



Ethical case discussions in the ethnological research

Going under cover? Ethics, transparency and witnessing in researching institutions

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Ethical and Deontological Think Tank (EDTT)

The ethical and deontological think tank (EDTT) was created by the Swiss Ethnological Society (SES) in 2008. Its first work has been to endorse the SSE of a stand on the ethics of research, published and accepted at the General Assembly in 2010. Wishing to extend the debate, the EDTT decided to continue its activities in publishing case discussions on the SES website. Based on focused research examples, these case discussions should on the one hand present the ethical issues faced by researchers at various "moments" of the research, and on the other hand contribute to the reflection on what led the researchers to choose a particular solution. By publishing these case discussions, the intention of the EDTT does not consist in setting up itself as a "controller" or a "guarantor" of any ethics of anthropology. It is rather to document, in an educational and reflexive way, the place of ethics in the various "moments" of the research process and to show how ethics can be concretely integrated into the reality of fieldwork.

The EDTT wants to promote dialogue and invites you to respond to this case discussion by writing to gred@seg-sse.ch

Link to the ethical stand of the SES:

http://www.seg-sse.ch/pdf/EDDT_Ethical_Statement_of_the_SES.pdf

Ethical case discussion available on-line on the address:

http://www.seg-sse.ch/pdf/2012-10-30_Lavanchy.pdf

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Going under cover?

Ethics, transparency and witnessing in researching institutions

By Anne Lavanchy, University of Edinburgh

In spring 2010 I was invited by registrars to attend the hearing of two fiancés suspected of sham union¹. The invitation occurred while I was carrying out fieldwork² with Swiss registrars as part of a research about how they marry people. Focussed on administrative practices, this study addresses narratives about interpersonal intimacy, normative representations of togetherness and love, but also about the nation and the imagined body of the desirable citizen. Celebrating marriages and civil partnerships contributes to the kinning process of two persons who must be at the same time foreign (not already related) and close one to the other (legal unions are supposed to be the public face of an already existing intimate relationship), calling up questions such as: What is a true marriage? What do registrars assess in order to tell genuine relationships from false ones? Which criteria enable them to estimate whether specific articulations of foreignness and closeness are desirable?

In relation to such questions, the invitation represented a significant gesture: due to their form, the socio-political context and their function, hearings seemed to be an emblematic space for analysing the making of

institutionally desirable affinity relations. However the invitation entailed a second element: as hearings are confidential procedures, it was not possible to attend as an anthropologist. The registrars therefore would present me as a trainee. Their invitation was insistent: they were keen to show me this part of their work and “what this is really about”.

Sensing my uneasiness, they insisted that this strategy would have no consequences, as their superiors would not be told about it. Their interpretation of my uneasiness was not quite accurate. My hesitation reflected awkward feelings that were not about trespassing hierarchy and authority, but about consciously concealing my identity and the purpose of my presence to the fiancés. I also was advised that I must remain silent and not intervene in any manner. I finally decided to accept their invitation and conditions.

The ethical puzzle I discuss here has grown from this tension between an ethical commitment to transparency towards research partners and the fact that I was keen to gain access to a secluded space that I considered a desirable space of investigation regarding the purposes of my research. What was at stake during the hearing? What were the consequences of having an undercover presence? How could I balance my research interests and transparency as a central ethical commitment with my anthropological practice?

Hearings as desirable research spaces

Introduced on 1 January 2008 into the federal Civil Code under the form of a new article (97a), hearings have been diversely put into practice according to each canton. In brief, some offices never

¹ I am grateful to the GRED committee and an anonymous reviewer for their useful remarks on a previous version of this paper, which also owes much to conversations with my colleagues Viviane Cretton and Yvonne Riaño. The responsibility for the present paper and its limits nevertheless remains all mine.

² Fieldwork was conducted in the cantons of Fribourg, Geneva, Jura, Neuchâtel, Vaud and Wallis between November 2009 and January 2011, and in the registry offices of the City of Edinburgh Council between February and July 2011.

use hearings, while others frequently conduct them when both fiancés' legitimacy to dwell on national territory differs.

Common to all cantons, the minimal marriage/civil partnership procedure entails the opening of a file by the couple filling in a first form, followed by a compulsory appointment with a registrar in order to hand over documents such as ID papers and birth certificates, and to complete a second form referred to in the professional jargon as "the 35". Having received the official documents and witnessed the signing of "the 35", the registrar closes the preparatory procedure, which signals the opening of the three-month long period during which the union celebration can take place. Several other steps, one of them being the hearing, might be added to this minimal procedure, according to the "grade of difficulty" of the file. The difficulty is connected to the fiancés' nationality as it refers to the adequacy of the documents delivered by foreign national administrations in relation to Swiss standards.

The summoning of the affianced marks their entry into an administrative space explicitly marked and characterized by distrust. They see themselves submitting to a new kind of treatment because, up to this point, and except for extraordinary circumstances, fiancés have been advised to attend the registry office together. The fact that they are not two discrete individuals, but already constitute an entity appears also from the way in which the registrars speak about them. They are referred to as "a couple", or as "a file".

This changes with the opening of the hearing procedure, during which they are considered as two separated bodies. Each of them is heard separately, questioned on similar topics, without the possibility of sharing information. After both hearings, their respective answers are cross-checked. This should enable registrars to assess the genuineness of the relationship, congruent answers being interpreted as a proof of sincerity and true

feelings, and, therefore, of legitimate motives to marry or enter into a civil partnership.

Allegedly a trainee, I was on the side of the "detectives", a word that seems appropriate for describing the way in which hearings are conducted. Two civil servants were in charge, one from the local office, the other a specially appointed, experienced registrar. "Experienced" meant not only that her only task regarding civil registration is to perform hearings, but also that she performs hearings for other cantonal offices dealing with asylum seekers, NEM and returnees³. Both fiancés were summoned for the same time and arrived together, but while the man was chosen as the first to be heard, his fiancée was advised that she had to wait for her turn, which might take "some time, about an hour or so". Meanwhile she could "go out and do some shopping" but had to remain prepared and at the civil servants' disposal. Both hearings lasted two hours each. The fiancés were not allowed to speak one to another when the registrars let the groom-to-be out of the room and invited in his fiancée.

Having had access to reports of former hearings did not prepare me for the form this particular one took. This was in regard to the length of the procedure (four-hour-long interviewing and the

³ The acronym NEM ("non-entrée en matière") designates people whose asylum request is not taken into consideration for formal reasons before any exam about the genuineness or the nature of the request (<http://www.fluechtlingshilfe.ch/droit-d-asile/procedure-d-asile/non-entree-en-matiere> accessed 13.6.2012). Financial help for "free-will returnees" should help "undocumented foreigners – except for EU, US, Canadian, Japanese, Australian, New Zealand and South Korean citizens – who have spent more than 6 months [in the canton] and do not possess enough financial resources to reintegrate their country of origin" (<http://www.vd.ch/themes/vie-privee/population-etrangere/conseil-en-vue-du-retour-cvr/> accessed 13.6.2012, my translation).

writing of the final report, which lasted about one and a half hours), and also the interactions between the registrars and the "suspects". From the beginning and repeatedly, both fiancés were enjoined to "tell the truth", and were submitted to the questions alternatively asked by registrars who had prepared themselves in the roles of "the good one" and "the bad one". They told me that this aimed to break the fiancés' resistance, and lead them "to confess their real motives". As for criminal hearings (or the popular version I know of them), the files were consulted during the process in order to compare the declarations with former ones.

During the hearing, the atmosphere of suspicion affected me, as did the way in which registrars allowed their implicit accusations to surface, and their use of elements found in the files obtained by other cantonal services such as medical and police reports. Due to the fact that I had to remain quiet, and as an attempt to set me physically apart from the perimeter where the other actors were sited, I had chosen to install myself in the opposite corner.

I tried to compensate for my uneasiness while furiously scribbling notes, writing several pages, trying to consign each sentence as well as my observation regarding bodily attitudes and comments on some questions and answers. At the same time I wondered whether the fact that I was sitting behind the fiancés did not lead them to assimilate me to a menacing shadow, and I could not help but feel that taking notes made even more apparent my difference to the bare-handed fiancés.

Witnessing

Why did I accept the invitation and the condition of working undercover? As I was considering whether or not to attend the hearing, what convinced me to do so was both the fact that this was important for the registrars to show me this part of their job, and that this was an opportunity to occupy a privileged witness position. My previous access to archives, files and

reports persuaded me that hearings were key places to observe *in situ* the process through which some couples, as an entity, are split up and reduced to a couple of suspicious individuals. And, indeed, they were.

Working undercover was a way of coping with contradictory interests in a research context marked by explicit antagonism between two sets of research participants. On the one hand, the registrars, who were keen to show me the reality of their work, in particular when it involved the controversial activities of tracking down sham unions; on the other hand, the fiancés, from whom my identity was concealed. This also underlined the specificity of the hearing in the work of the registrars. In all other contexts where I met the fiancés, my presence was always dependent on their previous consent. Registrars began by presenting me and also a brief sketch of my work that underlined that my research was focussed on registrars' professional practices, and not on the fiancés themselves. When people felt uncomfortable, I stayed outside, which occurred on just one occasion.

This particular experience of a critical fieldwork moment sheds light on the fuzziness of the expression "research partners", which might refer to several persons or groups of persons with distinct, even opposite interests. In such situations, struggling to suspend judgment and remain neutral might conflate with taking sides.

In regard to the hearing, the balance between conflicting moral and professional commitments has also included a diachronic element: conducting fieldwork in formal institutions opens the way for the analysis. It leads on to writing and publishing, and contributes to providing insights into the refined mechanisms of the State's surveillance apparatus. Participating in the hearing therefore entailed the possibility of giving an account of what I had witnessed during this and other fieldwork moments, which

also constituted a strong motive to accept the registrars' rules.

The hearing nevertheless remains a vivid experience of my participation in the display of symbolic power and institutional arbitrariness. As such, it has been both emotionally and physically challenging: the experience made me literally ill for two days afterwards. Interestingly, sickness occurred again some months later, as I was analysing this part of my notes⁴.

⁴ I thank Rebecca Marsland for pointing out that working on fieldwork data can raise similar emotions and feelings to those we felt when we "gathered" them, showing that ethnographic notes are powerful reminders of our states of mind and not mere records of facts and events.

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[Abstract]

This paper discusses transparency as an ethical challenge in regard to a particular fieldwork moment, the invitation to a hearing by Swiss registrars. Such an invitation constituted a significant gesture of conducting fieldwork in registry institutions: due to their form (confidentiality), the context (controversies) and what is at stake (assessing the genuineness of affianceds' relationships), hearings are emblematic activities of the civil registry's new duty of tracking down "suspicious unions". The invitation challenged my commitment to transparency as the implication for me was that I had to work under cover, attending the hearing not as an anthropologist but as a registrar-to-be.

The ethical puzzle which I faced has grown from the tension between an ethical commitment to transparency towards research partners and the fact that I was keen to gain access to a secluded space that I considered a desirable space of investigation regarding the purposes of my research. This leads me to address the following questions: What was at stake during the hearing? What were the consequences of an undercover presence at it? Why was it a desirable space of research? Reflecting upon this experience, I show how the ethical puzzle makes manifest the presence of conflicting interests: mine as researcher committed to an ethical practice of anthropology, but also those of the research participants, which were, in this case, split into two antagonistic groups: the registrars and the fiancés summoned to the hearing.

[Keywords]

Fieldwork, Transparency, Ethics, Witnessing, Marriage, Institutions