

DOCUMENTING SECRET/SACRED (RESTRICTED) ABORIGINAL HISTORY

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This article raises some of the issues associated with the collection and documentation of Aboriginal archival material which is secret/sacred in nature. The principle concern is with the provision of access to such material, suggesting the need for a separate, legislated code of access to restricted Aboriginal material.

Introduction

In her article "Subject Guides"¹ Virginia Purdy acknowledges fashions in research, two of the most recent being women's history and black history. While she is writing about research trends in the United States, the same two trends can be identified in Australian research. The first is a reflection of more or less international trends; the second is largely a reflection of Australia's Bicentenary and the concern of many people to address the often overlooked impact the last two hundred years have had on Aboriginal history.

Many areas of Aboriginal history, however, have been difficult to document either because they have simply been ignored or because they are shrouded in secrecy making access very difficult. This material is known as secret/sacred material and, while it contains a wealth of information, access to it is restricted by its very nature. The problems associated with documenting the Aboriginal history contained in secret/sacred material are vast and, I would suggest, unique in many ways from the problems associated with other types of restricted collections requiring, therefore, a unique access policy.

"Ethics of Secrecy"

In addressing the issue of secrecy and Aboriginal archival material, two levels of secrecy are involved: professional secrecy, or a professional code

of ethics and the secrecy embedded in much of the traditional folklore. It is important conceptually to make clear the distinction between secrecy, which is at issue here, and privacy. In making this distinction in her book *Secrets*,² Bok describes secrecy as intentional concealment for whatever reason and privacy as “the condition of being protected from unwanted access by others—either physical access, personal information or attention.”³ Something which is secret, in other words, is necessarily hidden whereas privacy need not be. The example Bok gives is of a garden which, while it may be a private garden, need not be a secret garden.⁴

Anything requiring concealment, anything which may not be shared or is confided with conditions imposed, usually that it go no further or be passed on only under certain circumstances and conditions is secret. This definition emphasises the link between secret and sacred, although not all secrets are necessarily sacred.

Conflicts are often experienced in making choices about secrets: conflicts between keeping and revealing secrets, between wanting to experience other people’s secrets and leaving them undisturbed, between responding to what is revealed or entrusted to us and ignoring it.⁵ Secrecy, writes Bok, “can enhance a sense of brotherhood, loyalty and equality among insiders while kindling discrimination against outsiders”⁶, and this is the greater part of its power and importance.

Methods of storing and probing secrets of all kinds—whether legally or illegally—have increased dramatically over the last four decades through vastly improved film and recording techniques, through computerisation and computer hacking, miniaturised cameras, telephone tapping etc. At the same time, methods for probing or concealing secrets are used in more and more professions. This, together with longstanding personal and professional conflicts over secrecy and the public’s ‘right to know’ raise an increasing number of practical and moral problems for those involved.

Nature and Importance of Aboriginal Archival Material

Since European settlement in Australia, a spectrum of ‘traditionality’ has resulted among Australian Aborigines. Aborigines can be found living in remote, still quite inaccessible areas following a traditional code in virtually every aspect of their lives just as, at the other end of the spectrum, Aboriginal people can be found living in cities according to an urbanised way of life.

Europeans have been collecting Aboriginal artefacts, translating Aboriginal languages, trespassing on their land and secret ceremonies for well over two hundred years now. Europeans were driven away by Cape York Aborigines in the 1600s; fishing spears collected by Captain Cook and Joseph Banks from Botany Bay in 1770 have been identified in the University Museum of Archaeology and Ethnology at Cambridge.

Acquisition of traditional archival material may be seen in similar terms to those used by Bowdler⁷ to assess acquisition of Aboriginal artefacts. She sees the question of acquisition in the same terms as she sees the last two hundred years of Aboriginal history: “the version of the conquerors is very different to the version of the conquered.”⁸

Precisely herein lies much of the value of Aboriginal archives, that is, in “rewriting Australian history”⁹ to include Aboriginal accounts of Australia’s colonisation thereby giving a fuller, truer picture of Australia’s history. ‘Popular’ and professional histories have often misinterpreted Aboriginal cooperation with, or resistance to, the arrival of Europeans because they have only drawn on European/Australian sources. Aboriginal versions have been frequently integrated into their secret folklore and mythology and have therefore remained unknown to, or have simply been ignored by, Europeans.

Especially with the advent of the Bicentenary, awareness of the destructive effects of successive Australian government’s policies and of settler actions has increased and been increasingly reflected in historical literature such as works by Rowley and Reynolds.¹⁰ Corresponding to this has been increasing Aboriginal organisation and protest with ever greater visibility, media coverage and, consequently, political impact of Aboriginal concerns.¹¹ Land rights spokespersons in particular have been heard nationally.

Yet, as Curthoys rightly acknowledges, unemployment, poverty and infant mortality rates among Aborigines remain abnormally high while general levels of health remain abnormally low. The politicisation of Aboriginal issues together with the continuing exceptional material poverty of most Aboriginal people

have together meant that class relationships in Australia have been deeply affected by the specific character of Aboriginal-European relations. For both Aboriginal and non-Aboriginal people, historical awareness looms large in the ongoing political struggle.¹²

Both Aboriginal and non-Aboriginal Australians have long held particular views of the past. Aboriginal versions have mainly existed as local oral tradition and have not been widely, or well, known to others – if at all. This situation is slowly changing as Aboriginal accounts and recollections appear in print form, on film, are recorded as oral histories, as poetry, novels, autobiographies or as historical accounts such as those of historians such as Rowley and Reynolds.

Reynolds’ history uses both European sources and oral history records to document European arrival in Australia from an Aboriginal perspective, recounting Aboriginal resistance, anger at colonisation, treatment by colonisers, reports by missionaries of what Aborigines said and did as well

as what government officials said and did. Reynolds states he has set out in his book to challenge “conventional ideas about Aborigines.”¹³

Curthoys believes that what authors, such as Reynolds, actually do in their histories is set out to rescue a people from historical condemnation and oblivion using hitherto little used records . . . to gain insight into the perceptions and ethic of those whom conventional and conservative historians had ignored or despised.¹⁴

They force us to acknowledge that European records are deficient in some areas of history relating to European treatment of Aboriginal people. Aboriginal accounts of atrocities and massacres have often been kept alive only in their folklore.

The colonisation of the Australian continent, the introduction of the capitalist mode of production and the widespread destruction of a unique hunting/gathering society which for a long time was expected to result in its complete annihilation, transformed human history in Australia. For Curthoys,

all historical questions in Australia are in some way influenced by it. The kinds of issues of most concern . . . class relationships, the state, ideology, cultural practices and so on – all need to be faced within the context of the colonial and post colonial past, within the context that is, of a recognition of the fact of Aboriginal dispossession, resistance, accommodation and exploitation.¹⁵

The evidential value of secret/sacred Aboriginal archives is acknowledged by Aboriginal groups themselves. A recent article in *The Sydney Morning Herald* reported the publication by the Yanyuwa tribe of a book called *Yanyuwa Country* documenting the tribe’s laws, ceremonies and attachment to the land. The book is an attempt to document secret sites and the reasons they should be protected. Through it they are

making public an enormous amount of law knowledge, which is sacred. These stories are the essence of the whole social fabric of the Yanyuwa society. The Yanyuwa people are willing to share with Australians their country, their sites and their languages, in order to prove they don’t tell lies. They feel the publishing of their book is a small victory and ammunition to use against the cynics.¹⁶

Aboriginal groups have also recognised the legal value of tribal secret/sacred material. There are many examples of the Aboriginal use of civil law to protect tribal secrets or to resolve issues in land claims. Two notable cases among many hundreds, are the case of Sydney Williams and that of Foster versus Mountford and Rigby Limited.¹⁷

Sydney Williams was on trial for the murder of his wife because she knew and revealed tribal secrets traditionally known only to men. During Williams' trial, the court recognised Aboriginal customary law in a number of ways. Firstly, tribal secrets which were critical to the case were protected by the exclusion of women from both the court and the jury. Secondly, publication of the evidence referring to tribal secrets was prohibited and, finally, the conduct of Williams' wife was held to be sufficient provocation to reduce the charge of murder to one of manslaughter.¹⁸

In the case of *Foster versus Mountford and Rigby* in 1976, a group of Pitjantjatjara Aborigines obtained interim injunction restraining the publication of an anthropological text which showed photographs of sacred sites and ceremonies which ought to have been kept secret.¹⁹

Problems and Conflicts

When considering the collection of Aboriginal material it is useful to look at the more abundant literature on this topic written by museum curators – a profession not dissimilar to that of the archivist, having similar goals and ethical problems due to the uniqueness of the material evidence which each seeks to acquire, conserve and communicate to researchers.

One can see curators and archivists as moral caretakers of precious heritage items to be passed on intact. Yet, as Donald Horne²⁰ acknowledges, this may not always be what the creators would have wanted. Is the withdrawal of items from their traditional patterns of use, he asks, always in keeping with their perceived significance? Australian institutions – museums, archives – are now more sensitive to Aboriginal feelings with respect to secret/sacred objects and information and consult with Aboriginal groups more often. A recent example is the permanent *Dreamtime* exhibition at the Australian Museum.

Many Aboriginal people, however, feel it is inappropriate for institutions controlled by the dominant culture to hold collections of Aboriginal artefacts, records and other items. Bowdler recognises an undeniable political element in this which relates to “perceived symbolic values of domination/conquest.”²¹ There is also the more personal perception that these accounts, paintings and objects were never intended to be stored and preserved in perpetuity. For example, Aboriginal paintings were never intended to be treated as works within themselves. Rather, it was considered the task of successive generations to retouch paintings as paint faded, to add to paintings as events occurred. Folktales and mythology were continually being adapted to represent and record the passing of generations. Collecting them becomes a question of whether to preserve what exists, effectively freezing history in time, or to risk losing what is already recorded by not documenting it.

Sculthorpe, in her article “Aborigines and Museums” presented at the 1985 ANZAAS Conference, acknowledges that

some people pay tribute to museums for collecting and preserving items of Aboriginal material culture which would not otherwise be preserved. While this may be true, it neglects the often destructive effect the original collecting had on the group concerned.²²

The method of acquisition has not always been forceful or destructive, however—it has even been quite voluntary. A notable case in recent Australian history has been the Strehlow Case. Strehlow, an anthropologist who spoke the Aranda language fluently, was entrusted with many tribal secrets. The old men of the tribe held a conference and decided that, unless “someone they could trust assumed responsibility for the preservation of the sacred secrets, they would all die with the old men.”²³ Strehlow agreed to act as custodian for he felt he had to respond to the great trust being shown in him. With what he called “the deep, full knowledge” passed on to him by the old men, Strehlow commenced putting on to paper the religious beliefs and social systems and history of the Central Australian tribes.

Although not acquired by force, Strehlow’s acquisition was to have as destructive effect on the tribe as if they had been. Certain conditions were imposed on Strehlow before his acceptance of the material and information, these being that the material never be passed on to a woman, that it never be made public and that it eventually be passed on to another trustworthy man, possibly a member of the original tribe if one proved himself worthy of the future.

All three conditions were ignored. After earlier beginning to transfer the knowledge to a female research assistant, Strehlow publically made his second wife the custodian of the vast collection, revealing secrets and sacred objects to her. In 1973, at the time of his second marriage, the collection consisted of ten kilometres of colour film of native ceremonies, 4207 Aboriginal songs, 800 couplets and more than 1000 Aranda myths.²⁴

In addition to this, in 1978 Strehlow sold an article to the German *Stern* magazine illustrated by a series of pictures of secret/sacred tribal ceremonies performed by Aborigines. *Stern* in turn sold the rights to *Australian People* magazine which published them in Australia. When Aborigines saw the pictures and learnt Strehlow was behind their publication they “attacked [him] viciously. He was declared by many natives to be a man who had sold out his professed principles, and was ‘not worth knowing’.”²⁵ The collection has been in the possession of Strehlow’s widow since his death in 1978.

Similarly, the decision to document secret/sacred sites with a view to saving them is often controversial. The Australian Institute of Aboriginal

Studies (AIAS) has accepted responsibility for coordinating a national programme to record Aboriginal sites throughout the country. The accepted aim of the programme is

to identify and record sites of special significance to Aborigines and sites in areas where traditionally oriented Aborigines no longer survive. It is recognised by the AIAS that it is the responsibility of national and state instrumentalities to protect sites so revealed and assessed.²⁶

While this programme has been given a high priority in the AIAS, it has not been without its critics. Strehlow was one of them. When he heard of the programme he strongly opposed it on the grounds that

Experience has shown that every sacred site known to whites, by gazette or otherwise, has been promptly desecrated by vandals or looted by predators. A sacred trust is being repudiated now.²⁷

The potentially destructive effects of documenting Aboriginal history cannot be ignored in any decision to undertake such efforts and must be weighed up against the risk of it being lost if not documented at all. Sculthorpe comments on

the different attitudes towards cultural objects held by museums and Aborigines . . . for the former it is the preservation of the object which is paramount, but for the latter it is the preservation of the culture from which the object forms a part.²⁸

Sculthorpe argues for greater consultation with relevant Aboriginal groups, for greater employment of Aboriginal people in museums but more importantly, for the decentralisation of collections into community based Aboriginal museums or keeping places. Extending Sculthorpe's arguments, I intend to argue for specialised institutions to collect Aboriginal archives with specialised codes governing access to secret/sacred material in order to cope with the specialised problems associated with collecting traditional Aboriginal archives.

Code of Ethics for the Profession

This raises the issue of a code of ethics for archives and the need for separate codes governing specialised areas of collecting such as the collection of secret/sacred material. Alan Goldman in his book on professional ethics says that "The most fundamental question for professional ethics is whether those in professional roles require special norms and principles to guide their well intentioned conduct."²⁹ The subjective nature of 'ethical' is such that it elicits a range of reactions and values and therefore necessitates codification to achieve a uniform standard. As Lindroth points out in a report on contemporary history and archives, illustrating the need for a code of ethics governing access:

If access to all archival material/records of interest to contemporary history research was entirely unrestricted or totally restricted, many problems would be solved and much time would be spared. Obviously the two extremes exist only in theory. In practice some records may be used; others are secret. The balance between these two extremes has produced many—sometimes intricate—regulations which must be observed, bringing with them the risk that a significant element of arbitrariness in interpretation will make itself felt.³⁰

Anne Cooke in her article in *Archives and Manuscripts*, sees a code of ethics as providing two things: “a reference point for solving ethical problems and a useful training device for future archivists.”³¹ Drawing on criteria specified by Jenkinson and Cross Norton, Cooke recognises two key concepts in formulating a code of ethics. First, she sees the archivist as the ‘guardian’ of records in respect of which the professional has specific duties and concerns. Second, she recognises the uniqueness of the archives themselves, having both legal and historical value.³² Each of these values has been demonstrated for Aboriginal archives.

Roland Baumann³³, after examining several access programmes for restricted collections, emphasises the need for a Model Law to govern access to restricted public records in State Archives. As such, he is concerned with a quite distinct collection; some of his conclusions, however, can be useful in the formulation of access controls to Aboriginal archives. One of Baumann’s early conclusions concerns the role of the archivist. The archivist, he says, is to promote “access to the records to the fullest extent *consistent with the public interest*” (my emphasis) always observing proper restrictions on the use of records while working for the increase and diffusion of knowledge.³⁴ Aboriginal groups as members of the public, therefore, must have their interests served in any access agreements.

This creates the obligation to balance access to records on the one hand with protection of individual, or group, rights on the other. To achieve this, custodians of records must work cooperatively with creators of records and not only with collectors of records such as anthropologists. As Tise observes, “no statute has yet emerged that properly safeguards at once” all the necessary access considerations.³⁵ As Aboriginal records are such a special case, existing access legislation cannot hope to adequately provide for all the possibilities. A separate legislated code of access needs to be implemented and adopted to adequately provide for release of restricted records after agreement has been obtained through consultation with traditional custodians. As Robbin notes, archivists often prefer “institutionalising the decisionmaking process through the legal system and standardising operating procedures.”³⁶

These provisions naturally raise questions about the value of collecting records if they potentially may never be opened. These hesitations can

be refuted on two levels. Firstly, these records may be the only documentation of a totally unique culture, a culture which it was once presumed would disappear completely. The AIAS sees its own archive which contains vast amounts of restricted material, as a “unique cultural resource, a safe keeping place for a people whose cultural and social existence has been consistently threatened by Australian society.”³⁷ Secondly, as Boles and Young assert:

As the years go by the sensitivity of records changes. Reclassifications become possible . . . Somewhere in the future, although perhaps the time be distant, all records become safely open to use.³⁸

Although they are writing about public records, it is feasible to assume the same assertion can be made about Aboriginal records—as demonstrated by the publication by the Yanyuwa of their book *Yanyuwa Country*.

Baumann concludes the archivist’s responsibility to make clearer, better definition and administration of common law access to records, with an emphasis on clarity and on balancing the public’s right to know against the right to privacy, is long overdue.³⁹ One of the recognised practical benefits of the active development of access policy is that the existence of a specific policy and of established procedures for handling confidential records “minimises administrative uncertainty, enhances archival authority and responsibility . . . and speeds up the reference process to the benefit of all users.”⁴⁰ As Baumann points out, the public has a right to know if records exist and if they are restricted.

The Case for Protection of Aboriginal Folklore

Moves have been made in the the past to consider and to develop special legislative protection for Aboriginal folklore. One such attempt, by the Australian Working Party on the Protection of Aboriginal Folklore, has been reviewed in the bulletin of the Australian Copyright Council.⁴¹ The Working Party was established to examine the nature of legislation required to protect Aboriginal artists, the adequacy of existing legislation and the special case of secret/sacred material.

The main recommendation was that there be an Aboriginal Folklore Act to protect Aboriginal folklore. The principle provisions were for prohibitions on non-traditional uses of secret/sacred materials; for a system of clearances for prospective users of items of folklore; for an Aboriginal Folklore Board to advise the Minister on policy matters. Further provision was made for “detailed consultations [to] be held with representatives of the Aboriginal people and with current users of Aboriginal folklore materials.”⁴²

The limitations of some existing legislations with respect to Aboriginal folklore material were examined. The limits of existing copyright protection

are analysed in Parts Seven and Ten of the Report and reviewed in the Copyright Council bulletin. Three major limitations were apparent: the requirements of originality and of material form and the need to establish ownership.

In order to be protected a work must be the original work of the author. Originality, however, is not an issue in Aboriginal folklore as Aborigines draw upon tradition and pre-existing works and pass these on to succeeding generations. This transmission is a “process requiring creative reinterpretation of themes by individual artists.”⁴³

The second limitation concerns the existence of a work in some material form. Aboriginal culture is based largely on oral tradition yet works which do not “exist in writing or ‘some other material form’ are not protected by copyright.”⁴⁴ This requirement can be satisfied by recording or filming performances of music or dance in which case the copyright belongs to the filmmaker.

The third requirement for copyright is the great age of many Aboriginal works and the fact that their origins cannot be traced. Copyright legislation requires the establishment of ownership. Ownership of all Aboriginal cultural property is governed by a complex system of rights quite different from a European system. The most important distinction between Aboriginal and European ownership is

the distribution of rights in Aboriginal society among groups. Ownership of certain works may vest in a particular clan member, or members, whilst the rights to use the work may vest in various other members for various purposes.⁴⁵

The Working Party found the limitations of copyright protection for Aboriginal folklore inadequate. Where works are sacred, the Report concluded, and their reproduction would cause grave offence to tribal people,

reproduction should not be permitted outside the customary or traditional context. In this regard the interests of the Aboriginal people should be respected but it does not seem to us that copyright can provide anything near to the degree of protection necessary to avoid offence.⁴⁶

What is necessary, in the Working Party’s view, are alternatives to existing copyright protection which encompass the legal right to “prohibit certain uses of folklore which are offensive to [Aboriginal] cultural tradition, such as destruction, mutilation or debasement of that folklore. Aborigines living traditionally are also entitled to prevent non-customary uses of materials which have a secret/sacred character” and the legal right to “claim payment from those who seek to use folklore for commercial gain.”⁴⁷

When contacted, the Attorney General's Department was unaware of any immediate plans to have the Working Party's recommendations incorporated into legislation. The Copyright Council was hopeful of successfully approaching the matter next year through the *Aboriginal Artist's Bulletin*.

There are those who might wish to argue that Aborigines should receive no special favours with regard to protective legislation or other matters. The Committee to the Constitutional Commission⁴⁸ which advocates special recognition of Aboriginal rights has received complaints that this would "amount to 'unequal treatment' between groups in the community or would amount to a form of apartheid."⁴⁹ The Committee however, rejects this view noting that recognition of the special status of indigenous inhabitants in Canada, New Zealand and the United States has not led to apartheid.

It has also been argued that the descendants of those denied their rights are not the appropriate recipients of any form of acknowledgement of the errors of an earlier age. The reality, as the Commission sees it, is that the "descendants of the original Australians are not able to function on an equal basis with all other Australians. The consequences of European impact are still occurring today."⁵⁰ Therefore, the Committee recommends "Recognition of a Special Category or Aboriginal Rights" including "the protection of social and cultural heritage."⁵¹

There are three other factors which Bowdler⁵² asserts need to be taken into consideration. First, Aborigines represent a minority group within Australian society who do not necessarily subscribe to the ideology of the dominant group. Second, the mode of acquisition of objects has often been involuntary on the side of the Aborigines and quite illegal. Where transfer has been voluntary, as in the Strehlow Case, it was usually on the understanding that certain conditions were adhered to. Transfer of materials can be seen in the terms Anderson uses as

a system where objects circulate and create sets of rights and obligations between individuals and groups or institutions. In other words, the objects act as social currency.⁵³

Expecting knowledge and other advantages to be gained through exercising these rights does not justify ignorance of the corresponding obligations.

Thirdly, asserts Bowdler, the significance of the items is often violated by their presence in a collection, and their cultural context not considered. The archivist investigating access should be prepared, therefore, to inventory all record series containing restricted information in an attempt to document and retain some knowledge of their cultural context.⁵⁴

These issues can be seen to be connected as

All derive from the fact that 200 years ago Australia was invaded by Europeans who imposed their culture and society on those Aborigines who did not succumb to disease or the gun.⁵⁵

However one may feel about the emotive content of Bowdler's arguments, the fact remains that recordings of secret ceremonies, initiation rituals, etc., etc. were often acquired through deception and are often perceived by Aboriginal groups to be inappropriately interpreted. Their presence as part of a collection may be seen as being at odds with their role in traditional Aboriginal culture.

ENDNOTES

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