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Authors

Caswell, ML

Punzalan, R

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Archives and Human Rights: Questioning Notions of Information and Access

Michelle Caswell, PhD, caswell@gseis.ucla.edu

Ricky Punzalan, PhD, punzalan@umd.edu

Archives and libraries have been closely aligned in advocating for human rights and social justice more broadly in many cases, but a number of factors unique to archives problematize commonly accepted rhetoric in library and information studies (LIS). Specifically, archives call into question three dominant discursive tropes in LIS: the primacy of informational value (as opposed to evidential value in archives); universal access as a professional and ethical obligation; and the assumption that information institutions are universally benevolent. Although such tropes have been increasingly challenged by growing numbers of critical LIS scholars, we argue that they remain dominant discursive formations in LIS and reflect key areas of divergence that differentiate archives from libraries and distinguish the professional ethos of archivists and librarians.

These distinctions emanate from three interrelated and overlapping ideas that define the nature of what these types of institutions collect and their respective paradigms for access. First, there are important differences between the nature of the materials collected by each type of institution. While, in the dominant discursive formation, libraries focus on utilitarian access to *information*, archives emphasize records as *evidence* of human activity, with informational value playing a secondary and subordinate role. This difference between evidence and information exposes a tension between the ways archives and libraries approach their materials, their users, and their organizational systems. Second, while dominant rhetoric in LIS characterizes universal access to information as a profession-wide ethical imperative, recent archival scholarship on culturally sensitive materials—particularly regarding records created about Indigenous

communities and victims of human rights abuse—advocates for preferential access based on ethnic identity, community membership, and/or survival status. Finally, records managers and archivists have often been complicit or complacent with power; in many cases, records managers and archivists have relied on abusive regimes for professional directive and financial survival. This troubled history calls into question the prevailing (though admittedly increasingly challenged) rhetoric that information institutions are always forces of social good. By contrasting the history, theory and practices of libraries and archives, this article opens up a space for dialogue about the differing rhetorical tropes and ethical obligations regarding human rights in these two different spheres of institutions.

Questioning the Information Paradigm

This section will explore prevalent conceptions of records as evidence in archival studies and briefly contrast such conceptions with that of information in library science. While libraries provide access to published information (both *on* human rights and *as* a human right), archival institutions have a different orientation. Archivists determine which materials to acquire primarily by appraising their value as evidence and primary sources of information. While some archivists may be familiar with legal notions of evidence in terms of what is permissible in a court of law, archival studies forwards a notion of evidence that extends well beyond legal notions to include, simply and broadly, trustworthy proof of what happened in the past. This notion of evidence is most closely aligned with that in the field of history, an allied field from which archives have traditionally drawn primary users (Furner 2004).

The emphasis on the evidentiary value of records obligates archivists and archival institutions to meet different societal expectations than libraries regarding human rights. By exposing the conceptual differences between the types of materials that libraries and archives keep, we argue that ensuring accountability and aiding attempts at redress and reparation—rather

than provision of universal access—are the major contributions that archives make towards human rights. Furthermore, archival formulations of ethics reassert a commitment to individuals, communities, and the larger society—not just a universalized public—in specific contextual formulations based on both the nature of the event from which the records arise and cultural, historical, and social context.

Key to this discussion is the archival emphasis on context (Harris 2011). While libraries are concerned with content—preserving and providing access to it in all its forms—archives are also concerned with context—who created the record and why. This archival obligation to account for context hinges on a definition of records as objects not only bound to the activities or events that produced them, but as potential *evidence* of those activities or events. The emphasis on context and evidence places very different ethical, practical, and social obligations on archival institutions in comparison to libraries.

Sir Hilary Jenkinson, the first canonical archival theorist in the English-language tradition, not only placed evidence at the heart of the archival endeavor, but also attached a moralistic obligation to the archival commitment to evidence. As Jenkinson once proclaimed, “The Archivist’s career is one of service.... His Creed, the Sanctity of Evidence; his Task, the Conservation of every scrap of Evidence...” (quoted in Cook 1997, 23). As Terry Cook (1997, 25) succinctly wrote, Jenkinson’s “spirited defense of the evidential character of records certainly remains inspirational to archivists everywhere.” Jenkinsonian thinking disapproves of the practice of archival selection and appraisal. Jenkinson believed that it is not the place of the archivist to evaluate which records to keep. Instead, in the Jenkinsonian model, selection is the sole authority and responsibility of records’ creators. Followers of this idea therefore believe that archivists are custodians whose primary obligation is to receive records and guarantee their authenticity by keeping their original context intact and safe from forgery. While most archivists

have since abandoned the Jenkinsonian thinking around appraisal, it is virtually impossible to overestimate the impact of his take on the evidentiary responsibilities of archivists to current practice.

American archival thinkers have also considered the informational value of records. Theodore Schellenberg, Director of Archival Management at the U.S. National Archives, proposed the difference between evidential and informational value in his highly influential monograph *Modern Archives: Principles and Techniques* (1956). Typifying a modernist worldview, Schellenberg regarded records as objective “product[s] of activity” and articulated a typology of the values of archival records that firmly centered evidential value, even while advising that appraisal decisions take informational value into consideration (1956, p.60). Schellenberg described the primary value of records as their ability to fulfill the role for which they were initially created, and the secondary value as the value they accrue once they are acquired by archives. He then further delineated this secondary value: “The secondary values of public records can be ascertained...in relation to two kinds of matters: (1) the evidence they contain of the organization and functioning of the Government body that produced them, and (2) the information they contain on persons, corporate bodies, things, problems, conditions, and the like, with which the Government body dealt” (Schellenberg, 1956, p.58). Emerging from a government records tradition that emphasized records as tools of accountability, Schellenberg (1956) stressed evidential value because “an accountable government should certainly preserve some minimum of evidence on how it was organized and how it functioned” (p.59). While these two kinds of value—evidential and informational—are “not mutually exclusive,” Schellenberg’s emphasis on evidential value reveals how American archival practice originates not from a public library tradition, but from a program to manage complex and voluminous organizational

records while also making governmental bodies more transparent and accountable (Schellenberg, 1956, p.59).

Archival theory's origins (at least in the dominant English language context) from within a public records tradition have had lasting consequences for the ways in which records have been defined by their evidential qualities ever since. Tracing the legacy of Jenkinson, Cook (2013) describes, "Our central professional concepts of *respect des fonds*, original order, and provenance were designed precisely in order to preserve records as evidence of the functional-structural context and actions that caused their creation" (p.100). Cook (2013) goes as far to describe this attention to evidence as the first in a series of four paradigms in the field, and traces the trajectory of this concept from the old discipline of diplomatics (defined as the science of determining the characteristics of authentic documents) and its resurgence in the archival field in the 1990's to establish the qualities of "trustworthy" electronic records. In that same decade, Sue McKemmish's work on personal papers provided a much-needed corrective to the field's orientation to government records. The letters and diary entries she referred to, however, were still framed in the evidentiary paradigm as "evidence of me," rather than "information about me" (1996, p. 28).

The emphasis on evidentiary value as inherited from Jenkinson and Schellenberg is still apparent in prevailing definitions of records in the field. The Society of American Archivists' *Glossary of Archival and Records Terminology* defines records rather narrowly as "a written or printed work of a legal or official nature that may be used as evidence or proof..." (Pearce-Moses, 2005). Geoffrey Yeo (2007) details the ways in which records have become synonymous with evidence within dominant strands of archival studies. While Yeo explicitly complicates and rejects such equation, his proposed definition of records still, in our estimation, relies on an evidentiary paradigm in that it inextricably links records with the activities from which they are

produced. He writes, “records are persistent representations of activities, created by participants or observers of those activities or by their authorized proxies” (Yeo, 2007, p.337). While not using the word “evidence,” per se, Yeo’s definition implicitly distinguishes records from information objects (such as published books) that are not necessarily related to nor are products of activities (other than the act of writing itself). Jonathan Furner further clarifies that records are not evidence in and of themselves, but are defined by their potentiality; they are *capable* of serving as evidence in support of claims about the past by a wide range of users (Furner 2004).

Pluralist and postmodernist archival theorists have challenged these dominant evidence-based definitions of records. Koorie scholar Shannon Faulkhead (2010), for example, offers a pluralist view of records as “any account, regardless of form, that preserves memory or knowledge of facts and events,” (p.67), while Brien Brothman (2002) convincingly argues in the postmodern vein that notions of records and evidence are cleaved by a sense of temporality that can not be fixed, regardless of archivists’ best efforts. In this light, evidence is always contextual, always *of something for someone*, Brothman argues. Similarly, Sue Mckemmish asserts: “the record is always in the process of becoming” (1994). While these challenges to the evidentiary compulsion of records are compelling in our view, most mainstream archival institutions, particularly government repositories, continue to stress both the primacy of records’ evidentiary qualities and the role of the archivist in stewarding records as evidence.

In this emphasis on evidence, the mission of archival institutions differs significantly from that of libraries. For example, a brief review of the American Library Association (ALA) website reveals several mentions of information—as in “Equitable Access to Library and Information Services” and “the right of library users to read, seek information, and speak freely as guaranteed by the First Amendment”—and no references to evidence (ALA, undated). In this construction, access to information (about anything, presumably including human rights abuse)

is seen as a right guaranteed by libraries. Indeed, libraries have become known commonly as “information institutions” and the ALA’s 2015 strategic plan specifies strengthening “the public’s access to information” as a key mission (ALA, undated).

This contrasting orientation to evidence and information positions archival institutions and libraries differently in relation to human rights. While libraries emphasize providing equal access to information about human rights abuse (and indeed, such access is even conceived of as a human right), archival institutions are instead tasked with stewarding evidence of such abuses in order to hold perpetrators and governments legally, ethically, and historically accountable (Caswell 2010a). In other words, whereas libraries emphasize access to information *as* a human right, archives stress preserving evidence *of* human rights infringements *for* accountability. Such evidence may include records created by perpetrators at the time of abuse (such as administrative files, arrest records, photographic mug shots, orders), records created by victims at the time of abuse (such as secret diaries), and records created by human rights activists and communities of survivors after such abuse (such as forensic and DNA samples, satellite imagery, oral testimonies, photographs of mass graves and tortured bodies, and in some cases, human remains themselves).

By stewarding evidence, archival institutions are also key actors in efforts at redress, reparation, and reconciliation in societies undergoing reconstruction and healing in the wake of human rights abuse, not only through legal efforts, but through truth commissions, healing rituals, dialogues, and other interventions (McKemmish et al, 2011; Wallace et al 2014; Harris 2014). The archival studies literature is replete with examples of archives supporting such efforts. For example, in the Australian context, Sue McKemmish et al. suggest ways that archivists can create avenues for Indigenous communities to reclaim, reimagine, and “talk back” to records of Australian colonial administration with the ultimate aim of reconciliation.

(McKemmish et al. 2011). In the Balkans, Anne Gilliland (2014) both acknowledges the administrative violence of state recordkeeping regimes and offers a way for archivists to help traumatized individuals and communities to “move forward” through the development of recordkeeping infrastructures that support the needs of victims. In Cambodia, Michelle Caswell (2010a) has outlined the ways in which archivists have provided legal evidence for an ongoing tribunal that seeks to hold individuals accountable for the crimes of the Khmer Rouge, to establish facts about the past, and to shape collective memory of trauma in the face of widespread societal amnesia. Similarly, historian Kristen Weld (2014) has chronicled the labor behind the creation of archives out of troves of recently re-discovered Guatemalan police records, which have since been added to facts established by a previous truth commission.

Through archival functions such as appraisal, description, and access regimes, archives also play a complicated and shifting role regarding the shaping of collective memory of traumatic events such as human rights abuse, which includes not just the selective remembering and interpretation of events, but also forgetting, eliding, and silencing (Harris 2002). In this regard, archives have been much more integral than libraries in the wake of human rights abuse and subsequently, there is a much further developed body of literature within archival studies on human rights issues.

Furthermore, while librarians envision an ethical obligation to a universal public (i.e. to everyone regardless of cultural, ethnic, or political identity), archivists (at least those committed to culturally sensitive practice) envision their commitment to individuals, communities, and the larger society differentially based on both the relationship between people and the event from which the records arise and cultural, historical, and social context. As previously noted, the importance archivists place on records as evidence of activity has led to a body of theory and practice that stress the importance of the records’ provenance, or source.

Recent re-conceptions of provenance have highlighted the ways in which the notion of evidence is still very embedded in archival thinking. For example, Joel Wurl (2005) has called on archivists to broaden their notion of provenance to include the ethnic communities from which records arose, while Jeannette Bastian (2006) and Tom Nesmith (1999) have argued that colonial subjects were “co-creators” of the records created unwittingly about them, paving the way for claims of ownership from their descendants. In these cases, rights associated with the access and ownership of records are directly tied to both the evidentiary nature of the record and source communities. In a human rights context, this recent broadening of the archival notions of provenance and creatorship has meant that survivors of human rights abuse and the descendants of victims are entitled to certain rights such as access to and description of records documenting such abuse that the general public is not. Going a step further, Caswell (2014a) has called for archives stewarding human rights records to adopt values from the community archives movement to foster a “survivor-centered approach” to human rights work that would entail survivors’ and victims’ families’ involvement in archival decision-making processes. In many cases, privacy concerns, legal chain-of-custody procedures, cultural protocols, and community values may dictate that access to archival evidence of human rights abuse be severely limited. Libraries, and the published materials they steward, are not subject to the same kind of sensitivities that records-as-evidence are in the human rights arena.

Questioning Universal Access as Ethical Obligation

Given their context of creation, dissemination, use, and subsequent re-use, records in archival custody are governed by a different ethical framework than other types of information resources. Archivists must balance the responsibility of open and equitable access with

sensitivity to institutional, cultural, and individual privacy concerns. For instance, while the statement of *Core Values of Archivists* (2011) of Society of American Archivists (SAA) expects archivists to “promote and provide the widest possible accessibility of materials,” it also advocates that they do so in a way that is “consistent with any mandatory access restrictions, such as public statute, donor contract, business/institutional privacy, or personal privacy.” SAA’s *Code of Ethics for Archivists* (2011) further speaks to the limits of access:

Recognizing that use is the fundamental reason for keeping archives, *archivists actively promote open and equitable access to the records in their care within the context of their institutions’ missions and their intended user groups*. They minimize restrictions and maximize ease of access. They facilitate the continuing accessibility and intelligibility of archival materials in all formats. Archivists formulate and disseminate institutional access policies along with strategies that *encourage responsible use*. They work with donors and originating agencies to ensure that any restrictions are appropriate, well-documented, and equitably enforced. *When repositories require restrictions to protect confidential and proprietary information, such restrictions should be implemented in an impartial manner*. In all questions of access, archivists seek practical solutions that balance competing principles and interests. (Emphasis ours)

As the *Code of Ethics* posits, archivists may ethically restrict access to records, but they are expected to do so in an equitable manner. Similarly, the International Council on Archives (ICA) *Code of Ethics* (1996) encourages archivists to “explain pertinent restrictions to potential users, and *apply them equitably*” (emphasis ours). In effect, archivists are not mere keepers of records, but agents who must determine appropriate courses of action when faced with competing rights and demands for access. This however opens up issues of how archivists determine and implement “equitable” access: Why should all users receive “equal” levels of access? What does that mean and who gets to decide?

The challenge of balancing open access and privacy rights is clearly illustrated in the case of surveillance records created by state agencies. A study on access policies imposed on records generated by surveillance programs in sixteen countries by Katherine M. Wisser and Joel A.

Blanco-Rivera (2015) presents the complexity of issues around access to evidence of human rights violations. Records of surveillance require special attention to the privacy rights of those subjected to surveillance, especially their right to control all information generated about them in the course of state-instigated actions against them. But keepers of the surveillance records also face the challenge of making those same records available to other parties for research and advocacy use. The possession of surveillance records by institutions effectively restricts the rights of individuals who were subjects and objects of surveillance to control the release of records about them. In this context, archivists are placed in a situation of choosing between conflicting perspectives on appropriate records access and use. As Wisser and Blanco-Rivera revealed, state agencies responsible for keeping surveillance records do not have a uniform policy for access. Thus, the archival field has to fully document the actual impact and influence of shifting and uneven access regimes on overall human rights and justice efforts.

The definition and implementation of access policies for Native American records kept in various libraries, archives, and museums present another area where the development of responsive, ethical access models has challenged archivists. Many of the records documenting Indigenous cultures and societies in mainstream repositories were created unbeknownst to or against the will of Indigenous individuals and communities, or in situations where the power dynamic between colonizer or researcher and Indigenous subject made informed consent an impossibility. Such records may include depictions and descriptions of sacred ceremonies and objects, about which Indigenous communities have detailed cultural protocols regarding access and use. While various institutions are starting to create rules for restricting access to Indigenous records for cultural sensitivity reasons, the archival field is yet to reach consensus on the wider applicability of this practice. SAA's reluctance to endorse the *Protocols for Native American*

Archival Materials (2007) is perhaps most indicative of the field's uneasiness in adopting stricter access policies on grounds of cultural sensitivity. In fact, among the most passionate objection to the *Protocols* centered on the perceived automatic preferential treatment of Native American communities over many other potential users of Indigenous collections. While privacy and confidentiality have been widely accepted as reasons for restricting access, the archival profession has been slow to acknowledge cultural sensitivity as a legitimate ground for access restrictions.

Codified codes of ethics provide guidance, but they do not sufficiently address the complex issues surrounding human rights records and social justice issues (Wallace 2010). While archivists value access, such access cannot ethically be provided in a universal, open, or unhindered sense. The field still needs to come to terms with its own contradictions around the framing and implementation of access restrictions. In many ways, the complications facing archival records are inextricably linked to one of the primary functions of archives in society: to preserve records that could be used as evidence of inequality and injustice.

Questioning Information Institutions as Social Good

In light of these complicated notions of evidence and access, archival institutions have not always been protectors of human rights and/or, more broadly, forces of social good. Indeed, archival institutions are both the products and producers of their cultural, historical, and social milieu. The archival studies literature offers many cases in which record keepers, archivists, and the bureaucratic institutions that employ them have not only served oppressive regimes, but are active agents in furthering oppression. Archival behavior that runs contra to human rights imperatives includes opening up materials that further expose and endanger already marginalized

and/or vulnerable members of society; destroying, concealing, or otherwise obfuscating materials that should be made public; and being not only complacent to, but active participants in, disenfranchisement, impunity, and, in the most extreme cases, mass murder. Although these instances occur with an unfortunate frequency, this section will focus on a few prominent cases as a way to illustrate the ways in which archives call into question the dominant trope of information institutions as protectors of human rights.

In one egregious example, archivists played a key role in crafting and carrying out Nazi racial policies. Not only were archivists active members of the Nazi Party, but they were also central to the Party's mission of creating a pure Aryan race. German historian Astrid Eckert (2007) estimates that 80% of German archivists became Nazi party members, though she posits that "opportunism and conformism" might explain this apparent enthusiasm (p.224). Eckert writes (2007), "German archivists—as archive professionals and civil servants—contributed their part to the functioning of the [National Socialist] system before and during the war," including leading the charge in documenting the German roots of Eastern European countries in order to justify invasion (p.225). She then astutely delineates the "nazification of the German archival profession" (p.227) by describing five major categories by which archivists helped enact Nazi racial ideologies: the firing of Jewish and dissident archivists; the acquisition of seized records from deported and/or murdered Jews; the repurposing of records about and by Jews in support of anti-Semitic exhibitions and propaganda; the provision of genealogical services to users seeking to prove their Aryan lineages; and participation in the occupation of Eastern European countries as Hitler invaded them (p.228-229). Elsewhere, Caswell has described the ways in which Nazi recordkeeping practices—and the bureaucrats who enacted such practices—actively contributed to the classification of humans that, ultimately, enabled the mass murder of millions through administrative means (Caswell 2010b). Although this situation is particularly

extreme, what Eckert's and Caswell's research reveals is that, at a very basic level, state archives are state-controlled institutions that reflect the dominant ideologies of the state, while record keepers and archivists are social actors who also reflect and shape the ideological environment from which they emerge. In light of these Nazi archivists and record keepers, we cannot make general assumptions about archival institutions as general forces for good, nor can we make sweeping claims about the historic dedication of the archives profession to human rights.

Other revealing examples concern the custody of records created or seized by colonizing forces. Jeannette Bastian's work (2001) details how colonial records regarding the government and administration of the U.S. Virgin Islands are now stored in the state archives of the islands' colonizing forces; the Danish National Archives holds the majority of the records dating from when the islands were a Danish colony and the U.S. National Archives holds the rest, as the islands are now an American territory. Denied physical custody of the records documenting their own history, Virgin Islanders, the vast majority of whom are descendants of slaves about whom such records were created unwittingly and willingly, have been cut off from sources crucial to the formation of national identity and collective memory. Bastian (2001) writes that this archival dispersal "has resulted in the fragmentation and alienation of the records, their loss of evidential values and their fundamental inaccessibility.... On the human level, the rights of Virgin Islanders to easily access their own history have been ignored" (p.113). In this situation, for which the term post-colonial is "pre-maturely celebratory," given the ongoing status of the Islands as a U.S. territory, nationalist colonial claims to the provenance-- and subsequently to the ownership-- of the records have trumped claims regarding access to one's own history as a human right (McClintock 1992, p. 87). Similarly, Caswell (2011) traces how contemporary U.S. military forces in Iraq have removed troves of records that provide key documentation about the country's troubled past, essentially rendering them inaccessible to Iraqis despite repeated calls

for their return. Ironically, such international record seizures (as well as the invasions that precede and enable them) are often committed in the name of “human rights,” despite the on-the-ground realities of violence, imperialism and violation of human rights they entail. Again, we see through these examples how archivists have been instruments of the state and dominant state ideologies rather than servants of a higher human rights calling.

In these examples, archivists have hidden behind a cloak of neutrality. Yet these extreme cases expose the ways in which records are never simply impartial byproducts of activity, that archivists are never ahistorical de-contextualized technicians, and that archival practice is never neutral. While the cases explored here underscored how archivists have supported dominant power structures at the expense of human rights and human lives, the realization that archival labor is always political also opens us up to the possibility of archival labor subverting hegemonic power. As Harris (2011) writes, “the structural pull in all recordmaking is toward the replication of existing relations of power, with the attendant exclusions, privilegings, and marginalisations. Archivists cannot avoid complicity, for institutionally (and often legally) they are positioned within structures of power. But we can work against its pull and for me it is a moral imperative to do so” (pg. 351-2). Harris (2014), together with others coming to terms with legacies of violence from around the world, have build what Harris terms a “memory for justice” movement that aims not just to attain redress for past abuse, but to deploy traces of the past to build a just and sustainable future. What just such a future may look like will vary with context, but Harris makes clear dealing with and correcting structural inequities is crucial, and that such work is not only ongoing, but might never be finished. Despite the archival profession’s history of complicity and active participation in acts of oppression, marginalization, and annihilation (symbolic or actual), there is liberatory potential in harnessing archival labor in service of reparation, redress, and, potentially, even reconciliation (Caswell 2014b). But, as Harris (2014)

makes clear, archival praxis cannot stop just at justice for past grievances, but ultimately has the potential to envision and enact more just futures by addressing ongoing structures of violence. Practically this can mean providing precedence, inspiration, best practices, and material support for ongoing social justice movements; creating spaces for dialogues that enable communities to interpret the past and (re)negotiate visions for the future; and leveraging archival collections as places to build solidarity across communities (Caswell 2014b). As this section has demonstrated, the professional awakening that acknowledges that archival practice has always-already been political, coupled with an accurate and uncomfortable representation of the profession's troubled relationship to human rights both presently and in the past, compels us to affirm a commitment to justice going forward.

Conclusion

In this age of the seeming convergence of information professions and institutions, it is fitting to reflect on the respective roles of various cultural heritage institutions in society. Archivists are constantly challenged to articulate the unique contributions of archives in the information landscape. The three predominant themes of information studies generally, and LIS in particular, as discussed here—the primacy of informational value over evidential value; universal access as a professional and ethical obligation; and information institutions as universally benevolent—are insufficient characterizations of the archival endeavor. We argue that the stewardship of records as potential sources of evidence and information is the paramount archival responsibility. Archivists apply various concepts and practices to ensure that this responsibility is not only carried out, but also sustained. The archival field's distinctiveness should be seen as an opportunity for greater understanding as well as collaboration among the information

professions. Such collaboration could take the form of shared public programming, complementary collection development, combined outreach efforts, and mutual investigations into the ways in which systems of injustice have shaped ongoing praxis. We do not at all doubt that both libraries and archives can contribute in positive ways to efforts at achieving justice and equality, but they do so in different ways. We believe that collaboration grounded on deep understanding of our respective roles and responsibilities is an important step in making the information and archives fields true agents of social change.

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