



∴ ontario library association

The Ontario Library Association Copyright Users Group:

What is the *Marrakesh Treaty*?

Administered by the World Intellectual Property Organization (WIPO) of the United Nations, the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh Treaty)* is an international copyright treaty that was adopted by WIPO on June 27, 2013 in Marrakesh. Although an important milestone, this adoption did not make the *Marrakesh Treaty* a part of international law. To come into force after its adoption, it required ratification or accession by 20 eligible member states. Canada became the requisite 20th nation, on June 30, 2016, and thus **Canada enabled the coming into force internationally (effective September 30, 2016) of the *Marrakesh Treaty*!**

What is the significance of the *Marrakesh Treaty*?

It is estimated that, worldwide, only 7% of published materials are accessible to people with print disabilities. Without access to publicly available material in accessible formats, people with perceptual disabilities are less likely to succeed in life.

In order to meet their public international legal commitments (now that the *Marrakesh Treaty* will definitely be coming into force), countries who are parties to the *Marrakesh Treaty* (including, now, Canada) are required to create, in their laws, provisions to make works available in accessible formats (such as Braille) to those who are perceptually disabled. The *Marrakesh Treaty*, when implemented by its member countries, will permit organizations in those countries which serve people who are perceptually disabled to coordinate efforts and to avoid duplicating efforts.

As one of those countries, Canada is obliged to ensure its copyright law creates limitations and exceptions to the rights of copyright holders as necessary to ensure, for those serving those who are blind, visually impaired or otherwise print disabled, the legality of

- making accessible format copies,
- domestically distributing accessible format copies,
- exporting accessible format copies, and
- importing accessible format copies.

Canadian libraries, with their counterparts in other *Marrakesh*-member countries, and other partners here and in those countries, will now be able to significantly impact the well-being of those who are perceptually disabled

What does the *Marrakesh Treaty* mean for Canadians and others with perceptual disabilities?

Because international treaties do not directly become law within Canada, the *Marrakesh Treaty* does not directly affect Canadians. However, the Canadian government, in anticipation of

acceding to the *Marrakesh Treaty*, passed Bill C-11 of the current Parliament, now known as the *Act to Amend the Copyright Act* (SC 2016, c.4). This statute received Royal Assent on June 22, 2016 and has amended Canada's *Copyright Act* so as to both bring Canada into compliance with its obligations under the *Marrakesh Treaty* and, in Canada, give those with perceptual disabilities, and those serving them, the rights and privileges that the *Marrakesh Treaty* requires member states to provide in their copyright laws. The 2016 amendments have modified various parts of s 32 and s 41.16 of the Canadian *Copyright Act*, the provisions dealing with serving those with perceptual disabilities.

Even prior to the recent amendments to the *Copyright Act*, Canada was well ahead of many countries on most counts in terms of providing service to those who are perceptually disabled, thanks to the work of organizations such as the Canadian National Institute for the Blind (CNIB), which has been producing works in alternate formats in Canada for almost a century. **The amendments Canada has now made to its copyright law (consistent with its obligations under the *Marrakesh Treaty*) remove certain production barriers to serving those who are perceptually disabled. However, perhaps most importantly, the amendments (a) clarify and simplify the export to other countries of versions of works produced in Canada to meet the needs of those who are perceptually disabled in other countries and (b) permit Canadian institutions to import, from other countries, versions of works produced elsewhere to meet the needs of those who are perceptually disabled in Canada.**

What do these twin developments for people who are perceptually disabled (the 2016 amendments to Canada's *Copyright Act* and Canada's signing and the consequent coming into force of the international *Marrakesh Treaty*) mean for Ontario libraries?

People with perceptual disabilities, and those libraries in Ontario which seek to serve them, will soon have access to a greatly expanded repertoire of materials as a result of Canada's *Copyright Act* amendments and Canada's signing onto, and the consequent coming into force of, the international *Marrakesh Treaty*. For example, the Centre for Equitable Library Access (CELA), a not-for-profit organization run by public libraries for public libraries and fully funded by the Government of Ontario, partners with the CNIB and other alternate-format producers world-wide in order to distribute material to Canadians with perceptual disabilities through public libraries. As well, CELA provides training and support to users and member public libraries. Similarly, other **libraries and library organizations in Ontario can take advantage of the changes in Canadian copyright law and the laws of other *Marrakesh*-member countries to enhance their abilities to serve the needs of those who have a perceptually disability both here and abroad.**

About Copyright and the Ontario Library Association:

The purpose of the [OLA Copyright Users Group](#) is to investigate and report on the most appropriate tools that will serve to assist and educate the membership in fulfilling their role(s) as practitioners, intermediaries and/or advisors to their user communities on copyright issues and concerns.

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