

Macro Archives, Micro States

TRUDY HUSKAMP PETERSON

RÉSUMÉ Les documents de grande importance pour certains groupes de la population se retrouvent souvent dans des institutions d'archives qu'ils ne contrôlent pas. Plusieurs types d'évènements peuvent occasionner de tels cas de propriété contestée. Dans cet article, l'auteure met de l'avant une typologie de ces cas, en les liant à divers aspects du nationalisme, et discute de quelques-uns des efforts mis de l'avant afin d'améliorer les tensions qui entourent ces documents d'archives contestés.

ABSTRACT Records of concern to one people often end up in archives controlled by another group of people. Many different events generate these cases of contested custody. In "Macro Archives, Micro States," the author suggests a typology of such cases, links the cases to nationalist emphases, and discusses some current efforts to ameliorate the tensions these contested archives can cause.

Once upon a time, not so very long ago, there was a Russian Empire, a Thousand Year Reich, a Socialist Republic of Yugoslavia. Each had archives. Each body politic is no more. The archives remain.¹

When these powers broke up, their records often became the property of just one of the successor states. The people who had lived in the empire had a direct interest in the fate of its archives, for therein lay the documentation of their lives. If they became citizens of the successor state controlling the archives, nothing changed. Their new micro state controlled the macro archives of the former realm. But what if they became citizens of a successor

¹ Each of these cases is, of course, quite different. The records of Nazi Germany were dismembered by the victors and, although significant repatriation by Western Europe nations and the United States has occurred, the Russian government continues to hold massive quantities of German records. Some German mapping still remains in the US National Archives, while France and Germany have differing views on some records remaining in France. Conversely, the records of the former Socialist Republic of Yugoslavia are intact in Belgrade, in the archives managed by the current Federal Republic of Yugoslavia (consisting of Serbia and Montenegro) but the governments of Slovenia, Croatia, Bosnia, and Macedonia all have interests in them.

state other than the one controlling the archives? How would they gain access to records vital to them?

The break-up of empires or states, dramatic as it is, is only one way in which records important to one people are in the control of another state, or of an individual or organization in another state. Unexamined and unresolved, such custody cases can lead to grievances, both on the side of the persons interested in the records and the side of the persons holding them.

This essay will examine, first, some of the reasons why documents are important to a people; second, the basis for the claims of interest in documents that are outside the control of a particular state; and, third, the historical factors that have led to the current geographic deposit of records. Then we will turn to the recent statements of the international archives community on the issues of geographic dispersion and, finally, suggest some strategies for accommodating the interests of multiple communities in a single body of documents.

Let us be clear at the outset: although this question of macro archives and micro states has a particular resonance in Europe, it is a world-wide question. Let us also be clear that there are two “empires of interest” at work: one is based on a real political construct; the other, at least as powerful, results from hegemonic relationships that have no legal or political basis. Both are discussed in the sections that follow.

Why Are Documents Important?

At a functional level, documents provide evidence, over space and over time, of rights and obligations. My grandfather owned this house. I paid my 1997 income tax. I am a war veteran and you owe me a pension. I have a residence permit to live in this city. I am a member of the Winnebago tribe.

At a cultural level, documents help form social identity. As the detritus of time, documents are the material objects that shape the past. They provide one physical element to help define the cultural milieu – the linguistic, historical, artistic, and practical traditions of a people who identify themselves as a group.

The idea of a group as equal to a nation is one of the most powerful ideas of the nineteenth and twentieth centuries. The definition of what constitutes a nation is controversial, both in theoretical and political terms. One of the most respected students of nationalism, Anthony D. Smith, suggests that “a nation” is “a named human population sharing a historical territory; common memories and myths of origin; a mass, standardized, public culture; a common economy and territorial mobility; and common legal rights and duties for all members of the collectivity.”² In each of these nation-defining

2 Anthony D. Smith, “National identity and the idea of European Unity,” *International Affairs* 68, no. 1 (1992), pp. 55–76.

elements, documents play various key roles:

“A named human population sharing a historical territory.” Think of the search to find the first written reference to Finns or the arguments over whether Vlachs are the predecessors of the Romanians – all depending on documents from antiquity. Think of the claims of Palestinians and Israelis to a strip of the eastern shore of the Mediterranean. The historical territory is a shifting line, but documented through maps, treaties, cartularies, and wills, among others.³

“Common memories and myths of origin.” While these may be oral, by the dawn of the twenty-first century these are largely committed to documents, whether written or audio materials, created consciously to document the myth (as with certain types of oral history) or through the spontaneous generation of legacy (such as a letter to a grandchild).

“A mass, standardized public culture.” Many varieties of documents play this role, especially visual items, from motion pictures to television news, recorded so that parts of the footage can be shown again and again. Here, too, the religious documents play their part: the baptismal certificate, the enrolment in a community following an initiation rite, the possession of books and other writings of religious figures.

“A common economy and territorial mobility.” Contracts, notarial documents, passports, residence permits, all are familiar to archivists the world over.

“Common legal rights and duties.” Governmental documents, including legislative and judicial proceedings; documents of entitlement, such as social welfare documents; schedules for military service or for alternate social duties, all bind a person to a group.

In other words, documents are a potent legitimator of a group and its identity. They play a crucial role in claims of nationhood. It is no surprise, then, that a struggle over documents forms a theme within the larger conflicts among peoples and nations.

So what are the claims that people advance for controlling (if not necessarily possessing) documents that are not in their physical custody?

³ For an interesting discussion, see Susan Slyomovics, *The Object of Memory: Arab and Jew Narrate the Palestinian Village* (Philadelphia, 1998).

What Is the Basis for the Claim?

Four claims are made most frequently:

The first is the simplest: *the documents were made by us*. They are the records of our former government, the records of an organization that existed here, my grandmother's diary.

The second is quite different: *the documents are about us*. They are the records of the Portuguese administration of Brazil, but they are equally travel notes and diplomatic dispatches.

The third is that *the documents are in our language*. While this is most frequently advanced as a reason for a national library to hold all books and periodicals published abroad in the national language – for example, the national library of Hungary seeks to hold all Hungarian language newspapers published anywhere in the world – it is also equally true of anthropological notes that record a language as it was spoken in the past, such as the Spanish cleric Diego de Landa's notes of the spoken Maya language that, centuries later, provided an important clue to the decipherment of the Mayan glyphs.⁴

Finally, *the documents are of our religion*. Neither by us nor about us nor in our language, they remain sacred to members of our faith and we have a stake in their existence. The Dead Sea scrolls are an easy example, where persons of many faiths living in many countries, not speaking the language of the texts, have a vital interest in the survival of the documents.

Looking at this list of four claims we recognize that it easily divides into the two categories of provenance and pertinence. Archivists (and governments) usually attach most importance to provenance, but individuals (and scholarly researchers) are usually concerned with pertinence. In a state, then, that responds to both governmental and individual needs, the provenance and pertinence claims must both be heard.

How Do Documents of Interest to the Persons of One State End Up Geographically in Another State?

There are only two options: they were created there or they were taken there.

The simplest answer is that the documents were *created there*. The records in the capitol of a colonial empire – London, Paris, Berlin – about the colony. The scholarly notes and papers of the great Maya scholar, Yuri Knorosov, who lived in St. Petersburg and never visited the Maya region.⁵ The Hungarian language newspaper published in Romania. The Dead Sea scrolls.

But there are many nuances to the “created there” answer. Let us look at only a few of the many variations on this problem.

⁴ Michael Coe, *Breaking the Maya Code* (New York, 1992).

⁵ *Ibid.*

The most obvious is that a state broke up. If, for example, we talk about Czechoslovakia or the Soviet Union, there are records that were created in Prague and Moscow that remain there today and that are of vital interest to persons who now live in Slovakia or Ukraine.

Another obvious example is that one state became independent of or seceded from another state that continues to exist, and the new state retains the records that had been created on its territory. In this case it does not matter whether the independence is gained by revolution or evolution, whether the territory was a colony or a constituent part of the state itself. While we are most accustomed to thinking of the problem of the records in the colonial capitol that relate to the colony, the reverse is also true. The records of the British colonial governors of Massachusetts, for example, are in the United States, although they were created by British officials on His Majesty's business. They simply were not evacuated by the British government. In other words, this situation can easily be a problem for either the former colony or the former colonial power.

Yet another variation is when a portion of territory of one state is transferred to become part of another state, and the records remain in the location in which they were created. This may happen by peaceful agreement between the two states or by fiat at the end of an armed conflict. For example, when Alaska was sold by the Czarist government to the government of the United States, the records of the Russian governors of Alaska were specifically part of the purchase.

Finally, the documents were abandoned by persons or organizations leaving the state and those creators retain an interest in the materials. Whether it was the U.S. Army abandoning records as it left Vietnam or the Lubavitch community leaving books and documents in Russia as it departed for Brooklyn,⁶ governments and private persons regularly abandon documents, particularly in times of crisis. Another example is the records of the Nazi police in Paris during World War II. The German government could say they are records of German administration and so should be part of the records of the Third Reich held by the Bundesarchiv, while the French could take the position that these are records of the local administration of Paris during the first half of the 1940s.

In all these cases, the records stood still while the political structure around them changed radically.

⁶ The deep, complex, and heated story of the Lubavitch materials and their connection to the replevin of the "Smolensk Archive" is told in Patricia Kennedy Grimsted, "The Odyssey of the 'Smolensk Archive': Plundered Communist Records for the Service of Anti-Communism," *Carl Beck Occasional Papers in Russian and East European Studies* 1201 (University of Pittsburgh, 1995).

The other cause of documents of interest to persons of one state ending up geographically in another state is that the documents *were removed* from the geographic location of creation and taken to another country. Again, there are many variations, some benign and some malign.

First, a colonial government withdraws and takes the records of its administration with it. This is what happened, for example, when the French government removed its records from Algiers and Saigon and relocated those records to its archives in Aix-en-Provence.

Second, a fleeing government takes with it the records of its administration. It is, for example, known that the former government of Rwanda loaded its documents in busses and drove them across the border into exile.⁷ For another, the Chiang Kai-shek government carried official records with it as it fled to Taiwan.⁸ The former government may simply be a group in exile or, as in the case of Taiwan, may become the effective government of the place of exile.

Third, the documents are sent abroad for security. There are many examples in a wide variety of situations. First, archives may be sent abroad in time of war. For example, the Polish government at the onset of World War II divided the records of its Foreign Ministry into three parts: the most important records were sent to London, where they survived the war; the next most important records were sent by train south from Warsaw, where they were captured by the Germans and taken to Berlin, from where they were captured by the U.S. and taken to Washington and finally, after 1989, returned to Warsaw; the third part of the records were kept in Warsaw. A very different kind of sending of documents outside the country is the recent action by the government of Guatemala to deposit copies of its official documents with a university in the United States that will ensure their preservation and make them available.⁹ And sending documents abroad for security does not always involve governments: think of the immense production of samizdat documents in countries such as the Soviet Union, Poland, and Hungary during the Communist years, with copies sent outside the country as information and assurance that a copy would survive.

7 "And the Hutu brought with them the country's archives, still unpacked and stacked in buses at the exiled military leaders' tent headquarters on the shores of Lake Kivu. 'We crossed into Zaire with our archives, which we must keep', said Col. Juvenal Bahufite, a spokesman for the exiled Hutu army. 'Because when we return we want to bring them back with us.' ... 'The Government's administrative files and archives are stacked roof-high inside the buses, which are parked in the over-grown grass between rusting military vehicles filled with spare parts and a few camouflage tents.'" "A Refugee Camp Hums with the Spirit of Home," *New York Times* (18 July 1995), p. A4.

8 Beatrice Bartlett, "Saving the Ch'ing Archives," *Times Literary Supplement* (4 July 1986).

9 "Guatemalan leaders have turned to the Buckeye State to find a home for their official documents," *Chronicle of Higher Education* (7 November 1997), p. A47.

Fourth, a government or organization with installations on the territory of another state removes the records of its installation. This is true of embassies around the world, as well as United Nations' posts, foreign military establishments, church missions, non-governmental organizations, and corporations. This is also true of records of military occupations, such as the Supreme Allied Command in Japan after World War II, which removed its records to Washington at the end of the occupation.

Fifth, an individual emigrating takes documents with him. This ranges from taking grandmother's diary when you move from Poland to Australia to Freud taking his papers with him when he fled Austria for London. Again, the circumstances vary, but with many states, including all European Union nations, now requiring export permits for archives leaving the state, this will be an increasingly complicated question.

Sixth, the documents are sold or donated to a foreign organization or individual. Again, it would be important if the individual had the legal right to sell or donate the items and if the legal requirements for export of the state from which the documents were shipped were met. In the summer of 1997 a major scandal broke in Hungary when it was learned that a leading political figure had donated what he claimed were his personal papers to the Hoover Institution in Stanford, California, and the government claimed that he had not followed legal export procedures.¹⁰ Conversely, the family of composer Arnold Schoenberg removed his papers from California to Vienna without objection from U.S. officials because there is no export licensing procedure for archives in the United States.¹¹

Seventh, an organization or individual collects documents in one state and ships them to another. One famous example is Sir Auriel Stein's collection of Buddhist manuscripts in China, which he shipped to the United Kingdom; China now wants them back. The famous Maya codices are scattered in European institutions; Egyptian papyrus is in Berlin and Boston, Paris and Princeton. Often there is a dispute about the conditions under which the export took place and whether the individual or organization had a legal right to the removal. In the case of an occupied territory, such as Mexico during the Spanish conquest, the power in the country sanctioned the removal, although that power is no longer in place. In other cases, the then-government agreed to the removal, but a subsequent government considers that agreement void.

Eighth, the documents are stolen and smuggled abroad.

Ninth, the documents are carried off by armed forces during war. From

10 "Ministry Investigating whether Pozsgay has Violated Law," (translation), *Nepszabadsag* (6 August 1997), p. 1.

11 "USC-Schoenberg Cleft," *International Herald Tribune* (13-14 July 1996), p. 3.

Napoleon's army to the combatants in World War II, military forces seem massively unable to resist removing documents.

As we have just seen, a great variety of situations lead to dispersed archives; these in turn lead to tensions between governments and individuals over the fate of the contested materials.

What Has the International Archival Community Said about the Status of Dispersed Archives and Archival Claims?

Three important statements have been made by the international archives community during the 1990s on the problem of archival claims. First, at the International Conference of the Round Table on Archives in Thessaloniki, Greece, in 1994, the Round Table resolved that records of governments are "inalienable" but that it was not realistically possible to restitute records that predated 1923. In other words, while recognizing that there are still Napoleonic seizures missing from many archives, the Round Table agreed that such documents are now at rest.¹²

Second, responding to the Round Table's action, the International Council on Archives formally adopted a position on archival claims, in which it again stressed the inalienability of official records of governments and called upon states to work mutually for restitution.¹³

Third, in action at the Round Table in Edinburgh in 1997, the work of the European Union on a proposed draft policy on access was discussed and commended to other nations. As part of that policy, private records are to be treated as far as possible like government records.¹⁴

What Are the Strategies for Resolving Conflicting Claims and Interests?

First, it is important to distinguish between legal and moral claims. Next, it is important to distinguish between claims of states and claims of private individuals and organizations. Finally, it is important to consider the passage of time.

12 "Proceedings of the Thirtieth International Conference of the Round Table on Archives, Thessaloniki 1994," *Janus Special Issue, Proceedings of the International Conferences of the Round Table on Archives, XXIX-XXXI, 1993-1995* (Paris), pp. 135-36. This set of proceedings also includes a Reference Dossier on Archival Claims, compiled by Herve Bastien.

13 *ICA Bulletin* 44 (June 1995), pp. 7, 12-14. This included adopting the Reference Dossier on Archival Claims.

14 "Proceedings of the International Conference of the Round Table on Archives XXXII," (Edinburgh 1997). The resolutions are found on pages 126-27. "Principles for Archives and Current Records Legislation," *Janus* (1997.1), pp. 110-16.

Official Government Records Physically in the Hands of Another State

The stolen and forcibly removed official government records, in which the action happened in the latter three-quarters of the twentieth century, are the most visible cases. Surely the answer is to return the records to the current government of the creating nation; admittedly, there are instances where this is not currently politically possible. In a number of cases the state holding the records has first microfilmed and then returned them. In every case of which I am aware, the receiving state has had no objection to the retention of a microfilm copy in the holding state, so long as the original documents are returned.

If the state has dissolved into component parts, or a portion of the state is now an independent state, it is clear that each state has a stake in the records of the former union. These records of joint heritage are essential to the successful functioning of the new states, and duplication is one strategy. It is essential that the records are fully described and the description accessible to all successor states, whether by deposit of a physical copy of the description or by electronic access. It is also essential that for official purposes of government, access be given to the original records until such time as duplication of the records is completed. Further, the states should agree upon the priority for duplication, the format, and the extent of duplication required (states may be able to agree that disposable records, for example, need not be duplicated). Finally, until the agreement on duplication and disposal has been completed, the state holding the records should consult with the other successor states before taking any action that would change the physical status, or location, or the intellectual contents of the records.

Finally, in the case of official records abandoned by one state and now in the hands of another, the fact of abandonment (as opposed to seizure) reduces the ability of the creator state to claim the inalienable right of return. The moral claims, however, remain, and again a duplication and return policy may be a satisfactory solution.

Official Government Records in the Hands of the Creator State but of Interest to Another State

This situation excludes the possibility of the exchange of the physical originals, so the only possibility is internationally accessible description in accordance with the International Standard for Archival Description, unrestricted access after the passage of time required for the security of the creating state to be maintained, and possibly duplication. The international project to create an electronic finding aid to the records of the Komintern is an example of a current major effort in this area.

It is important for all states to recognize the extra-territorial interest in

many of the official records of governments. National archives need to be especially sensitive to the appraisal and disposition of records of foreign ministries, military units, and even trade and transportation ministries, particularly in the jumbled world of the late twentieth century.

Private Records or Papers Created in a State but now Residing Outside the State

In the case of a dissolved union government, there may be instances when records or personal papers were removed from one geographic location in the old union (a location to which they are historically tied) and deposited in another location, the latter location now outside the boundaries of the new state to which they are most germane. As an example, the papers of the Ukrainian national poet, Taras Shevchenko, were held in the USSR's literature archives in Moscow, although they are immensely important to the Ukraine. Certainly these are documents over which the new states should negotiate; at minimum the holding state should consult with the state of historic attachment before taking actions that would affect the materials. But this is a matter of moral claim to the materials, not the legal rights in the succession of states to the official records.

Unlike the above, in which the private source documents are held by a government whose predecessor moved them within boundaries of a pre-existing state, the private documents that have crossed borders have a different status. Here the first question is the legality of the export; again, seized and stolen documents are the first priority for restitution. The major problem is what constitutes illegal removal. In the instance of war the situation is reasonably clear, but when a successor government disputes an export agreement made by a previous government or when a government claims that its laws were not fulfilled, the situation is murky. The potential for restitution also depends on whether the exported goods are held by a government or by a private institution. And, of course, if money changed hands there is yet a further complication.

Conclusion

It is important for the archival community to agree that not all documents from or about a country must reside in the country. To insist that a state must hold all documents or copies thereof by, about, or in the language of its people ignores the reality of the dispersion of information about a country and its people in the legitimate business and personal documents of other states and individuals. It ignores the legitimate concerns that peoples and institutions have had in the past about the security of documents within the borders of the state – think only of the records of the anti-Franco forces during the Franco

years in Spain, and the important service that was performed by the International Institute of Social History in Amsterdam by saving those documents from danger. And it often does not make economic sense for one state to seek to hold duplicate copies of documents about the country that are maintained in open, accessible, secure archives in another state.

What archivists must insist upon, however, is that the fonds of pertinent documents are described using international standards, that the description is internationally easily available, and that as soon as practicable access be freely granted. We are at a stage in technological history that makes such access on demand possible.

It may be that the coming years will see yet more countries emerge – Abkhazia from Georgia, Chechnya, even Quebec. Or, in some regions, we may see the conquest or merger of others: the current political situation in central Africa is far from clear. And in each case the archival records, the official documents of governments and the private ones of individuals and organizations, will reflect that change and will document the shifts for future archivists to describe. We have not seen the end of the fusing and dividing of empires or the instances of documents acting like sand in the gears of international political machinery.