

Safe havens for archives at risk: a new international initiative

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Over the years, internationally-minded archivists have had to consider the possibility of taking custody of archives from another country because the archives are at risk in their country of origin. The risks may take many forms, but archives in war-zones and other disaster areas, and archives at environmental risk (including risks of climate change) provide striking examples. The removal of archives from one country to another is always likely to be controversial, however, and even well-intentioned attempts at “archival rescue” in the past have been strongly criticized. It has been clear for a long time that international standards are needed. The “Guiding Principles for Safe Havens” for Archives at Risk are a set of principles providing guidance on archival and ethical factors to be taken into account when planning the transfer of analogue or digital archives (or copies) to another institution for safekeeping. The principles have been drawn up by a group of experts in meetings held in Berne, Amsterdam, Geneva, and virtually, over the past four years, and have been endorsed and approved by various international organizations, including several ICA Sections. Past bilateral agreements between sending institutions and hosting institutions governing “safe haven” solutions have often failed to address fundamental questions, such as data protection, access, succession solutions, obligations to return or the often asymmetrical relationship between the sending institution and the hosting institution. The need for new and definitive principles is outlined in this essay, and the “Guiding Principles” themselves are then described, explained and justified.

“Safe havens”: actions requiring ethics and diplomacy¹

The notion of “archival rescue” has a mixed history, and has too often been used as a pretext for removing valuable cultural artefacts from poorer countries to richer countries. It should be axiomatic that each country in the world has a right and a duty to preserve its own cultural, historical and administrative documentation in its own institutions. Appropriation of archival heritage by institutions in wealthier countries – under the guise of safety, protection, better conservation or other rescue-pretexts – is a disgrace to our profession.

Nonetheless, there are rare occasions when the removal of individual documents or archival collections, or copies of them, is necessary and justified by exceptional circumstances, and where “safe havens” (always preferably temporary) need to be found. The decisions and the terms of transfer to such safe havens always require high levels of ethical attention, diplomatic negotiation and careful risk-assessment. They may also require

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¹ Details of World Wide Web resources referred to in this article are listed at the end of the article.

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international mediation, or involvement of respected international bodies such as UNESCO or ICA.

The reasons and justifications for removal of archives (or digital copies) to safe havens may include the following: war, civil unrest, invasion, other forms of armed conflict; rebellion or insurgency; government repressive action, suppression of dissent or dissidence; bad conditions left by previously repressive regimes; disasters such as fire, floods or earthquakes; lack of archival resources; effects of mould, dust, insects or rodents; local environmental factors, including humidity and pollution; and climate change issues such as rising sea levels.

Before resorting to “safe haven” action, other possibilities should always be considered, including: NGO intervention in the home location; international or inter-governmental assistance; help and support from bodies such as the UN, UNESCO or ICA; and on-site preservation by copying, including digital copying. When none of these actions is feasible, removal to an archival safe haven becomes the final-resort solution.

“Archives at risk”: historical background, to 2016

The question of “archives at risk” has preoccupied archivists for decades, and it is natural that the ICA should have been involved from an early stage, from at least the 1980s onwards. The timeline for the **Guiding Principles for Safe Havens for Archives at Risk**, however, can best be regarded as beginning in the 2010s. Early in that decade, UNESCO began to propose meetings and action plans, with “concept notes” under the heading “documentary heritage at risk”, and the Human Rights Working Group within ICA was also prioritizing the issue. In Switzerland the organization known as swisspace began to organize seminars on related topics, and smaller initiatives, such as the work on the need to preserve the papers of “dissident authors” conducted by ICA’s Section for Archives of Literature and Art beginning in 2012, also raised the profile of the issue of “archives at risk”. A number of positive, progressive and altruistic recent examples were being cited, for example:

- The National Archives of Finland holding a copy of the archive of the non-governmental UMAM Research and Documentation, Lebanon.
- The Swiss Government holding a copy of the National Police Archives of Guatemala.
- The City of Girona, Catalonia, holding a copy of the audio-visual documents of the Nuclear Claims Tribunal of the Marshall Islands.
- The Swiss Federal Archives (SFA) and the Swiss Federal Department of Foreign Affairs (FDFA) having concluded an agreement with the government of the Republic of the Marshall Islands regarding the holding of a potential security copy of the records of the Nuclear Claims Tribunal (excluding the copy of the audio-visual data kept in Girona).

The opportunity to bring many of these interest-groups together was presented by the ICA four-yearly Congress in Seoul in August 2016. The ICA’s Executive Board had been receiving general updates on work on “archives at risk” at its meetings prior to the Congress, and time was allocated for a full session entitled “Safe Havens for Archives at Risk”. The session, chaired by David Sutton and very well attended, featured a keynote presentation by Trudy Huskamp Peterson on safe havens and the need for international standards, and case studies from Finland and Switzerland presented by Jussi Nuorteva, National Archivist of Finland, and Rahel von Arx, of swisspace. There was much approval from the floor

in response to Trudy Peterson's insistence on the need for international standards, with important support from ICA President David Fricker (referencing the UNESCO PERSIST project) and ICA past-President Ian Wilson (referencing the UNESCO Memory of the World programme and its origins in preservation activity).

Terminology

In an area where diplomatic and multi-cultural factors are central, it is essential that sensitive and widely accepted terminology is used. At an early stage, it was decided that the terms "sending institutions" and either "receiving institutions" or "hosting institutions" were appropriately neutral and acceptable. It was understood that the sending institutions would, for the most part, be in poorer countries, war zones and disaster areas. It was also understood that there would often be an economic imbalance between the places where the archives at risk originated and the places where they might be housed and protected. These factors, however, would be regarded as the background to the safe havens work, and the terminology of "sending" and "hosting" would be used.

Swisspace and the development of a safe havens Working Group

After the success of the session at the ICA Congress in Seoul, swisspace took the lead in organizing an international seminar in Berne in October 2016 to develop the support given in Seoul into a practical set of guiding principles. It was essential that the guiding principles should be equally acceptable to sending and hosting institutions, and the invitations to the Berne seminar reflected this. Key attendees included representatives of UMAM Documentation and Research, Lebanon; the National Center of Historical Memory of Colombia; the Historical Archive of the National Police of Guatemala; the International Committee of the Red Cross; the National Archives of Finland; the Swiss Federal Archives; the National Records of Scotland; and International Institute for Social History, Amsterdam. The two-day seminar was facilitated by Lisa Ott of swisspace and David Sutton of the University of Reading, UK. A follow-up meeting was held in Amsterdam in January 2017, with the same facilitators.

The meetings agreed to create a smaller Working Group (see Appendix to this article), which in turn would produce a work-plan and a timeline towards the production of a set of Guiding Principles for Safe Havens for Archives at Risk, which would serve as a reference-point of best practice for all interested parties, and particularly for potential sending institutions and hosting institutions. An offer from swisspace to provide co-ordination and secretarial support to the project was gratefully accepted. The swisspace representatives were admirably reticent, in saying that they saw themselves as partners rather than leaders in the Project. Nevertheless, it is important to state that without the co-ordination of swisspace and the commitment of its staff the project would have advanced much more slowly and uncertainly. The involvement of UNESCO and ICA in the Working Group was also very important as validation.

The first seminar, in Berne, made a degree of practical progress which surprised some of the participants, and was marked by inspirational and moving statements by the sending institutions in Colombia, Guatemala and Lebanon, underlining the importance of this work.

Following the second seminar, in Amsterdam, a work-plan was circulated to all members, amended and then approved. During 2017, work was to proceed on creating the Guiding Principles, on beginning to plan a detailed explanatory Commentary, and on other necessary documents, including draft model agreements between sending and hosting institutions, a “matching mechanism” which would bring together appropriate sending and hosting institutions, a general typology for this work (closely based on work already completed by Trudy Huskamp Peterson), and lists of institutions suitable to receive, usually on a temporary basis, collections or copies of archives at risk.

By early 2018, a draft set of Guiding Principles had been published and were discussed at meetings including those of the ICA Executive Board and the joint ICARUS-EURBICA meeting held in Trogir, Croatia. Through 2018, the Working Group received a generally positive response to its draft Guiding Principles; revisions were made; and several virtual meetings overcame the challenges of using Skype and made further progress.

By February 2019, a final version of the Guiding Principles was ready, and was published on the ICA website, where it is still to be found. Publication under a “creative commons” arrangement has allowed other organizations to reproduce the Guiding Principles on their own websites.

The eighteen Guiding Principles

The Working Group felt strongly that the Guiding Principles should be simple, straightforward and short. Explanatory and supplementary documentation could be prepared separately and on a different timescale. The Guiding Principles themselves should be considered to be final (although not completely immutable), but the annexes could more easily be revised and extended over time. The Guiding Principles document, as published on the ICA website, was intended to be a concise statement of best practice, with just eighteen key principles.

The eighteen principles are presented in the following order:

- The principle of “Dealing with the Past” [*safe haven solutions are essential if documents relating to dealing with the past are at risk of destruction or alteration*]
- The Last Resort principle [*removal to another country is always seen as a last resort*]
- The Transparency principle [*all relevant laws, rules and policies of the hosting institution must be disclosed*]
- The principle of Legality and Agreement [*a full bilateral agreement, based on best-practice examples, must be agreed and signed*]
- The Main Goal principle [*the main goal of a safe haven arrangement should be the needs and wishes of the sending institution*]
- The Ethics principle [*a strong and clear ethical code must underlie the agreement*]
- The Fair Agreement principle [*the agreement must be fair and equitable, with no advantage taken of the typically asymmetrical relationship between senders and receivers*]
- The principle of “No Financial Profit” [*hosting institutions should not profit financially from any such arrangement*]
- The principle of “Processes in Agreement” [*the agreement should specify rules and procedures for sending the archives, and technical matters to do with their conservation*]

- The Ownership principle [*ownership of the documents should not be transferred to the hosting institution*]
- The Duration principle [*the agreement should include a flexible understanding about the likely duration of the archival transfer*]
- The principle of “Anticipating Succession” [*the agreement should provide for the possibility of the disappearance of either the sending or the hosting institution*]
- The principle of “Constituent Spirit” [*the spirit of the agreement when it was signed must continue to be respected*]
- The Legal Environment principle [*the documents must be hosted in accordance with an independent judicial and legal framework, in which “safe haven” activity is understood and respected*]
- The Control of Material principle [*the hosting institution takes responsibility for storage, preservation and security*]
- The Physical Characteristics principle [*the hosting institution must be in a safe area within a safe country*]
- The Professional Standards principle [*internationally recognized professional and archival standards must be respected at all times*]
- The Rapid Response principle [*allowance is made for the deferring, but not neglecting, of some of the above principles, in cases where rapid response is essential*]

Commentary, model agreements, list of hosting institutions

With the Guiding Principles published, the Working Group refocused on other documents – some of which will be published and some of which will remain internal. Work on model agreements and on creating a list of potential hosting institutions has progressed well; and a Commentary on the Guiding Principles has recently been completed. It will be appropriate here to give examples of the style of the Commentary document. For reasons of space, just two of the draft commentaries are included:

Commentary on Principle 4: Legality and Agreement Principle

Rationale and Interpretation

Having written agreements helps avoid misunderstandings and conflict at a later stage. This principle applies to agreements between institutions in the same country or in separate countries.

Form of the Agreement

Any legally binding agreement for a safe haven solution must be confirmed in written form. If the sending and the hosting institutions are government (state) institutions, this bilateral agreement will normally take the form of a treaty. If the sending and the hosting institutions are, respectively, a non-state and a state institution, the hosting institution’s law will normally establish the framework for the agreement.

If the legislative text mentions that its existence is limited by a clearly defined period, such as the duration of a truth commission’s mandate, the agreement should be tripartite, including the institution that is the legal successor institution of the sending institution after its mandate has ended. This applies also in the exceptional case that the mandate of the hosting institution is limited in time.

It is desirable to have written documentation of the negotiations leading to the agreement.

Content of the Agreement

The Working Group also developed a generic agreement that gives an overview of topics that should be addressed in such an agreement and proposes options for contractual clauses. The applicable laws, policies and procedures in both the country of the sending and of the hosting institution should be referred to in the written agreement. As a minimum, the written agreement should include the purpose and the subject of the agreement, the roles and responsibilities of the contracting parties, possible liability settlements, as well as non-judicial and judicial steps in case of disagreement between the contracting parties. Normally, such disagreements will be solved by applying the law of the country of the hosting institution, given that insecurity in the country of the sending institution is frequently the reason for the relocation. Judicial steps should also include recourse to arbitration.

In case a dispute about the original ownership of the records arises, the laws of the hosting and sending institutions should be interpreted in favour of preservation of the records and in the light of a compelling public interest in Dealing with the Past processes.

A wide variety of agreements are possible and can be adapted to provide greater agility to respond to changing circumstances. For example, a potential hosting institution might receive records for the purpose of taking them out of harm's way under a very limited receipt agreement in time and obligations. This might allow the institution to better assess whether they would be a good host, e.g., if the archives in question contain a lot of audio-visual material that the hosting institution cannot handle. If the agreement exists in more than one language, the agreement must also specify which version(s) will be the authoritative version for legal matters.

If the safe haven solution agreed upon contains financial commitments for either party to the agreement, the agreement must state such commitments in detail.

Further references:

The Working Group on safe havens for archives at risk drafted a generic agreement with sample clauses based on good practice. This generic agreement is available as an annex to this publication.

Commentary on Principle 11: Duration Principle

Rationale and Interpretation

In situations when archives are at risk, it is usually difficult or impossible to anticipate when the risk will disappear. The agreement should take this difficulty in planning into account.

The question of the duration of the agreement and particularly the conditions that will trigger the return of the archives are very sensitive. It is difficult to evaluate to what extent records continue to be at risk at a certain point in time and therefore still need to be secured elsewhere. The agreement needs to strike a balance between the safety of the archives and the interests of the sending and the hosting institutions. The agreement, therefore, should include a certain degree of flexibility.

The term "closure" refers to several options, depending on the legal and factual situa-

tion of the parties upon termination of the agreement and the details agreed upon therein. Besides the formal expiration of the contractual agreement, it could also include repatriation of the archives or any other solution specified in the agreement.

The parties should agree on the termination modalities of the agreement. Options for the contracting parties include:

- (1) an agreement with a duration that ends at a specific defined date with the fulfilment of all the contractual obligations of the parties (e.g. the return of the records to the sending institution);
- (2) an agreement that is extended automatically year by year unless either party gives the notice of annulment before the end of the contractual period;
- (3) an agreement for an unlimited period of time to be dissolved upon request by one party only.

Options for ending an agreement by the hosting institution are covered in the Commentary on Principle 12. If possible and pertinent, regular situation reports by the sending institution may help to evaluate whether a safe haven solution is still needed.

The agreement should include a clause that allows for immediate termination of the agreement in case of non-compliance, non-execution or breach by one of the parties. Further, if events resulting from *force majeure* (e.g. armed conflict, political tensions and natural disaster) prevent the execution of an agreement, either of the parties may terminate the agreement from the moment when it becomes impossible to implement it.

Where the ownership of the information and rights of the sending institution are contested, the public interest in dealing with the past should prevail.

Illustration

After the completion of its report in early 1993, the Commission on the Truth for El Salvador transferred its archives to the custody of the United Nations Secretary-General; they are housed in the United Nations archives. In its report, the Commission said it held itself “personally responsible for guaranteeing confidentiality before finally handing the archives over to their lawful owners”. However, neither the duration of the deposit nor who was authorized to ask for the archives’ transfer to El Salvador was included in the documentation of the deposit, and twenty-six years later, despite of a request for access by the Salvadorian government, the records remain with the United Nations and are closed.

From Working Group to Advisory Committee: 2019 and beyond

At a further meeting held in Geneva in September 2019, the colleagues from Switzerland were able to confirm ongoing swisspeace support for the safe havens initiative. It was agreed at that meeting that a permanent co-ordinating body would ideally be needed to oversee safe havens activities into the future. With some initial modest reticence, but with encouraging external support, the Working Group agreed that it should transform itself into an Advisory Committee for this purpose. The welcome participation and support of UNESCO and ICA in this Advisory Committee would continue to be of great importance.

The Advisory Committee agreed in 2020 some simple but important terms of reference for its members:

As the framework on “Safe Havens for Archives at Risk” now has a more solid foundation, the previously established working group evolved to an Advisory Committee in September 2019, looking at offering support and concrete solutions to both sending and hosting institutions, regarding the protection of archives at risk and the establishment of safe haven solutions.

This Advisory Committee has a consultative function and decision-making power, and the tasks of its work are hereby defined.

The main tasks and duties of the members of the Advisory Committee are to:

- Advise on incoming requests of sending institutions to the swisspeace secretariat
- Promote and advocate for the Guiding Principles
- Reach out to hosting institutions to ask for potential endorsement of the Guiding Principles
- Be in regular contact with other Advisory Committee members
- Collect good practices around Safe Havens for Archives at Risk and make them available to the public

Conclusion

Although the plans for this project were generally received very positively during the ICA Congress in Seoul in 2016, there was considerable scepticism about the delivery of the project – scepticism about the capacity of the Working Group; scepticism borne of professional caution about cross-border projects; and scepticism about continuing liaison between partners with such different backgrounds and circumstances. This scepticism has been overcome by the enthusiasm of the Working Group (now the Advisory Committee); the clear validating support of UNESCO and ICA, notably with publication on the ICA website; the established best practice already to be found, especially in Finland and Switzerland; the inspirational presence of early “sending institutions” in Colombia, Guatemala and Lebanon; the driving energy and leadership in promotion of this project from former US National Archivist Trudy Huskamp Peterson; and (not least) the anchoring practical support from swisspeace.

Endorsement of the Guiding Principles by external organizations since their publication has been another important validation, and ICA Sections were among the first organizations to give support in this way.

In remarkable and unusual Congress-to-Congress progress within ICA, a project which was outlined as a possibility in Seoul in 2016 will be described as an archival achievement in Abu Dhabi in 2023.

Website references

The principal references for this article are available online, and are listed below. An attempt has been made to choose online versions which should be reasonably permanent, and all the websites below were accessed during the writing of this article in early 2020, and then, as a further check, in January 2021.

The Guiding Principles document itself is on the ICA website:

https://www.ica.org/sites/default/files/guiding_principles_for_safe_havens_for_archives_at_risk_copyright_creative_commons_cc_by_nc_4.0_ica.pdf

“Adventures in Archives” [interview with Trudy Huskamp Peterson]:

<https://link.las.iastate.edu/2019/05/21/adventures-in-archives>

BOEL Jens and SUTTON David: “Archives at Risk: addressing a global concern”:

<https://online.liverpooluniversitypress.co.uk/doi/pdf/10.3828/comma.2017.9>

Diasporic Literary Archives Network: <https://www.diasporicarchives.com>

ICA statement on the Guiding Principles:

<https://www.ica.org/en/guiding-principles-for-safe-havens-for-archives-at-risk>

ICA-SLA blog: Safe Havens for Archives at Risk:

<https://literaryartisticarchives-ica.org/2017/01/30/safe-havens-for-archives-at-risk>

ICA-SLA blog: ICARUS and EURBICA Joint Conference, Trogir, Croatia:

<https://literaryartisticarchives-ica.org/2018/03/03/icarus-and-urbica-joint-conference>

International Institute of Social History: <https://iisg.amsterdam/en>

National Archives of Finland: Safe Havens for Archives at Risk:

<https://arkisto.fi/index.php/2266/3728/The-Executive-Board-of-the-ICA-endorsed-Guiding-Principles-for-Safe-Havens-for-Archives-at-Risk/d,ajankohtaista-en?page=news/2266/3728/The-Executive-Board-of-the-ICA-endorsed-Guiding-Principles-for-Safe-Havens-for-Archives-at-Risk/d,ajankohtaista-en>

swisspeace: <https://www.swisspeace.ch>

swisspeace statement on the Guiding Principles:

<https://www.swisspeace.ch/projects/mandate/safe-havens-for-archives-at-risk>

PETERSON Trudy Huskamp: <https://www.trudypeterson.com>

Appendix: the Working Group: swisspeace minute, January 2017

“In order to move this agenda forward, the participants have created a Working Group co-ordinated by swisspeace and composed of:

- Representatives of governmental and non-governmental sending institutions: Luisa Franco (National Center of Historical Memory of Colombia), José Rodolfo Kepfer (Historical Archive of the National Police of Guatemala), Monika Borgmann and Lokman Slim (UMAM Documentation and Research, Beirut)
- Representatives of governmental and non-governmental receiving institutions: Andreas Kellerhals (Swiss Federal Archives), Jussi Nuorteva (National Archive of Finland; as corresponding partner), Serge Rumin (Swiss Federal Department of Foreign Affairs), Brigitte Troyon (International Committee for the Red Cross), Theresa Polk (Texas University), Afelonne Doek (International Institute for Social History)
- Specific experts and potential leading institutions: Iskra Panevska (UNESCO), Didier Grange (ICA), David Sutton (University of Reading Library, UK), Trudy Huskamp Peterson (Certified Archivist), Tim Gollins (National Records of Scotland).”

Endnote

swisspeace (@swisspeace) posted the following note on behalf of the Advisory Committee on Safe Havens for Archives at Risk on Twitter on 5 February 2021:

“We have learned with shock and great sadness that our colleague and friend Lokman Slim has been assassinated.

Lokman believed in the need to confront the past to move out of cycles of violence. He courageously advocated for documentation and research on contentious issues.

A member of the Advisory Group on Safe Havens for Archives at Risk, Lokman and UMAM Documentation and Research – which he co-founded with his wife Monica Borgman – had become a central force in safekeeping of archives.

Lokman will be sorely missed. His untimely death is a stark reminder of the profound significance of his work.”