

## POLICY BRIEF ON RATIFICATION OF THE MARRAKESH TREATY BY THE GOVERNMENT OF BANGLADESH

26 September 2022 marks a historic day for Bangladesh, especially for people with any form of visual or print disability. On this day, Bangladesh has successfully deposited instruments of its accession to the Marrakesh Treaty of the World Intellectual Property Organization (WIPO) to facilitate access to published works for people with visual or print disabilities. It entered into force at the United Nations on 26 December 2022. Thus, Bangladesh became the 116th nation in the world to sign this agreement to improve access to books and reading for the country's people with disabilities.

Manusher Jonno Foundation (MJF) facilitated a process initiated by its partner organisation BVIPS to persuade the government to accede to Marrakesh Treaty and ratify it in the parliament to make it a law in the country.

### WHAT IS THE MARRAKESH TREATY?

The Marrakesh Treaty was adopted on 27 June 2013 at a diplomatic conference of WIPO, the United Nations specialised agency, in the city of Marrakesh in Morocco. The Treaty entered into effect on 30 September 2016. The Marrakesh Treaty makes the production and international transfer of specially-adapted books for people with visual disabilities easier by establishing limitations and exceptions to traditional copyright laws. The agreement was signed under the auspices of the WIPO for use by its member states.

The full name of the agreement is 'Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print-Disabled'. It has a **precise humanitarian and social development dimension. Its primary goal is to create a set of mandatory limitations and exceptions in the countries' copyright law for the benefit of the blind, people with visual disabilities and otherwise print-disabled.**

*Intellectual property (IP) or copyright is a legal right existing in many countries which gives the original creator of an intellectual work the sole and exclusive right to decide whether a party other than the creator can use that work or under what conditions. These include books, literature, stories, rhymes, paintings, photographs, publications, videos, movies, documentaries, etc. IP is legally protected through patents, copyright and trademarks, which enable people to earn recognition or financial benefits from what they invent or create. By striking the right balance between the interests of innovators and the broader public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.*

*Millions of books or magazines are published worldwide every year. Some of them might be textbooks, and some might be about literature. **Almost all such publications are protected by copyright.** As written in every publication protected by copyright, it may not be translated or stored in electronic or any other form without the author's or publisher's written permission. **These acts are punishable offences in many countries, including Bangladesh, under the Copyright Act 2000.***

**The Marrakesh Treaty was negotiated against the backdrop of a worldwide scarcity of printed works and cultural materials in accessible formats. Accordingly, Marrakesh Treaty requires its contracting member nations to create limitations and exceptions to their respective copyright laws to make it easier for people with disabilities to access printed works in accessible formats such as Braille and digital audio files. It also establishes rules for the cross-border exchange of such accessible format copies.**

### **WHY WAS THE RATIFICATION OF THE MARRAKESH TREATY NECESSARY?**

As per the World Bank estimate, more than 15 million people are disabled with one or more types of disabilities. Among them, 6 million persons have visual disabilities, including 2.5 million children. Many of the estimated 300 million print-disabled individuals worldwide, especially those living in developing countries, lack adequate access to printed materials in accessible formats even though the technology to create such work has long existed and continues to evolve rapidly. **Unable to read newspapers, enjoy books, or research on the Internet, these individuals cannot participate meaningfully in society. The result is a violation of numerous internationally recognised human rights, most notably, the rights protected by the United Nations Convention on the Rights of Persons with Disabilities (CRPD).**

According to the latest National Disability Survey (2020), an estimated 1.43 million people are living with mild to severe visual disability in Bangladesh, and 19 in every 100 adults aged 30 years or older suffers from any degree of visual impairment. These people with visual disabilities have little or no access to various textbooks and publications that are essential for their education, information, employment and livelihood. Apart from textbooks, people with visual disabilities and print-disabled people are deprived of accessing literature and articles as part of their intellectual and cultural development. Due to copyright barriers, provision for accessibility to books and publications concerning people with visual disabilities and print-disabled is not in place in the country. Bangladesh government has no law that can persuade the publishers to withdraw their copyrights for making texts available for the visually impaired or print-disabled in Braille or computer-readable form.

Given the above, signing and ratifying the Marrakesh Treaty 2013 was vitally necessary for Bangladesh.

### **KEY FEATURES OF THE TREATY**

The Treaty clarifies that beneficiary persons are those affected by various disabilities that interfere with the effective reading of printed material. The broad definition includes persons who are blind, visually impaired, print-disabled or persons with a physical disability that prevents them from holding and manipulating a book.

Works "in the form of text, notation and/or related illustrations, whether published or otherwise made publicly available in any media", including audiobooks, fall within the scope of the Treaty.

Another vital element is the role played by authorised entities, which are the organisations in charge of performing the cross-border exchange. The relatively broad definition of the term encompasses many non-profit and government entities. They are either specifically authorised or "recognised" by the government as entities that provide many functions, including education and information access to beneficiary persons. In addition, authorised entities must establish and follow their practices in several areas, including confirming that the persons they serve are beneficiary persons, providing services only

to those persons, discouraging unauthorised uses of copies, and maintaining "due care" in handling copies of works.

**Having 22 Sections, the Treaty has a clear structure and provides specific rules regarding domestic and cross-border limitations and exceptions. Among those, Bangladesh has ratified 19 sections with restrictions against Sections 4, 5 and 6.**

#### **EFFECT OF THE RATIFICATION OF THE TREATY ON THE LIVES OF PERSONS WITH VISUAL DISABILITY IN BANGLADESH**

The ratification of the Marrakesh Treaty by Bangladesh means people with visual disabilities in the country can now read books and literature written by renowned national and international writers, unlike before. Eventually, an estimated 340,000 visually impaired people in Bangladesh will have access to more than 800,000 accessible books via WIPO's "Accessible Book Consortium" due to the Marrakesh Treaty. In the meantime, the Ministry of Social Welfare and a2i jointly facilitated Multimedia Talking Book, developed an Accessible Dictionary, distributed Braille textbooks at the beginning of the academic year and set up a specially designed ICT Lab for students with visual disability to intensify their skills and ensuring other much-needed amenities.

Bangladesh has taken a step forward in paving the way to attaining the United Nations Declaration on the Rights of Persons with Disabilities (UNCRPD) and Sustainable Development Goals (SDG-4) by 2030 by ratifying the Marrakesh Treaty, which guarantees all people with disabilities equal opportunity in education. It will also contribute to fulfilling the government's commitments regarding SDG's underlying principle, 'leave no one behind' and the 8th five-year plan's 'put the excluded first'. Furthermore, if people with visual disabilities can become a creative and productive force through the Marrakesh Treaty, the government's development and poverty alleviation target will be strengthened. Moreover, this will ensure equal rights for all citizens and reduce the country's inequality.

#### **NEXT STEPS**

- The accession to Marrakesh Treaty is a monumental step for Bangladesh towards full and equal opportunity, but it is only a step. Now it is time to work on its implementation.
- Civil society and human rights organisations need to put their full and concerted effort into lobbying the government to implement the Treaty without delay.
- The immediate step now should be amending and revising the Copyright Act.
- Producing more accessible books is another crucial step for Bangladesh to deliver the benefit of ratifying the Treaty towards people with disabilities.