

March 24 is the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims
March 25 is the International Day of Remembrance of Victims of Slavery and the Transatlantic Slave Trade

News from the ICA Human Rights Working Group

February 2011

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The following is number fifteen 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 14. *(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.*

Two ghosts hovered over the debate on draft Article 14: the Jews who fled Nazi Germany and the Palestinians who fled during the 1948 Arab-Israeli war. These ghosts faced the defenders of national sovereignty, who stressed that states have the right to determine who resides within their borders. While the general right to *seek* asylum was agreed upon easily by the drafters of the Declaration, the question was whether a person has the right to be *granted* asylum, and here the delegates sharply disagreed. Eventually the United Kingdom proposed the phrase “to seek and to enjoy,” which the U.K. delegate made clear meant that the “intention was not to grant to a person fleeing persecution the right to enter any and every country but to ensure for him the enjoyment of the right of asylum once that right had been granted him.” After debate and the defeat of “and granted” language, the British proposal passed. (Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, pp. 75-79). The second clause, which prevents guaranteed asylum for war criminals as well as common criminals, was viewed at the time as the right of States not to extradite certain persons, according to a study of the drafting history by Sibylle Kapferer (“Article 14(2) of the Universal Declaration of Human Rights and Exclusion from International Refugee Protection,” *Refugees Survey Quarterly*, Volume 27, Issue 3.) This clause was adopted with much less debate than the first.

The representative of the International Refugee Organization criticized the weak language of Article 14, as did the representatives of the World Jewish Congress and the International Union of Women’s Catholic Organizations. In 1951 the United Nations adopted the United Nations Convention relating to the Status of Refugees (and a subsequent 1967 Protocol) which now defines a refugee as a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” At the end of 2009, the

last annual figure available, over 15 million people were refugees, with about a third of those Palestinian refugees.

The records of asylum-seekers abound. The United Nations High Commissioner for Refugees has its archives in Geneva, as does the International Organization for Migration; the records of the UN Relief and Works Agency for Palestine Refugees in the Near East are with the Agency; the records of the League of Nations' refugee office are with the League archives also in Geneva; the records of the International Refugee Organization are at the National Archives of France. Most governments have records of refugee applications, as well as legal records on determinations of refugee status. Many NGOs specialize in refugee work including the legal representation of asylum-seekers; the International Committee of the Red Cross is prominent in refugee affairs, as are Red Cross and Red Crescent organizations in many countries, all of which have records. Religious bodies also may have records on asylum-seekers they sponsor, and some educational institutions may also have files. The persistence of the refugee problem and the controversies surrounding asylum are, unfortunately, all too present and result in very substantial bodies of records virtually everywhere.

Publications.

The bi-weekly *International Justice Tribune*'s issue No. 122 is exceptionally interesting, with articles on the trial of Charles Taylor and the Special Tribunal for Lebanon, the International Criminal Tribunal for the former Yugoslavia, truth commissions in Asia, and the Hague District Court's War Crimes Chamber. www.internationaljustice.nl/tribune

The papers from last October's conference of Timor Leste's Commission for Reception, Truth and Reconciliation (CAVR) have been published. For copies, write to Patrick Walsh, padiwalsh@gmail.com.

International news.

Chile/United States. Survivors of the Pinochet dictatorship are pressing Chile's government to ask U.S. President Barack Obama, during his planned March visit to Santiago, for the declassification of additional U.S. government documents from the period of the Pinochet government. Peter Kornbluh, the author of *The Pinochet File* and a staff member of the National Security Archive in the United States, told The Associated Press that opening more records would give the Obama administration "the opportunity to practice archival diplomacy." http://www.washingtonpost.com/wp-dyn/content/article/2011/02/26/AR2011022601991_pf.html.

Countries of the former Yugoslavia. The Parliamentary Assembly of the Council of Europe passed Resolution 1786 (2011) calling on the countries of the former Yugoslavia to undertake a series of measures, including to "ensure that the issue of missing persons remains a priority, open their archives and provide appropriate funding for civil society initiatives which seek to create records of victims of the conflicts to address the legacy of the past." For the resolution, see <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1786.htm> For background information, see the press release of the Humanitarian Law Centre in Belgrade at <http://www.hlc-rdc.org/Saopstenja/1988.en.html>

Europe. Last November the European Union announced, as part of its data protection goals for 2011, the clarification of the “right to be forgotten.” While the European Union is focusing on the Internet context, the concerns over control of a person’s “data trail” have serious implications for archives. An article in *The Atlantic* compares the European and U.S. views on Internet privacy: <http://www.theatlantic.com/technology/archive/2011/02/in-europe-a-right-to-be-forgotten-trumps-the-memory-of-the-internet/70643/>.

United States/world. As a result of the discovery of records of the horrific medical experiments in Guatemala (see HRWG News 2010-09 and 2010-10), the U.S. established a bioethics investigating commission with a deadline to report to the President in September 2011. The Associated Press, meanwhile, reported that it found evidence of more than 40 similar experiments on human subjects; while many of these were known, they were often forgotten. In addition to Guatemala, studies in Nigeria and Uganda on human subjects appear to have violated ethical norms. The U.S. Department of Health and Human Services reported that a majority of clinical studies of federally regulated medical products were done in countries outside the U.S. in 2008. In the article, “Horrific U.S. Medical Experiments Come to Light,” a Duke University professor of medicine is quoted as saying that it is “often hard to get information on international trials, sometimes because of missing records and a paucity of audits.”

http://www.aolnews.com/2011/02/27/horrific-us-medical-experiments-come-to-light/?icid=main%7Chtmlws-sb-n%7Cdl1%7Csec1_ink3%7C203752

United States/world. *Wikileaks.* Documents from the U.S. State Department released by Wikileaks continue to influence the political process. At the Special Court for Sierra Leone, the defense for Charles Taylor asked for a postponement of the submission of his closing argument so that he could incorporate information from Wikileaks documents that he said would show the United States trying to influence the judicial process. Another cable from the U.S. Embassy in The Hague described the opinion of the head of the detention unit of the International Criminal Tribunal for the former Yugoslavia on the health and leisure time activities of Slobodan Milosevic while he was in custody. A cable from the U.S. embassy in Chile reported on U.S. tests on the remains of former Chilean president Frei Montalva, but said that other requests for technical assistance were turned down. And documents from embassies in the Middle East have provided information used by protesters in a number of countries of the region. The archives and records management organizations of New York City recently held a panel discussion on the impact of Wikileaks on the two professions; the video is available at <http://www.cjh.org/pages.php?pid=45&evID=1791>.

National news.

Brazil. The president of Brazil’s Amnesty Commission announced that a memorial and museum on amnesty will be created and will house archives of the period of the dictatorship in Brazil. Precisely which archives would be housed in the facility is not clear; the museum will be located in Belo Horizonte in Minas Gerais.

<http://www.brasil.gov.br/noticias/arquivos/2011/01/11/comite-discute-projeto-do-memorial-da-anistia>

Bulgaria. Bulgaria opened a central archives for “all the Communist-Era secret services files,” according to the official Sofia, Bulgaria, news agency. The archives is housed in two

rebuilt barracks in the town of Bankya, near Sofia. According to the head of the Files Commission, “Everybody can come and check their file – journalists, citizens, government officials.” http://www.novinite.com/view_news.php?id=125039

Canada. During a court appearance in a high profile Access-to-Information case, the government’s attorney announced that the government has adopted a new policy governing the release of historically significant intelligence files. The documents in question are the case file of the surveillance of former Saskatchewan premier and socialist Tommy Douglas, who died in 1986. According to the Canada press, the government will disclose information gathered by human sources if it doesn’t reveal the identify of the sources and “many records obtained through technical sources such as intercepts and surveillance.” The Douglas file is held by Library and Archives Canada.

<http://edmonton.ctv.ca/servlet/an/local/CTVNews/20110223/court-arguments-tommy-douglas-files-110223/20110223/?hub=EdmontonHome>

Colombia. A new study by the NGO House of Women said 94,000 women were raped and used as weapons of war between 2001 and 2009. The sensitivity of the subject and the difficulty of obtaining the evidence used in the report emphasize the importance of the records of human rights organizations and the need to ensure that their records are secure.

<http://www.verdadabierta.com/archivos-para-descargar/category/25-violencia-contra-mujeres?download=848%3A>

Egypt. As the revolution unfolded in Egypt, demands began to be made to locate the records of the Mubarak regime. According to Al Jazeera, the fight is for Egypt’s historical memory because the regime kept its records secret.

<http://english.aljazeera.net/indepth/opinion/2011/02/20111218142638785949.html>

Others were worried about preserving images of the revolution, and various private and institutional efforts were launched to capture the electronic records.

<http://www.theatlantic.com/technology/archive/2011/02/preserving-the-online-legacy-of-the-egyptian-revolution/71675/>

Guatemala. The Inter-American Commission on Human Rights referred the case of the forced disappearance of Edgar Fernando Garcia to the Inter-American Court. Fernando Garcia was shot and detained by Guatemala’s National Police on 18 February 1984 and then disappeared. A key element in the case was the information about him that appears in the “Diario Militar,” a document prepared between August 1983 and March 1985 by the Guatemalan presidential intelligence unit as a log of operations of abductions, detentions and murders of enemies of the state.

Hungary. Concerned over the potential destruction and dispersal of the archives of the Hungarian secret police (see HRWG News 2011-01), the Association of Canadian Archivists sent a letter to the Ambassador from Hungary to Canada expressing their concerns. The ACA letter is available on the Submissions & Letters webpage of the ACA website:

<http://www.archivists.ca/content/submissions-letters>.

India. *The Times of India* reports that white ants have destroyed documents at the state elections office in Mumbai that were submitted by individuals registering to vote. The information was disclosed as part of an investigation into forged documents.

<http://timesofindia.indiatimes.com/city/mumbai/White-ants-have-destroyed-documents/articleshow/7393698.cms>

Meanwhile, in Hyderabad the state Waqf Board officials reported that land title deeds to at least 2,000 acres of Waqf land are missing. The Board is verifying the records at the state level with those in the districts in the state, and *The Times of India* reported the chairman of the Waqf Board as saying that if, following the verification, records are indeed missing, “the Board will order an inquiry.” (A waqf is a religious endowment for charitable purposes made in accordance with Islamic law.) <http://timesofindia.indiatimes.com/city/hyderabad/Waqf-land-title-deeds-go-missing/articleshow/7490251.cms>

Indonesia. In a case that recalls the Scorpion’s video that created a sensation at the ICTY trial of Slobodan Milosovic, a 10 minute videotape of three Indonesian soldiers violently abusing two natives of Papua was produced as evidence before an Indonesian military court trying the soldiers. The videotape has circulated on YouTube. The lenient sentences received by the soldiers, even in the face of the videotape evidence, have been condemned by human rights groups. <http://www.thejakartapost.com/news/2011/01/25/papua-ruling-blasted-%E2%80%98miscarriage-justice%E2%80%99.html>

Ireland. The Irish Pensions Board has determined that some retirement fund managers are not keeping proper records of payments made by workers. The lack of records could mean that those who retire will not get the full “amount of benefit payable on retirement,” according to *The Independent*, which quoted a spokesman for the Pension Board saying that no pensioners have lost benefits because of poor record keeping. <http://www.independent.ie/business/personal-finance/pensions/pension-fund-managers-fail-to-keep-record-of-payments-2546377.html>

Italy. The police file on Italian painter Michaelangelo Caravaggio (1571-1610) has been restored, released, and is on exhibit at the State Archives until 15 May. <http://www.bbc.co.uk/news/world-europe-12497978>

Pakistan. The City District Government of Lahore is beginning a program of computerizing the transfer of land ownership. In addition to the formal land deeds, the government will require both buyers and sellers to come to the land registry and have photos and “thumb impressions” taken; the documents, photos and “biometrics” will be held in the computerized registry of land transactions. <http://nation.com.pk/pakistan-news-newspaper-daily-english-online/Lahore/25-Feb-2011/CDGL-to-start-land-deeds-by-computer>

Russia. The Bishops Council of the Moscow Patriarchate has asked the state for easier access to state archives to permit the church to identify “all people oppressed by the Bolsheviks for the beliefs,” Interfax reported. <http://www.interfax-religion.com/?act=news&div=8162>

South Sudan. The world’s newest country is making digital copies of government documents it has located dating from the early 19th century to the 1980s. The team making the copies is particularly looking for documents about the border between north and south Sudan which is the subject of ongoing negotiations to determine the new international frontier. <http://www.google.com/hostednews/afp/article/ALeqM5iUr41WenTMTxiTbVFlm2qoqPY5CQ?docId=CNG.1e13d8cdaf8d8f53b1fc0d1fe13a34bb.491>

United Kingdom. *Northern Ireland.* The Secretary of State of Northern Ireland is studying the possibility of creating a special archives for the files of the Historical Enquiries Team (HET), which is investigating unsolved deaths during the Troubles. He suggested that if a

special repository is established he would be “willing to consider relaxing regulations to see if Government material could be released earlier and more easily than at present,” the *Belfast Telegraph* reported. <http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/northern-ireland-cold-case-files-Isquocould-form-stasilike-archiversquo-15083077.html>

United States.

According to the NGO Electronic Frontier Foundation, the Federal Bureau of Investigation may have committed up to 40,000 privacy violations since the attacks of 9/11. The Foundation made the calculations based on reports from the FBI to the White House Intelligence Oversight Board, which the Foundation obtained through the Freedom of Information Act. <http://www.infosecurity-us.com/view/15604/fbi-may-have-committed-up-to-40000-privacy-violations-says-privacy-group/>

A number of medical records problems made the news in February. The Army admitted that Gulf War (Operation Desert Storm, 1990-1991) medical records from the field were destroyed. Units below the brigade level were told to destroy their records because the Army did not want to ship the paperwork back to the United States; the Army acknowledged that this was in direct contradiction to existing Army regulations. Veterans now may have difficulty proving claims for injuries.

<http://www.thetowntalk.com/article/20110211/NEWS01/110211001/1002/Army-admits-Gulf-War-medical-records-destroyed-> The New York Health and Hospitals Corporation, the largest public hospital system in the United States, said that magnetic tapes containing records for 1.7 million people were stolen from an unlocked transport van. The records were not encrypted; the Corporation is offering free credit monitoring and fraud resolution services to affected people for the next year. <http://www.wnyc.org/articles/wnyc-news/2011/feb/11/nations-largest-public-hospital-system-loses-personal-data-17-million-people/>. And the Federal Department of Health and Human Services fined Cignet Health of Maryland \$4.3 million dollars because it failed to provide patients with a copy of their medical records upon request and fined Massachusetts General Hospital \$1 million for losing the medical records of 192 patients.

<http://nakedsecurity.sophos.com/2011/02/25/hipaa-fines-prove-the-value-of-data-protection/>

Sister Helen Prejean, whose story was made into the movie “Dead Man Walking,” has donated her personal papers to DePaul University in Chicago, Illinois. The papers relate to her campaign against the death penalty; the 50 boxes of material demonstrate the importance of personal papers in documenting human rights.

<http://abclocal.go.com/wls/story?section=news/local&id=7949308>

February is Black History Month in the United States, and stories about archives are common during that period. Two of the most interesting concerned archival acquisition of materials relating to civil rights. Emmanuel McCall, a prominent Southern Baptist leader who developed the Southern Baptist Theological Seminary’s black studies program and served as a member of the Home Mission Board staff from 1968 to 1991, donated his personal papers to the Southern Baptist Library and Archives in Nashville, Tennessee. These are particularly important because the Archives has not located the official Home Mission Board records.

http://www.baptiststandard.com/index.php?option=com_content&task=view&id=12174&Itemid=53

Then a general story about the search of archival materials on the civil rights movement appeared, including a reference to the revelation last autumn that the most famous

photographer of the civil rights movement, Ernest Withers, may have been an FBI informant between 1968 and 1970. Withers archives, including a million photographic images, is now housed in the Ernest Withers Collection Museum and Gallery in Memphis, Tennessee. For the general story, see

<http://www.cnn.com/2011/LIVING/02/18/archiving.civil.rights/index.html?hpt=C2>

For the earlier story about Ernest Withers and the FBI, see

<http://www.commercialappeal.com/news/2010/sep/12/photographer-ernest-withers-fbi-informant/>

Controversies over access to state court records and the need to protect personal privacy continue to surface. In New Mexico, the supreme court adopted a new rule that would require the public to show identification before viewing court records. This replaced an earlier unworkable rule that required lawyers to file two versions of court documents: one for public use that did not include personal information and one for the court that did.

<http://taosnews.com/articles/2011/02/17/news/doc4d5d5840438f1296425410.txt>

In Wyoming, the supreme court ordered that Social Security and financial account numbers, children's names and complete birth dates should be withheld from the public, although it permits the last four digits of a Social Security number and a child's initials to be made available. http://billingsgazette.com/news/state-and-regional/wyoming/article_1c7163e4-5788-5560-bb9d-6001ebd0ab5d.html

Calls for papers, conferences, courses.

The Calcutta Research Group is inviting contributions for RefugeeWatchOnline (refugeewatchonline.blogspot.com), on issues of forced displacement. Contact refugeewatchonline@gmail.com.

The Danish Institute in Damascus, Syria, is holding a workshop 18-19 March 2011 on Palestinian refugees and international human rights law. The cost to attend is approximately \$300. The application form is at http://www.rsc.ox.ac.uk/conf_conferences_100206.html; for further information contact Heidi El-Megrissi at heidi.el-megrissi@geh.ox.ac.uk.

The International Center on Nonviolent Conflict at Tufts University, Medford, Massachusetts, USA, calls for applications to attend the Fletcher Summer Institute for the advanced, interdisciplinary study of nonviolent conflict, to be held 19-25 June 2011. The application deadline is 15 March 2011; the application form is at http://www.nonviolent-conflict.org/images/stories/educational_initiatives/fsi_2011app.doc

A conference on Religion, Gender and Human Rights: Challenges for Multicultural and Democratic Societies will be held at Scandic Linköping Väst, Sweden, 21-25 June 2011. An application form and program are available from www.esf.org/conferences/11352. The closing date for applications is 29 March 2011.

A conference on Languages at War will be held 7-9 April 2011, at the Imperial War Museum, United Kingdom. It will focus on current research on the role of languages in war, conflict and peacemaking situations. Contact languages.war@reading.ac.uk or www.reading.ac.uk/languages-at-war/lw-conference2011.aspx.

The Slovak Nations Memory Institute is organizing an international conference on anti-communist resistance in Central and Eastern Europe, 30 June 2011. Contact peter.jasek@upn.gov.sk or www.upn.gov.sk/ine/anti-communist-resistance-in-central-and-eastern-europe.

The Academic Council on the United Nations System (ACUNS) and the American Society of International Law (ASIL), in cooperation with the Josef Korbel School of International Studies, Denver, Colorado, USA, will hold the twenty-first ACUNS-ASIL Summer Workshop on International Organization Studies, 5-15 July 2011. The workshop is designed for junior professors in international relations, international law or other relevant disciplines, post-doctoral and advanced doctoral level students, young lawyers and practitioners from civil society groups, policy staff from international organizations, and others at similarly early stages of their professional careers. The workshop “seeks to develop a specialized knowledge base on the challenges of war-torn societies; gain specific new methodological tools for analysis and assessment; explore the possibilities, and limits, of international engagement to ameliorate deep social divisions, and a critical evaluation of the role of the United Nations in conflict prevention, peacemaking, and peacebuilding.” The application deadline is Friday, March 11, 2011; see <http://www.acuns.org/programsan/acunsasils>.

Coinciding with the fiftieth anniversary of the trial of Adolf Eichman, the University of Toronto and the German Historical Institute will hold a conference 9-11 September 2011 in Toronto, Ontario, Canada, to examine the origins, course and implications of the trial of Adolf Eichmann, captured by the Israelis in Argentina in May 1960, brought before the Jerusalem District Court in April 1961, sentenced, and finally hanged in May 1962. For further information, contact: b.thomas@ghi-dc.org or www.ghi-dc.org/index.php?option=com_content&view=article&id=1145&Itemid=1016

Central Michigan University, USA, will hold a conference Human Rights, Literature, the Arts, and Social Sciences, November 10-13, 2011, focusing on the role of literature (the humanities), the arts, and social sciences in the discussion, representation, and promotion of human rights. Send abstracts by 31 May 2011 to Maureen N. Eke, Maureen.eke@cmich.edu, or Sterling Johnson, johns1s@cmich.edu.

The University Centre Saint Ignatius Antwerp (UCSIA) is organizing an international workshop on genocide, root causes and coping strategies on 24-25 November 2011 at the University of Antwerp, Belgium. The deadline for submission of applications is 5 May 2011. Contact barbara.segaert@ua.ac.be.

Please send contributions to the news to Trudy Huskamp Peterson trudy@trudypeterson.com or to Jens Boel J.Boel@unesco.org.