Submission by swisspeace

on 'Documentation of serious human rights violations in the context of transitional justice processes'

TO THE ATTENTION OF

United Nations Office of the High Commissioner for Human Rights – OHCHR

Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence

ohchr-srtruthcalls@un.org

SUBMITTED BY

Sahar Ammar/Lisa Ott
swisspeace
Kasernenhof 8
4058 Basel
sahar.ammar@swisspeace.ch
T +41 (0)61 551 56 49
swisspeace.ch

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swisspeace
Schweizerische Friedensstiftung
Fondation suisse pour la paix
Fondazione svizzera per la pace
Swiss Peace Foundation

Table of Contents

1	Documentation and Archival Preservation in Transitional Justice	2
2	Safe Havens for Archives at Risk Program	3
3	Publications	3
4	About swisspeace	4

List of Abbreviations

FDFA	Swiss Federal Department of Foreign Affairs
AHPN	Guatemalan National Police Historical Archive
ICA	International Council on Archives
DwP	Dealing with the Past

1 Documentation and Archival Preservation in Transitional Justice

In the aftermath of gross human rights violations and breaches of international humanitarian law, dealing with the past (dwp)[1] (also known as transitional justice) mechanisms are established to address the enduring legacy of these abuses and to prevent similar events in the future. In such contexts, information is a cornerstone that enables societies to comprehend different narratives of historical events, acknowledge wrongdoings, commemorate those who are gone and facilitate meaningful dialogue. Documentation is therefore fundamental to fulfil the rights of victims and societies to know the truth, reparations, justice, and non-recurrence[2], to foster reconciliation and prevent violent conflict in the future

However, the importance of preserving archives and records related to human rights violations is often underestimated. Technical issues concerning the preservation and management of archives are as important as policy questions related to access, ownership and location of such archives and records. In addition, these archives are often at risk of destruction or alteration for a number of reasons, including political pressure, war, neglect and natural disasters.

To preserve information from these risks, institutions are often compelled to temporarily relocate their archives. Such physical relocation is, in most cases, a complex process and often impossible to achieve. Therefore, best practices suggest creating digital copies of the information that can be safeguarded in archival institutions able to offer a safe haven for the copies. Currently, an increasing number of stakeholders are seeking such safe havens solutions both locally and abroad.

For instance, the Guatemalan National Police Historical Archive (AHPN) decided in 2016 to place a digital copy of its scanned records documenting human rights violations with the Swiss Federal Department of Foreign Affairs (FDFA). These archives, which reveal evidence of police involvement in serious human rights violations, are a cornerstone of justice processes, contributing to memory initiatives, reparations, vetting and institutional reforms. Similarly, Switzerland offered a safe haven in 2016 for the digital copies of the records of the Marshall Islands Nuclear Claims Tribunal, which was formed to address damages to individuals affected by U.S. nuclear testing in the 1940s and 1950s. Preserving these archives and their copies contribute to safeguarding the population's national history, keeping memory alive, and supporting reparations. More recently, the Colombian Truth Commission decided in 2023 to send a secure copy of its archives to Switzerland. Safeguarding these archives protects their contribution to various pillars of dwp, including trials, reparations, memory initiatives, and institutional reforms. Civil society organizations also send security copies of their human rights documentations abroad to ensure that they are preserved until the dwp process starts.

The UN holds critical archives through its international mechanisms, such as the records generated by international tribunals. These extensive collections are vital for deepening theunderstanding of conflicts, documenting the history of nations, and tracing the evolution of international justice. These records not only serve international justice efforts but also hold significant value for local stakeholders. They contain evidence of country-specific violations that can support national initiatives, such as memorialization, reparations for victims, and efforts by local tribunals and courts to deliver justice. Moreover, these archives are an integral part of a nation’s historical legacy. It is imperative to ensure their proper preservation and to establish long-term solutions for their safeguarding. Additionally, enabling access for local

[1] “Dealing with the past (dwp) refers to the processes addressing the rights of victims and societies as a whole to truth, justice, reparation and guarantees of non-recurrence in the aftermath of grave human rights violations, breaches of international humanitarian law and related grave forms of corruption that facilitated these crimes”, Guiding Principles for Safe Havens for Archives at Risk, preamble, https://safehavensforarchives.org/assets/Uploads/Safe-Havens-for-Archives-at-Risk/Guiding-Principles/GP_English.PDF.

[2] “Archives/records serve as irreplaceable materials for ongoing and future processes for Dealing with the Past and their preservation thus requires special efforts”, Guiding Principles for Safe Havens for Archives at Risk, preamble, https://safehavensforarchives.org/assets/Uploads/Safe-Havens-for-Archives-at-Risk/Guiding-Principles/GP_English.PDF.

stakeholders is essential, allowing them to effectively utilize these archives for justice, accountability, and historical documentation.[3]

2 Safe Havens for Archives at Risk Program

Recognizing the importance of safe havens for archives at risk, the FDFA and swisspeace initiated a high-level policy exchange in 2016, which led to the development of the Guiding Principles for Safe Havens for Archives at Risk.[4] These principles, endorsed by the International Council on Archives (ICA) and the Association of Latin American Archivists, provide a framework for ensuring that safe haven arrangements comply with international legal and ethical standards. They also respect the rights of victims and societies, as well as obligations enshrined in international law, including the Universal Declaration of Human Rights and the Geneva Conventions. Alongside these principles, a generic agreement[5] helps sending and hosting institutions address all necessary considerations before transferring archives. A commentary[6] further outlines these principles and provides examples to illustrate their application.

Building on this foundation, the FDFA and swisspeace established the Safe Havens for Archives at Risk Program[7]. This initiative promotes safe haven arrangements that adhere to the Guiding Principles and serves as a hub for connecting archives at risk with suitable hosting institutions. The program has supported thirteen cases of archives at risk from Latin America, Central and South Asia, Sub-Saharan Africa, the Middle East, and the North Caucasus. Of these, six have found hosting institutions. The program also provides tailored support, such as guidance on digitization and preservation, feedback on project proposals and agreements, capacity-building for both sending and hosting institutions and support for fundraising.

For example, the program supported the former Colombian Truth Commission in preparing the transfer of its archive to the National Archive of Colombia and creating a copy to be sent to Switzerland. It also worked with family associations in El Salvador that hold case files from the internal armed conflict, assisting them in preserving, digitizing, and transferring a security copy abroad. By protecting archives at risk, the program ensures the preservation of memory, supports accountability and justice processes, and contributes to the long-term goals of reconciliation and societal healing.

Safe havens play a vital role in upholding the rights to truth, memory, justice, and reparation. By preserving archives and ensuring their accessibility, they enable societies to confront their past, honor victims, and build a foundation for a more just and peaceful future.

3 Publications

swisspeace has, on many occasions and often in collaboration with its partners, published valuable works on the intersection of documentation, archives, and dwp:

The Historical Archive of the National Police of Guatemala[8]

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[3] On 12 September 2024, on the sideline of the 57th Human Rights Council, ICA, swisspeace, and the Swiss Federal Department of Foreign Affairs convened a panel on the preservation of and access to the records of temporary international criminal courts and mechanisms. https://www.ica.org/key-insights-from-the-un-side-event-on-preserving-and-accessing-records-of-temporary-international-criminal-courts/

[4] https://www.safehavensforarchives.org/en/guiding-principles/

[5] https://www.safehavensforarchives.org/en/guiding-principles/

[6] https://www.safehavensforarchives.org/assets/Uploads/Safe-Havens-for-Archives-at-Risk/2020_G1.PDF

[7] https://www.safehavensforarchives.org/en/

[8] https://www.swisspeace.ch/assets/publications/downloads/20211101_AHPN-Publication_English-Version_Doppelseiten.pdf

Archives against Genocide Denialism?[9]

Archives Exchange Project[10]

Archives for a Peaceful Future[11]

Archives for a Peaceful Future Case Descriptions[12]

Determining the fate of missing persons: The importance of archives for "dealing with the past" mechanisms[13]

Mapping Archives for Dealing with the Past Processes[14]

Securing Police Archives. A Guide for Practitioners[15]

From Expertise to International Standard: Guiding Principles for Safe Havens for Archives at Risk[16]

More resources are available on the Safe Havens for Archives at Risk Program's website[17], providing further insights and tools on preserving and safeguarding archives.

4 About swisspeace

swisspeace is a practice and research institute dedicated to advancing effective peacebuilding. We provide process and expert advice, conduct research, teach, provide spaces for exchange and dialogue, and shape peace policies. swisspeace is an associated Institute of the University of Basel and a member of the Swiss Academy of Humanities and Social Sciences. Its most important partners and clients are the Swiss Federal Department of Foreign Affairs, the State Secretariat for Education, Research and Innovation, international organizations, think tanks, and NGOs. swisspeace as an institution has more than 20 years of experience in providing support on conflict sensitive and peacebuilding programming, strategy development, and capacity building. We have a high-quality track record of working with international organisations, governments, international and local organisations. Our organisation is structured along thematic program teams (such as peace mediation, dealing with the past, better aid in conflict, business and peace etc.), with geographic priority contexts bringing together staff from the different thematic teams in a matrix system.

[9] https://www.swisspeace.ch/articles/archives-against-genocide-denialism-challenges-to-the-use-of-archives-in-turkish-armenian-reconciliation

[10] https://www.swisspeace.ch/articles/the-archives-exchange-project-aep

[11] https://www.swisspeace.ch/articles/archives-for-a-peaceful-future

[12] https://www.swisspeace.ch/articles/archives-for-a-peaceful-future

[13] https://international-review.icrc.org/articles/determining-fate-missing-persons-importance-archives-dealing-past-mechanisms

[14] https://www.swisspeace.ch/articles/mapping-archives-for-dealing-with-the-past-processes

[15] https://www.swisspeace.ch/assets/publications/downloads/Essentials/0606741de9/Securing-Police-Archives-A-Guide-for-Practitioners-Essential-13-swisspeace.pdf

[16] https://www.swisspeace.ch/assets/publications/downloads/Essential202102_From-expertise-to-international-standard.pdf

[17] https://www.safehavensforarchives.org/en/resources-2/