

Pirates in Academia: The Ethics of Free Download Sites

[William Badke. A presentation for Academic Integrity Colloquium 2018, Trinity Western University, June 29, 2018.]

Academic publishing has a long history, much of it fairly humdrum. A good deal of academic publishing, especially journal publishing, originated in academic societies and other organizations devoted to the work of a particular discipline. These journals, often small and poorly funded, struggled to maintain a subscription base that paid the bills and offered enough dissemination to make the gathering and editing of article manuscripts worth the effort.

Over time, larger academic publishers began offering these societies an opportunity to continue their publishing work without the need to maintain subscriptions. The pitch was, "Let us take over the hard work of running a journal by giving (or selling) your journal to us. We will handle the financial end, enhance quality control, and provide you with a wider number of active readers." But, surprise, the journal that once had subscriptions valued at under a hundred dollars per year, now was priced at \$500 to \$2000 per year. Gradually the large academic publishers took over existing journals and also created new ones, thus getting a solid corner on the market. But the prices went up dramatically.

This was tolerable in western universities that had the money for subscriptions, but intolerable for graduate students in countries where access to high quality but high priced materials was severely limited. To be sure, there was an open access movement that made a number of journals freely available on the Internet, but the majority of academic literature was locked behind insurmountable paywalls.

The experience of file-sharing music sites like Napster and its successors led to an idea: What if we could offer an academic file-sharing site that would eliminate the paywalls? We could find scholars who would acquire articles from their institutional databases and deposit them centrally for sharing. Well, that idea is now a reality. Enter Sci-Hub, LibGen and a host of other sites that provide free downloads of millions of academic articles and books.

The poster child for this academic piracy movement has to be Alexandra Elbakyan of Kazakhstan, founder of Sci-Hub. In 2011, as a neurotechnology researcher, Alexandra began sharing files of academic papers. Over the next three years, she developed a repository that is currently close to 65 million articles. How did she do this? Primarily through the help of scholars who shared in login information from commercial databases. There is some evidence, as well, that Sci-Hub used information from phishing e-mails to obtain login credentials, though Elbakyan denies using phishing herself. Most of the articles in Sci-Hub violate copyright, because they are being distributed by means not approved by their publishers.

What is her rationale? She argues that, unlike music file sharing, pirating scholarly articles does not hurt authors, who get no payment for their articles anyway. Publishers of scholarly literature are making a fortune by overpricing their product. Scholarship needs to be available to all.

We need to look more closely at the "who does it hurt?" argument. Free music downloads hurt the musicians themselves, who lose royalties. But academic article writers get no payment at all. Free

downloads of articles potentially hurt only the publishers who, it is alleged, are fleecing their readers. Elbakyan (2015) referred to their work as a “racket.”

Maybe the publishers are the real pirates. Is using so-called “pirate sites” an act of civil disobedience that protests the rapacious deeds of big academic publishing? Gardner and Gardner (2017) found the following motivations in users of pirate sites: “Information should be free, not a violation, don’t care, animus toward publishers, and displeasure with current copyright regime.”

Elbakyan is technically right in her estimation that academic piracy mainly hurts publishers, not authors, but is she ethically right? Consider the fact that a large number of Sci-Hub users live in areas where they have access, through universities, to legitimate copies of articles for free (Bohannon, 2016). Consider also that Elsevier, the giant academic publisher, in June 2017 won a lawsuit in a US court against Sci-Hub and LibGen worth millions of dollars and had these sites shut down (Schiermeier, 2017). True, Elbakyan will likely never pay a cent and both sites are up in countries like Russia that can’t be touched by US lawsuits. But still, their piracy was ruled by a US court as a violation of copyright.

I wrote a column on the Sci-Hub issue (Badke, 2017) and wrestled with the ethical issues. Sure, using pirate sites is wrong in the eyes of the law, but scholars who do not risk a penalty. PDFs do not reveal the sources from which they were obtained. I admit that my bottom line on piracy was pretty lame. I argued that it was wrong, but lots of things are wrong and yet are widely practiced. Ultimately, I pointed out that the clunky search engine for Sci-Hub made it easier to use institutional databases and thus avoid the ethical problems. I don’t think I did justice to those problems.

A key factor here is that the scholars who use their authorized credentials download articles and send them to pirates violate the database publisher terms that their institutions agree to uphold. This puts their institutions at risk of losing access to databases or receiving lawsuits. Sharing one article is OK. Supporting pirates is a violation of trust.

If we are going to make a judgment on the ethics of academic piracy, we are going to have to consider our answers to the following questions:

1. Is copyright important to research?
2. If my research is based on integrity from beginning to end, do I violate my integrity by getting my information from pirates?
3. Are academic publishers so evil that I can legitimately see piracy as civil disobedience?
4. Do I have an easy conscience about using pirate material obtained by scholars who violated their own credentials and put their institutions at risk?
5. If I can get my literature legitimately, can I justify using pirates simply because they may be more convenient?

(Link to the Google Slides presentation: <https://docs.google.com/presentation/d/1umjgw9-gglw7LsSNHnQe4sMFwnfQybBXzaVWhoyToWQ/edit?usp=sharing>)

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