



**E- Journal of Academic Innovation and
Research in Intellectual Property Assets (E-
JAIRIPA)**

Vol. IV (ISSUE I) JAN-JUN 2023, Pg. 95-108



**IS SCIENTIFIC KNOWLEDGE A PUBLIC RESOURCE? A STUDY ON
ACADMIC PIRACY WITH REFERENCE TO ELSEVIER LTD. V.
ALEXANDRA ELBAKYAN**

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Abstract

Rapid Globalization and integration of the world by the means of the internet and seamless communication has brought us all closer together, making all information accessible at the touch of a screen or a click of a button. However, where we have grown closer in terms of communication, we have a new barrier separating us into the rich and poor; our digital access to information. With increase in internet use, those who are enterprising have found that business in this uncharted water and once such endeavour would be publication of research and academic works. Although all the work has been undertaken mostly by authors and peer-reviewers who work on funds or for free, their work has no value unless published in journals of repute, which are owned by an oligopoly of Corporations, who choose to capitalize on this highly profitable business by charging exorbitant prices for subscription. However, as any oligopoly is challenged, there do exist Robin Hoods, in this case, Sci-Hub and Lib-gen, which aim to circumvent these pay gates and provide the same for free. This paper aims to understand the implications of the above Robin Hoods and their scope and inclusion in the provisions of Fair Use under Copyright Laws as well as understanding the object by which they function and their legitimacy holds by analysing the Delhi HC judgement which challenges the same.

Keywords: Copyright, Capitalize, Business, Information etc

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Introduction

The proprietors of numerous websites such as Sci-Hub and Lib-Gen (Library Genesis) unashamedly indulge in the illegal act of providing free access to millions of academic papers with minimal prevarication. However, it is debatable as to whether sourcing material through these websites would be deemed as piracy and would these ‘Academic Robin Hoods’ be protected under provisions of fair use under Copyright Provisions. Academic Robin Hoods are popularly known as the Guerrilla Open Access crusaders. This kind of movement is known as the Guerrilla Open Access Movement that follows the Guerrilla Open Access Manifesto, written by Aaron Swartz in 2008.

From the local context, it is important to note that contemporary India is a knowledge importer, largely due to the scarce funding available for research and academia; While India’s expenditure on Research and Development (R&D) amounts to about 0.7% of its GDP² as per latest statistics, China stands at 2.19%.³

From the above statistics, we can say that India is less indulgent in research and academia as compared to its most competitive neighbour. Placing us on the backfoot when it comes to the ability to innovate and secure technological potential, hindering economic growth⁴. When argued in terms of resources available, the process of paying amounts as high as US\$50 per article would be a grand expense for those involved in public funded R&D sectors, forcing them to rely on alternative sources for the same, such as Sci-Hub, which provides the same, free of cost.

With reference to Sci-Hub, it is the first global platform which makes scholarly articles available to the public free of cost, dodging copyright issues. As of December 2020, more than 85 million articles were available on Sci-Hub’s database.

Although Sci-Hub and other similar services blatantly disregard copyright provisions in countries, they have great support among academicians and students, who often are concerned with knowledge and not its cost, thus argue that knowledge is free for all who seek it and there must be

² Research and Development Statistics 2019-2020, *Ministry of Science and Technology (2020)*, Available at: https://dst.gov.in/sites/default/files/Research%20and%20Deveopment%20Statistics%202019-20_0.pdf.

³ UNESCO Institute for Statistics, Research and Development Expenditure, WORLD BANK (2018), Available at: <https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS?locations=CN>.

⁴ Ebru Beyza Bayarcelik & Fulya Taşel, *Research and development: source of economic growth*, 58 *PROCEDIA-SOCIAL AND BEHAVIORAL SCIENCES* 744–753 (2012).

no barriers.

However, the concept of Sci-Hub or free knowledge has not gone down well with large publishing houses such as Elsevier, Wiley India and the American Chemical Society, who hold a monopoly in the current market and have attempted to secure this monopoly through the case of *Elsevier Ltd and Ors. v. Alexandra Elbakyan and Ors*⁵ in India, which questions the exact limits of fair use under the Copyright Act under Section 52(1)(i).⁶

Importance of Investment in Knowledge for Economic Growth

Investments in Knowledge, particularly education and research are by far the single most important determinant of sustainable economic growth of a country. It is important to note that education can increase human capital and quality of a labour force, in turn increasing the productivity, leading to higher economic growth in an economy.⁷

Further, it is important to note that education has the ability to create a class of educated individuals and leaders who fill vacancies in the bureaucracy, corporations and other businesses, making them more able and qualified to fill those positions and provide a higher output with regard to the same.⁸

An important component of education that determines the impact of education would be the quality of education and the exposure available to individuals or citizens of the state in which it is being provided.⁹

Beyond the provisions of basic skills and education, it is important to inculcate a culture of research and academia which instils a sense of innovation and creativity in the population, which translates to economic development and growth in the long run.

However, it would be possible to attain such a knowledge-based economy when the resources that provide this knowledge are accessible and attainable by all in the country, including the most

⁵ *Elsevier Ltd and Ors. v. Alexandra Elbakyan and Ors*, (2021) SCC OnLine Del 17.

⁶ The Copyright Act, 1957, Act 14 of 1957, Section 52(1)(i).

⁷ Liping Liao et al., *The impact of educational investment on sustainable economic growth in Guangdong, China: A cointegration and causality analysis*, 11 SUSTAINABILITY 766 (2019)

⁸ *Ibid.*

⁹ *Ibid.*

vulnerable and poor at ease; keeping the costs and access universal and not controlled in the hands of a few who seek to control the power of knowledge.¹⁰

An important resource in this ambit would be research and academic discoveries which not only benefit current societies with their findings, but also have the potential to lay foundations to future research and discoveries as well as critical thinking and creative abilities among people, hence the ambit of this knowledge is not restricted to a few, rather concerns the public at large.\

However, in a realistic scenario, the ability to provide universal knowledge to all lies only in the hands of a few rich countries and developing countries are forced to make do with limited resources that are available to them and pay gates to research findings are nothing but an addition to such burden on individuals.

Thus, in the current scenario, we see that academia in India largely depends on alternative sources for their research and findings, turning to sources such as Sci-Hub and Libgen to attain the same.

Research Questions

1. Whether the Provision of Fair Use must be exercised in the given Instance?
2. Whether there are grounds to protect scientific knowledge as a public asset?

The current situation of the publication market; exorbitant prices and demand

In a study conducted by the All-India People's Science Network (AIPSN), in 2016 it was found that Indian Academicians and Researchers downloaded and consumed about 7 million research papers via Sci-Hub in that year alone¹¹. The magnitude of research materials would cost about ₹15 Billion if not for alternatives.¹²

This dependence is a clear indicator that academia in India desists from opting for the conventional publishing houses and depend on Sci-Hub for their needs, as publishing houses and their exorbitant pricing petrifies academia who depend on meagre resources available to them.

The market of publishing is one which has the highest rates of profit margin in any setting. It is a US\$ 10 Billion industry with profit margin up to 40%, which is twice as much as the profit margin

¹⁰ *Ibid.*

¹¹ All India Peoples Science Network, AIPSN Statement-Stop Monopoly Publishers Efforts To Deny Public Access to Scientific Publications, AIPSN, Available at: <https://aipsn.net/wp-content/uploads/2020/12/SciHub-AIPSNStatement29Dec2020FinalP.pdf>

¹² *Ibid.*

rates of organizations such as Google.¹³

Clearly, from these rates of profit margin, it can be inferred those profits do not arise from low cost of publishing, rather it is the impact of a monopoly or oligopoly that certain large publishers hold over a market; it is only certain publishers such as Elsevier, ScienceDirect, HeinOnline among others who publish these articles.

Moreover, the monopoly is not restricted to procuring these papers, but also includes submission of papers and research. Alexandra Elbakyan in an interview with The Wire stated that “an academicians’ relevance is their publication number in ‘high impact’ journals, which mostly belong to the monopoly; it is the researcher who does all the work, yet they cannot simply publish the same in an individual blog of their own as it would hold no value. In the case of peer reviews, both the reviewers and authors work for free, yet it is the monopoly which profits.”¹⁴

With respect to the same, numerous universities have voiced their concern as it is these institutes that pay subscriptions to the journals for research and reference. Harvard in 2012 stated that subscription prices nearing US\$40,000 was unaffordable and raised concerns on the same.¹⁵ The same was cited by the University of California, who went a step ahead to sever ties with Elsevier.¹⁶

The excessive pricing of publishing houses is not prima facie justified considering that a majority of research globally is funded by taxpayers’ money, done by researchers and reviewed by the community, all for free.

Therefore, the publishing houses have little to contribute, yet make notable profits while not remunerating original authors for their work.

This particular development shows us that the infringement of these scientific papers or knowledge does not directly affect the remuneration of the author’s work, however does have a significant impact on the rights of the publishing corporation, who have bought the same from the

¹³ *Ibid.*

¹⁴ An Interview With Sci-Hub’s Alexandra Elbakyan on the Delhi HC Case, THE WIRE SCIENCE, <https://science.thewire.in/the-sciences/interview-alexandra-elbakyan-sci-hub-elsevier-academic-publishing-open-access/> (last visited Jun 29, 2021).

¹⁵ Harvard: journal subscription fees are prohibitive, THE CONVERSATION (Apr 24, 2012), <https://theconversation.com/harvard-journal-subscription-fees-are-prohibitive-6659>.

¹⁶ UC AND ELSEVIER OFFICE OF SCHOLARLY COMMUNICATION, <https://osc.universityofcalifornia.edu/uc-publisher-relationships/uc-and-elsevier/> (last visited Jun 29, 2021).

author, albeit unequal.

The implication of the case of Elsevier Ltd. versus Alexandra Elbakyan in the indian Context

Corporations such as Elsevier and Science Direct, without doubt, consider websites such as Sci-Hub an inherent threat to their business and the cause of lack of revenue and hence have resorted to bringing an end to their worries by filing lawsuits for copyright violations in numerous countries such as the USA, Russia, Sweden and Belgium among others. Of these lawsuits, numerous judgements have led to Sci-Hub's ban in their respective jurisdictions. Observing the same, Indian Academia feared a similar ban in India, which would be a misfortune.

Thus, considering the above, the Delhi HC in the Matter of *Elsevier Ltd. V Alexandra Elbakyan* considered the case to be of public interest and allowed applications for objections and interventions to be submitted by students, researchers and other academia.

Of these intervention applications, the intervention by the Delhi Science Forum's Society for Knowledge Commons was most notable, which stated that under Indian Law, Scientific Knowledge is a public resource and cannot be commercialized.¹⁷

However, on the other hand, the petitioners in the case i.e., Elsevier Ltd. and Wiley India Pvt. Ltd among others have argued that the defendants (Alexandra Elbakyan), by providing such protected material without prior permissions were in violation of Section 51¹⁸ of the Copyright Act.

The petitioners also cited the case of *UTV Software Communication Ltd. v. 1337X.To*¹⁹ where the petitioners requested a dynamic injunction before the court and prayed that the court declare these sites as rouge websites. It was imperative that there was a dynamic injunction to ensure that the order also quashed mirror websites that would circumvent the orders of the court.

In addition to the above, it is important to take note of the rulings of the case of the *Chancellor, Masters & Scholars of the University of Oxford & Ors. v. Rameshwari Photocopy Services &*

¹⁷ Divya Trivedi, *Cases against Sci-Hub and Libgen imply long-term consequences to research and education in India*, FRONTLINE (Feb. 12 2021) <https://frontline.thehindu.com/the-nation/locking-up-research-cases-against-sci-hub-and-libgen-imply-long-term-consequences-to-research-and-education-in-india/article33641506.ece>; *Supra* note 6.

¹⁸ *Supra* note 6 at §51.

¹⁹ *UTV Software Communication Ltd. v. 1337X.TO*, (2017) CS (COMM) 724/2017.

*Ors*²⁰. or more popularly known as the DU Photocopying case, where when international publishers took legal action on a photocopy shop on the campus of University of Delhi (DU), claiming the photocopying and selling of protected materials without a licence or prior permissions amounted to copyright infringement. The Delhi HC dismissed the plea of the publishers stating that the defendants i.e., the photocopying shop fell under the ambit and restrictions of Section 52(1)(i) of the Copyright Act, 1957.

Thus, the question of the legality or illegality of websites such as Sci-Hub lie not on whether the acts constitute an infringement under Section 51 of the Copyright Act, rather the same would depend on whether the nature of the acts by Sci-Hub and other such websites qualify under the exceptions to infringement mentioned in Section 52 of the Copyright Act.

One nation, One subscription (ONOS)

In the recent time a new initiative was proposed by the Government of India One Nation, One Subscription (ONOS) to provide the nationwide access to the scientific and academic content both nationally and internationally. The idea behind the ONOS is to establish the national licence with prominent STEM publishers and database producers worldwide, enabling easy access to high-quality academic information. The moto is to stimulate the scientific research and innovation by benefiting the research and educational institute like university and colleges through library.

At present there are over 10 government-funded consortia and all Institutions of Higher Education in India that spend around ₹1,500 crore annually on subscriptions to electronic resources that include e-journals, e-books, and online databases. The enrollment in higher education has drastically increased from 3.97 lakhs in 1950–51 to 203.27 lakhs in 2011–2012, and reaching 374 lakhs in 2019–2020, with over 14.16 lakh teachers.²¹

The access concerning electronic resource is more crucial than the physical possession in case the access is perpetual. This initiative aims to provide the access to large number of people at the reasonable cost with better license terms. This has shown a strong interrelation between the availability of resources and scientific productivity, measured by the number of research articles produced by researchers within an organization. India has seen a decline in number of research

²⁰ *Chancellor, Masters & Scholars of the University of Oxford & Ors. v. Rameshwari Photocopy Services & Ors.*, (2016) RFA(OS) 81/2016.

²¹ Chakraborty, S., et al. (2020). Suggestions for a National Framework for Publication of and Access to Literature in Science and Technology in India. *Current Science*, 118(7), 10 April, 1026–34.

journals subscribe by educational and research institutions during the 1980s and 1990s because of increase journal cost, devaluation of rupees, etc.²² The research productivity has substantially decreased by more than 2% where on comparing it with the other countries have improved their research productivity by more than 2% in the last 2 decade.

Indian government has established more than 10 library consortia with the funding which they get various ministries to address the limited access to electronic resource in the educational institution. Some of the major consortia are - e-Shodh Sindhu, National Knowledge Resource Consortium, DAE Consortium, MCIT Consortium, Consortium for e-resources in Agriculture, e-resources in Medicine, DBT's e-resources Consortium, DRDO Consortium, and DERCON.²³

In a survey which was conducted by 10 government-funded library consortia have revealed that 8 out of 10 consortia subscribed to 92 unique electronic resources, with varying degrees of commonality. The estimated cost for this subscription was ₹350 crore. The survey excluded e-journal archives, e-books, and other non-subscription-based e-resources from the common list. Apart from this, a national survey conducted by the INFLIBNET Centre in 2015 for e-Shodh Sindhu found that over 100 e-resources were required by 604 registered institutions of higher education.

The aim of ONOS is to reverse the trend by providing the affordable access to the wide range of electronic resource and generating the productivity in India. Government funded consortia in India are operated by the beneficiary institutions and works in department of monitoring. Most government aided library in India works on project basis with temporary staff except for UGC-INFONET Digital Library Consortium, NLIST (merged with e-Shodh Sindhu), and National Knowledge Resource Consortium (NKRC). These consortia are executed by dedicated organizations like the INFLIBNET Centre and NISCAIR.²⁴

The services provided by government-funded consortia include negotiations on behalf of member institutions, subscription processing for e-resources, website maintenance, training programs,

²² Information and Library Network (INFLIBNET) Centre (2013). Report of the Expert Committee Constituted by the MHRD to Survey the Current Scenario of Library Consortia in India, to Explore the Possibilities of Joint Negotiations and Collaborative Services and to Recommend Future Course of Action. Gandhinagar: INFLIBNET.

²³ Mijoo Munshi, U. (2008). Guest Editorial: Open Access. DESIDOC Journal of Library & Information Technology, 28(1), 3-6. <https://doi.org/10.14429/djlit.28.1.172>

²⁴ Arora, J. Trivedi, K. J. and Kembhavi, A. (2013). Impact of Access to e-resources through the UGC-INFONET Digital Library Consortium on Research Output of Member Universities. Current Science, 104 (3): 307–15. ISSN:0011-3891.

troubleshooting, etc. UGC-INFONET Digital Library Consortium and NKRC also provide additional services like journal holdings, union databases, open access institutional repositories, open access journals, etc. As a result of which the consortia have developed the infrastructure for local archiving e-resources they own, including e-books and backfiles. They rely on publishers' hosting facilities for archival access.

The merger of UGC-INFONET Digital Library Consortium, INDEST-AICTE Consortium, and NLIST into e-Shodh Sindhu was proposed to eliminate resource duplication and improve efficiency. The purpose is to provide access to e-resource and enhance research and academic culture. Web of Science, with its citation indices, is used as a filtering mechanism to measure qualitative research output based on citations. The research output of member institutions in the INDEST-AICTE Consortium and UGC-INFONET Digital Library Consortium increased significantly after 5 years of access to e-resources, indicating a positive impact on research enhancement.²⁵

The Guerilla open access

2016 is the year where the discussion surrounding the piracy became more heated in the light of the domain of scholarly communications. The public display of Sci-Hub, a copyright infringing site that provides free access to pay walled journal databases, libraries are such places where scholarly work is easily accessible for all.

Sci-Hub is a copyright infringing service provider which works to provide the unauthorized backdoor access to scholarly journal database. This platform bypasses paywalls. It works for the people who generally don't have access to these paid journals. This issue came into attention when a Kazakh scientist, Alexandra Elbakyan, and the owner of Sci-Hub, opposed a lawsuit filed against the site by Elsevier in a New York court (Elsevier Inc. et al v. Sci-Hub et al Case No. 1:15-cv-04282-RWS). The issue in case was regarding the copyright infringement action associated with Sci-Hub's and the capacity to afford the academic resources. The action of Sci-Hub's actions degrades the financial sustainability of the publishing industry.²⁶

²⁵ Information and Library Network (INFLIBNET) Centre (2019). Annual Report of the Information and Library Network Centre, 1 April 2017 to 31 March 2018. Gandhinagar: INFLIBNET

²⁶ Bodó, Balázs, Pirates in the Library – An Inquiry into the Guerilla Open Access Movement (July 6, 2016). Paper prepared for the 8th Annual Workshop of the International Society for the History and Theory of Intellectual Property, CREATE, University of Glasgow, UK, July 6-8, 2016., Available at SSRN: <https://ssrn.com/abstract=2816925> or <http://dx.doi.org/10.2139/ssrn.2816925>

The owner of Sci-Hub Elbakyan, had launched public campaign against Elsevier and the practices in the scholarly publishing industry. Some of the contention raised by her that scientific knowledge should be made freely available that can resolve the aspect of selling subscription to the database. This approach is unethical and on the other hand determinantal to the progress of the society.²⁷ Though she has acknowledged that her action is illegal but are totally justified as she is against the actions of corporate entity. What is more striking is her action to publicly defend her action against the copyright infringing actions and bring this aspect into larger public attention.

Open archives, Open access, and the loyal opposition to the status quo

Looking at the 1994, Steven Harnad had given the idea to set up FTP servers to store and share scholarly articles which was their pre-print version. This transformed into a big initiative in 2002 known as the Budapest Open Access Initiative (BOAI) the idea was to create standards, tools, and support for self-archiving efforts by academic institutions. This initiative has played a great role in creating Open Access journals. These journals are some other traditional journals like peer review, editing, and typesetting, however the readers are not charged for the access. They focus on processing fees from authors or the institutional funding to cover their cost expanse.

Library and all other professional organisation are actively involved in the open archiving movement. They are concern over institute repositories and they ventured into publishing through initiatives like SPARC (Scholarly Publishing and Academic Resources Coalition), and they aim to create low-cost alternative to all the commercial journals. Library are generally looking at the rising subscription cost of journals by addressing the financial sustainability of their subscriptions. They pursued solutions which stand for Open Access principles and encouraging faculty to publish in OA journals. Apart from this library forms a part of consortia and professional associations which is helpful in strengthening negotiating positions with publishers and improve licensing terms.²⁸

Informal text sharing practices in the scholarly community

The issue pertaining to scholarly articles and material is a common aspect in research and education community. Piracy as we discussed is common in scholarly articles. The case with the western scholars is bit different as they have access to well established infrastructure however with them also issue concerning occasional inaccessibility also comes up. They also do opt for

²⁷ Bonik, A., & Schale, M. (2015). E-Book Piracy: Interview with Alexandra Elbakyan from SciHub. Tarnkappe.inf

²⁸ Elbakyan, A. (n.d.). Engineering - the weblog of Alexandra Elbakyan. Retrieved from engineering.wordpress.com

different option. To get an article which is not available in the library there can be different option.

One of the ways can be to directly reach out to the author and making them the directly reach out to the author and asking them copy of the article. It is now on the author to share their work especially in the form of preprint or post-print. The other viable option can be to inquire within your network such as colleagues and friends who may have got access to the articles. There may be option like Twitter, Newspaper which acts as useful tool for crowd sourcing article access or seeking recommendations from alternative sources. When it comes to imparting reading for students the option can be producing a printed reader which can be suitable for those who prefer physical copies. In regards to distribution PDF's copies online can be of great option in terms of physical reading as it is easy for sharing. Setting up of FTP server, password-protected website, or a learning management system can be option to share the PDF by maintain security. Leaving a pen drive in the class room may not be controlled method as it results in unintended distribution or loss of materials.

The aspect related to compilation of the reader one gets the choice to scan the copy from the original article. There may be the case scanning the physical copies is process which takes a lot of the time and thus to get the digital version is easy way out. This is also helpful for future use. Sharing of the files with the colleagues can promote the collaboration and provide access to scholarly articles resources thereby respecting the copyright restrictions and ensure that everyone involved in this process is knowing about the legal and ethical implication. The idea of a closed departmental e-text repository for storing illegally scanned documents is not advisable. Engaging in piracy or unauthorized distribution of copyrighted materials can have legal consequences. Instead, it is recommended to explore legal alternatives for sharing and accessing scholarly articles, such as open access repositories or institutional subscriptions.²⁹

The Guerilla Open Access Manifesto is action towards sharing of the information globally. The criticism is done for the present state of affairs where the few private corporation have restricted the access to the worldwide scientific and cultural heritage, which has become digitized. This action is unfair and un acceptable to limit the access to the knowledge based on factor such as financial resource or geographical location. This movement appeals to those who come from privileged background and have access to these resources, such as students, librarians, and

²⁹ Elsevier Inc. et al v. Sci-Hub et al Case No. 1:15-cv-04282-RWS (2015)

scientists, it reminds that it is their moral duty to impart the knowledge with the world. It acknowledges the efforts of the individuals who are already engaged in sharing by way of trading passwords and fulfilling download requests, but this highlights that these actions by secrecy and labelled as stealing or piracy.

At the same time manifesto was published there was growing movement if shadow such as Library.nu/gigapedia, where a lot of scholarly works can be found. The one including in Russia aimed at consolidating and distributing the piratical texts, and challenging the existing barriers to knowledge access. The situation describes the state of affairs in scholarly communication. The shadow library provides the unrestricted access to copyrighted content regardless of wealth or privilege, will play a significant role till the time inequalities persist.

The extent of the transformative role played by shadow libraries depends on three factors:

1. The alliance between different actors in the centre.
2. The periphery, the technical immunity of these services,
3. The legal immunity of open access advocates who support them.

The Open Access Guerilla Cookbook, that was published in the year 2013, outlines the various skills and resources required for the existence of shadow libraries, and much of which revolve around copyright piracy though copyright infringement is generally considered illegitimate, particularly in the United States, whereas legal and institutional norms discourage such actions. In order to receive the support, the need for open access advocates may need to shift the focus away from copyright infringement and towards other issues, such as the commercial control over scholarly knowledge.

Analysis of legal provisions in India

When we see Copyright Provisions in India, it is largely administered and protected by the Copyrights Act, 1957, under which Section 51 exhaustively defines what can be termed as copyright infringement and Section 52 provides an equally exhaustive list of what is exempt from the provisions of the Act.

Keeping this in mind along with the DU Photocopying case, it is important to note that a significant part of the resources procured from websites such as Sci-Hub are used by academicians for their research or educational purposes and hence it is only natural for any

individual to draw a parallel between the provisions of the DU Photocopying case to that of Sci-Hub.

However, Sci-Hub in the objects mentioned on its website clearly self-admittedly states that it provides research material for anyone who wishes to access the same and hence the exemption of educational purposes cannot be claimed here.

Further, the provisions of Section 32A³⁰ of the also provide substantially in the case. Section 32A is a result of the development of IPR in developing countries and numerous negotiations in Stockholm and Paris.

Under this section, a third party can seek permissions of the copyright board to reproduce copyrighted material for ‘systematic instructional activities’ if such material is not available in the Indian domain or the prices of the same are exorbitant.

These particular provisions make it clear that there is scope to accommodate tools such as Sci-Hub keeping in mind the cost of academic research otherwise.

It would be unfair to impose a cost of ₹1500 crores on an already underfunded academic infrastructure as it would only decrease productivity due to the commercialization of public knowledge, which can, if utilized for research, bring about betterment to society in general.

Conclusion

It can be established that the odds are stacked against these Academic Robin Hoods and there is a reasonable chance that the Delhi HC may issue a dynamic injunction against Sci-Hub. This would not only bring an end to the source of academia to many, but would also set a precedent and disincentivize other websites that indulge in privacy, including those on the film and infographic fronts as well.³¹

Further, it is argued that the onus to make more quality academic research accessible to the public should not be on piracy-based websites, rather must lie on the government in a country like India, where most research is publicly funded.

It is further stated that piracy in any form must be desisted from and relying on the same would reduce the credibility of the same, hence the author is against the mode of which Sci-Hub

³⁰The Copyright Act, 1957, Act 14 of 1957, Section 32A.

³¹ SCI-HUB Case: Legally Removing the Barriers in the Way of Science. NLUJ LAW REVIEW, <http://www.nlujlawreview.in/sci-hub-case-legally-removing-the-barriers-in-the-way-of-science/> (last visited Jun 30, 2021)

operates, however is not in opposition of the purpose and object i.e., ‘Knowledge for All’.

To replace dependency on sources such as Sci-Hub, the government or concerned legitimate organizations would need to formulate policy and infrastructure to accommodate the same.

One such example would be ‘cOAlition S’ launched by the European Research Council and the European Commission, which aims to make open access to all research a possibility by focusing on a ‘Plan S,’³² which makes the requirement of ensuring that research publications as a result of grants are allocated by the Coalition is in no way monetized mandatory.

The ‘Project Deal’ focused on by the German Reactors’ Conference has been given the task to negotiate open access deals with large commercial publishers such as Springer Nature. Observing the same, numerous countries such as Finland and Netherlands have followed suit.

In the Indian Context, the government has already expressed its ambition through the ‘One nation, One Subscription’ policy, by which it proposes to purchase subscriptions to numerous scientific journals in bulk and provide free access to everyone in India.

Although this is mooted as a permanent solution to the high prices to the exorbitant prices that the normal citizen would otherwise have to shell out, it is to be noted that the burden would still remain on the citizen as it would increase the tax burden on the tax paying population by ₹1500 crores, which is a large amount for a country as large as India.

The author is in strong belief that a system where researchers are remunerated for their research be implemented so as to check the excessive and unjustifiable profits of the publishing houses. Further, key research work as may be identified must be reclassified as open access so as to provide the entire world free access to knowledge that would otherwise be very expensive to avail. Thus, in conclusion, the author argues that the matter in question is a balancing act between legitimacy of copyright claims, the access to knowledge and the affordability thereof. The current Delhi HC case will stand as a testament and would tip the scale towards determining whether India depends on free knowledge without conditions or whether there are strings attached.

³² About; what is cOAlition S, PLAN S, <https://www.coalition-s.org/about/>. s