

## **COURSE SYLLABUS**

### **Archives, Evidence and Human Rights**

**Professors:** Iván Székely, András Mink, Csaba Szilágyi

Term / AY 2018-19

Fall Semester

CEU Credits: 3

Mandatory for International Justice Specialization for HR MA and LLM

Restricted Elective for HR MA

Elective for MA in Central European History and MA in Comparative History

No pre-requisites or co-requisites

Office hours: by appointment

### **Introduction**

The Vera and Donald Blinken Open Society Archives (OSA), an organizational unit of CEU, is an international archival, research and educational institution committed to collect, preserve, provide open access to and actively interpret records on recent history, and human rights movements and violations ([www.osaarchivum.org](http://www.osaarchivum.org)). OSA is also the records management provider for and the final repository of the historic records of the Central European University and the Open Society Foundations. OSA's holdings, coming from three dozen countries in over 30 languages and in all media and formats, are frequently used in its public programs, including physical and virtual exhibitions, film screenings, artistic performances, as well as lectures, workshops and seminars. OSA organizes yearly the Verzio International Human Rights Documentary Film Festival.

In an effort to find innovative ways of archiving and making records as widely available as possible, OSA developed and promotes a new, collaborative and distributed digital archival model which relies primarily on its users in the archiving process and research as well, and engage its community of researchers into professional dialog, thus facilitating critical approach to the documents.

OSA offers the three-credit course Archives, Evidence and Human Rights to the Human Rights Program of the Legal Studies Department, cross-listed to the History Department. The course seeks to attract students with different backgrounds, working on topics related to recorded memory, historical analysis and representations of oppressive regimes, and retroactive justice. The multidisciplinary course includes an introduction to the history and philosophy of preserving recorded memory and gives an overview of the basic functions and types of modern human rights archives. It further aims at analyzing the legal and ethical problems of using human rights documents containing personal data, as well as basic

provisions of archival and information law. Case studies illustrate the problems of using and evaluating evidence on mass atrocities, the historical, ethical, and legal aspects of making justice for past abuses and the difficulties of making state leaders liable for human rights violations. New methods of (re)creating historical/human rights narratives from diverse archival sources are introduced, along with innovative digital systems of managing human rights information. The course also explores practices of memorializing grave human rights violations in the archival space. In addition, students gain skills in doing archival research and handling archival documents in practice.

The course is taught by a team of OSA experts: Iván Székely (social informatist, course leader), András Mink (historian), and Csaba Szilágyi (human rights archivist). The venue is the permanent home of OSA, the Goldberger House, located just a few blocks away from CEU's main campus.

## **Goals**

Using OSA as a model, the course aims at bringing the structure, database, catalogs, and documents of a contemporary archive closer to the students and giving specific and practical examples on how to trace and research archival material, as well as evaluate the findings. During the classes, workshops, consultations and their individual research work in OSA, students are expected to explore the possibilities and limitations of using textual, audiovisual, cartographic and electronic archival documents as evidence in national or international criminal procedures.

## **Learning outcomes**

- Guide students in understanding common archival goals and processes, and different approaches to gathering and organizing information
- Develop students' ability to find and use primary sources in their research and thesis writing
- Orientate students in the area of online search possibilities, especially in finding and using trusted search engines, databases and online repositories
- Urge students to reconsider the use of recorded memory in evaluating the moral and legal aspects of justice-making
- Challenge students to evaluate, critically approach and innovatively use different kinds of archival documents relating to violations of human rights
- Strengthen students' ability to demonstrate an awareness and understanding of documentary evidence in the context of human rights
- Completing the course is a prerequisite of taking the Archives and Evidentiary Practices Specialization

## Requirements

Students are required to participate in classes and workshops. They have to summarize their position in writing (half page long text) on the mandatory reading for the next class one day in advance of the respective class. They need to choose their individual research topic from a list offered by the professors (who will be their supervisors), do intensive research in OSA's holdings, and prepare a textual outline of their final paper and a brief presentation on their research by mid-term. Students are required to regularly consult with their respective supervisors, prove their familiarity in using OSA's catalog and prepare for discussion the primary sources they are using in their individual research; the minimum number of consultations in a semester is three.

## Assessment

Grading is based on the take-home essay prepared on the students' individual research topic, as well as the quality of the written and oral contributions to classes and workshops, their individual research into OSA documents, mid-term presentations, and individual consultations with the respective supervisors.

## Course materials

Course materials are available on the e-learning site of the course.

## Structure

### ***Fall Semester, Second and Third Modules***

#### *1. Introduction (Iván Székely)*

September 25, 09:00-10:40

- (a) Course information and requirements; introducing the teaching staff and students.
- (b) Intro to archivistics: archives and libraries; documents and records; current, semi-current and non-current documents; holdings and collections; Fonds and series; archives and documentation centers; paper-based, AV and electronic documents; finding aids; the four paradigms of archival history; types of archives.

#### Mandatory reading:

Ivan Szekely, "The Four Paradigms of Archival History and the Challenges of the Future", in Mika Merviö (ed.), *Management and Participation in the Public Sphere*, IGI-Global, Hershey, PA, 2015, pp. 1-37.

<http://archive.ceu.hu/sites/default/files/publications/the-four-paradigms-of-archival-history-and-the-challenges-of-the-future.pdf>

## 2. Memory and oblivion, remembering and forgetting (Iván Székely)

September 28, 15:30-17:10

Topics discussed: the importance of remembering, the importance of forgetting; the types of memory, individual and collective memory, human memory and digital memory; memory preserving techniques; memory preserving institutions; the recurring act of selection and assessment; the brave new world of eternal digital memory, the fate of personal digital heritage, "the code is the law"; the costs of preserving, the costs of forgetting; the changing function of archival documents, the changing function of archives.

### Mandatory reading:

Szekely Ivan, "The right to be forgotten and the new archival paradigm",  
In A. Hoskins (ed.), *The Ethics of Memory in a Digital Age: Interrogating the Right to Be Forgotten*, Palgrave 2014, pp. 28–49.

### Suggested reading:

Douwe Draaisma, *Why Life Speeds Up As You Get Older*,  
Cambridge University Press, New York, 2004.

Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age*,  
Princeton University Press, Princeton, 2009, Chapter VII: "Reintroducing Forgetting",  
pp. 169–195.

## 3. Sources and History Writing: the Case of David Irving (András Mink)

October 2, 09:00-10:40

The class is about a case study which examines the the ways of proper and improper use of historical sources through the famous libel case brought before the High Court in London by David Irving, British amateur historian against Deborah Lipstadt and the Penguin Books in 1996. This was the first case in history when the epistemological boundaries of history writing and the authenticity of the interpretation of historical documents had to be scrutinised and measured before court. In the era of "post-truth" it seems worth asking again the old questions raised by one of the experts of the trial Richard Evans: "*What is historical objectivity? How do we know when a historian is telling the truth? Aren't all historians ... only giving their own opinions about the past? Don't they just select whatever facts they need to supply their own interpretations...?*"

### Mandatory reading:

Richard Evans, *Lying about Hitler*, Basic Books, 2001, pp. 28-39, 71-82.

"Hitler's Knowledge" in section 6.23-6.38, Trial Judgement by Judge Charles Gray,  
April 11, 2000, [https://www.hdot.org/judge\\_toc/](https://www.hdot.org/judge_toc/)  
(The selected part is attached to the course materials)

#### 4. *Information and propaganda in the early years of the Cold War (András Mink)*

October 5, 15:30-17:10

The Soviet bloc in the early Cold war period was an almost hermetically closed orbit for outside observers. The centralized and fully controlled mass media of the Stalinist states disseminated only political propaganda, distorted and manipulated information about themselves and the outside world. However, journalists, analysts, political strategists on the other side of the Iron Curtain needed reliable information on the political reality of these countries. They established various channels and elaborated delicate methods in order to acquire and analyze independent data and information. We will focus on those records that were collected in order to assess the human rights situation in these countries.

##### Mandatory reading:

Arch Puddington, *Broadcasting Freedom*, The University Press of Kentucky, 2000, pp. 1-19, 33-60.

#### 5. *The "archival imperative": human rights archives and the preservation of records on human rights violations (Csaba Szilágyi)*

October 9, 09:00-10:40

Topics discussed: historical retrospective, recent developments and initiatives; guiding principles and responsibilities of human rights archives; activism in the archives: role of the human rights archivist/archives in promoting and defending human rights; problems of archiving: records creation and chain of custody, access (on site and on-line) and restrictions; management of sensitive information; public programs, audience and outreach.

##### Mandatory reading:

Michelle Caswell, "The Making of Archives", in Caswell, *Archiving the Unspeakable: Silence, Memory, and the Photographic Record in Cambodia*, University of Wisconsin Press, Madison, 2014, pp. 61-96.

##### Suggested reading:

Louis Bickford, Patricia Karam, Hassan Mneimneh and Patrick Pierce, *Documenting Truth* (2009) <http://ictj.org/sites/default/files/ICTJ-DAG-Global-Documenting-Truth-2009-English.pdf>

Graham Stinnett, "Archival Landscape: Archives and Human Rights", *Progressive Librarian* (2009) 32:10–20  
[http://www.progressivelibrariansguild.org/PL\\_Jnl/pdf/PL32\\_winterspring2009.pdf](http://www.progressivelibrariansguild.org/PL_Jnl/pdf/PL32_winterspring2009.pdf)

David A. Wallace, "Historical and contemporary justice and the role of the archivist", *ABM-skrift#28: Arkiv, demokrati og rettferd*, 2006.  
<http://www.abm-utvikling.no/publisert/abm-skrift/abm-skrift-fulltekst/abm-skrift-28-arkiv-demokrati-og-rettferd.html#2-historical-contemporary-justice>

*6. Human rights information in transformation: online resources and research (Csaba Szilágyi)*

October 12, 15:30-17:10

Topics discussed: human rights archives, collections and databases online; examples from Blinken OSA: Finding Aids, Digital Repository and the Parallel Archive (an online storage, management, and research platform for scholars using digitized archival sources); research methodology and evaluation of findings; and open source intelligence analysis: validation and evaluation of user generated and social media sources.

Mandatory reading:

Christoph Koettl, "Citizen Media Research and Verification: An Analytical Framework for Human Rights Practitioners" (2016)

[https://www.repository.cam.ac.uk/bitstream/handle/1810/253508/Koettl\\_Citizen%20Media%20Research%20and%20Verification\\_FINAL%20%281%29.pdf?sequence=1&isAllowed=y](https://www.repository.cam.ac.uk/bitstream/handle/1810/253508/Koettl_Citizen%20Media%20Research%20and%20Verification_FINAL%20%281%29.pdf?sequence=1&isAllowed=y)

Suggested reading:

Keith Hiatt, "Open Source Evidence on Trial", 125 *Yale L. J. F.* 323 (2016)

<https://www.yalelawjournal.org/forum/open-source-evidence-on-trial>

Bellingcat: by and for citizen investigative journalists <https://www.bellingcat.com/>

*7. Workshop: Students presenting the state of their research (András Mink, Iván Székely, Csaba Szilágyi)*

October 16, 09:00-10:40

*8. Records relating to the 1956 Hungarian revolution (András Mink)*

October 19, 15:30-17:10

The seminar will explore the records available on the 1956 Hungarian revolution at OSA Archivum and provides a critical assessment of these sources.

Mandatory reading:

The UN Special Committee on the Problem of Hungary

[http://w3.osaarchivum.org/index.php?option=com\\_content&view=article&id=1543&Itemid=1517](http://w3.osaarchivum.org/index.php?option=com_content&view=article&id=1543&Itemid=1517)

*9. Human rights in the 1970s and 1980s. The dissident movements and their strategies (András Mink)*

October 30, 09:00-10:40

Although the first acts of international law on the protection of human rights appeared soon after WW II, the issue of human rights has not become a central part of the politics and

propaganda of the two confronting camps of the Cold war. However, the idea of human rights played a major role in shaping the dissident movements in Eastern and Central Europe from the early 1970s to the collapse of Communist regimes in the region. The seminar will focus on the emergence of human rights thinking, and the main ideas and practices of dissidents movements in the region with a special focus on Samizdat.

Mandatory reading:

Adam Michnik, "The New Evolutionism" in Michnik, *Letters from Prison and Other Essays*, pp. 135–148.

Janos Kis et alia, "Kadar must go", in Kis, *Politics in Hungary: For a Democratic Alternative*, pp. 143–152.

*10. Workshop: Prosecution of political leaders: The Trial of Nicolae and Elena Ceaușescu (András Mink, Iván Székely, Csaba Szilágyi)*

November 6, 09:00-10:40

In a moderated session students analyze the contemporary case of a former political leader facing trial for his deeds in a society in democratic transformation. Relevant archival sources are brought in the classroom to inform the discussion on problems related to transitional justice making, including the historical background, crimes committed, personal responsibility and accountability, chain of command, and legality of the trial.

Mandatory reading:

Vladimir Tismaneanu, "The Siege of the Romanian Fortress" in Tismaneanu, *Reinventing Politics: Eastern Europe from Stalin to Havel*, The Free Press, New York, 1992, pp. 223–236.

Alina Conțeanu, *Dec 25, 1989 – Trial and Execution* (An Online Exhibition at Google's Cultural Institute) <https://www.google.com/culturalinstitute/exhibit/trial-and-execution/qREp68EU?hl=en>

Suggested reading:

Ruxandra Cesereanu, *Ceausescu's Trial and Execution* (2009)

[http://www.metabasis.it/articoli/7/7\\_cesereanu.pdf](http://www.metabasis.it/articoli/7/7_cesereanu.pdf)

Nestor Ratesh, *Romania: The Entangled Revolution*, Praeger, New York, 1991.

*11. Workshop: Gathering and examining evidence for criminal court proceedings: the Srebrenica genocide (Csaba Szilágyi)*

November 13, 09:00-10:40

Topics discussed: admissibility and rules of evidence and procedure; assessment of human rights documentation as (primary and secondary) legal evidence: probative value, authenticity, reliability; unusual cases of evidence; application of these standards on archival documents from OSA's permanent collections, as well as from the International Criminal

Tribunal for the former Yugoslavia, (ICTY), the International Commission on Missing Persons (ICMP), the Missing Persons Institute (MPI) and other organizations.

Mandatory reading:

Popović *et al.* (IT 05-88) "Srebrenica", Judgment Summary, June 10, 2010  
<http://www.icty.org/x/cases/popovic/tjug/en/100610summary.pdf>

Isabel Delpla, Xavier Bougarel and Jean-Louis Fournel (eds.), "The ICTY Investigations: Interview with Jean-René Ruez", in *Investigating Srebrenica: Institutions, Facts, Responsibilities*, Berghahn Books, New York and Oxford, 2012, pp. 23–39.

Suggested reading:

John Hagan, "The Srebrenica Ghost Team", in *Justice in the Balkans: Prosecuting War Crimes in The Hague Tribunal*, University of Chicago Press, Chicago and London, 2003, pp. 132–175.

Daniela Accatino and Cath Collins, "Truth, Evidence, Truth: The Deployment of Testimony, Archives and Technical Data in Domestic Human Rights trials", *Journal of Human Rights Practice* (2016) 8:81–100  
<http://jhrp.oxfordjournals.org/content/early/2016/03/01/jhuman.huv019.abstract>

*12. Memorializing mass atrocities in the archival space (Csaba Szilágyi)*

November 20, 09:00-10:40

Topics discussed: the role forensic evidence, audiovisual documentation, legal material and personal memories in the representation and commemoration of contemporary mass atrocities; constructing location and/or event based human rights/historical narratives from primary archival sources to preserve memory, (re)build collective identity and facilitate historical dialogue in post-conflict societies; memory practices in the archives.

Mandatory reading:

Csaba Szilágyi, "Representation of Mass Atrocities in Imagined 'Commemorative Arenas'." *Versus. Traces of Terror, Signs of Trauma* (Thematic issue, June-December 2014) 119: 71–91.

Suggested reading:

Lara J. Nettelfield and Sarah E. Wagner, "Memorializing Srebrenica", in *Srebrenica in the Aftermath of Genocide*, Cambridge University Press, New York, 2014, pp. 35–71.

Hariz Halilovich, "Re-imagining and re-imaging the past after 'memoricide': intimate archives as inscribed memories of the missing", *Archival Science* (2016) 16:77–92.  
<http://link.springer.com/article/10.1007/s10502-015-9258-0>



### 13. Access and protection (Iván Székely)

November 27, 09:00-10:40

Topics discussed: personal and public data; basic principles of data protection and freedom of information; the European and the American model of handling personal data; the relevant provisions of privacy law, freedom of information law, archival law; international norms of access to archives; the Council of Europe recommendations and conventions; the EU legal framework; the Quintana Report on access to archives of former repressive regimes; lustration and former secret service archives; the access practice in Europe; state secrets, business secrets, donor's restrictions, lack of finding aids, general protection period; partial release (electronic and paper-based)

#### Mandatory reading:

Council of Europe: Recommendation No. R (2000) 13 of the Committee of Ministers to member States on a European policy on access to archives (with Explanatory Memorandum)

<https://rm.coe.int/16804cea4f>

<https://rm.coe.int/16804cf8f4>

#### Suggested reading:

Shekhar Singh, "India: Grassroots Initiatives", in Ann Florini (ed.), *The Right to Know. Transparency for an Open World*, Columbia University Press, New York; Chichester, West Sussex, 2007, pp. 19–53.

### 14. Evidence (Iván Székely)

December 4, 09:00-10:40

Topics discussed: nature and types of evidence; truth vs. probability; evidence in science, the science of evidence; documentary evidence; methods of falsifying documents, methods of verifying documents; statistical probability and evidence; witness testimonies and factual evidence; strategies to prove and to reject probative value of evidence; cross-references and joint evaluation; court practices and legal traditions, the practice of international tribunals.

#### Mandatory reading:

Ball, Patrick, "Human Rights in the post-truth age: a statistician's mission", talk at Founders Pledge, 2017.

<https://www.youtube.com/watch?v=5G08JCK9aY>

#### Suggested reading:

Harrison, Ann, "Counting the Unknown Victims of Political Violence: The Work of the Human Rights Data Analysis Group", in John Lannon and Edward Halpin (eds.), *Human Rights and Information Communication Technologies: Trends and Consequences of Use*, IGI Global, 2012, Chapter 9, pp. 139–156.

<https://hrdag.org/wp-content/uploads/2013/02/HRDAGbookchapter.pdf>

David A. Schum, *Thoughts about a science of evidence*, University College London, 2005

[www.ucl.ac.uk/jdi/research/evidence-network/docs/Science.doc](http://www.ucl.ac.uk/jdi/research/evidence-network/docs/Science.doc)