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ARTICLE

The New Protectionism: Risk Aversion and Access to Indigenous Heritage Records

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Abstract

This article discusses the problems encountered in accessing archival Indigenous language records, both by Indigenous people looking for information on their own languages and by non-Indigenous researchers supporting language work. It is motivated by Indigenous people not being able to access materials in archives, libraries, and museums that they need for heritage reasons, for personal reasons, or for revitalisation of language or cultural performance. For some of the authors, the experience of using Nyingarn, which aims to make manuscript language material available for re-use today, has been dispiriting, with what we term the 'new protectionism' preventing use of these materials.

Keywords: *Access blockage*; *ICIP*; *Australian Indigenous Languages*

> [T]he task for linguists is to act as a channel to ensure that stolen knowledge and authority flow back to communities. (Lesley Woods)[1]

We write from several different positions and with a range of long-term experience as both Indigenous (Aird, Bracknell, Langton, Sculthorpe) and non-Indigenous (Thieberger, Gibson, Harris, Simpson) anthropologists, musicologists, and linguists.

To support Indigenous speakers and learners of Indigenous languages in the early 21st century a major contribution has to be access to all records of those languages. Many of these records have ended up, as accidents of history or by-products of colonial agendas, in widely dispersed holding institutions who now consider themselves the (de facto if not de jure) owners of that material. For holding institutions there is a delicate balance between their responsibilities in making collections accessible, and paying attention to the rights of Indigenous people whose information is represented in those collections. As Nicholls et al. point out, 'there is a move in

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archival sciences to recognise the importance of engaging with Australian Indigenous communities in order to properly interpret and contextualise archival documents that include Indigenous language material'.[2] However, we observe that this move is not always facilitating access to these documents, and can, in fact, be doing the opposite, in what we call the new protectionism.

Many archival collections are held in institutions that are part of a colonial history, and that in the past have promoted free access to information, while prioritising the interests of copyright holders and depositors, as would be expected in state institutions. Such protection has been rightly criticised by Indigenous people who may, as a result, be denied access to materials made with their ancestors. As noticed by Anderson and Francis:

> Institutions that hold these collections and are now the copyright holders could behave differently, though: they could enact policy that relinquishes control, at least of the copyright, for the communities whose material it really is.[3]

The Aboriginal and Torres Strait Islander Library, Information and Resource Network (ATSILIRN) protocols of 1995 (updated 2012) set out principles for incorporating Indigenous perspectives under 12 major headings, and included the following (summarised for purposes of this article):

> 1.1 Recognise Aboriginal and Torres Strait Islanders as the traditional owners and custodians of Australia.
>
> 1.2 Ensure appropriate Aboriginal and Torres Strait Islander membership of governing and advisory bodies including boards, councils and committees.
>
> 12.1 Ensure sustainable choices of formats, descriptive methods and access and preservation strategies for Aboriginal and Torres Strait Islander peoples' knowledge, creativity and experience.
>
> 12.2 Pursue digitisation and digital access as a means of facilitating repatriation to Aboriginal and Torres Strait Islander communities, and preserving material for future generations.
>
> 12.4 Avoid providing access to items deemed secret, sacred or sensitive via their websites and online catalogues.
>
> 12.5 Ensure that material is digitised and stored electronically, in a manner consistent with and respectful to Aboriginal and Torres Strait Islander cultural protocols.
>
> 12.6 Work cooperatively with Aboriginal and Torres Strait Islander peoples to promote the creation, collection and management of digital materials.
>
> 12.7 Educate users of their collections about the potential benefits and risks of sharing digital content in an online environment.[4]

As can be seen, these protocols balance access (12.1, 12.2, 12.6) with restrictions based on sensitive materials (12.4, 12.5, 12.7). These protocols and others we will discuss here aimed to correct an earlier lack of consideration of Indigenous perspectives and rights in heritage materials held in archives and libraries.[5]

The following year, in May 1996, the Australian Society of Archivists (ASA) adopted a policy that noticed that archives may:

> contain information which is not known to Aboriginal people, which is regarded as secret/sacred by them, or which is presented in a manner which is offensive to them. Archives

> and archivists need to be sensitive to these issues and to institute access policies which take account of the concerns and moral rights of Aboriginal people.[6]

Neither of these documents recommends restricting Indigenous peoples' access to archival collections, and each can be seen to be promoting general access that is based on an understanding of Indigenous content and any sensitivities known to be contained in the documents. They each present challenges to archives, calling on them to place Indigenous people at the centre of decisions made about their collections. Two of the ATSILIRN protocols (12.4 and 12.5) also prompt archives to handle sensitive and offensive content with extra care. In the ASA statement this need for caution is translated to a call for the implementation of suitable access policies. As we will show, the difficulties of implementing such policies in relation to collections that are incompletely or poorly described, and for which cultural owners may not have been identified, or for which there may be competing community interests, have led to policies that emphasise restriction at the expense of access.

The Tandanya Declaration of 2019 rightly situates archival collections as a problematic colonial legacy and sets out high-level principles for redressing the imbalance in control of material related to Indigenous peoples, including the 'need for affiliated Indigenous peoples to gain a degree of control over the access to information created by state-directed governance and cultural authorities'.[7] It also notes 'that Indigenous social authority must participate as collaborators and co-authors in the description of records in the custody of public archival institutions whenever those records directly concern the identity of a particular Indigenous community'.[8] We suggest that this collaboration can be enacted in digital collections with appropriate authentication systems. We outline some models of these below. We also notice that in large swathes of archival collections the identities of particular Indigenous communities can be unclear or misattributed, complicating the realisation of this principle.[9]

Moves to facilitate access to Indigenous items have been counterbalanced by new protection regimes in holding institutions that default to closing access in the absence of explicit permissions from Indigenous authorities. In the collective experience of the co-authors, this closing of access can occur even against the express wishes of the creator or copyright holder or of the Indigenous people they worked with who are recorded in the archived materials. This article calls for a renewed partnership between institutions, Indigenous language owners, researchers, and depositors, to overcome the problems caused by the new protectionism and aversion to risk.

Indigenous people have long been wanting access to material provided by their ancestors. As Henrietta Fourmile observed, 'Many people who have seen their family histories and photographs in Tindale's volumes have cried with joy, but there is also bitter resentment about the fact that we were never told about their existence'.[10]

Fourmile's heartfelt testimonial was written before the arrival of the internet. Today, much more language material is easily findable through the web, but much material still remains in archives, libraries, and museums without publicly accessible information about what language, people, place, and so on it includes. How can an Aboriginal person from Brewarrina, or Ramingining, or Kintore, find out what information about their families is held and in what institutions? And, even if they find out about it, travelling to a capital city or even to a regional centre like Alice Springs, is expensive. Barrowcliffe observes that 'Aboriginal and Torres Strait Islander peoples still struggle to access their records in large institutional archives' and that social media is filling a gap left by traditional institutions that are preventing access to heritage materials.[11] Often these social media postings include materials sourced from those institutions in the past but now shared freely and to the benefit of the very people who have the closest connection to those materials: family and members of the same cultural groups. Wilson

and Barrowcliffe further note that the benefits of academic research have been 'hoarded' in a regime that protects the publisher but not the people represented in the work.[12]

In a detailed and moving description of her own efforts to access materials related to her immediate family, Brenda L Croft describes the 'bloody-minded 21st century rendition of paternalism and control'.[13] She also describes how a researcher, working through archival records, was able to locate a letter written by Croft's father, and to send her a copy of that letter. This was only possible because the letters were available for research, and copying was permitted, so that Croft could receive a copy. Increasingly, we are seeing this appropriate level of access being reduced. This is an example of a non-Aboriginal researcher finding and sharing information with Aboriginal community members, who otherwise would have never found this material. This highlights the problems each of the authors has experienced of some institutions greatly restricting access to non-Aboriginal researchers.

Another example of Indigenous people seeking information about their forebears is recounted by Smith et al. who observe that:

> The current situation undermines trust between Indigenous people and anthropologists. If the knowledge you impart to a researcher is likely to be kept from your descendants, why share it? The Berndt example demonstrates that intellectual property can be appropriated as soon as it is written down.[14]

Access to historic materials can support language revitalisation, cultural renewal, and relearning of ancestral practices. It can also be a source of pride in one's heritage. Once materials are accessible to communities, new metadata and transcriptions can be created that make the archival materials more useful, searchable, and able to be reproduced in pedagogical materials. We argue that it should be the role of holding institutions, and both Indigenous and non-Indigenous researchers to facilitate timely access for Indigenous people to existing sources that are records of a particular language or cultural practice.

Digitising materials and making catalogues accessible

Digitisation is a crucial step in accessibility, for example, as is recognised in the University of Sydney Library protocols:

> It is especially important that the Library encourages access to these materials by Aboriginal and Torres Strait Islander communities. Where possible, material will be digitised to facilitate access by those not based in Sydney. Digitisation work should emphasise material containing Aboriginal and Torres Strait Islander languages, songs, pictures of First Nations community members, and family histories.....[15]

Digitised documents can be accessed remotely, removing the impediment of having to travel to a single location to view unique analog documents. But a digitised document is of little use if it is not clear who is being written about, what language groups they belong to, where the information was recorded, or what contextual information is needed to make sense of the material in the records. The University of Sydney Library protocols have this to say about making materials discoverable:

> To ensure First Nations perspectives are reflected in the cultural heritage collection, and to improve its accessibility and discoverability, the Library will continue to add descriptive metadata to items containing Aboriginal and Torres Strait Islander cultural materials. Descriptive metadata may include AIATSIS subject thesaurus headings, Austlang codes, cultural care notices and other contextual notes. The Library will add Austlang codes and

> AIATSIS headings to new acquisitions, and where appropriate, and re-catalogue those items that have been recorded with unsuitable subject headings. The Library will seek to work with relevant communities to ensure that their knowledges are reflected in the classification and description of these materials. The Library will also promote appropriate classification and description in discussions with researchers, HDR students and potential authors who are working with First Nations communities and intending to deposit material into the collection.[16]

Making material accessible in this way is an enormous amount of work, and Gallery, Library, Archive, Museum (GLAM) institutions are rarely funded to carry it out. One or two Indigenous librarians are not enough to carry out the metadata management and updating, build connections with many Indigenous communities across Australia, discuss the contents of the material, and make their materials accessible to them. The lack of a pathway for making materials accessible and discoverable in a timely manner can, unfortunately, lead institutions to adopt policies that run counter to accessibility, resulting in the circular logic of material that is closed due to the lack of permissions, permissions which cannot be provided since the content of the documents is unknown, and content that can only be known if permission is given to view them.

Collecting institutions navigating the custodianship of cultural materials draw on 'a set of practices that recognize the entanglement of the two [Western and Indigenous knowledge] traditions as they move forward together in a somewhat problematic tension', which Nakata and Langton argue 'must be about developing trust and good working relations between Indigenous people and collecting institutions'.[17] Prior to the 1980s very few Indigenous researchers had ever accessed institutional collections. By the end of the 1980s this was starting to change, and this was also an era when photocopying technology became affordable and of a reasonable quality. These early photocopies obtained from libraries and museums soon became widely distributed within Aboriginal families and were quite often proudly displayed in photo albums and on the walls of homes. In recent decades, Aboriginal people have gained much expertise in researching institutional collections while also forming genuine relationships and sharing information with non-Aboriginal researchers. Technology has improved beyond photocopies; taking photos on phones and sharing digital files on the internet are now standard practice. Social media has emerged as an important way of distributing research outcomes within Aboriginal communities.[18]

There is a major problem when an Indigenous scholar wants to access archival materials related to their culture or language and finds an institution blocking that access. In the past, this was done because GLAM institutions and some of the researchers allied with them wanted to have privileged access themselves[19] for disciplinary or professional reasons[20] or because of concerns about exposure of sensitive cultural material or personal information.

Today access may be restricted because GLAM institutions don't have the in-house knowledge or the resources to consult the many different Indigenous groups across Australia whose materials are held in the institution. In many instances it may not be possible to find Indigenous people who are accepted by their communities as knowledgeable representatives for discussing the content of archival material, let alone what restrictions should be placed on it. Families may disagree about what material can be made public. Faced with the seeming impossibility of the task, and operating in a climate of concern about cultural safety and data sovereignty, in our experience, and that of colleagues we work with, GLAM institutions are clamping down on all access to material about Indigenous people unless their Indigenous staff members have cleared it for public access. Even when researchers have deposited material in public archives, community members many years later have often found it more time-effective

to work with outsiders to track down the researcher and obtain copies from the researcher, rather than to wait for access through an institution.[21]

A relevant example is co-author Michael Aird's experience of identifying archival photographic images of Aboriginal people.[22] He notes that photographs held in the Pitt Rivers Museum (UK) of an Aboriginal man identified as coming from Western Australia are also held by the British Museum, the Macleay Museum and in a private collection. He was fortunate that all three institutions plus the private collector gave him access to their collections. This in turn enabled him to sort out that the photos were taken in Brisbane, not Western Australia.

While those institutions gave him access to their collections, other collecting institutions are moving towards preventing access to Aboriginal collections, unless written permission has been first obtained from Aboriginal communities. If Aird had been faced with this situation, he would have had to find a community in Western Australia to give permission to look at photos that were actually taken in Brisbane. This would have prevented him from ever figuring out where these photos were taken and passing that information on to Queensland Aboriginal people.

When he visits overseas museums or libraries, Aird tries to look at every Australian photo in their collection, in the hope of finding photos of Aboriginal people from south-east Queensland, his main research area. Within Australian institutional collections, looking at every Australian photo would be too large a job, so he would narrow that down to every photo from a particular region or every photo with Aboriginal content. In general, his research methods require that he look at as many photos as time permits. So policies that restrict the ability to look at photos based on an assumption that he can easily find Aboriginal community representatives to give permission greatly restricts his ability to carry out research and to supply the information to relevant communities.

Many materials are held in similar circumstances, with access denied even to Indigenous researchers related to the creators of the documents. Genevieve Campbell writes of her experience working with the Tiwi Strong Women's Group to get copies of recordings in the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS):

> In April 2009 I was advised that the only way to have the material digitised and processed for release was to have Tiwi elders audition it to assess potential cultural restrictions. The material was not in line for digitisation because it had not had cultural restriction appraisal (which could only happen if the elders listened to it). This posed somewhat of a 'Catch 22' problem. The elders could not listen to it unless it was digitised and sent to the islands (in effect, released). With time stretching on, and potentially running out for older Tiwi people with direct interest in and knowledge of this material, it became imperative to the Tiwi elders that they take affirmative action.[23]

When the Tiwi elders travelled to Canberra to get access to copies of the recordings, they found almost all unavailable to them, as copyright holders could not be traced, and the institution pursued a lengthy process to deliver some of the files with institutional discretion eight months later.[24]

Moore et al. argue that:

> data are neglected things in research. Against commitments to care for research participants, the traces of research – interview transcripts, audio files, video, images, or material objects, and so on – which are also the traces of participants, appear as some of the 'neglected things' of research projects.[25]

When these data are cultural records there is an added imperative to care for them, and to ensure they can be made available to those involved in the research and their families.

Do it yourself archives

An emerging role for digital archiving has involved a new group of DIY[26] archivists recognising the value of records they and their colleagues produce, but, not seeing any institution capable of finding and receiving those records, they are making them available without a 'paternalistic research culture of risk avoidance'.[27] Given that the outcome of the compliance frameworks that government requires of most GLAM institutions can be restrictions on access to the very people these protectionist policies are intended to help, it is unsurprising that local and DIY solutions are sought. For example, there are local repositories of images, audio, and video managed using tools such as Ara Irititja,[28] Mukurtu,[29] Keeping Place,[30] and so on. Unfortunately, many of these are at risk of loss because there is no long-term repository supporting them.

The need for these DIY archives partly results from the absence of a means of accessing material in existing repositories, and partly in the definition of a 'suitable' repository. Universities often have 'repositories', but what is on offer is often data storage, not data curation. That is, files can be stored but are not provided with a public-facing catalogue or viewing system, and, consequently, have no licensing regime to make clear how the files can be used. The lack of a catalogue means they are not discoverable. 'Suitable' in the 21st century must include online access with licence conditions clearly set out, with a clear focus on providing access to Indigenous people rather than blocking access, or delaying access unreasonably.

A related problem is that some repositories (like AIATSIS) are not yet able to accept the rich digital assemblages created by people working on language or music documentation. These files require ways of viewing transcripts and media together, allowing searching through the text of the records. The model in some organisations is to split incoming material into audio, film, text and so on, based on an analog model in which these media needed distinct treatment. Limited cross-referencing (e.g. failure to link an audio file to a transcript of the file) makes material less accessible. Digital data allows re-integration of these datatypes, and also allows for much faster ingestion and delivery of files.

Examples of DIY archives working with Indigenous languages in Australia include the Living Archive of Aboriginal Languages (LAAL),[31] the Pacific and Regional Archive for Digital Sources in Endangered Cultures (PARADISEC),[32] and the recently developed Nyingarn[33] (each discussed further below).[34]

The LAAL is a digital archive of endangered literature in Australian Indigenous languages of the Northern Territory. It contains nearly 4,000 books in 50 languages from 40 communities available to read online or download freely.[35] Cathy Bow wrote candidly about the conundrums faced by the LAAL where it was not always possible to determine from whom permissions should be sought. This had the result that:

> The public website includes only records and documents with appropriate permissions, whereas the metadata of records which have been scanned but are not publicly available is hidden within the system, only visible to members of the project team and technical support staff … This results in the paradox that the more unidentified materials are made available online, the easier it is to identify them and get permission; but the materials cannot be put online without appropriate permission. Returning to first principles of communication, consultation, and consent, it is difficult to share information about works that can't yet be made public without making them public.[36]

PARADISEC was established in 2003 to make records of Pacific materials that were held by researchers in Australia available to the people recorded.[37] It has always been a standards-compliant digital collection and focuses on finding and exposing records with whatever licences are required by the depositors. Access can be provided instantly to authorised users, and private items can be shared with a nominated set of users even if items are not otherwise publicly available. A takedown principle is available to users, but has never been requested in the 20 years of PARADISEC's operation. PARADISEC's digital platform can operate with minimal staffing, and material deposited one day can be available for access the next day.

Another example is Nyingarn, which is a platform that provides a secure online environment in which Indigenous language manuscripts can be read as text and searched. A reason for building Nyingarn is that manuscripts are often held in GLAM institutions, far from home communities, usually with a high literacy bar to using a catalogue, and requiring attendance at the institution to look at the papers. For example, in a precursor to Nyingarn and in a collaboration with the National Library of Australia (NLA), the 24,000 pages of Daisy Bates' questionnaire of vocabularies from 1904,[38] mainly from Western Australia, is now online, searchable and available for all kinds of new uses.[39] This work contains information from many Aboriginal people, in a number of different Indigenous languages, and has been overwhelmingly well received by Aboriginal people who find ancestral information in it. However, this project would simply be impossible to carry out under the current protectionist policy of most holding institutions.

Nyingarn provides a workspace in which manuscripts can be transcribed, keeping the original page image together with the transcript to allow correction and verification of the transcript. While in the workspace, the manuscript is available only to the user and their nominated collaborators. The Nyingarn workspace lists users who are permitted to see each item, as determined by the depositor of the item. They can then work to transcribe and then download the text of the document and to enrich the metadata description of it. This enriched version can be given back to the institution that holds the original manuscript, adding to their catalogue and making the document easier to find for others. Nyingarn also provides a repository in which finished documents can be released, subject to permissions provided by the relevant language authority.[40] Creating textual versions of manuscripts can then assist in determining access, for example, when some parts of a manuscript may require restricted access, but most of the manuscript can be available more generally. In this way, access for language programmes can be provided while avoiding any material that needs to be treated with more care. AIATSIS is a partner in the Nyingarn project and will maintain the platform to provide access to manuscripts in Australian Indigenous languages.

Nyingarn is now an extensible platform in which new manuscripts can be added, transcribed, and re-used in current cultural programmes. It has proven its value by having had some 900 manuscripts uploaded and having champions among those who have been able, for the first time, to organise and access manuscripts in their languages.

Despite having a number of State libraries, AIATSIS, and the NLA as partners in the Nyingarn funding application, each of these agencies has been unable to provide manuscripts for use in Nyingarn or has only been able to do so after a lengthy series of meetings. The time to prepare and access a document at one of these institutions can be 6 months from the moment of application. While understaffing and archaic processes account for some of this delay, there is also a layer of risk aversion that prevents access. In working with speakers to attempt to obtain manuscripts and having a number of letters from relevant language authorities approving their access furnished to the holding institution, we have been told by those institutions that they are not signed by the correct authorities.

In other cases, institutions have declined making manuscripts available for digitisation by the Nyingarn Project because the archive is planning a process of community consultation. However, in cases of large collections such as those of A. P. Elkin and R. H. Mathews who worked across many language groups, it is not always clear which languages are represented in the collection. Sometimes when languages are identified in the original source, they have been coded by the archive using inconsistent language names.

An example is an item in the University of Sydney Archives titled 'Various Notes and Vocabularies'[41] in the collection of A. P. Elkin. The descriptive note for this item mentions the following languages: Dharawal, Dharug, Eora, Dunghutti, Gandangara, Kamilaroi, Kattang, and Awabakal. But a search using the Archives' search tool for the Elkin collection, which provides the option to search either by place or by Austlang language code, returns this item only for the first five languages named, and not the last three (and only if the user selects 'Dharug language', for example, from the dropdown list and not 'Dharug people'). The Archives' collection is only discoverable via their search tool, and the item does not turn up in a search of Trove records on Elkin, meaning potential users have to already know about the collection and its location. This not only makes it challenging for a community user to discover that records in their language are held in the archive, but obtaining community permission for making these records accessible presents a potentially insurmountable challenge (due to both the large number of languages documented in this single archival item, and contemporary community politics of language ownership). By not digitising and making the notes and vocabularies available, archives can put themselves in the position of arbiter of intra-community disputes, in which they have no authority to arbitrate. We suggest that the language data should be made findable and accessible as a priority, and that a paternalistic approach to guarding the data can exacerbate, not defuse these kinds of disagreements and disputes.

The Howitt and Fison project[42] (2017–2020) contains transcriptions of original notes and papers of Gippsland magistrate Alfred W. Howitt and Methodist missionary Lorimer Fison. In this project, the material that was sourced from multiple collections (the State Library of Victoria, Museums Victoria, and St. Marks Theological College) went through an extensive community consultation process that resulted in the records being made available online, via a site hosted by Museums Victoria. The project was partly inspired by the *Spencer and Gille*n website, which featured page-aligned transcriptions of the fieldnotes and collections made by the anthropologists Walter Baldwin Spencer and Frank Gillen.[43] For the Howitt and Fison project, transcriptions of these articles were made by the project team, Indigenous community members and non-Indigenous volunteers.[44] These transcriptions transformed previously inaccessible and hard to read manuscripts into rich and usable cultural heritage and language resources. Any material identified by communities as being culturally restricted or sensitive, such as Howitt's notes on Yuin male initiations, were not included online. This site would be a prized example within any collecting institution that valued making material accessible for Indigenous people. It is, however, at risk of being lost due to the incoming policy of risk aversion that demands that community permissions must be evidenced for the entire collection, which in this case pertains to over 100 different language and cultural groups across south-eastern and inland Australia.

DIY archives are often driven by an awareness of the imperative to balance risk with the importance of caring for and making cultural heritage materials available. The three collections discussed above (LAAL, PARADISEC, Nyingarn) use a takedown principle that invites feedback on material that may need to be restricted, which allows more material to be openly available than is the case in other collections. The library sector has had 'takedown' policies in place for a long time now[45] and this approach appears to have balanced the imperative of

access with community concerns and interests. In the same vein, Moore et al. characterise their decision to keep rather than to hide data as:

> a feminist ethic of care. Against a culture of risk avoidance, we argue that research, and care, always involve risk. We suggest that an inventive feminist ethic of care-full risk, understood as responsible action [..], allows us to take seriously matters of accountability.[46]

Making material accessible

Established GLAM institutions are struggling with determining how to assign access rights in Indigenous materials. They are often uncertain about what Indigenous materials their collections contain and they are concerned to provide a kind of ownership of some rights in those materials to appropriate parties. If that sounds a little vague, it is because an issue for these institutions is how to determine which Indigenous communities have interests in materials they hold, who within those communities can decide on those rights, and how to adjudicate differences within groups who may have an interest, or between a range of groups who may all have an interest in materials whose subjects cover a number of different locations or cultural groups.

The travelling corroboree known variously as '*wanji wanji*' and '*laka*' offers a compelling example of how material in archives can intersect with many diverse Indigenous cultural and linguistic groups. The podcast series 'Song With No Boss' features interviews with Aboriginal people across Western Australia, the Northern Territory and South Australia discussing how essentially the same song, *wanji wanji*, came to be freely performed by men and women across more than half of the continent.[47] While interviewees describe the song as being well-known and shared across regions, most are amazed and overjoyed as they listen to recordings of performances from many thousands of kilometres away. Indigenous and non-Indigenous researchers were only able to identify just how incredibly far this 'entertainment' song had spread by comparing archival material and contemporary recordings of performances from different areas across Australia.[48] Moves to further restrict access to archival material under false assumptions that everything in collections should be cordoned off and 'owned' by nebulous regional Indigenous corporations underestimate the dynamic and sophisticated ways Indigenous peoples have long shared language and performance repertoires across vast distances.

When it is unclear which Indigenous people were involved in providing information, for example in a vocabulary collected in the 1800s, the default position in some institutions is to close access until the right people can be found. If that manuscript has not been transcribed it is difficult to work with, and it may need the expertise of someone who knows about Australian languages and can identify where it is likely to be from in the first place before current speakers of the language can be identified. However, GLAM institutions often do not know how to find such experts. If relevant researchers (Indigenous or non-Indigenous) are not given access, then it is likely that the materials will remain inaccessible because the GLAM institution will not be able to catalogue the material so that it becomes discoverable.[49] An alternative is to decide that it is to the benefit of the very people in whose best interests the institution claims to be acting to make the material available, with suitable notices and policies in place to take it down should it be problematic (cf. what Moore et al. call 'care-full risk').[50] This approach enables communities of interest to interact with collections and inform decisions rather than leaving these judgements to an institution.

Timely access to materials capitalises on a moment where the information may be important for a current project, with a particular set of people involved, both of which may dissipate

over time. If it will take 6 months to get access, the reason for wanting access may have passed, or, more seriously, older people who can comment on early sources may no longer be alive. The importance of many early manuscripts to descendants of the people originally providing information is that the documents can jog memories, or provide new information for use in language or cultural revitalisation programmes. As Nicholls et al. observe, in their consultations about access to collections, 'many community members discussed the value of material and its ability to join the past to the future'.[51] This is especially the case in places where Indigenous languages have not been spoken for some time, and the records – when properly deciphered – can provide invaluable information for current language work.

The new protectionism

There is a very great risk that the new protectionism will inhibit the deposit of valuable materials into an archive, so that, paradoxically, the very records made now and in the past generation, that should be most amenable to digital transfer and curation, are at risk of loss. This is exacerbated if the same protectionist policies are now requiring permissions from someone other than the creator of the records for deposit. It is unlikely that the desired outcome is the loss of the records, but it is the likely outcome.

By taking a protectionist approach to their collections in an effort to redress their role in supporting colonialism, GLAM institutions risk taking backward steps and preventing their collections from being available for decolonial revitalisation work today. The availability of collections for community access and potential revitalisation work can be imperilled by policies that aim to guard against misuse. Increased protectionism is often a response to calls to recognise Indigenous Cultural and Intellectual Property (ICIP).[52] But if not held in balance with making collections discoverable and accessible to those with rights to them, the risk-averse approach to ICIP only perpetuates colonial and paternalistic approaches by positioning the institution as arbiter of access, rather than the community and cultural custodians. As a result, institutions responding to calls for greater attention to the needs of Indigenous communities may block access to those who should have it. The Indigenous Archives Collective articulated six principles on the Right of Reply to Indigenous Knowledges and Information held in Archives:

1. The Right to Know
2. Participation
3. Cultural Safety
4. Consent
5. Institutions as Facilitators not Owners
6. Advocacy.[53]

An emphasis only on the Collective's principles 3 and 4, may result in risk-averse policies that imperil goals 1, 2, and 5. In particular, policies such as that of the NLA[54] to implement new ICIP protocols by limiting access to viewing at the library only,[55] and not through open access online tools such as the Howitt and Fison project and Nyingarn, are hard to reconcile with the Collective's Principle 5:

> Paradigms of institutional 'ownership' of materials should shift to responsibilities associated with custodianship and facilitation of access, interpretations and mediated use of these collections led by and in collaboration with Indigenous peoples.[56]

We have responded to relevant NLA ICIP guiding principles[57] in Table 1.

Table 1 Response to NLA ICIP protocols

NLA ICIP protocol	Author response
4. Free, Prior, Informed Consent: The Library is committed to ensuring that the free, prior informed consent of First Nations peoples is obtained before using or authorising use of ICIP where possible to do so	As outlined elsewhere in this article, it can be impossible to get consent for material with unknown content. An institution like the NLA should be in a position to provide access in a secure environment so that experts (e.g., speakers of the languages or researchers familiar with these people and their languages) can determine what language is likely to be represented and whether there is any material that should be restricted. The default should always be to make material available to speakers rather than restricting access
5. Interpretation and Cultural Integrity: The Library supports the right of First Nations peoples to be the primary guardians and interpreters of their ICIP. The Library seeks to ensure that its interpretations of ICIP are respectful of the cultural integrity of that material	Again, the issue here is who is to determine who are the guardians of the material if the contents of the material are not accessible and understandable and if different groups have interests in the same material. ICIP is a collective property and we are concerned that in principle permission would be required not only from the individual Indigenous creator but also from some un-defined 'community'.
7. Attribution: First Nations peoples are custodians of their ICIP and have the right to be attributed in relation to their ICIP. The Library commits to acknowledging First Nations peoples in relation to their ICIP and any use of their ICIP	This is appropriate, but raises the same issue, that is, who is to be attributed if materials are not transcribed and their content is not understood
8. Benefit Sharing: The Library acknowledges the right of First Nations peoples to benefit from the sharing of their ICIP and culture	This is appropriate, but the problem is that the NLA wants to determine who can share and access material so that it is the arbiter, and blocker, rather than the provider of the benefit to Indigenous people that this protocol advocates

NLA, National Library of Australia; ICIP, Indigenous Cultural and Intellectual Property.

Thorpe and Booker point out that '[w]hile some institutions recognise the importance of their collections for language and cultural revitalisation there is still limited research and dialogue relating to truth-telling and the need for libraries to recognise their roles in supporting colonialism'.[58] At the moment in history when these institutions could be supporting cultural reaffirmation by offering their holdings to Indigenous people, with digitisation allowing increased access, they are caught in a protectionist paradigm that prevents access (supporting colonialism in Thorpe and Booker's terms). In part this is also due to inefficient internal processes that do not allow quick and easy access to holdings, requiring manual handling and delays. The layers of permissions required make it hard to distinguish concerns over ICIP from institutional inertia, and, further, using ICIP as the excuse for not giving materials to people whose ICIP is represented in the materials just compounds the problem.

The current situation is idiosyncratic and inconsistent in application. It is often the case that archival material from one collector is held in different institutions due to the changing organisational affiliation of a researcher over the course of their career. It is not uncommon for different protocols to apply in each or depending on the staff member on the day. We have experienced cases of not being allowed access to a book in one archive but given access to it in another (in the same city). Similarly, cultural materials or objects may be held in one institution and associated documentation of those materials is held in another.[59] In a recent instance, one institution was unable to give another government institution corrected archival documentation about objects held in the other, as the policies of the new protectionism insist that the archival information can only be given to an Indigenous person. This means that the

material in the first institution continues to be curated, researched, and accessed by Indigenous communities with incorrect and incomplete documentation, severely disadvantaging Indigenous knowledge discovery.

A welcome development is the growing numbers of Indigenous staff in archives and collecting institutions. However, risk-averse policies also place an unreasonable burden on those individuals, who may be able to provide specialist advice and have access to wide networks of other Indigenous people, but who are not able to speak for Aboriginal and Torres Strait Islander communities across the country.

There is plentiful evidence that careful research in collections can result in new information with important cultural and social impacts. The work done on the Howitt and Fison project, for example, led to the discovery of placenames for the Melbourne area that have now been taken up by the Wurundjeri Woi-wurrung Aboriginal Corporation and others to celebrate Indigenous history and identity in the city.[60] This research was based on a long process of transcribing Howitt's difficult handwriting to find small details of invaluable information interspersed within notes relating to numerous Indigenous cultural groups from across Australia. Similarly, the rediscovery of a ceremonial ground[61] in Victoria was the result of collaborative work on these papers by a non-Indigenous anthropologist and Gunaikurnai descendants of the people who worked with Howitt in the 1880s.[62] These discoveries, which have had significant benefit to Indigenous communities, were only possible because the project enabled exploratory research across collections that were pertinent to many different Australian Indigenous groups. Howitt's papers often include references to multiple groups and languages in one document. Seeking approval from all of the relevant groups for a single item is impractical.

A subsidiary reason for access to historic materials is to test and potentially correct misinformation in the public domain. An example from David Nash (pc) involves chasing up the etymology of the topographic term *cowal* borrowed into English, which can be found in the standard current Wiradjuri dictionary:

> gawal 'a valley, a plate'[63]
>
> This is helpfully sourced to (G) i.e. Günther – where on page 85 is the entry
>
> Gawal—a plat, a valley[64]

This calls for checking against the several Günther manuscripts archived in various places.[65] Figure 1 & 2 from Günther's 1837–40 'Lecture' show that the printer read script F as P, with corroboration from other instances of script F and P: So the gloss should be 'flat' not 'plat' or 'plate'.

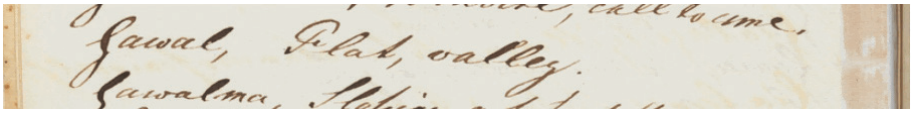


Figure 1. Günther 1840 MS, page 278: "Gawal, Flat, valley."[66]

(Related is the entry 'Gnrra- a plate, a dish' with the printer's error of n for u, readily corrected since in the alphabetical list it occurs between Guron and Gurrabang).[67]

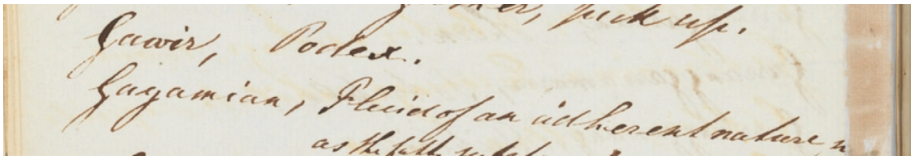


Figure 2. Günther 1840 MS page 278: "Gawir, Podex." illustrating P, and "Gayamian, Fluid of an adherent nature" illustrating F.

At the time the Günther manuscripts weren't online; these extracts were found on microfilm at AIATSIS, a collection which is now less accessible after all microforms were moved to an AIATSIS storage facility in Mitchell where researchers aren't allowed. Bookings to view and access material in the AIATSIS Collection must be made two weeks in advance.[68]

Resourcing Indigenous access to records

Inadequate funding, staffing, appropriate knowledge management, and technology in the GLAM sector institutions often limit the access of Indigenous people seeking records about their family histories, historical events, language resources, and cultural materials. Without the capacity to effectively provide adequate access to and online information about these collections, the result is misrepresentation and underrepresentation of Indigenous voices, and collections that are not discoverable or accessible to communities of origin. By committing resources, institutions can ensure culturally sensitive access and curation, engage in meaningful community consultation, and foster cross-cultural understanding and appreciation. Meaningful community consultation is lacking and has become a major issue for Indigenous people searching for records pertaining to their languages and family lines and also for Indigenous researchers.

At the *Implementing Indigenous Data Licensing and Access: Empowering Communities and Upholding Cultural Rights* roundtable event in Brisbane on the 5th and 6th July 2023 which several of this article's authors attended, Indigenous researchers, librarians and curators described their encounters with the new protectionism: non Indigenous curators tell them to 'get a letter from your community', or 'get a letter from your elder'. In at least one case, the researcher asking was the relevant 'elder' but the institutional gate-keeper refused to accept this. Curators may have no knowledge of the 'community' they might be referring to in any instance, nor the nature of these 'communities', disrupted by history as they are, with some historical residents and large diasporas from the apical ancestors who lived elsewhere. Moreover, 'elders' are often young, reflecting the mortality rates in Indigenous communities. The 'communities' and 'elders' that these curators refer to are figments of their imagination. It has become urgent that the access processes and protocols are revised by expert Indigenous researchers, curators, and librarians to ensure that the GLAM sector staff are not denying access as a result of their own ignorance or – as is more likely the case – their fears of dealing in more complex ways with representatives of families, clans, communities or social groups who desire access to records for a range of legitimate reasons. The representatives who approach the institutions are, more often than not, the highly educated, literate members of their families, and the kind of verification that institutions demand does not reflect the exigencies of families, family lines, and other social groupings whose members desire and need access to the records to support their quest for rights, such as native title rights, family reunification, historical representation and reclamation of their language heritage.

Many of the records discussed in this article are held in libraries, museums, and archives, sometimes with catalogue entries that identify which language is included, but more often with little or no information about the Indigenous language included in the record. There are

several aspects that need to be addressed to enable Indigenous people to locate these records. First, the catalogue or finding aid has to be online, ideally also available via the NLA's Trove, to maximise findability. Second, the catalogue has to identify what languages or cultural group identifiers are in the manuscript and to use a standard descriptor, like the Austlang codes[69] managed by the AIATSIS (to avoid the problem of multiple spellings of language names). Third, the text of the manuscript should be searchable, to allow speakers to locate people, places, or terms that will be of use in their language programs. If these conditions can be met it will allow the communities that Woods refers to (above) to find and determine what should happen with historical manuscripts in their languages.

We suggest that GLAM institutions should:

- Err on the side of making material available to Indigenous people
- Digitise records for access
- Build platforms for presentation of digital records
- Provide an efficient and accessible takedown mechanism
- Invest in providing online accurate descriptions of the language content of material
- Have clear access conditions attached to items, based on informed consideration of their content (predicated on the earlier steps)
- Provide timely access to material
- Make it easy for legacy[70] material to be deposited in archives

Conclusions

We observe that records of Indigenous knowledge are becoming increasingly difficult for Indigenous people and other researchers to access due to a new protectionism in holding institutions that is often well-intentioned, but that results in a lack of access to valuable primary records. We suggest that the role of such publicly funded institutions must be to facilitate timely access to historical records, especially for the people most closely associated with the content of these records.

We have emphasised issues with accessing language data held in cultural institutions; however, many of the same issues also apply to accessing cultural objects in collections and the associated documentation held in museum archives. The lack of online databases makes finding ancestral belongings extremely difficult for community members for the same reasons outlined above for language materials. Few cultural institutions appear to be implementing the recommendations made in Terri Janke's roadmap for the Australian Museums and Galleries Association (AMAGA), which include providing online inventories of items in collections, for example:

> Organisations must address inventory and access to collections by Indigenous people. Where the works are unprovenanced, and details unknown, research and identification work should take place in a coordinated approach following cultural protocols. This should be explored using a variety of methods, especially digital technology.[71]

We have offered several examples of collections of heritage cultural material that have been made available for digitisation, rendering as text (via OCR or transcription) and provided by a secure online system to authorised users in order to identify contents and then to make informed decisions about access to that material. This should reduce the workload on institutions wanting to make this material available. We recognise that there is a great deal of this material and it needs to be accessed and enriched in a timely manner by those most intimately involved with it, the people recorded and their descendants.

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