

ARCHIVES IN SERVICE TO THE STATE

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First the headlines:

Radio Free Europe/Radio Liberty Newswire, March 28, 2003. *Hunt for Hussein's Archives Starts*. "Nezavisimaya gazeta speculates that the Russian intelligence stations in Baghdad have been ordered to evacuate the archives of the Iraqi secret services to Russia . . . It is possible that the archives could end up at the embassy, which is protected by extraterritoriality."ⁱ

The New York Times, April 12, 2003: *Hunt for the Missing*. "Iraqis searched for missing relatives in the military intelligence headquarters in Baghdad yesterday . . . A man went through documents . . ."ⁱⁱ

The Washington Post, April 17, 2003: *Files in Basra Detail How Baath Party Kept Tabs on comrades, 'Traitors.'* "When British forces seized Basra . . . these documents and thousands more were left scattered about the looted party compound . . ."ⁱⁱⁱ

Newsweek, April 28, 2003: *The Saddam Files*. "Last week, at the Baghdad headquarters of Mukhabarat, the secret police, an Iraqi man went up to photographers from Newsweek and the Los Angeles Times carrying a bulging, grimy white rice sack . . . Inside were more than 200 cassette tapes, videos and passports, photographs and negatives, CDs and floppy disks, as well as a fat binder thick with documents addressed TO THE DIRECTOR GENERAL OF THE IRAQI INTELLIGENCE SERVICE."^{iv}

BBC World/Middle East, May 4, 2003: *Germany offers Iraq files advice*. "Iraq should secure documents from Saddam Hussein's ousted regime as soon as possible so crimes perpetrated under his leadership can be brought to justice, a leading German official has said."^v

Citizens combing through intelligence files and handing them over to reporters, reporters picking up party documents, personal papers, and photographs: it happened in Iraq, and before that in Afghanistan, and before that in conflicts around the world. But the real scavengers of documents are not the citizens and the press, important as they are; the real scavengers are the opposing military forces.

Some of the most tightly controlled records held by a state are those that were not created by the state itself. Seized, captured, stolen, pilfered: the records from the battlefields are some of the most political archives of all.

Archivists have focused on the legal questions of replevin: how to return or regain (or both) the records armies have seized. Archivists generally have not looked at the law of war to see how it affects what documents are seized in the first place.

Most archivists will never be able to influence the decision of an army or a rebel group to seize records. Archivists come into the picture later, sometimes much later. But in every major conflict armies take documents. The depredations of Napoleon, for example, are well known—so well known that, when the world’s archivists attempted in 1994 to establish a policy on the replevin of captured records, they set the date after which all seized records should absolutely be returned as the end of the First World War, one archivist noting, “We can’t go back and undo Napoleon!”^{vi} The Napoleonic army was only the most famous of the acquisitive armies. Korean archivists talk about the 1866 seizure of royal manuscripts by the French Navy; these materials are held in the Bibliotheque Nationale de France.^{vii} The records of the Kuwaiti Foreign Ministry were seized by Iraq during the 1991 Gulf War and were returned to Kuwait just six months before the current war broke out.^{viii} The Russian and U.K. and U.S. holdings from World War II seizures are extensive. Every major national archival system at some point has or will have seized materials.

Armies seize documents for a variety of reasons: to gain information on the plans of the opponents (military information); to understand the organization of the opposing government (political information); to protect the records from destruction by the opposing state; to deny the opposition the information in the records; to obtain documents to make public, thereby exposing the workings of the opposing state. As we shall see, the seizures are indiscriminate. Armies seize every physical type of document, from electronic to audiovisual to paper. And after the seized materials are exploited to the full satisfaction of the military and political authorities, they may find their way to an archives, either in the original format or in a copy format.

I want to look, first, at what kinds of records are seized. Then I will look at what the international laws of war say about seizing property. Finally I will ponder why records are seized as they are. I will argue that the laws of war fit awkwardly with the reality of records seizure and I will suggest that a more modest approach may work better as a protection of property. I will urge recognition of the needs of international tribunals and of the need to preserve documents to protect human rights. And I will suggest that the traditional emphasis on return of government records, government-to-government, obscures the real character of the seized materials.

I. The character of seized records

The first question is what do armies seize: from whom and of what physical type. Reviewing the captured records held by the U.S. National Archives for the period from the end of the Second World War to the end of the twentieth century provides a convenient overview of what armies seize, both because the US military has been involved in numerous conflicts during that period and because the records held by the National Archives were described as of 1995. There are almost surely captured records that have not yet been turned over to the US National Archives, but the ones that have been transferred provide a sufficient sample for our purposes.

The most important bodies of captured documents that the U.S. National Archives holds are captured German documents, now mostly on film with the originals in Germany; captured Polish and Russian documents, but these have been returned, also, and film retained; captured Italian and Japanese documents, also on film; captured North Korean documents; film of

captured North Vietnamese documents; and paper and microfiche of documents captured in Grenada. Let us look briefly at several of these.

The story of the World War II German, Polish, and Russian documents is familiar to archivists. Basically, the US Army seized both records of the Reich and records that the Reich had seized from others, such as the Polish and Russian records. Most of this material was shipped to Washington, was used by the military and civilian intelligence services, and was eventually turned over to the National Archives. The preponderance were government records, but it included a little of everything—bits of the records of the Reich’s train service, for example; records of the municipal court at Hamburg; records of some official cultural institutions such as the Deutsche Akademie Muenchen; Nazi Party records; holdings from at least two archives; private papers of individuals; records of private enterprises; Eva Braun’s diary and photo albums. There was a lot of paper, but also huge battle maps, motion picture reels, sound recordings and tens of thousands of photographs.^{ix}

The North Korean situation was different. Here the seized records include, in the words of the 1995 Guide, “records of North Korean military, governmental, and party organizations,” 343 reels of “North Korean and Communist Chinese films on the Korean War,” and library materials: bulletins, books, periodicals, and newspapers. The 1974 edition of the Guide noted that these materials are “mostly in the Russian and Korean languages.”^x

The captured records from Vietnam are different again. The military took papers from soldiers captured or killed on the battlefield; these documents were taken to a collection center called the Combined Document Exploitation Center where they were sorted and those deemed significant were filmed. Although the military told the National Archives that “documents judged to be of little or no intelligence value were passed on to South Vietnamese representatives without further processing,” the existing film includes a mélange: battle orders, military communications, love letters, photographs, diaries. “After filming,” says the finding aid, “all captured document originals were returned to the Republic of Vietnam”—in other words, captured North Vietnamese documents were given to South Vietnam.^{xi}

The Grenada records, seized during military operations on the Caribbean island of Grenada in October 1983, are principally records of government ministries and the Communist party. Like the materials seized in Korea, some of these items seem to be of questionable military or intelligence value, such as projection prints of Soviet feature films, newsreels and documentaries that were seized from the Soviet Embassy in Grenada.^{xii} The bulk of the paper records were returned to Grenada.

In sum, then, these are the categories of records: government records, records from governments other than the one in the conflict, records from political parties, holdings from archives, records from cultural institutions, records from local governments (German court records, for example), records of private businesses and organizations, documents from individuals with official connections to combatants, private letters of political figures or their families (Eva Braun), private letters from average people (love letters of soldiers).

Turning from international conflicts to civil wars and rebellions, are the seized materials different in character? Let us look at three examples.

First, the US Civil War. If the US Civil War of the mid-nineteenth century is any indication, the seized records are much the same. They include the official records of the Confederacy,

records of local and business organizations, and currency taken from killed and captured Confederate soldiers, among others.^{xiii}

Second, the Kurds in northern Iraq. During the Gulf War in 1991, the Kurds seized an estimated eighteen tons of Iraqi records. Now deposited at the University of Colorado, they include the records of the Iraqi secret police in the three northern Kurdish governates of Iraq, records of the Baath party from the region, records of local government offices, and records of regional offices of the central government in Baghdad. Published reports do not indicate that there were personal papers among the seized documents, but it is hard to believe that there are not some.^{xiv}

Third, the 1991 Russian coup attempt. The Russian government seized the records of the coup plotters that attempted to overthrow the government in October 1993. Later that year I watched the Russian archivists sort the records that had been taken from the Russian White House after the rebellion was crushed. Every type of document was included: official records, printed materials, personal letters, photographs, and stacks of publications.

This is admittedly a very selective sample of two cases with records in the hands of outright winners (the US and Russian governments) and a protected group (the Kurds). Furthermore, in the US and Russian cases, the records stayed in the country, although in the US they were moved from their place of origin to Washington, DC. In the case of the Iraqi materials, they were taken completely out of the country. Still, assuming that this very selective sample is representative of the types of materials seized, civil wars and rebellions result in the seizure of at least as many and varied types of records as international conflicts.

II. Seizure and the laws of war

Having now determined that the types of documents seized in conflicts cover the full range of archival materials, what are the rules that govern seizure?

International law, like many national systems, has a hierarchy of authority. The highest authorities are international conventions (treaties). Below the conventions are, in descending order, international custom as evidence of a general practice accepted as law, general principles of law recognized by civilized nations, judicial decisions, and the teachings of the most highly qualified specialists.^{xv}

The law of war has been codified in a series of international conventions.^{xvi} Seizure provisions are regulated in the

*1907 Hague IV Convention respecting the Laws and Customs of War on Land (while naval bombardment certainly causes losses of property, including records and personal papers, it does not normally lead to seizure),

*1907 Hague V Convention on the Rights and Duties of Neutral Powers and Persons in Case of War on Land,

*1949 Geneva III Convention Relative to the Treatment of Prisoners of War,
and, for personal property,

*1949 Geneva IV Convention for the Protection of Civilians in Time of War.

In addition, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict governs the treatment of historical archives and manuscripts, among other types of cultural property.

The treaty rules on seizure of documents vary, depending both on the status of the possessor of the document and the use to be made of the documents by the seizing power. The possessors of documents being seized may be military units, governmental offices that are not military, officials of the combatant government, local governments, prisoners of war, medical and educational institutions, cultural institutions, archives, neutral parties, and non-combatant individuals. We will look at the Convention provisions governing each of these.

Records of the State

The most important treaty regarding seizure of documents is the 1907 Hague IV Convention respecting the Laws and Customs of War on Land. The regulations are set out in the Annex to the Convention. In Article 53 of the Annex, the Convention permits an army of occupation to “take possession of . . . all movable property belonging to the State which may be used for military operations.” Battle maps, battle plans, organization charts, orders, architectural drawings of fortifications, engineering documents for weapons systems, plus any other government document that could be used by the military to disrupt the organization of the enemy is included here.

This sweeping permission is somewhat limited by Article 23 of the same Annex, which provides that:

It is especially forbidden . . . to destroy or seize the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of war.

The critical phrase here is “demanded by the necessities of war.” As we all know, in the time of war there are many necessities.

The provisions of the 1907 Convention are echoed in the 1949 Geneva IV Convention for the Protection of Civilians in Time of War, which states in Article 53:

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Interestingly, this 1949 article does not refer to seizure, only to destruction.

In addition to seizing records for use in military operations, combatants may seize records for use by occupation government. When a territory is occupied, the occupying power needs the records of the former government to enable the new government to function. In the 1907 IV Convention’s Annex Article 43 these administrative needs are recognized:

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

It is reasonable to assume from this that the occupying power can use the records of the state as needed to govern the territory occupied. Furthermore, it is reasonable to assume that such records as needed for governance are to be seized for use, not for removal.

Records of particular public institutions

The 1907 Hague IV Convention also specifies the protection of the property of certain types of public institutions. Annex Article 56 states:

The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property. All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and science is forbidden. .

This provision has two complications: first, how is private property to be treated and, second, what if the property of municipalities is needed for the administration of the municipality? It seems, from the provisions cited above on use by occupying powers, that the municipal property can be seized and used for administrative purposes. If it is not needed for administration, the question then is rules govern the seizure of private property.

Records of private institutions and private papers of individuals

The 1907 Hague IV Convention treats private property by stating flatly in Article 46:

Private property cannot be confiscated.

In Article 47 it says adamantly:

Pillage is formally forbidden.

These blanket provisions have limits, however. In the 1949 Geneva IV Convention's Article 5, the rights of persons believed to be posing a danger to the occupying forces are limited:

Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In other words, if the person (or an institution treated as a person in terms of the Convention) is "suspected or engaged in" hostile activities, his private property can be confiscated. That would also apply to the particular public institutions covered by the 1907 Hague IV's Annex Article 56 discussed above.

Papers of prisoners of war

Turning to prisoners of war, the 1949 Geneva III Convention Relative to the Treatment of Prisoners of War says in Article 18:

All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war. . . . At no time should prisoners of war be without identity documents.

The definitional problem here is what are "military documents."

Records of neutral parties

The 1907 Hague V Convention covers the rights and duties of neutral powers. Its first article declares that the territory of neutral powers is inviolable. Because the territory occupied by an embassy or consulate is the territory of that State, the property within that embassy or consulate is likewise exempt from seizure.^{xvii}

To sum up, then:

*If the occupying power needs state records for military operations, it can seize them.

*If the occupying power needs state records for the administration of occupied territory, it can seize them.

*If the records are those of municipalities, religious, charitable, educational, and institutions of arts and sciences, they should be immune from seizure unless the persons employed by the institution are “definitely suspected of or engaged in activities hostile to the security of the State.” Records of municipalities, however, are probably liable for seizure for the purpose of administering the municipality.

*If you are a private person or a private business or organization definitely suspected of or engaged in activities hostile to the security of the State, your records and personal papers can be seized.

*If you are a private person or business or organization that is not engaged in hostile activities, your records and papers are immune from seizure.

*If you are a prisoner of war, your “military documents” can be taken from you, but all other personal documents are yours. You are specifically authorized to keep your identity papers.

*If the records are those of a neutral party, they are immune from seizure.

Archives

But what about archives per se? The Hague IV Convention of 1907 does not use the word “archives.” It is, perhaps, fair to read “archives” into Annex Article 56’s “property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property” but it is not explicit. Furthermore, archives are both cultural and administrative property and fit somewhat awkwardly in a purely cultural definition. The 1954 Hague Convention for the Protection of Cultural Property in the event of Armed Conflict solved this ambiguity by including in the definition of cultural property to be protected “manuscripts . . . and important collections of books or archives” and buildings such as “depositories of archives.” However, its Article 3, item 2, notes that the obligation to protect such property “may be waived only in cases where military necessity imperatively requires such a waiver.”

Can we stretch the definition in the 1954 convention to cover current records and personal papers? Probably not. While we could argue that letters in the possession of a soldier are “manuscripts” and the records of the secret police are “archives,” the intent of the 1954 Convention is clearly to protect noncurrent historical materials, particularly those housed in a facility designated as an historical archives.^{xviii}

Civil war, rebellion, and the law of war

The final question is whether these same laws of war can be applied in the cases of civil war and rebellion. The four Geneva Conventions of 1949 extended the principles of international humanitarian law to “non-international armed conflicts” by including in each of the four an identical Article 3 that binds the parties to apply humanitarian principles and says that the parties “should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.” The 1954 Geneva Convention on Cultural Property echoed this provision. The seizures of civil war and rebellion are, therefore, covered by the post-war Conventions.

III. Reality is what’s on the shelf

A sound archival adage is “Reality is what’s on the shelf.” Clearly the seized records that archivists have on their shelves and what the laws suggest archives would have on their shelves are two different things.

Why this disparity? What are the forces that result in armies seizing more records than the laws of war prescribe? What makes the armies go beyond the records with military information or those that are needed to administer occupied territories?

International laws generally codify the results of experience and the counsels of prudence. I treat your POWs decently because I want you to treat my captured soldiers decently. I leave the property of municipalities alone because as an occupying power I will need that property to run the country. Those principles are reasonably clear and easy to explain to soldiers.

Experience and prudence appear different when documents are involved. Experience says that documents are usually simply swept up as the army moves forward. Prudence says that you take any document that might possibly help you or harm the opposing force. International custom is evidence of a general practice accepted as law; seizing every document in sight is an international custom; therefore is it evidence of a general practice accepted as law? In effect, we have a conflict between the international law as stated in the Conventions and the law derived from custom. What propels this divergence?

As we all know, records and personal papers are very special forms of property. In wartime conditions their peculiar characteristics are even more distinctive, for a number of reasons:

First of all, government records, in particular, are highly political. A friend of mine reports that when she asked a museum official why there was no significant outcry over the reported destruction of archives in Iraq, the museum official said simply, “Archives are too political.” The impulse of the war leadership to obtain the official records of the opposition state in order to understand how it operates is understandable and probably irresistible.

Second, and a new feature of war starting in the late twentieth century, human rights groups may urge the government to protect or seize records to be used in future prosecutions. Human Rights Watch did just that on April 10, 2003, when it sent a letter to U.S. Secretary of State Colin Powell and U.S. Secretary of Defense Donald Rumsfeld, urging coalition forces to “prevent Iraqi government offices from being ransacked because government documents will undoubtedly be key evidence in future war crimes trials.” (Human Rights Watch also noted the need for the records to enable Iraqi citizens to assert their human rights.)^{xix} BBC

World/Middle East reported on May 4, 2003 that Marianne Birthler, the head of the German federal agency responsible for the Stasi archives, urged the Iraqis to “secure documents from Saddam Hussein’s ousted regime as soon as possible so crimes perpetrated under his leadership can be brought to justice,” adding that the “Americans should aid the Iraqis in the preservation of such documents.”^{xx} While these two demands are for protection not seizure, the most likely scenario would be to put the records in the custody of the occupation forces, at least until such a time as an Iraqi successor regime is able to assume control of the government and its archives.

Third, records and personal papers as property concepts are unknown to the general public—and equally unknown to soldiers. Many if not most soldiers are unfamiliar with basic record keeping operations and cannot easily judge what is a record that should be seized for military needs. Add to that the urgency of wartime activity and the language problems of soldiers unable to read records they are encountering, and the impulse to sweep up all documents and sort them out later is well nigh irresistible. The language problem also holds true of the papers taken from prisoners of war, although it is surely within the capability of soldiers to notice that a document is a photograph of a person (mother, lover, child), not a military order.

Fourth, during military activity it is extremely difficult for troops to determine which persons are truly non-combatants and which are, in the words of the 1949 Geneva IV Convention, “definitely suspected of or engaged in activities hostile to the security of the State.” Consequently, it is likely that soldiers will take from a large number of persons as many papers as they can find.

Fifth, if, in the case of rebellion or civil war, the aim is to separate from the current country—not to occupy and govern but to secede—the practical need for records such as those of municipal governments (other than those of municipalities in the secession territory) does not apply. In other words, there is no need for the rebels to protect these records.

CONCLUSION

The laws of war as applied to seizure of documents are complex. For a variety of reasons, they are mostly ignored. The Conventions, although carefully developed, do not work well in this area. Armies seize every type of document they encounter, and they are likely to continue to do so, irrespective of what the Conventions say.^{xxi} Insisting on adherence to complicated rules and fine distinctions will go nowhere.

This reality suggests three tentative conclusions.

1. Simplify the rules.

Archivists should develop a bottom line position for military units to use in educating troops on the rules regarding seizure of current records and personal papers. The following elements are a start:

*No personal pillage.

*Turn over to military or occupation authorities as soon as possible all documents seized, whether records or personal papers.

*No destruction of seized documents.^{xxii}

*After analysis, return all documents not required for military or intelligence needs, either to the individual, the institution or the successor state.

*No seizure of records of neutral parties, such as embassies and United Nations establishments.

*No seizure of historical archives and manuscript collections.

Then, in the years after the hostilities cease, the seized records should move into archival custody and, ultimately, be repatriated.

2. Acknowledge the pressure to seize for international trials or human rights protection.

Since 1990 the world has seen the unprecedented development of the international tribunals for the former Yugoslavia and Rwanda and the establishment of the International Criminal Court. Throughout this period, the international human rights community has repeatedly insisted that documents are critical to protecting the rights of individuals and to developing cases for the international justice machinery. As a result, during war and civil conflict there is a renewed interest in securing records that would serve these two purposes. This type of seizure does not fit neatly under the provisions of the relevant Conventions.

The question is whether the need to seize records in order to protect human rights or to prosecute criminals trumps the laws of war. The Universal Declaration of Human Rights, adopted in 1948, is authority for seizure to protect the rights of individuals.^{xxiii} It prohibits “any State, group or person” from destroying human rights and freedoms; it is logical, then, to assume that actions taken to prevent such destruction—such as by seizing records that would otherwise be destroyed—is permitted.

The case of seizing records that may be needed for future criminal prosecution is different. Were the Kurds, for example, right to seize the documents of the Iraqi government in 1991, capturing evidence of the government’s abuse of the Kurds, taking them out of the country, allowing third parties such as Human Rights Watch to use them, sharing them with the government of a State opposed to Iraq? And if the answer is yes, the Kurds acted responsibly, what are the parameters in which such a seizure is legitimate?

If a government violates fundamental moral principles and attempts to keep such violations secret, people of conscience may decide to combat these activities by exposing them in public. One way to do that is to seize the documentation that would prove what the government did or is doing. This is, of course, a very slippery ethical slope, but that is true irrespective of whether the action occurs during a time of war or not; it is simply easier to seize documents when civil life is disrupted as it is during conflict.

The likelihood here is that the international criminal tribunals themselves will develop a body of law on the acceptability of documentary evidence. From that will flow the procedural requirements for admissibility, including the manner in which admissible records can be seized.

3. Recognize the complexity of seizure leads to the complexity of replevin.

Archivists have generally discussed replevin in terms of government records being returned to the State or its successor. The art and antiquities world has painfully learned over the past decade that the return to private persons is necessary. Archivists must understand that principle, too. While it is simple to return all property captured from a territory to the

government of that territory and then place the burden on that government to sort out the ownership, that may not be just. Why should the government receive the replevin of corporate records or private love letters, for example, property it never had or had access to in the first place?

Returns to non-government owners will not be simple. If, for example, the United States had retained the letters taken from soldiers in Vietnam, how would it be best to return them to the writers? Perhaps it would be possible to work with an NGO in the country; perhaps UNESCO could play a role as a broker, maintaining a list of materials eligible for return.

In the end, the documents of a state are inalienable and remain subject to replevin without limitation. The international standards of human rights protect the property interests of private citizens in their documents. One day, perhaps far in the future, all the seized documents, of any type, must go home. And the more we understand about the conditions of seizure in the first place, the more responsible our temporary custody and eventual replevin will be.

ⁱ RFE/RL Newswire, 28 March 2003, Part III.

ⁱⁱ New York Times, 12 April 2003, p. B2

ⁱⁱⁱ Washington Post, 17 April 2003, p. A1

^{iv} Newsweek, 28 April 2003, p. 22

^v BBC World/Middle East, 4 May 2003, http://news.bbc.co.uk/2/hi/middle_east/2999517.stm

^{vi} Proceedings, CITRA XXX, Thessaloniki, Resolutions. International Council on Archives, Paris, France. 1998.

^{vii} The Presidential Commission on Policy Planning, "The Problem of Korean Archives held in BNF in France," May 2002, copy in possession of the author.

^{viii} See, for example, Mohamed Hasni, "Iraq, in fresh overture to Kuwait, returns national archives," 18 October 2002, Middle East Times, http://www.metimes.com/2K2/issue2002-42/reg/iraq_in.htm.

^{ix} Guide to the National Archives of the United States. U.S. Government Printing Office, Washington, DC. 1974. Record Group 242, National Archives Collection of Foreign Records seized, 1941-. The description of this record group notes the property issues, stating, "Some of the material in this record group (whether available on microfilm or in its original form) is of private origin. The fact of its seizure does not necessarily divest the original owners of literary property rights in them."

^x Guide to Federal Records in the National Archives of the United States. U.S. Government Printing Office, Washington, DC. 1995. The description of the Korean holdings is fuller in the 1974 edition.

^{xi} Special List 60, "Captured North Vietnamese Documents of the Combined Document Exploitation Center." National Archives and Records Administration, Washington, DC. 1993. These records are part of Record Group 472, Records of the United States Forces in Southeast Asia, 1950-1975.

^{xii} Guide 1995. Record Group 242 and (for films) Record Group 306, Records of the United States Information Agency.

^{xiii} Guide 1995. Record Group 109, War Department Collection of Confederate Records, and Record Group 365, Treasury Department Collection of Confederate Records.

^{xiv} There are many sources of information on the records seized by the Kurds. Samples of the records are on the website of The Iraq Foundation and the Iraq Research and Documentation Project, <http://www.fas.harvard.edu/~irdp/>; Bruce Montgomery. "The Iraqi Secret Police Files: The Documentary Record of the Anfal Genocide," *Archivaria* No. 52, Fall 2001, p. 69; Human Rights Watch press releases on Iraqi records at <http://www.hrw.org/press>, see especially the release of 10 April 2003 and the paper, "Bureaucracy of Repression: The Iraqi Government in Its Own words," <http://www.hrw.org/reports/1994/iraq/TEXT.htm>.

^{xv} The International Law of War Association has a Law of War Home Page with a useful basic tutorial on the law of war: <http://www.lawofwar.org>. See, for example, 2.2 "The Sources of the Law of War (Statue of the ICJ)."

^{xvi} The Yale University Law School's Avalon Project has all the international conventions on the law of war on its site: <http://www.yale.edu/lawweb/avalon/lawofwar/lawwar.htm>.

^{xvii} However, a staple of war photography is a picture of embassy staff, often in the backyard of the embassy, hastily burning records as troops advance. United Nations compounds, too, are often invaded and records are destroyed.

^{xviii} There are many publications on the 1954 Convention. See, especially, Patrick J. Boylan, "Review of the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention of 1954)," published by UNESCO, 1993. It has a helpful bibliography and reprints both the Convention and other pertinent international agreements.

^{xix} Human Rights Watch press release, 10 April 2003, at <http://www.hrw.org/press/2003/04/iraq041003.htm>.

^{xx} BBC World/Middle East, 4 May 2003, http://news.bbc.co.uk/2/hi/middle_east/2999517.stm.

^{xxi} For a current statement on the seizure of property in Iraq, see statement by Larry L. Lanzillotta, U.S. Principal Deputy Under Secretary of Defense (Comptroller), before the House Financial Services Committee, Subcommittee on Oversight and Investigations, 14 May 2003, <http://www.state.gov/e/eb/rls/rm/2003/20693pf.htm>.

^{xxii} In modern war, the records may be copied very quickly, as in Vietnam with the microfilming project or now by scanning. This technological change does not affect the basic position that the original records should not be destroyed and should ultimately be returned.

^{xxiii} <http://www.un.org/Overview/rights.html>