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Rethinking Digital Repositories and the Future of Open Access

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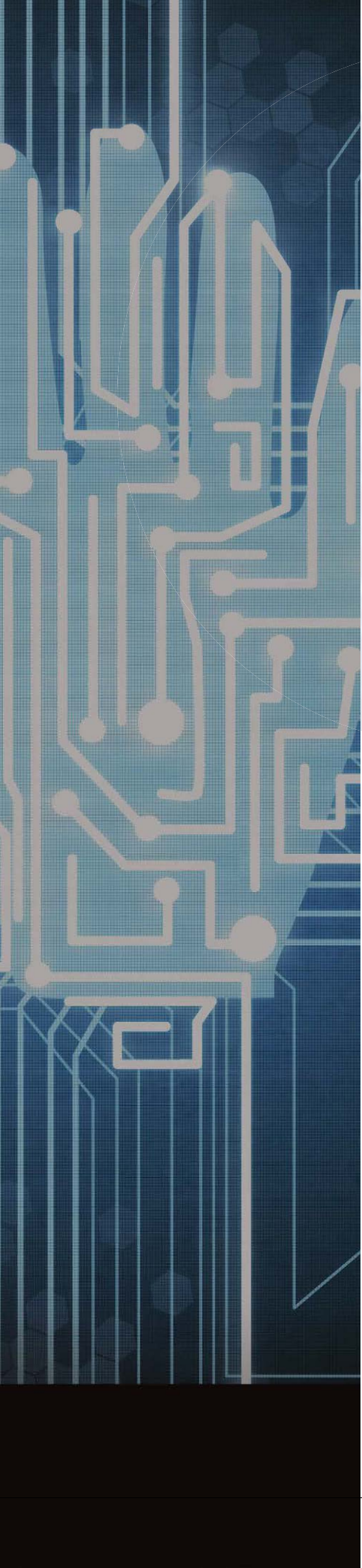
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RETHINKING DIGITAL REPOSITORIES & THE FUTURE OF OPEN ACCESS

Guidance for choosing the best platform for your legal scholarship in an ever-changing publishing environment.

**BY MARGARET SCHILT, KAREN SHEPHARD
& CAROL WATSON**





Over the last two years, changes in the legal publishing arena involving digital repository platforms have raised concerns about the future of open access. In the summer of 2016, Elsevier, a leading commercial publishing company, acquired SSRN (the Social Science Research Network), including its Legal Scholarship Network. Elsevier's move concerned many legal scholars and law librarians, who feared that the open access policies of the SSRN platform would disappear. Slightly more than a year later, concerns intensified when Elsevier purchased bepress, developer of the Digital Commons platform used by many academic law libraries for their digital repositories, as well as for hosting their law reviews and journals. While there has been no indication that the open access initiatives of these platforms will be altered, the possibility that a future need for profits could jeopardize free and open access remains a real fear in the legal scholarly community.

Why This Matters

How important is it to law schools and their faculties that their scholarship be posted in an open access online repository, outside of traditional law review and monograph publishing? Ten years ago, the question could have been debated; today, the answer is clear. It is immensely important. So much so that it is among the American Association of Law Libraries (AALL) basic tenets—to provide or enable “open access to information for all individuals” and “to promote open and effective access to legal and related information.” Without the free and immediate exposure that open access repositories enable, writers run the risk that scholarly dialogue will leave them behind. The question is not whether to post, but where? Which open access solutions best meet the needs of law faculties while also ensuring perpetuity?

Only a few legal repositories existed before Harvard faculty's Open Access Mandate of 2008, and the Durham Statement on Open Access to Legal Scholarship (2010) influenced many academic law libraries to seize the opportunity to increase the scholarly impact of their faculties.

Open Access & SSRN

Today, nearly half of the American Bar Association (ABA)-accredited law schools have legal repositories and SSRN series. In addition to previously published print scholarship, many repositories have expanded their content to include born-digital materials, data sets, and other types of archival or historical materials.

Law schools have used open source options, home-grown systems, and commercial platforms to preserve and provide access to their scholarship. SSRN and bepress's Digital Commons are the most popular of the platforms, although a new entrant has come into the arena: LawArXiv. LawArXiv is being developed by LIPA (Legal Information Preservation Alliance), NELLCO (New England Law Library Consortium), and MALLCO (Mid-America Law Library Consortium) librarians in conjunction with Cornell Law School to provide an open source, nonprofit alternative for digital preservation and access to legal scholarship.

How does the law school and law librarian select from among these alternatives? Each platform offers distinct advantages and has potential pitfalls.

Each year 70,000 to 80,000 new or revised papers are deposited in SSRN. Scholars keep track of the download counts of their papers and use the platform as a repository for their publications, from working drafts to published articles.



And with limited time and staffing, for faculty authors as well, is it worth it—or even possible—for schools to participate in more than one repository?

The history of open access in law begins nearly 20 years ago with SSRN's Legal Scholarship Network. Each year 70,000 to 80,000 new or revised papers are deposited in SSRN. Scholars keep track of the download counts of their papers and use the platform as a repository for their publications, from working drafts to published articles. SSRN offers law schools the opportunity to establish a presence on the platform, enhancing the reputation of the institution through the impact of the scholarship deposited by their faculty, or, in many cases, by the library or law school on behalf of the faculty.

Gregg Gordon, managing director of SSRN, is well aware of the role librarians have taken on to help promote faculty scholarship. "That's what librarians do," said Gordon, speaking at the AALL Annual Meeting last summer, "they help others to be successful by pushing their ideas forward." According to Gordon, one thing that makes SSRN outstanding is that it has leveled the playing field

among researchers, permitting great ideas that have been published in more obscure journals to be read by anyone, and encouraging creation of something new by exposing the breadth and depth of existing scholarship. Access to earlier-stage research increases relevant current research. SSRN's biggest advantage is its immense corpus, which enables Elsevier to position itself as a data informatics and network analysis company.

Familiarity, ease of entry, and the trust that law schools and scholars have placed in SSRN will help it continue to grow, so long as it remains true to its core commitments—open access and its ability to leverage, as Gordon says, it's "human curation and cross-disciplinary classification to facilitate discovery and ease of use." Carol Watson, director of the University of Georgia Law Library, acknowledges that "the history of open access in law for many law schools began with SSRN, and SSRN, now owned by Elsevier, will retain a significant grip on the open access market going forward, especially in view of Elsevier's recent acquisition of bepress's Digital Commons platform."

Bepress's Digital Commons Platform

Bepress's Digital Commons platform has been adopted by many law schools as a way to obtain a larger audience for their faculty's scholarship. Digital Commons offers a customizable website presence along with the option of creating Selected Works pages for each faculty member. The platform is search engine optimized and offers exposure to an international audience. Law librarians offer various levels of support to their faculty in creating a Digital Commons site; some libraries create the site, upload all the scholarship and maintain it, without faculty input, while others create the site and provide assistance and advice to faculty who wish to participate. While bepress has been committed to open access in legal scholarship in the past, law librarians worry that Elsevier's acquisition could signal a move away from that core commitment.

A Closer Look at LawArXiv

That concern is one of the driving factors behind the development of LawArXiv. Corie Dugas, co-founding member of LawArXiv, explains that LawArXiv "started as a reactive project when Elsevier acquired SSRN ... [as] legal scholars were concerned, right or wrong?" SocArXiv, a social science open access repository, initially was considered as a possible platform, but was instead adopted as a model for LawArXiv, designed as a unique space specifically for legal scholarship. The Center for Open Science, through the Open Science Framework, provides the platforms and their backend technology.

But what particular advantages does LawArXiv have to offer legal scholars who already are posting their scholarship, often with the assistance or direct efforts of law librarians, on a variety of digital repositories, including Digital Commons, SSRN, ResearchGate, and others?

LawArXiv is a free, non-commercial platform that is owned and maintained by members of the scholarly legal community, including academics and librarians. This approach frees LawArXiv from the vagaries of market

forces, Dugas advises. It is committed to remaining free for scholars and users. The LawArXiv community has a direct impact on how the platform evolves, and “[LawArXiv’s] approach is that when scholarship is truly open, it shouldn’t matter what platform you are on,” what matters most is getting the scholarship out there and maintaining it. These core commitments are very appealing to law librarians, but those who have committed to another platform may find actually switching to LawArXiv, or adding LawArXiv as a secondary platform, to be difficult. LawArXiv currently offers only individual paper uploads. For this reason, the repository is currently testing batch upload capabilities, which will be essential to convincing law schools to switch to LawArXiv or add it as an additional platform for scholarship. Additional features such as enabling an institutional as well as individual presence are on the horizon and should enhance its growth.

Four Important Areas of Focus

Law schools and librarians face important choices, such as what platform to recommend, how to deal with any barriers to entry, and whether (and to what degree) they should be constrained by choices made in the past. To steer these decisions, academic law libraries should focus on four areas:

- **Standards.** With the proliferation of systems, data standards are haphazardly applied, resulting in a lack of interoperability among systems. Law librarians must adhere to Open Access and Open Access Archive (OAA) standards. It is critical to agree upon and apply metadata standards as well as determine how to measure usage.
- **Impact.** To maintain continued support for repositories, libraries must track open access success stories and communicate their impact. Harvard Law’s repository includes a unique feature inviting visitors to share how they have used the repository’s scholarship. Their link invites users to “Please share how this access benefits you. Your story matters.”

- **Content.** Best practices for preserving born digital and nontraditional content such as video, audio, blogs, datasets, and open education resources need to be developed and consistently applied. As more scholars produce content beyond print scholarship, law librarians can excel at capturing this type of data.
- **Choice.** Information professionals must confront the reality that faculty are overwhelmed with the variety of services and systems available to host and preserve their intellectual content. Our top priority should be to provide expert advice on choice of platforms and to apply standards that enhance discoverability, access, and preservation of our institution’s scholarship and archival materials.

These commitments are essential to making the choice of platform truly one that is best for the scholarship of a particular law school or law library at a particular point in time. Development of best practices and interoperable data will enable law schools and libraries to avoid being constrained by past choices or blindsided by platform changes that are not consonant with its objectives.

Repositories and the Future

Law librarians are uniquely positioned to navigate this complicated environment by leveraging their experience with multiple platforms, and by applying their understanding of scholarly communications. With their guidance, law schools can confidently choose the best repository (or repositories) to satisfy their individual and institutional repository needs, while at the same time support the goal of open access to legal scholarship into the future.

Everyone agrees that more exposure for legal scholarship is a good thing. Open access to that scholarship benefits the researchers themselves, the public they are addressing, and the progress of ideas. Development of competing platforms to achieve these goals is also a good thing. ■

UPDATE

Since this writing, a project involving three pilot schools began, testing how best to integrate the SSRN and bepress platforms. SSRN managing director Gregg Gordon said in a March 21, 2018 webinar, “If tests go well, later collaboration with other repository platforms, such as LawArXiv, would not be out of the question.” According to Gordon, different platforms and tools like PlumX, Digital Commons, Google Scholar, and SSRN provide different services. Understanding how they can work together can be a huge advantage for all. A paper on the integration project will be shared at the AALL Annual Meeting in July.

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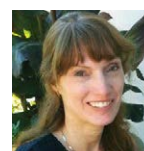
Watch the 2017 AALL Annual Meeting program “Digital Repositories, Law Libraries, and the Future of Open Access,” at bit.ly/AM17DigitalReposit.

Watch the 2016 AALL Annual Meeting program “Sustainable Planning for a Digital Repository,” at bit.ly/AM16Repository.



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