
ASSOCIATION OF IBERO-AMERICAN STATES FOR
THE DEVELOPMENT OF NATIONAL LIBRARIES IN
IBERO-AMERICAN COUNTRIES

JOINT DECLARATION OF NATIONAL LIBRARIES AND OTHER LIBRARY INSTITUTIONS IN LATIN AMERICA



**International
Federation of
Library
Associations and Institutions**



Photo: National Library of Cuba.

For a copyright system that supports the preservation of and access to our bibliographic and documentary heritage

As active promoters of knowledge, libraries and information professionals, advocate for respect for copyright by users, thereby preventing unauthorised exploitation. However, copyright laws have a direct impact on the activities of institutions responsible for safeguarding, preserving, disseminating, and providing access to our region's bibliographic and documentary heritage. These laws, along with budgetary availability, are a determining factor in the services a library can offer its users and in the projects it can undertake to preserve the collective memory.

The current situation regarding copyright exceptions in Latin America is profoundly anachronistic; the rights granted to authors do not align with the public interest, as they restrict access to information and knowledge

in an unavoidable way. Consequently, Latin American libraries are forced to operate within a context of significant legal uncertainty and face a considerable disconnection from the practices of the global digital society.

Copyright laws in countries such as Argentina, Brazil, Costa Rica, and Uruguay lack exceptions that recognize and value the essential activities of libraries, museums, and archives. Meanwhile, in the rest of the region, exceptions for preservation and access are insufficient in scope. Thus, the ability of libraries to fulfill their mission in the digital context depends entirely on their ability to negotiate with rights holders.

Barriers Hindering the Library Mission in Latin America.

Following a regional analysis, we have identified the following legal barriers that prevent libraries in Latin America from fully fulfilling their mission:

- **Preservation copies:** The possibility of making copies for preservation is often conditioned to the loss or risk of destruction of the works. This hinders the implementation of large-scale preventive conservation policies, which are necessary to protect bibliographic and documentary heritage from threats such as floods, fires, or conflicts.¹

¹ To understand the importance of preventive conservation practices, it is helpful to recall the loss of irreplaceable collections suffered by the National Museum of Rio de Janeiro in 2018, when a fire destroyed the national science collection accumulated over 200 years. See: Michael Greshko, "Fire Devastates Brazil's Oldest Science Museum," National Geographic, (September 6, 2018), <https://www.nationalgeographic.com/science/article/news-museu-nacion-al-fire-rio-de-janeiro-natural-history>.

Libraries are forced to operate under a logic in which conservation policies are not guided by what is important to society, but by what is feasible in terms of copyright.

- **Paying public domain systems:²** In some countries, this legal concept requires the payment of a fee for the use of works in the public domain, which increases the risk of claims and jeopardizes the viability of conservation and digitization projects.

² Argentina and Uruguay have paying public domain systems. The same systems exists in Bolivia and Paraguay, although it is currently inactive.



Photo: National Library of Venezuela, Restoration Activity.

- **Orphan works:** Most countries lack an operational legal framework for orphan works, which hinders their preservation and the ability to offer online access to complete digital collections.
- **Barriers to digital access:** Despite technological advances, legal barriers persist to providing controlled digital access³ to many electronic resources. These barriers create uncertainty even when providing the most basic services, such as including digitized covers in online catalogs.

For the reasons outlined above, we endorse the principles of the IFLA Declaration on Core Principles on Libraries and Copyright (published in May 2025)⁴, and highlight the following aspects that we consider crucial for preservation and access:

- Libraries must be able to preserve; making copies for preservation purposes should not be a matter of controversy.
 - Libraries must be able to facilitate access to and use of materials for educational, research, and public interest purposes.
 - Libraries must be able to utilize new and emerging technologies to enable remote access.
- Exceptions must be sufficiently flexible and technologically neutral to allow libraries to respond to new use cases, while adhering to the principles of fairness and respect for copyright law.
 - There should be permissive approaches for out-of-commerce works, particularly orphan works and works that are out of print or have not been normally exploited for a reasonable period of time, considering the risk that these works will be lost to future generations and the lack of evident harm to rights holders from their use.
 - Exceptions in favor of libraries should work across borders.
 - Libraries should benefit from limitations on liability for copyright infringement when acting reasonably and in good faith, as well as from wider protection against unfair contract terms.
 - Exceptions must be included that allow for the circumvention of technological protection measures applied to works whenever necessary to fulfill the mission of libraries. These protection measures block the ability to benefit from the limitations and exceptions provided for libraries.

³ It is essential that libraries have the capacity to provide remote access to the materials they digitize and to purchase and lend electronic copies. All of this is on the understanding that libraries will never lend more copies than they possess (in physical or digital format) and that such access will be controlled to prevent copying and will be blocked once the loan period expires.

⁴ IFLA Statement on Core Principles on Libraries and Copyright. Available at: <https://repositorio.ifla.org/rest/api/core/bitstreams/a22c9de4-f0d1-4ac4-8aa8-555624ef432e/content>

At the same time, taking into account the specific characteristics of the regional context, we also consider essential to:



Photo: National Library of Colombia.

- Establish special terms and more reasonable systems for works to enter the public domain when they are outside the commercial circuit.
- Create new digital and hybrid legal deposit mechanisms, in accordance with the recommendations of the ABINIA Declaration on the Regulation of Legal Deposit (2024).⁵
- Eliminate the “paying public domain”.

It is worth noting that this proposal is consistent with the Three-Step Rule of the Berne Convention because the exceptions and limitations to copyright that we advocate for (i) apply to clearly defined special cases; (ii) do not conflict with the normal exploitation of works, since they concern materials outside commercial circulation that are at risk of loss or whose availability is always controlled; and (iii) do not unjustifiably harm the legitimate interests of authors; on the contrary,

⁵ ABINIA Statement on Legal Deposit Regulation (2024). Available at: https://www.asociacionabinia.org/_files/ugd/a36d0e_7de566e80a964d3db2d6913f4b74da6a.pdf

they ensure that libraries’ mission to preserve and disseminate the bibliographic and documentary heritage is carried out with respect for copyright and in good faith.

Copyright reform has been promoted at the national level by the Latin American library sector, but with limited success to date. This is why we are making a direct appeal to the delegations and copyright offices representing our States at the WIPO Standing Committee on Copyright and Related Rights. We request that they actively support the creation of an international instrument (treaty, model law, recommendation, or other) that includes provisions on the preservation of and access to the bibliographic and documentary heritage. This instrument will be essential to help Member States modernize their legal frameworks, ensuring the effective preservation of the heritage and equitable access for all citizens.

October 2025.

This Declaration is signed by the directors of the National
Libraries that are members of ABINIA



Susana Soto
Argentina



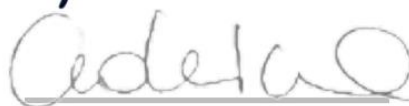
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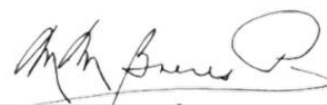
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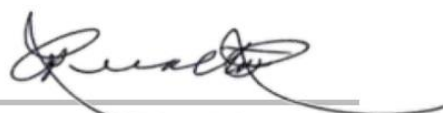
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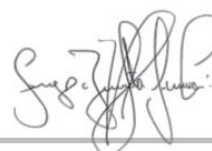
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