

Where do we stand? The situation of the right to information and transparency in Latin America

Karina Banfi, Executive Secretary of the Alianza Regional para la Libertad de Expresión e Información (Regional Alliance for the Freedom of Expression and Information), talks to us about the need to approve and implement Freedom of Information Acts (FOIAs) to increase transparency and improve accountability in Latin America. She describes the region's evolution regarding access to information and transparency, and explains the significant role that civil society networks at the regional and national level play in pushing for the approval and successful implementation of these laws.

What is the Alianza Regional para la Libertad de Expresión e Información? What is its mission and how does it carry it out?

La Alianza Regional para la Libertad de Expresión e Información (hereinafter "la Alianza Regional") is a network formed by 24



Figure 1: Regional Alliance Meeting in Quito
Source: [Alianza Regional](#)

About the expert

Karina Banfi has a law degree from the *Universidad de Buenos Aires* and pursued post-graduate studies on human rights and media law in Oxford University and The American University. She is currently the Executive Secretary of the *Alianza Regional para la Libertad de Expresión e Información*. Her international experience includes working for the Organization of American States, the Special Rapporteur for the Freedom of Expression of the Inter-American Court of Human Rights, and the Trust for the Americas, among other organisations. She was part of the group of experts that drafted the Model Inter-American Law and its Implementation Guide.



organisations from 19 Latin American countries. Its mission is to advance the freedom of expression and access to information in Latin America.

To achieve this, *la Alianza Regional* undertakes three main activities. It promotes the exchange of experiences and knowledge and the collaborative work between member organisations. It strengthens members' local and regional leadership in order to improve access to information and freedom of expression within countries and in the region. It facilitates members' presence and participation in regional and international scenarios. *La Alianza Regional* works on two key topics: Human Rights and Transparency.



Figure 2: Regional Alliance Lecture in Nicaragua
Source: [Alianza Regional](#)

**Why is it important to formally acknowledge the right to information?
Why is this right relevant for a society?**

The enactment of FOIAs or the acknowledgment of this right in the constitution, other laws or through a court's ruling provides states with an opportunity to generate cultural changes to improve transparency and the respect of human rights.

Since 2000, many people in the region started to highlight the need to end with the prevailing governments' culture of secrecy, through the promotion of the right to information. In light of this, since 2006, *la Alianza Regional* adopted a clear stance pointing out the need to approve and enact FOIAs in the region with an active participation of civil society. From our point of view, civil society had to be engaged in the promotion, defence, and implementation of these laws. For this reason, *la Alianza Regional* designed and undertook a regional strategy for the promotion of the right to information, as it was thought that formally acknowledging this right and making compulsory for governments to provide public information was the only way to end

the culture of secrecy and opacity that prevailed in most Latin American governments.

How has the right to information evolved in the region? How has the Latin American political context influenced its development?

In the seventies and eighties, many Latin American countries experienced authoritarian regimes and military dictatorships that perpetrated numerous human rights violations. During those years, certain administrative practices linked to a culture of secrecy emerged and, also, citizen participation in public affairs was limited.

Since the mid-eighties, most Latin American countries transitioned to a democracy. In South America, for example, Argentina, Chile, Brazil, Uruguay and Paraguay became democracies. Guerrillas and political violence in countries of Central America also came to an end and a democratic system was established. A key feature of these democratic transitions is that civil society was, for the first time in many decades, highly involved in the process.

“Making compulsory for governments to provide public information was the only way to end the culture of secrecy and opacity that prevailed in most Latin American governments”.

In the nineties, there were some positive developments with some of these democratic countries designing and implementing transparency policies. This positive process continued and finally reached its peak in 2002, 2006, and 2011. These three dates are considered ground-breaking moments for the right to information and transparency in the region.

The first ground-breaking moment in the region came in 2002 when the Freedom of Information Act was approved in Mexico. This law was the first to create an independent oversight body in charge of enforcing the right to information. The implementation of the Mexican law and the creation of this oversight body were important as they set some criteria on how the right to information should be outlined in the law for it to be efficient.



Figure3: Consultancy and Legal Assistance – Right to Public Information
Source: [Alianza Regional](#)

The second ground-breaking moment came in 2006 when the Claude Reyes vs. Chile case dealing with issues related to the right to information was ruled by the Inter-American Court of Human Rights. This case was relevant, as it was the first time that the Inter-American Court of Human Rights sentenced a government –in this case the Chilean one– for not providing the public

information that was being requested. This case set some parameters on the way in which public information held by the state should be made accessible and provided. Also, this Court’s ruling established, for the first time, that the right to information was an autonomous human right, as before this right was being conceived as an element of the right to freedom of expression.

“Combining regional and local advocacy actions is a key to improve the quality of the laws”.

The third ground-breaking moment came in 2011 when the General Assembly of the Organization of American States (OAS) approved the Model Inter-American Law on Access to Information. This innovative framework works as a guide of standards on access to information that States should meet. The Model Inter-American Law also puts Latin America in an advanced situation as compared to other continents that do not have such regional legal framework.

Where does Latin America stand today in terms of access to information?

Today, we can see different levels of development in the region with regards to the right to information. First, there are some countries such as Nicaragua, Honduras, Uruguay, Chile, Guatemala, Dominican Republic, Peru or Brazil that have approved and enacted FOIAs. Second, there are some countries without a FOIA such as Bolivia or Argentina, but that are moving towards the approval of a legal framework. Right now, the

legislative of those countries is already discussing a draft of the law and civil society is pushing for the approval of it. Finally, there are some countries such as Venezuela or Paraguay that have lagged behind, as they have not enacted FOIAs and as their legislatures are not discussing a draft.

“Networks are important as they are mechanisms that build bridges between States and civil society”

What contextual elements enabled these developments in the region?

From my perspective, the main element that enabled these positive developments in the region is the active participation of civil society and the role that networks at the regional and national level play in promoting the approval and implementation of FOIAs.

For example, at the national level, strong civil society networks have emerged. In El Salvador, for example, a national network pushed for the adoption and implementation of a FOIA. *La Alianza Regional* provided technical support to this national network. In particular, *la Alianza Regional* brought the experience and lessons learned of countries such as Chile, Nicaragua, and Uruguay, so the draft bill of El Salvador incorporated best practices.

At the regional level, networks have also played an important role. *La Alianza Regional*, for example, pushed the OAS General Assembly to approve a Model Inter-American Law, as a comparative and

standardized tool setting regional criteria on access to information and transparency.

Finally, I would say that the Latin American experience shows that combining regional and local advocacy actions is key to improve the quality of the laws and that networks are important as they are mechanisms that build bridges between states and civil society.

If you want to learn more about the work and achievements of the *Allianza Regional*, read the ELLA Brief [Civil Society’s Regional Network for Advancing Freedom of Expression and Access to Information](#).