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Some Thoughts on the Cochrane Mess

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The Way I See It

1. There is no denying at this point that the board had predetermined they were going to expel Gotzsche at the meeting. They made allegations against him and hired a lawyer to produce a report. That report said they had no reason to discipline him. They did so anyway, while shifting their rationale. Even if you agree with his expulsion, if you cannot acknowledge this fact, you have no credibility at all. Of course, the board denies this because it says a lot about the process. But it is undeniable given the facts.
2. The board is either lying about getting legal advice on all its actions or they are getting terrible legal advice. There are many legally questionable moves, perhaps none more glaring than the vote itself. Gotzsche had a dispute with the CEO and both chairs of the board. He made serious allegations of misconduct against the CEO and the chair. The lawyer's report makes clear that both co-chairs had serious conflicts. The chairs then arranged and led a meeting where they tried to convince other members of the board to expel Gotzsche. They then called a vote, denying Gotzsche a vote and allowing at least one of them to vote. If this ends up in court, oh boy is the court going to have fun with that. 'Let me get this straight. You had a dispute with the plaintiff, so you excluded him from the room for six hours while you pressured the other board members to vote to expel him, then you called a vote to expel him and did not allow him to vote while voting yourself? Sounds fine to me!' Hopefully you can see the sarcasm in that last sentence. I cannot bring myself to believe that any lawyer would be terrible enough to advise that was appropriate or legal.

   Then again, maybe Cochrane's in house lawyer is not so good. Because the external lawyer's report notes that Cochrane's in house lawyer thought one of Gotzsche's actions was a "flagrant" violation of the spokesperson policy, while the external lawyer disagreed and any lawyer with basic skill can see it is not a difficult interpretation.

   Another example is the modification of Nordic Cochrane's website without their permission. This was a blatant violation of the collaboration agreement between the centre and Cochrane. The message sent was: we have total authority and will do as we please, while ignoring the collaboration agreement. If a lawyer authorized that move, they might want to think about another line of work.

   The board expelled Gotzsche from Cochrane and purported to remove him as director of the Nordic Centre. But as is clear in the Collaboration Agreement, they do not have this authority. Gotzsche called their bluff. Their only recourse was to follow the dispute resolution process in the Collaboration Agreement. Rather than do that, they blatantly ignored the Agreement and seized Nordic Cochrane's website.

In my opinion, the remaining Cochrane Centres have a decision to make regarding the board's seizure of Nordic Cochrane's website. Do they want to acquiesce to this naked power grab? The board has signaled that if it has a disagreement with a Centre, it does not believe it is bound by the Collaboration Agreement it signed. The board will act with whatever physical tools it has at its disposal to carry out its wishes. The Centres did not sign up for that and neither did the Centres' funders. If a centre gets into a dispute with the board, are you prepared to have the board seize your website and deface it with statements from the board about your 'insubordination'?

3. The board has been misleading and/or dishonest throughout the entire process. Aside from the things already mentioned, the board has been misleading in various statements. In their original statement on the expulsion, the board accused the four resigning members of "actively disseminat[ing] an incomplete and misleading account of events." This was false and slanderous and I cannot believe a lawyer would have authorized it. When called on it, they changed the text to a vague accusation that "others" were doing so. They noted the edit to the document without indicating what was edited, so a reader who had not read the first version would not know it contained a baseless smear of their colleagues.At the end of the board's statement on the expulsion, it talks of "zero tolerance" and makes a vague nod toward the #metoo movement. They state there was repeated "seriously bad behavior" toward "staff members" and they had no choice to act. I have a hard time believing a lawyer approved this reckless statement. Some people got the impression Gotzsche had sexually harassed staff. This is not surprising, given the language. Many others thought he had harassed staff in a physically threatening manner based on this language. When one is familiar with the situation, the deception of this statement becomes clear. The "harassment" Gotzsche is accused of is simple disagreement with the CEO and other members of the board. And in that disagreement, the board's own hired lawyer sided with Gotzsche on the allegations against him. Gotzsche also made allegations of misconduct against the CEO and the board chair. And that is the behavior deemed to be harassment. The "seriously bad behavior" is disagreeing with those who had the power to expel him and objecting to their behavior. So, when looked at through the facts on the ground, this appears to be the expulsion of a whistleblower arranged by those he accused of misconduct. I imagine a court will have something to say about this. It is telling that the CEO and some board members made allegations of misconduct against Gotzsche, and in response Gotzsche made allegations of misconduct against them. And the board treated Gotzsche's allegations as harassment, while deeming their own allegations above board.
The board's statement also included this sentence: "The report completely exonerated the member of the Senior Management Team but did not exonerate the other individual." This is so misleading as to be false. And I assume they relied on the confidential nature of the report to conceal this deception. Now that Dr. Gotzsche has posted the report, everyone can see that Dr. Gotzsche was completely exonerated on the main issue: the accusations of violating the spokesperson policy. The only issue where Gotzsche is found at fault is violating the "Functions of Centre" document, and the lawyer declares that document does not appear to properly describe the functions of a Cochrane centre accurately, and therefore it would be inappropriate to discipline Gotzsche for violating this document. The implication is that all Cochrane centres are likely in violation of this document (in fact, a document on Cochrane's website indicates that no centre has ever performed all the required functions), so the lawyer recommends making this document more complete. The reality is the lawyer fundamentally misinterpreted the purpose of this document, perhaps because he is not familiar with the

history of Cochrane and the work of the centres, or perhaps because he was interpreting something a bit vague in favor of his client.

This document is not an exhaustive list of what the centres are allowed to do, as the lawyer seems to argue. As he says, if that is the purpose of the list, it is incomplete. Instead, the more logical interpretation is that this list sets out the activities the centres are expected to do on behalf of Cochrane as a whole. It says nothing about other activities the centre deems in its own interest. If you adopt this interpretation, then the document is complete and appropriate, but it also means Gotzsche violated nothing. Under this interpretation, a centre would only violate the document if it did not perform the functions listed. And indeed, you must adopt this interpretation, given the historical autonomy of the centres, the existence of the collaboration agreements themselves, and that Cochrane centres are independently funded. If the government of Denmark wished to support the work of Cochrane and not specifically Nordic Cochrane, they would give their money to Cochrane itself. I do not think a funder of one of the centres would wish to be completely subject to the whims and priorities of Cochrane leadership. That is not how Cochrane works and never has been.

Though it is somewhat vague, a closer reading of the collaboration agreement reinforces that Cochrane Centres have the autonomy to pursue their own activities, so long as they do not conflict with the goals and mission of Cochrane. First, the structure of the document is not that of a sub-unit, but of collaborating units. The title of the document implies autonomy. And the general organization of the document is such that it lists responsibilities each party has to the other, but nowhere does it say those responsibilities are the extent of the allowed activity of either party.

The 2016 version of this document states the following at the end of the preamble: “The Parties are therefore establishing this Collaboration Agreement…to strengthen their existing cooperation by defining their mutual responsibilities with the purpose of sustaining and developing the activities and impact of the Xxxxxx Cochrane Centre in contributing to Cochrane’s mission and strategic goals.” That is not a statement that Cochrane Centres are limited in the functions to what Cochrane central needs. It only says the Centre works toward Cochrane’s mission and strategic goals.

One of the responsibilities listed for a Cochrane Centre Director is: “Try to secure sufficient funding and in-kind support to allow the Cochrane Centre to deliver the functions set out for Centres and **its own activity plans**“. That is an explicit statement that Centres have their own activity plans, and those plans are distinct from the functions the Centre provides for Cochrane.

In the “Dispute Resolution” section is the following text: “In the event that the performance or activities of the Director or his/her Centre **in relation to Cochrane activities** falls outside the expectations, functions and policies for Centres…” That is an explicit recognition the board only has control over the director in relation to Cochrane activities and implicitly means there are other activities of the Centre over which the board has no control. The board only has authority to ensure the Centre is delivering the required functions to Cochrane. Beyond that, the board has no authority over the Centre.

This is also why the document does not give the board the authority to remove a Centre Director. Because the document recognizes the Centres are independent entities with their own priorities and so long as they are meeting their priorities to Cochrane, they are meeting the terms of this agreement. As independent entities, the board only has remedies available when the Centre is not meeting its obligations to Cochrane. Thus, their remedies are limited to taking steps to remedy the breach – and those steps do not include removal of a director. If the situation becomes unworkable, they are permitted to deregister, relocate, or dissolve the Centre. All three of these options really just mean kicking the Centre out of Cochrane. They have no ability to modify the organizational structure of the Centre because it is independent.

There is more evidence in the draft document on the website from November 2015 titled "Centres, Branches & Networks: Structure & Function Review". This document contains an admission that Centres have their own agendas they control: "These clear functional priorities do not, however, mean that Centres are limited in their role, as the review recognizes the distinct background, expertise and areas of interest of existing and future Centres."

4. The lawyer's review was not independent at all. This is expected, given the dynamics of the situation, and the lawyer chosen is clearly sharp, based on some of the things I read in the review. He knows the board's intention is to expel Gotzsche. So he goes to great pains to 1) provide a fig leaf to his client, and 2) completely distance himself from what they plan to do. It is clear he wants no part of any disciplinary action here.The lack of independence can be seen throughout the document. Throughout the document he attributes motivations to the Cochrane CEO and board chair that he cannot possibly know. And those motivations are always positive ones. "…they were very well-intentioned". "I am satisfied that the Proposal advanced by MB was in good faith." "I am satisfied that MB is wholly impartial." "During my interview with him I was impressed with MB's obvious integrity and impartiality." "I should say here that over well in excess of four hours of interviews with MW I was impressed by his fairness, objectivity and open demeanour." "…MW has shown restraint and professionalism throughout." Except when he did not – in that case, where MW shouted at Gotzsche and called him a liar "I treat this as a minor issue." Ha ha. It goes on and on.These are not the statements of an independent investigator. The complaints made by Gotzsche about the CEO and co-chair were never going to be investigated with much effort. And it is clear they were not. In almost all cases, the investigator seems to have talked to no one involved aside from the CEO and co-chair, and he dismissed many claims by saying he does not believe people of such integrity would do something like that. Okay. It would be impartial to say you have seen no evidence to substantiate the allegation, but the assertive statements that the allegations are false are clearly biased statements. As are silly statements saying that "eminent" professors are not likely to lose their independence. Of course, we know eminent professors lose their independence all the time for various reasons – including their financial association with drug companies. Similarly, he rejects an allegation that meeting minutes were tampered with partly based on the fact they were sent to the co-chairs before approval. Surely, the co-chairs would have objected to incorrect minutes he says. Well, if the co-chairs have been antagonistic to Gotzsche and siding with the CEO during this conflict, does that point actually hold any water? No, it does not.

When reading the lawyer's dismissal of the complaints against MW and MB, I was reminded of the famous case where the police arrested a suspect but then let him go without looking at any further evidence because they deemed him to have obvious integrity and fairness when they interviewed him. And though they had video of him losing his temper, they deemed that a minor issue in light of his obvious integrity. And if you are wondering, I am making this up because of course police, or any independent investigators, do not follow this kind of process.

I do understand the lawyer was pressed for time, so perhaps a thorough investigation was not possible. But the absolute certainty with which he dismisses the allegations made by Gotzsche smacks of obvious bias and lack of independence. The report should have stated he did not find evidence to substantiate the claims, but further investigation would be prudent.

5. Let us take some time to appreciate the nature of the complaints against Dr. Gotzsche. We will look at just the three most recent complaints. A common theme of these complaints is they are not sincere. One of the complaints was in the form of a tweet. The tweet complains about Dr. Gotzsche listing his Cochrane position when advertising a course on psychiatric drug withdrawal, and also the use of a Cochrane email address for responses. Dr. Gotzsche's response made clear that he used Cochrane email because the event related to a Cochrane review and future work of the Nordic Centre. And listing his position at Cochrane does not violate anything anyway. But what is notable here is the clear motivation for this tweet: the person who sent this is unhappy that Dr. Gotzsche is holding this seminar. This tweet never resulted in a formal complaint, and even Cochrane's CEO eventually conceded it did not violate the spokesperson policy.The second complaint, which was a formal complaint, is worse. This complaint was made by a physician who participated in a homicide trial as a witness for the state while Dr. Gotzsche was a witness for the defense. Notably, no complaint was made about Dr. Gotzsche until two years after the trial. And this complaint was made after Dr. Gotzsche had filed a formal case against the physician with the disciplinary court.

Dr. Gotzsche's response to the complaint sets out the egregious behavior by this doctor that prompted his disciplinary complaint. During the trial, this doctor called an opposing expert witness (not Dr. Gotzsche) a "charlatan". The court reprimanded him for this behavior. Further, Dr. Gotzsche says the doctor improperly attempted to influence the judicial process, and the Public Prosecution Service said his actions were criminal offenses. Finally, this doctor circulated a note in court that alleged Dr. Gotzsche had become mentally ill and even cited his "professional opinion" that Dr. Gotzsche needed to be evaluated for mental illness.

So, it is clear the complaint is motivated by anger and retaliation against Dr. Gotzsche for filing his complaint about the doctor's own despicable behavior. It is difficult to take the concerns in the complaint seriously when they were apparently not enough to generate a complaint until Dr. Gotzsche filed a complaint against the physician, and when that physician's behavior was so fundamentally unethical.

The third complaint is possibly as egregious as the second. In this case Gotzsche sent a letter asking for information on the deaths of children in a long running antipsychotic trial. The

number of deaths were reported with three different amounts. And the causes of death were apparently not reported. Dr. Gotzsche was asking for that information.

First, I will note that asking a question privately on company letterhead does not seem like a "spokesperson" role at all. What is the idea he is conveying by asking this question? That Cochrane cares about dead children? Apparently the CEO of Cochrane feels it is essential to make sure everyone knows Cochrane takes no position on the issue of children dying in clinical trials.

Second, this complaint was not even about the spokesperson policy. This complaint was made on the basis that Gotzsche is "biased" and not an independent researcher, and that makes Cochrane look bad. Apparently, Fuller Torrey will not trust any Cochrane reviews after receiving an inquiry about dead children from a member of Cochrane. Well, I am not sure Fuller Torrey has read many Cochrane reviews anyway. He is not exactly a shining example of evidence based medicine in action. But of note here is that the Cochrane CEO transformed this complaint into an issue about the spokesperson policy (and was proven wrong).

But my larger issue with this complaint is the total lack of perspective here from Cochrane leadership. The complaint was clearly sour grapes, meant as intimidation. Aside from these sour grapes, Torrey is perhaps the leading proponent of forced treatment – the Treatment Advocacy Center he runs is dedicated to forced treatment, while Gotzsche has been leading a campaign against forced treatment. A normal, functioning complaint system at Cochrane would recognize this problem and dismiss the complaint (as it should have many others against Gotzsche). The Cochrane complaint process should not be a tool for harassment by people angry at a Cochrane director. That is all these complaints are: harassment. And this is the very thing the board accused Gotzsche of doing. In the upside down world of the Cochrane board, the actual target of a years-long campaign of harassment is the guilty party. Sorry, but when you take seriously the claims of obvious harassers, you are yourself participating in harassment. And you should expect the target of your harassment to get angry and push back. While the board's lawyer sees all of the CEO and chair's actions as reasonable and appropriate, they do not look that way when you realize they are threatening and harassing Gotzsche based on complaints that are obviously not made in good faith by unethical researchers Gotzsche has upset in some way. In what world does it make sense to threaten to close an entire Cochrane Centre because their director asked for information on how and why so many children died in a study? Who wants to be a part of an organization that prioritizes the letterhead used to ask questions over answers about dead children?

A few common themes run through the disputes over the board's complaints. One is the mistaken idea that affiliation denotes representation. Professionals often list their affiliations in their work. This is normal and expected. Doctors frequently list the hospital they attend, and no one assumes the doctor is representing the hospital's views. When reporters write books, they will often identify their employer in big text, yet no one thinks the book is the message of their employer. Cochrane leadership and policy makes a big deal about having stricter rules for directors of centres, but we should be honest here: these rules were put in place to muzzle Dr. Gotzsche. They produce absurdities like Dr. Gotzsche is more restricted in how he can use Nordic Cochrane letterhead than his subordinates are. The difference with Dr. Gotzsche is the Cochrane leadership disagrees with his views and sees them as

controversial. So, they apply requirements to him that are not required of other professionals, both at Cochrane and throughout the scientific community. And as already noted, the use of Nordic Cochrane letterhead is a red herring because, as Dr. Gotzsche has repeatedly stated and is indicated in the various Cochrane agreements, Nordic Cochrane is an independent entity, Dr. Gotzsche is its director, and he is empowered to decide what is Nordic Cochrane business. The problem for Cochrane central is that Nordic Cochrane shares their brand. But they have limited ability to control Nordic Cochrane's activities by design.

Another common thread is the special rules that were imposed on Dr. Gotzsche's activities. This is a ridiculous overstepping of authority. Again, these rules were imposed on Dr. Gotzsche because the board disagrees with his views. No one else had special rules imposed on them, and the legality of such rules is dubious. The board's own lawyer even says these rules were misguided. Though he of course knows they were made in good faith. The Cochrane board is always acting in good faith, except maybe when they are misleading everyone as demonstrated above. I am sure the hired lawyer would call those "minor issues".

Yet another aspect is the motivation behind imposing a requirement to affirmatively state Dr. Gotzsche is not speaking for Cochrane. This is asserted as an innocent requirement to avoid confusion, but no one is confused. The requirement is imposed instead to attempt to diminish Dr. Gotzsche's authority and lessen his credibility. Have you ever seen someone affiliated with an organization specifically state before speaking that their views are not that of the organization? Rarely, if ever. Forcing Dr. Gotzsche to do this is an exceptional circumstance meant to make Dr. Gotzsche look "radical". Everyone knows that when people speak for organizations in an official capacity, they either do so all the time based on being an explicit spokesman, or they affirmatively indicate when they are speaking on behalf of that organization. In the case of Cochrane, when documents or statements are issued through official channels or through official spokespeople, everyone knows they are the statements of Cochrane. When they are not distributed in that manner, everyone knows they are not Cochrane statements unless otherwise affirmatively stated. There is no need to affirmatively deny statements are official to avoid confusion. Instead, the motivation is clearly to diminish Dr. Gotzsche's credibility. And this is why the rules are enforced on Dr. Gotzsche and no one else.

Finally, possibly the worst aspect of this is the clear impression from Cochrane leaders such as the CEO, that the Cochrane centres have no autonomy and Cochrane leadership does not respect the existence of the collaboration agreements or the centres' ability to operate autonomously. This is clear from the statements by CEO Mark Wilson throughout the documents he sent to Dr. Gotzsche. For example, Wilson says this in a letter to Gotzsche:

> the use of your name and title in the signature description at the bottom of the letter as Director of the Nordic Cochrane Centre, and the language used in the request for data (where consistent use of the words 'we' and 'our' would reasonably lead any reader to assume that the request is from the Nordic Cochrane Centre and the views expressed in the request are those of the NCC) you have failed to abide by the Cochrane Spokesperson Policy

> Gotzsche's obvious response to this was: these *are* the views of the Nordic Cochrane Centre. I am its director and I am authorized to speak on its behalf. The implication from Wilson's statement is that he see no difference between "Cochrane" and the Cochrane centers. It is as if the collaboration agreements do not exist.

A Summary of Events

When we take a step back, it is quite easy to see what has happened up to this point. Dr. Gotzsche made some people angry. Frankly, it is unsurprising that people get angry when someone reports their misconduct to medical authorities. It is also unsurprising that someone gets angry when Dr. Gotzsche asks about all the children that died in their clinical trials. What is surprising for a scientific organization is the way Cochrane responded to these complaints. And they responded the way they did because the leadership of the organization already wanted Dr. Gotzsche out, so these dubious complaints were used as ammunition to justify what was already in motion.

Dr. Gotzsche's work makes him "controversial". The CEO of Cochrane is not a scientist. He comes from the business world. And in the business world, controversy is considered bad for the brand. And employees who rock the boat and do not fall in line with orders from above do not last long. Corporations are dictatorships, not democracies. The CEO brought a dictatorial mindset to Cochrane, and he believes Gotzsche is bad for the "brand". Not being a scientist, he has no recognition that the work Gotzsche does IS the brand. The ideal of science is not sitting by idly while science is perverted by moneyed interests. The ideal is someone who thoroughly vets the science being produced and is willing to challenge corruption at great personal risk.

So, in the CEO's mind, any appearance of the Cochrane name next to Dr. Gotzsche is bad for the brand. This led to his attempts to get Dr. Gotzsche to dissociate himself from Cochrane. Rules were imposed on Dr. Gotzsche that were not imposed on anyone else. A broad spokesperson policy was written that goes beyond what is necessary and then selectively applied to only Dr. Gotzsche. But the policy was not strict enough, and allowed Dr. Gotzsche to continue with behavior the CEO wanted to end. The CEO was surely frustrated by Cochrane's organizational structure – that he has limited power over the centres.

The CEO made various threats against Gotzsche and the Nordic Centre, but lacked the power to force Gotzsche to do as he wished and the will and political ability to pursue the remedy that was available (actually removing Nordic Cochrane from Cochrane). So a process was setup to provide a pretext for Gotzsche's removal from Cochrane. That process failed, but leadership went ahead with the expulsion anyway, trampling all sorts of rules and agreements in the process to get its way. And misleading Cochrane's members about what it had done.

This was Inevitable

In my opinion, this all became inevitable with the centralization of power in Cochrane. The executive staff of Cochrane was given ultimate authority with annoying limits. And the executive staff and centres exist in some kind of quasi-corporate, quasi-collaborative arrangement. But once power was centralized, it was inevitable that Cochrane central would seek to claim more power. This always occurs. The CEO is expected to manage Cochrane's brand and direction, while not having full control over either. Of course he will attempt to gain more control over them. And putting a non-scientist in the role virtually guarantees conflict with the centres because business

people do not think and operate on the same principles as scientists. Naturally, the conflict will occur with anyone who resists, typically the most independent people.

One oddity in the whole arrangement is that Cochrane's "brand" was largely built by the centres. At some point, it was decided the brand that was created by the centres needed to be centrally managed. And this new management had no moral authority, yet was tasked with telling the centres how best to build the brand they already built. While at the same time providing almost nothing back to the centres. I think the centres see the relationship as parasitic and one-sided, and I cannot blame them.

A corporate power structure does not work for a scientific organization like Cochrane. For one thing, corporations operate more like dictatorships than democracies. Dissenting voices are squeezed out, not respected. A corporate structure is exactly what powerful interests like pharmaceutical companies want at Cochrane. Because corporations will move quickly to remove people they deem controversial. Eventually you are left with subservient people who fill out the forms and publish the work without asking the difficult questions. Many studies are already produced in a check box manner, where companies are sure to cross off every technical requirement while producing a biased design that results in the desired outcome. Their ideal world would include a Cochrane that produces meta-analysis the same way. Check off all the boxes. Do not ask any difficult questions, just publish the free marketing materials.

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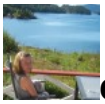
2 thoughts on "Some Thoughts on the Cochrane Mess"

1.  **Caroline Struthers**

   October 1, 2018 at 10:26 am

   Thanks for a brilliant analysis here and elsewhere

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2. **mark mcdougall**

   October 1, 2018 at 11:45 am

   Very clearly expressed, and so important, thank you. One wonders whether it can be salvaged.

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