

The Ethics of Archaeology Documentaries

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Abstract

Archaeology documentaries are an essential tool in the communication of archaeology to the public. It is in the interests of the discipline to ensure that archaeological research is portrayed accurately and ethically. Various professional archaeology organisations have developed voluntary codes of ethics for their members, yet documentary filmmakers are not bound by an established code of professional ethics. This study investigates whether archaeological codes of ethics can apply to filmmakers of archaeology documentaries, with a specific focus on films with underwater cultural heritage (UCH) subjects.

This study also seeks to explore specific ethical considerations. It looks at the range of key stakeholders in archaeology documentaries, including participating archaeologists, the cultural stakeholders of the heritage site (eg. survivors of wreck events, descendants of individuals involved, and affiliated contemporary cultural groups), organisations with heritage management responsibilities, members of the public and interest groups. The concept of "truth" and its representation in film is discussed, as is the impact of filming on the conservation of UCH sites.

Introduction

Archaeology documentaries are an essential tool in the communication of archaeology to the public. It is in the interests of the discipline to ensure that archaeological research is portrayed accurately and ethically. Documentaries aim to communicate a message in an engaging way to a broad audience. The purpose of this paper is to investigate the nature of ethical collaboration between archaeologists and documentary filmmakers. This study looks at the three fundamental ethical considerations in archaeology documentaries – participants, truth and conservation. It also considers existing archaeological examples of ethical codes, their treatment of the fundamental ethical considerations, and their applicability and enforcement within the documentary sphere.

Ethics

The ancient Greeks were the first to conceptualise ethics. They had a philosophy that deconstructed applied thought into the three disciplines of aesthetics, epistemology and ethics (Patterson and Wilkins 2008:4). These disciplines sought to understand beauty, knowledge and 'good' behaviour. Over time, ethics has come to mean the rational decision-making process when faced with a moral dilemma. Centre and Jackson (2003) have created a simple working definition of ethics as, "standards set by a profession, an organization (sic), or oneself, based on conscience – what is right or fair to others as well as to oneself?" (Centre and Jackson 2003:362). As such, ethics are a cultural construct intended to influence individual behaviour for the greater good. At its most broad, this definition can be understood to include state and national legislation and international legal instruments, such as the United Nations Educational, Scientific and Cultural Organization's (UNESCO) *2001 Convention on the Protection of the Underwater Cultural Heritage* (2001 Convention). This paper will review three different kinds of ethical codes that apply to underwater archaeology, and discuss them in the context of archaeology documentaries. There is a bias in the examples selected, towards the

Australian experience; however the concepts can be applied to the international experience.

Ethics in underwater archaeology

Ethical codes in underwater archaeology apply at the level of industry-adopted code, state and territory legislation, national legislation and international legal instruments. Adoption of these codes varies between countries. This study examines three examples to illustrate how ethical principles are upheld.

AIMA Code of Ethics

The Australasian Institute for Maritime Archaeology (AIMA) Code of Ethics proscribes an archaeologist's responsibility to the public, to his / her colleagues and to his / her employers and clients. The Code establishes the general aims of encouraging members to:

- Represent archaeology in a responsible manner;
- Support conservation of the archaeological resource;
- Respect the concerns of cultural stakeholders;
- Support and promote the discipline of maritime archaeology; and
- Maintain professional standards. (after AIMA, undated).

The AIMA Code of Ethics is binding on members under the organisation's constitution [Section 5(15)], and breaches of the Code can result in expulsion from the organisation under Section 32(1) (AIMA 2004:11).

Historic Shipwrecks Act (1976)

In Australia, the Commonwealth *Historic Shipwrecks Act (1976)* (the *Act*) was developed at a time when pressures from treasure hunting required robust measures to prevent the destruction and looting of significant wrecks in Australian waters (Hosty and Stuart 1994:12). The *Act* provides for:

- Blanket protection of shipwrecks and relics over 75 years old in Australian waters;
- Protection of shipwrecks and relics less than 75 years old, by Ministerial declaration;
- The maintenance of a Register of Historic Shipwrecks;
- Prohibition of interference with shipwrecks and relics;
- Regulation of permits for the exploration and recovery of wrecks and relics;
- Notification of the discovery of wrecks and relics;
- Administration of parts of the *Act* by State and Territory authorities; and
- Inspection and seizure measures where an offence may have been committed under the *Act*. (Commonwealth Consolidated Acts 1976)

The *Act* applies to activity in Commonwealth waters, and is supported by complementary State and Territory legislation that applies in State and Territory waters. The Criminal Code applies to the *Act*, and offences attract a penalty of up to \$AUD10,000 for individuals, or \$AUD50,000 for companies.

2001 Convention

The 2001 Convention was established at the 2001 UNESCO General Conference. The 2001 Convention has been ratified by thirty-six countries, termed 'state parties'

in the Convention, and accepted by four further state parties. The 2001 Convention provides for the following general principles:

- In situ preservation of UCH should be considered as the first option;
- Commercial exploitation of UCH is fundamentally incompatible with its protection;
- Activities directed at UCH shall be as non-destructive as possible, and conducted to the highest possible professional standard;
- Public awareness of, and access to, UCH should be promoted, except where incompatible with its protection; and
- International co-operation in UCH research and management is encouraged (after UNESCO 2001).

The 2001 Convention applies to UCH greater than one hundred years old, in seas beyond the limits of national jurisdiction. It is binding only on state party signatories. These signatories are responsible for the seizure and protection of underwater cultural heritage illegally obtained, and for imposing and enforcing sanctions for offences committed under the 2001 Convention.

Ethics in documentary practice

Professional organisations

The documentary filmmaking profession is yet to develop a professional code of ethics for the broad field of documentaries. However, a code of ethics has been developed by the organisation, Filmmakers for Conservation, which focuses on the ethical treatment of animals and the natural environment during the process of filming nature documentaries (Filmmakers for Conservation 2008:1).

This paper does not intend to imply that individual documentary filmmakers do not conduct their practice ethically, nor that the profession is averse to the development of a code of ethics. Documentary ethics have been discussed at length in academic and mainstream media (for example, Aufderheide, *et al.* 2009; Butchart 2006; Donovan 2008; Maccarone 2010; Nash 2009; Nichols 2001; Rosenthal and Corner 2005; Schilt 2000; Winston 2000). Despite this, “documentary ethics remains a field characterised by a focus on crises and the application of multiple ethical theories and concepts” (Nash 2011:1).

Commonwealth legislation

Australia does not have specific legislation for media practice, only media ownership. It has neither Constitutional protection nor a Bill of Rights protecting freedom of expression. Some freedom of expression is regulated by States and Territories through racial vilification and defamation legislation, and it is possible that censorship laws, “may also be used to prevent freedom of speech by restricting distribution of certain films and publications, although these laws now serve mainly to classify publications according to the age groups which can see them, rather than preventing their publication” (Jordan 2002:3). In practice, the High Court is seen to protect freedom of expression rights through its interpretation of the Constitution and common law (Williams 2000:35).

International legal instruments

Unlike UCH, media expression has not received the focus of a specific international legal instrument. However, the concept of freedom of expression has been enshrined in an international legal instrument. The *Universal Declaration of Human*

Rights (UDHR) was adopted by the United Nations General Assembly in 1948. Article 19 of the UDHR specifies that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (UN General Assembly 2011:5).

_____The UDHR has held the force of international law since 1976, as part of the International Bill of Human Rights.

Ethical considerations in archaeology documentaries

Documentary filmmakers are not journalists. Clarifying the position of documentary filmmakers within the broad category of 'mass media' will assist archaeologists to make informed decisions about the mass communication of their work. Many governments include film and television in a group of professions termed "creative industries" (Flew 2005:118). Documentary theorists accept that representing reality involves creating a fiction, in the sense that it necessarily involves artifice, contrivance, selectivity and subjectivity (Eitzen 1995:82).

At their core, documentaries are non-fiction films that tell a story. Like all story-telling, documentary films often have a point of view. Film theorist, Erik Barnouw (1993), categorises the various forms of documentary according to their point of view: explorer, reporter, painter, advocate, bugler, prosecutor, poet, chronicler, promoter, observer, catalyst and guerrilla (after Barnouw 1993:v). These categories demonstrate the storied nature of documentary, and the fundamental difference between journalism and documentary: that documentary does not claim to be objective. "[T]he documentarian's concern is to win an audience's assent, not provide an 'information transfer' device or simply entertain" (Nichols 2006:1).

The necessary selectivity of the documentary editing process, in order to tell a story, inevitably draws questions over the ethics of selectively portraying reality. These questions usually reflect concern about the documentary representation of participants (responsibility to subjects) or truth (responsibility to audience) (Nichols 2006:1-2). Archaeology documentaries also have an implied responsibility to manage risk to the featured cultural heritage.

Participants

The need for archaeologists to address ethical issues around people has been well documented (see, for example, World Archaeological Congress, 1990; Zimmerman, *et al.* 2003). Ethical issues are mostly consistent across terrestrial and underwater archaeology, and include addressing an archaeologist's responsibility to descendant and Indigenous communities, the discipline of archaeology, organisational stakeholders and diverse publics. The archaeologist takes responsibility for external people – the amorphous 'them.'

Film theorist, Bill Nichols, asks, "What Do We Do with People When We Make a Documentary?" (Nichols 2001:5). This is the ethical question central to documentary filmmaking. "Filmmakers who set out to represent people whom they do not initially know but who typify or have special knowledge of a problem or issue of interest run the risk of exploiting them" (Nichols 2001:9). Nichols (2001:5) contends that a human subject's value to the filmmaker lies in, "the ways in which their everyday behaviour and personality serves the needs of the filmmaker". As

such, a power imbalance is inherent in the filmmaker-participant relationship. In the documentary context, archaeologists now face an internal, powerless ethical situation – they become part of the amorphous ‘them.’

The ‘us and them’ power imbalance between filmmaker and archaeologists is central to the discussion of ethics in archaeology documentaries. Brian Fagan and Mark Rose (2003:164) note that, “on all too many occasions, we [archaeologists] have almost no control over the content, even over what is being said”. They advocate that archaeologists carefully balance the ethical dilemma of promoting the findings of science within the demands of a television marketplace. Brian Winston (2000:162) proposes that the filmmaker’s power over the participant should be renounced by taking the stance of an advocate or enabler, though he admits this is ‘unlikely’ when the ‘powerless’ participants are exploited by the media industry.

Each participant or stakeholder in a documentary will have an expectation that their concerns will be handled sensitively and accurately by the filmmaker. So how do established codes of ethics protect the participants in archaeology documentaries? First, we must acknowledge who the participants are. The key stakeholders in underwater archaeology documentaries include:

- participating archaeologists;
- owners of the site;
- cultural stakeholders of the heritage site (eg. survivors of wreck events, descendants of individuals involved, affiliated contemporary cultural groups, and organisations with heritage management responsibilities);
- members of the public and / or the audience; and
- other interest groups, including salvors.

The codes of ethics profiled in this paper address some, but not all, stakeholder groups. The AIMA Code of Ethics requires members to respect the concerns of cultural stakeholders, and addresses the concerns of archaeologists through its requirements for professional standards of conduct, promotion of the discipline and responsible representation of archaeology. Members of the public / the audience are addressed through the 2001 Convention’s requirement that public awareness be promoted. The 2001 Convention also encourages co-operative research and site management, which benefits archaeologists and cultural stakeholders. Owners of the site and other interest groups are not explicitly acknowledged, however they may have other avenues of recourse to address any concerns.

It is pertinent to note that the AIMA Code of Ethics is not binding on a documentary filmmaker (or any other non-member), and the 2001 Convention is only binding on state party signatories. Therefore, it is incumbent upon archaeologists participating in a documentary to seek information about the filmmaker’s ethical position and to communicate comprehensively about ethical issues.

Truth

The archaeologist’s version or representation of their research may not be consistent with the story or point of view the filmmaker wishes to represent. “[T]he narratives often applied to archaeology revolve around words like ancient, secret, mystery, lost, civilisation, empire, detective” (Henson 2005:2). Archaeologists with significant experience working with television documentaries have concluded, “All you can do is ensure that the science is compromised as little as possible, realizing that some loss of integrity, some overstatement, is inevitable” (Fagan & Rose 2003:165).

Truth in underwater archaeology is encouraged by the AIMA Code of Ethics' requirement to represent archaeology responsibly and to respect the concerns and input of cultural stakeholders. The 2001 Convention's emphasis on collaborative research and management of UCH also places value on the perspectives of cultural stakeholders. Again, it should be noted that neither of these codes necessarily apply to the documentary filmmaker.

The right to freedom of expression upheld by the UDHR enshrines an individual's right to represent their perspective, regardless of an audience's perception of the truth value of that perspective. In Australia, there are no professional organisation codes of ethics, nor State, Territory or Commonwealth legislation that influence a documentary filmmaker with regards to representing 'truth.'

However, "truth" is a subjective judgement, and there may be multiple truths and perspectives threading through a single story. A documentary filmmaker must edit reality to tell a story, and create his or her own version of truth.

While relatively powerless in the filmmaker-participant dynamic, the risk of being blatantly misrepresented is probably low, particularly if an archaeologist has ensured their research is ethically sound.

Perhaps most vulnerable are the local and descendant communities that archaeologists must reach out to when they use the media and that the media must treat fairly if they intend to profit by them. (Fagan & Rose 2003:174).

Conservation

The conservation of UCH is better protected than participants and truth through the process of filming a documentary. The AIMA Code of Ethics, the *Historic Shipwrecks Act* (1976) and the 2001 Convention all provide for the protection and conservation of UCH. While there are limits to the protection provided by the *Act* and the 2001 Convention, the *Act* is equally binding on the filmmaker as it is on the archaeologist.

The 2001 Convention only protects cultural heritage greater than one hundred years old, and the *Act* shipwrecks greater than 75 years old (unless through Ministerial declaration). While age is a useful determinant for applying blanket protection, it has no regard for the significance of the cultural heritage being protected. Consequently, it does not protect more recent UCH that may be deemed to hold cultural or archaeological significance, such as wrecks associated with wars or natural disasters, until such time as these sites have been identified, assessed, nominated for protection and declared by the Minister to be a historic shipwreck under Section 5 of the *Act*.

Conclusion

This study has found that there are fewer codes of ethics that apply to filmmakers than apply to archaeologists. When these codes were assessed according to their effect within archaeology documentaries, it was found that while archaeologists may be bound by an enforceable code of ethics in their research, there was little protection guaranteeing that the archaeologists would be ethically represented by the filmmakers. This imbalance of power in the filmmaker-participant relationship requires archaeologists to take a proactive approach to addressing their concerns within the filmmaking process.

Regardless of the shortcomings of the various codes, it is clear that both professions embrace discussion of ethical considerations and the development of ethical approaches. This paper seeks to open an interdisciplinary dialogue to balance filmmakers' requirements within ethical archaeological practice, to achieve a satisfactory outcome for all participants. With clear communication and wholehearted collaboration, it is expected that mutually beneficial productions can be developed in a highly ethical manner.

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