ARTICLES

From Stele to Silicon: Publication of Statutes, Public Access to the Law, and the Uniform Electronic Legal Material Act [2019-9]
Frederick W. Dingledy 165

A Library Design Bookshelf [2019-10]
Stephen G. Margeton 197

Sustainable and Open Access to Valuable Legal Research Information: A New Framework [2019-11]
Alex Zhang and James Hart 229
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# Table of Contents

## General Articles

  *Frederick W. Dingledy*  
  Page 165

- A Library Design Bookshelf [2019-10]  
  *Stephen G. Margeton*  
  Page 197

- Sustainable and Open Access to Valuable Legal Research Information: A New Framework [2019-11]  
  *Alex Zhang*  
  *James Hart*  
  Page 229

## Review Article

- Keeping Up with New Legal Titles [2019-12]  
  *Susan Azyndar*  
  *Susan David deMaine*  
  Page 225
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From Stele to Silicon: Publication of Statutes, Public Access to the Law, and the Uniform Electronic Legal Material Act*

Frederick W. Dingledy**

For a legal system to succeed, its laws must be available to the public it governs. This article looks at the methods used by different governments throughout history to publicize legislation and the rulers’ possible motivations for publication. It concludes by discussing how the Uniform Electronic Legal Material Act provides the next logical step in this long tradition of publicizing the law.

Introduction .......................................................... 165
Mesopotamia and Babylonia ........................................... 167
Dynastic China.............................................................. 168
Ancient Greece ............................................................. 170
Rome ........................................................................... 172
The Monarchy ............................................................... 172
The Republic ................................................................. 173
The Empire. ................................................................. 174
The Byzantine Empire and Justinian's Corpus Juris Civilis ....... 177
England ........................................................................ 179
Virginia ........................................................................ 183
Modern Foreign and International Views ......................... 188
The U.S. Federal Government .......................................... 189
The Internet, Public Access to the Law, and UELMA .......... 192
UELMA ................................................................. 192
Delaware ...................................................................... 193
Conclusion ................................................................. 194

Introduction

The laws of a country are necessarily connected with every thing belonging to the people of it; so that a thorough knowledge of them, and of their progress, would inform us of every thing that was most useful to be known about them.¹

* © Frederick W. Dingledy, 2019.
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Roman Emperor Gaius Caesar, nicknamed Caligula, was never known for his good behavior. For one, he exhausted his entire inheritance of 27 million gold pieces in under a year. To replenish his treasury, Caligula imposed taxes on almost any conceivable good or service. Originally, many subjects did not pay the new taxes because information on them passed only by word of mouth. In response, Caligula posted a copy of the new laws in public—in a location so high and in print so tiny that no one could read them.

As Judge Jeffrey Sutton aptly noted about Caligula's actions, deliberately hiding the letter of the law from a country's people is “not a good idea. . . . How can citizens comply with what they can't see?”

Legal philosopher Lon L. Fuller argues that a legal system can go awry in at least eight ways. Two are a failure to publicize the rules its subjects are expected to follow and a failure to make those rules understandable. Even if not many people actually read the published laws, Fuller says, publication is still important. People who read the law can help model the behavior of those who do not. Laws must be published so that they may be subject to public criticism. Publishing the law helps guard against ignorance by the officials sworn to uphold and enforce those laws. In addition, citizens are simply entitled to know the content of those laws, and the government cannot predict who will or will not read them.

The Internet era has made the act of publicizing the law easier in some aspects while adding new challenges. Electronic legal materials can be quickly distributed to many more people than printed matter. Traditionally, however, it was easier to know whether print laws were authentic and how recently they were updated. The same does not hold true for online resources; it can sometimes be hard to tell when content on a website was last updated or whether it was altered from the official version. The Uniform Law Commission drafted the Uniform Electronic Legal Material Act (UELMA) in 2011 to address this issue, creating a set of guidelines intended to make authenticated legal materials easily and permanently available to the public.

This article focuses on legislation and royal and imperial edicts as it looks at how different governments have publicized their laws throughout the ages. It begins with ancient Babylonia and Mesopotamia, then examines dynastic China, ancient Greece, ancient Rome, England, and Virginia, followed by a look at the state of published federal law in the United States today. The final part discusses UELMA and how one state has implemented it, and concludes by discussing how historical precedent calls for states to pass UELMA to continue the tradition of publishing laws into the electronic age.
Mesopotamia and Babylonia

Public relations, rather than public knowledge, may have inspired the earliest efforts at publicizing laws. Mesopotamian rulers Enmetena and Irikagina handed down edicts in the 25th to 24th centuries BCE that read more like a list of accomplishments than a set of prescriptions for citizens. As the 22nd century BCE turned to the 21st, the founder of Mesopotamia’s Third Dynasty of Ur had his Laws of Ur-Nammu—the oldest code of law known to exist—engraved prominently into temple monuments throughout his kingdom. The Code of Hammurabi (King of Babylonia, r. ca. 1792–1750 BCE) was carved into a royal monument built with enough strength that it still survives today.

Hammurabi’s Code is closer to the modern idea of a codification, as it collects judicial decisions (in the form of “person who does X will be punished by Y”) and arranges them by subject. So far, though, little evidence suggests that Hammurabi’s Code was cited in many trial documents or represented a complete statement of Babylonian law; anyone researching that era’s rules had to consult numerous other legal documents to get a full picture. While some scholars view these early codes as efforts to codify existing law for the ease of administering justice, others opine that they were more akin to propaganda or scholarly compilations similar to pharmacopoeia.

Hammurabi’s Code frequently featured in reading and writing lessons for centuries, but it may be a bit much to claim that the Code itself was a scholarly exercise. The idea that it served as a royal public relations exercise, on the other hand, makes sense. The main version of Hammurabi’s Code that survived to modern times was inscribed on a monument called the Stele of Hammurabi. The Stele included an image of Hammurabi and Shamash, the Mesopotamian god of the sun and justice. A poetic prologue and epilogue describe Hammurabi’s great accomplishments; how the gods chose him to deliver justice to Babylonia; how he inscribed these rules to protect the weak, orphans, and widows. Readers are then implored to remember Hammurabi’s name. The Stele further asks future kings to preserve the justice Hammurabi handed down. One inscription advises anyone

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8. Claus Wilcke, Mesopotamia: Early Dynastic and Sargonic Periods, in 1 A HISTORY OF ANCIENT NEAR EASTERN LAW 141–43 (Raymond Westbrook ed., Brill Handbook of Oriental Studies Vol. 72-1, 2003) (e.g., Enmetena “let the child return to the mother . . . established the liberation of barley debts. . . .”; Irikagina “cleared the prisons of indebted children of Lagaš . . .”).
9. Bertrand Lafont & Raymond Westbrook, Mesopotamia: Neo-Sumerian Period (Ur III), in 1 A HISTORY OF ANCIENT NEAR EASTERN LAW, supra note 8, at 183.
15. Id.
17. Id. at 97.
18. Id. at 105–06.
19. Id. at 104, 107.
20. Id. at 109.
with a lawsuit to read the Stele, but scholars generally agree that only a very small class of elite society and scribes could do so. These factors imply that one of Hammurabi’s main motivations for creating his Code was to glorify himself. The net effect, nevertheless, was to provide authenticity and some public accessibility to the law, as well as to preserve that law for future generations—three mandates that are reflected today in UELMA.

Dynastic China

Throughout much of China’s history, two competing schools of thought, Confucianists and Legalists, argued over the importance of published law. On one side was li, an unwritten code of proper behavior based on a person’s status within society, somewhat like the ideas of ethics, morals, or chivalry. On the other was fa, published law, and the related concept of xing, punishment. To Confucianists, li was the proper way to govern; fa was at most a stick to enforce li. In their view, rule by li led to people with a proper sense of virtue and shame, while rule by fa resulted in a populace who cared nothing for morals, only avoiding punishment.

Legalists, meanwhile, believed that fa was government’s most important tool. In their opinion, properly designed fa discouraged misbehavior and reduced the need to actually exercise xing. They argued that fa was better able than li to adapt to societal changes, educate the people, tear down old aristocratic privileges, and thereby create a prosperous, egalitarian society. The rise of a new landowning class, socially inferior to the ruling class, began fa’s ascension during the Eastern Zhou dynasty (771–221 BCE). This new class wanted a say in government that li did not provide. In 536 BCE, the state of Zheng’s prime minister, Zi Chan, ordered the creation of xing shu, “books of punishment,” inscribed on a set of bronze tripods. These were followed a couple of decades later by xing shu inscribed on iron tripods in the state of Qin, and by a set of punishments written on bamboo by Deng Xi.

21. Id. at 108.
22. Michael Gagarin, Writing Greek Law 151 (2008). One of the inscriptions does advise anyone who cannot read the Stele to ask another person to read it aloud to him or her. Slanski, supra note 10, at 108. The author wonders how a person who could not read was expected to read this direction.
23. UELMA, supra note 7.
25. Id.
27. Head & Lijuan, supra note 24, at 119.
28. Id. at 124.
29. Id. at 124–30.
30. Id. at 43.
31. John W. Head & Yanping Wang, Law Codes in Dynastic China 48–51 (2005). There seems to be some disagreement as to whether the xing shu was the first publicly released collection of laws in China. Scholar Herrlee Glessner Creel argues that some rulers made their laws available to the public even earlier than 536 BCE. Id. at 52–56, citing Herlee Glessner Creel, Legal Institutions and Procedures during the Chou Dynasty, in Essays on China’s Legal Tradition 26, 34–37 (Jerome Alan Cohen et al. eds., 1980).
32. Head & Wang, supra note 31, at 56. Xi was not authorized to publish rules and was eventually executed, but the state of Zheng adopted his “bamboo punishments” posthumously. Id. at 56–57.
¶11 Confucians regained the upper hand during the Qin (221–206 BCE) and Han (206 BCE–220 CE) dynasties, but by then that school of thought concluded that *li*’s rules needed to be codified and published, so the Legalists scored a partial win.\textsuperscript{33} Dynamic China would go on to create a series of codified, published laws, such as the Tang Code of 653 CE and 737 CE,\textsuperscript{34} the Song Code of 963,\textsuperscript{35} various codes and statutes under the Mongols’ Yüan dynasty (1279–1368),\textsuperscript{36} the *Da Ming Lü* (Great Ming Code) of 1389,\textsuperscript{37} and the *Ta Ch’ing lü-li* (Statutes and Sub-statutes of the Great Ch’ing, a.k.a. the Qing Code) of 1740.\textsuperscript{38} Unlike Hammurabi’s Stele, the Chinese dynastic governments published these codes with public education in mind. From their point of view, a citizen needed to know what their duties were in order to comply with them.

¶12 Literacy was an important part of dynastic Chinese culture—scholars refer to “a culture of reading”\textsuperscript{39} and “a culture of written texts.”\textsuperscript{40} The Song Dynasty reintroduced civil service exams to reduce the influence of Tang aristocrats, increasing the importance of literacy towards advancing in society.\textsuperscript{41} Readers were *dushu*—a social status many considered a point of moral superiority.\textsuperscript{42} Potentially, a literate commoner could join the elite through success in the exams.\textsuperscript{43} It therefore seems reasonable to infer that the government would assume its public could read. That said, the portion of the public the rulers cared about may have been limited. The rise of printing technology in the Song era entrenched differences between social classes that would persist through several dynasties.\textsuperscript{44} Literacy became a marker of the elite. Printing presses caused China’s literacy rate to rise substantially,\textsuperscript{45} but in the early 12th century, only 0.005% of the empire’s population successfully passed the exams,\textsuperscript{46} and many servants remained illiterate.\textsuperscript{47} Dynastic China’s published codes may not have made the country’s laws available to all who lived under them, but they still represent an important example of a ruling class who acted on the belief that a nation’s laws should be known to more than just the laws’ authors.

¶13 China’s long history of publishing laws influenced other nations. The Tang Code was, in a way, China’s counterpart to Justinian’s *Corpus Juris Civilis*, forming the basis of an *ius commune* for East Asian nations\textsuperscript{48} and influencing neighboring...
nations such as Japan and Korea.\(^\text{49}\) Japanese rulers committed laws to written form as early as the seventh century CE.\(^\text{50}\) During the early days of the Meiji Restoration (1867–1912), Japan’s rapid period of Westernization, its rulers borrowed from Chinese legal tradition when enacting and publishing three legal codes that blazed the path towards European-style codifications.\(^\text{51}\) Korea’s Chosŏn dynasty (1392–1910) built on the Great Ming Code to create its own published codes.\(^\text{52}\)

\(^\text{¶ 14}\) Just as in ancient Babylonia, dynastic China’s codes provided the public with a way to access authentic copies of the law—copies that could be preserved for future generations. They may have been designed with a small elite population in mind but still spread the law to a wider audience. These codes, and the codes they inspired, represent another step toward the wide public availability of the law that UELMA envisions.

**Ancient Greece**

\(^\text{¶ 15}\) The ancient Greeks wrote down laws for the sake of public access as early as the seventh century BCE.\(^\text{53}\) The first written laws were not complete codifications; many were solitary pieces of legislation.\(^\text{54}\) Crete posted a large number of public inscriptions containing the text of enacted laws.\(^\text{55}\) The temple to Apollo Delphinios in the Cretan town of Dreos, a building that dated back to the eighth century BCE and bordered on the town’s central gathering place, had several laws inscribed on its eastern wall.\(^\text{56}\) The town of Gortyn inscribed a collection of law, now known as the Gortyn code, on the side of a temple to Apollo. These inscriptions probably dated back to the late sixth century BCE and were carved in letters painted in red ochre ranging from 4 to 25 centimeters (roughly 1½ to 10 inches) high for readability.\(^\text{57}\) A bronze plaque from the same era was inscribed with land


\(^\text{50}\) Dean, *supra* note 49, at 60. These written laws were not always made available to the public, though. For example, the *Kujikata Osadademegaki* of 1742 was a rules manual given only to Tokugawa-era administrators. *Id.* at 58.

\(^\text{51}\) Paul Heng-Chao Ch’en, *The Formation of the Early Meiji Legal Order* 3 (Oxford Univ. Press London Oriental Series Vol. 35, 1981). The three codes were the *Kari keiritsu* (Provisional Criminal Code), *Shinritsu kouryou* (Essence of the New Code), and *Keitei ritsurei* (Statutes and Substatutes as Amended).

\(^\text{52}\) See generally Bourgon & Roux, *supra* note 49.

\(^\text{53}\) Gagarin, *supra* note 22, at 1, 39. Gagarin asserts Greece was unusual in this aspect and that many other ancient societies primarily published laws as academic exercises or for propaganda purposes. *Id.* at 1.

\(^\text{54}\) *Id.* at 43.

\(^\text{55}\) *Id.* Gagarin says Crete did not necessarily publish much more than the other ancient Greek city-states; we may just have more evidence remaining of Cretan publishing. While Crete inscribed many of its laws in stone, other Greek cities supposedly wrote their laws on more fragile materials such as wood or papyrus. *Id.* at 43–44.

\(^\text{56}\) *Id.* at 45–46. Gagarin does not make clear exactly to when the inscriptions date, but in the context of his book, it seems reasonable to infer that they were carved into the wall some time after the temple’s construction.

\(^\text{57}\) *Id.* at 50, 151–52.
regulations from a colony of the Locris region and could be hung on a wall for public viewing. 58

¶ 16 Athenians considered their city-state the greatest of all ancient Greece 59 and were proud of their body of laws, called nomoi, which had a long history of public access. 60 Draco, in 621–620 BCE, and Solon, in 594–593 BCE, inscribed their rules on objects called axones and kyrbeis that were posted in public locations. 61 The city was a prolific legal publisher, inscribing numerous laws on bronze and stone stelae in locales open to the public. In 403 BCE, at least 250 of these stelae still survived. 62 They were spread across Athens, 63 but each stele would usually be located in a place with a logical connection to the law. For example, the stele with the law on homicide was posted where preliminary homicide hearings were held. 64

¶ 17 Publication by stelae presented a potential currency problem. If the city enacted a new law, did they always remove all the stelae with replaced or amended laws? To address this, Athens appointed a council of Anagrapheis (Recorders) in 410 BCE to create an official record of laws passed by Solon; by 399 BCE, the Anagrapheis presented their finished work, a list of legislation currently in force. 65 The texts of newly passed laws were posted on a wall of the Stoa Basileos. 66

¶ 18 Around this time, the Athenian government set up an official archive at the Metroon, a shrine dedicated to the mother of the gods, which thereafter received a copy of each enacted law. 67 Old records and speeches imply that laws in the Metroon were organized by broad categories and by date passed, so finding a specific law could have been a daunting task, 68 although some speeches refer to “public slaves” who oversaw and retrieved records and who might have helped researchers. 69

¶ 19 All the writing and inscribing in the land does not help if the majority of the public cannot read. The traditional classical studies view held that ancient Greek society had a sufficiently high literacy rate to assume that printed and

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58. Id. at 60.
60. Sickinger, supra note 59, at 93.
61. Id. at 94. Scholars think it likely that axones and kyrbeis are the same type of item: multisided wooden pillars with an axis so the reader could turn them. Axones, in The Oxford Classical Dictionary (Simon Hornblower & Anthony Spawforth eds., 3d ed. rev. 2003). These objects have long since disappeared, so scholars do not know for sure where they were located, but most agree that axones and kyrbeis were posted in public places. Gagarin, supra note 22, at 181–82.
63. Id. at 95.
64. Id. at 95–96. Regardless, some scholars think the scattered distribution would have made it hard to research the relevant law. See, e.g., Gagarin, supra note 22, at 182.
65. Gagarin, supra note 22, at 183.
66. Id. at 184. The Stoa Basileos was a sheltered area located on the northwest corner of the Athenian agora; it was originally the headquarters for Athens’s archon basileus, the magistrate in charge of religious matters. Charles W. Hedrick, Jr., Spaces of Government: Civic Architecture and Memory, in A Companion to Ancient Greek Government 385, 395–96 (Hans Beck ed., 2013), Wiley Online Library, doi: 10.1002/9781118303214. But see Gagarin, supra note 22, at 184 (arguing that only pending legislation was posted on the Stoa Basileos’s wall).
67. Sickinger, supra note 59, at 93.
68. Id. at 102–03.
69. Id. at 104.
inscribed laws were intended for the general public’s legal knowledge. Some contemporary scholars, however, argue that most literate people in ancient Greece were from the elite, so the laws inscribed in public places were mostly for propaganda purposes, much like Hammurabi’s Code. Professor Michael Gagarin counters that the texts were written in clear script, unlike the poetic, elegant script aimed at upper-class readers on Hammurabi’s Stele. Even if ancient Greece’s literacy rate was low, Gagarin continues, it was still higher than in other ancient societies.

¶20 The text of speeches from the time hinted that jurors were expected to be able to read laws and that litigants in trials cited relevant laws in their disputes. Athenians were prodigious litigators, to the extent that ordinary citizens, not just an elite class, probably argued in court. Even if making the text of the law available to all Athenians was not the only goal behind publication, it was probably one of their most important motivations.

¶21 As in Babylonia and dynastic China, ancient Greece offered the public an authenticated copy of the law. It later made efforts to preserve that law for the future. Stelae, placards on walls, and centrally archived copies of laws may not have allowed as wide a distribution as China’s printed codes, but the ancient Greeks considered access to all the law for all members of the public a noteworthy goal—another step toward the modern ideals embodied in UELMA.

Rome

¶22 Ancient Rome evolved from a kingdom to a republic and then an empire. As Roman government changed, so did the sources of law that it drew on, as well as the ways the public could access the law. Thankfully for Roman citizens and for modern researchers, not all Roman rulers were as petulant as Caligula.

The Monarchy

¶23 There is little evidence as to whether Rome published any laws during its kingdom era. It is generally accepted today that Rome’s kings mostly ruled by custom; the question is how much of this customary law was supplemented by royal

70. Gagarin, supra note 22, at 67; see also William V. Harris, Ancient Literacy 8–9 (1989), ACLS Humanities E-Book, http://hdl.handle.net/2027/heb.01448.0001.001 [https://perma.cc/MJL9-F7GB].
72. Id. at 69–70.
73. Id. Gagarin cites one estimate that ancient Crete had a 5 percent literacy rate, while the fifth-century BCE Athenian literacy rate was at least 10 percent. Id. at 70, 176–77. Gagarin further notes that by the sixth century BCE, even rural shepherds in Greece were writing short texts. Id. at 177; see also Harris, supra note 70, at 1–24 (discussing issues with applying modern definitions of “literacy” to ancient Greece and Rome).
74. Gagarin, supra note 22, at 178–80; Sickinger, supra note 59, at 104.
75. Adriaan Lanni, Law and Order in Ancient Athens 131–32 (2016).
76. Paul du Plessis, Borkowski’s Textbook on Roman Law §§ 1.1–1.3 (5th ed. 2015). The Byzantine Empire is part of this continuum. Modern historians in the West usually refer to the Eastern Roman Empire as the Byzantine Empire, but the rulers and citizens of that empire would have considered themselves Romans, their empire a continuation of Rome’s. Timothy E. Gregory, A History of Byzantium 1–2 (2005).
decrees. Pomponius, a legal historian from the second century CE, said that some of the kings passed statutes, called *leges regiae*, which were based on advice from citizen advisory groups called the *curiae*. Some *leges* were supposedly transcribed on tablets and then later compiled into a book by the *pontifex maximus*, Gaius Papirius, so that the public could read them. Modern scholars question whether the *leges regiae* really existed, believing that ancient historians made up the *leges* entirely or backdated laws from later in Roman history.

The Republic

¶24 The early Roman Republic was split by the Conflict of the Orders, a decades-long battle between the *plebeians*—ordinary Roman citizens who did much of the fighting and labor—and the ruling *patrician* class, which took the money earned by the plebeians’ work. In 494 BCE, the plebeians, frustrated by their lack of power and the economic situation, staged mass walkouts from Rome. The patricians slowly capitulated, and eventually plebeians and patricians had almost equal rights. One of the plebeians’ demands was for Rome’s law to be codified and published. The result was the Twelve Tables, sometimes described as the first code of Roman law. The Tables were originally inscribed on bronze tablets located in the *rostra* for public inspection. The original tablets are long lost to the ages, but it is likely that copies on less-permanent materials were made. The Tables’ text became well known through Roman society and a founding principle of Western jurisprudence; centuries later, Cicero spoke of children memorizing the Tables as part of their lessons.

¶25 The patricians did not make the entire body of Roman law public; the Tables were still, after all, a grudging concession. Other parts of Roman law remained unpublished, especially those that supported patrician power over plebe-
The literacy rate in early Republican Rome may have been lower than 10 percent, so this increased access was still limited to a relatively small percentage of the overall population. Nevertheless, posting a substantial portion of the law so that it could be seen by more than just the elites was an important statement. Even if the patricians originally created the Tables to appease rebellious plebeians, they successfully made the law known to a wider range of Romans than before.

As Rome’s jurisprudence evolved over the centuries, different sources of law rose and fell in importance. Many of these other sources of law were also available for Roman citizens in general to view, at least for a time. Senatorial decrees were sometimes inscribed onto a bronze tablet that had to be displayed for at least 24 days. When a new praetor took office, he posted an edict, a set of rules that described how he would carry out his duties, on a wooden board outside his office.

The Empire

The Roman Empire’s rulers differed on the importance of public access to edicts. Caligula certainly did not seem to think such access desirable. Fortunately, several emperors who reigned as power shifted from Rome to Constantinople placed a higher priority on widely publicizing the law. Diocletian (r. 284–305 CE) had his edictum de pretiis rerum venalium (Edict on Maximum Prices) of 301 engraved on marble that scholars assume were posted in public gathering areas. Archaeologists unearthed fragments of a copy of this edict in the city of Aphrodisias that was originally in the form of a balustrade near a public building. Shards from marble tablets with the same edict were unearthed in Ptolemais.

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90. See Alan Watson, The Spirit of Roman Law 38 (1995) (“The Twelve Tables were prepared by patricians as the law they were willing to share with plebeians. . . .”).
91. See Harris, supra note 70, at 151–53.
92. Tommaso Beggio (trans. Laurence Hooper), Epigraphy, in The Oxford Handbook of Roman Law and Society § 4.2.1 (Paul J. Du Plessis et al. eds., 2016). One example of these tablets that still exists today is the senatus consultum de Bacchanalibus, currently exhibited at the Kunsthistoriches Museum in Vienna. Id. A picture of this tablet is available at the museum’s website at https://www.khm.at/de/object/8471949ab/ [https://perma.cc/5UCU-SRJ5].
94. Du Plessis, supra note 76, § 2.2.2.3.
95. Beggio, supra note 92.
98. Kenan T. Erim et al., The Copy of Diocletian’s Edict on Maximum Prices from Aphrodisias in Caria, 60 J. Roman Stud. 120, 121 (1970); Kenan T. Erim & Joyce Reynolds, The Aphrodisias Copy of Diocletian’s Edict on Maximum Prices, 63 J. Roman Stud. 99, 99 (1973). Oddly, Architectural Digest’s online glossary asserts that the Roman Empire did not use balustrades. What is a Balustrade?, supra note 97. Whether this is an overgeneralization by the Digest or an inaccurate description by Erim is unclear.
these may be from tablets that were posted on a building.\textsuperscript{100} Citizen access to the law was important to this emperor.\textsuperscript{101}

\textsuperscript{28} Efforts under Diocletian’s reign to publish the law went beyond public monuments. This era also saw the first officially approved substantial efforts to codify imperial \textit{rescripta}.\textsuperscript{102} By the third century CE, the imperial archives were split between two locations and contained 100 years’ worth of \textit{rescripta}, organized chronologically, factors that made it difficult for anyone who wished to research them.\textsuperscript{103} The \textit{Codex Gregorianus}, followed by the \textit{Codex Hermogenianus}, made \textit{rescripta} easier for lawyers, jurists, and researchers to use. These publications converted \textit{rescripta} from awkward scrolls to convenient \textit{codex} form and arranged them by subject.\textsuperscript{104} Copies of the \textit{Codices} were likely sent to provincial and court officials for even greater access, and students at Roman law schools would consult them.\textsuperscript{105}

\textsuperscript{29} By Theodosius II’s reign (408–450 CE), however, Roman law was drifting back to chaos.\textsuperscript{106} The \textit{Codex Hermogenianus} was not updated.\textsuperscript{107} New \textit{rescripta} were posted at the locations where they were issued,\textsuperscript{108} but they were numerous and unorganized. In court, the party with the most recent \textit{rescript} in its favor often won, and it was not unheard of for litigants to present forged \textit{rescripta} to support their case.\textsuperscript{109} Even if a \textit{rescript} was genuine, many fourth century CE \textit{rescripta} came with a caveat stating they were valid only as long as they were not \textit{contra ius}—contrary to already existing law. Judges then had to sort through the mass of imperial laws to determine what that existing law truly was.\textsuperscript{110}

\begin{thebibliography}{110}
\bibitem{100} Id. We do not know exactly where the tablets in Ptolemais or the balustrade in Aphrodisias were posted because both were broken apart after Diocletian’s edict was revoked; the pieces were reused for various building projects over the centuries. \textit{Id.} at 107; Erim & Reynolds, \textit{supra} note 98, at 99.

\bibitem{101} Again, though, the issue of how many citizens could read the edict arises. Aphrodisias and Ptolemais were both in the Eastern Roman Empire, where Greek was the majority language. \textit{Language, in The Oxford Dictionary of Byzantium} (Alexander P. Kazhdan ed.), Oxford Reference Online, www.oxfordreference.com/view/10.1093/acref/9780195046526.001.0001/acref-9780195046526-e-3001 [https://perma.cc/ME43-Y4TZ]. Latin was still the official imperial governmental language; the edict was inscribed in Latin in both cities’ structures. \textit{Id.}; Caputo et al., \textit{supra} note 99, at 114; Erim & Reynolds, \textit{supra} note 98, at 99. Caputo notes that Greek-speaking traders would likely have had Greek translations of the law in manuscript form. \textit{Id.} Nevertheless, even if written in an official language not spoken well by the majority, the availability of a copy of the law in public shows some dedication to accessibility.

\bibitem{102} Serena Connolly, \textit{Lives Behind the Laws: The World of the Codex Hermogenianus} 41, 141 (2010). \textit{Rescripta} were emperors’ replies to questions and petitions that were one of the most important forms of legislation in the Roman Empire. du Plessis, \textit{supra} note 76, § 2.3.2.7.

\bibitem{103} Connolly, \textit{supra} note 102, at 39–40.

\bibitem{104} Id. at 40–41. Even though the word \textit{Codex} in the titles \textit{Codex Gregorianus}, \textit{Codex Hermogenianus}, and \textit{Codex Justinianus} is usually translated to “Code” in English, it refers to the fact that these works were published as a \textit{codex}—parchment, papyrus, or wood leaves bound together, as opposed to a scroll. \textit{Codex, in The Oxford Classical Dictionary}, \textit{supra} note 61.

\bibitem{105} Connolly, \textit{supra} note 102, at 41; William Turpin, \textit{The Purpose of the Roman Law Codes}, 104 Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Romanistische Abteilung 620, 626 (1987).


\bibitem{107} Id.

\bibitem{108} Id. at 13.

\bibitem{109} Jill Harries, \textit{Introduction: The Background to the Code, in The Theodosian Code: Studies in the Imperial Law of Late Antiquity} 1, 2 (Jill Harries & Ian Wood eds., 2d ed. 2010).

\bibitem{110} Turpin, \textit{supra} note 105, at 627–28.
\end{thebibliography}
The code Theodosius II authorized, the *Codex Theodosianus* of 438, largely focused on another form of imperial law, the *constitutiones*. *Constitutiones* were legislation aimed at the general public, not responses to specific legal scenarios like the *rescripta*. The emperor issued *constitutiones* as *edicta*, edicts issued to the general public; or as *epistulae*, letters sent to officials and regional governors.\(^{111}\) *Constitutiones* were read aloud to the public, then posted in public areas using various materials from ethereal paper, linen, or wood to more permanent bronze or stone,\(^{112}\) so the text of the laws was available to citizens prior to Theodosius II’s reign. The *Codex Theodosianus*, however, marked the first time *constitutiones* were collected and organized in one collection.\(^{113}\) The *Codex* became binding law over both the Eastern and Western Roman Empires, and copies were prepared exclusively by officers called *constitutionarii*; anyone else who published a copy of the *Codex* could be fined.\(^{114}\) The Senate ordered the praetorian prefect\(^{115}\) to provide copies of the *Codex* for the provinces.\(^{116}\)

Original copies of the *Codex* fell into three classes, called *corpora*. The first *corpus* was the original copy written by Theodosius’s “divine hand,” which stayed at the praetorian prefect’s office and effectively became the Eastern Roman Empire’s official copy.\(^{117}\) Two copies were made of Theodosius’s original. One copy became a *corpus* of one, the Western Roman Empire’s official copy, kept at the archives of the *praefectus urbi*.\(^{118}\) The other copy became the template for the last *corpus*, all future copies of the *Codex*. Theodosius’s praetorian prefect, Faustus, took responsibility for delivering a copy from the third *corpus* to the Empire’s African provinces.\(^{119}\)

The Theodosian government took several steps to ensure that copies of the *Codex* accurately reproduced the original’s text. It authorized only one way to publish the *Codex*: hand copying by the *constitutionarii*, with all words written out in full—no abbreviations or other shorthand, such as symbols.\(^{120}\) Public archives and praetorian offices across the Empire received a copy, kept there at government expense.\(^{121}\) These procedures made authentic (as possible, at any rate) copies easier to obtain, but did not satisfy demand for the new *Codex*. Even imperial officials resorted to pirated copies to fill their needs, regardless of the official ban.\(^{122}\) Theodosius’s work, despite the supply issues, represented a major effort by a government to make the law easy to access by its full citizenry. He had an even greater ambition


\(^{112}\) *Id.* at 17.

\(^{113}\) *Id.* at 12.

\(^{114}\) *Id.* at 31.

\(^{115}\) In Theodosius’s time, the praetorian prefect was a member of the emperor’s advisory council who held significant civil and financial administrative duties and who helped create imperial policy. *Praefectus praetorio*, *in* The Oxford Classical Dictionary, *supra* note 61.

\(^{116}\) Matthews, *supra* note 106, at 42.

\(^{117}\) *Id.* at 49.

\(^{118}\) *Id.* The *praefectus urbi* was the “Prefect of the City of Rome,” a magistrate who was the emperor’s deputy in that city. In Theodosius’s time, this prefect also presided over the Senate and was responsible for public order. *Praefectus urbi*, *in* The Oxford Classical Dictionary, *supra* note 61.

\(^{119}\) Matthews, *supra* note 106, at 50.

\(^{120}\) *Id.* at 49, 53.

\(^{121}\) *Id.* at 53.

\(^{122}\) *Id.* at 32.
to codify a larger body of Roman law in one collection but could not accomplish it; that fell to a later emperor.\(^{123}\)

**The Byzantine Empire and Justinian’s *Corpus Juris Civilis***

§33 Justinian (527–565 CE) was one of history’s most ambitious emperors. Historians talk about his “grand design” for returning the Roman Empire to its former glory.\(^{124}\) Today, however, he is best known for the legal compilations he commissioned: the *Codex, Digest, Institutes,* and *Novellae*—collectively known as the *Corpus Juris Civilis (CJC).*\(^{125}\) The CJC had many purposes. It was in no small part a project to demonstrate Justinian’s power.\(^{126}\) The emperor also wished to simplify litigation and clarify imperial law by condensing it to one collection that would be the only source to which lawyers and judges needed to refer.\(^{127}\) Justinian also intended the parts of the CJC to become the new textbook for law students\(^{128}\) and an incentive for bright young minds to learn Latin in the Greek-dominated Byzantine Empire.\(^{129}\)

§34 To achieve these goals, the CJC had to be available to the public. In the *constitutio* officially promulgating the Digest, Justinian declared that the empire should “make manifest the same system of law to all men” and that “the means of purchasing (the entire collection of law) at a trifling price should be offered both to rich and poor.”\(^{130}\) Justinian also made it clear that all law students should have a copy of his *Digest, Institutes,* and *Codex;* after all, they were the textbooks for his new legal curriculum.\(^{131}\) He ordered all judges to apply the new law and Praetorian Prefects to spread the word,\(^{132}\) presumably one of the primary methods the prefects

\(^{123}\) Id. at 10–11, 18–19; John Matthews, *The Making of the Text,* in *The Theodosian Code,* supra note 109, at 23.

\(^{124}\) Andrew Louth, *Justinian and His Legacy,* in *The Cambridge History of the Byzantine Empire c. 500–1492,* at 99, 105–23 (Jonathan Shepard ed., 2008). Justinian’s successes on these fronts were short lived. Much long-lasting and noteworthy construction took place under his watch, but by his death, many citizens thought him a tyrant. John W. Barker, *Justinian and the Later Roman Empire* 201–03 (1966). He sought to unify the Christian church and eliminate paganism in the Empire, but the church remained divided by theological disputes. *Id.* at 212–13. Justinian retook much of the Western Roman Empire, but his successors could not hold on to his conquests. *Id.* at 213–44; Louth, *supra,* at 123–28.


\(^{126}\) See, e.g., *Const. Deo auctore* § 2, in 1 *The Digest of Justinian* xiii–xiv (Charles Henry Monro trans., 1904) (describing the massive scope of the project, which “appeared...” to be impossible, but was completed and published “under our own brilliant name”), and *Const. Tanta pr.,* in 1 *Digest of Justinian,* at xxv (“A thing which before our command none ever expected or deemed to be at all possible for human endeavour”). There is also speculation that Justinian hoped to use the Digest to distract his citizens from the recent and bloody Nika Riots. David Pugsley, *On Compiling Justinian’s Digest: The Victory Riots and the Appendix Mass,* 11 *Oxford J. Legal Stud.* 325, 325–26 (1991). Note that a large portion of the credit for the rapid completion of these books goes to Justinian’s *quaestor* (the emperor’s legal advisor and draftsman). See generally Tony Honoré, *Tribonian* (1978).

\(^{127}\) See generally *Const. Tanta,* supra note 126.

\(^{128}\) See generally *Const. Omnem,* in 1 *Digest of Justinian,* supra note 126, at xviii, xvi–xxiv.

\(^{129}\) Honoré, *supra* note 126, at 49. Latin was Justinian’s preferred language, although he could also speak and read Greek. *Id.* at 25; Barker, *supra* note 124, at 171–72.

\(^{130}\) *Const. Tanta,* supra note 126, § 12.

\(^{131}\) *Const. Omnem,* supra note 128, § 7.

\(^{132}\) *Const. Tanta,* supra note 126, § 24.
used was distributing copies of the CJC. Justinian also planned to publish a compilation of his Novellae, the new constitutiones Justinian issued after the Codex was published, but he was unable to complete that project in his lifetime.\textsuperscript{133} Creating enough copies of Justinian’s new restatement of Roman law must have been a monumental job, but the Byzantine capital of Constantinople had professional scribes up to the task.\textsuperscript{134} Around 75 copies were made and distributed to imperial offices.\textsuperscript{135}

\textsuperscript{\S}35 Unlike Theodosius, Justinian did not ban anyone outside the government from making copies of his books. Justinian, however, did take similar measures to ensure authenticity and ease of use. All terms and references were to be spelled out; no symbols or abbreviations could be used, as this practice had caused confusion in the past.\textsuperscript{136} He also forbade anyone from creating commentaries on his books under penalty of forgery, noting that the proliferation of juristic commentaries on the law was a major reason for the previously chaotic state of Roman law.\textsuperscript{137} Such commentaries also had the potential to confuse future copyists, who might mistake the commentary for the original material.\textsuperscript{138} Any copy containing abbreviations or symbols could not be cited as authority in court, and the person who sold the copy could be criminally punished and fined twice the book’s sale price.\textsuperscript{139} Anyone who cited to a source besides the Codex, Digest, Institutes, or Novellae could be charged with forgery.\textsuperscript{140}

\textsuperscript{\S}36 Even if some of Justinian’s motivations behind his magnum opus were his own glory and desire to support a dying language, scholars agree that the primary impetus behind the Digest, Codex, and Institutes was to make the law more comprehensible and easier to access to imperial citizens. Original copies of Justinian’s works may have been lost to history, but even today, fragments from several generations of copies of the Corpus Juris Civilis are the major source for much of modern scholars’ knowledge of Roman law.\textsuperscript{141}

\textsuperscript{\S}37 The story of Roman legal publishing, as with dynastic China, is one of evolution. Authenticity and availability were issues in the monarchy and the early republic. The laws the government reluctantly handed down were either of dubious

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\textsuperscript{133} Timothy G. Kearley, The Creation and Transmission of Justinian’s Novels, 102 Law Libr. J. 377, 379–80, 2010 Law Libr. J. 22, \S 6. Future scholars had to rely on private collections to piece together the Novellae text. Id.
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\textsuperscript{134} E.A. Lowe, Greek Symptoms in a Sixth-Century Manuscript of St. Augustine and in a Group of Latin Legal Manuscripts, in 2 E.A. Lowe, Palaeographical Papers 1907–1965, at 466, 472 (1972).
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\textsuperscript{135} Olga Tellegen-Couperus, A Short History of Roman Law \S 12.5.2 (1993). Unfortunately, none of these original copies exist today; the editions of the Corpus Juris Civilis scholars use today are based on fragments assembled from later copies and translations. Id. \S 12.5; O.F. Robinson, The Sources of Roman Law 57–60 (1997).
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\textsuperscript{136} Const. Tanta, supra note 126, \S 22; Tellegen-Couperus, supra note 135, \S 12.5.3.
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\textsuperscript{137} Const. Tanta, supra note 126, \S 21. This rule, however, was more honored in the breach. H.F. Jolowicz & Barry Nicholas, Historical Introduction to the Study of Roman Law 482 (3d ed. 1972).
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\textsuperscript{138} Tellegen-Couperus, supra note 135, \S 12.5.3.
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\textsuperscript{139} Const. Tanta, supra note 126, \S 22. Id. \S 19.
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\textsuperscript{140} Id. \S 19.
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\textsuperscript{141} du Plessis, supra note 76, \S 2.5.3. Ironically, Justinian’s project had the side effect of destroying many older Roman law publications, either deliberately or through neglect. John Henry Merryman & Rogelio Pérez-Perdomo, The Civil Law Tradition 7 (3d ed. 2007).
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origin or only a partial selection of the full body of laws. As the Republic entered its later years, the government made its laws easier to access and authenticate through posting in public spaces. At the same time, these posted laws were not designed for permanence. The Empire introduced a profusion of laws, increasing theoretical availability to the extent that the law effectively became less available to researchers and harder to authenticate. Theodosius II’s and Justinian’s compilations brought Roman law’s publication journey even closer to the same principles of availability, authentication, and permanence that UELMA is based on today.

**England**

¶38 Before and shortly after the time of the Norman Conquest, England’s government used verbal methods to inform their subjects about the law. Under Edward the Confessor (r. 1042–1066), sheriffs presiding over *shiremotes* proclaimed royal edicts to the assembled people. After William the Conqueror (r. 1066–1087) seized control of the land and *shiremotes* became county courts, sheriffs still read royal proclamations to the people during court sessions.

¶39 Henry I (r. 1100–1135) created his *Coronation Charter* with its propaganda value at least partially in mind. By letting his subjects know the promises he had made, they would see how just a ruler he would be. Henry sent a copy to all shires in England and ordered them to keep it in their most important cathedrals or abbeys. Publicity for Magna Carta went a step further. Shires had to display copies of the “Great Charter” in their cathedrals and abbeys, and sheriffs were ordered to “publicly read [it] throughout your whole balliwick.” In 1265, sheriffs were required to read out the Charters at least semiannually, then quarterly by 1300. As with Hammurabi’s Stele, these early exhibitions may have been primarily a demonstration of the king’s majesty. After 1300, sheriffs read Magna Carta aloud in English and French, but used only Latin before, which few English people, outside the clergy, spoke.

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146. *Id.*


148. *Id.*

149. *Id.*

150. *Id., citing* 1 Statutes of the Realm 136 (1300).

151. Thompson, *supra* note 147, at 95. Thompson notes that even if most laypeople did not understand the Latin, it would have sounded suitably impressive to them.
Announcing the law as a spectacle instead of as an informative exercise may have reflected the English government's attitudes toward publicizing the law. English courts in the late medieval era did not believe that legislation had to be formally announced to the public to become effective. Parliament represented the entire body of England, the courts argued, so any of its enactments were presumed to be instantly known by all English citizens. Regardless, to protect their property, people of the time made sure to stay informed about the state of the law, “learn[ing] its rules as they learned the rules of sword play.” Oral communication became insufficient for leading national figures. The Archbishop of Reading ordered every cathedral and collegiate church to post a copy of Magna Carta in a public place visible to all who entered and to replace each copy with a fresh version every spring. The government quickly ordered these copies removed from church doors, but later sent sealed copies to government officials and to churches.

The European printing revolution changed how English statutes were publicized for good. By the late 15th century, people who were granted the office of King's Printer published statutes as they were enacted. This was an important step, but centuries passed before an official compilation covering multiple years of statutes existed in England. King's Printers assembled volumes of each year's statutes, and numerous private individuals assembled and printed statutory compilations, but each collection had flaws. Several compilations that included older statutes written in Latin or law French left those laws untranslated. Errors found their ways into many compilations, and different collections contained conflicting texts for the same statute. Compilations left out some statutes, and they often failed to use the official sources for the statutory text or to even list the sources they used.

Several proposals were made over the centuries to officially compile, revise, and reprint the statutes—from Lord Keeper Nicholas Bacon (Francis's father) under Elizabeth I in 1577, through the Commonwealth era, to a committee created...

153. 2 Holdsworth, supra note 152, at 416.
155. "Id.
157. "William Holdsworth, A History of English Law 307–08 (1924), citing 1 Statutes of the Realm (1235–1377), at xxii–xxiii. Royal grants to Cambridge and Oxford Universities also gave them the right to print statutes, a point of contention for people granted the right to be declared King’s Printer. Ultimately, it was left to the courts to validate Cambridge’s and Oxford’s rights to print statutes. 11 William Holdsworth, A History of English Law 302 (1938).
158. 1 Statutes of the Realm (1235–1377), at xxv.
159. Report from the Committee for Promulgation of the Statutes, 5th December 1796, in 14 Reports from Committees of the House of Commons 119, 119–20 (1803), HathiTrust, https://hdl.handle.net/2027/uc1.c109355525 [https://perma.cc/58FA-4DKZ]. By the turn of the 19th century, the King’s Printer distributed about 1100 copies to Members of Parliament, the Privy Council, and some Officers of State. The King’s Printer sold copies of individual laws to private individuals but had not sold copies of the annual compilation outside its usual distribution list for years. Id.
160. 1 Statutes of the Realm (1235–1377), at xxii–xxv.
161. "Id.
in 1666 during Charles II’s reign. None came to fruition, and a 1796 House of Commons committee noted in a report that “there is no authentic and entire publication of the statutes” and that a substantial number of officially enacted statutes were never published. At the same time, prominent Enlightenment philosophers such as John Locke and Jeremy Bentham declared that liberty was impossible if the public could not access the laws ruling it. An 1800 Select Committee investigating the state of British public records declared that “it is clear that many of our Public Statutes . . . were unknown to the most learned Men of Former Times” and repeated the call to publish “a complete and authoritative Edition of all the statutes” —this time, with results.

§43 The government published Statutes of the Realm, a nine-volume set that collected British statutes from 1235 to 1713 as well as several of the major coronations and Magna Carta. Statutes originally written in Latin or in law French were printed in double columns alongside an English translation. Statutes of the Realm was a major improvement over its privately issued predecessors, but it still had flaws. The Record Commissioners who created the collection did not always use the best evidence of the statutory text, favoring printed records over manuscript. The collection contained statutes only through the end of Queen Anne’s reign (1707–1714). It included both statutes still in force and those no longer effective without indicating which was which. Additionally, the set was expensive and printed in an awkward size, the appropriately named “elephant folio.”

§44 A major cleanup of English statutes led to the next important step in publication. The Statute Law Revision Acts of 1856, 1861, and 1863 repealed over 1000 obsolete laws from the English books and paved the way for the Revised Statutes,
a compilation of English laws currently in force. The first edition of the Revised Statutes, released from 1870 to 1878, freed up considerable shelf space by replacing 118 volumes with 18. The second edition, which began publication in 1888, further reduced the volume count to 16 and was more affordable. The Revised Statutes also came in an easier-to-handle format: the first edition in quarto format, the second edition in octavo.

Two more editions of the Revised Statutes came out in 1929 and 1950. The English government then replaced the Revised Statutes with a loose-booklet publication called Statutes in Force. The new format was supposed to make updating easier, but the Statutes in Force were still badly out of date by the 1990s. To give the public easy access to current laws, the U.K. National Archives now publishes English legislation online. This website provides the full text of the statutes, both in their originally enacted form and with any revisions, from 1988 onward, as well as all statutes from 1297 that were still in force by 1991. As of 2017, however, only about half of the revised legislation on the site is completely up to date. The rest of the revised laws are updated only to 2002, although the Archives plan to complete the work in the future. In addition, the Archives do not currently authenticate the statutes on their site, noting that they “may need to address authenticity” in the future.

In the days after the Norman Conquest, legal publication may have been more a public relations tactic than an effort to keep the public informed, but at least the governed had some chance to know the content of the laws that ruled them. Announcing new edicts aloud made authenticated law available to even illiterate citizens but restricted that availability to people who could attend court. In addition, verbal dissemination of the law did not leave a permanent version future researchers could access. The advent of printing presses in England raised the

176. 1 Ilbert, supra note 168, at 24.
177. Id. at 25.
178. Id. at 70.
179. Id. at 24–25.
181. S.H. Bailey et al., Smith, Bailey & Gunn on The Modern English Legal System § 5-022 (5th ed. 2007).
182. Id.
187. Id.
potential for easier dissemination and permanent access to the laws. It took many centuries and missteps before England implemented a system that provided wide public access to authenticated statutes, even though the government had recognized the need early on. From the eighteenth century onward, England made substantial strides toward the ideals of authenticated laws available to the public at large, as idealized by UEMLA—although that country still has some steps to take to fully realize those ideals.

Virginia

¶47 Citizens of the British Empire’s American colonies faced similar periods of highs and lows when it came to ease of access to statutes. Virginia, highly influential and largest of the British North American colonies, provides a good example. In Virginia’s first years, similar to early England, two manuscript copies of laws were sent to each court in the colony and read aloud by commissioners at the beginning of monthly court sessions. This soon became hard to manage and difficult to research. Counties had to obtain these copies at their own expense, adding a substantial cost to their annual budgets. In 1699, the House of Burgesses declared that Virginia’s laws “do lye in great disorder and confusion” and authorized the creation of a revised code of statutes, which was completed in 1705. Virginia forbade printing presses through the end of the 17th century, so its laws remained primarily in manuscript form. Two private London printers issued codes, but one was poorly distributed and the other so riddled with errors that it was of little use. By the middle of the 18th century, Virginia finally had enough local presses for printed statutes to supplant manuscripts. The officially authorized, privately published Parks Edition of 1733 was distributed for free to the governor, burgesses, and justices of the peace across the colony.

¶48 The Virginia assembly initiated a revision of the commonwealth’s laws in 1776 that provided a side benefit in 1783—a new official collection of Virginia

193. 3 Hening, supra note 192, at 229 n.; Ross, supra note 190, at 88.
195. 2 William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia 41 et seq. (photo. reprt. 1969) (1823); Ross, supra note 190, at 84–86.
196. Ross, supra note 190, at 86.
197. Chumbley, supra note 194, at 146–47.
199. Ch. 9 of Oct. 1776, in 9 William Waller Hening, The Statutes at Large: Being a Collection of All the Laws of Virginia 175, 175–77 & n. (photo. reprt. 1969) (1821). The committee the assembly appointed to revise the laws contained some of the country’s greatest legal minds of the time: Thomas Jefferson, George Wythe, Edmund Pendleton, George Mason, and Thomas Ludwell Lee. Only
statutes going back to 1769, now known as the Chancellors’ Revisal.\textsuperscript{200} The government hired Nicolson & Prentis to print enough copies to satisfy the needs of the Virginia legislature, executive branch, and courts.\textsuperscript{201} Even after the Chancellors’ Revisal, though, Virginia’s statutes were still spread across numerous books, some of which by the assembly’s admission were obtainable only “with difficulty, and only at high prices,” and statutes in force were indistinguishable from expired or repealed acts.\textsuperscript{202} The assembly addressed this with the official Revised Code of 1792.\textsuperscript{203} It commissioned Augustine Davis to print this new code and ordered copies for the executive department, clerks and members of the assembly, and all judges and court clerks in the commonwealth.\textsuperscript{204}

¶49 One of Virginia’s most famous sons, Thomas Jefferson, played an important part in the next major development in the commonwealth’s legal publishing history. Many of Virginia’s earliest laws still existed only in manuscript form, with few if any copies surviving. Local officials often threw away their copies of session laws after a few months.\textsuperscript{205} Anyone who wanted a complete collection of enacted Virginia laws had to buy several different revisions, and even then the collection would miss a large number.\textsuperscript{206} Thomas Jefferson lamented to his mentor George Wythe that much of Virginia’s legal history was in danger of vanishing:

Our experience has proved to us that a single copy, or a few, deposited in MS. in the public offices, cannot be relied on for any great length of time. The ravages of fire and of ferocious enemies have had but too much part in producing the very loss we now deplore. How many of the precious works of antiquity were lost, while they existed only in manuscript?\textsuperscript{207}
§50 Jefferson proposed a printed compilation of all available Virginia laws, with copies sent to all public libraries in the United States, major European public libraries, and “principal public offices” in Virginia.208 Another avid collector of Virginia legal history, lawyer and treatise author William Waller Hening, brought part of Jefferson’s vision to fruition.209 He used his and Jefferson’s collections of legislation to create as comprehensive as possible a compilation of statutes covering Virginia’s early colonial days through 1792.210

§51 Hening’s work, the Statutes at Large, received state government approval in 1807.211 It was published over 12 volumes from 1809 to 1823,212 and the assembly ordered 800 copies.213 Printer Samuel Shepherd published an officially sanctioned collection of Virginia session laws covering 1792 through 1806, of which the assembly ordered 300 copies.214 Historical preservation may have driven Hening’s project, but it and Shepherd’s follow-up were important stages in giving the Virginia public complete and easy access to the text of their commonwealth’s legislation.


208 Letter from Thomas Jefferson to George Wythe of Jan. 16, 1796, supra note 206, at 584. Jefferson’s idea of permanence through numerosity could be thought of as an 18th century precedent to programs such as the Federal Depository Library Program, infra text accompanying note 267, and LOCKSS (Lots of Copies Keep Stuff Safe), a program started by Stanford University in which multiple libraries maintain authenticated electronic copies of materials in a “LOCKSS Box,” which is opened to users should the original source of the material become unavailable. This way, LOCKSS ensures access to authentic copies. See What Is LOCKSS?, LOTS OF COPIES KEEP STUFF SAFE, https://www.lockss.org /about/what-is-lockss/ [https://perma.cc/HX97-353U].


212 Martin, supra note 209, at 30–33. A second edition of the first four volumes of Hening’s Statutes at Large was published from 1820–1823. Id. at 33.


Hening’s and Shepherd’s works, however, still did not solve the puzzle of providing organized and current access to the law. Both men’s collections were organized chronologically, with expired and repealed laws aside those still in force. The Code of 1819 was the first compilation of Virginia statutes to organize the laws currently in force by subject, and it led a series of official and unofficial efforts to codify Virginia statutes throughout the nineteenth century. Although these new codes organized the law much better, currency was still a problem—a decade or more could pass before a new supplement arrived, meaning that researchers had to go back and forth between the last code and supplement along with several volumes of session laws to determine the current state of the law.

Richmond attorney (and future attorney general of Virginia) John Garland Pollard was responsible for the Code of 1904, which addressed the currency issue by introducing regular biennial updates, in keeping with the assembly’s schedule at that time. The assembly officially approved the Code of 1904 but did not authorize any funds to print it. It ordered a new revision, the Code of 1919, to renovate a subject framework stretched beyond its breaking point by a flood of new laws. In a slightly odd move, the assembly had this code printed in an unannotated edition and an annotated version. One copy of the annotated code went to legislative, executive, and state and federal judicial officers, five copies to the state librarian and law librarian, and two copies to the Supreme Court of Appeals libraries in Wytheville and Staunton. State-owned educational institutions, private educational institutions in Virginia with a library, and state charitable institutions each received one copy of the unannotated code.

The Code of 1919 was a much-needed refresh, but it also quickly became outdated, and Pollard’s biennial supplements were by now poorly organized. A private publisher, the Michie Company, stepped into the breach with The Code of Virginia as Amended to Adjournment of General Assembly 1924, a biennially updated publication that soon became known as the Michie Code. The assembly acknowledged the need for another official revision of a code that had become “so difficult (to research) as to baffle the attorney, much less the layman.”

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216. See id. at 12–29 for an annotated list of the codifications of Virginia law from the commonwealth’s beginning through the present day.
217. Id. at 4.
218. Id. at 4, 23.
221. Olson, supra note 215, at 25.
223. Id.
225. Id. at 25–26.
226. Id. at 26–28.
commission supervised this revision and hired Michie to publish the new Code of 1950, the version of Virginia’s statutory code still in force today.

§ 55 It is unclear how many copies of the new Code of 1950 the government provided to its officers and to libraries, although a couple of its sections provide hints. Section 9-77 stated that the commission “may arrange” for Virginia’s government to distribute copies of the code in the same manner as the session laws. Section 2-232 sets out the distribution list for those session laws, which includes assembly members and clerks, the governor and executive officers, judges and clerks, public libraries, K–12 libraries, the state library and law library, and all post-secondary education libraries in Virginia.

§ 56 The assembly recognized that timely updates were important. Each volume of the Code of 1950 is updated with a pocket part at the end of every legislative session. The commonwealth also made the committee that created the new code permanent and placed it in charge of future revisions. Rather than wait to revise the entire code as before, the committee now revises individual titles as needed. LexisNexis, current owner of the former Michie Company, still publishes the official code.

§ 57 While Virginia’s law clearly sets out who is responsible for revising and publishing the law, it is vague about making copies of the code available to the public. The commonwealth’s Code Commission is in charge of arranging publication, but no law mandates how many, if any, copies of the code must be distributed to state offices or most libraries. Even former section 9-77’s suggestion that the Commission could use the Acts of Assembly’s distribution list has been removed.

§ 58 Instead, a smattering of provisions in title 30 of the Code of Virginia mandate distribution to specific people or organizations, such as law school libraries or state senators. The commission still provides gratis copies of the Code of Virginia to some institutions, including the author’s. Such distribution of complimentary copies, however, appears to be mostly at the commission’s discretion and not compelled by law. The commonwealth must make the Code of Virginia available online to state agencies.

231. Id. § 2-232.
232. Olson, supra note 215, at 29.
235. See David W. Parrish, Jr., The Michie Company, in VIRGINIA LAW BOOKS, supra note 215, at 557–61, for the story of how Michie was absorbed into different companies that eventually became part of Reed Elsevier (now known as RELX Group).
238. Va. Code Ann. § 30-34.8 (Supp. 2017). Specifically, one copy must be provided from the Code Commission’s surplus stock to law school libraries that do not already have one.
239. Va. Code Ann. § 30-152 (2015). The Virginia Senate pays for these copies. There does not seem to be an equivalent provision for providing state delegates with a copy.
able to the public for free, but it has to do so only “as resources permit” and may charge reasonable and proportionate access fees. The commonwealth does not currently authenticate the statutes available on its website, although it has considered the issue in the past.

¶ Virginia has followed a journey similar to England’s in publicizing the law. The commonwealth moved from verbal announcements and poorly maintained collections of session laws to more permanent compilations of statutes organized by subject, demonstrating an interest in giving the public practical access to the law. Virginia’s official online system may not currently grant public access to authenticated statutes, and the commonwealth has not enacted UELMA as of 2019 but it has substantially considered the issue and at least expressed the desire to meet the public’s need to research the law for which UELMA was designed.

Modern Foreign and International Views

¶ Civil law jurisdictions have long considered publication an intrinsic element of a law’s validity. The Code Napoleon said that French laws became valid “from the moment at which their promulgation can have been known.” Laws did not take effect in areas further away from the capital until people living there reasonably had had time to learn about them; an extra day was added for every 100 kilometers a town was located away from the capital.

¶ Although common law jurisdictions traditionally believed that publication was not critical to a law’s authority, today they recognize its importance. The divide with their civil law counterparts can still be seen, however, by the way they phrase their mandates. The present-day French Civil Code changed its predecessor’s requirement and now states that laws take effect the day after publication. The Basic Law of Germany provides that statutes, unless otherwise specified, take effect 14 days after publication. South Africa’s constitution states that passed

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243. Id. § 30-34.10:3.
244. See https://law.lis.virginia.gov/vacode [https://perma.cc/M6MT-DRD6].
249. Id. The translation uses the phrase “ten myriameters”; a myriameter equals 10,000 meters. Myria-, OXFORD ENGLISH DICTIONARY (2d ed. 1989). The author includes this information mainly because he believes the word myriameter is criminally underused today.
250. See supra text accompanying note 152.
252. GRUNDEGESETZ [GG] [BASIC LAW], art. 82, translation at GESETZE IM INTERNET, https://www.gesetze-im-internet.de/englisch_gg/ [https://perma.cc/C4X3-BQRH] (Ger.).
legislation “must be published promptly, and takes effect when published” unless the enacted law itself states otherwise. Chile’s constitution requires a law to be published within 5 days of its promulgation. Spain’s constitutional requirement is worded more vaguely but still implies urgency: once parliament passes a law, the head of state must order its promulgation and “immediate” publication within 15 days. The Russian Federation’s constitution declares that unpublished laws do not have any force and specifies that “[a]ny normative legal acts concerning human and civil rights, freedoms and obligations shall not have force unless they have been officially published for the information of the general public.” Some commentators believe that the Russian constitution’s strong requirement is at least partially a reaction to the Soviet Union’s tendency to enact secret laws that infringed on its citizens’ rights. Australia’s Legislation Act 2003 requires its federal government to maintain a register of enacted legislation on a website that is open to the public, although its requirement that parliament place all acts on this register call for this to be done “as soon as practicable after the Act is assented to.”

§62 International bodies also emphasize how important it is for the public to have access to the law. The Universal Declaration of Human Rights states that everyone has the right to receive information. The Hague Conference on Private International Law and the European Commission held a joint conference in 2012 that recommended, among other things, that all nations make up-to-date and authoritative legislation available online for free, as well as historical laws.

The U.S. Federal Government

§63 Many people over the years have said that “the United States is a nation of laws.” Can a nation of laws exist if its citizens do not know what those laws are?

254. Constitución Política de la República de Chile [C.P.] art. 75, translation at Chile, World Constitutions Illustrated (Jefri Jay Ruchti ed., Anna I. Velvé Torras et al. trans.) (available in HeinOnline, World Constitutions Illustrated database).
259. Id. at ch 2 pt 1 div 2 s 15C.
260. Id. at ch 2 pt 1 div 3 s 15F.
262. Access to Foreign Law in Civil and Commercial Matters, Recommendation 8, HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW, https://assets.hcch.net/upload/foreignlaw_concl_e.pdf [https://perma.cc/YBX8-GGHA].
263. See, e.g., Scott A. Schumacher, Sentencing in Tax Cases after Booker: Striking the Right Balance between Uniformity and Discretion, 59 VILL. L. REV. 563, 568 (2014), quoting Marvin Frankel, Criminal Sentences: Law Without Order 8 (1973); Remarks at the National Archives and Records Administration, 2009 DAILY COMP. PRES. DOC. 388 (May 21, 2009), at 6; Karl S. Coplan, Legal Realism,
The United States’ founders were fully aware of the potential danger from inaccessible legislation; their mother country provided plenty of examples, from the Star Chamber to legislative bodies governing colonial affairs convened far from where their public records were located.264 As early as 1789, the U.S. federal government required a copy of newly enacted session laws to be published in three public newspapers, and a copy of the laws to be given to federal senators and representatives and state governors.265 Today, federal law requires the publication of both the United States Statutes at Large and the United States Code (USC)266 and has traditionally granted public access to its statutes through the Federal Depository Library Program (FDLP).

¶64 The FDLP dates its origins to 1813, when Congress passed a law ordering 200 copies of the House and Senate Journals to be sent to universities, libraries, historical societies, and various government offices.267 The Department of the Interior was in charge of distributing federal government materials to libraries from 1857268 to 1895.269 Since 1895, the Government Printing (now Publishing) Office (GPO) has administered the program.270 Senators and representatives could add or remove libraries from the FDLP during the later 19th and early 20th centuries.271 Today, senators and representatives can still designate libraries as depositories, but there is a cap on total FDLP libraries, and only the superintendent of documents can strip a library of depository status.272

¶65 The Printing Act of 1895273 established the FDLP as we know it today.274 Originally, all depositories had to accept copies of all federal government publications on a list created by the superintendent of documents, but since 1922, the superintendent has several lists of documents designed for different collection needs.275 FDLP libraries designated regional depositories must still accept all publi-
cations on all the superintendent’s lists. Other depositories must take all publications on the superintendent’s “FDLP Basic Collection” list, but otherwise may select which publications they accept. The superintendent of documents may ask for as many print copies of government publications as he or she deems necessary to distribute to libraries registered as federal depositories. There are over 1100 Federal Depository Libraries, including 46 regional depositories. All depositories must allow the public cost-free access to FDLP documents.

§66 Title 44 of the USC specifies some publications that must be provided to the FDLP, but neither the USC nor the Statutes at Large are on that list. Both the USC and the Statutes at Large are currently on the “FDLP Basic Collection” list, which government agencies must provide. Both publications are on the GPO’s “essential titles” list of publications that the FDLP will continue to distribute in physical format as long as they are available.

§67 This part of the USC also mandates that at least some federal publications must be made available online. Although neither the USC nor the Statutes at Large are explicitly included in this mandate, the GPO used its authorized discretion to include them in the list of publications that must be available online.


277. Snapshots of the FDLP, supra note 267. The DLC’s draft 2017 recommendations suggest discarding lists such as the “Basic Collection” and replacing them with a mechanism that allows depository libraries to select only the publications they need. Depository Collection and Development, supra note 275.


281. Id. § 1903.

282. Id. § 1905; Superintendent of Documents, Gov’t Publ’g Office, FDLP Basic Collection, FED. DEPOSITORY LIBRARY PROGRAM, https://www.fdlp.gov/requirements-guidance-2/collections-and-databases/1442-basic-collection [https://perma.cc/A7W8-WEDE].


Members of the public can access these works through GPO’s website Govinfo.gov.286

¶68 GPO authenticates publications it posts to its websites.287 After it confirms a document is valid, GPO uses a digital certificate to attach a digital signature to the document.288 A researcher can then use Adobe Acrobat or Adobe Reader version 7.0 or above to verify the signature and validate the chain of custody.289 After it certifies and digitally signs a document, GPO also adds a visible Seal of Authenticity that certifies that the document has not been altered since GPO authenticated it.290

The Internet, Public Access to the Law, and UELMA

¶69 By the late 20th century, published state statutes in the United States had reached a comfortable status. Most states had a print statutory code, either published by the government or by a private publisher, updated with annual or biennial pocket parts and session law services. The sets were far too expensive for most people outside of libraries or legal professionals to buy, but someone who wanted to research the law could go to the local law library (or large public or academic library) to access the code, and it was easy to know whether what you were reading was authentic.

¶70 The Internet smashed that status quo; now, anyone with a connection could potentially access the entire body of law, including those statutes, from the comfort of his or her home, even if that home was hours away from the nearest law library. This new freedom of access, however, came with new issues. How would a person reading statutes online know that the text on a website was authentic? Would the code be available on a free website or only locked behind pay-walled databases, replacing the expense of obtaining a print set with the expense of subscribing to an online service?

UELMA

¶71 All states make their statutory code and session laws available online. Some states have stopped publishing an official print version of their statutes.291 A few states, however, ensure that the online version of their statutes is an authoritative source available to the public and that those online statutes will remain available. Electronic information can be unintentionally or deliberately changed in ways the

289. Id.
291. UELMA, supra note 7.
reader cannot easily detect, but only a couple of states currently provide ways for the user to verify that this has not happened with his or her online statutes. As recently as 2013, fewer than 10 states designated their online statutes as official versions, promised to preserve old versions, or guaranteed public access; only two authenticated their online statutes. Virginia, regrettably, is one of the states lacking in all these areas.

¶72 The Uniform Law Commission created UELMA to address this problem. UELMA creates a framework that states can use to ensure that their online legal materials, including statutes, are authentic, available to the public, and preserved for the future. UELMA does not require a state to publish its laws in a specific format. If, however, a state that enacts UELMA publishes its statutes electronically, it must designate that electronic version an official version and authenticate its online statutes so that a reader can determine whether the version being read has been altered from the official version. Whoever is an official publisher of electronic statutes in a state that has enacted UELMA must also “ensure that the material is reasonably available for use by the public on a permanent basis.” As of March 2019, 19 states and the District of Columbia have passed UELMA, and 3 more state legislatures have introduced legislation to enact it.

Delaware

¶73 Delaware enacted UELMA on July 23, 2014, and quickly took steps to follow that law’s mandates and principles. All of the state’s governmental entities must receive online access to its statutory code but can still request printed copies. Delaware says that the version of the statutory code available on the state government website is official. Since this online edition is official, the state must provide an

292. Id.
296. Id. § 4(a)(1).
297. Id. § 5. As a side benefit, online state codes meeting these standards can also be cited in Bluebook format as though they were the print source. The Bluebook: A Uniform System of Citation R. 18.2.1(a), at 180 (Columbia Law Review Ass’n et al. eds., 20th ed. 2015).
298. Unif. Electronic Legal Material Act (UELMA) § 8 (Unif. Law Comm’n 2011). The state, however, does not have to provide cost-free public access. UELMA states only that what is “reasonable” should be determined “in a manner consistent with other state practice.” Id. § 8 cmt.
299. Electronic Legal Material Act, supra note 246.
authentic version of the code that it preserves, and it must also make the online code “reasonably available for use by the public on a permanent basis.” The state’s website for the Code of Delaware gives the researcher the option to download an authenticated PDF of each title of the code, but not for individual sections. Similar to the federal GPO, Delaware uses digital certificates, signatures, and seals to certify documents as authentic. Although the state has made some strong first steps, it still has a way to go. The website currently offers only the Delaware Code currently in force, with no way to search older editions. The state also offers authenticated PDFs of session laws, but it has not deemed those PDFs official versions and seems to authenticate PDFs only once the legislature’s two-year session is finished.

Conclusion

¶74 The art of publicizing legislation has taken many turns throughout the ages. In some nations, such as Babylonia, Rome, Greece, and China, the early stages focused on posting the laws in public gathering places. Motives varied from self-aggrandizement to a genuine desire for informed citizens to a reluctant concession. It was easy to authenticate these early posted laws, although accessibility could be a problem. Citizens had to go to specific locations, often spread over the city, to research the law. In England’s and Virginia’s early days, public verbal announcements potentially allowed even illiterate citizens to know what the law said, but language could still be a barrier, and to access the law one had to be in the right place at the right time.

¶75 Written codes on paper allowed authentic copies of the law to be distributed to more people, although only to a certain point—manuscript copies took time, and reproduction errors were likely. The advent of printing technology made it easier for a wider range of the public to receive authentic copies of the law. Often, the greatest obstacle toward publicizing the law was not technology but the government itself. Roman, English, and Virginian law entered multiple states of disarray due to government inaction. Fortunately, governments also provided a solution through initiatives to organize the law that included ways to make the law easier for citizens to access.

¶76 The Internet era is the next stage in this story. As with the printing press, a technology has arrived that can greatly increase the public’s access to authentic copies of the law. As with rulers dating back to ancient Babylonia, governments have expressed a desire to provide that access, although motivations may have changed over the years. The U.S. federal government has shown that it is possible to provide permanently and freely accessible, authenticated online copies of statutes. UELMA creates a framework for states to apply the principles of authenticated and permanent online access to their own statutes. States that have not already enacted this act should take the lead of generations of rulers before them and enact UELMA.

304. Id. § 407.
305. Id. § 408.
307. Id.
Online statutes may be less tangible than the forms in which legislation has been published in the past, whether in stone, bamboo, paper, or iron. By passing UELMA and following its outlines, though, state legislatures can follow in the grand tradition of Hammurabi, Zi Chan, Theodosius II, Justinian, Solon, Henry I, Thomas Jefferson, and many others by making the law a work that can be viewed by the public, now and in the future.
A Library Design Bookshelf

Stephen G. Margeton

This “Library Design Bookshelf” includes books, book chapters, and articles that describe academic library design and construction. Organized according to topics covering construction activity and major library design elements, the annotated titles should prove useful to librarians new to the construction process and those needing a refresher.

Designing Library Spaces That Encourage Learning ......................... 198
Making the Case; Collecting Data .................................................. 199
Survey Works for Beginners and Experienced Librarians .................. 200
“Library without Walls,” as “Place” and as “Placeholder” ................. 203
Needs Assessment and Program Statement ..................................... 204
Design Development: Schematics and Interior Design ..................... 206
Construction Documents: Working Drawings, Schedules, and
Specifications ............................................................... 209
Floors ................................................................................. 209
Heating, Ventilation, and Air-Conditioning, and “Leadership
in Environmental and Energy Design” (LEED) ......................... 209
Electrical Power ................................................................. 211
Physically Challenged Patrons .................................................... 212
Acoustics .............................................................................. 213
Shelving ................................................................................ 213
Lighting .................................................................................. 214
Staff Work Spaces ................................................................. 216
Special Collections ................................................................... 217
Displays and Exhibits ............................................................... 218
Furniture ............................................................................... 219
Microforms ............................................................................ 221
Computers ............................................................................... 221
Security ................................................................................. 222
Signage ................................................................................... 224

* © Stephen G. Margeton, 2019. This bibliography is a revised and updated version, which first appeared in Designing Law and Other Academic Libraries: Building upon Change, 3rd ed.
** Professor Emeritus and former Director of the Judge Kathryn J. DuFour Law Library, the Columbus School of Law of The Catholic University of America, Washington, DC.
Patron Amenities .......................................................... 224
Staff Amenities .......................................................... 225
Expansion and Renovation ............................................ 226
Transition, Occupancy, and Punchlists ........................... 226

¶1 Readers may wonder whether preparing a bibliography on library design and construction is a valuable exercise during a noticeable period of library downsizing, administrators strapped for funds, and little renovation or new construction on the horizon. Yet most librarians would agree that libraries continue to evolve and reinvent themselves. At some point many library administrators will face the challenge of improving lighting, upgrading mechanical systems, downsizing work areas, increasing student amenities, and even repurposing library spaces. Truly, our libraries are not “going away,” just “going different ways.”

¶2 The books, book chapters, and articles listed herein do not represent a comprehensive list of library design texts but rather embody what the author has found noteworthy. Some of the materials below are older and classic; others, newer but significant. Some books cover the whole range of design topics and can be found among the materials in the section on Survey Works.

¶3 The bibliography is arranged by construction planning activity, new academic library design trends, and specific library space. The table of contents will assist the reader in quickly finding a topic of particular interest, though of course, many titles could fit within many topics.

Designing Library Spaces That Encourage Learning


The author discusses the changing role of the library—commons or athenaeum? He argues that the hallmarks of information commons—user-designed space, nonlibrary services, and clusters of computers—have led to increased numbers of students who come to use the generous computer resources rather than more typical library services. He further postulates that the increase of small mobile computer devices will obviate the need to use library equipment, and that a better model for future library services will be the athenaeum model, which emphasizes librarians as scholars and educators, who sponsor lectures, conferences, and presentations for students.


Mestrovic’s invitation to a variety of design professionals has resulted in a work with interesting chapters covering topics that are useful for the beginning planner. Particularly worthwhile are the introductory pieces on working with the architect and contractor, sustainable design, lighting, and integrating technology. Chapters are short and frequently include excellent bibliographies.


This excellent article discusses the changes in students’ learning styles and the methods that libraries may adopt to accommodate these new patterns. First, the
author reviews contemporary law library design history, noting the evolution from quantitative accreditation standards to more flexible, qualitative principles, and the migration to electronic information. Next, Peoples examines the scholarship on the new concept of “libraries designed for learning,” which focuses on the social dimensions of learning, as well as the influence of the electronic research revolution. The designed-for-learning model hypothesizes that many campus areas outside of the classroom, including the library, can have greater impact on the learning process. Accompanying arguments demonstrate how one can balance both social and communal spaces in the library to achieve learning objectives. Such spaces might include silent study areas, spaces for collaborative study, and areas for just plain socializing. The balance of the article investigates methods by which the library director can “design in” features that follow this new paradigm.

Sumerville, Mary M., and Lydia Collins. “Collaborative Design: A Learner-Centered Library Planning Approach.” *Electronic Library* 26, no. 6 (2008): 803–20. The authors discuss the benefits of “collaborative planning” of faculty, students, librarians, and other campus stakeholders necessary for the creation of a successful learning commons. This article emphasizes that the “highly participatory” design approach must continue as changes in pedagogy advance. The authors also cite academic institutions that have developed library facilities, services, and systems using this approach.


This text divides its essays into three parts. Part one surveys existing innovative library case studies. Part two identifies new trends and ideas covering contextual factors, current ideas in library space design, and learning spaces. Part three invites the “futurists” among professional librarians to speculate on how spaces will develop.

**Making the Case; Collecting Data**


This book focuses on the importance and power of using data to make strong arguments to library funding agencies and policy authorities when trying to preserve, grow, and enrich programs. Particularly useful is the chapter on how to use data effectively, cautioning the surveyor to be careful to rely on only valid statistical results, thus avoiding reliance on inaccurate data. The author explores the methodology of preparing a strong survey and discusses various issues of working with focus groups. Lastly, she examines the details of presenting the survey findings in the most visually influential manner. The book’s intended readers, however, are public and high school audiences.


Kopycinski and Sando’s Clip Note describes and summarizes a survey sent to 118 college and university libraries inquiring about their experience with user surveys. Included with the interpreted results are the sample surveys that went out to faculty and students. This material might be useful for evaluating and drafting survey questions, although methodology, questions, and related elements change rapidly in this field.

The author provides a very thorough discussion of the *why* and the *what* in collecting statistics to support many types of public projects. Between its covers are chapters on the objectives of collecting data, methods used (including focus groups, questionnaires, and samplings), data analysis, and data utilization. The appendix includes many examples of tools for planning and helping constituents visualize the project.


The authors in this book rely on a theory that library designers should take a holistic look at library design, recognizing that patrons encounter many “touchpoints” that all add up to a good or bad user experience. With this in mind, the book tackles the areas of library design and use that will have the most effect on patron attitude. Among the topics thought to be essential are the physical design and upkeep of the library, the policies in place, library signage, and the institution’s online presence. The authors maintain that if all touchpoints are tuned to the users’ needs, patrons should come away with the general feeling that the library and its services are useful, usable, and desirable.

**Survey Works for Beginners and Experienced Librarians**


Allen’s look at project management provides an interesting and extremely informative work on all types of library management projects from “strategic or operation projects” to “simple or complex projects” to “local or distributed projects” (p.3). This includes everything from moving a library to developing shared services to building a learning resource center. The material also discusses the financial and the people side of projects that involve change.

Divided into eight short chapters, the material of most interest includes hints on the importance of detailed planning for successful project management, including how to prepare a brief outline of the project, an action plan to carry it out (including resources, both financial and personnel), and a strategy for risk analysis.

Later chapters cover the evaluation process, as well as how to use IT to support the necessary labor. Budgeting, interfacing with people, and working in a partnership complete the text. The book is well written with interesting examples. It is a useful read, especially for newcomers to project management.


Unfortunately, new or renovated libraries cost substantial sums of money. Butler’s book provides food for thought by examining case studies of successful capital campaigns. Eleven administrators recount the tales of fund-raising, which should provide information and inspiration to librarians contemplating the process. Chapters 8, “The Library’s Role in the Capital Campaign,” and 11, “What Moti-

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¹ A second edition of this title was published in 2018, after this article was submitted and accepted.
vates Presidents to Raise Money for Academic Libraries,” are particularly useful. Chapter 12 includes an excellent bibliography.

DeChiara, Joseph, and Michael J. Crosbie. *Time-Saver Standards for Building Types.* 4th ed. Boston: McGraw-Hill, 2001. This unusual item for the bookshelf should be consulted at another library rather than purchased. Designed for architects, the work summarizes basic data for the most common building types. Chapter 4, “Educational Facilities,” includes material on academic and research libraries. Many formulas and standards—for example, those for column spacing, seating configurations, ceiling heights, aisle widths, study room sizes, and books per linear foot—are crammed into 17 pages. The chapter also includes other types of educational facilities, as well as educational and administrative technology and security.

Hawthorne, Pat, and Ron G. Martin, eds. *Planning Additions to Academic Library Buildings: A Seamless Approach.* Chicago: American Library Association, 1995. This short work presents three case studies for the reader’s consideration. Each demonstrates the close working relationship between library staff and the architectural design team required to ensure a successful, seamless library addition. As one case study author notes, “a seamless addition is one in which the architectural design, floor plan and support functions, such as climate control, pedestrian traffic ways, and elevators all work together to create a safe, easy-to-maintain, adaptable, pleasing and scholarly environment.” Very clear visuals and a checklist of relatively recent additions to academic library buildings are included.

Leighton, Philip D., and David C. Weber. *Planning Academic and Research Library Buildings.* 3rd ed. Chicago: American Library Association, 2000. Leighton and Weber’s third edition of the original Metcalf library planning guide is the bible of library planners. It does not matter whether one is planning a private, public, or academic library, the material included in this monumental work is adaptable to all. An excellent table of contents and a very thorough index direct the reader to the appropriate material. Both are particularly useful to those who do not plan to read the work from beginning to end.

Lidsky, Arthur J. “Why Hiring a Star Architect Isn’t Always a Stellar Idea.” *Chronicle of Higher Education* 51, no. 29 (March 25, 2005): B18–19. Lidsky cautions senior administrators about the occasional pitfalls of hiring architects who have star power. While the author recognizes that “star architects have their place,” much of the article suggests that this place might not be in academia. Several recent high-profile campus buildings are reviewed, noting in each instance why “sculpturally” influenced building designs may prove less adaptable to change as curricula and programs evolve.

Lushington, Nolan. *Libraries Designed for Users: A 21st Century Guide.* New York: Neal-Schuman, 2002. This work updates an earlier text of a well-respected authority on library design. It is divided into four parts: history, planning process, specific functional areas, and “source box.” This text is especially strong in the features and “source box” sections, the former of which covers the main features of modern public librar-

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ies—for example, administration offices, staff areas, computers, and lighting. “Source box” includes materials relegated to appendices in other works, including shelving specifications, suppliers, and the like.


The subtitle says it all. The work is especially helpful to first-time library designers because it summarizes each major segment of the design project in an easy-to-read length and format. Individual chapters focus on programming, building design, construction documents, bidding and negotiation, construction administration, and the like. The work also provides a good refresher for the experienced library designer.


This title covers traditional academic library design information and important newer trends, such as libraries designed for learning, libraries without walls, libraries as placeholders, Leadership in Energy and Environmental Design (LEED), and wi-fi installation. The manual serves as a starting point for librarians, architects, deans, faculty, and institutional administrators new to the academic design and construction process. The text collects in one volume the basic information one needs to know about the sequencing and progression of a large construction project. The core of the text focuses on planning for academic library spaces, operations, and services. Particularly useful are the many chapter footnotes that refer readers to experts in the field for more in-depth information. The appendices provide additional resources, including an annotated bibliography, a typical construction project timeline, and a list of law schools holding archives and special collections. A comprehensive table of contents and index provide many points of entry into the work.


This short book chronicles the journey of the Georgetown Law School building committee chair, as he supervised the $61 million project to construct both an international law building (that included a law library) and a fitness center, which were to be final additions to the downtown Washington, D.C., complex. The day-to-day trials and tribulations of a construction project prove to be very worthwhile reading for newcomers to the construction process.


*Building Science 101* is a concise look at the basic terms, processes, and people that will be encountered by any librarian charged with renovating a building or designing a new facility. Of particular interest is the authors’ focus on building maintenance and facilities management, which emphasizes getting a good return on one’s investment when purchasing major building components. The work includes sample charts of facility operating costs, along with brief chapters on the various parts of the structure, including foundation, floors, walls, ceiling, and interior finishes.


Experienced library design consultants Schlipf and Moorman have written a very substantial (1000-page) textbook, which evolved over a 20-year period covering most aspects of public library design and construction. Two detailed points of
entry, a must for such a large volume, include an exhaustive table contents and an easy-to-use index. All the essential planning information for design and construction of a major public library, including site location, funding, remodeling, overall design, and even the nitty gritty of building mechanical systems, is covered. Other topics not usually mentioned in design materials include “dysfunctional designs,” converting nonlibrary spaces to public libraries, and an interesting subchapter entitled, “What can go wrong when you work with architects.” For those not familiar with the great variety of study room possibilities—a popular library feature with patrons and civic groups—the authors have devoted more than 50 pages.


The author, a media librarian, discusses the interaction between librarian, architect, contractor, and university development office during the library planning and design phase of the Sam Fox School of Art and Design at the University of Saint Louis. She offers practical tips in maintaining positive, collaborative relationships, while at the same time focusing on the myriad issues that arise during such a project. A newcomer to the building process herself, she offers guidance about how and when to intercede in the design phase, particularly if the architect is unfamiliar with planning library space.


Although limited to the experiences of employees at one library over a four-year building project (and a public library at that), this work is unique because few texts truly approach the construction process from the staff perspective. I especially enjoyed chapter 5, “Dealing with Construction Professionals.”


This work is a very worthwhile addition to the bookcase. As the subtitle suggests, it provides a thorough and practical approach to planning for, and dealing with, the day-to-day design and construction issues of new library space. Chapter 2, “The World of Architects and Contractors,” is especially helpful to librarians who wish to learn more about the politics of working with professionals. Chapter 8 does an excellent job of briefly surveying floors, wall coverings, and furnishings. Overall, this is an excellent source for beginners.

“Library without Walls,” as “Place” and as “Placeholder”


Peoples reports that public and university libraries have embraced placemaking theories to develop user-centric library spaces. Placemaking has largely been overlooked in the context of academic law libraries. The author explores the range of space planning choices available to law libraries as they downsize their print collections. Peoples goes on to thoughtfully present all of the benefits of reimagining law library space using placemaking concepts as possible options.


The authors address the changing study and research habits of law students. They hypothesize that because students like to study in groups with some ambient noise and activity surrounding them, librarians should plan to have sufficient seating
for some of these activities outside of the library proper. However, they are quick to point out that ABA standards on library seating capacity should always take precedence and that outside seating should complement the library’s chairs for quiet research and study. They also reaffirm that the mission and program of housing research materials suggest that the collection must be within the walls for proper library control.


Young takes a fresh look at law libraries where students are within a place of their own choosing that cannot be controlled by faculty and other school influences. It is a neutral gathering space where all people feel included, a place where a leveling on conversation and contact can be achieved. It is also a place for reflection, relaxation, and interaction and, lastly, a place that feels like home. Noting that recent authors believe libraries are evolving from monasteries into marketplaces, Young indicates that getting the right design mix is not easy and provides some context for thinking through what students really want.

Needs Assessment and Program Statement


This is an excellent source to learn the basic “nuts and bolts” of library construction and maintenance. Important areas of planning for, and living through, a construction project are laid out for the project newcomer. Briefly discussed topics range from the design process to building systems, standards and building codes, construction plans, interiors, signage, security, “green libraries,” and, of course, individual library spaces. Later chapters cover library maintenance and the operation of a facility undergoing renovation. Lots of practical information for beginners in a 200-page practical reference book.


The chapter presents a good overview of issues raised in undertaking a needs assessment survey and preparing a written statement. Basic to the work is coming to consensus among team members about the useful building life span, effects of technology, influence of curricula, and the like. Methodology for gathering and analyzing information is also discussed in detail.


This short work (24 pages) is an extremely useful starting point for planning net assignable space in the new or soon-to-be-renovated library. The concepts of programmed and nonprogrammed space (net to gross) are discussed. Required square feet (or square meters) for library activity, special features, and equipment, all of which can be adapted to individual library plans, are suggested. Useful furniture and equipment placement illustrations are included.

4. Collected in the work are 10 papers from the Library Administration and Management Association Buildings and Equipment Section Preconference at the 1984 American Library Association Annual Conference, Dallas, Texas.
Griffey, Jason, ed. “Library Spaces and Smart Buildings: Technology, Metrics, and Iterative Design.” Library Technology Reports 54, no. 1 (January 2018): 5–29. Griffey edits a Library Technology Reports issue that examines how the “Internet of Things” (objects embedded with sensing devices that report patron patterns of use and daily building operations) can improve library services, increase student satisfaction, and achieve cost reduction. To achieve these goals, the author postulates that the future of gathering statistics for design purposes includes new measuring standards by which we evaluate and quantify patron activity. Using established software such as Raspberry Pi or Beaglebone, which work in tandem with sensors installed throughout libraries, one can create automated collection devices. To demonstrate how this works, the first contributor to the Report documents how staff tried this concept to tackle noise reduction by developing an LED NoiseSign, a real-time sign that flashed notification of unacceptable noise levels, based on preset decibel-level analysis. A second contributor at another facility discusses furniture tracking, in which tracking devices installed on equipment followed the “movement of furniture . . . [with the hope] to better understand our users’ interactions with its spaces . . . to illuminate patterns of student work, examine density of particular work areas, and ultimately create more effectively designed learning spaces” (p.24). Lessons learned from each project reveal successes and pitfalls, as well as technology and privacy issues to consider—a new way to undertake a needs assessment.


Hernon, Peter, and Joseph R. Matthews, eds. Reflecting on the Future of Academic and Public Libraries. Chicago: American Library Association, 2013. Through a series of scenario-planning operations, the Hernon and Matthews book explores the short-range future of what various interviewees see as the future of academic and public libraries. Chapters 5 and 6 address the future trends of academic libraries and present some interesting forecasts, which range from the library as “traditional service provider” to the library as a “learning enterprise,” as “expanding in its service role,” as a “scholarly publisher,” and as a “more active research partner.” Space considerations also are mentioned as the individual scenarios warrant.


Mason, Ellsworth. “Writing the Library Program.” In Mason on Library Buildings, 72–90. Metuchen, NJ: Scarecrow, 1980. The chapter discusses the entire needs assessment and programming phase of library design. It covers staff involvement, working with an architect, areas of specific concern (groups) within the library, and student and faculty input to the process. The author indicates he has worked on more than 80 library projects, which alone is a good reason to read this older piece. The footnotes provide a lively description of some of his projects.
Design Development: Schematics and Interior Design


Brown updates her 1995 work on interior design for the new decade. Of particular interest are the chapters on signage, selecting materials and finishes, and lighting and acoustics. Chapter 4, “Library Furnishings,” is particularly strong, and includes shelving requirements. The work uses many photographs to illustrate the text.


Carroll’s chapter introduces using bubble diagrams to express relationships between library areas and operations. As the author indicates, trying to write out all of this information (about which space goes where in the building) would quickly become very difficult. Carroll illustrates how the diagraming process can be used to great advantage in library design. Many bubble diagrams are included.


This excellent, classic chapter introduces one to the world of color and describes how to use it effectively in library spaces. Particularly interesting is the discussion about how color influences a patron’s mood toward work or relaxation. Carpet color and drapery color are also touched upon briefly, as well as how lighting affects color.


Draper and Brooks have prepared a very useful chapter that focuses solely on library floors—carpet, tile, wood, and brick. The bulk of the material addresses the different properties of various types of carpet, including wool, nylon, and synthetics. Underlayment and cleaning are also mentioned. The authors are no fans of carpet tiles, but one must remember the piece was written in 1979.


French has prepared an excellent annotated bibliography for the law library director, as well as the library building committee charged with planning a new or renovated law library. It covers a broad range of construction science topics, from making the case for a new space to directing the final move. The bibliography has become essential reading by both the experienced and newly appointed academic law library designer.

Kemper, Cynthia. “At the Heart of a Law School: University of Colorado’s Law School Embraces the Library as the Core of Student Life.” AALL Spectrum 12, no. 7 (May 2008): 14–15, 35.

The author provides an overview of the design and construction of the Wise Law Library at the University of Colorado. Covered are the early funding problems,
as well as the ultimate solutions that restarted the delayed project, which finally opened in 2007. Also noted are limitations on building site space that drove the architect’s design for a centrally located, three-floor library. Of particular interest is the treatment of the library’s western theme and decor colors. As mentioned by the author, many energy efficient options and environmentally acceptable materials make this a gold-certified LEED project.


The *Codes Guidebook* describes in general all of the various national and international standards of which architects, engineers, interior designers, and other professional building consultants must be aware when planning the interior of a facility. It provides substantial detail about the background and requirements of interior design codes. The book is easy for lay readers to understand and clearly explains how codes should be interpreted in a very readable format.

The codes include occupancy classifications and loads, means of egress, fire-resistant materials, fire protection systems, plumbing and mechanical requirements, electrical and communications requirements, finish and furniture selection, and the Americans with Disabilities Act (ADA). The appendix lists code organizations, standards organizations, and the like. It is a useful background source when conversing with architects and designers.


Mahnke’s handbook on the psychological effects of color on human beings is thoroughly researched and written by an author who made research in color theory his life’s work. The text delves into the relationships of human beings and their environment. Although color can be seen throughout the natural world, the book focuses on the use of color in the man-made environment.

The first part of the book “looks at . . . factors that make up and influence human response to our indoor and outdoor surroundings” (p.3). The second part, perhaps the reason to peruse the book, concerns itself with “color and light for a variety of environments” (*id.*). Diverse institutions are reviewed in this section. All aspects of color attributes are covered (hue, saturation, lightness, contrast). Perhaps most interesting for librarians in the process of designing space is the chapter on the biological effects of light.


Good descriptive article of Fordham’s new T.J. and Nancy Maloney Law School high-rise library, part of the first new law school construction project at the Lincoln Center (New York City) university location in 30 years. The new library grew only 5000 square feet more than the existing facility, largely due to changes in research requirements and urban construction costs. The library features all of the expected new student conveniences. “If any architectural component of the new library best conveys the professionalism, seriousness of purpose and prestige, it is the Weinstein Library Administration Suite [with its] conference room floor-to-ceiling windows overlooking the plaza at Lincoln Center” (p.24).

Beginning with the biannual supplement to Library Journal of 2009, the editors reprint important library projects that have captured the attention of the library world because of their innovation, design excellence, and forward thinking. The book’s division of materials includes chapters on flexible strategies, classic buildings updated, green “LEEDers,” building on a small budget, trend followers, and iconic institutions. Great photography enhances the compilation.


O’Brien provides a good overview of the schematic and design development process. She carefully describes how architects work with very precise functional and spatial requirements in the form of circles and arrows. Discussion about how such drawings evolve into the design for a functional library follows.


Peoples pens a fine description of the renovation of a former city-block-sized high school building into the new downtown campus of the Oklahoma City University School of Law. Touting spectacular period architecture, the new campus provides a two-floor spacious library that includes a learning commons, café, numerous study rooms, and places for quiet contemplation. To prepare for the move, the library discarded some 87,000 print volumes and 70,000 microfiche equivalents over a four-year period. The library belongs to several consortia that provide law materials on demand. The “library without walls” concept is embraced throughout the building.


Sannwald’s sixth edition of the Checklist keeps pace with the evolution of library architecture and engineering by accomplishing what it sets out to do: furnish the reader with authoritative checklists for every facet of library design.


The article describes the theory and use of color in the work environment. Among the issues discussed is the practical use of color to disguise or highlight features. The psychological uses of color are characterized and include how it encourages different employee moods. The effect of light on color and the relationship between color and safety round out this excellent overview.


“Where to put the caterers” sums up the gist of this short article that addresses how demands placed on large city libraries have undergone a “quantum leap in the sophisticated library facilities and services” (p.110). While written from a large public library point of view, the issues covered lend themselves easily to the academic setting. Academics likewise are faced with the demand for meeting rooms, auditoriums, and requests to use the library for “elegant dinners, to weddings to wakes” (p.110). It is a truly down-to-earth look at a whirlwind of change.
Construction Documents: Working Drawings, Schedules, and Specifications

See supra at 201.

See supra at 202.

Floors

See supra at 204.

See supra at 207.

Scott's work, like Yatt's below, is an easily readable architectural/engineering work that explains how architects design buildings. It covers all of the modern methods of constructing buildings and the national and local building codes to which buildings designed for different occupancies must conform. Substantial space is allocated to fire protection and means of egress, as well as to the ADA. Scott makes the learning process relatively simple. There are excellent graphics and a reasonably good index. It is a worthwhile addition to the library's reference collection of design titles.

This text can help the librarian decipher why architects and engineers design buildings the way they do. In addition to being readable, the work includes excellent pictures and indexing. This is an architectural text to keep in your reference collection.

Heating, Ventilation, and Air-Conditioning, and “Leadership in Environmental and Energy Design” (LEED)

See supra at 204.

The author, a frequent lecturer on green buildings, has written a very readable yet technical text on designing sustainable buildings. Beginning with the theory of
sustainable construction, she explores many topics, including assessing library site location, energy management of lighting and mechanical heating and cooling systems, characteristics of green materials, indoor environmental quality, construction management, and building operation and management. The book should be on a librarian's must-read list when beginning a new building or renovating.


The book flyer indicates that the authors' purpose is to introduce “librarians and design professionals to information, standards and tools necessary to construct or renovate a library in accordance with the United States Building Council Leadership in Environmental and Energy Design (LEED).” A second goal is to instill confidence to construct sustainable buildings, including buildings under renovation. Chapters follow this philosophy by focusing on new structures, major renovation projects, and existing buildings being fitted with updated features that “LEED” to sustainability.


For the librarian trying to understand the principles of HVAC systems, one really has to turn to a serious technical manual. Fortunately, *Heating Systems* is a very readable manual. One can skip over the chapters on types of boilers to the more relevant chapters on “Alternate Means of Heat Generation,” “Systems and Controls,” and “Energy Consumption of Heating Systems.” Although published for a British audience, much of the information transfers easily to U.S. construction.


See supra at 207.


The author indicates that the almost universal acceptance and popularity of modular designed libraries over the past 50 years may be waning in favor of facilities that focus more on patrons’ needs and the lifetime costs of operation. Surveying 10 recently (ca. 2009) completed library projects, he notes that we may return to library designs that are more people-friendly (high ceilings, natural lighting, study rooms, food service, etc.). He focuses too on more efficient heating and cooling systems, a very real, ongoing budget issue. The survey also reveals that academic libraries are capping the size of book collections because material is online or easily borrowed. Librarians also are teaching more to offer value-added expert services.


An excellent source to which both neophyte and experienced librarians can turn to understand the basics of building operation, housekeeping, energy management, security, disaster planning, and other issues that help reduce costs and ensure that the structure and environment are properly maintained. The authors cover the building from roof to pavement, emphasizing the importance of “designing in” maintenance strategies and energy saving features. Checklists cover an array of important information, including the useful life span of building components and lighting applications.
MacPhaul, David. “Heating, Ventilating, and Air-Conditioning (HVAC) Systems.” In *Sticks & Bricks: A Practical Guide to Construction Systems and Technology*, edited by Christopher C. Whitney, Robert J. MacPherson, and James Duffy O’Connor, 187–212. Chicago: American Bar Association, 2001. Although technically written for attorneys wishing to learn more about the construction industry before trial, *Sticks & Bricks* also may easily serve as an introduction to all major building systems and components for the library director and building committee. One can delve into such arcane topics as “concrete basics” and “curtain wall design,” but the chapter on HVAC systems, as well as those on electrical systems and plumbing, probably will be thumbed through more regularly. The work also includes chapter glossaries and an excellent index.

Marcum, James W. “Design for Sustainability.” *Bottom Line: Managing Library Finances* 22, no. 1 (2009): 9–12. The article investigates the challenges of designing sustainable library space. The author notes that there must be a new mindset and strategies when dealing with “widespread professional and staff engagement” (p.12). He concludes that clear vision and purpose are essential to a successful learning environment.


**Electrical Power**


Physically Challenged Patrons


Beck’s chapter on “wayfinding” in libraries proves to be excellent background reading for those embarking on a design project. She argues for a simple spatial library layout that requires less cognitive effort for users who represent a wide disparity of ages and may be either able-bodied or physically challenged. The author posits that universal design, which “goes far beyond the minimum specifications and limitations of legislated mandates for accessible and barrier-free facilities,” serves “the potential needs of all users” (p.20). The piece cites many examples of how good visual and tactile design serves the needs of different ages and classes of users. It suggests that technology, color, signage, and maps play increasingly important roles in helping libraries embrace physically challenged patrons.


This report briefly covers special technology, which libraries must furnish to their disabled patrons if the institutions provide free access to public programs and services, including electronic services. If libraries offer free access to computers, they are responsible for providing adaptive technologies for those who need it. Chapter 2, “Making the Right Decisions about Assistive Technologies in Your Library,” provides good coverage of equipment on the market. Chapters 4 and 5 discuss what type of access to provide to patrons with disabilities in order for them to access the library’s digital collections and the Internet.


This concise work (92 pages) covers all issues one should consider pertaining to the ADA when constructing a new facility or updating an older library. Particularly useful are chapters on building design issues, accessible seating, and safety and security concerns. A selected bibliography includes handbooks, manuals, application of the ADA, and videos.


Although aging a bit, the Dalton text is still worth adding to your collection of ADA guides, if you can find it. Spanning 22 chapters, everything there is to know about the deaf and hearing-impaired patron and staff member can be located within its pages. Scholarly references are included throughout the 371-page book, as well as a very thorough table of contents and index.


Chapters in this text cover the many different aspects of designing libraries that both

6. Keeping in mind, of course, that this book precedes passage of the ADA.
comply with and exceed the requirements of the ADA. Accepting the premise that students with disabilities are now often “mainstreamed” in the academy and have come to expect disability-friendly libraries, chapter contributors address individual disabilities and specific accommodations. Appendix B includes a sample generic survey for identifying specific library accommodations required by disabled users.


Even though this pamphlet predates the ADA, it recommends important barrier-free design solutions to assist physically challenged patrons as they use new or rehabilitated facilities. Many of the design requirements are accompanied by simple, yet effective, illustrations. An eight-page “Suggested Revised Accessibility Checklist” is included.


See supra at 208.

**Acoustics**


This article is the result of a site visit to four South Florida academic libraries that agreed to participate in a study of noise management, and what steps each institution took to curb problems with acoustics. Some interesting tactics for dealing with unwanted acoustical issues include observing student behavior to identify naturally noisy locations, using book stacks to buffer sound, and separating group study and casual lounge areas from individual study carrels. The authors also emphasize that the more comfortable the atmosphere of library spaces, the more conducive to noise.


This short article emphasizes a team approach to isolate the most common sources of acoustical disturbances in the library caused by poor design. The author catalogs a variety of construction options for effectively controlling sound emitted from HVAC systems and electrical lighting. She advises setting “standards for what is acceptable” at the outset and keeping a dialogue going among all parties concerned. Lastly, she implores the reader to adhere to the extra measures specifically designed into the project to control sound.

**Shelving**


This is a brief but thorough account of one library’s investigation, planning, and installation of compact shelving. Although a bit dated, it provides an excellent overview of the decision-making process that must be undertaken when planning for a compact shelving installation. The work also includes a useful request for proposal for soliciting bids to supply mobile equipment.
See supra at 206.

See infra at 219.


Eckelman and Erdil report the test results of 15 samples of bracket-type library bookstacks submitted by eight different vendors. This was the first performance test study undertaken since the Single-Tier Steel Bracket Library Shelving Standard was adopted in 1994 (see following entry). The report explains the various divisions of the ANSI/NISO standard and the type of shelving covered, and offers a definition of a manufacturer sampling, a list of material tested, and a list of some eight physical tests that should be carried out on the shelving and its components. The tests cover both the integrity of the structural parts and the bookstack paint finish. Tests measure loaded “uprights” lateral deflection, as well as shelf sagging. Finishes are measured for gloss, adhesion, and resistance to damage from various substances. Individual test results complete the report.


This pamphlet contains the standards library shelving should meet. It is divided into sections that define shelving terminology, product appearance, design characteristics, and physical characteristics determined by testing. Line drawings illustrate the various shelving features.


Novak’s report on the uses and purchase considerations when considering compact shelving is comprehensive, offering advice on when it is advantageous to use compact shelving and which type (manual, mechanically assisted, or electrical) is practical in individual library situations. The author’s information on system specifications is extremely thorough with many illustrations. Coverage includes descriptions about motor, rail, and wheel assemblies; the mechanics of various types of drive systems; and all the new safety technology that is quickly replacing older passive safety systems. Novak also provides some comparative information on the cost advantages of manually operated versus mechanically assisted equipment, as well as mechanically assisted systems versus electrically operated units. The report is a must-have item for librarians planning to purchase and install compact shelving. It also is useful to those who have older systems because it brings the reader up to date on the state of compact shelving technology.

**Lighting**


The IES Lighting Handbook is the engineer’s crib sheet for lighting recommendations in library reading areas, study areas, open access stacks, closed stacks, cir-
calculation desks, conference rooms, display areas, audiovisual rooms, computer and microform viewing areas, offices, and archives. This is quite an expensive item and one most likely available at a nearby library that has a substantial architecture and engineering collection.


This article was written following a study on daylighting, a controlled architectural tool that influences users’ perceptions and behavior in libraries. It primarily focuses on four environmental factors: user perceptions of privacy, personal space, territoriality, and crowding. As preparation for the study, the authors surveyed the subject field, which usually addresses lighting in other institutional settings, but not academic libraries. Here they found a strong preference for a natural inclination toward window study space.

Background research suggests that workspace lighting generally affects the body’s natural circadian rhythm, very much according to the lighting intensity. It also has a direct bearing on workplace satisfaction, the length we stay, and the quality of the stay. Users will even adjust easier to natural daylight glare than glare from artificial lighting. The conclusion states that “daylight and amount of time spent have significant effects on users’ satisfaction” (p.478). The study also recommends methods and venues for future academic library daylighting studies.


Mason’s article discusses the evolution of library lighting and the reasons why it continues to be an enigma for some architects. He surveys library lighting from the earliest period through the modern era, noting that recommended lighting levels fluctuated from the turn of the century’s extremely low levels to very high foot-candle standards that easy government library money encouraged after World War II. Along the way, Mason unmasks the problems of glare and dealing with lighting fixtures. He further contends that lighting installations were less successful in 1987 than they were 20 years earlier when he undertook his survey. Perhaps the most telling of his remarks is the admonition he gives to librarians: “Let us not, colleagues, turn illumination over to the architects” (p.141).


This is a “borrow item,” being long out of print. Metcalf dissects the anatomy of good library lighting by briefly analyzing five major lighting problems—quality, functionality, aesthetics, intensity, and costs—remarking that each contributes to making library illumination “one of the most controversial problems” for librarians and architects. Chapter 2 summarizes a wide range of viewpoints and the opinions of 55 architects, engineers, physicists, interior designers, physical plant engineers, financial officers, ophthalmologists, and psychiatrists who were asked to respond to lighting questions specifically geared to their field of competence. Metcalf completes the work with conclusions, observations, and his own recommended lighting intensity levels for specific areas of the library. The work is useful because it provides grounding in basic lighting principles and acknowledges varying professional viewpoints.

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7. Metcalf indicates that 9 different sets of questions were prepared. In addition, 12 personal interviews were arranged, and 12 group meetings were held.
Scherer, Jeffrey. “Light and Libraries.” Library Hi Tech. 17, no. 4 (1999): 358–71. Scherer provides an excellent overview of how the physics of light, both daylight and electric illumination, functions and can be controlled to facilitate a comfortable, inviting, and productive work environment. A frequent speaker at the ABA’s Bricks, Bytes and Continuous Renovation law school building design conferences, Scherer provides an understandable explanation of how light, a form of electromagnetic radiation, works and how it should be used in the library setting. A design checklist is included.


Subcommittee on Library Lighting of the Committee on Institutions of the Illuminating Engineering Society. “Recommended Practice of Library Lighting.” Journal of the Illuminating Engineering Society 3, no. 3 (1974): 253–81. This IES report updates an earlier 1950 study by the same name. It is essentially a guide to recommended modern (ca. 1974) library lighting techniques. It enumerates the objectives of good lighting throughout the library from reading rooms to more specialized spaces such as archives. The report summarizes general lighting criteria, including luminance, reflectance (off solid walls, floors, furniture, and equipment), direction and distribution, color, and glare. The subcommittee concludes its recommendations with information about lighting design procedures and lighting systems: daylight and electric light (incandescent, fluorescent, high-intensity, etc.) sources. Table 1 lists levels of illumination in foot-candles for individual areas within the library. Today the levels are generally a bit lower, but the information in the report is solid.

**Staff Work Spaces**

Boss, Richard W. “Ergonomics for Libraries.” Library Technology Reports 37, no. 6 (November/December 2001): 3–71. The entire Boss report offers a concise overview of what librarians should know about employee musculoskeletal disorders brought on by poorly designed chairs and other library equipment. Particularly helpful is chapter 4 (pp.25–31), which discusses the basics of creating an ergonomically sound environment. Additional chapters provide useful information on ergonomic standards (pp.33–38) and product lines (pp.39–48) designed to be ergonomically friendly (chairs, workstations, computer accessories, etc.). A glossary, bibliography, and directory of consultants round out this resource.


Joyce, Amy. “Chair, as in Cherished: Few of Us Could Stand to Lose Our Seats, Most Personal of Office Furniture.” Washington Post, January 11, 2004, F6. Steelcase manufacturer Ken Tamelig’s revelation: “I know a guy who changed five jobs within the company and took his chair with him, state to state,” provides you with a good sense of where the author will take this piece. The author describes some of the lengths to which employees will go to protect their equipment because it becomes like a “perfect fitting shoe.” The article is included here to
provide support for the director who may need to make an argument for well-designed staff furniture (and to explain why some staff may demand to take old furniture with them to a new space).


Saval, Nikil. Cubed: A Secret History of the Workplace. New York: Doubleday, 2014. Cubed provides an interesting history of the workplace environment and how it has developed over the 20th century. The author describes how Robert Propst, a professor of art at the University of Colorado, after trial and error, devised the first practical landscape-type furniture, which came to be known as the cubicle. Propst worked with furniture manufacturer Herman Miller, leading the way for other companies in the office furniture world. The book presents an interesting overview of how we got to where we are as a white-collar working-class society and the positives and negatives of being “cubed.”

Vasi, John. “Computer Ergonomics for Library Staff and Users.” In Recreating the Academic Library: Breaking Virtual Ground, edited by Cheryl LaGuardia, 107–20. New York: Neal-Schuman, 1998. A portion of Vasi’s chapter focuses on the difficulties staff encounter working on computers for long periods. The author suggests developing staff workspaces around an L-shaped computer workstation rather than a desk. He also recommends permitting individuals to select their own chairs and to customize work areas with peripheral equipment of their own choosing. The first part of the chapter covers similar information for patrons who use computers for shorter periods.

Special Collections


This chapter addresses general environmental requirements for rare materials. Among the issues discussed are appropriate lighting, climate, causes of pollution, self-destructing acidic materials, and biological attack. Several pages are devoted to temperature and relative humidity, as well as to humidity monitors. The author elaborates on standards prepared by the National Information Standards Organization, indicating that some variance may be required to account for fluctuation in HVAC performance throughout the building. Insect and mold control are also covered.


The editors provide the first set of standards for archives design in the United States. The manual covers every aspect of construction, from the building itself to display units. It also includes standards on archival environment, fire protection, security, and lighting among the various chapters. An excellent bibliography is included.

*Preserving Archives & Manuscripts* is an extremely well-written and inclusive text on preservation science. Of particular note for library designers are chapter 5, “Creating a Preservation Environment,” and chapter 7, “Storing and Housing Archival Materials.” In chapter 5, Rotzenthaler discusses temperature, humidity, and special equipment recommended for monitoring the space. Other chapter 5 topics include air quality, light, good housekeeping, and security, which covers the installation of various fire suppression systems. Chapter 7, “Storing and Housing Archival Materials,” covers storage shelving and containers good for use with archival collections. It addresses shelving requirements and product finishes considered acceptable. There is a special note about appropriate uses of compact shelving in the archives area. It also touches on cabinets and other equipment for the special collections room and the archives.

This thorough discussion of how to plan a special collections facility with an eye toward protection of materials is a worthwhile read before embarking on one’s own project. Beginning with a chapter on working with the consultant, Swartzburg and Bussey cover all of the pertinent design and construction issues from renovating older libraries to environmental protection and ordinary safety and security in newer facilities. They also include disaster preparedness.

**Displays and Exhibits**

See *supra* at 217.

Useful exposition of how different libraries mount displays in college libraries. Includes documentation.

See *supra* at 201.

While technically not an article on designing display space, this piece covers the field on various types of law library displays and how this information provides insight into what the librarian should consider when planning for furniture, cabinets, and the like. What kind of space will you need to create a display area, plug in an LED monitor, or position an exhibit case? Have you thought about storage space for old displays you may wish to recycle? Food for thoughtful display planning.

This chapter begins with a discussion of environmental issues when mounting exhibits, including lighting, temperature, and humidity. Brief descriptions of types of exhibit cases (flat, slanted-top, upright, and tabletop or shelf-mounted) follow. Although built-in millwork is not covered, wood products that “should not be used” in constructing millwork cases are discussed in detail.

**Furniture**


See supra at 216.


This second edition of Brown’s book is a completely reorganized and rewritten version, which includes substantial information about furniture requirements under the ADA, computer furniture, and library space design in general. The work also looks at furniture performance testing and standards in more detail. It has excellent photographs throughout and good illustrations of furniture (table and chair) construction methods. The chapter on service desks (circulation counters), sign systems, and display units proved useful, as did the short chapters on the furniture bidding process and the library furniture manufacturer market. Chapter 4, “Library Furnishings,” is particularly strong, and includes shelving requirements.


Brown’s first outing on planning library interiors is perhaps the most complete text available on library furniture. The book covers essential information on furniture construction, which proves to be quite helpful to the librarian unfamiliar with the characteristics of different types of wood and furniture assembly. Brown also surveys the categories of shelving, including mobile shelving. A must-have for one’s design bookcase.


One of the few reports that discusses in some detail the structural characteristics of chairs and tables. Eckelman categorizes different types of frame construction for both types of furniture and explains how the addition of rails and stretchers (side and front supports) increases furniture load-bearing capability. Section 3 discusses expectations for table performance and divides each table’s load-bearing capacities into light, medium, and heavy. In section 4, he describes the general nature of table support systems, highlighting with illustrations the various combinations of tops, legs, rails, and stretchers. Eckelman indicates four factors to consider when evaluating the strength of tables: “(1) total structural support system, (2) strength and stiffness of legs and other supporting members, (3) strength and stiffness of top and its reinforcing members, if any, and (4) strength and stiffness of joints and attachments” (p.367).

Carl Eckelman, the dean of library furniture testing standards, began his work with furniture in the mid-1970s at Purdue University’s Forest Products Laboratory and later continued at his own facility in Lafayette, Indiana. In this report, he describes the value and methodology of performance testing for chairs. Eckelman evaluates both single-point acceptance level testing (all products meet the requirements) and multipoint level testing (some products meet the requirements better than others do), emphasizing practical considerations for the vendor trying to meet testing standards. Most of the report is devoted to describing testing procedures, including the purpose of and the procedure to be followed for each test, as well as why the test is necessary. Reasonable acceptance levels for each performance test and the results of tests on 30 chairs complete the report.


This is an amusing though serious recounting of “good architects, a good manufacturer, and a decent sales company locked in torment with a learning librarian over the question of chair durability” (p.31). Lots to be learned about furniture testing and standards from one librarian’s experience. The author concludes with 10 very useful tips.


This title on library furnishings is one of but a few that limit their focus to how we purchase and use the great variety of library furniture and equipment. Of particular note are chapters on shelving and seating. “Seating: Types, Performance Testing and Use” provides a good overview of what types of chairs are available for libraries, how they are constructed, and in what manner they should be tested. Chapter 4 provides a good summary of what to look for in shelving, aptly titled, “Will It Meet the Test of Time?” The wide range of shelving systems is covered, which includes a discussion of structural features, stability, paint finishes, shelf depth, available components, and installation. Two other brief but useful chapters focus on the ADA and library signage.


This is not a must-read when purchasing tables, chairs, and carrels, but, for librarians who want to delve a bit further into the various types of woods, it provides additional knowledge. Woodworking methods and generous color photographs of dozens of wood types highlight the information.


Microforms


With much of our collections consisting of microforms, this article on microtext room illumination proves useful. The author briefly discusses a duality of lighting purpose (task and general lighting), effects of natural lighting, reading-equipment lamp intensity, and reflective materials used on walls and ceilings.

Computers


The authors have written a very readable text for the layperson on wireless networking. The book includes a short history of wireless communication from the early Marconi wireless to the present day. It provides reasons for why the library should go wireless, what hardware is required, and how to troubleshoot problems. The material also covers the types of wireless services and how networks can be kept secure. This text is good for the beginner or as a refresher for the more experienced staff member.


As the title suggests, Bailey and Tierney’s volume presents a brief overview of the development of the information commons from the mid-1990s through almost the end of the first decade of the millennium, giving special emphasis to planning for, implementation of, and assessment of the commons for academic libraries. Some treatment on the difference between an information commons and a learning commons fleshes out the early discussions, but the majority of the text is devoted to reports of successful commons projects at 20 colleges and universities.


This complete guide to design and construction of a technology-rich law school facility uses ideas that any academic institution can adapt. Barton walks you through all the pertinent steps of preparing for and carrying out such a detail-driven project, from forming a building technology committee, to making law school visits, to interviewing AV and information technology consultants. Special focus is given to technology spaces and functions, including adjacency requirements, as well as choices that must be considered when designing more faculty-oriented equipment, such as teaching lecterns in the digital age.


This report covers all the important information one needs to know to plan and install a wireless network in a library. The author first reviews network basics, including how wireless systems operate. In later chapters, he describes wireless LAN features, policies for operation, and the benefits that accrue to library users and staff. A discussion of websites that offer additional assistance rounds out the article.

The authors have invited senior library managers from across the globe to focus on the future of academic library space. The introduction covers a historical prospective of space requirements, and the following chapters discuss current approaches to designing library space, the influence of technology on space, the traditional requirements of print materials on space, and opportunities that should be considered for redesigning space. Among other interesting contributions are chapters on sharing space with the university, reimaging space for learners, and a case study that focuses on evaluating measures of using space.

Rajesh K. “Know Your Cat 5-6-7 Unshielded Twisted Pair (UTP) Network Cables.” *excITingIP.com* (November 11, 2010), http://www.excitingip.com/847/know-your-cat-5-6-7-unshielded-twisted-pair-utp-network-cables/ [https://perma.cc/7LJE-N9SA].

This web article is an excellent, concise source of information about “Cat x UTP (Unshielded Twisted Pair) cables [which are] the backbone of TCP/IP computer networks.” Describing UTP as “four pairs of copper conductors enclosed within an insulation outer bracket and using RJ-45 connectors (mostly) at the ends to terminate on the network hardware equipment,” the piece includes a breakdown of the available x series of cables from Cat 3 through Cat 7A cable, removing some of the mystery of jargon. It also describes how data travels over the cable in coded form, enabling the cable to transfer more data over limited bandwidth. Although nine years old, the article is useful and an easy read for the nontechnical librarian.


This text is a report of a survey undertaken in 2010 of the more than 350 library construction projects from 2003 through 2009. Each brief chapter reviews the characteristics of the responses in terms of the planning process and the scope of the building characteristics, such as size, multiuse, technology, seating, access and planning, and user spaces. For those at the very beginning of the planning process, the statistics can be very useful.


*See supra* at 217.

**Security**


Ayer’s article on Radio Frequency Identification (RFID) is a natural follow-up to Boss’s 2003 piece on the same topic (see below). In addition to refreshing the reader’s memory with an overall description of RFID technology, it focuses on the benefits of evolving standards and interoperability. Ayer begins with a brief discussion of why RFID failed to bring as much impact to library operations as the technology created in other industrial applications. The reasons she cites for the reluctance to upgrade control of hardcopy are cost, slow-to-evolve standards, introduction of electronic books, and concerns over patron privacy. However,
she believes that agreed-upon standards may pave the way to realizing the full potential of RFID, particularly with regard to functional interoperability among libraries.


This Washington Post article reports on the new Kastle System–produced app for smartphones, at the time in beta testing by 50 firms throughout the United States. KastlePresence represents the latest in keycard technology, permitting hands-free activation of electronic door locks when a smartphone is on and within range. The article notes other possibilities for the new software app, including improving security and activating other building structural systems as employees come and go throughout the day and night.


Boss does an excellent job of introducing the librarian to RFID systems and describes how they differ from existing library security equipment. RFID systems, using embedded microchips, provide specific identification information about library items, and operate by means of radio frequency transmission, dismissing the need for barcode scanning. Boss describes how the system works, surveys existing vendors, and provides a sample request for proposal (RFP) and glossary.


The Fire Protection Handbook provides answers to all the questions a librarian may have about building standards that effectively prevent, contain, and otherwise suppress a fire in the library. The work defines the terminology and explains basic fire prevention concepts and equipment, which can be particularly helpful to those unfamiliar with fire safety. Chapters of interest to librarians include those describing the fundamentals of fire-safe building design, fire warning systems, mechanics of fire suppression systems, and provisions for patron safety. A portion of chapter 8 covers fire-safe library and museum construction in detail. Includes excellent bibliographies.


Reflecting the realities of crime and natural disasters, Cravy’s work is a study in modern security measures for libraries, detailing every conceivable safety problem with recommended solutions. The work is heavier on library policy than on how to design library components to provide better security, but it does alert the reader to the many possible breaches of security that good library design must overcome. The author also discusses safeguarding electronic files and security for library special events.


Contributors discuss a variety of management issues for protecting special collections, from theft to disaster planning. Particularly informative is the chapter entitled “Law Enforcement in the Library,” which presents an overview of what to expect when reporting a theft to local authorities. Other chapters address what steps to take after a security breach, how to prepare for an internal security audit, and how to address collection security in terms of preservation.

Shuman’s book explores most areas of library security and safety, with particular emphasis on staff and patron safety. Considerable material is devoted to preparing staff for security incidents, as well as emergency and disaster management, which makes the work useful, though perhaps not essential, for the library design shelf. It has a good index and several important checklists. Readers will want to check out the section on electronic security and Shuman’s excellent bibliography.


Everything you need to know about adopting an RFID system for your library. There is a special emphasis on the cost factor and an insightful survey of many U.S. and international libraries that have committed to RFID. The table of contents is particularly helpful because of its useful, detail-level entry points. The book covers everything from making the decision to install the system, to determining return on the library’s investment, to protecting patron privacy.

**Signage**


*See supra* at 204.


*See supra* at 212.


Included here are useful suggestions for placing some restrictions on “out of control” signs. Although the article does not tackle major signage issues, it does move one to think about where all the brochures, guides, and so forth will find a home in the new library.


This early work evaluates what makes signage effective, particularly for patrons new to the library. It describes a broad range of successful approaches to signage theory.

**Patron Amenities**


Responding to the yearnings of the Internet generation, Texas Christian University (and at least a dozen other schools) added a bookstore-style coffee bar at its
library entrance in an effort to be more accommodating and increase patronage. The article indicates that libraries are incorporating meeting spaces and other gimmicks into new and renovated library spaces to bring students back to the library.


This report includes the findings of a survey on food and drink in libraries that elicited 105 responses, 68 of which were from academic law libraries. Typically, many law libraries are relaxing restrictions to make the library more welcoming and user-friendly. Those with restrictions cite material and vermin as chief reasons to continue strict policies. However, staff enforcement of policies continues to be a problem.


See supra at 201.


This kit reports on (1) the extent to which libraries permit food and drink, (2) the shift in the liberalization of consumption policies, (3) the methods of enforcing restrictions, and (4) success stories for management of food consumed in libraries. Reporting libraries indicate that restrictions on food and drink are being relaxed; that those libraries that do restrict food and drink are reasonably successful, although frequently staff are reluctant to enforce policies; and that posting information at the library entrance with clear reasons for the policy is the best deterrent.


The author summarizes the results of experimentation with a range of eateries: carts, coffee bars, cafés, and coffeehouses in public libraries. The article discusses size, costs, justifications, outsourcing, and products for sale. Short, but helpful.

### Staff Amenities


See supra at 206.


See supra at 220.


See supra at 217.


See supra at 217.
Expansion and Renovation


This brief article describes the background issues of a large addition to and complete renovation of the William & Mary Law School library. Among the points covered are problems with the old 1980 vintage library, the process of staging the project, and the difficulties of living with construction disruption for two years. Of particular interest are the many student-centered features incorporated into the new design: 12 study rooms, recreation space, a kitchen, and a number of comfortable lounges. Also noted is the greatly improved natural lighting.

Transition, Occupancy, and Punchlists


This book is a must-read for any librarian who contemplates a small or large collection move, whether within the building or to new quarters. Chapters on the planning process, measuring the collection, designing shelf layout, and recruiting workers are excellent. Individual chapters cover moving with carts and boxes. Special attention is also paid to moving microform collections. The appendix includes useful forms, worksheets, and sample signs. This title should be in every library's catalog.


Habich offers a well-designed manual for moving any library. It focuses on the analysis required for determining the size of your existing collection, projecting future growth, and designing a layout for the new space. No detail of the move is left to chance, from making decisions about whether to hire a professional mover (when and how, including a request for proposal) to planning a move without one. In the latter case, she covers self-moving logistical and management issues in detail. Of particular interest are sections on identification tagging for successful delivery of materials to the correct locations, providing collection growth joints (empty shelves and shelving units), cleaning books, controlling pests, and moving a disorganized collection. This work covers it all.


This concise and informative article chronicles every aspect of planning a move of some 300,000 volumes in four-and-a-half days. The piece includes analysis of the project objectives, consideration of alternatives, logistical and managerial methodology, organizing the plan, budgetting, and applying the plan.

*A Law Library Move* emphasizes the importance of pre-move planning. An entire chapter is devoted to organizing the library staff to accomplish the move and to manage extended workers. The authors note the importance of sensitivity to staff stress during relocation. The authors clearly explain several traditional methods of identifying materials for relocation. Tips on executing the move and dealing with post-move issues complete this concise work.


*See supra* at 208.
Sustainable and Open Access to Valuable Legal Research Information: A New Framework*

Alex Zhang** and James Hart***

This article evaluates the current status of access to foreign and international legal research information, analyzes the challenges that information providers have experienced in providing valuable and sustainable access, and proposes a model that would help create and facilitate effective and sustainable access to valuable foreign, comparative, and international legal information.

Introduction .......................................................... 230
Legal Research Information in Dire Need ........................................ 231
   Type 1 Information: Primary Laws ............................................. 231
   Type 1 Information: Teaching Materials ....................................... 232
   Type 1 Information: Legal Research Guides ................................. 234
   Type 2 Information: Links to Substantive Legal Research Information ...... 234
The Economic Model for Providing Free Access to Legal Information ...... 235
   Price of Providing Sustainable Free Access to Legal Research Information .......................................................... 237
Who Should Bear the Cost? ............................................... 239
   Access to Free Legal Research Information Promotes Legal Education .......................................................... 239
   Access to Free Legal Research Information Promotes the Core Missions of AALL and ABA ........................................ 241
   Access to Free Legal Research Information Benefits the Public and Enhances Access to Justice ........................................ 242
A New Framework: Crowdsourcing and Collective Wisdom .................. 243
An Open System .......................................................... 244
Theoretical Foundation: Crowdsourcing and Collective Intelligence ...... 244

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A New Framework .......................................................... 246
Appendix: Summary of the Survey ........................................ 250
The Survey and the Respondents ......................................... 250
What Respondents Want ................................................... 250

Introduction

¶1 This article evaluates the current status of access to foreign and international legal research information, analyzes the challenges that information providers have experienced in providing valuable and sustainable open access, and proposes a model based on an open system that takes advantage of the benefits drawn from crowdsourcing and collective wisdom that would help create and facilitate effective access to valuable foreign, comparative, and international law (FCIL) information in a sustainable way.

¶2 In 2015, we conducted an online survey¹ that identified the greatest needs of law librarians and legal information professionals for FCIL information: teaching materials; a list of experts, newsletters, and listservs; and blogs. In addition, respondents commented frequently on the need for primary legal materials, webpage links, listservs, and research guides that include search strategies. Although many of these materials already exist for free on the web, our survey results indicated that professionals who needed valuable legal research information were not finding it. The question became what causes the lack of connection between information provider and target audience?

¶3 We argue that the majority of the information that currently exists is not “valuable information”² that meets researchers’ needs. The key reasons that “valuable information” does not exist are lack of financial and institutional support and lack of an open system to provide such information. At the end of the article, we propose an open framework founded on the concepts of crowdsourcing and collective intelligence using resources from professional organizations, law schools, and libraries to provide more adequate access to useful legal information.

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¹ In less than two weeks after we distributed the survey by email to three major listservs (IALL, Int-law, and AALL), we received 243 responses composed of academic, firm, court, and corporate librarians, as well as attorneys and independent researchers from the United States, Canada, Europe, Africa, and Asia. The survey respondents expressed an overwhelming interest in four types of legal information: 79% of the respondents indicated a strong preference for teaching materials; 66% indicated strong interest in a list of experts, newsletters, and listservs; and 63% indicated a keen interest in blogs. In addition, the need for primary legal materials, links to webpages, listservs, and research guides that include search strategies frequently appeared in the respondents’ comments. A summary of the survey is available as an appendix to this article.

² Scholars in different disciplines have attempted to define the term “valuable information.” See, e.g., Martin J. Eppler, Managing Information Quality: Increasing the Value of Information in Knowledge-Intensive Products and Processes (2003); The Value of Information: Methodological Frontiers and New Applications in Environment and Health (Ramanan Laxminarayan & Molly K. Macauley eds., 2012); David B. Lawrence, The Economic Value of Information (1999). For purposes of our discussion, we define valuable information as being discoverable, accessible, and useful; coming from reliable sources; up to date; and meeting the needs of its target audience.
Legal Research Information in Dire Need

¶4 We cover two types of legal research information: Type 1 contains substantive materials, such as websites or databases containing primary laws, teaching materials, and research guides; Type 2 contains websites directing users to substantive (Type 1) materials, such as lists of experts, listservs, blogs, and primary legal materials.

Type 1 Information: Primary Laws

¶5 Thanks to the recognition that access to government information, including legal information, is a fundamental right in a democracy, many countries have passed laws or regulations opening up government information, including primary legal materials, to the public and have made it available online. For example, Legifrance, Gesetzim Internet, and Moniteur Belge all provide access to primary laws in the vernacular language. Some countries even provide English translations of selective laws on their official government websites, such as Japanese Law Translation and Korean Laws in English, offered by the Ministry of Government Legislation of Korea.

¶6 Major international organizations also compile and make available online foreign laws in specific subject areas. The FAOLEX database, for instance, provides access to primary laws of many member states in the area of food and agriculture. The World Intellectual Property Organization’s WIPO Lex database provides access to national laws and international agreements on intellectual property. The World Legal Information Institute (WorldLII) also provides access to the primary law of many countries.

¶7 A few major issues to accessing these primary laws remain, however. First, currency and dates of coverage vary widely among the websites. Due to different financial, technological, or institutional barriers, many websites offer neither current legal information nor historical legal information. For example, EUR-Lex, the official European Union database, carries the Official Journal in full text going back to the first issue in 1952 and up to the most current issue. Researchers who need

to access cases of the Inter-American Commission on Human Rights issued before 1970, however, still need to consult the print Annual Report of Inter-American Commission on Human Rights.\textsuperscript{13}

\textparagraph{8} Second, many of these sites need better search features and updated schedules. U.S. legal researchers who rely on Shepard’s or KeyCite might take those tools for granted and feel helpless when forced to research without them. Unfortunately, with very few exceptions,\textsuperscript{14} the reality is that most resources do not have a citator service that allows researchers to easily update primary laws.

\textparagraph{9} A third issue is sustainability. Websites sponsored and maintained by developed countries and major international organizations tend to be more stable. But even with stable websites, URLs and content could change often, without advance notice. For the government websites that provide the full-text primary laws, the real need is sustainability, easy-to-find guidance, and enhanced research capabilities.

\textbf{Type 1 Information: Teaching Materials}

\textparagraph{10} Survey respondents cited teaching materials, specifically FCIL teaching materials, as the most popular category of information, and they clearly indicated a need for a portal or website that makes FCIL teaching materials available. By “teaching materials,” we mean anything that contributes to a teacher’s preparation, classroom performance, student readings, exercises, and evaluation (e.g., syllabi, exercises, assignments, exam questions, and readings). A cursory look at what is currently available finds only AALL’s FCIL-SIS syllabi and course materials database, which was last updated in 2015.\textsuperscript{15} The website includes material such as syllabi, in-class exercises, interest/experience surveys, assignments, and lecture notes and material on various topics, such as human rights research, international trade research, and immigration law research. Most of the materials are in Word or PDF format, and there are audio materials available as well. In other words, it is a website that includes very helpful and diverse resources at first glance.

\textparagraph{11} If there is already such a useful website, why did so many respondents indicate strong needs for such a website? There are perhaps three reasons. The first is marketing. It has not been marketed as available to everyone who has such a need. “Available” here means both the ability to inform users of a site’s availability and tools that help users find what they need effectively. FCIL-SIS’s syllabi and course materials database is open to the public, not just AALL or FCIL-SIS mem-

\textsuperscript{13} Annual Reports, Inter-Am. Comm’n on Human Rights, https://www.cidh.oas.org/annual_eng.htm [https://perma.cc/YU82-8JHC].


bers. Librarians not specializing in FCIL may not realize its existence. Furthermore, few U.S. law librarians specialize in FCIL. In many libraries, general reference or research librarians who have not been actively involved in the FCIL-SIS are unlikely to know of the database's existence.\footnote{There are 326 members of the FCIL-SIS out of 4277 members of AALL. See Am. Ass'n of Law Libraries, By the Numbers, https://www.aallnet.org/community/membership/by-the-numbers/ [https://perma.cc/WD3K-Y26L].}

\footnote{12} Second, the database needs more frequent substantive updates. The current FCIL-SIS database was updated as of 2015, but most, if not all, of the materials were produced from 2010 to 2014. However, international and foreign legal research changes regularly. In the past two years, for example, many resources have changed, such as the revamping of the UN’s Official Document System in 2016. Teaching materials on UN legal research produced in 2014 or 2015 are unlikely to reflect that change. Furthermore, many of the FCIL-SIS syllabi and course materials available in the database still discuss print resources that have ceased print publication, such as the \textit{Foreign Law Guide}.\footnote{See Brill, \textit{Foreign Law Guide: Access to Global Legal Information}, https://brill.com/view/db/flg [https://perma.cc/RN5U-K6V6].}

\footnote{13} Legal research instruction should also teach research strategies and solutions to practical legal research problems as well as train students to use databases skillfully.\footnote{See Paul D. Callister, \textit{Thinking Like a Research Expert: Schemata for Teaching Complex Problem-Solving Skills}, in \textit{Teaching Legal Research} 30, 30–50 (Barbara Bintliff & Duncan Alford eds., 2011); Susan S. Katcher, \textit{Reflections on Teaching Legal Research}, in \textit{Expert Views on Improving the Quality of Legal Research Education in the United States}, 45, 45–52 (1991).} Recently overhauled ABA Standards 303 and 304\footnote{Am. Bar Ass’n, Section of Legal Education and Admissions to the Bar, ABA Standards and Rules of Procedure for Approval of Law Schools 2015–2016, https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2015_2016_abas_standards_for_approval_of_law_schools_final.authcheckdam.pdf [https://perma.cc/P9E7-GXNN].} call for courses that are “primarily experiential in nature,”\footnote{See id. at Standard 303a(3).} and the AALL Principles and Standards for Legal Research Competency contain a number of competencies that require high-level cognition. Principle III, for instance, requires a legal professional to know how to evaluate the authority, credibility, currency, and authenticity of the information retrieved. The terms “synthesize,” “articulate,” “craft arguments,” and “resolve” used in the Standards for Legal Research Competency are sophisticated cognitive skills that go substantially beyond rote memory. New teaching materials that have incorporated methods and strategies that apply these standards would undoubtedly enrich the existing FCIL teaching database and attract more users. The FCIL website, however, includes few or no teaching materials that address improving students’ ability to synthesize, articulate, and solve legal research problems.\footnote{Principle IV requires legal professionals to synthesize “legal doctrine by examining cases similar, but not identical, to cases that are the current focus of research, in order to articulate how courts should apply current authoritative and relevant case law” and to use “research results to craft or support arguments that resolve novel legal issues lacking precedent, when appropriate.” See Am. Ass’n of Law Libraries, Promoting the AALL Legal Research Principles, Competencies and Standards for Law Student Information Literacy Task Force, https://www.aallnet.org/wp-content/uploads/2017/11/2012-2013-CommFR-Promoting-the-AALL-Legal-Research-Principles-Competencies-and-Standards-for-Law-Student-Information-Literacy-Task-Force.pdf [https://perma.cc/34J2-EQD2].}

\footnote{16} There are 326 members of the FCIL-SIS out of 4277 members of AALL. See Am. Ass’n of Law Libraries, By the Numbers, https://www.aallnet.org/community/membership/by-the-numbers/ [https://perma.cc/WD3K-Y26L].


Finally, there may be room to improve the searchability of the current FCIL website. Currently, browsing and clicking are the only ways to access each of the resources. Adding full-text searching to the database would greatly improve its usability and efficiency. Using our definition of “valuable information,” we see room for improvement in making the existing FCIL teaching database truly valuable. Although the information available in the FCIL-SIS teaching database meets the needs of its intended audience in some ways (e.g., it is authored by reliable FCIL experts and provided by an authoritative organization), it nevertheless lacks timeliness, comprehensiveness of the content, sufficient discoverability, and advanced searchability.

**Type 1 Information: Legal Research Guides**

The survey also revealed a strong interest in legal research guides, especially ones that include tips and strategies for conducting legal research. Current choices are few.

EISIL (Electronic Information System for International Law), a free resource from the American Society of International Law, provides links to standard, foundational texts, particularly treaties and research guides, and a list of research resources on many areas of law in the field of public and private international law. It was considered one of the best starting points for international law research until it stopped updating in 2013.

GlobaLex, maintained by New York University’s Hauser Global Law School Program, collects legal research guides in the FCIL areas. Research guides are created and updated by legal researchers and subject specialists globally. GlobaLex guides are generally updated every two or three years. Guides often include an overview of legal system, background information, and a list of pertinent primary and secondary resources. GlobaLex is an outstanding example of providing sustainable access with good financial and institutional support.

**Type 2 Information: Links to Substantive Legal Research Information**

Quite a few websites offer links to freely available primary legal information in the United States and worldwide. For example, the Law Library of Congress’s Guide to Law Online provides access information to the three branches of government of each country in the world. But it does not link to any specific legal information. Instead it links to government sites that might include primary sources of law. As a result, users need to muddle through the sites to pinpoint the exact information they are looking for.

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22. Currently, under the extraordinary leadership of Barbara Bean, a retired librarian from Michigan State University Law Library, and Don Ford of the University of Iowa Law Library, the EISIL website is undergoing massive content updates and is expected to be available for access soon.
Another well-known resource that provides links directly to government publications, including primary law, is Government Gazettes Online. Unfortunately, due to a need for funding and human resources, the website stopped updating in 2003. Here, we have a good example of failure to maintain sustainable access due to lack of financial and institutional support.

We conclude that current websites do not meet users’ needs due to the lack of (1) sufficient discoverability, (2) assurance of the currency of information, and (3) more advanced searching functionalities. Each of these weaknesses is reasonably attributable to lack of institutional support and human and financial resources, which are discussed in detail next.

The Economic Model for Providing Free Access to Legal Information

Providing free access to international and foreign legal research is easier said than done. What are the justifications for providing free access to legal research information, and are they strong enough to overcome the costs? In this section, we argue that the types of legal information discussed thus far are analogous to legal scholarship and source code, which should be made available under open access principles and open source principles, respectively. Further, law schools and professional associations such as AALL and the ABA should bear the costs to provide free access to their stakeholders and legal researchers in general because doing so is an obligation consistent with their fundamental missions.

Open access, along with the closely related concept of open source, traces back to at least the mid-1980s (but the concepts predate software and even computers). In 1986, the Free Software Foundation published the famous Free Software Definition, authored by Richard Stallman. The gist of the Free Software Definition is that free software is “free as in freedom,” but not “free as in beer.” More specifically, four freedoms define free software or, in a broader term, open source: (1) “the freedom to run the program, for any purpose” with no restriction in terms of purpose; (2) “the freedom to study how the program works, and adapt it to your needs” with no restriction on the understanding and modification of the program; (3) “the freedom to redistribute copies” with no charge; and (4) “the freedom to improve the program, and release your improvements to the public” to benefit the entire community.

Twelve years later, Jon Hall and others founded the Open Source Initiative (OSI), using the term “open source,” rather than “free,” software. According to OSI, “open source” means free distribution of software with a license that includes source code, with no discrimination against persons or groups or specific fields of endeavor, and with no restrictions to specific products or software on a technology-
neutral platform. Despite some philosophical differences between free software and open source software, the practical implication is the same: to encourage sharing software or code freely. But the sharing is not without cost.

¶24 “Open access” is probably a more familiar term to librarians than “open source,” as it is mainly about sharing resources and collections. Peter Suber initiated a timeline of the open access movement in 2009, which is available in the Open Access Directory (OAD) for crowdsourcing editing efforts. According to this timeline, the U.S. Department of Education and the National Library of Education pioneered the open access effort by launching the Educational Resources Information Center (ERIC). The project first focused on disseminating documents relevant to special education teachers and then expanded to a larger database that covers publications and materials related to education more generally and freely available to anyone to browse and download without a license.

¶25 Since 2000, there have been quite a few attempts to define the term “open access” in the field of legal information and scholarship. In 2008, U.S. law library directors met at Duke School of Law in Durham, North Carolina, and drafted the Durham Statement on Open Access to Legal Scholarship, calling for free access to law reviews and journals in stable, open, and digital formats.

¶26 We argue that Type 1 material is likened to the legal scholarship embraced by the Durham Statement (and other open access principle statements), which encourages us to share under the open access principle; Type 2 material, we argue, is more akin to source code or software to be shared openly under open source principles. The ultimate goal we strive to achieve is to make both types of information freely available and with unrestricted use.

¶27 We advocate for the free availability of legal information, including both Type 1 and Type 2 materials, without incurring financial cost on the part of consumers or users. In other words, anyone in the world should be able to access these materials online when needed. More important, by “availability” we include that users should be able to read, download, and easily understand the information provided. By “unrestricted” we mean that users should be able to reuse or modify the information to serve their own purposes, without any conditions or discrimination against anyone or any specific field. By “use” we mean that users can make informed decisions on whether and how to reuse or modify the information for their own purposes effectively at any time, including reprinting and redistributing on the web with proper credit given. It is about the credibility, reliability, and

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31. Id. 103–04.
36. Proper balance and healthy interplay between copyright and open access can be tricky but is very important for sustainable development of open access. For more discussions on the interplay and
trustworthiness of the information provided. This is especially important with legal information, including any information that directs users to primary or secondary legal resources.

¶28 On the other hand, free access is “free” as in “free speech,” not as in “free beer.”37 The access to information may be available to users for free. But the information itself and the process of creating and updating information, and the resources and tools to keep the information open, are not free at all. Next, we show that the value of legal research information on demand is strong enough to justify the cost of providing sustainable, free access to the information. Institutions such as law schools, libraries, and professional organizations should collaboratively bear the cost.

Price of Providing Sustainable Free Access to Legal Research Information

¶29 Providing free access to Type 1 and Type 2 materials carries many associated costs. Jessica Litman argues that the “price of legal scholarship is not, however, set in the marketplace for legal periodicals but in the marketplaces for the people who write and edit them.”38 We believe this applies to both Type 1 and Type 2 materials; that is, there are financial costs, including operational costs and opportunity costs, incurred among authors, mostly law librarians, creating Type 1 materials such as research guides and teaching materials, and among people collecting and making available Type 2 materials, such as compiling a list of experts or of access points to primary legal sources.

¶30 These costs include librarians’ salary and time spent on creating these materials, as opposed to time and energy spent on other job duties. These financial expenses are somewhat covered by law schools and law libraries supporting their law librarians’ professional development through salaries or other benefits, such as extra payment for teaching, paid leave for research, and reimbursement for professional conferences and involvement. However, not all such expenses are paid through the above measures because tasks related to creating free access are rarely part of the main job responsibilities for law librarians. They therefore often do not take priority over other important law librarian duties, and the time that a librarian can spend on them is minimal. This likely also explains why many resources we examined previously are not up-to-date, making them of diminishing value to their target audience. To provide sustainable and timely access to legal information materials meeting the real needs of our intended audience, we need to find additional sources of funding.

¶31 On the other hand, creating and maintaining media (such as a website or database) to provide access to or about valuable information is different from creating the content itself. It requires additional expenses such as maintaining a website or a server, and additional skill sets, such as building and maintaining a scalable website, building a searchable database, and updating the website (which is differ-

relationship between copyright and open access, see Robert C. Denicola, Copyright and Open Access: Reconsidering University Ownership of Faculty Research, 85 Neb. L. Rev. 351 (2006); Greg Lastowka, Digital Attribution: Copyright and the Right to Credit, 87 B.U. L. Rev. 41 (2007).


ent from updating the content itself). Law libraries and law schools supporting librarians creating and sharing course materials and research guides may not support the same librarians spending time and resources on building, updating, or marketing resources and websites that are not affiliated with their institutions. Such a situation might lead to increased costs.

¶32 Many of the overhead costs of making these types of information available on the web for free are already paid by libraries, schools, or governments as part of their primary missions. So the price of the resources needed to create and put the kind of information on the web for free is a small part of the whole cost. The biggest exception, other than an increase in time and energy expended, might be specialized software, for instance, for supporting complex searching or creating citators. Thus, for some institutions, any additional cost is marginal.

¶33 As Greenleaf, Chung, and Mowbray of AustLII explain, the “main constraining factor on the non-government (‘independent’) LIIs involved in large-scale free access publication is funding: their systems are free to use, but not free to build. Every LII looks after the funding of its own system.” Many different financial models support LII platforms, with some models working better than others. The effectiveness of the models directly impacts the value of the resources created. For example, AustLII relies on multiple funding sources, most of them entities such as academic and nonprofit institutions, primary firms and publishers, and governmental groups. No single type of funding source is close to covering ten percent of its funding stream. CanLII, on the other hand, largely relies on individual contributions through its legal professional membership fees. As a result, the scope of content is largely based on its members’ needs and preferences and focuses mostly on practical legal resources.

¶34 These are relevant success stories. The current model determines its intended audience. They are sustainable because they have secured sufficient funding under the current model to provide timely and reliable content freely to their intended audience, their financial contributors. But LIIs focus on primary sources of legal information and offer little to no secondary resources. Because primary legal information is created and often made available by government agencies, offering access to it costs significantly less than offering access to secondary information. Certainly, transferring primary source information to LII platforms and keeping those platforms up to date costs something. But LIIs are more information curators than information creators, which results in fewer costs.

¶35 Nevertheless, websites and resources have become obsolete or faded away due to a lack of sustainable funding sources. For example, the Global Legal Infor-

42. See Lachance, supra note 41.
43. Some LIIs invest in providing citator tools, which will incur additional financial costs. But that is not the focus of this article.
SUSTAINABLE AND OPEN ACCESS TO VALUABLE LEGAL RESEARCH INFORMATION

mation Network (GLIN), a superstar network/database in 2009, provided free access to the laws of many countries from official sources, but it has provided no updates since 2014. A lack of long-term institutional support appears to be the main factor in GLIN’s failure to maintain its database. Another example is Official Government Gazettes Online, once maintained by Grace York, then government documents librarian at University of Michigan. It became obsolete after York retired in 2003.

In sum, financial funding and institutional support are two critical factors for providing sustainable resources. The question then becomes whose obligation is it to provide the funding and support. We answer this question next.

Who Should Bear the Cost?

Institutional stakeholders such as law schools, law libraries, and professional organizations should bear the cost collectively and individually, for three primary reasons: (1) Free access to both Type 1 and Type 2 legal information is indispensable for promoting legal education and fulfills the core missions of these institutions. (2) The majority of beneficiaries are legal (and legal information) professionals, who also represent the key stakeholders of professional organizations such as AALL and ABA. (3) Free sustained access ultimately benefits the public and enhances access to justice, a social obligation these institutions share.

Access to Free Legal Research Information Promotes Legal Education

Academics and practicing professionals uniformly recognize the value of legal scholarship. Writes Joseph Scott Miller, “Open access scholarship, by virtue of its openness on the web, can spark the creation of a new social layer of metadata that connect and comment on that scholarship.” More specifically, promoting open access scholarship enhances the dissemination of knowledge both horizontally and vertically. Horizontally, it helps make the scholarship available to all legal professionals, faculty members, students, judges, and attorneys worldwide. Vertically, it encourages additional layers of comments and feedback on a legal issue or topic, which then stimulates deeper thoughts and analyses.

Legal research scholarship meets all the criteria of legal scholarship. Although there is no uniform standard in evaluating legal scholarship, Edward L. Rubin argues that excellent legal scholarship must meet four criteria: normative clarity, persuasiveness, significance, and applicability. The first two criteria evalu-

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46. See Official Gov’t Gazettes Online, http://www-personal.umich.edu/~graceyor/doctemp/gazettes/ [https://perma.cc/2UNX-SADA]. The project was originally initiated by two University of Michigan School of Information students as an intern project at the Dag Hammerskjold Library. After the students graduated from the School of Information, the University of Michigan Government Document Librarian took over the project. Id.
ate descriptive scholarship, and the latter two look at legal scholarship as a “performance” and measure its utility and practical value.

¶40 A close review of the two types of legal research scholarship discussed in this article demonstrates that legal research scholarship meets Professor Rubin’s criteria. First, legal research scholarship, such as research guides, is a type of normative legal scholarship. It includes a clear statement of how people should conduct their legal research and provides specific examples of resources to support their statement of legal research process. Therefore, it meets the criterion of “normative clarity,” that is, “identifying . . . controlling norms with clarity and . . . explaining their relationship to . . . specific arguments.”

¶41 Second, legal research scholarship is persuasive when it provides clear and useful statements regarding research strategies and the research process. Our strengths as law librarians lie in the breadth and depth of our knowledge of legal resources and our abilities to create research plans and smart, cost-effective research strategies, which comes from extensive legal research experience. The more frequently we show our strengths through our scholarship, the more likely we are to persuade our intended audience. Unfortunately, librarians’ other job responsibilities often leave little time or energy to produce scholarship that showcases our understanding of legal resources and research strategies. As librarians, we need to allocate more time and resources to create research guides that provide clear strategies, identify pertinent and thoroughly vetted resources, and thoughtfully test research processes for readers.

¶42 Third, Professor Rubin defines significance as “a work’s relationship to the ongoing development of the field.” Legal research scholarship, such as research guides or annotated bibliographies, relates closely to the development of legal information and legal research. It is also important for the development of substantive law. For example, an annotated bibliography offering a deep understanding and analysis of current substantive legal scholarship, such as treatises and law review articles in the area of administrative law, will certainly promote scholars’ and practitioners’ understanding and further their own contributions to that area of law. Finally, legal research scholarship can apply to any area of legal research, giving it obvious practical value. In sum, legal research scholarship clearly meets at least one commentator’s well-thought-out system for assessing legal scholarship.

¶43 Open access to Type 2 legal information (“source code”) requires additional justification and explanation, however. Unlike legal research scholarship, a list of access points to primary laws or experts doesn’t look like scholarship in the first place. A pure compilation of a list does not seem to have added value or reflect additional efforts by authors or compilers. However, let’s think about the example of West’s Key Number System. By thoroughly indexing the body of U.S. case law, West’s Key Number System fundamentally changed the way people understand the U.S. legal system and how they research substantive areas of law. Furthermore, an

49. Id. at 915.
50. Id. at 931.
51. Similar analyses can be applied to legal research teaching materials. Teaching materials are directly tied to the law schools’ teaching missions. No further analyses or further explanations are needed for this part as most, if not all, law schools offer legal research courses.
52. See, e.g., Robert C. Berring, Legal Research and the World of Thinkable Thoughts, 2 J. Appr. Prac. & Process 305 (2000); Joshua M. Silverstein, Using the West Key Number System as a Data
annotated list of access points changes the nature of the product. The annotation itself becomes the added value and increases the normative clarity as well as the practical value of the product.

**Access to Free Legal Research Information Promotes the Core Missions of AALL and ABA**

¶44 Professional organizations are empowered financially and politically to represent their members, to advance the profession, and to make social contributions and devote public services to the profession. For example, AALL’s mission is to “advance[] the profession of law librarianship and support[] the professional growth of its members through leadership and advocacy in the field of information and information policy.”53 As a result, it hosts annual conferences and webinars, supports publications to disseminate knowledge,54 and recommends guidelines such as *Competencies of Law Librarianship*.55 The ABA’s mission “is to serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession.”56 It has created hundreds of professional publications, organized conferences, set accreditation standards, and recommended rules of professional conduct for attorneys and judges.

¶45 Both organizations allocate resources to create knowledge and set professional standards, but neither has spent significant time or resources on providing free legal resources. To our disappointment, AALL does not allocate funding for special interest sections, such as FCIL-SIS, to update their websites or create or disseminate specialized knowledge and information. And while ABA does have a section on legal education, it does not appear to focus on research.57 Is it because legal research is not an integral part of the legal or legal information profession? The answer, of course, is no. Common characteristics of what constitutes a profession are that it is intellectual, learned, and practical.58 Knowledge is an essential element for law librarianship to be recognized as a profession.59 There is no doubt that legal research information is an important and indispensable part of the knowledge that law librarians should build and develop. It is also important and essential for attorneys and other practitioners to develop such knowledge for their practice. The importance of legal research is recognized by the profession as a whole, demonstrated by the 1992 MacCrate Report60 and the more recent ABA Standards incor-

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57. See, e.g., Am. Bar Ass’n, Section of Legal Education and Admission to the Bar, About Us, https://www.americanbar.org/groups/legal_education/about_us/ [https://perma.cc/4PZR-3XBB].
59. Id. at 606, ¶ 22.
60. Am. Bar Ass’n, Section of Legal Education and Admission to the Bar, Legal Education and Professional Development: Report of the Task Force on Law Schools and the Professions:
porating experiential education requirements to improve students’ practical skills, including legal research skills. The concern regarding students and attorneys lacking sufficient legal research skills is spread across all legal professionals and institutional stakeholders, including law firms, judges, and law professors.

By “research” we do not mean merely the rote memorization of the characteristics of certain tools. One must also understand the organization of legal knowledge and vocabulary of law. One must be able to combine them with the most appropriate search capabilities and tools. One must be able to create effective search strategies. These are important skills for conducting legal research.

**Access to Free Legal Research Information Benefits the Public and Enhances Access to Justice**

AALL and ABA each expresses its firm commitment to supporting access to justice and providing legal services to the public. Moreover, both organizations have a strong interest in providing leadership in international legal development.


See, e.g., Total Television Entm’t Corp. v. Chestnut Hill Vill. Assocs., 145 F.R.D. 375, 385 (E.D. Pa. 1992) (“The frequency with which Jackson has appeared as counsel in this district . . . reinforces the need for him immediately to take steps to rectify the poor legal research ability he has demonstrated in this case, . . . and . . . several other cases as well.”).

See, e.g., Richard A. Danner, S. Blair Kauffman & John G. Palfrey, The Twenty-First Century Law Library, 101 Law Libr. J. 143, 147, 2009 Law Libr. J. 9, ¶ 19 (“[O]ne of the things I’ve heard from our alumni is that we’re sending out too many students into law firm practice who don’t have the best research skills and, in fact, too often have to learn legal research on the job.”); Joan S. Howland & Nancy J. Lewis, The Effectiveness of Law School Legal Research Training Programs, 40 J. Legal Educ. 381, 383 (1990) (“The study confirmed the consensus of many law faculty, attorneys, and law librarians that summer clerks and recent graduates lack knowledge of available sources and are unable to develop efficient research strategies.”); Marilyn R. Walter, Retaking Control Over Teaching Research, 43 J. Legal Educ. 569, 571 (1993) (“The seductive characteristics of CALR are documented in a 1990 article which supports the generally held view of law professors, lawyers, and law firm librarians that the research skills of law students are weak and that the students’ overreliance on computers has only made them worse.”); Christopher G. Wren & Jill Robinson Wren, The Teaching of Legal Research, 80 Law Libr. J. 7, 9 (1988) (“Throughout the period the bibliographic emphasis has prevailed in legal research instruction, law students, law professors, librarians, and employers have lamented the inadequacy of students’ and recent graduates’ research skills.”).


See Am. Ass’n of Law Libraries, Foreign, Comparative & International Law SIS, [https://www.aallnet.org/sections/ fcil [https://perma.cc/FAZ5-B5SR]; Am. Bar Ass’n, International
Providing free access to international legal research information should be an integral component of promoting legal development in international and foreign law.

¶48 If AALL’s mission is to “advance the profession of law librarianship,” then providing access to legal information, especially legal research information, should certainly be a priority of the organization. If the ABA’s mission is to enhance the legal profession, then providing access to legal information should be its priority, too, because the profession it represents heavily relies on access to legal information, including legal research information.

¶49 Their actions, however, do not match their mission statements. The ABA does not, for instance, have a group for professionals interested in legal research, as the American Society of International Law does. Although it has a substantial publishing program, very few of the items in it appear to provide the kind of material discussed in this article. AALL does a little better. After all, Spectrum, Law Library Journal, the various SIS newsletters, and blogs do sometimes have articles on legal research in specific areas. But they seem randomly scattered throughout AALL publications. AALL has no central portal with citations or links to these places, and neither AALL nor the SISs attempt to sustain any of them. So they do not fit our definition of discoverable, accessible, or sustainable. The organization that comes closest to providing research guides, teaching materials, or links to substantive legal research information is the Legal Writing Institute. Its Second Draft publication is an e-journal of original articles on a variety of topics related to legal writing; many of them deal with the importance and role of research in teaching legal writing, and many of those articles are written by law librarians. It has many other excellent resources that might contain articles on legal research, but our cursory examination did not reveal any that appeared to fit into our categories of interest.

A New Framework: Crowdsourcing and Collective Wisdom

¶50 So how can we create a framework or system to pull together the profession’s unmet legal information needs and achieve the goal of providing free access to legal information in a timely and sustainable fashion? We recommend an open system framework to encourage collaboration among all the stakeholders we have identified: law librarians, law schools and libraries, and professional associations. The goal of this framework or system is to ensure sustainable sharing of legal

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Law Committees, https://www.americanbar.org/groups/international_law/committees.html [https://perma.cc/S8FC-UNP4].


70. One could add a number of other organizations for whom research is part of their missions, though none fit our definitions. For instance, even though AALS has a Section on Legal Writing, Reasoning, and Research, it does not appear to provide research guides, teaching materials, or links to substantive legal research information. If it does, it is behind a members-only paywall, thus failing our definition of accessible. See Am Ass’n of Law Libraries, Section on Legal Writing, Reasoning, and Research, https://memberaccess.aals.org/eWeb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=b1def1dc-ec71-4168-8d29-a5517d2a18c7 [https://perma.cc/6VBZ-Q4XH].
research information that meets the demands of legal and legal information professionals.

¶51 We are not trying to create a formal organization; instead, we picture the framework as an open system, an informal but collaborative framework driven by the common interest of its stakeholders, both individuals and institutions. The open system approach to organizations is not new in the organizational studies field. In 1966, Daniel Katz and Robert Kahn identified nine common characteristics of an open system: importation of energy; throughput; output; systems as cycles of events; negative entropy; information input, negative feedback, and the cooling process; the steady state and dynamic homeostasis; differentiation; and equifinality.71 We believe the framework we propose possesses the nine common characteristics, and the model is founded on the concept of crowdsourcing and collective intelligence. The key elements of both theories are human participants supported by technology tools to support commonly shared goals.

An Open System

¶52 The system must be open in order to be sustainable. An open system model looks at an organization as an “energic input-output system in which the energic return from the output reactivates the system.”72 It is based on the assumption that an organization is about relationships, which include the constant and changing interaction of individual components both within an organization and between the organization and external environments. An organization is not merely a sum of individuals.

¶53 A closed system cannot achieve the ultimate goal of providing sustainable and timely access to valuable legal research information because information needs change over time. Therefore, the scope and definition of valuable legal research information is dynamic. Only an open system can constantly embrace the changing needs of the end users. The system we propose is composed of a few subsystems, such as law schools, law libraries, and professional organizations. The smallest units of the system are individual law librarians and legal researchers contributing to the development of valuable legal research information. However, individual efforts are not sufficient to guarantee sustainable access. Using the language of Katz and Kahn, we need an open system that imports energy and feedback from external forces, transforms the energy into products, and exports the products to the external environment to finish a cycle of events and then start a new cycle of events. The system must be open so that it can develop negative entropy and maintain a dynamic homeostasis through interactions within and outside the system.

Theoretical Foundation: Crowdsourcing and Collective Intelligence

¶54 But we do not need just any open system, be it part of a formal or informal organization. In fact, no existing formal or informal organization can do it alone. Law schools are not doing it; law libraries are not doing it; and professional associations are not doing it. Their current structure, competing goals, and sources of finance make them incapable of doing it independently. Commercial companies, such as Lexis, Westlaw, and Bloomberg, provide legal (research) information, but

72. Id. at 16.
not for free. Startups striving to provide open access of legal information are often purchased by one of the giant commercial companies\(^{73}\) or end up providing only partial information for free. When it comes to legal research and practice, relying on partial information can be more dangerous than acting without information.

\(\S 55\) Instead, we call for an open system founded on a crowdsourcing framework. Crowdsourcing is a buzzword now, but it is not a new idea. The earliest major event using crowdsourcing dates back to 1714, when the British government offered a monetary prize to the public to solicit ideas to measure a ship's longitudinal position.\(^{74}\) There are many types of crowdsourcing activities: crowdsourcing answers,\(^{75}\) crowdsourcing data and information,\(^{76}\) and crowdsourcing knowledge.\(^{77}\) In the library and information field, the crowdsourcing principle has been applied in a number of ways. For example, collaborative online communities such as Mendeley\(^{78}\) have met scholars’ emerging research needs. Collaborative library services allow libraries to share their collections via interlibrary loan. Listservs are another great example demonstrating crowdsourcing value.

\(\S 56\) But not all crowdsourcing efforts are successful, and there are underlying difficulties due to the nature of crowdsourcing framework. It is not perfect and it does not guarantee success. There are crowdsourcing issues being discussed by experts in many disciplines, including information, management, and business. Many scholars have attempted to define the term “crowdsourcing” from various perspectives.\(^{79}\) The key elements of crowdsourcing are commonly agreed to include crowd wisdom or collective intelligence, a shared problem that needs to be solved, a mass collaboration, and a low-cost (and somewhat regulated) infrastructure.

\(\S 57\) The assumption is that a smart or wise crowd is possible if the group and its opinions and ideas are diverse, come from independent sources, are decentralized, and can be aggregated.\(^{80}\) Similarly, Don Tapscott and Anthony D. Williams argue that collective intelligence, through mass collaboration in an open, volunteering, and widespread environment, can generate better activities than the sum of individual intelligence.\(^{81}\) Other authors argue even that the collective intelligence

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\(75\). See, e.g., Quora, https://www.quora.com/ [https://perma.cc/EHH4-G8QK].


\(77\). Examples of knowledge crowdsourcing include sharing knowledge at conferences or via listserv, on the web, and through calls for papers.


may be enhanced by the average social sensitivity of group members; women as a group are more highly socially sensitive than men. We should harness this power to a greater extent to improve the performance of our profession.

Furthermore, to attract volunteers in the long term, the benefits of volunteering must outweigh the costs (e.g., time, lack of compensation). Researchers have identified a series of intrinsic and extrinsic motivation factors that drive the growth of crowdsourcing initiatives. These factors include altruistic factors, such as a sense of obligation to the profession and community, and not-so-altruistic factors, such as enjoyment of the work itself, desire for recognition and visibility by peers, opportunities that may come in the future due to the volunteering activities, skills development, and networking opportunities. In a conference paper exploring motivation factors for sustained participation in crowdsourcing, the authors added the following additional motivation factors driving sustained engagement: a sense of becoming and continuing to be the center of a community, identity formation, and increased skills and knowledge.

A New Framework

It is time to picture our framework, which aligns all stakeholders’ interests to create sufficient incentives for them to make contributions in a sustainable way. The goal is to provide sustainable and valuable legal research information at the lowest possible cost. In order for a framework to be sustainable in the first place, the infrastructure must allow the import of energy, the transformation of the energy into tangible services and products, their export to the external environment, and a feedback and response mechanism to maintain sufficient negative entropy to maintain a steady state and dynamic homeostasis. All these features are essential elements for an open system.

Furthermore, the system must be based on a crowdsourcing framework founded on the concept of the wisdom of crowds and collective intelligence. We propose a framework that uses the wisdom of the information research expert crowd, not just any crowd. This factor helps eliminate the quality concerns that bother many experts studying crowdsourcing initiatives. This does not mean there would be no quality control in the system, but soliciting expert teams helps

crowd is significantly correlated with the collective intelligence factor and not predictive of criterion task performance). The idea has also been confirmed in David Engel et al., Reading the Mind in the Eyes or Reading Between the Lines? Theory of Mind Predicts Collective Intelligence Equally Well Online and Face-to-Face, 9 PLoS ONE (2014), doi:10.1371/journal.pone.0115212, http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0115212.

82. See Anita Williams Woolley et al., Collective Intelligence and Group Performance, 24 CURRENT DIRECTIONS IN PSYCHOL. SCI. 420 (2015); Woolley et al., supra note 81.

83. For more discussion on motivations and the effectiveness of motivating factors to attract people to crowdsourcing communities, see Yannig Roth, Daren C. Brabham & Jean-François Lemogne, Recruiting Individuals to a Crowdsourcing Community: Applying Motivational Categories to an Ad Copy Test, in ADVANCES IN CROWDSOURCING 13, supra note 79.

84. Corey B. Jackson et al., Motivations for Sustained Participation in Crowdsourcing: Case Studies of Citizen Science on the Role of Talk, in 48TH HAW. INT’L CONF. ON SYS. SCI. (2015), https://static1.squarespace.com/static/51eae71e4b08ce140f86ce/t/560ea8a64b0a053ccfd529e/1443801254416/7367be64.pdf [https://perma.cc/829Q-EGAD].

to minimize the risks and costs of quality assurance. The system must also provide sufficient motivations to make it work in the long term and must allow the contributors to justify their costs, including financial and opportunity costs. Figure 1 illustrates the organization, structure, and movement of energy and information of such a system.

¶61 First, law schools, law libraries, and professional organizations should import a lot more energy than they have done thus far. Energy includes financial support (from both law schools/libraries and professional organizations for developing and maintaining the content), professional support (from law libraries/schools to support more professional involvement and volunteering by making professional development one of the priorities and evaluating factors for librarians’ professional and career advancement), and administrative support (such as funding and technical support provided by professional organizations to create a platform or database for information sharing).

¶62 Second, the exported product and services must meet the needs of our targeted audience, the audience identified in the survey. For the system to be sustainable, the professionals, their organizations, and the law schools would have to exercise persistent effort to stay attuned to the changing needs of the audience. However, there appears to be a mismatch between information currently available and the actual needs of the audience. Legal researchers need more than just a list of resources for any specific legal topic; they need to benefit from legal information experts’ demonstrated understanding of resources and research strategies. Constantly monitoring and understanding their needs requires understanding of the legal development of specific subject areas, the legal publishing landscape, and the resources available. This should be part of the professional development goal of any law librarian or legal information expert and should be supported by law schools.
and libraries. Opportunities to develop the skills should be provided by professional organizations.

¶63 Third, the interactivity of the system necessitates constant communication between information creators and the targeted audience, including proactive listening and active responses to needs and feedback. This is critical to keep the feedback and response section of the system working and to keep a homeostatic system.

¶64 Fourth, the motivational equation includes nonfinancial aspects as well as professional advancement and rising salaries. The framework will not be sustainable if there are no ongoing and strong intrinsic motivation factors even with sufficient financial, professional, and administrative support. A recent Harvard Business Review article adds two more factors that separate sustained crowdsourcing efforts and failing crowdsourcing efforts: proactive attention and reactive attention. Proactive attention means give to get. The organization should present its ideas first and then invite people to discuss them. In our context, it requires the teams that coordinate the crowdsourcing efforts, such as volunteers of AALL’s special interest sections, to periodically contribute to the framework, as opposed to passively calling for contributions. Reactive attention means responding publicly to suggested ideas or comments. In other words, there should be a mechanism that requires coordinators to provide public feedback to encourage and stimulate work and contribution. Feedback not only shows that the team cares but also helps contributors to develop, which is one of the primary motivations for many contributors. There should also be an award system that allows long-term contributors to move gradually closer to the center of the framework or the community to ensure sustained participation in the framework as described above.

¶65 Finally, emerging technologies need to play a role. Technology tools are changing the legal information and legal services fields. Effective utilization of technology tools requires both institutional support and individual skills and techniques. As the entire legal profession is being transformed by artificial intelligence and big data analytics, and with commercial legal information providers swamped to make adjustments to gain competitive power in the (future) market, we see little change along these lines in the law librarianship field. There appear to be no attempts to use artificial intelligence or big data to predict legal education and legal research needs, or attempts to use crowdsourcing platforms to share and promote


legal research deliverables. We call for a framework that integrates emerging technologies seamlessly to further sustainable open access to valuable legal research information.

¶66 With all that said, we hope that our idea, despite being rudimentary, can generate more discussion and feedback on the dire issue of the lack of free, open, and sustainable access to valuable legal research information. More important, we urge individual stakeholders, such as librarians and legal researchers, and institutional stakeholders, such as law libraries, law schools, and legal professional organizations, to actively participate in this framework to create and maintain sustainable access to valuable legal research information.
Appendix: Summary of the Survey

The Survey and the Respondents

§67 The survey used twelve questions with two cross tabulations. It was distributed via an invitation to respond to the survey that included a link. The invitation was sent to the AALL Members Open Forum, the FCIL-SIS listserv, the ALL-SIS listserv, the Asian American Law Librarians Caucus, the Private Law Libraries SIS listserv, Int-Law, and the IALL listserv.

§68 There were 245 respondents, although not all responded to all questions. Question 7 concerns the degree to which respondents deal with FCIL in their work. Forty-four percent said that they spent a minority of their time on FCIL, and 36% said that they spent no time on FCIL. Eight percent spend all their time on FCIL, and 12% spend the majority of their time in that field. Those who spend the minority of their time on FCIL issues are those whose primary responsibility is in another field of librarianship (e.g., general reference). The surprise is that 36% (81) spend no time at all on FCIL and still responded to the survey. Remarkable!

§69 Question 8, institutional affiliation, is a text response question. Of the 243 total responses, 185 (76%) gave their institutional affiliation. Of those, 95 (51%) were from the United States, and 74 (40%) were from U.S. academic law libraries, which is the core of our intended audience. If we add other types of libraries such as firm, court, or corporate, then 68% were from the United States. This is a good indicator that the responses reflect the opinions of that audience well. Responses from the U.S. academic libraries came from schools ranked throughout the U.S. News law school rankings.

§70 On the other hand, some of the nonacademic libraries and libraries from outside the United States indicate that some prominent foreign and international institutions are interested in a portal. Twelve responses were from Canada, 14 from Europe, 7 from Africa, and 6 from Asia. Six were from international organizations, 24 from firms, 11 from government libraries, 6 from corporations, and 2 from courts.

§71 Regardless of the location or type of institution, the respondents to the survey included some of the most important and prestigious participants in FCIL research in the world. The interest of parties of this caliber suggests this endeavor could garner substantial support.

What Respondents Want

§72 Respondents clearly favored the creation of a single, comprehensive portal that would itself point to the myriad sources of information on FCIL research. Question 1 asked respondents to rate their interest in five types of FCIL information in four ratings: uninterested, neutral, interested, or highly interested. In response, respondents indicated a strong preference for teaching materials (79%)

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89. The survey was conducted using Qualtrics, with great help from colleagues affiliated with the AALL FCIL-SIS. The authors would like to express special thanks to Sarah Ryan, former empirical research law librarian at Yale Law Library, for her assistance, and Teresa Miguel-Stearns, Director of Yale Law Library, for her support. The survey report was prepared by James Hart. We were unable to pretest the questions or to interview respondents because we had neither the funds nor the time to use these methods. However, a sample size of 244 gives us a confidence level of 95% and a margin of error of 6.11%. Therefore, we believe the survey results in general rendered sound, consistent, and relevant information.
over the other options: a list of experts, newsletters, blog, and listservs. Indeed, teaching materials is the only option in which the “highly interested” response out-scored “interested.” The preference for teaching materials creates an opportunity to use the portal to give our community support in adapting to the new ABA experiential learning standards. Respondents preferred a list of experts (28.44%) next, then listservs (23.2%), blogs (20.35%), and newsletters (19.64%) at the bottom.

¶73 Question 2 asked respondents what other types of FCIL information, resources, or links they may find valuable. Primary legal materials with links received the largest number of votes by far, with 34%. Links to webpages, other portals, and listservs finished second at 26%. “Overviews” and research guides, including search strategies, was a close third with 22%.

¶74 It is difficult to integrate the responses to these two questions because of their different formats. But let us try. Teaching materials appear to have garnered the most interest. Primary materials had the next highest number of votes (34%) regardless of the format of the question. But it seems reasonable that open text questions do not have the power of suggestion that multiple-choice questions do, and when the two types of question are compared, the result of the open text questions should be weighted to compensate for the difference. An expert list (28.44%) came in third. Links to listservs (23.2%) is difficult to rank because it earned 23.2% of the votes in the multiple-choice question (Q.1), but it belongs to a group of three (links to webpages, other portals, and listservs) that earned 26% in the open text question (Q.2). Although we can't separate the percent attributable to each of them from the others in the group, we think that we are justified in ranking them fourth in interest. Overview and legal research guides, including search strategies, finished next.

¶75 A cross-tabulation of questions 1 and 7 showed that full-time FCIL librarians had the least interest in all five types of information (7.6%); those who spend the majority of their time on FCIL had more interest (12.5%); those who spend a minority of their time had the most interest (43.3%); and those who spent no time on FCIL librarianship ranked between majority and minority (36.1%). It turns out that all five types of information were seen as equally valuable to all the librarians. In other words, there was no material difference in full-time FCIL librarians’ interest in the list of experts, teaching materials, newsletters, blogs, or listservs, and the same for librarians who spent the majority, minority, or no time on FCIL librarianship. So the differences in question 1 were not apparently related to the time respondents spent on FCIL work.

¶76 Ten percent of those who answered question 3 (quantity of use) said that they would use the portal daily or quarterly; 37% percent said that they would use the portal weekly; 36% said that they would use the portal monthly; and 8% would use it less often than quarterly. Therefore, 73% would use the portal weekly or monthly, which indicates that it would get substantial use.

¶77 Question 4 asked respondents if they would be willing to help work on a portal. Thirty-seven percent said that they would probably or certainly work on the portal. Thirty percent would not be willing to work on it. The number who would be willing to work on it and the number who would use it, as indicated in question 3, are inversely related: 73% to 37%.

¶78 Questions 3 (How often do you think you’d use the portal?) and 4 (Would you be willing to help work on it?) were cross tabulated. Twenty-eight percent of those who would use it weekly or monthly would also certainly or probably be will-
ing to help create and maintain it. One could conjecture that these are the same people who spend either all or none of their time on FCIL.

¶79 Question 5 found that 4 hours per week is the maximum time respondents would be willing to work on such a portal. This would be 10% of a standard work-week, which seems about right to us. On the other hand, many of the responses to this question were less than 4 hours, which seems too small to make much of a difference. The conflict between the responses to this and question 4, “would you be willing to work on it,” could also indicate that respondents did not understand this question.

¶80 We then cross tabulated question 7 (Do you specialize in foreign, comparative, and international law?) with the following (see table 1):

- Question 3: how often respondents would use the portal,
- Question 4: how many said they would be willing to work on it, and
- Question 5: how many hours it would be worth working on it.

The most obvious explanation for full-time FCIL librarians (7.3%) and those who spend the majority of their time on FCIL (11.8%) using the portal less than others (minority 44%; and not at all 36.9%) is that those who spend all or most of their time in the field would need the portal less than others. Those who spend all or a majority of their time in the field should well know more than others do. Indeed, many of them are the experts listed in one of the five types of information in question 1. This conclusion appears to conflict with that of question 8 (What is your institutional affiliation (employer)?): the importance and the prestige of the respondents appear to give the portal substantial support. The only explanation for this apparent anomaly would appear to be that those who work full or majority time on FCIL are not the respondents from the most important and prestigious institutions. Yet this does not make sense.

¶81 The same observation may explain why the putative amount of use is inversely related to the time respondents say they actually spend on FCIL librarian-ship. Full-time FCIL librarians say they would use the portal least; those who spend the majority of their time in the field say they would use the portal a little more; and those who spend the minority of their time in the field say they would use the portal most. Indeed, it appears as if the same inverse relationship applies to the amount of time respondents would be willing to spend on overseeing the portal for a year. This is likely to be because of the importance of such a portal to job responsibilities and because the less time one spends on FCIL, the less one knows about the field and the more likely one is to rely on something like the portal.

¶82 Question 12 asked whether there was anything else respondents would like us to know. There were 82 responses to this question. A number of the items included more than one response, which increased the number of classified items to 94. Forty-three responses were positive about the portal while 6 were neutral and only 4 were opposed. Most of the questions were requests that the portal offer certain types of material. For example, “Will it be designed such that videos of web navigation or a flipped classroom lecture could be included in teaching materials?” Those who opposed the portal thought that it wouldn’t offer anything that isn’t already available.
Table 1

Do You Specialize in FCIL Librarianship?

<table>
<thead>
<tr>
<th>How often do you think you’d use the portal?</th>
<th>Daily</th>
<th>Weekly</th>
<th>Monthly</th>
<th>Quarterly</th>
<th>Less than Quarterly</th>
<th>Total</th>
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<tr>
<td>Full-Time</td>
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<td>8</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>16</td>
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<tr>
<td>Majority of Time</td>
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<td>11</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>26</td>
</tr>
<tr>
<td>Minority of Time</td>
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<td>43</td>
<td>32</td>
<td>11</td>
<td>3</td>
<td>97</td>
</tr>
<tr>
<td>Not at All</td>
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<td>18</td>
<td>39</td>
<td>9</td>
<td>11</td>
<td>81</td>
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<tr>
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<td>23</td>
<td>17</td>
<td>220</td>
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</table>

<table>
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<tr>
<th>If there is enough interest in it to create and maintain the portal, would you be willing to help...</th>
<th>Not at All</th>
<th>Slightly</th>
<th>Probably</th>
<th>Certainly</th>
<th>Total</th>
</tr>
</thead>
<tbody>
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<td>5</td>
<td>4</td>
<td>6</td>
<td>17</td>
</tr>
<tr>
<td>Majority of Time</td>
<td>6</td>
<td>6</td>
<td>13</td>
<td>2</td>
<td>27</td>
</tr>
<tr>
<td>Minority of Time</td>
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<td>26</td>
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<td>96</td>
</tr>
<tr>
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<td>53</td>
<td>29</td>
<td>221</td>
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</table>

<table>
<thead>
<tr>
<th>How likely would you be to volunteer to oversee the portal for a year?</th>
<th>Not at All</th>
<th>Slightly</th>
<th>Probably</th>
<th>Certainly</th>
<th>Total</th>
</tr>
</thead>
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<tr>
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<td>3</td>
<td>4</td>
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<tr>
<td>Total</td>
<td>121</td>
<td>55</td>
<td>34</td>
<td>11</td>
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Keeping Up with New Legal Titles*

Compiled by Susan Azyndar** and Susan David deMaine***

Contents

The Oath and the Office: A Guide to the Constitution for Future Presidents by Corey Bretschneider reviewed by Stephen Parks 256

A Lawyer Writes: A Practical Guide to Legal Analysis by Christine Coughlin, Joan M. Rocklin, and Sandy Patrick reviewed by Emily J. Flanigan 257

Ruth Bader Ginsburg: A Life by Jane Sherron De Hart reviewed by Nick Sexton 258

Legal Upheaval: A Guide to Creativity, Collaboration, and Innovation in Law by Michele DeStefano reviewed by Melissa Strickland 260

Environmental Law: A Very Short Introduction by Elizabeth Fisher reviewed by Christine Bowersox 261

The Second Creation: Fixing the American Constitution in the Founding Era by Jonathan Gienapp reviewed by Sandra B. Placzek 263

Journalism Under Fire: Protecting the Future of Investigative Reporting by Stephen Gillers reviewed by Louis M. Rosen 264

* The works reviewed in this issue were published in 2018. If you would like to review books for "Keeping Up with New Legal Titles," please send an email to sdemaine@iu.edu and azyndar.1@osu.edu.

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How to Save a Constitutional Democracy
by Tom Ginsburg and Aziz Z. Huq
reviewed by Deborah L. Heller

The Known Citizen by Sarah E. Igo
reviewed by Mary Thurston

Lost in Translations: Roman Law Scholarship and Translation in Early Twentieth-Century America by Timothy G. Kearley
reviewed by Susan Gualtieri

The War on Neighborhoods: Policing, Prison, and Punishment in a Divided City by Ryan Lugalia-Hollon and Daniel Cooper
reviewed by Courtney Segota

Intentional Marketing: A Practical Guide for Librarians by Carol Ottolenghi
reviewed by Heather Holmes

The Remarkable Rise of Transgender Rights by Jami Kathleen Taylor, Daniel Clay Lewis, and Donald P. Haider-Markel
reviewed by James G. Durham

Data-Driven Law: Data Analytics and the New Legal Services edited by Ed Walters
reviewed by Eve Ross


Reviewed by Stephen Parks*

¶1 Would you like to run for president? Would you like to be one of the rumored 15 to 20 Democrats lining up for the chance to run against the current president in 2020? If so, take a day or two and read The Oath and the Office. In 15 short chapters, Corey Brettschneider explains the powers you will inherit (assuming you win) and the limits that will constrain you on your inauguration. All presidents have taken the oath of office with high hopes and dreams of accomplishing what they set out to do. However, they have oftentimes failed to accomplish these goals because they neither understood nor appreciated the powers and limits of the U.S. Constitution.

¶2 In a conversational style, Brettschneider acts as a tutor as he reinforces the many ideals on which our nation was founded. Using historical examples, he explains how our current president and many of his predecessors have not always lived up to the expectation of defending these ideals. Providing background and historical context, Brettschneider impresses on you, the future candidate, the reasoning behind why certain things were included or excluded from the Constitution as they pertain to the role of the president in defending those ideals. Some of the historical examples may shock those who view the Trump administration as lead-

ing unprecedented assaults on our cherished freedoms. Brettschneider, while accurately calling out the Trump administration’s abuses, fairly describes how some abuses of power have been going on for quite some time over multiple presidencies. This should not deter you, though, as you start out on your campaign. Perhaps you, with the help of this guide, can begin to correct these past abuses.

¶3 Yes, this book is written in a way to guide future presidents. However, it is also a great guide and tool for teaching constitutional law, history, and presidential powers. While it may not be useful as the main text in a course on these topics, it would be an excellent addition to the reading materials assigned in such courses. Academic law libraries would do well in selecting this title for their collections, and librarians should consider suggesting it to their faculty.


Reviewed by Emily J. Flanigan*

¶4 This book has one very clear audience and purpose: to assist the soon-to-be-employed attorney in preparing for the first day on the job. The introduction reads from the perspective of that first-day attorney being called into a senior partner’s office, presented with a legal question, and asked to create a legal analysis. Then these words of advice follow: “Your legal career will get off to a much better start if you know how to ‘get back to her with your legal analysis’” (p.xix). Next are 19 chapters, 372 pages, 4 appendices, and a glossary on how to read, synthesize, analyze, write, and edit a legal analysis specifically for the law firm environment.

¶5 First, some practical notes: the book is paperback, with a bendable yet sturdy cover. The paper is thick, does not tear easily, and has a smooth, pleasant texture for margin notes. Felt tip pens will show through, but highlighters and colored pens are safe. The margins are wider than usual, at both the edge and bottom of the page. This is useful for readers in taking copious notes, which they will want to do.

¶6 A Lawyer Writes uses several mechanisms to aid information retention. Sidebars, shaded in blue, are used throughout and contain practical advice for the first-year attorney, such as what it means to synthesize cases and what legal jargon is used synonymously with legal terms. Also, when the authors parse a particular law or passage from a court opinion, they use small-text, light blue notes to highlight aspects of the legal text and reinforce the principles taught in earlier paragraphs. These notes also reference other chapters that delve into related principles. Finally, each chapter except the last ends with a “Practice Points” box that reviews the major ideas from the chapter, making it a valuable counterpart to the outlines at the beginning of each chapter.

¶7 The book’s authors and designers obviously considered carefully which elements would ease the physical effort that studying requires. One example is the book’s frequent use of cross-references to remind readers how the discussion at hand pertains to other chapters. For example, chapter 11, which discusses statutory analysis, references chapter 3, which explains reading statutes for comprehension.

Readers do not need to sort through mental or written notes; the reference is right there in front of them.

¶8 A couple chapters merit highlighting: chapter 2, “Sources and Systems of the Law,” and chapter 18, “Professional E-mails.” Chapter 2 gives one of the best explanations of the U.S. federal court system I have seen, not only giving several pages over to discussing jurisdiction and hierarchy but also looking carefully at the meaning of *stare decisis* and the effect it has on the “why” of gathering case law. Chapter 18 is a valuable tool for helping new attorneys craft professional and concise email responses. The authors tell readers that credibility is “evaluated with every piece of work you complete” (p.308), including emails. This chapter will help new attorneys acquire the basic principles of professional communication, and readers can build on individual firm preferences from there.

¶9 If you are a law librarian in a law school or a firm librarian in charge of the incoming attorney orientation and are asked for a book that will help a new attorney on the first day, this is a good book to consider handing to them. The book, although requiring careful reading, rewards the reader with understanding, and has numerous tools and useful information that will help anyone get a better grasp on legal analysis and the place it has in legal research.


Reviewed by Nick Sexton*

¶10 Every academic law library will likely purchase a copy of Jane Sherron De Hart’s *Ruth Bader Ginsburg: A Life*. De Hart’s book is a comprehensive and engaging biography of a sitting Justice on the U.S. Supreme Court: in other words, an easy selection decision for those of us in collection development. The question is, is the book worth reading? After completing its 540 pages of text (the remainder of its 723 pages are notes, bibliography, and index), I can vouch that it is.

¶11 What makes the book readable is its clear unfolding of Ginsburg’s story, from her birth in Brooklyn in 1933 to the point when Brett Kavanaugh was nominated for Anthony Kennedy’s Supreme Court seat in 2018. De Hart’s biography confirms what we would have guessed: Ginsburg was an excellent student throughout her school career, and she has worked hard, incessantly, with an undistracted focus, in every job she has held.

¶12 Ginsburg’s early story provides a few surprises. For example, Ginsburg had a sister, Marilyn, who was born in 1927 and died in 1934 of spinal meningitis. De Hart says that Ginsburg “was too young to remember her sister” (p.5), but it was Marilyn who, observing her little sister kicking as a baby, gave her the nickname “Kiki,” which stuck with Ginsburg for years. Ginsburg’s mother, Celia, whom Ginsburg called “the strongest and bravest person I have ever known” (p.27), and from whom Ginsburg acquired her work ethic (among other traits), died two days before Ginsburg graduated from high school. These losses are important, having left lifelong impressions on Ginsburg. The death of Marilyn, for example, who was gone

* © Nick Sexton, 2019. Clinical Assistant Professor of Law and Head of Access Services, Kathrine R. Everett Law Library, University of North Carolina School of Law, Chapel Hill, North Carolina.
before Ginsburg was old enough to engage with her, plunged the household into the somber cast that Ginsburg felt throughout her childhood.

¶13 At Cornell University, where Ginsburg was an undergraduate, she took a course with Vladimir Nabokov (yes, the author of *Lolita*), and it was under Nabokov’s influence that Ginsburg learned the importance of words and their placement, a lesson she put into practice as a writer of legal briefs and opinions. And while her first two years of law school were at Harvard, she did her final year and received her diploma at Columbia Law School. The reason: Ginsburg’s husband, Marty, graduated from Harvard Law School a year before she did and got a job in New York City; Ginsburg moved there with him.

¶14 Once out of law school herself, Ginsburg had difficulty finding employment. She tied for first place in Columbia Law’s graduating class of 1959, but her gender was an immutable hurdle in the job market. There were few women in the legal workforce, and the male attorneys were reluctant to hire them. Ginsburg had met with such gender restrictions before as a female law student at Harvard. One night, while needing to check a footnote to an article, she found she could not enter “Lamont, the undergraduate library at Harvard where old periodicals were kept, [because it] was designated for men only. . . . In the end, she had to ask a male classmate to do the job” (p.58). Also, there was no women’s bathroom in Langdell Hall, where law classes were held, so “[i]f nature called, she made a ‘mad dash’ of nearly a block to Austin Hall” (p.59). As difficult as it is now to believe, the issue of the lack of women’s bathrooms occurred again when she joined the Supreme Court. “Despite [Sandra Day] O’Connor’s presence for twelve years, only after Ginsburg joined the Court was a women’s bathroom installed [in the Justices’ robing room]” (p.326). How one of Ginsburg’s chief legal concerns became gender discrimination is made clear by these and a multitude of other experiences.

¶15 De Hart furnishes readers with numerous and often remarkable details about Ginsburg’s career, from her start as a clerk for a district court judge, her coauthorship of a book about civil procedure in Sweden (for which she had to learn the language), her role among the first women to teach at Rutgers Law School, her achievement as the first woman to earn tenure at Columbia Law School, her work with the Women’s Rights Project at the ACLU, her appearances as an advocate before the Supreme Court, her appointment as a judge on the U.S. Court of Appeals for the District of Columbia Circuit in 1980, and finally to Ginsburg’s elevation to the Supreme Court in 1993.

¶16 De Hart also provides many specifics (background, facts, parties, issues, legal strategies) about the notable cases Ginsburg has had a hand in, both as a lawyer and a judge. Ginsburg’s personal life, although full with a 56-year-long marriage, two children, grandchildren, and even successful battles against cancer, does not contain enough drama to make this book as thick as it is. The noteworthy aspect of Ginsburg’s life has been, and continues to be, her work. When she found pleasure outside of work, it was mostly in traveling and attending the opera.

¶17 Almost 250 pages of this biography cover Ginsburg’s time on the Supreme Court. As she does elsewhere in the book, De Hart records a lot of fascinating behind-the-scenes details about Ginsburg’s nomination (her husband Marty was an indispensable supporter; Stephen Breyer was also being considered at the time) and the landmark opinions she wrote, whether as part of the majority or in dissent. It is
here, in her Supreme Court jurisprudence, that we see Ginsburg’s lifetime of study, legal practice, and thoughtful consideration of the law serve her most well.

¶ 18 A problem with a biography of a living subject is that no one knows how the story ends. As of this writing, Ginsburg is still a working Justice on the Supreme Court. She could add more chapters to her life, depending on the cases that come before the Court and what she decides about them. Despite not knowing the rest of Ginsburg’s story, I was grateful for De Hart’s volume. It helped me understand why Ginsburg—the brilliant student, hardworking attorney, devoted wife, strict and loving mother, and indefatigable judge—continues to work so hard after living what anyone else would consider an extraordinarily full and rewarding life. The reason goes back, at least in part, to her mother, Celia. Ginsburg’s serious commitment to goals and her unyielding work ethic were learned early on. She has simply never stopped employing them.


Reviewed by Melissa Strickland*

¶ 19 In the course of writing this book on creativity and innovation, Michele DeStefano interviewed more than a hundred law firm partners and corporate general counsel from around the world. She breaks down her argument in favor of innovation and a culture of creativity into three parts: (1) why innovation in the legal profession is necessary; (2) how to create a culture that fosters innovation; and (3) what teams experience (or need to experience) as they go through the creative process.

¶ 20 In analyzing the first part of her argument, DeStefano asserts that lawyers should think and act like innovators in other fields, even if their current business model is still working for them. Each of the five chapters in this part gives a different reason why lawyers should at least try to adopt the mindset of innovation, such as market forces and changing client needs, as well as addressing forces in the current practice of law that make innovation difficult.

¶ 21 Building on this foundation, DeStefano discusses several rules lawyers can follow to create a culture of creativity, collaboration, and innovation within their practices. Lawyers can achieve this goal by keeping an open, rather than static, mindset, working to become more comfortable with emotion and develop empathy, cultivating a willingness to not always be a superstar, and building diverse teams and networks, including people from disciplines outside the law.

¶ 22 DeStefano claims there are seven essential experiences that a team must go through in the process of innovation, analogizing those experiences to various life experiences. For example, she compares committing to a particular problem’s solution to getting engaged or married. Then DeStefano describes her “3-4-5 Method of Innovation for Lawyers” (p.155), so named because it has three phases that take place over four months with five necessary steps. She follows a team in one of her previous workshops as it works its way through the method, using this team’s example to further explain and expand on how her methods work.

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DeStefano peppers the text with a great deal of jargon and numerous buzzwords. While these references currently relate to hot topics in law practice management, many may lose their relevance as the book ages. The book also contains some inconsistencies. For some concepts, DeStefano provides many explanations and examples, sometimes to the point of repetitiveness. For other concepts, there are considerably fewer explanations, some of which are relegated to the endnotes.

This book is clearly directed at practicing attorneys in large firms and, to a lesser extent, corporate legal departments. There are discussion questions at the end of each chapter that are mostly aimed at people working for larger law firms representing corporations. It has less to offer academic readers, though the book is heavily footnoted. The focus on big firms and corporate clients leaves little content for lawyers in smaller practices or those serving individual clients. While I can definitely recommend this book to large firm libraries, especially those that might be interested in using the discussion questions to spark ideas among their attorneys, I am less inclined to recommend it to government or academic law libraries.


Reviewed by Christine Bowersox*

Environmental law is a complex area of law relevant to local, national, and international communities, yet it lacks a clear and consistent resolution. Elizabeth Fisher, a professor of environmental law at Oxford University, breaks down the history, development, and future of our need to create laws to protect our ability to grow and develop our nations while also taking environmental protections into account.

Fisher defines environmental law as “the law relating to environmental problems” (p.1). She establishes that environmental law is necessary, but she also acknowledges the challenges faced in passing laws that protect the environment, whether the resistance is political, social, economic, or philosophic at root. After detailing the complexity of environmental problems, Fisher notes that many of these issues share a common structure: the “tragedy of the commons” (p.8), which in its most simple form means that everyone overuses a common good for their own benefit, placing too many demands on a finite resource.

Next, the book addresses some of the substantive nature of various environmental laws and how they have permeated nearly every level of government in every nation. Environmental protections are found in legislation, policy measures, case law, and regulations, using both “legally conventional and . . . legally innovative” (p.19) methods to craft the message. Fisher also explores the diversity that complicates environmental law—diversity between jurisdictions, diversity of environmental problems, and diversity in the types of legal response.

Fisher also traces the history of environmental law, starting with the United Kingdom’s development of legal reform as a result of various outbreaks, such as cholera, in the 1850s. In the United States, the work of John Muir led to the creation of our national park system as well as the birth of the Sierra Club in the late 1800s. The 1940s and 1950s saw international agreements covering whaling, fishing, and air and oil pollution.

Despite this progress, Fisher suggests that “legal imagination” (p.51) is needed to develop environmental laws that will have lasting impact. This imagination plays a role in international laws in the form of agreements and treaties, such as the Kyoto Protocol, Cancún Agreements and, in more recent times, the Paris Agreement. Other results of legal imagination include the environmental impact statements required by the National Environmental Policy Act of 1969.

As mentioned above, jurisdiction is one of the complexities of environmental law. Domestic environmental laws vary widely from nation to nation, often depending on the structure of that nation’s government. Of special interest is Fisher’s discussion of the Treaty of Waitangi in New Zealand, in which the indigenous Maori and non-native citizens of New Zealand worked together to establish legal principles for all, efforts neither the United States nor Australia has undertaken with their indigenous populations. Fisher highlights the balance that must be taken into account between environmental protection and the freedoms of the citizens. Powers of the state are often the cause of many disagreements over environmental changes.

After presenting the jurisdictional framework of environmental law, Fisher circles back to the concept of “legal imagination” in environmental law and how to put imaginative practices into practical effect. Specific examples of some of the success stories include the United Kingdom’s Clean Air Act and the legal protection of certain species in the United States. Many other laws do not have tangible results right away but may show positive but slow results over a long period of time.

The imagination of environmental law is important to the quest for environmental justice, which is made up not of a “single ideal [but] many songlines, many ways of foraging meaning” (p.110). As the reach of environmental laws spreads into other areas of law and permeates the international community, the use of courts to settle disputes over environmental laws and greater accessibility to these courts are key to environmental justice. Reform is also a powerful tool, as is employing adaptive management as a way to achieve justice.

Fisher concludes with a summary of lessons learned in environmental law. In particular, the core concept is that this complex area of law offers no easy answers to the myriad problems and legal questions that arise when we try to create effective environmental law without infringing on the sovereignty of nation-states. She points out that there is no magic wand or easy solution to the creation and implementation of new laws. In addition, there is a real need to review existing laws as times change to make sure they remain relevant and accurately aimed at solving the issues for which they were designed.

I recommend this book to any firm with an environmental law practice as a refresher or a glimpse into nontraditional approaches to environmental issues. It is especially relevant for any law schools offering environmental law classes.

**Reviewed by Sandra B. Placzek**

¶35 “A dynamic system, the Constitution was far more than the words with which it was written, and it was incumbent upon successive users to keep that system in motion by exercising appropriate discretion, and where needed, adding meanings that did not previously exist” (p.129).

¶36 Language and its impact are the absorbing, underlying themes that Jonathan Gienapp, a professor of history at Stanford University, explores in the intense, approximately 10-year span of the early history of the U.S. Constitution. Gienapp explores the theme of language in a variety of ways: the choice of words and their meanings in crafting the Constitution; the critical decision to have a written document; the seeming ambiguity, brevity, incompleteness, and silence of the text in certain areas; the ratification discussions; the subsequent interpretation and application of the written text; the revisions through amendment; the increasing reliance on the framers' intent through consultation with the archives; and finally the recognition of the evolving nature of language and its impact on future generations. The tension created because of these linguistic issues, the resulting struggle to figure out what kind of object this document was, and how to fix or set—not repair—language in the creation and early foundational period of the Constitution's life are the threads tying his work together.

¶37 Gienapp presents detailed, nuanced discussions of select, historically significant events to illustrate these linguistic issues and the resulting evolution of constitutional thought and application. Deliberate in choosing those events, he focuses on the teasing out of meanings, particularly as related to key government players, by exploring how their duties and responsibilities were presented in the document—and how those duties and responsibilities were eventually interpreted and defined through the resolution of the events.

¶38 Beginning with the Constitutional Convention, Gienapp examines not only the importance of language in crafting the document but also the decision to create a written document, a break from British tradition. He then leads the reader through different issues related to its implementation, interpretation, and application, including detailed discussions of the amendment process and the separation of powers. He pays special attention to the interests of the rising political parties and the views of the Federalists and Anti-Federalists, then later Republicans and Federalists, and the impact those views had on the evolution of the Constitution. He also keenly recognizes that inherent in those linguistic issues and the ensuing debates were concerns about power—both the balance of power and the potential abuse of power by individuals or branches of government. He explores the amendment debates; traces the limits of executive power through the Removal Debates, the Supremacy Clause, and the Jay Treaty ratification; explores the Necessary and Proper Clause through the Federal Bank Charter; and revisits the exploration of the boundaries of the power and role of the House of Representatives ("the people’s")
branch of government” (p.260) in the treaty ratification process, all the while illuminating the struggles to create an understanding of what the Constitution is, how it should be used, and how much meaning to place on the actual text versus interpretation.

¶39 Gienapp weaves a second, more biographical story into the constitutional narrative—that of James Madison, “father of the Constitution” (p.327), and his involvement in the creation and the evolution of the Constitution. Gienapp beautifully, almost seamlessly, integrates Madison’s contributions, impact, and personal evolving views on the document into the larger narrative. So closely intertwined are the two that readers may not realize how truly important Madison’s contributions to the Constitution were until reading this book.

¶40 In this rich history of the creation and early implementation of the Constitution, Gienapp shows how those historical events and the subsequent development of the document are significant to how we interpret the Constitution today. In addition to his excellent discussion, Gienapp provides a rich notes section with almost 100 pages of references to the treasure of materials consulted in the writing of this book. It is an intriguing, highly readable, engaging, and extraordinarily thought-provoking work. Gienapp’s nuanced analysis makes The Second Creation an excellent acquisition for all collections and a welcome addition to the U.S. constitutional bibliography. I highly recommend it.


Reviewed by Louis M. Rosen*

¶41 Since I was a teenager, I have idolized journalists, particularly investigative reporters. I followed in the footsteps of one of my writer-heroes, novelist and Miami Herald columnist Carl Hiaasen, to the University of Florida College of Journalism and Communications, where I ended up majoring in telecommunications—what most other schools would have called a broadcasting degree. Then I proceeded to never work a day in the industry (I turned out to have a face for radio and a voice better suited for print media), choosing law school instead.

¶42 Still to this day, I have the utmost respect and reverence for the press, especially in a time when they are facing less respect and more danger than ever before from the political class, about half of the general public, and even within their own field. In Journalism Under Fire, Stephen Gillers delves deeply into the new challenges investigative reporters face, starting with a detailed analysis of the First Amendment’s Press Clause (Congress “shall make no law . . . abridging the freedom of . . . the press”). Later chapters cover what and who comprise “the press,” what the Press Clause demands of the press, protection of confidential information, Press Clause protection for newsgathering, and a policy-related chapter introducing four legislative changes that would safeguard investigative reporting.

¶43 In defining who and what make up the press, Gillers argues that despite technology and the Internet giving everyone a voice, not everyone counts as a journalist for Press Clause protections due to the ethical standards that make journal-
ism a legitimate profession. It would weaken the Press Clause and render it irrelevant if any individual could be a journalist since it would no longer be distinct from the Speech Clause of the First Amendment. Gillers cites and analyzes landmark cases throughout the book, establishing a historical perspective by including First Amendment classics like *New York Times v. Sullivan* and *Branzburg v. Hayes*, while also drawing from current events.

¶44 The four legislative changes Gillers recommends are “spending public money for investigative reporting, adopting a national anti-SLAPP\(^1\) law, ensuring the opportunity for appellate review of adverse jury decisions, and strengthening freedom-of-information acts” (p.147). Gillers believes anti-SLAPP laws would empower courts to resolve litigation against the press by powerful opponents with deep pockets, like venture capitalist Peter Thiel’s funding of former wrestler Hulk Hogan’s lawsuit against Gawker, which eventually bankrupted the media company. Anti-SLAPP laws would wrap lawsuits up quickly and cheaply and force losers to pay legal fees and costs for reporters and news organizations if the cases are dismissed, to discourage costly litigation aimed at silencing the press.

¶45 With reporters being barred from the very places they are hired to cover, threatened, harassed, sued, and even targeted for violence, it is more important than ever for the legal profession to stand with our allies in the Fourth Estate, to protect their voices, their rights, and their lives. Gillers’s book would be an important and very affordable purchase for every law school or university library, particularly for law schools that offer First Amendment law or media law classes, or colleges and universities with journalism programs. It would be an invaluable resource for any student writing a paper on media and the law or a professor developing such a course.


Reviewed by Deborah L. Heller*

¶46 *How to Save a Constitutional Democracy* is a timely look at the structure and meaning behind the phrase “constitutional democracy.” One might be lured into thinking that the election of Donald Trump and his ensuing attacks on the U.S. democratic system of government provides the fodder for this entire volume, but that assumption would be incorrect. While the book mentions Trump and his populist rise to power, the book delves deeper into examples of democratic collapse and erosion in the United States and beyond. Ultimately, Ginsburg and Huq provide a detailed analysis of how democracies fall, whether abruptly collapsing or slowly crumbling, and how the United States and other democracies can adapt to prevent such ends.

¶47 The introduction carefully lays out the premise that, although inspired by the election of Donald Trump as president of the United States, the book is not about him. Ginsburg and Huq look at examples around the globe over the past century to investigate how legal and constitutional design can benefit or hurt democracy. Early chapters define the phrase that lies at the heart of the book—

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1. SLAPP stands for strategic lawsuits against public participation.

* © Deborah L. Heller, 2019. Environmental Law Librarian and Adjunct Professor of Law, Elisabeth Haub School of Law at Pace University, White Plains, New York.
“liberal constitutional democracy”—and investigate the two paths of constitutional collapse: authoritarian collapse and democratic erosion. Later chapters examine whether the Constitution, the revered foundational document of the United States, can save the United States from loss of democracy, and how the United States and other countries can better prevent democratic decline.

¶48 Most chapters begin with an example of democratic decline from around the world or, in the case of chapter 5, a look into what the future of democratic decline in the United States could look like. The examples provide snapshots of both quick and slow democratic decline: the rise of the Nazi Party in Weimar Germany and the quick collapse of democracy following the implementation of the Enabling Act on the heels of the burning of the Reichstag in 1933; Indira Gandhi declaring a state of emergency in India in 1975; the declaration of a state of emergency in Thailand in 2014; military coups in Turkey; Alberto Fujimori’s presidential coup in Peru in April 1992; the rise of Jim Crow in the American South in the 1880s; the rising again of Fidesz to power in Hungary in 2010; the rise to power of Mahindra Rajapaksa in Sri Lanka; or the actions of Hugo Chávez in Venezuela. Ultimately, the lesson is that democracies can decline quickly or slowly, anywhere, and at any time.

¶49 Ginsburg and Huq define a liberal constitutional democracy in terms of three core institutions that must all be present. First, there must be a democratic electoral system with free and fair elections in which each adult, with some limited exceptions, can vote. Second, the right to speech and association must be guaranteed. Third, it is vital to have a rule of law sufficient to allow democratic engagement without any fear of coercion. All three elements must appear in practice and not merely on paper.

¶50 Authoritarian collapse occurs when a country takes a rapid and complete turn away from democracy, while democratic erosion occurs slowly and cumulatively, resulting in a substantial unraveling of the rule of law. Interestingly, Ginsburg and Huq contend that democratic erosion unfolds through several methods, including constitutional amendments that alter basic governance; elimination of checks between branches of government; centralization of power; contraction of the rights of speech and association; and elimination or suppression of political competition. Elimination of political competition can take the form of a charismatic populist leader or partisan degradation in which a single party emerges to claim power.

¶51 As for the United States in particular, Ginsburg and Huq suggest that the United States is unlikely to fall victim to authoritarian collapse given its wealth and a long history of democracy. Therefore, the only real possibility remains democratic erosion. They go on to discuss the U.S. Constitution as one of the most rigid in the world since it is incredibly hard to amend—a fact that may work in the country’s favor. Additionally, the complete absence of emergency powers in the U.S. Constitution offers protection. The most likely source of democratic erosion in the United States comes from a presidency that gathers powers beyond those outlined in Article II.

¶52 The final chapters offer possible means for guarding against democratic decline. Ginsburg and Huq note that democratic design plays an important role, but that design can take a country only so far without decency and political morality. Two possible design options include (1) allowing for amendments over a num-
ber of years so that more than one party can wield power during the change process; and (2) involving multiple institutions with distinct constituencies in the democracy. Ginsburg and Huq posit that parliamentary systems allow for greater distribution of political benefits by allowing even minority party members to exert actual power. Additionally, parliamentary systems do not have fixed-term executives and can respond with greater speed to shifts in public opinion. However, parliamentary systems can lead to their own forms of instability as well.

§53 One of the most important design elements highlighted is the constitutional court, which can help prevent backsliding and serve as a safeguard of democratic mechanisms. For the United States, other suggestions include the adoption of independent electoral commissions to draw boundaries for legislative districts (or for the Supreme Court to develop a more rigorous doctrine on redistricting than that currently in use); the creation of legal powers for legislative opposition; improving congressional oversight of the president, including reviving the impeachment power beyond requiring the need for “high crimes and misdemeanors”; and greater cooperation between the legislative and executive branches of government. Ginsburg and Huq have additional ideas regarding the judiciary, special counsels, damages for constitutional violations by federal officials, and many more.

§54 Trump may not be the focus of the book, but many people see signs of democratic erosion in the United States under Trump: unchecked false statements and exaggeration, lack of trust in science and facts, and general lack of political, let alone moral, decency. This book should serve as a wake-up call about the danger of slipping into constitutional decline and the role that each of us can play in maintaining democracy in the United States. The book is readable and informative, and the use of real-world examples helps illustrate the concepts discussed. How to Save a Constitutional Democracy would make an excellent addition to any law library and would be useful in other academic libraries and public libraries as well.


Reviewed by Mary Thurston*

§55 With data breaches happening regularly—such as large ones recently at Marriott and Experian—and social media allowing us to display our lives 24/7, we live in a privacy paradox where we want to protect our data and yet at the same time show the world who we are. Now is an apt time to explore the history and evolution of privacy in the United States.

§56 Beginning with the poem “Unknown Citizen” by W.H. Auden, Sarah Igo borrows the poet’s question, “Could known citizens be happy? Were they, in fact, free?” to survey and begin her narrative of the history of privacy in the United States (p.2). She examines the push and pull of society, emerging technologies and media, surveillance and official documentation, and the propulsion of the problem of individual privacy into the forefront of society.

§57 Spanning from colonialism to the present, Igo reviews the maze of technologies, changes in media, the meaning and importance of privacy, the legal pro-

tections of privacy, and who is entitled to its protections. Each chapter brings a dizzying array of detail regarding society’s thoughts on privacy, the technologies surrounding it, the pushback by society when intrusion becomes too bold, and the government’s response. Taking the reader through the decades, Igo divides the book into eight themed chapters that jump back and forth through decades, bringing us to the present. Each chapter is ripe with examples of privacy issues and considerations.

¶58 The book begins in the 1800s, when privacy belonged to the white bourgeois male. This begins to be disrupted in the late nineteenth century with the implementation of new technologies such as instantaneous photography, telegraphy, telephony, sound recording, and the popular press. With the advent of these new technologies, personal lives became “increasingly accessible to a large number of others, irrespective of acquaintance, social or economic class, or the customary constraints of propriety” (p.27).² A backlash against these intrusions resulted in the invention of the right to privacy by Samuel Warren and Louis Brandeis in their 1890 Harvard Law Review article, “The Right to Privacy.”

¶59 Igo explores the willingness of the populace in the 1930s and 1940s to allow the state into their personal lives to receive social security benefits. Some also feared the threat posed by a national identification system, but Igo asserts that people were more fearful of what employers would do with the information than of what the government would do with it. In the 1950s and 1960s, government surveillance was used to root out so-called subversives. Contemporaneously, the middle class avidly pursued therapy sessions and read advice columns, allowing intrusions into their inner psyche. Employers were also now interested in the motivations and personality flaws of the individual. At the same time, the right to be let alone was being expanded as the courts constitutionalized privacy in Griswold v. Connecticut, and discussions of informed consent and the right not to be harmed became standard among philosophers, lawyers, and social scientists.

¶60 In the 1960s and 1970s, with the expanding use of computers and general distrust of government, came fear of centralized databases and the concern that one’s success or failure might be determined by whatever is in his or her “file.” Post-Watergate, transparency replaced the presumption of secrecy. Life became more causal, and the lines between political and personal began to blur, especially with the early advent of reality TV in the 1970s with An American Family. By the 1990s, “confession had come to define American public life” (p.309). Now, in a nearly postprivacy society with technology tracking every click of a button, Igo concludes that the privacy debate continues and finds Auden’s questions to be just as relevant as they were in the 1940s.

¶61 With continued use of new technologies unveiling our innermost secrets and the push-and-pull between the psyche and society to display our lives and yet remain hidden, the privacy paradox that has been with us for centuries will not resolve anytime soon. The Known Citizen provides a very detailed, well-researched, broad-brush look at America’s relationship with personal privacy, guiding us to see the patterns of history. Overall, it would be a reasonable, but not imperative, purchase for academic law libraries.

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Reviewed by Susan Gualtier*

¶62 In *Lost in Translations: Roman Law Scholarship and Translation in Early Twentieth-Century America*, Timothy Kearley tells the story of five American scholars and translators of ancient Roman law: Samuel Parsons Scott, Justice Fred H. Blume, Charles Sumner Lobingier, Charles Phineas Sherman, and Clyde Pharr. Kearley has spent a considerable amount of time working with Justice Blume’s translations and researching his life and the lives of his contemporaries. The attention to detail in describing the backgrounds and work of Blume and his fellow scholars reflects how deeply the author cares about the topic. Arguing that the scholarship of these five men “was motivated and supported by their classically-oriented educations and, more generally, by a pervasive American cultural connection to the classical past that we find hard to imagine today” (p.3), Kearley has written an informative and enjoyable book that sheds light on both the educational interests of early Americans and the lives and work of five individuals who greatly influenced the study of Roman law.

¶63 *Lost in Translations* is as much a history of libraries, books, and American education as it is a biographical account. Kearley begins the book with an overview of the education system in colonial America. He continues to trace the development of primary, secondary, and legal education, as well as the availability of libraries, classical works, and law books, through the Antebellum Era and the Gilded Age. As Kearley states early in the book, “England’s classics-based education was imported into much of colonial America, and it continued, in progressively diluted form, until the early twentieth century” (p.3). Although colonial education was very much rooted in the study of classical languages and literature, shifting priorities and an increasing emphasis on more “practical” subjects and modern languages meant that, by the Gilded Age, classicism had become the domain of the elite, with the American Bar Association hoping to revive the study of Roman law, albeit from a historical and comparative perspective rather than from a practical one.

¶64 In the second half of the book, Kearley explores the individual histories of Scott, Blume, Lobingier, Sherman, and Pharr, tying their stories together and reflecting on how each of their educational backgrounds affected their later work on Roman law. Of the five translators, Kearley deems Blume to have been the most successful. Although Scott’s translation of the *Corpus Juris Civilis* (entitled in English, *The Civil Law*) was published earlier, and until recently was the only printed English translation of Justinian’s Code and Novels, it was widely criticized. According to his critics, Scott failed or refused to rely on modern sources of Roman law scholarship to inform his translation—a phenomenon that seems inexplicable given his connections to academia through the ABA’s Comparative Law Bureau and his communications with Lobingier in particular. The consensus is that Scott had little understanding or interest in how the Roman law operated in practice.

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¶65 By contrast, Blume appears to have invested a great deal of energy in understanding the practical application of the law. Though his library was smaller than Scott’s, Blume read and subscribed to scholarly journals and collected volumes of modern Roman law scholarship, particularly in German, which was the "primary language of scholarship on the Corpus Juris Civilis in the nineteenth and early twentieth centuries" (p.135). As a busy jurist, Blume had to work on his translation in his spare time and did so "at considerable cost to his health and to his private life" (p.143). Blume also corresponded with Pharr for almost three decades, collaborating on both the Corpus Juris Civilis translation and Pharr’s translation of the Theodosian Code. However, Pharr had sweeping plans to translate the entirety of the Roman law texts into English, which proved a drain on Blume’s efforts to translate the Corpus Juris Civilis. Although he completed his manuscript and sent it to Pharr for comment, it would not be published in his lifetime.

¶66 The final chapter of Lost in Translations focuses on Kearley’s own involvement in finally publishing Blume’s translation. Although Pharr’s copy of the manuscript disappeared, Blume’s working copy made its way to the University of Wyoming College of Law along with the rest of Blume’s library. As director of the University of Wyoming Law Library, Kearley learned of the manuscript and began to feel an obligation to make the decades-long translation widely available. Kearley states that he began to empathize with Blume as he read through Blume’s correspondence with Pharr and others. This empathy is clear throughout Kearley’s book as he describes the laborious task that became Blume’s life’s work. Kearley began working on an electronic version of the translations and was eventually contacted by an editor who wished to use the electronic version as the basis for a new English translation of the Justinian Codex. After several years of transcribing and editing, Cambridge University Press published The Code of Justinian: A New Annotated Translation, with Parallel Latin and Greek Text, based on a Translation by Justice Fred H. Blume, almost 75 years after Blume first sent his manuscript to Pharr for review.

¶67 Legal historians, librarians, and book lovers will likely be pleased with Lost in Translations. It is a quick and enjoyable read, and is recommended for law libraries, particularly those collecting in the areas of Roman and civil law, and for other libraries with classically focused collections.


Reviewed by Courtney Segota*

¶68 Complementing works like Michelle Alexander’s renowned The New Jim Crow, The War on Neighborhoods brings a local focus to the national issue of mass incarceration by describing its multigenerational effects on the impoverished, predominantly black neighborhood of Austin, on Chicago’s West Side. Authors Ryan Lugalia-Hollon and Daniel Cooper describe the interconnections between mass incarceration, poverty, crime, trauma, and the continuing effects of racist housing

* © Courtney Segota, 2019. Head of Instructional Services, University of South Dakota Law Library, Vermillion, South Dakota.
practices and the war on drugs. They go on to offer examples of the equally interconnected and wide-ranging solutions necessary to address the entrenched systems of inequality that lead our society to rely on punitive criminal justice.

¶69 The book opens by describing the post-WWII history of Chicago's West Side. During these decades, many black neighborhoods, such as Austin, were gutted by racist real estate practices, the War on Drugs, and the lack of noncriminal employment options for residents, while nearby white neighborhoods thrived.

¶70 Lugalia-Hollon and Cooper explore the vast financial, employment, and policing differences between rich and poor (and predominantly white and black, respectively) Chicago neighborhoods, despite their similar geography, and how these differences came to be through “white flight” to the suburbs and the resulting divestment of businesses and government in West Side neighborhoods. As obtaining legal employment became more difficult, people turned to the more lucrative, and more local, drug trade. At the same time, the government’s focus shifted from alleviating poverty to punishing those who were most affected by it. However, this did not mean that society stopped bearing the cost of unemployment. On the contrary, while money for social services has evaporated, more and more money continues to be pumped into policing and incarceration. This expensive shift has done nothing to curb either crime or drug addiction.

¶71 This segues to the policing and sentencing strategies that have predominated since the start of the War on Drugs, increasing both police saturation of poor areas and the sentences meted out to their residents. These policies also led to changes in the behavior of the drug market—for instance, moving drug sales from peoples’ homes (which could now be seized) to street corners, which increased turf wars, gang violence, and chaos.

¶72 Lugalia-Hollon and Cooper then turn to the root causes of violence in poor areas like Austin, such as sexual and child abuse, economic and societal insecurity and, surprisingly, the disorganization of gangs after their leaders are locked up. Increased policing of disadvantaged areas only makes matters worse, by destabilizing neighborhoods and ruining residents’ trust in police. In a dark twist, the authors point out how police themselves are also harmed by punitive policies that encourage them to dehumanize poor people of color and to focus more on arrest numbers than on actual public safety.

¶73 Mass incarceration of black fathers is the next step in this wretched cycle. While the media blames youth violence on irresponsible fathers abandoning their families, forced removal creates a cycle of trauma that harms children, women, and entire neighborhoods, as well as the fathers themselves. Lugalia-Hollon and Cooper urge that systems need to be in place for disadvantaged youth to succeed. They decry how these systems have been defunded while apparently limitless money is funneled into the criminal justice system. Furthermore, systemic injustice makes it hard for people to escape the criminal justice system once it has impacted them, despite token efforts at drug sentencing reform.

¶74 Meanwhile, rural (largely white) areas have become dependent on prisons for employment and thus on a constant supply of (largely black) prisoners. Both rural and urban residents would be helped by reallocation of funds from prisons to social welfare programs, but Illinois’s dysfunctional politics will not fund such reforms.
¶75 In conclusion, Lugalia-Hollon and Cooper support calls for a “new Marshall Plan” that would move money from the prison system to investments in jobs, commerce, community building, and youth support in disadvantaged communities (p.177).

¶76 This book presents both problems and potential solutions in their historical context and serves as a stinging rebuke to punitive theories of justice. However, the authors sometimes lapse into a frustrating idealism that contrasts oddly with the matter-of-fact tone of the volume, especially when describing their own projects. They explain that the systems for helping people have already been imagined and just need funding—but most money is not in the hands of people who care about people, and the authors describe only a few of the powerful interests vested in our current, unjust system. For example, why would corporations create jobs in poor areas when they can rely on prison labor at slave wages? As the authors correctly state, legislative mandate could eliminate many of these injustices and move money from the prison system to reinvestment in blighted neighborhoods. But a legislative mandate would require political will, which would require votes, and felons, who have the most to gain, are not allowed to vote.

¶77 However, most of my complaints are about the trees, not the forest. The authors have done solid research and present some very compelling arguments. I would recommend this volume to any library whose users are interested in holistic analyses of urban society, poverty, crime, and punishment (and its alternatives), especially in the Midwest.


Reviewed by Heather Holmes*

¶78 Three consistent themes emerge from Carol Ottolenghi’s excellent new book, *Intentional Marketing: A Practical Guide for Librarians*. The mission, vision, and values of a library should embody and reflect the library’s identity as a dynamic, responsive, and accessible resource, with user-centric content offerings and a skilled staff of librarian experts.

¶79 All messaging should be directly linked to the library’s mission, vision, and values and should promote the three core components—place, collection, and staff expertise—that define its function in a community.

¶80 Marketing efforts should be thoughtful and deliberate, communicating a unified message that conveys the impact and worth of a library to its stakeholders and situates the library in the minds of its users as an essential and desirable resource.

¶81 These clear through-lines propel the book forward, providing a steady momentum and an engaging read. Ottolenghi’s writing is swift and accessible. She inspires the reader to develop new marketing campaigns derived from the ideas presented and encourages a shift in the reader’s thinking from a product-centered to a user-centered model of library marketing.

In a culture saturated with media, marketing, and messages, it seems that everyone, both consumers and content creators alike, should be experts at recognizing which marketing messages work and which efforts are simply wasted. Identifying successful approaches—and distinguishing a persuasive message from a dud—is far from intuitive, however. Ottolenghi’s talent is in parsing the qualities of an effective marketing strategy and providing concrete examples (many drawn from the successful real-life marketing approaches of AALL members in academic, firm, and government law libraries) of marketing methods that work.

At the core of Ottolenghi’s intentional marketing model is an increased emphasis on the user experience and a direct appeal to user values. To this end, Ottolenghi’s model accentuates the strategies (big-picture governance) and tactics (strategy implementation) that put users at the center of the plan. Such an approach inspires user loyalty by forging an emotional connection and appealing to the personal needs and interests of library users. This is where intentional marketing truly gets the most mileage, as it requires libraries to be purposeful in designing their marketing strategies, not only sensitive to what users want but firmly grounded in what the community needs. This, Ottolenghi says, is the critical difference between marketing and intentional marketing and the key to building a community’s perception of its library as vibrant, relevant, responsive, and essential:

Intentional marketing is a mind-set, not a set of marketing tactics. Branding is part of it, but intentional marketing is much deeper than branding. Branding seeks to remind people of your library when they see a particular graphic or hear a slogan. Intentional marketing seeks to position your library positively in the minds of users and potential users. Intentional marketing influences how people rank—or position—your library when they compare it to other information, entertainment, and life-enriching options. (p.2)

Responding to what your users value, accommodating their needs, creating an effortless and engaging user experience, and reducing friction by addressing users’ pain points is key. Libraries can accomplish these tasks by creating and deploying a package of intentional marketing tactics, examples of which Ottolenghi discusses in detail throughout the 11 chapters of her book. Each focuses on a different tactic, such as word-of-mouth marketing, social media campaigns, digital projects, exhibits and displays, relationship building, storytelling, content marketing, and more. Snapshots of actual, appropriation-worthy marketing initiatives, created by a variety of libraries, round out the chapters. Also included are lists of additional resources drawn from research and observations in the fields of behavioral and social science, human resources, business and marketing, and information studies. The book concludes with six appendices full of practical tools for helping library marketers develop strategic plans, mission statements, marketing policies, and institutional evaluations.

The guidance, resources, examples, and tools provided in Intentional Marketing are just what an effective library marketing team needs to implement a unified approach to messaging that will, as Ottolenghi says, help your library “be seen doing good work” (p.2).

Reviewed by James G. Durham*

¶86 *The Remarkable Rise of Transgender Rights* is a fine addition to the rapidly developing canon of authoritative texts that describe the LGBTIQ legal landscape. In the book's introduction, the editors describe their premise: “[W]e explore the rise of the transgender rights movement and examine how it is operating so successfully despite its marginalized status within the current political opportunity structure. This book’s central question can be described succinctly as ‘how are they doing that?’” (p.6).

¶87 Importantly, this book is a survey of transgender rights as political and legal phenomena; it does not aspire to be a complete, encompassing history of the transgender community. Noted early activists such as Marsha P. Johnson and Sylvia Rivera are mentioned in passing, but readers largely should look elsewhere for intimate portraits.

¶88 The absence of individual stories is not a shortcoming of this book, which has other goals. Instead, it speaks to the incredible richness and texture of experience in the transgender community that is only beginning to be mined by documentaries, popular memoirs, and scholarly publications. The authors of *The Remarkable Rise of Transgender Rights* aim to educate readers about a societal movement, shifting public opinion, political realities, and the march toward greater legal justice for the transgender minority.

¶89 The book’s four overarching sections and their subordinate chapters follow a logical progression. The first two sections provide the conceptual and social bases for a later in-depth treatment of law- and policymaking. Section I introduces transgender identity and describes how the movement has developed over time, frequently in tandem (and sometimes in conflict) with lesbian and gay advocacy. Section II contains a chapter on public opinions about transgender issues, revealing the results of recent surveys and comparing them to past studies. The subsequent chapter analyzes demographic factors correlated with various opinions.

¶90 With sections I and II providing the foundation, sections III and IV proceed with law- and policymaking considerations. Section III has individual chapters that discuss transgender rights in the three branches of government (legislative, judicial, and executive), followed by a fascinating discourse on the ways that direct democracy has the potential to both speed and hinder reforms. Section IV is a deep dive into transgender policy. Chapters in this section provide explorations of identity documentation on driver’s licenses and birth certificates; nondiscrimination policies in public accommodations and restrooms; health insurance coverage; educational policies related to Title IX and antibullying initiatives; and criminal justice issues like hate crimes and inmate rights.

¶91 The text is both scholarly and inspired. The authors give substantial attention to achieving a unified voice throughout the book, despite combining the efforts of six additional contributors. The tone and format are consistent, giving the

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impression that a single author produced the book. The result of these efforts is a pleasure to read.

¶92 Careful organization lends academic heft and value to the volume. The authors are serious about increasing the utility of their product. They allocate more than 100 pages to a table of contents, appendices, endnotes, references, an index, and biographies for the three authors and six additional contributors. In all, approximately one-quarter of the book is comprised of features that make the contents transparent, accessible, and useful to both the casual, curious reader and the serious gender scholar.

¶93 This book is strongly recommended for academic and law libraries, attorneys with a civil rights practice, government and nonprofit leaders invested in greater equality, and anyone wishing to learn more about gender identity and the law.


Reviewed by Eve Ross*

¶94 *Data-Driven Law* is a collection of 10 essays that give real-world examples of how data analytics can enhance legal services. Here, the term “data analytics” encompasses such hot topics as big data, data mining, artificial intelligence, and machine learning. Essay authors demonstrate how data analytics can apply to contracts, criminal sentencing, e-discovery, employment law and, most of all, law firm decision making on how to market and provide legal services that are both affordable and profitable.

¶95 A great strength of *Data-Driven Law* is that the essay contributors are a dream team pulled from various intersections of law, technology, business, and education. They are innovators actually using data analytics to transform legal services, educators who know how to convey computational concepts, or both. For example, editor Ed Walters is both CEO of the legal research service Fastcase and an adjunct professor teaching a course titled “The Law of Robots”; contributor Maura Grossman is both a research professor in computer science and an e-discovery lawyer/consultant.

¶96 About half the chapters in *Data-Driven Law* are written in a scholarly style. These are chapters 2 and 9 on mining legal service providers’ data, chapter 3 on contracts, chapter 6 on e-discovery, and chapter 10 on intrapreneurship. The remaining five chapters adopt a busineslike, practical style with occasional informality, such as “OK...” and “Well, I think...” (p.126) and cartoons. Although more vernacular, these chapters are supported by citations to sources such as blog posts, business websites, news and statistical sources, and primary legal documents.

¶97 Three chapters are acknowledged in footnotes to be available for free online and are included in the book by permission. Chapter 4 is adapted from a Littler Mendelson white paper, “The Big Move Toward Big Data in Employment.”*3 Chap-

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Chapter 8 is adapted from “Uncovering Big Bias with Big Data,” published on Lawyerist by David Colarusso. Changes from the online originals are very minor but not always for the better. For example, the Venn diagram in the conclusion of chapter 8 is in color on Lawyerist, while the print version shows every circle and intersection in similar shades of gray without clearly delineated borders.

While lacking the detailed instruction necessary to be a how-to guide, most chapters boil down to accounts of “here’s what we did,” including some gems of insight usually only discussed within a law firm, and “how about if you try,” along with realistic considerations of risks and benefits. For example, readers aiming for legal analytics jobs would benefit from understanding the math behind taking a partner off the billable track to work full time on law firm technology. A partner may bring in $500 per hour times 2000 hours per year, totaling $1 million. One partner’s change of role paid off where a single document automation project saved $500 in staff time per deal times 3000 closings per year for a savings of $1.5 million. This profitable equation is tempered by an explanation of why such a full-time commitment is “not easily” replicated: skill sets, personalities, and business models must align (p.208).

The tone of Data-Driven Law is optimistic and encouraging, which fits with its stated goal of convincing lawyers that they should and can increase their reliance on data. Occasional nods are made to privacy and security concerns, but only one chapter focuses in depth on a particular pitfall (chapter 8 on bias). If a collection needs more emphasis on the downsides of data analytics to balance the optimism of Data-Driven Law, a popular choice is Weapons of Math Destruction: How Big Data Increases Inequality and Threatens Democracy by Cathy O’Neil.

Anyone who has been cobbling together an understanding of legal data analytics by hearing a marketing pitch here and reading a tweet there will find that Data-Driven Law provides value. It could be the text for a timely, informative course on the state of legal data analytics. On the other hand, a more standard textbook choice might be Artificial Intelligence and Legal Analytics: New Tools for Law Practice in the Digital Age by Kevin D. Ashley, which has a glossary, a bibliography, and a single author’s style throughout.

Data-Driven Law is recommended for law firm libraries, including those at smaller firms where the profit models and available data may be quite different than at larger firms. The book is also recommended for academic law libraries where technology in law practice is emphasized. Data-Driven Law is part of a series titled “Data Analytics Applications,” edited by Jay Liebowitz. The 12 other books currently in the series consider the effects of data analytics on fields other than law, including cybersecurity, education, knowledge management, and government. These may also be of interest, depending on a library’s collection emphasis.
