ResearchGate, SciHub, and Beyond: Sharing Scholarly Work Legally

PRESENTED BY ERIN OWENS
ASSOCIATE PROFESSOR, SCHOLARLY COMMUNICATIONS LIBRARIAN
17 NOV 2017
A repository is essentially an online archive of scholarly works and/or research data, designed for researchers to share knowledge faster and more openly.

Disciplinary repositories (I’ll refer to them as DRs here, for convenience) are designed around a subject area but can accept work from scholars at any institutions (or even unaffiliated researchers). Two big examples are Arxiv, which focuses on the physical and life sciences (though it has also expanded to encompass computer science, economics, and other areas), and SocArxiv, which collects work in the social sciences and humanities, but there are dozens of others that specialize in more focused subject areas. I’ll also mention SSRN here, which collects works in the social sciences, but which was purchased by Elsevier in 2016. DRs offer the convenience of collocating work within a field, but the boundaries between those fields may sometimes be problematic for researchers who work in interdisciplinary areas or whose work has the potential to benefit researchers in other fields—it can make the “cross-pollination” of ideas between disciplines more difficult.

Institutional repositories (IRs) are designed to host the scholarly productions of researchers at one institution. Many universities, including SHSU, host an institutional repository for their researchers, and these archives often include the electronic theses and dissertations of graduate students as well as scholarly products provided by institutional faculty. IRs have the benefit of bringing attention to an institution’s overall research productivity, but
researchers who change institutions may end up with their work scattered across IRs.

Scholarly collaborative networks (or SCNs, also sometimes known as academic social networks), such as ResearchGate and Academia.edu, are designed for researchers to “showcase” themselves, maintain an online profile, gain visibility, and locate collaborators—but most also include a repository component for researchers to upload copies of their work to the site. These SCN repositories are very popular for posting work, because a researcher can collocate all their work in one place, regardless of publishing across disciplinary boundaries or changing institutions over time, and because the large membership of these sites seems to provide greater potential discovery of a researcher’s work.

Pirate repositories, such as SciHub, are designed to bypass publisher subscription costs to allow researchers access to published content, despite violating copyright and sometimes other legal frameworks as well.

It is important to clarify that repositories can be used by researchers at many levels, not only tenured or tenure-track faculty. Additionally, many repositories host scholarly productions other than just published articles, including posters, conference papers, videos, and more—but published articles are often in the spotlight, and that’s what we will primarily discuss today.
SciHub is a “pirate” site which bypasses publisher paywalls to allow free download of copyrighted works. Think illegal music sharing, but with scholarly articles. The platform was started in 2011 by a software developer and neurotechnology researcher in Kazakhstan, who has claimed that she could not have performed research at her university without “pirate” research sharing forums and thus became interested in automating the process. Since its origin, it has been forced to change internet domains numerous times, but authorities have never succeeded in taking it down altogether, partly because the site is hosted in Russia and is hard to target with the US legal system. Although the platform is very popular in developing countries where researchers may have less access to expensive journal subscriptions, use is also widespread in developed countries, including the United States.

Supporters argue that the pirate platform brings visibility to the issue of the rising costs of scholarly subscriptions and is thus an important “disruptor” of a scholarly publishing industry that they perceive as corrupt or broken. But SciHub is also heavily criticized because its illegal tactics can create a negative reputation that undermines other, more legitimate initiatives for open sharing and open-access publishing.

Additionally, SciHub users share their institutional usernames and passwords to facilitate downloading through their institution—so users aren’t only violating copyright, but are
risking access to their institutional accounts and violating institutional terms of use for even having a network account. They risk having their institutional network account privileges revoked for misuse, and they also put the entire institution’s access to resources at risk: when a publisher detects massive, bot-style downloads such as those produced by SciHub or similar tools, they will shut off the institution’s access to the compromised database until the problem is resolved. So, a researcher may think they are helping themselves and others with convenient access to content, but this can often have a negative impact on their own institution. The sharing of an institutional network username and password could also result in the theft and illicit use of those credentials, meaning that student records, financial data, and other sensitive institutional records could be compromised.

So far, the publishers Elsevier and American Chemical Society have both been granted default judgements against SciHub and awarded millions of dollars in damages.
ResearchGate is one of several sites termed “scholarly collaborative networks” (or SCNs) where scholars can create profiles to showcase their publications, funding awards, and other accomplishments and to connect with peers and potential research collaborators. Although the sites can be thought of in terms of just digital CVs, sharing copies of one’s own work has become a major characteristic of SCNs (along with the added features of tracking who reads and cites the work). Other examples of SCNs include Mendeley, SSRN, Academia.edu, and Figshare, among others. However, ResearchGate has quickly become one of the largest in terms of membership and site visits, actually generating close to 7 times the traffic of the pirate site SciHub.

The problem is that many researchers post their work to ResearchGate and other SCNs without understanding WHAT they can share, or WHERE and WHEN they can share it. So SCNs become a complicated mix of legal and illegal sharing.

A number of publishers and societies have now joined to form the Coalition for Responsible Sharing, which is taking actions ranging from take-down requests (over 100,000 just in their initial batch) to litigation to remove copyright-infringing content from ResearchGate. Ultimately they want ResearchGate to collaborate with them better in educating researchers and facilitating lawful sharing while preventing infringement.
Potentially, researchers may see their content removed from ResearchGate for infringement, even if the researcher thought they were sharing it in good faith. This will impact their ability to showcase and share their own work as well as their ability to freely access works posted by others.
In our minds as researchers, the work is our creation, and we should have the rights to share it. In reality, the publishing contracts we sign often say something very different.

Do you know what your publishing contract actually specified in terms of your right to post your article online, print copies of your article for use in class, republish your article in other journals or in other formats such as a book chapter, or translate your article into another language?

An author often doesn’t realize that they have transferred these and other rights to the publisher, but the publisher is motivated by profit to protect these rights once they hold them—thus, the crackdowns we are starting to see in venues like ResearchGate. Publishers want researchers to follow the rules in order to protect their bottom line, but many researchers just want to share and grow knowledge in their field and aren’t necessarily thinking about copyright law.

Added considerations about SCNs:

Some SCNs require users to log into the site before they can read or download a full work. This gives them a lot of knowledge about what individual users are reading, and some people are uncomfortable with this violation of the right to read.
anonymously. You have to decide how this squares with your own personal values. (Julie Cohen, Right to Read Anonymously, https://free.law/2015/09/17/the-right-to-read-anonymously/)
Excerpt from Academia.edu Terms

“By making any Member Content available through the Site or Services, you hereby grant to Academia.edu a worldwide, revocable, non-exclusive, transferable license to exercise any and all rights under copyright, in any medium, and to authorize others to do the same, in connection with operating and providing the Services and Content to you and to other Members, provided that the Member Content is not sold for a profit. Academia.edu does not claim any ownership rights in any Member Content and nothing in these Terms will be deemed to restrict any rights that you may have to use and exploit any Member Content.” (emphasis added)

Excerpted from: https://www.academia.edu/terms
We want to make things as easy as possible on fellow researchers, which is why we often jump to sharing a full PDF. But when you know you lack the permissions to do so, or if you are in doubt about your permissions, then sharing a link to the publisher website or a Digital Object Identifier (DOI) for the article is a safer bet. This still provides another researcher with all the critical details of the publication but lets him obtain the full text through his own institution’s subscription or interlibrary loan service.

If you do want to investigate rights to share a full work, one of the first steps is to be sure you understand the manuscript versions that are often referenced by such permissions:

- **Pre-print version** = original submission, before peer review
- **Post-print version** = revised after peer review, but before editor’s final copyediting and proofing – also sometimes called the Accepted Manuscript
- **Final publisher version** = formatted PDF as published in journal / on pub. website

Some self-archival policies will also reference embargos, so this is another concept you need to understand going in. Embargo periods define a particular period of time for which the publisher wants exclusive rights to share a work, but after that period of time passes, the author has increased permissions to share specified versions of a work. Some journals may have an embargo period of, say, 12 months before authors are allowed to archive a post-print of their article online, while other journals may have no embargo period on a
post-print.

I’m sure we all keep handy, organized files with every contract we’ve ever signed for every article we’ve ever published—right? Well, maybe not. But if you DO happen to have the original contract handy, always start there so that you know you are referencing the exact permissions and restrictions set for that publisher at that time.

SHERPA/RoMEO is a database of publisher policies regarding copyright and self-archiving. You just look up the title of the journal where you published, and it will indicate which versions you are permitted to archive, where, and when. [Live demonstration to follow]

“How Can I Share It?” is another resource that seeks to specify where and when you can share your work. Instead of searching by journal title, you actually search by the DOI of your published article. It is sometimes easier to understand in “plain English,” but it sometimes provides less complete information and may not contain as many journals, depending on your field. I like to provide more than one option when possible, as some users may prefer this format, but if it doesn’t contain the level of detail you need, then refer to SHERPA/RoMEO instead.

With smaller journals published by a university department or small professional association, you may discover that even SHERPA/RoMEO doesn’t contain the journal’s archiving policies. In these instances, your best bet is to contact the journal’s editor directly and inquire about the specific permission that you’re interested in. In many cases, these smaller journals that are not handled by large commercial publishers have the most permissive policies. For example, earlier this year I co-authored an article that was published in *Research in Geographic Education*, which is published by the Department of Geography at Texas State University. I inquired about permission to share the post-print of our article in SHSU’s institutional repository. The editor actually granted us permission to archive the final published version.

In very specific situations, there may be legal methods for requesting that the rights you transferred to a publisher should revert to you as the author. The Authors Alliance provides guides, webinars, and a ton of information on regaining your rights. Refer to their Rights Reversion portal [http://www.authorsalliance.org/resources/rights-reversion-portal/](http://www.authorsalliance.org/resources/rights-reversion-portal/) or their Termination of Transfer portal [http://www.authorsalliance.org/resources/termination-of-transfer/](http://www.authorsalliance.org/resources/termination-of-transfer/)
Once you are more informed of the issues involved with transfer of rights and self-archiving, the key is to go into future publications knowing what you want to do. If you don’t much care about sharing your work in online repositories, then you may not need to worry too much about the fine print in your publishing contract. But if being able to share your work in specific ways is very important to you, you will want to read contracts carefully and prioritize publishing in journals whose permissions align with what you want. The Becker Medical Library at Washington University - St. Louis provides a helpful list of examples for phrases to look for in publisher copyright agreement forms. https://becker.wustl.edu/sites/default/files/archived-pdfs/SC-Phrases.pdf

You also should not hesitate to ASK for what you want. Even if a publisher has a default set of contract terms, you have the right to negotiate those terms. One great option is to add what’s called an “author addendum” to the contract which the publisher provides to you, and ask them if they will agree to sign it as amended. SPARC, the Scholarly Publishing and Academic Resources Coalition, provides a template for an author addendum as well as a short guide explaining how to use it to negotiate your rights with publishers. Brochure and addendum template: https://sparcopen.org/our-work/author-rights/#brochure
Depending on your personal values and priorities, you may also want to consider deliberately publishing with journals that permit greater sharing by default, or even journals that are published in a fully open-access model (meaning that everyone can read the final published product without barriers or subscription fees). There is no need for navigating the complexities of self-archival or risking the dangers of pirate research-sharing sites when a work is published open access.
I wanted to focus heavily on published articles, since is the majority of what we see shared online with sticky legal limitations. But I feel I would be remiss if I didn’t take a moment to speak to the sharing of un-published works.

Poster presentations, presentation slides, conference papers, white papers, datasets, and other unpublished scholarly products can also be valuable mechanisms for sharing knowledge with other researchers and showcasing your work. You may wish to share these types of items in SHSU’s own institutional repository, called Scholarly Works @ SHSU—and I’ll share more details about this option in a little bit—but you can also share them on other sites like ResearchGate, Slideshare (specifically for slide decks), Mendeley Data or Figshare (for datasets), or other repositories.

Remember that as soon as you have created an original work in a fixed medium, regardless of whether it has been traditionally “published,” you do hold copyright to that work. If you post a conference paper online, you still have certain exclusive rights to that work. But it’s up to you to what extent you want to protect or share those rights. You should always give thought to this, and for the benefit of others, state your wishes explicitly with your work, either by stating that “all rights are reserved,” or by indicating what rights are shared versus protected. Creative Commons licenses are a terrific and standardized way to do this—you choose the level of license that best matches the extent to which you want to protect or
share your work, and then include the license text in your work or on the page where it is shared. How to Mark Your Work with a Creative Commons License: https://wiki.creativecommons.org/wiki/Marking_your_work_with_a_CC_license
Best Practices to Keep in Mind

- Retain copies of publishing agreements (print or digital).
- Retain copies of any special permissions granted by editors.
- Opt FIRST for your institution's repository or a reputable disciplinary repository.
- Always verify journal's permissions for academic social networks.
- Avoid risky pirate sites like SciHub.
- If you have questions or doubts, contact the Library for assistance.
How Can the SHSU Library Help?

- Assist in researching a journal's default terms and permissions.
- Assist in understanding and selecting the right manuscript version.
- Assist with addendums to publishing agreements.
- Answer other questions related to publishing and communicating your scholarly work.
- Scholarly Works @ SHSU → Post copies of your work here, instead of or in addition to other sites, and include one link to our system in your C.V.
Scholarly Works @ SHSU – SHSU’s Institutional Repository

- https://shsu-ir.tdl.org/shsu-ir/
  or
- Library.shsu.edu -> Collections menu -> Scholarly Works @ SHSU

For questions, or a request to add your department, contact:
- Susan Elkins, Assistant Professor, Digital Resources Librarian
- Phone: 936-294-1524
- Email: sge004@shsu.edu
Scholarly Communications Librarian

- Erin Owens, Associate Professor, Access Services Coordinator & Scholarly Communications Librarian
- Phone: 936-294-4567
- Email: eowens@shsu.edu

- Contact me any time regarding determining existing rights, negotiating future rights, determining where, when, and how you can share your work, or addressing other questions about publishing and communicating your scholarship.

- Refer any time to our guide: [http://shsulibraryguides.org/publish](http://shsulibraryguides.org/publish)
  ➔ These slides with notes will be posted there as well!