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# THE ROLE OF COPYRIGHT IN ONLINE EDUCATION PLATFORMS: NAVIGATING THE CHALLENGES OF PIRACY AND FAIR USE

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Aishwarya Vishwakarma, Hidayatullah National Law University, Raipur

## ABSTRACT

Digital platforms have democratised education like never before. Digital education promotes innovation and diversity, but it also escalates copyright disputes, notably over piracy and fair use. How can copyright law change to safeguard intellectual property while keeping education accessible and equitable?

Copyright enforcement and online learning's public interest are delicately balanced in this study. Digital replication makes piracy dangerous for content providers, educational institutions, and platform survival. From the Digital Millennium Copyright Act (DMCA) takedown procedures to developing technical protections, the research evaluates enforcement tactics to reduce unauthorised material distribution.

Fair use, which allows restricted instructional use of copyrighted content, is very complicated. Legal interpretations differ among nations, making its use in digital learning contexts uneven. In an age of global information, this article examines major legal judgements and policy struggles to redefine fair use. Also covered is the growth of alternative licensing models like Creative Commons and open educational resources (OER), which offer a compromise between copyright protections and unfettered access.

This research sheds light on copyright's changing position in online education through legal analysis, case studies, and policy perspectives. It advocates a forward-thinking legislative framework that protects intellectual property without restricting digital learning's revolutionary potential.

**Keywords:** Copyright, Online Education, Fair Use, Piracy, Intellectual Property, Digital Learning, Open Educational Resources, Copyright Reform

## 1. INTRODUCTION

*"The internet is becoming the town square for the global village of tomorrow."* — Bill Gates

In an age where a single click can open the doors to an Ivy League classroom, online education platforms like Coursera, Udemy, and edX have transformed learning into an accessible, borderless experience. But with great accessibility comes great legal complexity. India's educational framework remains a source of concern, as it ranks 129th out of 189 countries on the global development index <sup>1</sup>, despite its expanding population and extensive human resources. The cost of higher education, which comprises tuition fees, digital resources, and study materials, constitutes approximately 20% of the total expenses, is a critical impediment to its accessibility.<sup>2</sup> Balancing the economic rights of creators with the public's right to knowledge, the Copyright Act of 1957 is a significant factor in determining access to educational content. Who owns knowledge in the digital age? Can copyright, originally designed for printed books and lecture halls, adapt to a world where students download entire courses in seconds?

A copyright regime that is effective should ensure that content creators receive sufficient incentives while simultaneously facilitating extensive access to educational materials. Section 51 of the Act, which defines infringement, and Section 52, which lists nearly 40 exceptions, notably pertinent to education and research, reflect this balance. Historically, education in India was not perceived as a commercial enterprise; however, the digital era has altered this belief, rendering copyright law essential for the preservation of academic integrity. India's dedication to international conventions, including the Berne Convention (1886)<sup>3</sup>, TRIPS (1994)<sup>4</sup>, and the WIPO Copyright Treaty (1998)<sup>5</sup>, is a testament to its endeavours to regulate fair use and prevent online piracy. This article delves into the intersection of copyright laws, online education platforms, and the challenges of fair use and piracy, emphasising the necessity of a balanced approach that promotes both innovation and accessibility in digital learning.

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<sup>1</sup> India ranks 129 out of 189, up a spot, in human dev index. *TIMES OF INDIA*. <https://timesofindia.indiatimes.com/india/india-ranks-129-of-189-up-a-spot-in-humandevindex/articleshow/72451199.cms>

<sup>2</sup> Sarala, K. S. (2014) "A Study on 'Challenges in Controlling Unit Cost of Higher Education in Kuvempu University,'" *IOSR Journal of Humanities and Social Science*.

<sup>3</sup> Berne Convention for the Protection of Literary and Artistic Works. TRT/BERNE/001

<sup>4</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights. Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994)

<sup>5</sup> WIPO Copyright Treaty (WCT) (1996)

## 2. LEGAL FRAMEWORK

At the heart of this digital revolution lies a paradox: while copyright laws safeguard intellectual property and ensure fair compensation for educators and creators, rigid enforcement can stifle the very essence of education—sharing knowledge. The line between protecting content and enabling learning has never been more blurred. Piracy runs rampant, threatening content creators, while over-restrictive copyright policies risk shutting the doors of knowledge to those who need it most.

### 2.1 Acts That Do Not Qualify as Infringement Under International Instruments

Copyright law is intended to safeguard intellectual property while also enabling specific exceptions to expand access to knowledge and creativity. These exceptions are delineated in a variety of international treaties, which guarantee that copyright enforcement does not unduly restrict the public interest. Key principles that govern domestic copyright laws worldwide are established by the Berne Convention, the TRIPS Agreement, and the WIPO Copyright Treaty (WCT).

#### 2.1.1 Berne Convention Exemptions

The Berne Convention, the earliest international copyright treaty, aims to preserve the legal autonomy of member nations while harmonising copyright laws. Nevertheless, it acknowledges that in specific situations, the reproduction and use of copyrighted works should not be considered infringement.

- *Article 9(2)*<sup>6</sup>: Allows national legislation to authorise the reproduction of works in specific circumstances, provided that such use does not disrupt the work's normal exploitation or unreasonably prejudice the author's legitimate interests.
- *Article 10*<sup>7</sup>: Establishes fair use provisions under specific conditions:
  - i. Quotes: Copyrighted works may be cited lawfully, provided that their use is consistent with fair practice and justifiable objectives.

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<sup>6</sup> *Article 9(2) of Berne Convention for the Protection of Literary and Artistic Works. TRT/BERNE/001*

<sup>7</sup> *id* at Article 10

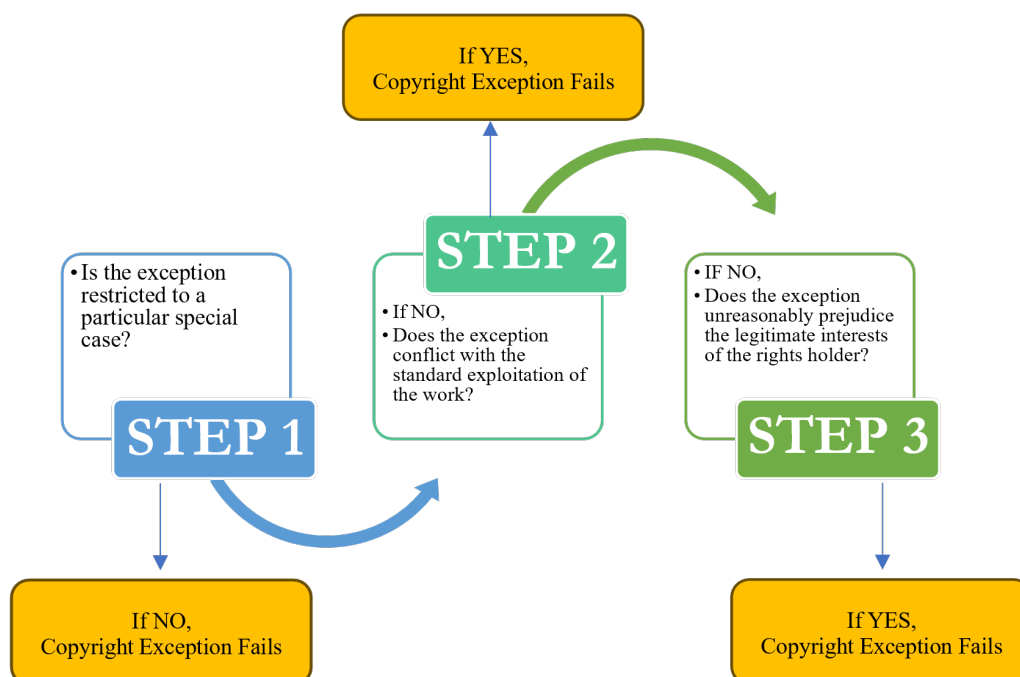
- ii. Educational Use: Permits the use of copyrighted material for educational purposes in publications, broadcasts, or recordings.
- iii. Acknowledgement Requirement: The author and the original source must be acknowledged for any use of copyrighted material under these exceptions.

### 2.1.2 TRIPS Agreement and WIPO Copyright Treaty (WCT)

The **three-step test**, which pertains to limitations and exceptions under international copyright law, is further refined by the TRIPS Agreement and WCT.

The following conditions must be met for the exceptions to copyright protection: Article 13<sup>8</sup> of TRIPS and Article 10<sup>9</sup> of WCT.

- They must be restricted to particular special cases.
- They must not be in opposition to the standard exploitation of the labour.
- They must not unreasonably prejudice the legitimate interests of the rights holder.



<sup>8</sup> Article 13 of Agreement on Trade-Related Aspects of Intellectual Property Rights. Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994)

<sup>9</sup> Supra at note 7

### 3. FAIR USE DOCTRINE IN NATIONAL LEGISLATIONS

The global jurisprudence is still being influenced by the ongoing debate regarding whether fair dealing is an intrinsic element of copyright law or solely an exception. Pierre N. Leval and other scholars contend that fair use is not merely a deviation from copyright protection, but rather a foundational mechanism for balancing the rights of copyright holders and users. This ensures that copyright law does not impede creativity, education, or public interest. Although certain legal frameworks, such as India's, define fair dealing as a statutory exception with clearly defined limitations, others, such as the United States, implement a more flexible, interpretative approach that enables courts to determine fair use on a case-by-case basis.

#### 3.1 Fair Dealing in India

India adheres to the fair dealing approach, which is relatively restrictive in comparison to the fair use doctrine of the United States. The Indian Copyright Act, 1957<sup>10</sup>, explicitly specifies the actions that do not constitute copyright infringement, thereby restricting the scope of judicial discretion in fair dealing determinations.

##### 3.1.1 Section 52 of the Indian Copyright Act, 1957

Section 52 of the Indian Copyright Act<sup>11</sup> delineates specific exceptions to copyright infringement, such as the use of the material for personal purposes, research, criticism, review, reporting of current events, judicial proceedings, and educational purposes. Nevertheless, the extent of these exceptions is still subject to judicial interpretation, frequently resulting in litigation regarding whether a specific use is within the statutory scope.

##### 3.1.2 Judicial precedents

The Supreme Court of India ruled in *Oxford University Press v. Rameshwari Photocopy Services (2016)*<sup>12</sup> that the wholesale photocopying of copyrighted books for educational purposes does not constitute copyright infringement. This decision underscores the importance of maintaining a balance between the right to education and copyright protection. This case

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<sup>10</sup> "The Copyright Act, 1957 (Act No. 14 of 1957)

<sup>11</sup> id at Section 52.

<sup>12</sup> *University of Oxford v. Rameshwari Photocopy Services*, 2016 SCC OnLine Del 5128 : (2016) 233 DLT 279

emphasised the importance of knowledge access, particularly in a developing country like India where educational resources are frequently costly.

*Blackwood & Sons Ltd. v. A.N. Parasuraman*<sup>13</sup> (1959): In order to ascertain whether an act entails unjust use, the Madras High Court established two main criteria:

- Whether the purpose of the use is to generate commercial profit.
- Whether the application is improper or oblique.

Fair dealing jurisprudence in India is still influenced by these principles.

### 3.2 Fair Use in the United States

The U.S. fair use doctrine offers courts a flexible standard to determine whether an unauthorised use of copyrighted material is permissible, in contrast to India's restrictive fair dealing framework. Courts evaluate fair use by employing a four-factor test in accordance with Section 107 of the U.S. Copyright Act, 1976<sup>14</sup>.

#### 3.2.1 The Four-Factor Test

Factor	Consideration
Purpose	Regardless of whether the purpose is for commercial gain or non-profit educational purposes. A preference is given to transformative use, which involves the addition of new meaning or message.
Nature	Regardless of whether the work is creative (literature, art, etc.) or factual (news, research, etc.), factual works are offered less protection.

<sup>13</sup> *Blackwood & Sons Ltd. v. A.N. Parasuraman*, AIR 1959 Mad 410

<sup>14</sup> *The U.S. Copyright Act of 1976* (17 U.S.C. §§ 101 et seq.)

<b>Amount</b>	The extent to which the portion utilised is significant in comparison to the entire undertaking. Additionally, the qualitative significance of the portion utilised is assessed.
<b>Market Effect</b>	The potential injury to the copyright holder and the economic impact on the original work, including whether the use functions as a substitute for the original work.

Although no single factor is determinative, courts evaluate these elements holistically. In general, educational and transformative uses are granted more latitude, provided that they do not cause substantial market damage.

### 3.2.2 Judicial Interpretation

- In *Campbell v. Acuff-Rose Music, Inc. (1994)*<sup>15</sup>, the U.S. Supreme Court emphasised the significance of transformative use by ruling that parody can be considered fair use, even if it is created for commercial purposes.
- The Second Circuit ruled in *Authors Guild v. Google, Inc. (2015)*<sup>16</sup> that Google's bookscanning initiative qualified as fair use because it provided a transformative, nonsubstitutive service that improved public access to knowledge without significantly impairing the market for the original works.

### 3.3 Comparative Analysis: Fair Use vs. Fair Dealing

However, the application of both doctrines varies across jurisdictions, despite the fact that they are intended to reconcile copyright protection and public interest.

**3.3.1 Flexibility vs. Specificity:** The fair use doctrine in the United States grants courts substantial discretion, whereas India's fair dealing framework is more stringent, necessitating explicit statutory exceptions.

<sup>15</sup> *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994)

<sup>16</sup> *Authors Guild v. Google, Inc.*, 804 F.3d 202

3.3.2 Judicial Role: In the United States, justices are responsible for interpreting fair use in accordance with the changing requirements of society. In contrast, Indian courts are more restricted by statutory provisions, although they have expanded equitable dealing in specific cases, such as Rameshwari Photocopy Services.

3.3.3 Transformational Use: The U.S. doctrine encourages transformative use, which permits derivative works to qualify as fair use. Conversely, India's fair dealing law does not explicitly acknowledge transformation as a determining factor.

3.3.4 Market Impact Consideration: Although both jurisdictions assess economic injury, the United States prioritises assessing whether the secondary use functions as a market substitute for the original work.

The doctrine of fair use/dealing continues to be a critical component of copyright law, influencing the access to knowledge, creativity, and economic interests. The Indian fair dealing framework offers greater predictability but less flexibility, whereas the U.S. fair use doctrine permits adaptability at the expense of legal uncertainty. The debate regarding whether national legislations should adopt a more harmonised approach to fair use continues to gain traction in international copyright discussions as digital platforms expand access to copyrighted works.

#### **4. INTERFACE BETWEEN COPYRIGHT LAW AND EDUCATIONAL INSTITUTIONS**

Educational institutions have been acknowledged for a long time as essential facilitators of the inculcation of values, the development of skills, and the acquisition of knowledge. The right to education is a fundamental human right that has been recognised by numerous international conventions. The Universal Declaration of Human Rights (UDHR)<sup>17</sup> recognises education as a critical element of human dignity and an empowerment instrument that enables individuals to actively engage in the political and social frameworks of their respective nations. Article 21A<sup>18</sup> was incorporated by the Supreme Court in India through the Constitution (Eighty-Sixth) Amendment Act, which established the right to free and compulsory education for minors between the ages of six and fourteen as a fundamental right.

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<sup>17</sup> *Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)).*

<sup>18</sup> *Article 21A, Constitution of India*

A persistent conflict exists between educational access and copyright law, particularly in the context of educational materials in which authors have financial interests. The friction is caused by the utilisation of copyrighted content in academic projects, research, instruction, dissemination of study materials, course packets, assignments, and examinations.

Copyright law has simultaneously limited the publishing industry's reach, making it difficult to access books outside of small national markets, despite its intention to safeguard authors' rights. This restriction is especially severe in developing nations, which requires a revision of copyright laws to improve accessibility. This issue is addressed by the Berne Convention's

Appendix, which permits 'mass access' to copyrighted educational materials. It also establishes a compulsory licensing framework, which restricts an author's exclusive control over translation and reproduction rights. Nevertheless, this system is frequently ineffective, subject to bureaucratic delays, and highly intricate.

For example, a reproduction licence is only granted five years after the publication of a specific edition and is restricted to a "specific instructional activity." In the same vein, a translation licence is subject to a minimum waiting period of three years from the date of its initial publication and is limited to the pursuit of research, scholarship, and teaching. The system's efficacy has been substantially diminished as a result of these constraints, rendering it essentially ineffective.

#### **4.1 Fair Dealing in Education and Copyright Law**

Certain exceptions to copyright infringement are delineated in **Section 52(1)(a) of India's Copyright Act, 1957<sup>19</sup>**:

Fair treatment of a copyrighted work for the following purposes:

- Personal or private use, including research.
- Review or critique of that work or any other work.
- Current event reporting, which encompasses public lectures.

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<sup>19</sup> *Supra* at note 11

In addition, Section 52(1)(i) stipulates that content that is reproduced by students or instructors within an educational institution as part of instruction or study does not constitute infringement. Nevertheless, this does not imply the unrestricted spreading of copyrighted materials in the name of education. In order to prevent misuse, the doctrine of equitable dealing imposes numerous restrictions:

- i. The copyrighted material must be legally acquired, either through a valid subscription or appropriate authorisation.
- ii. The material is intended for educational purposes only and should not be used for commercial purposes. As long as the institution's library maintains at least one physical copy of the book, the 2012 Amendment to the Copyright Act authorises the distribution of scanned copies of purchased books to students.

#### **4.2 The consequences of the COVID-19 pandemic**

The COVID-19 pandemic introduced new obstacles, which hastened the transition to e-learning and increased the dependence on digital educational materials. Unauthorised photocopying experienced a significant increase as a result of the limited classroom access, and educators frequently violated copyright by distributing copyrighted materials without permission. In response, certain publishers made their content readily accessible as a benevolence gesture, and certain subscription-based platforms temporarily waived fees for pandemic-related content. Nevertheless, these exemptions were transient, and their termination resulted in the reintroduction of financial obligations for students, who were required to pay for content in order to access it. The pandemic has thereby revealed the long-standing deficiencies in copyright policies, underscoring the imperative necessity for a system that is in accordance with the evolving digital innovations and ensures educational accessibility.

#### **4.3 Harmonising Educational Access and Copyright Protection**

4.3.1 There is a fundamental conflict between promoting open access to educational resources and preserving adequate copyright protection to encourage content creation. An excessive reduction in copyright protection may discourage the production of highquality academic materials, which could result in a decrease in literary and scholarly output.

4.3.2 The enforcement of copyright has been further confounded by the rapid proliferation of

digital technologies, particularly in e-learning and online education environments. The pervasive dissemination of copyrighted materials and the ease of digital reproduction present substantial regulatory challenges.

4.3.3 It is also essential to differentiate between plagiarism and copyright infringement. Although academic institutions implement stringent plagiarism policies, acknowledging an author does not necessarily render their work permissible. Unless it is permissible under established copyright exceptions or limitations, permission is required for the unauthorised use of copyrighted content.

4.3.4 Access to affordable educational resources is frequently impeded in developing countries such as India by stringent copyright protection. It is a complex but essential endeavour to achieve a balance between the protection of authors' rights and the provision of equitable access to educational materials. These disparities can be bridged by a well-structured copyright policy that is inclusive of both authors and learners, thereby promoting educational accessibility and creativity.

## **5. THE FUTURE OF COPYRIGHT AND EDUCATION**

The evolving landscape of copyright law must adapt to the digital age, ensuring both the protection of authors' rights and the accessibility of educational resources. The emergence of open educational resources (OERs), Creative Commons licenses, and institutional repositories has provided alternative pathways to knowledge dissemination. Governments and policymakers must actively promote copyright reforms that facilitate equitable access while safeguarding intellectual property rights.

One potential solution is the development of fair use policies specifically tailored for educational institutions, ensuring that copyright regulations remain flexible enough to accommodate new methods of teaching and learning. Additionally, the establishment of compulsory licensing frameworks for digital education can provide structured access to copyrighted materials without unduly burdening students and educators.

Ultimately, the intersection of copyright and education demands a balanced approach—one that respects intellectual property while fostering an inclusive knowledge ecosystem. As digital education continues to expand, legal frameworks must evolve in tandem, ensuring that

copyright law serves as an enabler rather than a barrier to learning.

### **5.1 Strategies for Progress and Suggestions**

The following recommendations should be taken into account in order to help reconcile the divide between copyright law and education:

▷ Strengthening Fair Use/Fair Dealing Provisions: Legal provisions should be updated to explicitly support digital education, allowing reasonable educational uses of copyrighted content without excessive restrictions.

▷ Creating Institutional Licensing Agreements: In order to guarantee legal and affordable access to copyrighted materials, universities and educational institutions should enter into volume licensing agreements with publishers.

▷ Governments should promote and finance Open Educational Resources (OERs) to reduce reliance on expensive textbooks and paywalled research.

▷ Digital Lending Policies Implementation: Libraries should be permitted to lend digital reproductions of books under controlled conditions, similar to the lending of physical books.

▷ Reforming the Berne Convention Appendix: The licensing delays should be simplified to increase the accessibility of translation and reproduction licenses.

▷ Increasing the Awareness of Copyright Among Students and Educators: In order to guarantee that stakeholders comprehend their rights and obligations with respect to copyrighted material, it is imperative that training programs be implemented.

▷ Implementing a Public-Private Partnership Model: Subsidised digital content for educational institutions can be achieved through collaboration among governments, private publishers, and technology companies.

▷ Establishing Fair Pricing Mechanisms: Governments have the ability to establish regulations that guarantee educational resources are affordable and easily accessible.

## CONCLUSION

The intersection of education and copyright law is intricate and necessitates a dynamic legal framework that maintains a balance between intellectual property rights and equitable access to knowledge. Copyright laws must adapt to accommodate new learning methodologies and ensure that authors receive equitable compensation as digital education becomes more widespread. A sustainable paradigm that benefits all stakeholders can be established through a combination of institutional licensing, fair dealing reforms, open educational resources, and digital lending policies. By achieving this equilibrium, copyright law will promote an inclusive and knowledge-driven society by acting as a catalyst rather than a hindrance to education.