

'No Excuses: Reading for All, Including People with Disabilities'

Foreword

to

Paul Harpur's *Discrimination, Copyright and Equality: Law Opening the eBook for the Print Disabled* (Cambridge University Press, 2017)

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In the twentieth-first century, the world's leaders have repeatedly acknowledged the importance of everyone possessing the right to education, enabled by the right to read and write. Recall that Goal 4 of the United Nation's Sustainable Development Goals enjoins us to: 'ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.' Among the targets to be achieved by 2030 include ensuring 'all girls and boys complete free, equitable and quality primary and secondary education'. This global aspiration is one expression of a widely held belief across societies around the world: namely, that every person should be able to read and write.

Reading is at the heart of many ancient and most modern societies. Reading interacts with, and underpins, many elements of everyday and public life: education and work; travel and leisure; access to health care, social services, and justice; social and political participation; and cultural belonging. Reading is also closely related to gaining access to information, media, and communication. A substantial number of the world's population cannot read, have not been afforded the opportunity to learn to read, face significant barriers or challenges with reading (and literacy generally), or read in different ways. Hence the many policies and practices adopted to address such issues, and to ensure that reading is something extended as an opportunity to all.

Against the backdrop of these commonly held views that reading is central to social life, and the prospects of individuals and their communities, what are we to make of the disturbing situation in which the right to read is systematically denied to a large and diverse group of humanity: the 'print disabled'?

The print disabled include Blind people and those with visual impairments (an estimated 300 million worldwide), but also a wide range of others, including those with other sensory disabilities who are not able to hold or manipulate a book or other printed material, not to mention those with cognitive and other disabilities which preclude or interfere with reading (such as dyslexia, autism, intellectual disability, acquired and traumatic brain injury). Through the history of print culture and the book, since the invention of writing, commemorated in various milestones especially the advent of the printing press, it has been recognized that many people are not able read. 'Work arounds' have been devised such as providing assistance with people reading to those with print disabilities. Particular media have developed to make books and printed material accessible including Braille, radio for 'print handicapped'; 'talking books', and formats such as DAISY. These efforts to make books accessible to the print disabled are typically regarded as 'specialized', though most people would have some awareness of their existence.

With the digital age, there has been great excitement generally about the prospects of digital technologies, multi-media, the Internet, mobile devices, and the pervasiveness of voice synthesizer and recognition technologies to create new ways for reading to occur — and for many people hitherto denied easy access to finally be able to fully participate in cultures of reading. After all, when mobile phone and tablet computer technology and associated computer operating systems and softwares supports ‘reading out aloud’ of digital material, including books, aren’t we on the cusp of book stores, libraries, archives, schools, universities of the world — great repositories of knowledge, and educational institutions — supporting a genuine revolution in reading? As we know, digital formats, widely used for electronic reading, can have capabilities and features that greatly extend accessibility, especially for print disabled. On the very threshold of the world of letters undergoing a transformative leap forward, there is a real danger than these great but very concrete and feasible hopes will be dashed.

This is the extraordinary story told in full for the first time by Dr Paul Harpur in his luminous book *Discrimination, Copyright and Equality: Law Opening the eBook for the Print Disabled*. In a distinctive powerful voice, underpinned by outstanding legal scholarship and analysis, Harpur provides a systematic account of how international and national copyright law has been the principal agent of oppression for people with print disabilities when it comes to their access to books and printed material. Publishers have rarely created and distributed works in accessible formats. One of the most scandalous examples in the world of digital books is the decision by Amazon to quail in the face of copyright advocates such as the American Authors Guild, and enable publishers to turn accessibility features off — so that the Kindle (the most famous name in ebooks) is effectively not accessible for the print disabled.

When publishers large and small, traditional and digitally in the vanguard, have chosen not to make their books accessible to the print disabled, the task has fallen to other intermediaries. For decades, there have been ways for organizations (typically charities and disability organizations) and more recently individuals (through optical character recognition software, scanners, and screen readers) to take inaccessible books and make copies in alternative formats so print disabled readers can read them. Fair enough, one might think; other people putting in the labour and funds to make books accessible, where the publishers have failed to do so. Enter the central doctrine of copyright when it comes to print disability: the emergence of an exception to copyright to allow such copying of books to make them accessible for the print disabled. Bizarrely enough, this minor exception has been fiercely resisted by copyright holders and a range of vested interest, including societies of authors. For their part, governments have been reluctant to take action, until recently.

As Harpur lays out, there are two ‘game changers’, that mean it can no longer be (disabling) business as usual for those denying books to print disabled. The more recent is the 2013 *Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities*, which makes it mandatory for the states who have signed the Treaty to adopt copyright exceptions for creation and distribution of accessible versions of work for those with print disabilities. This is an epochal step forward, yet it has two major flaws. It does not include people with non-sensory disabilities, and, more troubling still, it also mandates exceptions for the *non-profit* accessible version of works. As Harpur discusses, this latter stipulation means that commercial publishers and organizations are prevented from creating accessible works. Moreover, instead of gaining

the benefits of ‘universal design’, the exception revolves still around converted works into accessible formats only for those with print disabilities. So, why this ban on the harnessing commerce, when this could otherwise see accessibility become a ‘normal’, unexceptional part of all books? Harpur provides an elaborated and convincing explanation of this parlous situation still obtains, as the dominant, ‘taken for granted’, approach in books and disability — even in the digital age, when accessibility is being taken mainstream in all kinds of other technology.

To understand this situation, Harpur gives a comprehensive account of the other game changer, the 2006 *Convention on the Rights of Persons with Disabilities* (CRPD). As Harpur’s analysis shows, extending the work of many other scholars, the CRPD greatly advances the rights and obligations governments and other actors now shoulder when it comes to matters of information, communication, media, and technology. The right to read can be seen as part of the web of human rights that there is now no doubt are the patrimony of people with disabilities, as of all humanity. There are many complexities to the body of international law, fortified by the CRPD, but especially there is the overarching question of how such laws, and new dimensions of rights, are conceived, implemented, and safeguarded in national contexts. This is laid out with careful analysis and argumentation, and impeccable documentation, by Harpur as he dissects the shortcomings of existing anti-discrimination, equality opportunity, and human rights law across a number of leading Anglophone jurisdictions. It makes for depressing reading, to absorb and be puzzled by the many ways in which narrow concepts of ability, normalcy, and justice underpin the framing, interpretation, and enacting of law and justice when it comes to laws that have their manifest purpose to remove discrimination against people with disabilities, or to give effect to and active human rights. Displaying commendable optimism of the spirit as well as pessimism of the intellect, Harpur offers a creative and rigorous sets of arguments, based on the resources of actual existing law and legal practice on how we could, and indeed, should, construe and do copyright, anti-discrimination, and human rights law differently — to finally make accessibility of books, especially ebooks, the general condition of culture, no longer an ‘exception’ to culture (that is, a patronizing, charity-based apology that needs to be made amidst the courts and tribunals of copyright law, in order to make a mere fraction of books accessible to print disabled).

Harper lucidly explains the absurd, unjust disabled dispensation that still prevails, despite the twin peaks of the CPRD and Marrakesh Treaty, whereby print disabled have only access to a fraction of the world’s book. Given that copyright is one of the most widely debated, researched, and legislated public concerns in digital culture — as evidenced in the commons debates, the furious arguments about illegal downloading, or the affirmative policy in favour of open access publishing — that the issues of copyright and the print disabled are not widely known. Why are these issues not routinely raised, in the mainstream, when we talk about the opportunities and discontents of digital technology for society and culture? The continuing oppression of print disabled readers, and their exclusion from the world of books, can no longer continue — and it is something that should be an integral part of our university courses, research, public debates, and public policy discussion on digital technology. A very important addition to this indispensable Cambridge University Press series, this is a book that must be widely read. Harpur’s study deserves an engaged reception across a range of disciplines, not just law and policy studies — but also disability studies, sociology, media and communication studies, literary studies, and elsewhere in the

humanities, social sciences, as well as engineering and technology sciences. Equipped with Dr Harpur's fine book, we are equipped with the resources to take these issues mainstream, and secure proper action, so that everyone in the world, by 2030, or sooner, can indeed be a reader.