
ARCHIVES AND HUMAN RIGHTS

News from the Section on Archives and Human Rights

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Commentary.

We have an “at least” problem. In the June issue of *SAHR News*, I quoted media 15 times as saying “at least” so many people died, crimes were committed, firearms were lost. Why this lack of precision?

Calls for better data—from information on the onset of COVID to excessive use of force by police to the number of missing persons—abound. For example, the ALLIED Data Working Group, consisting of a dozen NGOs, released a joint briefing in July on “the limits to official data on attacks against [human rights] defenders and why it’s concerning.” The group wrote that official data on killings is “extremely limited, while even less data is available on the physical and death threats that often precede lethal attacks . . . few countries are monitoring the situation adequately, if at all.” Of the 162 countries that have submitted voluntary national reviews (VNRs) of their implementation of the UN Sustainable Development Goals since 2015, “only 3—fewer than 2%—indicated that at least one HRD [human rights defender] had been killed or attacked. Seven countries reported zero cases and 94% of countries did not report at all.” It noted, and the items in the monthly *SAHR News* confirm, that the “overwhelming majority of cases reported . . . come from civil society data collectors and not from state-led reporting or human rights mechanisms.” https://www.business-humanrights.org/en/from-us/briefings/a-crucial-gap-the-limits-to-official-data-on-attacks-against-defenders-and-why-its-concerning/?mc_cid=517ad7ba9f&mc_eid=f1f6556540

Looking at some of the reasons for the “at least” qualification helps understand the problem. Sometimes it is simply the difficulty of getting the information; for example, how many people were killed in remote parts of the Congo during conflicts is hard if not impossible to document. Sometimes the relevant records were destroyed, whether by accident, neglect, or intention. Wars, fires, and termites all bear responsibility. Sometimes the information was intentionally not recorded; see Russia/Ukraine below for situations when Ukraine did not record an initial detention. Sometimes the information comes only from the national level, excluding information from local sources that might be different—and sometimes the local sources do not report regularly or at all to the central authority. There may be distrust of existing information; for example, knowing that the number of COVID deaths in child care facilities is underreported and, perhaps, to save embarrassment, the number is reported as “at least.” And sometimes it is sloppy recordkeeping. Nearly a century ago Sir Josiah Stamp quoted an English judge on the subject of Indian statistics: “The government are very keen on amassing statistics. They collect them, add them, raise them to the Nth power, take the cube root and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn pleases.” Sir Josiah Stamp, *Some Economic Factors in Modern Life*, pp. 259-259, P.S. King and Son. London, 1929.

Archives are, of course, full of data, raw and refined. Researchers using archival holdings need always to be aware of the limitations that numbers—seemingly so precise—elide. When archives certify copies of records for researchers they are only certifying that this is an exact copy of the record in question; they are not certifying the numbers in it. At least, researchers should be aware of that limitation.

SAHR News. At the request of SAHR, ICA submitted a comment to the Office of the United Nations High Commissioner for Human Rights' Committee on Economic, Social and Cultural Rights on its draft General comment No. 26 (2021) on land and economic, social and cultural rights. A copy of the ICA letter is annexed to this issue.

International news.

European Union. A “special cross-party group of eight” members of the European Parliament issued a report of its four-month investigation of the work of Frontex, the EU border agency. They said the agency “failed to protect the human rights of asylum seekers,” reported the *Guardian*, and although they had not found “conclusive evidence” that Frontex was involved in forcing back asylum seekers in breach of international law, it “had failed to investigate such reports promptly.”

<https://www.theguardian.com/world/2021/jul/15/eu-border-agency-has-failed-to-protect-asylum-seekers-rights>

European Union Court of Justice. After a woman’s employer suspended her from her duties on two occasions and gave her a warning to remove her headscarf, she sued in the Hamburg, Germany, Labour Court, asking that the employer be ordered to “remove from her personal file the warning concerning the wearing of the Islamic headscarf.” The court referred the question to the EU Court of Justice, asking it to rule on whether banning workers from wearing “any visible sign of political, philosophical or religious beliefs in the workplace” violates the EU directive on equal treatment in employment and occupation. In a judgment that equivocates, the Court ruled, “A prohibition on wearing any visible form of expression of political, philosophical or religious beliefs in the workplace may be justified by the employer’s need to present a neutral image towards customers or to prevent social disputes. However, that justification must correspond to a genuine need on the part of the employer and, in reconciling the rights and interests at issue, the national courts may take into account the specific context of their Member State and, in particular, more favourable national provisions on the protection of freedom of religion.” So back to Germany to decide whether to expunge the records.

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-07/cp210128en.pdf>

Inter-American Commission on Human Rights. The Commission published a “Compendium of the Inter-American Commission on Human Rights on Truth, Memory, Justice and Reparation in Transitional Contexts.” It has an excellent section on “Declassification, Access and Preservation of Archives” (paragraphs 142-152) followed by a section on “Initiatives on the Maintenance of Historical Memory.” <http://www.oas.org/en/iachr/reports/pdfs/CompendiumTransitionalJustice.pdf>

United Nations Human Rights Council. The Council decided to establish “an international independent expert mechanism on promoting and protecting the human rights and fundamental freedoms of Africans and people of African descent against excessive use of force and other human rights violations by law enforcement officers.” The mechanism will have three members engaged for a period of three years, reporting annually. Data collection and preservation will be a vital function for this mechanism.

The Council received a report from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, focused on the “threats posed by disinformation.” Calling “diverse and reliable information . . . an obvious antidote to disinformation and misinformation,” the SR urged States to increase their transparency of operations and “proactively” disclose official data online and offline and called on businesses to confront disinformation in their practices. The Council instructed the High Commissioner to “convene two expert consultations, to discuss the relationship between human rights and technical standard-setting processes for new and emerging digital technologies and the practical application of the Guiding Principles on Business and Human Rights to the activities of technology companies” and report on the findings.

The Council also asked the High Commissioner to study and present a report on internet shutdowns, saying “the same rights that people have offline must also be protected online,” a report on the impact of arms transfers on human rights, particularly those of children and youth, and to “organize an expert consultation with States and other relevant stakeholders . . . the results of which will help the Office of

the High Commissioner to prepare a study on the situation of the violations and abuses of human rights rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization.” <https://undocs.org/A/HRC/47/25>; <https://undocs.org/A/HRC/47/L.9>; <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27306&LangID=E>

World Health Organization (WHO). WHO called for “a global registry to track ‘any form of genetic manipulation’,” *AP* reported. A WHO expert group that studied genome editing said “all studies involving human genome editing should be made public” and that WHO should ensure that “all genetic editing research registered in their database be reviewed and approved by an ethics committee.” https://www.statnews.com/2021/07/12/genome-editing-world-health-organization/?utm_source=STAT+Newsletters&utm_campaign=d2afa59cce-MR_COPY_02&utm_medium=email&utm_term=0_8cab1d7961-d2afa59cce-149736437; <https://apnews.com/article/business-science-health-coronavirus-pandemic-united-nations-498e18ab7044262abcbf287a33f3bdc8>

WHO’s director-general said WHO will create a new body to “conduct the next phase of studies into the emergence” of COVID-19. He said “China has not shared ‘raw data’ from the early days of the pandemic and called for ‘audits of relevant laboratories and research institutions operation in the area of the initial human cases identified in December 2019’,” *Science* reported. <https://www.sciencemag.org/news/2021/07/who-chief-sharpens-call-china-further-help-probe-origin-pandemic>

World/general news.

Business records. Lafarge is a worldwide France-headquartered company specialising in cement, construction aggregates, and concrete. A confidential French “intelligence document” from August 2014 “notes that Lafarge had forged a deal with Daesh to maintain commercial operations in Syria,” *Liberation Daily* reported. “Lafarge is currently facing a series of cases” in France “over violating the embargo [against ISIS], threatening the lives of its workers and financing a terrorist organization.” For background, see *HRWG News* 2017-03, 06, 12. <https://www.dailysabah.com/politics/war-on-terror/french-officials-knew-lafarges-deal-with-daesh-terrorists-report>

The court of appeal in London agreed to reopen a lawsuit by 200,000 claimants against mining company BHP over damages from the 2015 collapse of the Fundao dam in Brazil that killed 19 people and destroyed property of individuals, businesses, churches, organizations, municipalities and indigenous people, *Reuters* reported. BHP and mining company Vale co-owned the dam. For background, see *SAHR News* 2020-04, 11. <https://www.theguardian.com/business/2021/jul/28/london-court-reopens-7bn-brazil-fundao-dam-collapse-lawsuit-against-bhp>

Rio Tinto, the giant mining company, agreed to “predominantly fund” an independent assessment of the “human rights and environmental impacts of its former Panguna copper and gold mine in Papua New Guinea’s autonomous region of Bougainville,” *SBS News* reported. “The mining agreement, negotiated by Rio Tinto with the Australian government in the 1960s, when PNG was a colony, did not include significant environmental regulations or liability for mine site rehabilitation.” For background, see *SAHR News* 2020-04. <https://www.sbs.com.au/news/rio-tinto-agrees-to-independent-human-rights-assessment-of-bougainville-mine>

Climate change. Unprecedented weather conditions in July were found across the Northern hemisphere, with record-breaking temperatures in the Arctic, disastrous floods in Western Europe and eastern China, and extensive wildfires in Russia and the United States, causing extreme air pollution. *Financial Times* provided a summary; it included a statement from Chinese authorities that the volume of rain “exceeded anything on record for the past 5,000 years, extending to the official start date of Chinese civilization.” <https://www.straitstimes.com/world/united-states/extreme-weather-takes-climate-change-models-off-the-scale>

Medical records. China-based BGI Group, the world’s largest genome research organization, markets the prenatal test branded NIFTY, which is one of the most popular in the world. *Reuters* reviewed “scientific papers and company statements” and concluded that the tests were developed “in collaboration” with China’s military and are being used “to collect genetic data from millions of women for sweeping research on the traits of populations.” The tests are sold “in at least 52 countries to detect abnormalities such as Down’s syndrome in the fetus.” *Reuters* “reviewed more than 100 documents, from research papers to marketing materials, to determine the scope of data being captured by BGI through its prenatal tests, how it is using this in its research and its military collaboration,” as well as

interviewing scientists and women who had taken the test. “Inside BGI’s offices in mainland China, huge screens update in real time as samples harvested from the tests . . . are uploaded to the China National GeneBank;” the screens also show the location of the women. The project is called the Chinese Millionome Database, and although BGI said it does not contain data of women outside mainland China, “online records reviewed by *Reuters* show that the genetic data of at least 500 women who have taken the NIFTY test, including some outside China, are stored in the government-funded China National GeneBank.” <https://news.trust.org/item/20210707110341-occfu/>

A team of U.S. researchers “abstracted all patient medical records that had been written by physicians . . . in 2017 at an ambulatory internal medicine setting at an urban academic medical center,” they wrote in *JAMA*. From this “pool of encounter notes,” they randomly selected 600 for “qualitative analysis of linguistic features.” The sample had 80% Black patients and 69% female. The researchers found 6 ways in which physicians expressed positive feelings toward patients and 5 ways they expressed “negative feelings toward patients, including disapproval, discrediting and stereotyping.” They suggested physicians “must raise consciousness about how we write and read medical records,” because “language has a powerful role in influencing subsequent clinician attitudes and behavior.”

https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2781937?utm_source=STAT+Newsletters&utm_campaign=5442b23852-MR_COPY_02&utm_medium=email&utm_term=0_8cab1d7961-5442b23852-149736437

Migration. The UN International Organization for Migration announced that between January and June “at least 1,146 people perished” attempting to reach Europe by sea, a number double that of the first six months of 2020, *AP* reported. <https://apnews.com/article/europe-africa-government-and-politics-migration-united-nations-c56d092225a55ea31660a8aced875183>

Technology. Paris-based NGO Forbidden Stories and Amnesty International obtained a list of more than 50,000 phone numbers identified as belonging to persons identified as of interest to the organizations, including governments, that purchased Pegasus surveillance software from the Israeli company NSO Group. The list was shared with 17 media organizations around the world, who began identifying the phone owners and, in some cases, were able to examine the phones to see if they were infected with the software. Because the phone numbers belonged to politicians, human rights activists, journalists, business executives and others, the simultaneous release of stories in the participating media set off a clamor for governments to shield people from such invasions of privacy. The UN High Commissioner for Human Rights, reacting to the revelations, said the use of such spyware “can only ever be justified in the context of investigations into serious crimes and grave security threats” and called on governments to “take concrete actions” to protect against such invasions of privacy by “regulating the distribution, use and export of surveillance technology created by others.” Israel set up a task force to assess the allegations against NSO, *Reuters* reported. And 146 civil society organizations and 28 independent experts signed an open letter “calling on states to implement an immediate moratorium on the sale, transfer and use of surveillance technology,” including 12 recommendations that included states creating a legal framework for “transparency by private surveillance companies, including information on self-identification/registration.” <https://news.un.org/en/story/2021/07/1096142>; https://genevasolutions.news/science-tech/project-pegasus-and-the-right-to-cultivate-one-s-personal-digital-garden?utm_source=newsletter&utm_medium=email; <https://www.amnesty.org/download/Documents/DOC1045162021ENGLISH.PDF>; <https://www.financereference.com/israel-appoints-task-force-to-assess-nso-spyware-allegations-sources-reuters/>

U.K. researchers have developed a method to compare “DNA in chocolate products to the cocoa where it is farmed. This means cocoa can be reliably traced back from an individual chocolate bar to the specific farms which cultivated the cocoa in it, a major advance on current fairtrading, certification and sustainability practices,” reported *phys.org*. One of the researchers said, “It would cost a tiny fraction of the industry’s revenues to build such a database in Ghana and Ivory Coast, which is the source of more than 70% of the world’s cocoa production,” places and an industry known for child labor. “And this is not a new issue. During our research we found reports that in 1905 Cadbury investigated claims of abuses on cocoa plantations on the island of Sao Tome and Principe.” <https://phys.org/news/2021-07-cocoa-dna-slavery-child-labor.html>

The U.K.-based Internet Watch Foundation (IWF) announced it has “Intelligrade” software that will “automatically match up images and videos to the rules and laws of Australia, Canada, New Zealand,

the U.S. and the U.K.” to be used in assessing liability for child sexual abuse imagery. Last year the IWF team identified over 150,000 web pages with links to such imagery. The software will help, but staffers still will spend their days identifying images that need to be foregrounded before the software can take over. https://www.wired.com/story/new-system-crack-down-child-sex-abuse-images/?bxid=5c48efcf2ddf9c4807adf975&cndid=53684912&esrc=sign-up-page&source=EDT_WIR_NEWSLETTER_0_DAILY_ZZ&utm_brand=wired&utm_campaign=aud-dev&utm_mailing=WIR_Daily_071021&utm_medium=email&utm_source=nl&utm_term=list1_p2

World War II. The *New York Times* ran a feature on art historian Emmanuelle Polack, who is working at the Louvre to clarify the provenance of art works “that suspiciously changed hands during the Nazi occupation of France.” Polack “combs through the Louvre’s voluminous files, auction catalogs, art gallery and framers’ receipts, catalogues raisonnées and correspondence” and “has begun to study auction catalogs and documents in the Drouot auction house, which opened its archives to the Louvre in March.” <https://ca.finance.yahoo.com/news/louvres-art-sleuth-hunt-looted-184008215.html>

Bilateral and multilateral news.

Balkan wars. Bosnia's Office of the High Representative, which was created by the 1995 Dayton peace accord that ended the Balkan wars, announced an amendment to Bosnia’s criminal code to make denial of the genocide of the 1995 Srebrenica massacre and the glorification of convicted war criminals punishable offenses, *DW* reported. Valentin Inzko, the High Representative, said, “Hate speech, the glorification of war criminals and revisionism or outright denial of genocide and war crimes prevent societies from dealing with their collective past, constitute renewed humiliation of the victims and their loved ones, while also perpetuating injustice and undermining interethnic relationships. All of this causes frustrations, makes the society chronically ill and prevents the emergence of desperately needed reconciliation.” Bosnian Serbs immediately rejected the ban. <https://www.dw.com/en/srebrenica-bosnias-peace-envoy-outlaws-genocide-denial/a-58621126> ; <https://cms.trtworld.com/europe/bosnian-serbs-reject-imposed-ban-on-srebrenica-genocide-denial-48809>

A report by a commission of inquiry established by the government of Bosnia’s Republika Srpska said the thousands of Bosniaks killed at Srebrenica included “2,500-3,000 military prisoners” and only “several hundred male civilians,” *BIRN* reported. The report also “accuses the UN’s International Criminal Tribunal for the Former Yugoslavia of staging politically-biased trials of Bosnian Serb political and military leaders, and of wrongly classifying the Srebrenica massacres as genocide.” *BIRN* followed this with an article using evidence from the ICTY trials to rebut the assertions and noted that not only ICTY defined the Srebrenica killings as genocide but so did the International Court of Justice in a 2007 ruling. <https://balkaninsight.com/2021/07/21/bosnian-serb-report-claims-many-srebrenica-victims-werent-civilians/>; <https://balkaninsight.com/2021/07/30/trial-evidence-contradicts-claims-in-bosnian-serbs-srebrenica-report/>

Chile/Italy. Italy’s Supreme Court upheld life sentences for three Chilean former officers who were convicted of the disappearances and murder of two Italians during Operation Condor, the multinational effort by South American secret police services to track down and kill opponents of their regimes in the 1970s, *teleSur* reported. Italy sent arrest warrants for the men to Chile. The Condor cases will be the subject of December’s First Tuesday Talk by Giulia Barrera, who testified in the trials. For background, see *SAHR News* 2020-01. https://www.telesurenglish.net/news/Italian-Judges-Confirm-Conviction-for-Operation-Condor-Killers-20210701-0007.html?utm_source=planisys&utm_medium=NewsletterIngles&utm_campaign=NewsletterIngles&utm_content=8

Chile/Spain. The National Court of Spain notified Chile that an investigation was reopened into whether the Banco de Chile “helped General [Augusto] Pinochet and his associates launder millions of dollars overseas, according to court documents sent to the lawyers in the dispute,” the *New York Times* reported. “The plaintiffs are led by the President Allende Foundation and represent more than 20,000 victims of the Pinochet dictatorship.” According to a study commissioned by Chile’s Supreme Court, “only \$2 million of the \$21 million identified as General Pinochet’s personal fortune could be accounted for as clean money.” <https://www.nytimes.com/2021/07/30/world/europe/pinochet-banco-de-chile.html>

Finland/Liberia/ Sierra Leone. The Finnish court trying former Sierra Leonean rebel commander Gabriel Massaquoi plans to return to Liberia and possibly to Sierra Leone for new hearings, *justiceinfo.net*

reported. Although investigators have compiled a “more than 3,000-page file” of evidence on the case, conflicts between witness testimonies about the date of the attack in Monrovia where prosecutors allege Massaquoi was involved and where Massaquoi was living at the time have arisen, prompting the decision to investigate further. For background, see *SAHR News* 2020-02. https://www.justiceinfo.net/en/80387-massaquoi-trial-to-return-to-liberia.html?mc_cid=0b56f60fdc&mc_eid=cac5f32aeb

Germany/Syria. The close of the trial in Germany against Syrian Anwar Raslan is near. “Despite the historic significance of the world’s first trial on state-organized torture in Syria, there is no official documentation of the proceedings at the Higher Regional Court in Koblenz,” Germany, Syria Justice and Accountability Center (SJAC) wrote. “To change this, several German, Syrian, and international academic and research institutions filed a motion to the court” asking that “the final stage of the proceedings be recorded—including the closing statements and the announcement of the verdict—to preserve the trial for future generations.” https://syriaaccountability.org/updates/2021/07/01/press-release-historic-syria-trial-in-koblenz-academics-call-for-audio-recordings/?utm_source=SJAC+Weekly+Update&utm_campaign=4735520552-EMAIL_CAMPAIGN_2019_01_10_02_56_COPY_01&utm_medium=email&utm_term=0_0a7405c641-4735520552-90540617

Germany’s Federal Prosecutor General filed a public indictment against Alan M. (German law forbids the use of the entire name) at the Higher Regional Court of Frankfurt, Syria Justice and Accountability Center reported. Alan M. was a medical professional in the Syrian military. “The trial will examine in detail the role of certain medical professionals in directly participating and fostering the state-organized torture system,” SJAC asserted. The Caesar files may be used in the case; SJAC and the International Research and Documentation Centre for War Crimes Trials will serve as trial monitors and report on the case, as they did with the Raslan trial. https://syriaaccountability.org/updates/2021/07/29/update-german-prosecutor-indicted-syrian-doctor-for-crimes-against-humanity/?utm_source=SJAC+Weekly+Update&utm_campaign=ae08b2ab00-EMAIL_CAMPAIGN_2019_01_10_02_56_COPY_01&utm_medium=email&utm_term=0_0a7405c641-ae08b2ab00-96428969

Mideast wars. A Syrian Network for Human Rights report said “extrajudicial killing claimed the lives of 723 civilians in the first half of 2021.” It reported that “the crime of murder has become widespread and systematic, mainly at the hands of Syrian regime forces and affiliated militias” and “the entry of several parties into the Syrian conflict has increased the importance and complexity of documenting the victims.” It called on the international community to “launch projects to create maps revealing the locations of landmines and cluster munitions in all Syrian governates” and “urged all parties to the conflict to provide detailed maps of the locations where they have planted landmines.” <https://sn4hr.org/caught-on-a-video/blog/2021/07/01/56470/>

Netherlands/Syria. Dutch prosecutors demanded a 27-year prison sentence for Syrian Ahmad Al Khedr for participation in a terrorist group in Deir ez-Zor and for a killing which was caught on a video that went viral, titled “the execution of the traitor officer Qussai Mahmoud Al Ali at the hand of Ghuraba’s Mohassan, and Izz ad-Din al-Qassam brigades,” *justiceinfo.net* reported. The case file “stretches over 8,000 pages and includes seven videos, Tweets and Facebook posts [by Al Khedr and his son], transcripts of phone-taps, police minutes and a former diplomat’s report on the Middle East.” https://www.justiceinfo.net/en/79736-caught-killing-on-camera-in-deir-ez-zor.html?mc_cid=dd4091476d&mc_eid=cac5f32aeb

Russia/Ukraine. The UN Office of the High Commissioner for Human Rights (OHCHR) released two reports, one on the “arbitrary detention, torture and ill-treatment in the context of armed conflict” in Ukraine from 2014 to 2021 and a second on the situation of human rights in Crimea and the city of Sevastopol. The armed conflict report was based “on the analysis of over 1,300 conflict-related individual cases documented by the Mission since 2014,” allowing it to estimate that “around 4,000 conflict-related detainees have been subjected to torture or ill-treatment” since 2014 “in both Government-controlled territory and armed group-controlled territory.” OHCHR noted that the number of cases of arbitrary detention by government forces had “substantially decreased” since 2016, but wrote that when a person is detained they are “often held” in unofficial locations “before being transferred to official detention facilities, where their detention was then recorded.” With no permission to visit Crimea, the Crimean report was based on “information collected through remote monitoring.” OHCHR said it “documented cases of deliberate hindrance and harassment of lawyers,” the “arbitrary arrests of 19 persons . . . including 11 Crimean Tatars,” “blanket prohibition” of Jehovah’s Witnesses, and

“increasing pressure” against the Orthodox Church of Ukraine whose parishes decreased from 49 to 5 and priests from 22 to 4 in 2020. <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27289&LangID=E>

National news.

Afghanistan. The UN Assistance Mission in Afghanistan (UNAMA) issued its midyear report on civilian casualties in armed conflict. UNAMA documented 5,183 civilian casualties in the first six months of 2021, 47% more than in the same period in 2020, and the number of civilian casualties during May and June (783 killed and 1,609 injured) “was the highest for those months since UNAMA began its systematic documentation in 2009.” UNAMA commented, “It is noteworthy that this is the first report since UNAMA began its systematic civilian casualty documentation in 2009 that does not attribute a single civilian casualty to international military forces. The conflict has taken on a distinctly Afghan fighting Afghan character.” <https://unama.unmissions.org/civilian-casualties-set-hit-unprecedented-highs-2021-unless-urgent-action-stem-violence-%E2%80%93-un-report>

According to *ABC News* (Australia), the Afghan embassy in Canberra “released a series of videos which appear to show appalling atrocities committed by the Taliban as the militant group intensifies its campaign to take control of the country.” The embassy “didn’t send any of the material directly to newsrooms because of the disturbing content, but the *ABC* requested and was granted access to the videos in order to verify their contents.” <https://www.abc.net.au/news/2021-07-16/taliban-militants-afghanistan-civilian-torture/100300730>

Algeria. *Crisis Watch* reported that the NGO National Committee for the Liberation of Detainees said that as of 19 July it “still recorded 197 ‘prisoners of conscience’ across the country.” Four days earlier police had “briefly arrested journalist Zoheir Aberkane as he was documenting release of pardoned activists in front of El Harrach prison (Algeirs).” <https://www.crisisgroup.org/>

Argentina. Recognizing the right of gender self-identification, a presidential decree ordered that future National Documents of Identity and passports “in the field referred to ‘sex’ may be F – Female, M – Male or X,” *MercoPress* reported. <https://en.mercopress.com/2021/07/21/argentina-to-start-issuing-gender-neutral-id-cards-to-non-binary-people>

Azerbaijan. A document that seems likely to increase tensions: “President Ilham Aliyev signed a decree on changing the division of the country into economic regions,” *JAM* reported. *Crisis Watch* noted the new region of Karabakh includes “territories partly controlled by Russian peacekeepers and areas not under Azerbaijani control such as Stepanakert and Khojaly cities.” <https://jam-news.net/karabakh-and-east-zangezur-economic-regions-are-created-in-azerbaijan/>; <https://www.crisisgroup.org/>

Belgium. “Migrants desperate to obtain legal residency papers began their hunger strike on May 23 at two universities and a church” in Brussels, *AP* reported. In mid-July two UN Special Rapporteurs wrote an open letter to the Belgian Secretary of State for Asylum and Migration, urging the government to “consider issuing temporary residence permits allowing any person who introduces a request for stay regularization the right to exercise an economic activity.” The rapporteurs said “some 150,000 migrants live in Belgium without authorization.” <https://apnews.com/article/europe-government-and-politics-hunger-strikes-migration-united-nations-1fd8a3b69dcf199472265c853cc1d773>

Cameroon. “Through analysing open source material from Cameroonian social media,” Bellingcat, the U.K.-based investigative journalists, “verified 11 . . . attacks against schools and children in the Anglophone regions starting in 2018 and continuing into the early months of this year. These videos, collected by the Cameroon Anglophone Crisis Database of Atrocities and the Berkeley Human Rights Center, reveal the ongoing scale of Cameroon’s humanitarian crisis.” Schools are burned, teachers and children kidnapped, and an estimated 83% of the schools in the Anglophone region are closed. <https://www.bellingcat.com/news/africa/2021/07/16/how-schoolchildren-became-pawns-in-camerouns-anglophone-crisis/>

Central African Republic. Eleven commissioners were sworn in to begin the long-awaited Truth, Justice, Reconciliation and Reparation Commission, *Teller Report* said, citing *RFI*. <https://www.tellerreport.com/news/2021-07-17-central-african-republic--creation-of-the-truth--justice--reconciliation-and-reparation-commission.SJKQ3YxAO.html>

Colombia. For the first time, Colombia’s Special Jurisdiction for the Peace (JEP) tribunal “has accused 10 members of the military and a civilian of forcibly disappearing 24 people and murdering at least 120 civilians and falsely presenting them as guerrilla fighters who had been killed in combat,” *the Guardian* reported. The accused allegedly gave “orders without which the crimes would not have systematically happened.” For background, see *SAHR News* 2021-02, 06. <https://www.theguardian.com/world/2021/jul/06/colombia-court-military-civilians-killed-false-positives>

Amnesty International issued a scathing report on human rights violations during the mass demonstrations occurring since 28 April in Cali. Through “digital verification of audiovisual material,” Amnesty “confirmed that National Police officials, in particular members of the Mobile Anti-Riot Squad . . . used excessive and unnecessary force,” amounting to grave human rights violations and crimes under international law. Amnesty used documented cases from human rights organizations, interviews, and “official reports from national authorities at different levels, the security forces and representatives of supervisory bodies and the Attorney General’s Office,” as well as “more than 500 pieces of audiovisual materials relating to three emblematic events that took place” in Cali, with a weapons expert providing an “in-depth analysis of some of the videos.” <https://www.amnesty.org/en/latest/news/2021/07/colombia-repression-violenta-contra-manifestantes-pacificos-cali/>

Croatia. Parliament adopted a law that will grant benefits to certain civilian victims of the 1991-95 war, *BIRN* reported. Financial compensation will be available to “people who became disabled as a result of the war or people who lost family members, as well as funding specific items like prosthetics” and relatives of “civilians who went missing in wartime but who have not yet been officially declared dead will be able to claim benefits even before a death certificate is issued.” However, “members, helpers or associates of enemy military and paramilitary units who took part in the armed aggression against Croatia, [as] well as members of their families, cannot receive benefits.” What documentation a person will need to provide to show qualification for benefits, including what evidence will be used to determine whether the person took part in aggression against Croatia, was not reported. <https://balkaninsight.com/2021/07/15/croatian-mps-pass-law-giving-benefits-to-civilian-war-victims/>

France. The Council of State revoked the provisions of Interministerial General Instruction No. 1300 that had blocked access to public archives more than 50 years old for reasons of national security and national defense. For background, see *SAHR News* 2020-10. <https://www.conseil-etat.fr/actualites/actualites/l-acces-aux-archives-secret-defense-doit-etre-possible-sans-procedure-prealable-une-fois-expire-les-delais-legaux-de-non-communication> ; <https://www.archivistes.org/Communique-de-presse-Reaction-du-collectif-Acces-aux-archives-publiques-a-l>

Amnesty International, Human Rights Watch, Open Society Justice Initiative and “three grassroots organizations that work with youth” filed with the Council of State a 220-page complaint on racial profiling by French police, *AP* reported. “The unprecedented move underlines longstanding complaints about alleged police abuse of identity checks, particularly in neighborhoods where people of color reside.” <https://apnews.com/article/europe-government-and-politics-race-and-ethnicity-racial-injustice-racial-profiling-e11e24514aab96e6d36d0ac00ae71f2f>

Honduras. Roberto David Castilla, the former head of the dam company Desarrollos Energeticos, was found guilty of being a “co-collaborator in ordering the murder” of environmental defender Berta Caceres, the *Guardian* reported. “Castillo’s defence had claimed that he was friends with Caceres. But the court rejected this claim, ruling that phone data proved Castillo maintained contact with Caceres only to obtain information about her whereabouts and intentions.” For background, see *HRWG News* 2019-02, 09. <https://www.theguardian.com/world/2021/jul/05/berta-caceres-assassination-roberto-david-castillo-found-guilty>

India. The annex to the National Archives will be replaced with a new building, but the present annex “will be razed only when the new building has been built and all material safely housed in it,” reported the *Indian Express*. This assurance responds to concerns raised by historians and archivists about the planned redevelopment of the Archives and the security of the materials in the annex while construction goes forward. For background, see *SAHR News* 2021-05. <https://indianexpress.com/article/india/national-archives-to-stay-annexe-will-be-razed-to-raise-bigger-structure-part-of-central-vista-7388043/lite/>

Two researchers published an opinion piece in *Undark*, arguing that the “distressingly common” cut offs of internet and cellular services “uncut the nation’s moral and ethical obligation to record history as it is.” They pointed out that “for the past three years, India has had the highest number” of internet shutdowns of any country in the world, most occurring “in areas where citizens have been protesting against the state.” They concluded: “In Jammu and Kashmir, as in so many other regions that are mired in conflict, the internet has proven vital for obtaining accurate, comprehensive recordings of history. It has given a voice to marginalized groups whose stories might otherwise be forgotten to time. No government should be able to take that away on a whim.” <https://undark.org/2021/07/15/with-internet-shutdowns-india-is-violating-a-duty-to-memory/>

Israel. “In 1971, under heavy security, Israel built two detention camps in the Sinai Peninsula where innocent Palestinians were sent. One was used for the families of Fatah members who were suspected of terrorism, one was for unemployed young men,” *Haaretz* wrote. In a memo by Foreign Ministry officials “the army’s steps to fight terror were detailed, including arrests, curfews and the building of the camps;” however, “to this day, the IDF [Israel Defense Forces] Archives refuses to reveal the memo’s main points.” The article was based on an investigative report by the Akevot Institute for Israeli-Palestinian Conflict research, which used “documents and pictures located in the Israel Defense Forces Archives, the Israel State Archives and the Red Cross archives.” The camps were closed after a year. Thanks to Lior Yavne for the link. <https://www.haaretz.com/israel-news/.premium.HIGHLIGHT.MAGAZINE-israel-secretly-detained-innocent-palestinians-in-desert-camps-in-1971-1.10050775>

Kenya. “More than a fifth of Kenyan companies shared customers’ financial and personal information without the client’s consent,” reported *Business Daily*. “A survey by consultancy Ernst & Young shows that 41% of firms transferred their clients’ data to third-party service providers.” While the “personal information was mainly passed for analysis, processing transactions, sending SMS alerts or to advertisers,” some passed client data to “partners in business, while others gave information to law enforcement officers for investigations.” <https://www.businessdailyafrica.com/bd/economy/kenyan-firms-the-spot-for-sharing-customer-data-3483008>

Russia. “Developer guides and code examples unearthed by video surveillance research firm IPVMM show software advertised by four of Russia’s biggest facial analytics firms can use artificial intelligence . . . to classify faces based on their perceived ethnicity or race,” *Thomson Reuters Foundation* reported. “A spokesperson for Moscow’s Department of Technology, which manages the city’s surveillance system, said via email that video analytics were used to improve safety and find offenders. They did not reply to questions on race detection software, only saying the city uses algorithms from various independent developers.” <https://news.trust.org/item/20210705014850-6gwm1/>

Saudi Arabia. “Human Rights Watch has obtained a series of anonymous text messages sent in January 2021 from an individual identifying themselves as a Saudi prison guard that provide descriptions of the torture and ill-treatment they and other prison guards witnessed Saudi interrogators commit against high-profile detainees in mid- to late-2018.” The materials included text messages forwarded by other prison guards; they concerned the Dhabhan prison and one identified only as a secret prison. <https://www.hrw.org/news/2021/07/11/saudi-arabia-new-details-alleged-torture-leaked>

Serbia. In June two NGOs, Disability Rights International (DRI) and Mental Disability Rights Initiative of Serbia, released a report titled, “Forgotten Children of Serbia, documenting that Serbia has failed to address severe human rights violations and abuses in its institutions that constitute inhuman and degrading treatment,” putting the health and lives of children with disabilities at risk. The report is based on visits to 8 facilities in 2019 and is a follow-up to DRI’s 2007 report. The Ministry of Labor, Employment, Veterans and Social Affairs, which oversees the homes, reported “1,1219 cases of COVID among persons with disabilities in social care homes from the beginning of pandemic until February 2021, which amounts to almost 30% of the total number of persons with disabilities in institutions,” but the data released did not include the number of deaths. <https://www.driadvocacy.org/report-serbias-forgotten-children/> <https://balkaninsight.com/2021/07/02/serbian-ministers-urged-to-resign-over-child-neglect-report/>

South Africa. The National Prosecuting Authority (NPA) and the Directorate for Priority Crime Investigation confirmed that cases will be revived against “perpetrators of heinous apartheid-era

atrocities that came to light in the late 90s” through the work of the Truth and Reconciliation Commission (TRC), *Devdiscourse* reported. NPA said it will have a special unit to handle the cases and “a dedicated national office capacity will provide specialized advice, coordination, and monitoring and support.” Records of the TRC in the National Archives will be a resource for the investigations. On 3 August, in a First Tuesday Talk sponsored by SAHR, former South African national archivist Graham Dominy discussed the TRC records in the National Archives; his recorded talk is available on the SAHR section of the ICA website. <https://www.devdiscourse.com/article/headlines/1629950-trc-atrocities-cases-would-be-revived-npa-and-hawks-confirm>

Turkey. Since the “failed coup attempt in 2016,” the Interior Ministry said it had cancelled nearly 250,000 passports “as part of government measures to halt coup plotters and other terrorist groups,” *BIRN* reported. In mid-July the Constitutional Court said the Ministry had no right to cancel passports, that “passport restriction can only be imposed by judges’ decisions and Interior Ministry decisions on passports ‘violated the right of travel’.” <https://balkaninsight.com/2021/07/15/turkish-court-scraps-ministrys-authority-to-cancel-passports/>

Turkmenistan. “Some maternity wards . . . secretly offer abandoned babies for illegal adoption to prospective parents willing to pay a bribe to skip the normal bureaucracy and long wait that goes with the process,” reported *RFE/RL*. “The illegal deal often involves employees from registry offices who provide the new parents with false birth certificates that show them as the biological parents.” As an example of the difficulties to legal adoption, a married couple reported “they had to provide documents and letters from 40 different agencies to support their adoption application” but “three years later there was still no decision” on the application. <https://www.eurasiareview.com/08072021-turkmenistan-some-maternity-wards-in-secretly-offer-abandoned-babies-for-illegal-adoption/>

Uganda. The government “signed a 10-year agreement with a Russian firm--Joint Stock Global Security Company Limited--to install GPS tracking devices in all public and private vehicles and motorcycles in the country” as well as “water vessels on all the country’s water bodies,” *Daily Express* reported. Called “the intelligent transport monitoring system,” the Security Minister denied reports that it “will invade people’s privacy, and said that the system will only be used for security purposes.” Think of the volume of records that will be created. <https://dailyexpress.co.ug/2021/07/23/uganda-secures-deal-with-russian-firm-to-install-gps-trackers-on-all-vehicles/>

United Kingdom. Although the National Health Service policy says, “Anyone in England can register with a GP [general practice] surgery. It’s free to register. You do not need proof of address or immigration status, ID or an NHS number,” in practice that is not always followed. The Bureau of Investigative Journalism “found that less than a quarter of GP surgeries (24%) surveyed in cities across England, Scotland and Wales would register someone without proof of address, proof of ID or legal immigration status,” while 62% said they would not register the patient and 14% “were unsure whether they could.” https://www.thebureauinvestigates.com/stories/2021-07-15/most-gp-surgeries-refuse-to-register-undocumented-migrants?utm_source=STAT+Newsletters&utm_campaign=d524313962-MR_COPY_02&utm_medium=email&utm_term=0_8cab1d7961-d524313962-149736437

A survey of 505 gay and bi men by Survivors UK, an NGO, found that 45% of the men had been sexually assaulted, 10 times the rate of assaults on the general male population, *Thomson Reuters Foundation* reported. Only 14% of the victims reported the sexual assault to the police “with many fearing they would be judged or disbelieved.” <https://news.trust.org/item/20210722155839-8zax1/>

United States. The U.S. Attorney General “formally prohibited federal prosecutors from seizing the records of journalists in leak investigations, with limited exceptions,” reversing Department of Justice policy, *AP* reported. https://apnews.com/article/justice-department-reporters-records-merrick-garland-e2348419815ef84dc75cbecd7e546b39?utm_medium=AP&utm_source=Twitter&utm_campaign=SocialFlow&utm_content=news

“Epic is the largest electronic health record company in the United States, and it holds the health records for around 250 million people,” *The Verge* reported. It markets proprietary algorithms to predict things like sepsis, a dangerous infection. An investigation by *STAT* found that the sepsis algorithm was “only right 63% of the time,” yet Epic “offers financial incentives to healthcare systems that use its

proprietary algorithms,” with awards in some cases of nearly one million dollars.

<https://www.theverge.com/2021/7/26/22594241/epic-health-algorithm-payment-accuracy-sepsis>

SpotShooter is an electronic “surveillance systems that uses hidden microphone sensors to detect the sound and location of gunshots” and generates “an alert for that time and place” for police.

Motherboard reviewed court documents from trials in Chicago and New York State that suggest SpotShooter employee analysts “frequently modify alerts at the request of police departments—some of which appear to be grasping for evidence that supports their narrative of events.”

https://www.vice.com/en/article/gj8xbq/police-are-telling-shotspotter-to-alter-evidence-from-gunshot-detecting-ai?utm_source=email&utm_medium=editorial&utm_content=news&utm_campaign=210731

United States/California. Uber, the ride-sharing and delivery company, agreed with the California Public Utilities Commission to share its data “on sexual assault and harassment claims” and pay a \$150,000 penalty and \$9 million to “support a state victims’ fund and help create industry-wide safety and reporting standards,” *Reuters* reported. “The dispute stems from a safety report Uber released in December 2019, disclosing 6,000 reports of sexual assault related to 2.3 billion trips in the United States in 2017 and 2018.” <https://news.trust.org/item/20210715231627-ayyx1/>

United States/Michigan. In January, former governor Rick Snyder and other officials were charged with neglect of duty in the city of Flint’s contaminated water crisis and outbreak of Legionnaires’ disease in 2015. *The Intercept* obtained copies of petitions and documentary evidence—except from the cellphones of the accused: it appears that the phones were “wiped” of all messages leading up to the governor’s October 2015 announcement of the crisis. The lack of phone messages from top officials was a “major red flag” to the state investigators “and an obvious impediment to those investigating who knew what and when.” An official who was “involved with state data preservation” at the time said, “There are retention schedules that every agency, including the governor’s office, is supposed to adhere to,” and with potential litigation the phone records “should’ve been held indefinitely.” For background, see *SAHR News* 2021-01. https://theintercept.com/2021/07/21/flint-water-crisis-rick-snyder/?utm_medium=email&utm_source=The%20Intercept%20Newsletter

United States/New York. A 1976 law barred police from using sealed arrest records (those in which the charges were not sustained by a court) except with the approval of a court. However, *The Intercept* reported, “Defense lawyers in New York say they regularly find . . . printouts of their clients’ old sealed arrests in prosecutors’ paperwork, and police sources often leak the sealed arrest histories of people killed by police and political enemies to the media.” In a class action lawsuit, lawyers filed a motion “asking for a preliminary injunction to require the department to comply with the law, instructing officers that they are not allowed to access sealed arrest records without a court order and, significantly, directing the department to stop making sealed arrest data easily available to officers through the network of police databases”--“at least 14 databases to some 6 million sealed arrests, affecting at least 3.5 million people.” https://theintercept.com/2021/07/21/nypd-secret-training-sealed-arrest-records/?utm_medium=email&utm_source=The%20Intercept%20Newsletter

Uzbekistan. *Forum 18 News* reported on the difficulties religious bodies have in operating. Shia Muslims and various Christian religious communities “have had recent applications to exist refused. In many cases the excuse used has been refusals by local authorities to provide documents as part of the complex, time-consuming and expensive application process.” Parliament has approved a new Religion Law, which passed with no public text available. <https://www.eurasiareview.com/03072021-uzbekistan-shia-mosque-reopenings-blocked-religion-law-passed-with-no-published-text/>

Venezuela. The UN High Commissioner for Human Rights issued a grim report on the situation of human rights in the country from 1 June 2020 to 30 April 2021. While relying heavily on interviews, it referred “to official information and data whenever possible.” The very first footnote said “No official data available” for killings in the context of security operations or protests over the past year, while the NGO Monitor de Victimas reported 87 extrajudicial killings and the NGOS PROVEA and Fundacion Gumilla “registered 2,853 killings in the context of security operations or protests” in 2020. The need to rely on NGO records makes one OHCHR finding especially troubling: “Non-governmental organizations continued to face delays and difficulties in registering in mandatory public registries,

updating legal information and submitting official documentation. The additional legal and administrative controls introduced on the registration, funding and operation of non-governmental organizations compounded pre-existing obstacles to their work.” <https://reliefweb.int/report/venezuela-bolivarian-republic/situation-human-rights-bolivarian-republic-venezuela-report>

Publications. Rahel von Arx and Christian Schläpfer, swisspeace, “From Expertise to International Standard: Guiding Principles for Safe Havens for Archives at Risk”:

<https://www.swisspeace.ch/publications/essentials/mapping-archives-for-dealing-with-the-past-processes>

Network of Concerned Historians, *Annual Report 2021*, covering “the domain where history and human rights intersect in 106 countries”: <http://www.concernedhistorians.org/ar/21.pdf>

“Dossier: Los organismos de inteligencia en Argentina. Miradas desde los archivos a una burocracia secreta,” *Aletheia* 22:

https://www.aletheia.fahce.unlp.edu.ar/issue/view/568?fbclid=IwAR0nECOsXuktvN4ApOp8waQqoj0lq8ffYAHIOb21_m_y_RcSgCIWSSfM

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To the Committee on Economic, Social and Cultural Rights, Office of the United Nations High Commissioner for Human Rights

Thank you for the opportunity to comment on the draft General comment No. 26 (2021) on land and economic, social and cultural rights. The International Council on Archives is a neutral global nongovernmental organization which is the archival profession's official partner with UNESCO. Its membership includes governmental and nongovernmental archives in 199 countries.

Land records are one of the most fundamental forms of archives, with examples dating from antiquity.

Land rights are a crucial international issue, and records are essential for understanding land rights. As the draft notes (para. 2) when land tenure is insufficiently documented conflicts are fuelled. The High Commissioner for Human Rights has recognized the linkage between transitional justice and archives in its *Rule-of-Law Tools for Post-Conflict States: Archives*, published in 2015.¹

Land is used in many ways, and records of both governments and nongovernment entities document that diversity:

holding (occupying, traditionally using, renting, survey and boundary marking);

transferring (acquiring, inheriting, disposing, separating such as granting easement or leasing, valuing);

managing/using (cultivating, irrigating, harvesting, conserving, abandoning);

regulating (controlling access);

taxing (assessing and appraising, collecting, foreclosing); and

expropriating (evaluating, taking, compensating, adjudicating).

A great variety of institutions and individuals are involved in systems of landownership and use. Government land registries hold fundamental records, but so do government offices handling zoning, transportation, hydroelectric and other power utilities, relations with indigenous peoples and traditional communities, among other. Nongovernmental records creators include:

rights holders (individuals, partnerships, corporations, joint stock companies, syndicates, trusts, estates);

information and private services providers (private brokers, appraisers, surveyors, lawyers including probate specialists, insurers, title search companies, notaries, media);

finance suppliers (banks, credit firms, individuals, public lenders, insurance companies);

public service providers (educational institutions such as extensions services, regulatory agencies that control uses such as for agricultural purposes, construction agencies such as roads offices); and

adjudicators (courts both civil for property disputes and criminal, enforcement agencies such as property protection bodies, and administrative arms for zoning control)

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https://www.ohchr.org/Documents/Publications/HR_PUB_14_4_Archives_en.pdf

Given the central role that all these types of archives play in the rights to the enjoyment of land, it is essential that General comment No. 26 state unequivocally the need for protection and preservation of land records, both those in State possession and those held by key nongovernment bodies. We propose the following amendments to the draft:

Para. 18. Following sentence 7, insert: “States must ensure the protection and preservation of land title records and other tenure and use records in its custody and, through focused regulation and financial support, ensure that non-governmental records important for proving title and tenure and use rights are preserved.”

Para. 46. Add point (e): “States should consider the possibility of relocating critical land title records from regions in which armed conflict may risk their destruction or confiscation to a safe haven within or outside the State.”

Thank you again for giving the International Council on Archives the opportunity to comment on this important draft. We stand ready to provide additional information about the records of land, as you require.

The International Council on Archives would be pleased to provide any further comment or explanation on our recommendations above.

Our contact for this purpose is Antonio González Quintana at agquintana@gmail.com

A handwritten signature in black ink, appearing to read 'David Fricker', with a large, stylized initial 'D'.

David Fricker

President of the International Council on Archives