

News from the ICA Human Rights Working Group

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The following is number ten in a series of brief discussions of the articles of the Universal Declaration of Human Rights (UDHR) and the archival holdings that relate to them.

Universal Declaration of Human Rights, Article 9. *No one shall be subjected to arbitrary arrest, detention or exile.*

The substance of Article 9 is rooted in 17th century European ideas of the natural rights of human beings. In England, for example, the Petition of Right of 1628 claimed the right to be free of arbitrary arrest and imprisonment, and in 1679 the English Parliament passed the Habeas Corpus Act establishing the right to be protected from arbitrary detention or imprisonment. (Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen*, p. 14). Given this long history, the Article's drafters had little debate over the principle embodied in Article 9; the vexing question was what standard should be used to determine what was "arbitrary." Various formulas were proposed by the drafters to establish a standard for legality (the reverse of "arbitrary"), most of which included the notion of a law that had been formally adopted. At the end of the deliberations, however, the drafters dropped any definition of "arbitrary" because they recognized that formally adopted laws could still unjustly deprive people of their liberty. Late in the drafting process, the USSR delegation proposed adding the phrase "or exile," which was adopted. (Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, p.50.)

Article 9 is squarely about individual human rights. Not surprisingly, it has been used as a defense in an enormous variety of cases around the world, from prisoners in U.S. detention in Guantanamo to arbitrary arrests of gay men and women to arrests of illegal migrants. In 1980 the United Nations established the UN Working Group on Enforced or Involuntary Disappearances and in 1991 established the UN Working Group on Arbitrary Detention; a glance at the work of these two bodies shows the immense reach of Article 9.

<http://www2.ohchr.org/english/issues/disappear/index.htm>,
<http://www2.ohchr.org/english/issues/detention/index.htm>

The primary governmental sources for information on arbitrary arrest, detention and exile are records of courts (open or secret), police, military, immigration services and border control regimes. Records of temporary government bodies, such as truth commissions, also are important sources, as are the records of United Nations and regional bodies such as the Inter-American Commission on Human Rights and the United Nations High Commissioner for Refugees. National and international non-governmental organizations monitoring human rights, assisting prisoners, advocating for prison reform, and providing services to refugees all have relevant records. Churches, too, may hold records of assistance to refugees and to families of those detained or deported. University archives hold the personal papers of alumni who were involved in a case or cause as well as the records of university human rights centers and law schools that sponsor clinics for the assistance of prisoners and minority groups that are often disproportionately affected by Article 9 violations. Labor union records have information on arbitrary arrests and detention of union organizers, and business records hold

similar information. In short, almost every type of archives may have holdings with Article 9 information.

Conference reports. The Flemish association for archivists and librarians and the Dutch association for archivists organized a congress on 30-31 August titled “Archives without Borders.” One of the themes was human rights and archives, and the program included reports on activities in Bangladesh, Chile, El Salvador, Morocco, Australia, Cambodia, Australia, Norway and Congo. A special feature was the showing of the restored 1948 film “Nuremberg: Its Lesson for Today,” accompanied by the distribution of a fine November 2009 special edition of the Nationaal Archief of the Netherlands’ magazine on “Nuremberg and The Hague: Jurisdiction and Archives.” The organizers will publish the conference papers.

The International Conference of the Round Table on Archives met in Oslo in September. Its program also included papers on archives and human rights, notably a keynote by Randall Jimerson, “Archives Power and the Digital Future: Supporting Democracy and Human Rights,” and papers on the problem of displaced archives and on the work of the Fundacion de Documentacion y Archivo de la Vicaria de la Solidaridad in Chile and the Human Sciences Research Council in South Africa.

Website on Holocaust-era looted property. The Joint International Project to Extend Access to Records Relating to Holocaust-Era Looted Cultural Property launched its website to support research on provenance and related topics. The participating institutions are the national archives of France, Germany, the U.K. and the U.S. and the Commission for Looted Art in Europe. <http://www.archives.gov/research/holocaust/international-resources/> Early in September Ukraine’s State Archives joined the Project, posting on its website some 140,00 pages of documents of the Einsatzstab Reichsleiter Rosenberg (ERR), one of the main agencies responsible for looting cultural valuables in Nazi-occupied countries during the Second World War. http://www.kyivpost.com/news/opinion/op_ed/detail/81263/print/
<http://www.google.com/hostednews/canadianpress/article/ALeqM5gurmd7GsZz5bLRIR0cv7TxUbed1Q?docId=4675259>

Science and human rights. The American Association for the Advancement of Science has organized a Science and Human Rights Coalition. Meeting on 26 July, the coalition members adopted a statement of goals and plan of action http://shr.aaas.org/coalition/Meetings/July2010/Article15_Plan_%20of_Action_FINAL.pdf Records of scientific activities are an increasingly important resource for human rights protections or as evidence of human rights abuses (see, for example, the Guatemala-United States item below).

Social networking information as evidence in divorce cases. A survey conducted by the American Academy of Matrimonial Lawyers reported that Facebook was the “unrivaled leader for online divorce evidence,” with 66% of those surveyed citing it as a primary source. Court cases coming to archives in the future are likely to include e-mails, voice mails, text messages, and information from social networking sites as well as paper and audiovisual evidence, presenting archives with additional access complications. For a look at the advice given to lawyers on the use of social network information as evidence, see the 21 September issue of “Law Technology News.” <http://www.law.com/jsp/lawtechnologynews/PubArticleFriendlyLTN.jsp?id=1202472265541>

Calls for papers. "Forced Migration: Human Rights Challenges," is the theme of the 4th Annual Conference of the Canadian Association for Refugee and Forced Migration Studies (CARFMS). It will be held at McGill University, Montreal, 11-13 May 2011. Persons interested in giving a paper should submit an abstract via the conference website: <http://carfmsconference.yorku.ca/>

The *Journal of Women's History* is planning a special issue on "Human Rights, Global Congresses, and the Making of Postwar Transnational Feminisms." Authors are to submit articles by 15 May 2011; papers should address the historical dimensions of the intersection between human rights and transnational feminist organizing and be submitted both to Jean Quataert (profquat@binghamton.edu) and Benita Roth (broth@binghamton.edu).

The International Political Science Association's Human Rights Research Committee, the Korean Association of International Studies and the Korea Future Foundation invite proposals for papers at a conference on "Human rights, war, and peace after the Cold War," to be held in Seoul, Korea, 16-18 June 2011. Persons interested in presenting a paper should submit a 250-300 word abstract by 15 October 2010 to all three members of the program committee: Professor Sukhee Han at shan65@yonsei.ac.kr, Professor Anja Mihr at A.Mihr@uu.nl, and Professor Füsün Türkmen at fturkmen@gsu.edu.tr.

Conference announcement. Concordia University, Montreal, Canada, announces an international colloquium titled "Cambodia, from then to now: Memory and plural identities in the aftermath of genocide" to be held 5-7 May 2011. For further information contact yim@nolsina.com, <http://www.lifestoriesmontreal.ca/en/cambodia-working-group/news/call-presentations>

New journal announcement. The University of Pennsylvania Press announced that the inaugural issue of *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* will be published in October and thereafter semiannually. For more information, see <http://journals.pennpress.org/PennPress/journals/hum/EditorialStatement.pdf>.

International days in October. United Nations Day and World Development Information Day are 24 October. The UNESCO World Teachers' Day is 5 October, and the UNESCO World Day for Audiovisual Heritage is 27 October with the theme "Save and savour your audiovisual heritage—now!"

International news.

France/United States. The U.S. state of California called for bids to construct a high-speed rail line between the cities of Sacramento and San Diego. France's national railroad, SNCF, was a potential bidder. The California legislature then enacted a bill to require bidders to disclose their involvement in transporting victims to concentration camps during World War II, as SNCF did. In response, SNCF told the press that its records from World War II have been open for 20 years. The California governor vetoed the bill. http://www.jewishtimes.com/index.php/jewishtimes/news/jt/international_news/french_railroad_archives_open_for_inspection_chief_says/20506, <http://www.mercedsunstar.com/2010/10/02/1593402/california-governor-vetoes-holocaust.html>

Guatemala/United States. A researcher using a scientist's personal papers at the University of Pittsburgh archives discovered the records of a U.S. funded study conducted in Guatemala from 1946 to 1948 that intentionally infected people with sexually transmitted diseases to test the effectiveness of penicillin. U.S. president Barack Obama and other U.S. officials apologized to Guatemala, with the Secretary of State and the Secretary of Health and Human Services calling the study "reprehensible research." The U.S. has launched an investigation into the Guatemala experiment and is convening an "international group of experts to review and report on the most effective methods to ensure that all human medical research conducted around the globe today meets rigorous ethical standards and how training of researchers will ensure such abuses to not occur." For the study and some U.S. and Guatemalan responses, see <http://www.state.gov/secretary/rm/2010/10/148464.htm>, <http://www.state.gov/p/wha/rls/rm/2010/148546.htm>, <http://www.wellesley.edu/WomenSt/Reverby%20Normal%20Exposure.pdf>, http://www.prensalibre.com/noticias/Legislacion-facilito-pruebas-pais_0_346765326.html

Israel/Poland. Israel's Holocaust museum Yad Vashem reached agreement with Poland for access to World War II era records in 34 provincial archives. The Chairman of Yad Vashem called it "a real step forward." http://www.google.com/hostednews/ap/article/ALeqM5gTfvDol_kqeDtl9Y2o5_Gnq3FT7AD9I2F0IO0

National news.

Bangladesh. In 2009 the government of Bangladesh established a tribunal to try persons alleged to have committed war crimes during the Bangladeshi struggle for independence from Pakistan in 1971. On August 2 four persons were arrested on war crimes charges and the first legal proceedings have begun. With the trial focusing on events nearly 40 years in the past, both prosecution and defense are likely to use archival items to supplement personal testimony. <http://www.time.com/time/world/article/0,8599,2008085,00.html>
http://www.ictj.org/static/Publications/ICTJ_BGD_NationalTribunal_pb2010.pdf
<http://www.thesamosa.co.uk/index.php/comment-and-analysis/politics/302-analysis-bangladesh-tribunal-faces-evidence-struggle.html>

Canada. A judge in Regina, Saskatchewan, has called into question the video records destruction policy of the Royal Canadian Mounted Police. When the judge learned that the police destroyed the video of the detention of a man in a drunk driving case 55 days after it was recorded, he decided the case should not proceed, noting that failure to preserve the video evidence "constitutes unacceptable negligence." Whether the destruction, which the police called routine, is in accordance with the terms of the records schedule for the RCMP was not reported. <http://license.icopyright.net/user/viewFreeUse.act?fuid=OTY5MzAyOQ%3D%3D>
<http://www.nationalpost.com/news/Sask+RCMP+criticized+routine+destruction+evidence/3457480/story.html>

Estonia. The Estonian Evangelical Lutheran Church is protesting the decision of the Ministry of Interior, the Tallinn City Archives and the Estonian Historical Archives to sign a contract with the Genealogical Society of Utah to copy and digitize Estonian records. The Church is "in uproar" that the records may be used to re-baptize deceased Estonians, Baltic Reports says. <http://balticreports.com/?p=23535>

Ghana. Ghana's deputy minister for information told the press that the archival system "remains a huge challenge for us as we get set for the Freedom of Information Bill." This followed a story in AllAfrica.com on 13 August that the Ghanaian archives of births and deaths are "rotting away."

http://www.ghana.gov.gh/index.php?option=com_content&view=article&id=3348:record-keeping-a-huge-challenge&catid=28:general-news&Itemid=162
<http://allafrica.com/stories/201008161005.html>

Russia. In an interview with rt.com, the electronic arm of Russia's official RIA Novosti news agency, the director of the Russian State Archives argued for declassification of documents to overcome the trend to rewrite history. In a subsequent article, the head of the Federal Archives said a five-year plan to declassify historical archives is being developed; the same story quoted the Kremlin chief of staff as saying that "declassified documents should become an important 'counterargument' in the struggle against attempts to distort Russian history."

http://rt.com/Top_News/2010-09-01/russian-archives-stalin-mironenko.html
<http://en.rian.ru/russia/20100907/160500141.html>

South Africa. In an opinion piece printed in the *New York Times* on 11 September, novelist Andre Brink recalled that when a book was banned under apartheid, the book was entered in *The Government Gazette* and into Jacobsen's Index, a record of banned literature. Then the Special Branch of the security police would visit the author, interrogate him and confiscate his books and manuscripts and typewriters, if not arrest, detain or disappear him. Archivists in many countries have hoped that police records would yield such confiscated manuscripts; however, actual recovery is almost unknown.

http://www.nytimes.com/2010/09/12/opinion/12brink.html?_r=1

Timor Leste. The Timor Leste parliament is considering a law to establish an "Institute for Memory" which would include an archives. The Institute would be required to maintain a database on missing persons and would have the authority to collect human rights documentation. <http://www.laohamutuk.org/Justice/Reparations/Organic15JunEn.pdf>

Ukraine. In a complicated case, the director of a Security Service museum in Lviv, Ukraine, was arrested on 8 September and his laptop and hard discs confiscated. He is charged with planning to give away state secrets. Over one hundred scholars addressed an open letter to the State Security Service on 15 September, noting that "many" of the signatories were doing so "in spite of the fact that we seriously disagree" with the director's "politics and his views of Ukrainian history." For a variety of reports, see

<http://www.nybooks.com/blogs/nyrblog/2010/sep/21/whos-afraid-ukrainian-history/>,
<http://www.euronews.net/2010/09/10/ukrainian-historian-planned-to-leak-state-secrets/>,
<http://zik.com.ua/en/print/2010/09/13/244739>, <http://khp.org/en/index.php?id=1284550630>,
<http://www.opendemocracy.net/print/56116>
<http://www.rferl.org/articleprintview/2153814.html>

United Kingdom. More than 1000 Royal Navy Medical Officer Journals dating from 1793 to 1880 have been made available by the National Archives, including the names of patients and the treatment remedies prescribed. <http://www.telegraph.co.uk/news/uknews/8032438/7ft-worms-hermaphrodite-sailors-and-resurrection-by-tobacco-revealed-in-archive.html>,
<http://www.nationalarchives.gov.uk/news/497.htm>

United States. Federal agents seized confidential drug-testing records of hundreds of professional athletes while raiding a California laboratory, not just the records of the 10 players for which the agents had a search warrant. An appeals court ruled that the records must be returned to the lab, saying, “the government’s actions displayed a callous disregard for the rights of third parties.”

<http://www.latimes.com/sports/la-sp-balco-ballplayers-20100914,0,1159195,print.story>

The Kansas Department of Health and Environment holds the state’s death and marriage certificates, birth records, adoption papers, among other vital records. On 5 August—just as parents were seeking birth certificates for children aged 4 through 6 who were enrolling in school—a massive computer failure prevented access to the records. The Department solved the access problem by retrieving the Department’s paper records from storage.

http://cjonline.com/news/local/2010-08-24/kdhe_fetches_paper_records

In 2009 Massachusetts passed a state data protection law requiring the redaction of all personal Social Security numbers from state or business documents that are made public (Social Security numbers were issued beginning in 1936). In Plymouth County the Registry of Deeds is now redacting the numbers from approximately nine million digital images of the land transactions.

<http://www.wickedlocal.com/plymouth/news/x2125231473/Registry-of-Deeds-redacting-Social-Security-numbers>

The Boys Scouts of America has its headquarters in Irving, Texas. Two September stories in the *Dallas* [Texas] *Morning News* focused on what the Scouts call the “ineligible volunteer files,” which the newspaper says the Scouts have “meticulously kept” since the 1920s and now number “in the thousands” of files. The paper reported that a Scout executive said the files, each on an individual, are organized in six categories (apparently based on the reason for ineligibility): criminal, financial, moral, leadership, religious, and perversion. Some former Scouts who “suffered sexual abuse at the hands of adult Scoutmasters” are now suing the organization to open the files.

<http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/091210dnmetscoutfiles.2b77dd7.html>, http://www.dallasnews.com/sharedcontent/dws/news/localnews/stories/DN-scoutfilessider_12met.ART.State.Edition1.35d6a65.html

The West Virginia state appeals court ruled that signatures on a referendum (a petition to have a vote on a specific matter) are public documents and subject to disclosure under the state freedom of information act. The court held that there is a distinction between petitioning to place an issue on the ballot (open to the public) and actual voting (secret).

<http://www.rcfp.org/newsitems/index.php?i=11572>

Zambia. AllAfrica.com reported that the Government of Zambia “urged traditional leaders to improve their record keeping to avoid succession wrangles” and the “keep accounts of ‘family trees.’” The *Times of Zambia* quoted the Luapula province minister as saying, “These succession wrangles are costly to the country, they are hindering development in chiefdoms.”

<http://allafrica.com/stories/201008240116.html>