

Indigenous Research: Ethics, Intellectual Property and the Role/Importance of Indigenous Researchers

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Introduction

Three areas related to Indigenous research produce dialogue and debate related to the conduct of research. These are ethical considerations and guidelines, intellectual property and issues for Indigenous researchers, including the emic/etic debate. Underlying the need for raising awareness of these issues are historical practices in research about Australian Indigenous peoples. Some writers (e.g. Rigney 1997, Nakata 2004b) contend that Australian Indigenous peoples are amongst the most researched groups in the world. A number of problematic assumptions about Indigenous research are identified by Hart and Whatman (1998). Amongst these is the fact that researchers have historically assumed an unquestioned right to engage in research about Indigenous peoples. An understandable wariness has developed amongst Indigenous peoples about the research process and its results.

One reason for this wariness is that historically any benefits from research were seen to flow to the researchers and the institutions to which they were affiliated (NHMRC 2003 p.14) Commitment to principles of ethical research can serve to ameliorate these concerns.

Aligned with the assumed right of researchers to garner information from Indigenous people are issues related to intellectual property. A number of assumptions underlying the question of ownership of knowledge have been problematic in Indigenous research. Significant are the beliefs that Indigenous Australian cultures do not embrace the notion of ownership of knowledge and that all people have the right to access all knowledge (Hart & Whatman 1998 p.7).

In recent years the number of Indigenous Australians engaging higher education and subsequently in research has increased. Members of this growing community of Indigenous researchers face a number of specific challenges.

In this paper I will present some aspects of the debate in these areas. Emphasis will be placed on a selection of identified Indigenous perceptions and goals.

Ethical Concerns in Indigenous Research

Two documents related specifically to ethical Indigenous research form the basis of the following discussion. One was published in 2003 by the National Health and Medical Research Council (NHMRC). The second

was released by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) in 2000. Discussion of the values outlined by the NHMRC will be linked to the principles presented by AIATSIS. A general statement related to research involving humans was provided by the NHMRC in 1999, and supported with a handbook, released in 2001, that provided extra information for interpreting and implementing the principles outlined in the statement. In both documents integrity was discussed in relation to the way in which research is conducted. It was defined as 'a commitment to the search for knowledge, to recognise principles of research conduct and the honest and ethical conduct of research and dissemination and communication of results' (NHMRC 1999 p.11). This is imperative if the researcher wishes the findings to be accepted as valid and reputable.

Six values are seen as underpinning principles of ethical Indigenous research by the NHMRC. These are: reciprocity, respect, equality, responsibility, survival and protection, and spirit and integrity (NHMRC 2003 p.8). These are more specific than, but relate to the principles of mutual understanding, respect and recognition which are some of the principles mentioned AIATSIS (2000 p.2). Research involving Indigenous issues, communities and/or institutions can only demonstrate integrity if it incorporates these values in design, conduct and reporting.

Reciprocity in the research context relates to the principle of 'benefits, outcomes and agreements' described by AIATSIS (2000 p.3). It is described as embracing inclusion (NHMRC, 2003 p.10) and is also integral to the AIATSIS (2000 p.3) principle of involving Indigenous researchers, individuals and communities. As a way of building trust, of recognising and valuing the input of all participants, the principle of inclusion must be part of all stages of the research, from planning to publication.

Respect for the integrity of Aboriginal and Torres Strait Islander cultures is also essential and is described by the NHMRC (1999 p.25) '... as regard for the welfare, rights, beliefs, perceptions, customs and cultural heritage, both individual and collective, of persons involved in research'. Stringer's (1999 p.24) summary of Gluck (1979) supports this in asserting that in planning and evaluating research the following should be considered: pride, dignity, identity, control, responsibility, unity, place and location. Consideration of these allows research to be evaluated in terms of its impact on 'people's social and emotional lives' (Stringer 1999 p.24).

It is essential in all research that participants feel that their contributions are valued and their beliefs and values are respected. Respect is described by the NHMRC (2003 p.11) as a characteristic of human relationships which recognises the dignity and worth of individuals. In the context of research this involves relationships with participants which are based on recognition of difference in relation to values, norms and

aspirations. AIATSIS (2000 p.2) also states that 'Indigenous knowledge systems and processes must be respected'. Both documents encapsulate the idea that respect is involved in all stages of the research.

Equality is described as affirming Aboriginal and Torres Strait Islander peoples' 'right to be different' (NHMRC 2003 p.3).

To misrecognise or fail to recognise (cultural difference) can inflict harm, can be a form of oppression, imprisoning someone (or a group) in a false, distorted and reduced model of being.....Research can not be 'difference-blind' (NHMRC 2003 p.3).

Recognition of difference relates not only to difference between the Indigenous participants and 'mainstream' Australian society, but also between different Indigenous communities based on cultural, historical and social factors. Failure to recognise difference jeopardises the quality of research as well as the ethics (NHMRC 2003 p.3). 'Recognition of the diversity and uniqueness of peoples as well as individuals' is also seen as essential by AIATSIS (2000 p.2).

Responsibility as outlined by the NHMRC (2003 pp.16-17) involves researchers recognising and respecting the responsibilities that Aboriginal and Torres Strait Islander peoples see as important. 'A key responsibility is to do no harm, including avoiding having an adverse impact on others' abilities to comply with their responsibilities' (NHMRC 2003 p.16). It is the researchers' ethical responsibility to accept this as part of their professional code of conduct when engaging with Indigenous communities and knowledge. This includes transparency and accountability. The purpose and design of the research must be made clear to all participants, who also have the right to an on-going role of advice and review in relation to both the research process and publication.

Justice in the context of research, another ethical principle, refers to 'fair distribution of the benefits and burdens of participation in research' (NHMRC 1999 p.11). Justice is discussed under the heading of survival and protection by the NHMRC (2003 pp.18-19). One aspect of research injustice mentioned is that some groups become over represented in research. For research in the field of Indigenous issues this is always potentially a risk factor. This issue is also recognised in an earlier NHMRC document which stated that researchers need to '... avoid imposing on particular groups, who are likely to be subject to over-researching' (NHMRC 1999 p. 11). One consequence of over-researching is the negative experience some groups have had with being 'subjects' of research. The following statement is very pertinent.

Aboriginal and Torres Strait Islander Peoples do not intend to forego the distinctiveness of their cultures. Barriers between research and Aboriginal and Torres Strait Islander Peoples have been created for example where some researchers or institutions have ignored or sought to undermine this distinctiveness. The repeated marginalisation in research of Aboriginal and

Torres Strait Islander values has reinforced these barriers over time creating a collective memory that is an obstacle to research today (NHMRC 2003 p.18).

Spirit and integrity is seen as binding the other values together in an understanding that 'the present and the future are absolutely bound up in the past' (NHMRC 2003 p.9). This is seen as intertwined with discussion of any issue.

These factors necessitate careful consideration of planning and practice in research involving Aboriginal and Torres Strait Islander communities, institutions and individuals. A personal anecdote illustrates this need. One of my cousins who worked in a support unit heard from a mutual friend of my proposed doctoral research. He exhibited some reservation and wariness until a more detailed explanation was given. After he had initiated direct contact allowing me to explain more fully, he showed eagerness and support. His reaction illustrates the reservations people can experience if research is perceived as simply another academic exercise, even if the researcher shares Indigenous background. Inclusion of the ethical principles which are 'fair and respectful' (NHMRC 2003 p.2) incorporated in the NHMRC and the AIATSIS documents is one way of overcoming the barriers.

Intellectual Property

Indigenous people are entitled to the recognition of full ownership, control and protection of their cultural and intellectual property (AIATSIS 1999 p.27).

This is a complex, multi-faceted area and only some aspects can be canvassed here. Development of concerns related to intellectual property will be outlined, as will the links between this, other rights issues and reconciliation. Some aspects of these issues will then be explored.

Anderson (2004 pp.587-589) discusses the development of concerns about intellectual property. She points out that it is an international concern as evidenced in the foundation of the World Intellectual Property Organisation's (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. She theorises that Australia would have arrived at the debate without international pressure. Underlying her belief is her perception that changes in the 1960s in relation to attitudes to land ownership issues led to recognition of concerns related to ownership of intellectual property. AIATSIS (1999 p.24) takes this viewpoint further attributing the introduction of the self determination to the creation of awareness that ownership of previously appropriated Indigenous cultural and intellectual property should be returned to Indigenous peoples.

Impetus for concern with specific Indigenous intellectual property is ascribed by Anderson (2004 p.589) to the production in the early 1970s of tea-towels featuring artistic imagery from Arnhem Land. This case is

described as a catalyst for awareness of the need for protection, recognition and respect for ownership of these images. McDonald (1998 pp.5-7) includes appropriation of images in his discussion of problems related to Indigenous intellectual property. He also raises the problems of appropriation of objects, styles, identity, knowledge and stories and issue of misrepresentation of Indigenous life and customs and states that all of these denials of rights to intellectual property are offensive.

When McDonald refers to appropriation of identity in his list of concerns he is referring to authors who have falsely claimed Aboriginality in the public identity they adopt. West (1995 p.7) raises a different aspect of this problem. He describes the situation where members of a community – for whom English is often a second, third or fourth language – often bestow a name on the researcher. He sees this as problematic when the non-Indigenous person perceives this naming as adoption and proceeds to use this name in other contexts as a validation of their rights to research or present Indigenous knowledge in these different contexts without negotiating intellectual property issues with the Indigenous people in the new context. I would suggest that this ‘adoption’ is creation of a quasi Aboriginal identity in an attempt to legitimatise appropriation of knowledge, culture and artefacts.

Worby AND Rigney (2002 p.26) propose that the ‘battle for power in the area of Indigenous research is related essentially to questions of Indigenous cultural and intellectual property rights’. Grossman (2004 p.288) concurs adopting the position that debate about intellectual property is based on issues of unequal power relationships between Indigenous peoples and the dominant society. She also sees the debate over intellectual property as reflecting the debate over ‘law, land and sovereignty’. This connection is also proposed by AIATSIS (1999 p.24) who state that issues of Indigenous rights came to be pursued not only by militants, but by the academy as well. One important change that came about as a result was the alteration to who are the gatekeepers of Indigenous knowledge and artefacts. Gradually the gatekeeping role shifted from ‘administrators, heads of university departments and other agents of colonial rule’ (AIATSIS, 1999 p.24) to Indigenous peoples. Some power was returned to the Indigenous owners of the knowledge and practices being researched.

Janke (1999 p.635) links the recognition of ‘Indigenous cultural and intellectual property rights’ to the process of reconciliation and defines a number of principles which should underpin sharing of Indigenous knowledge and components of culture, such as art, music, and dance. These principles are ‘respect, informal consent, negotiation, full and proper attribution and benefit sharing’ (Janke 1999 p.635). Worby AND Rigney (2002 p.28) expressed similar sentiments when they put forward the view that research which does not take into account ethical considerations makes the process of reconciliation impossible. As Janke (1999 p.634-635) points out there are many areas where Indigenous peoples want rights in relation to how their cultures are presented to wider society. These include ownership and control of commercial use of aspects of Indigenous

cultures and knowledge. Important, also, is proper attribution, not appropriation. In the context of participation in research that involves sharing of knowledge between Indigenous peoples and researchers, I would propose that this issue of attribution is vital. Recognition of the source of the knowledge, and the rights of the participants to have their intellectual property recognised and acknowledged is part of ethical practice.

West (1995 p.5) stated in guidelines for research ethics that it is imperative from the proposal stage of a research project that it is recognised and agreed that all knowledge remains the property of the participants, and that the use or publication of such material remains at the discretion of the Indigenous owners. West (1995 p.7) goes on to point out that 'sharing is not giving'. In agreeing to share information with a researcher the Indigenous participants are not abrogating rights of ownership.

An ongoing issue in the area of intellectual property relates to the ascribed authorship of work by Indigenous postgraduates. The Combined Australian Postgraduate Association (CAPA) (1997 p.55) raised this, stating 'many Indigenous postgraduate students find it difficult to accept the conventional postgraduate policy that supervisors are entitled to joint authorship on publications'. In a study published by the National Indigenous Postgraduate Association Aboriginal Corporation (NIPAAC) in February 2006 this issue is raised again. However this report highlights that there is more involved, stating that not only is it rare for Indigenous researchers to retain intellectual property rights, it is also common for these postgraduate students to state that they had not been 'clearly informed about intellectual property issues' (NIPAAC 2006 p.66). Other issues facing Indigenous researchers form the basis of the next section of this paper.

Indigenous Research

Indigenous researchers face a number of issues other than those related to ethics and intellectual property. I will briefly outline three. These relate to the research training provided by postgraduate studies, historical issues in Indigenous research and suggestions for the future. Information related to the last two topics draws heavily on the writings of Indigenous academics. A brief discussion of emic and etic research will precede discussion of suggestions for the future.

Postgraduate studies – research training

Some Indigenous Australian graduates have moved into the field of Indigenous research. For this community to grow there needs to be an increase in the number of Indigenous postgraduates. In 2004 0.7% of Australian higher degree students were Indigenous (NIPAAC, ud:3). DEST (ud:3) states that parity would be achieved with 2.86%.

There is a complex mesh of interweaving factors which contribute to the low postgraduate participation rates. Discussion here will be limited to the issue of supervision and based on a report released in 1997 by CAPA.

CAPA identified the difficulty in identifying and recruiting appropriate supervision as one of the barriers to postgraduate study for Indigenous Australians. Few Indigenous academics are employed in positions within universities which meet the institutional requirements of providing postgraduate supervision. Many non-Indigenous academics have provided and continue to provide appropriate and effective supervision for Indigenous postgraduate students. Students who informed the 1997 CAPA Report raise the point that quality supervision does not only depend on the supervisors' depth of knowledge, but also relies equally on a rapport between the supervisor and the student. Without this rapport there is a power imbalance (CAPA 1997 pp.34-35).

Power imbalances could manifest in several ways. One fear expressed by the CAPA respondents is the appropriation of intellectual property by the powerful supervisor. When supervisors claim co-authorship, based on supervisory input, this fear is exacerbated (CAPA 1997 pp.34 & 55). Indigenous researchers, including trainee ones, often choose topics which specifically relate to the histories, cultures and social marginalisation of their immediate communities or the broader Indigenous situation. Informants for the research process are often Indigenous people for whom the knowledge is part of their lived history and is very personal. Ownership of this knowledge can be a contentious issue and potential for resolution lies partly within appropriate communication between all parties.

Free and open communication between the postgraduate student and the supervisor/s I believe is an essential aspect of the postgraduate experience, and possibly even more so when the study is undertaken in external mode. External mode of study is chosen by many Indigenous people. In 1997 30.7% of Indigenous students were enrolled as external or multi-modal, compared with 17% of non-Indigenous students (Encel 2000 p.7). In 2003, 35.3 % of Indigenous students were enrolled in these modes of study (DEST 2005 p.81). This choice is influenced by family and community commitments which do not facilitate relocating to enable engaging as an internal student. In this situation the supervisor/s may provide the main, if not the only, contact with the institution, and are the conduit for understanding the academic and institutional expectations. Power imbalances hinder free and open communication, and therefore present barriers to the postgraduate researcher. Simple statistics dictate that many supervisors will be from a different cultural background to the postgraduates with whom they work. Incorporation of Cultural Safety principles into the structure of the institution could ameliorate potential problems by encouraging mutual reflection, recognition and respect between the partners in the supervisor/candidate relationship.

Historical issues in Indigenous research

Historically university research about Indigenous Australians has been dominated by non-Indigenous researchers. Indigenous academics (e.g. Nakata 2004; Rigney 2001; Falk 2005; Hart & Whatman 1998) point out that much of this research has been from the perspective of Indigenous Australians as 'living

evidence of the human past, [and that research serves the purpose of contributing] to knowledge of the evolution of human societies' (Nakata 2004b p.3). Rigney (1997 p.109) points out that research for these purposes has been carried out by people from an extensive variety of academic backgrounds, and has contributed to non-Indigenous control over Indigenous knowledge and the interpretation and presentation of Indigenous knowledge within Eurocentric epistemological frameworks. Hart AND Whatman (1998 p.7), in agreement with Rigney's view, describe the traditional academic approach to research related to Indigenous Australia as having a foundation in racism. Racism based on a misplaced scientific belief of European superiority encourages the forms of research described by Nakata (2004b).

Rigney (2001 p.4) raises the point that colonial society believed that 'differences in races are primarily biological and natural'. This underlying belief would then have informed colonial researches and structures. Critics (e.g. Nakata 2004; Rigney 2001; Falk 2005; Hart & Whatman 1998) view these approaches as disempowering to the Indigenous people who are the objects of research. As objects of research Indigenous peoples are seen as the known rather than the knowers (Moreton-Robinson 2004, cited in Falk 2005 p.6) – known by non-Indigenous academics from a non-Indigenous standpoint and interpretation.

Approaches to research based in premises of racial superiority are described as violent. Non-Indigenous epistemologies are favoured and Rigney (2001 p.17) refers to this as 'epistemic violence'. Walker (2003 p.37) describes the 'privileging of Western paradigms [as structurally violent and based in a continuation of] Western imperialism and colonisation'. If western scientific method dictates reality and states that 'there is no such thing as Indigenous Dreaming, then the Indigenous Australians whose realities are informed by the logics of Dreaming are therefore deemed irrational' (Rigney 2001 p.3). Culturally violent processes which reify Western knowledge and knowledge construction and are based in colonial racism challenge Indigenous realities. Exclusion of Indigenous ways of knowing and knowledge on the basis that they do not conform to Eurocentric epistemologies and ontologies is cultural violence.

Emic/Etic Research

Debate exists in academic theorising about approaches to research. One area of debate concerns the emic (insider), or etic (outsider) role of researchers. Emic research theory has a relationship to social constructionist theory and the fit between emic research and Indigenous research will be discussed.

The emic approach to research is referred to by Morey AND Luthans (1984 p.22) as 'internal and subjective [research which seeks to uncover] the informant's point of view'. This can be seen to relate quite well to the epistemological approach to research known as social constructivism. Schwandt (2000 p.197) discusses how knowledge is constructed from experiences and that this construction is influenced by social, cultural and historical factors. Morris et al (1999 p.782) point out that emic research seeks to uncover and describe the

participant's understanding of events and circumstances and that these understandings are 'culturally and historically bound'. Harris (1976 p.330) describes emic research as an approach which shows 'respect to what goes on in people's heads'.

Much of the extant discussion of emic and etic research centres on the fields of anthropology and ethnography. However the concepts are useful when considering broader Indigenous research. Feleppa (1986 p.244) states that emic research is 'concerned with the culturally specific [while etics is] bound up with the cross-culturally valid'. If culture is taken to include historical and socio-political events and circumstances that have marginalised Indigenous Australians then the emic, culturally specific approach is appropriate and valid. The emic approach, which attempts 'to describe a culture in its own terms' (Morris et al 1999 p.781) promotes the exploration of historical and contemporary Indigenous concerns from the viewpoint of Indigenous Australians. This bears relationship to the proposals for the future of Indigenous research which are discussed in the next section.

The Way Forward

As more Indigenous Australians successfully negotiate their way through higher education institutions the pool of Indigenous researchers, and potential Indigenous researchers, has increased. Indigenous researchers have begun to critique traditional research practices, and suggest future directions. When considering these perspectives and suggestions we must not lose sight of the fact that Indigenous Australians are not one homogenous group. Herbert (2003 p.2) in discussing her PhD research points out that one of the challenges she faced when choosing her research approach was 'that of how to address the diversity of the Indigenous experience'. This diversity of experience will influence the Indigenous researchers' views of what provides the best way forward, and it is not unreasonable to expect debate among Indigenous academics in the same way that we accept debate in the broader academic community.

Important in the consideration of the directions and methodologies which Indigenous research should take is the conception of the purpose of research. Research should become increasingly **for** Indigenous peoples and communities, not **about** them. Wallace (2003 p.3) suggests that there are three obligations that the contemporary researchers must meet. The first of these is to determine and accommodate the expectations of the community in relation to any research and to accept that there may be reluctance, even resistance, due to previous research practices which people have experienced. Secondly it is vital that reporting be accurate and truthful. She also sees it as incumbent on Indigenous researchers to educate non-Indigenous researchers to 'hear what the people are saying' (Wallace 2003 p.3).

A number of writers including Foley (2003), Kinchloe and McLaren (2000), Olesen (2000) and Rigney (1997 & 2001) discuss new approaches to Indigenous research, and some of these approaches suggest that

Indigenous research can best be carried out by Indigenous researchers. A word of caution about this is the reminder that Indigenous researchers are a very small community and the opening of effective dialogue with the non-Indigenous researcher community, based on the principles of Cultural Safety, should and can enhance research capacity.

Rigney (1997) points out the similarities between Indigenous and feminist theorising, stating that an important area of similarity is the emphasis on 'lived experiences'. Significant in feminist theory from an Indigenous perspective is the borrowing and adaptation of research and research approaches of relevance that derive from different paradigms (Rigney 1997 p.117).

Indigenous research is described by Rigney (1997 p.118) as being based in three principles: resistance, political integrity and privileging Indigenous voices. The resistance role of research relates to the role that research can play in self-determination for Indigenous peoples. Self-determination must be based on acknowledgement of the colonial history of this country and the effects of this colonial history. Rigney's ideas relate to the fact that structural violence and cultural violence are concepts or themes which can contribute to an emancipatory dialogue, rather than a colonial monologue, helping to create a resistance to continuing colonising practices and policies. Indigenous research can emphasise cultural vitality and survival, moving the dialogue away from the language of deficit and victimisation. While not denying the marginalisation and disadvantage, an emphasis on the positive can point to a way to the future based on assets analysis not needs analysis.

Rigney (1997 p.118) acknowledges the debt Indigenous people have to non-Indigenous people who have supported the pursuit of equity and social justice for Indigenous people. These non-Indigenous people have contributed to the body of research which has supported that pursuit by revealing the history of oppression, racism, structural and cultural violence and marginalisation. These roles are continuing. At the same time he believes that future political integrity of research into Indigenous issues will come from research being conducted by Indigenous researchers whose academic standing is recognised and whose struggle for liberation is linked to their research. In this way research can contribute to Indigenous Australians being empowered to control the political agendas which influence their everyday lives.

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