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STRIKING A BALANCE BETWEEN INNOVATION AND ACCESS: AN ANALYSIS OF THE FAIR DEALING PROVISIONS UNDER INDIAN COPYRIGHT LAW

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I. ABSTRACT

*Fair dealing operates as a statutory limitation on the exclusive rights of copyright holders, seeking to reconcile the protection of creative expression with the public's right to access knowledge. In India, this balance is embodied in Section 52 of the Copyright Act, 1957, which adopts a closed-list approach by enumerating specific permissible purposes such as private use, research, education, criticism, review, and reporting of current events. Unlike the open-ended fair use doctrine in the United States, India's framework affords limited judicial discretion, thereby prioritising legal certainty over flexibility. This paper analyses the scope and evolution of India's fair dealing provisions through doctrinal and comparative perspectives, with particular emphasis on judicial interpretation in the context of education, research, and free expression. Landmark decisions, including *The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services*, underscore the judiciary's recognition of access to education as a paramount public interest in a developing economy. While Indian courts do not formally apply a multi-factor test akin to U.S. fair use, they have increasingly considered purpose, proportionality, and market impact to ensure that fair dealing does not undermine the legitimate interests of copyright holders. By situating India's fair dealing regime within global copyright discourse, this paper argues that although the Indian approach remains narrower than that of the United States and less flexible than models adopted in jurisdictions such as the United Kingdom and Canada, it reflects a context-sensitive legal framework. The study concludes that judicially guided evolution, rather than wholesale statutory reform, has enabled Indian fair dealing to balance innovation with access while responding cautiously to emerging digital and educational challenges.*

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II. KEYWORDS

Fair Dealing, Copyright, Public Interest, Education and Research, Judicial Interpretation

III. INTRODUCTION

Copyright law grants creators' exclusive rights to encourage innovation, but unchecked exclusivity can restrict knowledge, culture, and access to information. To balance this, most systems adopt exceptions such as fair dealing or fair use, which permit uses in the public interest, including education, criticism, reporting, and research.

In India, fair dealing is codified in the Copyright Act, 1957, primarily under Sections 52(1)(a) and 52(1)(b). These allow use for private study, research, criticism, review, and reporting of current events. Section 52(1)(a) permits use for private or personal use including research, criticism, review, and reporting of current events, while educational uses are covered under Section 52(1)(i). Although narrower than the U.S. fair use model, Indian courts interpret these provisions with some discretion, considering purpose, nature, extent, and market effect.

Education and research are key areas where fair dealing applies. The law permits reproduction for instructional purposes, provided it is non-commercial and reasonable, vital in a country where academic resources are often costly or limited. Similarly, critique, satire, and reporting remain central to free expression and democracy.

By contrast, the U.S. fair use doctrine under Section 107 offers greater flexibility through four factors: purpose and character of use, nature of the work, amount used, and market effect. This case-by-case model adapts more easily to digital media and evolving technologies. The U.K., Canada, and Australia also follow fair dealing but have broadened exceptions and explicitly integrated public interest considerations.

With the rise of digital content and user-generated material, flexibility in copyright exceptions has become crucial. While India's framework remains prescriptive, courts are increasingly adapting it to modern realities. Comparing India's fair dealing with

fair use abroad highlights how copyright law can balance creators' rights with societal needs, particularly in education, research, criticism, and journalism. The interplay between copyright protection and the public interest necessitates a careful balancing act in every legal system. Copyright law grants exclusive rights to creators over their original works, thereby fostering creativity and innovation. However, absolute exclusivity can hinder the dissemination of knowledge, cultural development, and access to information. To address this concern, copyright regimes around the world incorporate exceptions and limitations that act as checks on the extent of copyright protection. Among the most notable of these exceptions are the doctrines of fair dealing and fair use. These doctrines aim to ensure that certain uses of copyrighted material, especially those serving public interest such as education, criticism, reporting, or research, are not unjustly curtailed.

A. RESEARCH METHODOLOGY

This paper adopts a doctrinal and comparative research methodology. The study is primarily based on the analysis of statutory provisions, particularly Section 52 of the Copyright Act, 1957, along with judicial decisions interpreting fair dealing in India. Key judgments of Indian High Courts have been examined to understand the evolution and application of fair dealing principles.

In addition, a comparative analysis has been undertaken with international copyright regimes, especially the fair use doctrine in the United States and fair dealing approaches in jurisdictions such as the United Kingdom and Canada. Secondary sources including textbooks, journal articles, law commission reports, and scholarly commentaries have been relied upon to contextualise judicial trends and theoretical debates.

The method of analysis employed is qualitative and analytical, focusing on purposive interpretation, proportionality, and public interest considerations reflected in case law. The study is limited in scope as it does not include empirical data or economic impact assessment and confines itself to judicial and doctrinal developments up to recent landmark cases.

B. RESEARCH QUESTIONS

1. How are fair dealing provisions under Section 52 of the Indian Copyright Act interpreted by Indian courts?
2. How does India's fair dealing framework compare with international models such as U.S. fair use?
3. To what extent do judicial interpretations balance innovation with access to knowledge, particularly in education and research?

C. RESEARCH OBJECTIVES

1. To analyse the statutory framework governing fair dealing under Indian copyright law.
2. To examine judicial interpretation of fair dealing through landmark Indian case law.
3. To compare India's fair dealing regime with selected international copyright models.
4. To assess whether the existing framework effectively balances authors' rights with public access in a developing economy.

IV. STATUTORY BASIS

A. Section 52 of the Copyright Act, 1957: Fair Dealing and Exceptions:

Section 52 of the Copyright Act, 1957² lays down a set of circumstances where the use of copyrighted material does not amount to infringement. These exceptions are particularly significant in the context of the doctrine of fair dealing.

Under Section 52(1)(a), fair use of work, other than a computer program, is permissible for limited purposes. Such purposes include private or personal utilization, research activities, criticism or review of the work, and reporting on matters of current events or public affairs.

² The Copyright Act, No. 14 of 1957, § 52, India Code (1993).

The provision further extends protection to educational uses. Section 52(1)(h) permits "the reproduction in a newspaper, magazine or other periodical of an article or a work of political, economic, religious, or social interest or a lecture delivered in public". Similarly, Section 52(1)(i) permits the performance of a work in the course of educational activities, and Section 52(1)(j) covers reproduction carried out specifically for examination purposes.

Although the Act does not define the expression "fair dealing," Indian courts have played a central role in shaping its contours. By judicial interpretation, fair dealing has been recognized as use that is reasonable and confined within the purposes expressly mentioned in the statute. Broadly, the recognized grounds include personal or research use, review or criticism, reporting of current events, educational instruction, and certain uses by libraries and archives.

B. INTERPRETATION BY INDIAN COURTS

Indian courts have traditionally followed a narrow and cautious approach while interpreting the scope of fair dealing under copyright law. Rather than providing a broad exemption, the judiciary has consistently examined whether the use in question genuinely serves the limited purposes permitted under the statute.

In *Academy of General Education v. B. Malini Mallya*, (2009) 4 SCC 256 (India), the court highlighted that not every use of copyrighted material can be justified under the label of fair dealing. Instead, the assessment must focus on the purpose for which the work is used, ensuring that it aligns with statutory objectives such as research, criticism, review, or education.

Similarly, in *Civic Chandran v. Ammini Amma*, (1996) PTC 329 (Ker) (India), the Kerala High Court emphasized that determining fair dealing requires a careful evaluation of multiple factors. These include the intent and purpose of the use, the quantity and substantiality of the portion taken, and most importantly, the impact such use has on the potential market value or commercial exploitation of the original work. If the reproduction or use adversely affects the original creator's ability to commercially benefit from their work, the defence of fair dealing is unlikely to succeed.

Together, these decisions illustrate that Indian courts have developed a structured, albeit restrictive, framework for fair dealing. The focus remains on balancing the rights of the copyright holder with the larger public interest in allowing limited, non-commercial, and socially beneficial uses of copyrighted material.

C. EDUCATION AND RESEARCH

Section 52(1)(i) of the Copyright Act, 1957 allows teachers and students to reproduce literary, dramatic, musical, or artistic works during instruction. This reflects the law's aim to balance copyright with public access to education.

In *Oxford University Press v. Rameshwari Photocopy Services* (2016)³, publishers objected to a photocopy shop providing course packs at Delhi University. The Delhi High Court Division Bench in its December 9, 2016, judgment reversed the earlier Single Judge order and upheld the photocopying practice, ruling that it falls within Section 52(1)(i). The Delhi High Court upheld the practice, ruling that photocopying for classroom teaching falls within the statutory exception. The Court emphasized that education is a public purpose, and access to learning materials must not be blocked by high costs.

This judgment established that Section 52(1)(i) covers both individual and collective teaching, ensuring copyright does not hinder knowledge dissemination and reinforcing education as a social priority in copyright law.

D. Application

Scope of Educational and Research Exceptions under Section 52 of the Copyright Act, 1957

1. Classroom Use:

Section 52(1)(i) allows reproduction of works by teachers or students during instruction. The Delhi High Court in *Oxford University Press v. Rameshwari Photocopy Services* (2016) upheld course packs, recognizing access to education as a

³ *Oxford Univ. Press v. Rameshwari Photocopy Servs.*, C.S. (O.S.) No. 2439 of 2012, (Delhi H.C. Sept. 16, 2016) (India).

public purpose. The Court clarified that this provision extends beyond individual teaching to collective classroom use, ensuring copyright does not obstruct learning.

2. Research and Private Study:

Section 52(1)(a)(i) permits fair dealing for private study or research. While this promotes academic inquiry, the undefined terms “research” and “private use” have led to inconsistent interpretations. Courts assess fairness by considering the extent of reproduction and its impact on the market value of the original work.

3. Digital Reproduction and Online Education:

The law's silence on digital formats creates interpretive challenges, though the principles established in *Rameshwari* may extend to digital educational materials by analogical reasoning, subject to judicial interpretation in future cases. This reflects a flexible approach that adapts copyright law to modern, technology-driven education.

E. CRITICISM AND REVIEW

Section 52(1)(a)(ii) permits use of copyrighted material for genuine criticism or review. Courts stress that such use must be fair, proportionate, and not serve as a substitute for the original. The extract must directly relate to the commentary purpose, ensuring creators' economic rights are respected while promoting free expression, scholarship, and artistic debate.

F. REPORTING OF CURRENT EVENTS

Section 52(1)(a)(iii) allows reproduction of works for reporting news and public affairs, safeguarding the free flow of information in a democracy. However, it must be done fairly, accurately, and without commercial exploitation. In the digital age, challenges arise in distinguishing legitimate reporting from unauthorized use by aggregators or social media. The exception supports journalism but prevents wholesale copying that undermines original sources.

G. FAIR USE DOCTRINE IN OTHER JURISDICTIONS

1. United States

The U.S. follows the flexible “fair use” doctrine under Section 107 of the Copyright Act, 1976, decided case by case through four factors: (1) purpose and character of the use, including transformative value; (2) nature of the work, with factual works more open to fair use than creative ones; (3) amount and substantiality of the portion used, focusing on quality as much as quantity; and (4) effect on the market of the original. Courts apply these factors with flexibility, upholding uses such as parody, commentary, education, and even some commercial uses when transformative. This makes U.S. fair use broader and more adaptable than India’s restrictive fair dealing.

2. United Kingdom

The U.K., like India, uses fair dealing but modernized it through the Copyright, Designs and Patents Act 1988 and the 2014 reforms. These expanded exceptions to include quotation, parody, and private study, reflecting freedom of expression in the digital age. The U.K. also permits format shifting (e.g., CD to digital file) and cloud storage under conditions, recognizing modern content consumption. Compared to India, the U.K. approach is more progressive and responsive to technological change.

3. Canada

Canada’s Copyright Act allows fair dealing for broad purposes such as research, education, criticism, review, news reporting, satire, and parody. In *CCH Canadian Ltd. v. Law Society of Upper Canada*, the Supreme Court held that fair dealing is a “user right,” not just a defence. This ruling emphasized liberal and purposive interpretation to promote creativity, innovation, and access to knowledge. Canada’s model is inclusive, flexible, and firmly recognizes the user’s role in maintaining copyright balance.

V. COMPARATIVE EVALUATION

A. Scope and Flexibility

India’s model is purpose-specific with a closed list, unlike U.S. fair use which adapts to new practices through judicial innovation.

B. Judicial Interpretation

Indian courts follow a cautious approach, while U.S. and Canadian courts allow broader, more progressive interpretations.

C. Public Interest and Access

Indian law aids education (e.g., *Rameshwari Photocopy*), but the absence of a transformative use doctrine limits its digital relevance.

VI. JUDICIAL EVOLUTION AND CONTEMPORARY CHALLENGES

The doctrine of fair dealing constitutes a fundamental limitation on the exclusive rights granted to copyright holders, operating as a mechanism to reconcile private proprietary interests with broader public access to knowledge and expression. In India, this balance is statutorily embodied in Section 52 of the Copyright Act, 1957, which adopts a closed and enumerated approach to copyright exceptions. Unlike the open-ended fair use doctrine prevailing in jurisdictions such as the United States, Indian law permits unauthorised use of copyrighted works only for specifically listed purposes, including private or personal use, research, education, criticism or review, and reporting of current events. This structural rigidity limits judicial discretion at the statutory level, yet Indian courts have progressively infused flexibility through purposive and contextual interpretation.

Judicial evolution in India has been most pronounced in the domain of education and research, where access considerations are particularly acute in a developing economy. Section 52 expressly permits reproduction of copyrighted works in the course of instruction and for non-commercial academic purposes, provided such use does not unreasonably prejudice the rights of the copyright owner. The landmark decision in *The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services* (2016) marked a decisive moment in this evolution. The Delhi High Court upheld the preparation of photocopied course packs for university students, emphasising that copyright law must not function as a barrier to education. The judgment foregrounded public interest and constitutional values, recognising that

affordability and access to learning materials are essential in the Indian socio-economic context.

Beyond education, Indian courts have also expanded the interpretative contours of fair dealing in cases involving criticism, review, and reporting. While the statute does not explicitly adopt the multi-factor analysis seen in U.S. fair use jurisprudence, courts have increasingly considered factors such as the purpose and character of the use, proportionality, and potential market impact. Decisions such as *Civic Chandran v. Ammini Amma* reflect this trend, where the judiciary moved beyond a purely quantitative assessment and recognised that transformative and critical engagement with a work may qualify as fair dealing. Such reasoning demonstrates a judicial willingness to protect freedom of expression and democratic discourse, even within a closed statutory framework.

However, contemporary challenges expose the limitations of India's prescriptive model, particularly in the digital age. Emerging practices such as online education, digital reproduction, user-generated content, and algorithmic uses of copyrighted material often fall outside the explicit language of Section 52. In the absence of legislative reform, courts are increasingly required to stretch existing categories to accommodate new forms of use, raising concerns about doctrinal consistency and legal certainty. Comparative perspectives reveal that jurisdictions such as the United States, the United Kingdom, and Canada have responded to similar challenges by adopting more flexible standards or expanding permissible purposes, allowing copyright exceptions to evolve alongside technological change.

Despite these challenges, India's fair dealing regime reflects a cautious yet deliberate balance. Its structured statutory design provides predictability and protects authorial incentives, while judicial interpretation ensures that copyright law remains responsive to public interest imperatives. The ongoing judicial evolution underscores that although India's fair dealing provisions are narrower than international fair use models, they are not static. Instead, they represent a dynamic interplay between legislative restraint and judicial creativity, striving to balance innovation with

equitable access to knowledge in a rapidly changing digital and educational landscape.

VII. CHALLENGES AND CRITICISM OF INDIAN FAIR DEALING

A. Ambiguity in Scope

The Act does not define fair dealing, leaving interpretation to courts. This uncertainty forces users to either avoid legitimate use or risk litigation.

B. Technological Obsolescence

Drafted before digitization, the law does not cover digital reproduction, streaming, or online sharing, making it outdated for modern content use. For instance, the Act does not address whether temporary caching by browsers, streaming of educational content, or AI-generated educational materials fall within fair dealing exceptions. The Copyright (Amendment) Act, 2012 partially addressed digital concerns but remains inadequate for Web 3.0 technologies.

C. Judicial Dependence

With only a closed list of exceptions, courts shape fair dealing case by case, leading to inconsistent rulings and legal uncertainty.

D. Limited Flexibility

Indian law restricts fair dealing to specific purposes, unlike U.S. fair use, and fails to address memes, remixes, or AI-driven creativity.

E. Chilling Effect

Ambiguity, rigidity, and reliance on courts discourage educators, researchers, and creators, stifling innovation and knowledge-sharing.

VIII. NOTABLE CASES

A. Academy of General Education v. B. Malini Mallya (2009)⁴

This case arose from a dispute concerning the alleged unauthorised reproduction of copyrighted literary material by an educational institution. The defendants had

⁴ Academy of General Education, Manipal v. Malini Mallya, (2009) 4 SCC 256 (India).

reproduced substantial portions of the plaintiff's copyrighted work, claiming protection under the fair dealing exception provided in Section 52 of the Copyright Act, 1957. The core issue before the court was whether extensive copying for instructional purposes could be justified as fair dealing.

The court adopted a restrictive and purposive interpretation of fair dealing, emphasizing that the exception does not permit indiscriminate or wholesale reproduction of a copyrighted work. It held that the quantity and quality of the material copied must be proportionate to the legitimate purpose for which the copying is undertaken. The court clarified that fair dealing is inherently contextual and must be assessed on a case-by-case basis, with particular attention to whether the use exceeds what is reasonably necessary.

The precedential value of this decision lies in its articulation of proportionality as a central determinant of fairness. Subsequent courts have relied on this reasoning to reinforce the principle that fair dealing is not a blanket defence for educational or non-commercial use. The case continues to influence judicial assessments of quantitative limits in copyright exceptions, especially in disputes involving academic and instructional materials.

B. Civic Chandran v. Ammini Amma (1996)⁵

The dispute in *Civic Chandran v. Ammini Amma* concerned the publication of a dramatic work that drew heavily from an earlier copyrighted play. The defendants argued that their work constituted criticism and review, thereby qualifying as fair dealing under Section 52. The Kerala High Court was required to determine whether substantial borrowing could still fall within the scope of permissible use.

In its reasoning, the court departed from a rigid quantitative analysis and instead focused on the qualitative transformation of the original work. It observed that the impugned play was not a mere reproduction but a critical reinterpretation that conveyed a distinct ideological and social message. By emphasizing the purpose,

⁵ *Civic Chandran v. Ammini Amma*, 16 PTC 329 (Ker. HC 1996) (India).

character, and altered expression of the secondary work, the court introduced the concept of transformative use into Indian copyright jurisprudence.

This judgment holds significant precedential value as it broadened the understanding of fair dealing beyond mechanical thresholds. It has since influenced courts to consider whether a secondary work adds new meaning or insight, particularly in cases involving parody, criticism, and commentary. The decision marks a shift towards a more nuanced and expressive conception of fairness, aligning Indian jurisprudence with comparative international developments while remaining grounded in statutory interpretation.

C. The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services (2016)⁶

Popularly known as the “DU photocopy case,” this litigation arose from the preparation and distribution of photocopied course packs for students at the University of Delhi. Leading academic publishers challenged the practice, alleging large-scale copyright infringement. The central question was whether such photocopying fell within the educational exception under Section 52(1)(i) of the Copyright Act, 1957.

The Delhi High Court adopted a purposive and socially conscious interpretation of the statute. It held that reproduction of copyrighted works in the course of instruction, including the preparation of course packs, was expressly permitted by law. The court rejected the argument that the volume of copying alone rendered the practice infringing, emphasizing that access to education and affordability were paramount considerations in a developing country.

The judgment’s precedential value lies in its strong affirmation of educational exceptions and public interest. It has significantly influenced subsequent jurisprudence by reinforcing the principle that copyright law must be interpreted in harmony with constitutional goals such as the right to education. The case remains a

⁶ Chancellor, Masters & Scholars of the Univ. of Oxford v. Rameshwari Photocopy Servs., 81/2016, (Del. HC Dec. 9, 2016) (India).

cornerstone in debates surrounding access to knowledge, digital learning, and the balance between authors' rights and societal needs.

D. Key Principles from Case Law

Indian courts have evolved a test for fair dealing that includes:

1. Purpose of use
2. Nature of the work
3. Amount and substantiality used
4. Effect on the potential market

IX. RECOMMENDATIONS

Proposed Reforms and Improvements to Fair Dealing under Indian Copyright Law:

A. Hybrid Model

Adopt a system blending fair dealing's specificity with fair use's flexibility, allowing purpose-based exceptions and transformative uses. The hybrid model could be implemented by retaining enumerated purposes while adding Section 52(1)(c) stating: 'Any use that is fair considering (i) the purpose and character of use, (ii) the nature of the work, (iii) the amount used, and (iv) market impact, shall not constitute infringement.'

B. Define Fair Dealing

Provide a statutory definition with criteria like purpose, nature, amount used, and market impact to reduce ambiguity.

C. Expand Educational Exceptions

Extend exceptions to digital learning, online classrooms, and virtual course materials for lawful educational use.

D. Recognizing Transformative Use

Include transformative use, such as parodies, remixes, and adaptations—within statutory protection.

E. Public Interest Clause

Introduce a general exception for socially beneficial uses in education, research, journalism, and welfare.

F. Flexible Legislative Reform

Combine clear purpose-specific exceptions with broader fairness analysis to balance clarity and discretion.

G. Guidelines for Application

Issue clear interpretive guidelines on digital use, education, criticism, review, and reporting for consistency.

H. Adapt to Digital Age

Explicitly cover digital reproduction, online sharing, AI content, memes, and modern creative practices.

I. Awareness and Training

Promote public awareness through workshops and campaigns to prevent infringement and encourage lawful creativity.

X. CONCLUSION

Fair dealing under Indian copyright law balances authors' rights with public access to knowledge. Codified in Sections 52(1)(a) and 52(1)(b) of the Copyright Act, 1957, it permits limited use of works for study, research, criticism, review, and reporting of current events.

These exceptions prevent copyright from obstructing education, scholarship, or journalism.

In education, the law allows use of copyrighted content for teaching and non-commercial research. The DU Photocopy Case (2016) affirmed that reproducing portions of textbooks for students qualified as fair dealing, prioritizing academic access over proprietary control.

For criticism and reporting, fair dealing safeguards free speech by enabling use of works for commentary and news, ensuring transparency and accountability in public discourse.

Unlike the U.S. fair use doctrine under Section 107, which applies flexible factors such as purpose, amount, and market impact, India follows a closed list of purposes. This makes it narrower but more predictable. Still, courts in India adopt a purposive approach, gradually expanding fairness in application.

This paper examined the scope and operation of the fair dealing provisions under Indian copyright law with the objective of assessing whether they successfully balance the protection of creative innovation with the need for public access to knowledge. Through doctrinal analysis and comparative evaluation, the study finds that India's closed-list fair dealing framework, while narrower than the open-ended fair use doctrine of the United States, has evolved through judicial interpretation to remain responsive to changing social and technological contexts. Indian courts have played a critical role in infusing flexibility into a structured statutory scheme by emphasising purpose, proportionality, and public interest.

Although India's fair dealing regime lacks the expansive adaptability of U.S. fair use, this limitation is not inherently detrimental. Instead, it reflects a policy choice aligned with India's developmental realities, particularly its emphasis on access to education, affordability of learning materials, and dissemination of knowledge in a resource-constrained society. Judicial decisions such as the DU photocopy case demonstrate that the Indian approach prioritises social welfare and educational equity without wholly undermining the incentives necessary for authors and publishers.

Looking forward, the paper argues that targeted legislative or interpretative reforms, such as clarifying digital uses, technological neutrality, and emerging practices like text and data mining are necessary to ensure continued relevance in the digital age. Importantly, such reforms need not abandon the closed-list structure but may instead strengthen it through guided flexibility.

By situating Indian fair dealing within a comparative and constitutional framework, this paper contributes to ongoing scholarly debates on copyright limitations in

developing economies, highlighting how balance can be achieved not through uniform global standards, but through context-sensitive legal design. Thus, Indian fair dealing, though limited in scope, plays a vital role in education, research, and journalism. With judicial evolution, it continues to adapt to modern needs while balancing creators' rights with public interest.

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