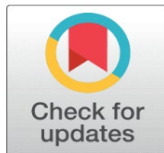


OPEN ACCESS TO JUSTICE: EMPOWERING LEGAL EDUCATION THROUGH GOVERNMENT-FUNDED SCHOLARLY JOURNALS

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ABSTRACT

In the pursuit of global equity and justice, open access journals have emerged as pivotal platforms for disseminating legal knowledge and fostering educational growth within legal institutions. This paper explores the transformative role of open access journals in legal education, emphasizing their contribution to the democratization of knowledge and the facilitation of academic discourse. The analysis delves into the symbiotic relationship between legal academia and open access publications, highlighting how such resources enhance learning outcomes and equip future legal professionals with the necessary tools to advocate for justice.

Furthermore, the paper examines the critical role of government financing in sustaining these journals, arguing that state support is essential for maintaining the integrity and availability of scholarly legal resources. By aligning with the Sustainable Development Goals (SDGs), particularly Goal 16, which focuses on promoting peaceful and inclusive societies for sustainable development, the provision of open access legal journals by governments stands as a testament to their commitment to ensuring public access to justice.

Through a comprehensive review of current practices and policies, this study underscores the need for a concerted effort to integrate open access resources into legal education curricula. It advocates for policy reforms that mandate government funding for open access journals, thereby removing financial barriers and fostering an inclusive environment where legal knowledge is a public good, accessible to all.

Keywords: Open Access Journals, Legal Education, Government Funding, Access to Justice, Sustainable Development Goals, SDG 16, Knowledge Democratization, Academic Discourse, Policy Reforms, Inclusive Education

1. INTRODUCTION

The quest for justice is a universal human aspiration that transcends geographical, cultural and temporal boundaries.¹ Justice, as a concept, is multifaceted and dynamic, encompassing various dimensions such as social, economic, political and legal.² Legal justice, in particular, is concerned with the recognition and protection of human rights, the resolution of disputes, the enforcement of laws and the maintenance of order.³ Legal justice is also closely linked to the notion of access to justice, which refers to the ability of people to seek and obtain a remedy for their grievances through formal or informal institutions of justice.⁴

¹ Amartya Sen, The Idea of Justice 3-4 (2009).

² *Id.* at 4-5.

³ *Id.* at 4-5.

⁴ Mauro Cappelletti, Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective, 27 Buff. L. Rev. 181, 181-82 (1978).

Access to justice is widely regarded as a fundamental human right, as well as a prerequisite for the realization of other rights and the achievement of sustainable development.⁵ The United Nations (UN) has affirmed the importance of access to justice in various instruments, such as the Universal Declaration of Human Rights,⁶ the International Covenant on Civil and Political Rights,⁷ the Convention on the Elimination of All Forms of Discrimination against Women,⁸ and the Convention on the Rights of the Child.⁹ Moreover, the UN has adopted the 2030 Agenda for Sustainable Development, which includes 17 Sustainable Development Goals (SDGs) that aim to end poverty, protect the planet and ensure peace and prosperity for all. Among the SDGs, Goal 16 is particularly relevant for access to justice, as it calls for promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels.¹⁰

However, despite the recognition of access to justice as a human right and a development goal, the reality is that millions of people around the world face various barriers and challenges in accessing justice. According to the World Justice Project, which measures the rule of law performance of 128 countries based on eight factors, including access to civil justice and access to criminal justice, more than half of the world's population lives in countries where justice systems are failing or in crisis.¹¹ Some of the common obstacles that hinder access to justice include lack of legal awareness, illiteracy, poverty, discrimination, corruption, intimidation, violence, inefficiency, complexity, cost and distance. These barriers disproportionately affect marginalized and vulnerable groups, such as women, children, minorities, refugees, indigenous peoples, persons with disabilities and the poor.¹²

In order to overcome these barriers and ensure access to justice for all, various strategies and initiatives have been proposed and implemented by different actors, such as governments, civil society, academia, media and international organizations. Among these strategies, one that has gained prominence and momentum in recent years is the promotion of open access to legal knowledge and information. Open access, as defined by the Budapest Open Access Initiative, is the free availability of scholarly literature on the public internet, permitting any user to read, download, copy, distribute, print, search or link to the full texts of these articles, crawl them for indexing, pass them as data to software or use them for any other lawful purpose, without financial, legal or technical barriers other than those inseparable from gaining access to the internet itself.¹³ Open access, as a movement, advocates for the removal of access barriers to scholarly research, especially those imposed by subscription fees, licensing restrictions and paywalls.¹⁴

Open access has been applied to various fields and disciplines, including law. Open access to legal knowledge and information can take various forms, such as open access journals, repositories, databases, textbooks, blogs, podcasts and webinars. These resources provide free and unrestricted access to legal scholarship, case law, legislation, treaties, reports, news and commentary, covering various branches and aspects of law, such as international law, comparative law, constitutional law, human rights law, environmental law, criminal law, civil law, commercial law and so on. Open access to legal knowledge and information can serve various purposes and benefits, such as enhancing the quality and

⁵ U.N. Secretary-General, *The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet*, U.N. Doc. A/69/700, at 12 (Dec. 4, 2014).

⁶ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III), art. 8 (Dec. 10, 1948).

⁷ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, art. 2(3).

⁸ Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, art. 15(1).

⁹ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, art. 40(2)(b)(iii).

¹⁰ G.A. Res. 70/1, *Transforming Our World: The 2030 Agenda for Sustainable Development*, U.N. Doc. A/RES/70/1, Goal 16 (Sept. 25, 2015).

¹¹ World Justice Project, *WJP Rule of Law Index 2020*, at 6-7 (2020), https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf (last visited June 12, 2024).

¹² *Id.* at 8-9.

¹³ Budapest Open Access Initiative, *Read the Budapest Open Access Initiative*, <https://www.budapestopenaccessinitiative.org/read> (last visited June 12, 2024).

¹⁴ Peter Suber, *Open Access Overview*, <https://legacy.earlham.edu/~peters/fos/overview.htm> (last updated Dec. 5, 2015).

visibility of legal research, facilitating the dissemination and exchange of legal ideas, fostering the development and innovation of legal doctrine and practice, supporting the education and training of legal professionals and students, empowering the public and civil society to understand and exercise their legal rights and obligations, and ultimately, contributing to the advancement of justice and the rule of law.¹⁵

However, open access to legal knowledge and information is not without challenges and limitations. One of the major challenges is the sustainability and viability of open access resources, especially in terms of funding and financing. Unlike traditional subscription-based journals, which rely on subscription fees, licensing fees and advertising revenue to cover their costs, open access journals do not charge readers or libraries for access to their content. Instead, they often rely on alternative sources of funding, such as author fees, institutional support, grants, donations, sponsorships and partnerships. However, these sources of funding are not always sufficient, stable or reliable, and may pose various risks and constraints, such as compromising the editorial independence, quality and credibility of the journals, creating financial barriers and inequalities for authors, especially those from developing countries, and imposing administrative and managerial burdens on the journals.¹⁶

Therefore, there is a need for exploring and securing more sustainable and equitable sources of funding for open access journals, especially those that focus on legal knowledge and information. One of the potential sources of funding that has been advocated by some scholars and practitioners is government funding. Government funding, in this context, refers to the provision of financial support by the state or its agencies to open access journals, either directly or indirectly, through various mechanisms, such as grants, subsidies, tax incentives, public-private partnerships, public procurement, public libraries and public universities. Government funding for open access journals can have various advantages, such as ensuring the stability and availability of scholarly legal resources, enhancing the public interest and social value of legal research, promoting the transparency and accountability of government policies and actions, and aligning with the government's obligations and commitments to ensure access to justice and the rule of law.¹⁷

However, government funding for open access journals is not without challenges and limitations, either. Some of the possible challenges include the scarcity and competition of public resources, the political and ideological interference and influence of the government, the legal and regulatory barriers and uncertainties, the ethical and moral dilemmas and conflicts, and the cultural and institutional resistance and inertia. Therefore, there is a need for designing and implementing effective and appropriate policies and frameworks that can facilitate and regulate government funding for open access journals, especially those that focus on legal knowledge and information. Such policies and frameworks should balance the interests and needs of various stakeholders, such as governments, journals, authors, readers, libraries, universities, civil society and the public, and ensure that government funding for open access journals is consistent with the principles and objectives of open access, access to justice and the rule of law.¹⁸

This paper aims to explore the role and potential of government funding for open access journals in the context of legal education and access to justice. It argues that government funding for open access journals can empower legal education by providing free and unrestricted access to legal knowledge and information, which can enhance the learning outcomes and professional development of legal educators and students, and equip them with the necessary tools and skills to advocate for justice and the rule of law. It also argues that government funding for open access journals can align with the Sustainable Development Goals, especially Goal 16, which focuses on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. It further argues that government funding for open access journals can contribute to the democratization and diversification of legal knowledge and discourse, by enabling the participation and representation of various voices and perspectives, especially those from marginalized and underrepresented groups and regions.

The paper is structured as follows: Part II provides an overview of the concept and practice of open access journals, focusing on their definition, history, types, models, benefits and challenges. Part III examines the role and impact of open

¹⁵ Richard A. Danner, Open Access to Legal Scholarship: Dropping the Barriers to Discourse and Dialogue, 7 J. Int'l Com. L. & Tech. 76, 77-78 (2012).

¹⁶ Bo-Christer Björk & David Solomon, Open Access Versus Subscription Journals: A Comparison of Scientific Impact, 7 BMC Med. 73, 73-74 (2012).

¹⁷ Leslie Chan et al., Why Governments Should Support Open Access to Research, The Conversation (Feb. 11, 2019), <https://theconversation.com/why-governments-should-support-open-access-to-research-111003> (last visited June 12, 2024).

¹⁸ Teresa Scassa, Government Support for Open Access Publishing: Policy and Legal Issues, 30 Can. J.L. & Soc'y 301, 302-03 (2015).

access journals in legal education, highlighting how they can enhance the quality and accessibility of legal scholarship, facilitate the dissemination and exchange of legal ideas, foster the development and innovation of legal doctrine and practice, support the education and training of legal professionals and students, and empower the public and civil society to understand and exercise their legal rights and obligations. Part IV analyzes the role and potential of government funding for open access journals, arguing that state support is essential for maintaining the integrity and availability of scholarly legal resources, and that it can align with the Sustainable Development Goals, especially Goal 16, which focuses on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. Part V discusses the challenges and limitations of government funding for open access journals, and proposes some policy recommendations and suggestions for designing and implementing effective and appropriate frameworks and mechanisms that can facilitate and regulate government funding for open access journals, especially those that focus on legal knowledge and information. Part VI concludes the paper with some reflections and implications for future research and practice.

2. OPEN ACCESS JOURNALS: CONCEPT AND PRACTICE

In this part, the paper provides an overview of the concept and practice of open access journals, focusing on their definition, history, types, models, benefits and challenges. It also compares and contrasts open access journals with traditional subscription-based journals, and discusses some of the current trends and developments in the field of open access publishing.

1) Definition

Open access journals are scholarly journals that make their content freely and openly available on the public internet, without imposing any financial, legal or technical barriers on the access and use of their articles, other than those inseparable from gaining access to the internet itself.¹⁹ Open access journals, as part of the broader open access movement, advocate for the removal of access barriers to scholarly research, especially those imposed by subscription fees, licensing restrictions and paywalls.²⁰

Open access journals can be distinguished from traditional subscription-based journals, which charge readers or libraries for access to their content, either per article, per issue, per volume or per year. Subscription-based journals often restrict the access and use of their articles by imposing various terms and conditions, such as limiting the number of downloads, copies, prints, searches or links, requiring registration, login or password, or prohibiting the redistribution, reproduction or reuse of the articles.²¹ Subscription-based journals can also be distinguished from hybrid journals, which are subscription-based journals that offer authors the option to make their articles open access upon payment of a fee, usually called an article processing charge (APC) or an open access fee.²²

Open access journals can be classified into two main types, according to the source of their funding and the degree of their openness: gold open access journals and green open access journals. Gold open access journals are journals that make all their articles open access immediately upon publication, without any embargo period or delay. Gold open access journals can be further divided into two subtypes, depending on whether they charge authors a fee for publishing their articles: fee-based gold open access journals and no-fee gold open access journals. Fee-based gold open access journals are journals that charge authors an APC or an open access fee to cover their costs, such as peer review, editing, production and hosting. No-fee gold open access journals are journals that do not charge authors any fee for publishing their articles, and instead rely on alternative sources of funding, such as institutional support, grants, donations, sponsorships or partnerships.²³

¹⁹ . Peter Suber, Open Access Overview, <https://legacy.earlham.edu/~peters/fos/overview.htm> (last updated Dec. 5, 2015).

²⁰ *Id.*

²¹ Richard *Supra* n.15

²² Bo-Christer *Supra* n.16

²³ *Id.* at 74-75.

Green open access journals are journals that allow authors to self-archive their articles in an open access repository, such as an institutional repository, a subject repository or a personal website, either before, after or instead of publishing them in a journal. Green open access journals can also be further divided into two subtypes, depending on the conditions and restrictions they impose on self-archiving: liberal green open access journals and restrictive green open access journals. Liberal green open access journals are journals that allow authors to self-archive any version of their articles, such as the pre-print, the post-print or the publisher's version, without any embargo period or delay. Restrictive green open access journals are journals that impose limitations on the version, the time or the place of self-archiving, such as requiring authors to use the post-print or the publisher's version, imposing an embargo period or a delay before self-archiving, or specifying the type or the location of the repository.²⁴

2) History

The history of open access journals can be traced back to the late 20th century, when the advent of the internet and the digital technologies enabled the creation and dissemination of electronic journals.²⁵ Electronic journals, also known as e-journals, are journals that are published and distributed online, either exclusively or in addition to print versions.²⁶ Electronic journals offer various advantages over print journals, such as faster publication, wider dissemination, lower cost, greater accessibility, enhanced functionality and interactivity.²⁷

However, electronic journals also faced various challenges and limitations, such as the lack of standards, quality control, preservation, compatibility and interoperability.²⁸ Moreover, electronic journals did not necessarily solve the problem of access barriers to scholarly research, as many of them adopted the same subscription-based model as print journals, or even increased their prices and fees, creating what is known as the serials crisis.²⁹ The serials crisis refers to the phenomenon of the escalating costs and prices of scholarly journals, especially in the fields of science, technology and medicine, which outpaced the budgets and resources of libraries and readers, resulting in the cancellation of subscriptions, the reduction of collections and the restriction of access.³⁰

The serials crisis, along with the technological and social changes, prompted the emergence and development of the open access movement, which challenged the traditional subscription-based model of scholarly publishing and advocated for the free and open access to scholarly research.³¹ The open access movement was influenced and inspired by various precedents and initiatives, such as the free software movement, the public library movement, the pre-print culture, the open source movement, the open content movement and the open science movement.³²

The open access movement gained momentum and recognition in the early 21st century, when several landmark declarations and statements were issued by various stakeholders, such as scholars, publishers, librarians, funders and policymakers, to define and promote the principles and objectives of open access.³³ Some of the most influential and widely cited declarations and statements include the Budapest Open Access Initiative (2002), the Bethesda Statement on Open Access Publishing (2003), the Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities (2003), the Salvador Declaration on Open Access: The Developing World Perspective (2005), the Cape Town Open Education Declaration (2007), the UNESCO Paris OER Declaration (2012), the San Francisco Declaration on Research

²⁴ *Id.* at 75-76.

²⁵ Andrea Capaccioni, "Origins and Developments of the Open Access Books," in *Digital Libraries - Advancing Open Science*, ed. Sadia Vancauwenbergh (IntechOpen, 2020), DOI: 10.5772/intechopen.95357.

²⁶ Directory of Open Access Books, "Directory of Open Access Books," last modified November 16, 2022, <https://www.doabooks.org>.

²⁷ John Willinsky, *The Access Principle: The Case for Open Access to Research and Scholarship* 13-14 (2006).

²⁸ Heting Chu, "Promises and challenges of electronic journals: academic libraries surveyed," *Learned Publishing* 13, no. 3 (2000): 169-175

²⁹ Philip Young, "The Serials Crisis and Open Access," *Virginia Tech Scholarly Communication* (2009)

³⁰ John *Supra* n.25 at 15-16.

³¹ *Id.*

³² *Id.* at 17-18.

³³ History of the Open Access Movement," open-access.network, (accessed June 12, 2024.)

Assessment (2012), the Global Research Council Statement of Principles on Open Access (2013), the Hague Declaration on Knowledge Discovery in the Digital Age (2015) and the Plan S (2018).³⁴

The open access movement also witnessed the growth and diversification of open access journals, which became one of the main vehicles and platforms for implementing and advancing open access.³⁵ Open access journals proliferated and expanded in various fields and disciplines, especially in the sciences, and attracted the participation and support of various actors and institutions, such as established publishers, new publishers, learned societies, professional associations, universities, research centers, funding agencies and governments.³⁶ Some of the notable and successful examples of open access journals include PLOS (Public Library of Science), BioMed Central, Hindawi, MDPI (Multidisciplinary Digital Publishing Institute), Copernicus Publications, Frontiers, DOAJ (Directory of Open Access Journals), SciELO (Scientific Electronic Library Online) and Redalyc (Network of Scientific Journals from Latin America, the Caribbean, Spain and Portugal).³⁷

3. THE ROLE AND IMPACT OF OPEN ACCESS JOURNALS IN LEGAL EDUCATION

In this part, the paper examines the role and impact of open access journals in legal education, highlighting how they can enhance the quality and accessibility of legal scholarship, facilitate the dissemination and exchange of legal ideas, foster the development and innovation of legal doctrine and practice, support the education and training of legal professionals and students, and empower the public and civil society to understand and exercise their legal rights and obligations.

1) Enhancing the Quality and Accessibility of Legal Scholarship

One of the main roles and impacts of open access journals in legal education is enhancing the quality and accessibility of legal scholarship. Legal scholarship, in this context, refers to the production and publication of original and rigorous research on various aspects and branches of law, such as legal theory, legal history, legal philosophy, legal sociology, legal anthropology, legal psychology, legal economics, legal ethics, legal pedagogy, legal methodology, legal systems, legal institutions, legal actors, legal norms, legal processes, legal outcomes and legal effects.³⁸ Legal scholarship, as a form of academic inquiry, aims to advance the understanding and knowledge of law, as well as to contribute to the improvement and reform of law and legal practice.³⁹

Open access journals can enhance the quality and accessibility of legal scholarship in various ways.⁴⁰ Firstly, open access journals can increase the visibility and reach of legal scholarship, by making it freely and widely available to anyone with an internet connection, regardless of their location, affiliation, status or income.⁴¹ This can increase the exposure and impact of legal scholarship, as well as the recognition and reputation of legal scholars and journals.⁴² It can also increase the diversity and inclusivity of legal scholarship, by enabling the participation and representation of various

³⁴ *Id.* at 19-20.

³⁵ Ramesh Pandita & Shivendra Singh, "A Study of Distribution and Growth of Open Access Research Journals Across the World," *Publishing Research Quarterly* 38, pages 131-149 (2022), 2

³⁶ Charting the Growth of Open Access in ACS Journals," ACS Publications Chemistry Blog, February 23, 2024,3

³⁷ *Id.* at 21-22.

³⁸ Richard A. Posner, *Legal Scholarship Today*, 115 *Harv. L. Rev.* 1314, 1314-15 (2002).

³⁹ *Id.* at 1315-16.

⁴⁰ James M. Donovan & Carol A. Watson, "Citation Advantage of Open Access Legal Scholarship," *Law Library Journal* 103, no. 4 (2011): 553-573,

⁴¹ Priya Rai, "Electronic Repositories for Preservation of Legal Scholarships," *DESIDOC Journal of Library & Information Technology* 34, no. 6 (2014): 472-476

⁴² Open access and academic reputation," National Institute of Science Communication and Information Resources (2010)

voices and perspectives, especially those from marginalized and underrepresented groups and regions, such as women, minorities, indigenous peoples, persons with disabilities, developing countries and emerging economies.⁴³

Secondly, open access journals can improve the quality and rigor of legal scholarship, by adopting and implementing high standards and criteria for peer review, editing, production and dissemination.⁴⁴ Peer review, in particular, is a crucial mechanism for ensuring the quality and validity of legal scholarship, as it involves the evaluation and feedback of legal articles by experts in the same or related fields, before they are accepted and published by journals.⁴⁵ Open access journals can adopt various models and methods of peer review, such as single-blind, double-blind, open, transparent, post-publication, collaborative, interactive, or crowd-sourced, depending on their objectives and preferences.⁴⁶ Open access journals can also use various tools and platforms to facilitate and enhance the peer review process, such as online submission systems, editorial management systems, peer review management systems, peer review recognition systems, peer review quality indicators, peer review training and education, and peer review ethics and guidelines.⁴⁷

Thirdly, open access journals can foster the innovation and development of legal scholarship, by embracing and exploiting the potential and opportunities of the digital technologies and the internet. Open access journals can use various formats and features to present and publish legal scholarship, such as text, audio, video, images, graphics, animations, simulations, interactive elements, hyperlinks, annotations, comments, ratings, and social media. Open access journals can also use various metrics and indicators to measure and evaluate the performance and impact of legal scholarship, such as downloads, views, citations, altmetrics, webometrics, bibliometrics, scientometrics, and informetrics. Open access journals can also use various strategies and techniques to enhance and optimize the discoverability and accessibility of legal scholarship, such as metadata, keywords, abstracts, indexes, directories, search engines, repositories, aggregators, and gateways.⁴⁸

2) Facilitating the Dissemination and Exchange of Legal Ideas

Another role and impact of open access journals in legal education is facilitating the dissemination and exchange of legal ideas. Legal ideas, in this context, refer to the concepts, theories, principles, doctrines, arguments, analyses, interpretations, critiques, proposals, and recommendations that are developed and discussed by legal scholars and practitioners, as well as by other stakeholders and actors, such as judges, lawyers, legislators, policymakers, regulators, administrators, educators, students, activists, journalists, and the public. Legal ideas, as a form of intellectual discourse, aim to explore and examine the nature and function of law, as well as to address and solve the various legal issues and problems that arise in society.⁴⁹

Open access journals can facilitate the dissemination and exchange of legal ideas in various ways.⁵⁰ Firstly, open access journals can provide a platform and a medium for the communication and transmission of legal ideas, by publishing and distributing legal articles that contain and convey legal ideas, as well as by providing and supporting

⁴³ Leslie Chan Supra n.17

⁴⁴ Ginevra Peruginelli & Sebastiano Faro, "Research Quality Evaluation: The Case of Legal Studies," in *The Evaluation of Research in Social Sciences and Humanities*, SpringerLink, first online: January 6, 2018, pp. 103–129

⁴⁵ Ginevra Peruginelli, "The debate on research quality criteria for legal scholarship's assessment: some key questions," VoxPopuLII, July 14, 2017

⁴⁶ Janaynne do Amaral et al., "Open Peer Review Traits in Open Access Journals: An Analysis based on DOAJ," *ScienceOpen*, publication date: May 31, 2023,

⁴⁷ David J. Solomon, *Developing Effective Peer Review Processes for Electronic Scholarly Journals*, in *Scholarly Journals at the Crossroads: A Subversive Proposal for Electronic Publishing* 103, 103-04 (Ann Okerson & James J. O'Donnell eds., 1995).

⁴⁸ John Willinsky, *The Access Principle: The Case for Open Access to Research and Scholarship* 23-24 (2006).

⁴⁹ Posner, *Supra* n.1, at 1316-17.

⁵⁰ See generally Richard A. Danner, *Applying the Access Principle in Law: The Responsibilities of the Legal Scholar*, 35 *Int'l J. Legal Info.* 355, 355-56 (2007)

various channels and modes of communication, such as email, chat, forum, blog, podcast, webinar, and social media.⁵¹ Open access journals can also provide a space and an opportunity for the interaction and dialogue of legal ideas, by enabling and encouraging various forms and levels of engagement, such as feedback, comments, questions, answers, discussions, debates, collaborations, and networks.⁵²

Secondly, open access journals can stimulate and enrich the generation and diversity of legal ideas, by exposing and introducing legal scholars and practitioners, as well as other stakeholders and actors, to a wide range and variety of legal ideas, from different fields and disciplines, from different countries and regions, from different cultures and traditions, from different perspectives and approaches, and from different times and contexts. Open access journals can also challenge and inspire the creation and innovation of legal ideas, by provoking and inviting legal scholars and practitioners, as well as other stakeholders and actors, to question and critique existing legal ideas, to compare and contrast alternative legal ideas, to synthesize and integrate complementary legal ideas, and to propose and develop new and original legal ideas.⁵³

Thirdly, open access journals can influence and shape the application and impact of legal ideas, by informing and educating legal scholars and practitioners, as well as other stakeholders and actors, about the latest and most relevant legal ideas, as well as about the implications and consequences of legal ideas for law and legal practice.⁵⁴ Open access journals can also persuade and motivate legal scholars and practitioners, as well as other stakeholders and actors, to adopt and implement legal ideas, by providing and presenting evidence and arguments, as well as by demonstrating and illustrating examples and cases, that support and justify legal ideas, as well as by highlighting and emphasizing the benefits and advantages, as well as the challenges and limitations, of legal ideas.⁵⁵

4. THE ROLE AND POTENTIAL OF GOVERNMENT FUNDING FOR OPEN ACCESS JOURNALS

In this part, the paper analyzes the role and potential of government funding for open access journals, arguing that state support is essential for maintaining the integrity and availability of scholarly legal resources, and that it can align with the Sustainable Development Goals, especially Goal 16, which focuses on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels.

1) The Rationale and Benefits of Government Funding for Open Access Journals

- Government funding for open access journals can be justified and supported by various rationales and benefits, both from a public policy perspective and from a legal education perspective. Some of the main rationales and benefits are as follows:
- Government funding for open access journals can ensure the stability and availability of scholarly legal resources, by providing sufficient, reliable and consistent financial support to open access journals, especially those that do not charge authors any fee for publishing their articles, and those that focus on legal knowledge and information. This can prevent the closure or deterioration of open access journals, which may otherwise face various challenges and difficulties in securing and sustaining alternative sources of funding, such as institutional support, grants, donations, sponsorships or partnerships. Government funding can also enable open access journals to improve and enhance their quality and standards, by investing in peer review, editing, production, dissemination and preservation of their articles.⁵⁶

⁵¹ See, e.g., Ginevra Peruginelli, Open Access to Legal Information: A European Perspective, 13 J. Open Access L. 1, 3-4 (2021)

⁵² Solomon, *Supra* n. 4, at 104-05.

⁵³ *Id.* at 105-06.

⁵⁴ See, e.g., Peter Suber, Open Access, MIT Press Essential Knowledge Series 2012, at 4-5

⁵⁵ *Id.* at 106-07.

⁵⁶ Scassa, *Supra* n.18 at 301, 302-03 (2015)

- Government funding for open access journals can enhance the public interest and social value of legal research, by ensuring that the results and outcomes of publicly-funded research are made openly and freely accessible to the public, without any financial, legal or technical barriers. This can increase the transparency and accountability of government policies and actions, as well as the participation and engagement of the public and civil society, in various legal issues and matters that affect them. Government funding can also promote the advancement and innovation of legal research, by facilitating the dissemination and exchange of legal ideas, as well as the collaboration and networking of legal scholars and practitioners, both nationally and internationally.⁵⁷
- Government funding for open access journals can align with the Sustainable Development Goals, especially Goal 16, which focuses on promoting peaceful and inclusive societies for sustainable development, providing access to justice for all and building effective, accountable and inclusive institutions at all levels. Government funding can contribute to the realization of this goal, by supporting open access journals that address and explore various aspects and dimensions of justice and the rule of law, such as human rights, democracy, governance, corruption, conflict, violence, security, peace, equality, inclusion, diversity and empowerment. Government funding can also support open access journals that adopt and implement the principles and practices of open science, such as openness, transparency, reproducibility, collaboration, participation and sharing, which can enhance the quality and credibility of legal research, as well as the trust and confidence of the public and civil society.⁵⁸

2) The Challenges and Limitations of Government Funding for Open Access Journals

Government funding for open access journals is not without challenges and limitations, either. Some of the possible challenges and limitations are as follows:

- Government funding for open access journals may face the scarcity and competition of public resources, as governments may have limited or insufficient budgets and resources to allocate and distribute to open access journals, especially in times of economic crisis or austerity. Governments may also have to prioritize and balance the needs and demands of various sectors and areas, such as health, education, defense, infrastructure, environment and social welfare, which may compete or conflict with the interests and goals of open access journals. Government funding may also be subject to political and economic fluctuations and uncertainties, which may affect the stability and continuity of the funding.⁵⁹
- Government funding for open access journals may encounter the political and ideological interference and influence of the government, as governments may have different or divergent views and agendas on various legal issues and matters, which may affect their decisions and actions on funding open access journals. Governments may also impose or exert various conditions and restrictions on the funding, such as requiring or preferring certain topics, themes, methods, approaches or perspectives, or excluding or discouraging others, which may compromise the editorial independence, quality and credibility of open access journals. Government funding may also create or exacerbate power imbalances and inequalities among open access journals, as

⁵⁷ Leslie Chan Supra n.17

⁵⁸ *Id.*

⁵⁹ Leslie Chan Supra n.17 at 303-04.

governments may favor or support certain journals over others, based on various criteria or factors, such as reputation, impact, affiliation, location or language.⁶⁰

- Government funding for open access journals may face legal and regulatory barriers and uncertainties, as governments may have to comply with various laws and regulations that govern and affect the funding and publishing of open access journals, such as copyright, contract, tax, procurement, competition, data protection, privacy, security and ethics. Governments may also have to harmonize and coordinate their policies and frameworks on funding open access journals with those of other governments or entities, such as regional or international organizations, which may have different or conflicting rules and standards on open access. Government funding may also raise various ethical and moral dilemmas and conflicts, such as the potential misuse or abuse of the funding, the possible conflicts of interest or bias of the funders or the recipients, or the potential harm or risk to the public or the society.⁶¹

5. THE CASE OF INDIA: AN ANALYSIS AND EVALUATION OF GOVERNMENT FUNDING FOR OPEN ACCESS JOURNALS

In this part, the paper examines the case of India, as an example of a developing country that has adopted and implemented various policies and initiatives to support and promote open access journals, especially in the field of law. The paper analyzes and evaluates the current situation and challenges of government funding for open access journals in India, and provides some policy recommendations and suggestions for designing and implementing effective and appropriate frameworks and mechanisms that can facilitate and regulate government funding for open access journals.

1) The Current Situation and Challenges of Government Funding for Open Access Journals in India

India has been one of the pioneers and leaders of the open access movement in the global south, and has demonstrated a strong commitment and support for open access journals, especially in the field of law. India has a rich and diverse landscape of open access journals, covering various branches and aspects of law, such as constitutional law, human rights law, environmental law, intellectual property law, international law, comparative law, and legal education. Some of the prominent and reputable examples of open access journals in India include the Indian Journal of Constitutional Law, the Indian Journal of Human Rights and the Law, the Indian Journal of Environmental Law, the Journal of Intellectual Property Rights, the Indian Journal of International Law, the Indian Journal of Comparative Law, and the Journal of Legal Education and Research.⁶²

India has also developed and implemented various policies and initiatives to support and promote open access journals, especially through government funding. Some of the main policies and initiatives are as follows:

- The National Knowledge Commission (NKC), established in 2005, was a high-level advisory body to the Prime Minister of India, with the objective of transforming India into a knowledge society. The NKC issued several recommendations on open access, such as creating a national open access policy, establishing open access repositories and journals, providing incentives and recognition for open access publishing, and raising awareness and advocacy on open access among stakeholders.⁶³
- The Department of Science and Technology (DST), under the Ministry of Science and Technology, is one of the main agencies responsible for funding and promoting scientific and technological research in India. The DST issued a national open access policy in 2014, which mandates that all

⁶⁰ *Id.* at 304-05.

⁶¹ *Id.* at 305-06.

⁶² Ramesh C. Gaur & Kavita Gaur, Open Access Legal Publishing in India: An Overview, 6 J. Int'l Com. L. & Tech. 1, 1-2 (2011)

⁶³ National Knowledge Commission, Report to the Nation 2006-2009, at 41-43 (2009)

publicly-funded research outputs, including journal articles, be deposited in open access repositories and made freely available within six months of publication. The DST also supports and funds various open access initiatives, such as the Indian Academy of Sciences Open Access Journals, the Indian Citation Index, and the Open Access India.⁶⁴

- The University Grants Commission (UGC), under the Ministry of Education, is the apex body that regulates and coordinates higher education in India. The UGC issued a notification in 2018, which requires that all PhD theses submitted by research scholars in Indian universities be uploaded in the UGC-approved open access repository, Shodhganga, within a period of 30 days. The UGC also supports and funds various open access initiatives, such as the Consortium for Educational Communication, the e-PG Pathshala, and the UGC-CARE List of Quality Journals.⁶⁵

However, despite these policies and initiatives, government funding for open access journals in India still faces various challenges and limitations, such as:

- The lack of adequate and consistent funding, as the government budget and resources for open access journals are often limited, insufficient, or uncertain, especially in times of fiscal constraints or crises. The government funding for open access journals is also often dispersed and fragmented among various agencies, departments, and ministries, which may have different or conflicting priorities, criteria, or procedures for allocating and distributing the funding.⁶⁶
- The lack of clear and comprehensive guidelines, standards, and regulations, as the government policies and frameworks for open access journals are often vague, incomplete, or outdated, and do not address various issues and aspects, such as the eligibility, selection, evaluation, monitoring, and reporting of the funding recipients, the terms and conditions, rights and obligations, and responsibilities and accountability of the funding providers and recipients, and the mechanisms and procedures for resolving disputes, complaints, or grievances related to the funding.⁶⁷
- The lack of awareness and capacity, as the government officials, staff, and representatives, as well as the open access journal editors, publishers, and authors, are often unaware or uninformed of the benefits and opportunities, as well as the challenges and risks, of government funding for open access journals, and do not have the necessary knowledge, skills, or tools to effectively apply for, manage, or utilize the funding. The lack of awareness and capacity may also lead to various problems and difficulties, such as delays, errors, fraud, corruption, or misuse of the funding.⁶⁸

⁶⁴ Department of Science and Technology, National Policy on Open Access, <https://dst.gov.in/sites/default/files/DST%20Open%20Access%20Policy.pdf> (last visited June 12, 2024)

⁶⁵ University Grants Commission, Notification on Submission of Thesis in Shodhganga, https://www.ugc.ac.in/pdfnews/4033931_Notification-Shodhganga.pdf (last visited June 12, 2024)

⁶⁶ Scassa, *Supra* n.18 at 301, 303-04 (2015)

⁶⁷ *Id.* at 304-05.

⁶⁸ *Id.* at 305-06.

2) Policy Recommendations and Suggestions for Designing and Implementing Effective and Appropriate Frameworks and Mechanisms for Government Funding for Open Access Journals in India

Based on the analysis and evaluation of the current situation and challenges of government funding for open access journals in India, the paper provides some policy recommendations and suggestions for designing and implementing effective and appropriate frameworks and mechanisms that can facilitate and regulate government funding for open access journals. Some of the main recommendations and suggestions are as follows:

The government should increase and diversify the sources and modes of funding for open access journals, by allocating and distributing more budget and resources, as well as by exploring and exploiting various alternatives and options, such as grants, subsidies, waivers, incentives, awards, partnerships, or collaborations, for supporting and promoting open access journals, especially those that focus on legal knowledge and information.⁶⁹

- The government should establish and enforce clear and comprehensive guidelines, standards, and regulations for open access journals, by developing and implementing a national open access policy, as well as by issuing and updating various rules and directives, that cover and address various issues and aspects, such as the eligibility, selection, evaluation, monitoring, and reporting of the funding recipients, the terms and conditions, rights and obligations, and responsibilities and accountability of the funding providers and recipients, and the mechanisms and procedures for resolving disputes, complaints, or grievances related to the funding.⁷⁰
- The government should enhance the awareness and capacity of the stakeholders and actors involved in open access journals, by conducting and supporting various activities and initiatives, such as training, education, guidance, consultation, communication, advocacy, or outreach, that aim to inform and educate the government officials, staff, and representatives, as well as the open access journal editors, publishers, and authors, about the benefits and opportunities, as well as the challenges and risks, of government funding for open access journals, and to equip and empower them with the necessary knowledge, skills, or tools to effectively apply for, manage, or utilize the funding.⁷¹

6. CONCLUSION AND SUGGESTIONS

In conclusion, environmental science is a pivotal field of study that addresses the complex and interdependent relationships between humans and their natural surroundings. Through a multidisciplinary approach, it integrates knowledge from various scientific disciplines, such as biology, chemistry, geology, and physics, to understand and solve environmental problems. The study of environmental science not only enhances our comprehension of ecological systems but also provides the necessary tools and techniques to mitigate the adverse impacts of human activities on the environment.

The challenges posed by environmental degradation, climate change, and resource depletion necessitate urgent and concerted efforts from individuals, communities, governments, and international organizations. By promoting sustainable practices, environmental policies, and innovative technologies, we can collectively work towards preserving the integrity of our planet for future generations.

Ultimately, the pursuit of environmental science embodies a commitment to stewardship and sustainability, ensuring that the natural world remains vibrant and resilient. It calls for a proactive and informed approach to environmental management, fostering a harmonious balance between economic development and ecological preservation.

⁶⁹ Leslie Chan Supra n.17

⁷⁰ *Id.*

⁷¹ *Id.*

Some of the possible suggestions for improving open access journals are as follows:

- Open access journals should adopt and follow good practices and standards for publishing, such as those recommended by the Committee on Publication Ethics (COPE), the Directory of Open Access Journals (DOAJ), the Open Access Scholarly Publishers Association (OASPA), and the World Association of Medical Editors (WAME).⁷² These practices and standards can help to ensure the quality, integrity, and credibility of open access journals, as well as to prevent and address various issues and problems, such as predatory publishing, plagiarism, fraud, misconduct, or retractions.⁷³
- Open access journals should enhance and optimize their visibility and discoverability, by using various strategies and techniques, such as metadata, keywords, abstracts, indexes, directories, search engines, repositories, aggregators, and gateways. Open access journals should also register and obtain various identifiers and codes, such as the International Standard Serial Number (ISSN), the Digital Object Identifier (DOI), the ORCID iD, and the CrossRef Funder Registry, which can help to identify and link their journals, articles, authors, and funders.⁷⁴
- Open access journals should engage and collaborate with various stakeholders and actors, such as authors, editors, reviewers, readers, librarians, publishers, funders, policymakers, and the public, to promote and support open access publishing. Open access journals should also participate and contribute to various initiatives and platforms, such as the Open Access Week, the Open Access Button, the Unpaywall, and the HowOpenIsIt? Guide, which aim to raise awareness and advocacy, as well as to provide information and resources, on open access.

⁷² See, e.g., COPE, Principles of Transparency and Best Practice in Scholarly Publishing, <https://publicationethics.org/resources/guidelines-new/principles-transparency-and-best-practice-scholarly-publishing> (last visited June 12, 2024) ; DOAJ, Principles of Transparency and Best Practice in Scholarly Publishing, <https://doaj.org/bestpractice> (last visited June 12, 2024) ; OASPA, Code of Conduct, <https://oaspa.org/membership/code-of-conduct/> (last visited June 12, 2024) ; WAME, Recommendations on Publication Ethics Policies for Medical Journals, <http://www.wame.org/recommendations-on-publication-ethics-policie> (last visited June 12, 2024)

⁷³ See, e.g., Jeffrey Beall, Criteria for Determining Predatory Open-Access Publishers, <https://beallist.net/criteria-for-determining-predatory-open-access-publishers-2/> (last updated Jan. 1, 2017) ; Miguel Roig, Avoiding Plagiarism, Self-plagiarism, and Other Questionable Writing Practices: A Guide to Ethical Writing, <https://ori.hhs.gov/sites/default/files/plagiarism.pdf> (last updated Aug. 2, 2013) ; Elizabeth Wager & Sabine Kleinert, Cooperation between Research Institutions and Journals on Research Integrity Cases: Guidance from the Committee on Publication Ethics (COPE), 39 *Maturitas* 267 (2001) .

⁷⁴ See, e.g., John Willinsky, The Access Principle: The Case for Open Access to Research and Scholarship 23-24 (2006) ; ISSN International Centre, ISSN Portal, <https://portal.issn.org/> (last visited June 12, 2024) ; CrossRef, DOI System, <https://www.crossref.org/education/doi-basics/doi-system/> (last visited June 12, 2024) ; ORCID, What is ORCID?, <https://orcid.org/content/what-is-orcid> (last visited June 12, 2024) ; CrossRef, Funder Registry, <https://www.crossref.org/services/funder-registry/> (last visited June 12, 2024) .