

The Road to Ratification: Experiences in Developing and Transition Countries

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Abstract:

This paper provides a brief overview of the experiences advocating for the Marrakesh Treaty for persons with print disabilities in sixteen developing and transition economy countries in Africa, Asia and eastern Europe. It sets out the status of ratification and national implementation, highlights common questions that arise and outlines steps for a successful ratification campaign.

Keywords: Marrakesh Treaty, print disabilities, copyright, developing and transition countries, EIFL

Introduction

Thank you for the invitation to speak about EIFL's experience advocating for the Marrakesh Treaty for persons with print disabilities.

My name is Teresa Hackett. I am the Copyright and Libraries Programme Manager at Electronic Information for Libraries, known as EIFL.

EIFL works with libraries and library consortia in more than 50 developing and transition economy countries in Europe, Africa, Asia Pacific, and Latin America.

EIFL has been a strong advocate for ratification of the Marrakesh Treaty and its implementation into national law.

I will provide a short overview of progress in sixteen countries in Africa, Asia, and eastern Europe. I will highlight the main issues that come up and outline steps for success.

Ratification of the Marrakesh Treaty in Mongolia and Kyrgyzstan

I will start with the two biggest successes to date, that is, ratification of the Marrakesh Treaty by Mongolia and Kyrgyzstan. In both countries, advocacy campaigns were led by the library community.

In **Mongolia**, the Mongolia Libraries Consortium (MLC) partnered with National Federation of the Blind (MNFB), in a project supported by EIFL.

The campaign featured cooperation with policy makers, a national media campaign that included a 30 minute TV programme on the benefits of the treaty, and a strong advocacy team.

As a result in September 2015, Mongolia became the 10th country to ratify the Marrakesh, marking the halfway point towards its entry into force (20 countries were required to ratify for the treaty to enter into force).

The next steps in Mongolia are to implement the treaty into national copyright law. The draft law might go forward to the Ministry of Justice in September 2017.

In **Kyrgyzstan**, EIFL supported the Kyrgyz Library and Information Consortium (KLIC) to initiate a project called ‘Right to read, right to knowledge’.

The campaign included the same ingredients for success as Mongolia: a strong library advocacy team and good cooperation with stakeholders and policy-makers.

In February 2016, a one-day international conference was held in Bishkek with invited representatives of the copyright office, and members of parliament who became sponsors of a bill introducing the treaty into Parliament and steering it through the legislative process.

As a result in May 2017, Kyrgyzstan became the first country in central Asia to join the treaty, as well as the first Russian-speaking country.

The great thing is that Kyrgyzstan is also ‘Marrakesh-ready’. What does this mean?

In most countries, two steps are needed to complete the process: ratification of the treaty and implementation into national law.

In Kyrgyzstan, in parallel to the treaty accession process, the copyright law was already amended in March 2017. So when the treaty entered into force in Kyrgyzstan on 15 August 2017, libraries can immediately start to send and receive accessible works from other Marrakesh-ready countries.

What’s more, the implementation in Kyrgyzstan is a good implementation. EIFL is reviewing the provisions that could become a model for the region.

Progress in Africa

Next I will talk briefly about Africa where EIFL is involved in eight countries.

In **Senegal**, the Consortium of Libraries of Higher Education (COBESS) has led an advocacy campaign for Marrakesh since 2014, in partnership with local blind groups. COBESS has worked hard with the Senegalese copyright office, the Ministry of Culture, and members of parliament to advocate for the Treaty. COBESS has organized advocacy events and media campaigns. We hope for a positive result before the end of the year - watch this space!

In **Lesotho**, EIFL is organizing a regional expert seminar in September 2017 with the Lesotho Library Consortium (LELICO) and the Registrar General's Office. The seminar is part of a government action plan to work towards ratification of the Treaty, initiated by LELICO in 2016. With a new parliament elected in Lesotho in June 2017, we hope the timing is right to get Marrakesh on the new political agenda.

In **Sudan**, the process is getting started. In May 2017, the Sudanese University Library Consortium (SULC) submitted a memorandum on Marrakesh to the ministry in charge (Council for the Welfare of Disabled Persons, Ministry of Welfare and Social Security).

In **Ghana** and **Uganda**, EIFL is cooperating with the World Blind Union (WBU) and the African Union of the Blind (AFUB).

Five countries in Africa have ratified the Marrakesh Treaty so far. Of these,

Botswana acceded in October 2016. EIFL will visit Botswana in September 2017 to advance domestication of the treaty in consultation with the copyright office.

Kenya ratified in June 2017. Treaties in Kenya have direct effect meaning that libraries can start using the treaty when it enters into force in Kenya on 2 September 2017. We will have an opportunity to discuss direct effect with copyright officials during the seminar in Lesotho in September 2017.

In July 2017, **Malawi** became the 30th country to join the treaty. Unfortunately the copyright act law that was adopted in 2016 includes a commercial availability test that is opposed by libraries. EIFL is seeking to fix the problem that would restrict the ability of libraries in Malawi to provide accessible format copies disrupting the Treaty's global effect. In August 2017, EIFL, IFLA and AfLIA (African Library and Information Association and Institutions) issued a joint statement calling on the government of Malawi to drop the commercial availability test.

Progress in other regions – CIS states

EIFL is also active in the Commonwealth of Independent States (CIS) region.

The goal is to encourage Russian-speaking countries, including Russia, to join the treaty to enable an important language group to benefit.

In **Kyrgyzstan**, as mentioned above, the treaty entered into force on 15 August 2017.

In July 2017 EIFL visited **Belarus**, that has begun the process of ratifying the treaty, to discuss progress with copyright officials and libraries.

In **Armenia**, the copyright law is expected to be amended first before ratification. Marrakesh will form part of the agenda for EIFL's discussions the draft copyright law with copyright officials during a meeting planned for in October 2017.

In **Georgia**, we will take the opportunity to discuss treaty accession with the copyright office on the occasion of EIFL's General Assembly that takes place in Georgia in September 2017.

Progress in Asia

In **Nepal**, a proposal for ratification was submitted to Parliament by the Council of Ministers in December 2016. To help prepare the ground, a seminar was co-organized in 2015 with EIFL and the Nepal Library and Information Consortium (NeLIC). During the seminar, stakeholders decided to form a 'Right to Read' campaign.

In **Thailand**, the Legislative Assembly approved ratification in April 2017. But first it is expected that the copyright law will be adapted. We look forward to an opportunity to contribute to the process, in cooperation with the World Blind Union (WBU).

In **Cambodia**, EIFL is cooperating with UNDP in Asia and the Pacific to prepare briefing information on the Marrakesh Treaty in Khmer that will also be available in Braille and audio versions.

Finally, EIFL is supporting IFLA and EBLIDA on ratification in the **European Union**.

Thank you to EIFL copyright librarians

I would like to take the opportunity to publicly thank all the EIFL Copyright Librarians for their dedication and commitment to Marrakesh. It is through their work on the ground that results have been achieved.

I would like acknowledge in particular the role of Baljid Dashdeleg in Mongolia, and EIFL Marrakesh Regional Advisors, Awa Cissé (Senegal) and Sania Battalova (Kyrgyzstan).

What are the main issues that arise during ratification?

Three issues come up frequently during ratification and implementation.

The first issue is asked by governments and librarians alike - does the treaty mean extra costs or obligations on the government or the library? The answer is no.

The treaty does not impose an obligation on the government, or the library, to provide accessible format copies – it simply confers the right to make an accessible copy. In other words, the treaty grants permission to do things that can't be done without permission. In fact, it should result in cost savings and other benefits.

We hope that libraries will want to use the new opportunities, but there's no obligation.

The second issue that arises relates to the role of authorized entities. Who decides who is an authorized entity? How are they managed?

The answer is there are no formalities to becoming an authorized entity – no government approval or authorization is required. The work of an entity in creating accessible formats in essence confers the recognition. Thus any library serving print disabled people on a non-profit basis qualifies e.g. public library, university library, as well as special libraries serving people with print disabilities.

We have compiled a set of FAQs on these and other commonly asked questions, that is available online, www.eifl.net/resources/implementation-marrakesh-treaty-eifl-faqs.

The third question relates to examples of national implementations, especially as more and more countries implement the treaty. The Association of Research Libraries (ARL) has recently compiled a helpful list of national implementations.

Steps for success

Be flexible. The examples show that there is a great variety in the road to ratification. Plan your campaign, but be prepared to be flexible and patient.

Smart campaigns. The campaigns in Kyrgyzstan and Mongolia contained the elements for success: a smart campaign that was focused and strategic, a champion librarian, and a favourable political environment.

Translation. Translate the treaty and other key documents into the local language, if not already available. For example, in Mongolia, a prerequisite for ratification of any international treaty is that it is available in the Mongolian language. Organizing the translation might help to move the process along,

Know the publishers' position. The publishers' interpretation of the Marrakesh Treaty is more restrictive than that of the library community. For example, publishers support the introduction of a commercial availability test in national law. Know the publishers' position so that when you are advocating to governments, you are ready to respond to questions that will come up.

The last mile – no more chains

I would like to finish with a request to LPD libraries.

In order to maximize accessible material available and to serve blind and visually impaired people everywhere, the treaty was designed to benefit all types of libraries.

General service libraries or libraries based in small or rural communities might not have the staff, resources or the technical expertise to feel confident in delivering services to a new user group.

As the treaty moves towards the 'last mile' - the practical implementation phase - EIFL encourages special libraries serving people with print disabilities to share your knowledge and expertise with other types of libraries in your country.

I encourage you to invite librarians from different types of libraries to visit your library, to demonstrate the special equipment and to provide an opportunity to talk to users.

In this way, LPD can help us to finish the work that began at WIPO more than eight years ago – to end the book famine.

Thank you for listening.

References

Read more about EIFL's work advocating for the Marrakesh Treaty: www.eifl.net/eifl-in-action/right-read.

Association of Research Libraries (ARL) National Implementations of the Marrakesh Treaty By Countries That Have Ratified or Acceded to the Treaty: www.arl.org/publications-resources/4347-marrakesh#.WYTqhXA8BIH.