

## Berman Jewish Policy Archive: A Case Study

### Abstract

This paper begins with a short overview of copyright history and issues in the current digital age. From there, it examines the Berman Jewish Policy Archive to see how one particular archive overcomes copyright restrictions to include current materials among its offerings.

### Introduction

During our examinations of digital libraries and digital repositories for this class, I was struck by the potential of digital libraries, archives, and repositories to provide a wide audience with access to a wide range of materials. However, I was also struck by the fact that most of the materials in these libraries, archives, and repositories were old and out of copyright. I felt that just as providing access to current materials is an important part of the service of physical libraries, so too should it be an important part of digital libraries. Yet, due to copyright restrictions, this is not possible for most current materials. Why? I wondered. How can this change? While I am unable to answer this last question, examining the Berman Jewish Policy Archive gave me a chance to study how one particular digital archive manages to include current materials despite the current copyright restrictions.

### Copyright: A History

In the early days of publishing, both before and after the invention of the printing press, there was no such thing as copyright. There was no fear of the mass copying of

manuscripts and books because it took considerable effort to make such copies and very few people would attempt to do so; thus, handwritten copies of texts were not seen to undercut the market for printed books. It was not until 1710 that England passed the first copyright statute in order to encourage “Learned men to Compose and write useful Books... for the Encouragement of Learning.”<sup>1</sup> While the term of copyright has since been extended, originally it only lasted for 14 years unless it was renewed for another 14 years. Thus, in the beginning, the purpose of copyright was not to secure that authors and publishers retained control over their work and what was done with it but rather “to promote public access to learning” by ensuring that authors who had something to offer the world could make a living at it.<sup>2</sup>

Throughout history, libraries have played an important part in promoting public access to learning by providing patrons with books. The system worked because “copyright was not expected to compensate publishers or authors for the value each reader derived from the book, but only to provide sufficient rights to incent authors to write and make their works available to the public.”<sup>3</sup> These rights resolved around not the content of the book but rather the particular copy which was sold. Under the first sale doctrine of United States copyright law, the person who purchases a copy of a work can do whatever he or she wants with it as long as the copy is not reproduced.<sup>4</sup>

The problem with digital libraries, archives, and repositories involves this issue of reproductions, or copies. Whenever a digital file is transferred, a copy must necessarily be made. Thus, from the sale of a single digital copy, millions more can be made and

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<sup>1</sup> Quoted in Paula Samuelson, “Copyright and Digital Libraries,” *Communications of the ACM* 38 no. 4 (1995): 16.

<sup>2</sup> *Ibid.*, 17.

<sup>3</sup> *Ibid.*, 18.

<sup>4</sup> *Ibid.*

authors' and publishers' revenue source is instantly gone. Without a way to ensure that one copy of a publication ceases to exist when another is created, the existing copyright system falls apart in the digital world. To cope with this reality, copyright law holds that digital materials are not subject to the first sale law and thus are not eligible to be lent as part of digital libraries, archives, or repositories<sup>5</sup> unless the copyright holders give express permission.

### Berman Jewish Policy Archive: An Overview

The Berman Jewish Policy Archive (BJPA) is a central repository for Jewish policy publications and other policy-relevant research and analysis on Jewish life. The archive aims to ensure that research conducted on the Jewish community is accessible by the Jewish community and put to use rather than “gathering dust on library shelves and in office filing cabinets.”<sup>6</sup> The Archive began as an idea formed by the Charles H. Webson Foundation, who enlisted Steven M. Cohen, a Jewish sociologist with connections throughout the Jewish community, to head the project. The Wagner School at NYU was then chosen to house the Archive, since their work in the nonprofit world and their academic connections made it a good fit with the Archive. The website was launched in 2008,<sup>7</sup> and as of this writing, BJPA includes 13,968 publications spanning 1900 to the present, heavily weighted towards more recent works.

Issues of access are particularly important to the staff behind the Berman Jewish Policy Archive,<sup>8</sup> and as such, the website includes a variety of different ways to find and

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<sup>5</sup> June M. Besek, *Copyright Issues Relevant to the Creation of a Digital Archive* (Washington, DC: Council on Library and Information Resources and Library of Congress, 2003): 2.

<sup>6</sup> “About BJPA,” Berman Jewish Policy Archive, accessed 5 September 2012, <http://bjpa.org/About/index.cfm>.

<sup>7</sup> Seth Chalmer, telephone interview with author, 22 August 2012.

<sup>8</sup> *Ibid.*

save publications. Users can browse publications by topic, publisher, publication name, or publication date, and these can be further narrowed by author, topic, publication name, publication year, geographic coverage, publisher, or funder from the results pages. Alternatively, users can search for publications using a basic search or an advanced search which includes author, title, publication, publication date, abstract, topic, genre, publisher, and geographic coverage as searchable fields. Users who submit a free registration can add results to their virtual bookshelf, which allows them “to save and share publications, create resource lists for particular topics or projects, and easily create bibliographies.”<sup>9</sup>

In addition to providing a centralized location for publications, BJPA also works to “move the conversation forward” on Jewish policy issues by sponsoring conferences and speakers in New York which bring together both scholars and practitioners to discuss current issues.<sup>10</sup> BJPA also publishes a monthly “Reader’s Guide” on a topic tied to current events, which is excerpted and linked to in an e-newsletter which goes out to subscribers<sup>11</sup> and various Jewish studies listservs.<sup>12</sup>

### Behind the Scenes at BJPA

While the Berman Jewish Policy Archive allows registered users to submit their own publications to the Archive, subject to review before inclusion,<sup>13</sup> the bulk of the materials included in the archive are the result of communication between BJPA and various publishers throughout the American Jewish community. The process is fairly

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<sup>9</sup> “About BJPA.”

<sup>10</sup> Seth Chalmer.

<sup>11</sup> “Newsletter Archive,” Berman Jewish Policy Archive, accessed 5 September 2012, <http://archive.constantcontact.com/fs070/1102433540041/archive/1103173336954.html>.

<sup>12</sup> Susan Shevitz, telephone interview with author, 29 August 2012.

<sup>13</sup> “Member Control Panel,” Berman Jewish Policy Archive, accessed 5 September 2012, [http://www.bjpa.org/\\_Admin/index.cfm](http://www.bjpa.org/_Admin/index.cfm).

simple: For the most part Steven M. Cohen, the director of the Archive, is in charge of determining content that the Archive would like to acquire, though occasionally publications also come to the Archive's attention when a staff member sees something he or she thinks fits would fit the mission of the Archive or when a patron suggests that a certain publication should be included and makes the initial contact with both organizations.<sup>14</sup> Once interest is determined, the BJPA staff contacts organizations to ask for permission to post their materials on the Archive and work out the logistics of creating metadata and obtaining non-digital materials.<sup>15</sup>

Contracts between BJPA and publishers tend to be simple. The Archive gets blanket permission in writing to include a particular thing, such as anything posted on a publisher's website or the contents of a specific journal. The publisher determines what information about itself it wants included in the metadata on the BJPA website, and the BJPA staff is in charge of collecting materials and creating said metadata. For long-standing publications, BJPA also obtains permission to digitize older issues for inclusion in the Archive.<sup>16</sup>

Because the Berman Jewish Policy Archive's mission is to be a resource for everyone in the Jewish community, the Archive has vowed never to charge money for its resources. This has limited the content that the Archive can include, as any publishers who rely upon readers paying for access to their work deny the Archive's requests for the inclusion of their publications. This means that the Archive is very low on academic

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<sup>14</sup> This recently happened when Professor Jonathan Sarna at Brandeis University discovered the American Jewish Archives Journal and contacted both Seth Chalmer at BJPA and someone at AJA to broach the subject of the journal's inclusion in the Archive. As of my interview with Chalmer, he was in the process of beginning the contract process for this journal.

<sup>15</sup> Seth Chalmer.

<sup>16</sup> Ibid.

journals but very strong on organizational publications, which tend to be published in-house rather than being processed by a large publishing organization. While the Archive would love to include academic journals and even books, it is more important to the staff to be able to provide access to Jewish policy resources free of charge. Indeed, the resources that the Archive does provide access to are very important. Organizational publications rarely find their way into libraries or subscription databases; rather, they are published on the organizations' websites and die there. The Berman Jewish Policy Archive creates a centralized place for this work to be housed so that researchers and policy-makers can access these publications that previously were scattered and hidden all over the internet.<sup>17</sup>

It is important to note that like any library or archive, the Berman Jewish Policy Archive does not claim to hold the copyright to any of the publications on its website; rather, it provides a means of access to these publications. The metadata for any article or publication included in BJPA makes this clear, with a field for copyright holder and a field labeled "Copyright Information" which informs users of how they are allowed to use the material. The Berman Jewish Policy Archive relies on good faith and good will with both its users and the organizations whose publications are included in the Archive, trusting that users will comply with the copyright restrictions posted and that organizations will trust in both the users and the Archive. BJPA has found that organizations who publish their research in-house often care more about disseminating information and less about making money through selling their publications or the loopholes of copyright law, which aids in this relationship. Of course, if any copyright

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<sup>17</sup> Ibid.

holder asks for a publication to be taken down BJPA will do so immediately; this, too, is part of this trust relationship.<sup>18</sup>

### The Publishers' Perspectives

The Jewish Communal Service Association of North America (JCSA), whose *Journal of Jewish Communal Service* has been in publication since 1956, was the first organization that Steven M. Cohen approached for inclusion in the Berman Jewish Policy Archive. Cohen and Brenda Gevertz, the executive director of JCSA, had known each other for 35 years, which smoothed the way to the initial contact. In this case, JCSA gained not only the ability for their publications to be easily found, but the ability to digitize their old issues. JCSA had wanted to digitize these and other organizational publications, some of which were over 85 years old and were the only copy left in existence, for some time but lacked the funds to do so. BJPA offered to both fund and do the work, the logistics of which became part of the contract between the two organizations. Also included were provisions that BJPA not include the contents of the current issue of the journal in the Archive until the next issue comes out. This delay reflects the notion that after a certain amount of time it is more important to disseminate the information than to make money from it, while also retaining the current issue for subscribers. Gevertz also believes that many subscribers like to have the print edition of the journal to display on their bookcases, which combined with the single-issue embargo likely accounts for the fact that there has been no significant decrease in journal subscriptions that could be the result of inclusion in the Archive.<sup>19</sup> The Archive now includes 4,136 publications from the Jewish Communal Service Association of North

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<sup>18</sup> Ibid.

<sup>19</sup> Brenda Gevertz, telephone interview with author, 29 August 2012.

America ranging from 1907 to 2012, 1,986 of which are articles from the *Journal of Jewish Communal Service*.

Gevertz has found that the Jewish Communal Service Association of North America's inclusion in BJPA has made things easier for the people at the organization. Before inclusion in the Archive, JCSA often had people ask if the Journal had ever published any articles about specific topics and the staff at JCSA had to manually search through their internal archives. Now, however, the staff can just refer people to the Archive where they can do their own searches. In addition, the staff at JCSA will use the Archive to see what others are writing about topics they are currently working on. Gevertz does feel that JCSA has lost some ownership control since the Journal became included in the Archive. She has found that some people now quote and use the journal without proper attribution, but while she says "it would be nice to be attributed once in a while," she feels that it is better for the information to be used than not.<sup>20</sup>

In contrast to the Jewish Communal Service Association of North America, the Sh'ma Institute, publisher of *Shema: a Journal of Jewish Responsibility*, has only been part of the Berman Jewish Policy Archive for about a year. When Steven M. Cohen approached editor Susan Berrin, with whom he had a standing professional relationship, the staff of Sh'ma began an internal decision-making process about whether they wanted to make their material freely available, and if so, whether the Archive was a good place for it. In the end they decided that the best thing for the journal was for it to be available online, and that inclusion in BJPA made sense both on a content level and based on the nature of the relationship BJPA was willing to have with Sh'ma. BJPA worked with the Sh'ma Institute to create a search tool that Sh'ma could use on their website. This way,

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<sup>20</sup> Ibid.

users of the Sh'ma website could search the journal's contents and be redirected to BJPA only to access the content itself. In addition, the Archive digitized past issues of the journal so Sh'ma didn't have to do it themselves. Prior to the digitalization the only way to access earlier issues, such as the journal's inaugural issue in 1970, was to go to the editor's office or one of 102 libraries throughout the world which subscribe to the journal<sup>21</sup> and look through them; now "anyone can track four decades of history with the click of a button."<sup>22</sup>

The Cohen Center for Modern Jewish Studies is "is a multi-disciplinary research center dedicated to bringing the concepts, theories, and techniques of social science to bear on the study of contemporary Jewish life."<sup>23</sup> As such, their publications do not come in journal form but rather reports which are the result of research done at funders' behest. While all the Cohen Center's publications are included in the Brandeis Institutional Repository,<sup>24</sup> when contacted by the Berman Jewish Policy Archive about inclusion in the project, the Cohen Center decided to allow their publications to be included there, too. Unlike other publications, however, which are hosted on the BJPA website, the Archive hosts only the metadata for Cohen Center publications; to get to the publications themselves, users are directed to the publication hosted by Brandeis. This is because publishers do not submit their publications to the Archive; rather, the Archive gathers them as they are published on various organizations' websites. Report from the Cohen Center for Modern Jewish Studies are sometimes updated, and the staff wanted to ensure

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<sup>21</sup> "Sh'ma : a journal of Jewish responsibility," WorldCat, accessed 6 September 2012, [http://www.worldcat.org/title/shma-a-journal-of-jewish-responsibility/oclc/2450510&referer=brief\\_results](http://www.worldcat.org/title/shma-a-journal-of-jewish-responsibility/oclc/2450510&referer=brief_results).

<sup>22</sup> Joel Rolnik, telephone interview with author, 23 August 2012.

<sup>23</sup> "About CMJS," Maurice & Marilyn Cohen Center for Modern Jewish Studies, accessed 6 September 2012, <http://www.brandeis.edu/cmjs/about/index.html>.

<sup>24</sup> "Publications," Maurice & Marilyn Cohen Center for Modern Jewish Studies, accessed 6 September 2012, <http://www.brandeis.edu/cmjs/publications.html>.

that the Berman Jewish Policy Archive included the most up-to-date version of such reports.<sup>25</sup>

The Jewish Education Service of North America, or JESNA, is a bit different from most of the other “publishers” included in the Berman Jewish Policy Archive. As an organization, JENSA strives to transform and strengthen Jewish education through creative ideas and models<sup>26</sup> - including their own resource center full of publications and links on Jewish education. However, the staff at JESNA feels that collaboration is fundamental in the Jewish world, since everyone is invested in getting the resources that are out there to as many people as possible, and the JESNA staff has a long-standing professional relationship with Steven M. Cohen. As such, JESNA has also entered into an agreement with BJPA so that their more academic publications are included in the Archive as well as in their own resource center.<sup>27</sup>

### The Users

As mentioned earlier, staff at the Jewish Communal Service Association of North America uses the Berman Jewish Policy Archive to see what others in the field are writing about. According to Deborah Grant, editor for print and electronic communications at the Cohen Center for Modern Jewish Studies, researchers there also find the Archive useful when writing literature reviews, since the Archive includes both a broad range of literature and reports and articles that are hard to find elsewhere.<sup>28</sup> Jenny Aisenberg from JESNA also uses the Archive in her work; when she produces webinars they frequently include preparatory papers for participants to read beforehand, and the

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<sup>25</sup> Deborah Grant, telephone interview with author, 27 August 2012.

<sup>26</sup> “Our Mission,” JENSA, accessed 6 September 2012, <http://jesna.org/about/overview/our-mission>.

<sup>27</sup> Jenny Aisenberg, telephone interview with author, 24 August 2012.

<sup>28</sup> Deborah Grant.

Archive is one of her go-to sources when compiling these papers.<sup>29</sup> However, there are also users who have nothing to do with the publishers included in the Archive. Indeed, these are an important part of the Archive's audience.

Susan Shevitz is a professor emerita at Brandeis University's Hornstein Program for Jewish Communal Leadership whose work focuses on religious pluralism and leadership in Jewish education. She learned about the Berman Jewish Policy Archive through several different methods: association with Steven M. Cohen, announcements on several listservs, and through her work as chair of the publication committee for the *Journal of Jewish Communal Service*. She sees the Archive as a tool to locate background information on topics and to see who's been writing on said topics. She is particularly fond of the way that when something is happening in the Jewish world, the Archive will send a piece out on listservs which talks about the event and gives resources for people who want to learn more about it.<sup>30</sup>

Rokhl Kafissen is a freelance journalist and cultural critic who writes about cultural transmission, Jewish education, language policy, and questions of identity. She learned about the Berman Jewish Policy Archives at its very beginning, when her friend Mordechai Walfish worked there. Kafissen was a beta tester for the Archive at its beginning, and continues to use it in her work to this day. She reports that whenever she's writing or researching a particular Jewish topic, her first stop is not Google but the Archives, because they help her "hone in" on the material that will be most helpful to her. She does wish there was more included in the Archive and she is sometimes disappointed when she doesn't find what she needs, but she is also sometimes amazed by what she can

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<sup>29</sup> Jenny Aisenberg.

<sup>30</sup> Susan Shevitz.

find in the Archive. For instance, this past May she published a piece entitled “Why Yiddish Matters” in the *Jewish Daily Forward*, which she says she could not have written without the help of the Archive since it draws heavily from the writing of Jacob J. Golub, whose work she could not find anywhere but the Archive.<sup>31</sup>

### Conclusion

Len Saxe, director of the Cohen Center for Modern Jewish Studies, expresses concern over the fact that the Berman Jewish Policy Archive “privileges work which has not been subject to peer-review” because most peer-reviewed work is accessible only via library subscriptions.<sup>32</sup> As long as the copyright situation stays in its present shape, this will continue to be the problem with digital archives and repositories. However, I find two things discovered during this study very interesting. First, both researchers at the Cohen Center for Modern Jewish Studies and Susan Shevitz utilize the Berman Jewish Policy Archive, even though as members of the Brandeis University community they have access to multiple subscription databases in the area of Jewish studies. Second, the Berman Jewish Policy Archive includes the archives of subscription journals such as *Sh'ma* and the *Journal of Jewish Communal Service*, despite the fact that subscribers to these journals pay for issues and the Archive is freely accessible to all. This leads me to believe that there are others who do indeed care more about “mind-share” than market share,<sup>33</sup> and that if we can develop a way to cover the costs of publication in the digital world the way we do in the print world, there may yet be a place for current publications

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<sup>31</sup> Ironically, the writings of Jacob J. Golub in the Berman Jewish Policy Archives were published by the Jewish Communal Service Association of North America, which is not mentioned anywhere in Kaffisen’s article. This makes Kaffisen an example of the people Gevertz mentions who use JCSA’s publications without crediting them.

<sup>32</sup> Len Saxe, personal communication with author, 20 August 2012.

<sup>33</sup> Paula Samuelson.

in digital archives, repositories, and libraries, particularly if these archives, repositories, and libraries develop relationships with publishers and work to make sure that there is satisfaction all around.