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The Marrakesh Treaty on Copyright and the Right to the Printed Word

'Literacy is a bridge from misery to hope'
Kofi Annan

Many of us may be unfamiliar with the Marrakesh Treaty, which seeks to 'Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled'. It is an international legal instrument which makes it easier for blind, visually impaired and print disabled people to access works protected by copyright.

The treaty provides for the exchange of accessible-format books across international borders by organizations, known as Authorized Entities, that serve people who cannot read printed works. It was adopted in Marrakesh, Morocco, on 27th June 2013 by the World Intellectual Property Organization (WIPO) to address the widespread problem known as a 'book famine,' where few books are published in formats that are accessible to those who are blind or visually impaired.¹

While South Africa has adopted the treaty, it has yet to ratify it. In September 2022, the Constitutional Court ruled that sections of the Copyright Act are unconstitutional. On the tenth anniversary of South Africa's adoption of the treaty, over 100 people supported by Blind SA, SECTION27 and other activist groups, marched to the Department of International Relations and Co-operation (DIRCO) in Pretoria. They were demanding that government ratify the Marrakesh Treaty.² A memorandum of demands, as well as a petition with over 4 500 signatures, were handed over to DIRCO.

Reading is a human right, but currently not all South Africans can access books or other reading materials. Over 90% of all published materials cannot be read by blind or print-disabled people. This compromises educational and employment opportunities, as well as social inclusion. The UN Universal Declaration on Human Rights states that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers... everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits".³ Furthermore, "the promotion of fair and equal access to information for people with print disabilities is protected not only in the South African constitution, but in anti-discrimination legislation such as the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 and the Social Assistance Act of 2004".⁴

117 countries have ratified the treaty.⁵ This number includes many of South Africa's neighbours, such as Lesotho, Botswana and Zimbabwe. Other African countries that have ratified the treaty include Kenya, Malawi, Nigeria, Tanzania, Uganda and Ghana. South Africa is the only BRICS country not to have ratified it.⁶ South Africa's reasons for failing to ratify the treaty are related to delays in amending the Copyright Act No 98 of 1978.

The recent recognition of South African Sign Language (SASL) as an official language, making a total of 12 official languages, is an encouraging sign that policy makers are serious about inclusivity and equality.⁷ Education Professor Percy Sepeng observes that “the legal recognition of SASL is a major step towards a more inclusive, varied, and egalitarian society where Deaf people may reach their full potential and their language and culture are valued”.⁸

There have been great advances in the development of devices and software capable of providing access to materials for people with print disabilities at affordable cost.⁹ Access to knowledge is a constitutional right. Surely it is time to develop and amend South African copyright law and thereby enabling the ratification of the treaty and realising the constitutional rights of the print-disabled community.

The links below provide additional information on this topic.

<https://www.groundup.org.za/article/blind-sa-leads-march-to-dirco-demanding-government-ratify-the-marrakesh-treaty/>

https://www.wipo.int/marrakesh_treaty/en/

<https://www.gov.uk/guidance/the-marrakesh-treaty>

<https://worldblindunion.org/programs/marrakesh-treaty/>

<https://www.spu.ac.za/index.php/embracing-inclusivity-south-african-sign-language-as-the-12th-official-language/>

<https://www.euroblind.org/marrakesh-treaty>

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¹ https://www.wipo.int/marrakesh_treaty/en/

² <https://www.groundup.org.za/article/blind-sa-leads-march-to-dirco-demanding-government-ratify-the-marrakesh-treaty/>

³ https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

⁴ https://repository.up.ac.za/bitstream/handle/2263/84529/Cassells_Impact_2021.pdf?sequence=1&isAllowed=y

⁵ <https://www.eifl.net/news/2022-another-good-year-marrakesh-treaty>

⁶ <https://worldblindunion.org/programs/marrakesh-treaty/>

⁷ <https://www.spu.ac.za/index.php/embracing-inclusivity-south-african-sign-language-as-the-12th-official-language/>

⁸ <https://www.spu.ac.za/index.php/embracing-inclusivity-south-african-sign-language-as-the-12th-official-language/>

⁹ https://repository.up.ac.za/bitstream/handle/2263/84529/Cassells_Impact_2021.pdf?sequence=1&isAllowed=y