

Documentation Theory and Transitional Justice

**ADA 2014: Policies and Practices
in Access to Digital Archives:
Trustworthiness and Cost-
efficiency**

Split, Croatia

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Class Outline

- What is documentation?
- Levy's World of Documentation
- Suzanne Briet: What is Documentation?
- Frohmann's Framework for Documentation
- Documentary Genres
- Lund's Framework for Documentation
- Documentation and Transitional Justice (TJ)
 - Recent History
 - (Answerable?) Questions for Documentation Efforts
 - What Are Documents In and For Transitional Justice?
 - 4 Documentary Components for TJ

What is a document?

What can, or should, be considered a document?

What is documentation? (Or is there a difference between “document” and “documentation”?)

What can not be a document? Why?



“Here, right under our noses, too close and intimate to be seen clearly, are creatures that share with us the ability to speak. And we have created them. Some of them – books in particular – aspire to nobility and long life. Others, such as cash register receipts and personal notes, typically have a less exalted status and a shorter useful lifetime. Surely this is a remarkable feat” (Levy 2001).

David Levy's World of Documentation

- David M. Levy argues that we **create** documents to speak for us, to **represent** us, to **present** our ideas, and to **communicate** information, particularly in our absence.
- Documents, in many respects, are part of the fabric of one's personal life.
- **We are completely immersed in a world filled with documents but because we are so used to living and interacting with them, we are inured, or blinded, to them (Levy 2001).**

David Levy's World of Documentation

- Because documents are common, ordinary, we usually fail to see them.
- Because our practices with documents are routine and mundane endeavours, we fail to recognize the importance of what we are doing with them.
- Documentation is so obvious that it is hidden.

David Levy's World of Documentation

- Documents surround us: from shopping receipts to street signs to advertisements to job applications to passport.
- But we rarely acknowledge them in any meaningful sense; instead, we tend to focus exclusively on their content or text, and ignore the importance of the document itself.
- Driver's licence.
- Passport.
- Online job/school application.
- Criminal record.
- Credit card.

David Levy's World of Documentation

- But “shouldn't we say that all artifacts speak [for us]?...Each was created at a certain time and place. It comes out of a certain community, exemplifies a certain style and design aesthetic...Does this mean that all artifacts – cabinets, houses, and cars – are documents?” (Levy 2001, 30).



No, because documents may speak in similar ways but unlike cabinets, houses, and cars documents are representational artifacts...



David Levy's World of Documentation

- As with crystal balls, we peer into and through documents.
- While cabinets, houses, and cars help organize, protect, and transport us, documents are produced and used *specifically* to **stand in for us, represent us, and in many cases, be us.**
- They are made to carry and offer up very particular kinds of stories and in very particular ways.
- Documents, therefore, **stand in for us, speak for us, represent us, communicate with us, discipline us, and, even, construct and control us.**



“The art museum exhibit can be considered as multimedia and complex documents, in which several works of art form parts of the total document. In addition to the exhibit itself you may have a catalogue, advertisements for the exhibits, postcards, and so on. Some of these documents may be considered worth studying in other disciplines, like the works of art exhibited, but the catalogue, the postcards and the letters between the curator and the artists, the sponsors, and the public authorities about the organization of the exhibits, will not be studied...

...This means that you not only have complexity regarding the exhibition itself, but also regarding the documents relating to the exhibit, more directly and indirectly. This also demonstrates the complexity of the sheer number of people involved in a production, and not just the few persons usually considered the main creators of the most important document, in this case, the artists in the exhibit” (Lund 2007).

- There is an intricate documentary assemblage that helps make the art museum exhibit possible.
- Involves many different documents (as well as different actors, institutions).
- It is not one document – such as the overall exhibit itself – that is important in a documentary analysis of the art museum exhibit; rather it is all the documents involved, regardless of how small or ‘hidden.’



- The documentalist approaches the art museum exhibit from a documentary perspective:
 - examining its documentary assemblage;
 - tracing its circuits and routes; identifying each document, regardless of how seemingly insignificant or hidden;
 - studying each document's production, deployment, and use;
 - seeing what people, infrastructures, systems, and institutions are involved.



- Finally, and perhaps most importantly, the documentalist analyzes the **effects** of these documents such as:
 - what information they stabilize, present, and make possible;
 - what message, or messages, they convey;
 - what ideas they construct or deconstruct;
 - what possibilities they illuminate or darken;
 - what opportunities they allow or forbid.



**WHAT IS
DOCUMENTATION?**

*English Translation
of the Classic French Text*

SUZANNE BRIET
TRANSLATED AND EDITED BY
RONALD E. DAY AND LAURENT MARTINET
WITH HERMINA G. B. ANGHELESCU

Suzanne Briet: What is Documentation?

- In 1951 Briet published a manifesto on the nature of documentation, *Qu'est-ce que la documentation*, which starts with the assertion that "A document is evidence in support of a fact."
- A document is "any physical or symbolic sign, preserved or recorded, intended to represent, to reconstruct, or to demonstrate a physical or conceptual phenomenon".
- The implication is that documentation should not be viewed as being concerned with texts but with access to evidence.

Suzanne Briet: What is Documentation?

- The word document has remained relatively constant over many years, even dating back from antiquity: it has been regarded as an object that provides evidence or manual of something.
- “From the very beginning, Latin culture and its heritage have given to the word *document* the meaning of instruction or proof.”
- A document therefore is some kind of **object** that **instructs** somehow, and/or **proves** something.

Suzanne Briet: What is Documentation?

- Briet enumerates six objects and asks if each is a document.

Object --- Document?

Star in sky -- No

Photo of star -- Yes

Stone in river -- No

Stone in museum -- Yes

Animal in wild -- No

Animal in zoo -- Yes

Suzanne Briet: What is Documentation?

- “Is a star a document? Is a pebble rolled by a torrent a document? Is a living animal a document? No. But the photographs and the catalogues of stars, the stones in a museum of mineralogy, and the animals that are catalogued and shown in a zoo, are documents”.
- A star thus becomes a star-as-document, the pebble a pebble-as-document, and the animal an animal-as-document.
- Each of which, as a document, can be transported across time, space, and context without altering or perverting its original characteristics or properties.

Suzanne Briet: What is Documentation?

Briet's rules for determining when an object has become a document are not made clear. We infer, however, from her discussion the following **framework for approaching documentation**:

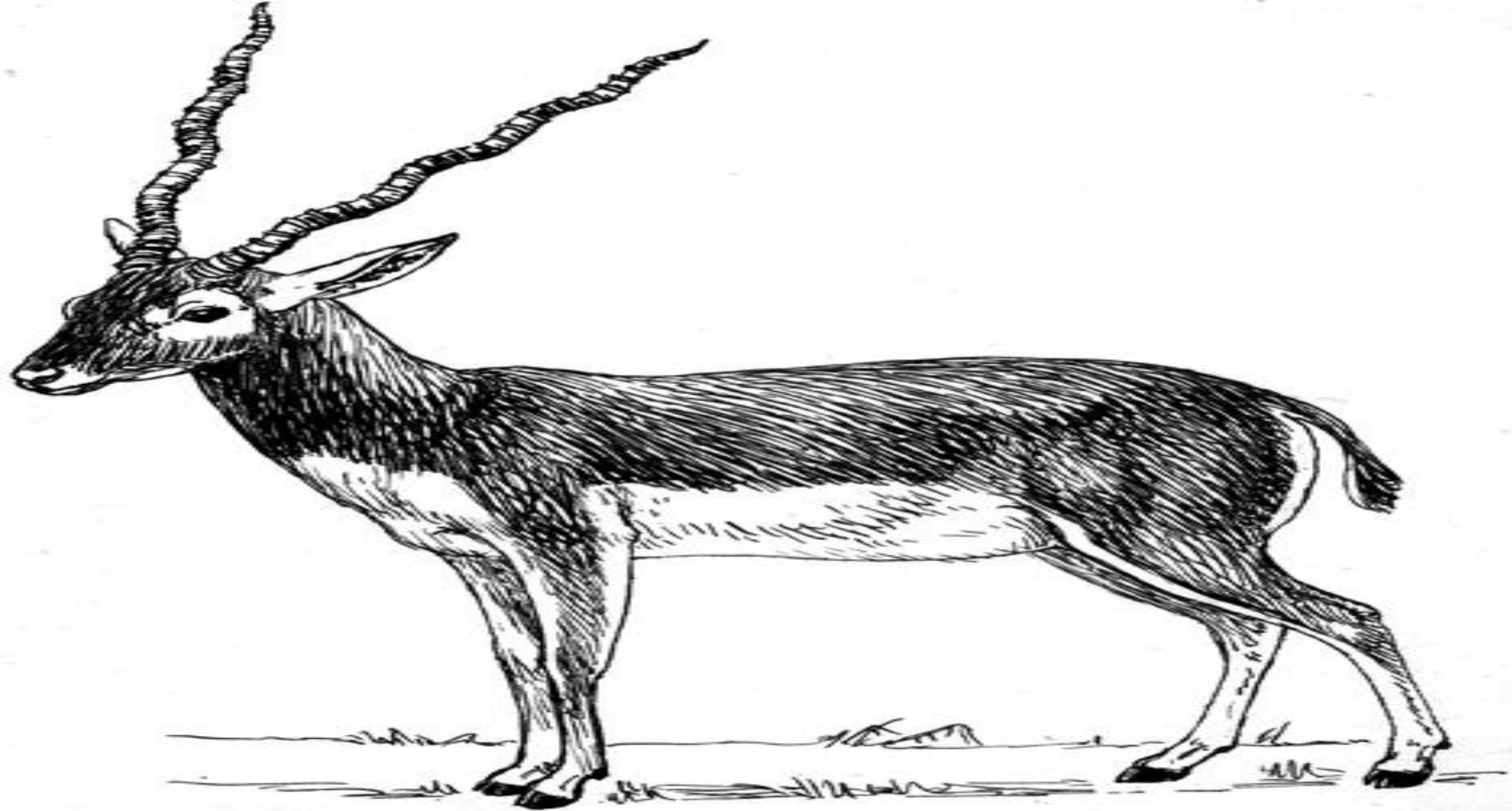
1. There is **materiality**: Physical objects and physical signs only;
2. There is **intentionality**: It is intended that the object be treated as evidence;
3. The objects have to be **processed**: They have to be made into documents; and, we think,
4. There is a **phenomenological** position: The object is **perceived** to be a document.

Suzanne Briet: What is Documentation?

- This situation is reminiscent of discussions of how an image is made art by framing it as art:
 - Did Briet mean that just as "art" is made art by "framing" (i.e. treating) it as art, so an object becomes a "document" when it is treated as a document, i.e. as a physical or symbolic sign, preserved or recorded, intended to represent, to reconstruct, or to demonstrate a physical or conceptual phenomenon?
- Briet's use of the word "indice" is important, that it is indexicality – being placed in an organized, meaningful relationship with other evidence – that gives an object its documentary status.

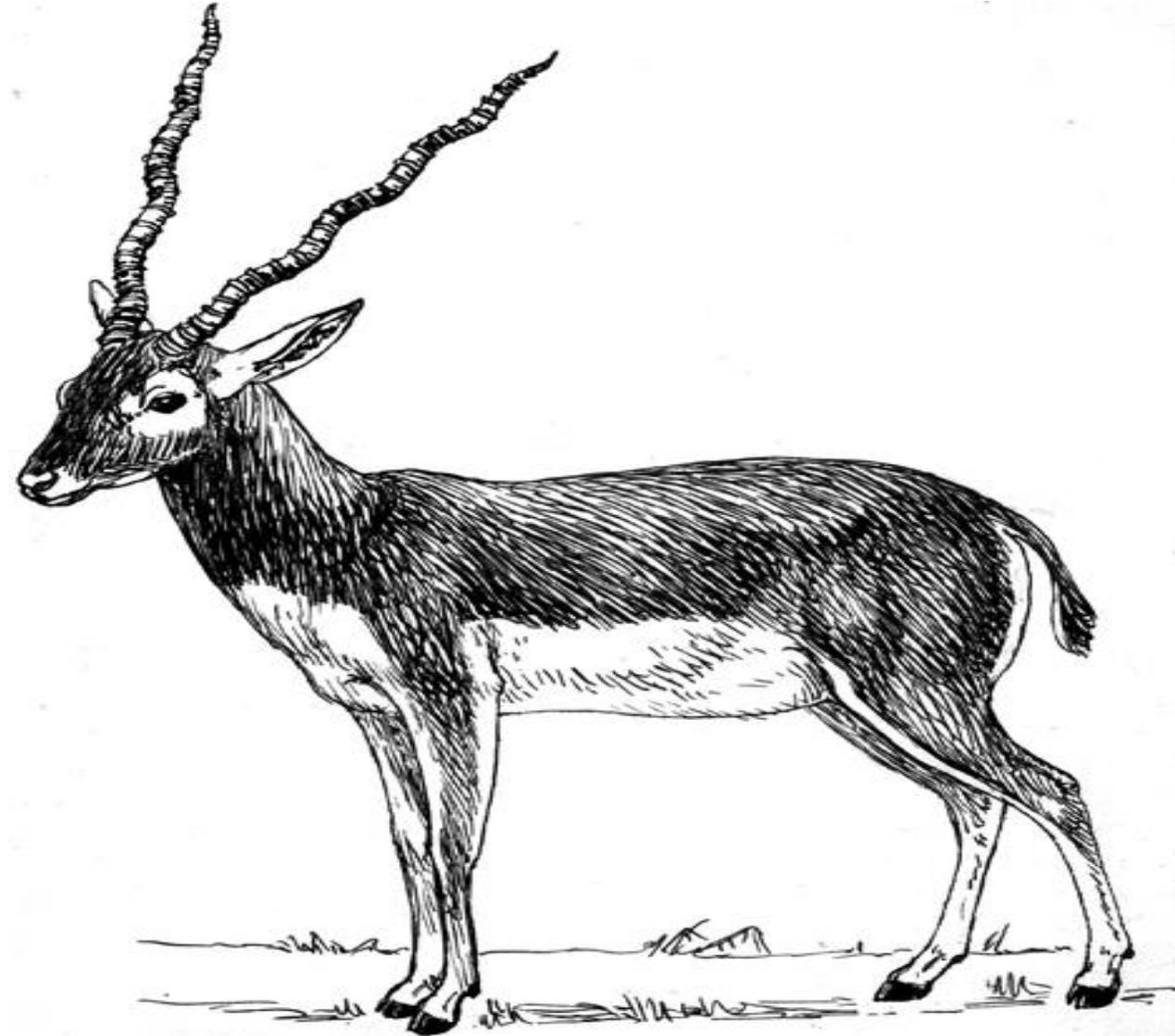
Suzanne Briet: What is Documentation?

- Briet notes how many things become anchored, connected, and even transformed into documentation.
 - Even the smallest event, regardless of how seemingly insignificant, “immediately becomes weighted down under a ‘vestment of documents’”.
 - Whether it be a political policy, a story, an individual’s career, or someone’s weekly supermarket purchases, many things, actions, desires, statements, and happenings, become transformed into documents and or connected to documents.
 - For example, the antelope...



Suzanne Briet: What is Documentation?

- Upon first glance, the antelope may not appear to be a document: it is a living, breathing organism enjoying its life, surviving on its own out in the wild.
- It is not the antelope that is a document: it is the antelope-as-document.
- It becomes weighted down by a vestment of documents...



Suzanne Briet: What is Documentation?

- So, say this antelope, discovered in Africa by an explorer, is captured and brought back to Europe to be placed in a special zoo to be viewed and examined by various actors such as visitors, scholars, scientists, and so on.
- It becomes a kind of document through its captivity and forced placement and confinement in a laboratory-type setting.
- The zoo functions, in this case, as a laboratory because the antelope is displayed, studied, discussed, and analyzed like a document, like a textbook or scientific report.
- But the antelope is even further transformed into other and more, more, and more documents...

Suzanne Briet: What is Documentation?

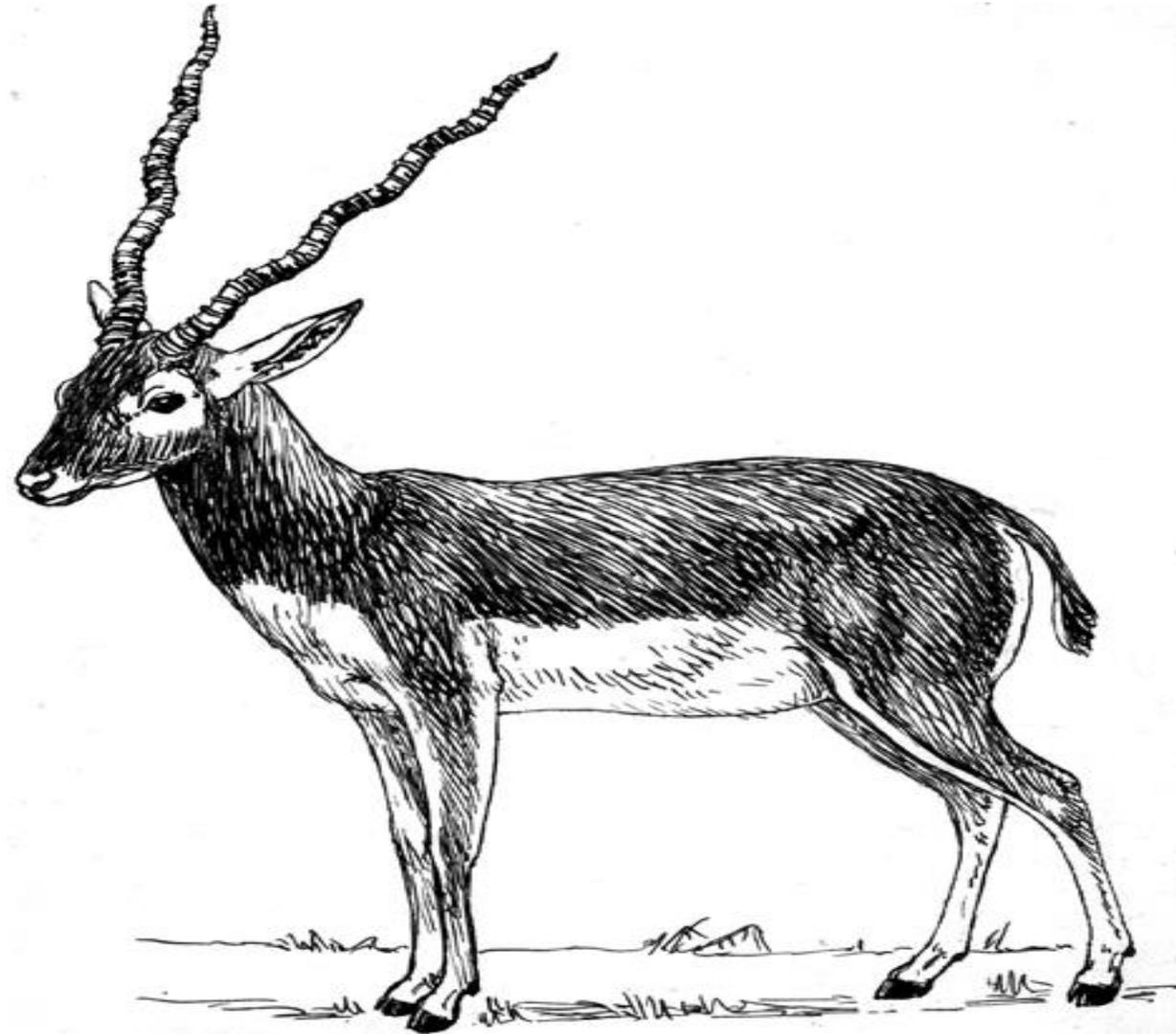
“A press release makes the antelope known by newspaper, by radio, and by newsreels. The discovery becomes the topic of an announcement at the Academy of Sciences. A professor of the Museum discusses it in his courses. The living animal is placed in a cage and catalogued (zoological garden). Once it is dead, it will be stuffed and preserved (in the Museum). It is loaned to an Exposition. It is played on a soundtrack at the cinema. Its voice is recorded on a disk. The first monograph serves to establish part of a treatise with plates, then a special encyclopedia (zoological), then a general encyclopedia...

Suzanne Briet: What is Documentation?

...The works are catalogued in a library, after having been announced at publication (publisher catalogues and Bibliography of France). The documents are recopied (drawings, watercolors, paintings, statues, photos, films, microfilms), then selected, analyzed, described, translated (documentary productions). The documents that relate to this event are the object of a scientific classifying (fauna) and of an ideologic classifying [classification]. Their ultimate conservation and utilization are determined by some general techniques and by methods that apply to all documents – methods that are studied in national associations and at international Congresses.” (Briet 1951).

Suzanne Briet: What is Documentation?

- Turned into many diff kinds of documents for wide-ranging purposes and objectives, by many diff actors, machines, infrastructures, and institutions.
- Produced, standardized, deployed, circulated, studied, consulted, debated, admired, and used across different cultural and institutional contexts.
- It is thus many different kinds of documents based upon the original document: the living, breathing animal.
- “The catalogued antelope [itself] is an initial document and the other documents are secondary or derived.”



Frohmann's Framework for Documentation

- Bernd Frohmann argues that documentation helps construct information; put differently, information is an **effect** of documentation.
- Documentation involves both **documents** themselves and our **practices** with them (documentary practices) including writing, inscribing, reading, handling, deploying, disseminating, retrieving, organizing, implementing, using, etc.
- These practices with documents are necessary to make the document informing; in other words, it is documents and documentary practices that **materialize information** and **make it informing**.
- “Attention to practices with documents reveals how it is that particular documents, at particular times and places and in particular areas of the social and cultural terrain, become informative.”

Frohmann's Framework for Documentation

- In order for a document to be considered a document and consequently to be informing, the following properties must be present:

- 1. Materiality**
- 2. Institutionalality**
- 3. Discipline**
- 4. Historicity**

Frohmann's Framework for Documentation

- 1. Materiality:** documents must exist in some **kind of material form**; moreover, their particular kind of materiality (paper, digital, object, etc.) will **determine what kind of practices** are done with them.
 - Materiality can constrain or expand our practices (and thus the possibilities) with documents.
 - Ex.: Coordinating a meeting when members rely upon and use a print copy of the same Web document but each with unique pagination, formatting, etc. depending on the differences in printer, paper, ink, etc.

Frohmann's Framework for Documentation

2. **Institutionality**: documents must be **embedded** in some kind of institutional setting; that is, they must be part of institutional infrastructures, systems, etc. for their information to become **authoritative**.

- Where the document is produced and for what reasons, who uses them, where and how they are deployed, what effects they have, what they permit or forbid, what they reveal or hide, etc.

3. **Discipline**: our documentary practices are usually disciplined in some manner; that is, we are **disciplined in how (and why) we use them**.

- Training, teaching, correcting, rewarding, penalizing, and other disciplinary measures.

Frohmann's Framework for Documentation

4. **Historicity:** documents, and practices with them, are dependent upon **historical context**.

- Documents, and documentary practices, arise, develop, thrive, decline, and vanish, all under specific historical circumstances.
- A document in one historical period may not be the same kind of document (or even considered a document at all) in another period.
- Practices with a document may only be possible in one historical setting but not in another (or at least not in the same way or for the same reasons).

Frohmann's Framework for Documentation

- Some of these properties can be taken on their own, or may be combined or interact with each other.
- Further, this framework presents just four properties of documentation; there can or may be other properties too.
 - Ex. D. Turner's oral documentation; K. Latham's experiencing documents.
- Nevertheless, these properties – materiality, institutionality, discipline, and historicity – provide a useful framework for approaching documentation and, as an effect, understanding what is information and what is and how something is informing.

Documentary Genres

- Not all documents do the same thing, or share the same status or importance.
- Hierarchies depending on documentary genres.
- Each kind of document, each genre, is specialized to do a certain kind of job: to constitute certain kinds of information and to operate within a particular realm of activity.
- Each has specific set of inscriptions, formats, signals, infrastructures, and institutions that determine the role a document is meant to play.

Documentary Genres

“A receipt looks like...a receipt. A newspaper has a telltale size and shape and an easy recognizable visual structure consisting of columns of tightly packed text separated by larger headlines. A passport has its own distinctive size and shape – an official look about itself – and, internally, a characteristic visual rhythm made up of a passport photo, signatures, colored stamps and seals. A pulp romance novel, a travel guidebook, and a college textbook all have highly distinctive looks as well, in terms of their shapes, cover designs, and inside typography” (Levy 2001).

Documentary Genres

- Once its genre is properly identified, then we know how to engage and interact with it because we recognize its specific role.
- But how do we know its genre and, thus, its specific role?
- We know through our own personal and institutional disciplining methods and mechanisms: we are instructed, conditioned, and guided – through standardization and routinization – what a particular document is designed and meant to do and how we are consequently allowed to use them.

- So, what does a documentalist do? Or, put differently, how does a documentalist go about a documentary analysis?
- “One may characterize the method used by a documentalist as a kind of deconstruction of the apparent or ‘obvious’ content of a document, followed by an explicit placing of a document in a specific environment and context, making it into a specific kind of document” (Lund 2007).

Niels Lund's Framework for Documentation

- To deconstruct content, one could analyze a document by applying the following framework for documentation:

- 1. Documentation form(s)**
- 2. Documents**
- 3. Doceme**

Niels Lund's Framework for Documentation

1. Documentation forms.

- Documentation forms allows one to analyze entire groups, categories, and types of documentation – that is, documentary genres.
- Recognize the great diversity and multiplicity of documentary forms in various institutions, interactions, societies, and life.
- Once recognized, then must identify, classify, categorize, and sort these different kinds of documents.
- Or, as Levy would say, we must understand a document's particular documentary genre in order to properly situate, examine, and analyze its effects and importance.
- Ex. A fiction book may be studied as literature, but also as a form of documentation.

Niels Lund's Framework for Documentation

2. **Documents:** So, what is the difference between documents and documentation forms?

- The concept of documents narrows the scope to a specific document itself.
- Analyze the fiction book as a document: seeing how it is produced, what is used in its production, who is involved, etc.
- In other words, you can study the fiction book as both a document and a part of a documentation form (a work of fiction).

Niels Lund's Framework for Documentation

3. Doceme.

- A part or component of a certain document.
- A photograph in a newspaper, a pamphlet in a book, a video on a blog posting , etc.
- It is not necessarily an unimportant or 'throwaway' part of the document; it can be a vital component of the document.
- If removed, for whatever reason, it could possibly (i) change the document's properties, (ii) jeopardize the document's other content, and/or (iii) alter the document's contextual contingencies and effects

**Am I a document? Are you a
document? Are we
documents?**

Documentation and Transitional Justice (TJ)



- The importance of documentation is a critical element in human rights work and transitional justice (TJ).
- But the recognition of the importance of documentation was not always the case...

Recent History of Documentation and TJ

- In 1945 Robert Jackson, the chief US prosecutor at Nuremberg, made an important decision about the Nuremberg Trials as he prepared to prosecute Nazi leaders for crimes against humanity.
- He decided that the court would use and rely on documentary evidence in the case against Nazi officials charged with crimes against humanity.
- This decision now seems intuitively simple. How else can judicial truth be established in cases of mass atrocity?

Recent History of Documentation and TJ

- But Jackson's decision was controversial. Many argued that oral testimony alone from survivors and witnesses of the Holocaust should be sufficient to bring Nazis to justice.
- Documents, they argued, would be too difficult to procure and not worth the effort.
- Jackson's view prevailed and the prosecution amassed a mountain of documentary evidence including 250 tons of documents and 3,000 frames of microfilm in its case against the Nazis.

Recent History of Documentation and TJ

- “Jackson was determined to compile a record that would not leave that, or any other future generation, with the slightest doubt. ‘We must establish incredible events by credible evidence’, he said...The prosecutors build what Jackson called ‘a drab case’, which did not ‘appeal to the press’ or the public, but it was an irrefutable case...The prosecutors brought to Nuremberg 100,000 captured German documents; they examined millions of feet of captured moving picture film; they produced 25,000 captured still photographs, ‘together with Hitler’s personal photographer who took most of them.’”

Recent History of Documentation and TJ

- Indeed, the Nuremberg Trials is one of the most important instances of the use of documentary evidence in a criminal war crimes trial.
- Since then human rights activists, courts, trials, tribunals, truth commissions, etc. have relied on all kinds of documents to establish patterns of violations and crimes against humanity.

Recent History of Documentation and TJ

- Over the past two decades many societies have emerged from repressive rule or civil war, and initiated a transition through a formal transfer of power or the end of a conflict.
- Various models exist for confronting the past: prosecute perpetrators, establish truth-seeking mechanisms, provide reparations to victims, reform institutions, construct memorials and museums.
- In all cases, documentation plays a crucial role by organizing, managing, and preserving evidence of human rights abuses, spurring political will to see justice done, informing the public, helping people remember their history, and providing tools for reconciliation.
- Documentation in other words plays a central role in transitional justice.

Recent History of Documentation and TJ

- By contrast, in societies where transition seems likely in the distant future, documentation projects can help preparations.
- When the political will to deal with the past remains inchoate, some actors (human rights activists or NGOs) often seek to create the conditions for a transition, or push for accountability measures to be implemented.
 - For example, transitional justice remains at the preparatory stage in societies such as Burma, various Middle Eastern countries, etc. (In some cases not even at this stage, like North Korea.)
- These challenges can be addressed through documentary strategies, beginning with the collection, generation, and preservation of documents themselves.

- Documentary evidence is at the heart not only of legal cases against perpetrators of human rights abuse, but also of victims' efforts to create an accurate historical record and thereby establish the truth about the repressive past. It is also required to determine amnesty, reparations, etc.
- Documentation is vital to every component of a transitional justice process for:
 - establishing truth-seeking mechanisms and vetting procedures
 - identifying perpetrators
 - identifying who may be eligible for reparations
 - determining if amnesty is appropriate and granted
 - preserving an accurate historical record
 - constructing memorials and museums
- Even if none of these measures is feasible at the time, preserving good documentation is vital if any are to be used at a later date.
- Establishing a sound written record may help prevent future efforts to revise history in order to deny or conceal events.
- If done well, documentation can preserve a people's history and contribute to conflict resolution and prevention.

(Answerable?) Questions for Documentation Efforts

- How to (re)create a historical record that draws on the experiences of as broad a spectrum of the population as possible?
- How to develop the best strategies for collecting, using, sharing, and preserving documents in order to help promote and increase collective and individual abilities to foster stronger human rights regimes and democratic cultures?
- How to report truthfully about crimes committed, in addition to crimes committed by people who remain in political power and are likely to use that power to prevent such documentation or stop it from being published or publicized?
- Documenting past (or current and ongoing) crimes poses significant risks to many actors involved, including death, abuse, torture, kidnapping, harassment, intimidation, and other threats.

What Are Documents In and For Transitional Justice?

- We collect documents because we think they will contribute to an account of the past that has multiple ways of being told.
- Depending on the context, we want to tell the story of past human rights abuse, atrocity, genocide, and crimes against humanity and we want to tell this story for a reason: it matters.

What Are Documents In and For Transitional Justice?

- Documentary materials are more than the frayed and yellowing paper records generated by official agencies. They also include
 - audio and video recordings
 - letters written from jails
 - court documents
 - written and/or oral testimony of victims, witnesses, perpetrators.
 - recordings of perpetrators' confessions, or victims' or witnesses' accounts
 - newspaper articles
 - ephemera such as pamphlets, posters, leaflets
 - institutional records
 - professional records
- These are the kinds of documents at the heart of the struggle against impunity and for the establishment of truth, justice, and reconciliation and the development of a just and balanced historical memory.

What Are Documents In and For Transitional Justice?

- The documents used will be different in different contexts: courtrooms, truth commissions, government offices, neighbourhoods, media, lecture halls, etc.
- Regardless of context, the documents must be as accurate as possible and reflect the experiences and voices of those who were affected:
 - who were the protagonists
 - what happened
 - why these events happened
 - where terrible things happened we need to know who was responsible and be able to hold them accountable

4 Documentary Components for TJ

1. Testimonies and Voices
2. Official Records
3. Unofficial Records and Physical Materials
4. Created Documents

4 Documentary Components for TJ

1. Testimony and Voice

- The importance of hearing the stories – when possible, firsthand – told by victims, witnesses, and other protagonists in the events that we are seeking to understand.
- Activities such as oral history programs, human rights tribunals, truth commissions, etc. provide a forum (often public) for victims to tell their stories and be heard by other members of society.
- The voice of victims – however recorded: paper, electronic, video, audio – is an important element of telling a story about past, or ongoing, human rights abuse and atrocities and working towards following the imperative of “never again” in the long term.

4 Documentary Components for TJ

2. Official Records: official documents produced and used by the (former or present) regime or state include:

- Legislation
- Regulations
- Policies
- Registers
- legal and judicial proceedings
- court records
- institutional and operational records
- ministerial or parliamentary papers
- bureaucratic records
- governmental correspondence
- political media and communications products
- government publications of books, journals, etc.

4 Documentary Components for TJ

3. Unofficial Records and Physical Materials

- Unofficial records include personal or individual records (diaries, journals, notes, daily ephemera, etc.)
- Physical materials including human remains such as bones, clothing and other personal effects, weapons, gravesites, places (buildings or spaces), etc.
 - Can be used as a basis for (further) documentation efforts.
 - In many cases, diverse kinds of documents will also be created based upon or because of these physical materials, thus transforming these physical materials themselves into documents.

4 Documentary Components for TJ

4. Created Documents

- Documents are both collected and created in the process of transitional justice (and of course other processes).
- During processes of transitional justice, much of the documentation used (official records, unofficial records, testimonies, etc.) will require the creation of accompanying, augmenting, annotating, or additional documents to be used in trials, truth commissions, etc.
- In other words, the primary documentation often spurs the generation of secondary, tertiary, etc. documents (created documents) that support, expand, extend, explain, clarify, or analyze the original documents.

- Documenting the human rights violations of the past is one element of preserving history and the understanding that what happened is critical to both the long-term rebuilding of a country and prospects for genuine reconciliation.
- Documentation can help us understand and confront the past in an effort to build a more just future.
- We also want these stories to help illuminate deep, perhaps unanswerable questions; for example, we want to try to understand how we – as citizens, human beings, communities – could have let them happen or what we could have been done to stop them.