

**IN THE FIRST SESSION OF THE SEVENTH PARLIAMENT OF
THE FOURTH REPUBLIC OF GHANA**

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL,
LEGAL & PARLIAMENTARY AFFAIRS**

ON THE

**MARRAKESH TREATY TO FACILITATE ACCESS TO
PUBLISHED WORKS FOR PERSONS WHO ARE BLIND,
VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED
(2013)**

**PARLIAMENT OF GHANA LIBRARY
PARLIAMENT HOUSE
OSU - ACCRA**

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REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL & PARLIAMENTARY AFFAIRS ON THE MARRAKESH TREATY TO FACILITATE ACCESS TO PUBLISHED WORKS FOR PERSONS WHO ARE BLIND, VISUALLY IMPAIRED OR OTHERWISE PRINT DISABLED

1.0 INTRODUCTION

- 1.1 On 1st August, 2017, the Marrakesh Treaty to facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled was laid in Parliament for its ratification in accordance with Article 75 of the Constitution. The Treaty was laid by the Hon. Majority Leader and Minister for Parliamentary Affairs, on behalf of the Attorney-General and Minister for Justice, Ms. Gloria Akuffo.
- 1.2 Consequently, the Treaty was referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to Order 179 of the Standing Orders of Parliament.

2.0 CONSIDERATION

- 2.1 The Committee met with Officials of the Ministry of Justice and Attorney-General's Department to consider the Treaty. The Chairman of the Committee on Employment, Social Welfare and State Enterprises, Hon. Kwame Anyimadu-Antwi and the Ranking Member to the Committee, Hon. Richard Quashigah also attended the meeting as directed in the Referral.
- 2.2 The Committee is grateful to the Officials for attending upon the Committee and for assisting in the deliberations.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during its deliberations:

- i. The 1992 Constitution;
- ii. The Standing Orders of Parliament;

- iii. Copyright Act, 2005 (Act 690);
- iv. The Universal Declaration of Human Rights;
- v. The United Nation Convention on the Rights of Persons with Disabilities;
- vi. The Agreement on Trade-Related Aspects of intellectual property Rights;
- vii. The Berne Convention for the Protection of Literary and Artistic Works; and
- viii. The World Intellectual Property Organization Treaty (WIPO Copyright Treaty).

4.0 BACKGROUND INFORMATION

- 4.1 The special circumstances of persons with disabilities including visually impaired persons are well recognized not only in the domestic laws of countries but also affirmed in international instruments. Some of these instruments are the Universal Declaration of Human Rights and the United Nations Convention on the Rights of Persons with Disabilities. These instruments have established principles of non-discrimination, equal opportunity, accessibility and full and effective enjoyment of the rights of disabled persons across the world.
- 4.2 Despite the above, there still exist in many countries a number of challenges which impede the complete development of persons with disabilities including visually impaired persons across the world especially developing countries. These persons continue to encounter difficulties in accessing published literary and artistic works as alternative forms of these works are generally non-existent.
- 4.3 The Berne Convention for the Protection of Literary and Artistic Works and other international instruments were therefore adopted to require member States to provide exceptions and limitations in their national copyright laws for the benefit of visually impaired persons.

- 4.4 Subsequently, the General Assembly of the WIPO adopted some recommendations to ensure that developmental considerations form an integral part of the Organization's work. This culminated into the adoption of the Marrakesh Treaty to facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled on 27th June, 2013 at WIPO's Diplomatic Conference in Marrakesh. Its main goal is to create a set of limitations and exceptions for the benefit of persons who are blind, visually impaired and otherwise print disabled. The Treaty forms part of the body of copyright treaties administered by the WIPO.
- 4.5 Consequently, Ghana being a signatory to the WIPO Copyright Treaty gained automatic qualification to become a party to the Marrakesh Treaty.
- 4.6 It therefore became necessary to lay the Marrakesh Treaty to facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled in Parliament for its ratification in fulfilment of Article 75 of the Constitution.

5.0 PURPOSE OF THE TREATY

As may be gleaned from the text of the Treaty, its overarching purpose is to make literally and artistic works accessible in alternative formats for use by persons who are Blind, Visually Impaired or Otherwise Print Disabled.

6.0 SUMMARY OF PROVISIONS

- 6.1 The Treaty contains 22 provisions. Article 1 of the Treaty declares that the instrument is not intended to derogate the existing right and obligations of parties under treaties.
- 6.2 This is followed by a definition provision which defines key terminologies in the Treaty. The specification of intended beneficiaries, the obligation of parties to provide limitations and exceptions in their copyright laws and matters relating to exchange of accessible copies of relevant works are provided in Articles 3, 4 and 5. The importation and obligations of parties in respect of technological measures are covered under Articles 6 and 7.

- 6.3 Articles 8, 9 and 10 respectively deal with privacy provisions, duty of parties to cooperate and general principles for implementation. Further to this the general obligations on limitations and exceptions and other related obligations are set out under Articles 11 and 12 of the Treaty. It goes on to establish the Assembly of Parties and the international Bureau respectively under Article 13 and 14 of the Treaty.
- 6.4 The eligibility criteria, rights and obligations of parties, signatures and requirement for entry into force of the Treaty are provided under Articles 15 to 19 of the Treaty.
- 6.5 The Treaty finally provides for the denunciation, the languages of its texts and its depositary under Articles 20, 21 and 22.

7.0 OBSERVATIONS

7.1 Key Obligation of Contracting Parties

The Committee observed that a key obligation of contracting parties is to provide limitations and exceptions in their national laws to permit changes needed to make works available to beneficiaries in alternative formats. Specifically, parties are requested to adopt measures that will permit recognized entities to make accessible format copies of the works to beneficiary persons. It was noted that Section 5 of Ghana's Copyright Act, 2005 (Act 690) already allows copyright holders to translate their works to other formats. The Committee therefore urged the Attorney-General and Minister for Justice to take the necessary steps to fulfil all the other obligations if the Treaty is ratified by the House.

7.2 Institutional Arrangements

The Committee also noted that the treaty provides for the establishment of a body called the Assembly to deal with matters concerning the maintenance and development of the Treaty and for the admission of certain inter-governmental organization to join the Treaty. The Assembly will be composed of a delegation each of the contracting parties. It is hoped that this institutional arrangement will help achieve the purpose and objectives of the treaty.

7.3 Benefits for Persons who are Visually Impaired

The Committee noted that the Treaty seeks to allow recognized entities have lawful access to works, convert them to accessible format forms and supply same exclusively for use by persons who are visually impaired. This will significantly facilitate access to the relevant works by over 1,000 visually impaired persons in the country's formal educational institutions as well as those outside the educational sector if ratified by Parliament. It is therefore hoped that the eventual implementation of the measures under the Treaty would go a long way to assist the beneficiaries in their educational pursuits, give them a level playing field and empower them to develop socially and economically.

7.4 Stakeholder Engagement

On whether relevant stakeholders were engaged prior to the laying of the Treaty in Parliament, Officials of the Attorney-General's Department responded in the affirmative. They disclosed that the Ministry of Justice and Attorney-General's Department met with relevant stakeholders and they unanimously endorsed the Treaty. The stakeholders included the Ghana Society for the Blind, the Ghana Association of Writers and the Ghana Book Publishers Association.

7.5 Possible Impact on Copyright Holders

The Officials of the Attorney-General's Department informed the Committee that the ratification and the ultimate implementation of the Treaty will not unreasonably prejudice the legitimate interests of copyright holders in the country. Instead they believed that it will create opportunities for them to export their diversified works to other countries and benefit therefrom.

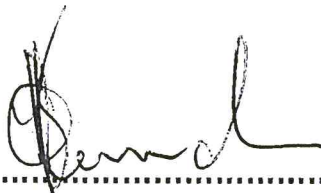
8.0 CONCLUSION

Having carefully examined the provisions in the Treaty, the Committee is of the considered view that the purpose and objectives of the Bill are consistent with Ghana's constitutional and international imperatives to promote equality, eliminate all forms of discrimination and create equal opportunities for all its citizens.

It is believed the Treaty offers the opportunity for the country to garner international support to create equal opportunities for the the benefit of the over one thousand persons with visual impairments in the country. This will empower them to fully participate in all aspects of social, economic and cultural aspects of national life. It will also offer the country opportunities for the development of its intellectual property through competition and innovation. It will further expand opportunities of authors of literally and artistic works as a result of promotion and expansion of international trade for their works to improve their lot and also for the country to rake in foreign exchange earnings.

On the basis of the above, the Committee recommends to the House to adopt its Report and to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled, in accordance with Article 75(2)(b) of the 1992 Constitution.

Respectfully submitted.



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HON. BEN ABDALLAH BANDA
(CHAIRMAN)



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AKUA DUROWAA OWUSU AGYEKUM (MRS.)
(CLERK TO THE COMMITTEE)