

# Copyright exception for accessible formats

Copyright constitutes one of the most challenging barriers in the access to information of persons with sensory impairments. Among the 50 countries with copyright exemptions, India's approach stands out as it is inclusive and non-bureaucratic, catering to the needs of persons with disabilities living in the Global South.

## COPYRIGHT AMENDMENT ACT NO. 27

Year of existence:	2012
Country/region of origin:	India
Beneficiaries targeted:	All persons with disabilities
Responsible body:	Ministry of Human Resource Development
Stakeholders:	Public, private and nonprofit sector

## INNOVATIVE ASPECTS

**Multi-stakeholder advocacy**  
Sound research, multiple advocacy strategies (collaborating with parliamentarians, the media, large publishing houses) and the involvement of persons with disabilities led this campaign to be a success.

**The widest possible copyright exception**  
As long as the converter ensures that converted formats are only accessed by persons with disabilities, the non-profit adaptation, reproduction, issue of copies or communication to the public of any work in any accessible format is permitted, by any person, including sharing with any person with disabilities, educational purposes or research, or any organisation.

## FACTS & FIGURES

- As of 2013, 95 Indian members of DAISY (Digital Accessible Information System) have converted 25,000 books which are available to some 50,000 users.
- All 150-200 million Indians with disabilities could potentially benefit.
- In 2014 an online Braille library will provide books in accessible formats.

## IN BRIEF

India's Copyright Amendment Act No. 27 of 2012 updates and consolidates copyright law and opens up possibilities for persons with disabilities to gain access to information and to make accessible formats available to them without a license. Among its special provisions for the benefit of persons with disabilities is foremost a wide and inclusive exception of copyrights.

## HISTORY

Several steps contributed to start the debate about changing India's copyright law: the formation of the DAISY Forum of India in 2007, the establishment of the NGO Centre for Internet and Society, Inclusive Planet and of Bookshare India, as well as the launch of the Right to Read Campaign with a broad coalition of civil society, academia, media, authors and publishing houses in 2009. This coalition discussed intensely the draft amendment and presented a detailed report to the Government, which highlighted best practices of copyright exceptions for persons with print disabilities in other countries. As a result, the final Copyright Amendment Act No. 27 of 2012 included special provisions for the benefit of persons with disabilities. At the same time India began to play a significant role in the negotiations for a new WIPO treaty, which was adopted in 2013 and which facilitates the cross-border exchange of accessible format copies and requires countries to enact domestic copyright exceptions.

*«Every country should have the widest possible copyright exception permitting the conversion of books and other cultural material into accessible formats for persons with disabilities.»*  
(Nirmita Narasimhan, Centre for Internet and Society, India)

## KEY FEATURES

The Copyright Amendment Act No. 27 of 2012 updates India's copyright law and includes amendments facilitating access to works. Concerning specifically the access barriers of persons with disabilities to a wide abundance of works, despite technological advances, the Act envisages three activities:

- Conversions by the disabled person for his/her own use and for sharing with others in the community
- Conversions by third parties working for the benefit of the disabled on a non-profit basis.

As long as the converter (any person or organisation) operates on a non-profit basis and ensures that converted formats are only accessed by persons with disabilities, § 52(1)(zb) permits the conversion of a copyrighted work to any accessible format. It is very important to note that the exception extends not only to persons with print/reading disabilities/visual impairments, but to any person with a disability requiring a special format to access the work.

- Conversions by for-profit organisations

For the for-profit conversion, the entity can apply for a compulsory license under §31(B). The Copyright Board has to dispose such application within a period of two months from the date of receipt of application.

## IMPLEMENTATION

As no license is needed for making works accessible on a non-profit basis, conversion work by disabled people's organisations started immediately after the Act came into force. The provisions allow for easy and non-bureaucratic use. As for making works accessible on a profit basis, one needs to apply

for a license, which is issued by the Copyright Board within two months. The Copyright Board is about to be established. Currently its director is being selected. It will be fully functional by the end of 2013. In case of infringement of the Act, its Section 63 provides for sanctions, which can include imprisonment between 6 months and 3 years, and/or fines up to 200,000 Rupees. Future Development

## KEY FEATURES

A major challenge faced by the DAISY Forum of India, an organisation which converts works into accessible formats, is the lack of Unicode-based fonts for regional languages. Another issue is the lack of funding. A campaign for more money is being planned. Whether or not other organisations, such as those of the deaf, are using the exceptions could not be detected.



Sonu Gogna is blind person in an organisation converting books into DAISY (© Saksham)

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**SOURCES** Rahul Cherian Jacob, Sam Taraporevala & Shamnad Basheer, The Disability Exception and the triumph of new rights advocacy, 2012: <http://bit.ly/1beKdj8>

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