# Paradigm Initiative's Response to the Call for Inputs: Study on "Indigenous People's right to data, including data collection and disaggregation."

Paradigm Initiative (PIN) works to connect underserved young Africans with digital opportunities and ensures the protection of their rights. Across our regional offices in Kenya, Nigeria, Senegal, Zambia, Zimbabwe and Cameroon, PIN works to connect under-served African youth with improved livelihoods through digital inclusion and digital rights programs. PIN advocates for the promotion and respect of digital rights and inclusion to ensure an enabling environment for human rights. Given this mandate, PIN submits below in response to the call for input on the study on "Indigenous People's right to data, including data collection and disaggregation."

1. **Analysis of international human rights law and jurisprudence**

*Recommendations*

- Data held by public institutions and other bodies receiving public funds or pertaining to the use of public funds, or where there is an overriding public interest in access to private data holdings should be made publicly accessible, by default, in line with the principle of maximum disclosure and in an open, timely, comprehensive, and transparent manner, including in machine-readable formats and in accordance with human rights standards for personal privacy.
- In our interconnected world, upholding principles of data equity, ethics, transparency, environmental protection, feminism, anti-colonialism, and inclusivity is crucial for harnessing data's transformative potential.
- Standardised data formats and protocols should facilitate data sharing and collaboration, ensure compliance with human rights, and promote equitable data governance.

2. **Challenges to data collection and disaggregation concerning Indigenous Peoples**

   All researchers ought to be duty-bound to the principles of ‘epistemic justice’, ensuring data collection, analysis and dissemination is not exclusionary, particularly to those it centers, analyses, and cements. Data collected especially from Indigenous communities is often collected at the expense of vulnerable communities, particularly indigenous groups in Global South territories. These communities have low negotiating power, and solutions coming from the said data is often “delivered” to them rather than co-created. This is often due to a lack of balance between ‘globally relevant’ language and ‘locally resonant’ ways to meet the greatest challenges around data inclusion. Further, often it is researchers and actors from the Global North and elitist groups that take credit for the solutions that come from data collected in marginalised communities. It is this data that is used to tell stories of impact, fundraise, change and shape policy and very rarely is value given to the data subjects.

   In the context of Artificial Intelligence, automated decision-making processes, can reflect underlying social biases reinforcing structural inequalities. As such, barriers and entrenched inequalities continue to obstruct data’s potential to enhance lives, adversely affecting many individuals belonging to disadvantaged groups.

   *Recommendations*

   By implementing effective safeguards, such as regular audits and clear documentation of algorithms and data sources, we can better understand and mitigate such biases.

   Establishing oversight mechanisms to hold data custodians accountable is essential. Independent oversight bodies are vital in promoting trust and confidence in data governance frameworks. Oversight bodies should monitor and evaluate data governance practices, providing essential support through transparency measures and public audits to ensure accountability and build trust in data systems.

3. **Data on Indigenous women**

The issue of data collection for Indigenous women is a delicate balance between making sure that states and entities ensure they are included in the process and that the data subjects are not exposed to more harm in case data provided gets to the wrong hands. Principles of data minimisation should therefore be emphasized. Access to data must be

balanced with protecting personal privacy and safeguarding sensitive information, necessitating measures for accountable handling, storage, and transmission in compliance with privacy laws and technical security protocols. restrictions on access, and the application of harm and public interest exceptions to access, should only apply to sensitive and personal data while all other types of data should be openly accessible.

Open data initiatives and promoting data as a public good can foster innovation, encourage collaboration, and empower the public to engage actively in governance and decision-making. These can also support the design and evaluation of progress toward achieving the Sustainable Development Goals.

## 4. Data and Sustainable Development

Reliable data is the cornerstone of sustainable development. The principle of "who translates, betrays" highlights the potential distortions when data is interpreted without full context or cultural understanding. This underscores the importance of recognizing and mitigating statistical biases, especially when dealing with diverse populations. The UN Statistical Commission emphasizes that disaggregated data is essential for achieving the Sustainable Development Goals (SDGs), ensuring that marginalized communities are not left behind.

Understanding the original data systems of indigenous peoples is crucial. These communities often have unique ways of recording, interpreting, and valuing information that differ significantly from conventional statistical methods. The Indigenous Data Sovereignty movement, led by organizations such as the Global Indigenous Data Alliance (GIDA), advocates for data governance frameworks that respect indigenous knowledge systems. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) also affirms their right to control data concerning their identity, community, and resources.

Indigenous peoples frequently maintain a deep connection with their environment. Their concept of socio-economic development often does not align with standard models, which typically emphasize industrial growth and economic metrics. Instead, their development paradigms prioritize environmental sustainability, cultural preservation, and community well-being. Research from the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) has found that indigenous land management practices significantly contribute to biodiversity conservation. The impacts of climate change are particularly relevant here, as they directly threaten the natural balance that indigenous communities depend on for their livelihoods and cultural practices.

Governments and organizations must move beyond mere inclusion efforts. It is not enough to simply involve indigenous populations in data-related activities; there must be a genuine effort to integrate their perspectives and respect their data sovereignty. This

involves adopting indigenous methodologies, valuing traditional knowledge, and ensuring that data practices do not undermine their autonomy or cultural integrity. The CARE Principles for Indigenous Data Governance (Collective Benefit, Authority to Control, Responsibility, and Ethics) provide a framework for ethically managing indigenous data.

Linking these considerations to the SDGs reveals the risks of dominant statistical trends that can obscure the realities of marginalized groups. When data is aggregated without attention to detail, it can mask disparities and perpetuate inequalities. For example, a study by the World Bank found that aggregated economic indicators often fail to reflect the economic exclusion faced by indigenous communities. Therefore, it is essential to promote disaggregated data that reflects the diverse experiences of all communities, ensuring that sustainable development efforts are truly inclusive and effective.

## 5. Data and the right to self-determination

In the digital age, data has emerged as a cornerstone of power, influence, and autonomy. The right to self-determination, historically rooted in political sovereignty and cultural identity, now extends into the digital realm, where data governance plays a pivotal role. Data is not just an abstract collection of numbers and facts; it embodies the personal, economic, and political narratives of individuals and communities. Thus, the control, ownership, and management of data have become critical to ensuring that individuals and nations can exercise genuine self-determination.

At the individual level, self-determination in the context of data means having the autonomy to decide how one's personal information is collected, used, and shared. This includes informed consent, data privacy, and the right to be forgotten, as enshrined in the European Union’s General Data Protection Regulation (GDPR). Without these protections, individuals risk becoming mere data points exploited for commercial or political gains, stripped of their agency and dignity. The African Union’s Malabo Convention on Cyber Security and Personal Data Protection also seeks to protect individuals’ data rights across the continent.

On a broader scale, for communities and nations, data sovereignty is integral to maintaining cultural integrity and economic independence. Countries must have the authority to regulate data flows, protect local digital ecosystems, and develop policies that reflect their unique socio-political contexts. In many parts of the Global South, the lack of robust data governance frameworks has led to digital colonization, where foreign entities control significant data infrastructures, undermining local autonomy. For example, research by the Oxford Internet Institute highlights how major technology companies dominate data collection in Africa, raising concerns about digital dependency and surveillance capitalism.

The intersection of data and self-determination also raises critical ethical questions. Who owns the data generated by communities? How can marginalized groups ensure their data is not misused? Addressing these issues requires inclusive data governance models that prioritize transparency, accountability, and community participation. It also necessitates international cooperation to establish norms and standards that respect the data rights of all peoples, regardless of their geopolitical standing. The UN Secretary-General's Roadmap for Digital Cooperation calls for global frameworks to ensure that data governance respects human rights and equitable development.

In conclusion, safeguarding the right to self-determination in the digital era demands a reimagining of data governance. It is about empowering individuals with control over their personal information, enabling nations to protect their digital sovereignty, and fostering a global data ecosystem grounded in equity, justice, and respect for human dignity. Governments, civil society organizations, and international institutions must work collaboratively to develop policies that ensure data serves the collective good rather than reinforcing existing power imbalances.

6. **Data and the right to free, prior and informed consent**

Free, Prior, and Informed Consent (FPIC) is a fundamental right of Indigenous People that emphasises their participation in decisions that affect their communities, territories, and rights. The right was recognised with the adoption of Resolution 1/2 of 29 June 2006 in September 2007, by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples. The Declaration on the Rights of Indigenous Peoples (the Declaration) sets the minimum standards for the survival, dignity, security, and well-being of Indigenous peoples worldwide, emphasising their right to maintain their unique identities.

In Namibia, the ovaHimba and San communities decry the modernisation of their culture online and call for the involvement of indigenous elders in the digitalisation process of cultural expressions to safeguard their data on their traditional knowledge and practices. However, the use of Artificial Intelligence in content moderation presents further challenges for indigenous people as data on indigenous people is often limited resulting in contextual biases. Content moderation practices have been biased towards the ovaHimba community. On January 9, 2025, the Oversight Board issued a call for comments on cases involving indigenous people and their data after Meta removed content with bare-breasted ovaHimba women from Namibia and Yanomami women from Brazil on the context of violating Meta's Adult Nudity Policy. The conflict between culture and content moderation policies undermines indigenous people's rights.

The United Nations Scientific and Cultural Organisation published a research to foster culturally sensitive technological development, prevent inappropriate cultural adoption

and ensure the data sovereignty of over 800 Indigenous Peoples in Latin America and the Caribbean. The research spotlights how Mexico, among others, initiated an AI pilot project to streamline learning and fortify the promotion of Tu'un Savi, the third most spoken national indigenous language.

7. **Data and participation**

On 8 September 2017, the General Assembly adopted resolution **A/RES/71/321** entitled Enhancing the Participation of Indigenous Peoples' Representatives and Institutions in Meetings of Relevant United Nations Bodies on Issues Affecting Them. South Africa has made strides in recognising indigenous rights through its Protection of Personal Information Act (POPIA) which requires all organisations that collect and use personal information to take appropriate measures to protect it from unauthorised access, use, or disclosure. To collect and use indigenous people's data in South Africa, the development of data-sharing agreements is becoming normalised which can also be adopted for issues that involve digital data governance. The agreements acknowledge the contribution of indigenous people, enabling them to participate in the collection and dissemination of their data.

8. **Indigenous data governance and sovereignty**

Article 31 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), enshrines the right Indigenous peoples have to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions (collectively Indigenous Cultural and Intellectual Property). Indigenous Data Sovereignty (IDSov) challenges historical norms of assigning the ownership of data to the collector and researcher and places Indigenous people as owners of data. In South Africa, the discussion on Indigenous Data Sovereignty has resulted in the use of data-sharing agreements to get consent and maintain agency around Indigenous Data. In November 2019, a landmark benefit-sharing agreement was established between the Khoi and San peoples and the rooibos tea industry in South Africa, ensuring that a portion of profits from the multimillion-dollar rooibos tea sales benefits the Khoi and San communities.

Article 3 of the World Intellectual Property Organisation (WIPO) Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge Agreement (WIPO treaty) seeks to prevent the misappropriation of genetic resources and traditional knowledge by ensuring transparency and accountability in the use of these resources. However, women in Kenya are disadvantaged as they are deemed as beneficiaries rather than co-creators of Artificial Intelligence systems despite their expert contributions in curating precision agriculture and smart farming applications. The women who hold expert knowledge on land, plants and soil through generational small-holder farming practices are not acknowledged as contributors. Their lack of recognition highlights the

lack of accountability and transparency in ensuring collective benefit for indigenous communities in line with the CARE principles on Indigenous Data Governance.

*NB: For any further comments, PIN is reachable via an email submitted to partners@paradigmhq.org*