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Fair use doctrine in copyright law is meant to balance a copyright holder's rights with the public interest. It allows the public to engage with knowledge and cultural goods without getting permission from the copyright holders for every use. Where this balance lies is not a simple legal question, but determined by interpretive questions of who, why, and how much of a copyrighted work is involved.

Commercial uses of copyrighted works without permission are usually disfavored in a fair use analysis. However, in the United States, there have been contestations that have led to favorable outcomes for private entities like Google, Amazon, and universities. In India, a recent decision held that a copyshop making photocopies of books to create course packages was "fair dealing" due to the "public interest" in access to knowledge.

This case was seen as a deviation from the normative foundations of fair use as it blatantly allowed unauthorized commercial use. However, this view stems from the widely held notion that fair use is a flexible standard in the US, and a narrowly construed provision in South Asian jurisdictions. This dichotomy also removes the social and political context in which copyright law is constructed, imposed and implemented.

This paper is an examination of the differences between the law on paper and law on the ground with regards to fair use and access to knowledge. I examine the structures and implementation of the colonial copyright regimes that govern South Asia. I argue that efforts to remedy the issues with access to knowledge through the inclusion of exceptions like fair use do not address the underlying inequities affecting the balance between copyright holders, often based in developed countries, and the public in South Asia.