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Archives, Archivists and Internet. New devices within old sciences*

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Abstract

This essay aims to shed light on the intriguing domains of archives through a cross-disciplinary approach encompassing Comparative Public Law, Legal History and Philosophy. The core subject matter tries to delineate both the potential within digital archives and their prospective contribution to information management, considering its quasi-exponential growth. To contextualize these traits a general reflection about past and contemporary institutional frames, coupled with a brief methodological excursus on technology, has been undertaken also in order to figure out how past experiences' resolutions may offer performative solutions to informational issues at any stage.

Summary

1. Introduction. – 2. Archives in today's experience: some possible scenarios.

Keywords

Archives, Information and Communication Technologies, Legal Eclecticism, Privacy by Design, Comparative Law

1. Introduction

Archives have always played a central role for societies along history, under many purposes, from more concrete needs, related to everyday issues management and gradually towards the definition of identity dimensions. It is not possible within the scope of the present paper too in-depth analyze this complex and at the same inspiring events' development. On the contrary it could be considered as an unavoidable starting point over which to set next considerations about today's properties within (digital) archives, especially because a backward methodological approach would enable us to perceive these unprecedented changes with a more complete view at these phenomena by putting ourselves in a «straight line»¹ in direct continuation with past events and not just laying on a decontextualized point of it.

In this perspective, this essay, moving from previous considerations, would elaborate some argumentations supporting the central role of archives in post globalizations societies under Comparative Public Law issues and institutional goals reflecting different fields of society, only apparently far among them.

¹ P. Grossi, *L'Europa del diritto*, Rome-Bari, 2011.

* L'articolo è stato sottoposto, in conformità al regolamento della Rivista, a referaggio a “doppio cieco”

2. Archives in Today's Experience: Some Possible Scenarios

In our hyper-connected society archives seem to appear as object of the past, only for historians' cares and, consequently, their possible usages are limited to a mere backward perspective due to numerous reasons, especially, for Western experiences, the use of Latin and Palaeography. Next considerations, supported with other cross-disciplinary reflections would aim to overturn this commonly held misconception, also considering some Comparative Public Law's very pressing issues (i.e. differences and identity). The first assumption in this direction considers the original legal value of archives, as a basis for effectively considering them as part of cultural heritage in a more complete manner². It could be helpful to start from word's history; archive springs from Ancient Greek word ἀρχή³ among whose meanings are included, «power», «domain», «authority»⁴so it is clear that this feature⁵ is to them essential, on the contrary, we may suppose about if we keep in mind previous stating statement.

They fully acquired the status of cultural heritage since French Revolution's end, where the citizens, not any more subjects, in the name of (formal) equality had been allowed to know past institutions' deliberations contained in ancient parchments and charters⁶. Indeed, the new liberal frame, by enabling this, aimed to directly show to the public the concrete decisional modes undertaken by institutions of the past, something until then completely precluded to no-State official individuals. Something that, in a certain sense, had contributed to implement at least the development of formal equality conception. The punctual analysis concerning Modern Age new mindset ought not to be forgotten for the implications it had and the reconsiderations it may encounter in contemporary time.

Many documents, stored in historical archives have had, in the past, or at the time of their production, a legal value because they directly report accounts related to immediate administrative issues.

There are two main domains past (e.g. medieval) documents have, the public and the private sphere⁷ and it is interesting to note their prevailing legal nature that may contain elements for other disciplines but principally inscribed within a sphere pertaining to a legal frame (i.e. to interests' administration).

Thus documents⁸, according to Diplomatics' traditional theorizations, have an intrinsic enacting feature aiming at creating new legal situations for parties involved in legal

² See *infra* and A. Mastromarino, *Stato e Memoria. Studio di diritto comparato*, Milan, 2018.

³ *Arché*.

⁴ S. Rocci, *Vocabolario Greco Italiano*, s.v. ἀρχή, Florence, 2002.

⁵ Archives born for administrative purposes in pre-history in order to have detailed reports on foodstuffs. See P. Carucci, *Le fonti archivistiche: ordinamento e conservazione*, Rome, 1998.

⁶ See A. D'Addario, *Lineamenti di storia dell'archivistica (secc. XVI-XIX)*, Archivio storico italiano, Rome, 1990, 3 ss.

⁷ A. Pratesi, *Genesi e forme del documento medievale*, Rome, 1979.

⁸ In the widest meaning of the word, also according to numerous legal sources (including the EU General Data Protection Regulation (GDPR) replacing the Data Protection Directive 95/46/EC).

transactions, or at least they have a declarative value⁹.

For simplicity and expositional clarity, the attention would be oriented to private acts, with an enacting force property, which are represented by contracts, especially because, within a global governance system, they appear to be the most performative source of the law¹⁰. This also seems confirmed through the exegesis of articles 1321 and 1372 of the Italian Civil Code¹¹ on contracts. In particular, the latter provision gives the same value of statute to contracts validly performed. It gets now clearer how legal transactions (e.g. contracts), registered and reaching us as documents, constitute the proof of something happened, thus becoming unavoidable instruments for delineating, obviously not immediately, an identity¹² like other kinds of cultural heritage (e.g. monuments).

Jacques Le Goff¹³ individuated an intimate relationship, a quasi-correlation between documents and monuments because they represent, at the same stage, the effort fulfilled by a society (i.e. any kind of group) in order to provide others (i.e. posterity and other different groups) a self-representation¹⁴ of their own most valuable peculiarities, always in terms of identity. At a conceptual level, this gets much more actual if we pay attention to artists' contracts and in particular to those regulating ephemeral art performances¹⁵. In this case, contracts are decisive because, beyond regulating a patrimonial relationship among parties, like other types of contracts, they also monitor the ontological nature of artist's performance seizing its gradual evolution and transformation depending on the most varied combinations of events that may alter or radically transform an art's object. And with regards to this particular artistic movement, where pieces of art are, by definition, not lasting, because they run out at the end of the performance, the contract, as a document¹⁶ turns out to be the sole proof certifying that artistic happening.

This may appear as a peculiar particular case but the same can be also considered valid within Companies due to contracts' central role, both for daily business and for overall enterprise identity they may acquire while entering the firm's historical archive. It goes without saying that this pattern acquires a major relevance in the contemporary post-globalized world, ruled by a global governance system¹⁷ where the contract, as parties' negotiation synthesis, acquires a central place; as unavoidable consequence state norms appear to possess a minor strength.

⁹ A. Pratesi, *op. cit.*

¹⁰ An objection may rise because, under a formal point of view, State norms, albeit described transnational relations and self-normative (soft law) regulations presence, are still considered effective by domestic sets of rule; however it could be not profitable to limit considerations to the sole formal sphere because, under a factual point of view, the powers of these new legal solutions are disruptive and in clear opposition with liberal state paradigm.

¹¹ V. Roppo, *Il contratto*, Milan, 2011, 490 ss.

¹² A core concept for trying to perceive contemporary society's fragmentary traits.

¹³ J. Le Goff, *Storia e Memoria*, Turin, 1977, 443 ss.

¹⁴ See *infra*.

¹⁵ A. Donati, *Law and Art: diritto civile e arte contemporanea*, Milan, 2012, 187 ss.

¹⁶ Also in its etymologic meaning.

¹⁷ S.*Infra* for the amount of information produced.

In this terms many corollaries descend; first of all archives could be compared to hubs, that, on different stages represent, by being constituted of documents, also modelled in the above mentioned ways, the encounter-clash of opposite interests and views, thus concurring to ultimately shape a given identity that cannot be assumed as a fixed or a unique one¹⁸.

Further considerations would not be necessary whether social, cultural and institutional frames had been the ones of a decade ago, but the increasing presence of Information and Communication Technologies (ICTs from now on) and the consequent effects cannot be ignored. Therefore, if archives and documents have had maintained their traditional formation and processing practices, our approach and policies towards them would have been limited the consolidated use, directly linked to correspondent (i.e. analogical) documentary typologies. Beyond this the number of documentation producers has sharply increased, not limiting itself to different 'institutional' realities as global governance pattern may lead us to think, but the phenomenon has reached almost every individual, on the grounds that almost each of us possess a smartphone enabling us to effectively produce archives, not only in the traditional manner but also through new and unprecedented ways. These devices, mainly thanks to sharing modes, defaultly set in every app, enable us also to put into direct relation different kinds of archives. Hence and not for nothing, we are assisting to unprecedented paradigms shifts especially if we consider that less than a Century ago document and archives production was a reserved domain of States, the Leviathans, according to the traditional liberal doctrine.

As a consequence, new forms of archives are now developing and these unique, intriguing and complex phenomena give us a very performative key for identity trends' interpretation, an unavoidable element at the center of our global interconnected¹⁹ societies where differences, to different extents, dictate the pace today.

There are numerous online archives, but it could be better to focus our attention to a first pioneering project having also caused serious perplexity within archival doctrine²⁰: *The September 11 Digital Archive*²¹.

According to its curators: «The *September 11 Digital Archive* uses electronic media to collect, preserve, and present the history of the September 11, 2001 attacks in New York, Virginia, and Pennsylvania and the public responses to them»²².

This and other online archival realities concretely proof an active, open engagement for delineating the identity-making process through historical sources finding; this trait may clash with traditional archival theories principally because these sources are collected from different contexts of their own production, then determining a

¹⁸ See *infra* and note 34.

¹⁹ *Rectius* hyper-connected, see L. Floridi, *The Fourth Revolution. How the Infosphere is Reshaping Human Reality*, Oxford, 2014, 3 ss.

²⁰ F. Valacchi, *Diventare archivisti*, Editrice bibliografica, Milan, 2015, 72 ss.; S. Vitali, *Passato digitale: le fonti dello storico nell'era del computer*, Milan, 2004, 116.

²¹ <http://911digitalarchive.org/>

²² <http://911digitalarchive.org/about>

non-clear and not consequential reconstruction of events²³.

Nevertheless, such aspects appear to be unavoidable outcomes and direct expression, as just uttered, of contemporary identity. Generally speaking, it does not completely conflict with archival essentials in an agent's pursuit of self-representation because, on the other hand, in the contemporary social media paced informational environment, this attitude may result more accentuated²⁴.

To continue, also recalling the legal values within archives under the Law and Art angle, it could be suitable to underline that main museums are now buying, or they are developing, archives in order to enable the public and visitors to access from remote their collections, especially in the above-mentioned case of ephemeral art²⁵.

This new trend confirms, and also reinforces, archivist's role as digital curator²⁶ and more precisely as a mediator²⁷ who translates and adapts into new pieces of information the requests (i.e. the questions) of archives' users. And this becomes more effective in contemporary societies where we are overexposed to information and sometimes it is not always easy to find what we are looking for. Therefore, in an information-based society these skills are decisive both under an economic point of view and above all in cultural domains, considering identity issues importance in defying numerous (important) policies, spacing from labour to public competitions (e.g. cultural diversities protection) just to mention most immediate and evident quests in our society.

To reinforce archives' binding feature a quick reference to standards may be fruitful to enhance these conclusions because many realities around us are possible because of them and the notion of standard outperforms the one regarding norms because it also applies to things (archives as technologies in this case) and not only to humans²⁸. More precisely «the notion of a standard is (or can be) more precise than that of a norm. Standards can be and usually are measured, tested, examined, revised. Norms, in contrast, are usually amorphous; they are rarely easily definable since they remain, [...], in the realm of collective conscience. [...] Standards are at once ideational and material. They span the ideal-material divide, or perhaps obliterate it [...] Standards allow us to break away from the concept of norm, which has the unfortunate tendency to mean the average as well as to imply that breaking away from a given standard is

²³ F. Valacchi, *op. cit.*, 73.

²⁴ In the 70's Pavone elaborated this theory with regards to institutions' archives as the result of the image they want others to perceive, C. Pavone, *Ma è poi tanto pacifico che l'archivio rispecchi l'istituto?*, in *Rassegna degli archivi di stato*, A.30, 1, 1970, 145 ss. The brief work addresses against another key doctrinal argument according to which archives exactly mirror institutions actions: G. Cencetti, *Sull'archivio come Universitas Rerum*, in *Archivi*, IV, 1937, 7 ss.

²⁵ Whit regard to it this approach appears decisive because the work of art re-lives by being reactivated (96 ss.).

²⁶ As outlined in F. Valacchi, *op. cit.*

²⁷ A. Mastromarino, *Stato e memoria*, cit., 65 ss. and 167 ss., where the author outlines oblivion's importance for delineating memory; these processes find a match in (numerous and controversial) appraisal theories if we directly consider archives; especially today because the need, differently from past, regards what to erase for defining, at last stage, memory, considering that saving is the default option, whereas in the past all efforts were oriented to (actively) preserve essential, vital information.

²⁸ L. Bush, *Standards*, Cambridge, 2011, 23 ss.

necessarily deviant *or pathological*²⁹».

Obviously, without ponderations, this reasoning may drive to paradoxical situations and here it could be explained the very important role of archivists in our information economy-based society because they can effectively mediate, through their cultural, technical expertise³⁰, and then solve, in different fields of knowledge, antinomian situations³¹. This finds a concrete application because archivists also elaborate standards for digital preservation purposes³², an activity concretely reflecting the continuous ponderation if we consider, at any level, identity, and differences' centrality, also and especially as thorny issues³³. These concepts may appear to be neutral, but they are not so, because they are constantly moving and evolving as we may daily perceive. For these reasons, identity could be considered «unavoidable», «ideal» and «dynamic»³⁴, something that cannot be definitively defined. These only apparently mere philosophical and abstract assumptions have today concrete consequences especially because online personal data prevent individuals to exercise a direct control over them due to web and search engines spreading attitude towards our information³⁵ with the further consequence that our identity is not more what we say about ourselves but, on the contrary, it is shaped by others' discussion on what we may be³⁶.

In this direction archives well represent and offer a further element for Dworkin's theory on *Law as Literature*³⁷, because archives, in the same ways as statutes, jurisprudence and doctrine works, contain accounts that can be then considered normative too. Another theory usable both for completing and integrating this scheme is constituted by Hart's³⁸ reflections whose synthesis can be led back to a compromise of different requests in running, a conceptual corresponding model to tangible differences' presence.

To sum up, it is now possible to assume that archives are genuine technologies based on a conceptualized language, that, in our informational societies represent a medium, made up by ordered and organized information collected in a context, allowing users

²⁹ *Ibidem*.

³⁰ And the list could continue.

³¹ This is possible and could be implemented if we consider archives, as a development of previous conceptualizations, as meta-technologies regulating, through language (i.e. archival description), other technologies (widest meaning of the word).

³² See S. Pigliapoco, *Progetto Archivio Digitale. Metodologia Sistemi Professionalità*, Macerata, 2016, 90 ss. and 154 ss., where an explanation on OAIS (Reference Model for an Open Archival Information System) is provided.

³³ In particular archivists' mediation may also consist in the perception of users' (different) mental models while searching for information at any level of both purposes and experience.

³⁴ A. Mastromarino, *Il Federalismo disaggregativo. Un percorso costituzionale negli stati multinazionali*, Milan, 2006, 27 ss.; see also F. Remotti, *Contro l'Identità*, Rome-Bari, 1996, 8 ss. and 71 ss.

³⁵ O. Pollicino-M. Bassini, *Il diritto all'oblio*, in T.E. Frosini-O. Pollicino-E. Apa-M. Bassini (a cura di), *Diritti e libertà in Internet*, Milan, 2017, 127.

³⁶ See S. Rodotà, *Il diritto di avere diritti*, Rome-Bari, 2015.

³⁷ R. Dworkin, *A matter of principle*, Cambridge (MA), 1985, 159.

³⁸ H.L.A., Hart, *The concept of Law*, Oxford, 1994.

There are several questions encompassed by these phenomena but for the objects of this paper, it could be sufficient just to mention the case of self-driving cars that could serve as a paradigmatic example also for establishing some possible horizons within (global) legal trends and, above all, formants⁴³ for legal experiences. What directly matters, in parallel with moral issues, regards the setting modality of these devices that, paradoxically, must take decisions on vital assets, and, at the same time, they must not hurt humans⁴⁴.

From a legal and a constitutional point of view this unprecedented shift would probably lead to sharp changes as in the legal as in the moral frame of mind simply because, assuming Western tradition as a yardstick, norms offer dichotomy solution to questions⁴⁵, and in such new cases, shaped by complexity, more dynamic solutions are needed.

On the light of what has been previously introduced, philosophy and traditional patterns once again can suggest us, after proper adaptations, useful and proper solutions. The principles' adaptations within the classical law of India could provide effective mental model in order to tackle with these new questions because these speculations delineate overall fluid patterns rather than individuating punctual solutions for particular and restricted situations; indeed: «Veda is not a description of the world but a part of the inner construction of the world. Therefore, it is not conceived as the word of God but as a manifestation of the undifferentiated divine principle that is at the roots of cosmos. In other terms, the Veda is not uttered by the Divinity but it is the Divinity»⁴⁶. To complete «Rules are elaborated through an evaluation of different possible actions. This particular evaluation in this context is made through the concept of dharma so that we would speak properly of *dharmic* and *adharmaic* actions, which is a different way to say approved or disapproved actions. In this sense *dharmic* is a qualification of actions. This dynamic makes it improper to consider dharma as a set of fixed norms of behavior, for the dynamic system allows for change within continuity⁴⁷»⁴⁸.

In this direction we find that *Mimamsa* exegesis matters for information management

⁴³ R. Sacco, *Legal Formants: A Dynamic Approach to Comparative Law*, in *The American Journal of Comparative Law*, 39(1), 19991.

⁴⁴ For the severe implications such technology may produce see <http://moralmachine.mit.edu>, an online test developed by MIT concerning (dramatic) moral consequences and implication these new devices can produce.

⁴⁵ The inference structure contributing to shape judge's opinion, in Civil Law legal systems, vividly depicts this feature.

⁴⁶ D. Francavilla, *The roots of Hindu jurisprudence: sources of dharma and interpretation in Mimamsa and Dharmashastra*, Comitato Corpus iuris Sanscriticum et fonts iuris Asiae meridiana et centralis, Turin, 2006, 78.

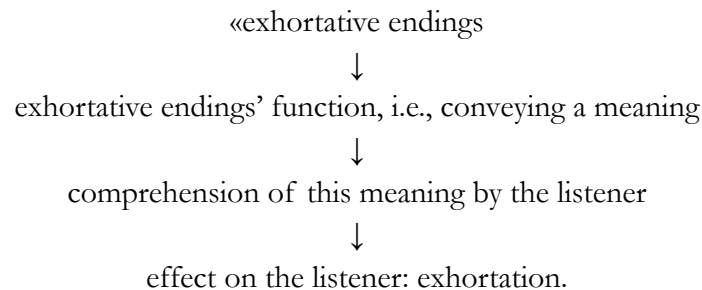
⁴⁷ *Ibidem*, 81.

⁴⁸ «The Mimamsa (“investigation”) is a method of exegesis which was originally confined to the Vedic texts».

For further details see the coordination of (*Jai.*, VI.3.20) and (*Day.*, XIII.8) implemented by doctrine: R. Lingat, *The classical law of India*, translated from the French by J. Duncan-M. Derret, Delhi, 1998, 148 ss.

because it is the synthesis of very sophisticated devices⁴⁹, thus enabling the coordination among complex features, as component of given actions.

A very acute doctrine⁵⁰ casts light on this and also underlines the exhortative peculiarity within *Mimamsa* provisions syntactical structure:



In this way, the intermediate step of understanding the exhortative endings' meaning is added. Hence, the burden of the illocutionary force is carried by both language and its listeners, who cooperate to the exhortation insofar as they must be proficient in language use in general and have understood the specific meaning at stake. In other words, Jayanta's answer to question (1) is that language is a vehicle of illocutionary force not in itself, as if it had a magical power, but rather insofar as it conveys meaning. The illocutionary force depends, thus, on the meaning conveyed by a certain statement and not on its sheer utterance. The illocutionary force, consequently, does not depend on the phonic aspect of language, but on the pieces of knowledge it conveys. It is, hence, rooted in the epistemological aspect of language as an instrument for conveying knowledge».

This very ancient (legal and cultural) frame of mind may play a central role if we assume the following relation regarding Big Data, especially if also referred to IoT, thanks to these doctrines' flexibility⁵¹.

In this regard, another scientific experience of the past could offer interesting tools for approaching these complex phenomena, having as object the wide area of Medieval interpretation developed during the early era of *Ius Commune*. Its proper adaptation could permit to borrow and acquire new conceptual tools (i.e. mental models), concerning what has been above introduced.

If we take into account the archivist's mediation role, it could be now possible to argue on this core activity, concretely displaying itself in the individuation of links amongst information and, in a broader perspective, considering the reasons why these pieces of information, by continuously aggregating one to another, are contributing to firstly shape reality and then our common and/or personal identity.

Indeed, Medieval *interpretatio* activity's aim concerned, through a functional and a cre-

⁴⁹ That could be indirectly compared to the distinguishing method.

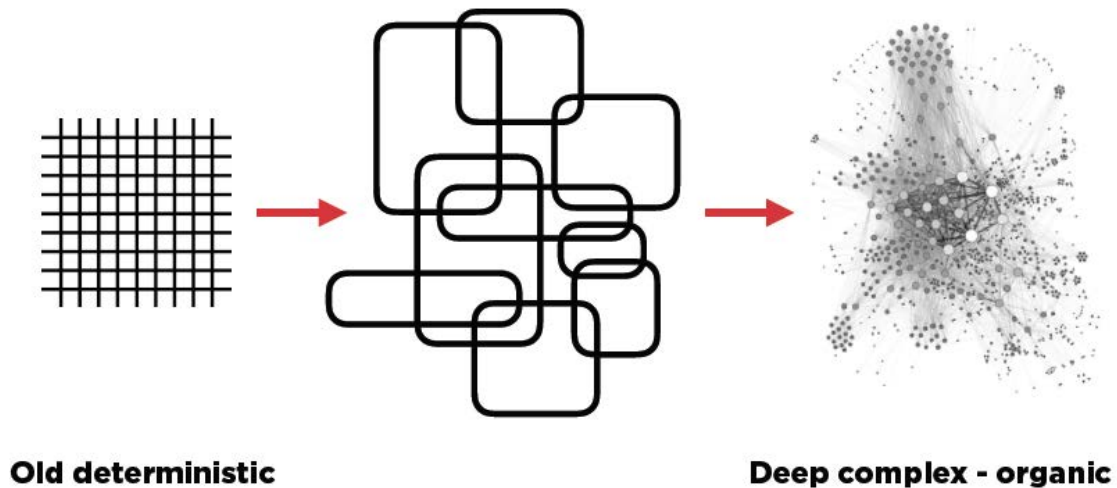
⁵⁰ E. Freschi, *The Study of Indian Linguistics. Prescriptive Function of Language in the Nyāyamañjarī and in the Speech Act Theory*, in J. Pellegrino, *Open Pages in South Asian Studies*, Claremont, 2014, 27 ss.

⁵¹ R. Lingat, *op. cit.*, 158; see also Manu (II.14). To extend this comparison the concept of canonical equity, as theorised by Gratian (*Decretum, dictum ante* C.11 q.3 c.91), may provide fruitful elements.

ative method⁵², the readdressing of facts to a common denominator represented by *aequitas*, a fluid entity where differences within facts found their own proper accommodation.

In brief, we may compare this peculiar feature to Big Data challenge and horizon, especially if we add the developments within IoT and Machine Learning:

V. DEVELOPING NEW PARADIGMS



Old deterministic

Deep complex - organic

RISE OF THE DATA BIOME

(Source: Big Dive)

⁵² P. Grossi, *L'Ordine giuridico medievale*, Rome-Bari, 1995, 168 ss. This intellectual activity, as noted by the Author, was totally opposed to artificial judicial arguing modern State categories have been progressively imposed to its own agent, only integrated by lawmaker's self-referential will.

These assumptions could be empirically validated on the light of next chart, containing an approximate amount of information of an internet minute:

2018 *This Is What Happens In An Internet Minute*



Credits: visualcapitalist.com

It is now possible to give to archivists⁵³, traditionally considered as «informational priests⁵⁴» a further role of (legal) designers because the interdisciplinary reality they approach expose them to multiple patterns, allowing them to embrace variegated

⁵³ In the (wide) meaning of the word above outlined

⁵⁴ S. Leucci, *Diritto all'oblio, verità, design tecnologico: una prospettiva di ricerca*, in *Rivista di diritto dei media*, 1, 2017, 116 ss.

mental models, that can enable them to properly understand, or, at least, more clearly perceive human experience(s). Therefore they are aware of (informational) complexity and then produce effective gateways to it⁵⁵, whose most direct feature, intimately linked with identity, is constituted and summed up by the presence of dissonant language(s) that may compromise informational clarity, at first instance on the light of the increasing production of pieces of information⁵⁶. Indeed, the overall pattern may have been implemented, would appear as simple as possible because archivists' communication expertise will have caught, by the future, the essence within complexity⁵⁷. If we keep again art in mind, it could be easier to comment the above graphics, illustrating the connections such aggregations of pieces of information create. And a very good signifier⁵⁸ for these new informational entities could be effectively represented by Jackson Pollock's *One: Number 31, 1950*⁵⁹, a dripping painting considered a milestone, due to the absence of a sole central point. It visually depicts our own perception (i.e. mental representation) towards deep complex-organic cyberspace, not anymore strictly-hierarchical structured, where also our (digital) identity gets continuously transformed.

⁵⁵ In this perspective archivists could be also considered, through a hermeneutical point of view as *signifiers* of these new frames. More precisely archivists could be led back to physical signifiers of a common mental signifier, the infosphere. For sparking considerations see A. Wagner-J. Broekman (eds.), *Prospects of Legal Semiotics*, Berlin, 2011, Part II - Legal Semiotics as Communication; G. Frankenberg (ed.), *Order from Transfer, Comparative Constitutional Design and Legal Culture*, Cheltenham, 2013, 36 ss.

⁵⁶ Indeed a further approach to be taken into consideration, which both overcomes Hobbes notion of (self-integrated) *ius strictum* (whose clear result will have been the codification- in terms of State's self-imposed legal will) without depriving it of its calculation dimension (today unavoidable), regards Leibniz, *De Arte Combinatoria* where the philosopher underlines the possibility of finding conceptual tools through analogy and not only via definitions. For a broader outline see U. Pagallo, Leibniz: *Una breve Biografia Intellettuale*, Milan, 2016, 13 ss. In terms of identity this conceptual structure reveals its own performative contribution if compared to Russel assumption regarding identity through definition where the author underlines definitions' limits for the individuation of an object, see *The Principles of Mathematics*, §§ 63, 64, 73; for an overall analysis of Russell logics see S. Donati, *I fondamenti della matematica nel logicismo di Bertrand Russell*, Florence, 2003, 431 ss.

⁵⁷ For further sparks cf. W. Isakson, *Steve Jobs*, Milan, 2011, 368. Under these premises it could be interesting to extend Leonard theorisation (see *Trattato della pittura*) considering painting (i.e. today's design conception) as an instrument of knowledge to these new informational challenges.

⁵⁸ See *supra* note 55.

⁵⁹ For a painting's brief description see <https://www.moma.org/collection/works/78386>.



(Copyright: MoMA)

To sum up, such a dynamic balancing could be also found, another time, in past experiences to continue with the methodology at the base of this work.

In XV Century Duchy of Savoy⁶⁰ a series of standard, the *Decreta seu statuta*, as proof of embryonic process towards legal absolutism⁶¹, had been issued by Duke Amadeus VIII. For the scope of these considerations, it is very interesting to note the importance past institutional patterns had attributed to archives as a source of sensitive information and the subsequent delicate role of their agents for them responsible: archivists.

A brief norm⁶², that can be found in 1586 edition⁶³, outlines and anticipates with an astonishing modernity archivists' central (contemporary) tasks (i.e. the articulated procedures regulating the information access and exclusion), especially if we consider GDPR concept regarding Privacy by Design⁶⁴, albeit rule protection's scopes if compared, are inverted.

«Quos ex redictis decem scribis seu receptoribus computorum nostrorum decernimus per nos eligendos et constituendos clavigeros et custodies [...] fideliteret diligenter observareet custodire, frequenter visitare et disponere ne propter ineptam custodiam pereant vel putrefiant ea

⁶⁰ North-Western European areas, (i.e. today's Piedmont (Italy) and Savoy (France) districts).

⁶¹ I. Soffietti-C. Montanari, *Il diritto negli Stati Sabaudi: fonti ed istituzioni*, Turin, 2008.

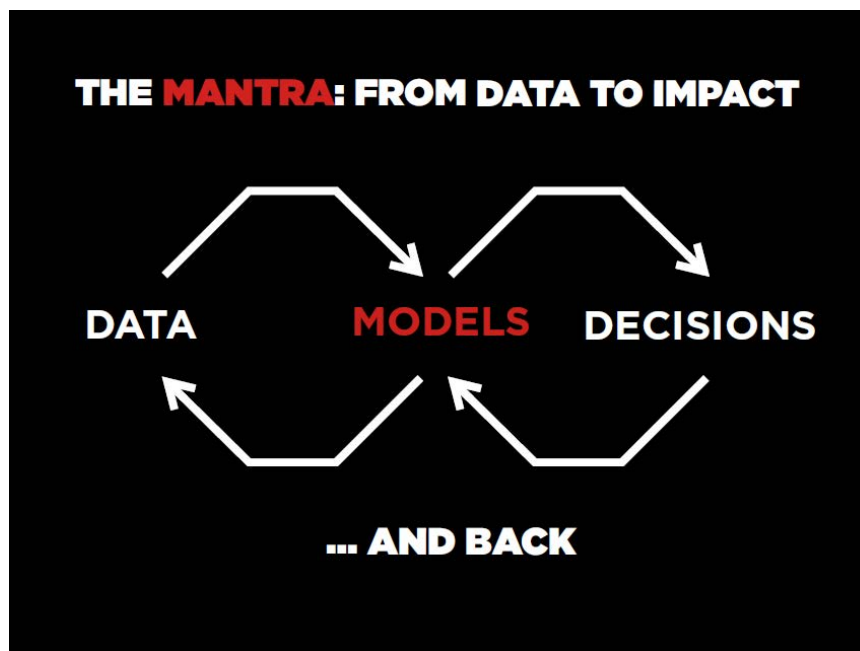
⁶² Book II, chapter CII (c. 68); emphasis added.

⁶³ Several editions of this series of standards had been issued, for further details see *Decreta, seu Statuta vetera, serenissimorum ac praepotentum Sabaudiae ducum, & Pedemontij principum, multis in locis emendata. Quibus in fine capitum adiectae sunt relationes aliorum de eadem materiam tractantium; summarium siue compendium ipsorum decretorum per D. Io. Neuizanum olim compilatum, Augustae Taurinorum: apud haeredem Nicolai Benilaquae, 1586.*

⁶⁴ «The controller shall [...] implement appropriate technical and organisational measures [...] in an effective way [...] in order to meet the requirements of this Regulation and protect the rights of data subjects» (art. 23, Regulation (EU) 2016/679).

quae [...] auditoribus computerum nostrorum quotiens sciverint vel viderint expedire revelare et exhibere pro iuribus nostris et alienis observandis [...]. Originalia vero ipsarum litterarum instrumentorum informationum computerum et caeterorum documentorum nostrorum inde numquam extraere et cuiquam trader vel exhibere, nisi de mandatis et ordinatione supra doctorem. Omniaque et singula alia fideliter exercere quae ad custodiam, revelationem et celationem dictarum crotae, archivorum, armariorum, titulorum, iurium et informationum nostrorum pertinent et incumbunt [...]».

On the light of these reflections, it is now possible to understand how and above all why archives' and archivists' contributions as mediators consist in a continuous active questioning mode⁶⁵ especially today where every kind of difference has an active role.



(Source: Big Dive)

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⁶⁵ As suggested by Voltaire, «we must begin to judge a person on the basis of their questions, not their answers»; for further details see S. Hartley, *The Fuzzy and the Techie. Why the liberal arts will rule the digital world*, New York-Boston, 2017, 33.