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# LEGAL AND ETHICAL CONSIDERATIONS FOR LIS PROFESSIONALS: NAVIGATING COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS IN LAW LIBRARIES IN INDIA

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**Abstract :** *Law libraries in India serve as critical repositories of legal knowledge, supporting judges, lawyers, law students, and researchers all over the world. However, the rapid digitisation of legal resources and the complexities of India's copyright regime present significant legal and ethical challenges for Library and Information Science (LIS) professionals. This paper explores the intersection of copyright law, intellectual property rights (IPR), and professional ethics within the Indian law library context. Drawing on statutory provisions—particularly Section 52 of the Copyright Act, 1957—and landmark judicial decisions such as *The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services*, the study examines how LIS professionals navigate the fine line between facilitating access and ensuring compliance among the law professionals. Through illustrative examples from institutions like the National Law School of India University (NLSIU) Library, the Supreme Court of India Library, and High Court libraries, the paper argues that ethical stewardship requires more than legal compliance—it demands proactive engagement, user education, and institutional advocacy. This paper concludes with practical recommendations grounded in both Indian law and global LIS ethics, aiming to empower professionals to uphold the dual mandates of access and integrity.*

**Keywords :** Law libraries, copyright law, intellectual property rights, LIS professionals, fair dealing, ethical responsibilities, digital resources, India.

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## **Introduction :**

In the heart of every law school, court complex, or legal research institution in India stands a law library—an often-overlooked yet indispensable space where justice begins with knowledge. From the hallowed halls of the Supreme Court of India to the bustling reading rooms of National Law Universities (NLUs), these libraries are entrusted with curating, preserving, and providing access to legal information. Yet, in an era of digital abundance and modification of intellectual property controls, the role of the LIS professional has grown progressively complex. They are no longer mere custodians of books; they are gatekeepers, educators, and interpreters of a legal framework that often

seems at odds with the very mission of libraries: equitable access to knowledge.

India's Copyright Act, 1957, offers certain exceptions for libraries under Section 52, commonly referred to as "fair dealing." However, the boundaries of these exceptions remain ambiguous, especially in the digital realm. When a law student at Gujarat National Law University requests a scanned chapter from a Westlaw-published treatise, or when a judge's research assistant seeks a full-text copy of a recent journal article not available through institutional subscriptions, the LIS professional must make a judgment call—one that carries legal weight and ethical consequence.

This paper contends that navigating copyright and IPR in Indian law libraries is not merely a technical exercise but a deeply human one, rooted in professional ethics, institutional culture, and social responsibility. Without empirical data but grounded in doctrinal analysis and real-world institutional practices, this theoretical exploration draws on Indian statutes, case law, policy documents, and professional guidelines to illuminate the lived realities of LIS professionals. By examining libraries such as those at NLSIU Bangalore, NALSAR Hyderabad, and the Delhi High Court, the paper demonstrates how legal frameworks intersect with daily practice—and where gaps demand urgent attention.

#### **Literature Review :**

- Globally, the tension between copyright protection and library access has been widely documented. In the United States, the doctrine of "fair use" provides libraries with flexible, albeit contested, room for action (Gasaway, 2005). In contrast, India follows a more rigid "fair dealing" model, which enumerates specific purposes and acts that do not constitute infringement (Basheer, 2016). While international bodies like the International Federation of Library Associations and Institutions (IFLA) advocate for robust copyright exceptions to support the UN Sustainable Development Goals, implementation remains uneven across jurisdictions.
- In the Indian context, scholarly attention has largely focused on educational photocopying, notably after the landmark 2016 Delhi High Court judgment in the *Oxford v. Rameshwari Photocopy Services* case (hereafter DU Photocopy Case). The court upheld the right of students and educational institutions to reproduce portions of copyrighted works for instructional purposes, affirming the primacy of education over commercial interests (Basheer & Kochhar, 2017). However, this ruling primarily addressed academic photocopying shops, not the nuanced operations of law libraries.
- Few studies have specifically examined law libraries. Notable exceptions include works by Kavita Karan (2010), who highlighted the lack of copyright awareness among Indian LIS professionals, and S. R. Ranganathan's foundational principles—especially the "Five Laws of Library Science"—which implicitly support equitable access but offer little guidance on legal constraints (Ranganathan, 1931). More recently, the Indian Library Association (ILA) has issued ethical guidelines, yet these remain general and lack specificity on IPR

compliance in digital environments.

This paper fills a critical gap by focusing exclusively on law libraries spaces where the stakes of copyright compliance are heightened due to the authoritative nature of legal materials and the professional expectations of users.

### **Theoretical Framework :**

This study is a keystone in two interwoven theoretical lenses: legal interpretivism and professional ethics.

From a legal standpoint, the interpretation of Section 52 of the Copyright Act, 1957, requires understanding not just the text but its purpose application. As Justice Krishna Iyer once remarked, “Law is not a brooding omnipresence in the sky but a human instrument for human ends.” Section 52(1)(a) permits reproduction of a work “by a teacher or a pupil in the course of instruction,” while 52(1)(i) allows libraries to make up to three copies of a book for preservation or user access—provided the work is not commercially available. These provisions reflect a legislative intent to balance creators’ rights with public interest, particularly in education and justice.

Ethically, LIS professionals are guided by principles of access, confidentiality, intellectual freedom, and social responsibility. The IFLA Code of Ethics (2012) asserts that librarians must “respect intellectual property rights while advocating for a reasonable balance between the rights of owners and the public interest.” In India, the ILA’s Ethical Code (2006) echoes this, urging professionals to “promote access to information while respecting legal and moral rights of creators.”

The tension arises when these ideals collide with restrictive licensing agreements or ambiguous statutory language. For instance, while Section 52 may permit copying a case report, a database license from SCC Online or Manupatra may prohibit downloading or sharing—even for judicial research. Here, the LIS professional must measure statutory rights against contractual obligations, often without legal counsel.

### **The Indian Legal Framework: Copyright Law and Libraries :**

The Copyright Act, 1957, remains the cornerstone of IPR regulation in India. Though amended several times—most notably in 2012 to address digital challenges—its core library exceptions reside in Section 52.

Section 52(1)(i) is particularly relevant: it permits a library to make up to three copies of a book, including digital copies, if the work is not available for sale in India or is out of print. This provision empowers libraries like the National Law School of India University (NLSIU) Library in Bangalore to digitise rare judgments or out-of-print commentaries for internal use. However, the phrase “not available for sale” is open to interpretation. If a book is available only as an expensive e-book with restrictive DRM, does that count as “available”? Courts have not yet clarified this.

Section 52(1)(a), reinforced by the DU Photocopy Case, legitimizes reproduction

for educational instruction. Law libraries at institutions like NALSAR University of Law, Hyderabad, routinely compile course packs for moot court and legal writing courses, relying on this exception. Yet, the judgment did not address electronic distribution—can a PDF of a journal article be emailed to 50 students? The law is silent.

Moreover, the 2012 amendment introduced Section 65A and 65B, criminalizing circumvention of technological protection measures (TPMs). This creates a contradiction: while Section 52 permits certain acts, Section 65A may prohibit the technical means to execute them. For example, if a legal database uses DRM to block printing, even a lawful copy under Section 52 may be technically unattainable.

Licensing agreements further complicate matters. Most Indian law libraries subscribe to commercial databases like Westlaw India, SCC Online, or Manupatra. These licenses often override statutory exceptions through “click-wrap” terms that prohibit interlibrary loans, course reserves, or bulk downloading. The Supreme Court of India Library, for instance, must navigate such restrictions while serving judges who require immediate access to comprehensive legal materials. Here, the LIS professional becomes a mediator between user needs and vendor constraints—a role fraught with ethical tension.

### **Ethical Dilemmas in Practice: Case Examples from Indian Law Libraries :**

Consider the Delhi High Court Library. A judge’s law clerk requests a full copy of a recently published commentary on the Insolvency and Bankruptcy Code, available only through a paid subscription. The library does not hold the title. Can the librarian request it via interlibrary loan from NLU Delhi and scan the relevant chapter? Section 52(1)(e) permits reproduction for judicial proceedings, but only if done by the court itself—not necessarily by the library on its behalf. The librarian, lacking legal training, must decide based on institutional precedent and personal judgment.

At Rajiv Gandhi National University of Law (RGNUL), Punjab, students frequently ask for entire e-books to be shared via Whats App groups. While sharing a single chapter may fall under fair dealing, distributing a full textbook clearly infringes copyright. Yet, denying access may hinder learning, especially for students from economically disadvantaged backgrounds. The librarian faces a moral dilemma: uphold the law or support equity?

Similarly, the National Judicial Academy Library in Bhopal curates training materials for judges. When compiling a module on cyber law, staff may wish to include excerpts from proprietary journals. While Section 52 permits such use for “instruction,” the line between admissible exception and substantial reproduction is blurred. Without clear institutional guidelines, decisions become ad hoc and reconciled.

These examples reveal a common theme: LIS professionals in Indian law libraries operate in a grey zone where law, ethics, and philosophical doctrine intersect. Their choices are not merely administrative but deeply human—shaped by empathy, professional integrity, and institutional culture.

## **Professional Ethics and Institutional Responsibilities :**

The Indian Library Association's Code of Ethics (2006) urges LIS professionals to "respect the intellectual property rights of others" while ensuring "maximum access to information." This dual mandate is easier stated than practiced. Unlike their counterparts in medical or legal professions, LIS professionals in India rarely receive formal training in copyright law. Many rely on informal networks or self-study.

In contrast, global standards offer more structured guidance. The IFLA's Copyright Limitations and Exceptions for Libraries (2015) calls for national laws to explicitly permit digital preservation, inter library loans, and text or data mining. India's framework falls short in these areas.

Institutional leadership also plays a crucial role. At NLSIU Bangalore, the library has developed an internal copyright policy that clarifies permissible uses, educates users through workshops, and consults the university's legal cell on complex content. This proactive approach reduces uncertainty and empowers staff. Conversely, smaller law colleges with limited resources often lack such frameworks, leaving librarians vulnerable to legal risk.

Ethically, LIS professionals must also educate users. A student at Hidayatullah National Law University (HNLU), Raipur, may not realise that downloading a full SCC journal issue and uploading it to Telegram violates both copyright law and database licenses. The librarian's role extends beyond access provision to copyright literacy—a form of ethical stewardship.

## **Recommendations :**

To strengthen the legal and ethical capacity of LIS professionals in Indian law libraries, the following measures are proposed:

**Clarify Statutory Ambiguities:** The Ministry of Education and the Copyright Office should issue non-binding guidelines interpreting Section 52 in digital contexts—e.g., defining "commercial availability," permitting secure electronic reserves, and affirming library rights in the face of TPMs.

**Develop Model Institutional Policies:** The Bar Council of India (BCI) or the Consortium of National Law Universities should draft a model copyright policy for law libraries, incorporating best practices from institutions like NLSIU and NALSAR.

**Integrate Copyright Education in LIS Curricula:** Universities offering BLISc or MLISc programmes—such as the University of Delhi or Banaras Hindu University—must include mandatory modules on IPR and legal ethics.

**Strengthen Professional Collaboration:** The ILA should establish a Copyright Advisory Group comprising LIS professionals, legal scholars, and publishers to address emerging challenges.

Promote Open Access Alternatives: Law libraries should prioritise open-access legal resources (e.g., Indian Kanoon, SCC Online's free tier) and support faculty in publishing in open-access journals to reduce dependency on restrictive commercial databases.

### **Conclusion :**

The law library is more than a collection of books and databases—it is a moral space where justice, knowledge, and rights bound. In India, LIS professionals in these spaces shoulder a quiet but profound responsibility: to ensure that the law remains accessible without becoming lawless. The Copyright Act, 1957, provides a foundation, but it is incomplete. Ethical codes offer direction, but they are not enforceable. What is needed is a culture of conversant, reflective practice—one that recognizes the humanity behind every access request and every copyright decision.

As India's legal system grows more complex and digital, the role of the law librarian must evolve from passive custodian to active ethical agent. By grounding their work in both legal understanding and moral spirit, LIS professionals can uphold the spirit of Ranganathan's First Law: "Books are for use"—but only if used wisely, fairly, and justly in every sphere of work.

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