

Recordkeeping Professional Ethics and their Application



Archivaria

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RÉSUMÉ Cet article examine le concept du code d'éthique pour les archivistes et les gestionnaires de documents comme un travail en cours. Il fournit d'abord un court aperçu d'un domaine qui connaît présentement des développements théoriques et pratiques importants : le lien entre la gestion éthique des documents et les droits humains, surtout à l'échelle internationale. Il donne ensuite une analyse plus détaillée des codes d'éthique des archives de plusieurs pays anglophones et francophones, ainsi que du Conseil international des archives (ICA) et de ARMA International. L'auteure suggère que les écarts entre ces codes nationaux peuvent s'expliquer, au moins en partie, par l'absence de lien avec un contexte sociétal plus vaste. Elle suggère aussi que cette lacune – et la confusion pour certains de savoir *quel* public exact est visé – les affaiblit : si les codes d'éthique ne semblent s'appliquer qu'à un petit groupe de professionnels et à une gamme de questions assez restreinte, ils risquent de devenir détachés des questions plus larges, et donc de cesser d'être pertinents à l'ensemble de la société. La prochaine section de l'article comprend trois études de cas portant sur la gestion des documents et des situations éthiques réelles, puis elle examine si l'application des codes d'éthique des archives actuels aurait pu influencer sur les résultats obtenus. L'article termine en imaginant quelques développements futurs pour les codes d'éthique des archives.

ABSTRACT This article examines the concept of codes of ethics for archivists and recordkeepers as a work-in-progress. It begins with a short review of an area now undergoing significant theoretical and practical development, the association between ethical recordkeeping and human rights, particularly at the international level. This is followed by a more detailed analysis of archival codes of ethics from several Anglophone and Francophone countries, as well as that of the International Council on Archives (ICA) and of ARMA International. It is suggested that the discrepancies between such national codes are at least partly owing to their lack of connection to a wider societal context. It is also suggested that this lacuna – and the confusion in some as to precisely *what* audience is being addressed – weakens them; if codes of ethics appear to apply only to a narrow group of professionals and a limited range of issues, they risk becoming unconnected to larger concerns and thus irrelevant to the wider society. The next section consists of three case studies addressing recordkeeping and real-life ethical situations, and asks whether the application of current codes of archival ethics would have made a difference to the outcome. The article concludes by offering some possible future developments for archival codes of ethics.

Introduction

“A professional code of ethics is a statement of standards for judgement and conduct generally accepted by members of the profession,” writes Theo Thomassen. Most codes focus their concern and attention on providing quality services to the general public and society at large. They all include purely moral rules, referring to fairness, integrity, honesty, respect, confidentiality, professional etiquette, objectivity, neutrality, disclosure of all material facts, professional due care, adherence to law, and professional competence in the field. Professional autonomy asks for a code of ethics.¹

The discussion of any code of professional ethics could thus clearly focus on a wide range of concerns. In this article, however, the focus is on the relationship (actual or potential) between codes of ethics for archivists and/or recordkeepers and broader global ethical concerns, such as that of human rights, as well as the applicability of those codes to real-life record-keeping situations and the ethical dilemmas that they produce.

The choice to link codes of ethics and human rights was not made at random. Many individuals and organizations are now making explicit connections between the right of citizens to access information – whether about themselves, their government or other agencies such as business corporations – and personal and social freedoms, even economic and national development. Technological advances have made such access possible from all parts of the world, while those same advances are leading archivists and others along the whole spectrum of record-keeping and information-management groupings to realize that their areas of professional concern are overlapping, where they are not actually interdependent. Among other questions raised by this developing nexus is one which this article attempts to explore with respect to codes of ethics: are the instruments of the past – even the recent past – adequate to meet the evolving demands of the future?

Ethics and Human Rights

At what may be called the highest level – that of international or supranational organizations – recordkeeping and the preservation of archives are increasingly linked to ethical concerns in other areas, in particular human rights and the associated concepts of accountability and transparency. While full discussion of this topic is outside the scope of this paper, even a brief review of developments over the past decade shows that an international consensus on the impor-

1 Theo Thomassen, “Archivists Between Knowledge and Power: On the Independence and Autonomy of Archival Science and the Archival Profession,” *Arhivski Vjesnik* 42 (1999) pp. 149–67.

tance of information (especially full and free access to information) is fast emerging. This consensus provides both a context within which specific codes of ethics for record-keeping professionals can be examined, and some benchmarks against which they can be measured. Since its inception in 1948, the International Council on Archives (ICA) has been very closely linked to the United Nations Educational, Scientific, and Cultural Organisation (UNESCO).² Beginning in the early 1990s – when the fall of communist regimes across Central and Eastern Europe made it a topic of particular interest – the two organizations fostered several initiatives that linked recordkeeping to wider issues. In 1993, at its Round Table Conference in Mexico, the ICA decided to establish an expert group, sponsored by UNESCO, to discuss problems related to the archives of former repressive regimes. The expert group's report, *Archives of the Security Services of Former Repressive Regimes*, which drew on the experiences of a number of countries in Europe (including Spain and the former East Germany), Latin America, and Africa, was published under joint UNESCO and ICA auspices in 1997. The report – also known as the *Quintana Report* after its author, Antonio Gonzalez Quintana – begins with a short introduction setting out its objectives. The main point is to achieve practical results:

... to draw up a series of recommendations on how to handle such archives [i.e., of now-defunct tyrannies] ... to provide archivists of countries in the process of democratisation with information on the range of problems they have to face. At the same time a catalogue of methods developed in various countries which have been involved in a similar process would be provided.³

After a sketch of the expert group's working methods, the report considers *why* the archives of repressive regimes continue to be important even after the system itself has disappeared:

The major role played by archives is characterised not only by their function as the keys to our recent past, but also by their administrative value in the exercise of indi-

- 2 International Council on Archives, *ICA History*, <http://www.ica.org>. The two bodies signed a six-year co-operation agreement in October 2002. Among other things, this was intended "to foster international reflection and debate on the ethical, legal and societal challenges which the international archival community faces with the advent of knowledge societies." (UNESCO and ICA Signed Agreement for Six-Year Cooperation Today [press release], http://portal.unesco.org/ci/en/ev.php-URL_ID=6164&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 25 April 2006).
- 3 Antonio Gonzalez Quintana, *Archives of the Security Services of Former Repressive Regimes: Report Prepared for UNESCO on Behalf of the International Council of Archives*, section 1.1, paras. 1 and 2, 1997, http://portal.unesco.org/ci/en/files/4979/10325906730Archives_of_the_Security_Services_of_former_Repressive_Regimes.rtf/Archives%2Bof%2Bthe%2BSecurity%2BServices%2Bof%2Bformer%2BRepressive%2BRegimes.rtf (accessed 2 March 2007).

vidual rights. This is illustrated when the democratic regime wishes, for example, to deal with amnesty for political crimes, or indemnity for the victims of repression or their families.⁴

Quintana goes on to give reasons for preserving the documentary sources for the study of repression and the importance of archives during political transition. Under the latter heading he first discusses individual and collective rights, and then considers more specifically how the archives of, for instance, the secret police or security services should be treated. He identifies four “necessities”:

- That archives of the repression must be submitted to law (which includes placing them under the control of the new democratic authorities, keeping them in specialist archival institutions, and if necessary creating special legislation to protect them).
- That archival legislation and regulations guaranteeing the rights of individuals must be developed.
- That information on these archives must be made known to the new government, to external organizations such as trade unions and religious bodies, and to the general public.
- That the archivists in charge of these documents must adopt a special code of ethics. This code should include such points as that the rights of individual victims take precedence over historical investigation (presumably when considering priorities and the allocation of resources), and that the archivists are not to act as censors, but obey the relevant laws.⁵

In the next section, Quintana discusses the identification of *fonds* (i.e., the bodies that created the records, related to the ideas of provenance and original order), appraisal, preservation of the integrity of the *fonds* (e.g., by not removing documents), description of the archives, security, and administration. While these are “technical” elements considered by archivists when dealing with *any* group of records within their purview, Quintana places them in the specific context of human rights. He points out, for instance:

Many of the reports and documents in these files would probably have no legal value as evidence in the democratic process. There is no doubt that the information they contain is, in many cases, pure invention. But they are authentic documents. In the democratic period, documents of the former régimes will become authentic and valid proof of actions taken against people for political, ideological, religious, ethnic and racial motives. Thus, they will be valid documents for the exercise of rights such as amnesty, reparation and compensation of victims of the repression.⁶

4 Ibid., section 2, last para.

5 Ibid., section 3 (throughout).

6 Ibid., section 4.2, para. 2.

The report concludes with a brief overview of how new governments had handled the archives of their predecessors in the period 1974 to 1994.

Dr. Michael Cook, in his discussion of the Quintana Report, points out that a number of the elements Quintana describes are administrative proposals rather than ethical points.⁷ Nevertheless, by “situating” these elements within the context of, and as supports to, human rights, Quintana does make clear that they involve ethical considerations, whereas in some of the professional codes discussed below the connection becomes very tenuous.

Although Quintana’s proposed Code was not formally adopted by the ICA, his approach was reflected in a recommendation prepared for the World Summit on the Information Society (WSIS), held under UN auspices in Beijing in May 2002 by the ICA and UNESCO. The recommendation begins with a statement of principles, among which are:

2. Archives and records concern all citizens today and in the future as evidence of their rights and entitlements ...
4. Archives and records are essential to effective governance and a prerequisite for accountability ...
6. Archives’ and records’ preservation guarantees the authenticity, integrity and availability of information over time ...
8. Access to archives and records requires appropriate legislation and implementation.
9. Access to archives requires appropriate training for archives users, staff and future staff.
10. Accessible and affordable technology permits global sharing of on-line information ... thereby creating a commonwealth of information and knowledge.⁸

Although the principles again combine purely ethical statements with concrete administrative proposals, it is clear that the latter are to support the former. Principle ten, in particular, connects this document with the WSIS concern that new technologies be used to empower, rather than exclude, the ordinary citizen, something which must be enabled through practical steps, such as the provision of infrastructure and appropriate equipment. The second part of the recommendation makes this explicit by outlining actions that should be taken by government and other bodies to support each principle.

7 Michael Cook, *Professional Ethics and Practice for Archives and Records Management in a Human Rights Context*, para. 1 (2004), <http://mybestdocs.com/cook-m-ethics-and-human-rights0509.html> (accessed 24 March 2007).

8 International Council on Archives (ICA)/UNESCO, *Consultation in Preparation for the World Summit on the Information Society, Recommendation* (2002), http://portal.unesco.org/ci/en/files/2572/10258034780Beijing_Recommendation_2002.doc/Beijing%2BRecommendation%2B2002.doc (accessed on 27 March 2007).

A number of other initiatives followed the Report, in many of which the ICA co-operated with other organizations or drew on their work. For instance, in the general resolutions, which emerged from its meeting in Capetown in October 2003, the International Conference of the Round Table on Archives (CITRA) explicitly referred to the WSIS, which was due to follow its first meeting with a summit meeting in Geneva in December 2003. The resolutions themselves include a “Resolution on Archives and Human Rights Violations” in which archives are viewed as “evidence supporting victims’ rights for reparation; as an essential element of collective memory; as a means of determining responsibilities for rights violations; and as a basis for reconciliation and universal justice.”⁹ In April 2004, the ICA followed the Capetown meeting by founding a working group, Archives and Human Rights, to coordinate the projects stimulated by the resolutions. This group in turn was one of those sponsoring a colloquium on “Archives, Justice, and Human Rights” held at Lyon in December 2006; other sponsors included the French Association of the History of Justice and the Association of French Archivists, supported by, among others, the law faculties of the Catholic University of Lyon and of Lyon III, as well as the local bar association and courts. The Archives and Human Rights Group also sponsored another meeting and a debate on the same topic in Geneva in March 2007, on the fringes of a session of the Council on Human Rights; the co-organisers this time were the Swiss Department of Foreign Affairs and the Federal Archives, Guatemala. The ICA’s focus on human rights is also extending to applications of its standards and procedural guidelines: a version of the International Standard for Archival Description, ISAD(G), created in 2005, applies it specifically to human rights archives.¹⁰

Although the 2002 ICA/UNESCO recommendation mentioned above refers to records – that is, current records – as well as archives, most of the documents discussed so far concentrate on the latter, thus tending to emphasise their historical aspect even when they take on a new meaning in the present. Jeremy Pope, a former director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat, and first managing director of Transparency International, took a different approach in a 2006 lecture to the Archives and Records Association of New Zealand (ARANZ), highlighting the importance of managing current records to support human rights and the

9 International Conference of the Round Table on Archives (CITRA), XXXVIIIth Conference, *Resolutions of the Delegates’ Meeting of the International Council on Archives*, <http://old.ica.org/new/citra.php?ptextid=resolutions&ptextannee=2003&plangue=eng> (accessed on 28 June 2007).

10 Trudy Huskamp Peterson, *Application of ISAD(G) for Human Rights Archives* (2005), [http://www.ica.org/biblio/ISAD\(G\)%20Human%20Rights%20intro-application.pdf](http://www.ica.org/biblio/ISAD(G)%20Human%20Rights%20intro-application.pdf) (accessed 2 March 2007).

accountability of governments to their citizens. Pope cites cases such as that of a man in India who was kept in jail for thirty-seven years, awaiting trial for riding on a train without a ticket, simply because his file had been lost; or the disastrous flood which struck Accra (capital of Ghana) because plans for the building of its drainage system were lost partway through construction. He also discusses the work of non-governmental organizations (NGOs) like Mazdoor Kisan Shakti Sangathan, which leads the Right to Information Movement in India. Among other activities, this group organizes public meetings at the village level in which local people can examine the records of development projects, and interrogate project officials over misappropriation of funds and misreporting. Such concerns, he points out, are linked to the advocacy work of Transparency International, which believes that the creation of an “open society” can be part of any nation’s democratic development – it should not be pushed aside by, for example, the need for economic growth.¹¹

From this brief review it can be concluded that recordkeeping – the consistent and principled management of both current and archival records in whatever media – is increasingly viewed as an important contributing element in many areas of ethical concern. However, ethical codes developed within the record-keeping profession itself tend to be more narrowly focused, while at the same time showing considerable diversity in their preoccupations.

International and National Codes for Record-keeping Professionals

The documents and policies discussed above were all created at a supranational level. Most record-keeping professionals, however, follow codes of ethics or conduct developed by a national professional body (or, in the case of the code formulated by the ICA, a dedicated international equivalent). This section analyzes a number of such codes to discover whether their concerns are consistent with those identified by international bodies; if not, what areas they *do* choose to emphasize; and, if there are differences between the national codes themselves, what they might be.

The following codes have been selected:

- Society of American Archivists (SAA; United States): 1955, revised in 1980, 1992, and 2005
- Association of Records Managers and Administrators (ARMA; now ARMA International): 1975, revised in 1992 and 2006
- Association des archivistes du Québec (AAQ): 1991

11 Jeremy Pope, “No Records, No Rights, No Accountability,” 2006 Archives and Records Association of New Zealand (ARANZ) Lecture, 29 March 2006 (not yet published – text kindly communicated by Michael Steemson, 31 March 2006).

- Association of Canadian Archivists (ACA): 1992
- Australian Society of Archivists (ASA): 1993
- South African Society of Archivists (SASA): 1993
- International Council on Archives (ICA): 1996
- Association des archivistes français (AAF): 1996

This is not, of course, an exhaustive list. However, selecting documents from a number of major Anglophone and Francophone societies seemed logical, since these are not only the two main working languages of the ICA, but appear to represent two rather different theoretical approaches: the Anglophone emphasizing a pragmatic approach, often focused on the tasks of their (presumed) professional audience, the Francophone setting out broader principles as the context for such tasks. The codes are addressed in chronological order, illustrating how later documents could build on earlier developments. The SAA code was the first created for archivists, and is discussed in some detail, as its evolution shows both the influence of external events and an “internal” movement between very detailed and much more high-level versions. The ARMA code defines itself as intended for a much wider audience than most other codes – membership in ARMA includes not only archivists but also librarians, legal professionals, information technology (IT) managers, and others. The AAQ and ACA codes, although developed in the same country, take very different approaches, while the AAF code and ancillary documents show how the ICA code can be viewed through a national context. The ICA, of course, is the main international archival organization. The ASA code develops the pragmatic approach, while the SASA code is of particular interest for its unique historical context (also discussed later in the case studies).¹² A tabular comparison of some of the elements of the codes examined in the following section can be found in the Appendix.

12 In looking at this list of codes, it is noteworthy that there seems to be a “cluster” that was developed or substantially revised in the 1990s. The reasons for this can only be surmised, though Yvonne Bos-Rops did offer some suggestions in her presentation to the 2004 ICA Congress in Vienna: an increasing emphasis throughout the late 1980s on archives and privacy, both in professional circles and the wider society; professional symposia on archival ethics; and the development or publication of other codes in related professions. Although Bos-Rops only cites the International Council of Museums code, other information-related groups issuing codes or statements on ethics at this period included the Institute of Electronic and Electrical Engineers (IEEE) in 1990, the American Society for Information Science (1992), and the American Library Association (1995). It may be that as new technology developed and information professionals became more aware of their specialized knowledge, there was a perceived need to mark this in some way. Yvonne Bos-Rops, “The ICA Code of Ethics: A Challenge for Professional Organisations, sect. 1,” paper presented at the Fifteenth International Congress on Archives Vienna, 23–29 August 2004, available at http://www.wien2004.ica.org/imagesUpload/pres_47_BOS_ROPS_SPA01.pdf (accessed 23 March 2007).

The earliest professional code for archivists was written in 1955 by Wayne C. Grover, Archivist of the United States, and was intended for use in a National Archives in-service training program. The details of the development of the SAA Code which follow are drawn from a paper presented by Karen Benedict at the Fifteenth ICA Congress in Vienna in 2004.¹³ Its seven points include:

1. The archivist has a moral obligation to society to preserve evidence on how things actually happened and to take every measure for the physical preservation of valuable records ...
2. The archivist must realise that in selecting records for retention or disposal he acts as the agent of the future in determining its heritage from the past...
3. The archivist must be watchful in protecting the integrity of records in his custody ...
4. The archivist should endeavour to promote access to records ... but he should carefully observe any established policies restricting use of records...
5. The archivist should respond courteously and with a spirit of service to all proper requests ...
6. The archivist should not profit from any commercial exploitation of the records in his custody, nor should he withhold from others any information he has gained as a result of his archival work in order to carry out private professional research ...
7. The archivist should freely pass on to his professional colleagues the results of his own or his organisation's research that add to the body of archival knowledge ...¹⁴

During Grover's tenure, the document was an internal document originating from an archival institution; he therefore concentrated on the treatment of records once they have been transferred to its custody, rather than the processes by which those records had been accumulated, organized, and sifted in the originating agencies. His approach was a mixture of principle and practical concerns. Both these aspects of his Code were to be replicated in many later developments. The SAA used Grover's code informally until 1979. Its applicability had already been tested in 1968 by the Lowenheim case, in which

13 Karen Benedict, "An Evolution in a Code of Ethics: The Society of American Archivists," paper presented at the Fifteenth Annual International Congress on Archives Vienna, 23–29 August 2004, available at http://www.wien2004.ica.org/imagesUpload/pres_36_BENEDICT_SPA01.pdf (last viewed 23 March 2007). Prior to presenting her paper at the ICA, Benedict had published *Ethics and the Archival Profession: Introduction and Case Studies* (Chicago, 2003), an examination of forty case studies involving ethical considerations on "nearly every facet of professional archival work—from appraisal and administration to reference and the work of archivists."

14 Benedict, "An Evolution in a Code of Ethics," pp. 7–8.

Professor Francis L. Lowenheim charged that the Roosevelt Library had denied him access to research material because one of its own staff was editing a work which would publish the same documents.¹⁵ Though an investigating committee did not uphold Lowenheim's charge, both Benedict and Bos-Rops¹⁶ feel that the incident stimulated the SAA to consider the need for a code of ethics covering the whole archival profession, as did changes in laws and attitudes relating to freedom of information, the protection of privacy, and copyright.

The SAA set up an Ethics Committee in 1976 to begin developing such a document, and after various drafts their work was finally approved by the SAA Council in 1980. The Code of Ethics for Archivists (1980) continued to embody a number of Grover's original points – courteous response to enquiries, balancing their own and others' research needs, contributing to professional knowledge – while more specifically identifying the archivist's main areas of work (appraisal, arrangement and description, and public access). It also added two new elements:

Archivists negotiating with transferring officials or owners of papers seek fair decisions based on full consideration of authority to transfer, donate and sell; financial arrangements and benefits; ...

Archivists respect the privacy of individuals who created or are the subjects of records and papers, especially those who had no voice in the disposition of the materials ...¹⁷

Although the accompanying Commentary stated that the Code was intended to guide “people in a variety of fields: archivists, curators of manuscripts, and records managers,”¹⁸ in fact it seems most applicable to the first two. Furthermore, a good deal of the Commentary – in particular its strictures on collecting policies (Section III) and relations with donors, and restrictions (Section IV) – seem directed especially toward non-public archives, which are an important sector in the United States.

A revision of the Code of Ethics was undertaken at the end of the 1980s and the result published in 1992. This version began with an explicit statement of the purpose of a code of ethics, which had been relegated to the Commentary in the 1980 document:

Codes of ethics in all professions have several purposes in common, including a statement of concern with the most serious problems of professional conduct, the resolution of problems arising from conflicts of interest, and the guarantee that the special expertise of the members of a profession will be used in the public interest. ... A code of ethics implies moral and legal responsibilities ...¹⁹

15 Ibid., pp. 8–9.

16 Bos-Rops, p. 1.

17 Benedict, p. 9.

18 Ibid., p. 10.

19 Ibid., p. 15.

Much of its text simply expanded on that of the 1980 version, sometimes by incorporating commentary alongside the main text. Also its headings were often identical to that of the earlier Commentary.

The committee charged with drawing up the 1980 version had recommended establishing some means of ensuring adherence to, and implementation of, the Code, specifically by including ethical considerations in training courses for archivists, and by setting up a committee on professional standards and ethics, which would deal with possible violations of the Code. The SAA, however, was concerned about the possibility of “lawsuits for damages to reputation or loss of business”²⁰ and did not establish any such body. The task force that compiled the 1992 iteration of the Code also proposed a mechanism to investigate and deal with alleged violations. Although the original recommendations were not implemented, in June 1994 the SAA Council did create the Committee on Ethics and Professional Conduct, and in 1999 adopted a set of recommended procedures. Unfortunately, in 2001 when the Committee received a complaint that the Library of Congress was unethically retaining records of the Communist Party USA, the Library rejected the Committee’s offer of mediation between the parties, and it became clear that the Committee’s procedures were seriously flawed. This led to further scrutiny not only of the procedures but of the Code. The latter was now criticized on the grounds that

... the effort to clarify sections of the code lead to detailed commentary which rather than clarifying meaning lead to limitations in interpretation. ... conflicts have circumstances that are different from one another and might have a need for different resolutions. The commentary does not offer sufficient interpretations to deal with the complexity of the problems that arise.²¹

In view of these difficulties, the SAA has abolished the procedures, while the Committee on Ethics and Professional Conduct drew up a short, “interim” Code, which was published for comment and further development in 2004. As the Committee pointed out, “this version of the code has, for the first time, removed all reference to professional conduct and institutional best practices from the document.”²² Sections are arranged under the following headings: Preamble; Purpose; Professional Relationships; Judgement; Trust; Authenticity and Integrity; Access; Security/Protection; and Law. The text of the sections are short statements of principle, devoid of the details of work processes found in the 1980 and 1992 versions. On the other hand, any state-

20 Ibid., p. 2.

21 Ibid., p. 5.

22 Ibid., p. 7.

ment that the Code is intended to apply to record-keeping professionals other than archivists has also disappeared, while Section II (Professional Relationships) refers specifically to “historical and documentary records of enduring value.”²³ It remains to be seen in what directions this currently rather sketchy and “high-level” document will be developed.

It may have been the existence of Grover’s first short Code which stimulated the Association of Records Managers and Administrators (later ARMA International; hereafter ARMA), based in the United States, to approve its own code in 1975. ARMA has perhaps a wider-ranging membership than many of the other groups under discussion, since it deliberately orients itself toward the private sector and non-archival information professions as much as toward public (national or local) archives. Its first Code of Ethics took the unusual form of a pledge:

I, as a member of the Association of Records Managers and Administrators, and in accordance with its constitution and bylaws acknowledge that:

I have an obligation to other members of this association, my country, my employers ... to contribute ... to the promotion and improvement of the profession of records management ... to share and disseminate accurate knowledge of the various areas of records management; ... to maintain and enhance the reputation of this association ... I acknowledge that I must make an earnest effort, as a matter of integrity, to fulfil these obligations.²⁴

By 1992, this short (and very personal!) document had been replaced by an extended Code of Professional Responsibility, divided into four parts: Preamble, Purposes of the Code, Social Principles, and Professional Principles. The Preamble briefly defined “information and records management” and described ARMA. The Purposes section lays out the Code’s educational function: “This code is intended to increase the awareness of ethical issues among information and records management practitioners and to guide them in reflection, decision making and action ...”²⁵ Professional Principles emphasizes professional education and integrity, particularly with regard to an information and records manager’s relationship to their employer – a concern which received only the slightest acknowledgement in the various versions of the SAA Code. However, it was the Social Principles, and the clarifying comments which accompanied them, which took a broader view than the SAA:

23 Ibid., p. 6.

24 Association of Records Managers and Administrators [ARMA], *Code of Ethics* (1975), <http://ethics.iit.edu/codes/coe/assoc.records.managers.administrators.a.html> (accessed 20 June 2007).

25 Association of Records Managers and Administrators [ARMA], *Code of Professional Responsibility* (1992), <http://ethics.iit.edu/codes/coe/assoc.records.managers.admin.1992.html> (accessed 20 June 2007).

Because of their responsibilities to society, information and records managers

1. Support the free flow of information and oppose the censorship of publicly available information ... [Commentary] ... *Information and records management professionals understand that information and knowledge are the lifeblood of a free society. Therefore, they support the broadest possible access to public information.*
2. Support the creation, maintenance, and use of accurate information and support the development of information management systems which place the highest priority on accuracy and integrity. [Commentary] *The flawed creation, maintenance or application of information can harm individuals or organisations in many ways ...*
3. Condemn and resist the unethical or immoral use or concealment of information. [Commentary] *Properly used, information is a powerful tool, one which can ... overthrow corrupt governments ... improper, illegal, unethical, or immoral use or concealment of information can wreck careers, cost lives, or destroy organisations ... The information professional acts to prevent improper uses of information and refuses to affiliate with individuals or organisations that permit or promote such activity.*
4. Affirm that the collection, maintenance, distribution, and use of information about individuals is a privilege in trust: the right to privacy of all individuals must be both promoted and upheld.
5. Support compliance with statutes and regulations related to recorded information.²⁶

The Code of Professional Responsibility was re-adopted in 2006, with some alterations. Chief among these were a rewording of the Purposes section, which gained an outward focus:

The Code communicates our professional values to new practitioners, stakeholders, and the public.²⁷

The Social Principles were also explicitly linked to the International Records Management Standard, ISO 15489, which is quoted in relation to the maintenance of authentic, reliable, and usable information. However, the Principles now recommended that records and information professionals, “Affirm the legal, ethical, and moral use of information” rather than condemn its unethical use or concealment, and, while they should still support the free flow of publicly available information, they were no longer advised to resist censorship.

The “Code de déontologie”²⁸ adopted by the Association des archivistes du Québec (hereafter AAQ) in 1991 took a different approach from the SAA’s

²⁶ Ibid.

²⁷ Association of Records Managers and Administrators [ARMA International], *Code of Professional Responsibility* (2006), <http://www.arma.org/about/overview/ethics.cfm> (accessed 20 June 2007).

²⁸ Association des archivistes du Québec [AAQ], *Code de déontologie* (1991), <http://www.archivistes.qc.ca/fonctionnement/deontologie.html> (accessed 20 June 2007). *Déontologie* is a code of duties and rights regulating the exercise of a profession.

documents of the same period, and had a more societal focus. Its definitions are broader:

Archiviste : toute personne qui œuvre dans le domaine de la gestion de l'information organique et consignée ...

Information organique et consignée : l'information produite ou reçue par une personne physique ou morale dans l'exercice de ses activités et se présentant sur un support quel qu'il soit.

Gestion de l'information organique et consignée : la création et l'acquisition, l'évaluation, l'organisation et le traitement, la conservation et l'élimination ainsi que l'accès et la diffusion de cette information, à quelques stades de vie qu'elle soit.²⁹

In theory at least, the AAQ Code could apply not just to archivists but also to a wide range of information professionals, and in this it more closely resembled the ARMA Code. Like the ARMA document, too, it is divided into sections on “social” and “professional” missions rather than detailing the content of an archivist’s or recordkeeper’s work as the SAA Code does. The “social mission” of an information professional includes a strong human rights element: “contribuer au maintien et au développement de la démocratie en s’assurant que les droits des citoyens et citoyennes soient protégés.”³⁰ The “professional mission” specifies, among other points, that recordkeepers should “faire preuve d’ouverture aux autres professions favorisant ainsi l’atteinte de la multidisciplinarité et de l’interdisciplinarité.”³¹ Finally, an information professional’s approach should be characterized by impartiality, objectivity, equity, integrity, efficiency, professional solidarity, and “professionalism” – that is, respect for the principles, norms, and methods accepted by the record-keeping profession, continued personal development, and professional discretion. Some of the points in this section (La déontologie) seem to be adapted from the then existing SAA Code – for example, a professional recordkeeper should not allow themselves to be caught in a conflict of interest – but in general, the tone of the AAQ Code is far more abstract and “high-level.” There are also specific differences: for instance, although the SAA

29 Note: all translations from French within this article are those of the author. “Archivist: all persons working in the area of the management of recorded information ... Recorded information: information produced or received by a physical or legal person in the course of their activities, on whatever medium. Management of recorded information: the creation, acquisition, evaluation, organization, arrangement, conservation and destruction, as well as access to and diffusion of, such information, at every stage of the life cycle.” It is also important to note that in French, the word “archives” signifies both current and historic records, and “archiviste” someone who works with either.

30 “Contribute to the maintenance and development of democracy by ensuring that the rights of all citizens [lit. male and female citizens] are protected.” *Code de déontologie*, “La mission sociale.”

31 “Adopt an open-minded attitude toward other professions, thus favouring the development of multidisciplinarity and interdisciplinarity.” *Ibid.*, “La mission professionnelle.”

codes of the same time emphasize the individual's right to privacy, they do not make the connection between information and civil rights found in the *Déontologie*, nor do they urge co-operation with other professional groups.

The Association of Canadian Archivists' (ACA) Code of Ethics, adopted in 1992, follows the contemporary SAA work-based approach rather than the broad societal focus of the AAQ. Its first section, titled Principles, describes ethical principles as embedded in specifically archival work practices: "Archivists appraise, select, acquire, preserve, and make available for use archival records ..."³² The emphasis on archives, to the exclusion of other areas of recordkeeping or information management, is made even clearer in the second part, Applications of Principles, which is divided into the headings: Appraisal, Selection, and Acquisition; Preservation; Availability and Use; Professional Conduct; and Advancement of Knowledge. Much of this text parallels the SAA documents of the same period, although the Commentary to the 1980 SAA Code and the main text of the 1992 version provided introductory statements of purpose, which are lacking in the ACA Code. In the area of human or civic rights, the ACA Code, although it emphasizes the right to privacy of both the subjects and users of archival records, does not explicitly link access to information/records and citizens' rights as the AAQ does.³³ In addition, Principle Two was revised in 1999 to read: "Archivists have a responsibility to ensure that they and their colleagues are able to perform these and other professional activities in an environment free of discrimination and sexual or personal harassment,"³⁴ a stipulation not found in either the SAA or AAQ Codes.

The Australian Society of Archivists (ASA) adopted its own Code of Ethics in 1993. Although the Preamble states that "Archivists can be involved in records and systems management and design,"³⁵ which suggests a possible extension of the Code into the area of current information/records management, it goes on to specify that "Archives are those records of any individual or organisation which are no longer required for current use but have been selected for permanent preservation because of their evidential or informational value,"³⁶ thus potentially limiting the Code's applicability.

The Preamble explicitly links the development of the Code with the wider objectives of the ASA, an element not found in the SAA, AAQ, or ACA documents, even though all of them were sponsored by similar voluntary profes-

32 Association of Canadian Archivists [ACA], *Code of Ethics* (2002), Principle 1, <http://archivists.ca/about/ethics.aspx> (accessed on 24 March 2007).

33 Ibid., Principle 3, "Application of Principles," C2 and C5.

34 Ibid., Principle 2.

35 Australian Society of Archivists [ASA], *Code of Ethics*, Preamble (2003), <http://www.archivists.org.au/about/ethics.html> (accessed 24 March 2007).

36 Ibid.

sional groupings. However, it follows and expands on the 1992 SAA document in stating why a professional code of ethics is desirable:

The Code seeks to establish minimum standards of conduct for all ... The Code is intended to provide guidance about issues and problems of professional conduct irrespective of the circumstances in which individual archivists may find themselves. The Code is designed to assist individuals to assess and analyse their situations and behaviour.³⁷

Unlike other codes of ethics for recordkeepers until that date, the ASA Code proper begins with a section on archivists' legal responsibilities. Much of the next section – Professional Responsibilities and Conduct – has a quasi-legal emphasis as well: its subsections include Appointments, Recommendations and Inducements, Criticism and Complaints, Injury to Repute, and Misrepresentation. Section 2.1.2, which anticipates the ACA Code revision of 1999, notes that archivists, like others in society, are bound by human rights legislation that prevents discrimination: “Archivists apply objective criteria to all matters of appointment, promotion and award without reference to race, colour, sex, sexual orientation, politics, political activities, religion, national origin or beliefs.” The quasi-legal emphasis within this section even extends to include a formal stipulation under the final subsection, Advancement of Knowledge, that “Archivists ... shall not plagiarise.”³⁸

Although the Preamble to the Code states that it will exclude matters which should be regulated by individual organizations or require a discretionary response, the text of its final section – 3. Professional Responsibilities and the Records – is arranged under the headings: Acquisition or Transfer, Valuations, Deaccessioning, Preservation, Integrity of Materials, and Confidentiality and Privacy, which once again, as is the case with the SAA Code, situates the discussion of general principles in a very specific work context. Section 3.4.2, for instance, states that “Archivists ... are especially vigilant respecting the most common causes of damage to records in all media, namely fire, excessive light or heat, damp, dryness, dirt and insect or other vermin attack.”

This pragmatic approach is taken even further by the Professional Code for South African Archivists adopted by the South African Society of Archivists (SASA), also in 1993. This document begins with a section on terminology, where definitions are provided for the following phrases: records, archives (“All records ... which are no longer required in the day to day transaction of business and which have permanent historical or other research value or long-

37 Ibid.

38 Ibid., 2.5.2.

term administrative value”³⁹), archives repository, records centre/intermediate repository, records management, archivist, and principle of provenance. In its next section, Mission, the archivist is stated to be accountable to “the archives creator, employer and user.”⁴⁰ Unfortunately these terms are not defined, so it is not clear from the Code itself whether these parties are to be regarded as one and the same, or potentially separate, nor how the archivist is to act should there be a conflict of interests in the latter case.

Section Three, Functions, begins by recognizing archivists’ potential influence on the creation of new records: “[the archivist shall] provide professional advice concerning efficient records management to offices which create records,”⁴¹ but the rest of the text discusses only how non-current records are to be dealt with. Section Four, Archival Ethics, again embeds ethics in archival practice with headings such as Preservation, Appraisal, Care, Provision of Access, Provision of Information, Archivist and Employer, and Archivist and Profession – indeed, it quotes almost directly from point two of Grover’s 1955 code of professional conduct in saying “The archivist is the agent of the future in determining its heritage from the past. Therefore his/her decisions must be impartial – free of ideological, political or personal prejudice.”⁴²

Finally, Section Five, Qualifications, covers Requirements for Appointment and Requirements for Promotion in some detail – the only code of ethics, among those considered here, to do so.

In 1996 the ICA promulgated a code of ethics for the entire profession. Drafts were drawn up and circulated by members of the ICA’s Records Management and Archival Professional Associations (SPA) steering committee between 1990 and 1994, and were discussed at a national and international level. Bos-Rops says that

... comments were discussed and amendments were introduced in order to make the code acceptable to different national traditions ... It became clear that the code should be more a code of ethics than a code of practice. Therefore the basic duties concerning the respect of interest of archivists, users, employers and records were emphasised and different practices were accepted within uniform principles ... It was also definitely decided not to make two codes, one for state and municipal archives and one for private archivists, as was suggested by some, but one text for the whole profession.⁴³

39 South African Society of Archivists [SASA], *Professional Code for South African Archivists*. 1.2. (1993), <http://www.archives.org.za/code.html> (accessed 25 March 2007)..

40 Ibid., 2.

41 Ibid., 3.1.

42 Ibid., 4.2 Appraisal. As noted earlier in note 14, Grover states “The archivist must realise that in selecting records for retention or disposal he acts as the agent of the future in determining its heritage from the past ...”

43 Bos-Rops, “The ICA Code of Ethics: A Challenge for Professional Organisations, Section 2,” http://www.wien2004.ica.org/imagesUpload/pres_47_BOS_ROPS_SPA01.pdf (accessed 23 March 2007).

However, when a finalized version of the text was submitted to the Executive Committee of the ICA, the Committee did not approve it and instead requested a new version.⁴⁴ The outcome was a collaboration between the President of the ICA, Jean-Pierre Wallot, and members of the SPA steering committee, to produce a text, which eventually merged a list of ten principles drawn up by Wallot in consultation with others with a version of the SPA code to act as commentary on the principles. This was agreed to by, successively, the SPA Steering Committee and the ICA Executive Committee, and the General Assembly of the ICA, which formally adopted the code in September 1996.⁴⁵

The Code, as now published in various formats by the ICA and adopted by a number of national archival associations, consists of an introduction and ten short statements of principle, each of which is then expanded on in a paragraph of commentary. The Introduction is primarily concerned with defining the Code's purpose, scope, limitations, and implementation, emphasizing its voluntary nature:

- A. A code of ethics for archivists should establish high standards of conduct for the archival profession ...
- B. Employing institutions and archives services should be encouraged to adopt policies and practices that facilitate the implementation of this code.
- C. This code is intended to provide an ethical framework for guidance of members of the profession, and not to provide specific solutions to particular problems ...
 - The code is dependent upon the willingness of archival institutions and professional associations to implement it ...⁴⁶

Point B defines "archivists" as "all those concerned with the control, care, custody, preservation and administration of archives," although the term "archives" itself is not defined. This lapse becomes somewhat problematic in

44 Bos-Rops unfortunately does not state what the Committee's objections were, apart from "[a] need ... of universal or near universal principles, to which later rules, practices and examples could be added." Ibid, p. 2.

45 For a robust discussion of the ICA Code of Ethics and the process by which it was created, see Chris Hurley, "The Role of the Archives in Protecting the Record from Political Pressure," presentation to the 15th International Congress on Archives, August 2004, Vienna, <http://www.sims.monash.edu.au/research/rcrg/publications/ch-reprise.pdf> (accessed 25 April 2007). Hurley argues that the text originally drafted by the SPA was "watered down" in order to gain the Executive Committee's endorsement, and that the Code as it now exists represents "the subversion of true professional accountability by interests within the profession opposed to it." The argument is not taken up in this paper, but it will be interesting to see in what direction the ICA Code is revised if and when such a step is taken.

46 ICA, *Code of Ethics* (1996), <http://www.ica.org/biblio.php?pdocid=12> (accessed 22 March 2007).

the text of the Code itself. Point 1 states that “Archivists should protect the integrity of archival material and thus guarantee that it continues to be reliable evidence of the past,” which suggests that the Code concerns only those professionals working with historical material. However, the commentary on Point 2 – “Archivists should appraise, select and maintain archival material in its historical, legal and administrative context ...” – seems to expand the archivist’s sphere of reference: “Archivists must perform their duties and functions in accordance with archival principles, with regard to *the creation, maintenance and disposition of current and semi-current records ...*” (my emphasis). Point 5 reads “Archivists should record, and be able to justify, their actions on archival material,” but the commentary here also extends the definition of “archival” beyond its usual limits in English:

Archivists should advocate good recordkeeping practices throughout the life-cycle of documents and cooperate with record creators in addressing new formats and new information management practices. They should be concerned not only with acquiring existing records, but also ensure that current information and archival systems incorporate from the very beginning procedures appropriate to preserve valuable records.

Point 7 (“Archivists should respect both access and privacy, and act within the boundaries of relevant legislation”) also seems to concern work with current information at least as much as historic records:

Archivists should take care that corporate and personal privacy as well as national security are protected without destroying information, especially in the case of electronic records where updating and erasure are common practice.

In other words, the understanding of the terms “archivist” and “archives” in the ICA Code seems to be closer to the French equivalents (discussed above under the AAQ Code) than that usually found in English. This is perhaps not surprising, as the ICA – which is based in Paris – often works primarily in French. However, the text of the Code as currently (2007) presented does not seem to recognize or clarify the possible confusion in roles which it sets up – or, on the other hand, to take the opportunity to specifically extend record-keeping professionals’ sphere of activity. Furthermore, much of its text appears to be drawn from the pre-existing SAA, Canadian, and Australian codes, which were intended for the guidance of those working with “archives” in the English sense *only*. It is not clear whether the authors worked through a process of reconciling these strictures with the expanded professional activity, which they have outlined in other sections.

The ICA Code of Ethics was adopted by professional groupings in many countries, at least some of whom, however, situated it within a more localized context. The Association des archivistes français (AAF), for example, drew up a subsidiary document, “Les principales missions de l’archiviste/Principal

Missions of the Archivist.” This does indeed define archivists as responsible for records at all times from the point of creation:

L’archiviste ... est chargé notamment de la conservation des archives historiques, mais il intervient également en amont de la chaîne de traitement de l’information et sensibilise les services à ce principe essentiel : un document est un document d’archives dès sa création ...

Il élabore des outils de traitement des archives dès leur création : ces outils permettent d’analyser l’utilité des documents produits, de fixer leur durée de conservation, de déterminer quelles seront les archives définitives.⁴⁷

However, “Les missions” identifies the archivist’s most important function as communicating knowledge of historic records to the widest possible audience:

Il communique les documents aux différents publics qui le souhaitent : services, chercheurs, genealogists, étudiants ... cette dimension de la profession justifie toutes les autres, la finalité de la conservation des archives étant de pouvoir, dans le respect des délais fixés par la loi, les communiquer au plus grand nombre.⁴⁸

It seems that the document is still intended to apply most closely to professionals dealing with historic archives. Indeed, “Les missions” appears to emphasise the spreading of knowledge more or less for its own sake, rather than identifying accessibility to information as a component of civil rights, as the AAQ Code does. From this admittedly brief review of some of the codes of ethics of professional recordkeepers now in place at the national and international level, some common points do emerge:

- All the national codes surveyed were developed or adapted by societies or associations oriented toward archivists rather than record-keeping professionals in general (ARMA’s is not intended to be a *national* code). Members of such associations, of course, often work in more areas than

47 “The archivist is especially charged with safeguarding historic archives, but he also intervenes at an earlier stage of the chain of information management and sensitizes organizations to this essential principle: a document is a record from the moment of its creation. He develops tools to treat records from the moment of their creation: these tools allow analysis of the usefulness of the documents produced, to fix the period during which they are retained, and to determine which will be the definitive archives [the archives/records to be retained permanently.” Association des archivistes français [AAF], *Les principales missions de l’archiviste* (1996), http://www.archivistes.org/article.php3?id_article=98 (accessed 24 March 2007).

48 “He provides documents to the different audiences which request them: government services, researchers, genealogists, students ... this dimension of the profession justifies all the others, the ultimate aim of retaining archives being the ability – after the period fixed by law – to communicate them to the largest number [of people] possible.” Ibid.

the relatively limited one conveyed in the English sense of the term “archives,” and the language of some codes (e.g., AAF, ICA) also seems to either recognize the role of these other categories of recordkeepers or to extend the role of the archivist. Nevertheless, this does not seem to be explicitly stated, and its implications are not discussed in the text of the codes themselves. Overall, the codes appear to have limited applicability for those working with records other than historic archives, despite the fact that those archives are accumulated through the management of current information. This may also have come about because national archives or similar bodies have been established as state agencies in most countries, whereas it is difficult to find a similar “natural” focus for recordkeepers and information managers in either public- or private-sector organizations.

- The codes cited here differ markedly in the *raison d'être* given for their existence. Some are stated to be primarily for members of the archival profession(s) themselves – for example, SAA, ASA, and ICA – while others situate professional responsibilities in a larger context (e.g., AAQ). Others still (e.g., ACA, SASA) offer no justification at all. With the exception of the ARMA and AAQ codes, however, few situate themselves in a larger societal context. This is particularly noteworthy given the development of just such a context at an international level with respect to human rights since at least the 1970s, and the very active involvement of the ICA in that development.
- Many of the texts appear to be codes of *practice* as much as codes of ethics, where a discussion of principles mingles with strictures on concrete aspects of the archivist's work (e.g., guarding against fire or insect damage in the ASA Code). In some cases – for instance, the SAA documents of 1980 and 1992 – this finally limited the applicability, and therefore usefulness, of the code. Nevertheless, the current ICA Code has adopted a somewhat similar approach: the commentaries on each principle of the Code embed them in specific archival work practices.
- Compliance with any of the codes, even within the archival/record-keeping professions, is entirely voluntary. As the SAA's experiences have shown, other bodies can certainly not be compelled to observe them either. Since the organizations that draw up the codes are usually voluntary groupings with no statutory authority, this situation seems likely to continue.
- Different national and intellectual traditions give rise to different approaches – the SASA Code, for instance, appears designed to guide a profession still developing in South Africa, while the emphasis on non-public archival institutions in the 1980 and 1992 SAA Codes would be of limited use in countries where such institutions have not assumed the same importance as in the United States.

Case Studies

The first section of this paper has looked at the ethics of recordkeeping as theory. However, many codes of ethics suffer from inherent limitations, whether of scope or applicability. Could they really guide professionals trying to apply often abstract statements of principle to concrete situations?

This section examines some of the tensions which may arise between theory and practice using three case studies: one concerning a private corporation, which had impinged on the public sphere, one that had an impact on individuals, and one that affected an entire society.

- The case of Arthur Andersen and Enron may seem irrelevant to the discussion so far, since it involved largely current records and the professionals concerned worked in the financial sector. Nevertheless, I believe it illustrates a number of important points. One is what might be called the “clash of imperatives” – the need to serve a client (required of professionals) against the need to meet the standards of a code. Another is the extent to which the public and private spheres now overlap in most developed economies. Enron’s collapse had ramifications on the national and international scales. Although many current codes of ethics for archives/recordkeeping professionals implicitly address themselves mainly to those working in public-sector organizations, this area is likely to be ever more directly influenced by events in the private sector.
- British child migrants. Throughout much of the twentieth century until 1967, large numbers of unaccompanied children were sent to Australia from Great Britain, ostensibly to remove them from undesirable home environments, and give them a new and better life. As was revealed through government inquiries in both Australia and the UK decades later, many of them were in fact mistreated to an extent which affected their entire adult lives. Former migrants trying to trace information about their families, their past, and even themselves have, however, been frequently frustrated by the very measures intended to uphold ethical recordkeeping and rights to personal privacy.
- South Africa. In 1994 South Africa held its first free elections. Since then, the country has been trying to develop not only new political but also social and cultural structures. This section looks at how professional ethical codes perform under an oppressive regime.

Arthur Andersen and Enron

Enron was a giant, US-based utility company created in 1985 from the merger of two gas pipeline companies. In the same year, the US Federal Government deregulated the natural gas industry; new regulations supported a market pricing system that would respond to supply and demand. Enron’s senior execu-

tives took advantage of the situation, and the company essentially became a broker for trading in energy futures through long-term customer contracts, later moving into the electricity market in the same way. By the mid-1990s, Enron was one of the largest energy dealers in the US. In the course of this activity, Enron developed close ties with politicians and legislators from both the Democratic and Republican parties, lobbying them on issues such as energy deregulation at both the state and national levels. The company also began to have an international impact, opening facilities in Great Britain, the Dominican Republic, and India.⁴⁹

Despite some problematic episodes, Enron was seen as a paragon of the new, deregulated energy industry. However, it was in fact hiding enormous financial problems. By April 2001, the company's difficulties could no longer be concealed. Its share price began to slide, and in November 2001 Enron restated financial reports from 1997 onwards, showing large additional debt and the wiping out of profits. The company – at that time the seventh largest corporation in the US, and the world's largest energy-trading firm – declared bankruptcy in December 2001.⁵⁰

Also involved in Enron's downfall was the firm responsible for its accounts and financial audits, Arthur Andersen, at that time one of the "Big Five" international accounting firms. Links between Enron's Houston headquarters and Andersen's Houston branch had become extremely close. Not only was Andersen Enron's external auditor, but it also had consulting contracts for internal auditing, and supervised the auditing of Enron's internal control system, a potential conflict of interest. In addition, staff from Andersen's Houston branch had extensive office space at Enron's headquarters building there, and at least eighty-six Andersen accountants eventually became Enron employees.

This was an unusual development for Andersen, a company that was renowned for its probity. All professional employees had to be Chartered Public Accountants (CPAs), and thus subject to the scrutiny of a professional regulatory body, the American Institute of Certified Public Accountants.⁵¹ However, from the late 1970s on, the profitability (and importance) of the accounting/auditing function at Andersen had been increasingly overtaken by

49 Bethany McLean and Peter Elkind, *The Smartest Guys in the Room: The Amazing Rise and Scandalous Fall of Enron* (New York, 2003).

50 A number of senior Enron executives were eventually tried on various charges: Kenneth Lay and Jeffrey Skilling, its former CEOs, were found guilty of fraud and corruption on 25 May 2006. Lay died suddenly on 5 July 2006, while Skilling was sentenced to 24 years in prison on 23 October 2006.

51 Amongst other tools, the Institute had developed both a code of ethics and a body of auditing standards such as *Generally Accepted Accounting Practices* (GAAP) and *Generally Accepted Accounting Standards* (GAAS).

its consulting business, which focused particularly on management information systems. The employees required to support this were, of course, specialists in information technology and computer engineering, who may or may not have been subject to similar ethical or professional codes; nevertheless, under Securities and Exchange Commission (SEC) requirements all were required to become CPAs if they wished to become partners in the firm.⁵²

As the consulting side of the firm's business developed, it became clear that there was a clash of cultures between the traditional standards of public accounting and the imperatives of consulting:

At the centre of consulting's business success was its ability to generate fees, maintain staff chargeability, and ensure client satisfaction ... Andersen Consulting ... recruited a new type of employee who was innovative and entrepreneurial. *They were not accountants and did not share the ... standards and values of the profession* [my emphasis].⁵³

Finally, in 1989, Andersen was restructured into two business units, Arthur Andersen & Co (accounting, audit, and tax business) and Andersen Consulting. In 1990, the SEC recognized the latter as a separate entity, free from many of the restrictions placed on public accounting firms.

Most of the partners and managers in the new enterprise immediately turned in their CPA licenses.

This "de-professionalization" of Andersen, along with the growing stress on retaining clients and increasing profits, may well have contributed to two cases over which the firm was censured in the 1990s: the collapse of Sunbeam Corporation, and false financial statements by Waste Management, Inc. Both had resulted in SEC investigations, and both involved the destruction of documents under Andersen control; these documents would have been helpful during SEC and criminal investigations.

The SEC began an informal investigation into Enron in October 2001, based on a financial report released on 16 October in which the company admitted to losses of \$618 million. On 31 October, after class-action lawsuits were filed against Enron by shareholders, the procedure became formal, and when Enron restated its earnings for the past five years on 8 November, inves-

52 It should be noted that Andersen also had an internal oversight body, the Professional Standards Group (PSG), made up of senior and experienced staff, which was supposed to analyze difficult accounting questions and make the final decision on ambiguous technical issues. However, the number of staff qualified to sit on the PSG had been drastically reduced in 1992, when Andersen's growing stress on profitability had caused it to shed many senior partners who were considered to be underperforming. Susan E. Squires, Cynthia J. Smith, Lorna McDougall, and William R. Yeack, *Inside Arthur Andersen: Shifting Values, Unexpected Consequences* (Upper Saddle River, NJ, 2003), p. 99.

53 Ibid., pp. 77–78.

tigators began to look for evidence that accounting rules had been deliberately ignored. An in-house conference call of Andersen lawyers on 9 October had already noted the threatened SEC investigation. The next day, at a meeting of audit managers in Houston, Andersen's practice director reminded attendees of the importance of following the firm's policy on document retention, which had been developed after the Sunbeam and Waste Management cases. This was set out in a policy statement dated 1 February 2000 and titled "Client Engagement Information – Organisation, Retention and Destruction."⁵⁴ Among the first statements in the policy was that:

3.1.1 Only one central file (electronic, hard-copy or combination) will be maintained for the storage of engagement [i.e. audit project] and related documents. This central file will contain all information related to the engagement ...⁵⁵

"Personal or gratuitous information," and drafts and preliminary versions of information were to be destroyed. Deletion of information from electronic files was "to be accomplished in such a way that precludes the possibility of subsequent retrieval by AA personnel or third parties."⁵⁶ Section 3.2 did note that the application of the policy should be nuanced:

All our document retention and destruction practices should adhere to the applicable country, legal, professional and regulatory requirements. Should any of the policies in this statement violate such requirements, we should adhere to the applicable country legal requirements, and advise the Managing Partner Global Risk Management [which was responsible for the policy's general oversight and operation] of the departure from this policy.⁵⁷

Under then current US law, this would have meant that if charges were filed against Enron, or a legal notice served on Andersen, which required the production of accounting or audit documents, section 3.2 would forbid destruction of any records which might be required as evidence under such a procedure. However, Andersen chose to proceed on the basis that *until* such an event actually occurred, records could be destroyed – despite its knowledge of the pending SEC investigation. Destruction of both hard-copy and electronic documents relating to Enron at Andersen's Houston office began

54 United States Congressional Committee on Energy and Commerce, *Destruction of Enron-Related Documents by Andersen Personnel. Hearing before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, House of Representatives. One Hundred Seventh Congress – Second Session. 24 January 2002* (Washington, DC), p. 79 <http://www.access.gpo.gov/congress/house/house05ch107.html> (accessed 1 March 2007).

55 Ibid., p. 80.

56 Ibid.

57 Ibid.

almost immediately, with the firm's offices in London, Portland, and Chicago following suit. The process intensified on 23 October, after the SEC announced its informal inquiry. In total, some 30,000 electronic files and emails were deleted as well as more than a ton of hard-copy documents. The Houston office did not stop the destructions of records until 8 November, when it was learned that Andersen had been served with a subpoena by the SEC.

Even if the document destruction had, strictly speaking, occurred in a legal "grey area," the ultimate results were disastrous for Andersen. After the firm was indicted on a charge of obstructing the Federal Government's investigation of Enron in March 2002, it rapidly lost audit clients. Arthur Andersen ceased to be an auditing firm of publicly-traded companies on 31 August 2002, and shut down shortly thereafter.⁵⁸

Although most discussions of "what went wrong at Enron" do not analyze the role of recordkeeping in detail, transcripts from hearings of the Subcommittee on Oversight and Investigations of the Congressional Committee on Energy and Commerce in January 2002 suggest what some of the problems may have been. First, the records disposal policy itself was a deeply flawed instrument: it was clearly less about maintaining the integrity and authenticity of the documents (although the legally required minimum was retained) than it was about protecting Andersen and its clients. Nor was it systematically applied: in October 2001, when David Duncan, the Houston Partner-In-Charge, was asked "How are you on compliance with the document retention policy on Enron?" he said that his response ... was, 'At best, irregular'.⁵⁹

The copy of the retention policy that was entered in the Congressional record also shows that responsibility for records and their disposal was divided between a number of positions and departments in the firm: individual Andersen staff, who were expected to file or destroy records related to their work projects; the Director of Administration for each office, responsible for overall records management; the Office Managing Partner, responsible for enforcing official policy; the Director of Technology, responsible for retention or deletion of electronic documents; the Global Risk Management Group, responsible for making final decisions in sensitive ethical or legal areas; and, finally, the Files Department, who indexed and sorted documents and files. No Information Manager or Records Manager is mentioned.

Of all these groups and individuals, only the staff in the Files Department may have received training in record-keeping ethics. Yet it is far from clear

58 Although the US Supreme Court reversed Andersen's conviction in an opinion of 31 May 2006, the firm is unlikely to be revived.

59 Congressional Committee, p. 28.

that the SAA's 1992 Code of Ethics for Archivists – applicable in the US at the time – would have been of much help in the situation at Enron and Andersen. Its provisions, like those of most subsequent codes, were shaped to apply especially to professionals working in archival institutions and/or with non-current records; it did not offer guidance to those working with current records, let alone those who may feel compelled to become “whistleblowers.” ARMA's 1992 Code of Professional Responsibility, directed at a more general audience (including the private sector), would have been more relevant:

Condemn and resist the unethical or immoral use or concealment of information.⁶⁰
Recognise illegal or unethical situations and inform the client or lawyer of possible adverse implications.⁶¹

Further, the commentary on Professional Principle 3, “Service the client or employer at the highest level of professional competence,” points out that

*One factor differentiating a professional from other employees of an organisation is that a professional is able to separate professional responsibility and judgement from personal feelings and loyalty. This serves the employer's or client's long-term interests.*⁶²

Difficult as it might be to put such precepts into practice, such advice does recognize that real conflicts can and do exist between immediate interests (on which, in this case, millions of dollars depended) and the demands of professionalism, and attempts to provide guidance in a clash between two imperatives which, ideally, should harmonize. (On the other hand, given the divided responsibilities outlined above, perhaps few Andersen staff felt that they *were* records or information professionals, and thus subject to either the SAA or ARMA codes.)

The collapse of two private companies, however large (Enron's and Andersen's almost simultaneous disappearance affected some 90,000 employees in eighty-four countries), might seem to be important only to their own workers and stockholders. But as Justin O'Brien points out: “The capacity of the corporation, acting as a private entity, to subvert democratic norms occurs in myriad, often unaccountable ways.”⁶³ The potential for this in the twenty-

60 ARMA, “Social Principle 3.”

61 Ibid., “Professional Principle 4.”

62 Ibid., “Professional Principle 3 and commentary.”

63 Justin O'Brien, “Governing the Corporation: Regulation and Corporate Governance in an Age of Scandal and Global Markets,” in *Governing the Corporation: Regulation and Corporate Governance in an Age of Scandal and Global Markets*, ed. Justin O'Brien (Hoboken NJ, 2005), pp. 1–20, p. 4.

first century is great: for instance, important contracts for the reconstruction of Iraq after the second Gulf war were directed to firms such as Halliburton, which were connected to senior members of the Bush administration, while detention camps for illegal migrants in Australia are run by private contractors such as ACM or Group 4. Lisa Whitehouse states that “companies now rival nation-states as centres of power ... private companies have exhibited their capacity to exercise public power in an unaccountable and often unconstrained manner.”⁶⁴ Yet Anglo-American legal regimes still view companies “as private institution[s] compelled to prioritise the interests of [their] shareholders, synonymous with ‘profit maximisation’.”⁶⁵ It was in adopting the latter viewpoint that Andersen began to move away from its own professional standards, codes and traditions, with little effective external pressure to stop it – until indictments were handed down.

Recordkeepers are as vulnerable as other professional groups in the private sector to the pressure for profits and to prevailing company culture. The solution to this dilemma may lie not only in each group continually using its own ethical code as a benchmark for acceptable practice, but in professions combining with each other and reaching out to stakeholders in the wider community. J. Patrick Dobel suggests that

... where a private profession [or a section of a profession] becomes a public profession with very strong public trust obligations ... community pressure, standards, certification and autonomy [can] create a wide set of soft law to govern the ... professions ... the *market incentives* of maintaining reputation and probity should reinforce these pressures.⁶⁶

British Child Migrants

The Australian Senate Community Affairs References Committee, in its report into child migration to Australia,⁶⁷ pointed out that the migration of children – that is, young people unaccompanied by their families – from Great Britain to its colonies has a lengthy history. However, this discussion will centre on post-World War II child migration to Australia, a phenomenon which lasted from 1946 until 1967. In this context, “child migrant” was defined by the

64 Lisa Whitehouse, “Corporate Social Responsibility as Regulation: The Argument from Democracy,” in *Ibid.*, pp. 141–62, p. 142.

65 *Ibid.*, p. 142.

66 Dobel in O’Brien, p. 320 (my italics).

67 Commonwealth of Australia, Senate Community Affairs References Committee, *Lost Innocents: Righting the Record – Report on Child Migration* (30 August 2001), http://www.aph.gov.au/Senate/committee/clac_ctte/completed_inquiries/1999-02/child_migrat/report/index.htm (accessed 25 February 2007).

Committee as meaning “unaccompanied children generally under the age of 16 years [in fact most were aged between 8 and 13] who were brought to Australia from the United Kingdom or Malta under approved schemes.”⁶⁸ The Committee estimated that perhaps 3,000 to 3,500 children were involved.

Post-war child migration was enabled by legislation in both Britain and Australia. In Britain, the *Empire Settlement Act* (1922) and the *Children Act* (1948), which introduced some oversight by giving the UK Secretary of State the power to control emigration arrangements made by voluntary organizations. In Australia, the *Immigration (Guardianship of Children) Act* (1946), placed legal guardianship of child migrants in the Minister for Immigration from the time they arrived in Australia until they turned twenty-one. Shortly afterwards, the Minister delegated these powers to state welfare authorities, who were expected to assume direct control over and responsibility for the children.

However, it was generally not the governments of either country which were responsible for selecting the children to emigrate, nor for caring for them when they arrived. The Australian Commonwealth and state governments had decided from the beginning that “as far as possible the Commonwealth Government would rely on private organisations such as Barnardos, Fairbridge [a scheme which trained boys for agricultural, and girls for domestic, work] and the religious organisations, to promote child migration.”⁶⁹ A new element was added with the participation of the Catholic Church, which after 1946 became the largest single sponsoring agency, mainly through religious orders such as the Christian Brothers and the Sisters of Mercy rather than the diocesan structure.

The original motive for child migration in the nineteenth and earlier twentieth centuries had been to clear Britain of paupers at a time when economic conditions were worsening, and to populate its colonies with “good white stock.”⁷⁰ A similar impetus seems to have been behind the post-war migration movement. The sending and receiving organizations (usually branches of the same religious or charitable body), however, often had their own motives. These included the maintenance of superior numbers of adherents (especially for many Catholic groups) and the government subsidies paid for the children.

There also seems to have been a moral – or moralistic – element. Many of the children were selected for emigration because of supposedly “bad” home backgrounds. This moralistic element was to become very important in later developments.

68 Ibid., Section 2.9.

69 Ibid., Section 2.63.

70 Ibid., Section 2.32.

As reports from the Senate Community Affairs References Committee, the British House of Commons Health Committee (1997), and several Australian inquiries make clear, the treatment which many of the children received in Australia was so harsh that it scarred them for life. Sub-section headings in Chapter 4 (Institutional Care and Treatment) of the *Lost Innocents* report include “Abuse in institutions,” “Depersonalisation,” “Sexual assault,” “Physical assault,” “Psychological abuse,” “Secondary abuse,” and “Exploitation of children in work.” The education offered in some institutions was so poor that their “pupils” remained functionally illiterate.

From the late 1980s on, the migrants’ cause was taken up by charities such as the Child Migrants Trust, and later by the British and Australian governments. State governments and, eventually, representatives of most of the sending and receiving bodies also joined forces in providing help and support to those who wanted it – most importantly, in the form of information.

Once they reached adulthood, many child migrants had begun searching for more information about themselves, siblings from whom they had been separated, or their families in Great Britain. At this point, many seem to have run into a blank wall of – at best – ignorance; at worst, deliberate obfuscation. The moralistic motive behind child migration appears to have been especially important in the latter case. Since the children were being removed from “undesirable” or “immoral” backgrounds for a new and better life, it was preferable that they were not encouraged to think about or return to their previous environment. Chapter 6 of *Lost Innocents* details what this meant: children were told they were orphans when their parents were still alive; letters from their families were not passed on; children were given new names to which they had to answer from then on (one man did not know his real name until he was 32)⁷¹; birthdates were arbitrarily assigned (some child migrants later discovered they were up to three years older than they had believed); siblings were sent to different institutions and not allowed to contact one another. Some institutions in both Australia and the UK continued to refuse former migrants access to their own records, or even deny such records existed, until the 1990s. In addition, the decentralization and devolution of responsibility for the original migrant scheme meant that inquirers had to deal with separate record-keeping regimes in two countries, each Australian state, and a number of private groups – some of which had simply ceased to exist by the 1980s.

Quite apart from the devastating psychological results, this loss of identity created serious practical problems:

71 Ibid., Section 6.52.

It has meant difficulties in obtaining passports ... a birth certificate ... important family medical histories are unknown. The simple questionnaires necessary to borrow money, obtain a passport or join the local golf club ask for personal details. Date and place of birth, nationality, mother's maiden name – simple questions that most child migrants cannot answer. And so there is a tendency to avoid any situation that requires this kind of information.⁷²

For much of the period under discussion, there was little in the way of a formal code of professional ethics to guide recordkeepers in either public or private institutions, unless they were aware of the SAA or ARMA Codes, as the ASA did not adopt its own code until 1993. “Best practice” – perhaps the nearest substitute – usually meant ensuring that a government or department's rules about records management and disposal were diligently followed, which often resulted in vital information being lost: for instance, in West Australia before 1965 a migrant child's personal file was retained for five years after s/he turned twenty-one, and was then destroyed. Even today, few of the codes discussed in this paper would prevent such destruction: archivists are presumed to rely on appropriate appraisal and retention regimes developed by the agencies they serve, while those professionally concerned with the creation, management, and control of current records are given little or no guidance. As the passage from *Lost Innocents* above makes clear, the destruction, distortion, and/or withholding of information about former child migrants has impinged heavily on their civic and indeed human rights, not to mention depriving them of the chance to obtain redress for the abuse already inflicted on them. Most codes of professional ethics for recordkeepers, however, do not yet specifically incorporate the concept of information supporting rights, which has begun to appear in high-level UN or WSIS documents, and which gives an important new dimension to the concept of information/records management: namely, *why* is it being managed, for *whom*, and for *whose benefit*?

Almost all the codes of ethics, however, including ARMA's Code of Professional Responsibility, insist on the recordkeeper's/archivist's responsibility for protecting privacy, whether it is the privacy of those who are the subject of records or those who are using them for research. This is currently supported in many countries by legislation protecting personal privacy and personal information (e.g., the Australian *Privacy Act* of 1998). Yet this proved to be a source of great tension for former child migrants:

The impact of privacy legislation was also raised as a restriction on the ability to access information. It was stated that there is an increasing pre-occupation with

72 Ibid., Section 6.2.

considerations of personal privacy which is being increasingly formalised in “data protection.”⁷³

Even after records of receiving institutions were made available, child migrants and their families could find themselves frustrated:

The [Queensland] Department [of Families] is aware that former residents often want the records of their family members and/or other people. This information is often sensitive and personal in nature. To safeguard the rights of privacy, clients are unable to obtain information about other people, including other family members, without the authority of the person/people concerned.⁷⁴

This was not helpful if former migrants were in fact hoping to use the records to locate siblings whose whereabouts they did not know.

In other instances, records can legally be released only to the person concerned: “Children of former migrants are unable to access social and medical history information ... Restricted access also hampers their search for surviving relatives.”⁷⁵

And most record-keeping codes of ethics also highlight the professional’s responsibility to preserve the integrity of records in their care. The ASA code itself states:

3.5.1 Archivists preserve, protect and maintain the integrity of the records in their control and the information contained therein ...

3.5.3 Archivists respect the organic unity and structure of records. They discourage dispersal of record groups, series or collections ...⁷⁶

A number of the child-migrant records now held in the National Archives of Australia include “documents of identity” such as original birth and baptismal certificates – important not only because the information on them is often more accurate than that found in later records but also as their links to the migrants’ past. Many of the former migrants regarded these documents as their personal property – “evidence of me” as Sue McKemmish has phrased it⁷⁷ – and wanted them returned. The National Archives responded that, while it would theoretically be possible to do this,

73 Ibid., Section 6.50.

74 State of Queensland (Department of Families), *Missing Pieces: Information to Assist Former Residents of Children’s Institutions to Access Records*, 2nd ed. (2001), <http://www.childsafety.qld.gov.au/fostercare/publications/documents/missingpieces.pdf> (accessed 1 February 2007).

75 Commonwealth of Australia, Section 6.127.

76 Australian Society of Archivists.

77 Sue McKemmish, “Evidence of Me,” *Archives and Manuscripts*, vol. 24, no. 1 (1996), pp. 28–45.

... the transfer of ownership of Commonwealth records to private individuals involved a number of policy issues which have the potential to set precedents that may be difficult for the Archives or individual controlling agencies to sustain across a broad range of cases ... It would significantly compromise the integrity and purpose of the Commonwealth's archival collection.⁷⁸

“Hard cases make bad law” says the proverb: as record-keeping professionals and in view of their responsibilities to all Australian citizens, management at the National Archives was obliged to consider all the ramifications of any particular course of action, not just its results in one instance. Yet it is easy to comprehend the frustration of people who had already led very difficult lives, now denied the possession of proofs of identity, which most citizens consider theirs by right.

It is true that, had more of the people charged with maintaining records of the child migrants in various organizations been trained professionals aware of their ethical responsibilities, there might have been more systematic retention of information, and fewer losses due to unauthorized destruction, carelessness, or disasters such as fire or mice infestations. However, the British child migrants case also demonstrates that even where apparently well-written and appropriate codes of professional ethics are implemented, tensions may still exist between those codes and other ethical frameworks. To date, there are few mechanisms through which such conflicts may be reconciled.

South Africa

In April 1994, South Africa held its first free elections. In the aftermath, President Nelson Mandela and his African National Congress (ANC) party came to power, “majority rule” was installed, and the last vestiges of apartheid⁷⁹ disappeared. This outcome formally marked the beginning of a period in which received truths about the past and its interpretation could be re-examined, and new facts and views entered cultural, social, and political discourse.

South Africa before 1994 was not an undocumented society or one lacking archives. Far from it:

Apartheid's huge bureaucracy ... generated a formidable memory resource. Control over racial classification, employment, movement, association, purchase of property, recreation and culture, sport, and so on, all were documented by thousands of govern-

⁷⁸ Commonwealth of Australia, Section 6.80.

⁷⁹ *Apartheid* was the system by which a person's rights and privileges were allocated according to which ethnic (“racial”) group they were deemed to belong to. It had been officially installed in 1948, when the Afrikaner National Party won a general election.

ment offices. This was supplemented by the record of surveillance activities by the security police and numerous other state intelligence bodies, as well as by large quantities of records confiscated from individuals and organisations opposed to apartheid.⁸⁰

These, however, were “archives of repression,” meant to serve the state – and in particular its security interests – rather than the people whose lives were thus documented. The latter not only had no way of knowing fully which part of government held what information about them, but no way of seeing or correcting it.

State and other records were also used to create and disseminate a particular view of the past: “... the network of state-funded libraries, museums, art galleries, historical monuments, and archives was shaped profoundly by an apartheid imprint.”⁸¹ Alternative interpretations, whether those of the political opposition or from subordinate ethnic/cultural groups, never entered the public domain. The South African State Archives Service (SAS) seems to have been no exception to this rule.

From its founding in 1922 until the 1980s, when small private collecting institutions began to appear, the SAS was the most important archival institution in South Africa. Its statutory mandate covered the archives of central, provincial, and local government offices as well as supplementary private-sector records. The *Archives Act* (1962) also gave it wide-ranging powers to manage or advise on the management of public records from the moment of their creation, and it developed significant capacity in this area.⁸² Although it appears that no professional ethical code was drawn up for South African recordkeepers until 1993, archival practice was based on the European tradition which had been summarized in the 1898 Dutch *Manual for the Arrangement and Description of Archives* by S. Muller, J.A. Feith, and R. Fruin, which insisted on an archivist being able to guarantee a record’s reliability, authenticity, and integrity, and therefore its value. This seems to have been closely adhered to. Yet at the same time, SAS operated within the terms of a societal norm which ignored other ethical concerns: until 1990 no black person had ever occupied a professional post in SAS, and it did very little to reach out to potential non-white users who were barred from easy access to the archives by illiteracy, physical distance from city centres, lack of ability in

80 Verne Harris, “The Archival Sliver: Power, Memory and Archives in South Africa,” *Archival Science*, vol. 2, nos. 1–2 (2002), pp. 63–86, 69.

81 Ibid., p. 69.

82 Ibid. and Verne Harris, “‘They Should Have Destroyed More’: The Destruction of Public Records by the South African State in the Final Years of Apartheid, 1990–1994,” in *Archives and the Public Good, Accountability and Records in Modern Society*, eds. Richard J. Cox and David A. Wallace (Westport and London, 2002), pp. 205–28, <http://sunsite.wits.ac.za/trcresearch/papers99/harris.pdf> (accessed 2 March 2007).

English and Afrikaans, and their unfamiliarity with bureaucratic systems.⁸³

Indeed, it seems likely that SAS could have followed most of the record-keeping/archival codes of ethics developed after 1955 with much the same result. The SAA codes of 1980 and 1992, for instance, both insist on recordkeepers working within the framework of applicable laws and legal obligations. The ASA Code of 1993 does state that “Archivists apply objective criteria to all matters of appointment, promotion and award without reference to race, colour, sex, sexual orientation, politics, political activities, religion, national orientation or beliefs,”⁸⁴ but attempting to apply much of this clause would in fact have been illegal under apartheid. The ICA Code, and those derived from it, do not mention the recordkeeper’s relationship to a wider legal or ethical context at all. Even the AAQ Code, with emphasis on the recordkeeper’s contribution to democracy “by assuring that the rights of all citizens are protected”⁸⁵ might have been difficult to apply, since non-whites were not considered to be full citizens. Of all the codes considered here, ARMA’s Code of Professional Responsibility (pre-2006) might have been the most problematic, since it advised supporting the free flow of information, opposing censorship, and resisting the unethical or immoral use of information. It also stated that records and information professionals “are actively committed to recruiting individuals to the profession on the basis of competence and educational qualifications without discrimination.”⁸⁶ However, its recommendation to “support compliance with statutes and regulations related to recorded information”⁸⁷ might equally have undermined any other principle, since South African statutes and regulations opposed most of the previous points.

The South African Society of Archivists’ (SASA) own Professional Code, adopted in 1993 (during the period of political transition) does not raise or deal with larger issues either: indeed, of all the codes examined in the first part of this paper, it is probably the one most focused on archival practice. Its various sections define technical terminology, lay out the professional tasks of recordkeepers/archivists, define how they should relate to their employer and profession, and stipulate qualifications for appointment and promotion within the archives; but there is little in the document which might relate it to a larger context. For example, although section 4.5.4 states that “The archivist has an obligation to be responsive to the users of archives and to encourage their involvement,”⁸⁸ there is no recognition that, in South Africa’s particular circumstances, the archivist or recordkeeper may have to *create* users by

83 Harris, “The Archival Sliver,” pp. 70-73.

84 South African Society of Archivists, Section 2.1.2.

85 Association des archivistes du Québec, “La mission sociale.”

86 ARMA, Professional Principle 8.

87 Ibid., Social Principle 5.

88 SASA.

informing them that records or archives exist in the first place, and explaining their relevance to a potential audience. The one clause that seems to recognize a wider possible role is 4.2, Appraisal: “The archivist is the agent of the future in determining its heritage from the past. Therefore his/her decisions must be impartial – free of ideological, political or personal prejudices.”⁸⁹ This is simply, however, as noted earlier, a very slight adaptation from Wayne Grover’s 1955 code of practice for the US National Archives. It is not expanded on, nor does any consideration seem to have been given to its potential dissonance with then-existing social norms.

Indeed, both the SASA Code and the actual practice of the SAS seem to bear out Chris Hurley’s somewhat pessimistic observation:

Like everybody else, recordkeepers are ultimately bound to the society in which they live (the context in which they operate) ... Our professional standards are no longer value-free once they are applied into one society or another – once they are given a context. In application, they acquire a colour of the society in which they operate. It is because we live in a democracy, therefore, not because we are archivists, that our professional standards and practices support democratic values.⁹⁰

Conclusion

This article began by examining an area where recordkeeping meshes with a wider ethical concern, namely human rights and how they can be supported by free access to full and authentic information. International entities are increasingly making an explicit connection between these concepts. However, few of the codes of ethics for professional recordkeepers developed in Anglophone and Francophone countries in the 1990s refer to any larger ethical frameworks, or indicate how the codes might support them. This may be, of course, because the discussion and development of such societal frameworks, stimulated by technological advances, have greatly intensified in the last decade – that is, since most of the codes were written – and the codes have not been revised during this time. Nevertheless, even a brief overview demonstrates that there is a growing gap between the work that, say, the ICA is currently undertaking with UNESCO on a co-operative basis,⁹¹ and the far

89 Ibid.

90 Chris Hurley, “The Evolving Role of Government Archives in Democratic Society,” paper presented at the Association of Canadian Archivists Annual Conference, Winnipeg, Manitoba, 9 June 2001.

91 The two bodies signed a six-year co-operation agreement in October 2002. Among other things, this was intended “to foster international reflection and debate on the ethical, legal and societal challenges which the international archival community faces with the advent of knowledge societies.” *UNESCO and ICA Signed Agreement for Six-Year Cooperation Today* [press release], http://portal.unesco.org/ci/en/ev.php-URL_ID=6164&URL_DO=DO_TOPIC&URL_SECTION=201.html (accessed 25 April 2006).

narrower focus of the code of ethics the organization wrote for its own members in 1996.

As was demonstrated in the section on “International and National Codes for Record-keeping Professionals,” many current record-keeping codes of ethics are in at least implicit dialogue with each other through what their framers have chosen to adopt, adapt, or drop from earlier documents. However, the lack of a common approach even in a small group of Western countries is also very evident. Some appear to be so near to simple codes of archival practice that they could even fit comfortably into an overtly oppressive political and social context, while others include statements of which one element could cancel another out, or which could, in practice, give rise to near-insoluble dilemmas. If a professional is supposed to uphold the rights of the creator, owner, and user of a record or piece of information all at the same time, what is the response if and when the rights of those parties clash? Some codes, implicitly or explicitly, target a very narrowly defined audience; others appear to be uncertain as to *which* audience they may be addressing on any given point, whether through difficulties in vocabulary or terminology or a confusion of basic concepts.

Of all those considered here, the ARMA Code of Professional Responsibility adopts perhaps the widest view of its potential audience, defining it specifically in terms of ISO 15489, the international standard on records management – although perhaps with an implicit leaning towards the private/commercial sector. Associations of archivists may, of course, feel it more appropriate to continue to develop ethical statements focused on their own segment of the professional spectrum. In this case, an individual code may be made more effective by creating explicit links between different groups of recordkeepers; for example, through an initiative like the ARMA/SAA Statement of Joint Purpose.⁹² Yet another step might be to join with the members of other professions (as indeed the AAQ Code suggests), both to ensure a broad, multidisciplinary approach and to enable combined outreach to stakeholders among the general public. On a more detailed level, Glenn Dingwall has suggested revising existing codes to make them more comprehensible to the public at large, by ensuring that they express both principles *and* the motives behind the principles (a step that might also help guide the thinking of professional recordkeepers).⁹³

92 <http://www.arma.org/about/overview/SAAstatement.cfm> (accessed 1 June 2007). Although in this particular iteration it concentrates on practical issues such as the possibility of dual membership rather than shared ethical concerns.

93 See Glenn Dingwall, “Trusting Archivists: The Role of Archival Ethics Codes in Establishing Public Faith,” *The American Archivist* 67 (Spring/Summer 2004), pp. 11–30. Dingwall’s approach differs from that of this article, but arrives at some of the same conclusions.

The Arthur Andersen/Enron case study demonstrates why fresh thinking in this area is now becoming urgent. The actions of multinational corporations can now affect hundreds of thousands of people in dozens of countries, particularly with the outsourcing of once-public functions to private companies by many Western governments. Some organizations may have specialist staff to oversee recordkeeping and to ensure adherence to legal obligations; many – even such a large company as Arthur Andersen – do not. In the absence of any applicable ethical framework, private corporations, which see their *raison d'être* as increasing shareholder profit, are likely to follow a self-protective, narrowly legalistic interpretation of their responsibilities. While some of this behaviour can be dealt with through statutory legislation such as the US *Sarbanes-Oxley Act*,⁹⁴ this can create an atmosphere in which everything which is not specifically forbidden is permissible. I believe that recordkeepers in both the public and private sectors would also benefit on a practical level if they were able to communicate with each other via a set of common understandings. As matters stand, record-keeping professionals in the public – usually government – sector tend to work within a much more explicit and robust regulatory framework than do those in the private one, while the latter can be subject to intense and immediate pressures to an extent not often appreciated by public-sector employees.⁹⁵ Yet given the current tendency to privatize government functions, this potential lack of full accountability has wide – and sometimes dangerous – implications for the general public and indeed for governments themselves.

While practice frameworks in the public sector are theoretically designed to serve the citizen, the case of the British child migrants highlights the shortcomings in public-sector records creation and disposal regimes, which do not consider their subjects' civil and human rights. Even when reparations of a sort were offered decades later, former migrants felt that some of the very principles embedded in the ASA Code of Ethics (protection of personal privacy, integrity of the record) were being used to deny them all that they request-

94 The purpose of the Act is “to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.” Public Law 204, 107th Cong., *Sarbanes-Oxley Act of 2002* (30 July 2002), http://frwebgate.access.gpo.gov/cgi-bin/useftp.cgi?IPaddress=162.140.64.182&filename=publ204.pdf&directory=/diska/wais/data/107_cong_public_laws (accessed 27 August 2007). The Act created the Public Company Accounting Oversight Board (PCAOB) which oversees, regulates, inspects, and disciplines accounting firms as they carry out their roles as auditors of public companies. It also covers issues such as auditor independence, corporate responsibility, and enhanced financial disclosure.

95 It is usually far easier and quicker, for example, to dismiss an employee in a private company than in a government agency.

ed. Tension between different imperatives was probably inevitable, given the complicated and emotionally fraught history behind the situation.

Nevertheless, none of the codes of ethics reviewed in this paper suggests how such a clash of principles could be worked through, or which should be regarded as most important by record-keeping professionals. Finally, the example of South Africa shows that a narrowly focused professional ethic can fit all too comfortably within a repressive society, especially if professionals are urged to follow the national laws which enable that repression. (Even in the post-apartheid period, archivists and others have been pressured to use records so that they support a pre-determined historical narrative.) When external forces are so overwhelming, a code of ethics – no matter how well conceived or robust – is unlikely, as Chris Hurley points out, to be much of a practical defence.

The best response to this concern is probably the embedding of ethical principles in, and their enactment through, formal legislation. Unfortunately, few archives acts or public record acts of the countries discussed in this article announce themselves as much more than a set of technical regulations to ensure that government records are managed appropriately. By contrast, New Zealand's recent (2005) *Public Records Act* declares that among its purposes are

... (c) to enable the Government to be held accountable ...

... (f) through the systematic creation and preservation of public archives ... to enhance the accessibility of records that are relevant to the historical and cultural heritage of New Zealand and to New Zealanders' sense of their national identity; and

... (g) to encourage the spirit of partnership and goodwill envisaged by the Treaty of Waitangi (Te Tiriti o Waitangi) [between the indigenous Maori people and the Crown].⁹⁶

This does not go very far; but it does indicate the possibility of a fresh approach by both lawmakers and archival or record-keeping professionals.

Such general legislation will not, of course, be a substitute for self-regulation by the archival profession, any more than it is for other professions. It does, however, offer a medium through which codes of professional behaviour can be specifically linked to wider concerns, and through which they can be made effective for the wider audience that archivists aspire to serve.

96 Government of New Zealand. S.3, *Purposes of Act. Public Records Act 2005*, <http://rangi.knowledge-basket.co.nz/gpacts/public/text/2005/se/040se3.html> (accessed 5 June 2007).

**Appendix: Some Codes of Professional Ethics:
Shared and Unique Characteristics⁹⁷**

Element	Codes
Shared	
Mandatory	None
Voluntary	Society of American Archivists (SAA); ARMA International; Association des archivistes du Québec (AAQ); Association of Canadian Archivists (ACA); Australian Society of Archivists (ASA); South African Society of Archivists (SASA); International Council on Archives (ICA); Association des archivistes français (AAF)
Audience defined explicitly or implicitly as “archivists” in English sense (i.e., those working with inactive/historic documents)	SAA (all), ACA, ASA, SASA, ICA [English-language version]
Audience potentially wider, including “archivistes” in French sense	ARMA (1992, 2006), AAQ, AAF [in supplementary document, <i>Les principales missions de l’archiviste</i>], possibly ICA in French-language version
Mentions general ethical concerns related to human or citizens’ rights	ARMA (1992), AAQ
Specifically mentions/recommends non-discriminatory attitudes with regard to racial, gender, and other distinctions	SAA, ARMA (1992, 2006), AAQ, ACA, ASA
Emphasis on specific archival work, skills and concerns (e.g., appraisal, conservation, deaccessioning)	SAA (1955, 1980, 1992), ACA, ASA, SASA, ICA, AAF

⁹⁷ All codes are the current versions of those examined within this article, unless stated otherwise.

Need to interact positively with other members of profession	SAA (all), ARMA (all), AAQ, ACA, ASA, SASA, ICA, AAF
Need to interact positively with members of other professions	AAQ, ICA, AAF
Privacy as specific concern	SAA (1980, 1992, 2004), ARMA (1992, 2006), ACA, ASA, SASA, ICA, AAF
Comply with national or other laws	SAA (1980, 1992, 2004), ARMA (1992), ASA
Refrain from using position or knowledge for personal advancement	SAA (all), ARMA (1992, 2006), AAQ, ASA, ACA, SASA, ICA, AAF
Unique	
Specific training requirements or standards for qualification as archivist	SASA