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Influencia de la inteligencia artificial generativa, derechos de autor, licencias y estilos bibliográficos: análisis de América Latina

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Agenda

Introducción

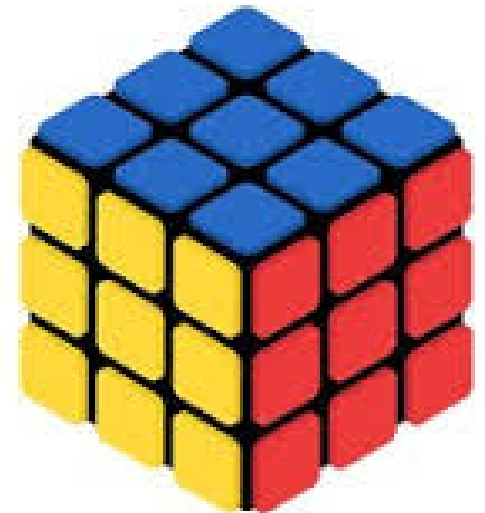
1. Revisión de literatura

2. Metodología

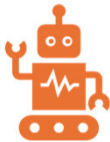
3. Hallazgos

4. Discusión y Recomendaciones

Conclusiones



Introducción



Apertura y reproducibilidad han promovido Inteligencia Artificial Generativa (IAGen)



Problemática: IAGen plantea desafíos sobre cómo regular uso autoría, propiedad, disponibilidad de productos usados y generados por IAGen?



Hipótesis: IAGen es acción informativa que requiere marcos regulatorios



Objetivo: identificar derechos de autor y licencias abiertas en América Latina para legislar IAGen

1. Revisión de Literatura

IAGen (*LLM, DL and ML models*) tiene **vasta literatura**

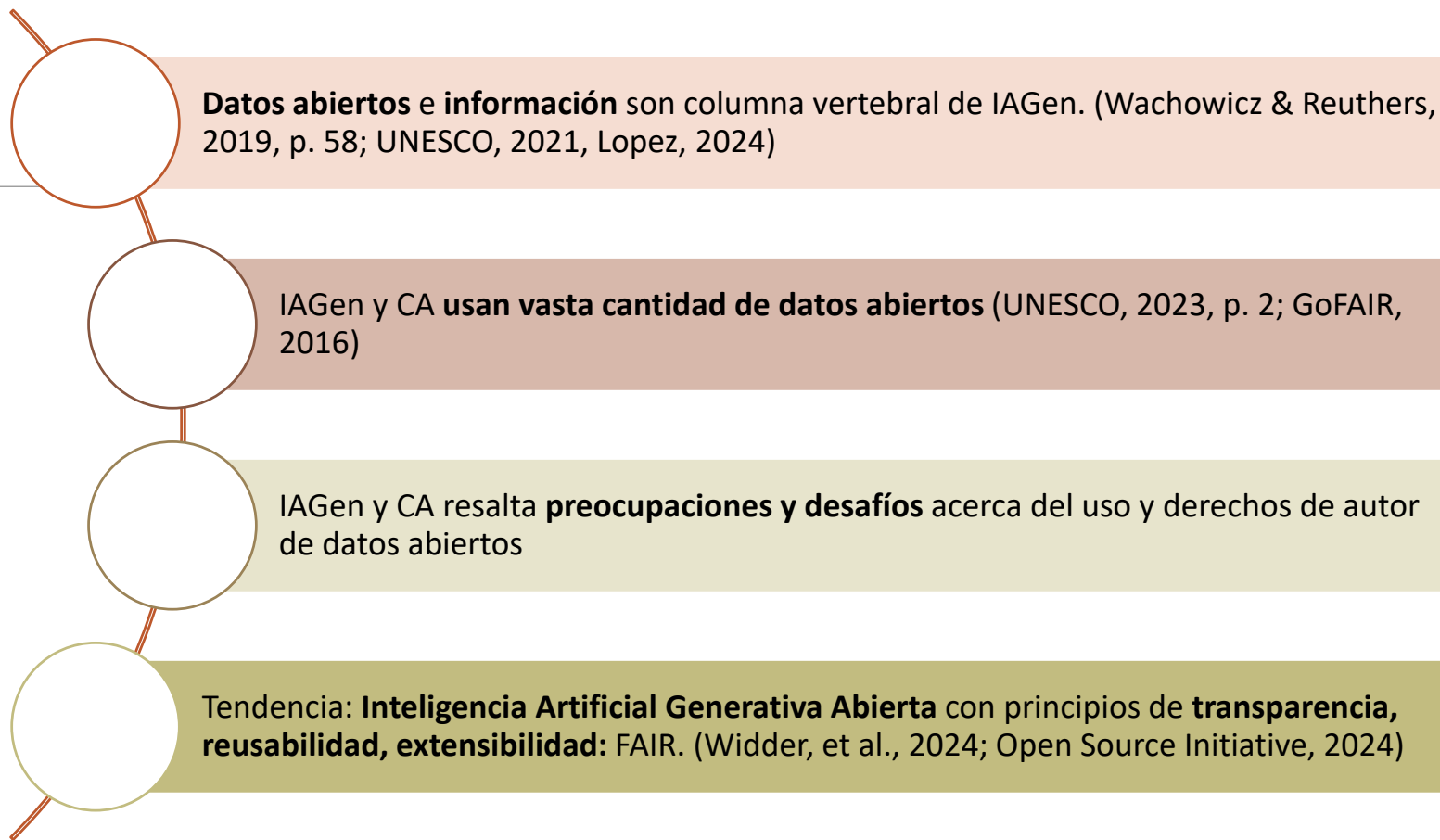
- Historia de IAGen de mediados del siglo XX a la fecha. (Butler, 1985, p. 4; OMPI, 2019, p. 19; U.S., 2023; OECD, 2023; U.S., 2025, p. 5; IFLA, 2025).

Conceptos de IA GenAI tienen varios **objetivos y enfoques**

Conceptos de IAGen muestran **evolución, maduración** de factores

Investigación centrada en:
Analizar **IAGen y Ciencia Abierta (CA)**

1. IAGen y Ciencia Abierta (CA)



1. IAGen y Enfoques Globales



International
Federation of
Library
Associations and Institutions



World Intellectual Property Organization (WIPO)

- Si **IAGen** *podría* ser autor o creador
- IAGen cambiará términos «autor» e «inventor»; y «acceso abierto» **facilita** dicha tecnología. (Gurry, 2018)

Declaraciones y herramientas sobre IAGen y derechos de autor

IFLA-Draft WIPO Cuestiones centradas en derechos de autor y IAGen

IFLA:

IAGen **gestionada** por humanos



Cumbre CC 2023 planteó **siete principios** sobre derechos de autor y IAGen:

- **Creadores** y titulares **deciden** que **obras** pueden ser **utilizadas** por IAGen
- Uso de obras con **derechos de autor** para **entrenar** IAGen con **licencias no comerciales** y **Fair Use**
- **Productos** de IAGen con **licencias de dominio público**

CC ha colaborado con WIPO, UE y USA.

IFLA-Intelligence Artificial Special Interest Group

- Declaraciones:
 - Rol de Bibliotecas para IAGen (IFLA, 2020)
 - Beneficios y riesgos de IAGen. (IFLA, 2025, p. 3)

1. IAGen y Enfoques Regionales

Europeo

- Dejar a interpretación de organizaciones conceptos de autoría, propiedad y creación de obras producidas por IAGen. (Ballardini, He and Roos, 2018, p.5; Berne Convention; WIPO Copyright Treaty and Agreement on Trade Related Aspects of Intellectual Property Right)
- “**The Artificial Intelligence Act**”(AIA) (2025):
 - Cuatro niveles de riesgo de IAGen: inaceptable, **alto (salud, seguridad y derechos)**, limitado y mínimo.(Worsdorfer, 2023)



- *Norte América*
- Si **IAGen puede ser autor** (Butler, 1984, p. 708; the U.S. Copyright Office, 2025).
- The **Copyright Act** especifica que **autoridad de IAGen será de dominio público**. (U.S., 1976 ; U.S. Copyright Office, 2023; 2025)
- Implementación de **Fair Use** sin fines de lucro **y para entrenar IAGen**. (Koroye, 2020, p. 8; Zirpoli, 2023, p. 1; U.S., 2023b; U.S. 2025, p. 3 ; Library Copyright Alliance, ALA, ACRL, 2023, p. 2)

- *América Latina*

- Tendencia: uso **ético** de **IAGen**. “El mundo necesita estándares éticos más estrictos para la inteligencia artificial” (Azoulay, 2023, *cf.* Silva, 2023)

Dos referencias principales :

1. **Índice Latinoamericano de Inteligencia Artificial**. (ILIA) por la Comisión Económica para América Latina y el Caribe (CEPAL). (CEPAL, 2023).
2. Primera **norma intergubernamental sobre IAGen**. (Organización para la Cooperación y el Desarrollo Económicos, OCDE)

Análisis regulatorio de IAGen en marcha



2. Metodología

Revisión de **literatura**, métodos **cuantitativos** y **cualitativos**

Problemática: Cómo regular uso, derechos de autor, propiedad y disponibilidad de productos usados y producidos por IAGen

Hipótesis: IAGen es una acción informativa que requiere marcos regulatorios

Objetivo: identificar derechos de autor, licencias abiertas desarrolladas en América Latina para regular IAGen

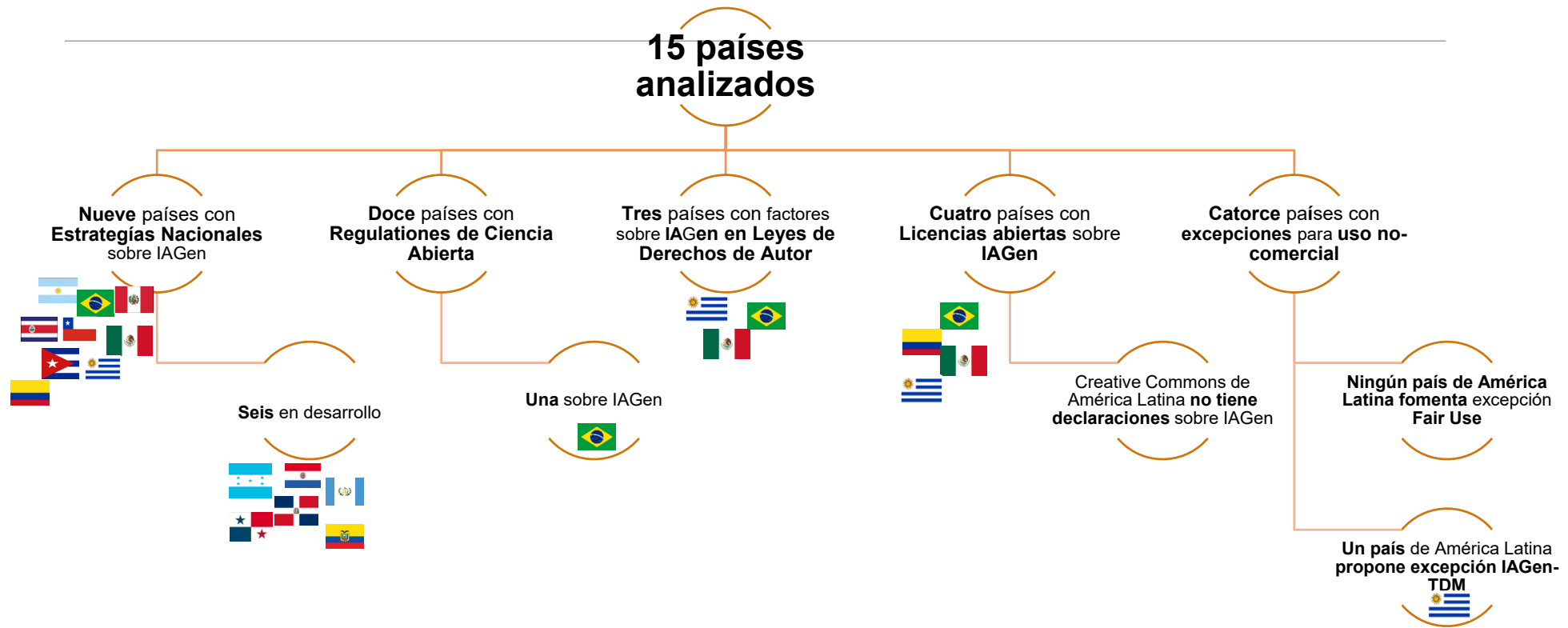


3. Hallazgos

País	 Argentina	 Brazil	 Chile	 Colombia	 Costa Rica	 Cuba	 Ecuador	 Guatemala	 Honduras	 Mexico	 Panama	 Paraguay	 Peru	 República Dominicana	 Uruguay
Estrategias nacionales	x	x	x	x	x	x	d	d	d	x	d	d	x	d	x
Regulaciones de Ciencias Abierta	i	x	i	i		i		i	i	i	i		i	i	i
Leyes de Derechos de Autor	i	x	i	i	i	i	i	i	i	x	i	i	i	i	x
Licencias Abiertas		x		x						x					x
Limitaciones y Excepciones															x

- **Indicaciones:**
- Países que cumplen con categoría están señalados con letra "x".
- Letra "d" indica países cuya categoría de estudio está en desarrollo.
- Países sin marcar son aquellos que no presentan elementos de categoría.
- Letra "i" indica interpretación del autor, basada en análisis de contenido.

3. Hallazgos



3. Hallazgos



Brazil

National Strategies: Brazil has AI Strategy (2021) for guiding the actions of the Brazilian State in favor of the development of actions, in its various aspects, that stimulate research, innovation, and development of solutions in Artificial Intelligence, as well as its conscious, ethical, and in favor of a better future use. (OECD AI, 2022) Likewise, Brazil's strategy reaffirms commitment to the OECD Principles on AI (OECD, 2022) To date, Brazil has a proposal for AI regulation that the Senate of this country is examining, and it is the "Law No. 2338/2023 **Disposi sobre o uso da Inteligência Artificial**" (Pacheco, 2023) which seeks to establish principles, rules, and guidelines to regulate the development and application of AI in the country. Particularly, this proposed legislation includes meaningful aspects on the regulation of copyright and AI.

Open Science regulations: The proposal of "Law No. 2338/2023" it is framed in the context of the openness of science (Pacheco, 2023, p. 16) since it is in favor of the treatment and management of open data for the training of AI. Also, in 2022 the National Council for Scientific and Technological Development (CNPq) and University of Sao Paulo signed an agreement that formalizes the sharing of research data between these different organizations, such as the National Consortium for Open Science, and with other open data platforms like **Latin Chile**. (2022) The Instituto Brasileiro de **Informação em Ciência e Tecnologia** (IBICT) published the "Manifesto of open access to Brazilian research data for citizen science" (Instituto Brasileiro de **Informação em Ciência e Tecnologia**, 2016) in which he states that research data are essential resources for open science (Elabey y Rovelli, 2020). Therefore, it is delimited that both the bill and the regulations on open science are linked to address aspects of AI legislation.

Copyright Laws: The proposal "Law No. 2338/2023" Section III states "Measures to promote innovation", and articles 42 and 42 establish the elements of copyright related to AI. (Pacheco, 2023, pp. 26-27) Likewise, Section IV Public AI Databases indicates the authorities responsible for creating and maintaining AI bases. (Pacheco, 2023, p. 28) Also, the "Law No. 9.610 of February 19, 1998 (Law on Copyright and Neighboring Rights, as amended up to Provisional Measure No. 907 of November 26, 2019)" it is responsible for regulating moral and patrimonial copyrights in Brazil. (WIPO, Lex, 2022); and the "Law No. 9.609 of February 19, 1998 (Patent Law), (WIPO, Lex, 2022) refers to the ownership of rights of the owner of a computer program (2021)

Licenses: The Creative Commons Brazil chapter (2023) notes that AI training should be associated with Fair Use, "since... fair use should allow the use of copyrighted works as training data for model AI" (Wolffson, 2023).

Exceptions and limitations: In chapter IV, articles 30, 48, 47 and 48 of the "Law No. 9.610 of February 19, 1998" the main limitations to copyright are pointed out, regarding reproduction, citation, paraphrase, etc. In this sense, Brazil's Creative Commons chapter promotes the Fair Use exception for AI training (2023)



Ecuador

National Strategies: Ecuador develops an Artificial Intelligence Strategy (Albomaz, 2020; República del Ecuador, 2021, p. 3)

Open Science regulations: In the Development of the National AI Strategy of Ecuador, it is contemplated to deepen Universal Access to Information and Communication Technologies (República del Ecuador, 2021, p. 26). However, Ecuador does not have a regulation on open science, and therefore without laws to AI.

Copyright Laws: The "Código Orgánico de la Economía Social de las Concomunicaciones: **Creatividad e Innovación**" (Código **Orgánico**) (2016), it is the regulation that legislate copyright in Ecuador, and articles 107, 123, 125, 134, 137, 156 refer to the aspects of communication, transmission, use of protected works, among other topics (Díaz, 2021, pp. 68-73). However, no factors are pointed out about legislating AI issues.

Licenses: Article 4 of "Código **Orgánico** de la Economía Social de las Concomunicaciones: **Creatividad e Innovación**" (Código **Orgánico**) (2016), points out that "Knowledge constitutes a good of public interest, its access will be free and will not have more restrictions than those established in this Code, the Constitution, international treaties and the Law and, its distribution will be carried out in a fair, equitable and democratic manner." Furthermore, articles 116, 120 and 126 of the same code are consistent with Creative Commons licenses, since they contribute to the democratization of information (Bustamante, 2019, p. 9, 12). However, the aforementioned code and the Creative Commons chapter of Ecuador do not refer to information about legislating AI licenses.

Exceptions and limitations: The second paragraph of "Código Orgánico de la Economía Social de las Concomunicaciones. **Creatividad e Innovación**" (Código **Orgánico**) (2016), they refer to exceptions and limitations, such as Fair Use for public, judicial, educational, scientific, cultural purposes, among others (Díaz, 2021, p. 68). Despite these prerogatives, no exceptions and/or limitations on AI are specified.



Chile

National Strategies: Chile has AI National Policy with an aim to promote the development and application of AI tools, to develop AI-enabling factors such as human capital, technological infrastructure, and data availability, to foster the development of AI-based businesses research, development, innovation, and entrepreneurship based on AI systems, and to discuss and reach consensus about ethics, standards, cybersecurity and regulation. Chilean policy covers three pillars: (1) enabling factors, (2) development and adoption of AI (3) ethics, regulatory aspects and socio-economic impacts. (OECD AI, 2022). Furthermore, another relevant strategy is the Santiago Declaration (2023), which seeks to establish an intergovernmental AI Council in Latin America and the Caribbean, with the objective of transforming and regulating the implementation of said technology in the region in accordance with the features of the cultures of said region in accordance with the UNESCO AI Ethics Recommendation.

Open Science regulations: The national AI policy in its objective 3.4.1 about an "updated intellectual property system", and the subtitle "Promote the development and adoption of AI while safeguarding the rights of creators and innovators", refers to being in favor of openness and interoperability of databases and software linked to AI in balance with the rights and obligations of creators and innovators to benefit society with derived products. (MinCiencia, 2019, pp. 60-61) Likewise, Chile published the "Policy Proposal for open access to scientific information and research data financed with public funds from ANEP", (Agencia Nacional de Investigación y Desarrollo, 2020) which seeks to strengthen the open access green route, and this policy is a proposal framework for AI, based on data sharing and accessibility. (UNESCO, Chile AI, 2023, pp. 17-18) For its part, the Santiago Declaration recognizes the relevance of universal access to information and technologies for the employment of human rights and achieving the Sustainable Development Goals. (2023, p. 2) From the analysis of this regulation, it is interpreted that there is an intrinsic relationship with AI factors from the massive processing of data to train said technology.

Copyright Laws: The "Law 17336 **Procedimiento Intelectual**" (2019) legislates the rights and obligations of the country's intellectual, artistic and heritage creations and innovations, and among which includes computer programs, "whatever the mode or form of expression", as well as "compilations of data or other materials, in machine-readable form or in another form" (Law 17336, 2019, p. 2) In parallel, the Santiago Declaration highlights the relevance of developing and applying public policies, legal norms, national plans and strategies for the ethical use of tools and data for AI training (2023, pp. 2-4).

Licenses: Objective 3.4.1 about an updated intellectual property system of the national AI policy contemplates the use of open licenses aligned with the country's internal regulations and in accordance with the global legal and commercial flow. (MinCiencia, 2019, p. 60) The Creative Commons Chile chapter does not refer to information for the treatment of AI.

Exceptions and limitations: Chile through "Law 17336", article 18, regarding the uses authorized by the authors, refers to the use of Fair Use for the distribution of works, which contributes to title III, article 71 paragraphs from the D.F., which are refer to the implementation of limitations and exceptions to copyright and related rights. (Díaz, 2021, p. 68-69) Despite these prerogatives, no exceptions and/or limitations on AI are specified.

Guatemala

National Strategies: Guatemala has a bill to legislate AI, which is being evaluated by the Senate of this country. (Gobierno de la República de Guatemala, 2023). In addition, Guatemala was adhered to the Santiago Declaration (2023) to work on issues linked to AI, and does this objective, Guatemala is committed to incorporating AI in various areas of public administration, to digitize public services and guarantee the use ethical and responsible for the information collected by the country's institutions.

Open Science regulations: Guatemala formulated a National Open Data Policy with the purpose of putting it into practice in all Agencies of the Executive Branch, to expand and improve access to public information. (República de Guatemala, 2018). From the analysis of this regulation, it might be interpreted that there is an intrinsic relationship with AI factors from the massive processing of data to train said technology.

Copyright Laws: The "Ley de Derechos de Autor y Derechos **Conexos**" of Guatemala legislates the moral and patrimonial rights of the authors, artists and performers of said country, and points in its article 4 to the "Computer program. The work constituted by a set of instructions expressed through words, codes, plans or in any other form, that when incorporated into a machine-readable medium, is capable of causing a computer to execute a certain task or obtain a certain result" (Congreso de la República de Guatemala, 2006, p. 3). Likewise, the second section, articles 38 to 35 on computer programs and databases, protects such products under the same terms as literary works, and although specificity factors are not referred to to legislate AI, such regulations might be interpreted as references for legislate said technology.

Licenses: The use of licenses for open data is indicated in the Public Policy of Guatemala (República de Guatemala, 2018, pp. 67-69). However, no application is referred to AI. However, no information is referred about AI.

Exceptions and limitations: The "Ley de Derechos de Autor y Derechos **Conexos**" title IV, articles 63 to 71 outline a set of limitations, and states that protected works for educational, non-profit, and judicial uses may be communicated without the need for authorization, uses and reproductions by libraries; (Congreso de la República de Guatemala, 2006, pp. 15-16) However, it does not refer to specifically about AI.

Mexico

National Strategies: Mexico is considered to have developed the first initiative through **Exposición 14-MX 2018. T** (2018), which aims to develop "three main axes as an AI subcommittee to promote dialogue and multisectoral approaches; identify priorities; AI policy governance (OECD AI, 2022) AI date, the Mexican Senate analyzes and debates the regulation of artificial intelligence in terms of intellectual property and copyright, since one of the challenges is to protect the creators of goods or services in the face of the advance of this technology. (Soto, 2023)

Open Science regulations: In 2019, an update of the Political Constitution of Mexico in its article 3 **Exposición 14-MX 2018. T** (2018), which aims to develop "three main axes as an AI subcommittee to promote dialogue and multisectoral approaches; identify priorities; AI policy governance (OECD AI, 2022) AI date, the Mexican Senate analyzes and debates the regulation of artificial intelligence in terms of intellectual property and copyright, since one of the challenges is to protect the creators of goods or services in the face of the advance of this technology. (Soto, 2023)

Copyright Laws: The "Ley Federal de Derechos de Autor" of México (2020), it is the instrument that regulates the rights and obligations of authors who produce various types of literary and/or artistic manifestations. The law in its chapter IV, "Computer programs and databases" articles 101 to 114 defines the protection of such expressions. (2020, pp. 18-20) However, factors linked to legislating AI are not specified, so such regulations can be interpreted as bases to regulate the copyright of said technology.

Licenses: The "Ley Federal de Derechos de Autor" of México (2020), in its article 152, (pp.32-33), it addresses the use of works in the public domain, which might be interpreted as binding on the use of open licenses. The Creative Commons Mexico chapter participated in the definition of considerations and seven principles to address the issue of granting copyright to AI. (Creative Commons, 2023)

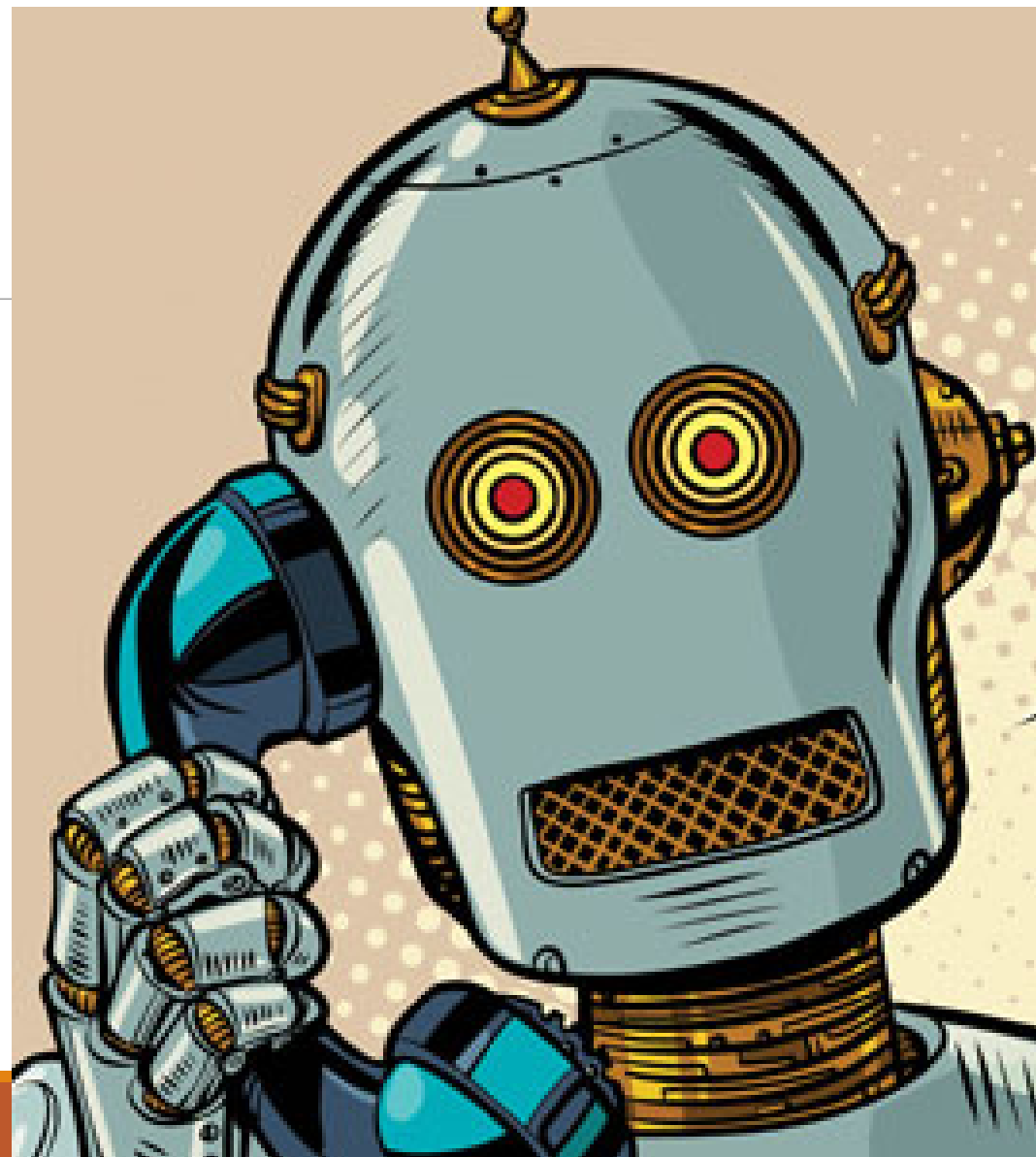
Exceptions and limitations: The "Ley Federal de Derechos de Autor" of México (2020), articles 147 to 151 define a set of limitations on the use of protected expressions, such as whether they are used without profit, for reproduction for educational, scientific and literary purposes (pp. 31-40). However, these prerogatives do not specify exceptions and/or limitations on AI.



3. Hallazgos

Estilos bibliográficos e IAGen

- Cómo los estilos bibliográficos organizan y normalizan los productos usados y/o producidos por IAGen?
- Punto de acceso de autor de IAGen
- Garantizar que obras sean citadas y libres de acciones poco favorables



3. Hallazgos



• APA

- Cuatro atributos para registrar IAGen:
 - Autor y/o creador
 - Fecha de recuperación de modelo y versión de IA
 - Título del contenido
 - URL del modelo utilizado

• Autor: OpenAI
• Fecha: Año de la versión utilizada entre paréntesis
• Título: ChatGPT, en cursiva, con el número de versión entre paréntesis
• Además, es importante incluir una descripción como "Modelo de lenguaje de gran tamaño" entre corchetes para proporcionar una comprensión clara al lector.
• Fuente: URL directa al modelo. La URL de ChatGPT es <https://chat.openai.com/chat>

Image 1. Elements to cite and reference ChatGPT (Marquina, 2023)

Citation:

OpenAI. (2021, July 15). GPT-3: Language models are few-shot learners. "What is academic writing?" Retrieved from <https://openai.com/chat/>

Image 2. ChatGPT APA reference. (Ingram, 2024)

Nombre del autor (año, mes día). Título de la publicación o descripción [Mensaje de chat]. Recuperado de [URL]

OpenAI. (2023). *ChatGPT* (Mar 14 version) [Large language model]. <https://chat.openai.com/chat>

Image 3. ChatGPT APA reference. (McAdoo, 2023)

Chicago

Cinco atributos para registrar IA:

- Autor o institución responsable
- Título de la página
- Fecha de publicación o última actualización
- Fecha de acceso
- Fecha de acceso al contenido

Citation:

For a citation of an article text generated by ChatGPT:

Text generated by ChatGPT, March 23, 2023, OpenAI, <https://chat.openai.com/chat>. ChatGPT

For a citation of a chat conversation with ChatGPT:

ChatGPT. "Conversation with a Language Model." Conversation with the author, 2 May 2023.

For a citation that includes a prompt with ChatGPT:

While you are using the prompt for content, "Text generated by ChatGPT," the date you prompted it, "OpenAI," and the URL

ChatGPT, response to "Why academic writing is important," May 02, 2023, <https://chat.openai.com/chat>.

Image 4. ChatGPT citations and references with Chicago style. (Ingram, 2024)

• Harvard

- Cuatro atributos para registrar IA:
 - Nombre del autor
 - Año de publicación
 - Título del artículo
 - Fecha de acceso al contenido

Example:

If you are adding several citations in your Harvard-style paper, it will look like this:

Citation:

If the article has no author, you will cite the organization for that AI tool or software that write the article for you, i.e. "OpenAI," for if you generate a blog/article with chatGPT:

(OpenAI, 2023)

In-text citation: (ChatGPT, 2023)

This citation format is used when citing a specific point or piece of information within the text of your paper. In this example, "ChatGPT" is the author or organization responsible for the chatbot, and "2023" is the year the conversation occurred.

While adding a reference citation:

ChatGPT. (2023) "How to Cite ChatGPT in Different Writing Styles." Chat conversation

Image 5. Harvard-style ChatGPT citations and references. (Ingram, 2024)

4. Discusión y Recomendaciones

1. Estrategias Nacionales

- América Latina **centrada en uso ético** de IAGen. (OECD, 2022)
- **Estrategias** de América Latina no contemplan **regulaciones** de IAGen

Recomendaciones:

- **Tipologías**
- **Harmonizar**
- **Establecer** (OECD, 2022)

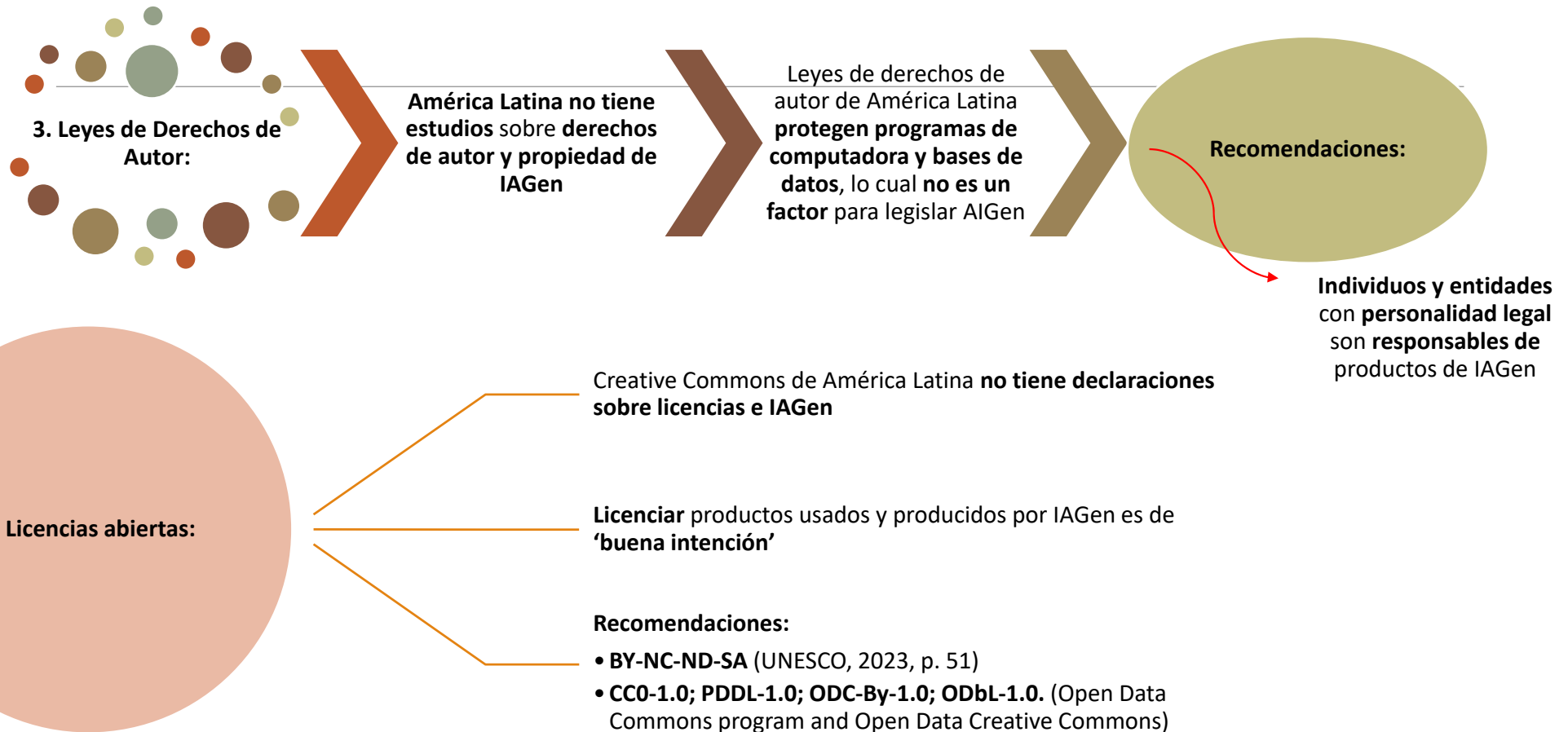
2. Regulaciones de Ciencia Abierta

- IAGen y CA **ligadas por uso de datos abiertos**. (UNESCO, Outlook, 2023, pp. 19-20)

Recomendaciones:

- Integrar **consentimiento o no** del uso de datos abiertos
- IAGen **registre** referencias, y citas

4. Discusión y Recomendaciones



4. Discusión y Recomendaciones

5. Excepciones y limitaciones

Leyes de Derechos de autor de América Latina **no fomentan usos sin permiso** del autor

Algunos casos **autorizan usos no comerciales**

Recomendaciones:

Excepciones para crear productos con **TDM** (Bertón, 2021, p. 1149)

Integrar en Leyes de Derechos de Autor-Productos tecnológicos

Conclusiones



Países de América Latina en consenso de que IAGen no es autor o creador



Realizar tipologías de productos usados y producidos por IAGen



IAGen herramienta informativa para compartir contenidos referenciando y/o citando fuentes.



IAGen y CA cristalizan derecho humano universal de compartir beneficios



Contenido producido por IAGen debe estar armonizado con regulaciones y políticas



Leyes de derechos de autor de América Latina deben estar actualizadas sobre IAGen



Licencias de dominio público abiertas son aquellas que IAGen debería utilizar



Incentivar autores para que consientan uso de sus productos para entrenamiento de IAGen



Desarrollo de condiciones para minería de textos y datos



Bibliotecas capaces de normalizar productos usados y producidos por AI Gen



< Gracias por su atención />
< Preguntas y respuestas/>



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ORCID

