

*Perspective*

# Tear Down This (Pay)Wall!: Equality, Equity, Liberation for Archivists

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## ABSTRACT

This paper critically examines the practice of placing archival collections behind paywalls, starting with a microfilming decision that led to portions of collections stewarded by the author's archives being offered for sale as part of large for-profit subject-based collections. The author uses economic and values-based arguments to illustrate how commodifying the archives by putting collections behind paywalls can be harmful for university libraries, archives, and the communities whose histories are hidden from them. The author then questions the existence of paywalled resources based on our professional associations' codes of ethics. The author offers a tool from the field of service learning that might be used to evaluate how archives can interact ethically with communities, and uses a radical empathy lens to illustrate how various digital initiatives have wrestled with the ethics of paywalled resources and the marginalized communities they originate from. Finally, the author describes efforts to critically examine and disrupt current practices using a radical empathy framing, and offers practical solutions for archival institutions to take the first step toward a liberatory digital archive available to all.

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## INTRODUCTION

This essay uses the concept of radical empathy and applies it to a discussion of archival collections made available for sale by for-profit companies. Largely the product of legacy microfilming decisions, these collections, microfilmed or digitized from open repositories, are purchased by university library selectors in order to provide affiliate access to online historical material. Although ethical from a legal, rights-based framework, a radical empathy lens problematizes this multimillion-dollar industry and archivists' continued participation in it. The article examines the history of paywalled collections, their economic impacts, how restricting access impacts archival values and codes, and the effects on marginalized communities. Using Northeastern University's Archives and Special Collections as a case study, the article explores how radical empathy, applied within an academic context, can lead toward more ethical relationships with donors, subjects, users, and larger communities.

## UASC FRAMING: COLLECTING DIVERSE COMMUNITIES

In 1998, the University Archives and Special Collections (UASC) Department at Northeastern University in Boston began a two-year project to identify, locate, secure, and make accessible the most important and at-risk historical records of Boston's African American, Asian American, LGBTQ, and Latino communities. This project followed the "documentation strategy" principles and guidelines laid out by Helen Samuels, Larry Hackman, Richard Cox, and others whose intent was to chart a new path for acquisitions and donor relations. The concept originated in the 1970s as "efforts by some archivists to grapple with documenting social movements, minority issues, popular concerns, and other topics that were not well-represented in most archival and historical records repositories."<sup>1</sup> Key to documentation strategies are their use of non-archival expert community "advisors" to identify collections, reach out to potential donors, and appraise the collections for acquisition. Part of the long history of conversations around social justice and equity in archival and library literature outlined in Caswell and Punzalan's "Critical Directions for Archival Approaches to Social Justice,"<sup>2</sup> documentation strategies emphasized deep listening and community understanding.

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<sup>1</sup> Richard J. Cox, *American Archival Analysis: The Recent Development of the Archival Profession in the United States* (Lanham, MD: Scarecrow Press, 1990). See also "Documentation Strategy," Dictionary of Archives Terminology, Society of American Archivists, accessed March 12, 2021, <https://dictionary.archivists.org/entry/documentation-strategy.html>.

<sup>2</sup> Ricardo L. Punzalan and Michelle Caswell, "Critical Directions for Archival Approaches to Social Justice," *The Library Quarterly* 86, no. 1 (December 21, 2015): 25-42, <https://doi.org/10.1086/684145>.

In 2007, Joan Krizack, the first professional archivist to steward UASC's collection, wrote a reflection about the first ten years of community collecting within a university setting. In "Preserving the History of Diversity: One University's Efforts to Make Boston's History More Inclusive," she explained how the advisory groups suggested by the documentation strategy framework helped her build collaborative relationships over time. She described the challenge of building trust in communities of which she was not a part. She praised her advisory groups for opening doors for her by allowing her to use their existing networks to navigate community complexities. She acknowledged her own internalized biases, remarking, "The more we began to learn about each group, the more we began to understand that each of them comprises, for example, multiple points of view regarding politics and religion, and multiple customs and traditions."<sup>3</sup>

Today, the University Archives and Special Collections at the Northeastern University Library houses and carefully curates a diverse and growing collection of historical records relating to Boston's fight for social justice. UASC's goal is to preserve the history of Boston's social movements, including civil and political rights, immigrant rights, homelessness, and urban and environmental justice. Because of this long-term commitment to community partnership, network building, and earning trust, UASC's activities are rooted in community understanding and the Archives are woven into the fabric of Boston's neighborhoods and community groups. I have served as the University Archivist and Head of Special Collections since 2013.

### Donors, Audiences and Empathy

Because of UASC's documentation strategy roots, the concept of radical empathy is both familiar and challenging to its staff. In "From Human Rights to Feminist Ethics: Radical Empathy in the Archives," Caswell and Cifor argue for a switch to a feminist ethics approach to archives, shifting from a "legalistic, rights-based framework" to one where "archivists are seen as caregivers, bound to records creators, subjects, users, and communities through a web of mutual affective responsibility."<sup>4</sup> UASC's use of advisory groups made up of community members was meant to aid collecting, but was described as Krizack as building community, accountability, and trust—the familiar web of mutual affective responsibility described by Caswell and Cifor. Although the formal advisory

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<sup>3</sup> Joan D. Krizack, "Preserving the History of Diversity: One University's Efforts to Make Boston's History More Inclusive," *RBM: A Journal of Rare Books, Manuscripts, and Cultural Heritage* 8, no. 2 (September 1, 2007): 125-132, <https://doi.org/10.5860/rbm.8.2.286>.

<sup>4</sup> Michelle Caswell and Marika Cifor, "From Human Rights to Feminist Ethics: Radical Empathy in the Archives," *Archivaria* 82 (Spring 2016): 23-43, <https://archivaria.ca/index.php/archivaria/article/view/13557>.

groups have not been in place for years, the relationship between UASC and individuals from donor communities remains.

The radical empathy lens also presents a challenge to UASC. In their criticism of neoliberalism's tendency to favor free-market capitalism, Punzalan and Caswell encourage archivists to "responsively and productively demonstrate how certain archival actions contribute to, or sometimes impede, social equity and inclusion."<sup>5</sup> Using this framework to analyze UASC practices has illuminated the many ways in which UASC impedes equity and creates barriers to donor communities' access to their own history and community knowledge. For example, UASC's hours, 8:30 am–5:00 pm Monday through Friday, prevent many community members from accessing collections. The Northeastern University Library (of which UASC is a part) is not open to the public, so archives users needed to show identification at the security desk—an additional barrier to entry. Users, even individuals representing grassroots donor organizations, were up until recently charged reproduction fees for scans and publication fees for use. Archives instruction sessions were a list of rules and regulations. Using the radical empathy lens lays bare the truth that UASC is structured to support academic research, predominantly for on-campus faculty and students.

In "Seeing Yourself in History: Community Archives and the Fight Against Symbolic Annihilation," Caswell remarks that "the symbolic annihilation marginalized communities face in the archives has far-reaching consequences for both how communities see themselves and how history is written for decades to come."<sup>6</sup> UASC's original purpose was to deliberately and holistically collect records of marginalized communities in order to mitigate the kind of symbolic community annihilation Caswell describes. Yet UASC is not a community archive, as it is not an "independent grassroots effort for communities to document their own commonalities and differences" and doesn't exist "outside the boundaries of formal mainstream institutions."<sup>7</sup> Though UASC's work is intended to benefit Boston's diverse communities, it is important to acknowledge that it is supported by and completed at the University's behest, and therefore *not* a community archive. However, UASC and other traditional archives that attempt to work ethically and collaboratively with under-documented communities (or those embarking on this work) should consider digging further into the principles Caswell outlines as characteristics of community archives:

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<sup>5</sup> Punzalan and Caswell, "Critical Directions for Archival Approaches to Social Justice."

<sup>6</sup> Michelle Caswell, "Seeing Yourself in History: Community Archives and the Fight Against Symbolic Annihilation," *The Public Historian* 36, no. 4 (November 2014): 36, <https://doi.org/10.1525/tph.2014.36.4.26>.

<sup>7</sup> Caswell, "Seeing Yourself in History," 31.

- Broad *participation* in all or most aspects of archival collecting from appraisal to description to outreach;
- Shared ongoing *stewardship* of cultural heritage between the archival organization and the larger community it represents;
- *Multiplicity* of voices and formats, including those not traditionally found in mainstream archives such as ephemera and artifacts;
- Positioning archival collecting as a form of *activism* and ongoing *reflexivity* about the shifting nature of community and identity.”<sup>8</sup>

UASC’s twin mission—to encourage students and faculty to use the archives as a laboratory for experiential education, and to support the understanding of and knowledge about Boston’s marginalized communities—can and does create tension. And although the path of least resistance when facing tension can be inertia, UASC has chosen to start making policy, procedure, and prioritization decisions that are of benefit to the community first and foremost, but that turn out to benefit students and faculty as well. One of the areas being tackled is UASC collections behind paywalls.

## ARCHIVES BEHIND PAYWALLS

### Quick History

For the purposes of this article, “paywalled” archives are defined as digitized collections that have the following characteristics:

- They have been digitized from archival material located in publicly accessible archives;
- They have been made available as a suite of products for sale by for-profit companies;
- Only registered users have access to the digitized material.

The bulk of material found in these collections comes from digitized microfilm. Starting in the late 1930s and 1940s, libraries faced with giant deteriorating newspaper collections turned to microfilm as an “adequate, accessible, and perhaps preferable library substitute for collections of print newspapers.”<sup>9</sup> In addition to newspapers, companies also made arrangements to microfilm high-use manuscript collections from many of the most

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<sup>8</sup> Caswell, “Seeing Yourself in History,” 31.

<sup>9</sup> Richard L. Saunders, “Too Late Now: Libraries’ Intertwined Challenges of Newspaper Morgues, Microfilm, and Digitization,” *RBM: A Journal of Rare Books, Manuscripts, and Cultural Heritage* 16, no. 2 (September 1, 2015): 127-140, <https://doi.org/10.5860/rbm.16.2.448>.

prestigious archival institutions in the country. Archives and microfilm companies agreed to share profits when a copy of the film was purchased, usually by university libraries. In the 1990s, for-profit companies started digitizing large swaths of their microfilm. They usually re-negotiated contracts with archives when the collections were made available digitally. Although at first glance this could appear as a standard format change, there was one key difference—if a user or library could not afford to purchase the films, they could be ordered through inter-library loan. Unlike microfilm, digitized collections are available only to researchers who are registered users with the subscriber.

### Policies and their Economic Impact

Although not constituting nearly as large a percentage of university library budgets as access to scholarly journals, access to for-profit paywalled archival collections is not inexpensive. Instead of a high yearly access fee, university libraries pay a lump sum fee to “purchase” access to collections of primary source material, plus a yearly “maintenance fee” for continued access. Just how much libraries individually or collectively spend annually on primary source data sets offered by for-profit companies is unknown. Like libraries, archives are required to sign non-disclosure agreements for these services; one can only extrapolate based on the few examples of universities self-reporting their numbers. One large research university posted publicly that between 2016 and 2017, it spent over \$250,000 on primary sources related to African Americans, “especially pertaining to slavery, emancipation, and early American history.”<sup>10</sup> In 2016 and 2017, this university paid:

- \$56,224 for Slavery and Anti-Slavery: A Transnational Archive and Sources in U.S. History Online: Slavery in America;
- \$11,444 for Black Abolitionist Papers and Slavery and the Law Digital Archive;
- \$25,000 for Black Thought & Culture;
- \$112,000 for Black Freedom Struggle in the 20th Century; and
- \$34,500 for Race Relations in America.

In the same time period, it also spent an additional \$14,085 for *Indigenous Peoples: North America* and \$32,500 for *Women and Social Movements in the United States*.<sup>11</sup> And the profits reflect these prices. In 2018, one company that provides “collections of primary source materials and aggregated periodicals to learners at libraries, colleges, universities,

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<sup>10</sup> University of Central Florida (UCF) Libraries, “Africana Primary Source Collections,” accessed March 12, 2021, <https://library.ucf.edu/about/technology-fee-funded-projects/africana-primary-source-collections/>.

<sup>11</sup> UCF Libraries, “Africana Primary Source Collections.”

schools and businesses” generated approximately \$232.9 million in revenue. They estimate the entire industry as selling \$1.5 billion worth of product annually in the United States.<sup>12</sup>

### The *Gay Community News*

UASC made two agreements with for-profit companies to put some of our collections behind a paywall: a collection of Boston-area feminist manuscripts and the *Gay Community News*. Founded as a way to “improve communication between the various [Boston-based] gay organizations and the gay individual,”<sup>13</sup> the *Gay Community News (GCN)* published its first issue in 1973. Over time, the *GCN* morphed from a two-page mimeograph announcing where to meet up for Daughters of Bilitis softball games to becoming a national news source reporting on politics and culture and helping to “turn the gay movement, which had previously been geographically fractured, into a national phenomenon.”<sup>14</sup> In 1999, the *GCN* closed, and the collection was donated to the Northeastern University Archives and Special Collections as part of the Bromfield Street Educational Foundation records.<sup>15</sup>

Searching through UASC’s own records, it is unclear how the the *Gay Community News* first came to be microfilmed, but there is evidence that UASC made an arrangement for the *GCN* to become part of GenderWatch in 2000. Originally formed as a CD-ROM product, GenderWatch was started in 1996 by SoftLine Information at the suggestion of the ACRL’s Women’s Studies Section.<sup>16</sup> In return for contributing the *GCN* to Genderwatch, the library received a free subscription to GenderWatch, annual royalties based on the percentage of articles in the database for each subscription sold, and quarterly royalties from Lexus/Nexus for every hit on one of the articles. Since this agreement was made, UASC has received regular checks from this arrangement. ProQuest acquired SoftLine in 2001.<sup>17</sup>

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<sup>12</sup> Cengage, “Investor Relations,” accessed March 12, 2021, <https://www.cengage.com/investor/>.

<sup>13</sup> Northeastern Libraries, “Introduction to the Gay Community Newsletter” (June 1973), <https://repository.library.northeastern.edu/files/neu:cj82pv91n>.

<sup>14</sup> Leon Neyfakh, “How Boston Powered the Gay Rights Movement,” *The Boston Globe*, June 2, 2013, <https://www.bostonglobe.com/ideas/2013/06/01/how-boston-powered-gay-rights-movement/wEsPZOdHhByHpjeXrJ6GbN/story.html>.

<sup>15</sup> Bromfield Street Educational Foundation Records, 1963-2003, Collection M064, University Archives and Special Collections, Northeastern University, Boston, MA, <https://archivesspace.library.northeastern.edu/repositories/2/resources/848>.

<sup>16</sup> Anthropology and Sociology Section of the Association of College and Research Libraries (ACRL), “GenderWatch – Reviewed Fall 2006,” *ANSS* (blog), November 22, 2010, <https://anssacrl.wordpress.com/publications/reviews/historical-reviews/genderwatch>.

<sup>17</sup> Anthropology and Sociology Section of ACRL, “GenderWatch – Reviewed Fall 2006.”

## The *Gay Community News* and Radical Empathy

When UASC's original microfilming decision was made, it was viewed as a way to bring the *Gay Community News* to an international audience. Without it, researchers would have to travel to a holding repository. The same argument was used when UASC allowed the microfilm to be digitized. In UASC's archived correspondence, representatives from the for-profit digitization company emphasized the importance of reaching new audiences to tell the LGBTQ community's "side of the story," and UASC's responses were enthusiastically positive. Although this might appear contradictory to UASC's values, in 1996, the archives field viewed digitization as an add-on, an extra service to be completed occasionally and with soft money instead of an integral part of archival access. Additionally, UASC did not have the capability to digitize, index, or serve a scanned collection.

UASC's legacy digitization decisions may have been legal and empathetic to donors, users, and communities at the time, but choosing to continue the relationship is less so. UASC currently has the ability to digitize, index, and serve the *Gay Community News* as well as any for-profit provider, and remains the copyright holder. In the current era of quick and cheap scanners, the ubiquitous use of digital repositories, and the Digital Public Library of America (DPLA), UASC no longer needs the digitization services and searching platform provided by for-profit companies. To date, UASC has digitized and made available over 60,000 individual archival items for free, using robust digital repository infrastructure and large amounts of server space and digital storage. This collection includes two newspapers, the *East Boston Community News* and Northeastern's African American student publication, the *Onyx Informer*. UASC digitized these newspapers so that they would be useful for their originating communities, to inspire creative re-use and historical research—a way of providing communities easy access to their own histories. Using the language of radical empathy, the goal was to create a more ethical relationship between the archivist and both the records creators and the records subjects. Without digitization, users would have to travel to UASC to view the collections. By contrast, having the *Gay Community News* behind a paywall results in uneven access, where affiliates of universities can access the resource but members of marginalized groups within the queer community may not. Certainly, UASC continuing to profit from the *Gay Community News* is ethical through a legal, rights-based lens, but not through a radically empathetic one. Developing an understanding of the economics of paywalled collections—how profits are made and distributed—is key to understanding the system's inequities in order to reinterpret "archival concepts to challenge dominant power structures in support of social justice principles and goals"<sup>18</sup>

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<sup>18</sup> Caswell and Cifor, "From Human Rights to Feminist Ethics."

## ECONOMIC ARGUMENTS

### From Libraries

The volume of conversation in libraries about information behind paywalls has increased at pace with the skyrocketing costs of journal subscriptions. In the film *Paywall: The Business of Scholarship*,<sup>19</sup> producer/director and open access advocate Jason Schmitt examines the problematic economics of traditional scholarly communications channels. Stripped to its core, the problem is that universities pay twice for the scholarly output of their (and other universities') faculty. They first pay faculty and incentivize them to publish their work. Publishing in a journal with the highest "influence score" or impact factor helps with tenure and promotion goals. Because many of these journals are published by for-profit companies, the second payment is in the form of university library budgets. In order for faculty to have access to these journals, university libraries must pay these for-profit companies for access.

Schmitt asks the question: Are universities prepared to fund their university libraries enough to keep up with skyrocketing subscription costs? Are the services provided by academic publishers worth these ballooning costs and the 35-40% profit margin associated with the top academic publishers? If they are not, they must be prepared to cut journal subscriptions and therefore access to scholarship for their faculty. Scholarly publishing is a \$25.2 billion industry that sits between scholarly output (faculty) and access to scholarship (libraries), both functions of and funded by the same institution (the university). A key element of this relationship is the opacity of pricing, as university libraries are asked to sign non-disclosure agreements and cannot compare prices with peers.

Opponents of paywalled library resources argue that making the public pay for publicly funded research violates the mission of universities. Universities are tax-exempt and therefore subsidized by the businesses and individuals paying taxes to support the infrastructure that keeps them open. Research is often funded by grants that come either from the government or from tax-exempt foundations. The IRS allows for an organization or entity to be exempt from paying taxes if its primary mission is for "religious, charitable, scientific, testing for public safety, literary, or educational purposes"<sup>20</sup> and it therefore benefits the public good. Most universities (and archives) are designated as such. But if the fruit of their scholarship is hidden behind a wall and only accessible to those who have

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<sup>19</sup> Jason Schmitt, *Paywall: The Business of Scholarship*, 2018, <http://archive.org/details/PaywallTheBusinessOfScholarshipFinalMovieMastered>.

<sup>20</sup> "Exempt Purposes – Internal Revenue Code Section 501(c)(3)," United States Internal Revenue Service, updated July 28, 2020, <https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3>.

a current affiliation with a university that can afford those prices, how does this scholarship benefit the public good?

Schmitt's position is not new. Both faculty and librarians have been questioning the business of scholarly communication for years. In a 2010 blog post entitled "Open Access Publishing and Scholarly Values," Dan Cohen remarked, "The entire commercial apparatus of the existing publishing system merely leeches on our scholarly passion and the writing that passion inevitably creates."<sup>21</sup> The scholarship will continue to be produced, but a new, economically just way of distributing it needs to be developed.

The editorial board at *Lingua*, a high-profile journal, recently made great strides toward open access when they resigned *en masse* and started their own rival open access journal, calling it *Glossa. Journal of Informetrics* followed suit, becoming *Quantitative Science Studies*.<sup>22</sup> To assist, the editors of *Quantitative Science Studies* received support (financial and logistical) from MIT. Director of MIT libraries Chris Bourg remarked that this support was "part of a deliberate strategy of using our resources to support the kinds of changes in scholarly communication and access that are consistent with our vision."<sup>23</sup>

In 2017, David Lewis, Dean of Indiana University–Purdue University Indianapolis's university library, proposed the 2.5% Challenge, arguing that every academic library should contribute 2.5% of its total budget to support a collaboratively built scholarly commons.<sup>24</sup> His reasoning was that even a small percentage of the \$7 billion spent by university libraries yearly should be enough to fund the infrastructure needed to support an open access scholarly platform. The previous examples are part of a growing cohort of libraries making bold stances toward open access. Although the overall impact of this movement is in the future, the frequency and tenor of the conversations themselves have destabilized entrenched journal practices and call attention to fresh ideas in scholarly communication.

## For Archives

Yet the archives profession has been largely absent from academic libraries' conversation on the economic impacts of paywalled collections. For UASC, because of the twin benefits of telling the "other side of the story" and receiving an additional income stream, microfilming the *Gay Community News* was seen as a positive move. But while UASC has

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<sup>21</sup> Dan Cohen, "Open Access Publishing and Scholarly Values," accessed March 12, 2021, <https://dancohen.org/2010/05/27/open-access-publishing-and-scholarly-values/>.

<sup>22</sup> Lindsay McKenzie, "Elsevier Journal Editors Resign, Start Rival Open-Access Journal," *Inside Higher Ed*, January 14, 2019, <http://www.insidehighered.com/news/2019/01/14/elsevier-journal-editors-resign-start-rival-open-access-journal>.

<sup>23</sup> McKenzie, "Elsevier Journal Editors Resign, Start Rival Open-Access Journal."

<sup>24</sup> David W. Lewis, "The 2.5% Commitment," September 11, 2017, <https://doi.org/10.7912/C2JD29>.

benefitted from this relationship, many other institutions had to budget for the cost of this resource—a net economic negative for the field as a whole.

Using the library open access model examples and the 2.5% Challenge as a guide, a similar re-framing could be financially beneficial for the archival community. If university libraries stopped paying for paywalled primary source materials, it might result in a significant economic windfall for libraries and archives. A complete reallocation of \$1.5 billion would free up money equivalent to 6,000 CLIR Digitizing Hidden Collections grants per year instead of the 17 awarded in 2019. Alternatively, if 13 universities similar to the example above chose to reallocate their digital acquisitions budgets toward open source digitization projects, they would also eclipse CLIR’s approximately \$4 million yearly Digitizing Hidden Collections budget. The ways that university libraries budget resources might account for some of the silence in the archival field, as paywalled archival resources are traditionally viewed as a scholarly resource and paid for out of general library funds instead of those earmarked for special collections.

## RECONCILING OUR ACTIONS AND OUR PROFESSIONAL VALUES

### SAA/ALA Code of Ethics

According to the Society of American Archivists, archives should “seek to build connections to under-documented communities to support: acquisition and preservation of sources relating to these communities’ activities, encouragement of community members’ use of archival research sources, and/or formation of community-based archives.”<sup>25</sup> The American Library Association-Society of American Archivists’ Joint Statement of Access: Guidelines for Access to Original Research Materials (August 1994, revised 2009)<sup>26</sup> stipulates that a repository “should not charge fees for making available the material in its holdings.”

Applied to paywalled resources, those two values, encouraging community members to use archival resources and without charge, start to make a case that our professional associations’ code of ethics should also include digital surrogates as part of “materials in holdings” that repositories should not charge fees for. As described previously, legacy agreements are difficult to understand, untangle, and therefore

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<sup>25</sup> Society of American Archivists, “SAA Core Values Statement and Code of Ethics,” accessed March 12, 2021, [https://www2.archivists.org/statements/saa-core-values-statement-and-code-of-ethics#core\\_values](https://www2.archivists.org/statements/saa-core-values-statement-and-code-of-ethics#core_values).

<sup>26</sup> Society of American Archivists, “ALA-SAA Joint Statement of Access: Guidelines for Access to Original Research Materials (August 1994),” Society of American Archivists, accessed March 12, 2021, <https://www2.archivists.org/statements/ala-saa-joint-statement-of-access-guidelines-for-access-to-original-research-materials-au>.

change. But acknowledging that these relationships are problematic could spark a field-wide commitment to assisting archivists with understanding and making attempts to change legacy digitized collections. More immediately, adding digital surrogates to our understanding of “materials in holdings” in the Joint Statement should prevent additional collections from being put behind a paywall, a practice that continues to this day. A recent example of this comes from the British Library, whose “Private Case” collection of sexually explicit books was recently digitized, but is only “[available] by subscription to libraries and higher education institutions, or for free at the library’s reading rooms in London and Yorkshire.”<sup>27</sup>

## Provenance

When a collection becomes a product to be sold, archivists are largely removed from the descriptive decision-making process, which can be problematic for maintaining archival context. Thus, another professional value at stake by paywalling archival collections is the principle of provenance. SAA defines provenance as “a fundamental principle of archives, referring to the individual, family, or organization that created or received the items in a collection. The principle of provenance or the *respect des fonds* dictates that records of different origins (provenance) be kept separate to preserve their context.”<sup>28</sup>

Though primary source providers regularly use advisory boards of scholars to select and/or curate their collections, the provenance of the collections for sale is almost always hidden or obscured by the fact sheets and brochures provided by these companies. If the originating collection (e.g., *Gay Community News*) is mentioned at all, its parent institution (e.g., UASC) is not.<sup>29</sup> This effectively separates the digitized surrogates from their original counterparts. To the novice researcher, it might seem that these primary sources do not have a physical presence. Inside the digital collection, the digitized items are jumbled together and presented without context, authorship, authority, or authenticity. In order to prioritize a mutually affective network through radical empathy, this separation from the physical archive and its relationship with the donor mistreats the relationship between user and record, donor and record, and the archive and the greater community. This problem is common to all searchable digitized collections, but in open access collections, supplied metadata almost always refers users to the original collection and repository.

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<sup>27</sup> Alison Flood, “British Library’s Collection of Obscene Writing Goes Online,” *The Guardian*, February 4, 2019, <https://www.theguardian.com/books/2019/feb/04/british-librarys-collection-of-obscene-writing-goes-online>.

<sup>28</sup> “Provenance,” *Dictionary of Archives Terminology*, Society of American Archivists, accessed March 12, 2021. <https://dictionary.archivists.org/entry/provenance.html>.

<sup>29</sup> ProQuest, “GenderWatch Brochure,” accessed August 28, 2019, <https://media2.proquest.com/documents/genderwatch.pdf>.

## SOCIAL JUSTICE IN ARCHIVAL PRACTICE

As Caswell and Cifor explain, “a social justice agenda in archives requires undertaking critical analyses of power, its operation, distribution, and abuses; working toward equity in the distribution of resources and opportunities; building and maintaining cross-cultural collaboration and dialogue; advocating the inclusion of and promoting the agency of marginalized individuals and communities in the archives; and reinterpreting archival concepts to challenge dominant power structures in support of social justice principles and goals.”<sup>30</sup> Preventing access to the full extent of a community’s history for members of that community is a form of abuse of power. The following examples illustrate the problems of paywalled resources that were digitized using a rights-based approach, contrasted with recent examples of change based on ethical considerations.

### Affective Responsibilities and Digitized Resources from Marginalized Communities

Caswell and Cifor’s approach to radical empathy “builds on Verne Harris’s Derridean insistence that we invite ‘the other’ into the archives, that we let hospitality guide our archival interventions.”<sup>31</sup> A reframing toward radical empathy necessitates a reexamination of “the user” as a researcher who studies a “subject” of research. Repurposing the feminist concept of “the male gaze” (which refers to the lens through which cis-hetero men view the world) into an archival world reveals a “researcher gaze,” a relationship similarly built on entitlement, objectification, and othering.

Paywalled collections can perpetuate the “researcher gaze” by deliberately separating the researcher from the researched. Evidence of this can clearly be seen in product brochures. For example, the description of a paywalled product entitled “Black Liberation Army and the Program of Armed Struggle” reads:

If one were to examine African American history, one would be *surprised* to find a long history of militant armed struggle. Slave rebellions, urban “guerrilla” activities in the 1960s, rural defense leagues, were all part of a tapestry of black militancy [emphasis added].<sup>32</sup>

The use of the word “surprised” in this description is a clear reflection of the “researcher gaze,” as it effectively separates the “researcher” and “researched” into two

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<sup>30</sup> Caswell and Cifor, “From Human Rights to Feminist Ethics.”

<sup>31</sup> Caswell and Cifor, “From Human Rights to Feminist Ethics.”

<sup>32</sup> Gale Group, “Black Liberation Army and the Program of Armed Struggle, 1970-1980,” accessed March 30, 2019, [https://www.cengage.com/search/productOverview.do?Ntt=black+liberation+army%7C%7C1058544861137836913214813992521017909515&N=197&Nr=197&Ntk=APG%7C%7CP\\_EPI&Ntx=mode+matchallpartial#about](https://www.cengage.com/search/productOverview.do?Ntt=black+liberation+army%7C%7C1058544861137836913214813992521017909515&N=197&Nr=197&Ntk=APG%7C%7CP_EPI&Ntx=mode+matchallpartial#about).

distinct categories without overlap and assumes that the users of this collection would have limited knowledge of the long history of scholarship on black armed rebellions in the United States. In this case, the originating community is both barred from accessing the digitized material, but then further alienated by microaggressions in the collection description.

Examples of for-profit companies choosing to reduce profits in the name of social equity are few, but they do exist. For example, in 2017, Hein Online determined that it was unethical to continue to profit from American slavery in any form, stating, “The crisis revolving around race relations in America and the recent events surrounding this crisis have made the Hein Company rethink the idea of financially profiting from the sale of a collection on slavery.”<sup>33</sup> Access requires registration, but *Slavery in America and the World: History, Culture & Law* is freely available.

Another group chose to create an alternate, open access collection. In 2013, Student Nonviolent Coordinating Committee (SNCC)’s veteran organizers created a collection, drawn from personal collections, freely available digitized primary source material held at other institutions, and newly-created oral histories in support of their mission, which reads, “Learn from the past, organize for the future, make democracy work.”<sup>34</sup> They decided to embark on this project as the bulk of the SNCC official records were microfilmed, scanned, and made available as a paywalled product in 2014.<sup>35</sup>

## Affective Responsibilities and Digitized Indigenous Resources

In describing the second affective responsibility, Caswell and Cifor call attention to Livia Iacovino’s idea of a “*participant model of co-creatorship* that grants the Indigenous subjects of records (and the community of their descendants) the rights to control, describe, respond to, and use records documenting colonial violence.”<sup>36</sup> Without adding Indigenous interpretation, digitized collections like *American Indian Histories and Cultures*

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<sup>33</sup> PRWeb, “William S. Hein & Co., Inc. Offers Unprecedented Complimentary Global Access to Comprehensive Slavery Research Collection,” News Center, October 7, 2016, <https://www.prweb.com/releases/2016/10/prweb13742185.htm>.

<sup>34</sup> “About,” SNCC Digital Gateway, accessed March 12, 2021, <https://snccdigital.org/about/sncc-digital-gateway/>.

<sup>35</sup> “The Student Nonviolent Coordinating Committee Papers, 1959-1972 (SNCC) - The Student Nonviolent Coordinating Committee Papers, 1959-1972 (SNCC),” accessed March 30, 2019, <https://www.proquest.com/products-services/film/the-student-nonviolent-coordinating-committee-papers-1959-1972-sncc1.html>.

<sup>36</sup> Livia Iacovino, “Rethinking Archival, Ethical and Legal Frameworks for Records of Indigenous Australian Communities: A Participant Relationship Model of Rights and Responsibilities,” *Archival Science* 10, no. 4 (December 1, 2010): 353-372, <https://doi.org/10.1007/s10502-010-9120-3>.

can radically skew understanding of the history of the United States' treatment of its original inhabitants. This product, drawn from the Edward Everett Ayer collection at the Newberry Library, is described as "perhaps the finest gathering of materials on American Indians in the world."<sup>37</sup> Ayer himself was "the descendant of one of the oldest families of New England," as his family first settled in Massachusetts in 1636.<sup>38</sup> Cherokee historian Ellen Cushman notes that the "processes by which these objects came to be collected and displayed are not only de-emphasized, but purposely left out" and that "the roots of archiving hold strong in the imperialist soil of Western thought."<sup>39</sup> Clearly the collection was amassed during a period of cultural genocide, and without provenance, materials are presented without the contextual clues necessary for a true cultural understanding and a responsibility toward to records subjects.

Although using a radical empathy lens highlights the power inequities inherent in digitized Indigenous collections behind paywalls, some companies do grapple with access versus profits. For example, *American Indian Newspapers*, a product from the same company that sells the Ayer collection is made freely available to tribal colleges and universities in the US "as part of [the company's] commitment to enabling and enhancing research opportunities."<sup>40</sup> A topic for further research could be an analysis of why the newspapers are made available to tribal colleges and universities but the Ayer collection is not.

Additionally, recent scholarship in Native literature and museum studies has sought to decolonize institutions by stressing the importance of ethical interactions with Native archives and artifacts. Scholars, Native communities, and archivists have responded to this call by creating Mukurtu, a content management system that seeks to "empower communities to manage, share, narrate, and exchange their digital heritage in culturally relevant and ethically-minded ways" is conceived as "a safe keeping place where Warumungu people can share stories, knowledge, and cultural materials properly using their own protocols."<sup>41</sup> One key feature of this system is that digitized objects are given openness designations determined by the originating community based on traditional practices.

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<sup>37</sup> Scott Manning Stevens. "Mr. Ayer's Community Service: The Creation and Use of a Great Collection." *American Indian Histories and Cultures*. 2013. Accessed March 12, 2021. <https://www.aihc.amdigital.co.uk/FurtherResources/Essays/IntroToTheAyerCollection>.

<sup>38</sup> Scott Stevens, "Mr. Ayer's Community Service."

<sup>39</sup> Ellen Cushman, "Wampum, Sequoyan, and Story: Decolonizing the Digital Archive," *College English* 76, no. 2 (2016): 21.

<sup>40</sup> Adam Matthew Digital, "American Indian Newspapers," accessed March 12, 2021. <https://www.americanindiannewspapers.amdigital.co.uk/>.

<sup>41</sup> "About," Mukurtu CMS, accessed March 12, 2021, <http://mukurtu.org/about/>.

Other examples of the radical empathy concept of “advocating the inclusion of and promoting the agency of marginalized individuals and communities in the archives”<sup>42</sup> include subject-based repositories and metadata aggregators. Subject specific collections bring digitized material from several collections into one digital repository and make them freely available to the public. They use agreed-upon standards for selection, digitization, metadata, and search functionality, which makes the collections even and standard. Subject repositories often allow for full-text searching or other extended word-level searching. Usually they are grant-funded, requiring host institutions to upgrade technology periodically in order to avoid obsolescence. The Desegregation of Virginia Education (DOVE) project is one excellent example.<sup>43</sup> More recently, scholars and archivists have created powerful metadata aggregator portals, such as UMBRA Search<sup>44</sup> and the Digital Transgender Archive,<sup>45</sup> that unite digitized material from disparate digital collections. These aggregators pull available metadata into a metadata repository, allowing for searching within their selected topic. Metadata aggregators are advantageous because they can use customized search and display functionality and are able to solicit digitized and freely available collections from any repository. Both types differ from paywalled collections because they make digitized material freely available. They are created with provenance in mind, the originating collections are clearly marked, the original repositories are cited extensively, and description is usually archivist-generated.

## UASC’S ATTEMPT TO CHANGE

As mentioned above, reviewing UASC policies and practices through a radically empathetic lens revealed problematic policies and practices. Making changes started small. First, we instituted a free, scan-on-demand policy for our donor organizations and individuals, to whom we had previously charged fees. After users reported having trouble accessing UASC’s offices, we worked with the University Library to craft more welcoming entry procedures. Thirdly, we made our collections much more accessible, starting with a collection of material pertaining to the desegregation of the Boston Public Schools.

In 2014, Boston marked the 40th anniversary of the start of its court-ordered “busing” program. Many of the commemorative news stories focused on the dominant

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<sup>42</sup> Caswell and Cifor, “From Human Rights to Feminist Ethics.”

<sup>43</sup> Old Dominion University, “Desegregation of Virginia Education (DOVE),” accessed March 12, 2021, <http://www.odu.edu/library/special-collections/dove>.

<sup>44</sup> “Umbra Search African American History,” Umbra Search African American History, accessed March 12, 2021, <https://www.umbrasearch.org>.

<sup>45</sup> Digital Transgender Archive (website), accessed March 12, 2021, <https://www.digitaltransgenderarchive.net/>.

narrative of anti-busing white activists, rocks and police and buses, effectively obscuring the 30 years of Black activism that predated the court order and sought to remedy the egregious inequality in Boston's *de facto* segregated schools. Although the story of this movement was common knowledge in the Black community, archives and information about it were not freely and regularly available. There were other desegregation-related collections, but most of their content was from the American Southeast. This also was not surprising—the bulk of the most relevant collections on desegregation in Boston were housed at UASC, UMass Boston, Suffolk University, and the City of Boston Archives. None had digitized material, and none were connected to metadata aggregators.

Led by UASC, in 2015 several Boston-area archives met to discuss building a Boston-specific school desegregation archive. The idea to create this collection was sparked by the Boston Public Schools' decision to create a curriculum focusing on school desegregation. Boston's Union of Minority Neighborhood's Boston Busing Desegregation Project (BBDP)'s truth-and-reconciliation-style findings about the lingering effects of "busing" in Boston<sup>46</sup> altered the direction/thrust of our digitization project. This led the group to focus on the long civil rights movement, Boston's civil rights heroes, many of whom focused their efforts on integration efforts, and the successes of leaders in communities of color. Making this evidence freely available both for Boston Public Schools' curricular purposes and to broaden and deepen the discussion of this moment became the goal.

The group agreed to create a lightweight, nimble collection using the infrastructure of DPLA to gather desegregation-related collections together. Instead of being gathered into a subject-specific standalone repository (like DOVE), all digital objects remained in each institution's digital repository. Contributing to DPLA is free via state-wide "service hubs"; some of these hubs host collections directly. Archives with an existing digital repository connect via application programming interface (API). For the project, each archival partner built a DPLA connection, scanned material, provided compliant metadata to Massachusetts's service hub Digital Commonwealth, and built a connecting website and search tool. Items were aggregated by the use of agreed-upon subject headings. In the spirit of the DPLA's focus on aggregation over standardization, individual repositories' technical digitization and metadata standards did not change. The resulting collection, "Beyond Busing: Boston School Desegregation Archival Resources,"<sup>47</sup> is built on an easy-to-use WordPress platform and uses a simple string-based approach to search DPLA for the material in the collection.

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<sup>46</sup> "Truth, Learning, and Change: Racism and Class Literacy Education in Boston," Truth, Learning, and Change, accessed March 12, 2021, <https://truthlearningchange.com/>.

<sup>47</sup> Northeastern University Libraries, "Beyond Busing: Boston School Desegregation Archival Resources," accessed March 12, 2021, <https://bpsdesegregation.library.northeastern.edu>.

If scaled up, this model has the potential to radically alter the ability of archives to reach non-academic audiences. Archives can collaboratively build collections on any topic—collections that rival ones available for purchase, but are freely available to all. The barrier to entry for archives is low- to no-cost, and once a connector has been built, items can be added over time, at a rate determined by institutional capacity. In UASC’s case, the Desegregation collection has resulted in heavy pedagogical use in the Boston Public Schools, giving rise to a desire for in-person instruction sessions and resulting in 140 high school students visiting the archives in the first year it was offered. On campus, the collection has formed the basis of coursework for courses in several different disciplines. Both faculty and teachers using the collection have noted that using a hybrid collection is helpful. It allows for tangible archival experiential exploration in-person, as well as the ability for students to interact with primary sources on their own timeframes.

### Unpaywalling the Gay Community News

While UASC made moves toward a more ethical work in access, fee structures, and piloting its subject-based aggregator collaboration, the collections behind paywalls remained. Executing the decision to remove the paywall from the *Gay Community News* was challenging. First, UASC first needed to make a convincing argument to Library staff that the income generated by the paywalled version was not worth the loss of the community’s goodwill, and the resulting negative implications for donor relations and fundraising. Next, UASC worked with Library staff and Northeastern’s legal team to review the various relevant legal contracts. The legal team determined that our “reserved rights were unlimited,” and therefore it was legal for UASC to re-scan the newspaper, as long as we didn’t re-license the material with competitors. Northeastern’s legal team reiterated that while the contract states that the company owns the scans, UASC retained copyright to the paper. As the collection will be freely available, all parties agreed that a Creative Commons license that does not permit resale or other commercial use would suffice. The process was tricky and long, but ultimately successful—UASC is currently raising funds and making plans to re-scan, index, and make the collection available through Digital Commonwealth and the DPLA.

### CONCLUSION

A radical empathy lens reveals the ways that paywalled collections perpetuate the unequal power relations of historic and current archival praxis. Archivists need to start looking at paywalled resources with clear eyes and critically analyzing our own action/inaction in making a change toward equitable access, bolstered by our professional associations’ ethical guidelines. The open internet offers hope for a future leveled playing field, but it will require resources and work. In his argument for the 2.5%

Challenge, David Lewis laments the precarity of funding for open access infrastructure for scholarly communication, and the same holds true for archives: both the DPLA and the Internet Archive, institutions our field already heavily relies on for preservation and access, are on insecure financial ground.<sup>48</sup> We need to build and appropriately fund the information architecture that could underpin a movement of resources from paywalled to open, as well as the teaching and research opportunities that will inevitably arise.

Most importantly, an archival re-framing toward a feminist ethics of care could lead to a radically altered landscape of digital collections access, and *it is within our power to make this happen*. As a field, archives can stop making contracts with for-profit vendors to put even more material behind paywalls. We can ask our university library selector counterparts to avoid purchasing paywalled collections. We can ask for those funds to be repurposed toward digitization projects, either at our own institutions or at another institution whose collections are more relevant to faculty. We can nullify contracts. We can re-scan paywalled collections and make them freely available. We can support our values and codes of ethics with action.

Although the field needs to change significantly in order to accommodate diverse perspectives and privilege marginalized histories, it is especially important for institutions like UASC that work with marginalized communities to deepen our commitment to these communities, practicing the cultural humility necessary to implement radical change.

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<sup>48</sup> Roger Schonfeld, "Learning Lessons from DPLA," *The Scholarly Kitchen*, November 13, 2018, <https://scholarlykitchen.sspnet.org/2018/11/13/learning-lessons-from-dpla/>.

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