

## News from the ICA Human Rights Working Group

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The following is number eleven 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 10.** *Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.*

The drafters of this Article were determined to countermand the corrupted processes of the Nazi legal system. Originally the draft simply provided a right of access to “independent and impartial tribunals;” later the idea of a right to a public hearing was introduced. While a public trial does not necessarily make the trial either fair or impartial—and the drafters surely were aware of the public purge trials that had been held in the USSR—open proceedings allow persons to monitor trials for fairness, as well as permitting family and friends to know both the charges and the results. For the official documents of the drafting process, see the UN Dag Hammarskjöld Library’s web pages “Creating the UDHR,” [http://www.un.org/depts/dhl/udhr/docs\\_1947\\_2nd\\_chr.shtml](http://www.un.org/depts/dhl/udhr/docs_1947_2nd_chr.shtml)

An enormous literature exists on the right to a fair trial. One helpful discussion is found in the guide “What is a Fair Trial?” prepared in 2000 by the [U.S.] Lawyers’ Committee for Human Rights (now called Human Rights First). This publication is aimed at persons who want to monitor trials for fairness, but it gives everyone a good overview of the fairness issues before, during and after a trial. [http://www.humanrightsfirst.org/pubs/descriptions/fair\\_trial.pdf](http://www.humanrightsfirst.org/pubs/descriptions/fair_trial.pdf)

The archival records that document the fairness of a trial begin with the records of the courts, whether civil, criminal or administrative. The records of attorneys are relevant, both government prosecutors and private lawyers, as are the records of the ministry of justice. Human rights NGOs and legal aid lawyers have records documenting the trial process, as do associations of defense lawyers and bar associations. For archivists, a major issue in handling the records of private attorneys and their associations is the strict privacy rule often imposed. Private attorneys and bar associations in many countries consider it unethical to make records of work for a client available to anyone unless the client agrees (attorney-client privilege). So while archives may preserve the records, the presumption of closure is very difficult to overcome, greatly limiting research use.

**Directory of human rights archives.** The ICA Human Rights Working Group, with the cooperation of Archivists without Borders (AsF), is beginning a project to build an on-line directory of (1) archives that identify themselves as human rights archives and (2) archives that are part of a human rights organization and are open to the public. The directory will be available through the International Council on Archives’ website; the ICA’s International Standard for Describing Institutions with Archival Holdings will be used for gathering directory information. Roser Rodriguez of Spain is leading the project. She will be asking archives to provide directory information; any institution that wishes to be part of the directory should contact her at [rosgranollers@gmail.com](mailto:rosgranollers@gmail.com).

**Use of electronic information in litigation.** A survey by CPI Financial of 5000 lawyers in Europe, the Middle East and Africa found 100% of them reporting that “poor availability of relevant ESI [electronically stored information] led them to losing a case, delaying a case or being sanctioned by the courts of regulators.” Given the importance of litigation in human rights cases, the survey demonstrates yet again the need for effective electronic records management. <http://www.cpifinancial.net/v2/News.aspx?v=1&aid=6216&sec=Technology>

**Publications.** *Better Off Forgetting? Essays on Archives, Public Policy, and Collective Memory* is a new publication from the University of Toronto Press in Canada. The subjects of the essays include the use of archives for reconciliation in regions affected by armed conflicts, the census wars in Canada, the funding and nonfunding of archives, access and privacy, the preservation of digital history, accountability and the public sphere, and archivists as movers and shakers in current politics and journalism. The authors are Tom Adami, Marion Beyea, Robert Cole, Terry Cook, Terry Eastwood, Jo-Ann Munn Gafuik, Chris Hackett, Yvette Hackett, Martha Hunt, Tom Nesmith, Robert Steiner, Doug Surtees, Shelley Sweeney, and Bill Waiser.

Vermont [U.S.] Public Radio interviewed Canadian archivists Terry Cook and Wendy Smith on the role of archives in a democracy. Listen to the interview at [http://www.vpr.net/news\\_detail/89046/](http://www.vpr.net/news_detail/89046/)

Routledge published the second edition of Priscilla Hayner’s *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. <http://www.routledge.com/books/details/9780415806350/>

**Fellowships, calls for papers.** The Center for Advanced Holocaust Studies of the United States Holocaust Memorial Museum is now accepting applications for its 2011-2012 fellowship competition. The Center awards fellowships to support significant research and writing about the Holocaust and welcomes proposals from scholars in all relevant disciplines, including history, political science, literature, Jewish studies, philosophy, religion, psychology, comparative genocide studies, law, and others. Fellowship applications and supporting materials must be received by November 30, 2010. Decisions will be announced in April 2011. E-mail inquiries should be addressed to [visitingscholars@ushmm.org](mailto:visitingscholars@ushmm.org)

The Seminar on the Acquisition of Latin American Library Materials (SALALM) announces its next conference, “Preserving Memory: Documenting and Archiving Latin American Human Rights,” to be held in Philadelphia, Pennsylvania, USA, May 28-June 1, 2011. Persons interested in presenting a paper or organizing a panel should contact the SALALM 2010-2011 president, Nerea Llamas, [nllamas@umich.edu](mailto:nllamas@umich.edu). Proposals should include name, institution, contact information, proposed title and abstract. The deadline for proposals is February 1, 2011.

The International Studies Association’s Human Rights Section has extended the deadline for the section’s travel grant in the amount of \$500 to support a scholar traveling from the developing world to present a paper at the 2011 annual conference of the International Studies Association. This grant is funded by Oxford Journals on behalf of the Journal of Human Rights Practice and the International Journal of Transitional Justice. Applicants must be ISA

members; priority is given to graduate students and junior scholars. For further information, contact section chair Kurt Mills at kurt.mills@glasgow.ac.uk by 22 November 2010.

### **International news.**

Europe. On 4 December European Union officials will discuss a proposal to expand criminal penalties to enforce data protection rules, Bloomberg.com reported. The proposal would strengthen the rights of individuals to have their personal details deleted and to remove lists of friends, photos or medical information in records held by companies and governments. The proposals also may make it easier for data protection authorities and consumer groups to file lawsuits over privacy breaches. These provisions could seriously affect archives in all 27 European Union states. <http://www.bloomberg.com/news/2010-10-20/european-union-may-propose-criminal-sanctions-fines-in-data-privacy-cases.html>

France/Germany/United States. A new database of more than 20,000 art objects taken by the Nazis in German-occupied France and Belgium from 1940 to 1944 is now available. The database is a project of the Conference of Jewish Material Claims Against Germany with technical support from the United States Holocaust Memorial Museum. It combines records from the U.S. National Archives in College Park, Md.; the German Bundesarchiv, the federal archive in Koblenz; and repatriation and restitution records held by the French government. The Third Reich's task force to gather cultural property, the Einsatzstab Reichsleiter Rosenberg, processed its French and Belgian objects at the Jeu de Paume in Paris before sending them to repositories in Germany and Austria. The database, titled "Cultural Plunder by the Einsatzstab Reichsleiter Rosenberg: Database of Art Objects at the Jeu de Paume," is found at [www.errproject.org/jeudepaume](http://www.errproject.org/jeudepaume).

Guatemala/United States. The historian who uncovered the documents relating to the syphilis experiments in Guatemala between 1946 and 1948 gave an interview to History News Network on the circumstances of her discovery. <http://www.hnn.us/articles/132082.html>

### **National news.**

#### Canada.

*Alberta.* Alberta's auditor general released a report saying that day-care and day-home inspectors keep such poor records that it is impossible for Children's Services to know whether child-care programs meet provincial standards.

<http://www.vancouversun.com/news/Alberta+care+inspectors+should+keep+better+records/3731158/story.html#ixzz13y3VzXKo>

*Ontario.* In August, the new owners of the site of the former St. Joseph's Hospital discovered that 25,000 medical records containing personal information and about 70 computer hard drives had been left behind. The hospital's privacy officer and the Office of the Information and Privacy Commissioner of Ontario investigated. The officials found that the documents were not health-care records but working documents such as blood tests, hearing tests, pharmacy files, X-ray slides and about 800 files from oncology clinical trials in 2003.

<http://www.thepeterboroughexaminer.com/ArticleDisplay.aspx?e=2787935>

Guatemala. Kate Doyle of the National Security Archive posted an exceptionally interesting blog on the Guatemalan trial of two police agents for the forced disappearance of Edgar

Fernando García in 1984, with extensive comments on the evidence provided by Guatemalan police records and U.S. diplomatic records. <http://nsarchive.wordpress.com/2010/10/26/i-wanted-him-back-alive-%e2%80%9d-an-account-of-edgar-fernando-garcias-case-from-inside-tribunals-tower/#more-2110>

India. KanglaOnline marked the 118<sup>th</sup> anniversary of the Manipur police, commenting that although the police is an old institution that might have very interesting records, “given the abysmal reputation of the establishment here of preserving archival materials, it is doubtful if much of any old photographic records or documents pertaining to the subject are still around.” <http://kanglaonline.com/2010/10/what-records-can-do/>

Kenya. The Truth, Justice and Reconciliation Commission began its “national statement taking exercise,” in September to collect information on human rights violations between 1963 and 2008. Archival records will be important to complement memories, particularly for events during the early years under investigation. The Commission is struggling to maintain momentum and credibility; a second commissioner resigned in late October. <http://www.nation.co.ke/News/Kenya%20search%20for%20truth,%20justice%20on%20course/-/1056/1006932/-/8t4aug/-/index.html>; <http://www.csmonitor.com/World/Africa/2010/1022/US-professor-quits-Kenyan-truth-commission-citing-lack-of-confidence>; <http://www.kbc.co.ke/news.asp?nid=67248>

Morocco. The Advisory Council on Human Rights (CCDH), the national institution in charge of implementing the recommendations of the Equity and Reconciliation Commission (IER), launched its program of archives, history and memory on 5 October. With 8 million Euros from the European Union, the program will include the examination of archives (IER and CCDH), classification, inventory, creation of an archive institution in Morocco (Archives of Morocco), contribution to the equipment of this institution, valorization of archives of the period of 1956 – 1999, supporting the teaching of contemporary history, research, production of communication materials, commemoration of victims’ names, creation of regional museums and a national museum of contemporary history, contribution to the equipment of museums, and other activities. <http://www.ccdh.org.ma/spip.php?article3642>

South Africa. A Protection of Information bill before the parliament in South Africa has archivists and activists alarmed, reports Catherine Kennedy of the South Africa History Archive. Catherine writes, “For more information on the secrecy bill, take a look at the Right 2 Know campaign - <http://www.r2k.org.za/index.php?page=about-us.php> - that has been trying to raise awareness amongst South Africans. We organised a successful march on Constitution Hill last week in Johannesburg - [http://www.saha.org.za/news/2010/October/successful\\_march\\_held\\_to\\_constitutional\\_hill.htm](http://www.saha.org.za/news/2010/October/successful_march_held_to_constitutional_hill.htm) - and the week of activity is culminating in a march on Parliament in Cape Town this Wednesday. The bill has very worrying implications for access to information and for media freedom in South Africa. Just this week, South Africa has been downgraded in terms of freedom of expression – see <http://www.mg.co.za/article/2010-10-22-sa-drops-down-mediafreedom-ranking>.”

United Kingdom. Computer records containing details of troops activities in Iraq may be wiped out when they return to the UK, the Ministry of Defence admitted. The news came out as part of the inquiry into the September 2003 death of Iraqi hotel worker Baha Mousa. [http://www.defencemanagement.com/news\\_story.asp?id=14334](http://www.defencemanagement.com/news_story.asp?id=14334)

For an article on the World War I battlefield injury known as “shell shock,” author Caroline Alexander used the records of the private Lennel Auxiliary Hospital, now in the holdings of the National Archives of Scotland. The article includes the names and photos of patients and discussions of treatment. <http://www.smithsonianmag.com/history-archaeology/The-Shock-of-War.html>

#### United States.

The Electronic Frontier Foundation, a digital civil liberties group based in San Francisco, obtained records under the federal Freedom of Information Act showing how the U.S. Citizenship and Immigration Services uses social networking sites to investigate petitions for citizenship. <http://www.rcfp.org/newsitems/index.php?i=11599>

In a lawsuit involving violations of copyright, patents, and unfair competition, a judge in the U.S. District [federal] Court in Maryland found that the defendant willfully destroyed relevant electronic information. He found the misconduct so substantial that he ordered the defendant to serve a two-year prison term if the defendant did not pay the attorney's fees and costs to which the plaintiff would be entitled as a prevailing party. For a discussion of the case, see <http://www.law.com/jsp/cc/PubArticleCC.jsp?id=1202473940719&hubType=Top%20Story&Tales+From+the+Grimm+Teacher+Discovery+Misconduct+Can+Land+You+in+the+emDUN+GEONem>. For the judge's opinion, see [http://scholar.google.com/scholar\\_case?case=2495008966270317614&q=Victor+Stanley,+Inc.+v.+Creative+Pipe,+Inc.&hl=en&as\\_sdt=20000000002&as\\_vis=1](http://scholar.google.com/scholar_case?case=2495008966270317614&q=Victor+Stanley,+Inc.+v.+Creative+Pipe,+Inc.&hl=en&as_sdt=20000000002&as_vis=1)

*California.* Records from the personnel files of priests “credibly accused or convicted of sexual abuse or named in a civil suit” in the Roman Catholic diocese of San Diego have been made public by a judge, the *New York Times* reported. This ruling is part of a settlement in a 2007 case in which the parties agreed that an independent judge would determine which of the personnel records could be made public. [http://www.nytimes.com/2010/10/25/us/25priest.html?\\_r=1](http://www.nytimes.com/2010/10/25/us/25priest.html?_r=1)

*Connecticut.* Videos made by dashboard cameras in police cruisers are the focus of controversy and litigation in Milford, Connecticut. High speed car chases by the police have resulted in fatalities that would be documented by the videos, but “hundreds” of the recordings of incidents were accidentally erased, according to the police chief. Now the videos of 520 of the 2,463 police “incidents” have been restored. While the particular incidents involved in the lawsuits relate to traffic fatalities, the videos also should show other police behavior. <http://www.ctpost.com/local/article/Milford-chief-About-one-fifth-of-erased-police-711570.php>

*Georgia.* The Atlanta, Georgia, police department is accused of erasing phone records and emails relating to a 2009 raid on the “Atlanta Eagle” bar. Patrons of the bar, which has a gay clientele, are suing the city and police officers claiming that their constitutional rights were violated during the raid. [http://www.11alive.com/rss/rss\\_story.aspx?storyid=159312](http://www.11alive.com/rss/rss_story.aspx?storyid=159312)  
<http://www.ajc.com/news/atlanta/atlanta-city-attorneys-said-691780.html>