



Fair Use Provisions under the Indian Copyright Act: Awareness Among Librarians of Colleges and Universities in Maharashtra

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Received: 20th December 2020; accepted: 21st September 2021

Indian Copyright Act, 1957 provides a private right in copyright which extensively deals with provisions that guarantee access to knowledge as well. Copyright is an exclusive and assignable legal right given to the author for a particular period for original literary, dramatic, artistic works, and musical work whether published or unpublished. These rights are not absolute but subject to restrictions and limitations imposed by law. Section 52 of the Copyright Act, 1957 is one such provision that restrains the exclusive enjoyment of rights given to the copyright holder. As per Section 52 (1)(o) of the Copyright Act, 1957 a non-commercial library is permitted/allowed to make three copies of a book for library use, provided such books are not available for sale in India. The present article is about the concept of fair dealing which is originated from the Common laws of England. Although, the concept of fair use and fair dealing are used synonymously, the Indian Copyright Act, 1957 deals with fair dealing under Section 52 of the Copyright Act, 1957. The reproductions of works for research or private study, taking photocopy for research and educational purpose, etc., are covered under the doctrine of fair use. This paper will explain the conceptual framework of the Indian Copyright Act and the empirical reality in libraries of Maharashtra. It attempts to empirically test the usage of fair use provisions under the Indian Copyright Act and the awareness among librarians of Colleges and Universities in Maharashtra. The research methodology used for the present study is both doctrinal and non-doctrinal. It was observed that most of the librarians are aware of Copyright Law and copyright exceptions but when it comes to the implementation librarians also face difficulty and it leads to the infringement of copyright.

Keywords: Copyright, Section 52 of The Copyright Act, Library and Information Technology, The Doctrine of Fair Use, Fair Dealing, Education, The Exception to Copyright, TRIPS Agreement, Berne Convention

Creativity is an integral aspect of copyright. Modern Copyright Law is based upon the theory of creativity that if the protection of copyright is increased creativity will increase naturally. Creativity is the backbone of copyrighted material and this principle has an economic vision. The first Copyright Law was enacted by the Statute of Anne in England in 1710. It is the State who promotes the creative works and the authors are encouraged by State protection and thereby society will be promoted to work more creatively. The changing social structure, such as the application of information and technology and media, the new production of knowledge, and the democratization of creativity, has brought changes to the regulatory framework of copyright with some challenges. The basis of copyright is the greater the protection of rights and the greater the reward, the greater the incentive to create new works, the greater the number of new works created. According to

Macaulay, by increasing the financial bounty available to authors, we ultimately increase the public's bounty of new works of authorship.¹ The educational institutions have a greater responsibility for copyright protection because it has a collection of books and literature in libraries. Libraries and archives are key stakeholders in the collection of copyrighted material in India. These institutions have the vast majority of copyrighted material that is subject to copyright protection. This article is about how the copyright systems interact with the education system and Section 52 of the Indian Copyright Act, 1957. The reproduction of works for research or private study, taking photocopy for research and educational purpose, preservation of available copy, inter-library loans, private use, use by professors, students or members, digitization of books, access to e-books and digital library, books not in circulation in India are permitted under fair use. In addition to that adaptation, to facilitate access to disabled, translations of copyrighted works, unpublished works for private

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study/research, circumvention countermeasures for fair use, preparation and distribution of course packs, and sharing to third parties for private use or research are some of the exceptions permitted under fair use. Therefore, this study is to understand Section 52 of the Copyright Act to address the issues of copyright violations in University and college libraries in the State of Maharashtra. It will give empirical evidence to how it is working in India. This sample study could be helpful for further study of copyright protection in India.

Undoubtedly, education and knowledge are a symbol of the development of societies for developed, developing, and least developed countries. Article 26 of the Universal Declaration of Human Rights (UDHR), 1948 provides that 'everyone has the right to education. In that sense to deliver education one must have access to information and Article 27 of UDHR, 1948 Para 1 and 2 provides that "*everyone has the right to freely participate in the cultural life of the community and to enjoy arts and share scientific advancement and its benefits.*" It also suggests that everyone has the right to protect his moral and material interest from scientific, artistic, and literary work of which he is the author. All this information is protected by the Copyright Act. The control of access to education and knowledge is governed by the copyright system. In the copyright system, a fair balance of interest is required and the authors have control over their works to exploit them financially on the one side and another side is the interest of the general public in human development. Further, access to knowledge and education is possible only through educational institutions and libraries. The role of libraries in educational institutions is major in copyright protection. It is considered that educational institutions and libraries are archives for knowledge. Therefore, the copyright system depends on them, and hence it provides some limitations and exceptions to educational institutions and libraries. However, how many educational institutions and libraries are successful in protecting the copyright of authors and access to education and knowledge to the masses with exceptions is a matter of empirical study. The present study conducted in the State of Maharashtra in 145 colleges and university libraries is significant in the digital world. The Copyright Act provisions under Section 52 are there to protect the interest of the author and public and whether these provisions are properly implemented in India is a matter of study. Therefore, the provisions related to copyright and the

doctrine of fair use need to be discussed with the role of libraries and educational institutions.

Fair Use Doctrine and Copyright

Intellectual property rights provide various rights like copyright which is an exclusive right of the creator. Copyright is an author's right to his artistic, literary works, and musical works. The works created by copyright cover a variety of rights in books, music, painting, sculpture, films, computer programs, databases, etc.² In the case of original literary, artistic, dramatic, and musical works, the duration of copyright is the lifetime of the author or artist, and 60 years after the death of the author.

Copyright protection is available only for expression and not to ideas, methods of operations, procedures, or mathematical concepts. However, there are certain situations in which reproduction or use of original work is considered as exceptions to copyright infringement. The TRIPS Agreement under Article 13 provides that member countries shall confine limitations and exceptions to exclusive rights. The Berne Convention under Article 9(2) provides that it shall be the duty of member countries to permit the reproduction of such works in certain cases and it should not affect the legal right of the author.³ Therefore, all WTO members countries are obliged to comply with the TRIPS and Berne Convention on Copyright and hence the above provisions can be found in their domestic legislations on copyright. In intellectual property rights, the conditional grants to proprietary rights are to promote the public interest. It is to maintain the balance between the interest of the creator and society. The doctrine of fair use is enacted and applied differently in all other countries through their domestic legislation on copyright. The doctrine of fair dealing in the UK originated from common laws of England and in the United States of America it is called the doctrine of fair use and both are the same thing found in almost all other countries. In the doctrine of fair use, the law permits limited use of copyrighted material without a sanction from the copyright owner. It provides the limitations to copyright to balance the interest of the copyright owner and the public distribution. It is otherwise considered an infringement of copyright. In India, Section 52 of the Copyright Act, 1957 provides exceptions and defenses to copyright infringement in detail.⁴ The provision of the Doctrine of Fair Use is one of the important components of Section 52 and one has to be fair under this section that needs to fall

within the established purposes of private use, research, criticism, and review.

Copyright provides a certain shield to the authors over their creations. It also provides reward and protection to the creativity of the author. The protection provided by copyright to the efforts of artists, writers, dramatics, musicians, designers, architects, computer software, and producers of cinematograph films, sound recordings. It creates an ambiance conducive to creativity, which motivates others to create more works.⁵ Copyright protection is the driving force of capitalist society; it creates a legal framework that encourages entrepreneurship and propriety rights in intangible assets. The copyright laws deter the would-be thieves from attempting to have undue profit from others' creative works in audio or material works.⁶ Copyright laws prohibit others from making copies of the 'fixed tangible' medium of expression.⁷ Copyright protects only the expression of ideas. It covers a wide range of works, including literary, artistic, dramatic, and musical works such as poetry, novels, movies, songs, architecture, etc. The invention of the printing press gave rise to the need for copyright. The early grants were like privileges granted by the King. The privileges were granted to publishers rather than authors and it protected their financial interests. The first such privileges were granted at Venice as early as 1545. The first Copyright Statute was the Statute of Anne in England. For the first time this statute shifted the focus from protecting the publishers to protecting the authors for their original works. Further, regarding library education, the role of Professor Ranganathan is very remarkable and is reversed as the father of library and information science in India. Dwarika N. Banerjee in an article details the story of libraries in India discusses the history of libraries and the education of librarians.⁸ The library profession in India are responsible for changing education and the library environment in the twenty-first century. Higher education and technology are interrelated with each other. New technologies are challenges for librarians and the inroads of this century to impart training for librarians have been laid down in the twenty-century.⁹ The Madras University under the guidance of Professor Ranganathan has started a university-level training programme in 1931 and today India has more than 100 training and research institutions for library and information science professionals. Therefore, now the question arises whether all these professional

institutions are imparting correct education to librarians about copyright laws in India. The author concludes in the above article that such information in India has to be provided to both literate and neo-literate masses.

As Copyright is a package of rights given to the author an author having copyright for a novel will have the right to reproduce the novel, distribute its copies, the right to make an adaptation on his novel, make a translation of the novel, right to publish it or communicate it to the public. The owner could exercise these rights or authorize others for the same. The rights granted under copyright are economic. If all the copyrights lapse, a special category of rights called moral right will subsist with the owner. Fair use is an exception that is incorporated under the domestic copyright statute which is allowed under Article 13 of the TRIPS Agreement. Under Article 13 any country could bring in exceptions to copyright violation provided, it satisfies 3 conditions, namely, (a) exception confines only to special cases, (b) does not conflict with the normal exploitation of the work and (c) does not unreasonably prejudice the interests of the right holder. The principle of fair use is provided under Section 52 of the Copyright Act which includes aspects of educational use, governmental works, works for the visually impaired, etc.¹⁰ Michale Seadle in his article, 'Copyright in the Networked World: Copies in Courses', while discussing the concept of fair use and teachings gives a simple answer to the instructor's questions that whether anyone can use any of these without permission from an author, publisher, producer" and the answer is "no". Because any use of copyrighted materials without the permission of the copyright holder represents an infringement of copyright work and which may cause expensive consequences.¹¹ James T C, in his article, 'Indian Copyright Law and Digital Technologies' discusses the issue about the copyright protection of Digital Technologies. The article discusses the various aspects of protection of computer programs and databases relating to the right to distribution, reproduction, and communication to the public.¹² The article mentions the balance of interests of the individual and the creator. The author points out certain exceptions to the protection granted by Copyright Law, namely academic, educational, judicial, or legislative purposes. The author discusses the scenario of the use of copyrighted materials for educational purposes. He urges the need for scrutiny

on advancement in technology and the abuse of the exceptions given under Section 52 of the Copyright Act, especially in the field of education. Further, the author discusses the scenario of the use of copyrighted materials for educational purposes. Author urges the need for scrutiny on advancement in technology and the abuse of the exceptions given under Section 52 of the Copyright Act, especially in the field of education. Priyambada Mishra and Angsuman Dutta in their article, begins with the introduction of the internet in the 20th century, which has provided greater access to file sharing and resources and the authors find it easy to get their books in market but the internet also contributed to plagiarism affecting the authors adversely.¹³ Abhipsa Nayak and Shatabdi Chatterjee in their article, 'Onset of Mobile Chip Piracy in the Domain of Copyright Infringement Anti- Circumvention Laws' talks about the need to balance the interests of both the public and the artist. It is possible by encouraging the creativity of the artists' work on one hand and the other allowing public access to the information.¹⁴ Mahesh Madhavan in his article on the 'Use of Copyright by the Open-Source Software Movement on Computer Software and its Implications' discussed the use of copyright in India.¹⁵ The article specified cost-free redistribution of derivative works and free use of a license. Some of the greatest beneficiaries of this free use license scheme about educational institutions. Then the students and other users can work on the system without any intervention of software owners or agreements provided. Shamnad Basheer and others in July 2012 in their article discussed exhaustion rights, which are based on India, New Zealand, Pakistan, and Bangladesh.¹⁶ It is discussed that countries encourage imports and the availability of certain books online, to consumers for educational purposes. Zakir Thomas in February 2009 has cited various case laws dealing with the conflict between the textbooks and guidebooks, he had mentioned the fair use defense claimed and discussed it.¹⁷ In the case of *Academy of General Education, Manipal, and Anr. v B. Manini Mallya*,¹⁸ the Supreme Court held that the provisions of the Copyright Act, 1957 make a distinction between ' literary work' and 'dramatic work'. According to the definition given under the Act 'dance' would come under dramatic work and not literary work. While interpreting Section 52 of the Copyright Act, 1957, the Supreme Court observed that certain acts do not constitute an infringement of

copyright. Fair dealing with literary and dramatic work for research, criticism, review, and private use are not infringement. Therefore, if the performance carried out in educational institutions cannot be held as infringement, an order of injunction shall not be applicable. Thus, the applicant can take benefit of Section 52 (1) of the Copyright Act and the High Court should have clarified it to the appellants. Therefore, the Supreme Court dismissed the appeal on the abovementioned grounds. Meera Nair has conducted an extensive survey on university libraries in Canada and concluded that it does not appear that Canadian Universities have placed a priority upon codifying strong fair dealing practices in case of copyright.¹⁹ That the photocopying machines are installed in every public and private libraries and students and faculties instead of buying books they do photocopying of books. Therefore, the role of libraries in copyright protection is more compared to other stakeholders in copyright protection.²⁰ In this article, the author discussed the use of copyright protection and the balance between the copyrights of the creator and exceptions given under the Copyright Act, 1957. In India, there is no official report which provides the data for the photocopying of books and study material in libraries. She argued for reprography and rules and laws for reprography in India.²¹ The concept of fair use is the philosophy of the copyright and it allows the other persons for a certain purpose to use that copyrighted material without the permission of the owner. Therefore, certain principles of fair dealing give scope for freedom to others, and permission is not needed in a certain respect. The factors assessed by fair use are outlined in each country's statute and determined as per the Berne Convention. Thus, such fair dealing exception: (i) should be limited to certain cases; (ii) it should not conflict with a normal exploitation of the work; (iii) it should not unreasonably prejudice the legitimate interests of the author. The Berne Convention incorporated the three-step test, which is incorporated in the TRIPS Agreement, the WIPO Performances and Phonograms Treaty, the WIPO Copyright Treaty, the Directive on the Legal Protection Computer Programs, the EU Database Directive, and the EU Copyright Directive. This test is found under Article 13 of the TRIPS Agreement which provides that "*members shall confine limitations and exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not*

unreasonably prejudice the legitimate interests of the rights holder.” Poonam Dass in her article ‘Reproduction Right in Digital Medium and Free Use for Educational Purpose: An Analysis of National and International Obligations of India to Provide Education to all *viz. a viz.* protecting copyright’ that the Berne Convention, 1886 under Article 4 provides, “literary and artistic works”.²² Further, this Convention provides that the reproduction of the artistic, literary, scientific or artistic domain is permissible in any manner of expression or reproduction. However, it does not provide any absolute right to reproduction though it provides translation rights. This convention prohibits reproduction and translation in certain cases. Further, the author has discussed the education system in India. Developing countries like India have a literacy rate of 74.04% as per the 2011 census as compared with developed countries that have a 99% literacy rate. In India, due to the nature of multiculturalism, there is a disparity in society with respect to education in women, backward classes, and certain other underprivileged people including persons with disabilities. In India, the literacy of women in the State of Kerala is higher as compared to other states and the disparity in education can be found at primary, secondary, and higher education. Further, this article discusses the educational purpose and free reprographic use.²² In general, reprography means the making of copies by xerox machine or similar means. Similar means can be anything like digital copies, scanning, microfilms, digital copies, computer printouts, etc. Therefore, this new technology is

affecting the right of the author to reproduce. The Indian Copyright Act under Section 52 provides certain free uses including a reproduction of work for educational purposes. Section 52 (1)(a) provides that fair dealing of work and the court must interpret that whether this use amounts to fair dealing or not and it will depend on each fact and circumstances of the case.²³ The courts should see that there should not be any extensive copying. Instead of quantity of work, the quality of work is important in substantial copying. Further, fair dealing satisfies the test provided under Article 10(1) of the Berne Convention, 1886. One more feature of the Indian Copyright Act, under Section 52(1)(i) permits for teaching purposes the reproduction of any work by a teacher or a pupil in the course of instructions.

The fair dealing provision although originated from the laws of England found a place in Section 52 of the Indian Copyright Act, 1957. It provides a long list of 33 exceptions to the infringement of copyright.²⁴ Sharma A, in his article, discussed the Indian perspective of fair dealing under the Copyright Act, 1957.²⁵ Rebecca R Pressman in ‘Fair Use: Law, Ethics and Librarians’, focused on the Doctrine of Fair Use and copyright works which allows others to use it without the sanction of the copyright owner.²⁶ the author explained that fair use is a legal notion and can be protected by any Copyright Act. It differentiates between the librarians' legal and ethical obligations for fair use (Table 1). The author concludes that ethical obligation is greater than the legal obligation of librarians. This article provides certain principles that librarians can promote for

Table 1 — Conceptual Framework for librarians' legal and ethical obligations for fair use

Action	Comment	Variables
Photocopying copyrighted books/materials	In the course of instructions as part of education	Is photocopying permitted in your Library? Is the photocopying of a whole book permitted in your library?
Reproducing copyrighted works/materials	Materials may include audio or video content such as audio lectures, songs, films, or documentaries.	Do you allow students to take snapshots/ images of books? Do you provide photocopies of books not available within India?
Issuance and/or distribution of copyrighted books/ materials	Materials may include audio or video content such as audio lectures, songs, films, documentaries.	Do you have e-books in your library? Does your library provide inter-library loans?
Conversion of copyrighted books/materials into an accessible format for the disabled persons	Materials may include audio or video content such as audio lectures, songs, films, documentaries.	Do you provide access to visually impaired persons through adaptations?
Translation of copyrighted works/materials	Materials may include audio or video content such as audio lectures, songs, films, documentaries.	Does your library permit the translation of available books?

copyright policies and ethics of fair use in their implementations.

The research methodology used for the present study is both doctrinal and non-doctrinal. A questionnaire tool was used to survey the librarians, assistant librarians, and library assistants in various colleges and universities situated in 145 libraries in the State of Maharashtra. The questionnaire was circulated to the above stakeholders and the data collected from the responses were analyzed. The present study will help in identifying the lacuna in the librarian's awareness of copyright. The value of this paper lies in the ideas it has provided for increasing copyright awareness and improving copyright compliance by all the concerned. It is also valuable as it proves the necessity for continuous awareness education of librarians on copyright in addition to the need for copyright protection for all personally responsible for handling libraries. The objectives of this study are:

- (i) To find out the awareness of the Indian copyright Act in the State of Maharashtra;
- (ii) To identify the lacuna in the implementation of copyright law in libraries;
- (iii) To find out premising photocopying under Section 52 of the Copyright Act 1957; and
- (iv) To understand the relationship between copyright and the education sector concerning Section 52 of the Indian Copyright Act, 1957.

In the present study, a Survey Method was used to collect data from the stakeholders. The quantitative data is collected and analyzed with the help of MS Excel and R software (rcmdr). Data is collected through google forms among various librarians of Maharashtra.

Data Collection Tools

For the demographic data, designation, place, name of university or college, has been asked and since the area was fixed it was limited to Maharashtra. Total 400 emails and contacts were collected from various sources and then a questionnaire was sent to all for data collection. Google form was used to collect data and all collected data is downloaded in an excel sheet. It took three months to collect data from 145 colleges and university libraries after repeated requests for submitting a response to the questionnaire.

Sampling Method

In the present study, a Random Sampling Method was used for understanding the librarians' awareness

about Section 52 of the Copyright Act. A descriptive questionnaire was prepared to ask certain questions to librarians in colleges and Universities of Maharashtra. The population used for this study is librarians in Maharashtra (Fig. 1).

Statistical Analysis

The requisite data was collected through 'Google form' from 145 libraries from Colleges and Universities of Maharashtra. The tables and charts were prepared according to questions and answers are given by the respondents. The MS Excel and R software (rcmdr) were used to analyze the data.

Figure 1 shows that all the respondents are either librarians/assistant librarians or library assistants in the colleges (133) and university libraries (12) of Maharashtra. These are mostly public libraries. It can be seen from the Fig 1 that most respondents are librarians from the colleges. Of the total 145 respondents, 144 have responded to all questions and only one respondent did not answer all questions therefore for the present study only 144 respondents have been considered.

The questionnaire was sent to 400 libraries, and out of this 133 colleges and 12 university librarians have participated in the study and responded to questions relating to copyright awareness in libraries (Fig. 2).

Most of the librarians were found to be aware of copyright exceptions in the Copyright Act (Table 2). They are aware of the authors' protection and the publishers' expectation from a library. The bridge that

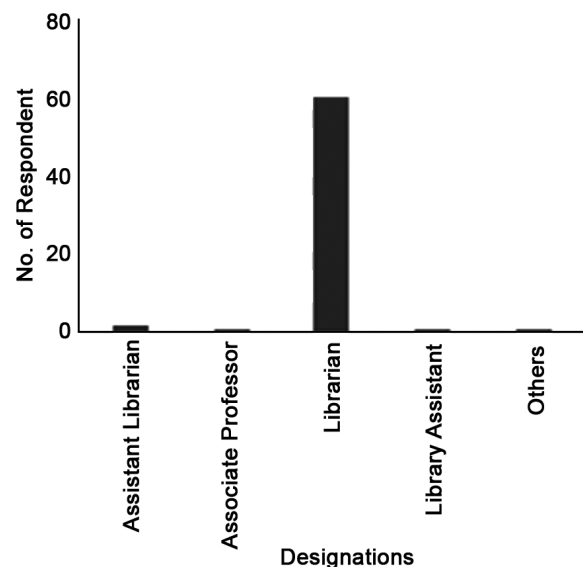


Fig. 1 — Sample profile of respondents from librarians in Maharashtra

Table 2 — Awareness of various provisions of the Copyright Act

Provisions/ Awareness	Yes	No
Are you aware of any exceptions for library use under Copyright Law?	121	23
Is photocopying permitted in your Library?	110	34
Is the Photocopying of a whole book permitted in your library?	14	130
Do you allow students to take snapshots/images of books?	99	45
Do you have e-books in your library?	116	28
Whether you have attended any conference/workshop/seminar on the Copyright Act, 1957?	100	44
Whether your Library has experienced any cases/ problems related to Copyright from authors/publishers?	19	125

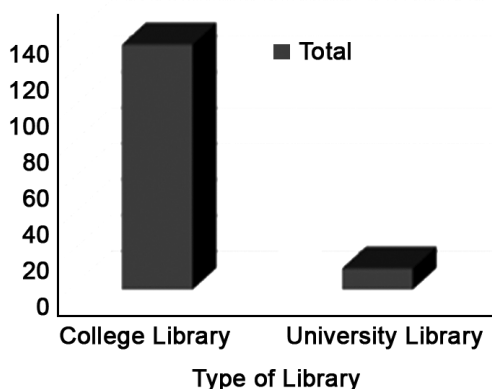


Fig. 2 — Types of libraries included in the sample

libraries build between author and reader is that it is only to be used for an academic and educational purpose which its prominent use. The gathering of information without the due credit to the author may show the unpleasant effect. It may become an impasse to the author. Therefore, the libraries should keep the authors as unequivocal as possible so that the authors' work should not last an ephemeral. Most of the librarians are aware that exceptions of library users may not be for the duplication for the ease of information.

It was observed that most librarians (76%) are aware of photocopying in libraries. It may be concluded that there is no specific reason why most of the scholars are worried about their copyrighted content. It should also be kept in mind that most of the authors names are attached to the copyrighted material and theft of such information may discourage the authors to work creatively. Most of the scholars have a coterie of professionals Most of the scholars have a coterie of professionals who may find the information substantial enough whereas there is open access to most of the copyrighted works in libraries. Most university students of public libraries may find it as a source of information for their research without the due credit to the author which can be regulated by specified mechanisms for photocopying. Allowing

photocopy of books is not a violation of the copyright for research and study purposes but when it comes to the circulation of such material for commercial purposes and out of the scope of the librarian then it will be difficult to justify such use. Like in landmark case of *The Chancellor, Masters & Scholars of the University of Oxford & Ors. v Rameshwari Photocopy Services & Ors.*, (2016) 160 DRJ (SN) 678. The High Court of Delhi observed that the preparation of course material i.e compilation of photocopies of relevant material given in the prescribed syllabus and distribution of it to students does not amount to an infringement of copyright if it is purely for educational instructions. Further, held that such photocopying and reproduction of the work by a teacher does not amount to copyright infringement by Section 52 (1)(i) of the Copyright Act, 1957.

Most of the libraries do not specifically provide photocopies of the whole book believing that the status of the libraries will be lost if the reader copies the whole book. It can be inferred from the above-reflected question of photocopying some part of copyrighted material that if the libraries can provide some part of photocopying then why not the whole book? The reason that can be booked is meant for the libraries but not the authors copyrighted material. The portfolio of information is the crescendo than the severity of originality! Optimism may not follow the grounds of intellectual law as it could result in the nemesis of authors' effulgent works. Therefore, to avert these nemeses and to give due credit, the libraries should concern and restrict themselves to the use the reader may use the original works.

Snapshots are the part of the incentivized version of photocopying. It was observed that 99 of the total 144 librarians may allow the photocopies, as compared to the photocopy of selected material which stands at 110. One can infer that mobile phones are restricted in the libraries and therefore librarians may not allow the reader to use it as a method to use the

copyrighted material. Most of the snapshots may be reproduced by paraphrasing which could in the digital world limit the due credit to the author. To lessen the enduring effect, the libraries do allow photocopying to duplication of the copyrighted material.

Since, most authors in today's internet era try to focus on e-books. Most of the libraries (116) were focused on the use of e-resources to equip readers with this digital experience. Here, the burden on the reader becomes less as he mostly focuses on his inferred research on his specific aim and needs not to go for photocopying and snapshots. What helps for the original content writer from the e-books is that whenever that material is copied from a web-based server, the author gets the mention of his original work on the duplicated material. Most of the libraries are using this tool to enhance their reach to the readers and also the scholars and the content owners may find the use of their material secure from the other direct methods of duplication. However, Table 2 suggests that librarians are aware that e-books are available in the library.

This data referred that still many of the librarians are not aware of the provisions under the Copyright Act, 1957. They are aware that copyright may not give the due credit to the author if he is not getting the due credit for his works and public libraries do play a major role in this. Only 100 of the total 144 librarians were found to be aware of the Copyright Act, but what is more unnerving is that this data is similar to the data of photocopying. Even if most of the librarians are aware of the copyright protection, still they have their libraries allowing the copyrighted works to be photocopied and duplicated. This may have an impact on the publisher as well as he may not sponsor the copyright events as they are not yielding the necessary results for originality protection. Every publisher wants that his licensed work may reach the maximum number of readers and libraries do act as a catalyst and if they are not securing the interest of the publishers as well as the readers, they may disdain certain libraries and the reader's interest might lose. Seminars and workshops do provide information about copyright protection but if they are not implemented it may result in redundancy.

It was also found that most of the libraries have not faced any problem related to copyright because the author wants his word to reach the maximum number of interested readers and libraries do play a pivotal role in that. But in the same question, do they also protect the copyrighted information and to what

extent it cannot be answered in quantitative and hence it is analyzed as above. Publishers do make certain inquiries before making a work shared through a library therefore as deduced from the data; only 19 libraries have faced the problems of copyright protection while 110 do allow their readers to do photocopy!

Conclusion

In India, copyright is more stringent compared to developed nations but the models are working with limited scope. In educational structure, the awareness of copyright and its flexibility in copyright is there. In the present study, many of the librarians answered that they are aware of Copyright Law and copyright exceptions but when it comes to implementation of Copyright Law it is not properly addressed by the librarian and hence it leads to copyright infringements. Although, there are exceptions to the Copyright Law and anyone can use it for study and research purposes under the umbrella of fair use it has some limitations too.²⁷ Therefore, the present study was to see the awareness about Section 52 of the Copyright Act, 1957, and how they are using it. Section 52 is a very strong provision related to copyright protection for its exceptions and doctrine of fair use. It has been borrowed from some international conventions like Article 13 of the TRIPS Agreement and Articles 4 and 10 of the Berne Convention which are relevant to the present study. All these norms have to be followed while dealing with copyright and its infringements in India. However, the Indian Copyright Act, 1957 is a very strong and old law borrowed from the UK Copyright Law. The important stakeholders of the education sector like librarians are aware of copyright law and its exceptions but when it comes to the implementation of copyright law librarians also face difficulty. Therefore, there is a need to have more awareness workshops and training programmes to train librarians about the execution of copyright laws so that they will become more efficient to deal with copyright issues in the education sector.

References

- 1 Ku R S R, Sun J & Fan Y, Does Copyright Law promote creativity? An empirical analysis of copyright's bounty, *Vanderbilt Law Review*, 1669, 62 (6) (2009) 1170.
- 2 Rai P, Sharma R K, Jain P K & Singh A, (eds.) *Transforming Dimension of IPR: Challenges for New Age Libraries*, Madhu K S & Gagan K, Copyright Fair Use and Libraries, (National Law University Delhi Press, New Delhi), (2015) 126.

- 3 Article 9 (2) of the Berne Convention, 1886.
- 4 Section 52 of the Copyright Act, 1957 provides certain acts not to be an infringement of copyright.
- 5 Aswath L & Reddy A N M, Copyright law and the academic libraries: A perspective, *Trends in Information Management*, 8 (2) (2012) 111.
- 6 Nikose S M, Awareness and implementation of Indian Copyright Act: A study of university libraries, *International Journal of Research in Library Science*, 2 (1) (2016) 38.
- 7 Kumar N, *University Libraries and Copyright Laws, Library Vendor /Publisher Interface*, International Conference on Academic Libraries (2009) 427.
- 8 Banerjee D N, The story of libraries in India, *Daedalus, Books, Bricks and Bytes*, 125 (4) (Fall, 1996) 353, The MIT Press on behalf of American Academy of Arts & Sciences.
- 9 Rai P, Sharma R K, Jain P K & Singh A, (eds.) *Transforming Dimension of IPR: Challenges for New Age Libraries*, Madhu K S & Gagan K, Copyright Fair Use and Libraries, (National Law University Delhi Press, New Delhi), (2015) 167.
- 10 Article 13 of the Agreement on Trade-Related Aspects of Intellectual Property Rights, 1995.
- 11 Michael S, Copyright in the networked world: Copies in courses, *Library Hi-Tech*, 24 (2) (2006) 305.
- 12 James T C, Indian Copyright Law, and Digital Technologies, *Journal of Intellectual Property Rights*, 7 (2002) 423.
- 13 Mishra P & Dutta A, Striking a balance between liability of internet service providers and protection of copyright over the internet: A need of the hour, *Journal of Intellectual Property Rights*, 14 (2009) 321.
- 14 Nayak A & Chatterjee S, Onset of mobile chip piracy in the domain of copyright infringement, *Journal of Intellectual Property Rights*, 15 (2010) 117.
- 15 Madhavan M, Use of copyright by Open Source Software Movement on computer software and its implications, *Journal of Intellectual Property Rights*, 8 (2003) 32.
- 16 Basheer S, Khettry D, Nandy S & Mitra S, Exhausting copyrights and promoting access to education: An empirical take, *Journal of Intellectual Property Rights*, 17 (2012) 335-347.
- 17 Thomas Z, IP Case Law Developments, *Journal of Intellectual Property Rights*, 14 (2009) 437.
- 18 Academy of General Education, Manipal, and Anr. v. B. Manini Mallya (2009) (39) PTC 393 (SC).
- 19 Nair M, *Canada and Israel: Fairness of Use*, PIJIP Research Paper No. 2012-04 American University Washington College of Law, Washington, D.C.
- 20 Rai P, Sharma R K, Jain P K & Singh A, (eds.) *Transforming Dimension of IPR: Challenges for New Age Libraries*, Jain A, Protecting Unrestricted Photocopying: The Doctrine of Fair Use, (National Law University Delhi Press, New Delhi), (2015) 151.
- 21 Chawla A, Photostatting in institutes of higher education - Curse for copyright owners or a boon for the researchers?, *Journal of The Indian Law Institute*, 54 (4) (2012) 520.
- 22 Sinha M K & Mahalwar V, (eds.), *Copyright Law in the Digital World: Challenges and Opportunities*, Das P, Reproduction right in digital medium and free use for educational purpose—An analysis of national and international obligations of India to provide education to all viz. a viz. protecting copyright, (Springer Nature Singapore Pvt. Ltd. Singapore) (2017) 109.
- 23 Herur A and Basu S, The Copyright Act and its effect on the right to education: A critical analysis, *RGNUL Student Law Review*, 1 (1) (2014) 29.
- 24 Bansal A K, Public interest in intellectual property laws, *Journal of the Indian Law Institute*, 55 (4) (2013) 476.
- 25 Sharma A, Indian perspective of fair dealing under Copyright Law: Lex Lata or Lex Ferenda?, *Journal of Intellectual Property Rights*, 14 (2009) 523.
- 26 Pressman R R, Fair use: Law, ethics and librarians, *Journal of Library Administration*, 47 (3) (2008) 89.
- 27 Rai P, Sharma R K, Jain P K & Singh A, (eds.) *Transforming Dimension of IPR: Challenges for New Age Libraries*, Wadhwa I, Photocopying of copyrighted works for educational purposes- Issues and concerns, (National Law University Delhi Press, New Delhi), (2015) 158.