

Open Access and Authors' Rights Management: A Possibility for Theology?¹

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ABSTRACT: Several academic disciplines have begun to understand the benefits of open access to scholarship, both for scholars and for the general public. Scientific disciplines have led the way, partially due to the nature of scholarship in those areas and partially because they have felt the crisis in serials pricing more acutely than others. Theological studies, however, have largely been insulated from the push for open access; considering the reasons for that is the first task of this article. It is also the case, however, that the missionary impulse that stands behind much theological scholarship is a strong incentive to embrace the opportunities afforded by digital, online dissemination of research and writing. After discussing this imperative for global distribution, the bulk of the article focuses on how theological institutions, and especially their libraries, can encourage and support scholars in making their work freely accessible. Copyright issues, including the elements of a successful copyright management program, are discussed, as are some of the technological elements necessary for an efficient and discoverable open access repository. Options for licensing, both at ingestion of content and at dissemination to users, are also considered. Finally, it is argued that the role of consortia and professional organizations in supporting these initiatives is especially important because of the relatively small size of so many theological institutions.

Since at least 1996, when an International Strategy Meeting on Human Genome Sequencing adopted the Bermuda principles, asserting that “all human genomic sequence information, generated by centres funded for large-scale human sequencing, should be freely available and in the public domain,”² a number of academic disciplines have discovered the benefits of open access to scholarly writing, both for individual authors and for scholarship itself. Early in the twenty-first century, a flurry of major statements on open access were adopted by various organizations, including the Budapest Initiative³ by the Open Society Institute, the Bethesda Statement⁴ from the Howard Hughes Medical Institute, and the Berlin Declaration⁵ adopted by the Max Planck Institute and others. Each of these statements calls for more openness for scholarship, particularly where there is a high potential for social benefit if the research is made available quickly and freely, or where the research is actually funded by public money.

It is notable, and perhaps not surprising, that all of these declarations about open access are addressed to researchers in the hard sciences. There can be little doubt that the humanities disciplines have lagged far behind in the movement toward open access to scholarship. The purpose of this essay, therefore, is first to consider the benefits of open access with special attention to those benefits that are not exclusive to scientists and scientific research. Next, we will look at some characteristics of theological studies⁶ as a discipline that may contribute to a reluctance to embrace open access, as well as characteristics that make open access especially compelling for theological studies.

¹ The author would like to acknowledge that all of the sources used for and cited in this article are available in open access form.

² See the timeline of “Declarations in support of OA” at http://oad.simmons.edu/oadwiki/Declarations_in_support_of_OA.

³ <http://www.soros.org/openaccess/>.

⁴ <http://www.earlham.edu/~peters/fos/bethesda.htm>.

⁵ <http://oa.mpg.de/openaccess-berlin/berlindeclaration.html>.

⁶ The term “theological studies” is used here to indicate, for reasons that I hope will become obvious, scholarship regarding religion and religious traditions that are carried on from a perspective within a particular tradition. By this definition is conveyed the notion that most theological studies are carried out by scholars whose major purpose is the training of religious leaders. No claim is made that this definition is appropriate outside of the context of the argument made herein.

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Finally, this essay will consider some of the practical steps necessary to make open access to theological scholarship a reality.

OPEN ACCESS ACROSS THE DISCIPLINES

Throughout this essay, we will take open access to mean, primarily, free online availability of peer-reviewed journal articles, whether accomplished through a publisher's "author pays" open access option or by author self-archiving at some point in the process of submission and publication. The following discussion of the benefits of open access is therefore focused on such peer-reviewed journal articles; other varieties of open access, such as pre-print archiving and online versions of theses, dissertations and monographs, must remain outside the scope of the present argument.⁷

The benefit of open access to individual scholars can be broadly summarized as increased impact for their work on their chosen field. Most obviously, open access to scholarship increases the number of people who can see a work, and it makes the work available to that larger number of readers much more quickly than traditional publication can do. Even the online publication option provided by many larger journal publishers cannot get articles online as quickly as an individual author can if she "self archives" her final manuscript of a peer reviewed article immediately after submission.

It is hardly surprising that an increase in the number of "eyeballs" that can view an article increases the citation rate and, therefore, the impact factor for open access articles. This citation advantage has been well documented; the foundational study is probably that by Gunther Eysenbach⁸, which was published in 2006 in *PLoS Biology*, perhaps the most prestigious open access journal in that discipline. Subsequent articles have confirmed an increased rate of citation for open access journal articles, although they have debated the cause. Some maintain that the absence of toll barriers (subscription costs) is the primary cause, while others support ease of access.⁹ There is also a school of thought that asserts that authors of high-quality articles are more likely to decide to make their articles available in open access, and that that higher quality, rather than openness, is the cause of the citation advantage.¹⁰ Regardless of the reason, however, it is clear that open access does offer benefits to authors in terms of a higher citation rate and greater impact. In fact, *PLoS Biology*, an open access journal from the Public Library of Science, has become a top-tier journal in its field with an impact factor of 13.5.¹¹

⁷ An early discussion of the different "flavors" of open access is found in John Willinsky, "The Nine Flavors of Open Access Publishing," *Postgraduate Journal of Medicine* 49/3 (2003): 263-267. Also available online at <http://pkp.sfu.ca/node/439>.

⁸ Gunther Eysenbach, (2006), "Citation Advantage of Open Access Articles," *PLoS Biology* 4(5) e157 ([doi:10.1371/journal.pbio.0040157](https://doi.org/10.1371/journal.pbio.0040157)). See also C.J. McCallum and H. Parthasarathy (2006), "Open Access Increases Citation Rate," *PLoS Biology* 4(5) e176 ([doi:10.1371/journal.pbio.0040176](https://doi.org/10.1371/journal.pbio.0040176)).

⁹ For an (inconclusive) examination of different possible reasons for the citation advantage, see M. Norris, C. Oppenheimer and F. Rowland (2008), "The Citation Advantage of Open Access Articles," *Journal of the American Society for Information Science and Technology* 59(12): 1963-1972. Also available online at [doi:10.1002/asi.20899](https://doi.org/10.1002/asi.20899).

¹⁰ H. Moed (2006), "The Effect of Open Access upon Citation Impact," [arXiv:cs/061106v1](https://arxiv.org/abs/cs/061106v1)[cs.DL]

¹¹ See the PLoS journal information at <http://journals.plos.org/plosbiology/information.php>.

One argument that might be made against the influence of open access journals is the relative lack of indexing that they receive. Librarians have become accustomed to evaluating journals based, in part, on the availability of reliable indexing. However, one of the changes our profession must face is that indexing is increasingly unimportant for most scholarly research. The days when scholars searched subject indexes for relevant articles have been replaced by an increased dependence on search tools such as Google Scholar. The high impact factor of some open access journals indicates that it is now at least as important for a scholarly work to be easy to find through an Internet search as it is for it to be indexed in subject databases.

It is more difficult to quantify the impact of open access on scholarship as a whole rather than on individual scholars, but that impact is still quite clear. At an Open Access Day event held at Duke University in 2008, for example, student and cancer survivor Josh Sommer told a compelling story about the ability of the foundation he established for research into his disease to make contact with other researchers, whose work was identified using the open access PubMed Central digital archive and who often did not realize the relevance of their research on other forms of cancer to the process of finding treatments for chordoma.¹² More generally, the ability to link between various research works, from a research article to the data that supports it, and even from a work of textual criticism into the text being analyzed is an advantage that is simply unavailable for traditionally published articles. Even articles in an online proprietary database, such as those provided by publishers, are seldom available for the “crawling” that is necessary to create hyperlinks. Yet, as Professor James Boyle said at that same Duke Open Access event, when it comes to furthering the progress of science, “It’s the links, stupid!” In a recent interview, Open Science Director John Wilbanks makes the same point; as the interviewer notes, “He [Wilbanks] wants to see these tools embedded into research papers—so if a reader of an Open Access paper wants more detailed information on, say, a cell line, they should be able to click on a link and pull up information from a remote database.”¹³

Again, the fact that these admonitions focus on the sciences should not startle us. The time value of scientific research makes it an obvious “early adopter” for open access. The development of the ArXiv e-print server in physics, math, and computer science is perhaps the earliest large-scale open access project within a major academic discipline, at well over fifteen years old.¹⁴ In biomedical research, the need to expedite the worldwide delivery of critical information has led those who fund the research to direct that articles written with their support be made publicly accessible. The mandate for such access imposed on the National Institute of Health in 2008 is the first such mandate in the United States,¹⁵ but it follows a large number of examples from elsewhere in the world.¹⁶

¹² See the website of the Chordoma Foundation at <http://www.chordomafoundation.org/> for more information, including the Foundation’s support for open access and a video of Josh Sommer’s talk at Duke.

¹³ Richard Poynder, “The Open Access Interviews: John Wilbanks,” Open and Shut? posted February 22, 2009, <http://poynder.blogspot.com/2008/02/open-access-interviews-john-wilbanks.html>.

¹⁴ <http://arxiv.org/>. See the history of ArXiv at <http://en.wikipedia.org/wiki/ArXiv> and also at <http://physicsworld.com/cws/article/print/35983>.

¹⁵ <http://publicaccess.nih.gov/>. It is worth noting that the appropriations bill signed into law by President Obama on March 11, 2009, contained language that makes this public access mandate permanent.

¹⁶ The database called “Juliet,” prepared by the organization SHERPA (Securing a Hybrid Environment for Research Preservation and Access), offers a comprehensive list of funder open access mandates at <http://www.sherpa.ac.uk/juliet/index.php>.

Two observations are needed to qualify the statement that scientific fields lead the way in open access. First, it is not just the hard sciences that have perceived the benefits of open access. Second, the relative appeal of open access has a great deal to do with the nature and conditions of scholarship in a particular field. Evidence for both of these observations can be found in the example of legal scholarship, which also has a long history of open access. Faculty scholarship and law journals produced at Duke University Law School, for example, have been available freely on the Web for 10 years.¹⁷ Led by the example of Duke and Harvard Law School, more than a dozen of the top law schools in the United States recently signed “The Durham Statement on Open Access to Legal Scholarship,” which calls for both the elimination of paper law journals and free access to online scholarship.¹⁸

Why have law schools made this move before other professional schools or social science disciplines? It is surely the result of the unusual conditions that prevail for publishing legal academic writing. Law journals, the major venue for legal scholarship, are student run, with all of the editorial work done by the top students in each school. One result of this unique structure is that profit is far less a motivating factor in legal publishing than in any other field. Also, peer review is accomplished through a more informal process; scholars circulate their works to a network of colleagues before submitting them to law reviews to be sure their work meets the appropriate scholarly standards. This aspect of legal scholarship could also account for the rapid adoption of blogging as an outlet for more informal scholarship;¹⁹ since law professors are already accustomed to a less formal type of peer review, the rough-and-tumble world of blogs does not seem as foreign.

WHAT MAKES THEOLOGICAL STUDIES DIFFERENT?

If conditions within a certain discipline can so dramatically impact the adoption or rejection of open access to scholarship, as seems to be the case from our examination of law and the hard sciences, an obvious question presents itself. What can the prevailing conditions for scholarship in theological studies tell us about the obstacles and opportunities for open access to the output of that discipline?

One thing that might make theological studies different is that it has not felt the impact of the pricing crisis in journal literature as acutely as have many scientific fields. According to a recent study, the average price per title in 2006 for journal literature in chemistry was \$3254.²⁰ In physics the cost was \$2850, while in biology it was “only” \$1548.²¹ In philosophy and religion, which is the category used that is closest to theological studies, the average price per title, by contrast, was \$141.²² The general trend that has seen journal prices grow by 7–9 percent

¹⁷ “Duke law journals lead with open access to scholarship,” Duke Law News and Events, <http://www.law.duke.edu/features/2005/access.html>.

¹⁸ Berkman Center for Internet and Society at Harvard University, “Durham Statement on Open Access to Legal Scholarship,” <http://cyber.law.harvard.edu/publications/durhamstatement>.

¹⁹ See, for example Paul Caron, “Are Scholars Better Bloggers? – How Blogs are Transforming Legal Scholarship” Social Science Research Network, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=947637.

²⁰ Lee Van Orsdel and Kathleen Born, “Journals in a Time of Google.” *Library Journal*, 4/15/06. Available at <http://www.libraryjournal.com/article/CA6321722.html>.

²¹ Ibid.

²² Ibid.

each year,²³ a growth rate much higher than either inflation or the growth of academic library budgets, has led to cancellations in theology, of course. However, the impact has been far less intense, so scholars and librarians have felt a lesser need to respond by turning to open access. Nevertheless, theological libraries have felt some significant “sticker shocks,” usually when a journal that had been published by a scholarly society has been sold to a large commercial publisher. Those dramatic and sudden increases suggest that the pricing crisis must soon make itself felt across all disciplines.

Another difference in the field of theological studies that may slow the adoption of open access is the generally different set of expectations placed on faculty in this area. For one thing, journal publication is not as heavily emphasized. Many theological institutions place a greater weight on teaching and service as criteria for promotion and tenure than is the norm in other fields, although those values are universally acknowledged in the academy. Also, monographic publications are still more highly prized in the humanities in general than they are in the sciences, where the time delay in publishing a book seems unacceptably long to many researchers.

Finally, there are a couple of differences in attitude discernible amongst theological faculty that also may be obstacles to open access publication. First is the concern that an important idea, once distributed widely, may cease to be the “property” of the original author. This fear of misappropriation, or outright plagiarism, may actually be alleviated by open access rather than exacerbated by it, since open access associates an author’s name with her work in a far more public way than traditional publication can.²⁴ The other problem of perception that may plague open access to theological scholarship is the idea that scholarship is directed at only a small number of expert researchers within a given specialty, and that all the people “who matter” are going to see the works that will interest them. There are two reasons this assumption must be disputed. First, the crisis in journal pricing discussed above makes it increasingly less likely that even the small number of experts in a highly specialized subfield will have access to all of the journals in which relevant scholarship might be published. To cite just one more statistic in this regard, in the United States the percentage price increase for journals listed in the Arts and Humanities Citation Index between 2002 and 2006 was over 30 percent.²⁵ The need to cancel library journal subscriptions makes it unlikely that, even in relatively inexpensive fields like theological studies, access for all interested parties can be assured.

This inability to insure access for all brings us to the other reason we can no longer rely on traditional methods of distributing scholarship, and it is a reason unique, perhaps, to theological studies: the study of theology, carried on as it is from within a religious tradition and with the aim of supporting and fostering that tradition, includes a missionary impulse that no other academic discipline feels in quite the same way. To be sure, scientists and lawyers want their work to be seen by as many people as possible, which is why they adopt open access. But theological scholars write for a public that is broader than a particular academic discipline; they write for a “church universal.” Pastors are trained and sermons are preached throughout the world, so the works of biblical scholars and theologians have an audience well beyond the subscription list of any journal. Whereas a researcher studying

²³ Ibid.

²⁴ It is worth noting that the Creative Commons license, created to support more open distribution of creative and scholarship on the web, provides a protection that copyright law alone does not; it can protect attribution. See <http://creativecommons.org/>.

²⁵ Van Orsdel and Born, “Journals in a Time of Google.”

a particular genetic abnormality may really know the names of everyone else capable of understanding her work, a theological scholar cannot possibly know about all of the people whose teaching, preaching, and faith journey could be impacted by her article, except in the most abstract sense. Yet all of those people are the true and legitimate audience for theological scholarship.

Theological scholars and librarians have long acknowledged this call to spread scholarship around the world, especially to serve the needs of churches and seminaries in the developing world; numerous efforts to share scholarship have been established over the years. At the low-tech end of the spectrum are the many efforts to collect monographs and journal runs that can be shipped to seminaries overseas; the Theological Book Network, Inc. is one of the oldest and best-established of such programs, dedicated, as its mission statement says, “[t]o provid[ing] quality academic books and journals to the libraries of seminaries, colleges and universities in Africa, Asia, Eastern Europe, Latin America and the Middle East that provide theological training toward the development of leaders, teachers and clergy in the Christian Church.”²⁶ Indeed, TBN’s slogan, “Converting EXCESS in our world to ACCESS in the rest of the world,”²⁷ could stand as an epigraphic summary of the argument for open access to theological scholarship.

The opportunities presented by the online environment have not been ignored in this effort to equip the world for ministry. The American Theological Library Association, for example, has taken the initiative to convert its print “Research in Ministry” product into a free online database in which the practical research done by candidates for the Doctor of Ministry degree is made available to all.²⁸ The immensely useful Wabash Center for Teaching and Learning in Theology and Religion “Internet Guide to Religion” aggregates thousands of links to Web resources and includes searchable categories for online reference works, articles and essays, and books and journals.²⁹ The category of “online journal” alone lists 110 results, although not all of them are fully available as open access resources.³⁰ A list that is strictly limited to open access is the Directory of Open Access Journals, which links to 57 OA journals in religion (which is probably a somewhat broader category than theological studies) as well as five on the Bible.³¹

So it is clearly the case that the field of theological studies has not neglected the opportunities that the Internet offers for dissemination of scholarship. Nevertheless, it is still true that the majority of what is arguably the most important scholarship in this field, the scholarship, to be frank, upon which professors rely to build their reputations and gain tenure, is published exclusively in journals that are available, in print and online, only behind toll barriers. Although these barriers are lower than those found in many other disciplines,³² the broad audience for this scholarship in the developing world suggests that even a very low barrier may be insurmountable for many.

²⁶ <http://www.theologicalbooknetwork.org/>.

²⁷ Ibid.

²⁸ http://rim.atla.com/star/rimonline_login.htm.

²⁹ http://www.wabashcenter.wabash.edu/resources/guide_materials.aspx.

³⁰ This list can be found at http://www.wabashcenter.wabash.edu/resources/result_browse.aspx?topic=3926. The first resource in this list, the journal *Cross Currents*, is an example of a resource that is only partially available without fees or other barriers.

³¹ The DOAJ list in religion is at <http://www.doaj.org/doaj?func=subject&cpid=16>.

³² See footnotes 18-21, *supra*, and accompanying text.

HOW CAN LIBRARIES SUPPORT OPEN ACCESS TO THEOLOGICAL STUDIES?

From its inception the Open Access movement in every discipline has required the support of libraries and similar organizations; the ArXiv database discussed above, for example, began its life at the Los Alamos National Laboratories and now resides at the Cornell University Libraries.³³ So any call for open access to theological scholarship must begin with the libraries, the library associations, and the other professional organizations that support the discipline. It is to the respective roles of these groups that we now turn, beginning with that of theological libraries.

The first step in developing open access to scholarship requires copyright management on the part of individual scholars, and this is a point at which theological librarians have an especially important role, both because they work with individual authors on a daily basis and because librarians are perceived, whether correctly or not, as copyright experts. Helping authors manage their copyright, negotiate publication contracts, and license their work for OA distribution is a role that will very often, and for good reason, fall to the librarians at the institutions where the scholars work.

The initial task here is to make faculty members aware of their copyrights. Many faculty authors do not even realize that they own a copyright in their own work from the moment it is fixed in tangible form; they often recall an earlier time when federal copyright protection depended on publication with a copyright notice. That rule changed in 1978, when the new 1976 Copyright Act took effect and established that protection was automatic and vested immediately in the author of any protectable work, whether published or not.³⁴ By 1988, the United States dropped even the requirement that published works carry a copyright notice; the presumption of copyright protection thus became virtually universal.³⁵ This has not been a particularly positive change for scholarship and other creative endeavors,³⁶ but it has had the effect of placing copyright, initially at least, in the hands of scholarly authors themselves, so that they have the opportunity to manage what is, after all, probably their most valuable asset.

Once faculty authors understand that they hold copyright and can therefore make decisions about how their works will be distributed and used, the next task is to help them negotiate publication contracts. It is not the suggestion of this article, nor is it in the best interests of scholarship, that authors should forego traditional publication and move directly to individually managed open access. Both open access journals, including this one, and traditional publication followed by self-archiving in an open access repository, preserve the peer-review structure that has become so important to academic promotion and tenure. It is vitally important that faculty authors understand

³³ See Paul Ginsburg's September 1996 update recounting some of the history of ArXiv at <http://people.ccmr.cornell.edu/~ginsparg/blurb/sep96news.html>.

³⁴ On automatic protection, see *Copyright Law of the United States, U.S. Code 17* (1976), § 102; on ownership, see *U.S. Code 17* (1976), § 201.

³⁵ *Bern Convention Implementation Act*, Public Law 100-568, codified at *U.S. Code 17* (1988), § 401.

³⁶ On the effects of the abolition of formalities and the reason why those formalities better served scholarship see James Boyle, *The Public Domain: Enclosing the Commons of the Mind* (New Haven: Yale University Press, 2009), especially p. 184. The full text of this work is at <http://www.thepublicdomain.org/download/>.

that they need not abandon the benefits of this structure in order to share their work in open access form. Instead, they can either publish their work in an existing peer-reviewed open access journal or, more commonly, retain in their publication agreements the right to make their work available on the web and then do so, whether on a personal web page, an institutional repository, or a disciplinary archive.

It is becoming much more common for publishers, even though they usually require a copyright transfer from authors, to allow those authors to retain certain rights, including the right to archive their work in some form and at some point in the process of dissemination. The SHERPA RoMEO (Rights MEtadata for Open archiving) database is a fundamental tool for tracking the policies of various journal publishers in this regard, and it includes many theological journals.³⁷ By reading their publication contracts carefully, and perhaps using the RoMEO database to understand the publisher policies, librarians can help authors determine if, and under what conditions, they are entitled to make their work available in open access.³⁸ When a contract does not make this clear at the start, it is perfectly possible for authors to negotiate with publishers to amend those contracts to include self-archiving rights. The various authors' addenda that have been adopted by several different organizations³⁹ exist to serve either as added contractual terms or as heuristic devices to help authors begin an appropriate conversation about making needed changes to an existing contract. It is not unusual for a publisher to reject an attempt to add an addendum to a contract, pleading that it cannot manage a variety of contracts, but to accept similar provisions when they are treated as small amendments to the standard form of agreement. Here again librarians can be of significant aid, since they are familiar with intellectual property licensing from their work obtaining access to digital resources; the process of understanding and negotiating a publication contract is merely a variation on this activity, and faculty authors need to be able to look to the experience of librarians for assistance.

Once an author has published her article and is confident that she has retained the rights needed to make it available in open access form, there are three other issues about which librarians can provide information and direction—infrastructure for self-archiving, types of assistance available with the technical progress of archiving, and options for licensing the work so that it will be useful to downstream readers. About the first of these issues, most comment is best reserved for our discussion of the role of consortia and professional associations, for reasons that I hope will be clear at that point. But it is important to point out that librarians can support a fundamental library value by encouraging scholars to take steps to ensure that their work will be easy to find once it is available online and in open access form. User access is not guaranteed just because something is on the Web, as librarians know better than most; it must be easy to find the resource using the most common search strategies. The use of a digital object identifier (DOI),⁴⁰ is one way in which an author, or the librarian who is assisting her, can ensure that her work will have a stable locator. Other steps can be taken to facilitate “crawling” by Google Scholar.⁴¹

³⁷ Access the RoMEO database at <http://www.sherpa.ac.uk/romeo/>.

³⁸ For a model of a journal publication contract that permits an author to retain the rights necessary for self-archiving, see the sample from Duke University Press at <http://library.duke.edu/blogs/scholcomm/wp-content/uploads/2007/02/dukepubk.pdf>

³⁹ As examples, see the authors' addenda recommended by the Scholarly Resources & Academic Resources Coalition (SPARC) at <http://www.arl.org/sparc/author/addendum.shtml> and the one adopted by the Committee on Institutional Cooperation at <http://www.lib.umn.edu/scholcom/CICAAuthorsRights.pdf>.

⁴⁰ For an explanation of the DOI system from the publisher John Wiley, see <http://www3.interscience.wiley.com/doiinfo.html>.

⁴¹ A guide to this process is offered by Peter Suber, “How to facilitate Google crawling: Notes for open-access repository maintainers,” <http://www.earlham.edu/~peters/fos/googlecrawling.htm>

The second issue involves the types of service an individual library will provide to assist authors in self-archiving their work in an available repository. Many studies have found that “a strong service emphasis that takes a proactive approach in working with researchers to solve their information management problems” is a key aspect to the success of any repository.⁴² This includes helping authors identify potential content and manage intellectual property rights, but also providing technological support for the ingestion and “tagging” of content. It is important to note here that the creation of accurate, complete, and consistent metadata is an important role for librarians in developing an institutional repository, and it is one that is likely to persist, since even automated or author-entered metadata systems are likely to need professional, human oversight to ensure adequacy.

The final issue that librarians can help address with faculty authors is the nature of the uses that will be allowed “downstream” as scholarly content is made available to a broader audience in digital form. This too is familiar ground for librarians, who deal with licenses for content on a regular basis, and frequently have to try and reconcile the terms of such licenses with the expectations and needs of users. This is an ideal opportunity to discuss with faculty the benefits and risks of making their work available without any license, and so keeping it under the strict protection of copyright law, creating an “in-house” license that will specify permissible uses,⁴³ or using the Creative Commons licensing scheme.⁴⁴ The advantages of using Creative Commons licenses are numerous. First, they are fairly widely recognized around the world; there are literally millions of CC licensed objects found on the Internet.⁴⁵ Second, they have some history of interpretation in the courts, so it is possible to predict, at least to a degree, how they will be enforced.⁴⁶ Finally, as was noted above,⁴⁷ because a standard term of most Creative Commons licenses is the requirement that attribution be given to the author/creator of a licensed work,⁴⁸ a CC license actually protects academic values better than U.S. copyright law does. Unlike most of the world, the United States does not recognize a “moral” right of attribution for copyright holders, except for a small subset of visual artists.⁴⁹ Yet attribution is the principle need for most scholarly authors, since they write for reputation and impact more often than for monetary reward. The Creative Commons licenses use copyright ownership to leverage attribution, even as they permit a broad and flexible range of reuses of licensed content.

⁴² Carole Palmer, Lauren Tefteau, and Mark Newton, *Identifying Factors of Success in CIC Institutional Repository Development: Final Report*, Center for Informatics Research in Science and Scholarship, University of Illinois at Urbana Champaign, 2008, p. 10. Also available online at <http://www.cic.net/Libraries/Reports/PalmerEtAlMellonReport.sflb>.

⁴³ Here it is helpful to note that a “home-grown” license offers the most flexibility, since it can be adjusted to meet the demands of each specific scholarly author, but also increases the risk that the license will be misunderstood or ignored by users.

⁴⁴ See <http://creativecommons.org/>.

⁴⁵ In 2008, Creative Commons estimated the number of CC licenses works at 130 million; see <http://creativecommons.org/about/history/>.

⁴⁶ Ingrid Marson, “Creative Commons license upheld by court,” *cnet News*, March 21, 2006, http://news.cnet.com/Creative-Commons-license-upheld-by-court/2100-1030_3-6052292.html.

⁴⁷ See footnote 24, *supra*.

⁴⁸ See <http://creativecommons.org/about/licenses>.

⁴⁹ This very limited right of attribution was created by the *Visual Artists Rights Act of 1990*, Public Law 101-650, codified at *U.S. Code* 17 (1990), § 106A.

THE ROLE OF CONSORTIA AND PROFESSIONAL ASSOCIATIONS

According to the Annual Data Tables compiled by the Association of Theological Schools, almost 82% of ATS member institutions in the United States have FTE counts of 300 or less. Fifty-seven percent of such institutions are less than half that size.⁵⁰ Thus it is clear that most theological scholarship is carried out in small communities, yet the task of building an open access culture, much less an infrastructure to support open access, is a big job indeed. How, then, is the necessary scale for open access to theological scholarship to be achieved? The answer must be that leadership will be the responsibility of consortial organizations and professional associations. These organizations are undoubtedly animated by the same impulse to serve a world-wide community, as is part of the mission of their constituent members; the ATS itself expresses its mission as “promot[ing] the improvement and enhancement of theological schools to the benefit of communities of faith and the broader public.”⁵¹ Surely this could logically include helping to make scholarship more widely available to those faith communities. Likewise, the American Theological Library Association (ATLA) states that one of its undertakings in support of its mission is “to stimulate purposeful collaboration among librarians of theological libraries and religious studies collections; and to develop programmatic solutions to information-related problems common to those librarians and collections.”⁵² The ATLA supports a special committee responsible for international collaboration and maintains numerous contacts with like-minded organizations around the world.⁵³ These commitments to world-wide communities and to solving problems of information access make the professional organizations a logical place to look for support of open access initiatives.

It may be important, however, to sort out what kind of support can best be sought from which consortia or association. Consider the issue of author rights and copyright management. In one sense, advocacy for managing rights in a way that allows for more open access will usually fall to librarians at individual institutions since they are readily available and are most likely to be the ones to whom inquiries about copyright and publication contracts are directed. This task would be made much easier if the professional organizations to which theological scholars belong, primarily the American Academy of Religion⁵⁴ and the Society for Biblical Literature,⁵⁵ could be convinced to adopt resolutions in favor of open access to theological scholarship or even to recommend author addenda. There is considerable precedent for such resolutions; in 2001, for example, the International Mathematical Union “endors[ed] open access as a goal for all mathematical literature.”⁵⁶ Such an endorsement from theological scholars, especially if accompanied by resources to facilitate copyright management, would go a long way to ease the burden

⁵⁰ The ATS Annual Data Tables are available at <http://www.ats.edu/Resources/Publications/Documents/AnnualDataTables/2008-09AnnualDataTables.pdf>.

⁵¹ See <http://www.ats.edu/about/Pages/default.aspx>.

⁵² See http://www.atla.com/about.html#mission_and_ends.

⁵³ For the activities of the ATLA special committee for international collaboration, see http://www.atla.com/international_collab/website.html.

⁵⁴ <http://www.aarweb.org/>.

⁵⁵ <http://www.sbl-site.org/>.

⁵⁶ Peter Suber, “Lists Related to the Open Access Movement,” <http://www.earlham.edu/~peters/fos/lists.htm>

that might otherwise fall on librarians and other administrators at individual institutions. Since many theological librarians are also members of these organizations, a potential voice for such action already exists.

Support for collective action on this issue builds all the time; the recent report from the Association of American Universities, the Association of Research Libraries, the Coalition for Networked Information, and the National Association of State Universities and Land-Grant Colleges, “The University’s Role in the Dissemination of Research and Scholarship—A Call to Action,” includes as its primary recommendation that “campuses should initiate discussions involving administration and faculty about modifying current practices and/or its intellectual property policies such that the university retains a set of rights sufficient to ensure that broad dissemination of the research and scholarly work produced by its faculty occurs.”⁵⁷ Although this admonition is directed at individual campuses, the rationale applied by the report to arrive at this recommendation applies equally well to scholarly societies, while the structural and economic realities of theological studies make the participation of such societies a *sine qua non*.

If scholarly societies have a vital role to play in supporting authors’ copyright management, the library consortia have an equally important role in terms of infrastructure. For many institutions, the networked storage space required for a repository, as well as the staff to design ingestion and public interfaces, is simply prohibitively expensive, even if an open source product like DSpace⁵⁸ or Fedora⁵⁹ is used as the backbone of a system. But there is a good deal of precedent for library consortia to use their collective strength to leverage such services for their numerous small members. The OhioLINK consortium has undertaken two shared repository projects,⁶⁰ even though its larger members could create repositories themselves, in part to benefit the many smaller schools for which such a joint effort is the only option. Similarly, within the community of theological libraries, an analogous project was undertaken some years ago; the Serials Exchange database created by the staff and membership of the ATLA⁶¹ is an example of using collective expertise and communally owned resources to leverage a project that would not be possible without cooperation. If the ATLA could provide server space and technical direction again, this time for a shared repository, especially one using a free and relatively easy-to-use product like DSpace, and could help coordinate the efforts of technical staff and librarians throughout the Association, the goal of an open access repository for theological scholarship could be realized.

CONCLUSION

The primary purpose of this article has been to outline the steps that would be required to build a shared digital repository of scholarly content in theological studies. It must conclude where it began, by pointing out that there are unique features of theological scholarship that both make open access more difficult and more urgent. In the end, the recognition that theological studies has an audience well beyond the dwindling readership of specialized

⁵⁷ This February 2009 report is available at <http://www.arl.org/bm~doc/disseminating-research-feb09.pdf>. See p. 4 for the primary recommendation.

⁵⁸ <http://www.dspace.org/>.

⁵⁹ <http://fedoraproject.org/>.

⁶⁰ Both the Digital Media Center and the Electronic Theses and Dissertations Center are accessible through the OhioLINK web site at <http://www.ohiolink.edu/>.

⁶¹ The ASE database is accessed at http://www.atla.com/member/collaborative_projects/serials_exchange.html.

journals, and a missionary call to serve that world-wide audience, is the strongest argument for making the necessary effort. It will require active leadership and practical involvement from the professional scholarly guilds and the already thriving cooperative association of theological librarians to carry out this mission. Fortunately, those organizations already have at their disposal both the organizational resources and the spiritual commitments⁶² to make such a project work.



⁶² It should be acknowledged that the major scholarly association in religion studies, the American Academy of Religion, does not endorse any religious tradition and represents a very diverse membership. This is true to a somewhat lesser extent regarding the Society of Biblical Literature. For these guilds, the argument for support of an open access initiative, and particularly for a statement on authors' rights, will be primarily based on the benefits open access offers to scholars and scholarship as a whole, and only secondarily on the impetus to support a worldwide mission of ministry and education.