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# SHAPING THE DIGITAL DISSERTATION

KNOWLEDGE PRODUCTION IN THE  
ARTS AND HUMANITIES





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# 14. Precarity and Promise

## Negotiating Research Ethics and Copyright in a History Dissertation

*Celeste Tường Vy Sharpe*

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Digital history has long been associated with George Mason University (GMU). The pioneering work of Roy Rosenzweig and many others in establishing the Center for History and New Media in 1994 (now the Roy Rosenzweig Center for History and New Media, hereafter RRCHNM) has put GMU on the map as a leader in digital work. Surrounded by the innovative digital work at RRCHNM, and encouraged by the required two course sequence of digital theory and praxis in the history PhD program, I conceptualized my dissertation project as a web-based work of scholarship. As a history of twentieth-century American visual culture and disability, I envisioned my dissertation benefiting from the multimodal potential of a digital presentation for visually providing layered analyses and interpretations of visual artifacts. That potential is tempered by precarity, by a complex set of factors, power and relationships for a doctoral student to negotiate.

Centering visual materials as objects of analysis in digital work raises unique questions around access, presentation and scope of work at multiple levels. Effectively pushing beyond the convention of images as decorative illustrations within a dissertation requires education and resource support for the doctoral student, the degree-granting institution, university presses and the discipline. Without concerted effort at each level to better deal with issues of copyright and image permissions, doctoral students pursuing visual culture oriented digital

dissertations will continue to be overburdened with complications for their scope of inquiry and career prospects. This chapter will first introduce my dissertation project, then discuss the particular issues I encountered during the dissertation as illustrative examples of questions facing scholars whose source bases feature visual materials (photographs, posters, film and television clips) that may fall under copyright. It was these conversations and negotiations around image and media permissions that created instances of precarity and opportunity with the organizational archives I consulted, with my university, and with my discipline.

The dissertation, 'They Need You! Disability, Visual Culture, and the Poster Child, 1945–1980', examines the visual history of the national poster child—an official representative for both a disease and an organization—in post-World War II America. I argue that the poster child fundraising and educational campaigns deployed by the March of Dimes (MOD) Foundation and Muscular Dystrophy Association (MDA) shifted American understanding of physical disability in new ways by capitalizing on mass media to depict disabled children within their families and communities as full, if physically limited, citizens of the nation. These campaigns used the rhetoric of disease eradication to promote medical cures for disability and illness, and highlighted their role in funding these cures. The organizations' approach promoted a narrow view of disease and disability as largely childhood conditions to be overcome, which also precluded political avenues and policies beyond medical research such as family support and advocacy for disabled adults experiencing post-polio syndrome or continuing to live with muscular dystrophy.

'They Need You' is presented through the publishing platform Scalar, created and maintained at the University of Southern California. The project is organized and presented through a visual index which appears on the project home page. The goal of the visual index is to make visible each project element: image, textual source, analytical writing, annotation, historiography, etc. This allows readers to explore content through a set of themes or keywords (such as gender, family, March of Dimes); hovering over one element highlights its connections to themes and to other elements. I created six 'paths', Scalar terminology for a series of linked elements, that create linear reading experiences through the content.

My rationale for pursuing a fully-digital dissertation is grounded in the fields framing this project, particularly visual culture studies and disability studies. I wanted to emphasize the centrality of the visual sources, and to make those analyses apparent to readers. While print conventions allow for images to be interspersed in text, I wanted to push beyond static placement and the inability to present multiple interpretations or narratives. Additionally, a layered visual presentation would begin to address the reality that disabled children have been historically silent, and silenced, in the archival record. Children's voices have not been well-documented, and disabled children have historically been institutionalized, marginalized or erased by the adults surrounding them.<sup>1</sup> Surfacing these lived experiences and voices in the archive is vital. I sought to avoid re-inscribing the silences by highlighting disabled children in these organization's collections and using the affordances of digital publishing platforms to make these artifacts available for other researchers and interested readers.

The tenuous state of both archives made it imperative to me to make visible as much of the source base as possible to ensure the collections could continue to be used in some capacity. Over the last two decades, the MOD and the MDA had gradually reduced funding and staffing for their archival collections. Neither organization had fully catalogued and processed their collections, and neither had they done any digitization beyond a handful of images requested and paid for by documentarians and previous researchers. The MOD's reduction occurred more recently. Until 2015, the organization's sense of historical memory justified dedicating resources to the preservation of the archive and opening it in some capacity to researchers. Two key events shaped the charity's desire to keep and maintain an archive: the organization's founding by President Franklin Delano Roosevelt, and the successes of their early work on polio and namely support of the Salk vaccine. As a result, they prioritized processing the collections most relevant to FDR and the medical story of developing the cure for polio over the collections from the education and women's division among others. The MDA, on the other hand, laid off their archivist years ago and moved much of their

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1 Susan Burch and Ian Sutherland, 'Who's Not Yet Here? American Disability History', *Radical History Review*, 94 (2006), 127-47 (pp. 128-30), <https://doi.org/10.1215/01636545-2006-94-127>

historical materials into a non-temperature-controlled storage unit near their headquarters in Tucson, Arizona.<sup>2</sup> The materials available from the MDA were primarily published reports and newsletters, and I was given access to approximately five unprocessed boxes of historical materials. These boxes turned out to be full of irreparably heat damaged artifacts: photographs melted together, and film strips loose and sandwiched between stacks of papers. The MOD and MDA are not alone in putting scant resources toward the preservation of their historical materials, and many of the challenges digitizing those collections are well-described by archivists and librarians in public institutions.

Private organizations have their own senses of institutional memory, and are not immediately inclined toward supporting access to their materials. Unlike working with academic libraries and archives—or private research institutions such as the Huntington Library or Rockefeller Archive Center—active charitable organizations are focused more with their current mission and public perception and reputation, and can take wildly different approaches to their holdings. Both the March of Dimes and Muscular Dystrophy Association take a commercial and protective approach to their archival materials. For the MOD, popular interest in FDR and the story of polio in America has created an opportunity for the organization to profit from the licensing of their archival materials. As a result, I found them more interested in asserting their claims to copyright than in discussions around fair use or the academic use of these materials.

The MDA has a different attitude toward their archival materials. The vast popularity of Jerry Lewis in their fundraising activity, and the subsequent backlash against his attitudes and performance by members of the disability rights movement, has led the MDA to take a more cautious stance with regards to researchers and external interest.<sup>3</sup> Whereas the MOD recognizes, to some extent, their place in the nation's historical memory, the MDA is more narrowly focused on current public perception. For example, a MDA staff member expressed concern over my interest in a 1950s era photograph depicting a firefighter teaching

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2 Information told to me in conversation with two MDA officers. I was unable to get access to internal documents or published records to verify the information.

3 Paul K. Longmore, 'The Cultural Framing of Disability: Telethons as a Case Study', *PMLA*, 120 (2005), 502–08 (p. 505), <https://doi.org/10.1632/s0030812900167793>

children using wheelchairs about fire safety. Their point of concern was the firefighter's use of graphic photos of burned bodies as evidence of the dangers of fires for wheelchair users. While they allowed that I understood the context around the image, they worried about an uncritical viewer's negative response toward the firefighter. And the firefighters' union, I learned soon after, was one of the first and most enduring group of supporters for the charity. The MDA staff member tried to redirect my interest toward a less contentious image, and further, cast doubt on whether I could include the original image or if they could assert copyright to put the photo out of my reach. The MDA's reaction to the firefighter photo highlights their wish to more directly curate and shape not only access to the materials, but also the resulting analysis and presentation that would result from my research.

The charities' attitudes raise serious questions for researchers in general, but particularly for doctoral students who likely lack the institutional support and resources of full-time academic faculty and staff. My status as a doctoral student, and the digital nature of my dissertation, complicated the organizations' responses to my inquiries. Overall, they understood that I was an individual researcher-in-training, with limited funds, and were generally sympathetic to what I was trying to achieve. The March of Dimes archivist, and the art director and VP of Publications for the Muscular Dystrophy Association, all responded kindly to my requests for access and were helpful in locating relevant material. However, those individual kindnesses were tempered by an organizational wariness toward anyone who could potentially cause tension or complicate the narratives they wished to tell about their own organizational histories. The digital aspect of the dissertation was at once the most interesting and the most fraught aspect of our interactions. Here, tensions arose between individual staff member and the larger organizational views of what it means to have digital artifacts and information online for external audiences.

Copyright is a well-known landmine when pursuing digital work. In the field of United States digital history, the majority of projects either pursue pre-copyright topics (pre-1923) or center on digitized public domain sources from the twentieth century. Projects that have managed to partner with or gain access to private collections, such as the *Robots Reading Vogue* project, rely on institutional reputation and resources in

negotiating with private companies for access to historical materials.<sup>4</sup> A lone doctoral student, on the other hand, lacks those supports and is in a more vulnerable position in dialogue and negotiations with private organizations.

Like many universities, GMU places the onus for copyright clearance and use rights on the student. Institutional training and support in these areas, however, are thin. At the department level, the formal digital dissertation guidelines mentions issues in copyright and use agreements in the context of the bibliography and the need for a statement describing the factors behind whether the project data is publicly available or not.<sup>5</sup> Copyright and fair use were taught in the abstract during the required digital coursework, and was only rarely an issue for RRCHNM projects, so the department had never had to grapple with their role and responsibility for training students to negotiate these issues. The library was also little help. The copyright expert in the scholarly communications department of the library pointed me toward some external resources, and was able to provide only general advice and otherwise referred me to legal counsel. The latter suggestion was never a viable option for me financially, and I was unsure how to follow up on my questions or how to seek external advice. Neither the history department nor GMU are unique in this regard: the complexity and the legal aspects of copyright and fair use are fraught and often seen as beyond the scope of a department/library/college's purview. While understandable to some degree, the result is that doctoral students are ill-prepared to consider the ethical and legal questions of intellectual property that are increasingly prevalent in pursuit of scholarship in the digital world. Left to themselves, success is largely driven by an individual doctoral student's ability to seek and to avail themselves of external resources and contacts. Shifting some of that responsibility and support to the degree granting institution, from the department to the library to the graduate programs, would help alleviate the burden on the student, who is unquestionably the most vulnerable and precarious actor in this process.

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4 Lindsay King and Peter Leonard, *Robots Reading Vogue*, <http://dh.library.yale.edu/projects/vogue/>

5 Department of History and Art at George Mason University, 'Digital Dissertation Guidelines', <https://historyarthistory.gmu.edu/graduate/phd-history/digital-dissertation-guidelines>

The ubiquity of information online and the ways in which content is constantly sampled, remixed and decontextualized forced the organizations to consider their own digital content strategies and the extent to which they accepted scholarly work entering the equation. A public-facing digital dissertation, like it does for academia, raised uncomfortable questions for both organizations. The limited circulation of a print dissertation was a familiar convention, and allowed the charities to take a generally more tolerant attitude toward the reproduction and use of their archival materials in that context. But a project accessible to anyone with an internet connection, one that could be viewed by a wide range of people, was an entirely different proposition. The presentation of the visual artifacts themselves was the key pain-point; the charities would have preferred the convention of describing images through prose, with only a handful of carefully selected images visible. In their view, the images-as-illustrations model mediates some of the perceived risks of making materials available online by allowing the charities (and perhaps scholars) to curate and present only those images that pass muster across a range of criteria: availability, content, copyright status.

The perceived risks associated with scholarly publication of archival materials can be seen most directly in the fees assessed. In a 2015 conversation with the MOD, I was given the rate card with all charges listed: the cost per image for a scholarly publication (book or article) was \$50; the digital rights to the same image cost \$500.<sup>6</sup> At the time of this conversation, I had identified 120 images that I definitely wanted to include in the project and potentially hundreds more. A base cost of \$60,000 is an unbelievable amount for any work of scholarship, let alone a dissertation. The MDA did not share their fee schedule with me, but did intimate that these decisions were made in consultation with their legal team. In fact, staff at both organizations referenced the presence and tenacity of their legal team in protecting the organizations from malfeasance. In the end, I avoided paying for image use by agreeing to password protect the images to avoid the wider dissemination that the charities worried about. I was disappointed with this outcome, but without significant personal resources or greater institutional support I felt that I was unable to negotiate further, and was fearful that any misstep would embroil me in a legal dispute that I could not win.

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6 March of Dimes Foundation, Rate Card, 2015.

This experience is illustrative of the risks doctoral students can face pursuing a public-facing digital dissertation, and the complex trade-offs necessary to complete a project so reliant on visual materials. It is common advice to avoid such knotty topics in the first place, to choose a project where the challenges are well-known by faculty advisors and relatively benign. And to some extent, such advice is sound. The larger implication, however, is that doctoral students—and by extension their faculty mentors—do not get the opportunity to learn and expand their knowledge on these questions by working through such difficult problems programmatically. At a higher level, historical inquiry as whole is impoverished by the repeated attempts to neatly avoid the messiness of copyright, fair use, intellectual property, and privately held organizational archives.

The charities and I had to contend with a challenging question: to what extent was a digital dissertation available online a publication? It could be argued that a print dissertation in the North American context is a quasi-publication, with a limited intended dissemination and, in disciplines like history, serves as a dress rehearsal for a monograph.<sup>7</sup> As such, it is constrained in its circulation by design. But to the charities, a dissertation presented online was a publication by virtue of being online. Whereas the nuance between self-publication and peer-reviewed publication, and the emphasis on the latter as conducted by a recognized press as a legitimizing feature, are known and fairly well understood in academic circles, those distinctions meant little to the organizations. While a publicly-available digital dissertation seemed to be a publication that merited the same fees as any other website or documentary request to the charities, its meaning within the pipeline of academia is less clear-cut.

Publication pipelines for digital projects and monographs are still emergent, and continue to lean heavily on the print paradigm. One example is found within the primary style guide of the discipline, *The Chicago Manual of Style*. The guide perpetuates some of the conceptual difficulties through its continued categorization of visual sources as 'illustrations', and assignment of a separate treatment from the

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7 Fredrika J. Teute, 'Dissertations Are Not Books' (April 1, 2015), *Perspectives in History*, <https://www.historians.org/publications-and-directories/perspectives-on-history/april-2015/dissertations-are-not-books>

note and citation format of textual sources.<sup>8</sup> This distinction and the subsequent conventions around captioning and inserting ‘illustrations’ into text implicitly renders a value judgment that images are separate at best, and decorative at worst. That attitude toward images has strong influence on how disciplinary departments, university libraries and presses, and even private archives view the study and presentation of visual materials. Throughout the dissertation stage, I heard variations of the same question from people in all the above listed groups: could I substitute public domain images for the ones held in private collections? This notion of changing images makes sense for those for whom images are illustrative but not integral, and in select cases where another image might be able to display similar content or composition to help support the argument. In a project where the specific images are the central objects of study, substitution substantively shifts the inquiry by changing the core source base. Thus, the implications for increasing institutional support at multiple levels for public-facing, image-centered digital work touch the direction of scholarship for the discipline as a whole.

Copyright and image clearance in a digital ecosystem is a thorny issue, one publishers have so far hesitated to take on. If the March of Dimes is a warning indicator, fees for digital rights now significantly exceed the typical subvention costs associated with publishing images. The institutional weight and reputation of the press can factor both positively and negatively: for every bit of legitimacy lent to the project and author, there is also the institutional risk and cost calculus to take into account. Responsibility for those costs and agreements still largely falls to the author, though an author under contract occupies a more secure position from which to negotiate than a doctoral student. The implications for this tension resonate back to the choice and definition of a dissertation project’s scope of inquiry. In a monograph-oriented discipline like history, the prospect of pushing a project through from dissertation to published monograph is a significant factor. Without explicit support from publishers, an image-heavy project has a limited and precarious lifecycle during and beyond the dissertation stage, which can have serious ramifications for emerging scholars who wish to study visual artifacts and analysis in digital spaces.

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8 The University of Chicago, *The Chicago Manual of Style*, 17th edition (2017), <http://www.chicagomanualofstyle.org/book/ed17/part1/ch03/toc.html>

Without increased and concerted institutional support from department to university to publisher, digital dissertations will continue to be a potentially precarious choice for doctoral students. Broader engagement with issues around copyright, fair use and intellectual property at all levels—departments, universities, disciplines and publishers—can more fully open opportunities for digital dissertations to take greater advantage of the affordances of the medium and continue to widen the avenues and kinds of research pursued.

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