

Unlocking Knowledge:

National Mandate for Institutional Copyright Retention to Enable Open Access in India

Executive Summary

This brief strongly advocates for implementing a mandatory institutional right-retention policy across all publicly funded institutions in India. This policy would enable immediate self-archiving by allowing authors to retain primary rights over their work. This crucial reform ensures that results from publicly funded research are made open access through institutional or national repositories immediately upon publication. It is essential to empower institutions to dismantle the prohibitive subscription barriers imposed by traditional journals, ensuring the broad dissemination of research funded by public money. Current discussions on open access predominantly focus on the APC-based gold open-access model, which introduces high costs for authors—a significant barrier in resource-constrained countries. There is an urgent need for assertive actions that guarantee unrestricted access to publicly funded research. India offers a vast landscape of opportunities to champion open access by promoting self-archiving in institutional and national repositories. However, the common practice of transferring copyright ownership to journals critically hampers the immediate implementation of such practices as well as the broader use of knowledge. To address this, it is imperative to enforce national mandates that ensure authors' institutions retain primary rights, relegating only secondary rights to publishers. Implementing such policies would catalyse a systemic transformation, reinforcing the ethos of freely accessible and utilizable knowledge for the greater societal good.

Overview

Access to existing knowledge is essential for the progress of science and technology. Publicly funded research contributes enormously to scholarly knowledge, fuelling innovation and societal advancement. Access to existing knowledge is essential for the progress of science and technology. Publicly funded research contributes enormously to scholarly knowledge, fuelling innovation and societal advancement. Researchers

publish their findings in scholarly journals. However, the traditional subscription-based journal model significantly hinders access to this wealth of knowledge. The high paywall of these journals keeps research articles, often funded by public money, away from researchers, educators, and the public, thereby creating a paradox where the public funds research but cannot access them. This brief explores possible solutions and policy recommend-

ations that can make publicly funded research freely available to all. The main argument of the recommendations is mandating institutional right-retention policies as the legal frameworks to enable self-archiving in institutional repositories, also known as the green open access route, as the enabler of open access. This is also in alignment with the outcome of G20 chief science advisers roundtable under Indian presidency.

Challenges and Roadblocks

ations that can make publicly funded research freely available to all. The main argument of the recommendations is mandating institutional right-retention policies as the legal frameworks to enable self-archiving in institutional repositories, also known as the green open access route, as the enabler of open access. This is also in alignment with the outcome of G20 chief science advisers roundtable under Indian presidency. The concept of Green Open Access, as defined in the Budapest Open Access Initiative (BOAI), promises unrestricted access to scholarly articles. Notably, several Indian funding bodies like DST-DBT, CSIR, and ICAR have endorsed Green Open Access policies. These mandates require that the final accepted manuscript of a research article be deposited in an open-access repository, often available within the researcher's institution or in a national repository. However, prolonged embargo periods—ranging from six months to two years post-publication—imposed by journal publishers hampers immediate accessibility. These embargoes are a direct consequence of the prevalent journal publishing practice, which compels

authors to transfer copyright ownership to publishers prior to publication. This relinquishment of rights creates a significant blockade against the timely reuse and dissemination of research findings. In fields where timeliness is crucial, such delays can diminish interest in the research, leading to a lapse in adherence to Green OA policies.

Outlined Challenges Include:

- **Access Barriers:** The steep paywalls of scholarly journals act as a barrier, negating the intended benefit of publicly funded research.
- **Delayed Open Access:** The embargo periods and copyright transfer agreements enforced by journals postpone the entry of research into open-access institutional repositories, curtailing its immediate impact, accessibility, and reuse.
- **Institutional and Legal Hurdles:** The lack of institutional support and the varying international copyright laws complicate the implementation of immediate self-archiving.

Ways to Mitigate the Challenges: A summary of existing frameworks

Institutional Support for Open Access

A number of leading institutions have set precedents by implementing policies that safeguard the author's right to immediately deposit the accepted version of their research articles into repositories without embargoes. Harvard University stands out as a pioneer in preserving authors' rights to self-archive. In 2008, Harvard's Faculty



of Arts & Sciences voted to grant the university a non-exclusive, irrevocable right to distribute its scholarly articles. This ground-breaking policy allows researchers at Harvard to deposit their work directly into Harvard's open-access institutional repository, DASH (Digital Access to Scholarship at Harvard). Other notable institutions that have such right retention provision are:

Massachusetts Institute of Technology (MIT): Authors grant MIT a non-exclusive license to disseminate faculty articles, allowing them to be archived in the MIT institutional repository.

Oxford University, the University of Edinburgh, and other UK institutions have policies that support immediate self-archiving through right retention.

The Role of Copyright Laws

Some countries have copyright laws or specific clauses within their copyright legislation that can support authors' self-archiving of research articles. However, the specifics can vary significantly between jurisdictions, and the implementation can depend on the interpretation of these laws. A notable example is the German copyright law, which includes a provision known as the "secondary publication right" (SPR) for authors of scholarly articles. This right is activated under specific conditions, such as when the work is funded at least half by public funds and published in a periodical, allowing authors to make their manuscript available in an open-access repository with a 12-month embargo, irrespective of any prior agreement with the publisher. Countries like Austria, Belgium, the Netherlands, and France within the European Union (EU) also include SPR provisions (page 3, Ref 5). The Research and Innovation Office of the European Commission (EC) has been

proactive in securing authors' rights over their scholarly outputs. A study commissioned by EC recommends, based on the collated insights from a comprehensive survey among stakeholders, a fully harmonized, mandatory SPR regimen at EU level' and advocates for a 'no embargo' policy.

Possible Provisions in India: Institute-level right retention

One way to support green open access more strongly is a national mandate to create institution level policies for preserving authors' right to self-archiving by granting the institution a non-exclusive and irrevocable right to distribute its scholarly articles generated from publicly-funded research. This move will align with the statement circulated after the G20 Science Advisers round table in Gandhinagar, India, under the Indian G20 presidency. The advisory on Synergising global efforts to expand access to scholarly scientific knowledge states, "...We recognize the importance of evolving approaches to providing immediate and free access to appropriate publicly funded research publications. We recommend establishing interoperability standards that would allow interlinking among various national as well as international repositories to expand access to publicly funded research outputs...".

Success in achieving open access to research articles through repositories hinges on strict adherence to these mandates, requiring authors to deposit the final accepted or published versions of their articles in national repositories. Institutions must provide robust support to authors to shield them from any potential legal challenges posed by publishers.

Policy Recommendations

1. Adopt and Support Green Open Access: It is critical that funding agencies and research institutions rigorously implement existing Green Open Access policies.
2. Institutional Right Retention: Follow the lead of institutions like Harvard University and MIT by establishing policies that retain authors' rights to self-archive their work while providing secondary publishing rights to publishers, bypassing publisher embargoes. A template can be provided to institutions to facilitate the process.
3. Strong Monitoring Mechanism: Every publicly-funded institution must establish a robust monitoring mechanism to ensure that all articles published under its affiliation are deposited accordingly. The annual report of each institution should include a specific section detailing the deposition status of their articles.

Conclusion

The movement towards open access is not just a policy advocacy but a cultural shift in how we perceive and value publicly funded research. By implementing these recommendations, we can ensure that research funded by the public truly serves its intended beneficiaries, fostering a more informed society and achieving one of our constitutional duty of achieving "scientific temper". It should be noted that not just public funding but even private funders, such as the Gates Foundation, Wellcome Trust, and Howard Hughes Medical Institute, are mandating free and open access to research output that they fund to help in democratize knowledge. By dismantling barriers to open access and adopting forward-thinking policies, India can set a global standard for a more open and equitable scientific publishing landscape.

References

- 1] Harvard Library Office for Scholarly Communication. (n.d.). Open Access Policies. Retrieved from <https://osc.hul.harvard.edu/policies/>
- 2] MIT Libraries. (n.d.). Retaining rights. Retrieved from <https://libraries.mit.edu/scholarly/copyright/retaining-rights/>
- 3] Eglen, S. J. (2023). UK Institutional Rights Retention Policies. Retrieved from <https://sje30.github.io/rrs/rrs.html>
- 4] Resources on drafting institutional policies can be accessed here: Harvard Open Access Project. (n.d.). Drafting a policy. Retrieved from https://cyber.harvard.edu/hoap/Drafting_a_policy
- 5] European Commission. (2024, February). Improving access to and reuse of R&I results, publications, and data for scientific purposes. Retrieved from https://research-and-innovation.ec.europa.eu/document/download/a473a26b-e5be-4492-8733-a119155802e3_en?filename=ec_rtd_improve-access-reuse-ri-results-supporting-documents.pdf

