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# I. Menschenrechte in Schweizer Informationseinrichtungen

## *Informer sur les droits humains en Suisse*

## What happened to David Rhode?

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The other day, one of the independent news portals made us realize that the New York Times journalist, David Rhode, was kidnapped in Afghanistan in November, 2008. There were a few scattered rumors early on, but the main story was kept quiet. David Rhode, the Pulitzer prize winning journalist, wrote the book *Endgame: The Betrayal and Fall of Srebrenica, Europe's Worst Massacre since World War II* in 1997. This book helped thousands of people understand – among them former US soldiers – the nature of the Balkan conflicts, the fall of Milosevic regime, and the controversial role of UN peacekeepers about protecting the so-called “safe area” of Srebrenica where at least 5,000 of Muslim men and boys perished in mass execution.

*Endgame* uncovered the truth through the day-to-day account of the events, revealed oral histories with Dutch peacekeepers, Bosnian civilians and Serbian soldiers<sup>1</sup>. After a decade of publishing the book, the article written about David Rhode in Wikipedia shows interesting changes in terms of deletions: [http://en.wikipedia.org/w/index.php?title=David\\_S.Rohde&dir=prev&action=history](http://en.wikipedia.org/w/index.php?title=David_S.Rohde&dir=prev&action=history)

International human rights protection may have achieved a lot since the mid-20th century, such as the Universal Declaration of Human Rights in 1948, but it is still in its infancy. The past sixty years made us believe that it is possible to defeat totalitarian regimes in Latin America, Central and Eastern Europe by, for example, by making secret police files available, and that after all the tragedies in the former Yugoslavia and Rwanda, the worst offenders of human rights can be punished with the help of international courts. Finally, we also believed that in the post-Tiananmen Square era, states will base their relationship with other states on the criteria of human rights. It is all well done, we can still say that international efforts to protect human rights did not entirely fail. We could say the “fall and betrayal” of Srebrenica in July 1995 was an unavoidable and terrible mistake: human rights are not statements of facts that can guide us in all situations, as normative values they can be measured at the time of their violation. What

remains for the victims in their torture and misery is that they were morally and legally right.

As human rights discourse spread across the globe, transitional justice institutions, truth commissions, and criminal courts became the most efficient tools – as only temporary means – supporting victims’ rights to truth, justice and reparation, and determine responsibilities. These bodies and their documentary heritage, with their indisputable contribution to collective memory, were meant to complete their mission and dissolve. Yet crucial files,

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records collected from local public administration and archives, testimonies of events, data sets documenting what happened during the repression and what efforts countries made to right themselves thereafter, became homeless in the archival word. Who owns these records? It is an alarming sign that in the case of truth commissions, the permanent location for these archives does not show any common pattern. According to Trudy Huskamp Peterson<sup>2</sup>, an internationally known expert of the subject, these archives can

- 1 Rhode donated his personal collection to the Open Society Archive, [www.osaarchivum.org](http://www.osaarchivum.org), his fonds among various types of background information, confidential records includes notebooks on his field trips, transcribed interviews with key personalities like Richard Holbrook, Admiral Leighton Smith or Dutchbat Major Robert Franklin.
- 2 CHRDR Conference Proceedings, Human Rights Archives and Documentation: Meeting the Needs of Research, Teaching, Advocacy and Social Justice, October 2007: [http://www.columbia.edu/cu/lweb/indiv/human-rights/news\\_events/2007/conference/presentations/2-1-1.PetersonT.html](http://www.columbia.edu/cu/lweb/indiv/human-rights/news_events/2007/conference/presentations/2-1-1.PetersonT.html)



go to the Ministry of Justice or the Ministry of the Interior for subsequent actions including even prosecutions. The ombudsman's office, or more often the President's Office or the Cabinet Secretariat could control the records, but national archives were also destined to host them. It is a likely scenario that commission archives are kept by the United Nations, or the commission itself still owns the files. However, in several countries these archives are not possible to find.

Democratic societies provide the strong impetus to give access to information, yet archives of human rights violations are considered of fundamental importance as well to countries in the process of transition to democracy. We can undoubtedly state that the archives of former repressive regimes do offer legal evidence for human rights violations; they are a crucial source of information for families of victims, and they also provide historical data for researchers. But the biggest fear of an archivist is the preservation of extremely sensitive information, and sometimes potentially dangerous records, because it requires careful management and professional knowledge. The post-communist political regimes have greatly instrumentalised the issue of secret police files for almost two decades: both providing or hindering access to secret police files can lead to controversial outcomes, as we could see exemplified by the Stasi files or the Hungarian State Security Archive. The conflict between privacy issues and the right to information situates archival institutions and professionals at the cross-roads of thought and action. These debates challenge the traditional gatekeeping role of archives towards historical holdings, and make archives evolve and redefine themselves.

There is strong competition nowadays in the field of human rights archiving. Emerging human rights archives and documentation centers are usually new developments on the international scene, and the role of human rights archivists hardly has a decade-long history. Their collection policy endeavours to serve the community of human rights activists and practitioners, educators and scholars who nurture a broad



Autopsy: Body #1, innominate injury (Žepa) June 10, 1999. Photo: Heather York/Physicians for Human Rights. HU OSA 386 Records of the Physicians for Human Rights> Bosnia Projects

discourse in society. Just as important, these non-governmental, non-profit organizations, often affiliated with universities like the Duke Center for Human Rights or the Center for Human

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Rights and Documentation at Columbia University, among several archives, play the role of mediators to convey specific messages to future generations. Teaching human rights is part of their mandate, thus, this effort brings to light the tension between the presumptive truth and its particularities of place and time. Human rights archivists are also educators, and their job is not limited to the study of evolving of human rights norms through history. It focuses also on trends and activities of the advocacy work and the dynamic engagement into these activities.

The same complex nature of human rights activism – from litigation, lobbying, protesting, policy and program development to monitoring projects – gears human rights archives and documentation centers towards embracing cutting edge technology so

lutions, new methods of acquisition and archival processing, and addressing problems relating to the authenticity and integrity of digital records. The human rights documentation per se can involve video- or audio-recording of abuses, recording of testimony or witnessing, media monitoring, the production and collection of field notes, field reports, the long-term preservation of quantitative and qualitative data sets, and the recording of any event related to human rights from demonstrations to judicial hearings. Recognizing the need for accurate and systematic data collection, in the mid-90s the now called War Crime Database Project at the University of Zagreb Faculty of Law has set the precedent of collecting millions of scanned newspaper clippings from the Croatian and former Yugoslav press to document the history of the Yugoslav War. Thorough indexing, advanced OCR and the robust search functions support the textual analysis of media coverage, and these results are heavily used for the work of ICTY<sup>3</sup>. Another innovative deployment of technology is the way how Benetech, a social enterprise, takes tens of thousands of

3 The International Criminal Tribunal for the former Yugoslavia (ICTY) is a United Nations court of law dealing with war crimes that took place during the conflicts in the Balkans in the 1990's.



stories from individuals and communities that suffer and systematically turns them into analysis that strengthens the arguments made by human rights defenders. The collection and collation of data combined with large-scale analysis can prove that many cases of mass violence are not isolated incidents, but rather planned and systematically executed policy. With many cases, Benetech helped the UN Commission for Historical Clarification prove that genocide was committed against the indigenous population in Guatemala. It is also worth emphasizing that Witness is not only a documentation center per se, it spreads best practices on video advocacy by underpinning the importance of good archiving. The latter is known to all archival experts, but collection, curation and management of audio-visual documentation on human rights cases pose particular challenges for activists and archivists alike.

Ultimately, we need to mention how shaky the terrain of the increased use of digital information for legal purposes actually is. We may not define here what legal digital evidence means

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in the context of combatting impunity, but both advocacy organisations and archives, as custodians of human rights holdings, should be able to preserve and maintain the level of integrity for such materials. Meanwhile historians, scholars are likely to explore questions of why certain events happened, for perpetrators the reason can be as important as knowing precisely what happened.

One thing is sure: the struggle for a fair and egalitarian world will con-

tinue. However, stories like David Rhode's make us keep our expectations within reason, and we should also realize that access to information, especially to state-owned information, remains in the heart of the future fight. Human rights archives, repositories – historical and emerging ones – can serve as source of expertise and chan-

nels for extended access which can help society understand and acknowledge a contested or denied history, and bring the voices and stories of victims, often hidden from public view, to the public at large.

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## ABSTRACT

### *What happened to David Rhode?*

Das Buch des in Afghanistan getöteten Journalisten David Rhode über das Genozid in Srebrenica, das sich auch auf die «Oral history» von vielen am Konflikt Beteiligten stützt, hat die Wichtigkeit der Aufzeichnungen von Menschenrechtsverletzungen gezeigt. Hat sich der Schutz der Menschenrechte im 20. Jahrhundert weiterentwickelt, so haben die Archive, die diese Menschenrechtsverletzungen juristisch belegen können, noch nicht einen angemessenen Schutz erfahren. Oft stehen sich die Interessen des Schutzes der Privatsphäre und das Recht auf Information bei politisch sensiblen Informationen gegenüber. Diese Archive werden gerade von Menschenrechtsorganisationen, die mit Universitäten zusammenarbeiten, mit neuester elektronischer Technologie gesichert, damit die Sicherstellung genauer und vollständiger Daten garantiert werden kann. Dies dient nicht nur den Historikern, sondern auch den Juristen, obwohl elektronische Beweismittel für die Anklage von Menschenrechtsverletzungen noch auf einer unsicheren Rechtsgrundlage beruhen. Das Buch von David Rhode hat bewiesen, wie wichtig der Kampf um das Recht auf Information aus staatlichen Quellen für die weitere Zukunft ist.

## ABSTRACT

### *Qu'est-ce qui est arrivé à David Rhode?*

Le livre sur le génocide de Srebrenica du journaliste tué en Afghanistan David Rhode, qui s'appuie sur les récits des différentes parties du conflit, a souligné l'importance des enregistrements des cas de violation des droits de l'homme. Si la protection des droits humains s'est développée au XX<sup>e</sup> siècle, les archives ont pu prouver juridiquement que ces droits n'étaient pas encore suffisamment protégés. Il n'est pas rare que les intérêts de la protection de la sphère privée soient en opposition au droit à l'information pour des raisons politiquement sensibles. Ces archives sont sauvegardées à l'aide des dernières technologies électroniques par les organisations des droits de l'homme qui collaborent avec les universités, afin de garantir une préservation complète et exacte de toutes les données. Elles ne sont pas utiles aux seuls historiens, mais aussi aux juristes, même si des preuves électroniques ne sont pas encore des bases juridiques suffisantes pour des plaintes en violation des droits de l'homme. Le livre de David Rhode a démontré combien le combat pour le droit à l'information à partir des sources de l'Etat était important pour l'avenir.