Reflections on the ‘open-access’ journey of the Potchefstroom Electronic Law Journal

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Proff. Wian Erlank & Anél du Plessis
wian.erlank@nwu.ac.za / anel.duplessis@nwu.ac.za

Faculty of Law, NWU (Potchefstroom Campus)
Outline

• Open Access, research & learning in the field of law
• Open Access publishing in South Africa
• Early beginnings of the Potchefstroom Electronic Law Journal
• PER's transformation: online & accessible towards truly Open Access
• PER’s challenges, successes and statistics
• Concluding remarks
Research, learning and “Open Access” in the field of law

• Open Access in Legal Research
  • Globalisation has serious implications for what and how we research in legal field
  • Comparative research (across national borders) necessitates accessibility and reliability of info
  • Changes in various legal regimes across the world necessitate accessibility of new legal information
  • Foreign research funding is becoming more limited – travel for research can be limited – access needed on PC where you are based
  • Foreign funding institutions prefer research outputs to be made available via ‘Open Access’ repositories etc – part of call for wide dissemination of research
  • Etc.
Research, learning and “Open Access” in the field of law

• Open Access in Legal Education
  • Flipped-classroom and other alternative lecturing methods demand of students to prepare and study new information at home – Open Access resources critical part of the lecturing ‘toolbox’
  • Textbooks in certain legal fields slow to be published; Open Access scholarly journal articles increasingly become critical primary education material
  • Open Access sources open up new possibilities for research-type assignments as part of assessment of knowledge and skills
  • Sharing of educational materials across international borders easier than ever
  • Etc.
Research, learning and “Open Access” in the field of law

• “Open Access” in and by itself brought **new areas of research** in fields of:
  • Immaterial property law eg patents, copyright and publication rights
  • Contract law
  • Privacy law
  • Etc.

• “Open Access” **influences choice of legal sources** that law firms and judiciary (courts) use and opt to buy – maintaining a ‘traditional’ law library has a significant cost implication
“Open Access” publishing per se – why in SA’s context

- Research on issues and problems in South Africa and Africa highly sought after
- SA researchers have a responsibility to ‘share’ towards rest of continent and rest of world – especially in areas that demand knowledge of African context eg climate change, HIV, minerals exploitation and transformative constitutionalism
- SA researchers must work on international profile
  - Eg. NRF demands citations and prove of relevance of researchers’ work and output
- Private and public domain publications needed for innovation and progress but public domain should grow for ‘inclusiveness’ in innovation and progress
- More data base options available for broader exposure of homegrown science – South African scientists should send homegrown research into the world
The relevance of this background?

The first electronic law journal in SA (Africa?) – “Open Access” from day one!

A proud product of the NWU, Faculty of Law
Potchefstroom Electronic Law Journal – modest early beginnings

• **PER** (acronym for the Afrikaans journal title *Potchefstroomse Elektroniese Regstydskrif*, also suggesting Latin connotations of ‘causation’, ‘durability’ and ‘facilitation’)

• First appeared in November 1998

• At the time, awareness of the incongruity of notion of a law journal:
  • not being published in tangible form by an established law publisher
  • inevitability of things to come

• Nov 1998 Editorial stated:
“In this era of an unstoppable increase in information on offer and improved means of communication, it is inevitable that the exchange of juristic ideas should develop and escalate electronically, by internet. A problem already challenging the time starved legal user of the electronic medium, is to separate the wheat from the chaff. For many people it is relatively easy to publish something on the Web. It is, however, just as demanding to produce quality in this manner as through any other medium, be it primitive or avant garde.”
Potchefstroom Electronic Law Journal – modest early beginnings

• From the outset PER was focused on:
  • maintaining high editorial standards
  • producing material for legal scholars worth reading

• Probably still most widely cited contribution to PER/PELJ (on Ubuntu by Justice Yvonne Mokgoro) appeared in first volume

• Papers delivered (referred to as orations) in Potchefstroom by visiting scholars and judges were often published in PER/PELJ

• Double-blind peer review practices were maintained throughout, except for orationes
Potchefstroom Electronic Law Journal – modest early beginnings

• From time to time guest editors were invited to produce single or special editions
• Renowned South African and foreign scholars are regularly approached to review submissions to PER/PELJ
• Editorial board composed of prominent internationally recognised academics and judges
• Since 2003, PER/PELJ has taken its place among a range of renowned internationally accredited journals, currently listed and indexed *inter alia* by:
  • IBSS, DOAJ, SSRN, AJOL, Boloka, SciELO, HeinOnline, Jstor, Web of Knowledge and Google Scholar
• 2014 - six editions, covering almost 3000 pages
• 2015 - seven editions with 96 articles covering more than 3000 pages
• See for yourself: [http://law.nwu.ac.za/per](http://law.nwu.ac.za/per)
PER’s transition to truly “Open Access”

• In 2016, *PER/PELJ* migrated to an online journal system, and contributions accepted for publication are now published *seriatim* as soon as finally edited version becomes available.

• Hosted and published independent of University infrastructure
  • ASSAf
  • OJS platform
    • 100% open source
  • SciELO SA (Scientific Electronic Library Online)
PER’s challenges, the successes and the stats

The look:

Old

New
PER’s challenges, the successes and the stats

The challenges are legio:

• Inundated with a flood of submissions

• Stature of journal means that the quality of submissions increases
  • Becoming journal of choice for scholars
  • Also due to large government subsidies for authors
  • BUT not for the journal itself
PER’s challenges, the successes and the stats

Operating expenses:

• Open access is not “free”.
• Someone still has to pay.
  • Faculty covers some of the costs associated with the logistics and administration
  • Editors get no remuneration – 100% pro bono
  • Now charging extremely modest article processing charges (APC’s) Page fees
    • Only covers the cost of language editing and style editing (done externally).
    • Currently R90 per page
    • No submission fees, only on publication.
PER’s challenges, the successes and the stats

Open access (cont)

• Eurocentric and US-centric perception that open-access is inferior
  • Largely driven by vested interests of commercial publishers
  • BUT also predatory journals
  • See new policy by a.o DOAJ

• Beal’s list
  • Good and bad, but ...
    • Is SciELO a Publication Favela?
    • Concerted Rebuttal by editors

• Ironically
  • Efforts by commercial publishers to buy out successful open access journals!
PER’s challenges, the successes and the stats

• Peer review
  • Reviewer fatigue
  • Sometimes a challenge finding experts
  • General unwillingness in academia to do peer review
    • Especially from younger colleagues
    • Time
      • Peer review takes time, especially when reviewers are either unwilling or unreliable.

• Decision to limit length of articles
• General law journal
  • International
PER’s challenges, the successes and the stats

The Editorial Board
(provide editorial oversight and advice to the editor and other persons involved in producing the journal.

- Judge Laurie Ackermann (Judge, Constitutional Court of South Africa, South Africa)
- Dr Howard Chitimira (North-West University, Mafikeng, South Africa)
- Prof Erika de Wet (University of Amsterdam, the Netherlands)
- Prof Lourens Cees Maris (University of Amsterdam, the Netherlands)
- Prof Rob Midgley (University of Fort Hare, South Africa)
- Prof Johann Neethling (University of South Africa, South Africa)
- Prof Loot Pretorius (University of the Free State, South Africa)
- Prof Johan van der Vyver (Emory University, USA)
- Prof Tobias van Reenen (University of the Western Cape, South Africa)
- Prof Dawid van Wyk (University of South Africa, South Africa)
- Judge Deon van Zyl (Judge, High Court of South Africa, South Africa)
- Prof Dirk van Zyl Smit (University of Nottingham, England)
- Judge Thomas von Danwitz (European Court of Justice, Luxembourg)
### PER’s challenges, the successes and the stats

#### The actual editors:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Years</th>
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<tr>
<td>Francois Venter</td>
<td>Founding Editor</td>
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<tr>
<td>Christa Rautenbach</td>
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<td></td>
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<td></td>
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<tr>
<td>Klaus Beiter</td>
<td>Associate Editor</td>
<td>(2016-current)</td>
</tr>
<tr>
<td>Anél du Plessis</td>
<td>Associate Editor</td>
<td>(2008-current)</td>
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<td>Sarel du Toit</td>
<td>Associate Editor</td>
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<td>Wian Erlank</td>
<td>Associate Editor</td>
<td>(2014-current)</td>
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<tr>
<td>Oliver Fuo</td>
<td>Associate Editor</td>
<td>(2016-current)</td>
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<td>Anél Gildenhuys</td>
<td>Associate Editor</td>
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<tr>
<td>Louis Kotzé</td>
<td>Associate Editor</td>
<td>(2011-2012)</td>
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<tr>
<td>Hein Lubbe</td>
<td>Associate Editor</td>
<td>(2014-2015)</td>
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#### Editorial assistance from:
- Mr Caiphas Brewsters Soyapi
- Mrs Angela van der Berg
- Mrs Rieette Venter (Technical)
PER’s challenges, the successes and the stats

PELJ/PER is indexed/listed by the following:

- AfricanLii
- AJOL
- Boloka
- CrossRef
- DHET Accredited
- DOAJ
- HeinOnline
- IBSS (ProQuest)
- InfoBase (IF = 2.5)
- Open Archives Registry
- PKP Index
- SABINET
- SAFLii
- SciELO SA
- Scopus
- SHERPA/RoMEO
- SSRN
- University of Illinois OAI-PMH Data Provider Registry
- Washington and Lee University School of Law (IF=0.01)
- Web of Knowledge (WoK)
PER’s challenges, the successes and the stats

Some stats:

• **Copyright & License Terms**

• Copyright remains with the author/s of the article/s.

• All articles published in PELJ/PER can be re-used under the following CC license: CC BY-SA [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/).

• **Digital Preservation Policy**

• This journal utilizes the [Portico system](https://www.portico.org/) to create permanent archives of the journal for purposes of preservation and restoration. [Click here](https://www.portico.org/how-we-help/keeper-registry/) to view PELJ/PER in the Portico Keeper’s Registry.
PER’s challenges, the successes and the stats
PER’s challenges, the successes and the stats

### Year Base 2016

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In conclusion

• Exciting journey but it took time and still takes hard work and devotion from an entire team of editors and support staff
• PER has always been ‘Open Access’ without anyone initially having fully understood this concept or its legal consequences
• ‘Open Access’ is and will always be part of the existence of PER
• Other journals have contacted PER for guidance and advice – a recognized pioneer in the field
• PER has given editorial learning opportunities for young and upcoming academics – early career colleagues (assistant editors) as well as postgraduate students (editorial assistants) from South Africa and other African countries
In conclusion

• **Draw-backs** of being open access:
  • Once you go online and into the world it is the point of no return – extremely important to have all edits carefully executed
  • Databases hosting PER articles imply that a researcher may not need to physically visit the PER website
  • All kinds of authors – established and very inexperienced pick up on the journal’s existence and submit contributions of varying quality (sometimes very poor quality)
  • Etc
In conclusion

• **Benefits** of being open access:
  • One of top reasons for domestic and international visits to the Faculty of Law (PC) website – raises awareness of Faculty and the NWU
  • Online and ‘Open Access’ mean much faster publishing in an accredited journal
  • Authors are excited about and attracted by exposure via PER as an ‘Open Access’ forum
  • Faculty of Law and NWU contribute to fast and extended sharing of new and up-to-date legal research
  • The Faculty of Law has its own potential ‘Open Access’ forum to use as part of outputs to be listed in international research funding applications
  • The journal has ‘standing’ which makes it easier to find willing peer reviewers and to speed up the publication process
  • Etc
THANK YOU