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ETHICS, ACCESS, AND RIGHTS IN ANTHROPOLOGICAL
ARCHIVE MANAGEMENT: A CASE STUDY FROM THAILAND

THANWADEE SOOKPRASERT AND SITTISAK
RUNGCHAROENSUKSRI

Abstract *Distinguished anthropologist Michael Moerman's donation of his ethnographic fieldwork materials in 2005 to the Anthropological Archives of the Princess Maha Chakri Sirindhorn Anthropology Centre (SAC) posed new and compelling questions to the SAC's archival management staff. They have sought to strike a balance between the academic needs of users and the ethical and legal considerations in the management and distribution of tangible and intangible cultural property from the source communities where Moerman did his research. Endeavouring to develop a protocol for the management of an ethnographic archival database, the SAC is aware of its obligation to build awareness of the cultural rights of the source community as the rightful owners of this cultural property. By incorporating the views of multiple stakeholders in a previously binary division of materials as 'sensitive' or 'non-sensitive', it is trying to take into account a diversity of views about access to these cultural materials. One aim of our research was, thus, to highlight the role of the archivists themselves by asking them to review and question their own processes and contributions to the management of anthropological archives.*

We expect that the conclusions and observations drawn from this study will be used to create a SAC protocol for cultural information management and distribution. Though the Tai Lue source community that Moerman studied in the 1960s does not have a pre-existing cultural protocol to determine the parameters surrounding digital repatriation and access, the community's opinions and reflections will be fully considered in the creation of the SAC protocol for use

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as an initial guideline. Thus, the second aim of our research was to elicit and examine the community's reactions to ethnographic material deriving from it, in order to highlight the issue of a community's collective right to be involved in preservation of and access to such material.

INTRODUCTION

The main purpose of SAC Anthropological Archives is to collect and conserve anthropological fieldwork materials, as well as to manage these archives so that they can be used as a source of information for further research.

While the goal of the SAC's digital repositories is to archive cultural knowledge, enhance public interest, and support scholarly access to a broad range of anthropological materials, these digital projects nonetheless raise a number of pressing ethical concerns regarding intellectual and cultural property rights. Indeed, as noted by specialists in the field of cultural and intellectual property rights, the archiving of cultural materials is a process that can inadvertently render certain traditional forms of knowledge vulnerable to misappropriation and misuse. Furthermore, the archives are not simply composed of a collection of cultural data, but also contain private information about both individuals and communities in Thailand. For this reason, there is a need for archivists to be aware of how to manage different kinds of information prior to their distribution.

The SAC Anthropological Archives requires the donors of fieldwork materials to sign a deed of gift in order to transmit the rights for the archive to hold, manage, and distribute the archival records. Intellectual property law bestows the SAC Anthropological Archives with the ownership and authority to make decisions over the distribution of information. However, the institution is not yet fully able to deal adequately with ethical issues. Professional ethics concerning individuals or source communities require that they be made aware of the existence of information that is related to them or their community, including where it is preserved, and how it will be disclosed to the general public. Moreover, those whose information appears in documents should have the 'right' or 'opportunity' to be involved in the consideration process before any public distribution of that information. It is up to the archivist to maintain a balance between public users' access to information and the legal and ethical considerations relating to the human subjects of that information.

This study is an attempt to examine and define an archival management protocol for SAC anthropological collections based on emerging international discussions about ethical archival management, including an exploration of how a digital database of the SAC collections relates to archival management and

community engagement. Field notes and materials belonging to anthropologist Michael Moerman that were donated to the SAC in 2005 serve as a case study.

This research paper is part of the Culture and Rights in Thailand (CRT) project (2009–2011) by the Princess Maha Chakri Sirindhorn Anthropology Center (SAC).

CULTURAL PROPERTY AND CULTURAL INFORMATION
MANAGEMENT IN ARCHIVES

Cultural property consists of both ‘tangible’ and ‘intangible’ cultural heritage. Tangible cultural heritage comprises, for example, monuments, groups of buildings, historical sites, and other artefacts, which are called ‘real property’.¹ Intangible cultural heritage, according to Article 2 of the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, refers to the ‘practices, representations, expressions, knowledge, and skills—as well as the instruments, objects, artefacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognise as part of their cultural heritage’.²

The materials collected and held in the archives may be not only tangible cultural property, but also intangible cultural property. This means that it is necessary for the archivists to consider not only the physical conditions of often fragile materials, such as documents, but also what the documents contain, such as confidential information and cultural knowledge.

The efforts of cultural owners to manage and control the distribution of their cultural knowledge have constituted a direct challenge to the access policies of archival repositories, contributing to an international cultural rights movement. The Hopi, a Native American group in the United States, has contested the holding of their cultural records by some of the nation’s largest repositories. In 1994, the chairman of the Hopi tribe requested that museums and archives close Hopi collections to researchers who had not obtained the tribe’s prior written permission. The central issue was over the distribution of sensitive cultural information, which included photographs, sketches, audiotapes, inventories of ritual objects, anthropological field notes, and transcriptions of oral literature.³

In Australia, debates related to the ritual information of Australian Aborigines have also surfaced in public forums. The Australian Institute of Aboriginal and Torres Strait Islander Studies, an ethnographic archive that documents the culture of Aboriginal and Torres Strait Islander peoples, recognises that internet access has given international publicity to the archives by granting such wide access to the holdings. This is problematic because the holdings sometimes contain information with cultural restrictions, such as recordings, films, and photographs documenting ceremonial material. In the case of the Aborigine people, cultural protocols restrict access to certain cultural materials to one gender or to people

holding a specific status within the community. Current copyright provisions, the standard way of restricting access to information, do not protect the material in a way that takes cultural norms into account, such as the consideration of group ownership.⁴

As custodians of the cultural record, it is the role of archivists to recognise and balance the interests of the source communities, owners, researchers, and collectors. Archivists need to be able to mitigate tensions that can occur between these various interests when questions of privacy and cultural property arise. The classification of materials and written protocols defining access offer the archivist a way to balance conflicting concerns. By designating records as 'private' or 'confidential', the level of access can be controlled by various stakeholders involved in the process – archivist, donor, or indigenous peoples, for instance.⁵

Two interesting databases that show how to work together between archivist and indigenous to come to a resolution of these issues are the Mukurtu Wumpurrarini-kari archive⁶ in Australia and the Plateau Peoples' Web Portal⁷ at Washington State University, United States. They were developed and built around cultural protocols defined by members of particular indigenous groups. The projects provided a forum for indigenous people to access and curate their own cultural material through the adaption of existing cultural protocols, and by taking advantage of the capabilities of current technologies. They thus provided a cultural solution to the community's concern over access to and reproduction of digitised versions of cultural materials, including personal and community photographs.

A study of archives in other countries has made the SAC Anthropological Archives aware of the multiplicity of issues relating to the information held in its records. This includes the claiming of rights to control cultural materials by indigenous groups, what conditions and factors impact the awareness of indigenous groups and communities, the methods for archivists to determine specific rights-claiming behaviour by indigenous groups, and defining the type of indigenous involvement in control of cultural materials that is possible using digital archives and communications technologies. All the cases have influenced SAC's attempts to frame a new set of policy goals around archival management of anthropological material.

MICHAEL MOERMAN'S MATERIALS: A CASE STUDY

Michael Moerman is an American anthropologist who conducted ethnographic research in the Tai Lue village of Ban Phaed, Chiang Kham District, Phayao Province, Thailand, from 1959 to 1986.

Moerman donated his Thai fieldwork materials to the SAC in 2005, after retiring as an emeritus professor of anthropology at the University of California,

Los Angeles, with the intention of providing a source of information for the study of the Tai Lue. The Moerman collection includes research materials of over 6,000 records. The materials consist of punch cards, typescripts, letters, photographs, audiocassette tapes, and videotapes, which contain various data about individuals, daily life, culture, tradition, economy, history, education, and demography. Professor Moerman put no conditions on access to the fieldwork materials he donated. Access and other management issues would be left to the SAC to decide.

In 2007, the Moerman collection officially became available online with no restrictions on access. However, after consideration by the SAC archivists, it was found that the collection contained a wide variety of information, some of which could be considered harmful to individuals mentioned in them, as well as confidential information about such things as legal criminal cases, including cases of murder. The SAC thus placed this category of information on restricted access in order to protect the privacy of the involved parties, and it is not available through the online database. However, given the vast amount of cultural information—including ritual knowledge, cultural knowledge, and traditional knowledge—in the materials, it was necessary for the archivists to take into consideration the views of the relevant culture-bearers about the materials generally.

The reflections from the culture-bearers are important because we will learn what they think about the collection. They will help decide which types of information they consider to be confidential. This is an ethical approach to provide a community the rights and opportunities to protect their own community's information; at the same time, this is a way to avoid potential conflicts in the future.

Source Community's Reactions to Moerman's Sensitive Material

Sensitive material is material containing private information, both from and about individuals and the group. Private information includes photographs of a person, a household's financial records, personal healthcare records, criminal records, and others. Private information can also include some cultural information that is restricted only to people in the community, such as spirit rituals or traditional knowledge. It is necessary to consider this kind of information confidential.

There are three points of view from member of Tai Lue village of Ban Phaed on the question of publishing sensitive issue. First, people disagreed about whether it is acceptable to publish sensitive information at all. They were afraid that it might destroy the image of particular individuals and the community as a whole. They favoured restricting the general public from access to this category of information.

Second, people agreed to publish community information with no objections. They were very pleased to learn the past histories of people in their community, even though some of the stories reflected intra-community conflict or negative behaviour of people whom they knew.

Finally, the villagers acknowledged the veracity of certain information, but felt that the SAC Anthropological Archives should only make it accessible under certain conditions. For instance, the description should elaborate more by giving details or explanations in brackets. Names of people mentioned in connection with undesirable events must be concealed.

The informants' opinions on what the SAC may do with the records depended on what type of stakes they hold in the collection. For instance, people whose life stories, or those of their parents', are mentioned in the records seemed worried about how the stories would be divulged.

There seemed to be consensus that information related to a person's past inappropriate behaviour or illegal activities should be considered sensitive. But they did not see a reason to restrict information concerning traditional knowledge or rituals, such as spirit worship and funeral rituals, only to the Tai Lue community itself. In some other cultures, for example, the Aborigines in Australia, certain ritual knowledge is restricted to only those within the community. This does not seem to be the case for the Tai Lue community in Ban Phaed. In their perspective, on the contrary, the distribution of information about their rituals through an online database is one useful channel for outsiders to learn about Tai Lue culture.

VILLAGE CONCEPTUALISATION: RIGHTS OR OPPORTUNITY?

Even though the notion of rights has not developed as strongly as the indigenous communities in the United States or Australia, the notion of 'opportunity' can be used in this research and placed on the same level as that of rights.

Collaboration between the source community and archivists to archive and organise their digital cultural materials – tagging, editing, and adding – will be hard to realise due to language barriers and lack of computer literacy. It is not possible for elderly members to collaborate via the internet, but it can be done by visiting and communicating in person.

Our efforts to seek collaboration with a source community to protect their privacy and to manage access to cultural information preserved in the SAC archives were meant to encourage the participation of the villagers and enhance their awareness of their cultural rights. We as archivists, and as researchers, were trying to give the source community an opportunity to share their attitudes and ideas about archival disposition.

The SAC also offered the community members an opportunity to use the archives as a tool for learning about the community's history and culture.

From the interviews, exhibition, and youth activities we developed as eliciting methodologies, we found that the source community was positive about using information in the Moerman collection in the SAC Anthropological Archives as a way to transfer its cultural knowledge to a new generation, and for maintaining Tai Lue identity generally, for instance, by using some of the materials for teaching local history in the school curriculum.

The opportunity our project gave the Tai Lue community in Ban Phaed to share ideas and solutions for controlling and distributing community information could be seen as helping inform them of their rights as cultural owners of the ethnographic material that originally came from their village. Because of English-language and computer literacy limitations, there were difficulties in getting them directly involved in assessing particular information in the materials. If the community members cannot access the records directly or if they are unable to understand what is in the records, the task of pinpointing sensitive or problematic information becomes difficult. This accounts for their lack of interest or desire to get involved in going through the materials to check the accuracy of information in them. The implication is that the most viable alternative now is for the SAC archivists to take the lead, by eliciting information from the villagers to enable the SAC to protect private or sensitive materials, or to note incorrect information – for instance, by allowing them to identify people in photographs.

Although the source community at Ban Phaed is not explicitly exercising their cultural rights here, and although it may not be possible for the SAC Anthropological Archives to expect the source community to directly manage the digital archive of the Moerman collection at this point, the SAC has learned from our efforts to consult with the source community. The latter's suggestions, reactions to, and reflections on Moerman's fieldwork materials, as elicited from our research project, will be of enormous benefit for the SAC to establish a formal protocol for archival management of cultural materials.

CONTENT AND INNOVATIVE USE OF DIGITAL RESOURCES

Since this Tai Lue community has no explicit cultural protocols for controlling their cultural property, collaboration between archivists and the cultural owners to co-curate the archive through an online database has not yet been accomplished at this stage. It is the archivist's responsibility to establish protocols and create applications for controlling access in order to maintain the confidentiality of records and to protect individual/group privacy and cultural property.

Now the SAC Anthropological Archive Database is being improved and developed to meet international standards for archives. For instance, the International Standard Archival Description-ISAD(G), EAD (Encoded Archival

Description), and OAI-PMH (Open Archives Initiative Protocol for Metadata Harvesting) are encoding standards for exchanging and disseminating archival information, including harvesting information from other digital archives.⁸

Moreover, beyond applying new technology and standards to develop the SAC anthropological archives database, one critical issue that we are seriously considering is the appropriateness of information distribution. Thus, we have provided opportunities for cultural owners to share their ideas on cultural materials management. Consequently, the reflections from members in the community will be applied using with what is called ‘Traditional Knowledge Licenses and Label’ in order to create protocols for accessing online archives.

Traditional Knowledge Licenses and Fair-Use Labels recognise that indigenous communities have different access and use expectations for their cultural materials and traditional cultural expressions. These different expectations of access and use depend on the materials themselves, and these licenses help categorise these materials. In particular, they are designed to identify and clarify which materials have community-specific, gendered, and high-level restrictions. In addition, these licenses recognise that use of specific materials might require special permissions and appropriate acknowledgement of the source communities. These licenses are additional agreements that ask all parties to be sensitive to the indigenous customs and laws that govern these materials. Moreover, in the SAC Anthropological Archives Database, Traditional Knowledge Licenses and Fair-Use Labels will work alongside Creative Commons Licenses which is one type of copyright license that allows the distribution of copyrighted work.⁹

From the outset, all anthropological archive materials that are available online will be protected basically by Creative Commons Licenses – Attribution-NonCommercial-NoDerivs 3.0 Thailand.¹⁰ If certain materials are considered to be protected by cultural protocols, they have to be additionally protected with Traditional Knowledge Licenses. For example, Traditional Knowledge Attribution Non-Commercial, (TK A-NC), Traditional Knowledge Community Owned Education (TK CO-E), Traditional Knowledge Community Use Only (TK CU), Traditional Knowledge External Use Only-Women Restricted (TK XU-WR).

CONCLUSIONS

Our study found that the Tai Lue villagers in Ban Phaed were concerned about the sensitivity of information only insofar as it could affect the image of individuals; information about the community, its traditional knowledge or cultural information, seemed not to be sensitive to them. Ethnicity, age, gender, or social position, do not seem to be factors determining access to information – unlike in the Hopi or Aborigine cases. We assume that this is

because the Tai Lue community in Ban Phaed have no explicit set of ‘cultural protocols’ to control access or distribution of their cultural property.

Nevertheless, the SAC Anthropological Archives is well aware of potential ethical issues in the management of cultural information management, and thus recognises the need to create a protocol for archival management by its own initiative. The SAC’s consultation with the Tai Lue community in Phayao provided an opportunity for that community to use data in the SAC Anthropological Archives, and encouraged its members to reflect on their attitudes towards Moerman’s materials and to share ideas about their disposition. The conclusions and observations we have drawn from this research will be used to create a SAC protocol for cultural information management and distribution.

After community consultation, the protocol will include community concerns on access to material and on how they should best be curated. For instance, previously the information available in the SAC database was only classified into two categories: sensitive and non-sensitive. Information related to legal cases, for instance, is commonly considered as in the sensitive category and access to it was thus restricted. It is not available in the database, whereas information in the non-sensitive category is disclosed. This binary classification, however, is limited because it cannot accommodate multiple stakeholders. Because each stakeholder relates to material on a different level, it is important to take this into account in the layering of the database’s metadata. The owners of particular information should be able to access their own data, and, by extension, cultural owners should be able to access their own cultural information, as well. If access to cultural material or traditional knowledge is considered to be restricted to the cultural owners only, then outsiders are not allowed access. It is necessary for access protocol to consider more the needs of multiple stakeholders, so that the database can accommodate multiple stakeholders, once they are identified and their relationship to and stakes in the materials are made clear. That is the reason why Traditional Knowledge Licenses and Fair-Use Labels are adopted in the database.

This research was an initiative that arose from the SAC’s awareness of a need to have an ethically responsible cultural information management system, and was not derived from any conflicts arising from, or claims for cultural rights from, the source community. Even if our project was unsuccessful in drawing the attention and interest of the source community in collaborating in co-curating the archive by screening or editing community information before displaying it online, it can still serve as a model for other institutions and source communities.

Our hope is that our study will contribute to the field of archive management, especially by institutions involved in cultural property conservation. The observations from this study can draw the attention of archivists to the need to review their own procedures in archival management, which hitherto were only based on the archivists’ decisions alone. According to law, archives have

absolute ownership and authority over the management of cultural property in their collections. But when considering the ethical issues in the use of such information, archivists need to take into account the views of all the stakeholders, including the institution, donor, source community, and individuals whose information is contained in the records. An archivist has to consider who might be affected if the archive allows the general public free access to the information. We hope this study can help to encourage the establishment of effective policies or protocols as guidelines for ethical management of ethnographic archives.

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