



# **Cross- border Exchange of Accessible Format Copies and the role of authorized entities**

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# Endless Choice for Sighted Persons

Select off the shelf

Browse it

Make a copy under Fair Dealing

Buy it

Highlight

Underline

Earmark

Tear



Give a gift

Share

Loan

Sell

Donate

Pulp

Recycle



# Blind Person's Reading Experience

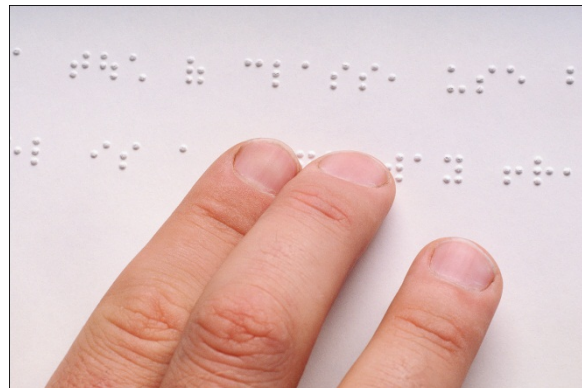


**Darkness**

**None, or very few books available**



**Fair Dealing rights  
compromised**



**None, or very little  
sharing of  
information**



**Only 5% of published works in accessible formats for the blinds**

**Book famine!**

**What about the other 95%?**



# The territorial nature of IP legislation

- Access to all kinds of information as everyone else
- No exchange possible with other institutions abroad
- No access to books in other languages
- No donation of books to institutions that cannot produce their own.
- Books in accessible formats are highly expensive and specialized.
  - *Production of a book in Braille – 1,500 USD.*
- 5% of books are made accessible (1-2% in developing countries) – the “book famine”
- **World Blind Union** – international binding legislation (WIPO)



**How many Braille and audio masters of the Quran have been produced in the various countries that constitute the Arab region?**

# Copyright & Persons with Sensory Disabilities

**Research conducted in 2012, shows out of 125 countries surveyed:**

- **Only 70 have some limitations & exceptions for blind or disabled persons.**
- **Only 4 of the African countries surveyed have some copyright provisions for persons with sensory disabilities, i.e. Cameroon, Nigeria, Rwanda and Uganda.**
- **Of the remaining 55 countries, none of them have any specific limitations & exceptions for persons with sensory disabilities.**
- **There are no standard copyright limitations & exceptions addressing persons with sensory disabilities.**
- **Fair use/fair dealing is compromised.**
- **Cross-border sharing not permitted.**



# The Road to Marrakesh

- **2008** - WBU's proposal to WIPO for Treaty for Improved Access for Blind, Visually Impaired & Other Reading Disabled Persons ('TVI').
- **May 2009** – Brazil, Ecuador & Paraguay introduce TVI at WIPO SCCR meeting in Geneva.
- **June 2013** - Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled adopted.
  - 1<sup>st</sup> WIPO treaty that reaffirms exceptions & limitations in the copyright regime, but also as a means to end the book famine.
  - 1<sup>st</sup> WIPO treaty that focuses on user rights, and in particular on the human right 'to participate in the cultural life of the community.
  - “A victory for the blind, visually impaired & print disabled, but also for the multilateral system” (WIPO's Director-General Francis Gurry).





## Marrakesh Treaty – 27 June 2013

- **The only IP-related legislation DRAFTED by consumers, AIMED at consumers, DRIVEN by consumers.**
- **Exceptions in IP treaties are the “exception”, not the rule.**
- **Made “Exceptions and Limitations” part of SCCR’s agenda in 2009, and it’s still there...**
- **India, El Salvador, and the United Arab Emirates** ratified in 2014!
- **17 more ratifications needed – 81 contracting parties.**
- **WBU “Ratification Campaign” – to have the treaty in place by the end of 2015.**



# The Arab region

- **300 million speakers**
- **60 million print-disabled persons (aprox.)**
- **19 countries ratified the UN CRPD and 4 more signed it**
- **11 countries signed the Marrakesh Treaty**

The Marrakesh Treaty is the perfect instrument to comply with

(1) the right of persons with disabilities to be provided with information in an accessible format,  
and

(1) the State Party's commitment and obligation to enforce and implement that right.



# Implications of 'Marrakesh Treaty'

- Provides exceptions & limitations in national laws to allow for the unauthorised creation of accessible formats.
- Provides for free flow of accessible copies for use by persons with visual disabilities locally, regionally and/or internationally.
- Technological protection measures must not block/ hinder flexibilities granted to Treaty beneficiaries.
- Important: The national law must have exceptions for the benefit of print disabled people, the law must allow blind peoples, libraries and other organizations to make accessible format copies and to distribute the accessible copies

# Sharing accessible books in Arabic: How can the Marrakesh Treaty help?

- **Conversion of textbooks – better study options/results**
- **Audio-books can be made by authorized entities.**
- **Blind & low vision persons or somebody on their behalf - like a family member or a librarian - will now be able to convert material**
- **Will empower them to participate fully in mainstream community life**

# Practical Benefits for cross-border exchange

- Will allow authorized entities (libraries et. al.) in one country to send similar language material to another country. Cross-border shipment of accessible formats now legal
- Will enable blind persons, refugees & other communities to read in their own cultural languages & access more reading material through cross-border sharing
- Important: the national law must explicitly permit the sending and receiving of accessible format copies between countries

# 'Marrakesh Treaty' – More benefits, but do not fall into restriction again

- .
- **Allows DRM digital locks to be opened/decoded, without permission from rights-holders.**
- **Allows a work to be printed in Braille without permission**
- **Important! We do not recommend to add Article 4 (4), which makes it complicated for libraries to provide immediate support to a VIP or to add Article 4(5) for any kind of remuneration. Both will hinder the positive results of the Marrakesh Treaty for the VIPs of the Arab countries**

# Beneficiary Persons and Authorized Entities

- «**Beneficiary persons**» are any person that can't read standard print, not only VIPs (dyslexia), or physically not able to hold a book.
- Include an **exception in national law** to produce and distribute accessible format copies.
- «**Authorized entities**» can be any institution that provides services to VIPs on a non-profit basis.
- Both authorized entities and individuals can **import** from other Contracting Party.
- Authorized entities can **export** to other entities and individuals in other Contracting Party.
- **Technical Protection Measures** (TPMs) cannot prevent from enjoying the limitations/exceptions.



# The Authorized Entities

- Any type of library and not-for-profit institution can be an «**authorized entity**».
- Specialized libraries (*libraries for the blind*) are libraries and production centres.
- Technologies and international legislation allow other libraries to **join the club**. Other libraries want to help – **now they can!**
- Important: the national law must permit authorized entities *and* beneficiary persons to import and export accessible format copies, so that the exchange of the produced material can go from an authorized entity directly to the beneficiary person.
- How can we exchange the produced material for the blind in the Arab countries and how beneficiary persons elsewhere can access these in Arabic language?



# Co-Operation for Cross Border Exchange

- **Push for ratification** in your country.
- **Serve VIPs and increase the impact on your area of influence.**
- **Art. 9 is about co-operation for cross border exchange**
- **Search and discovery networks**
- **Add your accessible materials to these networks**
- **Import and export** accessible format copies in various languages.



# Conclusion

- **The way treaties are implemented at the national level is as important as how they are negotiated at the international level.**
- **Member States will need to ratify & implement the Marrakesh Treaty at the national level and need to be careful in drafting the text to make full use of the treaty for the benefit of their VIPs**
- **The Treaty offers infinite possibilities for persons with visual disabilities who have so far been denied access to 95% of the world's published material!**



# 'Miracle of Marrakesh'

- **Celebrate the 'miracle at Marrakesh'**
- **Ensure it positively changes lives - particularly in the developing world.**
- **Will empower blind/visually impaired persons.**
- **Member states must be encouraged to ratify it.**
- **Underscores urgent need for UN tracking system for all international treaties affecting disabled persons**

# Thanks to the IFLA Network!

This presentation is based on presentations by

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Denise's full paper with references is available at:  
<http://library.ifla.org/239/>

Francisco's full paper with references is available at  
<http://www.techshareme.org/files/2014/10/Francisco-Calvo-Marrakech-Treaty.pdf>

And a very useful paper for preparing the national legislation  
[http://www.eifl.net/system/files/resources/201501/eifl-guide-marrakesh\\_en.pdf](http://www.eifl.net/system/files/resources/201501/eifl-guide-marrakesh_en.pdf)



The Marrakesh Treaty is not only a **treaty by and for persons with print disabilities** – it is also a treaty for libraries, for societies, to help them become **more inclusive and fair.**

It is the first international legal instrument, sanctioned by a UN agency, that can help the UN Convention on the Rights of Persons with Disabilities to carry out part of its purpose, to promote **respect for the inherent dignity of persons with a print disability.**

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**Questions?**

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