

News from the ICA Human Rights Working Group

March 2011

Trudy Huskamp Peterson, Chair

The following is number sixteen 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 15. *(1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.*

Europe in 1948 staggered under the burden of refugees and displaced people. At the end September 1945, an estimated 1.8 million people in Europe were displaced, and many of them were stateless. Europe had known statelessness before—so many were displaced at the end of the First World War that in 1921 the League of Nations created a “High Commissioner on behalf of the League” to deal with refugee matters. Fridtjof Nansen of Norway, who was appointed the High Commissioner, created a new document known as the “Nansen passport” to issue to stateless persons as an identity and status certificate. The League’s office collapsed as World War II neared, and in 1947 the United Nations created the International Refugee Organization (IRO) to help European refugees and to arrange for their resettlement. Consequently, by the time the Universal Declaration was being drafted, the problem of refugees and stateless persons had a United Nations history. The arguments over the language of Article 15 were much less heated than those over some of the other provisions. The most debate focused on the word “arbitrarily” in the second sentence; as Rene Cassin of France pointed out, “arbitrary” could mean that “no one could be deprived of nationality contrary to existing laws” or “those laws themselves must not be arbitrary.” After some wrangling, the delegates left the word without further definition. (Mark Wyman, *DPs: Europe’s Displaced Persons, 1945-1951*, pp. 36-37; Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, pp. 80-83).

Because Article 15 was a general statement, the delegates discussed a proposed covenant to define its implementation. In fact, the United Nations eventually adopted two: the 1954 Convention relating to the Status of Stateless Persons and the 1961 UN Convention on the Reduction of Statelessness <http://www2.ohchr.org/english/law/stateless.htm>; http://untreaty.un.org/ilc/texts/instruments/english/conventions/6_1_1961.pdf. The United Nations High Commissioner for Refugees (UNHCR) took over from the IRO in 1951, and eventually its mandate expanded to help refugees and internally displaced people wherever they may be, not just in Europe.

The problem of statelessness has not gone away. In May 2010 UNHCR convened an expert meeting in Prato, Italy, on “The Concept of Stateless Persons under International Law,” which produced the “Prato Conclusions” that include a definition of statelessness

<http://www.unhcr.org/4cb2fe326.pdf>. Following that meeting, the Open Society Justice Initiative produced an eye-opening book on the worldwide problem of statelessness, with case studies from more than a dozen countries.

http://www.soros.org/initiatives/justice/focus/equality_citizenship/articles_publications/publications/prato-20110302 But beyond the problem of nationality for the stateless, the lack of birth registrations makes it difficult for millions of nationals to defend their nationality; the UN promotes birth registration projects in countries with deficient registration systems. And, too, shifting borders leave persons without identity documents for the country in which they now reside; see a current example of El Salvadorans who are now Hondurans, as reported by the Inter Press Service: <http://ipsnews.net/news.asp?idnews=55045>.

The records of stateless persons and the registration of nationals are separate sets of records. Documentation of the stateless can be found in the archives of the United Nations High Commissioner for Refugees in Geneva, the records of the League of Nations’ refugee office in the League archives also in Geneva, and the records of the International Refugee Organization at the National Archives of France. Governments have both the records of applications for citizenship and records of the revocation of citizenship. Many NGOs specializing in refugee work, the International Committee of the Red Cross, the Red Cross and Red Crescent organizations in many countries and religious bodies also may have files relating to persons seeking citizenship. Law firms and legal aid offices have records of those seeking citizenship and those who are fight against its revocation. The records of nationals are primarily government birth registers and in hospital or clinic archives if the birth occurred there. Many secondary sources can also help establish nationality, from passports to school records to tax and voter rolls. The records of nationality—its acquisition and its loss—abound.

General.

Truth and Reconciliation Commission of Canada conference. The Truth and Reconciliation Commission of Canada held a conference 1-3 March on the plans for a National Research Centre on the history and legacy of Indian Residential Schools. The Commission invited archivists and activists from a truly impressive variety of nations to speak; some of the presentations are available as webcasts on the TRC’s website.

<http://www.trc-nrc.ca/websites/NRC/index.php?p=181>

United Nations High Commissioner for Human Rights seminar. At the request of the United Nations Human Rights Council, the United Nations High Commissioner for Human Rights convened a seminar on “Experiences of Archives as a Means to Guarantee the Right to Truth” in Geneva, Switzerland, 24-25 February. Participants came from Argentina, Chile, Guatemala, Serbia, South Africa, Spain, Switzerland, Timor Leste, the United States, the International Criminal Tribunal for the former Yugoslavia, and the International Committee of the Red Cross. A report on the outcome of the seminar will be presented to the Council at its session in June 2011.

Hungary. Archivists continue to express their concern over the fate of the archives of the Hungarian State Security service. (For background, see *HRWG News* 2011-01 and 2011-02.) On 5 March the chair of the ICA Human Rights Working Group sent a letter to the Prime Minister of Hungary with a copy to the national archivist; it is appended to this newsletter.

Also on 7 March the archives association of The Netherlands, KVAN, sent a letter to the Hungarian Ambassador to The Netherlands;

http://www.kvan.nl/files/nieuws/Brief_Hongarse_ambassade.pdf

On 8 March the Society of American Archivists sent a letter to the Hungarian Ambassador to the United States http://www2.archivists.org/sites/all/files/HungarianArchives3811_0.pdf.

And the Hungarian Ambassador to Canada responded to the February letter to him from the Association of Canadian Archivists

http://archivists.ca/sites/default/files/Attachments/Advocacy_attachments/reply-ambassador_republic_of-hungary-web.pdf

International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims. 24 March 2011 was the first international day on the right to truth. If you know of events or activities that marked the day, please tell the Human Rights Working Group so we can share the information through the newsletter and encourage others to mark the day in 2012.

International news.

Armenia/Azerbaijan. The Institute for Human Rights in Baku, Azerbaijan, held a conference on “The Genocide of Azerbaijanis in 1918-1920 by the Armenians in the documents of the Extraordinary Investigation Commission.” The Commission was established on 15 July 1918 to investigate acts of vandalism and killings in Baku, Shamakhi, Guba and other regions. The Institute is researching the commission’s records, which comprise 36 volumes of documents and photographs, most of which document events in Baku and Shamakhi. The Institute plans to translate and publish these archival materials.

<http://en.trend.az/news/society/1851969.html>

Australia/Japan. A group of former Australians who were Japanese prisoners of war during World War II visited Japan in a visit sponsored by the Japanese government. The group met with the foreign minister, Seiji Maehara, who “unveiled plans to return index cards that make up the historical records of Australian PoWs held by Japan,” according to a report in *The Australian*. The Australian minister of veterans affairs said he hoped the records would shed light on the fate of the members of Lark Force, about 900 of whom were lost when a Japanese ship transporting them was sunk by a U.S. submarine in 1942.

<http://www.theaustralian.com.au/national-affairs/defence/return-to-japan-triggers-diggers-memories/story-e6frg8yo-1226019644547>

Balkans. Civil society groups in the Balkans are launching a drive to collect signatures on a petition urging politicians to establish a regional truth commission on the conflict in the Balkans during the 1990s. Among other goals, the organizers want the commission to establish an official register of victims killed from the start of the war in Slovenia in 1991 to the end of the war in Kosovo in 1999. <http://www.rnw.nl/international-justice/article/petition-truth-balkans>

France/Eastern Europe. On 11 March, the French Centre for Scientific Research (CNRS) in cooperation with Radio France Internationale (RFI) launched an “online museum” of more than 150 testimonies of European survivors of Stalin’s Gulag. Interviewers from CNRS, RFI, Centre Marc Bloch (Berlin), Cefres (Prague) and the Franco-Russian center for research on social sciences and humanities went to 15 countries and interviewed survivors in eight languages. <http://www.english.rfi.fr/culture/20110312-online-gulag-museum-launched>

France/United States. In a new version of a conflict between California and France (see *HRWG News* 2010-09), the U.S. state of Maryland linked the right of the French national railroad (SNCF) to make a bid to operate a commuter rail network in Maryland to the release of all SNCF records relating to the deportation of Jews from occupied France to Nazi concentration camps during the Second World War. In late March the lower house of the Maryland legislature passed unanimously a bill endorsing an agreement between that state and SNCF in which the railroad agreed to digitize and release its wartime company records. The Maryland state archivist is to monitor the process and determine for the state whether the digitization is proceeding expeditiously. The bill is at <http://mlis.state.md.us/2011rs/bills/hb/hb0520t.pdf>
See also http://www.upi.com/Top_News/US/2011/03/29/Md-bill-on-Holocaust-rail-records-passes/UPI-52361301429770/

India/United Kingdom. The *Bangalore Mirror* reported that the government, after a year of talks with British officials, is close to obtaining copies of documents in the British Library, including the land and administrative records of the Kittur kingdom, the Mysore residency and Hyder Ali and Tipu Sultan's administration. The government hopes that these documents will clarify boundaries and thereby help resolve ongoing border disputes.
<http://www.bangaloremirror.com/article/1/20110322201103222358206574f6f1db4/State-digs-for-treasure-in-London-Library.html#ftr2>

United States/world. *Wikileaks.* As the archival interest in Wikileaks continues, the New South Wales Branch of the Australian Society of Archivists held a panel discussion on 23 March entitled, "After WikiLeaks, is it all over for The Archives?" The podcast of the session is at http://recordkeepingroundtable.org/2011/03/28/after_wikileaks/. Thanks to Colleen McEwen for forwarding this information.

National news.

Canada. In Regina, Saskatchewan, thousands of patients' medical files were found in a recycling bin. The provincial privacy commissioner rescued the records, following a tip from a citizen, according to a UPI story. CBC news covered the rescue and published pictures and video of the commissioner retrieving the records. http://www.upi.com/Top_News/World-News/2011/03/24/Thousands-of-patients-info-found-in-trash/UPI-74071300983573/
<http://www.cbc.ca/news/health/story/2011/03/24/sk-follow-up-medical-files-110324.html>

Egypt. Throughout the month the press often reported on the files of the Egyptian state security services. On 3 March *ikhwanweb.com* reported that the former head of state security admitted that he had ordered security personnel to destroy state security files "which contained incriminating evidence." <http://www.ikhwanweb.com/article.php?id=28198> Four days later the press reported that the General Prosecutor had launched investigations into 64 state security employees on "charges of attempting to destroy important papers and documents." <http://www.almasryalyoum.com/en/node/342950> The destruction was far from complete, however. Many news outlets ran stories on the 5 March storming of the headquarters of State Security Investigations and the discovery of "thousands of potentially inflammatory documents," in the words of the *Washington Post*.
http://www.washingtonpost.com/wp-dyn/content/article/2011/03/08/AR2011030805799_2.html?hpid=topnews&sid=ST20110308

05453;

<http://query.nytimes.com/gst/fullpage.html?res=9D0DEED9163EF933A25750C0A9679D8B63> Some documents were quickly posted online. On March 22 a fire broke out in a building in the interior ministry compound that housed the personnel department and its records; this was the same building that police set on fire in February. <http://www.bbc.co.uk/news/world-middle-east-12822397?print=true>. By month's end, German officials were in Cairo offering Egypt advice on dealing with the secret police files. http://www.washingtonpost.com/world/an-unusual-german-export-to-egypt-how-to-handle-the-secret-police/2011/03/28/AFM50xqB_story.html

Germany. While German officials were advising the Egyptians, German citizens continued to “flock” to see East German secret police (Stasi) files, according to *Agence France-Presse*. <http://www.google.com/hostednews/afp/article/ALeqM5iM83Lsg9DQQBhjG4OO5Ai7-ZiTSA?docId=CNG.d16f988e69df5a1ff2716eb9e763e0bd.3b1>. *Reuters* interviewed the new chief of the Stasi archives, who noted that it is vital to examine the Stasi's full reach outside the German borders to understand how the state security apparatus worked. <http://www.reuters.com/article/2011/03/11/us-germany-stasi-idUSTRE72A22G20110311> And the *Guardian* carried an article on the laborious work of reassembling files that were torn up by the Stasi staff “in their dying days.” <http://www.guardian.co.uk/world/2011/mar/13/east-germany-stasi-files-zirndorf>

Ghana. In a feature article in *Ghana News*, archivist Sammy Dzandu argues that archivists need to manage the records relating to the “exploration, production and the sale” of oil and natural gas. <http://news.myjoyonline.com/features/201103/63306.asp>

India. In another sad fire in a records room, “hundreds” of documents were destroyed in the courthouse in Ferozepur, said the *Times of India*. The room where the fire broke out contained records pertaining to criminal disputes and civil disputes including matrimonial and motor accident claims. An estimated 70% of the criminal files were destroyed. http://articles.timesofindia.indiatimes.com/2011-02-28/india/28641695_1_fire-department-case-files-documents

Kashmir. The Chief Information Commissioner in Kashmir is asking the Department of Archives of Jammu and Kashmir to immediately describe “vital documents,” *greaterkashmir.com* reported. The newspaper deplored the conditions in the archives, saying that the building is “dilapidated” and the records are “bundled in scarf like material, with silver fish and bird droppings consuming them.” <http://www.greaterkashmir.com/news/2011/Mar/7/cic-takes-cognizance-of-archival-mess-38.asp>

Korea. South Korea established an archives to document human rights abuses in North Korea. Called the North Korea Human Rights Archives, it is under the direction of the National Human Rights Commission. This will complement the Database Center for North Korean Human Rights that was established in 2003 by human rights activists and researchers. http://english.chosun.com/site/data/html_dir/2011/03/01/2011030100618.html

Sierra Leone. The Human Rights Commission of Sierra Leone, with support from Irish Aid, opened its library and documentation centre, *Concord Times* reported. The centre's holdings will be available to the public. Whether it will hold the records of the Sierra Leone truth

commission, which have been in the custody of the National Archives, was not reported. <http://allafrica.com/stories/201103310284.html>

Tunisia. As in Egypt, the uprising in Tunisia was accompanied by the destruction of administrative documents and also by the public circulation of documents taken from police posts. <http://www.webmanagercenter.com/management/imprim.php?id=100948&pg=1>. Thanks to Perrine Canavaggio for this article.

United States. The Ponemon Institute released the results of its sixth annual study of the costs incurred by organizations that experience a data breach that violates state and federal data protection laws. The study team surveyed 51 organizations, from 15 different industry sectors, which reported breaches in volumes ranging from nearly 4,200 records to 105,000 records. The costs of responding to a breach and notifying the affected persons ranged from \$174 to \$268 per record (that is, per person whose data was involved).

http://www.symantec.com/content/en/us/about/media/pdfs/symantec_ponemon_data_breach_costs_report.pdf. Meanwhile, *Information Week* published a list of 10 massive security breaches of government or company information, including credit card data and medical information. The list provides a glimpse of the size of the problem that Ponemon documented. <http://www.informationweek.com/news/galleries/security/attacks/showArticle.jhtml?articleID=229300675>

Health records continue to cause concern. In Maryland, the state health laboratory recently destroyed thousands of records of Maryland children tested for lead poisoning; the records dated from the 1980s to the present and included both paper and electronic formats. The state health department is working to recover the deleted electronic records.

http://www.necn.com/03/12/11/Md-probing-destruction-of-lead-poisoning/landing_health.html?&blockID=3&apID=0e5b620ca6d347d3857690a9fc0f3884
<http://www.baltimoresun.com/health/bs-md-lead-records-laboratory-20110325,0,7732178.story>

The *Los Angeles Times* reported that the California State Insurance Commissioner and the California Department of Managed Health Care are investigating Health Net, Inc., a health insurance company. Health Net, Inc. lost nine computer drives containing Social Security numbers and other personal information on nearly 2 million current and former insurance policy holders. <http://www.latimes.com/business/la-fi-0316-health-net-records-20110316,0,1660184.story>

In an unusual health records article, the Laconia, New Hampshire, *Citizen* wrote about the loss of jobs as health care providers switch over to electronic medical records. Previously physicians dictated notes that were given to staff members to transcribe, but as hospitals move to e-records, the transcribers are losing their jobs.

<http://www.citizen.com/apps/pbcs.dll/article?AID=/20110306/GJNEWS02/303069995/-1/CITNEWS>

Finally, the lack of records can harm health. Nearly 400 patients were given too much radiation during brain scans at six West Virginia hospitals, the *New York Times* reported. Asked to comment on the problem of over-radiation, a radiology professor said, "The only way to fix the situation is to have hospitals be accountable by having to record the dose and reveal that to patients." http://www.nytimes.com/2011/03/06/health/06radiation.html?_r=1

Illinois. In a right to privacy dispute, the Illinois attorney general ruled that gun ownership is a public record in terms of the state's open records law. The state police are challenging that ruling, arguing that the disclosure of the names would invade the privacy of gun owners and endanger the lives of both those who have guns and those who don't.

<http://www.lincolncourier.com/newsnow/x868510903/FOID-card-records-focus-of-dispute>

New Jersey. New Jersey government agencies failed to wipe the data from 79% of the hard drives the state was planning to sell as surplus equipment. The state controller found the data and stopped the sale. The hard drives contained files related to state child abuse investigations, employee evaluations, and tax returns. <http://www.scmagazineus.com/nj-agencies-failed-to-wipe-hard-drives-before-resale/article/198186/>

Wisconsin. As part of a lawsuit, the judge was asked to reprimand a catholic diocese that destroyed records of priests who may have been pedophiles. The diocese argued that it has a records retention policy and follows it; its policy is to destroy the file on a priest the year after he dies unless there is pending litigation or claims. The judge agreed with the church, calling the diocese's records policy "reasonable," and denied the plaintiff's request to reprimand the diocese.

http://www.fox11online.com/dpp/news/local/fox_cities/Motions-hearing-in-priest-abuse-case

Uruguay. In an important step for the right to truth, the Electoral Court of Uruguay transferred to the National Archives their files relating to prominent people who were denied the right to vote ("special disqualified people") in the 1984 elections under the dictatorship. The records comprise about 1700 files and have been scanned. Thanks to Alicia Casas de Barran for sending this information.

Calls for papers, conferences, courses.

The Sixth Annual Conference on Teaching Peace and Human Rights will be held on 5 and 6 May 2011 at Adelphi University and the United Nations in New York. The announcement says the conference is for activists, human rights advocates, students, teachers and global citizens and will "provide a forum for discussion with human rights organizations and UN representatives on topics related to human rights." For further information contact verma@adelphi.edu or see <http://education.adelphi.edu/peaceeducation/>

The 10th International Holocaust Studies Conference, "Global Perspectives on the Holocaust," will be held at Middle Tennessee State University on 19-22 October 2011. Proposals for individual papers or panels by researchers, faculty members, independent scholars and advanced graduate students are due 18 April 2011. For more information contact holostu@mtsu.edu or see <http://www.h-net.org/announce/show.cgi?ID=183834>

The European Studies Postgraduate Research Group at King's College London, is calling for papers for their forthcoming research seminar, "Developments in Contemporary Citizenship." Paper proposals are due 2 May 2011. For further information contact simon.mcmahon@kcl.ac.uk or go to kcleuresearch.wordpress.com/2011/03/11/developments-in-contemporary-citizenship-call-for-papers-deadline-may-2nd-2011/

The Einstein Forum and the Hamburg Institute for Social Research conference mentioned in *HRWG News* of 2011-01, has a revised title. It is now called “Translating Atonement: Can Countries Learn from Each Other?” For more information see <http://www.einsteinforum.de/index.php?id=10&L=1>

The Archbishop Desmond Tutu Centre for War and Peace Studies at Liverpool Hope University is having a conference on “Post-conflict, Peace-building and Reconstruction in Societies Emerging from Conflict” in Liverpool, U.K., 17-18 June 2011. For further information see www.hope.ac.uk/warandpeace.

The EACLALS Postgraduate Conference Institute of English Studies at the University of London issues a call for papers for a conference on "Reworking Postcolonialism: Globalization, Labour and Rights." Paper proposals are due 1 May 2011; the conference will be held 26-27 August 2011. For further information, see www.eaclals.ulg.ac.be/pg-conference/.

On 3 and 4 November 2011 The Netherlands Institute for War, Holocaust and Genocide Studies (NIOD) will have a workshop in Amsterdam on “Internment, Incarceration and Detention: Captivation histories in Europe around the First and Second World War.” For more information, contact h.grevers@niod.knaw.nl or a.tijsseling@niod.knaw.nl or see the announcement at <http://www.h-net.org/announce/show.cgi?ID=183490>.

Please share news with us! trudy@trudypeterson.com or J.Boel@UNESCO.org

To subscribe to the Newsletter, enter the required information on the form that you will find through this URL: <http://www.unesco.org/archives/hrgnews/managesub.php>.

Previous issues of the Newsletter are online at <http://new.ica.org/4535/ressources/ressources-relatives-aux-archives-et-droits-de-lhomme.html> as well as on the UNESCO website.

Note: The following letter was sent on ICA letterhead, which is not reproduced here.

**His Excellency Viktor ORBÁN
Prime Minister of the Republic of Hungary
Parliament
Pf. 6
1357 Budapest
Hungary**

5 March 2011

Re: Historical Archives of Hungarian State Security

Dear Mr. Prime Minister,

The Human Rights Working Group of the International Council on Archives views with great alarm the plan by your Government not to preserve the Historical Archives of Hungarian State Security. The announcement on the Ministry of Justice website states, “The new legislative regulation will allow those observed to not only examine these documents, but to also take them home. The state will not preserve files created through unconstitutional means and people can decide on their own to preserve these, show them to their grandchildren, go public with them, or destroy them.” We believe that carrying through with this plan would be a profound injustice to the Hungarian people and the history of Hungary.

The International Council on Archives (ICA) is the worldwide organization for national archives services, professional archives associations, non-governmental archival institutions, and individuals. With over 1400 members in 195 countries and territories, the ICA acts as the voice of archival institutions and professionals on the global stage and provides a forum for professional discussion across political divides. The Human Rights Working Group was established in 2003 as the ICA’s advocate for the preservation of and access to archives that document violations of human rights. Through its actions the Working Group supports better and wider use of the archives in the defense of human rights and encourages archives to adopt practices that increase the number of citizens obtaining archival information to enforce or defend their rights.

The international community recognized the importance of archives for the exercise of human rights when the United Nations High Commission on Human Rights adopted the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity. These Principles emphasize that a person has a right to know what happened (a right to the truth) and that society as a whole has both a right to know and a responsibility to remember. The principles point out that the right to know

is not simply the right of any individual victim or closely related persons to know what happened, a right to the truth. The right to know is also a collective right, drawing upon history to prevent violations from recurring in the future. Its corollary is a ‘duty to remember,’ which the State must assume, in order to guard against the perversions of history that go under the names of revisionism or negationism; the knowledge of the oppression it has lived through is part of a people’s national heritage and as such must be preserved.

The Principles declare that as part of the measures a State must take to protect the right to know, the State “must ensure the preservation of, and access to, archives concerning violations of human rights and humanitarian law.”

The International Council on Archives has repeatedly stated that archives are of fundamental importance as evidence supporting victims’ rights for reparations, as an essential element of collective memory, as a means of determining responsibilities for rights violations, and as a basis for reconciliation and universal justice. At its annual meeting in 2003 the ICA passed a resolution urging government authorities to take steps to ensure the preservation and conservation of archives that document violations of human rights, in particular records of security and police services, by (1) placing these records, as far as possible, under the control of democratic authorities and public archival institutions, (2) encouraging the establishment or adaptation of legislation to authorize archival institutions to ensure their acquisition and preservation, (3) giving these institutions the financial and human resources necessary to enable them to conserve, manage and make these archives available, and (4) respecting archivists’ independence and freedom of conscience, as well as their professional ethics.

We in the ICA Human Rights Working Group believe that the proposed action by the Government of Hungary is contrary both to the United Nations Principles Against Impunity and to the agreed professional position of the international archival world as expressed by the International Council on Archives. We call upon you, as Prime Minister of the Republic, to announce publicly that neither legislation nor regulation will be adopted that will result in the dispersion or destruction of the archives of Hungarian State Security.

Yours truly,

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