

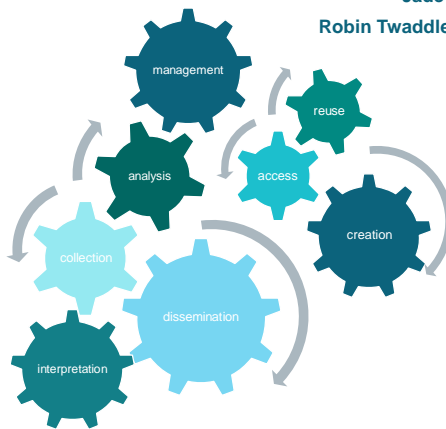
Exploring narrative, science, technology through an Indigenous Cultural Intellectual Property and Indigenous Data Sovereignty lens

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Overview

Indigenous Peoples' human right to control, access and retain use of their Indigenous Cultural Intellectual Property (ICIP) including cultural heritage information, stories, objects and images is not new to the field of archaeology or to the cultural heritage profession. In fact, we in the field of archaeology have often been at both the forefront of supporting Indigenous sovereignty and ownership of the past through incorporating oral histories and ethnographies, joint storytelling and co-authorship. However, there are also many examples where we have been living in antiquity itself with Indigenous histories being overlooked or hidden in favour of scientific inquiry, and recognition of understanding the past has been given to the 'academic' rather than the owner of the information. We may have unknowingly shared information and stories without knowledge holders' consent.

Joint understandings and applications of these in all the works we do will help safeguard these rights for Indigenous Communities. In doing so we can move beyond static archaeological approaches that have been owned and dominated by the scientific community towards a future that celebrates Indigenous data sovereignty, recognition and ownership of their narrative of cultural heritage, values and landscapes.



Items in which sovereignty of data can apply (see Dhawura Ngilan Principle 13)

ICIP in the cultural heritage context?

As heritage professionals, it is important to recognise that ICIP is likely to be incorporated in some or all of the materials that are produced by Aboriginal communities. ICIP could apply to things like cultural heritage reports, interactive digital media, video footage, photographs, languages, songs, objects, traditional knowledge published stories and academic papers. This means that as a heritage profession we should seek to understand how ownership of any ICIP should be dealt with so that the rights of traditional custodians are respected.

Right to govern	Right to define	Right to privacy	Right to know	Right to association	Right to benefit
the right to lead and collaborate in the development and implementation of protocols and in decisions about access to data	the right to define lifeways of knowing and being including how they are represented in data	the protection of collective identities and interests from undue attention, also including the possibility of requesting omission and/or erasure	the ability to track the storage, use, and reuse of the data and who has had access to them	the recognition of provenance and terms of attribution	the opportunity to benefit from the use of data and equitable benefit sharing from derivatives of data

Rights of Indigenous People in Data Sovereignty (modified from Hudson *et al* 2023).

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Key Guiding Principles

Recognition

The right of Indigenous peoples to be recognised as the custodians and interpreters of their Indigenous Cultural Heritage.

Self Determination

The rights of Indigenous peoples to maintain, protect and develop their Indigenous Cultural Heritage, and their intellectual property over such Indigenous Cultural Heritage

Decision Making

The right of Indigenous peoples to be involved in decision-making with respect to their Indigenous Cultural Heritage

Repatriation

The right of Indigenous peoples to the repatriation of their human remains, data and information. Repatriation is to be enabled through fair, transparent and effective mechanisms developed in conjunction with the Indigenous peoples concerned

Benefit Sharing

The right of Indigenous peoples to share in the benefit of the use of their Indigenous Cultural Heritage

Ownership and Control

The right of Indigenous peoples to assert ownership and/or control of their Indigenous Cultural Heritage, including to authorise or refuse authorisation of certain uses of their Indigenous Cultural Heritage

FPIC

The obligation to obtain Free Prior Informed Consent (FPIC) from Indigenous peoples prior to any impacts on their Indigenous Cultural Heritage

Integrity and Respect

The right of Indigenous peoples to have their Indigenous Cultural Heritage treated with integrity and respect, including maintaining cultural protocols over secret and sacred Indigenous knowledge

Attribution

The right of Indigenous peoples to have full and proper attribution, which may include attribution of a whole community or certain families

Redress

The obligation to provide redress when any Indigenous Cultural Heritage is taken without the FPIC of Indigenous peoples or in violation of their laws, tradition or customs

References

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Heritage Chairs of Australia and New Zealand 2020, Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia, Canberra, September. CC BY 4.0.

Hudson M, Carroll SR, Anderson J, Blackwater D, Cordova-Marks FM, Cummins J, David-Chavez D, Fernandez A, Garba I, Hraldo D, Jäger MB, Jennings LL, Martinez A, Sterling R, Walker JD and Rowe RK (2023) Indigenous Peoples' Rights in Data: a contribution toward Indigenous Research Sovereignty. *Front. Res. Metr. Anal.* 8:1173805. doi: 10.3389/frma.2023.1173805

United Nations (General Assembly). (2007). *Declaration on the Rights of Indigenous People*



Actions which support and build recognition of Indigenous contribution

(modified from Hudson *et al* 2023).

Data Sovereignty principles

- Not a new concept, but practical implementation is emerging and is complex.
- Policy and legal understandings can greatly differ across groups and organisations.
- Fluid nature of definition of cultural heritage is influencing scope of ICIP.
- UNDRIP, CARE Principles, Dhawura Ngilan are all leading practice on ICIP.



Care Principles that address protecting Indigenous rights and interests while supporting open and sharing of data (Carroll *et al* 2020).

Indigenous Data Sovereignty considerations

- How could ICIP be defined for purposes of publications, reporting, and agreements?
- Are there any emerging policies and principles around ICIP relevant to work?
- Are there knowledge holders which may need to be referenced in your reports, publications, data, and information?
- How could consultations with communities on how they want their ICIP shared be commenced?
- How might communities be supported in accessing / interpreting / storing data and information?

Why heritage professionals must be advocates for Indigenous Data Sovereignty

- Allows for Indigenous peoples' right to self determination to be exerted in cultural heritage and archaeological inquiry and practice
- Maintains our long-standing relationship with Aboriginal communities in two way sharing of knowledge to better Australia's understanding of our unique culture and heritage and allows for benefit sharing
- Supports Aboriginal communities to keep information within the realms that protect lore and cultural authority and continued connection to Country.

We acknowledge all Aboriginal and Torres Strait Islander custodians of the land, seas and sky on which we live and work, and pay ongoing respects of their contribution to the knowledge in the archaeological and cultural heritage field.