

Commentary – Interim report on Dis and DMPs – Cath Traynor (Indigenous Peoples and IKS)

Introduction

- Early planning of inventories and DMPs as part of the submission process for grant proposals.
 - From the perspective of a project manager (PM) as well as a researcher striving for more ethical ways and processes to conduct research with indigenous peoples (IPs), it is imperative that the requirement for ‘open data’ is made explicit during the call for proposals - and a clear understanding of what this means in practice is understood by researchers. The DMPs assist the PM/researchers to logically think through the process, and also importantly how the different requirements of an ethical research process are compatible and not in conflict with one another. For example, IPs have a right to be involved in the development/design of research projects that will include them. Therefore, they should be involved at the proposal stage including producing the DMP and develop a nuanced understanding of the implications of what ‘open data’ would mean in terms of their rights and their indigenous knowledge (IK).
 - Furthermore, as PM, the various aspects of the research process, e.g. funder grant contracts and sub-contracts with consultants, ethics approval processes (which can include >1 university), free, prior, informed consent (FPIC) processes with communities and/or their representatives, and community and individual interviewees ‘informed consent documents’ and processes, and any contracts/licences must all include ‘open data’ requirements and all documents be compatible. When negotiating ‘open data’ and possible boundaries, the PM will also need to ensure that as text is negotiated, all documents updated accordingly.

The Data Inventory and DMP Process

- DI - did expand what understanding of what might be classified as research data, e.g. team meeting minutes, emails, photos, notes, etc. However, as you mention NJ has an issue with ‘data’ being broken down into these digital objects. The DI and DMPs working assumption is that all data can be boxed into such objects. These processes do not encourage the researcher to think about data in alternative ways, e.g. in terms of relationships, and entanglements, context and histories.
- As a first time ‘user’ of Dis and DMPs I struggled somewhat, initially preferring the DI, however, now I am more familiar with both, I actually prefer the DMP – in our case references to end-user licence and ethics and legal compliance were useful sections.

Planning for sharing

Third party repositories – yes, NJ has concerns about these, however, we also would not consider developing a portal ourselves. We do not have in-house expertise, and also, as we face difficulties maintaining and developing our webpage and a related community protocols resource, we are very much aware of not just the technical expertise required to set up such a portal, but also the skills, time and funds required to maintain it and ensure it meets its objectives.

Other key issues

- Possible conflicts of interest regards gaining consent from IPs for open data by PM/researcher. In our view the PM/ researcher could be in a COI – they likely have a contract with their employer (university) and the institution will have a contract with the funder – in both instances there will be the desire to meet the employers/funders requirements. It is possible interests of PM/researcher and their organisation could be put ahead of community interests.
- We did not seek consent from the community and individual interviewees for consent that the interview data be shared. We have only consent to share findings in results. Sharing data and results is very different, one would need explicit consent to make data open.
- Our project is developing ‘community-researcher contracts’ – these are private contracts between the parties involved in the research (university institutions, NGO and community institution) – contracts are only applicable to parties that sign them. Thus, making the data open means that downstream users do not need to abide by the contracts – or we would need individual downstream data users to sign contracts. But, likelihood of enforcing these with individuals/institutions in other countries highly unlikely.
- Indigenous Peoples have a right to FPIC – we have concerns as to make ‘informed’ decisions, communities and individuals would need to deeply understand the implications of making data open. This includes issues such as assessing benefits and risks of open data, both in the present, and also in the future. The latter is particularly difficult, especially regards genetic resources. For example, Indigenous Khoi and San communities have only recently been acknowledged as the holders of TK related to Rooibos and Honey Bush tea, this industry is now worth approximately ZAR 10 million annually, when they first shared their knowledge, projecting into the future how that knowledge would be used, by whom for commercial purposes, and impacts upon communities would have been very difficult. To make a fully ‘informed’ decision, thinking through possible scenarios and impacts of sharing IK data openly would be required, but would in fact be very difficult.
- Indigenous peoples have a right to self-determination, thus it must be IPs who decide whether to make their data open or not – however, they need to be fully informed prior to making such a decision.
- Open data, means data can be shared beyond the boundaries of South Africa, and with non-South African citizens. This has legal implications, as South African law would not apply in these cases. South Africa is developing progressive policy on IK, but in such instances communities would not be able to utilize these laws with data users overseas or with no legal affiliations with South Africa.
- In terms of South African laws and policies, if IK is shared before it is recorded in the National Recordal System, then that knowledge will not be protected. Before IK can be shared openly, international and national protections for IK and knowledge holders rights needs to be fully assessed.
- The default open data policy, leaves it to the PM/researcher to justify why data should not be open. It is unlikely most PM/researchers will have a full understanding of issues related to IK and IPs rights, and also legal implications of openness. Thus, default open data policies represent risk to IPs, as it places responsibility with grantee to justify with funder why data should not be open. Furthermore, IPs have rights to self-determination (see above), and it is they who must make decision on open data (and not researcher/PMO).