



*February 20 is the World Day of Social Justice*

**News of January 2013**

Compiled by Trudy Huskamp Peterson, Chair, HRWG

The following is the sixth in a series of brief discussions of the *Principles of Access to Archives* adopted by the International Council on Archives at its Annual General Meeting in August 2012.

**Principle 5. Archives are made available on equal and fair terms.**

*Archivists provide users with just, fair and timely access to archives without discrimination. Many different categories of persons use archives and access rules may differentiate between categories of users (for example, the general public, adoptees seeking information on birth parents, medical researchers seeking statistical information from hospital records, victims of human rights violations), but the rules apply equally to all persons within each category without discrimination. When a closed item is reviewed and access to it is granted to a member of the general public, the item is available to all other members of the public under the same terms and conditions.*

*Access determinations are made as rapidly as possible following receipt of the access request. Records of public bodies that have been disclosed to the public before transfer to the archival institution, except those made public through illegal or unauthorized means, remain accessible after they are transferred regardless of their content, form or age. If only part of the information in an item has been published or is readily available to the public, access to the released information remains open after transfer; the unreleased information is subject to the normal access policy and procedures. Archivists encourage legislative and regulatory actions that open records responsibly and do not support attempts to close information previously made public, either by reclassifying or ordering destruction of materials.*

*Private institutions holding archives provide equal access to users; however, existing donor agreements, institutional security needs, and related constraints may require archivists to make distinctions between researchers. The criteria used by the private institutions for determining selective access are stated in its public access policy, and archivists encourage their institutions to reduce these exceptions to the greatest extent possible.*

Principle 5 couples “equal access” and “fair access.” The linkage is significant. Equal access does not mean that everyone gets to see the same things but rather that (1) categories of users are established that are fair and (2) within those categories each person is given access that is equal in kind but necessarily in content. For example, if a government permits an adopted person to see the records of his or her adoption, then all other adopted children should have the same right of access to the files of their adoptions, but the government might fairly decide that members of the general public do not have access to the adoption records if the persons involved are still alive. Or, as another example, if a member of the general public is given access to the records of arrests made by local police, all other members of the public should be given access, too.

The Principle also addresses the contentious issues of closing records that have once been open to public research use. It strongly discourages such practices, while recognizing that records disclosed through leaks or error may not be considered official releases by the creating body and therefore the records are not open in the archives. This is clearly a troublesome situation, and archivists seek to resolve anomalous situations like this as quickly as possible.

Principle 5, like all the Principles, applies equally to the records of private organizations and individuals. In some of these cases, donor agreements come into play. For example, a family may engage an official biographer to write about a parent and they want that biographer to have access to all the files, even if some may be withheld from the general research public in accordance with the deed of gift. This is unequal access, but as long as the fact that the biographer can use the papers is public and there is a fair time limit for this privileged access, archival institutions may justify accepting the restriction. However, policies that specify that the records will only be available to “bona fide” researchers without clearly stating what qualifies a researcher as “bona fide” are unfair and are often subject to unequal interpretations.

Researchers should not have to “romance the archivist” to gain access, as one researcher did in an archives in Mali. <http://www.thesmartset.com/article/article08220801.aspx>. That is precisely what this Principle opposes. All records cannot be opened to all researchers at all times, but researchers should be confident that access to archives is granted on a fair and equitable basis.

**HRWG News.** An informal index to the countries and topics covered in the 2012 issues of the News is available by writing to [Trudy@trudypeterson.com](mailto:Trudy@trudypeterson.com).

### **International news.**

**Council of Europe.** The Council of Europe issued a statement on statelessness, with a special focus on stateless children. The Council pointed out that data on statelessness is difficult to obtain and it is even more difficult to find the data broken down by age. It notes the Roma have a special problem “proving or acquiring a nationality due to a lack of personal identify documents, especially birth certificates.” Among the recommendations are that states should “ensure that all children are registered in birth registry books immediately after birth,” “collect disaggregated statelessness data on a regular basis,” and “cooperate more effectively” when “persons need to access documents from different countries in order to establish their

nationality.” <http://humanrightscomment.org/2013/01/15/governments-should-act-in-the-best-interest-of-stateless-children/#more-241>

Council of Europe/Russia. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment issued its report on its visit to the North Caucasian region in April and May 2011. At the pretrial detention facility in Vladikavkaz the committee found that “information about an inmate apparently admitted . . . with serious injuries was erased from the relevant register” and in the Internal Affairs Divisions and the Directorate of the Federal Drug Control Service for the Republic of Dagestan the records of the custody of persons “were frequently inaccurate and incomplete.” However, in a “considerable number of cases” the delegation could find “medical evidence” in “relevant records . . . and in forensic medical reports that was fully consistent with recent torture or other forms of severe ill-treatment.” Individuals told the committee they had been forced to sign false statements for the record. The Committee called on “the Russian authorities to take resolute steps to improve the standards of record keeping” and urged that “custody registers in respect of all categories of detained persons, and covering all stages of deprivation of liberty, should be introduced and properly kept in every establishment where persons may be deprived of their liberty (even for a few hours).”

<http://www.cpt.coe.int/documents/rus/2013-01-inf-eng.htm>

International Criminal Tribunal for the Former Yugoslavia. Christian Axboe Nielsen testified on January 10 and 11, 2013, as an expert witness at the trial of Goran Hadzic. He recounted the many archives he used to analyze the chain of command in the military and paramilitary forces of Serbia, providing a fine overview of the use of documents for content and context in human rights trials. See pages 2401-2598, <http://www.icty.org/case/hadzic/4#trans>

NATO/Serbia. The Serbian commission investigating the “progress of the cases of three prominent journalists” killed in Serbia (two in 1999 and one in 2001) asked the government to “expand its mandate to include the 16 people who died when NATO bombed the Serbian public broadcaster, RTS, in 1999,” *BIRN* reported. The chair of the commission said he wanted to see all the documents the government had “so far gathered” on the NATO bombing “so that we can determine who made omissions during the investigations [of the bombing] and for what reasons.” [http://www.balkaninsight.com/en/article/state-commission-to-investigate-nato-killed-journalists?utm\\_source=Balkan+Transitional+Justice+Daily+Newsletter&utm\\_campaign=e564eb1f7b-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email](http://www.balkaninsight.com/en/article/state-commission-to-investigate-nato-killed-journalists?utm_source=Balkan+Transitional+Justice+Daily+Newsletter&utm_campaign=e564eb1f7b-RSS_EMAIL_CAMPAIGN&utm_medium=email)

UNESCO/Tunisia. In December the National Archives of Tunisia held a conference, co-sponsored with UNESCO, on archives and the right to know. The recommendations from that meeting are appended to this newsletter. Thank you to Perrine Canavaggio for supplying them.

United Nations/Timor-Leste. The United Nations formally ended its peacekeeping mission in Timor-Leste after 13 years. The records of the mission will be maintained by the UN archives in New York. [http://www.upi.com/Top\\_News/Special/2013/01/02/UN-peacekeepers-leave-Timor-Leste/UPI-19101357102980/](http://www.upi.com/Top_News/Special/2013/01/02/UN-peacekeepers-leave-Timor-Leste/UPI-19101357102980/)

United Nations Military Assistance Mission/Afghanistan. The United Nations Military Mission in Afghanistan released a report on the “ill-treatment of conflict-related detainees in Afghan

Custody.” According to the press release on the report, it is “based on interviews with 635 conflict-related detainees held by the Afghan National Police, National Directorate of Security, Afghan National Army or Afghan Local Police, visits to 89 detention facilities in 30 provinces from October 2011 to October 2012, extensive interviews with multiple relevant interlocutors and on rigorous analysis, corroboration and examination of documentary and other material.” The study found that “more than half” of the detainees interviewed “experienced ill-treatment and torture.” The report and all the background material assembled for it should be part of the records of the Mission to be preserved in the UN Archives.

<http://unama.unmissions.org/Default.aspx?tabid=12254&ctl=Details&mid=15756&ItemID=36279&language=en-US>

### **Bilateral and multilateral news.**

Argentina/Iran. Argentina and Iran announced that they are creating a joint commission of five international law experts, none of whom can be either Argentine or Iranian nationals, to investigate the 1994 bombing of the Jewish community center in Buenos Aires, Argentina, that killed 29 people. Iran is suspected of planning and financing the bombing, but previous investigations have failed to determine responsibility. Argentina’s president wrote on her Twitter account that the commission would “analyze all the documentation presented to date by the judicial authorities of Argentina and Iran.” Many media outlets reported the story; see, for example, <http://www.bbc.co.uk/news/world-latin-america-21225832>

Bosnia/Serbia. Serbian and Bosnian prosecutors signed a protocol on cooperation in the prosecution of suspected perpetrators of war crimes, crimes against humanity and genocide, *BIRN* reported. Among other elements, the protocol regularizes the “mutual transfer of evidence between Bosnia and Serbia” which will include documentation.

[http://www.balkaninsight.com/en/article/bosna-serbia-signed-war-crime-protocol?utm\\_source=Balkan+Transitional+Justice+Daily+Newsletter&utm\\_campaign=bca0dce986-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email](http://www.balkaninsight.com/en/article/bosna-serbia-signed-war-crime-protocol?utm_source=Balkan+Transitional+Justice+Daily+Newsletter&utm_campaign=bca0dce986-RSS_EMAIL_CAMPAIGN&utm_medium=email)

China/Philippines. The Philippines has taken China to the International Tribunal for the Law of the Sea for binding arbitration to determine the boundaries between the two countries in the sea between them. Clearly this arbitration will involve many historic records from both nations. For the Philippine view, see <http://globalnation.inquirer.net/62321/ph-challenges-china-in-un>

El Salvador/United States. Sentencing was delayed in an immigration fraud (lying on immigration forms) and perjury trial because the perpetrator, Inocente Orlando Montano, is a former El Salvadoran military officer who is linked to the 1989 killing of six Jesuit priests in El Salvador. Montano had entered into a plea agreement with the government, but the amount of jail time for a fraud conviction is much less than that for the other crimes he is alleged to have committed. As part of the case, an expert report on Montano’s career was submitted to the court; it used a wide variety of documentary materials to support its conclusion that Montano was “part of the ruling ‘inner circle’ and occupied one of the top three positions in the armed forces at a time when El Salvador’s highest officers engaged in widespread human rights abuses.” For a report of the case, see

<http://www.law.com/jsp/law/international/LawArticleIntl.jsp?id=1202584740526>

For the expert's report, see <http://pdfserver.amlaw.com/nlj/ExpertReportTerryLynnKarl.pdf>

Greece/Italy. Human Rights Watch published a report saying that Italian authorities are turning away asylum seekers who arrive from Greece without adequately considering claims for asylum in accordance with European Union Standards. The report is based on interviews with 29 people, 13 of whom were minors when they were forced back to Greece, reminding us once again of the importance of the records maintained by non-governmental organizations like Human Rights Watch. [http://www.hrw.org/sites/default/files/reports/italy0113ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/italy0113ForUpload_0.pdf)

Ireland/United Kingdom/United States. In a dismal turn in the long struggle over access to the oral history interviews with Dolours Price, who was a member of the Irish Republican Army in Northern Ireland, Price was found dead in her home near Dublin, Ireland (for background, see *HRWG News* of January and July 2012). Price had accused Sinn Fein leader Gerry Adams of involvement in IRA killings and bombings, which he denies. The interviews, housed in the archives at Boston College in the U.S. State of Massachusetts, were sought by the United Kingdom, and U.S. courts have ordered that they be turned over, but appeals are still pending. The original request was for interviews with two persons, one of whom was dead and whose material was made available. Although it would seem that the same case could now be made for access to the Price materials, the interviewers said, according to the *Huffington Post*, that in the wake of her death they would fight the release of the interviews "with renewed vigor." <http://www.irishtimes.com/newspaper/breaking/2013/0124/breaking30.html>

Russia/Ukraine. In a high profile case in Ukraine, the suspect in an alleged plot to assassinate Russian President Vladimir Putin sent a letter to the judge hearing the case, retracting his confession as having been made under duress. Ukraine has also charged him with forging documents, and he admitted to entering Ukraine on a false passport, *AFP* reported. That means the documents in the case file include his true and false statements and real documents and apparently forged ones. [http://en.rian.ru/russia/20130117/178841668/Putin\\_Death\\_Plot\\_Suspect\\_Retracts\\_Testimony\\_Claims\\_Torture.html](http://en.rian.ru/russia/20130117/178841668/Putin_Death_Plot_Suspect_Retracts_Testimony_Claims_Torture.html)

### **General.**

Two medical stories reported by the *New York Times* have implications around the world. First, the Johnson & Johnson Company marketed an artificial hip implant even though the company's records, revealed during a trial, show that it knew the device had a "critical design flaw." An "estimated 93,000 patients worldwide" received the implant, of which about a third were in the United States; the implant failed "within five years in about 40 percent of patients who received one," which is eight times the failure rate of most orthopedic implants. In addition, "metallic debris" from the device led to a "high concentration of metal ions in the blood of patients who received it." <http://nytimes.newspaperdirect.com/epaper/viewer.aspx>

Mining electronic health records for data provides "gold mines for medical research," although it raises privacy concerns. The use of electronic medical records "have the potential to make every

patient a participant in a vast, ongoing clinical trial,” said the *Times*, and even if the records are “de-identified” before they are used for research, “researchers have been able to tell when they’re looking at records from the same patient.”

[http://www.nytimes.com/2013/01/15/health/mining-electronic-records-for-revealing-health-data.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/01/15/health/mining-electronic-records-for-revealing-health-data.html?pagewanted=all&_r=0)

### **National news.**

Australia. In Melbourne, “thousands of confidential documents” from the Australian Institute of Technology and Education containing names, addresses, mobile phone numbers, graded papers, and records of course payments were found “dumped in an open industrial container in a car park,” reported the *Herald Sun*.

<http://www.news.com.au/national/confidential-documents-thrown-to-the-wind/story-fndo4cq1-1226553097754>

Austria. In an unusual twist, Vienna’s Jewish Museum is reviewing its records to determine whether it holds books and works of art that had been seized by the Nazis and eventually acquired by the museum rather than returned to the original owners or their heirs, *Reuters* reported. For the original article in *Der Standard*, see

<http://derstandard.at/1356426789553/Ungeklaerte-Provenienzen-im-Juedischen-Museum>; for the *Reuters* story see <http://uk.reuters.com/article/2013/01/05/uk-austria-museum-idUKBRE90408R20130105>

Bosnia. The Research and Identification Centre in Sarajevo published the *Bosnian Book of the Dead*, listing 96,000 known victims of the 1990s conflict in Bosnia and 5000 others whose cause and place of death could not be confirmed. The book was compiled with the help of Belgrade’s Humanitarian Law Centre. *BIRN* quoted the director of the Sarajevo center as saying that “more than 200,000 pieces of data were collected, compared and evaluated by an international team of experts in order to count the victims.” [http://www.balkaninsight.com/en/article/bosnian-ngo-presents-written-memorial-to-victims?utm\\_source=Balkan+Transitional+Justice+Daily+Newsletter&utm\\_campaign=082b854f48-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email](http://www.balkaninsight.com/en/article/bosnian-ngo-presents-written-memorial-to-victims?utm_source=Balkan+Transitional+Justice+Daily+Newsletter&utm_campaign=082b854f48-RSS_EMAIL_CAMPAIGN&utm_medium=email)

Croatia. One of the famous crimes of the last stage of the 1991-1995 war in the Balkans occurred after fighting had come to an end around the village of Grubori near the town of Knin in southwest Croatia, an area that had been populated heavily by Serbians, most of whom fled in early August 1995 before Croatian soldiers swept through the area in “Operation Storm.” On 25-26 August 1995 a Croatian police unit entered Grubori, killed five civilians and burned the village. Two of the policemen are now on trial in Croatia charged with the murders. *BIRN* reported on the testimony of police commander Zeljko Sacic, who said that the written order to conduct the “action” was signed by a Croatian general but came “from the office of the president,” Franjo Tudjman. Previous witnesses said that Sacic forged military reports saying the police did not attack civilians; Sacic denied this but said he found out that the police lied in their initial report by saying there were no civilians in the village and the deaths were the result of battle. <http://www.balkaninsight.com/en/article/croatian-president-ordered-military-action->

[on-grubori?utm\\_source=Balkan+Transitional+Justice+Daily+Newsletter&utm\\_campaign=104b612083-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email](http://www.nytimes.com/2013/01/03/world/middleeast/report-says-mubarak-dictated-fierce-response-to-egypt-protests.html?_r=0)

Egypt. The *New York Times* reported that former President Hosni Mubarak watched live video of the demonstrations in Tahrir Square and the “brutal response by his security forces.” The commission investigating the deaths during Egypt’s 18 days of revolt in early 2001 reviewed “Interior Ministry documents like weapons discharge reports and service orders that detailed security deployments,” recorded an interview with the imprisoned former interior minister, and reported that the Egyptian government “recorded everything until the day [Mubarak] stepped down.” Preserving the Commission’s records will be vital.

[http://www.nytimes.com/2013/01/03/world/middleeast/report-says-mubarak-dictated-fierce-response-to-egypt-protests.html?\\_r=0](http://www.nytimes.com/2013/01/03/world/middleeast/report-says-mubarak-dictated-fierce-response-to-egypt-protests.html?_r=0)

Germany. In contrast to the continuing vehement arguments in the United States over gun control, Germany calmly established a new gun database at the beginning of 2013.

[http://articles.washingtonpost.com/2013-01-19/world/36474698\\_1\\_gun-database-gun-registry-gun-lobby](http://articles.washingtonpost.com/2013-01-19/world/36474698_1_gun-database-gun-registry-gun-lobby)

Guatemala. The offices of the AVANSCO, the Asociación para el Avance de las Ciencias Sociales (Association for the Advancement of the Social Sciences in Guatemala) were broken into and all computers--containing vital information held by this important academic institution--were taken. Thanks to Kate Doyle for this information.

Former Guatemalan dictator Efraim Rios Montt was ordered to stand trial for genocide and crimes against humanity. The prosecutor said the judge found “that all the evidence the attorney general’s office had submitted, including the testimony of 140 witnesses and internal military documents from the time, was enough to ensure that a trial would go ahead, the *New York Times* reported. This trial is extremely significant as it is the first case against a former head of state for acting as the intellectual author of the crimes. A posting by Kate Doyle on the website of the National Security Archive, a non-governmental organization in Washington, D.C., said that the evidence to be used in the trial will include military records, counterinsurgency campaign plans, field reports sent from the killing zones to the high command, and the findings of the UN-sponsored Historical Clarification Commission (truth commission).

[http://www.nytimes.com/2013/01/29/world/americas/ex-dictator-is-ordered-to-trial-in-guatemala-for-war-crimes.html?\\_r=0;](http://www.nytimes.com/2013/01/29/world/americas/ex-dictator-is-ordered-to-trial-in-guatemala-for-war-crimes.html?_r=0)

<http://www.gwu.edu/~nsarchiv/news/20130131/index.html>

Iraq. De-Baathification is the process to “intellectually, administratively, politically, culturally and economically dismantle the Ba’ath Party system in Iraqi society, state institutions, and civil society institutions.” The de-Baathification process was first established by the Coalition Provisional Authority’s Order 1 in 2003; in 2008 Iraq passed a law establishing The Supreme National Commission for Accountability and Justice to manage de-Baathification and gave the Commission a number of responsibilities for creating and preserving archives, including (Article 4): “All files of the Dissolved Ba’ath Party shall be transferred to the Government in order to be kept until a permanent Iraqi archive is established pursuant to the law.” Now, reports *al-*

*Monitor*, pressure is growing to repeal or amend the 2008 law and end the de-Baathification process. The sensitive records of the Baath Party and the Commission's de-Baathification activities will need to be preserved and carefully protected in an appropriate archives to ensure their authenticity as evidence. For articles about the pressure to end the Commission, see <http://www.al-monitor.com/pulse/originals/2013/01/maliki-quell-unrest-concessions.html> and <http://www.al-monitor.com/pulse/politics/2013/01/de-baathification-10-years.html>. For an unofficial translation of the 2008 law, see <http://ictj.org/sites/default/files/IraqGovt-Iraq-Translation-Law-2008-English.pdf>

Macedonia. An administrative court overturned the preliminary ruling by Macedonia's Lustration Commission that two former government officials had been secret police collaborators during the Communist-era in Yugoslavia (for background, see *HRWG News* March, June and July 2012). One of the men was accused "on the basis of what were said to be documents from the 1960s," reported *BIRN*, but the man told journalists that the documents were "planted forgeries." The Lustration Commission is reopening its files on the two cases. [http://www.balkaninsight.com/en/article/macedonian-court-scrap-lustration-verbatim?utm\\_source=Balkan+Transitional+Justice+Daily+Newsletter&utm\\_campaign=00f3a00bae-RSS\\_EMAIL\\_CAMPAIGN&utm\\_medium=email](http://www.balkaninsight.com/en/article/macedonian-court-scrap-lustration-verbatim?utm_source=Balkan+Transitional+Justice+Daily+Newsletter&utm_campaign=00f3a00bae-RSS_EMAIL_CAMPAIGN&utm_medium=email)

Mali. People around the world held their breath in January, hoping that the famous ancient manuscripts of Timbuktu were safe (they seem to have escaped significant damage). Two other stories about Mali received less attention, but also concerned records. In an interview with Independent Television News, a Lieutenant Colonel in the Malian intelligence service showed the reporter rebel documents that were found in the city of Gao. The reporter explained, "The Malian officers found records of payments, possibly to jihadi fighters, and a money transfer from someone in Saudi Arabia." The officer replied, shaking the papers in her hand, "You can see. We hear about it. But this is the proof. They talk about Qatar. They talk about Saudi Arabia and everything. This is the proof, yes. And now we keep that evidence for my people."

[http://www.pbs.org/newshour/bb/africa/jan-june13/mali\\_01-28.html](http://www.pbs.org/newshour/bb/africa/jan-june13/mali_01-28.html)

A professor of international law wrote in an article in the *New York Times*, "Late last year, in Algeria and southern Mali, I interviewed dozens of Malians from the north, including many who had recently fled. Their testimonies confirmed the horrors that radical Islamists . . . have inflicted on their communities." The personal papers of individuals who collect information that might be used to document war crimes and crimes against humanity need to be protected and preserved.

<http://iht.newspaperdirect.com/epaper/viewer.aspx>

Paraguay. In late December the *BBC News Magazine* published an article on the records of Paraguay's secret police, known as the "Archive of Terror" and a podcast of an interview with the lawyer who discovered the hiding place of the records. Thanks to Bridget Sisk for calling attention to this article. <http://www.bbc.co.uk/news/magazine-20774985>

Philippines. The Philippine Congress passed legislation "awarding compensation to thousands of victims of human rights abuses under late president Ferdinand Marcos' 20-year iron rule," *Reuters* reported. The draft bill said that claimants must "execute a sworn statement, accompanied by photographs, letters, death certificate, pleadings and other judicial or quasi-judicial documents, newspaper or videotaped accounts, and/or materials or testimonials of



witnesses corroborating and narrating the circumstances of the human rights violation.” In addition to being used to adjudicate claims, these submissions are to be compiled and submitted to the President, Congress and Supreme Court in two years.

<http://www.ivpressonline.com/news/sns-rt-us-philippines-rightsbre90n049-20130123,0,2938759.story>

Russia. Four sociologists from St. Petersburg published a book of “uncensored stories written by [women] prisoners with a professional assessment of their plight.” According to the report in *Transitions Online*, the academics “conducted 35 in-depth interviews with women who had served one or several terms in Russian prisons” and found brutal conditions. Like the papers of the professor who interviewed the Malian refugees, the records of these interviews need to be securely stored. [http://www.tol.org/client/article/23576-russia-prison-women.html?utm\\_source=TOL+mailing+list&utm\\_campaign=5e90e05c85-TOL\\_newsletter\\_27\\_8\\_2012&utm\\_medium=email](http://www.tol.org/client/article/23576-russia-prison-women.html?utm_source=TOL+mailing+list&utm_campaign=5e90e05c85-TOL_newsletter_27_8_2012&utm_medium=email)

Somalia. The International Crisis Group reported that on 8 January that the government of Somalia “reopened National Intelligence and Security Agency HQ.” The Agency must establish a good records management program and the new government needs to recognize the importance of the Agency’s records and make provisions to preserve them appropriately. [http://www.crisisgroup.org/~media/Files/CrisisWatch/2013/cw114.pdf?utm\\_source=cw114email&utm\\_medium=full&utm\\_campaign=cw](http://www.crisisgroup.org/~media/Files/CrisisWatch/2013/cw114.pdf?utm_source=cw114email&utm_medium=full&utm_campaign=cw)

South Africa. Fifteen years after the Truth and Reconciliation Commission (TRC) ended, some victims of apartheid still have not been given what a non-government organization terms “adequate reparations.” Compensation has been based on a list compiled by the TRC of 16,837 victims, which is widely acknowledged to be inadequate because the TRC could not reach all victims in all parts of the country. Several victim-support groups recently asked the government to re-open victim registrations, reported *timeslive.co.za* <http://www.timeslive.co.za/thetimes/2013/01/14/apartheid-victims-fight-on?service=print>

Syria. The International Rescue Committee issued a report on sexual violence in Syria, which the Committee says was “consistently identified by Syrian women, men and community leaders as a primary reason their families fled the country.” The report is based on interviews with refugees in Jordan, Turkey, Lebanon and Iraq. Protecting the records of the interviews is an essential part of the archival responsibility of non-governmental organizations such as IRC. <http://www.rescue.org/sites/default/files/resource-file/IRCReportMidEast20130114.pdf>

Ukraine. A court sentenced a former general in the Interior Ministry to life in prison for the death of a journalist, Georgy Gongadze, in 2000. The journalist’s reporting had “infuriated” Leonid Kuchma, then the president of Ukraine, and “suspicions of official involvement grew with the release of covert recordings made by one of Mr. Kuchma’s bodyguards, in which a man who sounded like the president spoke of Mr. Gongadze, telling a subordinate to ‘throw him out, give him to the Chechens,’” the *New York Times* reported. [http://www.nytimes.com/2013/01/30/world/europe/ukrainian-general-pukach-given-life-sentence-in-killing-of-journalist.html?\\_r=0](http://www.nytimes.com/2013/01/30/world/europe/ukrainian-general-pukach-given-life-sentence-in-killing-of-journalist.html?_r=0)

## United States.

*California.* In the latest chapter in a lawsuit over a gas pipeline explosion that killed eight people and destroyed 38 homes (see *HRWG News* March and May 2012), a consultant for the company testified that although there are “missing or inaccurate records” about the pipeline and its maintenance, “It is just a known fact that records get lost. I know of no one that’s ever been cited for a lost record.” He said that it is “very, very common” to keep records badly, adding that he once assessed pipeline records of Texas company where “the roof was leaking, things were water damaged, there were rats and all kinds of vermin there. It was an absolute nightmare, and a lot of records got tossed.” <http://www.sfgate.com/bayarea/article/PG-amp-E-consultant-defends-pipe-inspections-4191069.php>

A judge ruled that the Roman Catholic Archdiocese of Los Angeles had to release the names of high-ranking church officials included in some 30,000 pages of confidential records about priests accused of sexually abusing children that are at the heart of a civil lawsuit against the church. By the end of the month the first of the documents had been made available, which showed how the archdiocese tried to keep evidence of child molesting away from law enforcement officials and to shield abusive priests. <http://articles.latimes.com/2013/jan/23/opinion/la-ed-mahony-clergy-abuse-files-20130123>; <http://www.nytimes.com/2013/01/23/us/mahony-shielded-abusive-priests-documents-show.html>

In yet another case of the Boy Scouts of America being ordered to release files documenting sexual abuse accusations (see stories in *HRWG News* March, June, September and October 2012), the California Supreme Court ruled that the scouting organization will have to turn over files to the lawyers for a former scout who has accused a scout leader of molesting him. [http://www.huffingtonpost.com/2013/01/08/boy-scouts-sex-abuse-files\\_n\\_2434936.html](http://www.huffingtonpost.com/2013/01/08/boy-scouts-sex-abuse-files_n_2434936.html)

*District of Columbia.* Human Rights Watch released its report on the D.C. police department’s handling of cases of sexual assault (for background see *HRWG News* June 2012). The report said that the police failed to adequately document and investigate sexual assault cases. It recommended important changes in data collection, documentation of reports of sexual assault, review of records by superiors, and creation of “a permanent independent oversight body tasked to conduct regular reviews of police sexual assault investigation files.” The police department, which provided HRW access to its internal database and files on over 250 cases, contested the findings, and by the end of the month the City Council planned to hold a hearing on the allegations. <http://www.hrw.org/reports/2013/01/24/capitol-offense-1>

*New York.* Some people who were present at crash sites in the aftermath of the attacks on 9/11/2001 suffered physical harm as a direct result of the crashes or debris removal. A compensation fund has been established, and claimants are asked to provide evidence that they were at the scene of one of the four crashes. The *New York Times* reported on several cases where people had letters and photographs that they submitted for proof of service; the fund administrator “said she understood how hard it was to recreate records after a decade” but the fund “requires some evidence that people were actually there.” <http://www.nytimes.com/2013/01/02/nyregion/ground-zero-volunteers-face-obstacles-to-compensation.html?pagewanted=all>

During Hurricane Sandy, which devastated the Atlantic Coast of the United States, islands in the Caribbean, and parts of eastern Canada in October 2012, two warehouses in New York that held police evidence were severely damaged. According to the *New York Times*, one of the warehouses stored the paper records that tracked the “millions of items in the [police] department’s 11 storage areas” and quoted a retired officer as saying, “It was all piles—piles, piles, piles” of paper. The police department is developing plans to try to restore damaged documents, but as one attorney told the newspaper, “The government may well be fashioning plea deals based upon the lack of underlying evidence.”

<http://www.nytimes.com/2013/01/02/nyregion/hurricane-destroyed-evidence-held-by-new-york-police.html>

Uzbekistan. In a strong essay, a journalist from Uzbekistan, now a refugee in the United States, recounted her experience trying to report on human rights abuses. She describes photographing and audio taping for her stories and the pressures that led her to seek asylum.

<http://thetuqay.com/index.php/2013/01/07/working-as-a-journalist-in-a-repressive-political-regime/>

### **Publications, conferences.**

The Breath of Life Archival Institute for Indigenous Languages will be held 10-21 June 2013 in Washington, D.C. The Institute will accept 60 participants; for further information see:

[http://www.endangeredlanguagefund.org/BOL\\_2013\\_home.php](http://www.endangeredlanguagefund.org/BOL_2013_home.php)

Monash University, Melbourne, Australia will host a conference 6-7 August 2013 on “Aftermath: Sites and Sources of History and Memory.” The call for papers, with abstracts due March 4, invites scholars and archivists to consider how “Archives, testimony projects, documentation centres, and emerging tools in the fields of salvaging and mapping sites of conflict . . . present new possibilities for documenting and transmitting histories and memories of traumatic events.” For further information, see <http://artsonline.monash.edu.au/aftermath/>

**Please share news with us! [trudy@trudypeterson.com](mailto:trudy@trudypeterson.com) or [j.boel@UNESCO.org](mailto:j.boel@UNESCO.org)**

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## Journée de réflexion à l'occasion de la journée mondiale des droits de l'Homme

« Archives et droit de savoir »

Archives nationales de Tunisie, Tunis  
10 décembre 2012

### RECOMMANDATIONS

Les participants à la journée d'études « Archives et droit de savoir », organisée à Tunis, aux Archives nationales, le 10 décembre 2012,

Considérant l'Ensemble de principes actualisés pour la protection et la promotion des droits de l'Homme par la lutte contre l'impunité approuvés en 2005 par le Haut-Commissariat des droits de l'Homme des Nations Unies ;

Considérant la *Déclaration universelle sur les archives* adoptée par l'UNESCO le 10 novembre 2011 qui « souligne l'importance du rôle des archives pour la conduite efficace, responsable et transparente des affaires, la protection des droits des citoyens, la constitution de la mémoire individuelle et collective, la compréhension du passé, la documentation du présent et la préparation de l'avenir » ;

Se référant aux *Principes relatifs à l'accès aux archives* adoptés par l'Assemblée générale du Conseil international des Archives à Brisbane, le 24 août 2012, (notamment à l'article 6 qui concerne l'accès des victimes de crimes graves ressortissant du droit international aux archives documentant la violation des droits de l'Homme, à l'article 7 sur le droit des usagers de faire appel lorsque la communication leur est refusée, et à l'article 10 sur la participation des archivistes au processus de décision concernant l'accès aux archives) ;

Considérant les leçons à tirer des expériences étrangères présentées par les intervenants à la journée d'études du 10 décembre 2012, en matière de législation et de politique archivistique ;

Convaincus de la nécessité d'une politique archivistique spécifique pendant la période de transition que vit actuellement la Tunisie ;

Recommandent aux pouvoirs publics de Tunisie :

1. d'encourager d'une façon générale la préservation des archives concernant la défense des droits de l'Homme en Tunisie, produites tant sur le territoire national qu'à l'étranger ;

2. d'associer étroitement les Archives nationale de Tunisie, en raison de leur expérience et de leur savoir faire, à l'élaboration des lois et règlements :
  - sur les archives, en incluant des dispositions sur le contrôle du cycle de vie des documents quels qu'en soient le format et le support ;
  - sur le droit d'accès aux documents administratifs et à la réutilisation des données publiques ;
  - et sur la protection de la vie privée en matière, notamment, de fichiers informatisés ;
3. de réviser à la baisse les délais d'accès aux archives publiques, afin de les rapprocher des délais en vigueur dans les pays démocratiques ;
4. de donner à la future autorité compétente en matière de recours en cas de refus d'un document administratif compétence également pour examiner les recours en cas de refus de communication de documents d'archives par dérogation ;
5. d'adopter une loi spécifique permettant aux victimes d'accéder aux dossiers constitués sur eux par la police politique pendant la période de la dictature 1987-2011, et, le cas échéant, de rectifier les données erronées ;
6. de faciliter le versement aux Archives nationales de Tunisie des archives de la police politique et des archives sensibles datant de la période de la dictature 1987-2011 ;
7. de veiller au versement aux Archives nationales de Tunisie des archives des membres du gouvernement et de celles de leurs collaborateurs, membres des cabinets ministériels, au moment des changements de gouvernement ;
8. d'assurer aux Archives nationales de Tunisie les moyens humains et matériels leur permettant d'archiver de façon professionnelle les sites web des ministères et administrations publiques ;
9. de faciliter l'archivage des archives des associations dissoutes et des syndicats qui constituent des sources complémentaires des archives publiques ;

Demandent à l'UNESCO de faire traduire en arabe les normes de description des archives du Conseil international des Archives, notamment les normes ISAD(G), ISAAR (CPF), ISDIAH et ISDF ;  
Remercient l'UNESCO d'avoir contribué à l'organisation et au succès de la journée d'études du 10 décembre 2012.