



ARCHIVES OF THE SECURITY SERVICES OF FORMER REPRESSIVE REGIMES

REPORT PREPARED FOR UNESCO

on behalf of the International Council of Archives

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1. INTRODUCTION

1.1. Objectives

In 1993, at its Round Table Conference held in Mexico, the International Council on Archives decided to establish a group of experts to discuss problems related to archives of former repressive regimes, and to draw up a series of recommendations on how to handle such archives.

The aim was to achieve practical results. It was decided not to offer a set of rules applicable in all cases, because each process of political transition is different, but rather, through open debate within the group, to provide archivists of countries in the process of democratisation, with information on the range of problems they have to face. At the same time a catalogue of methods developed in various countries which have been involved in a similar process would be provided.

The experts also sought points of agreement, which are summarised in the list of recommendations included in the report, from the purely archival to the clearly political, which archivists could promote, although outside their area of expertise.

The experts also took into account the fact that archivists dealing with these documents will be handling very sensitive material. It was therefore considered important to propose a code of ethics for dealing with this documentation. The code is included in this report.

The working group began the work of collecting information on the archives of repressive institutions. Without doubt, the primary requirement for preserving this documentary evidence is increased knowledge of its existence. The group began with information provided by its members on their respective countries, to which was added information from colleagues in a limited number of other countries (Latvia, Lithuania, Paraguay, Poland, Portugal and Zimbabwe).

The list includes references to former repressive institutions over the period 1974 - 1994 in the following countries: Brazil, Chile, Germany, Hungary, Latvia, Lithuania, Paraguay, Poland, Portugal, Russia, South Africa, Spain and Zimbabwe. Although the information obtained from these countries was uneven, it does include the names of the principal fonds, the covering dates of the documents preserved, their state of conservation and approximate volume, and, wherever possible, the connection between the principal documentary series which they contain. The group felt it would also be of interest to add practical information such as the use made of these documents in the new political regime and the conditions for such use. This has allowed an initial statistical evaluation which the group believe to be valuable.

Not all the information collected could be included in the present study due to lack of space. However, a summary of the information has been given in section 5, entitled:

'Towards a guide to the sources of repression: an overview of the archives of former repressive institutions in the new democracies (1974-1994)'. The group hopes that this short report will raise awareness in countries in the process of transition to democracy of the importance of the subject, and of the role of archivists.

Finally, conscious of the enormous task facing professionals responsible for managing such archives, the group has included among its conclusions a list of suggestions for the international community. These will serve to heighten awareness at the international level of the need to manage the documentary heritage. This study is itself one element in that awareness. The study also includes a short bibliography and a list of relevant legislation.

1.2. Work plan and methodology

The group, which was sponsored by UNESCO, was established in February 1994, and included archivists with experience of this type of archive or of archival ethics, along with experts in human rights. The members were chosen to ensure equal representation of countries involved in political transition from central and eastern Europe, Latin America, Africa and Western Europe. In overall charge of the project was Antonio GonzJlez Quintana, former Director of the Civil War Section of the National Historical Archive of Salamanca (Spain), from 1986-1994. The other members were Dagmar Unverhau, Director, Archives Division, The Federal Commissioner for the Documents of the State Security Services (Stasi) of the former German Democratic Republic, Germany, Lazlo Varga, Director, Municipal Archive of Budapest (Hungary), Vladimir Kozlov, State Archives, Russian Federation in Moscow (Russia), Alejandro GonzJlez Poblete, President, National Commission for Reparation and Reconciliation of Santiago (Chile), Narissa Ramdani, Director, Liberation Archives, Fort Hare (Republic of South Africa) and Mary Ronan, National Archives and Records Administration, Washington (USA).

The group held its first meeting at UNESCO Headquarters in Paris in 1994. Out of that first meeting came the initial statement of intent and the first statement of objectives and work plan. The group met again in Koblenz (Germany) in February 1995, to bring together the work carried out by its members, and specifically to try to deal with the theme of documentary valuation. A last meeting was held in Salamanca (Spain) in December 1995 to approve the final text of the report.

In order to collect information, members of the group compiled a short history of the most recent repressive institutions in their countries and how they dealt with the archives of these institutions. Questionnaires were drawn up to collect information which would form part of the 'Guide to Archives of Repression'.

2. ARCHIVES OF REPRESSION: A SOCIAL PROBLEM WHICH GOES BEYOND ARCHIVES

ADMINISTRATION

The 1980s has seen an incomparable process of dismantling of repressive political regimes throughout the world.

Among the countries of Central and Eastern Europe, which had been within the orbit of the Soviet Union since the Second World War, in a world divided by the Cold War, there began a process, starting in Poland, which would culminate in the 1990s with the total collapse of the existing political structures. The most symbolic element of this process was the fall of the Berlin Wall and German re-unification.

In parallel with these European developments, another unstoppable process of demolition of repressive political regimes began in Latin America. These were the conservative military dictatorships which had dominated practically all of the continent, in some cases for more than five decades, though in certain countries they had been interspersed with more or less stable democratic intervals.

Elsewhere at the same time, the African continent saw the end, after a period of prolonged struggle, of regimes based on repression by the political powers of specific races or ethnic groups. This ranged from the democratisation of Zimbabwe to the landmark of the overthrow of the apartheid regime in South Africa in a matter of months.

Finally, the 1970s saw the disappearance of the conservative Western European dictatorships: Portugal, Greece and Spain. Coming at an early stage of the general process described above, the transition to democracy in these three countries resulted in three very different experiences, but each is of great value for reference purposes.

The present study covers a period of little more than twenty years, between the 'Claveles Revolution' in Portugal in April 1974 up to the end of the apartheid regime. This is not because there is no interest in going back further, to the middle of the 20th century and the end of Italian fascism or the fall of German Nazism, and there will be reference to both these periods throughout the text. It is because only by using the most recent experiences can points of reference be established that are valid for the world political context at the opening of the 21st century.

If we go back even further, to the beginnings of the modern state, we can see the first examples of power specialising in repression, of which the best was the Spanish Inquisition. In all probability the archives of this organisation are the fore-runner of modern archives of repression. This highlights the enormous importance which the proper preservation of this archive has for historians of the modern state. In fact, the National Historical Archive in Madrid (Spain) keeps the records of the Supreme Congress of the Inquisition as well the majority of the District Tribunals, making it an incomparable source for studying, not only the powerful connections of Spanish kings, but also the mentality and culture of the Renaissance throughout Europe.

It is obvious that repressive regimes have proliferated from the beginnings of the modern state. In archives throughout the world there are documents which prove this. The subject of this study - archives of more recent repressive regimes - thus has an enormous social and political importance. Such archives, which were essential for carrying out repressive activities, are converted under the new political regime (which brings the liberties and responsibilities conferred by the Universal Declaration of Human Rights) into an important means for enabling new social relationships to be established. In this sense, the boomerang effect shown by the documents which survive is both atypical and unique, and requires, from

the professional point of view, careful thought on the management of archival fonds. At the same time it brings a totally new responsibility for archival institutions.

Archives have a decisive influence on the lives of people. Nothing serves as a better example of this than the way in which documents are used to serve the ends of repression. The image of archives of security services in repressive regimes clearly illustrate how important they are. During the lives of such regimes, the victims of the political information services may sense the importance of the archives, but it is only with the arrival of democracy and the opening up of the sources, that citizens become fully aware of their influence in the lives of people.

The major role played by archives is characterised not only by their function as the keys to our recent past, but also by their administrative value in the exercise of individual rights. This is illustrated when the democratic regime wishes, for example to deal with amnesty for political crimes, or indemnity for the victims of repression or their families. The German and Spanish experiences illustrate this well. There is no doubt that the historical dimension is of enormous importance, but the social repercussions which archives can have give them a public role of the highest importance. Amongst the best known of Spanish archives is without doubt the Civil War Section of the National Historical Archive in Salamanca, which has provided tens of thousands of certificates to citizens who were once members of the armies and security bodies of the Republic or the Republic's administration and who were later victims of the Francoist repression. Another important example are the Archives of the former Stasi in Berlin.

3. GENERAL CONSIDERATIONS AND RECOMMENDATIONS

3.1. Reasons for preserving the documentary sources for the study of repression

The first point in every debate about the archives of the former State security institutions, in countries in the process of transition to democracy, is whether or not to keep them. All later discussions on their archival treatment, on their use by the citizens and the new administration, or on the professional ethics concerning their content, depend on the answer to this first question.

There are examples of countries where all types of archives of the security services produced by the pre democracy regimes have been kept in almost unabridged form. There are also examples of the opposite, where no written testimony to the repression remains, or at least, no one knows of its existence. The middle way is where countries make initial use of the documents for administrative purposes and then destroy them for ethical reasons.

An example of the second type, in Spanish speaking South America, is Chile. No documents of the primary repressive institutions of the military dictatorship, whose principal exponents were DINA and their heirs CNI are now known to exist. Thus, at the beginning of the process of transition, when there was an obvious need to know the truth about political violence, the disappearances and the assassinations of the Pinochet regime, was a tremendous obstacle was caused by the lack of documentary proof. The Commission for Truth and Reconciliation, a pioneer body of its kind created in 1990, was faced with the task of reconstructing

15 years of the country's history almost exclusively from personal testimonies, based on oral or written memories of those involved. The Commission, which sought to increase awareness of the excesses of the former regime, has not been able to throw light on the fate of many of the disappeared or on those responsible for the atrocities. The Chilean experience is enlightening: those who had most to lose by the disappearance of the documents were the Chilean people and those with most to gain were the agents of the repression and those most responsible for it. What is certain is that the Chilean route to democracy has been through reconciliation, and that the possibility of discovering the names of those responsible has to a large extent disappeared.

A similar case can be found in South Africa, where the National Intelligence Agency continues to be the institution responsible for the documents produced by itself in the past.

In Spain, one of the documentary sources whose whereabouts are unknown (if they have not been destroyed) is that of the SD of the Presidency of the Government under the control of Colonel San Martín, who worked with the intelligence services in the last years of the dictatorship.

The Chilean case is not exceptional. In Africa, in the period 1979-1980 the Rhodesian government destroyed documents produced by the four most important and specialist security organisations in the last years of the repressive regime: the Central Intelligence Organisation, the Police Special Branch, the Special Courts and the army unit known as the Selous Scouts.

The succession in the former German Democratic Republic (GDR), after the fall of the Berlin Wall and re-unification, is an example of the opposite type. If the archives of the Stasi have not been kept in their entirety, at least the vast majority have been. This has been possible above all because of the determination of the German people that they should be preserved, as they were aware from the outset of their importance. In this way, by immediately passing the archives of the Stasi into the hands of the new authorities, it has been possible to follow the wishes of the representatives of the people, and, amongst other things, to purge those responsible for repression from the new administration. Archives were used both to purge those responsible and to compensate the victims of repression. Parallel legal proceedings have been exemplary. These have resulted in two laws: one in the GDR before unification and the definitive one in the united Germany. The people were the main protagonists in this. Perhaps Germans remember the use made of the archives of the Nazis at the end of the Second World War. Their primary use, it should be remembered, was by the judges at Nuremberg. On that occasion, it was not the German people which was the principal protagonists in the process, but the Allied military forces.

Between these two sets of experiences lies that of Greece, which used the documents of repressive bodies in the years immediately after the dictatorship for administrative tasks such as compensation and purging those responsible for repression. The archives were later destroyed, in accordance with new legislation which judged it undesirable to keep references, in registries and public archives, to people who had been vindicated for activities or attitudes considered illegal in the previous regime. Though it enabled the purging of those responsible and the compensation of their victims, Greece has been left with no written history of the repression, preventing possible new ways of compensation. This solution has enabled a line to

be drawn under the period of the Dictatorship and the Colonels, but Greece's historical and documentary heritage has not been taken into consideration.

In Spain there was discussion whether to destroy files in the police archives which threw light on the political, trade union or ideological background of those considered disaffected by the Franco regime. As a result of an anecdotal event (the detention at Madrid airport of the communist deputy Enrique Curiel, because he was mentioned in police computer records as a clandestine activist), the Spanish Parliament debated a proposal to destroy these files. As a result, a decision was taken to annul the files on politico-social activities which had been in existence since the days of the former regime, and held in the police registries, while at the same time to transfer all files of a political nature held in the police archives, to the National Historical Archive. This was achieved by the Minister of the Interior, who was responsible for the Police Central Archive, and the Minister of Culture, who was responsible for the National Historical Archive, both signing a prescriptive agreement. In this way, an irreplaceable documentary collection for the study of opposition social movements during the 40 years of the Franco regime was preserved.

Archives are the most faithful reflection of the history of a people and thus constitute the most explicit memory of nations. This is unquestionably so in the case of totalitarian, dictatorial or repressive regimes. In such regimes there is a lack of any legal means of reflecting a plurality of ideas and behaviour. It is only the archives, particularly those of the police and intelligence services which controlled the population, which can reflect the social confrontations inherent in these regimes. In contrast to the public image which such regimes have tried to present, their real nature can be discovered in the files and indices of the security services. The existence of important police archives is a common characteristic of all such regimes. The repressive apparatus was generally very large and sustained by an important documentary framework. Through this, information on individuals and groups was gathered on an almost daily basis. This was in many cases the only way the regime could guarantee its power.

In all countries which have survived periods of political repression, enormous interest has been generated in the archives of this repression. From historians to journalists there has been a legitimate desire to know about the repression in great depth. It has been necessary to meet these demands with legal guarantees that the judicial process would not be interfered with, while at the same time protecting the privacy of the victims of the repression.

The argument in favour of preserving these documents appears clear. However, there remains an important doubt concerning the possible re-use of the documents for repressive ends. When there is no certainty that the documents have been destroyed or passed to authorities clearly distinct from those of the former regime, it has to be accepted that they could again be used against human rights. In the hypothetical case of a return to a repressive regime, the documents could be used for unsavoury ends. In all cases, it is best that documents are placed by law within the framework of a democratic state and are in the hands of archival professionals.

In conclusion, documents accumulated by the organs of repression are important for the memory of the people, and serve as an irreplaceable testimony. But the most important argument in favour of the preservation of the archives of repression by new democratic states lies in the importance which such documentary sources have for people affected by the former regime, whether as direct or indirect victims. Documents of the repressive period are essential

to the exercise of individual rights: amnesty, indemnity, pensions, and general civil rights (inheritance, property...) in the new political situation.

3.2. The key role of archives in political transition

Depending on the route to democracy that was followed, a number of alternatives face the archives of security services of repressive regimes. The way in which the repressive regime was dissolved determines to a great extent the future of its archives. In the processes of 'negotiated change' or of 'national reconciliation' arguments for compensation of victims ought to take precedence over all others. In some cases they should even take precedence over demands for the names of those responsible which should be disallowed by means of the so-called 'punto final laws', in the name of supposed benefit of social peace. In the case of revolutionary disruption or of the rapid collapse of the system, the first demand should be for those responsible. In this case the tasks of the archivist are much easier, because the collapse of the system requires new planning, and changes in routines and persons. However, in situations where democratic processes had already been initiated within the repressive regime, perhaps at the end of a long evolutionary process, a series of difficult obstacles always remains. This occurs for example where individuals from the previous regime continue in positions of responsibility, whether or not they were active in the process of repression,.

As already noted, no two cases of transition are exactly alike, but two alternatives may be considered as illustrations; the German case with the Stasi archives and the Spanish case with the archives of the repressive institutions of the Franco period. These were completely different types of transition with different starting points. The German case resulted from the total collapse of the regime and the other resulted from a long period of transition which was initiated from within the Franco regime itself and avoiding a complete break with 'legality'.

In the process of political transition, archives are an essential means of enforcing collective and individual rights. The success of methods of reparation and compensation of victims of repression, as well as the removal of those responsible in the former regime, will be to a great extent conditioned by the use of the documents of repressive institutions. Support for their preservation and the creation of institutions with responsibility for their custody in the new political state are determining factors in the process of consolidating democracy. Among the fundamental functions of archives in consolidating both collective and individual rights are the following:

3.2.1. Collective Rights

1 *The right of peoples and nations to choose their own path to political transition* will be seriously affected by the availability of documents. Without archives their choice may not be properly made. Truth Commissions, as shown in Poland, Chile or South Africa, are only able to complete their work satisfactorily if institutional documentary sources of the repression survive.

In the German case, the public recognised the importance of the Stasi archives both for planning the future and for understanding how the past had been conditioned by the actions of the information services. This attitude was largely influenced by the way the Nazi archives were managed after the Second World War, when the importance of collecting and preserving them at the Contemporary Documentation Centre in Berlin was seen.

2 *The right of the people to the integrity of their written memory* ought to be unquestioned. If a community chooses to pardon as a means of achieving political transition, this must not result in the disappearance of the documentary heritage of the past. Nations have both a right and an obligation to preserve their memory by depositing it in their archives. Although one generation should be free to decide on the political processes for which they are responsible, they cannot choose for other generations: The right to choose the path to political transition precludes the right to destroy documents.

3 *The right to truth.* Intimately linked to the above two rights, citizens have the right to the fullest possible information on the actions of previous regimes. This is the basis on which the so-called Commissions of Truth, such as the Commission for Truth and Reconciliation in Chile, the Truth and Reconciliation Commission of South Africa or the Supreme Commission on the Research of the Crimes against the Polish Nation in Poland, all work.

4 *The right to identify those responsible for crimes against human rights.* The right to identify the agents of repression ought to be considered independently of any political decision concerning those responsible, or their possible continuation as public servants. The policy of amnesty or pardon for officials responsible for violations of human rights has been adopted by various countries in the process of transition to democracy, with the aim of promoting national reconciliation. However, in a democracy, the people have the right to know the names of officials responsible for human rights violations in the former regimes in order to ensure they are not politically promoted. The German legislation already mentioned regulates how this is to be carried out. The Stasi Records Act permits public or private institutions to investigate authorities, public personalities and citizens' representatives for possible links with the former repressive machinery. The scope of investigation is limited to avoiding the possible remaining in power of agents and collaborators of the Ministry of the Interior through ignorance. On the other hand, the legislation limits the exercise of this right when those being investigated were less than eighteen years old at the time the supposed offences took place. Equally, there is

a time limit on investigation of fifteen years from the promulgation of the law (until 2006).

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3.2.2. Individual rights

1 *The right to discover the fate of relatives who disappeared during the period of repression.* One of the worst effects of repression is ignorance of the fate of relatives or friends who have disappeared. The archives of repression must permit the investigation and, if possible, clarification of such cases.

2 *The right to know what information on individuals is held in the archives of the repression:* known as ‘habeas data’, this guarantees the right to know whether any information on an individual was held in the police or intelligence services of the former repressive regime, and to evaluate in what way the individual’s personal, family or professional life may have been influenced by political, ideological, ethnic or racial prejudice. The same right must also be applied on behalf of the agents and employees of institutions of the repressive regime.

3 *The right to historical and scholarly research.* all citizens have a right of access to the sources for the study of their nation’s history. Access to such documents must take into account the need to protect the victims of repression. Appropriate measures must be taken to protect third parties mentioned in the documents.

4 *The right to amnesty for prisoners and political reprisals:* in every process of transition towards democracy, those condemned by tribunals or dismissed from their jobs for purely political, religious, ethical or racial reasons, should be freed, reinstated in their jobs or compensated. Frequently, it is only among the archives of the former repressive regimes that proof can be found of the political, religious, ethnic or racial nature of the tribunals or of those dismissed.

5 *The right to compensation and reparation for damage suffered by the victims of repression.* When the authorities of a new democratic regime decide to offer compensation to victims of repression, documents produced by institutions of the former regime will provide them with the necessary evidence.

6 *The right to restitution of confiscated goods.* When citizens of the newly democratic state have a legal right to the return of personal goods, confiscated by the previous regime on account of their beliefs or ideology, documents in the archives of the repression will give details of such goods as well as information on their location or destination. If restitution is not possible because the goods have disappeared or because they have new, legitimate owners, the archives will show that there is a right to proper compensation.

3.2.3. The necessity to submit archives of the repression to the law

In the process of political transition, the legislator has to take account of archives and the instrumental role they have in establishing new legislation. The Spanish example shows how the practical application of legislation on amnesty, indemnities and compensation, is intimately connected to the documentary evidence which enables the laws to be applied. In the process immediately following the end of the repressive regime, archivists must take into account the legislation and also take account of the changes as they happen, in order to ensure that rights are made viable in the new situation.

The relevant archival organisations must be involved in the drawing up of legislation and in ensuring that collective or individual rights are safeguarded by the following legal means:

1. Records produced or accumulated by former repressive bodies must be placed under the control of the new democratic authorities at the earliest opportunity and these authorities must assess the holdings in detail. The democratic authorities should create commissions responsible for the management of these holdings and archivists must be closely involved in the work of the commissions. The commissions should also take responsibility for the archives of the intelligence services which continue under the new regime. The commissions should select files which the police, security or intelligence bodies no longer need to keep. The security bodies must ensure the transfer of selected files and documents either to the national archives, to the institutions dealing with compensation or reparation for victims of the repression and purging of former officials, or to the Truth Commissions.
2. Documents of former repressive bodies must be kept in archival institutions within the national archival systems or in institutions established for identifying former officials, compensating victims of repression or ensuring collective and individual rights. The German and Portuguese models are more advantageous than the systems established in Spain. The high number of requests could lead to the collapse of conventional activities in traditional archives, which are generally not well provided with budgets or personnel. Therefore, a temporary institution assuming these responsibilities should be created with staff specially assigned to its specific tasks. This will improve the quality of the services provided, while enabling regular archives to fulfil their traditional mandate. The fact that these institutions are temporary must be clearly stated. The ultimate location of the documents, as part of the collective memory, must be the national repository for historical records.
3. It may be necessary to establish special legislation to protect the documents of former repressive organisations as cultural property. If legislation protecting the cultural patrimony already exists, the documents ought to be covered by it. If there are regulations covering the preservation of the documentary heritage in archival institutions, the transfer of the records to these institutions will ensure that they become protected cultural property. In some cases, the character of the documents as cultural property must be clearly defined.

4. Archival legislation and regulations guaranteeing the rights of individuals must be developed. These ought to include :

- the right of free access to the archives to obtain information on the existence, or otherwise of personal information in whatever form, providing always that the privacy of third parties is guaranteed.
- the right, for those who have not been in the service of repressive organisations, to determine whether records containing personal information can be consulted by third parties. Personal files of victims of repression should be closed to public access for a legally established period, except with the special permission of the individuals concerned or their heirs. Individuals should have the opportunity to make corrections or declarations about the information held about them in personal files. This should be incorporated into the files, but clearly separated from the documents kept by the repressive regime, which should not be modified.
- the right to obtain files of the agents of repression, with guarantees of security, established by the legislation

3.2.4. The necessity of divulging information about the archives of repressive regimes
The culmination of the process is the compilation of a full report, giving details of the rights established by the new State, as well as the diffusion of the archives and institutions concerned. Not only the relevant institutions of public administration should be involved but all those affected should be invited to participate: political parties, trade unions, religious bodies, foundations and human rights organisations. It is also essential to involve the media, principally radio and television.

3.2.5. The necessity for archivists in charge of documents of repression to adopt a Code of Ethics

Drawing up a Code of Ethics may be of great help when reflecting on the management of the records discussed in this report. Archives charged with the custody of these records must establish such codes. It is particularly important that archival staff who have continued in service from the former regime, expressly agree to the principles. The Code of Ethics should include the following points:

- the documents of repression are part of the patrimony of the people. They must be preserved in their integrity, serving as a memento of intolerance, racism and political totalitarianism.
- archivists are the executors of the will of the people during periods of transition.
- the individual rights of victims of political repression take precedence over historical investigation.
- the archive should not dispose of any document through selection criteria based on its value for historical research.
- archivists are not censors. The law determines which documents are to be made available and how.
- if the legislation is not sufficiently detailed, archivists may interpret it in the light of legal advice from experts in administrative law. In cases where individual privacy and the right to historical investigation are opposed, a solution may be provided by the use of reproductions of the original documents with names of victims or third parties deleted.

- archivists must handle with the utmost care all requests for certification or validation of photocopies used in order to validate the claims of victims of repression or of other individuals.
- archivists must establish controls necessary to protect documents containing sensitive information. Documents of repression should be kept within the general archives, but in separate strongrooms with special security. Only archive personnel should have access to these documents.
- archivists must limit the use of automated databases relating to victims of the repression to what is necessary for the exercise of 'habeas data'. These databases should only be used as finding aids. No other administrative or governmental use of them should be authorised.

4. GENERAL CONSIDERATIONS AND RECOMMENDATIONS

As a general rule, the main archival principles are also valid for the archives of repression. Archivists may be inclined to establish new classifications for records of repressive institutions, in particular secret services which may appear unorganised. However, behind the apparent lack of organisation may be hidden an institutional logic reflected in the specific structure of the documentary fonds. In these cases, the principles of "respect des fonds" and original order must be maintained. Classification and description must echo the activity of the records producing institutions.

4.1. Identification of fonds

The first archival task is the identification of the fonds. Archivists must know which agency, organisation or institution produced the collection of documents with which they are dealing. The historical evolution of the organisation's structure and responsibilities must be analysed, together with its organic and administrative dependencies.

The key to organising the archives of an institution lies in correct analysis of its structures and jurisdictions. Classifying documents without such previous analysis is both difficult and inadequate. The original order of the documents was adequate for the organisation itself. Ironically, the more efficient the organisation of documents for political ends has been, the greater is the effectiveness of the use of archives for rehabilitation and compensation of civil rights under the new political order if the original order is preserved. Therefore, the identification of the fonds begins with a study of the regulations and internal rules which controlled the operation of the organisation throughout its life.

It is recommended that the identification of fonds be carried out by archivists who are members of the commissions already mentioned (see general recommendations), before they are transferred to archival institutions. Uncontrolled transfer of documents could irreparably distort the original archival order.

The concept of repression concerns not only political ideas but also embraces ideology and personal conduct, religion, philosophical thought, sexual behaviour and other areas as referred to in the Universal Declaration of Human Rights. With this in mind, the UNESCO-ICA working group has established the following categories of repressive institutions :

- intelligence services,
- paramilitary bodies,
- special tribunals,
- concentration camps,
- special prisons,

- psychiatric centres for ‘re-education’.

These institutions were specifically created as instrument of repression. In addition, repressive structures can also be found in more traditional parts of administrations which have continued to exist after the end of the totalitarian regime. For these cases, the Expert Group has established the following categories:

- armed forces,
- police and security bodies,
- civil tribunals,
- other parts of the civil administration.

Intelligence services present the most characteristic type of documentation, which differs widely from the traditional organisation of documents in public administrations. The archives of intelligence services are particularly rich in information on people and repressive organisations.

Archives of the intelligence services in repressive regimes are generally organised around a large card index or an automated index. Such indices were established to provide information on individuals quickly. The cards in the index frequently contain a detailed resume of the facts contained in the documents. These cards, which are sometimes called ‘self-explanatory’ for example by the State Archives of Rio de Janeiro, differ from ordinary index cards, which usually only identify a document or file in the repository and do not give additional information or refer to other indices or files.

It is advisable to preserve the file catalogues in their original formats after the transfer of the documents to a new archival institution. If the process of integrating these fonds into a new repository does not allow the preservation of the original structure, the archivist must ensure that the relationship between old and new catalogues is clear.

Frequently, the information used by the intelligence services come from other institutions or bodies. The use of confiscated documents was very common among repressive institutions. It is important to identify those documents which came from other archives amongst the fonds of the repressive organisations, but they should not be physically organised them as a separate fonds. Automated description of documents can help to present such material in the best way to facilitate historical research into the organisations or persons who confiscated this material.

It is necessary to take into account the information ‘reorganisation’ and to understand the political situation, and the existing structures of personnel and organisations.

Individuals are the fundamental basis of the files of intelligence services of repressive regimes. Information on these individuals can be contained in single or multiple files.

However, information about the same person, for examples in summaries contained in the ‘self explanatory’ cards where these exist, or in reference cards, must always be kept together. Documents to which these cards refer constitute the fundamental proof of any claim or administrative or judicial decision. Thus it is very important that the relationship between cards and documents is not broken ; a full understanding of the organisation of the documents of the intelligence services will depend on the cards or automated indices.

The identification of series of a repressive nature, which may still exist within administrations in the democratic successor state is more difficult. In such cases, files relating to the

repression must be separated from the rest, by clearly identifying them. Once separated, these files, or series, can be considered a closed fond, and their transfer and permanent preservation in the archives of the public administration can be undertaken. It is very important to underline that this procedure is not recommended for other fonds. It is only recommended here because of the sensitive political and social nature of the information contained in these files. A date should be determined for the restitution of the integrity of the fonds. It is a long term objective to reunite all files and series of files of repressive organisations in the same repository. This will enable the reconstitution of the historical truth, through the integrity of the files. If this is not done, the impression will be left for future generations that these institutions had nothing to do with political repression in non-democratic periods.

4.2. Appraisal

There are two fundamental appraisal tasks for archivists working with records of repressive organisations :

- i) to study the different documentary series in order to assess their value for the protection of individual rights and their value as evidence for the history of the repressive regime and of the country in general,
- ii) to select files concerned with the abuse of human rights with the aim of separating these from the rest of the documents of neutral agencies which continue to exist in a democracy.

These tasks can be described as appraisal in closed fonds and appraisal in open fonds.

In the case of appraisal of closed fonds, the different series must first be identified, and then their value must be determined, taking into account legal, administrative and informative criteria. Concerning legal value of the documents, authenticity and veracity must be the main criteria. Many documentary series created during periods of repression are characterised by the absence of validation (signatures or stamps), this is so, for example with the 'self-explanatory cards' already mentioned. Many of the reports and documents in these files would probably have no legal value as evidence in the democratic process.

There is no doubt that the information they contain is, in many cases, pure invention.

But they are authentic documents. In the democratic period, documents of the former regimes will become authentic and valid proof of actions taken against people for political, ideological, religious, ethnic and racial motives. Thus, they will be valid documents for the exercise of rights such as amnesty, reparation and compensation of victims of the repression. But in some cases, the evidence on persecution provided by documents is not considered sufficient to obtain compensation or reparation. There may be laws, such as in Spain, stating that the right to compensation will only be recognised for those who were imprisoned for more than three years. In keeping with these legal requirements, only judicial documents giving evidence of the annulment of the sentence can enable access to the compensation provided for by the legislation. Therefore, archivists must be aware of the laws governing citizens' rights in order to be able to determine the most appropriate records in each individual case. This also affects the decision on which records must be described in greater detail and what the order of priorities in descriptive work should be. The personal files of the agents and employees of the administrations and services of repressive regimes, in particular the service records of military personnel, have a particular value, because they contain biographical information which could be crucial in determining their responsibilities during the repression.

All files containing information on individuals who were victims of the repression must be preserved, for their primary value as evidence in human rights issues, for at least 75 years from the date of creation. Since these records are also of great historical value, they should be considered for permanent preservation.

In the case of appraisal of open fonds, the selection criteria for files to be separated from the operational documents of the organisation should be based on the type of crime. Files on individuals suspected or charged with crimes which are not legally relevant in the new democratic State should be transferred to the general archives. Selection criteria should be as general as possible and where there are doubts about their inclusion, files must be transferred to the general archives. In Spain, the central police archives files were transferred to the National Historical Archive. In order to do this, it is necessary to identify clearly the distinct types of crime which would not be considered as such by the new democratic State. Such 'crimes' include: threats to authority, threats to opinions, apology for terrorism, illicit association, assassination, coercion, collaboration with armed gangs, illegal alliances, opposition to special legislation, opposition to internal state security, damage, storing of arms and munitions, disobedience, illegal detention for opinions, directives on paramilitary associations, wreaking havoc, escaping, strike, printing, fire, breaking the code of military justice, infraction against the government, infraction of the law against public order, injury to the authorities, insults to the authorities, illegal gatherings, conscientious objection, secret passage of borders, belonging to an armed gang, illegal press and propaganda, breaking of a sentence, rebellion, resistance, illegal meeting, sedition, holding of arms and explosives, terrorism and insults to the nation, its symbols or flags.

With open fonds, it is also necessary to consider classified documents as secrets related to the repression of human rights. This will only be possible if the Commissions charged with analysing the documents of the institution do not meet with obstacles within the organisation. Obviously, all its members will be affected by Official Secrets legislation concerning their discretion in the use of the state secrets for which they will have to have appropriate authorisation.

4.3. The Principle of provenance

The atypical character of documents of intelligence services, when compared to other repressive institutions such as tribunals, prisons, hospitals etc., has already been underlined. They frequently include confiscated documents relating to persons, civil institutions or politicians which have been integrated with material from other sources, such as newspapers, agents reports, etc., in one file. When the documents of intelligence services are transferred to the general archives of a new democratic State, the provenance to respect is that of the intelligence agency.

4.4. Integrity of fonds

In addition to provenance, the integrity of the fonds must be respected. If the legislation provides for the restitution of the personal belongings of individuals, this right may be in contradiction to the principle of the integrity of fonds. If individuals reclaim their files on a large scale, this could endanger the survival of the fonds, threatening part of the national heritage.

A compromise solution could be to make a distinction between purely personal documents, which should be returned to their owners or their heirs, and documents referring to the activities of individuals in their public or political role, which should remain permanently in the archives. The right to financial compensation for the owners of these documents or their heirs, provided that they do not intend to deposit such documents in other archives, must be

recognised. At the same time, it could be recommended that if individuals to whom goods are restored later opt for their transfer to third parties, the State should maintain a right to assess such goods.

The concept of 'fonds' must also be respected in the case of branches of the police or of the army with special assignments in the repressive apparatus. The records of these special bodies must be considered as a separate fond, and they should be transferred to the general archives. There is only one exception to the principle of maintaining the integrity of the fonds. This occurs where repressive files are found together with files needed for the continuing business of the body. In these cases, the files may be temporarily separated.

4.5. Description

The description of archives of former repressive regimes is similar to the description of traditional files. The aim in the medium term is to produce descriptive lists of a general character, such as guides and inventories, which will enable the contents of the collection to be widely known. It is not recommended that archivists create catalogues which include detailed information on individuals, because this could affect their right to privacy. In the case of documents which, once validated, are considered to contain facts relating to the privacy of individuals, the level of description should not go beyond an inventory giving the series title, the covering dates and reference to the units preserved. Indices to these documents should contain only the name of the person and the catalogue reference. On the other hand, index systems created by repressive regimes, if they are useful to archivists, should not be considered as finding aids and made accessible to users. On the contrary, they should be considered as documents and preserved with the main body of archives in the repositories without public access. These old instruments of control will thus remain under the management of the archivists. In the same way, the use of computers in description must be restricted to the production of lists which conform to the legal provisions for the protection of privacy.

4.6. Archival administration

One important point to be taken into account by the archivist working with documents of former repressive regimes is the question of their secure preservation. Many of those affected by these documents, especially those former employees of the organisations, may have an interest in destroying the documents. It is recommended that security measures be introduced for their preservation which should be at least as stringent as existed in their former place of deposit.

The management of users is an equally important point. It is recommended that a public reading room be created within the archive. This office should be responsible for producing a guide to the collective and individual rights guaranteed by law and which are in effect throughout the archive. This guide must also provide basic information on the holdings of the archives and on the conditions of access and services offered to users.

5. TOWARDS A GUIDE TO SOURCES OF REPRESSION: AN OVERVIEW OF THE ARCHIVES

OF FORMER REPRESSIVE REGIMES IN THE NEW DEMOCRACIES, 1974-1994

One fact which has clearly emerged in the framework of the present study, is the necessity of urgently undertaking measures to guarantee the preservation of documents as well as their legitimate use.

In the course of its work the expert group has gathered information on 13 countries out of the 25 which were asked to complete questionnaires on the archives of repression. Of the 13 replies received, two did not provide information on the preservation of documents; in Zimbabwe the documents were destroyed and in Chile, no information on the status of the archives was available. It is also known that in Greece documents were destroyed, though there was no return to the questionnaire. Consequently, out of 14 countries, 3 do not hold archives of repressive institutions from the former regime, which is equivalent to 28.5%. Two countries (Hungary and South Africa) reported about the unavailability of fonds of important repressive institutions of former regimes.

The quantity of records reported (more than 100,000 linear metres from 11 countries) highlights the scale of the problem which the new authorities are facing.

Of these 11 countries, 6 (Germany, Brazil, Spain, Paraguay, Portugal, and Russia) make use of the documents to compensate victims of the repression and 4 (Germany, Lithuania, Paraguay and Portugal) make use of the documents to purge responsible individuals from the former regime. In 3 countries: (Poland, Brazil and Portugal) documents of the repression have been used by Truth Commissions.

Almost all archives have restricted access in order to guarantee the protection of the honour and privacy of individuals. Various closure periods have been established, ranging from 50 years in Spain, 75 years in Portugal and Russia and 100 years in Brazil. Germany has not yet established a closure period after which access will be allowed. In Lithuania, no such general restrictions exist, and there is a contrasting policy of free access to the documents of some institution (Ministry of the Interior) and restricted access to others (KGB in the Republic of Lithuania). Seven countries (Brazil, Germany, Lithuania, Paraguay, Portugal, Russia and Spain) are initiating proceedings to enable the consultation of documents for scholarly and historical research.

Finally, in two countries (Hungary and the South Africa), the most important collections of documents of former repressive institutions have not been used either to compensate victims, or to purge those responsible, or for historical research. There are no clear definitions or regulations covering these records. However, in both countries, important efforts have been made to initiate the opening up of these fonds.

6. CONCLUSIONS

The work of the expert group should be regarded as the first stage of an international action which must be widened to include countries not so far considered.

The constitution of a proper **international forum** on the documents of former repressive regimes, with the participation of archivists, lawyers, representatives of political parties and human right groups, and others, is necessary.

The possibility of providing assistance in the management of records of former repressive regimes to countries in the process of transition to democracy should be examined, in order to avoid the collapse of archival institutions and the deliberate destruction of records.

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