

# Open Access, Plan S And ‘Radically Liberatory’ Forms Of Academic Freedom

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**Final Published Version deposited by Coventry University’s Repository**

**Original citation & hyperlink:**

Moore, S.A., 2021. Open Access, Plan S and ‘Radically Liberatory’ Forms of Academic Freedom. *Development and Change* (In Press)

<https://dx.doi.org/10.1111/dech.12640>

DOI [10.1111/dech.12640](https://dx.doi.org/10.1111/dech.12640)

ISSN 0012-155X

ESSN 1467-7660

Publisher: Wiley

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## *Decolonizing Open Access in Development Research*

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### **Open Access, Plan S and ‘Radically Liberatory’ Forms of Academic Freedom**

**Samuel A. Moore** 

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#### **ABSTRACT**

This opinion piece interrogates the position that open access policies infringe academic freedom. Through an analysis of the objections to open access policies (specifically Plan S) that draw on academic freedom as their primary concern, the article illustrates the shortcomings of foregrounding a negative conception of academic freedom that primarily seeks to protect the fortunate few in stable academic employment within wealthy countries. Although Plan S contains many regressive and undesirable elements, the article makes a case for supporting its proposal for zero-embargo repository-based open access as the basis for a more positive form of academic freedom for scholars around the globe. Ultimately, open access publishing only makes sense within a project that seeks to nurture this positive conception of academic freedom by transforming higher education towards something more socially just and inclusive of knowledge producers and consumers worldwide.

#### **INTRODUCTION**

Academic freedom generally refers to the limits of state influence over university research. It is a negative form of freedom *from* state coercion or censorship, rather than a positive freedom denoting what an academic is able to do. Across the globe, there are innumerable incidents that are said to violate academic freedom, such as removing gender studies from the curriculum in Hungary (Wilson, 2018), violence against academics in Egypt (Quinn, 2018), and free speech violations in the USA and Brazil (Flaherty, 2019; *The Guardian*, 2018; Pettit, 2019). As of September 2019, the organization

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[Correction added on 4 February 2021, after initial publication on 29 January 2021; the displayed quote in the section entitled “A Broader Understanding of Academic Freedom?” was initially omitted due to a production error and has been reinstated.]

*Development and Change* 0(0): 1–13. DOI: 10.1111/dech.12640

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‘Scholars at Risk’ had collected data on 294 academic freedom violations worldwide, including travel restrictions, imprisonment, violence, disappearances and killings (Scholars at Risk, n.d.). State interference with academic research is a serious and widespread concern.

Academic freedom is itself defined variously within different jurisdictions and is by no means a settled concept. In the United Kingdom, academic freedom is legally defined by the 1988 Education Reform Act as the ability of academics ‘to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or the privileges they may have’.<sup>1</sup> The American Association of University Professors (AAUP) defines academic freedom as the ‘full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties’ (AAUP, 1940). Article 5 of the German constitution states that ‘arts and sciences, research and teaching shall be free’ (Deutscher Bundestag, 1949), and the majority of countries in Latin America also have some form of constitutionally defined academic freedom (De Figueiredo-Cowen, 2002). National definitions of academic freedom differ, have varying degrees of legal codification and, much like any legal concept, are open to interpretation within state jurisdictions.

With the recent global push towards open access (OA) to academic research from funders, governments and publishers around the world, commentators have expressed the concern that national OA policies — those that require researchers to make their publications freely available to the public — are violations of academic freedom. Some policies for OA are a violation of academic freedom, Rick Anderson argues, because they require researchers to publish only in journals that are compliant with the policy. For Anderson, who writes in a North American context, it is hard to ‘reconcile telling a researcher how and where they may and may not publish with the idea of “full freedom in publication”’ (Anderson and Vandegrift, 2019; see also Anderson, this collection). Anderson’s interpretation of full freedom of publication is that only the researcher may determine how and where they publish their research, and policies that seek to mandate a specific publishing route thus violate this freedom.

Rather than taking issue with the differing understandings of academic freedom around the globe, and the extent to which various policies violate these definitions, this article instead makes the case that objections to open access policies on the basis of academic freedom are misguided because they rely on a form of conservatism that only benefits a minority of researchers in secure positions within the global North. This is to say that, following the work of Fred Moten, the concept of academic freedom is a form of violence that is ‘reactive and reactionary’ in its tendency to

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1. UK Education Reform Act 1988, Part IV: Academic Tenure, Section 202(2)(a): [www.legislation.gov.uk/ukpga/1988/40/section/202](http://www.legislation.gov.uk/ukpga/1988/40/section/202)

separate and exclude certain groups from that freedom (Moten, 2018: 221). In theorizing academic freedom in this way, I explore whether it is possible to reconceive open access as a positive form of freedom that certain policies and tactics for open access may help to stimulate.

## **PLAN S AND ACADEMIC FREEDOM**

The recent discussion on open access and academic freedom has centred on Plan S, the multi-stakeholder policy for OA that is currently due to be implemented in 2021 (cOAlition S, 2018). Plan S requires all authors in receipt of funding from Plan S members (comprising both private and national/public funding bodies) to publish in certain compliant journals. The policy is controversial because the definition of 'compliant' is somewhat more radical and far-reaching than any policy that has come before. Figure 1 illustrates the various routes to compliance.

For any route to compliance, the final article must be immediately available and released under a CC BY licence, the most liberal of the Creative Commons licences that permits re-use of content for commercial purposes. If one chooses to publish in a subscription journal, the article must either be made publicly available immediately in an institutional repository or made available through payment of an Article Processing Charge (APC) to the publisher. If the latter of those two routes is chosen, the journal must present a plan for converting from a subscription model to a fully open access model, often via so-called transformative agreements (see Figure 1). Plan S is far-reaching because it forces subscription journals to follow one of two paths: they must either show how they will eventually convert to an OA model in the future, or, if they choose not to do so, they must permit immediate (i.e., non-embargoed) open access to research through a repository.

This means that a subset of journals exists that researchers may not publish in if they are to comply with the policy. Research cannot be published in subscription journals that embargo content or do not present a plan for transitioning to open access. Many compliant journals levy an APC, often equivalent to many thousands of dollars, that an author must pay if they are to publish in those journals; cOAlition S has said that its funders will cover the funding for these articles (though the details of this remain unclear). Another route to compliance is to publish with a non-compliant subscription journal, pay an APC, and then immediately upload the article to a repository (as per the policy). There will be no funding available from cOAlition S to authors for this route and so there is a possibility that a two-tier system may evolve of those who can and cannot access such funding. In this case, authors from less wealthy countries and institutions, or more junior researchers without access to funding, will be excluded from these journals.

Though Plan S may be complicated, it is clear to see why researchers are concerned that their freedom to publish in certain venues will be restricted.



Figure 1. Routes to Compliance with the Plan S Policy.

	Open Access publishing venues (journals or platforms)	Subscription venues (repository route)	Transition of subscription venues (transformative arrangements)
<b>Route</b>	Authors publish in an Open Access journal or on an Open Access platform.	Authors publish in a subscription journal and make either the final published version (Version of Record; VoR) or the Author's Accepted Manuscript (AAM) openly available in a repository.	Authors publish Open Access in a subscription journal under a transformative arrangement.
<b>Funding</b>	cOAlition S funders will financially support publication fees.	cOAlition S funders will not financially support 'hybrid' Open Access publication fees in subscription venues.	cOAlition S funders can contribute financially to Open Access publishing under transformative arrangements.

Source: cOAlition S (2018); reproduced under CC BY

For example, Kamerlin and colleagues argue: 'Plan S clearly violates one of the basic tenets of academic freedom — the freedom to publish research results in venues of the researcher's choosing. Plan S does not just mandate open access, but also mandates the *form* of open access, strongly favouring Gold as the desired model' (Kamerlin et al., 2018). In seeking to transform the publishing market away from subscriptions towards a more open landscape, Plan S is an intervention that will preclude some venues that researchers choose to publish their work. Arguments of this kind rest on the idea that we are moving from a system of paying to read (through subscriptions) to paying to publish (through APCs).

Furthermore, Britt Holbrook takes issues with the requirement that researchers publish their work under a CC BY licence, writing: 'The CC BY mandate must go because it dominates a group of researchers who have legitimate interests in opposing mandatory CC BY licenses. No mandate that dominates a group of researchers in that way should stand; and no researcher should stand for mandates that dominate a group of fellow researchers' (Holbrook, 2018). In an interesting application of the work of Phillip Pettit and Isaiah Berlin, Holbrook likens academic freedom not to freedom from state *interference* (which happens all the time in societies) but freedom from *domination* whereby the state 'systematically discriminates against a minority group' to suit its ends (ibid.). The CC BY mandate unfairly penalizes a number of groups, such as some humanities researchers who have specifically objected to it, Holbrook argues, and the imposition of this requirement on them represents a form of domination. This is compounded by the fact that there is no direct way of influencing Plan S; researchers may respond to public consultations, but there is no method of ensuring that their voice is heard and acted upon.

For these reasons, many researchers have argued that Plan S violates the principle of academic freedom. Open access policies require researchers to adapt their publishing behaviour towards forms of publication that are beyond their control. Though I have sympathies with many of the objections to Plan S and related policies, I would like to make an argument that objections to open access on the grounds of academic freedom advance a form of conservatism that is unhelpful for an appreciation of the possible emancipatory benefits of open access. This is to say that although certain OA policies may contain undesirable elements (as Plan S certainly does), objections to them based on academic freedom merely preserve the power imbalances of the specific local context.

## A BROADER UNDERSTANDING OF ACADEMIC FREEDOM?

The problem with academic freedom is that it is not applied consistently or in a way that reflects the relative paucity of freedom of groups *without* the protection of academic freedom, such as the global precariat of researchers

who lack stable academic employment and can be dismissed at a moment's notice, or academics from countries in the global South who are seriously disadvantaged from participating in the current political economy of publishing. From the perspective of objections to open access policies, academic freedom is both reactionary and discriminatory in how it seeks to preserve the privilege of a minority of university-based researchers primarily in the global North. Deployed in this sense, arguments from academic freedom refuse to engage with the potential benefits that open access may bring for those *without* access to a well-stocked university library.

It may therefore be sensible to support national policies that seek to stimulate the conditions for immediate repository-based open access, even if these policies restrict academics from publishing in certain outlets (and I make a case for a more positive form of 'academic freedom' based on open access in the section below). This is because such policies have the potential to conform to a more emancipatory understanding of open access that releases research from behind the paywalls of commercial publishers so that all may access and benefit from it. Open access in this sense is immediately granted and has global benefits, while only marginally inhibiting the behaviour of those privileged enough to be in receipt of funding.

My argument borrows from the work of the poet and scholar Fred Moten on academic freedom, although I am keen to emphasize that he is writing in a different context — that of the Boycott, Divestment and Sanctions (BDS) movement against Israeli occupation of Palestine. In his recent monograph *Stolen Life*, Moten argues that boycotting Israeli universities (and their academics) is not an infringement of Israeli academic freedom because such freedom is 'narrowly and exclusionarily defined' and fails to account for the inability of Palestinian academics to exercise a positive form of academic freedom due to Israeli occupation (Moten, 2018: 220). He writes:

[T]he very idea of academic freedom insofar as it must be state-sanctioned and state-protected if it is to exist — should be subject not simply to the constraints that must accompany narrowly defined and selectively enjoyed freedom but to a radically liberatory critique of freedom so defined and so enjoyed. If academic freedom is defined precisely by the fact that it is a thing that can be enjoyed by peoples such as the Israelis and not by peoples such as the Palestinians why should we defend it? (ibid.)

Moten here engages with liberal, state-defined understandings of academic freedom to show how they narrowly reflect freedom as 'terror-defined'; that is, academic freedom is no more than the absence of terror in an individual state context. Understanding academic freedom in this negative way may be important in certain contexts, as the work of *Scholars at Risk* (n.d.) shows, but it is not sufficient for a 'radically liberatory' understanding of freedom. This is to say that academic freedom should mean positive freedom for the entire global community of researchers or it means

nothing at all.<sup>2</sup> It is here, I believe, that certain forms of open access have a part to play.

So, the question relating to Plan S and open access policies is not whether they infringe upon an individual academic's ability to publish however they choose. Rather, we should ask ourselves whether such policies promote positive forms of academic freedom for global higher education. Of course, much of Plan S is market-centric and simply perpetuates the inequities of contemporary neoliberal capitalism. It is in this context that Plan S is unable to promote such positive forms of academic freedom, especially given APC-based models of publishing that increase the divide between those with funding and those without, particularly scholars in the global South. But these issues are down to the weakness of Plan S to engage with the publishing market, not the problem of OA per se.

It seems perfectly legitimate to require funded researchers to immediately release their publications via repositories. While doing so may marginally limit the venues in which one can publish — at least until zero-embargo open access becomes standard practice for academic journals — this seems like a reasonable sacrifice to make to enable research access for a global community of researchers without access to a well-stocked university library. To this extent, although certain repository-based forms of open access may infringe on a funded researcher's 'full freedom' in publication, this is an acceptable (and miniscule) price to pay for the positive and immediate benefits of research access.

### **POSITIVE FORMS OF ACADEMIC FREEDOM ENABLED BY OPEN ACCESS?**

Any transition to open access must be framed as part of a project to emancipate researchers from the values of the neoliberal university and its requirement to publish primarily within the marketized publishing industry. By and large, OA policies do not do this: they simply reinforce the need to publish in the correct places and to do so often with recourse to APCs from unevenly distributed pools of money. This situation has the potential to normalize the APC model across journal publishing and thus exclude researchers from economically developing nations from participation. If the APC model becomes dominant, Plan S may have a profoundly negative impact on the freedom of underfunded researchers to publish their work (or, at best, they will have to go cap-in-hand to ask for publication fees to be waived).

But Plan S is interesting because, alongside its regressive APC component, it also sees the value in immediate, repository-based forms of open

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2. Clearly, acts of state intimidation over academics are bad, but not because they violate a preordained principle. I am arguing that a responsible ethical position is one that identifies these incidents as part of a more positive, global conception of academic freedom, rather than a negative one devised and imposed by states in the global North.

access. Mandating immediate open access in this sense, without recourse to lengthy embargos, is intended to force publishers to permit immediate sharing of content via repositories. For example, Cambridge University Press announced that it now permits immediate repository-upload of accepted manuscripts for articles published in their humanities and social science journals (Cambridge University Press, 2019). This change is clearly in response to the rapidly evolving policy landscape (of which Plan S is part).

While it is important that global advocates of the free transmission of knowledge acknowledge and rightly criticize the move from subscription-based to APC-based profiteering in academic publishing (in part enabled by Plan S), it is also important to be strategic and recognize the ways in which policy interventions can be used to push back against such commercial practices and help work towards something more encouraging. Paradoxically, Plan S contains a mixture of the regressive (APC-based OA) and the progressive (immediate repository-based OA) that requires continuous engagement, critique and affirmation from those interested in open access. Coupled with other grassroots initiatives, especially where supported by the architects of the policy, some aspects of Plan S could help form the basis of a ‘radically liberatory’ form of academic freedom for scholars across the globe.

It is worth reminding ourselves that the original intentions of the open access movement were in this direction. Though clunky and solutionist in its wording, the 2002 Budapest Open Access Initiative envisioned that open access would allow researchers to ‘share the learning of the rich with the poor and the poor with the rich’ (BOAI, 2002). In the 18 years since then, the open access landscape has increased in complexity — not least because it is rapidly becoming a major profit source for large commercial publishers — and it is easy to forget the original aims of the OA movement to foster a more democratic and equitable political economy of global knowledge dissemination. We must therefore continually keep in mind and engage with policy interventions that impact on the ability of scholars across the globe to both publish in and read the journals that are most appropriate to their work.

Leslie Chan describes how the ‘inequity being amplified by the APC model forces us to rethink the meaning of openness, and why we favor OA in the first place’ (Chan, 2019). For Chan, policies such as Plan S fail to promote a diversity of publishing practice, which he refers to as ‘bibliodiversity’, because they simply focus on removing paywalls rather than addressing the structural inequalities in global knowledge production. Chan writes: ‘Understanding these often hidden and invisible structural problems requires us to examine the history and political ideology that form the foundation of the western knowledge system, which favors hierarchies of knowledge, while privileging the normative science and scholarship from the West as the standard by which all other forms of knowledge are being measured’ (ibid.: 9–13).

Embedded in this quotation is an excellent illustration of the true issues facing a positive conception of academic freedom, and the impotence of Plan S to deal with them. The values of global publishing are informed by the hegemonic values of marketized universities in the global North, which are in turn shaped by the neoliberal turn of measuring everything with respect to market-based outcomes. This is why academic freedom — in a positive sense — is not possible for many global scholars both within and outside the traditional university system.

Clearly, Plan S is not designed to address these issues: it is wholly embedded in the liberal political economy of European nation states. The policy cannot and will not improve or fix precarity, biblio-monoculturalism or the marginalization of minority scholarships. To the extent that the APC road is prioritized, Plan S will likely exacerbate these issues by perpetuating a market-based approach. The zero-embargo repository aspect to Plan S, on the other hand, may conform to a more emancipatory approach to publishing and knowledge production, but only if coupled with support for an alternative and diverse ecosystem of non-commercial publishing projects, such as those associated with AmeliCA (Aguado-López and Becerril-Garcia, 2019a), the Open Library of Humanities (Open Library of Humanities, n.d.), or the Radical Open Access Collective (Adema and Moore, 2018). These projects are led by scholars who work collaboratively for an open access that does address the broader problems related to knowledge production in academia.

For example, the AmeliCA initiative is a coalition of scholar-led, university-based publishers in Latin America. It is described by its organizers as a 'response to the specific challenges of delivering open access that are faced by countries in Latin America and the Global South' (Aguado-López and Becerril-Garcia, 2019b). For Aguado-López and Becerril-Garcia, Plan S is too focused on APC-based publishing and shuns local publishing contexts outside of Europe. Instead, they hope to reorient Plan S 'not as a narrow programme to replace the pay-to-read model with a pay-to-publish model but rather as a more comprehensive means of achieving OA' (ibid.). This approach is similar to that of the presses within the Radical Open Access Collective, all of which eschew commercial and APC forms of publishing in favour of experimental, not-for-profit approaches to OA based on sensitivity and care for local and disciplinary practices (Adema and Moore, 2017). Plan S should help advance projects such as these in order to achieve this comprehensive approach to OA that can stimulate and improve academic debate between and across a variety of global and disciplinary contexts.

Much like the authors they seek to serve, publishers in both AmeliCA and the Radical Open Access Collective are in a precarious position, reliant on piecemeal or sporadic funding and working against a culture of prestige publishing dominated by commercial journals and publishers in the global North. Coupled with support for zero-embargo green OA, Plan S should

stimulate these new cultures of knowledge through targeted funding instead of money for APCs, similar to the way that UK funders are supporting alternative OA infrastructures through the ScholarLed consortium.<sup>3</sup> This would contribute to a ‘radically liberatory’ form of academic freedom based on open access that may allow for the subversion of the marketized publishing oligopoly.

Ultimately, then, I am arguing that Plan S is not wholly good or bad but that certain aspects of it may encourage a responsible, ethical and positive conception of academic freedom for scholars around the globe. It is exactly the zero-embargo repository aspect of the policy that many argue limits a researcher’s right to choose how and where to publish. However, this is because only a minority of journals currently permit zero-embargo open access; the majority still maintain embargos of more than one year. The Royal Historical Association, for example, found that 61 per cent of the history journals they surveyed do not allow immediate archiving of the articles they publish (Foxhall, 2019). For defenders of a negative form of academic freedom, the preclusion of such journals from the policy represents an unacceptable overreach of state power. However, of the 61 per cent of journals, roughly 35 per cent were reviewing their embargo policy to actively consider permitting immediate repository-based access for accepted versions of papers (*ibid.*). This is a welcome development that would not have been possible without asking grantees in privileged positions to temporarily limit their publishing options for the sake of the greater good.<sup>4</sup>

## CONCLUDING REMARKS

Immediate access to accepted manuscripts in repositories is by no means the sum total of a ‘radically liberatory’ approach to open access. It is a floor, not a ceiling, that could help form the basis of a more emancipatory publishing system. This is why tactical engagement with Plan S is necessary, because it is the direction of travel and will have significant impact on knowledge production. Without this engagement, the neoliberal status quo will persist and will further embed free market decision making into all aspects of academic life. Those arguing that open access harms their ability to publish in all the myriad journals available to researchers are promoting a conservatism in their own privileged interests over those without access. Academic freedom is meaningless if not everyone is able to enjoy it.

Again, I am not arguing that Plan S is wholly positive, ethical or desirable as currently proposed, not least because of all the unforeseen consequences

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3. See overview of ScholarLed at: <https://scholarled.org/#overview> (accessed 29 January 2019).

4. Also, at the time of writing, rumours are circulating about the extension of the United States’ federal policy for open access that would mandate a similar zero-embargo green OA policy (Resnick and Belluz, 2019).

that may arise when the policy is actually implemented in 2021. Much more needs to be done to promote academic freedom for the global precariat of scholars without access to stable employment, and to ensure that scholars from outside the global North have a true and equal place as both producers and consumers of knowledge. The policy makers behind Plan S would be wise to learn from initiatives outside Europe that do foster a progressive and holistic vision for open access around the world, such as the Latin American experience described by Debat and Babini (2019) or the attempt by the *Feminist Legal Studies* editors to actively nurture a globally just publishing programme (Naqvi et al., 2019).

So, I argue here for a positive form of academic freedom predicated on open access, one that works towards a more socially just global university system that is emancipatory from the inequalities of neoliberal capitalism and helps foster collectivity, experimentation and care. This vision involves going beyond simple open and closed binaries, or knee-jerk reactions based on protecting academic freedom for a minority of privileged scholars in the global North, and instead requires us to learn how to strategically engage with the policy environment for better ends — even though it may appear wholly regressive at first.

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