



Open science in times of populism:

Free and responsible, participatory, situated, and universalist

Opening Access, Closing the Knowledge Gap?

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I. Open science needs freedom and responsibility (e.g. Art. 13 EuChFR)

- Science/research: “any activity which is, in terms of content and form, a serious and systematic attempt to establish truth” (BVerfGE 35, 79 (1 BvR 424/71 a.1 BvR 325/72), 29 Sept. 1973, para. 128).
- The boundaries: foundational research — applied research — practice — commercial use are blurred, also in legal research.

Rationales of freedom of research:

1. Personal autonomy.
2. Epistemic: diversity and creativity through freedom.
3. Political rationale: scientific knowledge as a basic prerequisite for the possibility of forming political preferences of citizens.

The counterpart is the researchers’ **responsibility/accountability**.

To whom? To shareholders and stakeholders.

II. Does open science need citizen participation?

Rationales of a shift from arcane knowledge to a public engagement with science and technology:

1. Legitimacy deficits of arcane knowledge production.
2. Rationality deficits due to unavoidable specialisation.

Citizen information and participation in knowledge production at different stages:

1. Research agenda setting
e.g. through bottom-up funding of projects through crowd-sourcing.
2. Project application evaluation with regard to the allocation of public funds
ZIFONE project (EPF Lausanne); <https://zifone.net>

3. The actual research activity?

“Citizen Science”; “Citizens Create Knowledge” (www.wissenschaft-im-Dialog.de).

But: The innovation potential is doubtful: Can civil society really generate ideas?

4. Publicity of the research results

Open access.

5. Publicity of the financing

to enable the assessment of possible interest-boundness of the results.

Example: Monsanto-funded results on the “harmlessness” of glyphosate.

Open questions:

- Full publication of sponsorship contracts ?
- Exceptions to protect business secrets of the sponsor ?

Criticism/drawbacks of participatory science governance

1. Only conformist (self-)disciplining (Foucault)?
2. Neoliberalism
3. Lack of real opportunities for citizens to shape the research
4. Banalisation: science as “event”.
5. Obscure “science” on settled issues such as Holocaust or race and IQ

III. Open science is situated and pluralist

No “God trick” (Donna Haraway). But that does not mean that facts are a matter of perspective. Epistemic, moral, and cultural paradigms are not incommensurable, but can be overstepped.

IV. Open science is universalist

Against epistemic nationalism in international legal scholarship.

V. Conclusions

Populism is exploiting epistemic relativism. Open science needs to stand firm against epistemic relativism in order to counter the populist highjacking of critical scholars’ critical aspirations. Open science is participatory, pluralist, and universalist in its orientation but it is not open to “alternative facts”/“post-truth”.

Documents

Art. 13 European Charter of Fundamental Rights (2000/2007): “The arts and scientific research shall be free of constraint. Academic freedom shall be respected.”

Article 15 ICESCR (1966)

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.”

- Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities of 22 October 2003.
- Rules of the Max Planck Society on the Responsible Handling of Research Freedom and Research Risks (2010/2017)
- Whitepaper: Animal experimentation in the Max Planck Society (2016).

Projects

“Civil Society and Research for Sustainable Development” (Prof Claudia Binder, EPFL Lausanne). <https://zifone.net>

Literature

Torsten Wilholt, *Die Freiheit der Forschung: Begründungen und Begrenzungen* (Frankfurt: Suhrkamp 2012).

Anne Peters, “Introduction to the Series: Trialogical International Law”, in: Anne Peters/Christian Marxsen (Series eds), *Self-Defence against Non-State Actors – Max Planck Trialogues on the Law of Peace and War* Vol. 1 (Cambridge: Cambridge University Press 2019), XI-XXV.

Anne Peters, “International Legal Scholarship Under Challenge”, in: Jean d’Aspremont/Tarcisio Gazzini/André Nollkaemper/Wouter Werner (eds), *International Law as a Profession* (Cambridge: Cambridge University Press 2017), 117-159.

Anne Peters and Heiner Schwenke, “Comparative Law beyond Post-modernism”, *International and Comparative Law Quarterly* 49 (2000), 800-834.

Case law

VGH Baden-Württemberg, order of 26 Sept. 2017, AZ 9 S 2056/16, pending at German Federal Constitutional Court.