

# Final Report of the Durham Statement Review Task Force

August 31, 2021

## Introduction

February 11, 2009 marked the official signing and release of the [Durham Statement on Open Access to Legal Scholarship](#), which aims to improve the dissemination of legal scholarly information through formal commitments to open access and electronic publication. Thirteen academic law library directors drafted and shaped the original Durham Statement, a process that began in November 2008 during the dedication of Duke Law School's J. Michael Goodson Law Library.

The original Durham Statement (reproduced in Appendix A of this report) called upon U.S. law schools to cease publishing their journals in print format and to rely instead on electronic publication coupled with a commitment to keep the electronic versions available in stable, open, digital formats. The Durham Statement's vision included academic law libraries stopping the collection of print journals in favor of electronic formats, and encouraging the setup of open access scholarship repositories for both journal publications and faculty scholarship. The drafters cited the economic concerns of the Great Recession of 2007-2009 as the primary rationale for these recommendations, noting that maintaining access in both print and electronic full-text formats was "increasingly uneconomical."

Since the signing of the original Durham Statement, continued changes in both the legal publishing market and the administration at signatory law libraries presented an opportunity to revisit the Durham Statement and track its progress. In February 2021, several academic law library directors from signatory law schools agreed to set up a task force to review the status of the Durham Statement in U.S. law schools. This group, comprised of volunteer members from original signatory schools, was charged to explore the current status of the Statement's adoption, examine potential barriers to further adoption, and recommend best practices going forward, including potential revisions to the statement language. This report describes the results of the Durham Statement Review Task Force's work.

## Methodology

### Review of Flagship Law Journal Websites

In the fall semester of 2019, task force member Jennifer L. Behrens conducted an unpublished review of the flagship law review websites for all 201 ABA-accredited U.S. law schools from the 2019-2020 *U.S. News and World Report* rankings, in order to determine the scope of online-only student-edited law review publications. This review built upon a previous list compiled by the University of Washington, which identified 9 law school e-only flagship journals in 2016.<sup>1</sup> The 2019 review showed that still relatively few flagship law journals explicitly stated a status as an online-only publication – only 12 total, and only 1 of those twelve (Lincoln Memorial) indicating that the format was "[a]dopting the principles of the Durham Statement." Approximately 18 additional schools exhibited signs of possible online-only publication format without explicitly stating so, based on such factors as a lack of subscription information

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<sup>1</sup> This page is now defunct on UW's website, but can be accessed on the Internet Archive at <https://perma.cc/JV6Q-7K2N?type=image>.

on the journal website/PDF front matter and/or subscription pages that directed readers to a print-on-demand vendor.

## Review of Scholarly Literature

Numerous studies in the scholarly literature have attempted to measure the impact of open-access digital publication on article discovery and subsequent citation impact. Only a few authors, though, have focused specifically on legal publications. One of the earliest such publications to include legal titles was a 2005 cross-disciplinary study that noted both the relatively low prevalence of open access law publications at the time as well as a comparative “citation advantage” for those law journals that published open access.<sup>2</sup> A 2011 study by Carol A. Watson and James M. Donovan focused more closely on this citation advantage for open-access law publications, finding that open-access articles from three University of Georgia law journal publications received 58% more citations than non-OA articles in the same time period.<sup>3</sup> Their 2015 follow-up, with co-author Caroline Osborne, expanded the previous study’s methodology to account for law school “tiers” in the US News & World Report rankings. The follow-up study suggested an open access advantage of 53%, noting that for every two citations an article would normally receive, a third could be expected for an OA article. This effect was most pronounced for publications from law schools ranked lower in the USNWR rankings, as publications from higher-ranked law schools received significant readership and citation regardless of their format and availability.<sup>4</sup> More recently, John R. Beatty reviewed and revisited various open access citation advantage studies across disciplines, noting various factors in methodology and underlying data as contributing to disparate findings from studies across disciplines.<sup>5</sup>

There is less literature covering the impact of the Durham Statement itself, at least from recent years. Two years after the Statement’s adoption, *Law Library Journal* published two reflections, one co-written by original Statement drafter Richard A. Danner and a response by Margaret A. Leary, then an academic library director at a top law school who opted not to sign the Durham Statement.<sup>6</sup> Danner et al noted that the original Statement’s vision of “stable, open, digital formats” may never come to pass, but underscored the continued importance of working toward common standards and creating dialogue with law school stakeholders such as deans and law review editors on these issues. Leary argued that libraries should play a role in both print preservation and the encouragement of expanded digital publication, while cautioning against law libraries creating separate processes for digital publishing.

Subsequent publications have noted the importance of leveraging expertise from other disciplines and professions (such as university publishing) in determining the role of law libraries in supporting and shaping law journal publications.<sup>7</sup> A 2016 working paper noted that since the Durham Statement, law

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<sup>2</sup> Chawki Hajjem, Stevan Harnad, and Yves Gingras, *Ten-Year Cross-Disciplinary Comparison of the Growth of Open Access and How it Increases Research Citation Impact*, IEEE DATA ENGINEERING BULLETIN 28(4): 39-47 (2005), <https://arxiv.org/abs/cs/0606079>.

<sup>3</sup> James M. Donovan & Carol A. Watson, *Citation Advantage of Open Access Legal Scholarship*, 103 LAW LIBR. J. 553 (2011).

<sup>4</sup> Carol A. Watson, James M. Donovan, and Caroline Osborne, *The Open Access Advantage for American Law Reviews*, 3A EDISON L. & TECH. 1 (2015).

<sup>5</sup> John R. Beatty, *Revisiting the Open Access Citation Advantage for Legal Scholarship*, 111 LAW LIBR. J. 573 (2019).

<sup>6</sup> Richard A. Danner, Kelly Leong, and Wayne V. Miller, *The Durham Statement Two Years Later: Open Access in the Law School Journal Environment*, 103 LAW LIBR. J. 39 (2011), Margaret A. Leary, *A Response to the Durham Statement Two Years Later*, 103 LAW LIBR. J. 281 (2011).

<sup>7</sup> Benjamin Keele and Michelle Pearse, *How Librarians Can Help Improve Law Journal Publishing*, 104 LAW LIBR. J. 383 (2012).

schools had made greater strides toward online publication, but not toward cessation of print format, suggesting that higher-ranked law school journals must be the first to cease printing in order for other schools to feel comfortable ceasing their own print operations.<sup>8</sup> Associated concerns about the “prestige” of online-only publications are a major factor to consider in this discussion, although a recent study of law journals’ online-only “supplement” publications revealed a wide variety of perspectives in faculty author perceptions of these online journal titles, largely connected to the perceived prestige factor of the publisher school.<sup>9</sup>

Other authors have highlighted practical concerns about open access publication following the acquisition of major repository provider Bepress by the commercial publisher Elsevier.<sup>10</sup> Others have noted concerns about the prevalence of closed-access or hybrid-OA publications in academe, noting the financial impact on authors and institutions for both initial submission fees and Author Processing Charges to publish an article in open access.<sup>11</sup>

## 2021 Survey of Academic Law Library Directors

To further evaluate the current status of adoption of the Durham Statement and to assess opinions on adoption of the Durham Statement going forward, the Task Force created the 2021 Survey of Academic Law Library Directors (“2021 Survey”) (reproduced in Appendix B of this report). The 2021 Survey built off the findings from the reviews of the flagship law journal websites and scholarly literature incorporating answer options that reflected common concerns seen regarding the Durham Statement including [lack of adoption by top tier law schools, alternative options for open access and preservation, and concerns about prestige and impact on tenure.]

The 2021 Survey focused on three main issues:

- A. What current/ongoing efforts are in place at your law school to implement measures from the Durham Statement for your student-edited publications?
- B. What are the major barriers to your law school adopting measures from the Durham Statement?
- C. If a new version of the Durham Statement were to be issued today, what language or edits to current language could remove/reduce some of these identified barriers?

The 2021 Survey collected 61 completed responses from over 50 law schools between April 22, 2021 and May 14, 2021.

### A. Current Efforts

*What current/ongoing efforts are in place at your law school to implement measures from the Durham Statement for your student-edited publications?*

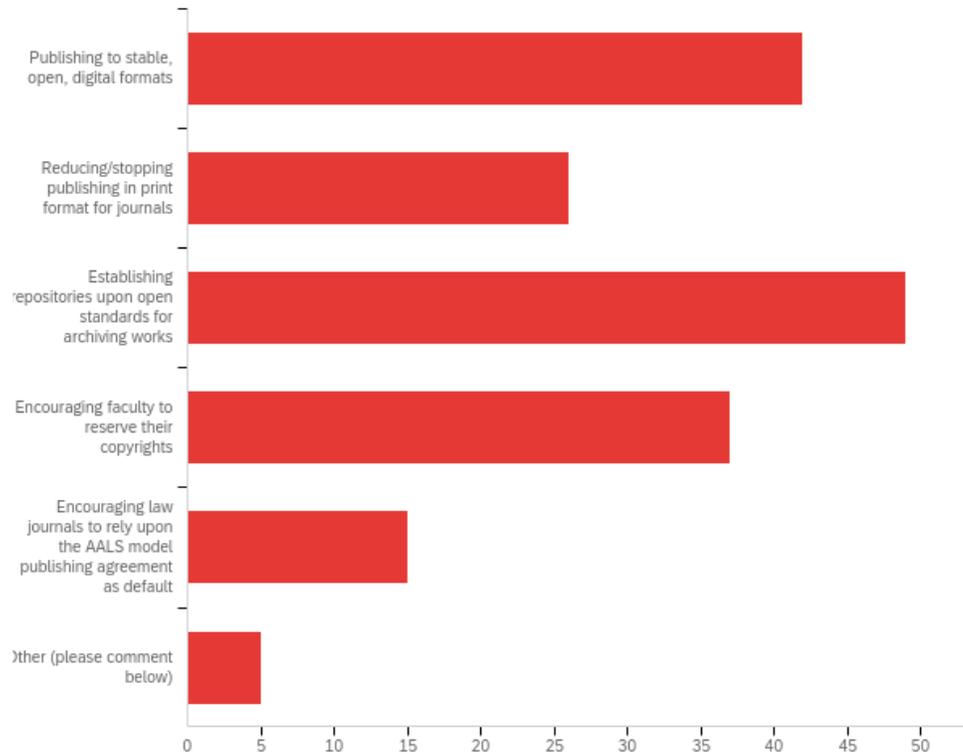
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<sup>8</sup> Sarah Reis, *Deconstructing the Durham Statement: The Persistence of Print Prestige During the Age of Open Access* (June 30, 2016) (unpublished manuscript), <https://ssrn.com/abstract=2785307>.

<sup>9</sup> Michael Conklin, *Online Law Journals as Legal Scholarship: A Survey of Faculty Perceptions*, 61 JURIMETRICS 171 (2021).

<sup>10</sup> Margaret Schilt, Karen Shephard, and Carol Watson, *Rethinking Digital Repositories and the Future of Open Access*, AALL SPECTRUM (May/June 2018), at 29.

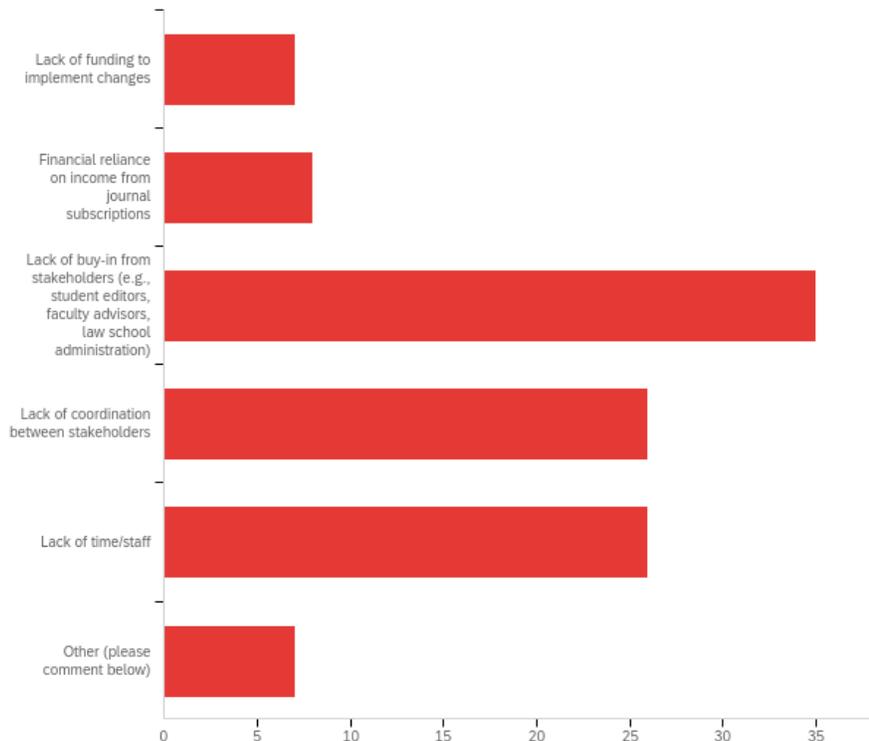
<sup>11</sup> Christopher J. Ryan, Jr., *Not-So-Open Access to Legal Scholarship: Balancing Stakeholder Interests with Copyright Principles*, 20 RICH. J.L. & TECH. 1 (Jan. 6, 2014).



The most widely adopted project was the establishment of repositories upon open standards for archiving works, with 49 out of 61 respondents. The second most widely adopted was publishing to stable, open, digital formats, with 42 respondents. The least adopted efforts were those that would most impact the operation of the law journals: the reduction of publishing in print for journals (26 respondents) and encouraging journals to default to the AALS model publishing agreement (15 respondents).

### B. Major Barriers

*What are the major barriers to your law school adopting measures from the Durham Statement?*



The most commonly identified barrier to adoption among respondents was the lack of buy-in from stakeholders (35 respondents). The least commonly identified barriers were related to funding: financial reliance on income from journal subscriptions (8 respondents) and lack of funding to implement changes (7 respondents). A little under half of respondents identified logistical concerns as a barrier to adoption: lack of coordination between stakeholders (25 respondents) and lack of time/staff (25 respondents).

For further details about barriers to adoption, please see the section below, *Barriers to Further Adoption*.

### C. Changes to the Durham Statement

*If a new version of the Durham Statement were to be issued today, what language or edits to current language could remove/reduce some of these identified barriers?*

#	Question	Emphasize/Keep		Deemphasize		Eliminate		Total
1	References to ceasing print publication format for journals	57.41%	31	35.19%	19	7.41%	4	54
2	Establishing repositories upon open standards for archiving works	92.45%	49	5.66%	3	1.89%	1	53
3	Encouraging faculty to reserve their copyrights	90.74%	49	5.56%	3	3.70%	2	54
4	Encouraging law journals to rely upon the AALS model publishing agreement as default	69.23%	36	25.00%	13	5.77%	3	52

When asked about possible changes for a new version of the Durham Statement, respondents were most heavily split on the approach to the ceasing print publication for journals (56.6% choose to keep or emphasize this factor; 43.4% choose to deemphasize or eliminate it) and encouraging journals to adopt the AALS model publishing agreement as default (70.6% choose to keep or emphasize this factor; 29.4% choosing to deemphasize or eliminate it). Over 90% of respondents chose to keep or emphasize the existing terms on establishing repositories upon open standards for archiving works and encouraging faculty to reserve their copyrights.

## Response to Committee Charge

### Status of Durham Statement Adoption

Because the Durham Statement's call to action contained several disparate recommendations, quantifying the "adoption" status of the Statement presents challenges. The main action item from the original Statement called for the cessation of print law school publications in favor of open access via stable electronic formats, which would result in the subsequent reduction/elimination of print law review and journal collections in academic libraries. However, today few U.S. law schools represent their student-edited publications as completely electronic-only, and almost none of these schools indicated that this format choice was prompted by the principles of the Durham Statement.

The adoption of open-access scholarship repositories in law schools is far more common than electronic-only publication, although here too it is difficult to determine the extent of the Durham Statement's direct impact on the trend. As noted in a 2015 study by Kincaid Brown of the University of Michigan, in 2011 approximately 30 law schools managed an institutional repository; by 2015, this total had risen to 80 of the top 100 law schools. Most of these schools administered a law school repository through Bepress, with a smaller subset managing a law school space on a university-wide DSpace instance.<sup>12</sup> Today, Bepress's legal repository list includes 94 accredited US schools at all ranking levels, suggesting steady growth in the adoption and maintenance of open access repositories. Within the repositories, however, there is wide variation of the contents, which may include internal journal publications as well as faculty scholarship, historical law school publications, or other special collections. Further investigation is likely needed in order to determine the current adoption rates of repositories as well as to identify the amount that include open backfiles and frontfiles of law review publications.

Similarly, further investigation is likely necessary to update the current status of the remaining action items in the Durham Statement: development of agreed-upon standards for the archiving of works, as well as for the prevalence of the redundancy measures regarding author copyright retention policies and standardized author agreements.

### Barriers to Further Adoption

The most commonly identified barrier to adoption from the 2021 Survey was lack of buy-in from stakeholders, with lack of coordination among stakeholders as the second-most commonly identified barrier. Comments from survey respondents indicated a few common themes related to those barriers, including concerns about prestige, complications in journal staffing and coordination, and general lack of interest.

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<sup>12</sup> Kincaid C. Brown, *Law School Institutional Repositories: A Survey*, 25 TRENDS INTERACTIVE: A DIALOG ON LAW LIBRARIES & TECHNOLOGY 21-6 (February 29, 2016), available at <https://repository.law.umich.edu/librarian/19>.

#### Concerns about prestige:

*Students feel that a print journal is more prestigious. [...] Plus, I blame the Bluebook - so long as it demands cite checking using print sources, I think journal editors will explicitly or implicitly internalize that bias,*

*Faculty prefer to publish in what they see as prestige journals, and also need to navigate tenure.*

*Until the top law reviews cease print publication, I believe journals at other schools will be reluctant to do this, since they believe it reflects poorly on their status.*

*One student editor referred to the Durham Statement as a "great idea in theory" but not feasible for her journal, and she referenced the journal not being a "top tier" journal as a barrier.*

#### Complications with journal staffing:

*The dean of students and to a lesser extent faculty advisors have more influence on journals than the library does. There is also a lack of coordination between out-going and in-coming journal boards.*

*One of our journals is ABA-affiliated and another is a joint project with another law school. Placing the former in the repository would require approval from the ABA which has not been forthcoming, and the latter is much more complicated to arrange.*

*Student journal staff turnover is pretty high.*

#### Lack of interest:

*Stakeholders are not interested in adopting the AALS model publishing agreement.*

*I believe it is unnecessary.*

*This is not a topic of conversation. It should be but with other issues on the table, the timing is not optimal for this conversation. One additional issue is how journals handle the "other" information such as mastheads.*

While lack of funding and financial reliance on income from journal subscriptions were the least commonly identified barriers, the comments indicated that financial concerns do at least partially impact adoption:

*There is some financial reliance on print subscriptions but more so, there is hesitancy about moving entirely to digital only and committing to online only. There also is still a presumption of greater prestige of publication in print and a continued preference for the print format.*

*Some of the biggest barriers are: (1) lost revenue; and (2) authors pushback when offered publication in an online-only journal (they feel the print version carries more weight).*

*One major barrier to access has become the current monopoly by Scholastica for the submission of law review articles at a high cost per submission. The spirit of our statement is well served by finding and supporting an open access submission system alternative for less funded organizations.*

## Recommendations for Future Action

The Task Force recommends that the current library directors' group consider the drafting of an updated Durham Statement, or addendum to the original Durham Statement. The revised Statement could incorporate the current landscape for open-access scholarly legal publishing, as well as the feedback from the 2021 Survey on which aspects of the original Statement to emphasize and deemphasize.

The promotion of open access, digital formats for law school publications remains a top priority for the Statement among most 2021 Survey respondents. A revised Statement should likely place the heaviest emphasis on the encouragement of digitization and free online access for law journal publications, as well as provide more discussion of the development of standards for ensuring permanent and stable open access. Another potential, timely aspect of this discussion would relate to ensuring website accessibility for screen reader technologies.

While a reduction in the publishing and collection of print format will likely follow as a natural consequence of greater digital access to law journal publications, the original Statement's emphasis on the goals of ceasing print journal format publication and collection by libraries was the most divisive aspect in the 2021 Survey. While more than half of the Survey respondents indicated a desire to emphasize or keep this factor in a revised Statement, 43.4% suggested deemphasizing or eliminating it. A revised Statement that keeps this factor should acknowledge and address the concerns about perceptions of prestige loss for online-only formats that several Survey commenters raised.

A revised Statement should also expand the discussion of author agreements and retention of copyright, based on the high level of interest in emphasizing or keeping language on this point. The AALS model publishing agreement that was encouraged in the Statement is now outdated and is not widely available on the Web. A revised Statement should address the issue of authors reserving their copyrights, but should find or create an alternative model author agreement to the AALS document to rely upon in the future. The agreement should address rights of the author to post/share free copies of the work before and after publication, as well as describing options for a blanket grant of permission for non-commercial uses and Creative Commons licensing. A new model publishing agreement that incorporates the Durham Statement would likely be an impactful continuation of the original drafters' work.

Submitted to the Library Directors of the Original Statement Drafting Law Schools by

- Julian Aiken, Assistant Director for Access and Faculty Services, Yale Law
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- Grace Lo, Reference Librarian, Stanford Law

## Appendix A. Durham Statement on Open Access to Legal Scholarship (February 11, 2009)

[**Note:** The original Durham Statement text is also available on the web at [https://law.duke.edu/lib/durhamstatement/.](https://law.duke.edu/lib/durhamstatement/)]

**Objective:** *The undersigned believe that it will benefit legal education and improve the dissemination of legal scholarly information if law schools commit to making the legal scholarship they publish available in stable, open, digital formats in place of print. To accomplish this end, law schools should commit to making agreed-upon stable, open, digital formats, rather than print, the preferable formats for legal scholarship. If stable, open, digital formats are available, law schools should stop publishing law journals in print and law libraries should stop acquiring print law journals. We believe that, in addition to their other benefits, these changes are particularly timely in light of the financial challenges currently facing many law schools.*

**Rationale:** *Researchers – whether students, faculty, or practitioners – now access legal information of all sorts through digital formats much more frequently than in printed formats. Print copies of law journals and other forms of legal scholarship are slower to arrive than the online digital versions and lack the flexibility needed by 21st century scholars. Yet, most law libraries perceive a continuing need also to acquire legal scholarship in print formats for citation and archiving. (Some libraries are canceling print editions if commercial digital versions are available; others continue to acquire print copies but throw them away after a period of time.)*

*It is increasingly uneconomical to keep two systems afloat simultaneously. The presumption of need for redundant printed journals adds costs to library budgets, takes up physical space in libraries pressed for space, and has a deleterious effect on the environment; if articles are uniformly available in stable digital formats, they can still be printed on demand. Some libraries may still choose to subscribe to certain journals in multiple formats if they are available. In general, however, we believe that, if law schools are willing to commit to stable and open digital storage for the journals they publish, there are no longer good reasons for individual libraries to rely on paper copies as the archival format. Agreed-upon stable, open, digital formats will ensure that legal scholarship will be preserved in the long-term.*

*In a time of extreme pressures on law school budgets, moving to all electronic publication of law journals will also eliminate the substantial costs borne by law schools for printing and mailing print editions of their school's journals, and the costs borne by their libraries to purchase, process and preserve print versions.*

*Additionally, and potentially most importantly, a move toward digital files as the preferred format for legal scholarship will increase access to legal information and knowledge not only to those inside the legal academy and in practice, but to scholars in other disciplines and to international audiences, many of whom do not now have access either to print journals or to commercial databases.*

**Call to Action:** *We therefore urge every U.S. law school to commit to ending print publication of its journals and to making definitive versions of journals and other scholarship produced at the school immediately available upon publication in stable, open, digital formats, rather than in print.*

*We also urge every law school to commit to keeping a repository of the scholarship published at the school in a stable, open, digital format. Some law schools may choose to use a shared regional online repository or to offer their own repositories as places for other law schools to archive the scholarship published at their school.*

*Repositories should rely upon open standards for the archiving of works, as well as on redundant formats, such as PDF copies. We also urge law schools and law libraries to agree to and use a standard set of metadata to catalog each article to ensure easy online public indexing of legal scholarship.*

*As a measure of redundancy, we also urge faculty members to reserve their copyrights to ensure that they too can make their own scholarship available in stable, open, digital formats. All law journals should rely upon the AALS model publishing agreement as a default and should respect author requests to retain copyrights in their scholarship.*

## Appendix B. Survey of Academic Law Library Directors Questions

The [Durham Statement on Open Access to Legal Scholarship](#) was released in February 2009 by the directors of more than a dozen academic law libraries, who called upon U.S. law schools to cease publishing print-format journals in favor of electronic publication, coupled with a commitment to keep electronic publications available in stable, open, digital formats.

In February 2021, the current library directors of original Durham Statement signatory law schools convened a Durham Statement Review Task Force to examine the current status of the Durham Statement's adoption. This brief survey for academic law librarians will inform the Task Force's report and recommendations, which is expected to be completed this summer.

This survey is being distributed to the email list of academic law library directors, with the goal of receiving one submission per school. If you are not the best contact person to complete the survey, please forward to the member of your staff who works most closely with your school's student-edited journals and/or institutional repository. Please complete this survey by **Friday, May 14**.

For questions about the Durham Statement, the Review Task Force, or this survey, please contact [libadmin@law.duke.edu](mailto:libadmin@law.duke.edu).

1. What current/ongoing efforts are in place at your law school to implement measures from the Durham Statement for your student-edited publications? *(Check any that apply)*

- a. Publishing to stable, open, digital formats
- b. Reducing/stopping publishing in print format for journals
- c. Establishing repositories upon open standards for archiving works
- d. Encouraging faculty to reserve their copyrights
- e. Encouraging law journals to rely upon the [AALS model publishing agreement](#) as default
- f. Other (please comment below)

1f. Provide additional comments on current/ongoing efforts to implement the Durham Statement measures here. *(Optional)*

2. What are the major barriers to your law school adopting measures from the Durham Statement? *(Check any that apply)*

- a. Lack of funding to implement changes
- b. Financial reliance on income from journal subscriptions
- c. Lack of buy-in from stakeholders (e.g., student editors, faculty advisors, law school administration)
- d. Lack of coordination between stakeholders

- e. Lack of time/staff
- f. Other (please comment below)

2f. Provide any additional comments on major barriers to Durham Statement adoption here. *(Optional)*

3. If a new version of the Durham Statement were to be issued today, what language or edits to [current language](#) could remove/reduce some of these identified barriers?

*(Matrix with choices for each item to Emphasize/Keep; Deemphasize; Eliminate)*

- a. References to ceasing print publication format for journals
- b. Establishing repositories upon open standards for archiving works
- c. Encouraging faculty to reserve their copyrights
- d. Encouraging law journals to rely upon the [AALS model publishing agreement](#) as default

4. Please add any other comments on suggested language or edits to language here. *(Optional)*

The remaining demographic questions will aid the Task Force in the event of multiple responses received from a single law school. The Task Force's report will present collected data in aggregate format and will not identify specific schools or respondents in its summary of survey findings.

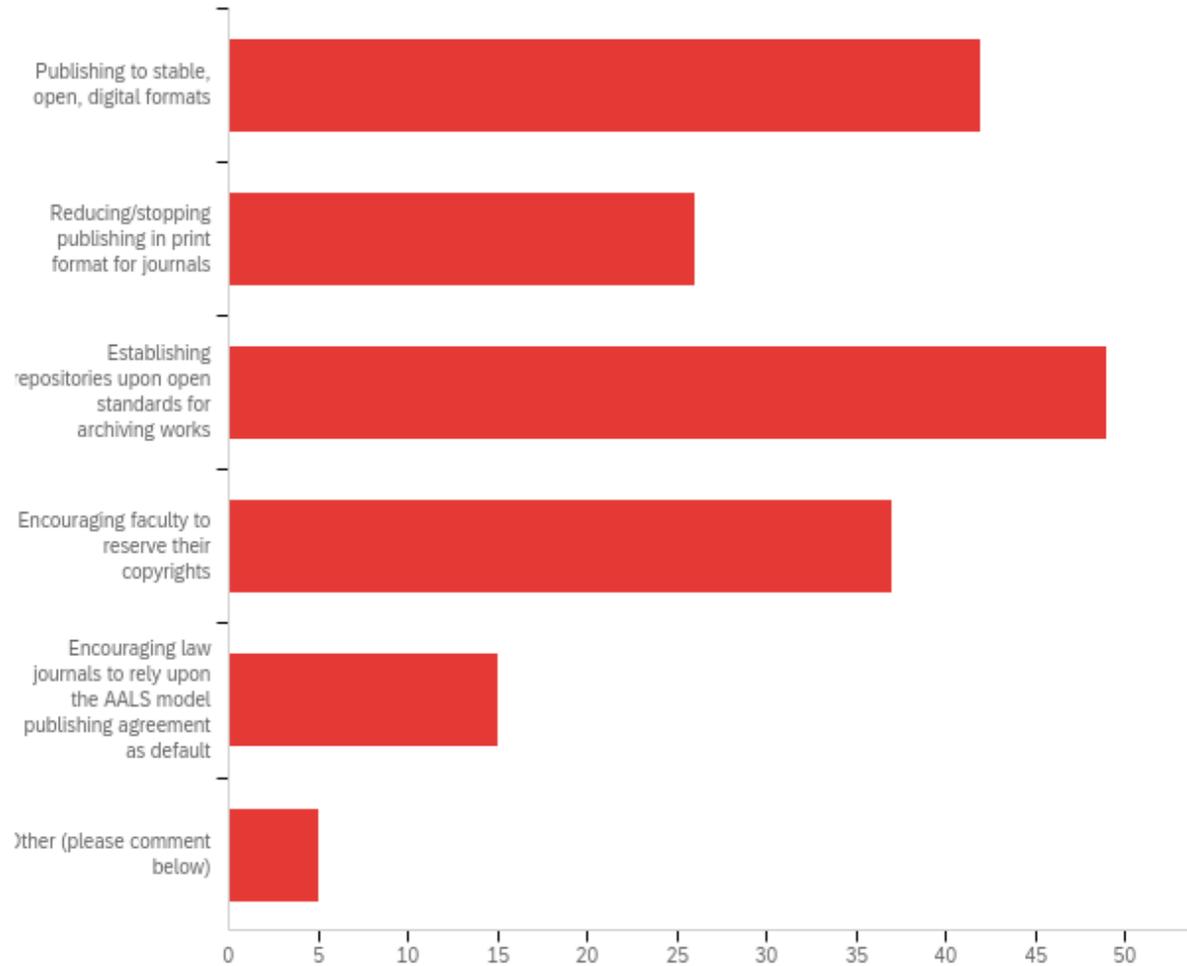
5. School Name

6. Title/Role

7. Respondent Email (optional)

## Appendix C. Anonymized Survey Response Data

**Q2 - What current/ongoing efforts are in place at your law school to implement measures from the Durham Statement for your student-edited publications? (Check any that apply)**



#	Answer	%	Count
1	Publishing to stable, open, digital formats	24.14%	42
2	Reducing/stopping publishing in print format for journals	14.94%	26
3	Establishing repositories upon open standards for archiving works	28.16%	49
4	Encouraging faculty to reserve their copyrights	21.26%	37
5	Encouraging law journals to rely upon the AALS model publishing agreement as default	8.62%	15
6	Other (please comment below)	2.87%	5
	Total	100%	174

**Q5 - Provide additional comments on current/ongoing efforts to implement the Durham Statement measures here. (Optional)**

Provide additional comments on current/ongoing efforts to implement the Durham Statement measures here. (Optional)

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One journal is looking to reduce print production, but the current board is against eliminating print production. The editor said students "love" receiving hard copies that they can display. Another journal noted it's investigating digitizing its entire run and would need more funding to do so.

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Regarding reducing publishing in print, the school is moving in that direction but there is no end goal or timing to cease publishing in print. Using Bepress digital commons for the school's repository. The school has used a local author agreement for its Law Review and is working on a uniform agreement for all of the student journals. Faculty-edited journals use a different agreement working with University press.

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Minting DOI's for our law review articles.

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We are currently transitioning our Repository (which includes all our student-edited journal publications) from BePress to a non-commercial open access platform.

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I would like some clarification on the meaning of "open standards for archiving works" language. I've reviewed the Durham Statement and believe we are engaged in this, but greater clarity and examples would be useful.

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Somewhat adjacent is promoting and supporting open teaching materials.

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We have an institutional repository. Our efforts are mostly focused on persuading our journal editors to allow the posting of the journals to the repository.

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Apart from journal outreach, we encourage our own faculty to reserve their copyrights and offer to analyze their author agreements to make sure that they are retaining their rights.

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I am trying to work with our journals to stop printing hardcopies, but haven't gotten any traction yet....

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We are allowing the future to take place naturally. As digital formats, institutional repositories and other sources become more easily and conveniently available, our law reviews are finding them to be useful and are migrating toward them. I think it's unnecessary for law libraries to encourage any publisher to adopt any format. I think that natural forces, such as usefulness, convenience and affordability will dictate how law reviews should best be published.

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We have established an open access task force, with the aim of working with students and faculty to encourage OA publishing.

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[Our] Law Review is published open access and assigned DOIs for all articles (past and future). [Our] Law faculty are hosted via the Law Library's perma.cc membership to create permalinks in keeping with Bluebook rules. [Our] Law faculty works are hosted in the institutional repository based on copyright permissions, with everything at least provided a bib-level instance. [Our] Law faculty are provided

ORCID / Google Scholar / Selected Works / SSRN aligned profile and publication support through the Law Library.

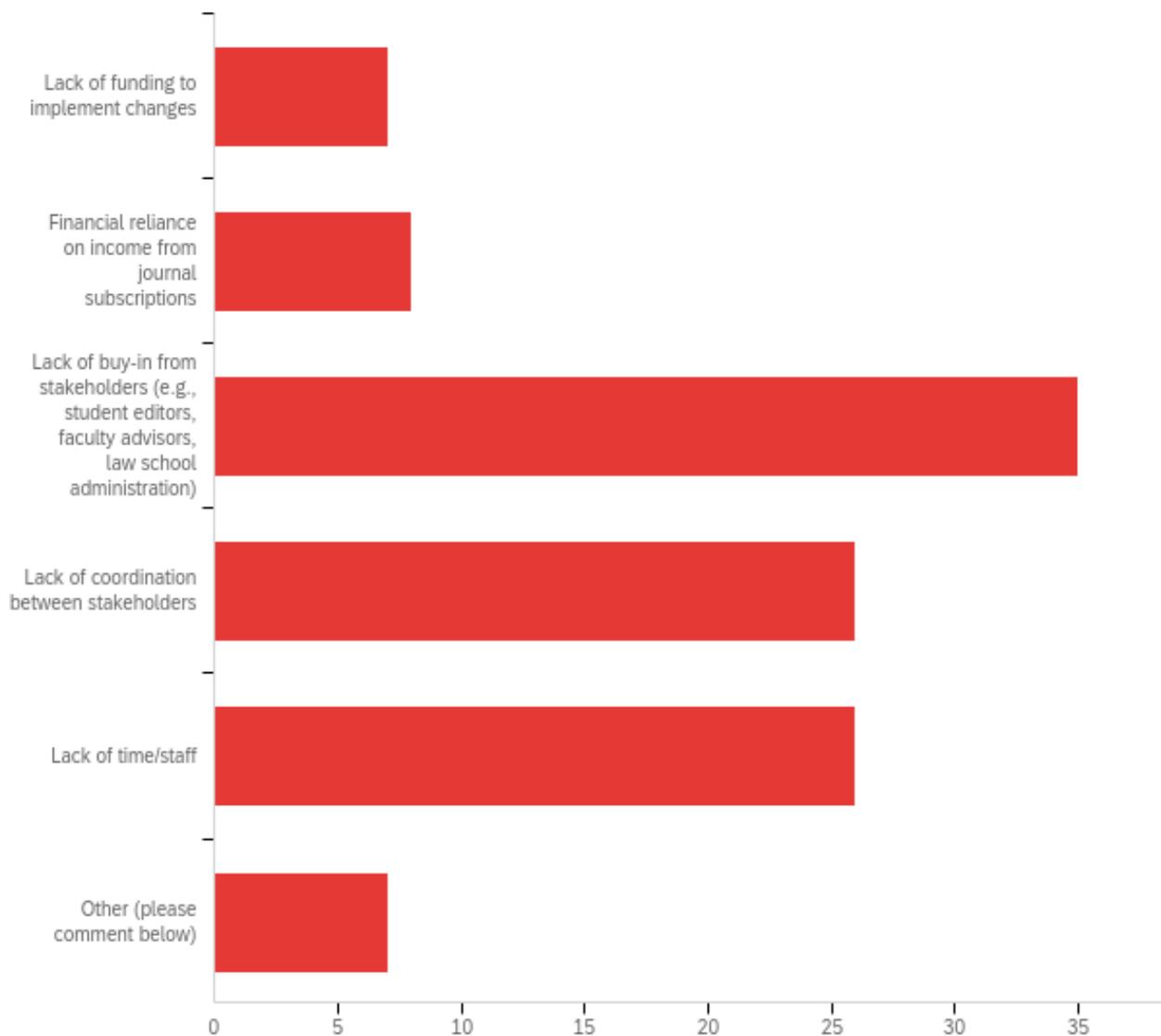
I believe we will start considering online-only publication for some of our journals, but not for the main law review - at least at this time.

Implementing perma.cc to aid later retrieval

Student journals are published in BePress Digital Commons.

Only two of our five journals still publisher in paper (as well as in the repository). One is the Law Review, which earns money from subscriptions in print.

**Q3 - What are the major barriers to your law school adopting measures from the Durham Statement? (Check any that apply)**



#	Answer	%	Count
1	Lack of funding to implement changes	6.42%	7
2	Financial reliance on income from journal subscriptions	7.34%	8
3	Lack of buy-in from stakeholders (e.g., student editors, faculty advisors, law school administration)	32.11%	35
4	Lack of coordination between stakeholders	23.85%	26
5	Lack of time/staff	23.85%	26
6	Other (please comment below)	6.42%	7
	Total	100%	109

**Q6 - Provide any additional comments on major barriers to Durham Statement adoption here. (Optional)**

*Provide any additional comments on major barriers to Durham Statement adoption here. (Optional)*

Barriers - stakeholders lack of knowledge, no one advocating changes

Stakeholders are not interested in adopting the AALS model publishing agreement.

One student editor referred to the Durham Statement as a "great idea in theory" but not feasible for her journal, and she referenced the journal not being a "top tier" journal as a barrier.

There is some financial reliance on print subscriptions but more so, there is hesitancy about moving entirely to digital only and committing to online only. There also is still a presumption of greater prestige of publication in print and a continued preference for the print format.

Some of the biggest barriers are: (1) lost revenue; and (2) authors pushback when offered publication in an online-only journal (they feel the print version carries more weight).

Lack of the use of persistent identifiers in law publications and lack of metadata standards that could provide some stabilization.

Printing remains a priority for the student journal editors.

Students feel that a print journal is more prestigious. Student journal staff turnover is pretty high. Plus, I blame the Bluebook - so long as it demands cite checking using print sources, I think journal editors will explicitly or implicitly internalize that bias,

It would help if top ranked law reviews would cease print publication. The rest of us would probably follow in short order.

One of our journals is ABA-affiliated and another is a joint project with another law school. Placing the former in the repository would require approval from the ABA which has not been forthcoming, and the latter is much more complicated to arrange.

I believe it is unnecessary.

While some journals are happy to go online only, some of our bigger journals will not do so. Faculty prefer to publish in what they see as prestige journals, and also need to navigate tenure.

This is not a topic of conversation. It should be but with other issues on the table, the timing is not optimal for this conversation. One additional issue is how journals handle the "other" information such as mastheads.

Our journals do not want to suffer a loss of prestige by ceasing to publish in print. When there is a tipping point among highly respected journals, our journals will likely follow suit.

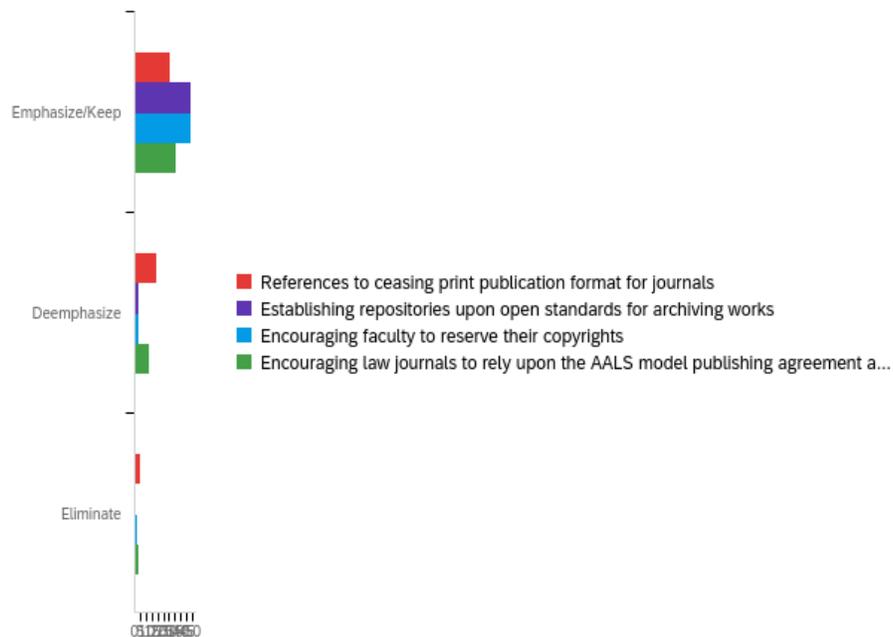
One major barrier to access has become the current monopoly by Scholastica for the submission of law review articles at a high cost per submission. The spirit of our statement is well served by finding and supporting an open access submission system alternative for less funded organizations.

Until the top law reviews cease print publication, I believe journals at other schools will be reluctant to do this, since they believe it reflects poorly on their status.

Continuing belief that authors want to publish in a print journal

The dean of students and to a lesser extent faculty advisors have more influence on journals than the library does. There is also a lack of coordination between out-going and in-coming journal boards.

**Q4 - If a new version of the Durham Statement were to be issued today, what language or edits to current language could remove/reduce some of these identified barriers?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	References to ceasing print publication format for journals	1.00	3.00	1.50	0.63	0.40	54
2	Establishing repositories upon open standards for archiving works	1.00	3.00	1.09	0.35	0.12	53
3	Encouraging faculty to reserve their copyrights	1.00	3.00	1.13	0.43	0.19	54
4	Encouraging law journals to rely upon the AALS model publishing agreement as default	1.00	3.00	1.37	0.59	0.35	52
#	Question	Emphasize/Keep		Deemphasize		Eliminate	Total
1	References to ceasing print publication format for journals	57.41%	31	35.19%	19	7.41%	4 54
2	Establishing repositories upon open standards for archiving works	92.45%	49	5.66%	3	1.89%	1 53
3	Encouraging faculty to	90.74%	49	5.56%	3	3.70%	2 54

	reserve their copyrights							
4	Encouraging law journals to rely upon the AALS model publishing agreement as default	69.23%	36	25.00%	13	5.77%	3	52

**Q11 - Please add any other comments on suggested language or edits to language here. (Optional)**

Please add any other comments on suggested language or edits to language here. (Optional)

It would be helpful to have a "kit" for people to use for bringing about change once there is a revision of the agreement. I am concerned about suggesting an IR because vendors control some options. On the AALS Model Publishing Agreement - this is really old. Any updates or other documents available?

Unsure of how to vote on the above questions. For the most part our journals share the Durham Statement's aspirations for digital publication and storage, but are not inclined to completely abandon print for reasons identified above.

Should focus on licensing and reserving copyright in using the AALS model or other agreement.

Law reviews and legal publishers need a formalized metadata standard, which includes the use of persistent identifiers, ideally DOIs, which provide the stability that would allow for ceasing print publication of law reviews.

We don't have an opinion on the AALS model publishing agreement. We would prefer an option of 'no opinion'.

We need a broader discussion about the goal of the Durham statement in light of LMSs - everyone can link to everything on Westlaw and Lexis, so some of the issues are now less about paying for the same content twice and more about global equity and access to knowledge. If all law review licenses permit inclusion in an OA IR, what is special about the Durham Statement?

The reality is that many of the faculty aren't the ones responsible for making their articles open access - it's librarians or other administrators who are putting materials on SSRN or in IRs. Rather than focusing on the author's copyright awareness, there should be blanket open access statements from the journals. The number of journals from schools that are signatories to this agreement who direct people to the Copyright Clearance Center to try to get permission to repost, which isn't included in the CCC, which then requires direct communication with the journal staff is staggering. Make the process easier and just grant permission to repost in SSRN or the repository of the author's choice.

I would like to see language added to the Durham Statement that emphasizes that all faculty scholarship and law review articles should be preserved in a manner that makes them accessible to users of assistive technology. For the past few years I have worked with our Law School's various law reviews to create fully accessible archived versions of their issues/articles. I've looked at many other law review websites and repositories and I rarely find fully accessible file formats elsewhere. Open and accessible should apply to all users using all technologies to access our scholarly output.

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The AALS model agreement is from the late 1990s. Suggest considering adding mentions of Creative Commons licenses or a more current model agreement.

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I'm not sure what the point of this is. As academic law libraries, our roles should be to support law reviews publish their journals. Period. I don't really care what format they publish in, if the law review asks, I give them my opinion. I worked with the law review and evaluated their current publishing model and we ended up with a hybrid: limited print, full publication to our digital commons and Hein Online.

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Thank you!