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Consent in the digital context

The example of oral history interviews in the United Kingdom¹

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Abstract

Legal and ethical questions about the preservation and use of interviews must be addressed at the outset of any oral history project. Tools such as consent forms, information sheets and copyright agreements help ensure that interviewees' choices are informed and respected, before, during and after recording. This article analyses the tools and methods used in the United Kingdom, and explores some of the ethical implications of the «digital revolution». It argues that whatever the methods employed, documenting consent is both helpful and necessary for the practice of digital oral history.

Résumé

De nombreuses questions éthiques et juridiques se posent lors de la préservation et la diffusion de tout entretien d'histoire orale. En conséquence les praticiens de cette discipline ont développé une palette d'outils et de bonnes pratiques permettant de recueillir puis documenter le consentement. Ces outils et pratiques s'avèrent être de vrais atouts dans le contexte numérique car ils permettent que le consentement des personnes interviewées soit aussi éclairé que possible mais également respecté une fois l'entretien puis l'enquête terminés.

La diffusion en ligne des données est l'une des étapes qui engendre le plus de difficultés et qui stimule le plus de discussions dans le champ de l'histoire orale numérique. Cependant les autres étapes de la gestion des entretiens (préparation, collecte, traitement, archivage, réutilisation) comportent également des enjeux éthiques et juridiques. Par ce qu'il est présent à travers tout le cycle de ces données, le consentement est un objet d'analyse riche et utile pour toutes les disciplines dont la méthodologie de collecte repose sur des enquêtes.

Cet article prend pour exemple les outils et pratiques développés au Royaume-Uni. Il montre en quoi ceux-ci aident les enquêteurs et leurs collègues à aborder ces questions avant, pendant et après l'entretien ainsi qu'à identifier leurs obligations juridiques et éthiques. Outre la sélection et l'adaptation des contrats et fiches d'information sur le projet, je propose de réfléchir au moment judicieux pour expliquer et faire remplir ces documents ainsi qu'à leur style et aux choix offerts aux enquêtés. Il est aussi utile de se demander ce que ces derniers comprennent lorsqu'ils signent (ou pas) ce qu'ils ont lu (ou pas). Se renseigner sur des enquêtes comparables qui ont déjà été menées permet d'anticiper ces questions et de mesurer le temps, les outils et les moyens requis.

La deuxième partie de l'article aborde la question des (nouveaux) enjeux éthiques de la «révolution numérique» pour les enquêtes en sciences humaines et sociales. Le cas de

¹ This chapter is based on a paper presented as part of a panel about ethics at the Oral History Society conference that took place in London in July 2016. The conference programme can be found on the Oral History Society website at www.ohs.org.uk/conferences/2016-conference-beyond-text-in-the-digital-age/, accessed online on 21 October 2016.

l'histoire orale numérique montre qu'il ne s'agit pas que d'un changement de technologie. Les enquêteurs doivent également anticiper et négocier sur plusieurs fronts éthiques, juridiques et techniques: les attentes parfois contradictoires de leurs institutions, financeurs et enquêtés; les différents niveaux de diffusion des entretiens; et enfin les demandes de ne pas mettre en ligne certains enregistrements. Enfin, on verra que le contexte numérique renforce le rôle des documents permettant d'obtenir et de respecter le consentement: ces outils aident à bâtir la confiance indispensable à toute enquête, mais aussi à planifier la recherche et à stimuler les discussions nécessaires autour de l'usage des entretiens au-delà de l'enquête elle-même.

Introduction

Trust is at the heart of any research method relying on human participants. Tools such as consent forms help build and record this trust. These documents provide a concrete representation of the relationships negotiated between the interviewer, the interviewee and the project's home institution. They are also key instruments for the day-to-day management of the project. Drafting such explanatory and legal documents helps clarify what happens to interviews after they are recorded.

Based on the case of oral history, this article focuses on how interviewers seek and keep track of participants' consent. It shows how legal, ethical and practical questions about the management and use of recordings should be addressed at several stages of the project lifecycle. Indeed, discussion of these topics - with interviewees, colleagues and sometimes external experts- typically extends beyond the timeframe of the interview itself: it starts before the oral historian and the participant sit at the interview table and continues after they bid each other farewell.

Oral history seeks, «for the purposes of historical reconstruction», to record, understand and enhance the memories of people who were «eye-witness participants in the events of the past»². These oral or audiovisual sources are usually collected via in-depth, semi-structured interviews which centre on themes or on the interviewee's whole life story³. The recordings are commonly analysed and used with a focus on the orality, inter-subjectivity and meaning of words of the narratives recorded, as well as on discrepancies between personal and collective memory; they are usually compared or complemented with other historical sources⁴. The question of dissemination lies at the core of the discipline⁵; use of interviews includes academic research, exhibitions, radio broadcasting, online publishing and much more⁶. Although this article will mainly draw examples from British institutions and projects, it will

² Ronald Grele's definition used in Robert Perks and Alistair Thomson, ed., *The Oral History Reader*, New York, Routledge, 2016, p. xiii. Philippe Joutard offered an introduction to French audience to this U.S and U.K.-born discipline in his translation of Paul Thompson's milestone book: Philippe Joutard, *Ces voix qui nous viennent du passé*, Paris, Hachette, 1983. A discussion about the adaptation and use of the discipline in the French context can be found in Fabrice Almeida and Denis Maréchal, ed., *L'histoire orale en questions*, Bry-sur-Marne (Val-de-Marne), INA., 2014.

³ See more on interviewing techniques in Part II of Perks and Thomson, *op. cit.*, p. 135-298.

⁴ See a detailed explanation of the characteristics of oral history in Alessandro Portelli, *What makes oral history different*, in Perks and Thomson, *op. cit.*, p. 48-58.

⁵ See Ronald Grele, Why Call It Oral History? Some Ruminations From the Field, *Pennsylvania History: A Journal of Mid-Atlantic Studies*, vol. 60(4), 1993, p. 506-509. Available at <http://www.jstor.org/stable/27773682>. Accessed online 14 October 2017.

⁶ See Part IV in Perks and Thomson, *op. cit.*, p. 445-568.

address questions and highlight good practices which are relevant to most interviewers, whatever their legal and disciplinary context.

«Digital oral history» is here understood to encompass digital means of recording, storing, processing, archiving, using and disseminating interviews. It is, therefore, a much broader notion than «online oral history». Nonetheless, as we will see below, online dissemination is one of its problematic dimensions - raising a set of issues for which a range of solutions has now become available. Doug Boyd and Mary Larson state that the «digital revolution has impacted almost every facets of oral history, except [...] the fact that an interview is still a dialogue»⁷. They survey two decades of digital oral history, showing how we have now «moved beyond mere recording and digitisation». They identify changes in how interviewees «deal with [our projects,] with ethical issues [and with] their own materials». Participants «share the authority» of oral history projects in new ways⁸. This article, similarly, sees consent-seeking as a shared exercise. Verbal explanation of the content and of the choices offered to interviewees complements and supports the written word of consent documents; it is difficult to ensure that informed consent exists without such explanation.

Mary Larson observes «a decrease in the overall level of conversation on ethics»⁹. This article seeks to enhance this conversation. It explores some of the ethical implications of this «digital revolution» and argues that whatever the ways employed, documenting consent is both helpful and necessary for the practice of digital oral history. Tools such as consent forms, information sheets or copyright agreements help to make sure that the project fulfils its legal and ethical responsibilities and that interviewees' choices are informed and respected. The first part of this article examines the tools and methods available to document consent, and the second analyses their role in the digital context.

Seeking and keeping track of consent: before, during and after the interview

Legal and ethical responsibilities

Documenting consent helps clarify and fulfil the legal and ethical responsibilities held by the interviewer and project's home institution. The legal obligations all relate to keeping track of what the interviewee did (or did not) agree to, and what the institution does (or does not) undertake to do with the interview. Any document recording these agreements forms the basis for the immediate use of the interview (its storage, analysis, transcribing and editing). In the United Kingdom there are two copyrights in a recorded interview: one in the spoken word (which belongs to the interviewees) and one in the recording itself (that belongs to the interviewers or their organisation). The interviewee must therefore be asked to assign copyright to the person or institution that will use the interview. If not, nothing can be done with it. The copyright is obtained via informed consent¹⁰.

⁷ Doug Boyd and Mary Larson, ed., *Oral History and Digital Humanities. Voice, access, and engagement*, New York, Palgrave MacMillan, 2014, p. 6.

⁸ Boyd and Larson, *op. cit.*, p. 10.

⁹ Mary Larson, «*We All Begin with a Story*»: *Discovery and Discourse in the Digital Realm*, in Boyd and Larson, *op. cit.*, p. 161.

¹⁰ The following short guide clearly explains what an interviewer must know about copyright and the Data Protection Act in the British context: East Midlands Oral History Archive, *Information sheet n°4, Data protection, copyright and ethics* [web page]. Accessed online at www.le.ac.uk/emoha/training/infosheet.html, 14

If necessary, consent can be recorded using non-written methods: at the beginning of the audio recording, for instance, or as part of the interviewer's fieldwork notes. However, only written consent is enforceable. This enforceability is the second legal aspect to the documentation of consent. Such documentation forms the basis of future argument in case of disagreement about, or legal challenge to how the interview is to be used, disseminated or embargoed. The British professional association of oral historians, the Oral History Society, also highlights how these documents can help protect everyone involved in the project by ensuring that records are «not subject to exploitative or other undesirable uses»¹¹. John A. Neuenschwander has provided a detailed explanation of how these considerations relate to the recording of oral history, with a focus on American law¹². Readers interested in the French legal context will find useful information in the other chapters of this book.

As for the ethical obligations that any interviewer and project's home institution must fulfil, these mostly relate to acquiring interviewees' consent and respecting their choices. The online *Ethics Guidebook* defines consent as a process and the «central act in research ethics». Consent can only be valid if it is properly informed and freely given. Respect for what participants consented to (or refused to consent to) helps ensure that they are not «deceived, exploited, shamed or otherwise wronged»¹³.

It can sometimes be difficult to find the right balance between respecting participants' choices and complying with other obligations. For example, Mary Larson highlights a current ethical debate within the oral history community about recordings that could offend a third party but whose narrator agreed to online publication. Some say that the responsibility to protect interviewees is «part of the good faith contract» and we should «keep detrimental items from being widely disseminated online»; those who disagree observe that such position «smacks of paternalism» and that interviewees are «competent adults» and therefore their wishes should be respected¹⁴.

One way to answer such dilemmas could be to use the following key principle as a guide: to cause no harm. It is put forward by several social scientists. For example ethnographer Alain Marchive sees it as one of the three components of «minimalistic ethics»; the two other components being rigorous methodology and attention for epistemology¹⁵. Anthropologist David Zeitlyn suggests to use «protocols (rather than rules or laws) and flexibility» guided by three key principles: first, seek to «do no harm»; then «to do right by those with whom we work»; and thirdly «help our successors as much as is consonant with those two principles»¹⁶.

October 2017. Complementary information can also be found in this UK Data Archive guide: Advice on copyright [web page]. Accessed online at www.data-archive.ac.uk/create-manage/copyright, 14 October 2017.

¹¹ Oral History Society, Advice on legal and ethical questions [web page]. Accessed online at www.ohs.org.uk/advice/ethical-and-legal, 14 October 2017.

¹² John Neuenschwander, *The legal ramifications of oral history*, in Donald A. Ritchie, ed., *The Oxford Handbook of Oral History*, New York, Oxford University Press, 2014, p. 351-371.

¹³ Ethics Guidebook, Introduction to consent [web page]. Accessed online at www.ethicsguidebook.ac.uk/Consent-72, 14 October 2017.

¹⁴ Mary Larson, Steering clear of the rock: a look at the current state of oral history ethics in the digital age, *Oral History Review* 40 (1), 2013, p.46.

¹⁵ Alain Marchive, Contrôle et autocensure dans l'enquête ethnographique. Pour une éthique minimaliste, *Les sciences de l'éducation – Pour l'ère nouvelle* 45, 2012, p.91.

¹⁶ David Zeitlyn, Anthropology in and of the archives: possible futures and contingent pasts. Archives as anthropological surrogates, *Annual Review of Anthropology* 41, 2012 p.470-475.

Tools and methods to seek and document consent

Examples of tools

A range of documents help acquire and record interviewees' (and interviewers') consent, and can therefore be described as «consent documents». An examination of various examples can help us better understand for what each is designed. A small sample of such documents has been obtained by looking at the online advice given by thirteen institutions (universities, charities, data centres or professional associations). I selected these by looking, first, at some key sources of advice for oral historians in the United Kingdom: the Oral History Society, the British Library (the United Kingdom's national library), the UK Data Archive (a British repository for social sciences and humanities research sources) and the Heritage Lottery Fund (one of the main British funders for cultural projects). Advice given by one key institution in the United States was also taken into account: the Oral History Association, the American professional association of oral historians. I also looked at three forms found among the first results of a Google search for «oral history consent form». This search was performed to include another widely-used source of information available to oral historians; the documents found were produced for oral history projects run by the Marylebone Cricket Club, the Stephen F. Austin State University and the Gaelic Athletic Association. Examples of documents to use in the French context will be found in the other chapters of this book; forms employed in the American context feature at the end of J. Neuenschwander's chapter¹⁷.

What follows is by no means a representative picture of what is being done in British and American oral history; it is an attempt to better understand the options currently available to prepare such documents and to decide which ones could be relevant¹⁸.

- «Information sheets» and «Participation agreements» help provide potential participants with an explanation of the objectives, funding, methodology and planned outputs of the oral history project. They also explain how to contact the project team for more questions and may feature a list of potential concerns addressed in the form of Frequently Asked Questions (FAQs). This document is given to potential interviewees before the interview¹⁹.
- «Confidentiality agreements» record that the interviewer agrees to not disclose any confidential information about the interviewee. It is signed by the interviewer and before the interview, but is only used when no duty of confidentiality is included in the interviewer's employment contract²⁰.
- «Consent forms» are used to make sure that the participant has understood the project, and agrees to take part, be recorded, allow the interview to be used in future, and assign copyright. They are forms signed by the interviewee, usually before the interview starts²¹.

¹⁷ Neuenschwander, *op.cit.*, p. 367-371.

¹⁸ All of the examples and templates mentioned were found online in June-July 2016 and may have changed since.

¹⁹ Users of these documents include the Open University and the University of Leeds: see Oral History Society, Advice on legal and ethical questions [web page], accessed online at www.ohs.org.uk/advice/ethical-and-legal/2/#before-interview, 14 October 2017; the UK Data Archive, Advice on consent [web page], accessed online at www.data-archive.ac.uk/create-manage/consent-ethics/consent?index=0, 14 October 2017; and the British Library, Participation agreement [web page], accessed at <http://www.ohs.org.uk/advice/data-protection/>, 20 August 2018.

²⁰ Users include the charity Panos London: see Oral History Society, Advice on legal and ethical questions [web page]. Accessed online at www.ohs.org.uk/ethics/confidentiality-agreement-NK.pdf, 14 October 2017.

²¹ Users include the UK Data Archive: see their Advice on consent [web page]. Accessed online at www.ukdataservice.ac.uk/manage-data/legal-ethical/consent-data-sharing/consent-forms, 14 October 2017.

- «Recording agreements» invite the participant to agree to being recorded. They allow future use and assign copyright to the project's home institution. They are typically completed after the interview²².
- «Release forms», «copyright forms» and «clearance forms» have very similar functions. In these documents the interviewee or the interviewer assigns their copyright to the project or institution where the interview is deposited. In some examples, interviewees assign their copyright only for the purposes stated in the form, so that the project must contact them again for any other use. All three types of documents are signed after the interview²³.

Several of these documents can be found in the online version of this book at <https://ethiquedroit.hypotheses.org/1912>.

Finding the right moment: explaining and signing consent documents

The question whether these documents should be used before or after the actual recording might seem trivial if informed consent was not at stake. I confronted questions related to the practical handling of consent forms when recording most of the seventy life history interviews that I have conducted so far. Over the course of my most recent project²⁴, I led fieldwork debriefing sessions with three other interviewers every fortnight for two years. One recurring discussion topic was: when should interviewees read, complete and sign consent forms? One point of view that emerged from the debate within the team was as follows. If signed before the interview itself, the consent form helps to set the context of the project and provides a useful transition between everyday life and the interview itself. However, interviewees cannot exactly predict what they will say and they may want to amend the form at the end of the interview. This requires either signing after the interview or bringing spare copies of the form.

It was also argued, on the other hand, that if the forms were read and signed after the recording, interviewees would not be fully aware of the consequences of what they say and of what would happen to the interview. It was noted, furthermore, that after an interview one rarely has enough mental and physical energy remaining to look at such documents. This debate was never settled in these debriefing sessions and each interviewer did what they found was the most appropriate on a case by case basis.

Since copyright protection only begins when the recorder is turned off²⁵, one solution could be to read the forms before the interview but to complete and sign them afterwards. This is the compromise recommended by the Heritage Lottery Fund in its guidance on oral history²⁶. The

²² Users include the British Library and the Oral History Society: see Oral History Society, Advice on legal and ethical questions [web page]. Accessed online at www.ohs.org.uk/ethics/ohs_recording_agreement.pdf, 14 October 2017.

²³ Two examples can be found in the following webpages. Stephen F. Austin State University, Release form [web page]. Accessed online at www.ischool.utexas.edu/~stories/training/Release.doc, 14 October 2017. Gaelic Athletic Association, Oral history project, Copyright assignment and consent [web page]. Accessed online at www.oralhistorynetworkireland.ie/wp-content/uploads/2013/02/GAA-OHP-Consent-and-Copyright-Form.pdf, 14 October 2017.

²⁴ This oral history project about railway workers in the 1930s-1950s was run by the heritage organisation Rails et Histoire in 2011-2015; I was the project manager. The sound archives collection is entitled «Vie et travail au quotidien pendant la Deuxième Guerre mondiale: mémoire et récits de cheminots». A brief description in several languages can be found at www.ahicf.com/mise-en-ligne-d-une-nouvelle-collecte-d-archives-orales.html, accessed 14 October 2017.

²⁵ Neuenchwander, *op.cit.*, p. 360.

²⁶ Heritage Lottery Fund, *Oral History. Good-practice guidance*, 2014, p. 10. Accessed online at www.hlf.org.uk/oral-history, 14 October 2017.

Oral History Association, similarly, suggests that when the contact is first made with interviewees, they should be told about informed consent, release forms and copyright²⁷. Since the introduction of new data protection requirements in the European Union in 2018, the Oral History Society recommends using a pre-interview Participation agreement and then a post-interview Recording agreement²⁸.

Adapting tools and anticipating key questions

Style, content and choices given to interviewees

The documents listed above have much in common. Most are one-page long and written in a simple and concise way that avoids any use of legal jargon. All provide the space to record basic personal data: at the minimum the interviewee's name, often also the postal address, and sometimes the email address and phone number. Most documents do not specify what happens to the interview once the recorder is turned off. Either nothing is said about how the records are stored, analysed and later archived, or, alternatively, they make a (vague) reference to «secure storage» or «an archive». A long list of dissemination methods is usually given; this almost always features publications, a physical public display and the internet.

In terms of options given to the interviewee or interviewer regarding the future use of the recording, only a small majority of these examples allow participants to express their choices, either via tick boxes or a free text space. It is possible to wonder whether free consent is possible when no alternatives are provided. Offering different options regarding the dissemination of the recordings or access embargo has consequences for the project team's workload, especially in institutions with limited resources. Yet, making the process of recording consent simpler for interviewers can reduce the respect accorded to interviewees. After all, they should have a say in what is done with their life story; participants are not a homogeneous group of people who are all comfortable with the idea of seeing their full name and life story appear online or in an exhibition only a few weeks after the interview. New European Union legislation on data protection requires since May 2018 «clear affirmative action» whenever consent is required²⁹; this can be achieved through multiple choices given in consent forms.

The UK Data Archive offers detailed advice about gaining consent. Their context-specific recommendations show the importance of adapting generic guidance and templates to each project; such specific advice is given for interviews in workplaces, with children and with adults with learning difficulties, as well as for projects about crime, medical research and online activities. The same institution also distinguishes between «one-off consent» and

²⁷ Oral History Association, Information on principles and best practices [web page] Accessed online at www.oralhistory.org/about/principles-and-practices/, 14 October 2017.

²⁸ Oral History Society, Advice on Data protection for oral historians and organisations holding oral history interviews [web page]. Accessed online at <http://www.ohs.org.uk/advice/data-protection/>, 20 August 2018.

²⁹ See information about the Data Protection reform (GDPR) at http://ec.europa.eu/justice/data-protection/reform/index_en.htm, accessed online 20 August 2018. EU countries and institutions are in the process of adapting their Data Protection policies consequently; readers are encouraged to check their local policies. In the United Kingdom, GDPR information is already available for social sciences research at <https://www.ukdataservice.ac.uk/manage-data/legal-ethical/obligations/data-protection>, as well as for oral history at <http://www.ohs.org.uk/advice/data-protection/> (all accessed 20 August 2018).

«process consent». The latter is necessary if participants will be contacted and met several times over the course of the project³⁰.

Anticipating with the help of benchmarking

Templates are helpful because they are a reliable starting point. But each project should make them their own. Preparatory work is necessary to identify, as much as possible, the following elements that will help create the consent documents:

- The content of what will be recorded (e.g. audio or video testimony, length and number of interviews, associated personal archives, picture of interviewees and relatives, potentially sensitive topics);
- The rights that will be granted to the interviewees. (e.g. will they keep a copy of the consent documents? If they have joint-author status, will they have a say in future dissemination? If so, for how long?);
- Where the records can be deposited for long-term preservation and access (e.g. in-house and offline, in a data repository or in the home institution's intranet);
- The future opportunities of dissemination that might arise (e.g. via online display, physical exhibition, or translation), and any interest that interviews might attract (e.g. from the local or national media, other research projects or court cases).

One way to answer such questions is to benchmark projects which are similar in terms of area, topic, and the population researched. This helps provide a sense of what interview collections and outputs such projects have generated, and what resources are likely to be required.

The participants' viewpoint: signing consent forms

Understanding the documents

What participants understand from the documents presented to them influences the quality of consent that they give. How can the vocabulary, style, text size, and references to legislation and technology be improved? When time is taken to explain and answer questions about these documents, this becomes much more than a box-ticking exercise. This is true even if the whole process only takes ten minutes and if the consent form is only one-page long. One method can be to practice before fieldwork by explaining the document to a colleague or even someone from outside the project.

Reading (or not reading) forms

Medical and psychological research sheds light on how research participants behave when asked to sign online consent forms³¹. In a recent study Jordan Cummings and his co-authors examined the impact of Open Data policies in consent forms, and whether these influenced the rate of consent. «Open Data» is a recent trend³² in scholarship and part of a broader

³⁰ UK Data Archive, Advice on consent [web page]. Accessed online at www.data-archive.ac.uk/create-manage/consent-ethics, 14 October 2017.

³¹ Jordan A. Cummings, Jessica M. Zagrodny and Eugene T. Day, Impact of Open Data Policies on Consent To Participate in Human Subject Research: Discrepancies between Participant Action and Reported Concerns, *PLOS One* 10 (5), 2015, p. 1-11. Accessed online at <http://dx.doi.org/10.1371/journal.pone.0125208>, 14 October 2017.

³² The starting point of the «Open Data» trend in Europe can be roughly dated to 2012 with the following report published by the Royal Society: *Science as an Open Enterprise*, 2012. Accessed online at <https://royalsociety.org/topics-policy/projects/science-public-enterprise/report/>, 14 October 2017. Since July 2016 both British and EU main research funders have recommended to researchers to make their research data available online whenever possible and appropriate; see for instance the following policies: Research Council

phenomenon now called «Open Science». Roughly defined, it refers to the online sharing of research sources in the same way as «Open Access» promotes the sharing of academic publications. As part of this study on online consent forms, a hundred and eighty nine participants completed an online survey. This involved signing a mock consent form where an Open Data policy was mentioned. No participants refused to sign the document. But, significantly, they all paid very poor attention to the content of the forms: participants took on average less than thirty seconds to read the five hundred-word long document before agreeing to it; some participants did not read the document at all but still signed it.

The authors highlight that at least seven other published studies came to the same conclusion: there is a clear lack of attention to online forms. Participants think that these documents «are all the same»³³. In this study, participants' free text comments also showed a lack of trust in studies with Open Data policies. Three useful recommendations are made by the authors. Consent, firstly, should be a «two-stage process». Participants should first be asked if they agree to take part in the study; and, «separately», they should be asked whether their data can be uploaded on an openly accessible data repository. Secondly, the authors suggest, we should distinguish between «consent and meaningful consent» and researchers should be «attuned to issues related to informed consent and attention to consent forms». They advise, finally, that researchers should see the consent process as an opportunity to «educate the public» to pay attention to these kinds of document. This can be done through «specific and thorough conversations during recruitment of participants»³⁴. Such advice seems relevant for both paper and digital consent forms.

Postponing signature

Finally, I have learnt from my own oral history experience how difficult it can be to get hold of the forms if they are not signed while interviewee and interviewer are still in the same room. I have known a few interviewees who never sent back the forms, or only did so months later despite my letters or phone calls to remind them. We were prevented from signing during their interview for a variety of (often excellent) reasons. When a participant cannot see at all on the day when we meet, and promises that he will complete his form after his eye operation, one must of course accept. Similarly, when an interviewee's daughter wishes to have a closer look at what her ninety four-year old father is signing, one can only agree to such a demand, even if this means delaying the process of preparing the interview for future use. In both cases, the consent forms were five page-long and involved many boxes to tick. It could be assumed, therefore, that these interviewees (and their relatives) were aware that these were not «the same» as most other forms (unlike the participants in the study summarised above). Securing consent that is as informed as possible can be achieved by sending the documents in advance, making them engaging and distinct, and accompanying them with verbal explanations.

UK, *Concordat on Open Research Data*, 2016 (accessed online at www.rcuk.ac.uk/media/news/160728/, 14 October 2017) and Horizon 2020, *Online Manual*, 2016 (accessed online at http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/open-access-data-management/open-access_en.htm, 14 October 2017). The Institut de l'Information Scientifique et Technique (INIST) explains the French and international context of «Open Data» in the following online guide: http://www.inist.fr/donnees/co/module_Donnees_recherche.html, accessed 14 October 2017.

³³ Cummings, Zagrodny and Day, *art. cit.*, p. 7.

³⁴ Cummings, Zagrodny and Day, *art. cit.*, p. 7-8.

Making the most of these planning and discussion tools in the digital context

Paying attention to explaining consent forms and other consent documents is not new in oral history. This method was, for instance, already used in a project that started in 1995 and focused on the incarceration of Japanese Americans during the Second World War. In an account of the team's work, Tom Ikeda describes how they were careful to explain to participants what an online dissemination would mean: «how the interview could be viewed from anywhere in the world by anyone». This was made clear before the interview and, once the video recording was over, participants had the chance to watch and review it. Only then were they asked to sign a release form³⁵.

Such thoughtfulness about recording consent seems, however, to become less and less typical. Mary Larson explains the «decrease in the overall level of conversation on ethics» by the reducing frequency of technical difficulties with digital oral history. This makes us less careful in «consider[ing] all the aspects of our projects». In addition to a lower «level of time and resources» invested in ethics, she notes a widespread belief that because there is «so much personal information already available online, it does not seem anomalous or dangerous» to add a few more interviews³⁶.

Digital oral history: more than a technological shift

Despite the rapid development of capacities for data storage and digital media creation, digital technologies can induce to promise what cannot be achieved with limited resources. An increasing number of funders expect that project outputs should be made as widely and quickly accessible as possible, and preserved for many years after the end of the project. Yet many institutions cannot afford to comply with such demands in the long-term.

Managing expectations

Respecting interviewees' consent requires taking care about what they are asked to sign. If it is essential to manage funders and home institutions' expectations, the same goes for participants. Anonymising, transcribing, editing, indexing or otherwise preparing interviews for dissemination is time-consuming. It can be difficult to respect interviewees' will with little human or financial resources or with no legal or technical advice at hand.

What is promised in the information sheet or in the consent form should therefore correspond to the reality of the home institution's budgetary and workflow capacity. To assess this, the project team needs to raise a series of questions before drafting their consent documents. For example, who will spin the back-up hard drives regularly to ensure that they still work in several years? Will there be enough funding and staff left to prepare the interviews for deposit in a data repository? Who will edit or embargo a recording when an interviewee accepts to talk, but asks that future access to the interview be restricted? Who will be in charge of converting the recordings into the next generation digital file format so that they are still readable in the future? Who will maintain the project website and monitor the social media accounts?

³⁵ Tom Ikeda, *Densho: The Japanese American Legacy Project*, in Boyd and Larson, *op. cit.*, p. 137.

³⁶ Mary Larson, «*We All Begin with a Story*»: *Discovery and Discourse in the Digital Realm*, in Boyd and Larson, *op. cit.*, p. 161.

Nonetheless, as Joanna Bornat points out, concerns about the future of the interviews «may [...] inhibit research design and interpretation». She stresses that «no consent procedure, however well drawn up, could ever guarantee a fully informed understanding of how data will be used»³⁷. I would add, meanwhile, that even the very existence of recordings in the future cannot be guaranteed in this way. It is impossible to predict what digital preservation and curation will mean in twenty years. *The Ethics Guidebook* suggests that informing participants also means explaining that we cannot foresee how archived or published recordings will be used in ten or twenty years³⁸. Although the future cannot be predicted, it is always possible to explain these uncertainties now to interviewees, and to be aware of the project's long-term capacities and responsibilities when it comes to future access.

Managing access and dissemination

Despite pressures towards making project outputs openly accessible online, not all interviewees' stories and not all projects are adapted for such rapid and wide public exposure. Different levels of online access to interviews are possible and should be offered whenever appropriate. Interviews can be made openly available, restricted to some audiences, controlled in a highly secured environment, closed for a few years (i.e. under embargo) or closed forever. These levels of access, used by the UK Data Archive for example³⁹, can coexist within one collection of records if the institution has sufficient staffing and technical capacity. Kevin Bradley and Anisa Puri provide a most interesting description of the access review and risk management process followed in a large oral history project recently completed in Australia. This process involved, for example, training the interviewers to «follow up any accusatory statement» made during an interview and notifying the project managers of sensitive recordings (such as narratives about domestic and sexual abuse); overall, the «projects' attitude was shaped by the library's preference to err on the side of access, but to consider the risk in each instance»⁴⁰.

Several models for the online dissemination of oral history are now also available. Doug Boyd, for instance, suggests distinguishing between the «repository approach» (where full interviews are made accessible), and the «exhibit approach» (with a more curated selection of extracts and related materials)⁴¹. Several tools are available to describe and prepare interviews more and more efficiently such as the free and open source «Oral History Metadata Synchronizer» developed at the University of Kentucky⁴² or the online delivery system created by the National Library of Australia and used along Zotero⁴³.

Any project should be careful when informing potential participants about how long they may wait to be interviewed. Likewise, forward-thinking and honesty are needed when making promises about when interviewees would receive their digital recording, or see their name and

³⁷ Joanna Bornat, *Remembering and reworking emotions*, in Perks and Thomson, *op. cit.*, p. 436.

³⁸ Ethics Guidebook, Information on consent [web page]. Accessed online at www.ethicsguidebook.ac.uk/Consent-to-data-archiving-or-data-sharing-90, 14 October 2017.

³⁹ UK Data Archive, Data access policy [web page]. Accessed online at www.ukdataservice.ac.uk/get-data/data-access-policy, 14 October 2017.

⁴⁰ Kevin Bradley and Anisa Puri, Creating an oral history archive: digital opportunities and ethical issues, *Australian Historical Studies*, vol. 47 (1), 2016, p.86-88. Accessed online at <http://dx.doi.org/10.1080/1031461X.2015.1122072>, 14 October 2017.

⁴¹ Doug Boyd, Search, Explore, Connect: Disseminating Oral History in the Digital Age, in *Oral history in the digital age* [web page], 2012. Accessed at <http://ohda.matrix.msu.edu/2012/06/search-explore-connect/>, 14 October 2017.

⁴² Oral History Metadata Synchronizer [web page]. Accessed online at www.oralhistoryonline.org/, 14 October 2017.

⁴³ Bradley and Puri, *art.cit.*, p.79-81.

story appear on the project website or social media. Disappointment can result from the interview itself but also from broken promises about waiting times. Benchmarking similar projects when creating interviewing, editing and dissemination plans should help minimise these (often bitter) project management mistakes.

Managing silences

Finally, one must accept that not all interviewees are willing to have their stories disseminated online at all. Several oral historians express worries about the legal and ethical issues posed by such a wide visibility of interviews. The fear of a misuse or decontextualisation of interviews is linked to the observation that the voice is «more deeply a marker of identity» than a transcript and could be used against interviewees, such as in contexts of «increasingly repressive and intrusive political climate in the United States»⁴⁴ or in projects dealing with «war, violence, and political instability»⁴⁵. Although this does not seem representative of their collections, a few authors report cases where participants have asked for their interviews to be removed from an online collection out of fear of manipulation or discomfort of a greater exposure online and easier discoverability⁴⁶.

Alexander Freund explains how an interviewee's silence during an encounter should be accepted «as a form of agency in the interview situation», arguing that oral historians should be better prepared for these situations. His analysis of how silences are experienced by the oral historian leads him to observe that «they signal a loss of control». I believe, similarly, that we should be ready to yield to interviewees' unwillingness to be heard online. Freund's call for developing an «ethics of silence»⁴⁷ is most welcome. Indeed, I would propose extending its purview beyond the end of the interview and its analysis.

Explaining his concept, Freund looks back at two interviews that he led where such pauses occurred during the recording. These case studies led him to observe that «by speaking off the record, [interviewees] ensured their experience did not become “altogether lost”»⁴⁸. Is this the same decision-making process as when some interviewees accept to be interviewed, but refuse access to (some parts of) their recording? If so, oral historians must also be prepared to hear and accept these choices, when seeking consent to use the interviews. Because welcoming such choices requires balancing ethical, legal and practical considerations, the various documents described in this article should be fully used to plan and discuss all such issues before, during and after the interview.

⁴⁴ Sherna Berger Gluck, *Why do we call it oral history? Refocusing on orality/aurality in the digital age* in Boyd and Larson, p.37 and 42.

⁴⁵ Anna Sheftel and Stacey Zembrzycki, Slowing down to listen in the digital age: how new technology is changing oral history practice, *Oral History Review*, 44 (1), 2017, p.107. Accessed online at <https://doi.org/10.1093/ohr/ohx016>, 14 October 2017.

⁴⁶ See for instance Elinor Mazé, *Deconstruction without destruction: creating metadata for oral history in a digital world* in Boyd and Larson, 2014, p.150-153; Sheftel and Zembrzycki, *art.cit.*, p.107; Robert Perks, The Challenge of Web Access to Archival Oral History in Britain, *Journal of the International Association of Sound and Audiovisual Archives* 32, 2009, p.80-81.

⁴⁷ Alexander Freund, *Towards an ethics of silence?*, in Perks and Thomson, *op. cit.*, p. 260-262.

⁴⁸ Freund, *op. cit.*, p. 262.

Consent documents as assets in the interviewer's toolkit

In its Advice on legal and ethical issues, the Oral History Society acknowledges that «form-filling is irksome»⁴⁹. I have often felt ashamed of asking interviewees to read and sign consent forms when they have already taken the trouble to welcome a total stranger (me) into their house, prepare a lovely cake, put on their best clothes, and narrate very personal experiences for several hours. Boring them with obscure administrative papers feels awkward, out of place, and even spell-breaking, but consent documents are too useful to be rushed or shied away from.

Trust-building tools

Consent forms and other related documents help us to build and record the trust that is developed between the interviewer, the interviewee and the project's home institution. These documents do not send a message that «we don't trust you», but rather that «you can trust us and here is why». Information sheets aim to show potential participants that they can talk to project members in good faith. Consent forms are then used (whenever possible) to show interviewees that the project team can be trusted to respect their choices, and also to take care of the recording and any other associated personal archives that they may wish to share.

Planning tools

Preparing these documents is most helpful for planning ahead how the interviewer or the team will care for the interview once it has been recorded. As described above, this does not mean that consent forms have to detail exact storage, processing and dissemination procedures. Nonetheless, it helps to be ready to explain these procedures to interviewees and their relatives, as well as to institution managers and funders. Drafting these documents, including the information sheet, also helps identify how the project addresses any legal or ethical problems. Keeping track of the choices made when producing the final version of these documents can become valuable later when explaining decisions. These choices may relate to what legislation to refer to, what options are given to participants regarding access to their interviews, conditions of confidentiality, or any phrasing about where records are safely stored.

Discussion tools

Consent documents cover a range of critical questions and, as a result, may trigger essential discussions between the many actors involved in any oral history project. The process of preparing these documents first stimulates debates within the project team, and then also with funders, home institutions and, where necessary and possible, external experts.

Secondly, once at the interview table, the task of explaining these documents to the participant provides a useful excuse for setting the context of why the interviewer is here to record his or her life story. Speaking about the form face-to-face, as recommended by the Oral History Society⁵⁰, enables the interviewer to make sure that there are no misunderstandings about the project's objectives and scope. The interviewee can be encouraged to be active in filling-out the forms, and not just sign automatically, if options are provided to choose from (even if these only take the shape of a «yes» or «no» to circle).

⁴⁹ Oral History Society, Advice on legal and ethical questions [web page]. Accessed online at www.ohs.org.uk/advice/ethical-and-legal, 14 October 2017.

⁵⁰ Oral History Society, Advice on legal and ethical questions [web page]. Accessed online at www.ohs.org.uk/advice/ethical-and-legal/5/#interview-clarification, 14 October 2017.

Finally, when it comes to deciding what to do with all of these consent documents at the end of the project, important discussions are required with the future curator of the repository where the project outputs will be preserved; this is important whether this repository is just an external hard drive on the interviewer's shelf or a national library. This is when the project team imagines a dialogue with future users of the interviews, and attempts to anticipate what they will need to know about the interviews' joint-authors, the immediate context of their recording, and interviewees' motivations for speaking and (not) sharing their life story with wider audiences. Such information can be recorded in many different ways: this includes for example keeping only a scanned encrypted copy of each consent form; attaching a written summary to each interviewee folder; summarising in a table the choices of all of the interviewees met; or creating a specific metadata field to document each audio file. One outcome of this imagined dialogue may be that not all original consent documents need to be kept in the long-term. But interviewees' consent and choices should certainly be documented to allow future custodians of the interviews to respect these agreements to the fullest extent possible.

Conclusion

Running any oral history project is complex and time-consuming and it can be easy to forget parts of our checklist. Taking the time to prepare consent documents helps save time and trouble later on; getting them right allows us to be creative about the future use of the interviews. Documenting consent should therefore come at the top of our to-do lists before, during and after the interview. Oral historians are lucky to have such tools that make them think ahead about so many crucial elements of their project – condensing a whole set of ethical, legal and technical questions into one or two-page texts. Interviewers, moreover, already possess the key inter-personal skills needed to engage with interviewees and their relatives - helping them to time these discussions, and to reach a balance between clarity and completeness.

In a 2009 article on the challenges of web access, Rob Perks was already inviting us to reflect upon our motives and on practices when doing online oral history⁵¹. It may take several more years to fully understand how the «digitality» of oral history exacerbates or alters traditional dilemmas about collecting, processing and sharing of interviews. Yet hopefully our determination to respect our interviewees and to do no harm will remain unaltered.

⁵¹ Perks, *art.cit.*, p. 74-75.