

## **Report to the Academy of the Social Sciences in Australia on the Workshop *Data Sovereignty for Indigenous Peoples: Current Practice and Future Needs* (9<sup>th</sup>-10<sup>th</sup> July 2015)**

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Funding was provided by the Academy of the Social Sciences in Australia (ASSA) and the Centre for Aboriginal Economic Policy Research (CAEPR) at the ANU to assemble an international group of scholars and policy practitioners from Australia, Aotearoa/New Zealand, Canada and the United States to conduct a workshop on *Data Sovereignty for Indigenous Peoples: Current Practice and Future Needs*. The workshop was held at University House, ANU, on 9th and 10th July, 2015.

The aim of the workshop was to consider the implications of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) for the collection, ownership and application of statistics pertaining to indigenous peoples and what these might mean for indigenous peoples' sovereignty over data that are about them, their territories and ways of life. It sought to stimulate new thinking about and uncover emergent practice regarding the generation of demographic, wellbeing and community development information in ways that better respond to the governance and development aspirations of indigenous peoples. It built on previous workshops organised by the United Nations Permanent Forum on Indigenous Issues (UNPFII) on 'data collection and disaggregation' (in 2004) on 'indicators of wellbeing' (in 2006) and on 'development with culture and identity' (in 2010). At these events indigenous representatives had raised concerns about the relevance of existing statistical frameworks for reflecting their worldviews and they highlighted their lack of participation in data collection processes and governance. As a result, the collection of data on indigenous peoples is viewed as primarily servicing government requirements rather than supporting indigenous peoples' development agendas. The Canberra workshop was also a timely supplement to a recent call from the UNPFII that states follow through on their commitments made at the 2014 General Assembly World Conference on Indigenous Peoples to give practical effect to the free, prior and informed consent provisions of the UNDRIP and to work with indigenous peoples to create data about their notions of development and well-being and incorporate these into the post-2015 UN development agenda.

The workshop thus provided an opportune moment to critique the demography-policy nexus in nation-state settings and to reflect on how the statistical portrayal of indigenous societies might be transformed. In the CANZSUS states of Canada, Australia, New Zealand and the United States, National Statistics Offices (NSOs) are actively engaged in a process of Census modernisation and transformation. For many decades the Census has been the 'gold standard' for population estimates and projections, particularly for sub-populations and small geographic areas, both of which include indigenous peoples. However NSOs are increasingly looking for alternatives to the traditional 'footwork' Census through the use of rolling surveys, population registers, and administrative data, along with greater use of digital technologies. This shift has major implications for the control, quality and comprehensiveness of indigenous data and is likely to be a key focus area of future discussions around indigenous data sovereignty.

There are approximately 400 million indigenous people around the world comprising thousands of distinct polities encapsulated by some 70 nation-states. The UNDRIP establishes a new set of standards for group relations with these nation-states and articles 3, 4, 5, 15(i), 18, 19 20(i), 23, 31, 32 and 33, 38 and 42 all raise urgent questions about the proper role of state machinery in gathering statistics on indigenous peoples. In the past, governments have been content to generate social binaries (indigenous/non-indigenous) as input to public policy. However, the legal and moral framework that allowed for such simplification of complex and varied forms of indigenous social and political organisation has shifted, and indigenous polities are asserting their own statistical identity and ownership of information in ways that the workshop set out to explore. Whilst not denying a role for centralised data collection, what indigenous peoples seek is meaningful participation in decisions affecting the collection, dissemination and stewardship of all data that are collected about them. Indigenous peoples also seek mechanisms for capacity building in their own compilation of data and use of information as a means of promoting their full and effective participation in governance and development planning.

Accordingly, most workshop participants were indigenous social scientists and/or indigenous government and NGO practitioners, including the current chair of the UNPFII, Professor Megan Davis from the University of New South Wales. Also involved were non-indigenous scholars with interests in anthropology, demography and indigenous community governance. Academic participants ranged from senior scholars to early career researchers. Papers from the workshop will be peer-reviewed and published early in 2016 by ANU Press in the CAEPR Research Monograph series to ensure rapid turnaround.

### **Content**

The two-day workshop was to have been opened with a Welcome to Country by the Ngunnawal community leader, Auntie Agnes Shea. Due to other commitments she was unable to attend but she was admirably represented by her granddaughter, Selina Walker, who took great delight in welcoming so many indigenous delegates from other parts of Australia as well as from Aotearoa/New Zealand, the United States and Canada.

The workshop was structured around six sessions. The first session on ‘colonisation and implications for data sovereignty’ was opened by Professor Megan Davis (UNSW) who provided a personal reflection on the role of data in progressing the aims of indigenous peoples from her unique position as chair of the UNPFII. It is clear from deliberations at the UN that indigenous engagement in the setting of relevant indicators is to be a key issue in the post-2015 UN development agenda and there is a pressing need for relevant indicators to sit alongside the UNDRIP. This is in response to a growing demand for the UNPFII to increase its focus on indigenous peoples’ development agendas involving the production of more nuanced data and information with greater input from indigenous nations themselves.

In providing historic context for the workshop, Emeritus Professor Ian Pool (Te Whare Wānanga o Waikato/The University of Waikato) reminded participants that we are dealing with a data continuum since pre-colonial data existed (and continues to exist). He argued that achieving data sovereignty is more than just a technical problem as colonialism submerged or expunged extant indigenous epistemologies. Indigenous peoples thus saw their data sovereignty accede to data suzerainty under colonial and post-colonial regimes. Ironically, as

they now attempt to reform the colonial order's knowledge systems using techniques of data collection and analysis more grounded in their own cultural heritage, they face the potential of neo-data suzerainty from the globalisation of information systems and 'big data'. At the same time, the failure to include key aspects of indigenous culture such as *whanaungatanga* (the Māori concept of kinship connectedness, obligation and reciprocity) in National Transfer Accounts data significantly undercounts the real economy's transactions.

Professor Matthew Snipp (Stanford University) delved more deeply into the meaning of data sovereignty, noting its emergence as a 21st century idea prompted by the effect of internet technologies in weakening impediments to information exchange that were previously imposed by geographic boundaries. In this context, sovereignty reflects the ability of nation-states to continue to manage information in ways that are consistent with their laws, practices and customs. Such ability has long been beyond the reach of indigenous nations who are smaller, poorer and politically weaker than the settler states that typically surround them. As long as this remains the case it makes little sense to talk about a fully post-colonial world. Nonetheless, thinking of post-colonialism as a continuum, instead of a simple binary, does make it possible to consider how indigenous peoples might claim greater control over data connected to them. Professor Snipp advanced three preconditions for data decolonisation: that indigenous peoples have power to determine who should be counted among them; that data must reflect the interests and priorities of indigenous peoples; and that tribal communities must not only dictate the content of data collected about them, they must also have the power to determine who has access to these data. This requires the building of indigenous expertise in the production and management of data and the formation of governance arrangements that allow for institutional oversight of research and data collection in indigenous communities.

The second session considered the data implications of indigenous governance arrangements. With reference to Australia, Dr Diane Smith (ANU) noted that land rights and native title regimes have created a plethora of self-governing arrangements, but there remains the unresolved question of how to leverage rights bestowed in this way to pursue self-defined agendas. While ownership of data is crucial, a fundamental issue is to first establish who is the 'self' in 'self-determine-nation'. There is growing demand from Indigenous Australian polities for local data to support local planning and while much can be accessed from conventional sources, data are not captured in ways that provide for 'culture-smart information'. 'Culture-smart' data require internal mandate from groups that, in turn, enables internally-informed decision-making as the essence of sovereignty.

Maui Hudson (Te Whare Wānanga o Waikato/The University of Waikato and Whakatohea Māori Trust Board), picked up the theme of 'culture-smart information' to argue that for Whakatohea *iwi* in the Bay of Plenty, the pressing need is for equality of access to existing data in order for *iwi* to evolve their roles as Treaty partners within contemporary New Zealand society. Given that 90% of Whakatohea live outside of their tribal area, there is a shift from data collection based on consent towards utilising administrative data sets held by the state using rights-based arguments for unit-record access. This reflects a growing skills base among Māori and the impact of new governance roles in *iwi* planning by working with, rather than separate from, local government. In this emerging practice, only culturally-sensitive data would be sovereign for *iwi*, the rest is flexible and sovereignty may be seen as partially-shared.

The next session provided a critique of postcolonial statistics. Professor Maggie Walter (University of Tasmania) noted that population statistics are imbued with meaning derived from the dominant social norms, values and racial hierarchies of colonising nation-states. A Google search for ‘indigenous statistics’ revealed an overwhelming focus on what she terms the five ‘D’s’ of Indigenous Australian data (5D data): disparity, deprivation, disadvantage, dysfunction and difference. Data on indigenous peoples not directed through the lens of a social problem are difficult to find, leading to a ‘deficit data–problematic people’ correlation that fits within theoretical frameworks aligned with the sociology of new racism. As a consequence, indigenous people are largely invisible except as pejorative (statistically-informed) stereotypes. In effect, the politics of data are embedded in the ‘who’ has the power to make determinations and who controls the narratives surrounding indigenous peoples’ lives. Currently, it is not indigenous peoples themselves. For progress to occur there is a need for more focus on the creation of data in a ‘recognition space’ between indigenous forms of sociality and more mainstream constructs.

Indigenising demographic categories was the subject of Frances Morphy’s (ANU) paper. In achieving data sovereignty, indigenous peoples face two kinds of challenges. First, how to determine the nature of data to be collected – including how to ‘name’ the indicators that measure indigenous realities. Second, for a transfer of responsibility for naming to occur, power relations need to change. In order to claim ‘naming rights’ indigenous peoples need to replace indicators that have been constructed according to hegemonic Global North categories with indicators that reflect their own local understandings of their social world. In Global North demography, there is a characteristic silence (an absence of indicators) concerning levels of valued sociality above the ‘household’ (echoing the point made by Pool with reference to Māori *whanaungatanga*), and concerning the nature and extent of connection to (or severance from) place. For indigenous peoples this is one factor that distinguishes them uniquely from encapsulating settler societies, and it goes to the heart of a rights-oriented demography.

Desi Rodriguez-Lonebear (University of Arizona and Te Whare Wānanga o Waikato/University of Waikato) reported on early findings from a survey of American Indian tribal leaders in the United States who noted that reliance on others for data undermines tribal sovereignty. However, contestation over identity and tribal membership remains a primary issue, due to decades of federal Indian policy including deliberate termination, forced removal, relocation, assimilation and the eugenic application of ‘blood quantum’. The diverse contexts of American Indian lives now demand new means of negotiating tribal identity, but ironically this must take place in the face of the absolute sovereignty of tribes to determine their membership.

There are many examples around the world of Indigenous groups who have taken successful steps towards retrieving data sovereignty, and the first session of day 2 explored some of these. In reporting on a Knowledge and Wellbeing project conducted by the Yawuru people in the town of Broome in north western Australia, Eunice Yu (Kimberley Institute) and Mandy Yap (ANU) provided concrete examples of what Indigenous data sovereignty can look like in practice at the local level. Following determination of their native title in 2006, and subsequent signing of agreements in 2010, the Yawuru recognised an immediate need for data about themselves to secure their social, economic, cultural and environmental base as a key player in regional planning. Several initiatives were embarked on concurrently. First

came a survey of all Indigenous people and dwellings in the town to create a unit-record baseline. The second project addressed the development of an instrument to measure local understandings of wellbeing (*mabu liyan*). The third initiative involved the construction of a geographic information system to digitally map places of cultural, social and environmental significance, to inform a cultural and environmental management plan. Finally, a documentation project has been undertaken to collate and store all relevant legal records, historic information, genealogies and cultural information. This includes a Yawuru language revitalisation program.

In Canada, initiatives have been taken at the level of First Nations as a whole. Ceal Tournier (First Nations Information Governance Centre) explained how First Nation principles of Ownership, Control, Access and Possession of data became trademarked as OCAP™ under the auspices of a regionally representative steering committee that became the First Nations Information Governance Centre (FNIGC). This initiative is a political response to colonialism and the role of knowledge production in reproducing colonial relations, and much of its impetus came from the sorry history of research and information gathering involving First Nations people. This is self-determination applied to collective data, information and knowledge and since 2010 FNIGC has operated on behalf of First Nations to ensure that it is applied through a certification process for research projects, surveys and information management systems.

Working in a different legislative and policy setting, Dr James Hudson (Independent Māori Statutory Board) provided an insider view of how the Independent Māori Statutory Board has worked to develop the ‘Māori Plan for Tāmaki Makaurau’ as an integral part of the ‘Auckland Plan’, which is the Auckland City Council’s strategy to contribute to social, economic, environmental and cultural wellbeing through a comprehensive long-term (20-30 year) strategy for growth and development. Following research that identified several approaches to measuring Māori wellbeing, a mixed methods approach was adopted to align the needs and aspirations of Māori with the interests of the Auckland Council. Following direction from Māori communities in Tāmaki Makaurau, the result is a 30-year aspirational plan consisting of five elements: Māori values, key directions, domains and focus, Māori outcomes, and indicators. The exercise highlighted that considerable data gaps exist for Māori at the regional level, particularly in the environmental and cultural domains. This underlines a tension that has long existed between the interests and statistical reporting requirements of government and Māori perceptions about what constitutes useful and meaningful data.

The views and practices of National Statistical Offices in regard to the production and application of indigenous statistics provided content for the next session in the workshop. Dr Paul Jelfs (Australian Bureau of Statistics) outlined the ABS’ Aboriginal and Torres Strait Islander enumeration and engagement activities. The main vehicle for improving the quality and relevance of Australian indigenous statistics is the Indigenous Community Engagement Strategy involving Indigenous Engagement Managers in each jurisdiction. The ABS has also instituted a twice-yearly Round Table on indigenous statistics to gather grassroots feedback on their activities from select indigenous people. A Reconciliation Action Plan also promotes career pathways for indigenous people within the organisation. As for the future, the focus is on how to better generate data that more closely reflects indigenous worldviews while still meeting government objectives. ABS is seeking advice from Statistics New Zealand on this issue. Also under development are plans to establish strength-based reporting of the

Aboriginal and Torres Strait Islander population, moving away from simply measuring disadvantage and gaps with respect to the non-indigenous population. It was interesting to note that the ABS is consulting with Statistics New Zealand on these matters, as the next paper was presented by Darin Bishop (Te Puni Kōkiri/Ministry of Māori Affairs). Darin has spent many years with that organisation, and previously with Statistics New Zealand, building up their Māori Statistical Framework. He reflected on that experience and the subsequent development of Māori statistics generally through his role with Te Puni Kōkiri. Initial attempts by Statistics New Zealand to develop a Māori statistics framework were unsuccessful because of a failure to conceptualise Māori indicators. The lesson was, don't start with western models and don't start with existing data. As a result New Zealand swung from a 'closing the gaps' approach to data collection to a more Māori potential/development approach. There is a need to refocus somewhat on gaps-type data but with a view to informing Māori development. While official Māori statistics provide most of the data for measuring socioeconomic outcomes, significant data gaps continue to exist in relation to Māori families and households, Māori living overseas, Māori business activities, cultural outcomes and in reliable small area data. Darin also emphasised the need for an independent Māori voice in the official statistics system and for more Māori to be involved in crucial decision-making stages of the statistical cycle.

In the final session, the capacity of Indigenous representative organisations to give effect to data sovereignty was examined. Dr Andrew Sporle (Te Whare Wānanga o Tāmaki Makaurau/University of Auckland) examined the issues involved in building sustainable indigenous capabilities as data producers, data analysts and data users. An initial focus is to increase awareness among communities of the role of data as a foundation for development in order to broaden the demand and institutional arrangements for change so that data is relevant to Māori development processes. Emerging freeware technologies provide the means for minimising skill requirements for protecting and analysing data whilst new methods of education in applied statistics provide the means for rapid increase in statistical literacy, side-stepping the school level achievement gaps in mathematics that are common in indigenous communities. In the meantime, there is need to invest in hardware capabilities to ensure that Māori data are preserved and protected. The sharing of ideas and innovations between indigenous communities is also an essential part of realising potential. Dr David Jansen (Clinical Director of the National Hauora Coalition and Chairperson of Te Ohu Rata o Aotearoa/ Māori Medical Practitioners) then provided interesting examples of how the rise of an indigenous professional class in Aotearoa/New Zealand is generating new opportunities in data-sharing and data access using the experience of an Auckland-based Māori primary health care organisation as a case study. Aotearoa/New Zealand is likely the only jurisdiction in the world to have achieved a fully pro rata share of medical undergraduate entry for its indigenous population and the momentum that lies behind such an achievement is reflected in the density of Māori medical practitioners. This is bringing Māori expertise and focus into health care delivery systems with data collection, analysis and reporting tools now operating to address excessively high rates of rheumatic fever among Māori school children, to monitor real-time functioning of Māori primary care networks, to develop data-sharing platforms with other services that impact on Māori health, such as housing, and to negotiate system-wide data sharing protocols.

Finally, Dr Ray Lovett (Australian Institute of Aboriginal and Torres Strait Islander Studies) examined Aboriginal and Torres Strait Islander statistical capacity needs on the premise that

statistics developed from an indigenous 'frame of view' and with greater engagement by indigenous people in data conceptualisation, design, collection, analysis and reporting would enhance the utility of information for Indigenous Australian nations. However, to achieve this requires a quantum increase in professionally-trained indigenous statisticians in a professional field that has struggled with student enrolments generally in recent years. One solution, for indigenous training, is to make coursework more relevant to indigenous worldviews. Two examples in this area are provided from a field-based epidemiology program and a proposed national survey involving statistical training for participating Aboriginal medical services. There is also a need for official statistical agencies to make more meaningful use of existing statistical skills among indigenous professionals.

### **Conclusion and next steps**

The proposition underlying this workshop - that the UNDRIP has implications for indigenous data sovereignty - was overwhelmingly affirmed by the workshop presentations. Given the lack of strategic academic attention previously afforded this issue, discussion was necessarily preliminary and exploratory and it quickly became clear that further work is needed to refine definitions, concepts, theory and applications. Nonetheless, it also became clear that indigenous peoples are already positioning themselves and organising to give practical expression to various forms of indigenous data sovereignty at all scales at which indigenous polities are formed – international, national, regional and local. Likewise, (some) National Statistical Offices are starting to consider how their practices in relation to their collection and management of data pertaining to indigenous peoples might need to change. At the supra-national level, the United Nations, through the UNPFII, is assessing the requirements for indigenous measures of development as input to the post-2015 UN development agenda.

There are consequences in all of this for the epistemology of social science and, indeed, for any research activity that involves the collection or use of data on indigenous peoples, their territories and ways of life. While many of these issues have already been explored from an indigenous standpoint by Tuhiwai-Smith (1999) and more recently by Walter and Anderson (2013), the breakthrough at this workshop was to link these arguments back to the UNDRIP to which the CANZUS group of states and their agencies are signatories. By assembling a discussion group that was dominated by leading CANZUS-based indigenous social scientists and end-user data practitioners, the workshop provides a degree of authenticity and voice that is unusual, if not unprecedented, for an ASSA-sponsored forum.

In particular, an overarching conclusion of the workshop was to re-affirm the assertion of the UNDRIP that indigenous peoples have a right to self-determination emanating from their inalienable relationships to lands, waters, and the natural world, and that to give practical effect to this right requires a relocation of authority over relevant information from nation-states back to indigenous peoples. The workshop found the idea of 'data sovereignty' to be a recent development of the digital age referring to the management of information in a way that is consistent with the laws, practices and customs of nation-states (Snipp 2015). Through relevant articles of the UNDRIP this same sovereignty is then asserted for indigenous nations. Indigenous data sovereignty thus refers to the proper locus of authority over the management of data that are about indigenous peoples, their territories and ways of life.

The existence of such authority is manifest in the Canadian case through the application of First Nations' principles and practices of ownership, control, access and possession (OCAP™) in relation to data that are about indigenous peoples, their territories and ways of life. However, it is acknowledged that the practical expression of these principles and practices will necessarily vary between jurisdictions and between indigenous polities. By comparison with Canada, the US and Aotearoa/NZ, where there are clearly identifiable indigenous polities (First Nations, tribes and *iwi* etc.) whose rights, including sovereign rights, have been established through treaty processes, the political landscape of the Australian settler state and of indigenous polities within it is vastly different. While the achievement of indigenous data sovereignty thus requires a decolonisation of existing nation-state statistical systems, more thought and political work needs to go into identifying and validating appropriate loci of indigenous data sovereignty, especially in Australia. Whatever the case, on a practical level, to give effect to data sovereignty indigenous peoples need to acquire expertise in the production and management of data including the creation of institutional frameworks for the oversight of research and data collection in their communities.

In effect, the workshop provided an academic-scientific and practitioner set of analyses to open up for further scrutiny and debate a number of leading-edge themes in what is emerging as a major knowledge gap in the social sciences. Closing this gap would necessitate: the devising of new methods for the international measurement of indigenous development and wellbeing; meeting the challenge of embracing indigenous epistemologies; the analysis of legal and practical limits to data sovereignty, including the impact of free trade agreements; the construction of models for developing data governance and capacity; exploring the implications of individual versus collective rights for data retrieval and use, and consideration of the threats and opportunities presented by census transformation programs and the advent of 'big data'. There is much work to be done.