

NGĀ TOKI WHAKARURURANGA

#2. THE THREAT OF FREE TRADE AGREEMENTS TO MĀORI DATA SOVEREIGNTY (July 2024)

Ngā Toki Whakarururanga's commitment to a Tiriti-based Kaupapa aims to ensure that international free trade agreements preserve the rangatiratanga of Māori within a digital world.

Māori data are a living taonga that represent Māori identity, culture, language, and whakapapa. In a practical sense, Māori data are everywhere Māori are. The Waitangi Tribunal in the [Wai 2522 claim](#) on the Trans-Pacific Partnership Agreement (TPPA) said governance and control of Māori data involves

matters fundamental to Māori identity, such as whakapapa, mana, mauri and mātauranga. ... Perhaps the most fundamental of te Tiriti/the Treaty guarantees to Māori is of the right to cultural continuity. This is nothing less than the right to continue to organise and live in Aotearoa New Zealand as Māori in accordance with tikanga Māori. (180-2)

Why this is relevant to you!

Because our whole world is now digital, we need to be vigilant around the use of Māori data and its protection as taonga. But how to do that, given the presence of tech in every part of our lives? How can Big Tech be held accountable when it operates and holds our data offshore? How do we even find out what happens to our data after we hand it over?

The threat of Big Tech

Often we focus on the state's collection and (ab)use of data about Māori, for example by police, spy agencies or the census, and ignore the equally large threat of Big Tech companies like Meta (Facebook, Instagram, Whatsapp), Alphabet (Google, gmail, YouTube) and ByteDance (TikTok) that mine data from all our online activities.

These Tech titans have built their global dominance and mega-profits by accumulating masses of data they then use to build ever-more-powerful algorithms that drive their platforms and sell our data to others. Yet we regularly hand them that taonga (our data) without a second thought because of the convenience and connectedness they provide, whether we're ordering an uber, watching a TikTok, catching up with whānau on Facebook, or searching for something on Google.

Is data really that valuable?

In 2024 [Big Tech's](#) Microsoft, Apple, Alphabet, Amazon and Meta were 5 of the 7 richest and most powerful companies in the world. The key to their profits and power is the control of data. It's a circular power game: the more data they have, the more sophisticated their systems can be and the more dominant they become. They aim to collect data from anywhere in the world, including Māori data from Aotearoa, hold it wherever they choose, use it however they choose, and sell it to third parties to use without any consent from those who the data belongs to.

Data practices that violate tikanga

Dr Karaitiana Taiuru (Ngāi Tahu, Ngāti Kahungunu, Ngāti Toa), a Pūkenga of Ngā Toki Whakarururanga, reminds us that Māori society always was, and is still to a large extent, [a knowledge society](#), governed by tikanga. That knowledge and information was, and is, to be shared under strict circumstances within appropriate people whose whakapapa and mana means they have been trained in certain knowledge. But that is not how Big Tech and the digital ecosystem operate today. Clear examples of data practices that breach tikanga or tapu are

- scanning Māori faces on the street and building profiles through algorithms that are likely to target Māori;
- extracting DNA from pinpricks when babies are born without consent and then mixing it with others;
- storing of data about the living with data about the dead;
- tick-boxes for “consent” that assume an individual has the power to make decisions that involve whakapapa;
- mining our online use of te reo so that ChatGTP can be trained to write “in Māori”;
- cookies lodged in your phone or laptop without you realising to capture your online activities;
- use of your mobile data to track your key contacts.

Calls for Indigenous data sovereignty

This reality has fuelled calls for Māori digital governance and Māori data sovereignty. Dr Taiuru describes [Māori Data Sovereignty](#) as

“the inherent rights and interests that Māori, whānau, hapū, iwi and Māori organisations have in relation to the creation, collection, access, analysis, interpretation, management, dissemination, re-use and control of data relating to Māori, whānau, hapū, iwi and Māori organisations as guaranteed in He Whakaputanga and Te Tiriti and the recognition of rights in the United Nations Declaration of the Rights of Indigenous Peoples.”

This call is not unique to Māori. For example, the UN Rapporteur on Privacy has called for Indigenous Data Sovereignty and Governance over [health-related data](#), citing the UNDRIP. A Global Indigenous Data Alliance has developed [four principles](#) to anchor the governance of Indigenous data: *Collective benefit* from the data for Indigenous Peoples; empowering Indigenous authority to *control the data*; *Responsibility* to share the use of data to support Indigenous Peoples’ self-determination and collective benefit; and *Ethics*, that Indigenous Peoples’ rights and wellbeing should be the primary concern at all stages of the data life cycle and across the data ecosystem.

Free trade agreements threaten Māori data sovereignty

These solutions are already limited by “digital trade” rules secured by Big Tech in free trade agreements that allow them to transfer data they capture to anywhere in the world with no accountability. They oppose even having to hold a copy of data in the country where data is sourced. That includes Māori data! Some agreements have exceptions, but what this allows is very uncertain. These rules have been agreed in a growing number of agreements. The Waitangi Tribunal [agreed](#) that these data rules in the Trans-Pacific Partnership Agreement (TPPA) fail to provide active protection for Māori responsibilities and rights over data and the potential adoption of a Tiriti-based system of Māori data sovereignty and digital governance.

Check us out at ngatoki.nz/kaupapa/digital/ and join us in turning back this tide!