



Archives Copyright Challenges

The principal themes of the Archives
Background Paper (SCCR/38/7) and
its application to the
Asia Pacific Group Countries

WHAT ARE “ARCHIVES”

In many languages, the word for archives has multiple meanings:

Archives as documents (archival collections)

Archives as buildings (archival repositories)

Archives as organizations (archival institutions)

MAIN ARCHIVAL ACTIVITIES THAT INTERSECT WITH COPYRIGHT

Making copies for:

- facilitating access
- preservation
- exhibitions
- inter-institutional loans for exhibitions and other purposes

Preservation across borders for:

- digitization
- storage
- special access
- safe haven for protection against destruction

MAIN ARCHIVAL ACTIVITIES THAT INTERSECT WITH COPYRIGHT (CONTD.)

Access across borders (mostly copies of archives cross borders) for:

- research and private study
- academic publication
- use in exhibitions
- collaboration projects (e.g. sharing knowledge of a specific collection held in one jurisdiction but of interest in another)

OTHER COPYRIGHT CHALLENGES RELATED TO ARCHIVES

Published and unpublished works

Moral rights

Variation in term of protection

Public Domain (e.g. does copyright exist or should exist in the digital surrogate of a work after the work has been digitized for preservation or other purposes?)

Orphan Works

ARCHIVES OF THE ASIA- PACIFIC REGION

Do exceptions and limitations exist?

Archive and copyright challenges:

- What are archives?
- Countries *without* statutory exceptions
- Countries *with* statutory exceptions
 - preservation
 - research
 - teaching

COUNTRIES IN
THIS REGION
WITH NO
EXCEPTIONS
FOR ARCHIVES
IN THEIR
COPYRIGHT
LEGISLATION

- India
- Bangladesh
- Iraq
- Myanmar
- Thailand
- Tuvalu
- Vietnam (a library can make a copy for archival purposes)

WHAT ARE “ARCHIVES”?

Archives as documents (archival collections)

Archives as buildings (archival repositories)

- Oman; UAE

Archives as organizations (archival institutions)

- Afghanistan, Bhutan, Indonesia, Malaysia (provided it is under direct control of the Government); Philippines; Sri Lanka; Syria (Non-profit); Tonga; UAE (provided it is not for profit); Kuwait (provided it is funded by the Government)

Archives as ‘other institutions’

- Pakistan

MAKING COPIES OF ARCHIVES — FOR THE PURPOSE OF PRESERVATION

- Afghanistan
- Bhutan
- Indonesia
- Kuwait
- Oman
- Philippines
- Singapore

MAKING COPIES OF ARCHIVES — FOR RESEARCH PURPOSES

Afghanistan

Tonga

Bhutan (only for private research on request by a physical person)

Indonesia (with a guarantee from the institute making the request that the copy will be used only for educational or research purposes)

Malaysia

Nepal (at the request of the person)

Oman (to meet the needs of a natural person)

Pakistan

MAKING COPIES OF ARCHIVES — FOR TEACHING PURPOSES

----- none -----

MAKING COPIES OF ARCHIVES — HOW MANY COPIES?

Single copy

- Bhutan
- Nepal
- Philippines
- Sri Lanka
- Syria
- Tonga
- United Arab Emirates
- Vanuatu

Multiple copies but on separate and unrelated occasions

- Oman
- Bhutan
- Indonesia

PUBLISHED AND UNPUBLISHED WORKS

Countries with exception applicable only for published works

➤ Afghanistan

➤ Bhutan

➤ Indonesia

Countries with exception applicable for both unpublished and published works

➤ Pakistan