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A Sporting Chance: workplace ethnographies, ethics protocols and playing by the rules

Jennifer Sappey

INTRODUCTION

This is a researcher's story of her student adventures into workplace ethnography. First, is the tale of participant observation of the Queensland commercial fitness industry which in the early 1990s was one of the last 'award free' industries in Queensland. My club membership paid and my access secured, my conservative business suit discarded for spangled leotards and the latest pumps, I went to work. These were the days prior to restrictions on workplace ethnography introduced by the Australian national ethics protocols in 1999. I was free to follow leads as they appeared and to report my own observations as just another participant at the gym. Little could I have expected that my observations of the conditions of employment of one particular fitness centre would mushroom into a full-scale industry analysis, as employers took the extraordinary step of discarding self regulation and sought a formal industrial award. In May 1994 I sat alone in the public gallery of the Queensland Industrial Relations Commission, conspicuously the only witness to what, at face value, simply did not make sense: private-enterprise employers seeking to have government regulate their relationship with their workers. It seemed liked a researcher's manna from heaven.

Second, is a contrasting tale of doctoral research into the changing nature of work for academics in Australian universities in 2000. Unlike the freedom of research design and procedures from my fitness industry study which chased down leads as they appeared, the newly introduced national research ethics protocols with their restrictions on access, design and procedures were compromising the integrity of the research and even threatening to curb the project outright. The challenge was just how to retrieve the research project and still play by the rules, even though the ethics regulations hardly seemed to offer a sporting chance to a workplace ethnographer.

PARTICIPANT OBSERVATION IN THE QUEENSLAND FITNESS INDUSTRY

Like many who experience the inevitable bulge and spread of middle age, in the 1990s I was lured by the quest for the perfect body offered, in theory at least, by my local fitness centre. I was drawn into a world of workouts where the idealised body of the fitness worker, clad in tight-fitting lycra to best display the six pack or tiny waistline, was a walking billboard advertising their employer's products and services. In the fitness centre workplace, the idealised body was a mainstream commodity and the basis of sexual, social and employment success for worker and client alike.

As a student of industrial sociology, what I found curious about this world was that in their quest to attain and display their physical capital, fitness workers such as aerobics instructors and weight-training instructors were prepared to trade-off standard employment conditions in order just to be employed and get access to 'their stage', the space in which they received the adoration and a heightened sense of self-worth and celebrity from their admiring clientele. I was intrigued by the small incidents which I observed from the gym floor, seemingly out of step with basic conditions of employment enshrined in industrial awards and statute law. For example, poor rostering by the manager might lead to two instructors arriving to teach the same session. One would be turned away by the employer without any call-out pay. As I came to know and socialise with the instructors it became evident that it was custom and practice for instructors applying for work with a fitness centre to teach up to five classes, without payment, in order to secure the employer's favour. They also worked without payment at special fitness centre promotional 'open days' or aerobic displays. These were all casual employees. Sexual harassment of staff seemed rife. I recall one occasion when an employer required a male instructor to don a ballerina's tutu as part of the 'fun', clearly accentuating his genitals for the all-female class. No weekend or evening penalty rates were offered at a time when this was the norm, and most fitness centre employers forbade their casual staff to work for their competitors – a clear breach of freedom of trade. It was my own intellectual curiosity to explore and understand the domination of managerial prerogative and its impact on the

basic conditions of employment, which led me to enrol in a research masters degree in industrial relations.

My enrolment in 1990 was unproblematic. There were no ethics approvals that needed to be secured from my university, merely a proposal on method (participant observation, survey and interview) and expected outcomes to my research supervisor who 'gave it the nod' and my journey began, free of bureaucratic constraint or surveillance. The initial purpose was to investigate the conditions of employment in the Queensland commercial health and fitness industry in what appeared to be an unregulated industrial setting without the constraints of industrial regulation or the presence of trade unions. It was asynchronous with the wider debate which was raging in Australia at the time stimulated by employer groups, conservative 'think-tanks' and the neo-liberal political parties, all seeking de-regulation of the workplace leading to what was hailed to be a freeing up of the Australian economy. The broader political timing could not have been better. The 'award free' industry was unique in that it presented an opportunity to study the brave new world of deregulation. The stage was set for an interesting project which could contribute to a national debate.

The first hurdle was to select appropriate tools which could capture the data in an embryonic industry that was still 'invisible'. The 1990 study took place at a time when the Queensland commercial fitness industry was yet to be clearly defined, the function of 'fitness instructor' was not included in the Australian Standards Classification of Occupations (ASCO) and therefore, both were invisible to Australian Bureau of Statistics (ABS) data collection and any professional industry registers of operators. It was this 'invisibility' and the nature of the information sought that shaped the data collection tools, rather than a process of bureaucratic scrutiny of the method's science by an ethics committee, as was the case in my later research. Given my understanding of the industry structure and the mode of operation of many businesses I drew from five sources to facilitate cross-validation. I distributed a state-wide mail survey to a non-probability sample of 269 industry employers which I had compiled from the 1993 Yellow Pages telephone directories for Queensland

and cross-validated with local government records. In order to collect this information I distributed a survey to all Queensland Town Clerks requesting listings of fitness centres operating within their jurisdiction. In many ways this method seemed a bit 'rough and ready' but there were simply no other means of identifying an employer sample because of the unregulated nature of the industry, the very phenomenon that I was researching. I also distributed a state-wide mail survey to fitness workers through the embryonic fitness professionals' association to the total population of its 500 members. The questionnaire was designed to cross-validate much of the data collected from the employer questionnaire, with many of the questions replicated. Who was telling the 'truth', if indeed that can ever be known? The data were supplemented by unstructured interviews with the relevant trade union, the employers' association, the president of the embryonic employers' group representing the small number of multi-million dollar fitness centres, smaller commercial fitness centre owners and managers, fitness instructors, state and local government planning and health inspectors, the Queensland Chief Industrial Inspector and a former Head of the Queensland Industrial Relations Commission (QIRC). I thought I had it covered.

"Luck's a fortune" so they say. Although I had seemingly finalised the survey, before posting it to respondents something broke in the national news. It seemed as though I was not the only one becoming aware of the burgeoning industry. The collapse of a large, national franchise of fitness centres had brought with it extensive media coverage and had brought the industry to the notice of the Queensland Industrial Inspectorate. However, given the difficulties of locating the industry and its myriad of small gym operators the Inspectorate was prone to target the large, visible employers, many of them having grown out of squash centres in the 1980s.

With this significant change in the larger centres' operating environment they sought to devise an offensive strategic business move that would strengthen their market position and force many of their smaller competitors out of business. In that they felt that they had already been targeted by regulators they took the highly unusual step of seeking industry-wide industrial

regulation, hoping that the additional overheads thereby imposed on smaller 'fly-by-night' operators would squeeze them out of business. Employers were using the imposition of industrial regulation as a business strategy. It contradicted all industrial relations theory. There was a clear trail leading from the fundamental conditions of employment in the industry which I had sought to document and contrast with those of other industries, with the strategic action taken by employers to turn their greenfields site into a regulated environment through the making of the first award, in which the employers were again prescribing the base conditions of employment to the detriment of workers and to the detriment of smaller enterprises.

Just as the industry operators changed strategy, I too needed to change tack with my research design, to incorporate questions about the award-making process into the surveys which were about to be despatched, and to create a second stage of the research, namely observation and scrutiny of the award-making process itself. Of necessity, it extended my original timeframe for the research project, required additional financial resources and the development of my skills in award interpretation and industrial commission proceedings. However, I was free to do so, unencumbered by ethical protocols or requirements to seek an extension of the project, which was the case in my later research. If I had been required to do so, the rapid developments towards QIRC proceedings would have meant that the opportunity would have passed by.

On the 4 March 1994 the owners of the larger gyms operating in the population centres of south-east Queensland stood in the Queensland Industrial Relations Commission, represented by their employers' association and in partnership with a trade union which my survey had identified had no members in the industry, to agree upon the first industry-specific award. As I sat in the public gallery, conspicuously the only person not part of the troika, something didn't seem right.

The triangulation of data collection later confirmed it. In the survey of employers where I had included a question which directly asked if they

supported industrial regulation of the industry, 62% said 'no' with 68% specifically supporting self-regulation. Significantly 93% of both employer and employee respondents did not know that the larger gyms or the trade union were negotiating the first award on their behalf. The only respondents who did know, were the four largest gyms, who were spearheading the award negotiations.

Confirmation came from another source. Perseverance is the key to getting any research project finished. It was on my fourth attempt to interview the largest gym operator that I succeeded, each time arriving at the appointed place at the appointed hour, only to find that the businessman had left the premises. Each time I accepted the apology but rejected gifts of fitness merchandise, insisting that all I wanted was another appointment. When I finally gained access to him, I was overwhelmed by the openness of his position. His confidence as the largest operator in what was a brash industry led him to boast of the tactic of using industrial regulation to bankrupt competitors and consolidate the market position of the larger operators. A competent shorthand writer, I was able to get him down verbatim, confident that my notes had locked in his confession, unable to renege. I was aware that he could deny his statements, should it come to that at the time of going public, but that he could not withdraw them or refuse to let me use the data, as would be the case in later research. I had not needed his written consent to use his utterances and did not need to offer him the right to withdraw his information at any stage of the research if he so wished, as is now the case. He was a worldly, business executive. He had said it. He had said it openly and in the full knowledge that I was noting his words in front of him. Imprudent perhaps, but imprudence on the part of an interviewee should not be deemed to reach into the realms of unethical behaviour in recording those words by the researcher.

In short, the upshot of this all was the making of an award to meet the vested interests of a few in the industry, between the largest employers and a union that had no members in the industry but had secured a preference clause (employers were obliged to give preference of employment to union

members). The unusual nature of the occupation meant that the Commissioner who made the award was dependent on the collaborating parties to provide information about the nature of the work, its intensity and comparable work in other industries. The outcome was an award that was a poor fit between the award conditions and the realities of the work. For example, the 40 hour week for aerobics instructors was a physical impossibility. (what was the award? Check liability here re defamation – it would be easy to see who were the parties – any substantiation through media stories?)

AN OCCUPATIONAL STUDY OF ACADEMIC WORK

In 1998 I again ventured into the field of workplace ethnography, this time researching the changing nature of academic work in my own industry of higher education. I chose the established methodology of Extended Case Method advocated by Professor Michael Burawoy of the University of California, Berkeley (is this the name of the uni?), Key to the research methodology was the tool of participant observation, a time-honoured tradition in industrial sociology and the key tool of my earlier ethnography.

My doctoral enrolment in 1998 was unproblematic, that is, until the promulgation of the new *National Statement on Ethical Conduct in Research Involving Humans* (1999) by the National Health and Medical Research Council. Until this point, most Australian universities had relied upon the professional judgement of a student's academic supervisor to assess the ethical nature of a research proposal. While there had been regulation of health-related research for fifty years, the broadening of regulation to other forms of social science and humanities research was a relatively recent development since the 1980s, triggered by concern for human rights and an increasingly litigious society. Many universities floundered to come to terms with and operationalise the *National Statement* which was strongly criticised by social scientists for its application of medical research principles (e.g. the potential harm from collecting tissue samples, psychological testing, clinical trials etc) to workplace ethnographic studies. As a student with an ongoing research project, mid-stream, the impact was disastrous.

At this stage I had commenced my fieldwork, with a research design based around participant observation at a single fieldwork site, to be supplemented by interviews with management and workers, and triangulated with content analysis of publicly available policy documents. However, the *National Statement* deemed participant observation, a traditional method of industrial sociology and many other disciplines, to be 'covert', unacceptable and by implication, unethical. Unlike my fitness centre experiences, I could no longer record my own experiences and use them as data.

Secondly, the *National Statement* required written approval from the chief executive officer of any organisation under study. Prior to the imposition of the national ethics protocols, when I had commenced my fieldwork, my research supervisors advised me on the basis of custom and practice in the discipline that formal permission was not required.

Thirdly, there was the issue of the broadening of the term 'participant'. In that the primary purpose of the protocols was the protection of the welfare and rights of participants, with those rights taking precedence over the expected benefits to human knowledge derived from the research, defining just who was a 'participant' became crucial. The interpretation of one university defined it to be any human, living or dead who was the focus of the research or alternatively any person upon whom the research findings may impact – a broad interpretation indeed and significant in its impact on the potential disclosure of corruption and wrongdoing by trade unions, organisations and their managements. The implications of gaining written, informed consent from all participants is that consent must be obtained from every person involved in, or sharing the researcher's observations, not just those people who are the focus subjects of the observation. Such a requirement fails to understand the conditions under which industrial sociologists operate.

Fourthly, the nature of working in organisations meant that I had to gain written, informed consent from all within the organisation, starting from the chief executive officer (CEO) down, through all layers of hierarchy and vested

interests. Fifth, it was deemed that the data which I had already collected could not be used in that it had been gained by covert means (participant observation). The ruling was devastating. Where did this leave me? Where indeed did this leave the entire discipline of industrial sociology? Dare I admit that the tears flowed.

Having negotiated an agreement with my university's ethics committee that I would 'mend my ways' and all future data would be collected in accordance with the new protocols, I was permitted to retain existing data. I then sought permission from the fieldwork site for official access. After some months of delay I was notified that the traditional academic embargo on publication for a five year period that I had offered to the organisation was merely a gentleman's agreement and although accepted by them, had no legal standing. A formal contract would be required, implicitly with the organisation retaining publication rights over the thesis, and of great concern, perhaps editorial input given that the organisation also required a member of their academic management to be appointed as my external doctoral co-supervisor, and that my research proposal which had been passed by my own institution's ethics committee would need to go through the full screening process of that institution's ethics committee. While access had in theory been granted, I had in effect, been knee-capped.

If persistence was the key to success in my first case study, innovation, flexibility and compromise were the keys to this research. There was clearly a need to change tack. I chose a second fieldwork site and approached that organisation's CEO for permission to conduct interviews with staff. After appropriate correspondence and face-to-face meetings with both the CEO and his deputy, permission was granted, with the manager next down the line advised in writing by the CEO of the research which was to be conducted, requesting that I be afforded every assistance. In spite of this, negotiation to interview the manager as gatekeeper to his staff, continued for two months via e-mail and telephone. Unable to secure authorisation from him for either a personal interview or access to his staff, I had to abandon the project and simply walk away given national protocols' clear statement of rights, that

participation is voluntary and non-participation (particularly where there is clearly a power differential such as in employment) should not disadvantage an employee. Under such protocols I was unable to report back to the CEO on the failure of the project consequent on his staff's refusal to participate. The result was the besmirching of my own reputation.

Desperate to complete my project, I devised a third strategy – that of conducting an occupational ethnography of Australian academics across a number of university workplaces. Individual academics still retained their traditional right of free speech and perceived themselves to be free agents to grant research interviews. On this basis the doctoral research was able to proceed. The context of the research therefore became the broad occupation within an industry context, rather than a particular workplace. All of the respondents who were approached were full-time academics and academic managers employed in universities on the east coast of Australia. All agreed to be interviewed. The data was captured but the compromise on participant observation significantly weakened the methodology of Extended Case Method, unable to gain the contextual depth of a single site. The change of direction from a single site study to an industry-wide occupational case study left the research findings open to challenge, but I finally got there. Some six years after the commencement of the research project, and after considerably more time, financial resources and emotional stress than I had anticipated, the project was successfully completed.

What lessons have I learnt from my early forays into workplace research?

Vested interests and the politics of power

Research in organisations is by its very nature an extremely sensitive political process as the researcher mediates power relationships, and negotiates strategic and tactical compromise. It is a political minefield in that human action is unpredictable and decision-making within bureaucracies is often irrational. I would suggest that management of the political environment is probably more vital than the correct selection of effective research techniques and tools. At the very least, vested interests and the politics of power will

interfere with the researcher's clinical design of techniques and instruments of data collection. At the very worst, political interference will render useless even the broader methodology. As a researcher I will never again assume that consent and a green light from an organisation's CEO will ensure that I can access the data that I need to complete a project. In effect, at no point within a project can I assume that the project is secure in that the internal politics of an organisation can quickly white-ant any research project, no matter how carefully and scientifically crafted or how passionately pursued.

Unforeseen opportunities and serendipity versus science

Strategic and tactical compromise does not end with navigating one's way through the complexity of bureaucratic hierarchies and vested interests. Organisations are in a constant state of flux in, what is for most, a dynamic external operating environment. We almost rhetorically teach this to our students but the realities do not hit home until we venture outside our sheltered university cloisters into the real world and engage with organisations which are aggressively competing for survival and growth. In the current output and performance-based management ideologies, even public sector organisations which were once fertile ground for research, have adopted market-like behaviour and competitive cultures and researchers are often not welcome unless benefit and a good-news story is guaranteed. Changes in the external operating environment of most organisations (economic, political, social, legal and technological change) elicit corresponding offensive and defensive strategic moves by them. Accordingly, our methodologies need to encompass a range of tools and techniques to be able to respond.

Single fieldwork sites are probably a thing of the past for it is now too precarious for the researcher to assume the completion of a project on the terms under which it began, if indeed at all. Positivists have always criticized workplace ethnographies on the grounds that any one workplace is atypical and that it tends to produce interesting data but no general principles that can add to theory. Such a view highlights the divide between ethnographic and positivist researchers and the assumptions underpinning both approaches. However, it may be that single site research will disappear, not on

methodological grounds, but as the result of better risk management processes in research design. It only takes one article in a major metropolitan daily newspaper to make organisations within the target industry re-evaluate their exposure to public scrutiny and to withdraw from the research project. Under the current management fad of risk management, it is probably far better to design multiple-site fieldwork, lest we be evicted from a single fieldwork site consequent on a shift in wind direction on the commercial or political front. The precarious nature of research in such an organisational climate may also call for a rethinking of time, place, financial resources and our own blend of skills, be they qualitative or quantitative. The optimal research design for the researcher may in effect become unviable over the course of the project with the shifts in an organisation's dynamic operating environment. Compromise is inevitable.

The time-honoured method of participant observation

For many workplace ethnographers research ideas come from our immediate work and social environments – we observe, we question, and we seek answers. The tool of critical observation through participation and emersion in the phenomenon under study is the foundation stone on which the discipline of industrial sociology has been founded in that it seeks to understand the complexities of social action and social structures in the reality of the natural workplace setting. In keeping with this focus, it requires a narrative and not a statistical analysis. This has been the tradition with the seminal studies in industrial sociology since the 1930s. Researchers gained employment with an organisation in order to observe, analyse and deconstruct the social relations of the workplace. In most instances, the researcher fulfilled their duties as an employee, however, withheld from management (and perhaps co-workers) their concurrent role of researcher.

However, the time-honoured method of participant observation is now problematic in current research design. The seminal studies of my discipline would not have made it through the scrutiny of their universities' ethics committees, no doubt being labelled 'covert' and by implication, 'unethical'.

And yet, without these studies we would not have had the body of theory today which informs analysis of current workplace practices.

Research ethics and the double-bind of the search for 'truth'

The application of a universal ethical code is relatively new to the social sciences, although now common in most western countries. The Australian *National Statement* (1999) was revised in 2007 with the National Health and Medical Research Council attempting to soften its negative impact on social science research. However, the interpretation and operationalisation of the *Statement* still lies in the hands of institution-based Human Research Ethics Committees (HRECs). Much is still the same for workplace ethnographers.

This raises a fundamental ethical questions about the extent to which there is a right to acquire knowledge versus the right to privacy, whether individual, collective, private or commercial. There is clearly potential conflict between the national ethics protocols and industrial sociological research which seeks to deconstruct a workplace and delayer management rhetoric in order to understand the realities and complexities of the social relations of that workplace. There is a fundamental pluralist assumption of the discipline which challenges management's often unitarist view of the workplace as essentially harmonious. While views of the workplace as being conflictual and exploitative need to be tempered with an understanding of the co-operative nature of workplace relations, there is nevertheless a general recognition of acts of both resistance and co-operation in any workplace. An unintended consequence of the protocols' emphasis on the primacy of participants' rights, reinforced by the requirement of written, informed consent (which in the first instance must be that of an organisation's management), may well be a research focus on unitarist consensus which is at best one-sided and at worst seriously misleading. It is unlikely that managerial consent for research of this kind will be granted unless there is benefit and a good-news story guaranteed and that management's 'truth' is assured. It may be that management's refusal to grant the researcher access denies the workforce's right to have their 'truth' told as it is mandatory to have managerial consent before gaining approval from one's university for any organisational research projects.

Even when managerial consent is given, the nature of participants' rights of non-participation or withdraw from the study at any time, without reason, means that access needs to be negotiated at each level of hierarchy within an organisation, and with each individual participant. This requirement by ethics protocols exposes the researcher to the possibility of even greater interference from vested interests and organisational politics than was once the case. The notion of organisational approval from a CEO, while mandatory, is in effect meaningless in a hierarchical organisational structure. The workplace researcher's position is now quite precarious.

While there can be no disputing the need for research to be conducted in a way that minimises any harm to participants, the difficulties of conducting workplace ethnographic research are significant when confronted by practical impediments which constrain professional procedures and techniques, and in the case of labour process workplace studies, threaten to curb research outright. While research in organisations is by its very nature an extremely sensitive political process, the overlay of unduly restrictive ethics protocols adds an additional complexity to workplace ethnographies which potentially hinders exploration of the hidden processes of power and conflict in workplace relations, and brings into question the integrity of research which only reports managerial 'truth'.

As a postscript to this researcher's story, fourteen years after completing my fitness study research I am again venturing into the sweaty world of the fitness centre, about to replicate the original study. Did the employers' strategy work? What long term impact has the industrial award had on the conditions of employment? Alas, I will no longer be able to jump around a gymnasium as a participant observer and record my own experiences and observations for that is now deemed to be covert. If research was difficult then, it is even more difficult now.