

GLOBAL INFORMATION SOCIETY WATCH 2009

*Focus on access to online information and knowledge
– advancing human rights and democracy*



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

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*Dedicated to A.K. Mahan - an activist who valued
intellectual rigour and concrete outcomes.*

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Introduction

In a region where the experience of dictatorships is still fresh, access to information is seen as a tool for the fight for democracy and against corruption, for improved development and increased security, as well as good governance, better health, education and quality of life, and other essential rights.

After years of concerted efforts to advance the right of access to information, half the countries in the Latin American and Caribbean (LAC) region have passed legislation, while almost all of the remaining countries are discussing draft bills or are close to promulgating enabling laws. The greater obstacles in the LAC region revolve around implementation. In the face of national security interests – from foreign agents or internal crime – and pressure from economic crises, countries with once vibrant laws are now in retreat, as the primacy of these laws is challenged by the perception that security and economic concerns cannot co-exist with openness.

At present, Mexico, Peru and Panama have functioning, comprehensive national access to information laws, with Uruguay, Guatemala and Chile implementing theirs in 2009. Brazil is on the verge of creating its law.

But it is remarkable to note the failure to address the specificity and the potential of the online world of access in the context of access to information more generally. Technological changes are occurring faster than policy can respond, and if not harnessed properly, they may impede rather than promote access to information and knowledge.

Regional trends

The right of access to information has been largely supported by the Organization of American States (OAS), non-governmental organisations (NGOs) – mainly funded with project grants from the Ford Foundation, Carter Center and Open Society Initiative – and smaller, local NGOs, which have a strong relationship with journalist and human rights associations.

The Americas Regional Conference on the Right of Access to Information (Lima, April 2009)¹ marked a point of maturity in the development and discussion of the issue

of access to information.² It marked the consolidation of a multi-stakeholder group on access to information, with a clear predominance of NGOs advocating human rights issues, such as freedom of expression and good governance,³ intergovernmental organisations (IGOs)⁴ and governments.

Online access was not considered an issue in its own right, but was fleetingly represented in the findings and plan of action for the conference:

Although technology can assist access to information, it is not a panacea. States' use of websites and new technologies is but one avenue for dissemination rather than a substitute for meaningful access to information whereby all persons have the right to seek and receive information regardless of the medium.⁵

This is a technologically neutral position. Nevertheless, in the Regional Plan of Action of the meeting the use of technology “where appropriate” is mentioned, as well as the adaptation of official documents into clear language and translation into indigenous languages. The Plan of Action also encourages the use of technology to ensure the integrity of public records (they should be in both paper and electronic format) and has recommended that countries request technical assistance for the digitising of records.

On the other hand, the movement that promotes online access to information, culture and knowledge does not have the same focus and motivations as the freedom of information advocates. There are, for instance, political, economic, social and technological causes behind the problem of access to online information, and these realms seem to have been considered by different stakeholders.

The problem of access to online resources is underscored by the digital divide, which inhibits access to online information. While 34%⁶ of the population in the region has internet access, this is not broadband nor household access. Therefore addressing the issue of the digital divide has been, and still is, one of the most important development objectives.

1 Organised by the Carter Center in collaboration with the Organization of American States, the Comisión Andina de Juristas and the Knight Center for Journalism in the Americas. www.cartercenter.org/peace/americas/at_i_conference/2009/index.html

2 The Atlanta Declaration of 2008 was the background document that provided the framework from which this conference discussed the regions' specific needs in this topic. www.cartercenter.org/resources/pdfs/peace/americas/at_i_atlanta_declaration_en.pdf

3 Some of them were: Open Democracy Advice Center, Open Society, Ford Foundation, Instituto de Prensa y Sociedad, Asociación por los Derechos Civiles, Transparency International, Asociación de la Prensa de Bolivia, and Fundación Violeta Barrios de Chamorro, amongst some of the 30 organisations of this type. Of these, ten are journalist associations.

4 For example, the Inter-American Development Bank, World Bank, Organization of American States, United Nations.

5 Finding N°9 of the Americas Regional Conference on the Right of Access to Information.

6 Data for March 2009. See: www.internetworldstats.com/stats15.htm

A significant trend of accessing online information in the LAC region is its collective and public nature: the internet is accessed in public points, whether schools or cybercafés. Access from home to online content is a privilege of the most well-off, and although an internet connection is not considered a luxury anymore, it is still not an option for most.

The digital divide has been addressed by some countries at the educational level through the One Laptop per Child (OLPC) initiative, or Classmate, the Intel version of this initiative, using both proprietary software and open source. In 2009 Uruguay will finish distribution of XO computers to all of its public school students under the OLPC programme. Peru has also embarked on the project, and by the end of 2008 provided 25,000 XO computers to children and teachers in 2,000 schools. The province of San Luis in Argentina has introduced the Classmate version of the computer. These programmes support access to knowledge by eliminating the economic barrier of access to a computer and the internet – a key dimension is school connectivity, including in rural areas. The results are tangible: children are seen on weekends at school where they enjoy free internet access.

These early digital literacy programmes also promote a culture of peer production, which is a social dimension of access. These computers are designed to work in an interconnected way, and children produce their assignments collaboratively with their peers. They can even share their work with children in other schools.

Besides schools, the LAC region has a number of initiatives that have been dealing with public access to online information for some time. One such programme is the Committee for Democracy in Information Technology (CDI), with nearly 600 schools in six countries in the region.⁷ The schools, called Information Technology and Citizens Rights Schools, have a horizontal organisational structure and provide infrastructure and teaching skills for people of all ages, but mainly children, in urban and rural settings. Founded in 1993 in Brazil, it is one of the few organisations with a regional presence providing digital literacy. Its programme is mainly geared towards providing access to computers with an internet connection, but also towards raising awareness about online citizen-oriented information (such as educational resources, government websites, and transport schedules). Another initiative is the Chilean Biblioredes programme, which offers free internet access in 400 libraries situated across 90% of the country, with a computer usage rate of 93% to 95%. It is one of the success stories of the country's information society scheme. There are myriad examples of public telecentres⁸ in both urban and rural settings on the continent which have flourished, thanks to technologies such as WiMAX. Colombia, for example, is one of the first countries in the world where WiMAX has been deployed commercially, achieving a 5% share of the broadband market.⁹

A very strong future trend for the region is access through mobile devices. Corporations such as Telefónica and Nokia are already adapting their services to this upcoming reality. Although more than 300 million Latin Americans owned a mobile phone in 2009, access costs, such as for mobile internet, are still very high. Mobile phones are mainly used for calling in the region, although patterns differ in countries where literacy rates are higher (the Southern Cone countries of Argentina, Uruguay and the south of Brazil) and mobile phones are used more for short message service (SMS) than for making calls, compared to countries like Mexico or Colombia. Nevertheless, the illiteracy rate on the continent (11%) poses a challenge to developing online content for mobile phones, with most people relying on voice- or image-based interactions.

Regional trends in online intellectual property rights

The Consumers International Access to Knowledge (A2K) Project has developed a global Intellectual Property (IP) Watch List, a world ranking of sixteen countries,¹⁰ where Argentina, Chile and Brazil are three of the worst when it comes to digital rights management (DRM). This kind of research provides a contribution from a consumer perspective into the global debates on intellectual property rights in the digital age, in a region where consumer associations have very short histories.

This Watch List notes the following things:

- Regarding the freedom to access and reuse content for content creators, none of the countries surveyed adequately supported consumers' interests in expressing their creativity through blogs, wikis, online video sharing or mash-ups.
- The freedom to share and transfer files is not represented in domestic law and policy. None of the countries in the region have enabling legislation, which might include purchasing content at a fair price, and renting or downloading non-commercial content freely. Yet these practices are found on social networking sites (from local versions such as Orkut and Sonico to global platforms like Facebook and MySpace) and other content-sharing platforms. In the past two years these sites have been among the top five visited in the region.
- The administration and enforcement of intellectual property rights is becoming more intrusive. As in other regions, the music industry has incorporated technological protection measures, but internet service providers (ISPs) are still relatively free compared to Europe. Nevertheless, ISPs are beginning to devise strategies to control the download of online material from certain sites to punish their heaviest users, going against the

7 Argentina, Chile, Brazil, Uruguay, Ecuador, Colombia and Mexico, as well as the UK and the US.

8 For more information on these initiatives in the region, see: lanic.utexas.edu/la/region/digitaldivide

9 www.budde.com.au/Research/2008-Latin-American-Convergence-Broadband-and-Internet-Market.html

10 Consumers International IP Watch List 2009. The sixteen countries covered by the survey were Argentina, Australia, Brazil, Chile, China, India, Indonesia, Israel, Malaysia, Pakistan, the Philippines, South Korea, Spain, Thailand, the United Kingdom and the United States. See: a2knetwork.org/watchlist

Table 1: Freedom to access and use content

	Scope and duration of copyright	By home users	For education	On line	By content creators	By the press	By libraries	By disabled users	In public affairs	Freedom to share and transfer	Admin and enforcement	Overall
Argentina	C	F	F	D	D	D	F	C	B	C	C	D
Brazil	F	D	F	D	C	B	F	A	A	C	D	D
Chile	D	C	D	B	D	C	F	F	F	C	C	D

Source: Adapted from Consumers International IP Watch List 2009, based a survey conducted in sixteen countries. A is the highest score and F the lowest.

net neutrality principle, which is completely absent in all but a few examples of legislation in the region (Peru is one of these exceptions).

The work by Consumers International also highlights the legislative deficiencies in several LAC countries. For example, the Argentine copyright system is very restrictive, and does not include exceptions for the reproduction of music or movies for personal use, including back-up, or for educational purposes, but in practice these restrictions are never exercised. Instead, in court judges do make a distinction between personal use and for-profit purposes in penalising infringement. There is not much awareness within Argentina about intellectual property alternatives, such as open source and open access licensing. The Argentine Congress has resisted the introduction of new legislation that would have strengthened criminal enforcement of intellectual property rights.

The Brazilian copyright law dates back to 1996 and has not been updated to reflect the potential of the internet. However, at the moment the country is at the end of a major debating process around amendments to its Copyright Act, led by the Ministry of Culture, the results of which will be presented to Congress in 2009. The outcome is still unknown, but given the tone of government under current President Luiz Inacio Lula da Silva, it should be no surprise if there are major improvements in the direction of a more citizen-centred and open environment.

A new Chilean bill intended to modify and update its Intellectual Property Law will regulate matters that are not currently part of its legislation. One of its main purposes is to make the proper protection of copyright and its related rights compatible with the community's legitimate right to access new creations, including the arts and knowledge generally.

Consumers International also organised a workshop in Santiago in 2009 with consumer associations from Argentina, Brazil, Chile, Mexico and Peru. One of its objectives was to raise awareness on knowledge for the public interest. To this end, there are plans to develop a Regional Observatory on Access to Knowledge, as a counteraction to the blacklist promoted by the United States government which highlights those countries deemed as having inappropriate protection of intellectual property rights.

Conclusion

By way of conclusion, it is worth highlighting some of the data produced by the Consumers International 2009 IP Watch List (see Table 1). The data are presented to illustrate (from a consumers' interest perspective) the effect of national copyright law and enforcement practices in the region.

In a region with strong social and economic divides, access to the internet is still a key dimension to address from multiple perspectives, not just by providing infrastructure. For instance, the mobile internet market might change some of the current perspectives that see online access as the only way forward. Fine tuning the legislation, promoting enforcement and a culture of peer production are some central issues for the region in this respect.

A less tangible, but nevertheless effective policy issue in the promotion of online access is the introduction of the A2K perspective into the access to information dimension. A2K initiatives which are more multi-layered and grassroots-based should be considered in the freedom of expression, transparency and accountability debates that several human rights organisations and government bodies in the region have fostered in the last years.

It is only with a more systemic approach, through joint efforts amongst the different stakeholders, that access to online information can be more fully guaranteed. ■

GLOBAL INFORMATION SOCIETY WATCH (GISWatch) 2009 is the third in a series of yearly reports critically covering the state of the information society *from the perspectives of civil society organisations across the world.*

GISWatch has three interrelated goals:

- **Surveying** the state of the field of information and communications technology (ICT) policy at the local and global levels
- **Encouraging** critical debate
- **Strengthening** networking and advocacy for a just, inclusive information society.

Each year the report focuses on a particular theme. **GISWatch 2009** focuses on *access to online information and knowledge – advancing human rights and democracy.* It includes several thematic reports dealing with key issues in the field, as well as an institutional overview and a reflection on indicators that track access to information and knowledge. There is also an innovative section on visual mapping of global rights and political crises.

In addition, 48 country reports analyse the status of access to online information and knowledge in countries as diverse as the Democratic Republic of Congo, Mexico, Switzerland and Kazakhstan, while six regional overviews offer a bird's eye perspective on regional trends.

GISWatch is a joint initiative of the Association for Progressive Communications (APC) and the Humanist Institute for Cooperation with Developing Countries (Hivos).

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2009 Report

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