



**University of Dundee**

### **Archive/Contre-archive**

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*DOI:*  
[10.21409/YH3A-1K10](https://doi.org/10.21409/YH3A-1K10)

*Publication date:*  
2022

*Licence:*  
CC BY

*Document Version*  
Publisher's PDF, also known as Version of record

[Link to publication in Discovery Research Portal](#)

*Citation for published version (APA):*  
Sicondolfo, C., Swanson, R., Ebanks Schlums, D., Bourcheix-Laporte, M., & Luka, M. E. (2022). Archive/Contre-archive: Activation de principes de respect dans le développement d'une politique archivistique. *ESSACHESS - Journal for Communication Studies*, 15(1(29)), 153-175. <https://doi.org/10.21409/YH3A-1K10>

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*ESSACHESS – Journal for Communication Studies*

## **Archive/Counter-Archive: Activating Principles of Respect in Archival Policy Development**

ESSACHESS –  
Journal for Communication Studies  
Volume 15 Issue 1(29), p. 153-175  
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<https://www.essachess.com/>  
DOI: 10.21409/essachess.1775-352x

Cite: SICONDOLFO, C., EBANKS SCHLUMS, D., BOURCHEIX-LAPORTE, M., LUKA, M. E., & SWANSON, R. (2022). Archive/Counter-Archive: Activating Principles of Respect in Archival Policy Development. *ESSACHESS*. <https://doi.org/10.21409/YH3A-1K10>

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**Abstract:** *Archive/Counter-Archive (A/CA): Activating Canada's Moving Image Heritage* is a seven-year research-creation project involving more than 100 collaborating artists, academics, and activists from across the country that reveals how

Article received on November 11, 2021. Article accepted on April 25, 2022.  
Conflict of Interest: The authors declare no conflict of interest.

Information and Communication Technologies (ICT) come into contact with vulnerable community-driven audiovisual archives, an important part of contemporary cultural heritage. This article examines the power dynamics embedded in A/CA as well as in current ICT infrastructure, legislation, and organizational policy and resources, to address two emergent challenges experienced by the network over a three-year period. The authors ask whether and in what ways A/CA was able to oppose the extractive power dynamics embedded within the current cultural heritage preservation and ICT management systems through operational models and ICT tools that incorporate creative approaches. Locating this project where community-engaged research comes together with the study of digitization and platformization of cultural production and heritage, the authors used autoethnographic and feminist intersectional discourse analyses to examine the tensions and challenges embedded in the communities of practice that took shape over these three years. The first set of findings explores the organizational limits imposed on the network's participants, including the lack of national and local resources for digitizing and sharing vulnerable and often marginalized media archives. This was addressed in the A/CA context by developing a flexible contracting approach for the digitization and use of the vulnerable media being digitized, as well as through the development of a national Action Plan. The second set of findings demonstrates how creative interventions in community-based partnerships and artist residencies affected the genesis of a Principles of Respect (PoR) Committee and related pragmatic in-the-field efforts to address some of the historically troubled relationships that large, official media archives have had with Indigenous and Black communities. The authors explore the ways in which creative workshops and artist residencies are mobilized within A/CA to help build a more respectful and reciprocal set of relations. Lastly, we examine the broader implications for intellectual property and content management as it is influenced by the current role of ICTs in relation to cultural heritage, suggesting some ways forward.

**Keywords :** community archives, audiovisual heritage, archival policy, audiovisual digitization, community relations

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*Archive/Contre-archive: Activation de principes de respect dans le développement d'une politique archivistique*

**Résumé :** *Archive/Counter-Archive (A/CA): Activating Canada's Moving Image Heritage* (traduction libre : *Archive/Contre-archive: Activation du patrimoine audiovisuel canadien*) est un projet de recherche et création échelonné sur sept ans, qui implique plus de 100 collaborateurs, dont des artistes, universitaires et activistes. Le projet met en lumière un enjeu actuel important dans la préservation du patrimoine culturel, soit les tensions inhérentes à la rencontre entre les technologies de l'information et de la communication et les archives audiovisuelles gérées par des communautés vulnérables. Examinant les dynamiques de pouvoir au sein de A/CA ainsi qu'au sein des infrastructures technologiques, de la législation, des politiques

organisationnelles et des ressources existantes, l'article fait état de deux problématiques auxquelles a fait face le réseau de A/CA sur une période de trois ans. Les auteures posent la question à savoir si, et comment, A/CA a été en mesure de s'opposer aux dynamiques de pouvoir extractives qui sont imbriquées dans les modèles actuels de préservation du patrimoine culturel et de la gestion des technologies de l'information et des communications grâce à l'adoption d'une approche créative à la gestion des opérations et à l'utilisation des outils technologiques. Situait le projet à l'intersection de la recherche axée sur la communauté et des études de la numérisation et de la « plateformes » de la production et du patrimoine culturels, les auteures emploient l'analyse auto-ethnographique et le discours féminisme intersectionnel afin d'examiner les tensions et enjeux qui ont émergé au sein de communautés de pratique pendant ces trois années. Les premiers résultats partagés sont liés aux limites organisationnelles qui se sont imposées aux membres du réseau, y compris la manque d'accès, tant au niveau national que local, à des ressources pour numériser et faire rayonner des archives médiatiques en situation précaire. Dans le contexte de A/CA, la problématique a été résolue en développant un Plan d'action national et en adoptant une approche flexible à l'élaboration de contrats pour la numérisation et l'utilisation des ressources médiatiques numérisées. Les deuxièmes résultats partagés démontrent comment des interventions créatives entreprises au sein des partenariats communautaires et dans le cadre de résidences d'artistes ont mené à la mise sur pied d'un comité consacré à l'élaboration de Principes de respect. Découlant du travail de ce comité, des efforts déployés sur le terrain ont visé à remédier partiellement à la relation trouble que les archives institutionnelles ont historiquement entretenue avec les communautés autochtones et noires. Les auteures examinent comment des ateliers créatifs et résidences d'artistes entrepris dans le cadre de A/CA ont pu contribuer à bâtir des relations basées sur la réciprocité et le respect. Finalement, dans une perspective élargie, nous explorons et proposons des solutions à des questions liées à la propriété intellectuelle et à la gestion des contenus en rapport au rôle actuel des technologies de l'information et de la communication dans la préservation du patrimoine culturel.

**Mots-clés** : archives communautaires, patrimoine audiovisuel, politique archivistique, numérisation audiovisuelle, relations communautaires

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### **Introduction**

*Archive/Counter-Archive (A/CA): Activating Canada's Moving Image Heritage* is a seven-year research-creation project involving more than 100 collaborating artists, academics, and activists from across the country to address an urgent lack of policy and practice around the sustainability of community-driven audiovisual archives. As a community-engaged communications technology endeavour, currently three years into activating its mandate, the project is “dedicated to activating and remediating audiovisual archives created by Indigenous Peoples (First Nations, Métis, Inuit), the Black community and People of Colour, women, LGBT2Q+ and immigrant

communities” (A/CA, n.d., Welcome). Led by Dr. Janine Marchessault at York University (Toronto, Canada), A/CA holds a \$2.5 million Partnership Grant from a federal academic funding agency, Social Sciences and Humanities Research Council (SSHRC). The grant supports seven case studies, several artist residencies at federal media archives and libraries, six official working groups, and 28 partners involved in the research, made up of representatives from universities, provincial and federal archives, artist-run centres, and community organizations from across Canada.

### **1. Research Question**

The co-authors of this article are members of the Cultural Policy, IP and Rights Ecosystems Working Group (CPIPPE) for A/CA. CPIPPE “aims to develop and support the evolving media archive ecosystem and related best practices for cultural knowledge management, and to inform policy deliberations in this area” (A/CA, n.d., CPIPPE). As the partnership began to mature, community and academic members of the network began to observe that the power dynamics of the existing cultural heritage funding and content management systems were being replicated (or had the potential to be replicated) in A/CA, which disadvantaged traditionally under-resourced or equity-seeking groups the project was meant to serve and support. In particular, unwanted potential conflicts began to emerge in how Information and Communication Technologies (ICTs) could be or were being applied. Some case study groups wanted to digitize and make media archives widely available on ICT platforms, often without budgets for artist compensation for activities such as exhibitions, screenings, or even for fulsome use on the A/CA website or partner websites, and sometimes without clear provenance around rights held by the organization that physically stored the media archives. Some artists-in-residence wanted to repatriate media archives of cultural heritage that had been gathered without consent or with questionable consent processes decades earlier (for example, from Indigenous or Black communities) — sometimes with the implication that the content would be removed from ICT platforms run by nation-state or provincial/territorial archives. As a result, an important policy research question arose within A/CA and particularly within CPIPPE: in what ways can A/CA ameliorate and oppose the extractive power dynamics embedded within the current cultural heritage preservation and ICT management systems through newly developed operational models and ICT tools? To help us answer this question, we look at two arenas of activity in this article: (1) organizational structures and processes developed through the creation of the media digitization contract; and (2) the naming and addressing of power dynamics and tensions within A/CA that led to the ad hoc Principles of Respect activities through the activation of archival media with community partners. This article examines the emergent processes nurtured within A/CA to address key challenges embedded not just in the Partnership itself, but in the very bones of the Canadian cultural and regulatory environment within which A/CA operates.

## 2. Literature Review

Written by members of the A/CA Cultural Policy, IP, and Rights Ecosystems Working Group<sup>1</sup> (CPIPPE), this article is framed by a critical understanding of community-engaged processes, data sovereignty, the moral and intellectual property rights of artists and creators of content, and ethical content and knowledge management practices. These frameworks provide A/CA with a distributed and inclusive foundation for building good relations among the participants and their respective groups and communities. It also grounds the project in reciprocity-informed ICT, integral when developing protocols for sharing and withholding intellectual permissions and property rights related to vulnerable community and creative archives, and particularly in outlier archives such as those examined in A/CA.

Community archives, as a substantially under-recognized form of counter-archives—see the entire issue of *Public 57: Archive Counter-Archives* (Chew et al., 2018)—for more examples, make up a large number of the community partners in A/CA. As community partners, they represent the (often) non-academic project participants. Fitting these groups into a large community-engaged academic project risks replicating broader social cultural heritage ICT power dynamics. Community members—who are often artists, activists, and members of the general public—have little to no experience in pan-academic organizational structures or with regimented cultural policy regulatory environments. As many community archives do not have the benefit of a research coordinator to assist them in interpreting the logistics of these partnerships, they are often left to navigate the academic system while simultaneously participating in research that exclusively continues to benefit larger institutions.

A/CA strives—and is rightfully challenged—to accommodate variously-sized institutions and interpretations of partnership engagement, so as to ensure community members have a better chance of equitable participation that benefits both the project goals and the partnering institutions (Caswell, 2014; Gover, 2014). However, this type of academic framework—grounded within a SSHRC Partnership Grant that is based almost entirely on creating community partnerships with academics—is often unable to break away from a governmental reporting structure used to ensure spending accountability. As noted by Cole et al. (2018), academic grant reporting can leave community groups behind, particularly if they find the system to be overly cumbersome, struggle to hold voice within a large project, or grapple with an ongoing lack of resources within their own organizations. Significant research points towards the ways community archives collapse under such pressures (Wakimoto et al., 2013; Sheffield, 2020; Caswell et al., 2017). While the community archives participating in the project do receive benefits of being partners and members, they are often disadvantaged in relation to the larger, more established partner institutions who boast

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<sup>1</sup> Co-authors are listed in alphabetical order by first name, a common practice among feminist and intersectional writers.

more financial and human resources to dedicate directly to any given partnership project.

A/CA's community-focused approach to the digitization of audiovisual cultural heritage and its dissemination through digital platforms acts as an intervention in the gaps that exist across the Canadian ICT policy landscape. Thinking through the act of digital preservation in the relational context of A/CA's community resulted in a policy approach to digitization and use of digitized materials embedded in an ethics of care (Caswell et al., 2017) and driven by equity values. As will be discussed in further detail below, the lack of existing sectoral standards for online presentation of media arts has been a major challenge for the development of the parameters for A/CA's digital platform and for community partner platforms. This situation is symptomatic of the larger lack of regulatory frameworks for audiovisual distribution online, which has been a neglected aspect of cultural policy in Canada, resulting in power imbalances embedded in the "platformization" of the cultural industries (Bannerman et al., 2020; Taras, 2015; Winseck, 2021). In Canada, ICT policy has historically served the dual agenda of securing techno-economic sovereignty and fostering cultural nationalism in response to internal-Indigenous populations, Québécois nationalism, ethnic and racial minorities—and external-geo-political proximity to the United States—threats to Canadian unity (Dorland, 1996; Raboy, 1990).

Interventions from the federal government in the realm of ICTs have, since the Canadian Radio Broadcasting Act of 1932, manifested across a spectrum of cultural nationalist policies, including the adoption of protectionist broadcasting and content regulations (Edwardson, 2008) and the pursuit of various cultural exemption strategies in free trade agreements (Goff, 2019). More recently, Canada's adoption of a "creative industries" policy approach that foregrounds digital technology as engine of economic growth (Bourcheix-Laporte, 2019; Kim, 2021) problematizes the inadequacies of the current ICT regulatory landscape in the face of digitalization (Davis & Zboralska, 2019; Wagman, 2017). At present, the federal Broadcasting Act, which was last amended in 1991, does not account for online broadcasting initiatives, be they domestic or international. This omission effectively exempts digital platforms from the regulatory purview of the Canadian Radio-television and Telecommunications Commission (CRTC), which regulates content and oversees broadcasters' contributions to the Canadian cultural production funds (Yale et al., 2020). A federal bill proposing to amend the Broadcasting Act is presently under parliamentary review and, if adopted, would expand the definition of broadcasting to include the transmission of audiovisual content online and to fold this type of broadcasting into the existing regulatory framework (Bill C-11, 2022).

### 3. Methodology

Aligned with the investigations presented in this Special Issue of *ESSACHESS*, an important contribution of A/CA is the mobilization of ICTs for digitization of the Canadian cultural heritage of historically marginalized communities. A/CA's tagline is "activating Canada's audiovisual heritage" for several vulnerable community A/V collections at risk of disappearing due to technological and budgetary constraints. The CPIPE's intervention in the archival process is, however, oriented towards future-making (Markham, 2018), including a mandate to preserve (and present) a selection of archival material in collaboration with the Vulnerable Media Lab (VML) at Queen's University. A/CA and the CPIPE are grounded in a contemporary understanding of the unique and often inequitable challenges facing many A/CA community partners and/or case studies, such as VTape (AIDS Activist Media), Arnait (Inuit Women Media Makers), CFMDC (Canadian LGBT2Q+ films made between the 1970s-2000s), The Winnipeg Film Group (experimental Canadian cinema); Urban Shaman and Shoal Lake 40 (Winnipeg and Anishinaabe archival protocols), Margaret Perry and the Nova Scotia Film Archives. Rooted in Michelle Caswell's (2014) five key principles learned from community archives, the CPIPE's mandate is based on community archives discourses of "participation, shared stewardship, multiplicity, archival activism, and reflexivity." The CPIPE's mandate reflects its aimed praxis, stating, "The Working Group [is] committed to Indigenous methodologies, respectful and inclusive protocols for working with community archives .... Because of the many complex sets of relations in Canadian settler society, the Working Group is firmly grounded within the various communities and case studies we are working alongside, attempting to directly address and activate (re)conciliation and related ethical commitments" (A/CA, n.d., CPIPE). While the CPIPE is committed to the (re)interpretation of Canadian A/V heritage policy, its aim is to maintain equitably, legible, and interpretable legal and procedural translation for the many diverse community groups and artists it works alongside.

For this article, the co-authors conducted a group autoethnographic analysis (Holman Jones et al., 2014) of our own experience in A/CA, as policy experts and as researchers interested in power dynamics. We combined this with a feminist discourse analysis (Harvey, 2020, pp. 43-46) to examine how and why the A/CA contract took a long time to develop, then, how A/CA principles of respect arose and finally, how these were activated within the broader network through artist residencies to address systemic inequities in the preservation of cultural heritage. Crucially, A/CA is founded on a core commitment to use present-day ICTs to help preserve and draw attention to the highly precarious and vulnerable cultural heritage represented by the artist residences, case studies and working groups involved in the network. A/CA uses artist residencies and case studies (Yin, 2009) centred in the affected equity-seeking communities to enable the shifting of power dynamics from the central decision-making body at A/CA as well as by national and regional policymakers and funders to the people most implicated in the digitization, preservation, and archiving



processes: the keepers of these vulnerable archives and community members seeking access to their own cultural heritage.

Another core commitment of the A/CA network is to generate “communities of practice” or CoPs (Wenger et al., 2002) that can last well beyond the six-year window of the partnership grant. The A/CA CoPs include the network as a whole as well as the various working groups and case studies that share goals and values around securing, digitizing and maintaining the most precarious of media archives. This is not simply a theoretical exercise but is meant to help influence policy and funding that can enable emerging and existing ICTs to assist with appropriate, community-engaged preservation and use of previously marginalized and under-resourced archives.

Furthermore, the A/CA network aims to use consensus building within case studies, at working groups, and across the network for ICT policy recommendations and decision-making. This had specific implications for our methodological approach in the research we conducted on the particular policy decisions and activities enumerated below, which were conducted in digital environments (Pink et al., 2015) as well as addressing ICT policymaking related to digital environments. To enact a feminist ethics of care (Luka & Millette, 2018) in our research process for the article itself, as well as more generally in the work of the A/CA CPIPE and broader network, meant to examine key documents and decision-making processes that we had been a part of, compare these to one another, and hold them up to the lens of the values embedded in the A/CA vision. This is a form of “ethics-as-method,” consistent with recent methodological approaches in ICT research (e.g. Markham & Buchanan, 2015). For example, this research incorporated eight reflective discussions throughout 2021 that unpacked how each case study and working group were interacting with the CPIPE; examining the sequence of comments on the development of key documents such as the contract for digitizing media archives (see below); and articulating diverging approaches in conference presentations (e.g. May 2021, at the *Communication and Cultural Policy in the Age of the Platform* conference in Hamilton, Canada). The eight reflective meetings deconstructed our own ethnographic experiences using feminist discourse analysis and collectively generated the key findings we explore below: transparency of IP/copyright management; power dynamics within A/CA that led to the ad hoc Principles of Respect activities; and the tensions embedded in the Artist-in-Residence initiatives. To scrutinize A/CA as an enabling agent for the development of ICT policy that could support equity-seeking groups and related under-preserved and under-represented media archives, we critically analyse the A/CA narratives of itself as a changemaking project to document and share the stories that were emerging over the first three years of the project.

The next section of this essay analyses two ways in which A/CA has aimed to rethink ICT policy and practice in the network. The first process examined below is the iterative nature of the operational structure, including the contracts used to digitize (preserve, and later, share) case study material. We start with this pragmatic to specify how A/CA’s seven-year initiative to address ongoing power dynamics among academics, under-resourced community archive partners, artists, and activists is

situated in relation to equitable ICT design. Next, we examine some of the A/CA interventions into media archives. This section reveals practical in-the-field efforts meant to mediate cultural heritage preservation power dynamics among the artists, academics, activists, and archivists involved through research creation processes such as the commissioning of original work. This reveals some of the historically troubled relationships that large, official media archives have had with Indigenous and Black communities in particular, and the ways in which artist residencies and creative workshops are mobilized within A/CA to help build a more respectful and reciprocal set of relations. Lastly, in our analysis section, we examine the broader content- and knowledge-sharing and management implications for an ICT regime which could prioritize the role and rights of the original creative voices involved.

#### **4. Finding 1: Intervening in Organizational Dynamics of Community-Engaged Work**

Due to a national lack of structural support for the heritage and preservation of community archives across Canada, many partnering archivists find themselves investing their time in academic project-based grants and partnerships like A/CA, rather than focusing on their own long-term goals and operational needs. One recent activity at A/CA has been to conduct a series of environmental scans of potential available funding to support the use of ICT technologies in the operations and digitization of the crumbling audio-visual (A/V) archives held within and across community. These scans include surveys of Canadian policy initiatives and funding opportunities over the last 20 years, even if terminated. Upcoming interviews with directors and organizers of community archives will formalize an assessment of their needs and challenges to inform the national A/CA Action Plan. While this research is still underway, we can already see that this scan will provide many examples of the challenges that A/CA community partners have long faced, including the complete unavailability of operational funding at provincial and federal levels, and inadequate access to staffing and technological resources needed to sustain and maintain their A/V archives.

Community archive funding options within Canada remain dire. At the two highest levels of governmental funding—federal and provincial/territorial—operational funding is almost nonexistent for community archives, and archival grants are just as scarce. Projects like A/CA often become one of the only accessible avenues for community archives to tap into operational resources. While initiatives such as A/CA can temporarily offer resources on a case-by-case basis to assist with equipment, planning, or digitizing content, it seems preferable to provide support through the development of operating funding strategies. In practice, cultural heritage A/V projects such as A/CA—while crucial for the survival of archival contents—absorb enormous amounts of resources, especially when digitization or copyright challenges are involved. The task of digitizing community archival collections, for example, where copyright is held by collectives and/or is the traditional knowledge of

Indigenous communities leaves community archivists to navigate the murky waters of Canada's copyright law—which often do not accommodate collective copyright structures. In light of the above, A/CA is also convening a sector-wide think-tank to develop a comprehensive national Action Plan that addresses the structural tensions present in current Canadian granting initiatives.

Within the operational, participatory landscape of A/CA, each community archive must also carefully evaluate if their organization can afford to participate, on an ongoing basis. For example, consider The ArQuives: Canada's LGBTQ2+ Archive, whose Executive Director Raegan Swanson is also an A/CA CIPRE member and co-author of this article. The ArQuives receives multiple invitations for academic and community partnerships on a yearly basis. As one of the largest LGBTQ2+ archives in the world, the collection is important for scholars and community members alike. However, with no steady funding and no permanent archival or collections staff, they cannot participate in many of these partnership projects as it would result in a substantial resource drain and could be prohibitive to carrying out their mandate and long-term obligations to their own community members. A/CA is a case in point. While Swanson has been a full participant in annual symposia, in the CIPRE, and in the development of the environmental scan of Canadian policy initiatives and funding for community archives, this has only been accomplished by giving up lunch breaks, weekend hours, and the ability to take on other crucial emerging and operational issues. There are certain benefits to being a part of A/CA—notably that of creating a framework to connect community archives for various projects—but the drain on The ArQuives' daily resources is substantial.

A/CA is a substantial network, bridging a myriad of academics, researchers, media artists, community members, graduate students, archivists, and industry professionals. It is important for us to note that there are no academically trained archivists or memory keepers involved at a leadership level in this project. While many archivists are involved as collaborators and partners, they are outnumbered by academics in film/cinema studies, communications, and other media and information technology fields. This is a structural issue, namely, that SSHRC funding requires academics to be the primary project leads and that there are highly limited opportunities for collaborators and partners to be paid for their time. However, it is also an opportunity for A/CA to argue for such compensation to be made available to community members at all levels of government funding. Otherwise, A/CA risks becoming a project about using archives rather than contributing to and supporting urgent needs for community archives and archivists. At yearly (virtual and in-person) symposium all-member retreats and across the listserv, the cross-pollination of the widespread assemblage of A/CA members encourages broad and productive resource, knowledge, and expertise sharing. Workflow and project output, however, becomes jeopardized without concentrated teams of specialized focus. The CIPRE evolved with the goal of advising on specific policy-related research and project needs relating to the A/CA Case Studies, Artists-in-Residence, and community partners. By working with case studies, A/CA participants seek to model and pilot several different ways to remediate

a longstanding history of miscommunication and unequal power relations and gaps in archival collections housed or managed through ICTs—including how these can be respectfully treated.

We acknowledge that community-engaged artists, activists, academics, and archives may have difficulty operating within the federal, international, and local cultural policy and ICT landscape within which the A/CA framework is situated, which remains an academic and bureaucratic research endeavour that has previously resulted in often-negative experiences for community members. This is not because these individuals do not know how to navigate such systems, but because such activity requires ongoing labour for which people and community-based institutions are not compensated or resourced. For example, content management and use contracts and partnership agreements tend to use bureaucratic or legalistic language, often obfuscating the purpose, duration, uses, and commitments undertaken. Consequently, A/CA has developed an approach to contracting that is flexible and legible in the community contexts within which it operates.

Furthermore, A/CA is committed to the position that, when it comes to community-based collections and content (including those held in federal, provincial/territorial or other official media archives), communities and community organizations have the right to decide who gets to access their material. From this perspective, A/CA's digitization and showcasing of material is dependent on fostering willingness on two levels. Firstly, on community willingness to share material that remains held in-community according to its own leadership protocols. Secondly, A/CA encourages willingness by official Cultural Heritage institutions to allow for repatriation of content taken from a specific community (notably, of Indigenous and Black communities in Canada) and to retroactively enable community control of such content. It became apparent early in the A/CA project that existing university research ethics frameworks would be insufficient to support the level of decolonial and antiracist research engagement sought by A/CA. An ad hoc Principles of Respect Committee (PoR), process, workshops, and documentation were initiated in 2019 to address disjunctures between A/CA and affiliated communities, which provided input into the A/CA Research Ethics Board submissions. The PoR Ad Hoc Committee consisted of representatives from the Executive, members across the diverse working groups, and the A/CA Indigenous and Black artists-in-residence. The reflections stemming from the PoR Committee's discussions has been informing the work accomplished at several levels of the A/CA project, including that of the CIPRE, which finds itself positioned to implement principles of respect via internal and public policy documents, processes, and practices such as those analysed in this article.

The seven A/CA case studies and the artists' residencies examine and use Canadian, community-based, and independent archives and collections. Due to the persistent use of archival material objects, one originating task of the CIPRE was to devise contracts to frame relationships between A/CA, the Vulnerable Media Lab, and participating organizations and artists. It became apparent in the contract devising process that a one-size-fits-all model would not suffice, given the range of research

and dissemination activities that needed to be taken into account. While holding firm to a mandate that prioritizes the unique needs of each partner, artist, and community archive, the CIPRE has faced numerous logistical tensions in the process of creating contract templates to determine equitable and fair parameters for digitization and potential exhibition—at festivals, in community exhibitions, and in scholarly and other publications. Additionally, A/CA wishes to present these digitized collections and commissioned works within an online platform that is still to be developed.

The elaboration of contracts to frame the research-creation activities of the A/CA case studies exemplifies how tensions may arise between scholarly, festival, web, and archival use of material, which have different implications for rights holders. For example, Arnait Video Productions creates presentations of living archives that embed historical images and video interviews with Inuit women recounting their experiences of urban life. Another case study, The Margaret Perry Collection, in collaboration with the Nova Scotia Archives, aims to remediate the works of pioneer female filmmaker Margaret Perry. The Winnipeg Film Group case study seeks to digitize material that is disintegrating in order to preserve it, but also for use in educational and festival presentations. Unquestionably, the range of technological needs, audience outreach targets, and exhibition formats ranges dramatically across this diverse collection of A/V material. There are also questions of knowledge and cultural preservation unique to A/CA's Indigenous community partners that do not apply to settler archival holdings, such as the Margaret Perry Collection and The Winnipeg Film Group. The Margaret Perry collection comes with its own particular archival sensitivities, such as the ethics of public-facing familial archives, while in the case of The Winnipeg Film Group, equitable remuneration holds the key focus when approaching work by often already precarious independent and experimental media artists. We soon came to understand that divergent legal interpretations surrounding the technological considerations of this "in development" exhibitory online platform were needed, as the parameters of each case study's material uses similarly remained in development. Each case study also differed significantly at the level of their collaborative research relationships with the community groups involved. With a myriad of work-in-process decisions to be made, for a technological tool still to be imagined, the CIPRE spent the first 18 months of the project working out details of a base model contract—which ultimately had to be carefully adjusted and reinterpreted for each case study, artist, and partnership A/V collection.

It is important for us to stress how committed we were to getting these contracts done "right" and why so much time was dedicated to this process. These are legal documents, produced by members of academic institutions. For many of the community partners we are working alongside—specifically Indigenous community partners such as Arnait, Urban Shaman, and Shoal Lake 40—the principles of "shared stewardship" in settler nations have historically been denied or violently ignored through the very act of presenting legal and institutional documents. While we could not avoid creating cultural heritage legal agreements shaped by current ICT frameworks and Canadian laws, we could provide physical space for (1) translation

and (2) flexibility. We focused on legibility, creating a four-page Appendix and adjoining FAQs, dedicated to the legal translation of terms, conditions, and circumstances outlined in the initial schedule agreement. Appendix C in our Agreement template is dedicated entirely to applicable “codes of practice” pertaining to each case study and/or community partner. Timelines are stressed as flexible, as are methods of deliverables. The contract emphasizes the role of the “Producer” (A/CA) is to *digitize*, not *own*. Copyright is maintained by the community partner or artist, and we sought to ensure this expectation was expressed in multiple ways across the Agreement.

The CIPRE had to work closely with members of the Technology Working Group, as well. Contract templates jumped back and forth between group members for months. It became clear that the technological architecture of A/CA’s digital interpretation had to be rooted first within the parameters of relational cultural production. A/CA’s technological needs also had to remain firmly ingrained within a set of community considerations—what Kirsty Gover (2014) identifies as processes of mutual community recognition. Gover speaks primarily of processes of public policy formation and of the need for settler-state governance structures to understand Indigeneity as a heterogenous concept across Indigenous nations (see also Wemigwans, 2018; Nickerson, 2019; Indigitization, n.d.). When understood heterogeneously, legal interpretations and their applications—in our case, applied towards the digitization of precarious cultural heritage artifacts—are pluralized. Such reciprocals are yet to be finalized by either A/CA researchers or community partners. However, the technological negotiation reflects some of the tensions between the needs and realities of academic and community partners which have manifested across contexts within A/CA. Our approach has been one of negotiating the power dynamics at play in all aspects of the project, particularly in key deliveries, such as the digitization of archival materials. Accordingly, we determined that technological or digitization outcomes and outputs should be assessed on a case-by-case basis, whereby success would be based on the satisfaction of the community partner’s cultural heritage activation goals, and *not* the governing or activating bodies within A/CA. However, even within the parameters of A/CA’s longstanding academic granting initiative, it remains challenging to adequately address equitable reciprocal digitization efforts for some community archival materials. These tensions will be explored more carefully in the following section, where we overview the very specific power and logistical dynamics at play when working with small community archives.

## **5. Finding 2: Creative Interventions as a Way to Reshape the ICT Context**

In this section, we focus on A/CA’s research-creation initiatives with experimental filmmakers who excavate and activate the archives of their communities. The work of the participants in these projects contributed to the reshaping of the ICT context at A/CA, in part through convening at the 2019 A/CA Symposium to shape the Principles of Respect (PoR) working document. In the 2019 symposium, the artists

primarily addressed the need for A/CA communication technology to embed community protocols and reflect equitable parameters of copyright and remuneration.

The first example illuminates the tensions between archival practices in academic research and community approaches. These were apparent in a community filmmaking workshop called *Saugeen Takes on Film*. The workshop took the form of a participatory action research (PAR) project in collaboration with the Fabulous Festival of Fringe Film, the Film Farm, and Saugeen First Nation producing four experimental films. A/CA provided additional support to the existing program with the aim of understanding the application of existing community protocols to the online presentation of audiovisual archives from the community. The PAR methodology of the workshop identified areas for necessary decolonisation of our understanding of archival ontology with potential implications for ICT recommendations. Over the course of several conversations, Adrian Kahgee (member of Saugeen First Nation, a workshop facilitator and Co-Director of the Festival) indicated that traditional storytelling practices including dancing, beading, regalia-making and other methods of recording stories are in and of themselves akin to audiovisual materials and writing in terms of archival practice. These embodied notions of archives correspond to Andre Lepecki's (2010) understanding of the "body as archive." Members of the partner organizations came to understand that the poetic language of process cinema learned through the Film Farm collaboration activated both the archives-is-story histories as well as the audiovisual archives in the community. A/CA remains challenged to ensure the distribution technology the network develops will reflect the Indigenous conceptualisations of archival information folded into the PoR.

It is important to note A/CA's active implementation of community protocol by hosting a gathering and community feast existed within a balance of tension and intention between academics, Elders, Knowledge Keepers, and community members. For example, during the gathering, Saugeen filmmaker, Sharon Isaac, pulled a rare vinyl recording of an Anishinabomowin speaker from her parents' collection of photographs and vinyl records. A/CA then offered the Vulnerable Media Lab (VML) as a resource to digitize the recordings. Her hesitation to accept the offer—which involved the temporary handover of materials that would travel hundreds of kilometers away to Queen's University—echoed the longstanding mistrust Indigenous communities have towards academic institutions (Smith, 2012). Weighing the risk of potentially damaging the vinyl on a vintage record player, Isaac agreed to a solution that seemed most appropriate for her film *Thunder Rolling Home* (2019). She chose a different vinyl record and a handheld recorder to digitize the archival recordings from her audio collection. Another point of tension for Isaac lay in the University's copyright ownership over the community archive materials it would digitize.

A/CA's new mobile digitization lab, Cinemobilia, (still in development at the time of publication) is meant to address some of the concerns raised by Isaac and many others who hold such valuable and personal archival material. Additionally, community members clearly addressed the need for the development of new

community protocols related to ownership and the sharing of archival materials. Customized contracts (as explored earlier) would be one method by which such protocols would be articulated and then further embedded into a future web-based archival hosting platform. The questions raised by the encounter with Isaac and other A/CA partner projects prompted the creation of the PoR Committee. Initially, the PoR surveyed the network to develop a living document of guidelines and resources for all A/CA working groups to follow. In the survey, Saugeen filmmaker, Nataka Pucan, commented on the importance of developing relationships and, subsequently, trust. She described “the need to support spaces for community storage of archives, and to protect the ways in which they are disseminated.” This statement applies to both physical and online spaces. Pucan recommended the integration of existing protocols developed by Indigenous organizations such as ImagineNATIVE’s *On-Screen Protocols and Pathways* (Nickerson, 2019) and Animikii (2021). Both documents provide cultural and media production protocols rooted in the Seven Grandfather Teachings of humility, truth, honesty, wisdom, respect, courage, and love. Based on the feedback from the Saugeen Takes on Film participants, ongoing A/CA communication technology research outcomes will need to continue to reflect our processes for developing sustained relationships with Indigenous community partners. Furthermore, the technology itself will need to embed heterogeneous Indigenous perspectives, protocols, and innovations at both national and community levels—which require diverse considerations particular to Indigenous nation, history, and identity.

A/CA’s Artist in Residence (AiR) program at Library and Archives Canada (LAC) is another program whereby research creation challenges conventional archival practices and internal policy development. The residency experiences of experimental filmmakers Jennifer Dysart and Nadine Valcin offer important perspectives on the conjoined process of developing while also activating the Principles of Respect. Jennifer Dysart’s experience during her residency unearthed films recorded by the Keewatin Mission in her father’s community. Dysart chose to engage in a time-expanding process: she develops viewing protocols as she begins to work with the archival material. She has returned to her community to attempt to reconnect the footage to actual descendants and consults with community members throughout the process. Alongside trauma-inducing residential school footage she is also working with archival footage of everyday Indigenous life from South Indian Lake, Manitoba. For a screening at the Regent Park Film Festival, Dysart included audience trigger warnings and ensured the residential school footage was password protected so that the viewer would obtain permission from the festival to watch the footage. The choice to view lay wholly and exclusively with the viewer. The footage of Indigenous life has no viewing restrictions. Dysart’s screening protocols offer a window into her slow, material-based process. In Dysart’s protocols, community is considered at every stage of her film’s development. She considers the viewing parameters within her own community with full respect to repatriation which underscores the potential for A/CA’s future digital platform to perform a similar advocacy role.



Valcin's residency began with an expression of disappointment in the results of her search for Black representation in the audiovisual collections from the Canadian Broadcasting Corporation (CBC) and other media archives at LAC. She only found footage reinforcing abject stereotypes of Black people in all of these collections. Appealing to LAC audiovisual archivist Caroline Forsier Holloway for search assistance, Valcin discovered a CBC newsreel with a short clip of Johanne Harelle from Claude Jutra's film *À tout prendre* (1964). The clips became a fertile surface on which to tell a complex story of a Black mixed-race woman who could not be easily read by the white gaze: Harelle was a Quebecker but "read" as a Haitian immigrant (i.e. not from "here.") The discovery of this material was only possible because of the archivist's knowledge of it and was not recorded as part of a Black archive. This discovery raises questions about appraisals and descriptions regarding Black communities and what archivists historically consider as belonging to Black archives. Valcin's residency elucidates the systemic biases, gaps, and racist descriptions of Black Canadians in the national archives and the counter-archival impulse to produce a different narrative.

As a result of the flags raised by Valcin's residency surrounding institutional A/V collections, and in response to George Floyd's death and the acceleration of Black Lives Matter protests in 2020, A/CA updated its mandate to specifically include Black communities. The addition to the mandate led to the following actions: (1) the creation of a resource list for Black archives and Black cinema and media arts; (2) direct invitations to Black researchers to join the network; and (3) the planning of a workshop specifically about Black archives, which took place at the 2020 A/CA Symposium. The Symposium served to draw attention to Black archival material hosted within the archival collections of A/CA community members. Moreover, Valcin's residency and the 2020 Symposium draw attention to the urgent need to develop an ICT policy framework that gives resources for communities to co-create with institutions to frame problematic footage and identify archival materials that reflect their multiple perspectives.

The research creation activities of A/CA in Saugeen First Nation and at LAC continue to shape the PoR —as a committee, as a living document, and even as an idea. *Saugeen Takes on Film* and the AiR program draw attention to the need for specific contracts regarding copyright, viewing access, and artist remuneration. Questions that the CIPRE continue to work on include whether, and if so by what means, *accountability* to the Principles of Respect ought to be formalized internally. How will the protocols that are being developed with Indigenous scholars and partner communities be embedded into the communications platform so that communities may access their own archives? How will the platform integrate the specific lessons of 2020 and engage Black scholars and archivists in its development? These questions will continue to be addressed over the next three years.

## 6. Analysis: Implications of Disseminating Research Outcomes

We argue above that an important contribution of A/CA is the digitization of vulnerable archival A/V material and the commitment to preserve these materials in collaboration with Queen's University Vulnerable Media Lab. We have also noted that the CIPRE spent the first 18 months of the project working out the details of a base model contract, which is carefully adjusted per case study and partner A/V collection. In addition to digitizing material in order to preserve it, A/CA wishes to sample and present these digitized collections and commissioned works within an online platform, at festivals, in exhibitions, and in scholarly and other publications. This brings up the issue of artists' and community partner remuneration and the ethical public use of archival, copyrighted, material, once digitized. From our perspective, questions about the use of ICTs in the preservation of cultural heritage are entwined with larger issues related to the ethics of use of copyrighted creative material within an academic context.

In the Canadian context, existing debates around educational fair dealing and unremunerated public communications of a work exemplify the power imbalances at play between individual rights holders and artists and the institutional contexts with which they interact. For instance, since the introduction of educational fair dealing in Canadian copyright legislation in 2012 (*Copyright Act*, 1985, c. C-42), the balancing act between users' and rights holders' interests has increasingly tended to favour the academic community over authors and media producers. Under the *Copyright Act*, some academic uses of copyrighted materials effectively fall under fair dealing exceptions. However, as made evident by the most recent Statutory Review of the *Copyright Act* (Ruimy, 2019), educational fair dealing has been a growing practice, with copyright collectives arguing that a portion of academic dealings do not meet the fair dealing criteria established by the Supreme Court of Canada (2004 SCC 13). Moreover, advocates in the media arts sector such as the Independent Media Arts Alliance (IMAA) and the Media Arts Network of Ontario (MANO)—both A/CA community partners and responsible for representing the interests of the independent media arts community at national and provincial levels respectively—decry the unremunerated use of media artworks in university classrooms, conferences, and other public showings in academic contexts. In the newest version of its Fee Schedule—a membership-approved document that sets minimum standards for the remuneration of artists by media arts presenters in Canada—IMAA (2021) clearly expresses its position on this matter: “IMAA discourages presentation contexts that do not pay artists' fees or that provide sub-standard fees (e.g., festivals, industry-focused screenings, *post-secondary classrooms*, *academic conferences*, etc.)” (Guiding Principles, emphasis added).

This said, it is also important to note that the *Copyright Act* is part of the Canadian settler-colonial cultural policy framework. Within this context, Canadian law has historically not only failed to protect Indigenous cultural heritage, but has also actively aimed to suppress Indigenous cultures (Paquette et al., 2017). The legal frameworks that govern intellectual property in Canada are effectively rooted in colonial and

capitalist ontologies, which favour individual ownership over that of communities. As such, Canadian cultural heritage legal frameworks often fail to address modes of collective ownership over immaterial cultural heritage and traditional knowledge that exist in some Indigenous communities (for more information see Brundson, 2015; Halbert, 2014; Nicholas, 2014; Oguamanam, 2017). In this context, the CPIPRE aims to take into account its community partners' approach to compensating rights holders, and has thus had to carefully consider the different types of fees that should be accounted for in the course of developing and presenting digitizing research outputs.

The lack of existing sectoral standards for online presentation of media arts has been a major challenge for the development of the parameters for A/CA's digital platform, particularly regarding payment of copyright royalties and terms of use. This situation is symptomatic of the larger lack of regulatory frameworks for audiovisual distribution online, which, as discussed earlier, has been a neglected aspect of cultural policy in Canada. In the independent media arts community, the increased turn to online presentation modes as a result of the COVID-19 pandemic highlighted the need for sectoral self-governance in this arena. As a result, IMAA, with the support of A/CA, oversaw a year-long community consultation process in 2020-2021 aiming to develop sectoral norms for online presentation activities. The initiative led to the development of the 2022 IMAA Fee Schedule, which was approved by the membership and took effect in January 2022. This document includes several new categories of artists' fees for online dissemination initiatives and defines different presentation modes (livestreamed, on-demand, hybrid) and parameters (period of content availability, streaming window) with incidence on how artists fees should be calculated. These are useful guidelines for A/CA to refer to as it finalizes the conception of its online knowledge-sharing approach. However, several questions remain unanswered because of the limited applicability of IMAA's Fee Schedule in the context of an academic project. Most notably, the type of digital platform envisaged by A/CA fits one of the exceptions to on-demand presentation modes outlined in the document: "Video on-demand (VOD) collections that provide long-term (1 year +), free, public access to audiovisual material such as digitized archives and collections of works produced by artists" (IMAA, 2021, Definitions and Types of Fees). Moreover, no clear guidelines are provided on the use of geo-blocking technology and digital rights management (DRM) measures, two features that require A/CA's consideration given the culturally specific and vulnerable nature of some of the digitized and commissioned materials. Ultimately, and despite best efforts, reconciling academic and community-driven approaches to the production, dissemination, and management of knowledge in the current ICT environment is a complicated task for which there exists no singular, or clear-cut, path. Engaging in ethics of care, as per the examples provided above, is an approach to academic and community relations that is ethical inasmuch as those in academic seats are able and willing to acknowledge and address the power dynamics at play. In the case of A/CA, this has meant assessing available policies, adopting sectoral norms as possible, and supporting community partners in the development of new governance frameworks.

## Conclusion

Halfway through a seven-year, federally funded, national initiative, involving over 100 participants and dozens of organizations of all sizes from creative, academic, archival and policy backgrounds, it is clear that A/CA is a work-in-progress. There have been some important achievements—not least the creation and support of this fully-engaged network. Deeply involved in complex discussions and pilot projects that can act as exemplars for future policymaking and the pragmatics of sharing and preserving A/V archives, participants in A/CA are both researcher and researched, policymaker and policy-disruptor, creative worker and creative user. As A/CA continues to examine and work through some of the more troubling systemic and structural issues, A/CA will also continue to struggle with the ways in which working on these issues forces many of the participants involved to involuntarily replicate some of the discriminatory power dynamics and perpetuate the lack of resources that the project seeks to address and remediate.

As researchers and participants in these processes, we acknowledge our own privilege, and work towards analyzing ways in which core PoRs have been and can continue to be activated across the A/CA network. In the CPIPE, as analyzed above, we started with the seemingly straightforward pragmatics of designing a digitization and content-management contract for the project. It rapidly became apparent that, in order to make specific how A/CA could productively and flexibly shift ongoing power dynamics among academics, under-resourced community archive partners, artists and activists, the contract design could act as a site where these power dynamics could be discussed and addressed. In this paper, we have examined two additional ways in which these power dynamics manifest, for community partners such as The ArQuives, on the one hand, and in artists' residencies involving the communities that A/CA seeks to serve, on the other hand. This includes challenging the ways in which larger, often national and provincial/territorial, archival institutions have traditionally excluded or simply not recognized the complexity or specificity of communities such as "Indigenous Peoples (First Nations, Métis, Inuit), the Black community and People of Colour, women, LGBT2Q+ and immigrant communities" (A/CA, n.d., Welcome) in their/our own sites of activity. But it is also about finding ways in which the environments we are aiming to reshape can be helpful. We conclude the article by framing a series of questions around the implications of copyright and intellectual property management, not just within the A/CA initiative, but as these may become more broadly applicable.

## Funding and Acknowledgements

*Archive/Counter-Archive: Activating Canada's Moving Image Heritage* is a seven-year research-creation project supported by a Partnership Grant of the Social Sciences and Humanities Research Council of Canada.

### Authors' contribution

The authors have contributed equally to the development of this article and have been listed alphabetically by first name.

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