The principles of access to information in Latin American transparency laws: a source of values for the social responsibility of archives

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Submitted on: 07/07/2023. Approved on: 07/01/2024. Published on: mm/dd/yyyy.

ABSTRACT

Analysis of the principles of access to information and transparency present in Latin American transparency laws. Using a content analysis methodology, 19 archive laws in Latin America were studied in order to identify the principles of access to information and transparency expressly mentioned in the laws and assess their impact on archives. Twenty five principles related to four areas were identified: the nature of information, the right of access, the obligations of obligated subjects and the responsibilities of citizens. Each of them, in turn, corresponds to one of the three types of principles: legal principles; technical and procedural principles; and social principles. After a general assessment of the principles as a whole, each principle is analyzed separately, observing the following aspects: name, content, terminological issues and scope. The results lead to the conclusion that there are problems related to the lack of precision in terminology and content, but that the principles are still relevant for the interpretation of the rules for access to documents in archives and coincide with the values of the professional codes of ethics of archivists.

Keywords: access to public information; transparency; access and transparency laws; access to archives; Latin America.

INTRODUCTION

The right of access to public information is regulated by a wide range of legal provisions that seek to reconcile the interests and obligations of two actors: citizens, who must be able to obtain the information they desire, and public institutions, which have the duty to account for their activities within the limits established by law. This way, the right of access to public information is reinforced by the obligation of public institutions to be transparent.

According to Goig (2015, p. 74)[1], transparency "[…] es la obligación de los poderes públicos de poner a disposición de todos sus gobernados la información que muestre la estructura y el funcionamiento de cada órgano gubernamental […]" (Meijer, 2013 *apud* Coremans, 2017, p. 31, our translation)[2] values its importance as a mechanism for monitoring

1 Translation : "[…] is the obligation of public authorities to make available to all their citizens information showing the structure and functioning of each government agency. […]"(Goig, 2015, p. 74, editorial translation).

2 Original: "[…] the availability of […] information about an actor that allows other actors to monitor the workings or performance of the first actor" (Meijer, 2013 *apud* Coremans, 2017, p. 31).

the activities of public institutions, stating that transparency is "[…]la disponibilidad […] de información sobre un acto que permite a otros actores monitorear el funcionamiento o actuación del primer actor", which favors the democratic functioning of government institutions, improves accountability and, above all, has a positive impact on reducing corruption levels, as demonstrated by several authors (Alberch, 2013; Goig, 2015; Jiménez; Albalate, 2018; Malaret, 2016; Dabbagh, 2016; Vera; Rocha; Martínez, 2015).

Considering that information is usually in the form of documents, archives as custodial institutions, archivists as custodial agents, and records as objects that support information are three essential entities to strengthen transparency (Ramírez, 2007).

The importance of archives and archivists for transparency has been highlighted by several authors from different perspectives. López (2011) highlights the repercussions that some archival concepts of a theoretical and technical nature, such as organicity, naturalness, authenticity, impartiality or preservation, have for transparency and, by extension, for society. From a more specific point of view, Mardones (2014) addresses the convenience of adopting electronic document management measures, not only to improve access to information, but also electronic government. In turn, Casadesús and Cerrillo (2018) highlight the importance of implementing measures to guarantee access throughout the life cycle of documents, in order to prevent and fight corruption in government entities. Ramírez Deleón (2023) presents the case of Mexico, pointing out the three challenges that, from his point of view, archives face in order to meet transparency requirements: adaptation to the legal framework, integration of technologies and implementation of new archival paradigms (organized around the emerging standards and management models).

In Latin America, since 2002, most countries have passed laws on transparency and access to public information that regulate, in greater or lesser detail, various aspects: the information that must be disclosed, the requirements for requesting access to information or restrictions on consulting for legal reasons, among many others. Most laws also include various references to archives and the archival processing of documents and information, with the laws of Guatemala and El Salvador having the most detailed regulations on the subject (the law of El Salvador dedicates an entire title to the management of archives, and the law of Guatemala, a chapter).

Furthermore, most laws define the fundamental principles that should govern their application and interpretation, which often coincide with the values enshrined in the codes of professional ethics existing in the field of archival science. For example, the sixth principle of the *Codigo de etica profesional* of the International Council on Archives (ICA) explicitly states that "Los archiveros promoverán el acceso más amplio posible a los archivos y proporcionarán un servicio imparcial a todos los usuarios*"* (Código, 1996, p. 3)[3]. This statement is directly

3 Translation: "Archivists should promote the broadest possible access to archives and provide impartial service to all users" (Code, 1996, p. 3, editorial translation).

related to the foundations of access to information in Latin American legislation. The above case is just one example; the code also includes other professional values that are clearly related to the principles contained in the laws.

For the reason set out in the previous paragraph, the principles of access to information found in the laws are relevant to archivists or records managers, who are directly involved in fulfilling the obligations set forth in the laws:

1. They act on behalf of management as obligated subjects, with significant responsibilities, both for the information they maintain and for the information they generate.
2. They must provide the information requested by citizens (passive transparency) and make available to management the information to be disclosed (active transparency), both contemporaneously and retrospectively.
3. They are responsible for protecting information, documents and data over time, which also implies responsibilities for conservation, preservation, information security, interpretation of legislation on consultation and control of access to information.
4. As indicated above, they contribute to fulfilling the main objectives of transparency (communication, accountability and good governance).

In the context described above, the aim of this paper is to analyze the principles of access to information present in the transparency laws of Latin American countries, which constitute a source of reference for archive professionals, as they are related to their ethical values.

METHODS

To achieve the aim mentioned above, a methodology based on content analysis and comparative analysis techniques was applied. Content analysis allows the standardization and structuring of information stated differently in different sources, which, once systematized, can be analyzed from a comparative perspective. The study was carried out in the following four main stages:

1. Researching and locating transparency laws.
2. Identifying the principles related to transparency and access to information in the selected laws.
3. Recording the information.
4. Classifying the principles by subject affinity and character.

The first stage consisted of researching and locating transparency laws in Latin American countries. The research was conducted on two different search engines to compare the information. Only laws that specifically address transparency and access to public information by citizens were selected. In some countries, it is possible to find laws that include the word “transparency” in the title, but their content does not correspond to the subject studied; this type of provision has been discarded (for example, Argentina has a *Ley de*

democratización de la representación política, la transparencia y la equidad electoral, which is, in truth, an electoral law and therefore falls outside the scope of this study). Ultimately, after the research process, 19 laws were selected (see **Table 1**).

The second stage aimed to identify the principles related to transparency and access to information present in the 19 selected laws. In order to achieve the greatest possible objectivity, only principles that were specifically expressed as such (i.e. as "principles") in the laws were selected. Statements appearing under other names, such as "guidelines," "directives," or similar expressions, have been discarded.

Table 1 - Transparency and access to information laws in Latin America.

Country	Year	Law	Number	Date
Mexico	2002	Federal Law on Transparency and Access to Public Government Information		04-30-2002
Panama	2002	Law that determines transparency standards in the government, establishes the habeas data and determines other provisions.	Law 6	01-22-2022
Peru	2002	Law on Transparency and Access to Public Information	Law 27806	08-02-2002
Ecuador	2004	Organic Law on Transparency and Access to Public Information	Law 24	05-18-2004
Dominican Republic	2004	General Law on Free Access to Public Information	Law 200-04	07-28-2004
Bolivia	2005	Law on Transparency in the Government	Law 28168	05-17-2005
Honduras	2006	Law on Transparency and Access to Information	Decree 170-2006	12-30-2016
Nicaragua	2007	Law on Access to Public Information	Law 621	05-16-2007
Chile	2008	Law on Access to Public Information	Law 20285	08-11-2008
Guatemala	2008	Law on Access to Public Information	Decree 57-2008	09-23-2008
Uruguay	2008	Law on the Right of Access to Public Information	Law 18381	10-07-2008
Brazil	2011	Law on Access to Information	Law 12527	11-18-2011
El Salvador	2011	Law on Access to Public Information	Decree 534	04-08-2011
Colombia	2014	Law that creates the Law of Transparency and the Right of Access to National Public Information and enacts other provisions.	Law 1712	03-06-2014
Paraguay	2014	Law on the free access of citizens to public information and government transparency	Law 5282	09-18-2014
Argentina	2016	Law on the Right of Access to Public Information	Law 27275	
Puerto Rico	2019	Law on Transparency and Accelerated Procedure for Access to Public Information	Law 141	08-01-2019
Venezuela	2021	Law on Transparency and Access to Information of Public Interest		09-20-2021
Costa Rica	2022	General Law on Access to Public Information and Transparency.	Law 20799	

Source: Prepared by the author (2023).

The third stage was dedicated to recording information. The data for each principle were recorded in tables of equivalence, in which the following data were listed in the order indicated:

1. Name of the country the law on transparency of which contains the selected principle.
2. Title of the principle, as established by law.
3. Statement of the principle as established by law.
4. Uniform title of the principle, established for cases where the same principle is refer to by different names.
5. Definition of the principle, established with the aim of establishing a common statement to identify its scope, detect its presence in various laws and compare data.

Table 2 - Example of data collection table.

Uniform title	**DIVISIBILITY**	
Definition	If government entities generate open access information together with legally restricted information, access will be granted to the former and not to the latter.	
Country	**Title**	Statement
Chile	**Principle of divisibility**	e) Principle of divisibility, according to which, if an administrative act contains information that may be known and information that must be refused for legal reasons, access must be provided to the former and not to the latter.
Argentina		Disassociation: when part of the information falls within the exceptions set out in detail in this law, the non-excluded information must be published in a version of the document that hides, conceals or disassociates the parts subject to the exception.

Source: Prepared by the author (2023).

During the data collection process, several issues arose due to the very nature of the information analyzed and the existence of different terminologies in different countries, among which the following stand out:

a) Sometimes, the same principle is referred to by different names under different laws. For example, the principle of “separability” (Chile) is similar to the principle of “disaggregation” (Argentina) (see **Table 2**).

b) Sometimes, different principles have a similar name. For example, the principle of “facilitation” that appears in Chilean law has different nuances than the principle of “facilitation” found in Argentine law (in this law, the term used in a sense similar to the Chilean concept is “informalism”).

c) There are laws in which a single statement refers to several principles presented individually in other laws. For example, in Guatemalan law, the principle of “simplicity and speed of procedure” appears, while other laws refer separately to both concepts: “simplicity” (or “facilitation”) and “speed”. In these cases, it was decided that the writing of the tables for both concepts should be repeated.

d) Some laws contain only statements of principles, but no titles. For example, the laws of Puerto Rico and the Dominican Republic reference some principles in the text, but do not have a concise title or name.

e) In many cases, although the meaning of the principles appearing in different laws is similar, the scope is different and in some laws they are broader than in others. This aspect will be analyzed in more detail in the results section.

The fourth stage consisted of classifying the collected principles. Classification was performed taking into account two different criteria: 1) the subject to which each principle referred (for example, principles relating to information, access, obligated subjects, etc.); and 2) the nature of each principle (for example, principles of a procedural nature, of a social nature, etc.). Based on the classification carried out, and on account of the standardized data collected in the tables, it was possible to systematize the information and record it in a spreadsheet for data quantification and analysis.

RESULTS AND DISCUSSION

In the 19 transparency and access to information laws of Latin American countries as a whole, 25 general principles related to transparency and access to information were identified, expressly cited in the legislative texts, which, by their content, are related to the following subjects (see **Table 3**):

1. Nature of the information (5 principles). Within this category are the principles related to the legal nature of the information and the principles regarding its presentation characteristics.
2. Right of access to information (8 principles). The principles included in this area mainly comprise guidelines for the interpretation of the right of access, technical precepts and social foundations.
3. Obligations of regulated entities (11 principles). This subject covers principles related to the interpretation of law and the enforcement of procedures.
4. The responsibilities of citizens in the use of information (1st principle).

Taking into account their nature, three types of principles can be identified (see **Table 3**): principles related to the statutory basis (e.g. public information, access to information or limitation of exceptions); technical and procedural principles (e.g. quality of information, speed or facilitation); and principles of a social nature (e.g. free access, multi-ethnicity or non-discrimination).

There are significant differences in the frequency of use of the principles. Some principles appear with high frequency (more than half of the total number of principles identified); these are the four predominant principles: *publicidad*, *acceso a la información*, *no discriminación* and *gratuidad*. Some principles appear with an average frequency (between 2 and 6 references). At last, some principles appear only occasionally (they are cited in only one law); which are the following: *multi-etnicidad*, *facilitación* [de información], *eficacia*, *máxima premura*, *divulgación proactiva*, *uso de las TIC* and *participación ciudadana*.

The laws that refer to the greatest number of principles are those of Argentina, Chile, Colombia and Costa Rica. However, as mentioned above, one should bear in mind that only

references to principles expressly formulated as such have been included. Some laws allude to many of the statements listed, but do not cite them as principles of law and, for this reason, were not taken into consideration in this study.

To facilitate their detailed analysis, the principles will be grouped into the four thematic categories indicated at the beginning of this section.

TABLE 3 - Principles of transparency and access to information

Principles	Argentina	Bolivia	Brazil	Chile	Colombia	Costa Rica	Ecuador	El Salvador	Guatemala	Honduras	Mexico	Nicaragua	Panama	Paraguay	Peru	Puerto Rico	Dominican Republic	Uruguay	Venezuela	
Nature of information																				
Public information	■	■		■	■	■	■	■	■		■	■	■		■	■				13
Relevance				■		■														2
Quality	■	■			■			■												4
Availability	■					■		■												3.
Multi-ethnicity												■								1
Right of access																				
Access to information	■	■		■		■	■					■	■			■	■			9
Limit of exceptions	■											■								2
In dubio pro petitor	■																		■	2
Facilitation [information]	■																			1
Divisibility	■			■																2
Control	■			■		■														3
Non-discrimination	■	■		■	■	■		■				■								7
Free access	■	■		■	■	■	■	■	■											8
Obligations of obligated subjects																				
Maximum access	■			■	■	■														4
Responsibility	■			■	■							■								4
Good faith	■				■		■													3
Accountability						■	■	■				■								4
Effectiveness					■															1
Facilitation [procedure]	■			■	■	■		■	■											6
Speed				■	■	■		■	■								■			6
Maximum speed	■																			1
Proactive outreach					■															1
Use of ICT						■														1
Citizen participation							■					■								2
Responsibilities of citizens																				
Civil responsibility					■															1
	16	5	0	11	12	12	6	8	4	0	1	8	2	0	1	2	2	0	1	

Source: Prepared by the author (2023).

(Types of principles: ■ principles of law, ■ technical and procedural principles, ■ social principles)

Principles related to the nature of information[4].

There are five principles related to the nature of information: the principle of public information; the principle of relevance; the principle of quality of information; the principle of availability; and the principle of multiethnicity.

The **principle of public information** states that any information held by public institutions is presumed to be public, subject to the limitations established by law. This principle is referred to by several names in the laws analyzed: *principio de publicidad* (Bolivia, Nicaragua, Panama and Peru); *principio de apertura o transparencia* (Chile), *principio de presunción de publicidad* (Argentina), *principio de máxima publicidad* (Colombia, El Salvador and Guatemala), *principio de publicidad de la información pública* (Ecuador), *principio de máxima publicidad y difusión* (Mexico) or *principio de transparencia* (Costa Rica). Given the diversity of names, it was decided to choose the form that predominates in most legislative texts. It is also the most cited principle in the laws analyzed (see **Table 3**) and one should bear in mind that, although some laws do not expressly mention it, it is also implicitly included. This is one of the most relevant principles, which derives from the principle of public information of the actions of government institutions: if the activities of government institutions are presumed to be public (with the exceptions determined by law), the information generated in the exercise of these activities must also be considered public (with the same exceptions determined by law for the activities in which they originate). The presumption of the public nature of this information implies that it is a public asset belonging to citizens and, as such, must be accessible to them, with the exceptions mentioned above. Therefore, the obligated entities, as administrators of this public asset, must establish mechanisms to ensure access to it.

The **principle of relevance** means that any information held by public institutions is presumed to be relevant (Chile, 2008; Costa Rica, 2022). This principle only appears in the laws of Chile and Costa Rica and, unlike the previous case, both laws refer to it by the same name. Both standards indicate that the relevance of information is independent of its format, support, date of creation, source, classification or processing, which is important for archive professionals, as they must ensure the integrity of all documents, especially in the assessment, selection and disposal processes, since all documents are potentially relevant.

The **principle of quality** of information implies that the information produced and disseminated by public institutions must be timely, objective, true, reliable, complete, detailed, up-to-date, clear, understandable, transparent and comprehensive. This principle has different levels of detail and the following laws refer to it by different names: *principio de calidad de la información* (Colombia and Costa Rica); *principio de integridad* (El Salvador); *principio de máximo acceso* (Argentina) and *principio de obligatoriedad* (Bolivia). In the last two cases, the statement is presented together with other principles (*máximo acceso* y *no discriminación*, respectively). From an archival point of view, it is noteworthy because it determines that

4 The sources from which information on each of the principles described individually in the remainder of the document is drawn are the transparency and access to information laws of the countries mentioned in each paragraph.

information must meet requirements that coincide with those established by ISO document management standards, which state that documents must be reliable, authentic, complete and usable (ISO 15489-1, 2016). This principle directly affects several archival ethical values related to protecting the integrity, authenticity and intelligibility of documents from an objective and impartial point of view.

The principle of availability establishes that information produced by public institutions must be available in formats that are accessible and open to all people, that facilitate its processing by automatic means and that allow its reuse or redistribution by third parties. In Argentine law, it is called *principio de apertura*, while in Costa Rica and El Salvador it is called *principio de disponibilidad.* It is a principle of a technical nature, linked especially to electronic documents, interoperability and reuse of information, which has an impact on ethical values related to promoting access to documents.

According to the principle of multiethnicity, public information must be provided in the different languages of a country (Nicaragua, 2007). This is a principle that only appears in Nicaraguan law and is noteworthy because it was formulated with the aim of promoting access to information for ethnic minorities. This principle affects archival professionals in two ways. On the one hand, the technical instruments developed to facilitate consultation must be adapted to different groups. On the other hand, this principle must be taken into account when promoting access.

Principles related to the right of access to information

There are eight principles related to the right of access to information: the principle of access to public information, the principle of the limit of exceptions, the principle of the right of access to information and the principle of the right to information "*in dubio pro petitor*", the principle of facilitation [of information], the principle of divisibility, the principle of control, the principle of non-discrimination and the principle of free access.

The principle of access to public information states that everyone has the right to access information held by public institutions, subject to the limitations established by law. It is a legal principle that is at the heart of access to information and transparency laws, and is complementary to the principle of *publicidad*: while the *principio de acceso* recognizes the right of citizens to access information, the *principio de publicidad* establishes the obligation of public institutions to facilitate access to such information. In the laws analyzed, it is possible to find different denominations: *principio de libertad de información* (Chile and Costa Rica), *principio de publicidad* (Bolivia); *principio de acceso a la información pública* (Nicaragua); *principio de acceso público* (Panama); *principio de publicidad de la información pública* (Ecuador); *principio de transparencia y máxima divulgación* (Argentina). In some cases, several principles are mentioned simultaneously in a single statement.

The **principle of limitation of exceptions** implies that the limits to the right of access to information must be exceptional, clear and justified (Argentina, 2016; Nicaragua, 2007). As

can be seen, this principle is related to the principle of access to *información pública* and also to that of *publicidad*, both favoring access, respecting the exceptions provided for by law. This principle implies that these exceptions must be as limited as possible and respond to precise and justified reasons. Although it is only found in two laws, it appears with two different titles and even with different wording: *principio de alcance limitado de las excepciones* (Argentina) and *principio de prueba de daño* (Nicaragua). In the case of Nicaragua, the reasons for certain information to be deemed restricted are specified in detail.

Principle "*in dubio pro petitor*" establishes that the interpretations of laws must always favor the right of access, that is, in case of doubt, the interests of the people requesting the information must prevail (Argentina, 2016; Venezuela, 2021). This principle, like the previous one, aims to promote access to information. It is expressly stated in the laws of Argentina (*principio in dubio pro petitor*) and Venezuela (*principio de interpretación*).

The **principle of disclosure** means that public institutions cannot refuse to indicate whether a document is in their possession or to disclose it, subject to the exceptions provided for by law (Argentina, 2016). This is a principle, found only in Argentine law, which brings a relevant nuance, as it implies that, if a public institution has documents that include information subject to some type of access restriction, it may disclose the existence of these documents without revealing their content. This principle presents a terminology problem, since in the laws of Chile, Colombia, Costa Rica, El Salvador and Guatemala the expression *principio de facilitación* refers to the procedure and access mechanisms. From the archive's point of view, the four principles above are directly related to values 6 and 7 of the CIA *Código de ética profesional*, referring, respectively, to the promotion of access and respect for the legislation that limits it.

The **principle of divisibility** states that if public institutions generate open access information together with legally restricted information, access will be provided to the former and not to the latter (Argentina, 2016; Chile, 2008). This is a technical principle that is only found in the laws of Chile (*principio de divisibilidad*) and Argentina (*principio de dissociación*); and which resolves a particular case of special interest in archives, that of documents or files that simultaneously contain open access information and restricted access information. In this case, Argentine law is more precise, as it establishes that access must be provided to "*una versión del documento que tache, oculte o disocie aquellas partes sujetas a la excepción"*.

The **principle of control** implies that compliance with the rules governing the right of access to information will be subject to permanent monitoring and, if necessary, may be the subject of an appeal or complaint (Argentina, 2016; Chile, 2008, Costa Rica, 2022). It is a principle of a procedural nature that appears under the same name in the laws of Chile, Argentina and Costa Rica and is established as a guarantee mechanism for cases in which responses to requests for information are ambiguous, imprecise, unfairly refused or are non-existent.

The **principle of non-discrimination** means that public institutions must provide information to all persons who request it, under equal conditions, without making arbitrary

distinctions and without requiring an expression of cause or reason for the request. It is a principle of a social nature that appears in laws under the following names: *principio de no discriminación* (Chile, Argentina, Colombia and Costa Rica); *principio de igualdad* (El Salvador); *principio de obligatoriedad* (Bolivia); *principio de acceso a la información pública* (Nicaragua). In the cases of Bolivia and Nicaragua, it is included as part of the statement of the *principio de publicidad*. It should be noted that the laws of Argentina, Chile and Colombia expressly state that citizens do not need to justify a request for information, but, on the contrary, can request information without having to provide a reason; this is an important nuance that favors access to information. Costa Rican law, on the other hand, makes express reference to the *Convención Internacional sobre eliminación de todas las formas de discriminación racial*.

The **principle of free access** establishes that access to information from public institutions must be free, without prejudice to the provisions of the law. It appears under the same name in the laws of Argentina, Chile, Bolivia, Colombia, Ecuador, El Salvador, Guatemala and Costa Rica. It is a principle of a social nature that affects only access, but not the reproduction of documents, which will normally be done at the expense of the person requesting the information.

Principles relating to the obligations of regulated entities

There are 11 principles related to the obligations of obligated entities: principle of maximum access, principle of responsibility, principle of good faith, principle of accountability, principle of effectiveness, principle of facilitation, principle of promptness, principle of maximum urgency, principle of proactive disclosure, principle of use of ICTs and principle of citizen participation. Although this is a high number, its frequency of occurrence is, in some cases, very low.

The **principle of maximum access** implies that public institutions must provide information about their activities, or that is in their possession, in the broadest and most up-to-date manner possible, that is, with the most detailed content possible and by means of the greatest number of media at their disposal, subject to the limitations or exclusions established by law. This principle is present, under different names and even different scope, in four laws: *principio de máxima divulgación* (Chile); *principio de transparencia* (Colombia); *principio de máximo acceso* (Argentina); *principio de máxima publicidad* (Costa Rica). As seen, this is a complementary principle to the *principio de publicidad* and the *principio de calidad de información*.

The **principle of accountability** indicates that failure by public institutions to comply with the obligations established by transparency laws implies liability that may result in corresponding sanctions. It is found under the same name in the laws of Argentina, Chile, Costa Rica and Nicaragua, although the scope is different: while the laws of Chile and Costa Rica refer specifically to the responsibilities of “administrative bodies” (Chile) and “public officials” (Costa Rica), the laws of Argentina and Nicaragua do not restrict liability to obligated subjects,

from which it can be concluded that this principle also affects citizens. In fact, Nicaraguan law generically "promotes the responsible use of public information" without referring to possible sanctions (which are found in other laws).

The **principle of good faith** implies that public institutions must interpret transparency laws honestly, objectively and diligently in order to fulfill the purposes established therein (Argentina, 2016; Colombia, 2014). It appears under this name in the laws of Argentina and Colombia, and without an express name in the law of Ecuador. Initially, it may seem that this principle is similar to *"in dubio pro petitor"*, a principle that is more specific and focused on the interest of the person requesting the information, while the *principio de buena fe* is more focused on the correct enforcement of the law (which may be unfavorable to the person requesting the information).

The **principle of accountability** implies that public authorities must be accountable for their activities. It is a principle linked to the objectives of transparency and is present in the laws of Ecuador, El Salvador, Costa Rica and Nicaragua. The first one does not have a specific name, but the other three have different names: *principio de rendición de cuentas* (El Salvador and Costa Rica*)* or *principio de transparencia* (Nicaragua).

The **principle of effectiveness**, contemplated only in Colombian legislation, implies that public institutions must achieve minimum results in relation to their responsibilities, in order to effectively favor collective and individual rights (Colombia, 2014). Although this is initially a procedural principle, it has an important social impact, as it does not refer to efficiency to improve management, but to improving the rights of groups and individuals.

The **principle of facilitation [of the procedure]** means that public institutions must have mechanisms and procedures that facilitate access to information, excluding formal or procedural demands or requirements that obstruct or impede it. This principle has several names under the law: *principio de facilitación* (Chile, Colombia and Costa Rica); *principio de informalismo* (Argentina); *principio de sencillez* (El Salvador). Despite the differences in terminology, in all laws the wording refers to the need for the procedure for accessing information to be simple and not include demands or requirements that obstruct or impede it. The Argentine Law (*online*, 2016), further states that "obligated entities cannot base the rejection of a request for information on non-compliance with formal requirements or procedural rules".

The **principle of speed** means that public institutions must respond to requests for information in the timeliest manner possible: within legal deadlines, as quickly as possible and avoiding formalities that could delay the procedure. This principle can be found under different names under the law: *principio de la oportunidad* (Chile e Costa Rica); *principio de celeridad* (Colombia); o *principio de prontitud* (Guatemala), although it has similar meaning in all of these cases.

The **principle of maximum speed**, which is provided for only in Argentine law, implies that public institutions must publish information as quickly as possible (Argentina, 2016). It may seem similar to the previous one; however, while the principle of speed is related to the right of access, the principle of maximum speed is linked to the obligation of transparency.

The **principle of proactive outreach** is found only in Colombian legislation and implies that public institutions must publish the information established by law on a routine, proactive, updated, accessible and understandable basis, in accordance with their human, technical and economic means (Colombia, 2014). This is an essential principle in terms of transparency, as it refers to the way in which information is disclosed by obligated entities. Colombian law also indicates reasonable limits for compliance with this principle, related to the institution's resources (personnel, physical means and economic means).

The **principle of the use of information technologies** is a principle included only in Costa Rican law, which establishes that public institutions must use information and communication technologies to facilitate access to information and promote transparency in matters of public interest (Costa Rica, 2022). Because of its content and highly specific nature, it is related to other principles such as those of *disponibilidad*, *máximo acceso* and *facilitación [de procedimiento]*.

The **principle of citizen participation** determines that public institutions must provide information to promote citizen participation (Ecuador, 2004; Nicaragua, 2007). Although it is apparently a principle directly related to citizens, in reality, as it is formulated in the two laws in which it appears, it is a principle in which the responsibility for promotion is that of the obligated subjects. As seen, it is a principle of a social nature, which is related to participatory transparency and aims to improve the functioning of the democratic system.

Principles relating to the responsibilities of citizens

Most of the principles identified are related to the obligations of public institutions, but few are related to the duties of citizens. Although there are indirect references in some of the principles presented (such as the principle of citizen participation), only one that directly concerns the commitments that citizens must assume was identified.

The **principle of citizen responsibility** states that citizens must make responsible use of the information provided by public institutions (Colombia, 2014). Although this principle is included only expressly in Colombian law, it should be remembered that among the principles related to obligated entities is the *principio de responsabilidad*, which, in the case of the laws of Argentina and Nicaragua, is drafted in general terms, so that it can also refer to citizens.

CONCLUSIONS

It is unquestionable that the precise definition of a series of principles related to access to information and transparency is relevant to facilitate the interpretation and guidance of laws. From the results analysis, it is possible to draw some conclusions, which are summarized below.

One of the issues brought by the principles studied is the lack of terminological uniformity, since, as demonstrated in the set of laws analyzed, it is possible to find different

situations: several terms that refer to the same concept; the same term that refers to two different concepts; similar, but not completely identical, terms or expressions that refer to the same concept; and identical terms or expressions that refer to similar concepts with different scopes. For this reason, it is necessary to unify the terminology on the subject.

As noted in the previous paragraph, the content and scope of the same principle may vary in different laws, and it is even possible to find principles that encompass two different concepts. Therefore, it is necessary to conceptually define the principles, establishing their scope and limits precisely. Given the relevance that principles have for the interpretation of laws, it is convenient that they are clearly stated in the laws on access to information and transparency.

As has become clear throughout the text, the principles mentioned have a direct impact on archive professionals, as they constitute a set of action guidelines on all issues related to access to information, data and documents. The establishment of a detailed "catalog" of principles on the subject will be relevant in this field.

It was also confirmed that the principles identified in the laws analyzed are clearly related to the professional values contained in professional codes of ethics, such as that of the International Council on Archives (ICA). In some cases, it is possible to find principles that fully coincide with the ethical values. For example, the ICA code of ethics states that archivists are responsible for records: they must protect their integrity, guarantee their authenticity, ensure their intelligibility... actions that are necessary to comply with principles related to the nature of information. Furthermore, as obligated subjects, archivists must be transparent in their work and, as the ICA code of ethics states, must leave "*constancia documentada para justificar sus acciones en relación con los documentos".*

In short, the existence of clear, consistent and well-formulated principles of access to information contributes to improving the activity of archive professionals, establishing their ethical values and, consequently, strengthening their responsibility towards society.

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Appendix I - Principles of transparency and access to information

Nature of information

Publicidad. Any information held by public institutions is presumed to be public, subject to limitations established by law.

Relevancia. Any information held by public institutions is presumed to be relevant.

Calidad de la información. Information produced and disseminated by public institutions must be timely, objective, true, reliable, complete, detailed, up-to-date, clear, understandable, transparent and comprehensive.

Disponibilidad. Information produced by public institutions must be available in formats that are accessible and open to all people, that facilitate its processing by automatic means and that allow its reuse or redistribution by third parties.

Multi-etnicidad. Public information must be provided in the different languages of the country.

Right of access to information

Acceso a la información pública. Everyone has the right to access information held by public institutions, subject to the limitations established by law.

Limitación de excepciones. Limits to the right of access to information must be exceptional, clear and justified.

In dubio pro petitor. Interpretations of laws must always favor the right of access to information of public interest.

Facilitación [de información]. Interpretations of laws must always favor the right of access to information of public interest.

Divisibilidad. If public institutions generate open access information together with legally restricted information, access will be granted to the former and not to the latter.

Control. Compliance with the rules governing the right of access to information will be continuously monitored.

No discriminación. Public institutions must provide information to all persons who request it, on equal terms, without making arbitrary distinctions and without requiring an expression of cause or reason for the request.

Gratuidad. Access to information from public institutions must be free of charge, subject to the provisions of the law.

Obligations of regulated entities

Máximo acceso. Public institutions must provide information about their activities, or information held by them, in the most comprehensive and up-to-date manner possible (with detailed content and through a variety of media), subject to any limitations or exclusions established by law.

Responsabilidad. Failure by public institutions to comply with their obligations under transparency laws implies liability that may result in sanctions.

Buena fe. Public institutions must interpret transparency laws honestly, objectively, and diligently to fulfill their stated purposes.

Rendición de cuentas. Public authorities are responsible for their activities.

Eficacia. Public institutions must achieve minimum results in relation to their responsibilities to effectively promote collective and individual rights.

Facilitación [de procedimiento]. Public institutions must have mechanisms and procedures that facilitate access to information, excluding formal or procedural demands or requirements that obstruct or impede it, especially of a formal nature.

Celeridad. Public institutions must respond to requests for information in the timeliest manner possible: within legal deadlines, as quickly as possible and avoiding formalities that could delay the procedure.

Máxima premura. Public institutions must publish information as quickly as possible.

Divulgación proactiva. Public institutions must publish information required by law on a routine, proactive, up-to-date, accessible and understandable basis, in accordance with their human, technical and financial resources.

Uso de las TIC. Public institutions must use information and communication technologies to facilitate access to information and promote transparency in matters of public interest.

Participación ciudadana. Public institutions will provide information to promote citizen participation.

Responsibilities of citizens

Responsabilidad ciudadana. Citizens must make responsible use of information provided by public institutions.