

Language Documentation and Description

ISSN 1740-6234

This article appears in: *Language Documentation and Description*, vol 7. Editor: Peter K. Austin

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Cite this article: Peter K. Austin (2010). Communities, ethics and rights in language documentation. In Peter K. Austin (ed.) *Language Documentation and Description*, vol 7. London: SOAS. pp. 34-54

Link to this article: <http://www.elpublishing.org/PID/081>

This electronic version first published: July 2014



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Communities, ethics and rights in language documentation

Peter K. Austin

1. Introduction¹

This chapter is about the general topic of communities, ethics and rights as they relate to language documentation, especially in the context of endangered languages. Consider the following statements and whether you think they are True or False:

1. a person recorded in a digital audio file telling a story has copyright over the file T/F
2. if I publish my language documentation analysis in a book the publisher has copyright T/F
3. materials that I put on the internet are not copyright and can be freely copied T/F
4. as a member or good friend of a speaker community, I know how the community works and so I don't need to be concerned about ethics T/F

If you are a linguistics student, it is quite possible that these statements relate to issues that you have never seen, or even thought about, before. These are, however, matters that are very important for our research, particularly because in our documentary linguistic research we are working closely together with communities. But they are topics that many linguists do not know very much about or, until recently, have thought much about.

¹ For comments on an earlier draft of this chapter I am grateful to David Nathan; I alone am responsible for errors or omissions.

2. Ethics

Ethics in linguistic research is generally a matter of applied ethics, that is, what ethical principles apply when we interact with other people. We can distinguish this from the theoretical study of ethics that is typically the domain of philosophers (see Dwyer 2006 on this distinction).

An important aspect of applied ethics is the need to identify the interested parties (sometimes also called ‘stakeholders’). Interested parties are the people that have an interest in and are connected with what we are doing. So, for example, in a project based at a University like SOAS, that would include staff and students, the wider research community (all the people who are doing research), people who are called ‘research subjects’ (the people that our research project works with, records material from and studies their language with), research funders (including government and private funders, such as Arcadia), society in general, including government bodies, and possibly others. We need to think about our ethical stance in relation to all these interested parties.

For convenience we can divide the discussion into general ethical principles and principles that are specific to linguistic research (see also Thieberger & Musgrave 2007).

2.1 General ethical principles

There may be general ethical principles like ‘do not be evil’ or ‘do good things’ that we might adopt for our whole lives and that are not just restricted to linguistic research. Within linguistics itself, there are general principles that we would wish to apply. For example, Wilkins (2000:1) argues that ‘in fragile, embattled, minority indigenous communities, good intentions are not sufficient for good and useful results, and we must be self-reflective and self-critical about the sort of practices we engage in that unwittingly will exacerbate rather than alleviate the problem’. Grinevald (2004) has also suggested a maxim something like ‘do not document a language if doing so would harm the speakers’ (Grinevald (2004:60) states this as ‘sometimes no fieldwork on an endangered language is better than some’). Matras (2005:227) is critical of what he calls ‘salvation linguists’ who take it upon themselves to ‘save’ languages, regardless of speaker community opinions.

One basic ethical principle for research is ‘do not do anything that forces somebody to do things’. That is, we should not force people to do anything against their will. The term for this in discussions of ethics is ‘informed consent’ (see 2.4 below); it means that a person gives explicit consent to be involved in a research project or interaction, and the researcher must inform them about what is involved in such activity, and what the consequences of

participation might be. They should also understand that they can withdraw their participation at any time. Note that children cannot give informed consent; it must be obtained from parents or guardians.

A second basic principle might be ‘do not do things that will make people regret working with you’. This will be important when discussing and recording sensitive information such as political discussions or stories about human relationships. Reciprocity is another fundamental principle that is generally adopted: the researcher should contribute to the community in some way in exchange for the contributions that community members make to the research project. The form of such reciprocity, and how it is negotiated, is also a complex issue and will require careful analysis and understanding, paying attention to differences between the values of the researcher and those of the research participants (see Dobrin 2005 and section 7 below). Attention to differences in local culture and community dynamics and our place in those dynamics should also be part of our general ethical approach. This will include respecting other people’s ways of living and keeping an open mind (and being self-reflective about our own beliefs and behaviours). There is no list of rules to follow here, rather the researcher will need to have sensitivity to different situations and different variants and to adopt general principles like being sensitive, being reciprocal and not forcing people to do things they do not wish to do in working together with us².

2.2 Specific ethical principles

Many universities and other organizations, such as professional bodies, have an explicit statement of ethics (also called a ‘code of ethics’) that members are expected to follow. For example, in 2009 the Linguistic Society of America (LSA) adopted a professional code of ethics (see Web links below). Other bodies, such as the Australian Linguistics Society (ALS) or the American Anthropological Association (AAA) have had such codes for much longer. Increasingly, local organisations like cultural centres or indigenous non-government organizations (NGOs) have developed specific ethical statements or rules relating to the conduct of research. An example is the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) which has formulated ‘Guidelines for Ethical Research in Indigenous Studies’. It is incumbent on researchers to be aware of these codes of ethics and have some understanding of them.

² Nathan (2010, section 2) argues that a general ethical principle should be ‘act in the most professional manner possible, with the highest level of competence’, especially in relation to audio recording.

Universities and research centres often have statements of ethics that apply to everyone associated with them. For example, at SOAS researchers must commit to the statement of ethics which requires them to:

1. abide by principles laid down by the Committee on Standards in Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, leadership
2. be informed of legal requirements, including local and international law and agreements, especially any UK legislation (eg. the Data Protection Act) and codes of practice of professional bodies, societies or associations
3. recognise the need to identify, declare and take steps to avoid conflicts of interest, e.g. no misuse for personal gain
4. take account of personal and national disparities in wealth, power, legal status of the researcher, and political interests
5. be sensitive to differences between the civil, legal and financial position of national and foreign researchers
6. be responsible for the design, methodology and execution of the research
7. plan the research to have demonstrated validity
8. disseminate research findings at the earliest opportunity to increase public knowledge and understanding, subject to protection of intellectual property rights
9. clarify any intellectual property rights at the outset of the project
10. appropriately acknowledge and credit all contributions to the project
11. not publish or communicate other's research findings without express permission
12. consider ethical acceptability and the foreseeable consequences of research – consider the possible impact of findings on research subjects. Informed uncoerced consent is required and researchers 'must inform subjects in readily understandable terms about the aims and implications of the research', and respect the right of any individual to refuse to co-operate and withdraw participation
13. protect subjects against foreseeable physical, psychological or social harm or suffering caused by participation, especially for minors and the elderly

Commitment to these statements requires familiarity with such things as the principles laid down by parliamentary committees, and with relevant UK laws. As professional researchers we must ensure this familiarity, and receive training where necessary. Otherwise we are not being ethical³.

2.3 Ethics approval

In the US and Canada, universities and other bodies (including, increasingly Tribal Councils) typically have an Institutional Research Board (IRB) that must approve all research projects before they are submitted for funding or commence operations. These IRBs have their own rules and processes which must be followed and can be quite complex and onerous. Sometimes the IRB rules conflict with codes of ethics of professional associations (e.g. concerning the destruction of data after the materials have been analysed in order to protect research subjects, whereas for language documentation archiving of primary data and analysis would be expected).

Increasingly, ethical and research approval must be gained from local organisations or national governments of the country where the research is to be carried out, and a research permit (or research visa) may be required in order to undertake a project (fees for such permits or visas may also be substantial). For example, in Vanuatu approval from the Vanuatu Cultural Centre must be obtained before a research visa can be issued. It is important to investigate these requirements and include them in the research plan, allowing time and funds to ensure the correct documents are obtained.

Some research funders require a letter of support (or statement of consent) from the speech community in order to demonstrate that the researcher has contacted the community and that the project will be accepted and approved if it is funded (see Austin 2010b). Again, it is important to investigate whether this material is needed, what specific form it might take, and how it might be obtained, or at least what appropriate expressions of support can be given. Intermediate contacts who are already known and trusted in the community, such as an anthropologist who has done research locally or workers with an NGO, may be important in this process.

³ Some research funders require that applicants demonstrate their credentials in relation to ethics; see Austin 2010b.

2.4 Informed consent

As noted above, a basic ethical issue in research is informed consent, that is, explanation in advance of what the project involves, the stakeholder's roles within in, and how the results may affect participants. This is a complex issue (see Thieberger & Musgrave 2007:30-32) because it is not always clear that participants understand fully what is involved (e.g. archiving materials that are accessible via the internet may not be easy to understand for people living in a remote location without electricity, let alone computers). Remember that participants must be free to withdraw at any time and all materials contributed by them must be deleted if they so wish. Informed consent for children and minors must be obtained from parents or guardians. It is also advisable that informed consent be documented in some form.

It is generally understood that informed consent can be given (and documented) in one of three ways (Dwyer 2006:44):

1. in writing, by signing a written document;
2. orally, by verbally expressing understanding and agreement – it may be advisable to record such oral consent in an audio or video file for future reference;
3. by a third party – this is required in the case of children or minors, and may be culturally appropriate in some locations, e.g. in Indonesia consent would normally be given by the *kepala desa* 'village head' rather than by individual villagers. Tribal chiefs or councils may also be involved in third party consent. Again, documenting this consent in writing or oral form is usually advisable.

In communities where research subjects are not literate, or signing forms would create suspicion or other problems, oral consent should be obtained. This may be more culturally appropriate in communities where verbal agreements have higher esteem than written undertakings.

It is important to appreciate that informed consent can change over time and may involve growing understanding of the project by the participants, and changing perspectives on involvement in it. The best way to achieve such understanding is often through an on-going conversation, rather than insisting on obtaining such consent once and for all at the beginning of the project. It is an important conversation to have anyway, even if you do not have to have ethical agreement and permission and to document it. You will need to judge the success of this communication and the ability of the person to actually understand it and give full consent. The discussion might take place over a period of time as an evolving process. You can have a natural conversation first and then perhaps record a less natural version: 'So remember yesterday

we sat down and we talked about this stuff for my university. I have got to make a recording of that so is that okay, shall we do that?’ and so on.

2.5 Compensation

An ethical issue in our research is how to compensate people for the time and expertise they share with us. Even if speakers are extremely enthusiastic and want to come and sit with us for hours to teach us their language, they are usually doing so at a cost to themselves. Instead of sitting with the researcher, they could be out fishing, earning a livelihood, working in their fields or helping their aged relatives. There are complex issues with compensating people for their time and expertise, and sensitivity to local norms is required. In some communities monetary payment is common and expected but in other communities it is not, and payment is not culturally or socially appropriate. Payment may be by the hour, session or day (not by the megabyte!) and the level should be appropriate to the context (e.g. the average earnings of a school teacher or similarly qualified person). It is important to pay appropriately, but not so much that it creates the potential for coercion. When working with different people it is important to keep fairness in mind, and to make sure that if there is differential payment (e.g. for different roles such as story telling versus transcription) that participants understand the basis for the differentiation. Jealousy, envy and anger will only make for a difficult research environment.

In many parts of the world non-monetary compensation is usual. Some people may not want to accept money and may consider monetary payment to be inappropriate or insulting (‘this is my language and my culture and I want to record it and pass it on. I want to help you to help me teach my children and I don’t want you to pay for that’). There are many non-monetary ways to compensate people, such as buying gifts, food, medicine, or goods that are expensive or difficult for communities to obtain locally. You might do housework, help in the fields, help with the shopping, write letters where people want assistance with letter-writing, or other things that can be done as an individual.

The way in which compensation, monetary or non-monetary, is presented may also matter: in some contexts a public official handover may be appropriate, in other contexts it may be best treated as a private matter. It is best to seek local guidance on this.

3. Rights

We can distinguish four areas regarding rights in relation to language documentation research:

1. intellectual property rights
2. copyright
3. moral rights
4. access and usage rights

Each of these areas is subject to legal frameworks, and the laws and their import vary between different countries and jurisdictions. It is important to recognize that research projects can be subject to laws in several domains:

1. laws of the country where the research is being carried out;
2. laws of the country where the researcher normally resides;
3. in the case of European countries such as the UK, laws pertaining to the European Union;
4. legal covenants and agreements between countries internationally, including bi-lateral and multi-lateral arrangements.

It is advisable for researchers to make themselves familiar with relevant legal frameworks in each of these domains. Thus, any researcher depositing data in the Endangered Languages Archive (ELAR) at SOAS, will need to consider how they are affected both by UK laws and by EU laws.

3.1 Intellectual property rights

The World Intellectual Property Organisation (WIPO) defines intellectual property as ‘creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce’⁴. Here ‘creations of the mind’ refers to something that somebody created, and hence does not cover general knowledge like the meanings of words, or forms of a morphological paradigm (a particular definition, e.g. that found in a printed dictionary, would however be subject to intellectual property rights). This has important implications (discussed further below) in relation to traditional

⁴ see <http://www.wipo.int/about-ip/en/ipworldwide/country.htm>

stories, folklore and knowledge about the environment, say, that is encoded in language.

Intellectual property rights originate at the point of recording, and require informed consent for all parties and the parents or guardians of minors. Intellectual property rights come into existence when a creation has been recorded in writing, on video or in a sound recording. As noted above, there are three types of consent: written, verbal and third party. Note that even if consent is not a legal issue, it is an ethical issue.

3.2 Copyright

Copyright is a legal framework that relates to ownership and distribution of creative works, and ultimately is bound up with property and economic exchange. (Dwyer 2006:46; Newman 2007). It relates to creations of the mind that are fixed in a tangible medium, and comes about automatically by the process of fixing (recording). It does not have to be registered, or indicated on the work (though conventionally the © symbol plus the date and copyright holder's name is used in printed works). Copyright varies for different types of materials and between countries. In the UK there are four categories, each with different legal provisions:

- literary works (i.e. printed books)
- sound recordings
- images (both still (photographs) and moving (films))
- databases

Newman (2007:30) makes the following important points about copyright:

1. it provides authors⁵ with exclusive (monopolistic) control over their works;
2. it is a set of prohibitions on what others cannot do without the copyright holder's permission;
3. it is automatic ... a work becomes copyrighted once it is created and reduced to concrete form whether the author has any interest in having the copyright or not;
4. it is a form of intellectual 'property', and ... can be transferred by sale, gift, inheritance, etc.;

⁵ in copyright law 'author' is used for the creator of any kind of creative work

5. it is not a single thing but rather a bundle of rights encompassing reproduction (the original right to make copies), distribution, performance, display, and the making of derivative works (e.g., a translation of a book or a theatrical adaptation of a story). Each of these rights can be conveyed separately;
6. it has an exceedingly long duration;
7. most creative work is covered by copyright: songs, poems, books, scholarly articles, paintings, sculpture, photographs, and even computer programs. A modicum of originality is required ... not covered are ideas, facts, data, real world phenomena, and practical/useful processes;
8. works that lack copyright protection ... are said to be in the public domain. As far as copyright law is concerned, these public domain works are free for all to use.

As noted above, legal requirements differ, at least for the UK, according to the four different categories identified. Thus copyright for printed works extends for 70 years from the death of the author, while copyright for sound recordings only lasts for 50 years from the moment of recording. Note that for sound recordings, copyright is automatically assigned to the person who made the recording, not to the person(s) being recorded, although it is possible for an agreement to be reached whereby copyright is shared or given to other people.

Since copyright is a form of property law and relates to money and economic interest, it can be inherited, given away or sold. Copyright may be exclusive, or non-exclusive. Book contracts may involve exclusive copyright, e.g. only the publisher has the right to copy and distribute the book, or be non-exclusive, in which case copyright is shared between the author and other entities. Some publishers allow non-exclusive copyright for publications. The ELAR archive at SOAS requests non-exclusive copyright for the copying and distribution of digital files deposited in the archive (Nathan 2010b).

Language documentation researchers should note particularly that copyright can be inherited so it may be left to children or other people in a will. It is a good idea to consider appointing a literary executor in your will so that the copyright in any materials you leave, including archival deposits, can be properly assigned after death. (ELAR recommends appointing 'a delegate' for your deposits.)

There are many common misconceptions about copyright law. It is important for researchers to learn about the law in their own country and the countries where they do research, for which purpose there is generally material available. In the UK, for example, the British library has resource

materials on copyright law, and governments in other countries may provide resources (Newman 2007 is particularly useful for the USA). It is recommended that researchers familiarise themselves with the relevant sources since in the process of their normal activities they are making and producing creative works, and creating intellectual property which is subject to copyright law.

It is important to note also that ‘works made for hire’ have a special status. This is particularly relevant to researchers who work in the United States because employment contracts for US universities frequently stipulate that the copyright in any works created while employed is assigned to the University.

A good source of information on these matters is the World Intellectual Property Organisation (WIPO), which was established in 1967⁶ to administer international treaties on intellectual property laws, to provide assistance to signatory nations in promulgating intellectual property laws and to harmonise national laws and help resolve disagreements (see the WIPO website: www.wipo.int).

3.3 Moral rights

While copyright is about property and ownership, moral rights are about reputation (see also Dwyer 2006:48). According to Article 6(1) of the Berne Convention⁷:

Independently of the author’s economic rights and even after the transfer of said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to the said work, which would be prejudicial to his honour or reputation.

Thus, even if an author sells their publication rights, any misuse of that material by the publisher or others, such as changing the meaning of some passage, is a violation of the author’s moral rights. Importantly, moral rights must be asserted in writing to have any effect. Recall that copyright does not have to be asserted and is automatically initiated as soon as the creation is fixed in a tangible medium. Moral rights, on the other hand, have to be stated, e.g. in the form of words commonly found at the front of published books

⁶ The legal frameworks behind WIPO go back to the 19th century and it draws on the Berne Convention of 1886.

⁷ http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html

such as ‘X asserts the moral right to be recognised as the author of this work’. For language documenters, moral rights are typically associated with the key people that we work with, especially the consultants who record stories or material. Publications which misrepresent them or their contribution could then have violated their moral rights.

3.4 Access and usage rights

This refers to rights associated with material which has been deposited in an archive and the rights to gain access to and/or use that material. Most archives operate a system (sometimes called a ‘protocol system’, see Nathan 2010b) which offers graded access, that is, various degrees of access to the material. Typically there are three access distinctions:

1. ‘fully open’, where anybody can have access to the materials;
2. ‘fully closed’ where nobody but the depositor can have access;
3. ‘partially open’, where access is subject to some conditions. Partially open criteria for access are usually speaker-based (i.e. depend on who the recorded speaker is), materials-based (i.e. depend on the nature of the material, such as its genre and whether it is sacred or not) or user-based (i.e. depend on the kind of user, e.g. gender, tribal membership or ethnicity).

Usage rights can also be specified, such as ‘may be listened to but not copied’, ‘may be freely copied’, ‘no more than 10% may be copied’ and so on. The depositor form that accompanies all ELAR archival deposits, for example, clearly specifies these access and usage rights (Nathan 2010b:205). Note that ELAR strongly encourages depositors to ensure that at least some deposit materials are fully or partially open, and it has a limitation on fully closed materials such that this restriction must be renewed every three years or else the deposit access restrictions may be changed (in order to prevent researchers ‘locking up’ their data and analysis indefinitely; see Nathan 2010b).

4. Indigenous perspectives

In many countries existing intellectual property laws are limited. It is important to remember that these laws come out of a 19th century focus on the ownership of property, things, objects and money, and emphasise economic rights over any cultural perspectives. So, for example, copyright law does not apply to traditional dances. Therefore, if someone visits a community, sees a dance, then recreates it in another location there is no copyright protection for the original performers as the dance was not fixed in

a tangible medium. Similarly, sacred and religious material is not given special protection. Intellectual property rights also do not cover a range of issues that indigenous people consider their knowledge and cultural property such as what is called Traditional Ecological Knowledge (TEK), e.g. knowledge of plant use for medicinal purposes. This is because such traditional knowledge is not considered to be a creation of the mind but is rather a practical/useful process and hence not subject to copyright.

There is a growing literature about who owns such indigenous knowledge and how ownership can be asserted and protected (see, e.g. Brown 2003)⁸. Oral knowledge passed down through generations is not subject to copyright, and performers of traditional cultural activities do not have permanent protection of their knowledge. Language documentation researchers may wish to consider how their work impacts upon these matters, and may want to look into entering into agreements about copyright, moral rights and traditional knowledge with the stakeholders involved in a project. You may wish to check and discuss the content of recordings, notes and dictionary entries with speakers in the community and other community members. You might have recorded material that they do not want to see published in books or released on the internet. You may also wish to show the preliminary results of your work to speakers and community members to check them for form and content (cf. Wilkins 1992). Some indigenous groups, in Canada in particular, make this a precondition for approval of research projects.

5. Speaker disagreement

There are a number of different areas where researchers may find disagreement between speakers, and will need to be sensitive about such disagreement. For example, speakers may have different views about what is 'correct' language, with some being puristic and wanting to eliminate what they see as borrowings or corruptions, while others may have more liberal views. Code-switching is another area of frequent disagreement between speakers. There may also be different attitudes to disfluencies, with some speakers wanting material edited for false starts and interruptions, for example. It can be useful to distinguish between material that has been transcribed as recorded, and material that has been edited after transcription, with the nature of the editing clearly documented.

⁸ The material in Brown (2003) is supported by a website at <http://williams.edu/go/native/>

Different communities and individuals also have different tolerances for what is considered offensive. Be careful with material that is overheard, rather than recorded in explicit language research sessions; it is a good idea to check if overheard material is something that can be distributed publicly (cf. Wolcott 1999: 284f). There can be conflicting interests in the content of a recording, especially when the topic concerns political issues such as land tenure, or gossip about neighbours' sexual preferences and behaviour (Thieberger & Musgrave 2007:34). In addition, there can be different views about access, e.g. older and younger people may have different attitudes about what can be made public and what cannot.

The differing roles of the consultants in a language project can also raise issues of concern. Are they to be treated as authors, co-researchers, or as the subjects of the research project? Sometimes it will be important to ensure anonymity of consultants, e.g. to ensure protection (from insiders (with whom there is disagreement), and/or outsiders, such as government agents).

6. What do communities want?

A different perspective from that adopted so far is to consider what communities want and value in the context of documentary linguistic research. There is virtually no published literature on this, although a blog post written in 2007 by a post-graduate student at the University of California Santa Barbara is suggestive of at least one set of views⁹. She reports that at a conference of linguists and Native American language activists, one member of the audience directed the question 'what one aspect of linguistics has been crucial to the development of your project?' at the community language activist team members of her group. The response surprised her:

they responded by mentioning how enthusiastic the linguists always were about doing language work (they said something like, 'they keep showing up'), and how much they enjoyed meeting with us, and ultimately how much they trusted us. Later on at the party I heard someone fondly summarize their answer as "Trust and love. What are linguists really good for? Trust and love."

I would like to suggest that this quotation offers an important insight. Linguistic knowledge and skills such as phonology, morphology, syntax, or semantics are going to be of little value without trust and understanding

⁹ See <http://languagespeak.wordpress.com/2007/05/31/what-are-linguists-good-for/>

between the participants. If we cannot establish and maintain trust and do not have mutual appreciation, then linguistic theory and practices will be of little use. Communities also want researchers to come back on return visits, and appreciate the commitment this shows.

Sometimes communities will want a talisman, an object that is valued for its status as a physical expression of the research project, such as a dictionary, even if they cannot read it or have no immediate use for it (Chambers & Nathan 2009; Terrill 2002). Many communities will want sound recordings (perhaps delivered on cassette tape or CD) (Nathan & Csató 2006), and they appreciate edited video recordings, especially with subtitles and dubbed onto DVD or VCD (see Jukes 2010, Ashmore (2008:83-86) for examples). They may want a variety of cultural and learning resources, including materials that contain useful everyday expressions or cover culturally significant topics¹⁰. They may also wish to have workshops (e.g. orthography development workshops), training courses and summer schools organised in their communities (see Mosel (2006:83); and Nathan & Csató (2006) for description of the Karaim Summer School). They may also want payments, gifts or equipment (e.g. a light, or battery-powered cassette player). They may want help with local services or problems. There may also be a lot they **do not** want that researchers might want to give them, such as a grammar written in a theoretical model in a language they cannot understand. Chambers & Nathan (2009) quote Luqa speaker Alpheaus Zobule, from the Solomon Islands on this issue:

technical studies done on vernacular languages that are produced by professional linguists and written in a foreign language (e.g. English) ... are usually no use at all for those whose languages are studied. For that reason, in the case of Kubokota we would strongly encourage that materials (dictionary, grammar, stories, literacy materials, etc) be also produced in Kubokota. I strongly feel that any work done on Kubokota ... must also benefit the language community

Nathan and Csató (2006: section 7) argue that communities want the following from information and communication technology aspects of documentation projects, especially in the context of multimedia products (the outcomes of ‘mobilisation’ – see Austin 2010a):

¹⁰ Nathan & Fang (2009:138) argue that as a consequence language documenters should record pedagogically useful metadata ‘that would facilitate discovery, selection, adaptation and usage of documentation for teaching and learning’.

- the sound of spoken language
- product development processes that respect people's 'ownership' of language
- products that represent the community's relationship to the language by implementing meaningful pathways between information providers and users
- a range of diverse and adaptable products from comprehensive linguistic and cultural multimedia documentations ... to learning resources, songs, games, and even spelling checkers
- products that are easy to use.

There are no rules in this area and no formulas. Discussion, negotiation and understanding over a period of time will be essential, and particular solutions for individual contexts will need to be worked out. Dobrin (2005:49) points out that the outcomes of language documentation may 'find their importance within a system of values that is profoundly different from ours' and 'can only maintain their value in the context of extended exchange relationships between vernacular language communities and individual linguists'.

Increasingly, empowerment models are being advocated (see Grinevald 2004, drawing on Cameron et al. 1992; Yamada 2007; Czaykowska-Higgins 2009) so that community members become co-researchers **with** outsiders, not passive participants that we do research **on**, but increasingly active people who the research is done **by** (but see Dobrin 2008 on the role of outsiders as advocates for language support within communities). This will require training and skills transfer to develop capacity locally, however it is important to remember that training is specialised activity and the fact that a researcher has certain skills does not mean necessarily that they are able to teach them or train others. We may need to learn **how** to train.

7. Conclusion: beyond ethics and laws

It is becoming increasingly clear that language documentation projects need more than ethical frameworks, IRBs, statements of ethics and copyright rules. We need a holistic humanistic reflexive practice in carrying out our research (Chambers & Nathan 2009, Dobrin & Berson 2010). We cannot maintain the divisions between 'us' as the researcher and 'them' as the subjects of research. Fieldwork and language documentation is the ultimate social act in a system of exchange. So, we have to make reciprocity central and not peripheral to what we do, negotiating the conduct of our projects, and outcomes, making the documentation usable and valuable, and giving back in ways that are

meaningful and valuable to the communities. Ethical behaviour or even advocacy (supporting communities, writing letters, and advocating for them) is not enough. Ideally, researchers should share their knowledge and be prepared to help communities to support their languages if they wish to do so.

This also means that we need to be aware of our own limits. Thus, if a community wants to make language teaching materials, it may be good to involve teachers in the work, even if they are not speakers of the language themselves (Nathan & Fang 2009). Engaging with the community and working together with them as partners, will both facilitate project work and also often open up research perspectives that would otherwise not be achievable.

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Further reading

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Web links

Australian Institute for Aboriginal and Torres Strait Islander Studies: Guidelines for Ethical Research

<http://www.aiatsis.gov.au/research/ethical.html>

American Anthropological Association: Code of Ethics.

<http://www.aaanet.org/issues/policy-advocacy/Code-of-Ethics.cfm>

American Folklore Society 1998: A Statement of Ethics for the American Folklore Society AFS Newsletter volume 17, no. 1. [<http://afsnet.org/aboutAFS/ethics.cfm>]

American Sociological Association: Code of Ethics.

<http://www.asanet.org/about/ethics.cfm>

Archive of the Indigenous Languages of Latin America (AILLA): Intellectual property rights. <http://www.ailla.utexas.org/site/ipr.html>

DOBES: Ethical and Legal Aspects

http://www.mpi.nl/DOBES/ethical_legal_aspects/

Max Planck Institute for Evolutionary Anthropology, Leipzig, Department of Linguistics: Ethics Guidelines.

<http://www.eva.mpg.de/lingua/resources/ethics.php>

World Intellectual Property Organisation (WIPO): Copyright.

<http://www.wipo.int/copyright/en/>

World Intellectual Property Organisation (WIPO): Guide to Intellectual Property Worldwide. Country Profiles.

<http://www.wipo.int/about-ip/en/ipworldwide/country.htm>

World Intellectual Property Organization (WIPO) 2001. Intellectual property needs and expectations of traditional knowledge-holders.

<http://www.wipo.int/tk/en/tk/ffm/report/final/pdf/part1.pdf>

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http://www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html

Discussion questions

Consider the following statements and carry out some research to determine whether they are true or false in your own country:

1. The person recorded on a tape telling a story has copyright over the tape
2. Fieldnotes containing elicited data of verb paradigms are subject to copyright
3. If I publish my analysis in a book the publisher has copyright
4. I have to get my consultants to sign consent forms before I begin my research
5. Written works are subject to ‘fair dealing’ for the purposes of study and research

6. Sound recordings are subject to 'fair dealing' for the purposes of study and research
7. The copyright on sound recordings lasts for 100 years.
8. The copyright on written materials lasts for 70 years.
9. If I copy a sound recording from one medium to another, eg. tape to CD I violate copyright, even if the recording is deteriorating
10. As a member or good friend of the speaker community, I know how the community works and so I don't need to make any statements about ethics
11. Materials that I put on the internet are not copyright and can be freely copied
12. Materials deposited in an archive such as ELAR can be password protected
13. I can make explicit statements in my will about what happens to my documentary materials after my death