



**Frequently Asked Questions on the
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind,
Visually Impaired or Otherwise Print Disabled**

How do blind people get books now?

Don't blind Americans already have access to accessible format copies?

Doesn't our copyright law already include an exception for making copies for the blind?

Why do we need to ratify the treaty if we have existing copyright exceptions and can modify those exceptions if needed?

What changes do we need to make to our copyright law?

Do other stakeholders agree with these changes?

Who would be in charge of distributing these copies to blind readers?

I've read that proponents of this treaty are largely concerned with a book famine in the developing world. Why should we go to all this trouble if this is not really a problem in the US?

Does this treaty undermine US sovereignty?

How much is this going to cost?

How prevalent are duplicative works?

Won't this just lead to more piracy and deprive authors of the royalties to which they are entitled?

How do authorized entities guarantee that they are serving the right persons and not delivering accessible books to those who are not eligible, especially in the international context?

Q: How do blind people get books now?

A: Blind people obtain books in myriad ways, most of which are facilitated by copyright exceptions. For example, a blind college student may purchase an inaccessible book and then go to her institution's office of disability support services to contact the publisher to obtain an accessible version. If an accessible version doesn't exist, which is likely the case, existing copyright exceptions permit the office to remove the pages from the spine and copy the work for the purpose of converting the scanned document into an accessible PDF for the blind student to use. Some blind people use audio books from the public library or accessible digital versions of books if they are available, which they rarely are. Even when libraries offer accessible digital copies of texts, the overwhelming majority of basic e-reader delivery systems are inaccessible to the blind. Other avenues for the blind to get books include repositories and clearing-house systems like Bookshare. Unfortunately, these avenues still only offer access to 5% of printed works.

Q: Don't blind Americans already have access to accessible format copies?

A: Currently, blind Americans only have access to 5% of published works. Unlike sighted people who can purchase a book from a bookstore, through an e-reading device, or borrow one from a library, blind Americans mostly rely on nonprofit "authorized entities" and governmental agencies such as the National Library Service for the Blind and Physically Handicapped to provide accessible format copies. Despite these governmental and nongovernmental entities' best efforts, a majority of fiction and nonfiction titles never make it into an accessible format, because the amount of reading material currently available is vast, and authorized entities only convert any given title into an accessible format upon the request of an eligible person.

Q: Doesn't our copyright law already include an exception for making copies for the blind?

A: Yes. US copyright law includes several provisions that can be used to permit copying and distribution of works. The most widely known and most prescriptive is the Chafee Amendment, which authorizes entities to make copies of books for the blind. While the Chafee Amendment is an acceptable domestic exception, it does not foster the exchange of accessible format copies with other nations. Some changes are needed to harmonize exceptions across borders and increase the number of accessible-format copies that can be imported and exported.

Q: Why do we need to ratify the treaty if we have existing copyright exceptions and can modify those exceptions if needed?

A: There are countless titles that are published outside of the United States in both English and foreign languages to which the blind and other print-disabled Americans do not have access. Because the current international copyright apparatus is disjointed and does not foster trade, authorized entities within the United States are either needlessly duplicating copies of works that have already been converted into accessible formats overseas or are simply unable to provide access to those works altogether. The United States must ratify the Marrakesh Treaty to expand the scope of works available to blind Americans, reduce duplicative copies, and contribute to the worldwide effort to make books accessible.

Q: What changes do we need to make to copyright law?

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A: The treaty calls for contracting parties to adopt exceptions and limitations to streamline the international copyright apparatus. In order to do that in the United States, some changes are necessary to ensure that US copyright law is fully consistent with the terms of the Marrakesh Treaty. For example, the terminology for a beneficiary person will need to be tweaked to be consistent with the treaty's definition of "eligible persons." Further, an export-import clause will need to be added to US copyright law to allow for the cross-border exchange of accessible format copies among contracting parties, without changing our domestic structure for authorized entities.

Q: Do other stakeholders agree on these changes?

A: Since the US government released the Marrakesh Treaty and its proposed implementing legislation package in February 2016, all stakeholders have been actively engaged in constructive dialogues in an effort to craft language that accurately represents the interests of all parties. As a result, the final implementing legislative package has broad stakeholder support. This will allow for swift ratification of the Marrakesh Treaty and prompt passage of its implementing legislation.

Q: Who would be in charge of distributing these copies to blind readers?

A: The Chafee Amendment and other provisions of US copyright law allow "authorized entities," including nonprofit organizations with specific missions and government agencies, to reproduce works and distribute them to people with covered print disabilities. The Marrakesh Treaty calls for contracting parties to adopt similar exceptions, which will stimulate the creation of more authorized entities, both domestically and overseas, as well as allow authorized entities to better serve their patrons.

Q: I've read that proponents of this treaty are largely concerned with a book famine in the developing world. Why should we go to all this trouble if this is not really a problem in the US?

A: The book famine is very much present in the United States. Although we have the necessary copyright exceptions, the lack of worldwide cooperation has resulted in duplicative works and a limited availability of books. This means an American student studying Spanish might not have access to an accessible copy of the Spanish textbook, and blind Americans seeking to read a book published by an international publisher will likely need a duplicative copy made in the United States despite the fact that another nation may have already done a conversion. She may even be denied access altogether. Increasing the number of accessible titles worldwide will have a direct benefit to blind Americans.

Q: Does this treaty undermine US sovereignty?

A: No. The World Intellectual Property Organization does not have an enforcement body, and the treaty contains no sanctions for nonconformance. Moreover, there is no international organization, committee, or reporting scheme.

Q: How much is this going to cost?

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A: The Marrakesh Treaty has not been scored, but, as far as we know, it will cost nothing. Most of the authorized entities in the United States are private organizations that will not require additional federal funding to participate in cross-border exchange. We are also not aware of any additional budget request from the National Library Service for the Blind and Physically Handicapped to work across borders.

Q: How prevalent are duplicative works?

A: It is impossible to know for sure because there is not a worldwide catalog of every accessible book. However, the few countries that have copyright exceptions and limitations that permit copying for the blind likely make only the most popular books accessible, and distribute only those accessible titles to their citizens. This means that less popular works, especially nonfiction titles, are often not made accessible at all, and the few countries that do make the conversion fail to do so in a timely manner, often leading to tremendous hardship for blind and print-disabled students.

Q: Won't this just lead to more piracy and deprive authors of the royalties to which they are entitled?

A: No. The Marrakesh Treaty is consistent with other international copyright treaties that protect rights holders, such as the World Copyright Treaty, the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights, and the Berne Convention. And, although no international agreement can eliminate piracy, the Marrakesh Treaty makes it clear that the exceptions and limitations contemplated by the treaty are exclusively for the use of beneficiary persons. This exclusivity is modeled after the United States' exception, the Chafee Amendment, which has produced no demonstrable increase to piracy since its adoption in 1996. The Association of American Publishers, the International Publishers Association, and other groups representing rights holders participated in the negotiating conference in Marrakesh and supported the adoption of the Marrakesh Treaty.

Q: How do authorized entities guarantee that they are serving the right persons and not delivering accessible books to those who are not eligible, especially in the international context?

A: The treaty has a targeted definition of those who are beneficiaries. Additionally, to participate in the exceptions and limitations granted by the treaty, authorized entities must pledge to serve those who qualify as beneficiaries exclusively. If authorized entities violate this part of the treaty, rights holders are free to bring infringement enforcement actions against the authorized entities that are violating the terms of the treaty.