Medieval Universities and Archives

by LUCIANA DURANTI*

Résumé

Les archives des universités médiévales sont éparses et fragmentaires, contrastant ainsi avec le fait que ces institutions comptaient parmi les plus réglementées, les plus structurées, et les plus stables de leur temps. Cet article, en utilisant des exemples tirés à la fois d'universités de maîtres et d'universités d'étudiants démontre que toutes les universités médiévales présentent des modèles archivistiques semblables, et tente d'expliquer ce fait par la pensée juridique de cette époque en illustrant la manière selon laquelle cette pensée a influencé la formation des archives médiévales.

Abstract

The archives of medieval universities are sparse and fragmented, in sharp constract with the fact that these institutions were among the most regulated, structured, and stable of their time. This article, using examples of both universities of masters and universities of scholars, demonstrates that all medieval universities present similar archival patterns, seeks the reasons for this in the juridical thinking of the period, and illustrates the way in which such thinking has influenced the formation of medieval archives.

Medieval historians have repeatedly wondered why the archival material of institutions as old, glorious, stable, and rigorously structured as the universities of medieval origin is so consistently fragmented and scattered, and why the universities' archival fonds (i.e., the systematically maintained documentary by-product of the whole of their functions and activities) hardly reach back into the beginning of the modern era. This article attempts to answer these questions by discussing the relationship that medieval universities had with the documents they made or received in the course of the conduct of their affairs, that is, with their archives. The history and composition of these archives has been illustrated on various occasions in the context of the history of the universities that produced them, and will not be addressed here other than incidentally and by example, as partial evidence of the ideas held about archives in the juridical environment in which medieval universities originated and evolved.

Since its first development, one of the basic postulates of archival theory has been that "whatever is left of an archives constitutes an archives in and of itself." This axiom is very helpful to a discussion of the archives of medieval universities because it allows the study of entities that otherwise would be considered non-existent. In fact, if one excludes from consideration isolated statutes, bulls, privileges, grants, and title-deeds of property, most often preserved as copies, there are no official university records until the second half of the fourteenth century; that is, there are no continuing, organic series of documents generated or accumulated by any university while exercising its powers of administration, jurisdiction, or of conferring rights on its members. Moreover, existing record series attest to a limited range of functions and activities, are often incomplete and dispersed in various places, and do not reflect the interrelationships that one would expect from what is known about the ways in which universities functioned. A couple of examples will be sufficient to illustrate this point.

In the archives of the University of Bologna, the earliest series start in the year 1377, but only the "secret books of the canonic and civil colleges" go that far back. Most of these books are preserved in the city archives of Bologna, while a few are found in the archbishop's archives.[1] All the other series begin in the middle of the fifteenth century. Some of them were generated by notaries, who accumulated or compiled the *rogationes* of the archdeacon, the registers of the examinations, the drafts of degree diplomas, the registers of the letters sent, the *cartularia* containing copies of privileges, and the *precepta, interlocutiones, comminationes, sententias privationis*, and all the "acts" or records resulting from the university's exercise of the privilege of forum.[2] These records had to be shown once a year to *rectores* and *consiliares*, and then (with the exception of the letterbooks and the *cartularia*, which were kept by the *rectores*) put in the *armarium* of the university, and closed with three keys. The original privileges, however, were kept, together with the seal, in the *arca* in the church of San Domenico, while one copy of the statutes was attached with a chain in the university *statio* (the assembly room), one in the *camera actorum* (the chamber of the records, or archives) of the city, and another two in the *rectores'* offices.[3]

All the other extant records of the medieval period were created by the *reformatores*, the magistrates of the city of Bologna entrusted since the second half of the fourteenth century with the function of supervising university activities as regulated by the city statutes. The power of the *reformatores* was threefold. It included: (1) superintendence over the application and obeyance of the laws, accompanied by discretional powers; (2) compilation of the *rotuli*, that is, of those manifests which made public the norms and regulations of the *Studium*, the official courses, the names of the *lectores*, and the timetable, and in so doing hallowed the subjection of the *Studium* to the city; and (3) control of the assiduousness of the *lectores* in their duties, and of the number of their students (the lecturers who were absent without valid justification, or did not have a sufficient number of students were fined). It might be expected that these three functions generated three separate record series, but that is not so. In fact, only two series are preserved in the archives of the city: a very large one, deriving from the exercise of the function of control and mostly composed of accumulated evidence about teachers' behaviour, and a small and incomplete one, constituted of both the drafts and originals of the

rotuli. The presence of drafts and originals of the same documents in the same series is a remarkable archival anomaly, but is explained by the procedure of creation and use of the *rotuli.* The original *rotuli* (two for each year, one for the law students and one for the arts students) were created in parchment of very large format and illuminated, on the basis of the draft compiled by the *reformatores.* At the beginning of the academic year, they were presented to the rectors, who looked after their publication by exhibition and, fifteen days later, deposited them in the *camera actorum* of the city, where they were preserved together with the related drafts, in order to be used as supporting evidence in various administrative instances (e.g., when the completion of the entire course of studies by each student had to be ascertained for the conferring of the degree).[4]

The archives of all medieval *studia* that originated and developed as universities of scholars present the same pattern as Bologna. In order to see whether this pattern also exists in the archives of *studia* that originated from the Cathedral schools and developed as universities of masters, we need to examine one of those archives.

In the archives of the University of Oxford, the first series of registers dates back to the middle of the fourteenth century. However, it contains only books of statutes and ordinances regulating the studies and the discipline of the scholars and the assemblies of the masters. One century later, the registers begin to include the admissions of masters to convocation and of bachelors to lecture, but it is not until the second half of the sixteenth century that the matriculation and the graduation registers appear among the university records. Besides the registers, a series of *cartularia* containing transcriptions of charters and title deeds, and one *formularium* have been preserved from the fifteenth century. However, these were not the only records created at Oxford in the medieval period, even if they are the only remaining records. Reginald Poole, from the analysis of various ordinances, derives abundant information about the so-called "chest of the four keys," which was put in the old Congregation House in the churchyard of St. Mary the Virgin in 1347, and in which had to be deposited "'the rolls containing all the goods of the University, as well as moneys due to it as other things, such as books and transcripts, and accounts of the chests, and muniments and deeds.' The Proctors kept two of the keys; the other two were in the custody of two regent masters from the two nations." It seems that in 1449 this chest was found full of useless rolls and bonds, and a committee of masters was appointed by Convocation to make a selection of the material of continuing usefulness, and discard all the rest.[5] Poole also found evidence of the existence of another chest, kept by the Proctors, which is described in the statutes as the *cista exemplarium,* or chest of copies. It contained a list of all the university muniments, a copy of the library catalogue, and the bonds, or *cautiones,* handed to the Proctors by appellants. A third chest was established in 1412, with a fifth key entrusted to the Chancellor, for the preservation of all original statutes passed by the university. This chest was referred to as *archives.*[6] Finally, the Chancellor and the Proctors had in their personal custody statute books, registers, and other documents of their own, which were never part of the university archival body.[7]

A pattern parallel to that found at Oxford exists for the university records of Paris and Cambridge.[8] More examples could be presented, but for the present purposes these will suffice to show that medieval universities present very similar archival situations, which can be summarized as follows: interrelated sequences of records do not begin until the very end of the medieval period, and when they finally appear, they are found in the archives either of the cities or of the cathedrals to which the universities were administratively linked; before then, there are only collections of individual statutes, grants, privileges, charters, and deeds, mostly copies, mixed up with seals, money, and other goods and valuables, so that those collections look "much more like a magpie's nest" than organic documentary evidence of administrative and jurisdictional activity.[9] This does not mean that there are not numerous documents containing information about the *studia*, the students, the teachers, etc.; they are found among the records of juridical persons external to the universities. Of course, the most valuable sources we have are the works of the great teachers of those *studia*, and the notes of both masters and scholars, but these are not a substitute for official university records. Thus, the question to be asked is: why do all medieval universities present this same archival pattern? To answer this question, it is necessary to examine the juridical thought of the medieval period.

At the opening of the new millennium, medieval thought and doctrine began developing in two directions, theology and jurisprudence, which became the two unmediated poles of intellectual discourse. Scholasticism, international in nature, was elaborated by the French clergy, while in Northern Italy, a new juridical science established itself in Pavia, in the royal *palatium*. Juridical thinking is not universal other than as philosophy of the law. Jurisprudence, being the study of a specific juridical system, is necessarily conditioned by time and space. However, universality was present in medieval spirits as an insuppressible aspiration, and it conditioned the development of juridical thinking all over Europe.

While the idea of the Roman Law as general and superior to the others was already accepted in principle, it was the Bologna school that inseparably linked law and empire, each the expression and reflection of a supernatural universal order. *Unum necesse esse ius, cum unum sit imperium* (by necessity there must be one law, since there is one empire) is the famous sentence of the *Questiones de iuris subtilitatibus* that best expresses the medieval attitude towards the law.[10] Thus, the abstract political universality became concrete juridical universality when the teaching of Roman Law, going beyond the phenomenic substance of the norms, developed into the formulation of categorical, and therefore universal, concepts—that is, into juridical thinking.

The general acceptance of the principle that Roman Law, being the expression of the will of a universal power, had universal validity, explains why those who studied it, when returning to their own countries regulated by specific norms, contributed to its establishment as the *jus commune*. Roman law, therefore, was superimposed on the juridical system of various countries as "the common law," the basic framework from which the *iura propria*, the specific laws of each people, had to receive guidance and meaning. The concept of *reductio ad unum*, of universal unity, which had so influenced legal thinking, was, however, a principle of universal order, according to which God was unity. In addition, humanity, as well as the two universal powers of church and empire, were expressions of God's

transcendent will. Thus, ecclesiastical law, while overcoming the classical pagan world, comprehended and perpetuated that same world, permeating it with a new spirituality, and became one with Roman law.[11]

Given the pervasive influence of Roman law on medieval thinking, it is quite natural that the concept of archives held in medieval times, particularly between the eleventh and fifteeenth centuries, was the one articulated in the Justinian Code, where an archives is defined as *"locus publicus in quo instrumenta deponuntur"* (the public place where records are deposited), often with the *addenda "quatenus incorrupta maneant," "fidem faciant,"* and *"perpetua rei memoria sit"* (so that they remain uncorrupted and serve as authentic evidence, and so that a continuing memory of the acts to which they attest be preserved).[12] The reliability and authenticity of records was one of the central preoccupations of medieval juridical doctrine, and records endowed with those qualities were said to make faith and credit. Such qualities could be ascribed to records due to their **antiquity**, which, as stated by Tertullianus, provided them with the highest authority by virtue of their preservation in a **public place**—which, according to Ulpianus, was the first requirement for an archives to exist. According to Accursius, it was also a necessary guarantee of the records' truthfulness as witnesses of actions or as a result of having been generated by and preserved in the **custody of a person invested with public faith** by a sovereign authority.[13]

Thus, to the medieval mind, an archives was a place of preservation, and only by extension the records contained in it. It was the place that provided the records with trustworthiness. Records which were not preserved in a place legitimately designated as an archives could be deemed trustworthy only if they were free from suspicion of having been created at the time of, or after, the fact they were being used to prove (the antiquity condition), or if a reliable person could vouch for their authenticity. However, an archives as a place for the preservation of records could only be legitimately established and kept by a juridical person invested with the *jus archivii* or *jus archivale*, that is, with "the archival right." This right was strictly connected to sovereignty, and therefore belonged to the emperor, the pope, and whomever else they chose to invest with it. Among the latter were the notaries.[14] Notarial documents were endowed with public faith because they were written and preserved according to forms and norms determined by persons to whom the legitimate power, either imperial or apostolic, had given the faculty of issuing public records and the right to keep an archives. Those forms and norms were the *ars dictaminis* and the procedures taught in the notarial school existing in Bologna in the eleventh century, and later in the *studium*. Rashdall writes that "(f)or this Art of Dictamen Bologna possessed a special notoriety," and that "the School of Dictamen was the cradle of the special School of Law," as it taught "technical rules for the compilation of official...documents." Rashdall does not see that the School's purpose was to educate notaries, the professionals entrusted by the church, the empire, and later the city states with full responsibility not only for the creation of their records, but also for the preservation of them *in perpetuum*. Notaries, in other words, were the progenitors of archivists.[15]

In the thirteenth century, the famous axiom of the medieval juridical doctrine *"rex superiorem non recognoscens in regno suo est imperator"* (a king who does not acknowledge a superior power in his own kingdom is there the emperor)

modified Roman law and adapted it to the new reality.[16] Bologna jurists extended
this axiom to all the free city states, which came to have, within their own jurisdic-
tions, the same powers the emperor had in the universal empire, including the *jus
archivi*, the right to establish and keep an archives.[17]

The juridical concepts illustrated above can provide an answer to the question
asked earlier about the pattern presented by university archives in the medieval
period. Universities were not invested with sovereign power, and did recognize a
superior authority. In fact, the conferring of degrees was *ius regale*, and could only
be exercised by the emperor, the pope, a king, or an archbishop or bishop. This
implies that universities did not have the archives right, and could not endow their
records with faith and credit; the records, therefore, could not be used as evidence
of their content unless they were created and preserved by persons invested with
the right to do so. This explains why, in Bologna, the most important university
records were the responsibility of notaries and were kept with them in the universi-
ty *statio*, or, more often, either in the city archives or in the church where congre-
gation was held. In Oxford, university records were the responsibility of the
Chancellor, the bishop's deputy, and kept in his custody in the church. This also
explains why the documents generated by students, masters, rectors, principals and
manciples of the halls, and even proctors and chancellors in the course of the usual
and ordinary conduct of affairs, and in the exercise of the privilege of forum, have
not survived. There was certainly a lack of proper care, but this lack was due to the
fact that the documents, once they had exhausted their practical administrative use-
fulness, could not be used as evidence to prove rights or facts.[18] It is very revealing
that the rectors of Bologna, after having communicated the content of the *rotuli* to
all those concerned, used to return them to the *reformatores*, the city notaries
responsible for overseeing university activities and for creating those same docu-
ments, in order to protect their evidentiary capacity.

Thus, medieval universities, just like every medieval record creator, saw in their
documentary output a fundamental dichotomy between "archives treasure" and
"archives sediment." The archives treasure consisted of the documents endowed
with public faith—that is, those attesting rights and privileges of the university, as
received from the superior powers and accumulated through the centuries—and
those to be used as evidence of the university's legal transactions with its members
and external persons, as created and preserved by notaries and civic, royal, or
ecclesiastical authorities according to the prescribed rules. The archives sediment
consisted of the documents generated in the daily routine of the conduct of affairs,
and left to accumulate on the benches of the various university officials until time
and carelessness made them disappear.

Understandably, when the universities were developing their own organization,
and until some structural and functional stability was reached, and the relationships
with all the other bodies were established, most university activities were informal,
non-procedural, and oral. This explains why the archives treasure was composed
mostly of received documents, mainly statutes and privileges. In time, as university
activities became increasingly formal and externally regulated and supervised, and
their juridical context more and more stable and clearly articulated by the jurists,
the need for reliable records generated a growing attention to the procedures for

record creation and preservation. This is evident from the quite remarkable number of statutes, ordinances, and charters describing such procedures for practically all medieval universities.[19] This in turn determined the controlled creation of more and more records endowed with public faith, and the beginning of the organic series of university records that we find from the inception of the fifteenth century in the archives of cities and cathedrals.

One might notice that these series do indeed present gaps, and certainly do not represent all the kinds of records that must have been created by medieval universities. This is easily explained by reminding the readers of the committee of masters appointed at Oxford by Convocation to select the records deserving continuing preservation. That committee was serving the university's need for *perpetuam memoriam*, a juridical concept referring to the preservation of a continuing memory of actions, accomplished by the elimination of the redundant and the superfluous, and the maintenance of an effective and reliable archives system, capable of demonstrating and making evident the meaning of each record and the complexity of its relationships.

We might regret today the loss of the discarded documents, but—as Hilary Jenkinson said—we can only criticize those responsible for it if, in their choices, they failed to uphold the standards established by their own times, and certainly this cannot be said of the officers of medieval universities.[20] Thus, the question that remains to be asked is: Has the function of preservation of perpetual memory carried out by the officers of medieval universities brought about an eclipse of that institutional memory? Given the amount of information medieval scholars have been able to gather from the documentary remains of those universities, and the depth of knowledge and understanding that their interpretations have generated, it may be easily concluded that the actions of those officers, rather than condemning that memory to oblivion, have enhanced its power.

Notes

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1 Giorgio Cencetti, "Gli Archivi dello Studio Bolognese," in R. Ferrara, G. Orlandella, A. Vasina, eds., *Lo Studio di Bologna. Aspetti, Momenti e Problemi* (Bologna, 1989), pp. 345, 404.

2 The privilege of forum was given to the students of the Studium of Bologna by Frederick I, in his *Authentic Habita* of 1158. See Giorgio Cencetti, "Studium Fuit Bononiae," pp. 60-67.

3 The notary of the university of arts preserved the records he compiled in a chest in the *statio* of the *bidelles generales*, where probably the matriculation records were kept, but all this material has not come to us. See Cencetti, "Gli Archivi," pp. 328, 390; and C. Malagola, *Statuti delle università e dei collegi dello Studio bolognese* (Bologna, 1888), pp. 81, 127.

4 Cencetti, "Gli Archivi," pp. 332-34.

5 Reginald L. Poole, *A Lecture on the History of the University Archives* (Oxford, 1912), p. 8.

6 Ibid., p. 10.

7 Ibid., p. 9.

8 W. A. Pantin, *Oxford Life in Oxford Archives* (Oxford, 1972), p. 2. Pantin believes that this might be due to the fact that, differently from universities like Bologna, where "it was the students who constituted the university," in these other universities, it was the masters who did, and who were consequently responsible for the records, a responsibility that clearly was not deeply felt. For a

discussion of what the archives of medieval Cambridge might have looked like, see Heather E. Peek and Catherine P. Hall, *The Archives of the University of Cambridge* (Cambridge, 1962), pp. 1-6.

9   M.T. Clanchy, *From Memory to Written Record* (London, 1979), p. 127.

10 *Questiones de iuris subtilitatibus* I, no. 16. This little volume, by an unknown author, written in the twelfth century, is one of the richest sources of medieval juridical thinking.

11 Francesco Calasso, *Medio Evo del diritto* I (Milano, 1954), pp. 370-73.

12 Justinian, *Corpus Iuris Civilis, Novella 15* "De Defensoribus civitatum," p. 5, "Et a defensoribus," p. 2; *Digestum* 48, no. 19, "de Poenis," p. 9; *Codex I*, no. 4, "De episcopali audientia," p. 30.

13 *"primam instrumentis istis auctoritatem summa antiquitas vindicat,"* in Quintus Septimus Florens Tertullianus, *Apologeticum* XIX, p. 1. The definition of archives as *"locus publicus in quo instrumenta deponuntur"* (the public place where records are deposited), contained in Justinian, *Corpus Iuris Civilis, Digestum* 48, cit., is usually attributed to Ulpianus, but, according to Elio Lodolini (*Archivistica. Principi e Problemi*, 6th ed. [Milano, 1992], p. 123), is probably interpolated. Accursius, "Additiones" to "Summae Azonis," glossa *archivum*, in *Azonis Summa Super Codicem* (Turin, 1958); Accursius, *Glossa in Digestum novum* (Turin, 1968), glossa to *Digestum* 48, cit. Elio Lodolini, *Archivistica*, p. 59

14 In 1162, the emperor Frederick I gave to city states the power to create notaries. Elio Lodolini, *Lineamenti di storia dell' archivistica italiana* (Roma, 1991), p. 32.

15 Hastings Rashdall, *The Universities of Europe in the Middle Ages* I (Oxford, 1895), p. 111; Cencetti, "Studium Fuit Bonolniae," p. 40.

16 Francesco Calasso, *Gli ordinamenti giuridici del rinascimento medievale* (Milano, 1965), pp. 244, 252-54.

17 *"Civitas superiorem non recognoscens."* See Bartolo da Sassoferrato, Ibid., p. 261.

18 One of the most lamented absences from the archival residue of medieval universities is that of the matriculation and graduation records. However, it is obvious that neither of them were needed after the issuance of the original degree documents. The matriculation lists were usually kept by the teachers in the universities of masters and by the *bidelles* in the universities of scholars until obsolete, and the graduation lists were compiled for administrative purposes in preparation for the degree conferring ceremony and then disposed of. In the second half of the sixteeenth century, when universities began to exercise some sovereignty and their records to acquire value as evidence, matriculation and graduation records in the form of registers began to be routinely created and preserved. Very few universities constitute an exception to this quite general situation and have matriculation documents from an earlier period. When this happens, those documents are also in the form of registers rather than of lists, and their entries span quite a number of years. From this it might be inferred that destruction of those documents was conditional on the fact that all students mentioned in them had graduated and, as the verification was not easy to make, their preservation derived from a practical need.

19 For a few examples, see Malagola, *Statuti*, pp. 81, 127, 297; and Peek and Hall, *The Archives*, pp. 5-6.

20 Hilary Jenkinson, *A Manual of Archive Administration*, 2nd. ed. (London, 1965), p. 149.