A Right to Research in India: Copyright, Text and Data Mining, and Open Science Reform

Reclaiming User Rights in the Age of Open Science and Artificial Intelligence

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Abstract

Copyright is commonly described as a system of exclusive rights granted to creators, but it also determines what others, including researchers, may lawfully do with protected works. Indian copyright law contains no explicit text-and-data-mining exception, no settled rule on whether Section 52(1)(a)(i) protects computational copying for research, and no statutory mechanism to distinguish public-interest research from commercially deployed, market-substituting AI systems. Applying a doctrinal and comparative legal methodology, the analysis examines the constitutional foundations available in Articles 19(1)(a), 21, and 51A(h), the architecture of Section 52(1)(a)(i) of the Copyright Act, 1957, the Delhi High Court's reasoning in *Rameshwari Photocopy*, and the Court's 2026 interim decision in *ANI Media Pvt Ltd v OpenAI OpCo LLC*. It evaluates the scientific-access crisis evidenced by the Sci-Hub litigation and the "One Nation One Subscription" scheme and critically examines the Department for Promotion of Industry and Internal Trade's proposed "One Nation, One Licence, One Payment" AI-licensing framework against the Berne/TRIPS three-step test. The proposed framework combines a non-waivable research and text-and-data-mining exception for public-interest and academic research with a separate licensing framework for commercial exploitation, machine-readable rights reservations, and a statutory Secondary Publication Right for publicly funded research. The proposed framework is a reform proposal and does not suggest that Indian law currently recognises a freestanding Right to Research.

Keywords: Copyright, Right to Research, Fair Dealing, Section 52, Text and Data Mining, Artificial Intelligence, Open Access, Sci-Hub, ANI Media v OpenAI, Rameshwari Photocopy, Secondary Publication Right, India

Introduction: Reconceptualising Copyright as User Rights

Copyright law is commonly described as a system of exclusive economic rights granted to creators. This description is accurate but incomplete. Copyright equally determines what everyone else may lawfully do with protected works: read them, quote them, teach with them, research them, analyse them, preserve them, transform them, and build upon them[1]. The boundary between the exclusive rights of copyright owners and the legitimate uses of researchers has become substantially more consequential as scientific literature is increasingly distributed through digital platforms under contractual and technical access controls that shape not only who may read a work but whether it may be computationally analysed[2].

Copyright law has always had to strike a balance. It gives creators exclusive economic rights, but it must also leave enough room for the public to obtain and use information that supports education, research, and scientific progress. In this discussion, "copyright maximalism" refers to an approach that treats limitations and exceptions as narrow concessions within a much wider domain of private control. That approach can have serious consequences where universities and research institutions do not have equal access to knowledge. Researchers may have formal permission to undertake research, yet still lack the practical ability to obtain and analyse the material they need. This concern is especially relevant in India and eleswhere. As the country expands its digital economy and research capacity and pursues its stated ambitions in artificial intelligence[3,4,5], Indian intellectual property law must confront a basic question:

should computational analysis be treated as a normal part of research, or as an activity that is presumptively restricted unless a commercial licence has been obtained?

India has a substantial publicly funded research system, and its digital knowledge infrastructure continues to grow. Even so, researchers do not enjoy equal access to scholarly material across institutions[6,7,8]. The Government's One Nation One Subscription (ONOS) programme is an important attempt to reduce subscription barriers through public funding. Yet ONOS remains a centrally negotiated subscription scheme; it does not, by itself, move the research system towards open access. A researcher's ability to obtain and use scholarly work should not depend entirely on a subscription, a licence, or affiliation with a particular institution. Copyright law should therefore preserve a legitimate space in which research can be carried out as a meaningful user right. This broader principle is described here as the Right to Research (R2R).

The Problem Addressed

Indian scholarship has already developed the normative foundations of a Right to Research by linking copyright limitations, access to knowledge, fair dealing, and constitutional values. In the article, "Right to Research and Copyright Law: From Photocopying to Shadow Libraries," Ram Mohan and Gupta examined whether Indian copyright law could accommodate a Right to Research, linking fair dealing, open access, shadow libraries, and constitutional principles[1]. The present analysis does not claim that prior scholarship has overlooked the intersection of Indian copyright law, text and data mining, and generative AI; recent scholarship has begun to examine this intersection directly. What remains unresolved is narrower and more specific. Indian copyright law contains no precise text-and-data-mining exception, no settled rule on whether Section 52(1)(a)(i) protects computational copying undertaken for research, no statutory framework for contractual override or machine-readable rights reservations, and no coherent mechanism for distinguishing public-interest research uses from commercially deployed, market-substituting AI systems.

Recent developments have brought this unresolved question into sharper legal and practical focus. The Delhi High Court's interim decision in *ANI Media v OpenAI*[9] suggests that Section 52 may be capable of technologically adaptive interpretation, but it does not finally determine the legal status of AI training or define the boundaries of permissible computational research. At the same time, ONOS expands subscription-based access but does not itself establish a generally applicable statutory entitlement to analyse, mine, reproduce as necessary for research, or openly disseminate publicly funded scholarship. Three questions therefore guide the analysis: (1) to what extent can Section 52(1)(a)(i) accommodate computational research and text and data mining; (2) what legal uncertainties remain after *ANI Media v OpenAI*, particularly regarding lawful access, commerciality, contractual restrictions, and market substitution; and (3) what statutory model could protect public-interest research while preserving remuneration for genuinely commercial exploitation. Building on the case-study of the ANI decision, the analysis makes three contributions: it reconceptualises the Right to Research as a three-layer framework of access, research use, and dissemination; it develops an operationally specified dual-track distinction between research-oriented computational copying and market-substituting commercial deployment; and it integrates text-and-data-mining rights, machine-readable reservations, and secondary publication rights into a single, internally consistent Indian reform model.

Methodology and Scope

The analysis employs a doctrinal and comparative legal methodology. It examines the text and judicial interpretation of relevant Indian constitutional and copyright provisions, selected policy developments affecting scholarly access and computational research, and targeted foreign models of text-and-data-mining and secondary-publication rights. These models were selected because each represents a distinct legislative approach a mandatory research-organisation exception, a broader opt-out exception, and a

non-waivable secondary-publication right rather than to provide an exhaustive survey of comparative law. The recommendations are normative rather than predictive and do not claim that Indian law presently recognises a freestanding Right to Research. Throughout, four categories of claims are distinguished: current law (what the Constitution, the Copyright Act, and the courts presently provide); legal gaps or uncertainties (what current law does not clearly resolve); the proposed Right to Research framework (the normative contribution developed in Part III); and proposed statutory reforms (concrete legislative recommendations). The terms "Right to Research," "R2R," and "user right" are used interchangeably to refer to the normative framework proposed in Part III; "research exception" and "research use" refer to existing and proposed statutory permissions. Part I sets out current law; Part II identifies where that law is inadequate or uncertain; Part III develops the proposed framework; and Part IV considers its implications, limits, and effects on stakeholders.

Part I: What Indian Law Currently Provides

Constitutional Foundations Relevant to Research

The Constitution does not expressly mention the Right to Research, and no Supreme Court judgment has declared a freestanding fundamental right of that description. However, three provisions supply the constitutional context within which Indian courts have already been willing to interpret copyright limitations and exceptions.

Article 19(1)(a): Free Speech, Expression and Circulation

Article 19(1)(a) guarantees to all citizens the freedom of speech and expression. In *Romesh Thappar v State of Madras*, the Supreme Court held that this freedom necessarily encompasses the "freedom of circulation" and propagation of ideas[10]. In *Wiley Eastern Ltd v Indian Institute of Management*, the Delhi High Court went further and explicitly tied intellectual property exceptions to Article 19(1)(a), holding that the basic purpose of Section 52 is to protect the fundamental freedom of expression[11]. The Jammu and Kashmir High Court, in *Romesh Chowdhry v Kh Ali Mohamad Nowsheri*[12], ruled in comparable terms that copyright holders cannot use the law to "close all the doors of research and scholarship and all frontiers of human knowledge."[12] Research is closely connected with freedom of expression because it involves acquiring information, examining and evaluating competing claims, and communicating the resulting findings. The argument, however, must be stated with some caution. Research may fall within the constitutional interests protected by Article 19(1)(a), and those interests may inform the interpretation of statutory copyright limitations. This does not mean that Article 19(1)(a) by itself creates an independently enforceable Right to Research.

Article 21: Life, Dignity and the Acquisition of Knowledge

Article 21 protects life and personal liberty, and courts have held that "life" includes the right to live with human dignity and the full development of mental and intellectual faculties. In *Rabinder Nath Malik v Regional Passport Officer*, the Delhi High Court held that personal liberty includes a "right to acquire useful knowledge" among the privileges necessary for the orderly pursuit of human happiness[13]. The Supreme Court subsequently adopted an expansive reading of Article 21 in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, affirming that life encompasses the facilities necessary for "reading, writing, and expressing oneself in diverse forms."[14] Neither decision establishes a constitutional entitlement to any specific copyrighted work; both establish a constitutional environment in which access to knowledge is relevant to the content of dignity and liberty.

Article 51A(h): The Duty to Develop Scientific Temper

Article 51A(h) imposes on citizens the fundamental duty to develop scientific temper, humanism, and a spirit of enquiry and reform. Although fundamental duties are not directly enforceable in the same

manner as fundamental rights, Article 51A(h) is a significant constitutional expression of India's commitment to scientific reasoning and guides the state and courts to interpret knowledge-sharing laws in a manner aligned with scientific progress. Table 1 maps these three provisions against their core judicial interpretation and their relevance to a prospective Right to Research; it should be read as a statement of existing constitutional material, not as a claim that any of these provisions has already been judicially recognised as establishing that right.

Table 1: Constitutional Foundations Relevant to a Right to Research in India

Constitutional Provision	Core Judicial Interpretation	Relevance to Right to Research
Article 19(1)(a) (Free Expression)	Encompasses freedom of circulation and propagation of ideas (Romesh Thappar[10]); Section 52 protects free expression (Wiley Eastern[11])	Supports reading research and its dissemination as expressive activity that copyright limitations may legitimately protect
Article 21 (Life and Dignity)	Includes the right to acquire useful knowledge (Rabinder Nath Malik[13]) and facilities for reading, writing and expression (Francis Coralie Mullin[14])	Frames access to knowledge as relevant to the constitutional content of dignity and liberty
Article 51A(h) (Scientific Temper)	Establishes a civic duty to foster scientific inquiry and reform	Provides interpretive support for reading statutory research exceptions generously, though not independently enforceable

Doctrinal Limits of the Constitutional Argument

The constitutional case made above should be read subject to four limits. First, constitutional values inform statutory interpretation; they do not displace Parliament's authority to define the scope of copyright exceptions, and a court asked to read Section 52 generously is engaged in interpretation, not in creating a new constitutional entitlement. Second, Articles 19(1)(a) and 21 have generally been read as restraints on state action and, in *Rameshwari Photocopy*, as an aid to construing a statutory defence against a private infringement claim; neither has been read as conferring a agnostic positive claim to obtain or use any particular copyrighted work, and the argument advanced here does not suggest otherwise. Third, copyright owners also hold constitutionally relevant interests, since Article 300A protects property against deprivation except by authority of law[a]. In the copyright context, this supports the principle that any substantial limitation on the rights of copyright owners should have a clear statutory basis and should not depend on an unlegislated judicial displacement of those rights. Fourth, the Right to Research proposed here is accordingly best understood as an interpretive principle for courts and a legislative agenda for Parliament, rather than a presently enforceable fundamental right that could override Section 52 or the Copyright Act as it stands.

The Copyright Act, 1957 and Section 52

The Indian Copyright Act recognises interests beyond those of copyright owners. Section 52 identifies numerous non-infringing activities, including research, criticism, review, education, judicial

[a] Constitution of India, art. 300A.

proceedings, library preservation and accessible-format uses.[15] Unlike the United States, which employs an open-ended fair use doctrine under 17 U.S.C. § 107, India specifies statutory exceptions under Section 52. Section 52(1)(a)(i) permits fair dealing with any work, other than a computer programme, for private or personal use, including research. Significantly, unlike Sections 52(1)(ad), 52(1)(k)(ii), 52(1)(l), 52(1)(n) and 52(1)(o), which expressly impose non-commercial or non-profit conditions, Section 52(1)(a)(i) contains no such restriction. The Delhi High Court recognised this legislative distinction in *ANI Media Pvt Ltd v Open AI OpCo LLC* (paras 176–179)[9], holding that commercial use does not, by itself, exclude the availability of the fair-dealing defence. Accordingly, research undertaken in academic or commercial settings is not automatically excluded from protection, provided that the statutory purpose and fairness requirements are satisfied.

The provision imposes no quantitative copying limit for research comparable to the numerical limitations found in some educational provisions, which creates flexibility but also genuine uncertainty regarding how much copying is permissible, whether commercial entities can invoke the exception, whether computational copying qualifies, and whether contracts can override statutory rights.

The Rameshwari Photocopy Legacy

The conceptual foundation of user rights in Indian copyright law was significantly articulated in *The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services*[16]. The case concerned course packs prepared for Delhi University students by a photocopying service. The Single Judge held that Section 52(1)(i) protected reproduction by a teacher or pupil in the course of instruction. In December 2016, the Division Bench in RFA(OS) 81/2016 set aside the dismissal of the suit and held that factual issues remained to be determined, including whether the extent of reproduction was permissible; it accordingly restored the suit for trial and directed that the parties be permitted to lead expert evidence (paras 56, 79–81).[16] The publishers subsequently withdrew the suit in 2017.

The Single Judge's judgment contains an influential formulation of copyright as a statutory mechanism serving public intellectual enrichment, stating that copyright is intended to "increase and not to impede the harvest of knowledge" (para 80).[16] However, this formulation should not be overstated. The Division Bench did not establish a general right to reproduce copyrighted works for research purposes; its decision concerned the specific educational context of Section 52(1)(i), while also recognising that factual questions concerning the extent and circumstances of copying required determination (paras 75, 79–80).[16] The significance of *Rameshwari Photocopy* is therefore methodological: copyright limitations should be interpreted in light of the statutory purpose of promoting access to knowledge, rather than on the assumption that every limitation is merely a narrowly construed derogation from an otherwise unlimited private entitlement. This purposive approach is reinforced by the Supreme Court's reasoning in *Entertainment Network (India) Ltd v Super Cassette Industries Ltd*, which treated statutory licensing provisions as mechanisms for balancing copyright-owner interests with public access rather than interpreting them in isolation from the statutory purpose.[17] It is also consistent with *Academy of General Education, Manipal v B Malini Mallya*, where the Supreme Court reaffirmed that copyright protection attaches to the form, manner, arrangement and expression of an idea, rather than to the underlying idea itself.[18]

Part II: Where Current Law Is Inadequate or Uncertain

The Scientific Access Crisis: Paywalls, Shadow Libraries and ONOS

The scientific publishing system creates a distinctive relationship between publicly supported research and private access to research results. Considerably scholarly research is publicly supported, yet access to the resulting published outputs often requires subscriptions or article-level payments. Commercial scholarly publishers have been criticised for high prices and substantial profit margins, although market concentration and profitability vary across firms and publishing segments. For resource-constrained

Indian institutions, these costs can pose a significant barrier. India's Gross Expenditure on Research and Development (GERD) was ₹2,44,767.81 crore, equivalent to 0.84 per cent of GDP, in 2023–24, according to the Department of Science and Technology (DST).[19] This level of R&D expenditure, together with uneven institutional resources, underscores the importance of affordable and open access to publicly supported research. This structural pressure has coincided with the rise of shadow libraries such as Sci-Hub and Sci-Net/LibGen. In *Elsevier Ltd v Alexandra Elbakyan*, major publishers sued Sci-Hub before the Delhi High Court from 2020 onward.[20] While Sci-Hub provided access to tens of millions of papers, the Court, after finding a breach of an earlier undertaking concerning post-2022 uploads, issued comprehensive domain-blocking orders in August 2025. These orders directed internet service providers to block Sci-Hub, its mirror sites, and Sci-Net, describing the sites as rogue websites. A Right to Research does not require defending the unauthorised mass distribution of copyrighted works, and two distinct questions must not be conflated: whether shadow libraries lawfully reproduce and distribute copyrighted works (which they do not), and whether persistent access barriers create a legitimate policy case for reform (which they do). Persistent access barriers may contribute to the demand for alternative access routes, including unauthorised ones; this possibility strengthens, without on its own proving, the case for lawful access reform[7,8,21].

The Government of India's ONOS initiative, approved in November 2024 with an allocation of approximately ₹6,000 crore for 2025-2027, funds nationwide reading access to more than 13,000 e-journal titles from over 30 publishers for eligible government-managed higher-education and central-government R&D institutions[6,22]. ONOS is a significant public intervention and should not be dismissed as ineffective; however, it remains fundamentally a subscription solution. The state negotiates access on behalf of participating institutions, which is analytically different from changing the underlying copyright relationship between authors, publishers, and researchers. Although ONOS includes central support of approximately ₹150 crore per year for open-access publication charges for beneficiary authors in selected journals, it does not itself establish universal access, a general statutory right of reuse, a text-and-data-mining exception[22] nor does it establish a statutory secondary publication right.[32,34] Institutions outside its eligible categories, including many private colleges and independent researchers, also fall outside its coverage. Subscription access is access by permission and contract; a Right to Research is a legal framework defining the minimum uses that should remain available independently of that permission. Accordingly, ONOS should be understood as an access initiative complementary to, rather than a substitute for, a statutory research exception.

Computational Research and Text and Data Mining: The Statutory Gap

The second major transformation concerns the nature of research itself. Traditional copyright analysis assumes a human researcher who obtains a work, reads it, extracts information, and produces new scholarship. Modern computational research can instead involve constructing a corpus from millions of works, converting them into machine-readable form, and extracting statistical or linguistic features, a process that necessarily involves copying, storing, and processing copyrighted material at scale[23]. Text and data mining (TDM) therefore exposes a structural problem: the researcher, or a machine acting under research direction, may need to reproduce a work not to consume its expressive content but to analyse it computationally.

India presently has no dedicated, general statutory TDM exception comparable to Articles 3 and 4 of the European Union's Digital Single Market Directive, which mandates a TDM exception for research organisations with lawful access and a broader exception subject to machine-readable rights reservation[24]. The United Kingdom permits computational analysis for non-commercial research with lawful access and renders contrary contract terms unenforceable, while Germany's Section 60d permits reproduction for scientific research by qualifying organisations subject to specified conditions.[20,25,23]

Section 52(1)(a)(i) may potentially accommodate some computational research in India, since it is not confined by its terms to non-commercial or individual human reading, but its application to large-scale computational copying remained uncertain until it was tested directly in *ANI Media v OpenAI*.

Case Study: ANI Media Pvt Ltd v OpenAI OpCo LLC

ANI Media Pvt Ltd v OpenAI OpCo LLC concerned ANI's claim that OpenAI had infringed copyright by copying and storing ANI's news material to train its large language models and by producing outputs that allegedly reproduced ANI content[9]. On July 24, 2026, Justice Amit Bansal of the Delhi High Court declined ANI's application for an interim injunction. The Court applied a two-part test to OpenAI's Section 52(1)(a)(i) defence: a Purpose Test and a Fairness Test. On the Purpose Test, the Court held that commercial use is not disqualifying, since Section 52(1)(a) contains no non-commercial requirement, unlike other specific exceptions within the same section that expressly state so (Judgment, ¶¶176-179, citing *Super Cassettes Industries Ltd v Hamar Television Network Pvt Ltd*)[26]; that the training data had been obtained from publicly accessible sources rather than an already-infringing one; and, drawing on the Supreme Court of Canada's reasoning in *CCH Canadian Ltd v Law Society of Upper Canada* that research must be given "a large and liberal interpretation,"[27] that building an LLM's underlying knowledge base is itself a form of research within Section 52(1)(a)(i) (Judgment, ¶180)[9]. On the Fairness Test, the Court found no evidence that OpenAI's use had caused ANI to lose subscribers or subscription revenue (Judgment, ¶¶250-251)[9], noted the public-interest benefit of large language models in education, research, and accessibility, and observed that requiring a licence from every data source would make building such systems "economically unviable" (Judgment, ¶268)[9]. At the interim stage, the Court considered that OpenAI's retention of ANI's copyrighted works for the purpose of training its models was covered by the research-related fair-dealing provision in Section 52(1)(a), and therefore did not, on the Court's prima facie assessment, constitute infringement (para. 256).[9]

ANI Media should not be read as establishing a general statutory exemption for AI training. The decision was made at an interim stage; it does not finally determine the copyright status of AI training in India, nor does it establish that all AI training is protected by Section 52. Questions concerning lawful access, the character of outputs, market substitution, and the ultimate scope of "research" under Section 52 remain contested and will require further judicial development, most likely at trial and potentially on appeal. Its significance lies not in resolving these questions but in the Court's willingness, at the interim stage, to consider machine-learning activity within the contemporary meaning of "research." That reasoning provides a starting point for asking whether Parliament should establish clearer statutory rules for computational research and TDM. Framed as an interpretive question: if "research" in Section 52 is technologically neutral, should computational research receive the same legal protection as conventional research where the purpose is knowledge creation rather than reproduction or market substitution? The answer advanced here is generally yes, subject to the carefully designed boundaries specified in Part III below.

The DPIIT "One Nation, One Licence, One Payment" Proposal

In December 2025, the Department for Promotion of Industry and Internal Trade (DPIIT), through a committee constituted in April 2025, issued a working paper proposing a hybrid "One Nation, One Licence, One Payment" framework combined with a proposed Copyright Royalties Collective for AI Training (CRCAT), under which lawfully accessed copyrighted content used for commercial AI training would attract a mandatory blanket licence with centralised remuneration to rights holders[28]. The proposal recognises that AI training can create substantial economic value and that creators should not necessarily go uncompensated. However, stakeholder submissions to DPIIT have raised concerns about the proposed blanket licensing model. The Business Software Alliance (BSA) has argued that computational processing and intermediate reproductions undertaken during AI training should be distinguished from

the expressive exploitation of copyrighted works, and has questioned the feasibility of the proposed royalty mechanism and revenue-based calculations.[39] SFLC.in has similarly raised concerns regarding mandatory licensing, the absence of meaningful opt-in or opt-out mechanisms, implications for open-source and voluntary licensing arrangements, and the proposed remuneration framework.[40] These concerns highlight a broader conceptual difficulty: not every act of copying undertaken for computational processing is necessarily equivalent to the commercial exploitation of creative expression.

A university researcher analysing agricultural literature, a public institution using machine learning for disease mapping, and a commercial company training a general-purpose AI model deployed as a paid service involve different purposes and economic contexts. They are therefore not economically or normatively equivalent. A licensing framework should distinguish these uses when determining its scope, remuneration obligations and applicable safeguards; treating them identically would make the legal framework unnecessarily vague. Table 2 compares DPIIT's proposed blanket model with the dual-track framework proposed in Part III.

Table 2: Policy Comparison between the DPIIT Blanket Licensing Model and the Proposed Dual-Track R2R Framework[28]

Policy Dimension	DPIIT Proposed Blanket Model	Proposed Dual-Track R2R Framework
Data Ingestion and TDM	May treat text and data ingestion for commercial AI training as requiring a mandatory licence	Codifies an explicit, non-waivable statutory TDM exception for public-interest and academic research
Commercial AI Training	Mandates flat percentage royalty fees collected by a central state collective (CRCAT)	Permits commercial TDM on lawfully accessible data by default, subject to machine-readable opt-outs
Creator Sovereignty	Channels creators into a statutory licensing pool, limiting rights retention	Preserves creator choice to donate to open commons or negotiate individually or through data cooperatives
Start-up Impact	Compliance costs and licensing fees likely to weigh more heavily on smaller developers	Removes upfront licensing barriers for research and early-stage domestic AI development

Compliance with the Berne/TRIPS Three-Step Test

Any expanded research exception must satisfy India's international obligations. Article 9(2) of the Berne Convention and Article 13 of the TRIPS Agreement confine limitations and exceptions to certain special cases that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of right holders[29]. Applied separately to the categories this article proposes to protect: non-commercial research TDM is a special case defined by lawful access and research purpose, and does not conflict with normal exploitation because it does not substitute for the market in reading access itself; public-interest computational research by public institutions raises a similar analysis, subject to the same lawful-access precondition; commercial research with no market substitution is the most contested category, and its compatibility depends on maintaining the safeguards proposed below, including a requirement that the resulting system not compete directly with the protected work; controlled retention and security of research copies is consistent with the test provided that copies are not redistributed and

are subject to reasonable technical safeguards; and a non-waivable statutory override of contrary contract terms is more difficult to justify under the third step in the abstract, but is consistent with comparable UK and German provisions restricted to non-commercial or clearly defined research uses, which this article's Track I likewise adopts as a limiting condition. A plausible objection is that licensing markets for TDM and AI training are emerging and that the proposed exception would therefore conflict with normal exploitation in a way it would not have a decade ago. This article's answer is that the exception proposed in Part III is deliberately confined to non-market-substituting research uses, defined by lawful access, necessity, non-redistribution, and controlled retention, and channels commercially deployed exploitation into Track II licensing precisely so that emerging licensing markets for commercial use are preserved rather than displaced. The WIPO Copyright Treaty confirms that limitations and exceptions can be extended to the digital environment and that countries may devise new exceptions appropriate to technological change, provided the applicable conditions are satisfied;[30] WIPO's own typology work on limitations and exceptions for research and educational institutions, and the African Group's 2025 draft instrument before the WIPO Standing Committee on Copyright and Related Rights, confirm that this remains a live and unresolved question of international copyright policy[31].

Part III: The Proposed Right to Research Framework for India

The following framework is a normative proposal, not a claim that a separate Right to Research presently exists under Indian law. It recommends how Parliament, courts, and policymakers could develop such a right consistently with India's constitutional values, the doctrinal limits identified in Part I, and India's international obligations.

Defining the Proposed Right to Research

The proposed Right to Research is a user right encompassing lawful access to, analysis of, computational processing of, and legitimate dissemination of knowledge necessary for research, subject to safeguards protecting the legitimate interests of copyright holders. It has three practical dimensions: access – the meaningful ability to obtain and read materials needed for research; analysis – the ability to reproduce or process materials as necessary for legitimate research, including computational analysis; and reuse – the ability to communicate research findings and build on existing knowledge without unnecessary copyright barriers. None of these dimensions creates an unlimited right to copy or redistribute copyrighted works; the proposed right remains limited by the legitimate interests of creators and the distinction between research use and market substitution.

Proposed Constitutional Basis

Articles 19(1)(a), 21, and 51A(h), read together and subject to the doctrinal limits identified above, provide a persuasive constitutional foundation for interpreting research-related copyright limitations generously (Table 1). The constitutional case is one of interpretive harmony rather than an unconnected entitlement: where Parliament has created a research-related limitation in Section 52, courts should interpret it consistently with these constitutional values, and a future court could plausibly extend the reasoning in *Rameshwari Photocopy* and *Wiley Eastern* to computational research on this basis.

A Proposed Dual-Track Research and TDM Exception

A dual-track statutory framework for research and TDM would distinguish protected research use from commercial exploitation.

Track I (Research Use) would establish an express statutory entitlement for scientific, humanities, and computational research, including TDM, research-oriented machine learning, corpus construction, statistical and linguistic analysis, and reproducibility. It would apply where:

(i) eligible users include individual researchers, universities, public research institutions, and other entities whose activities satisfy the statutory conditions, regardless of their organisational status;
(ii) lawful access is obtained through subscription, purchase, licence, open access, or other lawful means, without circumventing technological protection measures or access controls;
(iii) copying, retention, and processing are limited to what is reasonably necessary for the research, with appropriate safeguards and no public redistribution beyond what the research requires;
(iv) commercially funded research remains within Track I where its primary purpose is research and the resulting output is not itself a commercial product exploiting the underlying works; activities primarily directed towards commercial deployment fall within Track II;
(v) model weights, embeddings, and derived datasets may be retained for verification and reproducibility but may not be redistributed as substitutes for the underlying works or commercially exploited without the rights required under Track II;
(vi) once lawful access and a qualifying research purpose are established, the party alleging infringement bears the burden of showing that the use falls outside Track I; and
(vii) contractual terms purporting to waive the Track I entitlement are unenforceable to that extent, without affecting legitimate terms governing access, authentication, or security.

Track II (Commercial Exploitation) would govern commercial AI deployment and other uses beyond protected research. Such uses would generally require licensing and appropriate remuneration, including collective licensing where individual licensing is impractical. A machine-readable rights-holder opt-out could apply to Track II commercial TDM, but would not override the non-waivable Track I research entitlement.

Two examples illustrate the distinction. A university–industry collaboration using a lawfully licensed agricultural corpus remains within Track I where the model is used solely for research; if the activity shifts to developing a commercial product, it moves to Track II. Similarly, a start-up using a lawfully accessed corpus solely to reproduce or verify published research may fall within Track I, whereas using the same corpus to train a general-purpose commercial AI model would fall within Track II. The framework therefore distinguishes research use from commercial exploitation, rather than simply public from private or academic from commercial users.

Proposed Machine-Readable Rights Reservations

A technically interoperable rights-reservation system, drawing on Article 4 of the EU DSM Directive, would permit rights holders to reserve TDM rights through machine-readable means, including metadata or website terms[24]. The system would communicate, in a standardised form, whether commercial TDM or model training is permitted, together with relevant licensing contacts and retention conditions. Because the mechanism would govern Track II commercial uses**,** it would operate alongside, and not restrict, the non-waivable Track I research entitlement.

A protocol such as *robots.txt* could form one component of the system but should not, by itself, be treated as a complete rights-management mechanism. A more robust approach would combine machine-readable metadata, standardised declarations, and interoperable technical protocols.

Implementation costs are a practical concern, particularly for individual authors, small scholarly societies, and specialist or multilingual Indian publishers. A shared sector-level registry could therefore host machine-readable reservations on behalf of smaller rights holders at no direct cost to them. The registry could be supported through the remuneration mechanisms established under Track II licensing.

A Proposed Secondary Publication Right

The Right to Research should not be confined to access and analysis; it must also address what happens after research is completed. Authors frequently transfer substantial rights to publishers under standard publication agreements, which can prevent them from making their own publicly funded research openly available[34]. A secondary publication right (SPR) addresses this by giving authors, or their institutions, a statutory right to make a research work openly available after primary publication under defined conditions, overriding contrary publisher terms. Germany introduced such a right under Section 38(4) of its Copyright Act, effective from 2014[25], and a 2025 comparative study identifies Germany, France, Austria, Belgium, the Netherlands, and Bulgaria among European Union member states with some form of SPR[33]; EIFL's 2025 draft model provision similarly treats SPR as a statutory backstop distinct from, but complementary to, voluntary rights-retention policies adopted at the point of publication[32].

A comparatively simple Indian SPR for publicly funded research should require that the work arise from research substantially funded by public resources; preserve the author's statutory right to deposit the accepted manuscript in an institutional, disciplinary, or national repository, such as the proposed INDSTA repository under the draft 5th Science, Technology, and Innovation Policy[35]; render contrary contractual terms ineffective; permit only a limited, clearly defined embargo where justified; require attribution; and exclude commercial exploitation of the deposited version unless separately licensed. Rights retention and secondary publication rights are complementary rather than interchangeable: the former allows an author to retain sufficient rights before publication so that later open dissemination remains possible, while the latter operates as a statutory safety net capable of overriding restrictive contracts. A statutory measure is preferable to reliance on funder mandates or negotiated publishing contracts alone because it applies uniformly regardless of an individual funder's or institution's bargaining power. Together, these mechanisms would convert public funding into a more durable public-access entitlement, complementing rather than displacing India's existing open-access and diamond open-access infrastructure.

A Three-Layer Model of Research Rights

The resulting framework can be usefully visualised as three layers. Layer 1 (Access) concerns lawful access to knowledge through open access, repositories, libraries, and public infrastructures. Layer 2 (Research Use) concerns the statutory user right proposed above: to read, reproduce as necessary, analyse, mine, compute, train research models, and verify and reproduce research. Layer 3 (Dissemination) concerns the mechanisms that enable researchers to share results through open access, secondary publication, rights retention, repositories, and open licences.

Research Data, Facts and the Limits of Copyright

Not all research material is copyright-protected in the same way. Facts and raw data are generally not protected by copyright merely because they have been collected; copyright may protect the original selection or arrangement of data, and databases or other sui generis regimes may separately apply, a distinction WIPO's own guidance on copyright and on the protection of non-original databases confirms varies by jurisdiction.[36,37] An over-expansive copyright claim can therefore transform access to information into a form of control over knowledge that copyright law was never designed to create. Any statutory reform should make explicit that copyright protects original expression without becoming a proxy for controlling the underlying facts, observations, measurements, and knowledge necessary for research, a principle of particular importance in fields such as climate science, genomics, agriculture, biodiversity, and public health.

The Global South Dimension

The research-access problem has a distinct Global South dimension. Researchers in well-resourced institutions generally have access to comprehensive library subscriptions, institutional repositories, inter-library loans, and dedicated research databases; researchers outside these institutions frequently do not,

a disparity documented in the literature on research access in low- and middle-income countries and on structural barriers in open-access publishing[7,8,38]. A copyright system that assumes institutional access risks reproducing existing inequalities, which is why the Right to Research should be understood not as a privilege for professional academics within elite institutions but as part of a broader access-to-knowledge framework, particularly relevant in a country such as India, with a large higher-education system and considerable variation in institutional resources. This dimension also complicates the debate about AI: unequal access to data, computing resources, and scholarly literature may constrain participation in AI research by institutions in lower-resource settings,[4,8] a risk a research-centred copyright framework of the kind proposed here can help to reduce, without on its own resolving the underlying disparities in funding and infrastructure.

A Proposed Remuneration Principle

Where commercial AI systems make extensive use of copyrighted works, remuneration may be justified. Remuneration should, however, be linked to commercial exploitation rather than triggered automatically by every act of research copying. Table 3 sets out the proposed treatment for each category of use and the operational test for determining the applicable category, ensuring that classification does not rest on a conclusory label alone.

Table 3: A Proposed Remuneration Framework and Operational Test

Use	Proposed Treatment	Operational Test
Individual research reading	No licence required	Lawful access; no reproduction beyond ordinary reading
Non-commercial research copying	Statutory exception (Track I)	Lawful access; copying necessary for research; no redistribution
Scientific text and data mining	Statutory exception (Track I)	Lawful access; copies retained securely; not offered as a product
Public-interest computational research	Statutory exception (Track I)	Public institution; lawful access; research, not deployment, is the purpose
Commercial research with no market substitution	Presumptive exception, subject to safeguards (Track I, reviewable)	Lawful access; resulting system does not compete directly with the protected work; no redistribution
Commercial AI training for deployment	Licensing and remuneration framework (Track II)	Output is offered or sold as a commercial product or service
Redistribution of a copyrighted corpus	Licence required	Corpus, or a substantial part of it, made available to third parties
Output substantially reproducing protected expression	Ordinary infringement rules apply	Output reproduces a substantial part of the protected expression, regardless of Track

This is not a proposal to eliminate remuneration; rather, it is a proposal to target remuneration at the economic exploitation that actually justifies it, leaving legitimate research unencumbered by licensing frictions, while leaving the final classification of a disputed case to be tested against the operational criteria in Table 3 and the borderline examples given above, rather than against the use label alone.

Part IV: Implications, Safeguards and Conclusion

Implications for Stakeholders

For researchers and universities, a statutory research and TDM exception coupled with a secondary publication right would provide the legal certainty currently lacking under Section 52(1)(a)(i) and reduce reliance on ad hoc institutional negotiations. For public research institutions, a non-waivable Track I entitlement conditioned on lawful access would enable large-scale computational projects without exposing them to open-ended infringement risk. For publishers and creators, the dual-track model preserves licensing revenue from genuinely commercial exploitation while reducing incentives to litigate against legitimate research uses. Rights retention, together with a statutory SPR safety net, preserves author choice rather than displacing the existing publishing market. For AI developers, a workable rights-reservation infrastructure would enable commercial and research status to be determined before large-scale processing, reducing the kind of interpretive uncertainty illustrated by the ANI Media litigation. For Global South researchers, a functional Right to Research understood as a capability rather than merely a formal permission would reduce the risk that AI-era research infrastructure excludes researchers outside well-resourced jurisdictions, although it cannot alone address the underlying funding and infrastructure gaps identified above.

Rights-Holder Interests and Safeguards

A research-enabling framework can still produce uneven distributive consequences, and rights holders' interests deserve the same care as researchers' interests. Independent authors, small scholarly societies, specialist and multilingual publishers, journalists, database producers, and holders of indigenous and traditional knowledge face risks that a large, well-resourced technology company does not. Four safeguards are therefore necessary. First, to prevent a developer from mischaracterising commercial development as research, Track I eligibility should turn on the operational criteria in Table 3—particularly whether the resulting system is offered or sold as a commercial product—rather than on the user's self-description; misuse should attract liability equivalent to ordinary infringement. Second, the shared, sector-level rights-reservation registry described above would prevent the cost of machine-readable infrastructure from falling on individual authors, small societies, or specialist publishers unable to participate in Track II licensing on terms comparable to those available to large publishers. Third, the framework would not extend to material whose use could cause harm independent of copyright infringement, including confidential information, personal data, and unpublished works shared in confidence, nor would it authorise circumvention of separate legal protections for traditional knowledge or culturally sensitive material, which remain governed by their own legal regimes. Fourth, Track II's default rule would not displace collective or voluntary licensing; sectors in which those mechanisms already function effectively, including existing collecting societies, could continue to use them.

Current Law and Proposed Reform: A Summary

Table 4 separates the current Indian position from the reforms proposed here.

Table 4: Current Indian Position and Proposed Reform

Issue	Current Indian Position	Proposed Reform
Right to Research	No express freestanding fundamental right	Recognise R2R as an interpretive constitutional principle and statutory user-right framework
Research under Section 52	Expressly included in Section 52(1)(a)(i), scope uncertain	Clarify and strengthen statutory research protection
Text and data mining	No dedicated general TDM exception	Introduce an explicit, non-waivable statutory TDM exception (Track I)
AI and computational research	Judicially developing; ANI Media is significant but interim	Codify protection for legitimate computational research on the operational terms in Table 3

Issue	Current Indian Position	Proposed Reform
Commercial AI training	Policy debate; DPIIT has proposed a blanket licensing framework	Separate commercial exploitation from research use (Track II)
Secondary publication	No general statutory Secondary Publication Right	Introduce a statutory SPR for publicly funded research
Rights retention	Addressed only through varied institutional and funder policy	Strengthen through statute alongside the proposed SPR
Machine-readable TDM signalling	No comprehensive statutory framework	Introduce an interoperable rights-reservation mechanism, hosted centrally for smaller rights holders
ONOS	A government subscription and access programme with limited APC support	Treat as complementary to, not a substitute for, statutory user rights
Sci-Hub and shadow libraries	Addressed through infringement and blocking orders	Address the underlying access problem through lawful statutory reform

Conclusion

When commercial paywalls restrict researchers' access to scientific literature, proposed regulatory models risk subjecting computational analysis to licensing without distinguishing research from commercial deployment, and intellectual property ceases to function as an engine of progress and instead impedes research capacity. India already has important constitutional and statutory building blocks: Article 19(1)(a) protects expression; Article 21 has been interpreted to include the facilities necessary for intellectual life; Article 51A(h) recognises scientific temper; Section 52 expressly protects research[10-15]; and the Rameshwari Photocopy jurisprudence provides important purposive reasoning concerning copyright's role in promoting access to knowledge.[16] The 2026 decision in *ANI Media v. OpenAI* brought this reasoning into the AI era through a broad and liberal reading of "research" under Section 52(1)(a)(i), although the decision remains interim and subject to further judicial development.[9]

The central question is, should Indian copyright law merely ask what copyright permits researchers to do, or should it also identify what researchers must be permitted to do if copyright's constitutional and public purposes are to be fulfilled? India should move towards a statutory framework, interpreted consistently with constitutional values, that recognises research as a protected user interest while maintaining appropriate protection and remuneration for creators and genuinely commercial exploitation. A dual-track statutory model, specified in the operational terms set out in Part III, would allow India to move beyond treating research exceptions as narrow, defensive carve-outs. It would recognise researchers as rights-bearing participants in the copyright system, preserve rights holders' legitimate interests, and position India to contribute distinctively to the global reform conversation on copyright, open science, and artificial intelligence. The immediate implication is interpretive: courts applying Section 52(1)(a)(i) today can already draw on the constitutional and purposive reasoning set out in Parts I and III. The dual-track exception, the machine-readable reservation system, and the statutory Secondary Publication Right, by contrast, require legislative enactment and form a reform agenda for Parliament rather than a description of the law as it currently stands.

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