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Beyond the frame: researching documentary ethics

Abstract:

Questions of ethics remain central to documentary practice and scholarship. In spite of the growth of literature dealing with the subject, documentary ethics remains a field characterised by a focus on crises and the application of multiple ethical theories and concepts. This discussion considers the empirical study of documentary practice as a foundation for ethical discussion. Give the changing nature of documentary it is suggested that a notion of good practice can best be developed by considering the experiences of those involved.

Beyond the Frame is an ongoing research project that seeks to understand the experience of documentary participants and the relationship they develop with documentary filmmakers. As more filmmakers embrace interactive modes of documentary the relationship they develop with participants becomes critical to ethical discussion. This paper will present the results of studies completed to date and outline some future directions.

Biographical note:

Kate Nash is a lecturer in the Journalism, Media and Communications program at the University of Tasmania. Her PhD thesis *Beyond the Frame: A Study in Observational Documentary Ethics* is an empirical study of the filmmaker participant relationship and its contribution to documentary ethics. Before embarking on postgraduate study Kate worked as a radio and television producer. It was her experience at the ABC's Documentary Unit that inspired her postgraduate research.

Keywords:

Ethics – Documentary – Empirical research

Documentary production, whether in the media industries or the classroom, invariably demands engagement with questions of ethics. While there was little consideration of such questions prior to the 1970s (Winston 2000: 154) a growing interest in professional ethics and the higher profile and changing nature of documentary have brought them to the fore. Questions abound: Did Michael Moore alter history to exaggerate the damage done by General Motors in *Roger and Me* (1989)? Did Dennis O'Rourke go too far in talking about the sex lives of underage girls in *Cunnamulla* (2000)? More recently, did filmmakers Violeta Ayala and Dan Fallshaw misrepresent their subjects in the documentary *Stolen* (2009)? While ethical scandals will always make headlines (both academic and popular), I will suggest in this paper that documentary ethics can become richer and more relevant by considering the actual practices of documentary making. For every headline there are many untold stories of filmmakers struggling with the ethical ambiguity of their craft. These everyday stories have the potential to greatly inform policy in this area.

Until recently documentary ethics has been grounded almost exclusively in the text, with textual analysis it's primary methodology. Nichols' (1991) concept of axiographics represents the most systematic attempt to articulate the connection between the documentary text and the ethics of its production. For Nichols, the text provides its audience with a trace of the exchange between the filmmaker and the world that serves as evidence of the filmmaker's ethics. More recently, however, there has been recognition that much of what transpires in the making of documentaries leaves no textual trace and that there is a need to engage differently in ethical research. A growing body of work, employing empirical research methods, is examining documentary practice in the hope of shedding new light on its ethical dimension. It is within this new discourse of empirical documentary ethics that I situate my own work, which has focused on the experiences of documentary participants (Nash 2010; 2009). In this paper I will provide an overview of recent empirical study in documentary ethics before expanding on how my own work with documentary participants might contribute to ethical discourse. I will consider how empirical research is changing the discourse of documentary ethics before homing in on the relationship between filmmaker and participant and the significance of making space for the voice of those we represent.

Documentary ethics and the rise of empirical study

Documentary ethics is a discourse that emerges when the rights and interests of those with a stake in documentary: filmmakers, audiences and participants, reach an impasse (Butchart 2006). The ensuing debates have crystallised around a number of key theoretical ideas: consent, duty of care, rights (to both privacy and free speech), and the problem of representation. In addition, specific questions have arisen about documentary making practices such as the ownership of images, payment to subjects, and the use of release forms. These concepts and questions effectively define the field of documentary ethics but they also point to a discursive weakness: the incommensurability of its central concepts.

Consequentialist arguments and the principle of harm minimisation (see Nichols 2001 and Winston 2000) sit uneasily alongside rights claims and deontological perspectives. The result is a discourse of dilemmas, a confusion of moral argument that appears to defy resolution. In the face of ethical complexity there have been calls both within Australia[1] (Donovan 2008) and overseas (Aufderheide *et al* 2009) for the development of codes of ethics. While the formulation of a code of ethics will no doubt be of value to filmmakers and educators it is important to consider the kind of scholarship that will best support their creation. Textual analysis, which has been the dominant starting point for ethical discussion in documentary, draws attention to the act of representation. It focuses on the camera's gaze and the role of the filmmaker in depicting a shared reality (Nichols 1991). What textual analysis cannot do, however, is to contribute to an ethic of documentary practice, addressing those issues that exceed the text.

In recent years there has been an increase in the number of scholars studying documentary practice using empirical research methods, including practice-led research, with the aim of understanding better the nature of the problems faced by filmmakers[2]. We are witnessing an empirical turn in documentary scholarship (Nisbet and Aufderheide 2009; Corner 2008) that has extended to include the study of documentary ethics. Aufderheide *et al* (2009) have extensively surveyed American filmmakers on a range of ethical issues including their relationship with documentary participants and their obligations to the audience. Significantly, the research also points to the ethical impact of changing production environments that frequently cut across ethical conduct. The research also highlights the fact that documentary makers feel that they lack a forum in which to discuss the ethics of their craft. Sanders (2007) has similarly surveyed filmmakers on their experience of filmmaking and found that filmmaker's employ multiple strategies in their relationships with participants and that filmmaking may involve cooperation/non-cooperation, communication, victimisation and a range of other orientations in the filmmaker/participant relationship.

Although in its infancy empirical research has the potential to make important contributions to several key debates. Arguing for the value of empirical research in ethics generally, Doris and Stich (2005: 115) observe that 'It is not possible to step far into the ethics literature without stubbing one's toe on empirical claims'. This is particularly true of documentary ethics; a lot is assumed about the consequences of documentary participation, the ethics and attitudes of filmmakers and the effects of documentary representation. There are numerous claims that could usefully be, and in many cases are being, explored through empirical research. Winston (2005: 182) for instance considers the claim that 'the camera never lies' and states that 'It seems to me many people still believe it', citing as evidence his assumptions about people's experience of home movies. He then goes on to assert that: 'The limitations of the relationship that any photographic image has to the reality it reflects are beyond everyday experience'. The sincere and justified reconstruction of documentary is therefore at odds with audience expectations about documentary images. Others make the opposite claim; Ruby (2005: 210), for instance, argues that we have already witnessed the demise of 'our native trust that since the camera never lies, a

photographer has no option but to tell the truth'. What are audiences' attitudes to documentary and what then is implied about filmmaking obligations?

Documentary theorists propose that the form appeals not only to a drive to know but a desire for spectacle, the pleasure of simply seeing (Cowie 1999; Renov 2004) so to what extent might this be relevant to the contract between documentary-maker and audience? Questions about audience engagement with documentary have been addressed by empirical studies of documentary reception both in relation to television (Hill 2008; 2005) and cinema (Austin 2007; 2005). Although these studies are inconclusive, Hill's (2008) research in particular tends to undermine the assumption that audiences have a naïve view of documentary truth. While empirical research cannot of itself resolve ethical debate about documentary, there are clearly a number of empirical claims, such as those about audience expectations, which are invoked as ethical foundations without adequate exploration of their veracity. It is in this regard that empirical study has the potential to make an important contribution to ethical discussion.

The filmmaker and the participant

The relationship between filmmaker and participant is an important site for questions of ethics. As documentary makers question notions of truth and objectivity and turn toward collaborative and interactive forms of filmmaking this relationship becomes both critical and complex (Williams 1999). Filmmakers are widely seen to have obligations to documentary participants resulting from the consequences of documentary representation (Nichols 2001) and/or the differences in power/ knowledge between them (Maccarone 2010; Winston 2000). Documentary-maker's obligations to participants generally come into conflict with other filmmaking obligations but there has been an increasing tendency to question the 'use' of subjects in documentary. Winston (2005: 181) argues, for instance that, 'we have confused media responsibilities to the audience with the ethical duties owed participants as if the outcomes of taking part were the same as spectating'. Important though the relationship between filmmaker and participant is to documentary ethics, little is actually known about it and many assumptions can be found in the literature.

A critical issue for consideration in the filmmaker participant relationship is that of power. I have argued elsewhere (Nash 2010) that the relationship between filmmaker and participant is almost exclusively understood in terms of an imbalance in power relations. Power is most often understood to be something that the filmmaker possesses by virtue of their access to media institutions, social status, control of the documentary image and knowledge (of both filmmaking and the participant) (Maccarone 2010). The documentary maker is therefore understood to be in a relationship of *power over* the participant, an exploitive relationship that has its roots in the Griersonian tradition (Winston 1988; 1995) and persists to this day. Noting the particular issues raised by observational documentary modes, Pryluck (2005) catalogues the many ways in which documentary makers can take advantage of participants. The practices of documentary production inevitably involve 'conning and manipulation', video equipment is intimidating and the participants themselves

are almost never allowed any role in the creative process. At the level of the text, Nichols (1991) encourages us to read the absence of the filmmaker from the documentary frame as a trace of their power over the participant. The difference in power between filmmaker and participant 'remains the besetting ethical problem of the documentarist/participant relationship even in the most casual, normal and undeviant of circumstances' (Winston 2000: 147).

The problem of power in documentary is therefore the problem of one individual (the participant) being used by another (the filmmaker). The participant is victimised, placed in a mise-en-scene they cannot control they become a documentary stereotype (most often romantic hero or powerless victim) in the filmmaker's argument (Nichols 1991: 91). Ethical documentary practice, therefore, seeks to overcome the problem of power in the filmmaker-participant relationship by countering the filmmaker's *power over* the participant. Pryluck (2005: 205) argues that 'Collaboration fulfils the basic ethical requirement for control of one's own personality'. Winston (2000: 162) similarly calls for a 'renegotiation of the traditional balance of power between filmmaker and participant'. The documentary-maker, he suggests, must give up their controlling position and take the stance of advocate or enabler. Although he admits, almost in the same breath, that such a change is unlikely in a media industry that is set up to exploit the 'powerless'.

But what empirical evidence is there that the relationship between documentary maker and participant ought to be understood exclusively in terms of power imbalance? I should clarify that I am not suggesting that power is not an important ethical issue for documentary makers (in fact, my claim is quite the opposite), nor that questions of power imbalance are not relevant, rather my argument is with the way in which power relations have been rendered to date in documentary ethics. There is evidence to suggest that filmmakers themselves are conscious of the inequality of power in relation to participants. Aufderheide *et al* (2009) have found that the experience of a difference in power leads many filmmakers to adopt a protective stance in relation to participants, occasionally omitting material and sometimes including the participant in the editing process. The research also found that the relationship was sympathetic, with most filmmakers choosing their subjects and entering into a longer-term relationship in which they become stewards of the participant's story. One filmmaker (Aufderheide *et al* 2009: 7) states that 'I am in their life for a whole year. So there is a more profound relationship, not a journalistic two or three hours.'

Within the documentary literature filmmakers have suggested that the relationship with participants is a close, intense and problematic one. Some filmmakers draw on emotional concepts, particularly love, to explain the connection. David Maysles (Stubbs 2002: 5), for instance, suggests that love is necessary if the filmmaker is to get to the truth of the participant. He states that 'In true love, you're not trying to make the person look any different … In true love, you fully accept the person exactly as they are.' Reflecting on his own filmmaking practice, ethnographic filmmaker David MacDougall (1988) speaks about the fusion of participant and filmmaker in a shared filmmaking space. Also referring to the idea of love, Martha Ansara (2001: 30)

describes the relationship as one in which the filmmaker wills him or herself to fall in love with each participant while maintaining a certain distance. This sense of profound connection to the participant renders the relationship more complex than the simple account of the empowered filmmaker suggests.

Alongside love, trust emerges as a theme in discussions of documentary making. A number of filmmakers refer to the importance of earning the participant's trust by spending long periods of time together. In addition, some note the importance of the filmmaker's vulnerability during this process. Helen Whitney (cited in Rosenthal 1980: 196), recounting her experience producing the documentary *Youth Terror* (1978) about juvenile offenders in New York, talks about the importance of proving that she trusted the kids she was filming by going to meet them alone at night. Denis O'Rourke (cited in Ansara 2001: 30) has spoken about the need to make himself vulnerable to those he films in order to get to the truth of their experience. O'Rourke (cited in Spring 2005: 148) emphasises trust while arguing against a simple account of the filmmaker's power *over* the participant:

> It's not as if you've got this totally skewed power relationship where me—as director of the film—is controlling everything that's happening. I'm controlling very little of what's happening in terms of the ideas and emotions being expressed. That's all happening in an extraordinary, magical process of interaction between myself and the people who agreed to be filmed.

In relation to her own work as a documentary maker, Maree Delofski (2009) argues that the relationship between filmmaker and participant is both multilayered, negotiated and a critical aspect of the documentary's authorship. While the filmmaker has the camera and therefore retains this power, each subject asserts an agency in attempting to negotiate a 'space' with the filmmaker. The truth of documentary, Delofski argues, goes beyond its facts and claims; it is always a memory of the encounter between the subject and filmmaker. From this perspective the ethical merges with the epistemological as the decisions made by the filmmaker both determine the documentary's content and reflect their sensitivity and connection to the documentary participant.

There is reason to believe, based on the writings and reflections of documentary makers, that in focusing exclusively on the filmmaker's power over the participant has obscured more complex power relationships that are central to documentary production. I have argued elsewhere (Nash 2010) that a relational view of power has the potential to make a valuable contribution to documentary studies. Given that documentary, as a form of power/knowledge, produces documentary subject through an encounter with the participant an analysis of the localised practices that accompany this transformation constitute a study of power relations. Following Foucault (1983) power is understood as a modality of action in which actions act on actions throughout social systems (Hoy 1986). Significantly actions do not prescribe, but rather open up new fields of action for other (Rozimarin 2005). Individuals exist in complex power relationships that are central to the creation of social subjects.

Beyond the Frame: Empirical research with documentary participants

How then are we to understand the complex power relationships at play in documentary production? While the reflections of filmmakers are revealing in themselves there is an absence in this discussion: the voice of the participant. With the exception of a few regret stories (see Donaher 1993) almost nothing is known about how the participant experiences the process of documentary production and screening. *Beyond the Frame* is an ongoing research project that seeks to introduce the voice of the documentary participant into conversations about documentary ethics. Given the importance of the relationship between filmmaker and participant and the significance of empirical claims, the research aims to explore the consequences of documentary participation as well as the nature of documentary power and trust. Three case studies have been completed to date: *Molly and Mobarak* (Tom Zubrycki 2003), *Facing the Music* (Connolly and Anderson 2001) and *Losing Layla* (Vanessa Gorman 2001).

Since the aim of this research has been to explore the experience and meaning of documentary participation, a narrative research method was employed. Narrative research methods draw attention to the ways in which individuals render experience meaningful through their construction of narratives (Smith 2007). Narrative research can best be understood as a range of research methods that draw on a range of strategies and epistemological foundations (Smith 2007: 392). While narrative research methods have traditionally focused on the structure of narrative as a site of meaning, Squire (2008) outlines a form of post-structural narrative analysis that privileges experience over chronology. In conducting this research, participants were encouraged to tell stories about their involvement in the documentary. Interviews were conceived of as a process of interaction in which the narrative was co-created by interviewer and interviewee. Simple, open-ended questions such as 'tell me how it started' were designed to elicit narrative responses. Participants were invited to view and amend interview transcripts so that it best reflected their experience. They were also invited to comment on the analysis of their narrative (Nash 2009) with these comments being incorporated into each case study.

Molly and Mobarak

With tears streaming down her face, a woman clasps the hand of a young man and speaks of the impossibility of his love for her daughter. Although they are sitting close to each other they are clearly a world apart. He does not seem to understand; he says that he comes everyday and does everything he can to win her daughter's love, but it is not enough. Watching this scene closely it is possible to see the woman glance briefly but definitely at the camera as she wipes the tears from her face. The woman is Lyn Rule and the young man, Mobarak Tahiri, is a refugee from Afghanistan. The scene is highly emotional and intimate, suggesting a degree of trust between filmmaker and those depicted. Questions might be asked about how access was negotiated and the meaning of Rule's glances to camera.

In Lyn Rule's narrative about participating in *Molly and Mobarak* she emphasises her active agency in the documentary project and in her relationship with Zubrycki. She does not refer to feeling powerless or exploited but focuses on her control over the documentary project and the filmmaker. Describing her early meeting with Zubrycki,

Rule says (Nash 2009: 163) that she would 'talk to him and make him talk back to me and he'd then have to answer my questions and tell me about himself and so that's how it was and I actually made an effort to get to know him'. From the outset Rule subverts the traditional questioner-questioned relationship between documentary-maker and participant. Rule is in control; she is asking the questions and demanding a response.

Rule's narrative also reveals that she had a clear motive for her participation in the documentary. She wanted to make a positive contribution to the refugee debate and felt that focusing on the experiences of the refugees, humanising them through documentary, would be significant. She feels a sense of ownership over the project; from her perspective it is a collaborative project albeit one in which she is conscious of the need to retain control over her contribution.

However Rule's narrative is complicated by moments where she seems to loose control. Such moments are signalled by Rule's use of evaluative phrases to describe Zubrycki's behaviour. She describes him as 'determined' or 'tenacious', and says (Nash 2009: 170) that 'you can't shake him off if he decides to be there'. Sometimes (Nash 2009: 175) she suggests that he must feel 'guilty' because, 'he can't hide his betrayal can he?' In attributing negative feelings, particularly guilt, to Zubrycki, Rule suggests that some trespass has occurred, a form of documentary 'theft'. The scene described earlier is one in which Rule identifies a loss of control.

But the play of control and lack of control is complex because, as Rule acknowledges (Nash 2009: 172), 'you can't be intrusive without their [the participant's] permission and then they'll hate you and you'll feel bad about yourself. And he [Zubrycki] must feel bad, I'm sure he feels bad'. If Zubrycki is a 'naughty' documentary-maker who 'must feel guilty' for his trespasses, further work must be done to explain why Rule continued to participate in the documentary project. This is where the concept of trust becomes central to understanding Rule's narrative. She defines trust as the knowledge that the filmmaker will not 'betray' the participant with the knowledge they have and then goes on to define betrayal as a failure to take into account the participants values and beliefs.

Facing the Music

Facing the Music, the last documentary by the acclaimed documentary-making duo of Bob Connolly and Robin Anderson, provides a unique perspective from which to explore the issue of power in the filmmaker participant relationship. While documentary makers are very often working with participants who are relatively disempowered Winston (2000) notes that the victim tradition is alive and well in documentary. Connolly and Anderson sought to make films with people in a professional context. Connolly (cited in Brown 2001: 112) argues that:

> A lot of documentary-makers focus on people in victim situations, poor people, homeless people. There's very little filmmaking being done at the socio-economic level that we inhabit—the stories of our lives need to be told. More light needs to be shone on business and government, politics, media and academia

Facing the Music grew out of a pre-existing relationship between Boyd and the filmmakers and the theme of friendship is central in Boyd's narrative. Boyd tells a story about the rescue of her cat in order to explain her trust in the filmmakers. In saving the cat, Anderson demonstrated a willingness to act on Boyd's behalf. Boyd is optimistic that the filmmakers will rescue her reputation as willingly as they rescued her cat, should the need arise.

For Boyd, the documentary project and her friendship with the filmmakers are situated within a work environment that she experienced as fundamentally hostile. The filmmakers are 'allies' who empower her in relations with her colleagues. Boyd (Nash 2009: 222) describes the filmmakers as 'always on my side', something that clearly changed the dynamics within the Music Department.

> Oh, Oh [animated] … one thing I will say is that they were always on my side. Yes now that was interesting … They were really on my side and that was really nice but at the end of the day I sometimes wondered whether they should have been on my side quite as much, maybe a little bit of criticism could have been in order.

Boyd speaks about the ways in which the filmmakers supported her and that the presence of the camera gave her self-confidence.

And yet in spite of the support, both Boyd and the filmmakers acknowledged that there was a negotiation about the boundaries of documentary performance (Nash 2009). Connolly was aware that Boyd viewed the documentary as an opportunity to voice her political concerns. Connolly's response was to switch off the camera whenever Boyd started using it as a way of making a political point. Boyd became aware that this was happening and that overtly political performances were not acceptable. Documentary performance is a negotiated process as the participant and filmmaker seek to influence the text through their actions and acts of resistance.

Losing Layla

When the filmmaker's experience of autobiographical documentary making is considered at all, it is most often imagined to be liberating; an act of resistance or a cathartic or creative process. There can be little doubt that for many documentary makers the turn to autobiography is motivated by the political power of film and television. Tracing the history of autobiography, Renov (2004) notes the political significance of documentaries produced by those who are traditionally marginalised by the media. Feminist autobiography in particular has provided a space for women to speak and be heard. In spite of this discourse of liberation, however, Vanessa Gorman's experience, as both filmmaker and participant, demonstrates that a range of complex feelings can accompany autobiographical documentary making.

When Gorman describes how she began *Losing Layla* her narrative is dominated by themes of exploration, experimentation and play. She is enjoying a space in which it is possible to experiment and describes her relationship with partner Michael Shaw as a safe space. At the same time Gorman reveals an awareness of the requirements of the video-diary form, stating that intimacy and drama would be central requirements.

However, when Gorman refers to filming in public the theme of shame begins to emerge in her narrative. There is a tension; on the one hand she expresses a desire to speak publically about women's experience. And yet, she expresses a sense that by revealing herself she is doing something that is somehow shameful.

Gorman's narrative takes a decisive turn with the death of her daughter Layla. While her narrative prior to Layla's death focuses on the challenges of self-exposure, following the death Gorman focuses on the way in which filming challenged maternal norms. When invited to reflect on the experience of filming herself, Gorman introduced in her narrative the concept of a split between herself as subject and herself as filmmaker. The detached, unemotional documentary-maker stands in opposition to the ideal mother on many levels. Particularly significant for Gorman was the suggestion that, by making the documentary, she sought to profit from her daughter's death. When discussing her fear of appearing opportunistic, Gorman returned often to the subject of Layla's body and its role within the documentary. She expressed a fear that such close images of Layla's body might be confronting and that they may be viewed as an exploitation of her child. Far from concealing Layla's body or seeing to depict it at a distance, Gorman allows it to remain central.

Engaging with Gorman's narrative reveals that the experience of the autobiographical documentary maker cannot be captured completely by notions of liberation or confession. The themes of fear and shame co-exist with that of liberation as Gorman fears judgement for her physical exhibitionism, her moral failings and her lack of maternal sensibilities. In terms of ethics, autobiographical documentary is seen to be particularly problematic because of the potential for filmmakers to exercise power over family members, pushing them to do things they would not otherwise choose to do (Katz and Katz 1988). Gorman's experience reminds us that autobiographical filmmaking can also have consequences for the filmmaker.

Concluding comments

Empirical research with documentary participants promises to make an important contribution to documentary ethics. Already the research has challenged the assumption that the documentary participant has no goals in relation to their participation; neither of these women can be easily cast as victims of a filmmaking agenda. The documentary relationship is contested; the filmmaker and participant exercise power within the context of their relationship with a view to influencing the documentary. Trust emerges as an under-theorised aspect of documentary ethics. In this study trust has been found to rely on mutual vulnerability in the relationship and a shared sense of the documentary project as a valuable goal. In terms of autobiographical documentary, ethical questions must be asked about the filmmaker's relationship to herself and the consequences of self-representation within a particular media context. This research has only begun to scratch the surface of the participant's experience and there are many as yet unanswered questions. Future research will consider the experiences of Indigenous participants, the impacts of documentary on whole communities and the experience of longitudinal documentary. As a fuller picture of the relationship between filmmaker and participant emerges we will begin

to have a stronger foundation on which to base ethical codes and principles for documentary practice.

Notes:

[1] The 2010 AIDC conference included a panel session 'Why let ethics get in the way of a good story? The session explores ethical questions in documentary with a view to creating a documentary code of ethics, see http://docexchange.org.au/calendar/events/24

[2] The International Society for the Empirical Study of Literature and Media (IGEL) 2010 conference featured a panel on the empirical study of documentary ethics. Three Australians presented research: Dr Kay Donovan, Steve Thomas and myself. Papers from the conference are due for publication in 2012 in the *New Review of Film and Television Studies*.

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