

**Society of American Archivists
Council Meeting
July 24, 2017
Oregon Convention Center
Portland, Oregon**

**SAA Support of Two ICA Statements
(Prepared by Felicia Owens)**

BACKGROUND

The International Council on Archives (ICA) periodically issues statements of principles that the organization believes are of importance in supporting archival interests worldwide.

In August 2012, delegates at the ICA's Annual General Meeting approved *Principles of Access to Archives*, which was drafted by the Committee on Best Practices and Standards Working Group on Access. (See Appendix A.) According to the ICA, this document was developed "to focus on the legal authority to consult archives. This statement serves to compliment ICA's other published standards on archival description: ISAD(G) in 1994, ISAAR(CPF) in 1996, ISDF in 2008, and ISDIAH in 2008." SAA Past President Trudy Huskamp Peterson, who chaired the drafting group, recently brought this document to the attention of SAA President Nance McGovern and Joint Committee on Archives, Libraries, and Museums Chair Lynette Stoudt.

In June 2018 an SAA member suggested that SAA express its support for ICA's *Basic Principles on the Role of Archivists and Records Managers in the Support of Human Rights*, which was drafted by the ICA's Human Rights Working Group and, although still labeled a "draft," was "endorsed by the Programme Commission as an ICA working document for discussion, publicising, and use by archivists" at the ICA Congress in Seoul in September 2016. (See Appendix B.) Peterson is a member of the ICA's Human Rights Working Group.

DISCUSSION QUESTIONS

1. Does the Council wish to formally support the ICA's *Principles of Access to Archives*?
2. Does the Council wish to formally support the ICA's "working document" on *Basic Principles of the Role of Archivists and Records Managers in Support of Human Rights*? Or, given that the document is not yet in final form, should the Council suggest to members that they provide ICA with feedback on the document?

INTERNATIONAL COUNCIL ON ARCHIVES

**COMMITTEE ON BEST PRACTICES AND STANDARDS
WORKING GROUP ON ACCESS**

Principles of Access to Archives

Adopted by the AGM on August 24, 2012

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GLOSSARY OF TERMS

PREFACE

Access is the availability of records for consultation as a result both of legal authorization and the existence of finding aids. Since 1994 the International Council on Archives (ICA) has published four standards on archival description: ISAD(G) in 1994, ISAAR(CPF) in 1996, ISDF in 2008, and ISDIAH in 2008. These standards cover finding aids, one of the two key elements of archival access; they have transformed the practice of description. This statement of *Principles of Access to Archives* (the *Principles*) focuses on the other element of access: the legal authority to consult archives.

The International Council on Archives has long been concerned with the question of access to archives. In the wake of the political changes in Europe at the beginning of the 1990s, European archivists developed an “Outline of a Standard European Policy on Access to Archives,” which was adopted as an ICA position at the Annual General Meeting in Edinburgh in 1997. The Outline, however, focuses almost entirely on access to official governmental archives, with only one statement on access to non-government records: “It is recommended that attempts should be made to bring arrangements for access to private archives in line with those for official archives, whenever that is possible.”

Two additional ICA documents underscore the importance of access as an element of archival practice: the *Code of Ethics* of 1996 and the *Universal Declaration on Archives* of 2010. The *Code of Ethics* states in principles 6 and 7:

Principle 6. Archivists should promote the widest possible access to archival materials and provide an impartial service to all users.

Principle 7. Archivists should respect both access and privacy, and act within the boundaries of relevant legislation.

The *Universal Declaration on Archives* notes

the vital necessity of archives for supporting business efficiency, accountability and transparency, for protecting citizens' rights, for establishing individual and collective memory, for understanding the past, and for documenting the present to guide future actions,

identifies one of the vital roles of archivists as

making these records available for use,

and pledges that archivists will work together in order that

archives are made accessible to everyone, while respecting the pertinent laws and the rights of individuals, creators, owners and users.

In the spring of 2010 the ICA Committee on Best Practices and Standards asked a small group of archivists to discuss whether it was possible to develop a standard of good practice for public access to all archives, governmental and non-governmental. The people of the Working Group represented a variety of archival traditions: Trudy Huskamp Peterson, United States, Section of Professional Associations, served as chair, with members Sarah Choy, Hong Kong Legislative Council Archives, East Asian Regional Branch; Victoras Domarkas, Lithuanian Archives, European Regional Branch (EURBICA); Chido Houbraken, The Netherlands, records management consultant, EURBICA; Silvia Ninita de Moura Esteveao, national archives of Brazil, Association of Latin American Archivists; Helene Servant, Service interministerial des archives de France, EURBICA; Maggie Shapley, archives of Australian National University, Section on University Archives and Research Institutions (SUV).¹

Following an initial meeting in Paris in May 2010, the members of the Working Group drafted two principal documents: a statement of *Principles of Access to Archives* and a technical report providing advice on implementing the *Principles*. The Working Group then invited the chairs of ICA bodies whose members were not represented on the Working Group and whose work often encounters access issues to name a member to read the draft, comment on it, and attend a consultative meeting about the *Principles* in Paris in February 2011. The "Consultative Group" included Didier Bondue representing the Section for Business and Labour Archives, Fatoumatta Cisse of the West African Regional Branch, Kim Eberhard of the Section of Archives of Churches and Religious Denominations; Soufi Fouad of the Arab Regional Branch, Deborah Jenkins of the Section of Local, Municipal and Territorial Archives, Jan Lohman of the Section of International Organizations, Ivan Murambiwa of Eastern and Southern Africa Regional Branch, Gunther Schebeck of the Section for Archives of Parliaments and Political Parties, and David Sutton of the Section on Literary and Artistic Archives. The Consultative Group agreed that ICA should adopt a set of access principles and made numerous suggestions about the text of the two principal documents.

The Working Group redrafted the two documents, circulated them to the Consultative Group, and again edited the documents. The revised *Principles*, along with a plan and timeline for general debate on it, was considered by the ICA Executive Board at its meeting in March 2010. The Board adopted the plan and timeline for consultation; because access is a major concern of user groups, the plan sharing the draft with user groups and allied organizations and asking for their comments.

¹Please note that the members served on the Working Group in their individual expert capacities. The statement of professional practice does not necessarily reflect the official policy or views of the governmental bodies, institutions or organizations with which these members are employed or affiliated.

The Executive Board also commented on the *Principles*, which were revised taking into account the opinions expressed.

The *Principles* were released for public comment in August 2011; the comment period closed at the beginning of February 2012. In addition to posting the draft on the ICA website and an email reminder to members in January 2012 that the comment period was still open, invitations to comment were sent to nearly two dozen organizations in allied professions and associations with a research focus. Twenty-seven comments were received. Five came from national archives (Belgium, Canada, Italy, Paraguay, and the United Kingdom). Two sets of comments came from groups within the Society of American Archivists. Two comments came from allied professions (International Federation of Libraries and Society for History of American Foreign Relations), plus a statement from the Association of Historians of Modern Italy that was incorporated in comments from the Italian Directorate General of Archives. One came from an ICA Section (SUV). One came from a group of eleven historians of Africa. The remainder came from individual archivists from Argentina, Australia, France, Spain, Switzerland, United States, and Zimbabwe; they represented archivists working in government archives (at various levels) and universities; in several instances neither the country nor the institution of the commenter could be determined.

Following the close of the comment period, the Working Group read all the comments and revised the drafts. At this point the Working Group decided that having the *Technical Guidelines* attached to the *Principles* lead to confusion on the part of some readers, and the Working Group recommended issuing the *Technical Guidelines* as a separate supporting document after the *Principles* have been adopted. The revised *Principles* were sent to the Executive Board for its consideration at its spring 2012 meeting. Comments made by members of the Programme Commission and the Executive Board during the meeting were shared with the Working Group and further revisions were made.

The *Principles of Access to Archives* consists of 10 Principles with a commentary explaining each Principle; the *Principles* and the commentary taken together constitute the statement of professional practice. The *Principles* are accompanied by a brief glossary.

The members of the Working Group recognize that most governments and many institutions have a rich history of managing access. For those archival institutions, this statement of professional practice is a supplement to those existing processes, permitting the archivists to measure their institutional practices against an external baseline and to strengthen them where appropriate. In those institutions where access practices have been weak or contested, the statement of professional practice provides a guideline to reviewing and revising processes. The members of the Working Group believe the *Principles* are a robust statement of practice that will benefit the archival profession.

INTRODUCTION

Archives are preserved for use by present and future generations. An access service links archives to the public; it provides information for users about the institution and its holdings; it influences whether the public will trust the custodians of archives and the services they provide. Archivists support a culture of openness, but accept restrictions as required by laws and other authorities, ethics, or donor requirements. When restrictions are unavoidable, they must be clear and limited in scope and duration. Archivists encourage responsible parties to formulate clear mandates and consistent rules for access, but in the absence of unambiguous guidelines, archivists provide appropriate access by considering professional ethics, equity and fairness, and legal requirements. Archivists ensure that restrictions are fairly and reasonably applied, prevent unauthorized access to restricted archives, and provide the widest possible use of archives by monitoring restrictions and promptly removing those no longer warranted. Archivists adhere to the *Principles of Access to Archives* in formulating and implementing access policies.

Purpose of the *Principles of Access to Archives*

The *Principles of Access to Archives* provide archivists with an authoritative international baseline against which to measure their existing access policy and practices and a framework to use when developing new or modifying existing access rules.

Scope of the *Principles of Access to Archives*

The *Principles of Access to Archives* cover both the rights of access by the public and the responsibilities of archivists in providing access to archives and to information about them.

The *Principles* recognize that administering access may also involve restricting access based on the information contained in the archives.

The *Principles* further recognize that in some countries several laws codify access rules that are inconsistent with each other. This is true both of laws covering archives in government custody and laws pertaining to archives in private, non-governmental bodies. Archivists actively encourage governments, parliaments and courts to harmonize access laws.

The *Principles* apply to both government and non-government archives. Public and private archives may implement the *Principles* differently.

The *Principles* assume that archivists are proactively involved in ensuring the transfer of permanently valuable archives to archival custody where access is more readily available to the public than it is when the archives are in the custody of the originating office.

The *Principles* do not cover general reference service operations and standards of service delivery, nor do they cover questions of resources required to implement the *Principles*.

The *Principles* do not cover issues of copyright because access to copyrighted material is permitted, although copies can be made only in accordance with copyright law. The *Principles* also recognize that the need to protect original items from the wear resulting from use may require physical access to the item to be limited, but archivists nonetheless make the information in the items available.

Each *Principle* is accompanied by a commentary; the *Principles* and commentary taken together constitute the *Principles of Access to Archives*.

Responsibilities for implementing the *Principles of Access to Archives*

Institutions holding archives are encouraged to compare their existing access policy with the Principles and adopt the Principles as a professional guide for access to the archives in their custody. Primary responsibilities for implementing the *Principles* are shared by administrators, archivists, donors and the personnel of institutions transferring their records to the archival custody.

*A person within the archival institution or its parent body must have leadership responsibility and accountability for the access program. This official or group should have sufficient authority to ensure both the timely release and the secure protection of information. Executives of the parent body are responsible for supporting the access programs of the archival institution, providing adequate funding for it and ensuring that its staff members have the professional training and support needed to perform their duties competently in the best interests of users, archives, records creators and donors.

*Archivists are responsible for the design, implementation and maintenance of the access control systems. All staff members must understand the basic principles of access, the need for secure handling of restricted information, and the responsibility not to divulge information unless it has been made public through approved processes. Archivists who participate in the decision-making process on access should have a good understanding of pertinent legislation and access practices as well as of the needs of researchers. Archivists train new staff members in the operation of the access program to the extent that their jobs require it.

*Donors and institutional personnel transferring archives to the custody of an archival institution recognize that the archives are preserved for access. If certain information must be withheld from public use for a period of time, they are responsible for clearly stating what the information is, the reasons for restriction, and the period of the restriction. Institutional personnel and donors negotiate with the archivists in a spirit of cooperation and trust.

Support for the access program comes from lawyers, computer and security professionals, and declassification specialists. Lawyers must understand the basic principles of archival management and support the archival institution as it balances institutional and user needs within the applicable legal framework. Computer systems administrators are responsible for ensuring that all documentation is accurate and available to archivists and users when required and that restricted material is securely protected from unauthorized access. Security personnel are responsible for securing and monitoring access to archives storage areas, with special vigilance for locations where restricted materials are held. Declassification specialists, such as persons from offices that created the records to be reviewed for possible declassification, must provide knowledgeable and timely declassification review.

Note: In the Principles, the word “archives” refers to the archival holdings of an institution, rather than the institution itself.

PRINCIPLES OF ACCESS TO ARCHIVES

1. The public has the right of access to archives of public bodies. Both public and private entities should open their archives to the greatest extent possible.

Access to the archives of government is essential for an informed society. Democracy, accountability, good governance and civic engagement require a legal guarantee that individuals will have access to the archives of public bodies established by national, self-governing territories and local governments, intergovernmental institutions, and any organization and any legal or natural person performing public functions and operating with public funds. All archives of public bodies are open to the public unless they fall under an exception grounded in law.

Institutions, whether public or private, holding private archives do not have a legal obligation to open the private archives to external users unless specific legislation, legal requirement or regulation imposes this responsibility on them. However, many private archives hold institutional records and personal papers that have significant value for understanding social, economic, religious, community and personal history as well as for generating ideas and supporting development. Archivists working in private institutions and managing the institution's archives encourage their institution to provide public access to its archives, especially if the holdings will help protect rights or will benefit public interests. Archivists stress that opening institutional archives helps maintain institutional transparency and credibility, improves public understanding of the institution's unique history and its contributions to society, helps the institution fulfill its social responsibility to share information for the public good, and enhances the institution's image.

2. Institutions holding archives make known the existence of the archives, including the existence of closed materials, and disclose the existence of restrictions that affect access to the archives.

Users must be able to locate the archival institution that holds material of interest to them. Archivists provide without charge basic information about their institution and the archives it holds. They inform the public of the general rules for use of the holdings in accordance with the institution's legal mandates, policies and regulations. They ensure that descriptions of their archives are current, accurate and comply with international descriptive standards in order to facilitate access. Archivists share draft descriptions of archives with users if final versions are lacking, where this will not compromise the security of the archives or any necessary restrictions on access.

Institutions that give the public access to any part of their archives publish an access policy. Archivists begin with a presumption of openness; if access restrictions are required, they ensure that such restrictions are written clearly to enable the public to understand them and to enhance consistency in their application.

Users have the right to know whether or not a specific series, file, item or portion of an item exists, even though it is withheld from use, or if it has been destroyed. Archivists reveal the fact that closed archives exist through accurate description and insertion of withdrawal sheets or electronic markers. Archivists provide as much information as possible about restricted material, including the reason for the restriction and the date the materials will be reviewed or become available for access, so long as the description does not disclose the information that is the reason for the restriction or violate a binding law or regulation.

3. Institutions holding archives adopt a pro-active approach to access.

Archivists have a professional responsibility to promote access to archives. They communicate

information about archives through various means such as Internet and web-based publications, printed materials, public programs, commercial media and educational and outreach activities. They are continually alert to changing technologies of communication and use those that are available and practical to promote the knowledge of archives. Archivists cooperate with other archives and institutions in preparing location registers, guides, archival portals and gateways to assist users in locating archives. They proactively provide access to the parts of their holdings that are of wide interest to the public through print publication, digitization, postings on the institution's website, or by cooperation with external publication projects. Archivists consider user needs when determining how the archives are published.

4. Institutions holding archives ensure that restrictions on access are clear and of stated duration, are based on pertinent legislation, acknowledge the right of privacy and respect the rights of owners of private materials.

Archivists provide the widest possible access to archives, but they recognize and accept the need for some restrictions. Restrictions are imposed by legislation, by institutional policy, either of the archival institution or its parent body, or by a donor. Archivists ensure that the access policies and rules for their institution are published so that the restrictions and the reasons for them are clear to members of the public.

Archivists seek to limit the scope of restrictions to those imposed by law or to identified instances where a specific harm to a legitimate private or public interest temporarily outweighs the benefit of disclosure at the time. Restrictions are imposed for a limited period, either for a specified period of time or until a specified condition, such as the death of a person, has occurred.

General restrictions apply to all the archival holdings; as appropriate to the nature of the institution, they cover the protection of personal data and privacy, safety, investigatory or law enforcement information, commercial secrets, and national security. The scope and duration of the general restrictions must be clear.

Specific restrictions apply only to designated bodies of archives; they apply for a limited duration. A clear statement of the specific restriction is included in the public archival description of the designated materials.

Access to donated records and personal papers is limited by the conditions established in the instrument of transfer such as a deed of gift, a will, or an exchange of letters. Archivists negotiate and accept donor restrictions on access that are clear, of limited duration and can be administered on equitable terms.

5. Archives are made available on equal and fair terms.

Archivists provide users with just, fair and timely access to archives without discrimination. Many different categories of persons use archives, and access rules may differentiate between categories of users (for example, the general public, adoptees seeking information on birth parents, medical researchers seeking statistical information from hospital records, victims of human rights violations). The access rules apply equally to all persons within each category without discrimination. When a closed item is reviewed and access to it is granted to a member of the general public, the item is available to all other members of the public under the same terms and conditions.

Access determinations are made as rapidly as possible following receipt of the access request. Records of public bodies that have been disclosed to the public before transfer to the archival institution, except those made public through illegal or unauthorized means, remain accessible after they are transferred regardless of their content, form or age. If only part of the information in an item has been published or is readily available to the public, access to the released information remains open after transfer; the unreleased information is subject to the normal access policy and procedures.

Archivists encourage legislative and regulatory actions that open records responsibly and do not support attempts to close information previously made public, either by reclassifying or ordering destruction of materials.

Private institutions holding archives provide equal access to users; however, existing donor agreements, institutional security needs, and related constraints may require archivists to make distinctions between researchers. The criteria used by a private institutions for determining selective access are stated in its public access policy, and archivists encourage their institutions to reduce these exceptions to the greatest extent possible.

6. Institutions holding archives ensure that victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public.

The *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (2005)* of the United Nations High Commission on Human Rights declares that victims of serious crimes under international law have a right to know the truth about the violations. The *Principles* emphasize the vital role that access to archives plays in learning the truth, holding persons accountable for human right violations, claiming compensation, and defending against charges of human rights violations. The *Principles* state that each person is entitled to know whether his or her name appears in State archives and, if it does, to challenge the validity of the information by submitting to the archival institution a statement that will be made available by the archivists whenever the file containing the name is requested for research use.

Archival institutions obtain and hold the evidence needed to protect human rights and to contest the violation of human rights where serious crimes under international law have been committed. Persons seeking access to archives for human rights purposes are given access to the relevant archives, even if those archives are closed to the general public. The right of access for human rights purposes applies to public archives and, to the extent possible, to private archives.

7. Users have the right to appeal a denial of access.

Each archival institution has a clear policy and procedure for appeal of initial denials of access. When a request for access to archives is denied, the reasons for the denial are stated clearly in writing and conveyed to the applicant as soon as possible. Users denied access are informed of their right to appeal, the procedure to submit an appeal and the time limits, if any.

For public archives, several levels of appeal may exist, such as a first internal review and a second appeal to an independent and impartial authority established by law. For non-public archives, the appeal process may be internal, but it should follow the same general approach.

Archivists who participate in the initial denial provide the reviewing authority with information relevant to the case but do not take part in the decision-making on the appeal.

8. Institutions holding archives ensure that operational constraints do not prevent access to archives.

The equal right to access archival records is not simply equal treatment but also includes the equal right to benefit from the archives.

Archivists understand the needs of both existing and potential researchers and use this understanding to develop policies and services that meet those needs and minimize operational constraints on access. In particular, they assist those who are disabled, illiterate or disadvantaged and would otherwise have significant difficulties in using archives.

Public archival institutions do not charge an admission fee to persons who want to do research in the archives. When private archival institutions charge admission fees, they should consider the applicant's ability to pay and the fee charged must not be a bar to use of the archives.

Users, whether visiting the archival institution or living at a distance from it, can obtain copies of archives in the variety of formats that are within the technical capacity of the archival institution. Institutions may make reasonable charges for copying service on demand.

Partial release of archives is a means to provide access when the entire file or item cannot be released. If an archival item contains sensitive information in a few sentences or a limited number of pages, that information is withheld and the remainder of the item released for public access. To the greatest extent practicable, archivists do not refuse to redact archives because of the labor required to make redactions; however, if redaction makes the requested item or file misleading or unintelligible, archivists do not redact and the material remains closed.

9. Archivists have access to all closed archives and perform necessary archival work on them.

Archivists have access to all closed archives in their custody in order to analyze, preserve, arrange and describe them in order that their existence and the reasons for their restriction are known. This archival work helps prevent the archives from being destroyed or forgotten advertently or inadvertently and helps assure the integrity of the archives. Preservation and description of closed archives promotes public confidence in the archival institution and in the archives profession, for it enables archivists to assist the public in tracing the existence and general nature of closed materials and learning when and how they will be available for access. If the closed archives have national security classifications or other restrictions that require special clearances, archivists comply with the requisite clearance procedures to gain access.

10. Archivists participate in the decision-making process on access.

Archivists help their institutions establish access policies and procedures and review archives for possible release under existing access laws, guidelines and best practices. Archivists work with lawyers and other partners in deciding on the basic framework and interpretation of restrictions, which the archivists then implement. Archivists know the archives, the access restrictions, the needs and requirements of the stakeholders and what information is already in the public domain on the subject to which the archives relate; archivists apply that knowledge when making access decisions. Archivists help the institution achieve informed decisions and consistent, reasonable outcomes.

Archivists monitor restrictions, reviewing archives and removing restrictions that are no longer applicable.

PRINCIPLES OF ACCESS TO ARCHIVES

GLOSSARY

All definitions are taken from the International Council on Archives Handbooks Series, Volume 7, *Dictionary of Archival Terminology, 2nd Edition*, Munich: K.G. Saur, 1988, unless otherwise indicated.

Access. The availability of records/archives for consultation as a result both of legal authorization and the existence of finding aids.

Confidentiality. The quality or property of privacy or secrecy attaching to certain information and/or records, thereby limiting access.

Data protection. The legal protection of the rights of individuals in respect of the collection, storage and automatic processing of personal data in machine-readable form and the disclosure of such data.

Declassification. The removal of all security classification restrictions on information or records.

Deed. A document under seal, in many countries made before a notary public, which, when delivered, gives effect to some legal disposition or agreement between parties.

Deposit. The placing of documents in the custody of archives without transfer of legal title.

Donor. The source from which a gift originates.

File. An organized unit (folder, volume, etc.) of documents grouped together either for current use by the creator or in the process of archival arrangement, because they relate to the same subject, activity, or transaction. A file is usually the basic unit within a record series. [Source: *General International Standard Archival Description, 2nd Edition*]

Finding aid. The broadest term to cover any description or means of reference made or received by an archives service in the course of establishing administrative or intellectual control over archival material. [Source: *General International Standard Archival Description, 2nd Edition*]

Fonds. The whole of the records, regardless of form or medium, organically created and/or accumulated and used by a particular person, family, or corporate body in the course of that creator's activities and functions. [Source: *General International Standard Archival Description, 2nd Edition*]

Freedom of information. The concept of a legal right of access to information contained in current, semi-current or non-current records as distinct from a legal right of access to archives.

Gift. An addition to holdings acquired without monetary consideration and becoming the sole property of the recipient, frequently effected by a deed or instrument of gift.

Item. The smallest intellectually indivisible archival unit, e.g., a letter, memorandum, report, photograph, sound recording. [Source: *General International Standard Archival Description, 2nd Edition*]

Privacy. The right to be secure from unauthorized disclosure of information contained in records/archives relating to personal and private matters.



international council on archives
conseil international des archives

Redaction. The process of masking or removing sensitive information in a document before releasing it for public use. [ARMA International, *Glossary of Records and Information Management Terms*, 3rd Edition]

Restricted access. A limitation on access to records/archives or to individual documents or to information of a specified type, imposed by general or specific regulations determining access date or general exclusions from access.

Screening. The examination of records/archives to determine the presence of documents or information subject to restricted access.

Security classification. The restriction on access to and use of records/archives or information therein imposed by a government in the interests of national security. The records/archives or information concerned are referred to as classified records or classified information.



INTERNATIONAL COUNCIL ON ARCHIVES

HUMAN RIGHTS WORKING GROUP

**BASIC PRINCIPLES ON THE ROLE OF ARCHIVISTS AND RECORDS MANAGERS
IN SUPPORT OF HUMAN RIGHTS**

A working document of the International Council on Archives

September 2016

INTRODUCTION

Archives are useful for human rights purposes. Many of these archives are essential to secure rights and benefits: personnel records, records of social insurance programs, records of occupational health and safety, records of military service. Other archives help prove civil rights: voter registrations, land titles, citizenship records. Still others provide evidence of the abuse of human rights, such as the records of military, police and intelligence units from periods of dictatorship, even records of prisons, hospitals, morgues and cemeteries.

Archivists and records managers handling archives with human rights aspects deal with concrete legal issues, questions of broad social policy, and matters of personal professional ethics. In many countries, this is complex but manageable using the best professional practice. However, archivists and records managers in a variety of situations and institutions may find themselves under pressure as they attempt to manage such archives. They may not be permitted to have access to the records for purposes of management or appraisal, they may be pressured to approve the disposal of archives that they believe have human rights implications, they may be instructed not to acknowledge in finding aids that the archives exist, they may not be able to undertake necessary preservation actions on these archives, they may not be permitted to make decisions about public access on these archives or provide them to qualified researchers. And they may fear retaliation if they seek to follow professional principles.

All archivists and records managers look for support from the profession at large as they seek to show the profession in its best, most competent light as they handle archives of importance for human rights. The International Council on Archives adopted a *Code of Ethics* in 1996, which provides a set of ethical parameters within which archivists carry out their professional duties. In 2011 the *Universal Declaration on Archives*, adopted by UNESCO in 2011, gave voice to the significance to the peoples of world of archives and the work of archivists and records managers. These important documents provide a general framework for the responsibilities of the profession; however, the important linkage between human rights and archives makes it important to clearly focus on the ethical and practical problems that are stated only generally in the framework Code and Declaration.

The *Basic Principles on the Role of Archivists and records managers in Support of Human Rights* is organized in two parts: a Preamble and a set of Principles. The Preamble provides the conceptual framework for the Principles. Each Principle is accompanied by explanatory text which is not part of the Principle. The Principles are grouped in five sections. The first two sections cover the basic archival functions; the third covers the special situations of working with archives that appear to document wrongdoing and with displaced archives; the fourth and fifth sections are devoted to the roles and rights of archivists and records managers as professionals.

The *Principles* are followed by definitions of terms used in the *Principles* and a list of international treaties, covenants, agreements, opinions and related matter that serve as foundation for the *Principles*.

Basic Principles of the Role of Archivists in Support of Human Rights

Preamble

Whereas the enforcement of human rights and fundamental freedoms to which all persons are entitled under the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and its two Optional Protocols, the *International Covenant of Economic, Social and Cultural Rights* and other international treaties and legal instruments is strengthened by the preservation of archives and the ability of individuals to gain access to them;

Whereas the United Nations High Commissioner for Human Rights' *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity* asserts that it is responsibility of the State to “ensure the preservation of, and access to, archives concerning violations of human rights and humanitarian law;” proclaims that the right to know, including knowing what is in archives, is both a personal and collective right and that the State has a duty to remember; and emphasizes the importance of archives in ensuring that persons will be held accountable while guaranteeing the fair defense of everyone charged with a penal offense,

Whereas governments have the responsibility to promote and protect the right to seek and receive information as a fundamental prerequisite to ensuring public participation in governance,

Whereas adequate protection of the human rights and fundamental freedom to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to archival services provided by independent archival professionals,

Whereas professional associations of archivists and records managers have a vital role to play in upholding professional standards and ethics, providing archival services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and the public interest,

Whereas the preservation of archives and access to them can be guaranteed only if all concerned—institutions and individuals—contribute to such goals, according to their respective responsibilities;

The *Basic Principles on the Role of Archivists and records managers in Support of Human Rights*, set forth below, have been formulated in order to:

- assist institutions that preserve archives in their task of ensuring the proper role of archivists in support of human rights,
- provide guidelines for individual archivists and records managers who, in the course of their everyday work, must take decisions that might affect the enforcement and protection of human rights,
- provide support for professional associations of archivists and records managers, and
- help international officials dealing with human rights issues understand the importance of the issues covered by the *Principles* and the contribution that professional archivists and records managers can provide to the protection of human rights.

The Principles

I. Selecting and Retaining Archives

1. ***Institutions, archivists and records managers should create and maintain recordkeeping regimes that protect archives that document human rights and should act to ensure that the management of those archives preserves the integrity of the archives and their value as evidence.***

Regardless of format, archives need to support rights and entitlements or enable persons to protest effectively when their rights are violated, and must be strongly managed from their inception to ensure that they are accessible and trustworthy. The International Organization for Standardization (ISO) has published a number of standards which address these requirements. ISO 15489, “Information and documentation – Records management”, for example, establishes core concepts and principles for the creation, capture and management of archives. Aligned with ISO 15489, the ISO 30300 series provides a systematic approach to the creation and management of archives, focused on the implementation and operation of an effective Management System for Records (MSR). In the digital environment, ISO 16175 “Principles and Functional Requirements for Records in Electronic Office Environments” provides internationally agreed principles and functional requirements for software used to create and manage digital information in office environments. Systems that create and manage human rights archives needs to ensure those archives can be proven to be genuine, are accurate and can be trusted, are complete and unaltered, secure from unauthorised access, alteration and deletion, can be found when needed, and are related to other relevant archives. ARMA International’s *Generally Accepted Recordkeeping Principles* provide a benchmark for managing archives in both public and private sectors.

2. ***Institutions, archivists and records managers should prevent the destruction of archives that are likely to contain evidence of the violation of human rights or humanitarian law.***

Principle 14, “Measures for the Preservation of Archives,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* states, “The right to know implies that archives should be preserved. Technical measures and penalties shall be applied to prevent any removal, destruction, concealment or falsification of archives, especially for the purpose of ensuring the impunity of perpetrators of violations of human rights and/or humanitarian law.” While an archivist or records manager may not know that a body of archives contains evidence of violations, an archivist or records manager may be able to presume, based on the provenance of the archives, that the content may contain such information and should not be destroyed.

- 3. Archivists and records managers should select, acquire and retain archives that are within the scope and mandate of their archival institution, without discrimination that is proscribed by the Universal Declaration of Human Rights.***

Article 2 of the *Universal Declaration of Human Rights* states that everyone is entitled to rights and freedoms “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Archivists should ensure that they acquire archives that reflect and are pertinent to all groups. Some archives have a special focus, such as archives of faith-based bodies, archives of indigenous communities, or archives documenting social movements. These institutions discriminate in their acquisition program in accordance with their mandate, but regardless of their special focus within their mandate they are inclusive.

- 4. Archivists and records managers should consider in each appraisal decision the utility of that body of archives to support or identify a claim of human rights, to assist in the identification of perpetrators of human rights violations, to permit the identification of persons who held positions that might have involved them in human rights violations, to clarify the events that led to the violation of human rights, to help resolve the fate of missing persons, or to enable individuals to seek compensation for past violations of human rights.***

Following the concepts developed in the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity*, transitional justice is understood to require holding perpetrators accountable, ensuring that persons responsible for abuses in the old regime are not in positions of power in the new one; determining the truth of what happened to society as a whole, to groups within the society and to individuals; and obtaining restitution and reparation. Similar demands are made in democratic states in the aftermath of state actions that caused civic trauma and, increasingly, the actions of private bodies that violate rights. Archives are essential in these processes.

Many other bodies of archives support human rights, from civil registries to land titles to personnel files of the clergy to archives that show a business enterprise’s due diligence when it contracts for goods, as required by the *UN Guiding Principles on Business and Human Rights* adopted in 2011. Archivists and records managers should be aware of the rights that might be supported by the archives they manage.

- 5. Governments should ensure that archives concerning violations of human rights and humanitarian law are preserved. Governments and private institutions ensure the provision of sufficient funding and other resources for the professional management of these archives.***

Principle 3, “The Duty to Preserve Memory” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* states, “A people’s knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfillment of the State’s duty to preserve archives and other evidence concerning human rights violations and to facilitate knowledge of those violations. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments.”

The Principle does not say the State must preserve only the State’s archives; it instead says “archives.” A State has many options for supporting preservation and access to non-governmental archives, such as making forceful public statements on preservation and access, enacting legislation requiring such archives be preserved, obtaining court rulings that require specific archives be preserved, providing monetary support for non-government archives, conducting surveys and creating databases to identify for the public where relevant archives are located, taking donations of private sector archives, or providing a “safe haven’ trusted repository for endangered archives.

6. ***Institutions, archivists and records managers should ensure that the archives of temporary bodies established to assist in transitional justice are protected and preserved, both while the entity exists and after it closes; public notice should be given prior to the disposal of any archives from these bodies.***

Principle 5, “Guarantees to Give Effect to the Right to Know,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* reads in part: “Societies that have experienced heinous crimes perpetrated on a massive or systematic basis may benefit in particular from the creation of a truth commission or other commission of inquiry to establish the facts surrounding those violations so that the truth may be ascertained and to prevent the disappearance of evidence. Regardless of whether a State establishes such a body, it must ensure the preservation of, and access to, archives concerning violations of human rights.”

The archives of transitional justice institutions, whether created by governments or by private institutions, concern violations of human rights and fall within this scope. Giving public notice before destroying part of an archives is an established practice in states such as Spain and the United States and provides an opportunity for the public to object to the disposal of bodies of archives, which is particularly important when the archives are the product of these sensitive transitional justice institutions.

II. Providing Access to Information in Archives

7. ***Archivists should include in the description of archival holdings information that to the best of their knowledge enables users to understand whether the archives might contain information that would be useful to exercise a claim of human rights, with particular regard to information regarding gross human rights violations, information that would help resolve the fate of missing persons, or information that may enable individuals to seek compensation for past violations of human rights.***

Principle 2, “The Inalienable Right to the Truth,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* states, “Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations of human rights, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations.” The right to know the truth also is recognized explicitly in the

International Convention for the Protection of All Persons from Enforced Disappearances, adopted in 2010. *Recommendation No. R (2000) 13 of the Committee of Ministers to member states on a European policy on access to archives* explains “that a country does not become fully democratic until each one of its inhabitants has the possibility of knowing in an objective manner the elements of their history.” Good archival description enables the right to truth and supports democracy.

- 8. *Archivists and records managers should provide timely arrangement and description of the archives in the holdings to ensure equal, fair and effective access for users, giving priority to organizing and describing archival holdings documenting gross human rights violations.***

Archival institutions may not have a sufficient number of archivists to provide timely description of all archival holdings. When deciding the priorities for description of archival holdings, human rights concerns should be a key element to consider.

- 9. *Governments should ensure that access is provided to their archives concerning violations of human rights and humanitarian law.***

Article 19.2 of the *International Covenant on Civil and Political Rights* establishes that everyone “shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information.”

The December 2004 *Joint Declaration* by the United Nations Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe’s Representative on Freedom of the Media, and the Organization of American States’ Special Rapporteur on Freedom of Expression states, “The right to access information held by public authorities is a fundamental human right.”

The *Global Principles on National Security and the Right to Information* (the *Tshwane Principles*) set out guidelines on how to guarantee, to the extent possible, public access to government information while protecting legitimate national security concerns; Principle 10.A.1 states, “There is an overriding public interest in disclosure of information regarding gross violations of human rights or serious violations of international humanitarian law, including crimes under international law, and systematic or widespread violations of the rights to personal liberty and security. Such information may not be withheld on national security grounds in any circumstances.” The Council of Europe’s Parliamentary Assembly endorsed the *Tshwane Principles* in Resolution 1954 (2013): *National security and access to information*.

- 10. *Archivists and records managers should advocate for and support the right of access to government archives and encourage non-governmental institutions to provide similar access to their archives, in accordance with the Principles of Access to Archives adopted by the International Council on Archives.***

The ten ICA *Principles of Access* are the foundation for this Principle. In addition, Principle 6 of the International Council on Archives’ *Code of Ethics* states, “Archivists should promote the widest possible access to archival material and provide an impartial service to all users,” and the *Universal Declaration on Archives*, endorsed by the General

Conference of UNESCO in 2011, declares, “Archives are made accessible to everyone, while respecting the pertinent laws and the rights of individuals, creators, owners and users.”

A special requirement for access is found in Principle 16, “Cooperation between Archives Departments and the Courts and Non-judicial Commissions of Inquiry,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* which states: “The courts and non-judicial commissions of inquiry, as well as the investigators reporting to them, must have access to relevant archives. This principle must be implemented in a manner that respects applicable privacy concerns, including in particular assurances of confidentiality provided to victims and other witnesses as a precondition of their testimony. Access may not be denied on grounds of national security unless, in exceptional circumstances, the restriction has been prescribed by law; the Government has demonstrated that the restriction is necessary in a democratic society to protect a legitimate national security interest; and the denial is subject to independent judicial review.”

11. Institutions, archivists and records managers should ensure that safeguards are in place to protect personal information from unauthorized access, in order to ensure respect for rights, fundamental freedoms and the dignity of persons to whom the information relates.

In addition to the provisions of the *Principles of Access*, Principle 7 of the International Council on Archives’ *Code of Ethics* states, “Archivists should take care that corporate and personal privacy as well as national security are protected without destroying information, especially in the case of electronic records where updating and erasure are common practice. They must respect the privacy of individuals who created or are the subjects of records, especially those who had no voice in the use or disposition of the materials.” Uncritical opening of archives may result in violations of the privacy of individuals and may result in retaliation against them. Archivists and records managers balance the right to truth with the need to protect the privacy of identifiable persons.

12. Archivists should provide reference service without discrimination that is proscribed by the Universal Declaration of Human Rights. All persons are entitled to call upon the assistance of an archivist to help them locate and retrieve archives that may enable them to establish their rights.

As stated above in Principle 3, Article 2 of the *Universal Declaration of Human Rights* states that everyone is entitled to rights and freedoms “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Principle 15, “Measures for Facilitating Access to Archives,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity*, states in part: “Access to archives shall be facilitated in order to enable victims and persons related to claim their rights. . . . Access to archives should also be facilitated in the interest of historical research, subject to reasonable restrictions aimed at safeguarding the privacy and security of victims and other individuals. Formal requirements governing access may not be used for purposes of censorship.”

This Principle does not prohibit institutional rules on who may use the archives (such as a requirement that a person must be of a certain age to use the archives or that a person may see his own file but the public may not), but it does require institutions to set those rules with a conscious effort to make access as fair and equal as possible.

13. Archivists should ensure that persons seeking to defend themselves from charges of violations of human rights are afforded access to archives.

Included in Principle 15 of the United Nations High Commissioner for Human Rights' *Updated Set of Principles to Combat Impunity* is "Access should also be facilitated, as necessary, for persons implicated, who request it for their defence." Archivists and records managers should not make distinctions between prosecutors and defendants when providing access to archives.

14. Institutions, professional associations of archivists and records managers and individuals should promote programs to inform the public about their right of access to archives and the important role of archivists in protecting their fundamental freedoms. Special attention should be given to ensuring that disadvantaged persons know that they may call upon archivists to locate and retrieve archives that may enable them to assert their rights.

Principle 3 of the *Principles of Access to Archives* adopted by the International Council on Archives, states, "Institutions holding archives adopt a pro-active approach to access." Special needs of archives' users should be accommodated. In particular, the *United Nations Convention on the Rights of Persons with Disabilities* declares that persons with disabilities are entitled to the "freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice" and that information intended for the general public should be provided "to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost." Similarly, the *United Nations Declaration on the Rights of Indigenous Peoples* affirms that indigenous peoples have the right to maintain, protect and develop the past, present and future manifestations of their cultures, including their archives; to obtain these goals, assistance in locating and copying archives may be required.

III. Special Safeguards

- 15. Archivists or records managers who, in the course of their professional activity, discover archives that they in good faith and on reasonable grounds believe contain evidence of gross violations of internationally recognized human rights that (a) are ongoing or (b) for which victims might seek compensation, should inform pertinent authorities about the existence of such archives.**
- a. Governments should provide government employees with channels to report such violations, either internally or to oversight bodies.**
 - b. Non-governmental institutions may provide channels for their employees to report human rights violations; if such channels do not exist, governments may provide channels for reporting by persons who are not government employees.**

Information which shows wrongdoing, whether or not it is currently available to the general public, should be disclosed to appropriate authorities. The *Global Principles on National Security and the Right to Information*, Principle 37, suggests that information related to the following categories of wrongdoing should be considered for “public interest disclosures”:

- (a) “criminal offenses;
- (b) “human rights violations;
- (c) “international humanitarian law violations;
- (d) “corruption;
- (e) “dangers to public health and safety;
- (f) “dangers to the environment;
- (g) “abuse of public office;
- (h) “miscarriages of justice;
- (i) “mismanagement or waste of resources;
- (j) “retaliation for disclosure of the any of the above listed categories of wrongdoing; and
- (k) “deliberate concealment of any matter falling into one of the above categories.”

While the *Global Principles* speak specifically to government information, it is clear that this information can also be present in the archives of non-government institutions and archives of individuals.

The question of appropriate channels for reporting is difficult. If the institution has a formal reporting channel and if using it does not put the archivist or records manager at risk of retaliation, that channel should be used first. Independent oversight bodies or judicial authorities are alternate reporting channels. If no institution within the state can be trusted with the information, the archivist or records manager can turn to international bodies such as the staff of the United Nations High Commissioner for Human Rights or the International Committee of the Red Cross.

16. Archivists and records managers who make disclosures of information showing violations of human rights or international humanitarian law, regardless of whether the information is classified or otherwise confidential, have the right to report to an appropriate authority any measure of retaliation or the threat of retaliation in relation to the disclosure; provided that (a) at the time of disclosure the archivist had reasonable grounds to believe that the information disclosed shows wrongdoing, and (b) the archivist previously tried to use any existing internal reporting mechanism, so long as doing so did not increase the risk of retaliation.

Governments should have laws that protect from retaliation persons who make disclosures of information concerning wrongdoing as defined in Principle 15 above. The Council of Europe’s Parliamentary Assembly Resolution 1954 (2013) on *National security and access to information* states, “A person who discloses wrongdoings in the public interest (whistle-blower) should be protected from any type of retaliation, provided he or she acted in good faith and followed applicable procedures.” The Council of Europe’s Committee of Ministers made a similar point in its *Recommendation CM/Rec (2014)7 to member States on the protection of whistleblowers*.

As the *Global Principles on National Security and the Right to Information* suggest in Principle 40, “if contested, the person may need to defend the reasonableness of his or her belief and it is ultimately for an independent court or tribunal to determine whether this test has been satisfied so as to qualify the disclosure for protection.” As with Principle 15, the reporting of retaliation should first be to national authorities but may be to international authorities if no national protection is believed to be available or secure.

17. Institutions, archivists and records managers should respect the cultural and legal patrimony of countries and communities and not acquire archives which do not fall within their jurisdiction. Institutional acquisition policies should respect the right of communities to write their own histories.

The Executive Committee of the International Council on Archives, at its spring 1995 meeting, adopted a Position Paper, “The view of the archival community on the settling of disputed claims.” It states, “Archival doctrine, which is founded on the principle of provenance . . . excludes, on the one hand, the possibility of dismembering fonds, and on the other hand, the acquisition by any archive institution of fonds which do not fall within its jurisdiction.” This is particularly important for indigenous peoples; as noted in Principle 14 above, the *United Nations Declaration on the Rights of Indigenous Peoples* affirms that indigenous peoples have the right to maintain their cultural property, including archives.

18. Institutions and archivists should cooperate with institutions and individuals in other countries to manage and settle claims about disputed displaced archives in a spirit of fairness and mutual respect. If returning displaced archives is likely to risk their destruction, their use for repressive purposes, or will place at risk persons whose actions are reflected in the archives, return should be postponed.

In order to ease international conflicts on archives, UNESCO recommended the use of the concept of “common heritage,” and the International Council on Archives endorsed it in the Position Paper cited in Principle 17 above. The first *Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict* (The Hague, 1954) requires parties “to prevent the exportation, from a territory occupied by it during an armed conflict, of cultural property,” including archives. If, nonetheless, during armed conflicts cultural properties have been exported, the Convention requires parties to return them at the end of the conflict.

The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, signed in 1995, addresses the return of cultural materials, specifically including “archives, including sound, photographic and cinematographic archives.” UNIDROIT provides time periods within which restitution can be sought and provides for “a claim for restitution of a sacred or communally important cultural object belonging to and used by a tribal or indigenous community in a Contracting State as part of that community's traditional or ritual use.” Notwithstanding the Position Paper referenced in Principle 17 above and the UNIDROIT provisions, if returning the archives may endanger the life or fundamental freedoms of persons or lead to the destruction of the archives, then priority must be given to the protection of the rights of the persons mentioned in the archives and defer the return of the archives at the present time.

- 19. *Institutions provide access to archives, including displaced archives, for transitional justice institutions and for persons, including victims and survivors of gross violations of human rights—regardless of their citizenship—who need them to seek compensation for previous damage to their human rights or to protect their fundamental rights.***

Principle 15, “Measures for Facilitating Access to Archives,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* states in part: “Access to archives shall be facilitated in order to enable victims and persons related to claim their rights.” Principle 16 “Cooperation between Archives Departments and the Courts and Non-judicial Commissions of Inquiry,” of the United Nations High Commissioner for Human Rights’ *Updated Set of Principles to Combat Impunity* reads in full: “The courts and non-judicial commissions of inquiry, as well as the investigators reporting to them, must have access to relevant archives. This principle must be implemented in a manner that respects applicable privacy concerns, including in particular assurances of confidentiality provided to victims and other witnesses as a precondition of their testimony. Access may not be denied on grounds of national security unless, in exceptional circumstances, the restriction has been prescribed by law; the Government has demonstrated that the restriction is necessary in a democratic society to protect a legitimate national security interest; and the denial is subject to independent judicial review.”

IV. Education and Training

- 20. *Governments, professional associations of archivists and records managers, archival and educational institutions and individual professionals engaged in archival education should ensure that archivists have appropriate education and training and are aware of the ethical duties of archivists with regard to human rights and fundamental freedoms recognized by national and international law.***

The International Council on Archives’ *Code of Ethics*, Principle 9, states, “Archivists should pursue professional excellence by systematically and continuously updating their archival knowledge, and sharing the results of their research and experience.” It explains that archivists should “ensure that those whose training or activities they supervise are equipped to carry out their tasks in a competent manner.” Because human rights and international humanitarian law evolve continuously, continued training in this area is essential.

- 21. *Governments, professional associations of archivists and records managers, and archival and educational institutions should ensure that there is no discrimination against a person with respect to entry into or continued practice within the archival profession.***

Discrimination as defined in the commentary to Principle 3, based on the areas proscribed by the *Universal Declaration of Human Rights*, may not be used in the employment of archivists.

22. In countries where there exist groups, communities or regions whose needs for archival services are not met, particularly where such groups have distinct cultures, traditions or languages or have been the victims of past discrimination, governments, professional associations of archivists and records managers, archival and educational institutions and individual professionals should take special measures to provide opportunities for persons from these groups to enter the archival profession and should ensure that they receive training appropriate to the needs of their groups.

Many groups, communities and regions have insufficient archival services. The *United Nations Convention on the Rights of Persons with Disabilities* and the *United Nations Declaration on the Rights of Indigenous Peoples* underscore the need to provide opportunities to these specific groups.

V. Freedom of Expression and Association

23. Archivists and records managers, like other persons, are entitled to freedom of expression, belief, association and assembly. In particular, they have the right to take part in public discussion of matters concerning the promotion and protection of human rights and the professional responsibilities therefor. In exercising these rights, archivists do not divulge information that they obtained in the course of their professional responsibilities that has not been released by authorized officials for public use.

Article 19 of the *Universal Declaration of Human Rights* states, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to see, received and impart information and ideas through any media and regardless of frontiers.” Principle 8 of the International Council on Archives’ *Code of Ethics* warns that archivists “should not reveal or use information gained through work with holdings to which access is restricted.” This responsibility to maintain confidentiality continues after the archivist leaves archival employment. Principle 23 does not conflict with Principle 16 above, which refers to disclosure to limited pertinent authorities for the purposes of bringing wrongdoing to light, not to public discussion of such information.

24. Archivists and records managers are entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training, and protect their professional integrity. The executive body of the professional association should be elected by its members and should exercise its functions without external interference. Governments should recognize professional associations of archivists and records managers as civil society organizations that represent the interests of the profession and its practitioners.

Article 20 of the *Universal Declaration of Human Rights* states, “Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

25. Professional associations of archivists and records managers should provide guidance and support for archivists handling archives with human rights aspects.

Principle 10 of the International Council on Archives' *Code of Ethics* states, "Archivists should promote the preservation and use of the world's documentary heritage, through working co-operatively with the members of their own and other professions." Providing assistance in handling the complex tasks associated with archives with human rights aspects is one area where working co-operatively surely is essential.

Annex 1. Definitions

In these *Principles*, the following definitions apply:

Archives. The documents created or received and accumulated by a person or institution in the course of the conduct of affairs, and preserved because of their continuing value. If the Principle means an institution whose primary work is the acquisition and preservation of historical archives, the Principle says “archival institution.” The term is meant to include records.

Displaced archives. Archives that have been transferred to and are in the custody of a person or institution not legally entitled to them. They include archives that have been removed from the country in which they were originally accumulated and captured archives.

Institution. Any corporate body, public or private, governmental or non-governmental, including, for example, commercial businesses, faith-based organizations, national or sub-national governments, international and inter-governmental organizations, and organized political parties. This is equivalent to the ISAAR (CPF) definition of “corporate body,” i.e., “an organization or group of persons that is identified by a particular name and that acts, or may act, as an entity.” If the Principle refers to “government” it means to exclude other types of institutions; if a particular type of institution is meant, the Principle says “archival institution” or “educational institution.”

Records. Recorded information in any form or medium, created or received and maintained, by an organization or person in the transaction of business or the conduct of affairs (definition from ISAD(G)). In the body of the *Principles*, “record” is used only in quotations; the preferred term in the Principles is “archives” and is meant to include records.

Transitional justice institutions. Entities created following a change in government from a more repressive to a more democratic regime. Transitional justice institutions may include special courts, truth commissions, and vetting and compensation panels.

Annex 2. Resources and References

Note: The following documents are available on line, generally in more than one language, with the exception of the proceedings of the ICA 1993-95 CITRA conferences (published only in paper, in English and French).

ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN). *Human Rights Declaration (AHRD)* (2012)

COUNCIL OF EUROPE.

_____. *Convention for the Protection of Human Rights and Fundamental Freedoms* (also known as *European Convention on Human Rights*) (adopted in 1950).

_____. *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (adopted in 1981)

_____. *Recommendation No. R (2000) 13 of the Committee of Ministers to member states on a European policy on access to archives* (adopted in 2000)

_____. *Recommendation Rec(2002)2 of the Committee of Ministers to member states on access to official documents* (adopted in 2002)

_____. *Convention on Access to Official Documents (2009, not yet in force)*.

_____. *Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistleblowers* (adopted in 2014)

COUNCIL OF EUROPE'S PARLIAMENTARY ASSEMBLY (PACE). *Resolution 1954 (2013): National security and access to information* (2013)

INTERNATIONAL COUNCIL ON ARCHIVES.

_____. *The View of the Archival Community on Settling Disputed Archival Claims* (Position Paper adopted by the Executive Committee. Guangzhou, 10-13 April 1995).

_____. *Reference dossier on Archival Claims*. Documents collated by Hervé BASTIEN (1995).

_____. *Code of Ethics* (adopted in 1996)

_____. *CITRA 1993-1995. Interdependence of Archives. Proceedings of the Twenty-Ninth, Thirtieth and Thirty-First International Conference of the Round Table on Archives: XXIX Mexico 1993, XXX Thessaloniki 1994, XXXI Washington 1995*. Dordrecht: 1998 (special issue of *Janus*).

_____. *Universal Declaration on Archives* (adopted in 2010, endorsed by UNESCO in 2011)

_____. *Principles of Access to Archives* (adopted in 2012)

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT). *Convention on Stolen or Illegally Exported Cultural Objects* (1995)

INTERNATIONAL MECHANISMS FOR PROMOTING FREEDOM OF EXPRESSION. *Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression* (2004)

INTERNATIONAL ORGANIZATION FOR STANDARDIZATION.

_____. 15489. *Information and documentation – Records management* (2001)

_____. 16175. *Principles and Functional Requirements for Records in Electronic Office Environments* (2011)

_____. 30300. *Management systems for records* (2011)

ISLAMIC COUNCIL OF EUROPE. *Universal Islamic Declaration of Human Rights* (adopted in 1981).

LEAGUE OF ARAB STATES. *Arab Charter on Human Rights* (adopted in 2004)

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). *G20, Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation* (2011)

ORGANISATION OF AFRICAN UNITY.

_____. *African Charter on Human and Peoples' Rights* (also known as the *Banjul Charter*) (adopted in 1981)

_____. *Declaration of Principles on Freedom of Expression in Africa*, adopted by the African Commission on Human and Peoples' Rights (2002).

_____. *Guidelines and Principles on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights* (2011)

ORGANIZATION OF AMERICAN STATES.

_____. *American Convention on Human Rights* (also known as *Pact of San Jose, Costa Rica*) (adopted in 1969)

_____. *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* (also known as *Protocol of San Salvador*) (adopted in 1988).

_____. *Inter-American Convention on Forced Disappearance of Persons* (adopted in 1994)

_____. *Declaration of Principles on Freedom of Expression* (2000)

- _____. *Inter-American Democratic Charter* (adopted in 2001).
- _____. *Inter-American Convention against All Forms of Discrimination and Intolerance* (adopted in 2013)
- _____. *Promotion and Protection of Human Rights in Business* (General Assembly Resolution, adopted at the second plenary session, held on June 4, 2014)

UNITED NATIONS.

Treaties

- _____. *Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations the Laws and Customs of War on Land*. The Hague, 18 October 1907
- _____. *Convention (IV) relative to the Protection of Civilian Persons in Time of War*. Geneva, 12 August 1949.
- _____. *International Convention on the Elimination of All Forms of Racial Discrimination* (adopted in 1965)
- _____. *International Covenant on Civil and Political Rights* (adopted in 1966); *Optional Protocol* (adopted in 1966); *Second Optional Protocol* (adopted in 1989)
- _____. *International Covenant on Economic, Social and Cultural Rights* (adopted in 1966)
- _____. *Convention on the Elimination of All Forms of Discrimination against Women* (adopted in 1979)
- _____. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted in 1984)
- _____. *Convention on the Rights of the Child* (adopted in 1989)
- _____. *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (adopted in 1990)
- _____. *Convention on the Rights of Persons with Disabilities* (adopted in 2006)
- _____. *International Convention for the Protection of All Persons from Enforced Disappearance* (adopted in 2006)

United Nations General Assembly

- _____. *Universal Declaration of Human Rights* (adopted 1948)
- _____. *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (adopted 1998)
- _____. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (adopted 2005)
- _____. *United Nations Declaration on the Rights of Indigenous Peoples* (adopted 2007)

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