

# Access to Information as a Human Right

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## ABSTRACT

Using the methods of philosophical analysis and argumentation, this paper delineates and defends the claim that access to information is a fundamental human right. A number of key distinctions and concepts are explained and clarified. The classic Hohfeldian (1919) analysis of rights is presented, making clear the important distinctions between privilege, liberty, and welfare rights. Human rights are placed within this framework and their moral foundation is articulated. The fundamental value of access to information is explained and defended. It is argued that public libraries play an important role in satisfying the human right to access.

## Keywords

Rights, human rights, access to information, ethics, article 19, intellectual freedom,

## 1. INTRODUCTION

Human rights have been characterized as rights to those resources and circumstances necessary for living a minimally good life [1]. Information rights include rights to create and communicate information (e.g., freedom of expression, freedom of association), to control others' access to information (e.g., privacy and intellectual property), and rights to access information (e.g., freedom of thought, the right to read). Some information rights have been recognized as human rights in international instruments (e.g., Universal Declaration of Human Rights, Declaration on the Rights of the Child, Declaration on the Rights of Indigenous People). The Universal Declaration of Human Rights lists a number of rights related to information access and control (see [2] Articles 18, 19, 25, and 26). Philosophers and educational theorists have argued that persons have some rights related to information access, e.g., the right of freedom of thought and expression (e.g., [3], [4], [5]) and the right to an education (e.g., [6], [7], [8], [9]). However, such rights have not been conceptualized as founded in a more basic human right to information. This paper focuses on those rights related to

free access to information and argues that access to information is indeed a fundamental human right. It is further argued that the right to access is not merely a liberty right, but also a welfare right. That is, individuals' information rights place duties on governments to provide access to information.

The main line of argument presented in this paper is as follows. I argue that access to information is indeed necessary in order to live a "minimally good life" in at least three ways. First, human beings are creatures with a capacity and a desire for knowledge. As Aristotle wrote in the *Metaphysics*, "All human beings by nature desire to know." A life deprived of adequate access to information and knowledge is a seriously impoverished life. Second, knowledge is not only good in itself; it is pragmatically essential that persons have access to information if they are to have the capacity to exercise their other rights. In this sense, knowledge is what J. Rawls [10] called a "primary good," that is, it is a good that is useful to anyone, whatever his or her plan of life or conception of the good. Third, in order for persons to effectively exercise and protect their other rights, they need access to information. I conclude the paper by arguing that free public libraries are an essential public institution necessary for ensuring that citizens have adequate access to information.

While I will appeal to those rights listed in the Universal Declaration of Human Rights and other United Nations and International rights documents, this is a work in moral theory. It is not an exercise in explicating what follows from the U.N. declarations or international law. I am arguing for a particular understanding of the underpinning values promoted by the rights listed in these documents. In so doing, I may argue that our human rights extend beyond what has been explicitly encoded in human rights documents.

## 2. LIMITS OF THE "INTELLECTUAL FREEDOM" MODEL

The discussion of access to information within both the philosophical and LIS literature has focused on intellectual freedom, e.g., rights to free speech and to a free press. While intellectual freedom is crucial, it is at best only half of the answer to people's crucial information needs. Free speech and freedom of the press gain their primary value from their capacity to provide people with information and knowledge. Indeed, in his seminal defense of freedom of expression, "On

Freedom of Thought and Discussion” [3], John Stuart Mill hinges his defense of free expression on the importance of people being able to weigh all sides of an issue. According to his argument, free speech is to be defended on the grounds that persons ought to be able to access information. However, in much everyday talk on “freedom of speech” the worry is whether someone is free to “speak her mind,” rather than whether others have a right to listen to what she has to say.

In the United States, for instance, much more discussion focuses on the problem of censorship, than on the problem of access. The American Library Association, for example, celebrates “Banned Books Week” to point out the dangers of censorship, but has no such week set aside for noting the dangers of suppressed information or the problem of limited access to information by the poor and disenfranchised. While there are multiple statements and articles on censorship, there is very little discussion, for example, about the role that library fines might have in discouraging poor people from using the library.

To the extent that access to information has been considered a right of the receiver, the literature has mostly centered on the right to education. The right to education is reasonably focused on the education of children. But, the need for accurate, objective, timely information is life-long. Much of the point of an education is to equip people to be “life-long” learners, by giving them the basic skills to be able to process written and numeric information. These are skills that need to be practiced into adulthood to be retained and be useful. Without access to information these skills lie fallow.

### 3. TYPES OF RIGHTS

We use the language of “rights” easily and frequently, but this use is often quite equivocal and covers a number of important distinctions that we will want to keep clear in the following discussion.

#### 3.1 Hohfeldian Rights

Famously, W. Hohfeld [11] distinguished a whole range of types of rights. Here I do not give the entire Hohfeldian schema, but note an important distinction between two Hohfeldian rights—privilege rights and claim rights. These two types of rights are what H.L.A. Hart called “primary rights” [12] to highlight the fact that many other rights derive from them.

If I have a “privilege right” to do something, that means that I am not obliged to refrain from doing it—in other words, I am allowed, permitted, or free to do it. So, for example, if I have the privilege right to read a particular book, that means that I don’t have any duties to not read or to refrain from reading. I am free to read the book (or not). Hohfeld would be quick to point out that a mere “privilege right” provides me with no guarantee that I will actually be in a position to read the book. To say that I have a right to read in this sense doesn’t mean that anyone else is obliged to let me read. So, for example, if I merely have a “privilege right” to read, you are free to destroy any copies of the book you get your hands on, to criticize me publicly for reading the book, to refuse to support public institutions that might teach me to read, or to refuse to

distribute the book via the library or bookstores. This sort of right puts no obligations on others to act or not act in any particular way.

Hohfeld thought that such privileges were not properly called “rights,” since genuine rights of one person always put a duty on others to *respect* the right. He calls rights, which impose such duties on others “claim rights.” Typically when someone says that they have a right to *x*, they are referring to such “claim rights.” So, for example, if I have a claim right to read, that means that others have correlative duties that they ought to fulfill. If I have a claim right to read a book, others have some sort of duty to make the world such that I actually can effectively read. If you fail to do your duty in this regard, then you are “violating” my right.

#### 3.2 Liberty and Welfare Rights

If I have a claim right, others’ correlative duties might be either “negative” (requiring others to refrain from interfering with my actions) or “positive” (requiring others to act so as to assist me). A right which imposes merely negative duties on others is called a “liberty” right. A right which imposes positive duties on others is called a “welfare” right. If I have a liberty right to read, then others are obligated to refrain from interfering with my reading. If I have a welfare right to read, others are obligated to provide me with the conditions necessary for reading. So, for example, if I have a liberty right to read, that may place a duty on others to refrain from criticizing me publicly for reading the book, from turning off the lights so I can’t read the book, or from removing the book from the public library. If I have a welfare right to read, for example, others may be obligated to fund public schools where I would be taught to read, to make information available in my language, or to support public libraries.

### 4. HUMAN RIGHTS

Human rights have been defined as the rights that protect our interests in having “those resources and circumstances necessary for living a minimally good life” [1]. These rights are those we have simply in virtue of being human, and are not tied to membership in any particular political society or state. Such rights may be liberty rights—what are often termed in the international law literature “political rights”—or welfare rights—what are often labeled in the international law literature “socio-economic rights.” In what follows, I will rely on this basic definition of a human right. There are a number of different accounts of the moral basis of these rights, but we need not enter into those debates here. I will, however, be taking the view according to which rights are seen as protecting our “interests.” By interests I do not merely mean something we find “interesting,” but our fundamental needs and goals as human beings [13]. On this view a “minimally good life” is one wherein we have a meaningful capacity to satisfy (or have satisfied) our fundamental interests as human beings.

There are some further points worth making about the obligations that human rights impose on others. Human rights are typically understood as those rights that states must respect. Typically, whether an action violates a human right depends on whether there was a state actor involved. A state

may infringe a human right either by directly doing something that violates a right—e.g., by failing to provide basic education for children or by suppressing unpopular speech—or it may do so by failing to provide a legal structure necessary to prevent systematic abuses. So, for example, if a state fails to have any laws forbidding child labor, then it is guilty of a human rights violation.

While many theories claim that the obligations required by respecting human rights only apply to governments, it seems perfectly natural to say that individual persons can also engage in human rights violations. It would be odd to say that a state is violating human rights by allowing a corporation to employ child labor, but that the corporation is not violating human rights when it (legally) employs children. On my view, individuals or non-government groups may violate human rights as well as governments. However, when persons have welfare rights these primarily place obligations on society as a whole, and thus on the entities which regulate society and have the power to distribute and redistribute income and other goods—e.g., governments.

## 5. ACCESS TO INFORMATION AS A HUMAN RIGHT

In this section, I argue that access to information is indeed a resource necessary for living a minimally good life. It should be noted, that, while I do not discuss the issue of information quality here, it is clear that in arguing that people have a right to access information, I mean that they have a right to access quality information (just as a right to food implies a right to sufficiently nutritious food). There are several dimensions of information quality, including accuracy, completeness, currency, and comprehensibility [14]. The inclusion of comprehensibility points to a further feature of information. Some document or other communicative format is “informative” to a person only to the extent that she is able to comprehend the information contained in the document. Thus, fulfilling the right to access information will often require that we consider in what format the information will be most comprehensible to the people who need it. In addition, the right to information will often require that resources be devoted to giving people the needed skills to comprehend information, e.g., through efforts to increase literacy.

### 5.1 Fundamental Interests in Information

In his work on the right to freedom of expression, Gerald Cohen has admirably summed up the fundamental interests that are protected by a right to information. J. Cohen specified three fundamental interests ([5], 223-230), which I discuss in detail below: (1) the interest in expression, (2) the interest in deliberation, and (3) the interest in knowledge.

#### 5.1.1 *The Expressive Interest*

Cohen [5] defines the interest in expression as, “a direct interest in articulating thoughts, attitudes, and feelings on matters of personal or broader human concern and perhaps through that articulation influencing the thought and conduct of others.” Note that, while Cohen’s emphasis is on acts of expression directed to others with the goal of “influencing

thought and conduct,” this should not be understood as limited to those works that are clearly propositional in character. Works of art, such as novels, music, photographs, and paintings also “articulate” “thoughts, attitudes, and feelings.” There are a number of ways in which *access* to expression supports this interest in expressing. First, as Cohen notes, most acts of expression are acts of communication to others. By promoting access to information, we are enabling the success of such expressive acts by connecting, for instance, the writer with the reader. Second, in order to engage in acts of expression people need a rich information culture that will allow them to develop their ideas and learn how to communicate them effectively.

There is, however, more to the interest in expression than Cohen’s account covers. Cohen does point out how access to expression satisfies the receiver’s deliberative and informational interests, but he does not recognize an independent interest in accessing expression. It would be a mistake, however, to think that the interest in accessing other’s expressive acts is merely derived from the more fundamental interest that others have in expressing themselves to us. Human beings have an independent interest in accessing the expressions of others. Just as we have a need to express ourselves, we have a need to hear others expressions. We have, in other words, “a direct interest in accessing the thoughts, attitudes, and feelings of others on matters of personal or broader human concern.” A person without opportunities to receive the expressions of others, would be denied experiencing a fundamental aspect of human life. Indeed, the Universal Declaration of Human Rights recognizes this need in Article 27, where it states that, “Everyone has the right freely to participate in the cultural life of the community [and] to enjoy the arts...”[2].

#### 5.1.2 *The Deliberative Interest*

In addition to our direct interest in expressing ourselves and hearing what others have to say, access to expressions are necessary to satisfy what Cohen calls our “deliberative interests.” The deliberative interest concerns our ability to revise and gain a deeper understanding of our individual and collectively held beliefs and commitments. This requires access to expressions of others, due to “the familiar fact that reflection on matters of human concern cannot be pursued in isolation. As John Stuart Mill emphasized, reflection characteristically proceeds against the background of an articulation of alternative views by other people” ([3], 229). It is only in the context of free access to the full range of “alternative views,” according to Cohen, that we can engage in deliberation on what to believe, value, and do.

#### 5.1.3 *The Knowledge Interest*

Finally, access to others’ expressions allows us to leverage our collective epistemic labor and satisfy what Cohen calls our “informational interests,” what I call here our “knowledge interests.” The “knowledge interest” is the “fundamental interest in securing reliable information about the conditions required for pursuing one’s aims and aspirations” ([5], 229). Without access to such knowledge, individuals and groups will be unable to effectively carry out their aims. In a free society, we assume that the individual and the collective good is promoted by persons having the ability to determine for

themselves what they value and having the freedom to pursue those goals effectively (as long as they do not interfere with a similar pursuit by others). Access to the information and knowledge contained in the expressions of others allows us to do this. Furthermore, the wellbeing of both individuals and groups requires that we base our actions on the best knowledge available, knowledge we are unlikely to gain all on our own.

However, it would be a limited understanding of human beings and human nature to think that knowledge only matters to us a means to some further end. As Aristotle famously said in the *Metaphysics*, “All human beings by nature desire to know.” We find joy in knowledge and discovery—in just the mere state of knowing and having knowledge. A life deprived of such enjoyment would be a seriously impoverished life. Thus, we need to recognize that there is an intrinsic, as well as a pragmatic interest in knowledge.

Given the importance of these informational interests to human life both individually and collectively, we already have a strong argument that access to information is a human right. A minimally good human life is not possible without access to a rich array of expressions and to knowledge for both practical ends and intrinsic benefits to the human spirit. Nevertheless, even if these interests were not sufficiently compelling, there would still be grounds for arguing that access to information is a fundamental human right. Access to information is a necessary precondition for us to exercise our other human rights.

## 5.2 Access to Information as an Essential Instrumental Right

A moment’s reflection makes clear how useless many of our rights are if we are not given access to crucial information. In an article entitled “The Right to Information as a Leverage Right,” S. Jagwanth ([14], 6) argues that, given that rights are interdependent, in order to be able to exercise our rights more generally, people must be given access to information. Courts have found, for example, that people have a right to information about environmental hazards and other potential threats to safety. It has been argued that rights to information extend to information related to reproductive health and choice [15]. These are just a couple of examples of the types of information to which we may argue persons have a right to if they are to exercise their other human rights. Below I discuss some of the most crucial ways in which information provides the necessary precondition for our ability to exercise our other rights.

First, we need to be given access to information regarding what rights are. If we are not aware of what our rights are, or that we even have rights, then we cannot be our own or others’ advocates in exercising those rights. For instance, any are familiar with the Miranda warning made famous by American cop shows. This warning explicitly tells the suspect what his or her rights are. The reasoning behind this warning is that, absent such information about their rights, a defendant cannot take an appropriate role in the exercise of those rights [16]. With regard to public information, it has been argued that that, “The right to access public information about one’s economic, social and cultural rights is not only *related* to these rights – it

is a *precondition* for their realization. Without information about the scope and content of their rights to health, housing or work, citizens are unable to determine whether their rights are being respected. International law recognizes this connection” ([17], 18). Indeed, recognizing the importance of this in the preamble to the UDHR, the UN declared, “That every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these right and freedoms.”

Second, once we know what our rights are we may need further information to know whether rights are being respected and how to press for their fulfillment. In some cases, it may be obvious that the government is failing to respect my rights. In many other cases, however, it may not be as clear. As the human rights organization Article 19 ([17], 20) points out, “to evaluate the extent to which the right to education is realized, it is necessary to have access to literacy rates, enrollment rates, commuting times, dropout rates, and budgets, not only in the aggregate but disaggregated by gender, social class, geographic centers (urban, rural), religion and ethnicity.” It is particularly important in this context that governments and others who have crucial information with regard to actions that may violate rights have an obligation to provide citizens with this information. Jagwanth ([14], 8) puts it succinctly when she notes that, “[T]he right of access to information ensures that action which may violate one or other of the fundamental rights is not concealed under the guise of secrecy.”

Finally, and perhaps most fundamentally, we need access to information on a broad range of topics in order to have the capacity to exercise a plethora of our other human rights. For example, if one is denied access to information about how to apply for jobs, for benefits, how to access and use health care, then, for all intents and purposes, one is being denied the rights to such things. If one does not have at least basic information about who is running in an election, their positions, their past experience and actions, then the rights listed in Article 21 of the UDHR [2], “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives” are meaningless. One cannot express one’s will in elections, if one does not have the information necessary to make one’s choices a genuine expression of one’s values and preferences.

## 5.3 Not Just a Liberty Right

As noted in section one, the right to access information is typically understood and defended as a liberty right. Indeed, Article 19 of the UDHR, the key statement of the right to information in the Declaration, uses the language of liberty: “Everyone has the right to *freedom of opinion and expression*; this right includes the *freedom to hold opinions* without interference and *to seek, receive, and impart information and ideas* through any media and regardless of frontiers” [2] [emphasis added]. These liberty rights must be respected if people’s fundamental interests in information and knowledge are to be protected. Nevertheless, mere freedom to access information is an insufficient protection of the right to information. In this section, I argue that the only way that our fundamental interests to access to information can be adequately protected is if they are understood as

encompassing a welfare right that places duties on governments and others to supply people with the necessary information and knowledge.

First, recognize that exercising the right to access information depends in most cases on the willingness of others to impart information and ideas. As many philosophers have recently noted, most of our information and knowledge is received via “testimony”; that is, from the reports of others. Typically in the discussion of intellectual freedom, we assume that others wish to communicate with us—to tell us their views, their findings, etc. Thus, the standard focus of concern is with the ability (or lack thereof) of persons to freely communicate with each other. However, the interest that human beings have in accessing information cannot be met merely by ensuring that individuals are free to communicate with each other.

Our interest in access to information and knowledge can only be fully protected by a welfare right that *obligates* others to take steps that will enable us to access the essential information that we need. Consider, for example, the sorts of information that we might say you have a right to. E.g., “Information on matters such as employment schemes, obtaining certificates for various purposes, recommendations for different types of loans, access to different poverty alleviation programmes, irrigation, drinking water, sanitation and education is a must for ordinary people, whether provided proactively or on request” ([18], 7). First, note that in many cases others will have an interest in not imparting crucial information that they have. Thus, if they are merely “free” to speak, you will fail to receive the information essential to satisfying your fundamental interests. Second, in many cases others will not have the information, because it is not in their interests to gather the information. This may be because they would prefer to spend their resources in some other way. Or, it may be because they would rather others not know the information. Finally, even when the necessary information is available, in many cases persons will not have the resources necessary to “seek” or receive that information.

Of course, the claim that one has a welfare right to information does not mean that one has a right to all information. How much information, on what topics, and in what formats cannot be precisely specified here; to some extent they will vary by cultural, economic, and personal circumstances. Such more specific determinations should largely be left to the deliberations of participants in particular societies. We can, at most, sketch the general outlines of what such rights would obligate individuals and societies to do. Establishing and supporting such institutions as, for example, public libraries, are an essential obligation for governments who wish to fulfill their positive duties to their citizens.

## 6. LIBRARIES AS HUMAN RIGHTS INSTITUTIONS

When we argue that persons have a right to access information, we are committing ourselves to ensuring that persons have access to some technology or institution, which provides access to that information. As Klaaren ([19], 20) points out, a right to information is the right to a “mechanism for access to information.”

In this information age, the temptation is immediately to jump to the mechanism of technology as the best way to provide people with access to information. At this point, a discussion of the digital divide may be expected. However, this quick move from a concern about the right to access information to the access to information technology should be resisted. While it is surely the case that access to information technologies may improve a person’s access to information, we must keep in mind that such access is merely a means to an end. There is no value in having access to information technology in itself. Thus, we will do better to focus on how to promote access to information, while giving recent information technologies their due as one powerful mechanism. (In this vein, it is amusing to note that, in his discussion, Klaaren proposes giving out free cell-phones, rather than providing access to public libraries.)

Indeed, in the literature on rights to information, there is a notable failure to consider the role of libraries and professional librarians. Consider, for example, the list of suggestions at the end of a report entitled, “Global Trends on the Right to Information” compiled by the Human Rights organization *Article 19*. The report makes a number of recommendations for governments, civil society, and businesses among which are the following ([18], 155-157):

- Governments ought to “develop and support appropriate systems for the dissemination of information to all members of society, taking into account culture, education, wealth and other differences.”
- Civil Society ought to “develop and apply innovative and effective methods of producing, accessing, disseminating and using information.”
- Businesses ought to “contribute actively, including through technical and economic support, to establishing better systems for information generation, storage and dissemination.”

No mention is made of public libraries or the need for professional librarians and archivists. Yet, clearly it would be extremely difficult to fulfill any of these three mandates without them. In the following, I note the ways in which public libraries and professional librarians can serve as a lynchpin institution that can insure that individuals’ rights to access information are fulfilled and can further the promotion of commitment to human rights more generally.

### 6.1 Libraries

First, libraries provide people with information (both text and digital), which they otherwise would not be able to access. Without free public libraries, this access may be blocked either by financial, educational, or other barriers. To address this, libraries should be concerned to collect, in addition to works of literature and accessible reading materials, works that address basic information needs relative to the context, e.g., works on health, science, child rearing, etc. Libraries also may serve as places where public and governmental information may be archived and organized. Second, libraries provide a centralized access point so that people know where to get information and they organize information so that

people can find what they need and explore further. Third, libraries help promote literacy by giving people access to books and fostering a literate culture. They may also promote digital literacy by providing access to computers and other information technologies. Finally, by putting together a collection of materials from a wide range of cultures and points of view, libraries can promote both understanding and tolerance.

While libraries are key to the promotion of literacy within a society, we want to avoid a view that holds that, as one writer put it, “Only educated (literate) people can use the right to information. Illiterates cannot use this right even if they need it” ([20], 104). Other means of informing the public—via readings, public lectures, discussions, etc.—should also be seen as part of the library’s mandate as a public information center. Libraries as institutions should go out to the people to bring them important information and to find out the information needs of the people and the best ways to deliver this information. Such outreach activities are more likely to create a greater commitment to literacy and to the library as a storehouse of knowledge.

My vision here has been shaped by the role of public libraries in the United States, with which I am most familiar. But I am not suggesting that others simply adopt the U.S. model. Indeed, by reflecting on the rationale behind supporting public libraries—because they are essential institutions in a society that respects human rights—we can re-envision the role of libraries in the U.S. as well. For example, U.S. libraries ought to play a stronger role in providing citizens with access to government documents and information. In addition, they should take it as part of their mandate to make the public aware of this information.

## 6.2 Professional Librarians

If public libraries are to serve their role as human rights institutions, they ideally should be staffed by professional librarians. The importance of librarians goes beyond their crucial skills in finding and organizing information. By employing library workers whose activities are governed by professional standards (as expressed, for example, in codes of professional ethics), we create a profession dedicated to the “informational health” of individuals and the society, just as doctors are dedicated to individual and public health. Thus, professional librarians have and ought to serve as important advocates for protecting the information rights of the communities they serve.

## 7. CONCLUSION

I have argued that we must move beyond the conception of intellectual rights as mere liberty rights, which can be protected by the government letting individuals alone. Given the pivotal role of access to information in the exercise of all other human rights, the right to information should be understood as a welfare right that places on governments (and perhaps others) the duty to *provide* people with information.

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