*	1.21	1.17	0.50
2. Copying in exams using unauthorized notes, books, or other material.	1.59	40.9 %	1.61	1.58	0.74
3. Copying from another student in a graded assignment.	1.54	42.2 %	1.63	1.46	0.08
4. Allowing another student to copy in a graded assignment.	1.77	35%	2.03	1.51	0.00**
5. Using technology to copy in an online assignment.	2.03	57%	1.63	2.44	0.00 *

6. Stealing/obtaining the questions for a forthcoming exam.	1.06	91.7 %*	1.05	1.07	0.70
PREVALENCE of course assignment–related misconduct					
7. Quoting directly without citing the source or quoting indirectly (paraphrasing) without citing the source in a graded assignment.	2.25	38.3%	2.48	2.02	0.00**
8. Leaving the name of a classmate off an assignment they helped write.	1.04	93.5 %*	1.02	1.07	0.13
9. Listing the name of a classmate on an assignment they did not help write.	1.66	38.9 %	1.69	1.63	0.59
10. Handing in an assignment already submitted for another course or in a previous year.	1.46	46.7%	1.54	1.38	0.11
11. Handing in an assignment already submitted by another student.	1.56	88.5 %*	1.77	1.36	0.06
12. Handing in an assignment downloaded from an online paper writing service (*El Rincón del Vago, Monografias* [two Spanish online paper writing websites], etc.).	1.73	56.9%	2.24	1.22	0.00**
13. Paying someone else to write an assignment/master's thesis/PhD dissertation.	1.30	61.1%*	1.27	1.33	0.50
14. Writing an assignment/master's thesis/PhD dissertation for another student for pay.	1.29	60.7% *	1.30	1.28	0.88
PREVALENCE of misconduct/ dishonesty in general					
15. Taking an exam for someone else.	1.21	77.8 %*	1.02	1.40	0.00 **

16. Submitting an assignment prepared by someone else as your own.	1.42	52.8 %	1.39	1.45	0.56
17. Obtaining favourable treatment from administrative or academic staff for personal benefit (e.g., obtaining a research grant, a better internship, etc.).	1.13	78.9%*	1.15	1.12	0.68
18. Falsifying official documents (language aptitude certificates, transcripts, diplomas. etc.) to meet assessment requirements.	1.08	88.8%*	1.06	1.10	0.39
19. Not reporting known cases of misconduct by other students in grading processes to faculty members or academic authorities.	1.59	43.4%	1.63	1.56	0.57
20. Making up excuses as justification for late submission of work, absences, or non-performance of academic obligations.	2.28	37.6%	2.33	2.23	0.67
PREVALENCE of research-related misconduct/dishonesty					
21. Duplicating publications or self-plagiarism in scientific publications.	1.63	70.5 %*	1.84	1.42	0.00 **
22. Dividing work up into multiple publications ("salami slicing").	2.09	47.2 %	2.80	1.38	0.00* *
23. Fabricating or making up research data.	1.51	54.1 %	1.22	1.81	0.00* *
24. Deliberately employing less rigorous or less suitable statistical analyses or data processing to obtain more favourable research results.	1.69	74.8%*	1.40	2.09	0.00**

** High level of consensus among responses. ** Two-way significance less than or equal to 0.05.*

According to the findings on trends in misconduct involving the 24 behaviours considered, the practices that have increased the most are,

in descending order: (1) using technology to copy in an online assignment; (2) paying someone else to write an assignment/master's thesis/PhD dissertation; (3) deliberately employing less rigorous or less suitable statistical analyses or data processing to obtain more favourable research results; (4) writing an assignment/master's thesis/PhD dissertation for another student for pay; and (5) dividing work up into multiple publications ("salami slicing"). Practices that have decreased or increased to a lesser extent are: (1) leaving the name of a classmate off an assignment they helped write; (2) stealing/obtaining the questions for a forthcoming exam; (3) obtaining favourable treatment from administrative or academic staff for personal benefit; (4) copying in exams using specially prepared crib sheets; and (5) taking an exam for someone else. A consensus among the responses on trending practices was reached for 3 of the 24 dishonest practices analysed. The overall (mean) consensus reached on the participants' responses for the 24 practices was 46%.

The responses concerning perceived trends in misconduct by academic heads in the two academic subdivisions showed certain similarities (Table 2). Academic heads in CSH fields perceived 12 behaviours to be increasing in the past 5 years, while those in the SCI fields also perceived an increase in 12 behaviours, but not the same ones. Here again, the practices that had increased the most according to academic heads in the CSH fields were plagiarism and self-plagiarism, while the opposite held true of using technology to copy, identity theft on tests, and falsifying or fabricating research data, which were reported as increasing the most by academic heads in the SCI fields.

Table 2

Perceived Trends in Dishonest Practices Analysed

PRACTICE	**Total mean**	**Consensus level**	**Mean CSH score**	**Mean SCI score**	**Two-way significance**
TREND in exam-related misconduct					
1. Copying in exams using specially prepared crib sheets.	1.85	42%	1.92	1.79	0.14
2. Copying in exams using unauthorized notes, books, or other material.	2.07	35.8%	2.20	1.94	0.01**
3. Copying from another student in a graded assignment.	2.01	45.8%	2.07	1.96	0.22
4. Allowing another student to copy in a graded assignment.	2.17	39.7%	2.39	1.96	0.13
5. Using technology to copy in an online assignment.	2.76	53%	2.63	2.90	0.00**
6. Stealing/obtaining the questions for a forthcoming exam.	1.81	57%	1.79	1.83	0.60

TREND in course assignment–related misconduct					
7. Quoting directly without citing the source or quoting indirectly (paraphrasing) without citing the source in a graded assignment.	2.34	40.3%	2.47	2.22	0.01**
8. Leaving the name of a classmate off an assignment they helped write.	1.80	65.3%*	1.77	1.84	0.35
9. Listing the name of a classmate on an assignment they did not help write.	1.98	52.3%	1.98	1.99	0.97
10. Handing in an assignment already submitted for another course or in a previous year.	2.05	50.8%	2.10	2.00	0.25
11. Handing in an assignment already submitted by another student.	2.15	54.3%	2.03	2.00	0.65
12. Handing in an assignment downloaded from an online paper writing service (El Rincón del Vago, Monografias [two Spanish online paper writing websites], etc.).	2.31	44.8%	2.50	2.13	0.00**
13. Paying someone else to write an assignment/master's thesis/PhD dissertation.	2.45	44.7%	2.49	2.41	0.48
14. Writing an assignment/master's thesis/PhD dissertation for another student for pay.	2.68	38.7%	2.60	2.77	0.168

TREND in misconduct/dishonesty in general					
15. Taking an exam for someone else.	1.97	45%	1.79	2.15	0.00**
16. Submitting an assignment prepared by someone else as your own.	2.04	43.9%	2.02	2.06	0.88
17. Obtaining favourable treatment from administrative or academic staff for personal benefit (e.g., obtaining a research grant, a better internship, etc.).	1.84	69.7%*	1.82	1.86	0.58
18. Falsifying official documents (language aptitude certificates, transcripts, diplomas. etc.) to meet assessment requirements.	1.99	54.5%	1.98	2.00	0.81
19. Not reporting known cases of misconduct by other students in grading processes to faculty members or academic authorities.	1.98	64.2%*	2.00	1.96	0.55
20. Making up excuses as justification for late submission of work, absences, or non-performance of academic obligations.	2.20	50.4%	2.24	2.17	0.40
TREND in research-related misconduct					
21. Duplicating publications or self-plagiarism in scientific publications.	2.23	50.8%	2.41	2.06	0.00**
22. Dividing work up into multiple publications ("salami slicing").	2.42	39.8%	2.81	2.04	0.00**

23. Fabricating or making up research data.	2.04	37%	1.81	2.28	0.00**
24. Deliberately employing less rigorous or less suitable statistical analyses or data processing to obtain more favourable research results.	2.5	47.9%	2.39	2.61	0.48

** High level of consensus among responses. ** Two-way significance less than or equal to 0.05.*

Based on the mean scores for each element in the two data sets, four types of misconduct were identified according to their perceived prevalence and trend. Accordingly, four groups were formed, shown in Table 3. The practices that have the highest prevalence and that have been increasing over the past five years are shown on a dark grey background. These are the ones that require the most attention by universities and preventive measures to eliminate or monitor them. Types of misconduct that either present a high prevalence but have been trending downwards in the past few years or low prevalence but have been trending upwards in recent years are shown on a medium grey background. These practices need to be monitored with a view to assessing future trends. Lastly, behaviours for which prevalence is low with a declining trend are shown on a light grey background. Within all the dishonest practices considered, these are the lowest priority.

Table 3

Prevalence and Trends Perceived by the Participants by Type of Misconduct

High prevalence and increase over the past 5 years	High prevalence and decline over the past 5 years
5. Using technology to copy in an online assignment. 7. Quoting directly without citing the source or quoting indirectly (paraphrasing) without citing the source in a graded assignment. 22. Dividing work up into multiple publications ("salami slicing"). 20. Making up excuses as justification for late submission of work, absences, or non-performance of academic obligations. 12. Handing in an assignment downloaded from an online paper writing service (*El Rincón del Vago, Monografias* [two Spanish online paper writing websites], etc.). 4. Allowing another student to copy in a graded assignment. 24. Deliberately employing less rigorous or less suitable statistical analyses or data processing to obtain more favourable research results.	19. Not reporting known cases of misconduct by other students in grading processes to faculty members or academic authorities. 9. Listing the name of a classmate on an assignment they did not help write.

21. Duplicating publications or self-plagiarism in scientific publications.	
Low prevalence and increase over the last 5 years	**Low prevalence and decline over the past 5 years**
14. Writing an assignment/master's thesis/PhD dissertation for another student for pay. 13. Paying someone else to write an assignment/master's thesis/ PhD dissertation.	8. Leaving the name of a classmate off an assignment they helped write. 6. Stealing/obtaining the questions for a forthcoming exam. 17. Obtaining favourable treatment from administrative or academic staff for personal benefit (e.g., obtaining a research grant, a better internship, etc.). 1. Copying in exams using specially prepared crib sheets. 18. Falsifying official documents (language aptitude certificates, transcripts, diplomas. etc.) to meet assessment requirements. 15. Taking an exam for someone else. 10. Handing in an assignment already submitted for another course or in a previous year.

4. Discussion, Conclusions, and Avenues for Future Research

The results obtained highlight the prevalence and trends perceived by academic heads with regard to dishonest practices in postgraduate programmes. Little use has been made of this group of informants in Spain. Their view of academic dishonesty is important, because their position of responsibility means that they are able to detect unprincipled behaviour and take potential corrective action. Their duties also require them to know what is actually taking place in the degree programmes they direct and make it incumbent on them to "create new democratic instruments designed to imbue, or bring back, integrity as a core value [of their institutions]" (Bergadaà, 2020, p. 99; our translation).

From an academic social responsibility perspective, what is important is the democratic debate that results of this type can kindle with the aim of promoting institutional dialogue about the repercussions of academic misconduct in master's and doctoral programmes. Individual stakeholders can therefore be motivated or stimulated to present proposals for action at their respective levels within their spheres of competence.

From a practical standpoint, based on our results, it seems that, while there are no significant differences regarding the prevalence of misconduct in the two groups of academic disciplines considered (CSH and SCI), such practices as plagiarism, self-plagiarism, improper citation of sources, improper paraphrasing, and salami slicing are perceived as more frequent in CSH degree fields. These are behaviours associated with academic writing—producing texts and reporting results—but are less involved with logical and mathematical reasoning, and describing processes, methods, or formulas. Conversely, in SCI degree fields, dubious practices detrimental to the rigour of research activities or scientific data collection are perceived to be more frequent. These include fabricating or inventing research data, deliberately employing statistical

analyses or data processing techniques likely to yield results that are more favourable in the research context, and using technology to copy in assignments done online. Thus, new technologies may influence the differences between these two groups of fields, since *a priori* it is easier for students to copy or take ideas from content found on the internet and use digital tools to conceal cheating in written work than it is in work consisting in product creation, process analysis, or problem-solving.

These data are consistent with the findings published in other studies on the perception of academic fraud by researchers in various disciplines. For example, in a study focusing on the field of ethics and philosophy, Feenstra et al. (2022) reported that 91.5% of respondents (n=201) believed that there was a growing lack of research integrity in Spain. The participants perceived a high prevalence of such practices as duplicate publications (66.5%), self-plagiarism (59%), and citation manipulation (44%), but not of ghost writing (20.5%) and data falsification (10%). Our study found that there were no significant differences in the prevalence of research fraud between the two groups of academic disciplines considered.

Our analysis of the prevalence of and trends in the practices considered has disclosed the types of misconduct that need to be prioritized and require preventive and monitoring measures. It has also revealed practices that appear to have decreased, though future trends cannot be known. These practices should therefore not be neglected and should continue to be monitored. The results have also identified a series of dishonest practices that appear to be of lower priority based on their low prevalence and a declining trend in the past five years. Still, it remains important to keep an eye on developments concerning these practices in the coming years, because in some cases the trend could reverse.

Empirical knowledge of the phenomenon of academic dishonesty among our students will allow us to design training and awareness-raising

mechanisms as part of their study programmes and to put in place stronger policies to reduce the incidence of these behaviours in higher education. It is therefore up to institutions, administrators, and academic directors to review and ensure compliance with internal policies, to encourage honesty and principled behaviour and to promote democratic debate about academic integrity, especially among postgraduate students. We also suggest conducting additional studies using different approaches and relying on the opinions of other informants to provide a more complete and differentiated overview of this phenomenon in Spain. Ignoring these issues can only weaken our educational system, and this would in turn impair the transmission of knowledge and values and therefore the quality of a university education.

According to the results on trends reported by the participants, such dishonest practices as using cheat sheets, stealing or obtaining exam questions, and not crediting a colleague for their contribution to an assignment or publication have decreased over the past five years. By contrast, salami slicing, duplicating publications, fabricating data, and paying someone else to do an assignment have increased. This might be ascribable to the pressure many future researchers feel to publish at all costs and advance their careers quickly.

Although a feeling of defeatism is quite pervasive throughout academia, we share Bergadaà's view (2020, p. 99) that we must break with the attitude "that consists in excusing academic offenders on the pretext that they are simply victims, slaves to the famous *publish or perish* rule" [our translation]. If we are to truly hold our students accountable, we must tear down the institutional wall of silence. If we are to inextricably join integrity and knowledge together and transform deviant behaviour into opportunities for education, we must question the system of production-based assessment in education.

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7

THE CHALLENGE TO ACADEMIC INTEGRITY POSED BY FREEDOM TO COPY (PUBLIC DOMAIN AND OPEN LICENCES): A FRENCH AND INTERNATIONAL PERSPECTIVE

Alexandre Zollinger

1. Introduction

Many breaches of academic integrity[34] identified and classified by the Institute of Research and Action on Fraud and Plagiarism in Academia (IRAFPA)[35] relate to the authorship of research findings (publishing the work of third parties in one's own name, being named as co-author of a publication without having made a significant contribution to the work, omitting the names of co-authors, etc.).[*] Attribution of

[34] The author of the article wishes to thank Ms. Miriam Watchorn and Juriscope (Poitiers) for the translation.

[35] https://irafpa.org/en/about-us/rules-of-academic-integrity/, accessed 23, September 2022.

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How to quote this chapter: Zollinger, Alexandre, "The challenge to academic integrity posed by freedom to copy (Public domain and open licences): a French

authorship will be the main focus of attention here. Inaccurate citation of earlier sources will also be dealt with on an ancillary basis. However, self-plagiarism (artificially enhanced scientific output with nothing new added), a specific issue that has both ethical and legal[36] ramifications, will not be discussed here.

As plagiarism has already been defined elsewhere (including by Guglielmi & Koubi, 2012; Latil, 2017; Maurel-Indart, 2011; Simonnot, 2014), I will content myself with minor remarks in this regard. There is a certain ambiguity between the concept of plagiarism, which is essentially non-legal,[37] and the legal concept of copyright infringement. Unauthorized use of the original formal features of works of the mind constitutes copyright infringement, an offence under intellectual property law. This is different from plagiarism in the literary sense, defined as "somewhere between slavish copy and creative rewriting" (Maurel-Indart, 2012, p. 57; our translation), which involves taking the ideas of others and rewording them. However, plagiarism is sometimes understood in a wider sense, incorporating copying and pasting, which can be classified as copyright infringement. Professor Emmanuel Dreyer, who prefers "a very narrow definition of plagiarism as distinct from

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and international perspective", in: Bergadaà, Michelle, and Peixoto, Paulo (Eds.), *The New Boundaries of Academic Integrity*, Geneva: Globethics Publications, 2024, pp. 151-168. DOI: 10.58863/20.500.12424/4307054

[36] If an author assigns exclusive initial publication rights to a publisher and then reuses some features of the original publication in a new one, this constitutes an infringement of the rights of the publisher and could result in the author being held liable.

[37] At least in France. Plagiarism is explicitly enshrined in law in other legislative systems. See, for example, article 32 of Tunisian decree-law 2011-115 of 2 November 2011 on freedom of the press, printing and publishing industry. See also article 4 of Romanian law 206/2004.

copyright infringement" (Dreyer, 2012, p. 187; our translation), deplores this conflation. Rather than enter into this debate, I will instead focus on academic integrity. Although the two terms are distinct, disingenuously replicating and rewording the work of others without acknowledgement (plagiarism in the strict sense of the word) and crude, slavish copying (included in the broader definition of plagiarism) both affect academic integrity and must be taken into consideration, in my opinion.

In either case, action can be taken for copyright infringement when the scientific work in question is copyright-protected and the dispute centres on the reproduction of original features (of either content or structure). However, regardless of the weight and relevance of such legal action (compared to disciplinary proceedings, for example) or the likely outcome (de Gourcuff, 2021), it provides only a partial response to scientific plagiarism. Ideas, methods, and theories cannot be copyright-protected because they are deemed to be in the public domain. But appropriating the work of others is undeniably contrary to scientific integrity…[38]

The public domain is defined in intellectual property law as a situation where a creation is "available to and freely usable by all" (Lucas et al., 2017, s. 652; see also *Domaine* in Cornu, 2022). Content is freely usable if the subject matter at issue is not protected under intellectual property law, and particularly if the features reproduced lack originality. For example, the Bordeaux court of appeal recently dismissed copyright infringement proceedings by a research lecturer, holding that

> "copyright protection for scientific texts requires one to demonstrate that the formatting and layout of the text bear the stamp of its author's personality; scientific works are not protected by copyright for their scientific content insofar as it relates to trivial or

[38] See article 2 of the WIPO Copyright Treaty of 1996; on this issue, see also Bernault (2012).

> necessary technical or scientific processes or findings that are not themselves protected by copyright.[39] [our translation]"

Yet the expression "public domain" is also commonly used in reference to protected creative works for which the patrimonial rights of exploitation has expired (generally 70 years *post mortem auctoris* in French copyright law) and which can therefore be used without authorization. Freedom to copy research findings can also surface in a third scenario, different from the two outlined above: copyright holders can opt to exercise their right of exploitation by authorizing third parties, in advance, to reproduce or represent their work. This practice is also known as "copyleft" (Xifaras, 2010, p. 50)[40] or public domain by consent (Clément-Fontaine, 2019). Open licences, GNU licences, Creative Commons, etc., are all examples of this model.

Freedom to copy, as described above, exacerbates the risk of infringement of academic integrity, namely the risk that third-party work will be appropriated or that earlier research findings will be misrepresented. This chapter will focus only on the issue of freedom to use (specifically freedom to copy), as distinct from freedom of access —even though the two issues are often examined together. For example, the aim of the free software movement, specifically the GNU licence launched by Richard Stallman, is to ensure open access to source code and freedom to copy, distribute, and modify software.[41] Similarly, the Open Science movement recommends providing users with "a free,

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[39] Court of appeal (CA) Bordeaux, 11 May 2021, case 18/02506, *LEPI*, Dec. 2021, no. 11, 200l3, obs. A. Zollinger.

[40] However, strictly speaking, this expression does not include licences with a 'ShareAlike' clause stipulating that works derived from a work made available under open licence must also be made available in the same way (Clément-Fontaine, 2019, s. 52).

[41] Clément-Fontaine (2019), particularly section 6.

irrevocable, worldwide, right of access to, and a license to copy, use, distribute, transmit and display the work publicly and to make and distribute derivative works, in any digital medium for any responsible purpose, subject to proper attribution of authorship".[42] In France, article L. 533-4 of the research code adopts what is known as the "green open access" route,[43] allowing authors to make publicly funded scientific papers freely available on open digital archives under certain conditions—after 6 or 12 months if first publishing rights are assigned, for example. Paragraph II of the same article provides that scientific data that are publicly available can be freely reused unless they are protected by a specific right or a particular regulation. While freedom to access research findings and freedom to copy such findings are sometimes considered together, I will argue that they are in fact separate issues, giving rise to different questions. Opinion is divided as to the impact of increased access to research findings on academic integrity. Some warn that ethical benchmarks are becoming increasingly vague now that "knowledge is instantly available on the web" (Benghozi & Bergadaà, 2012, p. 207; our translation). Others argue that the internet can help combat plagiarism (or at least, basic copying and pasting) as plagiarism detection software gradually incorporates open-access information sources (Simonnot, 2014, p. 231).

My contention is that freedom to copy, either because of lack of protection under intellectual property law or because the rightholder allows their work to be reused via open licensing, affects research ethics more directly. From both a psychological and a legal perspective, such freedom might encourage behaviour that most would consider contrary to academic integrity and could make it even harder to counter fraudulent

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[42] Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities of 22 October 2003.

[43] For more on this route and what differentiates it from 'gold open access', see, for example, Bernault (2016, p. 43 et seq.) and Piron (2015).

practices. I will attempt, first, to investigate the problem from a legal perspective and, second, to propose potential solutions to help resolve such difficulties.

2. Difficulties Arising from Freedom to Copy Scientific Findings in the Public Domain by Law or by Consent

There are a number of legal solutions available to counter the risks of earlier scientific findings being appropriated or misrepresented, even in cases where the principle of freedom to copy applies. However, such solutions are incomplete.

2.1 Apparent legal response

Regardless of whether scientific findings characterized as original literary and artistic works are out of copyright (generally 70 years after the author's death) or are made available under open licence, the author's moral rights, in particular the right of attribution of authorship and the right to the integrity of the work, are not affected. In French law, these moral rights are "perpetual, inalienable and imprescriptible" (article L. 121-1 of the intellectual property code) and are also a matter of public policy.[44] After an author's death, their successors or executors can exercise their moral rights. The ministry of culture could also, in theory, bring proceedings on the basis of article L. 121-3 of the code (Lucas et al., 2017, s. 699). Because moral rights are inalienable and a matter of public policy, they cannot be transferred or waived by rightholders. This means that, under French law, open licences do not entail the right to waive attribution. Note that, even with the most open form of Creative Commons licences (Creative Commons Zero, or CC0), copyright and

[44] See, in particular, Court of Cassation (Cass.) 1st civil chamber, 28 May 1991, no. 89-19522 and 89-19725, Asphalt Jungle case.

related rights can only be waived "to the greatest extent permitted by, but not in contravention of, applicable law". Rights can only be surrendered to the extent permitted by applicable national law and authors can assert their moral rights at any time. Many open licences require authorship attribution (see various CC BY Creative Commons licences and open-source licences[45]), reducing the risk that users will appropriate such content. Other types of open licences include other requirements,[46] and it would be useful to examine these closely to determine how much freedom to copy users actually have (non-compliance in particular could result in licence termination and/or legal challenges based on moral and/or patrimonial rights). Plagiarism involving the copying of open-source content therefore needs to be examined through the lens of national public policy provisions and of licensing terms and conditions.

What happens when scientific findings that are not protected by copyright law are copied? Are they protected under other intellectual property rights? When scientific activity leads to the filing of a patent, the resulting monopoly excludes unauthorized third-party exploitation of the invention itself. However, patent infringement proceedings cannot be brought in cases where third parties misleadingly pass scientific data or findings off as their own but do not actually make use of the invention per se. Inventors whose rights are infringed by the filing of a patent can take action to assert authorship of the invention unless they have previously waived this right. By contrast, inaccurately referencing an inventor in patent filings does not entail invalidity (Basire, 2015, s. 10). Another remedy may apply when scientific findings are part of a protected database. Because of the substantial investment involved,

[45] At least, as defined by the open-source initiative: see Clément-Fontaine (2019, s. 54).

[46] For example, users can be prohibited from modifying or adapting licensed content, such as in ND Creative Commons licences.

database producers have *sui generis* protection to prevent the extraction and/or reuse of database content (article L. 342-1 of the intellectual property code). This basis could therefore be used as an indirect means of taking ownership of information deemed free to use and as such unprotectable under copyright law.

Nonetheless, as we will see, in cases where there is no protection under copyright law, the most effective means of recourse against plagiarism is to take action under civil liability law for parasitism (also known as "free riding", where an economic operator takes unfair advantage of the value created by the intellectual work or investment of another economic operator) on the basis of article 1240 of the French civil code. This requires one to establish fault, damage, and a causal link between the two).[47] In 2004, the Paris court of appeal sanctioned a plagiarist for copyright infringement for reusing original formal features and also for parasitism for appropriating the work of another researcher.[48]

However, when scientific findings are not protected by intellectual property law, the principle of the free circulation of ideas and, more generally, of freedom of expression has particular force and could take precedence. The current legal response to protecting scientific integrity is therefore inadequate.

2.2 Inadequate legal response

While in theory the various legal solutions discussed above cover all infringements of scientific integrity in the situations investigated, in each case the scope is quite restricted.

For example, moral rights in relation to copyright-protected scientific works vary from country to country. While authorship rights and the right

[47] See, for example, Judicial court (TJ) Paris, 3rd ch., 21 Jan. 2022, no. 20/00172, *LEPI*, April 2022, no. 4, DPI200s4, obs. A. Zollinger.

[48] CA Paris, 4 June 2004, RG no. 1998/07656, *LPA* 28 Oct. 2005, no. 215, p. 14, obs. M. Poumarede.

to the integrity of a work have basic protection under article 6bis of the Berne Convention of 1886, moral rights have different protection periods and, in some national legislative systems, can even be waived. This is the case in the United Kingdom and in Ireland, where moral rights lapse at the same time as patrimonial rights.[49] In these countries, the effects of extremely open public-domain licences such as CC0 licences, which (unlike the above-mentioned CC BY-type licences) do not make provision for authorship rights, are likely to be particularly strong and not necessarily consistent with the upholding of academic integrity...

Even in countries such as France where moral rights have better protection, works in the public domain or under free licence may not be fully protected. Heirs (assuming that there are any and that their standing has been established) become less likely to assert their moral rights as time goes by. Establishing copyright infringement could be difficult in such cases, especially given that plagiarism detection software might not include older works. And if plagiarism is not identified, either because it has not been detected by detection software or because the rightholders have not come forward, there are no possible legal or disciplinary responses available. It is doubtful whether authors who voluntarily make their work open source will bother to assert their moral rights in jurisdictions where they cannot be waived. Upholding scientific integrity cannot therefore rely solely on rightholders asserting their moral rights.

When scientific findings are not protected under intellectual property law, it is difficult to establish plagiarism through an action for parasitism. Wrongful conduct, which cannot be based on mere similarity of subject matter or on the reproduction of trivial, commonplace features, can be

[49] For the United Kingdom, see sections 86 and 87 of the *Copyright, Designs and Patents Act,* 1988. For Ireland, see articles 115 and 116 of the *Copyright and Related Rights Act,* 2000.

difficult to characterize.[50] The Court of Cassation has also previously ruled that the right to freedom of expression is limited only in specific circumstances laid down by law.[51] This makes it more difficult to sanction plagiarism in the strict sense of the word based on general civil liability principles.[52] In fact, the way in which the scope of intellectual property and the exceptions thereto are defined outlines an intangible boundary between what comes under the control of rightholders and what is freely usable. An action for parasitism must not have the effect of significantly shifting this boundary or allowing an informal kind of appropriation of features that do not meet the conditions for protection under intellectual property law. Where there are no intellectual property rights, the principle is that freedom exists. The courts will be mindful of this and can be expected to require plaintiffs to be specific when claiming wrongful conduct.[53] Hopefully, the courts will be more responsive if plagiarism is identified in works that claim to be scientific (Cornu, 2010, p. 89). However, the flexible framework of civil liability provides no guarantee in this regard. What's more, authors who make their work or scientific findings freely available will not generally resort to legal action for parasitism. If they do, the courts will most likely see the open licence as a factor that mitigates (or even nullifies) both the wrongful nature of the act of copying and the damage suffered by the plagiarized author, except in cases where the plagiarizer is in breach of the licensing terms. The disciplinary committees of research and educational institutions can also find it very difficult to make determinations in such cases, even assuming cases are brought before them.

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[50] First Instance Court (TGI) Lille, 1st ch., 12 February 2015, *Légipresse*, June 2015, no. 328, p. 356, comm. A. Zollinger.

[51] Cass. 1st civil chamber, 22 January 2014, no. 12-35.264.

[52] See Latil (2017, p. 61) discussing the ruling of Cass. 1st civil chamber, 2 July 2014, no. 13, 16730.

[53] See ,for example, TJ Paris, 3rd ch., 21 Jan. 2022, *op. cit*.

The aim is to improve the legal (and disciplinary) response to scientific plagiarism without overstepping the mark in terms of freedom of expression and the free circulation of ideas, principles that have particular weight in relation to features that are already in the public domain, whether by law or by consent.

3. Proposed Responses to the Challenge of Upholding Academic Integrity in the Public Domain by Law or by Consent

Acceptance of the principle based on the idea of "scientific authoriality" (Galvez-Behar, 2010) would certainly help improve the protection of academic integrity in the situations outlined above. It could also enhance existing legal obligations and grounds for action.

3.1 Standardize ethical principles of authorship attribution and integrity of scientific work

Between the two world wars, attempts in France and internationally to agree on a definition of scientific authorship encompassing both moral rights and a form of *droit de suite*[54] ultimately came to nothing (Galvez-Behar, 2019). The aim of the Geneva Treaty of 3 March 1978 was to institute the international recording of scientific discoveries and ensure some measure of legal recognition for them.[55] Even so, article 2 states that recording "does not affect the free use of the ideas contained in recorded scientific discoveries". Signed by only five states in 1978, the treaty has never come into force. These previous failures should be borne in mind in any discussion on the authorship of scientific findings that involve theories and discoveries not protected by intellectual property law.

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[54] Usual tranlated as resale right.

[55] Defined by the treaty as 'the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification'.

Given the difficulty of protecting authorship rights to scientific findings outside what can be protected under copyright law (expression in an original form) or patent law (the naming of inventors when filing a patent—although even this minimal requirement is under-enforced), the question should perhaps be looked at from the dual perspective of ethics and of policies to promote scientific integrity. Charters and codes of conduct abound, in internal, national, European, and international institutions (FormaDoct, 2020). Some of these are of particular interest for the purposes of this chapter. While neither the European Charter for Researchers (a non-binding text issued further to a European Commission recommendation in 2005) nor the Singapore Statement on Research Integrity of 2010 has much to say on the topic of plagiarism, the European Code of Conduct for Research Integrity drawn up by ALLEA, the European Federation of Academies of Sciences and Humanities, is more specific. Article 3.1 identifies a number of practices including plagiarism, defined as "using other people's work and ideas without giving proper credit to the original source", thus violating the rights of the original author(s) to their intellectual outputs. However, the reference to violations of authors' rights side-steps the issue because the work and ideas used may not be copyright-protected. The code of conduct for scientific integrity drawn up by the Swiss academies of arts and sciences seems more promising. Article 4.4 provides a definition of authorship and article 5.2.4 defines plagiarism as "using other people's work (including unpublished sources), ideas (including structure), or formulations without giving proper credit to the original source".

In light of the above, it would be useful to take a more standardized approach to the issue of scientific plagiarism, bearing in mind the fact that behaviour that is censured may not necessarily breach intellectual property law. Attribution of authorship, not just of copyright-protected works but also of research activities, data, theories, discoveries, and

methods, should be established as a general principle. Unlike early-twentieth-century attempts to establish the concept of authorship of scientific findings, the humanities and social sciences should be included, and not just the hard sciences. Attribution of authorship could be combined with an obligation not to misrepresent or distort the work of others. Partial citation would not, however, be classed as distortion. The attribution and integrity of scientific contributions could be laid down as a general principle inspired by the current wording of article L. 121-1 of the intellectual property code. This ethical principle (already contained in various formulations in academic regulations and charters) could form the basis for decisions, varying according to seriousness in line with the principle of proportionality: a factor in the assessment of a dissertation; unfavourable opinion in relation to a defence or accreditation to supervise research; denial of or removal from research and lecturing duties; denial of promotion; etc. The point here is not so much to defend the particular interests of plagiarized authors as to defend the general interest by safeguarding the honesty and quality of public research. Decisions would not have to depend on the plagiarized party taking action (unlikely, as we have seen, for work that is in the public domain or under open licence). If the principle were enshrined as public policy, the open-licence argument could not be used. Enshrining the principle of authorship of scientific findings regionally or internationally would help reduce the effects of disparate legislative systems discussed above. But to start moderately, explicitly inserting such a principle in the French research code (e.g., article L. 212-2 on scientific integrity) would send a positive signal and would reduce recourse to locally devised charters and regulations. The point here would be to standardize, clarify and expand existing solutions to safeguard academic integrity. This ethical principle could also help strengthen or clarify various obligations and legal remedies.

3.2 Clarify existing obligations and courses of legal action

As discussed above, current legal responses to plagiarism mainly include copyright infringement proceedings and actions for parasitism. But when the plagiarized author is long dead and their heirs are unknown or uninterested, action is unlikely. The idea has already been mentioned above, based on article L. 121-3 of the French intellectual property code, that the ministry of culture, for example, could take legal proceedings to defend an author's moral rights. However, that article refers only to situations of manifest misuse or non-use by heirs of their right of disclosure, an attribute of moral rights that is distinct from the right to attribution of authorship and to the integrity of the work. Explicitly extending the scope of this provision and increasing its application would help safeguard authors' moral rights over the long term (to this author's knowledge, only one case has so far been referred by the minister; Pollaud-Dulian, 2004).

The difficulty of establishing parasitism in cases involving "pillaged" scientific content and the reluctance of the Court of Cassation to sanction violations of freedom of expression outside cases specifically identified by law have already been noted. Enshrining the principles of the right to assert authorship and of the integrity of scientific contributions could help address these difficulties. Action could be taken by a plagiarized author based on both this ethical obligation and article 1240 of the civil code. On 31 March 1999, the regional court of Paris handed down a solution along these lines.[56] In that case, a PhD student claimed that their thesis supervisor had taken numerous passages and tables from a preliminary draft written by the student, reproducing them in another work. Although it could not rule on the question of copyright infringement, the court did find that the student had a legitimate interest in seeking the application of

[56] TGI Paris, 1st ch., 31 March 1999, *RIDA*, Jan. 2000, no. 183, p. 333, obs. A. Kéréver.

rules in use in the scientific community to the use and the publication of research work. It also found that this interest was protected under article 1382 of the civil code in cases where the original author or work was not named or in cases involving distortion or parasitism. Recognizing the principle of authorship attribution and the integrity of scientific contributions in research law could help clarify the usages mentioned above but the link to the current article 1240 of the civil code would remain the same as described in the 1999 case. Data and ideas cannot be copyright-protected and are in the public domain. The aim here is to combat specific practices to ensure that research work is honest and of good quality. Copying the work of others could be sanctioned differently depending on the setting or type of discourse, as is standard in European law on freedom of expression.[57]

Similarly, by invoking both the principle proposed and the requirement under article L. 611-9 of the French intellectual property code to name the inventors when filing a patent, inventors could object to inaccurate attribution and could also request rectification, at least in the case of publicly funded research (note, however, that an inventor can choose not to be identified). This could be used to sanction failure to name inventors, which would be an improvement on the current unsatisfactory situation.

The above solutions provide for a minimal form of scientific ownership, with a moral dimension to ensure that the contribution of researchers is properly acknowledged and academic integrity is upheld. However, enshrining the fight against scientific plagiarism as a principle of public policy that extends beyond the boundaries of copyright infringement and that cannot be circumvented through open licensing would not remove the problem of determining which types of behaviour should be considered lawful but would merely move the goal posts.

[57] See, for example, ECHR, 10 Jan. 2013, no. 36769/08, Ashby Donald et al. v France, section 39, *Comm. com. électr.*, May 2013, étude 8, A. Zollinger.

Beyond what degree of similarity should failure to reference previous work be considered as a breach of ethical principles and as potentially incurring liability?

The free circulation of ideas must be safeguarded to avoid restricting freedom of expression or impeding research activities due to fears of the potential consequences of accidental similarities or imprecise recollection. Combating scientific plagiarism must therefore go hand in hand with the assertion of several freedoms: the freedom to accidentally rediscover work; the freedom to use a now-standard term or formula coined by a previous researcher; the freedom (in good faith) to imperfectly grasp and inaccurately transcribe a complex theory (as opposed to inaccurate citation); and so on. The key here would be to define the boundaries of academic integrity in two ways: by characterizing exactly what violation is and by clarifying what can be tolerated. A balance could perhaps be found by characterizing as plagiarism situations that are not covered by copyright but where there are similarities that cannot be accidental, for example because there is a connection between plagiarizer and plagiarized or because a data set or an intellectual construction (rather than some isolated features) has been lifted wholesale. But finding and establishing that balance will not necessarily be easy.

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8

INTEGRITY OR ACADEMIC HEURISTICS? A JOURNEY THROUGH SOCIAL SCIENCES

François Vatin

1. Introduction

What is integrity?[*] "The state of a thing that is whole", as *Littré* put it in 1863. In the deepest sense of the term, it means being true to who you are, that is, to your nature. Respect for academic integrity therefore consists in conforming to one's "academic nature". If we do not want to give such an idea an overly metaphysical meaning, in the pursuit of an ontological definition of the academy, we must understand the idea of "nature" as the "characteristic property", in the mathematical sense of the expression, of the object we are examining.

In this paper, I will argue that the characteristic property of the academic institution is heuristics, the active pursuit of new truths—in short,

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research—and that it is against this yardstick that the various dimensions of this institution must be viewed, including the teaching mission that appears to dominate it. It is in this light that we can understand the crisis of academic integrity that many professionals seem to feel exists. But I conclude from this analysis that the solutions that are generally promoted to remedy this crisis are not only inappropriate but tend to reinforce the evil that they purport to combat. They contribute to a growing bureaucratization of the academic institution, which runs counter to heuristics.

In this highly allusive essay, I will proceed in two stages. First, I will outline a professional sociology of the world of research in order to justify the definition of the academic institution that I proposed above. Second, due to a lack of space, I shall confine myself to a single example presenting one dimension of the bureaucratization of today's academic institution: the development of the "laboratory" model, the evolution of which I shall examine in French universities from the end of the 1970s, when I started out, to the present day.

This chapter does not claim to be systematic. It aims to provoke thought and—why not?—reaction. It is written very freely, without any critical apparatus, and is largely based on my own experience. There is a bias in this approach, which is unfortunately present in all works on the French academic world. For several decades now, we have been witnessing a worldwide transformation of university organization and practice, which has been much studied and much deplored. This has had an undeniable impact on French universities. However, the French academic world has unique characteristics and shortcomings that are not rooted in this global movement. Nowhere else is there such a tripartition between "universities", *"grandes écoles"*, and "major research organizations". A singular history, dating back to the nineteenth century, has led to universities in France becoming the poor cousins of the academic system.

The existence of full-time bodies of researchers has pushed academics back towards the ambiguous status of "teacher-researcher", to which I will return later. At the same time, the obligation for French universities to admit all young baccalaureate holders without discrimination, on the grounds that the baccalaureate is historically the first university degree, has led universities to become the "sweep vehicle" of higher education, responsible for taking in students who have not found a place elsewhere.[58]

It is impossible to study the development of French academic institutions without placing them in a global context, and in this respect, studies which combine different national experiences, as this collection does, are useful. But it is a mistake to consider academic situation as the ordinary expression of a more general trend. The specific characteristics of the French university, which are briefly mentioned here, give a particular colouring to the crisis of academic integrity, as we shall see throughout this chapter.

2. Researchers and their Research

Research is a professional field like any other: it is made up of men and women whose lives are shaped by a system of norms and sanctions and a culture forged over time. As in any professional space, these norms are multiple, both formal and informal, hierarchically stacked, from the level of actual research collaboration spaces (often informal and multiple for a given researcher) to the law, through different structures that vary over time and from country to country, such as laboratories, universities, major research organizations, etc. These multiple social spaces are riddled with interpersonal tensions. First of all, researchers are competitors to some extent in a hierarchical system: recruitment and promotion hurdles have to be overcome; there are positions to be filled at the head of

[58] From my many publications on the subject, I shall cite only Vatin (2016) here.

the various bodies; researchers also have "offspring" to look after —their doctoral students, for whom positions must be found...

But, as in geopolitics, it would be a mistake to think that "interests" alone can explain conflicts. The paradox of competition, in this professional field as in any other, is that the closer two people are, the more intensely they compete with each other. These two contradictory tendencies (proximity and competition) can result in alliances as well as conflicts, and often both in turn. In this respect, we need to ask ourselves what "proximity" means in the world of research. Two people are "close" because they share a common history, common points of reference, and a convergence of scientific interests and questions. Hence the importance of generational effects in particular. It is with colleagues of your own generation that you are most immediately in competition. But generations can also form informal bodies that combat each other.

I was born in 1957 and took up my current position in 1982. I belong to a special generation in the French university system, caught between two phases of its "massification": that of the late 1960s (before and after 1968) and that which began in the mid-1980s (after the Savary law of 1984). Twenty years ago, when the large numbers of academics recruited between 1965 and 1975 had not yet retired, the age pyramid of French universities showed a great divide like the one that marked the French population after the 1914–1918 war. As an isolated member of my generation, I spent most of my career in the company of colleagues ten years older than me, who kindly treated me like a "little brother". Their dominance in the institutions was guaranteed by the numerical weakness of the generation that immediately followed them and whom they had no reason to mistreat. When this population retired en masse in the early 2000s, the generations recruited in the 1990s and 2000s had gained confidence. They intended to occupy the positions of power, and the meagre battalions of older people still present were unable to resist them.

A symbolic event took place for me in 2012, when, for the first time, the elected president of my university was younger than me. At 55, I had crossed over an invisible bar.

If you think about it, this is a very common occurrence, because it is at this age, in their fifties, that managers in large private companies retire when they are seen to be "in the way". In a pyramid system, the number of available positions decreases with the length of a career. If you can no longer climb the ladder, you become "dead wood". In private companies, there are means to prune the dead wood, but sometimes there are also "side tracks" where this population can be shunted aside. The protection provided by the civil service prohibits this type of treatment, and the French universities are also short of "side tracks". (What do you do, for example, with a colleague who is no longer able to fulfil their teaching duties, for example?) As a result, the ostracism is more discreet, but no less real.

In just three paragraphs, I have discussed the academic profession, its history in France specifically, and my own career in this context, in the ordinary terms of the sociology of professions. In so doing, I have neglected the specific characteristics of this profession and its purpose: the production, preservation, and transmission of knowledge. This is because I intend to approach the profession without *a priori* consideration of its professional ideology. Every profession develops its own ideology, and this may even feature in charters that have legal force, as is the case with doctors, who have served as an archetype for the sociology of professions. But the sociologist must study the activity of doctors, lawyers, or police officers for what it is, and not by thinking of it as the implementation of their declared professions of faith. This is where regularities emerge that cut across the different professions. There are, however, determinations that are specific to each professional community, because they depend on the nature of their activity.

In my view, the purpose of academic activity is research, and not, as people tend to say today, research and teaching (Beaud & Vatin, 2020, 2021; Vatin, 2020). Not that I am neglecting the teaching function—and I believe that I have been a fully-fledged professor, fulfilling my teaching duties for 40 years—but because university teaching is "backed up" by research. I could be criticized for changing the register here, by considering what the university should be and not what it often is in France today: there are academics who don't do research and, even among those who do, many consider their teaching mission to be independent of their research mission. This is a state of affairs that has become increasingly apparent over the last few decades as a result of the role that has been assigned to universities in France: that, as I have said, of the "sweep vehicle" of higher education, responsible for taking in the baccalaureate holders who are least able and least willing to follow an educational programme based on research. A poisonous status quo has developed between academics and public authorities: the latter allow the former to devote themselves to research, thanks to the benefit of a limited teaching service, provided that they agree to accommodate, whether well or badly—which is hardly considered—the population that is sent to them. So, despite the growing gap between teaching and research functions, we have not yet formally touched on the definition of the academic profession.[59]

"Research", which defines the academic profession, appears in a dual register: either punitive or a leisure activity—either a chore or a hobby.

It has retained its symbolic value for careers—recruitment, tenure, promotion—and this is the subject of recurrent criticism from those who consider that it is taken into account excessively to the detriment of "pedagogy" and the administration of the institution. Those who take this

[59] One might wonder how long such a flawed compromise can be maintained, but that is not the purpose of this paper.

line feel they are being "punished", hindered in their careers, even though they see themselves as the true professionals who are of value to the university, as opposed to the egotistical careerists who abandon the thankless tasks of teaching and administration to focus on their careers, secured by publications in "good journals". They see research as irrelevant to real academic work, as nothing more than an artificial means to achieve distinction, like the calligraphy of Chinese mandarins. As a result, measures are regularly put in place to calm the professional dissatisfaction of academics who are hostile to research, particularly those who have opted for a career as an administrator, which brings them into close contact with the political and administrative authorities in higher education.

However, a different stance has been adopted by academics who have accepted the division of their time between research, teaching, and administrative duties, and who are aware that research is not the royal road to a career that previous generations have denounced. They regard the time they devote to it as private and personal. The great freedom given to French academics means that they can do many things: supplement their income, which those who have the opportunity to do, for example in law or management, are more than happy to engage in; "cultivate their garden"; or, if they wish, do research. This is how it is understood by the ordinary public who regularly ask academics about their "working time". As soon as we try to explain that it is not limited to the time spent in front of students, the response is, "yes, but you are working for yourself". It is difficult to make people understand that the academic vocation does not fit easily into the ordinary salary system, since it is based on a principle of freedom that is a constituent part of research work. Historically, it has been a "burden", not a job.

With this in mind, we need to examine the increasingly restrictive bodies and procedures that govern research activity, which have often been introduced on the grounds of academic "deontology". The aim of these mechanisms is to manage the academic profession in its formal

relationship with research, which reinforces their careerist and punitive nature: "professionalize" research by imposing common standards on the way it is funded, produced, and disseminated; determine the duties of researchers; set up arbitration procedures in the event of conflict, particularly between doctoral students and research supervisors; etc. The only way to escape is to ignore the professional stakes of research and rediscover the simple pleasures of the hobby.

In this institutional arsenal, the question of the vocation of research, namely heuristics, is ignored. The essential thing is to ensure that researchers comply with procedures and that their time has all the characteristics of salaried, constrained time. Nobody really cares about *what* they produce. Here, as elsewhere, work is seen as a penalty, not a product (Vatin, 2014). This state of affairs is a feature of procedural systems, which are based on the belief that a system of standards, obligations, controls, and sometimes incentives can improve the service provided. Of course, this is by no means self-evident, because every new standard produces new deadweight effects and incites new ways of getting round it, and because, however well-intentioned it may be (and it isn't always), making the regulatory system more cumbersome has a disincentive effect in itself and, which we cannot reproach it for, encourages conformism, which is contrary to the very spirit of research, that is, innovation. The result is that "real" research, the kind that is carried out freely and for pleasure, is often done on the margins, or even against established, funded, and controlled research. Anyone who has read Alexander Zinoviev's *The Radiant Future*, a cruel satire of social science research in the late USSR, would not be surprised.

3. The Laboratory Model: Its Successes and Its Perverse Effects

When I started postgraduate studies in economics at Aix-en-Provence in 1978, laboratories were still in their infancy in the social sciences. But there was one in Aix: *Laboratoire d'économie et de sociologie du travail* (Laboratory of the Economics and Sociology of Work; LEST), a laboratory owned by the CNRS (the National Centre for Scientific Research) itself; that state of affairs has now virtually disappeared. They didn't want me there, despite my academic achievements, because politically I was not in good odour; it's funny when you think that political radicalism is favoured nowadays for a career in the social sciences in France. For the rest, the creation of small teams meant that every teacher had a secretary. I joined one of these teams, where my very relative "radicalism" (my Marxist culture, forged on the fringes of official education) was welcome: that of Jean-Paul de Gaudemar, a Polytechnique graduate who was then a Foucauldian-Marxian, and who went on to a career as a senior civil servant, at DATAR (the Interministerial Delegation of Land Planning and Regional Attractiveness), and then as a university rector.

Was this a "laboratory"? Around the young professor (he was 31 at the time), apart from the secretary, there were only two statutory staff members, both of whom had transferred from LEST: a CNRS researcher who soon resigned to work in the private sector and a research engineer, a great but isolated scholar, who had published practically nothing. The team was completed by a number of doctoral students who, like me, were in fact affiliated with the École des hautes études en sciences sociales through a partnership. The intellectual cement of the team was publicly funded research into development of the Fos-étang de Berre area. The work of the doctoral students revolved more or less around this theme. This was the case for me, as I was working on the oil-refining

industry at the time with funding from the *Commissariat Général du Plan* (General Planning Commission). This research was managed by a private consultancy, of which there were many at the time, with the consent of the public authorities. It was run from Bandol by a professor of economics in Paris, who was also the Socialist mayor of that village in the Var. I then benefited from one of the first waves of "research grants", which have since become "doctoral contracts". Those who deplore the "casualization" of young researchers should note that these contracts only lasted two years, that the compensation was less than the minimum wage, and that there was no unemployment benefit after they ended. Forty years later, the Ministry still refuses to count those two years as part of my career!

The true scientific space was in fact the "seminar", a ritual ceremony held every fortnight, which brought together, around a large table, sometimes in double rows, in addition to the small team described above, some dozen researchers from different disciplines (economics, sociology, philosophy, law), either in academic positions or *hors-statut* (unofficial), as we used to say at the time to designate researchers who worked, like me, under a public contract but with private status. The presentations were given by the regular participants or by guest researchers from Paris or elsewhere. A document was sent out beforehand and the professor had instituted a ritual, taken, he told us, from the Keynes seminar: everyone had to react in turn, following the seating plan, starting at a particular point, but I no longer remember how that was determined. The exercise became increasingly difficult as the session progressed.

Although I can't say that, strictly speaking, Jean-Paul de Gaudemar "directed my work", I learned a great deal from this seminar, in terms of both content and form, which I have more or less reproduced throughout my career. The idea of a master, with their journeypersons and apprentices, is an "establishment" type format, as the traditional organization of

the "profession" is pejoratively referred to in the university. We often had small meetings in the morning devoted to collective research and we lunched together. We were all quite young—the professor was no more than 10 years older than me, and I was one of the youngest in the group—and we addressed each other informally. This was a very classic academic way of working, a far cry from the "laboratory" approach that was later prescribed and to whose development I contributed in the two establishments to which I belonged.

In 1982, I was elected assistant professor of economics at what was then called the Université de Haute Bretagne (UHB), which later became the Université de Rennes 2. It was in fact the former Faculty of Arts, without its philosophy department, which had joined the sciences, medicine, law, and economics at the Université de Rennes 1. At the UHB, an education and research unit (UFR) was set up around the "economic and social administration" programme, which mainly brought together academics who had transferred from Rennes 1. They were economists, political scientists, lawyers, and even statisticians and mathematicians; they had fled the academic order in their home faculties, particularly those who belonged to the *agrégation du supérieur* (higher education certificate) disciplines (law, political science, economics, and management) but had decided not to take this competitive examination, which was then the only route to a professorship in these disciplines. For this reason, the idea of research was perceived within this small world in the strictly punitive sense I mentioned earlier. In our departmental meetings, the word "research" was explicitly forbidden, although this did not prevent some people from indulging in this vice in private.

It was, however, to set up a research team on the theme of work that I was recruited to this university at the age of 25. The small group of economists who dominated the UFR had felt the need to revitalize their community through research. I already had a substantial publication record (more in sociology than in economics) and experience with contract

research. What's more, I was fully satisfied with the project. I had to "feed" the team by responding to local and national invitations to tender on the subjects of unemployment, vocational training and poverty, which the public authorities were concerned with at the time. Later I was able to develop a more personal research programme on the history and transformations of the dairy industry, from Brittany to sub-Saharan Africa. A regular seminar cemented the group's activities.

The group grew in size and attracted lawyers, sociologists, and psychologists from beyond the field of economics. A merger was arranged with another team of sociologists organized around a recently recruited professor. We set up a graduate studies programme and began to supervise theses (I supervised two before leaving Rennes in 1992). The Ministry, anxious to organize social science research in Rennes as part of the creation of a *Maison des Sciences de l'Homme* (a research organization with laboratories, etc., focusing on the social sciences and humanities), asked the other two sociology teams at the university, each organized around a professor, to join the large laboratory that was being set up under my direction, so we could pool resources. This provoked a conflict that I was not involved in, since it was between sociologists and I wasn't one at the time. But it did lead to my leaving Rennes, because, even though I was prohibited from becoming a professor of sociology in Rennes, I was appointed as exactly that at Nanterre in 1992. The Maison des Sciences de l'Homme was finally set up, without me and without sociology.

I believed, and still believe, in the dynamics of collective research. In Rennes, I was able to set up a fruitful embryonic "laboratory": shared premises, secretarial services, the purchase of the first computers, the creation of a library, a regular seminar, annual study days leading to a publication, research in line with "social demand", the possibility of bringing together young researchers by funding their theses. But I was also able to

observe, without fully realizing it at the time, how toxic the desire for bureaucratic standardization of research ultimately was. For what is commonly referred to as "the Ministry", which in fact means those of our colleagues who hold bureaucratic responsibilities, the issue was that everyone should have their place in a box and that each box should be neatly arranged next to the others. I say this with less irony than you might think because these "bureaucrats" supported me and at the time I generally shared their vision of the world. It simply seemed difficult to do social science research without such an instrument. The French university is a curious institution. It recruits staff, meaning that it commits to paying salaries for several decades, without providing any resources whatsoever, not even an office or a telephone. At Rennes 2, we had instructors' offices, but many Parisian academics still don't have offices. Without specific funding for research, it was impossible to buy computer equipment, carry out fieldwork, etc. The establishment of solid funding agencies was a necessity in this context, and it seemed to me that they ought to be associated with a shared intellectual life: a laboratory, in short. It took me a long time to realize the extent to which these institutions could be not only useless (in the form they took), but even toxic because, by their very nature, they are "hotbeds of conflict".

When I arrived as a professor of sociology at Nanterre in 1992, the organization of laboratories was still in its infancy, which led to major disparities between academics. Those who worked in teams recognized by the CNRS had a minimum of working resources: not a personal office, but the possibility of access to a telephone, a photocopier, secretarial services, and some budgetary resources, which the others did not. The enrolment of academics in laboratories, combined with an undeniable improvement in the availability of premises thanks to new buildings on campus, has made it possible to reduce these disparities, at least in

part.[60] In recent decades, French academics have gained access, albeit imperfectly, to the logistical services that should have been associated with their recruitment, via the laboratories, which are often placed under several supervisory authorities and therefore benefit from several sources of funding. But I am sure that there are still many academics in France for whom the classroom and the secretarial staff are their only material ties to the institution.

At Nanterre, as before at Rennes, I have contributed to the structuring of the professional space for academics, in the teams to which I belonged and which I directed, but also as a member of the scientific councils and their offices, as director of a doctoral school, and as a member and occasionally chairman of evaluation committees for the High Council for Evaluation of Research and Higher Education. I honestly saw in this dynamic an instrument to encourage the development of research, to enable its "steering", which I envisaged as very "liberal", and to ensure greater equity between colleagues. It was only gradually that I became aware of the perverse effects of this excessively rigid organization: tension within laboratories, tension between laboratories, universities closing in on themselves or in groups within the confusing governance structures of the Communities of universities and institutions.

Experience has shown that laboratories are first and foremost places of confrontation between bodies and, in particular, of exacerbation of conflicts between CNRS researchers and faculty members. There's a lot to be said for this, but I'll just mention one essential difference between the status of the two types of staff members: a CNRS researcher "walks around" freely with their position. Of course, they have to be accepted by

[60] These disparities have only been partially eliminated, because the CNRS has sought to concentrate its staff in a smaller number of teams, increasingly located in a smaller number of establishments, and the universities are not in a position to compensate their own teams for the lack of this material support.

the laboratory where they want to go, but the lab will generally be happy to have "captured" a new researcher. Faculty members, on the other hand, are confined to their own university and have very little freedom of "movement". Laboratories also polarize conflicts within disciplines, as they compete to attract new members; in fact, sometimes their very survival depends on it. Finally, the budgetary autonomy of universities, following the law on Liberties and Responsibilities of Universities of 2008, has generated conflicts between disciplines over the allocation of resources, as it is extremely difficult to establish criteria common to all disciplines. As a member of the Scientific Council at Nanterre when this affair played out, I was in the midst of this turmoil.

Organization into laboratories creates the fiction that active scientific communities exist, the contours of which are also invoked in connection with "conflicts of interest" in the various committees (recruitment, promotion, funding). This is, of course, absurd, because the real similarities, including in terms of scientific collaboration, tend to cut across the boundaries of the laboratories. And this is a healthy situation, because these areas of collaboration are constantly being created and dismantled over the course of an intellectual career. For a long time, I thought that this was specific to the social sciences, but my discussions with colleagues from the "hard" sciences and the work I have read on the sociology of scientific work have shown me that this is not the case. On the whole, except when they are first set up, laboratories are intellectually empty shells, mere bureaucratic nodes dispensing meagre resources. Their fictitious nature is of course all the more striking when they are expanded, in accordance with the wishes of the bureaucratic institutions, since it simplifies their regulatory work.

Another perverse effect of laboratories and the institutions that have been grafted onto them in a bureaucratic pileup—doctoral schools and doctoral colleges—is the perversion of doctoral work and its supervision. This is rooted in the denunciation of the "establishment", which was

asserted in 1968 in a "revolutionary" spirit and then maintained within a bureaucratic framework. What is the "establishment" if not, as I argued above, the expression in the academic world of the logic of the "profession", that is to say, the power, based on experience, of the master. There are undoubtedly incompetent instructors, and others who are obstructive, but the principle of the profession has the essential function of organizing knowledge transmission. By abolishing the profession, we do not abolish the hierarchy, but we replace a traditional hierarchy, which guarantees transmission, with a new, rationalized hierarchy: in a word, a bureaucratic hierarchy. Generally speaking, the latter has its merits, just as the former has its faults, but it applies very poorly to research work for the reasons I gave earlier.

In my opinion, the development of bureaucratic organization has been most toxic in terms of thesis supervision: dilution of responsibilities in co-supervision; collective control within the laboratory, and then the doctoral school, over the progress of the thesis; setting up of monitoring committees; and so on. It is difficult to go into detail about all this. It is difficult to go into all this in detail. The aim is to encourage the "production", in the industrial sense of the word, of theses, that is, works that are standardized in form and in the time taken to complete them. We were fighting against very real abuses (when I took up my position as director of the doctoral school, I found in my files doctoral students who had been registered for more than 10 years—the record was 20 years). But once again we were confusing the ends with the means. A doctorate is a piece of research, and the only relevant judgement at the end of the day is whether it has advanced knowledge. "Producing" theses is of no interest in itself.

4. A Step Forward

This brief account shows just how far French universities have come since I started working there in the late 1970s. The profession has undoubtedly become more professional, the material environment has just as undoubtedly improved, and the institutions have been developed, systematized, and rationalized. Has science benefited? The answer is probably no. Similar conclusions could be drawn from an analysis of the change in the publication regime and, in particular, the evolution of academic journals. Bureaucracy has flourished everywhere, which is undoubtedly the price of massification, because, at a certain scale, informal arrangements are no longer possible. But this massification was desired at all levels, as I have just shown with regard to the size of laboratories, because it was seen as a guarantee of efficiency. That's not necessarily wrong, but we need to ask ourselves what kind of efficiency we're talking about here and how it can be measured.[61] Degrees can be awarded without training students and theses can be defended without producing knowledge.[62] Similarly, we publish articles that are no more than "CV fodder" to organize the careers of young researchers. The means have become the ends.

It is in this context, and precisely to combat the phenomenon I am denouncing here, that the problems of academic ethics have arisen: controlling plagiarism, the strengthening the rules relating to the composition of various committees for recruitment and promotion, protecting doctoral

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[61] On this topic, I would like to refer you to the book I edited (Vatin, 2013).

[62] This is nothing new. For a long time in France, law theses were pure exercises designed to obtain a title, and this is still the case for medical theses. But these were the conditions for the reproduction of professional bodies of doctors and lawyers, who were not presumed to be 'researchers'. With the exception of medicine, today's theses are supposed to represent research work and, in France, have no meaning outside the academic world, since they are not related to professional accreditation.

students against the risk of a supervisor's malign influence, having peers monitor the work of supervising a thesis: in other words, the many mechanisms for monitoring and standardizing academic conduct. The reason why plagiarism, on which so much attention has been focused, has become such a problem is that publication, from the dissertation to the scientific article, has become an end in itself, "CV fodder", irrespective of its content. To compensate for the perversion of the academic system, which consists in publishing articles that no one reads, metrological systems have been invented to count citations, which should enhance the value of publications that "count". But these, as we know, can also be exploited.

We are therefore repaying evil with evil, in a downward spiral, because we are refusing to think of academic activity itself in its primary meaning, what I have called its *heuristics*. We cannot respond to bureaucracy with bureaucracy, because second-tier bureaucracy legitimizes first-tier bureaucracy. Think of this curious recent invention of the press: the function of "decoder" journalists. Briefly, journalists might say stupid things, but super-journalists would be there to correct them. But who will be the decoders of the decoders? So it is only by returning to academic activity, here and now, and reflecting on its heuristics on a daily basis, that we will be able to attempt to resolve the crisis of academic integrity, and certainly not by piling institution upon institution in a grand and teetering structure. This is a collective task, which each of us must undertake, to appreciate what is valuable in our day-to-day practices, without seeking to hunt down turpitude at all costs, at the risk of giving it new grounds in which it can flourish.

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9

THE ROLE OF RESEARCH ETHICS COMMITTEES IN STRUCTURING FAIR AND RESPONSIBLE RESEARCH[63]

Jacqueline Fagard, Jacques Py, Agnès Roby-Brami

1. Introduction

In France, research ethics are examined by two types of committees: *Comités de Protection des Personnes* (Committees for the Protection of Persons, CPP), which review the ethics of research projects that are required by law to receive ethical approval, and *Comités d'Éthique de la Recherche* (Research Ethics Committees, CER in French, REC in English), which examine research projects that, although they involve human participants, are not legally required to be reviewed by an ethics committee.[*] The aim of this chapter is to illustrate the operations of the RECs,

[63] This chapter is submitted on behalf of the French Federation of Research Ethics Committees (RECs).

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which are grouped in a federation, and to show how their work contributes to the promotion of honest and responsible research. After mentioning some of the milestones in the creation of the RECs and their federation, we will develop a few examples drawn from our experience: criteria for qualifying projects, relationships and conflicts of interest, compensation of participants, and inclusion criteria.

2. History of Research Ethics Review and Creation of the Recs

The history of research ethics review is marked by scandals the revelation of which has led to growing awareness of the importance of supervising all research involving human beings. These scandals have concerned biomedical research, but also non-biomedical research, such as sociological studies on homosexuals, the social psychology research carried out at Stanford in 1971 on the reconstruction of a prison (Zimbardo, 2007), and Milgram's well-known experiments on submission to authority (Milgram, 1963). These studies were criticized for failing to ask participants to sign an informed consent form and, in some cases, for misleading them or underestimating the risks the research presented for them.

Three milestones in the global history of research ethics review stand out: first, in 1947, at the end of the Nuremberg physicians' trial, 10 principles to be respected in research on humans were enshrined in

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the "Nuremberg Code".[64] The second milestone, 1964, corresponds to the issuance of the first Declaration of Helsinki by the World Medical Association.[65] The Declaration proclaimed the need not only to follow a code of good conduct in medical research but also to have participants sign an informed consent. It should be noted that the Declaration of Helsinki followed the publication of articles by two "whistle-blowers" that drew attention to ethical lapses in biomedical research that could harm participants and discredit the research (Beecher, 1959; Pappworth, 1962). Both Beecher and Pappworth found it very difficult to get published! The third important milestone is the Belmont Report, published in 1979.[66] This report reaffirmed the basic rules of research involving human participants: respect for persons, concern for their well-being, principle of justice, absence of deception, free and informed consent, and consideration of the benefit/risk balance. The Belmont Report was commissioned by the US Department of Health, Education and Human Services in response to what is known as the Tuskegee scandal, which refers to a syphilis study conducted from 1932 to 1972 with predominantly Black participants. No consent was sought from the participants, no appropriate information was given, and when penicillin became an effective therapy in the early 1940s, the participants were not informed that they could receive treatment. Following the Belmont Report, approval by an official ethics committee (Institutional Review Board, IRB) became mandatory for all research in the United States, whether or not it is funded by the government.

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[64] Nuremberg Code: https://muhc.ca/sites/default/files/users/user136/The%20Nuremberg %20Code.pdf.

[65] Declaration of Helsinki: https://www.wma.net/policies-post/wma-declaration-of-helsinki-ethical-principles-for-medical-research-involving-human-subjects/#:~:text=The%20World%20Medical%20Association%20(WMA,identifiable%20human%20material%20and%20data.

[66] Belmont Report: https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/index.html.

In France, legislation initially concerned biomedical research. The first French ethics law, the Huriet-Sérusclat law, was enacted in 1988. It set up committees to regulate interventional biomedical research: CCPPRB committees (advisory committees to protect persons in biomedical research). Researchers in the humanities and social sciences (HSS) did not feel concerned by the Huriet law, and rightly so. However, they became concerned when the international journals to which they submitted their articles for publication began requiring proof of ethics committee approval, in line with the recommendations of the so-called "Vancouver Group". This group of editors has published editorial guidelines, a revised version of which (International Committee of Medical Journal Editors, 2023) includes the need for researchers to declare that their research has been conducted in accordance with the principles of the Declaration of Helsinki and has received the approval of a local IRB-type ethics committee. HSS researchers' concerns became more acute when the agencies to which they applied for funding also began requiring ethics committee approval. The first multidisciplinary ethics review committees were set up in the early 2010s. More and more universities have set up RECs, which have a purely advisory role. To comply with international guidelines, these RECs are based on the IRB model, and some of them are actually labelled IRBs.

At about the same time, legislation changed in France and the scope of ethical regulation of research was broadened. The Jardé law of 2012, applied in 2016, still primarily concerns biomedical research, but it includes non-interventional research. Any "Research Involving the Human Person" (RIHP) that has the aim of increasing medical or biological knowledge and requires an act outside the usual care of the persons taking part in the research must be presented before a CPP. This definition implies that other research, even if it involves human persons, is not

considered RIHP if its aim is not to increase medical or biological knowledge. This kind of research can therefore be examined by an REC.

3. Qualification of Projects under the Jardé Law and Birth of the Rec Federation

Thus, French law distinguishes between two types of research involving humans: research intended to increase biomedical or biological knowledge and other research. Certain fields such as pedagogy, formal linguistics, and sociology are clearly not covered by the Jardé law; the same applies to studies concerning the *practice* of health care professions. The boundary between the two fields of research is often blurred. At first, it was a real puzzle to qualify research projects as falling inside or outside the scope of the Jardé law. A great deal of research —in the cognitive sciences, the humanities, human-computer interaction, social phenomena such as drug addiction, etc.—concerned with the biological signature of behaviour was situated in what is known as the "grey zone" between CPPs and RECs. This grey area has forced the RECs to reflect on the criteria for designating cases as falling inside or outside the scope of the Jardé law. This qualification represents a particularly sensitive point from a legal and ethical point of view, insofar as the legal status of research that falls outside the Jardé law is not clear. Indeed, a REC's choice to agree or refuse to carry out this evaluation must be reliable, reproducible, transparent, and respectful of the trust of the researchers who submit their projects. The responsibility is great, since approval of the project by an ethics committee is a requirement for publication of the research by most international scientific journals and for obtaining study credits, particularly European credits. But when it comes to approval itself, RECs' primary responsibility is to *research participants*.

To pool their experience and develop tools, the RECs decided to form a federation. The Federation of RECs was created in 2018, and today

includes more than 20 RECs across France. The Federation of RECs provides a forum for often lively discussions, particularly when it comes to structuring qualification criteria. Issues related to information and consent are also the subject of debate within the Federation. The RECs are particularly careful to ensure that information is given in a form that is adapted to the person's ability to understand. With regard to consent, there is sometimes an inherent contradiction that leads RECs into a form of Weberian conflict between an ethics of responsibility and an ethics of conviction. For example, is it necessary to ask for parental consent to interview a young girl who is a minor and has undergone a voluntary interruption of pregnancy? The law obliges the researcher to obtain parental authorization, but it also allows a minor to have an abortion without informing her parents. Which standard or value should be given priority? The law or the spirit of the law? Beyond the study of legal texts, this question requires ethical reflection.

The French RECs have obtained recognition from their supervising university or community of universities; they are now pleading for an amendment to the law that would give them some legal status, which such committees have in many other countries. This development and evolution of RECs has been criticized by some researchers, who see ethics as a problem rather than a solution (Carvalho, 2019). Their position is outlined in Section 4.

4. Debates and Criticisms of the Recs

The evaluation of research projects by RECs raises some interesting questions for researchers. First, ethics committees are criticized for looking not only at ethical aspects but also at scientific issues. RECs focus on the protection of participants and the confidentiality of the data collected. The evaluation of the scientific quality of a research project is not, strictly

speaking, related to the protection of participants, unless one considers that the role of the RECs is to enable participants not to be solicited for research of negligible scientific interest, and that would risk transforming them into censorship committees. Nevertheless, when a REC is labelled as an IRB, it must carry out a scientific evaluation when it assigns an IRB number to a research project. Ethics and science are not separate issues.

This raises the question of the standardization of research, because all the RECs in the world agree that some research is more difficult to evaluate than others. This is generally true of qualitative research (Librett & Perrone, 2010), which is less in line with the orthodoxy of the hypothetico-deductive approach; it is also true of exploratory research carried out on topics that have received little or no attention previously and for which there is therefore no scientific literature on which to base hypotheses.[67] However, researchers have always accepted the principle of peer review. Every researcher knows that, if they want to publish their research in prestigious scientific journals, it will be evaluated by other researchers, with all the limitations that this entails in terms of objectivity, validity, consistency, etc. We admit that the system of peer review may be flawed, but we accept that it is an important part of the scientific process. We accept that, even if the system is imperfect, this is the least bad solution (Py, 2021). So why not admit that ethical evaluation can also be imperfect, since it is also carried out by peers?

Some authors criticize the RECs for focusing exclusively on the protection of participants, thereby ignoring the societal aspects of the research they review (Kitcher, 2011, 2016). Participatory science is then presented as a movement for the democracy of science, distancing itself from the orthodox science (Houllier & Merilhou-Goudard, 2016) for which RECs supposedly constitute an "ethicocracy" (Larouche, 2019),

[67] See, for example, the research by Bringuier et al. (2022) on juries and fake doctoral theses, on which there was no previous literature.

imposing bureaucracy and standardization that distracts researchers from ethical reflections rooted in their research practice (Larouche, 2019).

- First of all, it should be noted that this criticism is based on the assumption that all researchers think ethically about their research. Researchers do indeed seem to be spontaneously concerned with the legal and regulatory framework of their research, but not necessarily with ethics. For example, when children are involved in research, researchers will systematically ask for parental permission, but will not ask for the child's assent, or will do so in incomprehensible jargon. All members of ethics committees can testify that many ethical issues are not spontaneously or fully considered by most researchers, including the welfare of research participants and their information before (consent) and after (debriefing) research, that is, respect for the autonomy and uniqueness of the human subject.
- In addition, evaluating the societal aspects of research means looking at its benefits to society in a complex cost-benefit relationship. It entails taking into account the public or private expenditures on research and the likelihood that it will pay off. This inevitably involves the scientific evaluation of research projects, which is the most common criticism levelled at the RECs.

Another criticism of RECs concerns the geographic scope of their decisions (Felices-Luna, 2016). Most RECs anywhere in the world limit the scope of their decisions to a single nation. The argument for this restriction is both legal and cultural. Legally speaking, a given REC is not familiar with the existing legislation in many other countries and therefore cannot formulate an opinion that might be contrary to legal provisions. Culturally, it is conceivable that certain research materials

presented to participants may be perceived differently in different parts of the world and therefore require appropriate protective or precautionary measures, whereas the REC is not in a position to assess the appropriate course of action. However, there are exceptions; for example, South African RECs and some UK RECs issue advice that is global in scope. The problem of the geographic scope of REC decisions has serious consequences for researchers. It is sometimes an insurmountable obstacle if a researcher wishes to carry out research in a country other than the one in which they are based, especially when working on cross-cultural comparisons. RECs must therefore strive to adopt principles that work for researchers.

Critics of RECs forget that their function is to protect everyone involved in research: this includes researchers and their institutions, and not just research participants. At a time when social relations are often the subject of conflicts that fuel the media and the courts, it is in the interests of researchers and their institutions to be able to point to a favourable opinion by an ethics committee as evidence that the research protocol has been examined and validated by a committee competent to assess the possible consequences for participants.

The debates are far from over, as RECs now face new and complex issues that blur the distinction between research review, scientific integrity, and ethics. We have chosen to present three examples below to illustrate the overlap between these three sources of norms: the issue of relationships and conflicts of interest, which is becoming increasingly acute with the proliferation of grants to researchers by private organizations interested in profiting from research results; the issue of compensation for participants, which needs to be reconsidered, particularly with the increasing use of platforms since the COVID-19 pandemic; and the issue of inclusion criteria for solicited participants.

5. Relationships and Conflicts of Interest

The evaluation of research files by the RECs raises the question of relationships or conflicts of interest, a question on the borderline between ethics and deontology. The most visible conflicts of interest concern ties between biomedical research and the pharmaceutical industry (which are assessed by the CPPs in France). However, they can concern research areas evaluated by RECs, for example for research involving technological or digital devices in various fundamental fields or with a view to applications (in teaching, compensation strategies for disabilities, etc.). These situations are particularly frequent since current research policy encourages collaboration with business organizations, whether the collaboration is initiated by the company or by the researcher wanting to promote an invention.

During our work at an REC, we found that researchers were often unaware of the need to declare relationships of interest to the committee and to participants. Incomplete, erroneous, or untimely declarations of relationships of interest constitute a breach of ethics (INSERM, 2014). In addition, researchers sometimes have difficulty distinguishing between a *relationship* and a *conflict of interest*. However, not every relationship of interest necessarily leads to a conflict, whereas declaring relationships of interest is simply an obligation.

A conflict of interest (financial or otherwise) is defined as such if it creates a significant bias for the research. For example, funded research has been shown to have a favourable evaluation bias (Lundh et al., 2017). Preventing conflicts of interest theoretically involves simple rules: separation of powers, separation of public office and commercial activity, and refusal of an assignment if there are risks of conflict. However, these rules come up against the complexity of reality, and it is often difficult to distinguish between them. In France, official guidelines for academic research do not address the practical ethical conduct of projects (Askenazy

et al., 2019). Yet, the transparency of agreements is far from being a given (Mulinari et al., 2021) and there is a lack of student training (Scheffer et al., 2017).

The main objective of the ethical review is to protect the participants. This requires the fullest possible information on relationships of interest so that they can participate with full knowledge of the situation. A conflict of interest is especially likely to arise if a researcher is both judge and party to a study: situations of coercion could arise and influence participants' decision-making. Particular attention must be paid to doctoral students, whose theses may be funded by private players, particularly in industry. The REC may require measures to reduce the risks, for example by asking the person in a conflict of interest situation to withdraw from the research project or requiring important responsibilities such as recruiting and informing potential participants and obtaining consent to be entrusted to other members of the team. The legal and ethical aspects of a collaboration are often governed by an agreement, but it is rare for this agreement to be attached to the file submitted to the REC.

It is also important to pay particular attention to the protection of data confidentiality, which is often difficult in the case of collaboration with private organizations. The right to participants' image and voice must be particularly respected. However, in the digital age, data also have economic value; participants must therefore be informed of what will be done with their data, even if they are anonymized. This last point requires close collaboration between each REC and the Data Protection Officer who ensures compliance with European legislation on personal data protection.

6. Participant Compensation: Ethical and Deontological Issues

Participants' consent must be free and informed and they must be at arm's length from the researcher. Ideally, participation in research should be motivated by altruism, a wish to advance knowledge, or a sense of community (Russell et al., 2000). In practice, however, researchers often offer incentives in the form of cash, gift cards, or course credits to enhance recruitment. This common practice remains ethically controversial (Permuth-Wey & Borenstein, 2009), as it casts doubt on whether the relationship is at arm's length, but there are few written recommendations and standards vary widely across contexts (Dickert & Grady, 1999).

In France, it is forbidden to pay participants in the form of a salary: this could lead to the admission of a class of "professional healthy volunteers" (Anderson & Weijer, 2002). Moreover, it would eliminate the possibility of withdrawing from a study without having to justify it. However, compensation is defensible if participants are active partners in participatory research (Gross & Gagnayre, 2022; Houllier & Merilhou-Goudard, 2016). In general, it is accepted that participants should be compensated to adequately honour their contribution or to offset the loss of earnings that results from the sacrifice of their time. This form of payment involves less dependence than a salary but could give rise to inequality if, for example, the amount varies with people's social status. Compensation might influence a participant's decision to accept risks or unusual discomfort that they would not otherwise have accepted. There is also a risk of biasing recruitment towards financially disadvantaged populations, which violates the principle of justice. To avoid these pitfalls, compensation, whether in kind (gift cards or benefits) or in cash, should be low enough that participants are not encouraged to sign on for primarily financial reasons. However, even a small amount of money can be an undue incentive for financially disadvantaged people: "Faced with

this dilemma, researchers are at a loss, torn between a utilitarian sense of guilt and the service they provide to society" (Rémy-Jouet et al., 2021, our translation). When compensation is offered, it is frequently in the form of gift cards, the amount deemed reasonable is around €10 to €12 per hour. However, there is some hypocrisy insofar as this amount is close to the minimum hourly wage in France, even though it is not called a wage.

Compensation can be offered to students in the form of validation of a part of their curriculum (Miller, 1981): participating in experiments is considered to have pedagogical virtues. But it is necessary to make sure that the students are not dependent on the researcher and that they have a choice (other experiments or alternative work). It is also important for researchers to commit to spending some teaching time explaining the rationale of the research at the end of the experiment. On the other hand, it is more difficult to argue that participation in research should be credited with points on an exam. It has been noted that the option to compensate students in course credits has a negative influence on the quality of outcomes, unlike cash compensation, probably because of interactions with motivation (Nicholls et al., 2015).

Another issue facing RECs is internet-based micro-work platforms used to answer questionnaires or participate in online experiments. These platforms, particularly Amazon Mechanical Turk (MTurk), use micro-jobs parcelled out to exploited, underpaid workers whose primary occupation this becomes (Casilli, 2019). The use of MTurk is considered unethical by most RECs, which recommend using academic platforms that comply with the GDPR (data protection regulations). However, the operation of internet platforms is not transparent and demands thorough investigation so that RECs can give relevant recommendations. The use of these platforms also raises the question of data quality since participation in research is motivated by money. Recent testimony from MTurk users is instructive: they estimated that 3% of participants provided

usable data (Webb & Tangney, 2022). Thus, ethical and scientific integrity considerations can be inextricably linked.

7. Inclusion Criteria for Research Participants: a Call for Greater Inclusivity

Haphazard application of exclusion criteria can be problematic. Researchers have developed habits based on procedural considerations that are not always well thought out and have no ethical basis. For example, in psychology, some researchers, influenced by medical studies, exclude pregnant women from research protocols. Obviously, it would be risky to test molecules on pregnant women, but it is not clear what ethical consideration should lead to the exclusion of a pregnant woman from research using questionnaires or interviews, or even experiments if the physical constraints of the research are limited.

On another note, research conducted in France often requires participants to be "native French speakers", even though millions of people are perfectly capable of understanding and responding to instructions or questions without being native French speakers. In fact, only qualitative research, in which the analysis of the data goes beyond the signifier (the material form of a sign as opposed to the idea or concept indicated, the signified), should methodologically distinguish between native speakers and people who are usually dominant in that language, even if it is not the language they acquired in infancy.

Similarly, most studies in movement and sport sciences and those based on brain activity measurements exclude left-handed people, who make up about 13% of the world's population, on the grounds that their brain functions are different. So why not include laterality as an explanatory variable instead of excluding a modality? Or do some research only on left-handed people? And what about research on people who do not identify as either male or female?

In fact, there are many reasons for exclusion. They raise the question of equal participation in research, which is an ethical issue. They also raise questions about the validity of the results obtained, which is a matter of scientific integrity. Once again, ethics and scientific integrity are intertwined, making it all the more necessary for researchers to reflect on these issues.

8. Conclusion

The work of the RECs focuses on issues that combine ethics and scientific integrity. The link is quite deeply rooted. Indeed, RECs can make several fundamental arguments in favour of participating in science with integrity and responsibility. Submitting an application to an REC leads researchers to reflect on their duties towards the participants in their research, but also on their responsibilities towards their institution, their funders, and even society as a whole. This requires them to define a protocol *a priori* and to submit a version of it before carrying out the research. This protocol includes general and operational hypotheses and a methodological approach; it also defines the analyses to be carried out. According to Haiech (2022), this guarantees the rationality of the research approach (how can the research strategy be reconstructed?), the reproducibility of the research (how can the results and their interpretation be reproduced on the basis of the methodology used?), and the replicability of the data (how can a new set of data be reconstructed by following the research protocol and its data analysis methodology?).

The RECs are destined to play an active role in the vast global movement to promote scientific integrity. When researchers using human participants submit their research files to an REC, it helps to build participants' trust in researchers, researchers' trust in peer review, academic institutions' trust in the researchers they employ, research funders' trust in the research they fund, and, in short, society's trust in science.

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10

DOES THE LAW OF 21 MARCH 2022 REALLY IMPROVE THE PROTECTION OF ACADEMIC WHISTLE-BLOWERS?

Ghislaine Alberton

1. Introduction

"The man that first notices an act of this kind shall report it… And if the informer be a free man, he shall win a reputation for virtue, but for vice if he fail to inform; and if he be a slave, as a reward for informing it will be right that he should be set free, by the State offering his price to his master, whereas he shall be punished by death if he fail to give information." [*] (Plato, Laws 11.913d-914a, transl. Bury) used this story to sketch the figure of the person who, since 1863, has been known in the

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United States as a "whistle-blower" and, since the end of the 1990s, in France as a *lanceur d'alerte* (Chateauraynaud & Torny, 1999).

As an ancient practice, "the ethical notification has therefore certainly been raised to prominence in our democracy". And, because it "represents a democratic and civic safeguard in our States governed by the rule of law, it should not only be the domain of heroes. It must become a safe, risk-free, and easy move" (Council of State, 2016, p. 11).[68] This is precisely what the new law of 21 March (No. 2022-401), which aims to improve whistle-blower protection aspires to achieve by modifying the whistle-blowing procedure created by Law No. 2016-1691 of 9 December 2016 on transparency, anti–corruption, and the modernization of economic life, known as the Sapin II law. Indeed, in the words of the parliamentary information report of 7 July 2021 "on the evaluation of the impact" of this law of 2016, "Whistle-blowers are in a paradoxical position regarding their status: while this law encourages them to make reports by asserting the existence of a real shield for their authors, the protection and support of whistle-blowers remain very weak in practice, thus exposing them to very great difficulties". In other words, "the French status of whistle-blowers had not yet reached maturity", so many imperfections were present in their protection regime (National Assembly, 2021[69]).

Faced with the need to transpose EU Directive 2019/1937 of 23 October 2019, which only concerns "persons who report breaches of Union law", French legislators have "over-transposed" its requirements by extending compliance to the French whistle-blowing regime. Their goal is very clear: to make this new law "a reference framework at

[68] All translations from Council of State (2016) are ours.

[69] All translations from National Assembly (2021) are ours.

the European level for the protection of whistle-blowers" (Waserman, 2021[70]).

But does this law really deliver on the promise of its title? Does it really improve the legal protection afforded to whistle-blowers from 1 September 2022 (the date it came into force)? That is precisely the question that this study aims to answer, taking the academic research community as its expert "lab".

From the outset, the task is difficult. Indeed, while the scope of the protection newly granted to whistle-blowers has been dramatically expanded, it is still necessary to meet many conditions to benefit from it, as before, even though they have been renewed.

2. Renewal of the Conditions of Protection

Since 2016, the conditions of protection have governed both the definition of a whistle-blower and the procedure that must be followed in order to benefit from effective legal protection. And specifically to strengthen this protection, the law aimed to clarify the former and simplify the latter.

2.1. A clearer definition of whistle-blower?

Article 6 of the 2016 law provided a definition of whistle-blowers that the law of 21 March 2022 rewrites from both an organic and a material perspective.

> - From an organic perspective, a whistle-blower is now "a natural person who reports or discloses certain information without direct financial consideration and in good faith" (see below).[71]

Thus, on the one hand, the requirement that there be no direct financial consideration has replaced the obligation to act in a disinterested

[70] All translations from Waserman (2021) are ours.

[71] All translations from the 2016 and 2022 laws are ours.

manner, which Report 4325 considered to be a "source of legal uncertainty" and therefore "in itself a major deterrent" (National Assembly, 2021, p. 141). This is because, in the broad sense, the disinterestedness criterion made it possible to exclude from the definition of whistle-blower, and therefore from any legal protection, a person who wished, for instance, to make a report concerning their employer, even though they were already engaged in a dispute with it for another reason,[72] or to make a report concerning a professional competitor. Indeed, in these cases, individuals could be considered as "benefiting" from the consequences of an accusation that might appear to be made not so much in the general interest as for their own ends. That is why, from now on, only financial interest is targeted... provided, however, that it refers to "direct financial consideration", which excludes from the outset any prospect of compensation for a whistle-blower. Conversely, the rule in the United States in no way prohibits whistle-blowers from receiving financial support (see below).

On the other hand, the requirement of "good faith" is fully maintained, because right from the beginning, the judge adopted an inclusive definition, considering that "bad faith can only result from the knowledge by the person concerned of the falsity of the facts they are denouncing and not from the mere reason that the facts denounced are not established".[73]

Finally, the whistle-blower is no longer required to have personal knowledge of the facts they are reporting, except in one case: "when this information was not obtained in the course of their

[72] See not. CA (Court of Appeal notification) Nancy 31 October 2018 no. 16/02824.

[73] Cas. soc. (Court of Cassation, Chamber for Social and Labour Matters) 8 July 2020 no. 18-13593 (our translation). See also CAA (Administrative Court of Appeal) Nantes 1 June 2021 no. 19-NT03158.

professional activities". Consequently, in a strictly professional context, whistle-blowers now have the ability to denounce facts that have been reported to them. This explains why the law of 21 March extends the organic scope of application of the Sapin II law beyond direct whistle-blowers by targeting their "acquaintances" more widely. Indeed, according to its new Article 6-1, the law now applies to "facilitators, understood as any non-profit legal person under private law [specifically a trade union or an association, or any natural person who helps a whistle-blower to make a report]". As a result, all "persons in contact with a whistle-blower [in concrete terms, their colleagues and relatives] who are at risk [in turn and by a domino effect] of being subject to retaliation in the context of their professional activities by their employer, their client, or the recipient of their services" are now protected. This is certainly reassuring for potential whistle-blowers, who are now assured of not being as isolated as they were under the 2016 law.

Thus defined, is this organic scope of application intended to apply to the scientific research community? Undoubtedly yes, if we take the definition resulting from law no. 2020-1674 of 24 December 2020 on research programming (LPR) and its implementing decree no. 2021-1572 of 3 December 2021. These texts refer to "staff" as well as "students in the context of training in and through research" of "public institutions contributing to the public research service" and "recognized public-interest foundations whose main activity is public research".[74]

All staff of these institutions and foundations are therefore potentially whistle-blowers within the meaning of the Sapin II law, whether they are researchers themselves or contribute to scientific activity, in particular by contributing to research work (documentalists, librarians, etc.) or by supervising it (members of administrative and management bodies);

[74] The former include all public higher education and/or research institutions, while the latter (listed on the Ministry's website) are represented by the Institut Curie and the Instituts Pasteur (of Paris and Lille), among others.

whether they are covered by civil service law or general labour law; whether they are permanent or contract workers (permanent or fixed-term contracts) or even temporary employees; and whether they are active or retired (Serre et al., 2023). The Sapin II law also applies to all students enrolled in a doctorate or even a master's degree, as soon as they start writing a thesis.

But the people thus identified still need to "report or disclose information" that falls within the scope of the Sapin II law.

- On the material level, the scope of application of this law is also strictly defined, although it has been extended since 2016.

According to its new Article 6, the reporting may now concern "information relating to a crime, an offence, a threat or harm to the general interest, a breach or an attempt to conceal a breach of an international commitment duly ratified or approved by France, a unilateral act of an international organization taken on the basis of such a commitment, European Union law, or a law or regulation".

That article is teeming with new possibilities. However, what should have led to an increase in the number of events that can be reported, according to the explanatory memorandum (Waserman, 2021), turns out to be "a source of uncertainty and therefore of legal insecurity", upon analysis and in the opinion of the Council of State itself (Council of State, 2021, pp. 3–5).

First, this information may relate to a breach (which no longer needs to be "serious and obvious" as in 2016) of a European or national act[75] and even to an "attempt to conceal" such a breach, which, in view of the vagueness of the term, could constitute, in its opinion, "risks of abuse of the protection procedure".

[75] For example, concerning a decree: Cas. soc. 19 January 2022, no. 20.10057.

Second, and most importantly, the information may relate to "a crime, an offence, a threat, or harm to the public interest", without the requirement, as in 2016, that the crime or offence be "serious". The question had indeed arisen as to when a breach becomes "serious".[76] Once again, what appears to be a move towards simplification is in fact a source of new complexities: indeed, how can a "simple" threat or "simple" harm to the general interest be legally identified without its constituting a crime or an offence, and therefore a criminal offence? While these certainly represent such a harm or threat, the reverse is not necessarily true. This could apply to any situation which, although in compliance with the law, turns out to have undesirable or even harmful consequences.[77] It is easy to understand how subjective such an assessment is and the resulting risks of legal uncertainty. These risks are increased by the following question, which remains unanswered: is the general interest considered to be exclusively the interest of everyone (e.g., the protection of public safety, health, or the environment) or, more broadly, can it be the interest of a class of persons united by the same interests? In other words, can a group's interest be recognized as being of general interest or is only the interest of everyone likely to be recognized as being in the general interest?

The question is far from trivial;[78] to demonstrate this point, we need only take the academic world as an example. Does a breach of the integrity that characterizes this community fall within the scope of the amended Sapin II law? Undoubtedly, if it constitutes an offence.

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[76] For example, CA Paris 4 January 2022, no. 19/10423, and CA Versailles, 16 February 2022, no. 19/02029.

[77] On this distinction, see CE (Council of State), 31 March 2017, no. 392316 concerning the malfunctioning of the system for processing reported offences (STIC) file.

[78] Thus, the Court of Appeal of Amiens was able to investigate whether the goal pursued by an employee L.A. was 'far from the general interest *or the company's interest,*' 9 January 2020 no. 18/00584.

For instance, this is true of counterfeiting,[79] which is punishable by three years' imprisonment and a fine of €300,000.

But what about plagiarism, which is commonly considered to constitute "academic fraud"? Would it not be possible to consider that it represents a harm (if it is proven) and therefore a (potential) threat to the general interest of the scientific community? And if the answer is no, could it not still be considered as a "breach of the law" (the LPR of 24 December 2020) and/or "of the regulation" (the decree of 5 December 2021)? Is this enough to demonstrate the highly subjective and therefore random nature of what is included in the meaning of those words? Is it necessary to recall that the granting of the legal protection newly granted by the Sapin II law depends precisely on that meaning?

And this is only the tip of the iceberg, as this protection is also conditional on strict compliance with the reporting procedure provided for by the law. However, if this procedure (governed by Article 8 of the Sapin II law) is in turn amended, with the aim (or the hope) of simplifying it, the question again arises of whether this is not tantamount to a poisoned chalice.

2.2 A simplified reporting procedure?

Initially, the law set out a hierarchy of reporting channels in three stages: first, an internal report by the whistle-blower within their company or administration; then, if the internal channel fails to act within a reasonable time (which has not yet been determined), an external report to an administrative or judicial authority or a professional body; and finally, "if the external channel fails to act" or "in the event of serious and imminent danger or of a risk of irreversible damage", a report that is "made public".

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[79] Articles L.335-2 and 3 of the *Code de la propriété intellectuelle* (Intellectual Property Code).

By unduly exposing the whistle-blower to internal retaliation and encouraging them to favour public disclosure, which often excludes any legal protection,[80] the new law abandons any idea of a hierarchy between these three channels of whistle-blowing.

Consequently, first, the whistle-blower is now free to choose between internal and external whistle-blowing; the latter is possible "either after making an internal report or immediately".

As a result, whistle-blowers may opt either (new Article 8-I) for "an internal report addressed to their hierarchical superior, their employer, or an adviser designated by the latter" or (new Article 8-II) for "an external report addressed to the Human Rights Defender,[81] the judicial authority, an EU body" or any other "competent authority" chosen from a list to be drawn up by decree by the Council of State.[82] The legislator's ambition is therefore perfectly clear: to establish "clarified internal and external reporting channels, the choice of which is free" (Waserman, 2021, p. 5). But can we be positive it really is?

Article 8-I specifies that internal whistle-blowing "may in particular be used when the persons concerned consider that the situation can be remedied efficiently by this means and that they are not exposing themselves to a risk of retaliation". While the intention is commendable, it leaves open the question of how whistle-blowers can be assured of what,

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[80] Report 4325 (National Assembly, 2021) also considered this hierarchical system to be 'counterproductive' (p. 142).

[81] In 2016, the role of the Defender was merely to 'direct the whistle-blower to the appropriate reporting body'. From now on, the Defender can receive and process a report themselves. This new role is regulated by organic law no. 2022-400 of 21 March 2022 'aimed at strengthening the role of the Human Rights Defender in the area of whistle-blowing'.

[82] According to Article 8-II, 'these authorities shall be chosen from among the administrative authorities [independent or otherwise, GA], independent public authorities, professional orders, and legal persons entrusted with a public service mission'. To date, this decree has still not been adopted.

by definition, they cannot control, namely the effective handling of their whistle-blowing and, still more, the reactions (positive or negative) that it might generate within their company or administration. Could this freedom not actually convince them to consistently favour external reporting? But more questions need to be answered.

Secondly, public disclosure remains authorized. But although, as in the case of the Sapin II law, it is only possible to resort to it if certain conditions are met, these conditions are less stringent. It is therefore by no means certain that the new system will gain in clarity or safety. According to the new Article 8-III of the Sapin II law, any whistle-blower "may publicly disclose information" in three cases:

1. First, "after making an external report without any appropriate measure having been taken in response to this report at the end of the feedback period set by decree". *A priori,* the first situation seems relatively objective, since it is conditioned by the expiry of certain deadlines that are already set by the transposed EU Directive.[83]

2. Then, in the second case, "in the event of imminent or obvious danger to the public interest, in particular where there is an emergency situation or a risk of irreversible harm". It can be seen immediately that this second hypothesis is more subjective, and therefore it is a source of uncertainty and legal insecurity. Indeed, it is easy to imagine the problems of characterization that will be involved in identifying each such situation in the absence of any legislative definition... But, in reality, is it even necessary to worry about this?

[83] Seven days to acknowledge receipt of the report and three to six months to process it.

3. In fact, there is a third and final case in which one may resort to public disclosure: "where referral to one of the external authorities would expose the author to a risk of retaliation or would not be efficient to remedy the situation disclosed, owing to the particular circumstances of the case, in particular if evidence can be concealed or destroyed or if the author of the report has serious grounds for believing that the authority may have a conflict of interest, be in collusion with the perpetrator, or be implicated in those facts".

Is it still necessary to know exactly what the second case covers, given that the new Sapin II law simply allows public disclosure for purely subjective reasons that it is up to the whistle-blower alone to assess?

Although, here again, the stated aim is very clear, namely to "secure the conditions for disclosure in the media, which should only be made as a last resort or for the most serious facts" (National Assembly, 2021, p. 143), once again, this is open to doubt. The fact is that these three cases presage a dramatic increase in the use of public reporting and thus, in return, an increased risk of legal insecurity for everyone who, in the end and most often at the end of a very long dispute, will not be able to benefit from the expected protection because they do not meet the required legislative conditions.

Like all whistle-blowers, those who denounce breaches of scientific integrity will not escape the rule. We can therefore assume that they will prefer in all cases to report internally to the adviser designated by the administration, that is, either, in view of the law mentioned, the whistle-blower adviser (created by the Sapin II law of 9 December 2016) or, in view of the breach reported, the scientific integrity adviser (since the decree of 3 December 2021). Moreover, it is not impossible

that these two advisers will seek each other's assistance in investigating such reporting.[84]

All in all, therefore, strict compliance with these procedural requirements is essential, because, even supposing that a person actually meets the organic and material definition set out in the new law, it is only if they follow the reporting procedure strictly that they will be recognized as a whistle-blower and, consequently, will benefit from effective legal protection.[85] It therefore remains to define the scope of the law, since the law of 21 March 2022 has set itself the second aim of extending it.

3. Extending the Scope of Protection

Since 2016, protection has been provided at both the professional and the criminal level, and the law of 21 March 2022 intends to perfect the former and fine-tune the latter.

3.1. Perfecting professional protection?

The aim here is to protect whistle-blowers against any retaliation they might be subjected to within their company or administration as a result of reporting. While the new law extends the list of such measures, it also reinforces the "right to confidentiality" that whistle-blowers have enjoyed since 2016, a right that is specifically intended to protect them from the possibility of retaliation by their employer.

In 2016, the legislator ruled out the idea of anonymous reporting, which was generally considered to be equivalent to a denunciation, or even an accusation, motivated not by concern for the general interest

[84] On this issue, see Serre et al. (2023, p. 76).

[85] See, in particular, TA (Administrative Court) Bordeaux 30 April 2019 no. 1704873 (grant), and CA Lyon 24 October 2019 no. 19/00554 (refusal).

but by an intent to harm. Although the preference for confidentiality was confirmed in 2022, the law no longer completely rules out anonymity. According to the new Article 7-1 of the Sapin II law, "when a report or public disclosure has been made anonymously, a whistle-blower whose identity is subsequently revealed shall benefit from the same protections". One might wonder whether in this way the law is encouraging whistle-blowers to remain anonymous. Indeed, if the person's identity were to be revealed, they would then obtain the status of whistle-blower and would therefore benefit from the same protection as any other whistle-blower. And, when you think of it, isn't anonymity actually the best protection against retaliation?

In any case, according to the Sapin II law, the principle still favours reporting by named persons. Its new Article 9 "guarantees strict confidentiality of the identity of the authors of the report", understood as a prohibition on "disclosing elements that could identify the whistle-blower", unless "the whistle-blower's consent" is obtained.[86] This acquired right to confidentiality is coupled with a penal guarantee relating to the obligation of professional secrecy. Again according to Article 9, "disclosing these confidential elements is punishable by three years imprisonment and a fine of €300,000".

While confidentiality is certainly likely to protect a whistle-blower from any prospect of "retaliation" by their employer, the law nevertheless takes care to ensure effective protection against any retaliatory action that might be taken nonetheless.

While the 2016 law described in detail the situation for private law employees, giving, in its Article 10, a lengthy list of all the retaliatory measures that could not be taken against them, it merely stated laconically that "no public employee may be sanctioned or be the subject of a

[86] According to Article 9, 'they may, however, be communicated to the judicial authority if the persons responsible for collecting or processing the reports are required to report the facts to it. The whistle-blower is then informed thereof'.

discriminatory measure, whether direct or indirect, for making a report".

Following the recommendations made by the Council of State in its opinion (2016, p. 10), the new law now aligns the situation for all employees. Indeed, the new Article 10-1-II of the Sapin II law provides that "people to whom the *Labour Code* or the *General Civil Service Code* is applicable may not be subject [...] to retaliations, nor to threats or attempts to resort to such measures, particularly in the following forms". This is followed by a motley collection of 15 points (which are, moreover, only indicative) ranging from recruitment to dismissal or redundancy, including suspensions, demotions, refusal of promotion, and other sanctions, not forgetting coercion, intimidation, harassment, ostracism, discrimination, and even "abusive referral to psychiatric or medical treatment".

But obviously, since prohibiting such measures does not mean that they will not actually occur, the new Article 10-1-II takes the precaution of stipulating, as the 2016 law already did, that "any act or decision taken in disregard of this article shall be null and void". This means that any whistle-blower who is subject to any of these measures has an acquired right to refer the matter to a judge (administrative or judicial, depending on their professional status), who will declare such acts null and void, usually accompanied by an order for damages against the employer and, in the case of suspension or dismissal, an obligation to reinstate.[87] What is more, this will be the case whenever the employer fails to prove that "the decision was duly justified" (Article 10-1-III), which is undeniably an additional guarantee for the whistle-blower: the reversal of the burden of proof. It is not up to the whistle-blower to prove that they have

[87] See not. CPH (Conciliation Board) Lyon, 17 April 2019, *JCP.A* 2019 no. 40, p. 2269, and TA Bordeaux, 30 April 2019, no. 1704873.

been the subject of a retaliatory measure, but up to their employer to prove that they were not.[88]

However, even if the retaliatory measure is ultimately cancelled, it has nonetheless produced its effects, at least temporarily, which most often take the form of deprivation of some or all pay.

This explains why, in a real innovation, the new Article 14-1 of the Sapin II law provides that the external reporting authorities (assuming, of course, that they are seized of the matter, see above) "may grant people who have made reports under the conditions provided for by law temporary financial assistance if they consider that their situation has seriously deteriorated as a result of whistle-blowing". It is important to recall that this provision does not in the least conflict with the statement that a whistle-blower may not benefit from "any direct financial compensation" (Article 6), since it is not a matter of paying them a salary, but of compensating for the financial loss resulting from a retaliatory measure taken against them.

One final issue needs to be tackled: what tangible financial resources will be allocated to these authorities to ensure that these measures are really effective?

While there is no denying the protection of whistle-blowers is strengthened in professional terms, we may wonder if it is also strengthened in criminal terms?

3.2. Fine-tuning protection in the criminal jurisdiction?

This kind of protection has two strongly complementary sides. The first is a real criminal bulwark protecting whistle-blowers from any legal proceedings aimed at obstructing the exercise of the right to report problems, while the second gives them, where appropriate, very broad criminal immunity designed to protect them from all (or almost all) legal convictions.

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[88] See most recently CA Paris, 13 April 2022, no. 18/13252.

As early as 2016, the Sapin II law sought to protect whistle-blowers against any action that would seek to obstruct the right to notify. This is because, as a result of their reporting, the whistle-blower is exposed in return to the institution of legal proceedings, known as "gagging", because their sole aim is to silence them. There is no doubt this threat of legal proceedings, hanging over whistle-blowers like the sword of Damocles, is an issue, as it is likely to dissuade potential whistle-blowers from making a report. The 2016 law therefore created a new criminal offence, commonly known as "whistle-blowing obstruction", the provisions of which were strengthened in 2022.

The new Article 13 of the Sapin II law provides first of all, as before, that "anyone who obstructs, in any way whatsoever, internal and/or external whistle-blowing, shall be punishable by one year's imprisonment and a fine of €15,000". And, in order to better dissuade any attempt to do so, it is much more repressive than the 2016 law in its following provisions.

On the one hand, whereas Article 13 initially referred only to "defamation claims against a whistle-blower", it now refers to any "proceedings against a whistle-blower on account of information reported or disclosed". As a result, all "gagging" procedures, whatever their purpose (defamation, slander, theft, concealment, violation of professional and/or business secrecy, etc.) are now targeted.

On the other hand, Article 13 also provides that when such proceedings are initiated, "the amount of the civil fine that may be imposed" by the criminal or civil courts "in the event of an abusive or dilatory action is increased to €60,000". Compared to common law (€15,000) and the 2016 law (which set the amount at €30,000), this is a highly dissuasive fine designed to show that the complaint in question is in fact subject to an aggravating circumstance: targeting a whistle-blower, whose status is now protected by law.

However, the possibility that such proceedings will be initiated is not ruled out, so the Sapin II law, as early as 2016, strove to reinforce the protection that was newly recognized by granting whistle-blowers real criminal immunity.

Article 7 of the Sapin II law had in fact inserted a new Article 122-9 into the Criminal Code, whereby "someone who violates a secret protected by law is not criminally liable, provided that such disclosure is necessary and proportionate to the protection of the interests in question and that it occurs in compliance with the conditions provided for by law". In practice, at that time, criminal immunity was limited to the violation of professional and business secrecy.[89] As a result, and as criticized by parliamentary report 4325 denounced (National Assembly, 2021, p. 151), these provisions did not confer immunity on them should they "remove the documents necessary to make a report, photocopy them or reproduce the information content on another medium, or even download them". On the contrary, they were then prosecuted for theft and/or receiving stolen goods.[90]

This is precisely what the law of 21 March was intended to remedy. Article 6 of the act supplements Article 122-9 of the *Criminal Code* by inserting the following paragraph: "A whistle-blower who removes, diverts, or conceals documents or any other medium containing information of which they have lawful knowledge and which they report or disclose under the conditions provided for by law shall not be held criminally liable."

Let us make this clear: the new Article 122-9 is not intended to give whistle-blowers a blank cheque, as they must have had "lawful knowledge" of the information they are reporting. "We are not entering

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[89] According to Article 6-II, information covered by the secrets related to national defence and judicial investigation, as well as by medical and legal professional secrecy, remains 'excluded from the whistle-blowing regime'.

[90] See not. Court of Cassation, Social Chamber, 3 March 2021, no. 19.87125.

a society of surveillance of everyone by everyone. The idea is merely to enable the whistle-blower to prove a fact they have lawful knowledge of. Indeed, no one has the right to bug their boss's office to find out if there is anything to be learned in order to blow the whistle."[91] Nor can anyone break into a slaughterhouse to alert the public to the conditions in which animals are kept. On the other hand, if you are shown a report proving that a factory is dumping mercury into a river, you have the right to take it away to prove these facts (Waserman, 2021).

This means that the new Sapin II law strives to strike a fair balance between the criminal immunity enjoyed by whistle-blowers and the preservation of the rights and freedoms of their employers, which its new Article 10-1 summarizes in these terms: "people who have reported or disclosed information under the conditions provided for by this law benefit from the exemption from liability provided for in Article 122-9 of the Criminal Code".

However, there is one final question: the nature of the evidence. How, in concrete terms, will whistle-blowers manage to demonstrate the lawfulness of their information when their employers will try to prove the opposite? In this area, there is no reversal of the burden of proof...

4. Conclusion

The stronger protection mechanism can only encourage potential whistle-blowers to report, in particular and for our purposes, any breach of scientific integrity. However, there are two reservations:

On the one hand, it should not be forgotten that the very granting of this protection depends on strict compliance with the organic, material, and procedural requirements imposed by the law. Yet, we have noted that uncertainties are rife surrounding some of these requirements.

[91] See not. Cas. Soc. 4 November 2020 no. 18.15669.

On the other hand, and most importantly, we must realize that this protection is pointless if it is not applied in real life. Admittedly, this seems tautologous, but it takes on its full meaning once it is explained that, according to the Report 4325 (National Assembly, 2021, p. 151), "the Ministry of Justice has indicated that no conviction has been handed down to date for disclosing the identity of a whistle-blower or obstructing a whistle-blower, despite the creation of specific offences since the law of 9 December 2016".

This means that only the application of the law by our courts will allow us to make sure that the law of 21 March 2022 has actually kept its promise (Waserman, 2021, pp. 4–5) to "build a clear, coherent, complete and effective whistle-blower protection system and [...] to give whistle-blowers their rightful place in our democracy": that of guardians of the compliance to public integrity.

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The New Boundaries of Academic Integrity

This book extends and completes the construction of the sciences of integrity begun in 2021. It informs on the new frontiers of integrity in a changing academic world. Multidisciplinarity is identified as central and necessary. It is mainly through multidisciplinarity that intellectual propositions can be fully validated, through the subtle variations of disciplinary perspectives and levels of analysis. In order to ethically remain in our own zone of discomfort, we all need this cross-validation, which ensures that everyone, author and reader alike come to a ground of understanding.

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