

- * and increases public trust in, and understanding of, the historical profession.³⁰

The following proposal for a code of ethics for historians contains a mixture of three types of principles. Many principles contain classic ideas that were formulated and tested during the past centuries. Their classic character indicates that the code belongs to a long tradition of reflection about the ethics of historians. Other old principles are reworded to fit into a consistent language of rights and duties, the pressing relevance of which is shown throughout the book. And, finally, as the structure and logic of the proposed code intend to systematically cover the entire area of ethics for historians, some principles are new, or appear as such for historians, although they are already applied in other domains of science and society.

Historians should do everything that lies in their power to guarantee that they take good care of history. It is our professional expertise—our access to, and production of, expert knowledge about the past—that distinguishes us from others interested in the past.³¹ This does not mean in the least that historians own the past—history is too important to be left to historians alone; rather it means that they have specific duties. The philosopher André Mercier aptly summarized the core message:³²

Sagesse oblige.

A CODE OF ETHICS FOR HISTORIANS (proposal)

Introduction

Article 1: Scope

This code is intended for academic historians (further abbreviated as “historians.”) Its use is recommended for other professional and non-professional historians. It is also a tool for the general public wanting to be informed about the standards of the historical profession. It constitutes a set of principles about the historians’ rights and duties and expresses a vision on its four irreducible values: freedom and integrity (of historians), respect (for those they study), and the careful and methodically determined and executed search for historical truth (as the result of the interactions between historians and others).

The code flows from the UNESCO *Recommendation Concerning the Status of Higher-Education Teaching Personnel* (1997), Article 22(k):

“[H]igher education institutions should be accountable for . . . the creation, through the collegial process and/or through negotiation with organizations representing higher-education teaching personnel, consistent with the principles of academic freedom and freedom of speech, of statements or codes of ethics to guide higher education personnel in their teaching, scholarship, research and extension work,” and from the *Constitution* of the International Committee of Historical Sciences (2005), Article 1: “It shall defend freedom of thought and expression in the field of historical research and teaching, and is opposed to the misuse of history and shall use every means at its disposal to ensure the ethical professional conduct of its members.”

Article 2: Implementation

Historians shall use, discuss, and promote this code at congresses and during their research and teaching. It must be interpreted as a whole; nothing in it may be explained on the basis of arguments that are contrary to its spirit. Complaints about breaches of the code, when supported with evidence, merit investigation by a representative, authoritative, and independent body of historians, which, if necessary, takes the advice of experts.

Core Tasks

Article 3: Research; Teaching

Historians have two equal and connected core tasks: the search for historical truth (historical research) and its transmission (publishing and history teaching).

Universal Rights

Article 4: Freedom of Expression and Information; Peaceful Assembly; Intellectual Property

Historians’ rights are based on the *Universal Declaration of Human Rights* (1948) and the international covenants derived from it. Particularly important are Article 19(1) and 19(2) of the *International Covenant on*

Civil and Political Rights that protect the freedom of information necessary for historical research and the freedom of expression necessary for publishing and the teaching of history. Article 19 stipulates that: "(1) Everyone shall have the right to hold opinions without interference; (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." In addition, Article 21 of the *Covenant* states that historians have the right to organize meetings and form professional associations. Equally important is Article 15(1)(c) of the *International Covenant on Economic, Social and Cultural Rights* that protects the intellectual property of historians. It stipulates that, "States Parties to the present Covenant recognize the right of everyone . . . to benefit from the protection of the moral and material interests resulting from any scientific . . . production of which he is the author."

Duty-Dependent Rights

Article 5: Academic Freedom; Autonomy; International Contacts

Duty-dependent rights can be claimed and exercised only while historians discharge their duties. While historians discharge their duties inside or outside of academe, Articles 15(2), 15(3), and 15(4) of the *International Covenant on Economic, Social and Cultural Rights* (1966) are applicable, in particular that "the States Parties to the present Covenant" will take steps "necessary for the conservation, the development and the diffusion of science and culture," that these states "undertake to respect the freedom indispensable for scientific research," and "recognize the benefits to be derived from the encouragement and development of international contacts and cooperation in the scientific and cultural fields." These articles imply that historians are entitled to academic freedom, including the right to organize themselves autonomously. Paragraph 27 of the UNESCO *Recommendation* defines academic freedom as follows: "[T]he right [of higher-education teaching personnel], without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and

freedom to participate in professional or representative academic bodies." This academic freedom also extends to expressions and activities in the public sphere if those are unambiguously performed as part of the academic work. Historians are allowed to exchange information at an international level, which includes the right to travel for scientific purposes. The tasks of historians demand long-term commitments and, therefore, the academic freedom of historians is best protected by a system of tenure.

Article 6: Choice of Topics

Historians have the right to choose and design their research topics and their curricula of teaching topics without political or other non-scientific interference.

Article 7: Selection of Information

Historians have the right to work on the basis of equitable laws on copyright, freedom of information, archives, and privacy and defamation. They are entitled to demand that archival selection criteria (that is, criteria to preserve or destroy records) are not politically inspired and take due account of the historical interest; that maximal, free, and equal access to information is the rule and that restrictions are exceptional and only for purposes prescribed by law and necessary in a democratic society. It should be possible to contest any restriction through a procedure independent of the executive branch.

Duties in General

Article 8: Complementarity

In their capacity as human beings, citizens, professionals, and academics, historians have general duties stipulated in international instruments. To these general duties, their specific duties are complementary. Historians have specific duties because they obtain expert knowledge about the past. In order to discharge these specific duties, they should have the rights described above. If these rights are lacking in whole or in part, historians shall still attempt to discharge their specific duties to the best of their ability. Furthermore, they shall

discuss conflicts between general and specific duties (in particular, between their duties as loyal citizens and those as critical scholars) at congresses and during their research and teaching, and balance them in the spirit of this code.

Duties Regarding Subjects of Study

Article 9: Respect

Aware of the universal rights of the living and the universal duties to the dead, historians shall respect the dignity of the living and the dead they study. The *International Covenant on Civil and Political Rights* (1966) is applicable, in particular Article 17(1): “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation,” and Article 19(3): “[The right to freedom of expression] may . . . be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order . . . , or of public health or morals.”

Duties Regarding Work

Article 10: Integrity; Historical Truth

Integrity is the moral foundation of the historians’ work. It shall be the intent of historians to honestly search for the historical truth, even if they are aware that their knowledge is provisional and fallible, and even if there are limits to that search as stipulated in Article 9 (“Respect”). Historians shall always oppose the abuse of history (its use with intent to deceive) and the irresponsible use of history (either its deceptive or negligent use).

Article 11: Access to Information

When accessing information, historical and otherwise, historians shall respect: (1) embargoes provided by the laws on freedom of information and on archives, (2) the informed consent principle governing interviews, and (3) pledges of confidentiality. Historians accessing

confidential information on individuals, private institutions, or the government under certain conditions—conditions such as: monopolistic access; privileged access; selective access; approval of research design; oath of secrecy about the information during and/or after research; anonymization of information or its sources (informants, witnesses, and respondents); manuscript approval; pre-publication review and clearance by third parties; partial or total or temporary publication ban—shall fairly balance, in the spirit of this code, the benefit in terms of the estimated information surplus against the harm for all parties involved in terms of unequal access, biased information, or nonidentifiability of persons. Historians have a right to nondisclosure of sources of confidential information, but given their scholarly duties of transparency and accountability, they should balance any nondisclosure against disclosure with a presumption in favor of disclosure.

Article 12: Disclosure of Information

The disclosure of information is governed by Articles 10 and 11, and restricted by Article 9. Publication of information, and speaking freely about it, is the rule; confidentiality is the exception. As part of their right to silence—itself an integral part of the universal right to free expression—historians have the right, after balancing the individual against the public interest, not to disclose historical facts harming the privacy and reputation of persons, either living or dead. The balancing test takes place as follows: in privacy cases, the interests in disclosure and secrecy are of equal importance; in reputation cases there is, in principle, a presumption in favor of disclosure.

Article 13: Critical and Objective Method; Independence

Historians shall adopt a critical attitude and use a method based on: (1) accuracy (transparency; respect for evidence and argumentation; control of bias and anachronism; impartiality and objectivity) at the levels of statements of fact and description, and (2) plausibility at the levels of statements of opinion and analysis. Historians shall be candid about their perspective on the past and disclose the names of institutions or persons from whom they are dependent. They shall aspire to political, ideological, and intellectual independence and to as much financial independence as possible from government, commissioning entities, and sponsors.

Article 14: Free Debate; Accountability; Universalism

Free and public exchange of ideas is the oxygen of historical scholarship. Historians shall publish and disseminate their corroborated research findings as much as possible. Reports with a secret or confidential character shall be kept to a minimum. Peer review shall be carried out objectively and impartially; it shall be anonymous only when absolutely necessary. Peers with a conflict or harmony of interests, real or perceived, with the historians under review, shall abstain from reviewing them. Historians shall check their findings in a free and public debate among informed and verifying colleagues, students, and third parties. They shall be tolerant of divergent informed and *bona fide* opinions of mainstream historians and their opponents. Their orientation shall be universalistic in that their research shall not be audience-relative but shall allow, in principle, worldwide verification.

Article 15: Moral Evaluations

Historians shall be sensitive to their implicit moral evaluations. As part of their right to silence, historians have an absolute right not to mention their own explicit moral evaluations about the past. However, they shall be allowed to make such explicit moral evaluations on their subjects of study, on the condition that these have sufficient factual basis, are prudent and fair, and are a contribution to the public debate about history. In such evaluations, historians shall at all times clearly distinguish the values of contemporaries of the epoch studied, those of themselves, and those embodied in universal human rights standards. Although historians are not obliged to make statements about responsibility and guilt of historical actors or to draw moral lessons from the past, in cases of imprescriptible crimes, such as genocide, crimes against humanity, and war crimes, they shall try, to the best of their ability, to indicate the range of well-founded evaluations.

Duties Regarding Society at Large***Article 16: The Right to History***

The first duty of historians regarding society—understood as their local, national, and global community—is the discharge of the other

duties mentioned in this code. Article 13(1) of the *International Covenant on Economic, Social and Cultural Rights* stipulates that “The States Parties . . . agree that education shall be directed to the full development of the human personality” and its Articles 15(1)(a) and 15(1)(b) recognize the right of every one “to take part in cultural life,” and “to enjoy the benefits of scientific progress and its applications.” Therefore, historians shall attempt to answer important historical questions asked by their society to the best of their ability. They shall further the historical awareness of their society and facilitate its right to history, provided that such promotion corresponds to the spirit of this code. When performing activities in the public forum, historians shall avoid every ambiguity as to whether they operate with professional or scholarly authority. Historians shall help enhance the quality of history teaching in primary and secondary education, including the contents of history curricula and history textbooks.

Article 17: The Right to Memory

Memories are opinions and, as such, they are protected by Article 19(1) of the *International Covenant on Civil and Political Rights*. Holding opinions, and by extension memories, permits no exception or restriction. Every individual has a right to memory. The right to have memories implies the right not to be forced by others to have specific memories. No duty to remember can be imposed on others. Expressing opinions, and by extension memories, is subject to the restrictions of Article 19(3) of the *International Covenant on Civil and Political Rights* (quoted above). Although historians should reject the duty to remember and although individually they have the freedom to choose their research and teaching topics, they form a global professional community that, when perceived as such, has the collective duty, in principle, to study and teach the past in its entirety, including suppressed, generally forgotten, or controversial historical issues.

Article 18: Democracy

Historians shall support democracy because a democratic society—a society that recognizes and respects the human rights set forth in the *Universal Declaration of Human Rights*—is a necessary condition for a sound historiography. Conversely, a sound historiography reflects and strengthens the democratic society.

Duties Regarding the Historical Profession

Article 19: Protection

Historians shall protect and promote the historical profession and its infrastructure of sources. They shall oppose external threats to the autonomy of the profession. They shall also oppose internal threats to the integrity of the profession, that is, the abuse and irresponsible use of history mentioned in Articles 1, 2 and 10, the unfair treatment of colleagues and students, and inequality under equal conditions.

Article 20: Solidarity

Historians shall treat colleagues and history students with respect and sympathy. They shall work for the rights of all members of the profession worldwide. They shall show solidarity with colleagues and history students whose rights are violated.³³