

News from the ICA Human Rights Working Group

June 2010

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The following is number seven in a series of brief discussions of the articles of the Universal Declaration of Human Rights (UDHR) and the archival holdings that relate to them.

Universal Declaration of Human Rights, Article 6. *Everyone has the right to recognition everywhere as a person before the law.*

Article 6 is the first of seven articles of the Declaration that deal with legal human rights. These seven constitute almost one-fourth of the articles of the entire Declaration.

Although the concept embodied in Article 6 seems obvious to most of us living in the 21st century, the idea of a “legal personality” was foreign to some of the drafters of the Declaration, including those from the United States, United Kingdom, and China. However, the French, Soviet, and Canadian delegates pushed for its inclusion, pointing out that governments such as Hitler’s arbitrarily deprived certain persons of legal life. As the delegate from Chile, Hernan Santa Cruz argued, “the interests of the individual [come] before those of the state and that the state should not be allowed to deprive the individual of his dignity and his basic rights.” (Quotation from Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, p.38.)

Article 6 has been incorporated into a number of international covenants that followed the Declaration. Article 16 of the International Covenant on Civil and Political Rights (1966) reads, “Everyone shall have the right to recognition everywhere as a person before the law.” The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) says, in Article 24, “Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.” The Convention on the Rights of Persons with Disabilities (2008), Article 12, reads, “States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.” Echoes of the right are found in international conventions protecting women and children.

With the concept now so widely reiterated, are the archives that support this right easily identified? Certainly court records are key records here, including the records of military courts. But also important are records of deliberations in parliaments and in the committees of parliamentarians and the records of investigations by human rights groups and public defenders. Whether they are the records of a legal case that considers a woman’s right to contract for her work in the absence of an approval by her father or husband or the records of an investigation by a public defender into the complaints by a migrant worker that he is not paid the government’s minimum wage, archives preserve them. After all, these records show a citizen, in the face of the might of the state,

insisting that he or she be heard and the state recognizing the right of the individual to do so. The records are fundamental.

Review Conference of the Rome Statute of the International Criminal Court. The Review Conference was held in Kampala, Uganda, 31 May to 11 June 2010. It adopted a resolution amending the Rome Statute to include a definition of the crime of aggression and to specify the conditions under which the International Criminal Court can exercise jurisdiction over the crime. (The amendment will come into force in 2017.) The definition of aggression that was adopted is “the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a state, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.” Any prosecution under these provisions would surely require the use of national archives, particularly the records of political and military leaders. In addition, personal papers of leaders of the political, military, and diplomatic communities may be vital pieces of evidence. And whether or not a state considers email and other electronic media as official records, these physical types will surely be sought by both prosecution and defense. For the text of the amendment, see http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Res.6-ENG.pdf

“Say goodbye to film.” In an article for the law enforcement website “Officer.com,” Aric Dutelle, a professor of forensic investigation, provides an good overview of the end of film photography as evidence and the move to digital technologies. He notes that “one of the biggest areas of concern” with the shift to digital images “is digital archiving and chain of custody of digital images.” [http://www.officer.com/print/Law-Enforcement-Technology/Say-goodbye-to-film/1\\$52985](http://www.officer.com/print/Law-Enforcement-Technology/Say-goodbye-to-film/1$52985)

HURIDOCS. HURIDOCS, a global network of organizations concerned with human rights, announced the launch of a new, Open Source version of [HuriSearch](#), its specialised search engine for human rights information. HuriSearch searches the content of over 5000 human rights websites.

Free access to human rights journal. *Human Rights Review* will be included in the next edition of the Springer Social Sciences Reading Room for the period July-September 2010. Anyone who signs into the Reading Room during this period will be able to access all HRR content free of charge. Sign up at www.springer.com/SSReadingRoom.

Call for chapter proposals. The editors of a proposed book on *Human Rights and Information Communication Technologies: Trends and Consequences of Use* seek authors for chapters. Proposals must be received by 27 August 2010; for further information, contact John Lannon, University of Limerick, Ireland, john.lannon@ul.ie.

Calls for papers. The European Consortium for Political Research is organizing its 2011 conference in Reykjavik. Section No. 53 of the program is titled “Human Rights and Transitional Justice in post-conflict societies and periods of democratization,” and the Consortium asks for panel proposals (with a maximum of 4 papers per panel) to be

submitted on the conference webpage. Proposals must be received by 1 September 2010. The online panel submission system is available at:

http://www.ecprnet.eu/conferences/general_conference/Reykjavik/propose_a_panel.asp

The DVP-German Political Science Association working group on human rights, democracy and democratization is having a two day conference 26-27 November 2010 on “Human right abuses—Coming to terms with the past, transitional justice and democratization.” Details are found at https://www.dvpw.de/fileadmin/docs/cfp/AK-MRCall_for_Papers2010.pdf. Paper proposals in German or English are due by 30 July 2010 to Dr. Anja Mihr, Netherlands Institute of Human Rights, A.Mihr@uu.nl.

Documentary films. “La Isla – Archives of a Tragedy” by German filmmaker Uli Stelzner is the story of the Guatemala police archives and their impact on researchers and staff members alike. Previously shown in Germany and Guatemala, it was featured at the American Film Institute’s documentary film festival. Clips from the film can be viewed at

http://silverdocs.bside.com/2010/films/laislaarchivesofatragedy_silverdocs2010#screenings

In South Africa, the 25th anniversary of the death of the Cradock Four on 27 June 2010 was marked with the launch of a film by South African documentary-maker David Forbes at Museum Afrika in Newtown, Johannesburg. Research for the film, in production for seven years, included review of the transcripts of amnesty hearings related to the case, as well as copies of all documents submitted during the trial. The South Africa History Archive assisted the filmmaker in gaining access to the records. For the story of the film, see <http://www.thecradockfour.co.za/Home.html>; for the story of the work to gain access, see

http://www.saha.org.za/news/2010/June/commemorating_the_cradock_four_25_years_later.htm

National news.

Argentina. Radio Netherlands Worldwide’s *International Justice Tribune* reports that former Transavia pilot Julio Poch, of Dutch-Argentinean nationality, will be prosecuted for his role in the ‘death flights’ carried out during Argentina’s last military dictatorship. In the *Tribune*’s report, Diego Martínez, an Argentinean journalist who specializes in cases against former military personnel, explained that witnesses play a central role in these cases because “the armed forces planned their impunity carefully and therefore it’s difficult to prove the participation of individuals.” However, because Poch argued in court that in the 1970s he was a fighter-pilot and technically unable to fly the bigger transport-planes that were used for the death flights, military personnel records, flight assignment logs, and similar records would be relevant to the case.

<http://www.rnw.nl/international-justice/node/129041>

Brazil. CNN reported a statement by Carlos Fico, a leading historian of the so-called "lead years" in Brazil, on accounts first reported in the Brazilian newspaper *Folha de Sao Paulo* about deteriorating conditions at the Brazilian national archives building. The building in Brasilia to which the story refers is the national archives building for the Federal District of Brasilia; the headquarters of the National Archives is in Rio. The conditions in the building in Brasilia, while not ideal, are not endangering the preservation of the materials, says the Diretor-Geral, Jaime Antunes da Silva. For the CNN report, see <http://bit.ly/dnHVTx>. For the National Archives' response to the *Folha de Sao Paulo* story, see the Annex to this newsletter. Thanks to the National Archives of Brasil for providing the English translation.

Colombia. A Colombian court sentenced retired Colonel Plazas Vega to 30 years in prison for the disappearances of 11 people during Army operations to retake the Palace of Justice after it was seized by guerrillas in November 1985. This is the first conviction relating to the famous events, in which more than 100 people died, including 11 supreme court justices. Documents from the U.S. Embassy provided significant information on the operation to retake the building; these are posted on the website of the National Security Archive, <http://www.nsarchive.org>.

Congo. Radio Netherlands Worldwide's *International Justice Tribune* reports that at the same time as the Democratic Republic of Congo celebrated 50 years of independence, the sons of Congolese independence hero Patrice Lumumba announced they would seek war crimes charges against 12 Belgians they suspect of involvement in their father's assassination. They plan to file a complaint at a Brussels criminal court in October. <http://www.rnw.nl/international-justice/article/sons-seek-lumumba-charges>

Czech Republic. A film donated to the state television archives a decade ago but not previously known to the public documents the killing of 40 ethnic German men and "at least" one woman on 10 May 1945 in the Prague district of Borislavka. The black and white film was shot by an amateur filmmaker who lived in the district. The filmmaker, Jiri Chmelnicek, kept the film hidden, even (according to his daughter) when communist police threatened him. The footage has now been incorporated in a documentary, "Killings, Czech Style," by David Vondracek.

<http://www.spiegel.de/international/europe/0,1518,698060,00.html>

Cyprus. The House Legal Affairs Committee is considering a bill to amend the Freedom of Information Act "as far as state archives were concerned," says *Cyprus Mail*. One of the issues is the right of patients at state hospitals to have copies of their medical records. The chairman of the committee, speaking to the press, said, "A patient can't seek a copy of his or her medical file at the general hospital. This is serious to the extent that some have difficulties in seeking treatment but also in establishing negligence in the way they were treated by doctors." <http://www.cyprus-mail.com/cyprus/lift-blanket-darkness-public-documents/20100611>

Hungary. The Open Society Archives has an exhibit on the exhumation of bodies from the massacre at Srebrenica. For a look at the exhibit, see <http://www.osaarchivum.org/en/main-osa-archivum/osa-news/osa-current-news/srebrenica-exhumation>; for comments about the exhibit, see OSA staff member Csaba Szilagyi's guest post on the WITNESS blog <http://blog.witness.org/2010/06/srebrenica-a-forensic-reconstruction-now-on-exhibit-at-open-society-archive/>

Iraq. Iraqi officials, including national archivist Saad Eskander, are in negotiation with US officials over the fate of Iraqi materials now in the United States. U.S. National Public Radio reported on the Iraqi government documents in various U.S. hands; the text, pictures and streaming audio of the story can be found at <http://www.npr.org/templates/story/story.php?storyId=127986894>

Israel. The Israeli newspaper *Ha'aretz* and an Israeli art student petitioned the Israeli High Court of Justice for records stored in the Israeli Defense Forces archives relating to the alleged massacre of Palestinians in the village of Deir Yassin in April 1948. The records have been withheld under the Israeli Archive Law, which permits the closure of records relating to national security for 50 years. A committee of ministers extended the closure to 2012 for the records relating to Deir Yassin. <http://www.jpost.com/Home/Article.aspx?id=174720>

Kyrgyzstan. The Bishkek news agency reported that the regional records office in Bazar-Korgon burned down on 13 June. The director of the state archives told the press "more than 20 thousand of papers disappeared," adding, "As a result residents and natives of the district will face difficulties for years in handling pension and departure to permanent place of residence because it will be a problem to restore data." <http://eng.24.kg/community/2010/06/14/12028.html?print=yes>

Spain. An order of General Francisco Franco, "recently unearthed from Spanish archives" according to Giles Tremlett of the U.K.'s *The Guardian* newspaper, had officials draw up a list of some 6,000 Jews living in Spain in May 1941. As reported by the Spanish newspaper *El Pais*, the list was given to Hitler's SS chief Heinrich Himmler; subsequently, the "Jewish register" was destroyed but copies of parts of it remain in the archives of the province of Zaragoza. The original article in *El Pais*, titled "La Lista de Franco para el Holocausto" is http://www.elpais.com/articulo/reportajes/lista/Franco/Holocausto/elpepusocdmg/20100620elpdmgrep_1/Tes. The report in *The Guardian* is <http://www.guardian.co.uk/world/2010/jun/20/franco-gave-list-spanish-jews-nazis>

United States. The Sacramento, California, superior court temporarily shut down electronic access to all probate court records in early June because a "system malfunction" allowed public access to confidential documents. California has embarked on a \$2 billion project to link all state courts in one computer system, which has become controversial within the state, reports the newspaper *The Sacramento Bee*. <http://blogs.sacbee.com/the-public-eye/2010/06/more-glitches-with-sac-court-computer->

[system.html](#) Meanwhile, in the state of Washington, a “clerical error” posted “thousands” of personal social security numbers to an online database. The state archivist then found that the state’s digital archives also contained more than 42,000 names and social security numbers; the state archivist “scrubbed” the numbers from the public version of the digital records. The Washington secretary of state’s office says it is now training local agencies “how to store documents so the social security numbers don’t show up online.” <http://www.kxly.com/news/23749765/detail.html>

Tribal members and scholars seeking to recover and perpetuate Native American languages use archival holdings. The American Philosophical Society in Philadelphia, Pennsylvania, has more than 1,000 hours of recorded American Indian languages, all of which have now been digitized thanks to a grant from the Mellon Foundation. <http://www.philly.com/philly/living/95295344.html>. The Eastern Band of Cherokee Indians opened the Museum of the Cherokee Indian, including museum and archives, multimedia classroom and community arts center. Included are 2000 pages of Cherokee language material from the 1880s. For a news report on the opening of the museum and its holdings, see http://www.smokymountainnews.com/issues/06_10/06_09_10/fr_cherokee.html. For the Museum website, see <http://www.cherokeemuseum.org/>

ANNEX



**PRESIDÊNCIA DA REPÚBLICA
SECRETARIA EXECUTIVA DA CASA CIVIL
ARQUIVO NACIONAL**

I present, for general information, the institutional point of view about the report published in *Folha de São Paulo*, Sunday, 2010 June 27th, entitled “Acervo da Ditadura mofa sob goteiras em Brasília” (“Dictatorship’s archives under dripping derision in Brasilia”):

- 1) All the Dictatorship’s archives are kept in storage rooms, under permanent surveillance. The records on paper, after treatment and cleaning, are kept on adequate boxes. The microfilms are kept in steel cabinets;
- 2) The plastic bags mentioned as "garbage bags" are actually bags of high-resistance polymer, used when there is infestation of microorganisms in the documents collected or transferred to the *Arquivo Nacional*. It should be clarified that the documents indicated in the report are not of the Dictatorship period. They are part of the fonds *Delegacia do Ministério da Fazenda do Estado de Mato Grosso*, produced on the XIX and XX centuries, and because those records are infested, they are being submitted to a conservation process known as anoxia. This process is based in the use of carbon dioxide in high resistance polymer bags for a period of 28 days, killing any insect in stage of egg, larva or adult. This method does not leave any residue and, therefore, presents no risk to the health of archivists and researchers. At the end of the process, the documents are mechanically cleaned and put in their own boxes and stored on shelves. Those records have already been submitted to this process and, after the time required, they will be cleaned and kept in permanent custody;
- 3) Despite the need of continuous improvement, the conditions of custody cannot be considered precarious. The photos of stains on the ceiling and pads covering the shelves reflect the administration's caution about the risks of recurrence in areas where leaks have occurred. The image printed in the newspaper portrays an old leak on the ceiling, now dry. We emphasize that the covered shelves keep archives of terminated agencies; those records will be evaluated, and they were covered to avoid any damage due to weather. Those records do not belong to any agency related to the military regime. The deposits of records from the military regime are located in controlled access areas, which were also visited by the journalist;

4) About the location of restrooms and the pantry, the *Coordenação Geral de Administração*, through the Engineering Team, has produced a project for contracting services in order to transfer these facilities elsewhere. Before the beginning of the work, as a precaution, the *Arquivo Nacional* has been using, in the case of any emergency, the services for maintenance of the building contracted by the *Imprensa Nacional*, which is the owner of another part of the architectural complex;

5) The documents indicated in the report as "thrown in a corner of the building and the boxes with signs that were wet" are documents in the process of analysis for future disposal if without informational value. The *Coordenação Regional* in *Brasília* states that the maps are on a bench and the plan is to pack and keep them;

6) The statement that "Even with the poor structure, the institution had in last two years the budget of \$ 117 millions of *reais*," requires the explanation that this sum includes all items of mandatory expenses (active employees, inactive, pensioners, social security employer contribution, food aid, child care, transportation, and periodic medical examinations), comprising 77.04% of the amount quoted. The remaining 22.96% is for discretionary expenses (administration, maintenance, contracts and services maintenance as well as the costs of trainees). Thus, it is clear that the report was not precise about the distribution of our budgetary resources. We stress the commitment of the direction of the *Arquivo Nacional* in the application of available resources in their administrative units in order to preserve the holdings. The *Casa Civil da Presidência da República*, the agency to which the *Arquivo Nacional* is subordinated, has been supporting the necessary projects, and the reform of the *Coordenação Regional* has already been scheduled;

7) Finally, as the journalist was told during his visit, it is necessary to state that the document from the Fire Department - CB / DF is a standard formula for all the buildings they inspect. In this case, several items were already in accordance with the standards and others will be implemented in conjunction with the *Imprensa Nacional* since the two institutions share the same building.

Arquivo Nacional, June 28th 2010

Jaime Antunes da Silva
General Director