COURSE SYLLABUS

Archives, Evidence and Human Rights

Professors: Iván Székely, András Mink, Csaba Szilágyi

Winter Term / AY 2020-2021

3 US credits / 6 ECTS credits

Elective for MA in Human Rights, MA in Central European History, and MA in Comparative History

No pre-requisites or co-requisites

E-learning site: https://ceulearning.ceu.edu/course/view.php?id=12396

Office hours: by appointment

Introduction

The Vera and Donald Blinken Open Society Archives (Blinken 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). Blinken 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. Blinken 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. Blinken 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, Blinken 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.

Blinken 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 consists of 12 core sessions (2 credits) and as an organic part of the course, a period for conducting individual research under supervision (1 credit) possibly on the Budapest campus. The core sessions (classes and workshops) will be held online, and an online session will be devoted to students presenting their research topics. Those students whose research period is scheduled during the Winter Term, will conduct their individual research within this time frame. Those students whose research period is scheduled for the Spring Term, will complete their archival research in this period.

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

Goals

Using Blinken 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 Blinken OSA's holdings, 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 need to choose their individual research topic from a list offered by the professors (who will be their supervisors) in advance of the course, do intensive research in Blinken OSA's holdings online and possibly on-site, and prepare an 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 Blinken OSA's catalog and prepare for discussion the primary sources they are using in their individual research; the minimum number of consultations during the course is three.

Assessment

Grading is based on the take-home essay prepared on the students' individual research topic (60% weight), as well as the quality of oral contributions to classes and workshops (10% weight), mid-term presentations (10% weight), their individual research into Blinken OSA documents and individual consultations with the respective supervisors (20% weight).

Course materials
Course materials are available on the e-learning site of the course. Archival resources are available on Blinken OSA's website (www.osaarchivum.org) as well as through the OSA Research Cloud, a virtual research room where students can register and log in with their CEU accounts (https://ceuedu.shatepoint.com/sites/osa-researchcloud).

Structure

1. Archives, archivistics, archival paradigms (Iván Székely)
January 19, 09:00-10:40

Introduction to archivistics: memory preserving institutions; documents and records; current, semi-current and non-current documents; types of documents; types of archives; archives and documentation centers; finding aids, catalogs; ways to find information in archives. The four paradigms of archival history.

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. Archives, human rights and social in/justice (Csaba Szilágyi)
January 21, 09:00-10:40

Topics discussed: human rights archives and concepts of social justice; guiding principles; obligations and responsibilities of human rights archives/archivists in promoting and defending human rights and social justice; power of archives in shaping narratives of social in/justice; problems of archiving: records creation and chain of custody, access (on-site/line) and restrictions; management of sensitive information; public programs, audience and outreach.

Mandatory reading:

David A. Wallace, "Archives and Social Justice", in Heather MacNeil and Terry Eastwood, *Currents of Archival Thinking* (Second Edition), Libraries Unlimited, Santa Barbara and Denver, 2017, pp. 271-297.

Suggested 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.

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

3. Human rights and the East-Central European dissident movements from the mid-1970s: strategy and tactics (András Mink)
January 26, 09:00-10:40

The class will scrutinize the emergence and changing role of human rights narratives during the last part of the Cold war through the strategy and tactics of the "democratic opposition" in East-Central Europe. We will also have a look on the demise of counter-narratives of the former Soviet regimes relating human rights and political freedoms.

Mandatory reading:

Adam Michnik, A New Evolutionism (1976), available at http://chnm.gmu.edu/1989/archive/files/A%20New%20Evolutionism%201976_65b0fee1ea.pdf

János Kis, "Kádár Must Go!", (1987) in Kis János, *Politics in Hungary: For a Democratic Alternative*, Atlantic Research and Publication Ltd. 1989

Suggested reading:

Konstantin U. Chernenko, *Human Rights in Soviet Society*, Novosti Press – International Publishers, 1981.

4. Access and protection (Iván Székely)
January 28, 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.

5. Holocaust on trial (András Mink)
February 2, 09:00-10:40

During the class we will examine the early problems of Holocaust narratives through some contemporary documentary films, analyze the most famous legal case of Holocaust denial and the problems and limits of historical/archival vs. legal tools in reconstructing the past.

Mandatory reading:

> Excerpts from the Judgement of Justice Ch. Gray, available at
> https://www.hdot.org/judge_toc/

> Richard Evans, *Lying about Hitler: History, Holocaust, and the David Irving Trial,* Basic Books, 2001.

6. Memorializing mass atrocities in the archival space (Csaba Szilágyi)
February 4, 09:00-10:40

Topics discussed: using forensic evidence, audiovisual documentation, legal material and personal memories in the memorialization 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; new archival models in the service of inclusive memory practices; introducing user generated content and crowdsourced, participatory archival practices to institutional archives.

Mandatory reading:

> Csaba Szilagyi, "Re-archiving Mass Atrocity Records by Involving Affected
> Communities in Postwar Bosnia and Herzegovina", Sandra Ristovska and Monroe

Price, *Visual Imagery and Human Rights Practice*, Palgrave Macmillan, Cham, 2018, pp. 131-152.

<u>Suggested reading</u>:

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

Eric Ketelaar, "Archives as Spaces of Memory", *Journal of the Society of Archivists* (2008), 29:1, pp. 9-27.

7. Workshop: Students presenting the state of their research (Iván Székely, Csaba Szilágyi, András Mink)
February 9, 09:00-10:40

8. The historical sources of constitutional transition (András Mink)
February 11, 09:00-10:40

The class offers an introduction to the unique historical collection of COLPI (Constitutional and Legal Policy Institute), an affiliation of Central European University, Budapest. COLPI was established in 1990 as a research institute in order to follow, document and scrutinize the steps and legislative moves of legal and constitutional changes country by country throughout the former Soviet bloc.

<u>Mandatory reading</u>:

Stephen Holmes, "Introducing the Center", *East European Constitutional Review,* Spring 1992, pp. 13-15.

Jon Elster, "Making Sense of Constitution-Making", *East European Constitutional Review,* Spring 1992, pp. 15-17.

Wiktor Osiatyński, "The Constitution Making Process in Poland", *Law and Policy,* Vol. 13, April 1991, pp. 125-132.

9. Workshop: Investigating open source evidence of human rights violations (Csaba Szilágyi)

February 16, 09:00-10:40

Topics discussed: exploring open-source investigation methods and tools for uncovering and verifying human rights abuses; ethical/moral considerations; validating and evaluating user generated and social media sources; using digital evidence in international criminal courts.

<u>Mandatory reading</u>:

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%20Verifcation_FINAL%20%281%29.pdf?sequence=1&isAllowed=y

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/

10. Workshop: Gathering and examining evidence for criminal court proceedings: The 1995 Srebrenica genocide (Csaba Szilágyi)

February 18, 09:00-10:40

Topics discussed: rules of evidence and procedure; assessing human rights documentation as (primary and secondary) legal evidence: probative value, authenticity, reliability; application of these standards on archival documents from Blinken OSA's permanent collections, as well as from the International Criminal Tribunal for the former Yugoslavia, the International Commission on Missing Persons and the Missing Persons Institute in Bosnia and Herzegovina; examples of unusual cases of evidence.

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:

Susan Schuppli, "Entering Evidence: Cross-Examining the Court Records of the ICTY", in Forensic Architecture (eds.), *Forensis: The Architecture of Public Truth,* Sternberg Press and Forensic Architecture, Berlin, 2014, pp. 279-316.
http://www.susanschuppli.com/wp-content/uploads/2014/11/Entering-Evidence.pdf

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

11. Workshop: Criminal prosecution of Communist political leaders: The Trial of Nicolae and Elena Ceauşescu (Csaba Szilágyi, András Mink, Iván Székely)
February 23, 09:00-10:40

In a moderated session students analyze the contemporary case of a former Communist 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 Tismăneanu, "The Siege of the Romanian Fortress" in Tismaneau, *Reinventing Politics: Eastern Europe from Stalin to Havel,* The Free Press, New York, 1992, pp. 223–236.

> Alina Conţeanu, *Dec 25, 1989 – Trial and Execution* (online exhibit) https://www.google.com/culturalinstitute/exhibit/trial-and-execution/gREp68EU?hl=en

Suggested reading:

> Ruxandra Cesereanu, Ceaușescu's Trial and Execution (2009) http://www.metabasis.it/articoli/7/7_cesereanu.pdf

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

12. The future of archives in the digital age (Iván Székely)
February 25, 09:00-10:40

Topics discussed: How archival functions have changed in the digital environment and how these changes have affected the various types of archives and their functioning. The main information operators that characterize the work of archives in successive paradigms of archival history. Experience shows that internet-based information services can apparently take over *en masse* all the operators associated with archives – then what need do we have for traditional archives and archival institutions?

Mandatory reading:

> Szekely, Ivan, "Do Archives Have a Future in the Digital Age?", *Journal of Contemporary Archival Studies,* Vol. 4 (2017), Governance of Digital Memories in the Era of Big Data, Article 1, pp. 1-16. http://elischolar.library.yale.edu/jcas/vol4/iss2/1