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RESEARCH ARTICLE

Modernizing Legal Scholarship: Toward Open Access Compliance

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Introduction and Literature Review: Legal research often operates outside conventional academic scholarship standards, characterized by a proliferation of student-edited journals and a notable absence of rigorous peer review. While some law journals have sought to align with established academic standards, many have struggled to keep pace with emerging open access (OA) requirements, such as those outlined by Plan S. As funding agencies increasingly mandate immediate OA for research outputs, the field of legal scholarly communications faces urgent needs for adaptation and modernization.

Methods: This study analyzed the OA policies of 384 journals that included articles and reviews authored by Canadian law faculty members. Data were extracted from Web of Science and Open Alex, focusing on six law faculties across Canada known for their high research output. Quantitative methods were used to assess publishing policies concerning OA principles.

Results: The findings reveal a strong preference for hybrid OA journals, particularly those with an international focus, often produced by interdisciplinary publishers. Diamond OA journals, primarily centered in North America, ranked second. Notably, a significant number of diamond OA journals fail to meet established OA standards, alongside a considerable presence of closed-access law journals.

Discussion and Conclusion: A consistent theme among law-specific publications, whether from academic faculty or corporate law publishers, is a pervasive lack of compliance with OA standards and a limited understanding of their implications. This underscores the imperative for further education and policy reform within the legal publishing ecosystem to enhance access and uphold the principles of open scholarship.

Keywords: open access, scholarly publishing, Canada, law journals, research funding, academic libraries, publishing policies

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IMPLICATIONS FOR PRACTICE

1. Law faculties and their libraries should consider additional investment in supportive training and tools to guide researchers in matching funder mandate requirements with journal policies.
2. Library-led outreach should focus on assisting faculty publications with improving open access policy transparency, compliance with open licensing standards, and inclusion in key open indexes and tools.
3. Future investigations into legal scholarly publishing practices should include both student-led and corporately produced publications to avoid a skewed picture of the open access landscape.

INTRODUCTION

Law librarianship is a niche field where the research process can be a complex maze of primary sources and doctrinal materials, with Boolean operators often being an afterthought. Similarly, scholarly communications is its own specialized domain, dominated by publishing jargon, the limits of repository infrastructure, and ever-changing funding mandates. Perhaps this specialization explains the limited intersection between these two areas of librarianship.

This intersection, however, became necessary at McGill University in Montréal, Canada, when the law faculty began responding to open access (OA) mandates from granting agencies. A mandate from a provincial funding agency ([Fonds de recherche du Québec, 2022](#)) requiring research to be made openly accessible immediately upon publication caused significant concern among faculty members who publish in law journals. As librarians began responding to these concerns, they quickly discovered that the legal publishing landscape is markedly different from that of other disciplines. A short list of faculty-preferred journals was compiled to demonstrate the different OA journal policies, and librarians were surprised by the near-total lack of transparency. With Canadian federal granting agencies also set to implement immediate OA policies later in 2025 ([Government of Canada, 2025](#)), the need for greater clarity and support for legal researchers in the realm of scholarly publishing has become urgent.

Further investigation into these journals' OA policies revealed additional unorthodoxies within law journal publishing. For example, there is an overwhelming number of student-edited publications, including top law journals ([Washington and Lee University, 2024](#)). Furthermore, peer review and single-submission policies are not standard practice. These findings suggest that legal scholarship has evolved within a unique ecosystem. While it is often

philosophically aligned with OA and, by the most basic definition, “open,” publishing policies are inconsistent and often contradictory.

The importance and value of publishing in OA venues are well recognized among legal scholars. Although legislation and case law remain the primary sources of law, their sheer volume necessitates the use of expert secondary sources to help legal practitioners and researchers navigate them effectively (Brown, 2019; Bopape, 2016). Legal professionals, including judges, lawyers, and lawmakers, rely on secondary materials which often extend beyond the scope of primary legal texts (Wise et al., 2013). Despite this reliance, discussions around OA in law focus mostly on primary legal materials (Bopape, 2016). Historically, scholarship was disseminated through commercial platforms such as Westlaw, LexisNexis, and HeinOnline (Bopape, 2016), thereby limiting broader access. However, recent scholarship has begun to explore the impact and value of OA legal materials more deeply. Wang (2023) notes ongoing debates about the utility of OA secondary sources but also highlights a growing trend for U.S. Supreme Court cases to cite law reviews. This change suggests that OA scholarship is gaining recognition for its democratic value and its influence on legal reasoning.

In preparing this study, two Canadian librarians were struck by the prevailing sentiment that American legal scholars are largely unconcerned with federal or state funding mandates (Keele & Retteen, 2025). This adds some clarity to the mix of philosophical ambition and inconsistent publishing practices that characterize many of North America’s most prominent law reviews and journals. Without the need to adhere to funder mandates, legal scholarship has developed in a silo, where OA frameworks have been unregulated.

By contrast, researchers at McGill University law faculty receive upwards of 20 research grants annually from government agencies that already require, or soon will require, all research outputs to be published in an OA format.

Aimed at helping Canadian legal researchers meet funding requirements, this study conducts an environmental scan of law journal publishing policies. Unlike prior scans that focused only on student-edited journals or were limited by database inclusion or geography, this study examines journals where Canadian legal scholars have published over the past ten years. The resulting data offer practical pathways to promote OA within these journals and highlight specific areas where journals need to modify their policies to better conform to OA standards. This research plays a vital role in helping Canadian legal scholars navigate the changing landscape of scholarly communication and ensure their work stays accessible and influential.

LITERATURE REVIEW

History of OA

The OA movement in legal scholarship has evolved differently from other disciplines due to the unique ways in which legal scholarship is produced. This has resulted in current barriers to OA publishing for legal scholars. To fully understand this ecosystem, we need to examine the history and development of secondary legal materials.

Arewa (2006) traces the roots of commercial control in legal publishing to 1898, when West Publishing established a near monopoly over the dissemination of legal information. The digital era began with Lexis in 1979 and Westlaw in 1983, forming a duopoly that continues to dominate the legal information market (Arewa, 2006). By the early 2000s, the market had further consolidated, with Thomson Reuters (Westlaw), Elsevier (LexisNexis), and Kluwer controlling approximately 90% of the legal publishing market. This consolidation has had significant implications for access and cost.

The commercial nature of legal databases continues to restrict broader access. Singh and Rai (2020) emphasize that electronic legal databases are typically managed by commercial vendors who control access through proprietary systems. Wang (2023) notes that even scholars with expertise in legal and copyright matters struggle to challenge the dominance of these platforms. Bopape (2016) similarly observes that while electronic access to law reviews has expanded, it remains largely mediated by commercial platforms like LexisNexis, Westlaw, and HeinOnline. This model excludes many legal professionals and researchers who cannot afford costly subscriptions (Fischer & Steiner, 2013).

Dan Hunter (2005) was among the first to publicly challenge the logic of placing law journals behind paywalls, especially given their modest profit margins. In what he described as a “manifesto in favor of open access to legal scholarship” (p. 612), Hunter criticized the legal academy for failing to make its work widely accessible. He argued that the student-edited nature of most law reviews should, in theory, make the transition to OA easier.

Efforts to reform legal publishing gained momentum in the early 2000s. Beatty (2023) documents initiatives such as the American Association of Law Schools’ (AALS) promotion of progressive publication agreements, which encouraged authors to retain copyright and self-archive. The Open Access Law Program (OALP), launched in 2005, further advanced this agenda by promoting OA models, limiting exclusive commercial licenses, and supporting Creative Commons (CC) licensing (Beatty, 2023).

Despite these efforts, the literature reveals a tension between optimism and realism. Brown and Kincaid (2019) celebrate the success of OA in student-edited publications, noting that these journals often operate at a financial loss to maintain the foundational values of OA scholarship. Such optimism can obscure persistent issues reported in other studies (Beatty, 2023; Keele & Pearse, 2012; Frye et al., 2017), including inconsistent OA policy compliance and the continued dominance of commercial publishers.

A pivotal moment came with the 2009 Durham Statement on Open Access to Legal Scholarship, which urged U.S. law schools to cease print publication and make definitive versions of legal scholarship available online in stable, open formats. It also advocated for institutional repositories and revised publication agreements to retain author copyrights (Durham Statement Review Task Force, 2021). This followed Harvard Law School's 2008 decision to make faculty scholarship openly accessible, which Donovan & Watson (2011) identify as a major catalyst for broader OA reforms.

Outside of Canada and the U.S., OA has become increasingly popular, but disparities remain. Bopape (2016) highlights a global shift toward OA publishing yet notes that South African legal scholarship is still largely controlled by commercial publishers. Although legislation and case law are generally accessible online, there is a notable lack of open legal scholarly publications. Sarkar & Sharma (2012) affirm this pattern in Indian legal research, similar to Hamann's findings for Germany (2017), suggesting that corporate influence on scholarship differs across countries.

Assessing OA adoption in legal scholarship

Evaluating OA adoption in legal scholarship reveals a complex and evolving landscape. Brown (2019) reviewed 597 student-edited law reviews indexed on HeinOnline and found that over 75% were openly accessible via journal websites or institutional repositories. Their study cites the Budapest Open Access Initiative (2002) definition (2002) yet only employs the first pre-description of "free availability on the public internet." Beatty (2023) expanded this work by analyzing 648 student-edited law reviews. While most made current volumes available online, few adopted comprehensive OA principles such as CC licensing, formal OA policies, self-archiving policies, or detailed author agreements. Beatty also noted that peer review is largely absent from U.S. law reviews, citing the removal of over 50 law journals from the Directory of Open Access Journals (DOAJ) in 2016 as an example that underscores the exclusion of legal scholarship from OA standards and tools.

Frye et al. (2017) found that 52.22% of 93 surveyed student-edited law journals required exclusive licenses, 32.61% required full copyright transfer, and only 43% allowed

republishing with attribution. These findings suggest that while surface-level OA practices are increasing, deeper reforms around licensing and author rights remain limited. Wang (2023) observed that legal scholars tend to favor gold OA over green OA (Open Access Network, 2025), likely due to journal prestige and copyright complexities. Bopape (2016) noted that as of 2016, only 37 U.S. journals had adopted OALP principles, raising questions about the initiative's reach.

OA criteria and policy gaps

While OA adoption has grown, consistent and transparent OA criteria remain lacking. Beatty (2023) concludes that most law journals fall into the ambiguous category of “Bronze OA,” a term that in other disciplines implies online access without any reuse statement, but in law often reflects immediate access with a confusing mix of policies. Earlier studies support this; Plotin (2009) found that only four of the top 20 U.S. law journals had OA policies. Keele & Pearse (2012) noted that while law journals are generally liberal in allowing authors to republish work online, clearer copyright and publication agreements are needed. Their appendix includes a checklist to help journals develop effective OA policies.

Frye et al. (2017) identified copyright practices as a major barrier to OA, noting that many journals support OA in principle but lag in policy implementation. Their survey revealed a lack of understanding of copyright among editors. Hunter (2005) raised similar concerns after receiving a takedown notice for posting his work on the Social Science Research Network (SSRN), warning authors to retain self-archiving rights. Keele (2010) found that only 14 of 200 reviewed journals had publication agreements posted online. These findings suggest that while the legal academy is philosophically aligned with OA, practical implementation remains hindered by institutional and cultural barriers.

SSRN, Bepress, and the role of repositories

Legal scholars have long embraced platforms like SSRN and Bepress (Digital Commons) as key tools for the open dissemination of their work. These repositories have played a central role in the OA movement, offering alternatives to commercial publishing. The 2016 acquisition of both platforms by Elsevier sparked debate but did not significantly reduce their use (Brown, 2019). In response, the University of Pennsylvania launched the “Beprexit” initiative to migrate its repository away from Bepress, citing concerns about corporate control over scholarly infrastructure (Brown, 2019).

Schilt et al. (2018) caution that reliance on SSRN and Bepress places law schools in a precarious position, as they are dependent on profit-driven platforms. While SSRN remains

respected, its ownership raises questions about long-term sustainability and control over scholarly communication. This led to LawArXiv in 2017, a nonprofit, community-led repository developed by legal information organizations aimed at providing a disciplinary archive free from commercial influence (Wang, 2023); however, it ceased accepting submissions in 2021. Ambrogi (2024) reports that Yale Law Library launched “Law Archive” as its successor, continuing the nonprofit mission.

Despite alternatives, SSRN and Bepress continue to be the dominant platforms in legal scholarship. Bopape (2016) notes that SSRN’s Legal Research Network is the second most-used subject area, with law also ranking second on Bepress. Brown (2019) found that most author agreements permit deposit in platforms like SSRN, and the popularity of repositories such as Law Commons (hosted by Bepress) is cited as a marker of OA success. Beatty (2023) notes that although only 19% of law journals have formal self-archiving policies, authors continue to post on SSRN, likely with informal approval. Mukhija (2012) also lists SSRN among the key OA repositories. Hunter (2005) initially praised SSRN for enabling open dissemination but later criticized Elsevier’s restrictive practices, suggesting that his view of SSRN likely shifted post-acquisition.

While SSRN and Bepress have expanded access, their corporate ownership complicates their role in the OA movement. The rise and fall of LawArXiv, and the launch of Yale’s Law Archive, reflect ongoing efforts to build nonprofit, community-led alternatives that preserve scholarly independence.

The role of librarians

Librarians have become key advocates for OA in legal scholarship. Keele & Pearse (2012) emphasize their role in promoting institutional repositories and encouraging journals to adopt self-archiving policies. Their expertise is especially valuable in enhancing transparency around copyright and licensing, areas that are often confusing for researchers.

Beyond advocacy, librarians assist with submitting metadata to aggregators such as DOAJ and Jisc Open Policy Finder, thereby enhancing the visibility of legal scholarship (Keele & Pearse, 2012). They also help clarify versioning terminology, noting that simplistic distinctions between “draft” and “published” are inadequate. Legal publishing continues to lag behind broader scholarly communication in adopting standardized versioning practices; many legal researchers share working papers online, leading to a proliferation of unlabeled versions (Keele & Pearse, 2012).

In sum, while student-edited journals and institutional repositories have expanded access, comprehensive OA adoption remains constrained by inconsistent policies, limited licensing flexibility, and the enduring influence of commercial publishing.

METHODS

Objectives

Given the current body of scholarship documenting barriers to OA in law, the overall objective of this research was twofold: (1) to analyze the current state of OA policies in law journals where Canadian scholars actively publish to support the integration of OA principles in law scholarship at McGill University and (2) to develop a replicable framework for similar investigations in other disciplines. Under that framework, the guiding research questions for this project were as follows:

- **RQ1:** Where are Canadian law scholars publishing?
- **RQ2:** What are the open-access policies of the journals utilized?
- **RQ3:** What are the peer review policies of the utilized journals?
- **RQ4:** Who is keeping track of these policies?

Taking a quantitative approach, the methodological objective of this assessment was to develop a replicable framework for conducting environmental scans of the scholarly journal landscape, ensuring a sample representative of the breadth of publications in the law domain.

Data collection

Data collection was done using a three-phase approach: building a representative journal list, collecting journal policy data, and identifying recording databases.

Building a journal list

The first phase of data collection focused on assembling a list of journals to include in the environmental scan by pulling publication data from two citation indexes: Web of Science and OpenAlex. While Web of Science is a selective citation index, OpenAlex is non-selective and aims to create a comprehensive map of scholarly dissemination using sources like Cross-Ref, ORCID, and Zenodo (Culbert et al., 2024; OpenAlex, n.d.). Both indexes were included to ensure the journal list was representative of the diversity of law journals, which are often underrepresented in selective citation indexes.

Article-level records were pulled from both Web of Science and OpenAlex on January 10, 2025. The results were limited to articles and reviews listing an affiliation from one of six Canadian law schools (Dalhousie University, McGill University, Queen's University,

Université de Montréal, University of British Columbia, University of Toronto), assigned to the law domain, and published between 2014 and 2025. Selected schools were chosen for their high volume of publications, with consideration given to geographic and linguistic representation. The resulting records were downloaded in CSV format, reduced to the journal title, ISSN, and publisher fields, and cleaned in Excel. Data from both citation indexes were then merged, and duplicates removed, resulting in 430 unique journal records.

That list of journals was then further refined to ensure a fit within the law domain. This was accomplished by using the search feature within Excel to compare the journal title list against a list of law-related terms (see Table 1). Titles that matched were marked for inclusion. The Aim and Scope of the journals that did not match on title were then hand-searched for the same list of terms to ensure a fit within the legal scholarship domain, resulting in a final inclusion count of 384 titles.

- Arbitration
- Bar
- Bureau
- Civil
- Crimin*
- Governance
- Human rights
- International development
- Judicial
- Justice
- Law*
- Legal
- Litigation
- Policy
- Politic*
- Rights
- Trust

Table 1. Terms Used to Identify Law Domain Journals

Collecting journal policy data

Data collection was then undertaken to identify the OA and editorial policies of the identified journals. This included the identification of article processing charges (APCs), publishing models, licensing policies for the published version, self-archiving

policies (i.e., CC licenses, embargoes), publisher types, and peer review types. This collection employed two approaches. When available, publisher-aggregated lists containing some (or all) of the desired information were collected and merged into the journal list using XLOOKUP to identify matches based on ISSN; however, these lists were only available for the larger corporate publishers. (See Appendix A for a bibliography of aggregated lists.) When aggregated lists were not available or did not contain all desired information, the publisher websites were searched manually. The location and organization of this information varied widely. Although page titles and headings differed between publishers, the pages and documents that were most useful included the following headings: about, author guidelines, editorial policy, author agreement, OA policy, peer review, and self-archiving policy. The browser's "find in page" function (CTRL +F) was used to diminish the time required to search within these pages. Useful terms included "license," "anon," or "peer," "open," "APC," and "self-archive" or "green". Once found, information was recorded in the journal list spreadsheet.

Collecting tracking organization data

Tracking data was collected for several key OA databases and initiatives. As with the journal-level data, this was done using XLOOKUP whenever data was available in an aggregated and downloadable format. This was done with the DOAJ included journal list and the Plan S Transformative Journals List, which were matched using ISSN, returning a value of "yes" when a match was found. McGill University's SciFree Journal Search Tool and the Jisc Open Policy Finder were searched manually using the journal title.

Data analysis

Once collected, summary statistics were compiled for the data in Excel to create a comprehensive picture of the publishing environments encountered by Canadian law scholars.

RESULTS

Overall, these findings indicate that Canadian legal researchers are operating within a complex and changing publishing landscape—characterized by balancing accessibility, prestige, and institutional goals. Recognizing these factors is crucial for guiding future policies and funding efforts to promote more open, fair, and sustainable legal scholarship models.

Table 2 highlights key trends in how Canadian legal scholars choose to disseminate their work. The data reveal a clear preference for hybrid and diamond OA models, reflecting a broader shift toward more accessible forms of scholarly communication. This preference is

Sample characteristics	Journals	
	<i>n</i>	%
OA model		
Closed	48	13
Closed (rolling OA)	3	1
Diamond	129	34
Gold	16	4
Hybrid	184	48
S2O	4	1
Publisher type		
Corporate publisher or UP	245	64
Law specific	23	6
Generalist	222	58
Library or law faculty	129	34
Scholarly or professional society	10	3
Geographic scope		
Canada	88	23
International	256	67
USA	40	10

Note. OA = open access; S2O = subscribe to open; UP = university press; Closed = journal offers not OA route; Closed (rolling OA) = articles become open after an embargo period; Diamond = immediate OA with no APC; Gold = fully OA journal, authors pay APC; Hybrid = Subscription journal with optional OA for individual articles (via APCs); S2O = journals are OA dependent on continued institutional subscriptions.

Table 2. Sample Summary Statistics (*N* = 384)

closely tied to researchers' preference for journals that are international in scope,¹ which are often published by corporate publishers and university presses that predominantly support hybrid OA models.

The dominance of these large publishing entities illustrates the continued influence of traditional publishing infrastructures in the international context, despite the prevalence of diamond OA among Canadian and U.S. law journals. This suggests regional differences in legal publishing culture and may point to stronger institutional support for scholar-led or non-commercial publishing models in North America.

¹ For the purposes of this study, "international" refers to journals that are either published outside of Canada and the United States or that have an explicitly international or comparative focus (e.g., covering foreign or international law). For example, while *The Journal of Law & Empirical Analysis* is published by the U.S.-based publisher Sage, its scope does not privilege U.S. law, and its editorial board is international in composition.

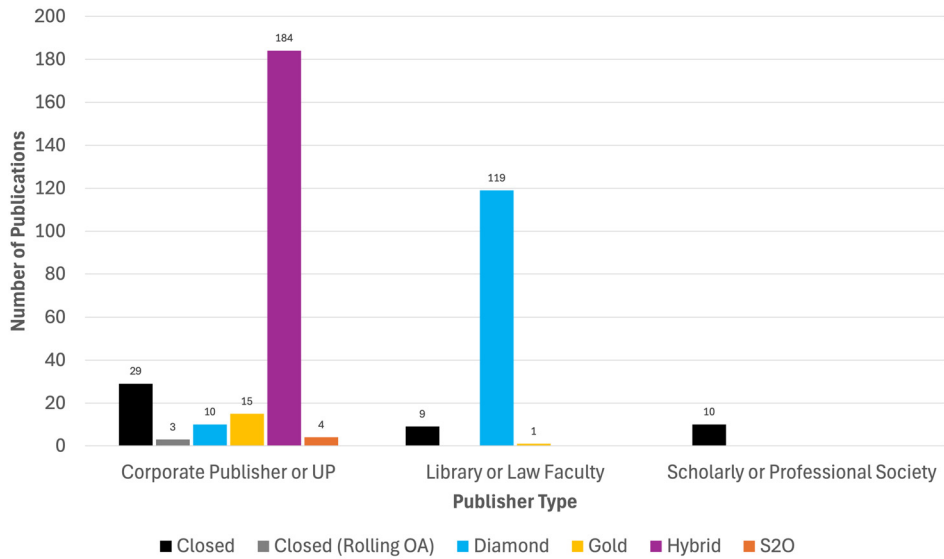


Figure 1. OA Model Distribution by Publisher Type (N = 384)

Note: See Table 2 note for definitions.

Figure 1 shows the distribution of publisher types across the 384 journals, highlighting the most common OA publishing model for each. Most journals (64%) are published by corporate publishers or university presses, which overwhelmingly favor hybrid models. Journals affiliated with libraries or law faculties (33%) are more likely to adopt the diamond OA model. A small proportion (3%) is published by scholarly or professional societies, all of which operate under a closed-access model, indicating a complete absence of OA engagement within this group.

These findings highlight how publisher type influences OA practices. Commercial and institutional publishers tend to support partially open models that retain some traditional access barriers, while academic institutions are leading the way in fully open legal scholarship. The persistence of closed-access models among professional societies underscores the uneven adoption of OA across the legal publishing ecosystem and points to potential areas for advocacy and reform.

Table 3 highlights a striking difference in OA practices between general academic publishers and those specializing in law. While most corporate publishers have increasingly adopted hybrid OA models, showing a willingness to entertain more open dissemination methods, 91% of the 33 law-focused publishers included in this study maintain closed-access publishing. This indicates that corporate legal publishing is resistant to adopting OA compared to other disciplines. These findings raise important questions about the future of legal publishing

Open access type	Publisher subject area	
	General	Law-specific
Closed	9	30
Closed (rolling OA)	2	1
Diamond	10	1
Gold	15	—
Hybrid	183	1
S2O	4	—

Note. See Table 2 for definitions of OA types.

Table 3. Corporate and University Press Published Journals by OA Type and Publisher Specialization ($N = 256$)

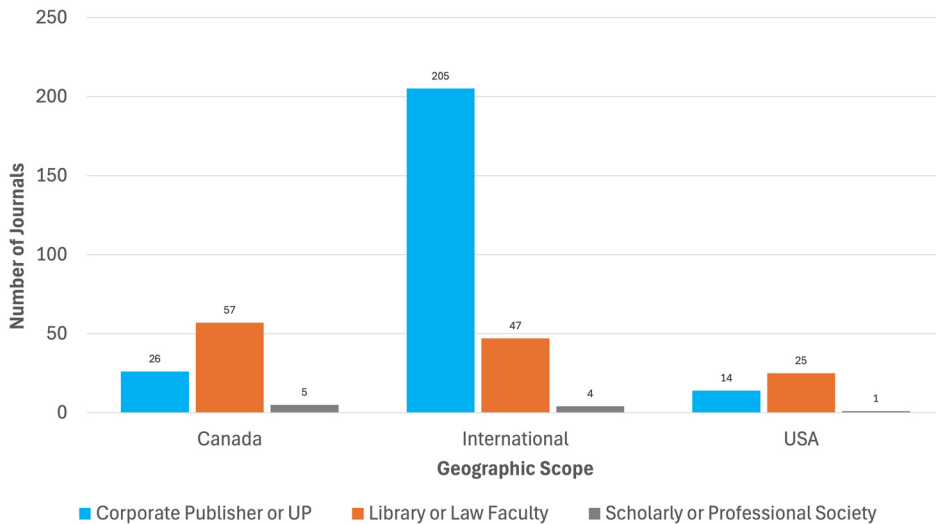


Figure 2. Geographic Distribution of Journals by Publisher Type

and the structural or cultural shifts that may be necessary for corporate legal publishers to meaningfully engage with OA.

Figure 2 illustrates the distribution of journals across Canada, the United States, and international regions by publisher type, highlighting notable regional differences in publishing practices. Most journals (67%) have a global scope, with Canadian and U.S.-based journals making up 23% and 10%, respectively. Canadian and U.S. journals are more often published by libraries or law faculties, while international journals are mainly published by corporate publishers or university presses. This distribution reveals structural differences in how legal scholarship is disseminated across regions. In Canada and the U.S., academic institutions are

more involved in publishing, often supporting diamond OA models. Conversely, the international legal publishing is largely dominated by commercial publishers, who favor hybrid access models. These findings align with trends in Figure 1, emphasizing that geographic scope is closely linked to publisher type and OA approaches. The prominent presence of corporate publishers in international journals, compared with the more open, institution-led publishing in North America, suggests that legal scholarship is influenced not only by disciplinary norms but also by regional infrastructure and values.

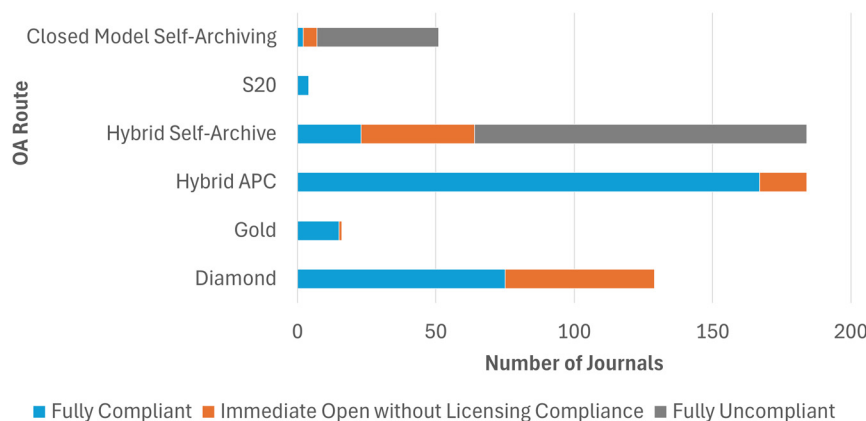


Figure 3. Count of Posted Journal Policies Demonstrating Plan S Compliance (by Route) (N = 384)
 Note. Full Compliance is defined as immediate OA under an open license with the author(s) retaining copyright. Closed or Hybrid Self-archiving refers to publishing in closed or hybrid journals while meeting OA requirements by depositing a version of the article in an open repository (Open Access Network, 2025).

Figure 3 presents a more nuanced view of OA success by evaluating journal compliance with Plan S principles (cOAlition S, n.d.). While earlier figures highlighted the strong presence of diamond OA journals in Canada and the U.S., this assessment reveals that many fall short of established OA standards. Only about half meet full Plan S compliance, primarily due to gaps in licensing practices, despite offering immediate access.

This finding complicates the narrative of OA leadership in North American legal publishing. It suggests that while institutional and scholar-led publishing models are advancing openness, they lack the policies to align with international OA benchmarks. Gold OA and subscribe to open (S2O) models show the highest levels of compliance, likely due to their alignment with commercial standards and licensing frameworks.

Hybrid journals present a mixed picture: many achieve compliance through APCs, 9% still fail to meet licensing requirements, and only 13% are fully compliant via self-archiving (green OA), with most falling out of compliance due to embargo periods.

OA model	Journals found in index			
	Jisc		DOAJ	
	n	%	n	%
Closed	6	13	—	—
Closed (rolling OA)	1	33	—	—
Diamond	32	25	41	32
Gold	14	88	9	56
Hybrid	176	96	—	—
S2O	4	100	—	—

Note. DOAJ = Directory of Open Access Journals; See Table 2 for definitions of OA types; % is out of OA model totals in Table 2.

Table 4. Journals Indexed in OA Tools by Publishing Model ($N = 384$)

Table 4 examines the extent to which journals across different publishing models are indexed in the Jisc Open Policy Finder and the DOAJ. These platforms are essential resources for researchers seeking compliant venues for publication and for meeting funder mandates, such as those set by Plan S.

The results reveal a gap in visibility for diamond OA journals, with only 25% indexed in Jisc and 32% in DOAJ. This low representation limits their discoverability and may undermine their perceived legitimacy. In contrast, hybrid and gold OA journals, often backed by commercial publishers, are far more likely to be indexed.

OA model	Min	Max	Mean
Gold ($n = 16$)	629	4,322	2,734
Hybrid ($n = 182$)	1,800	12,690	3,577

Note. All APCs are expressed in USD; See Table 2 for definitions of OA types.

Table 5. APC Distribution for Gold Versus Hybrid Journals

Table 5 compares APCs between gold and hybrid OA journals, revealing a significant cost disparity between the two models. While hybrid journals are often compliant with OA standards, this compliance comes at a steep price. The data show that, on average, publishing in a hybrid journal costs significantly more than in a gold OA journal, with hybrid journals also exhibiting much higher maximum fees.

Figure 4 displays the distribution of embargo lengths for Hybrid journals ($n = 180$). The average embargo duration is about 11.63 months, with a median of 12 months. As more funding

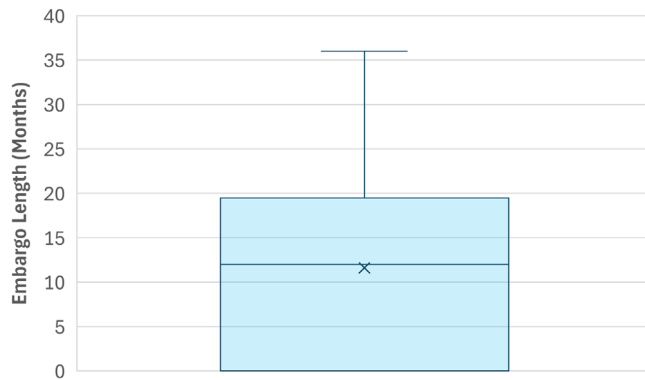


Figure 4. Embargo Length for Hybrid Journals in Months ($n = 180$)
 Note: See Table 2 for definitions of OA types.

Peer review policy	Journal count
Peer reviewed	334
Not peer reviewed	1
Policy unclear or unlisted	49

Table 6. Peer Review Policy ($N = 384$)

agencies adopt policies that require immediate OA for funded research outputs, many journals with embargo periods that were previously compliant will soon need to revise their policies as these embargoes are no longer permitted.

Similar to other publishing policies analyzed in this study, peer review lacks clarity. While only one journal explicitly indicated it does not perform peer review, many provide no details. Despite this ambiguity, data reveal that 86.72% of journals ($n = 333$) explicitly state that they are peer-reviewed. Of the 129 faculty published, student-edited publications, 63% are double-blind peer-reviewed, and 81% undergo some level of peer review. This is especially noteworthy considering the common belief in the literature that legal journals often do not undergo peer review (Beatty, 2023; Keele, 2012). The large share of journals claiming peer review points to a positive trend toward more structured editorial practices in legal publishing. Nonetheless, the absence of clear policy details in many cases continues to obscure the actual scope and nature of peer review in the field.

DISCUSSION

A clear dichotomy exists in legal scholarship between predominantly OA student publications and closed, corporately run journals; yet, across this spectrum, there is a consistent disregard

for policy transparency. While most generalist/interdisciplinary academic publishers offer some pathway to OA, this scan reveals that corporate law publishers provide no such route. They publish no policies online, offer no sample author agreements, and maintain a closed model. Meanwhile, this study confirms what other researchers have noted (e.g., [Beatty, 2023](#); [Frye et al., 2017](#); [Keele & Pearse, 2012](#)), that although student-edited journals are often accessible online, in practice, many do not meet OA standards, such as those outlined by Plan S.

In the U.S., the conversation around OA is largely philosophical. Legal scholars often frame access to expert legal interpretation as a core component of Access to Justice.² OA is generally accepted in its most basic form, which is being online and free of paywalls. This is reflected in the still-frequently cited “Durham Statement” (2009), which focuses primarily on ending the publication of print journals. However, this agenda has little actual impact on OA. If there is demand for print, eliminating it offers no benefit as long as the journal is also openly available online. While there may be financial or logistical reasons to end print publication, it makes little sense for this to be the central, or sole, focus of an OA statement when it does not affect the implementation of OA scholarship. This limited framing is particularly evident in the case of student-edited law journals, which are almost universally diamond OA, but only about half of them meet basic policy compliance standards, such as reuse rights and copyright retention. This gap underscores the need to move beyond symbolic commitments and toward meaningful implementation of OA principles.

Canada, due to its proximity and academic ties, tends to follow the model set by American legal scholarship. This study finds little difference in policy transparency between the two countries, despite Canada’s different legal research funding structures. Figure 2 shows that in North America, faculty-run publications are more common, whereas internationally, corporate publishers dominate. This highlights the distinct legal publishing landscape in the U.S. and Canada, where legal scholarship diverges from the more typical research publication models.

There is a common assumption in the literature that legal scholarship is a success story for OA ([Brown, 2019](#)). This may appear true if one looks only at student publications. However, law as a discipline has an unusually high number of student-edited journals compared to other fields. It is like comparing apples to oranges, or more aptly, having both apples and oranges, but only comparing the oranges while ignoring the apples. Results of this environmental scan

² “The primary goal of the “Access to Justice” movement is to improve the quality of participation in the justice system by all. It also envisions an even “playing field” for the disadvantaged by removing barriers to access, such as income, literacy, mobility, and language, for those individuals with civil legal needs.” ([American Association of Law Libraries, 2014](#), p. 3).

show a very different landscape from previous studies which only focused on student-edited journals (e.g., [Beatty, 2023](#); [Brown, 2019](#); [Frye et al., 2017](#)); by shifting the focus to represent where researchers are publishing, and including both corporate and faculty publications, we see a much higher prevalence for hybrid journals (see [Figure 1](#)), which contradicts assessments from the literature suggesting that most law journals are fully OA.

A comprehensive review of legal publications, regardless of publishing model, reveals a polarized landscape: on one side, open legal scholarship that fails to meet grant requirements; on the other, market-dominant legal publishers who offer no OA pathway (see [Table 3](#)). The most coherent journal policies are found among major interdisciplinary publishers that have implemented consistent policies across their portfolios. In contrast, law-specific publishers such as Thomson Reuters, LexisNexis, and Kluwer offer no OA options ([Rogers-Butterworth & Moreau, 2025](#)). Better compliance among OALP journals suggests a need for centralized leadership. Law journals are not necessarily opposed to OA policies; they are often simply unaware of how their practices impact compliance ([Beatty, 2019](#); [Wang, 2023](#)).

[Keele & Pearse \(2012\)](#) argue that libraries can help journals adopt transparent and effective publication and copyright agreements. While some of their examples are now outdated due to the evolution of OA standards, the core sentiment remains highly relevant. [Table 4](#) demonstrates another key area for librarian support, specifically in indexing in OA policy aggregators, where law journals are significantly underrepresented. Understanding and applying today's rigorous OA publishing standards is a complex task, and most law libraries lack dedicated scholarly communications librarians. More comprehensive guides and suggested language are needed to support law librarians in advising faculty-run journals. [Keele & Pearse's \(2012\)](#) assertion that law librarians are well-positioned to help journals meet these standards is accurate, except for the reality that university libraries are chronically understaffed and underfunded. Impending grant requirements are expected to increase demand for these services, but additional staffing is unlikely. Today's environment requires renewed, centralized guidance for law journals with current OA standards in mind.

The second goal of this research, to create a replicable framework for comparable studies in other fields, was found to be less crucial. Although the data extraction method is valuable, the legal publishing ecosystem differs so much from other disciplines that the main barriers to OA compliance addressed here do not apply. Focusing on outreach, library support, and guides for OA legal scholarship based on these findings will be more effective. The data collected offers a solid starting point to identify policy issues; moreover, adhering to the policies of [Coalition S](#) and following their [Implementation Guidelines \(cOAlition S, n.d.\)](#) is the best way to meet rigorous OA standards. Additionally, the [Open Access Scholarly Publishing Association](#)

provides an OA toolkit to assist journal editors in ensuring proper journal sections and language ([Open Access Journals Toolkit, n.d.](#)).

While Canada and the U.S. share a similar legal publishing landscape, their different funding structures present unique challenges for improving OA compliance. In Canada, there are meaningful opportunities to enhance OA among student-edited publications; however, the ability to influence U.S. journals remains limited. To bridge this gap, collaboration with American law librarians and institutions becomes essential. However, the relatively low number of Canadian scholars submitting to U.S. law journals may hinder any significant motivation for policy change within those publications.

Future research

To gain a more nuanced understanding of the challenges and opportunities ahead, further research could involve surveying legal research funding sources across jurisdictions. If legal scholarship in other countries is similarly supported by public funding and increasingly subjected to strict OA mandates, this could create pressure on U.S. law journals, particularly those with an international focus, to adapt their practices and policies in alignment with OA principles.

LIMITATIONS

Geographic scope

This scan was limited to journals featuring scholarship authored by Canadian researchers. While this focus provides reliable insights within the Canadian context, trends may differ significantly in other countries, which limits how broadly the findings can be applied.

Data sources

The publication data were retrieved using OpenAlex and Web of Science. Although these aggregators streamlined the data collection process, they may not have captured all relevant publications. A brief comparison with several law faculty annual reports revealed only minor discrepancies, suggesting that the efficiency gained outweighed the potential for missed entries.

Journal policy availability

Another limitation was the inability to locate the editorial policies of some journals. In several cases, attempts to contact the journals for this information were unsuccessful. Additionally,

many policies had to be manually located on journal websites, introducing the possibility of human error during the data collection process.

CONCLUSION

While many of the prescriptions outlined in [Hunter's 2005](#) “manifesto in favor of open access to legal scholarship” (p. 612) have been acknowledged, the evolution of OA demands a re-evaluation of these benchmarks. The existing diamond OA journals, which combine OA with a mix of outdated policies, no longer accurately reflect genuine compliance. This highlights the importance of continuous discussion and innovation to improve access to legal scholarship.

To address these challenges and enhance transparency in publishing, we must advocate for a cohesive strategy that integrates OA principles into legal scholarship. By fostering collaboration between law librarians and researchers, we can work toward more standardized and transparent publishing practices. This will not only support compliance with funding mandates but also improve overall accessibility to legal knowledge, ultimately promoting equity within the justice system.

There are many resources available to support journals in best practices for OA publishing, given the widespread inconsistency among law faculty publications; a targeted effort based on this scan's results is necessary to help law journals update their policies. This initial data collection marks the first step; the next will involve developing documentation, policy examples, and using the data to create targeted outreach and support to Canadian law faculty journals, and create a model that can be followed on a global scale. Through these efforts, we can better equip legal professionals and the broader public with the resources necessary to navigate the complexities of the legal landscape.

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APPENDIX A

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APPENDIX B

Dataset Used in This Study

The dataset analyzed in this study is publicly available from the **Borealis**, the Canadian **Data-verse** Repository. Access the dataset at: <https://doi.org/10.5683/SP3/JAGXQX>

Rogers-Butterworth, A., & Moreau, M. (2025). *Law Journal Open Access Policies* (Version V1) [dataset]. Borealis. <https://doi.org/10.5683/SP3/JAGXQX>