ARTICLES


Alyssa Thurston 359


Benjamin J. Keele and Michelle Pearse 383

The Long Tail of Legal Information: Legal Reference Service in the Age of the Content Farm [2012-29]

R. Lee Sims and Roberta Munoz 411

A Survey of Index to Foreign Legal Periodicals Users and Its Implications for Future Developments of the Index [2012-30]

Lesley Dingle 427
Law Library Journal is the official journal of the American Association of Law Libraries. It is published quarterly and circulates to more than 5000 members and subscribers. This guide is provided to assist authors in preparing articles for the Journal.

1. Content. Law Library Journal includes articles in all fields of interest and concern to law librarians and others who work with legal materials. Examples include law library collections and their acquisition and organization; services to patrons and instruction in legal research; law library administration; the effects of developing technology on law libraries; law library design and construction; substantive law as it applies to libraries; and the history of law libraries and legal materials. Submissions aimed at all types of law libraries and at all areas of library operations are encouraged. The Journal also encourages the publication of memorials to deceased members of the Association.

In preparing a manuscript, an author may use any approach appropriate to the topic: case studies, descriptive or historical narratives, commentaries, or reports on research projects. Bibliographies on topics of substantive law or of law librarianship are welcomed; annotated bibliographies and bibliographic essays are preferred.

2. Author’s Responsibilities. Manuscripts are accepted for review with the understanding that they have not been published elsewhere and are not currently being considered for publication elsewhere. Authors are responsible for the accuracy of statements in their articles and for the accuracy and adequacy of the references. Citations to published literature should be carefully checked. References to unpublished material may be included; however, the author is responsible for securing approval, in writing, from any person cited as the source of an unpublished work. The author is also responsible for obtaining permission to use copyrighted material. Such permissions should be secured in writing. By submitting a manuscript to Law Library Journal, an author is certifying that he or she has obtained all necessary approvals and permissions. Copies may be requested by the editor.

3. Editorial Policies. Manuscripts are evaluated for their appropriateness for Law Library Journal, significance, and clarity. If accepted, manuscripts will be edited for clarity of expression and to remove any ambiguities in the presentation. If extensive revisions are indicated, manuscripts are returned to authors for approval of changes and corrections before type is set. Throughout the editorial process, the editor’s purpose is to assist authors in effectively communicating their ideas. The editor welcomes advance queries from authors about possible Journal articles.


5. Bibliographies. All bibliographies, whether submitted independently or to accompany a substantive article, should follow the bibliography style described in paragraphs 14.56–14.317 of The Chicago Manual of Style. Prospective compilers of bibliographies or authors of bibliographic essays are encouraged to contact the editor about their projects before committing them to final form.
Instructions for Preparing Manuscripts

1. Title and Author Page. Provide a title that is brief, specific, and descriptive of the article’s content. Below the title, provide the name(s), professional title(s), and affiliation(s) of the author(s), and the address of the author to whom correspondence should be sent.

2. Abstract. Provide an abstract of fifty words or less.

3. Table of Contents. If the article is divided into headings and subheadings (which is preferred), provide a table of contents telling where in the text each heading is found.

4. Text. The entire text, including quotations, should be typed double-spaced with 1½ inch margins on all sides. Quotations of fewer than fifty words should be enclosed in quotation marks; quotations of fifty or more words should be blocked off and indented an additional inch on the left and right. Footnotes should be identified in the text by superscript numbers.

5. Footnotes. Acknowledgments (if any) should be preceded by an asterisk and placed before the first footnote. Footnotes should follow the form of the AALL Universal Citation Guide (2d ed. 2004) where applicable. For matters not covered in the UCG, use the form of The Bluebook (19th ed. 2010).

6. Appendices, Bibliographies, Tables, and Illustrations. Supplementary materials, such as appendices and bibliographies, should be provided on separate pages. Each table, illustration, and all similar material that is to be published within the text should be individually numbered (e.g., “Table 1”). Indicate the desired placement by providing an appropriate instruction within brackets in the text (e.g., [Insert Table 1]). Camera-ready copy must be supplied for all illustrations.

7. Submitting the Manuscript. Manuscripts should be sent to the editor, Janet Sinder, Brooklyn Law School Library, 250 Joralemon St., Brooklyn, NY 11201. Telephone: (718) 780-7975; e-mail: janet.sinder@brooklaw.edu. Electronic versions in either Word (preferred), WordPerfect, or PDF may be sent by e-mail. If manuscripts are submitted in paper format, two complete copies should be mailed to the address above.

The editor will notify the author that the manuscript has been received and inform the author when an acceptance decision may be expected. After an article has been accepted, the editor will require an electronic manuscript, either on disk or as an e-mail attachment.

The author (one designated author, if there are multiple authors) will receive a clean copy of the manuscript before it is sent to the printer. The copy must be proofread, approved, and returned within 15 days. Before publication, the author will be asked to agree to the Journal’s policy on classroom photocopying, which is published in each issue of the Journal. Upon publication, the author will receive two free copies of the issue in which the article appears, plus twenty-five individual offprints of the article itself. A form for ordering additional reprints will be sent to the author at the time the issue is published.
Oxford University Press is a major provider of online information to libraries and individuals worldwide. Our legal research services provide lawyers, scholars, and students with continuously updated information and expert commentary in a fully searchable format. Visit www.oxfordonlinelaw.com to learn more about each of our online legal research services, including our featured selections below.

**Oxford Law Reports on International Law**

*The full scope of international case law—expertly analyzed and inter-linked*

This service consists of five content modules defined by subject focus, available as standalone or multi-module subscriptions.

- Oxford Reports on International Law in Domestic Courts
- Oxford Reports on International Criminal Law
- Oxford Reports on International Human Rights Law
- Oxford Reports on International Investment Claims
- Oxford Reports on International Courts of General Jurisdiction*

*(FREE access is included with a subscription to any Oxford Reports on International Law service)*

**Max Planck Encyclopedia of Public International Law**

*The online edition of the definitive reference work on public international law*

**General Editor:** Rüdiger Wolfrum

*Director of the Max Planck Institute for Comparative Public Law and International Law*

**Investment Claims**

Faster, more effective research in international investment law

**Editor in Chief:** Ian A. Laird

Crowell & Moring LLP, Washington D.C.

**Senior Editorial Adviser:** Todd Weiler

www.investclaiims.com

Visit us online at www.oxfordonlinelaw.com

Learn more and request a 30-day FREE trial from your Library Sales Representative at 800.624.0153 or oxfordonlinelaw@oup.com
Table of Contents

General Articles


  Michelle Pearse

The Long Tail of Legal Information: Legal Reference Service in the Age of the Content Farm [2012-29]  R. Lee Sims  411
  Roberta Munoz

A Survey of Index to Foreign Legal Periodicals Users and Its Implications for Future Developments of the Index [2012-30]  Lesley Dingle  427

Review Article

Keeping Up with New Legal Titles [2012-31]  Creighton J. Miller, Jr.  443
  Annmarie Zell

Regular Features

Practicing Reference . . .  Mary Whisner  455
  Negotiating Weaknesses [2012-32]

Thinking About Technology . . .  Darla W. Jackson  461
  Steve Jobs Was Right About HTML5, but Was He Right About Digital Publishing? [2012-33]

Diversity Dialogues . . .  Raquel J. Gabriel  471
  Dealing with Stress [2012-34]
New in the MLA series
Options for Teaching

Teaching Law and Literature
Austin Sarat, Cathrine O. Frank, and Matthew Anderson, eds.

“Students in undergraduate humanities courses will benefit from studying the way legal realities help shape and inform literary works. Law teachers may usefully assign chapters from the text to explore law’s narrative drama.”
—Richard Sherwin
New York Law School

“The essays in this volume present a refreshingly cogent evaluation of the law and literature movement in all of its manifestations. . . . Teaching Law and Literature is indispensable to those entering into the field, and of immense value to those who have made the field what it is.”
—The Literary Lawyer

Now available.
viii & 510 pp. 6 x 9
Cloth 978-1-60329-092-0
$40.00
Paper 978-1-60329-093-7
$25.00

Join the MLA today and receive 20% off the listed price.

Phone orders 646 576-5161 ■ Fax 646 576-5160 ■ www.mla.org
Addressing the “Emerging Majority”: Racial and Ethnic Diversity in Law Librarianship in the Twenty-First Century∗

Alyssa Thurston**

The United States has been steadily growing more racially and ethnically diverse, especially over the past several decades. Yet, as a profession, law librarianship has been slow to reflect the country’s increased diversity. Taking the most recent U.S. Census statistics into account, this article evaluates the implications that a progressively diverse population poses for law librarianship. Reasons for low levels of diversity among law librarians, as well as past and suggested efforts within the profession to further increase diversity, are discussed.

Introduction ....................................................... 359
Changing Demographics ............................................. 361
Diversity: An Ongoing Concern .................................... 364
Minority Recruitment Efforts in Law Librarianship ................. 366
Despite Decades of Efforts, Low Levels of Diversity Remain a Reality .... 368
A Small Pool of Qualified Candidates .............................. 368
Lack of Minority Role Models ........................................ 370
Lingering Racism Within the Legal Profession ......................... 370
Competition with Other Fields ...................................... 371
Time and Budget Constraints Within AALL ......................... 374
A Paucity of Minorities in Law School and the Legal Profession ......... 374
At the Crossroads: Suggestions for Improving Minority Recruitment ........ 377
Conclusion .......................................................... 381

Introduction

¶1 Literally, diversity is defined as things being “different one from another” or “[m]ade up of distinct characteristics, qualities, or elements.”¹ The term can carry a variety of meanings for different people, depending on the settings and circumstances in which it is applied.² It has traditionally been understood to refer to

* © Alyssa Thurston, 2012.
** Research Services Librarian, Harnish Law Library, Pepperdine University School of Law, Malibu, California.
2. See Raquel J. Gabriel, Diversity in the Profession, 102 LAW LIBR. J. 147, 148, 2010 LAW LIBR. J. 8, ¶ 7 (noting that professional and personal environments and experiences can contribute to differing definitions of diversity).
Diversity has long been a buzzword in many professions, and law librarianship is no exception. Ethnic and racial diversity, in particular, has been a focus in the profession since at least the 1970s. Over the decades, concern about this issue has been widely reflected in law library literature, American Association of Law Libraries (AALL) programming and initiatives, and AALL organizational strategies and goals.

Despite the attention paid to this issue over the past forty years, there has been little noticeable change in levels of diversity among members of the profession. This is particularly noticeable because of the ever-growing diversity of American society. The recent 2010 U.S. Census results have confirmed a substantial and continuous nationwide increase in the country’s racial and ethnic minority populations, which has led to the labeling of minority groups taken as a whole as the “emerging majority.”

In her 1998 article, Why Is Diversity Important for Law Librarianship?, Yvonne Chandler commented on demographic shifts in the United States, and how those shifts would impact law librarianship. Today, it is clear that the reality of the increasing diversification of the nation has important implications for law librarianship and its function as a service profession bridging the gap between library patrons and equitable, skillful access to legal information.

In light of the changing makeup of the United States population, this article seeks to reexamine issues of racial and ethnic diversity in law librarianship. It


7. Chandler, supra note 4, at 548–49.


9. While diversity has taken on more inclusive meanings, this article will focus solely on racial and ethnic diversity. It is true that these topics are well-trodden ground in both librarianship and law librarianship literature. See, e.g., Vicente E. Garces, The Recruitment of Minority Librarians: A Bibliography of the Literature, 1990–1998, 90 LAW LIBR. J. 603 (1998). Moreover, other types of
begins by summarizing demographic changes over the past ten years both in the United States and in law librarianship, and attempting to rearticulate why diversity in the profession is an issue worthy of continuing attention. It then summarizes diversity initiatives and efforts by AALL and law librarians to date, and examines potential reasons why these initiatives have not been terribly successful in attracting minorities to the profession. Finally it reviews, evaluates, and explores practical suggestions for recruiting minorities that may, at the least, provide solid starting points for ongoing involvement in diversity efforts.\textsuperscript{10}

### Changing Demographics

\textsuperscript{6} Over the past several decades, this country has seen dramatic shifts in the racial and ethnic makeup of its population. Results from the 2010 U.S. Census showed that racial and ethnic minorities (those who reported their race and ethnicity as something other than “non–Hispanic White alone”) now constitute a significant percentage—thirty-six percent—of the national population, marking a five percent increase since 2000.\textsuperscript{11} While the total population increased nationwide by 9.7\% in that decade, the vast majority of this growth occurred in racial and ethnic minority groups.\textsuperscript{12} Minorities overall grew in number from 86.9 million to 111.9

---

\textsuperscript{10} This article focuses only on the issue of recruitment of minorities into law librarianship. Retention of minorities, once hired, is another important diversity issue, but is beyond the scope of this article.

\textsuperscript{11} See U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: 2010, at 3 (Mar. 2011), available at http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf. In the 2010 census questionnaire, the Census Bureau asked individuals to identify their race and their ethnicity (whether or not they were of Hispanic origin), which are two separate concepts. Id. at 2. Federal agencies are required to use “a minimum of five race categories: White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander.” Id. For the 2000 and 2010 censuses, the Census Bureau also used a sixth category, Some Other Race, for those individuals who could not identify with the former five categories. Within these six categories, individuals are allowed to self-identify with more than one race, allowing for fifty-seven possible race combinations. Id. For ethnicity, federal agencies must use at least two categories: Hispanic or Latino and Not Hispanic or Latino. Id.

\textsuperscript{12} Id. at 3.
million between 2000 and 2010—a twenty-nine percent increase. This massive growth in minority populations occurred throughout most of the country.

¶7 Non-Hispanic whites, in stark contrast, experienced a mere one-percent increase in their population (from 194.6 million to 196.8 million). In all regions, the growth for this group was at best insignificant compared to minority growth. The “White alone” population was furthermore the only racial group to actually decline in its proportion of the total U.S. population (from 69% to 64%). In line with these drastic demographic shifts, the U.S. Census Bureau has predicted that by 2042—a mere three decades from now—minorities will make up more than fifty percent of the U.S. population.

¶8 Despite the explosive growth of minority groups in the U.S. population over the past several decades, law librarianship has been slow to reflect the country’s diversity in terms of increasing its minority membership. In 1976, the first official AALL survey of minorities in law libraries found that minorities made up only 11.2% of all professional law librarians (those holding an M.L.S. degree), compared to almost 25% of law library support staff. Almost twenty years later,
according to the 1993 AALL Salary Survey, the percentage of minorities in law librarianship was only 8.9%.20

§9 Since then, the numbers have varied but have generally remained low. The 1999 AALL Salary Survey showed that twenty-one percent of respondents identified as racially nonwhite (12% of professionals and 31% of paraprofessionals).21 Even by the time of the 2005 AALL Salary Survey, only 14.7% of law librarians fell into various ethnic minority categories.22 (The same survey showed that minorities again made a stronger showing in nonprofessional positions: 32% belonged to various minority groups.23)

§10 Significantly, information on racial and ethnic diversity in law librarianship has been elusive.24 The AALL Salary Survey, which is conducted every two years, has not included this information about survey respondents since 2005.25 In May 2011, the AALL Diversity Committee did a survey, which received a twenty-nine percent positive response rate to the question “Do you consider yourself a member of an under-represented community?”26 However, a specific idea of the numbers of racial and ethnic minorities in AALL and law librarianship was difficult to glean from the

20. King et al., supra note 5, at 253 (citing AM. ASS’N OF LAW LIBRARIES, 1993 SALARY SURVEY ii (1993)). Interestingly, while percentages of African Americans and Hispanics in law librarianship were lower than the corresponding percentages in the 1990 U.S. Census statistics and American Library Association (ALA) statistics, the percentage of Asian Americans in law librarianship was proportionately greater than that reported by ALA and the U.S. Census. Id. at 253–54.


22. Of the various ethnic categories noted in the 2005 survey, 2.6% of respondents identified as Hispanic, 4.1% as Asian/Pacific Islander, 5.0% as Black/African American, and 3.0% as Other/Not Identified. AM. ASS’N OF LAW LIBRARIES, THE AALL BIENNIAL SALARY SURVEY & ORGANIZATIONAL CHARACTERISTICS 10 (2005), available at http://www.aallnet.org/members/pub_salary05/2005_Salary_Survey.pdf (online version available to AALL members only). Unlike the U.S. Census, AALL surveys do not distinguish between race and ethnicity.

23. Id. at S-6, available at http://www.aallnet.org/Documents/Publications/Salary-Survey/pub_salary05/s-5-s-6.pdf. Notably, compared to the surveys of minority law librarians in the 1970s, blacks composed the highest percentages of minority professional and nonprofessional law librarians—5% and 16.2%, respectively. Id. It should also be noted that statistics on diversity in law librarianship have mirrored those within the wider library profession. In 1998, for instance, minorities made up only 13% of the academic library profession. Raquel Von Cogell, Introduction, in DIVERSITY IN LIBRARIES: ACADEMIC RESIDENCY PROGRAMS, at xv (Raquel Von Cogell & Cindy A. Gruwell eds., 2001). By 2012, this figure had fallen to 11.3%. AM. LIBRARY ASS’N, ALA DEMOGRAPHICS STUDIES, MARCH 2012, available at http://www.ala.org/research/sites/ala.org.research/files/content/March%202012%20report.pdf (showing that ALA members remain predominantly white, at 88.7%, a number that is “not dissimilar from the library profession overall”).

24. See Gabriel, supra note 2, at 151, ¶ 15 (observing that, “there is still no clear, official picture of the number of ‘minority’ law librarians, nor is there a sense that [AALL] is moving toward collecting that information”).


survey, which also included disability and sexual orientation in its definition of the general term “under-represented community.”

**Diversity: An Ongoing Concern**

¶11 Why should we care that diversity in the profession has been so slow to reflect diversity in American society as a whole? Several good (and frequently discussed) reasons exist. First, as in any other field, a more diverse staff provides positive role models for minority students. The presence of role models from racial or ethnic groups similar to their own allows students to better relate to a potential field of work, and also shows them that there are “visible career ladders” for minorities in a particular vocation.

¶12 Diversity also benefits any law library’s organizational culture, as well as the development of the profession as a whole, by bringing a wide range of perspectives, backgrounds, and talents to the table. This benefit is particularly important for law librarianship, which “[w]ithout . . . the examination of diverse viewpoints . . . [would] lose[] part of its ability to innovate in a world where the practice of law and legal education [are] rapidly changing.”

¶13 Diversity among law librarians also can improve citizens’ ability to research and access the law—a value that is emphasized in the AALL Core Values. In its mission statement, AALL further notes the importance of such access to the democratic process:

> Since the ready availability of legal information is a necessary requirement for a just and democratic society, AALL and its members advocate and work toward fair and equitable access to authentic current and historic legal information, and educate and train library users to be knowledgeable and skilled legal information consumers.

¶14 Law librarians, in acting as liaisons between library patrons and legal information sources and services, are fundamental to the process of accessing legal information. For minority patrons in particular, staffing law libraries with racially and ethnically diverse individuals better facilitates this process:

> To [library] users, having authority figures who look like them in libraries is important, as it can make the users feel more comfortable and affirmed that they are in the right

---

27. *Id.*


29. *Id.* at 168; Hall & Grady, *supra* note 9, at 44.


33. *About Us, supra* note 8.

34. Chandler, *supra* note 4, at 545.
place. Studies suggest that interpersonal similarity increases ease of communication, fosters relationships of trust and reciprocity, and helps establish a sense of belonging and membership. Ethnicity, one of the key factors determining interpersonal similarities, contributes to cultural as well as physical similarities. In a library with an ethnically diverse workforce, all the users, regardless of their ethnic and cultural background, will be able to find someone whom they can relate to and get services relevant to their needs and preferences.35

¶15 For all of these reasons, it has been suggested that a lack of ethnic diversity among reference staff may hinder the provision of high-quality service to patrons.36 It is no wonder, then, that it has been stated that “[a]ccess to information for many minority communities and citizens will improve only when there is an increase in the number of minority librarians and information professionals. This . . . is particularly true for specialized information, such as the law.”37

¶16 Of course, patron access to law libraries—and, thus, the minority makeup of a particular library’s patron base—varies by the type of library.38 County law libraries usually are open to the public, as are accredited law school libraries with government depository status and the courts of last resort in each jurisdiction. Other law libraries, including those in law schools, law firms, and some courts, usually have more restrictive access policies limited mainly to law students, attorneys, and members of the judiciary.39

¶17 It is true that these latter types of libraries may not typically see many minorities among their patrons, especially since (as will be discussed later) the American legal profession in general continues to confront low levels of diversity among its members.40 Nevertheless, the increasing racial and ethnic diversity of the entire country has important implications for almost any law library’s patronage and service levels. As George R. Jackson observed, “it’s good business in our society’s marketplace to embrace diversity. . . . The advantage goes to [those] with an understanding of the cultures and needs of various demographic niches.”41 Where law librarianship is concerned, “to provide adequate access to all users . . . . it is important that information personnel are representative of our culturally diverse society.”42

¶18 On a final note, it has been argued that as members of the legal community, law librarians’ “professional responsibility goes beyond finding information and resources” to include being concerned with equity—specifically, with the lack of

37. Chandler, supra note 4, at 549.
39. Id.
41. Jackson, supra note 30, at 583.
42. Chandler, supra note 4, at 550.
relative educational and career opportunities allowing for increased minority participation in the profession.\textsuperscript{43}

**Minority Recruitment Efforts in Law Librarianship**

¶19 AALL and law libraries alike have taken various actions over the past several decades to work toward a more diverse profession. AALL’s efforts began in earnest in 1971, with the establishment of a special committee on financial aid to minorities.\textsuperscript{44} In 1985, the organization appointed a special committee—later named the Committee on Minorities—to focus on efforts to improve minority recruitment and involvement in AALL.\textsuperscript{45} This marked the genesis of the current Diversity Committee, which is charged with various tasks and responsibilities generally aimed at maximizing and celebrating diversity in AALL.\textsuperscript{46}

¶20 Several minority AALL caucuses focus on professional development, recruitment, and other specific minority interests, and have been described as playing a key role in contributing to the diversity of law librarianship and AALL.\textsuperscript{47} The organization also sponsors several minority-focused scholarships, including the George A. Strait Minority Scholarship, which provides financial support to minorities who wish to pursue a career in law librarianship.\textsuperscript{48} The AALL Minority Leadership Development Award provides travel funding and other professional development support to minority law librarians.\textsuperscript{49} AALL also established a mentorship program in 1989, which “targeted minority non-law librarians and minority


\textsuperscript{44}. Nicholson, Hill & Garces, *supra* note 4, at 2. The committee was created in part to fulfill an AALL resolution recommending that the AALL Executive Board look into providing loans to minority applicants to library schools, insert an antidiscrimination clause in the AALL constitution and in all AALL chapter constitutions, and coordinate recruitment and placement committees in efforts to recruit and place more minorities into the profession. *Id.* at 1–2.

\textsuperscript{45}. *Id.* at 3–4. To further these activities, “the committee developed a recruiting brochure and began an active recruitment program.” Mersky, *supra* note 43, at 861. Members made recruitment visits to several law schools, where they discussed law librarianship with college, law school, and library school students, and with other librarians. *Id.*


law school students interested in law librarianship. About twenty minority librarians were matched with mentors.”

¶21 Among efforts by AALL regional associations and committees is the Southern California Association of Law Libraries (SCALL) Inner City Youth Internship Program, which aims to familiarize inner-city high school students with the law by providing them with paid law library work experience. Between 1993 and 2008, the program placed 180 students in internships at forty host sites; those sites hired twenty-five of those students after they completed their internships.

¶22 Various law library–focused publications have publicized the issue of diversity in law librarianship. Law Library Journal devoted an entire seven-article issue to the topic in 1998, and recently the journal has featured a diversity-centered column, “Diversity Dialogues.” The 2006 book Celebrating Diversity: A Legacy of Minority Leadership in the American Association of Law Libraries highlights the careers of minority members of AALL, the success of various diversity-increasing initiatives, and strategies to continue cultivating diversity in the profession.

¶23 Individual activities by law school libraries have included diversity fellowships and residencies. The Library Resident program at the Georgetown Law Center Law Library is one prominent example. Begun in 1999 by converting a vacant library position, the program offers library residents from underrepresented minorities the opportunity to work in a variety of library departments, receive personalized mentoring, and create a “significant research, instructional, or service-based project.” Another example is the Librarian-in-Residence program at the University of Notre Dame’s Kresge Law Library, in collaboration with the Notre Dame University Libraries. The program recruits recent library school graduates who then gain experience in both a research library and a law library, and have the opportunity to tailor the program to their individual professional interests.

50. Mersky, supra note 43, at 861.
54. Gabriel, supra note 2 (the first of a series of columns on diversity).
57. E-mail from Peggy Fry, Associate Law Librarian for Administrative Service, Georgetown Law Library, to author (Feb. 3, 2011, 1:35 P.M.) (on file with author). To date, there have been six library residents at Georgetown. Id.
58. Library Resident Program, supra note 56.
59. Librarian-In-Residence Program, Hesburgh Libraries, Univ. of Notre Dame, http://www.library.nd.edu/diversity/residence.shtml (last visited Apr. 22, 2012). The goal of the program is to recruit a minority student who “can contribute effectively to the diversity of the profession and the university while developing career interests in various aspects of academic librarianship.” Id.
60. Id.
Despite Decades of Efforts, Low Levels of Diversity Remain a Reality

¶24 The multitude of efforts described above make it clear that AALL, and institutional and individual members of the profession of law librarianship, see increasing diversity as an issue worthy of serious attention. However, when available statistics of the number of minority law librarians are evaluated with respect to factors such as the growing diversity of American society, it is clear that there has not been much progress in achieving a notable increase in diversity in the profession.61

¶25 There are many possible reasons that have been presented for why, after years of discussion and action, law librarianship is still not more racially and ethnically diverse. Some of these reasons are explored in more detail below.

A Small Pool of Qualified Candidates

¶26 Most entry-level law librarian positions require that candidates have obtained, at the least, a graduate degree in library and information science (LIS) from an American Library Association (ALA)–accredited institution.62 The problem where diversity is concerned is that LIS programs also struggle with diversity issues. In 2009, only 17.7% of those receiving LIS degrees nationwide were minorities.63 This number mirrors statistics showing that minorities overall constitute only a small percentage of the population that has earned a master’s degree.64 Most library schools generally require at least a bachelor’s degree,65 and in the United States, a larger percentage of whites hold a bachelor’s degree or higher than most other racial/ethnic groups.66

¶27 In the University of Washington Information School’s law librarianship program, minority application and admission numbers have, as the discussion above suggests, tended to be low. Minorities composed only 25% of applicants, and 18.8% of those admitted, for the 2006–07 academic year.67 Despite a jump in the number of applications several years later for admission to the 2010–11 program, minorities still made up only twenty-five percent of applicants and twenty-three

61. See Gabriel, supra note 2, at 151–52, ¶ 17 (“[A]fter years of awareness . . . . it . . . feels as if [law librarians] are continually repeating the same talking points [about diversity] with no significant movement[,]”).


64. In 2009, non-Hispanic whites constituted 64.6% of the total number of master’s degree earners. Non-Hispanic blacks made up the next highest percentage, at 10.7%. American Indian/Alaska Natives made up the lowest percentage at 0.6%. STATISTICAL ABSTRACT OF THE UNITED STATES: 2012, at 189 tbl.300 (131st ed. 2011) [hereinafter STATISTICAL ABSTRACT].

65. Education Requirements, supra note 62.

66. In 2010, 30.3% of whites were college graduates, compared to 19.8% of blacks and 13.9% of Hispanics. Only Asians surpassed whites in this category, with 52.4% falling into the category of “college graduate or more.” STATISTICAL ABSTRACT, supra note 64, at 151 tbl.229.

67. Univ. of Wash., Law Librarianship Applications for Fall 2006–Fall 2010 (on file with institution).
percent of those admitted.\textsuperscript{68} Between 2000 and 2010, the program’s percentage of minority enrollments generally remained below twenty percent.\textsuperscript{69} ¶28 Minorities in library and law library programs may be low in number for several reasons. One is a lack of minority faculty in these programs. Having a diverse faculty is a key factor in successfully attracting minority students to library science graduate programs.\textsuperscript{70} Faculty can serve as role models, mentors, and career advisors to these students once they are enrolled in a graduate program.\textsuperscript{71} ¶29 The influence of family, culture, and environment can also have a particular effect on minority students’ graduate school choices, potentially deterring minority students from choosing a career in librarianship. The family is the primary support system in most minority groups, helping minority students to develop self-esteem and maintain their racial, ethnic, and cultural identity.\textsuperscript{72} As a result, these students tend to rely more heavily on their families for support and decision making, including in their educational decisions.\textsuperscript{73} ¶30 Geography is yet another factor. Studies have shown that library school students already traditionally attend programs in their own states,\textsuperscript{74} and minorities’ heavier reliance on family support may lead to students’ families encouraging them to attend graduate school close to home.\textsuperscript{75} (It should be noted, however, that a recent increase in the number of distance education and online library programs in the United States may lessen the impact of this factor.\textsuperscript{76}) ¶31 Another issue is the lack of available or sufficient financial aid for many students. Higher education is notoriously expensive; a consistent rise in tuition and fees (and other expenses) in recent years, due to decreased state funding and inflation, puts college and graduate education out of reach for many poor and middle-class students. One survey has shown that minority students drop out of college for financial reasons more often than their white peers.\textsuperscript{77} Where library education is

\textsuperscript{68} Id. \textsuperscript{69} Univ. of Wash., Law Librarianship Alumni by Year of Graduation with Minority Information Since 1981, available at http://lib.law.washington.edu/lawlibrarianship/index.asp (login required; copy on file with author). \textsuperscript{70} Kim & Sin, supra note 28, at 161. \textsuperscript{71} Chandler, supra note 4, at 552. \textsuperscript{72} Camila A. Alire, \textit{It Takes a Family to Graduate a Minority Library Professional}, AM. LIBR., Nov. 1997, at 41, 41. White students, in contrast, tend to have access to more support systems outside of the family that provide encouragement and motivation. Id. \textsuperscript{73} See, e.g., 24 \textsc{Higher Education: Handbook of Theory and Research} 335 (John C. Smart ed., 2009) (describing the Latino family as a “major source of support” influencing a Latino student’s decision to enroll in and remain in college). \textsuperscript{74} Chandler, supra note 4, at 552. \textsuperscript{75} See Alire, supra note 72, at 41; Lotsee Patterson, \textit{History and Status of Native Americans in Librarianship}, 49 LIBR. TRENDS 182, 186 (2000) (noting that Native American students, especially those from a reservation environment, may need extra and focused encouragement to consider leaving the reservation or their families to attend library school). \textsuperscript{76} See Herman L. Totten, \textit{Ethnic Diversity in Library Schools: Completing the Education Cycle}, TEX. LIBR. J., Spring 2000, at 16, 19. For instance, when the University of North Texas, located in Denton, Texas, established a branch of its library science master’s program in Houston, enrollment of black students increased from three percent to ten percent of the student body, Id. \textsuperscript{77} Tony Greiner, \textit{Backtalk: Diversity and the MLS}, LIBR. J., May 1, 2008, at 36. Greiner notes that different minority groups have varying financial struggles with regard to paying for education. For
concerned, several scholarships exist that are directed at graduate students who are particularly interested in pursuing law librarianship. However, the AALL George A. Strait Minority Scholarship appears to be the only one directly targeting minorities. There are also general library school scholarships, such as the ALA Spectrum Scholarship, which provides $5000 for eligible minority students to help them pursue graduate library studies and to participate in professional activities.\textsuperscript{78} It has been argued that the limited availability of this scholarship hampers its efficacy; the eighty full scholarships awarded to minority M.L.S. students in 2007 were “a drop in the bucket compared with the 1300 minorities in library school in any given year.”\textsuperscript{79} While the Spectrum Scholarships are an excellent resource, more funding is needed if graduate library education is to become financially accessible to more minority students.\textsuperscript{80}

**Lack of Minority Role Models**

\textsuperscript{32} Minimal racial diversity in law librarianship has resulted in a serious dearth of role models for those in underrepresented communities who might otherwise be interested in pursuing law library careers. Role models are important for attracting ethnic minorities to librarianship. They indicate, for instance, that the profession is welcoming to diverse groups of people, and they can provide important resources for mentorship and advice to newly minted law librarians.\textsuperscript{81} A lack of minority role models by contrast contributes to a pervasive stereotype that librarians in general are “white, old, and unfriendly,” making it an even more unappealing career choice for minority students.\textsuperscript{82}

**Lingering Racism Within the Legal Profession**

\textsuperscript{33} Law library literature suggests that historical racism in the legal field—which in the past resulted in discriminatory hiring practices—has also contributed to low diversity in law librarianship.\textsuperscript{83} Today, most workplaces have nondiscrimina-
tory hiring practices in accordance with federal law. Yet, the historical lack of diversity in the legal profession can inadvertently result in, for instance, a lack of active efforts to integrate minority employees into the culture of a law library. This, in turn, can impede opportunities for minorities to move up the organizational ladder.

**Competition with Other Fields**

§34 Librarianship has historically not been an obvious career option in the United States, regardless of one’s race or ethnicity. Several authors have observed that pursuing library graduate studies may not be popular among minorities simply because many are not aware of librarianship as a potential career path. Overall, it is simply “not highly visible in the grand scheme of careers” to which many students aspire.

§35 Another problem is that librarianship has long battled a popular perception of being an unattractive career field. Law librarianship is no exception. In a 1999 survey of African American law school students regarding their thoughts on law librarianship, eighty-six percent disagreed or strongly disagreed with the statement: “Law librarianship appears to be one of the best jobs of which I am aware.” About one-half stated that they could not picture themselves becoming law librarians. As the survey’s author noted, despite a recent trend among law students to pursue alternative legal careers, this “less than receptive” attitude among these students would likely prevent most of them from choosing to become law librarians.

§36 Librarianship may also suffer from an image problem that is at least partly due to the realities of many librarians’ salaries, which generally do not match the level of education required to become a professional librarian. There are many other fields, such as engineering and public administration, that do not require an expensive master’s degree to obtain an entry-level position. (Even many LIS
graduates do not pursue any field of librarianship, preferring instead to find higher-paying management positions or other jobs in private industry. As AALL has acknowledged, there is “a societal undervaluation of the education, knowledge, and competencies associated with librarianship[,] . . . . an apparent gender-based devaluation of the work of professions and occupations that are predominantly female.”

¶37 Librarians tend to earn much less than those in predominantly male fields who have similar education and career-related qualifications. According to an AFL-CIO report:

The median hourly earnings of librarians in 2008 were $25.26 (an annual wage of $55,700 for those working full-time); the median hourly earnings of similarly qualified computer systems analysts were $36.30 (an annual wage of $78,830), those of electrical engineers were $39.50 ($85,350 a year), and those of computer software engineers were $44.44 ($94,520 a year). These (mostly male) professionals have education and responsibilities comparable to those of librarians.

¶38 Law librarianship generally faces the same problem of undercompensation relative to the level of education required. While it is possible to attain database administrator salary territory and make upward of $70,000 per year as a law librarian, this varies widely depending on job setting, geographical location, and the nature of the position itself. According to the 2011 AALL Salary Survey, for the majority of nonmanagerial academic law library positions requiring an M.L.S., the mean salary ranged from $46,622 (for the position of circulation librarian) to $74,359 (for the position of foreign, comparative, and international librarian). For law librarians working in private firms or corporations, the mean salaries for the same types of positions were somewhat higher, ranging from $56,314 to $74,123. In state, court, and county law libraries, the mean salaries ranged from $54,861 to $79,400.

¶39 Law librarianship may also compete with other fields of librarianship for qualified minority candidates. Joan Howland has pointed out that professional

---


97. AFL-CIO Fact Sheet, supra note 96, at 3.

98. 2011 Salary Survey, supra note 96, at S-3 (salary tables are online at http://www.aallnet.org/Documents/Publications/Salary-Survey/AALL-Salary-Survey-2011-2011-salary-tables.pdf; online version available to AALL members only) (showing annual salary for full-time employees, and annualized salary for part-time employees).

99. Id. at S-36. These salaries do not include the position of solo librarian. Firm and corporate law librarians also earned annual bonuses that averaged between $2110 and $3888. Id.

100. Id. at S-66.
library associations, such as ALA, have generally “commit[ted] increased resources
to recruitment” of individuals from diverse backgrounds.\textsuperscript{101} ALA, for instance,
operates not only a Committee on Diversity,\textsuperscript{102} but also an Office for Diversity,
which “serves as a clearinghouse for diversity resources and a focal point for admin-
istering and fostering diversity as a value and key action area of the Association.”\textsuperscript{103} Diversity is also notably listed as a “key action area” within the organization’s over-
all mission; these areas serve as “guiding principles for investment of [ALA] ener-
gies and resources.”\textsuperscript{104} Although these efforts may lead to a few more new recruits
to law librarianship, according to Howland, “undoubtedly the vast majority will
enter public and general academic libraries.”\textsuperscript{105}

¶40 In contrast, AALL’s diversity efforts are mainly carried out through its
Diversity Committee and its minority caucuses. Law librarian George Jackson once
advocated creating a position within AALL similar to the ALA Office for Diversity.
He believed that an AALL Diversity Officer could help to centralize diversity
recruitment efforts, which Jackson perceived as “somewhat disjointed.”\textsuperscript{106} No such
position has materialized within AALL to date. Also, unlike ALA, neither AALL’s
mission nor the current version of its Strategic Directions—which define the orga-
nization’s core purpose and values—addresses diversity much beyond the stated
goal of “[d]evelop[ing] specialized educational programs addressing the diverse
needs of members.”\textsuperscript{107} It should be noted, though, that ALA is a much larger orga-
nization than AALL, with correspondingly greater resources at its disposal for
addressing diversity issues.\textsuperscript{108}

¶41 Finally, diversity in law librarianship may struggle with a common misper-
ception among some library students that in order to be a law librarian, a law
degree is required.\textsuperscript{109} For those students thinking of entering a library science
graduate program, or who are already enrolled in one, this perceived requirement
would surely deter those who cannot afford the extra time and expense necessary
to obtain yet another graduate-level degree.

\textsuperscript{101} Howland, supra note 95, at 28.
\textsuperscript{102} Committee on Diversity (COD), AM. LIBRARY ASS’N, http://www.al.org/ala/mgrps
/committees/ala/ala-minconcuf.cfm (last visited Apr. 22, 2012).
\textsuperscript{103} Office for Diversity, AM. LIBRARY ASS’N, http://www.ala.org/offices/diversity (last visited
\textsuperscript{104} Key Action Areas, AM. LIBRARY ASS’N, http://www.ala.org/ala/aboutala/missionhistory
/keyactionareas/index.cfm (last visited May 4, 2012).
\textsuperscript{105} Howland, supra note 95, at 28.
\textsuperscript{106} George Jackson, A Diversity Officer for AALL, AALL Spectrum, Nov. 2000, at 32, 32.
\textsuperscript{107} About Us, supra note 8; Strategic Directions 2010–2013, supra note 32.
\textsuperscript{108} ALA, for instance, had more than 61,000 members as of 2010, compared to AALL’s
approximately 5000 members. About ALA, AM. LIBRARY ASS’N, http://ala.org/ala/aboutala/governance
/annualreport/annualreport/aboutala/aboutala.cfm (last visited Apr. 23, 2012); About Us, supra note 8.
\textsuperscript{109} JOHANNA C. BISZUB ET AL., IMLS STUDY ON THE FUTURE OF THE LIBRARY WORKFORCE,
_workforce.pdf.
Time and Budget Constraints Within AALL

¶42 In some cases, available resources simply have not existed to allow AALL to fully follow through on certain well-intentioned efforts to increase diversity. These resources include both time and money. In 1992, for instance, AALL was unsuccessful in obtaining financial support for a Minority Internship Program, despite vigorous advocacy by association members.\footnote{110} In another example, in 2009, an AALL Developing Law Librarians for the Future Special Committee proposed the development of an “AALL Recruitment Ambassadors Program.”\footnote{111} This program would have chosen ten recruitment ambassadors, each responsible for a specific geographic region, who would work with local AALL chapters to develop recruitment efforts and to personally conduct some local recruitment activities on AALL’s behalf.\footnote{112} However, this program stalled due to a lack of sufficient funding from AALL, as well as a lack of time to develop and manage the project.\footnote{113}

A Paucity of Minorities in Law School and the Legal Profession

¶43 As previously noted, having a law degree is not essential to becoming a law librarian; less than twenty percent of law librarian positions require both a law degree and a master’s degree in library and information science.\footnote{114} However, AALL recommends obtaining both degrees for those seeking the widest range of possible positions.\footnote{115} Thus, active recruitment of those who are working toward or who already have a law degree would seem to be a particularly viable means of increasing diversity. Indeed, exploring alternative legal careers is a popular topic for both law students and practicing attorneys, either of which might be a group that is particularly receptive to learning more about our profession.\footnote{116} Many minority law librarians have indicated that their career choices were inspired by personal interactions with librarians at their law schools;\footnote{117} and many respondents to the 2007 AALL minority member survey first developed their interest in law librarianship by working in a library while attending law school.\footnote{118} In addition, in recent years, the number of minority AALL members who are dual-degreed has increased. In

\footnote{110} Nicholson, Hill & Garces, \textit{supra} note 4, at 9.


\footnote{112} \textit{Id.} at 9. These activities would have included, for instance, “annual visits to colleges, information school and law school placement staffs, and representation of AALL at job fairs or on career panels . . . .” \textit{Id.}

\footnote{113} Interview with Sara Galligan, Chair of the Recruitment to Law Librarianship Committee (Feb. 10, 2011).

\footnote{114} Education Requirements, \textit{supra} note 62.

\footnote{115} \textit{Id.}

\footnote{116} See, e.g., Susan Echaore-McDavid, \textit{Career Opportunities in Law and the Legal Industry} 191–99 (2d ed. 2007) (discussing various law librarian positions as potential alternative legal careers).

\footnote{117} See Nicholson, Hill & Garces, \textit{supra} note 4, at 201.

1992, twenty-five percent of minority AALL members had both an M.L.S. and a J.D.; in 2007, that percentage had increased to thirty-five percent.\(^{119}\)

\(\S 44\) Yet targeting recruitment efforts at law students and attorneys may not solve the diversity problem as easily as might be hoped. The legal profession itself has long faced problems with increasing diversity; the American Bar Association (ABA) recently asserted that “the paucity of minorities entering the profession is one of the most significant problems facing [it] now and in the future.”\(^ {120}\) In 2000, the legal profession remained about ninety percent Caucasian despite decades of initiatives, reports, and goals, and according to the ABA, this figure was not expected to vary greatly in the near future.\(^ {121}\) Ten years later, in 2010, blacks made up only 6.5%, Asians 3.4%, and Hispanics 5.5% of all employed civilians in legal occupations.\(^ {122}\)

\(\S 45\) Gains in diversity among law students have certainly been made, with the help of the active efforts of law schools nationwide.\(^ {123}\) What is of concern is that law school minority enrollment has in fact decreased for certain minority groups. A recent Columbia University School of Law study revealed that, despite an overall increase in minority enrollment in law schools, the percentage of African American and Mexican American student enrollments was significantly less in 2008 than it was in 1993.\(^ {124}\) Other data have shown that American Indian/Alaska Native law student enrollments have remained flat over the past decade.\(^ {125}\)

\(\S 46\) As with law librarianship, multiple reasons have been given for the continuing lack of ethnic minorities in law schools. One traditional explanation is the “pipeline problem,” which refers to the educational divide between white students and students from certain ethnic minority groups.\(^ {126}\) This divide begins at an early age, resulting in fewer minorities successfully graduating from or succeeding in school; in turn, there are fewer qualified minority applicants who meet law school standards for admission.\(^ {127}\)

---

119. *Id.* at 273, \(\S\) 25.
121. *Diversity in the Legal Profession,* supra note 40, at 12.
122. *Statistical Abstract,* supra note 64, at 394 tbl.616. These data exclude persons reporting more than one race. *Id.* at 39, n.1.
123. See, e.g., Rebecca Larsen, *Most Diverse Law Schools, Nat’l Jurist,* Mar. 2011, at 30 (profiling and describing the efforts of a number of law schools that have made critical gains in their minority student enrollment over time).
124. *Soc’y of Am. Law Teachers et al., A Disturbing Trend in Law School Diversity,* http://blogs.law.columbia.edu/salt (last visited Apr. 22, 2012). The data showed that African American and Mexican American students applied to law school in relatively constant numbers between 1993 and 2008, and that the number of law schools and the size of law school classes both increased during that same period. However, African American student enrollment in law schools decreased by 7.5% between 1993 and 2008; for Mexican American students, enrollment decreased by 11.7%. *Id.*
126. See *id.* at 358.
127. *Id.*
Another contributing factor is the use of LSAT scores in the compilation of the annual law school rankings by *U.S. News & World Report* magazine. The LSAT is given great numerical weight in the *U.S. News* rankings formula, with the result that many law school admissions officers must balance goals of attracting both diverse applicants and students with higher LSAT scores. As LSAT results “vary significantly along race, gender and class lines,” this balancing act tends to disadvantage minority law school applicants.

The recent recession has also contributed to lower diversity in the legal profession. Downsizing and cutbacks in law firms across the country mean that there is less money for these organizations to successfully implement diversity initiatives—which may have the net effect of reversing any progress made to date. Economic hardship also makes the already burdensome cost of attending law school an even greater obstacle for low-income and minority individuals.

Finally, the use of affirmative action in admissions—meant to promote increased racial diversity in colleges and universities—is under threat. Several states have already outlawed the practice, and the U.S. Supreme Court recently agreed to hear a case in which it may rule in favor of rolling back the practice entirely. This is despite a 2003 Supreme Court decision that upheld the use of race as a valid criterion in higher education admissions decisions, holding that “student body diversity is a compelling state interest that can justify the use of race in university admissions.” A blanket ban on affirmative action would be highly disadvantageous for those law schools that actively pursue the creation and maintenance of diversity in the legal profession.

---


132. *Id.*


diverse student bodies, and for which the use of affirmative action to recruit minorities would be beneficial.135

At the Crossroads: Suggestions for Improving Minority Recruitment

§50 With a more racially and ethnically diverse nation becoming a growing and inescapable reality, it is essential that law librarianship—a profession centered on equal and effective access to legal information—not be complacent about diversity in its own ranks. It has been written that one of the predominant challenges may simply be that the profession has been “lulled into complacency” regarding diversity, believing that mere discussion of the issue is sufficient.136 But there is still much more that can—and should—be done.

§51 AALL, as the central nationwide organization representing law librarians’ interests, is in the most visible position to reassert the importance of diversity in the profession. Despite its comparatively smaller size and smaller resources, AALL might look to ALA for further ideas for developing and devoting additional intra-organizational resources to increasing diversity. Examples include creating a centralized information resource like the ALA’s Office for Diversity, or something as small as incorporating diversity into the organization’s strategic directions or mission statement. The latter would openly affirm AALL’s ongoing commitment to achieving diversity. Furthermore, given the lack of regular and reliable data about the percentage of minorities in law librarianship, AALL might explore ways to collect this information on a regular basis, such as reinstituting it as a category in the biennial Salary Survey.

§52 Specialized AALL committees and caucuses could also step up current efforts in minority recruitment. In particular, the various minority caucuses could more actively participate in minority outreach and recruitment efforts, perhaps by creating or borrowing law librarianship recruitment materials to place on their websites. As an example, the Black Caucus of AALL does not currently provide such material on its home page, despite noting recruitment of blacks as a caucus goal.137 In comparison, the ALA Black Caucus provides links to education and resources on its website for minorities interested in library careers.138

§53 Specific minority caucus outreach to target communities would be particularly beneficial, as different groups of minorities respond differently to outreach and recruitment methods.139 Within each broad racial and ethnic category there exists an incredible diversity of languages, cultures, and national backgrounds.140

---

136. Gabriel, supra note 2, at 152, ¶ 17.
Individual members of the profession can contribute to ongoing diversity efforts by researching and publishing on potential ways to reach out to the many specific minority groups.  

¶54 Youth outreach is another popular and practical minority recruitment suggestion that has recently been featured in law library literature and at Diversity Committee symposia at AALL Annual Meetings. As previously noted, early exposure to law librarianship, including personal interactions with law librarians or working in law libraries as students, motivated many to choose this career path. Children begin to form solid ideas about their intended career paths at an early age, even ruling certain careers in or out by the time they enter high school.  

¶55 Programs operating around youth outreach, called “pipeline programs,” are already popular in other fields, such as math and the sciences. There are different ways that law librarians can develop their own pipeline programs and activities to reach out to younger minority students, with the goal of instilling in them at least an awareness—if not an outright interest—in law librarianship. One example is outreach to local community organizations that work with minority youth, especially those that aim to encourage youth to consider legal careers. One existing program is the Arizona State University (ASU)/South Mountain Diversity Pipeline Collaboration, in which the ASU College of Law (in conjunction

---

141. See, e.g., Monique Lloyd, The Under-Represented Native American Student: Diversity in Library Science, 2007 Libr. Student J. at [5–6], http://www.librarystudentjournal.org/index.php/lsj/article/view/39 (“[Where recruiting Native Americans is concerned], [t]he first step must be to more clearly define exactly what population we are discussing, recognizing that there are some profound differences between those who live on tribal homelands and those who do not, and between those who identify themselves as tribal members and those who view themselves as being of more than one race. . . . When we know what works best for each subset we can focus our time, money, and energy more productively as we seek to increase diversity in the library community.”); Patterson, supra note 75, at 182, 183–86 (noting that “[t]he relationship between Native Americans and librarianship is fundamentally different from that of other ethnic groups” due to the tribal governments’ “mutual interdependence” with the U.S. government, and discussing particular issues with recruitment of Native American students to librarianship).  

142. See, e.g., Alyssa Altshuler, Recruit the Missing: Diversity Symposium Presents Historical and Theoretical Framework of the Representation of Minorities in Law Librarianship, AALL Spectrum, Sept.–Oct. 2008, at 21, 22; Mersky, supra note 43, at 863 (suggesting the necessity of developing programs targeting high school and college students); Perry, supra note 47, at 19 (discussing ideas such as “attending middle and high school career fairs; working with the Black Law Students Association; speaking at library school career programs; and creating internship programs for high school students.”).  

143. Ballard-Thrower, King & Mills, supra note 118, at 280, ¶ 44 (“Nearly half [of minority law librarians] worked in a library during college.”).  


145. See DIVERSITY IN THE LEGAL PROFESSION, supra note 40, at 14.  

146. A central challenge with a youth-centered approach “is to provide role models and opportunities for an age group that will not enter our ranks for at least eight to ten years,” and members of which may certainly lose interest before entering college or graduate school. Detlefsen, supra note 144, at 115. Yet, by taking no action, even a remote possibility of attracting more young people into librarianship, the law, or law librarianship will be lost. Law librarians, many of whom are members of both the library and the legal professions, have a unique opportunity to stimulate younger people’s interest in both types of careers.  

147. See NICOLSON, HILL & GARCES, supra note 4, at 202.
with a local magnet high school) runs several programs designed to promote interest in the legal profession among minority high school students.\footnote{Amosol Diaz, Outreach, Pipeline and Mentoring Programs at the Sandra Day O’Connor College of Law 3 (n.d., 2010?), available at http://www.saltlaw.org/userfiles/Calleros -ASU%20Outreach%20and%20Mentoring%20Programs.pdf.} As part of this collaboration, the ASU College of Law Library provides an annual tour of the library to students from the high school, during which they receive an introduction to and hands-on experience with legal research.\footnote{Id. at 6.} This program also includes the provision of college application and scholarship information, and an opportunity for the students to meet attorneys and law students.\footnote{Id. at 5–6.}

\paragraph{¶56} Law libraries could also explore creating paid work programs or internships for minority junior high and high school students. Examples include the Cornell University Junior Fellows Library Program and the Notre Dame University Project to Recruit the Next Generation of Librarians.\footnote{Franklin Crawford, Junior Library Program Exposes Minority High Schoolers to New Worlds, Careers, Cornell Chron. (July 25, 2002), http://www.news.cornell.edu/chronicle/02/7.25.02 /jr_library_fellows.html; Dwight King, The Next Generation: Partnering with High Schools for Future Minority Librarians, 71 C. & Res. Libr. News 201 (2010).} The Cornell program provided eight high school students with paid internships in Cornell University libraries, giving them practical and valuable work experience along with more exposure to the profession of librarianship.\footnote{Crawford, supra note 151.} At Notre Dame, as part of a joint endeavor between the main library and the law library, minority high school students were hired to perform college student assistant–level work in various university library departments.\footnote{King, supra note 151, at 201.} The summer program was expanded in 2004 into the Project to Recruit the Next Generation of Librarians (PRNGL), which employed graduating high school seniors as summer library assistants, and also provided them with mentoring and tracked their subsequent career or education decisions.\footnote{Id. at 202–03. PRNGL was funded by a Laura Bush 21st Century Library Program grant, awarded by the Institute of Museum and Library Services (IMLS). Id. at 202. The grant's goal is to “support projects to develop faculty and library leaders, to recruit and educate the next generation of librarians and archivists, to conduct research, to build institutional capacity in graduate schools of library and information science, and to assist in the professional development of librarians and archivists.” See Laura Bush 21st Century Librarian Program Grants—FY12 Guidelines, Inst. of Museum & Library Servs., http://www.imls.gov/applicants/lb21_guidelines_2012.aspx (last visited May 14, 2012).} (While most of the PRNGL student participants ultimately did not pursue librarianship as a career, almost all gained a better appreciation for and awareness of academic librarianship—something that the literature has identified as a fundamental struggle in the recruitment of minorities in the first place.\footnote{King, supra note 151, at 203–04.})

\paragraph{¶57} Other potential youth outreach options include law librarians’ sponsoring or attending career fairs or awareness programs at high schools and colleges, especially in areas of the country with larger minority populations, and working to promote law librarianship as a career option among middle school, high school,
and college career counselors.\textsuperscript{156} Visiting a school classroom to discuss the profession with younger students is another accessible method of individual outreach.\textsuperscript{157} Law librarians could contact high school and college career or counseling offices, offering to be a resource to speak to students who show some interest in the profession. Or, they could explore potential collaboration with some law schools’ street law clinics, in which law students teach high school students about practical legal issues.\textsuperscript{158}

\textsection{58} Academic law librarians who work in more diverse areas of the country, such as the East Coast, the West, and the Southwest, are particularly well positioned to initiate or intensify efforts to recruit minority law students at their schools.\textsuperscript{159} On an individual level, personal outreach by law librarians can help to raise law librarianship’s profile among law students as a viable alternative legal career—or, among those who are already aware of it, to change possible preexisting perceptions. “Once students come to realize that law librarianship is a career option, many of them find it a very attractive one.”\textsuperscript{160} Some options are to attend law school events on alternative careers or perform outreach to minority law student organizations.\textsuperscript{161}

\textsection{59} Finally, law library support staff, whose proportion of minorities has historically outnumbered that of professional law librarians,\textsuperscript{162} represent another ideal target recruitment group. The 2007 AALL minority member survey showed that forty-three percent of minority law librarians worked in college or university libraries prior to choosing law librarianship; moreover, nearly half (46%) worked in a library previously as library assistants or paraprofessionals.\textsuperscript{163} Attempting to recruit support staff, who exist at every type of law library, is feasible for any law librarian. Simply initiating a conversation with a paraprofessional work colleague could stimulate that person’s interest in becoming a professional law librarian. A law library could also hold information sessions for its minority staff, or the staff of nearby public or academic libraries, on getting an M.L.S. degree and being a law librarian. (Given that high tuition is a key reason that many minorities do not pursue higher education, any such activities should emphasize that employers often subsidize graduate education for their employees.\textsuperscript{164})

\begin{thebibliography}{99}
\bibitem{156} See \textsc{Nicholson, Hill \& Garces}, \textit{supra} note 4, at 203.
\bibitem{159} See \textsc{Larsen}, \textit{supra} note 123, at 36.
\bibitem{160} James Milles, \textit{Law Librarians as Educators and Role Models: The University at Buffalo’s JD/MLS Program in Law Librarianship}, \textsc{AALL Spectrum}, July 2004, at 20, 21.
\bibitem{161} \textsc{Nicholson, Hill \& Garces}, \textit{supra} note 4, at 203.
\bibitem{162} See Brecht \& Mills, \textit{supra} note 19, at 283.
\bibitem{163} Ballard-Thrower, King \& Mills, \textit{supra} note 118, at 280, \textsection{43}.
\end{thebibliography}
Conclusion

¶60 It has been suggested that “[f]or all law librarians, the chance to help shape the future of the profession by developing future professionals is a source of both pride and responsibility.”165 Promoting racial and ethnic diversity in law librarian-ship is just one way to help shape the profession’s future. It benefits multiple stakeholders, from law library patrons to library staffs to the field as a whole.166

¶61 At this point, with little change to show for decades of efforts and initiatives, it should be fairly obvious that successfully increasing diversity is a major challenge that cannot be met overnight. Diversity efforts necessarily struggle against a long history of “laws, practices, and employment decisions that excluded broad sectors from participation in the political, economic, and social activities and benefits of this society.”167 This article merely seeks to reenergize interest in the issue among a new generation of law librarians, and to collect and present a variety of suggestions that can be realistic involvement opportunities in this area. While law librarianship is certainly not totally lacking in diversity, only when greater gains are made in diversifying the profession will the optimistic statement that “the diversity of AALL’s members is a microcosm of society”168 be any closer to becoming a reality.

165. Milles, supra note 160, at 22.
166. See Mersky, supra note 43, at 860.
How Librarians Can Help Improve Law Journal Publishing

Benjamin J. Keele** and Michelle Pearse***

Librarians are well positioned to improve law journal publishing and help it evolve in the ever-changing digital environment. They can provide student editors with advice on a variety of issues such as copyright, data preservation, and version control. Librarians can also help journals adopt technical standards and improve the discoverability and usability of journal content. While few libraries will be able to adopt all these suggestions, a checklist of ideas is provided to help librarians select those that are most suitable to their libraries and journals.

Introduction

1 Numbering near one thousand titles and growing, more law journals than ever are now being published by U.S. law schools. Most of these journals are edited by students, and the fact that more journals are being established indicates there is demand from students for opportunities to work on a journal or from professors for publication venues. Editors and authors share a common goal to produce legal scholarship that is read, cited, and influential.

2 Law librarians assist in the production and dissemination of law journals at several points in the process. Librarians help produce legal scholarship by helping authors use resources in their research. After articles have been written and accepted by journals, librarians assist editors and staff as they verify references and...
bring the articles into conformity with citation standards. In recent years, libraries have also become increasingly engaged in providing platforms through which journals may publish their content through online repositories and publishing systems, such as DigitalCommons, Open Journal Systems (OJS), WordPress, Drupal, and DSpace.

This is hardly a complete list of how librarians contribute to journal production, and there are other services librarians are especially qualified to provide to law journals. Our article considers ways in which libraries can broaden their roles in supporting law review publication and increasing the visibility and discoverability of these journals, in both the long and the short term. While libraries have been widely engaged in providing various services to journals (e.g., instruction, support for citation checking, and repository and other publishing platforms), we seek to reflect on activities that do not seem so common and to think broadly about how libraries and librarians might become more actively engaged in publishing law reviews and evolve in their roles as partners in the publication of law reviews. A checklist, included here as an appendix, reminds librarians of issues that could be raised with law review editors, IT departments, and anyone else engaged in the law journal production process.

Just as university libraries have found themselves increasingly partnering (or in some cases merging) with their university presses, law school libraries should be positioning themselves to support their journals’ evolution in the new digital publishing landscape by advising and supporting innovative initiatives in publishing, becoming more engaged in supporting the editorial production of the journal, and helping with marketing and retailing. Librarians are well situated to lend their expertise to student editors, who do not possess much training in information distribution and retrieval and do not tend to think about the long-term institutional goals of their journals.

Our article builds on discussion at meetings in reaction to the Durham Statement which advocated for the transition of law reviews to a purely digital

---


mode of publication. While these meetings and papers emanating from them have laid the groundwork for a technical infrastructure and requirements for making the Durham Statement work, our more modest goal is to outline tools and resources to enable law librarians to have conversations with their journal editors and explore various activities for helping them publish better. We hope to flesh out concrete ways in which law libraries can increase their role in supporting student publications and expand on their traditional services and functions.

Copyright Agreements and Policies

§ 6 For law journal editors and authors, profit is not the primary motivation. While some journals and authors may receive royalties from database vendors or textbook publishers, most participants are unpaid, or at least not paid beyond their normal salaries. Because copyright is primarily an economic privilege, it would seem that editors and authors would be largely unconcerned with copyright matters, and in many ways this assumption is being increasingly borne out in law journal policies. Since the late 1980s, law journal publication agreements have, in general, become less demanding of exclusive rights from authors. Rather than asking for a complete transfer of copyright, many journals now request a temporary exclusive license or even a nonexclusive license. Many journals also liberally grant permission for reproduction of articles, generally provided that the copying is for educational use, copies are distributed at or below cost, proper copyright notices and attributions are given, and notification is sent to the journal. Further indicating that these liberal policies are common is the National Conference of Law Reviews’ Model Code of Ethics. The Model Code provides that while journals have the right to ask for copyright in published articles, they should permit authors who wish to retain copyright to do so, and in any case should let authors republish and


10. See Jessica Litman, The Economics of Open Access Law Publishing, 10 Lewis & Clark L. Rev. 779, 783 (2006) (“Indeed, copyright is sufficiently irrelevant that legal scholars, the institutions that employ them, and the journals that publish their research tolerate considerable uncertainty about who owns the copyright to the works in question, without engaging in serious efforts to resolve it.”).


12. Examples of these provisions can be found in the Duke Law Journal, the Indiana Law Journal, the Minnesota Law Review, the Pepperdine Law Review, the U.C. Davis Law Review, and the William & Mary Law Review.
adapt their articles. The Model Code also calls on authors to grant journals’ requests to republish, especially in electronic databases. In 1998, an Association of American Law Schools (AALS) special committee developed a fairly liberal model publication agreement for journals and authors.

¶7 However, some sort of written copyright transfer or license is crucial to journals. These agreements provide the journal with clear authority to distribute articles through a variety of media. Journals want to distribute their content through as many reputable channels as possible, including the journal’s web site, LexisNexis, Westlaw, HeinOnline, and other disciplinary databases. Editors also need to ensure that their journals retain sufficient rights to distribute articles through new vendors that may appear in the future. Copyright lasts a very long time, so it is important for journals to have the flexibility to use distribution venues that were unforeseen when articles were first published.

¶8 Authors, on the other hand, wish to post their articles, whether in draft or final form, on their personal web sites and sites like the Social Science Research Network (SSRN) or bepress. Many editors, recognizing that most law journals are products of educational institutions, also want to permit educational and noncommercial reproduction of their articles. Most journals do not rely on subscription revenues as a significant source of funding, and so should not require more than nonexclusive licenses that give both journal and author great flexibility for reproducing and distributing their work.

¶9 Depending on the level of the library’s supervision over journals, librarians can help guide editors to adopt publication agreements and copyright policies that provide as much flexibility as possible for both the journal and the author to achieve their scholarly goals. To enable maximum circulation and impact of legal scholarship, librarians should encourage journals to use publication agreements that give the author and the journal nonexclusive rights to reproduce and distribute articles, provided that proper attribution is given. While U.S. copyright law does not protect a right of attribution for written works, publication agreements should generally provide that authors credit the journal as the point of first formal publication and that the journal credit the author in any excerpts or later publications. For a few journals, royalties may be a significant source of funding, but even for journals concerned about maintaining subscriptions, an exclusive license for a short period, between six months and two years, should suffice. A transfer of copyright is now outside the norm of law journal practice and should require special justification.

¶10 Journals often also have copyright policies for the purpose of exercising their copyright over the journal compilation and the licenses to individual articles. As mentioned above, many journals explicitly grant permission for classroom...
reproduction as long as proper attribution is given and copies are not sold at a profit.

¶11 A new mode of distribution for articles is the institutional repository, an online database of scholarly works by an academic institution’s faculty. A number of major research universities have recently adopted open access policies that encourage or require faculty to post their scholarly works online. Journals can facilitate author compliance with these policies by providing in their agreements and copyright policies that academic employers can archive their employees’ work without further permission. Such a policy will reduce transaction costs for both journals and libraries and further their educational goals. Any embargo on open access posting of articles can be specified. Librarians can explain to editors the benefits of permitting posting in institutional repositories and help craft policy language that serves both journal and library interests.

¶12 Librarians should also encourage transparency of copyright agreements and policies. Very few journals make their agreements and policies available on their web sites. This lack of disclosure makes it more difficult for authors concerned with retaining their rights to determine whether a journal has an agreeable policy, and it complicates the work of librarians and authors who want to know if they can distribute or use articles in certain ways. Librarians can encourage their institution’s journals to make their copyright documents publicly available and submit their policies to databases that provide a centralized collection of scholarly journals’ copyright policies.

Version Marking

¶13 A consequence of the proliferation of electronic distribution channels for articles is that print journals are no longer the first or primary means by which researchers obtain journal content. For example, an article can be posted as a draft on SSRN, bepress, and any other web site to which the author wishes to post. As the author revises the article, she may add new drafts to these sites. Once the article is accepted by a journal, it is cite-checked, edited, and formatted for publication in the journal. This published version may then become available on the journal’s web


site, vendor databases, and any of the sites to which the author posts it. Even after formal publication, the author could revise, update, or correct the article and put that version online.

¶14 This scenario presents at least two challenges. First, by posting drafts, the published version, and even later revisions, authors increase the risk that researchers will find and possibly cite works that represent their preliminary thoughts. Some authors help mitigate this risk by putting notices on their papers indicating that they are drafts and should not be cited. But these admonitions cannot prevent a researcher from citing a draft, especially if the final version has not yet been published or is not readily accessible. The ability to post drafts online for comment accelerates scholarly dialogue and makes legal scholarship more accessible to researchers outside the academy, but it also increases the risk that inaccurate or unpolished drafts will compete with their more complete and vetted successors. Second, researchers may have difficulty knowing the provenance of the article they are reading and may unknowingly use articles that have not been revised, proofread, or cite-checked. Multiple versions of a single intellectual work also make proper attribution to it more complicated than it would be if only one version were available.

¶15 One may wonder how different a draft article on SSRN is from the article published in the print journal. We do not know of any studies comparing drafts to formally published articles in legal scholarship, but several studies have examined the differences in other fields. One study of articles published by Blackwell found that a significant number of changes were made, most often to correct erroneous references.22 A second study of a small number of biology and social science articles found that numerous changes were made between drafts posted online and the final, published article. These edits generally made the papers more readable, but did not affect the validity of the conclusions. The study’s authors also found that some of the drafts posted by authors became inaccessible.23 Lastly, one study inspected drafts and articles from social science and humanities journals. The author concluded that most edits were minor and stylistic, but expressed concern that some errors in quotations and citations had not been corrected, even in the final, published version.24

¶16 While these studies did not look at law journal articles, their findings still have some value for law librarians and journal editors. The point most applicable to law journals is the problem caused when quotations and references are not verified by the editors of the journals; these errors, once published, are unlikely ever to be corrected in the future. Thus, cite-checking by law journal staff is an important service to legal scholarship that helps minimize errors in citation. By this we do not mean ensuring strict compliance with citation style (although some citation standard is valuable), but rather checking cited sources to ensure that they are acces-

---

sible to researchers and support the propositions for which they are cited. Many scholarly databases now automatically link articles with others that cite or are cited by them.\(^{25}\) Law librarians are most familiar with Westlaw’s KeyCite and LexisNexis’s Shepard’s citators, but HeinOnline’s ScholarCheck, SSRN’s CiteReader, and Google Scholar also automatically analyze citations and link to appropriate articles. Citation errors or formatting irregularities can prevent these programs from making the proper links. Perhaps the programs will eventually be sophisticated enough to decipher any citation, but until then, accurate citation is important to later researchers who wish to find further resources. Since citations are unlikely to be corrected after formal publication, the cite-checking process is probably the last chance to get them right.

\(\S 17\) The ephemeral nature of some online drafts is also a concern. Upon formal publication, most articles are reproduced in paper copies distributed to libraries and in digital copies hosted by proprietary databases or institutional web sites. This comparatively widespread distribution to institutions means that an article will be retrievable, even decades after publication. Draft articles are not generally collected or retained to this extent, which reduces the likelihood that they will be available years into the future. Authors may choose to delete their drafts at some point, or the sites hosting them may purge drafts or simply cease operating. Without clear labeling of versions, researchers may rely on draft articles that are prone to vanishing into the ether.

\(\S 18\) Other scholarly disciplines have worked to develop a standard nomenclature for article versions. PubMed, a major database of biomedical literature, has instituted standards for clearly labeling revised articles.\(^{26}\) The National Information Standards Organization (NISO) developed recommended standards for distinguishing between different versions of scholarly articles.\(^{27}\) The NISO-recommended practice provides for seven possible article versions: an author’s original draft, a submitted manuscript under review, an accepted manuscript, a proof, a version of record, a corrected version of record, and an enhanced version of record.\(^{28}\) This standard is based on the process of an academic journal that uses peer review to select articles. It also anticipates publishers later making corrections to articles or adding enhancements, such as supplementary data.

\(\S 19\) The NISO-recommended practice is instructive for law journals, but it does not correspond perfectly to law journal publishing practices. First, most law journals do not ask outside reviewers to help decide which articles to publish. Authors can submit to only one peer-reviewed journal at a time, while most law journals


\(^{28}\) Todd Carpenter, Are These Two Versions the Same? Functional Equivalence and Article Version, AGAINST THE GRAIN, Apr. 2011, at 16, 16.
accept papers that have been simultaneously submitted to other journals. Authors may also continue revising their papers after submission. Thus, the distinctions between an author’s original draft and submitted manuscripts are not very clear.

¶20 Law journals generally delegate responsibility for preservation of published articles to vendors such as LexisNexis, Westlaw, and Hein (which also handles most orders for print back issues), and law libraries that keep print and digital copies. Once an article is published, most law journals are not directly responsible for preservation and enhancement, so the corrected and enhanced versions of record designations are unlikely to be used. Authors, however, may very well update or correct their papers after formal publication.

¶21 Law librarians can help address article version ambiguity in at least three ways. First, librarians can assist journals with establishing clear policies on article versions. Some journals’ publication agreements distinguish between a draft (any version before formal publication) and a published version (the article as formally published, with no indication that later revision is anticipated). The agreements authorize authors to post drafts on SSRN or personal web sites. At least one publisher asks authors to replace all posted drafts with the formally published version. These divergent practices seem to reflect differing views on how journals should best protect their subscription revenue and brand reputation.

¶22 An improved policy could permit online publication of both drafts and versions of record, but require that all be clearly marked so researchers know what stage of the publication process the paper they are reading represents. The seven categories of the NISO-recommended practice are probably more extensive than law journals need, but the draft/published dichotomy is too simplistic. A possible compromise could include four categories: an author’s draft that has not been vetted or edited by a journal (successive drafts in this stage could be denoted by ascending numbers, e.g., version 3 or draft 2.5); an edited manuscript that has been proofread and, most importantly, cite-checked by journal staff, letting researchers know the sources have been independently verified; a version of record that has been approved by both the author and the journal, leading to what is traditionally thought of as formal publication; and, finally, a revised article that has been corrected or updated by either the author or the journal. If changes are made to an article after the version of record has been published, the party responsible for the update (author or journal) should be clearly indicated so researchers know the revised paper’s provenance.

¶23 This, of course, is merely a suggestion, but a standard practice that reflects reasoned agreements in the legal publishing community would be valuable. Librarians, with their expertise in organizing and accessing multiple versions of the same

29. The University of Chicago Press Guidelines for Journal Authors’ Rights, UNIV. OF CHICAGO Press, http://www.press.uchicago.edu/journals/jrnl_rights.html, archived at http://www.webcitation.org/67X34Nm3M (“To avoid citation confusion, we discourage online posting of preprints and working papers. If you choose to submit a prepublication version of your accepted paper to a non-commercial, discipline-specific preprint or working paper archive, however, we require that appropriate credit be given to the journal as described above and ask you to remove the working paper from the archive after your article is published or replace it with the published version.”). See also Keele, supra note 11, at 275, ¶ 21.
intellectual item (such as multiple editions of a treatise or the many versions of a bill that are created as it progresses through the legislative process), are well suited to helping journals adopt version-labeling policies that reduce confusion and ambiguity regarding article versions.

¶24 Second, librarians can educate authors about the value of clearly indicating the publication status of their papers. If librarians are responsible for posting papers to SSRN, bepress, or institutional repositories, they can indicate the version in the article’s metadata.

¶25 Third, librarians can facilitate collection of faculty draft papers. Just as hard-copy faculty papers are often collected in school archives, so digital drafts posted online can be retained to more fully document an author’s scholarly record. Each library’s collection of digital drafts would be unique and an expression of each faculty’s distinct scholarly achievements. Library collection of drafts would increase demand for a consistent version-marking system and raise author awareness of its value.

¶26 Clear indication of article versions falls into the realm of administrative practices that many journal editors may not think of, or find too dull to address. An intuitive and substantively consistent system of indicating article versions will ease access and evaluation of journal articles. This kind of bibliographic infrastructure is precisely the sort of thing librarians should help build.

Preventing Link Rot with Persistent Identifiers

¶27 Another challenge presented by digital resources is link rot, or uniform resource locators (URLs) that no longer direct researchers to the correct online resource. In the dynamic online environment that exists today, as resources are altered, moved, or deleted, link rot is inevitable. Several studies have indicated that citations in law journal articles to online resources often contain short-lived URLs.30 These broken links are, at best, an annoyance for researchers who must find the resource through another access point. At worst, broken links undermine an article’s soundness by removing support for its assertions. Journals can reduce the likelihood of broken links to online copies of their articles by assigning and maintaining persistent identifiers. Unlike URLs, which point to a physical spot on a computer, persistent identifiers point to the resource itself, regardless of whether the resource moves to another location. A physical analog is the International Standard Book Number (ISBN)—no matter what shelf a book is assigned to, the ISBN identifies the same book.

¶28 Several persistent identifier systems exist, including Handles, Persistent Uniform Resource Locators (PURLs), Archival Resource Keys, and Digital Object Identification Numbers (DOI). These identifiers are registered centrally and can be used to point to online resources, even if the site hosting the resource changes location. They are easily placed in manuscripts and can be used to indicate the version of an article as it is posted online.
Identifiers (DOIs).\textsuperscript{31} DOIs have achieved a large measure of acceptance among scholarly publishers, including a few that publish journals in law and other fields. As of May 2012, almost fifty-four million DOIs had been registered with CrossRef, the DOI registration agency for scholarly publishers.\textsuperscript{32} PURLs have been adopted by the Government Printing Office to provide more reliable access to government publications.\textsuperscript{33} While they differ in their operational details, the basic principle behind these persistent identifiers is that an organization acts as an intermediary between the researcher and the sought resource. A central index connects the identifier with the current location of the resource, so even if a resource moves due to a web site redesign or change in resource ownership, a researcher using the identifier will be able to find the resource.\textsuperscript{34}

¶29 No legal citation guide requires using persistent identifiers (although both the Bluebook and the ALWD Citation Manual recommend using unique identifiers in commercial databases\textsuperscript{35}), and law journals generally have not used DOIs in footnotes, even when DOIs exist for cited articles.\textsuperscript{36} Journals are thus forgoing mechanisms that could help them ensure their articles remain easily retrievable online, even as the journal web site undergoes redesigns and updates. Librarians can encourage journal editors both to prefer using persistent identifiers in citations and to assign and maintain identifiers to their own articles. Persistent identifier systems rely on long-term maintenance and updating. The short terms of journal editors make them unlikely champions of such ongoing endeavors. Librarians’ more established resources and professional ethos make them much better equipped to handle assignment and updating of persistent identifiers. Miller suggests establishing a foundation that will preserve journal content and provide stable links.\textsuperscript{37} This ambitious proposal supports the idea that projects that require long-term maintenance, like persistent identifiers, require organizations designed to function much longer than a student editorial board.

¶30 Perhaps librarians could offer this as a publication service to the journals. Journals could join CrossRef and register DOIs, with librarians advising or taking primary administrative responsibility for DOI management. Such a service would require additional resources to cover CrossRef membership fees and technical expertise, so a method for distributing costs through an existing or new consortium might make this more practical for law journals. The California Digital

\textsuperscript{31} For more on this, see Susan Lyons, Persistent Identification of Electronic Documents and the Future of Footnotes, 97 LAW LIBR. J. 681, 2005 LAW LIBR. J. 42.


\textsuperscript{34} For more information on DOIs, see Patricia Feeney, DOIs for Journals: Linking and Beyond, Info. Standards Q., Summer 2010, at 27.

\textsuperscript{35} The Bluebook: A Uniform System of Citation R. 18.3.1 (19th ed. 2010); Ass’n of Legal Writing Dirs. & Darby Dickerson, ALWD Citation Manual R. 39.1 (4th ed. 2010).


\textsuperscript{37} Miller, supra note 9.
Library’s EZID provides persistent identifiers for documents and data sets for researchers and could be a model for law libraries.\textsuperscript{38} Bepress’s DigitalCommons platform is a common tool for publishing law journals online. Law libraries constitute a major customer base for DigitalCommons, and librarians could encourage bepress and other publishing vendors to include support for persistent identifiers. While law journals in DigitalCommons do not use DOIs at present, the article URLs are at least consistently designed and therefore less likely to change than URLs for academic or commercially hosted web sites.

\textbf{Plagiarism Detection}

\textsuperscript{31} Journals’ interest in furthering scholarly research and education leads them to require that all articles be original (i.e., created by the author and not previously formally published) at the time of publication. Virtually all journal publication agreements ask authors to warrant that the article is original and does not infringe on anyone else’s copyright. The National Conference of Law Reviews’ \textit{Model Code of Ethics} notes that authors have a duty to “produce manuscripts through the use of the law review author’s own talents, skills, knowledge, creativity, mental processes, research, and time.”\textsuperscript{39} It appears no studies have been conducted to determine how common plagiarism is in law journal articles. Whether it is common or rare, though, any plagiarism is a serious matter.

\textsuperscript{32} The precise definition of plagiarism is subject to some debate, but Terri LeClercq offers this definition in the context of academic institutions: “Plagiarism means taking the literary property of another without attribution, passing it off as one’s own, and reaping from its use the unearned benefit from an academic institution.”\textsuperscript{40} A determination of whether something amounts to plagiarism can be difficult in close cases, but one can easily imagine copying that is clearly plagiarism, such as replicating the entire body of another article without attribution. Plagiarism in law journals undermines journals’ common mission to advance legal thought through publishing original contributions and breaks readers’ trust in journals and authors that represent their articles as original.\textsuperscript{41}

\textsuperscript{33} Especially difficult for law journal editors are instances of duplicate publication, also called recycling and self-plagiarism. Some authors reuse (verbatim or with minor edits) parts of their own published work in new articles without acknowledging the earlier publication. In these instances, the author’s work is not being misappropriated without her knowledge. The concerns, rather, are that the scholarly debate is not advanced and that readers are misled regarding the prove-

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{39} Closen & Jarvis, \textit{supra} note 13, at 522.
\item \textsuperscript{40} Terri LeClercq, \textit{Failure to Teach: Due Process and Law School Plagiarism}, 49 J. LEGAL EDUC. 236, 244 (1999). A well-researched discussion of plagiarism in higher education is Audrey Wolfson Latourette, \textit{Plagiarism: Legal and Ethical Implications for the University}, 37 J.C. & U.L. 1 (2010).
\end{itemize}
\end{footnotesize}
nance of the article’s arguments.\textsuperscript{42} Law journal articles are important factors in law school tenure and promotion decisions, and authors who recycle papers may gain an unfair professional advantage. Editors should be careful to maintain the integrity of the publication process and scholarly record.

\textsuperscript{34} Extensive databases of articles have made greater plagiarism detection efforts possible. Public announcements that accepted articles will be checked for plagiarism before publication may deter submissions with lifted material. The most common detection tool is TurnItIn,\textsuperscript{43} a program by iThenticate.\textsuperscript{44} For journals that participate in CrossRef and assign DOIs to their articles, a service called CrossCheck, also using iThenticate’s resources, is available.\textsuperscript{45} LexisNexis also offers SafeAssign, a service that checks submitted articles against several LexisNexis databases.\textsuperscript{46} Unfortunately, none of these databases appears to have comprehensive coverage of law journal articles. TurnItIn is intended primarily for checking undergraduate course papers, and iThenticate’s product for academic journals does not include student-edited law journals. LexisNexis’s SafeAssign product includes the ProQuest ABI/INFORM database (a business literature database), articles from the top five hundred law reviews (with coverage back to 2000), papers submitted through Blackboard, and articles available on the public web, which may include some other law journals that make their issues available online.\textsuperscript{47}

\textsuperscript{35} Despite the lack of a comprehensive plagiarism-checking solution for law journals, editors may detect copying to some extent when they cite-check accepted articles (although finding potential misconduct after an article is accepted leads to awkward conversations with the author) and when they conduct preemption checks to ensure that the article’s thesis is an original contribution to the literature. Librarians can offer information on plagiarism-checking services and methods during journal training. Even well-crafted searches in Westlaw, LexisNexis, HeinOnline, and Google Scholar can be valuable parts of a journal’s due diligence.

\textsuperscript{36} Journals also need policies for the unfortunate times when a paper is found to be a product of plagiarism or duplicate publication. Clear guidelines should be established so authors and staff have advance notice as to what copying will be regarded as plagiarism. Unattributed copying of another’s work is generally unac-

\begin{itemize}
  \item \textsuperscript{42} See Richard A. Posner, The Little Book of Plagiarism 43 (2007) (“Self-copying becomes fraudulent and therefore plagiaristic only when the author represents his latest work to be newly composed when in fact it is a copy of an earlier work of his that readers may have read.”); Patrick M. Scanlon, Song from Myself: An Anatomy of Self-Plagiarism, 2 Plagiarism, Fabrication, & Falsification 57, 63 (2007), available at http://hdl.handle.net/2027/sps.5240451.0002.007 (“The ethical crux of self-plagiarism seems to be the extent to which the words before us are original not only with the present author, unless otherwise noted, but with the present publication as well.”).
  \item \textsuperscript{43} TurnItIn, http://turnitin.com/en_us/home (last visited May 29, 2012).
  \item \textsuperscript{44} iThenticate, http://www.ithenticate.com (last visited May 25, 2012).
  \item \textsuperscript{45} CrossCheck, CrossRef, http://crossref.org/crosscheck, archived at http://www.webcitation.org/67XYso7Ww.
  \item \textsuperscript{47} Id.; e-mail from Shelley Landfair, LexisNexis Account Executive, to author Keele (Mar. 22, 2012) (on file with author).
\end{itemize}
ceptable, while recycling one’s own past work is perhaps more tolerable. Indeed, some limited copying of previously published language may be warranted when the published and new papers come from a common line of research. Even then, though, journals should insist on full disclosure of previously published work. This solution allows the reader to be fully informed about the article’s origins and benefits readers by pointing them to relevant sources. If the recycling is too extensive, editors may need to reject a submission or ask the author to withdraw or revise an accepted paper due to lack of originality. A nightmare scenario for editors, finding that a plagiarized or copyright-infringing paper has been published, might necessitate a retraction.

Librarians can help editors develop antiplagiarism policies and plagiarism-detection procedures. Science, technology, and medical journals have taken many of these steps, and their experience may be instructive. Journals can also join the Committee on Publication Ethics, a group of scholarly editors and publishers that develops guidance on protecting the integrity of scholarly publishing.

Empirical Data Support

Law journals are increasingly publishing articles that are empirical in nature and based on data created by the authors or others. Articles based on empirical data in student-edited journals are not generally submitted to the same standards of review and challenges as articles in peer-reviewed journals. Many academic law journal editors do not have backgrounds that permit them to adequately assess the methodology used in such works or to deal with the related issues that arise with data. Librarians are uniquely positioned to support editorial, curation, and metadata services that would help improve the quality and accessibility of


49. Various projects have evolved to address the problems of retraction. See, e.g., Retraction Watch, http://retractionwatch.wordpress.com, archived at http://www.webcitation.org/67XYwvFMM. Retractions might be difficult in law review settings where editorial boards and student participants are constantly changing.

50. See Declan Butler, Journals Step up Plagiarism Policing, 466 Nature 167 (2010); Kirsty Meddings, Credit Where Credit’s Due: Screening in Scholarly Publishing, 23 Learned Publ’g 5 (2010).


53. Id. at 592 (“[L]aw reviews can generally offer a swift decision on whether the article will be accepted and a short time line to publication, compared with the seemingly interminable waits that many peer-reviewed journals impose on authors, often with the added burden of revise-and-resubmit response that does not promise ultimate publication.”). See also Lee Epstein & Gary King, Building an Infrastructure for Empirical Research in Law, 53 J. Legal Educ. 311, 316–18 (2003) (lamenting the problems inherent in student-edited law reviews without blind peer review and suggesting a review model for these journals).
such work and potentially improve its reputation among legal scholars and in the world of scholarship in general.

¶39 A select number of journals do provide some form of faculty review of submitted articles, but we are not aware of many law school law reviews promoting submissions procedures or policies that provide or facilitate formal review by a statistician or someone with a background in empirical work. While few libraries have a source of empirical support among the library staff, they could coordinate with members of the law school (or the larger university community if available) to provide such services. Perhaps a consortium service could be coordinated between librarians actively engaged in empirical legal studies, similar to the Peer Reviewed Scholarship Marketplace (PRSM) project created by law school journals for faculty review.

¶40 Another natural role for librarians is in the deposit of data sets associated with journal articles to ensure the possibility of replication. For example, the Institute for Quantitative Social Science (IQSS) at Harvard University provides a service called Dataverse through which journals (or individual scholars) may deposit data. Some law reviews have already experimented with depositing data linked to their articles. While there has been discussion in law library circles


57. See PRSM, supra note 54.


60. At the time of this writing, the NYU Law Review and the Virginia Law Review have deposited data associated with some of their articles (“journal replication archives”) in Dataverse. NYU
about preserving data from individual faculty members, there should be equal interest in encouraging journals to collaborate with authors in making the data associated with their publications available. In addition to advising on minimal technical requirements for data preservation, librarians are uniquely situated to develop rich metadata for the data sets that would increase discoverability and connections with other relevant information. Making data available and accessible and preserving it would strengthen the quality of empirical legal scholarship.

§41 Sharing data for replication and further analysis is more common in other areas of the social sciences. Making such activity the norm in academic legal scholarship would help improve authors’ and journals’ standing with empiricists in other fields. From a research perspective, librarians could help editors assess whether or not methodologies are accurately used and explained. They could also confirm understanding about human subject participation concerns (although this onus could be on the author). Librarians could be more actively involved in experimentation with the visualization of data, mashing up the data with other content, advising on rights and licensing issues, and facilitating consistent citation within

---


65. Librarians can educate journals about standards and best practices that have been developed—sharing data in ways that are open and facilitate reuse, further research, and replication. See Open Data Commons, http://opendatacommons.org, archived at http://www.webcitation.org/67XfUPF5S; Open Data Handbook, http://opendatahandbook.org, archived at http://www.webcitation.org/681rtF3iH.
legal scholarship. Mandates for data deposit by organizations funding research in the sciences and other areas could increasingly impact the social sciences.

### Helping Law Journals Create Metadata

While libraries have been helping to provide publishing platforms through the use of institutional repositories and other services, there is room for librarians (particularly those with cataloging, metadata, and subject expertise) to be even more actively engaged in helping mark up content so that it is more easily discoverable. This is particularly true in the context of the semantic web. Libraries are already equipped to advise journals on technical formats, basic metadata elements, and schema for their underlying journal content. There are, however, new projects and concerns such as schema.org and linked (open) data that potentially


67. For example, the National Science Foundation requires grantees to submit data plans “except where this is impossible or inappropriate. These plans should cover how and where these materials will be stored at reasonable cost, and how access will be provided to other researchers, generally at their cost.” *Data Archiving Policy*, NAT’L SCIENCE FOUND., http://www.nsf.gov/sbe/ses/common/archive.jsp, archived at http://web.archive.org/web/20110714060548/http://www.nsf.gov/sbe/ses/common/archive.jsp.


69. Also referred to as Web 3.0, the semantic web focuses on linked data between sources and incorporates the technologies “OWL [Web Ontology Language] (to build vocabularies, or “ontologies”) and SKOS (Simple Knowledge Organization System) (for designing knowledge organization systems) . . . to enrich data with additional meaning, which allows more people (and more machines) to do more with the data.” *Semantic Web*, W3C, http://www.w3.org/standards/semanticweb, archived at http://www.webcitation.org/67XgjNPQr. See Michelle Pearse, *Is It Time for Law Libraries to Collaborate on Description for Their Own Institutions’ Legal Scholarship?*, VOX POPULII (Sept. 30, 2011), http://blog.law.cornell.edu/voxpop/2011/09/30/is-it-time-for-law-libraries-to-collaborate-on-description-for-their-own-institutions%E2%80%99-legal-scholarship; see also *generally Approaches to Legal Ontologies* (Giovanni Sartor et al., eds., 2010); *BILL COPE ET AL.*, *TOWARDS A SEMANTIC WEB: CONNECTING KNOWLEDGE IN ACADEMIC RESEARCH* (2011); *DAVID STUART*, *FACILITATING ACCESS TO THE WEB OF DATA: A GUIDE FOR LIBRARIANS* (2011).


72. The Library of Congress recently issued a *BIBLIOGRAPHIC FRAMEWORK FOR THE DIGITAL AGE*, http://www.loc.gov/marc/transition/pdf/bibframework-10312011.pdf, archived at http://www.webcitation.org/681sHpwkI, which embodies principles of linked data. For the past couple of years, it has
affect how journals would want to structure their web sites for maximum visibility and discoverability. While it remains to be seen how these standards will be adopted by web sites (and eventually incorporated into repositories), law libraries could be more actively engaged in helping journals determine whether their web-based content should be compliant with these new standards just as they have applied other standards in traditional institutional repositories.73 Libraries could also be more engaged in making journals aware of accessibility issues for visually impaired users on the web.74 They might also want to make certain that journals are aware of projects related to identifying scholarship associated with particular scholars and whether their journals are included in such services. These services include Google Scholar Citations, Microsoft Academic Search, and Open Researcher and Contributor ID (ORCID).75

§43 Librarians, however, could also contribute more significantly to the development of underlying taxonomies and ontologies that could then be consistently applied to enrich the metadata and make them more valuable. Since librarians often review articles with students and generally know how researchers look for information, they are in a unique position to contribute substantively to the terms and language that ensure accessibility and discoverability for relevant user groups. Some libraries use existing taxonomies provided by systems such as bepress’s Digital Commons and add additional keywords provided by authors or informed by some internal taxonomy used by the library. Academic law libraries could develop taxonomies and ontologies that could be shared among law schools and scholars,76


73. “In the repository domain there are several standards that are widely implemented and ensure interoperability, the most well known being Open Archives Initiative Protocol for Metadata Harvesting (OAI-PMH) which is used as a common interface for harvesting metadata from repositories.” OAI-PMH Harvesting, JISC INFOINET, http://www.jiscinfonet.ac.uk/infokits/repositories/technical-framework/oai-pmh, archived at http://www.webcitation.org/68L8bjmXk.


75. Both Google Scholar Citations (http://scholar.google.com/citations) and Microsoft Academic Search (http://academic.research.microsoft.com) have begun offering scholar profiles with preliminary citations and data based on their search engines/sources. See Google Scholar Citations Open to All, GOOGLE SCHOLAR BLOG (Nov. 16, 2011, 8:30 p.m.), http://googlescholar.blogspot.com/2011/11/google-scholar-citations-open-to-all.html, archived at http://www.webcitation.org/67XhEnAix. ORCID is a collaborative project among academic publishers, repositories, and others to solve the problem of author ambiguity by developing a central registry of unique identifiers for individual researchers and linking them to other author identification schemes. Welcome to ORCID, ORCID, http://about.orcid.org, archived at http://www.webcitation.org/67XhJkNmH.

76. Some repository systems, like bepress’s DigitalCommons, already offer set subject headings. Some may argue that additional efforts are unwarranted, as one could simply adopt preexisting, commonly used subjects such as the Library of Congress subject headings. But journals and repository users do not consistently adopt these options. They are also often limited in their ability to capture deep knowledge of a subject area and create connections between ideas. Other disciplines have developed similar projects to make data discoverable. See, e.g., The NeuroCommons Project, SCIENCECOMMONS, http://neurocommons.org, archived at http://www.webcitation.org/67XhStkcn.
built more in response to how scholars look for information. For example, something as simple as geographic information included in the metadata could enable consistent access to the growing amount of foreign and comparative law work being done in U.S. law journals. A shared taxonomy/ontology emanating from the legal academy could also be “mapped” to taxonomies/ontologies developed for more practical or public uses such as projects in the open law movement or internal governmental use. It would facilitate cross-searching metadata and connecting content between varied systems of legal knowledge. A variety of users could potentially search across the same content (e.g., law reviews and primary law) from their own situational perspective (e.g., pro se or academic). Authors could also be encouraged to create their own metadata (and apply a supplied ontology/ taxonomy) in the authoring process through tools like Microsoft Word add-ins. There is an enthusiastic legal informatics community that could potentially support and mentor such efforts.

Partnering with the open law movement and coordinating activities with other journals would help create a larger system that could be truly open and interoperable, providing a potentially valuable resource to all users. Most law journals already practice consistent footnote formatting. Libraries could help law journals develop consistent technical formatting of footnotes to facilitate linking to open law sources and to each other through tools such as ParsIt or other parsers.

77. The importance of understanding the research habits of our scholars is discussed in Stephanie Davidson, Way Beyond Legal Research: Understanding the Research Habits of Legal Scholars, 102 Law Libr. J. 561, 2010 Law Libr. J. 32.

78. Projects focusing on open access to primary law include Law.gov (http://law.resource.org), the Legal Information Institute (http://www.law.cornell.edu), Justia (http://www.justia.com), and the Public Library of Law (http://www.plol.org). While open access to law and legal information projects might focus more on access to information (and creation of semantic language and metadata) from the perspective of the public or practitioners, academic law libraries could partner with these projects to map ontologies created for practical or public use to a potential ontology that reflects more academic approaches to law.

Examples of ontologies related to law more generally can be found in Robert Richards, Legal Information Systems & Legal Informatics Resources: Knowledge Representation: Legal (Selected), http://www.personal.psu.edu/rcr5122/Ontologies.html, archived at http://www.webcitation.org/67XhYEUMx, and Robert Richards, Legal Information Systems & Legal Informatics Resources: Knowledge Representation: General Resources with Application to Law (Selected), http://www.personal.psu.edu/rcr5122/OntologiesGeneral.html, archived at http://www.webcitation.org/67XhaBTGy. Experiments like Jureeka (an add-on for the Firefox browser) permit searchers to find citations in such projects, but marking up content appropriately could facilitate more direct connections between the primary law and scholarship and annotations related to free sources of law.


80. James Milles has argued for law schools to devote more resources to developing materials for practitioners. James G. Milles, Redefining Open Access for the Legal Information Market, 98 Law Libr. J. 619, 2006 Law Libr. J. 37. At the very least, libraries could develop metadata for content that is more accessible to public use and interoperable with systems committed to open access, primary legal information.


Such work could also facilitate valuable metrics among journals beyond citation tools that are restricted to use in proprietary services (such as Web of Science, Sciverse, KeyCite, Shepard’s, and HeinOnline’s ScholarCheck), or contain unstable metadata and source data like Google Scholar and Microsoft Academic Search.83

¶45 In addition to helping journals develop content formatted to enable citation extraction, libraries could help them develop ways to track statistics about downloads of their content from their own interfaces, if they are not already using a product that provides that functionality. A project called PIRUS2 has developed a service to allow repositories and publishers to create standards for repository statistics.84 These are similar to the COUNTER standard developed for e-journal and database vendors85 and could result in some “ubermetric” across repositories of scholarly content. Libraries can also help journals learn about tools to measure use of their web content, particularly if such advice is not available from a central IT department hosting the page(s).86

¶46 Librarians can educate online journals (or those that do not use commercial composition services) about the perils of stray metadata lurking in documents. While there has been a great deal of discussion of this topic in the legal practice arena,87 there has not been as much discussion in the areas of journal publishing and repositories. In addition to consulting on the creation of descriptive metadata, librarians could raise awareness of metadata that are sometimes unintentionally included. Journals should understand that underlying metadata may be generated in the production process, particularly for online-only journals that post PDFs to their web sites without professional production or formatting. Journals that use a

citation.org/67XhjLufs, are examples of applications for parsing citations. Parsers may be used for footnote/citation extraction. SSRN recently launched its CiteReader project, which extracts references automatically, after which they are manually proofread. Gregg Gordon, SSRN’s CiteReader Project Update, SSRN: TOMORROW’s BLOG TODAY, Apr. 26, 2011, http://ssrnblog.com/2011/04/26/ssrns-citereader-project-update, archived at http://www.webcitation.org/68H7GQ5RN.

83. As journals move to a web-publishing environment and standards improve for marking up content for the web, mining and citation analysis might become more precise. See Kayvan Kousha & Mike Thelwall, Google Scholar Citations and Google Web/URL Citations: A Multi-Discipline Exploratory Analysis, 58 J. AM. SOC’y INFO. SCI. & TECH. 1055 (2007) (comparing citations in traditional citation sources (Web of Science) to Google Scholar and to citations found via web searches). See also Fred R. Shapiro & Michelle Pearse, The Most-Cited Law Review Articles of All Time, 102 MICH. L. REV. 1483, 1508–20 (2012) (discussing new forms of citation metrics).


86. Librarians can also make students mindful of the downside of using services like Google Analytics, which exposes visitors’ data to Google for its own use.

composition/production service such as Christensen most probably have metadata scrubbed out during the formatting process. But journals that publish on their own should know that metadata might remain in Word documents and ultimately PDFs if not removed and that this information could ultimately be indexed and accessible through search engines.

**Preservation of At-Risk Cited Sources**

¶47 In addition to helping journals address the risk level of their own content, libraries should educate journals about the volatility of the web sites referenced in the footnotes in their articles. There are various ways libraries could help journals deal with this problem, depending on the resources available and scope of the library’s activities. Libraries could suggest that journals investigate using a service like WebCite, which journals (and authors) may use to ensure that a copy of a cited web site remains accessible to users. Journals could also be encouraged to cite stable URLs for documents contained in resources such as the Chesapeake Project or the Internet Archive. For items in the public domain (or to which the copyright is owned), there is a tool called Zotero Commons with which users can contribute documents to the Internet Archive. For certain types of resources that fall within the scope of a library’s collection development policy, the library might

---

88. According to Gayle Smith of Joe Christensen, Inc, “If [we] perform[] the formatting of journal text in our composition software, we extract from the journal file only the data we need in order to put ink on paper. Our internal working file will not contain any of the metadata from the journal-submitted file.” E-mail from Gayle Smith to author Pearse (June 12, 2012, 5:30 p.m.) (on file with author). The same may be true for other commercial journal publishers.

89. See sources cited supra note 30.

90. Libraries are also in a position to educate journals about the copyright complexities of preserving information on another web site.

91. WebCite allows individual authors and journals to “freeze” web pages they use as references. It takes a snapshot of a cited webpage and stores a copy of the html including images (or any other files, for example pdf) on the webcitation server. The caching (archiving) process can be initiated prospectively (before publication) by the author or the editor, copyeditor or publisher at the time he/she authors, edits, or publishes the citing document.


want to consider archiving the sources and adding them to its collection if it is already providing web archiving services. Finally, librarians could work with editors of the *Bluebook* to develop further guidance on Rule 18.2(h) (and Rule 18 generally) for best practices.\(^96\)

**Facilitating Journal Inclusion in Traditional Bibliographic and Indexing Systems**

\(^48\) Law libraries could become more proactive in facilitating inclusion of their journals in traditional indexes, full-text databases, and other traditional bibliographic tools used by libraries and researchers. Some journals do not have central offices to help them manage administrative matters, and changes in the staffing each year make protracted activities difficult to track. Libraries could help ensure consistency and completion of such tasks. At present, there is often a delay in getting journals into such services, and policies about inclusion of online-only journals (or web-only companion content for print journals) are sometimes inconsistent or unclear.\(^97\)

\(^49\) Law journals should be guided in registering copyright and registering for an International Standard Serial Number (ISSN).\(^98\) For open access journals, the journal should be encouraged to contribute its metadata and contents to the Directory of Open Access Journals (DOAJ).\(^99\) Registering existence of the content through a service beyond a general aggregator like HeinOnline can drive traffic to the journal’s web site. With their extensive knowledge of research sources, librarians are also well positioned to help identify both traditional legal and interdisciplinary full-text and indexing/abstracting databases that might be interested in the journal’s content.

\(^50\) Inclusion in these systems facilitates inclusion in knowledge bases for vendor-provided tools such as web scale discovery systems and open URL link resolvers.\(^100\) Libraries could support use, reference, and promotion of journal con-
tent in other information areas. For example, they could work with vendors such as Amazon, Bowker, and other bibliographic services to see if their journal’s book reviews could be listed with information about the book. Libraries could also facilitate swift cataloging in OCLC/WorldCat and help journals partner with OCLC and table of contents services to include their content.  

**Distributing Content Through Social Media**

§51 Many law journals have already experimented with social media, such as blogs, Facebook, and Twitter. Participation in such channels is increasingly important as some argue that social media metrics may impact citation metrics. In addition to supporting law journals’ attempts to create their own social media presence, librarians are well situated to know which Web 2.0 channels are ideal venues for marketing journals or individual articles. They can also encourage coverage of online companions and blogs in the traditional literature. Libraries might become partners in helping journals use these social media tools most effectively.

**Optimizing for Mobile-Friendly Web Sites and Mobile Applications**

§52 As Internet users become increasingly mobile, journals are well advised to publish their content in ways that make it consumable on mobile devices. Librarians can teach them how to use services such as Google Analytics to see what kinds of mobile devices are being used to visit their sites. As libraries grapple with the question of whether to develop a mobile web site or a “mobile app” for their own content and deal with issues surrounding offering licensed content on mobile links to full-text, the library catalog, and other related services . . . ” Cindi Trainor & Jason Price, *Rethinking Library Linking: Breathing New Life into OpenURL*, LIBR. TECH. REP., Oct. 2010, at 6.

101. For information on OCLC’s services, see Press Release, OCLC, More Databases and Collections from Around the World Added to WorldCat Local (July 12, 2011), http://www.oclc.org/news/releases/2011/201141.htm, archived at http://www.webcitation.org/67XiQ9WEI. Table of contents services that are potential partners for law journals include Ingentaconnect and the *Current Index to Legal Periodicals*.


devices, librarians can help journals make similar assessments about their own content and figure out how best to optimize their web sites and content.

¶53 As experts in new modes of publishing and purchasing content, librarians should be able to provide advice to journals regarding what modes are most beneficial. If librarians are able to provide focus group services to traditional publishers, they should be able to offer similar feedback to their own journals. Recently, an open source project called Yāna was developed which allows any journal to make a mobile-friendly version of its content. Some journals are also making their content available as downloads on Amazon’s and Apple’s distribution platforms. While law school information technology and communications departments may also provide expertise in these areas, libraries can offer insight on how researchers use these options in their research or scholarship.

Supporting Audiovisual Beyond Repository Hosting

¶54 Journals will increasingly be offering non-textual content, particularly audiovisual content. As law continues to be influenced by other disciplines and new students and scholars expect information to be available in a variety of formats, authors, journals, and researchers will be looking for media-oriented formats. Many journals are already very active in hosting conferences for which they produce audio and video. Libraries are well qualified to grapple with the special issues involved in presenting and preserving video, but they could be more actively involved in marking it up for the web to make it more discoverable and connected with other content. Such services could include transcription and captioning services to help facilitate access. Many journals have already begun offering their

107. While it is possible to store video on repository systems, it is unclear how various repositories are dealing with the longer term needs of preserving audiovisual material, which usually requires some reformattting and migration to ensure accessibility. Plug-ins have been developed for publishing platforms such as OJS to offer multimedia content. Kathie Gossett et al., Kairos-OJS Plugin Project: Author, Editor, and Reader Tools for Scholarly Multimedia, PKP SCHOLARLY PUBLISHING CONFERENCE 2011, http://pkp.sfu.ca/ocs/pkp/index.php/pkp2011/pkp2011/paper/view/287, archived at http://www.webcitation.org/67XjaEGl6.
108. For example, YouTube offers a transcription service. See Adding and Editing Captions/Subtitles, YOUTUBE, http://support.google.com/youtube/bin/answer.py?hl=en&answer=100077, archived at http://www.webcitation.org/67XjcUUoK. There are also tools that can be used for creating
podcasts and videos through iTunes and YouTube (sometimes through the law school’s account). As libraries find ways to distribute their own content through these services, they could become more engaged in identifying these alternative content outlets and advising journals on the best way to market their content. Libraries are natural partners for law school media services and communications departments that also grapple with the dissemination and stewarding of audiovisual material.

Supporting “Futuristic” Thinking About the Law Journal/Article

What we think of as the “journal” or “journal article” is continuing to evolve and will probably be very different in years to come. Some libraries are already engaged in advising on web site production for journals. Taking a cue from the developments in other disciplines and in the e-book realm, journals will be exploring dynamic and flexible ways for users to view and use their content. By providing additional assistance in metadata creation and encouraging availability of data sets, libraries could be more engaged in experimenting with journals on innovative interfaces, such as visualizations of data and mashups. Libraries can also encourage journals to publish in open formats that make them easy to harvest and consume.


109. Some examples of law schools with journals that offer podcasts and videos through YouTube and iTunes include, on iTunes: DePaul College of Law, UC Davis Law, University of North Carolina School of Law, and Northwestern University School of Law; on YouTube: University of Virginia School of Law, Duke Law School, Wayne State University Law School, University of San Francisco School of Law, and Stanford Law School.


112. Owen Stephens, Mashups and Open Data in Libraries, 24 SERIALS 245 (2011). Libraries could facilitate mashups of journal content with data, primary law, and other research sources. Book review articles could be mashed up with content related to the reviewed books.

113. See Miller, supra note 9, at [2]. Libraries and law journals could work together to develop a unified search interface across journals, beyond what is offered by the American Bar Association or Google. This search engine could facilitate production of table of contents services across open access journals. With the proper support, hosting, and open source journal publishing options like OJS and WordPress (especially with Annotum, a free platform using WordPress), libraries could collaborate to offer a free publishing platform for law journals, particularly in institutions that are not able to invest in repositories or that lack the technical staff to implement open source solutions themselves. See ANNOTUM, http://annotum.org, archived at http://www.webcitation.org/67XjtZq5B.
The publisher Elsevier recently presented its Article of the Future project for various disciplines. Librarians could help lead a similar project for law journals (perhaps through AALL or participants in the Durham Statement). Students and libraries could share innovative thoughts and best practices about producing scholarship. While this type of information sharing happens at various meetings, consistent, coordinated efforts to discuss these issues would be very beneficial and could provide support and inspiration for law journals that do not have substantial technical and staffing resources.

Libraries will have to help journals deal with the preservation issues inherent in these new dynamic formats. In contemplating future forms of legal scholarship, libraries should also be forward-thinking about how to preserve new “containers” for traditional article content and how to preserve dynamic new forms of content. While institutional repositories handle traditional article format and content very well, they do not necessarily handle nontraditional content, nor do they create alternative representations and incorporation of video or data, or facilitate ways of rethinking how articles are presented beyond the current linear presentation in issues and volumes. Libraries have used web archiving tools to capture “ancillary” content like blogs (often separately from traditional journal content), but they also need to partner with journals to develop their ancillary and dynamic content in ways that facilitate preservation, as opposed to trying to capture such content after its publication.

Conclusion

Law libraries (and librarians) are uniquely situated to help academic law journals evolve and flourish in a world where modes of publication are changing at a rapid pace. If we broaden our roles as their partners in publishing and think creatively and futuristically about what a law journal is, we can help ensure the integrity, accessibility, and relevance of this important area of legal scholarship. We should look to other disciplines (especially the sciences) and the university press-library partnership model for inspiration and explore concrete ways in which we can realize these goals. Many law libraries have embraced repositories, but it is questionable whether repository systems are presently fully equipped to deal with the changing, dynamic needs of journals. While some law libraries have already...
been experimenting with additional services and partnerships in publishing, there is ample room for more libraries to expand their services and implement new ways of facilitating and supporting forward-thinking publishing infrastructures for law journals.
Appendix

Checklist for Librarians Working with Law Journals

✓ Publication agreement
  ✓ Author retains copyright?
  ✓ Nonexclusive or temporary license?
  ✓ Allows authors to self-archive?
  ✓ Distribution rights/venues

✓ Version reference
  ✓ Clear policy on article version/terminology
  ✓ Clear marking of own faculty members’ digital deposits
  ✓ Collaborate on standards to be used by journals and law library community

✓ Use of persistent identifiers/DOIs

✓ Plagiarism (or duplicate publication) detection procedures and policies

✓ Policies and procedures for empirical work
  ✓ Review by peers or those knowledgeable about research methods/statistics
  ✓ Author submission/deposit of data for replication
  ✓ Repository service for storing data (e.g., Dataverse)
  ✓ Data markup/metadata
  ✓ Licensing/terms of data use
  ✓ Visualization/presentation options for data
  ✓ Data citation standards

✓ Metadata for journal
  ✓ OAI-PMH compliant
  ✓ Standards for other web-based content
  ✓ Accessibility for visually impaired
  ✓ Taxonomies/ontologies
  ✓ Author add-in options/author-contributed metadata
  ✓ Technical formatting in footnoting/text for parsing
  ✓ Hidden metadata to be scrubbed
  ✓ Metrics/statistics
  ✓ RSS available?

✓ Preservation of at-risk cited sources
  ✓ Service (e.g., WebCite)
  ✓ Proper web archiving by institution
  ✓ Consistent use of or reference to particular sources
  ✓ Collaboration with *Bluebook* on Rule 18

✓ Coverage in traditional bibliographic/indexing systems
  ✓ International Standard Serial Number
  ✓ Directory of Open Access Journals
  ✓ Table of contents services
  ✓ Full-text and indexing/abstracting databases (HeinOnline, LexisNexis, Westlaw, Bloomberg Law, LegalTrac, Index to Legal Periodicals and Books, nonlegal databases, etc.)
✓ OCLC/WorldCat
✓ Coverage of book reviews
✓ Coverage of companion content
✓ Social media presence
✓ Optimized for mobile devices
  ✓ Apps?
  ✓ Visible on all devices?
  ✓ Kindle?, iTunes?
✓ Audiovisual content
  ✓ Distribution channels (iTunes, YouTube, etc.)
  ✓ Metadata/markup
  ✓ Transcription/captioning
  ✓ Linked with text and other sources
  ✓ Partnering with media services and communications offices
✓ Holistic preservation—Is there content not being captured?
The Long Tail of Legal Information: Legal Reference Service in the Age of the Content Farm*

R. Lee Sims** and Roberta Munoz***

The authors discuss the implications for legal reference service of a new feature of the legal information universe: the content farm. This article describes the content farm, its workings, what makes it profitable, and the market and informational forces that drive content farm creation. It also discusses how reference interactions may be altered if a patron has consulted content farm information before coming to the reference desk.

A New Challenge for Law Librarians at the Reference Desk

1 Nonexpert legal research patrons come to the reference desk wanting answers to their questions, but they often don’t know what question to ask or how to ask it. The first encounter between patron and reference librarian frequently begins with an analysis of the question itself. It is important for the librarian to consider whether the patron has asked a question that can be answered, and whether the patron has asked the question using language that will lead him down the right path.

2 Now, a new type of legal information is becoming widely available—even ubiquitous—that makes this process even more challenging. Vast quantities of legal information are currently being generated by “content farms.”¹ Content farm information, retrieved through search engines like Google, answers legal questions with a high degree of specificity, even when the questions posed are incomplete, poorly formed, or nonsensical. Patrons with an article from a content farm in hand may come to the reference desk assuming that someone else has posed the correct question, which they then have adopted as their own. They may further assume that their question has been answered in whole or in part, and that all they need is for the librarian to place the materials cited in the article in their hands and their work will be done. They may well be surprised to come face-to-face with a librarian who is not so sure. The primary purpose of this article is to alert legal reference librarians to this new and fundamentally different type of legal information. We discuss

¹ “Content farms” are defined infra ¶¶ 5–9.
and explain the content farm phenomenon as it affects legal information aimed at the nonexpert user.

¶3 Those who follow trends in information dissemination may recall a recent controversy concerning a change in Google’s search algorithm that was designed to slow down the proliferation of content farm information. This change makes assumptions about content farm information: specifically, that information generated for content farms is somehow less worthy than other legal information on the web.

¶4 In examining whether this assumption is correct, we begin by trying to define the term content farm—a term that is evolving even now. We then describe how legal information is generated and disseminated via content farms and explore why this type of information is different from other kinds of legal information—good and bad—that are available on the Internet. We analyze the economic theory upon which content farm information is being developed—the “long-tail theory”—and show and critique some examples of legal content generated by content farms that are currently available on the web. As part of that discussion, we pose the question of whether Google is right that content farm content should be removed from the web or at least from Google’s search results. We end with a review of why familiarity with this material is important to reference librarians and why, in the context of a legal reference transaction, content farm material is fundamentally different from other sources of legal information our users may bring to us.

Content Farms Defined

¶5 What is a content farm? How does legal information produced by content farms differ from other sources of information used by our patrons? Information generation via content farms is a relatively new phenomenon, and there is as yet no settled definition. But the most popular definitions share four important characteristics: (1) content farm information is produced “on demand”—it is created in response to user-generated search data and uses the natural language terms that individuals plug into search engines; (2) content is written around keyword phrases and heavily “search engine optimized” for those phrases; (3) information created this way is generally considered to be of substandard quality; and (4) content is accompanied by advertisements and links to service providers’ web sites.

¶6 One definition of content farm information appears on the Google Blog. There, Matt Cutts, Google’s principal engineer, presented a definition of a content farm in an effort to explain why Google was changing its algorithm to deemphasize content farm information, saying that content farms “are sites with shallow or low-quality content.” Cutts equated content farm information with webspam, a term that probably does not require definition.2
¶7 It is more accurate to say that the definition of a content farm, like the market for the content and the content itself, is continuously evolving. A more detailed definition is provided by Allen Graves. He makes reference to Cutts’s post on the Google Blog but includes additional factors gleaned from other sources (like the Wikipedia article on the topic) for determining when a web site can be considered a content farm. His list of factors, including his own emphasis and parenthetical comments, is as follows:

- Multiple writers producing large amounts of content
- Authors are paid and *may not be experts* on what they are writing
- Content is written around currently popular/profitable long-tail keyword phrases and optimized heavily for those phrases
- Content is of low quality and/or shallow (subjective)
- Content is “spammy” (subjective)
- Content does not link to authority websites or accurate resources
- Content can be considered “intra-domain duplicate content” by the newly upgraded search engine document indexer
- Content is diminutive, without supporting information or resolution
- Website or section of website contains large and growing number of articles
- Pages are designed to drive traffic to other monetized web pages or lead forms
- Content is designed to drive traffic to other monetized web pages or lead forms
- Content is surrounded by multiple advertisements, lead generation forms, contextual adverts, affiliate links or any other monetization techniques

¶8 In reality, it is almost impossible to make a blanket statement about the quality of information coming from content farms. Although commentators like Cutts and Graves deem content farm material to be shallow, trivial, low quality, and substandard, this is not always true. We analyze some examples later in this article and consider the quality of the information we found. In the end, the determination of whether this type of material is trivial or substandard is the responsibility of the information seeker. For reasons discussed in later sections, we believe that, regardless of what that determination may be, an objective understanding of the properties of this type of information will help reference librarians who encounter patrons who have decided to rely on content farm information.

¶9 Additionally, when Cutts and Graves assert that content farm articles do not contain references to authoritative sources, they are mistaken. The content farm articles that we critique below all include links to supporting authorities. Painting all content farms with the same brush is unfair. Content farms vary widely, not only in the type of information they provide, but in the validity and accuracy of that information and the authority upon which it is based.

¶10 It is vital that reference librarians know that content farm information is generated for commercial purposes. The entities that generate content farm infor-

---

information produce information that is designed to keep the user on the page, reading the content or, at a minimum, following relevant links to more information, more articles, or commercial sites.

¶11 For the sake of simplicity and clarity, we limit our review to those legal content farms in which the information is generated “on demand,” is written by human beings, contains citation to authority, and has words and phrases designed for search engine optimization. Although there are other content farms generating legal-themed content, we use as our exemplar for the prototypical legal content farm site a current major player in the legal content farm world: Demand Media. Demand Media requires that every article be supported by some kind of online authority.8 It feeds articles into the eHow Legal and LegalZoom web sites.9 Demand Media defines eHow Legal, LegalZoom, and other content providers as “partners” and touts the advantages of content provided by Demand Media.10 Demand Media supports the site eHow, which claims to be the nineteenth largest individual web site in the United States, with over sixty million individual users worldwide.11 The section of eHow that deals with legal matters, eHow Legal, contains thousands of categorized legal-themed articles.12

Major Attributes of Content Farms

Production Based on Demand

¶12 Demand Media and its competitors use algorithms to generate articles based on a number of factors.13 Demand Media’s generation algorithm incorporates several elements: popular search terms, advertising demand, and currently available information on a particular topic.14 The initial process is fully automated. Keywords are constantly circulated through the generation algorithm based on user queries. The keywords are then further refined into phrases through yet

---

10. See Shared Value, DEMAND MEDIA, http://content.demandmedia.com/value.html (last visited May 21, 2012) (“The value we bring to advertisers is simple: meet your target consumer at the moment of intent. Increasingly the Internet paves the informational path that leads to a purchase. By listening carefully to consumer demand and crafting the specific content that satisfies it, Demand Media very often publishes the content that is the last stop on that informational path before the transaction.... [T]here is a unique opportunity to get their brand in front of the right consumers at the point of being sufficiently informed to make a purchase”).
12. Legal, supra note 9. The site currently lists forty-four different legal categories a user can browse.
14. Id.
another algorithm. These raw phrases are edited by human copy editors into article titles.  

**Content Written by Humans**

¶13 These article titles, generated from users’ original query phrases, are made available to writers who are instructed to write articles or create videos tailored as specifically as possible to the exact wording of the titles.  

The resulting information is designed to appear near the top of search engine rankings and to attract advertisers. Although the origins of the content are computer generated, the final products—the articles and media content—are created by humans.

**Search Engine Optimization**

¶14 Search engine optimization or SEO is one of the main features of any content farm and is the characteristic that Google has changed its algorithm to defeat.  

Users, of course, do not set out to visit a content farm. Instead, content farm information is optimized to appear at the top of the user’s search results on popular search engines such as Google. The user who clicks through will find a site that might be as well organized as the average academic law library site. The eHow Legal material, for example, is effectively organized by subject.

¶15 Search engine optimization is a reality of today’s Internet searching. Google itself produces a thirty-two-page document on how to achieve search engine optimization for your web site, and there are companies that sell search engine optimization services.  

To have a fully optimized web site means that your information will come up first in response to a user’s specific query. Optimized information appears first in the search results because it was created from search data that match the search engine’s algorithms. In short, the content farm information doesn’t appear first because it is accurate or authoritative or in any way better; rather, it has been customized by the owners of the content farm to appear on top for commercial reasons.

---


16. See Krewson, supra note 8.


The Google Algorithm Controversy

¶16 Content farms have a bad reputation. In 2011, Google adjusted its search algorithm in an attempt to give less weight to what it decided were the poor-quality or less “worthy” results that come up in its search engines as a result of content farm optimization.21

¶17 In a recent New York Times article, tech writer Steven Lohr gives an example of what he (and Google) apparently considers bad information, an item called 25 Fun Things to Do with Your Girlfriend.22 Lohr gives this as an example of what Google is trying to eliminate as it improves its ability to answer questions. Google, he says, strives to be like a “supercharged, automated reference librarian,” who cheerfully says “in effect, ‘I don’t know the answer, but try these Web sites.’”23

¶18 But Google is clearly not a reference librarian. Librarians are trained not to judge the type of information sought and to be sympathetic to the needs of the information seeker, whatever they might be. Unlike a real librarian, Google, with its content-blocking algorithm, appears to have set itself the task of judging the quality of the questions it receives, not the objective quality of the answers. Judging the quality of the question and rejecting some queries in favor of others because they might generate trivial or frivolous content is something that librarians are trained not to do.

Long-Tail Theory and Content Farms

¶19 Many of the attributes of content farms result from the application of long-tail economic theory. In this section, we examine the fundamentals of long-tail economic theory and how it shapes legal information generated by content farms.

¶20 When Netflix and Amazon first began developing their business models, foremost in the minds of their developers was the long-tail theory of consumer demand.24 Long-tail theory is a concept from the world of business and economics that says that a large share of the profitable market for products and content exists within the tail of a probability distribution curve.25 By contrast, classic business models concentrate on the head, or peak, of the demand curve, where activity is

---

21. For a good introduction to what is called the Panda algorithm, see Google’s Panda Update and the Future of Web Search, CORNELL UNIV. (Oct. 31, 2011), http://blogs.cornell.edu/info2040/2011/10/31/googles-panda-update-and-the-future-of-web-search (course blog for INFO 2040); Sullivan, supra note 19. At one point, some search results from Google included a prompt next to the most common content farm sites asking “Do you want Google to block this content?” That message appeared as a result of the criteria used by Google’s algorithm. Although these criteria are always changing, users may be more familiar with the current Google page that allows them to block content. Manage Blocked Sites, GOOGLE, https://www.google.com/reviews/t?hl=en (last visited May 8, 2012).

22. Lohr, supra note 2. Google’s official description of content farms is “sites with shallow or low-quality content.” Cutts, supra note 3.

23. Lohr, supra note 2.


highest. In the tail of the consumer demand curve, individual information products are more numerous and more diverse, but demand per individual product is low. In the head, there is higher demand for fewer products.

¶21 The developers of Netflix and Amazon realized that long-tail theory meant that older, lesser-known media would eventually generate large profits.26 At Netflix, older, low-demand DVDs sit on the shelf waiting for the next rental. The initial cost of buying the DVD has long since been recovered. No one is in a hurry to rent these movies. There is no waiting list. This stands in direct contrast to rentals of recent blockbuster films, where there is a flurry of activity and a waiting list.27 The cost of keeping the titles available for rental is so low that any demand—even low demand—will generate profit. As Netflix and Amazon move to virtual rentals and streaming content, the cost of maintenance and delivery falls to near zero, and thus these older titles become even more profitable.28

¶22 Although the concept of the long tail has existed for decades, it wasn’t until Chris Anderson, editor of Wired magazine, looked specifically at how the theory applied to online content that the term came into widespread use. Anderson’s initial article appeared in Wired in 2004.29 Based on this article, he eventually wrote a book, The Long Tail.30

¶23 The model can be applied to information and products on content sites that are strictly user generated. User-generated content often targets niche interest groups. User-generated content costs nothing to produce and so can economically cater to even the smallest audience. In fact, Clay Shirky first proposed this model with reference to blogs. His observation was that, as time passed, already existing content would be found by those searching the Internet because it had already been selected and preferred by previous users.31 Thus, long-tail theory predicts that most web-based content, including legal information content, will increasingly move away from a focus on the small number of well-tested and well-defined products and markets that fall within the head of the demand curve and toward the much larger and more diversified array of niche markets at the tail of the curve.

27. For a fuller explanation, see id. at 125–46. Anderson discusses these and other long-tail concepts in terms of the frequency of “hits” and “misses.” Cf. Rethinking the Long Tail Theory: How to Define ‘Hits’ and ‘Niches,’ KNOWLEDGE@WHARTON (Sept. 16, 2009), http://knowledge.wharton.upenn.edu/article.cfm?articleid=2338 (discussing the results of a study critical of Anderson’s theory, which Anderson dismissed as irrelevant “because they take a percentage approach to evaluating the power of the head and tail of demand”).
28. For an alternative point of view, see Patrick Foster, Long Tail Theory Contradicted as Study Reveals 10m Digital Music Tracks Unsold, TIMES (London) (Dec. 22, 2008), http://www.thetimes.co.uk/tto/arts/music/article2416859.ece.
The Effect of Long-Tail Theory on the Economics of Content Farms

¶24 As noted above, legal information that originates on content farms is generated for profit. This phenomenon can be understood in part by looking at the long-tail economic model more closely. There are many permutations of the model as it applies to the business of information production. The term long tail itself evolved from a statistical theory of probability distribution that shows events occurring on a curve, with the greatest density appearing along the vertical axis, and the least likely events stretching out in a long tail along the horizontal axis. This means that when the cost of creating content is high, the best return on investment will come from the high-frequency end of the curve—the left side of the curve.

¶25 In today’s technological environment, the cost of generating online legal information aimed at the nonexpert, or pro se, market has fallen so far that it makes economic sense to create products that reach far into the tail, or right end, of the distribution curve (the curve itself is mathematically infinite). Additionally, the cost of storing and maintaining the content is nothing or next to nothing, and the product can be profitable for an unlimited amount of time (or, in the case of legal information products, as long as the information remains relevant and accurate). Legal content generated in accordance with this theory exhibits all the hallmarks of long-tail information: the information is intensely specific; it is directed at a niche market; and it is designed to be “evergreen,” that is, it retains its freshness, relevance, and accuracy.

¶26 In contrast, law libraries collect and curate information at the head of the demand curve. Purchasing and maintaining legal information resources require economic decisions by law libraries, so by necessity law librarians look to the left side of the demand curve in order to provide the most useful resources to the most people. While the nature of a law library requires that specialized resources be maintained for professional and educational purposes, public law libraries use high demand as a guide when considering which resources to make available to nonexperts and pro se users.

¶27 Libraries have a limited amount of money to spend on materials, and they must get the maximum return on investment (or use) from the expenditure. Thus, content farm articles could be seen as filling a gap in law library collections, providing very specific material that is of interest to only a few users. The question, though, is whether this information is reliable enough for libraries to direct their patrons to it.

32. Anderson, supra note 24, at 143.
33. Evergreen is an online term of art that refers to posting material that does not quickly become dated. See Judy Dunn, The ‘Evergreen’ Strategy for Getting More Blog Traffic, For Bloggers by Bloggers (Nov. 9, 2010), http://bestbloggingtipsonline.com/the-evergreen-strategy-for-getting-more-blog-traffic.
A Review of Some Questions and Answers

To answer this question, we looked at some examples of possible legal questions (formatted as titles in the legal content farm) and answers (formatted as short articles) to determine the general nature and validity of both the question and the answer. By necessity, answers to legal queries are written in a stylized format. To fit well on the web page and to allow coordination with the commercial content on the page, answers are short and concise. They deal with general principles and not with the myriad exceptions often found in legal analysis. Answers in our examples are always supported by some kind of legal resource: usually (but not always) a link to some part of a state or federal code, rarely to a crucial case decision, and even more rarely to an online secondary source.

We evaluated the title, or “question,” by considering the following factors:

1. Can the question in its “raw” form be answered? Raw questions are created by the SEO algorithm and then restated by a title editor. Since the substance of any particular question is formulated by an algorithm, does the question even make sense—is it “answerable”?

2. Can the question in its final form be answered within the parameters of the site? That is, can the question be answered by a short explanation of the legal principle involved with reference to easily found sources? Many legal questions are so complex in nature that their answers do not readily fit within the site format.

There are some elements that are usually present in any standard reference transaction that are absent here. First, it is impossible to tell from the demeanor of the user if the feedback is what that user is expecting. There is no smile, no look of puzzlement, no nodding head, no furrowed brow. Second, there is no dialogue, no exchange, aimed at focusing the query. There is no questioning, no back-and-forth, and no follow-up questioning. Any librarian who has engaged in an online chat session will recognize that the lack of immediate feedback is a partial barrier to a successful reference transaction. But conducting a reference transaction without being able to question the patron at all is a major barrier. In fact, the inability to ask questions and refine a query can severely limit the types of questions that can be answered by any librarian.

In evaluating the articles we found on eHow Legal, we considered the following factors:

1. What are the author’s qualifications? Does the author have a J.D.? Is the author a librarian or professional researcher?

2. Is the answer accurate? We looked to see if the information being provided was correct.

34. This was true despite the fact that case authority is freely available on Google Scholar.

3. Is the answer misleading? We looked to see if the answer addressed a complex issue in overly simplistic terms or omitted vital information or exceptions to the general rule.

4. Does the answer cite reliable and useful sources that support the information provided?

¶32 Again, the format severely restricts the kind of answer that can be given. For example, if the answer to a question required reference to a state code, most reference librarians would direct a patron to a relevant code section, along with annotations to the code, law review articles, A.L.R. articles, and other commentary and analysis. To do a really complete job, the librarian might mention the use of a citator or a digest to find other relevant law. None of these secondary sources or finding aids are practicably available online to anyone without a subscription to legal databases. In fact, only online sources are referenced in the answers we reviewed. None made mention of any print resources or referred the user to a law library for further research assistance. The following articles all appear on eHow Legal—the site we have used as our exemplar. We recommend that you look at the article online while reviewing our critique.

Example 1: What Happens If You Don’t Follow Divorce Paper Orders?36

¶33 Although the question posed, what happens if you don’t follow divorce paper orders, could be considered somewhat ambiguous, it seems relatively clear on its face. The user wants to know the consequences of disobeying or failing to follow the terms of an order or decree issued in a divorce case. The author quite correctly restates the issue, a standard reference interview technique, using proper legal terms: “A divorce order, or decree, is a legal order which documents the terms of a divorce. Failure to comply with orders issued by the court may result in further legal action against you.”37 To clear up any ambiguity, she has used the terms order and decree rather than papers.

¶34 The rest of the answer is couched in the most general of layman’s terms. For example, the author writes: “If you do not follow orders issued by the divorce decree, a motion for enforcement could be filed with the court.”38 This is a straightforward explanation of part of the procedure by which compliance with the terms of a court order would be made.

¶35 The content of the answer could be applied in any state under almost any circumstances. The answer, while general, is completely accurate. Thus, the answer acts almost in the same way that a good secondary source would act: by detailing possible consequences (contempt), it provides the user with enough information to begin serious research.


37. Id. For a good review of the basics of the reference interview, see Mary Ellen Bates, Finding the Question Behind the Question, INFO. OUTLOOK, July 1998, at 19. See also Mary Whisner, Teaching the Art of the Reference Interview, 94 LAW LIBR. J. 161, 2002 LAW LIBR. J. 10.

38. Palkoner, supra note 36.
¶36 If there is a problem with the answer, it is with the sources it cites. Specifically, it cites two commercial web sites. The first is Divorceinfo. The owner of this web site is trying to sell a product, DivorceSavvySavesMoney, a software package designed to facilitate negotiation and mediation of a divorce. The second is Avvo, where lawyers can post profiles and pay to “maximize [their] reach to prospective clients.” Use of these two sites as authority for the answer to the eHow question is indicative of a major problem associated with trying to do legal research for free on the Internet: the lack of authoritative secondary source material.

Example 2: How to File a Small Claims Judgment in Michigan

¶37 As often happens, the query about how to file a small claims judgment in Michigan is somewhat ambiguous but, as in the last example, is capable of a simple interpretation. The question is most probably about how to file a small claims case in Michigan in order to obtain a judgment. An alternative interpretation is that the user needs to file in the Michigan courts a small claims judgment from some other state; this latter interpretation, though, seems extremely unlikely.

¶38 The answer itself is a model of simplicity: “Individuals are allowed to file small claims judgments in Michigan for claims of $3,000 or less. Michigan has specific rules for filing small claims judgments within district courts.” The fact that Michigan has a fairly relaxed small claims procedure makes compliance with the Michigan court rules easy. Under Michigan law, the courts are responsible for such ordinarily complex tasks as obtaining service on the defendant.

¶39 In this article, the references are particularly strong. The author links to the official Michigan court web site on small claims, which sets out a summary of and provides links to all of the relevant law. The other official site referenced, from a Michigan district court, also sets out the procedures and expectations in small claims cases in great detail. The third web site offered as a resource is USLegal.com. This is a commercial site that also sells forms. In this case, the user can buy an Affidavit and Claim and a Small Claims Judgment for $14.95 each. These are official forms that are actually offered for free on the Michigan court’s web site.
Example 3: Squatters Rights and Home Laws in Georgia

¶40 This article about squatters’ rights in Georgia does not appear to be based on a single question, and the title is not in the form of a question. Instead, the answer is based on a title that may have been distilled from several questions. As such, the author has more latitude to address the relevant issues.

¶41 In Georgia, “squatters rights” would be considered under the state adverse possession statutes. In this instance, the author says that Georgia Code § 44-5-161 covers this area of law, but includes no links to or description of the statute. However, several statutes are mentioned in one of the references linked from the article. The author does a good job of simplifying the answer by setting out the minimum factors necessary to substantiate a claim for adverse possession.

¶42 However, adverse possession cases are particularly fraught with difficulty, and a reader of this article would have no inkling of the complexity of the legal issues involved in obtaining title to real property through adverse possession. The author does cite a web page from an online legal encyclopedia, one of the few secondary sources found online, that provides a full fifty-state survey of the adverse possession statutes. Georgia cases that interpret and apply the statutes are not referenced because the annotated code is not available for free online.

Example 4: How to Regain Guardianship of a Child in West Virginia After the Child Was Determined Abandoned

¶43 The question here about regaining guardianship of a child is arguably ambiguous. The most obvious interpretation of the query would be how a parent or guardian would get guardianship back, that is, “regain” guardianship, after a child that was in that guardian’s care and control was deemed abandoned by that guardian. The author chose, though, to attempt to answer another question: how a guardian appointed pursuant to the West Virginia standby guardian statute can gain permanent guardianship of the child.

¶44 Standby guardian statutes are designed for a specific set of circumstances. During the 1990s, in the face of the HIV/AIDS epidemic, many states passed standby guardianship schemes. The idea was to designate a standby guardian for children so that in the event of debilitating disability, a guardian could take control...
of the disabled person’s children.\textsuperscript{54} A standby guardianship would be like a springing durable power of attorney—a power of attorney that only takes effect upon the occurrence of a specified event, such as the sudden disability of the grantor. Ultimately, a standby guardian statute contemplates that a standby guardian would want to make the guardianship permanent. The method for doing this is the issue the author addressed.\textsuperscript{55}

\textsuperscript{¶}45 The answer most likely intended by the original question, however, is found in the far more complicated procedures set out in the West Virginia code.\textsuperscript{56} These sections set out the procedure that must be followed in all guardianship proceedings in West Virginia involving minors, not just standby guardianship proceedings. A researcher will find that the procedures set out in the statutory scheme are subject to the interpretation of the courts. In fact, in a recent case involving the appointment of same-sex guardians, the West Virginia court determined how best to apply the relevant statutes.\textsuperscript{57}

\textsuperscript{¶}46 Thus, the answer that is currently available on eHow is both inaccurate, in that it answers the wrong question and thus points the questioner to the wrong code sections, and incomplete, in that it does not take into account the complex interplay between statutory law and case law.

\textbf{Analysis of Content Farm Articles}

\textsuperscript{¶}47 Based on the foregoing examples, it is evident that important elements are missing from the content farm format. First, as previously mentioned, there is no reference interview. Without the ability to refine and focus a patron’s query, there is no way to ensure that the correct question is being asked. And without a viable question, the answer itself can be incomplete or just plain wrong.

\textsuperscript{¶}48 Second, there are almost no references to secondary sources. This is intrinsic to the format itself. Free legal secondary sources geared toward nonexpert users are practically nonexistent on the web, and content farm authors are limited to free web resources. Thus, there can be no referral to other resources that might be in a local library, and there is no indication that the user’s research needs might be met through the use of relevant secondary sources.

\textsuperscript{¶}49 Experienced legal researchers know legal materials are only as good as the user’s understanding of the materials. Since there are no secondary sources, there is little or no analysis of the sometimes complex legal issues that can be raised by what appears to be a simple query. The entire emphasis of the article is on giving an answer, not on promoting an understanding of the law.

\begin{quote}
\textsuperscript{55} West Virginia’s standby guardian statutes can be found at \textit{W. Va. Code Ann. §§ 44A-5-1 to -9 (LexisNexis 2010)}.
\textsuperscript{56} \textit{Id. §§ 44-10-1 to -16.}
\textsuperscript{57} \textit{In re Richard P.}, 708 S.E.2d 479 (W. Va. 2010).
\end{quote}
Given all these drawbacks, does information from content farms have any value? We believe it does. Even to an experienced researcher, a good content farm article, like a well-sourced Wikipedia article, can point to relevant resources with which to begin the first steps of the research process.

When we examined how content farms work, we saw that, far from being spam, the questions and answers can be useful and have some value, albeit with serious and specific limitations. Analyzing the process of content production on one of these sites, we see that the writers who generate this legal information must sift through a massive amount of human communication and from it extract meaningful subjects, then turn those subjects into questions that can be answered and relevant nuggets of information that can be found. The content writer’s job is to clarify, focus, and weed the genuine queries that are found unanswered in cyberspace. In some sense, the information generation process of a content farm is a technological process that tries to mimic what librarians do when they conduct reference interviews. The process is not perfect, and it is no substitute for a live reference transaction, but the questions, and the resulting information, that are generated this way are not bad or stupid. They are imperfect, long-tail queries and answers, relevant to someone.

Legal information is a unique form of content, of course—there are right and wrong answers. But the answers to legal queries in the form of the short articles that we analyzed here were mostly accurate and adequate to the question. It benefits law librarians serving patrons who use this information to understand objectively why the “questions”—in the form of titles—are so specific, and why the questions and the answers appear in simple layman’s, rather than legal, terms. The information is not trivial, but it has been molded by the content farm process in unprecedented ways to the questioner and to the language of the niche consumer of legal information.

Content Farms and the Reference Librarian

Understanding how patrons have found the information they have, and grasping the properties of that information, is an essential part of the reference interview and subsequent reference transaction. When confronted with content farm information, the librarian should know that, first, the patron will likely give this search-optimized information additional authority because it appeared at the top of the search results—since it was created and designed to appear first. It is, therefore, likely to be deemed by the patron to be more relevant just because the search engine says it is.

Content farm information uses long-tail phrases and keywords, so it is highly specific and precisely matched to a user’s actual query. It thus provides something beyond the usual random or unreliable sources that are often presented by pro se users. The information has been produced to answer an actual, but possibly ill-formed or even unanswerable, question, asked by the user of a search engine. The answer then may have to be reverse-engineered by the librarian, if only to examine and clarify the library patron’s real question.
¶55 The librarian needs to understand that the patron who comes to the reference desk with information from a content farm has a specific answer to a question—an answer that may or may not contain useful reference sources and that may or may not be correct. For the reference librarian, deconstructing an answer is very different from restating or clarifying a question.

¶56 Prior to the proliferation of legal content farm information, serving the prose or nonexpert patron was seen largely as a question of interpretation and mediation between expert source and patron or of moving the patron from questions that were highly specific and idiosyncratic to something more general, where commonly used resources would be of use. We are not advocating a change to this model, but any information seeker who comes to the library after being exposed to, and using, information from a content farm may have needs and expectations different from the ones librarians have learned to expect. Librarians must understand how content farms work and how legal information produced by these content farms operates in the low end of the demand curve.

Conclusion

¶57 Patrons who have consulted a content farm article may want the reference librarian to evaluate specific sources cited in that article instead of directing them to authoritative, mainstream legal resources to begin their research. Because of the specificity of the article titles, the librarian may be called upon to expand on a question instead of narrowing and refining it; instead of moving from theory to specifics, the librarian may have to go in the opposite direction and fill in theoretical gaps. The “evergreen” quality of information generated by content farms may be in conflict with the nature of legal information, which changes and evolves. The reference transaction is still the most important part of “doing reference,” and librarians need to add knowledge of content farms and possible resulting reference transactions to their tool kits.
A Survey of Index to Foreign Legal Periodicals Users and Its Implications for Future Developments of the Index

Lesley Dingle

A survey of potential users of the Index to Foreign Legal Periodicals in North America, Europe, the United Kingdom, South Africa, and Australasia establishes a user profile and gauges the Index’s importance and limitations. Also solicited were suggestions for its future evolution. These factors are assessed in the light of recent developments in the Index, including transfer to the HeinOnline platform, which it is anticipated will address several of the issues identified by users.

Background

¶1 The American Association of Law Libraries (AALL) has been associated with the Index to Foreign Legal Periodicals (IFLP) since 1955, when it appointed William B. Stern of the Los Angeles County Law Library to chair a special committee charged with formulating “plans for indexing and abstracting foreign legal materials in cooperation with other interested organisations.” Stern persuaded the Ford Foundation to make two awards to promote this project, and in 1959 AALL negotiated an arrangement for the establishment of the Index with the Institute of Advanced Legal Studies (IALS) in London. Two members of Stern’s committee, K. Howard Drake, the IALS librarian, and Willi Steiner, the assistant librarian at the Squire Law Library, Cambridge, were appointed General Editor and Assistant Editor, respectively.

¶2 The Index was launched in 1965, but shortly afterward (in 1967) Howard Drake died and Willi Steiner became General Editor (he also coincidently replaced Drake at the IALS in 1968). Steiner remained General Editor for the next seventeen years, and shepherded the Index through its first difficult period, starting in 1970, as printing became computerized at its Dutch printer (A.W. Sijthoff,

* © Lesley Dingle, 2012. I am most grateful to Marci Hoffman for her valuable comments on a draft of this article.

** Foreign & International Law Librarian, Squire Law Library, University of Cambridge, Cambridge, England.

1. I have relied on Thomas H. Reynolds, Indexing of Legal Journal Literature and the History and Development of the Index to Foreign Legal Periodicals, 15 LAW LIBR. 38 (1984), for much of the early history of the IFLP.
2. Id. at 39.
3. Id.
4. Id. at 39–40.
Leiden). On Willi Steiner’s retirement from the IALS in 1984, the baton of General Editor passed to Tom Reynolds, who was then Associate Law Librarian at the University of California, Berkeley. To complete the transfer of the whole operation to the United States, the University of California Press took over the publishing and printing.

3. Over the next quarter of a century, the dedicated stewardship of Tom Reynolds positioned the IFLP as a major component of AALL’s services to legal scholarship, and it provided the association with a valuable income. Simultaneously, the Index became a vital resource in libraries worldwide for comparative scholarly legal articles, initially as a print-only publication, and later also as an electronic database. Through Reynolds’s unstinting efforts it was possible to stay abreast of these developments in an increasingly fast moving publication milieu.

4. Tom Reynolds retired from his position as General Editor in 2010 and was succeeded by Marci Hoffman, Associate Director at the UC Berkeley Law Library. This change coincided with further challenges posed by the Internet, as several open-access journals matured and the Index’s need to confront a new set of potential data sources loomed.

5. At this crossroad in the Index’s development, it is worth recalling the guiding introductory remarks in its latest print version:

With this Index, the American Association of Law Libraries is making available the contents of selected legal periodicals dealing with International Law (Public and Private), Comparative Law, and the Municipal Law of those countries other than the United States, the British Isles and the British Commonwealth, whose systems of law have a Common Law basis. The Index to Foreign Legal Periodicals thus complements and, to a limited extent, duplicates other indices which provide indexing services for legal periodicals published largely in English.

. . . . Volumes of legal essays, Festschriften, Mélanges, etc., are selected following similar procedures and policies. . . .

Legal articles less than four pages in length are generally excluded, as are book reviews of less than two and one-half pages.

The Survey

6. I became a member of the IFLP Advisory Committee in 2009. At Cambridge, where Willi Steiner’s memory is still held in high esteem, the Index was highly regarded, but its overall standing in the United Kingdom was an imponderable that I was keen to discover. With the encouragement of the editors, I began a survey of Index users to ascertain its current relevance and importance to their research and teaching, and to identify which features were or were not well


8. INDEX TO FOREIGN LEGAL PERIODICALS (2010).
regarded. I reported my findings to the committee meeting at the AALL in 2009, and in subsequent years (2010 and 2011) expanded the survey’s geographical scope. This article is a summary of the findings of the survey, which I then consider in the context of developments initiated by Marci Hoffman as General Editor.

The survey was undertaken over three years: United Kingdom (2009); Europe, South Africa, and Australasia (2010); and the United States and Canada (2011). It was conducted entirely by e-mailing questionnaires to academics and librarians who were potential users at academic institutions that subscribed to the Index in either paper or electronic form. In 2009 and 2010, institutions were identified via their library catalogs, while in 2011, for the survey of North American users, they were selected from a subscriber list.

In 2009 and 2010, I contacted individual potential users from staff lists on faculty web sites, concentrating on those whose research or teaching interests indicated a preference for foreign, comparative, and international topics, in contrast to solely domestic issues. In a few instances in the 2011 survey I initially contacted law librarians and requested onward transmission to their faculty members, but I soon abandoned this as an inefficient mechanism and reverted to personal contact. A further variation for most of the 2011 survey was the use of an online format: SurveyMonkey.

Questions Posed

I tried to keep the survey succinct and, with one exception, retained the same questions over three years to make the responses directly comparable. The exception was the introduction of question 6 in the list below, when it became clear from the 2009 results that use was not frequent.

Questions were designed to establish the status and legal specialties of users, the importance of the Index to their work, what they perceived to be its strengths and weaknesses, and how they thought the Index’s scope and usefulness could be improved. Responders to the questionnaire were given the option of anonymity. The questions were as follows:

1. Name, institution, etc.
2. Research interests
3. Is the IFLP database an essential tool for your research?
4. In which languages, other than English, are you able to conduct your research?
5. How frequently do you make use of IFLP (weekly, monthly, less frequently)?
6. If “less frequently,” why is that? [Question not included in 2009 survey]
7. Can you briefly state what you consider the strengths of the IFLP database to be?
8. Can you briefly state what you consider the weaknesses of the IFLP database to be?
9. Do you find the inclusion of Festschriften a useful asset?

9. Librarians were included in the survey only in 2011.
10. In the medium term, what areas would you see as growth points in which the *Index* should strive to improve coverage?

11. What jurisdictions would you like to see added/strengthened in *IFLP*’s repertoire?

**Geographical Scope**

A total of 865 questionnaires were sent to seventeen countries (table 1). The bulk (672) went to common law or mixed common law jurisdictions (e.g., the United States [337], South Africa [79], and the United Kingdom [77]), while 193 were sent to eight civil law European countries, with the largest number going to the Netherlands (43). In other tables, Israel (12) and Ireland (7) have been included in the “Europe” grouping for statistical purposes, which is itself a counterbalance to relatively small data sets from individual European jurisdictions.

**Table 1**

<table>
<thead>
<tr>
<th>Survey Details</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sent</strong></td>
<td><strong>Returned</strong></td>
</tr>
<tr>
<td></td>
<td>No.</td>
</tr>
<tr>
<td>Canada</td>
<td>67</td>
</tr>
<tr>
<td>Switzerland*</td>
<td>13</td>
</tr>
<tr>
<td>Australia</td>
<td>58</td>
</tr>
<tr>
<td>United States</td>
<td>337</td>
</tr>
<tr>
<td>New Zealand</td>
<td>35</td>
</tr>
<tr>
<td>South Africa</td>
<td>79</td>
</tr>
<tr>
<td>Denmark*</td>
<td>29</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>77</td>
</tr>
<tr>
<td>Netherlands*</td>
<td>43</td>
</tr>
<tr>
<td>Germany*</td>
<td>23</td>
</tr>
<tr>
<td>Israel*</td>
<td>12</td>
</tr>
<tr>
<td>Belgium*</td>
<td>25</td>
</tr>
<tr>
<td>Sweden*</td>
<td>29</td>
</tr>
<tr>
<td>Ireland*</td>
<td>7</td>
</tr>
<tr>
<td>Italy*</td>
<td>10</td>
</tr>
<tr>
<td>Finland*</td>
<td>20</td>
</tr>
<tr>
<td>France*</td>
<td>1</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>865</td>
</tr>
<tr>
<td>*Included in Europe on other tables</td>
<td>212</td>
</tr>
</tbody>
</table>
Results

¶12 Responses to the 2009, 2010, and 2011 surveys were recorded on three spreadsheets that were sequentially presented to the IFLP Advisory Committee at the AALL annual meetings, together with various tables and charts collating the data. The present article is based on these, as well as on an unpublished consolidated report presented to the Advisory Committee at the 2011 meeting. Observations and conclusions are based predominantly on replies that identified the returnees as “users”—“nonusers” invariably failed to answer the full ambit of questions, although cognizance is taken of the reason for nonuse, if given.

¶13 Tables 2 to 6 summarize responses to specific questions, which are presented for each country (with a “Europe” grouping), along with a mean listed as an “all users” category.

Replies

¶14 A total of 147 replies were received, which was a mean return rate of 17% (table 1). The return rate varied greatly: from 0% from France and Finland to 31% from Canada. The United States (17%), Australia (17%), New Zealand (17%), and the United Kingdom (16%) were all close to the mean, while the most punctilious of the European respondents were from Switzerland (31%), Germany (26%), and Denmark (24%). Europe as a whole came in at 16%. Of the replies, ninety-six were from “users” of the Index (representing 65% of respondents and 11% of those questioned).

Specialties of Users

¶15 Question 2 asked respondents to list all their areas of expertise, so that an interest profile could be constructed of those to whom the Index appeals. Given latitude for national terminologies, these interests were grouped into nineteen categories. Table 2 shows the percentage of users citing these specialties. (Note that the values in each column add up to more than 100%, as most users cited more than one interest.)

¶16 Two categories dominate specialties for all users: comparative law (43%) and public international law (24%), with conflict of laws (18%) in third place. This general profile is common for all regions, with the exception of the Roman Dutch/common law, mixed jurisdiction of South Africa, where private law (38%) was most commonly cited. Other variations from the average user profile include the relatively high incidence of legal history in Europe (29%), Asian law in Australia (29%), family law in South Africa (25%), and foreign law in the United States (18%). The categories of Islamic/Middle Eastern law and human rights were cited only in North America (both 5–6%), while customary law was cited only in South Africa (13%). (Readers must bear in mind that with a small number of users for some geographical categories, values may be distorted.)

Users’ Language Capabilities

¶17 Question 4 was posed to establish the prevalence and variety of non-English languages employed by Index users for their research. Table 3 lists the twenty-five languages reported.
In four countries (United States, Canada, South Africa, and Australia) a significant percentage (13–25%) of users reported English only as their language for research, but overall French and German are the most common additional languages available to users (54% and 43% of all users, respectively). The exception is South Africa, where they are Dutch (88%) and German (75%), followed by Afrikaans (50%), Spanish (28%) and Italian (19%) are also widely available (except, again, in South Africa). Within Europe, Dutch and the Nordic languages are locally important, but not cited elsewhere (except New Zealand).

A significant feature of table 3 is the large number of less-common languages (13) reported by relatively small numbers of users (3–8%) at North American institutions. The overwhelming implication of the survey is that skills available to IFLP users in Middle Eastern (Arabic, Hebrew, Persian), Russian, and Asian
Table 3

Languages Employed by Users (%)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>French</td>
<td>55</td>
<td>63</td>
<td>100</td>
<td>64</td>
<td>13</td>
<td>29</td>
<td>25</td>
<td>54</td>
</tr>
<tr>
<td>German</td>
<td>33</td>
<td>13</td>
<td>57</td>
<td>71</td>
<td>75</td>
<td>57</td>
<td>50</td>
<td>43</td>
</tr>
<tr>
<td>Spanish</td>
<td>30</td>
<td>13</td>
<td>57</td>
<td>43</td>
<td>29</td>
<td>25</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>English only</td>
<td>18</td>
<td>25</td>
<td>57</td>
<td>43</td>
<td>29</td>
<td>25</td>
<td>28</td>
<td>28</td>
</tr>
<tr>
<td>Italian</td>
<td>15</td>
<td>6</td>
<td>43</td>
<td>43</td>
<td>14</td>
<td>25</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>Portuguese</td>
<td>10</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Arabic</td>
<td>8</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Russian</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Japanese</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Chinese</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Hebrew</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Dutch</td>
<td>3</td>
<td>14</td>
<td>50</td>
<td>88</td>
<td>25</td>
<td></td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>Malay</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Persian</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Latin</td>
<td>3</td>
<td></td>
<td>13</td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Ukrainian</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Bulgarian</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Mongolian</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Korean</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Afrikaans</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50</td>
<td>25</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Norwegian</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>21</td>
<td>25</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Swedish</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>29</td>
<td>25</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Danish</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>21</td>
<td>25</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Maori</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>25</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Flemish</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>13</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Igbo</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>No. of users</td>
<td>40</td>
<td>16</td>
<td>7</td>
<td>14</td>
<td>8</td>
<td>7</td>
<td>4</td>
<td>96</td>
</tr>
</tbody>
</table>

(Chinese, Japanese, Mongolian, Korean, Malay) languages are heavily concentrated in U.S. institutions. Only one user outside the United States cited Chinese (in Australia). Latin was cited in the United States and South Africa (one respondent each), while an African language was cited by only one user (Igbo in Canada).
The overall conclusion is that, except in the United States, the non-Western European language skills of *Index* users are very limited, and even in the United States they are confined to relatively few individuals.

**Use**

Questions 3, 5, and 6 were posed to ascertain how important the *Index* is to particular users, how frequently they use it, and if their use is low, why this is so? Replies are summarized in table 4.

*Importance for Research*

First I asked “Is the *IFLP* database an essential tool for your research?” (table 4a). The majority of all users (54%) said it was, with responses reaching 88% in South Africa and 71% in the United Kingdom. This suggests that overall, the *Index* is well regarded as a research tool, but in detail, results varied regionally. For example, in Australia (59%) and Europe (69%) the majority of users do not consider it essential, and responses from individual European countries showed that only in the Netherlands (50% yes) do users find the *Index* essential.

A subset of the data from the 2011 survey (librarians were not specifically polled in 2009 and 2010) shows that U.S. librarians preferentially favor the *Index* (79% said it was essential, compared to 55% of the total U.S. respondents). Figures for Canada were 43% and 56%, respectively.

In summary, in the majority of jurisdictions with a common law history the *Index* is essential, while in only one civil law country is this so.

*Frequency of Use*

Despite its overall importance as a resource, the *Index* is not frequently used by most researchers. They were asked if they use it weekly, monthly, or less frequently, and overwhelmingly (79% of all users) responded “less frequently,” while weekly use was only 8% (table 4b).

In contrast, the 2011 librarian data subset showed that in North America librarians are more frequent users than their academic counterparts: use at least once a month is 53% in the United States and 29% in Canada. In summary, the *Index* is a potentially essential resource that is infrequently consulted by academics. This suggests a conundrum.

*Reasons for Low Use*

If the *Index* is important, why is personal use so infrequent? A variety of reasons were given, but overall, two stand out: research assistants do most of the *Index* searching (22%), and researchers prefer other databases (21%) (table 4c).

However, these statistics mask some important regional variations. Research assistance is a major factor only in North America and South Africa, while a preference for other databases is high in Europe and Australia (38% and 80%, respectively), but very low in the United States (4%). In contrast, in the United States, a general lack of familiarity with the way *IFLP* works was the second most commonly cited reason (20%), which was also cited by 25% of users in Europe.
### Table 4

Use of Index

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>U.K.</th>
<th>Europe (incl. Israel &amp; Ireland)</th>
<th>S. Africa</th>
<th>Australia</th>
<th>New Zealand</th>
<th>All users</th>
</tr>
</thead>
</table>

#### 4a. Is IFLP essential for research? (% respondents)

| Yes   | 55   | 56 | 71 | 31 | 88 | 41 | 50 | 54 |
| No    | 45   | 44 | 29 | 69 | 12 | 59 | 50 | 46 |

No. of respondents 40 16 7 13 8 7 4 95

#### 4b. Frequency of use (% respondents)

| Low use | 73 | 79 | 100 | 79 | 88 | 71 | 100 | 79 |
| Monthly | 19 | 14 | 14  | 0  | 14 | 14 | 13  |     |
| Weekly  | 8  | 7  | 7   | 12 | 14 |     | 8   |     |

No. of respondents 37 14 7 14 8 7 7 91

#### 4c. Reasons for low use (% respondents)

| Assistants do work | 24 | 55 | NA | 20 | 22 |
| Lack of familiarity with IFLP | 20 | NA | 25 | 25 | 14 |
| Sufficient for my research | 16 | 9  | NA | 20 | 14 |
| Pressure of work | 12 | 18 | NA | 40 | 12 |
| Only of limited use to me | 12 | NA | 25 | 20 | 25 |
| Use other databases | 4  | 18 | NA | 38 | 20 |
| Difficult to use | 4  | NA | 13 | 25 | 21 |
| Use only as last resort | 4  | NA |     |     | 2  |
| Inconvenient venue | 4  | NA |     |     | 2  |

No. of respondents 25 11 NA 8 5 5 4 59

#### 4d. Reasons for nonuse (% respondents)

| Unaware of IFLP | 100 | 100 | NA | 83 | 100 | 100 | 50 | 88 |
| Researches only common law | NA |     |     | 50 | 4  |     |    |    |
| No definitive reason | NA | 17  |     |     |     |     |     | 8  |

No. of respondents 6 4 NA 12 1 1 2 26

There were 52 nonusers who replied to the survey
¶29 Other significant reasons included the following: low use is sufficient for the task (12%), the IFLP is of limited use for my needs (12%), pressure of work (which could be construed as saying that use of IFLP is too time consuming) (12%).

¶30 An additional reason for this query was to see if there were any consistent reasons potential users (i.e., researchers at subscribing institutions) gave for not using the Index at all (table 4d). Unsurprisingly, few nonusers completed the questionnaire, but 88% of those who did claimed that lack of awareness of the IFLP database was the reason. This reached 100% in four of the regions surveyed, including the United States and Canada.

¶31 In summary, the most common reason for low use of IFLP is a preference for other databases, although in the United States, the use of research assistants and a lack of familiarity with the Index are more important reasons. This lack of familiarity, coupled with its apparent universal importance in general nonuse, highlights a possible weakness in the current IFLP advertising arrangements.

Satisfaction with the Index

¶32 To determine what users perceived as the Index’s strengths and weaknesses, I posed questions 7 to 9. Results are shown in table 5.

What are the Strengths of the Index?

¶33 Answers about the Index’s strengths were grouped into eleven categories (table 5a), but the overwhelming reason was the breadth of coverage achieved by the Index (48% of all users). Ease of use (8%) came in a distant second.

Perceived Weaknesses of the Index

¶34 Responses about weaknesses of the Index were grouped into fifteen categories (table 5b), and there was less unanimity in comparison with reported strengths. While 10% of users thought that the Index has no serious weaknesses, 16% identified deficiency in the search engine as a problem. There were, however, large regional differences in this perception: 25% of U.S. users fell into this category (as did 25% of users in South Africa). The second most common complaint was a lack of breadth, either geographically or in content (only mentioned in the northern hemisphere jurisdictions). This is notwithstanding the high level of appreciation of the Index’s breadth in answer to question 7. Other important cited weaknesses were lack of a full-text facility (8% overall) and lack of vernacular coverage (5%).

Festschriften

¶35 The inclusion of Festschriften in the Index was met with almost universal approval (73% of all users) and is particularly appreciated outside North America.

Suggestions for Future Development

¶36 In questions 10 and 11, users were invited to suggest areas that might be developed, and jurisdictions that should be expanded or added. Replies are summarized in table 6.
### Table 5

**Index Strengths and Weaknesses**

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Canada</th>
<th>U.K.</th>
<th>Europe (incl. Israel &amp; Ireland)</th>
<th>S. Africa</th>
<th>Australia</th>
<th>New Zealand</th>
<th>All users</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>5a. Strengths (% users)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Breadth of coverage</td>
<td>53</td>
<td>63</td>
<td>71</td>
<td>14</td>
<td>25</td>
<td>43</td>
<td>75</td>
<td>48</td>
</tr>
<tr>
<td>Easy searching</td>
<td>8</td>
<td>7</td>
<td>50</td>
<td>14</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>English texts of foreign resources</td>
<td>3</td>
<td>6</td>
<td></td>
<td>14</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Covers non-U.S. journals</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is a good archive</td>
<td>3</td>
<td></td>
<td>50</td>
<td>14</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up-to-date</td>
<td>3</td>
<td>7</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good training tool</td>
<td>3</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Leads to secondary sources</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good cross-reference facility</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good source for pre-1980s data</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No answer</td>
<td>28</td>
<td>25</td>
<td>0</td>
<td>71</td>
<td>25</td>
<td>14</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>Presence of Festschriften (separate question)</td>
<td>68</td>
<td>63</td>
<td>100</td>
<td>71</td>
<td>88</td>
<td>71</td>
<td>100</td>
<td>73</td>
</tr>
</tbody>
</table>

| **5b. Weaknesses (% users)** |      |        |      |                                |           |           |             |           |
| Search not efficient, or “clunky” | 25   | 6      | 14   | 7                               | 25        |           |             | 16        |
| Lacks breadth: geographical/content | 10   | 25     | 29   | 21                              |           |           |             | 14        |
| Lacks full text          | 8    | 7      | 13   | 29                              | 25        |           |             | 8         |
| Insufficient vernacular coverage | 8    |        | 13   | 14                              |           |           |             | 5         |
| None                     | 3    | 31     | 7    | 50                              | 10        |           |             |           |
| Slow to load             | 14   |        |      |                                 |           |           |             | 1         |
| Need pre-1985 online     | 14   |        |      |                                 |           |           |             | 1         |
| Too U.S. focused         | 14   |        |      |                                 |           |           |             | 1         |
| Better abstracts         | 29   |        |      |                                 |           |           |             | 2         |
| Needs more primary/secondary sources | 3    |        |      |                                 |           |           |             | 1         |
| Not interdisciplinary    | 3    |        |      |                                 |           |           |             | 1         |
| Needs language search option | 3    |        |      |                                 |           |           |             | 1         |
| Needs export record function | 3    |        |      |                                 |           |           |             | 1         |
| Better electronic competitors | 3    |        |      |                                 |           |           |             | 1         |
| Time lag in publishing   | 3    |        |      |                                 |           |           |             | 1         |
| No answer                | 28   | 38     | 28   | 58                              | 49        | 15        | 25          | 36        |
| No. of users             | 40   | 16     | 7    | 14                              | 8         | 7         | 4           | 96        |
Table 6
Suggested Growth Areas and New Jurisdictions

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>6a. Suggested growth areas in Index (% users citing these specialties)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Comparative law</td>
<td>23</td>
<td>44</td>
<td>71</td>
<td>29</td>
<td>38</td>
<td>43</td>
<td>25</td>
<td>33</td>
</tr>
<tr>
<td>No change</td>
<td>10</td>
<td>19</td>
<td>7</td>
<td>7</td>
<td></td>
<td>1</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Public law</td>
<td>6</td>
<td>6</td>
<td>14</td>
<td>7</td>
<td></td>
<td>25</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Foreign law</td>
<td>5</td>
<td>6</td>
<td>14</td>
<td>7</td>
<td></td>
<td>25</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Private law</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial law</td>
<td>5</td>
<td>6</td>
<td>14</td>
<td>7</td>
<td></td>
<td>25</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Environmental law</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Emerging markets</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>WTO law</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Librarianship</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Information law</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Roman law</td>
<td>3</td>
<td>14</td>
<td>38</td>
<td></td>
<td></td>
<td>5</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>International arbitration</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Human rights</td>
<td>5</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Health law</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Interdisciplinary journals</td>
<td>3</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Legal theory/history</td>
<td>29</td>
<td>14</td>
<td>25</td>
<td></td>
<td></td>
<td>5</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>European law</td>
<td>14</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Int’l development law</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Feminist law</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>13</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Jurisprudence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>14</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>No. of users</td>
<td>40</td>
<td>16</td>
<td>7</td>
<td>14</td>
<td>8</td>
<td>7</td>
<td>4</td>
<td>96</td>
</tr>
<tr>
<td>6b. Suggested new jurisdictions (% users citing these specialties)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asia, incl. India, China, Japan, Mongolia</td>
<td>35</td>
<td>38</td>
<td>7</td>
<td>13</td>
<td>14</td>
<td>25</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>Middle East, Arabic journals</td>
<td>15</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td></td>
<td>7</td>
</tr>
<tr>
<td>Africa</td>
<td>13</td>
<td>13</td>
<td></td>
<td>25</td>
<td></td>
<td>50</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>Latin America</td>
<td>13</td>
<td>7</td>
<td></td>
<td>25</td>
<td></td>
<td>7</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>None needed</td>
<td>10</td>
<td>19</td>
<td>43</td>
<td>7</td>
<td></td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>E.U., Europe</td>
<td>5</td>
<td>13</td>
<td>21</td>
<td>13</td>
<td>14</td>
<td>25</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Russia</td>
<td>5</td>
<td>13</td>
<td></td>
<td>25</td>
<td></td>
<td>2</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Pacific area</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>25</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Nonwestern jurisdictions</td>
<td>14</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Australasia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>14</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>No. of users</td>
<td>40</td>
<td>16</td>
<td>7</td>
<td>14</td>
<td>8</td>
<td>7</td>
<td>4</td>
<td>96</td>
</tr>
</tbody>
</table>
Areas of Growth

§37 I grouped the suggestions into twenty categories (table 6a), but only one suggestion was common to all countries and was the outstanding preference of all users (33%)—some form of comparative law. This preference reflected the dominant specialty among most users (typically more than 30% of the comparative specialists suggested comparative law), which implies that users want “more of the same.” Interestingly, only 13% of the U.S. comparative law users felt this way (2 out of 16).

§38 No other category for growth was cited by users from more than four countries, with the most popular being Roman law and legal theory/history (5% each of all users). After comparative law, the most cited suggestions for change in the United States were foreign law, commercial law, and human rights (all at 5% of U.S. users). Twelve of the twenty categories were cited by single users only (predominantly U.S.-based). The second largest category was, in fact, a suggestion for “no change” (8% of all users), but closer inspection shows this sentiment is confined to North America and Europe.

Jurisdictions

§39 A total of twenty-seven jurisdictions were mentioned for inclusion in or addition to the Index, and in table 6b these are grouped into nine broad categories.

§40 Although individual jurisdictions have only small numbers of citations, the clear favorites for expansion are various aspects of Asian law (25% of all users), which includes the laws of India, China, Japan, Korea, Taiwan, Hong Kong, and Mongolia. This category was strongly supported in Canada (38%) and the United States (35%). The second most popular category overall for extended coverage was law from African jurisdictions (11% of all users, 13% U.S.).

§41 There were also some interesting contrasts. While 10% of all users wanted an increase in coverage of E.U. and European laws, this had low support from U.S. users (5%), whose second most popular suggestion (aspects of Middle Eastern law, 15%) gained support from only one other region (Europe, a single suggestion for Israeli law). Increased coverage of Latin America was mentioned by users only from the United States, Switzerland, and New Zealand (amounting to 7% of all users).

§42 To summarize aspirations for future development of the Index: there is a consensus among users for increased coverage of comparative law (unspecified, except one user who mentioned comparative Latin American law), and an expansion of coverage of Asian jurisdictions (unspecified, and some specified).

Conclusions

§43 During 2009–11, an e-mail survey was conducted to establish a profile of IFLP users (academics, and, in 2011, academics and librarians) at institutions that subscribe to the database. The survey was conducted in North America, Europe, the United Kingdom, South Africa, Australia, and New Zealand. The response from 865 potential users was 147 (17%), of which 97 were users (66% of returns, 11% of those polled). The highest rates of return from individual countries were from
Canada and Switzerland (both 31%), which also had the highest ratio of users to the number polled (24% and 15%, respectively).

Status Quo

¶44 Based on the averages for all users, a typical user specializes in comparative law and is able to conduct research in French or German as well as English. While the Index is essential for his research, he uses it less frequently than once a month. The two main reasons for this infrequent use are that research assistants do the initial data sourcing, or that users prefer other databases.

¶45 What are the causes of this conundrum: high relevance of content, but lack of enthusiasm for the Index compared to other databases? The data suggest that researchers are not making full use of the Index’s potential. While the aims of achieving a wide coverage of jurisdictions outside systems that have a common law basis is generally appreciated by users (the overwhelmingly regarded strength of the Index is its breadth of coverage), there are weaknesses that are both structural and promotional. The most widely perceived deficiency of the current Index was the inadequacy of the database’s search engine, and individual user comments on it ranged widely: “not intuitive,” “difficult to narrow searches,” “slow loading,” “not user friendly,” “cumbersome,” “poorly explained,” “unstable,” “clunky,” “difficult to export records,” “no Chinese characters,” and so on. A secondary structural weakness was the lack of a full-text facility. Both of these are essentially artifacts of the commercial platform on which the Index was then offered (Ovid).

¶46 A less tractable problem may be related to the Index’s promotion. The main reason given by potential users for nonuse was that they claimed to be unaware of the Index’s existence, even though their own institution’s library subscribed to it. Also, even users cited unfamiliarity with the way the Index works as a reason for their own low use. Clearly there has been what could be termed a lack of communication in the presentation of the Index. Where the communication gap lies is a matter for debate, but I can see a role for institutions’ librarians in more positively bringing the IFLP service to the attention of their users. Also, clearer user guidelines might be considered by the platform designers.

The Future

¶47 In the introduction, I referred to the recent accession of Marci Hoffman to the position of General Editor and the challenges that the Index faces. By coincidence, at the 2011 AALL Annual Meeting, Hoffman announced a series of changes to the IFLP that will provide the opportunity to address several of the issues identified in the survey. Since late 2011, the Index’s new platform has been HeinOnline, and from personal experience of their services I expect two of the important problems identified by users—problems with the search engine and the desirability of a full-text facility—to be rectified at a stroke. Also, HeinOnline’s high profile will assist in raising potential user awareness, as law librarians will be aware of its reputation, which will soon extend to the IFLP product.

¶48 As for the future developments of topic coverage and expanded jurisdictions that the survey identified, responsibility for these lies partially with the Advisory Committee, which can assist the General Editor in her task. Finally, I hope
they can achieve these improvements while simultaneously exploiting new resources that are becoming available in the rapidly expanding area of open access online journals, to which Marci Hoffman also drew the Advisory Committee's attention at the 2011 Annual Meeting.
Keeping Up with New Legal Titles*

Compiled by Creighton J. Miller, Jr.** and Annmarie Zell***

Contents

Configuring the Networked Self: Law, Code, and the Play of Everyday Practice .................................................... 444
Solomon’s Knot: How Law Can End the Poverty of Nations ..................................................... 446
War Time: An Idea, Its History, Its Consequences ............................................................ 447
Legal Gridlock: A Critique of the American Legal System .................................................. 449
Marginal Workers: How Legal Fault Lines Divide Workers and Leave Them Without Protection .................................... 450
A Troubled Marriage: Domestic Violence and the Legal System ...................................... 451
Five Chiefs: A Supreme Court Memoir ................................................................. 453

List of Contributors

Karen M. Kronenberg
Reference Librarian
Library and Technology Center
Florida Coastal School of Law
Jacksonville, Florida

War Time: An Idea, Its History, Its Consequences ..................................................... 447

Sherry Leysen
Reference Librarian
Gallagher Law Library
University of Washington School of Law
Seattle, Washington

Solomon’s Knot: How Law Can End the Poverty of Nations ........................................ 446

* © Creighton J. Miller, Jr., and Annmarie Zell, 2012. The books reviewed in this issue were published in 2011 and 2012. If you would like to review books for “Keeping Up with New Legal Titles,” please send an e-mail to creighton.miller@washburn.edu and annmarie.zell@nyu.edu.

** Librarian for Research and Bibliographic Instruction, Washburn University School of Law Library, Topeka, Kansas.

The twenty-first-century information age presents ongoing and inescapable questions about the proper ways to use, access, and share digital information. Recent news reports, for instance, suggest that the business model used by social media and social networking companies—specifically the practice of gathering and monetizing the personal information of customers—involves carefully navigating
“a delicate balance between financial interests and . . . privacy concerns . . . .”\(^1\)

Answering the various questions posed by the new digital century requires similar “delicate balances,” and this is the theme that Julie E. Cohen addresses in her timely new work, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice.*

¶2 Cohen, a Georgetown University law professor and former intellectual property litigator, has taught for nearly two decades in the areas of intellectual property and cyberspace law, and she has published extensively on topics surrounding copyright, privacy, and information rights. With *Configuring the Networked Self,* Cohen weaves together a staggering quantity of scholarship (the book’s bibliography is nearly thirty pages long) in support of her central claim that conventional legal and policy frameworks are ill equipped to allow those who want to access, share, or create information to thrive in what she terms the new “networked information society.” If all individuals are to enjoy full and equal opportunities to participate in the myriad flows of information that characterize the developing digital age, then the “legal and technical regimes that govern information access and use” (p.5) must be reexamined and readjusted to better mirror real-world behaviors, desires, and mores.

¶3 *Configuring the Networked Self* is divided into five parts, each containing two chapters. In part 1, Cohen introduces readers to her central arguments and lays out a theoretical framework for further discussion. Parts 2 and 3 address law and policy considerations that apply in the respective areas of copyright and privacy. In these sections, Cohen offers comprehensive critiques of the standard methodologies on which scholarship and theory in each field are based. Current approaches to copyright law and scholarship, she asserts, focus so myopically on ownership and control that they stifle both individual creativity and overall cultural development. Similarly, “deficiencies in privacy theory” (p.109) produce, among other detriments, a false equilibrium between individual privacy interests and societal values linked to the free flow of information. Part 4 addresses limitations placed on the public’s use of and access to information that result from concerns over piracy and security. Cohen argues that such concerns have helped to shape existing “architectures of control” (p.155), her term for structural and regulatory frameworks that permit ever larger accumulations of personal information even as they obstruct knowledge about just how and why such information is being gathered, stored, and ultimately used. Finally, in part 5, Cohen offers concrete proposals for reforming law and policy to better address the needs of information users and creators.

¶4 Cohen’s claims are thoroughly researched and thoughtfully presented; many are supported by cogent examples demonstrating the everyday implications of information policies and practices. Both those who engage in Internet activities—from merely browsing a web site to posting an online work—and those who harbor concerns about how companies handle their customers’ personal information are likely to find Cohen’s contentions relevant and compelling. Due to the sheer breadth and depth of the scholarship presented and evaluated in each of its parts,

---

the book does feel somewhat unwieldy at times, a weakness that might have been avoided by breaking the material up into shorter chapters. The reader is aided, however, by a thorough index, which simplifies access to the specialized terminology and abstruse concepts Cohen employs throughout the book.

¶5 Configuring the Networked Self would make a valuable addition to all academic law library collections. It is further recommended for general academic libraries that support students studying information law and policy. In the spirit of the fuller information access for which Cohen advocates, a printable version of the book is also available for free download via the author’s web site.²


¶6 In Solomon’s Knot: How Law Can End the Poverty of Nations, Robert D. Cooter and Hans-Bernd Schäfer draw on history, theory, and a global perspective to explain why some nations are poor and to demonstrate how impoverished countries can increase their prosperity. The authors’ essential premise is straightforward: “[B]etter law can promote innovation and increase a nation’s wealth” (p.12). A strong legal framework, they submit, can spur economic growth by creating an environment in which “idea people” (innovators) and “money people” (capital financiers/investors) can confidently collaborate, leading to new business endeavors and innovations, and ultimately to national affluence. The book’s title reinforces this fundamental point through the metaphor of Solomon’s knot, an “ancient motif” consisting of “two interlinking rings” (p.3). Just as King Solomon forged a union between two kingdoms, the authors submit that the law—particularly property, contract, and corporate law—can unite “ideas and capital . . . to develop innovations and grow the economy” (id.).

¶7 Solomon’s Knot is highly accessible, even for readers with little or no background in economics. Noted authorities in the field of law and economics, Cooter (U.C. Berkeley School of Law) and Schäfer (Bucerius Law School, Hamburg, Germany) write in concise sentences and communicate complex ideas and complicated propositions in ways that are easy to understand. One of their book’s greatest strengths is its effective use of examples and data. From diamond mining in central Africa to farming in Zimbabwe, the authors deploy a host of relevant and succinct illustrations. Explanatory figures and tables also appear throughout the text, and thought-provoking but reliable statistics complement the discussion. The book is carefully organized, with topics arranged across fifteen chapters, each of which builds upon the last while summarizing and reinforcing concepts developed in earlier parts of the book.

¶8 Readers seeking a brief overview of the book’s central ideas will appreciate its initial chapters. Chapter 1, “It’s About the Economy,” introduces the principal topics and primary issues through a series of short vignettes. Chapter 2, “The Eco-

nomic Future of the World,” uses gross domestic product data to discuss regional patterns of economic growth. Chapter 3, “The Double Trust Dilemma of Development,” describes a fundamental obstacle to business arrangements—“the innovator must trust the investor not to steal his idea, and the investor must trust the innovator not to steal his capital” (p.27)—that undergirds the authors’ essential claim about the importance of law to economic development. Chapter 4, “Make or Take,” addresses the basic choice between creating wealth or simply taking it from others, and it discusses some of the methods, both legal and illegal, by which wealth can be taken.

¶9 More serious law and economics scholars will value later chapters, where the book’s central concepts are more fully developed. For instance, chapter 5, “The Property Principle for Innovation,” offers a thoughtful analysis of the relationship between economic growth and equality. Chapter 8, “Giving Credit to Credit—Finance and Banking,” includes a particularly cogent explanation of borrowing and lending as practiced outside of formal banking channels. Chapter 11, “Termites in the Foundation—Corruption,” returns to issues of trust, discussing basic crimes of corruption and proposing insightful suggestions for combating them.

¶10 Structurally, Solomon’s Knot is arranged logically, supported by a comprehensive and helpful index, and supplemented with a thorough bibliography. The book’s endnotes are detailed and include a mix of facts, definitions, examples, and references to articles, books, and other data sources. However, Solomon’s Knot is not an economics primer, and although the authors do a fine job of defining most terms and concepts as they are introduced, readers new to economics would likely have benefited from the inclusion of a glossary.

¶11 The descriptions, ideas, and conclusions put forward in Solomon’s Knot will appeal to scholars across the disciplines of law, economics, and social justice. Its colorful examples may well motivate comparative scholars to delve further into existing legal frameworks and to develop a fuller appreciation for cultural dynamics in various individual nations. Essentially, Cooter and Schäfer have produced a book that can inspire its readers to think broadly about the potential of law and economics, and the title would make a welcome addition to law school and general academic library collections.


¶12 Everyone knows what wartime is—it is the exception to the normal state of affairs, to peace. During wartime, soldiers fight and die at the front, while civilians remain at home and make less comprehensive sacrifices for the war effort. A concern for national security is paramount in times of war, justifying an expansion in executive power and the curtailment of civil rights protections. Such measures are tolerated because peace will inevitably follow war and extraordinary wartime measures will be set aside for more comfortable peacetime policies.

¶13 But do these assumptions survive close scrutiny? Has there ever been a clear-cut difference between wartime and peacetime, either in the past or today? If
not, what are the implications for our national discussion on matters of war and peace? Mary L. Dudziak, a law professor and legal historian at the University of Southern California, suggests answers to these questions in War Time: An Idea, Its History, Its Consequences, her careful examination of the idea of wartime in the twentieth and twenty-first centuries. By examining the cultural assumptions that underlie the concepts of both time and war, Dudziak exposes a fundamental inconsistency between our ideas of wartime and our nation’s actual practices. The book, which consists of four main chapters further subdivided into discrete sections, opens with a discussion of our national experience of time and proceeds to address chronologically the nation’s history from the start of World War II to the present day. In the process, Dudziak challenges societal expectations about wartime and peacetime as they apply to the nation’s military conflicts.

¶14 Throughout her work, Dudziak relies on court decisions to illustrate the evolving legal history of the wartime concept, particularly as it has been used to determine whether or not the nation is at war and how long such conflicts endure. In the post-9/11 era, for example, early U.S. Supreme Court cases on the detention of enemy combatants at Guantanamo Bay applied a traditional frame of wartime versus peacetime as the context for analyzing specific legal issues. In later cases, growing awareness of the ongoing nature of the conflict led the Justices to frame these issues in terms of national security interests, rather than relying on the theoretical construct of wartime.

¶15 Defining the precise ambit of wartime is no easier in settings outside of the law. Though Americans commonly describe the nation’s wars as occurring between one date and another, a nineteen-page appendix listing all U.S. Military Campaign Service Medals supports Dudziak’s contention that conflicts have not been confined to these dates. A useful chart summarizes the appendix information and demonstrates graphically that American military action went on fairly steadily throughout the twentieth century. Elsewhere, Dudziak presents the Cold War and the War on Terror as specific examples of ambiguous conflicts that challenge the commonly held idea that we can divide the history of the nation into times of war and times of peace.

¶16 Dudziak also examines the assumption that the entire nation undergoes the experience of wartime. In the War on Terror, American troops and their family members have certainly experienced war, but most civilians were instructed early on to go about their business and to continue shopping and vacationing as though no conflict were taking place. The effect of this disengagement, Dudziak suggests, has been to undermine democratic participation in issues related to wartime policies.

¶17 The 221 pages in this book include a valuable eleven-page index, the nineteen-page appendix, and forty-eight pages of notes. The endnotes include explanatory material as well as bibliographic references and are well worth reading as additions to the text. Unfortunately, subchapters are not listed in the book’s table of contents, which makes this feature relatively ineffective as an access tool. Ultimately, this interdisciplinary book is not a traditional historical narrative, but a critical work that crosses the fields of law, history, anthropology, and national
KEEPING UP WITH NEW LEGAL TITLES

Vol. 104:3 [2012-31]

policy. This novel treatment makes War Time a good fit for both general academic and law school libraries.


Reviewed by Alison P. Sherwin

¶18 Has the American legal system reached a standstill, or can its processes and institutions still achieve cost-effective justice? In Legal Gridlock: A Critique of the American Legal System, Thomas C. Fischer, former dean of the New England School of Law, analyzes these questions and pinpoints areas in which he believes the system is approaching “legal gridlock.” While nearly fifty of the 162 pages in this short book are devoted to a thorough index and extensive endnotes, the remainder address five broad subjects: the role of law in American society; the structure of American government, particularly the judiciary and law enforcement; legal education; law practice and access to legal services; and systemic changes needed to prevent impending gridlock. Fischer aims his account at a generalist audience and assumes no previous legal or political science knowledge on the part of his readers. Unfortunately, his brevity and nontechnical focus combine to weaken his analysis and detract from the presentation of his ideas.

¶19 Fischer’s descriptions of the problems inherent in the U.S. legal system are accurate, if basic, but many of his proposed solutions are simply too vague to be taken seriously. For example, in a discussion about the interminable process of judicial appeals, he writes, “It would be easy enough for intermediate appellate courts to separate meritorious appeals from those that simply protract litigation, if the law permitted it” (p.35). Fischer, however, does not explain how adding yet another step to the appellate process would streamline the existing system, nor does he address the substantial drawbacks—especially for criminal defendants—inherent in a plan that would make all appeals subject to leave of the appellate court.

¶20 Similarly, while making an otherwise cogent argument for the use of subject-specific courts to address problems associated with jury trials, Fischer states that such courts “could easily be added to deal with issues of medical malpractice, insanity, and financial services” (p.34). Yet he fails to specify how the federal government and fifty individual state jurisdictions should actually effectuate these changes. It is easy to pontificate about general solutions to problems, but a complete analysis also requires details on implementing recommendations. Without these details, readers are left wondering whether Fischer’s proposals are truly feasible and why, if the fix is so simple, the changes have not already been made.

¶21 The relaxed and informal writing style that Fischer employs in Legal Gridlock, though appropriate for his target audience, becomes at times so casual that it further detracts from his arguments. He relies too heavily, for example, on the phrase “mission creep” to explain the gradual expansion of the U.S. legal system, often using it with little explanation of the underlying concept. Elsewhere, he makes generalized comments about “the Japanese” (p.34) and “women and minorities” (p.96), statements that are lazy at best and potentially offensive at worst.
Ultimately, though _Legal Gridlock_ offers some interesting theories and suggestions—including an intriguing argument about U.S. society’s obsession with due process at the expense of efficiency and affordability—the gaps in Fischer’s analysis and his overly casual style may prevent readers from appreciating these points. The book may be of interest to public law libraries that are looking to add a general critique of the current legal system to their collections. However, such libraries should recognize that most readers will want a more thoughtful and careful analysis of the problems that Fischer diagnoses.


 Reviewed by Jacob Sayward

Author Ruben J. Garcia began his career as a labor lawyer representing unions and union members in southern California. Now a law professor at the University of Nevada, Las Vegas, he has continued to focus on labor issues in his scholarly work, culminating with _Marginal Workers: How Legal Fault Lines Divide Workers and Leave Them Without Protection_, the third book in the Citizenship and Migration in the Americas series from New York University Press. The marginal workers in Garcia’s title and at the heart of his book are those members of the American labor force most vulnerable to failures in the operation of labor law; they include women, racial and ethnic minorities, noncitizens, and gays and lesbians.

Garcia spends several chapters exploring specific problems faced by these and other groups of marginal workers. Early in a chapter on the commodification of labor, for example, he outlines the plight of guest workers in the United States, noting that these laborers, noncitizens whose very right to remain in the country is tied to continued employment with one particular employer, possess even less political power than other marginal workers. Garcia criticizes both current and past federal guest-worker programs for ignoring, exacerbating, and exploiting the problems inherent in this situation. He then discusses innovations designed to mitigate some of the worst aspects of guest workers’ status, highlighting as examples arrangements that unions and other nongovernmental organizations have negotiated with market participants in California and North Carolina. In a separate chapter that addresses shortcomings in antidiscrimination law, Garcia explains that American civil rights laws have ignored noncitizens as a class in need of protection to focus instead on preventing discrimination based on national origin. Over the course of several pages, he uses landmark cases and statutes to illustrate the importance to marginal workers of both the overlap and the distinction between discrimination based on citizenship and that based on national origin.

Garcia dedicates a substantial amount of space in other chapters to detailing the twentieth-century history of labor law in the United States, a topic likely to be basic review for most of his book’s potential audience. He dissects the principal pieces of labor legislation, discusses their interpretation by the courts, and describes the National Labor Relations Board’s efforts (or lack thereof) in support of marginal workers. García shows how the legal status quo that developed over the last
century offers inadequate redress for workers of color neglected by their unions. He
goes on to discuss the potential of members-only bargaining—a process that allows
sub-groups within collective bargaining units to “bargain on behalf of their mem-
ers only” (p.50)—as a tool for marginal workers whose interests cannot garner
support from a majority of employees. García, however, is frankly skeptical of the
labor movement’s interest in statutory reforms that would promote such bargain-
ing to the detriment of the exclusive representation rule. He is also pessimistic in
the short run, though optimistic over the long term, about the prospects for advoc-
cacy on behalf of marginal workers from a human rights angle.

¶26 The relationships among human rights, civil rights, and labor rights form
the most important theme in Marginal Workers. Brief subsections in the book are
even titled “Labor Rights Are Civil Rights” (p.56) and “Labor Rights Are Human
Rights” (p.132). Throughout the book, García looks to International Labour Orga-
nization conventions for language and policies that can help further his cause.
These are among the book’s most idealistic discussions, and García uses them to
suggest various advocacy strategies designed to support the rights of marginal
workers. In his concluding chapter, he describes several areas in which changing
public attitudes may help to advance this mission in the near future.

¶27 Marginal Workers is no memoir, but García’s experience representing work-
ners like those discussed in the book lends it an air of authority that supplements the
credibility provided by twenty-five pages of endnotes. The book is also lucid and
clearly written. However, I found its index insufficient when trying to locate sec-
tions that I wanted to revisit. The book’s core audience will be readers focused on
antidiscrimination law or labor law, but it may also prove useful for those interested
in critical race theory, immigration, and civil or human rights. All academic
libraries—and especially academic law libraries—that support these subjects
should make a place for this title, as should any law firm, corporate, or governmen-
tal library with a collection intensely focused in these areas.


Reviewed by Stephanie Ziegler

¶28 It is startling and disheartening to realize just how recently our society
began addressing domestic violence as a legal issue. Yet, in only a few short decades,
the law has become our predominant response to the problem. Is this reliance on
legal remedies truly responsive to the needs of abused women? In A Troubled Mar-
riage: Domestic Violence and the Legal System, University of Baltimore School of
Law professor Leigh Goodmark makes a compelling case that it is not. The law,
Goodmark argues, applies a one-size-fits-all standard of women’s experience that is
heavily influenced by the assumptions of dominance feminism—“men are actors,
women acted upon; men are subjects, women are objects” (p.11). Ultimately, this
marginalizes women, who do not fit neatly into a stereotyped definition of “victim.”
Ironically enough, reliance on law actually robs women of agency even as it seeks to
help them escape from abuse.
Early in *A Troubled Marriage*, Goodmark criticizes domestic violence laws for employing a definition of abuse that is far too narrow and that neglects women who are abused in ways not strictly physical. She describes instances of economic, emotional, and spiritual abuse that have left scars even deeper than those typically inflicted through physical violence. One husband controlled every penny his wife spent and dictated her every action, forbidding her from showering in the mornings, doing laundry when needed, and even eating dinner with her own family. The unwillingness to acknowledge such nonphysical abuse represents one example of how the legal system fails women in abusive relationships. However, Goodmark also argues that society’s excessive reliance on legal remedies like arrest and prosecution to the exclusion of other, nonlegal strategies fails women in another way, by depriving them of autonomy in their lives and their relationships. This is a far more difficult claim to substantiate, but Goodmark ultimately succeeds in doing so.

The argument becomes particularly challenging when the discussion turns to the case of Tracy Thurman. Though police officers watched Thurman’s husband kick her in the head and drop their small son on top of her, they failed to arrest him. Thurman later sued the city and the officers involved and was awarded $2.3 million in damages. In conjunction with similar litigation, the *Thurman* case helped bring about the widespread institution of mandatory arrest laws. Beginning her analysis of mandatory legal intervention policies (e.g., mandatory arrest laws, no-drop prosecution policies, and policies against mediation in domestic violence cases) with *Thurman* gives Goodmark’s account a valuable historical perspective. However, it makes for an inauspicious start to her efforts to prove that mandatory legal intervention is not a valid solution to domestic violence. It leaves her the difficult and unenviable task of establishing how these well-intentioned responses to horrific violence can themselves rob women of autonomy.

Goodmark, however, is up to the challenge. As she demonstrates, these mandatory intervention policies deny abused women any choice about whether or not to involve the legal system in their personal relationships. If given the choice, many victims of abuse would prefer, for a variety of reasons, not to enmesh their partners and their relationships in the machinery of the law. But, in seeking to protect these women, the law has pushed their freedom, their experiences, and their needs to the side. Goodmark argues for replacing this system with a new approach to combating abuse, one that takes into account the actual needs and desires of the women subjected to domestic violence. In the process, she showcases a number of ongoing and intriguing initiatives, including community-based programs designed for both victims and their abusers.

*A Troubled Marriage* is a relatively short work, at 254 pages. It might have benefited from a bit more background information, such as a lengthier introduction to the various schools of feminist thought that are referenced throughout the text. Also, though Goodmark briefly mentions abuse among lesbian couples, further analysis of domestic violence within gay and lesbian relationships would have been interesting, particularly if it included additional examples of the current legal

system’s responses to the problem. Finally, Goodmark could have explored in greater depth how dominance feminism addresses and explains the phenomenon of abuse perpetrated by women against men.

¶33 Despite these relatively minor quibbles, *A Troubled Marriage* admirably achieves its dual goals, demonstrating how our legal system fails to address the myriad experiences and diverse needs of battered women while advocating for a new system that can advance their agency and autonomy in the face of abuse. A timely and compelling work, it is recommended for law school, general academic, and public libraries.


Reviewed by Nick Sexton

¶34 The five chiefs denoted by the title of this new memoir from retired Supreme Court Justice John Paul Stevens are the last five men to serve as Chief Justice of the United States: Fred Vinson, Earl Warren, Warren Burger, William Rehnquist, and John Roberts. Over the course of a long career, Justice Stevens enjoyed “personal contact” (p.6) of one form or another with each of the five chiefs, a perspective that affords him the unique opportunity “to share memories of these men and their work” (*id.*). By doing so, Stevens hopes to “improve public understanding of their work and the office that they each occupied with honor and varying degrees of expertise” (*id.*). The book succeeds admirably at this task.

¶35 With his first chapter, Stevens dedicates approximately thirty pages to informative and fascinating observations about the nation’s first twelve Chief Justices and to a description of the lasting impressions that each left upon the evolving Court. Here readers learn that it was under the very first Chief Justice, John Jay, that the Court refused to provide the executive branch with advisory opinions and that the third chief, Oliver Ellsworth, began “the practice of having one justice write a single opinion explaining the Court’s decision” (p.15). Readers also discover that the title “Chief Justice of the Supreme Court of the United States” was permanently changed to “Chief Justice of the United States” by the sixth chief, Salmon P. Chase, and that Melville Fuller, the eighth, initiated the practice of shaking hands before a session of oral arguments, “an extremely important custom that all members of the Court still follow today” (p.23).

¶36 Stevens’s next short chapter details the duties of the Chief Justice and explains in general how the Supreme Court works. Laypeople and legal professionals alike will be surprised to learn about some of the Chief Justice’s more obscure responsibilities. In addition to well-known tasks like presiding over oral arguments, the chief has a number of obligations less commonly associated with the office, such as leading the Board of Regents of the Smithsonian Institution.

¶37 Starting in the third chapter, *Five Chiefs: A Supreme Court Memoir* becomes an account of Stevens’s personal experiences with the Chief Justices and his opinions on the Court’s jurisprudence under each. Chapter 3 examines Fred Vinson, the country’s thirteenth Chief Justice, with whom Stevens interacted while serving as a law clerk for Vinson’s colleague, Justice Wiley Rutledge, during the 1947–48 Term.
Though Stevens’s good friend Arthur Seder clerked two years for Vinson and considered the Chief Justice “a competent and confident chief” (p.64), Stevens writes, “I was not an especial admirer of the chief. My boss [Justice Rutledge] was frequently one of four dissenters [to opinions that Vinson joined]” (p.65).

¶38 For the extent of Earl Warren’s term as the fourteenth Chief Justice (1953–69), Stevens worked in private practice in Chicago, and “was thus primarily an observer, rather than a participant, in the work of the Court during those years” (p.86). Yet even for this period, Stevens has a personal account to add. In 1962, he made his first and only argument before the U.S. Supreme Court, and he describes the imposing physical nature of the bench and of the Chief Justice’s position upon it: “Startlingly, Warren loomed over me, appearing to be only inches away” (p.93).

¶39 Justice William O. Douglas’s resignation from the Court in 1975 provided President Gerald Ford with the opportunity to nominate Douglas’s replacement; Ford chose John Paul Stevens. Thus, as the book turns to the tenure of Chief Justice Warren Burger, its perspective is enriched by Stevens’s own experiences on the Supreme Court. In the chapters that follow, Stevens presents details from his nomination process, his memories of the first oral argument he participated in as a Justice, insider accounts of the interactions between Justices, and particulars about cases and Court procedures. Most relevant, however, are his opinions of the Chief Justices under whom he served.

¶40 Stevens credits Burger with instituting a number of timesaving administrative procedures, such as “imposing maximum limits on the number of pages in the parties’ briefs” (pp.152–53), requiring the covers of certain documents to have a distinguishing color, and “introducing electronic word processing into the routine work of the Court” (p.153). However, Stevens also criticizes Burger, asserting that the chief “was not . . . proficient as a presiding officer at [the justices’] conferences” (p.154). In contrast, Stevens lists among Chief Justice William Rehnquist’s strengths the ability to recall each of the positions taken by the Justices on issues arising at conference. But Stevens has less favorable things to say about Rehnquist’s “remarkably consistent pattern of voting to uphold death sentences” (p.185). Upon Rehnquist’s death, Stevens himself, as senior Associate Justice, briefly served as acting Chief Justice. The book’s treatment of Rehnquist’s eventual replacement, John Roberts, displays Stevens’s intrinsic evenhandedness and evidences his high regard for Roberts both as a former advocate and the Court’s current chief. Though “[p]erhaps . . . not quite as efficient as his predecessor when presiding in open court or in the Court’s conferences” (p.210), Roberts “welcomed more discussion of the merits of the argued cases . . . and maintained the appropriate impartiality in giving each of [the Justices] an opportunity to speak” (id.).

¶41 In sum, Five Chiefs is an insightful volume presenting the recollections and opinions of a former Justice with long experience in and around the Supreme Court. All public, academic, and law libraries should own this work.
Ms. Whisner discusses how knowing our weaknesses allows us to compensate for them. She also considers what constitutes an acceptable answer to the dreaded interview question, “What are your weaknesses?”

§1 Nobody’s perfect. We all know that, right? And yet, for many of us, it’s very hard to talk about our weaknesses. I started musing about this after a conversation with one of our library’s interns, who was caught off guard when an interviewer asked him to name his. (It’s also hard to talk about our strengths, but that’s a topic for another piece.)

§2 The reluctance to disclose weaknesses is significant for job applicants: of course they want the employer to think they’re totally terrific in every way. So they fear naming a fatal flaw or listing too many weaknesses. And yet they have to answer the question.

§3 Although the need to confront one’s weaknesses might seem most obvious when someone asks point-blank, we all have to deal with them throughout our professional lives. (Of course, we have to deal with them in our private lives, too, but this column is about work.) It’s common to want to keep weaknesses under wraps: we all want to seem competent, to have our supervisors, coworkers, and patrons think we’re exemplary librarians—top-notch at our jobs.

§4 The bar is high. For instance, consider the description of the sort of student Marian Gallagher said she wanted in her law librarianship program:

We shall still have occasional difficulty in locating, at the proper time, willing victims who are industrious, alert, charming, attentive to detail, refined, imaginative, unafraid of briefing for a judge or getting filthy shifting books, dependable, receptive to taking and following orders, able to direct underlings to inspired heights, incorruptible, sincerely interested, attractive (and if women, not interested in persons who think a woman’s place is in the home), amusing, cheerful, imperturbable, diplomatic, and Summa Cum Laude.1

Oh, my—that’s quite a list! Undoubtedly Mrs. Gallagher2 was using hyperbole: so few people possess all those qualities that the program might never have had a

* © Mary Whisner, 2012. I’m grateful to Nancy Unger and Peggy Jarrett for (among other things) reviewing a draft of this piece.


2. I usually use “Ms.” instead of “Mrs.” or “Miss,” but Mrs. Gallagher was universally known as that—or as “Mrs. G.”
student. In fact, some of those qualities are in tension with each other. A person
who is “amusing” might not be optimally “diplomatic”; one who is “imperturb-
able” might not appear “sincerely interested”; one who is “refined” and “attractive”
might hesitate before “getting filthy shifting books.” It’s a lot to aspire to.

¶5 But you don’t have to be familiar with Mrs. Gallagher’s daunting list of
desired qualities to have a sense that you might fall short. Our field is interesting
and worthwhile because it is so wonderfully challenging, calling on a wide range of
skills and knowledge. The downside of the diverse challenges is that some of them
will be especially hard because of your particular collection of weaknesses. If you
are terrified of public speaking, then it will be harder to teach; if you have trouble
remembering details, then working through some research problems will be
excruciating.

¶6 Everyone has weaknesses. Really. The employer who asks a candidate to talk
about them isn’t expecting a perfect person. If anyone says, “Oh, I don’t really have
any weaknesses worth mentioning,” then the employer will think that person is
disturbingly arrogant, lacking in self-awareness, or a liar.3 Instead, the question is
meant to elicit some comments that show the candidate has thought about how to
do good work despite weaknesses.

¶7 In middle age, well along in my work life, I am increasingly aware that I am
still struggling with most of the same weaknesses I’ve faced for a very long time—
since childhood, really. I have learned ways to address them and minimize the
damage they can cause, but I haven’t overcome them.

¶8 For example, mornings are hard for me. Getting ready for elementary school
was tough: once pried out of bed, I often couldn’t find my shoes or whatever else I
needed to head out the door on time. I got there, but I also regularly racked up
tardy notes in the attendance log. I loved my tenth-grade history class, but it started
at eight o’clock, so I often heard the teacher greet me with “Ah, Ms. Whisner! Better
late than never, I always say.” Maybe my weekday sluggishness was caused by my
family’s late-night habits on Fridays and Saturdays (we’d stay up, playing cards and
watching TV, until my mother came home from her restaurant job). But I might
not have been a morning person even without that conditioning.

¶9 Now, some forty years past tenth grade, I still find it hard to get going in the
morning, but I have developed some coping mechanisms. Especially in the winter,
I get a little boost from a bright light (designed for seasonal affective disorder). My
workplace is flexible enough that I can often go in at, say, 9:30 instead of 8:00. If
I’m speaking to an 8:30 class, I leave a note for myself in the bathroom, so I see it
just before going to bed and as soon as I get up. My partner reminds me, “You’re
on the desk at 9:00” or “You said you wanted to go in at 8:00 to gather material for
your 8:30 class.” I still am not a morning person, but I am able to show up when
it’s important.

3. Some people have tried sleight of hand, naming a weakness, such as being a perfectionist
or a workaholic, that they believe the employer will value as a strength. But experienced managers know
that perfectionism and workaholism really are weaknesses that can get in the way of productivity and
good relations.
Another weakness is that I am not a strong planner. I don’t naturally use to-do lists and calendars, but because I can’t hold everything in my head, I’ve had to learn to use them. I keep up a calendar, with reference shifts, classes, meetings, colloquia and lectures I plan to attend, and social activities, and it’s very useful. And yet, it still doesn’t come naturally to me to look at it and plan out my week and month. Unfortunately, I sometimes have to scramble to prepare for a presentation because I forgot about it until the day of the class. The good news is that I’m pretty good at pulling things together in a few hours. Most of the time I do see what’s coming up, and for big projects I’ve learned to put notes in my calendar a week or two ahead of the deadline. Technology helps: my desktop computer and my iPad both flash reminders fifteen minutes before meetings, reference shifts, and so on. Sometimes I’ll be lost in a project and will be quite surprised to see that it’s time to go, but the fifteen minutes allows me time to get there (even if I’ve forgotten to go to lunch first).

This weakness can lead to mistakes. Not long ago, I had a meeting with two colleagues and the library director. It was on my calendar, but I didn’t look at the calendar before I left to take my dog to the park, thinking I had plenty of time before my next commitment. When the meeting was supposed to start, one of the colleagues called me on my cell phone. I hightailed it back to the library, but I was half an hour late. I apologized for inconveniencing them, they accepted my apology, and we had our meeting. They understood that I flaked out, and I understood, too—sometimes good people make mistakes. Several years ago, when I was depressed, a similar incident hit me hard: I forgot about a meeting, got there late, apologized abjectly, and felt awful, to the point of tears. Having tried it both ways, I can report that feeling worthless and incompetent doesn’t lead to any better results than apologizing, trying to do better, and moving on.

It is also more constructive to acknowledge the weakness than to hide it or pretend that others don’t notice. By acknowledging that I can forget about time and appointments, I make it okay for my colleagues to help me out. I welcome a reminder: “Remember that we have a collection development meeting at 8:30 tomorrow, and it’s in Room 115, not the conference room.” Rather than feeling that I’m a failure because I really should be able to keep track of everything myself, I feel supported by my friends and colleagues, valued enough that they want to help me and have me participate in the meeting.

It is hard to break bad habits and to create good ones, but it’s possible. Despite dentists’ and dental hygienists’ advice and encouragement, I didn’t floss

4. I have a vivid memory of an English teacher reading a Mark Twain quotation to this effect. I looked for it, anticipating the smug satisfaction of confirming my memory. But of course I can’t find it, and now I think my memory was added. Having a good memory for things like that is one of my strengths—but even a strength isn’t surefire.

5. A recent book presents (very accessibly) some brain science about habit, illustrated with a variety of real-life stories (a problem gambler, a football coach, a man with a neurological injury). The author concludes with an appendix advising people how to apply the lessons to their own lives and describing his own success in overcoming the habit of taking a cookie break every afternoon at work. Charles Duhigg, The Power of Habit (2012).

Habits never really disappear. They’re encoded into the structures of our brain, and that’s a huge advantage for us, because it would be awful if we had to relearn how to drive after every vacation. The problem is that your brain can’t tell the difference between bad and good habits, and so if you have a bad one, it’s always lurking there, waiting for the right cues and rewards. Id. at 20. And yet there’s hope: “[E]very habit, no matter its complexity, is malleable.” Id. at 270.
regularly for years and years, until I made flossing a New Year’s resolution once and it stuck. But not all my resolutions (in January or at any other time) have fared as well. I plan to tidy up my desk and keep it tidy, but other things capture my attention, and I allow filing to fall behind. Over the years, I have set up systems for keeping track of short-term and long-term projects. I’ve used different technologies: three-ring binder, folder, pocket-sized notebook, Palm Pilot, index cards, iPad. I use each system diligently for a while, and I feel some satisfaction in having organized lists at my fingertips. Then I stop writing down tasks or I write them on small slips of paper that I carry in my pockets or scatter on my desk, instead of using the more organized system. Or I forget to look at the lists. Anyway, the system breaks down. I don’t think these failures mean I should stop trying, but I realize that I’m probably never going to find it easy to be organized and tidy.

¶14 I have other weaknesses, but this is enough to share for now. Talking about one’s weaknesses (or even thinking about them) feels risky: the weaknesses can balloon and take up all the space in the room. If I tell you that I have piles of papers on my desk, I can’t always find what I need, I’ve forgotten reference shifts, and I’ve missed meetings, will you think that’s the whole story—or even the dominant theme—of my work life? On a bad day (like that day I cried because I was late to a meeting), I can believe something like that.⁶

¶15 Of course, there is a lot more to anyone than a few weaknesses. I feel confident enough to discuss mine publicly because many of my other attributes, including some good ones, are already public. If you have read this column before, you probably have a sense that I am able to complete writing assignments and I know some things about research and being a reference librarian. If you’ve worked with me, you know that I do a good job in class presentations and I don’t forget every reference shift or meeting—in fact, I’m pretty reliable overall. So it’s not much of a risk to reveal my weaknesses.

¶16 But the intern I mentioned at the start of this essay probably doesn’t feel that safety. He’s applying for his first professional job and doesn’t have decades of productivity to buffer the sting of a weakness or two. What should he do? In a way, it’s what I’ve done here: discuss a weakness along with ways that he compensates for it. He has succeeded and will succeed in spite of it. If I were interviewing applicants, I would respect answers like these:

- “I’ve learned that really big projects can overwhelm me. I’ve found that it helps me if I break them down into pieces and create deadlines for each piece.”
- “I don’t have much experience with public speaking, and I still get pretty nervous when I have to give a presentation. It helps when I practice in front of a friend. One thing that excites me about this job is that I’d have the opportunity to give lots of presentations and get more comfortable. I’d welcome your feedback to help me improve.”
- “When I started working at the reference desk I was really affected by patrons’ moods. If they were agitated or demanding, I got agitated myself.

I’ve learned to calm myself down by taking a breath and reminding myself that their moods are their moods, but I see this as something I’ll have to continue to work on.”

- “Sometimes I can misunderstand a question when I hear it. Now I keep a pad of paper handy and I take notes as the patron talks. This helps me focus—and it has the added benefit of showing the patron that I take the question seriously.”

- “I don’t know as much about working with computers as I’d like. I’ve been able to get help and learn a lot about HTML by working on projects with more experienced people. If I get this job, I’d like to explore taking a web design course to improve my skills.”

¶17 Weaknesses? We all have some. The trick is to face them and figure out ways to deal with them. That doesn’t always mean erasing them entirely. There are ways to be productive and do great work despite them. Being aware of them is the first step. How you compensate depends on what your weaknesses are, but no matter what the weakness, there’s probably some way to work around it.
Steve Jobs predicted that HTML5 would replace Adobe Flash, and in November 2011, Adobe announced it would cease developing its Flash Player plug-in for mobile browsers and encourage developers to adopt the HTML5 standard. Ms. Jackson discusses some of the features of HTML5 and suggests that as search engine optimization and usability on mobile devices become increasingly important, law librarians should consider how HTML5 features may prove useful in achieving the goals of the law library. Further, she discusses how HTML5 may also influence the development of legal digital publishing initiatives.

¶ In 2010, in this column, I mentioned HTML5 with regard to the iPad.¹ At both the Mid-America Association of Law Libraries/Southwestern Association of Law Libraries (MAALL/SWALL) 2011 Joint Annual Meeting and the 2011 Center for Computer-Assisted Legal Instruction (CALI) conference, Timothy Wilson, the electronic resources librarian at St. Mary’s University, delivered presentations on HTML5.² Wilson prompted my desire to return to the topic in more depth. As Wilson indicated, while the HTML5 standard is familiar to many in the developer community, it was Steve Jobs who brought HTML5 to the forefront when he suggested that Adobe Flash, which Jobs would not permit to be included on Apple mobile devices, would be replaced by HTML5.³

¶ Despite Adobe’s spirited response to Jobs,⁴ less than two years later Adobe announced that it would cease developing its Flash Player plug-in for mobile browsers and encourage developers to adopt the HTML5 standard.⁵ And in spite of

---


** Associate Director, Oklahoma City University Law Library, Oklahoma City, Oklahoma.


⁵ Sarah Jacobsson Purewal, Adobe Ends Mobile Flash Development, Report, TODAY@PC
previous doubts that HTML5 would prevail over Flash, Adobe’s announcement certainly supports the conclusion that HTML5 is the future (perhaps even a future that is already upon us). As a result, law librarians must begin to consider how HTML5 features may prove useful in achieving the goals of the law library and the organizations that law libraries serve.

What Is HTML5?

HTML5 is not just some really fancy markup language. Instead it is a revised specification for how the foundational markup language of the web, HTML, should be used to deliver . . . just about anything you might see in a web browser. It is an evolving standard proposed and developed by the Web Hypertext Application Technology Working Group (WHATWG), which aims to move web markup into the practical . . . .

¶3 While HTML5 has been described as a “snapshot” of the evolving HTML standards, the designation as version 5 is no longer accurate. The Web Hypertext Application Technology Working Group (WHATWG) has now transitioned to an “unversioned” model for HTML in which draft milestones are considered on a per-section basis rather than as a whole. Additionally, the term HTML5 is used by many web companies and developers “to describe HTML, CSS, and JavaScript as a basket of related technologies.”

¶4 Although there are numerous explanations of what the term HTML5 encompasses, one of the noted advantages of using HTML5 is that, because it is an “evolution of HTML4/XHTML1.0,” most developers “know most of it . . . . [and] won’t be using a completely new markup language.” However, HTML5 does involve a number of new features; some of the most notable of which are:

1. HTML5 provides for native support for audio and video via web browsers. Current browsers rely on plug-ins, including Adobe Flash, Apple QuickTime, and Microsoft Silverlight, for handling multimedia content. HTML5 will address the plug-in issue for mobile devices by “mandating built-in support for video in browsers and allowing designers to insert <video> and <audio> tags into their pages.”

---

2. HTML5 refines the syntax of the markup language. The new standard is intended to encourage the separation of presentation from content. “HTML5 also adds some new semantic tags like <article>, <aside>, and <nav> that will better define blocks of content within pages.”

3. HTML5 provides the capability to “build web-apps that behave more like local applications.” HTML5 features including “drag-and-drop file management and local storage will allow developers to build web-based applications that seamlessly integrate with the user’s computer.” HTML5 will also support offline caching. This is particularly attractive for mobile users, since most mobile devices are limited in their connectivity and bandwidth.

4. Canvas and Scalable Vector Graphics (SVG) tags allow developers to do what couldn’t readily be done previously, which is to “draw on the web.” Canvas “allows for dynamic rendering of shapes and images in the web browser.” Developers can utilize dynamic database-driven data and apply them to visuals such as graphs, pie charts, and maps. Additionally, developers can write scripts that respond to users’ interactions with the image—for example, by enlarging a particular part of an image when a user clicks on it.

Additional features, such as improved form functionality and increased user editing and interactivity, are also attributes of HTML5, although they will not be addressed in this column.

**Benefits**

As law librarians have increasingly become responsible for supporting the web presence and marketing efforts of their organizations, they may want to consider using HTML5 for a number of reasons. Perhaps the most significant of these is the opportunity to optimize the visibility of the library or organizational web site in search engine search results, or more specifically, to ensure that the institutional or organizational web site is higher ranked on search engine results pages (SERPs).

For some time, search engine optimization (SEO) has been an important component of web development; however, it may become even more important as the scheme of domain name structures becomes more complex. The complexity may result from expansion of the generic top-level domain structure. In June

---

11. Id. at 53.
12. Id. at 52.
14. Wilson, supra note 2 (video at 44:45; Wilson demonstrates the working of Canvas beginning at 43:25).
18. “The right-most label in a domain name is known as its ‘top-level domain’ (TLD).” There are country code TLDs, which are two letters, and more familiar three-letter generic TLDs (sometimes called extensions), such as .com, .net, and .org. Top-Level Domains (gTLDs), ICANN, http://archive.icann.org/en/tlds (last visited May 30, 2012).
2011, the Internet Corporation for Assigned Names and Numbers (ICANN) announced that in 2012 it would begin accepting applications for new generic top-level domains (gTLDs). Despite continued opposition to the move because of fears it will lead to increased fraud, ICANN has gone forward with the expansion. ICANN suggests that in addition to other positive outcomes, the expansion of gTLDs, which allows the use of non-Latin alphabets, will improve Internet access for large numbers of users. ICANN has projected that the number of gTLD applications may be as high as 4000 and that it might “offer additional gTLDs in the future.” On the other hand, because significant costs are involved, including a $185,000 processing fee, the number of applicants may be more limited than anticipated.

¶ 8 Users increasingly use search engines, rather than URLs, to navigate the web. Particularly if, as anticipated, a significant number of gTLDs begin using non-Western character sets, use of search engines rather than URLs will certainly increase. It has even been suggested that, under these circumstances, the number of gTLDs may no longer be a significant issue. If users are navigating the web through the use of search engines rather than URLs, law librarians involved in institutional web site development should contemplate using tools that will increase their web site’s ranking on the SERP. Search engine algorithms vary, but in 2010 a Google employee suggested that developers should not “expect to see special treatment of your content due to the HTML5 markup at the moment.” However, he also noted that if and when Google finds that more content is using HTML5 markup and “that th[e] markup can give us additional information, and that it doesn’t cause problems if webmasters incorrectly use it . . . , then over time we’ll attempt to work that into our algorithms.”

¶ 9 One of the benefits of HTML5’s inclusion of new semantic tags and elements is that web pages can “be indexed and searched more efficiently due to

24. This column covers law librarian web development tools; a discussion of the effect of the ICANN change on access to U.S. and foreign legal information, as well as the effect on legal research instruction, are subjects beyond its scope.
26. Id.
cleaner code.” Further, use of HTML5 will facilitate indexing of all of the content on a site—even “content currently embedded in animations will be readable to search engines.” Additionally, HTML5’s “addition of <article> and <aside> tags [may] benefit researchers by providing more context within pages and allow[ing] for easier programmatic gathering of citation information.”

¶10 Besides making institutional and library sites more visible and higher ranked in search engines, another suggested advantage of switching the tool used for web development is the “buzz” it may generate. As one developer suggests, Buzz generates links. HTML5 is a continuing topic of interest. You might not find a lot of stories on the standard’s SEO benefits, but you’ll certainly find a lot of stories on the standard itself. If Facebook can generate interest with its new HTML5 iPad app, certainly your site can make the switch to HTML5 and get some good press (and links) in the bargain.

Similarly, as I have previously suggested, early adoption of technology creates the perception that an organization is “tech savvy” and may encourage users to be more receptive to services and information provided by the organization.

¶11 Perhaps the most significant advantage of using HTML5 for web development is that adoption of HTML5 may allow developers to create sites that make the user experience more pleasant. With the increasing popularity of mobile devices, including smartphones and tablets, web sites that hope to survive must consider the necessity of becoming more mobile-friendly. HTML5 has features allowing for easier audio and video streaming on mobile devices and reduced download times, and this will certainly improve the experience that mobile device users have when visiting web sites as well as facilitating improved interaction.

¶12 As Jason Clark noted in Online magazine,

We are really just at the forefront of HTML5 in library web development, but the possibilities and potential could lead to the next generation of library web apps for emerging devices such as the iPad. We can develop responsibly and work to build the next version of the web using HTML5.

¶13 The expanded availability of legal resources in an electronic format that may be facilitated by the development and acceptance of the HTML5 standard is an even more favorable prospect for many law librarians. This was demonstrated in a brief but enthusiastic discussion about the opportunity to collaborate in the production

29. Hoy, supra note 10, at 54.
30. Wells, supra note 28.
32. Wells, supra note 28.
33. Id.
34. Clark, supra note 6, at 14.
of legal resources and programs, such as CALI’s eLangdell program, following Apple’s January 2012 introduction of iBooks Author.\(^{35}\)

¶14 Although law librarians have reacted favorably to the eLangdell program, CALI publications, which are published in PDF, ePub, .mobi, and Word formats,\(^{36}\) do impose some limitations on the dynamic nature of the content. As one author pointed out, “the dominant formats in digital publishing have been PDF and EPUB, both static formats which, to varying degrees, make an e-book seem like a by-product of physical-world publishing work flow.”\(^{37}\) Similarly, Greg Lambert noted:

> The format (look, feel & navigation) of the Kindle [.mobi format] works really good on a book that you read from cover to cover. However, name me the last book published by ThomsonReuters or LexisNexis that any of your attorneys read from cover to cover. They tend to skip around, look for specific sections, and flip back and forth from section to section. It “can” be done on the Kindle, just not very easily. I think most attorneys that have a Kindle understand the limits of that ability. With the more flexible iPad touch screen, this type of interaction should be easier (should be!).\(^{38}\)

HTML5 may serve as “a possible way forward” to overcome these types of limitations.\(^{39}\)

¶15 Apple’s iBooks Author uses HTML5 and JavaScript to support multimedia and interactive features in iBooks.\(^{40}\) However, e-book readers other than iBooks do not support these extensions.\(^{41}\) It is iBooks Author’s failure to adopt a nonpropri-

---

35. Posting of Mark Estes to AALL MEMBERS OPEN FORUM (Jan. 25, 2012, 9:07 A.M.), http://community.aallnet.org/AALLNET/Discussions/Message/?MID=3420 (available to AALL members only) (“Apple’s education event announcing iBooks Author reminded me of opportunities for law librarians to create new tools for teaching legal research and perhaps more exciting—to collaborate with law faculty to produce new, less expensive casebooks and treatises and practice books.”); posting of Sarah Glassmeyer to AALL MEMBERS OPEN FORUM (Jan. 26, 2012, 10:36 A.M.), http://community.aallnet.org/AALLNET/Discussions/Message/?MID=3460 (available to AALL members only) (describing CALI’s eLangdell program).

36. See FAQ, CALI eLANGDELL, http://elangdell.cali.org/content/faq (last visited May 19, 2012). However, CALI is utilizing HTML5-based systems in another project. “CALI is in the process of recoding A2J Author from scratch to replace the Adobe Flash based system with a HTML5/Jquery web-based system that will run on smartphones, tablets (e.g. Ipads) and will work on almost any browser and on any operating system.” John Mayer, Teaching Law Students 21st Century Practice Skills Through Coding with A2J Author, http://conference.cali.org/2012/sessions/teaching-law-students-21st-century-practice-skills-through-coding-a2j-author (last visited May 30, 2012) (describing a program to be presented at the 2012 CALI conference). While I am unaware of any specific plans, perhaps the adoption on the A2J project will result in transition to a similar HTML5-based publication program for eLangdell.


39. Padley, supra note 37, at S36.


41. Id.
etary publication standard that has been the source of some criticism,\textsuperscript{42} and its resultant failure to serve as a tool for producing cross-platform e-books may limit its potential. Greg Lambert aptly pointed out the issues created for legal publishers as a result of the proprietary nature of Apple products:

The biggest problem with legal publishers relying on the iPad as their platform for electronic publishing is that they are really locking themselves into a partnership with a company that is extremely proprietary . . . . Legal publishers also have to consider what to do when the next big product is released . . . . Pretty much all of that work that was put into making the publication work in the iPad format will have to be done all over again to make it work in the “next big thing.” Same as with all those companies that created iPhone apps who then wanted to make it available in other formats . . . . Most didn’t even bother to convert [the applications], thus locked themselves into a single vendor format with a small but vocal user base. If legal publishers go with the iPad, will they find themselves locked into a closed format and simply not port their product over to other formats simply because doing so . . . tips the scale of [the cost of publishing]?\textsuperscript{43}

\¶\textsuperscript{16} These problems notwithstanding, it has been suggested that despite the need for users to have an iPad, there is “a big future . . . for the use of iBooks Author in law firms as a creator of teaching/reference tools, and, indeed, to make promotional and explanatory material for clients.”\textsuperscript{44} A firm environment, in which a majority of the attorneys and staff may have access to iPads, is, however, different from the academic and court environments, where many users may not have access to the iPad.

\¶\textsuperscript{17} In contrast to Apple’s iBooks Author, HTML5 has the potential for producing cross-platform works.\textsuperscript{45} Academic legal publishers are beginning to recognize the demand for cross-platform materials. Kristine Clerkin of Wolters Kluwer has said that “in the last year or so, law professors have become increasingly interested in providing their course materials across platforms . . . .”\textsuperscript{46} According to Clerkin, Kluwer will debut an “electronic book custom publishing system,” but “has not yet decided whether to also use Apple’s fully interactive system.”\textsuperscript{47} Perhaps, instead of

\begin{itemize}
  \item \textsuperscript{43}Lambert, supra note 38.
  \item \textsuperscript{44}Simon Fodden, \textit{Apple’s New iBooks Author}, \textit{SLAW} (Jan. 19, 2012), http://www.slaw.ca/2012/01/19/apples-new-ibooks-author.
\end{itemize}
using the Apple system, Kluwer’s custom publishing will take advantage of the cross-platform potential of a system based on HTML5 standards.

¶18 While HTML5 does provide the potential for producing cross-platform resources, and in fact, in 2011, one company released a cross-platform e-book as an HTML5-based app,48 distribution of the app remains an issue. For instance, as John Palfrey pointed out regarding his book, Intellectual Property Strategy, which was being developed as an app, any app distributed via Apple’s App Store must first be reviewed and approved by Apple.49 Further, as Palfrey mentions, although as an author he would prefer an open source app that could include commentary, he recognizes the publisher’s concerns about this.50 Perhaps Apple, or Steve Jobs, didn’t fully consider the demand for digital publications (or at least digital publications of educational materials) to be available via multiple platforms, or the resistance of groups, including authors, web and app developers, and librarians, to the preemption of the HTML5 standard and the resources produced using HTML, in whatever version, by proprietary systems.51

**Possible Concerns**

¶19 Despite the exciting developments that may be possible with HTML5, there are some drawbacks. Web security issues have been the source of some concern regarding the use of the HTML5 standard. In August 2011, the European Network and Information Security Agency (ENISA) issued a report on HTML5 that found fifty-one security issues. ENISA’s report concluded that “some of the security issues can be fixed by tweaking the specifications, while others are more risks based on

---


49. Book Talk: John Palfrey on Intellectual Property Strategy, Berkman Center for Internet & Society (Nov. 21, 2011), video available at http://cyber.law.harvard.edu/interactive/events/2011/11/palfrey [hereinafter Palfrey Book Talk] (video at 71:32). The same review and approval process in the Mac App Store has been a source of concern for developers. See Jonny Evans, Collected: What We Know About the Mac App Store, COMPUTERWORLD (Jan. 6, 2011, 8:10 a.m.), http://blogs.computerworld.com/17618/collected_what_we_know_about_the_mac_app_store. Further, as Jason Clark cautions, HTML5, along with JavaScript and CSS3, offer an alternative development platform to the native smartphone app market, but the app store model is not going away anytime soon. I wouldn’t bet against Apple or Google’s Android market in the short term. As HTML5 matures, you might see a serious challenge to the app store model, but it will take time. Jason Clark, supra note 6, at 14. Preservation of a publication as an app involves additional issues. See John Palfrey, Book Experiment #1: Intellectual Property Strategy as an iPad App (or, reply to Cody Brown), JOHN PALFREY (Jan. 30, 2012, 9:52 a.m.), http://blogs.law.harvard.edu/palfrey/2012/01/30/book-experiment-1-intellectual-property-strategy-as-an-ipad-app-or-reply-to-cody-brown.

50. Palfrey Book Talk, supra note 49 (video at 73:09).

the features that users should be alerted to . . . .”52 In December 2011, security vendor Sophos raised security concerns because HTML5 provides far more access to the computer’s resources than its predecessor. It’s built to integrate with modern web browsing devices and offers capabilities like location awareness, graphics rendering and access to the webcam and microphone.

. . . . The enhancements are great, but they radically change the attack model for the browser.53

¶20 Another concern is that not all browsers support the entire range of features provided by HTML5. Despite the lack of universal browser support, though, most major desktop and mobile web browsers support many of the HTML5 features.54 Information regarding browser support for specific HTML5 features is available via the web.55 Even though browsers currently support the standard, the final recommendation for HTML5 is not expected until 2022.56 This significant delay is, in part, necessitated by the desire to complete a comprehensive test suite that will require at least two browsers to pass before the final recommendation is made. As Ian Hickson pointed out in 2008: “If one were to try to write such a test suite for HTML4 and DOM2 HTML, one would find that there isn’t even one browser that fully implements those specifications, let alone two.”57 Despite this, HTML4 and DOM2 HTML standards are current implementations.

¶21 While the delay in the final recommendation seems justified, particularly in light of the fact that, as stated above, many browsers already support many of the HTML5 features, it has nonetheless caused concern for some developers. In 2010, one developer concluded, “in the ever changing world of the web, HTML5 will

54. Internet Explorer is the one major desktop browser that has traditionally failed to support significant features of HTML5; however, with the March 2011 release of Internet Explorer 9, even this browser supports many HTML5 features. Mobile devices have less powerful CPUs, and they have special web browsers designed to accommodate their limitations. These browsers, including the mobile browsers of many desktop web browser vendors, offer some of the most robust HTML5 support. One noted exception is Trident for Windows Phone 7, which is closely based on Internet Explorer 6 and offers “one of the poorest mobile HTML5 browsing experiences among smartphones.” Adam McDaniel, HTML5: Your Visual Blueprint for Designing Rich Web Pages and Applications 7 (2012). However, Windows Phone 7 with the Mango update is said to have improved support of HTML5 through Mobile IE9. Kony, supra note 8, at [4].
57. Id.
never be able to live up to its promises. Its development is just too slow. . . . It seems only proprietary frameworks like Flash and Silverlight can provide excellent development and design tools . . . .” 58 With the Adobe announcement regarding HTML5, it seems that this developer’s conclusions were premature. HTML5 does appear to be the future, and the future looks bright. HTML5 may facilitate law librarians’ contributions to their organizations. However, law librarians must continue to work to ensure that the promise of HTML5 is not dimmed by the preempting of the standard so as to produce only proprietary resources that are available on limited platforms. 59

---


59. John Sullivan points out that Steve Jobs and the Adobe representative, during the debate about Flash, failed to effectively address the concerns about the use of proprietary software on the web:

        Freedom on the Web has multiple elements. Free standards like HTML5, which govern Web publishing, are critical and have amazing potential, but they are only one element. Standards are not enough on their own, because there is another layer between them and the computer user—the software used to interact with the Web, and the operating system surrounding it. Freedom in terms of Web publishing does no good if the software with which you access the Web filters it before it ever gets to you, or restricts you in other ways in order to grant access to the Web.

Ms. Gabriel discusses the advantages of relying upon support networks of diverse individuals during times of stress. When diversity exists within an organization, employees benefit by being able to draw upon a variety of backgrounds to assist with stress management.

¶1 The stereotypical librarian, someone with glasses and a pinched expression, quietly sitting at a desk buried in a book, while simultaneously ready to pounce on patrons with a “shhh” at any small sound, seems awfully appealing to me on some days. For example, we’re a bit short-staffed for a few hours, and I’ve agreed to sit in as a judge for oral arguments in a first-year class later in the day. On top of this, I need to prepare to discuss the reference schedule during a legal research course meeting tomorrow, where I also need to make sure I provide updated information about training sessions we are doing this summer.

¶2 Looking at my never-ending list of tasks, I squint just a little bit as I recall I have to confirm whether a phone meeting I have midweek conflicts with a meeting I have in the building, make several follow-up calls for committees, write up a teaching observation, and adjust the grading rubric for my students’ final papers. I rifle through my tote bag to find the bench brief I’ll need to read before the sessions with the students this afternoon, and I notice the brightly colored Post-it reminding me again that I’ve got to make sure I follow up with the IT department about those training sessions as well. And I know that this whole tightly packed schedule might be completely thrown off if a student or faculty member suddenly shows up at my door and asks for assistance.

¶3 But even when the days are the busiest, before I feel completely overwhelmed, I know that I can step back, take a slow breath, and ask my colleagues for assistance. The diverse backgrounds of the staff provide a deep well of experience and knowledge to draw from to help solve a problem or tackle difficult issues. Having this knowledge immediately eases any tension.
¶4 In many ways, my job duties today are very different from what I imagined they would be when I began my career. Many of the changes in my responsibilities have to do with my growing experience in the profession, along with the changes in technology, staffing, and the economic realities that have affected legal education as well as the legal and library professions.¹

¶5 As I move into management activities and become a more senior member of the law school community, I find myself taking on more duties. And while I welcome the new responsibilities and challenges, believing that I have grown as a professional librarian as the scope of my work has increased, there are inevitable moments when I experience burnout. There are times during the semester when my brain seems suddenly to want to shut down, go home, and stare at the goldfish in my aquarium for a month while I eat a lot of ice cream.

¶6 Of course, I can’t really disengage for a month, and usually my personal ways of dealing with stress are enough. But I will admit that there are days when everything seems to be moving faster and faster. The number of times I look up at the end of a day and wonder where all that time went increases slightly each year, and the stress levels creep up accordingly.

¶7 I think most academic librarians experience the same type of pattern: The beginning of an academic year brings much enthusiasm and energy. There is a bit of a dip right around October and Columbus Day. You gather your strength and get through the madness of the end of the year to enjoy a slight lull during the break between semesters when family and holiday obligations usually happily intrude. Then the cycle seems to start all over again too soon in January. By spring break, you wish you could join the lucky students going to St. Lucia. And in April, you’re ready to climb the walls when both students and staff are stressed about upcoming exams, end-of-the-year obligations, and summer internships being right around the corner. Finally, when graduation rolls around, you have perhaps one week of thinking things might slow down—until you realize all of the library projects that you put off during the school year must now be tackled in the summer.

¶8 Law firm, court, and public law library cycles are different, but the ups and downs of work exist everywhere. The librarian stereotype described at the beginning of this piece omits the enormous amount of stress that can be associated with our profession, though it has been written about in the library literature.²

---


Much of the reason I am able to deal with the stress is the assistance and support I have received from those who have acted as mentors and colleagues to me, both within my institution and beyond its walls. Those individuals are not only librarians, but also faculty members, committee members and colleagues I have met through AALL, and professional support networks of my law school and library school.

These support networks sustain me as I move forward with more responsibility in my career, and in my personal life, as I try to manage them both in a way that is meaningful and respectful of my goals in each. For example, I know that my colleagues within the library are ready to assist each other when needed, and that we will work together to ensure that the library and our legal research program run smoothly. I know I can discuss with the director of the law library, other librarians, or faculty members ideas I have for scholarship or a new classroom technique. I am confident that our library staff is committed to working on many things as a team, not only to preserve our individual sanity in a stressful environment, but because we have come to realize we often do some of our best work when we do it together.

I know I can rely on these people because over time my colleagues and I have worked to recognize the strengths and weaknesses we each bring to the library as a whole. The convergence of budget cuts, technology, and additional duties have driven us to work with each other out of necessity, and in doing so, we have found out much more about our working styles and our backgrounds than we might have otherwise. I believe that part of the strength in our library comes from the fact that we are a mix of experiences and backgrounds, which gives us a greater diversity of qualities to draw from in our work.

Some of us have practiced law, some have worked in law firm libraries, and others have worked for other universities or types of libraries. Some are better at writing first drafts of course materials, others at editing, and still others excel at preparing the class exercises we may need for a course. There are those who can keep the group focused on the overall goal of a project, while others are happily drilling down to the details. Rather than cause conflict, the diversity of our skills helps us achieve our goals, and the current staff works hard to respect each other as individuals and as professionals.

Our different backgrounds mean we have a variety of expertise that can be leveraged when a difficult reference problem arises. When we prepare legal research classes, our distinct viewpoints, experiences, and respect for one another as teachers allow us to have robust discussions about what we are doing, or to reach out to each other for an opinion when we have a question about how to handle something related to a class. Our diversity has also meant that each individual has been able to educate the others about matters outside of the others’ experience, which has helped create an atmosphere that is both professional and collegial.

(Warning of the dangers of burnout for law librarians); Venene C. Nelson, Burnout: A Reality for Law Librarians?, 79 LAW LIBR. J. 267 (1987) (discussing surveys assessing librarian burnout, including her own survey of law librarians); Deborah F. Sheesley, Burnout and the Academic Teaching Librarian: An Examination of the Problem and Suggested Solutions, 27 J. ACAD. LIBRARIANSHIP 447 (2001) (reviewing the causes of burnout and comparing librarianship to other service professions).
¶14 Like other libraries, we have been dealing with budget cuts and staff shortages while trying to provide additional services that we believe are needed in our community. We keep up with the technological changes that seem to happen almost weekly in legal research, and stay abreast of new methods or ideas that will impact what and how we teach. We do all this while still trying to get through a “normal day” during which there are a thousand or more distractions waiting to knock us off the productive track the minute we arrive at the office.

¶15 Someone once gave me a wry piece of wisdom: “If you’re incompetent, they won’t give you much, and won’t expect much. However, if you turn out to be competent . . . they’ll give—and expect—everything from you.” I remember thinking that of course I had to be competent at my job, or else I wouldn’t have one. Yet over the years, I have come to understand more fully that particular nugget of advice and why it has stayed with me for so long. I am fully aware that the ability to draw upon the support of my colleagues and mentors plays an enormous role in helping me appear “competent” within the profession, as well as assisting me with managing work-related stress.

¶16 Reflecting on the most pressing times, when a coworker genially agrees to help out when I find myself overwhelmed, or when I reach out to help someone who is struggling, I wonder what is happening in other libraries, and how they deal with the constant pressure. I often try to imagine what a new librarian must feel like when thrown into the mix, trying to acclimate herself and boggling at the amount of work the job entails. Finally, I wonder how new librarians from ethnically and culturally diverse backgrounds manage the stress, especially if they enter a work environment where they may be the only individual with that particular background.

¶17 I have had experience working someplace where I didn’t feel like I could reach out to anyone for advice or assistance. Diversity of opinion wasn’t necessarily valued or expected—even if it had a positive impact on one’s own job efficiency or competency. There were days I dreaded going to work, knowing that the workplace culture did not welcome individuals’ stepping out of rigidly defined roles that I found personally and professionally stifling.

¶18 Some workplaces are stuck doing things a certain way simply because they’ve always been done that way. There may be resistance to a change in the status quo by staff members fearful of what such change may bring. Looking back at the job where I felt uneasy, I wish I had had the courage to seek out someone I was comfortable with to discuss my frustrations. I wish I could have consulted someone who at the very least looked like me, or an individual I might have had something in common with, so that there was a chance that if I voiced a fear I might hear: “I get you. I understand, that happened to me too,” and that would give me reassurance or guidance on how to handle the situation.

¶19 Luckily, in my present position, I have met individuals who not only share a background similar to my own, but who seem to have some of the same approaches toward librarianship as well. Having colleagues with common interests, backgrounds, or professional values has been an enormous benefit and valuable asset to my growth as a professional librarian. Reaching out to individuals who I felt would instinctively understand at least part of my background and culture set
me somewhat at ease and led me to believe that they would be interested in seeing me succeed.

¶20 The limited number of minority librarians in law librarianship is likely to continue for some time, despite the best efforts of recruitment initiatives by professional organizations and individuals.\(^3\) Understanding that limitation makes it incumbent upon those of us who have a bit more experience in the profession, minority or not, to reach out to those who may not necessarily see their own culture reflected in their workplace. An awareness by more experienced colleagues of the possible additional stresses one might face as a minority librarian may help ease any potential sources of misunderstanding between individuals as well.

¶21 I believe there is strength that allows one to grow in one’s professional life in having someone to discuss work experiences with on a regular basis. Ideally, such a person will be someone working in the same office, but in any case, the ability to reach out and find an individual, or group of individuals, to connect with is critical.

¶22 While it would be optimal for new librarians to have someone from the same background to talk to, I don’t think it’s a requirement. In fact, it might be more helpful for the new librarian to connect with colleagues of many different backgrounds, taking into account such practical matters as comfort level, availability of other librarian mentors or colleagues, and the individual’s potential career path. As new staff members have joined the library, I have found myself eager to identify what we have in common, rather than focusing unnecessarily on where we might clash, as I did in previous jobs.

¶23 This approach isn’t limited to those new to the profession, and in fact, I find myself more able to connect and find colleagues and mentors with diverse backgrounds in AALL and among other librarians and in other fields as I gain more experience and move through my career. And while it’s laudable for AALL and other library organizations to create and foster mentor/mentee programs, in the end I think it’s the more personal relationships built in less obvious ways over time—sitting down next to someone in a program, working on a committee assignment with someone, or working with someone to answer a reference question—that build stronger connections that can help us deal with the stresses that come with the profession. The more people I come to know in the profession, with our wide variety of backgrounds, experiences, and strengths, the more I find individuals who find the same joys and frustrations as I in the work that we do.

\(^3\) For an excellent discussion of the presence (or absence) of minorities in law librarianship, see Alyssa Thurston’s article in this issue of Law Library Journal, Alyssa Thurston, Addressing the “Emerging Majority”: Racial and Ethnic Diversity in Law Librarianship in the Twenty-First Century, 104 Law Libr. J. 359, 2012 LAW LIBR. J. 27.