

SHORT COMMUNICATIONS

ARCHIVAL LEGISLATION AND THE CHALLENGE OF MANAGING ARCHIVES IN ZIMBABWE

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Abstract

The concept of records and archives management reached Africa south of the Sahara through colonialism. As a result of the colonial legacy, Zimbabwe established its National Archives in September 1935 through the Archives Act of 1935. Nowadays the department is under the Ministry of Home Affairs and operates on the basis of the National Archives of Zimbabwe Act of 1986. At the time the 1986 Act came into operation, issues relating to the management and preservation of electronic records and the need for a more liberal access policy were not considered. Therefore, there is a need for the amendment of the Act as the National Archives of Zimbabwe proposes to embark on a records and information management restructuring project. These issues are of great concern, as the amended legislation would signal a change of direction in managing records and archives as a nation's heritage. This article seeks to show the extent to which the National Archives of Zimbabwe Act of 1986 has been overtaken by modern technology in records and archives management, hence the need for the National Archives of Zimbabwe to overhaul its legislation in order for it to remain a viable and relevant institution.

Keywords: Archival Legislation, National Archives of Zimbabwe Act, 1986, Restructuring

Introduction

Archives are universally recognized as an essential part of the heritage of every nation. Since they are important in the development of national awareness and identity in historical perspective, they constitute a basic part of the cultural property of states. Archives not only document the experiences of people, but they also record and safeguard the rights of citizens. To support the view, Ricks, Swafford and Law (1992) argue that records management with its focus on a methodical control of records from creation, through their processing, distribution, organization, storage and retrieval to their ultimate disposition is one of the keys to the effective and efficient management of recorded information. They constitute irreplaceable legal titles and evidence, which is essential to guarantee continuity in the exercise of the functions incumbent on public authorities.

Records and archives work should be viewed as part of a sphere of information management hence the need for both the government and private institutions around the world to reorganize their operational structures and systems so as to suit the needs of an increasingly global economy. As other entities, archives are subject to time sensitive changes in their management and accessibility. There is need for archivists and records managers to be concerned with the creation, accessibility and processibility of electronic records as well. Continuous revision of records management legislation in recognition of the life cycle management of records may help archives to remain relevant and viable.

The National Archives of Zimbabwe (NAZ) is therefore not immune to such changes, as it does not exist in a vacuum. As information technology grows more sophisticated, there is need to restructure the organization in order to address these technical realities. It has been realized that the major drawback to a viable and good records and archives management at NAZ has been the absence of an up to date legislation that caters for all the activities at NAZ. The dated 1986 Archives Act has been overtaken by the technological events. In order for NAZ to operate to its full potential, a strong supportive legislation has to be put in place, which should be framed in the context of modern information and communication technologies.

The National Archives of Zimbabwe Act of 1986 and the need for its amendment

Zimbabwe had its National Archives on the first of September 1935 through an Act of Parliament known as the Archives Act of 1935. The Act of 1935 that established a:

National Archives to provide for the preservation, custody, control and disposal of public records of the then Southern Rhodesia and for the matters incidental thereto (Kamba 1989).

However, the Act merely concerned itself with those papers which had been set aside for permanent preservation, as such, it did not cater for all public records from their creation to their disposition or their assumption of public archives status. In 1953 Southern Rhodesia, Nyasaland and Northern Rhodesia were joined together and formed the Federation of Rhodesia and Nyasaland. This meant that a Central African Archive that administered the records of the three territories had to be formed. Their records were stored at the Central African Archives in Salisbury (now Harare). With the breaking up of federation of Rhodesia and Nyasaland in 1963, there was need to revise the 1935 Act. The need for a new Act was necessitated by the fact that the then Northern Rhodesia and Nyasaland had to take some of their records upon the breaking up of Federation. Secondly, an Act was to be put into effect that only catered for the records of Southern Rhodesia. The Archives Act of 1964 was enacted later on because it was felt that the 1935 Act had failed to improve the status of the records from all government departments and ministries.

According to the 1964 Act, the role of the National Archives was to manage non-current records only and the initiative to manage these public records lay with the ministry. Section 3 of the Act stated that, the minister shall appoint a director of National Archives who shall, at the request of the ministry or department, examine any records or judiciary records in the custody of such ministry or department and shall advise such ministry or department as to the care and custody thereof (The Statute Law of Zimbabwe 1995).

Moreover, the 1964 Act defined records simple as documents, thus technically limiting the catchments areas of the National Archives conventional paper based materials. Among others, the oral histories and oral traditions were not covered by the Act. By the time it was

passed, the Oral history unit had not yet been established. The unit was established in 1968 and it sought to fill in the gaps that existed in the archival material by collecting the under documented and undocumented material. Thus it was essential after 1968 to come up with another legislation that covered all the sections at the National Archives.

The new Act was passed some eighteen years later. This meant that the institution was not fulfilling its duties, as there was no supporting legislation that covered the acquisition of oral history material. However, this is not to say that the institution did not acquire any oral history material. Indeed there are lots of oral history interviews that were carried out during the late 1960s up to the 1980s before the enforcement of the 1986 Act. Nonetheless, most of these interviews were in English and not in local languages as there was only one English oral historian carrying out the task. Thus, most of these interviews were biased towards the collection of interviews from the former colonial masters, who served the then Rhodesia in various aspects. Not only that, but most of the archival material collected in the post war period was on the former colonial masters' activities. This was not a unique situation in Zimbabwe alone but generally in most of the African countries. For example, Tough (2009) argues that, given that oversight of current record-keeping systems and the acquisition of post-independence records for the archives were both difficult and potentially hazardous activities, it is unsurprising that the energies of the new National Archives tended to be focused at least initially, on the records of the colonial past.

In addition to the above, the government departments and ministries had tended to deposit records when they felt like doing so and did not necessarily deposited everything they were supposed to deposit (Kamba 1989). Thus, it was more of a case of clearing up clogged registries than systematic and well-ordered deposits, and the National Archives was powerless to correct the situation. It was because of these factors that when the country got independent in 1980, it sought among other things, to repeal the legislation that had become somewhat outmoded and rather ineffective.

The new Act was enacted in 1986 with the aim of improving the operations of NAZ. The Act tasked the National Archives to manage

all government documents from creation to disposition irrespective of format. It also gave the National Archives the power to initiate records inspection in any ministry as opposed to the previous Act. According to the National Archives of Zimbabwe Act of 1986, the department is partly a service department (Kamba 1989). Its main purpose is to control and dispose of records and to select and permanently preserve archives for use by government and the research community. In addition to the above, the main functions of the Act relate to:

- A records management service offered to government departments, local authorities and statutory bodies.
- Archival and library services utilized by the public in general and the research community in particular.
- An oral history programme that attempts to fill the gaps currently existing in the documented areas of the nation's history.
- An audio-visual archives unit where preservation and access of film, video and computer tapes are done.
- An editorial programme responsible for the National Archives publications.
- A photographic service that makes available copies of documents of historical, aesthetic or administrative value.
- A document restoration unit that repairs mainly archival materials that have been rendered trite through age or other forms of damage.

In addition to the above, NAZ also has a permanent exhibition depicting various themes, depending on a particular occasion. NAZ Library is a major legal deposit library in the country and it administers the Printed Publication Act of 1975. It is also the national depository for different publications that range from newspapers, magazines to published books including UNESCO publications.

In the light of the above, the Act provides the legislative authority required for the NAZ to operate and function effectively as the legislation defines the power and duties of the institution. The legislation thus gives the department the power to inspect records while they are still held by the creating departments. The right to inspect records while still held by the departments is very vital

especially where the mismanagement of records and archives through poor storage and handling practices or physical destruction is concerned. This too often results from ignorance, inadequate registry procedures and lack of legislative psyche. If records and archives are mismanaged and destroyed, valuable information can be lost and such incidents retard development.

The National Archives Act of 1986 also provides mechanisms for preventing the export of archives from the country as it puts measures to enforce the effect. Thus, the legislation helps in creating an administrative hierarchy from the highest point of authority to the lowest rank. The other provisions of the Act deal with issues, which entail the compiling of finding aids, provision for public access, for authenticating copies of archival documents. Although the Act has been able to address most of the weaknesses of the previous Act, it has also been overcome by events and technological changes.

Experience has proven that the management of records and archives as documentary evidence has largely been overlooked as a development issue. Without appropriate legislation that draws closer towards electronic records management, the institution cannot meet its legal obligations. In that regard, there is need to amend the current legislation, if public service delivery is to be realised. Information has to be managed as a strategic resource that will underpin all aspects of public administration. The NAZ Act of 1986 has been overtaken by technological events and it does not cater for electronic records. The 1986 Act can be classified as a second generation legislation which according to Parer (2000) should be updated taking into account the electronic environment, convergent technologies, the web environment, web portals and gateways, government online initiatives, transactions, e-business, knowledge management and information management. Therefore, there is need to amend the Act in order for archives to operate to its full potential. Moreover, electronic records management requires the organization to restructure so that it can be capable to offer good archival information. It was thus in the light of the above mentioned problems that the NAZ decided to review its organizational structure (Murambiwa 2009).

Organizational restructuring and the amendment of the 1986 NAZ Act: as solutions to the problems faced by NAZ

NAZ embarked on an internal restructuring process in late 2006 to review organizational performance. The drive to restructure came as a result of the backlog in records and archival processing which had been accumulating for years. Moreover, the need to restructure was also driven by new technological changes in records and archives management. Thus, the restructuring programme aimed at revamping records and archives management by 2011 through a decentralized structure.

In the public archives and research section, a manual system developed in 1935 was being used for finding aids. Consequently, access to archives was slow and unreliable. Moreover, the section's processing capacity is equally archaic and below the rate of archives in flow. The problem of backlog also haunts the audiovisual unit. The absence of an enabling legislation has constrained acquisition programmes that have had to rely on the understanding and cooperation of music and film producers (National Archives of Zimbabwe 2006). NAZ faces enormous problems as far as the acquisition and preservation of the audio-visual materials was concerned. However, this problem seems to be haunting other East and Southern Regional Branch of the International Council on Archives (ESARBICA) member countries as well (Matangira 2003).

Harrison (1992) also noted that the institutions in the ESARBICA region are faced with a crisis in the preservation of audio-visual materials due to the rapid development in digital technology and a phasing out of the analogue and magnetic tape. In addition to the above, NAZ does not have a collection policy for audiovisual materials. The Printed Publication Act would therefore need to be replaced by a Legal Deposit Act that incorporates audio-visual collections into the mandatory deposit regime.

Little is being done to copy deteriorating audio-visual formats to durable media because NAZ neither has the expertise nor resources to buy the required equipment. Thus, it was clear that the main problem facing the National Archives was its reliance on archaic systems and processes whose capacity has been outgrown by

records and public archives management demands of the modern era. It was in the light of these problems that the National Archives sought to embark on restructuring. However, in order for this program to be successful, there is need for a system overhaul underpinned by investment in supportive legislation and ICT infrastructure.

Most of the sections at the National Archives have mounting backlogs that would take the Archives many years to clear. The records section is not an exception from these problems. The section uses manual systems in the processing and retrieval of records and this has resulted in the accumulation of unprocessed records. Due to this mounting backlog, the section has had to limit the number of deposits from ministries and departments (Tsuura 2009). As a result of this, Ministries and Departments have a tendency of destroying their records without the knowledge of NAZ. Thus, there is need to amend the NAZ Act in order to criminalize unauthorized destruction of these public records.

Moreover, the records surveys and inspections which are a key to monitoring and evaluating the use of approved records classification systems as well as the proper care and management of records are conducted irregularly due to the shortage of resources. The problem has also been highlighted by Barata Piers and Serumaga (2000). NAZ has to move away from the current file-by-file appraisal system that has resulted in huge appraisal and records disposal backlogs and adopt a new system, which may make it possible to deal with the large volumes of records produced by modern governments. Many archival institutions worldwide have adopted the macro appraisal approach that entails appraisal at function level rather than at record level (Tsuura 2009). The archival systems also need to be automated both to facilitate the processing and management of the archives as well as to give enhanced access to the public.

Furthermore, the 1986 Act does not cater for the audio-visual collection. That seems to be a common trend in the ESARBICA region with some countries' Archives Acts not covering all the types of records, be they paper or non-paper based records. Ngulube and Tafor (2006) in their study of records and archives management in the ESARBICA region revealed that the legislation of some three countries did not define records in a comprehensive manner as the

laws only covered record types that existed at the time the legislation was passed. They went further to give the examples of the National Archives of Zambia Act of 1969 and the National Archives of Malawi Act (Chapter 28:01) of 1990 that listed a number of formats that could be regarded as records while excluding a mention of electronic records.

While NAZ has made some strides in decentralizing its services to the provinces, four of the provinces still do not have archives. As a result of this and the failure to adapt to modern technology, access to public archives is only limited to Harare and Bulawayo provinces. In addition to the above all public institutions now produce electronic records. The fragile and transient nature of electronic records demands that they be managed properly from the time of creation and require that NAZ intervene at an early point in the life cycle of the records. Such intervention is only possible if NAZ has officers who have the requisite skills to advise the users on the management of electronic records. For quite long time, the institution has tended to recruit historians whose main focus is on historical documents and as a result some records are given less priority. In order for archives to be a viable institution, there is need to recruit staff from various disciplines such as librarians among others (Wutete 2009). Organizational structures and job specifications are inappropriate in relation to the skills required to meet the changed responsibilities of archival institutions.

Despite all the challenges that the NAZ is facing, it enjoys the status of being the only official depository for public records and public archives in the country. Moreover, the legal status of, and legislative mandate of NAZ guarantees state support as well as defined clientele. In addition to the above, the institution possesses unique purpose built archival premises that are a pre-requisite for long-term preservation of archival materials, with the Harare Records Center being the largest in Southern Africa. NAZ also has a relatively large pool of experienced professional and committed staff that offers internationally competitive archival services. However, most of the senior staff has left the institution for greener pastures due to poor remuneration (Ngulube 2000). Tough (2009) also alludes to the problem of the loss of archives staff especially to banks and other better paying institutions.

The restructuring programme thus aims at addressing the problems mentioned earlier on. The 1986 legislation has proved to be outdated as it has been overtaken by technological developments and it inhibits the provision of comprehensive services. The problems of a weak legislation are not only faced by NAZ alone. The existence of weak legislation and policy frameworks also haunts other countries as articulated by the International Council on Archives (ICA). ICA highlighted the ambiguous laws as one of the major challenges facing archival institutions worldwide (ICA 2004). Therefore, there is need to overhaul aspects of the legislation so that the role and mandate of NAZ is strengthened. Guidelines need to be developed and promulgated to enable all government institutions to use uniform records and information management procedures.

It is imperative that the NAZ is appropriately equipped in all sections in order to fulfil its mandate. The Technical Section, Audio-Visual Unit, Reprography, Oral History, Conservation, Automation and Editorial Services require the support of the state of art equipment. The huge photographic collection in the library needs to be digitized for preservation purposes. There is need for the revision of the current legislation to incorporate new focus and boosting of acquisition, especially with audio and sound collections as well as digital /electronic resources. A stronger legal framework is required in order to strengthen NAZ's mandate of ensuring the survival of the nation's historical heritage. The present structure falls short in terms of a legislative framework that does not give the institution sufficient control over public records not yet in its custody. Consequently, the supporting resource structure is so skeletal that it is impossible to carry out all envisaged operations of an effective records management system.

Conclusion

The article has highlighted the importance of legislation in archival development with particular reference to the 1986 National Archives of Zimbabwe Act and the challenges of managing archives in Zimbabwe. In order for NAZ to play its role in the realization of its goals, it has to implement and enforce the legislation. Major delivery shortfalls have been registered in the implementation of the legislated

mandate. Globally, national archival institutions have been undergoing major transformations, that is, from serving the government, to empowering people through information, from secrecy to openness and transparency, from mere repositories to an active role in records management in public offices. The ongoing shift has made some of the organizational structures obsolete or inadequate. This has been particularly pronounced in the management of electronic records. Therefore, NAZ has to overhaul and upgrade systems including legislation, records and procedures, records appraisal and automation. The duty to amend the legislation heavily lies with the NAZ as an institution itself. NAZ can also adopt the models of archival legislation such as those formulated by UNESCO and the International Records Management Trust (Ketelaar 1985). According to Ngulube and Tafor (2006) the use of the models may greatly assist national archival institutions in designing comprehensive archival legislation and regulations without having to necessarily resort to hiring expensive legal experts. Above all, the existence of a progressive and comprehensive legislation is not likely to bring about any changes in the management of public records and archives unless resources to implement the laws are made available to the NAZ.

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