THE TREATY OF WAITANGI AND RESEARCH

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1. INTRODUCTION

In their book, "*The Law of Research*" (Editors: John Dawson and Nicola Peart; University of Otago Press, 2003), there is a section that is most relevant to the subject of this Symposium.

The piece, which comprises the book's Chapter 4, "*The Treaty of Waitangi* and Research", is authored by Bevan Tipene-Matua and John Dawson. It beautifully covers the matter of respecting cultural and intellectual property rights of Indigenous people.

The current paper has, as its primary goal, a presentation summarising many of the issues raised by Tipene-Matua and Dawson's (2003) Chapter 4, but, the subject matter of that book cannot be treated in isolation.

To illustrate:

Brown *et al.*, 2012, observe, for example, that "for contemporary Indigenous people, colonial relations (past and present) intersect with neoliberal policies and practices to create subtle forms of dispossession (with) ... the dispossession of land and language threaten(ing) health and well-being and worsen(ing) existing illness conditions... Drawing on the qualitative findings from a program of community-based research ... (they) argue for an account of how neoliberal mechanisms operate to further the "accumulation by dispossession".

A similar situation (in regard to adverse impacts on health) prevails in Australia.

For example, related to the educational disadvantage experienced by Aboriginal children is that of their ear health.

Perry, 2017, in the context of addressing the causes of educational disadvantage, proposes that a national response to the devastating rates of Aboriginal ear disease will boost Australia's ability to close the gap in this area (rather than reviving laws to fine parents whose children do not attend school – as one politician is reported by Taylor, 2017, as suggesting).

We therefore also source a number of other writings, some of which address subjects only indirectly related to the topic which forms the title of our paper.

However, all of them deal with issues that impact upon it and are included with the intent of promoting thought and discussion.

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Among these subjects are matters related to language and education policy in Australia, the home country of the two authors of the current paper, where the first steps have been taken towards the development of a similar Treaty (or Treaties) to that of *The Treaty of Waitangi*. This approach provides the paper with the necessary depth that such a complex area warrants.

2. BACKGROUND

Australia does not have, as yet, a Treaty (or Treaties) with its Indigenous peoples.

However, at least two State governments (those of Victoria and South Australia) have commenced moves towards such ends, and the paper presents some material related to the Victorian steps in this direction.

For a nice articulation of some of the related issues of a Treaty in an Australian context, one may refer to Mansell (2016).

Mansell's (2016) examination underlines how important it is for one to look at a Treaty in relation to many other related issues.

Among a number of strategies, Mansell (2016) proposes the possibility of creating an Australian (Aboriginal) State, a concept that may fit in with some of the approaches to be found in Richard Murray's (2012) work, "A new federation with a cities and regional approach".

Mansell (2016) also suggests the possibility of having an allocation of designated seats in Federal parliament for indigenous people (as is the case in New Zealand for Maori people) but acknowledges that those Aboriginal members of parliament, who were also members of political parties, may feel conflicted as to whom they owe their allegiance. He indicates that one possible strategy that may be implemented, in order to avoid this conflict, may be to prohibit political parties from standing their own preferred Indigenous candidates in seats so designated.

Just recently, the Government of the Australian State of Victoria announced, with a view to advancing self-determination for Aboriginal Victorians, the establishment of the Treaty Interim Working Group (Aboriginal Victoria, 2016), which provides an opening for addressing the issue in Australia.

To this end, Plate 1 presents a substantial extract from one of a set of relevant fact sheets prepared, in this context, by *Sarah Maddison, Kirsty Cover and Coel Kirkby* of the *University of Melbourne* for *Aboriginal Victoria.*The associated caption gives links to the full version of this fact sheet in to this and several other related fact sheets.

Prior to proceeding with our discussion on legal aspects of *The Treaty of Waitangi per se*, we shall refer to Chapter 3 of the 1989 publication, "*Honouring the Treaty. An Introduction for Pakeha to The Treaty of Waitangi*" (Editors: Helen Yensen, Kevin Hague and Tim McCreanor; Penguin Books, 1989) by Tim McCreanor.

McCreanor's (1989) Chapter 3, which draws attention to controversy which arises on account of differences between the English and Maori versions of *The Treaty of Waitangi* text, underlines how important it is to address the difficulty associated with accurately translating the expressions contained in one language into another one that is completely different.

This difficulty is, of course, not unique to the English-Maori pair of languages. Miller (2011), for example, notes that the ancient Hebrew of the Torah "…is really quite impossible to translate into English … because the two tongues differ so radically" on account of each Hebrew word lending itself to "multiple interpretations". This is in contrast to each English word, the meaning of which "is extremely precise".

…..Take the following example from the Torah:

בראשית מא א

וַיְהִי מִקֵּץ שְׁנָתַיִם יָמִים וּפַרְעֹה חֹלֵם וְהִנֵּה עֹמֵד עַל־הַיְאֹר:

וַהֲוָה מִסּוֹף תַּרְתֵּין שְׁנִין וּפַרְעֹה חָלֵם וְהָא קָאֵם עַל נַהֲרָא:

The first line provides the source: *Genesis Chapter 41 Verse.1*; the second line provides the verse in *Hebrew*; and, the third line provides the verse as translated by *Onkelos* into *Aramaic* (Silverstone, 1931; Drazin and Wagner, 2011).

Note that the last word in the *Hebrew* has been variously translated into *English* as meaning *the river*, *the canal* and *the Nile* (there was a network of irrigation canals leading from the Nile of ancient Egypt with the purpose of watering its crops). The word is translated by *Onkelos* into *Aramaic* as *the river*.

It is instructive to note that one of the events commemorated by the *Fast of the Tenth of Teves* is the enforced translation by seventy Jewish sages of the Torah into Greek (on the orders of the Egyptian King Ptolomy II 285 – 246 B.C.E.) because it was "now possible for the unlearned to boast of a superficial, usually erroneous understanding" (Scherman and Zlotowitz, 2010).

In respect to the incorporation of treaty principles into (New Zealand) research law, Tipene-Matua and Dawson (2003) write that "the Treaty's terms may be brought within New Zealand law in a manner making them legally enforceable and binding" (and that) "the principles of the Treaty have become an established and distinctive feature of New Zealand research law (with) … many research agencies now lawfully insist(ing) on 'Treaty-consistency' in their internal structures or processes".

Important to this subject, and especially important to Australian Aboriginal and Torres Strait Islander peoples, is a recent analysis by Marnee Shay (Shay, 2016), "*Seeking new paradigms in Aboriginal education research: methodological opportunities, challenges and aspirations*".

Shay (2016) notes that "it is only relatively recently that Aboriginal peoples in Australia are represented in the academe, creating knowledges that speak for, and not of, us".

Shay (2016) observes how "internationally renowned Maori scholar, Professor Linda Tuhiwai Smith was ground breaking in her use of critical discourses needed for Indigenous peoples globally to reclaim our knowledges and experiences through research".

Crucially, Shay (2016) critically analyses the question: "Are Aboriginal researchers able to conduct research that is motivated by our agendas, ideas and aspirations in a discipline that perpetuates imperialism, racism and exclusion?"

Shay (2016) observes that:

"social racialisation of *White Australia* tells a gatekeeper that they have more knowledge or authority to make decisions on behalf of the vulnerable Indigenous group that they are protecting"

and, quoting Blackmore (2010) and Moreton-Robinson (2003) that:

"the invisible authority that is granted to make such decisions is constituted by virtue of how Whiteness discursively operates to keep Indigenous peoples subordinate thus maintaining the power and privileges that continue to benefit white people and systems".

Whilst the focus of the aforementioned work by Tipene-Matua and Dawson (2003) largely is on the situation in New Zealand, the concerns raised therein about the misappropriation of Indigenous people's traditional knowledge, and its commentary about how such concerns might be addressed - for example, via the adoption of codes of conduct "that ensure Maori consent when collecting and using Indigenous information" - have a much wider application.

After all, many authors around the globe (such as Lehman *et al.*, 2004) have raised "the importance of ethical issues, in the context that past scientific studies have often not sought permission from the original Indigenous owners for the use of cultural heritage".

By contrast, and on a positive note, one may refer to the Indigenous Weather Knowledge (IWK) project (Bureau of Meteorology, 2016):

http://www.bom.gov.au/iwk/about.shtml,

The IWK project was launched in 2002 as a joint partnership between the Bureau, the Aboriginal and Torres Strait Islander Commission (ATSIC) and Monash University's Centre for Indigenous Studies.

Lehman *et al.*, 2004 provide some early background, whilst Deverell (2017) provides an update (refer to Plate 2).

The policy of the Bureau has been that of "meaningful engagement ***with*** (our emphasis)

Aboriginal and Torres Strait Islander people - whether as users of Bureau products and services, or otherwise contributing to, or sharing, knowledge".

In the context of the IWK project, the Bureau therefore sees (as being) central to this intent: "striving to understand, then (to) harness and celebrate, the unique skills and perspectives of Aboriginal and Torres Strait Islander people by working … **_with_** communities who **_wish_** to record and share (also our emphasis) … (their) traditional knowledge".

It is most pleasing to report that the Bureau's 2017 *Australian Weather Calendar* has some very nice elements giving due respect to the knowledge of Indigenous peoples of our country.

In a services context, the Bureau has worked with academia and communities in order to develop an understanding of how better to communicate its warnings of significant weather events to people in remote areas (Goudie, 2004).

Henderson *et al.*, 2017, presents an account of similar efforts in the United States.

Stern (2003) proposes an extension of the multi-lingual feature of a system to automatically generate weather forecasts so that it include Australian indigenous languages.

3. PURPOSE

It is the simple purpose of the current paper to utilise these aforementioned references, and others, as vehicles to promote dialogue at the symposium on the how a treaty with Indigenous peoples and research practices might relate.

4. DISCUSSION

Tipene-Matua and Dawson (2003) describe *The Treaty of Waitang*i as an agreement "between Maori and the British concerning the future of New Zealand as it entered the British Empire".

Specifically with regard to where *The Treaty of Waitangi* intersects Government policy related to research, Tipene-Matua and Dawson (2003) note that the Treaty's "general terms suggest that it is legitimate for laws to be enacted to regulate research in the national interest, but Maori should, in turn, participate fully in the allocation and use of research funds, the State should actively promote research by and for Maori, and Maori should control research within their communities and with their resources".

Tipene-Matua and Dawson (2003) then summarise "the numerous means by which Treaty principles are now incorporated into the legal framework for research" and this summary is, in part, reproduced below:

- o Inclusion of Maori interests within the administrative structure;
- o General legal obligations to consider or promote;
- o Inclusion in legal criteria for making administrative directions;
- o Express requirements of Maori consultation;

- o Inclusion within secondary legislation or agency rules; and,
- o Lawful Ministerial directives to public research agencies.

Specifically on the subject of "Good practice consultation" they write:

"Those involved should enter discussions with the capacity to change their proposal and with the objective of eliciting others' views and responding to them. If this is not the case, then consultation has not occurred; Maori are merely being informed about something that has already been decided upon".

They also address the issue of "voluntary adherence to Treaty principles", noting:

"In the absence of legislative guidance, the obligation to consult Maori may be more a moral than a legal one. But it is still often advisable for researchers to develop relations with Maori by consulting at the outset. As well as potentially benefiting the research, this will help to avoid problems later and cement long-term relationships".

The matter of "Indigenous people's cultural and intellectual property rights" is also considered, with areas needing to be addressed including:

- o The inappropriate use of Indigenous knowledge by researchers;
- o Lack of consultation about that use;
- o Lack of benefits accruing to Maori therefrom; and,
- o Loss of control over Indigenous knowledge.

On the point of language and how it relates to the signing of *The Treaty of Waitangi*, McCreanor (1989) writes: "Clearly Maori understood the Treaty very differently from the British", and observes that "Pakeha historians are agreed on this", quoting Belich (1986):

"Maori chiefs who signed *The Treaty of Waitangi* in 1840 thought they were … guaranteed the free exercise of … their chiefly authority … they ceded only the newly created … governor's authority".

To paraphrase McCreanor (1989):

"In the Maori text, the basic contract required that Maori cede to Britain **_kawanatanga_** (civil government) over their lands while the British promised to guarantee in perpetuity **_te tino rangatiratanga_** of Maori in respect of (the control and management, that is, sovereignty of) their lands, dwelling places and all other possessions.

Rangatiratanga was used by missionaries to represent God's kingdom. The term was also used to mean independence (a key aspect of sovereignty) in the Declaration (of Independence) of 1835. There, and in the title of that document, the term is used to render 'independent state'.

(However,) **_Kawanatanga_** represents both 'sovereign authority' and 'civil government' in the English version. These ambiguities arose from (British Missionary Henry) Williams' simplified translation into Maori of the English original of the Treaty".

For further discussion on this matter, readers may refer also to Orange, 2013; and Crosby, 2015.

However, whereas in New Zealand, notwithstanding difficulties arising from the Maori and English versions of their Treaty being somewhat different, one can only imagine how much more difficult a task do we face in Australia.

After all, Aboriginal people can recall the jailing of their older relatives for simply speaking their language (Grant, 2016). This policy has resulted in many Aboriginal languages being lost, a fact that amplifies any difficulties that may be faced in formulating the terms of a Treaty, especially given the intimate relationship between language and culture.

After all, as pointed out in the cover-piece of Ilan Stavans 2008 publication, *Resurrecting Hebrew*: "The resurrection of (the) Hebrew (language) raises questions about the role language plays in Jewish survival".

Similarly, the (Australian) House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, in its findings from the inquiry, into language learning in Indigenous communities of September 2012, *Our Land Our Languages*, found that language is inseparable from culture, kinship, land and family and is the foundation upon which the capacity to learn, interact and to shape identity is built.

The Committee consistently heard that the key to developing competency in Standard Australian English was for the child to be taught bilingually, with the first language used as the basis for learning in the earliest years and recommended resourcing bilingual school education programs for Indigenous communities where the child's first language is an Indigenous language (traditional or contact).

Paton, Eira with Solomon-Dent (2011) outline a strategy for language revival planning. For an illustration of a practical application of the foregoing, you may wish to refer to a paper (Redpath and Wright, 2016), and also to the associated 'app', which was presented to the 2016 Annual Conference of the Australian Association for Research in Education (AARE).

To its credit, this relationship between language and culture has been recognised by the Government of the Australian State of New South Wales (NSW) and Plate 3 presents a copy of a media release on this matter, which proudly proclaims:

"NSW will become the first State in Australia to introduce landmark legislation legislation to protect traditional Indigenous languages and to establish an Aboriginal Languages Centre to support community-led revival efforts".

Klenowski (2016), notes that Indigenous students in some regions speak several languages and/or dialects.

However, this has resulted in a misinterpretation of their performance on the National Assessment Program – Literacy and Numeracy (NAPLAN).

Their performance on NAPLAN tests may be misinterpreted as an inability to complete the test when, in fact, the student might not understand the test question because of language differences (thereby threatening the validity of the NAPLAN tests).

(Consequential) streaming of Indigenous students and deficit views of Indigenous students and their families have impacted student motivation, further threatening their validity.

Nevertheless, Michael McKenna (2016), perhaps in a demonstration of what might be achieved, were Aboriginal people to be genuinely involved in policy making related to the education of their children, reports that "One of the three Cape York schools using Noel Pearson's *direct instruction* curriculum claims to have scored the best Year 3 NAPLAN results of any Indigenous school in Queensland".

With a suggestion that is related to Pearson's *direct instruction* approach in the sense in which the *Classical Statistical Method* operates, Stern (1996) proposes that "foreigners initially learn to read Chinese characters in the same manner as native born Chinese do – from their own native (non-Chinese) tongue *directly* to character interpretation, and so not to have the distraction of firstly having to learn one or other of the various spoken dialects.

5. KEY RECOMMENDATIONS

Tipene-Matua and Dawson (2003) provide a way forward and, to this end, make a number of suggestions as a guide to possible future directions, *all of which might be seen as being relevant to other jurisdictions*, including:

- o Adopting codes of conduct that ensure Maori consent is obtained when collecting and using Indigenous information;
- o Expanding the level of accountability to Maori;
- o Inclusion of Maori in research proposals;
- o Establishing mutually beneficial research relationships;
- o Revising relevant legislation concerning the governance of universities;
- o Public funding ring-fenced for Maori researchers; and,
- o The development of recognised codes of ethics for research affecting Maori.

Shay (2016), in writing "Indigenous researchers identify research problems and conceptualise research based on our diverse experiences as Indigenous peoples" proposes:

"That Indigenous researchers need to continue to contribute to methodological and theoretical research literature through writing about our lived experiences as Indigenous researchers, providing insights for opportunities to overcome challenges and bring forth aspirations that exist in our communities".

Shay (2016) concludes:

"Finally, we need to create a body of scholarship that speaks to Indigenous researchers and provides practical solutions for the real issues that exist" (and that) "the current Indigenous education focus on "Closing the Gap" must include the contribution that Indigenous researchers can make in solving complex issues created by colonialism."

A review by Dang *et al.* (2015) "draws attention to the persistent under-representation of Aboriginal and Torres Strait Islander people in general higher education and particularly in business education". The review proposes causes. These range from "financial issues, lack of university readiness to issues involving living in remote communities … (to) … cultural issues in the hidden curriculum dominated by Western practices and knowledge systems, a lack of cultural safety in higher education institutions and complex issues involving educational pathways of university participation and engagement".

Implementation of the following steps are recommended by Deng *et al.* (2015):

o Strategies that incorporate and highlight differences in Indigenous and western views of business as a discipline and a profession by including relevant mentors and role models;

o A stronger focus on building the capacities of schools in the process of fostering university – school partnerships;

o Giving priority to students from remote areas and first in the family to attend university;

o A stronger focus on activities involving Aboriginal and Torres Strait Islander communities throughout the whole process;

o Understanding and incorporating Aboriginal and Torres Strait Islander cultural differences into business studies (especially given the apparent lack of engagement and research in the business disciplines).

Finally, it appears appropriate to adopt the policy recommendations from the (Australian) House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, of September 2012, *Our Land Our Languages*, especially that relating to:

o Resourcing bilingual school education programs for Indigenous communities where the child's first language is an Indigenous language (traditional or contact).

7. CONCLUDING REMARKS

In conclusion, our paper has provided a brief overview of some of the legal and policy issues that arise in the area of research from *The Treaty of Waitangi*.

With the first steps having been taken towards the development of a similar Treaty (or Treaties) in Australia, we have also attempted to open discussion on some related policy issues (especially education policy and language policy) in that country.

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1 What is a treaty?

A 'treaty' is an agreement between states, nations or governments, and can include an agreement between Indigenous peoples and governments. Treaties made between Indigenous peoples and governments are not international agreements in the way that treaties between countries are, but they are still documents of considerable legal and moral force.

Aboriginal people must first agree on the purpose of a treaty before deciding if and how to make one, and what it should contain. Since there is no history of treaty-making in Australia, Victorians have a unique opportunity to craft their own treaty suited to their needs and desires, and their own concepts of justice.

There are three main limitations on treaties in Victoria:

1. The parties must agree on what is necessary and just.
2. As a state within the Commonwealth, the Victorian Government can only agree to what is within its own constitutional powers.
3. As one state within the Federation, Victoria can only advocate for what is included in a national treaty.

2 What types of treaties and agreements already exist?

HISTORIC TREATIES

The British and colonial governments made many treaties with Indigenous peoples in Canada (up to 1920), New Zealand (in 1840) and the United States (up to 1871). These documents recognised that Indigenous peoples existed before the British Crown asserted its sovereignty over their territory and that they had property rights to their traditional lands. Often, Indigenous peoples ceded rights to part of their land in return for financial and other benefits, such as annual money payments and services, and the protection of Indigenous hunting and fishing rights. Some historic treaties also contained a promise to recognise some form of Indigenous self-government.

MODERN TREATIES AND OTHER FORMS OF AGREEMENT

Modern treaties and treaty-like agreements have been made in the following countries–including Australia. Since the 1970s the Canadian federal and provincial governments have been making comprehensive land agreements with First Nations without historic treaties. The US federal government continues to make 'nation-to-nation' agreements with recognised Indian tribes.

In New Zealand the principles of the Treaty of Waitangi apply to most aspects of the relationship between the government and Maori. Treaty principles must be considered in the development of policy and legislation, and the principles also guide the interpretation of statutes. The New Zealand government has committed to settling historic and contemporary claims about the breach of Treaty principles.

In Australia there is no history of treaty-making, but there is one of making agreements that cover some of the same ground as treaties in other countries. In addition to the many agreements made under the Commonwealth's *Native Title Act 1993*, several states have made agreements with Aboriginal and Torres Strait Islanders on specific issues like land management. In South Australia, for example, the *Kungun Ngarrindjeri Yunnan Agreement 2009* between the South Australian government and the Ngarrindjeri Regional Authority to establish a relationship of recognition and consultation (for more examples (www.atns.net.au/).

In Victoria the *Traditional Owner Settlement Act 2010* provides a framework for resolution of native title and compensation claims, plus a package of broader benefits, via direct negotiation between the Government and Traditional Owner groups. Any future agreements would need to take into account any existing agreements.

3 Who makes a treaty?

Aboriginal people will need to decide (i) who will sign on to the treaty and (ii) how they will be represented in the treaty-making process. Once a treaty has been written, representatives will have to take the treaty back to Indigenous people to get their final approval.

All treaties have at least one Indigenous party and at least one government party, but it is possible to have multiple parties to a single treaty. Aboriginal Victorians can negotiate through national or regional representative bodies, through the representatives of their nation, Traditional Owner group, community, people, or through another collective form. Governmental parties may include state governments, or both the state and federal governments. Other entities (such a local governments) are usually not party to the treaty, but may be part of specific agreements that come out of a treaty. For more information, see the Representative Structures factsheet.

4 How do you make a treaty?

Parties negotiate and agree on the text of the treaty. In the last decade, Governments and Aboriginal people have developed practices and institutions for agreement-making, including agreements under with the *Native Title Act 1993* (Cth) and *Traditional Owners Settlement Act 2010* (Vic). These could provide a starting point for a treaty process that could work in Victoria. The negotiation process may be informal or structured. Most treaty-making processes have three main stages.

First, parties must agree on how the process will proceed and on the principles that will guide them in their negotiations. The parties must decide whether negotiations should be open and flexible, or more formal with rules and principles. In general, a more formal process has more certainty but less flexibility.

Second, parties must negotiate a treaty within this process. Successful negotiations require sustained political commitment and adequate financial support over a period of years. Treaties are often negotiated in stages, starting with a broad framework and then moving on to a more detailed document. Some matters are quickly agreed on, but others can be very difficult and even impossible to resolve. It is important that the parties agree in advance on how to deal with deadlocks.

Third, parties must now manage their relationship within the new treaty framework. They will be accountable to their communities and to each other, and must resolve any disputes through the agreed process.

5 What does a treaty say and do?

A treaty is an agreement that can say and do anything that the parties agree on within their respective powers. Aboriginal people will need to decide what they want from a treaty keeping in mind the limitations on the Victorian Government.

(i) RECOGNITION AND RECONCILIATION

Treaties can provide for recognition and reconciliation between Aboriginal people and federal and state governments. Symbolic forms of recognition can include an acknowledgement of historic Indigenous sovereignty, sacred sites, place names, recognition of historic wrongs, official apologies, and statements about how the relationship should evolve in the future. Practical forms can include the recognition of on-going Indigenous self-government, land rights, language rights, law-making powers, financial compensation or land grants, and other resource rights, such as rights to use and protect traditional land, as well as financing (including special tax arrangements) to fund these rights and responsibilities. Both forms of recognition are important.

(ii) SELF-GOVERNMENT AND SOVEREIGNTY

A treaty can consider whether Aboriginal people will manage some things by themselves, or in co-operation with federal and state governments. The challenge is to decide which party is best placed to manage specific responsibilities. In Canada, New Zealand and the United States, self-governing Indigenous peoples often have jurisdiction over matters like minor violations of civil and criminal law, family law, local forests and fisheries, natural resource management, sacred sites, language and culture.

The meaning of 'sovereignty' is contested. Countries are sovereign in international law and as a consequence are entitled to make decisions about domestic affairs without interference from other countries or international entities. However, treaties between Indigenous peoples and governments in Canada, New Zealand and the United States all recognise and give effect to the idea of shared sovereignty with Indigenous peoples in different ways.

(iii) LAND AND RESOURCES

Treaties can provide for the recognition of Aboriginal people's rights to land, responsibility for land, and authority to manage land and resources.

There is a vast wealth of experience in land and resource management in Australia and abroad. In Victoria this experience includes the native title settlement processes under the *Traditional Owner Settlement Act 2010* (Vic). There are more comprehensive agreements, like the Kungun Ngarrindjeri Yunnan Agreement, elsewhere in Australia.

(iv) MANAGING THE RELATIONSHIP

Choosing to make a treaty will change the relationship between Aboriginal people and the Government. All parties have rights and responsibilities in this on-going relationship. They are also accountable to themselves and their members. Any disputes should be resolved through an agreed process.

REFERENCES

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Office of Treaty Settlements (NZ), 'Healing the Past, Building a Future: A Guide to Treaty of Waitangi Claims and Negotiations with the Crown', https://www.govt.nz/assets/Documents/Red-Book-Healing-the-past-building-a-future.pdf.

PLATE 1 An extract from a fact sheet entitled *Treaty Fact Sheet*, one of a set prepared by *Sarah Maddison, Kirsty Cover & Coel Kirkby* of the *University of Melbourne* for *Aboriginal Victoria*. This fact sheet is available, in full, at: http://consult.aboriginalvictoria.vic.gov.au/Open-Meeting/documents/34862/download
The other fact sheets are:
Representative Structures: http://consult.aboriginalvictoria.vic.gov.au/Open-Meeting/documents/34860/download
Self-Determination: http://consult.aboriginalvictoria.vic.gov.au/Open-Meeting/documents/34861/download
Each of the fact sheets include the following statement: *These fact sheets have been prepared to support conversations with the community about self-determination. Nothing contained in these fact sheets should be taken as legal advice or a statement of policy or intent by the Victorian Government*".

Community Engagement

CE1 - Traditional weather and climate knowledge

Convenor: Jeremy Deverell (Bureau of Meteorology)

Indigenous and First Nation peoples throughout the world have developed an intricate understanding of weather and climate phenomena, together with knowledge of a diverse range of natural climate indicators. There are many communities throughout the world that remain reliant on traditional and or locally based weather and climate indicators and observations to forecast changes in the environment around them. This knowledge has been passed down and built upon through cultural practices over millennia, but is now at risk due to a number of factors, including Western cultural encroachment. There is growing recognition in academic literature of traditional knowledge in fields such as ecology, astronomy and climatology. Recording weather and climate phenomena is a relatively recent development and traditional knowledge can provide valuable insight into significant historical events.

This special session investigates the interface between Western scientific practices and traditional cultural knowledge. The research presented primarily covers traditional knowledge and, importantly, building positive relationships with traditional knowledge holders and their communities.

Abstract

The Bureau of Meteorology's Indigenous Weather Knowledge Website [http://www.bom.gov.au/iwk/] was formally launched in 2002 by the Hon. Sharman Stone, who was then the Parliamentary Secretary to the Minister for the Environment and Heritage [http://www.sbs.com.au/news/article/2002/12/26/indigenous-weather-website-launched]. It was a joint partnership between the Bureau, the Aboriginal and Torres Strait Islander Commission (ATSIC) and Monash University's School of Geography and Environmental Science and Centre for Australian Indigenous Studies (CAIS).

Some early background material regarding the website is summarised in an early paper that was presented to the American Meteorological Society's 2004 Annual Meeting by Lehman et al. [http://ams.confex.com/ams/pdfpapers/66356.pdf], but the primary aim of the current paper is to provide an update regarding the Indigenous Weather Knowledge Website's more recent developments.

One link on the site takes visitors to an overview of the relationships between language, culture and environmental knowledge and provides context for the website. The overview notes that "Aboriginal and Torres Strait Islander people have developed an intricate understanding of the environment over many thousands of years ... (and that) ... Aboriginal people developed unique methods of living which enabled life and community to flourish in even the harshest environments and have allowed the sustained development of the world's oldest continuing culture."

A second link on the site enables visitors to learn more about the Indigenous Weather Knowledge project itself. Visitors are informed that "the site is a formal recognition of traditional weather and climate knowledge that has been developed and passed down through countless generations by Australia's Aboriginal and Torres Strait Islander communities".

Here, visitors may also read of the "Bureau of Meteorology's commitment to strengthening respectful and collaborative relationships with Aboriginal and Torres Strait Islander people. For the Bureau, reconciliation means meaningful engagement with Aboriginal and Torres Strait Islander people – whether as users of Bureau products and services, or otherwise contributing to or sharing knowledge with the Bureau. Central to this intent is striving to understand, then harness and celebrate the unique skills and perspectives of Aboriginal and Torres Strait Islander people. Through the Indigenous Weather Knowledge Website, the Bureau is working with communities that wish to record and share valuable seasonal cultural information and traditional knowledge".

On the site is a map of Australia with a number of regions highlighted. Visitors may access information related to the respective seasonal calendar for each of these regions via this map. When first launched in 2002, the website provided seasonal calendars for just two localities. Now, there are links to seasonal calendars for more than ten.

PLATE 2 Abstract for a paper to be presented by Djarra Delaney and Ceredwyn Ealanta of the Bureau of Meteorology at the forthcoming Australian Meteorology and Oceanographic Society/Meteorology Society of New Zealand Annual Conference/Australia New Zealand Climate Forum (Canberra 7-10 Feb., 2017) in a session with a similar theme to our own Symposium.

NSW first in Australia to protect Aboriginal languages

Media release

16 November 2016

NSW will become the first state in Australia to introduce landmark legislation to protect traditional Aboriginal languages and establish an Aboriginal Languages Centre to support community-led revival efforts, Minister for Aboriginal Affairs Leslie Williams has announced.

Mrs Williams said the NSW Government will develop a bill that will explicitly recognise that Aboriginal people are the owners of their traditional languages, while giving higher priority to government efforts to support the protection of these languages for future generations.

"Aboriginal people have told us language is indivisible from their identity and we have listened – the cultural inheritance of our Aboriginal communities is too precious to be lost," Mrs Williams said.

"Two hundred years ago there were 35 Aboriginal languages and about 100 dialects spoken. Today, all Aboriginal languages are critically endangered.

"Research shows that Aboriginal children learning a language do better at school and language renewal strengthens communities."

Mrs Williams said Aboriginal Affairs NSW will undertake consultation with Aboriginal language experts and the broader community to inform development of the bill before it is introduced to Parliament in 2017.

"We respect the diversity of opinions within Aboriginal communities and we welcome passionate debate on how best to achieve our shared goal of reviving traditional languages," Mrs Williams said.

For more information please visit www.aboriginalaffairs.nsw.gov.au ↗.

PLATE 3 Media release from the Government of New South Wales on plans to introduce legislation to protect Aboriginal languages.