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VISION BEYOND WORDS: BRIDGING ACCESS TO COPYRIGHTED CONTENT FOR THE VISUALLY IMPAIRED COMMUNITY

AUTHORED BY - G. S. SELMA

INTRODUCTION:

“Education is not a privilege, it is a right!”

- William Jefferson Clinton, Former President of USA

Education is a significant step towards achieving all other basic human rights. Education may help alleviate poverty and social disparities, empower women and other marginalized groups, minimize discrimination, and ultimately enable individuals to live their lives to the fullest. In education, accessibility may be thought of as a two-way mirror. On the one hand, it's important to improve students' access to course materials. But, for learners' potential to be completely fulfilled, instructors must have access to their entire capabilities. In order for everyone to have access to education, they must be able to do so regardless of their socioeconomic standing, race, gender, sexual orientation, ethnicity, or physical or mental disability. Access rights are both rights to liberty and rights to welfare. In other words, a person's information rights impose obligations on governments to allow access to information.¹

INTERNATIONAL INSTRUMENTS ON RIGHT TO EDUCATION

- **TRIPS Agreement**

According to Article 13 (**Limitations and Exceptions**), Members must limit any restrictions or exceptions to exclusive rights to situations in which:

- they do not interfere with the regular utilization of the work; and
- they do not unnecessarily prejudice the legitimate interests of the right holder.

¹ Tania Sebastian, 'Copyright World' and Access to Information, Journal of Intellectual Property Rights Vol 17, May, 2012

This article applies to all exceptions to the rights of a copyright owner. The wording of Article 13 has roots in Article 9(2) of the Berne Convention, which allows exceptions to the exclusive right of reproduction given by copyright law. Taking into account these exceptions allowed under the Berne Convention, national copyright laws have permitted wide-scale exceptions such as use for private, non-profit, or educational purposes.

- **Article 10 of the WIPO Copyright Treaty: (Limitations and Exceptions)**

Contracting Parties may, in their national legislation, impose limitations or make exceptions to the rights granted to authors of literary and artistic works under this Treaty in certain exceptional situations that do not conflict with exploitation of the work and do not unreasonably interfere with the author's legitimate interests.

While implementing the Berne Convention, contracting parties must limit any restrictions or exceptions to rights to specific, unique situations that do not interfere with the regular exploitation of the work and do not unreasonably prejudice the author's legitimate interests.

- **Universal Declaration of Human Rights :**

Article 26 -

The right to education belongs to everyone. At the very least, the fundamental and early phases of education must be free. It is required to complete elementary school. On the basis of merit, everyone should have equal access to higher education, and technical and professional training should be freely available.²

- **International Covenant on Economic, Social and Cultural Rights Article 13 -**

This Article is the Covenant's longest piece and provides substantial restrictions on several education-related subjects. The article defines some criteria for basic, secondary, advanced, and higher education (Article 13(2)). In addition, it outlines general principles that apply to all educational levels and outlines the purposes that education should fulfill.³

² Gordon Brown, The Universal Declaration Of Human Rights In The 21st Century

³ Ben Saul & David Kinley, The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials,[OSAIL],2013

STATUTORY PROVISIONS IN INDIA:

1. The Constitution of India

- All children between the ages of six and fourteen are required to receive a free, obligatory education, according to Article 21A.
- The right to work, education, and, in some cases, public assistance is provided under Article 41.
- Children have a right to free and compulsory education, according to Article 45.

2. The Rights of Persons with Disabilities Act, 2016

- Section 4 states that the appropriate government and local authorities must take action to guarantee that women and children with disabilities are able to exercise their rights in a manner that is equal to that of other persons.
- Section 16 states that Educational institutions must offer children with disabilities with inclusive education.
- Section 17 empowers to take Particular steps to encourage and support inclusive education
- Section 31 states that children with benchmark disabilities are eligible for free education

HISTORY OF MARRAKESH TREATY:

The Treaty aims to help those who lack access to traditional print materials end their "book famine." The World Blind Union estimates that 90% of copyrighted works were not produced in accessible versions prior to the commencement of this treaty. This percentage falls to about 1% of published content in poorer nations.

Before the signing of this treaty, one-third of the nations offered a copyright exemption that permitted the sharing of works with individuals with disabilities without the owner's consent.

Even though these copyright exceptions were provided, individual nations refused to exchange materials. For instance, if Spain has 100,000 accessible books and Argentina has 25,001, it is illegal to transfer the accessible books from Spain to Argentina.

The copyright exceptions that existed were not always uniform in nature. The Chafee Amendment, which is in effect in the US, among other things, permits the National Library Service for the

Blind and Print Disabled to function. But, prior to the treaty, previously published non-dramatic literary works were covered by this copyright exception. A treaty's objective is to establish a single set of guidelines to aid in the sharing of all kinds of works across international boundaries.⁴

- The WIPO Standing Committee on Copyright and Related Rights, under the direction of Judith Sullivan, undertook a research on copyright restrictions and exceptions for the visually impaired in 2006.
- The discussions focused on how to comply with the United Nations Convention on the Rights of People with Disabilities by providing access to works for people who are visually impaired, and print challenged. One of the difficulties experienced by persons who are blind, visually impaired, or otherwise print challenged, particularly in developing nations and least developed countries, is the lack of commercially available works in accessible format copies in marketplaces.⁵
- After that, during the WIPO's 18th Standing Committee on Copyright and Related Rights (SCCR) in 2009, Brazil, Ecuador, and Paraguay presented the WIPO with a proposal for the Treaty.
- The proposed treaty allowed the cross-border flow of accessible formats and established minimal requirements for copyright exceptions. As a result, the Forty-second WIPO General Assembly resolved to hold a diplomatic conference in June 2013 to discuss restrictions and exceptions for those who are visually impaired or having print disabilities
- The Marrakesh Treaty was approved by the Diplomatic Conference on June 27, 2013. It aims to make it easier for those who are blind, visually impaired, or otherwise print disabled to access published works.
- The Universal Declaration of Human Rights (UDHR) and the United Nations Convention on the Rights of People with Disabilities' fundamental human rights principles are upheld by the treaty (UNCRPD).⁶

⁴ Margot E. Kaminski & Dr. Shlomit Yanisky-Ravid, *The Marrakesh Treaty For Visually Impaired Persons: Why A Treaty Was Preferable To Soft Law*. Colorado Law scholarly commons, 2014

⁵ Caroline B. Ncube, *Beyond the Marrakesh VIP Treaty*, *The Journal of World Intellectual Property*, John Wiley & Sons Ltd, 2020

⁶ <https://www.lexology.com/library/detail.aspx?g=9a8ee4af-0ae4-4f64-8fca-ef06fc05e39d>

MARRAKESH TREATY:

On June 27, 2013 The Marrakesh Treaty was adopted in Marrakesh, and it forms part of the international copyright treaties administered by the World Intellectual Property Organisation (WIPO). Its principal objective is to provide a set of legal constraints and exceptions for the benefit of the blind, visually impaired, and other print-disabled people. It has an obvious humanitarian and social development component (VIPs). Its introduction was prompted by the increased awareness of the issue known as a "book famine," in which there are a dearth of books released in accessible formats for people who are blind or visually impaired.

The Marrakesh Treaty obliges the contracting parties to establish restrictions and exemptions to copyright legislation that would facilitate access to printed works in accessible forms like Braille and digital audio files for people with these types of print impairments. Moreover, it specifies guidelines for the cross-border exchange of copies in such accessible formats. On July 24, 2014, India became the first nation to sign the treaty. Particularly in the digital context, these carefully crafted restrictions and exclusions do not expressly make it easier for those who are blind, visually impaired, or otherwise print-disabled to access the works.

MAIN PROVISIONS OF THE TREATY:

Understanding the Marrakesh Treaty's scope and applications depends on knowing the definitions it provides. These definitions make it clear who will be entitled to the restrictions and exemptions set forth in the Treaty (referred to as "beneficiaries"), what can be made accessible (referred to as "works"), and the forms into which such works may be converted (referred to as "accessible formats").

- A "beneficiary" is someone who has one or more of a range of disabilities that make it difficult for them to read printed material well. This wide definition includes both those who are physically unable to grasp and manipulate a book, such as those who are visually challenged. (Article 3)
- Insofar as "works" refers to things that the "beneficiary" would not be able to read or access without an alternate or accessible format, the definitions of "works" and "accessible format copy" are closely linked to the idea of beneficiaries. The Contracting Parties have decided that audiobooks are included in the definition of "works" under the Treaty, which is confined to resources in the form of text, notation, and/or relevant

illustration.. [Article 2(a)]

- Any format that enables a person with a vision impairment or other print disability to have access to the material as practically and comfortably as a person without such a disability is included in the definition of "accessible format copy," which is rather broad and includes digital forms. [ARTICLE 2(b)]
- The Marrakesh Treaty acknowledges the crucial role that governments and nonprofit groups play in ensuring that people with print impairments have access to publications in alternative formats. In order to help the "beneficiaries," the Treaty permits these groups to carry out some actions that are otherwise illegal under copyright law.
- According to the Marrakesh Treaty, "authorised entities" must adhere to certain rule while using the work. For instance, they must make sure that only those people who are "beneficiaries" under the Treaty have access to copies in accessible formats. The Marrakesh Treaty does not specify any formalities or processes that must be followed in order for an organisation to be recognised as a "authorised entity". [Article 2(c)]

The essence of the Treaty is included in Articles 4, 5, and 6:

Article 4:

This Article provides for the mandatory Limitations & Exceptions that state parties should enact in their domestic legislation. Such provisions should be “a limitation or exception to the right of reproduction, the right of distribution, and the right of making available to the public as provided by the WIPO Copyright Treaty (WCT), to facilitate the availability of works in accessible format copies for beneficiary persons”.

In addition to this compulsory provision, national laws may include Limitations & Exceptions "to the right of public performance to facilitate access to works for beneficiary persons". And then it sets out the manner in which national legislation can implement the requirements of Article 4(1). Under this provision, authorized entities should be permitted to make an accessible format copy of a work, obtain copies of such works from another authorized entity, and distribute those copies to beneficiary persons and authorized entities in other countries provided that four conditions are met. These conditions are that,

- a) The legal availability of the work or a copy thereof shall serve as the foundation for all actions;
- b) the remediation of the work into an accessible format "should not introduce modifications

- other than those necessary to make the work accessible to the benefit person";
- c) resultant accessible format copies are for the exclusive use of beneficiary persons; and
 - d) the activity is undertaken on a nonprofit basis.⁷

Article 5: Cross-Border Exchange of Accessible Format Copies

If an accessible format copy is made under a limitation, or exception, or by operation of law, the Contracting Parties shall stipulate that an authorized entity may distribute or make that accessible format copy available to a beneficiary person or an authorized entity in another Contracting Party.

Article 6: Importation of Accessible Format Copies

To the extent that a Contracting Party's national law allows a beneficiary person to make an accessible format copy of a work, that Contracting Party's national law also allows them to import an accessible format copy for the benefit of beneficiary persons without the authorization of the rights holder.

Article 10: General Principles on Implementation

Contracting Parties agree to take the steps necessary to ensure the application of this Treaty and carry out their rights and obligations under it through specific limitations or exceptions for the benefit of beneficiary persons, additional limitations or exceptions, or a combination of them, within their national legal system and practice.

These may include judicial, administrative, or regulatory decisions for the benefit of beneficiary persons as to fair practices, dealings, or uses to satisfy their needs, in accordance with the rights and obligations of the Contracting Parties under the Berne Convention, other international treaties, and Article 11.⁸

Article 11: General Obligations on Limitations and Exceptions

This Article enunciates the requirements of the Three-step Tests, as set out in the Berne Convention, the TRIPS Agreement, and the WIPO Copyright Treaty.⁹

⁷ <https://tind.wipo.int/record/28932>) <https://www.wipo.int/wipolex/en/text/301016>

⁸ <https://www.wipo.int/wipolex/en/text/301016>

⁹ Lida Ayoub, The Marrakesh Treaty: Fixing International Copyright Law For The Benefit Of The Visually Impaired Persons, 2015, SSRN ELibrary

Three-Step Test:

A member country must comply with the three step test in line with its obligations under other copyright conventions, treaties and agreements. The three steps of the test include:

1. The exception or limitation must be a special case;
2. The exception or limitation does not conflict with the normal exploitation of the work; and;
3. The copyright holder's legitimate interests are not adversely affected by the exemption or limitation.

THE ACCESSIBLE BOOKS CONSORTIUM:

One initiative to operationally implement the Marrakesh Convention is the ABC. It is a public-private cooperation, and the WIPO is leading it. The mission of ABC is to expand the number of books available to those who are blind, have limited vision, or are otherwise print-disabled across the world in accessible forms such braille, audio, e-text, and large print. By allowing libraries that serve the print disabled to exchange materials in their collections, the ABC Global Book Service eliminates the requirement (and expense) of transferring their collections to accessible versions. As of now, the Consortium holds over six lakhs books in accessible formats in over 80 languages in 93 partnered libraries that are available without legal formalities to the beneficiaries and organizations that assist such people.¹⁰

BENEFITS OF ADHERENCE:

Increased access to books, periodicals, and other printed materials for the global community of people with print impairments is the Marrakesh Treaty's one common objective and advantage. In all the nations where it is implemented, particularly developing and least developed nations, where the majority of people with print impairments reside, it is predicted that the Treaty will have real positive benefits. Anticipated benefits include:

1. Improved awareness of the challenges faced by the print-disabled community and persons with disabilities:

The Marrakesh Treaty is a tool for promoting dialogue and increasing awareness about the demand

¹⁰ https://www.accessiblebooksconsortium.org/w/news/2018/news_0001

for laws that support people with disabilities. For instance, the adoption of the Marrakesh Treaty might open up employment opportunities for people with different sorts of impairments or inspire more UNCRPD implementation efforts in support of the larger group of people with disabilities.

2. Greater access to education:

There is no denying the vital function that education plays in society and the enormous influence it has on a person's life. People with print impairments must have access to educational resources in accessible forms in order to pursue educational opportunities. The availability of content in accessible formats is also necessary for educational institutions to provide their services to people with print difficulties.

To ensure that people with print impairments have equitable access to education, the Marrakesh Treaty will increase the supply of educational resources in accessible formats.

3. Enhanced social integration and cultural participation:

Equal access to accessible sources of knowledge and information is essential for involvement in culture and social inclusion as well as learning. The Marrakesh Treaty will promote greater inclusion and engagement of people with print disabilities in the cultural and social life of their communities by enhancing access to both educational and recreational resources. To ensure that people with print impairments have equitable access to education, the Marrakesh Treaty will increase the supply of educational resources in accessible formats.

4. Poverty alleviation and increased contributions to the national economy:

Education level has a significant impact on one's professional progress. The Marrakesh Treaty's implementation can be a potent tool for reducing poverty by granting access to educational materials in inaccessible formats, giving people with print disabilities opportunities for professional advancement, enabling them to contribute to their local economies, and enabling them to achieve economic independence. Additionally, the Marrakesh Treaty will strengthen local publishing industries and increase investment in copyright industries, which are important drivers of economic growth and development by increasing the focus on accessible format works and enhancing the certainty about the system for their production and distribution under national copyright laws.¹¹

¹¹https://www.aripo.org/wp-content/uploads/2018/12/ARIPO_Guidelines_for_the_Domestication_of_the_Marrakesh_Treaty.pdf

WHY DOES ACCESS TO COPYRIGHTED MATERIALS MATTER?

- i. To ensure that all people live decent lives and are treated with dignity, human rights are meant to be acknowledged and upheld. The problem of blind, visually impaired, and other reading-disabled people having access to copyrighted content is crucial because it has a significant impact on a number of their human rights.
- ii. Almost all of the VIPs' human rights are affected by their inability to access books and other reading materials protected by copyright since, as is commonly acknowledged, human rights are indispensable and interrelated.
- iii. The degree of a visually impaired kid's equality of access to copyrighted content relative to his or her peer group will determine how well the child will do academically and, as a result, professionally, economically, socially, and culturally once they enter primary school. As a result, while discussing a VIP's right to access copyrighted works, we should first take into account their right to be free from discrimination, which is upheld by equal access.
- iv. Information is very important in today's world, and because intellectual property rights have grown through time, a lot of information in its many forms—literature, academic materials, manuals, other know-hows, news, scientific discoveries, etc.—is protected by copyright laws.
- v. The greater accessibility for persons who are visually impaired to copyrighted information is important since it implies that a range of areas of people's life are touched by this protection in the sense of access.
- vi. The rights of individuals with disabilities are as protected by the law as those of other people. These individuals are covered by all international laws and fundamental human rights since they are all "universal in scope and implicitly include persons with impairments within its framework." It is vital that persons with visual impairments have better access to copyrighted content since this protection has an impact on people's lives in terms of access.¹²

¹²Dr. Anna Maria Andersen Nawrot, Human Rights Perspectives on Access of the Blind, Visually Impaired and Other Reading Disabled Persons to Copyrighted Materials ,Lund University

POSITION OF MARRAKESH TREATY IN INDIA:

India is a member and signatory of many international organizations, conventions, agreements and treaties like World Intellectual Property Organisation (WIPO), Berne Convention, TRIPS Agreement, Marrakesh Treaty etc. so in order to bring the Act into compliance with India's international commitments the Copyright Act of 1957 was amended several times in 1983, 1984, 1992, 1994, 1999 and 2012. Prior to 2012, the Indian Copyright Act of 1957 did not contain any specific exceptions for the benefit of the visually impaired/blind. The change came with the Copyright (Amendment) Act of 2012 that allows for adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format. The Indian Copyright (Amendment) Act, 2012 is in harmony with the Marrakesh Treaty.

Section 52 - Certain acts not to be infringement of copyright.

Under Indian regime legal framework being the Copyright Act, 1957, section 52 lays down certain acts or works that cannot be considered as an infringement of copyright namely **fair dealing** with a literary, dramatic, musical or artistic work not being a computer program for the purposes of-

- i. "private or personal use, including research;
- ii. criticism or review, whether of that work or of any other work;
- iii. the reporting of current events and current affairs, including the reporting of a lecture delivered in public.

The provisions in fair dealing or fair use did not satisfy the need for the accessibility of copyrighted materials hence in 2012 the Copyright Act, 1957 was amended and introduced Section 52(1) (zb).

→ Section 52 (1) (zb) -

According to this Section, the creator of a copyrighted work is given the only right to use, reproduce, etc.; nevertheless, there are a few instances in which a copyrighted work may be used, copied, or reproduced without the owner's permission. According to the Act, making accessible format copies or giving them to people with disabilities would not constitute a copyright infringement on the part of anybody or any organisation working for the benefit of people with disabilities and doing so on a non-profit basis.

Moreover, the section stipulated that the works reproduced in accessible forms under Section

52(1) (zb) may only be used for private or personal use, or for educational or research purposes, and not for commercial gain.

The provider of such accessible formats has a responsibility to make sure the transformed formats do not find their way into conventional commercial channels.¹³

Super Cassette Industries Ltd. Vs Humar Television Network Pvt. Ltd¹⁴

The Delhi High Court accurately laid down the general legal standards governing "fair dealing" in this case as follows:

- 1) Determining the precise parameters of fair dealing is neither possible nor advisable,
- 2) The public interest and what the public is interested in need not be the same.
- 3) It is a matter of fact, degree, and the overall impression borne by the court.
- 4) The right to make fair use of or to treat the copyrighted work fairly includes the freedom to critique not just the copyrighted work's style but also its guiding principle or concept. Criticism in this sense may be both "strong" and "unbalanced." Such critique won't automatically nullify the defence of fair dealing,
- 5) When deciding whether to award an injunction, the user's motivation must be taken into consideration.
- 6) "Transformative use" of a copyrighted work may be considered appropriate in some circumstances.

→ Section 31B. Compulsory license for benefit of disabled:

Since the conversion of copyrighted works on a profit-making basis is prohibited by Section 52(1)(zb), anyone or an organisation working for the benefit of disabled people on a profit-making basis or for business is permitted to convert and distribute works by applying for a licence from the Copyright Board in accordance with the procedure outlined in Section 31 B.

According to this Section, any person working for the benefit of disabled people on a for-profit basis or for business may apply to the Appellate Board for a compulsory licence to publish any work in which copyright exists for the benefit of disabled people in the form and manner specified by the Act and regulations.

¹³ Prashant Reddy, The Background Score To The Copyright (Amendment) Act, 2012, **NUJS Law Review** ,2012

¹⁴ Super Cassette Industries Ltd. Vs Humar Television Network Pvt. Ltd, 2011 PTC (45) PTC 70 (Del.)

It is important to note that neither the Copyright Act nor the Indian Constitution define "person with disability" in detail. Yet, neither the definition of an accessible format nor the standards for fair use or fair dealing are stated directly in the Copyright Act. The void left by the Copyright Act is best filled by the law created by the courts. The judiciary viewed the current system of intellectual property rights law as being consistent with the public interest as well as the State's public policy objectives.¹⁵

Penguin Books Ltd. Vs Mls India Book Distributors¹⁶

In this case Justice Rohtagi observed: "Copyright is a property right, throughout the world retarded as a form of property worthy of special protection in ultimate public interest. The law starts from a premise that protection must be as long as broad as possible and should provide only those expectations, limitations which are essential in public interest."

Civic Chandran v. Ammini Amma¹⁷

It is a landmark decision in Indian copyright law, determined by the Kerala High Court, in which the court declared that under the fair dealing exemption, even considerable copying of copyrighted material is acceptable if the copying is in the public interest.

OTHER INITIATIVES IN INDIA:

India has begun its implementation of the Marrakesh Treaty into its domestic laws through a multi-stakeholder approach: collaboration with key players i.e. governmental bodies, authorized entities, etc

- **The Accessible India Campaign:**

The Accessible India Campaign (Sugamya Bharat Abhiyan) Is a benchmark for universal access of accessible material for the visually impaired persons. It was launched by the Prime Minister of India on the International Day of Persons with Disabilities on 3rd December 2015. The vision of the Accessible India Campaign is to create a barrier-free environment for an independent, safe and dignified living of Persons with Disabilities. It aims at Enhancing the proportion of accessible and usable public documents and websites that meet

¹⁵ Sanjay V. Jadhav & Kailas R. Jagdeo, Right of Accessibility of Visually Impaired under Indian Copyright Law-A Critical Study, International Journal of Creative Research Thoughts, Volume 8, Issue 6, June 2020

¹⁶ Penguin Books Ltd. Vs Mls India Book Distributors AIR 1985 DEL 29(35)

¹⁷ Civic Chandran v. Ammini Amma, (1996) 16 PTC 329 (Ker.)

internationally recognized accessibility standards.¹⁸

- **Sugamya Pustakalaya:**

This has led to the launch of Sugamya Pustakalaya, India's Largest collection of online accessible books with over 200,000 volumes of material. This library has been created by DAISY Forum of India to provide access to books to persons with print disabilities. It is hoped that Sugamya Pustakalaya will soon become a member of the ABC Book Service, thereby joining an international library-to-library service managed by WIPO in Geneva. This is a collaborative effort of TCS, Daisy Forum and NIEPVD (National Institute for the Empowerment of Persons with Visual Disabilities), Government of India to end the book famine faced by people with print disabilities.¹⁹

- **The Accessible Books Consortium (ABC):**

The Accessible Books Consortium signed a Memorandum of Understanding with Saksham, a non-governmental organization serving persons who are visually impaired, for the production of approximately 180 educational books in accessible formats and offering reading assistant devices at a subsidized cost for senior high school students in the Indian states of Bihar, Madhya Pradesh and Rajasthan.

- **Digital Rights Management Amazon Kindle Book:**

This treaty allows unlocking of DRM Amazon Kindle Book which can then be reproduced in Braille format and made available to the beneficiaries without the prior consent of the copyright holder. For years, blind and visually impaired people who wanted to use a Kindle were left with a lot of frustration and even hassle. Amazon released their Kindle readers with only the barest of text to speech. Amazon did make their apps on IOS and Android accessible but only after significant push back from the visually impaired community. Recently, Amazon has announced, publically, that they are bringing Voice View to their Kindle e-readers, starting with Kindle Paperwhite, so that visually impaired customers can enjoy reading on Kindle devices.²⁰

¹⁸<https://www.researchgate.net/publication/339536673> The Marrakesh Treaty and the Approach Towards Social Inclusion

¹⁹<http://risingkashmir.com/sugamya-pustakalaya-largest-online-library-for-blind-and-print-disabled>

²⁰<https://www.enhancedvision.com/low-vision-info/kindle-adds-new-accessibility-features.html>

- **DAISY Forum of India:**

DAISY (Digital Accessible Information System) Forum of India (DFI) is a consortium of Not for Profit organizations from India who are involved in production of books and reading materials in accessible formats for persons who cannot read normal print.

The DAISY forum of India envisions a world where people with print disabilities have equal access to information and knowledge without delay or additional expense in their own language. Based on the MP3 and XML formats, the DAISY format has advanced features in addition to those of a traditional audiobook.

Users can search, place bookmarks, precisely navigate line by line, and regulate the speaking speed without distortion. DAISY also provides aurally accessible tables, references, and additional information. As a result, DAISY allows visually impaired listeners to navigate something as complex as an encyclopedia or textbook, otherwise impossible using conventional audio recordings.

- **Recommendations of Parliamentary Standing Committee on Commerce:**

The report "Review of the Intellectual Property Rights Regime in India", presented before the Rajya Sabha, has considered the issues of copyright and educational materials.

The report recommends that Section 51(1) of the Copyright Act be amended to allow government educational institutions to have reprographic works and to store such materials in the libraries for increased accessibility. The report also emphasizes the importance of the National Mission on Libraries and recommends the establishment of community libraries across the country. The report also suggests that existing libraries be upgraded to provide access to works by foreign authors. At the same time, the report also warns that it is important to protect the rights of the authors since such rights encourage them to invest in and develop quality books and works. Therefore, the rights of the authors must be balanced with the public interest of increasing accessibility.²¹

Today, as the Marrakesh Treaty sits as a benchmark for social inclusion, India's multi-stakeholder approach should also be seen as a model for other nations to follow.

²¹ <https://www.lexology.com/library/detail.aspx?g=9a8ee4af-0ae4-4f64-8fca-ef06fc05e39d>

CHALLENGES IN INDIA:

- 1) Indian Copyright Act 1957 does not contain any rules regarding converting any print, audio, to an accessible format for the visually impaired.
- 2) Commercial Braille books and large print books are very limited in India.
- 3) CDs and talking books in Daisy format are also less in India.
- 4) Electronic books in principle can be accessible with screen readers. But many publishers are not providing access rights to the visually challenged.
- 5) Lack of infrastructural, human resources and financial crunches leads to no availability of assistive technology in the academic libraries which will lead to non-productive human beings as far as the life of the visually impaired is concerned.²²
- 6) Cross-border availability, privacy, and cooperation provisions remain absent.
- 7) Section 52 (1) (zb) is not clear whether the exception applies to the right of making available, which is essential for online transfer and sharing of accessible works.
- 8) Issues related to digital rights management and access are not discussed in the Act.

CONCLUSION AND RECOMMENDATIONS:

Finding ways to reduce copyright-related barriers to educational content is vital. The purpose of copyright has to be reevaluated by legislators, particularly in connection to education, and more accessible solutions need to be supplied. So that the public interest is not jeopardised and so that it can keep up with the quick changes in society and technology, the copyright system has to be rebalanced.

One possibility is to advocate for policies like "open access" or "open educational resources" for educational resources. Such initiatives support accessibility while preserving the present copyright system. If there were no access limitations, such as those imposed by financial, legal, or technological barriers, then a publication would be described as being open access. Publications that may be accessed for free owing to open licensing or that are in the public domain are referred to as "Open Educational Materials."

There is neither a monitoring organisation nor a reporting system established by the Marrakesh Treaty. To deal with issues pertaining to the preservation, advancement, implementation, and operation of the Treaty, an Assembly of the Contracting Parties is required by Article 13(2)(a) of

²² Priya R. Pillai, Accessible Copies of Copyright Work for Visually Impaired Persons in India, Creative Education 2012. Vol.3, Special Issue

the Treaty. In light of art. 13(2)(a), the Assembly might thus decide to compel nations to report to the Assembly, the International Bureau of WIPO, or both, on their progress in adopting the "steps essential to guarantee the implementation of this treaty."²³

While there have been several proposals to change the copyright legislation to lower protection and enhance access, reduced protection may result in the issue of underproduction of literary works. COVID-19 has shown the profound institutional challenges generated by copyright in accessing educational content. Finding the ideal balance becomes a difficult effort as a result.

Although India has one of the most forward-thinking copyright exemptions for the benefit of disabled people, it is vital to note that India hasn't fully incorporated the Treaty's provisions into her domestic legislation. To achieve the purpose of the Treaty, it is essential that all Contracting Parties comply with their obligations to foster an environment that is accessible to persons with disabilities. It is evident that such access is a must in the modern world for guaranteeing disabled people equal opportunity in both education and work.

An update to the copyright law that allows people with disabilities access to copyrighted content in accessible versions attempted to lessen the obstacles in some ways. Depending on how members implement the treaty, the benefit for people with visual impairments will be expanded to the utmost degree practicable. Measures may be put in place to ensure that beneficiaries are not prevented from exchanging materials across borders, and persons should refrain from taking any acts that would jeopardize lawful cross-border exchange.

To continue to provide chances for access for people who are blind or visually impaired, the treaty must improve the efficacy and efficiency of its standards in the digital arena. Although initiatives like open access and open educational materials could offer some solace, they do not entirely address the problems associated with inaccessibility. To address the problems with accessing educational resources, it is urgent to create stronger copyright and open access policy measures.

²³ Susy Frankel, Copyright Pluralism and Human Rights of the Visually Impaired Persons, SSRN E-Library