

The **ABC** *of* Inclusive Publishing

Compiled by
Xavier's Resource Centre for the Visually Challenged

**The ABC of Inclusive Publishing
(A Sourcebook for Publishers)**

**Compiled By
Xavier's Resource Centre for the Visually Challenged
(XRCVC)**

**For
The DAISY Forum of India (DFI)**



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FOREWORD

Access to Information is the key to an independent, equal and just society. It forms the pillars not only to freedom of speech and expression inherent to the Indian constitution, but is the crux to access to education and as a result independent dignified living.

Persons with print disabilities have traditionally been at a disadvantage in access to the printed word due to lack of resources and awareness. This demands a change in today's world. Access technologies have come a long way in enabling the print disabled to access the printed word. This however can only be possible if all the stakeholders: the Government, the Publishing Community and Persons with Print disabilities come together to collaborate towards eliminating the book drought for persons with print disabilities.

Today less than 1% of all printed books are available in Accessible Formats. India is committed to rights of Persons with Disabilities guaranteed through *The Constitution of India*, its *Persons with Disabilities Act (1995)* and the *Right to Educational Act (2009)*. Further India has taken the lead in creating one of the most progressive accessible content legislation through its *Copyright Amendment Act, 2012, Section 52 (1) (zb)*. India has also been the driving force of the *WIPO Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, 2016* as one of the first countries to ratify the same. The treaty having completed its ratification holds the enormous potential to leverage international cooperation to create print access for the print disabled.

In this context, the launch of the Sugamya Pustakalaya – The DAISY India Library is a big step forward. This accessible content library, I am sure would serve as a repository of information, helping break barriers, creating access and opportunities.

I request the publishing community to join this effort. This book published by the Xavier's Resource Centre for the Visually Challenged (XRCVC; www.xrcvc.org) will serve to answer all your queries regarding accessible publishing and the legal mandate within which this access is being created and ways through which your publishing house can join the Sugamya Pustakalaya movement.

So come join hands with Persons with Print Disabilities in this country to be the leaders of accessible content and information in the world.

(Prakash Javadekar)

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Open Letter to Publishers from the desk of the President, DAISY Forum of India

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Society Registration No. S/455/2013

Support the campaign to make publishing accessible to print-disabled persons.

Dear Publisher

Access to information can be seen as a fundamental right of Indians. Approximately 10 million Indians are print-disabled and require alternative formats to gain access to information. Yet less than 1% of published material is available in alternative formats. This is a serious inequity which further marginalizes an already disadvantaged group. Access to leisure reading and to educational material as well as material for lifelong learning is limited and frequently seriously delayed.

Fortunately, thanks to advances made in technology it is now possible for the visually impaired and the print disabled to read books at the same time as the sighted. This is made possible by various accessible formats (Audio, Braille, E-Texts, DAISY, EPUB Etc.)

In India several organizations serving the visually impaired have come together to form the Daisy Forum of India (DFI). The Daisy Forum has partnered with Bookshare the world's largest online digital library serving the print disabled community to provide books in accessible formats to the print disabled.

With the strong backing of the Copyright Amendment Act, 2012 in India, which permits the reproduction of printed matter in accessible format for the print disabled and with the launch of Sugamya Pustakalaya (India's online library for accessible content) we would like to seek your support. To make accessible books available on Sugamya Pustakalaya as also Bookshare creating the same from hard copy books is extremely time and resource consuming. Hence we seek your partnership for the following:

- Share your digital content with us (Books that are already available in a digital format).
- You can give us the digital content to be shared on Sugamya Pustakalaya or Bookshare.org or Both.

We will ensure that the accessible books distributed through these channels will only be done to registered print disabled members. For those who do not have access to the internet, books will be made available offline through appropriate media.

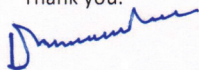
To ensure security DFI will ensure the following:

- Distribution of books only to qualified users,
- Signing of contractual agreements,
- Insertion of copyright notice at the beginning of every book, and

We need to make this vision a reality

We look forward to your support and cooperation to bridge this long awaited gap in print access for the print disabled in India.

Thank you.



Dipendra Manocha
President
The Daisy Forum of India (DFI)
12 August 2016

Preface

In today's day and age the reader profile is constantly changing and is getting far more complex. Visually impaired persons are avid readers too. Surprised? Yes, you read correctly, being blind does not mean you cannot read. It's just that they read differently from the way sighted people do. Blind and low vision persons employ a number of alternate formats to access the printed word—like Braille, e-texts, audio, DAISY (Digital Accessible Information System) and EPUB.

With amendments to Copyright Acts across many countries in the world, the Marrakesh (WIPO) Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled, 2016 and the Copyright Amendment Act, 2012 in India, legal access to create accessible content is now opening up.

In spite of this, the visually challenged still face a huge 'book famine' as massive time and effort is required to convert a book into an accessible format from scratch. This challenge can be effectively mitigated through publisher relationships and effective publisher partnerships.

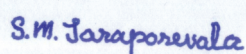
This publication, by the Xavier's Resource Centre for the Visually Challenged (XRCVC) for the Daisy Forum of India (DFI), is an attempt to initiate the process of building a constructive partnership between the publishing community in India and the world of the print-disabled within the framework of the Copyright Amendment Act, 2012 in India. The first edition of this publication was released in 2014 on the occasion of the World Book Fair conducted in Delhi's Pragati Maidan.

In light of the progress of the print access movement and the significant breakthrough of the launch of Sugamya Pustakalaya (India's online library for accessible content) an urgent need was felt to update the publication and release a second edition. Through this we seek to increase partnerships with publishers to come on board to join us in this print access movement.

This publication has taken the liberty to draw content from worldblindunion.org, daisyindia.org and bookshare.org.

Disclaimer: The questions in this publication are meant to be an illustrative list of questions and cannot be seen as a comprehensive list. The answers to the questions are based on the editor's interpretation and the views as expressed by some Intellectual Property Rights (IPR) experts. Neither the editors nor these experts take final responsibility for any alternate interpretations which may result in legal action by some rights holder.

I would like to acknowledge the support from the Dhun Pestonji Parakh Discretionary Trust and Sightsavers which has made this publication possible.



Dr. Sam Taraporevala
Director, XRCVC

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Section 1: Getting to know Persons with Print Disabilities

1. Who is a print-disabled person?

A print-disabled person is a person who cannot effectively read print because of a visual, physical, perceptual, developmental, cognitive, or learning disability. A print disability prevents a person from gaining information from printed material in the standard way, and requires them to utilize alternative methods to access that information. Print disabilities include visual impairments, learning disabilities, or physical disabilities that impede the ability to manipulate a book in some way. The term was coined by George Kerscher.

As per Census of India 2011 there are a total of 5,032,463 persons in India with visual impairment (the Census uses the term 'Disability in Seeing') from a total disabled population of 26,810,557. This would not however account for the learning disabled population who could also gain significantly through different access technologies

2. What are the diverse things that print-disabled persons do?

- Today, Print-Disabled persons are in careers and roles as diverse as the sighted.
- The Print-Disabled head organisations, are well educated and involved in research.
- The Print-Disabled persons are avid readers for work and pleasure.

3. How do the blind and low vision readers read?

- Based on level of vision and preferences, persons with blindness and low vision and other print disabilities prefer different formats. These could range from using Braille, Large Font Material, Electronic Material, DAISY Documents, EPUB, to Audio Material.
- If material is available in one of the above-mentioned formats there is no dependence on human readers.
- Blind and low vision users also use other technologies such as Optical Character Recognition (OCR) software to convert hard copy material into soft copy. However this makes the process extremely time- and resource-consuming and also sighted-editor dependent.

Section 2: Understanding Accessible Formats/Books

1. What are the different Accessible formats/Books

Accessible books/formats range from, Hard Copy Braille Books, Electronic Braille, Large Font Material, E-Text, DAISY Documents, EPUB, to Audio Material. Accessible e-text can be read on digital devices such as smartphones, tablets and computers with the help of screen-reading software. Accessible e-text is also required to produce braille books.

2. Is there a Best format/standard which is recommended?

The best standard for digital version of any publication would be EPUB 3 format. Publishers need to adhere to accessibility guidelines while preparing EPUB 3 books. These can be accessed at <http://www.idpf.org>. Recommended standard for Audio Books is DAISY 2.02 with MP3 compression. (www.daisy.org)

3. Is there any font specifications for Accessible books?

Whist there is no restriction on font styles there is a key factor that ensures accessibility. For accessible formats it is imperative that Unicode compliant fonts are used. Otherwise accessibility can be lost.

4. What is an Accessible EPUB Format?

An EPUB file which validates and complies with the accessibility guidelines is considered to be accessible for all including persons with disabilities. Accessible EPUB is not a separate format. When the EPUB file follows the best practices such as including a table of contents, image descriptions etc. we say the EPUB is accessible.

5. Are all EPUB books accessible or you need something additional to make EPUB Accessible?

All EPUB files may not be fully accessible. Although It may be possible for blind persons to use them but it may pose problems with navigation and ease of access. What is more some EPUBs which are only image based will be totally inaccessible. The EPUB specifications provide lots of flexibility to the creator. Unfortunately, the EPUB specifications do not have strict rules that will make every EPUB accessible by default.

The DAISY specifications for example have such mandatory provisions and it can be said that every DAISY book will be accessible although they may vary in quality and features.

6. What is DAISY?

DAISY is an acronym for Digital Accessible Information System. It is a technical standard for digital audiobooks, periodicals, and computerized text. DAISY is designed to be a complete

audio substitute for print material and is specifically designed for use by people with “print disabilities”, including blindness, impaired vision, and dyslexia. Based on the MP3 and XML formats, the DAISY format has advanced features in addition to those of a traditional audio book. 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. DAISY multimedia can be a book, magazine, newspaper, journal, computerized text or a synchronized presentation of text and audio. It provides up to six embedded “navigation levels” for content, including embedded objects such as images, graphics, and MathML. In the DAISY standard, navigation is enabled within a sequential and hierarchical structure consisting of (marked-up text synchronized with audio. DAISY 2 was based on XHTML and SMIL. DAISY 3 is a newer technology, also based on XML, and is standardized as ANSI/NISO Z39.86-2005. The DAISY Consortium was founded in 1996 and consists of international organizations committed to developing equitable access to information for people who have a print disability. The consortium was selected by the National Information Standards Organization (NISO) as the official maintenance agency for the DAISY/NISO Standard.

7. Do Accessible Formats need to be made separately?

With the advent of EPUB version 3.0, it is not necessary to create an accessible version of the publication separately. EPUB 3.0 contains all accessibility provisions. If the standard is implemented properly and the EPUB Accessibility Guidelines are also followed, then there will be just one digital version of the book and it will be good for everyone.

8. How can mainstream books be made accessible?

By creating a digital version of the book in EPUB 3.0 format and following the accessibility guidelines at: <https://idpf.github.io/a11y-guidelines/>

9. Why is the PDF format not enough for accessibility? Why make EPUB or DAISY?

PDF files do now allow the same degree of navigation and access to picture information and cannot provide the richness of experience that EPUB and DAISY files can. The latter make it possible for the accessible copy to be an exact replica of the print book copy permitting page navigation, heading level navigation etc. Moreover many PDF files are only image files which are of no use to blind users.

Section 3: Accessible Online Libraries & Key Stakeholders: Sugamya Pustakalaya & Bookshare.org

1. What are accessible online libraries? Which ones exist in India?

Just as there are libraries of books for the sighted, accessible online libraries are online repositories of accessible books for persons with print disabilities. Ideally accessible books need to be part of mainstream libraries, but until that is achieved these work as stop gap arrangements to provide a single stop storehouse for accessible content. Internationally Bookshare.org is the largest online accessible library. Sugamya Pustakalaya is India's first accessible online library.

Section 3.A: Sugamya Pustakalaya (India's Accessible Online Library for the print disabled)

1. What is Sugamya Pustakalaya?

Sugamya Pustakalaya is an online library for accessible books for persons with print disabilities. The library houses books across diverse subjects and languages and in multiple accessible formats.

2. Who are the key stakeholders of Sugamya Pustakalaya?

Sugamya Pustakalaya is a collaborative effort with a diverse range of stakeholders.

DAISY Forum of India (DFI)

DAISY Forum of India is a consortium of Government and non-government not-for-profit organizations, educational institutions and public libraries from India who are involved in production and distribution of books and reading material in accessible formats for persons who cannot read normal print due to visual, cognitive or physical disabilities. DFI currently has over 90+ organisations across the country. DFI receives support from diverse quarters. DFI's development partners provide support in building systems and technologies, its friends and supporters in corporate houses aid through multiple means and the international partners provide collaborative linkages. Complete list of member organisations of DFI is available on the website: www.daisyindia.org

National Institute for the Visually Handicapped (NIVH), Department of Empowerment of persons with disabilities, Ministry of Social Justice and empowerment, Government of India

NIVH is the nodal agency of government of India for providing services to persons with blindness or low vision in the country. It works under department of empowerment of persons with disabilities, Ministry of Social Justice and Empowerment. NIVH has been an active and leading member of DAISY Forum of India right from its inception. NIVH hosts national talking book library along with Central Braille Press and a library for persons with print disabilities. All these sections of NIVH are now part of Sugamya Pustakalaya to provide online services to all its members with print disabilities in all parts of the country. <http://nivh.gov.in/>

Bookshare

Bookshare has collaborated with Sugamya Pustakalaya as our International content Partner. Bookshare is the largest international online library of accessible digital books for persons with print disabilities. www.bookshare.org

TCS Access' Infinity

TCS Access infinity is the software platform licensed to the DAISY Forum of India by TCS free of cost to establish Sugamya pustakalaya.

3. What is the Daisy Consortium?

The Daisy Consortium is a global partnership of organizations committed to creating the best way to read and publish, for everyone.

It contributes expertise in standards working groups

It develops guidelines and checklists so that best practices are clear and widely available.

It promotes reading systems that ensure the best possible reading experience

It supports open standards and helps develop an inclusive publishing ecosystem for everybody.

The Consortium is managed by a Board made up of representatives from all Full Member organizations. The Consortium is constituted as a not-for-profit association under Swiss law and governed by its Articles of Association.

4. What are the key features of Sugamya Pustakalaya?

- Provides a diverse collection of books in different languages and formats.
- Collection of all accessible materials from all over the country in single online library system.
- Facilitates print disabled people to read books online, maintain their own reading shelf and download books.
- Makes accessible content available as per the new requests coming from print disabled people.
- Facilitates libraries to join in and work together towards producing and providing various books to people with print disability.
- Facilitates publishers to publish inaccessible content which can be converted to accessible form.

5. What are some of the additional unique features of Sugamya Pustakalaya?

- Facility to enable each member organisation to provide services to their members and draw on resources of all other organisations of the country avoiding duplication.
- Compliance of distribution system with national copy-right law and international exchange service being run by the Accessible Books Consortium of WIPO
- Users will be able to get books produced anywhere in the country at a single location.

- Collaboration with international agencies such as Bookshare and Accessible Books Consortium to make accessible books from all over the world available to users in India.
- Connectivity of the library to the assistive technology of the users to give direct access to the library to users through mobile phones and computers.

6. How many books are expected to be available?

Once the library becomes fully operational over the years, countless books are likely to be available to members. The number of books on Sugamya Pustakalaya increases on a daily basis as more and more books are contributed by libraries and publishers. In addition, hundreds of thousands of books are available through Bookshare on Sugamya Pustakalaya.

7. How many languages will books be available in?

Sugamya Pustakalaya is accumulating books from all over India. As such the number of languages is always on the increase. Given the fact that the platform is language-neutral, it will cater to books in all languages over time

8. Who can get books from this library?

Persons who due to blindness, weak eyesight or any other disability cannot read the standard print can get books from this library. They need to provide their disability certificate at the time of applying for membership. Their disability certificate may be validated by the library before approving membership.

Note that persons without disabilities are not entitled to use the books downloaded from Sugamya Pustakalaya. Sharing or circulation of content downloaded from Sugamya Pustakalaya is prohibited and may lead to legal penalties.

9. Which formats can be downloaded?

Sugamya Pustakalaya has books in accessible formats. These include DAISY audio, DAISY full text, EPUB, Word format (DOC/DOCX), HTML, BRF (Braille ready files), Text and RTF.

10. Who provides the books?

Sugamya Pustakalaya accumulates books from different sources. It gets books from organizations and libraries working for the blind. These organizations have been converting print books into accessible formats like audio, Braille, E-Texts, DAISY etc. Bookshare, the world's largest online library for the print disabled is a major contributor of books to Sugamya Pustakalaya. Publishers including education boards of different states can also contribute accessible versions of their books to Sugamya Pustakalaya.

11. How can a user read the downloaded books?

To read the downloaded books you will require either a software or hardware device capable of opening the downloaded file format. For example, if you download a book in DAISY format, you can use a DAISY reader application on any computer, tablet or mobile phone. You can also use any of the dedicated hardware Daisy Readers available in the market.

12. Are school and college text books available?

Yes. Books used by different schools and universities are available on Sugamya Pustakalaya in accessible formats. Please browse the catalogue using "Text Books" option or just search for your required titles.

13. Can a user share the downloaded books?

The books downloaded from Sugamya Pustakalaya must not be shared with anyone including other persons with disabilities. All the books on this library are being provided under a special arrangement in the copyright law which prohibits further distribution of books.

If two or more print disabled students require the same book, then copies of the book should be created using the Sugamya Pustakalaya Offline Tool. If this cannot be done, then the book should be downloaded for each student from his/her account on Sugamya Pustakalaya.

Note that each book downloaded from Sugamya Pustakalaya contains a digital watermark. If the book is distributed to others or shared on the internet, the details of the member can be detected easily by the Sugamya Pustakalaya and will invite closure of the user account and legal proceedings.

14. What does a user have to pay to get books?

The books on Sugamya Pustakalaya are free of cost. No money needs to be paid to download any book. However, The DAISY Forum of India and its member organizations may charge a fee for membership of the Library.

15. If a user cannot download big files, can he still get books from this library?

Sugamya Pustakalaya has provision for offline distribution of books. After having found the book he wants, he has to click the "Request offline" button. This request will go to the librarian of the DFI organization of whom he is a member. The Librarian will download the book for him and deliver it to him by hand or post as desired.

Organizations can also take book requests from members by phone or personal visit. In such cases the librarian will need to record the book distribution details in the Offline mark-up tool available with them.

16. Is the membership only for individuals ? How do libraries or schools participate

Libraries, schools etc. can become subscribers. They get all the facilities in Sugamya Pustakalaya. They can download books and distribute to their students. The institute however will need to register their students with print disabilities to ensure that the download is done on behalf of the students/members.

Section 3.B: Bookshare (Largest International Accessible Online Library for the Print-Disabled)

1. What is Bookshare and who started this initiative?

Bookshare is a global online library of content for people with severe print disabilities (severe dyslexia, low-vision, blindness, or a mobility impairment). Bookshare is an initiative of Benetech, a technology nonprofit based in Palo Alto, California, that provides technology solutions for social causes, including human rights and the environment in addition to literacy. Benetech's founder, Jim Fruchterman, was a MacArthur Fellow in 2006 for his work as a social entrepreneur.

2. Under what copyright exemption does Bookshare operate in the U.S.?

Bookshare operates in the U.S. under a copyright exemption -- the Chafee Amendment -- which grants nonprofit organizations the ability to make books available to the severely print disabled without publisher permission. By requiring individuals to register as members and provide a Proof of Disability, Bookshare ensures that only qualified individuals use the service.

3. How does Bookshare work in India?

Bookshare offers both Individual and Institutional memberships in India. Both these types of memberships are currently given for free under funding from donor agencies. Any person with Print disability or any organization serving the Print disabled can obtain free membership of Bookshare in India.

4. How does Bookshare work with publishers?

Bookshare accepts files in EPUB 2, Word, and RTF from publishers and then converts that content to an accessible file format called DAISY (Digital Accessible Information System). Publishers upload their files to their dedicated SCP site on Bookshare's servers for password-protected download by users.

- Bookshare has more than 390,000 members.
- There are more than 486,000 books in its digital library, the majority contributed by publishers.
- It works with 800 publishers in the US and internationally.
- Bookshare has a presence in 60 countries around the world with official partnerships with sponsoring agencies in 16 countries.

5. Is Bookshare open to accepting books in Indian languages?

Yes, Bookshare is open to accepting books in Indian languages and is already doing so in languages like Tamil and Hindi.

6. How do Bookshare members download reading material?

Bookshare members download books, textbooks and newspapers and magazines in a compressed, encrypted file. They then read the material using adaptive technology

7. How many publishers in the U.S and internationally contribute their digital content to Bookshare?

Over 800 publishers in the U.S. and internationally are contributing their digital content to Bookshare in support of its social mission and granting permission to distribute their titles outside the U.S.

8. Name some of Bookshare's publishing partners?

Bookshare's Publishing partners include Penguin Random House, HarperCollins, Hachette, Simon & Schuster, John Wiley & Sons, Taylor and Frances, Houghton Mifflin Harcourt and Scholastic -- as well as 33 university presses, including Cambridge, Harvard, Yale, Princeton, Chicago, and California along with a number of nonprofit institutions such as the World Bank, the IMF, the World Health Organization, Brookings, and the RAND Corporation.

9. How does Bookshare ensure security from misuse?

Bookshare has a very strong Seven-point Digital Rights Management Plan which includes: Qualified Users, Contractual Agreement, Copyright Notice, Encryption, Fingerprint, Security Database, Security Watch Program.

10. Does the Bookshare site provide access to copyrighted works for the general public?

The Bookshare site does not provide access to copyrighted works for the general public. It is only for print disabled persons.

11. Who can join Bookshare?

Anyone in the world with a qualifying print disability may join Bookshare. In order for one to become a Bookshare member, an expert must confirm that the individual has a print disability that severely inhibits or prevents him or her from reading traditional print materials.

12. What does it cost to become a Bookshare member?

Bookshare is free for qualified U.S. students of any age and schools through an award from OSEP (Office of Special Education Programs, U.S. Department of Education). Non-students and other organizations pay a low fee.

13. Is membership to Bookshare free in India?

In India, Bookshare membership is provided Free of cost, to all Individuals with Print Disability and Institutions serving the Print Disabled.

14. If a publisher wishes to contribute to Bookshare or have any inquiry what should they do?

They may write to info-india@bookshare.org

Section 4: How can Publishers Contribute?

1. If blind and low vision readers read independently, what is the problem? How can a publisher help?

Today, blind and low vision readers have a host of technological solutions available to them which can enable their independent reading for educational, professional and recreational purposes. However, in order for these technologies to work, they need the book available to them in a format that can be accessed by the technologies they use, i.e. they need material in 'Accessible Formats'

If material is not available in accessible formats, the reader has no other option but to physically convert the book into an accessible copy – either through scanning and editing, creation of DAISY books/EPUB Books, getting it audio-recorded, etc. All these options today whilst not needing legal permissions from the rights holders are extremely time- and resource-intensive. Today less than 1 % of books are available in accessible formats creating a huge 'Books Famine' for the print-disabled.

2. What do we need from the publishers?

- To promote 'Inclusive Publishing' (Inclusive Publishing entails content creation in Accessible Formats)
- To ensure that books are 'Born Accessible'
- To ensure that the mainstream E-Books published by the publishers incorporate accessibility.
- In the event that the publisher cannot do any of the above for some reason, they could still facilitate creation of accessible content by sharing e-content with organisations working for the print-disabled to be distributed through Sugamya Pustakalaya or Bookshare or both.

3. How can a publisher actually produce the recommended standard? What are the key steps to be followed?

There are several ways of producing accessible EPUB 3 books. While creating a digital master for normal print book publishing, publishers can follow some formatting guidelines to create accessible EPUB. These guidelines can be incorporated at many different stages of production:

- Authors can follow formatting guidelines in MS word or Open Office word processing software.
- Type setters can follow mark-up guidelines in DTP software such as Adobe Indesign, CS6, etc.
- If the publisher already has an inaccessible master, an accessible version can be created by data processing companies at a cost of about Rs 20 to Rs 25 per page.

4. Does one need specialised training to learn accessible format creation? If so, where can one learn?

Online documentation and tutorials are available at www.daisy.org/daisypedia.

Either the DAISY Consortium (www.daisy.org) or DAISY Forum of India (www.daisyindia.org) can conduct one- or two-day training for this.

5. Can a book be made accessible at birth? How?

Yes. Simply use Unicode-based font for Indian language text. Mark digital documents as per guidelines such as the use of appropriate Heading styles, proper table formatting, use of ordered and unordered list, etc. In this way the master digital file itself can be used to produce accessible EPUB 3 books.

6. Can a mainstream e-book be made accessible or is a special/separate accessible book needed?

The ideal is to make the mainstream e-book accessible. There is no negative effect of an accessible book on the mainstream e-book. In fact it is a value-add, making the mainstream book more readable and navigable.

7. Will making an e-book accessible compromise the visual look and readability?

No, in fact, incorporating accessibility guidelines would increase readability of digital books on all kinds of digital devices or different screen sizes. All visual effects and layouts can be used without compromising any accessibility requirement.

8. Is it legal to make such accessible formats?

Yes. India amended its Copyright Act in 2012. The current Copyright Amendment Act, 2012 makes it legal for print disabled persons and organisations working for them to create and share between them Accessible copies on a not-for-profit basis. The said exceptions are under the clauses 52 (1) (zb) and 31B. Further the Marrakesh (WIPO) Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled, 2016 has made a huge step forward to enable accessible content sharing across countries as well making accessible publishing a legal possibility across borders as well.

9. Does it cost extra to publish an accessible book?

If accessibility is part of the production strategy an Accessible Book would not mean any significant incremental cost in production.

10. Is a publisher expected to provide the accessible books free? Or can he charge for them?

As a publisher who is into publishing business for profit the law does not bar him or her from charging for the accessible books. However, it is expected that the charge of an accessible e-book cannot be greater than its mainstream counterpart. Ideally there will be only a single E-book which itself would be accessible to one and all, and the same can be priced as per the publisher's pricing policy.

11. Where can a publisher sell accessible e-books?

Publishers may sell them through their regular channels of business.

12. What are the safeguards to ensure there won't be unauthorised usage amongst users?

The risks attached with regards the piracy of an accessible e-book are the same as those attached with the regular e-book. Legal action against a violator of copyright of an accessible book remains the same as that for a regular e-book.

13. What can a publisher do if he wishes to actively participate with the Inclusive Publishing Movement in India?

If a publisher would like to know more about Inclusive Publishing or partner with us in any way to ensure books are in reach of the print-disabled community in India, they can feel free to contact us at the details mentioned in the booklet. If a detailed FAQ on Inclusive Publishing is required to be mailed to any publisher, drop us an email at info@xrcvc.org or info@daisyindia.org.

14. What additional resources are there to learn more about Accessible Publishing?

You can learn more and access additional resources through several online sources. One key sources is <http://www.accessiblebooksconsortium.org/>

15. Why should a publisher share digital content when print disabled persons already have a copyright amendment allowing them to create an accessible copy?

The amendment permits inaccessible work to be made accessible. However, it takes time, money and energy to do so. Publisher partnerships through the sharing of digital copies would save on scarce resources and help bridge the gap in access for print-disabled persons.

16. How can a publisher distribute its accessible content or E content with Accessible online libraries in India? (Sugamya Pustakalaya and Bookshare.org)

Publisher can create an account on Sugamya Pustakalaya. They get the facility to upload files. They cannot however download books from other libraries. Books uploaded by them are available to all. They may also upload magazines, newspapers etc. They will be available

to those who subscribe. Publisher can put conditions on approving subscription to periodicals. However, all financial transactions have to be carried outside this platform.

Publisher can enter into an agreement with Bookshare and send them the digital files. They will be uploaded on Bookshare website.

17. Are Sugamya Pustakalaya and Bookshare.org linked in anyways?

Sugamya Pustakalaya and Bookshare are deeply integrated. All books available with Bookshare can be downloaded through Sugamya Pustakalaya, although the Bookshare password is required. On searching a title, Sugamya Pustakalaya shows results from both Indian contributors and Bookshare

18. Why should publishers be giving copies to both—Sugamya Pustakalaya and Bookshare.org?

The partnering publisher has the freedom to choose one or the other or both. In the interest of optimising the print access movement in India and the world, it is hoped that publishers will share digital copies with both—Sugamya Pustakalaya and bookshare.org. This would help in the following:

- Sometimes the end user may be a member of one but not the other system.
- Sugamya Pustakalaya can host diverse formats which bookshare.org cannot
- Bookshare.org has a global reach and hence content and can be delivered to bonafide print disabled persons across the world.

19. How is the publisher's copyright and content safety ensured if publishers provide content for Sugamya Pustakalaya and Bookshare.org?

All content from both Sugamya Pustakalaya and Bookshare.org can be downloaded only by individuals with certified print disability. Such individuals have to provide their disability certificate and they must further be authenticated by one of the DFI partners.

No organization can download any books. Only individuals with print disability have download rights.

All books when downloaded contain the users' information as hidden watermark. If they circulate the book or upload on the internet they can be made accountable. Their account will be blocked and they may face legal action. All this information is given to the users at the time of signing up and they are asked to accept the agreement before they get admitted as members.

Publishers can therefore be assured that their content will be used only by people with certified print disabilities who have been warned and barred legally to share these accessible content copies outside.

20. How will publishers providing books on Sugamya Pustakalaya be different from the publishers selling e-books online through places such as Amazon, Flipkart and others?

Sugamya Pustakalaya has been created as a platform to distribute content exclusively to persons who cannot read normal print. It works as a library and not a store that provide books in accessible format, free of cost to end users. E Books sold through online stores may not always be accessible. Sugamya Pustakalaya ensures that all content is accessible and serves as a library for the same.

21. Will a publisher's profitability be affected by providing content on Sugamya Pustakalaya/Bookshare? Would it not be better to directly sell accessible books through Amazon/Flipkart and others?

Ideally it would be great if all books sold through online and offline channels are born accessible. Hence if a publisher wants to make all their books accessible and sell them through mainstream channels that would be great. In practise when this is not a reality, libraries such as these are critical to ensure legal rights for persons with print disabilities.

Just as non print-disabled persons have access to libraries these work as libraries for the print disabled.

Section 5: What are the Legal Frameworks within which Accessible Publishing Operates?

1. What are the legal rights of persons with disabilities?

The world over as well as in India there has been a clear recognition of rights of persons with disabilities to enjoy and access life the same way as their non-disabled counterparts.

- **The United Nations Convention of Rights of Persons with Disabilities (UNCRPD), 2006**

The United Nations Convention of Rights of Persons with Disabilities (UNCRPD), 2006 clearly upheld rights of persons with disabilities to access information (Article 21). India signed and ratified the same in 2007 and hence is obligated to put in systems to realise the rights as enshrined in the treaty.

- **The Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**

The Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 also upholds the rights of persons with disabilities in India as also The Right of Children to Free and Compulsory Education Act 2009, which guarantees access to education and hence books to children with disabilities in the same manner as the non-disabled.

2. What are the national and International Legal frameworks specifically for accessible publishing?

The legal mandate to work towards universal access of information is stated in the Copyright Amendment Act, 2012 in India (Section 52 (zb) as also the Marrakesh (WIPO) Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled, 2016.

The availability of technologies that can make written work accessible for persons with disabilities, along with the legal mandate within India as also internationally to make the same available requires urgent and proactive action on the part of the publishing industry.

Section 5.A: How does the Copyright Amendment of 2012 in India impact accessible publishing?

1. What is the Copyright Amendment Bill 2012 for the benefit of persons with disabilities?

The Copyright Amendment Bill 2012 introduced certain provisions for the benefit of persons with disabilities and as it has been passed by both houses of parliament (By the Rajya Sabha on 17th May 2012 and the Lok Sabha on 22nd May 2012). The same has also been signed by the president of India and the necessary Gazette Notification has been published on 8th June 2012. The office of Copyright, Ministry of Human Resource Development has further by Gazette notification, dated 14th March 2013 issued rules in relation to the Amendment. Given below are some Frequently Asked Questions in relation to the amendment and the rules formulated thereon.

2. Who does this amendment benefit?

This amendment benefits all persons with disabilities who cannot enjoy works in their normal format thus amongst others it would cover totally blind, low vision, learning disabled, the deaf and hard of hearing and orthopedically challenged people who are unable to hold books or turn its pages.

3. What can be done now that was not possible earlier?

Persons with disabilities who cannot access a work in their normal format and organizations can suitably modify a work so as to make it accessible to meet the specific needs of the person with disability. This means that a standard printed book, for example may be converted to an alternate format (not necessarily a special format) including Braille, large font, text readable by screen reader, audio (be it synthetic audio or human voice recording) without seeking the permission of the rights holder.

4. How is this different?

In the past, any alternate format creation would have been an infringement unless it was backed up by prior written permission from the rights holder. One had to seek the permission if one had to be on the right side of the law. Now these permissions are not needed for non-profit conversion and distribution.

5. Are there any restrictions? Yes, there are reasonable restrictions such as:

(a) conversion should be a not for profit activity. In case it is a for profit activity, there is a separate clause under which a special license can be obtained.-

(b) The accessible format copy has to be distributed to a bona fide print impaired person or organizations that serve them.

(c) reasonable precaution need to be taken by all that the accessible copy is not misused commercially.

6. What is the meaning of a “work”?

A work means:

- (a) a literary, dramatic, musical or artistic work;
- (b) a cinematograph film;
- (c) and a sound recording;

It includes all works which are available in India in the normal channels of business.

7. What activities are permitted for the benefit of persons with disabilities?

The adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format to facilitate persons with disability to access works.

8. Is permission required from publishers to undertake the above activities?

No, permission from publishers are not required to undertake the above activities as long as the activities comply with provisions of the Copyright (Amendment) Act, 2012.

9. What are “accessible formats”?

Accessible formats include, Braille, audio (be it synthetic audio or human voice recording), Daisy, accessible pdf, large print, movies with subtitles etc.

10. What is the meaning of “adaptation”?

“Adaptation” in relation to any work, mean any use of such work involving its re-arrangement or alteration. Conversion of a work into an accessible format would be treated as an adaptation.

11. What is the meaning of “reproduction”?

“Reproduction” is the making of multiple copies from a given source document. Making multiple copies of an adapted accessible copy also means reproduction.

12. What is the meaning of “issue of copies”?

“Issue of Copies” refers to the process of giving out accessible copies either to an individual or organization on a one to one basis.

13. What is the meaning of “communication to the public”?

“Communication to the public” means making any work available for being seen or heard or otherwise enjoyed by the public directly or by any means of display or diffusion other than by issuing copies of such work. This includes making the accessible format copy available over the Internet or distributing it from a website.

14. Who can create and distribute accessible formats?

- Any person can create and distribute accessible formats if it is done for facilitating access by persons with disabilities. Parents, friends and persons with disabilities themselves can create accessible formats.
- An organization working for the benefit of the persons with disabilities can also create and distribute accessible formats.

15. Are there any preconditions on the type of organization that can undertake the activities?

Yes, the organization must satisfy one of the following conditions to undertake the activities:

- a) The organization must be registered under section 12A of the Income Tax Act, 1961 and work for the benefit of persons with disability; or
- b) The organization must be recognized under Chapter X of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995; or
- c) The organization must receive grants from the Government for facilitating access to persons with disabilities; or
- d) The organization must be an educational institution or library or archives recognized by the Government.

16. Can accessible format copies be shared between persons with disabilities?

Yes, they can be shared.

17. Can any of the activities be undertaken for profit?

No, for profit activities require a separate license from the copyright board. This license will prescribe several conditions including the royalty, if any, that must be paid. For further details, see point 23 of this note.

18. Can the costs of production of accessible format copies be recovered?

Yes the cost can be recovered.

19. Does this mean that the publisher has to give you a soft copy?

No. Publishers are not required to give a soft copy under the amendment.

20. What steps are required to be taken by organizations who undertake the activity?

The organization must ensure that the copies of works in such accessible format are made available to persons with disabilities and takes reasonable steps to prevent its entry into ordinary channels of business.

The Gazette notification dated 14th March 2013 has further come out with rules which mention the steps required to be taken by not for profit organizations creating accessible copy.

21. What is the relevance of rules in the context of an Act of Parliament?

The sections within the Act specify the law. However, not everything is spelt out within the section/ sub-sections. These are elaborated upon by the rules which are duly notified through the Gazette from time to time. The Copyright office issued this Gazette notification on the 14th of March 2013.

22. What part of these rules are relevant for print disabled persons?

Rules 17, 18, 19 20, 21 and 22 contained in Chapter 6 relate to Rules which have a bearing on creating accessible copies as part of a for profit activity. Rules 76, 77 and 78 contained in Chapter 15 relate to creating accessible copies for a not for profit basis.

23. Where can I find a copy of the Gazette containing the rules?

This can be accessed at www.copyright.gov.in

24. What are the areas for which rules have been formulated with relation to accessible copy for profit?

Chapter 6 focuses on activities which relate to accessible copies that relate to for profit activities. These rules may be summarized as follows:

Rule 17 – Application for licence

Rule 18 – Notice of application

Rule 19 – Manner of determining royalties

Rule 20 – Extension of the period of licenses

Rule 21 – Cancellation of license

Rule 22 – Notice for termination of license.

25. What are the areas for which rules have been formulated with relation to accessible copy for not for profit?

There are three rules which deal with creating accessible copy on a not for profit basis. Rule 76 deals with the maintenance of records

Rule 77 deals with inserting a Copyright notice, and

Rule 78 deals with contracts with third parties.

26. Can one have more details with regards Rule 76?

This rule requires organizations working to create accessible copies for print disabled persons on a not for profit basis to comply with the maintenance of certain records.

A register needs to be maintained at the organization's principal place of business records of the accessible copies created and issued. These records would include:

- The name of the work, author or owner or publisher along with year of publication;
- The details of the accessible format in which the work is produced;
- The nature of activity such as adaptation, reproduction, issue of copies or communication to the public;
- Total number of copies made, list of persons with disabilities to whom copies have been distributed; and
- Price, if any, charged on the copies.

27. Can one have more details with regards Rule 77?

Rule 77 which is contained in Chapter 15 requires organizations creating accessible copies on a not for profit basis to insert an additional copyright notice in to the accessible work they have made. This notice should include the following key elements:

- The accessible format is created pursuant to the exception under clause (zb) of sub-section (1) of section 52;
- The accessible format is intended solely for the use of persons with disabilities who cannot enjoy the normal format of the work; and
- Any distribution of the accessible format to any person who can enjoy the normal format of the work will lead to stopping the supply of further works in accessible formats and such other legal consequences are applicable.

28. What is the benefit of Rule 78 contained in chapter 15 to an organization working for the print disabled on a not for profit basis?

An organization working for the print disabled on a not for profit basis which does not have the capacity to create accessible copies or if it wishes to increase its production capacity can acquire additional accessible copies through entering in to a contract with a third party which will create such content for it. This contract would be however, regulated by certain conditions that such third party undertakes such activities only on behalf of the organizations and not otherwise. It would thus mean that the third party would have to hand over the accessible copy solely to the organization commissioning the accessible copy.

29. Can an organization distribute an accessible copy created by another individual / organization?

Yes, this can be done. However, the said organization will have to maintain the same record for the work as required by rule 76.

30. Can an organization copy and distribute Mp3 files already commercially available?

Since the mp3 files already are accessible, reproduction and issue of these copies without the prior permissions of the rights holder would not qualify as an exception and can be seen as an infringement.

31. Can works be simplified so that people with psycho social disabilities or intellectual disabilities can enjoy the work?

Yes, this can be done since this will fall within the meaning of “adaptation” as given above.

32. Can subtitles be added to movies and other audio visual work for the benefit of the deaf/hard of hearing?

Yes, this can be done since this will fall within the meaning of “adaptation” as given above.

33. Can audio descriptions be added to movies and other audio visual works for the benefit of the blind/low vision?

Yes, this can be done since this will fall within the meaning of “adaptation” as given above.

34. Can an organization in India import or export accessible format copies from/to organizations and beneficiaries abroad?

The Copyright Amendment Bill, 2012, does not address import and export and this depends on various factors and legal preconditions. In this case, it is advisable to check with your legal advisors before undertaking such an activity.

35. What is the wording of the section?

Section 52 (1) The following act shall not be an infringement of copyright, namely:

(zb) the adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format, by —

(i) any person to facilitate persons with disability to access to works including sharing with any person with disability of such accessible format for private or personal use, educational purpose or research; or

(ii) any organization working for the benefit of the persons with disabilities in case the normal format prevents the enjoyment of such works by such persons:

Provided that the copies of the works in such accessible format are made available to the persons with disabilities on a nonprofit basis but to recover only the cost of production:

Provided further that the organization shall ensure that the copies of works in such accessible format are used by persons with disabilities and takes reasonable steps to prevent its entry into ordinary channels of business.

Explanation. For the purposes of the sub-clause, “any organization” includes an organization registered under section 12A of the Income Tax Act, 1961 and working for the benefit of persons with disability or recognized under Chapter X of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 or receiving grants from the Government for facilitating access to persons with disabilities or an educational institution or library or archives recognized by the Government.

36. What is the wording of the section relating to for profit activity?

(1) Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Copyright Board, in such form and manner and accompanied by such fee as may be prescribed, for a compulsory license to publish any work in which copyright subsists for the benefit of such persons, in a case to which clause (zb) of sub-section (1) of section 52 does not apply and the Copyright Board shall dispose of such application as expeditiously as possible and endeavour shall be made to dispose of such application within a period of two months from the date of receipt of the application.

(2) The Copyright Board may, on receipt of an application under sub-section (1), inquire, or direct such inquiry as it considers necessary to establish the credentials of the applicant and satisfy itself that the application has been made in good faith.

(3) If the Copyright Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, that a compulsory license needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyrights to grant to the applicant such a license to publish the work.

(4) Every compulsory license issued under this section shall specify the means and format of publication, the period during which the compulsory license may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty: Provided that where the Copyright Board has issued such a compulsory license it may, on a further application and after giving reasonable opportunity to the owners of rights, extend the period of such compulsory license and allow the issue of more copies as it may deem fit.

37. What is the wording of the rule 17?

Application for Licence – (1) An application for a licence under section 31B to publish any work in any format useful for persons with disability shall be made in Form V and shall be accompanied by the fee specified in the Second Schedule.

(2) Every such application shall be made in respect of one work only.

38. What is the wording of the rule 18?

Notice of application – (1) A copy of application under the rule 17 shall be served by registered post on the owner of copyright and if the owner of such copyright is not known or is not traceable, a copy of the application shall be served by registered post on the publisher whose name appears on the work.

(2) The Board shall give an opportunity of being heard to the owner of the copyright and the applicant and also, wherever practicable, to any person claiming any interest in the copyright of the work, and shall take such evidence in respect of the application, as it deems fit.

(3) If the Board is satisfied that the license for publication of the work in the format applied for may be granted to the applicant, or if there are more applicants than one to such of the applicants as, in the opinion of the Board, would best serve the interest of the disabled persons, it shall direct the Registrar of Copyright to grant licence accordingly.

(4) Every such licence shall specify;

(a) the period within which such work shall be published;

(b) the medium and format in which the work shall be produced and published;

(c) the number of copies that shall be produced;

(d) the rate at which royalties in respect of the copies of such work sold to the disabled persons shall be paid to the owner of the copyright in the work; and

(e) the person to whom such royalties shall be payable.

(5) The grant of every such licence shall, as soon as possible, be notified in the Official Gazette and the website of the Copyright Office and Board and a copy of the licence shall be sent to the other parties concerned.

39. What is the wording of the rule 19?

Manner of determining royalties – The Board shall determine the royalties payable to the owner of the copyright under sub-section (4) of section 31B. The Copyright Board may while determining royalty shall take into consideration the following: -

- (a) the proposed price at which a copy of such work shall be made available to disabled persons;
- (b) the prevailing standards of royalties in regard to such works taking into consideration;
- (c) the cost involved in making the accessible formats for the disabled person; and
- (d) such other matters as may be considered relevant by the Copyright Board.

40. What is the wording of the rule 20?

Extension of the period of licence – The Board may, on the application of the licensee and after notice to the owner of the copyright, wherever practicable, if it is satisfied that the licensee was for sufficient reasons unable to produce and publish the work within the period specified in the licence, extend such period.

41. What is the wording of the rule 21?

Cancellation of licence – The Board may, after giving an opportunity of being heard to the licensee, cancel the licence on any of the following grounds, namely –

- (a) that the licensee has failed to produce and publish such work within the time specified in the licence or within the time extended on the application of the licensee;
- (b) that the licence was obtained by fraud or misrepresentation as to any essential fact;
- (c) that the licensee has contravened any of the terms and conditions of the licence;
- (d) the owner of the copyright has satisfied the requirement of the disabled person by publishing in the same format with same or lower price for which compulsory licence was granted.

42. What is the wording of the rule 22?

Notice for termination of licence – Notice for termination of licence granted under sub-section 93) of section 31 B shall be served on the person holding the licence by the owner of copyright in Form IV.

43. What is the wording of the rule 76?

Maintenance of records – the organization working for the benefit of the persons with disabilities and intending to adapt, reproduce issue of copies or communication to public of any work in any accessible format shall maintain at its principal place of business a register containing the following details, namely –

- a) the name of the work, author or owner or publisher along with year of publication;
- b) the details of the accessible format in which the work is produced;
- c) the nature of activity such as adaptation, reproduction, issue of copies or communication to the public;
- d) total number of copies made, list of persons with disabilities to whom copies have been distributed; and
- e) price, if any, charged on the copies.

44. What is the wording of the rule 77?

Notice to be included in copies made in accessible formats – The organization working for the benefit of the persons with disabilities shall insert appropriate notices in the copies of works in accessible formats created by organizations that –

- a) the accessible format is created pursuant to the exception under clause (zb) of sub-section (1) of section 52;
- b) the accessible format is intended solely for the use of persons with disabilities who cannot enjoy the normal format of the work; and
- c) any distribution of the accessible format to any person who can enjoy the normal format of the work will lead to stopping the supply of further works in accessible formats and such other legal consequences are applicable.

Explanation – For the purposes of this Chapter, the term “accessible format” shall include Braille, Daisy, large print, talking books, digital formats and all other formats that can be used by persons with disabilities.

45. What is the wording of the rule 78?

Contracts with third parties engaged by organizations working for persons with disabilities – An organization working for persons with disabilities may engage any third party as its agent to undertake any of the activities permitted under clause (zb) of sub section (1) of section 52, on its behalf and shall enter in to appropriate contracts with such third party to ensure that such third party undertakes such activities only on behalf of the organizations and not otherwise.

Section 5.B: What is the role of the Marrakesh Treaty in helping alleviate the book famine?

1. What is the Marrakesh Treaty?

The formal name of the treaty is "Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled".

It was adopted on June 27, 2013 in Marrakesh and it forms part of the body of international copyright treaties administered by WIPO. It has a clear humanitarian and social development dimension and its main goal is to create a set of mandatory limitations and exceptions for the benefit of the blind, visually impaired, and otherwise print disabled.

2. What is the goal of the Marrakesh treaty?

The goal of the Marrakesh treaty is to help to end the book famine faced by people who are blind, visually impaired or otherwise print disabled. Currently only some 1-7 per cent of the world's published books ever make it into accessible formats. This is partly due to access barriers in copyright law—something the treaty helps to remove.

3. What is the potential impact of the treaty?

With a concerted effort for widespread ratification and implementation, the Treaty is likely to have a huge impact on accessibility for people with print disabilities. It should both promote the domestic production of accessible materials in each country, as well as provide access to books produced elsewhere. This will be important for books in languages that cross national boundaries, languages like English, Spanish, French, Portuguese, Russian, Chinese, Bangla/Bengali, Indonesian, Swahili and so on. It will also be especially important for countries that haven't traditionally had robust services for people with disabilities: these less wealthy countries should benefit greatly from access to the extensive collections developed in wealthier and larger countries.

4. Which countries have ratified the treaty?

The 20 countries to ratify or accede are: India, El Salvador, United Arab Emirates, Mali, Uruguay, Paraguay, Singapore, Argentina, Mexico, Mongolia, Republic of Korea, Australia, Brazil, Peru, Democratic People's Republic of Korea, Israel, Chile, Ecuador, Guatemala and Canada.

5. Now that it is a treaty, what is the way ahead?

India was the first country to ratify the treaty on June 30, 2014. When Canada became the 20th to do so on June 30, 2016, it set into motion a process which brings the Treaty into force in three months' time on September 30, 2016.

6. How does the treaty help remove access barriers in copyright law?

It does this in two main ways:

- By requiring countries which ratify the Treaty to have an exception to domestic copyright law for visually impaired and print disabled people. This means that countries which ratify the treaty must ensure their laws allow blind people and their organisations to make accessible format books without the need to ask permission first from the holder of copyright (e.g. author or publisher).
- By allowing for import and export of accessible versions of books and other copyrighted works, again without copyright holder permission. This will help to avoid the duplication of transcription efforts in different countries, and also allow those with larger collections of accessible books to share these collections with visually impaired people in countries with fewer resources.

Only so-called “authorised entities” (see definition appended below), such as blind people's organisations, can send accessible books under the treaty's terms. However, the Treaty allows accessible books to be imported / received either by other “authorised entities” or directly by visually impaired / print disabled individuals.

7. Which are the relevant articles in the treaty?

- Works Covered

Article 2(a). Works Covered. Refers to the type of publications which can be transcribed / distributed under the terms of the Treaty.

These are:

“literary and artistic works ... in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media;”.

The definition therefore covers books; periodicals and other similar textual works, as well as sheet music. It doesn't cover films. The Treaty does not allow for the contents of a Work to be changed (e.g. to “easy read”) rather just for the Work's contents to be transcribed into an accessible format.

- Accessible format copy

Article 2(b). Defines the term “accessible format copy”

This is a broad definition which does not limit the format or the technique you use to make a book accessible. It allows whichever format will provide access to the work “as feasibly and comfortably as a person without visual impairment or other print disability”.

- Authorized entity

Article 2(c). Defines the term “Authorized Entity”. The role of the Authorized Entity is critical in the Treaty, and it's a straightforward definition. It's a non-profit or government agency that makes accessible copies of Works, and limits distribution of those copies to people with bona fide disabilities, which it calls “Beneficiary Persons.” (It also covers for-profit entities that provide services to beneficiary persons using public funds and on a not-for-profit basis.)

There is no specific process or approval mechanism to qualify as an “Authorised Entity”. Meeting the (broad) criteria in Article 2c is sufficient.

- Beneficiary persons

Article 3. Defines Beneficiary Persons. It's a broad definition that includes just about any disability that interferes with the effective reading of printed material. It includes people who are blind, visually impaired, reading disabled (example: dyslexia) or have a physical disability that gets in the way of effectively holding a book, turning pages or focusing on the page.

- Domestic copyright exception

Article 4. Requires countries which ratify the Treaty to enact a domestic copyright exception. This will allow Authorized Entities to make accessible copies of Works without having to ask permission from the rights holders. This is satisfied by having a law like the “Chafee Amendment” in the U.S, or one of the exceptions to copyright law for print disabled people the EU Member States have enacted under the terms of the EU Copyright Directive.

8. Who is permitted to conduct cross-border exchange of accessible format books?

Articles 5 and 6. The treaty permits the cross-border exchange of accessible format books, both between authorized entities and directly from one authorized entity to individuals in other countries.

9. What are Technological Protection Measures (“TPMs”)?

Article 7. Technological Protection Measures (“TPMs”). These are the sort of “digital padlock” that publishers (and sometimes blind people's organisations themselves) put on a digital book, to stop it being passed on or accessed illegally. Unfortunately this padlock can also inadvertently block legitimate access by print disabled people, for instance those using screen-reading text-to-speech software. Article 7 therefore says it should be legal to circumvent (i.e. break) TPMs so that a person with a print disability can get access to books. (And only for that purpose)

10. What does the Treaty say about “privacy”?

Article 8. Requires privacy to be respected when using the treaty.

11. What does the Treaty say about “Respect for copyright holders' interests”?

Article 2 of the Treaty makes it clear that accessible books sent under its provisions should be solely for the use of “beneficiary persons”. It asks also that “authorised entities” take “due care” when handling these books, and that they discourage the reproduction and distribution of unauthorised copies. These are reasonable requirements.

12. What does the Treaty say about “Commercial availability of accessible format books”?

One of the major concerns at the Treaty negotiations was that the Treaty might require that books could be received in accessible formats only where they were not deemed to already be available commercially in that format. Meeting such an obligation would have been impossible in practice and rendered the Treaty very difficult or impossible to use. This concept survived in the Treaty in a much weaker form, which allows countries to choose to have a commerciality requirement in their national copyright law, which some countries like Singapore and Australia already do have. Such countries have to let WIPO know formally that their domestic law requires a commerciality test, and also whether they intend it to

affect imports of accessible materials into that country from elsewhere. There is no “commercial availability” requirement for exporters of accessible books.

13. What is the “Three-Step Test”?

This is a concept well-known to international copyright law experts, but few others. It caused a lot of concern among advocates concerned that it might be a Trojan horse for more extensive commercial availability requirements. It appears all over the treaty, but we don't think it is likely to get in the way of helping blind people except in rare situations.

14. What is the Aim of the treaty?

The aim is to ensure that, with the help of the publisher community, every book that is published is made easily available to print-disabled readers in a manner that they can read it with the same ease, convenience and pleasure as a non-disabled person.

With rapid advancement of ICT (Information and Communication Technology) and associated adaptive and assistive technologies, it is deemed necessary to open up avenues of equal opportunity for users who have various physical and sensory impairments, especially, visual impairment. It is felt that a mere small, or for that matter, large collection of Braille books is no longer enough for the visually challenged users.

These initiatives have also proved extremely beneficial for senior citizens, those with learning disabilities, the print-disabled including neo-literates, and illiterates.

As knowledge managers it is perhaps the mandate of publishers to throw open the avenues of equal opportunity. It is also perhaps mandatory from the viewpoint of social justice and empowerment.

15. What is the goal?

The envisaged project has been conceptualized and designed to overcome the gap in readership opportunities for print-disabled persons. It would therefore involve a planned, systematic and structured set up which would provide print access delivery for persons with disabilities.

16. How can we best summarise the Marrakesh treaty?

In plain language, this is a Treaty that should start to remedy the book famine. It provides a crucial legal framework for adoption of national copyright exceptions in countries that lack them. It creates an international import/export regime for the exchange of accessible books across borders. It is necessary for ending the book famine, but it is not sufficient. Countries need to sign, ratify and implement its provisions. Non-profit organizations, libraries, educational institutions and government need to take advantage of these provisions to actually deliver the accessible books people with disabilities need for education, employment and full social inclusion.

This sourcebook is designed to help publishers join the
accessible content movement in India and further
strengthen Sugamya Pustakalaya
(India's Accessible Online Library for the Print Disabled)
and thus promote the Right to Read for All.

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