
IMPLEMENTATION OF MARRAKESH TREATY IN INDIA: A CRITICAL ANALYSIS OF SECTION 52(1)(ZB) OF THE COPYRIGHT ACT IN INDIA

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1. Introduction

Access to books and learning resources continues to be a major challenge for individuals who are blind, visually impaired, or otherwise unable to read standard print. Although copyright law aims to safeguard the interests of authors and publishers, it often has the unintended effect of limiting the availability of materials in accessible formats like Braille, audiobooks, or digital text. This widespread issue is commonly referred to as the “book famine.” In response to this concern, the Marrakesh Treaty¹ of 2013 was introduced under the World Intellectual Property Organization. The treaty marks an important development in international copyright law, as it shifts the focus toward promoting inclusivity, ensuring equal access to knowledge, and upholding the dignity of persons with disabilities.

India responded proactively to this development. Through the Copyright (Amendment) Act, 2012, it introduced Section 52(1)(zb)² into the Copyright Act, 1957, even before formally ratifying the Treaty. This provision permits the conversion of copyrighted works into accessible formats and allows their distribution to persons with disabilities under specified conditions. It reflects an important recognition that copyright protection must coexist with the constitutional commitment to equality, education, and social justice.

However, the mere existence of a legal provision does not automatically ensure meaningful access. Questions remain about how effectively Section 52(1)(zb) operates in practice, how broadly its safeguards are interpreted, and whether procedural requirements create unintended obstacles. Concerns relating to the role of authorized entities, technological protection

¹ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (adopted 27 June 2013, entered into force 30 September 2016).

² Copyright Act 1957, s 52(1)(zb) (as inserted by the Copyright (Amendment) Act 2012).

measures, and awareness among stakeholders also influence its real-world impact.

This paper critically examines the implementation of the Marrakesh Treaty in India through an analysis of Section 52(1)(zb). It seeks to explore whether the Indian framework truly bridges the gap between copyright protection and the right to access knowledge, and whether further reforms are necessary to make the promise of inclusive education a practical reality rather than a legislative ideal.

2. Marrakesh Treaty – Implementation and Application

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (2013) was adopted to address a long-standing global imbalance in copyright law. For decades, strict copyright protection often made it difficult to convert books into accessible formats such as Braille, large print, or audio without the permission of rights holders. As a result, only a small percentage of published works were available to persons with print disabilities, creating what has been widely described as a “book famine.” The Treaty, adopted under the World Intellectual Property Organization, represents a significant human-rights-oriented development in international copyright law by requiring member states to introduce mandatory exceptions and limitations for the benefit of persons with disabilities.³

The implementation of the Marrakesh Treaty involves incorporating its obligations into domestic legal systems. It requires countries to allow the creation and distribution of accessible format copies without infringing copyright and to permit cross-border exchange of such copies between authorised entities.⁴ However, the effectiveness of the Treaty depends not only on formal legislative amendments but also on practical application—such as administrative mechanisms, institutional capacity, technological accessibility, and awareness among stakeholders.

In the Indian context, the Treaty’s objectives are reflected in Section 52(1)(zb) of the Copyright Act, 1957, inserted through the Copyright (Amendment) Act, 2012. While India has been recognised for taking progressive steps toward compliance, the real measure of success lies in

³ Rights of Persons with Disabilities Act 2016.

⁴ Laurence R Helfer, ‘Copyright Exceptions Across Borders: Implementing the Marrakesh Treaty’ (Duke Law Scholarship Repository, 2020) accessed 21 March 2026.

how these provisions function in practice.⁵ Therefore, an examination of implementation and application requires both a legal analysis of statutory provisions and an assessment of their operational impact on access to education and information for persons with disabilities.

2.1 Implementation of Marrakesh Treaty on a global level

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, adopted in 2013 under the framework of the World Intellectual Property Organization (WIPO), represents a landmark shift in international copyright law toward a more inclusive and human-centred approach. The Treaty was designed to combat the global “book famine” by obligating member states to introduce mandatory copyright exceptions that allow the creation and distribution of accessible format copies for persons who are blind, visually impaired, or otherwise print disabled.⁶ It entered into force in September 2016 after the required minimum of twenty countries ratified it. Since then, global participation has steadily increased, and as of recent years, more than one hundred contracting parties representing over one hundred twenty countries have ratified or acceded to the Treaty.

Several countries played a pivotal role in enabling the Treaty’s early implementation. India became the first country to ratify it in 2014, demonstrating early commitment to accessible knowledge. Other early ratifying nations included El Salvador, the United Arab Emirates, Mali, Uruguay, Singapore, Argentina, Mexico, Mongolia, the Republic of Korea, Australia, Brazil, Peru, Chile, Guatemala, Ecuador, Paraguay, Israel, Canada, and the Democratic People’s Republic of Korea. The European Union also ratified the Treaty on behalf of its member states, ensuring harmonised application across the region. The United States later ratified the Treaty, strengthening its global legitimacy and expanding cross-border exchange possibilities with one of the largest publishing markets in the world.

Ratification has required substantial amendments to domestic copyright laws. Many countries introduced explicit statutory exceptions permitting the reproduction, adaptation, and distribution of copyrighted works in accessible formats without prior authorisation from rights holders, provided the use is for the benefit of eligible persons and conducted on a non-profit basis.⁷ The European Union adopted Directive (EU) 2017/1564 and Regulation (EU)

⁵ Copyright (Amendment) Act 2012.

⁶ Caroline B Ncube, ‘Enabling Provisions for Persons with Disabilities in Copyright Law’ (2020) University of Colorado Law Faculty Scholarship accessed 22 March 2026.

⁷ S Sivakumar, ‘Copyright Amendment Act, 2012: A Revisit’ (2013) 55 Journal of the Indian Law Institute 439.

2017/1563 to harmonise exceptions across Member States and to regulate cross-border exchange of accessible copies. The United States enacted implementing legislation to modify its copyright framework and enable authorised entities to exchange accessible works internationally. Countries such as China amended their copyright laws to expand accessible format provisions, while others in Latin America and Africa revised their national statutes to ensure compliance with Treaty standards.

One of the most transformative aspects of global implementation has been the recognition of cross-border exchange. The Treaty permits authorised entities in one contracting party to share accessible format copies with similar entities in another country without seeking separate permissions. This has reduced duplication of effort and increased the global pool of accessible works.⁸ However, despite widespread ratification, implementation remains uneven in practice. Challenges such as limited institutional capacity, lack of technological infrastructure, varying definitions of authorised entities, and insufficient awareness continue to affect effective application in some jurisdictions.

Overall, the global implementation of the Marrakesh Treaty demonstrates a significant evolution in copyright governance. It reflects a growing international consensus that intellectual property protection must be balanced with the fundamental right to access education, culture, and information. While legislative reforms across numerous countries mark important progress, the true success of the Treaty depends on sustained practical efforts to ensure that persons with print disabilities experience real and measurable improvements in access to knowledge worldwide.

2.2 Implementation of Marrakesh Treaty in India

India's implementation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled reflects a proactive and rights-oriented approach within its copyright framework. Notably, India amended its domestic law even before formally ratifying the Treaty in 2014. Through the Copyright (Amendment) Act, 2012, significant changes were introduced into the Copyright Act, 1957 to align with the core obligations of the Treaty. The most important reform was the insertion of Section 52(1)(zb), which provides a specific exception allowing the adaptation, reproduction, issuance

⁸ Shammad Basheer, 'The Copyright (Amendment) Act 2012: A Fair Balance?' (2012) 5 NUJS Law Review 1 accessed 24 March 2026.

of copies, and communication to the public of copyrighted works in accessible formats for the benefit of persons with disabilities.⁹ This amendment ensured that conversion into Braille, large print, audio, or digital accessible formats could be undertaken without prior permission from copyright holders, provided that such use is non-profit in nature and exclusively for persons with disabilities.

The Treaty required member states to incorporate mandatory copyright exceptions, recognise authorised entities, and facilitate cross-border exchange of accessible format copies. India addressed these¹⁰ requirements by permitting not only individuals with disabilities but also organisations working for their benefit to produce and distribute accessible copies. The law does not impose overly restrictive procedural barriers, which places India among the more progressive jurisdictions globally. Importantly, the provision applies broadly to “persons with disabilities,” a term that aligns with the inclusive approach reflected in the Rights of Persons with Disabilities Act, 2016, thereby expanding protection beyond visual impairment alone.

India’s legal framework also accommodates the Treaty’s cross-border exchange mandate. Accessible format copies produced under Section 52(1)(zb) may be shared with authorised entities in other Marrakesh member countries, thereby contributing to the global pool of accessible works. This provision reduces duplication of efforts and strengthens international cooperation in accessible publishing. Additionally, India’s copyright rules clarify that such activities must ensure that accessible copies are supplied only to eligible beneficiaries and that reasonable safeguards are maintained to prevent commercial misuse.¹¹

Despite these legislative achievements, certain practical and structural challenges remain. Awareness about the exception among publishers, educational institutions, and even beneficiaries is still uneven. Technological protection measures (such as digital locks) can create obstacles if not accompanied by clear mechanisms for circumvention for lawful accessibility purposes.¹² There is also a need for stronger institutional coordination between copyright authorities, disability rights bodies, and educational institutions to ensure effective

⁹ S Jain, ‘The Indian Copyright (Amendment) Act, 2012 and Its Functioning So Far’ (SSRN, 2020) accessed 24 March 2026.

¹⁰ Exploiting the Marrakesh Treaty to Obviate Copyright-Related Barriers to Access to Published Works for Persons with Print Disabilities’ (2020) 41 Library Management 235.

¹¹ Marrakesh Treaty: Making Literature Accessible to All’ (Fox Mandal, 25 October 2021) accessed 23 March 2026.

¹² Indian Copyright Act and Marrakesh Treaty: Decoding the Lacuna under Copyright Act’ (IP and Legal Filings, 10 February 2023) accessed 23 March 2026.

implementation. Furthermore, capacity building for libraries and non-profit organisations is essential to expand the production and distribution of accessible materials.

Overall, India's implementation of the Marrakesh Treaty demonstrates a strong legislative commitment to balancing copyright protection with the constitutional values of equality, dignity, and access to education. While the statutory framework largely satisfies Treaty obligations, the continued success of implementation depends on practical enforcement, institutional support, technological accessibility, and sustained policy attention to ensure that persons with print disabilities experience genuine and widespread access to knowledge.

3. Changes in Indian Legislation – After the ratification of Marrakesh Treaty

India's embrace of the Marrakesh Treaty stands as a landmark in global intellectual property evolution, transforming its domestic copyright landscape to prioritize equitable access for those grappling with print disabilities. This exhaustive exploration delves deeply into the four delineated sub-topics, synthesizing legislative history, policy underpinnings, and practical ramifications to furnish a robust foundation for scholarly inquiry. By weaving together chronological developments, normative justifications, and empirical outcomes, this analysis illuminates how India not only complied with but anticipated international mandates, fostering a more inclusive knowledge ecosystem.

3.1 India's Early Alignment with the Marrakesh Treaty and Its Policy Rationale

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, formally concluded under WIPO auspices on June 27, 2013, addresses a profound inequity in the global information order. At its core, the treaty seeks to dismantle barriers that confine over 250 million individuals worldwide—predominantly in the developing world—to a mere fraction of literary and scholarly resources.

In nations like India, where literacy rates among the visually challenged hover perilously low due to format inaccessibility, the treaty's provisions compel signatories to enact copyright carve-outs permitting the unhindered production and dissemination of alternative formats such as tactile scripts, enlarged typography, phonetic renditions, and navigable digital surrogates.¹³

¹³ Social Inclusion and Role of Copyright Laws and Treaties for Empowerment of People with Print Disabilities' (2016) 3 IRJET 481 accessed 24 March 2026.

These measures, circumscribed by the venerable three-step test—ensuring exceptions are confined to special circumstances, do not undermine typical market exploitation, and avoid unjust harm to legitimate interests—represent a recalibration of IP paradigms from absolute proprietorship toward public welfare imperatives. India’s pioneering ratification on June 30, 2014, mere months after the treaty’s ink dried in Morocco, underscored a deliberate strategic posture. As the inaugural adherent, India—represented by its envoy Dilip Sinha in Geneva—signaled not just procedural haste but a profound ideological congruence.¹⁴ This alacrity stemmed from protracted domestic advocacy, including campaigns by the Saksham Trust and DAISY Forum, which highlighted how conventional copyright strictures exacerbated India’s & quot, book hunger leaving under 1% of its 100,000-plus annual publications viable for the estimated 7 million print-challenged citizens.

Ratification was no isolated gesture; it dovetailed seamlessly with India’s 2007 accession to the UN Convention on the Rights of Persons with Disabilities (CRPD), particularly Article 30, which enshrines participatory cultural rights sans discrimination. By framing access to knowledge as a non-derogable human entitlement, India pivoted from viewing disability accommodations as discretionary benevolence to structural obligations embedded in constitutional ethos—Article 21 and 39; right to life with dignity, bolstered by judicial glosses in cases like Justice K.S. Puttaswamy v. Union of India. This alignment bespoke a multifaceted policy rationale.¹⁵ Economically, it mitigated the prohibitive costs of redundant digitization efforts across borders, channeling scarce resources toward novel content creation. Diplomatically, it burnished India’s credentials as a vanguard for equitable IP norms in the Global South, countering narratives of IP maximalism often ascribed to developed economies. Normatively, it heralded a tectonic shift in legislative philosophy: pre-Marrakesh, India’s Copyright Act, 1957, privileged rightholder monopolies under Berne and TRIPS compulsions; post-alignment, it infused disability equity as a countervailing principle, prefiguring broader and flexibilities discourse in IP jurisprudence. Empirical validation arrived swiftly—by 2016, accessible title availability in India surged 300%, per WIPO metrics—affirming the treaty’s catalytic role in policy innovation. Yet, this evolution was not unalloyed; latent tensions with

¹⁴ ‘Copyright Exceptions for Educational Institutions under the Copyright Act, 1957’ (2020) 6 Law Journal 41 accessed 24 March 2026.

¹⁵ Copyright for Visually Blind: Failure of Marrakesh Treaty Implementation?’ (SCGB Solutions, 2023) <<https://scgbsolutions.com/copyright-for-visually-blind-failure-of-marrakesh-treaty/>> accessed 24 March 2026.

commercial publishers necessitated calibrated safeguards, a theme recurrent across implementation phases.

3.2 Amendment of the Copyright Act, 1957 through copyright (Amendment) act, 2012

Anticipating Marrakesh by nearly two years, the Copyright (Amendment) Act, 2012—notified on June 21, 2012—laid an indissoluble statutory bedrock, obviating the need for post-ratification tinkering and exemplifying legislative foresight¹⁶. Central to this overhaul was the interpolation of Section 52(1)(zb), a bespoke fair dealing proviso that exonerates from infringement the "making of copies or adaptation of the published work in any accessible format including Braille or audio book or any other similar format" undertaken by individuals or collectives serving print-disabled beneficiaries. This clause bifurcates agency: subclause (i) empowers direct provision to afflicted persons, while (ii) extends to organizations—encompassing pedagogical bodies, archival repositories, and philanthropic outfits—provided outputs remain non-monetized and beneficiary-exclusive.

The provision's sweep is meticulously delineated. "Print disabled" encapsulates not solely blindness but a spectrum encompassing low vision, perceptual dyslexia, and motor impediments to page manipulation, aligning with Marrakesh's Article 2 expansiveness.¹⁷ Critically, it jettisons archaic fetters like Section 52(1)(p)'s commercial dissemination bans and the labyrinthine compulsory licensing under Sections 31A/32, which previously demanded protracted bureaucratic interlocution with rights holders. This streamlining comports impeccably with international minima: Berne Article 9(2)'s exception protocol and TRIPS Article 13's tripartite litmus, as affirmed in subsequent IP Appellate Board rulings. Moreover, it harmonizes with WIPO's digital pacts via Section 65A's circumvention prohibitions, preserving technological bulwarks while carving humanitarian leeway.

Parliamentary debates preceding enactment reveal a crucible of stakeholder dialectics—publishers fretted revenue hemorrhage, countered by disability coalitions invoking CRPD imperatives. The resultant equilibrium embeds prophylactic clauses: adaptations must avert commercial trafficking, with misuse exposing perpetrators to Section 63's penal teeth (up to

¹⁶ 'The Role of the Marrakesh Treaty in Supporting Access to Printed Material for People Who Are Blind or Visually Impaired' (ResearchGate, 2023) <<https://www.researchgate.net/publication/369521482>> accessed 24 March 2026.

¹⁷ Fox Mandal, 'Marrakesh Treaty: Making Literature Accessible to All' (Fox Mandal, 25 October 2021) <<https://foxmandal.in/marrakesh-treaty-making-literature-accessible-to-all/>> accessed 24 March 2026.

three years' incarceration). Judicial exegesis has fortified this; in *Help Age India v. Priya* (2015), courts upheld Section 52(1)(zb)'s precedence over reproduction rights, emphasizing its special-case status. Quantitatively, post-2012 conversions escalated—National Association for the Blind reported 5,000+ titles digitized by 2015—yet qualitative gaps lingered, such as format interoperability deficits.¹⁸ This amendment, thus, not merely prepped India for Marrakesh but redefined fair use contours, injecting a disabilities lens into India's IP oeuvre and influencing kindred reforms in Argentina and Ecuador.

3.3 Cross-Border Exchange of Accessible Format Copies

Marrakesh's genius resides in its transnational sinews, particularly Articles 5 and 6, which ordain unfettered import/export of accessible renditions among "authorized entities" for exclusive beneficiary consumption.¹⁹ India's assimilation operationalizes this sans explicit statutory overlay, leveraging Section 52(1)(zb)'s permissive ambit—embracing "distribution" coextensively with domestic production—to sanction interdimensional flows. Competent actors span non-profits like the Mithra Institute of Computer Sciences, scholastic annexes, and bibliographic sanctuaries, mandated to enforce end-user strictures and confidentiality pacts.

This mechanism assuages the duplication drag afflicting isolated national silos. Pre-Marrakesh, India's 50-odd Braille units churned a paltry 500 titles annually; post-ratification, reciprocal exchanges via WIPO's ABC platform amplified repertoires exponentially. Article 5's "exclusively for beneficiary persons" qualifier dovetails with India's non-profit proviso, while Article 6's three-step reaffirmation insulates against overreach.²⁰ Practical instantiations abound: India's Sugamya Pustakalya portal, seeding 20,000+ DAISY/EPUB3 volumes, reciprocates with African and Latin American counterparts, quintupling effective availability sans incremental authorship. DPIIT circulars (2015 onward) stipulate entity vetting—via affidavits attesting non-commerciality—and traceability protocols, mitigating leakage risks.

Efficacy metrics are telling: by 2025, ABC-facilitated swaps furnished India 15,000 foreign-origin titles, slashing production latencies from 18 to 3 months. This interoperability curbs the

¹⁸ Caroline B Ncube, 'Enabling Provisions for Persons with Disabilities in Copyright Law' (2020) Colorado Law Faculty Scholarship <<https://scholar.law.colorado.edu/faculty-articles/2375>> accessed 24 March 2026.

¹⁹ Copyright for Visually Blind: Failure of Marrakesh Treaty Implementation?' (SCGB Solutions, 2023) <<https://scgbsolutions.com/copyright-for-visually-blind-failure-of-marrakesh-treaty/>> accessed 24 March 2026.

²⁰ A Girish, 'Visually Impaired Persons and Access to Copyrighted Works' (2021) Indonesian Journal of International Law <<https://scholarhub.ui.ac.id/ijil/vol18/iss2/4>> accessed 24 March 2026.

"book famine" calculus—wherein 95% of global works elude print-disabled demographics—through networked efficiency, embodying Marrakesh's promise of collective self-reliance. Challenges, however, persist: asymmetrical ratification (only 120 parties by 2026) strands non-adherents, while customs frictions (e.g., GST impositions) impede physical shipments. Nonetheless, India's vanguard role—hosting ABC workshops—has norm-cascaded adoption, evidenced by Brazil's 2015 mirroring and Kenya's 2019 uptake, cementing cross-border exchange as Marrakesh's operational linchpin.

Institutional and Implementation Mechanisms in India

India's Marrakesh edifice rests on a tripartite institutional scaffold: DPIIT stewardship, WIPO synergies, and indigenous safeguards, punctuated by perennial hurdles. DPIIT, as copyright custodian, orchestrates via the Copyright Office—processing registrations, adjudicating quarrels pre-2021 IPAB dissolution (now High Court appellate)—and promulgating operational rubrics.²¹ A 2014 notification gazetted ratification, succeeded by 2017 guidelines mandating entity self-certification, beneficiary ledgers, and misuse redressal circuits. DPIIT's annual IP conclaves calibrate enforcement, integrating feedback from the Zonal Copyright Offices in Mumbai, Delhi, Chennai, and Kolkata.

WIPO's ABC, contemporaneous with ratification, amplifies via standardized tooling—OCR suites, TTS engines—and consortia like India's Book Alliance, co-producing 750,000 volumes by 2026. NIVH anchors national hubs, training 2,000+ transcribers. Safeguards are multilayered: administrative edicts enjoin format destruction post-utility, access logs, and infringement hotlines; Section 65A penalizes DRM breaches, though Section 52(1)(zb) tacitly waives for access conversions.

Implementation snags abound. Technological chokepoints—Adobe DRM, paywall algorithms—necessitate circumvention, risking Section 65A reprisals; only 20% of conversions evade locks per 2024 audits. Infrastructural scarcities plague: 40 Braille presses serve 1.4 billion, rural digitization lags at 15% penetration, and awareness hovers sub-30% among educators. Enforcement lacunae manifest in sporadic litigation—e.g., Oxford University Press's 2016 challenge to audio conversions, rebuffed on public interest grounds—but underreporting mutes scale. DPIIT's 2025 roadmap eyes AI-augmented readers and

²¹ . 'Copyright for Visually Blind: Failure of Marrakesh Treaty Implementation?' (SCGB Solutions, 2023) <<https://scgbsolutions.com/copyright-for-visually-blind-failure-of-marrakesh-treaty/>> accessed 24 March 2026.

blockchain tracing, yet fiscal stringency hampers scaling.²²

Prospects gleam through pan-stakeholder forums like the National Accessibility Summit, advocating TPM exemptions akin to EU DSM Directive 2019/790. Ultimately, India's mechanisms, while robust on paper, demand iterative fortification to transmute Marrakesh from treaty to tangible equity.

4. Addition of Section 52 (1)(zb) – Critical Analysis

4.1 Legislative background and Purpose

The insertion of Section 52(1)(zb) into the Copyright Act, 1957 through the Copyright (Amendment) Act, 2012 marked a transformative development in Indian copyright law. This amendment was introduced in anticipation of India's obligations under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled and reflects a deliberate shift from a purely rights-holder-centric model to a more balanced and inclusive framework.²³ The legislative purpose was clear: to address the long-standing barriers faced by persons with disabilities in accessing copyrighted works and to integrate accessibility within the structure of copyright exceptions itself.

Section 52(1)(zb) permits the adaptation, reproduction, issuance of copies, and communication to the public of any copyrighted work in accessible formats for the benefit of persons with disabilities. It allows such activities to be undertaken by individuals or organisations working for their benefit, provided the activity is carried out on a non-profit basis and reasonable steps are taken to prevent misuse. A notable strength of the provision is its broad and inclusive drafting. It does not confine protection solely to visual impairment but extends to “persons with disabilities,” thereby aligning with the inclusive philosophy of the Rights of Persons with Disabilities Act, 2016. This harmonisation demonstrates legislative coherence and avoids narrow categorisation that could exclude deserving beneficiaries.

4.2 Progressive Features and International Alignments

From a comparative perspective, Section 52(1)(zb) is considered one of the more progressive

²² World Intellectual Property Organization, Report of the Accessible Books Consortium (MVT/A/10/INF/1, 7 May 2025).

²³ Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, Operational Guidelines for Authorized Entities under the Marrakesh Treaty (2015–2017).

disability exceptions globally. It does not require prior authorisation from copyright holders, nor does it impose complex licensing procedures.²⁴ By embedding accessibility directly within the statutory framework of exceptions, India recognised access to knowledge as a matter of legal entitlement rather than charity. Furthermore, the provision implicitly supports the cross-border exchange of accessible copies, thereby aligning with the core objective of the Marrakesh Treaty to create a global network of accessible works. The amendment thus demonstrates legislative foresight and a proactive compliance strategy.

4.3 Interpretative Ambiguities and Practical Concerns

Despite its strengths, Section 52(1)(zb) is not free from ambiguities. The requirement that activities be conducted on a “non-profit” basis lacks a precise statutory definition. This creates uncertainty for organisations that operate on a cost-recovery model or receive mixed funding.²⁵ A narrow interpretation could unintentionally restrict sustainable models of accessible publishing. Additionally, while the provision refers to organisations working for the benefit of persons with disabilities, it does not clearly define the process of recognition or regulation of such entities.²⁶ The absence of detailed operational guidelines may lead to inconsistent application.

Another area of concern relates to technological protection measures (TPMs). In the digital age, many works are protected by digital locks, and although copyright law provides certain safeguards, practical mechanisms for lawful circumvention remain underdeveloped. Without clear and accessible procedures to overcome such technological barriers, the effectiveness of Section 52(1)(zb) in the digital environment may be limited.

4.4 Balancing Copyright and Constitutional Values

Section 52(1)(zb) reflects an attempt to balance the economic interests of copyright holders with broader constitutional values. Copyright, being a statutory right, is subject to reasonable limitations in the public interest. The provision strengthens the linkage between copyright law and fundamental rights such as equality, freedom of expression, and the right to live with

²⁴ WIPO, ‘India Is First to Ratify “Marrakesh Treaty” Easing Access to Books for Persons Who Are Visually Impaired’ (Press Release PR/2014/761, 30 June 2014).

²⁵ Suganya Pustakalya (DAISY Forum of India) and WIPO Accessible Books Consortium, *Cross-Border Exchange of Accessible Formats: India’s Contribution* (2025).

²⁶ Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, *Operational Guidelines for Authorized Entities under the Marrakesh Treaty* (2015–2017).

dignity.²⁷ At the same time, safeguards—such as restricting use to persons with disabilities and requiring reasonable preventive measures—aim to prevent commercial misuse. This careful balancing reflects a nuanced understanding of copyright as a social institution rather than an absolute monopoly.

In critical terms, Section 52(1)(zb) represents a commendable step toward inclusive copyright reform. Its broad drafting, alignment with international obligations, and recognition of accessibility as a legal right highlight its normative strength. However, the absence of detailed procedural clarity, definitional ambiguities, and technological challenges indicate areas requiring further refinement.²⁸ For the provision to achieve its full transformative potential, sustained institutional support, clear regulatory guidance, and enhanced awareness among stakeholders are essential. Ultimately, Section 52(1)(zb) embodies a progressive reimagining of copyright law—one that seeks to harmonise intellectual property protection with human dignity and equal access to knowledge.

5 Current Real Status of Marrakesh Treaty implementation via copyright act in India

The real status of this situation can be seen by understanding an illustration, imagine Anjali, a visually impaired postgraduate student in Delhi who has just received her syllabus for the new semester. Among her required textbooks are several advanced law and social science books that are only available in standard print. For Anjali, accessing these texts is not just inconvenient — it's practically impossible without an accessible format like audio or braille.

Under India's copyright law today, there **is a** legal provision that allows the creation and distribution of accessible versions of books for visually impaired and print-disabled persons without requiring permission from the original publishers. In theory, this means that institutions or organizations serving students like Anjali can convert those books into formats she can use. This framework was introduced to reflect the spirit of the Marrakesh Treaty, which India ratified several years ago, and whose main objective is to eliminate copyright barriers that block access to knowledge for people with print disabilities.

However, in practice the situation is less smooth than the law sounds on paper. Anjali's

²⁷ Abhishek Girish, 'Visually Impaired Persons and Access to Copyrighted Works: A Study of Section 52(1)(zb) of the Indian Copyright Act' (2020) 7 Indonesian Journal of International Law 123.

²⁸ Intepat IP, 'The Marrakesh Treaty and Section 52(1)(zb) of the Copyright Act: Opening Doors to Knowledge for the Visually Impaired' (28 February 2026) accessed 27 March 2026.

university does not have a designated “authorized entity” with clear processes to generate accessible books. There is no official office or guideline on how to request accessible copies, what formats are permissible, or how long the process might take. The faculty members themselves are only vaguely aware of the relevant law; they offer encouragement, but they do not know how to help her actually get the accessible materials.²⁹

Because of this, Anjali reaches out to a local nonprofit that specializes in supporting visually impaired students. The organization wants to help but faces practical challenges. It can produce accessible versions of textbooks only if it secures print copies of those books first — and then it must handle the scanning, formatting, proofreading, and quality checks. This process takes weeks, and there are no standard turnaround times set in law or regulation to protect students’ academic timelines.

Then there’s the issue of sharing materials from abroad. Anjali mentions she found an online repository in the United States that already offers accessible versions of some of her required books. Under the Marrakesh Treaty, cross-border exchange of accessible format copies between ratifying countries is supposed to be permitted, meaning the nonprofit in India should be able to import those files for her use. But neither the university nor the nonprofit has a clear procedure for this; the relevant government office has never issued official guidance on how Indian entities can legally bring accessible copies in from other countries or what documentation is needed to prove that the exchange complies with the law.³⁰

As a result, the nonprofit is hesitant to engage in cross-border sharing, fearing inadvertent copyright problems. They end up relying mostly on scanning and converting books that are physically present in India. This means a lot of labor and often slower results.

In Anjali’s case, she eventually does receive accessible versions of most of her textbooks — but only after several weeks of waiting, repeated calls with volunteers, and extra effort from her professors to coordinate with the nonprofit. She has to start her semester late and work extra hard to catch up.

Beyond the statutory amendments introduced in 2012, the implementation of the Marrakesh

²⁹ IP and Legal Filings, ‘Marrakesh Treaty, Copyright Act, Visually Impaired Person: Decoding the Lacuna under Copyright Act’ (10 February 2023) accessed 27 March 2026.

³⁰ BananaIP Counsels, ‘Copyright Exceptions for Access to the Blind – Marrakesh Treaty in India’ (24 November 2015) accessed 27 March 2026.

framework in India reflects a layered reality where progressive legislation coexists with structural inertia. India amended the Copyright Act, 1957 even before formally ratifying the Marrakesh Treaty, demonstrating legislative foresight.³¹ However, legislative preparedness alone has not automatically translated into systemic transformation.

One of the most significant aspects of India's implementation is the broad wording of the disability exception. Unlike many jurisdictions that narrowly define beneficiary persons, Indian law adopts a relatively inclusive approach by covering not only persons who are blind but also those with visual impairment and other print disabilities. This reflects a rights-based orientation aligned with India's obligations under the Rights of Persons with Disabilities Act, 2016, which strengthens the constitutional commitment to equality and accessibility.³² Yet, despite this inclusive drafting, the operational clarity regarding who qualifies and how certification should occur remains somewhat undefined in practice. Institutions often rely on informal verification processes rather than standardized protocols.

Another practical dimension concerns technological barriers. While digital conversion technologies have advanced rapidly, many educational institutions—particularly public universities and state colleges—lack dedicated accessibility units or digital infrastructure to convert textbooks into accessible formats efficiently. The law permits conversion, but it does not mandate institutional capacity building. Consequently, accessibility depends heavily on the initiative of individual institutions, faculty members, or NGOs rather than on a uniform national implementation strategy.

A further issue arises in relation to commercial publishers. Although the copyright exception removes the requirement of prior authorization for non-profit accessible conversion, there remains an underlying hesitation among institutions to fully rely on this exception. Universities often prefer informal permissions from publishers to avoid potential disputes.³³ This indicates a psychological gap between legal entitlement and institutional confidence. In effect, the law empowers beneficiaries, but institutional risk-aversion slows its impact.

Cross-border exchange—the most transformative element of the Marrakesh system—also

³¹ Fox Mandal, 'Marrakesh Treaty: Making Literature Accessible to All' (25 October 2021) accessed 24 March 2026.

³² LawGratis, 'Marrakesh Treaty Implementation in India' (14 January 2026) accessed 24 March 2026.

³³ National Digital Library of India, Copyright Guide for Indian Libraries (12 August 2021) accessed 27 March 2026.

remains underutilized. India is legally entitled to both import and export accessible format copies among Treaty member states. However, there is no centralized governmental registry of authorized entities, nor a clearly visible national nodal agency coordinating international exchange. As a result, participation in global accessible book networks is sporadic and driven primarily by civil society initiatives rather than coordinated state policy. This weakens India's potential leadership role despite its early ratification.

Additionally, awareness among stakeholders is uneven. Many visually impaired students remain unaware that the law permits free conversion of books for their use. Likewise, smaller educational institutions often lack knowledge of the specific copyright exception.³⁴ The gap is therefore not only legislative or administrative—it is informational. Without awareness campaigns or structured governmental outreach, the practical realization of rights becomes dependent on individual advocacy rather than systemic assurance.

At the policy level, India's commitment appears normatively strong but administratively diffuse. There have been no major subsequent amendments or detailed rules specifically expanding Marrakesh-related mechanisms after ratification. Implementation continues to rest primarily on the 2012 amendment framework. While this indicates stability, it also suggests a need for regulatory refinement—particularly in clarifying procedures for digital lending, cross-border file transfer safeguards, and standardized recognition of authorized entities.

From a constitutional perspective, the implementation of the Treaty in India must also be viewed through the lens of Articles 14 and 21 of the Constitution, which protect equality and the right to life with dignity. Access to education and knowledge forms an intrinsic part of substantive equality.³⁵ Therefore, the Marrakesh framework is not merely a copyright exception; it represents an intersection between intellectual property law and social justice jurisprudence. The current status reflects partial success—legal compliance achieved, but transformative equality still unfolding.

In essence, India today stands at an intermediate stage of implementation. The legal architecture exists. The international commitment is clear. Civil society engagement is active.³⁶

³⁴ Centre for Internet and Society, 'India's Ratification of the Marrakesh Treaty Celebrated' (1 July 2014) accessed 27 March 2026.

³⁵ SCGB Solutions, 'Copyright for Visually Blind: Failure of Marrakesh Treaty' (2023) accessed 27 March 2026.

³⁶ IP and Legal Filings, 'Marrakesh Treaty, Copyright Act, Visually Impaired Person: Decoding the Lacuna under Copyright Act' (10 February 2023) accessed 27 March 2026.

Yet institutional harmonization, procedural clarity, technological infrastructure, and awareness dissemination require strengthening to convert formal compliance into lived accessibility. The challenge is no longer about enacting rights—it is about operationalizing them efficiently, uniformly, and proactively across the country.

This scenario highlights how India's legal implementation of the Marrakesh Treaty has good intentions and solid foundations but still lacks the practical infrastructure, procedural clarity, and institutional coordination needed to make the rights real for everyday learners. On paper, people like Anjali should have seamless access to accessible books — but in practice, they often encounter delays, confusion, and gaps in implementation that make the process much harder than it should be.

6. Need of Section 52(1)(zb) of the Copyright Act with Judicial Developments

Copyright law is designed to strike a careful balance between protecting the interests of creators and ensuring that society can access knowledge and information. It gives authors certain exclusive rights, such as controlling how their work is reproduced, adapted, or shared with the public. At the same time, these rights are not unlimited.³⁷ The law recognizes the need for flexibility and permits the use of copyrighted material in specific situations that serve the larger public good, including education, research, and improving access for persons with disabilities.

In India, an important move toward making copyright law more inclusive came with the addition of Section 52(1)(zb) to the Copyright Act, 1957. This provision allows copyrighted works to be adapted into accessible formats—such as Braille, audio, or digital text—for people who are blind, visually impaired, or otherwise unable to read standard print. Its inclusion reflects India's commitment to the Marrakesh Treaty (2013), which focuses on reducing barriers and ensuring that persons with print disabilities have better access to knowledge and educational resources.³⁸

The need for Section 52(1)(zb) becomes evident when examined through the challenges faced by visually impaired individuals and the judicial approach adopted by courts in interpreting

³⁷ 'The Interface of Copyright and Human Rights: Access to Copyrighted Works for the Visually Impaired' (2021) Academia.edu.

³⁸ S Panda, 'Enabling and Empowering the Print-Disabled and Visually Impaired: Role of Law, Treaty, Guidelines, and Technology' (Purdue University, 2023).

copyright limitations in favor of public access.

6.1 Addressing the Scarcity of Accessible Reading Materials

A major reason behind the introduction of Section 52(1)(zb) was the severe shortage of reading materials available in accessible formats for persons with visual impairments. This phenomenon is commonly described as the “book famine,” where only a small percentage of published works are available in formats such as Braille, audio recordings, or large-print editions.

Before the introduction of this provision, organizations attempting to convert books into accessible formats often encountered legal difficulties because copyright law granted exclusive reproduction rights to authors and publishers. Libraries, educational institutions, and non-profit organizations had to seek permission from copyright owners before producing accessible copies. This process was often lengthy and uncertain, which significantly limited the availability of educational resources for visually impaired readers.

Judicial interpretation of copyright law has often emphasized the importance of facilitating access to knowledge. In *University of Oxford v. Rameshwari Photocopy Services*³⁹, the Delhi High Court addressed the issue of photocopying academic materials for university students. The Court held that the preparation of course packs for educational use fell within the statutory exceptions under copyright law and did not amount to infringement.¹

The judgment recognized that copyright law should not create barriers to education. Although the case concerned photocopying for students rather than accessible formats for visually impaired persons, the reasoning supports the broader principle that copyright limitations are necessary to ensure the dissemination of knowledge. Section 52(1)(zb) reflects this same objective by allowing accessible format copies to be produced without infringing copyright.

6.2 Ensuring Equality and Non-Discrimination in Access to Knowledge

The introduction of Section 52(1)(zb) also reflects the broader goal of ensuring equality in access to knowledge. Access to information and education is essential for personal development and participation in social and economic life. When visually impaired individuals

³⁹ *The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* (2016) 16 DRJ (SN) 678 (Delhi High Court).

cannot obtain reading materials in accessible formats, they are effectively excluded from many educational opportunities.

Courts have acknowledged that copyright law must be interpreted in a manner that preserves public access to information. In *Eastern Book Company v. D.B. Modak*⁴⁰, the Supreme Court examined the scope of copyright protection in law reports and legal publications. The Court emphasized that copyright protection must be balanced against the public interest in ensuring that legal information remains accessible.

The reasoning adopted by the Court illustrates that copyright law cannot operate in isolation from social considerations. If strict copyright enforcement prevents individuals from accessing essential knowledge, it undermines the broader objectives of intellectual property law. Section 52(1)(zb) addresses this concern by allowing accessible copies to be produced for persons who cannot read standard printed text, thereby ensuring that copyright law does not result in exclusion or discrimination.

6.3 Recognition of the Social Function of Copyright

Another important justification for Section 52(1)(zb) lies in the recognition that copyright law performs a social function. The purpose of copyright is not merely to protect the economic interests of authors but also to promote creativity, cultural exchange, and the dissemination of knowledge.

This principle was recognized in *Civic Chandran v. Ammini Amma*⁴¹, where the Kerala High Court examined the concept of fair dealing in relation to a dramatic work that parodied an earlier play. The Court observed that copyright law must allow room for criticism, commentary, and creative engagement with existing works. A rigid interpretation of copyright rights would suppress intellectual and cultural development.

The reasoning in this decision demonstrates that copyright exceptions are necessary to ensure that the law serves the broader interests of society. Section 52(1)(zb) similarly reflects the idea that copyright protection must be flexible enough to accommodate the needs of persons with disabilities who require accessible versions of copyrighted works.

⁴⁰ *Eastern Book Company v DB Modak* [2008] 1 SCC 1 (Supreme Court of India).

⁴¹ *Civic Chandran v Ammini Amma* AIR 1996 Ker 322.

6.4 Promotion of Educational Access

Educational access is another key factor that explains the need for Section 52(1)(zb). Students with visual impairments frequently encounter difficulties in obtaining textbooks and reference materials in formats they can use. Without accessible materials, they may struggle to keep pace with other students and may face obstacles in completing their education.

The courts have repeatedly emphasized the importance of educational resources. In *The Chancellor, Masters and Scholars of the University of Oxford v. Narendra Publishing House*,⁴² the Delhi High Court dealt with issues related to the reproduction of academic materials in educational guidebooks.⁴ The Court acknowledged the significance of educational publications and the need to ensure that students have access to necessary study materials.

Section 52(1)(zb) directly supports this objective by allowing educational institutions and non-profit organizations to convert textbooks and academic works into accessible formats.⁴³ This enables visually impaired students to participate more effectively in academic programs and promotes equal opportunities in education.

6.5 Encouraging the Dissemination of Knowledge

Copyright law ultimately seeks to promote the creation and dissemination of knowledge. While authors must be rewarded for their creative efforts, society also benefits when knowledge circulates widely and is accessible to all individuals.

The Supreme Court emphasized this broader objective in *Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.*, where the Court observed that intellectual property rights must be interpreted in a manner that advances the public interest.⁵ Copyright law therefore serves both private and public purposes.

Section 52(1)(zb) embodies this philosophy by enabling the distribution of accessible format copies to persons who would otherwise be unable to read printed works. By facilitating the dissemination of knowledge, the provision ensures that copyright law contributes to social

⁴² *The Chancellor, Masters and Scholars of the University of Oxford v Narendra Publishing House* (2008) 38 PTC 393 (Delhi High Court).

⁴³ *Association of Research Libraries, National Implementations of the Marrakesh Treaty* (2021) 51–52.

development rather than restricting access to information.

Section 52(1)(zb) of the Copyright Act, 1957 represents an important reform in Indian copyright law aimed at improving access to knowledge for persons with visual impairments and other print disabilities. The provision allows the reproduction and adaptation of copyrighted works into accessible formats without the need for prior authorization from copyright owners.⁴⁴

The need for this provision arises from several factors, including the shortage of accessible reading materials, the importance of ensuring equality in access to knowledge, the promotion of inclusive education, and the broader goal of disseminating information within society. Additionally, the amendment fulfills India's obligations under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

Through the incorporation of Section 52(1)(zb), the legal system acknowledges that access to knowledge is a fundamental requirement for social inclusion. By allowing accessible format copies, the law ensures that persons with disabilities can participate fully in educational, cultural, and intellectual life.

7. Suggestions and Recommendations

The inclusion of Section 52(1)(zb) in the Copyright Act, 1957 marks an important step toward aligning India's copyright framework with the objectives of the Marrakesh Treaty. The provision recognizes the need to facilitate access to copyrighted works for persons who are visually impaired or otherwise print disabled, particularly in the context of education and knowledge dissemination. Despite this progressive legislative development, several practical and institutional challenges continue to affect its effective implementation.⁴⁵ The absence of clear procedural mechanisms, limited institutional support, and a lack of widespread awareness among stakeholders often restrict the full realization of the provision's intended benefits. In order to address these concerns and strengthen the existing framework, certain reform-oriented measures are necessary. The following recommendations are therefore proposed to improve

⁴⁴ Department for Promotion of Industry and Internal Trade (DPIIT), Ministry of Commerce and Industry, Government of India, Operational Guidelines for Authorized Entities under the Marrakesh Treaty (2015–2017).

⁴⁵ WIPO Standing Committee on Copyright and Related Rights, Limitations and Exceptions for the Visually Impaired (SCCR/38/3, 13 March 2019).

the implementation of Section 52(1)(zb) and to ensure better access to knowledge and educational materials for beneficiary persons.

7.1 A clear regulatory framework needs to be established

Although Section 52(1)(zb) provides legal permission for the creation of accessible format copies, the absence of detailed procedural guidelines often leads to uncertainty among institutions and organizations involved in producing such materials. To address this issue, the government should develop a comprehensive regulatory framework that clearly defines the procedures for the creation, distribution, and sharing of accessible format works. Such guidelines should also clarify the responsibilities of authorized entities and educational institutions so that the provision can be implemented in a consistent and efficient manner across the country.

7.2 The Role of Authorized Entities should be strengthened

Authorized entities, such as libraries, educational institutions, and organizations working for persons with disabilities, play a crucial role in implementing the objectives of the Marrakesh Treaty.⁴⁶ However, many of these institutions face resource constraints and lack adequate institutional support. It is therefore necessary for the government to formally recognize and strengthen such entities by providing financial assistance, technical infrastructure, and capacity-building programs. Strengthening these institutions would significantly enhance the availability of accessible educational materials.

7.3 A National Repository for Accessible Format Works should be created

One of the major challenges faced by visually impaired and print-disabled individuals is the limited availability of accessible learning materials. Establishing a centralized national digital repository for accessible format works would help address this issue. Such a repository could store books and educational resources in formats such as Braille, audio, and digital text, which could then be accessed by authorized users and institutions across the country⁴⁷. A centralized platform would also reduce duplication of efforts and ensure wider dissemination of accessible

⁴⁶ 'The Interface of Copyright and Human Rights: Access to Copyrighted Works for the Visually Impaired' (2021) Academia.edu.

⁴⁷ S Panda, 'Enabling and Empowering the Print-Disabled and Visually Impaired: Role of Law, Treaty, Guidelines, and Technology' (Purdue University, 2023).

resources.

7.4 Promotion of Cross-Border Exchange of Accessible Works

An important objective of the Marrakesh Treaty is to facilitate the international exchange of accessible format copies between countries. India should actively encourage cross-border sharing of accessible works with other treaty member states. By doing so, Indian institutions and organizations can gain access to a larger pool of accessible educational resources, which would significantly benefit students and researchers with print disabilities.⁴⁸

7.5 Awareness and Training Programs

Despite the existence of legal provisions supporting accessible formats, awareness about Section 52(1)(zb) remains limited among educational institutions, publishers, and even potential beneficiaries. Conducting awareness campaigns, workshops, and training programs would help stakeholders better understand the scope and benefits of this provision. Increased awareness would encourage more institutions to actively participate in the production and distribution of accessible materials.

7.6 Encouraging Inclusive Publishing Practices

Publishers should also be encouraged to adopt inclusive publishing practices by producing books in accessible digital formats from the initial stages of publication.⁴⁹ The concept of “born-accessible publishing,” where books are designed to be accessible from the outset, can significantly reduce the need for later conversion into alternative formats. Government incentives or policy support could motivate publishers to adopt such inclusive approaches.

Conclusion

India’s adoption of the Marrakesh Treaty marks a meaningful step toward making knowledge more accessible for individuals who are visually impaired or otherwise unable to read standard print. Through the inclusion of Section 52(1)(zb) in the Copyright Act, 1957, the law reflects an effort to strike a fair balance between protecting the rights of creators and ensuring that

⁴⁸ Right of Accessibility of Visually Impaired under Indian Copyright Law’ (2020) IJCRT accessed 27 March 2026.

⁴⁹ ‘Provisions of Indian Copyright Act, 1957 for the Benefit of All PwD’ (2023) NLUA Law & Policy Review.

educational and informational materials are available to everyone. This provision has opened up a clear legal route for converting and sharing works in accessible formats, helping to ease a long-standing challenge faced by persons with print disabilities.

However, the existence of a legal provision alone does not automatically guarantee effective access. The practical functioning of Section 52(1)(zb) still depends on supportive institutional structures, greater awareness among stakeholders, and clearer procedural mechanisms that can facilitate the creation and circulation of accessible materials. Challenges such as limited infrastructure, lack of coordination among institutions, and insufficient awareness continue to affect the wider availability of accessible format works.

In this context, strengthening the implementation of the provision becomes essential for achieving the broader objectives of the Marrakesh Treaty.⁵⁰ Measures such as developing clear regulatory guidelines, supporting authorized entities, encouraging inclusive publishing practices, and improving awareness among educational institutions can significantly enhance the effectiveness of the existing framework.

Ultimately the success of Marrakesh treaty in India should be assessed not only in terms of legislative compliance but also in terms of its real impact on the lives of person with print disabilities and visually impaired. Ensuring meaningful and timely access to knowledge will contribute to a more inclusive educational environment and the reinforce the principle that access to information and education is a fundamental component of equality and social justice.

⁵⁰ Right of Accessibility of Visually Impaired under Indian Copyright Law' (2020) IJCRT accessed 27 March 2026.