

# THE ETHICS OF ARCHAEOLOGY

*Philosophical Perspectives on Archaeological Practice*

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*Moral arguments on subsistence digging**Julie Hollowell*

The undocumented excavation of archaeological materials for the commercial market, often called 'looting' by archaeologists, clearly damages the archaeological record and conflicts with contemporary principles of archaeological ethics. This chapter reflects upon the ethical divide between archaeologists and 'looters' with a particular focus on attitudes surrounding one form of undocumented excavation, 'subsistence digging'. It may upset some archaeologists to discuss subsistence digging so openly, as if doing so gives credence to the activity itself, but I take the stance that everyone concerned with working towards solutions to what is, for archaeology, a troubling dilemma benefits from a closer look at the situation and trying to understand the social, economic and historical standpoints involved.

Practising archaeology in today's world requires dealing with a range of interests, often in the spirit of compromise and negotiation, and a willingness to respect other legitimate points of view. The past certainly does not serve only one purpose or one group of stakeholders (Wilk 1999). Archaeologists are often called upon to balance ethically or to negotiate their own interests and definitions of conservation, significance, stewardship or appropriate management with those of others.

Perhaps more so than anyone, owing to their position of expertise and their claim to be stewards of the archaeological record, archaeologists have an obligation to examine and clarify the philosophical arguments that underlie their attitudes towards subjects such as looting, the commercial use of artefacts, subsistence digging, collecting or other practices, which they deem unethical (Wylie 2003: 5–6). This kind of moral inquiry, which involves the process of looking closely at the moral arguments underlying one's convictions, has at least two important purposes (Moody-Adams 1997: 111; Salmon 1997: 59). One is better to understand the person or position with whom or with which one disagrees. Another is to encourage the kind of self-scrutiny 'which may lead one to see oneself, one's relations to others, and one's place in the

world in a different way' (Moody-Adams 1997: 120), thus opening up the possibility of considering alternative approaches to a seemingly unsolvable dilemma. When it comes to a particular problematic situation, ethical differences can sometimes be resolved, or at least a better or less harmful course of action determined, by a deeper, less partial understanding of the specific conditions under which people make certain moral choices (Salmon 1997: 48).

#### LOOTING

My discussion examines attitudes about a particular kind of 'looting', which I will call 'undocumented digging' – the act of taking objects from the ground – sometimes referred to as pothunting. This makes a distinction between looting which directly impacts upon the archaeological record, and that which involves objects already long removed from sites, but called 'looted' because they were stolen from a museum, crossed borders illegally or were implicated in some other illicit activity. It is important to distinguish among different kinds of looting because, although there are overlaps among these situations, they represent different problems and are likely to call for different approaches. If the real objective is to protect what remains of the archaeological record, it makes sense to focus on what is happening 'on the ground'.

Many archaeologists have argued long and hard against looting and the commercial use of artefacts (Brodie *et al.* 2001; Coggins 1972; Elia 1997; Gill and Chippindale 1993; O'Keefe 1997; Renfrew 2000; Smith & Ehrenhard 1991; Tubb 1995). The Society for American Archaeology's (SAA) Principles of Ethics and other professional codes speak strongly against any support for such activities and give clear arguments as to why (Lynott and Wylie 1995). In actuality, and in spite of what is written in any professional code, archaeologists' attitudes about undocumented digging range, as Matsuda noted, from empathy to vilification (Matsuda 1998a: 88), and many have had close encounters of more than one kind with these activities in the field (see Green *et al.* 2003 for a particularly candid account). Written accounts of interfaces between archaeological practice and looting, which are all too few and far between, are important because they shed light on the nuances and complexities of these situations and the consequences of various ways of responding.<sup>1</sup> As Wylie

<sup>1</sup> For examples described by archaeologists see Alva 2001; Brodie *et al.* in press; Early 1999; Green *et al.* 2003; Munson and Jones 1995; Harrington 1991; McEwan *et al.* 1994; Pendergast 1991, 1994;

suggests, a systematic, empirical evaluation of the negative and positive consequences of different approaches to dealing with an ethical dilemma such as undocumented digging is a much-needed next step (2003: 9–13; 1996: 178–80), but will not be tackled here.

The term ‘looter’ lumps together people with diverse motivations and interests, including those who engage in a legal hobby that defines, for them, a close, sometimes even a hereditary, connection to a particular place (see Colwell-Chanthaphonh 2004; LaBelle 2003) and others who see digging and its profits as socially acceptable and justifiable in the face of government neglect (Migliore 1991). In some places, undocumented destruction of archaeological sites goes hand in hand with government corruption (see Carleton *et al.* 2004; Sandler 2004; Stark and Griffin 2004), the cultivation of an ‘outlaw’ image (Early 1999) or an individual’s status as a ‘local expert’ (Smith 2005). Almost all discussions of looting have focused on its illicit nature (Brodie *et al.* 2001; Schmidt and McIntosh 1996; Tubb 1995; Renfrew 2000), though not all undocumented digging is against the law.<sup>2</sup> My concern here is not with the licit or illicit nature of the activity, except to the extent that legal mechanisms and the policies of institutions reflect certain moral standpoints and have diverse consequences.

Calling someone a ‘looter’ is meant to instil shame and shows strong moral opposition to the unauthorised taking of things from archaeological sites (McIntosh 1996). On the other hand, the label can be downright lionising to those who identify with its outlaw connotations, and others see it as a word used by the state to mark its authority. As far as I know, diggers never refer to themselves as ‘looters’. Migliore (1991) describes how diggers in Sicily perceived themselves not as looters or criminals, but as treasure hunters who have been marginalised by the state. Use of such a loaded, one-sided term can be counterproductive to dialogue and the search for mutually beneficial solutions. The fact that, in the late 1980s, some archaeologists publicly called St Lawrence Islanders – some of whom legally dig on private property for goods to sell – ‘looters’ and ‘cultural cannibals’ still hinders dialogue and relations between

Schmidt and McIntosh 1996; Staley 1993; Stark and Griffin 2004. Many more examples are reported by journalists (Kirkpatrick 1992). For a particularly cogent account, see Smith 2005.

2 In most of the United States, for example, it is perfectly legal for landowners to dig into old sites on their lands for artefacts and sell them, unless they are from a burial context. Most states in the USA now have laws protecting even unmarked burials, and a few have successfully restricted digging on private land by requiring a permit for intentional archaeological excavations (Canouts and McManamon 2001). While many archaeologists would, on ethical grounds, call this, and any unauthorised alterations to sites or their contents, ‘looting’, others who adhere to a strictly legal definition do not (Hutt *et al.* 1992: 11).

archaeologists and community members, especially since, only fifty years before, archaeologists were packing up and leaving with crates of human remains.

#### SUBSISTENCE DIGGING

My discussion in this chapter is limited to 'subsistence digging': where people dig to find archaeological goods to sell and use the proceeds to support a subsistence lifestyle. David Staley employed the term to describe the digging on St Lawrence Island (Staley 1993), and Dave Matsuda used it in his ethnography of diggers in Belize (Matsuda 1998a). St Lawrence Islanders now use the term to refer to their own activities. Focusing on a particular kind of undocumented digging helps begin to differentiate among the various forms these activities can take and the motivations behind them.

Subsistence digging is the major source of newly excavated materials on the market. This form of 'looting' plays an important social and economic role in many countries around the world. It is often a local response to specific political and economic needs and situations. The term is not neutral. Use of the word 'subsistence' in this context euphemises the negative connotations of 'looting' and invokes a discourse of self-determination and economic justice, one that is associated today with struggles of peoples all over the world to maintain access to resources important to local livelihoods (Nuttall 1998; Young 1995).

Subsistence harvests once were defined as non-commercial, but no longer. Even economists realise that many subsistence activities require substantial inputs of cash and sometimes generate cash as well. **Digging for artefacts is consistent with the ideology of subsistence in many ways and has much in common with other hunting or gathering practices (see Hollowell 2004:101-3; Krupnik 1993).** It even has aspects of the thrill of the hunt. **Yet unlike renewable subsistence resources, there is no such thing as a 'sustainable harvest' of the archaeological record.** Furthermore, the ethical lines between what is considered subsistence use of a resource and a use that would be considered extravagant are far from clear or unanimously drawn. These issues come up again below, because they underpin some of the moral arguments used to support or oppose subsistence digging.

Two sources provide the primary frame for my discussion of the diverse moral claims that surround subsistence digging. One is a conversation on the electronic mailing list of the World Archaeological Congress. The

other is my ethnographic study of legal subsistence digging in the Bering Strait region of Alaska, where Native residents have for generations been digging for long-buried walrus ivory, whalebone and worked artefacts as a way of generating needed cash or commodities to use in trade (Hollowell 2004). Studies of subsistence diggers by Matsuda (1998a, 1998b) and Paredes-Maury (1998) offer additional support for moral arguments that underlie the activities of diggers, as does information from shorter accounts and journalistic sources. The situation in Alaska is especially interesting because it offers a case where digging and selling archaeological materials is not illicit. Removing the issue of illegality puts the focus on the role that rights and ethics play in arguments for or against undocumented digging. In general, the more information that archaeologists or local communities have about the varied contexts in which subsistence digging occurs, the better informed their decisions and responses can be.

#### THE WORLD ARCHAEOLOGICAL CONGRESS DISCUSSION

In December 2003, a flurry of correspondence on the subject of looting erupted among archaeologists on the World Archaeological Congress (WAC) electronic mail distribution list, which circulates messages among WAC members. This cyber-storm was prompted by an e-mail from Sam Hardy, who had submitted a rather controversial proposition to the membership and Executive Council at WAC5 (the fifth quadrennial meeting) in Washington, DC, several months before. The proposition, which Sam had framed in accordance with principles stated in the United Nations Universal Declaration of Human Rights, took the position, in simple terms, that a person has a 'right to loot' and to sell artefacts for subsistence purposes if other alternatives for livelihood are not available (Hardy 2004). WAC is recognised as a liberal body in the spectrum of archaeological organisations. Still, the proposition was, according to Hardy, strongly opposed.<sup>3</sup> In mid-December, Sam sought further explanations for the reactions from the WAC membership list to what he thought was a well-constructed argument.

<sup>3</sup> I would be remiss not to mention that a very different proposition, submitted to the same body, which supported the carrying of weapons by archaeologists in areas of widespread looting, was reportedly roundly rejected on the premise that defending the archaeological record did not justify endangering human life (K. A. Pyburn, pers. comm. August 2003).

The ensuing emails elicited a range of responses and quite a bit of discussion. It goes without saying that the particular background, values and experiences of a respondent affect that person's standpoint. Here I am interested in the range of moral stances these archaeologists took in critiquing or justifying subsistence digging, or what Hardy calls the right to loot.

The reader should keep in mind that Hardy's proposition grows out of the trying times surrounding war and destruction in Afghanistan and Iraq. Like myself, and others, he was haunted by the fact that humanitarian aid for the millions in Afghanistan appeared to come only after the destruction of antiquities (Hardy 2003). Second, as several contributors to the web discussion pointed out, supporting someone's right to loot under certain circumstances should not be considered tantamount to a blanket support for looting itself.

I have drawn below from the WAC discussion list and other sources to delineate some of the main arguments that emerged in support of and in opposition to subsistence digging. I describe each of these moral arguments and how they justify certain positions, examining some of the points for and against each argument, based on my own research on subsistence digging in the Bering Strait region of Alaska, other ethnographic accounts of subsistence digging, and additional reports of digging activities in scholarly and popular sources, including newspapers and magazines. The objective here is neither an apology for nor a condemnation of looting or subsistence digging, but the closer scrutiny of diverse moral positions in light of some of the evidence. The topic would benefit from further clarification of various arguments and the incorporation of additional evidence from a much wider range of voices, especially those of subsistence diggers.

#### THE ECONOMIC JUSTICE ARGUMENT

The primary moral argument that Hardy and others used in support of subsistence digging or the 'right to loot' is based on principles of economic justice. This ethic allows that under certain conditions of poverty or lack of other means of livelihood, people are justified in using archaeological goods as an economic resource. An even broader ethic underlies this one: that concern for things, whether artefacts or archaeological sites, should not come before concern for human life. Mark Kenoyer, an archaeologist who works in Pakistan, put it this way: 'Why should we expect the

Pakistanis to care about archaeology when they're worried about staying alive?' (Kenoyer 2002).

All evidence points to a strong relationship between digging for the market and a lack of viable economic alternatives (Heath 1973; Hollowell 2002, 2004; Matsuda 1998a, 1998b; Paredes-Maury 1998). Reports of digging continue to emerge from developing regions, where carving out a living is a constant challenge, and one major find can provide the equivalent of a family's annual income (Beech 2003; Heath 1973: 263; Stark and Griffin 2004). In many cases, increases in site digging are directly linked to a deterioration of local economic conditions and opportunities, often due to uncontrollable events such as drought (Brent 1994; Lawler 2003), political instability (Blumt 2002; Matsuda 1998b; Paredes-Maury 1998), major changes in the local economic base (Hollowell 2004), or any combination of these. The area around Blanding, Utah, for example, became infamous for pothunting after the shutdown of uranium mines left many local residents unemployed. In these situations, one valuable find can incite widespread digging. This was the case in southeastern Iran, where drought, desperate economic conditions and the discovery of a lucrative site attracted whole families (Lawler 2003). Typically, the vast majority of diggers are those most directly affected by civil unrest and economic upheaval – local residents. In Israel, it is reported that 99 per cent of artefact diggers are shepherds or inhabitants of nearby villages, many of whom lost their livelihoods in the wake of the Intifada (Blumt 2002). Matsuda reported similar results from his research in Belize (Matsuda 1998a, 1998b).

War triggers the social disintegration and loss of livelihood that precipitates subsistence digging. Families uprooted by war and forced to leave behind their lands and all their assets turn to carrying off portable antiquities in an attempt to ensure their own survival.<sup>4</sup> War also encourages other less justifiable forms of looting. Often both sides engage in opportunistic digging and theft of cultural property, frequently with the complicity of insider officials or the military. This has been true in Iraq where local villagers and professional looters alike inundated sites and started digging on a massive scale. Still, according to reporters, digging

<sup>4</sup> According to an art collector who has been offered goods from various parts of the world over the years, this explains much of the influx on the art market of goods from specific war-torn regions during times of disruption (P. Lewis, pers. comm. 19 February 2005). It follows that collectors feel that they are providing aid to those in need when they purchase these objects.



has been much more widespread in southern Iraq because of the endemic poverty in that region (Carleton *et al.* 2004).

The vacuum created by economic disintegration also attracts organised crime and black-market entrepreneurs to the artefact market who often employ area residents as diggers (Brent 1996; Heath 1973; Matsuda 1998b). In the Ukraine, for example,

Mafia groups . . . are pursuing a lucrative sideline in archaeology, looting valuable artefacts to be sold on the black market, in addition to their traditional criminal enterprises . . . Some of the mafia families have employed archaeologists to work directly for them, after making them an offer that they can't refuse . . . The economy here is very depressed, people need the money. (McLeod 2002)

In a case like this, would the economic justice argument support the right to dig for some and not others?

There are probably more situations than we would like to think where entire communities see the looting of sites as a legitimate route to financial gain and an act of social justice, in open defiance of laws that are perceived as indifferent and unresponsive to local concerns. This attitude was evident in Sicily, where Migliore (1991) found that people perceived the government not as a protector of archaeological heritage, but as an entity that was diverting what should be local wealth to foreign archaeologists. In these cases, the apathy or the disapproval of government can be interpreted as unwillingness to 'confront the fact that there are indigenous peoples among them – oppressed by land speculation and resource-hungry militaries, constrained from extra-local commerce, and lacking political power – who dig their ancestors' remains to put food on the table' (Matsuda 1998a: 90).

An economic justice argument also lends ethical weight to the 'right to dig' when it is conceptualised in terms of class struggle, one that pits wealthy archaeologists and governments against poor producers, rather than as merely a cultural one, over heritage preservation. According to Matsuda, many subsistence diggers in Belize saw things in this light. Archaeologists arrived each year with elaborate equipment, treating local people as low-paid workers with little or no chance of advancement. They returned to fancy homes and well-paid careers made possible by artefacts and information excavated and extracted with government permission, while those who used the proceeds of their digging to buy seed corn, medicine, clothing and food were considered villains (Matsuda 1998a: 93). To paraphrase Anne Pyburn, archaeologists 'take the gap between

vernacular perceptions of the world and ours to be cultural gaps', or gaps in understanding, as if 'they' don't understand the importance of heritage, when the differences are to a great extent economic – and often not by choice but by necessity (Pyburn 2003: 171).

A major problem with the economic justice argument is its lack of clarity about who would be eligible for the 'right to loot'. What circumstances, if any, are dire enough to warrant digging into an archaeological site? Should we attempt to distinguish between 'better' and 'worse' diggers based on intentions and consequences, on whether the money they receive from digging is used to buy food, computers, cigarettes or methamphetamines? How would anyone draw the line between subsistence digging as a necessity for livelihood and when it is merely a supplement to an adequate standard of living?

Evidence shows that people dig for a wide variety of reasons. In some places, digging for artefacts is part of the seasonal round, done in conjunction with other subsistence activities (Hollowell 2004; Matsuda 1998a, 1998b; Paredes-Maury 1998). In Belize, the amount of digging in any one year was said to be more closely related to the success or failure of that year's crops than to auction house prices (Matsuda 1998a: 94). In northwestern Alaska, families go digging together on weekends for recreation, children dig for fun and curiosity, people dig to help pay the bills, or to buy groceries and equipment for subsistence hunting. In many cases eliminating digging altogether would increase the economic hardship communities already face. Subsistence digging is a way to convert locally available resources into cash, material goods and opportunity – those things so many of us desire in today's world. In China, Arctic Alaska, Latin America and elsewhere, people have acquired the capital needed to start a business, attend college or medical school or start a new life after fleeing a war-torn country by selling excavated goods.

Framing the right to dig as a question of economic justice certainly carries moral weight, but in most cases the dilemma of subsistence digging – and at least part of the solution – appears more generally related to a straightforward lack of alternative economic opportunities. In the Bering Strait, when jobs with a more reliable income were available in a community, such as working on the construction crew of a water and sewer project, even the most inveterate diggers stopped digging. There were still people who preferred the independence and flexible hours of digging or who dug mainly for recreation, but, to the dismay of dealers, the major suppliers of the market were preoccupied during the digging season.

## DIGGERS AS VICTIMS OF A GLOBAL MARKET

A corollary to the economic justice argument is the notion that subsistence diggers are victims of a global market, exploited by the demands and desires of dealers and collectors, who are the real villains. Ample evidence for this comes from the reports that diggers typically receive a very small percentage of the final market value of their finds (Alva 2001; Coe 1993; Pendergast 1994). But a less typical example comes from St Lawrence Island, which represents a legal market for artefacts. In this case, diggers demand and obtain consistently high returns for their goods, now that they have access to the estimates in Sotheby's catalogues. This seems to be evidence that a *legal* market, with fewer intermediaries and less risk, offers higher returns to subsistence diggers, but we do not have enough cases really to evaluate this claim.

A corollary to this argument appears to be that if diggers were to receive higher prices, they would dig less. At least on St Lawrence Island, this does not appear to be the case. Higher prices for artefacts do not slow down the digging; if anything, they incite more people, including groups of kids, to head out with hopes of hitting a jackpot. At a closer look, while arguments about how little or how much diggers are paid for artefacts may appeal to an ethic of economic justice, they are irrelevant to concerns of protecting the archaeological record, except that they might indicate what the value of an economic substitute would need to be to persuade people to stop digging.

The main thrust of the 'global victim' argument, however, is to apologise for the activities of subsistence diggers and place the blame for undocumented digging on other parts of the market, notably wealthy collectors, who are seen as the 'real looters'. Much has been written from this moral perspective (Elia 1997; Renfrew 1993), but we are only beginning to acquire ethnographic descriptions that are detailed and broad enough to clarify how various participants in specific markets for archaeological goods manipulate supply and demand (see Brent 1996; Coe 1993; Hollowell 2004; Kersel in press). My research into the St Lawrence Island market suggests that the market is driven less by the needs of diggers or the desires of collectors than by dealers, who create and manage both the supply and the demand. It is the job of dealers to promote the market and cultivate taste for objects, and they do so with the (unwitting) help of museums, art historians, archaeologists and the media. I also know artefact dealers who argue that they have provided economic benefits to

local people that far exceed what archaeology has had to offer and sadly in some cases this is true.

Finally, the portrayal of small-scale producers as victims of globalisation obscures their efforts to rework capitalist and global structures to meet local needs (Haugerud *et al.* 2000: 11). The subsistence diggers I know of in the Bering Strait are not blind victims of the desires of collectors, overpowering dealers, or supply and demand. They need ways to participate in the global economy and procure desired goods, and selling artefacts is one of the best options they have. They are constrained, however, by having few sources of capital or other locally available resources that they can turn into cash, and very limited choices of how to market their goods.<sup>5</sup> For most, a decision to dig for the market is clearly related to a lack of other more stable or reliable economic alternatives. As one St Lawrence Islander said, 'Our ancestors used ivory to make the tools they needed for survival. We have a different use for ivory today, but it is no less important for *our* survival' (Crowell 1985: 25).

#### THE ETHIC OF NON-COMMERCIALISATION

The primary moral argument archaeologists wield against subsistence digging maintains that commercial use of archaeological materials should not be allowed because these activities incite further undocumented destruction of the archaeological record. Many professional codes of ethics directly invoke an ethic of non-commercialisation, while at the same time recognising the potential for archaeologists to enhance the commercial value of archaeological objects indirectly, through their activities and associations (SAA 1996: Principle 3).

One of the underlying principles of the non-commercialisation argument is the idea that the archaeological record should not be treated as a commodity, either because it cannot be owned or because it is owned by all of humanity (Warren 1999). Keane (2001: 66) reminds us that contestations over what should and should not be alienable go much deeper than simple economics. We need to peel away the layers to reveal who claims what aspects of the archaeological record as inalienable and for what purpose(s). This will be further discussed below, in conjunction with the argument that archaeological materials belong to 'all of humanity'.

<sup>5</sup> This may change, as people on the Island are on the verge of engaging in e-commerce.

Indigenous peoples have their own ideas about inalienability and appropriate uses of the archaeological record, which can overlap or conflict with those of the state or those of archaeologists.<sup>6</sup>

Plenty of evidence exists documenting the link between a market for artefacts and the destruction of archaeological sites (Brodie *et al.* 2001; Heath 1973; Matsuda 1998b; Early 1999; Renfrew 2000; Schmidt and MacIntosh 1996; Stark and Griffin 2004; Tubb 1995).<sup>7</sup> Nevertheless, many social and legal attitudes either work against an ethic of non-commercialisation or raise a double standard. US private property laws, with their differential treatment of public and private property, are one example. A number of states and countries support overt or quasi-legal marketing of artefacts where this is good business. In both Israel (Blumt 2002) and Alaska (Hollowell 2004), attempts to restrict the sale of archaeological goods to tourists have met vocal opposition from both retailers and the state. Archaeological writing or research and media accounts of new discoveries also stimulate and promote the market and undocumented digging (Heath 1973: 259; Matsuda 1998a). Art exhibitions and coffee-table books significantly increase the commercial value of the objects they display (Peers 1989). They influence taste and desire and directly motivate digging by encouraging dealers to obtain a supply (Heath 1973: 259–61; Matsuda 1998b). Museums frequently confront double standards in their practices relating to acquisitions, tax credits and insurance values (Barker 2003). And, of course, an ethic of non-commercialisation directly opposes the interests of collectors, who defend their right to engage in a free market. Add to this the historical fact that just forty years ago archaeologists were still purchasing objects to fill holes in institutional or even personal collections from the parents of some of the same people who are digging today.

Collecting antiquities is still seen as a form of status and social capital, but those who aspire to an ethic of non-commercialisation hope that one day it will be considered immoral and antisocial, much like wearing fur or smoking cigarettes (Elia 1997: 97). Social attitudes do seem gradually to be changing. Human skeletal material is now rarely commodified, and in

<sup>6</sup> An Indigenous perspective might, for example, find the public display of images of human skeletal material from an excavation just as appalling as the commercial use of cultural artefacts from an archaeological context, or more so.

<sup>7</sup> Non-commercial uses of excavated materials also have a substantial impact on the archaeological record. The reuse and recycling of archaeological material for the construction of houses, walls or roads or for household use have existed in most cultures for millennia (Padgett 1989; Alva 2001: 94; Hamann 2002; Karoma 1996; Paredes-Maury 1998).

more and more cases is treated as the inalienable property of cultural descendants and repatriated accordingly (though some museums probably continue to make trades 'in the name of science'). Museums, even some art museums, are refusing to purchase objects without a known, documented archaeological provenance. But in spite of archaeologists turning their backs on its existence, a commercial market for artefacts continues to thrive, and a policy of avoidance has not been very productive (Vitelli 2000). Rather than spending energy fighting a multi-million dollar market that deals with objects already out of the ground, archaeologists might want to focus on protecting what remains of the *in situ* archaeological record (Bauer 2003; Hollowell 2002; Lynott 1997: 594).

Not surprisingly, international art dealers argue against non-commercialisation. One argument used in this context is that an unrestricted trade in already excavated antiquities would actually deter site destruction because an increased supply of legally available objects would satisfy collector demand, thus decreasing the demand for objects from the ground (Merryman 1994). Israel is putting these ideas into action, trying to prevent further destruction of archaeological sites while having a market for antiquities. How is this working? The evidence from situations where a legal or quasi-legal market for archaeological artefacts exists indicates that the kind and range of marketable objects seems to expand to fill untold new product niches (Blumt 2002; Hollowell 2004; Prott 2003).<sup>8</sup> Nor has the lack of restrictions on the trade in Bering Strait archaeological materials slowed the digging, or changed the desire of collectors for newly excavated, 'never-before-seen' objects. More studies are needed that look at the effects of various laws, policies and political conditions, and their consequences for subsistence diggers and for the archaeological record (rather than for national patrimony).

Tom King (1985, 1991, 2003) and others have suggested that archaeologists ought to compromise their ethics and coopt the illicit market by working with diggers to allow the sale of artefacts that have been documented according to archaeological standards. But in my experience, digging according to archaeological standards would be far too slow and painstaking a method of extraction for most subsistence diggers, in terms of both returns from digging and the techniques used. Also, many

<sup>8</sup> In Alaska, tourists can purchase a fragment of an 'ancient Eskimo artefact' glued on a card or a whalebone sculpture made from what once was part of an ancient house. In Israel, small sherds and other objects fill shops as souvenirs of a trip to the Holy Land (Blumt 2002; Kersel 2002).

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subsistence diggers work independently, on a finders keepers basis; others work as members of a team. To whom would the objects found belong and how would the proceeds be shared or distributed? With the individual digger? A landowner? The whole community? Would it not be just as beneficial to hire diggers as excavators or site stewards, pay them more than they are likely to get from digging, and encourage new relationships with archaeology and ways to benefit the community in the process?

Allowing a trade in excavated materials raises the important question of which is more important, the information or the material object. Lynott (1997: 596) has argued that archaeology must keep all material results for future re-examination because, unlike other sciences, there is no possibility of replicating research results once a site is gone. But how realistic is this? Does everything need to be kept, or just a representative sample? Would selling the few, unbroken objects that might be marketable really make a difference? What if certain high-end objects were sold with the caveat that they would still be available for study? The consequences of these and other arrangements that articulate with the market deserve careful evaluation. It might be possible to find some moral common ground by rewarding collectors for not destroying context, yet allowing artefacts to be sold.

#### IMPROPER MANAGEMENT OF CULTURAL RESOURCES

Another major argument used against subsistence digging is that it exemplifies mismanagement of a non-renewable cultural resource. Just what comprises proper management, however, depends on who is doing the managing. Archaeologists may consider themselves experts in this area, but evidence suggests that subsistence diggers also regard archaeological sites as a resource they are managing, at least in discourse with outsiders. Heath (1973: 263) and Paredes-Maury (1998) both found that *huaqueros* in Costa Rica and Guatemala respectively spoke of antiquities as a resource to be exploited, like other natural resources. An article in the *Nome Nugget*, written by a St Lawrence Islander, exemplified the very different local approach with the title of 'St Lawrence Island "Digs" Resource Management' (Silook 1999). Obtaining a fair price and maintaining better control over their resources are major concerns.

From other perspectives, the management techniques of archaeologists have seemed just as exploitative or inappropriate as those of subsistence

diggers. Archaeologists are 'just one more user-group either trying to convert archaeological resources (or Aboriginal heritage) into cash or influence, and whose impacts need to be managed' (Murray 1992: 13). Community members have rarely had input into the interpretation of findings or the questions the research addresses. Very few projects return information to the community about their lands. When a project is over, it leaves behind no sustainable activity and no way for people to participate in the management, protection or tourism benefits of the sites next to them (Paredes Maury 1998).

This accurately describes a relationship of 'scientific colonialism', one in which data are extracted from a community and turned into knowledge elsewhere, without either the intellectual or the economic benefits returning to those closest to its source (Galtung 1974: 295–300; Zimmerman 2001: 169). In a growing number of instances, archaeologists have begun to reverse the legacy of scientific colonialism and have worked with communities to help them create appropriate management plans that address local needs and make conservation more rewarding than digging. The results show that, under certain conditions, undocumented digging greatly diminishes.<sup>9</sup>

#### LACK OF SUSTAINABILITY

One of the most vocal perspectives on the WAC web discussion, used to support the argument that subsistence diggers are mismanaging resources, was the argument that subsistence digging is an unsustainable solution to creating an adequate standard of living. 'Mining the resource just uses it up' (Price 2003). This attitude emphasised the fact that *in situ* archaeological resources are non-renewable; there is no sustainable yield. People need to find ways to live off the interest of the cultural capital these resources represent, instead of the capital itself. An ethic of sustainability also aligns the plight of the archaeological record with that of endangered

9 One example is the archaeological project in the community of Agua Blanco (Ecuador) that worked to address pressing economic needs defined by the community itself. The close involvement of archaeologists with community concerns fostered mutual respect and new attitudes towards archaeology. An incentive to protect sites came from turning conservation of sites into a profitable economic venture with more stable forms of employment than subsistence digging could offer (Howell 1996; McEwan *et al.* 1994). In other cases, long term involvement and advocacy by an archaeologist in the community has made a difference (see Alva 2001; Atwood 2003; Goodale 1996; McIntosh 1996).



species, an argument that carries a great deal of moral weight among many publics. There is a potential double standard lurking here. Are we holding the subsistence digger, who may have few other economic options, to a higher standard, while the mining of precious metals and other non-renewable resources continues to support unsustainable lifestyles in uneven ways all over the planet? Indigenous landowners in Papua New Guinea who are pro-logging have found themselves the subject of a similar critique and have clearly stated that they will continue to exploit their natural resources until they have alternative, equally productive ways of generating an income (Filer 1996: 296–7).

Subsistence diggers are aware of the limited supply of archaeological resources. I have heard people in the Bering Strait discuss the benefits of conservative digging. They talk about sites as if they were banks that hold their inheritance. If digging proceeds slowly, not only will the resource last longer, but, since people believe that prices will continue to rise, there will be greater benefits for the future.<sup>10</sup>

What happens when the resource does run low? In the art market (and the tourist market as well), when the supply of a specific kind of artefact dries up, dealers shift to creating taste and demand among their consumers for other more available but equally rare or curious objects (Becker 1982; Moulin 1987; Thompson 1979). Such has been the case with Malian terracottas (Brent 1996), Cycladic figurines (Gill and Chippindale 1993) and Apulian vases (Elia 2001). This economic principle of substitutability also works at the other end of the commodity chain. When the supply of archaeological resources becomes depleted, diggers will need to substitute other (not necessarily more sustainable) sources of income, as they have had to do in the past.

The substitutability of resources elucidates the processes by which many archaeological objects become commodities in the first place. On St Lawrence Island, for example, people started digging in earnest for artefacts in the early 1900s after the collapse of the global market in whale baleen (with the demise of hoop skirts and buggy whips, and the invention of spring steel). The trade in baleen had made the Islanders relatively wealthy, but now they needed a substitute commodity to exchange for Western goods. Traders found a market for old ivory, curios and 'specimens' (as you've guessed, some customers were museums) and started to deal in archaeological goods (Hollowell

<sup>10</sup> Some of this discussion ensued when a digger was asked why backhoes were not used at digging sites. There are, of course, places where people do use heavy equipment to mine sites.

2004: 189–93). More recently, global bans on other forms of ivory caused custom carvers to turn to archaeological ivory from the Bering Strait as one of the few remaining legal substitutes,<sup>11</sup> increasing both the value of and the demand for these excavated materials. Some of the same policies put an end to walrus hunting by non-Natives. Many of those Natives who had once been well-paid guides turned to digging to supplement their incomes. Whole tusks have now become harder and harder to find, but regional dealers have recently created new markets for bulk whalebone and fragments of artefacts.

#### DAMAGE TO THE ARCHAEOLOGICAL RECORD

From the standpoint of archaeologists, the number one concern with undocumented digging is not the lack of a sustainable yield but the irretrievable loss of contextual information about the past embedded in the archaeological record. This argument extends to the fact that undocumented digging deprives others and future generations of this information and the knowledge that could be derived from it.

There are not many worthy counterarguments here. The fact that the archaeological record does not matter or is irrelevant to certain people suggests that archaeologists have not done a good job of explaining their ways of meaning-making, or of showing consideration for those of others. Most collectors, dealers or diggers are not aware of the kinds of information that can be gleaned from finding an object *in situ* or from other contextual elements of the archaeological record. Many think of archaeology as it existed in the early part of the last century, when it hardly differed from what we call looting today (Hinsley 2002), and the objective was to fill the shelves of national museums. Thus even the most erudite collectors wonder why archaeologists would ever need another such-and-such, and dealers believe that a site name, estimated depth and a polaroid amount to adequate archaeological documentation. To an archaeologist this seems almost unbelievable, but this distancing is a mark of the professionalisation of the discipline, the inaccessibility of research findings, and the refusal to associate with certain 'tainted' elements.

<sup>11</sup> Archaeological walrus ivory from the Bering Strait is used today in scrimshaw, knife handles, guitar inlays, jewellery, and other custom crafts. Some dealers ship it to Bali to be carved by workers who once carved elephant ivory.

Undocumented digging, however, is not the primary cause of damage to the archaeological record. In many places, erosion, agriculture and development rank higher in terms of destructive impact (Canouts and McManamon 2001: 100). Are we applying a double standard when we vilify relic collectors or subsistence diggers as 'looters' simply because developers, by jumping through the proper hoops, have the authority of the state on their side? There is also the argument that 'we can't dig it all'. This, however, neglects to take into account the singular and unique information about particular pasts at stake in sites all over the world, no matter what threatens them, and amounts to an apology for the status quo. There is no place, for example, comparable to St Lawrence Island, where undocumented excavations have brought many beautiful objects to light, but very little information about the people who used and created them.

Unfortunately, just the presence of an archaeology project can unintentionally cause damage to the archaeological record by stimulating undocumented digging. A quantitative study of eighty-four projects conducted in various (non-US) locations found that projects that included more public outreach reported higher incidences of looting in the area (Hollowell and Wilk 1995). Clearly, archaeologists need to prepare for these consequences and do a better job of convincing people that archaeology is 'for everyone's benefit' (Price 2003).

#### ARCHAEOLOGY AS A PUBLIC GOOD

This moral argument asserts that all forms of undocumented digging amount to stealing from our common world heritage since the record of the past belongs to all of humanity. Thus no particular person or group can own it or has the right to sell pieces of it. Archaeologists, then, hold the position of professional stewards of the archaeological record, envisioned as a public good, held 'in the public trust' for all of humanity. Such heady universalisms beg further scrutiny (see Wylie 2005; and Dingli, Omland and Young, this volume). What interests do they serve? What actions do they justify? Certainly not everyone benefits equally from the public good that is archaeology.

Arguments appealing to broad statements about the 'public trust', 'common good' or 'all of humanity' can mask nationalistic desires to retain cultural property. Claims related to 'the public trust' by the state in some cases have even been used to justify the seizure of private lands for archaeo-tourism or other forms of commercial development. In this

paradigm, the expertise of archaeologists is enlisted by the state to manage its cultural resources in the name of the public trust in exchange for career positions and legitimacy. This explains some of the distrust of archaeologists, who are seen as in collusion with the state, which has too often abused the 'public good' argument.

Merilee Salmon (1997: 59) suggests that the use of a 'common good' argument can easily obfuscate and override the need to balance competing rights or to deal with troublesome issues of justice and fairness. 'Public good' arguments are in fact often used by governments to justify their authority to make decisions against the will of less powerful voices that stand in the way of nationalist agendas and 'progress'.<sup>12</sup> This ethic (typical of the cost/benefit analysis many governments follow) alleges that the harm done to a small group is justified by an outcome that brings more benefits to a greater number of people.

Double standards also exist in access to objects and information supposedly held in public trust. Collectors argue that artefacts lie unseen in locked dark basements and reports are never published, and feel that they are better stewards and give objects more care and exposure than most museums. The concept of the public trust is also problematic from the perspective of cultural groups who have culturally specific ideas about forms of knowledge that should or should not be accessible to the public (Ouzman 2003).

As Matsuda asserts, concepts of public trust and nationalistic debates over cultural property are for the most part irrelevant to subsistence diggers because they do not 'include indigenous voices, create alternative modes of subsistence or provide for the survival of indigenous lifeways and belief systems' (Matsuda 1998a: 94). He identifies the real issues as the unequal power and economic relationships that compel people to turn to subsistence digging as an economic alternative and remove from them their own ability to manage their cultural resources.

#### CULTURE AND HERITAGE LOSS

Another moral argument used by archaeologists is that subsistence digging and selling artefacts represent the loss or abuse of cultural heritage. Two related circumstances are usually blamed: an ignorance of the value of archaeology and the lack of a meaningful connection to heritage or the

<sup>12</sup> One example is the flooding of huge tracts of Native lands in Canada to provide hydroelectric power to Canadian cities (Waldram 1988).

past. This argument assumes that if subsistence diggers understood the value of archaeology and heritage, they would stop digging. According to Walter Alva, once the residents of Sipán began to feel that archaeology was valuable to their identity and their political situation, they made a choice to stop looting (Alva 2001: 95; Atwood 2003). This took but a mere twenty years of building trust and understanding.

It is true that the knowledge produced by archaeology lacks relevance from the standpoint of many subsistence diggers. David Pendergast (1994) noted that the Maya feel archaeology has little to offer that concerns their lives. He blamed this dissociation and the lack of an ethic of site preservation on the failure to include living people in the process of knowledge creation in archaeology. Pendergast identified this sense of detachment, along with the lack of other economic choices, as the main causes of subsistence digging (Pendergast 1994: 2–3).

But people are also detached from archaeology because they have other uses for the past and other, often more personal, ways of connecting to the past, such as oral histories, traditional skills and even the act of digging itself; ways that may not be valued by archaeologists or that are not meant to be shared (see Smith 2005). Only recently have oral histories been recognised by archaeologists as valid sources of information, and they are still regarded as a subsidiary to the archaeological record (Zimmerman 2001: 173).

Can heritage or culture be 'lost' (or gained) and could subsistence diggers possibly be blamed for that loss? As Larry Zimmerman observes (2001: 178), the past cannot really be lost or 'saved'. Selling objects is not equivalent to selling one's heritage, and to imagine otherwise amounts to fetishising objects.<sup>13</sup> On St Lawrence Island, digging for artefacts is part of every Islander's heritage, an activity that can actually strengthen one's connections with the past. Artefacts are regarded as gifts left by the ancestors that, if they allow themselves to be found, are meant for use in today's world. Similarly, in Belize, people conduct ceremonies before tunnelling into ancient sites and call the artefacts they find *semilla*, or seeds the ancestors have left to supplement their income (Matsuda 1998a: 92). Still, some St Lawrence Islanders do imagine the diaspora of archaeological artefacts in terms of 'culture loss', caused by the lure of the

<sup>13</sup> The idea that cultural identity is literally embodied in material objects goes back to at least the turn of the century and the salvage period of collecting when people believed they were saving the past by taking cultural objects away from their sources and storing them in museums (Boas 1940; Clifford 1988: 234; Cole 1985; Dominguez 1986). Colonialist though these practices were, today objects stored in museums gain new agency when reconnected with source communities (Peers and Brown 2003).

market or a colonialist legacy of 'white people ripping us off'. People wonder out loud if future generations will hold them responsible. Elders sometimes talked about the digging as causing harm or disturbance and blamed social problems in the village on 'all the holes people have dug out there'. There are times when diggers distance themselves and claim not to be related to the people whose former lives they disturb.

#### CULTURAL AFFILIATION

Should a different ethic apply to diggers who have a cultural affiliation to those whose objects they seek? Does the fact that the diggers on St Lawrence Island are mining their own culture somehow make it more acceptable? After all, it is their heritage; they can do what they want with it. Dealers use this argument, because if the Natives themselves are digging and *they* don't have a problem with it, it vindicates the market (see also Pendergast 1994: 3). Archaeologists generally feel that cultural descendants have a stronger claim to the past than others (NAGPRA is evidence of this). Diggers who consider themselves cultural descendants are likely to agree, at least when it is beneficial to them, but concepts like heritage, identity and cultural affiliation are slippery, polymorphous forms of cultural capital that take varying shape depending on particular situations. Some even argue that any claims based on special cultural relationships are essentialist or even racist (Warren 1999). In this case they become an apology for the status quo, one that does not really address either the fate of the archaeological record or that of subsistence diggers. Still, believing that one has a direct connection can increase the intrinsic value of digging, and perhaps this could carry over to archaeology.

#### TOWARDS AN ARCHAEOLOGICAL ETHIC

The breadth of the arguments outlined above certainly speaks to the complexity of the issue of subsistence digging. Archaeologists represented in the WAC discussion touched upon all of the arguments, and many mentioned or discussed more than one. While all the participants seemed willing to see the issue from other perspectives, there were widely divergent and sometimes cynical views about how an explicitly archaeological ethic might interface with the dilemma of subsistence digging in practice. Some also had a strong feeling that the archaeological perspective was the 'right' one and a slight unwillingness to consider compromise, as if it would appear to condone looting. Without

some common ground these attitudes could inhibit working with subsistence diggers or communities to find mutually beneficial solutions, so I want to conclude by discussing some principles that might underlie an explicitly archaeological ethic and how these might articulate in practice.

From the standpoint of archaeologists, it should be clear that it is not the act of undocumented digging in and of itself that is unethical, but rather its consequences – the destruction of the archaeological record. If the consequences cannot be avoided, they must be mitigated. Archaeologists are uniquely familiar with this framework already, because it describes most of the work done under the heading of cultural resource management, where the portions of a site not sampled under agreed-upon significance criteria meet the same fate as, or one worse than, those confronted by the shovel of a subsistence digger.

Next, it should also be apparent that an archaeological ethic regarding subsistence digging must take into account both the integrity of the archaeological record *and* the human condition of subsistence diggers and be careful *not* to put the welfare of artefacts or the archaeological record above the welfare of living people and an understanding of their situations. **The tendency to privilege the archaeological record is a disciplinary fallacy, a nearsightedness caused by the training archaeologists receive and their own position of privilege.** Furthermore, the categorical imperative and the precautionary principle<sup>14</sup> insist that we assess the wider positive and negative consequences of actions and consider the potential harm archaeologists and others could do by enforcing their ethic, *or* as a result of other unintended or unintentional acts. Here again the consequences of various laws, policies or practices on living people (we may be on the verge of including once-living people here as well; see Scarre and Tarlow, chapters 11 and 12 this volume) ought to outweigh consideration of the archaeological record. More specifically, the consequences of these acts on subsistence diggers receive additional weight because their marginal economic and political status exposes them to greater potential harm.

An ethic that aspires to uphold the integrity of the archaeological record appears to be incompatible with subsistence digging as we know it, if, as Lynott (1997) suggests, archaeologists should not compromise the ethic of non-commercialisation, e.g. by allowing the sale of materials after documentation. Nevertheless this is certainly an area where compromise

<sup>14</sup> Note Bannister and Barrett 2004.

could occur, albeit with careful evaluation of the potential and actual effects on the archaeological record and the various participants in the market. Another highly possible compromise would be to negotiate set-asides of sites or areas designated as significant, much in the manner of CRM work, where any digging would require the use of archaeological techniques. I have seen this succeed firsthand, under rather challenging conditions.

The compromises suggested above are to the integrity of the archaeological record, but how might the activities of subsistence diggers align more closely with an archaeological ethic? The only possibilities appear to be that diggers either adopt archaeological techniques in their digging or cease digging altogether. The first requires working with and being trained by archaeologists; the second means finding a substitute subsistence activity; and either would require incentives to change, including a viable and more sustainable replacement for the income generated by undocumented digging. Whatever course of action, the lives of the diggers should improve and not worsen as a result.

What is archaeology's role in these scenarios? In the second scenario, perhaps none. Since it is likely that subsistence diggers will stop digging when more stable and reliable forms of income are available (Hollowell 2004: 94; Matsuda 1998a; Posey 1990: 14), an applied anthropology or development project, not necessarily related to archaeology, could ostensibly provide new means of subsistence for former (reformed?) diggers to replace the lure (and thrill) of digging. In times of dire conditions such as war or social unrest, this might be the best recourse. Hardy and others suggest instituting basic aid programmes or, where feasible, providing jobs, perhaps on the lines of the civilian conservation corps organised in the USA in the 1930s and 1940s, that would provide some stability and a steadier income than artefact digging or other forms of looting (Hardy 2003; Ouzman 2003). Realistically, the places that need this most are likely to be those that cannot afford or safely manage it (see Norton 1989; Stark and Griffin 2004). Still, it seems important for development agencies to recognise the potential connection between economic recovery or community development and archaeological heritage protection.<sup>15</sup> This would be most effective if the money would get directly to who would otherwise be looting.

<sup>15</sup> Funds for site protection efforts in Iraq have come from several foundations, including \$750,000 from the Packard Humanities Institute (Carleton *et al.* 2004).



The suggestion that subsistence diggers lay aside their digging practices and become site stewards or adopt archaeological techniques has several worthy precedents that prove this can be a viable option with benefits on several levels (Alva 2001; Atwood 2003; Howell 1996; McEwan *et al.* 1994; McIntosh 1996). These projects offer incentives that make doing archaeology or conserving the archaeological record more valuable than digging it up. The primary incentive, at least at first, is likely to be an extrinsic monetary one, since diggers need, at the least, to replace their subsistence digging income. These arrangements oblige diggers and archaeologists to work closely with one another, something that is unlikely to succeed if either strongly views the behaviour of the other as 'wrong' or unethical. The relationships formed in the process are an opportunity to overcome the feeling of dissociation or detachment that Pendergast described as fostering looting, and a chance to increase the intrinsic value of the archaeological record and make archaeology a more meaningful enterprise. The challenges for archaeologists include rethinking approaches to research design, recognising local expertise, involving community members in the production of knowledge and decision-making, returning benefits to the community, and, in general, making archaeology relevant to community needs. Gupta's (1998) findings from the field of conservation and development are very apt here. In situations where people have turned to resource degradation, different ethics can replace predatory practices if two conditions can be met. First, conservation must become more economically viable than exploitation; and second, local communities must be recognised and rewarded for their unique contributions to knowledge about the resources.

A particularly productive approach treats archaeological preservation as a form of development, much like applied anthropology, with the goal of placing the planning, profits and decisions in the hands of those people in the community who live with it and can protect it. K. Anne Pyburn's work with the Belizean community of Crooked Tree is an example of this paradigm (Pyburn 2003), and Green *et al.* (2003) present a thought-provoking case study of a project based on principles of participatory development.

Archaeo-tourism projects can also offer meaningful employment and make the preservation of sites a more profitable and sustainable venture than digging them. One example is the village of Agua Blanco in Ecuador, where archaeologists employed subsistence diggers first as excavators and later in the development of a community museum (McEwan *et al.* 1994). Visitors to Agua Blanco today are led on tours of unexcavated sites near

the village by local residents. More studies of archaeo-tourism projects are trickling out (Crosby 2002; Rowan and Baram 2004), and these will hopefully provide information about the uneven consequences of these various commodifications of the past on the archaeological record, local economics and relations of power (see Kohl 2004). For example, in situations where local diggers do not benefit directly from these ventures, or there are insufficient jobs to go around, they could easily end up stimulating digging (Stark and Griffin 2004).

I have delineated moral arguments on subsistence digging, a practice that creates an ethical dilemma for archaeology, and have critically examined some of the evidence for and against them. To a large extent, my purpose has been to reflect to archaeologists the range of positions they and others hold on this problematic issue, some of the justifications in support of them, and the double standards they evince. This opened up the possibility of locating several potential approaches to the dilemma that benefit both archaeology and subsistence diggers and are based on an explicitly archaeological ethic. Finally, I want to reiterate the need to include the communities and individuals most affected in this conversation, and to develop methodologies that also meet their needs and make archaeology a more meaningful endeavour in the process.