

Coping with uncertainties

*Report by Marie-Andrée Jacob on fieldwork being carried out at COPE
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Since December 2010, I have been conducting fieldwork at the quarterly Forums of the Committee on Publication Ethics (COPE), where anonymized problematical cases related to research and publication ethics and integrity are debated amongst editors and other members of COPE. My project focuses on self-regulation and peer review as the prevailing concepts of moderation within science. More broadly, it reflects on the role of legal norms, transparency and professionalism in the scientific research milieu more generally. I am looking at various organizations, including COPE and the General Medical Council. The initial idea was not to test a hypothesis. Rather it was to conduct a close examination of the idioms, styles of reasoning, and legal tools that are used to comprehend research integrity and misconduct, and from there to make an argument about the identity of a legal culture within contemporary science.

Fieldwork at COPE and the 'R' word

Scientists have been discussing the need for cultural change to preempt and prevent misconduct from happening. For their part, lawyers and ethicists have been eager to propose more legal mechanisms to address instances of scientific deviance *post facto*. My fieldwork at COPE attempts to complement these existing approaches in research on research integrity (RRI) by injecting ethnographic interpretation into the debates on adjudicating ideas and allegations around research misconduct.

The idea of using ethnography – a sustained and reflexive observation of social meanings and activities in their ordinary settings -- as a lens to think about the way potential misconduct cases are discussed at COPE was manifold. I am a legal academic interested in how the law operates beyond courtrooms, statutes and textbooks. The socio-legal studies tradition I am part of analyzes how legal ideas and tools get received, mobilized and resisted by individuals within institutions (such as bureaucracy, finance, and, of course, science). The idea also came as a follow-up to my work on decision-making and payments around living organ transplants, in which I developed my interest, and established expertise, in studying what is at times a fine boundary between legality and illegality.

I have carefully examined how the COPE Forum works in practice, how its participants debate and reflect, and attempted to identify recurring patterns in the styles of reasoning in Forum discussion of cases.

I consider the Forum to fall under the broad umbrella of regulation, though not in the sense of regulation by a statutory body. I am aware that the 'R' word is resisted in research integrity circles (at least in the UK), and so I had initially refrained from using it. One could discuss at length the historical reasons for such a resistance. From my conversations with Forum members, it is clear that COPE sees itself as a self-help group and advisory body, not as a regulator or a 'judge'. In fact, from its earliest days COPE had to distinguish its area of practice from that within the legal arena, and interestingly, did so by drawing on the expertise of eminent lawyer Ian Kennedy. Hence being 'legally conscious' is very much part of the Forum.

In fact, scholarship in regulation theory now sees regulation as operating beyond the state, outside the command and control paradigm, and rather through non-hierarchical, networked and indirect forms of control and influence of behaviors. My fieldwork so far demonstrates that the COPE Forum participants are engaged in quite creative regulatory labor. They do so by normatively orienting practice, using deliberation and mobilizing legal idioms to moderate research publication practice. They are asked to orient action under conditions of deep uncertainties, to advise on delicate matters whilst working with imperfect evidence. Indeed, the latter derive from a long-standing practice of using legal language in debating science, a tradition that goes back as far as the early days of the Royal Society. I have a chapter making this argument, and drawing a parallel between the two organizations, in a forthcoming book on *Knowledge, Technology and Law* (Cloatre and Pickersgill eds, Routledge 2014), in which I also describe and analyze the activities of COPE Forum in some detail.

The fieldwork also has the potential to contribute to enriching and refining analytical discussions on the distinction between the research integrity of the individual researcher, the integrity of the institutions that host and surround research activities, and the integrity of the research record. I have attempted to better analytically clarify these distinctions in a background paper (*Scientific Research Integrity: background paper*, Nuffield Council of Bioethics, 2013)

The broader project: understanding moderation within scientific research

As I mentioned, this fieldwork is part of a larger programme of research mapping of socio-legal responses to problems of research integrity and allegations of scientific research misconduct. The project analyzes current legal and other intellectual 'tools' that are utilized to prevent and address perceived transgressions in the scientific research milieu. These include: the enactment of codes of conduct and research integrity within institutions; agreements among journal editors; the creation of entities that disseminate, train, and advise about research integrity, and/or assist in investigating misconduct in research; the establishment of whistle-blowing statutory policies, professional responses, and, in rare instances, criminalization.

As it grows, the project spans historical periods and institutional contexts. For example, another strand of my project, funded by the Arts and Humanities Research Council, has looked at General Medical Council's casework on research misconduct since 1990. In another strand I am hoping to collaborate with historians in order to historicise contemporary scrutiny over research misconduct by drawing on analogies with 19th-20th Century professional and legal responses to quackery.

Acknowledgement

It is a true privilege to benefit from the generosity of mind and transparency of COPE Forum participants. I wish to thank Ginny Barbour, Linda Gough and Irene Hames for their support. I also wish to thank all Forum participants and case presenters for allowing me to be a witness not only to their views and advice-giving, but also to their hesitations, disagreements, bewilderment, and even the occasional tongue-in-cheek observations about the range of dilemmas that populate the scientific publishing world today. I also wish to thank Liz Wager, who was Chair of COPE when I began my study. I suspect that it is her untamable intellectual curiosity that led her to take to COPE's Council members the idea of letting an inquisitive ethnographer observe the debates of the Forum.

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