

Dear Tune Review

I wish to make this email submission to your Review. I am Challis Chair of International Law at the University of Sydney and Chair of Australian Studies at Harvard University. My research is published internationally.

From experience, I am deeply concerned that protracted and unjustifiable delays in decision-making processes about accessing archival material can make conducting timely research impossible.

- In September 2012 I requested access to archives on Spanish Sahara for the period around 1975, for research I planned to write up and publish in 2013.
- I only received notice of decisions about some of the material in late November 2014, more than two years after my request was lodged.
- In subsequent years I continued to receive episodic notice about decisions on more of the requested material. The most recent notice was on 11 December 2018 – that is, more than six years after I made the request. Needless to say, my research project on that subject concluded over five years ago.

The material I requested was found to involve security sensitive information. After complaining to the Commonwealth Ombudsperson about the prolonged delay, I was informed that the delay was largely out of the hands of the National Archives because decision-making depended on other (unnamed) agencies due to security and international relations considerations (thus probably involving DFAT or intelligence agencies).

Whoever was the source of the inordinate delay, dramatic performance improvements are necessary, including devoting the requisite resources not only to National Archives but to the other Commonwealth agencies whose advice is required.

In respect of those other Commonwealth agencies, I would also flag the likely problem of over-classification as security sensitive, and the consequent refusal to release, large portions of archival material which should be publicly accessible as not, in fact, being prejudicial:

- The material I requested dates from over 45 years ago in North Africa, and its release would be extremely unlikely to involve the disclosure of Australian intelligence collection methods, let alone any prejudice arising therefrom.
- Further, it is an insufficient ground not to disclose information that it might prejudice current relations with another country (in this instance, Morocco), when the very point of

accessing these archives is to investigate Morocco's violations of international law by invading and occupying Spanish Sahara – an internationally notorious and undisputed legal fact confirmed by the International Court of Justice no less.

- There is no procedure available under which a person requesting access to sensitive material can make submissions to those Commonwealth agencies involved as to why the material should be released, with redactions or security restrictions as appropriate. At the moment, an entirely secret decision is made by unnamed agencies, whose view and assumptions cannot be addressed.

Yours sincerely

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