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## Free and Informed Consent in Research Involving Native American Communities

**NATHALIE PIQUEMAL**

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What are the ethical responsibilities of non-Native researchers working with Native American communities? While both Native and non-Native researchers recognize the importance of the ethical protocol of free and informed consent when negotiating entry into the field, specific problems of application need to be addressed when doing cross-cultural research. In particular, the problem I address arises from researchers who work in Native communities and have been widely criticized for their disregard of local ethics, adhering only to the conventions of scientific research.<sup>1</sup> This critique comes from two general perspectives. First and foremost is the opinion of many Native American people that researchers have misappropriated knowledge.<sup>2</sup> The second critique is located within academia: a common expression in postmodern theory is that modernist researchers, by not questioning their own ethics and methodologies, have unwittingly constructed the Other. While the importance of free and informed consent is accepted in most circles, what often goes unquestioned is that free and informed consent may have different meanings and implications in cross-cultural situations, particularly when doing research with Native American communities. It is the researcher's ethics, and not those of the researched, that often seem to govern the relationship. Researchers in cross-cultural situations often assume that the individual in question understands the project fully and is able to give full permission in a communicative code that happens to belong to the researcher.

Drawing upon the significant work of scholars such as Devon A. Mihesuah and Caroline B. Brettel, this paper offers additional contributions to the ethics cross-cultural research with Native American communities.<sup>3</sup> In particular, the purpose of this paper is to recommend alterations to the ethical protocols for obtaining free and informed consent. When research involves

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Native American communities, additional steps to those specified in typical ethical protocols must be taken to ensure free and informed consent.<sup>4</sup>

### ETHICS AND ETHNOGRAPHIC RESEARCH METHODS: THE EXAMPLE OF PARTICIPANT OBSERVATION

This section examines the ethics of ethnography, more specifically the ethics required of a participant observer. The relevance of this issue derives from the idea that participant observation implies social interaction and thus involves personal experiences, therefore raising ethical questions that concern all researchers and participants involved in ethnographic research. Existing ethical guidelines dealing with free and informed consent have not yet addressed these questions. For example, How may consent be considered informed when obtained “once for all” prior to research? As I have learned over the last four years doing fieldwork in Native communities in Alberta and in the southwest, questions of ethics arise at unforeseen moments. The researcher must at all stages be respectful of the “object” of research and the community under study.

#### **Participant Observation as an Hermeneutic Phenomenology**

Participant observation is a technique of anthropological research that consists of extended periods of fieldwork in which the researcher attempts to immerse him- or herself in the daily life of the people involved in the study. Participant observation enables researchers to get a better understanding of cultural meanings of the group, namely of their customs and beliefs.

Participation enables the researcher to gain an appreciation of how people from the culture being investigated perceive and structure the world around them. Danny L. Jorgensen states: “Participation reduces the possibility of inaccurate observation, because the researcher gains through subjective involvement direct access to what people think, do, and feel from multiple perspectives.”<sup>5</sup> I would add that while participant observation indeed allows the researcher direct access to the community and its daily activities, it is illusory to claim that participant observation can give complete access to a person’s way of thinking; one can only record what is said. Moreover, the culture being studied is viewed through the researcher’s eyes, culture, and personal history. Participant observation requires the researcher to be in direct contact with people and therefore has a social and even personal dimension. As Jorgensen stresses, “It focuses on human interaction and meaning viewed from the insider’s viewpoint<sup>6</sup> in everyday life situations and settings.”<sup>7</sup> Participant observation can be defined as an hermeneutic approach, since it involves a process of interpretation (making sense of what is being experienced); it can also be defined in terms of a phenomenological research, insofar as it emphasizes the importance of experience.

Participant observers place themselves in the context they wish to investigate in order to understand how people from the culture in question experience the world around them. Jorgensen subscribes to the idea of participant

observation as a phenomenological research method: "Basic concepts are defined phenomenologically, that is, in terms of what these ideas and actions mean to people in particular situations."<sup>8</sup> A further point may be added to Jorgensen's definition: Participant observation should be defined as a hermeneutic phenomenology,<sup>9</sup> as its method involves both experience in the culture in question and interpretation from an insider's point of view. Participant observation enables the researcher to get a sense of tacit knowledge. As James Spradley states:

A large part of any culture consists of tacit knowledge. We all know things that we cannot talk about or express in direct ways. The ethnographer must then make inferences about what people know by listening carefully to what they say, by observing their behavior, and by studying artifacts and their use.<sup>10</sup>

Participant observation is contextualized and localized: specific places, contexts, and people are involved. George Spindler defined some of the essential criteria involved in the ethnography of schooling: "observations are contextualized."<sup>11</sup> The same research conducted in a different cultural setting may lead to different conclusions. What is important, however, is that these research findings may be applicable, to some extent, to other research situations. Spindler further argues that "hypothesis and questions for study emerge as the study proceeds in the setting selected for observation."<sup>12</sup> I can relate to this statement, for as my ties to my friends and research participants got stronger, what was first a research interest developed into a research question focused on what was meaningful and significant to all of us involved in the project. Spindler finally argues that a good ethnography of schooling requires an awareness of the "sociocultural knowledge held by social participants"; he specifies that "a major part of the ethnographic task is to understand what sociocultural knowledge participants bring to and generate in the social setting being studied."<sup>13</sup> This is particularly important when using collaborative research as a methodology. In order to represent voices as authentically as possible, the researcher may seek to reach some degree of intimacy with the cultural background of the research participants.

While ethnographers have begun to highlight the importance of getting to know the social, cultural, and linguistic norms of the community under study, specific problems of application need to be addressed when doing participant observation in a cross-cultural setting. One of the most critical problems I foresee is that of differing communicative norms and patterns of interaction. These communicative differences can lead to misinterpretation of statements, including those of consent.

### **Ethical Issues Involved in Participant Observation**

Ethical issues involved in participant observation are more problematic than those involved in other research methods such as a structured interview in the form of a questionnaire, since they arise through living in a community dur-

ing an extended period of time, participating in the daily life of that community and, therefore, being constantly involved in social interaction. Ethics may become a thorny issue when researchers and their hosts are from different cultures subscribing to different ideas of what constitutes ethical behavior. Learning social mores and trying to conform to a society's definition of appropriate behavior require the ethnographer to investigate and respect the ethical system and beliefs of the host culture. This process involves considering ethics from the participants' points of view. Appropriate ethical behavior should at least lead to respect for people and protection of private or concealed knowledge. In my ethnographic research, the research participants who collaborated with me argued that there is a body of knowledge that is considered sacred or spiritual and that, as such, is more private and demands specific protocols of approach.

Structured interviews such as questionnaires are usually structured around a main focus question; in this case, free and informed consent, as we have seen, implies that the researcher is allowed to use the information given by the participant. The interview process seeks to probe the beliefs and ideas of an individual. Open communication between participant and researcher requires a certain degree of trust that can be betrayed if the researcher does not conscientiously respect ethical considerations. The interview itself imposes a distance, physical and oftentimes emotional, between the researcher and the participant. Though in a good interview these are not distractions, the researcher's tape recorder and notebook subtly direct the conversation, indicating, if only unconsciously, that the two or more people involved in the interview process are not "intimate acquaintances." Thus, ethical guidelines are seemingly easier to follow and respect.

Such is not the case with participant observation. The ethical considerations involved in participant observation are more subject to interpretation than those for structured interviews such as questionnaires. By spending time with people from the host community, by living with them, and by participating in and observing their daily lives, the participant observer learns about the culture and, it is hoped, answers his research question. Inadvertently, however, he or she learns about other unrelated issues. The ethical question that has to be answered is how researchers can be morally responsible in their use of what they learn, without betraying the confidence of the community and the people with whom they interact.

Ethnographers must also deal with local political issues that may have ethical considerations. For example, before embarking on a research project that involves participant observation in a Native American community, ethnographers must usually obtain the consent of the band council, which will stipulate what research can be done and may indicate the elders or other individuals who are the recognized community experts on a given topic. Permission may be granted to an anthropologist to do some research on a specific topic. In the practice of anthropology, however, people rarely talk about only one topic all the time. Information may be divulged by other people who are not recognized by the community leaders as being "legitimate informants" or as having the authority to talk about certain topics. Further questions thus arise:

Does using information given by the participants about issues other than the one presented to the community leaders constitute a violation of ethics guidelines? Should researchers seek to renew and update the original request made to the band council? Is it ethical to simply respect the rights of the individual and include anybody's comments? Whose consent is morally relevant?

#### THE RESEARCH PROTOCOL OF FREE AND INFORMED CONSENT

Free and informed consent has been defined as a voluntary agreement in light of relevant information.<sup>14</sup> An example is consent given by a competent adult patient for a specific medical procedure under the condition that the patient has an adequate understanding of all relevant information concerning treatment options and their risks. Obtaining free and informed consent is believed to be an adequate procedure to ensure the protection of individual rights to self-determination, privacy, and well-being.

Following World War II, the notion of consent was one of the Nuremberg Code's most important ethical principles. The Nuremberg Code of 1947 was established to judge concentration camp scientists for their inhumane research on unwilling subjects imprisoned during the war. In particular, the code states that no research should occur without the subject's voluntary consent. The person involved must have the legal capacity to give consent and should be given the necessary information concerning the research in order to be able to make an informed decision about whether or not to participate in the study. The code also points out that any experiment should be done "for the good of society" and should be conducted "to avoid all unnecessary physical and mental suffering and injury."<sup>15</sup>

In 1964, the Helsinki Declaration was established to reinforce the Nuremberg Code. In particular, the Helsinki Declaration states that "each potential subject must be adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it might entail."<sup>16</sup> The Helsinki Declaration also includes a section on the subject's right to privacy: "every precaution should be taken to respect the privacy of the subject and to minimize the impact of the study on the subject's physical and mental integrity and on the personality of the subject."<sup>17</sup>

In 1979 the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research published the *Belmont Report*, which incorporated ethical guidelines for research involving human participants. Three main principles were stated as particularly relevant to the ethics of research involving human subjects. First, human participants are to be respected as independent individuals: "an autonomous person is an individual capable of deliberation about personal goals and of acting under the direction of such deliberation."<sup>18</sup> Second, research ethics rely on a principle of beneficence: "do not harm and maximize possible benefits and minimize possible harms."<sup>19</sup> Third, research ethics must rely on a principle of justice, namely a principle specifically against exploitation (such as the biomedical experiments on unwilling prisoners in Nazi concentration camps). In addition, the *Belmont Report* states that consent is informed if it includes the three

following standards: information, comprehension, and voluntarism. Based upon these first steps of the Nuremberg Code, the Helsinki Declaration, and the *Belmont Report*, protocols of free and informed consent have been adopted by professional organizations such as the American Psychological Association, the American Sociological Association, the American Anthropological Association, and by most academic institutions.

In Canada, both the Social Sciences and Humanities Research Council of Canada<sup>20</sup> (SSHRC) and the National Research Council<sup>21</sup> (NRC) have defined ethical guidelines for research with human subjects. Key to these ethical guidelines is the fundamental principle of free and informed consent, which involves several components. Research subjects must be provided with all information regarding their involvement in the research (the purpose of the research, benefits/inconveniences envisaged, tasks to be performed, and other such issues). Individuals may or may not give consent; they have the right to withdraw consent and discontinue participating in the research at any time and for any reason, without prejudice. Participants' right to privacy must be assured and they may or may not allow private matters to be recorded. Finally, they have the right to remain anonymous.

Ethical issues involved in research on or with other cultures or ethnic groups are mentioned as "special applications of ethical principles" by the SSHRC guidelines: "research on cultures, countries, and ethnic groups different from one's own requires a different ethic. . . . Concepts of privacy must be viewed from the perspective of the research subjects or the subject's culture."<sup>22</sup>

The NRC's publication also includes a section on this issue:

If a study involves a distinct cultural group or takes place outside Canada, researchers should recognize that the principles, laws, customs and cultural standards governing confidentiality, anonymity, privacy and consent may vary markedly from those in the researchers' own culture.<sup>23</sup>

These statements acknowledge the fact that ethical beliefs must be contextualized and grounded in particular cultures. However, these statements constitute more a set of observations than a set of ethical recommendations. They highlight a concern, but do not say that the researcher should do anything about it or what specifically the researcher should do.

### PROBLEMS WITH EXISTING PROTOCOLS

Most professional ethical guidelines state that informed consent should be obtained prior to beginning research.<sup>24</sup> However, questions of ethics arise at unforeseen moments, particularly in cross-cultural situations. The type of consent required by the researcher's professional institution may not be relevant to or sufficient for the community under study. Whose consent is morally relevant? What makes consent informed? To illustrate how these ethical questions arise, I will provide two examples. The first example describes an ethical

issue I faced when doing ethnographic research in Alberta. This example will show that obtaining consent prior to research is not always sufficient when trying to identify those who speak authoritatively. In the second example, I use the Native ethic of non-interference as defined by Ross to demonstrate that many researchers may believe that they have the consent of a person, while that same individual may be communicating his displeasure in a way that is unknown to the researcher.

### **Problems Getting Consent Prior to Research Only**

Three years ago, I was granted both oral and written permission to study narratives, storytelling, and traditional ways of learning as they applied to a specific Native community in Alberta. The elders of the school involved in my research gave me oral approval; the director of the school gave me written consent. Even though the written authorization may be regarded as official, the acquisition of the elders' permission constituted the first and most important step of my research. The oral approval may be defined as cultural approval, whereas the written one constitutes, in this case, what I would call institutional approval. The former conforms to the protocol of the community, whereas the latter is in accordance with the ethical protocol demanded by my university. However, satisfying one protocol does not necessarily satisfy the other.

In the course of my fieldwork, a person from the community in question, approximately thirty-five years in age, wanted to be interviewed and explicitly told me to "use it in my research." After I obtained his/her consent according to my university's ethical protocol, I turned on the tape-recorder as requested. Without my asking any question, the person started to recount what had happened to him/her in the course of the week. The story centered on a ceremony that had taken place. The narration did refer to traditional teachings and education, the topic of my research. Nonetheless, I knew that I would not and could not use any of what my research participant had told me in any paper: I had been told by recognized authorities, namely the elders, that ceremonies should not be recorded or written about. I erased the tape even though the person expressly wanted me to record and transcribe the interview. I could only conclude that this person did not have the authority to share this information with me in a research context. Surely, one could argue that the very act of erasing the tape was in itself unethical; however, consent for my research was given to me by the elders on the condition that I not write anything about ceremonies.

This example demonstrates that in certain contexts, some people do not have the authority to talk about specific topics and, consequently, cannot transmit information to the researcher. Had I chosen to integrate information obtained from an "illegitimate" interview (even though I had obtained the participant's informed consent), I risked betraying the community's trust as well as its code of ethics. This raises an ethical dilemma: why and when should information be disregarded, even when free and informed consent has been obtained?



In this community, as in many other Native communities, the elders and other spiritual leaders are recognized as having the authority to pass on specific knowledge. Private information may be defined as esoteric or concealed knowledge; it includes information about a particular topic and is transmitted for specific purposes in a specific context. In the same way that there are different levels of authority, there are different layers of knowledge for which specific protocols of approach apply. If we take the example of a sacred tribal story, it may very well be that many people know this story but would not pass it on to a researcher, or to anybody else, for they know that this story belongs to a particular person. This person is recognized as the legitimate owner, or keeper, of the story.<sup>25</sup> Concealed knowledge is not about intellectual property rights; it is embedded in a worldview according to which knowledge may be passed on by those who speak authoritatively. In the case of my research, my choice to erase the tape flows from my respect of an ethic that requires recognizing and acknowledging the authority of those who know.

### **The Native Ethic of Non-Interference and Problems of Interpreting Consent**

The ethic of non-interference has been defined by Clare Brant<sup>26</sup> and Rupert Ross<sup>27</sup> as one of the most important behavioral norms in Native American ethics. My intent is to use this ethic as an example to demonstrate how cultural conflict may engender communicative disparities and misconstruction of the meaning of what is said. Ross explains that both interference and confrontation are considered rude in traditional Native ways. He cites Brant for a definition of the ethic of non-interference:

This principle essentially means that an Indian will never interfere<sup>28</sup> in any way with the rights, privileges and activities of another person. . . . Interference in any form is forbidden, regardless of the following irresponsibility or mistakes that your brother is going to make.<sup>29</sup>

As Ross stresses, this rule also involves an ethic prohibiting criticism: "For many of them, testifying against someone to his or her face in a public courtroom may well have seemed an even greater wrong than what was done to them in the first place."<sup>30</sup> According to Brant, even the action of giving advice may be considered interference:

The advisor is perceived to be "an interfeerer." His attempt to show that he knows more about a particular subject than the advisee would be seen as an attempt to establish dominance, however trivial, and he would be fastidiously avoided in future. The ethic of non-interference, then, is an important social principle.<sup>31</sup>

Ross goes further in his analysis by developing the idea of a spiritual grounding for ethical duties: there is a relationship between traditional ethics and a spiritual view of the universe. Ross gives the example of the ethic requiring that anger not be shown. He argues that the notion of "fighting back" is a foreign notion to Native people who follow traditional ethics. Using exam-

ples of court cases, he demonstrates that behavior respecting the ethic of non-interference does not necessarily mean that individuals agree with the judge's decision:

The patience Native people have demonstrated in not criticizing us for behavior they considered repugnant has been nothing short of astounding. Indeed, it is perhaps the clearest illustration possible of their determination to remain faithful to those commandments forbidding criticism of others and the expression of angry thoughts.<sup>32</sup>

He concludes:

In fact, this failure to stand up and be counted, to take action to force change, may flow from a code of ethics which required not forceful response but stoic acceptance, a code constructed upon an underlying belief that it is the spirits which are responsible for things, and that man attempts to force them to change at his moral peril.<sup>33</sup>

The question that now needs to be addressed is how the behavioral norm of non-interference may affect the communicative aspects of the process of seeking free and informed consent. For example, a person may be asked to give (or not) consent as to whether he or she agrees to be involved in a research project. A person who follows the ethic of non-interference may not fully consent or agree to the research but may answer in a way that may be interpreted by the researcher as providing consent. For example, Regna Darnell,<sup>34</sup> who performed sociolinguistic research<sup>35</sup> among Cree people, noted that "[T]he expected response of 'ehe,' yes, does not mean 'I agree with you,' only 'I have heard your words.'" It is an important task of the researcher to discover how these speech acts come to have social meaning and resultant actions. As John Searle<sup>36</sup> wrote, "[t]alking is performing acts according to rules."

The two examples cited above highlight the following problems with the existing protocols. First, a researcher who seeks consent from all the individuals who are to be interviewed will not necessarily obtain legitimate, valid, or ethical consent. Consent is morally relevant when obtained from the person who has the authority to consent. Failure to seek consent from the proper authority may result in an uninformed consent. This recognized authority is not necessarily an interviewee, but he or she is the representative of a particular group or of a particular body of knowledge. Consent is not limited to the choice of each individual; it is also a collective matter.

The second problem arises from the fact that norms of communication, including interaction patterns, vary markedly from one culture to another. These communicative disparities can lead to misinterpretation of consent with the risk of mistaking acquiescence for compliance (in this case, consent might not be free and voluntary). The researcher may believe that he or she has consent when the participant was simply acknowledging the word without necessarily agreeing to participate in the research project. In the same way, the process of seeking free and informed consent is a communicative event

that may lead to disagreement about the proper interpretation of consent/non-consent. Indeed, when non-Native researchers and Native participants negotiate, they do so in accordance with their own modes of communicating and understanding. This intercultural dialogue often leads to misunderstandings because people speak and act in accordance with their cultural norms, which are generally not shared by the other party.

### INFORMED CONSENT AS A CIRCULAR PROCESS

In the course of months of research, my co-researchers and I discussed a number of ideas, including the following: that doing research with Native American communities may require specific protocols when seeking free and informed consent, and that inappropriate behavior due to the researcher's ignorance of local ethics may cause physical, emotional, and spiritual harm to the participants. I have chosen the following extract of an interview with a research participant from my field research in Nevada to show how participants could be harmed by research if it is conducted in a disrespectful way, or by a researcher who is simply unaware of the spiritual dimension as an essential component to most research involving Native American participants:

See, the way I look at prayers . . . I look at prayers and the things that go on in the sweat lodge as an offering that goes to the Creator. And when you write the stuff down or pass the information on, you are kind of stealing it from the Creator or the Grandfathers,<sup>37</sup> because this was offered to them. And that's why I feel very private about talking about something like that. It's something that wouldn't feel right because it's called for a specific purpose. That's why they [researchers] need to understand the community and the culture, so they don't run the risk of mistaking the consent that was given. See, a lot of spiritual people are healers who do a lot of things to get the power to heal. A lot of it is through sacrifice. Once they go through the rituals then they are blessed with the power to do what they are supposed to do. It's really based on a lot of trust between the healers and the spiritual powers that give them the ability to heal. So what I suspect is when a healer shares some of this information with somebody else, it might be bad if that person, say the researcher, takes this information and shows it to even more people. It could offend the spirits, to the point where the spirits might just leave the healer. And it would hurt him spiritually because he is no longer blessed with the spirit beings that gave him the power. That's one thing that could happen. And then the other thing is that there might even be some physical ramifications on him, to where the person might get sick. Or bad things might happen to him: those things where the spirits would communicate their displeasure for what's happening. See that's what researchers need to take into consideration, because the person who heals would know when he is sort of stepping on the toes of the spirits. If somebody shares some intimate information with an interviewer, and he didn't really intend it for other people to read it, well this could affect some members of his family.

When spending time with people from the host community, and when participating in their daily lives, researchers inadvertently learn about issues that are not necessarily related to their research question, for ethnographic research is by its very nature fluid. In addition, the line separating the researcher and the participant blurs. The participants may begin to confide in researchers as they would in friends or relatives. How can researchers ensure that consent is ongoing? It is simply not enough that we seek consent prior to research in accord with existing protocols.

My co-researchers and I discussed four main ethical recommendations that we think need to be added to the existing protocols for obtaining free and informed consent. The main idea that we hope to convey is that there is consent beyond the initial consent, and that it is by negotiating, renegotiating, and confirming consent that one can ensure that consent is truly and fully informed. In discussing these ethical recommendations, our recurrent theme was that collaboration should be ongoing and that research participants should be viewed as active co-researchers. Collaboration, as the spirit of research, will ensure that research is motivated by beneficence rather than by scientific curiosity only.

### **Negotiating Responsibilities Prior to Seeking Free and Informed Consent**

The level of consent must be ascertained by a well-grounded review of the community background before a project is started. Before even entering the community, it is important that the researcher obtain background information about the community's government structure and its social and cultural organization so that the researcher identifies the potential gatekeepers of the research matter, as well as protocols of approach that are culturally relevant, particularly when approaching elders. At the same time, it is equally important to establish a collaborative relationship while the project is being negotiated. Collaboration is necessary in order for researchers and participants to reach an agreement in regard to the nature and purpose of the research and to the ways in which the research should be conducted. Such agreement starts prior to seeking free and informed consent and should enable participants and researchers to learn to relate to one another and to the inquiry in ways that are meaningful to them. This implies that the participants are co-researchers who contribute to the research at different levels, be it the design of the project, the collection of the data, or its interpretation. Co-researchers may contribute to the research in different ways and at different levels, and each participant's voice may be represented in a way that corresponds to his or her own field of competence. Participants must be given an opportunity to voice their opinion when discussing the research agenda. For example, researchers should be open to explore problems faced by Native American communities. Collaboration initiates the process of informed consent.

### **Obtaining Free and Informed Consent from the Relevant Authorities: The Collective and the Individual**

We established that consent develops in stages depending on who speaks authoritatively. For a researcher and a participant to work together, there may

be two different levels of consent involved: that of the participant as an individual and that of another person recognized as the keeper of this particular knowledge. The notion of hierarchy of consent works in conjunction with the notion of “speaking authoritatively”; it is particularly important when dealing with sacred knowledge. Failure to recognize the importance of this notion of authority may harm the participants, particularly when interacting in a spiritual context as argued previously.

When investigating knowledge that the community considers sacred, researchers must get consent from the keeper<sup>38</sup> of this knowledge before seeking consent from various individuals who are willing to become research participants. The idea of sacred knowledge as a group’s intellectual property highlights the distinction that needs to be made between individual knowledge and collective knowledge. When investigating collective knowledge, researchers must obtain collective consent—that is, consent from the custodian of the collective knowledge—before seeking individuals’ consent.

### **Confirming Consent to Ensure that Consent Is Ongoing**

We established that there is initial consent prior to research; then, in the course of the research, consent is to be continually informed by consulting with the participants. Confirming consent implies that the participants have an opportunity to review the research process, to reflect on what they have said, and to suggest corrections. The process can be characterized as a circular process in that the researcher always “goes back” to the source of information to confirm its accuracy and to confirm his or her right to use the data. In this way, the researcher ensures that the participants feel comfortable with the ways in which their stories have been used. The ethical protocol for free and informed consent should recommend an ongoing process that evolves with the inquiry.

Many researchers might object to this recommendation, arguing that important information might be lost in this process. However, can these researchers maintain that this information is worthwhile? It is important that researchers be motivated by beneficence rather than scientific curiosity only when engaging in research activities with humans, especially with Native American communities that have had hardly any opportunity to correct researchers’ misinterpretations.

### **Completing the Circle: Providing the Community with Data**

The researcher’s ethical responsibility to the participants does not end at the conclusion of fieldwork. The participants must be provided with all the information that may be useful or beneficial to them. The circle may be considered complete only when the community is provided with copies of the final report for its assessment. Consent for research means that the researcher has a responsibility to the participants not only throughout the research process, but also after the research has been completed. It is important that the participants give their consent to the way in which the research results are being used and disseminated.

## CONCLUSION

Consent is not just a contract; it is an ongoing process of renegotiation. This process requires confirmation of consent at various stages of the research. Recurrent confirmation is needed to ensure that consent is continually informed. Negotiating free and informed consent in a circular way decenters the researcher's authority and ensures that each participant's voice is represented. This process follows a circle, as the completion of the research is brought back to the point of departure so that each person has an opportunity to review the process, and a chance to be provided with information and data that are useful and beneficial to the community. As a circular process, free and informed consent allows for an evolution in the research while keeping the circle as a basic principle for confirmation.

Native American people are no longer willing to be just subjects of research. Research that is deemed unethical by the people who are the participants puts all of social science at risk. It jeopardizes the credibility of the work and, perhaps most importantly, the access to collectivities and individuals who may still have much to teach us. The ethics of cross-cultural educational research need to be defined within the framework of a universalism that allows for cultural sensitivity. Ethical recommendations for free and informed consent must be followed when doing research with any group, while keeping in mind the specific cultural context in which the research project is being negotiated and the different ways in which consent is being communicated.

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## NOTES

1. See Wes G. Darou, Andrew Hum, and Jacques Kurtess, "An Investigation of the Impact of Psychological Research on a Native Population," *Professional Psychology: Research and Practice* 24:3 (1993): 325-329.

2. See for example Vine Deloria, "Commentary: Research, Redskins, and Reality," *American Indian Quarterly* 15:4 (1991): 300-306.

3. Devon A. Mihesuah, *Natives and Academics: Researching and Writing about American Indians* (Lincoln: University of Nebraska Press, 1998); Caroline B. Brettell, *When They Read What We Write: The Politics of Ethnography* (Westport, CT: Bergin and Garvey, 1993).

4. This paper explores the ethical research protocol of free and informed consent in research involving Native American communities; however, it is important to ensure free and informed consent when researching any group.

5. Danny L. Jorgensen, *Participant Observation: A Methodology for Human Studies* (Newbury Park, CA: Sage Publications, Inc, 1989), 56.

6. Jorgensen's statement refers to the emic view, which is a view from within the culture. Emic analysis refers to an insider's view. The researcher seeks to reach an understanding of cultural representations from the point of view of a native of the culture.

7. Jorgensen, *Participant Observation*, 23.

8. *Ibid.*, 34.

9. Hermeneutic phenomenology is a process of interpreting lived experiences as they appear to consciousness. This process involves the implication of the individual in the process of understanding. See Paul Ricoeur, *Hermeneutics and the Human Sciences* (Cambridge: Cambridge University Press, 1981).

10. James Spradley, *The Ethnographic Interview* (Toronto: Holt, Rinehart and Winston, 1979), 9.

11. George Spindler, *Doing the Ethnography of Schooling: Educational Anthropology in Action* (Prospect Heights, IL: Waveland Press, Inc. 1988): 34.

12. *Ibid.*, 6.

13. *Ibid.*, 7.

14. See Tom L. Beauchamp and Ruth R. Faden, *A History and Theory of Informed Consent* (New York: Oxford University Press, 1986).

15. Denis Elliott and Judy Stern, *Research Ethics: A Reader* (Hanover, NH: The University Press of New England, 1997): 300–301

16. *Ibid.*, 304.

17. *Ibid.*

18. National Commission for the Protection of Human Subjects, *The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects* (Washington, DC: Department of Health, Education, and Welfare, 1979), 3.

19. *Ibid.*, 4.

20. Social Sciences and Humanities Research Council of Canada, *Ethics Guidelines for Research with Human Subjects* (Ottawa: SSHRC, n.d.), 1–10.

21. National Research Council Canada, *Research Involving Human Subjects: Guidelines for Institutes* (Ottawa: National Research Council Canada, 1995): 14.

22. SSHRC, *Ethics Guidelines*, 6–7.

23. National Research Council Canada, *Research Involving Human Subjects*, 14.

24. See for example the American Anthropological Association, "Anthropology Newsletter," 39:6: 19–20.

25. It is interesting to note that this concept of authority was mentioned in 1926 by Bronislaw Malinowski (whereas it has rarely been mentioned in official ethical guidelines). Malinowski highlights the issue of authority in reference to his ethnographic research among a Melanesian group (the Trobriands): "Every story is 'owned' by a member of the community. Each story, though known by many, may be only recited by the 'owner'; he may, however, present it to someone else by teaching that person and authorizing him to retell it" (Bronislaw Malinowski, *Myth in Primitive Psychology* [New York: W. W. Norton and Company, 1926], 21).

26. Clare Brant, "Native Ethics and Rules of Behaviour," *Canadian Journal of Psychiatry* 35 (1990): 535–541.

27. Rupert Ross, *Dancing with a Ghost: Exploring Indian Reality* (Ottawa: Octopus Publishing Group, 1992), 12–67.

28. It is important to recognize that while the ethic of non-interference may be prevalent in Native American interaction patterns, there is a pedagogical system, generally in the form of stories, that enables people to communicate what proper and improper actions are.

29. Ross, *Dancing with a Ghost*, 13.

30. *Ibid.*, 13.

31. Brant, "Native Ethics and Rules of Behaviour," 535

32. Ross, *Dancing with a Ghost*, 45.

33. *Ibid.*, 57

34. Regna Darnell, "The Implications of Cree Interactional Etiquette," in Regna Darnell and Michael Foster, eds., *Native North American Interactional Patterns* (Hull: Canadian Museum of Civilization Mercury Series, 1988), 62–77.

35. Much of the sociolinguistic research among Native communities demonstrates that narratives have the potential for powerful social action. Criticism of others, for example, is accomplished by metaphors rather than direct reference. See, for example, Keith Basso, *Western Apache Language and Culture: Essays in Linguistic Anthropology* (Tucson: The University of Arizona Press, 1990), 111–120.

36. John Searle, *Speech Acts: An Essay in the Philosophy of Language* (London: Cambridge University Press, 1969), 22.

37. The term *Grandfathers* refers to the metaphysical spiritual realm, such as non-physical beings, with whom people feel strongly connected.

38. The notion of "legitimate informants" (or "gatekeepers") is particularly important when dealing with tribal customs such as healing, storytelling, and ceremonies. However, research that focuses on social, political, and health care issues may warrant using participants who are not necessarily on an approved list from the tribal council. The notion of "legitimate informants" would have to be defined in a way that would justify collecting information from tribal members with differing opinions from those of the tribal council. This consideration is, however, beyond the scope of this paper.