

## **PARALLEL IMPORTS, EXPORTS AND EDUCATIONAL TITLES: REPORT BY P-PIL**

### **Introduction:**

A copyright provision seeking to legalise parallel imports of copyrighted works into India has engendered fierce debate between publishers and public interest advocates.

The copyright amendment bill was introduced in Parliament in 2010 and was immediately referred to a Parliamentary Standing Committee for review.<sup>1</sup> The Standing Committee heard various stakeholders and came up with its report, largely endorsing the government provisions in the amendment bill.<sup>2</sup> One such provision is a new proviso to the existing section 2(m), which reads as below:

*"[P]rovided that a copy of a work published in any country outside India with the permission of the author of the work and imported from that country into India shall not be deemed to be an infringing copy".*

Publishers are heavily opposed to this proposed amendment, and argue that it sounds the death knell of the industry.<sup>3</sup>

They also assert that there is no "availability" and "accessibility" issue in India, since most foreign titles (latest editions) are available in India at cheaper prices and in a timely manner. Our research demonstrates that these assertions are empirically false, at least for titles related to law and social sciences.

We consider a total of 1554 foreign titles acquired by the 2 libraries (NLS and NUJS) between the period January, 2009 and February, 2011 (26 months), and find that the

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<sup>1</sup> The Copyright (Amendment) Bill, 2010, available at <<http://www.prsindia.org/uploads/media/Copyright%20Act/The%20Copyright%20Bill%202010.pdf>>, was introduced in the Rajya Sabha on April 19, 2010. It was referred to the Standing Committee on April 23, 2010.

<sup>2</sup> The Report, available at <<http://www.prsindia.org/uploads/media/Copyright%20Act/SCR%20Copyright%20Bill%202010.pdf>> was published on November 23, 2010. For a review of this report, see SpicyIP posting at <<http://spicyipindia.blogspot.com/2010/11/parliamentary-standing-committee-tables.html>>. The Committee however sought changes in some critical provisions, such as the one relating to disabilities.

<sup>3</sup> Illustratively, see Thomas Abraham's opinion at <<http://www.hindustantimes.com/StoryPage/Print/652735.aspx>>.

latest editions of every foreign title is available in India only at a price that is equal to or even higher than those prevailing in the US and UK.

There is no reason to believe that the position is vastly different for other educational titles such as medicine and engineering. However, if need be, P-PIL could confirm this in the coming weeks.

Before moving on to the “empirical” data and our findings in this regard, we wish to dispose of two arguments made by publishers in relation to the purported catastrophe that would be unleashed by section 2(m).

### **Remaindered Copies:**

Publishers point to the prospect of flooding of the local Indian market by “*remaindered copies*”, a phenomenon that is yet to be witnessed in other countries that have legalized parallel imports. This fear of flooding has been already been addressed in two newspaper editorials:

- i) Rahul Mathan’s article titled ‘*Nobody’s about to kill books*’ in the Indian Express;<sup>4</sup> and
- ii) Prof. Shamnad Basheer’s article titled ‘*Remainders of the day: a case for parallel imports*’ in the Mint.<sup>5</sup>

In the Mint piece, Prof. Basheer notes that:

*“The key objection stems from a fear of “remaindering”, a phenomenon triggered by excess stocks of book titles, which forces publishers in Western markets to sell copies at dirt-cheap prices. Indian publishers worry that these remaindered copies will flood the domestic market and kill their business.*

*However, even in countries that permit parallel imports, such as Australia, there is little real evidence of such flooding. Therefore, the Indian government ought to insist on empirical proof substantiating the magnitude of this alleged remaindering threat.*

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<sup>4</sup> <<http://www.indianexpress.com/news/nobodys-about-to-kill-books/746845/>>

<sup>5</sup> <<http://www.livemint.com/2011/02/25195802/Remainders-of-the-day-a-case.html>>

*Assuming that remaindering is a danger potent enough to hurt booksellers here, the solution is rather simple. Given that Western publishers have effective control over “remaindered” copies before they are released into a “parallel” market, a contractual safeguard would redress this issue. In other words, the Western publisher can be contractually bound by the copyright owner to ensure that surplus copies of books that are of interest to India are returned by bookstores and shipped to the Indian publisher. This will cut out third-party “remaindering” profiteers who wish to plunder the Indian market. Further, it will yield extra profits for publishers and authors.*

*Alternatively, one can simply carve out an exception to section 2(m) to prevent copies labeled as “remaindered” from getting into India. This would be a far better solution than dispensing with the section altogether.”*

### **Threat of Exports:**

Publishers also point to the threat of exports, a concern adequately represented by them to the Parliamentary Standing Committee. The Committee in turn expressed the publishers’ concern thus in their report:

*“With this amendment, the low priced editions meant for Indian sub-continent could be exported back to the country of their origin where they were priced at much higher rates. Consequently, the publishers would lose the incentive to sell books in India or in the Indian sub-continent at subsidized prices. Reason being that foreign publishers would not like to grant the reprint rights to Indian publishers fearing low priced Indian editions flooding and diluting their own markets.”<sup>6</sup>*

This is a serious and misguided conflation of the “import” and “export” issue. Section 2(m) deals only with parallel imports and not with the legality of exports outside India. If exports are their concern, publishers must articulate it separately and bring it on the “policy” table.

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<sup>6</sup> Department-Related Parliamentary Standing Committee on Human Resource Development 227<sup>th</sup> Report on the Copyright (Amendment) Bill, 2010, Page-19, available at <<http://www.prsindia.org/uploads/media/Copyright%20Act/SCR%20Copyright%20Bill%202010.pdf>>.

It is pertinent to note that the Delhi High Court endorsed an explicit right to prevent export last year in two cases involving the publisher *John Wiley & Sons*.<sup>7</sup> However, this judgment is suspect as it literally conjures up such an exclusive right to prevent exports out of thin air.

The Indian copyright scheme is very clear in that any book copy that has been sold once can be freely circulated thereafter.<sup>8</sup> This circulation would ordinarily include an “export” as well. In fact, the Indian Copyright Act expressly states that only those books that are issued under “compulsory licenses” are prevented from being exported.<sup>9</sup> This could be taken to mean that for all other books, there is no separate right to prevent exports.

Publishers perhaps fear that it is only a matter of time before the incorrectly reasoned *John Wiley* judgment is overturned.<sup>10</sup> If that is their angst, they must advocate for a separate statutory right to prevent exports, albeit one that is separate and distinct from the issue of imports. And must foster a healthy policy discussion on this count, where the key question that is posed is this: Ought India to grant such a separate right and bear the costs associated with its enforcement, particularly when publishers are free to prevent exports by bringing legal action in the countries of import, such as the US or the EU, that boast more sophisticated enforcement machineries?

Shoehorning the exports concern into the “parallel imports” framework will conflate issues and lead nowhere.<sup>11</sup>

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<sup>7</sup> *John Wiley & Sons & Ors. v. Prabhat Chander Kumar Jain & Ors.*, CS (OS) No.1960/2008, at <<http://lobis.nic.in/dhc/MAN/judgement/19-05-2010/MAN17052010IA113312008.pdf>>; *John Wiley & Sons v. International Book Stores & Ors.*, CS(OS) No. 2488/2008, at <<http://lobis.nic.in/dhc/MAN/judgement/19-05-2010/MAN17052010IA113312008.pdf>>. For a critical review of this case, see Pranesh Prakash, Manupatra.

<sup>8</sup> Explanation to S. 14, Indian Copyright Act, 1957.

<sup>9</sup> S. 31, Indian Copyright Act, 1957.

<sup>10</sup> The case has now been listed for trial before the Delhi High Court. See Prashant Reddy, *An Update on the Wiley cases and Parallel exports*, available online at <http://spicyipindia.blogspot.com/2011/03/update-on-wiley-cases-parallel-exports.html>.

<sup>11</sup> For a recent article by a publisher who falls prey to this conflation, see Divya Dubey, *Publishers have right to protect their territory*, available online at [http://www.twocircles.net/2011mar11/publishers\\_have\\_right\\_protect\\_their\\_territory.html](http://www.twocircles.net/2011mar11/publishers_have_right_protect_their_territory.html) and *Why hurry on*

## **Accessibility and Availability of Educational Titles in India:**

Publishers claim that there is no “availability” or “accessibility” issue of educational titles in India. Notably, the Standing Committee that reviewed the Copyright Bill and heard representations from most stakeholders captured the representations made by publishers<sup>12</sup> thus:

*“It was pointed out that in higher education, especially in medical and engineering, a lot of foreign books were being made available in India at low prices in spite of their being priced at much higher rate in the country of their origin.”*

More recently, in an opinion editorial titled ‘*The Death of Books*’, Thomas Abraham, MD of Hachette India and one of the most vocal critics against section 2(m) asserts:<sup>13</sup>

*“The ministry mandarins also seem to have the absurd belief that publishers don’t bring in current editions. Every single major book — whether a medical textbook or the latest blockbuster like a Harry Potter or Stephanie Meyer — is available the same day as its release worldwide and 35% cheaper, with textbooks being 80-90% cheaper.”*

In another public forum,<sup>14</sup> Mr Abraham, while critiquing the allegedly mindless introduction of section 2(m) asks “*Name one single major book (college text or fiction/non fiction blockbuster) that is not available in India at the same time and much cheaper. Also please demonstrate where low price editions are invariably the old ones*”.

For the purpose of empirically testing these assertions by publishers, P-PIL considered a small basket of educational books, mainly centred on law and social sciences.

P-PIL (Promoting Public Interest Lawyering) was recently formed to further the cause

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*copyright law, 2(m) should be reciprocal says BJP*, available online at <http://dearddsez.blogspot.com/2011/02/book-link-cover-story-and-editorial-why.html>

<sup>12</sup> Parties that were heard by the Standing Committee included the Federation of Indian Publishers and Association of Publishers in India.

<sup>13</sup> <<http://www.hindustantimes.com/The-death-of-books/Article1-652735.aspx>>

<sup>14</sup> <<http://dearddsez.blogspot.com/2011/01/thomas-abrahams-rebuttal-to-why.html>>

of public interest through the instrumentality of law in India.<sup>15</sup> It aims to create synergies between law schools, the legal profession and various other stakeholders to leverage their respective talents and resources in order to achieve shared public interest goals.

Recently, it co-ordinated and helped with the filing of a public interest litigation that questioned the constitutional competence of the Intellectual Property Appellate Board (IPAB), a petition that was admitted by the Chennai High court.<sup>16</sup>

It also submitted representations to the Ministry of HRD asking that the principle of “reciprocity” be respected in relation to sound recordings and that the copyright act be amended to make this clearer.<sup>17</sup> It also asked that section 45 of the copyright act mandating a no objection “trademark” certificate for artistic works be deleted, since it does nothing more than engender corrupt practices at India’s trademark office.<sup>18</sup>

## Data Set and Interviews

P-PIL corresponded with various librarians, including the librarians of National Law School of India University, Bangalore (NLS), Centre for Studies in Social Sciences (CSSS) at Calcutta and also National University of Juridical Sciences, Calcutta (NUJS).

We checked the Accession Registers of NLS and NUJS and found that the total number of foreign title acquisitions in the period ranging from Jan 2009 to Feb 2011 (a period of 26 months) amounted to 1554.

Our key finding is that each of these titles are available in India only at a price that is equal to or even higher than those prevailing in the US and UK.

From amongst the 1554 titles, we selected a representative sample of 53 foreign titles (12 books from NLS and 41 from NUJS). See **Annexure B** titled “*Sample data collected*”

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<sup>15</sup> See <<http://p-pil.com>>

<sup>16</sup> <<http://www.thehindubusinessline.in/2011/01/21/stories/2011012152251300.htm>>

<sup>17</sup> Shamnad Basheer “Changing our Tune”, Indian Express, 15th Jan 2011  
<<http://www.indianexpress.com/news/changing-our-tune/737681/>>

<sup>18</sup> Shamnad Basheer

*from NLSIU Library*” which includes 12 books and **Annexure C** titled “*Sample data collected from NUJS Library*” which includes 41 books. These 53 books are representative in that they include 41 unique publishers. It bears noting that our assertions are true for each such publisher and for the entire basket of 1554 foreign books that were acquired.

In addition to the law libraries, we also contacted 21 distributors across the country and one senior official from Oxford University Press, India (OUP).

It is pertinent to note that NLSIU and NUJS are amongst the top 3 leading law schools in the country and their libraries qualify as leading libraries in their specific subject areas in India. It is also pertinent to note that the libraries of the national law schools stock a number of social science titles (economics, sociology, history etc), given that these law schools offer an integrated 5 year B.A., LL.B. program that teach both law and social science subjects and pretend to foster a multi-disciplinary approach to the study of law.

The data collected helps us address two claims made by publishers:

- i) *there is no "availability" issue for any educational title in India and that the latest editions of all foreign titles are available in India within a time-frame equal to or close to the date of first publication and release of such title in the Western markets.*
- ii) *there is no "accessibility" issue in India, since most titles have Indian editions and/or are sold at significant discounts compared to US and EU.*

We deal with each claim in turn.

### **Issue 1: Availability of Book Titles in India**

As noted earlier, the two national law school libraries (NLSIU and NUJS) acquired around 1554 foreign titles during the period between January, 2009 and February, 2011 (a period of 26 months). Of these foreign titles, only a mere handful boasted equivalent low priced Indian editions. And even in cases of such rare low priced Indian editions, they were almost always older editions, when compared with counterparts in the West.

Illustratively, “Principles of Corporate Finance” by Richard Brealey, Stewart Myers and others, published by McGraw-Hill is currently in its 10<sup>th</sup> edition which was released in

2010. However, the low priced edition in India is still the 8<sup>th</sup> edition, an edition that was first introduced into Western markets in 2007. (For more such examples, see attached **Annexure A** titled “*Indian and International Editions*”). We also found that in rare instances where the Indian edition corresponded with the latest international edition, the said Indian edition was introduced after a significant period of time from the introduction of the international edition. An example is “Microeconomics” by Robert S. Pindyck and Daniel Rubinfeld. Both the international and Indian version of the book is the 7<sup>th</sup> edition. However, while the former was first published in 2008, the latter was introduced to India only in 2009.

What this indicates is that foreign publishers are routinely subjecting the Indian market to old and out-dated editions. It is not surprising therefore that librarians of the National Law Schools that we interviewed categorically informed us that they were not keen on purchasing these outdated editions, despite the cheaper prices. Rather, they would do so only in cases of extreme urgency (such as students demanding a title just before exams), where they were likely to face shipping and procurement delays with the import of the latest title from abroad.

### **Importing Foreign Titles:**

For the most part, law libraries acquire the latest foreign titles through their local distributors who import them at prices similar to those prevailing in the West. Add the shipping charges, and in many cases, these copies turn out more expensive than in the West.

Upon receiving orders from the national law school libraries, distributors either place orders directly with foreign publishers or their agents abroad **or** procure these books from websites such as Amazon and Abebooks. Given that some of these websites such as Amazon are hosted in foreign countries, a foreign currency account and a credit card are needed. Most leading distributors in the metro cities appear to have a foreign currency account, enabling them to import any book titles through the websites. However, none of the libraries that we spoke with had such an account and therefore could not directly procure them, but had to rely on distributors.

The National Law School (NLS) library in Bangalore is an exception, in that they claim to use their local distributor’s foreign currency account and card for these purchases. It is

pertinent to note that these libraries receive no discount on these orders, but are in fact, charged an additional 5% on the bill for using the card of the distributor.

Distributors that we spoke with opined that publishers have a deliberate strategy of introducing only out-dated editions into India. Given that older editions do not sell well in the western markets, they introduce them in developing country markets such as India to continue making money on such editions.

It is also pertinent to note that the law schools interviewed were the National Law School, Bangalore and the National University of Juridical Sciences, two of the leading law universities located in two prominent metro cities with access to leading distributors, who in turn are equipped to place online orders and/or procure directly from publishers abroad.

The vast majority of the other 913 odd law schools<sup>19</sup> are not likely to have access to such distributors or online import facilities. In fact, libraries of colleges such as Hazra Law College in Kolkata (a leading metro) do not have access to online purchases or leading distributors, such that that they can procure foreign titles without undue delay. All such colleges are likely to face a stark “availability” issue.

Further, many such text books are prescribed readings for students who often have to purchase them. Not many of them can be expected to have the resources to make online purchases at prices similar to those prevailing in the West.

Section 2(m) is the need of the hour, as it will likely foster an increasing number of distributors attracted by the new business opportunities and ready to scout for and service new markets, hitherto unaddressed by the leading distributors. This will in turn result in lower priced books being made available to many parts of India, including non urban areas.

## **Issue 2: Accessibility of Book Titles in India**

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<sup>19</sup> As per information available on the Bar Council of India website, available at <<http://www.barcouncilofindia.org/wp-content/uploads/2010/06/approvedlawcolleges.pdf>>

In terms of the “accessibility” and “pricing” issue, the results are again stark. As already noted earlier, most of the titles acquired by the leading law schools in India were acquired at prices equal to or higher than those prevailing in the West.

Our basket of titles for studying this issue consisted of 12 books from NLSIU and 41 from NUJS. As we’ve already noted earlier, this is a representative sample in that there are 41 unique publishers that have been cited in these 53 examples. Our assertions are true for each one of these unique publishers including Routledge, Cambridge University Press, Hart Publishing, etc. See **Annexure B** titled “*Sample data collected from NLSIU Library*” and **Annexure C** titled “*Sample data collected from NUJS Library*”.

As mentioned earlier, the NLSIU Library buys an overwhelming majority of its foreign titles from websites such as <www.amazon.com>. For this, it uses the distributor’s foreign currency account and card. Hence, the library is charged an additional 5% on the bill for using the card.

From the invoices that were made available, it was apparent that a significant shipping charge was added to the bill. Factoring in the 5% overhead that the distributors charge, the price of books shot up by a range of \$11.78 to \$51.90 per book. This meant that the cost of each book increased from around 17% to 165% per book. [See attached **Annexure B** titled “*Sample data collected from NLSIU Library*”]

Similar, for NUJS accessions as well, the prices were similar to, if not higher than prices prevailing in the US and UK. [See attached **Annexure C** titled “*Sample data collected from NUJS Library*”]. In our conversations with the CSSS librarian, he opined that a similar situation prevailed for CSSS as well.

### **Flipkart and other online options?**

During our conversations with publishers and their advocates, we were informed that law school libraries were not shopping around enough for cheaper versions. In particular, the allegation was that these law librarians failed to access websites such as Flipkart which invariably sold at prices lower than that available through distributors (who either use Amazon or procure directly from publishers or agents abroad).

While empirically testing this assertion, we find that it does not always hold true. See **Annexure E** titled “*Sample data from online book retail websites showing availability and*

*accessibility issues*” for details. There are 26 instances where Flipkart sells at a higher price when compared with direct purchases by distributors who procure books directly from publishers or their agents. In some case, the price differentials were as high as 30%!

Although the Flipkart prices were low in some cases, we found that the books were not always available. In particular, we found that:

- i) 5 books on Flipkart did not correspond with the latest editions
- ii) Some books were out of stock (meaning that they were not readily available and the website would notify once they were available)
- iii) One book (paperback) was not available at all (Flipkart only had the Hardbound edition and could not procure the paperback version)

See attached **Annexure E** titled “*Sample data from online book retail websites showing availability and accessibility issues*”]

More importantly, it must be borne in mind that the vast majority of Indian educational institutions and students may not have the resources to transact online and make such purchases.

*[nb: The conversion rates have been kept as US\$ =45, €=62 and £=75].*

### **Legal Uncertainty for Distributors and Libraries:**

Notwithstanding purchases of foreign titles via websites such as Amazon and Flipkart (either directly or through local distributors), it must be noted that the legality of such purchases are in doubt. If parallel imports are illegal under the current Indian copyright regime, it means that any copy purchased from a source other than the copyright owner or the authorised licensee for the Indian territory is in violation of current law.

In other words, if a book on Amazon or Flipkart is a copy made available by a source other than the copyright owner or Indian licensee, a distributor who purchases such copy and sells it to the libraries or other consumers in India is in violation of the current Indian Copyright Act. Libraries and other consumers that purchase such books from

Indian distributors therefore run the risk of either infringing directly or abetting an infringement. Section 2(m) would remove this legal uncertainty.

This position can be better understood with a little more discussion on the present scheme of the Copyright Act.

It must be noted at the outset that there is no express provision in the present Indian copyright scheme granting an exclusive right to “import” in favour of the copyright owner. Section 14 merely states that there is an exclusive right to “*issue copies of the work to the public not being copies already in circulation*”. The section then goes on to explain that “*For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.*”

One way to interpret this clause would be to suggest that the first copy referred to in the explanation above should have been sold legally in India. In other words, it must be sold by X who is the Indian copyright owner or a licensee with the right to “issue copies of the work to the public in India”.

By this interpretation, a seller on Amazon who is neither the Indian copyright owner nor a licensee authorised to sell in India is probably violating Indian copyright law by permitting the book to be sold to an Indian customer. This is despite the fact that the said seller may have legitimately purchased a copy of the book in the US or any other country abroad.

As to whether or not one could moot a claim that Amazon is contributing to that infringement is not clear at this stage.

Although the above mentioned seller may be violating Indian copyright law, the “library” that purchases the copy online is not in violation of the law. Again, as to whether or not the library could be said to aid and abet the infringement is a difficult question to answer: the likely result is however “no”, since the Indian copyright provision dealing with abetment of copyright infringement speaks of express knowledge of intention.<sup>20</sup>

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<sup>20</sup> S. 63, Indian Copyright Act, 1957.

Similarly, a distributor that purchases through an online source is also safe till the time of purchase. However, the moment the distributor sells that imported copy in India, he/she violates Section 14, which grants the exclusive right to issue copies only to the copyright owner or authorised licensee.

One needs to appreciate the above examples keeping in mind the below broad framework concerning the current publishing industry structure for educational titles.

1. A single copyright owner for the entire world
2. A copyright owner who assigns copyright to different publishers in different territories
3. A copyright owner who merely licenses different publishers in different territories, but retains the copyright himself/herself.

### **Conclusion:**

The P-PIL data demonstrates the publishers' assertions on availability and accessibility of educational titles to be empirically false. It bears noting that educational titles were foremost in the mind of the Government when it introduced section 2(m). The Parliamentary Standing Committee which reviewed the Bill noted in pertinent part that:

*"that availability of low priced books under the present regime is invariably confined to old editions. Nobody can deny the fact that the interests of students will be best protected if they have access to latest editions of the books."*<sup>21</sup>

*"Nobody can deny the fact that the interests of students will be best protected if they have access to latest editions of the books. Thus, apprehensions about the flooding of the primary market with low priced editions, may be mis-founded as such a situation would be tackled by that country's law. The Committee would, however, like to put a note of caution to Government to ensure that the **purpose for which the amendment is proposed i.e to protect the interest of the students is not lost sight of.**"*<sup>22</sup>

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<sup>21</sup> Department-Related Parliamentary Standing Committee on Human Resource Development 227<sup>th</sup> Report on the Copyright (Amendment) Bill, 2010, Page-66, available at <<http://www.prsindia.org/uploads/media/Copyright%20Act/SCR%20Copyright%20Bill%202010.pdf>>,

<sup>22</sup> *Ibid.*

Although our research and data pertain to law titles, there is no reason to suspect that the situation is vastly different for other areas of higher education such as medicine or engineering.

In terms of the availability of educational titles in India, our data shows that the latest editions are never made available in India. Only leading law schools with access to leading distributors are able to tap into online sources and procure latest editions quickly. The vast majority of other law schools in the non urban areas are not likely to have timely access to such titles. And even if they did, there is a severe “pricing” and “accessibility” issue, since almost all the latest editions of foreign titles are available at rates that are equal to or higher than rates prevailing in foreign countries. If at all low priced Indian editions are available, they are older editions and the national law school libraries expressed a great reluctance to waste money and offer their students only outdated editions. It must be appreciated that for students of law, engineering and medicine, it is imperative to keep up with the latest editions. Further, many such text books are prescribed readings for students who often have to purchase them. Not many of them can be expected to have the resources to make online purchases at prices similar to those prevailing in the West.

In this connection, it bears noting that the issue of access to educational books in India often depends upon the purchasing power parity of the average Indian student. See “GNIPC Comparative Price Tables” attached as **Annexure D**, which indicates the relevant price of a book in direct proportion to the Gross National Incomes Per Capita (GNIPC) of the country where it is sold, namely India, the US, UK and Netherlands. Illustratively, consider a book titled “*One Hundred Thousand Moons: An Advanced Political History of Tibet*” by Tsepon Wangchuk Deden Shakabpa, which costs €269 (or 371 USD) on the publisher’s website. If buyers in the US had to pay the same percentage of their income on this book as an average Indian, the book would cost approximately \$5236, a ludicrously high price by any standard! Even a comparatively more “affordable” book such as *The Politics of Global Governance: International Organizations in an Interdependent World* by Paul F. Diehl and Brian Frederking, which costs US\$ 26.50, ends up costing US\$ 373.93 on this relative GNIPC based metric; more than 14 times its original price!

It is therefore obvious that buyers in India have to spend a significantly higher percentage of their income to purchase international editions of books, in comparison with buyers in the West (for further examples, see **Annexure D** titled “*GNIPC Comparative Price Tables*”).<sup>23</sup>

In our opinion, a section authorising parallel imports is likely to increase the range and diversity of distributors and will bring in more lower priced versions to India. The amendment will not only ensure the legality of book imports by Flipkart and various Indian distributors, it will also force foreign publishers to make the latest editions available in India at prices that are affordable for Indian consumers, students and educational institutions.

As with other countries such as New Zealand, Australia (with a more qualified parallel import provision) and Japan, that have had parallel import provisions in their regimes for several years now with no debilitating impact on local publishers, section 2(m) will not destroy the publishing industry as claimed; but will contribute to the availability and accessibility of educational books in India.

If exports of low priced editions are the worry, they must be articulated separately and brought on the table. For this is an issue that is distinct from that of parallel imports and section 2(m).

**Nb:** we are fairly confident of the accuracy of our data, which can in any case be cross checked directly with the national law school libraries. Nevertheless, if there any discrepancies in our data or conclusions, we are more than happy to correct it. It bears noting that minor discrepancies in data ought not to impact our overall conclusion that, for the vast majority of legal titles acquired by leading law libraries, the prices were either the same or higher than the Western developed economies.

### **Research Conducted and Report Drawn up by P-PIL team consisting of:**

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<sup>23</sup> The tables have been adapted from “Reconsidering the pirate nation” by Achal Prabhala and Lawrence Liang, available at <<http://www.altlawforum.org/intellectual-property/publications/articles-on-the-social-life-of-media-piracy/reconsidering-the-pirate-nation>>.

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We deliberately avoid naming distributors and other stakeholders that we spoke with owing to their existing relationships with publishers.