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Torun Elsrud, Philip Lalander & Annika Staaf

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Internet racism, journalism and the principle of public access: ethical challenges for qualitative research into ‘media attractive’ court cases

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ABSTRACT
This paper addresses the risk of research exposing people with an immigrant background in criminal court cases to Internet-based racist persecution, due to mismanagement of general ethical guidelines. The principle of informed consent, ideally serving to protect people under study from harm may, in fact, cause them more harm due to the interest among certain Internet-based networks of spreading identifiable, degrading information. Arguments are based on ethically challenging experiences from two ethnographic research projects carried out in Swedish district court environments, focused on immigrant court cases. Ethical advice provided by ethical review boards and established research guidelines, were based on an unawareness of the potentially destructive rendezvous in media attractive immigrant court cases between ‘ethically informed’ research, crime journalism, freedom of information legislation and ‘Internet vigilantes’ on a quest to persecute court participants and their families in the global digital arena.

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KEYWORDS Internet racism; informed consent; covert observations; research ethics; principle of public access; crime journalism

Introduction

Someone should go to X-street 12, Y-town to help them pack for their journey home to monkey land. (Online comment)

This call for action, encountered on an Internet-based discussion forum, reflects a racist attitude and is related to a court case that we have studied in an ongoing ethnographic research project. The citation provides an exact
address to a person with an immigrant background who was sentenced in court. The court case attracted a lot of media attention before, during and after the trial, making it a hot topic in Internet-based forums. Most likely, the author of the post had found the address due to Sweden's rather generous ‘principle of public access to official records’ that includes court documents, since his statement was found among other posts containing court documents and extracts from court documents. This access to court documents will be addressed later in this article. The media interest in certain crimes, drawing attention to individual court cases, coupled with public access to official records, make it possible for people with racist attitudes to spread identifying details about participating immigrants as well as witnesses, victims and relatives of involved parties. The distribution is often rapid and widespread owing to the Internet and a web of social media networks, allowing sensitive information about a single trial or person to travel all over Sweden and globally. The present situation, with (1) people or groups who want to spread racist attitudes and detailed information about immigrants in court, (2) open access to trials and trial documents and (3) the possibilities of using social media for spreading detailed and identifying information, calls for urgent reconsideration and increased contextual awareness when it comes to providing guidelines for proper research ethics.

In general, the basic ethical guidance for doing observations for instance in court is captured by these two citations from an influential ethical guideline provider in a Swedish research context:

Ethical considerations are very important in participant observation. The researcher is responsible for the prevention of injury and for not disclosing the identity of those observed. Although this requirement may seem difficult to meet, it is necessary. (Vetenskapsrådet 2011, 43, our italics and translation)

In some situations, covert participant observation is used. This type of secret or masked research is rare and should be an exception. The ideal is always that the person under study should be informed that he or she is the subject of research and, typically, should have agreed in writing in advance. (Vetenskapsrådet 2011, 42, our italics and translation)1

While these two citations appear relevant and consistent, this paper will argue that, at times, they are in fact in direct opposition to each other. The first highlights the importance of protecting informants or those observed from harm and from being identified. The second urges researchers to inform people that they are being studied and to ask for consent following article 10 in the Swedish Personal Data Act (1998: 204) for informed consent while registering sensitive information.

While it is acknowledged that exceptions may exist, ethical review boards initially required open observations and an informed consent approach in relation to the two research projects in which we have been involved. Both
projects have focused on courtroom interaction during criminal court cases where participants have an immigrant background. Had we accepted these recommendations, and openly declared our presence to the actors in different trials, we would have jeopardized the anonymity of the court participants and court cases we were about to study. By informing court visitors that research is taking place at the observed location, the anonymity of the court cases and their participants cannot be protected in research results. It is quite possible that research findings, having been anonymised in the writing process, become connected to individual cases up for debate on racist Internet forums. This phenomenon will be addressed in more detail in this article.

Finally, in our applications to the ethical review boards, we were able to provide convincing arguments for a different approach, which led to permission to carry on with the projects using covert observations. This paper will address what could have happened had we not been convinced that the observations needed to remain covert. In doing so, we will address why, in this age of abundant social media platforms and racist Internet-based ‘vigilante groups’, adhering to the recommendation to inform participants stated above may lead to a violation of the requirement to avoid harm, in this case harm to immigrants involved in legal cases, on a much grander scale than was possible before.

We will argue that while ethical tools such as informed consent – or other means of informing individuals about a researcher presence – and open observation are necessary and important in some research designs, they must be reconsidered continuously and contextualized in the light of differing research approaches and changing societal and discursive conditions.

The two projects informing these arguments have had an ethnographic character, focusing on Swedish district court trials related to either ‘domestic violence’ or ‘street crime’ where one or both parties have had an immigrant background. The purpose of both projects has been to explore the ways notions of culture, ethnicity, age and gender are negotiated in court documents and interaction. The empirical material has consisted of observation notes from courtroom interaction, pre-trial documents, summons applications and sentence documents. These projects are presented in detail in other publications (see Elsrud 2014; Elsrud, Lander, and Staaf 2015) and only appear here as a contextual background to the encountering of racist rhetoric, including threats, and ethical difficulties described in this paper.²

The arguments presented add to the existing criticism of ethical review boards for having too much of a clinical medicine perspective in mind, and for having become all the more involved in regulating the ethical dos and don’ts of qualitative social science in a manner that does not match the situation at hand (c.f. Hamburger 2004; Hammersley 2009; Hammersley and Traianou 2012; Israel 2004; Katz 2006; Singer and Levine 2003; Spicker 2007). It should be stressed before moving on to a description of the events that
took place that this is not a comprehensive description of the past and present conditions and theoretical positions relating to the ethics of open observations and informed consent in general. Rather, it is a call from the research floor for a better contextual understanding among experts on research ethics and providers of ethical guidelines and a warning to other researchers to consider carefully contextual factors before accommodating to general ethical guidelines to avoid people with immigrant background becoming exposed and placed in vulnerable situations.

Encountering ethical dilemmas

Following the projects’ aim to study and analyse negotiations of social norms and values in court, the approaches have been first and foremost symbolic interactionist, followed by a critical discourse analysis, sometimes referred to as a multimodal approach (Matoesian 2010). Research began with observations in court where we studied various forms of language – speeches, conversations, interrogations, body expressions, body signs, choice of clothing, interaction rituals and patterns – in pursuit of what has been referred to as ‘thick descriptions’ (Geertz 1973), ‘holistic knowledge’ (Moore and Friedman 1993, 123) and ‘ecologically valid’ results (Blanck 1987, 339). We have not only focused on what has been said, but also on how it has been said, and on the relationship between linguistic acts and emotions. Observations in court have then been analysed both as self-sufficient pieces of empirical material and reference material in subsequent studies of court documents (such as lawsuit and sentence documents). Ethical warning signals and the presence of people with racist sentiments among the courtroom audience appeared early on, as exemplified by these field notes from the first day of observation during the first study. A man with a Middle Eastern background is charged with gross violation of a woman’s integrity:

One of the men behind me says, facing the woman, ‘fuck, you should shoot people like him’. I hear it clearly, even though I’m sitting a few rows in front. I wonder if it reaches the others in the room. No one reacts. I look at the accused. Right now, he is wearing handcuffs. He wears a dark green custody suit. A moment later, I hear it again ‘damn, a shot in the forehead.’ I do not know if it is the same man… During the day, I hear ‘monkey brains’, ‘pure Stone Age’ and ‘wouldn’t it be nice, having the welfare office supporting you’. It is the first day of the trial, nothing has been proved, and several days of trial remain. Some people in the audience have already resolved the question of guilt and the appropriate penalty.

It became apparent in the court days that followed that some people visited the trial who had hostile and racist sentiments. Hearing people in the court corridors speaking about having read about the case on the Internet, we googled using concepts appearing in newspaper articles about this case
which attracted a lot of media attention, as well as details we had picked up while studying the case documents. We learned that what happened in court did not stay there. Often, it led to lengthy discussions in Internet discussion forums, where offenders, witnesses, victims and their families and friends were hung out on public display, coupled with racist remarks. These forums were fed information from documents, available to the general public through the Swedish freedom of information legislation, the principle of public access to official records, one of the cornerstones of a democratic society. Documents identifying offenders, victims and witnesses were scanned or saved as pdf files and displayed on the Internet.

Moreover, information from courtroom interaction was used to add fuel to the arguments. Intimate details from court conversations were torn out of context and recounted. It appeared that at least parts of the trial were attended by members of the public who, much like regular reporters, reported back to readers on the Internet. We interviewed court witnesses who stated that strangers approached them in the court hallway and asked them to identify other ‘Middle Eastern-looking’ people in the audience.

Furthermore, journalists were present, reporting on the case in the media without mentioning names. Their representations were spread in radio, television and paper format but also on their webpages. Internet users only needed to combine the different sources in their threads forming a closely knit web of detailed, identifying information used to denigrate those involved and to construct and legitimize a racist rhetoric.

The remainder of this paper attempts to clarify the ethical dilemma that appears when racist Internet vigilantes, ‘media attractive’ court cases and the principle of public access to official records coincide, through a look at its individual components as well as the dangers that arise when these components are combined. Initially, we consider the principle of public access to official records and its relationship to both journalism and research ethics, followed by a discussion of the unethical behaviour of Internet vigilante groups and Internet forums where details from court cases such as the ones our projects have focused, are publically displayed. These ethical aspects then provide the backdrop for an excursion into actual and potential shortcomings and challenges to court ethnography when accommodating to general ethical guidelines. These sections are followed by a discussion addressing consequences on a larger scale; such as the future for critical examination of the activities of state authorities, research on people with immigrant backgrounds and issues of trust within democratic systems.

The principle of public access, journalism and research ethics

Sweden has a long tradition of far-reaching transparency for its citizens within the public administration, in this case, the Swedish judicial system. The
principle of transparency, public access and access to public records are democratic cornerstones of the Swedish system of government. Public access to records is the dominant rule and secrecy is the exception according to Chapter 2 art. 1–2, the Freedom of the Press Act (Freedom of the Press Act – 1949: 105), one of four constitutional laws in Sweden. The right to classify records as secret is very limited and all decisions to do so must be clearly specified in a particular legislation, the Public Access to Information and Secrecy Act (2009: 400). If not listed or referred to in this legislation, the document is public which means that the starting position in Sweden is that the records are available to all. Many other democratic countries that also adhere to a high level of transparency have as their starting point to classify documents as secret, which, of course, limits public accessibility. These circumstances mean that there are significant differences between Sweden and most countries concerning rules for publicity and secrecy (Bohlin 2015).

When it comes to secrecy in courts, the main rule according to Chapter 2, article 11 in the Constitution Act (1974: 152, Instrument of Government) and also ECHR (European Convention on Human Rights) (1950), article 6 is that if a court hearing is held in public, which generally is the case, the information that has been provided or adduced at the hearing is also public. Only under certain circumstances, such as trials involving very young participants and/or particularly sensitive issues such as sexual offences, child pornography or HIV-infection, will the court decide to hold a trial behind closed doors, based on the Public Access to Information and Secrecy Act (2009: 400) that gives the court such rights. Still, the secrecy in these cases most commonly ceases when judgment is passed, unless the court specifically decides that secrecy shall continue.

Secrecy has not been an issue in the trials we have studied. It is addressed here to clarify that criminal trials generally are public. Swedish citizens can request and receive all public material related to a court case if it has not been assessed as classified material. In criminal cases, that usually means police interrogation protocol, the summons application, all recorded court hearings (which you can order from the court on a CD), pictures and other media presentations at court, the verdict and sometimes also reports from the social services or probation authorities. All personal data is usually also included. This openness is fairly unique compared to most other countries, even countries with a high level of transparency and democratic influence. It also means that such transparency and openness can be (mis-)used by, for instance, vigilante individuals and groups to a higher extent in Sweden than elsewhere.

As briefly described earlier, there are at least two groups with an interest in many of the studied trials apart from the trial participants and the research team. These are the members of the general public and journalists. All have access to court procedures and documents following the generous Swedish
principle of public access. The extent to which sensitive material from a trial is spread into society at large varies depending on what counteracting rules, regulations and norms are present. While members of the general public are restricted mainly by their personal ethical and moral standards, both journalists and researchers are restricted by professional self-regulation and ethical standards. Journalists are guided by the Code of Ethics, issued by Pressens Samarbetsnämnd (coordinating body for Swedish press organisations), advising news organisations to treat criminal proceedings objectively, to respect victims as well as suspects prior to sentencing, to refrain from violating individual privacy, to avoid identifying information and refrain from emphasizing ethnic origin, sexual orientation or religious persuasion (Pressens samarbetsnämnd 2001). However, these ethical codes are guidelines rather than rules and in connection with the previously mentioned court case where ethical dilemmas were first encountered, neither regional nor national newspapers complied with these ethical codes of conduct. A phenomenon waiting to be studied more thoroughly in the future, newspaper articles stated participants’ former nationalities, age and number of children, the block of residency, current locations of parents and siblings, time in Sweden and first locations in Sweden. Such abundant and ‘ethnifying’ information may have added to the strong interest among racist Internet vigilante groups.

For researchers, defending their approach by appeal to the principle of public access is not sufficient. Entering a public space, they must normally seek ethical review board permission and adhere to research ethics that go beyond the principle of public access or the ethical guidelines similar to those guiding journalists. Thus, using the presence of journalists in the courtroom to point at the public character of the research arena, or at their publications as evidence that the news about a case is ‘out there anyway’, is not an option. Researchers need to adjust their research design to ethical standards provided by ethical review boards to be permitted to carry out research, in addition to reflecting continuously upon ethical issues as they present themselves during the research process. We will return to this issue after a discussion about the unethical behaviour among some members of the general public.

**Internet-based vigilantes and ethics**

Unlike journalists or researchers, the general public has less external or professional incentives for ethical consideration. Bloggers, Twitters or authors of posts in threads on Internet forums rarely have an obligation to follow any official code of ethics. Many of these ‘digital citizens’ (Allan 2006) may still stick to the ‘ethical guidelines’ that follow standards in line with official ethical codes and their work has the potential to enhance democratic progress and give a voice to previously silenced groups and people (c.f. Allan
2006; Goode 2009; Salter 2003). Nevertheless, the Internet is also known to facilitate for users to spread racist ideology and fascist ideas (c.f. Back 2002; Daniels 2009; Kaplan, Weinberg, and Oleson 2003), based on morals and ethical standards that are not included in official codes of ethics such as the ones used by journalists, or researchers.

These users acted like vigilantes, on a private quest for (racial) ‘justice’, and they were as interested in the court cases as journalists and researchers were. With full access to court documents and often courtroom interaction through professional or ‘self-made’ reporters sharing experiences, coupled with opportunities provided by The Internet and various Internet forums, such information is easily converted into digital stories that can be distributed on a national and global scale.

Naturally, this phenomenon is not unique to court cases, nor is it just related to issues of racism as databases appear in Sweden and elsewhere exposing sex offenders and other individuals with previous criminal convictions. Nevertheless, in this case, the combination of the principle of public access and racist ideas among members of the public, combined with unawareness among journalists, researchers and ethical guideline policymakers may have dramatic effects on information provided and on the lives of the individuals that ethical guidelines are intended to protect.

During some of the studied court cases, media representations were used extensively in racist Internet forums. Here are some examples, found through Google searches using case-specific concepts or concepts used in journalistic representations (these have been edited to ensure anonymity to the cases being studied):

B-villenews.se/stuvxyz [link to web-based newspaper article]. ‘He attacked her with a hammer and knife. The first day of trial contained horrific descriptions of violence.’ Are you surprised? These people [referring to religious/ethnic group] don’t belong in civilization. Send them back to X-ia [continent].

C-cityherald.se/xxxx/yyyy/ [link to web-based newspaper article]. Didn’t I say this was honour related? Yet another one of these culture enrichers.

The newspaper texts, often describing sensitive and damaging details from pre-trial documents and court proceedings, or speculating on an ‘honour motive’ or referring to the offender’s past life in another country, were used as evidence of racial or cultural inferiority in Internet-based debates. While newspapers’ decisions to print highly detailed information may be legitimized by adherence to ethical guidelines (such as not supplying identifying details), their readers can use these texts in ways that make the guidelines toothless. In these cases, the damage that the guidelines are there to prevent was done, nonetheless. Internet vigilantes just needed to add names and addresses to detailed newspaper stories picked up from court
hearings and court documents that are available through a phonecall, e-mail or visit to the court in question, to get the full identifying story and to use it in destructive ways. This situation did not only affect defendants in our first studied court case, but victims also, and family members were ‘hung out’ for public display, their experiences dissected in a digital global town square.

Thus, details of the crimes, identities of parties and their relatives were published together with more or less implicit suggestions to pay parties a visit at provided addresses:

They all go to X-school. The oldest belongs to the Y-club [name of sports club].
Before they moved to B-ville, they lived in W-town. I have friends there. They say the kids were strange even then. There is a whole gang of D-men [nationality] living there, always causing trouble. No real Swedes stay in the area.

We have seen this continuing after the trial and even after the sentence has been served. In at least one studied court case, the offending party was tracked down as he moved, and his new address published three years after the offence and one year after serving the sentence.

Threads about these cases can reach 500–1,000 comments and have as much as a million individual displays. In some of our cases, the threads evolved into relatively coherent stories, where bits and pieces from newspaper representations, court documents and court proceedings had been continuously added to create a web of ‘evidence’ against the case participants as well as the social/cultural groups to which they were taken to belong. Also typical of these threads is that it was not a single contribution to the thread that did all the identification or all the damage, but the joint effort by many contributing writers and materials that together created the public degradation. Also, the usefulness of media representations was evident. Sharing an article can be done within seconds as opposed to writing a long post about the rumours heard concerning a trial in B-ville, increasing both rate and width of the distribution. Journalistic representations can be used as ‘covers’ to give a sense of objectivity and truthfulness to the racist rhetoric that builds up in these threads.

This line of reasoning brings the arguments back to where this paper started. Had research into these cases also been open, any published results could have added to this body of digital information, not to mention the people being studied in the research identified.

**Informed consent and open observations meet lived realities**

In this section, we want to relate the aspects addressed above to the ethical guidelines and advice calling for open observations and informed consent that were initially recommended for the projects.
Having realized that the trials we studied were the focus of so much racist attention from members of the general public interested in revealing participants on the Internet, we became aware of the ethical risks involved in doing open observations or otherwise informing people about our presence. Turning to ethical review boards and consulting written guidelines did not make matters easier. We were informed that we must see to it that various participants in court are offered to sign a document of informed consent. An ethical review board representative even suggested that the informed consent requirement should be met through statements of informed consent being offered to all members of the court and involved parties, including custody guards while a sign on the courtroom door should make members of the audience aware that they were participating in an observation study. Regardless of the practical difficulties this entails, we understood that these ethical recommendations would greatly increase the risk of our studied trials becoming identified and used on the Internet where social media participants would be able to link our project to their threads through using statements or events described in our research results. This risk would not only mean that our results could be torn out of context and be used in ways they were not intended, subsequently causing harm to the court participants, but also that our attempts to protect our cases and informants from identification would be in vain.

There was a risk that our known presence and results could be used in the same ways newspaper articles, documents and events from the courtroom were being used to build up a racist rhetoric about the case on the Internet. Thus, we persisted in asking for permission to do covert observations, which were later granted. Nevertheless, the process has been an important lesson for us. While searching for arguments against the context-unawareness we have encountered, we have found little support for exceptions to this rule or acknowledgement about the accentuated ethical challenges proposed by the Internet in the Swedish ethical guidelines to which researchers are commonly directed (Vetenskapsrådet 2011). Exceptions to informed consent or open observations are mentioned briefly and as undesirable or unethical alternatives, not providing any details for when exceptions to the rule may, in fact, be more ethical than the rule itself.

As noted, asking for consent is one of the most self-evident tools researchers have to protect the integrity of individuals in a principle of public access situation or to protect them from harm by research. Avoiding covert observations is another one (c.f. De Guchteneire 2004; EU 2010; Vetenskapsrådet 2011). Just because a setting is open to everyone, it does not mean that it is ethically sound to analyse and write about it as a researcher. However, the other way around is true too. Just because a researcher has followed the rulebook through open observations and
informed consent, it does not mean that the research is ethically sound. Different ethical standards may conflict with each other.

Thus, from one perspective, the development of strict ethical guidelines such as open observations and informed consent are motivated by even the slightest suspicion that people’s integrity may be violated by insensitive researchers. However, from other perspectives qualitative courtroom research concerning sensitive topics with the intention of focusing on authoritative power and people with an immigrant background, is not comfortably fitted into such an ethical framework when adding a reality containing an Internet publishing general public and generous public access to courtroom interaction and court documents.

It should be mentioned, too, that even without the mass distribution of sensitive information over the Internet, informed consent may not be the best way to approach people. The requirement to sign a form of ‘informed consent’ may, in fact, be experienced as jeopardizing the promised confidentiality and a protection of the research institution rather than the individual (see Murphy and Dingwall 2001; Price 1996), in addition to being almost impossible to realize in a crowded public setting. Furthermore, building relationships of trust that are usually required to obtain consent, is not an easy task in research involving unprivileged groups in general (Li 2008) or in the courtroom specifically.

Moreover, when it comes to actors in court other than those who are parties in the studied trial, it is not self-evident that they should be informed of research taking place. Court members, legal representatives and members of the public are there participating in a public and societal act of authoritative practice, in a public space. Spicker (2007, 3) states:

It is essential to the function of a democracy that government is open, and that officials are held accountable for their actions. In the case of public institutions, officials are accountable by virtue of their formal roles. It is not intrinsically unethical to use the Freedom of Information Act, which may require officials to provide responses. On the contrary, the passage of information is fundamental to democratic processes.

It is not necessary to announce one’s presence, ask for permission or informed consent in such a context (see also Persson and Sellerberg-Persson 2011). While the ambition to inform people who are studied appears to be a research ideal following the advice we were initially given, it is important to acknowledge that not all rules are easily applied to research reality and that there may be situations where ideals do not apply. In this case, when doing research on the exercise of authoritative power in the Swedish court, it is necessary for researchers to be flexible and prepared to adjust the approach when facing an ethnically problematic context and to continuously making sure that observed individuals may not
be identified in the research process and results. Increasing awareness about these issues facilitates researchers taking responsibility for ethical considerations and for guideline providers to extend and include information on when exceptions to rules can be preferable.

**Discussion**

The events described in this paper are positioned in both time and space. They took place in Sweden, and in Europe, at a time where racism and nationalism are on the increase and with political parties with anti-immigration objectives entering legislative and law enforcing assemblies from regional to European levels (Givens 2005; Rydgren 2007; Sprague-Jones 2011). Followers of these ideologies use Internet as a means to spread myths and stereotypes about groups of people they dislike. Meanwhile, research and newspapers alike can be used selectively and strategically to legitimize racist points, as victims and perpetrators of crime are hung out on a symbolic digital public gallows hill.

This situation does not emanate from a conscious evil within participating institutions but is a sign of an old symbiotic relationship between ethical codes and democratic principles having become increasingly conflictual. In this case, it appears that the generous transparency of the Swedish democratic system has reached its limits. The principle of public access deriving from a need to secure democratic transparency is increasingly becoming a tool for public persecution and, in this case, racist argumentation. Meanwhile, journalists publish delicate details that feed these arguments. The implicit cooperation between the judiciary, the journalistic system and those members of the general public who are prepared to use any information available when publishing on the internet, needs more consideration from representatives of both legislation and journalism.6

As it stands, research ends up with the dirty laundry left by journalistic organisations and legislators, neglecting to deal with the issues described in this paper. The courts hand out all identifying information, based on the principle of public access to official records. Journalists continue to attend trials, and according to a socially constructed news logic (Hall et al. 1978; Tuchman 1978), seeking out sensational and gory details from both courtroom interaction, interviews with legal representatives and pre-trial documents, seemingly oblivious to the fact that their accounts are used in unethical ways on the Internet. Such effects from journalistic publication choices are sometimes defended by journalists and publishers adhering to the principle of ‘consequence neutrality’ (see Fichtelius 1997) – or ‘publish and be damned’ in an Anglo-Saxon version. The vigilante ‘networks’ knit this information together making use of high speed digital technology to rapidly share and spread an edited version of the trial and participants in a
parallel Internet persecution. On the receiving end are the individual court participants and their friends, families and network, who become victims of an Internet-based symbolic violence.

This situation must be understood and addressed by both researchers and providers of ethical guidelines. The implications for researchers is that if they are unaware and lack strategies for the situation described in this article, they may subject the people identified and ‘hung out’ on public display on the internet to more harm. Ethics can never be timeless, but must be tested, continuously, against changes and qualities within the society they are set to work in. At the moment, there is an evident risk of research becoming yet another tool in racist – or other undemocratic – rhetoric on the Internet. Ethic guidelines demanding informed consent, advertised and open observations as a universal solution to prevent abuse of power, may contribute to the exploitation and abuse of unprivileged people. When doing research on sensitive issues such as crime, involving actors in unfavourable positions, such as certain immigrants, an ethical matter of cause needs to be questioned. If courtroom visitors are informed that a study is taking place, they will also be able to identify cases as well as participants in published results and make connections between research results and individual cases being dissected on racist Internet forums. In that case, research may contribute to making courtroom participants – offenders, victims and witnesses alike – into future victims of crime.

Given the limited public debate on these issues, it appears as though the publishing of sensitive and identifying information on the Internet has popped up like a jack in the box, taking society by surprise. However, Internet vigilantes of today using trials to make racist points have benefited from a relatively stable development from early web-based forums of the 1990s to the contemporary multitude of digital arenas for user-generated display.

As long as representatives of the judicial system, journalistic organisations and research institutions fail to acknowledge and raise these issues to the level of public debate that they deserve, qualitative ethnographic researchers into sensitive areas/topics have to work together with ethical boards in finding ethical standards that fit the specifics of this particular research context and the unethical world of certain Internet groups. Although providers of ethical guidelines sometimes acknowledge that there is observation research that may not be manageable should consent or displayed information about ongoing research be demanded, the automatic response from review boards seems to be to follow ‘business as usual’. There is an urgent need for review boards to become more aware and sensitive to these issues and for researchers to be context sensitive and prepared to put on brakes and sound the alarm should the guidelines cause harm rather than protection.
The option is to allow blunt ethical instruments to become determinants of what type of research that can be done, leading to a trend warned against by some researchers (Åver and Øyen 1997; Fangen and Sellerberg 2011) where, for ethical reasons, researchers are forced to avoid sensitive topics and power relations affecting certain members of society. Such development means that ethical boards may become unexpected tools for the protection of the powerful (Hamburger 2004; Hammersley 2009; Spicker 2007) and that the role of research as an essential tool for supervision of state power and the principle of legal security is threatened. Another way out of the dilemma is for devoted researchers studying the activities of powerful institutions to continue with their research ‘underground’ or ‘undercover’ (Katz 2006).

The dilemma with vigilantes using democratic tools to spread personal information and racist ideology on the Internet should be an urgent matter for democratic leadership as well. The Swedish government states:

The overarching objective of democracy policy is a living democracy in which the individual’s opportunities for influence are strengthened and human rights are respected. The policy has five focal points: high and more equal electoral participation; broader and equal participation in elected assemblies; enhanced opportunities for influence, transparency and participation between elections; increased democratic awareness; and protecting democracy against violent extremism ... The objective of discrimination policy is a society free from discrimination. The Government sees a need to strengthen legislation on discrimination further to ensure it is as effective and comprehensive as possible. Efforts to prevent and counter xenophobia and racism must be further intensified. The Government will monitor developments in this area closely and take further measures against racism as necessary. (Government offices in Sweden 2015, our italics)

Democracy is far more than just the right to vote and be politically represented. Human rights should also be respected, individuals should have ‘enhanced opportunities for influence’ and efforts to ‘counter xenophobia and racism must be further intensified’. While it is not the government that persecutes individuals on the Internet based on their ethnic or cultural background, it supplies the means to do so through its generous principle of public access to official records. How does a democratic society safeguard both its citizens from slander and persecution and its freedom of information legislation from abuse? The principle of public access also carries a number of exceptions, one being that documents (and hearings) may be held secret if needed to protect personal or economic positions of private individuals (Public Access to Information and Secrecy Act 2009: 400). However much a sign of democratic failure this may be, is this perhaps a way to protect certain groups from fellow citizens while better ways to deal with the situation are discussed? What can Sweden learn from other countries who have structured their democratic principles and dealt with transparency issues in a
different way? Our projects and this paper have not provided answers to these questions, just reasons to raise them.

The questions have importance far beyond the fields of research and journalism and into issues of citizenship and individual security. To experience belonging and meaningfulness as a citizen and an individual, one needs to have faith and confidence in the surroundings and experience a certain control over events. People, who become involved in criminal activity as offenders, victims or witnesses, now find themselves dragged through a digital gallows hill following an unholy alliance between journalism, freedom of information legislation and Internet vigilantes. Probably, this will pose a threat both to an individual sense of security and to feelings of societal belonging and trust. It is important that research does not add to this problem.

Notes


2. These projects are continuously providing knowledge about the ways ‘othering’ of immigrants in the Swedish court context can take place based on ideas of culture and ethnicity embedded in taken-for-granted notions and performances rather than in conscious discriminatory action (see Diesen et al. 2005; Diesen 2006; Sarnecki 2006). They also address the urgent issue of courtroom interpretation by providing ample examples of misrepresentation during witness and defendant hearings (Elsrud 2014). Based on the media interest in some of these court cases, the data also supports research addressing Swedish journalism as ‘ethnifying’ or ‘culturalizing’ in its tendency to pay particular attention to cultural explanations to a crime (c.f. Brune 2004; Elsrud 2008; Elsrud and Lander 2007; Strand Runsten 2006; see also Ericson, Baranek, and Chan 1991 and Hall et al. 1978 for similar findings outside the Swedish context).

3. Similar journalistic codes of ethics can be found in other countries and in international journalistic organisations such as Society of Professional Journalists (n. d.) stressing the minimization of harm in relation to crime stories, and avoidance of stereotyping based on for instance ethnicity, gender, age and social status. The Council of Europe (1993) specifically states that in cases of, for instance, xenophobic tension, the media have a ‘moral obligation to defend democratic values: respect for human dignity, solving problems by peaceful, tolerant means, and consequently to oppose violence and the language of hatred and confrontation and to reject all discrimination based on culture, sex or religion’.

4. See also c.f. EU (2010), designed for the training of ethic research committees in Europe or International Sociological Association (2001). Other guidelines addressing the differences between public and private space as well as exceptions to the rule of informed consent more thoroughly, such as UK-based Social Research
Association (2003), still do not address the specific ethical dangers of Internet publications. While ‘An EU Code of Ethics for Socio-Economic Research’ (Dench, Iphofen, and Huws 2004) explores the topic of Internet at length, it focuses on the ethical dilemmas of doing research on the Internet, not on the ethical dilemmas involved when research methods in other settings are confronted with Internet users.

5. Even before the fast development and spread of (racist) information through social media and Internet there has been problems surrounding the ethics of informed consent. Although it has not been dealt with in much detail in ethical guidelines it has been thoroughly addressed in literature on research ethics (see, e.g. Hammersley and Traianou 2012; Murphy and Dingwall 2001; Price 1996).

6. A sign of the legislator becoming increasingly aware of the risk that electronic media and interlinking of sensitive information might be used in unwanted ways is the governmental bill 2015/16:148 The Court Data Act that took effect in January 2016. It proposes limitations of search possibilities in the court computer systems on the basis of integrity-sensitive information such as for example ethnicity, religion, health and committed or suspected crimes. The bill tries to limit ways of searching and obtaining information based on such categories within the court archives. However, it will still be possible to obtain material linked to individual court cases in the ways addressed in this article.

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