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ISSUE BRIEF FOR INDONESIA

THE

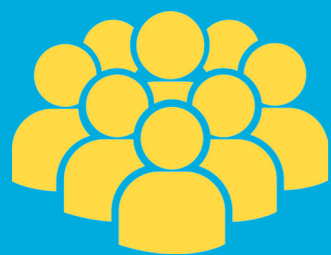
MAR RAK KESH

TREATY

to facilitate access to
published works for
persons with print
disabilities.



20 MILLION

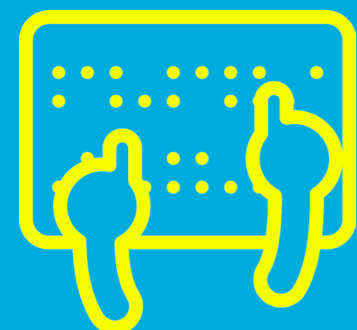


people live with disability in Indonesia.

Indonesia has the second highest rate for blindness in the world with

3.5 MILLION

vision-impaired people.



<1%

of published books in developing countries are made into formats accessible to people with print disabilities.

THE MARRAKESH TREATY

facilitates access to published works for people with print disabilities by creating a legal framework to allow the creation, distribution and cross-border exchange of accessible formats.

Access to knowledge is critical for achieving full human potential and inclusive development.

However it is estimated that less than one per cent and seven per cent of published books in developing and developed countries respectively are made into formats accessible to people with print disabilities.¹ This leads to a situation referred to as a 'book famine', whereby people living with print disabilities are excluded from full participation in education, employment, healthcare, culture and just about any aspect of political, economic and social activities.

Print disability can be caused by visual impairment such as blindness and low vision developmental and learning disabilities such as dyslexia and autism, or physical disabilities such as Parkinson's disease and paralysis. People with print disabilities cannot effectively obtain information from print materials in the conventional way (e.g. not being able to see/read the printed text, hold a book, or turn pages) and therefore require accessible formats such as braille, audio, e-books or large print. Lack of equitable, timely and affordable access to published works in accessible formats prevents millions of people with print disabilities around the world from making the most of human development opportunities.

The number of people with print disabilities in Indonesia and elsewhere is likely to grow because of an ageing population and the rise of non-communicable diseases such as stroke (which can cause paralysis) and diabetes (which can cause blindness or impaired visions). Greater access to published works in accessible formats will therefore become increasingly important in every society to achieve inclusive development.

The Marrakesh Treaty

Legal obstacles to the creation and distribution of published works in accessible formats, and their cross-border exchange have contributed to the 'book famine' for people with print disabilities. For example, an accessible format copy of a popular book produced for people with print disabilities in Country A could not be shared with print disabled people, blind people's organizations or libraries in Country B, due to lack of international legal frameworks that would allow its exchange between the countries. As a result, the same accessible format version has to be recreated in Country B, e.g. Indonesia, resulting in duplication of efforts and resources. The subsequent increase in costs of producing accessible works acts as a detriment to their availability.

The Marrakesh Treaty to Facilitate Access to Published Works for People Who Are Blind, Visually Impaired, or Otherwise Print Disabled, adopted in June 2013 by member states of the World Intellectual Property Organization (WIPO), aims to remove these legal obstacles.² The Treaty paves the way for an enabling legal environment to end the 'book famine', while ensuring that an author's rights and interests are protected.

The Treaty addresses the book famine issue by allowing 'authorized entities', such as blind people's organizations and libraries, to pool their accessible collections, thereby reducing duplication of effort and saving money – in many cases public, charitable or donor funds – and increasing the number of accessible books available.

Engaging with libraries is key to the success of the Treaty. Throughout the world, libraries are one of the primary sources of braille, audio, large print and digital format materials for blind and visually impaired people. Additionally, under the Treaty, only blind people's organizations, libraries and other 'authorized entities' can legally send accessible format copies to other countries.

One significant aspect of the Marrakesh Treaty is that it includes not only blind and visually impaired people, but it extends to people with other print disabilities, which are expected to increase because of population ageing and the rise of non-communicable diseases as mentioned above.

The Marrakesh Treaty is the first copyright treaty with human rights principles at its core, with specific references to the Universal Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

The widespread lack of access to published works in accessible formats goes against the spirit of and the obligations arising from the UNCRPD. The Marrakesh Treaty will help countries directly address specific UNCRPD obligations such as provisions relating to access to information (Article 9); freedom of expression (Article 21); the right to education (Article 24); the right to participate in cultural life (Article 30.1.a); as well as ensuring "that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access (Article 30.3)."^{3,4} The Marrakesh Treaty entered into force on 30 September 2016. As of August 2017, 30 countries have become contracting parties to the Treaty.⁵

Indonesian context

According to the intercensal population survey conducted by Statistics Indonesia (BPS) in 2015,⁶ 8.5% of the population in Indonesia aged 10 and above, or about 22 million people, are estimated to live with some form of disability. People with disabilities in Indonesia face disproportionate challenges in terms of poverty, education, employment, cultural participation and the extent of these challenges is often greater among girls and women with disabilities.⁷

The intercensal population survey also revealed that visual impairment comprises the largest category, about 30%, among different types of disabilities in Indonesia.⁸ Data sources^{9,10} also indicate that there are about 3.5 million blind people in Indonesia, making Indonesia the country with the second highest rate of blindness in the world. Protecting, promoting and fulfilling the rights of people with disabilities, including their right to knowledge, education and cultural participation, will address many priorities of the Government of Indonesia, including the National Medium-term Development Plan (RPJMN) 2015-2019, which "aims to improve the quality of human life and address disparity and inequality."¹¹

The enactment of Indonesia's law on people with disabilities (Law No.8 of 2016) demonstrates the commitment of the Government to protect and ensure basic rights and socioeconomic progresses among people with disabilities in Indonesia. Advancing disability rights is also vital to accelerating Indonesia's achievement of the Sustainable Development Goals, guided by the principles of 'leaving no one behind,' and 'reaching the furthest behind first.'

Indonesia is one of only two ASEAN countries to sign the Marrakesh Treaty, demonstrating its strong leadership and commitment to advancing disability rights both at national and global levels. However, Indonesia has yet to ratify the Treaty, which is a necessary step before the country becomes a contracting party to the Treaty.

Indonesia's Copyright Law (Law No. 28 of 2014) contains exceptions and limitations of copyright to facilitate access to published works among not just blind and visually-impaired people but also people with other print disabilities. The law also states that such facilitation is to be regulated by the government, indicating the need for government regulations, which can take full advantage of flexibilities and safeguards offered by the Marrakesh Treaty. They include provisions to allow cross-border exchange of accessible format copies.

By enabling cross-border exchange of accessible format works, the Marrakesh Treaty can benefit countries with limited availability of accessible format works, such as Indonesia. A wide range of people would benefit, including print-disabled students wishing to learn foreign languages, for example, as well as people with disabilities interested in the latest scientific findings or cultural materials.

The Treaty also contains optional provisions such as the commercial availability requirement and the remuneration requirement. The World Blind Union recommends that states avoid adopting these optional provisions as they are in conflict with the overarching objectives of the Treaty.¹²

As Indonesia ratified the UNCRPD in 2011, the Marrakesh Treaty will provide an additional legal framework to help the Indonesia government fulfil its various UNCRPD obligations and implement its new disability law.

Aria Indrawati, President of the Indonesian Blind Union (Pertuni) stresses that "access to knowledge is a fundamental human right. There will be no development without accessible books."

Ways forward

Disability is not just about the physical impairment of the individual, it is the result of "interaction between people with impairments and attitudinal and environmental barriers that hinders their full and effective participation on an equal basis with others,"¹³ rather than an exclusive result of the impairment.¹⁴ It means that the extent of one's disability is heavily influenced by social circumstances. Overcoming the difficulties faced by people with disabilities requires interventions to create enabling legal framework, social and physical environments.

Ratifying and implementing the Marrakesh Treaty can provide Indonesia with an additional legal framework to advocate, protect and promote the rights of people with disabilities. It will create opportunities to strengthen disability responses in Indonesia across sectors, with new partners such as the Ministry of Law and Human Rights, which is the custodian of copyright law in Indonesia, the Ministry of Foreign Affairs, and libraries, for example. It will also open the door for Indonesia to benefit from funding opportunities and international collaboration.

UNDP provides technical assistance to support the ratification of the Marrakesh Treaty, in partnership with the Government, blind people's associations such as the Indonesia Blind Union (Pertuni), Mitra Netra, Indonesian Centre for Law and Policy Studies (PSHK), and the World Blind Union Asia-Pacific, and other partners such as the Electronic Information for Libraries (EIFL). We support equitable, timely and affordable access to published works in accessible formats that could prevent millions of people with print disabilities from harnessing crucial human development opportunities, thus confining them to poverty, exclusion and isolation.

The website of the Electronic Information for Libraries (EIFL) offers useful information on the Marrakesh Treaty: <http://www.eifl.net/resources/implementation-marrakesh-treaty-eifl-faqs>

This Issue Brief is available in English, Bahasa Indonesia, and accessible formats such as braille and audio.

For more information:

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Sources

¹World Blind Union (2013). Press Release WIPO Negotiations Treaty for Blind people. Available at <http://www.worldblindunion.org/english/news/pages/press-release-wipo-negotiations-treaty-for-blind-people.aspx>

²See the website of the World Intellectual Property Organization (WIPO) for details. <http://www.wipo.int/treaties/en/ip/marrakesh/>

³See the UN website on the Convention on the Rights of People with Disabilities at <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-people-with-disabilities.html>

⁴Helper L. R et al. (2016). The World Blind Union Guide to the Marrakesh Treaty: Facilitating Access to Books for Print-Disabled Individuals. Oxford University Press.

⁵See the above WIPO website for an updated list of Contracting Parties.

⁶Indonesia Intercensal Population Survey 2015. https://www.bps.go.id/website/pdf_publicasi/Profil-Penduduk-Indonesia-Hasil-Supas-2015--.pdf

⁷Ibid.

⁸Presentation by Amannullah, G, Director of People Welfare Statistics, BPS – Statistics Indonesia. (2016). Measuring disability in Indonesia. <https://unstats.un.org/unsd/demographic-social/meetings/2016/bangkok--disability-measurement-and-statistics/Session-6/Indonesia.pdf>

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¹¹The Government of Indonesia – United Nations Partnership for Development Framework (UNPAF) 2016-2020. https://www.unicef.org/about/execboard/files/Indonesia-UNPDF_2016_-_2020_final.pdf

¹²Ibid 4.

¹³Preamble of the UN Convention on the Rights of People with Disabilities. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-people-with-disabilities/preamble.html>

¹⁴<http://www.who.int/topics/disabilities/en/>



1. Mitra Netra's client listening to audiobook (Digital Talking Book) in CD format
(Photo by: Yayasan Mitra Netra)






2. Mitra Netra's client reading a Braille book
(Photo by: Yayasan Mitra Netra)



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