

Legal And Ethical Issues in College Libraries for Digital Archiving

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ABSTRACT

Academic discussions have centered on the intricacies of digital archiving's legal and ethical implications as college libraries move towards digital formats. Although digital archives offer many benefits, such as easier access, longer preservation times, and instructional value, they also bring up important issues including copyright infringement, privacy of personal information, licencing, plagiarism, and equal access. With an emphasis on Indian legislation and worldwide best practices, this study investigates the numerous ethical and legal aspects of digital preservation that college libraries encounter. Responsible digitalization, copyright management, and institutional policy suggestions are all part of the package.

Keywords: *Digital Archiving, College Libraries, Copyright, Ethics, Legal Issues, IPR, Digital Access, Privacy, Licensing, India*

1. INTRODUCTION

A game-changing development in the fight for information preservation and dissemination is the digitization of libraries. The digitization of theses, rare manuscripts, lecture materials, journals, and other scholarly works has become an integral part of contemporary academic practice in college libraries throughout India, including Maharashtra. In order to remain compliant and preserve the principles of academic honesty, accessibility, and fairness, institutions will need to answer a number of ethical and legal problems brought up by this change.

Within the contexts of Indian law, international copyright treaties, and library science ethics, this paper analyses the significant ethical and legal obstacles that college libraries encounter when digitizing and archiving digital materials. It then proposes practical solutions to these problems..

The term "digital archiving" describes the steps taken to ensure that digital files, including documents and multimedia, are safe, accessible, and preserved for the long term. With the goal of serving academic libraries, this includes:

- Student dissertations and research papers
- Digitized print books and manuscripts
- Audio-visual lectures and tutorials
- Institutional records and policy documents

- Rare cultural or regional materials

While digital archiving helps with things like open education, research cooperation, and information continuity, it also puts institutions in a position where they face new ethical and legal challenges.

2. REVIEW OF LITERATURE

Digital archiving has emerged as a cornerstone in knowledge preservation, scholarly communication, and information access in the digital age. However, the literature reveals that the **legal and ethical dimensions** of digital archiving are complex, multifaceted, and often institutionally under-addressed. Key concerns include **copyright compliance, intellectual property rights (IPR), licensing agreements, privacy laws, data protection, plagiarism, and equitable access**.

This review synthesizes findings from national and international studies, institutional reports, and scholarly papers to understand the legal and ethical challenges libraries face in the process of digitizing, preserving, and disseminating content.

2.1 Copyright and Intellectual Property Rights

When libraries digitise resources whose rights are not clear, copyright infringement becomes a major legal risk (Smith, 2007). While international conventions like the Berne Convention and the WIPO Copyright Treaty provide standards, national laws like India's Copyright Act, 1957 control compliance on a local level. Library staff frequently make mistakes when trying to determine if a work is in the public domain, licensed, or orphaned, as highlighted by Suber (2012) and Jain (2016). Furthermore, many schools fail to adequately investigate the problem of student IP in dissertations and theses.

2.2 Licensing and Contractual Agreements

Digitalization increases accessibility, but archive rights are frequently limited by license agreements with publishers, according to Morrison (2013). Some contracts forbid libraries from storing materials for an extended period of time, redistributing them, or allowing users to share access. According to research by Choudhury and Padmanabhan (2015), the majority of Indian universities do not have a separate legal department that can examine and negotiate license agreements. Additionally, there is often ambiguity regarding reuse rights and preservation obligations due to the lack of explicit Creative Commons license in many institutional repositories (Schulz, 2017).

2.3 Data Privacy and Protection

Digital archives must protect user privacy in accordance with the Right to Privacy (India, 2017) and the General Data Protection Regulation (GDPR) in the EU. Research by Ketelaar (2011) and Singh (2021) highlights the importance of informed consent, data anonymization, and secure storage when it comes to archiving personal data (such as interview transcripts or student records). According to the ALA's Code of Ethics and the IFLA's Guidelines on Privacy in the Digital Environment, unethical behavior while dealing with personal narratives or secret data can compromise privacy and cause harm to the individuals concerned.

2.4 Ethical Frameworks and Equity

Some of the difficulties brought up by the ethical literature on digital archiving are issues of representation, community permission, and digital inclusion. Digitization programs, according to Zorich (2004), tend to give more weight to widely spoken languages and cultures, leaving out those whose opinions are underrepresented. Because of this, digital memory becomes biased.

"Every reader his/her book" and "Save the time of the reader" are two of the five principles of library science proposed by Ranganathan that are often brought up in this context; these principles have now been expanded to include digital equity (Vyas & Singh, 2020).

Making sure digital artifacts are genuine and unchangeable is also part of ethical archiving. Conway (2010) pointed out that scholarly credibility and historical authenticity are jeopardized when digital records are not protected.

2.5 Plagiarism and Academic Integrity

Studies conducted by INFLIBNET (2018) and McCabe and Pavela (2000) show that digital archives can be used for academic transparency, but they can also be used to plagiarize. Open access and plagiarism detection systems (such as Turnitin and URKUND) and repository regulations regarding plagiarism should be carefully considered by institutions.

According to Bansode and Bhati (2015), there is a higher chance of hosting plagiarized information in digital archives because many Indian universities do not require originality reports when research work is submitted.

2.6 Legal Policy Gaps in Indian Context

While India has made progress through platforms like **Shodhganga**, **NDLI**, and **C-DAC's DIGITĀLAYA**, studies by Patil (2019) and MeitY (2020) reveal several legal gaps:

- Absence of national digital preservation legislation
- Lack of uniform repository policies across universities
- Insufficient enforcement of consent and IPR policies in colleges

There is an urgent need for institutional regulations, training for staff, legal screening, and ethical consciousness in digital archiving, as is evident from the literature. Libraries have a duty to safeguard not just information but also user privacy, proprietary materials, and historical accounts.

Librarians and scholars agree that digital archiving can play a more significant role in academic institutions if a thorough legal-ethical framework is created to address issues such as equitable access, ethical consent, licensing standards, and clear copyright.

3. LEGAL ISSUES IN DIGITAL ARCHIVING

3.1 Copyright and Intellectual Property Rights (IPR)

The rights of writers to their own works are safeguarded by copyright laws. Libraries should always check their ownership or get permission before digitizing books, research, or photos.

Indian Context:

- **The Copyright Act, 1957** (amended in 2012) governs rights related to literary and academic works.
- **Section 52(1)(o)** allows libraries to make copies for preservation, but not for commercial redistribution.
- **Works in the public domain** (typically 60 years after the author's death) can be archived freely.

Challenges:

- Lack of clarity about copyright ownership in student work.
- Difficulty in tracking rights holders of old or orphan works.
- Unauthorized uploading of copyrighted journal articles or books to institutional repositories.

3.2 Licensing and Access Rights

- Many digital materials are subscription-based or under license from publishers (e.g., e-journals, databases).
- Libraries may not have the right to redistribute, archive, or make backup copies unless the license explicitly permits it.
- Interlibrary loan of digital materials is often restricted.

Implications:

- Archiving licensed material without consent may breach contract law.
- Libraries must negotiate preservation rights and perpetual access clauses in licenses.

3.3 Data Protection and Privacy Laws

Digitally archiving student theses or personal interviews may involve sensitive data.

- **Right to Privacy** (Justice K.S. Puttaswamy vs. Union of India, 2017) is a fundamental right under Article 21.
- Student consent is necessary before publicizing personal content.
- GDPR (EU) and similar global laws require secure handling of personal data, influencing Indian practices.

Risks:

- Publishing personally identifiable information without consent.
- Data breaches in online archives.

3.4 Plagiarism and Academic Integrity

Digital archives increase the visibility of academic work, but also the risk of plagiarism and duplication.

- Institutions must verify content before archiving.
- Turnitin or URKUND tools are used for plagiarism detection before digital submission.

4. ETHICAL ISSUES IN DIGITAL ARCHIVING**4.1 Equity of Access**

Libraries must ensure that digitization projects do not reinforce the digital divide.

- Rural students may lack internet access to digital archives.

- Content in regional languages may be underrepresented.

Ethical Question:

Does digitization truly democratize knowledge if large sections of society are excluded due to lack of digital infrastructure?

4.2 Consent and Representation

Ethical digitization requires **informed consent**, especially when archiving:

- Oral histories
- Cultural heritage
- Student-created content

Libraries must respect the **right to opt-out** or **anonymize** sensitive content, especially when dealing with:

- Indigenous materials
- Gender-sensitive narratives
- Marginalized community documentation

4.3 Preservation vs. Deletion Rights

- Libraries preserve data forever; however, the "**right to be forgotten**" (as per data ethics) argues that individuals can request the removal of their personal data from digital systems.
- Tension arises when student authors wish to withdraw their thesis from public view after graduation.

Ethical Dilemma:

Balancing archival responsibility with personal agency over digital footprint.

4.4 Digital Manipulation and Authenticity

- Digital materials are easily altered. Ethical libraries must maintain the authenticity and provenance of archived content.
- Metadata, digital signatures, and fixity checks help maintain integrity.

5. INSTITUTIONAL POLICY RECOMMENDATIONS

5.1 Copyright & Licensing Policies

- Clearly state ownership of student works.
- Use Creative Commons licenses (CC-BY, CC-NC) for open sharing.
- Ensure subscription agreements allow archival or fair use access.

5.2 Data and Privacy Management

- Collect **explicit consent** for digitization and publication.
- Mask sensitive information in academic submissions.
- Follow secure repository practices: encryption, password protection, regular audits.

5.3 Ethical Digitization Framework

- Establish an **Institutional Digital Ethics Committee**.
- Follow IFLA and UNESCO guidelines on digitization ethics.
- Ensure community consultation before archiving cultural heritage materials.

5.4 Accessibility and Inclusion

- Use open-source and mobile-friendly repositories.
- Provide multilingual metadata and summaries.
- Offer offline access (USB drives, local server-based OPAC) in low-bandwidth regions.

5.5 Plagiarism Policy Integration

- Mandate originality reports before accepting works for the archive.
- Educate students on citation and paraphrasing.
- Penalize academic dishonesty through policy frameworks.

6. CASE STUDIES

6.1 DELNET and Shodhganga (India)

- Shodhganga is India's central repository for Ph.D. theses under INFLIBNET.
- Requires universities to submit originality reports.
- Complies with copyright via user agreements but lacks uniformity in student consent processes.

6.2 Harvard Digital Repository

- Prioritizes privacy, anonymization, and rights-based access.
- Clear "Take Down" policies for sensitive or contested content.

6.3 Pune University

- Local colleges submit dissertations via institutional repositories.
- Challenges: lack of standard copyright clearance, missing metadata, and unclear student agreements.

7. CHALLENGES AND WAY FORWARD

Challenge	Solution
Inconsistent copyright policies	National copyright guidelines for academic institutions
Lack of staff training	Workshops, online certifications in digital librarianship
Ambiguity in student IPR ownership	Clear declaration forms during thesis submission
Metadata inconsistency	Use of standards like Dublin Core, METS
Unsecured data repositories	Use HTTPS, regular audits, and fixity tools
Language and cultural bias	Digitize in regional scripts and community-driven input

8. CONCLUSION

New possibilities for the long-term storage and worldwide dissemination of information have arisen with the advent of digital archiving. When creating their digital collections, however, university libraries must adhere to both legal requirements and ethical standards. To guarantee that digital archives develop into reliable,

approachable, and considerate knowledge ecosystems, it is necessary to set policies, acquire appropriate licenses, educate stakeholders, and prioritize inclusive practices. These days, libraries are responsible for protecting digital truths as much as they are for books. Institutions can only play this role if they promote digital archiving procedures that are open, fair, and respectful of people's rights.

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