

# Ethical Issues in Historical Archaeology

Mary C. Beaudry

## Introduction

Archaeologist and philosopher of science Alison Wylie has observed that the very identity of archaeology as a discipline is closely linked to how its practitioners frame their concerns around ethical issues (Wylie, 1996). Prior to the late 1970s, most archaeologists developed a sense of ethically appropriate behavior on more or less an individual, ad hoc basis, relying upon whatever role models presented themselves during graduate training and upon subsequent personal experience in the office or in the field. This informal and highly idiosyncratic approach to professional ethics is not serviceable in the contemporary milieu in which archaeology is practiced, as Brian Fagan (1993) and others have noted. A series of developments since the 1970s reflect the growing sense among professional archaeologists, particularly those working in the United States and the United Kingdom, that they need some sort of structured approach to deal with the ethical issues they confront. These developments include the formation of the Society of Professional Archaeologists (SOPA) in 1976, which vested itself from the outset in ethics and performance standards among professional archaeologists working in the Americas (cf. Society of Professional Archaeologists, 1988); the formation of a similar professional organization in Britain, the Institute of Field Archaeologists (IFA), in 1982 (Institute of Field Archaeologists, 1994); the adoption of numerous governmental and agency guidelines and standards for archaeological projects; and initiatives

among major archaeological organizations in the 1980s and 1990s that led to the revision of existing codes of conduct that had become inadequate for addressing contemporary dilemmas facing the archaeological community (e.g., Archaeological Institute of America, 1994; Lynott and Wylie, 1995a; Society for American Archaeology, 1995, 1996; Society for Historical Archaeology, 1992).

The most recent development arising out of the movement toward greater professionalism among archaeologists is still unfolding. The Register of Professional Archaeologists (Register, or RPA) was created by a joint task force of SOPA, the Archaeological Institute of America (AIA), the Society for American Archaeology (SAA), and the Society for Historical Archaeology (SHA) as a joint registry intended to provide an effective means of enforcing basic professional standards among practicing archaeologists in the United States (though there are now members from elsewhere as well). SOPA voted to transfer its responsibility, authority, and assets to the Register. The SHA, SAA, and AIA all voted to become sponsors of the Register, with the American Anthropological Association following shortly thereafter. Sponsoring organizations endorse the mission of the Register, encourage their qualified members to register, and provide annual financial support (see "About the Register of Professional Archaeologists" on the organization's web site at <http://www.rpanet.org/displaycommon.cfm?an=1&subarticlenbr=1>). The philosophy behind the Register is "that by registering, archaeologists publicly endorse and agree to be held accountable to a basic set of eligibility requirements, a code of ethical principles, and standards of professional performance" (ROPA Task Force, 1997:27). The basic

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M.C. Beaudry e-mail: [beaudry@bu.edu](mailto:beaudry@bu.edu)

rationale for the establishment of the Register is to enhance the image of archaeology as a profession as well as the professional credibility of individual archaeologists who, by registering, pledge their willingness to be held publicly accountable for failure to uphold the standards set by the Register (ROPA Task Force, 1997:32).

Despite all these developments, the majority of archaeologists, at least until very recently, have paid little attention to standards of practice and ethical concerns surrounding what archaeologists do. Some see this as sheer apathy, while others suggest that the attitude arises from a failure to educate archaeologists about professional responsibilities. This lack became especially obvious after the passage in the United States and the United Kingdom of heritage legislation requiring archaeological surveys and excavations in advance of construction projects created a new arena for archaeological employment in the private sector. Various referred to as cultural resource management (CRM), consulting, contract, or even commercial archaeology, this client-driven form of archaeology is now the source of jobs for the vast majority of archaeologists. Because many saw the emergence of private-sector archaeology as resulting in the emergence of “two distinct traditions in field archaeology: one devoted to academic research and the other to the documentation of antiquities threatened by destruction” (Bradley, 2006:1), it has taken several decades for the training of archaeologists to accommodate what was seen as a nontraditional form of archaeological practice—archaeology as a business-oriented profession vs. a cloistered academic pursuit.

The chair of the SAA’s Ethics in Archaeology Task Force noted that “while most graduate programs dedicate ample classroom time to archaeological method and theory, very few programs dedicate significant time to ethics and professional conduct” and went on to note that the majority of archaeologists are unaware of the ethical policies and codes adopted by the organizations to which they belong (Lynott, 1997:589). The SAA Task Force concluded that there was a great need for a formal mechanism for training archaeologists about ethical practices, although it should be noted that the Principles of Archaeological Ethics adopted by the SAA go no further than to call for

training “in a manner consistent with . . . contemporary standards of professional practice” without specific reference to training in archaeological ethics (Society for American Archaeology, 1996:452). The need for training in ethics is being met, in part, by courses that address ethical issues facing the profession, though such courses are still far less common than courses on CRM or public archaeology. More and more professions have initiated programs to educate practitioners about ethical conduct, and in our own field we realize that we must *require* consideration of ethical issues as part of the basic training of all professional archaeologists.

At Boston University, for example, the course “Archaeological Administration, Ethics, and the Law” has been taught in the Department of Archaeology as one of the core requirements for M.A. and Ph.D. degrees since 1980. Professor K. D. Vitelli for many years taught a seminar on archaeological ethics at Indiana University (Vitelli, 1996:9), and in 1998, she and her Anthropology colleagues developed a Ph.D. track, Archaeology in Social Context, “to train students to address the complex questions emerging in debates over archaeological resources among contemporary peoples” (Center for Archaeology in the Public Interest, 2007). As awareness of the need to train archaeologists to recognize their ethical obligations to the profession and to deal with situations that are ethically compromising has grown, more and more institutions have acknowledged that an archaeologist’s training must engage issues of the real world as well as the fictive realm of “pure research.” As a result, courses dealing with ethical issues have been incorporated into the curricula of many North American anthropology departments that have strong archaeological programs as well as schools or departments of Archaeology and Prehistory in the United Kingdom and elsewhere. In 2004, members of the Center for Archaeology in the Public Interest at Indiana University, in collaboration with the SAA, organized the first SAA Ethics Bowl, which has now become a popular fixture of the SAA’s annual meetings. The case studies debated by teams entered into the Ethics Bowl are available on the SAA web site as a classroom resource (Society for American Archaeology, 2007), and the event itself keeps a spotlight trained upon ethical issues in archaeology.

The concern for academic training in archaeological ethics, as noted above, arises in large measure out of the concerns that private-sector archaeologists must address in pursuing their enterprise. The rise of private-sector archaeology follows upon various countries' passage of heritage legislation requiring archaeological survey and excavation in advance of development and construction. Nowadays, the vast majority of archaeologists are employed in such work. Because such work normally involves private archaeological firms bidding for projects by responding to requests for proposals, it is seen as potentially fraught with potential ethical conflicts, both because of the bid selection process and because of the need to be responsive to the interests of clients, interests that might be in conflict with what "standard" archaeological practice requires. Private-sector archaeology has forced archaeologists to develop standards of practice that follow business rather than academic models, and to face issues regarding employment security, benefits, and other labor-market issues. Organizations such as the IFA in the United Kingdom have placed such concerns on a par with attention to defining standards of practice and codes of ethical behavior for archaeologists (see, e.g., Aitchison and Edwards, 2003). These developments have forced all archaeologists to be more alert to ethical issues. Historical archaeology is no exception, because it owes much of its phenomenal growth in the past two decades to the same forces that have resulted in the rise of private-sector archaeology.

## **Ethical Considerations for Archaeology as a Profession**

*Ethics* is a branch of philosophy dealing with "morality, moral problems, and moral judgments" (Frankena, 1973:4). It is about good and bad, right and wrong behavior. Professional ethics embody the shared ideals, values, and guidelines for right conduct of members of a particular profession (Goldman, 1992:1018–1020). By joining a professional archaeological organization, an individual agrees, either tacitly or explicitly, to engage in professional behavior in accordance with that organization's published code of ethics. It is a good idea to

familiarize oneself with the ethical standards of the particular organizations to which one belongs, but there are basic ethical issues of concern to all archaeologists, marine or terrestrial, regardless of area or temporal specialty.

There are two broad areas for consideration: first, responsibilities to the profession; second, responsibilities beyond the archaeological profession to the public interest, including the resource base as well as special interests like affected groups. Ricardo Elia notes that "archaeological ethics begin with the basic fact that archaeological sites and objects . . . are the fragile, finite, and non-renewable material vestiges of the human past" (Elia, 1998:327). Out of this awareness spring the core values of the archaeological profession: contributing to knowledge about the past; acting as stewards of the archaeological record; and serving the public interest (Elia, 1998). Stewardship has emerged as a key principle in contemporary archaeology (Lynott and Wylie, 1995b); it encompasses the archaeologist's responsibility to conserve the archaeological resource base through responsible approaches to its recovery and preservation, either in situ or as reconstituted through records and collections. Standards of research performance established by SOPA, IFA, the SAA, and other groups represent attempts to ensure that all archaeologists employ techniques aimed at maximizing information retrieval while minimizing impact to the resource base. The aim of professional organizations in developing statements of ethical principles has been to establish guidelines, not to enforce standardization. There is, however, increasing uneasiness on the part of many archaeologists that while ethical guidelines are of value, they constitute a form of institutionalization of ethics within the profession and fail to constitute ethical practice in various "forms of open-ended negotiation between expert practitioners and their diverse audiences" (Meskell and Pels, 2005a:1). We see an increasing concern on the part of archaeologists worldwide in developing practical ethical engagement in everyday archaeological practice (Meskell and Pels, 2005b), as well as in exploring the philosophical underpinnings of ethics in archaeology (e.g., Scarre and Scarre, 2006). In keeping with the impetus toward moving archaeologists' engagement with ethics beyond guidelines formulated from within scientifically

oriented professional organizations, the World Archaeological Congress has recently established a committee to begin “a process of identifying a general framework for thinking through the often complex ethics issues that face archaeologists, heritage practitioners, and those affected by decisions of these fields” (World Archaeological Congress, 2007).

### **Scholarship and Publishing**

To share knowledge gleaned through archaeology with colleagues and with the public involves the dissemination of information through a variety of scholarly and popular media. There are, of course, widely accepted standards of practice in the area of publishing, some falling within the realm of copyright law. Archaeology, however, comes with its own set of difficulties generated by the fact that there is so much information that remains unpublished or underpublished (Fagan, 1995; Beaudry, 1984), and, more often than not, no way to confirm the veracity of data presented. We therefore have several ethical obligations with regard to publishing.

One is to give credit where credit is due, through co-authorship when a work is a collaborative effort, appropriate citations to colleagues’ work, or simply by acknowledging assistance received from others. Citation of appropriate literature, whether it is in published or unpublished form or a personal or electronic communication, is absolutely critical, and follows from our obligation to keep abreast of the literature in our field. Studies of citation practices have revealed that it is not uncommon for authors to employ selective citation to express personal prejudice or in furtherance of the politics of inclusion and exclusion (Beaudry, 1994a, 1994b; Gero, 1993; Hutson, 2002). The fact that selective citation constitutes bad scholarship and is easily mistaken for a demonstration of an author’s ignorance should be enough of a stigma to discourage anyone from falling into patterns of unethical behavior in this regard.

A related issue is the obligation to be fair in our assessment of the work of others, especially manuscripts and other materials that we may be asked to

review. Honesty is always the best policy, and it is sometimes impossible to comment positively about a work. Tempering negativity with constructive criticism is always advisable and far more helpful than outright dismissal. Further, we are obliged to acknowledge conflicts of interest—which can exist in instances of dislike or antagonism as readily as it can result from a close personal or working relationship—and to decline to review in such cases.

### **Respect for the Dead, Concern for the Living**

Serving the public interest goes well beyond making public the results of archaeological activities. It also involves education and sharing expertise in the development of policy and legislation (Elia, 1998) and, most important, attention to the concerns and sensitivities of others whose present lives are affected by the recovery of information about the past (Pyburn and Wilk, 1995).

Ethical issues pertaining to the treatment of human remains exemplify this point. If historical archaeologists felt themselves relatively untouched by the challenges to priority of access to human remains manifested in the Native American Graves Protection and Repatriation Act (Public Law 101–601, November 16, 1990, 25 U.S.C. para 3001 et. seq.; for a discussion, see Tabah [1993]), they had a rude awakening in the widely publicized protests over what the African American community of New York City perceived as the heedless and heartless removal of hundreds of interments from what became known as the African Burial Ground (Harrington, 1993). Emotionally charged protests forced a temporary halt to the project while the neglected concerns of the present-day African American population of New York were aired. Much of the anger felt by the protesters focused on the perception that removal of the remains of enslaved Africans by teams of white archaeologists was just one further attempt by the white majority to deny the existence of slavery in colonial New York and the important role African bondsmen and women played in building the city and in creating vast fortunes in which they did not share. The global notoriety of the Manhattan African Burial

Ground project<sup>1</sup> should have served as a lesson to all historical archaeologists that they should never undertake such a project with only the terms of a contract and compliance with the local review processes in mind; like our colleagues working in pre-historic context before us, we should have absorbed the lesson that we must share access to and control over the past (Zimmerman, 1994).

Yet in 2003, on Prestwich Street in Cape Town, South Africa, an upsettingly similar scenario played itself out when the exhumation of an early colonial burial ground prior to waterfront development resulted in bitter conflict between a vocal coalition of community activists, spiritual leaders, and First Nations representatives on the one hand and archaeologists, human biologists, and heritage managers on the other (Lawrence and Shepherd, 2006:80–85). Despite the outcry against their work, “archaeologists generally defended the exhumations on the grounds of the priority of science and the potential of archaeology as a route to recovering hidden histories” (Shepherd, 2006:5; see also Shepherd, 2007). Nick Shepherd (2006:5) notes that

Prestwich Street has been the most contested instance of archaeological work in South Africa since the political transition of 1994. It has also been damaging to the discipline of archaeology locally, insofar as archaeologists were perceived to be disengaged from contemporary social and political concerns and unaccountable to a broader public. The lessons of Prestwich Street are clear: . . . there can be no alternative to an informed and thoughtful engagement with the currents of contemporary life and with what might be termed the “necessary entanglements” of life in the postcolony.

We can only hope that the “lessons of Prestwich Street” are learned better than the lessons of the Manhattan African Burial Ground. The major lesson to take away from both archaeological fiascos is that archaeologists’ ethical obligations are not just to the “resource base” that serves as a source of work and hence of income for many archaeologists (see more below). We also have a strong obligation

to a variety of stakeholders, such as the protestors in each of these cases who felt that the burying grounds should be preserved as memorials and sites of conscience. In both cases, archaeologists mistakenly assumed that their chief obligations were to the profession, in terms of scientific practice, and to the client, in terms of clearing the development site of human remains so that development could proceed.

It goes without saying that our sensitivity toward stakeholders in the past cannot be limited to grave sites alone, but to all aspects of the material record that speak to the conditions of life for groups whose descendants are affected by the results of the work that we do (see Patterson, 1995:129–144). Even before the controversy over the African Burial Ground in Manhattan, historical archaeologists began to examine the conduct and outcomes of excavations at African American sites. Jean Howson (1990) leveled an informed, substantive, and well-reasoned critique of the basic assumptions behind the archaeology of plantation slavery, noting many shortcomings in analytical approaches. She focused on theoretical underpinnings of the work, calling for a reformulation of the culture concept and a more thorough grounding in the historical contexts of slavery and the development of slave culture. Selected examples from the body of literature that drew Howson’s sophisticated critique prompted a different response from Parker B. Potter, Jr. (1991), who claimed that the results of plantation archaeology offered little to contemporary African Americans and thus were of little merit. In his opinion, conclusions drawn by plantation archaeologists could be used to support racist arguments; he recommended that plantation archaeologists undertake greater self-reflection, with the goal of making archaeology “good politics,” focusing “directly on the structures of oppression” (Potter, 1991:101, 104). Paul Farnsworth (1993) saw Potter’s observations as largely valid but misdirected; the notion that African Americans in general constitute the audience for plantation archaeology, Farnsworth believes, is incorrect. Rather, the chief audience for this and any other research in historical archaeology, Farnsworth claims, is the wider community of scholars. Plantation archaeology is of little use, in Farnsworth’s opinion, because it does not

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<sup>1</sup> It is relevant to note, because of what follows, that at the 4th World Archaeological Congress held in Cape Town, South Africa, in 1999, a day-long session devoted to the Manhattan African Burial Ground project was a major feature of the program.

contribute to plantation scholarship writ large. Larry McKee (1994) acknowledged archaeologists' continuing failure to communicate adequately with the black community as well as with the community of scholars, but saw archaeologists' first layer of responsibility as one to the profession—to do archaeology well and to do “what archaeology is supposed to do best, to present fresh information on the past” (McKee, 1994:6). This, he notes, is what all components of our audience—black, white, scholars, the public—expect of us, and “we need to avoid the idea that valid research questions and interpretations can be developed out of the contemporary agendas of groups on either side of the power line” (McKee, 1994:5).

On the face of it, this debate about archaeology and the African American past, which has found parallel expressions in South Africa and elsewhere (e.g., the Caribbean), seems to arise out of differing theoretical perspectives about how to do archaeology and how to interpret and present the results of archaeological research; fewer and fewer historical archaeologists subscribe to the notion that their work can or should be utterly divorced from politics and contemporary public concerns (see, e.g., Franklin and McKee, 2004; McDavid and Babson, 1997). We must be mindful that method is practice informed by theory, and encapsulated within the debates over African American and African Diaspora archaeology are key issues of identity and self-definition for historical archaeologists (Singleton, 2006). Practitioners in the field are concerned with ethical practice—right conduct—and in this instance disagreement arises over exactly where ethical responsibilities lie. All participants in the debate recognize that there are multiple constituencies for archaeology and that some stakeholders may have a greater claim than others; they disagree, however, as to which group of stakeholders has the right to make that claim. The very fact that historical archaeologists have begun to engage in an open exchange of ideas about how our work affects the people whose heritages we study is a healthy sign and makes one optimistic that our future work will be characterized by greater awareness of its potential outcomes.

## Ethics in Historical Archaeology

Persons wishing to present papers at the annual meetings of the SHA are made forcefully aware of a heightened sensitivity to ethical issues on the part of that organization when they are required to indicate their endorsement of the ethical positions set out in the SHA constitution and by-laws by signing a statement to that effect as part of the abstract submission process. The SHA's firm and highly visible stance regarding its ethical policies arose from the unfortunate circumstance that, from time to time, commercially driven shipwreck treasure hunters had sought to gain legitimacy by presenting papers at the society's annual conference on historical and underwater archaeology. Historical archaeology has close links with maritime archaeology that make it critical for both underwater and land-based researchers to confront the special ethical problems involved in the investigation and preservation of underwater sites of all time periods. But do we as historical archaeologists face any ethical considerations unique to our field, ones we do not share with prehistorians or with Old World archaeologists who study the state-level, complex, literate societies of antiquity (e.g., the Near and Far East, Classical civilizations, etc.)?

## Research Practice

As it developed and grew, historical archaeology suffered through several decades of identity crisis that affected how historical archaeologists defined their research activities. The basic issues in contention were whether the field was a branch of history, anthropology, or perhaps something else (for a useful recent discussion, see De Cunzio [1996]). For many, lodging historical archaeology within anthropology meant turning one's back on history and approaching historical sites with methods developed in prehistoric archaeology; for others who defined the field as primarily historical in nature, analytical procedures aimed at investigating and understanding archaeological sites as complex matrices were deemed irrelevant. Both approaches privileged one sort of evidence over another—excavated data in the former case, documents in the latter.

Gradually, however, a consensus has been building that historical archaeology is a fully interdisciplinary (or perhaps even better, *transdisciplinary*), synergistic field that employs multiple, converging lines of evidence and that stresses context in all its guises—cultural, historical, environmental, and archaeological (see, e.g., Beaudry, 1995, 1996; De Cunzo, 1995, 1996; Mrozowski, 1996; Orser and Fagan, 1995; Worrell et al., 1996). This has implications for evaluating what constitutes right conduct in the practice of historical archaeology and to the training individuals must receive if they are to conduct historical archaeology in a professionally responsible and acceptable manner. There are numerous examples of persons trained as prehistorians or poorly trained as historical archaeologists undertaking projects without being aware of the range of sources available or of how to make use of them, and without even the most basic comprehension of the historical context(s) of or literature pertinent to the sites under study. The result is substandard work that often treats historical sites as if they were prehistoric and that wastes financial and cultural resources. Jean Wilson's study of the social, intellectual, and material world of William Shakespeare offers a poignant case study of how lack of a thorough grounding in the relevant literature led London archaeologists to misinterpret the remains of the Globe Theatre when they first uncovered it (Wilson, 1995:165); in this example historians and archaeologists were largely ignorant of each other's knowledge and concerns. Wilson (1995:166) notes that "the problem is not as simple as lack of cooperation"; rather, both sides failed to profit as fully as they should have from the work at both the Rose and the Globe because of their ignorance of the other's discipline. Apart from the obvious lesson for archaeologists that they need to redouble their efforts to inform the public and other scholars about archaeological methods and interpretation, it is clear that historical archaeologists need specialized training that goes well beyond methods and techniques of excavation.

Hence the need for specialized training for historical archaeologists is an ethical issue equally as important as other, more obvious, ethical concerns addressed in this chapter; it may also be the only ethical issue unique to historical archaeology—though clearly, all specialists must undertake

training requisite for their chosen specialty. The point is that historical archaeology is a specialty in and of itself, requiring special training. It is not something anyone who stumbles over a historical site in a resource survey can master as a "quick study" or by consulting one or two books on historical archaeology and historical-period artifacts.

Discussions about the training of historical archaeologists have become increasingly frequent at SHA meetings and in the pages of the *SHA Newsletter*; by and large, participants in these discussions have outlined their concerns about proper training for historical archaeologists as a job-market or career development issue (see Gray, 1997). Teresita Majewski, then editor of the Teaching Historical Archaeology column in the *SHA Newsletter*, summarized the major points of a 1995 SHA conference session titled "Mending the Cracks: An Open Forum on Academic Standards" in an open letter to students and prospective students of historical archaeology. Here she stressed the need for training in the specific skills necessary for doing historical archaeology (Majewski, 1995:22–23):

these include training in field and laboratory methods as well as how to conceive of, plan, implement, and complete a research project. Descriptive and analytical skills are essential. . . . Essential to your training is the ability to conduct background research in relevant literature and primary documents and to evaluate the materials you have compiled. If you are interested in Spanish or French Colonial studies, learn the appropriate language or languages! In historical archaeology, the critical evaluation and analysis of both archaeological and documentary sources are essential.

If students must be trained properly to be good historical archaeologists, it follows that professional historical archaeologists, especially those in academia, need to develop programs that address all aspects of what the profession defines as essential qualifications for historical archaeologists. This includes training in professional ethics, resource protection advocacy, responsibility to the public, preservation laws and policies, and in workplace and management issues *in addition to* education in anthropological and archaeological theories and methods, history, historical research, and historiography, identification, analysis, and interpretation of material culture, and museology (Majewski, 1995:23).

To paraphrase Larry McKee, our primary ethical obligation to the profession and to the public is to do historical archaeology well (McKee, 1994:6). If we consider this as an extension of the general archaeological ethic that an archaeologist shall not “undertake any research that affects the archeological resource base for which she/he is not qualified” (SOPA, 1995:I.1.2d, in Vitelli [1996:254]), we must acknowledge, therefore, that historical archaeology is a distinctive field that requires specialized training different from the training that, for example, prehistorians or Classical archaeologists receive.

## Oral History

One potential source of compelling and powerful data for historical archaeologists is the memories of living persons. Scholars from diverse fields—including other branches of archaeology—make use of oral history, but historical archaeologists are the only ones who can, realistically, make full use of oral histories in site interpretations. For this reason many historical archaeology projects employ oral history as just one of the many lines of evidence brought to bear upon uncovering and interpreting the past (Purser, 1992; Metheny, 2007; see Purser [1992] for a full discussion of the value of oral history in historical archaeology).

Oral historians have developed guidelines for designing and carrying out oral history projects and have given special attention to the ethical issues that pertain to this type of research (see, e.g., Allen and Montell, 1981; Hoopes, 1979; Yow, 1994). The first concern is respect for informants and interviewees. This is accomplished through careful advance planning before undertaking interviews and by sensitivity and neutrality during the interview process. Most oral historians feel it is appropriate not just to thank their informants for their willingness to be interviewed but also to allow them to review and correct transcripts of the interview(s), as well as to follow up by sharing copies of the products of the research.

Collection of oral histories as part of an archaeological project calls for the same attention to preservation and curation that is given to artifacts, notes, and site records of all kinds, in whatever media. In other words, the oral historian should

take care to preserve copies of tapes and transcripts of interviews and to deposit them in an appropriate archive for long-term curation, where other scholars can gain access to them. Yow’s useful manual, *Recording Oral History*, reproduces the Principles and Standards of the Oral History Association (Yow, 1994:252–264) along with a great deal of other useful information (including annotated bibliographies) for anyone seeking to undertake an oral history project.

## Collaboration with Commercial Enterprises

An area of great concern to contemporary archaeologists falls under the rubric of the ethics of collaboration (Elia, 1992). It is a simple matter to deplore commercialization of the archaeological record through treasure hunting and looting and the sale of artifacts, and no one who has legitimate standing as a professional archaeologist would engage in such practices (Elia, 1997). But occasions do arise that constitute genuine ethical dilemmas for well-meaning archaeologists, who, in complying with the law, find themselves on the outside of what the profession deems right conduct. The majority of such cases have involved historical archaeologists hired to work with commercial treasure hunters.

The Abandoned Shipwreck Act of 1987 states in Section 5, as one goal, to “foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests.” It is important to understand, however, that in certain cases, while an action may be perfectly *legal*, it may not be *ethical*. For example, a law mandating that a qualified archaeologist undertake the oversight of a treasure-salvage operation can be held up to justify both the participation of the archaeologist and the conduct of the treasure-hunting venture in the first place. It is legal, after all. Here the logic, if such it may be called, is that an action cannot be unethical if it is not illegal, and, by extension, that any action for which a person could not be arrested constitutes right conduct (for a fuller discussion see Murphy et al. [1995]). Elia observes that “in recent years a consensus has emerged that professional archaeologists must eschew collaboration with treasure hunters;



collaborators risk professional censure” (Elia, 1998:327). This is because such actions run contrary to the basic principle of stewardship.

### **Commercial vs. Academic Archaeology: Two Cultures?**

I noted earlier that for several decades commercial or private-sector archaeology was deemed as something set apart from “mainstream” academic research; this has been a matter of concern in both the United States and the United Kingdom. Richard Bradley (2006:1) has observed that academic and commercial archaeology of prehistoric sites in Britain are “undertaken by different people, funded by different sponsors and their results are disseminated in different ways,” adding that the contrast between the two is so striking that “it is tempting to describe them as two cultures.”

Bradley’s (2006:11) essay begins in a “state of dejection” over the fact that the work done by commercial archaeologists, while expanding the database of knowledge on prehistoric Britain exponentially, fails to contribute to the overall aims of academic archaeology because, rather than publishing results in books and journal articles, commercial archaeologists produce limited-run technical reports that are intractable resources for academic prehistorians seeking to illuminate broad patterns or to develop some sort of national synthesis. Archaeologists in the United States have expressed a similar sentiment regarding the inaccessibility of reports and the data they contain, though there has not yet been a call for any sort of national synthesis; rather, emphasis has been upon the public benefits of archaeology funded by developers and taxpayers (Little, 2002) alongside expressions of a continuing frustration on the part of archaeologists that their work is not taken seriously by historians (e.g., Lees and King, 2007; Little, 2007; Noble, 2007; Purser, 2007; cf. Courtney, 2007; see also Brumfiel [2003], who expresses concern that *anthropologists* pay inadequate attention to the work of historical archaeologists). The “divide” between academic and consulting archaeology, according to Iain Stuart (2007:46), has left Australasian historical archaeology in a constant state of turmoil over

self-definition, best practice, and opportunities for publication (Stuart, 2007:50). Despite this, “large and small consulting projects . . . generate employment and substantial publications” and a number of major projects in Australia and New Zealand are conducted as collaborations “between the academic and consulting arms of the profession” (Lawrence and Karskens, 2003).

While in the United States it is possible to distinguish between commercial and academic archaeology, there is considerable crossover in terms of personnel and exchange of data and ideas, and all but the most ivory-tower-ensconced historical archaeologists have come to realize that regardless of whether they are employed by a private contracting firm, a state or federal agency, or a college or university, the preponderance of work they do is client-driven or answerable to a variety of stakeholders in the past. In the United States, there are few sources of funding for “research” archaeology, hence the bulk of U.S. historical archaeology is done not by academic archaeologists but by contract archaeologists. As a result, “commercial” historical archaeology in the United States is as much a part of the mainstream as is academic archaeology, and “commercial” archaeologists maintain high standards of professionalism and best practice. Archaeologists who conduct major projects for private developers or for agencies such as the National Park Service regularly add to the “gray literature” of lengthy, limited-run technical reports, but they also, on their own initiative or with the support of their employers or sponsors, produce both academic and popular books on the results of their work in the “commercial” sector (e.g., Mrozowski, 2006; Mrozowski et al., 1996; Shackel and Winter, 1994; see also Karskens [1999] for an Australian example). They also disseminate the results of their work through peer-reviewed journal articles. Indeed, several thematic issues of the journal *Historical Archaeology* have been devoted to presenting not just technical but interpretive essays on major urban “commercial” archaeology projects such as those conducted in the Five Points neighborhood in New York City and in Boston in areas impacted by the depression of the Central Artery (Cheek, 1998; Yamin, 2001), on comprehensive CRM projects such as at Harpers Ferry, Virginia (Shackel and Winter, 1994), or on the results of multiple

contract archaeology or CRM projects at sites associated with workers in the sex trade (Seifert, 2005) and construction workers' camps in the American West (Van Bueren, 2002). There is increasing evidence in the United Kingdom that "commercial" archaeology is becoming a part of the mainstream of historical (or post-medieval) archaeology as practiced there (see, e.g., Symonds et al., 2006; Palmer, 2007). Thus the rise of "commercial" historical archaeology has resulted in important contributions to our knowledge base while raising awareness discipline-wide about ethical standards and professional practice.

### **Public-Private Partnerships**

Here I provide a single, outstanding example of a partnership program between public agencies and private individuals. In England in 1997, archaeologists, with support from the Heritage Lottery Fund, the Museums, Libraries and Archives Council, and the Department for Culture, Media and Sport, initiated a program to encourage members of the public to voluntarily report finds of archaeological interest so that they could be fully recorded. The Portable Antiquities Scheme (PAS), which is linked with the 1996 Treasure Act, was at first a regional pilot program aimed at encouraging metal detector users to report their finds to local Finds Liaison Officers. The scheme proved so successful that it was extended to all of England and Wales in 2003. The PAS is administered by the British Museum, and the Finds Liaison Officers record the nature and location of finds, which are listed on the PAS web site (Portable Antiquities Scheme, 2007). Some archaeologists express dissatisfaction with the lack of contextual detail pertaining to finds recorded under the scheme, but for others, the burgeoning catalog of finds from many parts of England and Wales that have heretofore seen little in the way of archaeological survey or systematic excavation (rural areas, for example) is having a major impact on what is known about early occupations, especially with regard to Viking and Saxon settlement in northern England (Leahy, 2003; Leahy and Paterson, 2001). It is also allowing "a national picture of some elusive aspects of post-medieval material culture to

be built up, filling significant gaps" (Egan, 2005:328). The PAS has been an overwhelming success in encouraging "right" behavior among non-archaeologists, and for archaeologists interested in regional distribution of finds it has proved highly beneficial. Of serious concern to professional archaeologists in some quarters, however, is the possibility that the PAS might serve to encourage the expansion of metal detecting and finds seeking as a pastime, to the detriment of the archaeological record.

### **Conclusion**

Archaeological ethics, a set of principles expressing the shared values of the profession as a whole, are the vehicle through which we establish the *ideal* for right conduct. In essence, ethical standards provide a means of self-regulation, but at a more complex level, archaeological ethics provide a means of regulating practice and negotiating politics, of formulating how we as archaeologists deal with *others*—the people whom we study, their descendants, and all who are affected by the outcomes of our work. Lynne Meskell (2002:293) makes the point that "at the nexus of identity and politics lies the crucial terrain of ethics," noting that we must abandon "the illusion that the subjects of our research are dead and buried, literally, and that our 'scientific' research goals are paramount"—archaeological ethics are not just about us as archaeologists but are also about how we behave as professionals and how we relate people who are not archaeologists. Because they express the values at the core of the discipline, ethical standards constitute the basis for awareness about professionally appropriate behavior as well as the foundation of professional identity.

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