

From Political Promotion to Enlightened Dealing with the Past

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I am very pleased to be here in Cairo today at such a historic time and would like to thank you for the invitation. I also present you the best wishes for this successful conference on behalf of the International Council of Archives (ICA) and would like to thank you for offering us this opportunity for an exchange of ideas in an international framework.

The last two days are, for us here, predominantly coined by the fire in the *Institut d'Egypte* damaging heavily the rich documentary heritage of this venerable institution. I'm deeply impressed by the determined intervention by the National Archives' staff, however, I would like to remember that we should not only deplore the destruction of this valuable part of our documentary heritage but we have to deplore also the destruction of present-day public records in governmental institutions or what might be understood as private records e.g. in party headquarters ... This too prevents us to hand over to following generations what we might want to be our own documentary legacy.

This brings me directly to the conference's topic: Archives and Revolution. Archives and Revolution are apparently a topicality. Archives and Revolution are also contradictory terms as they oppose continuity to change or even rupture, this is difficult to handle for archivists.

But let me first ask: Are we really experiencing a revolution today? When has this Arab Spring exactly begun? There are various interpretations. For some, the trigger was the self-immolation of Mohammed Bouazizi, for others, it was the flight of Zine al-Abidine Ben Ali from Tunisia. In Egypt it was January 25, 2011. We have difficulties to determine the exact beginning – we certainly do not yet know when and how this spring will end.

But such uncertainty should not worry us very much. An uncertainty of this type also occurred with the French revolution. Louis XVI even noted in his diary on the 14 July 1789 «Nothing, Necker has left» and when he was woken in the night by the Duke of Liancourt, the Grand Master of the bed chamber, and informed of the storming of the Bastille, he was reported to have said: «But that is indeed a revolt», whereupon the Duke supposedly replied: «No, Majesty, that is a revolution.»

Preliminary Remarks

Let's understand the current events in Egypt and the Arabic states as a transition to democracy and situate them in the long tradition of revolutions beginning in the late 18th century with the American and French Revolution which has never stopped since. Or can we situate it in what has been presented yesterday as the Egyptian revolutionary tradition?

Many revolutions have had an important influence on Archives: the French National Archives as well as the first Swiss National Archives, the predecessor of the today's Federal Archives, are creations of these fundamental political changes.

As Egypt and the Arab states already have Archives it is no need to create one, but I would like to contribute to the thinking about their role in and after the revolution as presented yesterday and today. Archives are not limited to be the first aid to burnt documents.

From the perspective of archivists, I would like to ask if a «forced fundamental change of an existing state order [...] the instauration of a new political system, [of a new] form of

government and/or [the] personal change of the head of the government» – like *wikipedia* defines revolution¹ – also means a break in the archival tradition building? How do we deal with the archival heritage from pre-revolutionary times? How do we form the revolution's legacy? What is our role after the revolution?

Many documents were burnt during or in the aftermath of the French revolution. This symbolic treatment was intended to definitively get rid of the hated feudal rights by destroying the legal titles. But nor deliberate destruction of archives nor their destruction by accident facilitated by missing protection will bring us closer to democracy.

As a fundamental concept, I would like to refer to William Faulkner's excellent phrasing: «The past is never dead. It's not even past.»² Just as the past has never simply ended, and least of all is not dead, it needs reliable reminders on revolutionary political or societal disruptions.

In this perspective I want to raise two points: First, how is pre-revolutionary documentary heritage to be handled? This is what we used to call in the Swiss Government «Dealing with the Past». Second, what does archiving contribute to democratisation and democracy? This will be about accountability, responsibility and transparency.

1. How to deal with pre-revolutionary records

Towards the end of the 20th century many dictatorships and repressive and corrupt regimes that disrespected human rights came to a more or less sudden end – in Latin America, in Africa, in Asia but also in Europe. In every instance, dealing with the past became a challenge. In this context the French lawyer Louis Joinet made a presentation in 1997 to the UN-Commission on Human Rights' Sub-Commission on Prevention of Discrimination and Protection of Minorities.

His report entitled «Question of the impunity of perpetrators of human rights violations (civil and political) » outlined a framework for dealing with the past, based on four principles: the Right to Know, the Right to Justice, the Right to Reparation and the Guarantee of Non-Recurrence. The Right to Know basically challenges archives which form – can form – a substantial basis to this right. Thus, Joinet stated that preserving archives relating to human rights violations is one of the central measures in the fight against impunity and negationism as well as historical relativism or revisionism.

«This [...] right to know is also a collective right, drawing upon history to prevent violations from recurring in the future. Its corollary is a «duty to remember», which the State must assume [and the archivist as its servant has to contribute to it], in order to guard against the perversions of history that go under the names of revisionism or negationism; the knowledge of the oppression it has lived through is part of a people's national heritage and as such must be preserved. These, then, are the main objectives of the right to know as a collective right. »³

1 <http://de.wikipedia.org/wiki/Revolution> (consultation December 15, 2011)

2 Requiem for a Nun, 1951, Act 1, sc. 3

3 Louis Joinet: Question of the impunity of perpetrators of human rights violations (civil and political). Revised final report prepared by Louis Joinet pursuant to Sub-Commission decision 1996/119 Principles.

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/3beb2ad845c6874c8025666a003d41e2?Opendocument>;

[http://www.eda.admin.ch/etc/medialib/download/edazen/topics/peasec/peac.Par.0255.File.tmp/DwP%20Rapport%20D.Orentlicher%20\(fr\).pdf](http://www.eda.admin.ch/etc/medialib/download/edazen/topics/peasec/peac.Par.0255.File.tmp/DwP%20Rapport%20D.Orentlicher%20(fr).pdf).

Quotation from M^o Bleeker, The right to know: a key factor in combating impunity, in: Federal Department of Foreign

Affairs (Ed.): Dealing with the Past (Politorbis – Revue for Foreign Policy, No 50, Berne 2010, pp. 31-40, p. 31.

To assure the preservation of archives they need to be defended by protective and punitive measures against the removal, destruction or misuse (through any party), e.g. by the transfer to a safe place or the establishment of an inventory. Allow me to be very clear about this: this involves the safeguard and retention of potentially all the files of a state, thus including the files of military and security forces but also – depending on the political system – of dominating parties or of other important para-governmental institutions. It includes all relevant recorded information, not only paper records.

After the political transition the regulations governing access to and consultation of archives have to be adapted to the new situation. Archivists, therefore, have to treat and preserve with respect the records of a regime they might – as citizens and with good reasons – not respect at all.

The second important element: Archivists must also protect themselves against partiality in regard to the choice of records that should or should not be archived. Appraisal and selection must not repose solely in the service of revolutionary historiography or even hagiography. These efforts have to continue as even after successful democratic transition, we often note that e.g. the armed forces keep an on-going special status, exempting them from persecution, or revisionist parties return to power through democratic elections which can endanger archives.

Accordingly, the Swiss Government offers its good services under the umbrella of the «Dealing with the Past» initiative, cooperatively driven by the Swiss Foreign Ministry and the Swiss Federal Archives. The initiative is in its initial phase. One of our first projects in common is to safeguard copies of the historical archives of the Guatemalan National Police, found more or less by accident in 2005 and since carefully described and digitised. This is one of our contributions to a never-ending testimony of the regrettable persistence of crime; as Albert Camus wrote.⁴

2. Records for Democracy

Thinking about the archiving of recorded information of and during a revolution is one thing; another one is to define the path which is to be taken. How does an archive profit best from times of change to be able to design its own future? Archives in and for a democracy!

The Right to Know e.g. is not only a central element when dealing with a pre-democratic past. A Right to Know – as the freedom of information or the principle of transparency – is also an essential principle of the democratic state governed by the rule of law.

The democratic state, in my civic understanding the orientation point for today's revolutionary changes, is based on the sovereignty of the people; it is governed by the rule of law and has to respect the principle of separation of powers. The three classical state powers, the legislative, executive and judiciary, are formed from direct popular elections and indirect elections, for example in parliament. Consequently, the power of the legislature and the government and administration is a delegated power. As a delegated power, it must also be a controlled power.

4 Albert Camus: *Persécutés – persécuteurs* (1948), in : *Actuelles II. Chroniques 1948-1953*, Paris 1953, p. 19 : «Qui répondrait en ce monde à la terrible obstination du crime si ce n'est l'obstination du témoignage ?»

Democratic states know various forms of control(s). The first form is perceived through the independent judiciary that examines the conformity of laws with the constitution and that governmental and administrative acts conform to the law.

A second form of control occurs in a closed loop of policy making and policy implementation. Here, parliament and government work in tandem. The parliament makes an assessment of the implementation of its plans as expressed in its legislation and budgeting; it undertakes a sort of overall political assessment. For its part the government controls the practical administrative work in detail; this control is an integral part of its management responsibility. This assessment is simultaneously the basis for new management decisions. Thus, management and control complement each other directly and in spite of that remain in tension.

Each «control questions the acts of state and subjects them to a need for justification. It thereby builds a counter balance to the decision-making process and thus forms a tension that makes the decisions accountable.»⁵ In this way, control in addition to legislation, implementation of the law and law enforcement can be considered sui generis as a state function.

The perception of accountability again requires each decision to be comprehensively documented in its development – both in content and in procedure – and this documentation to be archived such that the controlling organs of the administration, the government and the parliament can fulfil over time their control functions. Therefore, the statement «The backbone of a transparent and accountable government is strong records management that documents the decisions and actions of the Federal Government»⁶ – quoted from the US Open government partnership action plan - must be music in every archivist's and records manager's ears.⁷

This right of access to official documents complements the democratic participation possibilities. Informed citizens are needed in order that a rational political discussion can take place.

Of course, only a part of the produced documentation about everyday administrative activities can be archived. Appraisal and selection are necessary - and enormously demanding.

3. Appraisal / Selection and Access

The archivists assume an unparalleled responsibility in the selection. Their evaluation decisions determine the transmitted documents that will be available for later generations. The choice for archiving determines once and for all what can be analysed and discussed later, based on sources. Eliminated records are irrevocably lost. Consequently, the appraisal is of central importance.

5 Philippe Mastronardi, Criteria for democratic administration controls. Analysis and concept of the parliamentary overall supervision in the Confederation, Basel / Frankfurt am Main 1991, p. 6 (translation by A.K.)

6 The Open Government Partnership. National Action Plan for the United States of America, September 20, 2011, p. 3f (http://www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf ; consultation December 15, 2011).

7 According to the Federal Act of 26 June 1998 on Archiving (http://www.admin.ch/ch/e/rs/c152_1.html) the Swiss Federal Archives are not only the archival repository of the Federal State but also responsible for the federal government's and federal administration's records management (lifecycle management of information).

It must be clear: Archives do not preserve the genuine truth. They preserve traces of past actions. They only speak to us through interpretation. Appraisal and selection must consequently not be reached with a view to certain, so-called great or small stories.

Certainly, selection is – as well as description – a form of storytelling. In so far as archivists are not only specialists, but are also dedicated citizens, this can result in a great dilemma. It would be wrong to demand denial and self-effacement from archivists and to expect an objective choice in the conservation of (state or other) records.

But: «Archivists should use the special trust given to them in the general interest and avoid using their position to unfairly benefit themselves or others.» This is part of the Code of Ethics of the ICA (point 8).⁸ I am not convinced that one can avoid conflicts; it seems to me to be more important to be aware of them and to address them explicitly.

Thus, not only the bad is to be documented for the pre-revolutionary time and only the good for the revolution itself or for the democratic state.

Regarding this point, the SFA have its own experience: At their founding by the new government installed in the wake of the Napoleonic occupation in 1798 they were given the mandate of documenting the good humanitarian actions of the new government and the important progress made under its rule. The archives were conceived as a sort of promotion agency for the new state. Of course, we have freed ourselves from this mandate a long time ago and we do not follow this original mandate anymore. Therefore, we too are in this conflict between thorough preservation of the records and continuous questioning by the records – in other words: between tradition and criticism.⁹

From this and in agreement with the dealings with the past policy I deduce the following for evaluation and selection: The focus in evaluation must clearly lie with records that document governmental actions which relate to basic rights and human rights – not only with their infringement or with discrimination. If we follow further the principle of responsibility, of the duty for accountability, then the documentation must also be kept safe from decisions that have great social, timely or geographical coverage, inter alia if these decisions cannot simply be cancelled. The documentation of the decisions themselves and the decision processes must be kept in a comprehensible manner. Judicial and non-judicial decisions are equally affected. Legal and historical-political responsibility both require records to be archived.

At the same time – and with this I am coming to the aspect of accessibility – archiving and the use of archives must not be misused. Even in the context of the painful coming to terms with the past, under the aspect of the rule of law, correct legal processes must be possible and also self-administered justice or public condemnation must be prevented. Archives are not made to simply name and shame people. Accordingly, the fundamental principle of the ICA's Code of Ethics, that «Archivists should respect both access and privacy, and act within the boundaries of relevant legislation» (ICA Code of Ethics, point 7) shall be respected, so long as this legislation itself occurs in a context defined by human rights. Archivists must therefore not only question, why whosoever wants to use which re-

8 ICA Code of Ethics (in English, French, Arabic etc.): <http://www.ica.org/?lid=5555&bid=225>.

9 As last examples of such critical questioning based on archives may serve: Discussion on Switzerland's role during the Second World War, its refugee policy, the relations to apartheid South Africa etc. The Swiss Federal Archives published inventories and guides to its fonds for every of these topics to facilitate the scientific analyses. The same has been done for the sources related to Switzerland and the Middle East even their has not (yet) been a larger political debate on this subject.

ords, they must also ask critical questions on whether the rules of accessibility have been fairly formulated.¹⁰ Here this might involve not easily solved questions of conscience.

Conclusions

In summary I would like to conclude primarily in a civic and not a scientific perspective:

1. Archives are typical institutions that must bridge historical, social and political as well as technological divides. The personal commitment of the archivists in the revolution creates an enormous challenge in regard to the dealing with the documentary heritage of the incoming or vanquished political systems and the creation of the revolution's own legacy.
2. There is never a single truth that is to be retained, rather there are several. Also the political arguments of today will continue for a very long time in form of historical and political debates in the future. Archivists, therefore, have to assure the appraisal, the description and the access to document societal responsibilities, rather than to nourish particular stories and they have to do this in a coherent and unique way to assure equal treatment to all citizens.
3. Archivists must document their own responsibility and comprehensively document their decisions and thereby remain open to criticism. They stand in conflict of their hierarchical involvement in instructional structures and the social responsibility for the whole society. They must be robust enough to endure this tension.
4. If the archives in an initial phase can help the democratic transition, as time goes on they will become indispensable for maintaining democracy and its good governance. Archives are a central pillar for every democracy. Their positioning has to be prepared in time.

It only remains for me to wish you success and sufficient courage to affront your difficult tasks. These are challenging times – but they give grounds for optimism and your courage and optimism is part of my own.

¹⁰ Federal Act of 26 June 1998 on Archiving (http://www.admin.ch/ch/e/rs/c152_1.html). This act defines free access to archives after a thirty years period of retention as a fundamental right. The Federal Act of 17 December 2004 on Freedom of Information in the Administration relativises the importance of this period of retention as the majority of governmental information are free for access more or less immediately, independently of their location in the Archives or in another federal agency.