

INTERNATIONAL COUNCIL ON ARCHIVES SECTION ON ARCHIVES AND HUMAN RIGHTS

Input on the 2026 report of the Secretary-General on the Draft General Comment on the Application of the International Covenant on Economic, Social and Cultural Rights in Situations of Armed Conflicts

**Submission by the Section on Archives and Human Rights (SAHR)
of the International Council on Archives (ICA)**

Preamble

The International Council on Archives [ICA], an international association created in 1948 to promote the development of archives, with advisory status to UNESCO in the field of archives and documentary heritage, commends the call for input at <https://www.ohchr.org/en/calls-for-input/2026/call-inputs-draft-general-comment-application-international-covenant-economic>

Supporting this initiative, the International Council on Archives, informed by the work of its Section on Archives and Human Rights [SAHR], is pleased to share experiences and recommendations that relate to archives in this context.

About SAHR (ICA)

Within the International Council on Archives (ICA) the Section on Archives and Human Rights (SAHR) promotes the role of archives in protecting, promoting and ensuring accountability for human rights, including access to truth, justice, reparation and guarantees of non-recurrence. In this context, SAHR proposes an input to this call based on recommendations.

The role of archives in ICESCR

1. Obligations of States to protect archives and records at all stages of conflict, including prevention and active hostilities.

In 2015, the General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris in November 2015 at its 38th session, adopted RECOMMENDATION ON THE PRESERVATION OF AND ACCESS TO DOCUMENTARY HERITAGE, INCLUDING DIGITAL HERITAGE. This recommendation encourages Member States to identify the elements of documentary heritage, including public and private archives, as well as those held by memory centers such as academic, professional, or community associations. Each country has incorporated legislation, techniques, and strategies to protect archives by adopting appropriate preservation measures. Therefore, relevant memory institutions should be supported and strengthened, encouraging research communities and private owners to care for their documentary heritage in the public interest. This legislation should cover aspects of the

protection of public records related to copyright, privacy and confidentiality, the protection of personal data, and freedom of information. For example, the Canadian Conservation Institute supports the heritage sector and contributes to strengthening the sector's capacity to protect heritage collections by offering facility assessment services and preventive conservation technical services. Considering the COVID-19 pandemic and the war in Ukraine, Estonia is reviewing its disaster management plans and various action plans to mitigate risks, as well as organizing practical simulation exercises to address different emergencies. Finland, for its part, updated its preparedness plans in 2022. Spain proposed a national preservation plan in the wake of the war in Ukraine, which identifies documents considered essential. States must take up their legal obligations to protect archives and apply this before, during and after armed conflict.

2. Safeguarding civil, identity, land, and social services registries is essential for the realization of economic, social, and cultural rights (ESCR).

Through strategies established in their legislation and the most appropriate techniques, States will enhance the physical protection and digital preservation of archival systems within the framework of document management models. In their national action plans, each country programs a series of measures to create a strengthened system that prioritizes physical preservation and enhances it through digital preservation actions to establish mechanisms for accessing information, particularly when archives containing information essential for daily life have been identified. Similarly, public and private institutions must ensure the professional care of the documents they produce. They must also generate long-term budgets for infrastructure for digitizing cultural heritage and for the long-term preservation and accessibility of documentary heritage. Other examples are shown with States that are improving and renewing building infrastructure, the material and technical conditions of storage and conservation laboratories and the special treatment of archival documents (Andorra, Australia, Bangladesh, Belgium, Burkina Faso, Canada, Czech Republic, China, Cyprus, Costa Rica, Ecuador, Estonia, Russian Federation, France, Georgia, Hungary, Japan, Latvia, Malawi, Mali, Nicaragua, United Kingdom of Great Britain and Northern Ireland, Republic of Korea and Turkey).

In Guatemala, the Central Zone General Property Registry is in the design phase of an archive building intended to protect the real estate property records archive. A preliminary review is being conducted with historical records housed in the General Archive of Central America to strengthen the records in its computer systems based on historical documentary evidence.

Another example is the National Archives of Estonia, which provides support in the conservation and digitization of genealogical records, as well as financial assistance, to ecclesiastical authorities and local congregations to improve the condition of church archives and access to them. The Layanan Restorasi Arsip Keluarga (LARASKA) project of the National Archives of Indonesia allows the public to have vital documents damaged by floods, fires, etc., restored free of charge.

In parallel, UNESCO's Memory of the World Program conducted a study in the last decade on the risks to documentary heritage (archives, libraries, and museums) to identify the risks to which it is exposed. In 2026, it continues to carry out actions with its regional committees to identify, plan and generate synergies in the face of possible climate and political risks that may affect the documents, to generate a common front.

3. The protection of community and cultural archives, with reference to cultural rights and non-discrimination.

Community archives, or those of groups and minorities, are subject to protection and dissemination. UNESCO's Second Consolidated Report on Documentary Heritage (2023 -- <https://www.unesco.org/en/articles/publication-second-consolidated-report-implementation-2015-recommendation-concerning-preservation>) exemplifies this work. To make the archival collections of small organizations more widely known, the National Archives of the United Kingdom have developed a tool for managing these collections, enabling archival services and community archives to upload their records to the National Archives' main catalogue.

Archives, particularly those created, administered, or jointly managed by minority communities, are essential for preserving languages, traditions, and cultural heritage. This directly reinforces the rights set forth in the Declaration, especially the right to maintain one's own culture and language. Community archives safeguard materials such as oral histories, religious records, genealogies, photographs, community newspapers, and artistic expressions. The archives of these communities are crucial evidence of identity, enabling the continuity of intergenerational cultural knowledge and empowering communities to reclaim suppressed or marginalized histories. The UNESCO report highlights the potential risk to documentary heritage related to Indigenous languages and cultures, and based on guidance from an Indigenous advisory circle, Library and Archives Canada launched the "Listen, Hear Our Voices" initiative in April 2019. This initiative provides funding to First Nations, Inuit, and Métis communities, governments, and non-profit organizations to support their efforts to preserve and digitize their documentary heritage or to build community capacity and knowledge.

4. The prohibition of the deliberate destruction of archives which would constitute a violation of multiple economic, social, and cultural rights (ESCR).

The right to participate in economic and cultural life is the right of all people. This participation implies active integration at different levels of a country's economy without any discrimination.

The legislation of each State must ensure the integration of archives into current legislation, which must be updated, generating prohibitions on the destruction of public administration archives and those of social interest, framed as abuse of authority in penal codes, as well as a breach of duty by those responsible.

In accordance with these actions, the oversight bodies of public administrations ensure compliance with the protection and safeguarding of archives as evidence or supporting documentation of actions or omissions in the exercise of public office. Some regional or national archive centers have declared their archival collections as cultural assets of interest. This declaration grants them the protection of legislation that establishes protection obligations and, therefore, sanctions applicable to those who summarily order their destruction. Since this is a crime prosecuted ex officio, those who order such destruction are subject to prosecution for crimes that are also prosecuted ex officio. All archives containing essential information on social and economic rights are subject to mandatory protection. The closure of state programs or liquidations must not result in the destruction of archives.

States have the obligation to preserve archives related to crimes against economic, social, or cultural rights and to guarantee access to them for those who request it, whether victims,

accused, or interested parties. To this end, they must adopt technical, administrative, legal, and judicial measures to prevent theft, destruction, concealment, or falsification of archives. They must also facilitate access and prevent censorship through formal requirements, except for reasonable restrictions aimed at safeguarding the integrity and security of victims and other people.

5. The mandatory integration of records continuity planning into conflict preparedness and humanitarian action.

In each State, strategic and operational planning must ensure that, in the event of an incident that disrupts daily life within the context of a conflict, services continue even if access to physical archives is not feasible in the initial stages. Therefore, copies or backup systems function effectively to guarantee services and prevent the discontinuation of access to existing information. This planning must be sustainable and supported by the necessary, pre-defined budgets. For this reason, digital preservation for the maintenance of services will consider the following fundamental pillars:

- a. Updating hardware at access points;
- b. Periodic migration of information from archives to guarantee access;
- c. Making copies and backups, through backup and media policies;
- d. Standardization of document formats. Humanitarian action must ensure that this information is available to prioritize assistance to vulnerable or discriminated groups, whether for cultural, economic, or social reasons. Examples include victims of armed conflict, social programs such as those for the elderly, missing people, missing children, and victims of illegal adoptions.

This humanitarian action must also ensure that victims of conflict are helped to actively participate in the economy through appropriate training and productive projects that progressively integrate them into the country's economy. To guarantee adequate documentation, States must establish clear and rigorous practices and procedures for the investigation, collection, and preservation of evidence related to serious human rights violations. These include protocols for preparing and conducting investigations, collecting and preserving evidence, maintaining the chain of custody, archiving documents, conducting interviews, protecting witnesses, and training and qualifying experts.

6. Support for the reconstruction of archives after a conflict, especially when the loss of records undermines the application of economic, social, and cultural rights (ESCR).

During a conflict, social, economic, and cultural rights are subjugated by another group through an act of coercion. Therefore, attempts are made to annihilate the elements that provide identity and a sense of belonging. When the conflict is resolved, reconstruction is necessary. This reconstruction planned after a conflict must be defined to address the need to protect the archives, but above all, to ensure that their use is not diminished. Therefore, the following is sought:

- a. To have a service that allows access through the necessary physical and logistical means to prevent obstruction. This must be supported by legislation that permits its use, taking into account temporary conditions.

b. To allow the reconstruction of any destroyed buildings so that the documents or their archival copies can then be transferred. These copies will have the same legal effect as the originals for the continuity of services.

c. Manage the return of archives displaced due to conflict through the most agile and timely diplomatic mechanisms, to restore the effects or provide necessary compensation in case of human rights violations.

7. Clear recognition of the role of archives in accountability, reparations, and transitional justice.

Access to public information is necessary to ensure that those in power are accountable to citizens and act within the existing legal framework, which, along with free elections, is a fundamental requirement of any democratic regime. For these reasons, every transition to democracy necessarily entails a transformation in how archives are conceived and considered essential in public administration. Each State's legislation must express the essential role of archives as supporting documentation for all actions taken and processes managed. Therefore, their protection must be explicitly stated, especially when that information serves for accountability, allows the use of documents for reparations tailored to the situations created by wars, and is addressed by transitional justice. In short: access to archives is integral to access to justice for ECSR violations.

Justice must be ensured for the victims of armed conflict, and impunity must be prevented in cases of serious human rights violations, which are often documented through truth commissions or victim registries. This last type of highly sensitive archive must be handled technically. This ensures that the documentation is not insufficient or that the resources are not improperly allocated. The lack of documentation on human rights violations is a problem that transitional justice must address, reflected in:

- Insufficient mapping of violations committed in authoritarian or conflict contexts; incomplete victim registries;
- Obstacles to accessing archives containing information on violations;
- The destruction or inadequate preservation of documentary and testimonial evidence; the lack of analysis and archiving of the documentation obtained;
- The absence of identification or collection of testimonies from victims and witnesses;
- The lack of transparency in documentation processes;
- The manipulation of documentation or the insufficient representation of data on past violations;
- And the undermining of civil society efforts to gather testimonies and record violations.
- Documentation processes have frequently excluded marginalized groups and overlooked socioeconomic disadvantages, resulting in incomplete accounts and insufficient efforts to address historical abuses and the structural causes of violence.
- The severe resource and capacity limitations faced by those involved in documentation.

- The security risks faced by both those documenting and victims and witnesses sharing their testimonies.
- Legislation and job requirements should not allow perpetrators to have access to information files concerning their actions.

Access to documents must be accompanied by full guarantees of equitable access to justice, especially for vulnerable populations or those who have been persecuted during the conflict.

Recommendations for the Documentation Process:

a. On the Documentation Process. The documentation process and its results must contribute to the fulfillment of the pillars of transitional justice and, therefore, must be agile, comprehensive, inclusive, participatory, context-adapted, victim-centered, and gender-sensitive. Documentation should:

- Begin early and be continuous, as soon as the first indications of serious human rights violations appear and continue for the duration of truth-seeking and accountability initiatives.
- Be comprehensive, bearing in mind that information relevant to transitional justice processes goes beyond material evidence of crimes and includes data on structural causes, the dynamics and patterns of the commission of the acts, the social or political contexts that contributed to the violence, and the testimonies of victims, their families, and affected communities.
- It will address geographical and temporal contexts, as well as the investigation and collection of evidence, testimonies, and information, to ensure that all violations and all categories of victims are considered in transitional justice processes.
- It will apply scientific, technical, communicative, and psychosocial tools and procedures that reflect available experiences and resources, facilitating the comprehensive identification of the structures, conditions, and responsibilities that enabled the violations.
- It will be inclusive, considering the experiences of all affected stakeholders, regardless of their political, social, religious, or ethnic background, paying particular attention to traditionally or frequently marginalized people.
- Be participatory, guaranteeing meaningful consultation and participation of all affected individuals and communities.
- A victim-centered perspective is an immediate objective of transitional justice, but also because none of this can happen behind the victim's back. Priority must be given to dignity by providing security, trust, and respect when claims are presented.
- Documentation is carried out with empathy and respect for the harm suffered by victims, avoiding revictimization and providing necessary support to victims throughout the process. Repetitive requests should be avoided to alleviate victim anxiety and maintain a victim-centered approach.

b. Those responsible for investigating and documenting violations must demonstrate qualifications and receive ongoing training to ensure they use specialized knowledge, apply rigorous, reliable, and context-appropriate methodologies, and comply with professional ethics and international standards. Therefore, they must receive continuous training. To fulfill this obligation, States must:

- Conduct prompt, thorough, independent, and impartial investigations through equally independent and impartial mechanisms; and
 - Provide the complainant with effective access to the investigation process. The absence of an effective investigation violates this obligation and can lead to impunity, hindering access to an effective remedy.
- c. States must verify and clarify the facts related to violations, publicly and fully disclose the truth; make efforts to search for missing persons, commemorate the victims; include accurate accounts of violations in education and other measures that strengthen collective memory so that these elements endure for generations; bring those responsible to justice, in accordance with international standards and national legislation; and manage the timely restoration of violated social, economic, and cultural rights through the most effective mechanisms based on documented facts.