

**Intersessional Workshop on Cultural Rights and the Protection of Cultural Heritage
Office of the United Nations High Commissioner for Human Rights**

**“A Human Rights Approach to the Protection of Archives”
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More than 53,000 photographs of dead bodies in a Syrian morgue, taken by a military photographer code named Caesar. Ottoman land registers, microfilmed by the British before its Mandate in Palestine ended. Births registered by a Jewish synagogue in Egypt. Records of the Rio Tinto mining company showing lack of attention to the cultural significance of Australia’s Aboriginal Juukan Gorge rock shelter, which the company destroyed. DNA records of relatives of persons who went missing during Argentina’s military dictatorship. The records of the NGO Asia Justice and Rights’ program of family reunions in Timor-Leste. The UN High Commissioner for Refugees records of Idi Amin’s expulsion of Asians from Uganda.

As these examples show, the nexus between human rights and archives is strong and complex. Records are essential both to protecting rights and to obtaining recourse when rights are violated. Archives are unique, not duplicate, and are irreplaceable materials for human rights efforts.

Archives are a fundamental part of the cultural heritage of mankind, from the records of ancient civilizations in the Middle East until today, but they are often omitted from current discussions of cultural heritage, at least in part because they carry such heavy political valence.

It follows that protecting archives is equally fraught, with archives destroyed (purposefully or through neglect), confiscated and concealed.

In 2016 the International Council on Archives, the archival profession’s official partner with UNESCO, adopted a working paper, “Basic Principles on the Role of Archivists and Records Managers in Support of Human Rights.” Two of the principles speak directly to the preservation of archives:

Principle 5: Governments should ensure that archives concerning violations of human rights and humanitarian law are preserved. Governments and private institutions ensure the provision of sufficient funding and other resources for the professional management of these archives.

Principle 6: Institutions, archives and records managers should ensure that the archives of temporary bodies established to assist in transitional justice are protected and preserved, both while the entity exists and after it closes; public notice should be given prior to the disposal of any archives from these bodies.

Preservation and access are the Janus faces of archives. So, what are imperative actions to make sure the cultural heritage of archives is protected for the exercise of human rights?

On the international level, archives need to be included in policy statements on human rights issues. For example,

*The Office of the Prosecutor, International Criminal Court, needs to revise its Draft Policy on Cultural Heritage to state explicitly that it covers archives as part of cultural heritage.

*The United Nations Guiding Principles on Business and Human Rights must be revised to state unequivocally that businesses, particularly multinationals, must preserve and make available their records that have an impact on human rights. Today even determining where a corporate archives is located is difficult, and in most cases they are closed to access (except for the most anodyne uses) without litigation. And yet big businesses can affect human lives and human rights at least as directly as governments can, particularly in countries with weak governments.

*The United Nations Committee on Economic, Social and Cultural Rights must insist in its new draft General comment No. 26 (2021) on land and economic, social and cultural rights, that land titling and registration be fair, that the records of title be securely preserved in a professionally-managed archives, and that access to the records of land ownership be freely available for all.

*Institutions and individuals under threat, whether from conflict, civil unrest, political pressures, or the effects of climate change, need to be able to secure a “safe haven” trusted repository for the endangered archives. An international entity, such as the Office of the High Commissioner for Human Rights, should endorse the “Guiding Principles for Safe Havens for Archives at Risk” adopted by the International Council on Archives. Field staff of OHCHR have a role to play in protecting both endangered archives and the archivists that care for them.

Turning to the national level,

*All institutions holding archives must acknowledge publicly the existence of the archives and have a clear, stated policy for access to them. The existence of restrictions to access must be made known.

*Governments must enact and enforce serious penalties for concealing and destroying records, both those of government and those it designates as important cultural property.

*In keeping with UN Sustainable Development Goal 16, governments must ensure that all persons have a legal identity, including birth registration. In countries around the world identities are denied, are withdrawn, or simply ignored for persons deemed to be of the “wrong” persuasion. Archives of identity must remain inviolable.

*All institutions holding archives—governments, prominent businesses, faith institutions, NGOs—must ensure the provision of sufficient funding and other resources for the professional management of these archives. Around the world, from large institutions to small ones, archives are cruelly underfunded. Digital records, in particular, are in danger of perishing, while other materials that could be used for human rights purposes are sitting without any description and thus no way for the public to know that they exist.

In 1958, ten years after the Universal Declaration of Human Rights was adopted, Eleanor Roosevelt, who chaired the United Nations Commission of Human Rights that drafted the Declaration, said, “Where, after all, do universal human rights begin? In small places, close to home--so close and so small that they cannot be seen on any map of the world. Yet they *are* the world of the individual person.”

No archives lie closer to those small places, to home, than those that assert and protect human rights. From the birth certificate to land title to the documentation of the search for the missing, archives are the blocks on which society lays its foundation and builds its walls.

Governments, groups and persons: those are the sources of the materials that archives hold-- records of businesses and faith-based bodies, of rebel groups and States, correspondence of men and women. Archivists select, preserve, and provide access to materials that allow people to assert and protect the

rights enumerated in every one of the thirty Articles of the Universal Declaration of Human Rights. Archivists truly are duty-bearers for culture and human rights.