



AIATSIS

Australian Institute of Aboriginal
and Torres Strait Islander Studies

Guidelines for Ethical Research in Indigenous Studies

Australian Institute of Aboriginal and Torres Strait Islander Studies

INTRODUCTION

It is essential that Indigenous peoples be participants in any research project that concerns them, sharing an understanding of the aims and methods of the research, and sharing the results of this work. The principles of the Institute's Guidelines for Ethical Research in Indigenous Studies are founded on respect for Indigenous peoples' inherent right to self-determination, and to control and maintain their culture and heritage. The Institute considers that these principles are not only a matter of ethical research practice but of human rights.

Ms Erica-Irene Daes, Chairperson-Rapporteur of the United Nations Working Group of Indigenous Populations, remarked that:

Heritage can never be alienated, surrendered or sold, except for conditional use. Sharing therefore creates a relationship between the givers and receivers of knowledge. The givers retain the authority to ensure that knowledge is used properly and the receivers continue to recognize and repay the gift¹.

At every stage, research with and about Indigenous peoples must be founded on a process of meaningful engagement and reciprocity between the researcher and the Indigenous people.

It is important that the Institute's *Guidelines for Ethical Research in Indigenous Studies* embody the best standards of ethical research and human rights. To this end, the Institute's Council initiated a review of the 1985 Guidelines. The Institute's Ethics Committee, together with the Research Section staff of the Institute held two workshops in 1999 to develop the new Guidelines, which were then redrafted by the research staff.

In compiling the Guidelines consideration was given to recent significant research in this area, including, the Australian Research Council, *Commissioned Report No. 59, Research of Interest to Aboriginal and Torres Strait Islander Peoples*, prepared by the Institute; *Our Culture: Our Future, Report on Australian Indigenous Cultural and Intellectual property Rights*, prepared by Terri Janke of Michael Frankel and Company, for the Institute and ATSIC; and the recent National Health and Medical Research Council, *National Statement on Ethical Conduct in Research Involving Humans*.

These Guidelines are primarily intended for research sponsored by the Australian Institute of Aboriginal and Torres Strait Islander Studies. However, the Institute recognises that it has responsibility as a leading institution in Australian Indigenous studies and recognises that its ethical guidelines inform all research in this area.

The Guidelines include a statement of the principles of ethical research in Indigenous studies, followed by an explanation of each principle, accompanied by some practical applications.

These practical points are not intended to be directive but are recommendations and suggestions to achieve the best standards of ethical research.

PRINCIPLES OF ETHICAL RESEARCH

A. Consultation, negotiation and mutual understanding

1. Consultation, negotiation and free and informed consent are the foundations for research with or about Indigenous peoples.

Researchers must accept a degree of Indigenous community input into and control of the research process. This also recognises the obligation on researchers to give something back to the community.

It is ethical practice in any research on Indigenous issues to include consultation with those who may be directly affected by the research or research outcomes whether or not the research involves fieldwork.

2. The responsibility for consultation and negotiation is ongoing.

Consultation and negotiation is a continuous two-way process. Ongoing consultation is necessary to ensure free and informed consent for the proposed research, and of maintaining that consent.

Research projects should be staged to allow continuing opportunities for consideration of the research by the community.

3. Consultation and negotiation should achieve mutual understanding about the proposed research.

Consultation involves an honest exchange of information about aims, methods, and potential outcomes (for all parties). Consultation should not be considered as merely an opportunity for researchers to tell the community what they, the researchers, may want.

Being properly and fully informed about the aims and methods of a research project, its implications and potential outcomes, allows groups to decide for themselves whether to oppose or to embrace the project.

B. Respect, recognition and involvement

4. Indigenous knowledge systems and processes must be respected.

Acknowledging and respecting Indigenous knowledge systems and processes is not only a matter of courtesy but also recognition that such knowledge can make a significant contribution to the research process.

Researchers must respect the cultural property rights of Indigenous peoples in relation to knowledge, ideas, cultural expressions and cultural materials.

5. There must be recognition of the diversity and uniqueness of peoples as well as of individuals.

Research in Indigenous studies must show an appreciation of the diversity of Indigenous peoples, who have different languages, cultures, histories and perspectives.

It is also important to recognise the diversity of individuals and groups within those communities.

6. The intellectual and cultural property rights of Indigenous peoples must be respected and preserved.

Indigenous cultural property rights are part of the heritage that exists in the cultural practices, resources and knowledge systems of Indigenous peoples, and that are passed on by them in expressing their cultural identity.

Researchers must respect the cultural property rights of Indigenous peoples in relation to knowledge, ideas, cultural expressions and cultural materials.

Indigenous cultural property is not static and extends to things that may be created based on that heritage.²

It is a fundamental principle of research to acknowledge the sources of information and those who have contributed to the research.

Researchers should be aware that they will hold intellectual property rights to research materials and results unless they have transferred these to another person or institution, for example under an employment contract. If the research materials and results are an expression of Indigenous cultural property, steps should be taken to ensure the Indigenous people concerned retain the control and benefit that is appropriate to their culture. It is the researcher's responsibility to negotiate with any institution, for example a university, that they may have contractually transferred their intellectual property rights to.

7. Indigenous researchers, individuals and communities should be involved in research as collaborators.

Indigenous communities and individuals have a right to be involved in any research project focussed upon them and their culture.

Participants have the right to withdraw from the project at any time.

Research on Indigenous issues should also incorporate Indigenous perspectives and this is often most effectively achieved by facilitating more direct involvement in the research.

C. Benefits, outcomes and agreement

8. The use of, and access to, research results should be agreed.

Indigenous peoples make a significant contribution to research by providing knowledge, resources or access to data. That contribution should be acknowledged by providing access to research results and negotiating rights in the research at an early stage.

The community's expectations, the planned outcomes, and access to research results should be in agreement.

9. A researched community should benefit from, and not be disadvantaged by, the research project.

Research in Indigenous studies should benefit Indigenous peoples at a local level, and more generally.

A reciprocal benefit should accrue for their allowing researchers often intimate access to their personal and community knowledge.

10. The negotiation of outcomes should include results specific to the needs of the researched community.

Among the tangible benefits that a community should be able to expect from a research project is the provision of research results in a form that is useful and accessible.

11. Negotiation should result in a formal agreement for the conduct of a research project, based on good faith and free and informed consent.

The aim of the negotiation process is to come to a clear understanding, which results in a formal agreement (preferably written), about research intentions, methods and potential results.

The establishment of agreements and protocols between Indigenous peoples and researchers is an important development in Indigenous studies³.

Researchers should enter into good faith negotiations about the protection of Indigenous cultural property and the ownership of intellectual property rights as part of their negotiation of free and informed consent to the research.

Good faith negotiations are those that have involved a full and frank disclosure of all available information and that were entered into with an honest view to reaching an agreement.

Free and informed consent means that agreement must be obtained free of duress or pressure and fully cognisant of the details, and risks of the proposed research. Informed consent of the people as a group, as well as individuals within that group, is important.



GUIDELINES FOR IMPLEMENTATION OF PRINCIPLES OF ETHICAL RESEARCH

1. Consultation, negotiation and free and informed consent are the foundations for research with or about Indigenous peoples

Researchers must accept a degree of Indigenous community input into and control of the research process. This also recognises the obligation on researchers to give something back to the community.

It is ethical practice in any research on Indigenous issues to include consultation with people who may be directly affected by the research or research outcomes whether or not the research involves fieldwork.

Research concerning Indigenous peoples should be carried out with appropriate consultation about the aims and objectives and meaningful negotiation of processes, outcomes and involvement. Relevant communities and individuals should be involved at all stages of the research process, from formulating projects and methods to determining research outcomes and interpreting results.⁴

To facilitate appropriate consultation, negotiation and free and informed consent:

- Identify appropriate individuals and communities who should be consulted about your research project. There is almost always someone to speak for a particular place or area⁵. For more general research, identify and consult individuals or communities who have made an important contribution in relation to your topic.
- Allow appropriate individuals for the area/topic to be identified from within the community.
- Identify community, regional or other Indigenous umbrella organisations.
- Identify any written research protocols or other protocols that you will need to follow.
- Observe appropriate community behavioural norms and protocols.
- Identify potential political issues that may be affected by your research or the outcomes of the research.
- Communicate with relevant individuals and organisations by appropriate means. Face-to-face meetings are always desirable. The budgetary and funding implications of such visits should be considered.
- Introductions to the relevant individuals and communities should clearly identify the researchers and any other participants, any institutional affiliation and key stakeholders, and sources of financial support.
- From the outset, objectives should be clear, while maintaining flexibility and a willingness to modify your goals and ways of working.

Also:

- Consider any permits or permissions that may be required from Indigenous organisations and from State or Territory or local authorities.
- Consult ethical guidelines or codes of ethics of the appropriate professional body or association.

2. The responsibility for consultation and negotiation is ongoing.

Consultation and negotiation is a continuous two-way process. Ongoing consultation is necessary to ensure free and informed consent for the proposed research, and of maintaining that consent.

Research projects should be staged to allow continuing opportunities for consideration of the research by the community.

Community representatives, individual participants and the wider Indigenous community may need time to consider a proposed research project and to discuss its implications, both before it begins and at various stages of the project:

- Phase your research according to community as well as research needs.
- Hold preliminary meeting/s to discuss the proposed research and reach agreements.
- If necessary, re-formulate a new outline of the research proposal, and provide new materials generated from the discussions to the community for review.
- Ensure that all potentially interested individuals are present at preliminary meetings and/or are informed of the scope of the proposed research.
- Explain research methods and processes to individuals, and at community meetings where appropriate, and reach agreement on their cultural appropriateness.
- Reach agreement on how the research should proceed, including processes and timing for informing representatives of the community of the progress of the research and reporting any interim results.
- Report during the project in accordance with any agreement.
- If necessary, consult further about any unforeseen matters that might affect the research process.
- Be willing to renegotiate objectives, where required, in light of new factors and considerations.
- Make provision for a final meeting to consider the results of the research. Further consultation may also be required about details of reports and any publications.

- Obtain (do not assume) invitations to visit the community for the time necessary to conduct the research and to report upon results⁶.

3. Consultation and negotiation should achieve mutual understanding about the proposed research

Consultation involves an honest exchange of information about aims, methods, and potential outcomes (for all parties). Consultation should not be considered as merely an opportunity for researchers to tell the community what they, the researchers, may want.

Being properly and fully informed about the aims and methods of a research project, its implications and potential outcomes, allows groups to decide for themselves whether to oppose or to embrace the project.

Obtaining agreement to conduct research with or about Indigenous peoples involves fully informing the community about the proposal, discussing the research and negotiating how the research is to proceed:

- Identify the appropriate communities or individuals to be consulted before discussing research aims, methods and outcomes.
- Clearly define and explain the purpose and nature of the study.
- Explain methods of collecting information clearly and comprehensively, including how and where the information is to be kept.
- Agree on the way of conducting the research, including timing and phasing of the project.
- In order for research to be conducted appropriately and sensitively, discuss relevant cultural and political circumstances.
- Be clear about what kind of community or individual participation is sought.
- Clearly identify what participation in the study may entail for the community and individual participants.
- Provide an honest assessment of the risks or potential adverse impacts of the research.
- Explain, but do not overstate, the potential benefits of the study.
- Explain the potential usefulness of the research to Indigenous peoples in general.

Remember:

- Provide sufficient time for discussion and consideration of proposals.
- Be willing to modify the scope, aims and methods of the proposed research.
- Allow time in the research project for continual review, feedback and discussion.

4. Indigenous knowledge systems and processes must be respected.

Acknowledging and respecting Indigenous knowledge systems and processes is not only a matter of courtesy but also recognition that such knowledge can make a significant contribution to the research process.

Researchers must respect the cultural property rights of Indigenous peoples in relation to knowledge, ideas, cultural expressions and cultural materials.

Where the knowledge of an individual or a group forms the basis of or contributes significantly to research, the importance of that contribution should be reflected in the reporting of research:

- Recognise the value of Indigenous perspectives and their contribution to the research.
- Research that has Indigenous experiences as its subject matter should reflect those perspectives and understandings.⁷
- Take into account and respect the knowledge and experiences of Indigenous peoples.
- Incorporate relevant Indigenous knowledge, learning and research processes into all stages of research including project design and methodology.
- Ensure research design and methods protect the privacy, integrity and well-being of participants.
- Respect Indigenous peoples' right to maintain the secrecy of Indigenous knowledge and practices.

5. There must be recognition of the diversity and uniqueness of peoples as well as of individuals

Research in Indigenous studies must show an appreciation of the diversity of Indigenous peoples, who have different languages, cultures, histories and perspectives.

It is also important to recognise the diversity of individuals and groups within those communities.

Researchers should recognise the diversity of Indigenous individual groups and communities and the implications in planning carrying out and reporting their research:

- When extrapolating from research, do not generalise from understandings of one Indigenous community to others or to all Indigenous peoples.
- Do not apply stereotypes to communities and individuals when undertaking research.
- Identify diversity within a researched community; for example, on the basis of gender, age, religion, and community interest.
- Do not presume that the view of one group represents the collective view of the community.

- Differentiate between individual group and collective rights, responsibilities and ownership
- Undertake research only if it does not conflict with individuals' rights, wishes or freedom.
- Respect individual rights to participate in research and in the disposal of research material.

6. The intellectual and cultural property rights of Indigenous peoples should be respected and preserved.

Indigenous cultural and intellectual property rights are part of the heritage that exists in the cultural practices, resources and knowledge systems of Indigenous peoples, and that are passed on by them in expressing their cultural identity.

Indigenous intellectual property is not static and extends to things that may be created based on that heritage.⁸

It is a fundamental principle of research to acknowledge the sources of information and those who have contributed to the research.

Researchers must respect the cultural property rights of Indigenous peoples in relation to knowledge, ideas, cultural expressions and cultural materials.

Continuing Indigenous ownership of the cultural and intellectual property rights in the materials on which the research is based should be recognised and acknowledged in the design of a research project:

- Identify appropriate persons—traditional owners, custodians, elders, etc—who are responsible for the knowledge sought or the practices to be studied. They must be involved and give informed consent to the research and any resulting publications.
- Allow the Indigenous owners of knowledge to determine the intellectual content that they are contributing to the research and see that they receive appropriate intellectual property rights.
- Recognise that the knowledge and resources Indigenous peoples bring to the project remains their cultural property.
- Negotiate by prior agreement joint ownership or allocation of the results of the project.
- Agree in writing on the apportionment of intellectual property rights.
- Agree about the involvement of individuals contributing to the research project in the interpretation of the results and the preparation of any publications or other outcomes.
- Agree about identification or otherwise of individuals involved in the research, and whether those who took part in research should be acknowledged in any publication.

- Informed consent and community participation, where obtained, should be referred to in any research publication.
- Information obtained from Indigenous peoples (including any flora or fauna identified or studied with the assistance of Indigenous peoples) should be acknowledged in any publication or report.
- Consider whether joint authorship with community members is appropriate; that is, where the contribution has been significant.
- Show or distribute restricted material only with the express permission from those who provided or are responsible for it.

7. Indigenous researchers, individuals and communities should be involved in research as collaborators .

Indigenous communities and individuals have a right to be involved in any research project focussed upon them and their culture.

Participants have the right to withdraw from the project at any time.

Research on Indigenous issues should also incorporate Indigenous perspectives and this is often most effectively achieved by facilitating more direct involvement in the research.

Researchers should facilitate direct involvement of Indigenous researchers and community members in their research:

- Recognise the specialist knowledge of particular community members and their potential contribution to the research endeavour, and involve such persons wherever possible and appropriate.
- Encourage and support community members to be involved in the research as collaborators, advisers or assistants.
- Acknowledge that Indigenous culture may be transmitted orally and value contributions made in this way.
- Be prepared to pay those contributing to the research.
- Recognise that certain cultural information is owned and may need to be paid for.
- Do not to raise unrealistic expectations about benefits of the research to the community, and any personal advantages to be gained through involvement.

8. The use of, and access to, research results should be agreed.

Indigenous peoples make a significant contribution to research by providing knowledge, resources or access to data. That contribution should be acknowledged by providing access to research results and negotiating rights in the research at an early stage.

The community's expectations, the planned outcomes, and access to research results should be in agreement.

The rights to, the forms and presentation of, individual or community use of, and access to, research results should be agreed:

- Agree at the outset on the ownership of research results, including institutional ownership of data, individual rights of researchers and Indigenous participants, and collective rights of Indigenous community groups.
- Agree when and how results of research will be fed back to and discussed with relevant individual community members and/or appropriate community organisations.
- Make clear the level of community control over access to, and use of, any research results, including print, pictorial, audio and video and digital materials.
- Report research results to the community before publication and before discussion with the media.
- Negotiate with the community any discussion with the media of the research project and its results.
- Make the research results available to the community in accessible formats.
- Agree on the disposition and storage of results of research, including primary data.
- Discuss thoroughly matters of confidentiality and agreed restrictions on use of information.
- Explain fully any limits on confidentiality, for example, where field notes or research data might be subpoenaed for legal proceedings.

9. A researched community should benefit from, and not be disadvantaged by, the research project.

Research in Indigenous studies should benefit Indigenous peoples at a local level, and more generally.

A reciprocal benefit should accrue for their allowing researchers often intimate access to their personal and community knowledge.

There should be benefits to the community for participation in research:

- Discuss openly and negotiate with the community any potential benefits.

- Do not overstate benefits to the community.
- Provide to Indigenous participants and community all the relevant information to weigh potential benefits against any possible risks or disadvantages.
- Incorporate into the project any local research needs where possible.
- Aim to make the benefits to the community or individual participants proportionate to the demands of their participation.
- Where the benefits are not general, for example, employment opportunity or financial compensation, allocate benefits in cooperation with the group and the individual participants.
- Pay adequate financial compensation to participants, particularly where significant time is given outside normal personal or community commitments.
- Ensure that a community or individual is aware of the right to withdraw from the research at any time.
- Where conflict has arisen, or has the potential to arise, or where support for the project is withdrawn, be prepared to discontinue or modify the research, at least until such conflict or lack of support is resolved.
- Ensure that payments or financial benefits accruing to the participants are considered by an ethical review panel.
- Do not create or contribute to circumstances where exploitation of an economic, cultural or sexual nature can occur.

10. The negotiation of outcomes should include results specific to the needs of the researched community.

Among the tangible benefits that a community should be able to expect from a research project is the provision of research results in a form that is useful and accessible.

Researchers should be aware that research outcomes of interest to Indigenous peoples, and any community that is directly involved, may differ from those envisaged by the researcher:

- Ascertain, during early consultations, the research needs of the community, if any, and opportunities for collaboration in research.
- Incorporate into the research project research outcomes specific to the needs of the researched community.
- Recognise the broad range of educational backgrounds and experience of Indigenous peoples and produce materials in accessible forms.

- Make all research reports and publications available to communities and individuals involved.
- Provide to the Indigenous community the results of research in an accessible form, prior to publication.
- Provide an opportunity to discuss the significance of the results for the community with representatives and participants.
- Be willing to make results known to appropriate local, state or territory, and national authorities if requested.
- Be prepared to assist in the formulation of proposals for further research or related action by the Indigenous community and local Indigenous organisations.

11. Negotiation should result in a formal agreement for the conduct of a research project, based on good faith and free and informed consent.

The aim of the negotiation process is to come to a clear understanding, which results in a formal agreement (preferably written), about research intentions, methods and potential results.

The establishment of agreements and protocols between Indigenous peoples and researchers is an important development in Indigenous studies⁹.

Good faith negotiations are those that have involved a full and frank disclosure of all available information and that were entered into with an honest view to reaching an agreement.

Free and informed consent means that agreement must be obtained free of duress or pressure and fully cognisant of the details, and risks of the proposed research. Informed consent of the people as a group, as well as individuals within that group, is important.

Where practical, a written agreement (a 'protocol', or 'memorandum of understanding' or 'contract') should be the end result of the consultation and negotiation, to protect the community and the researcher and to clarify the understandings that have been reached. Such agreements may have legal implications and consideration should be given to whether independent legal advice is required:

- Base the agreement on good faith negotiations and free and informed consent.
- Identify who should enter into the agreement, and on whose behalf the agreement is being made.
- Determine what information is to be included in the agreement, based on discussions and negotiations. The agreement should reflect the mutually agreed aims, processes and outcomes, community participation and collaboration.
- The agreement should provide a detailed and clear description of the distribution of intellectual property rights

- Recognise in the agreement that an individual or a community has the right to withdraw from a research project.
- Include in the agreement processes for resolving conflict, such as mediation by an outside party.
- Refer to any specific community protocols in the agreement.
- For successful implementation of the agreement, continue consultation and negotiation and, where necessary, re-formulate the agreement.

Also:

- Consider requirements of proposed funding agencies in relation to written evidence of community support or of a negotiated agreement; for example, those required for funding under the AIATSIS Grants Program.



REFERENCES AND FURTHER READING

AIATSIS 1999, *Research of Interest to Aboriginal and Torres Strait Islander Peoples*, Australian Research Council, National Board of Employment, Education and Training, Canberra (Commissioned Report 59) (especially: 'Chapter 4. The Ethics of Research'), at http://www.arc.gov.au/pdf/99_05.pdf

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¹ Erica-Irene Daes, 'Discrimination against Indigenous peoples: Study on the protection of the cultural and intellectual property of Indigenous peoples', paper presented to the 45th session of the Commission on Human Rights, Economic and Social Council, United Nations, New York, 1993, p. 9

² Janke 1999: xvii.

³ For examples of research agreements used by Indigenous organisations, governments and funding agencies, and developed by researchers and Indigenous community members, see AIATSIS 1999: Chapter 4: 'The Ethics of Research', and Appendix 3: 'Ethics guidelines, sample protocols'.

⁴ ATSIC 1997:4

⁵ 'Heritage protection, intellectual property rights, and ownership of cultural material should not be considered to be lost by those individuals and communities who are able to demonstrate a traditional claim to that cultural heritage' (ATSIC 1997:3)

⁶ 'Any person who trespasses on indigenous land risks endangering not only themselves, but also the traditional land owners who have the obligation to protect the sacredness and integrity of their country' (ATSIC 1997:2)

⁷ 'Aboriginal and Torres Strait Islander peoples have distinctive languages, customs, spirituality, perspectives and understandings, deriving from their cultures and histories. Research that has indigenous experience as its subject matter must reflect those perspectives and understandings' (ATSIC 1997:2)

⁸ Janke 1999: xvii

⁹ For examples of research agreements used by Indigenous organisations, governments and funding agencies, and developed by researchers and Indigenous community members, see AIATSIS 1999: Chapter 4: 'The Ethics of Research', and Appendix 3: 'Ethics guidelines, sample protocols'.

