GLOBAL INFORMATION SOCIETY WATCH 2009

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

Global Information Society Watch 2009

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2009

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

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Federal Department of Foreign Affairs FDFA
Swiss Agency for Development and Cooperation SDC

BRAZIL

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Introduction

If we understand access to information policies as initiatives led both by the government and civil society relating to the internet and the digital environment, then such policies in Brazil can be traced to the late 1990s.

The first initiatives aimed at providing free access to information date back to the availability of the internet to the general public in 1995. Some were local projects, such as the open access journals portal SciELO, founded in 1998, or the movement for the reuse and free redistribution of music called Re:combo, founded in 2001. Others were local chapters of global projects such as the Independent Media Center (Indymedia) founded in Brazil in 2000, or the local chapter of Creative Commons, founded in 2004. Originally they were mostly civil society projects; but several of them were later supported by public policies, especially after the government of Luis Inácio Lula da Silva came into power in 2002.

This report will focus on five dimensions of these access to information policies: access to scientific production; access to educational materials; free culture; copyright reform; and internet regulation.

Open access to scientific literature

Brazil has been a leading force in providing free access to scientific literature with the launching of the Scientific Electronic Library Online (SciELO)[1] project in 1998. The project was founded by the scientific community working in the health sciences who aimed to improve the dissemination of Brazilian scientific journals globally, and thereby give exposure to Brazilian scientific practice. With the support of Brazil's main funding agencies for science, SciELO grew from ten journals in the early pilot project in 1997 to 197 journals in all major areas of knowledge by 2009.

Free or open access to scientific literature is a goal fostered by the international open access movement. Since its early organisation in 1998, the movement has envisioned two roads to provide free online access to articles published in scientific journals: the so-called "golden road", in which full journals are put online; and the so-called "green road", in which individual researchers put an electronic copy of their articles published in journals in a website or portal run by their institution, to create an institutional repository.

Because SciELO has been such a success and become a reference for the open access movement worldwide, the green road of scientists self-archiving their articles has been neglected. However, as much of Brazil's scientific output is published abroad in non-open access journals, the need for a green road type of policy is pressing.

Such policies usually consist of establishing a mandate obliging scientists and scholars being funded by an institution (university or research centre) or scientific funding agency to put a copy of their articles online in an institutional repository. This repository, in turn, needs to be open to the public. So far, no institution or funding agency in Brazil has established this kind of mandate (although there are some discussions being held in a few universities).[2]

Notwithstanding, a federal law has been proposed by deputy Rodrigo Rollemberg (Bill 1120/2007)[3] which states that all scientific production by students, faculties and researchers in public institutions of higher education should be placed online. In July 2009 the Bill was approved by the Science and Technology Committee of the Congress, and now needs the further approval of two other committees, as well as the Brazilian Senate.

The proposal follows the principles of a mandate already in practice since 2006, promoted by CAPES (the agency responsible for higher education). This states that theses and dissertations produced in both private and public institutions must be put online.[4] Non-compliance is punished with a negative evaluation of the post-graduate programme (which means receiving less public funding).

Open educational resources

While the open access philosophy is more focused on putting scientific literature online, another set of policies known as "open educational resources" aim at putting educational and learning materials online, both for basic and higher education.

The leading experience in Brazil in open educational resources is the Public Textbook project[5] promoted by the state of Paraná since 2004. The project encourages primary and secondary school teachers to produce and upload their own educational materials onto the internet, by offering them financial bonuses. This material is later peer reviewed, compiled, edited and printed in textbook form, and also made freely available on the internet for students and non-students.

The federal government has two projects in the field. However, they are less developed than Public Textbook.

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2 For a full list of policies mandating self-archiving worldwide see: www.eprints.org/openaccess/policysignup

3 www.camara.gov.br/sileg/Prop_Detalhe.asp?id=352237

4 Theses and dissertations can be found on two websites: the Digital Library of Theses and Dissertations (bdtd.ibict.br) and the Public Domain Portal (www.dominiopublico.gov.br).

1 www.scielo.org/php/index.php?lang=en

5 www.seed.pr.gov.br/portals/portal/livrodidatico

The International Bank of Educational Objects[6] is a web portal of learning tools such as maps, texts and videos that are put online for use by learning communities. As of July 2009, the website had 6,718 tools. The Public Domain Portal[7] is a website where public domain literature and other open-licensed texts and multimedia tools are made available on the internet. As of July 2009, the portal had over 83,000 Portuguese-language texts in addition to other public domain and open-licensed foreign language and multimedia tools.

Free culture

Work towards a "free culture", understood as the practice of authors licensing their own copyright-protected products in a way that allows free reproduction, grew more consistently after the establishment of Creative Commons in Brazil in 2004. Before that, there were some initiatives such as Re:combo[8] (a movement of musicians freely licensing their music for remixing and reproduction) and the Brazilian branch of Indymedia[9] (a freely licensed alternative media website). However, with Creative Commons, free licences were given a legal backing, and could be incorporated into larger initiatives and public policies.

As elsewhere, free culture diffusion in Brazil relies a lot on Web 2.0 platforms, and websites and portals that adopt free licensing models such as Creative Commons to release the content produced by users. Besides the large international platforms such as Flickr and Wikipedia, some local projects such as Overmundo[10] have contributed to the estimated 1,516,793 Creative Commons-licensed works from Brazil available on the internet.[11]

In terms of public policies, several governmental websites have adopted Creative Commons licences for content (including the government press agency Agência Brasil).[12] The Ministry of Culture has also supported the use of free licences, but has not yet mandated the use of those licences for the works they fund. In fact, a new law proposed by the Ministry, which is about to be sent to Congress, allows for the free use of content for educational purposes three years after the publication of works that were funded through a tax deduction mechanism called the Rouanet Law. It is expected that this proposal will face stiff opposition in Congress, particularly because of this free-use provision.

Copyright reform

The Ministry of Culture is also the leading force behind a very bold attempt at reforming the copyright law in Brazil. The Brazilian copyright law was designed in 1998[13] with very limited provisions for the free use of works (in line with the more recently developed concept of "access to knowledge"). In an international comparison undertaken by the international non-governmental organisation (NGO) Consumers International, Brazil ranked thirteenth among sixteen countries evaluated for their legal provisions for access to knowledge.[14] Brazilian law does not allow the free reproduction of works through format shifting (e.g., copying music on a regular CD to an MP3 device), for use by people with disabilities (e.g., converting a book to Braille), or for classroom use by teachers.

Because of such poor performance in allowing access, Brazilian copyright law is about to be reformed. A long process of discussion and debate with industry, artists, academia and civil society led to the drafting of a bill that was expected to be presented to Congress in September 2009. A preview document was made available in January 2009,[15] through which the main outlines of the proposed reforms can be seen. In particular, it allows for a larger spectrum of exceptions and limitations (allowing copying for private use, the preservation of cultural heritage and education, among others).

Internet regulation

Brazil lacks a legal framework for regulating internet activity. Because of this, internet use is mainly regulated by other laws (such as the criminal and civil code), and the transposition of the law to the digital environment is made according to a judge's understanding of the law's application. This has led to a series of problems where issues specific to the internet are not recognised by the judges applying the law. Because of this, there has been a demand by some members of the internet community for a legal framework designed specifically for the internet.

The first serious attempt to provide such a framework was a proposal (Bill 84/1999)[16] to reform the criminal code and include provisions for "digital" crimes, both online and off. Civil society groups strongly opposed the bill, saying that the law proposed would criminalise everyday uses of technology such as circumventing mobile phone blocks that restrict the use of a mobile handset to one telecom company, or circumventing other restrictive technologies that

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6   objetoseducacionais2.mec.gov.br

7   www.dominiopublico.gov.br

8   The project ended in 2008 and does not have a working website anymore.

9   www.midiaindependente.org

10 www.overmundo.com.br

11 For an estimate of Creative Commons adoption worldwide see the CC Monitor: monitor.creativecommons.org

12 www.agenciabrasil.gov.br

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13 An English-language translation of the Brazilian copyright law is available at: www.wipo.int/clea/docs_new/en/br/br002en.html

14 The Consumers International IP Watch List Report 2009 is available at: a2knetwork.org/watchlist

15 www.cultura.gov.br/site/wp-content/uploads/2009/01/livro-direito-autoral.pdf

16 www.camara.gov.br/sileg/Prop_Detalhe.asp?id=15028

limit consumers' rights. In addition it was pointed out that it would promote the invasion of privacy by demanding internet service providers to retain their data (possibly to be used to prosecute file sharers and other so-called copyright infringers).

A petition opposing the bill gathered over 140,000 signatures.[17] Due to public pressure, at the time of writing it seemed very unlikely that this proposal would be approved. The activism generated by the proposed law is now being channelled into building a civil law framework for internet use where the rights of users would supersede criminalisation.

Actions steps

Based on this brief overview of civil society initiatives and public policies adopted at different levels of government promoting access to information in the digital environment, the following action steps are recommended:

- Support Bill 1120/2007, which will provide access to most of the scientific literature by scientists working in the public sector.

- Support the Rouanet Law reform, which will allow the free use for educational purposes of works funded by a tax deduction three years after their publication.

- Support the copyright reform promoted by the Ministry of Culture, which will increase exceptions and limitations and promote access to knowledge.

- Oppose Bill 84/1999, which would criminalise everyday uses of technology and violate the privacy of internet users.

- Support the creation of a civil law framework establishing internet rights. ▪

17 www.petitiononline.com/mod_perl/signed.cgi?veto2008

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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