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BA'ATH PARTY ARCHIVES AND THE KHMER ROUGE RECORDS:

THE IMPORTANCE OF CULTURAL ACCESSIBILITY

by

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Abstract

This paper contrasts the handling, provenance, and application of the Ba'ath Party Archives with that of the Cambodian Khmer Rouge Records. While similar in many facets, the events surrounding the Ba'ath Party Archives received heavy ridicule while the international community largely supported the handling of the Khmer Rouge records. The comparison of the Cambodian and Iraqi case studies' distinct differences reveal why international opinion varies. It also emphasizes a gap within standard understanding concerning archival law and practices. This exploration will reveal that current archival dialogue focuses too much on a dichotomous relationship between international and national concerns. The author posits that cultural accessibility is a shared concern and a more important standard when deciding on a strategy for addressing disputed archives.

Keywords: Inalienability, Cultural Internationalism, Cultural Nationalism, Cultural Accessibility

Introduction

The archival principle of inalienability determines that the records of governmental institutions belong within the official archives of the state; however, the rising prevalence of destructive wars, civil unrest, and unstable governments have raised concerns about blanket adherence to inalienability. Modern archivists and institutions increasingly find themselves in precarious situations where the best practice for the preservation and accessibility of archives remains disputed within standard archival traditions. One of the most complicated situations arises with the fall of dictatorial governments whose records contain key evidence concerning human rights violations and war crimes. Amidst a country damaged by invasion, war, and unrest, archival contents risk destruction and loss of evidence against the authoritative regime.

As demonstrated by the occurrences in 2003 Iraq and 1980's Cambodia, records often get collected by another country's government or private entity. Saddam Hussein's Ba'ath Party Records and Cambodia's Khmer Rouge records both originated in an authoritarian dictatorship then were jeopardized by foreign intervention, and in the name of preservation collected by a U.S. private organization. While similar in many facets, the handling of the Iraqi archive received heavy derision while the international community largely supported the handling of the Khmer Rouge Records. What makes the international response to these two chains of events so different? An in-depth analysis of the events surrounding the Iraqi Ba'ath Party and Cambodia's Khmer Rouge archives raises important questions for how inalienability gets applied within complicated socio-political situations, especially concerning international versus national claims. Additionally, the viable strategy of cultural accessibility for protecting cultural property in these situations that prioritizes preservation of the materials and access to the archives will be developed.

The Ba'ath Party Archives: Provenance & Use

In 2003, following the US-led invasion of Iraq, the Iraq Memory Foundation (IMF) acquired the Ba'ath Party records.¹ The IMF was founded by Kanan Makiya, an Iraqi exile and scholar who wished to create a memorial within Baghdad to “preserve the historical record of thirty-eight years of Ba’thist Rule, educate Iraqis on human rights and help them come to terms with their past.”² With political connections to the White House as a key supporter of the Iraq war, Makiya “registered the group as a private American contractor and entered Iraq to rescue Saddam Hussein’s documentary legacy of atrocity.”³ In return for helping fund Makiya’s plan, the U.S. Department of Defense (DOD) entered into an agreement with the IMF. The DOD allowed Makiya to collect abandoned Ba’ath Party records with the provision that he preserved them to showcase the atrocities committed under Saddam Hussein’s regime. Under a subsequent contractual agreement in 2005, the DOD transported and digitized the documents to the US before transferring them solely into the IMF’s control.⁴ Makiya then entered into an arrangement with Stanford’s Hoover Institute (HI) in 2008 where the archives were housed for research purposes.⁵ Since that agreement, only in-person access at the HI existed, meaning no widespread Iraqi access was developed. Since the 2015 closing of the US Conflict Records Research Center, a research center created solely to provide access to Ba’ath Party records, the HI’s archives became the only available database for Saddam’s regime in the world.⁶ No accessibility for Iraqi citizens or other researchers existed unless they were able to travel to

¹ Sarah Wilkinson, “Who Owns These Records? Authority, Ownership, and Custody of Iraq's Baath Party Records.” *RBM: A Journal of Rare Books, Manuscripts, and Cultural Heritage* 20, 28.

² Wisam H. Alshaibi, “Weaponizing Iraq's Archives.” *Middle East Report*, 2019, 291 edition.

³ Bruce P. Montgomery, “Immortality in the Secret Police Files: The Iraq Memory Foundation and the Baath Party Archive.” *International Journal of Cultural Property* 18, no. 3 (2011), 311.

⁴ Montgomery “Immortality in the Secret Police Files,” 316.

⁵ Michelle Caswell, “‘Thank You Very Much, Now Give Them Back’: Cultural Property and the Fight over the Iraqi Baath Party Records.” *The American Archivist* 74, no. 1 (2011), 212

⁶ Brill, Michael P. “Setting the Records Straight in Iraq” July 17, 2020.

Stanford. In the summer of 2020, the Ba'ath Party Archives returned to Iraq with digitized copies remaining at the HI; however, public access in Iraq has yet to be granted.

The movement of the Iraqi Ba'ath Party archives into the US reveals two of their uses by the American government and its private contractor, the IMF. The first function arose as captured military intelligence that served immediate use. The records consisted of paperwork, membership files, regime information, and security service surveillance on political figures and normal citizens.⁷ The IMF gained funding by appealing to the DOD and emphasizing the records' information about the structure of the rebel insurgency.⁸ This appeal classified the archives as 'potential intelligence' making the funding and transfer to the US possible; however, this classification directly contradicted the IMF's statement to the Iraqi Prime Minister's office that defined the records as 'cultural material'; a classification that allowed for the IMF's handling of the archives under Iraqi law.⁹ Thus, the IMF exploited the Ba'ath Party record's classification to get them transferred out of Iraq and onto US soil. In consequence, this agreement linked the IMF with the United States due to the funds provided by the DOD.

Their immediate use as potential evidence in trials concerning human rights violations and war crimes also motivated their preservation. Directly following the invasion of Iraq in March of 2003, the Human Rights Watch asked the US military to protect records so they might be used in future war crime trials.¹⁰ However, if the IMF or US military wanted to protect records to prosecute Hussien's allies, "their provenance, and the subsequent agreement with the Hoover Institution might call into their question their admissibility as evidence in a human

⁷ Brill "Setting the Records Straight in Iraq."

⁸ Montgomery "Immortality in the Secret Police Files," 316.

⁹ Montgomery "Immortality in the Secret Police Files," 315.

¹⁰ Caswell "Thank You Very Much," 216.

rights trial.”¹¹ The unusual provenance of the records alerted JAG¹² officers to potential issues concerning chain of custody questioning. It was also unclear whether either the prosecution or defense of Hussein and other Ba’ath Party members had access to the materials, a potential legal issue in court.¹³ As use as evidence in human rights trials serves as one of the strongest legal reasons allowing for the transfer of cultural property outside of their native nation (to prevent destruction from the charged party), the IMF and the Pentagon jeopardized their role as evidence by triaging the documents for intelligence.

However, the main use of the Ba’ath Party archives revolved around a DOD led propaganda campaign to justify the war in Iraq. One of the few researchers with access to the entirety of the IMF records, Wisam Alshaibi, interviewed Undersecretary of Defense Douglas Feith concerning the use of intelligence gained from the archive. As a member of the Bush administration, Feith was one of the main architects of the Iraq War. Within the interview, Alshaibi asked Feith “if efforts to bring Iraqi records to the United States were part of a strategic influence campaign” and Feith confidently affirmed this view.¹⁴ In response to a discussion about a project to crowdsource information concerning Iraq, Feith said its strategic importance revolved around demonstrating and affirming to the public the justness of the US invasion of Iraq based on Ba’ath Party atrocities. This statement reveals the White House’s explicit mission to justify the Iraq war. Feith went on to say that “atrocities were a part of this fight.”¹⁵ The internal memo from the DOD titled “Plan for Publicizing Iraqi Atrocities” confirms this motivation as it discusses “the strategic information campaign” utilizing the

¹¹ Caswell “Thank You Very Much,” 229.

¹² JAG: Judge Advocate Generals Corp

¹³ Caswell “Thank You Very Much,” 229.

¹⁴ Alshaibi “Weaponizing Iraqi’s Archives.”

¹⁵ Alshaibi “Weaponizing Iraqi’s Archives.”

Ba'ath Party Archives.¹⁶ Through his interviews with Feith and Alshaibi's access to DOD memos, he concluded that "the Ba'th Party archives in the United States are not merely inert bounties of war, but in their capacity to produce a historical record they are active participants in a long-term policy objective of justifying US military interventions in Iraq."¹⁷

This use of Ba'ath Party Archives for foreign military and political gain reveals a disregard for the national importance of the archives in trials and reconciliation. Yet, Makiya's original goal to create a memorial center in Iraq demonstrates an understanding of the importance of national records for healing. The IMF's actions directly supporting the international use of the Ba'ath Party records reveals a disregard for the Iraqi significance of the records. Thus, the situation surrounding the Ba'ath Party Archives demonstrates a tension between the international and national use of cultural property.

The Ba'ath Party Archives: World Opinions

Judgements on the handling of the Ba'ath Party archives mainly focus on the legal rights to the records. Critics of the IMF's actions cite the seizure of the records as violating multiple international protocols that protect cultural property and prohibit wartime pillaging. While the exact legal right of the Ba'ath Party records under the Hague and UNESCO Conventions is murky, the Society of American Archivists (SAA) and the Association of Canadian Archives (ACA) issued a joint statement in 2008 condemning the IMF by citing international laws.¹⁸

Saad Eskander, the former director of the Iraq National Library and Archive, strongly criticized the situation around the Ba'ath Party Archives. Eskander accused the IMF of acting

¹⁶ Alshaibi "Weaponizing Iraqi's Archives."

¹⁷ Alshaibi "Weaponizing Iraqi's Archives."

¹⁸ ACA and SAA. "ACA/SAA Joint Statement on Iraqi Records." *Society of American Archivists*, April 22, 2008.

with solely political motivations. He denounced Makiya for exploiting the “chaotic situation at the top [of the 2003 Iraqi interim government] and the ignorance of some of the newly appointed Iraqi officials to get approval for the shipment of the records to the US.”¹⁹ In another interview, Eskander reminded the public the IMF was created “within the framework of the American occupation of Iraq, and this was an integral part of a grand imperial vision for the New Iraq. This explains why the IMF has not been accountable politically, administratively, legally, financially or morally to any Iraqi authority since its formation”.²⁰ Thus, Eskander opposes the IMF’s possession of the archives as he believes the organization exploited the vulnerable Iraqi situation to serve its own political and financial goals.

However, some officials within the Iraqi government and Kanan Makiya defend the IMF’s actions and argue consent existed. Throughout the IMF’s initial acquisition of the archives and their journey to the HI, correspondence between Makiya and government officials concerning the records demonstrated a level of permission. The IMF provided evidence of various conversations with high level Iraqi government officials throughout the entire process that provides legitimacy to the IMF’s actions. Most notably, the head of the HI and Falih al-Fayyadh, the Iraqi National Security Council advisor signed a Memorandum of Understanding in 2012.²¹ The memorandum established three main principles. First, it confirmed that the Ba’ath Party Archives belong to the Iraqi people. Second, the HI was officially adopted as the external center for depositing the Iraq records. Third, the Iraqi government, not the IMF, controls all important decisions concerning the documents.²²

¹⁹ Montgomery “Immortality in the Secret Police Files,” 318.

²⁰ Saad Eskander, “Saad Eskander’s Open Letter to the Hoover Institution,” June 21, 2008.

²¹ Almeadi, Jamal. “US Hoover Institution Documents Return to Iraq: The Tale of the Ba’th Regional Command Archive.” *Daraj*, August 31, 2020. <https://daraj.com/en/53961/>.

²² Almeadi “US Hoover Institution Documents Return to Iraq.”

Additionally, those supporting the IMF cite the records' potential importance in international criminal courts. However, as discussed earlier the IMF jeopardized that possibility through their agreement with the DOD. In the two decades since, no United Nations tribunals have requested the use of these Ba'ath Party records. Thus, the potential legal benefits of the records in that context have become almost obsolete.

Khmer Rouge Records: Provenance And Use

From 1975 to 1979, the reign of the Khmer Rouge left Cambodia racked with the effects of an unstable government and a nation-wide genocide. From documentation of their executions and detailed forced confessions to high-level correspondence and party directives, the Khmer Rouge obsessively recorded all governmental proceedings. With the invasion of Vietnam in 1979 and the gradual end of the Democratic Kampuchea era (DK) the records of the regime scattered across Cambodia. With no other entity trying to, the Documentation Center of Cambodia (DC-Cam) began to collect Khmer Rouge records in the 1990's.

The DC-Cam, an organization created out of Yale's Cambodian Genocide Program, later became an independent nonprofit under Youk Chhang, a Khmer Rouge refugee in America.²³ DC-Cam's self-pronounced mission "[First] is to record and preserve the history of the Khmer Rouge regime for future generations. The second is to compile and organize information that can serve as potential evidence in a legal accounting for the crimes of the Khmer Rouge".²⁴ Throughout the collection process of the Khmer Rouge records and their subsequent applications, DC-Cam proceeded with transparency. DC-Cam understood the

²³ Michelle Caswell, "Rethinking Inalienability: Trusting Nongovernmental Archives in Transitional Societies." *The American Archivist* 76, no. 1 (2013), 116.

²⁴ Robert Carmichael, Andrew Haffner, Wanpen Pajai, Agence France-Presse, Andi Hajramurni and Dessy Sagita/AFP, and Agence France-Presse. "How DC-Cam Helped Convict the Khmer Rouge." *Southeast Asia Globe*, November 18, 2019

importance of a record collection for future trials, and “the failure to establish a court sooner meant that DC-Cam had no real alternative but to construct a record independently.”²⁵

United Nations-backed human rights trials against the regime used the records collected and processed by DC-Cam. The organization of the Khmer Rouge Tribunal took decades to organize due to complicated geo politics and only in 2006 they began.²⁶ DC-Cam provided 80% of court documents, which proved instrumental in the conviction of one of the most notorious leaders of the Khmer Rouge: Kang Kek Lew, better known as Commander Duch.²⁷ Members of the prosecution claim that the tribunal may not have existed without DC-Cam’s gathering of important records from the regime.²⁸ The head of DC-Cam asserted that without the information provided by the organization, the UN would not have chosen to go forward with the tribunal.²⁹ Thus, the importance of DC-Cam acquiring the records cannot be understated concerning the trials condemning the human rights violations of the Khmer Rouge.

Since their use in the tribunals, these records remain housed within the DC-Cam’s archives in Phnom Penh fully accessible to the public for research and awareness. As of 2021, the DC-Cam retains full authority over these materials. A key detail being that no outside nation or Cambodia itself funds the DC-Cam, as an independent organization it maintains full authority over the narratives it tells and how it uses the materials. With their resources, they created both a Public Information Room, a recently opened public library in Phnom Penh, and traveling exhibitions detailing survivor testimonials. These resources offer online access for

²⁵ Andrew Mamo, “History and the Boundaries of Legality: Historical Evidence at the ECCC.” (May, 2013), 25. <http://nrs.harvard.edu/urn-3:HUL.InstRepos:10985172>

²⁶ Alexander Hinton, *The Justice Facade: Trials of Transition in Cambodia*. Oxford: Oxford University Press, 2018. Oxford Scholarship Online, 2018.

²⁷ Carmichael et al. “How DC-Cam Helped.”

²⁸ Carmichael et al. “How DC-Cam Helped.”

²⁹ Carmichael et al. “How DC-Cam Helped.”

both Cambodians and international researchers to all the records they collected in addition to other sources about the Khmer Rouge.³⁰

Khmer Rouge Records: World Opinions

A complicated and controversial relationship between DC-Cam and the present Cambodian government exists. During and closely following their collection of the records in the 1990's, DC-Cam received support from the Cambodian government. Hun Sen, who seized control of Cambodia in 1999 and maintains power since, led a government that “has been plagued by corruption allegations, accusations of fiscal mismanagement, and charges of human rights abuses. Prime Minister Hun Sen is widely accused of perpetrating violence against his political opponents, rigging elections, and most recently, attempting to destroy the country’s flourishing city society organizations”.³¹ That instability combined with Hun Sen’s aversion towards civil society organizations makes DC-Cam’s political situation uncertain.

As Hun Sen wavers on whether he wants to remember or obliterate the Khmer Rouge regime from popular memory, the DC-Cam’s safety remains in jeopardy for two main reasons. First, their records hold political ammunition that could be used against Hun Sen’s regime. For example, evidence within the DC-Cam’s possession could implicate multiple current colleagues of Hun Sen.³² As much of Hun Sen’s legitimacy grew out of his political party’s resistance to the Khmer Rouge, the DC-Cam records could disrupt Hun Sen’s carefully constructed narrative.³³ This political ammunition alone puts the Khmer Rouge records into a precarious situation. Second, Hun Sen famously said “Dig a hole and bury the past in it” when discussing

³⁰ Caswell “Rethinking Inalienability,” 123.

³¹ Caswell “Rethinking Inalienability,” 118.

³² Caswell “Rethinking Inalienability,” 119.

³³ Savina Sirik, “Memory Construction of Former Khmer Rouge Cadres: Resistance to Dominant Discourses of Genocide in Cambodia.” *Journal of Political Power* 13, no. 2 (2020): 233

reconciliation with former Khmer Rouge members.³⁴ This method of censoring history directly contradicts DC-Cam's mission to reach reconciliation by raising awareness through education.

Comparing Ba'ath Party and Khmer Rouge Archives: Treatment and Use

The case studies of the Ba'ath Party and Khmer Rouge Archives individually reveal interesting decisions and applications of international archival standards; however, an in depth comparison reveals how inadequate and variable the application of archival standards is to these complex situations. Important distinctions concerning archival standards arise by comparing the organization's outreach efforts, the access to the archives, and the NGO's relationship with the government.

The efforts taken by the organization to open the records up for international and Iraqi/Cambodian remembrance stands as a stark contrast. DC-Cam committed itself to serve and support the Cambodian people, while the IMF failed to carry through with any of its global and national outreach. During the Iraq war, Makiya asked the American military to turn over captured materials to him with the aim of making them part of his memorial center; however, as of present no such memorial center exists, in or outside of Iraq. In contrast, DC-Cam established a memorial center in the heart of Cambodia and continues its commitment to serve the community. This memorial center includes the Public Information Room and the recently opened library. Alongside those establishments, the organization remains extremely transparent about how the donations they receive benefit the local community and the utilization of the Khmer Rouge records.³⁵ The DC-Cam hosted multiple exhibitions by the mass grave site at Wat Them and at the last Khmer Rouge stronghold in Anlong Veng.³⁶ These exhibitions,

³⁴ Sirik "Memory Construction," 145.

³⁵ Montgomery "Immortality in the Secret Police Files," 313.

³⁶ Sirik "Memory Construction," 140.

created and funded by the DC-Cam as educational tools, inform Cambodians and visitors about the untold narratives of the Khmer Rouge. In stark contrast to the US propaganda supported by the IMF, the exhibitions DC-Cam developed emphasized stories that harshly contrasted the narratives that the Cambodian government pushed onto its people.³⁷

In addition to the original records collected, both organizations sponsored the recording of survivor testimonials. During the Khmer Rouge United Nations tribunals, the DC-Cam set up public forums around Cambodia to allow survivors to record their own experiences.³⁸ Public access to these oral histories, stored within the archives, continues. This project emphasizes DC-Cam's commitment to recording and preserving the atrocities endured by the Cambodian people. No record exists of the Cambodian government attempting to hijack the Khmer Rouge testimonials for any self-serving purpose.

Similarly, the IMF's Iraqi Testimonials Project documented atrocities suffered by the Iraqi people under Saddam Hussein. Carefully edited interviews from the Iraqi Testimonials Project aired on Iraqi national television for four seasons between 2005-2008 as a propaganda campaign to further vilify all aspects of Saddam Hussein's reign.³⁹ The CIA created the edited version and crafted the videos to directly align with the US's previously discussed propaganda campaign.⁴⁰ The comparison of the two programs reveals the key difference between the IMF and DC-Cam's purpose. Through the oral history campaign, the IMF alongside the American government weaponized the Iraqi people and their stories to support the US propaganda

³⁷ Sirik "Memory Construction," 145.

³⁸ Caswell "Rethinking Inalienability," 123

³⁹ Elizabeth Thompson, Video interview to Wisam Alshaibi. Wisam Alshaibi on Ba'ath Party Archives. May 5, 2020.

Brill, Michael P. "War on Rocks: Texas National Security Review," July 17, 2020.

⁴⁰ Thompson, interview.

initiative. In comparison, DC-Cam's focus on purely preserving the voices of the Cambodian people for future generations and to bring their ousted tyrants to justice.

The political relationship between the organization and the government in question exposes the largest difference between the two situations. Much controversy occurred concerning the level of support Iraqi officials gave to the CPA to transfer Iraqi cultural property into private hands, and what rights the US had to transfer Iraqi cultural property outside of the country. Since 2003 controversy persisted over the legality of the US actions regarding the Ba'ath Party Archives, as well as disagreement over to what extent Iraq gave consent to the transference of its records. The 2012 Memorandum cleared up a lot of this confusion, but many still criticize the IMF's past actions. For example, many criticize the funding the IMF took from the US, a foreign invading government, during the Iraq war. This funding contrasts the DC-Cam's situation as the DC-Cam maintains its own autonomy.

Unlike the Khmer Rouge records which remain under the authority of DC-Cam, control of the Ba'ath Party Archives returned to the Iraqi government following the 2012 Memorandum. And their physical return occurred in the Summer of 2020. This return was viewed as a win by many who opposed the IMF's handling; however the continued lack of access remains detrimental for the Iraqi people.

Implications For Archival Standards: Cultural Nationalism Vs. Internationalism

As explored above, historical evidence and primary sources hold importance for the national and international community. Two main epistemologies appear when discussing cases about cultural property and archival standards: cultural nationalism and cultural internationalism. "Cultural nationalism" links cultural property as inalienable property of a nation's cultural history. In contrast, "cultural internationalism" views cultural property as a

part of the global human culture.⁴¹ The investigation into the Ba'ath Party Archives and Khmer Rouge records reveals a dilemma surrounding cultural property: to what extent should cultural nationalism versus internationalism be followed?

As argued by proponents of the IMF and DC-CAM, cultural property belongs to a shared human culture and thus historical objects must be protected for the international community. The 1954 Hague Convention established legal precedent for cultural internationalism and the SAA repeatedly echoes the importance of worldwide cultural property: “once destroyed, archives cannot be re-created and the cultural patrimony of the world is permanently diminished”.⁴²

The complicated socio-political world we live in necessitates the study of history and attention to diverse accounts of the past. Resources like the Ba'ath Party records and the Khmer Rouge archives provide rich educational opportunities for people to learn about governments and communities both very similar and quite different from their own. Having access to personal oral histories as both the DC-Cam and IMF crafted creates a human connection between modern historians and people separated by time, space, and culture. Without resources like those oral histories, it is very easy to alienate historical figures which prevents the development of empathy. Without the ability to empathize with those different from you, conflict and strife over differences becomes exasperated. Within his book *Why Study History*, John Fea emphasizes the importance of empathy as it leads to humility. Fea discusses that “humility is ultimately an acknowledgment of one’s limits and the realization that there are some things about the world that we cannot know fully”.⁴³ Thus, international access to a

⁴¹ Douglas Cox, “National Archives and International Conflicts: The Society of American Archivists and War.” *The American Archivist* 74, no. 2 (2011), 454.

⁴² Douglas “National Archives and International Conflicts,” 454.

⁴³ John Fea, *Why Study History?: Reflecting on the Importance of the Past* (Grand Rapids, MI: Baker Academic, 2013), 61.

variety of historical sources prevents the arrogance of superiority that threatens to alienate one community from another. The cross-cultural educational opportunities of the two archives serves as a strong argument for the cultural internationalism theory.

Within the context of Iraq and Cambodia, the current state of their country raises questions in favor of following cultural internationalism. For instance, the instability of Cambodia's political situation and Hun Sen's motivations to suppress Khmer Rouge history makes the preservation of the records in a Cambodian government archive difficult. In her article "Rethinking Inalienability: Trusting Nongovernmental Archives in Transitional Societies," Michelle Caswell details why this archive should not be transferred into the sole custody of the Cambodian government:

Against this backdrop of political chaos, interference with civil society, and financial mismanagement, government-run agencies in Cambodia are simply not stable enough right now to properly steward records of recent human rights abuse. Furthermore, government-run archival institutions in Cambodia are so underfunded that they currently lack the capacity to care for an influx of records⁴⁴

Thus, the Khmer Rouge records do not necessarily have a reliable or safe home within the Cambodian government. This same argument could be made concerning the position of the Ba'ath Party Archives in Iraq. Just as access problems would arise with the transfer of the records to the Cambodian government, since the return of the Ba'ath Party Archives no public access has been given.

However, critics of both the IMF and DC-Cam claim that even if scholars are unsure of how safe the records may be, outside powers should not determine where a country's cultural property belongs. This point of view coincides with the cultural nationalism epistemology. In

⁴⁴ Caswell "Rethinking Inalienability," 120.

an article concerning the Ba'ath Party Archives, Michelle Caswell vocalizes her support of their repatriation:

“Protection means control”, and control that calls into question the sovereignty of source nations. This is not to say that the IMF did not initially protect the records from destruction, which it did, but rather, once the initial act of protection is complete, the records should be repatriated as soon as possible. Failure to do so is a failure to acknowledge the power inequalities inherent in their acquisition⁴⁵

This statement specifically concerns the Iraqi archives but also applies to the situation with Cambodia. Regardless of the current socio-political unease in Cambodia, the “initial act of protection” by the DC-Cam has been completed. Under this framework, both records should technically be returned to the control of their respective government despite preservation and access concerns.

In accordance with Caswell’s statement, Iraqi Archivist Eskander argues the Ba’ath Party Archives belong to Iraq and the international community has no place to dictate the provenance of inalienable cultural property.⁴⁶ Eskander’s views, along with those who support the inclusion of the Khmer Rouge Records within Cambodian authority, reflect the cultural nationalism view. The 1970 UNESCO Convention’s “Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property” meant to protect the authority of nations over their own objects, including archives.⁴⁷ Thus, regardless of the value of an archive to the international community, cultural property belongs within its society of origin.

The case studies from Cambodia and Iraq both deal with the integral role public history plays in military events and the rebuilding of a society. The same records and artifacts that an international military campaign may utilize to gain intelligence or that an international court

⁴⁵ Caswell “Thank You Very Much, Now Give Them Back,” 235.

⁴⁶ Eskander “Open Letter to the Hoover Institution.”

⁴⁷ Douglas “National Archives and International Conflicts.”

uses to try criminals can be used by the victimized country to regain a sense of unity through the atrocities they faced. Thus, a nation's history serves as a tool in rebuilding their community.

The use of these records and oral histories by their home nations to reconcile their past trauma and to facilitate renewal demonstrates the importance of historical inquiry within a society. Cultural property acts as a physical embodiment of a national identity. A country must retain access to materials from a crucial time in their past: "Crucial to the formation of a national identity is not just the existence of a national library or archive or the ownership of documents of national import, but access to these documents."⁴⁸ In both Cambodia and Iraq, their people went through horrific psychological and physical events. Being able to reclaim that part of their history by having access to their cultural property is an extremely important step in the reconciliation process.

Setting up archival strategies along international and national lines fails to adequately confront modern globalized problems. The international viewpoint fails to ensure national access and the national viewpoint fails to integrate the global need to connect with international communities. However, proponents on each side of the cultural nationalism and cultural internationalism debate emphasize the importance of accessibility to the cultural property.

A Third Option: Cultural Accessibility

The case studies of Iraq and Cambodia revealed the complicated position archival materials have within international politics and law. In reference back to the currently accepted definition of the archival principle of inalienability, which asserts the records of state and governmental institutions belong within those nation's archives, both the Ba'ath Party Archives and the Khmer Rouge archives technically belong in their government's national archive.

⁴⁸ Caswell "Thank You Very Much, Now Give Them Back," 223.

While the Ba'ath Party Archives now reside under Iraqi control, the complicated and controversial circumstances surrounding both collections reveals that inalienability cannot be applied as a blanket statement within our modern political atmosphere in which the line between nations blurs and institutional governments often fail to act in their citizen's best interest. As seen with both Iraq and Cambodia, their governmental records often serve as evidence of their human rights violations and war crimes.

However, the autonomy of individual nations must be preserved to prevent an imperialization of archives in the name of preservation. Each situation involving a toppled government or controversial handling of cultural property transpires differently. This analysis acknowledges that no overarching international law or regulation adequately handles every situation; however, it is necessary to prioritize the preservation of records within their country of origin. History reveals how often rival nations attempt to weaponize cultural property. The DOD's propaganda and PR agenda demonstrates this exact scenario. The opposing strategy Caswell discusses is the repatriation of cultural property to the home country.⁴⁹ Yet, the Cambodian case study demonstrates that even decades after their acquisition, the nation's government may not be a safe option.

Thus, if residing under the authority of their originating government raises concerns about the safety and integrity of the archives a third option must be developed. The international community and archival standards should prioritize the return of cultural property first to the originating government and second to an NGO or capable institution within the nation. This strategy prioritizes national (and international) access to the materials.

⁴⁹ Caswell "Thank You Very Much, Now Give Them Back," 235.

DC-Cam, who protected and safely allowed access to valuable records throughout volatile times, serves as a prime example of this method. As discussed above, access to cultural property, especially in times of tribulation, greatly improves healing, reconciliation, and growth. This scenario still allows for their use in human rights trials, a use that often appears as a large argument for the removal of records.

The return of the Ba'ath Party Archives to Iraqi authority came as a win for cultural nationalists; however, since their return to Iraq no access exists for Iraqis or researchers. While under the control of the IMF and while at the HI, the limited international access to the materials prompted protest. Yet, their repatriation and move to Iraq demonstrates that returning cultural property to its government does not necessarily equal accessibility. The HI remains the only place in the world granting access to the materials (through digitized copies).

Conclusion

This comparison of the Ba'ath Party Archives and Khmer Rouge Archives demonstrates a need for future research concerning archival strategies that prioritize both national and international access to preserved materials. Counter to standard practices that fail to adequately approach issues in an increasingly globalized and volatile socio-political age, cultural accessibility challenges archivists and politicians to understand the immaterial worth of cultural property to healing nations and international relations. Both the IMF and DC-Cam interpreted and applied archival standards and national laws differently, leading to unnecessary complications and controversies. Thus, international archival practices need to adapt as cultural property becomes increasingly politicized and controversial. By emphasizing the need to provide accessibility these developing standards will ensure that archives and other cultural property are not restricted due to political or military concerns.

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