“Peace, order and good government”: archives in society

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Abstract The phrase “peace, order and good government,” common to the definition of federal powers in both the Australian and the Canadian constitutions, has defined the relationship of the Crown and the citizen for more than five centuries. The archival record is fundamental to that relationship, providing its authoritative legal basis, documenting its evolution and continuing as a reminder of both our proudest achievements and our most dismal failures as a society. This paper reflects on the role of archives in recent Canadian human rights issues, highlighting both the strengths and the weaknesses of the record, the perception of archives as an agency of the state and the role of archives in helping society address highly contentious issues.

Keywords Human rights · Canadian archives · Indigenous human rights

Archbishop Desmond Tutu readily accepted the invitation from the ICA to deliver the keynote address to the 2003 meeting of Conseil internationale de la Table Ronde des Archives (CITRA) being held in Cape Town. He was eloquent in his humility, delivering the most powerful reflection on the social value of the record. He clearly had a message he wanted to share with the representatives of the global archival community. His words were powerful and direct, and his delivery was effective. After describing something of the reality of Apartheid, he ended with the deep-felt and blunt statement:

The records are crucial to hold us accountable. They are indispensable as deterrents against a repetition of this ghastliness and they are a powerful

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incentive for us to say, “Never again”. They are a potent bulwark against human rights violations.

We must remember our past so that we do not repeat it (Tutu 2004).

With a few words, he ensured that the issue of human rights was embedded firmly in the agenda of the International Council on Archives. He inspired all who heard to redouble our professional commitment.

The speakers at the 2003 CITRA conference were clear that archives cannot halt a repressive regime nor stem a wave of social panic or prejudice, but they must endeavor to document their society in all its complexity. We heard of the valiant efforts of archivists who risked all to maintain a record of the “disappeared” in the 1970s and 1980s and of others working with minorities in exceedingly difficult circumstances. Colleagues from Argentina and Chile spoke frankly of their continuing efforts and of the sensitivities inherent in processes of preservation and of memory. Archives have an essential role in helping survivors to tell their stories and bear witness for the future. Archives must know the record in all forms and be able to substantiate an often fragmented record in court after the regime falls. Those who would deny oppression and atrocities cannot be able to challenge the validity and authority of the record. Through access, research, exhibition, and online resources, archives have a responsibility to inform and educate the future (CITRA 2004). Following Archbishop Tutu’s impassioned address, the International Council on Archives established a committee, the ICA Human Rights Working Group, to monitor the issues, to inform the archival community and to reach out to allied professions to ensure they do not overlook the fundamental value of the record as the foundation stone of the defense of human rights. This dedicated Working Group keeps alive Archbishop Tutu’s challenge to the profession.

The essential interdependence of memory and human rights echoes through western societies’ proudest statements on the rights and freedoms of the individual. The Magna Carta (1215), the Scottish Declaration of Arbroath (1320), the Bill of Rights (1689), and the American Declaration of Independence (1776) all seek legitimacy and assert rights believed to have been forgotten or ignored. This was explicit in the first sentence of the influential French Declaration of the Rights of Man:

The representatives of the French people, convened as the National Assembly, believing that ignorance, neglect or contempt of the rights of man are the sole causes of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration the natural, inalienable and sacred rights of man (1789).

Just a month before passing this essential statement and only 2 weeks after the fall of the Bastille, the French National Assembly appointed its first archivist. The subsequent archival decree of 1794 proclaimed that “every citizen is entitled to ask in every repository...for the production of the documents it contains” (Posner 1940). The preservation of records and public access were inextricably linked to human rights. Conversely and perversely, when regimes attempt ethnic cleansing, archives are carefully targeted to show that “those people” never lived here. Land

records, the civil register and similar documents become inconvenient truths, best destroyed to erase a people. Archivists are the stewards of a vital social trust.

One of my predecessors, the then, Dominion Archivist of Canada, Arthur G. Doughty, reinforced this point in proclaiming:

Of all national assets, archives are the most precious. They are the gift of one generation to another and the extent of our care of them marks the extent of our civilization (Doughty 1924, p. 5).¹

While this was first published in 1924, he wrote it in July, 1916, when European civilization seemed to hang in the balance during a war the British Empire was fighting, as the Kaiser famously termed it, over “a scrap of paper”—the 1839 Treaty of London, guaranteeing Belgian neutrality.

These declarations, taken from South Africa, France, and Canada, spanning more than two centuries, all affirm the central role of archives, the authoritative record as the basis for memory, continuity, and social order. In the same way, the truth and reconciliation commissions, pioneered in South Africa and now established in Canada to address the woeful legacy of the residential schools for Indigenous children, seek the evidence of documents and of living memory to establish facts and to encourage understanding in redressing modern abuses of human rights (Royal Commission on Aboriginal People 1996; Truth and Reconciliation Commission of Canada 2011 website). In turn the truth and reconciliation commissions create the archival record for the future. This is the point that Archbishop Desmond Tutu stressed in his memorable speech to the national archivists. The archival record, preserved today, reflecting and documenting the past is very much about future society and its ability to remember (Cox and Wallace 2002; Harris 2007; Jimerson 2009; Procter et al. 2007).

The archival record is also the very foundation of civil order. Rights and obligations are recorded and are maintained for reference and as evidence when needed as proof. In the British Commonwealth, the concept of “order” is, and has been, central to our system of government. A key phrase was enshrined in the constitutional documents of both Canada and Australia, “peace, order and good government”. This is used to define the residual powers of the federal authority, ensuring that powers not explicitly allocated to the provinces or states rest with the national government. As such, it embodies and continues the traditional commitment of the Crown to its citizens. The phrase had been “peace, welfare and good government,” and words to this effect can be traced back to at least 1489 in the British statute defining the role of Justice of the Peace. It echoes through the instructions to colonial governors in the eighteenth and nineteenth centuries and can be found in instructions to the governors of Newfoundland into the 1930s. The phrase changed over a weekend in London, in January 1867, as the *British North America Act*, the founding document of the Canadian Confederation, later amended and consolidated as the *Constitution Act 1982* (Canada, Department of Justice 1982b), underwent a series of revisions. There is no record as to who was

¹ Carved on pedestal of statue of Sir Arthur Doughty, located behind Library and Archives Canada, 395 Wellington Street, Ottawa.

responsible or why it shifted from “welfare” to “order,” but the phrase has characterized Canadian society since, in stark contrast to the American constitution’s more engaging “life, liberty and the pursuit of happiness”.

In the nineteenth century sense “welfare,” or commonwealth or common good, implied a concern for the well-being of the individual citizen. But “order” is clearly concerned with the group or the state (Saul 2008). The residual tension between collective rights and individual rights became explicit in the early 1980s as Canada moved to patriate the power to amend our constitution (which had rested with the Parliament at Westminster) and added a Charter of Rights and Freedoms as part of the new constitution. The Charter focuses on the individual, and section 25 was added to confirm that the Charter would not be interpreted to “abrogate or derogate from any aboriginal treaty or other rights or freedoms that pertain to the Aboriginal peoples of Canada” (Canada, Department of Justice 1982a). These collective rights relating to land, fishing, hunting, and the preservation of traditional languages, cultures, and traditions are still being defined. Over the years, many of these have depended on the recordkeeping of federal departments, administering treaties and benefits to the point that First Nations have had an uneasy relationship with the national archives, seen as just another arm of the federal government. However sensitive archivists have been or, however, open we have tried to be, First Nations have tended to see themselves as “subjects” or “captives of the archives” (Fourmile 1989). Past, often derogatory, terminology preserved as an integral part of the record and still occasionally in our descriptive tools has reinforced this perception. Recognition of other recordkeeping approaches has been slow in coming. After long argument and pressure, in 1997 our courts ruled in a noted land claims case that it is necessary

...to adapt the laws of evidence so that the aboriginal perspective on their practices, customs and traditions and on their relationship with the land are given due weight by the courts. In practical terms this requires the courts to come to terms with the oral histories of aboriginal societies, which, for many aboriginal nations, are the only record of their past (*Delgamuukw v. British Columbia* 1997).

The concept of collective rights has also been applied to the status of women. In the late 1920s when the government of the day wished to appoint a woman to our Senate, the Supreme Court of Canada determined that, on strict reading of the *British North America Act 1867*, women were not persons and accordingly could not be appointed to the Senate (*Edwards v. Canada* 1928). This ruling was appealed to the Judicial Committee of the Privy Council in London, which ruled that the constitution had to be interpreted in the light of changing social values and ruled that women are in fact persons within the law (*Edwards v. Canada* 1929). This judgment applied to Canada but, given that the JCPC was the final court of appeal for the Commonwealth, it also applied to Australia and the other members.

Over the decades in Canada, I have witnessed the power of the record in a wide range of cases, as inquiries and courts delved into the authoritative sources to address human rights issues in our country. These have included such matters as:

- Allegations, subsequently proved, of the abuse of teenagers sentenced as young offenders to Ontario's provincial training schools operated by a religious order (Henton and McCann 1995).
- Questions about the administration of funds paid to a provincial trustee in the 1930s and 1940s for advertising and appearances in Hollywood feature films by the Dionne Quintuplets. This inquiry was followed by compensation for misuse and an official apology (Teshler 1999).
- Exposure of Canada's past immigration policies as explicitly discriminatory, with clear documentation on the exclusion of Sikhs in 1914, the ban on Mennonite immigration in 1919–1922 and the official refusal to allow entry to Jews fleeing the Nazi regime in the 1930s, to list but a few (Kazimi 2004; Epp 1974, 1982; Abella and Troper 1982).
- Gradual awareness, supported by careful research, of the relocation from the West Coast and the confiscation of the property of Japanese Canadians during the panic of the early days of the Second World War in the Pacific. The individual case files had been selected for preservation and provide testimony that is both eloquent and profoundly poignant. The campaign led to compensation and an official apology in 1988 (Miki and Kobayashi 1991).
- Similarly, growing understandings in Canadian society of issues such as the head tax paid by Chinese workers seeking to enter Canada in the late nineteenth and early twentieth centuries, and the deliberate exclusion of Chinese as immigrants from 1923 to 1947 (Roy 1989). The detailed record had been kept and provided the basis for Prime Minister Harper's apology on 22 June 2006 (Harper 2006).

There have also been many issues for our First Nations in dealing with land and treaty rights and traditional knowledge. The emotional issue of the residential schools for Indigenous children has proved especially difficult for archivists working in both church archives and the national archives. The residential schools in Canada were operated by various churches on behalf of the federal government from the 1880s through to 1996 (Miller 1996). They were intended to teach the arts, crafts, industrial skills, farming techniques, and language to assimilate children of the First Nations into society. In the process, children were taken from families and their homes to remote boarding schools. These schools were operated largely by the churches on behalf of the government. As former students gradually came forward, alleging mistreatment and sexual abuse, and as broader issues such as loss of family, of language, of culture, and of identity became clear, questions arose concerning the completeness of the record. Lawyers besieged the archives. Archivists, caught between the vagaries of old informal recordkeeping practices in church schools across the country, legal demands for instant and full access and obligations to employer and profession, struggled to uphold their ideal of the honest stewardship of the records. Since the story has become known, a compensation scheme has been implemented; some cases remain for the courts; a full official apology to all who were affected was given by Prime Minister Harper (2008), and a truth and reconciliation process is under way, making use of the available records in the church and government archives. This process has tested the capacity of archives and our professional ability to respond.

In each of these instances, the archival record had been appraised and selected by our predecessors. Files had been carefully boxed and described, sitting on shelves for decades before researchers thought to ask for them. Researchers were surprised by the detail and extent of the available record and the fact that for Canadians of both Chinese and Japanese origin, the case files had been kept in their entirety, providing families with the documentation, if not the explanation, of what the state had done to parents and relatives. Each file has its story, and each is touching as we recognize the human drama underlying the various letters and financial statements.

The process by which these came to public attention and over time sparked public reaction is worth tracing. For one case, that of provincial training schools in Ontario, our archivists found that allegations of abuse were raised in question period in the legislative assembly in 1969; they were detailed in a story in a national news magazine in 1971; they were raised again in the Assembly in 1978; then outlined in a chapter of a book in the mid-1980s; but it was not until about 1990 that the news media and the public became curious about just what had happened. The public consciousness needs to be engaged. But this depends on the news media and the public mood. The archival record is key and helps provide the authoritative base for reporting and then for official inquiries, but the media and the public must be willing to explore with a desire to learn from the past. Too often, we hear of archives only in connection with the great national celebrations of historic events and heroes. The archives, though, also shed light on the darker places of the national soul and help a society learn and move forward, better informed and alert to weakness.

The Honorable Mary Robinson, then President of Ireland and later UN High Commissioner for Refugees, spoke at the dedication service for the Irish Memorial National Historic Site at Grosse île, in the St Lawrence River, near Quebec City in 1994. Irish immigrants, fleeing the famine of the 1840s, crossed the Atlantic, arriving at the quarantine station off Quebec City. Many thousands died en route and then awaiting entry into Canada. In a deeply moving address on this tragedy, she touched on the relationship of past and present:

If we are spectators then we will choose the view that there are inevitable historical victims and inevitable survivors. And from that view, comes a distancing which is unacceptable and immoral. If we are participants, then we realize there are no inevitable victims. We refuse the temptation to distance ourselves from the suffering around us—whether it comes through history books or contemporary television images. And then, although we cannot turn the clock back and change the deaths that happened here, at least we do justice to the reality of the people who died here by taking the meaning of their suffering and connecting it to the present challenges to our compassion and involvement. If we are spectators then we close these people into a prison of statistics and memories, from which they can never escape to challenge our conscience and compassion (Robinson 1994).

We obviously cannot right the wrongs of the past, but informed by our knowledge of the past, we can endeavor to labor to ensure our society deals justly with the no less compelling issues of today. This is also the intent of Desmond Tutu. Those who went before us yet live—through the archival record and through our actions.

While archivists talk proudly of our role in the protection of human rights in society and draw on the rhetoric of the social memory in describing our professional ambition, we need to shift the lens to consider how we manage our institutions and fulfill our stewardship responsibilities. Our appraisal decisions determine what records survive and which are destroyed. However professional we seek to make them, these reflect our time and place, our assumptions and our values. Many authors, Terry Cook foremost among them, have noted that decisions on appraisal and selection, with archivists usually as the sole decision-makers, shape the history that can be researched and written in the future. We sculpt memory by our cumulative decisions. And, as witnesses die out, only the testimony of the record remains.

Is the record we are now creating fully reflective of the diversity and complexity of our societies? Are our appraisal decisions informed by the perspective of minorities and do we seek out records that help document the experience of all citizens? In most countries, the official government records provide only part of the story and private sector materials, family records and the non-governmental organizations of civil society offer essential viewpoints and balance. For many, records in different languages or multi-media formats and oral recordings are the only sources. Ensuring a comprehensive record requires our institutions to ensure that minorities are part of the decision-making process and are engaged as colleagues in the archival endeavor. At times, for groups that are distrustful of officialdom, major archives need to reach out and find innovative ways of providing advice and technical support, and perhaps funding to enable these communities to maintain their own record.

Similarly, our descriptions of these records need to be as value neutral as possible. Racist and derogatory terminology is an integral part of the historic record and remains to show the mindset of earlier generations, but as we develop or update our descriptive materials, a more sensitive approach is required. Words carry meaning and how we describe sometimes implies a judgment. In 1885, there was armed insurrection in western Canada by the Métis. Library and archives catalogs variously describe the events as the “1885 Riel Rebellion,” the “Second Riel Rebellion,” and the “Northwest Campaign,” but in a Métis college, the Métis perspective is clear—the “Métis Resistance”. In the United Kingdom, archives and museums have been playing an active role in helping immigrants become established and settled in a new land, working closely with newcomers. In Canada, a few years ago we found we had in our collections several thousand photographs taken in the Arctic in the 1930s, 1940s, and 1950s. They are superb images of a way of life rapidly disappearing. But while they showed the Inuit people, names were lacking. No one bothered to record them. Teachers from our newest territory, Nunavut, encouraged us to digitize the photos. Their students then met with Elders and began the process of giving names to images. We have had about a 75% success rate. And in the process, Elders and students have talked about people and a former way of life in the Arctic. Name is a precious thing. We value the individual by giving identity. Much remains to be done if we are to be inclusive.

In providing services, the traditional archival model of reference staff during business hours, a supervised reading room and copying services tends to privilege

those citizens who live close to the archives and who can do their research during the archives' hours. Libraries have been doing excellent work in devising services for those who are illiterate, for those who may be blind or have other print disabilities. I have heard little discussion in archival circles on how we support all of our citizens wherever they may be or whatever their abilities. Do we need to restructure our services to ensure that everyone is enabled and even encouraged to use the archives? We must strive to ensure that the archival record is sufficiently embedded in the community to be meaningful and active social memory.

While archives claim to support the human rights of minorities, to what extent are these groups even aware of the existence of the archives? Those whose rights are most at issue are frequently the least knowledgeable about the record and how to access it. In the instances, I have outlined above, it took the pioneering work of individual historians, working with archival colleagues, to make the first exploration of the available record; to publicize this, gradually making individuals aware of the detail and extent of the surviving documentation; and then to explain how individuals could access it. The ICA Universal Declaration on Archives makes the confident assertion that

Open access to archives enriches our knowledge of human society, promotes democracy, protects citizens' rights and enhances the quality of life (ICA 2011).

This is true enough for those aware of archives and how to access their resources. But, for too many, the profound lack of awareness of the archives or even the remote scholarly image of our institutions means the record effectively does not exist. The web and social media are part of the solution, enabling us to reach and inform a large audience. But we must also recognize that for many of the disadvantaged in our society, the public library is frequently the most welcoming place to begin a search. Archives should ensure that the reference staff in local libraries are valued partners, knowledgeable about how to find the holdings and the services of the archival system.

That there is interest and demand for access is increasingly clear from the experience of those institutions that have seriously invested in online access. Online, text, images, sound recordings, film and broadcast can reach new audiences, and services for schools and genealogists are widely used. In many instances, citizens are discovering for the very first time the extent, depth, and personal interest of the records in our care. They are awakening to the sense that these records are theirs, to learn from and to form part of their memories. Archives are moving from being the most fragile and least accessible heritage resource to the most accessible, available in public libraries, at home and on mobile devices. History is shifting from the mediated experience of text books and film to being explored by each person, history first-person singular. And every one can publish their historic views online, some in wikis, others in blogs; some scholarly and some bizarre at best. Many perspectives are brought to bear based on our records, and in turn challenge us in deciding which of these to preserve.

The UNESCO Universal Declaration on Cultural Diversity sees diversity as part of the “common heritage of humanity” and “as necessary for humankind as

biodiversity is for nature” (UNESCO 2001). This must be reflected in the records archives select and in the services we offer. The dialog across cultures, supported and enabled by international archival projects, is vital for mutual understanding and for peace. I would suggest that part of this dialog, often a very large part, is also a dialog across time as humanity wrestles with the issues we have inherited from the past; issues half remembered, based on rumor and old stories, feeding prejudices and kept alive for political ends. Just as nations have been using the difficult and painful approach of truth and reconciliation to address the social fault lines within their borders, we need the equivalent process internationally. An inclusive, authoritative record, suitably accessible, must underlie all international efforts to achieve “peace, order and good government”. Within this, all citizens of the world can explore and achieve their potential.

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