

QIKJS-Part.I.G(re)

Qualitative Inquiry of Korean Judicial System

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IRB Application

It is mandated to comply with the Walden IRB requirement that the doctoral students shall obtain an approval for his research plan before he or she begins the data collection work. The students should use IRB application form, who are conducting research projects of any scope involving collection or analysis of data from living persons (Center for Research Quality, 2015) That is irrespective of whether the data are from surveys, interviews, observation, student work, or records of any type. The IRB review can occur when the proposal oral conference has been held and the student has received formal proposal approval notification from the Office of Student Research Support (2015). The IRB review will take a minimum of 4-6 weeks, and a study may be approved with revisions. In that case, the IRB members make every effort to make the revision requirements as clear as possible. The researchers may not begin recruiting participants prior to IRB approval, and researchers must resubmit any IRB materials relevant to change when he or she needs to change research procedures after IRB approval. Since the purpose of IRB application is to ensure that the study's benefit outweigh the costs and that the procedures are in compliance with federal regulations and university policies, the board will evaluate the IRB application based on how well the kind of ethical principles are upheld, i.e., beneficence, justice and respect for persons. Therefore, the applicants ensure to affirm that he or she (i) maximize possible benefits and minimize possible harms (ii) fairly distribute benefits and burdens of research (iii) acknowledge participants' autonomy and protect those with diminished autonomy. The IRB application at Walden has 9 sections at total including the Potential Risks and Benefits in Sec. III (2015).¹

PRB Sect. III and Studies on the PAKJS

In concerns of Sec. III, the researcher carefully estimates risk level, enter X to indicate the risk level, and describe the circumstances that could contribute to that type of negative

¹ The 9 sections are titled (i) General Description of the Proposed Research (ii) Community Research Stakeholders and Partners (iii) Potential Risks and Benefits (iv) Data Integrity and Confidentiality (v) Potential Conflicts of Interest (vi) Data Collection Tools (vii) Description of the Research Participants (viii) Informed Consent (ix) Final Checklist and Electronic Signatures.

outcome for the participants or stakeholders (2015). The risk level is classed into three, say, *not applicable*, *minimal risk*, and *substantial risk*. In these terms, the minimal risk is acceptable unconditionally although the substantial risk is acceptable as long as adequate preventive protections are in place.² According to the guide of Walden, the application normally can be complete about 1-2 hours for the prepared researcher (2015).

A. Unintended disclosure of confidential information : minimal risks

- Since my studies are concerned of PAKJS, the confidential information, such as educational or medical records, largely will be out of scope which I plan to investigate. Therefore, the fieldwork on the public documentation or record and interview process generally entails no risks in this regard. Nevertheless, I need to seek the educational record for the judges or justices of Korea, or can ask in the interview places with the aim to deal with themes or chapters. In this case, I specifically explain a need and ensure the voluntariness of response. The anonymity principle will be kept so as not to disclose interviewees unduly against his personal autonomy. It is truly the kind of standard that the research procedures ensure privacy during the data collection as the Walden research ethics planning worksheet guide.

B. Psychological stress greater than what one would experience in daily life : Minimal risk

- The psychological stress would not be inconsiderable for some interviewees, for example, publicly prejudiced former chief of KPO (prosecution offices) or supreme court justices as well as the law professors of failed law school bidding. They would have to revive unpleasant past stories or his dim role subject to public criticism. Nevertheless, they are a responsible public figure, who would not be same as the sexual victims or publicly condemned criminals that I consider it falls under the class of minimal risk. The source of stress can arise from the written piece of research that the researcher has to write up bias-free. The conflict of scholarly conscience to the truth and psychological stress on the concerned figure would be the kind of issue for the academic freedom that shall finally be adjusted with the IRB even after I obtain an approval and can begin the data collection. One good strategy is to articulate a specific plan for sharing results with the participants and community stakeholders, and to make sure that all potential psychological, relationship, legal, economic or professional, physical and other risks have been fully acknowledged.

C. Attention to personal information that is irrelevant to the study : Not applicable

D. Unwanted solicitation, intrusion, or observation in public places : Not applicable

E. Unwanted intrusion of privacy of others not involved in study : Not applicable

² The US federal regulations define the minimal risk, “that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during performance of routine physical or psychological examinations or tests.”

F. Social or economic loss : Minimal risks

- In my research plan, the interviewees are expected to work on the hours of preliminary questionnaires and hours of actual interview. It would be an exhaustive and strained pass of time that needs to be duly compensated. The psychological stress on his or her social reputation or ethical controversy on the former and current public position would also arise. The Ethics Statute of Public Officer in Korea can legally guide their course of action. Hence, the research shall be constrained with the provisions and requirements of statute. Since my research plan is qualitative, the themes and stories – stemmed from the kind of learning process -- are constantly emerging that would require a tiring process of data collection and analysis. This could potentially incur the social or economic loss for the participants. According to the Virginia Tech IRB's position, compensation may be provided to appropriately compensate subjects for their time, travel, and/or efforts, and may not be used to unduly influence potential human subjects to participate in research activities (2015). According to the IRB guide from the UC-Berkley, there are two ways in which compensation is problematic, that is, undue influence and coercion (Committee for Protection of Human Subjects, 2015). Generally, compensation for the research participation is not coercive in and of itself, but compensation can create potentially coercive situations, as when a third party is paid for another subject's participation, and that third party can exert coercion over the subject in order to obtain payment. This situation is typically alluring when the mobilization of participants is challenging -- highly possible for my case in consideration of participants' background and propensity, which I absolutely have to take care of and be aware that the ignorance and inattention would be no excuse. It is a good tipping point that (i) compensation must not be large enough to be construed as undue influence; (ii) researchers and the IRB must consider the subject pool's socioeconomics while reviewing protocols involving payment for research participation; (iii) if possible, prorated compensation based on participation; (iii) compensation must not be contingent upon completion of study procedures.³

G. Perceived coercion to participate due to any existing or expected relationship between the participant and the researcher

- According to one study, despite many efforts aimed to ensure that research participation is autonomous and not coerced, a substantial number of individuals report feeling coerced to participate in the study although the study primarily is designed to deal with the substance-abusing offenders (Dugosh, Festinger, Croft, Marlowe, 2010). Any existing or expected relationship between the participant and the researcher also poses ethical challenges, and some of participants in my study fall within this consideration. A legal historian of Korea is one of my peers at

³ Even if the subject decides to withdraw from the study, he/she must be compensated, at least partially, based on the study procedures he/she has completed.

workplace that needs every effort to ensure the voluntariness of participation.

H. Misunderstanding as a result of experimental deception : Not applicable

I. Minor negative effects on participants' or stakeholders' health : Not applicable

J. Major negative effects on participants' or stakeholders' health : Not applicable

Some Strategies on the Successful Application

Since the application of IRB approval is critical to ensure a safe and beneficial research, it is required to file the application honestly and candidly, in which the facts or assessment should be true and not falsified so that the IRB is neither misinformed nor deceived (Stark, 2011). Nevertheless, it is the student part that he or she should increase the best chance of approval in formulating his research plan. Several checkpoints shall arise to inform the tactics and strategies (Rudestam & Newton, 2015).

First, use of anonymous methods is one tip to prevent the possible ethical challenges since it is the simplest way to avoid pressuring the participants. This point of care could also effect to avoid the possible controversy of privacy invasion or libel claims. Since the participants in my study are a formerly higher administrator, he or she may be sensitive that does not want their names disclosed. On the other, some of them may want their name publicized to stress his intent with my dissemination work *a posterior*. Hence, the maxim may vary depending on the wishes of participants, but the anonymity would be a principle unless special circumstances are present.

Second, I will pay very close attention to alignment among the components of research design. This will narrow the data collection and analysis with the practical aspect of research operation that the IRB is keenly interested. This will ensure unnecessary data collection activities which could eventually reduce the potential risks and avoidable challenges. Since IRB has a focus if the research plan shows promise of effectively addressing the research questions, this point of attention is critically important to increase the success of approval.

Third, it would be wise to use existing data whenever possible. It is because the existing data allows the researcher to avoid burdening others with risky or time consuming tasks just for the sake of research. This concept pertains to the balance test between the potential risks and benefits, which is to make the research not only effective but also economical. This point is held as closely examined by the IRB so that the student has to take care to meet the expectations and standard of IRB in order to successfully seek an approval.

Fourth, the international research, as mine, has to reconcile multiple countries' standards in order to meet the IRB standard (Center for Research Quality, 2015). Since Walden applies the ethical standards of whichever country are stricter, I may have to adhere with the US federal regulations beyond the Korean norms, which generally are considered as more protective of participants. Specific provisions from the source of both countries will be compared that more details of strictness conflict will be delineated to guide my research.

Fifth, the purpose of informed consent is to protect the participants so that IRB only approves protocols in which informed consent can occur in a language in which the participants

are fluent (2015). In my studies, the participants are drawn from Korean pool of informants that the informed consent needs to be presented in Korean. Other language issue also would be present since the IRB requires translations of as many documents as possible at the time of IRB review, as opposed to plans to conduct on-the-fly interpreting. The Walden standard of translated documents will be assured to increase the chance of success (a) that backtranslation procedures confirm the accuracy of the translation (b) that the qualifications of the translators and backtranslators are documented (c) that translation and backtranslation procedures are documented (2015).

Reflection

Yesterday the federal election of Canada brought that a new government of liberal party came to power, which is led by Justin Trudeau. He was a second child from the former prime ministers of Canada in history and his father is regarded as the “father of modern Canada.” With this news story, we can see the complex reality of Canadian politics, the kind of phenomenon over history, and modern constitutionalism -- the kind of rigidity or structure based on the firm concession. Since my studies are located epistemologically and constructively within that kind of complex environmental system in terms of PPA, it seems that I could get retarded and even stunned with the lived experiences of specifics and complexion or challenges from the data collection to be aligned within the logical flows. This alert of mine may be as if we were to understand the aesthetics of Canadian politics. The structure of government is sophisticated itself as if we are referring to the kind of dissertation chapters in order. Although the separation of powers and federalism not infrequently can be practiced elsewhere, the structure of Canadian executive is typical and florescent as with our dissertation structure, beginning from the main body, leader, main organ, head of government, and through the viceregal representative. That is, the Queen’s Privy Council for Canada is a main body, while the president of the Privy Council shall be a leader. Of course, the practical leadership would lie in the Cabinet led by the prime minister. Nevertheless, the type is precious as if the alignment and coherent chapters thereafter in the dissertation process are important for the scholarship. The issue of IRB approval may be seen as the kind of similar function with the judiciary of Canada, which leads the national ethics of Canada and shared with two representations of Canada in terms of ethnic or geographic origin. It might be merely judicial, often viewed as independent of mainstream of national administration -- less political or conceded originally on the distrust of politics-- but can possibly affect the process and structure of national politics. The doctoral students at Walden tend to be easy on the IRB approval thinking that it is merely formalistic --consumed of one or two hour work to fill out the application -- as we deal with the constitutional monarchy, privy council or supreme court of Canada. However, it is the duty of students that he or she shall truly be committed to the purpose and process of IRB review (Kim, 2015a,b,c).

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