

## News from the ICA Human Rights Working Group

March 2010

Trudy Huskamp Peterson, Chair

**Universal Declaration of Human Rights, Article 3.** *Everyone has the right to life, liberty and security of person.*

Article 3 is the third and last of the general articles of the Declaration that reflect the “French ideals of equality, fraternity, and liberty.” It leads to Articles 4-21 that cover civil and political rights, which are followed by Articles 22-26 that cover general economic, social, and cultural rights. P. C. Chang, the delegate from China, argued that this order properly followed the chronology of “traditional rights derived from European history and philosophy before recognizing the modern set of economic and social rights.” (Quotations from Roger Normand and Sarah Zaidi, *Human Rights at the UN: The Political History of Universal Justice*, p. 190; see also Stephen P. Marks, “From the ‘Single Confused Page’ to the ‘Decalogue for Six Billion Persons’: The Roots of the Universal Declaration of Human Rights in the French Revolution,” *Human Rights Quarterly* 20 (1998), pp. 459-514.)

As with the first two Articles, the background to Article 3 lay squarely in the Second World War. Johannes Morsinck points out in his *The Universal Declaration of Human Rights: Origin, Drafting and Intent*, that the Secretariat for the drafters of the Declaration prepared a special report on war crimes trials, which examined “the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, ‘useless eaters,’ were transferred to special institutions where they were killed.” “This information,” writes Morsinck, “show[s] that the war experience lies just below the text of Article 3” (quotations from p. 40).

Many, many archives support those who defend their rights citing Article 3 and those who believe their rights were violated in terms of Article 3. Among the most obvious are archives of medical institutions, hospitals and morgues; records of cemeteries (civil, military, religious, or UN); records of police, overt and secret, local and national; records of Interpol; records of prisons, civil and military; records of detention facilities (including those for persons being deported); and investigative records of all kinds. Whether we are talking about the records of the abuse of patients in Nazi hospitals or the abuse of prisoners by US forces in Iraq or the abuse of children by priests in Ireland, the records in the archives tell the stories of life, liberty and personal security.

**International standards for maintaining health care records.** The International Organization for Standardization has released two guidelines for managing the records of patients in health care institutions. The technical specification is ISO/TS 21547:2010, *Health informatics-Security requirements for archiving of electronic health records-Principles*. The associated guideline for implementing the principles is ISO/TR 21548:2010, *Health informatics-Security requirements for archiving of electronic health records-Guidelines*.

**Archives of the International Criminal Tribunals “bulwark against revisionism.”** The March issue of “*Transitions*,” the newsletter of the International Center for Transitional Justice, published an interview with David Tolbert, the new president of ICTJ

([http://www.ictj.org/static/Newsletter/Transitions\\_March\\_2010.pdf](http://www.ictj.org/static/Newsletter/Transitions_March_2010.pdf)). One of the questions and answers was:

**“Q. What role should ICTJ play in relation to the International Criminal Court and other tribunals?”**

“A. We are coming to the end of the initial era of ad hoc and hybrid tribunals, with the Special Court for Sierra Leone completing its work with the Charles Taylor trial and then closing its doors, and the Yugoslavia and Rwanda tribunals also in their closing stages. There are serious issues as to how these courts will handle their archives and deal with various legal issues, such as protection of witnesses, enforcement of sentences and discovery of new evidence. I have argued that in closing these courts we need to be guided by the principles that they were founded on: bringing perpetrators to justice and restoring peace and justice, thereby providing a basis for reconciliation. This means that fugitives must continue to be brought to justice in what is called (and I don’t like the term) a ‘residual mechanism,’ and the complex issues of archives must be addressed, with the archives made as widely available as possible as a bulwark against revisionism.”

On March 10, the *International Justice Tribune* ([www.internationaljustice.nl/tribune](http://www.internationaljustice.nl/tribune)) published an interview with Judge Patrick Robinson, the president of the International Criminal Tribunal for Yugoslavia. The final question and answer was:

**“What will happen to the ICTY archives?”**

“The archives are of great significance to the region because they tell a story that is personal and specific. It is important that the archives are accessible to everybody in the region but the decision on the location of the archives is one for the Security Council to make.”

**Prize-winning video from Brazil.** Thanks to Vitor Fonseca of the National Archives of Brazil and Giulia Barrera of the Direzione Generale per gli Archivi (national archives of Italy) for posting to the HR\_ARCHIVES\_L list serve the 4-minute video showing the archives of the Brazilian political police. The video, “Memorial de resistencia,” won the grand prize at the 2009 FIAMP festival organized by AVICOM, the International Council of Museums’ International Committee for Audiovisual and New Image and Sound Technologies. Produced by Preto e Branco, the video was shot in a prison cell of what used to be the headquarters of the political police in Sao Paulo; the building is now a museum (Memorial da Resistência). The video commemorates the victims of the Brazilian dictatorship.

[http://www.pretoebranco.com.br/premio/premio\\_memorial.html](http://www.pretoebranco.com.br/premio/premio_memorial.html)

**News.**

**Cambodia.** The Extraordinary Chambers of the Courts of Cambodia has signed an agreement with the War Crimes Studies Center of the University of California, Berkeley, the Hoover Institution, and Stanford University to “provide public digital access to all ECC trial-related materials” such as the decisions, filings, trial transcripts and videos of court proceedings.

[http://www.eccc.gov.kh/english/news.view.aspx?doc\\_id=337](http://www.eccc.gov.kh/english/news.view.aspx?doc_id=337)

**Germany.** The East German secret police ripped and shredded documents in haste as the East German state collapsed in 1989. Now, using image-processing technology designed in Berlin’s Fraunhofer Institute for Production Facilities and Construction Technology, some 40

bags of torn documents have been reconstructed automatically.  
<http://www.timesonline.co.uk/tol/news/world/europe/article7070484.ece>

Ireland. Irish press reports that the Roman Catholic Diocese of Cloyne maintained records (“a meticulously maintained secret archive,” according to the newspaper *Independent*) on allegations of abuse of parishioners by priests, related correspondence, clerical responses, and the diocesan handling of the complaints. <http://www.independent.ie/national-news/stunning-flood-of-claims-held-in-secret-diocesan-archive-2114101.html>

Japan. Kazuhiko Togo, the director of Japan’s Foreign Ministry Treaties Bureau from 1998-1999, told a committee of the Diet that he had been told by an “insider” that documents on secret Japan-U.S. agreements had been destroyed. This testimony is part of a large public debate over the existence of the secret pacts, including one said to allow U.S. warships to carry nuclear weapons in Japanese waters.  
<http://www.asahi.com/english/TKY201003210158.html>

Poland. During a restoration project on a house near the site of the Auschwitz-Birkenau concentration camp, the homeowner found more than 200 documents relating to the work of the Nazi SS. According to a report from the Auschwitz Museum, many of the files refer to SS Doctor Victor Capesius, a pharmacologist who worked with the notorious doctor Josef Mengele. Capesius was convicted in 1959 of assisting in the murder of 8000 persons during the Second World War.  
<http://www.telegraph.co.uk/news/worldnews/europe/poland/7499713/SS-documents-discovered-near-Auschwitz.html>

Russia. Residents of the Moscow village of Rechnik claim that documents needed to legally register their houses “were stolen by government authorities when the residents had filed them” and that other documents that would support the registration “have been locked in state archives that residents have no access to.” Without the required registration, the houses are being demolished. <http://www.theotherrussia.org/2010/02/26/rechnik-state-stole-documents-to-legalize-homes/>

United Kingdom. In an unusual action, the UK government released, over US objections, seven paragraphs of the original judgment of the Divisional Court that summarized intelligence information the UK government obtained from the US related to the serious mistreatment of Binyam Mohamed while in U.S. custody. The UK Court of Appeal ruled that because a US court ruling in the case of another detainee included references to Binyam Mohamed, the UK court should release the information.  
<http://www.fco.gov.uk/en/news/latest-news/?view=News&id=21735373> and  
<http://www.fco.gov.uk/en/news/latest-news/?view=PressS&id=21735910>

United States. The Freedom of Information Commission in the U.S. State of Connecticut ruled on March 24 that patient case files of Civil War veterans (the Civil War lasted from 1861 to 1865) from the Connecticut Hospital for the Insane could be released for research. The case files date from the end of the war into the early 20<sup>th</sup> century.  
[http://www.state.ct.us/foi/Meeting\\_Agendas\\_and\\_Minutes/Minutes/2010\\_Minutes/20100324MRM.htm#\\_ftn1](http://www.state.ct.us/foi/Meeting_Agendas_and_Minutes/Minutes/2010_Minutes/20100324MRM.htm#_ftn1)

Uruguay. On 9 February 2010, the former president of Uruguay, Juan Maria Bordaberry, was sentenced to serve 30 years in prison for undermining Uruguay’s constitution and

participating in nine disappearances and two political assassinations committed by security forces while we has president. The sentence, background information, and declassified U.S. documents that were used as evidence in the case have now been put on the website of the National Security Archive.

<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB309/index.htm>

**Thanks.** Valerie Love has posted the previous issues of the ICA Human Rights Working Group newsletter on the website of the Thomas J. Dodd Research Center of the University of Connecticut Libraries. Thank you, Valerie!

[http://doddcenter.uconn.edu/outreach/symposium\\_outcomes.htm](http://doddcenter.uconn.edu/outreach/symposium_outcomes.htm)

**Please write.** If you have any information or news that you would like to share on archives and human rights issues, please write!