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Open Access within the CGIAR: An Answer to Avoid Copyright Infringing Human Rights?

Submitted by Francesca Manning on March 24, 2015



Open Access is certainly a very hot topic at the moment. The CGIAR Consortium Board has recently approved the [CGIAR Open Access & Data Management Policy](#) which sets a series of requirements to ensure that all information and data produced by research is made available without technical and legal restrictions and distributed as widely as possible so that they become real international public goods. **The Policy applies not only to CGIAR Centres but also to all CGIAR Research Programs and their collaborating partners, for whom Lead Centres are responsible.**

All publications attract automatically, namely as soon as they are written, copyright protection which excludes everyone other than the author (or copyright holder) from copying, modifying, and distributing the written work. It is within this context that the new report from the [United Nations Special Rapporteur](#) in the field of cultural rights, Farida Shaheed, accuses copyright for being potentially against human rights as they may restrict too extensively cultural expression and creativity.

The report calls upon members of the [World Intellectual Property Office \(WIPO\)](#) to adopt as much as possible instruments that can limit the scope of copyright which goes beyond the right not to copy and stops users from

translating, modifying, adapting, and performing a material; as a result the report gives recommendations on a number of issues, such as ensuring transparency and public participation in law-making, ensuring the compatibility of copyright laws with human rights, and the protection of the moral and material interests of authors.

The report suggests that authors must be distinguished from copyright holders as *“many copyright regimes may under-protect authors because producers/publishers/distributors and other subsequent right-holders typically exercise more influence over law-making.”*

Ms Shaheed states that exceptions and limitations to copyright *“should be developed to ensure the conditions for everyone to enjoy their right to take part in cultural life by permitting legitimate educational usages, expanding spaces for non-commercial culture and making works accessible for persons with disabilities or speakers of non-dominant languages.”*

She described the **main challenge** as being related to international copyright treaties making copyright protection mandatory, while treating exceptions and limitations as optional.

As a **recommendation to address this issue**, she advised in the report to *“explore the possibility of establishing a core list of minimum required exceptions and limitations incorporating those currently recognized by most States, and/or an international fair use provision.”*

A number of developing countries supported the conclusions of the report, such as Ecuador on behalf of the Community of Latin American and Caribbean States, Egypt, Iran, Venezuela, and Algeria, which said in its statement that impact studies should be carried out on national policies and international instruments relating to copyrights to see how they impact human rights. Indonesia and Brazil also considered the importance to protect local and indigenous communities which “intellectual property historically failed to do” while some other developing countries accused the current copyright system to restrict the right to education, health and progress.

Not surprisingly the front of the developed countries disagrees with the report and the EU for instance claimed that *“copyright being fundamental to creation plays an essential role in human development. It provides the necessary reward and incentive for those that stand at the heart of the creative process, advancing the sum of human understanding to the benefit of all”*.

We believe that the right balance must be achieved in rewarding authors (and not only copyright holders) and permitting users from using the copyrighted material. And this is why **Dryland Systems** is putting in place all the necessary measures to achieve such balance; scientists are required to refuse publications on journals that have an embargo period of more than six months, to deposit their work in repositories that are harvestable and indexed, and to use **Creative Commons Licenses** that allow users to copy, modify, and distribute the original work (provided attribution is given). It would be no use otherwise to carry out research and obtain innovative results if then only a few can benefit from such knowledge.

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