

# ETHICAL DILEMMAS IN THE INFORMATION SOCIETY

*Codes of Ethics for Librarians and Archivists*

Editors

Amélie Vallotton Preisig / Hermann Rösch / Christoph Stückelberger

**Ethical Dilemmas in the Information Society:  
How Codes of Ethics Help to Find Ethical Solutions**

*Papers from the IFLA/FAIFE Satellite Meeting 2014*



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Editors: Amélie Vallotton Preisig, Hermann Rösch  
and Christoph Stückelberger

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and Christoph Stückelberger (eds.)

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# **ETHICAL DILEMMAS IN THE INFORMATION SOCIETY: HOW CODES OF ETHICS HELP TO FIND ETHICAL SOLUTIONS**

*Amélie Vallotton Preisig, Hermann Rösch and Christoph Stückelberger*

Librarians, archivists and other information workers had to face ethical conflicts and ethical dilemmas long before digital media and the Internet started to reshape the whole information sphere. Francis Bacon's aphorism knowledge is power (*scientia potentia est*) refers to the fact that limited access to information and restricted education were and are prerequisites of ruling elites in pre- and non-democratic societies.

Freedom from censorship, access to information, equal treatment, freedom of expression and so forth have been important issues in the past and still are vulnerable values.

Free access to information and freedom of expression are requirements and achievements of the enlightenment and acknowledged as basic human rights meanwhile as Art. 19 of the Universal Declaration of Human Rights<sup>1</sup> gives proof:

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart*

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<sup>1</sup> The Universal Declaration of Human Rights. United Nations 1948.  
<http://www.un.org/en/documents/udhr/index.shtml#a19> (22.9.2014).

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*information and ideas through any media and regardless of frontiers.*

Despite this, ethical conflicts and ethical dilemmas appear wherever information is generated, organized, stored, distributed and consumed. Challenges arise of course due to ideological dogmatism, totalitarian attitudes and religious fundamentalism. Beyond that individual benefits, economical interests or striving for power lead people into temptation to censor or to manipulate and hinder the free flow of information. Political interests, an exaggerated claim for security on a national level and the prevention of organized crime e.g. determine democratic governments as well to question and to limit free access to information and to establish or intensify forms of control, surveillance or even censorship. It is quite complicated and not always possible to identify the difference between justifiable restrictions and an unacceptable violation of fundamental ethical values. Librarians in the US e.g. had to deal with these issues after their government had enacted the PATRIOT Act in 2001 in response to the terrorist attacks on the USA of September 11 2001. The FBI was empowered to access library usage records and to take records related to Internet usage without a warrant. These prevailing legal norms conflicted “with the existing ALA professional ethics in a number of ways, but most importantly with the protection of user privacy”<sup>2</sup>.

Dilemmas and conflicts sometimes appear because ethical values conflict among themselves. Here are some examples:

- Unrestricted access to information is not compatible with privacy and data protection.

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<sup>2</sup> *Barbara Jones: "Librarians shushed no more." The USA PATRIOT Act, the "Connecticut Four, " and professional ethics. World Library and Information Congress: 75th IFLA General Conference and Assembly. Milan 2009. <http://conference.ifla.org/past-wlic/2009/117-jones-en.pdf> (24.9.2014)*

- Unlimited freedom of expression collides with protection from defamation.
- Protection of minors requires the curtailing of accessible information this clientele and leads to a breach of the equal treatment commandment (“...equitable services for everyone whatever their age...”)

This gives proof of the need to balance conflicting values in a careful and sensitive way. Ethical reflection based on the related code of ethics is the appropriate means to find suitable balances and to solve conflicts and dilemmas.

Anyway ethical conflicts and dilemmas are not a new phenomenon of the information society. But information technology based on computers, digital media and the Internet has escalated the potential to violate the fundamental values related to library and information ethics enormously. Quasi-monopoly Internet companies like Google, Bing or Yahoo have the power to manipulate their user’s search results without running the risk of being detected in each case.<sup>3</sup> Social networks like Facebook, Whatsapp etc. are able to collect and sell personal data.<sup>4</sup> Anonymous companies or institutions violate privacy by collecting, compiling and analyzing data tracks and by generating and retailing extensive personal information profiles.

Libraries not infrequently equip all their public computers with filter software as a means of minor protection. But at the same time adult library users are subject to filtered access to the Internet too because there is no distinction between computers for minors and computers for adults. At libraries and many other public spaces surveillance via video cameras is in practice for security reasons. But there is no transparency

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<sup>3</sup> Cf. Eli Pariser: *The Filter Bubble. What the Internet is hiding from you.* London: Penguin books 2012.

<sup>4</sup> Cf. Sascha Adamek: *Die Facebook-Falle: Wie das soziale Netzwerk unser Leben verkauft.* Heyne, München 2011.

with regard to questions like who has access to the material, how long the pictures will be kept, and so forth. Concerning copyright the information society is facing completely new and intensified challenges. Sharing networks, pirate copies as well as plagiarism via copy and paste in the digital world set the copyright system of the Gutenberg era under pressure (as well as good scientific practice). Open access is told to be a contemporary answer.<sup>5</sup> On the other hand publishers try to take advantage of current debates about copyright.<sup>6</sup> Libraries are involved in licensing regulations that sometimes hinder them to make e-books and other material available for all their users regardless of income and social status. Many publishers even try to exclude libraries from acquiring e-books.<sup>7</sup>

Despite the enormous challenges librarians, archivists and other information workers of course embrace the digital era as a chance to facilitate life and to improve the conditions of mankind worldwide. As information professionals they have experienced as early as possible that information is at the centre of society in the 21st century. And they are aware that their profession's ethical implications are key to build a better future for the global information society. The idea of organizing a conference on ethical dilemmas in the information society and on the role of codes of ethics for librarians and archivists is closely linked to these conclusions.

The first stimulus for a conference on ethical dilemmas and the role of codes of ethics emerged during the process of drafting an

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<sup>5</sup> *Open Initiatives: Offenheit in der digitalen Welt und Wissenschaft*. Ed: by Ulrich Herb. Saarbrücken: Universaar 2012. [http://universaar.uni-saarland.de/monographien/volltexte/2012/87/pdf/Onlineversion\\_Open\\_Initiatives\\_Ulrich\\_Herb.pdf](http://universaar.uni-saarland.de/monographien/volltexte/2012/87/pdf/Onlineversion_Open_Initiatives_Ulrich_Herb.pdf) (24.9.14)

<sup>6</sup> Cf. Rainer Kuhlen: "Copyright Issues in the European Union – Towards a science- and education-friendly copyright.[Preprint]". <http://www.kuhlen.name/MATERIALIEN/Publikationen2013/RK-copyright-issues-in-the-EU-submitted-preprint05032013-PDF.pdf> (24.9.2014)

<sup>7</sup> Cf. IFLA Principles for Library eLending.2013. <http://www.ifla.org/node/7418> (24.9.2014)

international code of ethics for librarians and other information workers on behalf of the International Federation of Library Associations and Institutions (IFLA). Within IFLA's core committee "Freedom of Access to Information and Freedom of Expression (FAIFE) in 2009 the proposal has been made to draft such an international code of ethics that should be discussed widely.<sup>8</sup> This proposal was acclaimed not least to the fact that the international associations of archivists and museum professionals had already gained extremely positive experiences with their specific international codes.<sup>9</sup> In summer 2010 a working group consisting of 5 international experts started to work on the drafting process.<sup>10</sup> Globethics.net Foundation based in Geneva took part in its elaboration thanks to the fact that one member of the FAIFE working group who had worked for and with Globethics.net brought both sides into contact.

Globethics.net is a worldwide network of persons and institutions interested in various fields of applied ethics. It is based in Geneva and offers access to a large number of resources on ethics, especially through its leading global digital ethics library. In addition Globethics.net facilitates collaborative web-based research, conferences, online publishing and information sharing.<sup>11</sup>

After a long and intensive debate throughout IFLA and the international library community IFLA's Governing Board endorsed the latest version as IFLA Code of Ethics for Librarians and other

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<sup>8</sup> Cf. Hermann Roesch: Drafting an International Code of Ethics for Librarians: FAIFE working group at work. In: FAIFE Newsletter. Issue 2. February 2011. p. 4-5. <http://www.ifla.org/publications/faife-newsletter?og=30> (18.9.2014).

<sup>9</sup> Cf. International Council on Archives (ICA): Code of Ethics. 1996. <http://www.ica.org/?lid=5555&bid=225> (18.9.2014); International Council of museums (ICOM): Code of Ethics. 1986. <http://icom.museum/the-vision/code-of-ethics> (18.9.2014).

<sup>10</sup> These were Loida Garcia-Febo, Anne Hustad, Hermann Roesch, Paul Sturges, Amélie Valloton Preisig.

<sup>11</sup> Globethics.net. 2014 <http://www.globethics.net/> (24.9.2014).

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Information Workers.<sup>12</sup> Already whilst drafting first thoughts were spent on possible methods how to popularize the code and how to make it come alive. This discussion resulted in a strategy consisting out of four main parts:

- Translate the code in different languages in order to make it available in as many parts of the world as possible.
- Develop and provide training material for workshops raising the awareness of librarians with regard to ethical issues and introducing the code as a means of ethical reflection and standardization.
- Collect case studies from all over the world covering the most important ethical issues and challenges at the library workplace.
- Organize conferences, seminars and workshops.

Most of these proposals have not yet been fully implemented, but work in progress can already be observed. The code has been translated meanwhile (September 2014) into 20 languages.<sup>13</sup> Further translations will follow. Training material for workshops is in the drafting process. Plans to create a database with case studies are underway. The first and most important event related to part 4 (conferences, seminars, workshops) was realized in August 2014 and consisted in the conference “Ethical Dilemmas in the Information Society” which is documented in the following proceeding.

In continuation of their high-producing cooperation FAIFE members and Globethics.net representatives started to plan and organize the Geneva conference. It was a fortunate coincidence that IFLA’s annual World Library and Information Congress was destined to take place in Lyon, France, in 2014. This is why the decision was taken to have the

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<sup>12</sup> IFLA Code of Ethics for Librarians and other Informations Workers. 2012. <http://www.ifla.org/faife/professional-codes-of-ethics-for-librarians#iflancodeofethics> (18.9.2014).

<sup>13</sup> *ibidem*

conference on ethical dilemmas as satellite conference just a couple of days in advance of the Lyon event. Geneva as venue was most advantageous due to Globethics.net being situated there.

The organizers agreed to invite not only librarians but archivists and other information workers as well. The conference should provide information professionals from different fields of application an opportunity to share their experiences, to discover similar challenges as well as differing problems. And in fact contributors as well as participants came from library, archive and other information communities. Thanks to Globethics.net' and IFLA's international orientation and their intensive cooperation with colleagues and associations from African countries several participants (and contributors) from African countries had registered. This is why contributions from different African countries enriched the keynotes as well as the discussions during the workshops and the plenary sessions. All in all the conference was attended by almost 30 participants out of 12 countries and three continents.

With regard to the format the organizers decided to shape the event as a mixture of conference and workshop. Four keynotes were intended to make the participants aware of the main issues to be discussed. After the opening plenary session two workshops dedicated to "Codes of Ethics in Practice" on the one hand and "Ethical Values and Dilemmas in the Workplace of Libraries" on the other hand were intended to facilitate intensive discussions in smaller groups. Each workshop consisted of four stimulating presentations with extensive discussions and a conclusive debate. A final plenary session aimed to share and discuss the results of the workshops with intent to come to recommendations and conclusions.

The intention behind the conference was to implement ethics and ethical reflection more deeply in the day-to-day work in libraries, archives and related information institutions. Information professionals

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should be aware of the need to discuss ethical issues and to use their code as a means to master ethical dilemmas and to launch library and information ethics more prominently into professional and public debates. Of course the Geneva conference in August 14-15 2014 is only one step. Others will have to follow.

## **GLOBETHICS.NET PRINCIPLES ON ETHICS IN THE INFORMATION SOCIETY**

*Christoph Stückelberger*

### **2.1 Librarians, Archivists and WSIS**

Librarians and Archivists are worldwide key professionals of collecting, selecting, organizing, promoting and making available information and documentation. They are the key players for the access to information as a human right, but can also be players for hiding and censoring information.

They are confronted with manifold ethical dilemmas. Professional ethics codes for individuals and for institutions give orientation and guidelines for sensitive decisions.

The global ethics network, Globethics.net (GE), based in Geneva, together with the International Federation of Library Associations and Institutions (IFLA), the IFLA Committee on Freedom of Access to Information and Freedom of Expression (FAIFE) and supported by the Association of Swiss Archives (VSA-AAS) and Library Information Switzerland (BIS) are happy to contribute with this conference – a satellite meeting of the international IFLA conference in Lyon – to exchange of experience, to information about tools such as professional codes for librarians and archivists and to solutions for dealing with ethical dilemmas.

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The “World Summit for Information Society” – WSIS – is the broadest platform for work on these issues. The “First WSIS+10 Review Event” on 25-27 February 2013 in Paris in its final statement “invites all Stakeholders to ... encourage international and interdisciplinary reflection and debate on the ethical challenges of emerging technologies and the information society.” Globethics.net as a global network of persons and specialists engaged on ethics contributes to this reflection with this discussion paper.

Ten years after more than 11,000 participants gathered in Geneva in 2003 for the opening session of the World Summit on the Information Society (WSIS), a UNESCO meeting in Paris at the end of February 2013 met to take stock of what has been achieved since then and to set out challenges for the future.

The recommendations from this first WSIS +10 review meeting had an influence on further United Nations deliberations and into the review of the Millennium Development Goals.

WSIS – which met in two sessions in Geneva (2003) and Tunis (2005) – aimed to promote access to information and knowledge through new communications technologies and to tackle the global digital divide separating the northern hemisphere from the global South. At the same time it highlighted the ethical dimensions of the Information Society, and underlined the need for measures to safeguard cultural and linguistic diversity and identity, to avoid local content being overshadowed by vested global interests.

A decade later, as UNESCO has noted, there is intense public debate over the future development of the Internet, shaped by the defense of the right to freedom of expression and freedom of information online, the growth of multilingualism on the net and the ever-increasing influence and impact of communications technologies on all aspects of people's lives. Such issues are too

important to be left to governments alone. Civil society is an indispensable part of the "ethical space" within which a global communication ethic needs to be elaborated, alongside the institutional political system of government and the institutionally orientated political society. At the same time, research commissioned for the UNESCO meeting in Paris underlines that information ethics needs to address the challenges and implications of the information society in developing regions, particularly in terms of inter-cultural information ethics.

Globethics.net emphasizes that most of the "Final Recommendations" of the first WSIS+10 Review Event in Paris on 25-27 February 2013 are relevant for the implementation of ethical values.

## **2.2 The Nine 'P's of Globethics.net**

Globethics.net published in 2013 a discussion paper on "Ethics in the Information Society: the Nine 'P's". We present it at the beginning of this conference as an input for discussion and general guidance before we then look mainly at the two professions of librarians and archivists. I refer especially to the preface, the introduction and the nine P's of the paper<sup>1</sup> The Globethics.net Board of Foundation acknowledged the issue paper on 5 May 2013 and invites all interested and concerned persons and institutions to discuss it and send their feedback and proposals for improvement.

This text on the ethics of information and knowledge societies calls for value-based decisions and actions for the development of information, communication and knowledge. It is based on seven *core*

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<sup>1</sup> Ethics in the Information Society: The Nine 'P's. A Discussion Paper for the WSIS+10 Process 2013-2015, Globethics.net Texts 4, Geneva 2013, 32pp. Download for free: [www.globethics.net/publications](http://www.globethics.net/publications).

*values: equity, freedom, care and compassion, participation, sharing, sustainability and responsibility.*

These values are exemplified on nine core topics of the information society, the “*Nine P’s*”: *principles, participation, people, profession, privacy, piracy, protection, power and policy*. The summary of each ‘P’ are as follows:

## **Ethics in the Information Society: The Nine ‘P’s**

**1 Principles: Ethical Values:** Knowledge societies can be sustainable, coherent, innovative and integrative if they are based not only on pragmatic opportunities or political or financial interests, but on ethical values. In a globalized multicultural world these values have to be global values while at the same time respecting the diversity of contextual values.

**2 Participation: Access to Knowledge for All:** Access to information, communication, education and knowledge is a basic right and public good. Open access for free or for affordable costs enables participation of all in the development of societies. It has to be further promoted by the WSIS+10 processes.

**3 People: Community, Identity, Gender, Generation, Education:** People, human beings, as senders and receivers are the key actors of information, communication and knowledge. How to filter, digest and assimilate information and knowledge? How to use them for enrichment and not confusion, for identity building and not identity-loss, for respect of diversity and not increase of uniformity, for more equality instead of more inequality? Is knowledge primarily used to win over others in very competitive markets, to oppress others or for building communities?

**4 Profession: Ethics of Information Professions:** Professions in the fields of information, communication and knowledge creation, processing, dissemination, control, renewal, preservation, archiving and policy-making have a special ethical responsibility in implementing core values.

**5 Privacy: Dignity, Data mining, Security:** Privacy is a human right, not a commercial concession. Views on privacy rights differ between the US, UK, Continental Europe, Asia, Africa, Latin America and political structures. Threats to privacy are constantly arising - especially from the commercial and security sectors and social networks. Reasonable balance needs to be struck between privacy and security needs. The

WSIS process should support the safeguarding of privacy, in coherence with open access to information.

**6 Piracy: Intellectual Property, Cybercrime:** Piracy is an old problem, with a new electronic face. Piracy can be an existential threat to existing business models for innovative content creation and use. Piracy may occur because potential users see content as too expensive and rights protection as excluding the poor. Compromises are needed to take account of all stakeholder interests.

**7 Protection: Children and Young People:** Through access to the Internet on computers, smartphones and tablets, young people are connecting with each other and wider society in ways that were previously unimaginable. A generation of children and young people has grown up for whom the digital world is taken for granted. Nevertheless, there are concerns that children, young people and young adults may face specific risks and hazards, including sexual exploitation, a lack of anonymity and potential addiction to online networks.

**8 Power: Economic Power, Power of Technology, Media and Consumers:** The production, processing, dissemination, control and archiving of information, communication and knowledge need political power to set the legal frame and economic power to provide the necessary investment capital. Political and economic power should not be power over others, but sharing power with others and using it for others as a service to human beings, the whole society and public governance.

**9 Policy: Ethics of Regulation and Freedom:** Parliaments, governments, civil society and educated citizens are needed to ensure that regulatory measures support freedom of expression, freedom of association in information and communication technologies and the right to seek, receive and impart information and ideas through any media and regardless of frontiers. Fast technological development, ethical standards and regulatory framework have to be more synchronized.

*Ethics in the Information Society: The Nine 'P's. A Discussion Paper for the WSIS+10 Process 2013-2015, Globethics.net Texts 4, Geneva 2013.*

Each of the nine topics starting with a 'P' is explained on two pages followed by few recommendations and questions for considerations. The discussion paper therefore can be used e.g. also for discussions or trainings of librarians and archivists.

### **2.3 Ethical Dilemmas**

The nine topics (which represent also objectives) are often in tension to each other or exclude each other. This then represents a dilemma. An ethical dilemma is a situation where a person or institution has to decide between two good or two bad solutions. A decision between an ethical and an unethical solution is not a dilemma, but ethically clear. But if somebody has to decide in favor of one value or objective while neglecting another one which is also important, it becomes an ethical dilemma. Examples:

- Participation as access to information (P 2) can be in tension with protecting intellectual property from piracy (P 6).
- The people-centered approach (P 3) with respect of cultural dignity can be in tension with the privacy of persons (P 5) which is perceived differently in the different cultures.
- The access to knowledge for all (P 2) may find its limit in protecting weaker parts of society, e.g. children (P7). For librarians it is the dilemma if documents should be made available for all people or restricted by age or other criteria.
- The freedom of open access (P 2) may have to be limited by regulatory frameworks (P 9) in order to enable fair play in the playing field of communication and driving rules on the data highways of the information societies.
- The economic power (P 8) of media conglomerates and companies in the sector of information and

communication technologies ICTs may limit the freedom of access to multiple information e.g. of minorities (P 3).

We will discuss extensively such professional dilemmas and possible solutions. Globethics network with its 120'000 registered participants from 200 countries and territories can make a contribution for the WSIS+10 process 2013-2015. Globethics.net seeks to promote a truly global conversation on the Ethics in the Information Society.



## **DISCOURSE ETHICS AS A MEANS FOR RESOLVING INFORMATION ETHICS DILEMMAS?**

*Rainer Kuhlen*

### **3.1 Dilemmas**

What is a dilemma? In general, a problematic situation where two (and only two) solutions to a given problem both have undesirable consequences — whatever one decides, the result will be undesirable. This can be called a negative dilemma. Or a dilemma is a problematic situation where two (and only two) solutions to a given problem both have attractive desirable consequences — difficult or even impossible to decide which one is more desirable, and to choose both is not possible. This can be called a positive dilemma.

What is an ethical dilemma? A problematic situation where two solutions to a given problem based on two ethical theories are different or even contradictory. Or a problematic situation where two solutions (a) and (b) to a given problem are both ethically demanded but only one can be carried out, not both — whatever one does, doing what is ethically correct (according to (a)) leads inevitably to ethical incorrectness (neglecting demand (b)).

Now, what is an information ethics dilemma?<sup>1</sup> First and very briefly, what is information ethics? We consider information ethics to be the reflection on beliefs, rules and values (in total: on morality) in electronic environments, in particular with respect to producing, exchanging, sharing and using knowledge and information. Morality cannot be derived from a law of nature of whatever sort, nor from metaphysics however grounded, let alone from religion or the will of God. It depends, in the Aristotelian tradition, on the environments in which humans live. These environments change in time and space. Information ethics thus aims at attributing morality on ethical principles according to different theoretical/philosophical theories of ethics.

### **3.2 Information Ethics Polylemmas**

What then is an information ethics dilemma? A problematic situation where an ethically based solution to a given problem is not compatible with other regulatory principles such as (a) conflicting with the law, and sometimes also (b) conflicting with market principles/interests/contracts or (c) with current technological potentials.

Therefore we can expand the concept of an information ethics dilemma to an information ethics polylemma because, in reality, there are many possible conflicts stemming from different regulatory principles (cf. Fig. 1). Here are some examples for conflicts (a) between information ethics and law (Fig. 2), (b) between information ethics and markets principles (Fig. 3), and (c) between information ethics and technologies (Fig. 4). But, of course, there are additional conflicts/contradictions between law and market, law and technologies, and market and technologies (cf. Fig. 5).

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<sup>1</sup> Rainer Kuhlen: Ethical foundation of knowledge as a common. International Conference commemorating the 40th Anniversary of the Korean Society for Library and Information Science. Seoul Oct. 8th.2010 -<http://www.kuhlen.name/MATERIALIEN/Publikationen2010/RK-ethical%20foundation%20commons-final-to-print-030910.pdf>

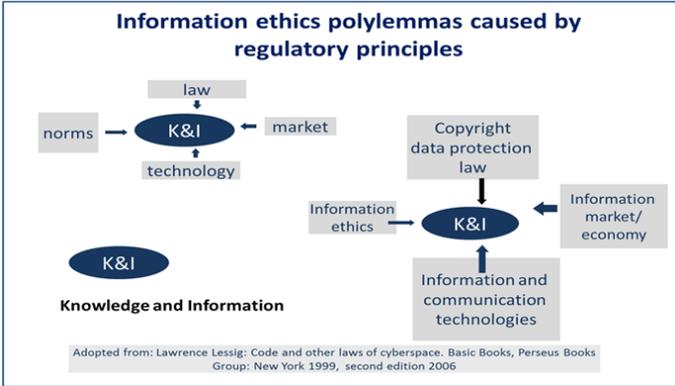


Fig. 1 Information ethics polylemmas/contradictions caused by different regulatory principles

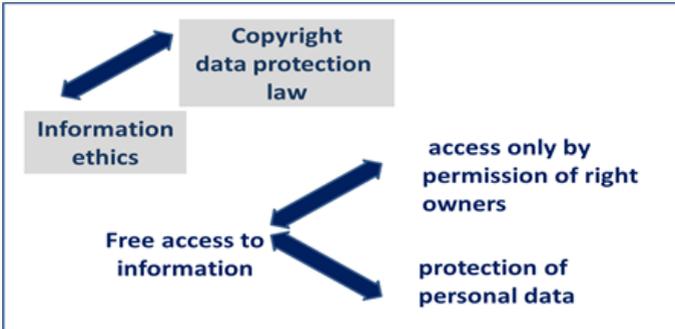


Fig. 2 Contradictions between information ethics and law

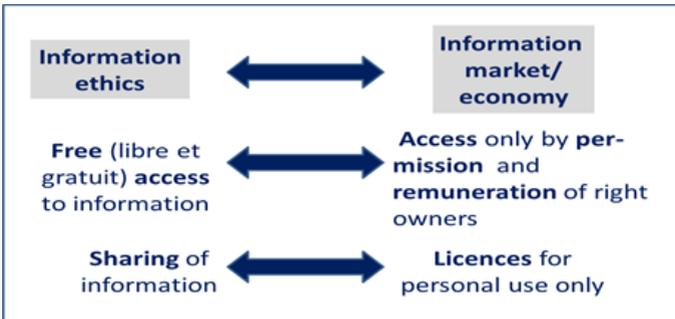


Fig. 3 Contradictions between information ethics and information markets

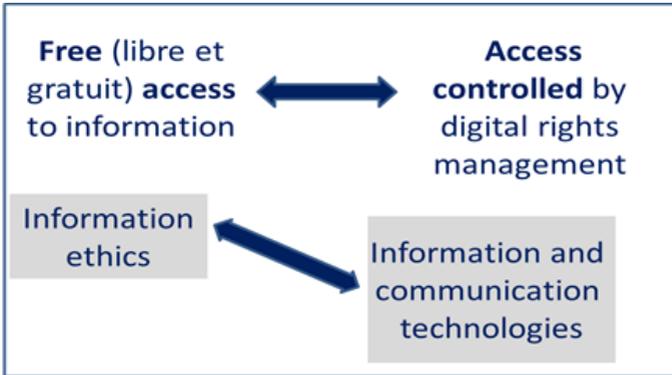


Fig. 4 Contradictions between information ethics and technologies

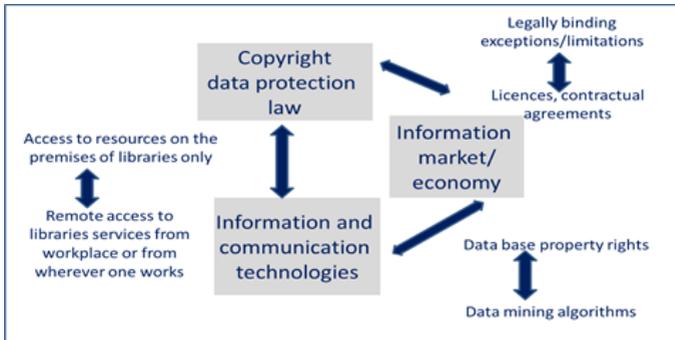


Fig. 5 Information ethics polylemma/contradictions between different regulatory principles

### 3.3 Information Ethics Discourse

Discourse ethics makes a specific dilemma, a specific case, at least transparent, shows different options for action, and provides information about possible consequences of these options. The options are different if different ethical theories are used in the discourse, for instance a utilitarian ethical approach or the ethics of responsibility/sustainability.

Information ethics discourse is needed not only in the broader fields of information and library science but also in many other domains of knowledge. Fig. 6 gives an example from the UN-Organization FAO (Food Agency Organization).

In a project designed and carried out by Hermann Rösch from the Institute for Information Science, University of Applied Science, Cologne, Germany, case studies are used to solve ethical conflicts and dilemmas.<sup>2</sup> These case studies are organized according to the following script:

- a. Metadata (title, type of library, location, key words, ...)
- b. Detailed description of the case
- c. Ethical values at stake
  - d. Alternative options for solving the case dilemmas (with reference to ethical professional codes such as the one from IFLA)<sup>3</sup>
- e. References to the literature
- f. User comments in an electronic forum

Colwell-Chanthaphonh et al.<sup>4</sup> uses the following framework for ethical problem solving, adapted from Swazey and Bird<sup>5</sup>.

1. **“Identify the dilemma.** What kind of problem is it? Is it truly an ethical dilemma, or is it a legal problem? In some cases, there may be more than one issue or concern.
2. **Identify the stakeholders.** Identify rights holders, affected people, interest groups, and others who might have a connection to the issue. ...Who are the people involved, and what is their stake in the predicament?

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<sup>2</sup> <https://www.fbi.fh-koeln.de/efubip/efubip-ueber.htm>

<sup>3</sup> IFLA Code of Ethics for Librarians and other Information Workers <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>

<sup>4</sup> <http://humanitieslab.stanford.edu/WACEthics/41>

<sup>5</sup> Swazey, Judith P., and Stephanie J. Bird 1997 Teaching and Learning Research Ethics. In *Research Ethics: A Reader*, edited by Deni Elliott and Judy E. Stern, pp. 1-19. University Press of New England, Hanover

3. **Identify the facts.** Identify all the known facts of the particular case and what is not known (but do not let them constrain how you imagine the possibilities).
4. **Generate possible solutions.** Be reasonable and consistent. Take other viewpoints into account; try to be impartial. Look for areas of moral agreement.
5. **Generate practical constraints.** What might constrict possible solutions? ...What resources (monetary or otherwise) are realistically available in the given situation? Think about the legal issues involved. What would be the consequences of the possible solutions?
6. **Generate alternative solutions.** Examine alternative possibilities, taking into account all of the above, as well different philosophical theories. Think about codes, principles, and guidelines that might already exist.
7. **Solve the dilemma.** What alternative solutions are possible? Arrive at a solution, or several possible solutions. ...
8. **Prepare for negotiation.** Consider how you will negotiate your solution with others who are connected to the issue.”

In the information ethics course which we have held over the last 10 years at different universities in Germany, Switzerland and Austria (**Berlin, Bern, Chur, Genf, Graz, Hildesheim, Konstanz, Potsdam, Zürich**) we use the following check list:

1. Who are the actors in the case?
2. What are the different actors' interests?
3. What are the conflicts in the case which may lead to a dilemma/polylemma?
4. Which ethically based theories can be applied to the case? (mainly: utilitarianism/consequentialism; moral duty,

deontology; Rawl's theory of justice; responsibility/sustainability ethics?)<sup>6</sup>

5. Are cultural differences involved in the case?
6. Can professional ethical codes be applied to the case?
7. Which legal constraints are involved in the case?
8. To which extent is the case determined by information and communication technologies?
9. Are there binding commercial contractual agreements/licenses relevant to the case?

In order to carry out these discourses we used the system K3 – an e-learning forum with elaborated discourse functions for collaborative knowledge management<sup>7</sup>. K3 applied the blended learning paradigm by using the following didactic mix:

1. Working in virtual (remotely organized) groups
2. Individual work
3. Classic lectures
4. Classroom discussion
5. Video conference presentations of the results of group work at the end of the course

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<sup>6</sup> Michael Gorman suggests the following guiding principles and values for a discourse analysis in librarianship: Stewardship; Service; Intellectual Freedom; Rationalism; Literacy & Learning; Equity of Access to Recorded Knowledge & Information; Privacy; Democracy; cf. Foster, Catherine; McMenemy, David: Do librarians have a shared set of values? A comparative study of 36 Codes of Ethics based on Gorman's Enduring Values. *Journal of Librarianship and Information Science*. 44 (4). 2012

<sup>7</sup> K3 was developed in the information science department at the University of The software is no longer available for the public in a functional mode; c f. Kuhlen, Rainer; Griesbaum, Joachim; Jiang, Tao; König-Mistic, Jagoda; Lenich, Andreas; Schütz, Thomas; Semar, Wolfgang: *K3 – an e-Learning Forum with Elaborated Discourse Functions for Collaborative*

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The information ethics discourses aimed at the following main objectives:

1. encourage virtual groups (and in them, of course, individual learners) to produce their own content and acquire knowledge in the special course domain, not only but mainly information ethics courses
2. acquire information and communication competence in general
3. acquire information ethics discourse competence specifically

Fig. 7 and 8 give an impression how K3 works in information ethics discourses. Fig. 7 is a screen shot from the subtopic “privacy” as part of an information ethics course. The lecturer provides the group with some introductory information to the subtopic “What does information privacy or information autonomy mean” (to be seen on the bottom of the screen shot). A group of four students works collaborately on this topic. Each member of the group has to take one of four roles: moderator (stimulating and guiding the group), presenter (responsible for the presentation of the discourse results in the plenary at the end of the course), retrieval specialist (responsible for retrieving new topic-relevant literature, web links etc. – this will also be accessible for the whole course), summarizer (making summaries when parts of the discourse have come to an end). Each topic is divided into up into four work tasks (to be seen on the left side). The work behavior (quality of collaboration) and the final results are evaluated by the lecturer of the course.

Fig. 8 gives an impression of the depth of a K3 discourse - only the headers of the contributions is shown. The letter in the small square indicates the role of the contributor. Each contribution is typed (semantically specified), such as new topic (Neues Thema), supplement (Ergänzung), critical contribution (Kritik), organizational contribution by the moderator (Organisationelles).

### **3.4 Final Remarks**

No one can reasonably expect information ethics discourses to solve information dilemmas/polylemmas directly or to resolve concrete conflicts bi-uniquely. Information ethics discourses cannot provide mandatory or prescriptive solutions. But they make a specific dilemma, a specific case, at least transparent, show different options for solving the problems or the dilemmas, and provide information about possible consequences of the decision made to the case.

Computer-aided discourses as a part of e-learning courses in information ethics are an extremely useful tool in particular for acquiring collaborative competence and are also useful when courses have a distributed organization (classes in different locations).

Final evaluations of the different courses, in particular of the information ethics courses, showed clearly that the students appreciated most those course phases where they were present and could communicate face-to-face. This is quite understandable for courses where the main goal is not primarily to acquire “objective” knowledge, facts, algorithms, or techniques but rather communicative discourse competence. Therefore the traditional classroom situation is not the only way but still a useful way of conducting information ethics courses.



## LE CODE DE DÉONTOLOGIE DES ARCHIVISTES : ÊTRE OU NE PAS ÊTRE

*Gilbert Coutaz*

Le 6 septembre 1996, l'Assemblée générale du Conseil international des archives a adopté à l'unanimité, lors de son XIII<sup>e</sup> Congrès international à Pékin (Beijing), le *Code international de déontologie des archivistes*.<sup>1</sup> Elle a pris sa décision à une date et dans un lieu nullement anodins. D'une part, remontant à la décision de son précédent congrès, à Montréal, de septembre 1992, l'étude du *Code* a été menée dans les délais prévus. D'autre part, les affirmations du *Code*, de liberté de pensée et d'indépendance d'esprit des archivistes, résonnent singulièrement dans un pays comme la Chine.<sup>2</sup> L'audience du *Code* a été immédiate : 160 pays représentant 23 langues l'ont approuvé depuis, de nombreux articles ont paru à son sujet.<sup>3</sup> Le 10 septembre 1998, l'Association des archivistes suisses l'a choisi comme code de référence, après avoir organisé une journée de travail sur ce sujet, le 21 mars

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<sup>1</sup> Consulter <http://www.ica.org>, sous documents de référence. Il est opportun de relever que le *Code* fut voté à l'unanimité, à la condition d'introduire, dans le texte définitif, l'obligation faite aux archivistes de collaborer au rapatriement des archives déplacées.

<sup>2</sup> Il faut néanmoins noter que le *Code* n'engage pas les gouvernements, mais seulement ses membres faisant partie d'une organisation non-gouvernementale.

<sup>3</sup> Parmi les plus importants, citons KECKSEMETHI, Charles, « Un nouveau chantier pour la profession », dans *Der Archivar*, 49, 1996, pp. 592-599 et WALSH, Greg, « Archival applications : archival ethics and codes of ethics », dans *ANAL Bulletin*, 17/4, 2000, pp. 1-8.

1997.<sup>4</sup> Le questionnaire d'évaluation du *Code*, lancé en 2006, a produit en juin 2008 les résultats<sup>5</sup> suivants :

*Le Code n'a pas besoin d'une révision majeure : les principes éthiques qu'il souligne restent appropriés. Cependant, dans le but de rendre le Code plus utile, il devrait comporter davantage de renseignements explicatifs, ce qui permettrait aux membres de voir clairement comment il peut être appliqué à n'importe quelle situation. Des sessions de formation régulières sur la façon d'appliquer le Code à des situations spécifiques devraient être créées.*

Je vais vous parler d'un code qui a été accepté, il y a près de 18 ans, et qui démontre une longévité et une audience exceptionnelles. Il est opportun de relever que le Code international de déontologie des archivistes n'est pas imposé. Le texte prévoit justement dans son préambule (Voir lettre F) que sa mise en oeuvre dépend de la bonne volonté des institutions d'archives et des associations professionnelles.

Mon exposé est découpé en 3 parties :

1. Genèse et élaboration du Code
2. Contenu du Code : une architecture à clefs
3. Importance et portée d'un code de déontologie

Avant de développer ma présentation, je souhaite décliner mes intérêts : j'ai fait partie du comité directeur de la Section des Associations professionnelles des archivistes du Conseil international

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<sup>4</sup> « Les enjeux d'un Code de déontologie pour les archivistes. Die Bedeutung eines "Code of Ethics" für den Archivarsberuf, par divers auteurs », dans *Arbido*, 10, 1997, pp. 10-23 ; COUTAZ, Gilbert, « L'urgence d'un code de déontologie pour les archivistes suisses », dans *Revue suisse d'histoire* 47/3, 1997, pp. 278-285, et du même auteur « Le Code de déontologie du Conseil international des archives, d'un texte international à sa concrétisation sur le plan national suisse : les réels enjeux pour l'AAS », dans *Arbido* 10, 1997, pp. 21-22.

<sup>5</sup> Voir <http://www.ica.org/11083/etudes-et-tude-de-cas/questionnaire-sur-le-code-de-dontologie-de-lica-rsultats-et-recommandations.html>

des archives (SPA), qui a rédigé le *Code international de déontologie des archivistes*, entre 1992 et 1996.<sup>6</sup> Au passage, ce comité directeur fut présidé entre 1992 et 1996 par un Anglais, puis une Hollandaise ; il était de plus composé d'un Allemand, de 2 Américains, d'une Anglaise, de 2 Canadiennes, d'une Espagnole, d'un Français, d'un Italien et d'un Suisse. J'ai été le promoteur du *Code* auprès de *l'Association des archivistes suisses*, à la fois en m'en faisant le rapporteur des travaux de la Section SPA, en signant plusieurs articles dans les revues d'histoires et professionnelle, par des conférences et dans le cadre de l'enseignement. Le texte a été accepté, au moment où j'étais président de *l'Association des archivistes suisses*. Vous comprendrez mon attachement au *Code*, non dans un aveuglement béat, mais plutôt dans une approche exigeante et critique que je vais tenter de vous donner dans ma présentation.

#### **4.1 Genèse et élaboration du Code**

La déontologie est à la vie professionnelle ce que la morale est à la société. Plus précisément, la déontologie se situe entre la morale, l'éthique et le droit, plus proche de l'une ou de l'autre selon le degré de reconnaissance des règles déontologiques considérées, ce qui dépend de la profession et de l'époque. Si la morale commande, la déontologie recommande.

La déontologie est le résultat de pratiques majoritaires qui peuvent et doivent évoluer, faites de maîtrises collective et individuelle et de convictions irréductibles et intangibles. Un code ne naît pas hasard, il est le reflet d'une conjonction d'événements et de la combinaison de volontés individuelles. Il ne peut pas s'écrire hors contexte et hors réalités professionnelles. C'est pour toutes ces raisons qu'il me semble

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<sup>6</sup> WITT, Reimer, « Internationaler Archivrat – Section of Professional Archival Association (ICA/SPA) 1992-1996 », dans *Der Archivar*, 50/1997, pp. 358-362.

important de retracer la genèse et l'élaboration du *Code international de déontologie des archivistes*.<sup>7</sup>

C'est en 1989 que la *Section pour les associations professionnelles du Conseil international des archivistes* agit pour la première fois la question de l'opportunité de rédiger un code de déontologie pour répondre aux défis auxquels sont confrontés les archivistes dans des domaines non réglementés. Elle établit une bibliographie sur ce thème. A l'automne 1990, elle fournit une première ébauche d'un code qui est présentée, une année plus tard à l'assemblée des délégués des associations professionnelles. Lors du *Congrès international du de Montréal*, de 1992, un symposium est organisé sur la déontologie professionnelle. Le lancement officiel de la rédaction du *Code de déontologie* fait partie des conclusions du Congrès de Montréal. Après la collecte des avis auprès des associations, des comités techniques, des sections, des branches régionales et d'autres organismes du *Conseil international des archives*, un projet de code est soumis au *Comité exécutif du Conseil international des archives*. Le projet est retourné, il est demandé de produire un texte court, en 10 articles, ce que les membres du comité de la Section pour les associations professionnelles du Conseil international des archives finalisent pour le Congrès international de Pékin, dans les délais impartis lors de l'initiation de la démarche.

Il faut avoir à l'esprit qu'au moment de son lancement en automne 1990, le *Code* bénéficie déjà d'un socle solide de réflexions faites au

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<sup>7</sup> Voir en particulier les articles signés par des membres du comité directeur de la SPA, BENEDICT, Karen, « El codi ètic de la Societat Americana d'Arxivers: la història del seu desenvolupament i implantació », dans *Lligall*, núm. 8, 1994, pp. 227-243. CARASSI, Marco, « Historique et principales caractéristiques du code international de déontologie des archivistes », dans *Ligall*, 12, 1997 et *Janus*, 1998.1, pp. 19-21, WITT, Reimer, « Voraussetzungen, Möglichkeiten und Grenzen für einen "international Code of Ethics for archivists" aus der Sicht eines deutschen Archivars », dans *Arbido*, 10/1997, pp. 14-18 et BOOS-ROPS, « The International Code of Ethics for archivists », [Paris] : Conseil international des archives, [1998], 12 p.

sein des communautés archivistiques nationales les plus dynamiques et les plus écoutées. Il fallait encore lui trouver une légitimité universelle, concilier diverses cultures et traditions archivistiques et dépasser le cadre purement corporatiste et associatif. De plus, les questions de terminologie et de traductions furent cruciales. Les langues de travail, le français et l'anglais, ne pouvaient pas avoir la prétention de couvrir tout le champ sémantique de l'archivistique et des pratiques professionnelles.

C'est en 1939 que l'on trouve la première mention de la nécessité d'un code pour les archivistes, dans un article de l'historien américain Robert Cedric Binkley. L'auteur estime alors que les archivistes ont besoin de règles éthiques claires et précises, notamment pour résoudre les conflits entre la protection de la vie privée et le droit à l'information. Selon lui, le recours à un code permet d'obtenir des usagers leur pleine confiance.<sup>8</sup>

Il faut néanmoins attendre l'année 1955 pour lire dans la revue *American Archives* le premier *Code of Ethics*, rédigé par l'Archiviste des Etats-Unis, Wayne C. Grover, à l'usage interne des employés des Archives nationales. Ce code n'a jamais été formellement adopté par la *Society of American Archivists*.

Le sujet revient d'actualité dans les années 1970. Les archivistes américains ressentent le besoin de disposer d'un code pour faire face aux demandes de consultation de documents et aux exigences de nouvelles lois sur la liberté de l'information et le respect de la vie privée, ainsi qu'à celles des révisions de la loi sur le droit d'auteur. Les travaux aboutirent en 1980 sur la rédaction d'un texte de 11 articles énumérant les principes de base et pouvant être affiché comme référence, et une série de commentaires signés par leurs auteurs, qui développent et expliquent les concepts énoncés.<sup>9</sup>

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<sup>8</sup> BIANCHI, Cristina, « Archives : professionnalisme et déontologie en Amérique du Nord », dans *Arbido* 10, 1997, pp. 12-14.

<sup>9</sup> Une nouvelle version du code de la *Society of American Archivists* est publiée en 1992.

De son côté, l'*Association des Archivistes du Québec*, créée en 1967, se dote, le 13 juin 1991, d'un code d'éthique. Elle sera suivie dans sa démarche, en 1992, par l'*Association of Canadian Archivists in Canada*, fondée en 1975, et par l'*Australian Society of Archivists*, et *New Zealand Society of Archivists*, tous deux en 1993.<sup>10</sup>

En janvier 1992, l'*Association des archivistes français* consacre une journée de travail à la déontologie.<sup>11</sup>

L'ensemble des codes nationaux nourrira la réflexion du *Code international*.

En dehors de ce contexte, il ne faut pas oublier que le *Code* s'inscrit dans un mouvement plus large, celui de l'harmonisation des pratiques professionnelles. Dans les années 1970, le *Conseil international des archivistes* avait réuni dans 4 volumes de sa revue *Archivum* l'ensemble de la législation archivistique à travers le monde. En 1966, Michel Duchein, alors Inspecteur général des Archives de France, publiait son ouvrage *Les bâtiments et équipements d'archives*, traduit en 1998, en anglais *Archive Buildings and Equipment*. Aux yeux de ses promoteurs, le *Code* devait forger l'unité de la profession des archivistes, en la fondant sur l'identité de la mission assignée aux archivistes. Ce n'est d'ailleurs pas un hasard si en 1995 la norme générale et internationale de description archivistique, ISAD(G) fait son apparition et annonce la première étape du cadre normatif du travail des archivistes. Enfin, le besoin de codes de déontologie est lié le plus souvent à des questions de communication des archives et de protection de la vie privée. La coïncidence est frappante, les premières réflexions sur la rédaction d'un code international de déontologie naissent au moment de la chute du Mur de Berlin, en novembre 1989, à l'ouverture et à la libéralisation des

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<sup>10</sup> Pour les textes de chaque code, voir les sites des associations correspondantes.

<sup>11</sup> BRAIZE, François, « Eléments de réflexion sur la déontologie », dans *La Gazette des Archives*, nouvelle série, 157, 1992, pp. 81-89 ; JAYOT, Franz, « À propos de déontologie », dans *La Gazette des Archives*, nouvelle série, 157, 1992, pp. 119-124.

archives et à la force croissante des nouvelles technologies de l'information. Le fait que la communauté des archivistes canadiens, déjà très engagée dans les codes nationaux, allait reprendre la présidence du Conseil international des archives ne pouvait que favoriser l'écllosion d'un code international de déontologie des archives.

#### **4.2 Contenu du Code : une architecture à clefs**

La comparaison de l'architecture du *Code international de déontologie des archivistes* avec celle des codes nationaux de déontologie existants révèle certaines constantes :

- la base des codes est constituée par la définition des missions que se fixe la profession ;
- de ces missions découlent des devoirs à l'égard de la société, de l'usager/client, de la profession elle-même ;
- de ces missions et devoirs résultent certains droits, qui ne sont pas toujours expressément mentionnés, mais sont au moins implicites.

Cette architecture est somme toute logique, dans la mesure où la déontologie est la théorie des devoirs, l'ensemble des devoirs qu'impose à des professionnels l'exercice de leur métier.

Le *Code* place les archivistes, et non les archives, au centre de ses articles, sans discrimination hiérarchique et sans importance institutionnelle. Pour éviter tout malentendu, il donne judicieusement dans son préambule (Voir lettre B) la définition des archivistes, à savoir « tous ceux dont la responsabilité est de contrôler, prendre en charge, traiter, garder, conserver et gérer les archives. » Il situe aussi bien leur rôle dans l'élaboration et la circulation des informations que dans la collecte et la conservation définitive des archives.

Le *Code* comprend dix articles rédigés de manière brève, à l'image de slogans. Ils sont autant de commandements. Chaque élément du

décatalogue est assorti (c'est son originalité) d'une série de commentaires de plusieurs lignes, et est précédé d'un préambule en six points. Les commentaires ont été adoptés solidairement avec le texte principal. Ils contiennent des affirmations, à plusieurs reprises, plus fortes que le précepte principal, et qui élargissent considérablement le champ d'application du décalogue.

Le *Code* fournit un cadre général ambitieux et de valeur universelle.

Il est prioritairement un code d'éthique. Il n'est ni un code pratique ni un cahier des charges ni un contrat de travail.

La force du *Code* réside dans sa valeur morale. Il défend une approche sur le savoir-être des archivistes, et non sur le savoir-faire. Il attend d'eux un positionnement, une posture. Il fait appel à la responsabilisation personnelle des archivistes, il présuppose une autodiscipline de ceux-ci.

Mais, pour le *Code*, c'est le groupe qui prend le contrôle sur l'individu, c'est la profession qui est dominante plus que les représentants.

Les articles du *Code* forment une ligne de défense contre toutes les agressions intellectuelles et politiques, contre toute dérive dans le traitement et l'exploitation des documents d'archives. Autrement dit, du point de *vue interne*, le *Code* est une sorte de garantie mutuelle du groupe professionnel, il régleme les devoirs des archivistes par rapport à leurs missions. Du point de *vue externe*, il s'agit d'informer les usagers/clients d'une profession au sujet des produits ou des services fournis et de leur garantir certaines qualités de ceux-ci.

Le *Code* ne prévoit pas de sanctions destinées aux archivistes qui ne le respecteraient pas ni la création d'un organisme tel qu'un Ordre professionnel pour faire appel sur ses articles.

Le *Code* positionne les archivistes dans leur environnement professionnel, décline les attitudes et postures majeures qui sous-tendent leur action dans l'exercice public de leurs fonctions, empruntées à des

notions de morale, d'éthique et de déontologie : impartialité, objectivité, disponibilité, équité, compétence et intégrité professionnelles, indépendance d'esprit, neutralité, respect des pratiques. Des règles encadrent toutes ces prétentions : secret, rigueur et conscience.

Le *Code* n'impose pas le silence et la censure aux archivistes ; il les engage au contraire à dénoncer des situations incompatibles en matière d'acquisition de documents ou de limitations de communicabilité de document.

Le *Code* ne bâillonne pas les archivistes, en en faisant des exécutants des ordres hiérarchiques ; bien mieux, il leur restitue toute leur dignité, leur force, leur autorité.

Le principe de provenance et le respect du classement d'origine sont affirmés péremptoirement. Au-delà de ce qui pourrait apparaître comme une disposition technique, il faut voir dans cet article (le deuxième du *Code*) une affirmation identitaire des pratiques professionnelles, un élément de ralliement des archivistes et de leur obligation à travailler selon des principes reconnus, des processus normés et certifiés, et une archivistique à valeur universelle, et non plus à audience locale ou dans les limites de l'institution.

Les archivistes ne manipuleront pas les fonds et les dossiers d'archives, préserveront l'intelligibilité des documents et veilleront à maintenir leur authenticité tant sous l'angle de leur support que de leur contexte.

Les archivistes établiront le protocole de toutes les étapes du traitement des archives, suivront une pratique équitable en matière de communication de documents, faciliteront l'accès aux documents, pèseront les exigences du droit à l'information et celles de la vie privée.

Les archivistes ne chercheront pas tirer bénéfice de leur position. Ils respecteront le patrimoine de l'humanité.

Les archivistes perfectionneront leurs connaissances et travailleront à collaborer avec les professions voisines. En dépit de toutes les

dispositions d'ouverture vers les autres professions de l'information, le *Code* n'incite pas à l'amalgame avec les professions voisines.

S'il fallait caractériser en quelques mots le *Code*, je soulignerais ceci. Les archivistes sont avant tout des personnes au service des documents et de leurs utilisateurs, ils tirent leur force du respect des archives, de leur disponibilité envers les autres et des «règles de conduite de haut niveau». Ils s'astreignent à la neutralité politique. Ils proposent des mesures d'autodiscipline plutôt qu'une série de sanctions. Si les archivistes s'imposent des obligations, c'est pour obéir à leur conscience, ce n'est pas sous une contrainte extérieure ou parce qu'ils risquent d'être blâmés. En ce sens, le *Code* ne brime pas l'activité des archivistes, il la guide plutôt et l'appuie.

Parmi les objets les plus importants du *Code*, ceux de l'information et de la communication méritent un aparté particulier.<sup>12</sup>

Les articles 6 et 7 du *Code* stipulent respectivement ceci : « Les archivistes facilitent l'accès aux documents du plus grand nombre possible d'utilisateurs et offrent leurs services avec impartialité à tous les usagers » ; « Les archivistes visent à trouver le juste équilibre, dans le cadre de la législation en vigueur, entre le droit au savoir et le respect de la vie privée ».

Les commentaires du premier article fixent les grands principes du rôle des archivistes : « Les archivistes produisent les instruments de recherche généraux et spécifiques adaptés aux exigences, et ce pour la totalité des fonds dont ils ont la garde », ce que Jean Le Pottier, alors Inspecteur général des Archives de France, rapproche en matière juridique de l'obligation de signalement, exhaustif et proportionné aux

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<sup>12</sup> COUTAZ, Gilbert, « Pierre angulaire de la recherche historique et de la communication : le Code international de déontologie des archivistes », dans *Clio dans tous ses états. Recueil en hommage à Georges Andrey*, Gollion-Penthes : Infolio éditions et Musée des Suisses dans le Monde, 2009, pp. 727-741.

exigences.<sup>13</sup> Autrement dit, le *Code* est un point d’ancrage dans les politiques d’information et de transparence administrative affirme, en plus de la mission professionnelle, la mission sociétale des archivistes, Selon le *Code*, les archivistes participent du maintien et du développement de la démocratie, en garantissant la conservation et l’intégrité des archives, en contribuant à la constitution de la mémoire collective et en s’assurant que cette mémoire collective fasse partie intégrante de la culture de la société. Ils sont les agents de la continuité de la mémoire, ils sont responsables de la longue durée. C’est ce que le *Code* rappelle et promeut dans les missions des archivistes.

#### **4.3 Importance et portée d’un code de déontologie**

Ainsi abordée, la déontologie d’une profession est l’explication des responsabilités que celle-ci se reconnaît dans la société à partir des missions qu’elle s’attribue, et desquelles émanent les devoirs et à partir de ceux-ci des droits.

Les codes sont une sorte de garantie mutuelle du groupe professionnel à l’interne et à l’externe.

Les codes représentent une place de choix dans les outils de travail des professionnels. Ils sont l’affaire d’une communauté, d’une collectivité solidaire d’une entreprise internationale. Le groupe doit se les approprier. Charte, loi et code sont des démarches complémentaires et graduelles des exigences professionnelles.

Dans le contexte de la société de l’information et de la communication, faut-il assimiler les codes de déontologie à un phénomène de mode ou à une démarche obligée, lorsque l’on recense leur nombre et leur croissance récente ?<sup>14</sup> Faut-il parler à leur sujet de la

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<sup>13</sup> « La recherche est-elle une prestation ? Disposition réglementaire et déontologie professionnelle », dans *La Gazette des Archives*, 192, 2001, pp. 93-104, surtout p. 101.

<sup>14</sup> Les bibliothécaires suisses ont adopté un code déontologie, le 4 septembre 1998 et le 6 septembre 2013, voir [www.bbs.ch](http://www.bbs.ch). et GORIN, MICHEL, « Cinq ans

nécessité d'exister et de besoin d'intelligibilité dans les rapports humains qui se manifestent désormais avec les nouvelles technologies sans limite de temps et d'espace ?

De notre point de vue, le *Code* constitue une étape majeure du développement de la réflexion des archivistes et un jalon incontournable pour la société de l'information qui a besoin, pour être et durer, de disposer de lieux d'hébergement de la mémoire et de la transmission, au-delà des générations, des types de sociétés et des contenus territoriaux correspondants.

Le positionnement universel des archivistes est balisé depuis l'adoption du *Code*. Le terrain est désormais déblayé pour un réajustement des producteurs et des exploitants de documents sur le sens à donner à la conservation et à la diffusion des informations.

Le *Code* est un instrument essentiel de la qualité professionnelle, car il protège à la fois les archivistes qui peuvent se sentir à l'abri de la controverse, dès lors qu'ils respectent une déontologie qu'ils connaissent et reconnaissent, et l'utilisateur auquel ils garantissent des prestations de qualité.

Le *Code* dépasse les lois et les règlements auxquels les archivistes sont soumis, d'autant plus s'ils relèvent d'une administration publique. Il peut à la fois en conforter et pondérer les effets. Même s'il n'a été adopté formellement par les autorités gouvernementales, il n'en constitue pas moins un outil contre le démantèlement des services d'archives.

Le *Code* fournit un repère (aussi un repaire) ou une boussole aux archivistes dans une communauté à laquelle ils peuvent justement s'identifier, et de laquelle ils peuvent se réclamer au nom des mêmes

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après...Les codes déontologie des archivistes et des bibliothécaires suisses sont-ils devenus des outils de travail ? », dans *Arbido*, 2003, 1-2, pp. 18-22, et du même auteur, « Ein neuer Professioneller Ethikkodex für die Bibliothekare und Informationsfachleute der Schweiz.: Hintergrund und Entstehung », dans *Mitteilungen der Vereinigung Österreichischer Bibliothekarinnen & Bibliothekare*, 67, 2014/1, S. 58-69.

convictions. Autrement dit : il donne un cap, par sa dimension universelle, une direction, une légitimité envers lesquels la loyauté des archivistes s'exprime suprêmement. En tant que texte fédérateur, le *Code* est un élément identitaire et une déclaration référentielle. Il peut être considéré comme un objet d'étude pour la formation des archivistes, un atout promotionnel et de visibilité de la profession et de renforcement de la cohésion des archivistes.

Selon nous, le *Code* est le révélateur de la maturité professionnelle d'une communauté, le niveau de son savoir-être. Il est surtout devenu dans le cas présent un jalon incontournable du développement professionnel dont le principal défi est désormais de le faire évoluer en fonction des changements du métier et de la société. Hors du *Code*, pas de salut. Le titre de notre présentation aurait dû être en fait : *Être ou ne pas être Code*. Nous avons choisi pour la dernière!



## INFORMATION ETHICS AS A GLOBAL ISSUE/ NORTH/SOUTH

*Sarah Kibugi*

### **5.1 Introduction**

In order to appreciate the implications of information ethics as a global issue and specifically reflecting the North/ and South, we need first to look at the Universal Declaration of Human Rights Article 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (UN, 1948). World Summit on the Information Society Geneva Declaration in which information ethics was identified as a critical component in building a people-centered, development-focused and inclusive information society. The declaration stipulates that everyone can create access, utilize and share information and knowledge enabling individuals and communities to achieve their full potential in promoting their development (WSIS, 2003).

These declarations are universal in nature, and promote commonality of principles, but they need to be interpreted and customized to specific cultural context. The Constitution of Kenya for example provides various articles on rights and fundamental freedoms. Article 35 of the Constitution of Kenya specifically deals access to information. Constitution of South Korea article 17 is on Privacy, article

21 is on speech and censorship while article 22 is on intellectual rights. Constitution of Switzerland Article 16 is on freedom of Opinion

and Information, Article 17 is on freedom of the Media, and Article 18 is on freedom of Language. It is therefore evident that universally almost all national constitutions call for rights and fundamental freedoms. (right2inf.org) indicates that right of access to official information is now protected by the constitutions of 59 countries- 12 countries in the Americas, 25 in Europe, 6 in Asia and the Pacific and 16 in Africa. What may not be clear is how governments enforce these rights.

Information landscape globally has witnessed significant changes in the last few years because of the modern information communications technologies which have influenced the cultural values and the traditional ways of life. Citizens of each country need universal and equitable access to information. Johan Lor (2007) points out that in the information society, information has become an expensive commodity. The communications Commission of Kenya Act 2009 Section 118(1) makes provision for the Universal Services Fund (USF) which is a tax on telecommunications services which is used to fund and subsidise telecommunication infrastructure for remote and rural areas as a way of increasing access to information.

Concerns of ethical issues involved in access and dissemination of information have a long history but as Mathiesen (2004) points out, Information Ethics has a shorter history and was first used by three writers: philosopher Raphael Kapuro in his work *Information Ethos and Information Ethics*, Robert Hauptman, a Library Scientist in his book *Ethical Challenges in Librarianship*, and Harry Demaiyo, a computer security expert in his article 'Information ethics 'It Doesn't Come Naturally' Britz (2008) looks at information ethics as focusing on the moral questions relating to the life cycle of information from its generation, gathering, organization, storage, retrieval and use. Information ethics is primarily concerned with such issues as privacy, security, access to information, quality and integrity of information as

well as intellectual property rights. It is noteworthy to mention that Open Access initiative has greatly increased access to information but has also raised concerns of integrity of information.

Kalugho (2012) points out that Information ethics concerns all human activities related to information i.e. what we do with the information and how we generate, process and distribute it in all formats. Information Ethics therefore, provides a framework for considering moral issues concerning information privacy, collection, processing and distribution. This view is shared by Froehlich (2004) who says that although information ethics has grown over the years, as a discipline in information science, it has come to be embraced by media, journalism, library & information science, computer ethics, cyber ethics, management information systems and the internet. Generation of information may be the greatest information ethics challenge, for example when a researcher goes to a village to carry out research, do they give full disclosure of the information they are gathering?

Floridi (2002) suggests that information ethics can provide an important conceptual framework which will facilitate the understanding of a number of ethical issues that arise due to new information technologies. Floridi continues to say that although information ethics is concerned with access to information, it should be appreciated that here are rights concerned with increasing access to information such as freedom of the press, intellectual freedom among others. There are other rights which are concerned with limiting access to information such as privacy, intellectual property which allow creators to control who is able to access the information and denying access to others. A good example is the Marrakesh Treaty (2013) which takes into account that the majority of persons with visual impairments live in developing and least developed countries; it also recognizes the importance of copyright protection but calls for an exception to domestic copyright law for visually impaired and print disabled people in order to help end

information famine they faced. Van den Hoven as cited by Mathiesen (2004) points out that access to information is an all-purpose good because a person may have both the individual and community benefits/

The main stakeholders in Information Ethics are:



The following example from a scenario in Kenya raises a lot of Information ethics questions regarding access, censorship, security and privacy. Standard Newspaper (March 3, 2006) reported that on March 2, 2006, the premises Standard Newspaper which is the oldest newspaper Kenya were raided by police who burnt copies of the newspapers. The newspapers were therefore not distributed to Kenyans indicating that Kenyans were denied access to information. After investigations and report prepared by a parliamentary committee, the then minister for internal security said the newspaper had lined up articles that would have impinged on the person of the president. The raid seemed to be an attack on media rights and freedom of press on one hand and on the other hand the big question would be was there really an infringement of someone's privacy or did individuals use this as a pretext to deny Kenyans information they were entitled to.

Even as Information Ethics is concerned with the generation of information, it is evident that the ability of the North's dominant media to set the agenda on what issues are important and how these issues should be framed has been a source of its soft power for many years (Rampal, n.d). Britz (2007) agrees with this as he shows that only 1% of the global scholarly publications originate from Africa. This may be largely because indigenous knowledge is not well captured and is still imbedded in the people hence not made explicit. It may also be noted that there are very many newspapers, journals and magazines from the

North that are sold in the South but hardly any from the south to the north.

Although most African countries value Research & Development (R & D) and have established R & D facilities such as South African Council for Science Industrial Research (CSIR), the African Economic Research Consortium (AERC) and in Kenya there is the National Commission for Science, Technology and Innovation (NACOSTI), it is evident that very little money is invested in R&D because Africa spends less than 0.1% of GDP. Britz (2007) citing Science and development Network compared to European Union 1.93% of GDP while Japan and US invest more than 2% of their GDP. This may explain why Africa is bombarded daily with a wide range of information from the North, while there is hardly any information flow from the south. Globalization which has brought interconnectedness of the world may also have made the North benefit more than the South. We should however, appreciate that even if there is a disparity in information between the North and the South: - can the South “mine” and “harvest” the information which is already available? This is more so because anyone with access to internet can receive and send information. The question of brain drain from Africa to the North arises where professionals from Africa may be contributing to the information output of the North.

However, output of research from Africa is increasing and according to (researchtrends.com) from 1996-2012, the number of research papers published in scientific journal with at least one African author rose from 12, 500 to over 52, 000. Research papers published due to the following factors: increased funding, policy changes within countries, improved research infrastructure and free and low cost access to peer reviewed literature among many others. A key contributor to increased research access is Research4Life which is a public-private, UN publisher partnership.

## **5.2 Development of Information Ethics**

Information ethics in the North has a longer history than the south because as Froehlich (2004) demonstrates that as early as 1980 Barbara J. Kostrewski and Charles Oppenheim wrote an article 'Ethics in Information Science' in which they discussed issues of confidentiality of information, bias of information provided to clients, and quality of data supplied to online vendors, As early as 1990 some library schools in the North started teaching information ethics e.g. university of Pittsburg offered this course at Master's level; Robert Hauptman started the journal of Information Ethics in 1992; while the International Center for Information Ethics (ICIE) was established by Rafael Capurro in 1999. During this period there seems to have been no activity concerning Information Ethics in the south and this may explain why most of the available information including textbooks on information ethics is from the North. Most of the activities such as conferences and workshops on information ethics are held in the north.

World Summit on Information Society held in Geneva in 2003 which addressed the question of bridging the gap 'digital divide' (Scheule et al 2004) and adopted the Geneva Declaration may have inspired Africa to start addressing the issue of information ethics from a formal point of view.

## **5.3 Information Ethics Activities in Africa**

Although Information Ethics in Africa is a young academic discipline, Capurro and Britz (2010) indicate that Africa has rich cultural legacy because oral and written traditions have been used through many centuries about different kinds of information and communication based on cultural practices. Capurro continues to say that retrieving and recreating African information and communication traditions which may have suffered due to such experiences as slavery, colonialism and

apartheid should now be the moral responsibility of African scholars in the field of information ethics in order to enrich the African identities.

The first evidence of an activity on information ethics in Africa as an academic field was in 2007 when the 1st African conference on Information Ethics was held in Tshwane/Pretoria, South Africa. This conference titled 'Ethical Challenges in the Information Age' 'Joy of Sharing' was held under the auspices of UNESCO, sponsored by the South African Government, Department of Communication and organized by university of Wisconsin Milwaukee, university of Pretoria, university of Pittsburg and the International Center for Information Ethics. The conference discussed the impact of the use of modern information communication technologies on the African continent so as to formulate a specifically African perspective on the challenges involved. The conference participants recognized the following:

1. Information Ethics as the field of critical reflection of moral values and practice with regard to the production, storage, distribution and access to knowledge and all kinds of processes, systems and media of information and communication
2. Necessity of ethical reflection on norms and values for the emerging information societies in Africa.
3. Academic research on Information Ethics in Africa is crucial for sustainable social, economic, technical, cultural and political development
4. Necessity of international and inter-cultural dialogue on information ethics issues as crucial for creating conditions for mutual respect and understanding
5. Ethical challenges and opportunities in relation to the increasing utilization of ICT

The conference produced tangible results:

1. Tshwane Declaration on Information Ethics which became a genuine African contribution to UNESCO code of Ethics for Information society. The Declaration has the following principles:
  - All people have equal rights as set out in the Universal Declaration of
  - Human Rights- people need and should have access to information as well as the ability to benefit from it.
  - Information should be recognized as a tool for promoting goals of freedom, democracy, understanding, global security, peace and development
  - Information should be made available, accessible and affordable across all linguistic groups, gender, differently abled. Elderly and all cultural and income groups
  - Indigenous knowledge and cultural diversity is a valuable contribution Africa can make to the global information societies and it should be preserved and fostered
  - Policies and practices regarding generation, dissemination and utilization of information in and about Africa should be grounded in an Ethics based on universal human values, human rights and social justice
2. African Network for Information Ethics (ANIE) was established in order to give African scholars a platform to exchange and realize their ideas in the field of information ethics. ANIE has since held several conference to discuss the teaching of information ethics in Africa
3. High level workshop on Ethics and E-Government in Africa was held in 2009 in Pretoria. The workshop discussed such issues as Access and accessibility, intellectual property, freedom of expression among other ethical issues

4. Africa Reader on Information Ethics was published in 2010 (This seems to be the first comprehensive publication on Information Ethics in Africa).

#### **5.4 ANIE Activities**

ANIE has carried out a number of activities since 2007:

1. Second African Conference on Information Ethics: teaching Information Ethics in Africa Current Status, Opportunities and Challenges held in Botswana
2. Pre-conference to SCESCAL on teaching information ethics, Nairobi, 2012
3. Third African conference on Information Ethics: Online Social media in Africa
4. Fourth African Conference on Information Ethics: Information Ethics- crosscutting themes for managing your digital life. Uganda 2014

#### **5.5 Cultural and Linguistic Diversity in Africa**

Cultural and linguistic diversity in Africa may also have contributed to inequitable access to information. Adams (2010) indicates that Africa has more than 50 nations and hundreds of languages, and a welter of ethnic and cultural diversity. Africa has gone through slavery, colonization and apartheid which have left her with post-colonial woes, poverty, political instability, corruption, armed conflicts driven by ethnic and tribal divisions.

A good example is that in most African countries, the official language is either English or French and not the language mostly used by citizens. In Kenya the official language is English and Swahili is the national language. It is noteworthy to mention that Kenya has about forty two (42) tribes speaking different languages.

It is not uncommon to find children who do not speak or even know their mother tongue. Recently there was uproar when the Ministry of Education gave directive that children in lower primary should be taught in their mother tongue.

Lowsteat (2007:201) says that about 90% of Africa's intellectual output is produced in European languages. This means that content in local languages is minimal. Al-Shair (2014) gives success story of South Korea which is ranked first in the world for patents per capita is a practical example where the sciences are taught in the native language. Syria is another example where medicine is taught in Arabic.

### **5.6 Interventions to increase access to information**

Kenya library and Information Services Consortium (KLISC) is a consortium of made up Academic, public and other libraries by membership. It is mandated to negotiate and acquire e-resources on behalf of members. Only users of the member Institutions are supposed to have access to those resources. It is however, common to find users either giving their passwords to other people or even downloading the information and sharing with others.

Kenya has benefited from International Network for the Availability of Scientific Publication (INASP) which is an international development charity works with partners to help improve access, production and use of research information and knowledge. INASP has trained a number of information professionals through seminars and workshops.

Globethics.net is now being widely used and has greatly improved access to information in Africa. The establishment of Globethics.net East Africa programme is evidence that access to information for all can be achieved.

## **5.7 Conclusions**

Information Ethics is a good way forward for all the countries but has to be contextualized to the local needs. Poverty levels may prevent people using information ethically especially the infringement of copyright laws. Issues such as colonialism and cultural diversity have delayed equality of provision of information. There have been several workshops on Information Ethics held in Africa to create awareness. As a result some Library and Information science schools are now teaching Information Ethics.

## **5.8 Suggestions**

The writer makes the following suggestions:

- More training and sharing to bring more people on board especially bringing people from North and South together in forums such as conferences seminars and workshops to share experiences.
- Awareness creation and advocacy on the importance of information ethics.
- Increased funding opportunities in the south.
- Introduction of all round Ethics education in schools when kids are young so that they understand at an early age how to use information ethically.

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# ADVOCATING A UTILITARIAN PROFESSION IN A KANTIAN WORLD? LIS ETHICAL REFLECTION AND THE CHALLENGES OF POLITICAL PHILOSOPHY

*David McMenemy*

*[The] ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed, the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist.*

J.M. Keynes, 1936.

## 6.1 Introduction

Any popular movement be it political, professional, or social will be partly a product of the values that led to its formation; public librarianship<sup>1</sup> is no different, expanding as a profession out of a desire to ensure wide access to information and works of the imagination for the benefit of society.

The challenge for professions such as librarianship, which largely grew out of the period of history where utilitarianism was the over-

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<sup>1</sup> Editor's note: "Librarianship" is the common denomination for Library and Information Science (LIS) including also the field of information science.

arching driver of society, is to be relevant in an era where maximising benefit for the majority is of secondary concern to the rights of individuals.

Highlighting the current concerns of the UK public library system as an example, this paper explores how political philosophy and professional ethics intermix in an ongoing debate as to the purpose and efficacy of public libraries. It will be argued that an informed engagement in such debates is vital for our own ethical reflection as we seek to both understand and address concerns presented to us from philosophical perspectives that are arguably different to our own.

The ethical parameters of a profession are embedded in their codes of ethics, and while no single code covers all countries, studies have indicated there are themes that cut across most. Based on their study of 37 separate ethical codes in our own discipline, Koehler and Pemberton identified six categories that most of the ethical codes covered, namely:

1. Client/patron rights and privileges
2. Selection issues
3. Professional practice
4. Access issues
5. Employer responsibility
6. Social issues (Koehler and Pemberton, 2000, p.34)

A 2012 study by Foster and McMenemy examined the links between 36 ethical codes and Michael Gorman's seminal study on the values of librarianship, and found the most popular across all of his eight values were: service, privacy, equity of access, stewardship and intellectual freedom (Foster and McMenemy, 2012).

It is important to understand that ethical viewpoints and political philosophy interconnect in important areas, largely influenced by the same philosophers and philosophical stances. It is how these concepts are interpreted that is the key issue.

### **6.1.1 Consequentialism**

Consequentialism relates to the potential outcomes of an action and the ethical ramifications of said action. What is important for the consequentialist is that the outcome is satisfactory, not necessarily how that outcome has been achieved. The main consequentialist ethical theory is *utilitarianism*.

Utilitarianism is a political philosophy that informed much of the period of history from the Victorian era to the 1970s. Based primarily on the thinking of firstly Jeremy Bentham and latterly John Stuart Mill the over-arching concept is that the most effective way to social justice is to maximise utility, or happiness, for the largest possible number of people. From an ethical standpoint it is classed as a *consequentialist* philosophy because the focus is on the consequences of the action. i.e. provision of public libraries maximises the utility of the majority of people and is therefore justified because of this.

### **6.1.2 Deontological Ethics**

Deontological ethics relate to the concept that there are certain values or actions that are inherently good or bad. Deontological, or duty-based, ethics are primarily based around the theories of Immanuel Kant, a German 18<sup>th</sup> century philosopher. Kant believed that actions were either inherently good or bad and that this, not the consequences of the actions, were what is important. A key maxim of Kant was that human beings should be treated as ends in themselves and never as means to an end. To treat another human being as a means to an end was to behave unethically.

In the modern era the emphasis of a deontological or Kantian approach has been based around the notion of individual rights. Therefore the rights each citizen should expect to be afforded is what forms the main concern of rights-based philosophers. These are considered from myriad standpoints, such as the right of the individual

not to have their interests interfered with by society or organisations, as well as the right to maximise one's own happiness first and foremost.

As may be obvious, rights-based approaches can clash somewhat with consequentialism in some of their manifestations. Indeed, the right of individuals versus the rights of the largest number could be seen to be one of the most persistent philosophical debates of the past 40 or so years, since political philosophy from the 1970s onwards has been heavily influenced by rights-based notions of individual freedom, especially related to free-markets.

### **6.1.3 Types of Right**

An important aspect of such rights-based theories relate to the concepts of *negative and positive rights*.

Negative rights inform the thinking of many who label their beliefs as libertarian in origin, and can often mean mistrust of state intervention, publically-funded services, and taxation. Indeed one of the key thinkers in the area, Robert Nozick, has labelled taxation as tantamount to making the taxpayer a slave of the state (Nozick, 1974).

For negative rights philosophers, the concept of self-ownership is of paramount importance, and the freedom to choose how their interests are advanced should be theirs and theirs alone.

Positive rights consider the notion that citizens have a set of expectations as to the services they should receive from the state. Often referred to as *welfare rights*, they incorporate issues such as education, health, unemployment benefits and the like. In opposition to positive rights, negative rights are based around the notion that people's interests should not be unjustly interfered with, and that the over-riding maxim should be one of freedom to pursue one's own interest first and foremost. Any interference by other individuals or the state in the pursuit of those interests is seen as being ethically unjustifiable.

## **6.2 To a Market Society?**

The focus on individual rights as the prevailing organiser for society has seen then the expansion of the free market society into all aspects of our lives. This in turn has impacted on professions such as librarianship as they seek to be seen as a relevant in a market society. The space does not exist in this paper to explore the impact of this on librarianship, though readers wishing to do so can find excellent treatments of various aspects of it in the work of Buschman (2003), Budd (1997), D'Angelo (2006), and Usherwood (2007), among others, and an excellent critique of the impact on society can be found in Sandel (2012).

For the purposes of this paper I would like to focus on the issue of advocacy, and argue that our own profession (as well as many others) have misinterpreted the ends of the market society. The political philosophy that favours a market society does not have the maximum economic impact on society as its goal; such a concern would be consequentialist in nature. The overarching thesis that has seen the move to a market society is the importance of the individual rational agent unencumbered by societal concerns. The rights of the individual are of fundamental importance, societal benefit is secondary to that. This distinction is a vital one to appreciate if we are to learn how to advocate effectively.

## **6.3 The End of a Utilitarian Justification?**

We are very much a profession, then, that has grounded itself in a utilitarian mandate, and arguably continue to do so. Consequently, no pun intended, we have largely set ourselves against the prevailing political philosophy of the time. In the UK we have increasingly seen how our utilitarian-minded profession misunderstands what the prevailing political philosophy means in terms of how it seeks to survive in a world that has individualism for its main end. The marketisation of public services that has occurred in the UK since the 1980s onwards has

seen a new language and new approach adopted by public professionals. I would suggest that because of a misunderstanding of the ends envisaged by the politicians who have been implementing this, we seek a new version of a consequentialist justification of services by focusing on societal economic benefit.

We need to look back no further than 2013 for another example of how competing notions of political philosophy have very publically influenced the debate on public libraries. For a rights-based philosopher public libraries can be criticised from an ethical perspective on at least two fronts. Firstly, by providing free access to books and other materials they deprive the creators of those resources, and those who publish them and sell them, from their right to maximise their income. Simply put, if people are borrowing materials then there is no need to purchase them. A second critique of public libraries is that public taxation is being used to provide services that should be provided by the market, rather than the taxpayer. The issue of public libraries depriving authors and publishers of income is one that has recently been prominently highlighted in the UK. The issue is not a new one, it has been used as a critique of public libraries for a long time, and indeed legislation has been adopted in several countries including the UK and Germany to ensure authors are compensated for public libraries lending their material. The key reason the debate became press-worthy in the UK was not necessarily the message, but the messenger. The best-selling author of the *Horrible Histories* series, Terry Deary, raised the issue by suggesting that public libraries do indeed deprive authors, publishers and booksellers of income and that the concept of the free public library was one that belonged in a bygone age:

*Because it's been 150 years, we've got this idea that we've got an entitlement to read books for free, at the expense of authors, publishers and council tax payers. This is not the Victorian age, when we wanted to allow the impoverished*

*access to literature. We pay for compulsory schooling to do that.... Books aren't public property, and writers aren't Enid Blyton, middle-class women indulging in a pleasant little hobby. They've got to make a living. Authors, booksellers and publishers need to eat.*

Flood, 2013.

For many in the library and information world and even in the wider publishing world these views were disagreeable; but they represent a logical, viable viewpoint shared by many who have a rights-based approach to ethical thinking that informs their world-view. Deary's viewpoint is not *wrong*, it is merely another way of looking at an issue of rights that those who disagree need to find appropriate ways of debating without coming across as unreasonable. Responses to Deary's stance ranged from reasoned argument advocating the benefits of public libraries to society, to hate mail and an online petition to remove his books from public libraries, which was later removed.

Let us boil this conflict of ethical stances down to its core components. The key issue at stake is the *right* of the author and publisher of a work to be free to maximise their income from their own outputs versus the benefits to society of having books lent. Public libraries as sources of a free supply interfere with this individual right and thus impact on the potential income of both author and publisher. Even in a country where a public lending right exists, like the UK, the income derived from the loan of a book in no way would equate to the income derived from the sale of a book. In addition, in the public lending right scheme used in the UK it is only the author of the book who receives a contribution when a book is lent by a library, therefore the publisher's income from a library is only from the copies sold to lend. The existence of public lending right as a concept at all is an acknowledgement that the author deserves recompense for books lent and not sold. Arguably, then, the premise from Deary is one that has

already been accepted, or else public lending right would not exist. As highlighted above, what is crucially important from an ethical perspective is understanding the arguments of critics like Deary, reacting appropriately to them, and being able to formulate valid counter-arguments that can be presented to and understood by those in power.

#### 6.4 Towards a *Right to a Public Library Service*?

If a consequentialist defence of public libraries is no longer viable, how can we advocate for public libraries? The table below illustrates some examples of how we *could* frame arguments for public libraries considering the two key political philosophies under discussion:

<b>Pro public libraries</b>	<b>Against public libraries</b>
<b>Utilitarian view (Consequentialism)</b> Provision of free public libraries benefits the majority at the expense of the minority. <i>Benefit can be interpreted in a range of ways, intrinsic, social, economic, etc.</i>	<b>Rights-based theory (Deontological)</b> The author and publisher of a work have the <i>negative</i> right to not have their financial interests damaged through lending of their materials
<b>Rights-based theory (Deontological)</b> Citizens have the <i>positive</i> right to a state-funded library service.	<b>Rights-based theory (Deontological)</b> The taxpayer has the <i>negative right</i> not have their taxes spent on a public service they may not use that therefore does not benefit their interests

Table 1 - Potential ethical stances on free public libraries

I would argue that our thinking must now begin to form around a *positive rights* justification for public library services. Access to a public library as a right of citizenship should be our prevailing point of advocacy, arguing for the belief that the services we provide are vital for citizens to take their role in society. A free, rational agent taking their place in a market society needs certain resources to be truly effective.

They may have natural gifts such as intelligence or talent that allows them to maximise their success; they may well come from a wealthy family and benefit from the advantages that brings. If they do not have any of these benefits, then to be truly free in such a society the state must allow them to maximise their place. Thus arguments for free access to libraries and information *can* be made, if we focus on the positive rights of individuals as citizens. Libraries as social educational institutions should be our key thesis; not libraries primarily as commercially-inspired entertainment centres. The later focus, despite the beliefs of some in our profession, have no real traction in a society based around individual rights. Only advocacy focussed around the benefit to *individual* growth and attainment will succeed.

Ironically the over-arching *means* for libraries are the same today as they were in 1850; active involvement in the growth of the individual. The key conclusion, however, is that the *ends* of this are now the *rights* of the individual, not the *utility* to society. This distinction is not a minor one when it comes to advocacy.

In terms of our own ethical codes and statements of values, we also need to become bolder and more intelligent in how we allow these documents to be usable for our profession. We need to develop case studies that are formulated on an understanding of the differing ethical stances that are in play, and these case studies need to be understandable and translatable in our university lecture rooms for our professionals under training, and in our libraries and information services where the advocacy is happening. In addition we need more local consideration in our professional literature from both the academy and practising professionals, interpreting the ethical codes for our geographic regions in the political climate of each region. We do not write and reflect nearly enough on ethical issues in our profession, and it is a grave danger to our efficacy.

## 6.5 Conclusion

The arguments we use to advocate for our services are important, but even more important is understanding the ethical starting point of those arguments, and their place in the current thinking of those who rule. Consequentialist arguments of any shape or form are, I would suggest, automatically going to be arguing against the prevailing view of politics, and it is in such misinterpretations of that prevailing view that we run the danger of advocating weakly for our profession and the services we provide.

The LIS profession must begin to engage with the widest possible concept of how political philosophy impacts on our ethical framework. Rather than what appears to be a limited interpretation of the marketisation of public services as about maximising economic impact, we need to begin to formulate an alternative to this emerging consequentialist argument by focussing on citizens' rights.

The *positive right* to access information in a free society should be the backbone of our advocacy, not the tangled notion of the economic impact of libraries on society, or how much in pounds, dollars and pence that access to a library service may be *worth* to the citizen. Such an approach not only damages the concept of the library service by reducing its intrinsic value, it also completely misinterprets the ends envisaged by the politicians who base their entire concept on the rational individual and their ability and right to choose in a free market. It is conceivable that for a Kantian-inspired politician the argument that a library service provides economic value to a community is almost as questionable as the argument that libraries should exist for their intrinsic value. That many in our profession do not seem to understand this is as much a danger to our future as any Libertarian politician's quest to reduce the size of the state.

This paper has placed no value judgement on the expansion of the market society, and indeed lots has been and still could be written on

this topic. In the paper I have focussed solely on the binary concern between rights-based and consequentialist concepts of social justice. However an emerging concern for the profession will be the growing interest in parties of both left and right of the notion of *communitarianism* which seeks to ground the justification of social justice within community values. How this will ultimately influence our ethical thinking is for another paper at another time.

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# RÉDACTION ET RÉVISION D'UN CODE D'ÉTHIQUE PROFESSIONNEL POUR LES BIBLIOTHÉCAIRES : LE CAS SUISSE

*Michel GORIN<sup>1</sup>*

## 7.1 Introduction

Aarau (CH), 6 septembre 2013. L'assemblée générale de Bibliothèque Information Suisse (ci-après : BIS) adopte un nouveau code d'éthique. Il est basé sur celui de l'IFLA et appelé à remplacer le code des bibliothécaires suisses qui date de 1998. Le vote est unanime (trois abstentions). Sans discussion, sans questions préalables.

Un vote important, une décision réjouissante. Mais comment en est-on arrivé là ?

La présente contribution a pour but de présenter les démarches et réflexions entreprises dans le cadre de la BBS (Association des bibliothécaires et bibliothèques suisses) devenue depuis BIS, entre 1994 et aujourd'hui, en vue de doter les bibliothécaires suisses d'un code d'éthique professionnelle<sup>2</sup>. Les processus d'élaboration respectifs des

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<sup>1</sup> Le présent texte est une version quelque peu remaniée et raccourcie de l'article suivant, paru en allemand : Gorin, Michel. Ein neuer professioneller Ethikkodex für die Bibliothekare und Informationsfachleute der Schweiz: Hintergrund und Entstehung. *Mitteilungen der Vereinigung Österreichischer Bibliothekarinnen & Bibliothekare*, 2014, vol. 67, n. 1, pp. 59-69. Disponible à l'adresse : <http://eprints.rclis.org/22979/> (consulté le 30.5.2014).

<sup>2</sup> « Code d'éthique », dans la suite du texte.

premier (1998) et, surtout, second (2013) codes d'éthique seront explicités, après avoir préalablement défini ce que représente un tel document, quelles en sont, concrètement, l'utilité et la nécessité.

## 7.2 Pourquoi un code d'éthique pour les bibliothécaires ?

*La déontologie n'est pas une discipline théorique, mais le résultat de pratiques majoritaires qui peuvent et doivent évoluer, faites de maîtrise collective et individuelle et de convictions irréductibles et intangibles.*<sup>3</sup>

L'auteur de cette déclaration est Gilbert Coutaz, directeur des Archives cantonales du Canton de Vaud, en Suisse romande, président de l'Association des archivistes suisses (AAS) durant la seconde moitié des années nonante. C'est sous sa présidence que cette association s'est dotée, elle aussi en 1998, d'un code d'éthique identique à celui promulgué par le Conseil international des archives (CIA)<sup>4</sup>.

La pertinence et l'actualité de l'affirmation de Gilbert Coutaz doivent être relevées : l'éthique professionnelle est en effet tout sauf une matière théorique, car elle se fonde sur les pratiques d'un groupe professionnel spécifique, qu'elle s'efforce de déterminer et de délimiter avec précision, en les faisant reposer sur des convictions profondes dûment établies et, par conséquent, non négociables. Ces pratiques évoluent en fonction de nombreux facteurs, ce qui a pour conséquence le fait que tout code d'éthique se doit d'être périodiquement mis à jour. Enfin, la notion de « maîtrise collective et individuelle » fait référence à la caractéristique essentielle de toute éthique professionnelle, à savoir le fait que son application est laissée à l'appréciation personnelle de

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<sup>3</sup> COUTAZ, Gilbert. L'urgence d'un code de déontologie pour les archivistes suisses. *Revue suisse d'histoire*, 1997, vol. 47, no 93, pp. 278-285.

<sup>4</sup> Disponible à l'adresse : <http://www.vsa-aas.org/fr/beruf/code-de-deontologie/> (consulté le 30.5.2014).

chaque personne concernée, alors que sa définition et le contrôle de son application sont le fait du groupe professionnel concerné dans son entier.

C'est pourquoi un « code [...] donne un cap, une direction, une force [...], [il] est un nécessaire de survie, une science du comportement, une parade aux agressions et aux sollicitations contradictoires »<sup>5</sup> auxquelles les bibliothécaires sont confrontés. Il poursuit plusieurs objectifs et l'on peut donc trouver huit réponses à cette question :

1. Structurer, rendre cohérente l'identité de la profession autour de valeurs reconnues par tous
2. Mettre en valeur – voire revaloriser – et affirmer des compétences spécifiques, relevant aussi bien du savoir-faire que du savoir-être
3. Promouvoir une image de marque de la profession ; ce faisant, contribuer à l'octroi d'une sorte de « label de qualité » à cette dernière
4. Disposer d'un outil de promotion de la profession vers l'extérieur (autorités politiques, employeurs, clients, grand public)
5. Répondre au désir de point d'appui, que ressentent des professionnels d'autant plus conscients de leurs responsabilités, qu'ils ont un rôle important à jouer dans la société de l'information
6. Rechercher une certaine forme de sécurité dans l'exercice de sa fonction : les bibliothécaires doivent pouvoir assurer leur défense et s'entraider, lorsque des questions graves sont posées ou en cas de différends
7. Doter une association professionnelle d'un texte fédérateur, d'un élément rassembleur, en même temps que d'un outil qui serve à la formation

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<sup>5</sup> Op.cit.

8. En définitive, affirmer certains devoirs inhérents à la profession et revendiquer certains droits.

Afin d'être encore plus concret, voici une liste d'objectifs spécifiques qui ressortent de divers entretiens que j'ai eus avec des collègues et des étudiants :

- Définir et formuler précisément les principes directeurs de la profession de bibliothécaire
- Codifier précisément les pratiques professionnelles
- Créer un esprit d'appartenance
- Harmoniser les pratiques et lutter contre certains préjugés, voire certains abus
- Disposer d'une véritable « carte de visite », d'un document de référence servant à expliquer aux clients, employeurs et autorités politiques, dans leurs grandes lignes, les missions remplies par les bibliothécaires
- Proposer un « argumentaire » détaillé très utile au niveau politique, pour la défense de la profession
- Justifier de compétences spécifiques et de droits inaliénables, que les employeurs et autorités politiques méconnaissent souvent, voire ignorent carrément
- Dans le cas spécifique de la Suisse, en l'absence d'une politique commune des bibliothèques en raison du fédéralisme, bénéficier tout de même d'un texte hautement fédérateur pour les bibliothécaires.

On peut, en outre, souligner qu'un code d'éthique a une légitimité importante, puisqu'il est rédigé collectivement, adopté officiellement en assemblée générale et, partant, cautionné par une association représentative des milieux professionnels concernés.

### **7.3 Un code d'éthique pour les bibliothécaires ou une charte des bibliothèques ?**

Avant de décrire le processus d'élaboration des textes promulgués en Suisse par la BBS puis par BIS, il est nécessaire de faire une distinction essentielle entre un code d'éthique et une charte institutionnelle.

Un code d'éthique concerne exclusivement des personnes, dans notre cas des bibliothécaires ou des professions apparentées. Alors qu'une charte institutionnelle, comme son nom l'indique, est liée à un établissement spécifique, dans notre cas une bibliothèque ou une institution analogue.

Un code d'éthique ne se substitue pas à une charte, qui définit quant à elle, le champ d'activité, les missions, les politiques et les prestations d'un établissement. Ces deux documents sont par conséquent tout à fait complémentaires : le bibliothécaire, fort des principes qui sous-tendent son activité professionnelle, peut encourager l'institution qui l'emploie à lui offrir un cadre qui lui permette de les respecter. Une charte institutionnelle ne devrait par conséquent pas entrer en contradiction avec l'un ou l'autre principe émis dans un code d'éthique.

### **7.4 Le premier Code d'éthique des bibliothécaires suisses**

Jusqu'au milieu des années nonante, la BBS semblait à l'écart des interrogations et réflexions qui avaient cours dans de nombreuses associations-sœurs. Mais un atelier de travail sur ce thème réunit de nombreux professionnels lors d'un congrès commun aux bibliothécaires et archivistes suisses, organisé à Lausanne en 1994. Estimant que l'exercice de leur profession ne peut qu'être facilité et revalorisé par l'existence d'un énoncé de principes auxquels les bibliothécaires feraient référence et sur lesquels ils pourraient s'appuyer en cas de différends, huit bibliothécaires romands et alémaniques issus d'institutions diverses se constituent en groupe de travail BBS, sous la présidence du soussigné.

Entre janvier 1996 et novembre 1997, ce groupe se réunit plusieurs fois, sans compter un travail important effectué entre les séances. Il consulte à plusieurs reprises les membres de la BBS (exposés lors des assemblées générales, présentations dans la revue de l'association, sondage effectué auprès de toutes les associations régionales et spécialisées), qui lui font part de nombreuses critiques et suggestions généralement constructives. Il s'efforce, au fil des mois, de convaincre des professionnels de prime abord plutôt sceptiques ou peu intéressés, quant à la nécessité d'une réflexion relative à leur éthique. Au printemps 1998, le Comité-directeur de la BBS décide de soumettre le projet définitif de code d'éthique à l'assemblée générale : le texte est adopté à l'immense majorité des votants, moins quelques abstentions, en septembre de la même année.

Le premier « Code de déontologie des bibliothécaires suisses »<sup>6</sup> comprend sept articles (Principe général, Constitution des collections, Accès aux documents, Préservation, Formation, Coopération et Responsabilité) assortis de quelques notes explicatives.

### **7.5 Le second Code d'éthique des bibliothécaires suisses**

BIS est le résultat de la fusion entre la BBS et l'ASD (Association suisse de documentation), effective au 1<sup>er</sup> janvier 2009. BIS comprend une grande diversité de membres, aussi bien individuels que collectifs, issus à la fois du monde des bibliothèques de toute nature, mais aussi de celui de la gestion de l'information dans un sens large, en particulier dans les entreprises privées. La question de la révision totale du texte élaboré dans le cadre de la BBS se pose alors, ce d'autant plus qu'au moment de la création de BIS, le « Code de déontologie des bibliothécaires suisses a déjà plus de dix ans d'âge.

C'est ainsi que le soussigné, toujours aussi fortement convaincu de l'utilité d'un tel document, dépose une motion lors de l'assemblée

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<sup>6</sup> BBS. *Code de déontologie des bibliothécaires suisses*. Berne : 1998

générale de BIS, en septembre 2012, demandant au Comité-directeur de mettre sur pied un groupe de travail chargé d'étudier la possibilité, pour BIS, d'adopter comme nouveau code d'éthique le « IFLA Code of Ethics for Librarians and other Information Workers »<sup>7</sup> (promulgué en été 2012), ou de s'en inspirer pour réviser le texte de 1998. La motion est acceptée à l'unanimité et un groupe de travail se constitue, sous la responsabilité du soussigné, avec pour objectif de proposer un texte révisé, au vote de l'assemblée générale 2013 de BIS.

En moins d'une année, le groupe de travail composé de treize personnes motivées et représentatives des milieux professionnels concernés, se réunit deux fois et travaille à distance de manière intensive. Il consulte les membres de BIS sur un projet de texte intermédiaire et prend en compte, dans la version finale, les remarques et propositions faites. Le nouveau code d'éthique<sup>8</sup>, fortement inspiré du texte de l'IFLA mais néanmoins différent, entre en vigueur le 6 septembre 2013, promulgué par l'assemblée générale de BIS.

## **7.6 Code d'éthique de l'IFLA ou Code d'éthique de BIS ?**

Le groupe de travail de BIS, on l'a vu, n'a pas fait le choix de reprendre tel quel le texte de l'IFLA. Est-ce le reflet d'un certain particularisme, tendance assez marquée en Suisse, dans bien des domaines ?! La réponse est négative. Si l'élaboration d'un code d'éthique n'est pas une tâche insurmontable, elle nécessite, tout à la fois, une grande capacité d'introspection, un long mûrissement de même qu'une confrontation des idées, et une volonté affichée de dégager des

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<sup>7</sup> Code d'éthique de l'IFLA pour les bibliothécaires et les autres professionnel(le)s de l'information. In : *IFLA Website* [en ligne]. Disponible à l'adresse : [http://www.ifla.org/files/assets/faife/codesofethics/frenchcodeofethics\\_full.pdf](http://www.ifla.org/files/assets/faife/codesofethics/frenchcodeofethics_full.pdf) (consulté le 30.5.2014)

<sup>8</sup> Code d'éthique de BIS pour les bibliothécaires et les professionnels de l'information. In : *BIS Website* [en ligne]. Disponible à l'adresse : [http://www.bis.ch/fileadmin/ressourcen/arbeitsgruppen/Code\\_ethique\\_f.pdf](http://www.bis.ch/fileadmin/ressourcen/arbeitsgruppen/Code_ethique_f.pdf) (consulté le 30.5.2014)

manières communes de pratiquer et d'agir. Et, surtout, elle doit impérativement mener à un résultat qui suscite l'envie, chez les destinataires du texte, de se l'approprier, s'en imprégner et veiller en permanence à en (faire) respecter les principes dans leur pratique quotidienne. Or, pour atteindre cet objectif, le texte doit être rédigé dans un langage adapté et prendre en compte le contexte spécifique au sein duquel il est en vigueur.

C'est ainsi que le code d'éthique de BIS prend largement appui sur celui de l'IFLA, mais en diffère sur de nombreux points, ce pour les raisons suivantes :

- Mauvaise qualité des traductions française et allemande proposées par l'IFLA
- Certains éléments propres au contexte de l'IFLA n'ont pas été retenus
- Certaines formulations jugées peu claires ont été retravaillées
- Éléments manquants en général : certains principes jugés importants ont été ajoutés, comme, par exemple, la nécessité de veiller à la conservation et à la préservation des collections en lien avec la mission propre à chaque institution, la contribution à la lutte contre l'illettrisme et à l'apprentissage tout au long de la vie, le droit à la formation continue
- Éléments manquants ou nécessitant une adaptation par rapport au contexte suisse : des corrections ont été apportées, comme, par exemple, le respect des minorités linguistiques et du droit d'accéder à l'information dans sa langue maternelle
- Suppression de listes d'exemples ou d'illustrations, qui alourdissent le texte, ont le désavantage de devoir être régulièrement complétées et paraissent exclusives
- Suppression des conditionnels : dans un code d'éthique, tout conditionnel (y compris l'emploi de la conjonction « si ») affaiblit la portée de ce qui est affirmé et rend son utilisation plus

malaisée. Un tel document doit affirmer clairement les choses, sans rendre possibles diverses interprétations

- Logique générale du texte : de nombreux points ont été repris tels quels, mais disposés autrement (regroupements différents) pour en faciliter la lecture et la bonne interprétation
- Suppression d'un point : le fait que les bibliothécaires doivent reconnaître qu'il est dans l'intérêt général que les mauvaises conduites, la corruption et le crime soient rendus publics par les « whistleblowers », au détriment de la confidentialité, a été considéré comme sujet à mauvaise interprétation, intrusif et de sensibilité anglo-saxonne
- Pas de version abrégée : contrairement à celui de l'IFLA, le code de BIS n'est pas complété par une version abrégée. Le groupe de travail de BIS y a renoncé, après réflexion approfondie et pour les raisons suivantes : il est très difficile de faire un abrégé sans ôter sa substance au texte, sans perdre des nuances importantes, d'une part, et il y a un risque à disposer de deux documents distincts reflétant une éthique professionnelle, d'autre part.

### **7.7 Consultation des membres : une exigence**

Une particularité du travail effectué par les deux groupes qui ont rédigé les textes de 1998 et de 2013 doit être ici relevée, ce d'autant plus qu'elle nous paraît déterminante pour le succès d'une telle démarche.

Outre le fait que la réflexion a été menée par des groupes de travail aussi représentatifs que possible de la BBS et de BIS, issus des deux grandes aires linguistico-culturelles suisses - ce qui était indispensable – nous voulons parler ici du dialogue institué entre chacun des deux groupes et les membres des associations. Loin de représenter un frein au processus de réflexion, il a au contraire contribué à l'alimenter et à l'enrichir, ainsi qu'à lui éviter de devenir trop théorique. En outre, nous croyons pouvoir affirmer que cet échange a favorisé une prise de

conscience progressive de l'intérêt de définir des règles d'éthique professionnelle rigoureuses et explicites : les membres de la BBS et de BIS, parfois indifférents, sceptiques, voire opposés à leur promulgation, se sont peu à peu approprié leur code, dont ils ont pu suivre de près toute la genèse, et à la rédaction duquel ils ont été amenés à apporter leur contribution.

Concrètement, cela a impliqué la mise en place d'une procédure de consultation des avant-projets de textes, l'analyse approfondie de tous les commentaires et propositions de correction reçus et, ensuite, l'envoi à chaque intervenant d'une réponse circonstanciée, lui expliquant les raisons pour lesquelles ses suggestions avaient ou non été prises en compte par le groupe de travail.

### **7.8 Respect du code d'éthique par les professionnels : un vœu pieux ?**

On l'a vu, les codes d'éthique destinés aux bibliothécaires ne font pas mention de sanctions possibles à l'égard des professionnels qui ne respecteraient pas l'un ou l'autre principe présent dans un texte<sup>9</sup>. Il en va de même pour le code d'éthique de BIS. Dans ces conditions, un tel document – dont on rappelle qu'il n'a par ailleurs aucune valeur juridique – ne souffre-t-il pas d'un défaut rédhibitoire ?

A cette question déterminante, nous répondons par la négative : la force d'un tel texte réside clairement dans sa valeur morale. En effet, il vise une responsabilisation personnelle de chaque professionnel, il fait

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<sup>9</sup> Certains textes encouragent néanmoins les professionnels à dénoncer les violations. C'est le cas, notamment, des « Règles d'éthique des membres de la Corporation des bibliothécaires professionnels du Québec » (disponible à l'adresse : [https://cbpq.qc.ca/sites/cbpq.qc.ca/files/fichiers/corporation/loi\\_et\\_regl/Regles\\_ethique\\_2005.pdf](https://cbpq.qc.ca/sites/cbpq.qc.ca/files/fichiers/corporation/loi_et_regl/Regles_ethique_2005.pdf) - consulté le 30.5.2014) à l'article 33, alinéa 7, et du « Code of Professional Practice » du Chartered Institute of Library and Information Professionals (GB) (disponible à l'adresse : <http://www.cilip.org.uk/cilip/about/ethics/code-professional-practice> - consulté le 30.5.2014) à l'article C10

appel à sa conscience, il lui fait percevoir ses responsabilités à l'égard de ses clients et de la société en général. Chaque bibliothécaire de Suisse est donc invité par BIS à faire siens les principes énoncés dans ce document, à se les approprier individuellement et à tendre à leur respect dans sa pratique quotidienne. BIS doit par conséquent jouer un rôle actif en faveur de la promotion de ce texte, et c'est l'objectif principal visé au travers de l'instauration d'une commission permanente chargée des questions d'éthique professionnelle, qui va être mise en place par le soussigné, dans le but d'être opérationnelle à partir du 1<sup>er</sup> janvier 2014.

Le mandat de cette commission est le suivant :

- Assurer, de concert avec le Comité-directeur de BIS, la promotion du code d'éthique auprès des professionnels, des employeurs et du monde politique, au travers d'actions spécifiques de formation et de lobby ;
- Assurer la mise à jour du code d'éthique, en s'appuyant sur une veille permanente portant sur l'actualité professionnelle nationale et internationale en matière d'éthique professionnelle des bibliothécaires et professionnels de l'information ;
- Assurer le suivi de l'utilisation du code par ses destinataires, en s'appuyant sur une veille permanente (enquêtes, sondages ponctuels) ;
- Conseiller les membres de l'association confrontés à des problématiques liées à l'éthique professionnelle.

Une telle commission, au travers des différentes actions qu'elle mènera, contournera en quelque sorte la difficulté mentionnée plus haut, en agissant et en informant pour convaincre, plutôt qu'en usant de sanctions.

## 7.9 Conclusion

Toutes proportions gardées et nonobstant le fait qu'il n'a pas de valeur juridique, le code d'éthique de BIS est à la profession de bibliothécaire ou, plus largement, de professionnel de l'information, ce que la Constitution fédérale est à la Confédération helvétique : un texte fondateur, dont personne n'ignore l'existence, mais dont l'influence sur les activités quotidiennes est difficilement perceptible. Comme n'importe quelle norme, il a un caractère évolutif et nécessite non seulement d'être tenu à jour régulièrement, mais aussi d'être mis au bénéfice d'une politique d'information solide et axée sur le long terme.

C'est à ces conditions que ce code d'éthique<sup>10</sup> deviendra un véritable outil de travail, auquel se référer tant pour consolider des pratiques et renforcer la cohésion entre les professionnels, que pour affirmer des compétences et promouvoir une profession.

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<sup>10</sup> Ethikkodex des BIS für Bibliothekare und Informationsfachleute. In : *BIS Website* [en ligne]. Modifié le 9 septembre 2013. [http://www.bis.ch/fileadmin/ressourcen/arbeitsgruppen/Ethikcode\\_d.pdf](http://www.bis.ch/fileadmin/ressourcen/arbeitsgruppen/Ethikcode_d.pdf) (consulté le 15.9.2013)

**WHAT IS 'PUBLIC' AND WHAT IS  
'PRIVATE' IN LIBRARIES?  
THE ROLE OF CODE OF ETHICS FOR  
LIBRARIANS IN SEARCHING FOR THE  
RELEVANT ANSWER**

*Vesna Crnogorac and Jasmina Ninkov*

*I sometimes think that 'privacy' is in the ear of the listener. Certainly, there is by no means a universally accepted definition of the word.*

*Our spatial privacy gives us the right to be alone, to spend time only with those who we choose to spend time with and be free from any kind of surveillance. Our informational privacy is the right to control our personal information and to keep the access and usage of information and written knowledge to ourselves, not under other people's surveillance.*

M. Gorman

It is not specifically known where the privacy limits are, opening possibilities for listing every human right as a right to privacy. Rights to privacy, as a basic human rights, have a special significance in the body of human laws. It is visible through the fact that all instruments for the protection of all human rights, both international and regional or state ones, regulate the question of protecting rights to privacy by separate

regulations. Gorman, also pointed out on “privacy in the spatial and information context”.

The development of democracy and its core values in a modern society has created a new background in which public libraries receive a significant and active role and therefore a special social responsibility. Present – day libraries, especially public ones are facing many challenges. Library, by its nature a democratic institution, serves the society by serving an individual - a citizen, to recognize and find a place in which they can attain freedom of expression and free access to information.

*The countries in transition might have reasons of their own to deal with the professional ethics issues. They have to transform their societies from closed communities into democratic societies with active citizens who are ready and willing to initiate changes.*

A. Horvat

The right to free access to information – it has been one of current human rights in the world for more than for decades, while it has been the most commonly discussed one in the “transition countries”, a member of which is our own country, Serbia. In its striving towards becoming modern and democratic, establishing and respecting the general democratic values, my country faces a great number of difficulties, among other things, due to the heritage of the earlier non-democratic political regimes, where human rights had almost no significance at all. The ongoing democratization of the Serbian society, which has been going on for almost 15 years, also brings one important institution which signifies itself as “raising the public awareness regarding the values of modern democracy”.

This presents a process where all social actors have a specific role to play regarding the promotion and education of citizens about the basic

values of modern democracy as well as establishing institutions and conditions for their realization. The state has been doing this in many ways throughout these years.

The most significant result of Serbia's democratization is passing the *Law on free access to information of public importance* and *Law on personal data protection*. The libraries themselves are not giving enough attention to rights and obligations the laws bring for both librarians and library customers.

The questions regarding the realization of free public access to the information in libraries as public institutions are being dealt with by rare experts in librarianship. Both libraries and librarians need to have an engaged, proactive role in the process of helping citizens realize their right to information access as well as the personal data protection of users. The problem appears there where citizens possess insufficient or no knowledge of this right of theirs as well as “what to do with this right”, how to fulfil it, that is. In other words, not all citizens are equally informed about it, nor have they been taught about the procedure of its realization.

Aleksandra Horvat, when she talks about the responsible role of the librarian profession in this field, points the following out:

*We are prone to emphasizing that the active bond between citizens and their libraries is more important today than it has ever been in the history of librarianship.*

It is expected from the librarians to turn “from the experts working for an employer to active representatives of a wide range of citizenship” which, we believe, presents the essential task of 21<sup>st</sup> century's librarians.

In its documents IFLA sees the library as a transparent institution in its nature, so it recommends, in that sense, numerous tasks in order to help its users in the new information era the most efficient way possible.

The citizens have a right to seek all kind of information in their libraries. This information does not necessarily have to be a part of the

library collection. This information can be of the most diverse nature: from a tourist brochure of the city, monthly programme of the important city institutions, over reports regarding works of local authority, all the way to financial reports of public institutions.

*Law on personal data protection* of Serbia is setting out the conditions for personal data collection and processing, the rights and protection of the rights of persons whose data are collected and processed, limitations to personal data protection, data security, data filing, etc. It is very important that librarians know all the rights and obligations of these two important laws.

Librarians should to know what actually” information of public importance” is (shortest - all official documents of the public institutions) which personal data can be taken from the users, what is “particularly Sensitive Data”, etc.

*Today's information and communication technology, however, is characterized by a capability of monitoring and permanently preserving and storing each act once recorded, where a librarian's preservation of user privacy gets tempted. The consequence is that we cannot provide fast and simple answers to the question of how to preserve user privacy, how to give the user access to the collections without violating the rights of its author.*

A. Horvat

### **8.1 What is Public in Libraries?**

- Finances
- Library collection
- The building, assets, equipment
- Work and working hours
- Various statistical data regarding library usage...

- Employee data / apart from personality data
- Legal regulations, reports, plans...
- All other official documents which present information of public importance

## **8.2 What is Private in Libraries?**

There are two types of data:

1. Personal Employee Data  
*For public institution requirements (Employment fund, health and pension insurance)*
2. Personal User Data

Based on the *Law on personal data protection*, there is a *Central Data File Register* in Serbia, kept by the Commissioner for Information of Public Importance and data protection (a record comprising a register of data files and a catalogue of data files).

Data controller – Library (is responsible for data processing)

- It collects data from persons they apply to
- It is obliged to process the data based on the person's CONSENT

Both types of data are regulated by the Law. The list of library members (users) and list of Library workers are actually collections of personality data that the library takes special care of, in accordance with the regulations of the Law and it needs to be entered in the *Central Data File Register*.

## **8.3 What Information is Given to Libraries?**

- Collection name, institution name
- Address
- Purpose of data collecting
- Categories of persons related with the data
- Data types it contains

- Means of collecting and storing data
- Deadlines for storing and using data
- Ways of implementing means of protection

#### **8.4 What Personal Data Do Librarians Ask of their New Patrons?**

- Name and surname
- Address
- Telephone number or cell phone number

Also, the following is required:

- Level of education data  
Vocational data - Needed for statistical data, in order for the library to justify its performance to the founder, it needs to know (approximately) who its users are and for whom it chooses and collections.

There is no information regarding the purpose for which the personal data will be used in libraries.

1. The library is obliged to respect the privacy and personal freedoms of library users, in accordance with the Law.
2. The user is obliged to respect the reputation of the library and its personnel, as well as the user code of conduct.

When the users sign up in libraries, librarians seldom introduce them to the reason why they need to provide their personal data. Every library should have a document which would contain the obligation of preserving personal data and the general principles by which the library functions regarding user privacy preservation.

The document should be familiar to the public; be exposed on the web page of the library but also previously presented to the user signing up. The existence of that document shows that the library accepts preserving user privacy and information confidentiality, thereby assisting library relationship with the public.

### **8.5 What Else is Private in Libraries?**

- Information whether someone is a member of Library
- Information on borrowed material and what information are browsed
- Data about the frequency of library visits of a specific user

In some European countries, sublegal acts determine the period of keeping data about subject matter usage after finalization of work. Once the period expires, the data needs to be deleted or the data about lent titles is separated from the user which borrowed them. In a recent survey conducted in Serbia, once asked about how long they preserve data about borrowed publications, some libraries circled the answer: “permanently”.

### **8.6 What Information is a Librarian meant to keep from the Public?**

Which pieces of information can a librarian find out during regular working hours on his/her job about which he is bound to stay confidential? We find out about these from some specific IFLA documents, but also from ethical codes of the librarian profession.

A number of ethical codes of librarians emphasize preservation of user privacy and confidentiality of the used information as a professional value. A librarian is in position which enables him/her to find out which subject matter the user is borrowing or browsing, which information he/she is looking for; all this information present the privacy sphere. The names and addresses, as well as phone numbers of individuals may be of interest to various companies looking for possible clients or to tourist organizations, etc.

In some situations even the Police may be interested in the data regarding individuals reading a specific borrowed material. Or how should a librarian behave once a parent comes asking about and

checking what his/her child is reading? Do we have prepared answers for this situation? The crucial question by Don Fallis, *What should librarians do when these principles conflict with other ethical principles?* – is also very important.

Every code of professional conduct should reflect the issues affecting the people to whom it applies. However, it should not be conceived too closely or be assembled as a permanent document - which will withstand "Test of time".

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## **IVORIAN LIBRARIANS FACED WITH THE PROTECTION OF MINORS: WHAT STANCE SHOULD WE TAKE?**

*Anoh Kouao Antoine*

### **9.1 Abstract**

Minor protection is a reality. Legal gear is set up to preserve their physical, psychological, mentally and intellectual integrity. To do this, several codes of ethics of various professions take into account this category of society. Librarians and information professionals should not be on fringe of this practice. Indeed, the professions that affect the moral, physical and psychic sensitivity all have ethical codes that protect people considered fragile. Therefore, from the example of audio-visual media and personal experiences, it now appears more imperious for librarians and information professionals in Côte d'Ivoire, to adopt a code of ethics and professional conduct that would protect themselves and their users under 18 years old. This protection must be done not only inside the library (in the workplace) but also in public (outside the workplace).

### **9.2 Introduction**

A minor is a person under 18, who is in complete construction of his personality.

To make easier this psychic and bodily building, a series of rights were dedicated to these individuals in particular through the International Convention on the Rights of the Child, adopted on November 20<sup>th</sup> 1989 at an international level. The African continental level, the African Charter on the Rights and Welfare of the Child states in its preamble<sup>1</sup>:

*Recognising that the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security.*

The development of minors requires participation of other actors. Most certainly, immediate family circle but also by persons outside the family. That is reminded us by quotation from<sup>2</sup>:

*[...] parents, guardians, educators and people influencing confidence should actively participate in teaching children and young people the risks they may incur in the presence of sexually explicit material or predators and scammers on the internet and how to avoid them.*

The author of this sentence reminds us of the role of the actors involved in the education of children from ages 1 and 17. In his enumeration, he put after parents and guardians, all other education stakeholders involved in children and teenagers education as a bridge to social building. It's about among other teachers, educational specialists... including cultural facilitators, as librarians and other information professionals.

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<sup>1</sup> African Charter on Rights and Welfare of the Child. Adopted in July, 1990. was entered into force in 29/11/1999 and ratified by 15 States. (Wikipédia). Consulted 30/01/2014

<sup>2</sup> Internet Society 20 years. Les enfants et Internet. [www.internetsociety.org](http://www.internetsociety.org). Consulted le 26/02/2014

To this end, authorities provide legal mechanisms to regulate minors' access to certain products and services. On the matter, goods such as alcohol, tobacco, and services such as night clubs are prohibited to them. Therefore, the law requires tobacconists and drinking establishments to check identity card before serving customers, especially if there is a doubt in their mind about the age of the individual. Here, it is to protect their physical integrity.

Concerning services access, libraries and documentation centres are open to them in the framework of their training and their information. In professional practice, the librarian is committed to providing a quality service in order to satisfy users. Doing that, he shall assume responsibility by providing books requested by users that may provide accurate information. In relation to juvenile users, the librarian is confronted with a great dilemma: to make available or refuse access to documents that could imperil their moral, mental and psychological integrity.

This paper will discuss firstly the classification of media, and secondly provide personal professional experiences that will eventually open a gateway to discussions which will allow room for recommendations and proposals.

### **9.3 Classification**

French Audio-visual High Council (Conseil Supérieur de l'Audiovisuel français) defines classification as "programme classification, programming in time slots, information schedule, screening and control access. Verbatim has made a call to responsible stakeholders (television networks, family circles and educational environments, CSA) to "ensure the protection of minors against audio-visual programs that could harm their blossoming."

### *9.3.1 Three (3) countries classification*

We will present as models the example of France classification for westerner, and Morocco and Ivory Coast as an example of Western countries; and those of Morocco and the Ivory Coast, two African countries. These classifications are implemented respectively by the CSA and the High Authority for Communication (HACA). We will show with pictograms their senses and schedules.

### *9.3.2 France CSA classification*<sup>3</sup>

Pictograms are blue squares with the following numbers inscribed inside: -10, -12, -16 and -18.

The pictogram "-10" means that the movie is not recommended for children under 10 years old. It concerns programs with scenes that could affect viewers negatively, physically and mentally. The pictogram "-12" refers to movies forbidden for children under 12 years old. Movies in this classification potentially create the impairment of physical and mental blossoming of children under the age of 12, notably when the scene repeatedly resorts to physical and psychological violence.

The pictogram "-16" is an indicator concerning movies forbidden to children under the age of 16. These programs are able to harm to minors blossoming; especially when the program includes erotic scenes or great violence. The pictogram "-18" classifies films that are not recommended to individuals under the age 18, as they're susceptible to affect the blooming of children under 18 negatively, notably, when they include scenes of pornography or extremely violence. Movies and schedules of this nature are prohibited to children under 18 can only be broadcasted between midnight and 5 O'clock AM. The films are also encrypted and accessible only through a parental password.

France CSA classification appears like this:

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<sup>3</sup> <http://www.csa.fr>



### *9.3.3 Morocco HACA<sup>4</sup> classification*

The green square pictogram with inscription “-10” written in black indicates that these schedules are susceptible to shock children under 10. They are banned from broadcasting from 12 AM to 2 O’clock PM and between 5 PM and 7 PM from Monday to Friday until 2 PM on Saturdays and Sundays.

The yellow square pictogram with the inscription “-12” written in black indicates that scenarios of these schedules systematically and repeatedly resort to physical and psychological violence. They are banned to children under the age of 12 and do not broadcast between 12 AM to 2 PM and between 5 PM and 7 PM from Monday to Friday until 2 PM on Saturdays and Sundays.

The red square pictogram with inscription “-16” written in black indicates that programmes in this classification show very strong violence, which need parents agreement to view. Banned to children under 12, programmes of this nature are not broadcast before 10 PM each day of the week.

### *9.3.4 Ivory Coast HACA classification*

Ivory Coast HACA is invested in several missions, notably to make sure that audio-visual medias:

- respect human dignity;

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<sup>4</sup> ELMCHERQUI, Naima, présentatrice. 2009. La protection de l’enfance et des public vulnérables: Protection du jeune public et éducation aux médias : 2ème session (actes de la 5ème CIRCAF, à Marrakech, les 19 et 20 /11/2009)

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- protect children and teenagers forbidding them to view program broadcasts contrary to the law and accepted standards (accepted behaviour)

Thus, these media agents must take suitable action to warn viewers about the fact that scenes may include violence and/or obscene broadcasts by classification insertions.

As far as satellite television service providers are concerned, they are obligated to make their content unavailable to children under 18 by imposing a parental password.

Refusal or violation of these terms hold offenders liable to penalties scheduled by the law:

*N° 2004-644 14th December, 2004 bearing by legal settlement of audio-visual communication modified by n°2011-474 of 21<sup>st</sup> December 2011 Order.*

Ivory Coast HACA classification appears like this:



### 9.4 Classification in Audio-visual Medias

*9.4.1 Classification in advertisement, during television news and in TV series, soap-opera and movies.*

#### *9.4.1.1 Advertisements*

Classification in advertisement concerns both vocal and visual aspects. It concerns health products advertisement such as medicine. Presently, pharmaceutical industry adverts are relative to a certain kind of medicine, followed by a disclaimer, such as: “This medicine is not

suitable or children under the age of 15”, which is communicated verbally toward the end of the advert sequence.

#### *9.4.1.2 Television news*

For the presentation of images or content that may shock or offend, journalists will verbally inform viewers and advise parents or adults to prohibit minor from watch the following scenes as the content is of strong nature. For individuals with poor or impaired hearing a translator will communicate the message through sign language.

#### *9.4.1.3 TV series, soap-operas and movies*

Concerning TV series, soap-operas and movies a classification image is always shown at the bottom right of the screen specifying the advised viewing audience.

### **9.5 Classification in Publishing Businesses**

Publishing businesses are not exempt from classification, as indicated us by Ms. Daubigny.

Young people’s literature is the field of publishing for children (...), it includes:

1. Awakening infancy colouring albums;
2. Youth Fictions [stories for children over the of 5-6]
3. Youth Documentaries [all learning books for children over the age of 5-6]

*[...] Most publishers will have a collection of young people’s literature. Children’s literature includes all genres (detective, fantasy, poem, historical...), but designed specifically for children and adolescents. Adult authors who write for children readers should take into account their needs and the specific reading habits*

*relating to children. It is often parents who buy books for their children, driven mainly by their own perception of what is 'good literature', or because of school requirements..."*<sup>5</sup>

Furthermore, these pictograms are widely used for the classification of books intended for young people by almost all Ivorian publishing business (NEI-CEDA Classiques Ivoiriens, ANISS Editions, Frat-Mat Edition , Editions des Livres du Sud, etc.) Ivorian authors of young people books have understood the need to indicate on their works classification codes.

From all that has been said, we are at liberty to conclude that classification is a tool that contributes to the protection of minors in audio-visual media and publishing businesses. The classification system clearly communicates to the parents and guardians that they have a role and responsibility in the protection of minors from strong audio-visual content.

In comparison with other professions such as the pharmaceutical, movie and publishing industries, who all have a classification system, we see that for librarians the reality is quite different. How should one stand when faced with the question of providing documents deemed inappropriate to minors? We have experienced this and would like to share with other professionals.

## **9.6 Personal Professional Experiences**

It's about theoretical lived during my formation in Ivory Coast Librarianship School (Ecole de Formation à l'Action Culturelle) and a practice experience lived in July 2012 in my quality of librarian at Ivory Coast National Library.

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<sup>5</sup> DAUBIGNY, Louise (2008). "La Littérature Jeunesse"

### *9.6.1 First experience*

#### *9.6.1.1 Facts presentation*

During a training day, one of our teachers asked the following question: “If a young girl under the age of 14 comes to your library and tells you that she is searching for books with information about abortion, what will your reaction be?”

#### *9.6.1.2 Trends*

The opinions were divided, but two trends were identified:

1. Students of first group answered in these terms: My reaction would be the same regardless of who made the request. I would fulfil my librarian duties by finding the documents relating to her request and leave them at her disposal. My role ends there.
2. The second group of students took the following position: As a parent, I would behave beyond the responsibilities of a librarian. I would inform myself about the reasons for her interest in this subject. Then I would take a decision whether to satisfy her request or not. If it is for academic reasons I would give her the requested books available in my funds. But if I suspect that the girl is pregnant, I would advise her about the dangers she will be exposed to performing an abortion, without judging her.

I confess that the debates were heated on the position between the two trends. Indeed, for upholders of the first trend, the librarians or information professionals who took the second position would be overstepping his/her role as a librarian and would be assuming the responsibility of a social worker.

### *9.6.2 Second experience*

I experienced took place in July 2012 while I indexed books received through donation by the Ivory Coast National Library.

#### 9.6.2.1 *Facts presentation*

After the cataloguing team has finished with the documents, the indexing team receives them. I came across a series of monographs for the children's library (a section of the national library). One of the books was part of the Hachette Jeunesse collection called 'Encyclopaedia of sexuality' and the other part of the Hydrogen collection of 'Editions de la Martinière'.

On the first cover of the first collection of books we see that they've been categorised for children aged: 4-7, 7-9, and 10-13 years old. Upon reading them, I learnt a lot even as an adult. The books content showed the human anatomy (male and female) with details on the reproductive system and organs, with much useful information that I believe to be relevant for the age groups suggested. At the moment, everything was all right. But reading further, an issue caught my attention. I was presented with a section which described foreplay in great detail. Moreover, the illustrations were presented with, in what appears to be, two teenagers. I wondered if children at this age are really in need, at such a delicate moment of their evolution, to have detailed knowledge of such things.

#### 9.6.2.2 *Discussion with the colleagues*

One again, the opinions between groups were divided:

- First trend: The acceptance of moral evolution.  
*Upholders of this point of view agreed that books of this nature are intended to westernise children. Thus, it's right and we must conform to their choice of education.*
- Second trend: Restricted access.  
*According to this group, books, even though the content is enriching, for a country like ours where sexuality remains a taboo subject amongst family, information of this nature should be prohibited to children under 16.*

### *9.6.3 Third Discussions*

Discussions could be organised either in the context of personal professional experiences or in the context of classification.

#### *9.6.3.1 Discussion on personal professional experiences*

It must be noted that both experiences were debated without legal support or reference. Effectively, no speaker, in the course of the discussions propped up his/her thesis, argumentation or talk on a legal basis because there is a lack of knowledge of law among Ivorian professionals.

However, the second experience brings to attention the problem of censorship in libraries, particularly books on the subject of sexual education intended young children. On that subject Bertrand Calenge stresses that collection development is necessary, but also improvements to their access, if they are acquired. Sexual education books dedicated to children present a kind of tension for librarians. Excluding books of this nature lays suspicion open to censorship which is out-of-date, while acquiring such book exposes libraries to parent's protestation.

The worst solution is to acquire these books with good conscience, then have them hidden at the bottom of store (who has already seen a small baby fill in a bulletin of communication?) Another solution is to assume an acquisition free access choice, where we discuss, negotiate and initiate debates, etc. Lastly, one could forego to buying books of this nature because the social environment is too strong.<sup>6</sup>

The first experience explained is a moral dilemma because there is risk of individual tragedy. Indeed, the lesser evil which could occur to the young girl in this situation, in the case that things go wrong, is certainly irreversible barrenness. The worst case scenario would be death. From this example, Ivorian librarians, as those of most countries,

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<sup>6</sup> CALENGE, Bertrand (2008). *Censure et politique d'acquisition*. in Dossier: Revue ABF. N°41/42 p 51-56. [Online] <http://>Consulted le 26 Février 2014

must assuredly see again their acquisition politic and sort out meticulously documents given to them by donors. He/she commits his/her responsibility accepting systematically to put in free access all documents, whatever the mode.

For example, to elude a book on suicide Calenge asserts that:

*(...) libraries cannot shirk their social responsibilities. If a librarian decided to control his/her collections intended for children under 18, or if he/she refuses to lend 'Suicide mode d'emploi', it's not because laws or rule inquired to him/her, but because libraries must conform themselves to tacit rule that govern life in society.*<sup>7</sup>

In any case, both situations lighten Ivorian librarian's social responsibility. The Dilemma is that he/she must be faced as cultural information facilitator at the workplace, without jeopardizing the acquisition politics of his/her establishment, and to call him/her out as to his/her social responsibility to face his/her contribution to child citizen personality's construction. Thereby, IFLA Professional Codes of Ethics for Librarians in its part 2 consecrated to: "responsibility toward individuals and society" stated librarians responsibilities without hinder adults rights:

*Librarians and other information workers respect the protection of minors while ensuring this does not impact on the information rights of adults.*<sup>8</sup>

#### 9.6.4 *Discussion on classification*

While parents endeavour to scrupulously observe classification given by HACA, forbidding their children to view broadcasts which were not intended to them. What stance, then, must Ivorian librarians take when

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<sup>7</sup> Bertrand CALENGE, op. cit., p52

<sup>8</sup> IFLA, Ethics Codes for Librarians

faced with a situation of communicating a book that he/ she deems morally sensitive or not suitable for minors? Otherwise, if parents embrace their responsibilities in their children's education, applying Ivory Coast orders, they are ready to respect publisher's business classification inscribed on young people books. Then, what happens when libraries and their staff are accused to negligence or laxity by empowering children under 18 to read books which content would be prohibited by audio-visual media?

Ivorian librarians don't have a formal regulation and/or protection framework in the matter. So, all initiatives are left to professional appreciation who depending on his/her feeling decide what exactly can be read by minors in library.

That places him/her in a position which isn't always easy to assume. When does go slowly? How does bring together professional practice and satisfy young people's informational needs? Opinions on these questions stay divided. Some professionals think that minor's protection in libraries is inconsistent and that is necessary to regulate books access which can emotionally destabilize them.

For the others, an idea would be to act on the school curriculum so as to mark out with beacons upstream. The current curriculum sometimes puts Ivorian librarians into a dilemma. It occasionally happens that through curiosity a child is interested in a subject for which he/she needs more information. In this case, the idea is not to deter children from learning but rather to protect them from information not suitable for their age group. But the problem we face in this example is that in one respect we protecting them against books inappropriate or not adapted for their development at such a delicate moment, but in another respect we are also refusing their right to information.

To solve this problem, some libraries envision creating their own classification system for the young people's section. It will be to make available books already selected for age bracket [15-17]. A similar

system already exists for adults where books considered as offence against public decency can be found on dedicated shelves. Elsewhere, some libraries also chose to separate their books doing the same thing in their young people's section. They created shelves with books deemed obscene for children under 15, which are forbidden to children but made accessible to 15-17 year olds through surveillance system

## **9.7 Conclusion**

The protection of minors is a permanent worry for authorities, especially with communication channels multiplication which is accessible to users via uncontrolled information sets. If by classifying CSA and HACA permits parents to select what their children view in audio-visual media, classification also permits publishing businesses to prevent books being made available to children and teenagers by young people literature authors. As, between publisher and librarian, there is no interactive relationships, the latter is obliged to foresee in fact, disposals, to manage documentation in libraries for children under 18. Although, classification systems are implicated in some professional practices, they aren't always respected by minors themselves.

Moreover, what do librarians gain by forbidding access of 'dark books' to minors since television and the internet make erotic or even pornographic content accessible in the privacy of their own homes? Not forgetting that the promotion of violence is increasing because due to video game and movie producers who direct their productions toward an audience where the common majority are young.

## **9.8 Recommendations**

The welfare of children under the age of 18 is more and more emphasised throughout the world. In Africa different organisations are interested by the subject, and as a result the 3rd Annual Conference of Audio-visual Regulatory Authorities Forum of States members of

Organization of Islamic Conference (OIC) through to International Broadcasting Regulatory Authorities Forum (IBRAF)<sup>9</sup> recently took place. Participants studied means susceptible to promote minors rights while protecting them against medias negative effects.

In Ivory Coast, we note a readjusting in television schedule since two decade with programs deemed depraving cancelling.

Thus, we would like to suggest the following as recommendations:

1. Exchange platform organisation on minor's protection matter in cultural institutions. That would be the place for cultural facilitators to think about this problem for libraries.
2. For those who have already implemented system in order to reduce minors access to certain books, above all, erotic literature and sexuality researches, we must avoid to fall down in azimuth censorship.
3. We would like to propose also that thought might be led on special minors code necessity which should regulate their access to this kind of information and likely taint their social, moral and psychical development which is susceptible to create amongst them abnormal behaviour.

## **9.8 Literature Review**

*France: Conseil Supérieur de l'Audiovisuel (CSA). 2012. La protection des mineurs à l'heure de la convergence des médias audiovisuels et d'Internet.-Document de réflexion. [Online] www.csa.fr. Consulted 28/02/2014*

Abstract: This paper speaks about young people's protection against shocking audio-visual content on Internet, excluding specific matters of

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<sup>9</sup> IBRAF: *La protection des mineurs dans les médias* Abidjan 21-22/12/2013

child pornographic, fighting which is more the concern of sexual abuse victims.

This report is a working document that draws up an inventory of the situation (I) and displaying thought ways (II) which will then follow to consultations in law communication matters view collecting concerned actors point of view (professionals, representative of civil society). Such dialog commitments will allow us to collectively think about means to give to young people a communication liberty corner which respects their sensitivity, and therefore their person.

*CHAPUIS, Lise. Littérature de jeunesse, incertaines frontières. p-119-120 in BBF n°6 (2004). Liberté de l'information. Paris.*

Abstract: The author of this article host a week-long event devoted to young people's literature, which gathered all actors and partners of the field, researchers and librarians, from 4<sup>th</sup> to 11<sup>th</sup> June, 2004. Many interventions influenced in particular by young researchers work. Presentations have been debated on occasions and in exchange incessantly tackle essential questions, beginning with the principle question: What is 'a good young people's book'?

But beyond what we have once again perceived, is how many are uncertain of the line between young people's literature and adult literature. We find that this is a global problem that surrounds art, as well as relation between ethics and aesthetics.

*DIONE Bernard. Identité et valeurs professionnelles: aux fondements de l'Ethique de la profession de bibliothécaire. [Online] <https://periodicos.ufsc.br/index.php/eb>. Consulted 12 March 2014.*

Abstract: Libraries and librarians play a role in democratic society building. However, faced with ethical conflicts, which is becoming increasingly common for librarians, confronted common ethic definition

and elaboration to the profession is a strategic alternative. Nevertheless, shared ethics by librarian professionals in cultural, social political diversity and various horizons can be based on values that are at the foundation of profession identity.

*ACCART, Jean-Philippe. «Le Documentaliste et l'éthique» Cahiers de la documentation.(2012)/2. p 24-26.*

Abstract: All jobs which propose service bringing into contact with people, must have a professional ethic which may allow to have behaviour referred on professional values. It materializes by whole of rule which guarantee profession rights and duty.

*IIEP-UNESCO. Synthesis report on teacher codes of conduct from 6/11 to 7/12/2012.*

*[Online].[www.iiep.unesco.org/capacity.../iieo...teacher-codes-of-conduct.html](http://www.iiep.unesco.org/capacity.../iieo...teacher-codes-of-conduct.html). Consulted 23 April 2014*

Abstract: It's told in introduction of this report: "Various countries have endeavoured to design and implement teacher codes of conduct to regulate teacher behaviour. They consist of a set of recognized ethical and professional standards to which all members of the profession must adhere. Their main objective is to provide self-disciplinary guidelines through the formulation of professional conduct norms.

## **9.9 References**

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DELASSUS, Eric. (2012). « Droits de l'homme et droits spécifiques: Droits de l'enfant, droits de la personne âgée, droits de la personne handicapée ». [Online] <https://hal.archives->

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France. Centre d'Analyse Stratégique. (2012). Hypersexualisation de l'espace public: Comment protéger les enfants? Rédigé par Marie-Pierre HAMEL et Marie- Cécile NAVES in La note d'analyse n°267. [en ligne] <http://archives.strategie.gouv.fr/content/hypersexualisation-de-lespace-public-comment-protoger-les-enfants-note-danalyse-267-mars-201?> Consulted 25 January 2014.

France. FADBEN. (2000). Charte professionnelle des acquisitions dans établissements scolaires. [Online]. [www.fadben.asso.fr](http://www.fadben.asso.fr) Consulted 21 March 2014

10IBRAF :«La protection des mineurs dans les médias» Abidjan 21-22/12/2013

**A DIFFERENT APPROACH TO AN ETHICS  
BASED UNDERSTANDING OF  
PROFESSIONAL DOCUMENT  
MANAGEMENT:  
THE PRINCIPLES OF ACCESS TO  
ARCHIVES OF THE INTERNATIONAL  
COUNCIL ON ARCHIVES**

*Anne-Emmanuelle Tankam and Hans von Rütte*

The “Code of Ethics for Librarians and Other Information Workers” has been published by the International Federation of Library Associations and Institutions (IFLA) in 2012<sup>1</sup>. It has been brought to the attention of librarians and other workers which are the target audience. Today, only two years after its publication, it may be too early to assess the impact of the IFLA Code of Ethics on the conduct of librarians and other information workers.

Archivists have a professional deontology since 1996 when the General Assembly of the International Council on Archives (ICA), held in Beijing, China<sup>2</sup>, formally adopted the “ICA Code of Ethics” for archivists<sup>3</sup>. Among others, the document has served as a model when the

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<sup>1</sup> <http://www.ifla.org/faife/professional-codes-of-ethics-for-librarians>.

<sup>2</sup> <http://www.ica.org/?lid=5555&bid=225>.

<sup>3</sup> See the presentation „Voraussetzungen, Möglichkeiten und Notwendigkeiten für einen, International code of ethics for archivists“ by Reimer Witt (who was member of the ICA working group that developed the Code of Ethics) at the

librarians developed the IFLA Code. In the meantime the ICA document has become available in 23 languages and thus reachable for mostly all professional archivists worldwide. Later, in addition to the ICA Code of Ethics, the ICA has published in 2010 another fundamental statement addressing the institution, the “Universal Declaration on Archives“. ICA declares the document being a “key pillar of its outreach and advocacy strategy” and being “an important step in improving understanding and awareness of archives among the general public and key decision-makers.”<sup>4</sup> Both texts are putting the function of giving access to the archives to the public at the centre of the archivist’s duties.

The ICA Code of Ethics for archivists is well anchored among the professionals on a global level in the sense that it is most prominent and highly visible: Many archival science study programme include the ICA Code of Ethics thus offering the students the opportunity to get acquainted with their future responsibilities. Many archives services worldwide also have a direct link from their website to the text. Many archival institutions adopted their own deontology based on the ICA Code of Ethics, thus showing the staff’s personal commitment. But despite the high visibility of the code we cannot assess the deeper impacts of the deontology on the daily work of archivists and it is uncertain if it has had much influence on public administration archives, particularly regarding its impacts on archives legislation, on the assertiveness of the archivists against stakeholders, especially against the creator bodies of archives, and finally on the allocation of resources for archiving. Moreover it would be of high interest, to assess whether the ICA Code of Ethics has had some influence among archivists of the

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Journée archivistique de l’Association suisse des archivistes, 21.03.1997, in Berne.

<sup>4</sup> On proposition of the ICA the Universal Declaration on Archives has been adopted by UNESCO, November 11, 2011. <http://www.ica.org/13343/universal-declaration-on-archives/universal-declaration-on-archives.html>.  
<http://www.ica.org/13619/toolkits-guides-manuals-and-guidelines/principles-of-access-to-archives.html>

private sector, particularly archivist of private companies. Even more uncertain is, as we suggest, whether the archivists have substantially and significantly changed their behaviour and conduct as it has been the objective at the time of the ICA Code of Ethics' adoption in 1996. Ethical guidelines or codes are aiming on the conduct of the individuals. Are today's archivists fulfilling their duties and responsibilities different and even better than the generations of archivists before 1996? Has ethical conduct and responsible conduct of archivists grown? And if yes, can it be traced back to the influence of ICA Code of Ethics?

We cannot show you any results of research answering this question today. It isn't the purpose of the present paper. Furthermore, to our knowledge, no analysis has ever been made on the impact of the ICA Code of Ethics on the conduct of archivists. This could and should be subject of future archival research. Expectations shouldn't be pitched too high. However it is my opinion that the personal conduct of individuals cannot remain the only approach when professional ethics are questioned. We shouldn't lose sight of the institutional aspects. This leads us to a different approach of ethical based guidelines. Therefore we want to share with you an approach focused on the good governance of archival institutions that helps to improve the archivists' work and to strengthen the core function of archiving, thus making possible a better achieving of the ethical dimension of archiving.

Sixteen years after the adoption of the ICA Code of Ethics, the ICA developed such a different or complementary approach to reach ethical achievements of archival work. On demand of the ICA Committee on Best Practice and Standards an ad-hoc working group chaired by Trudy Huskamp-Peterson drafted the Principles of Access to Archives. After a process of consultation and review the text finally got adopted by the

ICA at the General Assembly in Brisbane, Australia, and published in 2012<sup>5</sup>.

The starting point of the Principles of Access to Archives is different from that of a code of ethics. Whereas a code of ethics aims at improving the conduct of the individual professional in archives institutions, the Principles of Access to Archives rather serve as a more general standard for all actors dealing with records and archives. The Principles of Access to Archives align to a set of several archival standards developed and adopted by the ICA during the last decades. The preface to the Principles of Access to Archives states as follows: “Access is the availability of records for consultation as a result both of legal authorization and the existence of finding aids”.<sup>6</sup> To this end, ICA published during the last fifteen years four standards on archival description: ISAD(G), ISAAR (CPF), ISDF and ISDIAH.<sup>7</sup> Most of all, it has been ISAD(G), the standard for the description of the content of archives, that has been widely accepted, followed and applied by almost all archivists around the world. It is by now the worldwide applied design for the inventories to archives which are the instruments of

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<sup>5</sup> <http://www.ica.org/13619/toolkits-guides-manuals-and-guidelines/principles-of-access-to-archives.html> . In addition to the Principles the working group published the Technical Guidance on Managing Archives with Restrictions in 2014 (see <http://www.ica.org/15369/toolkits-guides-manuals-and-guidelines/technical-guidance-on-managing-archives-with-restrictions.html>) and has drafted in 2014 the Basic Principles on the Role of Archivists in Support of Human Rights (see <http://www.ica.org/15999/news-and-events/basic-principles-on-the-role-of-archivists-in-support-of-human-rights-give-your-opinion.html>).

<sup>6</sup> See the term of access as defined in: International Council on Archives (ed.), *Dictionary of Archival Terminology, Handbook Series, vol. 7, 2nd edition*, Munich: K.G. Saur, 1988.

<sup>7</sup> The four ICA standards for archival description are: ISAD(G): *General International Standard Archival Description - Second edition, 2000*; ISAAR(CPF): *International Standard Archival Authority Record for Corporate Bodies, Persons and Families, 2nd Edition, 2004*; ISDF: *International Standard for Describing Functions, 2007*; and ISDIAH: *International Standard for Describing Institutions with Archival Holdings, 2008*; see <http://www.ica.org/10206/standards/standards-list.html>.

getting access to archival information. The three other standards for archival description have a less strong standing. Today, we can truly say that ISAD(G) is a success story and that it has had a deep impact on archival description of the 21st century, as it is stated in the preface of the Principles of Access to Archives : “These standards cover finding aids, one of the two key elements of archival access; they have transformed the practice of description”.<sup>8</sup>

The Principles of Access to Archives cover “the other element of access: the legal authority to consult archives”.<sup>9</sup> The Principles have their origin in the fundamental mission of archiving: Archives are made and kept for consultation. It would be incongruous to keep archives that are not – or, still worse, that will never be – open for consultation: no archives without access. Consultation of archives needs both, reliable finding aids and reliable rules of access. The Principles define the fundamental principles on how archivists can ensure access to archives to people who need information from the archives. Furthermore, they “provide the archivists with an authoritative international baseline against which to measure their existing access policy and practices and a framework to use when developing new or modifying existing access rules”.<sup>10</sup>

The text includes an introduction followed by ten short principles followed by commenting paragraphs.<sup>11</sup> The paragraphs are containing further significant reflections on the leading principles. In addition, some recent examples of cases illustrate critical situations of archival practices or situations of archivists facing ethical dilemmas. The

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<sup>8</sup> Principles of Access to Archives, p. 3.

<sup>9</sup> Principles of Access to Archives, p. 3.

<sup>10</sup> Principles of Access to Archives, p. 6.

<sup>11</sup> The bold type sentences are full citations of the ten principles, they are followed by explanations paraphrasing the original commenting paragraphs.

examples are collected from ICA's Human Right Working Group Newsletter.<sup>12</sup>

### **10.1 Principle One: Right of Access to the Archives of Public Bodies**

*The public has the right of access to archives of public bodies. Both public and private entities should open their archives to the greatest extent possible.*

The right to information is fundamental as it is included in the catalogue of human rights and recognized by all relevant international human rights treaties. As archives are responsible for preservation of information, access to archives is fundamental right for individuals and an essential condition for an informed society. In a democratic society citizens need to have the right of access to the archives of public bodies guaranteed by national law. Otherwise the accountability and transparency of public administration is insufficient and good governance may fail.

Even though private archives do not have a legal obligation to grant access, archivists working in private archives holding institutions encourage their institution to provide access to the public at the largest possible extent. They stress the institution's social responsibility and the need to build credibility through transparency.

#### *10.1.1 Guatemala*

*Guatemala established a truth commission in 1997 at the end of its civil war. As it began its investigations, the commission asked to see the police records. The police denied that they had any archives, saying they had destroyed all their records in the wake of the 1996 peace accords. So the truth commission wrote its report without*

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<sup>12</sup> See <http://www.ica.org/?lid=12315&bid=1082>. The Newsletter is published monthly since 2011.

*access to police records. It was not until 2005, half a dozen years after the report was published, that the staff of Guatemala's human rights ombudsman accidentally stumbled upon the police archives. The records—hundreds of thousands of documents—are now being arranged and described and used to prosecute and convict policemen and other government officials for crimes committed during the long Guatemalan civil war in the last half of the 20th century.*

HRWG Newsletter, October 2010

#### *10.1.2 Canada.*

*The Canadian Truth and Reconciliation Commission is researching “the history, purpose, operation and supervision of the Indian Residential School system, the effect and consequences of IRS (including systemic harms, intergenerational consequences and the impact on human dignity) and the ongoing legacy of the residential schools.” An estimated 100,000 First Nations children were taken from their families and forced to attend 130 residential schools over more than a century, starting in the 1880s and ending in 1996. The majority of the schools were operated by Roman Catholic entities, about a quarter of the schools run by the Anglican Church, and the remainder by Presbyterians and the United Church. Records of all these churches are vital resources for the work of the Commission.*

HRWG Newsletter September 2012

10.1.3 *Switzerland*

*In 1996 the canton of Appenzell-Ausserrhoden sold the state-owned Ausserrhoder Kantonbank to UBS, the biggest Swiss bank company. The sale included the cantonal bank's complete archives dating from its founding in 1877, which UBS was obliged to preserve. However, historians researching the history of the cantonal bank have been denied access to the records by UBS, which claims that the archives now have a private character. A member of parliament from the canton insists that there is a right of access to the records which were created as state records; the canton's government must now find a solution to bring the archives back under public archives access rules.*

HRWG Newsletter May 2014

**10.2 Principle Two: Institutions Acknowledge the Existence of their Archives**

*Institutions holding archives make known the existence of the archives, including the existence of closed materials, and disclose the existence of restrictions that affect access to the archives.*

Unknown archives are useless. The public shall be enabled to know about the existence of archives and to locate archival material, to know which archival institution is holding the material and what conditions are ruling the use of the material. Therefore archivists provide information on the extent that users are able to understand whether the material is pertinent or not to their purpose. Archivists provide this information irrespective to the question whether the material is accessible or not. A user may even get the information whether an item

(a collection, a series, a file, a document) has been destroyed. Knowledge of archives also includes accurate description and availability of finding aids complying with international standards of archival description.

Archivists provide information about restricted material, including the reason for the restriction and the information about date the material will get disclosed.

#### *10.2.1 United Kingdom/Northern Ireland.*

*The Guardian reported that the U.K. Ministry of Defence is holding more than 66,000 historic files in a warehouse in Derbyshire, many of which should have been transferred to the National Archives. Included in the holding are “‘hundreds and hundreds of boxes’ each containing about 10 files that were sent to the warehouse when the British army’s Northern Ireland headquarters closed four years ago.” They include records are “from the 1970s and early 80s, some of the most bloody and controversial years of the Troubles,” and the Ministry of Defence had not told the Historic Enquiries Team, a “police unit that is reviewing hundreds of violent deaths during the conflict,” that the files exist.*

HRWG Newsletter October 2013

#### *10.2.2 United Kingdom/Kenya/former British colonies*

*In 2009 five Kenyans sued the UK government, saying they were tortured during British rule in Kenya in the 1950s. On 5 April, two days before the first day of the trial, the Foreign Office said that it holds some 2000 boxes of files containing official records from 37 former*

*colonies, none of which has ever been made available to the public. Of these, approximately 300 are related to Kenya, and 30 are reported to be relevant to the case. One of the suspected rebels detained during the 1950s Mau Mau uprising was U.S. President Barak Obama's grandfather, Hussein Onyango Obama. The Foreign Office minister said the records will be transferred to the National Archives, but that the transfer may take "some years to complete." Another official explained to the Financial Times, "All historical documents need to be read by reviewers ahead of their transfer to the National Archives."*

HRWG Newsletter April 2011

### **10.3 Principle Three: Institutions Should Be Pro-active**

*Institutions holding archives adopt a pro-active approach to access.*

Archivists have the professional responsibility to promote access to archives. They act in order to ensure access. If access is not yet possible, due to legal restriction or to preponderant interests of specific individuals or groups, they nevertheless act in a way that one day, when the restriction will be cancelled, access will not be hindered. They apply accurate instruments and appropriate means to promote the knowledge of archives and they proactively provide access to specific holdings that are of wide interest to the public through print publication, digitization or by cooperation with external publication projects.

#### *10.3.1 Japan/Korea.*

*Korea was a colony of Japan from 1910-1945, and in 1923 "up to 6,000 Koreans were killed" by the Japanese*

*in the “Kanto massacre.” Records relating to the massacre were found in the South Korean Embassy in Japan last year (see HRWG News 2013-11), and a list of 318 of the victims, including their names, addresses and “circumstances under which the victims were killed,” was released by the National Archives of Korea, adding to information it previously released. The records are now available for those who officially apply for the release of the information, the national archives said, adding that they will release the records over the Internet from July so everybody could browse the lists unconditionally. The National Assembly of Korea is considering a “bill aimed at restoring the reputations of the massacre victims,” reported the Korea Herald.com.*

HRWG Newsletter June 2014

#### **10.4 Principle Four: Institutions Maintain Clarity on Restrictions**

*Institutions holding archives ensure that restrictions on access are clear and of stated duration, are based on pertinent legislation, acknowledge the right of privacy and respect the rights of owners of private materials.*

Archivists provide the widest possible access to archives, but they nevertheless recognize and accept the need for some restrictions, both, general or specific. Restriction may be imposed by legislation, by institutional policy or by conditions set by a private donor. Archivists seek to limit the scope of restrictions. Therefore restrictions shall only be valid for a limited period. It follows that no archives shall remain closed for an unlimited time: No closure without disclosure, no locking away without closing date.

Access rules shall be clear. Denial of access should be based on a general rule or law or an access policy, published by the archives institution showing the entire framework of access rules, by such making understandable to the requester why his request for access is denied.

### **10.5 Principle Five: Equal Availability**

*Archives are made available on equal and fair terms.*

Access rules shall be applied without discrimination but on equal and fairly applied terms. They may however differentiate between categories of users as e.g. privacy reasons may provide privileged access to specifically affected persons. When access to an item is granted to a person of the general public, the same item must be open to all other persons of the general public. Archivists commit themselves to offer fair use of their archives and not to apply practices or impediments hindering consultation.

Archivists monitor restrictions of access and promptly remove those no longer warranted. They encourage legislative and regulatory actions that open records, and they do not support actions to reclose or reclassify previously available information or to dispose such material. Private archives holding institutions provide equal access to external users. However institutional security needs or secrecy on business and private affairs may require archivists to apply distinct rules. The criteria for selective access shall be stated in a public and clear access policy, and archivists encourage their institutions to reduce such exceptions to the greatest extent possible.

#### *10.5.1 Switzerland*

*Based on the Swiss Federal Law on Archives stating an embargo period of 30 years and in cases in government's*

*preponderant interest an exceptional embargo period of 50 years, a user requested in spring 2014 access to files of the aerial photograph service of the 1950's of the Federal Military Department kept at Swiss Federal Archives. He also asked access to a database serving as search tool to aerial photographs, as search tools are following the law in general always disclosed. To his amazement access was denied when he asked for it at the reading room. He was declared that based on a new regulation the archives of the Military Department would be now underlying a retention period of 80 years. In the meantime, the researcher has received access to the requested material.*

Information received from the researcher, June 2014

#### *10.5.2 Switzerland/South Africa*

*The death of Nelson Mandela reopened the discussion in Switzerland about disclosing the records of the close relationship between the Swiss government and the apartheid regime in South Africa from the 1950s until the end of the 1980s. (In spite of the UN embargo, Swiss banks and industrial companies continued to do business in South Africa.) In 2000, the Swiss Research Foundation began a major study of this history; however, as a result of lobbying by Swiss banks and after a lawsuit was filed in the U.S. by anti-apartheid groups against Swiss business operations in 2002, the Swiss government refused to permit access to the relevant files kept at the Swiss Federal Archives, including files that had been disclosed previously and partly consulted by the study group. Since that time, Swiss historians have published major parts of*

*the history based on records in South Africa, Washington and London, but evidence of many details on South Africa's gold exports via Switzerland, on war material sold by Swiss companies, and contacts between intelligence services are still unknown. Members of parliament have asked the ruling Federal Council when it will open the archives; thus far, the Council has said that the records would be closed so long as the litigation is still pending.*

HRWG Newsletter December 2012; in the meantime Swiss government has decided disclosure of the files

### **10.6 Principle Six: Archived Evidence of Serious Crimes**

*Institutions holding archives ensure that victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public.*

UN Human Rights declarations are stating that victims of serious crimes under international law have a right to know the truth about the violations.<sup>13</sup> Therefore, access to archives is a fundamental right to learn the truth, to hold persons accountable for human right violations, to initiate proceedings and to enable individuals to claim compensation, and also to defend individuals against charges of human rights violations.

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<sup>13</sup> See United Nations High Commission on Human Rights, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, Report by the independent expert Diane Orentlicher, 08/02/1995, E/CN.4/2005/102/Add.1, [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=10800](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10800)

The Principles state that each person is entitled to know whether his or her name appears in State archives and, if it does, to challenge the validity of the information by submitting to the archival institution a statement that will be made available by the archivists whenever the file containing the name is requested for research use.

Archival institutions protect human rights by holding evidence of violations and crimes under national and international law. Persons seeking access to archives for human rights purposes are given access to relevant archives, public as well as, to the extent possible, private, even if those archives are closed to the general public.

#### *10.6.1 Philippines*

*The government is undertaking a project to document the human rights violations that occurred during the martial law period of the Ferdinand Marcos regime, thereby helping victims assemble the information necessary to file a claim with the Human Rights Victims Claims Board. The "Martial Law Files Project," reported The Philippine Star, "aims at mapping the existing files, records and archives dispersed among different state and non-state organizations and institutions." The money to pay claims comes from money returned to the Philippine government from Switzerland where it was deposited during the Marcos regime. The Swiss Ambassador to the Philippines noted, "The importance of preserving archives and records on human rights violations committed during dictatorships or wars is often underestimated or even forgotten" but "documenting atrocities and human fates is essential to allow mechanisms such as judicial investigations and prosecutions, truth commissions, reparation programs and vetting processes to be based on*

*accurate and credible documents and evidence and therefore bring justice for individuals and reconciliation for societies.”*

HRWG Newsletter, February 2014

### 10.6.2 Switzerland

*Between 1926 and 1972, the private relief and care foundation "Pro Juventute" included a programme for the re-education of travellers' "Kinder der Landstrasse" (children of the street, Yenish children). The children were systematically taken away from their parents and placed in homes or given to foster parents. Parents were compulsorily relieved of their parental rights. After raising criticism these programmes ended in the 1970's. In 1990 the archives of "Pro Juventute's" programme have been transferred to the Swiss Federal Archives. This has been done on initiative of proactive thinking archivists but against the will of the affected and now adult persons who claimed destruction of their personal files saying that they would contain the untruth and lies. Later these files provided evidence of kinship and elucidation of the actions of involved authorities.*

Dictionnaire historique Suisse, art. 'Jenische'

## 10.7 Principle Seven: **Appealing Denial of Access**

*Users have the right to appeal a denial of access.*

Archives access rules include a procedure to appeal against initial denials of access. The reasons for denial are stated clearly in writing to the applicant. Users are informed about their right to appeal. An appeal shall be reviewed by an independent and impartial authority. For non-

public archives the appealing process should follow the same general approach. Archivists provide all information relevant to the case to the reviewing authority but do not take part in the final decision.

#### *10.7.1 Turkey*

*A researcher responding to the claim made by Turkish Prime Minister Erdogan that the Turkish archives are open for researchers on the Armenian Genocide in 1915 told Bianet [Turkish online newspaper] that “the military archives are open to researchers on the paper. To say, you apply to the archives for research and you are replied after a-month evaluation. The subject you work on or your views directly affect the chance of rejection. No reason is stated for those who were rejected”.*

HRWG Newsletter May 2014

#### *10.7.2 Australia/Indonesia/Timor-Leste*

*A researcher at the National Archives of Australia requested access to two Foreign Affairs and Trade files “that contain reports about a major Indonesian military offensive across East Timor in late 1981 and early 1982,” the Sydney Morning Herald reported. The operation was particularly brutal, with serious human rights violations. The National Archives denied access to 140 of the 600 pages; the researcher appealed to the government’s Administrative Appeal Tribunal, which upheld the denial, noting that the government “stressed the particular sensitivity about the relationship currently between Australia and Indonesia.” The United States advised Australia that four documents should be withheld because*

*they contain “ongoing sensitivities.” The researcher plans to challenge the decision.*

HRWG Newsletter April 2014

### **10.8 Principle Eight: Ensuring No Operational Constraints**

*Institutions holding archives ensure that operational constraints do not prevent access to archives.*

Equal right to access includes the equal right to benefit from the archives. Archivists understand the needs of their users, both the existing and the potential users. They support users who are disabled, illiterate or otherwise disadvantaged.

Archivists offer easy services. They avoid hindering practices such as delays in responding requests, obstructive hindrance in the reading room, bureaucratic hurdles of reproduction, unreasonable fees etc. Public archival institutions do not charge admission fees to users. Private archival institutions may apply admission fees but the fee charged must not be an obstacle to using the archives. Users who have not got the opportunity to visit the archival institution in person can obtain copies of documents at a fair price.

In case an archival item contains sensitive information archivists grant partial release by retaining such information by redacting the sensitive sentences.

#### *10.8.1 Romania*

*In a case demonstrating the problems caused by the lack of a pro-active approach, Romania, like many countries in Eastern Europe, is struggling with the issue of restitution to former owners of properties confiscated by its Communist government after World War II. In the summer of 2012, Balkan Insight reported that only about*

*11 percent of property claims in Romania were resolved and “some properties have been illegally given to people who forged ownership documents or inheritance papers” because “the files of the real owners of properties dispossessed by the Communists lie abandoned in the archives of the Property Restitution Agency.” Without an effort to arrange and describe and effectively make the records available, people are denied the opportunity to advance a claim for restitution.*

HRWG Newsletter November 2012

### **10.9 Principle Nine: Ensure Access for Maintenance**

*Archivists have access to all closed archives and perform necessary archival work on them.*

Archivists have access to all archives in their custody in order to evaluate, preserve, arrange and describe the material. This allows to make their existence and the reasons for their closing known to the public. Furthermore, it helps to prevent closed material from being destroyed or forgotten. Finally, it helps to ensure the integrity of archives. Archival proceeding of closed archives promotes public confidence in the archival institution and archival profession.

#### *10.9.1 El Salvador/Guatemala*

*The archives of the United Nations holds the records of the truth commissions in El Salvador and Guatemala. Under the terms of the deposits, the records are closed to public access. However, the UN interprets this as a ban on any kind of work in the records: preservation, arrangement and description. Consequently the records,*

*which include fragile electronic and audio-visual records, are deteriorating.*

*In too many countries the national archives is in theory responsible for the records of the government but does not have access—even for preservation purposes—to inspect storage conditions or even ascertain the volume and condition of some records including those of the current and past heads of state. These are impossible situations. Archivists must be trusted to ensure that records are preserved and described, whether or not the records must be restricted from public access.*

HRWG Newsletter May 2013

#### *10.9.2 France*

*The paper archives of the former General Secretary Claude Géant, Chief of staff of former President Nicolas Sarkozy, have vanished without trace. When the judge investigating the involvement of the Sarkozy administration in a merger of two important French banks in 2009 requested the records, the current General Secretary reported, “They have never been transferred to the Archives Nationales, and they haven’t been kept at the Presidential office either.” The loss of information from the government’s inner circle will (at minimum) hinder the writing of history of the Sarkozy administration.*

HRWG Newsletter February 2014

### **10.10 Principle Ten: Giving Archivists a Voice**

*Archivists Participate in the Decision-Making Process on Access.*

As the archivists know the material in their care and custody they encourage their institution to establish an access policy and review archives for possible release. They cooperate with lawyers and other partners in deciding on the access regulation and interpretation of restrictions. Archivists apply their knowledge when making decision on access. Archivists help their institution achieve informed and consistent decisions and encourage the responsible authority to formulate clear mandates and consistent rules for access. In the absence of unambiguous guidelines, archivists provide appropriate access by considering professional ethics, equity and fairness and legal requirements. Archivists permanently monitor restrictions, reviewing archives and removing restrictions that are no longer applicable.

The *ten Principles of Access to Archives* provide archivists with an authoritative basic framework for rules, policies and operational guidelines. It helps the archivists to measure their existing access policy and archiving practices. They can use it as a guideline and framework for developing archives legislation and access rules or access policies. While a code of ethics for professionals is aiming the conduct and behaviours of individuals, the Principles of Access to Archives constitute an instrument in the hand of the archivists to:

1. improve their own practices and to better shoulder their professional responsibilities;
2. measure whether the regulations in application correspond to the international standards;
3. have better argument in discussion and negotiation with superior instances and bodies;
4. back archivists committed to ensure archiving especially of human rights violations and granting access to victims of human rights violations searching probative evidence of mistreatment;

5. finally on a general level, contribute to the core mission of archiving which is transparency and accountability through documentary evidence of the creator body's activities.

The responsibility to adopt and implement the Principles in an organisation is shared not only by the professional archivists but by all executives of the parent body, administrators, archivists, donors and the personal transferring their records to the archival custody.<sup>14</sup>

Thus, the Principles of Access to Archives represent an instrument of good governance of archiving irrespective of the ethical conduct of the individual professional archivists. The Principles do not focus on the archivist's behaviour as an individual but they address all actors dealing with recorded information or archives. The Principles of Access to Archives are stating a general, internationally valid due diligence standard for archives thereby strengthening the standing of the archival core functions to offer to the citizens an indispensable instrument for transparency and accountability, both essential elements of rule of law and democracy.

The IFLA Code of Ethics for Librarians and other Information Workers has been published in 2012; it is the same year ICA has published its Principle of Access to Archives. As mentioned before, two years are too short to start an evaluation of the impacts of both texts in practice. But it may be that the Bossey conference provides findings of positive effects of the IFLA Code of Ethics. Concerning the ICA's Principles I am however not fully optimistic. Already during the preparation of the draft of the Principles of Access to Archives one of the major challenges has been to formulate statements that are not only binding for the public sector but also authoritative for archives of the private sector. Since its publication I have not been able to see that the text has kindled a broad discussion and I suspect that many archivists

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<sup>14</sup> See more details of the shared responsibility in Principles of Access to Archives, p. 7.

haven't taken notice of it at all. Nevertheless, the text is an important achievement that can be extremely helpful in any critical situation when archives come under – political – pressure, mainly where human rights question are concerned. It can help to mobilize international support where archivist risk losing ground to powerful forces of government or society. The professional community of archivists is small and many archivists are working alone in their respective organization. All the more they are in need of reliable networks. The Principles of Access to Archives are a robust statement of good governance of archives. As such they will always facilitate building of strong ties of solidarity among worldwide professional archivists.



## LOOKING TO OUR OWN: ETHICAL LIBRARY AND INFORMATION WORKERS AT RISK

*Toni Samek*

*It has been rightly pointed out that what is most important  
is not so much freedom of speech as freedom after speech.*

Aung San Suu Kyi, “Word Power”, 2012

On 27 March 2014, Mary Beth Lock (Director, Access Services, Z. Smith Reynolds Library, Wake Forest University, USA) posted a message<sup>1</sup> to the [sustainrt-l@ala.org](mailto:sustainrt-l@ala.org) list of the American Library Association’s Sustainability Round Table under the subject *Entrepreneurial Librarian Conference-Call for Proposals!* The message publicized an October 2014 conference titled *Take Risks, Embrace Change!* An excerpt from its description reads: “the fourth Conference for Entrepreneurial Librarians will explore how librarians exhibit entrepreneurship by taking risks and implementing change.” This is worth noting because it is helpful to acknowledge how the concept of risk has multiple dimensions (e.g., financial risk, reputational risk). This contribution to the conference program *Ethical Dilemmas in the Information Society: How Codes of Ethics Help to Find*

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<sup>1</sup> From: Lock, Mary Beth [mailto:lockmb@wfu.edu. Sent: Thursday, March 27, 2014 7:35 PM. To: sustainrt-l@ala.org. Subject: Entrepreneurial Librarian Conference-Call for Proposals!

*Ethical Solutions* brings attention to personal and professional risk taken by library and other information workers in efforts to fulfill ethical obligations prescribed by their profession.

In Canada today, journalists, researchers and other citizens who seek access to government information frequently confront technological and political hurdles. Meanwhile, library and information workers (providers and advocates of access to information) who seek authentic participation in their own profession must negotiate the complex process of transformations in controls on the workforce, as well as constraints on freedom and diminution of civil liberties (including freedom of expression) through governmental overreach (e.g., reputation, responsibility, safety, and free marketplace of [the right] ideas). Library and information workers who are now living and labouring in the digital economy, face new and emergent battles over digital labour rights in the context of digital divide, digital deskilling, digital exploitation or slavery, and technological unemployment. As noted by Ryan A. Gage in his review of Henry Giroux's 2004 monograph, *The Abandoned Generation: Democracy Beyond the Culture of Fear*, the "defense of libraries as a vital and meaningful public sphere requires not only an ethical-political attention to the ways in which consumerism and commercial power are aggressively mobilized in opposition to public culture and sites where democratic possibilities take root, but also there must exist a substantial effort to reconceptualize librarianship to include deeper levels of social responsibility that offer more than reproducing the worn out language of liberalism and political neutrality."<sup>2</sup> To intelligently engage in the ethical concerns of society, our profession must first look to its own.

The International Federation of Library Associations and Institutions' (IFLA) first Code of Ethics for Library and Other

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<sup>2</sup> Gage, Ryan A. "Henry Giroux's *Abandoned Generation* & Critical Librarianship: A Review Article." *Progressive Librarian* (Spring 2004). Issue 23/ Page 72.

Information Workers, adopted in August 2012, directs “Librarians and other information workers reject the denial and restriction of access to information and ideas most particularly through censorship whether by states, governments, or religious or civil society institutions.”<sup>3</sup> The Code is a relevant addition to our professional rhetoric, because it is not uncommon to find evidence of library and information workers’ action in developing and providing critical services in the interests of human rights, civil liberties and social justice. Society is witness to how library and information workers use their education and experience to ameliorate social concerns, such as by lobbying for copyright reform for peoples with print disabilities, exposing how commercial Internet filters are biased against sexual and gender minorities, collaborating with social workers on library services for homeless people, and fighting to protect sensitive cultural heritage in the context of war, conflict and genocide.

IFLA already acknowledged the precarious roles played by library and information workers with its 1983 adoption at the General Conference in Munich of The Resolution on Behalf of Librarians Who are Victims of Violation of Human Rights. It reads: “In the name of human rights, librarians must, as a profession, express their solidarity with those of their colleagues who are persecuted for their opinions, wherever they may be. The Council mandates the President of IFLA, when informed of specific cases, after due considerations to intervene when appropriate with competent authorities on behalf of these colleagues.”<sup>4</sup>

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<sup>3</sup>IFLA Code of Ethics for Librarians and other Information Workers. IFLA Website. FAIFE Spotlight. 12 August 2012. Accessed 13 May 2014.<http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>

<sup>4</sup>Resolution on Behalf of Librarians Who are Victims of Violation of Human Rights. IFLA (IFLA Council in Munich). 1983. Accessed 13 May 2014. <http://archive.ifla.org/faife/policy/munich.htm>

On 25 August 1989, at the IFLA Council meeting in Paris, it recalled the 1983 Munich resolution and put forth the Resolution on Freedom of Expression, Censorship and Libraries, which cites how “librarians are particularly well informed about attempts to censor ideas and information which may affect them directly” and which instructs “the President of IFLA, when such problem is legitimately and correctly submitted to him, and after having studied and certified the data, when possible, to intervene in the most appropriate way with relevant authorities about freedom of expression and to cooperate, if necessary and to this end, with other international organizations.”<sup>5</sup> It was not until IFLA introduced its Code of Ethics for Library and Other Information Workers, though, that it offered specialized clauses, such as on workplace speech and whistleblowing. The Code acknowledges IFLA has no enforcement authority over library administrations. Nor do the vast majority of library associations around the world. For example, while the American Library Association (ALA) adopted its Resolution on Workplace Speech<sup>6</sup> in 2005, it functions solely as a persuasion and consensus building measure. Actualization of any Code depends on multiple and shifting legs, including: (1) employment terms in any given library administration; (2) labour law and related legislation in any given legal jurisdiction; (3) influence and consensus making within the library and information community and society more broadly; and ultimately (4) individual conflicting commitments to ourselves, to our profession, to our employer, to our community, and to the law.<sup>7</sup> It is not easy to

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<sup>5</sup> Resolution on Freedom of Expression, Censorship and Libraries. IFLA (IFLA Council Paris). 1989. Accessed 13 May 2014. [http://archive.ifla.org/faife/policy/paris\\_e.htm](http://archive.ifla.org/faife/policy/paris_e.htm)

<sup>6</sup> Resolution on Workplace Speech. American Library Association. Adopted by the Council of the American Library Association, June 26, 2005. Accessed 13 May 2014. <http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/intfreedom/statementspols/ifresolutions/Resolution%20on%20Workpl.pdf>

<sup>7</sup> Point 4 is informed by 17 April 2014 email correspondence with John Pateman (Chief Librarian/CEO, Thunder Bay Pubic Library, Ontario, Canada).

reconcile these different considerations and there is clear evidence working librarians at times have lost out in the process. ALA, for example, deliberately administers the LeRoy C. Merritt Humanitarian Fund, which has provided financial assistance for librarians who have been discriminated against or denied employment rights because of their defense of intellectual freedom including freedom of speech.

It is worth noting 'business as usual' for library and information workers (e.g., expressing informed professional opinion) comes under attack. For example, in the academic library sector, Dale Askey of McMaster University received the Canadian Library Association's (CLA) 2014 Award for the Advancement of Intellectual Freedom in Canada "for his commitment to intellectual freedom in the face of an unprecedented defamation suit brought against him by the academic publisher Edwin Mellen Press."

*Mr. Askey, who is now McMaster University's Associate University Librarian (Library and Learning Technologies) and Administrative Director for the Lewis and Ruth Sherman Centre for Digital Scholarship, wrote a blog post in September 2010, when he was still employed at a Kansas university in the U.S., on his personal website "Bibliobrary" about Edwin Mellen Press. He described the publishing firm as a purveyor of "second-class scholarship" and noted that constraints on library budgets for acquisition of first-class scholarship leave no reason to support "such ventures." Over two years later, in June 2012, Hebert Richardson, founder and editor-in-chief of Edwin Mellen Press, sued Mr. Askey, alleging what he published was "false and defamatory." In a broader attack, Edwin Mellen Press sued Mr. Askey along with McMaster University on the grounds that the University was liable for allowing Mr. Askey "to continue the publications and refusing to intervene to require him to*

*remove the defamatory statements from the world wide web". In the lawsuits, filed in a Canadian court, Mr. Richardson and Edwin Mellen Press sought damages totalling \$4.5 million for both the blog post and comments left by blog readers. When the case came to public attention in February 2013, librarians, academics, and their respective professional associations, among them the Canadian Library Association, protested the lawsuits as an assault on the freedom of librarians to provide informed professional comment on publishers and on the quality of their publications. The lawsuits represented a direct threat to librarians, with far-reaching and momentous consequences for the ethical practice of librarianship as a profession.*

Lest we let our guard down thinking this is an exceptional case, note how The [Association of Research Libraries-Canadian Association of Research Libraries] ARL-CARL Joint Statement in Support of Dale Askey and McMaster University<sup>8</sup> concludes with the warning: "Unfortunately, this is just the latest publisher that has chosen to pursue costly and wasteful litigation against universities and librarians," said Elliott Shore, Executive Director of ARL. "These hostile tactics highlight the need for people who share the core values of research libraries to embrace models of publishing that foster—rather than hinder—research, teaching, and learning."

Since librarian activity as benign as professional comment in the domain of collection management can lead to lawsuit, it is a worthwhile endeavour to mainstream treatments of library and information workers in which they themselves are depicted as members of a specific vulnerable population on the front lines of ethics and knowledge

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<sup>8</sup> ARL-CARL Joint Statement in Support of Dale Askey and McMaster University. 14 February 2013. Accessed 13 May 2014. <http://www.arl.org/news/arl-news/2614-arl-carl-joint-statement-in-support-of-dale-askey-and-mcmaster-university>

activism. University of Ottawa librarian Jennifer Dekker brought attention to this topic when she blogged as follows about alleged issues at the 2012 CLA conference.<sup>9</sup>

*In the months leading up to the CLA conference, major budget cuts were announced at the Library and Archives Canada as well as at many federal libraries. In response, [the Canadian Association of University Teachers] CAUT launched a campaign called Save LAC. By sharing information on the CAUT Librarians' and other library listservs, readers were informed of the drastic reductions in service and / or closure of libraries funded by the federal government. Librarians, in support of the LAC and federal libraries and opposed to the service and budget cuts, informally banded together and created a National Day of Action on May 31st, 2012.*

*Part of the activities of the Day of Action included a group of a dozen volunteers (many of them retired LAC employees) promoting a white shirt / black ribbon campaign at the CLA national conference and trade show. May 31st was selected as the Day of Action since Daniel Caron, Canada's National "Librarian" was to make a keynote speech at the conference, as well as present during a Question and Answer session later that afternoon. Of the group passing out ribbons, only two were registered delegates at the conference; the rest were concerned or retired librarians wanting to raise awareness of the impact of the cuts.*

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<sup>9</sup> Jennifer Dekker. "Librarians silenced at CLA conference." *Bibliothécaires de l'APUO / APUO Librarians: For and about unionized librarians working at the University of Ottawa*. 1 June 2012. Accessed 13 May 2014. <http://apuobibliolib.wordpress.com/2012/06/01/librarians-silenced-at-cla-conference/>

*... Many conference delegates gladly accepted the leaflet and ribbons for about 20 minutes, when one registered delegate, conference speaker and Action Day volunteer was told by Kelly Moore, Executive Director of CLA that giving out information regarding the cuts to the LAC was “inappropriate”.*

*In addition to handing out ribbons, the librarian and a colleague had placed CAUT “Save LAC” bookmarks on the seats of chairs in the room where the keynote was to be held. They were told to stop, that the conference was “not the right venue” for the activity, and were asked to leave the 3rd floor of the Ottawa Congress Centre – despite being registered delegates of the conference. Downstairs, on the 2nd level, volunteers continued to hand out ribbons and information. But within minutes, Moore had two security guards remove the librarians and banish them to the street level of the Congress Centre and away from the conference delegates. The official reason given was that the Day of Action volunteers were not registered for the conference. But in fact, even the two librarians who were official delegates were asked to leave. (They were re-admitted later).*

*What does it mean when librarians are physically removed from a library conference for circulating information regarding library funding? And, what does it mean when the national library association ... is the body removing them?*

The thread of discussion carried forward, in part to the October 2012 CAUT Librarians Conference in Ottawa, where delegates gathered representing institutions from coast to coast to coast. Topics covered by opening day talks were on: deep structural challenges to librarianship; national library associations and a probing of who actually is speaking

for librarians; libraries and librarians under attack, as well as resistance to the assault on public institutions with a case look at Toronto Public Library. Also probed over the course of the event were issues around corporate managerialism, threats to academic status of academic librarians, and the role of library and information schools in the mix. All speakers were given the choice to be recorded or not; no recording took place at the audience microphone during question and answer sessions. These were procedural safeguards put in place to recognize risk and to counter the perceived need for self-censorship motivated by fear of reprisals.

Advocating intellectual freedom outward requires inward work. In this respect, the new IFLA Code is important. Section 3 on privacy, secrecy and transparency includes the directive “Librarians and other information workers support and participate in transparency so that the workings of government, administration and business are opened to the scrutiny of the general public. They also recognise that it is in the public interest that misconduct, corruption and crime be exposed by what constitute breaches of confidentiality by so-called ‘whistleblowers’.” And Section 5 on neutrality, personal integrity and professional skills includes two directives: (1) “Librarians and other information workers have the right to free speech in the workplace provided it does not infringe the principle of neutrality towards users”; and, (2) “Librarians and other information workers counter corruption directly affecting librarianship, as in the sourcing and supply of library materials, appointments to library posts and administration of library contracts and finances.”<sup>10</sup> In light of these and other of the directives, the LAC case prompts further consideration.

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<sup>10</sup> IFLA Code of Ethics for Librarians and other Information Workers. IFLA Website. FAIFE Spotlight. 12 August 2012. Accessed 13 May 2014. <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>

In *The National Post*, Margaret Munro wrote on 15 March 2013: “Federal librarians fear being ‘muzzled’ under new code of conduct that stresses ‘duty of loyalty’ to the government” ... Federal librarians and archivists who set foot in classrooms, attend conferences or speak up at public meetings on their own time are engaging in ‘high risk’ activities, according to the new code of conduct at Library and Archives Canada.”<sup>11</sup> IFLA’s Code Section 6 on colleague and employer/employee relationship includes the directive “Librarians and other information workers share their professional experience with colleagues and they help and guide new professionals to enter the professional community and develop their skills. They contribute to the activities of their professional association and participate in research and publication on professional matters.” CLA expressed its stance in the following 22 March 2013 press release:<sup>12</sup>

*The CLA urges Library and Archives Canada to revisit its Code of Conduct in order to strike a more even balance between the duty of loyalty to the Government of Canada that all public servants have and the freedom of expression that is imperative to the work of librarians in a strong democracy.*

*The LAC Code of Conduct: Values and Ethics restricts unnecessarily the ability of librarians and information professionals to perform key aspects of their work, namely teaching and speaking at conferences and other public engagements. The conditions placed upon those activities, and the categorization of those activities as ‘high risk,’*

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<sup>11</sup> Margaret Monroe. “Federal librarians fear being ‘muzzled’ under new code of conduct that stresses ‘duty of loyalty’ to the government.” *The National Post*. 15 March 2013. Accessed 1 November 2013.

<http://news.nationalpost.com/2013/03/15/library-and-archives-canada/>

<sup>12</sup> Canadian Library Association. CLA Website. “LAC Code of Conduct.” 22 March 2013. Accessed 19 May 2013.

<http://www.cla.ca/AM/Template.cfm?Section=Home&CONTENTID=14031&TEMPLATE=/CM/ContentDisplay.cfm>

*effectively eliminate the possibility that librarians may engage in essential elements of their work, elements that benefit both themselves and the greater professional community as well as the public good.*

*The language of the LAC Code also appears to infringe unnecessarily on the personal activities and opinions of public servants beyond the workplace. While we recognize a duty of loyalty to the Government of Canada and its elected officials, a reasonable balance must be maintained in recognizing that public servants also have a first duty of loyalty to Canadians at large.*

*The Canadian Library Association Position Statement on Intellectual Freedom states that both employees and employers in libraries have a duty, in addition to their institutional responsibilities, to uphold the principles of freedom of expression, including the responsibility "to guarantee and facilitate access to all expressions of knowledge and intellectual activity."*

*We recognize that, as public servants, LAC employees also have a duty to uphold the principles contained in the Government of Canada's Values and Ethics Code for the Public Sector, including the duty to "use resources responsibly by acquiring, preserving and sharing knowledge and information." If employees of Library and Archives Canada are unable to teach and to speak publicly, they are unable to perform their work as information professionals and as public servants.*

*... The Canadian Library Association urges Library and Archives Canada to revisit its Code of Conduct and to continue to encourage its employees to share their professional experience and professional expertise through*

*teaching, speaking at conferences, and appearing at public engagements. Pilar Martinez, President, Canadian Library Association.*

Of note, Daniel Caron announced his resignation as national librarian of Canada on 15 May 2013.<sup>13</sup>

A look at a series of Canadian media reports illustrate the broader federal context in which competing claims on library and information worker's ethics and the LAC case inevitably must play out. In a newspaper article in *The Toronto Star* titled "Stop muzzling scientists, protesters tell Tories," Ben Makuch wrote on 16 September 2013: "Hundreds of frustrated scientists clad in white lab coats descended on Parliament Hill Monday to demand that Harper government stop muzzling scientists and cutting research funding."<sup>14</sup> In a story in *The Ottawa Citizen* titled "Wounded vets asked to sign form saying they won't criticize the military on social media", David Pugliese wrote on 20 September 2013: "The Canadian Forces is requiring physically and mentally wounded soldiers to sign a form acknowledging they won't criticize senior officers or discourage others in uniform with their comments on social media sites such as Facebook and Twitter."<sup>15</sup> And on 20 October 2013, a piece in *The Montreal Gazette* looks at how "One of Canada's most respected and well-known scientists, David Schindler, is retiring from the University of Alberta." "In his early days, federal scientists had prominent positions and direct input into public policy.

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<sup>13</sup> Bibliocracy. "Daniel Caron Resigns." 15 May 2013. Accessed 19 May 2013. <http://bibliocracy-now.tumblr.com/post/50517929510/daniel-caron-resigns>

<sup>14</sup> Ben Makuch. "Stop muzzling scientists, protesters tell Tories." *The Toronto Star*. 16 September 2013. Accessed 1 November 2013. [http://www.thestar.com/news/canada/2013/09/16/stop\\_muzzling\\_scientists\\_protesters\\_tell\\_tories.html](http://www.thestar.com/news/canada/2013/09/16/stop_muzzling_scientists_protesters_tell_tories.html)

<sup>15</sup> David Pugliese. "Wounded vets asked to sign form saying they won't criticize the military on social media." *The Ottawa Citizen*. 25 November 2013. Accessed 1 November 2013. <http://o.canada.com/news/wounded-vets-asked-to-sign-form-saying-they-wont-criticize-the-military-on-social-media>

Under Prime Minister Stephen Harper those days are long gone, Schindler said, and scientists are muzzled and told to stay out of public policy. “Harper pushed it over the edge”, he said. “It feels like Soviet control in the Cold War era.”<sup>16</sup> *The Winnipeg Free Press* reported in its online edition on 10 March 2014 that the Canadian Human Rights Museum was under fire for alleged censorship. Bartley Kives wrote: “The Canadian Museum for Human Rights is weathering a censorship allegation after deleting a blog post it commissioned from a Tyrell medal-winning Canadian historian.”<sup>17</sup>

Soon after, on 24 March 2014, CAUT posted news<sup>18</sup> on its website pertaining to a victory for staff at LAC.

*LAC has withdrawn its controversial Code of Conduct put into effect in early 2013. The code contained severe restrictions on staff behaviour, both in their public and personal lives. The restrictions on LAC employees garnered media and public scrutiny and, in the wake of intense public pressure, LAC administrators placed the code under review. In December 2013, a revised Code was introduced. Employees are still encouraged to report on their colleagues for any failure to comply with the code, a shameful policy that contributes to an unhealthy workplace. However, restrictions on employees’ professional development activities have been substantially*

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<sup>16</sup> Sheila Pratt. “Renowned researcher Schindler retires from University of Alberta.” *The Edmonton Journal*. 30 October 2013. Accessed 1 November 2013. <http://www.safewater.org/resources/news/in-the-news/712-renowned-researcher-schindler-retires-from-university-of-alberta.html>

<sup>17</sup> Bartley Kives. “Canadian Human Rights Museum under fire for alleged censorship.” *The Winnipeg Free Press* online edition. 10 March 2014. Accessed 7 May 2014. <http://www.winnipegfreepress.com/local/Human-rights-museum-under-fire-for--249306751.html>

<sup>18</sup> “LAC’s new code of conduct.” CAUT Website. News. 25 March 2014. Accessed 7 May 2014. <http://www.caut.ca/news/2014/03/25/lac-s-new-code-of-conduct>

*reduced and references to discipline for personal opinions expressed in limited access forums have been removed. The changes to the LAC code of conduct were only made because we spoke out collectively, an example of how we can make a difference.*

On 29 April 2014, *The Montreal Gazette* published an interview with Guy Berthiaume<sup>19</sup> (chairman and director of the Bibliothèque et Archives nationales du Québec (BAnQ) for the past five years and the incoming head of LAC effective 23 June 2014). In answer to the question "What are the greatest challenges facing you at LAC, and how do you plan to deal with them?", Berthiaume responded his first priority was "to work with the employees to restore pride and a sense of belonging to the institution." He elaborated, "It's not a spectacular job, it's not a flashy job, but it is fundamental. It's essential that people believe in what they are doing, that they are encouraged to do it, that they know they are making a contribution and that their work is respected. That is very important." This is a valuable approach, given library and information workers at LAC, as elsewhere, engage in what Samuel Gerald Collins terms in his 2008 monograph, *Library of Walls: The Library of Congress and the Contradictions of Information Society*, "a social and cultural understanding of work, freedom, debate, and knowledge".<sup>20</sup>

The extent to which IFLA's 2012 Code of Ethics for Library and Other Information Workers will be satisfied in everyday library and information work, and in specific cases, rests on the extent to which we

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<sup>19</sup> Marian Scott. "Guy Berthiaume: Taking libraries into the digital age." *The Montreal Gazette*. 29 April 2014. Accessed 13 May 2014.  
<http://www.montrealgazette.com/news/Berthiaume+From+Biblioth%C3%A8que+Archives+nationales+Qu%C3%A9bec/9788314/story.html>

<sup>20</sup> Samuel Gerald Collins. *Library of Walls: The Library of Congress and the Contradictions of Information Society*. Duluth, MN: Litwin Book, LLC. 2008.

all take up the blunt question posed by John Buschman in 2009: “who defends intellectual freedom for librarians?”<sup>21</sup>

IFLA Statute 4.2.1 (Version October 2008): states: “National Associations of librarians and information professionals and associations of other organizations concerned with the delivery of information services, whose memberships are national in character and whose purposes are in accordance with those of the Federation may be admitted as National Association Members.”<sup>22</sup> In the case of LAC, should we agree its code of conduct violates the principles of IFLA’s Code of Ethics for Library and Other Information Workers, could and would IFLA Council ever censure the status of the LAC membership? In this scenario, censure, of course, is understood to be an extremely important sanction that must be used carefully. Taking a cue from CAUT’s Procedures Relating to Censure<sup>23</sup> and adapting and massaging the language to this hypothetical context, censure might mean asking IFLA members not to accept positions at LAC and not to accept invitations to speak or participate in library and information conferences there. It could also mean that IFLA publish an account of the censure on its website, ask its members to respect the censure, and bring the censure motion to the attention of the Canadian Labour Congress. The answer is clearly **no**. IFLA Code’s Preamble contains the clear assertion “This code is not intended to replace existing codes or to remove the obligation on professional associations to develop their own codes

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<sup>21</sup> Buschman, John. “Who Defends Intellectual Freedom for Librarians?” *Academe*. American Association of University Professors. September-October 2009. Accessed 13 May 2014. [http://www.aaup.org/article/who-defends-intellectual-freedom-librarians#.U3I91ChLr\\_F](http://www.aaup.org/article/who-defends-intellectual-freedom-librarians#.U3I91ChLr_F)

<sup>22</sup> IFLA Statutes and Rules of Procedure. IFLA Website. 2008. Accessed 13 May 2014. <http://www.ifla.org/statutes>

<sup>23</sup> Procedures Relating to Censure. CAUT Website. Approved by the CAUT Council, May 1970; revised May 1975, May 1984. Editorial revisions March 1998; revised, November 2002. Editorial revisions February 2008. Accessed 13 May 2014. <http://www.caut.ca/about-us/caut-policy/lists/administrative-procedures-guidelines/procedures-relating-to-censure>

through a process of research, consultation and cooperative drafting. Full compliance with this code is not expected.”<sup>24</sup> Thus, and in closing, it is important different and diverse individuals and groups monitor the status of *the loyalty oath* in our profession. At minimum they may begin by considering the context-specific relevance of the statement “On Loyalty Oaths”, adopted at 1992 Annual Conference by the Social Responsibilities Round Table of the American Library Association, which states:<sup>25</sup>

- WHEREAS a democracy must preserve freedom of thought and expression if it is to survive; and
- WHEREAS librarians have a special responsibility to provide information on all sides of controversial issues, but cannot do so if intellectual conformity becomes a factor affecting their employment or tenure; and
- WHEREAS loyalty tests can easily lead to the violation of the constitutional rights of library employees by allowing inquiries into their personal affiliations and beliefs; and
- WHEREAS requiring library employees to sign loyalty oaths contributes to an atmosphere of suspicion and fear and places constraints on intellectual freedom by implying that it is hazardous for library employees to hold or express views other than those condoned by the employer; and
- WHEREAS loyalty tests and oaths are requirements for librarians in many library systems, thus effectively compelling many

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<sup>24</sup> IFLA Code of Ethics for Librarians and other Information Workers. IFLA Website. FAIFE Spotlight. 12 August 2012. Accessed 13 May 2014. <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>

<sup>25</sup> On Loyalty Oaths. Adopted at 1992 Annual Conference by the Social Responsibilities Round Table of the American Library Association. *SRRT Newsletter*, Issue 105, page 2. <http://libr.org/srrt/resolutions/1992-2-loyalty.php>

potential employees to sign meaningless and ineffective affirmations of allegiance in order to gain employment;

- THEREFORE BE IT RESOLVED that we the Social Responsibilities Round Table of the American Library Association, strongly protest conditions of employment predicated on inquiries into library employees' thoughts, reading matter, associates, or membership in organizations. We also strongly protest compulsory affirmations of allegiance as a condition of employment in libraries. We call on libraries not to impose loyalty tests or oaths as conditions of employment.



## **IT'S COMPLICATED: YOUTH, PRIVACY, AND LIBRARY ETHICS**

*Barbara M. Jones*

### **12.1 Introduction**

Danah Boyd's excellent study of privacy and youth, *It's Complicated: The Social Lives of Networked Teens* (Yale University Press, 2014) inspired the title of this paper. Boyd's data from 166 United States teens in 18 states led her to conclude that, popular assumptions notwithstanding, the youth culture cares about privacy but constructs private space differently than their elders.

Boyd has worked closely with librarians in the United States, because she recognizes that as a profession, librarians here had incorporated privacy into their professional ethics and best practices. Libraries uphold the freedom to read as a core value. But a reader can't feel free if the government or a corporation is looking over their shoulder—collecting information from their e-book reading device, or collecting data about the books they borrow or the questions they ask. This is particularly complex in an environment in which digital technology gives access at the same time it takes away some privacy.

To grapple with these complexities, the American Library Association's governance and policy framework include the Office for Intellectual Freedom at ALA/Chicago, and the two member committees of the member Council: the Intellectual Freedom Committee (IFC) and

the Committee on Professional Ethics (COPE). And ALA's Washington Office works with Congress on specific legislation and policy issues having to do with privacy and surveillance.

Because they knew of the profession's commitment to privacy, the Open Society Foundations granted ALA's Office for Intellectual Freedom 4-year funding to create Choose Privacy Week and the web site: [www.chooseprivacyweek.org](http://www.chooseprivacyweek.org). All 50 states have library confidentiality statutes or their equivalent. The American Library Association's *Intellectual Freedom Manual* includes several Council-approved interpretations and guidelines about privacy. And already the first *Library Privacy Tool Kit* has been replaced by a second edition, adding information about social media<sup>1</sup>. ALA's first code of ethics in 1939 included privacy as a best practice. In today's version:

*III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.*

The right to user privacy in U.S. libraries extends to children and young people. Until they reach the age of majority--which in the United States is 18 years for most library privacy concerns--there are some limits to this privacy. Parents, teachers, and doctors are three examples of people who can and do have rights to information about individual children in some cases. But children want and need some private space, too. How children exercise these privacy needs is the source of many struggles between young people and their parents—and not just in the United States.

This paper will explore three 21<sup>st</sup> century issues as they are playing out in the United States: the Youth Culture; Privacy as it applies to youth; and the Role of Libraries in upholding reader privacy in best practices and in educational programming. Examples of initiatives past

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<sup>1</sup> <http://www.ala.org/advocacy/privacyconfidentiality/toolkitsprivacy/privacy>

and present will be covered. The paper will conclude with recommendations for libraries world-wide in regard to privacy initiatives. All over the world people are concerned about government surveillance and corporate collection of their personal data. Now is the time for libraries to seize the opportunity to play a major role in this policy arena! Librarians and library associations from all cultures must collaborate in this work, since the concept and application of privacy principles varies from culture to culture. But we must find common ground on those core principles of reader privacy that lie at the core of the library profession.

## **12.2 Youth Culture in the United States**

This paper will use broad brush strokes to describe U.S. youth culture, since it is the stuff of popular culture around the world and is not the key focus of this paper. But given the prevailing myths about teens, some of this paper's assumptions are listed below:

- 75 to 80% of U.S. teens utilize social media and cell phones, regardless of class, economic, or ethnic background. Internet service is slower and less accessible in economically deprived regions of the country, and economically challenged teens may begin to feel the impact of being an information “have not” as they get older. They may not have the I-Phone with all the bells and whistles. But they will have a phone. More details can be found in a Pew Research Project:  
<http://www.pewresearch.org/daily-number/a-quarter-of-teens-mostly-access-the-internet-using-their-cell-phones/>.
- Invasion of youth privacy by the government and corporations can be found in all segments of the youth culture. Teens with credit cards may be more vulnerable in terms of data collection by corporations because they are a targeted market for many products and services. When the author of this article told a

Chicago high school class that a major blue jeans retail chain probably knows what size jeans they wear, they were shocked. In fact, even if they don't use a credit card, customers are often asked for personal information at the cash register so that they can receive coupons or discounts. Teens are shocked to discover that this personal information is bought and sold by third parties.

- Parents are becoming increasingly concerned about “child safety.” In fact, it has become a big business, as parents want to buy safety--to filter their children's Internet access and consult “apps” to decide what books their kids should read. The term, “helicopter parents,” is commonly used to describe these parents. “Safety” doesn't necessarily refer to physical threats but, rather, to the perceived impact of violent or sexually explicit content. It definitely applies to Internet access, as many are concerned about children's access to online predators and sexually explicit images. The 24/7 news cycle and sensationalist media exploit that fear in a psychological process not unlike the current fear mongering about Ebola in the United States.
- Reliable 2010 research suggests that young people do care about privacy but don't know how to protect themselves<sup>2</sup>. Their behavior regarding social media and cell phone use would suggest that they do not care when in fact, they just don't understand. When asked a series of 10 questions about online privacy, 42% of the youth got all 10 questions wrong. This, with growing evidence that colleges and prospective employers regularly troll such sources as Facebook to find potentially compromising photos or information that could jeopardize their

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<sup>2</sup> <http://ssm.com/abstract=1589864>

organization's reputation (see National Public Radio program on the topic of employers and social media)<sup>3</sup>

This gap between privacy values and lack of understanding how privacy invasion works should be viewed as an opportunity for information organizations to provide just that—information on how teens can create a private space for themselves online. For teens the major consideration is often how to keep their parents out—but nobody else. They need to understand that beyond their parents there are government and private sector interests in collecting and monetizing their personal information. U.S. library programming on the topic of privacy has demonstrated that once teens understand that, they are able to make informed choices about sharing their personal information.

### **12.3 Youth People and Libraries in the United States**

Why use libraries for privacy programming to reach young people?

Because young people in the United States do use libraries—both their local public libraries, and their school libraries. And the library profession has focused resources and policies on youth in particular. The American Association of School Librarians (AASL), a division of ALA, focuses on all issues and policies in libraries from kindergarten through high school. An excellent source for understanding United States youth in public libraries can be found in a groundbreaking Pew Foundation Report, *Younger Americans and Public Libraries*<sup>4</sup>.

In addition there are youth privacy advocates like Cory Doctorow—the very popular author of *Little Brother* (a takeoff on George Orwell's "Big Brother") and the Craphound blog<sup>5</sup>. *Little Brother* is a novel about

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<sup>3</sup> <http://www.npr.org/blogs/alltechconsidered/2014/04/11/301791749/cant-ask-that-some-job-interviewers-go-to-social-media-instead>

<sup>4</sup> <http://www.pewinternet.org/2014/09/10/younger-americans-and-public-libraries>

<sup>5</sup> <http://craphound.com/littlebrother/download/>

young people in a totalitarian society with no privacy; the book is free to download at the Craphound site. Doctorow is a frequent speaker at ALA and is an avid supporter of the freedom to read privately.

Compared to the rest of the world, most U.S. libraries are technology-rich and this capacity is a double-edged sword. Personal privacy has always been compromised when someone checks out a book; but once that book is returned, that link between the individual and the book is broken. During that transaction, state laws protect the person who borrowed the book. With online public catalogs this is not the case, as some offer the capability to make permanent notations about books that have been read. School assignment software often collects data about which student is reading what book at what time of day. E-reader vendors often collect information about the person reading the content, in direct violation of the intent of most state privacy laws. Unfortunately, libraries have been so eager to try new technology, they have not always thought through the compromises technology requires, or examine the profit and marketing motives of their vendors. Quite simply, the regulations and laws have fallen behind the technology's ability to compromise personal privacy.

Chicago Public Library's YOU Media Center has become a national model for teen-only interactive library space<sup>6</sup>. In the evenings this space is packed with students doing homework, having conversations, composing or performing music, writing or reading poetry out loud. This interactive space sponsors a literary magazine and was one of the sites for an ALA News Know-how project. There are now three sites and they focus on meeting the information needs of those Chicago teens who do not have these opportunities in their homes or schools. CPL has also added a Maker Space to their library services, and this is extremely popular with teens: <http://www.chipublib.org/maker-lab/>. These types of

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<sup>6</sup> <http://youmediachicago.org/>

services demonstrate to teens that city resources are being spent on them and that the library is a good place to go for more than books.

Libraries should seize this opportunity to play a major role in teen entrepreneurship, critical thinking, creativity—and the role of privacy in their digital lives. Libraries are well positioned to educate teens on how their personally identifiable information can be used to compromise their privacy and possibly hurt them at a job interview or other important events in their lives. The very technology that enables them so much creative freedom can also be used against them. With education on how their personal information is collected, and what they can do to protect their privacy, they will learn to make educated decisions and choices about their personal space.

#### **12.4 Privacy, Libraries, and Youth Programming**

The U.S. library community has incorporated privacy as part of the professional mission since at least the first code of ethics in 1939. Historically, privacy has been at the core of library best practices. It has been embedded in state laws. The professional has been rudely reminded of privacy and surveillance in recent decades: the FBI Library Awareness Project in the 1980's; the terrorist attacks on the United States on 9/11 and the resultant USA PATRIOT Act; and the Edward Snowden revelations in Summer 2013. These actions are described in detail in the *ALA Intellectual Freedom Manual*.

Around the same time, big data became part of the public vocabulary. Collection of mass data files by corporations, we learned, could be used for good or ill. Data about personal income and medical conditions could be used to build health clinics in neighborhoods lacking them; or it could be used to deny the same people health insurance. It could also be used by retailers to entice young people to buy clothes beyond their means. The “creepiness” factor began to have an effect on popular culture, as we realized that if we searched for a

particular kind of boot, hundreds of boot ads would pop up for months after. And finally, many public libraries host coupon clipping clubs. Community members come to workshops on how to clip coupons, register them online, and save money on groceries. The problem is that supermarkets and food companies can then keep track of one's eating habits.

The Office for Intellectual Freedom has been holding workshops and teaching about privacy for several years now. The approach is that of "choice." In the United States of the 21<sup>st</sup> century, one would need to become a hermit to totally protect one's privacy. Buying a home, shopping, driving on a toll road, going to the doctor—all compromise privacy. And because librarians are not advocating the hermit's lifestyle, the approach to privacy has been that of making an informed choice. If teens find out how Facebook, for example, might compromise their personal privacy, they might take steps (as explained on the Facebook page) to place limits on who might view their page. Or they might decide to get off Facebook altogether. Libraries are not condoning one choice or another. They are simply promoting *informed* choice.

The Open Society Foundations' grant helped the Office for Intellectual Freedom to do the following to promote privacy for youth:

- A two-day international workshop in Chicago for librarians, NGOs, government officials—and teens—to discuss how to make teens aware of privacy choice points.
- A web site, [www.chooseprivacyweek.org](http://www.chooseprivacyweek.org), that contains blog posts, videos, and information on how to celebrate Choose Privacy Week, the first week in May. OIF offers posters, bookmarks, a workbook, buttons, and other ways to make CPW come alive for teens.
- A teen pizza party evening at a branch of the Lexington, Kentucky, public library branch for the Latino community. OIF discovered that immigrants are often scammed and give away

their personal information to criminals. This party was an opportunity to talk to teens and use materials geared for their age group, to explain privacy right in the United States and how they can protect themselves.

- Collaborations with the Electronic Frontier Foundation and other groups to do webinars and advocacy projects to promote privacy best practices for the government and the private sector.

### **12.5 How IFLA Can Play a Role**

IFLA has just approved the first Code of Ethics for Librarians and Other Information Workers: <http://www.ifla.org/news/ifla-code-of-ethics-for-librarians-and-other-information-workers-full-version>

The Free Access to Information and Free Expression Section (FAIFE) worked for many years on this document. In addition, FAIFE has written several teaching modules on such topics as: the impact of corruption on libraries; public health information in libraries; HIV/AIDS information dissemination in libraries; and the *Internet Manifesto* and libraries. These packets have been taught in many countries on all continents. The *Internet Manifesto* training in the Philippines led to a cascade training program leading to 3, 000 librarians learning how to implement the Internet in their libraries and to advocate for Internet freedom to the national legislature.

This powerful training program must be developed and taught for privacy in libraries. If IFLA can't afford it, a grant must be found to continue a proven successful training method.

Since FAIFE began its trainings in various countries, the webinar platform is more highly developed. International webinars, leading to certification as a Privacy Librarian, could be implemented.

A Privacy Manifesto could be adopted as the basis for the educational ideas above. In fact, many librarians were not taught about

privacy in their professional education, so a module for practicing librarians and for LIS professors could be developed.

IFLA is the perfect place to begin these initiatives. It is the largest and most influential international library association and it has the trust of the library community and potential funders around the world. Privacy is an extremely culturally bound value, and IFLA has a culturally diverse membership to interpret privacy to in various contexts.

This author has heard many librarians from the developing world say that they do not have time to think about privacy when they don't even have computers. But now is the time to think about it! Many developing countries have had to backtrack and take back privacy after it was lost. Some countries have the opportunity to get it right—to make it clear to technology companies that contracts must include privacy provisions, for example. And librarians can be an essential partner in this effort! We have a brand new ethics document to inspire and guide us.

## **ETHICAL ISSUES IN REFERENCE: CHALLENGES AND SOLUTIONS**

*Lili Luo*

### **13.1 Introduction**

Ethical principles of the library and information profession are of great importance as librarians strive to bring to the public unbiased and equitable services, matched with the promise of confidentiality and the safeguarding of intellectual freedoms. Particularly in the digital age, our collective understanding of ethical issues needs to be reevaluated and reinterpreted in response to the all the changes brought by technology evolution and social transformation (Cassell & Hiremath, 2012).

As an educator, ethics is a critical topic that I cover in my course “Reference and Information Services”. Reference librarians are at the forefront of libraries’ public service. It is imperative for them to maintain the highest possible standards of diligence and ethical conduct under time restraints that often require compromise. To explore how reference librarians handle ethical dilemmas at work, I conducted a survey study to seek answers to the following questions:

- What kinds of ethical dilemmas do reference librarians encounter in the different venues of reference work?
- How do they uphold the American Library Association’s Code of Ethics (or other professional organizations’ code) and resolve the dilemmas?

- What are the ethical issues they consider most challenging in reference work?
- What kinds of training on ethics have they received?
- What kinds of support do they need to successfully adhere to a shared code of ethics, providing quality and uncompromised services?

### **13.2 Procedures**

An online survey questionnaire was developed to collect data to answer the above questions, and it was distributed to the target study population – reference librarians in the United States. Since individual members of this population are not identifiable via any sampling frame, the possibility of probability sampling design was ruled out. Thus, a non-probability sampling technique, judgmental sampling, was used to select a sample from the population. Judgmental sampling is a type of non-probability sampling in which the study units are selected on the basis of the researcher's judgment about which ones will be the most useful or representative (Babbie, 2012). An educated judgment is made that reference librarians are likely to be subscribers to the three most popular professional email listservs related to reference and information services: LIBREF-L, ILI-L, and DIG-REF. Therefore, an invitation, including a link to the online survey, was sent to the three listservs to invite participation from reference librarians. The survey was open for three weeks. One week before the survey closing, an email reminder was sent to encourage more participation. A total of 212 valid responses were received. Among the respondents, 80% work in an academic library, 16.9% in a public library, and 3.1% in a special library.

### **13.3 Results**

Ethical dilemmas take place in a variety of venues, as shown in Table 1. The reference desk was reported to be the most popular venue–

more than 80% of the respondents indicated that they have encountered ethical dilemmas at the reference desk.

Venue of Reference Work	% of respondents that encountered ethical dilemmas
At the reference desk	80.70%
Via telephone reference service	31.60%
Via email reference service	30.70%
During information literacy instruction	30.20%
Via chat reference service	27.80%
During reference collection development	21.20%
Via social media	9.90%
Interactions with colleagues at the library	4.20%
Via text reference service	3.30%
Individual interactions with library users outside of the reference area	3.30%
Non-reference collection development	2.40%
At the circulation desk	1.90%
Use of technical facilities such as computers and printers	1.90%
Other service areas such as coffee shop, exhibits, or during roving reference service	1.90%

*Table 1 Venues where librarians encounter ethical dilemmas*

Regarding the types of ethical dilemmas that reference librarians encounter, as shown in Figure 1, the two most popular categories were copyright issues and confidentiality and privacy issues.

## 170 Information of Librarians and Archivists

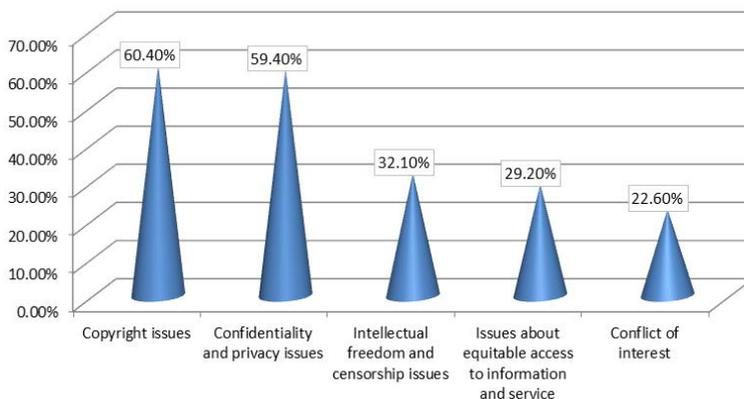


Figure 1 Types of ethical dilemmas

For each type of ethical dilemma, respondents were further asked to provide examples to illustrate the dilemmas they have encountered. Five representative quotes are selected for each type of ethical dilemma and presented below (quotes are recorded verbatim).

### 13.3.1 Quotes Related to Copyright Issues

- *Patrons have asked for help making copies of library CDs and DVDs.*
- *Faculty want me to place items not owned by the library (or themselves), onto reserves. The library director instructs us to scan/print huge amounts of materials borrowed from other libraries to use consistently in classes. The library director engages in reproducing VHS tapes into DVD for check out.*
- *Numerous students make photocopies of their required text books that we keep on reserve.*
- *There is a rule of passive acceptance in my library if students want to copy it, but I was*
- *instructed never to place my hands on the book on the copy machine as I cannot be an active participant in copyright*

*infringement. However, many of the students speak English as a second language, so trying to describe how to use the copy machine in the past has not helped and I've had no choice but to place the book on the copy machine to show them, and then press the copy button.*

- *A faculty member wanted a current issue article and for some reason could not follow directions to get to the journal via the library website. He wanted me to email it to him, but our license did not allow for us to download the pdf, it was view only. He insisted we send*
- *him the article though, so we made a pdf of the website with the article. It was wrong of us to do that.*
- *Just yesterday, I advised a faculty member that scanning half of the text book and loading it on to 7 flash drives to give to his students was a violation of copyright laws. He said he understood. But I bet he does it anyway because he doesn't want to make the students by a*
- *\$150 dollar textbook for one class. I've also told faculty members they can't upload entire works to our learning management system and I've told our student affairs department they can't publically show movies without a license even if they do it for free. (Boy I was not popular that day!)*

### **13.3.2 Quotes Related to Confidentiality and Privacy Issues**

- *On chat reference, bored kids will sometimes submit prank calls. Sometimes this gets out of hand and I have to contact a school administrator or teacher, who inevitably wants more detailed information. One time students were picking on another student by giving his name instead of their own and asking sexual questions. The administrator wanted me to report the name being used in the chat, but I had no sense that the administrator knew*

*that this person was the victim and not the perpetrator. On other occasions, a teacher will ask to see a transcript of a student's chat with us in order to verify that she had completed the assignment on her own. A patron was being harassed - another person was using her email address and entering it on our chat service and asking sexual questions. The patron has asked for a chat reference transcript to be saved so we could send it to the police. We replied that the police would have to issue a warrant.*

- *I was a Gov Docs librarian in Arizona. I got a series of calls from a patron while I was on the desk. The patron was tracking down information from a notebook she bought. It contained instructions on what & where to file forms to never pay income tax again. It was a scam but patron confidentiality prevented me from following up. Fortunately, the AZ Attorney General also found out and shut the operation down.*
- *Library staff members, although having been told privacy and ethical standards continue to comment on specific patron's research habits/materials requested. Other library staff reads items printed for patrons at the printer.*
- *Many of our Internet users seem to have complete faith in us. They are willing to give us all sorts of their information- Pin#'s, bank account info... if we would help them on the Internet. We can only go so far for ethical reasons. Even when they are typing in their PIn # in my presence I turn my head - just so they won't think I'm looking at their private info. They often need our help at the print station where they again have to enter their BarCode # and Pin.*
- *Students asking for access to information about accessing other student's personal information. Students and faculty asking for assistance in looking up grades other than their own, or the library borrowing history of other patrons.*

### **13.3.3 Quotes Related to Intellectual and Freedom and Censorship Issues**

- *Dealing with patrons who have issues with the library providing information on controversial topics such as abortion, legalization of marijuana, Islam...*
- *One of the librarians I work with has extreme biases that s/he refuses to acknowledge.*
- *These are apparent by sources provided to patrons during a reference interview/meeting*
- *I work at a private religious college. Resources that might appear to challenge certain faith- based ideology are discouraged.*
- *In social media, sometimes someone will post a criticism or complaint. We actually had library staff who assumed our response should be to delete those posts. We did not do this (unless they were abusive). I also encounter this during reference collection development. Is exclusion censorship? What happens if the viewpoints of the "majority" or a particular culture are everywhere and we're not collecting things that we assume are "outliers?"*
- *I discovered that our library system is the only one in our consortium that has a copy of a controversial book. In fact we have two copies, one of which is currently checked out. The book in question is one that has been linked to deadly child abuse. I feel conflict here because*
- *non-discriminating readers of the book could follow the parenting advice in the book to extremes and potentially cause harm to children, or death in three documented cases. On the other hand, if I choose to remove the book because of the potential danger then I would be censoring our collection. Where would the censorship end? Would I then remove Fifty- Shades*

*because it has potential to increase promiscuity which is also dangerous? Would I*

- *remove books about guns? No, I would not. I would trust the readers to make good judgment.*
- *I would remember that some topics are researchable and it doesn't matter the motivation for reading a certain book. However, the fact that the "victims" of the parenting book in*
- *question are innocent children give me pause.*

#### **13.3.4 Quotes Related to Issues About Equitable Access to Information and Service**

- *A text messaging patron was treating our service as his best friend. He was sending dozens of messages per day, often as soon as we could send a reply. His use of the service in a conversational way prohibited other people from using the service to get answers.*
- *It is more of an ethical problem of the profession that not all library material is actually accessible to all students. Most recently I have experienced this with blind students who cannot use the databases as they are so poorly compatible with text to audio readers.*
- *Political powers in my small community place an emphasis on getting high tech resources in the public library while ignoring the needs of our most vulnerable citizens. They would rather spend money on expensive ebooks than provide basic information for our poorest citizens.*
- *Should there be fine forgiveness to economically disadvantaged individuals who habitually return materials late in order to allow materials necessary to job advancement/school project/military placement to be checked out?*

- *Our technology is old and not up to standards sometimes, so those students who are able to purchase their own computers, software, etc. have a definite advantage.*

### **13.3.5 Quotes Related to Conflict of Interest**

- *WOW: I could write a book. Let's start with the DEAN who was married to a REF LIBRARIAN in a small academic library. She was allowed to attend all meetings. That poor ref dept did not have one bit of trust or collegiality and no one has to wonder why.*
- *Alumni come back and find that they cannot use the services of the library as before. They forget they are now in the workforce and Alumnae are not granted all the privileges of the current user/student/faculty who have access to everything. The group study rooms must be limited to current users only and alumni cannot have access to those services in the library. Alumni also want to run tutoring businesses in the group study rooms and libraries cannot allow this due to insurance purposes and liabilities concerning minors who we have no jurisdiction over.*
- *We have a computer lab in the adult area that has internet access, a children's lab that doesn't have internet access and a business area which is limited to business research and test proctoring only. Parents with children who need to use the internet must do so in the Adult lab and their children sometimes become restless to say the least. While I sympathize very much with the parent and children who are accessing information via the internet, it is our policy that the adult area is a quiet place and sometimes we must ask the parent to make sure their children are not upsetting other patrons who expect quiet. This is one of my least favorite things to do. If only parents could access the internet alongside their children in an appropriate place.*

- *At one academic job a supervisor wanted me to do research for her child who was attending a different school.*
- *I live in a rural, Southern place so there are times when the religion of a student, which may not be the same religion as mine or other students, is made very clear. The same is true with my colleagues, making for uncomfortable situations.*

When asked about how familiar they are with the American Library Association (ALA)'s Code of Ethics, more than 60% of the respondents were either moderately or very familiar with it, as shown in Figure 2.

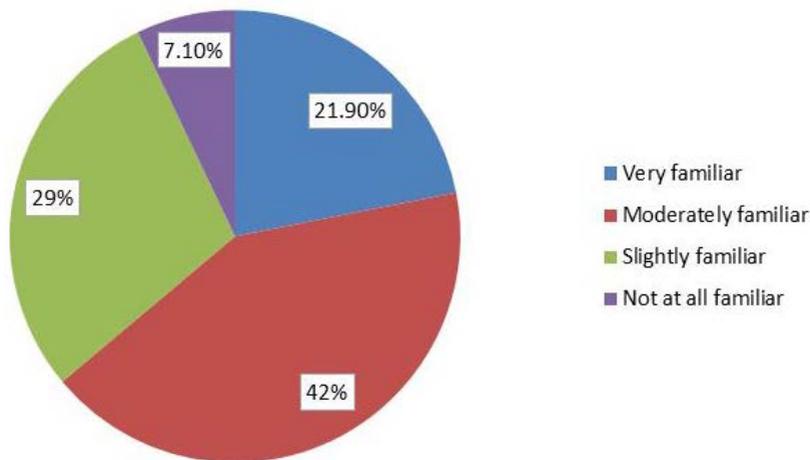


Figure 2 Librarians' familiarity with ALA's Code of Ethics

Respondents were then asked about whether their institution has its own ethics policy, and 38.1% answered "Yes", 26.8% "No", and 35.1% "Not sure".

Regarding how they handle an ethical dilemma, the majority of the respondents chose to consult supervisors/colleagues to seek guidance, as shown in Figure 3. In addition to the four listed approaches, respondents shared that they also rely on their conscience (or personal code of ethics), gut feeling, experience, as well as social norms and common sense to make a judgment in an ethical situation. Other sources they

consult included other organizations' (e.g. Medical Library Association) code of ethics, professional email listservs, and the faculty they work with.



*Figure 3 How librarians handle ethical dilemmas*

When it comes to the training on ethics they received, 34.9% of the respondents took courses covering ethics in their MLIS program, 15.6% participated in training sessions on ethics offered by their institution, 7.1% took continuing education courses about ethics. In addition to these formal training venues, respondents also mentioned the following ways in which they were familiarized with ethical issues:

- Librarians at a statewide chat reference service are regularly engaged in formative assessments of how to handle tricky reference questions, including ethical dilemmas
- State ethics training for all state employees
- Professional experience (e.g. serving on the Intellectual Freedom Advisory boards for library associations; teaching a class in fair use and U.S. copyright laws)
- Self-learning (e.g. reading articles and books about ethics)

Respondents reported a variety of challenges they face when involved in an ethical dilemma, covering the following categories:

- Explaining carefully to library users that their requests could not be fulfilled because of ethical reasons (e.g. licensing or copyright violation) without hurting their feelings, and helping them understand that it is not personal
- Conflicts between personal beliefs and institutional/professional policies
- Finding a balance between upholding ethical rules/policies and satisfying user needs, and between doing “what’s right” and “what’s practical”
- Respecting and balancing the viewpoints and interests of all parties involved in an ethical situation, and attempting to meet everyone’s needs
- Handling ethical grey areas – assessing a situation judicially, understanding the context, and making a reasonable judgment
- Dealing with difficult library users
- Recognizing ethical situations when they occur
- Librarians handling the same ethical situations consistently
- Remaining neutral and not getting personal in ethical situations
- Lack of administrative support in resolving ethical situations
- Teaching library users about ethical behavior
- Conflicting policies
- Issues related to fair use, information filtering and confidentiality

Finally, respondents voiced the support they wished to receive in order to more effectively and efficiently handle ethical dilemmas, including 1) more training; 2) support from colleagues (e.g. a collegial environment where colleagues consult each other when making decisions about ethical situations); 3) support from library leadership (e.g. administrators stand behind staff and are open to discussions and questions); 4) Clear and consistent ethics policies, and clear

communication among library staff about the policies; 5) A written document of ethics policies that can be easily accessed.

### **13.4 Conclusions**

This paper provides an in-depth view of the ethical issues in reference work. Through the examination of the types of ethical dilemmas, how librarians handle them, the challenges they encounter, and the support they need, this paper will help further the understanding of ethical practice in reference and information service, and make meaningful contributions to the growth of knowledge in the domain of LIS professional ethics. Libraries will be able to draw upon this paper to better develop ethical guidelines and provide effective training to help reference librarians successfully resolve ethical dilemmas and ultimately lead to enhanced library experience for library users.

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## **FILTERING ACCESS TO THE INTERNET IN PUBLIC LIBRARIES: AN ETHICAL DILEMMA?**

*Louise Cooke, Rachel Spacey, Adrienne Muir, Claire Creaser*

### **14.1 Introduction**

This paper considers the contentious question of whether or not internet access in public libraries should be filtered. It would seem that, in the UK at least, librarians and users think it should, according to findings from the Managing Access to the Internet in Public Libraries (MAIPLE) project. This paper uses the application of the IFLA Code of Ethics and other professional ethical guides to argue that this situation is contrary to our professional ethics, and to propose that we consider alternative approaches to protecting users from ‘harmful’ online content.

Managing Access to the Internet in Public Libraries (MAIPLE) is a two year project funded by the UK Arts & Humanities Research Council (AHRC). The project commenced in September 2012 and is due to complete at the end of August 2014. The aim of the project is to gain a better understanding, both in quantitative and qualitative terms, of the measures UK public libraries are taking to prevent users from accessing websites deemed to contain inappropriate, harmful or illegal content. It also aims to translate these findings into guidance for practice in order to achieve a more ethically sustainable and harmonised approach to managing internet access in public libraries.

The current paper commences with a brief overview of the context of, and methods adopted by, the MAIPLE project and goes on to outline its key findings and recommendations. These are then considered in the context of the relevant sections of the IFLA Code of Ethics for Librarians and other Information Professionals (IFLA, 2012). It then explores the parallels between notions of traditional book selection and collection development and internet content filtering. Using a combination of Kantian (deontological) and consequentialist (utilitarian) ethical reasoning, it concludes with a proposition that internet filtering is a very different activity to traditional book selection.

## **14.2 Context**

Public libraries in the UK currently provide Internet access through 43,365 terminals (CIPFA, 2012) offering a potential 83,436 hours and actual 35,819 recorded hours of usage of library PCs over 4,384 service points (2011-2012). In relation to Wi-Fi, there were 909 public library service points in England, 103 in Wales, 171 in Scotland and 3 in Northern Ireland in 2012. Many public libraries also provide varying levels of ICT support and training for members of the public. However, since the early days of the advent of public access internet terminals into public libraries, concern has been voiced about the potential the Internet provides to library users wishing to view illegal and/or access offensive material (Spacey, 2003). Surprisingly, however, there is a dearth of knowledge or statistics relating to what measures public libraries in the UK are taking to manage issues of content and access regulation, and relatively little in the way of professional discussion or debate around this topic. Prior to MAIPLE, the most recent UK statistics available with regard to content control mechanisms in public libraries date back to the turn of the century (Willson & Oulton, 2000); there has, however, been some relatively recent research mapping Wi-Fi availability in public

libraries (Batt, 2009) and in relation to public Internet access in Scottish public libraries (Brown & McMenemy, 2012).

A key motivation to explore the issue of internet filtering in public libraries, in addition to any ethical concerns one may have about a profession that publicly rejects the notion of censorship but appears to accept the use of filtering, is the oft-cited inaccuracy of filters as a content restriction measure. There is much evidence of filtering software leading to under- and over-blocking that has the potential to distort the information landscape. These issues have been discussed extensively in both academic and popular literature (e.g. Simpson, 2008; Stol et al., 2009; Ybarra et al., 2009; Hope, 2013; Jivanda, 2013), but to date the technical inaccuracies of such software solutions do not appear to have been accurately resolved. Indeed, given the cultural and contextual difficulties of determining what constitutes offensive content, it is questionable whether a technical solution could ever satisfactorily resolve this dilemma.

### **14.3 Professional ethics**

The *IFLA Code of Ethics*, following Article 19 of the *Universal Declaration of Human Rights (UNDHR)*, is unequivocal in its protection of access by all to the full range of knowledge and information, and its rejection of censorship in any form. Article One, paragraph two of the IFLA code states that:

*Librarians and other information workers reject the denial and restriction of access to information and ideas most particularly through censorship whether by states, governments, or religious or civil society institutions.*

This is endorsed by the UK LIS professional body, CILIP, in its statement of *Ethical Principles*, of which number three comprises:

*Commitment to the defence, and the advancement, of access to information, ideas and works of the imagination.*

Furthermore, the CILIP *Code of Professional Practice*, whilst not explicitly expressing a rejection of censorship of any kind, nevertheless declares a commitment<sup>1</sup> to:

*The defence, and the advancement, of access to information, ideas and works of the imagination.*

A point of potential debate with regard to the IFLA code, however, concerns its unequivocal rejection of censorship of any kind. This is in line with the *UNDHR* article 19, which similarly posits no exceptions. The interpretation of this article into other national and supranational instruments has, however, tended towards the inclusion of exceptions. Thus, for example, the *European Convention on Human Rights (ECHR)*, article 10<sup>2</sup>, allows for exceptions on such grounds as ‘those that are prescribed by law and necessary in a democratic society’, including provisions such as

*‘the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’*

These provisions have generally been included in the implementing laws of nation states, such as, for example the UK *Human Rights Act 1998* (Parliament, 1998). Thus we find ourselves having to question whether the IFLA code is proposing that librarians place their professional ethics and code of practice above the legal framework in which they are required to practice? Or do we rely on our own sense of

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<sup>1</sup> CILIP, 2012, Section D, point 2

<sup>2</sup> Council of Europe, 1950: ECHR, article 10).

moral responsibility in order to avoid engaging in what Kutz has termed moral ‘complicity’?

We propose that filtering software in this context acts as a form of censorship and that, according to the IFLA Code of Ethics and the other above provisions, should *not* be used as a default solution for the provision of internet access in public libraries. However, this stance does not sit easily alongside the findings from the MAIPLE project.

#### **14.4 Methods of the MAIPLE project**

The project used a mixed methods approach of desk research, to establish what was already known on the topic, including international comparisons; a questionnaire survey to all UK Public Library Authorities, in order to collect factual, quantitative data on current practices across the sector; in-depth case studies in five Public Library Authorities, in order to explore the impact, effectiveness and attitudes towards such practices; and further desk research to establish how the issue of content control and regulation is being handled by commercial wifi providers in public spaces to facilitate cross-sectoral comparisons. The empirical work was carried out over an 18 month period between January 2013 and June 2014 inclusive.

#### **14.5 Findings**

Findings thus far suggest that filtering of internet content in public libraries in the UK is a widely accepted practice. *All* authorities responding to our questionnaire (n=80, i.e. 39%) reported that they filter content. Nevertheless, respondents still reported incidences of use of public internet facilities that breached their Acceptable Use Policies (AUPs). The viewing of obscene content was by far the most common breach of the AUP, and was also the category of material most commonly blocked by the filtering software. The use of filtering software had led to complaints from users: 65.8% of respondents had

received a complaint about filtering of content within the previous 12 months, with over-blocking being the subject of 88.5% of these complaints. Most Services had a procedure for users to request the unblocking of sites: however, these processes were often not clearly communicated, and in some instances even library personnel were not aware of how to go about getting sites unblocked. One service stated clearly that 'this is not an option'. We also found that users were often reluctant to contact library staff to request the unblocking of a site, or were simply unaware that it may be possible to do so.

When probing further in our case studies, we found that library personnel at all levels appear to accept the use of filtering software as a pragmatic solution to preventing 'inappropriate' use of internet facilities, even if they are not entirely comfortable with it. Reservations about this need were expressed in comments such as "*We did think long and hard about it because in many ways filtering is anathema to librarians*". On the other hand, some library personnel did not feel there was cause for concern, as this quotation illustrates: "*I don't have any ethical issues with filtering. I think it's something we do need to do*". Another respondent stated that "*In a public space, I do think that it's ethical*". Survey respondents also felt that filtering was relatively effective: over half of survey respondents judge it to be 'very useful' (56.3 per cent), approximately two-fifths thought it was 'somewhat useful' (41.3 per cent) and just two respondents were negative about filtering, judging it to be 'not very useful' (2.5 per cent).

Perhaps more surprising still, is the support that library users appear to have for filtering of content, as expressed by one young, male user who agreed that the library should filter content because "*You don't come to the library to look at porn and stuff like that, do you?*". An issue of concern was the low level of awareness on the part of many users as to the fact that their information access was being filtered. This was

revealed in comments such as “*It is? So there are things that they just don’t let you on?*” from one library user.

#### **14.6 Ethical analysis**

As a result of the findings of the study, we have had to conclude that filtering software appears to be a widely accepted, albeit imperfect, solution by UK public library personnel and users alike. Our own professional and ethical discomfort with this conclusion has led us to consider the following proposition:

“Is filtering the internet any different from selecting/ rejecting book stock according to a collection development policy?”

We have therefore attempted to deconstruct this argument using deontological and utilitarian ethical reasoning to demonstrate how filtering the internet is indeed different from book stock selection and conflicts with the Code of Ethics.

#### **14.7 Deontological/ Kantian reasoning**

Immanuel Kant believed that we could identify inherent ‘right’ or ‘wrong’ ways in which to act, based on ‘whether we could imagine everyone doing them’ (Duquenoy et al, 2008, p.8). This kind of thinking led to the concept of a ‘categorical imperative’ which could be described as an absolute moral rule from which there were no exceptions. Thus for example, we might say that we should not steal, and according to Kantian logic there can be no circumstances in which stealing is acceptable.

By this logic, if we accept the premise that for librarians to engage in censorship is wrong, as suggested by the IFLA code, there can be no exceptions to that rule. Censorship is here defined as ‘the suppression or regulation of speech (in its broadest definition) that is considered immoral, heretical, subversive, libellous, damaging to state security, or otherwise offensive’ (Duquenoy et al., 2009, p.82). If we further accept

the notion that filtering software *censors* internet content, in so far as it prevents the user from accessing the content, then by Kantian reasoning we must accept that librarians should oppose the use of filtering software in their libraries.

On the other hand, it is hard to assert that making an informed choice as to the optimum use of scarce resources in order to build a balanced collection in accordance with a transparent and mutually agreed collection development policy meets the definition of ‘censorship’. There is no attempt or suggestion of suppression or regulation, but instead the aim is to ensure equitable access to a diverse range of quality information resources and to maximise the use of scarce resources. This could be considered to be distributive in impact rather than restrictive, and therefore supports the librarian’s categorical imperative of “*the advancement, of access to information, ideas and works of the imagination*” as defined by the CILIP code (CILIP, 2012).

#### **14.8 Utilitarianism/ Consequentialism**

This line of ethical reasoning, as suggested by the name, considers the ‘usefulness’ or consequences of actions, rather than whether the action is itself inherently right or wrong. Thus, for example, we might consider telling a lie to be an ethical action if its effect is to spare an individual unhappiness or pain. Using utilitarian reasoning, we judge the ‘rightness’ of an action as being that which ‘brings the greatest benefit to the greatest number of people’ (Duquenoy et al., 2008, p.9).

In our case study example, we need to ask ourselves whether filtering of internet content in public libraries produces a better outcome for a greater number of individuals than unfiltered access. This is harder to measure, as it is based on sometimes unknown outcomes (how do we know how each individual is ‘harmed’ by non-accessed content’ or by accessing ‘inappropriate’ content?). However, the findings of the MAIPLE project provide sufficient evidence to suggest that blocking of

legitimate content is a serious and ongoing problem in libraries with filtering in place, and that users are being disadvantaged in their search for information. Moreover, it is also potentially the case that, by limiting their access to the full range of content, users are not learning the information literacy skills that afford genuine and sustainable protection in the digital arena (Cooke, 2007). The oft-used analogy here is that we can try to prevent individuals from drowning by placing barriers to swimming pools: or we can teach them to swim (National Research Council, 2001, cited in Kranich, 2004, p.17).

By never encountering inappropriate content, individuals do not develop the ability to decipher for themselves which content might be appropriate or not. Given the unreliability of filtering software, this is an essential skill in today's world. We also need to take account of other measures to achieve similar goals (e.g. child protection) that may have a less restrictive impact on information access: e.g. situating public access terminals apart from areas designated for use by minors; and providing user education, support and training. If we wish to achieve the greatest good for the greatest number of people, then it is arguable that our professional goal would be to facilitate the widest possible information access. Therefore, we suggest that using the consequentialist approach we would still reject the use of filtering software.

On the other hand, given the finite nature of resource budgets, using utilitarian theory we are *obliged* to base our stock selection decisions on a carefully considered collection development policy that aims to meet the needs of our target population in a balanced, objective and fair manner. Without such a policy, and careful, professional selection decision-making, we risk favouring some sections of the population over others, and therefore not maximising the benefit of the largest number of people.

Thus, using this kind of ethical analysis, we can reject the notion that the use of filtering software is no different to the use of a collection

development policy to select stock materials: according to our analysis, one course of action (book selection) appears to sit easily within our ethical framework for practice, whereas the other (filtering software) appears to be more troublesome.

#### **14.9 Conclusions and further thoughts**

The analysis above suggests that, in line with our professional ethical rejection of censorship, public libraries should not filter their internet access as a default strategy. However, this has proved to be at odds with the findings and conclusions of the MAIPLE project. The project findings demonstrate that public librarians (in the UK, at least) are firmly committed to the filtering of internet access. For them it appears to be a strategy for assuring the ‘safety’, ‘trust’ and ‘protection’ of both their staff and their users. Indeed, even most of the users that we interviewed were accepting of this strategy and recognised it as being ‘*appropriate in a public space*’. We have therefore had to limit our recommendations to ways in which to modify practice in order to minimise the potential negative impact of internet filtering, e.g. by using the most liberal settings feasible; by ensuring that users are fully informed of the use of filtering software; by having in place simple, transparent and effective procedures in place for requesting the unblocking of sites; and, above all, by remaining committed to the encouragement of further professional debate, education, awareness-raising and transparency about this issue.

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## COPYRIGHT AND INFORMATION ETHICS – AN INSIGHT

*Rainer Kuhlen*

### 15.1 Regulatory constraints

In addition to information markets and information and communication technologies (cf. Fig 1) copyright and information ethics are two particularly important and in many ways conflicting or even contradictory regulatory principles for the production and the use of knowledge and information. (cf. Fig. 2).



*Fig. 1 Regulatory constraints for knowledge and information*

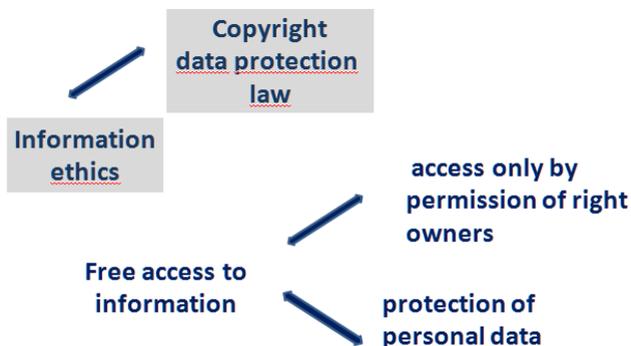


Fig. 2 *Information ethics – contradictory to law*

This has been eminently the case in the last 25 years, when almost all knowledge and information related processes have been shaped by a comprehensive tele-mediatization (interplay between informatics, telecommunication, and hypermedia)<sup>1</sup> – or shorter, have been shaped by the Internet.

### **15.2 What is wrong in the relation between information ethics and copyright?**

The main reason for many conflicts is that copyright regulation and/or laws still mirror moral behaviour towards knowledge and information (k&i in the following) developed in analogous environments/spaces. It is true that copyright regulation in the international arena has partially changed because international treaties could no longer ignore the development and reality of the new information and technology challenges in the Internet. But they did not fully recognize the potential of new Internet technologies and services

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<sup>1</sup> Cf. Rainer Kuhlen: Informationsethik - Umgang mit Wissen und Information in elektronischen Räumen. Reihe UTB 2454 - Universitätsverlag Konstanz (UVK): Konstanz 2004 in particular Chap 1 Ethik und Informationsethik, pp 23ff

for all parts of society, and they continued to support old moral analogous values, mostly ignoring new digital morals, in particular new values such as openness and free access.

As a result there is an increasing gap between moral behaviour which develops in the environments/spaces where we live and where we carry out most of our actions and transactions and copyright regulation. Moral behaviour towards k&I, which is highly influenced by information and communication technologies in the Internet, develops faster than copyright regulation/laws can cope. (Existing) copyright regulation/laws turn out to be a disabling means for new business models and information services in the Internet rather than an enabling one. This is true for the economy in general but also in particular for all fields of science and education and for intermediary institutions such as the libraries supporting them.

### **15.3 A Need for Copyright Reform**

But there is hope: In the longer term, neither law, nor market or technology can count on approval from the people if legal norms, business models, commercial goods and services and technologies are not compatible with existing and developing moral behaviour and moral expectations on the part of the majority of the people. Information ethics takes priority over law and, particularly to copyright. It is copyright that needs to be changed. And there is some evidence that this is being acknowledged more and more by politicians. Here are some quotations from Neele Kroes (shortly before the end of her service as the responsible EU Commissioner for the digital agenda):

“Transforming technology is changing how people use and re-use information. And disrupting a longstanding legal framework... Already today that framework seems dated — if not irrelevant. Every day that passes it becomes more so... Copyright needs to promote creativity and

innovation.... It must remunerate and reward creator... Should enable a digital single market... Needs to take account of the needs of society.”<sup>2</sup>

And she poses some provocative questions with a hopefully far-reaching impact on copyright regulation:

- “When teachers are afraid to share teaching materials online, how does that help our society?”
- “When museums have to take out insurance specifically against the risk of copyright lawsuits, because it's too complex and costly to figure out – how does that help promote European heritage?”
- “When European scientists have to abandon text or data mining because they can't afford the legal fees – how does that help innovation and scientific progress? And by the way that restriction is costing our economy tens of billions of euros.”

Copyright needs a pragmatic and equally farsighted reform: “It means more possibilities to access content online cross-border. It means more harmonised exceptions: benefiting researchers, teachers, cultural heritage, and user-producers.”

And there is an even more demanding request for a copyright reform from two highly influential scientists, Ian Hargreaves, professor of digital economy, and Bernt Hugenholtz, professor of intellectual property law; director of the Institute for Information Law, University of Amsterdam.<sup>3</sup> A comprehensive reform is needed for modernising the international and European copyright framework – the latter is in particular needed because of the outdated but still authoritative InfoSoc

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<sup>2</sup> Neelie Kroes, Talk „Our single market is crying out for copyright reform”. Information Influx International Conference at the Institute for Information Law University of Amsterdam. July 2014 -<http://commentneelie.eu/speech.php?sp=SPEECH/14/528>

<sup>3</sup> Ian Hargreaves; Bernt Hugenholtz: Copyright reform for growth and jobs: Modernizing the European copyright framework. Interactive policy brief Issue 13/2014 - <http://www.lisboncouncil.net/publication/publication/95-copyright-reform-for-growth-and-jobs-modernising-the-european-copyright-framework.html>

Directive from 2001, <sup>4</sup> the major barrier for modern and creativity supporting copyright laws in the respective European countries. Some quotations from their report:

- “Copyright law is struggling to adapt to the dynamic impact of digital technologies ... copyright law ... has lost touch with the digital economy of today and tomorrow“
- “scientific and medical researchers say copyright is getting in the way of their work by impeding text and data mining“
- “cultural organisations do not know how to clear their archives for digital public use“
- “creative industries lament the impact on their businesses from online rights violations”
- “authors complain they are not getting paid”

And they make some concrete suggestions for copyright reform:

1. “Make limitations and exceptions more harmonized and flexible. ...”
2. “Reduce terms of protection”
3. “Simplify online licensing across the EU. ...provide regulatory incentives for setting up public databases of copyright metadata, and permit extended collective licensing.”
4. “Recalibrate the Reproduction right.... If a technical copy has no economic significance, it should not count as reproduction.”
5. “Simplify legal protection of digital rights management systems ... where circumvention is directly connected to copyright infringement.”

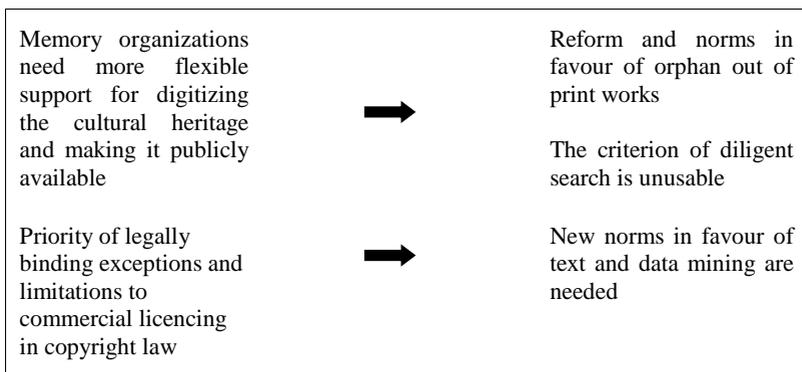
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<sup>4</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society. Official Journal L 167, 22/06/2001 P. 0010 - 0019 - <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0029:EN:HTML>

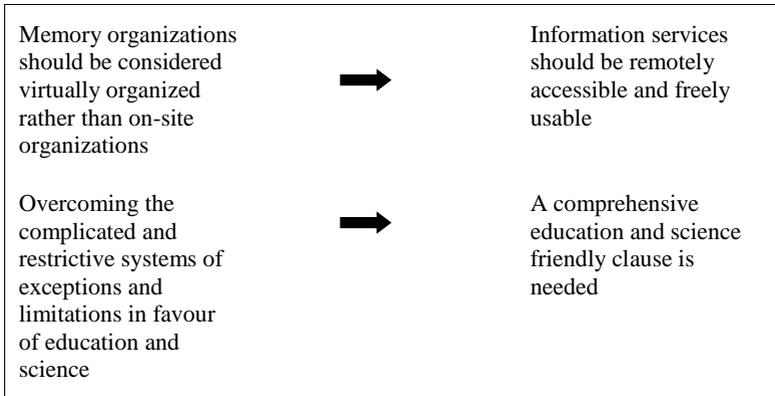
6. “Downsize the database right. Reduce the scope of the database right by limiting it to commercial uses of databases, and expanding limitations and expectations.”
7. Rebalance copyright enforcement. Harmonize the copyright rules on injunctive relief against intermediaries... make abusive copyright enforcement strategies (troll behavior) unlawful.”

### 15.4 Information Ethics Challenges to Copyright

From an information ethics point of view, the following topics are among the most challenging ones to a change in copyright regulation – seen here from the perspective of science and education and their supporting organizations such as libraries.



*Fig. 3 Need for copyright reform from the perspective of science, education and libraries*



*Fig. 4 Need for copyright reform from the perspective of science, education and libraries*

The challenge of a comprehensive education and science friendly clause is probably the most complex one. It demands a real paradigm shift from the system of distributed exceptions and limitations to a clause-related regulation schema. The right to free access and free use of published k&i is not to be considered an exception to the exclusive rights of authors and exploiters (mainly publishing companies), but a right in itself. In Germany, the current government (a coalition between the conservative party, CDU/CSU, and the social-democratic party, SPD) has agreed on the objective of a General Science and Education Exception in their coalition agreement. If they are able to achieve this objective, it will be the first comprehensive copyright regulation in favour of science and education and will be highly influential for copyright regulation in other countries.

### **A comprehensive education and science friendly copyright clause**

A proposal of the German Coalition for Action "Copyright for Education and Research" (2014)

- (1) Copying and making published works available to the public is permitted for non-commercial use of scientific research and for the support of learning and teaching processes.**
- (2) Para (1) is also valid for documentation, archiving and preservation of mainly publicly financed memory organizations (such as libraries, archives, documentation centers and museums).**
- (3) Para (1) is also valid for information and communication services provided by memory**
- (4) Compensation for the use of services according to paras (1) and (3) will be paid on a flat-rate basis by contractual agreement between rights holders (organizations) and the legal entities of the organizations addressed in paras (1-3).**
- (5) Contractual agreements which rule out paras (1-3) are invalid.**

*Fig. 5 shows a proposal for a comprehensive education- and science-friendly clause, provided by the German NGO Coalition for Action "Copyright for Education and Research" (Aktionsbündnis "Urheberrecht für Bildung und Wissenschaft"<sup>5</sup>).*

Whether this will survive the controversial debate to be expected in the next two years is hard to say. In the past, all copyright regulation and "reform" were heavily dominated by commercial interests. But times have changed and nothing needs to stay the way it was. And this brings us back to the thesis at the beginning: In the longer term, neither law, nor market or technology can count on approval from the people if legal norms, business models, commercial goods and services and technologies are not compatible with existing and developing moral behaviour and moral expectations on the part of the majority of the people.

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<sup>5</sup> <http://www.urheberrechtsbuendnis.de/>

### **15.5 Open Access – No Need for Copyright?**

Some people believe that it is no longer necessary to fight for a science- and education-friendly copyright system because open access will be broadly accepted both by authors and commercial providers. In the long term, open access publication (based on the golden way – primary publication in open access journals) will be the general standard and will dominate business models in science publishing, too. This will be achieved because publicly financed organizations and institutions are more and more willing to cover the costs (and, of course, the expectations of profit) of commercial open access publishing models – as they have done and hopefully will be willing to do in the future – to finance library activities. How this will affect the existing library system is still an open question.

But even with open access being the general model for science publishing, there is still a need for copyright law. Primarily for the moral rights of authors, which are of great importance particularly in the European copyright/author right tradition. These moral rights (personal rights) are not at all affected by open access and will be still guaranteed by copyright regulation, which should then no longer be called “copyright” but “authors’ right”.

And we must not forget that more than 90% of existing publications, mainly from the past one hundred years, are still under commercial right holders’ control. But for this published material, too, there is a need for free access and free use, and therefore we still need a science- and education-friendly copyright beyond and in addition to the authors’ right.

Open access as the comprehensive publishing paradigm will also have an effect on this new copyright, in particular as regards the three-step-test, which dominates and restricts existing copyright exceptions and limitations. The three-step-test was originally included in the Berne

convention and it is still valid in contemporary copyright regulation: <sup>6</sup> When open access is the publishing default, this test may read rather differently: 1. Open access will be the norm, proprietary commercial publication the exception; (2) Open access does not restrain commercial publication; (3) Open access fosters authors' rights and interests.

This replacement will it make much easier to find science- and education-friendly copyright solutions for the remaining commercial publications, be it from the past or from new commercial products.

### **15.6 Consequences**

1. Information professionals should be aware that the basic principle of moral behaviour in electronic environments/spaces is to enable free/open access to and use of published k&i to the broadest extent possible.
2. Information professionals should take initiatives wherever possible to fight both for a just balance between ethics and copyright and for a comprehensive open access system in science publishing.

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<sup>6</sup> "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author" (in: Art. 9 Berne Convention, Version 1967).

## REPORTS FROM THE WORKING GROUPS

### 16.1 Working Group A: Codes of Ethics in Practice

*Michel Gorin — Le code de déontologie des archivistes : Être ou ne pas être*

The debate first focused on the need to have national codes alongside the IFLA international code of ethics, and the relationships between universal and local values and practices. The attendees reaffirmed the credo that there are common issues to the profession all over the world, but that professionals in every country might face specific issues or might be influenced by specific cultural values. The international code mainly enforces common goals for the profession, but should not be too specific. In this sense, national adaptations are important.

The International Code for Archivists was brought into the discussion as a comparison. That code does not bring practical solutions to concrete issues, but does express the good behaviour expected of those in the profession. This way, it can be strongly assertive without prescribing concrete actions. Each professional and each community should find their own solutions to the problem they face, while respecting the core values and goals of the profession. In this regard, one key point is to offer translations in as many languages as possible, written by professional translators.

The audience then discussed the reasons why information professionals do not have a code in each country already. Two main reasons were cited. First that the professional identity is weak: it is hard

to describe the core work that librarians do. Secondly, that it is common that librarians do not readily see the need for a code, as they do not see the ethical implications of their work. Codes (national or international) address both issues, by asserting a strong professional identity around common goals and values and by making the ethical issues explicit.

In the end the discussion came to the binding character of codes of ethics. What are the mechanisms for enforcing a code? Should there be possible sanctions and who should be able to deliver these sanctions? It is first noted that national codes must be more binding than the IFLA code. The attendees agreed on the idea that a good solution could be that someone who infringes on the code is expelled from the professional association. This is a good option, because it ensures the credibility of the code, of the association, and of the profession as such. Also it cannot easily be abused for censoring some individual professionals, because adhering to the association remains optional. Not being part of the association should not prevent a professional to work as a librarian.

*Vesna Crogorac and Jasmina Ninkov — What is ‘Public’ and What is ‘Private’ in Libraries?*

Based on the Serbian context, the discussion rose to a conceptual level. The audience discussed the limits between public and private data, urging that sensitive data are not necessarily private or should not always be treated as private. All libraries should have a policy regarding privacy (the use and storage of private data). Also librarians should be trained on the implications of their professional duties, and the relevant laws in their country with regard to privacy, because sometimes they are not aware of them.

An important point also is the communication towards the patron. Whatever the policy is, it should be transparent for the patron. He/she needs to know what will be done with his/her data. This is absolutely necessary for building and maintaining trust between the public and libraries.

The discussion then came back on the local character of the Serbian case. Is it possible to have a local solution to these problem? Shouldn't there be a consensus in Europe? The speakers stress the specificity of the Serbian situation, explaining that a long history of censorship brought today to a very high sensitivity to the importance of an open society and on the concept of 'information of public importance'. There are very strong laws defending the right of each citizen to ask for any information from the government.

Finally the audience concluded the discussion by emphasizing the tension that exists between two core values of the profession: access to information (open society, transparency) and protection of privacy (personal freedom, freedom of thought and opinion).

*Kouao Antoine Anoh — Ivorian Librarians Faced with the Protection of Minors*

The audience first quite extensively focussed on the role of the professionals regarding children's access to information. Should librarians be influenced by his/her own feeling as a parent? Does the librarian have an educational responsibility towards society? This discussion brought a major cultural difference into light. If in Europe and US, education is strictly in the hands of parents, it is not the case in Africa where education is a responsibility held by the community as a whole. In the end of that point of the discussion, the question was raised (without provoking a direct answer) if the mention of 'patrons requiring special attention' in the paragraph devoted to access to information of the IFLA code is sufficient to ensure the protection of children or if there should be a specific code for children's libraries.

The discussion continued on the tension between the two values of giving access to information and protecting children. The audience discussed the terms 'censorship' versus 'selection process'. Censorship is the result of an arbitrary or ideologically-driven selection process. A

professional selection process should always be backed up with a written and transparent acquisition policy. Someone raised the point that it is perfectly possible to have a censorship activity that is perfectly transparent and known by everyone, and that is still censorship. This is exactly the reason why legal deposits were invented: to avoid any kind of selection process. This way all that has been produced is recorded somewhere. So what should be discussed actually is not censorship, i.e. the denial of the existence of a work, but restriction of access.

Finally the discussion came back on another issue raised by Kouao Antoine Anoh's talk: the question of donations. Can it sometimes be legitimate to refuse a donation? How can a librarian decide this? For the attendees, the question is not so much of accepting or refusing a donation, but to endeavour to build balanced collections. The library must provide diversity of opinions.

*Hans von Ruetten and Anne-Emmanuelle Tankam-Tene — Ethics Based Understanding of Professional Document Management*

The attendees noted that despite the code, many documents have been processed and cannot be shown to the public for several reasons. The speakers argue that the code is a collection of guidelines to guide the professional in his/her daily work, but that it cannot, by itself, solve the problems of access. Moreover the code does not assert that open access is an absolute principle, but that archivists should always inform the public on the reasons for restricted access.

A distinction was made between a state's secret documents and a person's private information. All the documents that are stored in the archives are documents that are meant to be made public at some point. The strength of the code is that even if a document is under restricted access, it guarantees that the document is kept and conserved.

It is noted that this last point is only valid in states subject to the rule of law. It is when human rights attempts occur that archives become more vulnerable, and necessary to maintain. Could it be a

recommendation to enforce international sanctions against persons who destroy archives for political or military reasons? And to encourage NGOs and foundations to have a professional maintenance of their archives? The speakers reminds that archivists are always in a weak position in any state. But in the same time that they have the major role of ensuring transparency.

The speakers then presented two cases. Someone noted that there is sometimes a big gap between the codes and the reality. Professionals write codes of ethics to promote access to information, but are submitted to other people who actually have the power to decide what should be accessed and what not. Librarians and archivists should defend their principles more actively and lobby with more strength.

## **16.2 Working Group B: Ethical Values and Dilemmas at the Workplace of Librarians?**

*Toni Samek — Looking To Our Own: Ethical Library and Information Workers at Risk*

The debate focused on the role of the individual librarian, his social responsibility and his freedom of expression. Sometimes librarians are facing a situation where they have to choose between their loyalty to their institutions and superiors on the one hand and necessary critique from a professional point of view articulated in the public on the other hand. Participants agreed that librarians should not only have the right to discuss and criticize for example plans and decisions of their employers openly but to take appropriate political action if necessary. Most important is that a professional debate including ethical reflection takes place instead of decisions based on gut feeling. It is inevitable to make colleagues aware of these necessities.

Another important issue was the role of IFLA with regard to members who violate the IFLA code of ethics. First of all IFLA's code is not mandatory but inspirational. It doesn't provide fixed instructions but encourages to reflect and to balance reasons. It intends to provide

orientation and to list the fundamental values of professional librarians in order to support the standardization of professional practice. Nevertheless some breaches are identifiable without any doubt and are reported to the national or global librarian community. Should IFLA intervene and try to discipline member associations strictly in any of these cases? This could result in a full refusal and breaking off of communication by some member associations. They might resign and thus weaken the umbrella association. But IFLA's role is more to offer options, to negotiate and to provide a space for the exchange of views. As a balancing power IFLA should intend to initialize and to sustain debates. In most, of course not in all cases this policy shaped by negotiation and professional debate seems to be the wisest and most successful approach. It is a matter of debate and reflection again to decide in which (rare) cases there might be no more room for further debates. But fundamental virtues of IFLA as umbrella association should be to be most clear with regard to core values to initialize intensive debates based on ethical reflections in case of violations and to remain patient, to accept step by step improvements.

*Barbara M. Jones — It's Complicated: Youth, Privacy, and Library Ethics*

The most debated question was if privacy as a concept has to be modified. Privacy is often seen as a negative right, as the right not to be disturbed by the government, journalists or whomever. Transforming privacy into a positive right, the right to control what others say or know about me, could move the current debate into a more promising direction. But not only an updated definition even the debate about it still is a desideratum. This debate should take place in the library and information community as well as in the broad public. Widely accepted is the fact that freedom of expression will not be possible without privacy. If there is no place for the individual to think without being controlled, self censorship will result in most cases.

Libraries have to deal with two aspects intensively in the meantime. First they have to focus on their responsibility regarding the information they detain on their patrons. They should resist the attempts of governments and other authorities to get uncontrolled and illegal access to user and usage data in libraries. Exceptions have to be well defined and kept as low as possible. Users and the whole public have to be informed about the privacy policy of their library.

Second libraries should intensify their efforts to improve media and information literacy among their users especially teenagers. They should discuss privacy issues, and in particular the proper and secure use of social media. Libraries should not offer “perfect solutions” or intend to present the “right behavior”. They rather should initiate an open debate with youngsters about their experiences, their fear and explain the consequences of careless usage of social media and the web as a whole.

*Lili Luo — Ethical Issues in Reference: Challenges and Solutions*

Reference librarians have to cope with copyright issues in an intensive way. The question is if they have to intervene if they realize that users infringe upon copyright. Disputants agreed that librarians aren't policemen on the one hand but that they should guard against violations on the other hand. An important step in this regard is to include copyright and avoidance of plagiarism into their media and information literacy courses.

Most incomprehensible to most of the participants seemed to be that 60 % of the respondents said they were familiar with ALA's code of ethics but only 26 % applied it in case of conflicts and dilemmas. As reason was given that codes are much too broad and too abstract. A misunderstanding probably is that codes don't provide solutions, they cannot be used as a comprehensive collection of precise commandments. But they provide orientation with regard to professional values, they facilitate standardized behavior of library professionals and

they have to be seen as an indispensable means to find appropriate, ethically based solutions for conflicts and dilemmas. To make colleagues aware of this potential, a collection of case studies has to be developed. Case studies can bridge the gap between the abstractness of codes and the concreteness at the library workplace. But even case studies will not be able to cover every possible conflict or dilemma. They should represent typical situations and provide several options or solutions for each case which analyze the consequences and refer to the code of ethics. They thus encourage ethical reflection and improve ethical decision making which can be seen as a fundamental contribution to the professionalization of librarians. Of course acquaintance with and training of ethical issues has to start at library schools and to be continued frequently by further training.

*Louise Cooke — Ethical Issues in Reference: Challenges and Solutions*

Library associations like the ALA are against filter software due to several arguments. Filter software doesn't work properly. Promised improvements ten years ago have not occurred. To filter definitely means to limit access to information. The decision what and how to block is transferred to software developers mostly who are not familiar with information ethics at all. But governments or local authorities in the USA and many other countries apply pressure on libraries to install filter software. Quite often higher authorities inside the own institution force librarians to filter. Participants agreed that if a filter is installed this must be transparent. Users have to be informed and they should get clear instructions how to get unblocked certain websites they want to access. Of course protection of minors is an obligation. An acceptable compromise could be to install filter software on those computers assigned to minors and to restrict the others to adults only.

In some cases librarians install filter software on all their computers with intent to avoid conflicts. They believe they are on the safe side in so doing. But in fact if this is the argument and if ethical consequences

have been weighed up this hardly is acceptable. In each case it is inevitable to make users aware that they only have restricted access to the Internet in their library and they have to be informed about a non-compromising and discrete procedure of unblocking websites they want to access.

Anyway the library community should broadly discuss the impact of filtering and include the public in this debate. Without debate politicians in particular often tend to place security and protection over other values. Nobody will disesteem them but it has to be questioned to what extent it is possible to achieve security and protection at all. And the costs or consequences have to be taken into account. Can it be accounted for to restrict access to information via filter software for security or protection reasons? Where is the borderline between limited access and censorship? Above all installed filter software constitutes an infrastructure that could easily be misused later for censorship purposes in a changed political environment.



## **RECOMMENDATIONS AND CONCLUSIONS**

It is important to have a fixed set of values as a profession. Ideally these core values would be listed in a professional code of ethics, but realistically there are always unusual constraints and unique conditions that make straightforward answers difficult to obtain. This is why codes of ethics are not to be seen as collections of answers, but means to facilitating and guiding ethical reflection.

Codes often are criticized as being too broad and too conventional by professionals. The gap between codes of ethics and actual ethical issues that come up in the workplace needs to be bridged by case studies. Case studies could provide typical real life scenarios of ethical conflicts and dilemmas. These case studies can then be described and analyzed against a professional code of ethics. This analysis would not present “the” solution, but different options and their ethical consequences. The intention is to encourage the ethical reflection of individual employees and to make clear that neither codes nor case studies absolve a person in charge from their professional responsibility. Ethical reflection should thusly be unavoidable, and the codes remain a means to facilitate ethically-grounded decision making and behavior.

At the same time, librarians and their associations have to be aware that their professional codes of ethics are neither unchangeable nor completely universal. Cultural differences and the difference in laws between countries need to be taken into consideration. For example, while most are entirely against child pornography it was not illegal in Japan until this year. A debate needs to be sustained in how great the

differences between national codes of ethics and the IFLA code may be seen as culturally conditioned, or as a result of a politically dubious climate.

Ethical education should start at library schools and be continue with frequent training and intensive professional debates. Making colleagues aware of ethical obligations and the nature of these debates is very important.

In public librarians should promote their value. Identified as advocates of free access to information and freedom of expression, this can help their reputation might rise, and to take part in professional debates surrounding these fundamental values with related professions, partners, and the public as a whole. Particularly if freedom of access, privacy, or freedom of expression are threatened.

Given these core values, librarians and libraries should present the library as a space for uncontrolled thinking, as a meeting point where people from different social areas come together and as an unbiased place where citizens can get the information needed to participate in democratic processes and to control governments and authorities.

These qualities that evolve from the profession's ethical values and attitudes may strengthen the efforts of libraries and librarians to demonstrate the unique and indispensable services of libraries in the information society.

# ANNEX

## List of Participants

<b>First Name</b>	<b>Last Name</b>	<b>Country</b>
Kouao Antoine	Anoh	Ivory Coast
Louise	Cooke	UK
Gilbert	Coutaz	Switzerland
Vesna	Crnogorac	Serbia
Michel	Gorin	Switzerland
Barbara	Jones	US
Sarah	Kibugi	Kenya
Rainer	Kuhlen	Germany
Lili	Luo	US
David	McMenemy	Scotland
Jasmina	Ninkov	Serbia
Hermann	Rösch	Germany
Toni	Samek	Canada
Rachel	Spacey	UK
Christoph	Stückelberger	Switzerland
Hans	von Rütte	Switzerland

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### *Kouao Antoine Anoh*

Kouao Antoine Anoh is a member of the IFLA (International Federation of Library Associations and Institutions) Committee as well as member of the FAIFE (Freedom of Access to Information and Freedom of Expression) Committee. He is also Library Curator at the Ivory Coast National Library, and responsible for its Special Collections department.

### *Louise Cooke*

Louise Cooke is a Member of IFLA/FAIFE Committee, and Senior Lecturer in Information and Knowledge Management, and Director of Postgraduate Programmes at Loughborough University in the United Kingdom.

### *Gilbert Coutaz*

Gilbert Coutaz is director of the Archive of the Canton Vaud in Switzerland, founder of the Association of Archives of the Canton Vaud, and former Chair of the Association of Swiss Archivists.

### *Vesna Crnogorac*

Vesna Crnogorac is a member of the IFLA/FAIFE Committee, and Secretary General of the Serbian Library Association.

### *Micel Gorin*

Michel Gorin is currently 'Expert-métier en ressources documentaires' at the Haute École spécialisée de Suisse occidentale (HES-SO), and Vice President of the Communauté de travail des bibliothèques suisses de lecture publique (CLP).

### *Barbara Jones*

Barbara Jones has been the director of the ALA Office of Intellectual Freedom, and executive director of the Freedom to Read Foundation since 2009. She has previously hosted a large number of other IFLA/FAIFE workshops, on topics ranging from intellectual freedom, information ethics, and transparency.

*Sarah Kibugi*

Sarah Kibugi is currently the Director of Library and Learning Resources Services at The Technical University of Kenya, where she also lectures in information sciences. She is also currently the director of Globethics.net's East Africa Programme.

*Rainer Kuhlen*

Rainer Kuhlen was previously Professor of Information Science at Konstanz University in Germany, until 2010. He is currently a member of the expert committee on communication and information of the German Commission for UNESCO.

*Lili Luo*

Lili Luo is an Assistant Professor at the School of Library & Information Science at San Jose State University in the United States. Her primary areas of teaching and research interests include information access and services in the digital age, and information services.

*David McMenemy*

David Mcmenemy is a lecturer at University of Strathclyde, Glasgow, Scotland where he teaches courses on information law and information sciences.

*Jasmina Ninkov*

Jasmina Ninkov is currently Library Adviser and Director of the Municipal public library in Belgrade, Serbia. She is also on the management board of the Serban Society of Librarians, and a member of the city of Belgrade's commission for acquisitions for public libraries.

*Hermann Rösch*

Hermann Roesch is a member of the IFLA/FAIFE Committee, and Professor of Library and Information Science at the Cologne University of Applied Sciences.

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### *Toni Samek*

Toni Samek is a Professor at the School of Library and Information Studies, at the University of Alberta, Canada. She has published extensively on intellectual freedom, social responsibility, and how human rights are relevant to the work of librarians.

### *Rachel Spacey*

Rachel Spacey was formerly a Senior Research Associate at Loughborough University, and is currently Research Fellow in the School of Education at the University of Lincoln.

### *Christoph Stückelberger*

Christoph Stückelberger is currently Executive Director and Founder of Globethics.net, and Professor of Ethics at the Theological Faculty of the University of Basel in Switzerland. He is also a regular visiting lecturer of Ethics for universities in developing countries.

### *Amélie Vallotton Preisig*

Amélie Vallotton Preisig was previously E-librarian at Globethics.net (2009-2012). She is currently Information Officer at Alliance Sud, Lausanne, Member and Secretary of the FAIFE Committee of IFLA (2011-2015). She is also Board Member of BIS (Bibliothèque Information Suisse – the association of Swiss librarians and information specialists).

### *Hans von Rütte*

Hans von Rütte was previously a 'Lehrbeauftragter' for Archival Sciences at the Hochschule für Technik und Wirtschaft in Chur, Switzerland, and is currently an Archivist at the Ecumenical Center of the World Council of Churches in Geneva, Switzerland.

## Supporting Partners



The *International Federation of Library Associations and Institutions* (IFLA) is the leading international body representing the interests of library and information services and their users. It is the global voice of the library and information profession. Founded in Edinburgh, Scotland, in 1927 at an international conference, IFLA celebrated its 75th birthday at a conference in Glasgow, Scotland in 2002. IFLA now has over 1,500 Members in approximately 150 countries around the world. IFLA was registered in the Netherlands in 1971. The Royal Library, the national library of the Netherlands, in The Hague, generously provides the facilities IFLA's headquarters.

The *Free Access to Information and Freedom of Expression* Committee (FAIFE) is an initiative within IFLA to defend and promote the basic human rights defined in Article 19 of the United Nations Universal Declaration of Human Rights. The FAIFE Committee furthers freedom of access to information and freedom of expression in all aspects, directly or indirectly, related to libraries and librarianship. FAIFE monitors the state of intellectual freedom within the library community world-wide, supports IFLA policy development and co-operation with other international human rights organisations, and responds to violations of free access to information and freedom of expression.



*Bibliothèque Information Suisse* (BIS) est l'association nationale des bibliothèques, des centres de documentation et de leurs collaborateurs. Elle compte plus de 1600 membres dans toute la Suisse.

En tant qu'association professionnelle, BIS est responsable du contenu de la formation en trois ans des agents I+D, formation qui est assurée par la Délégation à la formation, en coopération avec l'Association des archivistes suisses AAS. BIS soutient ses membres en leur proposant des cours de formation continue, des journées thématiques et des congrès. A cela s'ajoute la représentation de leurs intérêts auprès des pouvoirs publics et des instances politiques.



*L'Association des archivistes suisses* (AAS) s'engage activement pour la professionnalisation de l'archivage en Suisse. Elle soutient la coopération entre les archives suisses, garantit l'accès aux documents d'archives et crée un réseau des institutions. L'AAS encourage la constitution coordonnée du patrimoine archivistique et comme association de la catégorie professionnelle représente les intérêts des membres.

Les archivistes participent à la formation de la société de l'information d'aujourd'hui et du futur en travaillant de façon responsable avec les informations.



Globethics.net is a worldwide ethics network based in Geneva, with an international Board of Foundation of eminent persons, 100, 000 participants from 200 countries and regional and national programmes. Globethics.net provides services especially for people in Africa, Asia and Latin-America in order to contribute to more equal access to knowledge resources in the field of applied ethics and to make the voices from the Global South more visible and audible in the global discourse. It provides an electronic platform for dialogue, reflection and action. Its central instrument is the internet site [www.globethics.net](http://www.globethics.net).

Globethics.net has four objectives:

**Library: Free Access to Online Documents**

In order to ensure access to knowledge resources in applied ethics, Globethics.net offers its *Globethics.net Library*, the leading global digital library on ethics with over 1 million full text documents for free download. A second library on Theology and Ecumenism was added and a third library on African Law and Governance is in preparation and will be launched in 2013.

**Network: Global Online Community**

The registered participants form a global community of people interested in or specialists in ethics. It offers participants on its website the opportunity to contribute to forum, to upload articles and to join or form electronic working groups for purposes of networking or collaborative international research.

**Research: Online Workgroups**

Globethics.net registered participants can join or build online research groups on all topics of their interest whereas Globethics.net Head Office in Geneva concentrates on six research topics: *Business/Economic Ethics, Interreligious Ethics, Responsible Leadership, Environmental Ethics, Health Ethics and Ethics of Science and Technology*. The results produced through the working groups and research finds their way *into online collections and publications* in four series (see publications list) which can also be downloaded for free.

**Services: Conferences, Certification, Consultancy**

Globethics.net offers services such as the Global Ethics Forum, an international conference on business ethics, customized certification and educational projects, and consultancy on request in a multicultural and multilingual context.

**[www.globethics.net](http://www.globethics.net) ■**

## **Globethics.net Publications**

All volumes can be downloaded for free as pdfs from the Globethics.net library and at [www.globethics.net/publications](http://www.globethics.net/publications). Bulk print copies can be ordered from [infoweb@globethics.net](mailto:infoweb@globethics.net) at special rates from Global South.

The Editor of the different Series of Globethics.net Publications is Prof. Dr. Christoph Stückelberger, Founder and Executive Director of Globethics.net in Geneva and Professor of Ethics at the University of Basel/Switzerland.

Contact for manuscripts and suggestions: [stueckelberger@globethics.net](mailto:stueckelberger@globethics.net).

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# Ethical Dilemmas in the Information Society

## *Codes of Ethics for Librarians and Archivists*

Information Ethics concerns the values and applications of how information is made, treated, organized, and made available for users. The articles in this publication reflect the work of several librarians from around the world who wish to define and develop the values they believe central to the work of an information specialist, and how best to apply those values to the professional lives of all information specialists.

### *The Editors*

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