



## Copyright Exceptions and Accessible Knowledge for Persons with Disabilities: A Post-Marrakesh Evaluation of Vietnamese Law

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### ABSTRACT

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Following Vietnam's accession to the Marrakesh Treaty, the issue of copyright barriers to accessible knowledge for persons with disabilities has gained renewed legal and policy significance. This article examines whether Vietnam's amended copyright framework effectively facilitates access to published works while maintaining an appropriate balance with authors' rights. Methodologically, the study adopts a doctrinal and comparative legal approach, combined with treaty interpretation and the use of descriptive institutional indicators drawn from publicly available sources to contextualize implementation capacity. Analytically, the paper applies a legal-institutional-operational compliance framework to assess Vietnam's implementation of the Marrakesh Treaty. The findings indicate that, while recent legislative reforms represent important progress toward disability-inclusive copyright exceptions, compliance remains partial due to persistent institutional and operational gaps, including limited administrative guidance, capacity constraints among authorized entities, and underdeveloped mechanisms for cross-border exchange of accessible-format copies. The article advances a policy-oriented roadmap for strengthening sustainable accessibility governance in Vietnam, emphasizing regulatory clarity, institutional capacity-building, and international cooperation. By situating copyright exceptions within a broader sustainable development and human-rights perspective, the study contributes to comparative debates on Marrakesh Treaty implementation in developing and middle-income countries.

## 1. INTRODUCTION

### 1.1 Access to knowledge as a human-rights and sustainability issue

Access to knowledge is widely recognized as a fundamental human right and a prerequisite for meaningful participation in education, culture, and social life. Yet persons with disabilities continue to face persistent structural barriers in accessing printed and digital materials, resulting in what the literature has consistently described as a global "book famine." According to estimates cited by the World Health Organization, more than 253 million people worldwide live with visual impairment, including individuals who are blind and those with moderate to severe vision loss [1, 2]. Empirical and doctrinal studies further demonstrate that the lack of accessible-format works disproportionately affects persons with disabilities in developing and middle-income countries, where institutional and technological constraints significantly limit the production and distribution of accessible materials [3-5].

From a normative perspective, access to information and cultural materials is inseparable from international human-rights obligations. The UN Convention on the Rights of Persons with Disabilities (CRPD) requires States Parties to

ensure that persons with disabilities enjoy equal access to information, education, and cultural life, and that legal and institutional barriers preventing such access are progressively removed [6, 7]. Contemporary copyright scholarship increasingly frames accessibility as a matter of positive obligation rather than discretionary charity, arguing that copyright law must be interpreted and designed in a manner that enables, rather than restricts, the effective exercise of user rights [8, 9].

This rights-based understanding of access is also closely linked to sustainable development. Inclusive access to knowledge contributes directly to human capital formation, social equality, and institutional effectiveness—core dimensions of sustainable development governance. Recent legal and policy research emphasizes that accessibility reforms support broader sustainability objectives by strengthening inclusive institutions, reducing structural inequalities, and facilitating participation in the digital economy [3, 10]. In this sense, copyright exceptions for persons with disabilities are not merely technical legal tools but form part of a wider sustainability framework that integrates human rights, social inclusion, and long-term development goals.

The *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled* represents a decisive shift toward

this integrated approach [3, 11]. By mandating limitations and exceptions that permit the creation and cross-border exchange of accessible-format copies without authorization from rights holders, the Treaty operationalizes the principle that copyright protection must be balanced against the public interest in accessibility [3, 12, 13].

## 1.2 Empirical context: Disability and access in Vietnam

Vietnam reflects many of the global patterns identified in the international literature on disability and access to knowledge. National data indicate that more than seven million persons—approximately 7.06% of the population aged two years and older—live with disabilities, encompassing visual, hearing, cognitive, mobility, and communication impairments [14]. Despite gradual improvements in social protection and inclusive education policies, access to published works in accessible formats remains extremely limited. As in other developing contexts, fewer than a small fraction of books and educational materials are available in formats usable by persons with print and reading disabilities [3, 15].

Institutional capacity constraints play a central role in sustaining these access barriers. Libraries, inclusive education institutions, and disability-support organizations in Vietnam often lack the financial resources, technical infrastructure, and trained personnel necessary to produce and distribute accessible-format copies on a meaningful scale [4, 14]. These challenges are compounded by uneven access to assistive technologies and by the absence of well-developed administrative procedures guiding accessibility-related copyright practices. Comparative research shows that, without sufficient institutional support, even formally compliant copyright exceptions may remain largely ineffective in practice [16].

Vietnam's accession to the Marrakesh Treaty in December 2022, with domestic effect from March 2023, must therefore be understood against a backdrop of significant unmet accessibility needs [11]. The 2022 amendments to the Intellectual Property Law and the adoption of Decree No. 17/2023/ND-CP mark an important legal transition toward a broader, disability-inclusive copyright framework. However, existing scholarship cautions that legal reform alone is insufficient unless accompanied by institutional capacity-building, administrative clarity, and sustainable implementation mechanisms [3, 17].

## 1.3 Research objectives and questions

Against this empirical and normative background, this article examines Vietnam's evolving copyright-exception regime for persons with disabilities in light of its obligations under the Marrakesh Treaty. The study pursues three interrelated objectives. First, it assesses the degree of legal alignment between Vietnam's amended copyright provisions and the substantive requirements of the Marrakesh Treaty, with particular attention to beneficiary definitions, the scope of exceptions, and applicable safeguards. Second, it evaluates institutional readiness by examining the role, capacity, and oversight of authorized entities responsible for producing and distributing accessible-format copies. Third, it analyzes operational feasibility, focusing on implementation challenges, risks of misuse, and the absence of detailed mechanisms governing cross-border exchange.

These objectives give rise to the following research questions: What normative and empirical considerations justify the adoption of robust copyright exceptions to support access to works for persons with disabilities in Vietnam? To what extent do Vietnam's recent legal reforms achieve substantive compliance with the Marrakesh Treaty? And what legal and policy measures are required to strengthen institutional capacity and operational effectiveness while maintaining an appropriate balance between disability rights and the legitimate interests of copyright holders?

By addressing these questions, the article seeks to contribute to policy-oriented debates on disability-inclusive copyright governance and to situate Vietnam's experience within broader comparative and international discussions on sustainable access to knowledge [3, 9, 18].

## 2. METHODOLOGY AND ANALYTICAL FRAMEWORK

### 2.1 Research design and methods

This study adopts a qualitative, policy-oriented legal research design that combines doctrinal analysis, comparative legal analysis, treaty interpretation, and institutional assessment. The primary method is doctrinal legal analysis, through which the article examines Vietnam's amended Intellectual Property Law [19] and Decree No. 17/2023/ND-CP [20] to identify the scope, content, and limits of copyright exceptions applicable to persons with disabilities. This approach is consistent with established legal scholarship that treats statutory interpretation and normative coherence as central tools for evaluating copyright reform and human-rights compliance [8, 21].

Comparative legal analysis is employed to contextualize Vietnam's reforms within broader international practice. Drawing on comparative copyright scholarship, the study examines selected jurisdictions that have implemented the Marrakesh Treaty or analogous accessibility-oriented copyright exceptions, with particular attention to regulatory structure, beneficiary definitions, authorized-entity governance, and safeguards against misuse [3, 22, 23]. Comparison is not undertaken to rank legal systems, but to identify functional similarities, divergences, and transferable regulatory lessons relevant to Vietnam's institutional and developmental context.

Treaty interpretation constitutes a third methodological pillar. The Marrakesh Treaty is treated as the primary normative benchmark against which Vietnam's legal framework is assessed. In line with established approaches to international intellectual property law, the analysis interprets the Treaty's provisions on beneficiaries, accessible-format copies, authorized entities, and cross-border exchange in light of its object and purpose, as well as its relationship with other international instruments such as the Berne Convention, the WIPO Copyright Treaty, and the three-step test [12, 13, 24].

Finally, the study incorporates policy and institutional analysis to evaluate implementation feasibility. This component draws on descriptive institutional indicators and implementation-oriented scholarship to assess whether legal reforms are supported by adequate administrative capacity, technological infrastructure, and governance mechanisms. Prior empirical and doctrinal studies demonstrate that the effectiveness of Marrakesh-related exceptions depends not

only on legal compliance but also on institutional readiness and operational clarity [4, 16, 17].

## 2.2 Selection of comparative jurisdictions

The selection of comparative jurisdictions is guided by normative relevance, developmental comparability, and regional significance. The European Union is included as a normative leader in the Marrakesh implementation. The EU’s harmonized legislative framework and coordinated institutional mechanisms provide a mature model for understanding how accessibility-oriented copyright exceptions can be operationalized across multiple jurisdictions while maintaining strong safeguards for rights holders [3, 9].

South Africa and China are selected as comparable developing and middle-income contexts that have adopted distinct yet instructive approaches to Marrakesh implementation. South Africa’s reforms are closely tied to constitutional equality and human-dignity principles, offering insights into how accessibility exceptions can be grounded in broader human-rights jurisprudence [6, 7]. China, by contrast, illustrates a more administratively structured and regulatory approach, characterized by detailed definitions and authorization mechanisms, which is particularly relevant for assessing institutional design and operational control in large developing systems [4, 25].

ASEAN jurisdictions are included to reflect Vietnam’s regional legal and policy environment. Comparative analysis within ASEAN highlights both emerging convergence toward Marrakesh standards and persistent disparities in institutional capacity, regulatory precision, and cross-border cooperation. Regional scholarship underscores that ASEAN practice is especially relevant for Vietnam, given shared developmental challenges and increasing regional integration in intellectual property governance [18, 26].

## 2.3 Analytical Framework: Legal–institutional–operational compliance model

To provide a coherent structure for analysis, this study employs a three-dimensional Legal–Institutional–Operational Compliance Model. This framework is designed to move beyond purely descriptive accounts of legislation and to offer a structured assessment of how copyright exceptions function in practice.

The legal dimension examines the normative alignment of Vietnam’s copyright framework with the Marrakesh Treaty. It focuses on the scope of exceptions, the definition of beneficiary persons, the categories of accessible-format copies, and the safeguards imposed to protect the legitimate interests of rights holders. This dimension reflects long-standing copyright scholarship emphasizing the balance between public-interest limitations and authors’ economic and moral rights [27, 28].

The institutional dimension evaluates the governance structures responsible for implementing the exceptions. It analyzes the role, authorization, and oversight of entities entitled to produce and distribute accessible-format copies, as well as reporting and monitoring mechanisms designed to prevent misuse. Existing research demonstrates that weak institutional design and insufficient administrative capacity are among the principal reasons why Marrakesh-compliant laws fail to deliver practical accessibility [15, 16].

The operational dimension focuses on practical feasibility.

It examines the availability of accessible formats, the use of assistive and digital technologies, and the presence—or absence—of detailed procedures governing cross-border exchange of accessible-format copies. Scholarship on Marrakesh implementation consistently highlights cross-border exchange as both the Treaty’s most transformative feature and its most challenging aspect, particularly for developing countries with limited technological and institutional resources [3, 13].

Figure 1 illustrates the Legal–Institutional–Operational Compliance Model and conceptually maps the interactions among these three dimensions, emphasizing that deficiencies in any single dimension may undermine overall implementation effectiveness. Subsequent sections of the article apply this framework systematically to Vietnam’s legal reforms and to the selected comparative jurisdictions.



**Figure 1.** Legal–institutional–operational compliance model for Marrakesh Treaty Implementation

## 3. LEGAL AND INSTITUTIONAL ALIGNMENT IN VIETNAM

Vietnam’s copyright framework has undergone significant transformation following the country’s accession to the Marrakesh Treaty. While recent legislative reforms represent an important normative shift toward disability-inclusive access to knowledge, their effectiveness depends on the clarity of beneficiary definitions, the governance of authorized entities, the treatment of accessible-format copies, and the institutional capacity supporting implementation.

### 3.1 Expansion of beneficiaries and scope of exceptions

A central development in Vietnam’s 2022 amendments to the Intellectual Property Law is the expansion of eligible beneficiaries beyond persons with visual impairment to encompass a broader category of “persons with disabilities.” Article 25 and the newly introduced Article 25a extend copyright exceptions to individuals who are unable to access works in the usual manner due to physical, sensory, or other functional limitations. This reform marks a departure from the earlier visual-disability-centric model and brings Vietnamese law closer to the Marrakesh Treaty’s inclusive definition of beneficiary persons [3, 23].

However, despite this expansion, definitional ambiguities remain. Vietnamese law does not explicitly enumerate all disability categories covered by the exception, relying instead on general references to disability status. While this flexibility may allow for adaptive interpretation, it also risks inconsistent application by administrative authorities and authorized entities. Comparative scholarship highlights that vague beneficiary definitions may discourage institutional actors from proactively producing accessible-format copies, particularly where concerns about liability or misuse persist [18, 22]. As a result, the broadened scope of beneficiaries, though normatively aligned with international standards, may face practical limitations without further regulatory clarification.

### 3.2 Authorized entities and caregiver roles

In line with the Marrakesh Treaty, Vietnamese law recognizes the role of authorized entities and caregivers in facilitating access to accessible-format works. Decree No. 17/2023/ND-CP identifies eligible organizations, including libraries, disability-support institutions, educational establishments, and organizations of persons with disabilities, as entities entitled to produce and distribute accessible-format copies. This statutory recognition reflects an understanding that individual beneficiaries often depend on institutional support to exercise their rights effectively [24].

Nevertheless, the regulatory framework provides limited guidance on authorization procedures, verification mechanisms, and oversight responsibilities. The category of caregivers, while essential for accessibility, is broadly defined and lacks clear criteria for eligibility or accountability. Existing scholarship cautions that insufficient verification and monitoring may expose copyright exceptions to misuse, potentially undermining trust among rights holders and weakening the legitimacy of accessibility regimes [15, 16]. Without clearer administrative rules governing recordkeeping, reporting, and supervision, the effectiveness of authorized entities may remain uneven across regions and institutions.

### 3.3 Accessible-format copies and moral rights

Vietnamese law adopts a technologically neutral approach to accessible-format copies, permitting the conversion of works into braille, audio, digital, sign-language, and other formats suitable for persons with disabilities. This broad recognition aligns with international best practices and reflects the Marrakesh Treaty's emphasis on functional accessibility rather than specific technologies [3, 5].

However, the adaptation of works into accessible formats raises unresolved tensions concerning authors' moral rights, particularly the right of integrity. Format conversion may involve alterations to layout, structure, or presentation, which could be perceived as modifying the original work. While Vietnamese law maintains moral-rights protection, it does not clearly articulate how integrity concerns should be balanced against accessibility needs. Comparative legal scholarship highlights that failure to address this balance explicitly may generate legal uncertainty for authorized entities and discourage the production of accessible-format copies [27, 28]. As a result, the moral-rights dimension remains an underdeveloped aspect of Vietnam's Marrakesh implementation framework.

### 3.4 Institutional capacity and implementation constraints

Beyond normative alignment, the practical realization of copyright exceptions depends heavily on institutional capacity. Vietnam's governance structure for intellectual property and disability policy is fragmented across multiple ministries and agencies, including those responsible for culture, education, and social affairs. This fragmentation complicates coordination and may hinder the development of unified implementation guidelines for authorized entities [4, 14].

Funding and technological limitations further constrain implementation. Many libraries and disability-support organizations lack the financial resources, assistive technologies, and trained personnel required to produce

accessible-format copies at scale. Empirical studies from comparable jurisdictions demonstrate that legal reform without corresponding investment in institutional infrastructure yields limited practical impact [16, 17]. In the Vietnamese context, these constraints are particularly pronounced outside major urban centers, reinforcing regional disparities in access to knowledge.

Taken together, these factors suggest that while Vietnam has made notable progress in aligning its copyright framework with the Marrakesh Treaty, significant institutional and regulatory gaps persist. Addressing definitional ambiguities, strengthening oversight of authorized entities, clarifying the treatment of moral rights, and investing in institutional capacity will be essential to ensuring that expanded copyright exceptions translate into meaningful access for persons with disabilities.

## 4. COMPARATIVE IMPLEMENTATION EXPERIENCES

Comparative analysis of Marrakesh Treaty implementation reveals that effective accessibility-oriented copyright reform depends not only on formal legislative alignment but also on institutional design, administrative safeguards, and operational clarity. Experiences from the European Union, South Africa, China, and ASEAN jurisdictions illustrate different regulatory strategies for translating treaty obligations into practical access for persons with disabilities. Although these jurisdictions vary in legal traditions and governance capacity, their approaches highlight common challenges and transferable lessons relevant to Vietnam's ongoing reforms.

### 4.1 European Union: Harmonization and institutional infrastructure

The European Union represents one of the most advanced and coordinated models of Marrakesh Treaty implementation. Through the adoption of a harmonized directive and regulation, the EU established uniform definitions of beneficiary persons, authorized entities, and permissible uses across all Member States. This harmonization has reduced legal uncertainty and facilitated cross-border exchange of accessible-format copies within the internal market [3, 24].

A defining feature of the EU approach is its strong institutional infrastructure. Authorized entities are subject to clear authorization criteria, transparency obligations, and recordkeeping requirements, which enhance accountability and build trust among rights holders. Empirical research conducted across several EU countries demonstrates that coordinated library networks and centralized cataloguing systems significantly improve access while minimizing duplication of effort [16]. The EU model further integrates safeguards against misuse, ensuring that accessibility objectives are pursued without undermining the legitimate interests of authors and publishers [9].

The EU experience underscores that legal harmonization, when combined with robust institutional support and technological coordination, can transform Marrakesh obligations into an operational accessibility regime. At the same time, it highlights the resource-intensive nature of such systems, which may pose challenges for developing and middle-income countries.

## 4.2 South Africa: Constitutional framing and safeguards

South Africa’s implementation of accessibility-oriented copyright exceptions is shaped by its constitutional commitment to equality, dignity, and non-discrimination. Copyright reform in this context is closely linked to disability rights jurisprudence, positioning access to knowledge as a constitutional imperative rather than a discretionary policy choice [6, 7].

South African law adopts an expansive definition of beneficiary persons, encompassing not only individuals with visual impairment but also those with physical, cognitive, and reading disabilities. This inclusiveness aligns closely with the Marrakesh Treaty’s functional approach to disability. Meanwhile, the regulatory framework places strong emphasis on safeguards. Authorized entities are subject to documentation and verification requirements designed to prevent unauthorized distribution and commercial exploitation of accessible-format copies [29].

South Africa’s experience illustrates how constitutional principles can strengthen the normative legitimacy of copyright exceptions while supporting careful regulatory design. It also demonstrates that broad beneficiary inclusion need not come at the expense of rights-holder protection when appropriate oversight mechanisms are in place.

## 4.3 China: Detailed authorization and administrative control

China’s approach to Marrakesh Treaty implementation is characterized by detailed statutory definitions and structured administrative control. National regulations specify categories of beneficiary persons, delineate the scope of accessible-format copies, and establish formal authorization mechanisms for institutions permitted to engage in accessibility-related activities [25].

A notable feature of the Chinese model is its emphasis on administrative precision. Authorization of entities is closely regulated, and operational responsibilities are clearly assigned, reducing ambiguity in implementation. Recent scholarship highlights that this structured approach has facilitated the integration of accessibility considerations into educational and cultural institutions, including initiatives addressing reading disabilities beyond visual impairment [4].

Nevertheless, China continues to face challenges similar to those encountered by other developing and middle-income countries. Institutional capacity and technological disparities persist across regions, and detailed mechanisms for cross-border exchange remain underdeveloped. Despite these limitations, China’s regulatory specificity offers valuable lessons for strengthening authorization, monitoring, and compliance frameworks in contexts where administrative

control plays a central role.

## 4.4 ASEAN Practices: Emerging reforms and regional gaps

Across ASEAN, implementation of the Marrakesh Treaty reflects a pattern of gradual convergence combined with persistent disparities. Several member states have expanded copyright exceptions and disability definitions in anticipation of, or following, accession to the Treaty. Malaysia’s Copyright (Amendment) Act 2021 exemplifies this trend by broadening accessibility-oriented exceptions within a common-law framework [30].

At the regional level, scholarship indicates that ASEAN countries share common challenges, including limited institutional capacity, insufficient funding for accessible-format production, and a lack of detailed administrative procedures [18]. Cross-border exchange—one of the Marrakesh Treaty’s core innovations—remains particularly underdeveloped across the region, constraining the potential benefits of regional cooperation. Studies on Asia-Pacific intellectual property governance suggest that regional integration frameworks could play a greater role in facilitating shared repositories, cooperative platforms, and harmonized safeguards [26].

ASEAN practice demonstrates that while normative alignment with Marrakesh standards is increasing, effective implementation depends on sustained institutional investment and regional coordination. For Vietnam, these experiences highlight both the risks of fragmented reform and the opportunities presented by collective approaches to accessibility.

## 4.5 Comparative synthesis and visual overview

All together, the comparative experiences examined reveal several common determinants of effective Marrakesh implementation. Clear and inclusive beneficiary definitions reduce uncertainty and encourage institutional engagement. Well-defined authorization and oversight mechanisms help prevent misuse while maintaining rights-holder confidence. Most critically, detailed procedures for cross-border exchange and adequate technological infrastructure are essential for realizing the Treaty’s transformative potential.

These comparative findings are summarized in Table 1, which provides a visual overview of key implementation features across jurisdictions, including beneficiary categories, authorized entities, cross-border exchange rules, and safeguards. The table highlights both convergence around core Marrakesh principles and divergence in institutional and operational capacity, offering a structured basis for evaluating Vietnam’s position within the broader international landscape.

**Table 1.** Comparative overview of Marrakesh Treaty Implementation (beneficiaries – authorized entities – cross-border rules – safeguards)

Dimension	European Union	South Africa	China	ASEAN
Beneficiary persons	Broad and harmonized definition covering persons who are blind, visually impaired, or otherwise print disabled, consistently applied across Member States in line with Marrakesh Treaty standards [3, 24].	Inclusive definition grounded in constitutional principles, extending protection to persons with visual, physical, and reading disabilities, emphasizing equality and non-discrimination [6, 7].	Statutory definitions specify categories of beneficiary persons, including individuals with visual and reading disabilities, reflecting a functional approach aligned with Marrakesh obligations [4, 25].	Definitions vary across jurisdictions; several countries have expanded coverage beyond visual impairment, but scope and precision remain uneven across ASEAN members [18, 30].

Authorized entities	Clearly designated authorized entities, primarily libraries and non-profit organizations, are subject to transparency, recordkeeping, and reporting obligations at both national and EU levels [9, 16].	Authorized entities recognized by statute and case law, with explicit duties to ensure use exclusively by beneficiary persons and to prevent unauthorized distribution [29].	Authorization is governed through structured administrative mechanisms, with detailed criteria for institutional eligibility and clearly assigned responsibilities [25].	Authorized entities are recognized in several jurisdictions, but authorization procedures, oversight mechanisms, and reporting duties remain underdeveloped or fragmented [18].
Cross-border exchange	Well-developed cross-border exchange framework supported by harmonized EU rules and institutional cooperation, including centralized cataloguing and coordinated transfer of accessible-format copies [3]. Strong safeguards, including recordkeeping, transparency obligations, and limits on commercial exploitation, are designed to balance accessibility with the protection of authors' rights [9, 24].	Cross-border exchange is recognized in principle, but operational mechanisms are less developed and rely primarily on domestic accessibility priorities [6].	Cross-border exchange is acknowledged, though practical implementation remains limited and largely subordinate to domestic administrative controls [4, 25].	Cross-border exchange remains the weakest element across ASEAN, with limited procedural guidance and minimal regional coordination mechanisms [18, 26].
Safeguards against misuse	Strong safeguards, including recordkeeping, transparency obligations, and limits on commercial exploitation, are designed to balance accessibility with the protection of authors' rights [9, 24].	Robust safeguards grounded in constitutional reasoning, emphasizing verification, controlled distribution, and prevention of abuse to maintain rights-holder confidence [29].	Emphasis on administrative supervision and compliance, with detailed rules governing permissible uses and institutional accountability [25].	Safeguards vary considerably; while some jurisdictions provide basic limitations, enforcement and monitoring mechanisms remain inconsistent across the region [18].

## 5. CROSS-BORDER EXCHANGE AND OPERATIONAL GAPS

### 5.1 Marrakesh cross-border obligations

One of the Marrakesh Treaty's most innovative features is its provision for the cross-border exchange of accessible-format copies. By permitting authorized entities to share accessible works across national boundaries without the authorization of rights holders, the Treaty seeks to address structural inefficiencies in accessibility production and to reduce unnecessary duplication of effort. This mechanism is particularly significant for developing and middle-income countries, where domestic production capacity is often limited, and reliance on international cooperation can substantially expand access to knowledge [3, 13].

International scholarship emphasizes that cross-border exchange is not merely an optional supplement to domestic exceptions but a core element of the Marrakesh framework. It operationalizes the Treaty's human-rights objectives by enabling beneficiaries to access a broader range of works in their preferred language and format, regardless of national production constraints [12, 24]. Simultaneously, the Treaty permits contracting parties to adopt safeguards to prevent misuse, including measures related to verification, recordkeeping, and technological protection, provided that such safeguards do not undermine accessibility in practice.

### 5.2 Vietnam's regulatory silence and practical risks

Despite incorporating domestic copyright exceptions consistent with Marrakesh obligations, Vietnam's regulatory framework remains largely silent on the operationalization of cross-border exchange. Neither the amended Intellectual Property Law nor Decree No. 17/2023/ND-CP provides detailed procedures governing the import and export of accessible-format copies, the verification of beneficiary status across jurisdictions, or the responsibilities of authorized entities engaged in international cooperation. This regulatory silence creates legal and practical uncertainty for institutions that might otherwise participate in cross-border accessibility

initiatives.

The absence of operational guidance also raises specific risks. Digital rights management (DRM) technologies, while designed to protect copyrighted works, may inadvertently restrict the lawful circulation of accessible-format copies if applied without clear exceptions or interoperability standards. Verification challenges further complicate cross-border exchange, as authorized entities may lack reliable mechanisms for confirming beneficiary status or institutional legitimacy in other jurisdictions. Existing research cautions that overly cautious or ambiguous verification practices can discourage institutions from engaging in cross-border exchange altogether [15, 16].

Additionally, the lack of cross-border mechanisms increases the likelihood of duplication and isolation. Without structured channels for international exchange, Vietnamese institutions may expend limited resources producing accessible-format copies that already exist elsewhere, while beneficiaries remain excluded from a wider pool of available works. Comparative scholarship consistently highlights duplication as a major inefficiency in accessibility regimes that fail to leverage the Marrakesh Treaty's transnational potential [3, 17].

### 5.3 Lessons from comparative practice

Comparative experiences demonstrate that operationalizing cross-border exchange requires more than formal legal permission. The European Union's experience illustrates the importance of combining legal harmonization with institutional coordination, shared cataloguing systems, and clear rules governing secure transfer and recordkeeping [3, 16]. These mechanisms reduce legal uncertainty, build trust among authorized entities, and facilitate efficient sharing of accessible-format copies across borders.

In developing and middle-income contexts, comparative studies from South Africa, China, and ASEAN jurisdictions indicate that administrative clarity and institutional support are decisive factors. Where authorization criteria, verification procedures, and technological standards are clearly articulated, institutions are more likely to engage in cross-

border cooperation despite resource constraints [6, 18, 25]. Conversely, where regulatory silence persists, cross-border exchange remains largely theoretical, limiting the Treaty’s practical impact.

For Vietnam, these comparative lessons underscore the need to complement legal reform with operational guidance. Clarifying procedures for cross-border exchange, addressing DRM compatibility, and establishing basic verification and recordkeeping standards would help mitigate institutional risk and unlock the Marrakesh Treaty’s transnational benefits. Without such measures, expanded copyright exceptions may remain confined to the domestic sphere, falling short of their potential to transform access to knowledge for persons with disabilities.

## **6. RISKS, SAFEGUARDS, AND GOVERNANCE TENSIONS**

The expansion of copyright exceptions for persons with disabilities inevitably raises concerns regarding misuse, enforcement, and long-term sustainability. International experience demonstrates that accessibility-oriented reforms must be accompanied by carefully designed safeguards and governance mechanisms to maintain legitimacy among rights holders while ensuring that beneficiary access is not unduly restricted. The following analysis examines these tensions in the context of Marrakesh Treaty implementation and Vietnam’s evolving regulatory framework.

### **6.1 Risks of misuse and unauthorized distribution**

A recurrent concern in accessibility-related copyright reform is the potential for misuse, including unauthorized distribution of accessible-format copies beyond the intended beneficiary population. Rights holders have expressed apprehension that exceptions permitting format conversion and distribution could facilitate leakage into commercial markets or uncontrolled online circulation, particularly in digital environments [9, 28].

Comparative scholarship indicates that such risks are often overstated when appropriate institutional safeguards are in place. Studies examining Marrakesh implementation in multiple jurisdictions suggest that misuse has been limited in practice, largely because accessible-format copies serve a specialized audience and offer little commercial value outside that context [3, 24]. Nevertheless, the absence of clear verification and recordkeeping procedures may amplify perceived risks, discouraging authorized entities from fully exercising their legal rights. In Vietnam, the lack of detailed administrative guidance heightens this concern, potentially leading to overly cautious institutional behavior rather than proactive accessibility provision.

### **6.2 Balancing access, enforcement, and sustainability**

A central governance challenge lies in balancing three competing objectives: facilitating access for persons with disabilities, protecting the legitimate interests of authors and publishers, and ensuring the sustainability of accessibility regimes over time. International copyright doctrine has long emphasized that limitations and exceptions must operate within a balanced framework that reconciles public-interest goals with private rights, including economic and moral

interests [27, 28].

The Marrakesh Treaty reflects this balance by permitting safeguards against misuse while cautioning against measures that would undermine accessibility in practice. Comparative analyses highlight that overly restrictive enforcement mechanisms—such as burdensome authorization requirements or excessive technological controls—may deter institutions from producing accessible-format copies and reduce the Treaty’s effectiveness [15, 16]. Conversely, insufficient safeguards risk eroding rights-holder confidence and weakening political support for accessibility reforms.

Sustainability considerations further complicate this balance. Accessibility regimes that rely heavily on ad hoc initiatives or short-term funding may struggle to deliver consistent access over time. Scholarship emphasizes that sustainable accessibility governance requires stable institutional arrangements, predictable funding, and regulatory clarity that enables long-term planning by authorized entities [4, 17]. In this respect, enforcement and access objectives are not inherently opposed but must be integrated within a coherent governance framework.

### **6.3 Administrative oversight and accountability mechanisms**

Effective administrative oversight is critical to managing risks while preserving accessibility. International practice demonstrates that oversight mechanisms such as authorization criteria, transparency obligations, and recordkeeping requirements can enhance accountability without imposing disproportionate burdens on authorized entities [9, 24]. These mechanisms also contribute to trust-building between institutions serving persons with disabilities and rights holders.

Vietnam’s current framework provides limited detail regarding oversight and accountability. While Decree No. 17/2023/ND-CP recognizes authorized entities, it does not specify comprehensive monitoring procedures, reporting obligations, or enforcement responsibilities. Comparative experience suggests that such regulatory gaps may result in uneven implementation and reduced institutional engagement, particularly where organizations lack legal certainty or administrative support [16, 18].

Meantime, governance arrangements must remain proportionate. Excessive administrative control may impose compliance costs that smaller libraries and disability-support organizations cannot bear, thereby undermining accessibility objectives. International scholarship, therefore, advocates for graduated and risk-sensitive oversight models that combine basic accountability requirements with technical assistance and capacity-building [3, 15]. Applying these principles in Vietnam would help reconcile enforcement concerns with the broader goal of sustainable, rights-based access to knowledge.

## **7. POLICY RECOMMENDATIONS FOR SUSTAINABLE IMPLEMENTATION**

Achieving meaningful access to knowledge for persons with disabilities requires policy interventions that extend beyond formal legal alignment and address institutional capacity, operational feasibility, and long-term governance sustainability. Drawing on Vietnam’s experience and comparative implementation practices, several interrelated

policy priorities emerge.

### 7.1 Legal clarification and regulatory precision

First, greater legal and regulatory precision is required to reduce uncertainty and support consistent implementation. While Vietnam's amended copyright provisions broaden beneficiary coverage in line with the Marrakesh Treaty, further clarification of key concepts—such as the scope of beneficiary persons, the role of caregivers, and the permissible boundaries of accessible-format adaptation—would enhance legal certainty for authorized entities and rights holders alike [3, 23]. Comparative scholarship demonstrates that clearly articulated definitions and safeguards reduce institutional risk aversion and encourage proactive accessibility provision without undermining authors' legitimate interests [9, 28].

Regulatory guidance addressing the interaction between accessibility exceptions and moral rights would be particularly valuable. Explicit acknowledgment that format adaptation for accessibility purposes does not, in itself, constitute a violation of the right of integrity would help resolve lingering normative tensions and align domestic practice with international best practices [24, 27].

### 7.2 Institutional capacity-building and funding

Second, sustainable implementation depends on strengthening institutional capacity. Legal exceptions cannot operate effectively without adequately resourced libraries, educational institutions, and disability-support organizations. Empirical and comparative studies consistently show that limited funding, insufficient technical infrastructure, and a shortage of trained personnel are among the principal barriers to effective Marrakesh implementation in developing and middle-income countries [4, 16, 17].

Policy efforts should therefore prioritize targeted public investment in assistive technologies, digital infrastructure, and professional training for authorized entities. Establishing dedicated funding streams or integrating accessibility objectives into existing cultural and educational budgets would help institutionalize accessibility rather than treating it as an ancillary or project-based activity. Such measures would also reduce regional disparities in access, particularly between urban and rural areas [14].

### 7.3 Cross-border cooperation and regional platforms

Third, operationalizing cross-border exchange is essential to realizing the full potential of the Marrakesh Treaty. Vietnam would benefit from developing clear administrative procedures governing the import and export of accessible-format copies, including verification standards, recordkeeping practices, and secure digital transfer mechanisms. Comparative experience from the European Union illustrates that institutional cooperation and shared cataloguing systems significantly reduce duplication and expand access without compromising safeguards [3, 16].

At the regional level, ASEAN platforms offer opportunities for collective action. Regional cooperation on accessibility—such as shared repositories, mutual recognition of authorized entities, or coordinated technical standards—could mitigate capacity constraints faced by individual countries and enhance the efficiency of accessibility provision [18, 26]. Without such cooperative mechanisms, cross-border exchange risks remain

largely theoretical.

### 7.4 Integration with Sustainable Development Goals

Finally, accessibility-oriented copyright reform should be explicitly integrated into Vietnam's broader sustainable development strategy. Expanding access to knowledge directly supports SDG 4 (Quality Education) by enabling inclusive learning environments and lifelong learning opportunities for persons with disabilities. It also advances SDG 10 (Reduced Inequalities) by addressing structural exclusion in access to information and cultural participation [3, 10].

Equally important, effective governance of copyright exceptions contributes to SDG 16 (Institutional Governance). Transparent authorization procedures, proportionate safeguards, and accountable administrative oversight strengthen institutional trust and legal effectiveness. Framing Marrakesh implementation within the SDG agenda underscores that accessibility is not a marginal copyright issue but a cross-cutting component of inclusive and sustainable governance [9, 18].

Together, these policy recommendations emphasize that sustainable accessibility governance requires coordinated legal clarification, institutional investment, regional cooperation, and alignment with broader development objectives. Without such an integrated approach, the transformative promise of the Marrakesh Treaty is unlikely to be fully realized in practice.

## 8. CONCLUSION

The analysis demonstrates that Vietnam's implementation of the Marrakesh Treaty reflects substantive normative progress, yet its effectiveness remains uneven when assessed through the Legal–Institutional–Operational Compliance Model illustrated in Figure 1. The three dimensions of this framework—legal alignment, institutional readiness, and operational feasibility—are closely interconnected, and shortcomings in any one dimension constrain the overall realization of accessibility objectives.

At the legal level, Vietnam has taken important steps toward aligning domestic copyright law with international standards by expanding beneficiary coverage and formally recognizing accessibility-oriented exceptions. These reforms move beyond a narrow focus on visual impairment and reflect a broader commitment to disability inclusion. Nevertheless, lingering ambiguities concerning beneficiary definitions, caregiver roles, and the relationship between accessibility exceptions and authors' moral rights continue to generate uncertainty. Without greater normative precision, legal alignment risks remaining largely formal rather than functionally effective.

Institutional analysis reveals that statutory recognition alone does not guarantee meaningful access. Fragmented governance arrangements, limited oversight mechanisms, and uneven institutional capacity restrict the ability of libraries, educational institutions, and disability-support organizations to implement accessibility exceptions consistently. Comparative experience shows that institutional effectiveness depends on clear authorization procedures, accountability mechanisms, and sustained public investment. Within the analytical framework, institutional readiness emerges as a critical mediating factor between legal rules and real-world

outcomes.

Operationally, cross-border exchange represents the most significant unrealized component of Marrakesh implementation in Vietnam. The absence of detailed procedures governing verification, secure digital transfer, and interoperability constrains participation in international accessibility networks. Where operational guidance and technological coordination are lacking, authorized entities face heightened risk and uncertainty, leading to duplication of effort and missed opportunities for international cooperation. As reflected in Figure 1, weaknesses at the operational level undermine the effectiveness of otherwise well-intentioned legal and institutional arrangements.

These findings carry important policy and governance implications. Effective Marrakesh implementation requires coordinated development across all three dimensions of the compliance model. Legal clarification must be accompanied by institutional capacity-building and operational guidance if accessibility rights are to be realized in practice. Framing copyright exceptions within a broader sustainability agenda further clarifies their significance. Expanded access to knowledge directly advances SDG 4 by supporting inclusive learning environments and lifelong education for persons with disabilities. By addressing structural barriers to information access, accessibility-oriented copyright governance contributes to SDG 10. At the same time, transparent authorization procedures, proportionate safeguards, and accountable oversight mechanisms strengthen SDG 16 by enhancing regulatory effectiveness and institutional trust.

Future research would benefit from empirical investigation into how authorized entities operate in practice, including resource constraints, technological capacity, and user experiences. Additional comparative work focusing on regional cooperation—particularly within ASEAN—could explore shared platforms, mutual recognition of authorized entities, and coordinated cross-border exchange mechanisms. Such inquiry would deepen understanding of how accessibility governance can evolve from formal compliance toward sustainable, inclusive access to knowledge.

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