



This Issue may be cited as:
Ngiya: Talk the Law—Volume 5
Sub-title: Indigenous Methodologies

Published December 2016
ISSN: 1834-769x

Cover painting: Sunrise Band 1909

Year: 2009
Medium: Canvas
Artist: Djon Mundine
Country: Bundjalung people of northern NSW

Statement:

“In 2009 I was asked to complete an artist residency for the Manning River Art Gallery at Taree. I’d carried a 1909 inspirational black and white photograph of an Aboriginal music band from Purfleet ‘mission’ south of Taree on the mid north coast of NSW, for some years. Some one hundred years later, I worked with the descendants (family members) of this music group. I advertised for the heirs of this heritage to assist me in colouring this image, bringing the little-known but special human beings to life in a painting on canvas. I asked people to paint with their fingers and thumbs in a raw pointillist style that allowed children and people of all ages and skill levels to take part. The touching of their great-grand parents’ images was a form of grooming; looking at and caring for them as a form of haptic specificity helped to create a bond with them and their musical art practice. Over ten days, 38 family members collaborated together and the resulting painting is the collection the Manning River Gallery, with photos of the participants in action.” (Taken from an editorial essay written by Djon Mundine and published in Artlink Issue 35:2 01JUN15).

Cover design and layout by Francisco Fisher

Printing by SOS Print + Media

Ngiya: Talk the Law

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Ngiya: Talk the Law—Volume 5

Indigenous Methodologies

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IMPLEMENTING A PROJECT WITHIN THE INDIGENOUS RESEARCH PARADIGM: THE EXAMPLE OF NATION BUILDING RESEARCH*

Alison Vivian, Miriam Jorgensen, Damein Bell, Daryle Rigney,
Stephen Cornell, and Steve Hemming**

A senior Indigenous academic receives a call from a non-Indigenous colleague. The colleague says, 'I've been meaning to call for ages—I hope you are well. Anyway, I am applying for an ARC Discovery grant and the application is due soon. I wonder if you might be interested in being a Chief

* We acknowledge the challenges faced by Aboriginal and Torres Strait Islander peoples in Australia, including our nation building collaborators, the Gunditjmara People, Ngarrindjeri Nation and Wiradjuri Nation in exercising their rights to self-determination and we pay respects to their Elders, leaders and other respected persons of the past, present and future. This paper is a product of the ARC Discovery Project (DP1092654) *The applicability of research and practice on nation rebuilding in North American Indigenous communities to Australian Indigenous communities* (Jumbunna House of Learning, University of Technology Sydney and the Native Nations Institute, University of Arizona). Its points have been substantiated in three related research efforts: the ARC Discovery Project *Negotiating a space in the nation: the case of Ngarrindjeri* (Flinders University, University of South Australia, University of the Sunshine Coast, Cambridge University, and the University of Amsterdam); the ARC Linkage Project *Indigenous nationhood in the absence of recognition: Self-governance strategies and insights from three Aboriginal communities* (which links Gunditj Mirring Traditional Owners Corporation, the Ngarrindjeri Regional Authority, and individuals and groups from the Wiradjuri Nation with University of Technology Sydney—the grant administrator—RMIT, University of Melbourne, Charles Sturt University, University of Arizona, Flinders University, and the Australian National University); and the Indigenous Nation Building Project (a collaboration of the Melbourne School of Government and Melbourne Law School at the University of Melbourne that links the same Indigenous nation and university partners as the cited ARC Linkage project). We also thank Donna Murray, Susanna Gorman, Simone Bignall, and two anonymous reviewers for their helpful comments. Finally, we thank Cosima McRae for her research assistance with this project and this article.

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Investigator. Actually, maybe we should think about applying for an ARC Discovery Indigenous grant too?’

At a forum on ethical issues arising in relation to research with Indigenous communities, a senior non-Indigenous academic exclaims in frustration, ‘That’s all very well but you never get the budget that you apply for. Community feedback sessions just have to be cut when they’re not funded.’

A researcher presents an outline of their proposed research at a community meeting. When the participants point out that the researcher is going to gain a great deal from the research but wonder, ‘How is this going to benefit the community?’, the researcher replies, ‘Good question. I will have to think about that.’ Seeking advice, the researcher raises the question with a senior scholar, who remarks, ‘In all the years I have been doing research with Indigenous people, I have never been asked what’s in it for them.’

At a public forum, a PhD candidate asks a senior non-Indigenous researcher who is well respected for ethical research approaches for advice on how to get ethics clearance for research with Indigenous communities. The researcher replies: ‘Get to know the Indigenous rep on the Human Research Ethics Committee.’

A PhD student provides an overview of their methodology at a forum. The student makes much of their adoption of Participatory Action Research principles and engagement with ‘the Aboriginal community’. Questioning reveals that this engagement is with a single Aboriginal person.

A reviewer of a research proposal that embraces Indigenous voices as a critical aspect of the methodology writes, ‘Aren’t we well beyond a polemical rhetoric on colonising research?’

Limited and self-serving approaches to academic research on Indigenous¹ issues are not confined to history. As the anecdotes attest, some researchers still proceed in ways that disregard Indigenous voices and views and, ultimately, diminish research quality.

Fortunately, none of these exchanges went unremarked. Each spurred further conversation and learning about the characteristics of ethical Indigenous-focused research. In fact, a now significant literature describes key principles by which such research should proceed. A central theme is that both its processes and outcomes should promote Indigenous community self-determination.

¹ In this paper, we use the term ‘Indigenous’ to refer to Aboriginal and Torres Strait Islander people collectively. We also use that term to refer to Indigenous peoples internationally. When referring to communities/nations that are Aboriginal or Torres Strait Islander communities, we refer to them specifically as ‘Aboriginal’ or ‘Torres Strait Islander’.

A smaller literature wrestles with the question of how to translate principles into practice. This step raises challenging questions:

- How can the principles that are together described as ‘Indigenous research methodologies’ be implemented?
- How can the principles underpinning an Indigenous research paradigm be reconciled with the methods of academic disciplines, and conversely, how can the methods of academic disciplines be used to provide reliable and ethical findings for Indigenous communities?
- How can Indigenous communities manage academics whose expertise they wish to leverage?
- What does it mean to conduct research in support of Indigenous nation self-determination within Australia, where the concept of Indigenous nationhood often has been suppressed?

By describing the approach taken in a recent Australian Research Council Discovery project, this paper illustrates how one research team has attempted to conduct research *with* and *for* Aboriginal communities rather than *on* and *about* them. It attempts to provide both general information (answers the questions above) and specific examples of how the team operationalised Indigenous research principles. Ultimately, it describes a way to organise community-research relationships so that they generate work that is ethical, disciplinarily valid, and intellectually stronger than it would have been if the principles were not applied—and a way to organise research work so that it recognises and respects the sovereignty and self-determination of partner Indigenous nations.

We approach this exploration of Indigenous research as a group of Aboriginal and non-Indigenous researchers who are firmly committed to supporting Indigenous nation self-determination, self-government, and capacity building. We reflect on our various roles as researchers, community members and allies who are, to use Nelson and Stolterman’s term, acting ‘in service’ to Indigenous sovereignty and Indigenous nation building.²

Section I reprises the arguments for decolonising research. Section II summarises the general response to these arguments by laying out the requirements of an Indigenous research paradigm and by describing the interrelationship of research principles, methods, and methodology. Section III describes the methodology used in our specific effort to conduct a project within the Indigenous research paradigm, Section IV details several

² Harold Nelson & Eric Stolterman, ‘Design as being in service’ in David Durling and Ken Friedman (eds), *Doctoral Education in Design. Foundations for the Future* (Staffordshire University Press, 2000) 23, 24.

implementation challenges we faced and our responses to them, and Section V concludes.

I. A general critique: Research on and about Indigenous Peoples

Much academic research on Indigenous topics has been ‘inextricably linked with European imperialism and colonialism’.³ In part this is the result of researchers’ tendency to ‘interpret’ Indigenous existence according to a ‘dominant cultural model of knowing’.⁴ Remarkably, this positional interest is assumed to be not positional at all but to represent the interests of knowledge itself. The implicit assumptions are that researchers are neutral observers of Indigenous peoples, their cultures, and their lives; that research is a mechanistic exercise where knowledge waits to be unearthed; and that it is best unearthed through western approaches. As a result, researchers embed Eurocentric values and ideas not only in their research questions and findings but also in the overarching processes and institutions that support research.

The allocation of research roles is another vehicle for imperialism. Often, research projects on Indigenous issues are organised so that only western-oriented researchers have ‘the power and knowledge to determine what should be researched’.⁵ What Indigenous peoples might consider to be worthwhile research is rarely considered, and hence, there is little scope for research to be initiated by Indigenous people or communities.

While invariably identified as ‘rational’, ‘objective’, ‘neutral’ or ‘scientific’, data collected under these assumptions—that is, without Indigenous community engagement and oversight—may be inadequate or even incorrect, and the conclusions drawn from it may be incomplete or misdirected. On the one hand, Kuhnian logic suggests that all fields of inquiry progress with error until a corrective new theory arises. These changes in understanding occur as researchers employ new questions to address previously collected data.⁶ On the other hand, Kuhnian transformations occur at a much slower pace when a more thoroughgoing corrective is required which is exactly the demand in Indigenous research. Because the colonised research orientation misidentifies what even counts as data, a decolonising research approach must ask new

³ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (University of Otago Press, 1999), 1.

⁴ Christopher Dunbar Jr, ‘Critical Race Theory and Indigenous Methodologies’ in Norman K Denzin, Yvonna S. Lincoln and Linda Tuhiwai Smith (eds), *Handbook of Critical and Indigenous Methodologies* (Sage Publications, 2008) 85, 86.

⁵ Steve Hemming, Daryle Rigney and Shaun Berg, ‘Researching on Ngarrindjeri Ruwe/Ruwar: Methodologies for positive transformation’ (2010) 2 *Australian Aboriginal Studies* 92, 97.

⁶ Thomas Kuhn, *The Structure of Scientific Revolutions* (University of Chicago Press, 1962).

questions *and* re-identify data. Lacking such corrections (of frameworks and of data), it is inevitable that a distorted body of ‘ideologically laden’ information about Indigenous peoples accumulates *and persists* over time.⁷

Ultimately, ‘colonised’ research may be both ethically and intellectually compromised. Its techniques and approaches objectify Indigenous peoples; deny Indigenous peoples’ agency as researchers; entrench racist misrepresentations, stereotypes, and attitudes; devalue Indigenous cultures, viewpoints, ideas, and institutions; and appropriate information that Indigenous peoples generated or shared. Even when the stated intention of research is to ‘solve’ Indigenous problems, it ‘has traditionally benefited the researcher, and the knowledge base of the dominant group in society,’ more than the Indigenous group(s) involved.⁸ In fact, research based on the assumption that outside researchers know best often fails to improve conditions for the people who are researched and, worse, may even cause harm.

Unsurprisingly, these failings have led many Indigenous people to become suspicious of academic research and reluctant to engage with academic institutions. Put bluntly, too much research on Indigenous topics—both in the past and even in the present—has been conducted with Indigenous people or peoples as the objects of research, rather than as experts.

II. A general response: Research *with* and *for* Indigenous Peoples

Researchers seeking an alternative can strive to work within an ‘Indigenous research paradigm’.⁹ In our view, this approach blends disciplinary methods with principles that forefront Indigenous research leadership, Indigenous community engagement, and Indigenous worldviews.

II.A. Principles inherent to an Indigenous research agenda

A significant and growing literature explores what are now typically termed ‘Indigenous research methodologies’. Valuably, it provides guidance to scholars and researchers (whether they are from the academy, an Indigenous community, or both) about the characteristics of Indigenised research.

⁷ Smith, *Decolonizing Methodologies*, above n 4, 170. Emphasis added.

⁸ Ibid 175-176.

⁹ Worby and Rigney were early proponents of the term ‘Indigenous research agenda’ to describe an appropriate approach; see Gus Worby and Daryle Rigney, ‘Approaching ethical issues: institutional management of indigenous research’ (2002) 45(1) *Australian Universities’ Review* 24. We prefer the term ‘Indigenous research paradigm’ because it more completely expresses the idea that the approach requires a shift in epistemology; see, for example, Kathleen Clapham, ‘Indigenous-led Intervention Research: The Benefits, Challenges, and Opportunities,’ (2011) 4(2) *Journal of Critical Indigenous Studies* 42.

According to that literature, appropriately conceived and executed research should:

- *Support Indigenous community self-determination.* Such work places Indigenous nation sovereignty and community control at the centre of any investigation, acknowledging that whatever the research question, these outcomes are central to Indigenous existence.¹⁰ Accordingly, academic researchers should understand that when Aboriginal communities or organisations ‘commission’ their research (ie, request, approve and partner in it), they have been engaged as experts whose skills and experience are expected to advance Aboriginal aspirations, goals, and strategies.¹¹ Arguably, support for Indigenous nation/community self-determination is the defining attribute of the Indigenous research paradigm.
- *Promote an Indigenous version of social justice.* This work is action-oriented. It often involves interrogation of power relationships within the nation-state and challenges colonisation, racism, and injustice in their old and new forms.¹² It may explicitly include strategies and practices that can disrupt the ‘history of exploitation, suspicion, misunderstanding, and prejudice.’¹³ In making this point, some writers argue that an Indigenous research paradigm is informed by principles of resistance,¹⁴ which aligns ethical Indigenous research with mainstream conceptions of social justice (in short, pushing the oppressor out of the drivers’ seat). Others note that the pursuit of social justice may be markedly different in Indigenous and non-Indigenous communities. Their re-orientation shifts the focus from resistance to assertion and affirmation, and from the story of the past to the story of the future,

¹⁰ Juanita Sherwood, *Do No Harm: Decolonising Aboriginal health research* (PhD Thesis, University of New South Wales, 2010) 62; Aileen Moreton-Robinson, ‘Towards an Australian Indigenous Women’s Standpoint Theory’ (2013) 28 (78) *Australian Feminist Studies* 331, 336; Smith, *Decolonizing Methodologies*, above n 3, 117.

¹¹ Daryle Rigney (The construction and maintenance of racism in sport: Nunga perspectives on Australian Rules Football’ (Master of Education thesis, University of South Australia, 1997) 32.

¹² Hemming, Rigney and Berg, *Researching on Ngarrindjeri Ruwe/Ruwar*, above n 6, 92; Moreton-Robinson, above, n 10, 331; Smith, *Decolonizing Methodologies*, above n 4; Linda Tuhiwai Smith, ‘On Tricky Ground. Researching the Native in the Age of Uncertainty’ in Norman K Denzin, Yvonna S. Lincoln (eds) *The Landscape of Qualitative Research* (Sage Publications, 3rd ed, 2008) 113; Lester Irabinna Rigney, ‘Internationalisation of an Indigenous Anti-Colonial Cultural Critique of Research Methodologies: A Guide to Research Methodologies and its Principles’ (1999)14(2) *Wicazo Sa Review: Journal of Native American Studies* 109.

¹³ L I Rigney, above n 12, 119.

¹⁴ LI Rigney, above n 12, 118; Smith, *Decolonizing Methodologies*, above n 3, 128; Sherwood, above n 10.

emphasising that ‘decolonisation is accountable to Indigenous sovereignty and futurity’.¹⁵ This conception of social justice is highly parallel to the preceding goal (research supports Indigenous community self-determination) and, as noted there, requires researchers to provide Indigenous peoples with information that supports their own transformational agendas.

- *Respect Indigenous peoples’ agency and humanity.* Researchers working in an Indigenous research paradigm look to Aboriginal communities to specify what research projects serve community interests, and they view Aboriginal communities as the ‘authorisers’ of their work.¹⁶ They do not see community members merely as sources of data. Instead, they seek collaboration with Indigenous people and work to develop personal relationships with colleague researchers and research participants.
- *Respect Indigenous knowledge in theorising and in research design.* The research effort thus recognises Indigenous peoples’ ‘sovereign right’ to determine their own research plans ‘informed by [their] politics and commitment to social justice.’¹⁷ It privileges Indigenous voices¹⁸ and applies Indigenous peoples’ ‘perspectives and understandings to social research and methodologies.’¹⁹ It creates space for Indigenous communities, families, and individuals to theorise their own lives and connect their histories with their futures.²⁰ In so doing, respect for the direction and input of Indigenous peoples and people is extended to every stage of the research process—from conception and design to execution, analysis, and dissemination—and each stage is itself understood to be amenable to the incorporation of Indigenous voice, story, knowledge, culture, and values.
- *Support Indigenous communities in reclaiming knowledge, language, and culture.* Rather than enabling ongoing appropriation, the work positions Indigenous knowledge, language, and culture as the ‘property’ of Indigenous peoples.²¹ In so doing, it explicitly concentrates on the return of knowledge, language, and culture to Indigenous peoples and on their revival within Indigenous communities.

¹⁵ Eve Tuck and K. Wayne Yang, ‘Decolonization is not a metaphor’ (2012) 1(1) *Decolonization: Indigeneity, Education and Society* 1, 35.

¹⁶ Sherwood, above n 10, 126; Moreton-Robinson, above n 10, 336.

¹⁷ Moreton-Robinson, above n 10, 336.

¹⁸ L I Rigney, above n 12, 119-120.

¹⁹ Aileen Moreton-Robinson & Maggie Walter, ‘Indigenous Methodologies in Social Research’ ‘Indigenous Methodologies in Social Research’ in Maggie Walter (ed) *Social Research Methods* (Oxford University Press, 2009) 2.

²⁰ Smith, *Decolonizing Methodologies*, above n 3, 119.

²¹ *Ibid.*

- *Recognise the greater potential for learning.* Work within the Indigenous research paradigm understands that there is an improvement, by any measure, of research quality when community and academic researchers undertake ‘joint intellectual effort’.²² Creating a research process in which community experts and academic partners are jointly engaged in figuring things out results in a more complete understanding of phenomena. Potential intellectual gains include the identification of new lines of inquiry, the inclusion of previously unrecognised data and improved analysis, particularly through an appreciation of nuance otherwise invisible to outside researchers.
- *Reject the minimal ‘protect-the-institution’ model of research ethics.* In part in response to past abuses and an aversion to the risks of future improper conduct, universities have standards for ensuring that research involving Indigenous communities is ‘ethical’. These standards focus primarily on mitigating harms to individuals and communities, including the misuse of Indigenous knowledge and other data. Responsible Indigenously focused research upholds higher ethical standards, including a commitment to collaboration, mutual benefit, and the support of Indigenous people and peoples in their exercise of self-determination, maintenance of cultural integrity, and pursuit of claims for justice. Scholars working from this perspective strive to honour and respect Aboriginal social mores and community and cultural protocols, including those that govern research.²³
- *Seek to transform research institutions.* Researchers working within the Indigenous research paradigm understand that the very institutions in which they operate are vehicles for carrying a colonial history into the present. They are aware of this reality and actively seek to challenge and change it, transforming relations between the coloniser and colonised.²⁴ In other words, it is not simply the role of individual researchers but also the role of universities, think tanks, policy shops, etc, to engage with Indigenous people and communities as ‘partners’ rather than as ‘subjects’. For example:

²² Stephen Cornell, ‘Becoming Public Sociology: Indigenous Nations, Dialogue, and Change’ in Vincent Jeffries (ed) *Handbook of Public Sociology* (Rowman & Littlefield Publishers Inc, 2009) 263, 272.

²³ Increasingly, Indigenous nations have their own protocols for approving research in their communities, a development that further spurs the adoption of higher standards. See for example, Deborah J Morton et al, ‘Creating Research Capacity Through a Tribally Based Institutional Review Board’ (2013) 103(12) *American Journal of Public Health* 2160.

²⁴ Smith, *Decolonizing Methodologies*, above n 4, 120.

Respect for Indigenous sovereignty means that *the university* provides information, analysis, and education at the request of Native clients with the conscious intent of arming Native decision-makers and communities with, hopefully, high quality raw materials from which those decision-makers and communities can fashion their own solutions to their own problems and concerns.²⁵

Succinctly, appropriately Indigenised research reconceptualises the relationship between Indigenous and academic partners and is part of ‘excolonialism’, or the process of exit from ‘settler-interested modes of social production’.²⁶

II.B. The interaction of principles and methods

The listed principles help researchers act as Indigenous community allies. And yet, ‘Indigenous research methodologies are not a set of research rules and techniques. Rather, they are a research orientation, a fluid process of problem solving, meaning-making, and emancipatory praxis’.²⁷ In other words, they provide ethical guidance but say little about actual research methods.

This situation can create tension for scholars. They must be accountable to multiple audiences.²⁸ They must grapple with the sometimes uncomfortable or contentious question of how to reconcile the research methods of their fields (sociology, anthropology, political science, economics, medical science, etc) with the principles of ethical Indigenous research. Their work will be judged poorly by in-discipline peers if it does not fulfil disciplinary standards, and it will be judged poorly by Indigenous or Indigenous-focused audiences if it fails to take Indigenous knowledges, concerns, and perspectives into account or fails to fully engage Indigenous peoples in the research enterprise.

To resolve or at least minimise this tension, we distinguish between ‘methodology’ and ‘method’. Method refers to the practical methods of data collection and analysis; methodology includes method but adds to it the

²⁵ Joseph Kalt and Dennis Norman, *Universities and Indian Country: Case Studies in Tribal-Driven Research* (University of Arizona Press, 2015) 6 (*italics added*). Worby and Rigney, above n 10, likewise argue that universities have both an ethical obligation to do research well *and* the responsibility to support Indigenous nations in the exercise of their self determination; they view this as universities’ responsibility to work on behalf of social justice. Going even further in their institutional support of decolonisation, some universities – UTS, for example— are adopting Indigenous self-determination as part of their strategic plans.

²⁶ Simone Bignall, ‘The collaborative struggle for excolonialism’ (2014) 4(4) *Settler Colonial Studies* 340. Also see Kalt and Norman, above n 25, chapter 1.

²⁷ Tristan Reader, *Tohono O’odham Food Sovereignty* (Draft PhD Thesis, 2015) chapter 9, 28. Draft as at December 2015; draft on file with Miriam Jorgensen.

²⁸ Lanita Jacobs-Huey, ‘The Natives are Gazing and Talking Back: Reviewing the Problematics of Positionality, Voice, and Accountability among “Native” Anthropologists’ (2002) 104(3) *American Anthropological Association* 791, 797.

underpinning principles outlined above that guide the conception, design, and execution of research. Principles guide method; method operates within the constraints of principles. The two together form methodology. In other words, our view is that a full decolonising research methodology emerges from an interaction of the 'Indigenous methodologies' principles with specific (disciplinary) research methods.

Indigenous scholars also observe that a balance can be struck between Indigenous research principles and the rules and techniques for research approved within a field. They note that the language and commitments of Indigenous research may be unfamiliar to particular western disciplines, and that an Indigenous research agenda focussed on self-determination, healing, decolonisation, and spiritual recovery may seem at odds with positivist research and its various methodological practices. But they further stress that Indigenous research principles provide a strategy for reorienting the aims and objectives of both the ways and means of research on Indigenous issues.²⁹

Ideally, an Indigenous research methodology (principles *plus* methods) also is reflexive and recursive. The distinctions between principles and methods remind us that there are dangers in going too far in one direction or the other: A methodology that is all principles and no method is unlikely to produce defensible or usable results; a methodology that is all method and no principles may end up replicating western ways of viewing the world and reinforcing the colonial project. Thus, researchers need to regularly interrogate their assumptions, their choices, and the consequences of those assumptions and choices and, in response, be willing to revisit and refine their methodology. In so doing, researchers working within an Indigenous research paradigm meld the methods of their academic disciplines with Indigenous research principles to co-generate a methodology for a defined joint endeavour, and embrace an understanding of research as a process of learning, developing, and critiquing in support of larger goals.³⁰

²⁹ Martin Nakata, 'Ongoing Conversations about Aboriginal and Torres Strait Islander Research Agendas and Directions' (2004) 33 *Australian Journal of Indigenous Education* 1; LI Rigney, above n 13; Smith, *Decolonizing Methodologies*, above n3, 117.

³⁰ Indigenous Allied Health Australia (IAHA) actually requires research partners to engage in this type of reflective and re-focussing work, a process it calls 'knowing, being, and doing'. For example, in proposals to IAHA, individual researchers are asked not only to identify what they want to research and why but also to reflect on what their perceptions of and assumptions about Aboriginal and Torres Strait Islander peoples and communities are. At other points during the research engagement, IAHA works with research partners to make sure they have not lost sight of 'who they are' and what their purpose is (Donna Murray, IAHA chief executive officer, personal communication, 16 August 2016).

III. An Example of Research Practice: The Indigenous Nation-Building Collaboration

We reflect on exactly these issues in in our research on Indigenous nation building in Australia. Our work attempts to marry principles and methods in a research practice that produces both community and academic results. This section describes our research questions, methodology, specific research practices, and how we have structured our relationship with partners.

III.A. Background

In our usage, ‘nation building’ refers to the processes by which an Indigenous nation enhances its own foundational capacity for effective self-governance and for self-determined community and economic development.³¹ Our activities have the following overarching research objectives:

- *To assess the relevance to Australia of North American research results concerning Indigenous nation building produced over 30 years by the Harvard Project on American Indian Economic Development and the Native Nations Institute (NNI) at the University of Arizona. Specifically, do the results established in North America, showing that empowered and culturally legitimate Indigenous political governance is more efficacious in pursuit of Indigenous goals than so-called ‘standard’ approaches to addressing Indigenous socioeconomic conditions (typified by top-down, externally imposed programs, structures, and policy³²) apply in Australia? Do the recommendations based on those results also apply?³³*
- *To identify strategies of nation self-government from two Aboriginal nations that combine effectiveness, cultural legitimacy, and—at least in their core principles—transferability across Indigenous situations. Specifically, what are Indigenous nations’ strategic and institutional innovations in self-government? And, in support of social*

³¹ Miriam Jorgensen, ‘Editor’s Introduction’ in Miriam Jorgensen (ed), *Rebuilding Native Nations: Strategies for Governance and Development* (University of Arizona Press, 2007) xii. Some Indigenous people prefer the term nation rebuilding. See, for example, Oren Lyons, ‘Foreword’ in Miriam Jorgensen (ed), *Rebuilding Native Nations: Strategies for Governance and Development* (University of Arizona Press, 2007). We use the term ‘nation building’ throughout, but it could generally be read as ‘nation rebuilding’.

³² For an accessible summary, see Jorgensen, above n 31, especially chapter 1.

³³ Acknowledging that the legal, political, constitutional, and historical circumstances of North America and Australia differ, the research asks whether Indigenous nations and communities were exercising self-government as understood in North America. This inquiry required the translation of the language of Indigenous government, sovereignty, nationhood, and nation building for an Australian context.

transformation, what can Indigenous nations learn from each other in the struggle to establish and expand genuine self-governing power?

- *To identify techniques for commencing the process of Indigenous nation building.* Specifically, how might the process be kindled in Australia, where there is quite limited formal colonial government recognition of Indigenous self-government and where, within a given Aboriginal community, a sense of self-governing power may not currently exist?

This work occurs through several connected, ongoing research projects undertaken by Gunditjmara and Ngarrindjeri organisations and community members and by researchers at both Australian and US academic institutions, a group that we refer to here as the Indigenous Nation Building Collaboration ('INB Collaboration'). The INB Collaboration commenced through an Australian Research Council ('ARC') funded Discovery Project, with the working title 'Changing the Conversation: Rediscovering Indigenous Government', undertaken by the Jumbunna Indigenous House of Learning at the University of Technology Sydney and NNI ('the Jumbunna-NNI DP')³⁴. Jumbunna and NNI partnered on this project with the Gunditjmara People from what is now south-western Victoria and the Ngarrindjeri Nation located in the River Murray, Lakes and Coorong region of what is now South Australia. The partnership was facilitated through two Aboriginal organisations, Gunditj Mirring Traditional Owners Aboriginal Corporation ('Gunditj Mirring') and the Ngarrindjeri Regional Authority ('NRA'). Growing Aboriginal nation interest in the work and additional funding streams³⁵ expanded our partnerships. At the time of writing, in addition to the original partners, the INB Collaboration also formally includes individuals and groups from the Wiradjuri Nation in what is now NSW and five additional universities (University of

³⁴ In 2010, Jumbunna Indigenous House of Learning at UTS was awarded an Australian Research Council Discovery grant (DP 1092654) titled 'The applicability of research and practice on nation rebuilding in North American Indigenous communities to Australian Indigenous communities' (Jumbunna-NNI DP) to collaborate with the Native Nations Institute at the University of Arizona. Professor Larissa Behrendt, Research Director of Jumbunna IHL, was Chief Investigator and Dr Miriam Jorgensen, Research Director of the Native Nations Institute at the University of Arizona and of the Harvard Project on American Indian Economic Development, was Partner Investigator. Professor Stephen Cornell, co-director and co-founder of the Harvard Project and Faculty Chair of the Native Nations Institute, was expert adviser to the work. Dr Alison Vivian from Jumbunna IHL and Dr Mark McMillan from Melbourne Law School were Senior Research Associates for the project.

³⁵ The work of the Collaboration is supported by two grants: an ARC Linkage Grant (LP140100376), titled 'Indigenous nationhood in the absence of recognition: Self-governance strategies and insights from three Aboriginal communities' and a Melbourne School of Government Cluster Grant, titled 'Indigenous Nation Building: Theory, Practice and its emergence in Australia's public policy discourse'.

Melbourne, Flinders University, Charles Sturt University, RMIT, and Australian National University).³⁶

III.B. The INB Collaboration Methodology

Our methodology combines the Indigenous research principles presented in section II with three research methods—the extended case method, comparative analysis, and action research.

- *Extended case method.* The extended case method involves data gathering in a single or small number of communities. ‘Extended’ has two meanings. For one, it refers to the timeframe of the research, as in an ethnography that extends over time or a longitudinal community study. For another, it refers to contextualisation, or moving the inquiry beyond a study of activities (what people in the community are doing) to a study of social forces and processes that constrain, facilitate, or otherwise shape what people do. The method makes known relationships and connections across the community; the structure and organisation of power; specific policy regimes; the impacts of markets, colonialism, racism, etc; and the histories of those forces.³⁷
- *Comparative analysis.* The Ngarrindjeri Nation, the Gunditjmara People, and individuals and groups of the Wiradjuri Nation share a number of characteristics. Among them are the catastrophic legacies of colonialism; their position within the Australian policy regime; a determination to reclaim self-governing power over lands, waters, and community affairs; and an engagement in practical processes of Indigenous nation building. At the same time, the Ngarrindjeri, Gunditjmara, and Wiradjuri differ in their cultures, specific histories, the effects of those histories, their current circumstances, and their positions within nation building processes. Through comparison and contrast, this method helps point to key factors (here, strategic visions, practical

³⁶ We have been approached by a number of other Aboriginal nations who are interested in commencing nation building work but do not (yet) have formal research arrangements with them.

³⁷ The phrase ‘Extended Case Method’ originated among scholars associated with the Manchester School of social anthropology working mostly in Africa in the mid-20th century (eg Gluckman 1958, Van Velsen 1967). Their ethnographic work paid close attention to the effects of colonialism on social processes in groups, communities, organisations, and nations. The method has parallels in some American ethnographies in the latter part of the century that were interested in extra-local determinants of (for example) urban race and class relations (eg, Liebow 1967, MacLeod 1987). Burawoy (1998, 2009) not only provides an overview of the history and logic of the method—an overview that has substantially informed our own understanding—but also has considerably expanded the discussion of its principles and possibilities.

political strategies, patterns of action, and so on) that may be instructive concerning nation building trajectories and outcomes.

- *Action research.* We use this term to refer to an array of methods, including participatory action research, community-based participatory research, critical action research, tribally driven participatory research, and empowerment evaluation, that are intended as ‘human inquiry with transformative and emancipatory intent’³⁸. Through participation, socio-political analyses, and study of organisations and relationships, this research method seeks to identify and implement actions that will ‘improve things’³⁹. Echoing Zandee and Cooperrider⁴⁰, we note that the approach is not value-free; it intentionally embeds values because it seeks to support communities in their quest for whatever they identify as ‘better’. A key benefit of this method is its clear focus on supporting sovereign Indigenous nations’ inherent right to self-determination and their progress toward community goals.

Our experience is that this methodology (Indigenous research principles and specific data-gathering methods) is capable of identifying critical insights, general relationships, inferences about causation, and other material for theory building. Further, we expected it to yield insights for Indigenous and colonial governments’ strategies, policies, and inter-governmental relationships—and it has. It is particularly successful at identifying problems and opportunities in public policy and at generating transformative knowledge that Aboriginal nation governments, colonial governments, community leaders, and researchers can use to make change. Significantly, these products are not simply ‘end results’. Outcomes formed as the research methodology developed, research practices were established, and publishable findings emerged. For example, changes to nation policy and a more robust theory of nation building (our ‘identify, organise, act’ framework⁴¹) became apparent in the research process itself.

³⁸ Danielle P Zandee and David L Cooperrider, ‘Appreciable Worlds, Inspired Inquiry’ in Peter Reason and Hilary Bradbury (eds), *The SAGE Handbook of Action Research: Participative Inquiry and Practice* (Sage Publications, 2008) 192; Patricia Mariella, Eddie Brown, Michael Carter, and Vanessa Verri. ‘Trially-Driven Participatory Research: State of the practice and potential strategies for the future’ (2009) 3(2) *Journal of Health Disparities Research and Practice* 41.

³⁹ Stephen Kemmis and Robin McTaggart, ‘Participatory Action Research: Communicative Action and the Public Sphere’ in Norman K Denzin and Yvonna S Lincoln, *Strategies of Qualitative Inquiry* (Sage Publications, 3rd ed, 2008), 273.

⁴⁰ Ibid.

⁴¹ Learning during the Discovery Project emphasised that the process of Indigenous nation building occurs in three phases: identification (determining what group of people constitutes the ‘self’ in ‘self-government’), organisation (creating institutional structures to make and implement decisions for the nation), and action (undertaking actions through these governing structures that forward the goals of the nation). These phases may occur sequentially or with feedback, but they nonetheless are distinct and

III.C. Operationalising the INB Collaboration's research methodology

The specific activities we undertook to implement our research methodology included: desktop research on Aboriginal nations and university partners; 'meet and greet' visits with team members and community members in each partner nation and with Victorian and South Australian government representatives as requested by the nations; twice-annual research-focused site visits by the entire team and many further visits by individual team members; attendance at key community and Aboriginal government meetings (Gunditjmara Full Group meetings, Ngarrindjeri Regional Authority meetings, and community-government partnership meetings such as those of the Lake Condah Sustainable Development Project); attendance at special Aboriginal community events (including openings, public presentations, celebrations, and funerals); participation in inter-nation summits (gatherings of nation builders from each of the INB Collaboration nations and select additional Aboriginal nation representatives at which strategies and successes were shared); monthly full team meetings both via telephone/VOIP and at least annually in person; executive education of Aboriginal government leaders in each partner nation and of non-Indigenous government personnel; and joint project research. Over the years we also have had numerous formal and informal conversations and interviews with Elders, community leaders, and other nation advisers; personnel from Gunditj Mirring Traditional Owners Aboriginal Corporation, Winda-Mara Aboriginal Corporation, the Ngarrindjeri Regional Authority, and other Gunditjmara and Ngarrindjeri organisations; non-Indigenous allies; and representatives of relevant local and state governments.

From the outside looking in, a typical assumption may be that research relationships reflect some natural affinity among the research partners. In fact, the relationships might be described more accurately as 'constructed affinities' between 'complex, prickly partners' with distinct and sometimes complementary, sometimes contradictory interests.⁴² In short, these are 'willed interactions'.⁴³ Tension is to be welcomed as a sign of passion and commitment.⁴⁴ Thus, in order to make our research activities really work—in order for ongoing engagement to occur and for these activities to yield information and products relevant both to Aboriginal nations and to the academy—team members from Aboriginal nations and from the academy had

individual necessary parts of the process. See Stephen Cornell, 'Processes of Native Nationhood: The Indigenous Politics of Self-Government' (2015) 6(4) *International Indigenous Policy Journal*.

⁴² Bignall, above n 26, 350.

⁴³ Ibid 350-352.

⁴⁴ In fact, Damein Bell, an INB Collaboration partner and co-author of this article, demands it.

to develop trust and confidence in each other.⁴⁵ Our primary strategy for doing so was to commit to reciprocity as a fundamental tenet of our relationships. It is exemplified by an operational structure for the work that is best described as being composed of two sets of interests that are at once symbiotic, hierarchical, and equitable (but not equal).⁴⁶

The interests are symbiotic in that neither can achieve their respective goals without the other. They are separate but not mutually exclusive realms of inquiry. The Aboriginal partners—experts⁴⁷ in Country, culture, language, law, ceremony, traditional economy, their communities' values, norms, and ambitions—seek to 'nation build' to strengthen their communities. The academic partners—experts in political science, sociology, law, philosophy, and communication design—seek to learn about transferrable examples of strategic and institutional excellence and about the processes, tools, language, experiences, and analyses that trigger and enliven Indigenous nation-building.

The interests are hierarchical in that all parties seek to act as Indigenous nation builders and to support the Aboriginal partners as they assert their nations'

⁴⁵ No doubt this evolution has been aided by the fact that some INB Collaboration team members are both Aboriginal nation representatives and part of the academy.

⁴⁶ Although used in a different disciplinary context, namely that of design, the language used by Nelson and Stolterman to describe the designer being *in service* is helpful to understand the dynamics of the relationship between academic and Aboriginal researchers in the INB Collaboration. See Nelson and Stolterman, above n 2. As Nelson and Stolterman explain, being *in service* does not equate to subservience but is to midwife that which 'could not have been imagined fully from the beginning by either [party]' (24). 'A service relationship is a distinct, complex, systemic relationship with a particular focus on the dimensions of responsibility, accountability, and intention that are embedded in the relationship' (24). The relationship is proactive and distinguishes between 'finding meaning in things that happen and making meaning by causing things to happen' (24).

⁴⁷ Hemming and Rigney and others have described the hazards of dealing with the external expert who seeks to measure or assess the 'authenticity' of Indigenous peoples, which often leads to 'Aboriginalist myths of cultural extinction'. They describe Ngarrindjeri strategies in response, which seek to create a body of Ngarrindjeri expertise that interrupts the recycling and activation of the colonial archive and instead inserts Ngarrindjeri aspirations, narratives, priorities, and principles into the written record. Ngarrindjeri leaders and advisers have been prolific in publishing articles, book chapters, and descriptive pieces that reinforce Ngarrindjeri perspectives, outline strategy and approaches, and privilege Ngarrindjeri values and worldviews. See Hemming, Rigney and Berg, *Researching on Ngarrindjeri Ruwe/Ruwar*, above n 5; Steve Hemming and Daryle Rigney, 'Unsettling sustainability: Ngarrindjeri political literacies, strategies of engagement and transformation' (2008) 22(6) *Continuum: Journal of Media and Cultural Studies* 757; Steve Hemming and Daryle Rigney, 'Decentring the new protectors: transforming Aboriginal heritage in South Australia' (2010) 16(1-2) *International Journal of Heritage Studies* 90; Robert Hattam, Daryle Rigney, and Steve Hemming, 'Reconciliation? Culture, nature, and the Murray River' in Emily Potter et al (eds) *Fresh Water: New Perspectives on Water in Australia* (Melbourne University Press, 2007) 105.

inherent rights to self-determination and self-government. The academic partners, being a large multidisciplinary team with different areas of expertise, take instructions from the Aboriginal nations about their nation-building aspirations and, with the Aboriginal partners, devise tasks that may enhance the nations' capacities to fulfil these aspirations. The Aboriginal partners then utilise the research team's expertise about building effective and legitimate governing systems, which gives the partnership the flavour of a client to professional practitioner relationship. In fact, we describe the process of negotiating the research engagement as 'ethically *commissioned* research'.⁴⁸

Among others, examples of instructions given by the Aboriginal partner nations include the following:

- *Gunditjmara decision-making matrix.* Every month, at a known time and place, the Gunditjmara 'Full Group' meets. Initially established as a means of generating instructions for the native title process, it has evolved into a forum for deliberation and decision-making on all issues relevant to the Gunditjmara People. Transparency, accountability, and free prior and informed consent are the fundamental principles underlying the Full Group's processes, but current methods for implementing these principles are expensive, result in an increasingly large volume of material for review each month, and require lay community members to address increasingly technical or specialist topics. The solution devised by the Full Group is to establish a set of decision-making principles that it could use to 'pre-inform' meeting attendees and that could assist future generations of decision-makers. Further, the Full Group has directed the INB Collaboration to work with it on this nation-building challenge.
- *Gunditjmara research approvals process.* The Gunditjmara People experience frequent requests by students and academics for permission to conduct research on Gunditjmara Country or with the Gunditjmara People. On many occasions, the proponent of the research already has formulated a proposal and obtained funding, suggesting a presumption that the Gunditjmara People's approval is a mere formality. To ensure that Gunditjmara processes and research priorities are fulfilled, the Gunditjmara Full Group requested assistance from the INB Collaboration to create a Gunditjmara research approvals process. Under this process, researchers will be required to familiarise themselves with Gunditjmara research principles and protocols, submit a formal application, and explain how the proposal responds to Gunditjmara

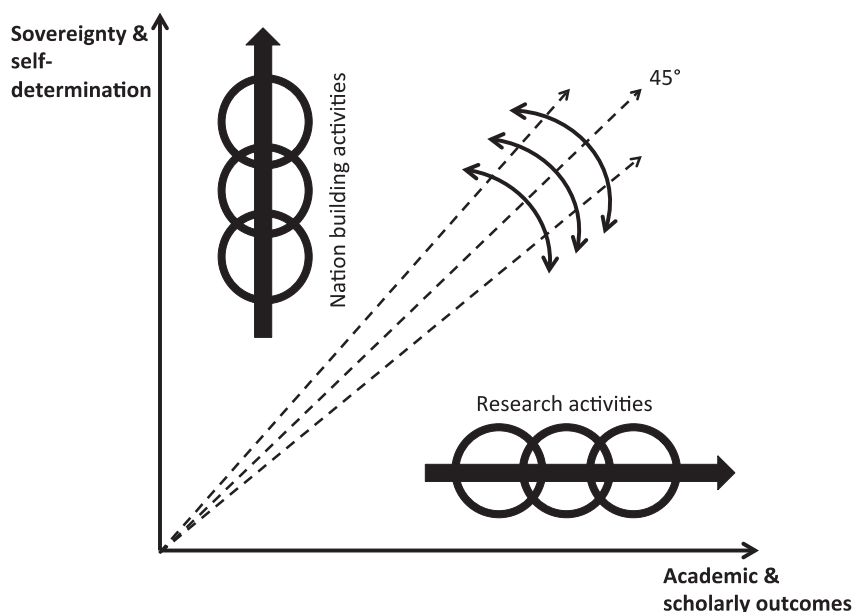
⁴⁸ This is a term coined by INB Collaboration partner Raymond Orr, a faculty member at the School of Social and Political Sciences at the University of Melbourne.

interests. Reciprocity and ongoing connection beyond the life of the project will be central to the consideration of whether consent is granted.

- *Ngarrindjeri Regional Authority structural review.* The Ngarrindjeri Regional Authority (NRA) has had notable success in establishing processes, mechanisms, and structures for Ngarrindjeri Nation decision-making. Crucially, this governing structure reflects the political climate—both Ngarrindjeri and Australian—at the time of its creation. It has served the Ngarrindjeri Nation well to date, but changing circumstances and the nation's expanding authority and broader jurisdiction suggest that structural review is now appropriate. Realising this, the NRA instructed the INB Collaboration to assist in the review. In response, the collaboration has assisted by providing interview data, executive training, and strategic input.

The overall research partnership is equitable in that the academic partners and the Aboriginal nations each gain from the work, although they are not 'equals' in a non-hierarchical sense (as observed above). In yielding nation-building products for the partner nations, the research work also yields academic and scholarly products. The diagram below demonstrates this mutual progress of nation building and research outcomes. Above the diagonal, successive nation-building projects connect with and build upon each other to increase the self-governance and self-determination capacities of an Aboriginal nation. Below the diagonal, successive research activities connect and build upon each other to increase academic knowledge and scholarly outcomes. The diagonal shows a balance between the two, although at any moment in time, the effort may swing somewhat more to the left or right, depending on how collaborators are arrayed to produce the desired work. Over time, collaboration leaders use team meetings and other partnership interactions to rebalance and continue to progress the work.

Figure 1. Reciprocity & progress in both nation building and research activities



IV. Our Stories: Challenges, and Responses to Those Challenges, within an Indigenous Research Paradigm

As we commenced our research, we faced (and continue to face) challenges to our efforts to work within an Indigenous research paradigm. We tell three specific stories here, which stand as practical examples of how we are seeking to enact our methodology.

IV.A. Pursuing research ideas that do not come from Indigenous communities

As noted in Section II, co-production throughout the research cycle⁴⁹ and respect for Indigenous knowledges are hallmarks of the Indigenous research paradigm. But what happens when academic researchers have an idea for a research project, which their experience suggests may be of interest to

⁴⁹ To reiterate the argument of Section II, an Indigenous research paradigm requires engagement at each stage of the project, from developing the research proposal, to implementing and monitoring research activities, analysing data and co-producing findings, obtaining permission to share research findings, and sharing them with Aboriginal partners, other Aboriginal nations, and with the broader research environment.

Indigenous people or peoples? Further, what happens if the proposed project requires collaboration with Aboriginal partners who fulfil certain pre-determined criteria? Can such research represent the respectful and mutually beneficial encounter that the Indigenous research paradigm demands? Can it comply with the principles of appropriate Indigenous research? Is it inevitable that it represents the worst kind of research ‘done to’ Indigenous peoples by external experts?

This was the situation faced by the Jumbunna-NNI Discovery Project team. From the research team’s broad experience working with Aboriginal communities across Australia, and in a variety of capacities, we were confident that the issues we sought to explore—Indigenous nationhood, Aboriginal nation self-government, and Aboriginal nation self-determination—would be of interest. But how could we engage our prospective partners without appearing to present a pre-determined research question and pre-packaged research approach?

Our response was to create a three-stage recruitment and research design process:

- The *first stage* was to *identify Aboriginal nations/communities* that demonstrated the characteristics of self-governing political collectives, according to five indicators that we had distilled from North American research. We were looking for examples of Aboriginal nation self-determination and self-government as opposed to examples of self-managing Indigenous community organisations or corporations.
- The *second stage* was to *share findings from Harvard Project and Native Nations Institute research* with those communities, discuss with them the potential relevance of those findings within their own nations, and seek their consent to negotiate project design.
- In communities interested in collaboration, the *third stage* was to *establish an ongoing consultation process for determining the partner communities’ desired research goals and outcomes*. The Gunditj Mirring Traditional Owners Corporation and the Ngarrindjeri Regional Authority both agreed to engage in the research project with us but proposed different outcomes and different collaboration approaches. The result was separate, ongoing alliances, such that the conduct of the inquiry and the outcomes for the two nations were markedly different over the life of the Jumbunna-NNI Discovery Project and our later projects.

Further, we resolved that a two-tiered human research ethics approval process should accompany this staged engagement, which is not the usual approach at Australia universities. In particular, our work required that community recruitment become a formal aspect of the research methodology, and we asked

the UTS Human Research Ethics Committee to create a preliminary approval process for this stage of the work. Once our Aboriginal community partners agreed to collaborate with us, we proceeded through the standard ethics approval process, a review of the specific methods we would use as we worked with each nation.⁵⁰ To our knowledge, the UTS Ethics Committee had not previously been asked to accommodate a two-stage approach but was supportive of it. A broader lesson from these interactions is that to truly accommodate an Indigenous research paradigm, university human research ethics approvals processes should flexibly accommodate each research project—and researchers should be proactive in working with them to motivate such accommodation.⁵¹

IV.B. Fulfilling the responsibility to protect Indigenous cultural knowledge

The conventional institutional standard for human research ethics approval processes is that potential individual ‘human research subjects’ be fully informed about the nature of the research in which they may be involved, its implications, and its possible consequences, and that their agreement be based on a full understanding of such information. However, ‘acquiring’ knowledge in Indigenous communities or producing knowledge based on Indigenous experiences may have consequences that are unintended or even entirely unknown to the researcher. It suggests that where external researchers are ignorant of potential consequences, consent may not be fully informed, making the concept highly problematic in research with Indigenous people and peoples.⁵² Two common issues arise from the fact that under conventional standards, consent is obtained on an individual basis.

- *Problem: conventional standards make no distinction between individual and collective knowledge.* In many Aboriginal communities, only some knowledge can be appropriately/lawfully held individually; other knowledge is appropriately/lawfully held collectively. Cultural knowledge (discussed in greater detail below) is an example of the latter. In research engagements, there is the potential for an individual research participant to disclose collective knowledge despite the fact that he or she cannot lawfully share or give permission to use the knowledge. In this situation, consent obtained from an individual is unlikely to represent consent to lawful disclosure.

⁵⁰ In fact, although evidence of community support typically is preferred for submission of an ethics application, at Australian universities, even at this stage it often is not required.

⁵¹ This kind of engagement can provide a useful opportunity for researchers to educate university human research ethics committees about Indigenous methodologies.

⁵² Stella Coram, ‘Rethinking Indigenous Research Approval’ (2011) 11(2) *Qualitative Research Journal* 38.

- *Problem: conventional standards fail to respect authority to speak for particular issues or particular knowledge.* Again in many Aboriginal nations, only certain people or groups of people have authority to speak about particular issues or Country and to authorise publication about these matters. If lines of authority have broken down, it is quite possible that certain individuals have knowledge about these issues or Country but not know whether they are authorised to share the knowledge. In fact, they may not even know that authorisation is required. It is conceivable that such knowledge could be shared by people who are not even be aware that they lack authority to do so.

Bird Rose explains:

Law belongs to country and to people. It is embedded, of course, in society and culture, and is intellectual property, which is not freely available to all. Essentially, if knowledge is constituted as evidence of relationships among persons and between persons and country, then it is most assuredly not available to all and sundry. Such a system is subverted through any form of 'freedom of information'. If there is one thing that is absolutely not free, in Aboriginal tenure systems and Aboriginal politics, it is knowledge.⁵³

Thus, ethical research must reframe what constitutes genuine 'informed consent' to honour Indigenous peoples' right to protect collective and cultural knowledge. Further, it must engage Indigenous collectives in dealing with these complexities, rather than dismissing them as something that can be dealt with 'procedurally'.⁵⁴ These complexities can be some of the most difficult issues to deal with in research engagements.

The INB Collaboration addressed these complexities with four decisions:

- First, *the research team acknowledged that Indigenous cultural knowledge is not a species of intellectual property as understood in Australian law.* Australian law is not relevant because the law related to the ownership and dissemination of Indigenous cultural knowledge is Indigenous law, with a different source of authority to Australian mainstream law.⁵⁵ Therefore, Indigenous cultural knowledge cannot and

⁵³ Deborah Bird Rose, *Nourishing Terrains: Australian Aboriginal Views of Landscape and Wilderness* (Australian Heritage Commission, 1996) 32 quoted in Sherwood, above n 11, 61.

⁵⁴ For instance, some researchers working in Aboriginal communities simply tell participants that it is adequate to refuse to answer questions they are unable to answer (for whatever reason). But this work-around does little to address the fact that there are actually different kinds of information and different parties who might approve its revelation, and that information/knowledge itself is a collective, sovereign good.

⁵⁵ Hemming, Rigney, and Berg, *Researching on Ngarrindjeri Ruwe/Ruwar*, above n 5. See also the discussion of Indigenous intellectual property issues in Terri Janke (2003)

should not be subject to Australian legal intellectual property considerations and cannot be owned by any academic researcher or any academic institution.

- Second, *we determined that our most important research protocol is that Indigenous cultural knowledge only can be published with consent of a collective.* That is, while information may have been disclosed by individuals who gave their consent to be interviewed, we sought publication approval from the Ngarrindjeri Research, Planning, and Policy Unit or the Gunditj Mirring CEO (delegated with that authority by the Gunditjmarra Full Group) for assessment as to whether cultural knowledge or other private collective knowledge had been disclosed.
- Third, *the research team agreed to include cultural knowledge protections in all its processes.* For the ARC Discovery project, UTS included a cultural knowledge clause in its research agreement with the Ngarrindjeri Nation. For the ARC Linkage project, we required that the partnership agreements entered into by the seven universities involved include clauses protecting Indigenous cultural knowledge (see Appendix); this was challenging for some institutions but agreement ultimately was achieved. The research team is grateful to the Ngarrindjeri Regional Authority for permission to use these clauses that were originally drafted for its use.
- Fourth, *we drafted and agreed upon research protocols governing the conduct of the academic partners within the INB Collaboration.* With reference to the point immediately above, the INB Collaboration's internal protocols also outline the team's commitment to protect Indigenous cultural knowledge, as do our consent forms and information sheets for research participants.

Fortunately, the INB Collaboration was able to turn to the Gunditjmarra Full Group and Ngarrindjeri Regional Authority for help in making decisions about collective knowledge, for referrals to appropriate knowledge holder/s, and for connections with assessment entities so that appropriate determinations about the disclosure and use of sensitive knowledge could be made. In other words, the guardians of cultural knowledge are readily identifiable and gaining consent has been a matter of negotiation.

'Minding Culture: Case Studies on Intellectual Property & Traditional Cultural Expressions' prepared for the, World Intellectual Property Organisation (WIPO, 2003) <http://www.wipo.int/edocs/pubdocs/en/tk/781/wipo_pub_781.pdf>; Terri Janke (1998) *Our Culture: Our Future—report on Australian Indigenous cultural and intellectual property rights*, (Australian Institute for Aboriginal and Torres Strait Islander Studies, 1998).

Nonetheless, we recognise that a determination of who has the right to speak for any particular cultural knowledge can be contested, and definitive resolution of the issue may not be possible. In some Australian Indigenous communities, protocols about authority to hold or share knowledge would have been understood and strictly enforced historically but are relatively unknown and have little force today. There are many examples of community discord or conflict that stem from different conceptions of cultural knowledge; among them, the Kumarangk (Hindmarsh Island) Bridge crisis is one of the most well-known⁵⁶. In such circumstances, collective or cultural knowledge may be inadvertently shared by individuals without appropriate authority, or inadvertently acquired simply through observation. Therefore, even the ethical researcher can be tested where consensus about appropriate protocols related to the acquisition and dissemination of collective knowledge is difficult to achieve.

Nonetheless, it should be non-negotiable that mutually developed protocols for information sharing or acquisition in the research process strive to protect Indigenous knowledges. For example, where protocols relating to the authority to share knowledge may not exist or might not be well known, the researcher can specifically ask research participants about their views on an appropriate process for protecting cultural knowledge. That process may involve particular Elders, groups of community members, or others whom they view as having the capacity and authority to give approvals.

Interestingly, we understand these questions and considerations about research protocols to be nation-building considerations. Uncovering existing protocols or creating new protocols appropriate to contemporary circumstances involves questions about leadership, authority, jurisdiction, and what is culturally appropriate in today's environment, which are issues fundamental to nation building.

IV.C. Determining publication approval protocols

As noted above, Aboriginal partners and academic partners in a research collaboration have different but complementary interests. The Aboriginal partners are rebuilding their nations; the academic partners want to understand

⁵⁶ For a detailed overview of the crisis, see Margaret Simons, *The Meeting of the Waters: The Hindmarsh Island Affair* (2003). For discussion of how the crisis impacted upon Ngarrindjeri strategic approaches, see Steve Hemming, Daryle Rigney, and Shaun Berg, 'Ngarrindjeri Futures: Negotiation, Governance, and Environmental Management' in Sarah Maddison and Morgan Brigg (eds), *Unsettling the Settler State: Creativity and Resistance in Indigenous Settler-State Governance* (Federation Press, 2011) 98, 104-109. See also Tom Trevorrow and Steve Hemming, 'Conversation: Kungun Ngarrindjeri Yunnan—Listen to Ngarrindjeri People Talking' in Gus Worby and Lester-Irabinna Rigney (eds) *Sharing Spaces: Indigenous and Non-Indigenous Responses to Story, Country, and Rights* (API Network, 2006) 295.

the nation-building processes that Aboriginal nations are using in Australia. Supporting the Aboriginal partners, groups, and individuals to audit their current systems, policies, and approaches entails an exploration of: community dynamics and aspirations; different approaches to cultural legitimacy, leadership, and governing bodies; what works and what doesn't; what needs to change and what needs to remain the same; what must be protected; and who or which body has the authority to speak for which issues. Such an exploration means that the academic partners become knowledgeable about the *what* in addition to the *how* of nation building and encounter knowledge that may be sensitive, including Indigenous cultural knowledge which may not be legitimately known by external parties.

Thus, our publication protocols must be stringent in identifying that for which the Aboriginal partners grant publication approval. Publication approvals are gained through a two-stage consent process. First, research participants consent to being interviewed; second, they consent to be quoted or to have their stories told. They are given control over the telling of their stories through opportunities to read drafts of proposed publications, to amend quotes, and to determine how they are referenced (if at all). As described above, potential publications also are reviewed for collective knowledge or Indigenous cultural knowledge by appropriate authorities. The preference for all parties is that publications are co-authored with community members.

The Collaboration is aware of suggestions that our publication protocols might be labelled by some as 'censorship' or as lacking academic rigour, a characterisation that we reject. Our research requires an understanding of confidential matters, which we will learn about only if the partners have established mutual trust. Subjecting publications to Aboriginal partner approval contributes to that trust. Reiterating an argument made earlier in this paper, this level of mutual understanding is likely to result in research that is both more ethical *and* better quality than research on and about Indigenous people that is conducted outside an Indigenous research paradigm.

We additionally observe that this approach reaches a standard of replication (an apparent test of rigour) that is similar to that of survey and ethnographic research.⁵⁷ Researchers cannot precisely replicate a survey because they cannot replicate the exact sample. Researchers cannot precisely replicate an ethnography because it reflects a particular time and place and because the identities of relevant communities or participants may have been suppressed for their protection. In short, would-be replicators can approximately replicate our efforts by building relationships for themselves, pursuing comparable questions

⁵⁷ We make this observation while also understanding that there are many critiques of ethnography itself as a method and practice.

with comparable methods, and determining whether our publications hold up to scrutiny.

V. Analysis and Conclusions

The INB Collaboration has particular advantages in enacting an Indigenous research paradigm. Unquestionably, the most important factor that has shaped this ongoing and evolving research project is our acknowledgment of Aboriginal nations' sovereignty and their inherent right to self-determination. This understanding frames and positions all interactions, modes of inquiry, protocols, and interests in our endeavours together.

Thus, the first advantage our project enjoys is that the aims and objectives of our inquiry explicitly mirror the foremost principle of an Indigenous research agenda.

Second, the Gunditjmara People and the Ngarrindjeri Nation are experienced research collaborators. Both nations have created (or are creating) their own research approval protocols, have engaged in partnerships with research institutions over many years, and will consent to proposals *only* when the research has substantial benefit to them (as defined by them). They expect to be full and equal partners in the research and expect to take advantage of opportunities to utilise the skills, expertise, and resources presented by an institutional partnership. They expect that the relationship will help them leverage partnership and funding relationships with other university, government, and private sector entities. In other words, the principles underlying an Indigenous research orientation provided the parameters for discussion about benefit and outcomes. They were not new or unfamiliar concepts to any of us, and we were all able to quickly converge on similar understandings and develop complementary expectations.

However, success of the collaboration to date and optimism for its future success cannot be credited to the subject matter or the sophistication of Indigenous nations alone. Instead it lies in our ongoing reflection on how research principles are melded with disciplinary methods to create a particular methodology for this particular project—and, we believe, in our team's effort to embrace but also move beyond critical methodology, into a fully collaborative and reciprocal process of knowledge production.

Appendix: Sample Cultural Knowledge protection clause

Definition of cultural knowledge:

[Name of nation] Cultural Knowledge means all and any cultural knowledge, whether such knowledge has been disclosed or remains undisclosed of the [Name of nation], including but not limited to:

- (a) traditions, observances, customs or beliefs;
- (b) songs, music, dances, stories, ceremonies, symbols, narratives, and designs;
- (c) languages;
- (d) spiritual knowledge;
- (e) traditional economies and resources management;
- (f) scientific, spatial, agricultural, technical, biological, and ecological knowledge;

and includes documentation or other forms of media arising therefrom including but not limited to archives, films, photographs, videotape or audiotape.

Complementing this definition, the definitions of ‘intellectual property’ rights and ‘confidential information’ also explicitly state that cultural knowledge is excluded.

Operative clause

Notwithstanding any other clause in the agreement, it is acknowledged that:

- (a) The [Name of Nation] owns all and any [Name of Nation] Cultural Knowledge; and
- (b) Each party undertakes not to collect, use, disclose or handle [Name of Nation] Cultural Knowledge without the prior written consent of the [Name of body/bodies and/or person/persons with the authority to determine whether particular knowledge is cultural knowledge]; and
- (c) Any report or publication resulting from the Project shall be designated a ‘Category A Report’ or a ‘Category B Report’ and the following shall apply:
 - (i) The publication of a Category A Report shall be unrestricted;
 - (ii) The publication of a Category B Report shall be restricted as directed by the [Name of body/bodies and/or person/persons with the

authority to determine whether particular knowledge is cultural knowledge];

Each party (and each of their personnel and students) who records [Name of Nation] Cultural Knowledge in material form does so as a mere amanuensis.