



## The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty) <sup>1</sup>

**An international copyright treaty will give blind Americans access to millions of published works and improve the distribution of books around the globe.**

**Millions of Americans are being denied access to published works.**<sup>2</sup> Despite the ability to convert print books into accessible formats like Braille, audio, and digital copies, over 95 percent of published works are unavailable to people with print disabilities.<sup>3</sup> Literacy and equal participation in society are critical elements of a fulfilling and independent life, but until uniformity is built into the international copyright system, blind Americans will be excluded from accessing published works on terms of equality. A blind student seeking to learn Spanish will likely struggle to find an accessible format in that language;<sup>4</sup> a work printed in English may have already been converted into an accessible format overseas, but because copies are not exchanged across borders, domestic entities might need to make a duplicate copy or just might deny access altogether by failing to reproduce the work.

**An uncoordinated legal approach prevents the cross-border exchange of accessible books.** Unlike the United States, where copyright law includes the Chafee Amendment and other exceptions,<sup>5</sup> roughly two-thirds of the world's nations do not have domestic copyright laws that permit making copies for the blind, limiting the number of works available in an accessible format. Moreover, many countries consider distribution of accessible copies an infringement as well, and even amongst nations that permit distribution, limitations vary. Instead of exchanging books across borders, works are needlessly duplicated, and circulation is significantly limited.

**The Marrakesh Treaty was adopted to achieve the goal of internationally harmonizing copyright law to permit the production of accessible works and their cross-border exchange.** On June 27, 2013, a diplomatic conference convened by the World Intellectual Property Organization, (WIPO) in Morocco adopted the Marrakesh Treaty with enthusiastic support from the United States delegation. The treaty, signed by the United States on October 2, 2013, currently has eighty-eight signatories, has been ratified by thirty-seven countries,<sup>6</sup> and has entered into force as of September 30, 2016.<sup>7</sup>

**The Marrakesh Treaty has broad stakeholder support.** Blind people should have full and equal access to all works that enrich lives, further education, and share critical information; the treaty balances this priority with the interests of rights holders. WIPO's adoption of the Marrakesh Treaty was supported by American-based companies,<sup>8</sup> the international publishing community,<sup>9</sup> legal experts,<sup>10</sup> and blindness advocates.<sup>11</sup> The treaty will have tangible benefits for all involved. This is why the Senate must act swiftly to ratify the Marrakesh Treaty and why Congress must pass its associated implementing legislation immediately.

## **The Marrakesh Treaty Implementation Act (S. 2559):**

**Broadens the scope of accessible works currently covered by section 121 to include previously published musical works fixed in the form of text or notation.**

**Refines the definition of eligible persons under section 121.**

**Adds a new section 121A to provide that it is not an act of copyright infringement for an authorized entity to export and import accessible format copies to authorized entities or eligible persons in other countries that are parties to the treaty.**

**Requires, under the new Section 121A, that an authorized entity engaged in the export or import of accessible format copies, in keeping with its particular situation, will establish and follow its own practices to ensure that the persons the authorized entity serves are eligible persons, limit distribution to eligible persons and authorized entities, discourage reproduction and distribution of unauthorized copies, and maintain due care and records of handling of copies.**

**Provides that the new section 121A does not establish a cause of action or a basis for regulation by any federal agency, and shall not be construed to limit the ability of authorized entities to engage in activities otherwise permitted by the Copyright Act.**

**REMOVE BARRIERS TO ACCESS OF PUBLISHED WORKS.  
Support ratification and implementation of the Marrakesh Treaty.**

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<sup>1</sup> Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, June 28, 2013 [http://www.wipo.int/edocs/mdocs/diplconf/en/vip\\_dc/vip\\_dc\\_8\\_rev.pdf](http://www.wipo.int/edocs/mdocs/diplconf/en/vip_dc/vip_dc_8_rev.pdf).

<sup>2</sup> World Health Organization, Fact Sheet, Visual impairment and blindness, <http://www.who.int/mediacentre/factsheets/fs282/en/> last modified October 2017.

<sup>3</sup> World Blind Union, FAQ Sheets on UN and Human Rights Instruments, Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled, <http://www.worldblindunion.org/English/resources/Pages/Global-Blindness-Facts.aspx> last modified August 2017.

<sup>4</sup> LaBarre, Scott. "Literacy Without Borders: The Road to Marrakesh," Braille Monitor, August/September 2013. "Originally I had planned on a double major in government and Spanish. Ultimately I dropped that Spanish major precisely because I could not get access to Spanish novels and other materials." <https://nfb.org/images/nfb/publications/bm/bm13/bm1308/bm130811.htm>.

<sup>5</sup> 17 U.S.C. § 121.

<sup>6</sup> World Intellectual Property Organization, WIPO-Administered Treaties webpage [http://www.wipo.int/treaties/en/ShowResults.jsp?treaty\\_id=843](http://www.wipo.int/treaties/en/ShowResults.jsp?treaty_id=843), Last reviewed April 6, 2018.

<sup>7</sup> World Intellectual Property Organization, Marrakesh Notification No. 21 Entry into Force [http://www.wipo.int/treaties/en/notifications/marrakesh/treaty\\_marrakesh\\_21.html](http://www.wipo.int/treaties/en/notifications/marrakesh/treaty_marrakesh_21.html), Last modified on June 30, 2016.

<sup>8</sup> Association of American Publishers, Statement on Completion of WIPO Treaty, Press Release, June 27, 2013. <http://publishers.org/press/112/>.

<sup>9</sup> International Publishers Association, Closing Statement by the International Publishers Association, 27 June 2013.

[http://www.internationalpublishers.org/images/stories/copyright/statements/closing\\_statementFinal.pdf](http://www.internationalpublishers.org/images/stories/copyright/statements/closing_statementFinal.pdf).

<sup>10</sup> American Bar Association, Resolution 100, August 11, 2014.

[http://www.americanbar.org/content/dam/aba/administrative/mental\\_physical\\_disability/2014\\_hod\\_annual\\_100%20Marrakesh.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/mental_physical_disability/2014_hod_annual_100%20Marrakesh.authcheckdam.pdf)

<sup>11</sup> National Federation of the Blind, National Federation of the Blind Joins Stevie Wonder and World Blind Union Calling Upon International Negotiators to Conclude Successful Treaty for the Blind and Print Disabled, Press Release, June 24, 2014. <https://nfb.org/national-federation-blind-joins-stevie-wonder-and-world-blind-union-calling-upon-international>.

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