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Problems of Authenticity in an Electronic Environment

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Legal Status of the Authenticity of Electronic Records

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Introduction

Today I would like to highlight some key issues emerging from a report I prepared in December 2003 for the International Council on Archives (ICA) and UNESCO. The report addressed the global status of the authenticity of electronic records, with particular attention to developing countries; it focused specifically on policy and management issues, not technical or operational tasks.

To prepare this report, I drew on the findings of four specific consultative exercises conducted with the international records and archives community in 2002 and 2003. These are: a report to UNESCO by the ICA's Committee on Legal Matters, completed in November 2002¹; the findings of the World Bank/International Records Management Trust (IRMT) Evidence-Based Governance project, carried out between September 2002 and April 2003²; the ICA's strategic planning survey, conducted from July to August 2003; and the World Bank/International Records Management Trust Electronic Discussion on E-Records Readiness, held in November and December 2003³.

The central question underpinning my study was this: what measures are necessary for records and archives professionals to ensure the authenticity of electronic records and so ensure the preservation of, and continued access to, society's documentary memory? Given the time available for this presentation today, I would like to focus not on the methodology of the research nor on the details of the consultative exercises mentioned above. Rather, I would like to outline my key findings and the vision and recommendations brought forward to the ICA and UNESCO. Those interested in learning more about the wider context of the study are encouraged to read the report in its entirety, which can be found on the ICA website.⁴

It is abundantly clear from the consultations with the international records and archives community that the authenticity of electronic records as evidence, and as the documentary memory of society, is at great risk. Challenges exist around the world to protect electronic records but these concerns are particularly acute in developing countries. Five significant issues were identified, as follows:

1. First is the low profile of records and record keeping and the consequent lack of involvement of records professionals, and an excessive focus on IT-oriented approaches, to the creation, management and preservation of electronic records and information.
2. Second is the weakness of existing legislative, organisational and policy frameworks for the management of electronic records.
3. Third is the absence of, or inability to apply, technical and operational standards for the management of electronic records.
4. Fourth is the absence of sustained educational and training initiatives that adequately address the management of electronic records.
5. Fifth and finally is the need for a strategic approach to capacity building in records and archives management world wide, particularly in developing countries, in order to make best use of limited resources.

Let me discuss briefly issues each of these five issues before outlining the vision and recommendations proposed in my report.

Issue 1: The Lack of Recognition of Records and Archives as Evidence

It is widely acknowledged among the record keeping community that there is inadequate support in both the public and private sectors for quality records and archives management. There is a general lack of recognition of the importance of records as evidence, and senior officials tend not to recognise the need for or value of effective records programmes. In many parts of the world, and particularly in developing countries, governments perceive of archives as relics of the past: ephemeral materials kept for their historical value, as keepsakes or memorials but not as evidence of the rights and obligations of governments or citizens. As a consequence, there is often limited financial and organisational support for records programmes, and particularly for the care of current and electronic records.

As public sector reform initiatives have emerged in the developing world, the dichotomy between the traditional view of archives as history and the modern view of archives as evidence has grown wider. This dichotomy is further exacerbated by the growing use of information technologies. Governments everywhere are seeking to computerise their core functions and use information technologies to streamline their operations. But they rarely consult with record keepers about how to ensure that the process of automation protects the essential evidence – the records – underlying the actions and transactions being documented. As governments around the world “jump on the IT bandwagon,” as it were, they rarely incorporate good record keeping strategies. Until governments recognise the importance of managing records effectively – and don’t just implement IT-oriented information “solutions” on top of inadequate record systems – the critical task of protecting records as evidence will not be fulfilled.

Issue 2: The Weakness of Legislative and Organisational Infrastructures

Closely related to the problem of the low profile of records and archives is the chronic weakness of records-related legislation, organisational frameworks and policies. As the authors of the November 2002 ICA report noted, there is a “patchwork of national laws” in place but “they do not provide a coherent records keeping regime.”⁵

In many developing countries, archives legislation regulates the management of “archival” records – which, as noted earlier, are usually identified as non-current and historical. Often the legislation does not allow the national archives to participate in the care of current records or in the development of record keeping systems. Strong, effective legislation is needed to ensure that all records – electronic or not – are well managed from the time of creation, through their use in the organization, to their ultimate retention as evidence of the actions or decisions of the government or of the rights and entitlements of citizens.

Issue 3: The Absence of Technical and Operational Standards and Guidelines

Legislative infrastructures are not meaningful, however, if professionals do not have clear direction on what measures to take to implement high-quality record keeping programmes. The speed with which information technologies and electronic records have been adopted around the world, and particularly in developing countries, has left little opportunity to develop and institute acceptable standards of practice.

The development, implementation and maintenance of technical and operational standards and guidelines are essential priorities for the success of electronic records management. These standards and guidelines need to address records and information in a holistic, outcome-oriented fashion, not simply as technical requirements for the installation of computer equipment. Further, standards must be linked at an institutional level to legislation and policies, so that they can be applied and enforced effectively and remain usable and realistic.

Despite the proliferation of theoretical and academic research into the issue of electronic records management, it can be argued that there has been little “transfer of knowledge” from the researcher to the record keeper. Standards and guidelines should not just be developed in universities and research institutions; they need to be interpreted and disseminated for world-wide use. Of particular concern for developing countries, with their limited resources and low public profile, is the need for these guidelines to be realistic, clear and achievable.

Issue 4: The Absence of Education and Training

The implementation of record keeping standards, just like the strengthening of legislation or the development of records programmes, requires well-trained and capable professional staff. Especially in developing countries, “capacity building” is critical to organisational success. Capacity building includes the need for improved education and training of records and archives personnel. No reform can be fully effective without effective and continuous training for key personnel.

There is a great need for improved educational opportunities, and particularly for flexible training programmes for staff who need upgrading but cannot leave their positions for extended periods. Overseas attachments, short workshops, distance learning and other creative approaches to training must all be considered viable options. Joint training with allied professionals such as information technology staff, finance officers, or members of the judiciary, would allow representatives of different fields to share knowledge and information. Education and training for record keepers is critical, but so is awareness raising for senior officials, members of public interest groups and citizens. All members of society need to understand the role of records in the delivery of accountable, efficient and effective government.

Issue 5: The Need for a Strategic Approach

Especially in the developing world, countries are challenged to use limited resources creatively and effectively. Consequently there is a real need for strategic alliances, partnerships and collaborative approaches to promote electronic records management and raise awareness of and support for quality records and information management. While action is needed at the institutional, national and regional levels, international initiatives are also critical to raising awareness of the importance of records and archives. For example, the strengthening of ICA’s regional branches and sections – a current aim of the organization – will help improve networks for archivists with related interests. Closer ties also need to be made with allied professions, particularly with colleagues in the information technology field, in order to develop collaborative approaches to electronic records care.

As well, pressure should be brought to bear on donor agencies, to encourage them to restructure their funding programmes so that money is not allocated simply to information technology solutions without clear requirements for quality records management. As long as international aid agencies continue to support the purchase and installation of incompatible computer systems, for example, the opportunity to implement effective record keeping strategies is severely limited. Donor agencies need to recognise the critical role of the archival institution in record keeping and provide specific support to upgrade and maintain accountable record keeping practices in developing countries.

Vision and Recommendations

The issues outlined here and in the written report highlight the importance of records and archives not only in terms of their historical relevance or informational content but also as evidence that governments, businesses, organisations and citizens can and do exercise their rights and fulfill their obligations. Authentic, reliable records are the underpinnings of a transparent, accountable, democratic society. Ultimately, a strategic approach to record keeping is needed, in order to make best use of limited resources; encourage capacity building, particularly in developing countries; and elevate the quality and status of records care around the world. This approach must accommodate the different levels of capacity presently in place, working to bring the least developed countries up to an acceptable minimum standard for records care, and then to encourage improved programmes to provide consistent management of all records, whether electronic or paper.

The responsibility for records care ultimately lies with each nation and its governments and citizens. However, there is a role for the international records and archives community, and for UNESCO, in supporting the preservation of the world’s documentary memory through the strengthening of capacity, particularly in the developing world. Based on my research and my consultations with the record keeping community, I propose in my report a total of 11 recommendations for action for the records and archives profession, the ICA and UNESCO. The recommendations are structured according to a specific vision for the future of record keeping. Let me present that vision, which draws on four interconnected achievements.

1. First, the record keeping profession will develop and articulate a strategic plan of action for the redefinition of the profession to position it at the centre of records care, as part of the larger goal of protecting society's documentary memory.
2. Second, that plan will incorporate specific actions for formal and informal education, awareness raising, networking and cooperation, within the profession and with colleagues in other fields.
3. Third, the plan will be supported by the creation, dissemination and continued production of realistic, practical and accessible educational, informational and capacity building tools and by the creation and implementation of quality standards for record care.
4. Fourth, the profession will be supported by the highest levels of government and by the international community, which will help strengthen legislative and organizational frameworks, increase funding for records work, participate in awareness raising activities, and support ongoing discussions, collaboration and cooperation, in order to use resources strategically to achieve sustainable change.

Based on this vision, I offer the following 11 recommendations for consideration by the ICA and UNESCO. Let me read them to you as they appear in the report itself.

1. The ICA branches should develop strategic plans, including the identification of specific targets for capacity building, infrastructure development, and training and education, so that all members within the region have clear guidance on priorities for institutional and regional work in the short, medium and long term.
2. The ICA should continue the identification and development of strategic outcomes, priority areas and specific activities for the organization as a whole, including the regional branches, sections, committees and other key groups, in an ongoing effort to build capacity in record keeping around the world and remain current with changes in the information technology environment.
3. The records/archives profession, through its institutions and national and regional professional associations, including but not limited to ICA branches, should increase efforts to raise awareness of the value of records and archives and should freely share the tools and resources created as part of any awareness raising campaign.
4. The ICA, through its central office and its regional branches, committees and sections, should increase its efforts to raise awareness world wide of the value of records and archives to society as evidence of the rights and obligations of governments, businesses, organisations and citizens.
5. The ICA should continue its work to consolidate guidelines and tools on legislation and policies – including concrete and practical examples from professional practice, along with sample laws, policies and related resources – as well as other professional resources such as awareness raising tools and make these freely available through the ICA's website.
6. The records/archives profession should work institutionally, nationally, regionally and internationally to support and encourage efforts to strengthen legislative, organizational and policy frameworks for quality record keeping.
7. UNESCO should support the acquisition and implementation of record keeping standards around the world and the creation of interpretive tools to assist records and archives professionals build capacity for electronic records care in their institutions.
8. UNESCO should support the development and continued maintenance of concrete, practical and accessible guidelines for the management of electronic records, based on existing theoretical and applied research in the field and on existing and new standards of practice.

9. The ICA should investigate the potential for international certification of record keepers, or other formal qualification based on accepted criteria for education or experience, in order to enhance the professional status of the profession and thus improve institutional, national and international capacity for record keeping.
10. UNESCO should support the development and delivery of relevant, practical, accessible and well-focused education and training programmes for developing countries, including training for trainers programmes, that address the challenge of creating, managing, preserving and making available electronic records and support the strengthening of educational opportunities relevant to regional and local realities.
11. UNESCO should support the delivery of a series of collaborative interdisciplinary seminars or conferences on electronic records and electronic government, particularly involving information management and information technology professionals, to increase information sharing, cooperation and awareness raising.

It is my hope that this report, along with the associated ICA report on electronic records issues, and similar studies, will form the basis for renewed vigour in the quest for improvements to the record keeping environment not just in developing countries but around the world. I look forward to discussing these issues here and in other venues with the records and archives community.

¹ See International Council on Archives, Committee on Archival Legal Matters, *Authenticity of Electronic Records: Report Prepared for UNESCO* (November 2002), p. 9. The report is accessible electronically at <http://www.ica.org/biblio/Authenticity%20of%20Electronic%20Records.pdf>.

² The *Evidence-Based Governance* project aims to coordinate a global network of institutions to define strategies for improving records systems so that they provide complete and trustworthy information, particularly in electronic environments. This work includes building awareness among records professionals, government officials, and donors and lenders; creating capacity building tools, mapped to the International Standard on Records Management, ISO 15489, to measure the strength of records systems against public sector requirements; and preparing training materials to meet global needs. Ultimately, the aim is to 'mainstream' records management on the global development agenda. For more on the project, go to <http://www.irmt.org/evidence/index.html>. The project comprises three phases: the development of case studies, the delivery of a global forum, and the development of capacity building tools. The reports, recommendations, and findings of the Johannesburg meetings, the electronic discussions, and the video conferences, as well as related documents and additional information, can be seen at the International Records Management Trust's website at <http://www.irmt.org/evidence/wbforum.html>.

³ Information on the electronic discussion, including the summary of issues raised and the summary of objectives and strategies identified, can be found at <http://www.irmt.org/evidence/wbediscussion.html>.

⁴ The report can be accessed through the ICA website at <http://www.ica.org/biblio.php?pdocid=127>.

⁵ ICA, *Authenticity of Electronic Records*, p. 6.