

## Open Access to information: a right or an aspiration?

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**Abstract:** Faced with the limitations in the use of the Internet in Latin America and Mexico, the economics and the controls related to copyright would have to be added to the situation. Although information technology services are developing programs that facilitates open access to information, they are not exempt from moral and legal conflicts, since user demand is very strong. In face of this situation, one must ask the question: is the right to information a right that we can all exercise to the full or is it a mere aspiration based on the declaration of a right? In the pre-digital or digital society, the right to information must include actions that will make the use of information a reality; the obligation to inform, the citizen's inherent right to be informed, and finally, the promotion of the use of information and reading.

**Keywords:** Open Access. Latin America. Internet. Libraries. Copyright.

### 1 Introduction

There is no doubt that for many sectors of global society, the phrase "our digital future" is present daily. However, for other sectors and countries, it is only a partial reality since although parts of their population live in a totally digital environment, other parts have deficient access to digital services and virtual and technologized lifestyles. Moreover, there are sectors that lack even the satisfactory basics for survival and are of course, far removed from the digital world.

These reflections are based on the principle that society has never been a complete entity, but is rather composed of sectors with specific and different historical, political and socio-economic characteristics. Among these sectors, we are going to emphasize the research and teaching aspects of the academic sector in the regional area of Latin America.

Research and education have to go hand in hand. The first explores, analyzes causes and effects, environments of phenomena, relationships with other facts, and finds solutions and probable future effects, both positive and negative. The second, education, shares this knowledge with the new generations, enables facts and

learning to be fed back with the points of view of the young, facilitates young people to be interested in the generation of knowledge through innovation, creation, that they participate in research teams, that the classroom be a workshop, laboratory and cubicle and therefore, these, in turn, become the classroom.

These two vital activities require the social players to be within easy reach of the *information* that supports the existing learning and the actions that lead to the creation of new knowledge.

## **2 The need for public policies for open access to information.**

All projects in the country that is seeking to increase its economic development and growth must consider the social, cultural, and educational programs as irreplaceable priorities. Therefore, public policies must explicitly express this priority as a long-term investment in order to obtain human resources that become competitive human capital aiming the use of the knowledge acquired, to create, to innovate and, consequently, be agents of development.

In countries such as Mexico, public education is free and serves the largest percentage of the population; i.e., children, young people and adults who have free access to public education. Therefore, if *education is free*, it's fundamental and basic that raw material, which is *information*, must *also be free*.

However, the socio-economic reality of Latin America reports dramatic results with regard to the situation of poverty and indigence, a situation that has an impact on development, on access to education and on the acquisition and use of information. Between 2005 and 2010, the countries in the region with the highest levels of poverty were (Table 1):

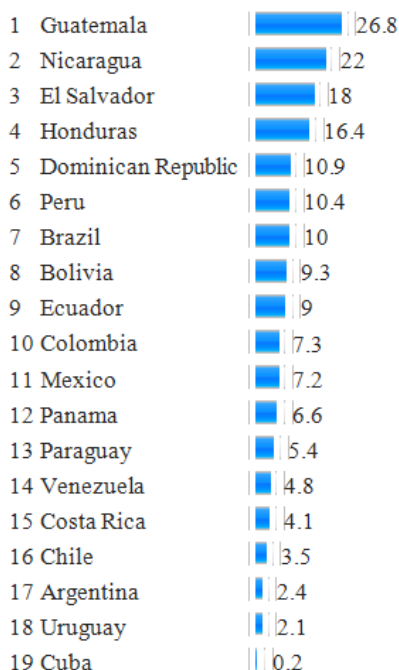
**Table 1 - Latin America: people in situation of poverty and indigence between 2002 and 2010.**

COUNTRY	AROUND 2000			BETWEEN 2005 AND 2010		
	YEAR	POVERTY	INDIGENCE	YEAR	POVERTY	INDIGENCE
Argentina	2002	45.4	20.9		8.6	2.8
Bolivia	2002	62.4	37.1	2007	54.0	31.2
Brasil	2001	37.5	13.2	2009	24.9	7.0
Chile	2000	20.2	5.6	2009	11.5	3.6
Colombia	2002	54.2	19.9	2010	44.3	14.8
Costa Rica	2002	20.3	8.2	2009	18.9	6.9
Ecuador	2002	49.0	19.4	2010	37.1	14.2
El Salvador	2001	48.9	22.1	2010	46.6	16.7
Guatemala	2002	60.2	30.9	2006	54.8	29.1
Honduras	2002	77.3	54.4	2010	67.4	42.8
México	2002	39.4	12.6	2010	36.3	13.3
Nicaragua	2001	69.4	42.5	2005	61.9	31.9
Panamá	2002	36.9	18.6	2010	25.8	12.6
Paraguay	2001	59.7	31.3	2010	54.8	30.7
Perú	2001	54.7	24.4	2010	31.3	9.8
R. Dominicana	2002	47.1	20.7	2010	41.4	20.9
Uruguay	2002	15.4	2.5	2010	8.6	1.4
Venezuela	2002	48.6	22.2	2010	27.8	10.7

Source: Economic Commission for Latin America and the Caribbean (ECLAC)

We have to relate this dramatic situation with access to education. The figures shows a correlation that enables us to conclude that greater inequality means less access to knowledge and greater poverty mean less access to knowledge and smaller economic growth. In Latin America, there is a correlation between the highest indices of illiteracy with those of poverty.

**Figure 1** - Percentage of illiteracy in Latin America compared with the total population of each country

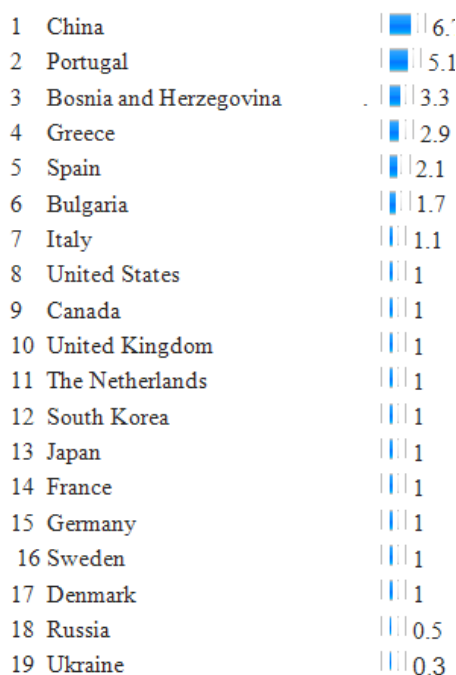


Source: United Nations Development Programme (2009).

As shown in Figure 1, some countries have fought historically against illiteracy such as Cuba, with very notable indices, while others governments in the last decade have taken important turns in their public policies. Mexico, meanwhile, recorded a rate of 7.2 illiteracy.

The agencies that study and drive development consider that with access to education, knowledge and information, inequality and poverty will decrease, taking as bases education budgets, libraries, information services, ICT, access to information and then knowledge, as shown in Figure 2.

**Figure 2** – Percentage of illiteracy in some developed countries compared with the total population of each country



Source: United Nations Development Programme (2009).

Faced with this situation of inequality, we should ask ourselves if access to information, whether digital or printed, depends merely on providing technology to communities and searching for adequate contents in the services on the Internet.

Perhaps, in regions and countries that cannot be considered as fully developed or are in incipient development, we would first have to consider the public policies that have full access to education as their objective, as well as each of the components of the teaching-learning process, such as the alphabet, schools, information and the other support elements inherent to this process: the library, the Internet and access to digital information.

In recent decades, all the countries have worked on achieving a judicial framework or cultural, educational and scientific policies that make the information available to their inhabitants. With this, the purpose is to obtain the knowledge necessary to meet information needs to solve routine problems or, if applicable, research questions.

We will take the case of Mexico as an example. Within its Political Constitution (MEXICO, 1985), we have:

- a) Article 3, which establishes the right to education and its obligatory and free nature;
- b) Article 4: everybody has the right of access to culture;
- c) Article 6<sup>1</sup>: stipulates the right to information: the demonstration of ideas will not be subject to any judicial or administrative investigation, the right to information will be guaranteed by the State;
- d) Article 7: the freedom to write and publish documents on any subject without censorship cannot be infringed.

(See appendices A, B, C and D).

There are other specific laws that guarantee access to specific information, such as the Science and Technology Law (June 5, 2002) (MEXICO, 2002), and of course, the Federal Copyright Law (December 24, 1996; updated June 10, 2013) (MEXICO, 2012). Other initiatives seek to recognize the use of the Internet and that it is considered as a social right (AMIT, 2010).

Although all this legislation refers to access to information, the copyright legislation ensure the protection of authors' benefits. Therefore, in reality, there are several flaws in the use, reproduction and transmission of information, which are made more evident to the extent that information technology becomes more efficient and powerful in terms of the volume, speed and precision for the reproduction of said information.

In parallel to the official and legal actions, the regional and world organizations that work to facilitate access to culture, education, science and technology, such as UNESCO (United Nations Educational, Scientific and Cultural Organization), ALA (American Library Association) and IFLA (International Federation of Library Associations and Institutions) defend free access to information. This includes overcoming the political, ideological, legal, economic and technological barriers, among others, so that global society may approach and use global and local information. Similarly, the inclusion of information on the Internet, in free and complete text form, is also fostered with the obligation to give credit to the authors and not to market it to third parties.

However, as there are also high levels of productivity in our universities and an intensive use of the Internet and social networks, such as Facebook or YouTube, young people can be digital natives who show very different reading patterns to those of 20 or even 10 years ago. With the daily and mass invasion of ICT and the audiovisual culture, through television and the Internet with all their possibilities that drive the social networks, young people, who can be digital natives, send and receive information in a natural and intuitive manner, but more often than not in shortened or codified form, which does not enable them to evolve from the compact reading of minimum information to the acquisition of knowledge.

Economic limitations, barriers to the use of the technologies and the deficient forms of reading become a serious problem to access information and acquire knowledge.

From a study conducted in the United States (Ferguson, 2011) one could reach the conclusion that the technological environment and the new forms of communication have cultivated a new "uncultured" or "illiterate" community. Regardless of their levels of education, young males from 13 to 17 years of age send and receive an average of 3,339 text messages per month, while girls send and receive a little more than 4,000. This however, involves the reading and writing of abbreviated texts, not the reading of literary or scientific texts that require analysis, evaluation and processing. In other words, the exhaustive use of Facebook, YouTube and other social networks has intensified the reading of short, abbreviated messages and encroaches into the free time that young people could otherwise spend learning about the world or accessing universal or local knowledge through broad and reflexive reading.

In Mexico, 37.6 million people of a total of 110 million use the Internet, but only 6.9 million have Internet access (INEGI, 2012). The figures are clear: only a third of Mexicans have access to information via digital media. And to this numerical limitation, we would have that to add the economic limitations and the legal controls in place to protect copyright against uncontrolled consultations and reproductions made for profit.

### 3 Efforts and actions in Latin America

In this sense, is important to analyze the initiatives of the academic bodies in Latin America to offer their publications on the Internet. Such bodies include the *Consejo Latinoamericano de Ciencias Sociales* (Latin-American Counsel of Social Sciences (CLACSO)), the *Red de Revistas Científicas de América Latina y el Caribe, España y Portugal* (the Network of Scientific Journals of Latin America and the Caribbean, Spain and Portugal (REDALyC)) and certain universities such as the UNAM, which in addition to its program “*Toda la UNAM en línea*” (“The entire UNAM on-line”) that includes everything published with internal financial resources, offers various REPOSITORIES or information systems, such HUMANINDEX, that includes the academic production in the Humanities and Social Sciences area; the National Digital Newspaper Library, where the national press (copyright-free) and the various information systems of the General Libraries' Department; to mention a few examples, can be consulted.

The information services develop programs that facilitate open access to information; however, they are not exempt from moral and legal conflicts, since user demand is very strong. The strength of the technological Internet and World Wide Web developments has been exponential. Every day, more possibilities to offer and recover information are opened and in this context, some options are completely regulated by copyright, whereas others are completely beyond the scope of the law.

On December 1, 2001, the defenders of open access published the Statement of Budapest and the Open Access Movement (OAM) was born, which proposes to defend the precept:

[...] that users can read, download, copy, distribute, print, search for or link the complete texts of scientific articles and users with any other lawful purpose, without financial, legal or technological barriers other than those inseparable from gaining access to the Internet itself. In other words, at no cost (BUDAPEST OPEN ACCESS INITIATIVE, 2002, electronic document).

This movement also demands the "FAIR USE" of the information by users, specifically regulated by the large leading information services associations (ALA, IFLA). Supported by this statement, we can mention innumerable projects. Some Latin-American countries have regulatory actions on the matter (see Table 3).



**Chart 1 - Regulatory actions of some Latin-American countries**

COUNTRY	LAWS - INITIATIVES	ACADEMIC PRONOUNCEMENTS
<b>Mexico</b>	Federal Copyright Law (2012)  Constitutional Article 6 (2011)  Federal Governmental Public information Transparency and Access Law (2002)	Academic initiatives: <ul style="list-style-type: none"> <li>• Redalyc</li> <li>• Toda la UNAM en Línea (The Entire UNAM On-line)</li> <li>• Humanindex</li> <li>• FFyL Repository</li> <li>• National Newspaper library</li> <li>• Library System</li> </ul>
<b>Argentina</b>	Government Bill for the Creation of Open-Access, Own or Shared Institutional Digital Repositories (2011)	Open Access (OA). Latin-American Faculty of Social Sciences (FLACSO), Argentina
<b>Chile</b>	Scientific-Technological Information Access Program (2004)	Scientific Library-SciELO-Chile Repositories: <ul style="list-style-type: none"> <li>• University of Chile: Cybertesis Project Data Capture System</li> <li>• University of Talca: DSpace System</li> </ul>
<b>Peru</b>	Government Bill for the Creation of the National Digital Open Access Science, Technology and Innovation Repository (2012)	

Source: The author.

Life, even in the age of globalization and in the information and knowledge society, has its contradictions: a lot of information is produced in all the possible media - daily, entertainment or scientific information on paper or digital, on-line or recorded; and we all want access to it, either as a whole or as a single sector.

For this create-write and use-read cycle, as players, we all require visibility, to be in demand and quoted for our products, or to have accessible resources so that we can meet our information needs.

Universities are some of the most productive institutions in the creation of knowledge and information. Today, universities are not only concerned about producing, but, due to their obligatory complement, about making what they do known and ensuring that the result will be used; i.e., they concerned about being visible. Of course, means already exist to measures this visibility: the rankings, which supposedly are indicators of the quality of the knowledge that is transmitted and, above all, of the knowledge that is produced. To appear in the ranking, the

measurement considers the quantity of digital documents analyzed by certain information services. This reminds us that we live in a digital, global, but selective society, in which all countries and all societies can be within a very extensive range of social representation, which can reflect images of misery and hunger at one extreme, while at the other, academic and scientific excellence that revolutionizes the development and progress of mankind of tomorrow.

#### 4 Conclusion

Faced with this so disparate situation: the right to information, a social right and a right derived from rights of man; therefore, a universal right, it is worth asking ourselves the question again: is it a full right that we can all exercise or is it merely an aspiration based on the statement of a right?

Due to the coexistence of the technological advances that drive the creation and the legal restrictions or regulations of copyright, and in the light of the restrictions in the protection of personal data and the number of copies, it is important to understand the user's limits in terms of the work protected in a context in which said user has not purchased the original work, but needs to consult it through sporadic and partial reproduction by any mechanical, technical or electronic system, cases in which extremes have been reached. The user has intended to obtain more than one copy and the author-editor seeks further restrictions and locks for these cases, above all in cases of libraries. This restriction, taken to the extreme in libraries, forces authors-editors and legislators to understand the objectives of this social institution, which has gone hand-in-hand with peoples' histories and cultures: *the collective use of the bibliographical wealth of humanity*.

Books or informative works become common assets for collective use for the benefit of society and the librarian, in turn, becomes the intermediary between the citizen and the information. However, the librarian's ethical commitment to society goes beyond a simple interface that connects people with the informative work they require. The librarian, therefore, has to look after readers' interests in terms of the use of information.

The interests that the librarian has to look after include ensuring: a) that the general use of the information be free in terms of availability and cost; b) that the restrictions to the use of an informative work be related to the technical nature of the information and not to the characteristics of the user, and c) that the Library's offer of information be for fair use and that no other existing rights or standards are undermined or abused (such as the uncontrolled reproduction of the informative work, however, if the principle relating to reproduction is met; i.e., for educational and/or scientific purposes, the reader may use the printed information or e-information, or printed book or e-book).

In the pre-digital or digital society, the right to information must include actions that will make the use of information a reality. These actions are: a) the obligation to inform, b) the citizen's inherent right to be informed, and c) the promotion of the use of information and reading. In this manner, we will fully exercise the right to be informed and its vital commitments with its community, with the society of its environment and to the global society of today and tomorrow.

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## **Livre acesso à informação: um direito ou uma aspiração?**

**Resumo:** Confrontado com as limitações do uso da Internet na América Latina e México, a economia e os controles relacionados aos direitos de autor são aspectos que devem ser adicionados à questão. Embora os serviços de tecnologia da informação estejam desenvolvendo programas para facilitar o acesso aberto à informação, estes não estão isentos de conflitos morais e legais, uma vez que a demanda por parte dos usuários é muito grande. Perante esta situação, deve-se fazer a pergunta: o direito à informação é uma prerrogativa que todos nós podemos exercer plenamente, ou é uma mera aspiração com base na declaração de um direito? Na sociedade pré-digital ou digital, o direito à informação deve incluir ações que visem tornar o seu uso uma realidade, concretizando assim a obrigação de informar, que é inerente ao direito do cidadão de ser informado, e, por fim, promovendo o uso da informação e da leitura.

**Palavras-chave:** Open Access. América Latina. Internet. Bibliotecas. Direitos de autor.

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### **Appendix A – Article 3 of The Political Constitution of the Mexican United States**

Article 3. All individuals have the right to receive education. The State – the Federation, the States, the Federal District of Mexico City and the Municipalities – will provide pre-school, primary, secondary and preparatory education. Pre-school, primary and secondary education will consist of basic education. This and preparatory education will be obligatory.

IV. All the education provided by the State will be free;  
[Reformed through the Decree published in the Federal Official Gazette on March 5, 1993].

#### **Appendix B – Article 4 of The Political Constitution of the Mexican United States**

Article 4. All persons are entitled to the right of access to culture; men and women are equal in the eyes of the law. This right will be protected the organization and development of the family.

All persons are entitled to the right of access to culture and to the enjoyment of the cultural assets and services provided by the State, as well as to the exercise of their cultural rights. The State will promote the means for the diffusion and development of culture, considering the cultural diversity in all its manifestations and expressions with full respect for creative freedom. The law will establish the mechanisms for the access and participation in any cultural demonstration.

[Added through the Decree published in the Federal Official Gazette on April 30, 2009].

#### **Appendix C – Article 6 of The Political Constitution of the Mexican United States**

Article 6. The demonstration of ideas will not be subject of any judicial or administrative investigation, unless said ideas undermine morale, third-party rights, cause a criminal offense or disturb public order. The right of rebuttal shall be exercised pursuant to the terms of the law. The State shall guarantee the right to information.

[Reformed through the Decree published in the Federal Official Gazette on November 13, 2007].

#### **Appendix D – Article 7 of The Political Constitution of the Mexican United States**

Article 7. The freedom to write and to publish documents on any subject cannot be infringed. No law or authority can establish prior censorship, require bail from the authors or printers or limit the freedom of the press, which does not have any more

limits than respect for privacy, morale and public peace. Under no circumstances may the press be sequestered as an instrument of the offense.

Chapter I of Human Rights and their Guarantees [denomination reformed by the Decree published in the Federal Official Gazette on June 10, 2011].

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<sup>1</sup> See also: *Law and Information Technology Consultation Forum* (1996); *Reforms and Additions Initiative* (Reforms and additions to Article 6 of the Political Constitution of the United Mexican States) (1977); *The right to information and the Mexican library service; appearance of the National College of Librarians at the public hearing of the Congress of the Union* (1980).