

# Ethical Issues of Presenting Misinformation in Docudramas

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## **Introduction**

The problem of whether or not it is ethical to present false information in a factual film in order to produce a dramatic effect or arouse debate is the main question at hand in this paper. In a genre, such as documentaries, where the facts are the most important part of the film, it is necessary for film makers to present only accurate information in their quest to produce a compelling documentary. Using outright lies to sway the opinion of the viewers is unprofessional and unethical. Docudramas (which are defined as a type of television miniseries or movie that uses a sequence of events from a real historical occurrence to create a film-script intended to provoke debate about an event or occurrence (Docudrama and Mock-Documentary, 2002)) have been used irresponsibly in the effort to raise concern about historical events. In these films, directors tend to distort many facts and occasionally inject events that never actually occurred to promote debate. This practice is unethical and the following discussion will examine the implications and possible solutions to this ethical problem.

## **Background**

The docudrama is a blend of two very different genres: documentaries, which are presentations or re-creations of both fact and history to show the unbiased truth, and melodramas, which create situations that are intended to stun and surprise audiences. In this blend, docudramas do not hold explicitly to the structures of either genre. They present facts and, at the same time, tell a story that keeps the audience guessing on an eventual conclusion that is likely already public knowledge. In order to keep people interested in the facts that they likely already know, it is necessary for the director to emphasize the facts that support the side of the issue that they wish to highlight.

Docudramas have been in existence in some form or another for as long as people have shared their stories with one another. The desire to use actual historical information when telling a story in a more dramatic fashion is something that has been seen since the earliest days of film. The idea of a docudrama is to incorporate historical fact with literary and narrative techniques in order to create a story-like depiction of an actual event. While docudramas have existed for years, they have only recently become the topics of ethical debates with a special emphasis on how facts can be stretched in order to create a more dramatic effect. A recent example of this was seen in the September 2006 ABC miniseries entitled *The Path to 9/11*. This film was marketed in the US, as well as in other countries, as the “official true story” of the events that lead to the World Trade Center attacks in September of 2001. The film’s producers originally claimed that the entire film was based on the 9/11 Commission Report, a statement that was later modified to say that it was only *partly* and *loosely* based on the actual report. What is being emphasized by this example is not whether it was right or wrong to inject instances of fiction into the script, but rather that it included these pieces of misinformation while originally claiming to only present true facts.

Docudramas are often of a political nature when ethical questions arise regarding the validity of specific facts. *The Path to 9/11*, *The Reagans*, and even the 2006 film *United 93* were politically motivated films that have received criticism for how their respective stories are portrayed. Due to the nature of politics and the controversy that commonly accompanies it, it is not overly surprising that films of this nature create such debate.

When producing a docudrama, it is necessary that the construction of the film is such that it not only provides the facts that are important to the issue but also create a story that will keep the audience’s attention and ease their understanding of the issue. Creative license is seen in almost every mainstream film and can now be seen in docudramas as well. This, combined with a goal to persuade the viewer to one specific position of an issue, has given docudramas a reputation for being a bias form of journalism.

### **The Problem**

In order to be considered a factual and ethical docudrama, there are certain standards that should be met. The first is that the evidence portrayed in these films should be factual and not distorted in any way via other media sources. In a British docudrama about a drug connection between Colombia and the UK called *The Connection*, images were shown of mules passing into Britain with heroin concealed in their stomachs. It was later found that no such thing happened and that it was only a fabrication created by the director. Examples like this one lead to the creation of unethical dramas mainly because the audience is expecting truth and is presented with lies, leading to both the destruction of the validity of docudramas as well as a greater distrust between audiences and filmmakers. The director of a docudrama should have the obligation to portray the truth as it actually occurred, not simply what they wish to show in order to create a more dramatic effect. It is imperative that when presenting the facts of a given issue, the director abides by the ethical rules of docudramas and documentaries and does not add inconsistent or incorrect facts. This would be similar to presenting misinformation to voters in political campaigns or presenting false information on a resume.

### **Docudramas vs. Documentaries**

Similar problems can be seen in documentaries where cases of misinformation or intentionally inaccurate information are presented in order to make the film more one-sided, possibly without the audience even noticing. If documentary filmmakers are going to freely express their opinion through film, they cannot legitimately call their films documentaries. Instead of looking at the makers of documentaries as filmmakers, it is better to view them as journalists representing facts. In the world of journalism, journalists are not free to depict events however they would like; they have a responsibility to their audience, their subjects, and their peers to present evidence in the most unbiased and accurate way possible.

Docudramas and documentaries are thus similar because the makers of each type of film have an ethical obligation to present the facts as they actually occurred. If either type of filmmaker attempts to present certain fictional scenes, untrue facts, or even overly-dramatized films in general, they can simply be considered purveyors of fiction or

even blatant liars; the audience is dependent on them to present true information, and a breach of this expectation results when the filmmaker lies to the audience. By using these unethical practices, filmmakers of both docudramas and documentaries cheat their respective audiences and the other filmmakers within their profession by taking away from the validity of other such films. People will question not only the validity of specific films, but the validity of an entire genre (documentary and/or docudrama) as well.

### **Implications**

One ethical implication that is obvious is the presentation of misinformation. When false statements are made in a docudrama regarding a specific person, it can be extremely difficult for those statements to be disproved. Even if degrading statements are true, the dilemma is whether or not there is a moral responsibility to protect another's private affairs (Rosenthal 233). A similar situation exists with the previously mentioned ABC docudrama *The Path To 9/11*. The series implies that President Bill Clinton ignored advice to pursue Osama Bin Laden because he was too busy dealing with the Monica Lewinsky scandal (Peyser 2). Essentially, Clinton is blamed for the tragic events of 9/11. The validity of this allegation is under review but no matter the result it will tarnish President Clinton's legacy. The aforementioned example of the ramifications of something as seemingly inconsequential as a TV show proves just how valuable principles of privacy and honesty can be.

Even when a docudrama exhibits no misinformation or misleading assumptions, there may still be ethical repercussions. Many docudramas are accounts of horrific events in history. Some people argue that the victims of these terrible events should have the right to keep them private. Of course there are also those who would argue that such limitations would violate the First Amendment right to the freedom of speech. After all, if the consent of every minor subject had to be granted, it would be the end of media as it is known. An interesting example of this ethical dilemma dates back to the 1920s with what may be considered one of the greatest films ever made, Einstein's *Battleship Potemkin*. After the film was released, a sailor who claimed to have survived a gruesome battle depicted in the film demanded payment for the rights to 'his story'. As it turned out, there was insufficient evidence of the man's tale and no payments were made

(Rosenthal 120). This demonstrates that even the most seemingly clear-cut ethical dilemmas can be difficult to resolve.

Docudramas frequently tiptoe along the edge of both ethical and legal ramifications. These film producers dodge prosecution in a variety of ways, the first of which is by adding a disclaimer to the film. For example, the beginning of a docudrama may read “The following dramatization is based on police reports, personal interviews, various news reports and court records. Some dramatic license has been taken in the creation of certain scenes” (Carveth 4). It is true, but hard to believe, that a law exists for the sole purpose of protecting the inaccuracy of these features. The legislation, called the False Light Doctrine, states that a person’s privacy may be invaded if the story is fictionalized or the use of their same name is unintentional. Lawsuits have been filed claiming that these ‘coincidentally similar’ stories are wildly inaccurate, however the Supreme Court has ruled that actual malice must be proven for the plaintiff to receive damages (Carveth 5). These precautions may protect against litigation, but they don’t change the plethora of ethical concerns exhibited by docudramas.

### **Counter-argument**

One of the main counter-arguments to this problem is that directors of film have the right to use creative license to portray the issue as they see fit. This can be seen in all forms of media that are *based on true stories*.

Creative license is an important tool for directors and producers of movies, TV shows, and radio broadcasts. It allows directors to take the facts of the event and produce a final product that is entertaining, being a product of the entertainment business, as well as factual. Make no mistake, docudramas are produced to get ratings first and provide an accurate picture to the public second. This type of pseudo-journalism can be irresponsible because it does not force the creators to provide the facts in a straight forward manner. Michael Moore has, on more than one occasion, used the facts he has gathered to produce docudramas with glaring bias and liberal views. This does not mean that the information he has provided was false but his agenda was not to simply present the facts, it was to persuade the viewer to accept his conclusion from the facts. All of Moore’s docudramas

have been developed for exactly this purpose; he wants to sell an idea to the public. This kind of film is why docudramas are under scrutiny.

### **Suggestions**

During an era where documentary and docudrama films have become very popular, it is becoming more and more important to ensure the validity of such films. The very definition of a docudrama states that it should be “factually accurate and contain no fictional elements.” Why then have there been portrayals of events in recent docudramas that never actually happened? The example of *The Path to 9/11* miniseries, which claimed to portray the tragic events leading to the September 11<sup>th</sup> attacks on our country exactly as they actually occurred, is a perfect example of something that should not have been able to happen: the marketing of a docudrama as accurate when the creators knew it wasn't.

So why *are* these things able to happen? One of the main reasons, mostly pertaining to documentary filmmaking but relevant to docudramas, has to do with the consent forms that the “actors” are required to fill out. Most consent forms are written using such complicated language and legalese that they are virtually impossible to understand for the general populace. Therefore people tend to sign without understanding the full implications of what they have signed. If many of these people actually read and understood what they were signing, they would likely see that “they are very nearly signing their lives away” (Cross-Cultural Filmmaking p.52). Within many of these consent forms lie certain language that give the filmmaker the ability to portray the footage that they have collected in whatever manner they want to, even if the end result misconstrues whatever the actor (or in a documentary the participant) is attempting to convey. This participant signed their name on the dotted line so anything the filmmaker does is technically legal, but at what point are they acting unethical?

The ethical questions that arise are closely related to a rights-based ethical framework. The viewers of a given film have the right to be presented with an actual assessment of factual information; after all, this is the primary reason for viewing such a film. The filmmaker doesn't have the right to use the film as a soapbox for their personal agenda, simply because they are in control of the subject matter.

An initial suggestion to alleviate this problem, even if slightly, would be to allow the actors, or participants, in such films to sign the consent form after they have seen the finished product. If they decide they don't like what they see, and do not sign, then the film can not be released. This would help to prevent filmmakers from some instances of slander; if they make a film that they know the participants wouldn't be likely to sign off on after seeing, the filmmakers would not waste their time and money creating a film that will never see the light of day. If a participant in a film is being paid for their appearance, they may sign any document, regardless of the slander that it may provoke, due to the economic initiative. In this case, having them sign before or after the completion of the film may not make much of a difference. Unfortunately, there isn't much that can be done about these cases. Obviously allowing the participants to sign the consent form post-production and after they have screened the film would prevent some instances of misconstructions of truth in these types of filmmaking.

A second suggestion to help solve the problem of misinformation in docudramas would be to make it mandatory to clearly label all reconstructions. This is another step that only fixes the problem in small steps, but it would help nonetheless. Reconstructions and re-enactments are often clearly labeled as such in docudramas, television shows, and even infomercials. But there are also instances, especially in docudrama films, where reconstructions are attempting to pass off as the actual events themselves. These would be the instances where clear labeling should be mandatory. This would be a difficult practice to police, but some effort needs to be made to do so. The main problems with more factual docudramas are the reconstructed scenes that are attempting to convey an actual past event. Even if the re-enacted scene is for example 99.9% accurate, there is still a chance that that remaining one tenth of a percent can misconstrue the entire truth, and therefore the scene should be labeled clearly as a re-enactment. An argument against this measure would be the that even a scene that isn't a reconstruction, but a wholly accurate portrayal of an actual event, can still be potentially misconstrued or misinterpreted by the viewer. The opinion that one forms after having seen a docudrama, documentary, or a film of any type for that matter, is completely personal. The least that a filmmaker can do to try and convey a historically and factually accurate depiction of events is to clearly label any instance that isn't actual live event.

One last suggestion is to create a secondary or subcategory of documentary or docudrama. This subcategory would include films such as those made by, for example, Michael Moore. Michael Moore is openly known as an extremely liberal activist, and his films tend to portray this fact. Although he is openly liberal and against many of the policies that the current conservative administration stands for, he is also known as a diligent fact-checker of the information he presents in his films. A film such as *Fahrenheit 9/11* should be presented to the public in a subcategory of films that cannot be labeled as either docudrama or documentary. Although it is still a form of documentary film, we are suggesting that it is presented with such blatant bias that it deserves its own category. This category should include films that present factual information, but are more biased and opinionated than other documentaries. An entirely separate issue would be how to classify films...

### **Conclusion**

Not to be lost in the reading this paper is that a morally just and historically accurate documentary or docudrama can be an extremely valuable tool in learning about past events. Most docudramas paint a clear picture of relative facts, and may therefore be considered as helpful, ethical, and just. However, there are instances of misinformation in a small handful of these films and miniseries, and it creates ethical dilemmas for the entire genre. This misrepresentation of information is irresponsible and unethical and directors, producers and actions should be more conscious and responsible for the content they choose to put in their films.

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