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Copyright, Licensing, and Digital Resource Access in Academic Libraries: A Critical Review in the Indian Context

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Abstract: *With a shift from traditional print collections to licensed digital resources such as e-journals, e-books, databases and institutional repositories, academic libraries in India are increasingly using digital resources. However, there is a change in the legal status of resources provided with most resources being leased rather than owned. There are many factors to consider when looking at the relationship between copyright law and licensing in academic libraries. This critical review considers the relationship between copyright law and licensing in academic libraries in India. Using narrative doctrinal research methods and literature reviews this review considers the Copyright Act, 1957 (2012 amendments), key case reasoning, national consortia and policy initiatives (UGC-INFONET, N-LIST, INDEST-AICTE, e-ShodhSindhu and One Nation One Subscription), and open access initiatives. It will be argued that (i) Indian copyright law is generally favourable to education however there are no specific library exceptions; (ii) Licence agreements can restrict users rights granted by statute through licence conditions and technological protection measures; (iii) Licensing through consortia and nationally has improved access to resources however has increased reliance on a few foreign publishers; and (iv) Open access, rights retention and copyright awareness are important factors. Recommendations are suggested to improve policy and practice within libraries, institutions and regulatory bodies*

Keywords: copyright; licensing; fair dealing; digital resources; academic libraries; consortia; open access; India

I. INTRODUCTION

The academic library is where public interest considerations come into play in copyright. Copyright seeks to incentivise creation by rewarding creators however Universities, researchers and students need to have legal, affordable and ongoing access to knowledge. This conflict was resolved in the print age using the first sale doctrine whereby the library would purchase books and lend, store and dispose of them. However, in the digital age most scholarly material is now licensed meaning many times the licensing is the main source of regulation (Crews, 2012).

India is an important example as it has one of the largest higher education systems in the world. They have had increasing research outputs and their policies heavily focus on digital learning (Ministry of Education, 2020) through their National Education Policy 2020. However, journals and databases are priced in foreign currency meaning library budgets can be restrictive. There is also a large disparity in access between elite and non-elite institutions. The questions of what can be legally copied, shared, stored and made available by libraries is not just a technical issue but determines who can be involved in research and learning.

This paper will critically review the issues. How does Indian copyright law address library activities? How does licensing affect access? What has the consortium and national subscription model achieved and at what cost? And finally what legal and professional approaches can be taken to ensure libraries maintain their public interest role.

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II. OBJECTIVES AND METHODOLOGY

The objectives of the review are:

- To outline the legal framework of copyright relevant to academic libraries in India.
- To analyse licensing models and their effect on digital resource access.
- To examine national and consortium-based access initiatives and open access mechanisms.
- To identify gaps, tensions, and risks, and to propose recommendations.

This is a narrative critical review. The sources used have been drawn from a range of statutes (Copyright Act 1957 and associated regulations, as well as international instruments); case law; government policies; and academic literature, all relating to the areas of copyright, library licensing and open access. All sources were chosen for their relevance and authority and were analysed thematically. As this is a doctrinal and conceptual review, there is no primary data from any survey. Findings are therefore interpretative and should be taken with empirical research from specific institutions.

III. CONCEPTUAL BACKGROUND

3.1 Copyright and the public interest

Copyright confers exclusive rights on the author of a work to copy, distribute, transmit and adapt that work. However, there are restrictions and exceptions to these rights. Internationally, limitations are permitted under the three-step test which can be found in Article 9(2) of the Berne Convention (revised 1967) and other subsequent agreements such as the TRIPS Agreement. Exceptions should only apply to limited circumstances, should not prejudice the normal use of the work and should not unreasonably prejudice the legitimate interests of the right holder. It has been argued by scholars that the three-step test should be interpreted in a manner that protects the public interest in exceptions especially in developing countries (Okediji, 2006; Hargreaves, 2011).

3.2 Ownership versus access

As stated above, digital scholarship is also associated with a move away from ownership. Under licensing arrangements, libraries have access only for a limited period of time. This can lead to reliance on publishers, unclear long-term access and no local preserve (Frazier, 2001; Bergstrom et al, 2014). A comparison of both models are shown below:

Ownership Model Licensing Model Local Preservation Yes No Long Term Rights Unclear No Reliance on Publisher No Yes Table 1: Comparison of Ownership Model and Licensing Model

Table 1. Print (ownership) model compared with the licensed digital (access) model

Dimension	Print (ownership) model	Licensed digital (access) model
Legal basis	Property and the first-sale doctrine	Contract (licence agreement) overlaying copyright law
Duration of access	Permanent, once purchased	Limited to the subscription term unless perpetual access is negotiated
Preservation	Controlled locally by the library	Dependent on the publisher or a third-party archive
Lending and resource sharing	Permitted by law without further consent	Governed by licence clauses; often restricted
Cost pattern	One-time purchase	Recurring fees, often in foreign currency, with annual escalation
User scope	Anyone who can physically use the library	Only "authorised users" as defined in the licence

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3.3 Licensing and contract override

One of the key issues raised by copyright law within libraries has been the ability of contract to override legal exceptions to copyright. This could mean that through a licence, you may be prohibited from supplying resources between libraries, undertaking text and data mining (TDM), using materials in a course pack or saving resources that would normally have been allowed under statute (Crews, 2012).

IV. THE INDIAN LEGAL FRAMEWORK

4.1 The Copyright Act, 1957

The Indian copyright law derives its origin from Copyright Act, 1957. The act was significantly amended in 2012 to keep up with the modern digital age and the WIPO internet treaties. In 2018, India ratified the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty. The Copyright Act, 1957 provides protection to literary works, dramatic works, musical works, artistic works, cinematograph films and sound recordings. The rights of the owner are mentioned in section 14 and the acts that constitute copyright infringement are covered under section 51. Figure 1 shows the timeline of events..

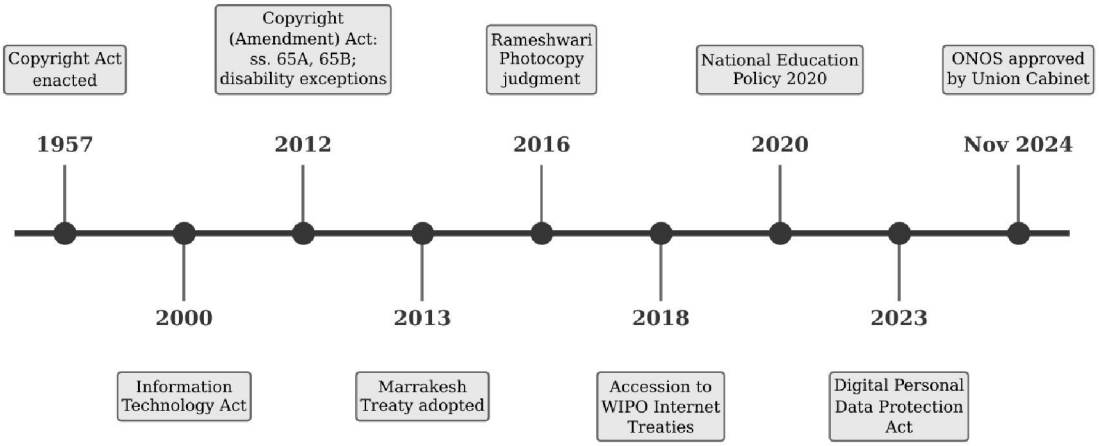


Figure 1. Timeline of key legal and policy milestones relevant to Indian academic libraries.

4.2 Fair dealing and educational exceptions

Section 52 provides a list of acts which are not considered to be infringing. The most applicable clauses are those surrounding fair dealing, which allows reproduction for private or personal use such as research (Section 52(1)(a)), criticism or review, news reporting, and reproduction by teachers and pupils. There are also sections allowing reproduction for specific reasons relating to libraries. This includes reproduction by public libraries if there is no copy of the book on sale in India and preservation. The 2012 amendments included provisions to facilitate access for disabled people. This reflects the spirit of the Marrakesh Treaty (2013) which India were some of the first countries to ratify. Table 2 shows the most applicable provisions.

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Table 2. Selected provisions of the Copyright Act, 1957 relevant to academic libraries

Provision	Subject	Relevance to academic libraries
Section 14	Exclusive rights of the copyright owner	Defines the acts (reproduction, communication to the public, and others) that require authorisation.
Section 51	Acts constituting infringement	Sets the baseline of liability for unauthorised copying, sharing, or circumvention.
Section 52(1)(a)	Fair dealing for private or personal use, including research; criticism or review; reporting of current events	Core basis for individual research copying and for user education on lawful use.
Section 52(1)(i)	Reproduction by a teacher or pupil in the course of instruction	Basis of the *Rameshwari Photocopy* reasoning on course packs.
Section 52(1)(n)–(o)	Certain acts by non-commercial public libraries (for example, preservation copies and copies of works not available for sale in India)	Limited, conditional support for preservation and replacement copying.
Section 52(1)(zb)	Accessible formats for persons with disabilities	Supports accessible-format production, consistent with the Marrakesh Treaty.
Sections 65A and 65B	Protection of technological protection measures and rights management information	Restrict circumvention of DRM, even where the underlying use may be lawful.

The main point to note is that the Indian law includes a very broad definition of fair dealing for research and private study. This has been interpreted very widely by the courts. However, it does not include an explicit and thorough exception for digital libraries. This means that there is a lot of uncertainty for libraries regarding the use of electronic course reserves, remote access to licensed resources, digital interlibrary document supply, TDM and large scale digital preservation.

4.3 Judicial reasoning: the Delhi University photocopy case

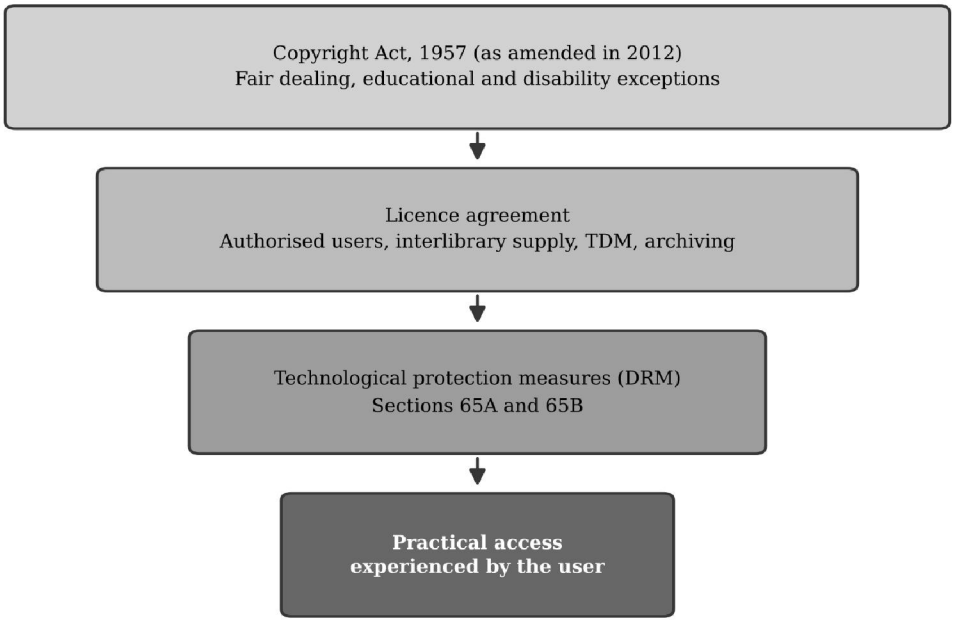
The most influential judgment regarding access to learning materials in India is The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services [2016] from the Delhi High Court. In this case, publishers brought proceedings against a photocopying service on campus who were reproducing extracts from their works into course packs. They had a licence to operate from the University of Delhi. The Court held that the reproduction of copyrighted work for teaching fell under the educational exception. The purposive construction was used here with the purpose of education being prioritised over the commercial interests of the publishers. This decision is widely seen as a powerful endorsement of students' right to access learning materials and those who provide them from libraries and institutions. However it has not yet been fully tested with regard to digital media such as electronic course packs provided through learning management systems. Licence agreements may also prevent the reproduction that would be allowed by statute.

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4.4 Technological protection measures and rights management

The introduction of sections 65A and 65B in 2012 make it illegal to bypass effective technological protection measures and to alter rights management information without authorisation. However, there are some protections provided within these sections which mean that it is allowed in certain circumstances. With digital rights management systems often being included within e-book platforms and databases, it is possible to limit printing, downloading and copying from these systems. If the exception cannot be relied upon due to technological barriers, then it is of little help to know that it is available under the law.

. Figure 2 illustrates how successive layers of control can narrow the rights that a user appears to hold.



Each layer can narrow the rights that the layer above appears to grant.

Figure 2. Layered constraints between statutory rights and practical access for library users.

4.5 Data protection and related regulation

A licensed platform will need to authenticate users and provide usage statistics. The Digital Personal Data Protection Act, 2023 will impose further obligations around the use of personal data. The Information Technology Act, 2000 will also be relevant. When using proxy servers, federated authentication or publisher analytics libraries must ensure they are protecting user privacy. They must also ensure that their licence agreement around usage statistics will comply with these acts.

V. LICENSING MODELS AND THEIR IMPLICATIONS

5.1 Common licence terms

In general, academic library licensing agreements will include terms detailing who can use the service, from where it can be used, how it can be used and what cannot be done. They may also include terms relating to perpetual access, archiving, interlibrary lending, walk-in usage and governing law. The following table (Table 3) shows the key clauses of interest to libraries, along with a typical impact and suggested negotiation strategy.

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Table 3. Significant licence clauses, their effect on libraries, and suggested negotiating responses

Clause	Typical effect on libraries	Suggested negotiating response
Authorised user definition	Exclusion of alumni, visiting researchers, or distance learners limits the reach of access.	Define authorised users broadly, including walk-in users, distance learners, and visiting researchers.
Interlibrary loan and document supply	Prohibition or restriction of electronic supply undermines resource sharing.	Secure explicit rights for secure electronic interlibrary supply for non-commercial purposes.
Text and data mining	Many agreements prohibit systematic downloading, constraining computational research.	Include a TDM right for non-commercial research, with reasonable technical conditions.
Archival and post-cancellation access	Absence of perpetual access means that years of subscription spend may leave no lasting collection.	Require perpetual access or participation in a trusted archive, with local copy rights.
Confidentiality clauses	Non-disclosure of price terms limits transparency and collective bargaining.	Limit confidentiality to commercially sensitive items; permit disclosure within the consortium.
Governing law and jurisdiction	Foreign law and courts raise compliance costs for Indian institutions.	Seek Indian governing law, or at least a neutral venue for dispute resolution.

5.2 The Big Deal and pricing

While package deals (Big Deals) provide increased access to resources at a reduced rate per title, they limit flexibility, entrench price increases, and are difficult to cancel (Frazier, 2001; Bergstrom et al., 2014). Research into the concentration of the publishing industry has shown that a few publishers dominate the market, controlling much of the scholarly output (Larivière et al., 2015). Indian libraries pay

5.3 Consortia

The main solution implemented within India has been consortium purchasing. This includes the UGC Information Network (UGC-INFONET) Digital Library Consortium created in the early 2000s, the Indian National Digital Library in Engineering Sciences and Technology (INDEST)-AICTE Consortium for technical institutions and the National Library and Information Services Infrastructure for Scholarly Content (N-LIST) for colleges. These have been grouped together under the e-ShodhSindhu umbrella, managed by the Information and Library Network (INFLIBNET) Centre to offer many institutions who would not be able to purchase the resources individually. Consortia help provide better bargaining power, reduce costs and ensure uniform licensing agreements. However, they come with risks of uniformity meaning larger publishers may benefit, exclusion of smaller or non-consortium institutions and increased vulnerability to the system as it relies on one national agreement.

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5.4 One Nation One Subscription

One Nation One Subscription (ONOS) was approved by the Union Cabinet in November 2024. This is a major policy initiative providing access for Government funded higher education and research institutions across the country to a vast amount of international journals through a central process. This will increase access and reduce expenditure duplication. (Press Information Bureau, 2024) Table 4 outlines key national access initiatives and Figure 3 illustrates how they fit into the overall architecture.

Table 4. Main national and consortium-based access initiatives in India

Initiative	Principal target institutions	Coordination	Remarks
UGC-INFONET Digital Library Consortium	Universities	UGC; INFLIBNET Centre	Early national consortium; later brought under e-ShodhSindhu.
INDEST-AICTE Consortium	Technical and professional institutions	Centrally supported (Ministry of Education and AICTE)	Extended access in engineering, science, and technology.
N-LIST	Colleges	INFLIBNET Centre	Gave colleges access they could not afford individually.
e-ShodhSindhu	Universities, colleges, and technical institutions	INFLIBNET Centre	Umbrella that consolidated the earlier consortia.
One Nation One Subscription (ONOS)	Government-funded higher education and research institutions	Centralised national arrangement (approved November 2024)	Equity gain; terms, perpetual access, and funding sustainability need scrutiny.

In critical terms, ONOS is an important part of the equities, although raises questions about the transparency of the terms, the strength of guarantees in relation to long term access and preservation, longevity of funding, treatment of private institutions and lone researchers and how central buying may affect diversity within the publishing industry. The scheme needs to be assessed pragmatically by scholars and librarians as data becomes available.

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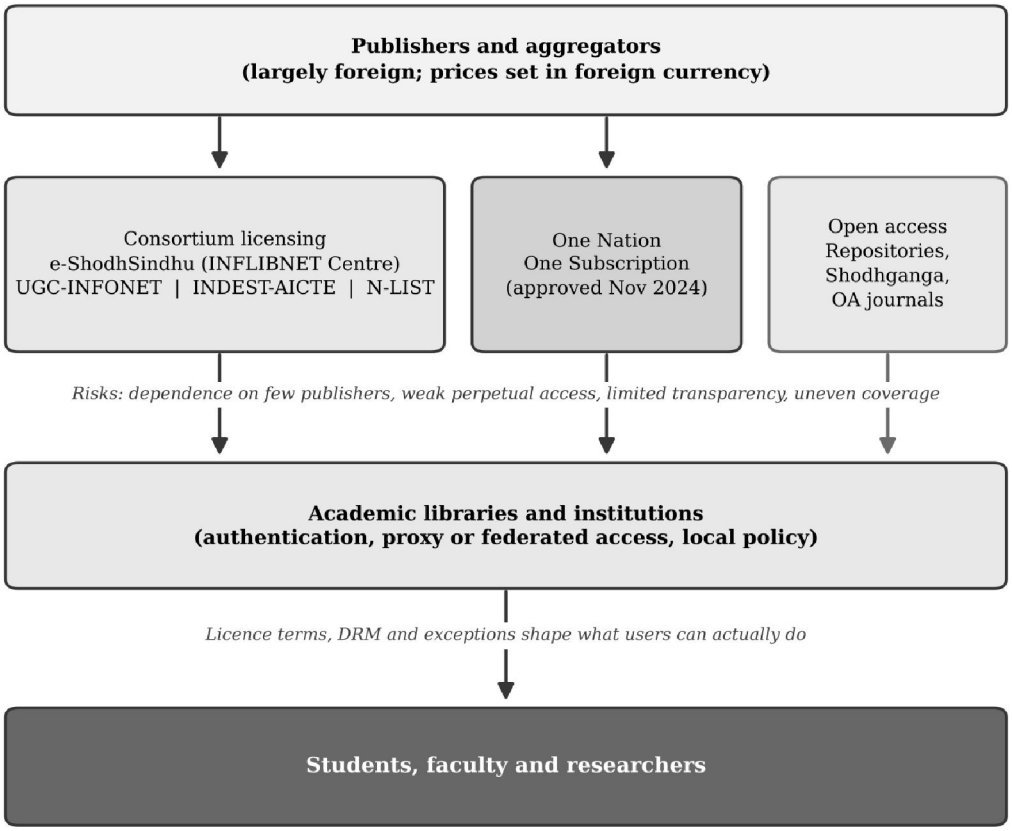


Figure 3. Conceptual architecture of access to scholarly resources in Indian academic libraries.

VI. DIGITAL RESOURCE ACCESS: PRACTICAL CHALLENGES

6.1 Off-campus and remote access

Increasingly students and researchers are working remotely. Although remote access via proxy servers or federated identity is technically possible, the license definitions and authentication infrastructure can lead to varying levels of access between institutions, particularly for smaller Colleges.

6.2 Interlibrary supply and resource sharing

National resource sharing is a long-standing aim of Indian library networks. Where licences restrict electronic supply, libraries revert to print photocopies or informal sharing, which is inefficient and legally uncertain.

6.3 Digitisation and preservation

Libraries often house vast quantities of unique out-of-print and local materials including theses and manuscripts. When digitising these items for preservation and access issues around what can be copied need to be considered. Copyright clearance can also pose problems, particularly with orphan works, and there are also considerations surrounding born digital materials. There are many examples of cases abroad, such as Hachette Book Group v. Internet Archive (United States). These cases have highlighted that without clear statutory provisions, mass digital lending can be a very

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precarious activity. In the case mentioned above the courts did not accept that fair use could be applied to controlled digital lending.

6.4 Shadow libraries and infringement

There has been a strong increase in demand for illicit sources due to high costs, and publishers have brought cases to the Delhi High Court. This includes high profile cases brought by major publishers against Sci-Hub and similar sites. However, key literature does not support the infringement, but highlights that these sources are symptomatic of an access issue. Libraries should provide education on using legal resources and advocate for cheaper legal options.

6.5 Open access and institutional repositories

Open access (OA) provides a structure to allow free access to resources that would otherwise be restricted by licensing. The Budapest Open Access Initiative (2002) defines the open access principle. There are many open access initiatives within India, including institutional repositories, electronic thesis and dissertation repository (Shodhganga) and funders requesting public access to publicly funded research. Issues surrounding open access include low levels of deposit, unclear policy around self archiving with publishers and article processing charges (APC), which can create a new form of inequity. Creative Commons licenses provide a feasible legal framework for open access however awareness is required amongst authors and libraries. (Lessig, 2004)

6.6 Copyright literacy and capacity

It is often highlighted in the literature that there is little knowledge of copyright and licensing interpretation among library professionals, academic staff and students. There are a few key individuals with negotiation skills; however most libraries tend to agree to standard terms. With no policy in place and limited trained staff, libraries tend to be risk adverse and therefore do not make full use of the legal exceptions available.

VII. CRITICAL DISCUSSION

Three themes emerge from the review.

First, law and practice diverge. Whilst there is a general trend in favour of learning within Indian law, in reality the licensing provisions, DRM and the platform will dictate how learning will occur. Where there are no negotiated terms in the contract, the strength of the statutory wording will be reduced. There is also a lack of specific protection against the overriding of core exceptions by contract. In some other systems, certain exceptions are required to be applied.

Second, access has expanded but dependency has deepened. Consortium and national licensing has opened up access to international literature but at the same time directs public funds towards only a few commercial publishers whilst leaving access to be permanent, priced and locally preserved poorly protected. The issue is how to transform temporary increases in access into long term assets of knowledge for the nation.

Third, the commons needs deliberate investment. Without funders mandating it, and the correct incentives being given at an institutional level, all of these will fail. We still get multiple payments to access work, when we should be paying once for researching it, once to publish it.

It should be noted that there are arguments against a move to open access. Publishers claim that peer review, editorial quality and investment in the platform are made possible by licensing revenue. The compromise would be to ensure that publishers receive fair returns but ensure that the terms are clear and proportional.

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VIII. RECOMMENDATIONS

The recommendations are addressed to four groups of actors and are summarised in Figure 4.

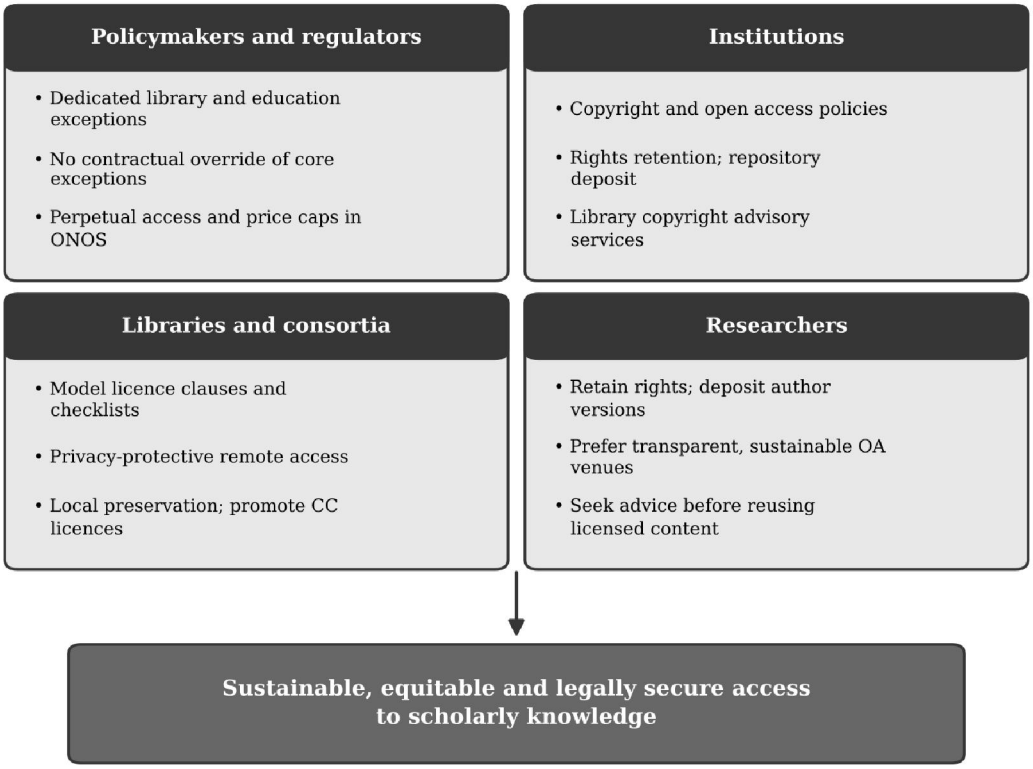


Figure 4. Summary of recommendations by stakeholder group.

8.1 For policymakers and regulators

Consider a dedicated library and education provision in the Copyright Act covering digital preservation, remote access, interlibrary electronic supply, and TDM for non-commercial research.

Clarify that contract terms cannot override core statutory exceptions for education, research, and disability access.

Ensure that national licences such as ONOS include perpetual access, archival rights, price-escalation caps, and publicly reportable terms.

Support domestic scholarly publishing and national repositories as strategic infrastructure.

8.2 For institutions

Adopt institutional copyright and open access policies, including rights retention and mandatory repository deposit of accepted manuscripts.

Establish copyright advisory services within libraries, and train staff and faculty in licence interpretation.

Use usage analytics, within data protection norms, to inform renewal and cancellation decisions.

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8.3 For libraries and consortia

Develop model licence clauses and negotiation checklists shared across the consortium community.
Prioritise authentication and remote access solutions that protect user privacy.
Maintain local preservation strategies, such as participation in trusted archiving schemes, for critical content.
Promote Creative Commons and open licensing among authors and editors of Indian journals.

8.4 For researchers

Retain rights where possible, deposit author versions in repositories, and prefer publication venues with transparent, sustainable open access models.
Seek legal and library advice before using licensed content in teaching resources, datasets, or computational projects.

IX. LIMITATIONS AND DIRECTIONS FOR FUTURE RESEARCH

This paper is a narrative review with no primary data. Much of what will be discussed will be based on the breadth of research undertaken. Legal rules and policy are constantly changing (particularly around licensing nationally). You must ensure that you check what the current texts and notifications are. Future research could look into surveying primary data on licence terms across different institutions in India. It could also look into comparing the licensing schemes with those of other developing countries. It could look into how effective the national subscription model is in practice. Finally it could look into doctrinal research to see how Indian courts would deal with digital lending and TDM.

X. CONCLUSION

The copyright, licensing and access landscape within Indian academic libraries defines the way in which academic libraries provide resources to their communities. While there is a fairly liberal legal framework for education within India and the judiciary have recognised that access can be a matter of public interest, the digital world tends to utilise more contractual, technical and centralised publishing mechanisms to limit the true benefit of copyright. The national consortia and ONOS have significantly increased access to resources; however, they should be supported by increased assurance of sustainability, transparency and local capacity. To ensure the future is sustainable, there must be improved statutory protection of academic library functions, informed licensing, strong open access infrastructure and a confident library workforce. This review highlights how knowledge access should be seen as an infrastructural issue for the public.

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