

Criminalizing Information Providers: the cases of Sharina, Gómez, Elbakyan and Swartz

by David Ramirez-Ordoñez & Virginia Inés Simón

Details of the most representative cases of the last five years, with respect to the right of access to information, are presented below. Each of the selected cases is of interest to professional librarians, researchers and students from different parts of the world, who have been affected by various factors, including political, socio-cultural and economic. Anyone could get caught up in situations like those leading up to each case (including those who are currently reading this article) just by sharing information governed by copyright laws.

The Librarian of forbidden books: Natalya Sharina

Natalya Sharina is a librarian with more than forty years of experience, who resides in Russia. Most sources agree that, since 2011 (Bonet, 2017), she was the director of the Ukrainian literature library in Moscow, a public library with more than 52,000 reference works.¹ On October 28, 2015, after the Russian police raided the library, finding literary works of Ukrainian nationalist authors, she was arrested. Interestingly, the books confiscated by the police were not cataloged in the library collection. The legal defense and Natalya have insisted on her innocence, stating that the books were “planted” at the time of the police raid, and that this is a strictly political case.

Recently, Natalya has been convicted with suspended sentence of four years in prison, for extremism, anti-Russian propaganda and embezzlement of public funds. This is a clear case of political tension, resulting from the conflictive relations between Russia and Ukraine, which has direct and

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consistent repercussions by illegitimately depriving access to information, which is internationally understood as a basic human right. This case is a clear example of biblioclasy: the library is closed and its holdings transferred to another institution that, paradoxically, does not have the physical space to shelter even a quarter of the collection (Losada, 2017). The case has been closely followed and Natalia defended by groups such as Amnesty International, Human Rights Watch and the International Federation of Library Associations and Libraries (IFLA).

The biologist who shared a thesis: Diego Gómez

Diego Gómez Hoyos is a young biologist and a Colombian researcher, alumni of the Biology Faculty of the Quindío University, who works as research coordinator in a natural reserve in Costa Rica. In 2011, Diego shared a master thesis on Scribd with colleagues because he thought it would be of interest to them and because it was not easily accessible. It appears that he was unaware of copyright law in Colombia, and didn't know such sharing was prohibited by law. As a result, Diego faced a criminal complaint for copyright violation. That's why, in addition to his study of conservation and wildlife, he unexpectedly ended up with an education in copyright law as well.

Just to be clear:

- The thesis was already available on the Internet via several portals when Diego uploaded it and shared with other Internet users.
- Diego always cited the original author. This is not a case of plagiarism, he simply shared the document in the belief that others might need it and find it as valuable as he did.
- At the time when Diego uploaded the document, the website Scribd didn't benefit financially, but provided access free (gratis). Later, however, Scribd started to ask for a payment to download documents or required an exchange of uploading another document in compensation. Scribd's policy change requiring payment had nothing to do with Diego, but was solely a website decision.

Diego was found innocent and acquitted of all charges. However, an appeal was filed by the prosecutor and the thesis author (Fundación Karisma, 2017). Finally, in December 2017 the Court of Bogotá confirmed that Diego Gómez is acquitted of all charges for copyright infringement.

SciHub and the Pirates of the 21st Century: Alexandra Elbakyan

Anyone would think Alexandra is a kind of Robin Hood of science, as some journalists have described her. She says no. Stealing is not the same as copying: the owner does not lose possession when something is copied. Alexandra is 28 years old, born in Kazakhstan. She does not reveal her current location in order to preserve her freedom. This young woman, who graduated in computer science and currently is working in neuroscience,

is now one of the most influential people in Open Access, transgressing publishing barriers to give free access to scientific content, via the platform SciHub (SciHub, sf). She, like so many researchers, has needed access to articles in her area of research and has encountered the barrier of cost for access. Her need became the germ of the SciHub revolution.

Alexandra has managed to release more than 62 million articles, making them freely available to the entire scientific community. Most of the time, access to the databases where the papers are located is provided anonymously by researchers, academics and database clients who collaborate with Alexandra's project.

SciHub currently faces a fine of 15 million dollars after losing a lawsuit with Elsevier (Schiermeier, 2017). Alexandra is not likely to assume the costs, since she is outside the court's jurisdiction.

As long as the publication system does not change in favor of the authors of scientific research, SciHub will remain firm, in a constant struggle that undoubtedly will present new chapters in this ongoing conflict. Alexandra is dedicated to her position on open access and access to scientific knowledge for all people.

Open Access Guerrilla: The fight and tragic end – Aaron Swartz

Aaron committed suicide. He was denounced, persecuted and harassed until ending his young life of only 26 years, on January 11, 2013 (Swartz, 2013). Aaron Swartz was, like so many other bright minds in computing, a child prodigy. From an early age, before he was 13-years-old, he had contributed to advances on the web that we take for granted today, such as the syndication of contents in the well-known RSS format. The field of librarianship owes great honors to the work and thought of this young innovator for developments like selective dissemination of information, open access, the Open Library project, Creative Commons licenses, and many other projects. Aaron's struggles were individual and collective. Collectively, he understood perfectly that access to information was a human right. He understood that the problem of science is to freely access information and communicated his ideas in his "Open Access Guerrilla Manifesto" (Swartz, 2017) in which he describes notions of free access, information needs, culture and libraries for all. In addition, Aaron's was a vital voice in stopping the advance of SOPA (Stop Online Piracy Act) in the United States.

But Aaron broke the rules by downloading nearly 5 million documents from J-STOR through an MIT network. You might consider his actions his own way of implementing the ideas contained in his manifesto. As a result, he was legally accused of theft and endured a period of sustained pursuit, with the possibility of facing more than 35 years in prison. He took his life, leaving a legacy of paradigm shift on the Internet, and emptiness and sadness in the digital community.

The librarian's role

Under various international instruments of law, access to information is ratified as a human right.² Access to timely information is necessary for human development, education and culture. Timely and universal access can save lives. Information professionals and all librarians must maintain an ethical framework of service to others, in line with the imperative need to ensure the right of access to information, as reflected in the codes of ethics of information professionals in their country. However, there is also the tension of respecting the rights of owners and authors which leaves our profession in a complicated situation.

How engaged are professionals in information science in local, national and global debates on access to information and copyright or the right to copy? Is the academy training new professionals on these issues? In their daily work, librarians can infringe in many ways the copyright law, because the infrastructure, social practices and ethics are not in harmony with the laws. Are librarians aware of this issue in their libraries? Are library associations demanding and working for revisions in the national copyright laws to protect librarians from possible infringements? We the librarians can take a passive attitude, but the cases presented here should raise awareness within the library field and encourage involvement in this debate.

Perhaps, within the context of these laws, issues related to professional ethics, copyright and intellectual property should be subject to reasonable adjustments, which, far from harming the intervening parties, call for a positive resolution to support the ultimate goal: production of new knowledge and the full enjoyment of the rights of access to information and human development. Such a resolution would also support several aspects of the United Nations Sustainable Development Goals, as set out in Agenda 2030, which IFLA (International Federation of Library Associations and Institutions IFLA, s.f.) has started to promote, and which we highlight as follows: end of poverty (objective 1), quality education (objective 4), decent work and economic growth (objective 8), industry, innovation and infrastructure (objective 9), reduction of inequalities (objective 10); and peace, justice and strong institutions (objective 16) as well as fair remuneration for creators and rights holders. Without doubt, librarianship must examine these goals in more detail.

Conclusion

In this article, four international cases have been presented regarding the consequences of defending the right of access to information, or making use of it. The prison sentences range from two years, to threats of disproportionately prolonged imprisonment.³ In the worst case, complaints, prosecution, criminal proceedings, harassment and persecution, led to a death by suicide. From Natalya Sharina to Aaron Swartz, it has been possible to imagine the risk faced not only by activists leading great struggles for

access to information, but also by common citizens who unsuspectingly end up involved. Some people are, in these examples, activists by will and conviction (Alexandra, Aaron). Others became activists because they had no choice. The system has, in the first instance, promulgated the need for access to documents protected by copyright, or prohibited as in the cases of Diego and Natalya as if they were living in the Middle Ages. In these last two cases, the people involved did not act with intent to break rules and to this day they maintain their innocence. These cases are proof that copyright is problematic: When potentially every single person can be a criminal, that is a sure sign that something needs to be fixed to avoid these kinds of problems so they don't happen again.

Each case involves the breaking of standards and conventions that, for the 21st century and in digital environments, no longer have as a fair goal the learning, research, development and leisure needs of human beings today. Each case, by action or omission, reflects the needs of democratizing knowledge, generating fair and inclusive norms and rethinking the notions of users, readers, intermediaries, consumers, copyright holders and intellectual property owners. In turn, each case poses a challenge to those whose business model is based on the sale of copies of documents, when the cost of making a copy tends to zero.

Final reflections invite us to think about the predatory role of the great publishing systems, which in every situation defend industrial interests over the interests of authors as individuals, educational institutions and readers. On certain occasions, multiple payments must be made for access to scientific articles: the payment by an author to be published; the payment to download by the reader; and the payment for subscriptions by institutions. It is worth reviewing legislation intended to promote science and technology, in order to know whether or not legal requirements encourage publication in open access scientific journals, or if, on the contrary, national journals reward publication in journals with payment. On the other hand, one is invited to consider the role of small and medium publishers, who do not have the capacity of large publishing systems and their work can be affected and also worth rethinking, given the current circumstances.

Finally, advocates for information professionals must establish a political position in this global debate, in addition to supporting initiatives such as learning the rules of copyright and identifying needs for revisions to standards. Previous practices are inconsistent with current thinking and dynamics due to new technological tools we have, and it is vital to discuss the issue, not only with information science professionals, but with all people involved in complex, multifaceted scenarios like these. If professionals in information science are informed by critical thinking about the construction of citizenship, there is nothing better than teaching by example.

The opportunities

Here are some opportunities that can be taken by information science professionals and librarians to participate actively in the decision-making process about the future of libraries and society regarding access to information:

- Review national codes of ethics of librarians to guarantee a moral point of view in this tension.
- Advocate for changes to copyright law with a focus on access to information.
- Advocate for the ratification and implementation of the Marrakesh Treaty (an international protocol concerning publications for the blind, visually impaired, or otherwise print disabled) in each country, in favor of people unable to access printed documents.
- Engage in advocacy efforts with the Standing Committee on Copyright and Related Rights (SCCR) of the World Intellectual Property Organization (WIPO) asking your country's representatives to promote an exceptions and limitations treaty for libraries, archives and museums.
- Participate in the Internet Governance Forum in your country and in the global forum, to present the library field's perspective to government, civil society and private sector.
- Debate topics like access to information, professional ethics, plagiarism, censorship and other related issues without being ashamed or framing it as a taboo, and without assuming that different points of view are personal attacks, because if we present here extreme cases, there are similar cases in other levels that should not go unnoticed, to make our profession mature.

Proposals such as IFLA president Gloria Perez-Salmeron's "Gears in the Motors for Change" (International Federation of Library Associations and Institutions IFLA, 2015) push the library field and associations to adopt a critical and political point of view supporting access to information. We invite all librarians to become familiar with and adopt the vision of "Motors for Change," to become part of the change to create a positive environment from information science to the world and to inspire an open mind to learn and grow as society.

Endnotes

1. Newspapers such as "El País" (http://internacional.elpais.com/internacional/2017/06/05/actualidad/1496677246_690132.html) date their beginning as director since 2006. Other references consulted confirm that their managerial position starts from the year 2011. View:<http://www.cbc.ca/radio/thecurrent/the-current-for-april-4-2016-1.3519317/librarian-under-house-arrest-in-moscow-accused-of-anti-russian-propaganda-1.3519352> <http://www.independent.co.uk/news/world/europe/natalia-sharina-russian-police-detain-ukrainian-library-director-for-inciting-ethnic-hatred-a6714011.html>
2. Universal Declaration of Human Rights, International Convention on the Rights of Persons with Disabilities, Treaty of Marrakesh.
3. The definition of life sentence varies in different countries around the world, but agrees

with sentences ranging from 25 years. So we can speak of a life sentence or long sentences. More information can be found at: https://es.wikipedia.org/wiki/Cadena_perpetua

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