

Cooperative Blogging and Access to Law

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Abstract. Slaw (<http://www.slaw.ca>) has blogged for eight years to Canadian lawyers and others who work in law, regularly and explicitly supporting the work of CanLII and Lexum by offering suggestions, a platform for discussion and an opportunity to officers from both organizations to publicize developments and obtain feedback from the community. Free access to law via LIIs can be aided by the support of an effective information and discussion platform such as Slaw, the creation of which may assisted by advice offered in this paper.

Keywords: blog, blogging, social media, access to law, legal information, CanLII, Slaw

1. Introduction

1.1. INTRODUCTION TO SLAW

Let me start by telling you a little about Slaw (<http://www.slaw.ca>), a cooperative Canadian weblog turned online magazine that publishes entries on law. I will do this in some depth rather than simply gloss matters, because I have learned that with “blogging,” as with so much else, god is in the detail.

Begun just over eight years ago with a focus on legal research and technology—and a small complement of half a dozen bloggers—Slaw now boasts a roster of sixty columnists and almost two dozen regular bloggers. Having published without interruption on every day of the work week since its inception, Slaw has an archive of over ten thousand entries. Our stats tell us that we currently have 55,000 “unique visitors” each month who together make 170,000 visits to the site per month. As well, Slaw has some 2500 RSS and email subscribers and nearly 4000 followers on Twitter. Though principally Canadian, our contributors also number among them writers from the United States, the United Kingdom, Australia, Hong Kong, and Netherlands.

Our current structure is as follows:

1.1.1. *Bloggers*

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Regular bloggers, the backbone of Slaw, are asked to post on a given day each week. I do this in order to spread the entries out more or less evenly, ensuring that there'll be something fresh each day. (As well, I learned early on in the life of Slaw that where lawyers are concerned—or, indeed, anyone who leads a busy professional life—a general promise to post¹ "regularly" meant that little would in fact get done; what was needed was a specific, date-bound obligation that would be calendared and about which I could chivvy them.) As it happens we manage on average three fresh blog posts a day. You can see the list of the current twenty-one Slaw bloggers at <http://www.slaw.ca/bloggers/>.

(I have on the roster as well a few "occasional contributors," a category that I try hard not to enlarge, because it can turn into a dead letter station. Some occasional contributors, however, are too valuable to let go.)

1.1.2. *Columnists*

I introduced columns about three years ago, in part to draw in interesting writers and in part to ensure that there would be new material on Slaw each day even if the bloggers assigned to a particular day all fail to post. Columns are pieces rather longer than blog posts, usually given a little more thought, and focused on a general topic, of which Slaw currently offers nine:

- dispute resolution,
- legal information,
- intellectual property,
- justice issues,
- legal marketing,
- practice of law,
- legal publishing,
- legal technology, and
- legal ethics.

In each of these areas there is a group of regular columnists, half of whom submit their columns to me on the 15th of every even-numbered month, the other half submitting on the 15th of odd-numbered months. Thus each columnist submits six columns a year, a more or less manageable number even for very busy people. (Note that putting the deadline on the 15th of

¹ A word about terminology: a "blog" is a website that, typically, publishes short items in reverse chronological order, the most recent being at the top or front of the website. The items so published are called either "entries" or "posts." One "posts" to a blog, or, simply, "blogs".

the month cunningly avoids all holidays—even Bastille Day.) Sixty columnists multiplied by six gives three-hundred and sixty columns, more than enough for our work day publication.

Slaw columnists are listed here: <http://www.slaw.ca/columnists/>.

1.1.3. *Daily Feature*

Always anxious that a column a day minimum might not be enough, and seeking to add variety to our offerings, I instituted a daily feature a year ago:

- *Summaries Sunday* has us publishing case summaries selected and provided to us by four separate sources: Maritime Law Book and SOQUIJ (Société québécoise d'information juridique) every week, OnPoint Legal Research once a month, and Supreme Advocacy also once a month;
- *Monday's Mix* publishes (with permission) five brief excerpts from award-winning Canadian legal blogs chosen at random from a list;
- *Tips Tuesday* publishes excerpts from the prior week's three entries on our sister site, SlawTips, one each on technology, legal research, and practice;
- *Wednesday: What's Hot on CanLII* reports on the week's three most-read English-language cases on CanLII and the most-read French-language case as well;
- *Thursday Thinkpiece* provides (with permission) a substantial excerpt from a recently published book or journal article likely to be of interest to our readers;
- *The Friday Fillip* is a light-hearted excursion into something unrelated to law; I've been writing these for many years now.

Saturday is Slaw's day of rest.

1.2. CONSTANT CHANGE

I say that Slaw has been publishing continuously for more than eight years — but there's an element of legerdemain to this. The "Slaw" that I speak about as a definite entity has in fact been in continual change since the beginning. For one thing, bloggers (and columnists) go and come—indeed, only Connie Crosby and I of the original team continue to blog with

regularity.² For another, Slaw has had its design changed three times since my original work³: it is important to keep abreast of changing styles on the web and as well to require readers to re-focus, as it were, on your publication from time to time, something that a good re-design can accomplish.

Also, there has been a fairly constant flow of innovation evident on Slaw. I have instituted a variety of features with the aims of trying out new ideas and at the same time keeping readers (and me) interested. The introduction of columns a number of years ago is a good example of an innovation that stuck. There have been as well, for instance: “firm guest blogging” weeks, in which law firms were engaged to provide a week’s worth of entries; “law student weeks,” in which Slaw publishes student papers and other entries aimed at students; special clusters of entries focused on the appointment of Supreme Court of Canada justices; posts containing all the hyperlinks used on Slaw during the week; Slaw on a weekly visual “timeline”; and, of course, the incorporation of Twitter into the publication matrix.

2. Slaw and CanLII

2.1. THE PROBLEM OF INFLUENCE

Because, of course, I am not privy to CanLII’s planning or development process, I’m unable to demonstrate with evidences that Slaw’s behaviour in any way influenced or was, indeed, beneficial to CanLII. From my informal conversations with those involved in CanLII, however, I believe I can infer that Slaw has been a useful and positive presence in CanLII’s life. And, reverting briefly to dangerous “common sense,” I would assume that the friendly and favourable treatment CanLII has received on Slaw will have had a positive influence on our nation-wide readership of those working in and around law.

Somewhat artificially, I have divided up the kinds of “treatment” into three compartments. This has the advantage of describing events in rough chronological order, as it happens.

2.2. MENTION AND USE

2 Steve Matthews, Mark Lewis and, to a lesser degree, Simon Chester, all members of the original team, continue to blog on an irregular basis. Steve Matthews is also a columnist.

3 See Appendix 1 for screenshots of the face of Slaw across time.

2.2.1. *Early Connection*

Slaw's initial interest in CanLII was to some degree an accidental matter having to do with the blog's original focus on legal research and technology.⁴ At the time Slaw began, CanLII was operated from within Lexum, which was then an operation of the Université de Montréal. My having an academic background had inclined me to become increasingly interested in Lexum and, consequently, CanLII.⁵

As well, Slaw's original focus saw the involvement of many in the legal librarian community, a vital source of intelligence and farsightedness that has continued to this day. Our librarian bloggers and columnists ensured that CanLII became and remained a constant object of interest and concern.

2.1.3. *Mention of CanLII*

Ever since the beginning of Slaw, CanLII has been a topic of comment there and, indeed, simply a feature of the legal landscape largely assumed to be fundamental, essential, stable and socially valuable. A simple search for [canlii] directly on "Slaw or on Slaw via Google",⁷ though it overproduces, is enough to demonstrate this point.

I believe – and hope, certainly – that this continual mention has assisted in the publicizing and normalization of CanLII among lawyers and others working in the legal field.

2.1.4. *Use of CanLII*

More important than mere mention, perhaps, has been Slaw's use of CanLII as the "house" database for hyperlinked citations to judgments and legislation. Thus, anyone following up on one of these hyperlinks would be taken into CanLII.

4 Early on in the legal world's encounter with the web – both from the academic and the practicing side – it was assumed that the use of that platform almost necessarily implied an interest in or focus on information, or some other, technology as a subject. It was a little as though at the dawn of movable type one had assumed that books would be about printing or publishing. Of course, law's first real contact with information technology was with caselaw databases, marrying IT and legal research in most people's minds, including mine at the outset.

5 It is worth noting as an aside, perhaps, that much ground-breaking work in legal information technology was the work of legal academics. In the Canadian setting I think particularly of Professors Daniel Poulin (Lexum), of Hugh Lawford (Queen's University), developer of Quicklaw [<http://www.slw.ca/2009/08/18/hugh-lawford-1933-2009/>], and of Joe Smith (University of British Columbia) who worked on artificial intelligence and data retrieval [<http://cgi.csc.liv.ac.uk/~tbc/publications/ICAIL25AuthorsVersion.pdf> at paragraph 7.5]. My impression is that, sadly, the initiative has long since left the university and has passed to commercial enterprises, which march to a different drummer.

6 <http://www.slw.ca/?s=canlii>

7 <https://www.google.ca/search?q=site%3Aslaw.ca+canlii>

Of course, one important element in Slaw's choice of databases is the non-profit nature of Slaw and the resultant inability to pay for the use of commercial databases. That said, it is also the case that Slaw never sought special treatment from LexisNexis or Thomson that might have brought about free use of one of these databases at least in a limited fashion. Even after governmental and court databases came online, offering free access to judgments and legislation, Slaw has preferred hyperlinking to CanLII.

2.2 DISCUSSION AND ADVICE

CanLII has very often been the topic of an entry on Slaw or has featured prominently in a discussion of a related matter. In one of the very first posts on Slaw, Simon Chester argued, for example, that the advance of CanLII (and the other legal information institutes) was pushing commercial publishers to "significantly enhance the value of their editorial additions in order to justify the expense of subscriptions."⁸ Not long thereafter Mark Lewis wrote an entry entitled "Whither CanLII?"⁹ which received a number of thoughtful comments from prominent researchers, including one from Daniel Poulin,¹⁰ then the lead in CanLII, marking the first explicit exchange between it and Slaw.

Since that time any contributor on Slaw can count on getting a response to a CanLII question, criticism or observation either from someone at Lexum or, latterly, from Colin Lachance, CanLII President and CEO. And reciprocally, CanLII has asked for advice from Slaw readers a number of times, particularly when implementing a new feature or seeking information about research practice.

It is worth mentioning as well, I think, that since the inception of columns on Slaw, there has been a group of columnists writing about legal publishing, something rare in the English-speaking legal world. And within this group there has always been someone from CanLII. Currently, one of the people at Lexum writes a column every other month, as does Colin Lachance, President and CEO of CanLII, and Sarah Sutherland, CanLII's new manager of content and partnerships. Slaw, then, publishes eighteen columns a year if not directly about CanLII – and most are not – then written by people deeply informed about CanLII and the free access to law movement.

8 <http://www.slw.ca/2005/07/22/librarians-will-always-be-needed/>

9 <http://www.slw.ca/2005/10/25/whither-canlii/>

10 <http://www.slw.ca/2005/10/25/whither-canlii/comment-page-1/#comment-172>

I won't bore the reader with further instances of this fruitful, eight-year-long conversation. It is important, however, to stress the cooperative and mutually supportive nature of the relationship. Slaw has been honoured by CanLII's respectful attention and practical support; I hope – and believe – that, as mentioned in the prior section, Slaw's population of its pages with CanLII's news, plans, concerns and merits has redounded to that organization's benefit.

2.3 TECHNICAL INVOLVEMENT

One of the more interesting aspects of the Slaw-CanLII relationship has been Slaw's ability to experiment with aspects of the technology that publishes CanLII data. Where CanLII must be sober and very careful indeed in its technological developments, Slaw can be experimental and something of a *bricoleur* without shame.

2.3.1. *CanLII Search Bookmarklets*

Early on I developed¹¹ half a dozen simple bookmarklets¹² for browsers that allowed users to search for their selected or inserted term:

- in all of CanLII
- in only legislation
- in only caselaw
- in only boards and tribunals
- only as a case name, citation or docket number
- only as a statute name

2.3.2. *CanCourts on Twitter*

Four years ago, when Twitter was still “youngish,” and with CanLII's permission, I hooked up a number of CanLII RSS feeds for appellate court decisions to Twitter accounts under the general “CanCourts” rubric.¹³ This enabled those adventurous members of the legal industry to follow caselaw developments via Twitter instead of RSS (a marvellous technology that simply never caught on in the legal profession).

11 <http://www.slaw.ca/useful-things/>

12 “A bookmarklet is a bookmark stored in a web browser that contains JavaScript commands to extend the browser's functionality. For instance, a bookmarklet might allow the user to select text on a page, click the bookmarklet, and be presented with a search engine results page for the search term selected.” Wikipedia at <https://en.wikipedia.org/wiki/Bookmarklet>

13 <http://www.slaw.ca/2009/08/13/cancourts-court-of-appeal-judgments-on-twitter/>

Currently you can follow on Twitter CanLII's feed for seven provincial courts of appeal, the Supreme Court of Canada, or all of these in one account.¹⁴ Some of these accounts are modestly popular: @CanCourtsSCC has just under 2000 followers and @CanCourtsONCA almost 1600, for example. More salient for the current purpose, perhaps, is the fact that, as I remember it, CanLII tweaked one or two aspects of its RSS output so as to make the tweets more interesting and intelligible.

2.3.3. *What's Hot on CanLII*

I approached Colin Lachance shortly after he assumed the post of President of CanLII, proposing that Slaw publish the names, citations and something about the most popular cases on the service. He was most agreeable and has generously provided me data identifying the three most-consulted English-language decisions and the most-consulted French-language decision each week.

The data are published as one of Slaw's current "daily" features, in this case, "Wednesday: What's Hot on CanLII."¹⁵

2.3.4. *Selected Case Summaries on CanLII*

A couple of years ago, Slaw partnered with Maritime Law Book¹⁶ (MLB) to present selected summaries from MLB's National Reporter System.

Maritime Law Book had shown itself to be an important player in the free access to law movement, having provided in 2008:

free access to over 215,000 cases in our 12 databases that cover every common law jurisdiction in Canada plus the House of Lords and Privy Council (U.K.).¹⁷

These summaries, selected by the editors at MLB, are published on a sister site of Slaw, MLB-Slaw Selected Case Summaries¹⁸ and number, at the time of writing, five-hundred fifty. Excerpts of the summaries have been published as one entry on Summaries Sunday since December 2012.¹⁹

The point, in this context, lies in the fact that a little more than a year ago CanLII, with the agreement of Slaw and MLB, began to place links in the

14 <http://www.slaw.ca/2011/01/10/more-cancourts-twitter-accounts/>

15 <http://www.slaw.ca/category/today/hot-on-canlii/>

16 <http://www.mlb.nb.ca/html/mlb-law-search-key-numbers.php>

17 Press release provided to Slaw, April 24, 2008; available online: <http://www.slaw.ca/2008/04/24/maritime-law-book-to-provide-free-access/>

18 <http://cases.slaw.ca/>

19 <http://www.slaw.ca/category/today/summaries-sunday/>

“front matter” of relevant judgments that would take interested readers to the MLB summary on Slaw’s Selected Cases site,²⁰ thus producing another aspect of “integration,” this time from the CanLII end.

3. Blogging

What lessons, if any, might be drawn from the (briefly recounted) history of the friendly symbiosis of Slaw and CanLII? As any common lawyer will tell you, moving from the particular to the general is no easy process; and, in attempting such an expansive move, it is all too probable that I will mistake a happenstance for an exemplar. So let me say at the outset of this part of the paper that any real benefit that may come from the Slaw-CanLII account will most likely be in its ability to spark imaginations, taking readers off in new, localized directions. Nevertheless, I will try here to abstract things somewhat and offer up, if not “lessons,” then a few pieces of advice for those who might wish to engage in the sort of shared-aims blogging I have described.

3.1. CONSIDER MULTIPLE AUTHORS

For a variety of reasons, it has helped Slaw to have had a goodly number of writers. As I have already mentioned, bloggers come and go, and if the roster is large enough the changes in personnel will not affect the appeal of the blog. Then, with respect to content, multiple authors will write on a variety of subject matters, increasing the likelihood that the readership will find something of value from time to time. Finally, and most simply, having a large number of authors has meant that the burden of regular writing is shared and, so, reduced, making it more likely that prospective bloggers will agree to come on board and remain there.

3.2. AIM FOR THE MIDDLE BUT WORK FROM THE EDGES

By which I mean: address the legal profession’s current and persistent concerns but in so doing don’t feel the need use writers for whom these concerns are central. For one thing, a mid-career, practicing lawyer will in all likelihood be “too busy” and lead too hectic a life to become a reliable

20 For an example, see *Entertainment Software Association v. Society of Composers, Authors and Music Publishers of Canada*, 2012 SCC 34 on CanLII: <http://canlii.ca/en/ca/scc/doc/2012/2012scc34/2012scc34.html> This was CanLII’s second experience with making use of “commentary,” the first having been an arrangement with Lancaster House to make material from their text on wrongful dismissal and employment law available to CanLII users: <http://www.canlii.org/en/commentary/wrongfuldismissal/>

(i.e. consistent) blogger. Better to engage writers who for one reason or another are less overbooked (I'm tempted to say less "manic").

As important as the matter of time constraints is the fact that, in my experience, much of the necessary energy for, awareness of, and interest in, change occurs at the "boundaries" of the profession; and change is, in fact, the theme at the moment, if not always and ever. It can be easier to see what is happening from the perspective of a remove or two than from the centre of the cockpit. And, too, no-one needs to be told that the legal profession is conservative and hierarchical. In such a community it is all too easy to overlook those who do not fit the expected or traditional roles and stereotypes, neglecting a great deal of untapped talent. I would suggest, then, that anyone contemplating a blog draw on the creative energies available from legal librarians, marketers, academics, IT personnel, and, generally, the young and the retired.

3.3. INVOLVE LEGAL LIBRARIANS

It bears repeating that anyone contemplating a multi-author blog on law, research and technology (or, indeed, on law and anything) should try to involve legal librarians (now rebranded as graduates of faculties of information studies). Librarians have been in the forefront of the technological revolution in law, understanding well in advance of the legal profession that information technology is critical to the future of law.

3.4. DON'T CONFUSE JURISDICTION AND GEOGRAPHY

One of the great boons of the internet has been the near nullification of geographical distance. It is a truism now that we can work with others from around the globe as easily as if they were all gathered in one locality. This means that it is possible to draw on the talents of a huge pool of people in recruiting writers for a legal blog. Yes, local laws and practices are important, and yes, knowledge of these is likeliest among those nearest to the blog's geographical home. But a great deal of what shapes and animates the practice of law is the same in other locales, or sufficiently similar as to become relevant and interesting. This is certainly true among common law countries, but also much more generally now, given the impact of globalization.

3.5. ASK – AND RECEIVE (MOST LIKELY)

It has been said that the internet evidences (and perhaps gives rise to) a gift economy of sorts. It is certainly true that, when it comes to information and

computer applications, a vast hoard of wealth is made freely available²¹, thanks to the efforts of uncountable millions of contributors, the legal information given freely by the world's LIIs being a prime example, of course.

This economy bespeaks a strong human desire to give. I have been if not surprised then impressed regularly by the willingness of those I have asked to contribute to Slaw. To be sure, there is as well a pleasure to be had in seeing one's writing "in print," as it were and in obtaining the modicum of fame through publishing that writing. As well, there is an intrinsic pleasure to be found in clarifying one's thoughts and putting them down in writing (or "having put them down," I should perhaps say). But all of this acknowledged, I judge that generosity is the prime motive for Slaw's contributors, along with a desire to assist in the creation of a "gift community" within the larger gift economy.

Thus, the lesson here for those starting a multi-author blog is to be bold in asking and not to underestimate this human wish to give.

3.6. ONE PERSON SHOULD BE RESPONSIBLE FOR THE BLOG

I have designed, edited and generally managed Slaw since the beginning, so in a number of respects I am in a poor position to speak about the direction of a blog. However, I am persuaded that unless there is a single person for whom the quality of the website is of great importance and who has the necessary ability to take steps to ensure that quality, success may be harder to come by than it need be.

Of course, where a blog publishes the writing of one person alone, that criterion is *ipso facto* met. But where a multi-author blog is concerned, it would be all too easy for responsibility to be divided up across a committee or some grouping of contributors; this arrangement will seem particularly sensible if everyone involved has a full-time job doing something other than blogging. Thus an otherwise reasonable solution to management will, in my view, turn out to be less than ideal for two reasons: the dispersal of responsibility across a group, with the concomitant danger that group member 'A' will too easily think that group members 'B' or 'C' will deal with a problem, while 'B' and 'C' think likewise; and the probability that the press of day jobs will mean that voluntary work on the blog gets postponed or simply neglected.

21 Remembering always the cost involved to users in gaining access to the internet, something still prohibitive for much of the world's population.

3.7. PERSIST

As a recipe for success, good luck has a lot to recommend it. The difficulty, of course, is that the main ingredient can be hard to come by. Slaw had the good fortune to find a niche that was then unoccupied and from which it could grow and, indeed, expand. A great deal of the credit for whatever success Slaw has had lies with its persistence across the years. From the outside, perhaps, this appears to be the simple, unremarkable fact of longevity – a blog is as old as it is. From an insider's point of view, however, Slaw's relatively long life (as these things go) was not inevitable: there were times when boredom and lack of inspiration made euthanasia seem appropriate; other times when external criticism and carping came close to making the game not worth the candle; and still other times when the work load was nearly too much. Fortunately (i.e. with retrospective luck), the Slaw community pushed past these obstacles, with the result that Slaw is as near to being a social media institution in the Canadian legal scene as might be possible.

4. New Directions – An Afterword

Lawyers came late to blogging – as they do to all social media and, indeed, to innovations in information technology generally – and while it might be premature to suggest that blogging as a practice is by now nearing the end of its life, it is a fact that the world of social media has moved on since the 1990s,²² and blogging, as we know it now at least, will not be with us forever. Novel forms such as Twitter, Facebook and Google's G+ are merely the most prominent of developments in the last few years, and any current plan to engage social media in support of a legal information institute would necessarily involve consideration of whether and how to become involved with these. But as a closing word, I would like to suggest that a social medium in yet another guise is also worthy of examination. I should emphasize that I mean only to sketch the idea here and will leave it quite unexplored.

I have not devoted much time in this paper to interactivity – the ability of internet-based media to engage visitors actively in the affairs or interests of the maker. Interactivity is important for a host of reasons that include increased readership and reader loyalty, the opportunity to teach effectively, and the ability to learn from readers, i.e. to obtain valuable content donated by readers.

22 See Wikipedia for a history of blogging:
http://en.wikipedia.org/wiki/History_of_blogging

Slaw, like most blogs, permits – indeed, encourages – readers’ comments on posts and columns and has been modestly successful in obtaining them. Recently, however, I have been struck²³ by the continuing success of some good, old-fashioned email lists²⁴, which produce far richer interchanges among participants. There are many reasons for this, but prime among them would be, it seems to me, confidentiality (because the lists are closed) and the ease of use, given that email remains the lawyer’s IT tool of choice.

As a result of my reconsideration of email lists, I would venture to say that a closed question and answer (Q&A) forum might, if designed and managed properly, be a successful IT construct that could live well and helpfully alongside a legal information institute. With privacy guaranteed and membership restricted to registered professionals, lawyers would, I suggest, feel free to hazard opinions on issues and, more risky, reveal difficulties with or ignorance of a matter and seek help. The notion is that a web-based forum might be an improvement on traditional email lists if only because it would create a more easily accessible and usable archive of valuable content. However, given the advances IT has made since the invention of email, I’m certain that other improvements in user experience would certainly be possible.

23 <http://www.slaw.ca/2013/07/09/are-you-on-any-good-email-lists/>

24 Often mistakenly called “listservs.” Listserv is a piece of software that runs a server managing an email list, or “mailing list”: see <http://www.livinginternet.com/l/li.htm>. Other important pieces of mailing list software are Majordomo and Listproc.