

“Hong Kong’s Blind Spot”

The territory lacks a law to ensure the government preserves its records.

By NICHOLAS FRISCH

A government destroys documents with impunity; its Security Bureau advises public employees to shred official papers; citizens seeking justice find pertinent government files mysteriously empty. This certainly doesn’t sound like Hong Kong, the semi-autonomous Chinese enclave renowned for its competent civil servants, protection of civil liberties and world-class government services.

Alone in the developed world, the Special Administrative Region’s government does not afford public records the protections enjoyed by other public property, public funds and public employees. This week’s release of a new report by the Hong Kong think tank Civic Exchange called “The Memory Hole: Why Hong Kong Needs an Archives Law” comes amid stark reminders of the consequences of negligent records management.

Relocating to new offices in September, high-level policy-making bureaus in the Hong Kong government destroyed more than 1,000 linear meters of documents without following their own procedures for expert appraisal. Police, immigration and hospital records have gone missing repeatedly in recent years, frustrating efforts to seek justice, improve efficiency or even determine basic facts.

This is not for lack of money, technology or human capital. Hong Kong’s leaders are simply reluctant to employ a tried-and-tested policy mechanism long since enacted in the U.K., U.S., Australia, Macau, Singapore, Taiwan, South Korea, the Philippines and even mainland China: an archives law.

Archives laws ensure that governments keep adequate records of their business while preserving historic documents for future generations. When enforced through a strong and impartial judiciary, they constitute both a foundation and a last line of defense for government accountability. Just as auditors-general and public prosecutors enjoy professional independence and government-wide powers to pursue their respective roles, official archivists are trained professionals with final say over a government’s document disposal and preservation practices.

This is not rocket science, either in terms of complexity or expense. Legislatively grounded records systems have been refined in countries such as Singapore and Australia, where Hong Kong routinely seeks policy ideas. Hong Kong’s listless Government Records Service already has a purpose-built facility, a budget and staff. Only a clear legal mandate is lacking.

The Legislative Council concluded long ago that archives “legislation ... would not involve significant financial implications.” Yet as abuses mount and history slips away, no action has been taken.

Beyond highlighting the impotence of the Government Records Service and the incoherent mishmash of records management “requirements” and “guidelines,” the Civic Exchange report identifies two particular areas of failure. First, while the world has gone digital, Hong Kong’s records policy remains frozen in time, unwilling or unable to tap a massive pool of global expertise on the construction and maintenance of reliable e-records management systems. Bureaucrats are advised to “print and file” important documents, a cumbersome and wasteful solution ill-befitting an aspiring high-tech hub.

Second, Hong Kong’s feeble records regulation does not extend to statutory bodies, private institutions with public functions found in many common law jurisdictions. Again, Hong Kong is an outlier. Even the Australian Egg Corporation, a statutory body, is subject to the country’s Archives Act of 1983. Hong Kong’s Airport Authority, Hospital Authority, Housing Authority and Monetary Authority, to name just a few, are not covered by government regulations.

Other deficiencies abound. Heritage and culture are integral to Hong Kong’s bid to assert itself as “Asia’s World City”, but policy does not reflect this supposed priority. Impartial and reliable institutions also remain a core component of Hong Kong’s global branding; but cases of official malfeasance and popular dissatisfaction, exacerbated by disappearing records, are tarnishing that image.

Even as the public’s property and heritage are mismanaged, people are denied adequate access to what is available. Unlike libraries, clinics, prisons and e-waste recycling centers, the Government Records Service does not maintain extended or weekend hours to increase citizen access to its holdings. This is not a respectful use of taxpayer money.

As the crucial economic and cultural interface between China and the world, Hong Kong should be a global leader in integrating information technology with the good governance practices for which it is renowned. This will create other opportunities for regional leadership: Singapore’s recently retired National Archives Director traveled the globe lecturing on archival practices that minimize legal liability and environmental impact while maximizing heritage preservation.

In contrast, the incumbent director of Hong Kong’s Government Records Service is untrained, a career bureaucrat who arrived from a previous appointment in the prisons service. Despite high standards of scholarship and academic freedom locally, no one turns to the Hong Kong government to learn about regional history, while Singapore’s archives director is thanked in many books.

Hong Kong should cherish its status as a regional role model, reinforcing what it does well and fixing its failings. Passing an archives law is a simple, cost-effective and very necessary step to bring Hong Kong into the 21st century.

Mr. Frisch co-authored “The Memory Hole: Why Hong Kong Needs an Archives Law” at the Civic Exchange, a public policy think tank in Hong Kong.

香港的盲點

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政府毫無顧忌地銷毀文件；政府安全部門建議公務員粉碎官方文件；尋求公正的民眾發現相關政府文件神秘失蹤。這顯然聽起來並不像是香港，這個半自治的中國行政區以精明強幹的公務員、對公民自由的保護和世界級的政府服務而知名。

香港特別行政區政府對公共檔案沒有給予其他公共財產、公共基金和公務員所享受的保護，它是發達世界中唯一沒有這樣做。香港智庫思匯政策研究所(Civic Exchange)本週公佈了一份題為《勿讓歷史留白：香港需要檔案法》(The Memory Hole: Why Hong Kong Needs an Archives Law)的新報告，而最近發生的一件事給疏忽大意的檔案管理的後果提出了警示。

今年9月，香港政府高層決策部門在遷入新辦公室時，未依照程序請專家進行評估即銷毀了1,000多米厚的文件。近年來，警方記錄、移民檔案和醫院病例失蹤的事情一再發生，極大影響了尋求公正、提高效率、甚至是確定基本事實的工作。

這並不是因為缺少資金、技術或人員。香港領導人只是不願採用一種經過事實檢驗的政策機制，這種政策機制早已在英國、美國、澳大利亞、澳門、新加坡、台灣、韓國、菲律賓，甚至中國內地頒佈實施了，這就是檔案法。

檔案法可以保證政府保存足夠的業務記錄，同時為後代保存歷史文件。當通過一個強大而公正的司法部門加以實施時，檔案法既可以為政府的問責提供基礎也是最後一道防線。正如審計長和檢察長擁有職業獨立性和政府權力來發揮各自的作用一樣，官方檔案員也是接受過培訓的專業人員，對政府文件的處置和保存有著最終的決定權。

這無論是在複雜程度還是成本上都比不上研製火箭。以立法為基礎的檔案體系在新加坡和澳大利亞等國都得到了改進，香港常常參考這些國家的政策。毫無生氣的香港政府檔案處(Government Records Service)已經有了為此目的設立的設施、預算和人員。只是缺乏明確的法律授權。

香港立法會(Legislative Council)很久之前就得出結論說，檔案法.....不會涉及到很大的財務費用。然而，隨著濫用文件的現象不斷增多、歷史逐漸流逝，目前為止還未採取任何行動。

除凸顯出香港政府檔案處的無能以及檔案管理“要求”和“方針”的不連貫與雜亂無章外，思匯的這份報告還指出了存在嚴重缺陷的兩個具體地方。首先，雖然世界已經步入數字化時代，但香港的檔案政策仍被定格在過去，在建立和維護可信賴的電子檔案管理系統方面，不願意或不能利用廣大全球專業隊伍的技術。政府工作人員被建議對重要文件進行“打印和存檔”，這是個既繁瑣又浪費的解決辦法，並不適合香港這樣胸懷大志的高科技城市。

其次，香港約束乏力的檔案規定不適用於法定機構以及有很多公共職能屬於普通法管轄權的私營機構。在這一點上，香港再次有別於其它國家和地區。比如，就連法定機構澳大利亞蛋品公司(Australian Egg Corporation)也要受制於澳洲1983年頒佈的《檔案法》(Archives Act of 1983)，但香港機場管理局(Airport Authority)、醫院管理局(Hospital Authority)、房屋委員會(Housing Authority)和金融管理局(Monetary Authority)等卻都不在政府規定的管轄範圍內。

其它不足也隨處可見。雖然保護遺產和文化是香港打造“亞洲國際都會”(Asia's World City)的努力中不可或缺的一部分，但政府政策沒有體現出這個被認為是重中之重的環節。公正可靠的研究機構也是香港樹立全球品牌的核心所在，但官員瀆職以及民眾不滿的案例(檔案失蹤使問題的嚴重程度進一步惡化)正在玷污這一形象。

就在公共財產和遺產沒有得到妥善管理的時候，人們也沒有充分的機會去瞭解事情進展。與圖書館、診所、監獄和電子廢棄物回收中心不同，香港政府檔案處不會為方便市民獲取檔案信息而延長工作時間或在週末辦公。這種方式是對納稅人資金的不尊重。

作為連接中國和世界的一個至關重要的經濟文化“界面”，香港應當把自己聞名的良好治理實踐與信息科技整合到一起並成為該領域的全球領導者。這會為香港實現地區領導力創造出其它機遇：新加坡前不久剛剛退休的國家檔案館館長(National Archives Director)做了全球巡回演講，內容就是在最大程度做好遺產保護工作的同時展開將法律責任和環境的負面影響降到最低的檔案保護實踐。

相比之下，香港政府檔案處目前的負責人則是沒有經過專業培訓的職業公務員，在“空降”這裡之前曾在監獄機構就職。儘管香港的學術成就和自由度都相當高，但沒有人到香港政府檔案處這裡來瞭解地區歷史，而新加坡的前檔案館館長則在很多書中被作者感謝。

香港應當珍惜自己作為地區榜樣的地位，鞏固成就，彌補不足。通過一項檔案法是將香港帶入21世紀的簡單、有效且非常必要的一步。

編者注：作者傅理寧（NICHOLAS FRISCH）在香港公共政策智庫思匯政策研究所（Civic Exchange）與他人合寫了題為《勿讓歷史留白：香港需要檔案法》（The Memory Hole: Why Hong Kong Needs an Archives Law）的報告。

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