

Article

Archives Without Archives:

(Re)Locating and (Re)Defining the Archive Through Post-Custodial Praxis

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ABSTRACT

The post-custodial paradigm allows archives to be re-positioned from institutional custodians of archival records to stewards of records in their places of creation or use. Through this dislocation from traditional practice, post-custodial praxis democratizes the power dynamic of archives by decoupling the value of archival records from dependence on the archival repository, and prioritizing the context of records creation over records content. The post-custodial paradigm disaggregates archives praxis from physical custody of records and (re)locates the work of the archivist to be neither only the institutional repository nor the site of records creation, but rather a third space that crosses borders between the two and can function in both but belongs wholly to neither. This article discusses how locations of power and agency can be (re)positioned by post-custodial archives theory and praxis within a case study of the University of Texas Libraries' Human Rights Documentation Initiative.

Kelleher, Christian. "Archives Without Archives: (Re)Locating and (Re)Defining the Archive Through Post-Custodial Praxis," in "Critical Archival Studies," eds. Michelle Caswell, Ricardo Punzalan, and T-Kay Sangwand. Special issue, *Journal of Critical Library and Information Studies* 1, no.2 (2017). DOI: [10.24242/jclis.v1i2.29](https://doi.org/10.24242/jclis.v1i2.29).

ISSN: 2572-1364

Social power is today more than ever mediated by power over things. The more intense an individual's concern with power over things, the more will things dominate him.

– Max Horkheimer¹

INTRODUCTION

Inspired by the 2007 conference “Human Rights Archives and Documentation: Meeting the Needs of Research, Teaching, Advocacy, and Social Justice” held at Columbia University and co-sponsored with the Center for Research Libraries, the University of Texas Libraries established its Human Rights Documentation Initiative to preserve and provide access to records of human rights conflicts both locally and globally.² The initiative’s grant funding organization urgently connected UT Libraries (UTL) to a Rwandan non-profit working to document and educate the public about that country’s 1994 genocide. UTL immediately found itself confronting very practical acquisition and access conditions atypical for an academic manuscript repository. Not only did it face pragmatic challenges of documentation created in a developing country half way around the world, but also an extraordinary imperative for active ethical decision-making with an engaged activist organization and a community still coming to terms with the living legacy of its horrific history.

In this article, I will examine the functional and ethical challenges that UTL faced when it undertook its international human rights documentation program, and the post-custodial model that was adopted to address those challenges. Next, I will look beyond the specific, pragmatic rationale that led UTL to post-custodialism for its human rights documentation initiative to scrutinize the post-custodial model through the lens of Critical Theory. I will consider how post-custodial praxis (re)balances power, and (re)defines and (re)locates the archival enterprise by further engaging and representing communities of records creators and users to diversify and democratize the historical record. Practical necessity, though informed by theory, originally drove UTL’s work. A deeper understanding and refinement of the project through theoretical (re)examination came later.³

¹ Max Horkheimer, *Eclipse of Reason* (New York: Oxford University Press, 1947).

² Fred Heath, et al, “Confronting Challenges of Documentation in the Digital World: The Human Rights Documentation Initiative at the University of Texas,” in *Transforming Research Libraries for the Global Knowledge Society*, ed. Barbara Dewey (Oxford: Chandos Publishing, 2010); and Christian Kelleher, et al., “The Human Rights Documentation Initiative at the University of Texas Libraries,” *New Review of Information Networking* 15 (2010).

³ In this article, I will occasionally use the convention of placing the prefix “re” in parentheses indicating the active and reflexive use of the following verb. So, for example, “(re)balance

IN PRACTICE: THE HUMAN RIGHTS DOCUMENTATION INITIATIVE

UTL's Human Rights Documentation Initiative (HRDI) launched in 2008 with a collaborative partnership with the Kigali Genocide Memorial Center in Rwanda. Subsequent projects followed in Southeast Asia documenting the conflicts in Burma (Myanmar), in Central America with collections of documents from the civil wars in El Salvador and Guatemala, and with oral history testimonies and documentation on the local impact of the death penalty in Texas. As originally conceived, HRDI was to be a traditional custodial archives project. UTL aimed to identify important collections of human rights documentation relevant to the teaching, learning, scholarship, and activism happening on campuses in the U.S., and bring that documentation to UT where it would be preserved, cataloged, digitized, and made accessible. The HRDI mission was primarily scholarly, but also humanitarian in a broad sense; by preserving the documentation of human rights conflicts and making it available to current and future generations of scholars, UTL would engage students and researchers locally and globally, and enable activists to use documentation in pursuit of education, scholarship, memory, and justice.

Quickly within the first year of operation, UTL recognized that the traditional custodial assumption of the project would significantly limit the availability of documentary resources. Holders of records most relevant for current research, or potential partner organizations created documentation not to file away in an archive, but to actively support their own ongoing programs. Organizations and individuals recognized that documentation had historical and research value, but it also represented immediate operational, symbolic, evidential, legal, political, memorial, and other values that would be lost or diminished if the original records were transferred away from their organization—or worse, out of the country. The records creators or local repositories that were to become UTL's partner organizations acknowledged the benefits of working with UTL, which had technical knowledge and infrastructure and funding resources that they lacked locally. But at the same time, the records remained central to the partners' identities, relevance, and effectiveness as human rights organizations, and to their relationships of trust and engagement within their community. They were unwilling to give that up, and UTL archivists did not want to insist. Additionally, partners were sometimes ambivalent to the relevance of UTL's mission and goals, or even mistrustful of an organization that represented a country or

power” means to balance and rebalance, to change not only the balance of power, how power is balanced, but also the process through which power is balanced.

power structure that had either been implicated in the causes of their human rights conflict, or failed to intervene to stop it. These partners' dilemmas echoed what Andrew Flinn et al. had found in research on independent community archives in Britain where communities were alert to the value of partnerships with mainstream archival organizations, but desired to "retain their autonomy and independence in any relationship and participate in partnerships and project work very much on their own terms."⁴

For the very practical necessity of finding a documentation and partnership model that was equitable and sustainable, UTL had to (re)evaluate its assumptions and project plan. UTL archivists searched for an alternative model that would enable it to attain HRDI's goals to support teaching, learning, research, and activism while at least not interfering with—and preferably strengthening—the various missions and goals of partner organizations. The post-custodial archives paradigm as expressed by F. Gerald Ham provided just such a model. Ham wrote,

During the custodial era, the mass of records we contended with was relatively small; the technology of records creation, storage, and retrieval was fairly simple; and we assumed a passive role in shaping the documentary record. Concern with the uniqueness of the material in our care, and the normal expectations of our custodial role, tended to make us uncommonly introspective, preoccupied with our own gardens, and too little aware of the larger historical and social landscape that surrounded us. Our introspective proclivity has isolated us from one another and fragmented our work, obscuring the advantages of cooperation and shared ideas. Our custodial ethos also has made us excessively proprietary toward our holdings, and, though technology for resource sharing has long been available, this attitude has hindered our enjoyment of its benefits.⁵

As early in the project as UTL's inaugural visit to Rwanda to establish the as-yet unformalized relationship, the Rwandans made clear the heavy significance of their documentation for the local community. They also expressed wariness toward the Western academy that had a history and reputation for exploiting such projects for its own research ends with no benefit to those in the local community doing the documentation or to those who are documented. Ethical practice was the primary

⁴ Andrew Flinn, Mary Stevens, and Elizabeth Shepherd, "Whose Memories, Whose Archives? Independent Community Archives, Autonomy and the Mainstream," *Archival Science* 9 (2009), 80.

⁵ F. Gerald Ham, "Archival Strategies for the Post-Custodial Era," *American Archivist* 44 (1981), 207.

concern for all involved. In an archives profession long driven by refinements of standards and practices, the specific circumstances of HRDI's partnerships that dealt directly and profoundly with victims and survivors of human rights violations, and actors and activists in human rights conflicts, called UTL leadership to critically examine their professional assumptions in the sharp light of unequal local and global power structures. With its documentation project, UTL became engaged in a human rights arena that was acutely political, cultural, developmental, and economic, and that required a vigorous focus on ethical action. Critical theorists Max Horkheimer, Theodor Adorno, and others in the Frankfurt School stressed the "necessity of active, self-conscious intervention" and recognized that positivist social science methodologies are insufficient justifications for action in circumstances such as UTL's engagement in Rwanda—that "ethics should be employed when making decisions."⁶ Such critical (re)consideration "moves beyond explanation to a moral and ethical critique of the design, development, implementation and impacts" of archival practice.⁷ By directly confronting a series of ethical issues presented by its human rights documentation projects, UTL was challenged to reflect on its professional assumptions and common practice on an additional conceptual level, to reevaluate theory and praxis of the academic manuscript repository. At its core, the goal of the academic repository is to support teaching, learning, and original research. The rare, unique, and primary resources of the repository and its work in appraisal, preservation, arrangement, and description provide the foundation for critical and creative study that promotes the creation of new knowledge and understanding of society, culture, and history. Environments of records creation and use are constantly evolving, and repositories must react actively and directly, as well as structurally to remain relevant and engaged with creators and users of archives.

UTL's human rights projects varied greatly according to each partner's goals and resources for records creation, preservation, description, access, and use. Digitization or management of born digital records—Ham's "technology for resource sharing," useful for both access and preservation—was a desired strategy central to all partnerships. In some cases, the partner either was an archival repository or desired to become an archival repository, and UTL consulted, trained, and provided supplies and equipment to steward the records locally. With records preserved and described, UTL was able to get negotiated, non-exclusive access in support of its goals for teaching, learning, and research support.

⁶ David Held, *Introduction to Critical Theory: Horkheimer to Habermas* (Berkeley: University of California Press, 1980), 43.

⁷ Joanne Evans, Sue McKemish, Elizabeth Daniels, and Gavan McCarthy, "Self-determination and Archival Autonomy: Advocating Activism," *Archival Science* 15 (2015), 340.

In other cases, the partner did not want to take on an archival role itself. The partner recognized that the unique records it had created could, with proper treatment, be put to better use for the organization's human rights agenda, and be safeguarded from catastrophic loss due to difficult environmental or more importantly insecure political conditions. In those cases, UTL digitized documentation for preservation and designed improved access mechanisms for the partner organization, which maintained complete control over their documentation. UTL either provided or helped arrange digital back-up to secure the records, but did not insist on its own access or use. Joint stewardship and continuing dialogue between UTL and partners helped toward the immediate goals of the human rights organization; the long-term preservation of documents for evidence, memory, and historical clarity; and when appropriate—on no set timeline—eventual access by UTL and others for research and scholarship, access that otherwise may never have been possible. Custody of records at UTL was never a condition of collaboration.

Ethics in Action

UTL recognized that a documentation initiative like its human rights project would be charged with acute cultural, emotional, and political significance that called for deep understanding and evaluation of the ethics involved. As a result, UTL archivists resolved to look beyond the archival literature for insight into the ethics of working with communities and individuals that have suffered cultural, emotional, physical and political trauma, loss of agency, and dislocation from human rights violations.⁸ One important resource in this critical examination was the volume *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, edited by Daniel Bell and Jean-Marc Coicaud.⁹ Beginning in 2002, the United Nations University (UNU) and the City University of Hong Kong sponsored an extended dialogue on human rights between high-level representatives of international human rights nongovernmental organizations and prominent scholars and researchers from different backgrounds and disciplines engaging in the area of human rights. The dialogue, published in *Ethics in Action*, was conceived, "to see what kinds of questions and problems emerge when one thinks of human rights from the perspective of people or organizations that have to make choices about how best to promote rights in concrete

⁸ Christian Kelleher, "Catching Up: Human Rights Archives and Ethics through the Lens of the University of Texas Libraries' Human Rights Documentation Initiative," (paper presented at *The Antonym of Forgetting: Global Perspectives on Human Rights Archives* conference, Los Angeles, California, October 18, 2013).

⁹ Daniel A. Bell and Jean-Marc Coicaud, eds., *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations* (New York: Cambridge University Press, 2006).

contexts rather than simply from the perspective of abstract theory or even general policy recommendations.”¹⁰ These discussions of real-world human rights practitioners reflected the awareness shared by UTL that their decisions would have repercussions not only for their own limited academic activities and for local partner organizations, but more broadly for the communities with whom they were working. Participants, practitioners, and theorists in the UNU series of meetings identified a number of ethical challenges that Bell categorized under headings of “Unequal Power,” “Dealing with Governments,” and “Dealing with Global Poverty.”¹¹ The ethical dilemmas themselves didn’t always fall neatly into any single one of these categories, but were often cross-cutting. These challenges included: competition for resources with Global North and Global South¹² organizations vying for limited funding; the concept of “pornography of poverty” that can arise within this quest for funding and recognition; “conflicting desiderata” of Global North organizations with funds driving an agenda sometimes in conflict with expressed interests and cultural norms of local Global South populations; the dilemma of working with “less-than-democratic” governments; limitations imposed by the language of human rights; the prioritization of civil and political rights over economic, social, and cultural rights; and the cost effectiveness of outcomes.

The result of the UNU dialogue, in keeping with the tradition of Critical Theory, was not a set of normative guidelines—indeed, the participating human rights organizations often resolved these dilemmas with very different, even diametrically opposed approaches—but rather a hope that by actively recognizing and engaging these ethical challenges, the Global North organizations would be able to make better informed program decisions. This call echoes that made in a different venue by Randall Jimerson when he charged archivists to consider “professional values within an ethical

¹⁰ David A. Bell, “Introduction: Reflections on Dialogues between Practitioners and Theorists of Human Rights” in *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, eds. Bell and Coicaud (New York: Cambridge University Press, 2006), 2.

¹¹ Bell, “Introduction.”

¹² Terminology describing global power inequities varies greatly. Bell and Coicaud use “Global North” and “Global South,” which has been adopted here, but others have used “developed world” and “developing world,” “First World” and “Third World” and other terms. One very interesting option that unfortunately could not be used here because it would cause more confusion than it might be worth is Shahidul Alam’s use of “minority world” to describe the Global North and “majority world” to describe the Global South, highlighting not racial categories but rather the fact that the majority of the world’s population lives in the Global South. See Dave Hudson, “Unpacking ‘Information Inequality’: Toward a Critical Discourse in Library and Information Science,” *Canadian Journal of Information and Library Science* 36 (2012), 71.

context that accepts the inevitably political implications of archival endeavors,”¹³ through a process of continual reflection, examination, and questioning of the actions of archivists and archival repositories. The UNU symposium’s list of ethical challenges, while including some that were familiar from an archival perspective, presented more that were not the typical documentation-focused challenges most frequently addressed within the archives community. These important differences—not only in vocabulary and access for documents, but in power and context of records creators, repositories, and users—called on UTL project leadership to think critically and creatively about its assumptions, relationships, and processes for the documentation project.

The ethical challenge of unequal power structures is fundamental to critical evaluation of a human rights archives project because human rights conflicts and human rights organizations themselves often arise from and are undertaken on the basis of disparate power dynamics. Historically, the 1994 Genocide against the Tutsi in Rwanda, for example, had strong roots in early 20th century European colonial policies that formalized and manipulated historical categories of class and ethnicity. In the decades of physical, social, and economic violence leading up to the Genocide, and during the 100 days when hundreds of thousands of Tutsis were murdered, power structures both inside Rwanda and internationally either enabled or failed to put an end to the atrocities.

UTL, as a Global North organization, recognized that it held significant socioeconomic advantages on Global South counterparts as the result of availability of resources, including funds, formal educational opportunities, technical infrastructure, and perceived standing with funders, governments, and other authorities. Such inequality of power must be a conscious consideration in all negotiations between collaborative partners regarding acquisition of collection materials, applications for grant funding, or approaches to donors for material support, so that the advantaged Global North institution does not further abuse or reduce the agency of disadvantaged Global South colleagues. All partners should instead acknowledge and promote agency in each other. In a documentation project, the documentation itself is a significant center of power in the relationship between the two parties. The process of removing documents from the custody or control of one organization to place into that of another represents a meaningful material and symbolic transfer of power that must be acknowledged and evaluated for impact and benefit. As the advantaged institution, UTL needed to explicitly recognize any unequal power balance between itself and its human rights partners so that awareness could inform how and what decisions would be made within partnerships. The post-custodial paradigm that UTL worked within was a

¹³ Randall C. Jimerson, *Archives Power: Memory, Accountability, and Social Justice*. (Chicago: Society of American Archivists, 2009), 22.

deliberate attempt to (re)balance the power equation—or at least to avoid further unbalancing it to begin with.

One way that disparate power can be abused is expressed in the concept of “pornography of poverty.” In the quest for support or validation in the Global North it may happen that the plight of the human rights victim can be spotlighted or sensationalized, very often without the informed consent of, or benefit to the spotlighted individual or group. This is the dilemma illustrated on the front cover image of the *Ethics in Action* book that pictures Western journalists swarming to capture the most moving photograph of starving African children. In that case, the photojournalists will earn a paycheck and perhaps renown or recognition among colleagues for the quality and significance of their work, while the often-nameless individual in the photograph may remain in the same condition of desperation, photograph or no photograph. Archivists and scholars risk the same abusive activity if documentation projects and research studies benefit their professional careers or institutions and scholars using their collections with no direct benefit to the individuals, organizations, or communities documented.¹⁴ Is it enough to raise awareness of the personal plight of individuals or political conditions of human rights conflicts when the archivist is getting direct benefit but the individual or group documented is not? Critical ethical practice called for UTL to understand the context of the documentation and to empathize with the documented individuals and communities, to explore strategies through equal power partnerships to increase agency in what might otherwise become an exploitative circumstance.

UTL struggled particularly with representation and use of images of human rights victims and survivors in the library’s own material. Photographs of victims are powerful images, and UTL has used them on its HRDI web page—with permission from partner organizations, but without direct discussion with those victims’ surviving family members, if any such still live. Graphic testimonies of crimes and suffering speak to the

¹⁴ This is an ethical dilemma that I recognize for myself in writing this paper. Publication will directly benefit my career as an academic archivist, but it will not directly benefit the communities discussed. I asked myself if I should write it at all, with whom, and how? One of the choices that I made in an attempt to recognize the agency of project partners, for what it is worth, was to present very limited detail in case study examples—to not speak for the partners. Though it may be frustrating to the reader to not get full details, I reasoned that if those stories are to be told, they should be told by the partner organizations who made decisions for their own purposes. Though I am no longer formally involved with UTL, I remain engaged with at least some of our partner organizations and communities. This is another, more personal outcome of the post-custodial paradigm: Care for custodial archives is particular to an institutional role and can be more easily left behind when the archivist moves affiliation; but a post-custodial stewardship commitment can transcend affiliation and persist indefinitely.

deep significance of oral histories collected by partners in their communities. UTL archivists have used them to demonstrate the research value of records made available through the project. But though the images and testimonies may be openly available online, UTL still wrestled with the ethics of such use. And ultimately UTL behaviors changed to use such material less frequently, though not to stop completely.

One strategy that UTL employed in collaboration with project partners to address challenges of agency, differential access to resources, and the most direct application of benefit was very deliberate transactional use of project funding. Rather than assume transfer of documentation to UTL—either through donation or purchase—as required under the custodial paradigm, UTL instead helped to arrange and purchased negotiated access to documentation that remained in the custody or control of the partner organization. Project funds were put toward the arrangement, description, preservation, and digitization of documentation, just as they would have been if the archival materials were at UTL. But the investments were made not in Texas, but locally with the partner organizations. In this way, the partner organizations and in some cases communities were able to build infrastructure and skills in digitization, metadata, software development, and preservation appropriate to the context of their organizational goals and uses of the documentation. And in two cases at least, the human rights organization developed significant local expertise that served them well beyond their partnership with UTL. Additionally, rather than acquire the original records themselves—as called for under the custodial paradigm—UTL sometimes purchased digitized copies of documentation or gained non-exclusive access to documentation as they and partners made it available online. Though somewhat unusual for a custodial archival repository, this system was very familiar and comfortable for UTL as an academic library that annually spent hundreds of thousands of dollars for access to databases. Partner organizations, with funds earned in this manner, could and did hire and train, or otherwise provide direct humanitarian aid to individuals documented in the records, so at least some saw benefit from participation in the project.

A third dilemma is “conflicting desiderata” of Northern organizations with disparate power driving an agenda that may be in conflict with expressed interests and cultural norms of local communities that created or are documented in an archival collection. When an international organization works in partnership or competition with a local organization, group, or even individual, who sets the agenda? The Global North institution may assume that its “enlightened,” liberal, positivist values, practices, and technical standards apply equally for other populations. And the disempowered Global South partner, accustomed to the dominating ideology of the Global North, may defer to that assumption. American and European-derived archival standards, practices, and assumptions may be prescriptive and inflexible when confronting cultural circumstances and purposes different from those they were originally intended for. The rationales of the Global North and implications for the Global South of appraisal, acquisition, arrangement and description of archives to Western standards, or providing access with

Western freedoms in mind, need to be explicitly considered, or they may be implicitly adopted as a result of unequal power structures. Bonny Ibhawoh observed in *Ethics in Action* that international nongovernmental organizations “have been unable or unwilling to go beyond their Western liberal roots to draw on eclectic Third World perspectives in formulating their agendas and methodologies.”¹⁵ Again, critical ethical practice called for UTL to reconsider its own desiderata so they weren’t assumed to be shared, and to collaboratively create North-South partnerships in which the desiderata of all partners were freely developed, expressed, and valued in order to manage conflicts.

The participatory aspect of the UTL’s post-custodial model meant that multiple desiderata were expressed by all collaborators. And the control maintained by partners through custody of their records meant that their desiderata could be prioritized in any cases where conflicts occurred. For example, UTL may have desired that project funds be used to translate and transcribe oral history testimonies to make them more accessible for international scholars. But local communities may prefer funds be used to engage more community members to create new testimonies in the local language accessible for them. A community with a strong oral tradition may see less value in written transcripts, and prioritize additional recording over translating and transcribing testimonies to make them more open to Global North researchers, who are more likely to have other resources readily available for those purposes. By prioritizing the partner community desiderata, testimonies could be created and presented in the best way to achieve the educational, justice, and reconciliation goals of the local community. And arguably, by facilitating more creation of records directed by the local community, scholars will have a better—if somewhat more challenging to access—universe of records for their own understanding.

The possibility of conflicting desiderata for the open accessibility of records was something for which UTL was prepared. The library expected that local partners would have serious concerns for privacy, security, and cultural integrity, which they shared. Ultimately, the accessibility of documentation was wholly determined by project partners, and ran from completely dark and inaccessible to, in one instance, wide open even beyond UTL’s level of comfort.

Ethical challenges of South-North partnerships include not only how such collaborations occur, but also with whom and when. In the human rights or humanitarian realms this can mean a dilemma of whether or not to work with “less than democratic” governments or organizations that do not represent liberal Western

¹⁵ Bonny Ibhawoh, “Human Rights INGOs, the North-South Gap: The Challenge of Normative and Empirical Learning,” in *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, eds. Bell and Coicaud (New York: Cambridge University Press, 2007), 80.

ideologies. Nations are not often engaged in ongoing human rights conflicts--or do not immediately come out the other side of human rights crises—with open, liberal democratic governments. Yet these governments that may themselves be implicated in human rights violations are often the organ that defines and enforces human rights locally. And such governments may also be very significant documentation repositories. A documentation project that works only with a post-conflict focus on preserving the records of repressive regimes after they have left power, or on documenting the stories of victims, while valuable, may fail to preserve and gain timely access to important primary sources, or to understand or represent the full context of the events documented. UTL needed to consider the political implications of its partnerships and the value of those partnerships to goals of historical clarity¹⁶, completeness, and complexity of the documentary record, and the legal, administrative, and evidential demands that their collaborative programs could support.

Again, the power dynamics of the post-custodial model meant that local partner organizations were more engaged and directive in decision-making regarding whether or not to work with less than democratic government organizations. Generally, when it was considered at all, the result was the project, led by local partners, did engage such governments, even at times when UTL was resistant. UTL very much hesitated to be seen to give any sort of legitimacy—or indeed, power—to such governments by working on their terms to manage documentation and gain only limited, negotiated access. NGO partners, on the other hand, saw the unique value and significance of records held by the government. If the government opened the door even a crack, as one partner expressed it, they needed to put their foot in it. Their partnership with the University of Texas might be strategically leveraged to open that door just a little bit. For its part, UTL had to be very careful and considered in its action, but saw equal to project partners how such work might have very important results.

Finally, questions of ontology or how the concept of human rights is fundamentally understood and described may raise ethical challenges because of limitations imposed by the language of differing human rights agendas. The Global North may prioritize civil and political rights over the economic, social, and cultural rights that may be prioritized by the Global South population. A Global North archival institution may define human rights in terms of “genocide, mass incarceration, and other crimes against humanity”¹⁷ while the focus of the Global South partner may be on

¹⁶ Rwandan president Paul Kagame turned the phrase “historical clarity” in his address in the Amahoro National Stadium in Kigali, Rwanda on the occasion of the 20th commemoration of the 1994 Genocide. See Paul Kagame, “20th Commemoration of Genocide Against the Tutsi,” Kigali, 7 April 2014 <http://www.paulkagame.com/index.php/speeches/national-events/1331-20th-commemoration-of-genocide-against-the-tutsi>

¹⁷ *The Antonym of Forgetting: Global Perspectives on Human Rights Archives* conference, Los Angeles, October 18-19, 2013 highlighted “widespread and systematic human rights abuse,

less sensational rights of food, shelter, education, or expression. A documentation project that defines and describes itself using only Global North concepts will be less relevant and less reflective of the reality and context of human rights conflict than one that substantially integrates the Global South ontology. Antonio González Quintana recognized this in a report on archival policies and human rights for the International Council on Archives that described four types of archives as fundamental to documentation of human rights conflicts: those of repressive regimes, civil society, institutions created after the fall of regimes, and general public archives.¹⁸ Only one of those types of archives is expressly post-conflict, and none of them is necessarily or specifically a human rights organization in the Global North definition. UTL needed to be responsive to a broader definition of human rights than was common in the Global North canon to represent not only Western civil and political research expectations but also the economic, social, and cultural context relevant to the Global South communities. The close, participatory nature of UTL's Human Rights Documentation Initiative, particularly in appraisal based on provenance, caused it to be receptive to different ontologies and different aspects of human rights and documentation that greatly benefited the library. New types of records, and new ways to consider records, as created and identified by project partners and expressed in locally-generated vocabularies, significantly improved archivists' understanding of the documentation, and opened new avenues for research. Language was consequential. In one memorable example, partner organization staff fluent in both the local language and English debated how to translate numerous index terms into English. The vocabulary that results from such discussions, only possible for UTL because the project was participatory in design, was more relevant, appropriate, and creative than either partner would have been able to do on its own.

Like the authors of *Ethics in Action*, UTL acknowledged its efforts to meet the ethical dilemmas of its Human Rights Documentation Initiative were imperfect and inadequate to overwhelming challenges. But in dialogue with project partners, through critical (re)conceptualization of traditional, custodial archival practice and

including genocide, mass incarceration, and other crimes against humanity.”

<https://uclahumanrightsarchives.wordpress.com/> A good conference that was a venue for a variety of critical and diverse human rights and archives presentations, it nonetheless demonstrates the point.

¹⁸ Antonio González Quintana, *Archival Policies in the Protection of Human Rights*, (Paris: International Council on Archives, 2009).

(re)consideration of records in their context of creation and use, UTL improved its attempt at ethical action, and arguably the quality of the resulting archival initiative.

Post-custodial Praxis

By disaggregating archives from custody of records, the post-custodial paradigm liberated archives praxis from a life-cycle focus on the archives as depository, and opened it to the more extensive contexts of the records continuum. Post-custodialism has been written about elsewhere,¹⁹ though examination of practice is less common than theory, and has been most often considered within the framework of government archives rather than a manuscript repository setting. Manuscript repositories, including academic collections like UTL's, arguably may be even more strongly tied to custody than archives repositories, because the manuscript repository's identity is highly dependent on the uniqueness of its holdings acquired from outside the institution rather than transferred from within. While a post-custodial implementation in a government archives setting might mean that the archives department does not take physical control of records maintained elsewhere in the same institution, in a manuscript repository such implementation might mean not only post-custodial but a non-custodial arrangement where physical records are in the custody—under ownership and control—of an institution completely separate from the manuscript repository.²⁰ In such an arrangement the manuscript repository has only limited, negotiated rights of access and use of the archival records.

Such a system significantly relocates and reorients concepts of power and value for archives. In the case of UTL's HRDI, it enabled that power and value to be (re)negotiated to address ethical dilemmas. The post-custodial—and many times non-custodial—implementation meant that documentation didn't change custody or ownership, so power embodied in the documentation remained with its creator. Control of the documentation meant that the partner organizations were able to direct representation of the archives to localize benefits and avoid or limit the "pornography

¹⁹ Terry Cook's work provides some of the most well-considered theorizing of the post-custodial paradigm: Terry Cook, "Electronic Records, Paper Minds: The Revolution in Information Management and Archives in Post-Custodial and Post-Modern Era," *Archives & Social Studies* 1 (2007), and Terry Cook, "What is Past is Prologue: A History of Archival Ideas Since 1898, and the Future Paradigm Shift," *Archivaria* 43 (1992).

²⁰ The UTL implementation model previously has been described as "post-custodial" (even by this author), but perhaps "non-custodial" is more applicable to the practical implementation and "post-custodial" to the overarching paradigm. "Non-custodial" archives—archival documentation in which an archival institution may have a stewardship role but not an ownership role—have received very little attention in the literature, perhaps reflective of how closely tied archives are with custody, even in a post-custodial era.

of poverty”; to prioritize local desiderata in events where they conflicted with UTL’s; to leverage power in nominating documentary holdings and negotiating local political relationships; to define ontology based on local social, cultural, and political modes of knowledge and understanding that were most relevant to and reflective of communities directly implicated in the documentation; and to arbitrate work plans and budgets in favor of local priorities.

For UTL’s part, the archive gained access and influence—albeit negotiated access and influence—to documentary records that would otherwise have remained inaccessible, and was able to garner those records in support of its goals of teaching, learning, research, and activism. In trade for physical custody, UTL gained unprecedented levels of context for the archives in the form of working relationships with documenters and documented. UTL actively engaged with those communities to broaden all parties’ understanding of the processes of records creation and use all along the records continuum. Arrangement and description of the documentation, done collaboratively by both Western-trained UTL archivists and local staff trained either formally, informally, or not at all, benefitted from intense and varied knowledge of content and use. This enriched understanding of the meanings and purposes of the records, and further influenced both use of existing documentation and creation of new documentation. By engaging with the documenters and the documented—with records in context—UTL was better able to build conscientious awareness of the records it was gaining access to and influence on within the larger universe of human rights conflict and documentation. Arrangement, description, and preservation of documentation done locally and informed by UTL professional experience made records discoverable, and rigorous digitization projects made much documentation widely available for use. And arguably, the respect and humility evidenced by UTL’s work plan opened doors to documentation that would have otherwise remained securely sealed away from it. The disaggregation of archives and custody (re)focused UTL’s work away from documents and onto the larger surrounding historical and social landscape in which human rights documentation is created and used. And importantly, post-custodial praxis provided a framework within which UTL could attempt to address its critical ethical dilemmas.

IN THEORY:

CRITICAL ANALYSIS, POST-CUSTODIALISM, PROVENANCE, AND OWNERSHIP

Critical Theory aims to reveal the historical foundations of the dominant paradigm and serve as a brake on the rationality that historically undergirded the Enlightenment and the Industrial Revolution as expressed through empiricism and positivism. In that spirit, the post-custodial, participatory model described above was implemented by UTL as a practical way to address empirical and positivist conditions of

unequal power, institutional mistrust, access and preservation. The post-custodial paradigm is supported on a more epistemological level when traditional custodial praxis—at least in Western archival tradition—is (re)considered through the lens of Critical Theory, which adds yet a deeper understanding to the role of custody and ownership in unequal power relationships involving archival documentation. Critical Theory especially challenges the liberal ideal of the archive that informs work in the areas of social justice and documenting marginalized or excluded communities.

Power in archives is a topic that has been well-considered in the archival literature,²¹ but an examination of custody and archives power relationships that applies Critical Theory can refine our understanding of how that power is derived and manifested by challenging what archivists “know” to be true about their professional organizations and practices. Horkheimer and others in the Frankfurt School aimed especially to confront the dominant discourse of the status quo power structure not only to “understand the various facts in their historical development...but also to see through the notion of fact itself, in its development and therefore in its relativity.”²²

The Frankfurt School was critical of positivist approaches to the social sciences, especially positivism’s ethical association with the idea of “the greatest good,” and that social sciences could develop generalizable, rigid, rational laws the same way that natural sciences do. The critical theorists held that such a positivist view resulted in a hypostatization that gives “ontological status to a specific historical relation between the particular and general, the individual and society,” “fetishization of aspects of the social process” that froze the status quo, and “decontextualization of the particular” resulting in loss of context and significant limitations on creative alternatives. Canadian archivist Terry Cook in his influential article “What is Past is Prologue” recognized the need to combat a tendency toward static positivist concepts of archival development in favor of “constantly evolving, ever mutating” thinking that adapts to changes in records, institutions, systems, and uses.²³ Archivists, Cook continued elsewhere, “are very much a part of the legacy of scientific rationalism”²⁴ in their work processes and self-conception.

The contemporary liberal Western conception of the archive should be provoked to welcome and sustain such a critical approach. Critical Theory’s aims are

²¹ Verne Harris, “The Archival Sliver: Power, Memory, and Archives in South Africa,” *Archival Science* 2 (2002); Mark A. Greene, “The Power of Archives: Archivists’ Values and Value in the Postmodern Age,” *American Archivist* 72 (2009); Randall C. Jimerson, *Archives Power: Memory, Accountability, and Social Justice* (Chicago: Society of American Archivists, 2009); among others.

²² Max Horkheimer, *Eclipse of Reason* (New York: Oxford University Press, 1947), 82.

²³ Cook, “What is Past is Prologue,” 20.

²⁴ Cook, “Electronic Records, Paper Minds,” 441.

epistemological, to “challenge dominant discourses”²⁵ and are often applied subjectively—a practice both familiar and comfortable for archives professionals who understand primary sources as subjective but valid perspectives on history. Michael Saren and Douglas Brownlie described critical perspectives as “modes of theorizing and research practices which regard knowledge and its related technologies as socially constructed and enacted; which take those practices to be historically and culturally contingent; and which are understood to shape and be shaped by vested interests and power.”²⁶ Understanding through a Critical Theory lens the challenges that UTL’s HRDI faced reveals a dominant discourse in Western archives and epistemological, structural, and ontological conditions demonstrating that archives can be agents of the status quo power structure and instruments of hegemony, and that power is often wielded and control maintained through principles and standards that reinforce and reify that existing power structure.

Archival principles such as provenance, order, custody, value, authenticity, and standardized systems of arrangement and description may fail to serve the interests of disadvantaged individuals and communities. When not critically tested, such principles have the potential to become agents of hegemony when they are doggedly, even unwittingly enforced by representatives of the dominant power.

Critical discourse has been developed in library literature with ontological or structural examinations of the industry often focused on the value and appropriate use of information technology. Archie Dick followed Michel Foucault’s power and knowledge analysis in a call to recognize historically derived dominant discourse to “improve the critical consciousness of librarians as intermediaries” between information resources and the interests of power and privilege of the dominant discourse inscribed in Library and Information Studies theory. He called for “Transformers” to “highlight the deep assumptions of many professional tasks to reveal the scope and nature of bias embedded in selection policies and tools of access such as indexes and catalogs.”²⁷ Such Transformers would recognize traditional classification schemes and indexes as agents that reproduce existing modes of scholarship and thought to a point where “innovative

²⁵ Kelly McGrath, “Doing Critical Research in Information Systems: A Case of Theory and Practice Not Informing Each Other,” *Information Systems Journal* 15 (2005), 86.

²⁶ Michael Saren and Douglas Brownlie, “Introduction to the Marketing Stream,” in *Proceedings of the 1st Critical Management Studies Conference*, Willmott and Grugulis, eds. (University of Manchester Institute of Science and Technology, UK, 1999), quoted in McGrath, “Doing Critical Research in Information Systems,” 89-90.

²⁷ Archie L. Dick, “Library and Information Science as a Social Science: Neutral and Normative Conceptions,” *Library Quarterly* 65 (1995), 229. Dick references Michel Foucault’s *Power/Knowledge: Selected Writings and Other Interviews, 1972-1977*, edited by C. Gordon. Translated by C. Gordon, L. Marshal, John Mephram, and Kate Soper. New York: Pantheon, 1980.

scholarship is nearly impossible.”²⁸ Dick’s work reflected Horkheimer and Adorno’s critical discussion of the culture industry that “reproduces, reinforces and strengthens dominant interpretations of reality; it schematizes, classifies, and catalogues for its customers and often represents a spurious reconciliation between society and the individual, identifying the latter with the former.”²⁹ UTL’s post-custodial model attempted to address such bias in selection policies and access tools by (re)locating at least some of that work outside the archive itself, and promoting alternative participatory appraisal and descriptive practices based on local community knowledge and understanding. The collaborative, participatory nature of the model means that such traditional practices based on Western historical development and positivist methodologies are still applied, but are at least diversified, challenged, and negotiated by alternative, local, community approaches.

Similarly, post-custodial praxis can also address indexing and cataloging systems that Joseph Tennis considered as possible tools of “objective violence”³⁰ when implemented without complete understanding of the consequences. Tennis called for taking “right action” to see that such systems engender benefit to the individuals, organizations, or communities that created the documentation or are documented. When produced at least in part, if not predominantly on the local level by individuals and organizations representing the communities documented rather than solely by institutional representatives trained, structured, and focused on standardization within the dominant paradigm, controlled vocabularies, indexes, and catalogs can (re)define ontologies and (re)position the documented from objects to agents. So, for example, oral histories of genocide survivors and perpetrators may be prioritized over print documentation for collection and description in a society with a strong oral tradition, and locally derived indices and descriptions may be devised to support peace-building activities rather than simply reflecting and reifying categories of conflict and violence.

Michael Winter asserted that the positivist approach of structural rationalization and specialization of information professionals like archivists and librarians has led to an “intensification” of industry standards and best practices required as minimal professional expectations. More specialized knowledge and infrastructure resources—stringent controls for temperature and relative humidity, specialized (and expensive) storage containers and equipment, technically specialized digital platforms for cataloging and preservation, resource-intensive policies for digitization, severe security measures for access and use, etc.—are unavailable to many archives creators and

²⁸ Dick, “Library and Information Science as a Social Science,” 229.

²⁹ David Held, *Introduction to Critical Theory: Horkheimer to Habermas* (Berkeley, University of California Press, 1980), 94.

³⁰ Joseph T. Tennis, “Ethos and Ideology of Knowledge Organization: Toward Precepts for an Engaged Knowledge Organization,” *Knowledge Organization* 40 (2013), 45.

scholars, perhaps especially in the Global South. The result is increased separation of archives and libraries from creators and users. This rationalization and alienation has critical implications to the understanding of value and the benefits of use that both creators and users—who are sometimes the same entity—have for the archive. The custodial paradigm that allows—even encourages—archivists to be “preoccupied with our own gardens” may exile both records creators and users from archival spaces. A post-custodial approach that provides increased opportunities for the archive to engage with creators and, to some degree, users can temper that intensification.

Archival literature has increasingly adopted a Critical Theory framework and recognized the presence of power inequities, privilege, and bias in the structures, principles, and standards of the field. Appeals in archival literature to democratize archives and empower historically marginalized communities have frequently targeted the traditional conceptions of ownership of records, provenance, and at times the custodial ethos.³¹

Archives as Agents of the Status Quo

In a brief but illuminating historical review of the centrality of custody to archives theory and development in the West, Jeannette Bastian illustrated how that history yielded a system of ownership and control that has favored the status quo of entrenched political and social power.³² As traced by Bastian and Terry Cook³³, the principles and practices of archives that are the foundation for today’s dominant archival paradigm were devised by European and American governments that intensified particularly in the late 19th and into the 20th century. The 1898 Dutch Manual for the Arrangement and Description of Archives elucidated the concepts of provenance and original order—concepts that have particular meaning in the custodial paradigm relevant when control changes hands. U.S. National Archives’ T.R. Schellenberg parsed the principle of archives’ custodial obligation to include possession or physical custody, and legal responsibility or legal custody. Illinois State Archivist Margaret Cross Norton further developed the custodial obligations of archives to look beyond the government institution to include accountability to the public. The concept of custody was thus refined and revised until, in response to technological changes in records creation, access, and use, Wisconsin State Archivist and educator F. Gerald Ham challenged Schellenberg’s requirement of physical custody in his 1980 Society of American

³¹ Jeannette A. Bastian, “Taking Custody, Giving Access: A Postcustodial Role for a New Century,” *Archivaria* 53 (2002); Cook, “Electronic Records, Paper Minds”; and Joel Wurl, “Ethnicity as Provenance: In Search of Values and Principles for Documenting the Immigrant Experience,” *Archival Issues* 29 (2005).

³² Bastian, “Taking Custody, Giving Access.”

³³ Cook, “What is Past is Prologue.”

Archivists presidential address “Archival Strategies for the Post-Custodial Era,” quoted earlier.

Bastian’s (and Cook’s) brief history showed, among other things, that as with other archival principles, the historical evolution of the principle of custody in the West has been demonstrably and profoundly directed by the role of archives in government. This association between the development of archives principles and governments testifies to archives’ role as agents of the status quo. Archives are not only informed by governments, they are also frequently organs of government; national archives, state archives, state and local historical societies, public libraries, and public universities represent a large proportion of the most influential archival institutions. As such they are a representative part of a major structural component of the dominant discourse. Other significant archival institutions such as corporate archives, private universities, and museums also represent vested interests of the status quo power structure such as business and academia. Additionally, archival praxis is driven by both parent organizations and by funders, and whether government or private, funding agencies equally represent that same power structure: government and the market. Flinn et al. pointed out that when independent community archives approach public funders for support, “there is almost certainly a trade-off in terms of a loss of autonomy and independence.”³⁴ This, and the mistrust that marginalized or victimized communities express toward the mainstream institutions that most archives represent, indicates that archival institutions are often de facto institutions of the dominant Western (and Global North) liberal ideology. They are “the protagonists of the present distribution of power and property, harnessing the endogenous forces which centralize ownership and control, employ economic, political, and cultural means to defend the status quo.”³⁵ UTL’s Human Rights Documentation Initiative was thus thoroughly and identifiably—if unwittingly—grounded in dominant, liberal Western ideology as a state institution funded by the private foundation of an investment firm.

The progressive Western archives industry has acknowledged that the historical deficiencies of practice explicitly or implicitly arising from such systematic structural faults have resulted in underrepresentation of minority populations and marginalized communities.³⁶ The archives industry’s democratic philosophies of service and representation recognize the democratizing and emancipatory power of archives. Archival institutions may try to address their institutional shortcomings through efforts to increase representation in collections and in the industry. This liberalizing impulse to

³⁴ Flinn, Stevens, and Shepherd, “Whose Memories, Whose Archives?” 80.

³⁵ Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment* (New York: Herder & Herder, 1972), 158. Quoted in Held, *Introduction to Critical Theory*, 90.

³⁶ Randall C. Jimerson, “Archives for All: Professional Responsibility and Social Justice,” *American Archivist* 70 (Fall/Winter 2007), 252-281.

include marginalized, subaltern, or counter-cultures can be seen to reflect a belief that “legitimization of that culture is a process of reification by institutions”³⁷ such as archives. Jimerson has noted that “archives provide a forum to recognize and legitimize the role of disenfranchised groups in society.”³⁸ That “recognition,” however, may support reification of the power structure more than empowerment of the disenfranchised. And represented in collections or not, marginalized voices—be they indigenous populations, racial or ethnic minorities, the economically disadvantaged, non-dominant language speakers, the alternatively-educated, or others—may be systematically, structurally excluded from, or at least face significant obstacles to access to public institutions and professional education. Additionally, professional requirements for education and certification that legitimize practice can affirm the dominant discourse and may be a mechanism of exclusion implemented by institutional employers and funding organizations. Archives can be seen as agents of hegemony, using their positions of privilege to instill values and enforce policies on the less powerful. Critical Theory aims to shine a light on hegemonic practice. As Bastian noted, “Control of the records meant control of the subjects of the records.”³⁹ This may be obvious for colonial records, but is no less true of others. Critical Theory proposes that as agents firmly embedded in and imbued by the dominant discourse, archivists and archival repositories can be neither neutral nor objective, so they should be critical. Archives are domains of power; archivists and archival repositories, recognizing themselves and their institutions as agents of status quo power structures, should not be. Archives and archivists should empower rather than wield power. Jimerson warned archivists to be “alert for subtle shadings of bias and privilege,”⁴⁰ but that alertness, while important, may also be insufficient. In circumstances where such bias and privilege may be harmful, critical praxis that can include the post-custodial paradigm, records in context provenance, and extended ownership rights may address that bias and privilege.

(Re)Defining Provenance and Ownership

Since the 1990s, a number of Western archival theorists and practitioners have begun to challenge the dominant archival paradigm. These archivists have proposed participatory archives models that reflect an overtly critical approach to archival theory and praxis in order to address “nationalism, surveillance, and the omission, diminution

³⁷ Jenny Bossaller, Dinice Adkins, and Kim M. Thompson, “Critical Theory, Libraries and Culture,” *Progressive Librarian* 34-35 (2010), 30.

³⁸ Jimerson, “Archives for All,” 268.

³⁹ Bastian, “Taking Custody, Giving Access,” 82.

⁴⁰ Jimerson, “Archives for All,” 278.

or silencing of alternate narratives” in records repositories.⁴¹ Many such efforts have been led by Australian and Canadian archivists concerned with the marginalization or exclusion of indigenous or First Nation populations from their own record and representation in national repositories.⁴² Such archivists have begun to recognize that “radical transformation is required to allow for multiple rights in records to be respected, acknowledged, represented and managed.”⁴³ Participatory archives praxis as described by Shilton and Srinivasan brings the local community into discussion of appraisal, arrangement, and description with the goal to “respect the knowledge systems embedded within community contexts.”⁴⁴ The alternative (to the Western archival standards) knowledge systems that result may (re)define provenance and ownership, and (re)introduce significant complexity into standard concepts. Provenance may take ambiguous or “parallel”⁴⁵ forms reflecting formation or function. And ownership rights may reside not with the entity that authored a record, but rather with the entity represented in it.

The participatory archives model aims to address critical deficiencies in archives by opening doors to marginalized populations to create an archival “third way”⁴⁶ where provenance and ownership are contested and negotiated. The post-custodial model may move praxis further than a third way, into a third space where custody is no longer a requirement or a contention, and ownership can be leveraged by the creator and

⁴¹ Sue McKemmish and Anne Gilliland, “Archival and Recordkeeping Research: Past, Present, and Future,” in *Research Methods: Information, Systems, and Contexts*, ed. K. Williamson and G. Johanson, Prahran, Vic.: Tilde, 2013. Also: Katie Shilton and Ramesh Srinivasan, “Participatory Appraisal and Arrangement for Multicultural Archival Collections,” *Archivaria* 63 (2007); Livia Iacovino, “Rethinking Archival, Ethical and Legal Frameworks for Records of Indigenous Australian Communities: A Participant Relationship Model of Rights and Responsibilities,” *Archival Science* 10 (2010).

⁴² Iacovino, “Rethinking Archival, Ethical and Legal Frameworks for Records of Indigenous Australian Communities;” Raymond Frogner, “‘Lord, Save Us from the Et Cetera of the Notary’: Archival Appraisal, Local Custom, and Colonial Law,” *Archivaria* 79 (2015); Monash University Information Technology, “Koorie Archiving System (KAS),” <http://www.infotech.monash.edu.au/research/about/centres/cosi/projects/kas/>.

⁴³ Evans, et al., “Self-determination and Archival Autonomy: Advocating Activism,” 355.

⁴⁴ Shilton and Srinivasan, “Participatory Appraisal and Arrangement for Multicultural Archival Collections.”

⁴⁵ Chris Hurley, “Parallel Provenance (If these are your records, where are your stories?),” <http://infotech.monash.edu/research/groups/rcrg/publications/parallel-provenance-combined.pdf>.

⁴⁶ Anne Gilliland and Sue McKemmish, “The Role of Participatory Archives in Furthering Human Rights, Reconciliation and Recovery,” *Atlanti* 24 (2014). The first and second ways described by Gilliland and McKemmish are traditional archives and community archives.

subject community. In the post-custodial model, it may be the archival institution that is the “participant” in a (re)allocation of power very at odds with traditional praxis.

In the post-custodial paradigm, calls for participation and “archival autonomy”⁴⁷ redefine provenance and ownership, and recontextualize the work of archives to seek knowledge and understanding rather than just documentation and control. The goal of such efforts is to better represent not just documents but the “actions, programmes, and functions behind those processes...from the records to the acts of recording.”⁴⁸ This (re)definition of provenance and ownership in the participatory and post-custodial paradigms thus describes a deeper engagement with records creators. In the post-custodial paradigm archivists, for example, do not simply claim responsibility for the records of the human rights activist organization in their custody, but rather (re)contextualize those records with other records from the same organization elsewhere, with individual leaders of the organization still further afield, with other organizations working toward the same or similar human rights goal, even with other records created by the same community. Provenance becomes not “where did the records in my institution come from?”, but rather “what is the universe of records that my documents are a part of?” The context may be different for government intelligence data than for activist organizing, but the importance of that context to knowledge creation remains constant. This shifts the focus of archives description “from static cataloguing to mapping dynamic relationships.”⁴⁹ The post-custodial paradigm says “most especially...that our traditional focus on caring for the physical things under our institutional custody will be replaced (or at the very least) enhanced by a focus on the context, purpose, intent, interrelationships, functionality, and accountability of the record and especially its creator and its creation processes.”⁵⁰

In a practical application of contextualized provenance to document the immigrant experience, Joel Wurl challenged the definition of provenance from a source, “referring to the individual, family, or organization which created or received the items in a collection,”⁵¹ to encompass context in community or cultural representations, particularly ethnicity, a socially constructed group identity. Wurl described the ethnicity construct’s relational contexts as “dynamic and mutable over time,”⁵² much like the records such a construct creates. This reconceived provenance prioritizes the records creation as context over the record as document, and as Wurl acknowledged, “poses a

⁴⁷ Evans et al., “Self-determination and Archival Autonomy.”

⁴⁸ Cook, “Electronic Records, Paper Minds,” 410-411.

⁴⁹ Ibid., 416.

⁵⁰ Ibid., 418.

⁵¹ Joel Wurl, “Ethnicity as Provenance: In Search of Values and Principles for Documenting the Immigrant Experience,” *Archival Issues* 29 (2005), 67.

⁵² Ibid., 68.

fundamental challenge to traditional archival perspectives of custody and ownership”⁵³ that confront traditional archives systems of jurisdiction and responsibility. It can strengthen the archives’ connection and obligation to the record creator, and call the archivist to shift from the role of custodian to one of steward. The post-custodial paradigm implies a shift in the power structure of archives away from the record in custody, to the process and context of the record’s creation—from the archive to the creator.

Physical and legal custody of records in archives repositories have been central to leveraged and negotiated power among creators, repositories, and users. But in a post-custodial era, custody is no longer a mechanism for power negotiation and transfer from the creator to the repository, or in the repository-user dynamic. That is why Wurl’s concept of stewardship is so powerful in its implications for custody, and the custodial ethos so significant to decontextualization of the documentary record in archives. If archives repositories take on the role of stewards obligated to creators and the context of records creation, physical custody and legal custody alike may become irrelevant. This is not to say that archival repositories can’t become custodians of records, just that whether archives are custodians or not, their jurisdictions and obligations remain the same. And when custody becomes irrelevant, there is less materiality to the archival paradigm. The result may be, as Cook foresaw, “archives without walls.”⁵⁴

ARCHIVES IN THE BORDERLANDS

Verne Harris wrote that “the archive is politics.”⁵⁵ In political theory, the custodial paradigm in archives can be considered to be particularist: clearly defined institutional boundaries distinguish rights and responsibilities. In political discourse, those boundaries are typically national borders.⁵⁶ A citizen of the United States who is arrested has a right to an attorney; a citizen of another country in their country may not. And a citizen from another country who comes to the United States may not—at best that right is disputed, at worst denied. If that person becomes a U.S. citizen, those rights and responsibilities are conferred. The right to an attorney is *particular* to a citizen’s belonging to a country. In the custodial archives paradigm, rights and responsibilities are similarly conferred through the assumption of custody. Archives have the right to

⁵³ Ibid., 69.

⁵⁴ Cook, “Electronic Records, Paper Minds,” 430.

⁵⁵ Verne Harris, “Archives, Politics, and Justice” in *Political Pressure and the Archival Record* (Chicago: Society of American Archivists, 2005), 173. Quoted in Randall Jimerson, “Archives for All,” 261.

⁵⁶ Robert W. Glover, “Radically Rethinking Citizenship: Disaggregation, Agonistic Pluralism and the Politics of Immigration in the United States,” *Political Studies* 59 (2011).

provide access to documents in their custody, and the responsibility to preserve those documents, but have neither right nor responsibility for records not in their custody.

The post-custodial paradigm can liberate archives and archivists from the rigid particularist constrictions and introspective preoccupations of unique custody, and may open them to the recontextualized “larger historical and social landscape”⁵⁷ surrounding them. But for those records keepers who have identified with archives as discrete spaces and documentary holdings, “post-custodial”—a definition by negation—may be less than satisfying as an identity. What is an archive without walls, which is no longer defined by its repository or even its collection? Such definitions will persist—archives have institutional identities, missions and goals; they will continue to have collections. If not the archive itself, at least someone will have custody of records, the creator or the archive or some other party. But as Wurl described with the construct of ethnicity, those boundaries in the post-custodial paradigm become “dynamic and mutable” and hard to pin down.

In her groundbreaking theoretical work, Gloria Anzaldúa conceived of borderlands as “a third space that is neither one land nor the other but a new space that is a ‘both/and’ location.”⁵⁸ Those in the borderlands navigate between two (or more) discrete environments. They balance and rebalance roles, identities, and expectations. Chiara Bambrilla described borderlands as “multi-dimensional sites of negotiation, contestation and struggle, as well as human-made processes that are discursively constructed.”⁵⁹ Navigating between particularist environments in a thoroughly postmodern construct, the borderlands represents movement “‘within and between’ what were once sanctified as ‘homogenous’ communities.”⁶⁰ Emmanuel Brunet-Jailly

⁵⁷ Ham, “Archival Strategies for the Post-Custodial Era.”

⁵⁸ Gloria Anzaldúa, *Borderlands: La Frontera*, 2nd ed. (San Francisco: Aunt Lute Books, 1999), 528. Quoted in Elisa S. Abes, “Theoretical Borderlands: Using Multiple Theoretical Perspectives to Challenge Inequitable Power Structures in Student Development Theory,” *Journal of College Student Development* 50 (2009), 143. Anne Gilliland and Sue McKemish have presented the participatory archive as a “third way” to model archives, the other two being the traditional archive and the community archive. Similarities and distinctions between their “third way” and Anzaldúa’s “third space” borderlands likely warrant further consideration.

⁵⁹ Chiara Bambrilla, “Constructing a Relational Space Between ‘Theory’ and ‘Activism’, or (Re)thinking Borders,” *ACME: An International E-Journal for Critical Geographies* 11 (2012), 217.

⁶⁰ Rosa Linda Fregoso, *The Bronze Screen: Chicana and Chicano Film Culture* (Minneapolis: University of Minnesota Press, 1993), 65. Quoted in Alejandra C. Elenes, “Reclaiming the Borderlands: Chicana/o Identity, Difference, and Critical Pedagogy,” *Educational Theory* 47 (1997), <http://web.b.ebscohost.com.ezproxy.lib.uh.edu/ehost/detail/detail?sid=3690f6c1-76bd-4720-a5fd-f64b464cba72%40sessionmgr113&vid=0&hid=110&bdata=JnNpdGU9ZWhvc3QtG1ZlZQ%3d%3d#AN=9709114571&db=a9h>.

observed that such borders, “are not just hard territorial lines – they are institutions that result from bordering policies – they are thus about people; and for most settled territories they are predominantly about inclusion and exclusion, as they are woven into varied cultural, economic and political fabrics. Bounded territories and borderlands are the outcome of the continual interactions and intersections between the actions of people (agency) within the constraints and limits placed by contextual and structural factors (structure).”⁶¹

Archives have in fact long been positioned in borderlands, between creators, scholars, record keepers, technologists, historians, activists, educators, museums, and libraries. Post-custodial (re)conceptions of possession, legal obligations, stewardship, and context demand and enable archives and archivists to embrace their dynamic and mutable identities. Archival theories, principles, and practices in the postmodern age have slowly been leaving behind the particularist, positivist paradigms. The records continuum replaces the document life cycle, records in context redefines provenance, and macroappraisal prioritizes creation over content. Chief among these, the post-custodial paradigm disaggregates archives from the strictures of custody and enables archivists and archival repositories to look beyond institutional boundaries to engage in new ways with records, creators, subjects and users.

The stringent ethical demands and practical necessities encountered by the University of Texas Libraries’ Human Rights Documentation Initiative placed it in the borderlands between activism and scholarship, between industry standards and marginalized communities, with the perspective of a manuscript repository and the challenges of an international non-governmental organization. UTL could have set policies based on the traditional archives paradigm insistent on clearly defined and documented custody of human rights documentation, but that would have either limited the records that it could have access to and provide access to, or posed ethical dilemmas of power inequality and dominant ideologies. Through a participatory implementation of the post-custodial paradigm, UTL moved to embrace a “both/and” location in that borderlands. UTL was able to (re)locate its work into the less defined but more dynamic borderlands within and between archives, creators, subjects, and users, and to (re)define praxis by recognizing genuine agency in marginalized and disempowered communities of documenters and documented.

⁶¹ Emmanuel Brunet-Jailly, “Special Section: Borders, Borderlands and Theory: An Introduction,” *Geopolitics*, 16 (2011), 3.

REFERENCES

- Abes, Elisa S. "Theoretical Borderlands: Using Multiple Theoretical Perspectives to Challenge Inequitable Power Structures in Student Development Theory." *Journal of College Student Development* 50 (2009), 141-156.
- Bambrilla, Chiara. "Constructing a Relational Space Between 'Theory' and 'Activism', or (Re)thinking Borders." *ACME: An International E-Journal for Critical Geographies* 11 (2012), 215-221.
- Bastian, Jeannette A. "Taking Custody, Giving Access: A Postcustodial Role for a New Century." *Archivaria* 53 (2002): 76-93.
- Bell, Daniel A. "Introduction: Reflections on Dialogues Between Practitioners and Theorists of Human Rights." In *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, edited by Daniel Bell and Jean-Marc Coicaud, 1-22. New York: Cambridge University Press, 2007.
- Bell, Daniel A., and Jean-Marc Coicaud, editors. *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*. New York: Cambridge University Press, 2007.
- Bossaller, Jenny, Denice Adkins, and Kim M. Thompson. "Critical Theory, Libraries and Culture." *Progressive Librarian* 34-35 (2010): 25-38.
- Brunet-Jailly, Emmanuel. "Special Section: Borders, Borderlands and Theory: An Introduction." *Geopolitics*, 16 (2011), 1-6.
- Caswell, Michelle. "Toward a Survivor-Centered Approach to Records Documenting Human Rights Abuse: Lessons from Community Archives." *Archival Science* 14 (2014): 307-322.
- Cook, Terry. "Electronic Records, Paper Minds: The Revolution in Information Management and Archives in the Post-Custodial and Post-Modern Era." *Archives & Social Studies* 1 (2007): 399-443.
- . "What is Past is Prologue: A History of Archival Ideas Since 1898, and the Future Paradigm Shift." *Archivaria* 43 (1992): 17-63.
- Dick, Archie L. "Library and Information Science as a Social Science: Neutral and Normative Conceptions." *Library Quarterly* 65 (1995): 216-235.
- Elenes, C. Alejandra. "Reclaiming the Borderlands: Chicana/o Identity, Difference, and Critical Pedagogy." *Educational Theory* 47 (1997), 359. Accessed January 3, 2016, Academic Search Complete, EBSCOhost.

- Evans, Joanne, Sue McKemmish, Elizabeth Daniels, and Gavan McCarthy. "Self-determination and Archival Autonomy: Advocating Activism." *Archival Science* 15 (2015): 337-368. DOI 10.1007/s10502-015-9244-6.
- Flinn, Andrew, and Mary Stevens. "'It is noh mistri, wi mekin histri.' Telling Our Own Story, Independent and Community Archives in the UK, Challenging and Subverting the Mainstream." In *Community Archives: The Shaping of Memory*, edited by Jeannette A. Bastian and Ben F. Alexander, 3-27. London: Facet, 2009.
- Flinn, Andrew, Mary Stevens, and Elizabeth Shepherd. "Whose Memories, Whose Archives? Independent Community Archives, Autonomy and the Mainstream." *Archival Science* 9 (2009): 71-86.
- Foucault, Michel. *Power/Knowledge: Selected Writings and Other Interviews, 1972-1977*, edited by C. Gordon. Translated by C. Gordon, L. Marshal, John Mepham, and Kate Soper. New York: Pantheon, 1980.
- Frogner, Raymond. "'Lord, Save Us from the Et Cetera of the Notary': Archival Appraisal, Local Custom, and Colonial Law," *Archivaria* 79 (2015): 121-158.
- Gilliland, Anne J., and McKemmish, Sue. "The Role of Participatory Archives in Furthering Human Rights, Reconciliation and Recovery." *Atlanti* 24 (2014): 79-88.
- Glover, Robert W. "Radically Rethinking Citizenship: Disaggregation, Agonistic Pluralism and the Politics of Immigration in the United States." *Political Studies* 59 (2011), 209-229.
- González Quintana, Antonio. *Archival Policies in the Protection of Human Rights*. Paris: International Council on Archives, 2009.
- Greene, Mark A. "The Power of Archives: Archivists' Values and Value in the Postmodern Age." *American Archivist* 72 (2009), 17-41.
- Ham, F. Gerald. "Archival Strategies for the Post-Custodial Era," *American Archivist* 44 (1981), 207-216.
- Harris, Verne. "The Archival Sliver: Power, Memory, and Archives in South Africa." *Archival Science* 2 (2002): 63-86.
- Heath, Fred, Christian Kelleher, T-Kay Sangwand, and Kevin Wood. "Confronting Challenges of Documentation in the Digital World: The Human Rights Documentation Initiative at the University of Texas." In *Transforming Research Libraries for the Global Knowledge Society*, edited by Barbara Dewey, 165-178. Oxford: Chandos Publishing, 2010.

- Held, David. *Introduction to Critical Theory: Horkheimer to Habermas*. Berkeley: University of California Press, 1980.
- Horkheimer, Max. *Eclipse of Reason*. New York: Oxford University Press, 1947.
- Hudson, Dave. "Unpacking 'Information Inequality': Toward a Critical Discourse of Global Justice in Library and Information Science." *Canadian Journal of Information and Library Science* 36 (2012), 69-87.
- Hurley, Chris. "Parallel Provenance (If these are your records, where are your stories?)." Accessed at <http://infotech.monash.edu/research/groups/rcrg/publications/parallel-provenance-combined.pdf>.
- Iacovino, Livia. "Rethinking Archival, Ethical and Legal Frameworks for Records of Indigenous Australian Communities: A Participant Relationship Model of Rights and Responsibilities." *Archival Science* 10 (2010): 353-372.
- Ibhawoh, Bonny. "Human Rights INGOs, the North-South Gap: The Challenge of Normative and Empirical Learning." In *Ethics in Action: The Ethical Challenges of International Human Rights Nongovernmental Organizations*, edited by Daniel Bell and Jean-Marc Coicaud, 79-98. New York: Cambridge University Press, 2007.
- Jimerson, Randall C. "Archives for All: Professional Responsibility and Social Justice." *American Archivist* 70 (2007): 252-281.
- . *Archives Power: Memory, Accountability, and Social Justice*. Chicago: Society of American Archivists, 2009.
- Kagame, Paul. "20th Commemoration of Genocide Against the Tutsi." Presented at Amahoro National Stadium, Kigali, Rwanda, April 7, 2014. Accessed January 3, 2014 at <http://www.paulkagame.com/index.php/speeches/national-events/1331-20th-commemoration-of-genocide-against-the-tutsi>.
- Kelleher, Christian. "Catching Up: Human Rights Archives and Ethics Through the Lens of the University of Texas Libraries' Human Rights Documentation Initiative." Paper presented at The Antonym of Forgetting: Global Perspectives on Human Rights Archives conference, Los Angeles, California, October 18, 2013.
- Kelleher, Christian, T-Kay Sangwand, Kevin Wood, and Yves Kamuronsi. "The Human Rights Documentation Initiative at the University of Texas Libraries." *New Review of Information Networking* 15 (2010): 94-109.
- McGrath, Kathy. "Doing Critical Research in Information Systems: A Case of Theory and Practice Not Informing Each Other." *Information Systems Journal* 15 (2005): 85-101.

- McKemmish, Sue, and Anne Gilliland. "Archival and Recordkeeping Research: Past, Present, and Future." *In Research Methods: Information, Systems, and Contexts*, eds. Williamson Kirsty, and Graeme Johanson. Prahran, Victoria, Australia: Tilde, 2013, 79-112.
- Shilton, Katie, and Ramesh Srinivasan. "Participatory Appraisal and Arrangement for Multicultural Archival Collections." *Archivaria* 63 (2007): 87-101.
- Tennis, Joseph T. "Ethos and Ideology of Knowledge Organization: Toward Precepts for an Engaged Knowledge Organization." *Knowledge Organization* 40 (2013): 42-49.
- Winter, Michael F. "Librarianship and the Labor Process: Aspects of the Rationalization, Restructuring, and Intensification of Intellectual Work." *In Information Technology Librarianship: New Critical Approaches*, edited by Gloria J. Leckie and John E. Buschman, 143-164. Westport, CT: Libraries Unlimited, 2009.
- Wurl, Joel. "Ethnicity as Provenance: In Search of Values and Principles for Documenting the Immigrant Experience." *Archival Issues* 29 (2005): 65-76.