

## News from the ICA Human Rights Working Group

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The following is number fourteen 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 13.** *(1) Everyone has the right to freedom of movement and residence within the borders of each State. (2) Everyone has the right to leave any country, including his own, and to return to his country.*

Article 13 begins the first of three Articles focused on rights of movement, asylum and nationality. The particularity of these three Articles is that to exercise the defined rights requires the participation of two countries: to leave a country or seek asylum means entering another country and to change a nationality means another nation must accept the applicant as a citizen. Like many of the first twelve Articles, the background of Articles 13-15 can be found in the experience of World War II Germany, where the ability to leave and be accepted elsewhere was literally a life and death matter.

Article 13's two provisions, the first focusing on movement with a country and the second on movement between countries, began as separate Articles but were combined during the drafting process. The USSR proposed three times to add to the language on the right to leave the country an additional phrase "in accordance with the established laws of the country"; this was voted down each time. Lebanon proposed that the right to leave included the right to return, which was adopted, with the Greece, the Philippines, and the United States speaking in favor of it. (Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, pp. 72-75). Drafted during the period when Palestinians were fleeing the new state of Israel, the language of this Article and particularly the return clause were surely influenced by that mass refugee movement.

The issues of freedom of movement and right to return are incorporated in the UN's International Covenant on Civil and Political Rights (adopted in 1966, entered into force in 1976) and are reflected in a number of other international compacts. An important statement on the freedom of movement was adopted by the UN Human Rights Committee in 1999; it is on line at

<http://www.unhchr.ch/tbs/doc.nsf/0/6c76e1b8ee1710e380256824005a10a9?Opendocument>. And in a path-breaking agreement, the freedom of movement was extended across multiple state boundaries in the European Union's Schengen Agreement (1985) and Convention (1990).

Over the past sixty years the Article has been cited in support of causes as varied as the right to maintain pastoralist lifestyles and the opposition to human trafficking. It has featured in discussions of the South African pass system during apartheid and the Cuban families separated between Havana and Miami. Consequently, the records relating to this Article can be found in many, many archives. At the international level, records of movement are in the archives of the United Nations High Commissioners for Refugees and Human Rights, the United Nations Relief and World Agency for Palestine Refugees, the International Organization for Migration, specialized operations such as the UN Human Rights Field

Operation in Bosnia, and the regional bodies such as the European Union and the European Court of Human Rights. At national government levels the police, border control units, immigration services, courts and foreign ministries have relevant records. And in the non-governmental world the human rights and refugees NGOs hold key documents, as may NGOs that focus on a particular country. In special cases, such as when academic specialists are not permitted to take up teaching and lecturing posts abroad, academic associations also may have relevant records. As the people of the world migrate, become refugees, smuggle or are smuggled across borders, are trafficked, are displaced within their own country or expelled from it, seek asylum and migrate for education or work, more and more records of movement and return will flood into archives. Ensuring that these records are appraised and preserved to protect human rights and described so they can be used will be a continuing duty for archivists.

### **Publications.**

The current issue of *Politorbis*, the journal of the Federal Department of Foreign Affairs of Switzerland, is devoted to articles on the theme “Dealing with the Past.” The three sections of the publication are “A Holistic Approach to dealing with the Past” (5 articles, including ones on the right to know and on the role of security sector reform), “The Challenge of Implementation” (9 articles, including ones on forensic anthropology and archives), and “The Role of External Actors in Dealing with the Past: Lessons Learned from Swiss Experiences” (6 articles, including one on the Third Reich and historical research).

[http://www.eda.admin.ch/etc/medialib/downloads/edazen/doc/publi/publi2.Par.0099.File.tmp/Politorbis%2050%20-%20Dealing%20with%20the%20Past\\_3%20.pdf](http://www.eda.admin.ch/etc/medialib/downloads/edazen/doc/publi/publi2.Par.0099.File.tmp/Politorbis%2050%20-%20Dealing%20with%20the%20Past_3%20.pdf)

A useful article in the *New York Law Journal*, entitled “What Happens to Your Digital Life When You Die?” discusses the issues of ownership and access to digital media after the creator dies, including the right to privacy and the control over social media, email and electronically created records, as well as virtual wills.

[http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1202479380979&What\\_Happens\\_to\\_Your\\_Digital\\_Life\\_When\\_You\\_Die](http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1202479380979&What_Happens_to_Your_Digital_Life_When_You_Die)

### **Film.**

“Granito: How to Nail a Dictator,” a documentary film about human rights in Guatemala by Pamela Yates, was shown at the Sundance Film Festival in January. The film features the genocide trial of Guatemala officers in Spain; the role of archives in the trial is included, according to the press release. [http://sundance.slated.com/2011/films/granito\\_sundance2011](http://sundance.slated.com/2011/films/granito_sundance2011), <http://www.nsarchive.org>

### **Calls for papers, conferences, courses.**

The Conflict Research Centre at Saint Paul University in Ottawa, Canada, is holding a conference on Displacement and Reconciliation on 9-10 June 2011. The conference organizers write, “Particularly in the aftermath of conflict and human rights violations, the challenge of reconciling displaced persons, their former neighbours and other actors such as their states of origin represents a critical factor affecting the success of return, resettlement

and reintegration processes involving millions of refugees and internally displaced persons (IDPs).” Individuals wishing to present a paper at the conference are requested to submit a 500-word (maximum) abstract and a 200-word biographical statement by 28 February 2011 to Megan Bradley, at [mbradley@ustpaul.ca](mailto:mbradley@ustpaul.ca) (cc’ed to [mebradley@gmail.com](mailto:mebradley@gmail.com)).

The Truth and Reconciliation Commission of Canada is holding a forum, “Sharing Truth: Creating a National Research Centre on Residential Schools,” 1-3 March in Vancouver, Canada. For more information on the program, speakers and registration, see [trc-nrc.ca](http://trc-nrc.ca).

The Einstein Forum and the Hamburg Institute for Social Research are organizing a conference “Coming to Terms with a Criminal Past: Can Countries Learn from Each Other?” in Potsdam, Germany, June 2-4. For more information see <http://www.einsteinforum.de/index.php?id=10&L=>. Thank you to Kirsten Weld for the information.

The Centre for Refugee Studies at York University, Toronto, Canada is offering a summer course on Refugee and Forced Migration Issues 8-15 May 2011. It is open to both academics and practitioners seeking to expand their knowledge of contemporary critical elements of forced migration/refugee issues. For more information see <http://crs.yorku.ca/summer/>

The Rotary Foundation is now accepting applications for the world-competitive Rotary Peace Fellowship. The fellowship provides academic and practical training to prepare scholars for leadership roles in solving conflicts around the world. Applications are due 7 July 2011. For further information see [www.rotary.org/rotarycenters](http://www.rotary.org/rotarycenters)

### **International news.**

UN/International Criminal Tribunal for the Former Yugoslavia/International Criminal Tribunal for Rwanda. On 22 December 2010 the United Nations Security Council adopted Resolution 1966 (2010) creating a body to continue to unfinished business of the Tribunals after they officially close. The body, called the “Mechanism,” will have two seats: The Hague and Arusha, Tanzania, where the two tribunals now sit. Article 27 gives the Mechanism the responsibility for “the management, including preservation and access” of the Tribunal archives. The archives “shall remain the property of the United Nations.”

UNESCO. UNESCO organized two exhibitions at its Paris headquarters commemorating the 66<sup>th</sup> anniversary of the liberation of the Auschwitz-Birkenau camp. One exhibition focused on the history of the Shoah in Europe, while the second exhibition featured the original manuscript of the diary kept by Sorbonne student Helen Berr from April 10 1942 to February 1944. Ms. Berr and her family were deported to Auschwitz in March 1944. Thanks to Jens Boel for the information.

US/world. The impact on human rights of the documents released by Wikileaks continues to spread. In Zimbabwe, the Attorney General ordered a probe into Morgan Tsvangirai, the opposition leader now prime minister, over the U.S. diplomatic cable that reports Tsvangirai saying that “it will require actions by all parties, including the Western powers, to change the status quo.” <http://edition.cnn.com/2011/WORLD/africa/01/17/zimbabwe.politics/> and <http://www.guardian.co.uk/help/insideguardian/2011/jan/13/wikileaks-morgan-tsvangirai-inside-guardian/print>. At the Charles Taylor trial before the Special Court for Sierra Leone,

the defense, which had rested its case, won the right to introduce additional documents obtained from Wikileaks. [http://www.expatica.com/nl/news/dutch-news/wikileaks-cables-admitted-in-charles-taylor-trial\\_126150.html](http://www.expatica.com/nl/news/dutch-news/wikileaks-cables-admitted-in-charles-taylor-trial_126150.html). And the *New York Times* and other media sources reported that some persons are being relocated, either within or outside their countries, because of fears of reprisals following the release of documents by Wikileaks. [http://www.nytimes.com/2011/01/07/world/07wiki.html?\\_r=1&scp=1&sq=&st=nyt](http://www.nytimes.com/2011/01/07/world/07wiki.html?_r=1&scp=1&sq=&st=nyt)

### **National news.**

Belarus. The national security service (still called the K.G.B. in Belarus) raided the offices of the Belarus Helsinki Committee and confiscated “several computers,” the *New York Times* reported, thereby seizing at least some of the records of the organization. [http://www.nytimes.com/2011/01/14/world/europe/14belarus.html?\\_r=1&ref=belarus](http://www.nytimes.com/2011/01/14/world/europe/14belarus.html?_r=1&ref=belarus)

Bolivia. On 22 December 2010 President Evo Morales invited the families of the disappeared to go with him to the military archives to search for information about the missing. Bolivia’s National Commission of Inquiry into Disappearance, established in 1982 to investigate disappearances, was disbanded in 1984 before it completed its work and in 2003-2004 I was unable to locate the Commission’s records. <http://www.fmbolivia.tv/2010/12/evo-acompanara-a-familiars-a-buscar-archivos-militares/>

Canada. Using the Access to Information Act, a research firm discovered that confidential personal information has been vulnerable to unauthorized access because of several security lapses at Statistics Canada, reported the *Toronto Sun*. One incident in March 2007 resulted in the loss of personal information on census workers because filing cabinets were not cleaned of records before being sold at auction. This is a serious but not unknown case; other agencies and archives, in Canada and other countries, have accidentally lost records because filing equipment was not thoroughly emptied before sale. <http://www.torontosun.com/news/canada/2011/01/10/16832711.html>

Egypt. The headquarters of the National Democratic Party burned on 28 January, with the likely result that at least some party records were destroyed. Mass media reported that fire gutted a provincial government building in Alexandria, and in Suez protesters stormed the police station, removing “its contents—refrigerators, desks, files and other equipment.” See, for example, <http://www.mcclatchydc.com/2011/01/28/v-print/107624/protests-gather-force-in-egypt.html>

Hungary. In an announcement that caused great concern among the public and researchers in Hungary and abroad, a member of Parliament who is the Parliamentary Secretary for the Ministry of Public Administration and Justice, said the Government would enact legislation by November 2011 to permit anyone who had a file in the communist-era Hungarian state security archives to remove it and do with it what he or she wishes. The government has not yet initiated such legislation, but the announcement follows the Government’s sales of various pieces of communist era art and the disbanding of a commission to analyze some computer tapes from the former security service. A website devoted to the issue, including a petition to sign protesting the proposed dispersion, is <http://hungarianarchives.com/> See also <http://esbalogh.typepad.com/hungarianspectrum/2010/12/the-newest-outrage-decision-was-made-to-destroy-the-archives-of-the-secret-service-1.html> Thanks to a number of people who provided information.

India. In Kalyan, the building housing the archives is so “decrepit,” reported *The Times of India* on 24 January, that staff retrieving records “go inside building taking their live on risk.” <http://timesofindia.indiatimes.com/city/mumbai/Decrepit-building-houses-KDMC-files/articleshow/7349411.cms> Less than a week later, *The Tribune* reported that 70% of the records in the Punjab and Haryana High Court were destroyed by a fire in the records room, including records of civil disputes, insurance claims, matrimonial disputes, and motor accident claims. <http://www.tribuneindia.com/2011/20110131/main5.htm>

An activist who used India’s Right to Information Act to obtain “records of land leases, electricity bills and inspection reports” was assassinated in Kodinar, India, the *New York Times* reported. [http://www.nytimes.com/2011/01/23/world/asia/23india.html?\\_r=1&scp=18&sq=lydia%20polgreen&st=cse](http://www.nytimes.com/2011/01/23/world/asia/23india.html?_r=1&scp=18&sq=lydia%20polgreen&st=cse)

Scotland. Scottish court files on sex crimes were found in a recycling center in Clarkston, Glasgow. They included the name of a rape victim and the identities of young boys abused by a pedophile. The member of the public who found the files gave them to *The Daily Record*, who returned them to the court and wrote a press account. <http://www.dailyrecord.co.uk/news/scottish-news/2011/01/06/scottish-court-service-slammed-after-rape-files-found-dumped-in-the-street-86908-22829965/>

Somalia. A hospital was vandalized and the woman doctor who ran it was put under house arrest for five days by gunmen belonging to a militant group. The vandalism included “tearing up records,” reported the *New York Times*. <http://www.nytimes.com/2011/01/08/world/africa/08somalia.html?scp=5&sq=Mohammed%20Ibrahim&st=cse>

Switzerland. The Swiss Federal Government issued a new report on “the state of work on Nazi-looted art, in particular, on the subject of provenance research.” Switzerland has a Contact Bureau on Looted Art. [http://www.bak.admin.ch/themen/raubkunst/index.html?lang=en&print\\_style=yes](http://www.bak.admin.ch/themen/raubkunst/index.html?lang=en&print_style=yes)

United Kingdom. Using the Freedom of Information Act, the Press Association obtained information about the breadth of data and databases amassed by police forces across England and Wales. “Millions of innocent people have their details stored on police databases after reporting a crime,” said *The Guardian* as it reported on the Press Association survey. The West Midlands Police, the nation’s second largest force, alone holds 1.1 million records on persons, and in some police forces personal information was spread in as many as 22 databases and the same person could be recorded several times, including name, address, contact details, and sometimes date of birth and ethnicity. <http://www.google.com/hostednews/ukpress/article/ALeqM5iYzfvvCEkzGqrte4SdaTGsjrtYhQ?docId=N0419411293928098579A>

The *Yorkshire Post* obtained “disciplinary records” from police and health services and local councils (governments) in its region and reported that “dozens of police officers, nurses, social workers, council staff and other public servants” were disciplined from “abusing their positions of trust to look up private information.” The cases ranged from looking at criminal records to medical records, apparently all in computer records. This is particularly troubling in light of the broad data in these records as found by the Press Association survey cited

above. <http://www.yorkshirepost.co.uk/news/Exclusive-Scandal-of-computer-snooping.6678618.jp>

### United States.

The Ponemon Institute, a research center on privacy and information security located in Michigan, released the results of its study of healthcare providers' patient privacy practices and their experience in dealing with the loss or theft of patient information. The study found that data breaches are a frequent occurrence at health care organizations, with 80% of healthcare organizations reporting a breach involving one or more records. In a related story, ID Experts, a commercial company providing "data breach solutions," assembled a panel to discuss the risks to patient data. They warned that health information exchanges (that is, groups of health care providers who share data) are increasing the risk of security breaches of patient data. <http://www2.idexperts.com/resources/healthcare/healthcare-articles-whitepapers/ponemon-benchmark-study-on-patient-data-security-practices/> and <http://www.infosecurity-us.com/view/15010/health-information-exchanges-increase-risk-of-patient-data-breach/>

A U.S. bankruptcy judge in Delaware blocked a bankrupt home loan finance company from shredding 18,000 boxes of original loan files. Federal prosecutors said records in the boxes may be needed as evidence in more than 50 criminal investigations. The original loan documents are essential to prove ownership of mortgages. <http://www.courant.com/business/hc-mortgage-lenders-network-0126-20110125,0.6399498.story> Meanwhile, across the United States in Portland, Oregon, boxes of documents, including personal financial records and bank statements, from another defunct mortgage lender were put up for public sale at a local auction. The sale was stopped, and a former employee of the lender is working with the state of Oregon to retrieve and protect the records. <http://www.koinlocal6.com/news/local/story/Mortgage-documents-put-at-risk-at-Portland-PODS/Xt8EV0ULg0qaZqAzx9RuGQ.csp>

*California.* A major archives on water resources in California and the U.S. West has been transferred to joint management by the University of California Riverside and California State University San Bernardino. Starting in 1958, the archives was built by the California Water Resources Center, and contains "200 archival collections, 200,000 technical reports, 1,500 specialized newsletters, 5,0000 maps and videos, 2,200 serials, 25,0000 land photographs, 45,0000 aerial photographs of coastlines" plus digital resources. [http://newsroom.ucr.edu/news\\_item.html?action=page&id=2531](http://newsroom.ucr.edu/news_item.html?action=page&id=2531)

*Ohio.* A funeral home that traditionally serves the African-American community in Toledo, Ohio, is launching a project to make its 100 years of records available. The funeral home and the African American Legacy Project of Northwest Ohio hope to create a computer database of the records and eventually make them available on line. The project is of special interest because of the unusual amount of information the records contain, including the "dates and places of birth and death, the names of parents and other relatives, cause of death, occupation, memberships in churches and other community organizations, and physician's name." Additionally, "many of the paper files include photos, obituaries, funeral programs, and other memorabilia" that is often difficult to locate. <http://toledoblade.com/article/20110103/NEWS16/101020381/0/news09>

*Washington.* The city of Tacoma, Washington, released 133 pages of law enforcement records to the chairman of the local Bill of Rights Defense Committee. The records detail the surveillance of protest groups in the Olympia area and include personal information about antiwar activists, including a former city councilman of Olympia. The information was gathered by an employee of the military base in the area who spied on war protests; a lawsuit has been filed against him and his former supervisors at the base.

<http://www.theolympian.com/2011/01/25/1518687/ex-worker-at-jblm-collected-activist.html>

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