The dark grey zone:
ethics and power in documentary consent processes

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Certificate of original authorship

I, Rebecca Barry, declare that this thesis is submitted in fulfilment of the requirements for the award of Doctorate of Philosophy in the Faculty of Arts and Social Sciences at the University of Technology Sydney. This thesis is wholly my own work unless otherwise reference or acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis. This document has not been submitted for qualifications at any other academic institution. This research is supported by the Australian Government Research Training Program.

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Abstract

In much contemporary documentary practice, ethical issues—particularly that of informed consent—fall into a dark grey zone. While some filmmakers have publicly reflected on their ethical decisions and academic research has explored the subject, filmmakers are often left to their own devices to navigate through challenging ethical dilemmas in an ad hoc way. Unlike other professional fields, documentary filmmakers often lack a process and insight into how best to solve ethical dilemmas. This is surprising given the often-high-stake situations and the very real risks to many documentary participants.

This dissertation set out to answer the question: 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?'

The thesis describes how I drew on practice-led research in the creation of the documentary film *I am a Girl* to develop an ethical process appropriate to the diverse and dynamic ethical challenges encountered during filming.

The thesis argues that by engaging with academic literature, industry protocols and philosophical schools of thought, filmmakers can establish the framework for a personal ethical process, which can provide a path to ensuring informed consent and resolving ethical dilemmas as they arise during filming and in post-production.

The exegesis offers recommendations aimed at supporting filmmakers to self-educate and reflect on their ethical practice. Recommendations also suggest that filmmakers establish an ethics brains trust to provide advice to resolve ethical dilemmas encountered during filming. Finally, while not recommending the development of an industry code of ethics, the thesis urges the profession to establish and participate in ethics discussion forums online and at conferences. I argue that by improving the consent and decision-making processes we follow, we will move closer to creating work that earns the trust of our participants and audiences, paving the way for a healthier sector and stronger stories. ❖

Chapter 1

Introduction: ethical dilemmas of the documentary genre

Throughout my career as a filmmaker, I have often been perplexed by the ethical dilemmas that arise when creating a documentary. On every documentary I have worked on or created, there has always been at least one (if not more) ethical issues to overcome. The main point of conflict, and an increasingly well-recognised issue with the documentary craft, is that filmmakers are often making films about people who have less power than themselves. This dynamic creates what I am calling 'the dark grey zone' of consent processes.

By contrast, in my experience directing drama I have not encountered the same challenges or high-stake concerns in regard to ethical dilemmas.

Working with 'real people' is full of conundrums and idiosyncrasies. Each of these experiences has left me with the realisation that I need to focus on developing my own process and ethical framework to help me as a practitioner to navigate the tricky terrain of creating ethical work. Conversations with my filmmaker colleagues suggest that I am not alone in this endeavour. The documentary community needs to address the ethical minefield of the form.

In producing and directing *I am a Girl,* I embarked on an endeavour to explore my own ethical process with a particular focus on informed consent. My desire was not only to create a quality film, but also to

develop an ethical process in documentary filmmaking when working with participants. Being aware of the power disparity and my position of privilege is an awkward and confronting realisation, but a necessary observation to engage with. My self-imposed method worked up to a point but had several moments of failure, which I analyse and explore later in this exegesis.

This exegesis explores the question 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?' Following the investigation of this question, this exegesis outlines the process that I explored through the creation of the documentary *I am a Girl*. This practice-led research provided me with an experience of the consent process to reflect on and analyse.

The combination of the creative work (*I am a Girl*) and reflective exegesis provided me with an opportunity to explore the relationship between the participant and filmmaker. This exegesis highlights the complexities between balancing the public's right to know with the desires and needs of a participant and discusses what happens when those two perspectives are in conflict.

The dilemma

As the art form of the documentary has evolved, the subject of ethics has become more topical and has been given more consideration by filmmakers. Sensitivities to the effects of power dynamics (e.g. the effects of colonialism) have highlighted the power disparity between filmmakers

and participants and the ways by which these dynamics may affect processes for obtaining permission for filming from individuals.

In a masterclass entitled '*10 Rules for Documentary Filmmaking*' at the International Documentary Festival Amsterdam (IDFA) in 2006, Russian filmmaker Victor Kassakofsky delivered the following provocative advice:

> Documentary is the only art, where every aesthetical element almost always has ethical aspects and every ethical aspect can be used aesthetically. Try to remain human, especially whilst editing your films. *Maybe, nice people should not make documentaries*.
> (IDFA 2006)

Kassakofsky highlights the dilemma of the documentary art form and indicates that its ethical quandaries are often fraught. 'Remain human' is his offering, but he ultimately admits that filmmakers will be put into situations where their sense of morality, and as a consequence, their ethics will be confronted. He suggests that by allowing 'nice[ness]' or the moral upper hand to get in the way, the filmmaker may be led to compromise the storytelling. Documentary filmmakers are often compelled to 'get' the story but may feel constrained by their ethical responsibilities to participants. This is a unique dilemma of the art form.

Writing in the 1970s, influential film scholar Calvin Pryluck summed up the predicament of the documentarian when he wrote:

> What is the boundary between society's right to know and the individual's right to be free of humiliation, shame and indignity?
> (Pryluck 1976, p. 21)

It is within these high-stake boundaries that the art of the documentary is created. This is the dark grey zone—the space where filmmakers must accomplish an ethical balancing act—that makes documentary film such a challenging art form to create.

Research background

My research is in two parts: the creative process of making the film *I am a Girl* (Barry 2013) and this exegesis. The creation of the film was practice-led research where I was able to trial and explore my own personal ethical process through the making of the film.

In conjunction with the creative work, the research component of this exegesis explores the broader issue of ethics within documentary. This is reflective qualitative based research and focuses on the consent process and, more broadly, the ethics of creating and distributing documentary film. This exegesis reflects on the practice-led research of making *I am a Girl* to explore the process of informed consent.

In this exegesis, I argue that the documentary sector operates within a dark grey zone, where ethics and practical real-world application do not sit easily together. This thesis delves into this dark grey zone to explore the complex area of informed consent. As mentioned earlier, the research question that I am exploring is:

> 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?'

The creative work, *I am a Girl*, is set within the specific backdrop of working with women and girls in developing countries. The theme of the creative work centred on gender inequality. In this exegesis, I explore the consent process when filming with women and girls primarily from developing countries. However, I also filmed two girls from developed countries. As I argue below, these girls were also vulnerable for different reasons. Exploring the girls' vulnerabilities is relevant to considering the power disparity between the filmmaker and the participants, as these dynamics are clearly at play and can influence the outcome, process and approach. As I discuss in chapters three and four below, this raises further questions about who has the right to tell whose stories and what practices are culturally appropriate, however well meant.

While there has been much debate around issues of consent in documentary, I found insufficient consideration and research focusing on participants in developing countries. Consciously or unconsciously, documentary filmmakers often impose their own cultural norms, biases and indoctrinations when considering consent and gaining access to a story.

In many scenarios, at least some of the participants may not have access to formal education or technology. They may have limited levels of literacy and understanding outside their own lived experience. It is up to the filmmaker to inform and explain the distribution of the film (where it will be shown), whether that will be at a film festival, through cinema release, in a television broadcast or via the internet. However, for those

who have limited access to technology, concepts such as the internet can be difficult to explain to the participant.

From my knowledge of industry norms, I know that some filmmakers do not seek official consent from their subjects. Other filmmakers go through benign administrative steps, doing the bare minimum by getting a release form signed. Often the tacit assumption is that participants will benefit by having their situation publicised. On occasion, participants are not given the same warranties as those in the developed world. Quite simply, they are taken advantage of. Those who do seek official consent often do so for legal purposes and to protect themselves from litigation and to 'box-tick' for insurance and broadcaster requirements. This consent 'paperwork' is often written in complex legalese, where participants have little hope of understanding the rights they are signing away. There is little by the way of a consent process. Most of the time 'consent' only involves explaining the project, getting permission by having participants sign the form and then starting to film.

Documentary filmmakers are not required to abide by an official code of ethics. Journalists do, as do doctors; yet documentarians in their pursuit of 'truth' are left to their own devices. However, many filmmakers yearn for guidance to help navigate this tricky terrain.

The MEAA *Journalism Code of Practice,* is a professional standards document that provides clear guidance for journalists.[1] This exegesis asks:

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[1] *The Journalism Code of Practice* is reproduced in appendix A.

Do documentary filmmakers need to lift their game and implement an official code to create a standardised mode of conduct? Or is the documentary form impossible to codify? And what do we lose or gain when we adhere to these codes?

In her research paper 'Perceived Ethical Conflicts in US Documentary Filmmaking: A Field Report', Patricia Aufderheide explores the issues:

> Unlike journalists, documentarians have not generated standards-setting documents through their organisations. None of the professional associations for documentarians, for instance, has created a code of ethics.
>
> […] One might think that journalistic standards would be useful to documentarians, who often work on public affairs issues and who share some common concerns, for example, with truthfulness. However, many documentarians resist the idea that they are journalists or should hew to a journalistic standard of behaviour. (Aufderheide 2012, p. 365)

Aufderheide highlights the distinction between journalists and documentarians when it comes to ethics. While the professions share many commonalities on the surface, they are markedly different in approach to, and realisation of, content. Both seek to reveal the 'truth' of a story and events, but journalists are constrained by a code of ethics, while documentarians are not. Consent processes play out very differently in both forms.

Another example of a professional standard document is Screen Australia's publication *Pathways and Protocols: A Filmmaker's Guide to*

Working with Indigenous People, Culture and Concepts (Janke 2009). This document was produced to provide parameters around the ethical and legal issues involved in putting Indigenous cultural material and stories on the screen.[2] These protocols were created for drama and documentary producers alike. In chapter three, I explore the idea that perhaps elements contained in the Screen Australia document could be applied more broadly to all manner of film subjects and participants. This strategy could outline potential risks and form a blueprint for action should the issue arise during filming.

Many documentary filmmakers have limited knowledge about ethics and draw on a limited toolkit. Perhaps as a student the future filmmaker may have had a brief lecture in film school on the subject or read a few chapters in the standard film school textbooks, but for the most part, coming to grips with ethics is left to the individual. And yet ethical considerations are often the most troublesome aspects of being a filmmaker. More recently, however, the subject of ethics has been given more attention in courses for those currently studying media subjects at a tertiary level. Specifically, an 'ethics' subject has recently been made a compulsory subject for postgraduate media students at the Faculty of Arts and Social Sciences at the University of Technology.

Despite this, every documentary filmmaker can tell a story of a situation where their own personal sense of right and wrong was challenged in their pursuit to tell a story. When filmmakers find

[2] An extract from this document appears in appendix B.

themselves in an ethical quandary, there is often no outlet or opportunity for formal professional guidance. Ethics in documentary practice is, for the most part, an individual endeavour, although there are now publicly available ethics helplines. For example, Ethi-Call service is an Australian service provided to people seeking one-on-one support with a trained ethics counsellor for personal or professional issues.[3] This secular service is offered by The Ethics Centre, a not-for-profit organisation (The Ethics Centre 2019). But it is legitimate to ask whether this is enough, when the stakes are often high and sometimes tread the line of life and death for participants and filmmakers alike. What if documentary filmmakers were equipped with the skills to form their own ethical processes and train their 'ethical muscle' for when issues arise?

For filmmakers, the initial ethical task is often gaining consent from participants. Traditional modes of consent involve the subject signing a release form, translated into the appropriate language when filming overseas. These release forms can vary in length and complexity. The wording is often convoluted and confusing and the form is often a generic template written by a lawyer. This paperwork is often an activity of legal protection for the filmmaker, investors and broadcasters. This often means that participants sign away the rights to use of their image in all media, in perpetuity. This paperwork does little to facilitate an ethical approach to consent. Indeed, it begs the question of whether consent in documentary practice is practical, realistic or just getting in the way of a good story. At

[3] For details, see https://ethics.org.au/initiatives/ethi-call/

the same time, the validity of these consent release forms is questionable. Previous legal cases, such as the challenge against O'Rourke for the film *Cunnamulla* (discussed in chapter three) have demonstrated that releases can be easily challenged by participants.

In many cases the filmmaker is often in a position of power over the participant. The filmmaker is usually the person making the decisions about what to film and how to edit and may be in a position to represent events and participants in ways that the participant may or may not agree with. In some cases, the participant may also feel obligated to the filmmaker, further emphasising the tricky territory of the ethics of informed consent.

Background and context: the creative work

For the creative component of my Doctorate of Philosophy, I have produced and directed a feature length documentary (88 minutes) that looks at gender inequality and the treatment of girls in the world today, entitled *I am a Girl.* The film was released nationally in cinemas and used a 'host a screening' model involving community, educational and corporate venues. The film has also been released on DVD, video-on-demand and via download. The film was nominated for and won several awards,[4] and enjoyed an international release, which has seen the film distributed

[4] *I am a Girl* was nominated for four Australian Academy of Cinema and Television Arts (AACTA) Awards in 2014 (Best Feature Documentary, Directing, Editing and Cinematography) and Best Director at the Australian Directors Guild Awards. The film was nominated and won the Screen Producers award for Best Documentary Feature Film 2013.

around the world, including festival screenings and worldwide exposure on the National Geographic People Channel.[5]

The film was funded using a hybrid model of philanthropy, crowd funding and government support through the Screen Australia Producer Equity Program. Financial partners included entities such as Screen Agencies, non-government organisations, commercial enterprises, individuals and foundations. These investors prioritised and valued the issue of consent and ethics with particular focus when filming with women and girls living in developing countries and in vulnerable circumstances.

The film's partners had a desire to expose gender inequality faced by girls in the world using the power of testimony and storytelling. In addition to this goal, the partners expected that the work be produced ethically and within a framework that empowered the participants. Best practice in this regard was paramount to both funders and to me as the filmmaker. The funding model created the ideal opportunity for me to analyse documentary ethics through my experience of producing the film.

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[5] *I am a Girl* screened at the following festivals: Human Rights Human Dignity Film Festival, Myanmar 2015; Flying Broom International Women's Film Festival, Turkey 2015; Official Selection Sarasota International Film Festival 2014; Official Selection Films From the South, Norway 2014; Official Selection Siamo Pari La Parola Alle Donne Film Festival, Italy; 2014 Papua New Guinea Human Rights Festival (Opening Night Film) 2014; Zonta Film Festival, Canada 2014; UNAFF Film Festival, USA 2014; Official Selection Breath of Fresh Air Film Festival, Launceston 2013.

To complete this chapter, I include a synopsis of the film *I am a Girl*, to give the thematic parameters of the creative work. The thematic outline provides the departure point for my exploration of the ethics of consent in documentary filmmaking in the subsequent chapters. This begins with a review of current debates in the field in chapter two.

Synopsis of the practical work: the film *I am a Girl*

There is a group of people in the world today who are more persecuted than anyone else, but they are not political or religious activists. They are girls.

Being born a girl means you are more likely to be subjected to violence, disease, poverty and disadvantage than any other group on the planet. As each girl moves closer to coming of age, *I am a Girl* shows what it really means to grow up female.

As one day on earth progresses from dawn to dusk and into the night, we meet six girls: Aziza, Breani, Katie, Kimsey, Habiba and Manu. Each is on the brink of womanhood and dealing with the realities of what it means to be female in her world today. As they come of age in the way their culture dictates, we see incredible, remarkable heart-warming stories of resilience, bravery and humour.

I am a Girl is a feature length, observational documentary project that paints a picture of the reality of what it means to be a girl in the 21st century. Feminism may have promised equality and sought a better and fairer world for women, but the reality is that girls make up almost a quarter of the world's population yet still face the greatest discrimination of any group in the world.

The film explores the following themes:

- access to education
- pregnancy and childbirth—the biggest killer of girls under the age of 18 (World Health Organization 2018)
- sexual violence
- early marriage
- social media effects
- mental health.

The world is rapidly evolving in multi-faceted ways, yet we still struggle to ensure men and women are afforded equal opportunities. In spite of these obstacles, girls have found extraordinary ways to persevere. In the film, we hear their stories of strength, hope, courage and a desire to be heard.

Stylistically the documentary is poetic and observational, capturing the day-to-day realities of being a girl as well as testimony in the form of interviews. The interwoven narratives used the motifs of 'coming of age', whether that be a graduation, motherhood or the lead up to an early marriage.

Our journey takes us to diverse cultures and societies around the globe: Cambodia, Papua New Guinea, Afghanistan, Cameroon and the United States of America and Australia.

Methodology

The research question explored in this exegesis is 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?'

The methodology employed to explore this question is in two parts: firstly, the practice-led process of making the film *I am a Girl* (Barry 2013) where I explore my own personal ethical process through the making of the film and secondly, analysis by participant observation.

Participant observation included reviewing recorded interviews undertaken with the participants. This reviewing process took place in the postproduction phase and once the film had been completed after some time had passed. In my analysis I was able to utilise the interview sections contained in the film as well as the 'rushes' recorded including the filmed meeting of consent activities I experimented with as part of my personal consent process. Reviewing and the recorded interviews served as a reliable reminder of actual events of what happened on any given day. It also enabled an opportunity to compare and contrast the different experiences and reflect on the evolution of my process.

Other reflections are taken from my personal diary and notes, emails and correspondence with production partners, translators and fixers a well as reflection on historical events.

This methodology was chosen to support my objective which was to explore a personal ethical process of consent through practice-led research.

The hope with this approach was that it would be helpful to other filmmakers when considering their own process.

Conclusion

The research reported in this exegesis examines the process of making the documentary film *I am a Girl***.** I use the experience of making the film as an in-depth analysis of the consent process when filming with vulnerable participants. The analysis compares societies and cultures where modes of consent differ. As the analysis shows, in developed countries an established 'culture' of consent is in place, whereas in developing countries the modes of consent may take a different form.

For my research, I have concentrated on situations where there is a power disparity between the filmmaker and participants. Documentary filmmaking is predominantly a middle-class endeavour. Making films requires access to expensive cameras and equipment as well as education and experience. However, as new technology becomes cheaper and barriers to distribution outlets are disrupted, this divide is gradually narrowing.

In this exegesis, my primary focus is the ethical process of informed consent. I argue that this journey continues throughout production, and to some extent, throughout the life of the film, through distribution and beyond.

Using practice-based research from my own experience of making *I am a Girl,* I interrogate and reflect on the issues that arose during production, post-production and distribution. I demonstrate that through this

experience of practice-led research, I have cultivated my own dynamic consent process in the exploration of ethics for documentary filmmaking.

I am a Girl was funded using a philanthropic model of financing. Given the growing trend of towards this model of financing documentaries, the research also shows ways that partners can support filmmakers to create a documentary-making experience that can benefit the participant, partners and the filmmaker.

The exegesis analyses the traditional institutional modes of consent, for example, the old-style 'release form', and asks whom it protects. What ethical expectations do film participants and the audiences have of filmmakers?

In chapter two, I explore the current and past literature and research by academics and writers on documentary in the areas of ethics and consent. In looking to traditional ethics scholars for principles that can be applied to the documentary realm, I seek to define ethics and its application in the documentary sector.

In chapter three, I explore some of the ethical dilemmas that arise when making documentaries, including the role and use of the release form. Chapter three also seeks to define what informed consent actually is. I also explore documentary ethical governance and the role of this in production. In a further exploration on ethical process and protocols, I give specific attention to industry protocols such as Screen Australia's Indigenous protocols (Janke 2009). I also refer to ethical schools of thought, namely classical philosophy and a feminist research perspective, that may be

useful to filmmakers seeking to articulate their ethical ideology and position.

In chapter four, I explore my experience as a filmmaker in making *I am a Girl.* I present examples of the approach used for each participant to gain informed consent and describe the actions I took when high-stakes ethical dilemmas arose during production and distribution. In chapter five, I conclude by offering a series of recommendations arising from the research. ❖

Chapter 2

Literature review

In this chapter I discuss recent and past writings by documentary scholars and researchers. Each perspective approaches ethical practice in the documentary world with a different focus, but all offer points of relevance for my quest to develop an appropriate ethical process.

In his book *Media Ethics*, Plaisance offers an overview of ethics in the media. His hope for his book is that it 'helps students develop a sophisticated and sensitive "ethics radar" that they can use to spot and intelligently deal with ethical issues' (Plaisance 2014, p. 1). Plaisance stresses the importance for media practitioners to develop critical thinking skills.

Plaisance outlines the key thinkers in this subject area across the ages. By referring to these philosophers, Plaisance reminds contemporary filmmakers that ethical dilemmas have been wrestled with throughout time and that there are thinkers whose ideas are still relevant today. Plaisance's discussion suggests that upskilling in ethical philosophy might provide a good foundation from which media professionals can develop a personal ethical process that can be applied professionally.

Plaisance provides a fundamental definition of ethics:

> Ethics is the process of finding rational justifications for our actions when simultaneously held values come into conflict. (Plaisance 2014, p. 11)

He also outlines the fundamental difference between ethics and morals. These two elements are often combined into one all-encompassing concept but Plaisance argues that the difference should be acknowledged and understood:

> Morals refers to a system of beliefs that we use to make judgements about good and bad. Ethics refers to our efforts to reason our way through a dilemma in which two or more central values of our moral system clash. Ethics, according to Deni Elliot, begins when elements of our moral system conflict. (Plaisance 2014, p. 10)

The distinction between ethics and morals means that every ethical dilemma that arises will be dealt with differently depending on the moral belief system of the individual filmmaker. But without a framework or guidance, how does an individual develop these skills? Plaisance suggests that some practical tools such as Forsyth's *The Ethics Position Questionnaire* (reproduced in appendix C) could be a helpful starting point (Plaisance 2014, pp. 18–9).

In this literature review I explore power and victimhood when considering the relationship between documentary filmmakers and participants. This leads to an interrogation of ethics in the documentary form and in personal practice, with a particular focus on a key ethical activity, that of informed consent

Although the documentary is an ever-changing and dynamic form, there is often a call for the industry to develop uniform ethical standards and this chapter touches on this debate. As well as reviewing relevant

academic literature, the chapter also explores how filmmaker academics have used their own artistic practice to explore ethical processes and dilemmas. The literature review also explores feminist approaches to ethics in documentary creation.

Power and victimhood

Power is an ever present dynamic in the production of a documentary, but it is too simplistic to define it as an act of domination of the filmmaker over the participant (Nash 2010, p. 27). Applying a Foucauldian definition of power, Kate Nash observes:

> In terms of understanding power in the context of documentary, Foucault calls attention to the specific ways in which the actions of the filmmaker and participant affect each other and the ways in which each engages in acts of resistance (Nash 2010, p. 27).

In the tradition of documentary, power is most often perceived to be in the hands of the filmmaker … 'by virtue of their access to the media, and is used to control the participant through the act of representation' (Nash 2010, p. 23). Within documentary academic writing there are a myriad of other perspectives with a nuanced perspective of power.

Bill Nichols' book *Introduction to Documentary* is a frequently cited resource among filmmakers. Nichols commits a chapter to the question 'Why are ethical issues central to documentary filmmaking?' (Nichols 2017, pp. 29–47). He argues that this question is a fundamental element of the documentary form:

> The concept of representation is what compels us to ask the question, 'Why are ethical issues central to documentary

> filmmaking?' This question could also be phrased as, 'What do we do with people when we make a documentary?' How do we treat the people we film, and what do we owe them as well as our audience? Should they receive compensation? Should they have a right to block the inclusion of events that prove embarrassing or incriminating? (Nichols 2017, p. 31)

These questions raised by Nichols are discussed as the core foundations of ethical documentary filmmaking. These are helpful preliminary questions for any filmmaker embarking on developing an ethical practice. Nichols' perspective is that documentaries, by their very nature, are about representation. In this context Nichols defines 'representation' by comparing the activities of an actor in a drama to the 'social acting' that documentary participants do. As a 'social actor' being recorded, documentary participants' lives become a representation in the final edited film, a representation over which they have very little control (Nichols 2017, p. 31).

Nichols argues that the varying styles of documentary and the ways in which they are created reflect the dynamics of power and victim differently. Whether the work is created in a 'participatory' or a 'representative' way, documentaries are defined by these points of view of depiction:

> Documentaries not only represent the world from a distinct perspective but may also stand for or represent the interests of others. In a participatory democracy, each individual participates actively in political decision making rather than relying on a representative. Representative democracy, however,

> relies on elected individuals to represent the interests of their constituency. Documentary filmmakers often take on the role of public representatives. They speak for the interests of others, both for the individuals whom they represent in the film and for the institution or agency that support their filmmaking activity. (Nichols 2017, p. 30)

It is at this intersection of 'participation' and 'representation' that ethical conflicts and dilemmas form and that the dynamics of power and victimhood are observed. As a practicing filmmaker, I identify with both the role of the documentary as a representation of a broader issue and, at the same time, the desire to have a process that is participatory for the social actors portrayed. Oscillating between different points of view can sometimes create tension and conflict, a situation I explore further in chapter four with my experience making *I am a Girl*.

Brian Winston's perspective is that the documentary maker is understood to be in a relationship of power over the participant. It has been pointed out by Winston and others that the key to ethical documentary-making lies in the relationship between filmmaker and participant, and that generally filmmakers have been left to work out for themselves what this means (Winston 1995, p. 241).

In 'The Tradition of the victim in Griersonian documentary', Winston (2005) writes of the 'tradition of the victim' in documentary. Outlining this concept, Winston argues that the relationship between filmmaker and subject can be similar to that between a benevolent, or perhaps not-so-benevolent dictator, and the subjects. He asks:

> when dealing with the powerless, what does the legally required consent mean? Since for most people the consequences of media exposure are unknown, how can one be expected to evaluate such consequences? For some people, as with the mentally ill in Wiseman's banned *Titicut Follies*, there is a question of whether or not consent can be truly given in any circumstances. (Winston 2005, p. 277)

At first glance it is easy to agree with Winston's idea that all filmmakers film 'victims' (Winston 1995, pp. 40–7). According to Winston, filmmakers are 'working with people who, in matters of information, are normally their inferiors—who know less than they do about the ramifications of the film making process' (Winston 2005, p. 288). But is this always the case?

Bill Nichols has written regularly on the subject of the ethical relationship between filmmaker and participant, including *Blurred Boundaries* (Nichols 1994), *Speaking Truths with Film* (Nichols 2016) and *Introduction to Documentary* (Nichols 2017).

Nichols challenges the power dynamic in documentary filmmaking. Focusing on the film subject, the link between ethics and power becomes an important point of entry. Nichols observes that, 'The successful careers of many documentary filmmakers have been built on the misfortune of others' (Nichols 2016, p. 157).

Butchart take the argument to a deeper level in the article 'On Ethics and Documentary: A Real and Actual Truth' (Butchart 2006). Butchart describes another dilemma when he states that:

> contemporary ethical discourse can be used as masks for Western, Christian, and capitalist values, the major sources of a moral, ideological consensus about what constitutes right and wrong, good and evil. (Butchart 2006, p. 431)

Butchart's claim implicates all filmmakers in the 'developed' world. It calls for us as filmmakers to question our privilege, motivations, class and cultural background when seeking to develop our own ethical process. We need to ask whether, in our endeavour to do the right thing, we are applying a diluted form of cultural imperialism that disguises our guilt in taking advantage of the participants. We operate from positions of privilege, for example by owning and knowing how to use a camera; by having the opportunity to film; and by being educated and able to travel to seek out stories. Filmmakers need to consider this intergenerational privilege and the benefits of colonialism that accrue to us. We need to understand that this historical privilege also infiltrates and influences the stories, participants and audiences.

Pryluck also reflects on the power dynamic between filmmaker and participant with a focus on direct cinema. Direct cinema came into being when technological advances in camera and sound equipment meant that the filming process was less cumbersome, cheaper and enabled a more intimate relationship with participants. Pryluck notes that in direct cinema 'respect flows to power', when considering whether a participant is given the right to veto content. In reality, this only seems to be offered when the participant is in a position of power and emboldened to demand such rights. Pryluck points out that 'the more common stance seems to be an

extension of the adversary approach that emphasizes the filmmaker's exclusive control over the film' (Pryluck 1976, p. 26).

Pryluck identifies a contradiction when he observes that direct cinema lends itself to 'complete collaboration' but questions how often this is genuinely what happens in the real world of filmmaking (Pryluck 1976, p. 27). Whether or not there is 'complete collaboration' between filmmaker and participant is difficult to measure. However, Pryluck suggests that 'the tension between filmmaker and subject can be creative or destructive' depending on the ethical process and approach (Pryluck 1976, p. 28). This position is a departure from that of Nichols.

Practical experience can provide a plethora of insights that theory cannot. In her thesis *Beyond the Frame: A Study in Observational Documentary Ethics* (Nash 2009), Kate Nash focuses on the experiences of subjects who have participated in observational documentary films. Nash uses an empirical research method designed to measure the ethical experience of those participating in a documentary (Nash 2009). The observation from the participants' viewpoint is a unique analysis, given that most scholarly research in this territory focuses on the experience from the filmmakers' perspective and testimony. Considering an ethical framework from the perspective of the participant is an insightful and under-examined approach.

Nash, herself a film practitioner, says she often 'wondered why the participants allowed me to intrude into their lives and how they felt about our relationship'. She notes that in the process of filming with participants, 'the normal boundaries between individuals dissolved' (Nash 2009, p. 5).

She observes that a critical issue for consideration in the filmmaker/participant relationship is that of power, noting that the relationship between filmmaker and participant is almost exclusively understood in terms of an imbalance in power relations. Her research, which gives voice to the documentary participant's point of view, makes an important contribution to documentary ethics (Nash 2009, p. 8).

Unlike Winston, Nash's research questions the assertion that the documentary participant has no goals in relation to their participation in a documentary. She found that participants were not always 'victims' of a filmmaking agenda. This is an important point, which I discuss further in chapter four in describing my experience making *I am a Girl*.

Like Nash, my experience in making a documentary highlighted that perhaps the filmmaker is not always the exclusive powerholder and that the participant can 'use' the experience to achieve their own goals and outcomes and be a willing player in the story creation, with much to gain. The dynamic of the relationship can move beyond that of the subject-as-victim. Nash quotes filmmaker Tom Zubrycki to make the point:

> It is a fair exchange, according to Zubrycki, if the filmmaker and participant both stand to gain something from the documentary encounter. (Nash 2009, p. 18)

But Nash also found that, while there might be a willing exchange, the subject can also feel a lack of control over the filmmaking process. Nash contrasts Zubrycki's perspective with that of the lead participant in his film *Molly and Mobarak* (Zubrycki 2004). Despite being a willing participant, Lyn Rule, mother of main character Molly, describes multiple

moments where she felt uncomfortable with the filmmaking process. Nash's interview with Rule led to the following observation:

> for Rule, documentary participation included moments during which she was unable to control Zubrycki's camera, I became aware of the number of times she describes him as a 'determined' or 'tenacious' filmmaker … Given the importance of control as a theme in Rule's narrative, Zubrycki's tenaciousness constitutes a challenge to her sense of control. (Nash 2009, p. 166)

Unlike Nichols, Nash is not seeking to create an ethical code of practice for documentary filmmakers. Rather, she seeks to open up the spectrum of mutual understanding and explore the delicate power balancing act between the parties:

> Ethical documentary practice is understood as a sensitive engagement between filmmaker and participant that begins with understanding the experience of the other. (Nash 2009, p. 9)

This understanding between documentarian and participant then sets the foundation for informed consent.

Informed consent

Gaining informed consent is a primary activity when making a documentary film. The consent process is the ethical foundation of documentary filmmaking. It is the consent process that is the key to the relationship between filmmaker and participant. The consent process includes the filmmaker setting up the context and ensuring that the participants have full awareness of what they are giving permission for

use, including ongoing facilitation throughout the release of the film. Like Winston, I agree that filmmakers are often left to their own devices on this issue.

Nichols highlights the conundrum when he states:

> A common litmus test for many of these ethical issues is the principle of informed consent … Of exactly what consequences or risks should filmmakers inform their subjects? To what extent can filmmakers honestly reveal their intentions or foretell the actual effects of a film when some intentions are unconscious and some effects unpredictable? (Nichols 2017, pp. 37–8)

In this statement, Nichols highlights the dark grey zone of informed consent. When filmmakers embark on making a documentary, they may have certain expectations of the film. But often the subject matter and themes evolve into different areas by the end of production. This is particularly problematic for documentaries that are observational, where the outcome is unknown. In this instance, I believe that informed consent should be considered as a process that is followed throughout production and distribution.

It is important that documentary filmmakers understand exactly what informed consent is and what the best ways are to obtain it, from both an ethical and a legal framework. Looking to other professional contexts is helpful. In the online article 'Filmmaking Practice: Informed Consent: Must or Myth', Willemien Sanders quotes from the book *A History and Theory of Informed Consent* by Ruth R. Faden and Tom L. Beauchamp

(Sanders 2008, p. 1). While this is book deals specifically with medical consent, it can be applied to documentary too.

Faden and Beauchamp (1986) outline the key ingredients for informed consent:

1. Information: the potential participant should be informed about the procedure, and possible (positive and negative) consequences, risks and results;
2. Consent: the potential participant should actively give consent;
3. Voluntariness: consent, and thus the participation, should be voluntary and free of pressure or control; and
4. Competence: the participant (or alternatively a responsible guardian) should be competent to understand the information given and to consent or refuse. (Faden & Beauchamp 1986, cited in Sanders 2008, p. 1)

If we accept that informed consent is a principle that can be universally applied to a range of experiences, then all we need do is replace 'procedure' with 'film' from the above outline. We can now further explore how informed consent works in the world of documentary filmmaking and media production.

Pryluck (1976) addresses the issue of informed consent by comparing the art of documentary with the process of science experiments. He argues that there is little difference in the consideration of each genre (art and science) and that similar complexities arise in both:

> In scientific literature, there is wide consensus that consent is not valid unless: (1) it was made under conditions that were free of coercion and deception, (2) with full knowledge of the procedure and anticipated effects, (3) by someone competent to consent. (Pryluck 1976, p. 25)

Another filmmaker and researcher, Kay Donovan, uses practice-led research to explore the relationship of consent with vulnerable participants in her thesis *Tagged: A Case Study in Documentary Ethics* (Donavan 2006b). Donovan's analysis explores a major foundational element in the creation of a consent process: that the filmmaker must undertake to form, create and explore their own personal ethical stance. Donovan's approach resonates deeply with my own practice, which I explore in chapter four when I discuss the consent process I developed while making *I am a Girl*. The questions then become: How does a filmmaker begin this process? What might be a potential guide for filmmakers to build upon their own ethical framework? Without a code of ethics, is there a universally accepted norm to adhere too?

Donovan focuses particularly on her practice-led research in making the documentary *Tagged,* in which she worked with vulnerable young people (Donavan 2006a). Donovan writes:

> My primary concern was to forge a collaborative relationship shared with the participants and to use that relationship to create a portrayal that would be truthful and revelatory while, at the same time, respecting the participants' privacy and right to self-determination. (Donavan 2006b, p. 52)

Donovan's concern to make the participants in her film the primary focus of her ethical process is echoed in Maccarone's (2010) article, 'Ethical Responsibilities to Subjects and Documentary Filmmaking' (Maccarone 2010). Ellen Maccarone argues that the act of gaining informed consent is key to developing an ethical documentary practice:

> The focus on responsibilities to the subjects of documentary films lends itself to the examination of informed consent. The requirement of gaining the consent of the subjects of films provides an opportunity for filmmakers to either comply with ethical standards or to thwart them. Interestingly, genuine informed consent appeals to one of the same excellences as the making of documentary films—truth-telling. (Maccarone 2010, p. 198)

Maccarone takes the argument further by observing that the 'ethical and legal' activities around informed consent do not necessarily mitigate harm. Even though filmmakers may have obtained informed consent with the best of intention through a release form or process, 'it does not absolve them of all responsibilities when harm can be done' (Maccarone 2010, p. 199). In other words, going through a consent process with an ethical and legal process does not mean the filmmaker can sit back and relax. For Maccarone, ethical responsibility is a dynamic activity.

Industry standards

The backdrop of any personal ethical documentary practice is how the industry guides and standardises processes. Industry standards are formed from a complex web of institutional points of view, including

those of broadcasters, funders, unions, insurers and legal sources. While these different perspectives are often motivated by self-preservation, their parameters can provide a helpful guide to apply to one's own process. Maccarone discusses this by first situating filmmaking as a social practice:

> The obligations of documentary filmmaking can be thought to arise from its status as a practice of a social institution. (Maccarone 2010, p. 197)

She goes on to argue that if documentary filmmakers are acting within the framework of a social institution, then the standards of the institution should apply:

> Standards, rules, some sense of authority, and internal goods frame the practice of documentary filmmaking as they do for any art, any practice. (Maccarone 2010, p. 198)

However, the conundrum in documentary practice is that there is neither rules nor a code beyond an individual moral compass. Nichols asks, 'Can we establish standards for an ethical documentary practice?' (Nichols 2006). He argues for the priority of the subjects and viewers:

> A code of documentary ethics must focus on protecting the well-being of both film subjects and actual viewers. In each case an ethical code needs to give primacy to respecting subjects and viewers as autonomous human beings whose relationship to the filmmaker is not limited to or solely governed by a formal contractual relationship. (Nichols 2006)

Nichols calls for a 'Code of Ethics' that protects subject and viewer. This commentary also amplifies Winston's thoughts about filmmakers being

left to their own devices in regard to ethics. However, Nichols does not mention how this 'Code of Ethics' might offer any benefits or protections for filmmakers who may be subject to personal challenges in the filmmaking process.

Directing the Documentary by Michael Rabiger also commits a chapter to the subject of ethics called 'Ethics, authorship and documentary mission'. Rabiger argues:

> Anyone who directs even the briefest documentary soon discovers how loyalties and obligations develop between oneself and participants, and how authorship is inseparable from ethical dilemmas. (Rabiger 1998, p. 357)

Rabiger goes on to remind documentary filmmakers that 'participants must live with the film's consequences' and herein lies the responsibility of the art form. (Rabiger 2004, p. 243). He argues that ethical plot points exist throughout the filmmaking process. Whether approaching a potential participant, filming, editing or distributing the film, each point along the path presents its own ethical challenges.

In their research report *Honest Truths: Documentary Filmmakers on Ethical Challenges in Their Work*, Aufderheide, Jaszi and Chandra (2009) suggest there is 'a need for a more public and focused conversation about ethics before any standards emerging from shared experience and values can be articulated' (Aufderheide et al. 2009, p. 1). Practising filmmakers tend to work in silos and rarely share experiences and reflections on ethical topics. As a consequence, there is no reservoir of knowledge available to filmmakers to navigate this complicated terrain. Becoming familiar with

empirical research can help guide filmmakers by providing a baseline of experiences from which to create a personal framework.

Aufderheide, Jaszi and Chandra collected their data by phone over hour-long conversations with filmmakers, during which participants answered a consistent set of open questions about ethical dilemmas they had experienced as filmmakers. The scope of the study was relatively small, with only 41 interviews conducted (Aufderheide et al. 2009, p. 5).

They found that filmmakers often applied 'informal commitments' and 'situational ethics' depending on the context (Aufderheide et al. 2009, p. 6). When confronted with a dynamic where a power disparity was at play (i.e. the participant was 'less powerful' than the filmmaker), the desired outcome was that 'their work should not harm the subjects or leave them worse off than before' (Aufderheide 2009, p. 6)

The researchers confirmed that the group of filmmakers studied 'shared such principles as, in relation to subjects, "Do no harm" and "Protect the vulnerable" and, in relation to viewers, "Honour the viewer's trust"' (Aufderheide et al. 2009, p. 1). But the researchers also found that these principles have limitations depending on nuances of the predicament and individual circumstances.

A difference was observed between journalistic and documentary approaches to relationships with subjects and ethical dilemmas. In this regard, the scholars confirmed that the relationship between filmmakers and participants was 'less than friendship and more than a professional relationship' (Aufderheide et al. 2009, p. 6). Gordon Quinn describes this as a 'human relationship' but noted that 'there are boundaries that should

not be crossed'. (Aufderheide et al. 2009, p. 6) The researchers noted that while journalists are expected to uphold the standards of the Journalist Code of Ethics, documentary filmmakers, who operate in a freelance landscape, 'when it comes to standards and ethics … have largely depended on individual judgement, guidance from executives, and occasional conversations at film festivals and listservs'. (Aufderheide et al. 2009, p. 3)

Perhaps the most perplexing finding was that the filmmaker and participant relationship often operated on an 'informal basis', despite most directors and producers requesting that the subject sign a release form giving the filmmaker artistic, editorial and legal control (Aufderheide et al. 2009, p. 10). The study concluded that this informality or 'ad-hoc way' is the norm in a genre that has no formal industry or community standards and where each story is so uniquely different that it would be difficult to do it any other way (Aufderheide 2009, pp. 20-1). This result confirms the complexities of the documentary form when it comes to consent and highlights the unsatisfactory approach many filmmakers take to the issue.

Aufderheide, Jaszi and Chandra agree, and suggest there is the need for 'more sustained and public discussion of ethics', as well as 'safe zones' where filmmakers can 'share questions and to report concerns' (Aufderheide et al. 2009, p. 21). While the authors do not clarify what form these 'safe zones' should take, I am sure many documentary filmmakers, myself and many of my peers included, would find an 'ethical safe zone' invaluable as we traverse the complex and unique issues that each

documentary story contains and as we deal with the central question: 'Should I be filming at all?' (Doc Society 2020, p. 2).

The call for a code of ethics has been discussed among the documentary filmmaker community for many years. Some have suggested instead an ethical framework. A code of ethics would be more formal, whereas a framework would be non-binding. In her research, Aufderheide found that:

> Filmmakers had widely shared ethical values, even though they lacked either explicit guidelines or articulated norms around behaviours. They believed that their professional identity was bound up in honorable, trustworthy, and transparent relationships with subjects, viewers and sponsors/colleagues. (Aufderheide 2012, p. 381)

Kay Donovan uses practice-led research to argue that while a broad code of conduct can provide valuable guidelines, it cannot replace the filmmaker's investigation of their own personal ethical practice. In her thesis *Tagged: A Case Study in Documentary Ethics*, Donovan suggests that filmmakers establish a personal ethical statement for each of their films on a case-by-case basis. This establishes a foundation from which potential ethical conflicts can be understood and either avoided or resolved (Donavan 2006b, pp. 109–10). This process is sensible in that it acknowledges that each film is unique and that there is no one size fits all approach when it comes to documentaries. Donovan reminds us that ethical considerations should not be an afterthought to deal with once a problem arises, but an active method implemented from the start.

Donovan also explores industry standards codes and practices within an Australian context. She highlights the industry examples of the MEAA *Journalist Code of Ethics*, the Australian Broadcasting Commission's *Code of Practice*, *Services Commitment and Editorial Policies*, the Special Broadcasting Service's *Code of Practice* and Screen Australia's *Indigenous Protocols* (Donovan 2006, pp. 33–40). While she acknowledges the usefulness of these codes and protocols, Donovan also concludes that 'they do not adequately address the broad scope of ethical issues that may arise during documentary production' (Donovan 2006, p. 50).

In his thesis *Hope—Towards an Ethical Framework of Collaborative Practice in Documentary Filmmaking,* Stephen Thomas reflects on the 'increasing "production line nature" of the industry and inherent contradictions between formal release forms and the need for filmmakers to establish trust' (Thomas 2010, p. i). He discusses his own experience in making broadcaster-commissioned documentaries and the 'pressure to inflate drama' (Thomas 2010, p. 7). Thomas also notes the lack of ethical guidelines available to documentary filmmakers' other than the editorial codes applicable to journalism and the Screen Australia protocols for working with Indigenous communities (Janke 2009).

Thomas suggests that ethical protocols should deal with transparency, reflexivity and the power relationship between 'researcher and researched' (Thomas 2010, p. i). He notes that in the end we are faced with the ongoing re-examination of our own ethical values, as well as those of the industry bodies documentarians deal with. If we accept the need for such protocols,

a process, or in the very least introspection, the access to a such a framework is lacking.

For Thomas, collaboration is fundamental to documentary filmmaking:

> In practice, a collaborative approach is unlikely to succeed where there is a feeling of reluctance or coercion among participants about appearing in a documentary. (Thomas 2010, p. 42)

In making his film *Hope* (Thomas 2007), Thomas sought to create a collaborative relationship with his participants (Thomas 2010, pp. 40–8). *Hope* is a moving film about Amal, an Iraqi refugee, covering her journey by boat to Australia and her plight to reunite her family. Somewhat surprisingly, this collaboration was not codified through a consent document. Thomas did not ask the film's main participant, Amal, to sign a release form:

> At no stage did we ask Amal to sign a conventional release form because our legal advice was that this was unnecessary given that no broadcasters were involved. However, we agreed between us on a form of wording in plain English for a letter that we used in seeking financial support and which Amal signed. (Thomas 2010, p. 43)

Thomas faced a particular ethical problem in filming *Hope* because, Amal, the film's subject, died before he had finished editing the film. The ethical dilemma this posed was whether Thomas should continue filming with Amal throughout her illness and subsequent impending death (Thomas 2010, p. 59). Thomas clearly had a strong relationship and collaboration with Amal that informed his decision not to take a camera with him when

asked by her family to visit Amal on her death bed (Thomas 2010, p. 59). Despite the constant struggle to film or not to film during her illness, Thomas was adamant, ahead of time that he 'could not and would not film if and when her death was imminent' (Thomas 2010, p. 59). This was a predetermined ethical decision.

Like many filmmakers (myself included), Thomas also postponed some ethical decisions to the editing phase, at which point he embarked on a process of consultation with Amal's husband and son after her death (Thomas 2010, pp. 70–71).

Artistic integrity

In discussion of the ethical process, self-preservation and the artistic integrity of the practitioner are often afterthoughts. But for the filmmaker, artistic integrity is likely to be a key priority. Thomas discusses the creative and ethical frustrations he felt as a filmmaker when working with public broadcasters (Thomas 2010, p. 14). We therefore need to ask: Where does the filmmaker's creative vision fit into the conversation on ethics?

In the philosophical conclusion to his book about documentary making, Rabiger points out the importance of the filmmaker's 'mission' and 'purpose':

> If you feel the need to communicate it, you have the drive for authorship and to make art—a human need no less imperative than the need for shelter or sex. (Rabiger 1998, p. 364)

Rabiger reminds us that, while ethical process is important when filmmakers are considering their responsibilities towards participants and audiences, ethical issues are also relevant to the integrity and creation of

the work. Ethical considerations can change the form of the film and it is in finding a balance between ethics and creativity that dilemmas can arise. This holistic perspective, which highlights the balancing act the filmmaker faces between the participant, audience and their own creative goals, is one that resonates with me, particularly in my experience making *I am a Girl*.

In exploring the balance and conflicts that occur between ethics and artistic expression, we need to dive deeper into the personal morals that influence a person's ethical approach. Film and cultural scholar Willemien Sanders explores the difference between morals and ethics, arguing for a distinction because 'they are two different things' (Sanders 2010, pp. 529).

Sanders defines ethics as the 'the philosophy of morals', distinct from morals, which 'are the accepted norms and values of people, of a community' (Sanders 2010, p. 531). In addition to ethics, morals are relevant to the documentary maker because they shape the individual and their artistic expression.

Like Aufderheide, Jaszi and Chandra, Sanders makes a case for empirical data collection of the experiences of documentary filmmakers, so that these can be collated, measured and understood. In her research, Sanders says she sought to find:

> what moral issues filmmakers really encounter in their work,
> what decisions or choices filmmakers make to deal with them,
> what contexts are relevant in the process and how filmmakers
> think about ethics. (Sanders 2010, pp. 529-30)

In her paper 'The aggie will come first indeed: A survey of documentary filmmakers dealing with participants' (Sanders 2012), Sanders compiled the results of an international survey to reveal the experiences of documentary filmmakers with participants, concluding that:

> The results provide reason to give the commitment of filmmakers to their film a more prominent place in documentary filmmaking ethics. (Sanders 2012, p. 387).

Sanders found that filmmakers gave more weight to the film, suggesting that many filmmakers will keep rolling even when faced with an ethical dilemma.

Ellen Maccarone argues that the artistic expression involved in creating a documentary competes with human interaction. In her article 'Ethical Responsibilities to Subjects and Documentary Filmmaking' Maccarone states:

> The two competing practices of art and human interaction must weigh in the favour of the latter when the practice of art is documentary film making because no such practice is possible without other humans, no internal goods could be realized. The interactions needed for this practice are significant. Being obligated to prevent harm does not mean all harm—that would be impossible. (Maccarone 2010, p. 203)

Maccarone identifies the complexity of creating a documentary and the requirement of the form to interact with others. The concept of harm is ever present and possible for a myriad of reasons. But how can the documentarian develop a process to counteract or avoid such harm?

In *The Ethics Lab Guidebook* (Geva 2019), Dan Geva takes the reader and workshop participant to a deeper level of self-understanding in developing an ethical artistic filmmaking practice. Like Plaisance, Geva explores the role of ethical process in media creation. However, Geva focuses on an experiential workshop process he calls 'The Ethics Lab' in order to explore the nuances of the dark grey zone. The workshop is framed around the testimony of participants who are filmmakers. At the start of Deva's Ethics Lab workshop, each participant is recorded on video, speaking about an ethical dilemma they have experienced as a filmmaker.

On the workshop's second day, the facilitator takes participants through the key tenets of some of the canonical schools of Western philosophy. Geva refers to 'the five guiding ethical stars: Aristotle, Kant, Mill, du Beauvoir, and the "Ethics of Care"' (Geva 2019, p. 35).

Geva's instruction aims to provide participants with a baseline understanding of the canon of ethics. They are then invited to apply these ways of thinking to real life scenarios. On the third and final day, participants record their testimony again, with the opportunity to reframe the original ethical dilemma in light of the new knowledge attained. These testimonies are then collated into a library which is then available for others to access as a qualitative resource (Geva 2019).

Both Geva and Plaisance highlight the usefulness of going back to fundamental philosophical principles for documentary filmmakers who are motivated to develop an ethical framework in their artistic process.

Aristotle is known as the Father of Western Philosophy having lived over twenty-five hundred years ago. His ideas and philosophy are laid out In *The Nicomachean Ethics* (Aristotle 1976). Broadly, Aristotle offers guidance on how to live a 'happy' or a 'flourishing' life, one where potential is realised. In the documentary context, 'virtue ethics' stands out as a useful framework to explore. The principles of virtue ethics were formed by Socrates and Plato and further pursued by Aristotle. In Plaisance's summary, '"the habitual disposition to do the right thing" is the *telos*, or end purpose, of virtue ethics' (Plaisance 2014, p. 24)

To understand what the 'right thing' to do is, as filmmakers we need to understand what harm is. John Stuart Mill wrote about the 'liberty principle' which is also referred to as the 'principle of harm' (Plaisance 2014, pp. 139–41). A libertarian, Mill focused on personal freedoms with limited input from the state. The 'principle of harm' states that a citizen can do whatever they like so long as they do not harm others in the process. This then led to the 'principle of utility', whereby actions are guided by the end result of creating the greatest amount of happiness to the greatest number of people. Applying this to a documentary film landscape suggests parallels with the old adage of the public's right to know.

Defining what constitutes harm is problematic and there is no one definition to fall back on. Plaisance offers a helpful summary, suggesting that harm should include:

- Acts that explicitly 'set back' someone's interest.
- Acts that undermine someone's human dignity.

- Wrongful acts that may not explicitly cause harm, such as trespassing.

It should not include

- Unhappy or unwanted physical or mental states.
- Acts that offend, annoy, or hurt one's feelings.
- Acts that shock, anger or embarrass someone.
  (Plaisance 2014, p. 125)

This summary is sensible in its outline but restrictive. It creates a set of constraints that would make it near impossible to make a documentary, or at least one that is interesting to watch. This is because, as Maccarone found, filmmakers tend to be driven by their artistic vision and often override ethical considerations that may crop up along the path. Documentary filmmaking often treads into the dark grey zone of 'harm' as defined above.

Another philosophical area that is relevant to the documentary filmmaker is Kant's 'theory of human dignity', which Plaisance summarises as follows:

> Kant argued that, as moral agents, we are duty-bound to give all the respect to others that the idea of human dignity demands for everyone. This means treating others as 'ends' in themselves and never merely as a 'means' to further our goals. For Kant, any action that undermined people's capacity for reason and their ability to exercise free will violate this requirement and, thus, was immoral. (Plaisance 2014, p. 123)

As documentary filmmakers, we are often guided by the duty to uphold the human dignity of the participants we film. But we are also often conflicted by our artistic ambitions for the films we make. By leaning on a framework that prioritises the respectful treatment of others, where maintaining human dignity is the standard, filmmakers have a solid ethical foundation on which to build a process. As Aristotle wrote in *The Nicomachean Ethics*, '*volenti non fit injuria*'. This has become a tenet in Western canonical law: 'To one who has consented, no wrong is done'. However, as discussed earlier, as filmmakers we must ensure this consent is informed.

Feminist approaches

Dan Geva's final consideration in The Ethics Lab is his interrogation of 'the Ethics of Care' which he contrasts with 'Kant's deontology and Mill's utilitarianism' (Geva 2019, p. 143). As the name suggests, the Ethics of Care is where 'care' is held up 'as its primary virtue' (Geva 2019, p. 142). Whilst Aristotelian in nature, Geva describes the Ethics of Care as a 'radical turnover in a three-thousand-year-old tradition of male dominance in the field of moral philosophy' (Geva 2019, p. 142).

Geva looks to some of the prominent thinkers who are active in this feminist approach to explore this moral system. These include Carol Gilligan, Nel Noddings, Virginia Held and Annette Baier to name a few (Geva 2019, p. 142). The concepts below summarize the key elements of this ethics of care framework:

- Compassion
- Socio-emotional sensitivity

- Altruism
- Retreat of the self in the face of the other
- Concern and care for all
- Solidarity
- Empathy for the weakness of the other. (Geva 2019, p. 145)

Ethics of Care is particularly relevant to this exegesis, given the feminist subject matter and approach of my creative work *I am a Girl*. Branching off from this school of thought, further research led me to the book *Ethical Dilemmas in Feminist Research* by Gesa E. Kirsch (Kirsch 1999). Her work reviews the spectrum of ethics from a feminist research perspective, which she describes as:

> including a commitment to improve women's lives and to eliminate inequalities between researchers and participants that characterizes feminist research. (Kirsch 1999, p. 5)

Kirsch goes onto outline the feminist research approaches that are unique to this framework. Feminist research has a deliberate focus on gender but also has clear deviations from traditional methods. Most feminist research tends to be qualitative in methodology. According to Kirsch, this preference may be because 'establishing interactive, respectful and collaborative relationships with participants is only possible when scholars use research methods that call for close interactions with those they study' (Kirsch 1999, p. 6).

According to Kirsch, relationships with participants in a feminist research method tend to be collaborative:

> Feminist scholars invite participants to collaborate with them during various phases of research so that learning can be interactive and reciprocal, and so that research can truly be for women, engendering social change whenever possible. (Kirsch 1999, p. 18)

In a feminist research method, interview strategies focus on open-ended questions (Kirsch 1999, p. 18). This framework resonates with my desire to ensure that the girls interviewed in my film gave testimony in a way that made them feel that they were telling their stories. While I directed the conversation, with prompts in areas of interest, ultimately the girls were encouraged to reveal their stories in their own way. I explored this further by directing the girls to look down the barrel of the camera, giving them a direct eyeline in the frame. This not only created an emotional connection between the participants and the audience, but also aimed to capture a more collaborative type interaction, rather than the traditional interview style of question and response. Kirsch argues that the emotional connection is an integral element in understanding participants' experiences:

> If scholars ignore the emotional dimension of their work, they are also likely to ignore important aspects of people's lived experience and may miss crucial elements in the interpretation of interviews and other data. (Kirsch 1999, pp. 3–4)

Kirsch's ideas relate to ethical documentary practice by setting out a feminist research approach that is wholistic. The practice does not seek to divide the person who is sharing their experiences from the professional who is leading the research or directing the documentary. Instead, it invites the participant and director to collaborate in mutual understanding. This process accepts that the personal and professional intersect and influence one another, and that this duality should therefore not be suppressed or denied. There are always power imbalances to deal with, but practitioners of this approach argue that it allows filmmakers to create closer connections, giving access to more in-depth authentic storytelling and thus offering a better understanding of our participants and subject.

Looking to some of the great philosophical thinkers for guidance can be helpful but it can also lead us down the rabbit hole. While each documentary may present unique ethical challenges, the frameworks and principles reviewed in this chapter provide guidance that we can draw on as filmmakers to arrive at reasoned and consistent ethical practice. Reading broadly and creating an archive of ideas and resources to consult at times where we are skirting the dark grey zone is a useful and comforting foundation. Baseline training in each school of thought can be a useful tool every filmmaker can draw on when troubleshooting different ethical situations.

There are many useful academic materials that are available to filmmakers to explore the idea of developing a personal process of consent. These resources and writings mainly focus on the 'why'.

However, the gap in the documentary field is the 'how'. Practice-led research and personal reflection analysis in this field is rare. By utilising a participant observation methodology in my analysis of making the creative work, I hope to contribute a perspective that will encourage more filmmakers to share their experiences.

Conclusion

In this chapter, I have offered a brief overview of the broad spectrum of documentary ethics from a scholarly perspective. These perspectives range from those of classic philosophical texts to those articulated more recently by contemporary scholars.

For many filmmakers active in the industry, these perspectives do not penetrate everyday practice. Scholars and filmmakers need to collaborate so that findings can be applied to real life practice. This could be achieved by academics sharing up-to-date empirically based research that filmmakers can relate to, consider and debate.

One consistent theme across the literature is the importance of understanding the embedded power disparity between filmmaker and participant. But we also need to consider that the participant is not always a victim.

Now, more than ever, in this age of social media and high levels of consumption of visual content, filmmakers need to be informed and protect themselves by undertaking the groundwork of an ethical process. That process needs to consider the point of view and privileged position of

the filmmaker, while also respecting the rights and desires of the participant.

The literature reviewed in this chapter suggests that in addition to industry standards, transparency and the sharing of knowledge and experience seem to be the most productive elements for filmmakers to draw on when developing their ethical process.

The chapter has also suggested that the ethical considerations of documentary extend beyond the relationship between the filmmaker and the participant to encompass relationships between both the filmmaker and participants and the film's audience and the broader industry. Because ethical decisions inform the realisation of their work, filmmakers also need to understand importance and impact of their artistic integrity.

In summary, every film can be viewed as an ethical process in which the participant, the filmmaker, the work itself and the audience need to be considered.

In the next chapter, I use real life examples to focus on some of the common ethical activities in the practice of documentary filmmaking, namely the signing of the release form to prove informed consent. I provide an overview of current industry protocols and tools that can be used to develop an ethical process of documentary filmmaking. This may be helpful for filmmakers seeking to articulate their own consent process and more broadly an ethical practice. In chapter four I go on to discuss my practice-based research, where some of this knowledge was applied. ❖

Chapter 3

Ethical dilemmas, processes and protocols

> Ethical considerations attempt to minimize harmful effects.
> (Nichols 2017, p. 36)

In the previous chapter I outlined the perspectives from past and current scholars, philosophers and filmmakers on the subject of documentary ethics. In this chapter, I expand on the literature review by focusing in on a selection of ethical dilemmas common in the documentary artform. These dilemmas are then further discussed in the following chapter, which focuses on my personal experience creating the practical work, the documentary *I am a Girl*.

To frame the discussion of the process I explored in making *I am a Girl*, I have chosen a selection of ethical dilemmas that are common to documentary practice. The dilemmas I have chosen are relevant to the central question of my thesis: What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?

The ethical topics I explore in this chapter are: the concepts of informed consent; the traditional release form; power dynamics, with a special focus on the filmmaker–participant relationship; the ethics of the representation and interpretation of participant stories; the responsibility of the

documentarian to the audience; and filmmaker approaches to inherently ethically difficult subject matters.

In this chapter, I also explore ethics from the points of view of practical processes through the perspectives of established industry protocols. The Screen Australia *Indigenous Pathways and Protocols* (Janke 2009) were specifically written to address issues of respect and representation when filming with Indigenous peoples, whether that be for a drama or documentary production. In this chapter I argue that these protocols could be more broadly applied by documentary filmmakers to provide an ethical approach to consent in filmmaking.

While the Screen Australia *Indigenous Pathways and Protocols* are a useful resource, there are no specific protocols for documentary for issues beyond this context. This leaves the many filmmakers working outside Indigenous themes without a professional framework. For that reason, I also explore the call from some scholars and filmmakers for the establishment of an official documentary code of ethics.

I then discuss more broadly other ethical tools that are widely available as online resources that may be of assistance to filmmakers when presented with an ethical dilemma with particular focus on power dynamics. The aim of this chapter is to provide information, resources and processes that filmmakers may choose to personalise and apply to their own work.

'Old school' ways

Looking at films from the past shows us where we have been from an ethical approach perspective. One famous historical example to consider is

the film *Nanook of the North* (Flaherty 1922). This documentary made in 1922 by Robert J Flaherty, is part of the documentary canon and is held up as a ground-breaking example from the era. It is often referred to as the first documentary (Menand 2004). This is due to its seemingly authentic ethnographic point of view, representing the everyday lives of Nanook and his family as they struggle to survive in the harsh Alaskan environment.

Nanook of the North was created at a time when there was no discussion about ethics in documentaries. The documentary form was embryonic and neither scholars or filmmakers yet understood the repercussions of the filmmaker's interaction or the effect of being a subject of a film. More recently, the film and Flaherty have come under scrutiny from an ethical perspective. In hindsight, with the lens of a contemporary moral compass, it is easy to critique Flaherty's approach, as Winston does when he writes that 'as to ethics, Flaherty put the film above everything' (Winston 1995, p. 21).

Scholars are now beginning to unravel the story behind the documentary. Flaherty was in a position of power over the participants he was filming. Not only did Flaherty cast the family and 'fudge' re-enactments to suit his story but he also became romantically involved with one of the subjects, 'Nyla', who later gave birth to his child. Flaherty never acknowledged the boy's existence, nor is there any mention of Flaherty's wife (not the child's mother) who collaborated with him on the creation of the documentary (Marshall 2016). Putting to one side any moral questions about Flaherty's behaviour, the ethical issues place the film within the

'dark grey zone' when considering the effects of the filmmaker on the participants and the filmmaker's bond of trust with the audience. A film that was seen and accepted as 'truth' by the audience turns out to have substantial elements that challenge the contract between the filmmaker and the audience.

More recent contemporary real-world examples include the documentary films *The Good Woman of Bangkok* (O'Rourke 1991) and *Cunnamulla* (O'Rourke 2000). Both directed by Dennis O'Rourke, these films offer insights into the consent process. *Cunnamulla* (O'Rourke 2000) was publicly and legally challenged upon its release, while the very premise of *The Good Woman of Bangkok* is an ethical minefield.

Cunnamulla is an ethnographic film about the everyday lives of the people living in this small town at the end of the rail line in Central Queensland, Australia. The film uses an ensemble cast of characters spanning the generations and socio-economic divides. The film was controversial from an ethical perspective for a number of reasons, the main one being O'Rourke's depiction of two young teenagers: Taccara (13 years old) and Kelli-Ann (15 years old). Both these girls were encouraged to reveal aspects of their sexual activity to O'Rourke but later disclosed that they were embarrassed about these elements being used in the film. From their points of view (and those of their guardians), they had consented to be a part of a film with a very different focus. They felt deceived by the filmmaker and subsequently sort a legal remedy.

O'Rourke maintained that he did not exploit the girls. But there is undoubtedly a power disparity between the filmmaker, a middle-aged

white male, and two vulnerable girls of Indigenous heritage. Permission was initially gained from guardians and the girls, but was the consent informed? Applying to this situation Faden and Beauchamp's (1986) four steps for informed consent (*information, consent, voluntariness* and c*ompetence*), mentioned in chapter two, the film begins to slide into the dark grey zone. According to the girls and their families, O'Rourke's interviews strayed into areas the girls' guardians had no knowledge of until the girls' comments appeared on screen.

There were several lawsuits connected with the film. O'Rourke was sued for 'misleading and deceptive conduct' by the girls and their families under 'Section 52 of the *Trade Practices Act 1974* (Cwlth)' (Kelly 2011, p. 86). The mother of one of the girls maintained that she gave permission for O'Rourke to film her daughter's participation as a contestant in the local beauty contest. What appeared on screen was the girls discussing their sex lives with O'Rourke, with negative consequences for the girls:

> Lawyers for the plaintiffs claimed the girls suffered stress embarrassment and humiliation when the film was shown, were forced to leave town, and that O'Rourke had not told them when he sought permission from their parents that he would ask about their sexual activity. (Cathcart 2001)

The court rejected the claim, but this decision was later reversed on appeal and the plaintiffs were free to sue O'Rourke. However, the girls did not pursue the case further, no doubt influenced by the fact that O'Rourke had by then won a defamation case against Stephen Hagan. Hagan was a councillor with the Aboriginal and Torres Strait Islander Commission and

a primary agitator for the proceedings against O'Rourke. In this second case, the court found O'Rourke had been publicly defamed by Hagan and was awarded damages. The girls' case was abandoned (Kelly 2011, p. 86).

Regardless of the outcomes of the cases in the courts, it is clear that relationships between the filmmaker and participants in *Cunnamulla* had become dysfunctional once the participants became aware of how they had been represented in the film.

Both C*unnamulla* (O'Rourke 2000) and *The Good Woman of Bangkok* (O'Rourke 1991), another of O'Rourke's films, both dance around power and privilege. The two girls in *Cunnamulla* were vulnerable, young and Indigenous. They were recorded without an adult present, and according to them, were told the filming would be about a beauty pageant they had entered. O'Rourke may have genuinely started out with the intention of following the original beauty pageant storyline and gained consent on this premise. Clearly, this storyline shifted, and the girls were, apparently, not made aware of the change and its implications. They were consequently upset by the publication of the film.

Beyond the legal cases, several ethical questions remain: Should O'Rourke have updated the girls and the family about the shifting and dynamic storyline? Should he have screened the film to them privately before releasing it publicly? Did he know and run with the risk to avoid jeopardising a good story? As filmmakers, these are important questions to consider in our own practice.

Regardless of his intentions, O'Rourke was known for his ethically confrontational style of filmmaking. From the start of *The Good Woman of*

Bangkok (O'Rourke 1991), the audience is made aware of the power dynamic between himself and the main participant, Aoi. O'Rourke called this film 'a documentary fiction film' (O'Rourke 1997). In an afterword in the book *The Filmmaker and the Prostitute* (Williams 1997), O'Rourke defines 'documentary fiction' as a mode that uses documentary elements but then 'subverts' the notion of truth that the form relies upon. However, this afterword was not published until six years after the release of the film and the audience would not have had this context when viewing the film.

However, O'Rourke is more transparent in the framing of the actual film. The opening text card of the film read by the viewer states:

> The filmmaker was 43 and his marriage had ended.
>
> He was trying to understand how love could be so banal and also profound.
>
> He came to Bangkok, the mecca for western men with fantasies of exotic sex and love without pain.
>
> He would meet a Thai prostitute and make a film about that.
>
> He seemed to be no different than the other 5,000 men who crowded the bars every night.
>
> It was three in the morning when she finished dancing and sat with him.
>
> She said her name was Aoi—that it meant sugar cane or sweet.
>
> The pimp came over and said: 'Only 500 baht or 20 dollar … keep her until the afternoon … do anything you like ... OK?' He paid and was her customer, she became the subject of his film.

> They stayed at a cheap hotel in the red-light district. Filming and video recording took place there. (O'Rourke 1991)

In the Anthology *The Filmmaker and the Prostitute*, Linda Williams refers to this opening text and states: 'Thus the making of O'Rourke's film hinges upon the literal role procurement of its subject' (Williams 1997, p. 83).

The uniqueness of this set-up is that O'Rourke does not hide from the power dynamic between the filmmaker and the film's participant. With brutal honesty he lays it all out on the table. According to some commentators, therein lies its brilliance:

> the ethical superiority of O'Rourke's film, along with its greater richness as both document and fiction, lies in its recognition of the fantasy of rescue and its class, race and gender bases. (Williams 1997, p. 88)

In *The Good Woman of Bangkok*, O'Rourke steps firmly into the ethical dark grey zone, but his consent process appears to be honest, both with his subject (who was apparently aware of the set-up from the start) and the audience. While some may find his approach morally questionable, O'Rourke is transparent about his process with the audience from the opening first card where he reveals his intentions.

The release form

It is unlikely that O'Flaherty would have implemented a release form as he was creating documentaries in a time before the need for consent forms was recognised. Today, the release form is an industry standard contract that is meant to represent the filmmaker's best endeavours to obtain informed consent and the participants' willingness to be filmed.

Many public broadcasters around the world have editorial guidelines that address some of the ethical issues relevant to consent. In Australia, both public broadcasters, SBS and the ABC, have Codes of Practice (ABC 2019) (SBS 2014). The commercial broadcasters adhere to the *Commercial Television Industry Code of Practice* (Free TV 2018). In the UK, the *BBC Editorial Guidelines* provides comprehensive and practical information in defining informed consent from a media perspective citing 'freewill, capacity and knowledge' as the ingredients for obtaining informed consent (BBC 2010b).

These guidelines require consent to be 'provable' and they suggest that this can be done in a number of different ways: with a signed consent form, by videoed consent or via letter or email. Continued participation is also highlighted as an indication of ongoing consent. But this 'provable' concept is geared in favour of the protection of the filmmaker and broadcaster, as opposed to protection of the participant (BBC 2010a).

The BBC editorial guidelines also acknowledge that the standard release form is problematic:

> Whilst they [the release forms] formalise consent and are often required to prove copyright before programmes can be resold (see below) they do not necessarily demonstrate that there has been properly *informed* consent. The forms are (usually) clear about the programme makers rights to use and re-use a contribution but contain only basic information about the programme and the nature of the contribution. Informed consent will often require more detailed information for the contributor.

> The forms are also legalistic in tone, when a more informal approach may be more useful. (BBC 2010a)

The release form is in many ways a problematic document, given what it requires the participant to sign away. A typical release form takes away the control the participant has over their story and depiction, often without compensation and within a time frame that typically lasts forever ('in perpetuity' in legal terms). For filmmakers, the signing of this form often brings a sense of relief that the participant has signed over their rights and that therefore the filmmaker is now able to tell the story as it suits the filmmaker. Rightly or wrongly, once the release form has been signed the filmmaker can be tempted to believe that the complexities of consent have been resolved and ethical issues can then be more easily sidelined.

If, as a filmmaker, you rely on the release form as the only device to obtain informed consent, it should be no surprise to anyone when things turn sour and participants react with anger. The release form, as part of a consent process, requires the filmmaker to provide meaningful context about the film. Even so, it is not a fail-safe activity. Nichols points out that:

> '[participants] may end up feeling used. As individuals who are central to the success of a film, they may feel entitled to compensation commensurate with the compensation an actor would receive. (Nichols 2017, p. 33)

The release may be required as evidence for Errors and Omissions Insurance and for broadcasters to protect from copyright claims.[6] But is the release form really worth the paper that it is written on? When consent is tested in a court of law, the consent form is often not even regarded as the questionable activity. Instead, it is the context around the form that matters legally, as happened in the case brought against O'Rourke for *Cunnamulla* (Kelly 2011, p. 86).

Regardless of its reliability as a legal document, the release form does, however, provide a useful first tool when navigating consent. Sometimes the signing of this document may be seen as an administrative formality; at other times it is seen as a moment in the consent process that works in tandem with other activities, as I explore further below.

Indigenous protocols

In the past, filmmaking tended to be a white, middle-class endeavour. It is an expensive and time-consuming art form and therefore has tended to attract those privileged enough to have access to technology and resources. While many documentary filmmakers would believe themselves to intend to 'do no harm', there can be no denying that unconscious bias, colonial indoctrination and white privilege come into play when making films. These cultural undercurrents are now beginning to be dismantled, thanks to a greater diversity of voices in the filmmaking industry.

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[6] Errors and Omissions Insurance is professional liability insurance that offers protection against damages due to negligence by the filmmaker.

The Screen Australia *Indigenous Protocols* support this dismantling. The protocols were created after it became apparent that many well-intentioned filmmakers who were making films in and with Aboriginal communities needed guidance.

The Screen Australia publication *Pathways and Protocols,* written by Terri Janke (Janke 2009), is a filmmaker's guide to working with Indigenous people, culture and concepts. Janke notes:

> Given the nature of film, and the editing process, the presentation of Indigenous cultural material in a manner that promotes integrity requires careful consideration. Cultural integrity and the related issues of representation, authenticity and respect for cultural beliefs, need to be considered throughout the filmmaking process—during the writing stages, including the adaptation of existing material; during shooting, editing and post-production; as well as in marketing and arrangements for the future use of footage. (Janke 2009, p. 14)

The over-arching themes of the protocols are respect, consultation and acknowledgment. The purpose is to inform and educate filmmakers about appropriate behaviour in order to avoid cultural exploitation (Janke 2009, p. 11). These protocols provide an ethical framework and draw on Indigenous wisdom to provide guidance to those who have been socialised into a colonial mindset or who lack of awareness. The protocols are endorsed by the industry and adherence to them is supported by funding bodies (Janke 2009, p. 10).

Of particular focus for this exegesis is chapter four of the protocols, entitled 'Communication, consultation and consent' (Janke 2009, pp. 51–6). The protocols offer guidelines for both drama and documentary, as the principles are similar for both genres of storytelling. For the purposes of this research I focus on those elements specific to documentary.

The quote below from the protocols sums up the critical elements that are considered to constitute informed consent:

> **4.1. Consultation and Consent**
>
> Consultation and consent in Indigenous communities are interrelated. Through consultation a filmmaker can come to understand what requires consent and the correct people to give it, and the people giving consent can more fully understand what they are consenting to.
>
> **Consultation** refers to the process whereby people exchange views and information. Consultation is not just a one-way process, but a process of sharing knowledge and opinions. Consultation means working together, listening to what the other party has to say and acting upon it.
>
> **Consent** is a process whereby permission is given, based on a relationship of trust.
>
> Consent should be informed, and this means filmmakers need to provide a clear explanation of the filmmaking process, timeframes, contract details, possible benefits, impacts and future uses of footage at the time of seeking consent, to avoid misunderstandings at a later time. The consent process should be

> transparent for all parties, and information should be explained in plain English or with the help of an interpreter.
>
> Whether you need consent or just need to consult will depend on the nature of the film project and the role played by the Indigenous people or cultural materials involved.
> (Janke 2009, pp. 51-2)

A recent example of a documentary that has incorporated a collaborative approach with an Indigenous community is the film *In My Blood it Runs* (Newell 2019). The film is set in Mparntwe (Alice Springs), situated in the central Northern Territory, Australia. The film follows ten-year-old Dujuan as he walks between two worlds, the Indigenous and non-Indigenous. In one world he excels as an intelligent child-healer, able to speak multiple languages, while in the other context, he struggles to fit into a traditional Western education and treads close to incarceration, with the risk of becoming another statistic (Closer Productions 2019). It should be noted here that the director, Maya Newell, is not Indigenous.

The film's website provides an outline of the filmmaker's approach in pursuit of a collaborative, inclusive and ethical consent process. This process covers the film's content, credits, constitution of an advisory board, distribution and impact campaign.

According to the website, the participants were consulted at every step in the process, from conception to release, 'to ensure that each individual comprehensively understands the terms of involvement and the control they have over how their stories and images portrayed' (Closer Productions 2019).

More insights into this process can be gained from reading 'The Making' section of the film's website:

> Some of the core pillars of our approach include; partnership with those represented, a team of Advisors, consent as an ongoing basis, formal recognition of Traditional Owners of the land we filmed, meaningful and ongoing consultation, shared profit with those represented and a team structure that has equal First Nations and non-First Nations as the core creatives. (Closer Productions 2019)

Although I have no independent confirmation from the participants and Indigenous collaborators, it seems that *In My Blood It Runs* is an example of best practice when it comes to planning and implementing an ethical process in a context where an existing power disparity could have been amplified. Not only can this film be held up as a positive example of such a process, but the strategy resulted in a stronger story, as this review from the world premiere screening at Hot Docs points out:

> Crediting Dujuan and his family members as co-directors and collaborators, Newell (*Gayby Baby*) lets her Indigenous subjects largely tell their own stories. Newell provides them with cameras to capture their everyday lives and ask each other questions that they might hesitate to answer if they were posed by outsiders. This approach gives *In My Blood It Runs* a pronounced and confident degree of authenticity. It's a great looking film, and Newell and her team have done an outstanding job of assembling such a culturally specific and politically relevant story, but it wouldn't be as impactful without

> the direct participation of Dujuan's family to guide it. (Parker 2019)

It appears that the filmmakers understood that in order for the film to succeed as a creative work, they needed to ensure that the ethical process reflected the result and impact they wanted to see. The ethical framework of the film, the consent process, 'walks the talk' of recognition, collaboration and healing. The contract of trust with the audience is solidified with this film because the viewers know the film had an authentic consent and consultation process.

Documentary ethical governance

A film such as *In My Blood It Runs*, where there is a meaningful and genuine attempt to create an ethical consent process, demonstrates how successful this approach can be when an individual filmmaker is committed to implementing it. But many filmmakers have been calling for years for the development of an ethical code of practice specifically for the documentary sector. Nichols suggests that:

> An ethical code of documentary practice allows us to address the imbalance of power that often arises between filmmakers and both their subjects and their audience. It affirms, among other things, the principle of informed consent for subjects, inflected to acknowledge that documentary filmmaking is more of an artistic practice than a scientific experiment.
>
> In a nutshell, a guiding statement, akin to the Hippocratic Oath that places 'Do no harm' above all, might propose, 'Do nothing

> that would violate the humanity of your subject and nothing that would compromise the trust of your audience'. (Nichols 2006)

As mentioned in chapter two, many documentary filmmakers acknowledge the importance of ethics in their work and many more desire guidance when confronted with an ethical dilemma. But filmmakers have to initiate this themselves (as in *In My Blood It Runs*) and form their own strategy in the absence of an industry-wide code of ethics.

Documentary's close cousin is journalism. Unlike documentarians, journalists are guided by a code of ethics. The Media and Entertainment Arts Alliance Australia's (MEAA) *Journalism Code of Ethics* outlines ethical expectations for its members. It also implores journalists to 'educate themselves about ethics' as a core responsibility (MEAA 1944), firmly placing the burden of responsibility at the feet of the individual. (The MEAA Journalism Code of Ethics is reproduced in appendix A.)

However, simply listing ethically desirable qualities such as 'honesty', 'fairness', 'independence' and 'respect for the rights of others', while noble in their virtue, does not equip the journalist with a framework to solve an ethical dilemma. The MEAA code of ethics does not outline problem-solving strategies, or the 'how'. It's all very well to have read the codes of ethics and the books of the great philosophers, but as filmmakers we need to know how to step through the ethical decision-making process. The dark grey zone in documentary is notoriously full of problems that fall outside the norm. Truth is not only stranger than fiction; it is also frequently more ethically complex.

Rather than moving towards an official code of ethics, I support training for filmmakers in ethical decision-making. This training could be delivered as part of student filmmakers' formal film school education (or even in the general high school curriculum), but it should also be widely available to benefit those who learn outside traditional systems. *The Ethics Lab* by Dan Geva (Geva 2019), discussed in chapter two, and Screen Australia's *Pathways and Protocols* (Janke 2009), discussed above, could provide the groundwork for such training for documentary practice. Part of this training could include the teaching and practice of a common methodology to help filmmakers create a unique ethical strategy for each film. This strategy would span the phases of research and development and then be carried through to production and distribution. This dynamic framework could provide a principled way for filmmakers to adapt it for each film and also create a road map that filmmakers could use to assess potential ethical risks that may arise before filming even commences.

Ethical practice and a consent process requires initiative, time, training and strategies. Documentary filmmakers generally understand the 'why' as most have confronted the dark grey zone at some point in their careers. What we need is guidance on the 'how'.

Ethical dilemmas

Most filmmakers have at least one experience that haunts them from an ethical perspective. For others, the very premise of the film they are creating relies on the filmmaker walking an ethical tightrope, even from conception of the idea.

What if you are making a film about a life-threatening topic, where the very act of filming could be endangering the participants? In this instance, how can a release form cover the complexities of informed consent? The filmmaker is in a position of power in that any move they make may affect the outcome of the story happening on screen.

The recent Oscar winning film *Free Solo* (Vasarhelyi & Chin 2018), directed by Jimmy Chin and Elizabeth Chai Vasarhelyi, deals with this issue within the film. *Free Solo* follows the journey of climber Alex Honnold in his attempt to be the first person to ever climb the summit of the mountain face El Capitan in California without the assistance of ropes.

The filmmakers closely observe Honnold throughout his lengthy preparation and practice runs, with the story climaxing with the final, unassisted climb of El Capitan. The crew is present at moments when Honnold is in extreme danger and in a reflexive way acknowledge the ethical dilemma of potentially witnessing and filming the life-threatening act as part of the storyline.

Often in documentaries this ethical dilemma is hidden from the viewers, but in *Free Solo* the filmmakers confront it head on, bringing the audience along for the roller-coaster ride. The filmmakers insert themselves into the film in a way that allows the audience to see the process and ethical dilemmas of making a film about a life or death situation. This is exposed by showing scenes revealing the dilemmas as they unfold on camera. By participating in the act of watching, the audience becomes complicit in the ethical dilemma.

In a filmmaker profile featured on the Center for Asian American Media website, co-director Elizabeth Chai Vasarhelyi mentions the dilemmas they faced. She explains that the filmmakers consulted mentors to work out an ethical process for making the film (Momo 2018). Developing an ethical framework from the start was a critical part of their process and also made an interesting storyline for the audience to observe. Like O'Rourke in *The Good Woman of Bangkok* (O'Rourke 1991), Vasarhelyi and Chan are transparent about the ethical machinations of their work.

But does the ethical responsibility always reside squarely with the filmmakers? In the article 'How Close is too Close? A Consideration of the Filmmaker–Subject Relationship' (Leeman 2003), Lisa Leeman explores a multitude of examples of ethical dilemmas in documentary filmmaking. She quotes Albert Maysles, who offers an alternative to seeing the filmmaker as solely responsible. Maysles suggests that the ethical load can be shared with participants who willingly participate in the process:

> 'People getting their stories told can be as important or even more important than anything else. That applies to their suffering, their vulnerabilities, even what they're kind of ashamed of.' (Maysles, cited in Leeman 2003)

The article also quotes filmmaker Renee Tajima-Pena, who concurs with Maysles and states: 'don't underestimate the power of having your story told. It's validating your experience.' (Leeman 2003). Understanding that participants can get something out of the experience can offer some comfort to filmmakers.

Using another approach, Kitty Green, the director of *Casting JonBenét* (Green 2017) undertook an interesting creative process to investigate community attitudes and memories surrounding the highly publicised tragic murder of a little girl.

Casting JonBenét is an intriguing film that uses the guise of casting for a fictionalised version of the real-life story of six-year-old JonBenét Ramsey, who was brutally murdered in her home over twenty years ago. The murder took place in Boulder, Colorado and the mystery of 'who dunnit' captured worldwide attention. The murder left an indelible mark on the community and everyone had a theory or perspective about what happened.

In the documentary film, members from the local community 'auditioned' for parts in the hypothetical dramatised version of the true crime story, and it is these casting tapes, elements and interviews that make up the bulk of the film. The auditions were filmed but the cameras kept rolling, as the participants revealed more about themselves, relevant or otherwise to the story.

Young boys auditioning for the role of JonBenét's brother (always considered a suspect in the murder) were filmed violently bashing a watermelon to replicate JonBenet's head.

It is a curious and intriguing film but becomes increasingly uncomfortable for the audience as it is unclear whether those auditioning were aware of the real premise of the work. Unlike the examples of *Free Solo* (Chin 2018) and *The Good Woman of Bangkok* (O'Rourke 1991), the filmmakers of *Casting JonBenét* do not reveal within the film an ethical

framework or position. Deliberate or otherwise, this creates a tension for the viewers and raises questions as to the intentions of the work … but maybe that is the point.

The non-transparency within the film attracted some strong critiques of the film's purpose and intent and questions were raised about whether the participants were exploited. Questions included these ones asked by Richard Brody in the *New Yorker*:

> What did she tell the auditioning actors about her project? Did she coax them to divulge personal stories as a precondition to their audition, or did they simply come forth with their own stories, reflections, and memories as part of their efforts to be cast? (Brody 2017)

Very little exists on the public record about Green's approach to informed consent, but in an interview published on the Vox.com website Green reveals more about the consent process she undertook:

> 'Before we dressed them up, I'd give them a 15-minute spiel about how I envisaged the film coming together. Which is difficult, because it's not like any other film, so it's not really easy to describe!' Green says.
>
> She told them that the casting material would be used in the film—that anything they said on camera during the auditions might end up in the final cut, so they should be careful about what they say. 'It's an experiment basically,' she told them. 'And will you jump down the rabbit hole with us?'

> To her surprise, Green says, virtually all of them agreed.
> (Wilkinson 2017)

It thus seems that Green did undertake a consent process with her participants, but in not revealing this to the audience she creates a tension for the viewer. The experiment becomes as much about those in the film as about the story of JonBenét. Those watching feel discomfort and uncertainty of not knowing if there was deception or manipulation in the consent process. This tension then transforms the work into a commentary on how we judge, consume and process media, which makes for a fascinating film. Deliberately unsettling an audience is a powerful device.

In her book *Psychoanalysis and Ethics in Documentary Film*, Agnieszka Piotrowska reflects on her own, deeply personal experiences as a filmmaker to explore ethics within a psychoanalytical framework (Piotrowska 2014). Piotrowska's work resonates with Green's approach in *Casting JonBenét* and also my own experience on *I am a Girl*. Her focus is on testimony and trauma to explore autobiography (Piotrowska 2014, p. 2).

The ethical question Piotrowska asks is: 'How should filmmakers treat people in their films?' (Piotrowska 2014, p. 77). This leads to questions of trust:

> the issue of trust becomes an uncomfortable burden: how do we interview a person who has committed bad things and yet he or she trusts us with their life story, and sometimes more, with their actual life? How can we possibly do our work if the search for the truth involves a breach of the trust somebody has invested in our encounter? (Piotrowska 2014, p. 151)

Piotrowska observes that participants have to live with the consequences of being a part of a film. As filmmakers, she argues we are compelled to tell these stories despite the risks, as much as audiences are compelled to watch. Piotrowska goes to crux of the matter by observing that documentary filmmaking, by its very nature, requires us to work in the dark grey zone, treading an ethical tightrope. The risks can be high for all but so can the rewards. Does this mean filmmakers should never make ethically questionable films? Herein lies the central dilemma of the form.

Conclusion

In this chapter, I have explored some of the ethical issues common to documentary practice, encompassing the territory of informed consent, the release form and industry protocols.

To do this, I examined the different the ethical approaches used by several significant films from the documentary cannon, such as Flatherty's *Nanook of the North* (Flaherty 1922) and O'Rourke's *Cunnamulla* (O'Rourke 2000) and *The Good Woman of Bangkok* (O'Rourke 1991).

The BBC editorial guidelines (BBC 2010a, 2010b 2010c) were highlighted as a standard industry framework when exploring the use of the release form to implement a consent process. I noted that the guidelines suggest that the release form is only one way to gain informed consent.

Screen Australia's Indigenous *Pathways and Protocols* (Janke 2009) provides filmmakers with guidance when producing work in collaboration with Indigenous peoples. I explored the ways in which this resource also resonates more broadly and could be more widely implemented as a

baseline for ethical process and consent across a range of documentary subjects and participants. The film *In My Blood It Runs* (Newell 2019) implemented these protocols and made for a rich story world that worked for all involved.

The strategies, processes and outcomes of more contemporary examples of documentary film were also considered. The film *Free Solo* (Vasarhelyi & Chin 2018) was discussed as an example of how the filmmakers dealt with the ethical dilemma of risk and guilt. Vasarhelyi and Chin's ethical approach is a transparent process as they insert themselves into the film and take the audience along for the ride, making everyone complicit in the ethics of the situation.

I then examined the ethical issue of deliberate deception as a device used by filmmakers when creating content. *Casting JonBenét* (Green 2017) is a film that strategically makes the audience feel uncomfortable about the consent process, but in doing so makes a point about how we consume and process media.

The examples explored in this chapter show the existence of a broad range of ethical approaches in documentary filmmaking practice. The consent process is a central to all these approaches and raises complex ethical dilemmas that most documentary filmmakers face. Consent can be used as a creative device to enhance story, while also manipulating audience perception and experiences.

In the next chapter I evaluate my creative work *I am a Girl*, focusing on the numerous ethical dilemmas and the consent process undertaken throughout production. ❖

Chapter 4

Filming *I am a Girl*: ethical decisions and processes

In the previous chapters I have given an overview on ethical processes in the documentary realm, with a particular focus on informed consent. In chapter two, I reviewed recent and past scholarly writings on ethics relevant to documentary. In chapter three, I outlined some of the typical ethical dilemmas that come up when making a documentary film including ensuring informed consent of participants with or without use of a release form, the scope of standard industry protocols and ethical implications of filmmakers' strategic and artistic decisions. I have suggested throughout this exegesis that documentary filmmakers need to draw on an understanding of ethical principles to develop an ethical strategy and practical skills appropriate to each film.

In this chapter I outline my own process of ethical consideration, with a particular focus on issues of consent throughout the journey of making *I am a Girl*. I present the spectrum of ethical experiences, which included conventional activities such as asking participants to sign release forms and later to re-consent. I also outline the ethical process that led me to make a decision not to include a participant in the film.

My goal as a filmmaker was to make a documentary film that was safe, ethical, purposeful and impactful. I had hoped that the process would be a collaborative one with the participants, although I was also aware of my position of power and privilege. The journey to make *I am a Girl* was a

long one and involved a lot of travel to different places with unique cultures and viewpoints. This created many challenges.

Given that the subject matter of the film was exploring gender inequality through the eyes of six girls on the brink of womanhood, there was much to consider when formulating what my consent process should be.

My interest in informed consent and ethical processes in filmmaking was inspired by my previous experiences making documentaries and my awareness of how ill equipped as a practitioner I was in regard to these issues. I had vague memories of a class at film school where the issue of consent was broached but it was within the context of legal and administrative issues, teaching us how to make sure a consent form was signed to protect the filmmaker. The textbooks by Rabiger (1988) and Nichols (2017) were also helpful resource. But these experiences were rudimentary and, whilst informative, had no real impact on providing me with the skills to develop an ethical framework.

In this chapter I discuss my experience of making the creative work *I am a* Girl, with a focus on my ethical practice and process. In making *I am a Girl*, the there was an obvious power dynamic at play. There can be no denying that, as the filmmaker, I was often in a position of power over the participants, who were young, often vulnerable women and mostly from different cultures to mine. How was I able to achieve an ethical consent process and achieve my goal, given this power differential?

The different cultures and countries of each participant forced me to reflect carefully on how to implement ethical processes in diverse cultural

contexts. As I explain in this chapter, I approach consent differently for each individual.

When conceiving and making *I am a Girl*, a major concern for me as the filmmaker was the perception—true or false—that I was using the participants for my own benefit as a storyteller. Documentary filmmaking is rarely a prosperous vocation or endeavour, but I believed that the relationship could be mutually beneficial. Admittedly, if the film were successful there would be obvious benefits for me, including career progression and increased kudos in the documentary community. These successful outcomes would potentially lead to more opportunities for funding for future projects. For the girls involved in filming, the benefits would that they would have the opportunity to tell their stories and highlight their struggles. The film would give them a voice and a platform from which to amplify their human rights. But the reality is, that despite these two differing benefits—mine of career advancement and my participants' of being heard—the power imbalance was always in my favour. To counteract this as much as possible, I gave extensive consideration to developing an approach and consent process to minimise the power imbalance.

I was not aware of the term at the time of making *I am a Girl,* but I did not want to make an 'extractive' film. Extractive filmmaking has become a much-discussed concept in documentary circles. Extractive filmmaking is when a filmmaker goes into a community and takes stories without regard for the deeper, complex ownership of story. The term was coined by filmmaker Pamela Yates:

> From Black Lives Matter to Standing Rock, the question of who has the 'right' to tell a community's story has been endlessly debated this year, with no clear answer in sight. Sure, everyone can pretty much agree that 'drive by' doc-making—usually involving a white journalist/filmmaker swooping down on a community of color, nabbing some sensationalistic footage over a few days, then quickly returning to an editing home base far, far away—is not the way to go about getting to any sort of deep truth surrounding an issue. (Wissot 2017)

I did not wish to make a 'drive by' documentary but with *I am a Girl,* there can be no denying that there was a power disparity between filmmaker and participant. The filmmaker (in this instance myself) was from a wealthy country and in a position of privilege. What effect does this have when trying to create an ethical process? In making the film I was consumed by the need to understand how meaningful consent could be obtained given this power disparity.

In the development of my consent process for this film I was inspired by the *Universal Declaration of Human Rights*, and in particular Article 19:

> Article 19.
>
> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontier. (United Nations Declaration of Human Rights Commitee 1948)

This resonated for me as a filmmaker because it made real the idea that providing participants with an opportunity to express their thoughts and tell their stories could be a path towards activating Article 19. Many of the girls we filmed with had never had an opportunity to express themselves privately or publicly. I was interested in the idea that the opportunity to give testimony could help a girl to feel empowered, understood and seen. I was wary of being a 'white saviour' but hoped that the experience and exchange could be beneficial for the girls we filmed with.

Once I had decided to make the film I embarked on a period of in-depth research. I scanned reports and statistics to identify places where qualitative data suggested that just being a girl meant inequality. Initially, I had hoped to film up to ten girls but with limited resources and screen time I realised that filming with seven girls would be manageable and do justice to the girls' stories.

The final seven countries we filmed in (and the participants filmed in each place) were: Afghanistan (Aziza), Cambodia (Kimsey), Papua New Guinea (Manu), Cameroon (Habiba), India (Jaya), United States of America (Breani) and Australia (Katie). The subject areas of the girls' stories were decided on after the research phase and spanned access to education, sexual exploitation and human trafficking, maternal health and childbirth, mental health, technology and peer pressure and early marriage. Each girl's story was her own to tell through testimony, where I would encourage and prompt her to tell her story rather than following a traditional formal question and answer style.

The consent process began early, before we even met in person. Given the challenging content of film, I knew that we had to tread carefully. The age of the girls, cultural considerations, language barriers, family support and world view were some of the risks or challenges that needed to be assessed.

Before filming, I decided to work out a framework for my consent process. I started by listing and hypothesising about the possible ethical encounters I would have when making of the film. I wanted to avoid an obvious extractive mode and to achieve a participatory approach, where 'do no harm' was at the core of the process.

This six-step framework was a guide and did not always play out in this way, although I did adhere to the basic sequence:

1. **Research phase:** For each country I intended to film in, I established a collaboration with a local non-governmental organisation (NGO) or group who had meaningful connections with potential participants (girls and their families). This in-country collaborator would do initial research to find possible participants, assess their suitability and gauge the interest of both the girl and her family in participating in the film. The representative from the NGO was instructed to be upfront about the film's purpose, reach and the time commitment that participation would require. The in-country partner and I then carried out a risk assessment and ruled out any girls who would be put in direct danger by participating in the film. We then drew up and discussed a shortlist ahead of the

film crew arriving in the country. The crew consisted of me as director and sound recordist and Nicola Daley as cinematographer.

2. **Informal initial meeting:** Once arriving in-country we met with the potential shortlist of girls and their families together with a translator and/or a trusted advocate from the local NGO. We usually met with no more than two girls in each country. This was an opportunity for the film team to connect with each girl and her family and get a sense of the girl's suitability. If we considered that the girl seemed suitable for the film, we would progress the conversation to discuss the potential of filming with her. This was a chance for the girls, family member and advocate to ask any questions and bring up any concerns about the filming. The girls and families from the shortlist who were not selected for filming but with whom we had met were given a gift during a later visit and filming was not discussed.

3. **Selection and cooling-off period:** After the initial informal meeting we gave the girl and her family a day or two to consider the proposal to participate in the film. This was their opportunity to decline or accept our invitation to participate.

4. **Consent meeting:** After the girl and her family had expressed a desire to participate in the film, we held a consent meeting. The consent meeting was more formal. This meeting was often filmed (although not always). Those present were the girl, a trusted guardian or advocate (from the NGO), a translator, a crew member (the cinematographer Nicola Daley) and me. During this meeting

we would reiterate previous discussions about what it would mean to be part of the film, being as realistic as possible. We indicated the amount of time we would like to spend each day filming and explained that the film would be screened internationally. I clarified that if at any point the participant felt uncomfortable about being filmed in a particular situation, she should tell me, and we would stop filming and discuss the issues. To meet our local legal and insurance requirements, towards the end of the consent meeting we also required that the girl and her guardian sign the release form. When required, this release was read out and translated verbally into the participant's language as in several instances there was a low level of literacy.

5. **Ongoing check-ins:** Once filming commenced, I initiated 'check-ins' which were informal throughout the shoot day but more formal at the end of each filming day. This was to gauge how things were going with the participant and her family.
6. **Post-production consultation:** Once filming had finished, I conducted ongoing consultation throughout the editing, release and distribution of the film. Only Aziza and Kimsey saw the film before it was released, for reasons I explain later in this chapter. During distribution, I kept in contact with the girls and sent them

> intermittent updates with messages from audience members who had reached out via the postcard function on the film's website.[7]

In the next sections I describe how the process played out in practice with each individual girl.

Aziza, Afghanistan

At the time of filming Aziza was 17. She is a member of the minority Hazara group who are traditionally targeted by the Taliban. She lived in a relatively safe province in Afghanistan which was still a war zone, but this was tempered by the presence of allied forces in the area to manage terrorist activity on the borders. As filmmakers we were aware of security issues at all times and factored this into our risk assessment.

Our purpose for being in Afghanistan was to film a story that looked at the issue of girls' access to education. In Afghanistan, as a girl, going to school is one of the most dangerous activities you can do. The Taliban is an organised terrorist group known to target women and girls who seek to exercise their human right to an education. Focusing on girls' education in Afghanistan placed a huge burden of responsibility on our shoulders and we took it very seriously.

[7] The digital postcard function on the website allowed audience members to send a message to the individual girls in the film. This was originally set up as part of the educational materials associated with the film, where students viewing the film could write to the girls in the film as part of a classroom activity. These postcard messages came directly to me. I would then compile the messages and send them on to each girl.

Our process of ethical considerations and consent began before arrival. We worked with one of our partners, Save the Children, to decide on the most appropriate place to find a participant. It was decided that we would film in an area which was not one of the worst affected by the Taliban and where it would be relatively safe for the potential participant and for us, an all-female film crew.

Ahead of our arrival, Save The Children provided us with a translator–researcher who went out and did preliminary research to find girls who might be interested in collaborating. We were looking for a girl between the ages of 16 and 18 who was:

a) struggling to access an education

b) willing to be filmed

c) understood the risks

d) had the support of her family to participate in the film.

Upon our arrival in Afghanistan our translator–researcher had selected several girls who were interested in participation with their families.

At the initial meeting with Aziza and her family we spoke about the subject and themes of the film as well as the other the stories we were collecting. It was crucial for us to disclose this as one of the subjects we were exploring was sexual violence (in Cambodia). Aziza's culture is very conservative and chaste, and it was important that she understood that this topic was to be explored in other parts of the film.

I also discussed the distribution of the film and where it would potentially end up. These avenues included festivals, cinema, television

broadcast and the internet. While it is possible to alienate film distribution territories—for example, omitting Afghanistan (thus avoiding potential viewing by the Taliban)—the reality is that technology is changing every day. While it might be possible to control the distribution at that point in time, we were clear that there was the possibility that the film could be screened in Afghanistan one day. I did not make promises I could not keep.

We also clearly outlined the day-to-day expectations of filming and what we wanted to capture. We indicated how long we wanted to film for each day and the sorts of things we wanted to film. We asked Aziza and her family how they felt about this and whether they had any questions. We then asked them to have a think about it overnight and said we would return the next day.

When we returned, we found the response was positive and we set about filming the consent meeting. At this meeting the following people were present: the main participant (Aziza), a trusted member of her family (her mother), a translator and partner representative (from Save the Children) and the filmmakers (cinematographer Nicola Daley and me). During this consent meeting, we talked through the discussion of the previous day and checked Aziza and her mother's understanding of the process of filming and distribution as well as our mutual expectations. Aziza expressed her desire to be involved and was enthusiastic about telling her story. She hoped that being a part of the film could create change in her country for women and girls. Finally, we asked whether Aziza and her family consented and committed to participating in the film.

At this time, I also made a personal commitment to them. If at any point during filming, Aziza felt embarrassed or annoyed or didn't want us to film something, I insisted that she should feel empowered to ask us to stop filming. We could then discuss the issue and, depending on the outcome of that conversation, we would recommence or halt filming until the issue had been resolved. I also made it clear that the intention of the film was to empower the participants, and that this was their opportunity to tell their story to the world. I explained that I wanted the interviews to be testimony as opposed to a question and answer style. I wanted them, with direct eye line to camera, to tell their story in the way they wanted to tell it.

Once consent was obtained, we then eased into filming. We started with a few hours the first day and built up to full days over a ten-day period with a few days off. The consent process was ongoing, as each day at the end of filming I checked in with Aziza to see how she was feeling about the process. This daily check-in was crucial to maintaining relationship. By the time we left Afghanistan, we had established a strong connection with the family who were very keen to see the film when it was finished. Upon returning home we maintained contact through our translator who would pass on messages to Aziza and her family.

Up until this point the relationship between the filmmaker and participant had been respectful, considerate and inclusive.

Later, when we were due to release the film, a situation arose that created an ethical dilemma. Around this time, Malala Yousafzai, a Pakistani girl who has since become internationally famous, was shot at point blank range on her way home from school. She was targeted for

being outspoken about girls' rights to attend school. Malala survived the shooting and has gone on to become a worldwide advocate for girl's rights to education.

This incident immediately raised alarm bells for us as filmmakers as well as for our funding partners. We were literally about to finalise the film, when we had to put on the brakes and cancel the launch of the film to undertake a rigorous risk assessment into how this new incident might affect Aziza.

In *I am a Girl,* Aziza is very outspoken about the Taliban who were responsible for the death of her father. She is equally vocal about her right to an education and ambitions to become a leader one day. In the film she appears without disguise, using her own first name and her location was obvious due to several location shots.

Although we had finished the film, we realised that we needed to honour the consent process. The context under which Aziza and her family had previously consented had dramatically changed with the new political environment and the Taliban now directly targeting girls. Although Aziza and her family had always accepted that there would be some risk from the exposure that comes with being in a film, the 'Malala incident' highlighted a new risk and one that we knew we had to inform Aziza and her family about. It was a true moral and ethical dilemma with high stakes that were possibly life threatening.

Together with our partners we worked through a risk assessment process. We came together to form what I now call an informal 'ethics brains trust'. Each partner had extraordinary insights and skills to

contribute to help us formulate a strategy to navigate the issue. It was decided as a group that we would inform Aziza of the changed international scene and the new risk and give her the choice of whether or not to stay in the film. The choices we presented and offered to Aziza were:

- obscuring her face
- changing her name
- removing location shots
- removing her from the film altogether.

We then got a DVD and letter delivered to Aziza via a United Nations flight and accompanied by the trusted translator we had previously collaborated with during filming. The letter outlined the 'Malala incident' (which we could not assume Aziza was aware of) and presented her with the above choices which she could consider with her family after watching the film.

As a filmmaker, being in this dark grey zone was an extremely nerve-wracking experience. Aziza's story was incredibly powerful, and I knew that any change would dilute her story and its message to the audience. What was at risk was not just someone's safety but also a very powerful story which would be diminished by any of the changes we were ethically bound to offer her. The filmmaker in me was reluctant to make any changes, but it was important that the choice was made by Aziza and her family and that we gave her the agency to decide either way.

When we finally got word back from Aziza, her reply was powerful and confident. She was adamant that we not change her name or location. Nor did she give permission for us to hide her face. She insisted that her story be told.

Admittedly, as a filmmaker this response filled me with an overwhelming sense of relief that her story was able to still be in the film. Aziza was given the opportunity to re-consent. She was by this time 18 years old and technically an adult. She had full awareness of the international context and could now fully re-consent to being in the film in collaboration with her family.

As a filmmaker, getting this news from Aziza confirmed that our process and our approach to the consent process was working. But it could have easily of gone another way and we might have had to remove her from the film had she requested us to do so. For our own peace of mind, we changed some location shots and placed her more generally in Afghanistan than in a particular town. These changes did not affect the creative content of the film or influence the story in any way.

During this consent process, I came to understand that Aziza was expressing her human right to tell her own story. I realised then that what we had filmed was testimony and that Aziza's experience of being a part of the film was one that had potentially empowered her to share her message that girls in her country should be able to access an education without fear.

In many cases documentarians can be viewed as taking advantage of participants. The power disparity often positions participants as victims.

But in this instance, we felt that Aziza was empowered through her story telling. And while the risk of persecution by the Taliban remained, Aziza had herself weighed up the risk and decided, bravely to speak out and perhaps inspire change.

This consent process was particularly stressful. As a filmmaker, the most helpful take-away from this experience was how beneficial it was to have access to an ethics brains trust. The members of this brains trust provided objectivity at a time when I was exhausted and struggling under the magnitude of the responsibility. The advice of these people helped bring clarity to a complex situation.

Kimsey, Cambodia

I was drawn to choose Cambodia as a location based on a number of factors. I wanted to represent a country in Asia and had initially thought of China but after much consideration I came to understand that access would be tricky.

One of our partners had strong connections in Cambodia, so after considering pragmatic logistic issues, I decided that we should begin our research there.

I wanted to find a young woman who was dealing with the challenge of making a living as sex worker or as a victim of human trafficking. I also knew that I would need to be very sensitive in dealing creatively with the subject but also from an ethical perspective.

We first met Kimsey on our first research trip to Cambodia in 2010. Ahead of the trip we had been put in touch with several NGOs including the Riverkids organisation and the Cambodian Women's Development

Agency. Both of these organisations work in Phnom Penh in various slum communities around the city. The Cambodian Women's Development Agency had an academic connection with a university in Australia and, after scrutinising our intentions and method, members of the organisation were open to helping us find girls to speak to about being involved in the film.

The consent process in fact started long before our arrival in Cambodia. The lead-up to consent involved us making connections ahead of our travel with people and organisations who might help us find a participant willing to share her story.

Our translator had a pre-existing relationship with an NGO we were in contact with. She had also worked with other film crews and understood the filming process and the ethical considerations of being a part of a film.

One of the NGOs we were working with had found two girls who were briefed about our desire to make a film. The NGO had already informed the girls about the subject matter we were wishing to cover, and the time commitment required. We asked the representatives to do their own professional assessment of the suitability of the girls before meeting us.

We met the girls (of whom Kimsey was one) together at a community safe space along with the NGO representative and our translator. At this meeting, we found out more about the girls' stories and their daily lives as sex workers. In the same meeting, we also informed them about the film's subject matter and explained why we were telling the story and what we would do with the footage when the film was finished. We explained that

the film would be screened in public around the world on television and at film festivals. We then invited the girls to ask us any questions they had about the film.

The meeting was not just about the filming. It was also about research for the film and so we dug a bit deeper into their personal stories. Kimsey had a raw honesty and openness that was immediately compelling from a story point of view. The other girl's story was also equally important, but we found out that she had strong links to the local mafia gangs. This situation presented a potential safety risk for her if the group did not approve of the filming. It could have also created security issues for the crew as well.

After a discussion with the NGO representative, we decided to invite Kimsey to be a part of the film. We asked the representative to check with Kimsey after we had left to see if she had any other concerns. We gave Kimsey a cooling off period of a few days.

Once we were convinced that Kimsey and her family were committed to being in the film, we had a consent meeting. This involved Kimsey, a representative from the NGO, our translator, crew member Nicola Daley (cinematographer) and me. At this point we revisited our reasons for telling the story and for wanting Kimsey to tell her story and where we intended to screen the film. After giving Kimsey an opportunity to ask questions at this point, we then had her sign a release form which was translated and explained by the representative. Kimsey had poor literacy skills so reading and explaining the form was the most sensible path here.

The first shoot was intense, and we learned much about the suffering that Kimsey had experienced in her past as well as well as in the present. Her life as a sex worker and the mother of a newborn, with a fraught relationship with her own mother who was ill, made for a moving story.

I felt confident in my consent process but out of all the stories we filmed for *I am a Girl* Kimsey's is the most intense and confronting. I was torn between my duty of care and my commitment to tell her story. This internal conflict was amplified on our return to Cambodia for the second shoot in 2012. When we arrived at Kimsey's new home there was much commotion about our arrival. In between the greetings I asked her how she had been. She said to me (through our translator) that she had much to share with me but wanted to save it for when we did our interview on camera. She was now 17 and experienced about the process of filming. It was clear to me in that moment that, the telling of her story provided a therapeutic opportunity for Kimsey. Her troubled relationships with her partner and mother did not provide that loving familial support. I often reflect back on that moment and wonder whether anyone had ever asked her how she felt about anything before. The film interviews we did with Kimsey were perhaps the first time that anyone had listened to her story or asked her what she felt about anything. It was a rare moment for her to reflect on her life by telling a third party. I could see her confidence grow within the frame as she told her story.

On our final day of filming we witnessed a situation that crossed my ethical boundary and required intervention. We arrived at sunrise to do an exterior shot of Kimsey's home when she returned after a night of

working. Kimsey's partner came out to confront her and the scene plays out in the film as a domestic quarrel between them. As we were only intending to do location and overlay shots that day, our translator was late to arrive and so we did what were trained to do: we followed the action. While it was clear that Kimsey was upset, it was unclear to us what the fight was about and what the content of the conversation was. Kimsey's partner was not yelling and spoke in a controlled manner throughout. We continued to film as the argument played out. Neither Kimsey, her partner or her mother requested that we stop filming.

By that time our translator had arrived but in amongst the heightened emotional milieu it was difficult for us to find out the exact details of what was being said. Finally, we were able to get a full run-down on the content on what was transpiring. We stopped filming when our translator relayed to us that Kimsey's partner was threatening her. Both Nicola and I realised that we had to act in Kimsey's best interest. In the lead-up to this situation, I had had a gut feeling that we might need to assist and provide guidance to Kimsey. Through our contacts I had already found an organisation that could offer ongoing support to Kimsey once we left. This organisation also ran a women's refuge.

Once we understood the magnitude of the situation we had filmed, we spoke to Kimsey via our translator and told her that if she wanted time out from the situation, there was an option for us to take her and her daughter to the women's refuge. She could be safe while getting support to assess her situation, clear her head and work out what she wanted to do. Kimsey decided to take us up on our offer then and there. We filmed her leaving

her home and the ride to the refuge—this was the last bit of filming we did with Kimsey.

Kimsey stayed at the refuge for three weeks and later returned home. We continued to stay in touch with Kimsey via our translator and assisted in supporting her for some time after filming.

Before the launch of the film, one of our funding partners wanted reassurance about Kimsey's consent. Despite the fact that Kimsey had already been through our consent process and had signed a release form, it was clear from the film that her mother might not have been acting in Kimsey's best interests when agreeing for her to be in the film.

Together with our funding partners we decided to facilitate the re-signing of the consent form by Kimsey and her mother. By this time Kimsey had turned 18 and was an adult. She signed again as did her mother. I was confident in my process but understood the scrutiny that the film would be under and appreciated that the traditional release form could provide reassurance to the funders and the audience.

Throughout the release of the film, it is Kimsey's story that worries and confronts the audience the most. It is challenging and uncomfortable to watch. Kimsey's story was the source of much discussion I had with editor Lindi Harrison during post-production. We debated diluting Kimsey's story to make it more 'palatable' for the audience, but that did not sit right. Who were we to manipulate someone's story so that an audience wouldn't feel uncomfortable? And wasn't that the point anyway, to show that side of the world?

Even now, years later, I still find Kimsey's story hard to watch but I am sustained by the fact that through her participation she found her voice. She was seen, understood and acknowledged. Whether that is any consolation for Kimsey years later, I am not sure.

The ethical takeaway message for me from Kimsey's story is how important it is to lean on collaborators and partners to navigate ethical dilemmas. In this case, our partners wanted reassurance on the consent process by signing a new release form. The collaboration with Lindi Harrison in the editing suite and Nicola Daley on the ground while filming offered me clarity and helped guide my ethical decisions.

Manu, Papua New Guinea

In the world today, pregnancy and childbirth are leading causes of death for girls between the ages of 15 and 18 (World Health Organization 2018). When I first read this statistic, it moved me to a moment of action and became the inspiration to make *I am a Girl*. It was therefore vital that the film contain the story of a young woman going through the process and journey of childbirth.

I wanted to film in Papua New Guinea because I had been there before for other filming work and fell in love with the country and its people. There were also other compelling reasons to do with gender inequality, including that Papua New Guinea has one of the highest rates of domestic violence in the world: between 67 and 100 per cent of women in the country have been victims of domestic violence (Cox 2010, p. 5).

Papua New Guinea is Australia's closest neighbour and yet we hear very little about the country. Since gaining independence from Australia in

1975, Papua New Guinea has struggled to thrive. Colonialism has left an indelible mark. It is a country that is resource rich and linguistically and culturally diverse, but it is also a country facing many challenges.

Finding a 'fixer' in Papua New Guinea proved to be difficult.[8] Through recommendations we eventually found a small and hard-working team of independent filmmakers called One Productions. The challenge then became to find a pregnant young woman ahead of our arrival for filming. Papua New Guinean women tend to be shy and quite reserved and we realised that we would need to be in the country to find the right person and to go through a proper consent process.

We arrived in Port Moresby and began the search immediately. The brief was to find a young woman who was in the final weeks of pregnancy who was willing to share her story, allow us to film her childbirth and who also had the support of her family to be in the documentary.

Port Moresby is notorious for violence and so we had to be careful with how we travelled around the city. Most people speak English but feel more comfortable speaking in Tok Pisin. For security reasons, one or both of our collaborators from One Productions accompanied us, along with male members of their families.

Through a pre-existing relationship we had with a local obstetrician, Professor Glen Mola, we were able to negotiate permission from the Port

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[8] A fixer is an individual hired by the production team to help organise logistics for a shoot. The fixer is often a local individual who help create connections for filming and research.

Moresby General Hospital to 'hang out' at the daily women's clinic. It was here that we hoped to find a girl to feature in the film. Every morning between 50 and 60 pregnant women would line up for the clinic and wait for hours to be seen by a nurse or doctor. And so, we waited. We met a few young women who were willing to be filmed but after exploring further we decided they were not suitable. Some did not have the support of family and some were too young.

Then one morning a heavily pregnant Manu walked into the clinic. She had an aura about her that suggested a sense of self. Slightly older than our original idea, at 19 she had a confidence that suggested she had the ability to make an informed decision about being in the film. We approached her and asked if she might be interested to talk further about being in the film. We were invited to her village the next day.

At the village, we were introduced to Manu's partner, father Manly, and Grannie (Manu's paternal grandmother) and held an information meeting, speaking in English. Together with our collaborator and translator, who clarified things in Tok Pisin, we shared our ambitions for the film and what we wanted to film with Manu and her family. We had to be very clear that we wanted to film the childbirth but that this would be done in a tasteful and discrete way. It was important that Manu be comfortable with this element. I was very clear that I wanted to share her story and the challenges of giving birth in a country like Papua New Guinea. Manu was intrigued by the idea that her story could help others and bring to light some of the challenges facing Papua New Guinean women.

It was important that Manu and her family also understood that there was no payment, but that we could help in small ways with associated costs to do with the filming. This was a tricky conversation to navigate. In documentary, the general view is that being paid to be in a film can imply a lack authenticity and questionable consent. As a low budget documentary, we were clear that this was not a possibility.

After much discussion, we left the village and suggested a cooling off period overnight where they could discuss our proposal without us being there.

We returned the next day and the enthusiasm was still strong, so we all agreed to start filming. There was a lovely moment when Manu's father welcomed us to the village and publicly gave us permission to film. Manu then also clarified her commitment and said that she wanted to tell her story to help other young women.

That then started ten days of shooting, climaxing with the confronting scenes in the labour ward, where Manu gave birth to a beautiful baby boy.

Manu's baby Reni was named after me ('Re' for Rebecca) and cinematographer Nicola Daley ('Ni' for Nicola). This gave us an ongoing emotional connection to Manu and Reni and comes with cultural responsibilities. While we had clearly stated that we were unable to pay Manu to be in the film, as honorary aunties we gave gifts to Manu and Reni to help them get started as a family. Through our ongoing contact we have continued to provide small gifts of cash at Christmas and birthdays. These modest sums often go towards important activities such as immunisations, medications and education.

Manu viewed the film (with our translator present) ahead of the screening at the opening night film of the Papua New Guinea Human Rights Film Festival in Port Moresby. While Manu found the birth scene confronting (as would anyone) she understood the importance of the scene.

From the filmmaker's perspective, the consent process with Manu felt the most satisfying of all those involved in *I am a Girl*. We knew that the most challenging and confronting element of the filming would be the birth. Being open and frank about our desire to film the birth ahead of the event and being able to speak about how and why made everyone (including us) feel comfortable and that it was approved of. Manu also had the strong support of her family and partner to participate in the filming.

The ethical takeaway from this experience was how important it was to have the commitment and trust of our in-country collaborators. This relationship was critical to understanding the cultural nuances that could have led to misunderstandings.

Habiba, Cameroon

I was keen to represent a story from the African continent. Evidence of the negative effects of early marriage on girls and young women is overwhelming. Plan International Australia's Report *Half a Billion Reasons* (Plan International 2017) highlights the devasting consequences of early marriage:

> For adolescent girls married before the age of 18, being a child bride changes the course of their lives. Girls are more likely to experience poverty, violence and early pregnancy, threatening

> their lives and their health. It limits their future prospects, denying them access to education and opportunities to gain skilled employment. Adolescent girls who are married before the age of 18 are significantly more likely to face violence and abuse in their homes, at the hands of their husband and their husband's families. (Plan International 2017, p. 20)

With the support of Plan Australia, one of our partners, we selected Cameroon because the organisation had a strong footprint in that country. They were able to assist us with research and on the ground support once we arrived there, including contacts with local NGOs and a translator.

On arrival, we found ourselves in Yaoundé in the Muslim quarter. I had a preconceived creative vision to tell a tragic tale of early marriage and the detrimental effects of this practice. My idea was to find an underage girl who was getting married and show her journey in the lead-up to her wedding day.

Despite law reform and education, early marriage is still undertaken in many places as a result of pervasive traditions. In Cameroon, it was widely condemned but still practised. Many of the people we spoke to were aware of the practice taking place and were also aware of the legal implications of forcing an early marriage. For this reason, it proved impossible to film what would be an illegal act. It would not only be putting the community and family at risk but the girl as well.

Made aware of this constraint by our in-country partners once we arrived in Cameroon, we then began researching girls who had been through or had escaped from a forced marriage.

We were able to find several young women who had escaped this exploitative experience and were brave enough to share their stories. But these stories, whilst they were moving and important, were only able to be told retrospectively. The style and tone of these stories in this retrospective style would not have worked for the overall vision for the film, which was intended to capture active stories.

My creative vision had also been to show the colour and movement of a wedding, so we broadened our scope to any girl or young woman getting married over the following few weeks of our trip there. After much searching our fixer was able to find a young woman, Habiba, who at the age of 17 was about to get married to a man of 39. The marriage was not forced and Habiba seemed genuinely excited and by all accounts was in love with the man.

Even so, Habiba was able to be articulate about giving up school to marry and was also able to talk of her knowledge of other girls that she knew of who had been forced into marriage. In many ways, her lightness and charm added a beautiful and much needed positive tone to the film.

Before we commenced filming, we not only need consent from Habiba and her family, but we also had to meet with a man called the Keeper of the Tradition. The Keeper of the Tradition was not only a revered community leader but the head of the extended family. We had to meet with him a few times so that he could give us his seal of approval. Without this approval, we would not have been able to film with Habiba. Once we had gained the trust of the Keeper of the Tradition we then had to see if Habiba was still willing and able to be a part of the film.

We decided to then film a consent meeting with Habiba, a family member, a representative from the local NGO, the translator and Nicola (the cinematographer) and myself. This seemed to clarify and confirm informed consent. We had already met with Habiba several times as well as with the NGO representative who was a strong and well-respected female community leader. The cultural politics were that women needed permission from their male family leader, but we needed to ensure that Habiba herself understood the choice and that she was actually the one who was in control.

At the consent meeting we further discussed the topic of the film; why we wanted to film Habiba and her wedding day; where the film would be screened, and the other topics covered in the film. I also mentioned that if there was anything that Habiba did not want filmed, she would be able to tell me at any point that she would like us to stop. We would then stop and discuss why and either cease or continue depending on what she decided. We also requested that she sign a release form which was read out by our translator.

The next day we began filming. It was a joyful and interesting process to film the wedding preparations, the build-up and the wedding itself. We were also given permission to film from the door of the mosque the official male-only religious elements of the wedding. As an all-female crew this was an indicator of the trust we had gained.

Habiba's story was an opportunity for me to reflect on the need to balance my creative vision for the story with ethical considerations. Once we arrived in Cameroon it became clear to me that to pursue a story about

an illegal early marriage would be unethical and potentially harmful to the participants. I realised that being adaptive as a storyteller is an important attribute to have when solving ethical dilemmas.

Breani, United States of America

I knew that I wanted to film a story in the United States. I wanted to show the life of a girl from an underprivileged background who had grown up in one of the richest countries in the world. I also wanted to explore the contemporary pressures of social media and peer groups that many young people face today.

One of our researchers put us in touch with a fixer team in New York City, who began the research to find a girl. They found a not-for-profit performance arts theatre group called Girl Be Heard, who work with talented underprivileged girls to empower them through storytelling and performing. This theatre group were informed about the thesis of the film and preselected a small group of girls that they thought might be interested in participating in the film.

From here our fixer team selected a couple of girls and filmed a very brief interview with them both on iPhone footage to give us a sense of who the girls were and why they wanted to be a part of documentary. After watching the footage, we were really impressed with Breani as she had a compelling charisma. I also found her story to be a powerful and dynamic one that would work well as part of the selection of girls we had found.

We then set up a Skype video meeting with Breani and her mother to talk through the film, our intentions and why we were interested in her story. We then checked whether they had any questions about the film. I

was clear that I was keen to have Breani be a part of the film and suggested that they have a think about it and get back to as in the next few days after a cooling off period. I also mentioned, as I had with all the girls, that once we started filming if at any point, she did not feel comfortable she should mention it. We would stop filming and discuss the issue and if Breani was okay to continue, we would. If not, we would stop filming until we mutually agreed to proceed.

Like Australia, in the United States, there is an in-built understanding about signing release forms. It is an accepted form of consent and while we reiterated what it meant, Breani and her mother understood the parameters of the agreement. For this reason, we did not feel it necessary to do a filmed consent meeting.

Once filming commenced, I made sure to check in at the end of each day of filming. I asked Breani if she was okay with how the day had gone and what we had filmed. I tried to create an environment where she felt empowered about telling her story and where she was always free to discuss any issues that came up.

Ultimately, the process went smoothly and Breani was keen to participate (and perform!) at the premiere in New York. We have continued to stay in touch and have even discussed filming a sequel.

Katie, Australia

It was important to me that we include a story a from my home country, Australia. I knew that the audience of the film would be primarily from places such as Australia and the USA. We often see gender inequality referred to as a problem that happens in other places. While women and

girls are certainly better off in Australia than in many other places around the world, the reality is that we still have a way to go to gain equality. I felt that including a girl the local audience could relate to would be a helpful hook to create empathy.

I started out researching a story about a girl of Indigenous heritage. But this did not come to fruition. In collaboration with the girls 'advocate, we mutually decided that the prospective participant was too vulnerable to take part.

I then decided to engage in the broader issue of girls and mental health. Mental health is by no means restricted by gender; in fact, it is widely known that the suicide rate is higher amongst men than women (Life in Mind 2017). But the startling statistic that drove this choice was that self-harm amongst girls has been increasing significantly over the years (Twenge 2017).

Our local researcher put us in contact with a trusted teacher at a nearby academic selective high school. This teacher felt comfortable putting forward a young woman called Katie, who had suffered a mental health scare a year earlier and was on the way to recovery. Katie was smart, articulate and willing to talk and share her story.

She was the final girl to be filmed and knew of the other girls and their stories. One of her concerns was that her story would seem indulgent when compared to those of the other girls. Her concerns were valid, and it was something that I was personally wary of too.

I am a Girl was never intended to be a film that compared and contrasted the girls' stories. It was meant as a piece that reflected the

predicaments of girls in diverse locations and backgrounds. But of course, an audience will sometimes naturally make these connections. An audience might only see the privilege comfort of Katie's middle-class existence when her story was edited alongside the other stories.

In fact, it was Katie's father who put it so eloquently when he said: 'Regardless of how you see Katie's story in comparison to the other girls, the fact of the matter is, her situation was life threatening.' I very much agreed with him.

It is true that when the film was screened there were people who compared the girls' stories and wondered about Katie's placement in the film. However, more overwhelming was the reaction of people who engaged with Katie's story. Many came up to me afterwards, thanking me and Katie for sharing her story and emphasising what it meant to have someone speak so openly and honestly about mental health. Mental health, suicide, depression and anxiety are still stigmatised in Australian society. Many are ashamed to admit to depression or anxiety. But Katie was not consumed by this widely held attitude and she was motivated to help change this mindset.

The consent process involved an initial meeting with Katie's parents without Katie present (at their request). Her father was a solicitor at a government department and put me through the third degree. It was a very rigorous consent meeting where we discussed the pros and cons. The framework and context was that Katie and I were from similar backgrounds, both being middle class and from Sydney. There was a shared understanding of the influence of the media and familiarity with

the concept of the 'release form'. As a solicitor, Katie's father had additional knowledge about legal risks and responsibility. In some ways, it was a tougher conversation than any of the other consent meetings because Katie's parents knew the questions to ask and the answers they needed to alleviate their concerns.

But Katie was determined to tell her story and her mother and father were determined to support her decision. They knew firsthand as a family what it was like to go through a mental health incident and they hoped that sharing their story would help others.

There were, however, a couple of 'no go' zones that I agreed not to broach during filming and these areas remained private. As with the other girls, I also empowered Katie and her parents to speak up if they ever wanted me not to film something or they felt uncomfortable. This choice was activated only once, and I respected without judgement the decision not to film the activity.

As both Katie and I were based in Australia, she was able to take part in some of the release screenings. She was able to witness firsthand the effect of her story on the audience. She also participated in some post screening question and answers, giving her perspective on the filming making process. The consent process with Katie felt like a different ball game from that with the other film participants. We shared a similar cultural background and an understanding of the process and understood the process.

Jaya, India

Jaya does not appear in the film. Despite us going back and filming with her and her family twice, in the end we made an ethical decision not to include her in the final film. Within the framework of my process I came to this decision during the editing of the film.

We started filming with Jaya in 2010 on our first research trip, which had also included a trip to Cambodia where we filmed with Kimsey.

I found Jaya through a contact at a high-profile NGO that partners with local charities and was working on the ground with local communities. The NGO was a children's charity with a particular focus on the education of girls. Prior to filming, research and contacts were made over the phone and Skype, with me briefing out NGO contact about the type of story and participant we were looking for.

I had been made aware of girls like Jaya through online research and consultation with the local NGO. In Jaya's community, the tradition is that the eldest daughter in the family becomes the main breadwinner in the family as a sex worker. As the second eldest daughter Jaya might have missed this inherited responsibility but her older sister contracted HIV and so it fell to Jaya to step into the role.

I wanted to include Jaya in the film because her situation was such a strong statement on the predicament of so many girls around the world who are often born into servitude with no recourse or choice.

The consent process with Jaya was tricky from the start. We arrived in her home accompanied by the representative of the local charity. Despite the best laid plans, this representative was also the translator of the

particular dialect that Jaya's community spoke. From the start, I felt uneasy about the community representative's ability to translate and this became an increasing concern as the shoot progressed.

We started with a meeting with Jaya, some members of her family and the NGO representative. This meeting was to discuss the film and inform Jaya about its content and distribution. When discussing where the film would be distributed, I recall having a difficult time explaining what the internet was and what a film festival was. Jaya had never used a computer and had not been to a cinema before so her world view restricted her ability to understand where her story would eventually travel to.

On this first visit, there was no obvious concern about the filming. Jaya seemed happy to be a part of the process and we genuinely got on. Her story was confronting, but I also had a sense that despite being indentured by her family tradition, she also held a position of power in her family because of her position as the main breadwinner.

We returned a few years later for a second film shoot with Jaya. On this visit she presented another story element that was compelling. She introduced me to several of her teenage nieces who were going to high school. Jaya then revealed that she was paying for their education and that she was determined that the sex work tradition would end with her. I decided to interview one of her nieces who was aware of how her aunt earned the money that enabled her, and other girls in the family, to go to school. I also read a sense of the shame around this. Despite Jaya's profession being an open secret in the community, none of her niece's school friends were aware of it.

Making things even more complicated, during our final interview with Jaya and her niece, I got the sense that the translator was not asking the questions I was asking but was interpreting them in that person's own way. I have no idea of the person's motivation. It was very odd but after asking questions multiple times I kept getting strange responses.

It was not until I was back in the editing suite and combing through the footage and translations that it became more and more clear to me that perhaps we were in the dark grey zone. I was suspicious during filming that the translator was not able to communicate the nuance required for informed consent and this was confirmed in the rushes and translated footage. I felt very uncomfortable. After numerous discussions with my editor (Lindi Harrison), we decided to omit Jaya's story from the film. This was a huge challenge for many reasons.

I cannot blame the translator for the misunderstanding. Perhaps with more preparation, experience, understanding and skill with working collaboratively, we may have had a different outcome. I should have committed more time and energy to building that crucial relationship.

Reflecting on this experience, the most critical part of my relationship with Jaya was that I did not feel, when looking back, that the communication was clear. A solid and trusting relationship with a translator is critical to obtaining informed consent when dealing with participants who speak a different language and have a different world view. The translator needs to have the world view and experience to understand the process of film creation and needs to be motivated to ensure that the potential participant is made aware of what is involved.

The responsibility of the filmmaker is to ensure that the translator is comprehensively briefed and has the skills required before filming commences. While I very much enjoyed my time with Jaya and her family, and I felt that her story was strong and compelling, I was not sufficiently satisfied in my own process to commit to putting it on screen and in the public sphere.

Another reflection from the experience with Jaya is that often a consent issue can be dealt with in the editing suite. When shooting on location, with so much going on, it can be difficult to make some decisions involving ethics. Focusing on the job of shooting and 'getting the story' can often override the in-depth consideration required to think through an ethical dilemma. In Jaya's case, I had a sense of unease during production, but it wasn't until I had time to reflect on what had gone on, and talk this through with my editor Lindi Harrison, that we made the decision not to include Jaya and her niece in the film. An ethical decision to make is sometimes obvious but at other times requires time and perspective after the events.

Conclusion

This chapter has summarised the practice-led exploration of the ethical process I developed while making the documentary film *I am a Girl*.

In creating and distributing *I am a Girl*, I had several goals. The first was to create a collaborative documentary based on testimony. It was my hope that the participants in the film would find the experience of sharing their testimony an empowering one: one where they felt respected and heard. I also hoped that the film would resonate well with audiences and

would have impact in changing the way people think and feel about gender inequality.

A second goal in making the film was to give myself the opportunity to evolve my ideas on ethics and develop a process which could become a foundation for my future practice. My question for myself was: 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?'

The ethical process I arrived at had to adhere to the constraints of the legal and industry standards dominant in my culture. There were moments of success and failure and many challenges, but ultimately both participants and I, as the filmmaker, were positive about the results.

The reasons I pursued this quest for an ethical process was because up to that point in my career, I had felt ill-prepared for some of the ethical dilemmas I had faced in the past. I wanted to acquire the skills I needed to develop a framework so that I could be better equipped in the future to navigate through the inevitable challenges of a career as a documentarian.

From the beginning I had an acute awareness of the power disparity between myself and the participants so the ethical topic of gaining informed consent was of particular interest to me. I believed, perhaps naively, that emboldening the participants to give testimony could diminish my concerns about the film being 'extractive'. I hoped the experience could be mutually beneficial.

Before filming, I created an ethical framework focused on the concept of informed consent. This framework was based on the premise that

informed consent was a process that went beyond the signing of the industry standard release form. The framework I developed consisted of six phases: research; an informal initial meeting; a cooling off period; a consent meeting; the ongoing check-ins; and post-production consultation.

This process was my personal approach to informed consent but was intended to create a safe working environment for my team and for the vulnerable participants. Some in the documentary community have called for a formalised code of ethics. But through the process of developing my approach with *I am a Girl*, I have come to believe that what documentary makers need is training in ethical principles, on the basis of which we acquire the skills to enact and evaluate our own personal frameworks, given that we work in very diverse contexts and face a wide range of ethical challenges.

Filming with Aziza in Afghanistan was extremely challenging as the country was a war zone at the time. Implementing my ethical process went smoothly during the phases of research and production. But once post-production was coming to an end and distribution was imminent, a major ethical dilemma arose when it became clear that Aziza's life might be at risk. Seeing consent as a process was helpful as it made me aware that the context under which consent had been given originally had changed and that re-consent needed to take place.

The most significant lesson I learned from Aziza' story was how extraordinarily helpful it can be to have an ethics brains trust to lean on and help solve problems. At the time this was an informal group made up of partners connected to the film. They were able to support me to

undertake a risk assessment and come up with a strategy to take to Aziza so that she could participate in resolving the dilemma.

In the past I had often felt isolated when dealing with these ethical decisions but, in this instance, the brains trust was able to share the load, offer perspectives, expertise and solutions. As a result, we were able to solve the issue collaboratively and Aziza had the opportunity to choose the path forward.

Creating an ethics brains trust is now a part of my ongoing practice. This echoes the suggestion by researchers Aufderheide, Jaszi and Chandra in their study *Honest Truths: Documentary Filmmakers on Ethical Challenges in Their Work* (Aufderheide 2009), to create what they call an 'ethical safe zone'. When dealing with a situation with high stakes, it is important to know that you are not alone and that there are people you can lean on to provide perspective and wisdom.

Filming with Kimsey in Cambodia presented an ethical dilemma of a different kind. Of all the stories in *I am a Girl*, Kimsey's story is perhaps the most confronting. I felt confident in my consent process but was presented with a dilemma which required quick action when her physical safety was at risk. As described earlier in this chapter, our reaction was to 'get involved' and take her to a women's refuge to give her time to rest and think about what she wanted to do away from the threats of violence from her partner.

This experience with Kimsey gave me the understanding that the ethical consent process is dynamic and needs to be agile. The other critical element was the collaboration and input from my crew member,

cinematographer Nicola Daley. Our daily conversations and debriefs helped to formulate the action required to ensure that Kimsey was safe in the short term. Leaning on crew members out in the field is an important relationship of trust. No one quite understands the context of situations unless they are there too.

This ethical collaboration also played out in the editing suite. Editor Lindi Harrison and I would discuss the ethical ramifications of including certain material. In the flurry of activity of filming on location it can be difficult to make decisions on the fly. However, back in the editing suite there is time to ruminate and dive deeper into ethical decisions. As a director, it is crucial to be open to different perspectives and to information gathered when making decisions. You are not alone. While the ethical responsibility ultimately lies with you as director, being open about the issues involved in ethical collaboration throughout the filmmaking process can be useful and can lead to positive outcomes.

In Papua New Guinea we filmed with Manu, a 19-year-old who gave birth during production. The experience filming with Manu was perhaps the most satisfying from an ethical perspective. The positive consent process can be attributed to a strong relationship with our fixers and translators, who not only translated words of what was being said but also the cultural nuances.

While we imposed our already formed consent procedure onto the situation, our participants had their own process. Our participants expressed a bond of trust and commitment towards us that went beyond filming when they invited and welcomed us into the village and named a

child after us. We were richly rewarded for being open and we learned to understand that while we had our own cultural and industry norms of consent, we also needed to respect and understand the local norms.

When we arrived in Cameroon, I was determined to tell the story of an underage girl getting married. We confronted the ethics of the consent process was early. We knew that the practice of early arranged marriages was still taking place but because the custom had become an illegal activity, it became clear that we would be unlikely to find a willing participant. Even if we did, our participant would be at risk of persecution. Working with our in-country partner we were able to find a young woman, Habiba, 17 years old, who was willing to be filmed. However, the consent process required that we gain the permission from The Keeper of the Tradition, who was referred to for major decisions like being a part of the film. We respected this cultural norm and were pleased to be given the permission. However, it was important that Habiba was happy to participate. We filmed a consent meeting with a respected female leader present as well as a family member, a translator, Nicola Daley and me. In Cameroon's male dominated society, we wanted to make sure that Habiba had agency over the decision.

Our consent processes with Breani in the USA and Katie in Australia were more straightforward. The USA and Australia have similar cultural understandings about consent and what it means to be part of a film. What we did make sure was that both Katie and Breani had the support of their families. In both these instances we followed the ethical process outlined in this chapter, but we did not feel it necessary to film the consent meeting.

The cultural norm of signing the release form was accepted and followed. However, the consent process continued throughout the film's distribution phase and both Katie and Breani participated in screenings and events.

Filming with Jaya in India was perhaps the most unsatisfying experience with regard to the consent process and resulted in us deciding not to use her footage in the film. Despite returning twice to film, it became apparent in the post-production phase that Jaya may not have been fully informed and therefore the consent process was questionable. The post-production phase provided the much-needed time to reflect on what had happened and analyse the situation. This phase became another layer of ethical scrutiny in the process, allowing us to consider issues that were sometimes overlooked in the thick of filming.

The experience of exploring the consent process and developing an ethical framework through the practice-led research of creating *I am a Girl* was a fulfilling experience for me as a filmmaker. Much current research and industry standards cover the 'why' of informed consent and stress the need for an ethical practice but very few outlets show the 'how'. My experience creating *I am a Girl* showed me that filmmakers need to take the initiative individually to develop their own consent process which can then be applied to each film. However, each film is unique, and filmmakers need to be able to adapt ethical strategies to each context. Cultivating these ethical skills and processes can provide an enriching experience for both the filmmaker and the participants, with collaborative decision-making possibly resulting in better storytelling and a more accurate film. ❖

Chapter 5

Conclusion and recommendations

As part of their job, documentary filmmakers constantly wrestle with ethical dilemmas. In the past, in the course of my own filmmaking practice, I have encountered many situations where I did not feel equipped to solve these dilemmas in a constructive and informed way. These negative experiences became the impetus for my decision to develop and explore a framework for ethical practice and present my observations in this exegesis.

Ethical considerations are a critical part of documentary filmmaking. Yet it is often left to the individual filmmaker to develop ethical decision-making skills and to find a way through what can at times be a quagmire. Some of these scenarios can be high stakes and may even be life or death situations. Despite this, documentarians are often ill prepared, lacking a clearly articulated process and insight into how best resolve ethical dilemmas. With the stakes so high, documentary filmmakers need to take responsibility to develop their own process to offset any deficits in their training.

In this thesis I have explored the question: 'What ethical processes can filmmakers implement to ensure they obtain the informed consent of documentary film participants, especially when there is a power disparity between filmmakers and participants?' I explored this question throughout the making of the creative work in the form of the documentary *I am a Girl.*

In this exegesis component, I have reflected on this practice-led inquiry, drawing on research already undertaken by others, including academic empirical research, established industry protocols and the experiences of other filmmakers.

My research contributes to knowledge in this area in two ways. Firstly, in the making of the film itself, I tried out a number of activities that can be implemented during the process of gaining informed consent, including developing an ethical strategy in the form of a framework of six phases. The phases included conducting a consent meeting and providing a cooling-off period, as well as gathering together colleagues and advisors to establish an ethics brains trust to provide advice and suggestions.

Secondly, the exegesis explores some familiar territory around documentary ethics to make some new arguments. My main finding is that it is crucial that filmmakers examine ethical understandings and educate themselves to overcome any deficits in these areas. With this in mind, filmmakers need to establish a strong and fair process for gaining informed consent based on their own ethical framework. This needs to involve far more than simply the signing of a release form.

Based on my main findings, I propose the following recommendations:

1. Filmmakers should consider formulating an ethical strategy for each new project.
2. A consent meeting should take place with participants and their advocates, to fully explain the demands of participation and give participants the opportunity to ask questions about any aspect of their involvement in the film.

3. The signing of the release form should only take place *after* the consent meeting.
4. Filmmakers should give participants a cooling-off period after the meeting of consent.
5. Filmmakers should consider establishing an ethics brains trust to for each film.
6. Filmmakers need to be made aware of services that can help address ethical questions, such as Ethi-Call.
7. Filmmakers should develop a personal ethical framework and seek out educational opportunities such as Dan Geva's (2019) *The Ethics Lab Guidebook*.
8. The documentary community should establish forums or 'ethical safe zones' to discuss ethical dilemmas.

In the following sections I briefly explain each recommendation.

Recommendation 1: Ethical strategy and framework

Director Kay Donovan suggested filmmakers write an ethical statement before commencing filming. I expanded this idea into an **ethical strategy** to be formulated in the research and development phase. This strategy can become the blueprint of what to do should ethical dilemmas arise and how those situations might be addressed. The ethical strategy should be a dynamic document that observes where the power disparity lies and what actions can be taken to ameliorate this dynamic. This ethical strategy should be written down for private use but can also be made publicly available if the need for transparency becomes important to communicate

with the audience. This document should include an analysis of the power dynamics covering age, gender, education and cultural differences. The strategy should also hypothesise any potential ethical dilemmas that might arise and remedies for such activities. Approach to consent should also be included and what processes will be undertaken to ensure ongoing consultation throughout research and development, pre-production, production and distribution phases.

Recommendations 2, 3 and 4: Informed consent processes

The **signing of the release form** is traditionally thought to be the moment when consent takes place. This is problematic as many don't consider the context and the power dynamics that can be at play. In my practice lead research, I implemented a **consent meeting** to provide more in-depth context and clarity for the participants. Often the signing of the release form is thought to be an administrative activity to adhere to for insurance and broadcaster requirements. However, a meeting of consent is more than that, and is an opportunity for the filmmaker and participant get on the same page, but also to have witnesses and advocates for the participants to be present. That does not mean the release form is redundant and is still needed to formalize the moment. However, a 'meeting of consent' is an activity that is a complementary activity to ensure that consent is informed.

In my personal process, I often implemented a **cooling off period** that takes place after the meeting of consent. This gave the participant time to reflect on any issues privately with their advocate and raise any further queries. The added benefit to this is, that when I started to film with each

participant, I was reassured by their authentic commitment. If there is a chance that the participant might change their mind once filming commences, knowing this uncertainty upfront is important for the filmmakers, otherwise their creative pursuit may be a waste of everyone's time.

Recommendation 5: Ethics advisory group

Forming and drawing on an **ethics brains trust** was not something I planned for on *I am a Girl.* It evolved in response to the specific dilemmas that arose. This brains trust was made up of key creative peers and colleagues, including my cinematographer on location, Nicola Daley, and my editor, Lindi Harrison. These experienced colleagues with first-hand experience of the film were the core group who helped me resolve dilemmas that arose during the creation of the work. Beyond the three of us, the wider brains trust was made up of a group of people outside of the documentary sector. Some were funders, some were trusted teachers and others were partners representing NGOs. All brought to the group a broad range of skills, worldviews and experience. This brains trust came together to discuss Aziza's situation. With their guidance, the group designed and implemented a plan to resolve the issue. It is important that filmmakers understand that they do not need to make decisions alone but can and should draw on the people around them to help them. While the final call will often reside with the filmmaker, having input, support and guidance from others is invaluable.

An ethics brains trust may not always be appropriate, and I can imagine that there may be many ethical dilemmas that require

confidentiality or anonymity. While I did not encounter such a decision during the making of *I am a Girl*, I can anticipate such scenarios. In such cases, the filmmaker can draw on ethical service organisations, such as Ethi-Call, discussed next.

Recommendation 6: Ethics advice services

Ethic-Call is unique service that operates in Sydney, Australia, and is run by the not-for-profit organisation The Ethics Centre. It is a secular organisation that is funded by memberships, donations and revenue from its education programs. The Ethic-Call service is described as:

> a free, independent, national helpline available to all. It provides expert and impartial guidance to help people make their way through life's toughest challenges, when there's nowhere else to turn.
> (The Ethics Centre 2019)

People utilising the service are able to access a complimentary one-hour session with a trained ethics counsellor. This service is available to anyone in the community who is grappling with an ethical dilemma, whether it is one that is affecting their personal or profession life. Documentarians need to become aware of services such as this one, as it can provide enormous help to those grappling with confidential issues.

Recommendation 7: Personal ethical framework

This recommendation aims to encourage the initiative and training of filmmakers and educators to develop a **personal ethical framework**. I was strongly influenced by the Screen Australia document *Pathways and Protocols* (Janke 2009) written by Terri Janke. While *I am a Girl* did not have

any Australian Indigenous content, the information in Janke's guidelines contained much practical material that could be more broadly applied outside the parameters of the guide. The themes of the protocols are respect, consultation and acknowledgment with special focus given to consent. All filmmakers should be encouraged to read and implement these protocols more broadly as a foundation of their own ethical process.

The process that I developed through the creation of *I am a Girl* emerged through my own research and action. As mentioned before, my education in this area was lacking. I believe that filmmakers need to be formally educated in foundational ethical principles. I am excited by the work of Dan Geva, a filmmaker and academic, and the founder of *The Ethics Lab*. Geva's (2019) *The Ethics Lab Guidebook* is a resource 'specifically sculpted to address the needs of film students, teachers, and scholars' (CILECT 2020). The lab works through a testimonial process. As well as a printed guidebook, there is also a website hub (theethicslab.com) containing resources of video tutorials and lectures. Professor Geva's work is supported by the CILECT, the International Association of Film and Television Schools (CILECT 2020). Labs like this one should be made accessible for filmmaking students and practitioners, as a resource for learning foundational skills or to refresh their ethical awareness.

Filmmakers should also be encouraged to educate themselves and read widely, beyond documentary textbooks, and look to other disciplines that have formal codes of ethics. While I do not believe that documentarians need a formalised code of ethics, I do believe that individuals need to develop skills and explore their personal process and put this into

everyday practice. The reason I argue that documentary does not need a formalised ethics code is because the form is highly diverse and difficult to define. Beyond the MEAA Journalist Code of Ethics, a specific code for documentary could never encompass the whole spectrum of styles and approaches. A journalist's role is to report on facts, whereas a documentarian's role is to use storytelling devices to evoke emotion based on the facts. Documentary filmmakers can be guided by the Journalist Code of Ethics but an ethical approach for documentary needs more nuance. With the individual responsibility approach, I believe that the stories we create will be healthier for all those involved, once filmmakers and the broader documentary community take up the challenge.

The creative risks and benefits of ethical self-awareness or a lack of it can be seen in the making of ethically risky films such as those highlighted in chapter three. Despite the ethical issues in the films *The Good Woman of Bangkok*, *Cunnamulla*, *Casting JonBenét*, *Free Solo* and *In My Blood It Runs*, each filmmaker drew on their own ethical positions to create the work. These films all tread into the dark grey zone and some were justifiably subjected to scrutiny when released. Filmmakers need to be explicit about their ethical approach, so they can give the audience more clarity about the consent process behind each film. Audiences will then have more confidence in the works in terms of consent.

Recommendation 8: Professional discussion of ethics

To help documentary makers in their self-education and decision-making, practitioners could be encouraged to participate in a documentary **ethical community group** or **'ethical safe zone'** (Aufderheide et al. 2009, p. 21).

Filmmakers could present anonymous dilemmas and seek guidance or initiate more public discussion of current issues. The forums could be set up online, but they could also become a regular session at documentary conferences or could be conducted in more private settings exclusively set up for those involved with a particular film or the work of an individual filmmaker.

The coming together of the documentary community, including filmmakers, researchers and academics alike, could help evolve the ethics conversation from the 'why' to the 'how'. In an age when there is so much scrutiny of our form, and traditional ways of creating are being challenged, we need to be in constant dialogue about the ethical processes of our craft.

Conclusion

Through the making of the creative work *I am a Girl*, I came to understand that ethical considerations in documentary are an ongoing process and not a one-off activity undertaken at a single moment. Ethical decision-making requires focus, agility, training and the self-awareness to recognise the power disparities at play when making a documentary. While there will never be fail-safe methodology for making films with 'real people', the effort to plan and implement an ethical process can be rewarding for all.

The recommendations and findings discussed in this exegesis are now an active part of my process as a filmmaker. I have also implemented these ideas and concepts in the work undertaken at my production company Media Stockade of which I am the co-founder and company director. Under the banner of Media Stockade, the company creates social impact content and films that often step into the dark grey zone and deal with

complex ethical issues. Many of the concepts I have explored for this research are now integrated into our productions and collaborations with others. We no longer see the release form as the primary activity for consent but as one component of a more complex process. We have taken measures to simplify the form for ease of use and understanding. On a current production, we have developed a whole new strategy to deal with the ethical and community safety issues surrounding the COVID-19 crisis. We also have several people we can call upon as part of our ethics brains trust, a group we can contact for advice. We now also rigorously question what stories we should or should not be telling and who should be telling them in order to avoid an extractive mode of storytelling and to help creative a more inclusive and diverse workplace and practice.

It is now coming up to seven years since *I am a Girl* was released to the world. There is talk amongst my collaborators and the participants about a sequel to follow up with the original girls, who are now women. While the filming will not take place for several years, I am already thinking about the ethical challenges that could arise if we were to pursue the idea. The world is a very different place, power disparities have been bought to the fore and I am curious to see how my ethical process will evolve. It may involve a different approach where I collaborate with directors from the countries of origin to revisit the girls to film their current lives and engage with the participants more during editing and distribution.

During the research for this exegesis, I came to appreciate that there are a multitude of points of view and processes that can be implemented but that these all rely on the acquisition of knowledge and skills,

formulation of an ethical strategy and articulation of a personal framework. Despite the challenges involved, I can say with confidence that developing an ethical process should be a part of every documentary filmmaker's practice. It is my hope that filmmakers rise to this challenge and develop their own process. By doing this, we will move closer to creating work that earns the trust of our participants and audiences, paving the way for a healthier sector and more powerful stories. ❖

Appendices

Appendix A: The MEAA Journalist Code of Ethics

https://www.meaa.org/meaa-media/code-of-ethics/

Respect for truth and the public's right to information are fundamental principles of journalism. Journalists search, disclose, record, question, entertain, comment and remember. They inform citizens and animate democracy. They scrutinise power, but also exercise it, and should be responsible and accountable.

MEAA members engaged in journalism commit themselves to:

Honesty
Fairness
Independence
Respect for the rights of others

Journalists will educate themselves about ethics and apply the following standards:

1. Report and interpret honestly, striving for accuracy, fairness and disclosure of all essential facts. Do not suppress relevant available facts or give distorting emphasis. Do your utmost to give a fair opportunity for reply.
2. Do not place unnecessary emphasis on personal characteristics, including race, ethnicity, nationality, gender, age, sexual orientation, family relationships, religious belief, or physical or intellectual disability.
3. Aim to attribute information to its source. Where a source seeks anonymity, do not agree without first considering the source's motives and any alternative attributable source. Where confidences are accepted, respect them in all circumstances.
4. Do not allow personal interest, or any belief, commitment, payment, gift or benefit, to undermine your accuracy, fairness or independence.
5. Disclose conflicts of interest that affect, or could be seen to affect, the accuracy, fairness or independence of your journalism. Do not improperly use a journalistic position for personal gain.
6. Do not allow advertising or other commercial considerations to undermine accuracy, fairness or independence.
7. Do your utmost to ensure disclosure of any direct or indirect payment made for interviews, pictures, information or stories.

8. Use fair, responsible and honest means to obtain material. Identify yourself and your employer before obtaining any interview for publication or broadcast. Never exploit a person's vulnerability or ignorance of media practice.
9. Present pictures and sound which are true and accurate. Any manipulation likely to mislead should be disclosed.
10. Do not plagiarise.
11. Respect private grief and personal privacy. Journalists have the right to resist compulsion to intrude.
12. Do your utmost to achieve fair correction of errors.

Appendix B: Screen Australia's *Pathways and Protocols* summary checklist

Extract from Janke, Terri. 2009. *Pathways and Protocols: A Filmmaker's Guide to Working with Indigenous People, Culture and Concepts,* Screen Australia, Australian Government, pp. 47–50. Available at https://www.screenaustralia.gov.au/getmedia/16e5ade3-bbca-4db2-a433-94bcd4c45434/Pathways-and-Protocols.pdf

3.8 SUMMARY CHECKLIST

Initial research and project development

Preliminary

- [ ] Have you considered why you are making the film or program, why you are using Indigenous material, and the perspective you bring to it?
- [ ] Have you sought advice on the cultural issues that need to be addressed through consultation?

Consultation

- [ ] Has consultation with relevant Indigenous individuals and communities been initiated?

Representation

- [ ] How will your work affect the Indigenous group it is based on?
- [ ] Does it empower Indigenous people?
- [ ] Does it depict or expose confidential, personal and/or sensitive material?
- [ ] Does it reinforce negative stereotypes?
- [ ] Have you researched your characters?
- [ ] Is the use of language appropriate?

Cultural integrity

- [ ] Are you proposing to adapt or alter traditional knowledge, communally owned material or cultural heritage material in any way? If so, have you explained the adaptation you propose, given people time to comment, and obtained consent?
- [ ] Will the individual or community who is the subject of the work have an opportunity to see the work prior to public dissemination? Have their suggestions been incorporated?

Authenticity

- [ ] Have you established that any Indigenous cultural and intellectual property in your film is used in the correct cultural context?
- [ ] Have you established whether there are any restrictions on the material and the exact meaning of any words in the language if unsure?
- [ ] Do you use heritage material such as imagery, music and language with proper regard to gender, clan affiliations and cultural restrictions?

Sensitive or sacred material

- [ ] Is the material culturally sensitive? Is it secret or sacred? Is it a women's or men's area?
- [ ] Are there any themes that refer to sacred or secret material that may need

consultation with Indigenous people?

- [ ] Are there contemporary sensitive issues involved?
- [ ] If so, how should it be handled? How do you plan to involve the relevant Indigenous specialist agencies in the development of the film project?
- [ ] Have you spoken to elders or other relevant Indigenous people from the relevant area to identify any sensitivities and sacred or religious issues that might prevent depiction of the image, story or event?

Script development

- [ ] Have you considered using Indigenous writers or script consultants?
- [ ] Has the script been assessed by an Indigenous script assessor and their suggestions taken on board?
- [ ] Has the final draft script been endorsed by the representative organisations portrayed in the film, or the representatives/descendants of individuals portrayed in the film?

Pre-production and production

Locations

- [ ] Have locations been chosen with due regard and respect for cultural beliefs?
- [ ] Have the required permits been obtained?
- [ ] Have the relevant contacts been identified and a liaison person appointed?

Cast and crew

- [ ] Has the use of Indigenous people as cast and crew members been considered? Are they being paid appropriately?

Consents

- [ ] Have the required consents been obtained, eg for the use of Indigenous cultural and intellectual property, or to film Aboriginal or Torres Strait Islander people?
- [ ] Have protocols been discussed for dealing with the death of any actors or interviewees captured on film, and clearances been obtained?

Budgets and financial returns

- [ ] Have fees or other benefits been negotiated with the contributors and traditional custodians?
- [ ] Is the cultural value of the work recognised in financial returns?
- [ ] When applying for funding, have fees or financial returns for all creative contributors been incorporated into the project budget?

Shooting

- [ ] Are cast and crew briefed about the protocols developed for the project, appropriate behaviour and any sensitivities involved?
- [ ] Is there a procedure in place for monitoring relationships with the community and communicating changes?

Editing and post-production

Consultation

- [ ] Have the Indigenous people involved been consulted before the picture lock-off and sound editing, preferably at rough-cut and fine-cut stages?
- [ ] Have the Indigenous communities and participants been made aware of any potential cultural issues and been given the opportunity to view the rough cut?
- [ ] Have participants, actors etc, their families and community been advised that the film will be widely circulated?

Representations of deceased people

- [ ] If reproducing deceased people's images, has permission been sought from the family or clan representatives for the proposed use, and have they been advised of proposed distribution and any broadcasting licences granted?
- [ ] Has a warning been placed in a prominent position at the beginning of the film, after discussing the proper wording with relevant family and community members?
- [ ] If referring to deceased people's names in your film, have you checked with the relevant family and community whether it is appropriate to mention that person's name, or whether they would prefer to be referred to by another name?

Attribution

- [ ] Have Indigenous contributors, writers, creators, communities and custodians who contribute to the work in any important way been named?
- [ ] Has proper recognition been given to the writer and the source community, or other relevant Indigenous people, in a form agreed upon with those to be attributed?
- [ ] Have the clan affiliations of Indigenous creators been included after their own names if this has been requested?
- [ ] Have Indigenous custodians, contributors and Indigenous organisations contributing resources and knowledge been given a significant credit as collaborators on the project where relevant?

Screening and broadcasting

- [ ] Have the relevant Indigenous people been consulted about the use of a 'deceased persons' warning?
- [ ] Have the relevant Indigenous people been consulted about use of Indigenous cultural material or footage from the film in a marketing context?
- [ ] Have Indigenous participants been invited to participate in any launch or opening night celebrations?
- [ ] Have you notified Indigenous participants of the launch and/or broadcast dates?

Footage archiving

- [ ] Have Indigenous participants been advised if footage is to be archived and consents obtained for this if required?
- [ ] Have Indigenous participants been advised of where the footage is to be archived?
- [ ] Has the required information been included with the film and any other footage that has been archived?

Appendix C: Ethics position questionnaire

This tool was first developed by Forsyth (1980). It is cited in Plaisance 2014, pp. 18–20/

Please indicate if you agree or disagree with the following items. Each represents a commonly held opinion and there are no right or wrong answers. We are interested in your reaction to such matters of opinion. Rate your reaction to each statement by writing a number to the left of each statement where:

1 = Completely disagree
2 = Largely disagree
3 = Moderately disagree
4 = Slightly disagree
5 = Neither agree nor disagree
6 = Slightly agree
7 = Moderately agree
8 = Largely agree
9 = Completely agree

1. People should make certain that their actions never intentionally harm another even to a small degree.
2. Risks to another should never be tolerated, irrespective of how small the risks might be.
3. The existence of potential harm to others is always wrong, irrespective of the benefits to be gained.
4. One should never psychologically or physically harm another person.
5. One should not perform an action which might in any way threaten the dignity and welfare of another individual.
6. If an action could harm an innocent other, then it should not be done.
7. Deciding whether or not to perform an act by balancing the positive consequences of the act against the negative consequences of the act is immoral.
8. The dignity and welfare of the people should be the most important concern in any society.
9. It is never necessary to sacrifice the welfare of others.
10. Moral behaviours are actions that closely match ideals of the mort ‘perfect’ action

Total your scores for items 1 to 10 and divide by 10. Your resulting ‘I’ score: ____

11. There are no ethical principles that are so important that they should be a part of any code of ethics.
12. What is ethical varies from one situation and society to another.
13. Moral standards should be seen as being individualistic; what one person considers to be moral may be judged to be immoral by another person.
14. Different types of morality cannot be compared as to 'rightness.'
15. Questions of what is ethical for everyone can never be resolved since what is moral or immoral is up to the individual.
16. Moral standards are simply personal rules that indicate how a person should behave and are not be applied in making judgments of others.
17. Ethical considerations in interpersonal relations are so complex that individuals should be allowed to formulate their own individual codes.
18. Rigidly codifying an ethical position that prevents certain types of actions could stand in the way of better human relations and adjustment.
19. No rule concerning lying can be formulated; whether a lie is permissible or not permissible totally depends upon the situation.
20. Whether a lie is judged to be moral or immoral depends upon the circumstances surrounding the action.

Total your scores for items 11 to 20 and divide by 10.
Your resulting 'R' score: ____

An 'I' score between 1 and 5 represents a low degree of idealism: score between 6 and 10 is high.

An 'R' score between 1 and 5 represents a low degree of relativism: score between 6 and 10 is high.

Forsyth's taxonomy of ethical ideologies

	Relativism	
Idealism	High	Low
High	**Situationists**: reject moral rules; ask if the action yielded the best possible outcome in the given situation.	**Absolutists**: Assume that the best possible outcome can always be achieved by following universal moral rules.
Low	**Subjectivists**: reject moral rules; base moral judgements on personal feelings about the action and setting	**Exceptionists**: Moral absolutes guide judgements but pragmatically open to exceptions to these standards; utilitarian

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