

Beyond informed consent: how is it possible to ethically evaluate Indigenous programs?

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Abstract

There are well-established ethical standards that apply to the conduct of research in Australia, including research within Indigenous contexts. Ethics committees oversee academic or institutional research design and practice to ensure that methods are culturally appropriate and that the rights of individuals and communities are respected and protected. NHMRC guidelines specifically address the issues of Aboriginal and Torres Strait Islander participants. The Australian Institute of Aboriginal and Torres Strait Islander Studies has produced a set of research ethics guidelines, structured around 14 principles.

Evaluation is a form of research which provides particular ethical issues. As well as being guided by the ethical guidelines set out above, the Australasian Evaluation Society's guidelines for ethical conduct of evaluations also provide a standard that Australian evaluators in general would adhere to.

But do these ethics processes and guidelines take into account the complete array of issues that arise with program evaluations? The authors' experiences and observations suggest that they do not, and they are supported by much of the international literature. After detailing some of the challenges faced by the authors and by others working in the northern Australian context, four potential areas of improvement are detailed. The seminar will be of particular interest to research and evaluation practitioners, commissioners of evaluation and organisations/agencies that are subject to evaluation.

1 Introduction

Well-established ethical standards apply to the conduct of research in Indigenous contexts within Australia. Ethics committees oversee academic or institutional research design and practice to ensure that methods are culturally appropriate and that the rights of individuals and communities are respected and protected. NHMRC guidelines specifically address the issues of Aboriginal and Torres Strait Islander participants (National Health and Medical Research Council 2003). The Australasian Evaluation Society's guidelines for ethical conduct of evaluations also provide a standard that Australian evaluators in general would adhere to (Australasian Evaluation Society Inc. 2006).

However, the authors' experiences and observations, supported by a substantial amount of international literature, suggest that these ethics processes do not take into account the complete array of issues that arise with evaluations of Indigenous programs. After detailing some of the challenges faced by the authors and by others working in the field, four potential areas of improvement are proposed and discussed.

2 Ethical Guidelines

In Australia, ethical decision-making guidelines for research have a long history, summarised on the National Health and Medical Research Council (NHMRC) website. Up to 1986, Australian associations in sociology, psychology and anthropology offered guidance to members on ethical issues in research. In 1986, the NHMRC extended the jurisdiction of institutional ethics committees to include non-medical projects, broadening their mandate 'from those undertaken as a part of patient care to those undertaken either on patients or on healthy subjects for the purpose of contributing to knowledge, and include investigations on human behaviour' (National Health and Medical Research Council 2011).

Although the early emphasis may have been on health-related issues such as drug and alcohol services, or the issues of de-institutionalised mental patients, many research institutions extended NHMRC requirements to other types of social and behavioural research. In 2005, the NHMRC, the Australian Research Council and the Australian Vice-Chancellors Committee initiated consultations with institutions, researchers and community representatives to update the ethics guidelines, resulting in the 2007 *National Statement on Ethical Conduct in Human Research* (National Health and Medical Research Council et al. 2007). An electronic format based on the Statement, and auspiced by a Working Committee which included one of the authors of this paper, currently guides the decisions of more than two hundred Human Research Ethics Committees around Australia.

Guidelines have been developed specifically to guide researchers' work with Aboriginal and Torres Strait Islander communities. Many issues need to be taken into account in these situations, from cultural differences and power differentials to needing to distinguish between personal, traditional and community knowledge and how that might impact on who 'owns' information (Janke 1998). In 2003, after years of consultation, the Australian Health Ethics Committee released *Values & Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research* (National Health and Medical Research Council 2003). Although the document was structured around six key values (spirit and integrity; reciprocity; respect; equality; responsibility; survival and protection), it noted that

... responsibility for maintaining trust and ethical standards cannot depend solely on rules or guidelines. Trustworthiness of both research and researchers is a product of engagement between people. (p. 4)

The Australian Institute of Aboriginal and Torres Strait Islander Studies has produced a set of research ethics guidelines, stating that the

... guidelines are primarily intended for research sponsored by AIATSIS. However, AIATSIS recognises that it has responsibility as a leading institution in Australian Indigenous studies and that its ethics guidelines inform all research in this area. (Australian Institute of Aboriginal and Torres Strait Islander Studies 2011)

The AIATSIS guidelines are structured around 14 principles, requiring recognition of Indigenous people's rights to self-determination and to the protection of their knowledge, but also setting out the need for consultation, and for managing the access to research results. Principle 11 notes that 'Indigenous people involved in research, or who may be affected by research, should benefit from, and not be disadvantaged by, the research project'. This is a common theme in many ethics frameworks; its relevance to evaluation will be discussed further below.

None of these research guidelines refer specifically to evaluation. Evaluation is most often considered a subset of research, with no need for separate ethical guidelines. An 'evaluation toolkit' auspiced by AIATSIS (Social Compass and Indigenous Facilitation and Mediation Project 2006), for example, simply recommends the use of AIATIS research guidelines in its discussion on the ethics of evaluation. Similarly, guidelines produced within the New Zealand government refer to 'research and evaluation' guidelines. At this point, the 200 plus Human Research Ethics Committees in Australia assessing ethics applications tend not to separate evaluations from other forms of research, although there have been calls (for example Berends 2007) to have a distinct process for assessing evaluation ethics applications.

There are ethics and/or good practice guidelines developed specifically for evaluators. In Australia, the evaluators' code of ethics developed by the Australasian Evaluation Society (2000) and the *Guidelines for the Ethical Conduct of Evaluations* (2006) appear to be the industry standard. The code of ethics does not refer specifically to the evaluation of Indigenous programs, or programs with largely Indigenous stakeholders, although the second point in the document states that:

Members should consider the interests of the full range [of] stakeholders in their evaluation work, including the broader public interest, and in particular, the potential impacts of differences and inequalities in society. (Australasian Evaluation Society Inc. 2000)

Similarly, the *Guidelines for the Ethical Conduct of Evaluations* do not have separate guidelines for the evaluation of Indigenous programs, although point 10 states:

Account should be taken of the potential effects of differences and inequalities in society related to race, age, gender, sexual orientation, physical or intellectual ability, religion, socio-economic or ethnic background in the design conduct and reporting of evaluations. Particular regard should be given to any rights, protocols, treaties or legal guidelines which apply. (Australasian Evaluation Society Inc. 2006)

Some authors note a distinction between evaluation and other forms of research, some stressing that evaluations tend to focus on a single program, while research seeks generalisable results (for example Fain 2005). Stufflebeam and Shinkfield (2007: 13) define evaluation as 'the systematic assessment of an object's merit, worth, probity, feasibility, safety, significance, and/or equity'. The role of theory often differs between research and evaluation, and also the active role of the researcher contrasts with the reactive role of the evaluator (Levin-Rozalis 2003). Patton (2008: 40) argues that there is a clear distinction between the two disciplines: 'Research aims to produce knowledge and truth. Useful evaluation supports action'. However, two of the authors have previously argued that an effective evaluation often produces new knowledge, with potentially wide-ranging policy and practice implications (Guenther and Arnott 2011).

One of the most obvious differences between evaluations and other forms of research, although less mentioned in the literature, is the context in which they occur. Many, if not most, evaluations are intended to inform decisions about programs and initiatives, often fairly immediate decisions. This has led to a common business model where evaluations are contracted to independent groups, with the parameters of the evaluation set out in advance, including its timing. The impacts of this model, especially when applied to work in Indigenous communities, have been documented in both Australia and New Zealand (Roorda and Peace 2009; Scougall 2006).

3 Evaluation in Indigenous contexts

There is a diverse body of literature looking specifically at the issues of evaluating Indigenous programs, or programs with largely Indigenous stakeholders. Some focus on specific aspects of methodology. Other authors (for example Kawakami et al. 2007) go beyond specific methodologies, and discuss reasons why Indigenous communities may distrust any form of evaluation.

Maori are not part of the evaluation decision-making process... decisions about what, when and why to evaluate are typically driven and managed by government objectives and invariably managed by government officials who in turn contract evaluators. (p. 326)

The need for more Indigenous evaluators has also been emphasised. Although some work in this area has progressed, Wehipeihana (2008) noted:

To date, the progression of Indigenous evaluation as a strategic objective of the AES has, for the most part, taken a deliberately low- key approach with some small but, hopefully, significant changes having been put in place... When I think of the term 'Indigenous evaluation', I think of evaluation carried out by Indigenous evaluator(s), with Indigenous people and communities... (pp. 41-42)

In Indigenous contexts, questions often arise about the protection of traditional knowledge. In a legal sense traditional knowledge or 'Indigenous knowledge' can be used to describe a component of Indigenous intellectual property, including 'ecological knowledge of biodiversity, medicinal knowledge, environmental management knowledge, and cultural and spiritual knowledge and practice' (Janke and Quiggin 2005: 451). This is to some extent an argument about intellectual property, its ownership and its use. Christie, (2006: 80) discussing the ideas of Indigenous methodologies and transdisciplinary research, states that: 'Indigenous knowledge is owned... People who share it must account for their right to represent it'. Beyond this ethical use of knowledge and diverse cultural and worldview perspectives make translation of knowledge from one domain to another difficult. A way around these dilemmas may be to use a partnership approach build on mutual respect of diverse knowledge systems, rather than trying to squeeze one knowledge system into another. Henry et al. (2004) suggest that:

Collaborative and participatory research methodologies are generally identified as being compatible with the goals of the emerging agenda for reform of research involving Indigenous peoples in Australia and internationally. (p. 21)

Wallace et al (2008: 114), following the findings of a series of vocational learning research projects about enterprise development in remote communities challenge 'VET providers to move to a model that works from Indigenous participants' strengths and is based on strong, sustainable social partnerships in learning'.

The difficulty for evaluators is that these 'collaborative and participatory' methodologies are relatively easy to talk about but they are difficult to do. They are problematic because they take time to develop—and commissioners seldom allow for the time required, or the funds to make them happen. But unless questions of who owns which part of the knowledge used or produced can be answered, the preconditions of a truly 'ethical' evaluation cannot be realistically met. The temptation is to take shortcuts and avoid the complexities of the process. We have previously argued that funders and evaluators need to take complexity into account in the planning, execution and reporting phases of evaluations (Guenther et al. 2009).

In 2003 Russell Taylor, then Chief Executive Officer of the Australian Institute of Aboriginal and Torres Strait Islander Studies in Canberra, gave a keynote address to members of the Australasian Evaluation Society on 'the ethics involved in conducting evaluations involving Indigenous communities, the implications for evaluators and the need for a renewed focus on ethical evaluation practices in inter-cultural contexts' (Taylor 2003). He insisted that:

evaluative research involving Indigenous people must be based on respect for Indigenous people's inherent right to self-determination, and our right to control and maintain our culture and heritage... these principles are not only a matter of ethics, but are also fundamental to our human rights...it is imperative that evaluators adopt, as a non-negotiable operational ethos, approaches which demonstrate professional respect and commitment to ensuring that:

- *Indigenous peoples are involved in and consulted as legitimate participants in any evaluation project that concerns them;*
- *a shared understanding be achieved between the evaluators and the Indigenous peoples about the aims and methods of the evaluation; and that*
- *Indigenous peoples must be informed – in ways that are useful and accessible – and share in the results and flow-on outcomes of the evaluation. (p. 44)*

He challenged the evaluation profession to 'evaluate itself in an effort to determine whether or not ethical principles for evaluations in the inter-cultural context are truly being embraced in actual practice' and proposed development of a 'peak Indigenous ethics committee to enhance the profession's capacity to operate more effectively in inter-cultural settings' (p. 50).

4 Ethical challenges in evaluation

The challenge posed by Taylor, to look at how ethics are implemented in practice, has emerged as a problematic area within evaluation at several areas. A majority of the respondents to a 2003 AES survey (Turner 2003) reported that they dealt with ethical challenges or dilemmas in their work, but no consensus emerged on what the role of the Society should be in this area, with the possible exception of the need for guidance in evaluations in Maori, Aboriginal or Torres Strait Islander communities. Ethical problems reported by evaluators, which related to work in a variety of settings rather than just Indigenous communities, applied at each of three phases of evaluation. In the first instance, issues arose during the pre-administration phase where the evaluation was commissioned and designed. They then arose in the phase when the evaluation was carried out in the field, and finally at the stage after the evaluation was conducted, in which findings were reported and used.

The following example offered by Roorda and Peace (2009), focuses on the ethical issues in the first stage, when evaluations are being designed and commissioned.

The evaluation objectives were defined by the agency prior to the RFP being posted on the Government ... website. Contractors responding to the RFP were expected to put forward an evaluation approach as part of their proposal (due three weeks after the RFP was posted). This approach allowed little opportunity for considering Māori interests and the level and nature of Māori involvement in the project... few officials are aware of just how much time is "sufficient time" or the kind of resources necessary to allow more than a cursory consultation with community stakeholders... at the end of the day, the deadlines for reporting are a more persuasive motivation than perfect process. (pp. 82-84)

Although Roorda and Peace were writing about New Zealand processes, Australian processes are very similar, leading to the situation described by Scougall (2006) below.

The expectations placed on an evaluator working in an Indigenous context are often great. The ideal is someone in close relationship with the community, employing culturally sensitive methods, fostering broad community involvement, transferring evaluation skills and contributing to a process of empowerment and positive social change. The hard reality is that evaluators are most often outsiders with limited resources and precious little time to spend in the field... They are typically short on contextual understanding and need to work across many project sites. (p. 49)

These design and commissioning issues can lead to problems in the fieldwork phase. With overly rigid parameters, if new insights arise from the interaction of Indigenous community members and the evaluators, the timing and the parameters of the contract may not allow them to be addressed. Chesterton (2003) gives an example where the evaluation task was to look at placement options for Aboriginal children in Australia, but where the importance of family support that would decrease the need for such placements emerged as a more important issue during the evaluation; however, the framework was set in advance, and was not suited to the inclusion of broader issues. Sometimes the fieldwork is structured in such a way that meaningful interaction between Indigenous community members and evaluators is unlikely, almost impossible; Kawakami et al (2007) cite a not atypical case (in New Zealand) where evaluators with little cultural knowledge spent so little time with local stakeholders that no real knowledge exchange was possible.

Many of the ethical breaches raised most often by evaluators concern the final stages of evaluations, when reports are finalised and when the information in the submitted reports is used for decision-making. Issues cited (for example in Markiewicz 2008) included managers or funders trying to influence evaluations, applying pressure to report a more positive or a more negative result than the evaluators felt was warranted, or to use information gained in an evaluation focused on program improvement for other purposes, such as 'accountability'. Accountability can be conceptualised in many ways, including community accountability (Scougall 2006), but in this case the term appears to refer to programs being held accountable for justifying their funding by delivering targets. Note that in these examples the ethical breaches were caused by the actions of those commissioning and/or using the evaluation information, rather than by anything the evaluators had done; ethical evaluations involve many stakeholders.

For example, many evaluators report funder pressure to keep results confidential. This does not mean protecting the research subjects' privacy, but keeping the results private from the research subjects, and releasing the information only to the agency paying the evaluator. This can be particularly frustrating if the evaluator has put in a positive report on a program, which is then de-funded, and the evaluator is required not to explain to the program personnel that the evaluation findings were positive. A number of examples of such practices were raised at the 2010 AES conference, at a session chaired by a member of the AES Board (Markiewicz 2010), and such requirements make it impossible to meet ethical guidelines, particularly for working with Indigenous communities.

The American Evaluation Association is one of the few organisations that attempts to deal with such issues in its ethical guidelines:

5. *Evaluators should not misrepresent their procedures, data or findings. Within reasonable limits, they should attempt to prevent or correct misuse of their work by others.*

6. *If evaluators determine that certain procedures or activities are likely to produce misleading evaluative information or conclusions, they have the responsibility to communicate their concerns and the reasons for them. If discussions with the client do not resolve these concerns, the evaluator should decline to conduct the evaluation. If declining the assignment is unfeasible or inappropriate, the evaluator should consult colleagues or relevant stakeholders about other proper ways to proceed. (Options might include discussions at a higher level, a dissenting cover letter or appendix, or refusal to sign the final document.)* (American Evaluation Association 2004)

Even in cases where such confidentiality is not required, evaluations in remote communities can raise serious ethical issues around the question of ensuring that research subjects benefit and are not disadvantaged by taking part in the research. If an evaluation results in the termination of a beloved community service, it can be difficult to justify this result as a benefit to the research participants.

5 Examples from the authors' experiences

Rather than using full case studies, we present several brief vignettes of our experience, stripped of details that could identify the projects. Some are positive examples of what is possible to achieve. Others demonstrate the need for better ethical guidelines to be developed and followed.

5.1 Vignette 1—Evaluations involving traditional knowledge

The issue of traditional knowledge has come up in many of the evaluations we have conducted. In one case, there was considerable debate about a line in the Service Plan that talked about intellectual property arising from the project being held by the funder. The discussion went back and forth for at least two months before agreement was reached. In the end, the commissioner agreed to rewrite this part of the Service Plan to differentiate between traditional knowledge, which would always be owned by the Aboriginal people who were providing a 'service' and academic, western knowledge that would be owned by the commissioner. The evaluation was able to proceed successfully due to the flexibility of the funder in allowing more time for the conduct of the evaluation, enabling this successful negotiation, as well as their agreement to rewrite their standard template on intellectual property.

5.2 Vignette 2—Design based on purchaser convenience rather than project logic

In one case, an Indigenous-targeted program was designed with three inter-related streams, each with a different manager. When it came time to evaluate, each manager chose a different evaluator; in at least one case, the evaluators were specifically discouraged from sharing information and expertise, making it virtually impossible to evaluate the inter-relationship of the program streams and their effectiveness in achieving their common objectives. The voice of Indigenous stakeholders was diminished because of this approach.

5.3 Vignette 3—Unethical timelines

Tight time lines are a fact of life for evaluation consultants. We were invited to tender for a fairly significant evaluation project recently. The project was one that required a degree of sensitivity particularly as it intersected with remote communities. However, the commissioners did not allow time for proper process to follow the data collection phase of the project, to enable meaningful

interaction with community stakeholders. We wrestled with this because we felt we could contribute much to the project. We had the capacity, the people and the expertise. However, in the end we chose not to bid for the tender because the methodology would ultimately have compromised good ethical standards. We were left wondering why the commissioner could not have foreseen this.

5.4 Vignette 4—Identifying stakeholders

The switch to Shire governance, and the termination of Community Government Councils, has made it more challenging to identify the appropriate stakeholders in negotiating with remote Aboriginal communities. It should be noted that this is not a problem unique to the Northern Territory, or even Australia; others have raised that issue. 'In the absence of traditional governance and authority structure, who speaks for the community?' (Kawakami et al 2007: 338) In one case, a senior Aboriginal colleague identified key stakeholders who then identified others, so that important figures in the community were able to represent their views to the evaluators.

5.5 Vignette 5—Multiple lines of accountability

Although accountability is often treated as unidirectional, with funding recipients accountable to funders, multi-directional accountability is a factor in many situations. In one example experienced by the authors, where most members of the project were Indigenous people from that community, cultural accountability required regular reporting to the Indigenous Advisory Committee and to senior Indigenous community members. This reporting process provided a way of engaging the broader community so that the work of the project team was recognised and validated by the whole community. It also allowed feedback, discussion and changes of approach to address

5.6 Vignette 6—Pressure on reporting results

A dilemma for program managers and evaluators alike sometimes occurs when the anticipated outcomes are not reflected in the actual outcomes. The temptation for the funder may be to direct the evaluators to suppress the potentially adverse findings, particularly where other evidence conflicts with measured results. This becomes more likely where funding is dependent to some or a large extent on reported outcomes. In one recent case, the authors found quantitative data that was not only contrary to the outcomes anticipated in the theory of change, but which also conflicted with qualitative data reported by a range of stakeholders. The potential ethical challenge here lies in how to (or whether to) represent the conflicting data particularly in the face of pressure by the funder, who has already invested in the future development of the program, based on its expected success.

5.7 Vignette 7—Feeding back information to stakeholders

An evaluation report was prepared and submitted in accordance with the contract, but soon after it emerged that many stakeholders were unaware of the findings; this included senior decision-makers at a policy level as well as remote Indigenous stakeholders. At their own expense, the evaluators prepared and presented reports to these groups. Tracking the dissemination and use of evaluation findings over a twelve month period revealed that 'feeding back' information to stakeholders is not a simple task, and a single report is unlikely to achieve it. Meaningful feedback is likely to require a range of products and processes, tailored to particular stakeholder groups.

5.8 Vignette 8—Decision-making and informing stakeholders

The evaluators completed a largely positive report on an Indigenous program, but the Indigenous non-government organisation running the program was informed immediately after the evaluation was submitted that the program was to be de-funded. Because of the timing, the agency believed that the evaluation findings must have been negative, especially as they were given neither a copy of the evaluation nor an alternative explanation of the funding being terminated.

6 Four paths forward

The issues cited in the literature are more often than not, quite complex. These have to some extent been reflected in our vignettes above. However, we do believe that there are ways to meet the challenges and thereby improve the ethical conduct of evaluations, particularly in Indigenous contexts. In this section we briefly suggest four ways forward.

6.1 Improving ethical guidelines

Currently AIATSIS guidelines on Indigenous research do not deal specifically with evaluation, and the AES guidelines do not deal specifically with evaluations in Indigenous contexts. Both sets of guidelines could be made more responsive to the issues identified in this paper.

6.2 Greater recognition of role of commissioners and users

Updated guidelines could ensure that those commissioning evaluations, and managing evaluation contracts, are asked to make ethical commitments, whereas now only the researchers are bound by such commitments. Better training, support and monitoring for purchasers would be required for this to succeed.

6.3 Special evaluation committees

There have been calls (for example Berends 2007) for specialised committees, which unlike the current HRECs, would have specific knowledge of evaluation issues. Failing that, better education of HREC committees has been proposed.

6.4 Move towards new paradigm of evaluation

A longer term solution would be to fundamentally change the way that evaluations are conducted. An 'Evaluation Hui' made up of evaluators from New Zealand and Hawaii (Kawakami et al. 2007: 330) have proposed a new approach,

involving the community in discussions to

(a) initiate and design projects,

(b) determine data collection methods that are respectful and follow cultural norms, and

(c) analyze data in ways that include longstanding strategies that are aligned with the cultural context.

There are many barriers to this approach, particularly with current financial and political trends reinforcing a 'micro-accountability' culture, but this is the type of change that would provide the greatest benefit for Indigenous evaluation.

The question that these ways forward pose for us as evaluators, is 'how will this happen?'. It would appear at the moment that Australasia's peak body for evaluators is not in a position (or does not see it as a major priority) to progress this agenda. For now, then it is up to those of us who are stakeholders in the field of Indigenous evaluation to seriously consider our own positions as commissioners, evaluators or users. We need to ensure the ethical integrity of our work and perhaps within the frame of the institutions which we work in, we need to advocate for change.

7 Conclusion

In this paper we have presented a case for a reconsideration of the ethical guidelines and practices associated with evaluations, particularly as they apply to Indigenous contexts within Australia. We note that there have been numerous attempts to codify ethical conduct of *research* practices but

nowhere near as much effort put into ensuring that evaluation practice conforms to recognized guidelines that apply to research. While there is an argument for distinguishing between research and evaluations, we believe that the difference is not that great to justify that ethical principles should be abandoned in evaluation processes. We acknowledge that there are specific challenges related to evaluations (as opposed to research) and that these are amplified when they are carried out in Indigenous contexts. Our experiences as evaluators—as represented in our eight vignettes—highlight a range of these challenges. But they also demonstrate that good practice in relation to ethical evaluations, is indeed possible. However, in order to enshrine good practice more broadly into the field of evaluation there is scope for improvement. We see four paths forward. Firstly, ethical guidelines must be improved. Secondly, there is scope to increase awareness and knowledge about ethics among users and commissioners. Thirdly, there may be a need for evaluation ethics committees, as opposed to research ethics committees. Finally, there is a case to be made for a move towards new paradigms of evaluation that respect and reflect the standpoints of Indigenous people.

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