

Access: The Democratic Imperative*

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The author argues that there is a crucial link between access to archives and human rights. Recent experiences of central and eastern European countries in the context of 'the right to know' are highly relevant elsewhere. The impact on archives and the United Nations' principles for the protection and promotion of human rights is demonstrated. Freedom for one's file not only serves an individual's right to know: society at large has a vested interest too because access to archives is one means by which a society gets to know and to preserve its past. Moreover, the right to access information is an important aspect of democratic accountability, promoting transparency and encouraging full participation of citizens in the democratic process. Providing access is an essential part of the mission of archival institutions. The public has to trust the integrity of the archival institutions, and that depends on the trust in and the integrity of the archivist.

Freedom for my file

A recent book, *Rene Baker: File #28/E.D.P* contains the poignant story of Rene Baker, who at four years old, was literally snatched from the arms of her mother by a missionary. Being a half-caste Aboriginal, she was removed to Mount Margaret Mission. Fifty years later, with the help of Bernadette Kennedy, Rene Baker (now Rene Powell Baker) went searching for her mission file. Her search reminds one of *The File* by Timothy Garton Ash, who rediscovered part of his personal history through his Stasi file, juxtaposing the file with both his own diary and the informers who reported on him.¹ 'They've got *me* up there in Canberra', Rene Baker explained with a passionate emphasis on the word 'me'.

They've got something of me up there and I want it back. They're keeping me, but in real life they don't give a stuff because it didn't happen to them and they'll never know the experience that I and other kids went through. They keep these things but they don't respect the experience behind them.

'In some elemental way,' Kennedy adds, 'Rene did not perceive herself as separate from her records. Or, to put it another way, the records themselves were alive, were an extension of her spirit'²

Rene Baker's identification with *her* file echoes the slogan 'I want *my* file', shouted by civic groups who on 15 January 1990 stormed the offices of the Stasi, the ministry for state security, in Erfurt, Dresden, Leipzig, Berlin and other German cities. They put up banners claiming 'Security for *our* records', 'Freedom for *my* file'.³

'Freedom for *my* file' - My file? 'They've got something of me up there and I want it back'. Whose file? Why, for what purpose? Does freedom for one's file equal access as a democratic imperative?

Stasiland

During the 45 year history of the German Democratic Republic the Stasi headquarters in Berlin had been housing a surveillance machinery of 15 000 bureaucrats. Big Brother had been watching, but not primarily by keeping his eyes continually fixed on the citizens of the GDR, but by creating, updating, checking files on six million people - 180 linear kilometres in length. Of course, the Stasi had its cells and torture chambers,

but the Stasi womb-to-tomb surveillance was effectively a record-prison. Citizens were labelled 'enemy objects', and became, in the Stasi parlance, an operational case: human beings were turned into files, and 'kept', archived. When freedom fighter Jürgen Fuchs was given access to his Stasi file, he found that it consisted of 30 binders, each 300 pages, covering the years 1968 to 1989. The file of the famous singer Wolf Biermann had 40 000 pages.

With the files, a few men at the Stasi headquarters and its 14 branch offices throughout the GDR were able to control 'millions of people as if they were in the palms of their hands.'⁴ But the Stasi bureaucratic villains were not the only people filling the files. The Stasi used more than 173 000 informers among the citizens of the GDR: astonishingly, one Stasi officer or informer for every 180 citizens.⁵ Informers and the people surveilled were both prisoners of the Stasi files. Every informer had to write and sign a declaration of allegiance and secrecy, tying him- or herself to the Stasi as 'unofficial cooperator'.

The Stasi surveillance system is but one example of what Mark Osiel defines as 'administrative massacre ... large-scale violation of basic human rights to life and liberty by the central state in a systematic and organized fashion, often against its own citizens'.⁶

Administrative massacre generally takes place in a climate of war – civil or international, real or imagined. But administrative massacre may happen in peace too, as indigenous people, immigrants, asylum seekers and others know too well. 'The control of Aboriginal peoples through the creation and use of specific archives mirrors many of the characteristics of archives of repressive regimes'.⁷

In Anna Funder's *Stasiland* – the compelling book which won her the 2004 BBC Samuel Johnson prize for non-fiction – a German archivist reflects:

I think at the end the Stasi had so much information ... that they thought everyone was an enemy, because everyone was under observation. I don't think they knew who was for them, or against, or whether everyone was just shutting up ... When I find a file where they've been watching a family in their living room for twenty years I ask myself: what sort of people are they who want all this knowledge for themselves?⁸

Vera Wollenberger knows the answer. She was among the first to get access to her Stasi file in 1990. Imprisoned in the GDR in 1988, and later exiled for her human rights activities, she discovered how the Stasi had, as she writes, shared her bed: her husband Knud had been a Stasi informer, had spied on her, had lied to her.⁹ They divorced in 1992. Like Vera Wollenberger there are hundreds of thousands of people for whom their Stasi file turned out to be a Pandora's box. The Germans have been discovering more than the ugly evidence of a pervasive system of power and surveillance. 'Seldom in Europe', one newspaper reported, 'has [it] been demonstrated so convincingly as now in Germany that archives are no dead masses of paper, but living matter, intervening directly in the lives of hundreds of thousands of people'.¹⁰ 'These files change lives', Timothy Garton Ash writes.¹¹ A file ('this cardboard time machine') opens a door to the forgotten past, but another door closes: there is no way back now to your own earlier memory of people and events.¹²

Why then, 'freedom for my file'? To free the file from the system of the *restlose Erfassung* – this term used by the Nazis, means 'total registering', but also has the connotation of all-embracing seizure.¹³ Yes, but more than just that. As Vera Wollenberger writes:

Do I favour access to the files? My answer is 'yes', because the chances access provides make it worth to bear all the pain. Only when we have the courage to recognise the manifold faces of betrayal and denunciation, we may perhaps become immune for betrayal and denunciation.¹⁴

And another Stasi victim, painter Bärbel Bohley, co-founder of the civic movement *Neues Forum*, remarks, 'access to the files exposes the naked emperor, disenchant and destroys the wicked sorcery of the Stasi'.¹⁵

The first law granting access to the Stasi files was passed as early as August 1990, by the first and only elected parliament of the GDR. But the West German government, in its draft Unification Treaty, prescribed that the files would all be delivered to the Federal Archives in Koblenz, West Germany, where, most likely, they would be locked up for as long as the thirty-year rule. It was also suggested that they be held for a longer period, prescribed in the general data protection legislation. Ordinary people in the GDR were horrified. They feared that they would never know how their lives had been manipulated. Many people were suspicious of the Federal Archives being part of the Ministry of the Interior, responsible for

order and security.¹⁶ Protests began. On 4 September 1990 campaigners occupied the Stasi headquarters, a week later they began a hunger strike. The Fall/Winter 2004 issue of the *American Archivist* carries on the cover a picture from that episode: 'Besetzt! Die Akten gehören uns: Occupied! The files belong to us'.

The protesters were successful. The Stasi records were incorporated in the German Federal Archives law, but for the management of the Stasi files a separate Stasi Files Authority was created. I may, in passing, point to the current intense debate in Germany, since December 2004, about the transfer of the Stasi files to the German Federal Archives in Berlin (no longer under the ministry of the Interior, but under Culture) and to the State archives of the respective States.

Back in December 1991, special legislation regulating access to the Stasi files was enacted.¹⁷ The law gives access to the files in order that everyone 'may clarify the influence of the Stasi on his personal fate' – but also to protect individuals from injury to their privacy by the use of information collected by the Stasi. The third purpose, specified in the law, is ensuring and promoting the historical, political and juridical reappraisal of the Stasi activities.

In the first year since the creation of the Stasi Files Authority, 521 725 files were made available, in the following years the annual average was around 150 000. In total, more than two million people have been given access to the Stasi files; three million more requests from government agencies, researchers and the press for information from the files have been handled by the over 2000 employees of the Stasi Files Authority.¹⁸

The haunted lands

The German example has not been truly followed. In nearly all Central and Eastern European countries which came out of Communist rule priority has not been given for victims to use the files of police and secret services. The records are used instead for vetting of public officials and politicians but only if an officeholder is suspected of a 'lustration lie'.¹⁹ Officials are supposed to come forward themselves admitting to collaboration with the communist surveillance agencies. This is called 'lustrace', a word derived from the Latin and implying both 'illumination' and 'ritual purification'. If someone denies collaboration, the archives

are searched by the prosecutor who may prosecute with charge of 'illustration lie'.²⁰

Hungary established a Historical Archives Office of the Secret Services. The Hungarian Constitutional Court followed its German counterpart in using the interesting concept of the right to 'informational self-determination'. The German court derived this right from the constitutional right of 'the dignity of the human person' and the right of everyone to develop his personality freely. 'In plain English, I have a right to know what information the state has collected on me and, within limits, to determine what is done with it'.²¹ Hungarian victims of communist surveillance can see their file.

Since 2000, Romanians have been allowed access to the 1.8 million files the Securitate kept on them. Like the Stasi, the Securitate would not have succeeded in its totalitarian enterprise without the help of some 600 000 informers. Just 1.5 per cent of the collaborators were paid and 1.5 per cent were blackmailed, while the remaining 97 per cent were motivated purely by 'political and patriotic feeling'.²²

In February 2005, the Albanian Assembly rejected (with 54 votes for, 54 votes against, and 10 abstentions) a draft law to open the files of politicians who worked for the State Security. The deputies rejected the draft with the argument that it was anti-constitutional, and that some of the files have been manipulated since 1997.

The Czech Republic created an Office for the Documentation and the Investigation of the Activity of the State Security, and a Resource Center of the Unlawful Conduct of the Communist Regime. In 1995 these two departments were merged into the Office of the Documentation and the Investigation of the Crimes of Communism (ÚDV), in Prague.²³ ÚDV's mission is to expose and to prosecute criminal acts from the period 1948 to 1989. There is a limited opportunity for citizens to see their files - most files have been destroyed.²⁴

In Slovakia, the Institute of National Memory (UPN)²⁵ has, since November 2004, been publishing Communist-era intelligence service files on the Internet. The files revealed Deputy Construction Minister Ján Hurný as a secret service collaborator; he stepped down in January 2005 because of incessant media pressure over this revelation. The UPN was set up in 2002 to store state documents from the period 1939 to 1989, including 60 479 files of the Communist secret service.

The Polish Institute of National Remembrance – Commission of the Prosecution of Crimes against the Polish Nation (IPN)²⁶ started in 2000. Unlike its German and Slovak counterparts, the IPN never opened the files, but provided information mainly for the prosecution of former spies and informers. In February 2005, however, an index of 240 000 files ‘landed on the Internet, creating a frenzy among Poles scrambling to find out if their names are on the list’.²⁷ Public opinion is largely in favour of opening the files, but politicians fear the consequences.

Elena Danielson of the Hoover Institution recently described the experiences in Germany and other Central and Eastern European countries. She concluded that Germany’s opening of the Stasi files to the victims of the former regime has built confidence in the democratic process and created a sense of justice. Other countries, however, that invoked privacy to cover up past wrongdoings, refusing priority to citizens’ access ‘continue to wrestle with basic issues of legitimacy’.²⁸ As Tina Rosenberg concludes, in ‘the haunted land’ of post-Communism:

When the state does not grant its citizens the right to defend themselves from its power, when it withholds from citizens information that concerns them, when it declares itself lord and master of the truth, when it twists the legal system to suit political ends, democracy is threatened.²⁹

As Danielson and Rosenberg identify, freedom for one’s file not merely serves an individual’s right to know, but that society at large has a vested interest too.

The right to know

The right to know, and two other basic rights, the right to justice and the right to reparations, have been outlined in a key document of the United Nations Commission on Human Rights. These are principles which since 1997 guide the UN and its member states engaged in combating impunity (that is, exemption from punishment) of perpetrators of human rights violations. They are called the Joint principles, after the lawyer Louis Joint who wrote them.³⁰ In April 2005 the Commission on Human Rights decided to update the Joint principles, following the proposals of an independent expert, Diane Orentlicher, professor of law at Washington College of Law.³¹

The thirty-eight Joinet-Orentlicher principles begin with four principles on the right to know. The first is the inalienable right to know the truth about past events: 'Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations'. The right to know, according to Joinet, is not simply the right of any individual victim. It is 'also a collective right, drawing upon history to prevent violations from recurring in the future'.

The second principle is, therefore, the duty to preserve memory:

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 fulfilment of the State's duty to preserve archives and other evidence concerning violations of human rights and humanitarian law 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 third specification of the right to know is the imprescriptible right of victims and their families 'to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate'.

Finally, the fourth principle concerns guarantees to give effect to the right to know. 'States must take appropriate action, including measures necessary to ensure the independent and effective operation of the judiciary', and non-judicial processes that complement the role of the judiciary, for example 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 and humanitarian law.

Preservation and access

Five other Joinet-Orentlicher principles (14 through 18)³² deal with preservation of archives, access, protection of privacy, and the role of archival institutions.

Principle 14. Measures for the preservation of archives³³

The right to know implies that archives must be preserved. Technical measures and penalties should 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.

Principle 15. Measures for facilitating access to archives

- Access to archives shall be facilitated in order to enable victims and their relatives to claim their rights.
- Access shall be facilitated, as necessary, for persons implicated, who request it for their defence.
- 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.

The updated principle 15 is more strongly and less ambiguously phrased than the original Joinet principle, which read: 'When access is requested in the interest of historical research, authorization formalities shall normally be intended only to monitor access and may not be used for purposes of censorship'.

Principle 16. Cooperation between archive departments and the courts and non-judicial commissions of inquiry

Courts and non-judicial commissions of inquiry, as well as 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.

Orentlicher explains that 'legitimate national security interest' should be understood to exclude restrictions whose actual purpose or effect is to protect a government from embarrassment or to prevent exposure of wrongdoing.³⁴

Principle 17. Specific measures relating to archives containing names

(a) For the purposes of this principle, archives containing names shall be understood to be those archives containing information that makes it possible, directly or indirectly, to identify the individuals to whom they relate;

(b) All persons shall be entitled to know whether their name appears in State archives and, if it does, by virtue of their right of access, to challenge the validity of the information concerning them by exercising a right of reply. The challenged document should include a cross-reference to the document challenging its validity and both must be made available together whenever the former is requested. Access to the files of commissions of inquiry must be balanced against the legitimate expectations of confidentiality of victims and other witnesses testifying on their behalf ...

Principle 18. Specific measures related to the restoration of or transition to democracy and/or peace

(a) Measures should be taken to place each archive centre under the responsibility of a specifically designated office;³⁵

(b) When inventorying and assessing the reliability of stored archives, special attention should be given to archives relating to places of detention and other sites of serious violations of human rights and/or humanitarian law such

as torture in particular when the existence of such places was not officially recognized;

(c) Third countries shall be expected to cooperate with a view to communicating or restituting archives for the purpose of establishing the truth.

Here again, is society, not only the individual, vested with the right to know the truth. Freedom for my file, for our files, serves more than the individual's interest.

Notwithstanding the focus on government records, it is stressed that States must respect and protect the right of non-State organisations and individuals to collect, preserve and make available relevant documents concerning human rights violations. Orentlicher acknowledges the important role of domestic and international non-governmental organisations, universities and international organisations in societies' ability to exercise their right to know the truth about violations of human rights and humanitarian law.

The panoptic sort

You may have been wondering: that is all very interesting, but in our day-to-day practice as Australian recordkeepers we will only exceptionally encounter cases where our records are used to violate or to protect human rights. Some people might argue that the right to know, as articulated by the High Court of Australia, pertains to the right to know about the dealings of government: isn't that the main purpose of the Freedom of Information legislation and the access provisions of the Archives Acts?³⁶

I agree that access as a means to check and to improve government accountability is a democratic imperative. In fact, as Adrian Cunningham explains, when the French Revolution proclaimed in 1794 the citizen's right to access of public records, the purpose was government accountability and transparency. Records would continue to be instruments of power.³⁷ The right of access for French citizens was to access the minutes of the national assembly, and secondly, access to the titles of property of the national assets. It had nothing to do with historical research: the essential function of the archives was to serve the recovery of the national properties. Historical material was to be sent to the French National Library, all legal and fiscal records to the National Archives,

established as an agency of parliament. It was only much later that giving access to people to use the records as historical sources became part of the archives' mission (not before 1887, when the fifty year rule was introduced in France).

I would, however, not too quickly assume that the United Nations' principles for the protection and promotion of human rights are of limited interest when we try to define access outside the scope of combating violation of human rights. The right to know, and the four principles just mentioned, together with the provisions in regard to records and archives, benefit people everywhere, not only victims of human rights violations. We are, in a sense, all victims, victims of documentary surveillance. 'Freedom for my file' – my file is, however, not my file, but the file and files that all sorts of public and private organisations are keeping on me. There is indeed *No Place to Hide* from Big Brother and his Big Sisters.³⁸ As I said, at ASA's annual conference in 2002:

Every religious, economic, or social organisation is dependent upon administrative power, to control, to keep track of what the organisation is doing in relation to its members, workers, and clients. Consequently they also survey *and* determine how people behave. Oscar Gandy uses the term 'the panoptic sort' to denote the system of disciplinary surveillance, using a number of technologies, involving collection and sharing of information about citizens, employees, and consumers – information which is used to coordinate and control access to products and services in daily life.³⁹

As human beings, subjected to the panoptic sort of governments and private enterprise, we have the right to know. In our social contract with the state and with government, this right is a human right, as is the right on access to records it entails. But I ask you, shouldn't we be entitled to effect these rights in our social contract with the semi-public and private Big Sisters too? Power is 'an integral and primary aspect of social life',⁴⁰ and 'we cannot fool ourselves into ignoring the ways in which knowledge serves power and how knowledge in the service of power is collected, housed, catalogued and preserved'.⁴¹

On 31 March 2005 the final report on the review of the private sector provisions of the *Privacy Act 1988* (Cth) was due.⁴² The Australian Society

of Archivists was not one of the 136 organisations which contributed a submission – why not? Surely, the right to know and access to records are essential in ‘supporting understandings of Australian life through the management and retention of its personal, corporate and social memory’, as ASA’s Archivist’s Mission reads. In a globalised, privatised, individualised, digitised world the traditional boundaries between public and private, state and commerce are becoming permeable. No longer can they serve to fence off citizens’ rights from consumers’ rights. Access to information is, as Sue McKemmish, Barbara Reed and Michael Piggott write: ‘a contested, socially negotiable space, with attitudes changing over time in relation to specific circumstances and social norms’. They warn that ‘determining the role and responsibility for access provision to records and information is being contested between multiple disciplines, and archives and recordkeeping professionals are rethinking their roles’.⁴³

Evidence of us

‘Freedom for my file!’ wherever that file is located. But is it the individual only who is interested in his or her file? What is the larger societal good served by access as a democratic imperative? We can approach this question in two ways. The memory of society is built up by the collected memories, the living histories of individuals and communities.⁴⁴ ‘Evidence of me’, to use Sue McKemmish’s wonderful phrase, is evidence of *us* too.⁴⁵ Collective memory is ultimately located in individuals who are as essential as the recognised memory institutions in constituting, preserving, using and transferring stories, experiences, and memories.⁴⁶ Access by individuals to their files is, therefore, one of the means by which a community, a society, gets to know and to preserve its past. As quoted earlier, the right to know is not simply the right of any individual victim: it is ‘also a collective right, drawing upon history to prevent violations from recurring in the future’. It echoes the solemn declaration by the Council of Europe, in its 2000 ‘Recommendation ... to member states on a European policy on access to archives’: ‘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’.⁴⁷

Democratic accountability

And this guides us to the second approach of access as a democratic imperative, an approach via the path of corporate accountability. In 2002, the Commonwealth Law Ministers acknowledged that the right to access information is an important aspect of democratic accountability, promoting transparency and encouraging full participation of citizens in the democratic process.⁴⁸

'Well kept and accessible archives,' the Council of the European Union declared in 2003, 'contribute to the democratic functioning of our societies, particularly during a period of major change in Europe'.⁴⁹ It is therefore that liberalisation of access to documents is one of the conditions the European Union and the Council of Europe impose on nations who want to join. A recent example is the Ukraine. All files from the KGB and the Ukrainian intelligence service have been transferred to the State archives, with unlimited access. It is, as a Ukrainian colleague writes, the archival system that bears the whole burden of responsibility for keeping a balance between the interests of society – freedom of information – and individuals – protection of personal data.⁵⁰ On 13 December 2001 parliament passed a new Archives Act adopting the European norms on access to archives.

The Council of Europe's Recommendation specifies:

Access to public archives is a right. In a political system which respects democratic values, this right should apply to all users regardless of their nationality, status or function ... Wherever possible, *mutatis mutandis*, attempts should be made to bring arrangements for access to private archives in line with those for public archives.

The Recommendation is accompanied by an explanatory memorandum, which states that however liberal the access rules prescribed in legislation may be, the actual access to archives depends primarily on the facilities and on the human and financial resources which an archives service possesses for the preservation and the processing of its holdings.

Truth and trust

Besides legislation, facilities, human and financial resources: what are the prerequisites to fulfil the democratic imperative of access? Access to records as foundation of the right to know the truth?

The answer has been given by Trudy Huskamp Peterson.⁵¹ She surveyed twenty government truth commissions around the globe, to assess what happened or will happen with their records. Access to the records of a truth commission is essential, because without such access:

the only truth purveyed will be that in the final report. As many commissions know, the information in that report is a compromise, both among the members of the commission and between the commission and political powers.⁵²

One of her conclusions is that access to records is contingent on the vigor of democracy:

The best single predictor of how access will be handled seems to be how confident the public, including government officials, is that the change toward a more democratic government and away from the abuses documented by the commission is irreversible.⁵³

And, next to confidence in the democratic process, 'the fundamental requirements are security for the records, clear access rules applied fairly, and a trustworthy custodian'.⁵⁴ The public has to trust the integrity of the archival institution, and that depends on the trust in and the integrity of the archivist. Transparency International stressed in one of its Global Corruption Reports that the role of the archival institution in guaranteeing both accountability and public access is crucial. Moreover, Transparency International argues that:

Given that the systems the chief archivist manages and the records he or she holds provide the paper trails crucial for exposing mismanagement and corruption, we must question why these posts are so junior and under-resourced. Let us ask why the post of chief archivist is not accorded constitutional protection, and why it is not placed on a par with a supreme court judge or a supreme audit institution.⁵⁵

The Code of Ethics of the International Council on Archives states – more clearly than ASA's Code of Ethics – 'Archivists should use the special trust given to them in the general interest ... [and they must therefore] refrain from activities which might prejudice their professional integrity, objectivity and impartiality'.⁵⁶

The access paradigm – as formulated by Angelika Menne-Haritz in a seminal article in the first issue of the journal *Archival Science* – puts the user in the centre of archival awareness.⁵⁷ Access is not the actual use of archives, access enables use. Access as a paradigm is neutral to the very content of the archives: it is the autonomous responsibility of the user what information he or she creates out of the archives. That is equivalent to Paul Macpherson's argument 'the information any individual wants to access, is no-one else's business'.⁵⁸ The integrity and impartiality of the archivist force him or her to a 'passionate commitment' to access, to be able to act like Voltaire, who wrote in 1770 to M. le Riche:

*Monsieur l'abbé, je déteste ce que vous écrivez, mais je donnerai ma vie pour que vous puissiez continuer à écrire.*⁵⁹

Monsieur l'abbé, I detest what you write, but I would give my life so that you may continue to write.

Isn't access worth an archivist's life?

Endnotes

* Revised version of the paper presented at the seminar *Made Kept and Used: Celebrating 30 years of the Australian Society of Archivists*, Canberra, 5 April 2005.

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28 Danielson, p. 193. Ash, *The File*, p. 220 argues that no other post-Communist country could afford, as Germany did, spending so much money on 'coming to terms with the past'.

29 Rosenberg, p. 406.

30 Available at <[www.unhchr.ch/Huridocda/Huridoca.nsf/%20\(Symbol\)/E.CN.4.sub.2.1997.20.Rev.1.En](http://www.unhchr.ch/Huridocda/Huridoca.nsf/%20(Symbol)/E.CN.4.sub.2.1997.20.Rev.1.En)>.

31 Diane Orentlicher, *Promotion and protection of human rights. Impunity.*

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Available at <www.ohchr.org/english/bodies/chr/docs/61chr/E.CN.4.2005.102.Add.1.pdf>.

32 The updated principles 14 to 18 correspond to the original Joint principles 13-17. The latter have been reproduced in Peterson, *Final Acts*, pp. 91-99.

33 In the updated principles the word archives refers to collections of documents pertaining to violations of human rights and humanitarian law from sources including:

'(a) national governmental agencies, particularly those that played significant roles in relation to human rights violations; (b) local agencies, such as police stations, that were involved in human rights violations; (c) State agencies, including the office of the prosecutor and the judiciary, that are involved in the protection of human rights; and (d) materials collected by truth commissions and other investigative bodies'.

34 Orentlicher, *Promotion and protection of human rights*, par. 34.

35 The Joint principle 17(a) called for vetting of the head of the archives if he or she was already in charge of the archive centre before the transition. The updated principles contain a general clause (36) prohibiting public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence and judicial sectors, of serving in State institutions.

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