PARALLEL IMPORT OF COPYRIGHTED WORK IN PAKISTAN

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ABSTRACT
Parallel import can be defined as importing goods through parallel means. Imported goods are genuine and original but importing means is not authorized one. This piece of research analyzes the current copyright law of Pakistan to find out that whether parallel imported goods are legally allowed in Pakistan or not? It also throws some light on internationally adopted laws for this matter. Furthermore, it will give some important recommendation according to the finding based on this analysis. It will recommend the solutions keeping in view the developing status of country.

Keywords: Copyrights, Parallel Import, Doctrine of Exhaustion.

INTRODUCTION
Parallel Import of Copyrighted goods in Pakistan is a phenomenon of importing copyrighted material in Pakistan -without the consent of copyright owner. The phenomenon of parallel import is supported by doctrine of exhaustion. Exhaustion doctrine has three types i.e. national, regional and international. International exhaustion validates parallel import of genuine copyrighted material. This research discusses the phenomenon of parallel import in an international regime in cross comparison with Pakistan’s jurisdiction. In particular, it discusses TRIPS, EU directive, US and copyright law of India on international exhaustion of copyrights and parallel import. The research also analyzes the current copyright law of Pakistan and explores the validity of parallel import of copyrighted work in Pakistan. Lastly, this research makes suggestion for Pakistan, being a developing country, in terms of its acceptance or rejection to parallel import phenomena.

This study is pertinent because Parallel Import of Copyrighted material reduces monopoly in the market & encourages healthy competition. It enables the consumers to get genuine copyrighted material at either lower or negotiable prices. It eradicates the monopoly of a single distributor/owner. Consumers can get the International author’s books etc. at a reasonable price. Parallel Import also prevent the copyright owner from dividing the market & promote International/Free Trade.

Parallel Import of Copyrighted material promotes free trade & brings uniformity in the world. International bodies have been trying their best for a long time to promote international trade and to reduce the barriers to trade. Efforts are being made to assist International trade by International bodies so the Parallel Import is also a method to promote free trade.

Parallel Import of Copyrighted material is especially beneficial for the end consumer i.e. the general public. Laws are made to regulate and assist the lives of the public & Parallel Import also benefits the public by providing them copyrighted material on low prices.

Chapter one introduces the copyrights in detail. It elaborates the doctrine of exhaustion and its regimes. It also mentions the advantages and disadvantages of parallel import briefly. It explains the parallel import and how it takes place. The second chapter explains the copyrights and parallel import of copyrighted material under international legislations. It states about the United States, European Union laws and Laws of Indian on the concerned matter. The third chapter, which is the main focus of the research, states about the copyright law of Pakistan and the legal status of parallel import under the legislation of Pakistan. As Pakistan is a developing country so debate between developed and developing country is also discussed in this chapter. Afterwards, it suggests some solutions for the issue faced by Pakistan regarding present legislation on this matter. The research has been concluded with a comprehensive conclusion at the end.
REVIEW OF LITERATURE
Parallel Import is the topic of many pieces of research studies and debates but it has no single definition (Lipner, 1990). It can be understood as a phenomenon of importing products through an authorized agent.

Parallel Import or Gray Market goods, both are original and genuine goods. But the only difference is that gray market goods are imported by an unauthorized person from one market to another market (Duhan, 1998, p. 77-78).

Parallel Import means to Import genuine and legal goods, product or material which is related to Intellectual Property right or Copyrights of a person who invented it. Parallel Import doesn’t raise a question on the Product/material i.e. on its originality or genuineness but it is related to the channel of importation of that material to another country. The person who is importing the genuine material is not the authorized person (Agrawal, 2011, p.124-125). It is clear from the previous mentioned line that the product is genuine and original so the owner of intellectual property (involving copyright owner) can’t argue on the originality of the goods or material and he can’t argue that the material is fake. The material is reproduced by the copyright owner or Intellectual property right owner. Here the question is not about the originality of material, a question arises that Is it possible for copyright owner or intellectual property right owner to control the subsequent sale once he put his/her material or product in the market? On this point, comes the First Sale Doctrine or Doctrine of Exhaustion. According to Christopher Heath, “it’s not the right that is exhausted but the possibility of exercising it”. This line means that the rights of Intellectual Property Owner or copyright owner are not exhausted on the first but only the right to further distribution or subsequent sale is exhausted (Heath, 2004, p.13). Joseph Kohler introduced the Doctrine of Exhaustion at the start of the 20th century (Heath, 2004, p.14). Regarding Parallel Import, J. Kohler’s concept of Exhaustion means only national exhaustion and not International Exhaustion (Heath, 2004, p.16).

It is difficult to bring all the countries on the same page regarding this issue. Many international treaties are silent about Parallel Import (World Intellectual Property Organization [WIPO], 1999). Though Parallel Import of Coprighted material limits the rights of copyright owner but it is not infringing the right of the copyright owner. Moral rights remain with Copyright owner for the lifetime only financial rights are exhausted on the first sale (Bansal, 2006). Copyright owner enjoys all the rights on the first sale, the first sale in itself ensures the financial benefit of the copyright owner (Mittal, 2013, p.515-517).

If Parallel Import of Copyrighted material is allowed, it will promote the competition in the market. Publishers will be benefited by Parallel Import of Copyrighted work. Fast release of new material, researches etc. will be possible by Parallel Import (Jain, 2005, p. 285).

Information & Knowledge should be free or available on low cost to the public which is possible by Parallel Import. Parallel Import is based upon the doctrine of exhaustion which creates the balance between royalties of Copyright owner & requirements of the general public. It gives benefit to Copyright Owner on its first sale, afterwards it gives the benefit to the general public. When conflict arises between the benefit of private person & public at large, benefit of general public should prevail. This doctrine is not leaving the Copyright owner in a loss as he enjoys all his control & benefits on the first sale & later he has all other enjoyments over his work, like moral rights, display, other than sale & distribution only (Abbott, 2009, p. 778).

Above mentioned paragraphs introduces the whole research comprehensively. It has given the overview of the topic along with the discussion which is going to be done in coming chapters. The first chapter of the research will state about the copyrights and elaborates in detail everything related to copyrights. It also states the doctrine which validates the parallel import. Arguments in favor and against of parallel import will be discussed at the end.

METHODOLOGY
Methodology adopted by the author is analytical research methodology. This research basically analysis the present law of Pakistan and gives an interpretation of present law on the basis of analysis done by author. It is library based research and author relies upon primary as well as secondary sources. Primary sources include laws, case laws, books etc. and secondary sources includes journals, articles and online websites etc.
RESULT
Parallel import of copyrighted goods are not allowed in Pakistan under the present law of Pakistan. Parallel imported goods are amounts to infringing copies and import of infringing copies is prohibited.

DISCUSSION
1. Copyrights and Parallel Import
1.1 Copyrights
Intellectual Property (hereafter called IP) rights are the rights granted to an individual on the creations of his intellect for a specific duration of time (World Trade Organization, [WTO], 2020). There are kinds of IP rights e.g., trademark, patent & copyrights. Copyrights are exclusive rights given to the author or creator mainly on his literary & artistic works (World Intellectual Property Organization, [WIPO], 2004). It protects fixed, original (Berne Convention art, 1948, art.2 (i)) & expressed ideas not only ideas (World Intellectual Property Organization, [WIPO], 2004). Books, Poems, Plays, Stories, articles, newspaper etc. are included in literary work. Drawing, Paintings, Maps, Sculptures, Designs etc. are included in artistic work (World Intellectual Property Organization, [WIPO], 2004).

Copyrights are classified into two divisions, one is economic rights and other is moral rights. Moral rights are more related to the reputation and image of the author. It prohibits the use of work in a way which negatively affects the image of the author. Moral right always remains with the author even his authorized licensee has the responsibility to protect the reputation of the author. He is obliged not to adversely affect the reputation of the author via using his work. It can be understood in a way that author is entitled to protect the reliability and integrity of his original work. Any other person who is using the work is also bound to maintain that integrity of the work. He is prohibited from changing or harming the work in a way that could be supposed as damaging (Sarokin, 1999, p.737-739).

Economic rights are those rights which help the author to gain financial benefits i.e., right of reproduction, right of distribution, right to communicate to the public (Ashok, 2004, p42-143). Copyrights include following exclusive rights of the author:
1) Right to translate (Berne Convention, 1948, art.8).
2) Right of reproduction (Berne Convention, 1948, art.9).
3) Right of public performance & communication to Public of dramatic and musical work (Berne Convention, 1948, art.11).
4) Right of broadcasting (Berne Convention, 1948, art.11).
5) Right of public recitation (Berne Convention, 1948, art.11).
6) Right of adaptation, arrangement other changes (Berne Convention, 1948, art.12).
7) Right of cinematographic adaptation, reproduction, distribution etc. (Berne Convention, 1948, art.14).
8) Rental rights (WIPO Copyright Treaty, 1948, art.7).
9) Right of distribution (WIPO Copyright Treaty, 1948, art.6).

Out of all these rights, distribution right is the main-right. It belongs to the economic rights of author that can be exploited.

1.2 Distribution Right
Distribution right is the exclusive right of the author to disseminate his original work or copies of his original work in public through sale or any other mode of transfer of ownership (WIPO Copyright Treaty, 1948, art.6).

This exclusive right is not an absolute one and this can be exhausted by way of the doctrine of exhaustion. The doctrine of exhaustion applies limit on this exclusive right of distribution, keeping in view the public and private rights involed in transfer of IP protected goods.

1.3 Doctrine of Exhaustion
The Doctrine of exhaustion says that once the Copyright protected good sold in the market with the consent of copyright owner or his authorized person or licensee, he loses the control on the further distribution of that piece of good, it is also known as first sale doctrine (WIPO Copyright Treaty, 1948, art.6). Copyright owner’s monopoly is exhausted in regard to further distribution but other rights remain with the copyright owner (Drzewinska, 2007, p.181-182).

Exhaustion doctrine states, “The right holders lose the right to control the re-distribution of protected goods” (Drzewinska, 2007, p.181-182). This means that any mode of transfer of copyrighted
good exhausts the right to re-distribute. Without exhaustion-doctrine, the copyright holders would have a complete hold and right to control all the activities transferring of their protected goods in the commercial markets. The scope of exhaustion depends upon regimes. There are three different regimes of exhaustions which are as follow,

i. National exhaustion
ii. International exhaustion
iii. Regional exhaustion

1.3.1 National Exhaustion
Once a product is sold in any market of the country by the copyright owner voluntarily, his right to distribution over that piece of product exhausts within that country. He has received the monetary benefit upon first sale. He can’t control re-distribution in that country, but can do so beyond that territory. He is not entitled to any profit from the subsequent sale. The underlying cause is that the owner of copyright received the monetary benefit from the first sale so he should not be entitled to profit from a sale he hasn’t made. (Rout, MONDAQ, 2020).

1.3.2 Regional Exhaustion
When a copyrighted good is once sold in any market of the country which is the member of any region, regional exhaustion applies to that product. The right to further distribute exhausts in the whole region on the first sale. Copyright owner loses control over the subsequent sale in any country of that region. E.g., European Union (Rout, MONDAQ, 2020). The territory of exhaustion is limited at the regional level of any union and exhaustion rules are not applicable at the level beyond the region.

1.3.3 International Exhaustion & Parallel Import
This principle considers the world as one market. When a copyrighted good is once sold in any market of the world copyright owner’s right to further distribute exhausts after that first sale. He loses his control of further distribution (Rout, MONDAQ, 2020). The copyright owner can control the distribution of his work with respect to exhaustion occurs at the national or regional level. But he can’t control the distribution of his work in case of international exhaustion. When he put his product in the market for sale for the first time his right to further distribute exhausted at the very moment. This principle of international exhaustion serves as the passage for phenomenon called Parallel Trade. In Case of Parallel import, an unauthorized agent bought the original and genuine copyrighted products at low rates from one nation to another. Copy of work isn’t fake but the channel of importation is not authorised. Importation is by a person who has not taken consent from the original owner. This parallel importer sells those genuine copies of work at a comparatively low price than the authorized person, who is selling those products in that market with the consent of the copyright owner. Principle of International exhaustion leads to parallel imports. It has diverse consequences on the monetary benefits coming from intellectual property protection due to price differentiation in the international market (Jain, 2014, p.458-459).

1.4 Jurisprudence of Exhaustion
Without a doubt, ownership of the copyrighted item is not the same as the ownership of the item itself. Copyright is always incorporated in the physical object. That tangible object contains an intangible right incorporated in it i.e. copyright. E.g. book contain copyrighted work in it, story or material in the book which is an intellectual creation of the author is copyright of the author. The doctrine of exhaustion creates a balance between the rights of the author and public interest (Fiedman, 2020).

The doctrine of exhaustion in simple words is elaborated here. When a copyright owner sells his copyright product in the market he gets the monetary benefits on that first sale. That monetary benefit is the reward for his efforts and time, he has given for the creation of the work. But he has no control on the further commercial activities related to his copyrighted product i.e. further sale, gift, rent etc. because if it is so there will be lifetime monetary benefit to the owner. Everyone has to take permission for resale of their purchased product. People will not be able to enjoy complete authority on a copyrighted product even after spending a handsome amount. It will be unjust with them (Vallete & Szymanski, 2006, p.502-503).

1.5 Parallel Import and Regimes of Exhaustion
When the goods are first time sold by the copyright owner or his authorized licensee, his right to further distribute exhausts.
Here arises a question that what will be the consequences if a copyright owner registers his work in two different countries, e.g. “X” and “Z”. In simple words, same rights related to the distribution, with the permission of the copyright owner, are conferred upon both the countries. Consequently, whether the distribution right of a copyright holder in country “X” will be exhausted in country “Z”? The answer to this question can be explained by elaborating the regimes adopted by the country “Z” (Sharma, 2020).

The distribution right in country “X” will not be exhausted in country “Z”, if country “Z” has adopted the regime of national exhaustion. The copyright owner can restrict the importation because he has distribution right in country “Z” too. The distribution right in country “X” will be exhausted in country “Z” if country “Z” has adopted the regime of international exhaustion. In this case, the right to further distribute will also exhaust in the whole world. Parallel import can be explained as a person who purchases the original copy of work from the copyright owner or his authorized agent in country “X” and sells it in the country “Z”, parallel to the authorized person of the copyright owner, and country “Z” has adopted the international exhaustion. It is pertinent to mention here that the product is always genuine and not fake. It is purchased through the legal medium but the person, who is re-selling it, is an unauthorized agent (Sharma, 2020).

After national and international exhaustion comes another kind of exhaustion i.e. regional exhaustion. It is in between the national and international exhaustion. A group of countries are mutually agreed on specific terms for trade. Consequently in regional exhaustion, distribution right of copyright owner exhausts in the whole region after distributing the copyrighted product in any member state of that region. For example, the European Economic Area (E.E.A) (Saikia, 1998, p.131-133).

The trade of countries depends upon the regimes of exhaustion adopted by them.

- When a state has adopted the national exhaustion, it will prohibit and restrict the parallel import of the copyrighted product. In this way, copyright owner will enjoy monopoly and control over the distribution of his work (Saikia, 1998, p.131-133).
- When a state has adopted the regional exhaustion, it will restrict the parallel import of copyrighted product outside that specific region. But parallel import is permitted in member states of that region. The copyright owner can restrict and control the distribution of his work outside the region (Saikia, 1998, p.131-133).
- When a state has adopted international exhaustion, it will permit the parallel import from the whole world. Copyright owner can’t control further distribution after selling his product once. He can’t restrict the parallel trade (Bonadia, 2003, p. 379-381).

### 1.6 Arguments in Favor and Against Of Parallel Import

The world is divided on this matter of exhaustion. Some countries are in the favor of international exhaustion and parallel import and others are against this principle and phenomena. Developing countries are in the favor and developed countries are against it. If any country allows international exhaustion, this means that they legalize the parallel import. Let’s briefly discuss the arguments in favor and against international exhaustion of distribution right.

### 1.7 Conclusion

Copyrights are exclusive rights of the author. One of these exclusive rights is right to distribute, Distribution includes the sale, rent, lease etc. hence any mode of transfer, is exhausted on the first sale via international exhaustion. This doctrine of exhaustion validates the Parallel Import. Parallel import is the contrary phenomenon between the developing and developed countries. Developed countries are against this phenomenon and don’t allow parallel import as it cause them lose, while on the other hand, developing countries are the favor of this phenomena.
2. The Phenomenon of Parallel Importation of Copyrighted work in the International Jurisdiction

2.1 Trade Related Aspects of Intellectual Property Rights (TRIPS)

There has been a long-standing debate on the inclusion of parallel importation in Trade Related Aspects of Intellectual Property Rights (TRIPS) and the World Trade Organization (WTO). Some issues that surround the Parallel imports, and its trade related effects.

One of the main issue dealt with in Article 6 is that “nothing in this Agreement shall be used to address the issue of exhaustion of intellectual property rights”.

This is a “neutral” provision. It does not impose any exhaustion regime (national, international or regional), leaving countries free to adopt the system that best suits their needs. It also clarifies that, whatever regime is chosen, the immunity from legal actions before WTO courts is guaranteed. Article 6 amounts to an “agreement to disagree” (Bonadia, 2003, p.379-381).

It is believed that a ban on parallel trade would violate Article XI(1) General Agreement on Tariffs and Trade (GATT) which expressly forbids “quantitative restrictions” on international trade as well as “prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures”. This is an all-embracing provision generally forbidding any non-tariff measure limiting the international flow of goods on a global scale.

Supporters of parallel imports also believe that a ban on these trade practices would go against the target of market liberalization pursued by WTO (17), and particularly by TRIPs. Indeed, also TRIPs aim at reducing the obstacles to international trade of goods, namely those goods protected by IPRs (Nuno Pires De Carvalho, 2005).

There is confusion related to the doctrine as there is no clear explanation. Substantive copyright law under the TRIPs Agreement amounts to a barrier to international exhaustion (Nuno Pires De Carvalho, 2005), is both rash and wrong. An importation right is certainly useful once it comes to preventing counterfeit products from entering the country. Without an importation right, the copyright owner would have to wait until the counterfeit products are put on the market to obtain relief. This is certainly undesirable and inadequate. However, it is difficult to argue that the right of importation should follow different rules from the rights of production and sale. The importation right concerns an aspect of economic exploitation equal to that of production and sale. If under the classical doctrine of exhaustion, further rights in commercial exploitation are exhausted upon the first sale of a copyrighted article, and if such exhaustion is also assumed when such copyrighted article is marketed abroad, then the exhaustion relates to all aspects of other commercial exploitation including importation (Cottier & Meitinger, 2000, p. 727-728). To learn how the different jurisdiction took this phenomenon and how
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they are making legislations to solve this problem. First of all, this research will discuss EU laws on copyright.

2.2 European Union on Parallel Import

Under the Directive of the European Union (EU) Law, the protection of copyright holders is ensured pursuing a set of harmonized standards. One of these directives, i.e. Information Society (InfoSoc) Directive has given the under mentioned economic rights to the copyright holder: Right of Reproduction (Information Society (InfoSoc) Directive 2001/29, 2001, art.2), Right of communication to the public of works and right of making available to the public other subject-matters (InfoSoc Directive 2001/29, 2001, art. 3), Right of distribution (InfoSoc Directive 2001/29, 2001, art. 3), Right to performance, right to broadcast, right to translate, right to adapt and moral rights are further the rights granted to the copyright holder. According to these rights, there are two objectives: first, the control of the distribution of the original content is with the right holder in the EU; second the consent of the owner of the original content is required for distribution. The exhaustion doctrine Provide exhaustion of the right of distribution after the first sale or any other transfer of ownership in EU (InfoSoc Directive 2001/29, 2001, art. 3). Subsequent sale is not under the control of the copyright holder. (Dreier & Hugenholtz, Concise European Copyright Law, 2016).

Some restriction imposed on copyright holder is construed to harmonize both the public and the individual interest (copyright holder). The doctrine of exhaustion or first sale doctrine is one of those aspects which creates harmony in competing for the interests. One of the most basic principles of copyright is the concept of exhaustion. The principle of exhaustion limits the exclusive right of the author to distribute, along with the ownership rights of lawfully obtained copies of created content (Dreier & Hugenholtz, Concise European Copyright Law, 2016).

When certain requirements are full filled Exhaustion applies automatically. Those requirements are as follow:

1. “The right holder or another person with the authorization who can
2. Lawfully distributes, and what is more, transfers the ownership over
3. The original or the copy of the protected subject matter;
4. The rightful owner, which possesses the ownership of the subject matter, may resell the copy without the further consent and authorization of the author” (Clugston, 2013, p.97-98).

The Right holder of the specific work or an authorized person is the first thing discussed above. It states that the initiation of first distribution should be done with the consent of the right holder (Abbott, 2009, p.777-778). The slight role is played by the general provisions of contract law in giving support to authors and performers during the discussion of exploitation agreements and then deciding the level of monetary benefit, (Matsushita, The World Trade Organization, 2015) enough monetary benefit can be demanded by the right holder for the initial distribution of his original work (InfoSoc Directive 2001/29, 2001, art. 10). The right holder to be paid for his time & efforts, he has put in the work. “If authors and performers are to continue their creative and artistic work, they have to receive an appropriate reward for the use of their work, as must producers to be able to finance this work” (InfoSoc Directive 2001/29, 2001, art. 10). Taking benefit from someone else’s intellectual property is unethical. The proper monetary benefit will lead to more creativity, technological progress and economic growth. Secondly, copyright law will be ensured while the distribution is carried out by the law. Not all goods should be subject to the doctrine of exhaustion, e.g. illegally distributed products, counterfeit or pirated products. Thirdly, the actual source of the doctrine of exhaustion, which may be original or a copy of a protected source, is concerned. The subject of the distribution right is the expression “copies” and “originals and copies” and fixed copies are referred that may be put into circulation as the physical product (Abbott, 2009, p.777-78).

Principle of Community-wide exhaustion was unfolded by the European Union Court of Justice (ECJ) before the codification of InfoSoc Directives of exhaustion. The sale within one Member State of the European Union (or the EEA) exhausts the right of distribution for the entire European Union (and EEA). This phenomenon of exhaustion of the distribution right on first sale is also known as first sale doctrine. The first sale doesn’t only mean the conventional sale, this term also covers gift or anyway to transfer the further ownership (Abbott, 2009, p.777-78).

According to the InfoSoc Directive, the expression “sale” should be interpreted in a uniform and independent way inside the EU (Julie, 2007). Every mode of transfer of property is strictly linked to distribution right in the principle, subsequently excluding the public lending, rental and display. ECJ
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has decided that a mere display of work or copy is not distribution (Abbott, 2009, p.777-78). Moreover, rental and public display is explained by another Directive and are not distributed. Article 4 of InfoSoc Directive states that the right holder can prohibit or allow any mode of distribution i.e sale or any other mode because it’s his exclusive right (InfoSoc Directive 2001/29, 2001, art.4). The term “to the public” (InfoSoc Directive 2001/29, 2001, art.4) is not clear and needs to be understood in terms of audience. To further elaborate, the audience may be a personal circle or general circle. Small personal circle i.e. family, friends are not included while liability arises for distributing infringing copies but if the retailer and whole seller transfer the specific copies it will amount to the “distribution in public.” The application of the principle of international exhaustion is not as per disposal given by Article 4(2) and Recital 28 of the InfoSoc Directive. As kept up by the InfoSoc Directive, the exhaustion occurs only after the first sale within “the Community (InfoSoc Directive 2001/29, 2001, art.4). Therefore, any other exchange of possession that occurred outside the Community (anywhere in the world) does not produce exhaustion of distribution rights.

Regional copyright exhaustion is not implied in the European Union, it states that the right of distribution of copyright holder is exhausted on first legal and valid sale in any country of the region but it will not be exhausted if copyrighted goods first sold outside the European community. In international agreements among the nations of the European Community, this right was mentioned but the final announcement of this regional exhaustion principle can be found in the European Economic Area Agreement (EEA Agreement), it requires the signatories to make legislations for the intellectual property rights to prevail in the community. Furthermore, the community law shall define the precincts of exhaustion of the intellectual property right amongst the contracting parties. The ruling of the court of justice of the European communities shall define the meaning of the above-mentioned provision before the agreement is signed. The flight to establish regional exhaustion in the European community has faced capricious turbulences. The ECJ has described the "essential function" of copyright law as being "to protect the moral rights in the work and ensure a reward for the creative effort." The goals of national exhaustion restrict the flow of goods which is contrary to the community goals that exhorts free movement of goods. The international exhaustion regimes’ amalgam with some European member nations is, however, an obstruction to the European communities approach to copyrights and the free movement of goods. The possibility of an international exhaustion regime for copyrights was quashed (Micro Leader Business v. Commission,1999, T-198/98), ECJ found that marketing a copyrighted product outside of the European Community could not exhaust the holder's rights within the EEA (Pobe, 2020).

Let’s move towards the U.S. laws on parallel import.

2.3 United States (U.S.) on Parallel Import

An exclusive right to reproduce, sale and distribute is granted to the copyright owner by the law (17 U.S.C. § 106(3)). Around a hundred years ago, the first sale doctrine was applied by the Supreme Court. This application of the doctrine was to restrict the control of the copyright owner on distribution. A disclaimer was inserted in the books by the publishers. That disclaimer stated that the book wouldn’t be sold below one dollar by any retailer. If it is so, it will amount to the infringement of his copyright. That notice was ignored by the Macy’s department store. They sold the book without the consent of publisher for 89 cents. The Court held that there is no infringement of copyright. Further, the court stated that exclusive right to distribution is applicable on the first sale only (Merrill. Straus., 1908, 210 U.S. 339).

The first sale doctrine was subsequently codified in the Copyright Act of 1976 (17 U.S.C. § 109). The matter of copyright exhaustion is dependent upon the territorial scope of the doctrine of exhaustion. Contrary provision, which are mentioned below, is contained by the Copyright Act. It does not provide proper guidance on the matter.

On the one side, it prohibits the doctrine of exhaustion under Section 602(a) of the U.S. Copyright Act, which states that:

“Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501 (17 U.S.C § 602(a))”.

While on the other side, it allows the exhaustion under Section 109 states that:
“The owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord (17 U.S.C § 109).”

When a copyright holder allows the copying and distribution of his copyrighted work outside the US. So here arises the question that whether the purchase of that copy outside the U.S. and selling it in the U.S. infringes the copyright or not? According to Section 602(a) answer is yes while according to the Section 109 answer is no. The courts have successfully found the answer to this ambiguity after struggling hard for a long period. To address the issue, it is pertinent to understand the meaning of the phrase “lawfully made under this title” (17 U.S.C § 109). The first sale doctrine will not be applied on overseas copies, if this phrase is construed as the copy must be manufactured in the U.S. If this phrase is construed other way, then the first sale doctrine might trump Section 602(a). It was held by the Supreme Court that when the copyrighted product made in the U.S. sold in the foreign market by the copyright owner or his authorized agent, it exhausts the copyright. The Court also held that the doctrine of exhaustion would not apply on the copies manufactured abroad. Even those copies were manufactured by the consent of the copyright holder (Quality King Distribs, 1998, Inc., 523 U.S. 135).

On the other hand, “lawfully made under this title” must be construed as “made in the United States” instead of “made without violation of the copyright holder’s exclusive rights.” The Ninth Circuit followed that explanation. Omega was the producer of watches in Switzerland. The sold those watches internationally through authorized agents. A company named as Costco purchased the watches of Omega Company from a dealer who purchased those watches from another dealer who was the authorized distributor by the omega company. Costco sold those watches on a cheaper rate than the declared rate of Omega Company. Omega Company sued Costco for infringement of their copyright. The decision was made in favor of Omega and the nine-circuit held that the application of the doctrine of exhaustion was just for the imported products that were produced in the U.S. The Supreme Court upheld the same decision in the review (Omega S.A. v. Costco Wholesale Corp, 1998, 541 F.3d 982).

On March 19, 2013 court overruled the decision given in the case of Quality King. The court held that the doctrine of exhaustion does not apply to the resale of copies of copyrighted work legally manufactured abroad. The college textbooks were manufactured for and sold in the overseas market. The strategy of price differentiation was adopted in this case, which ultimately resulted in the importation and resale of overseas copies in the U.S. A student of Thailand named as Supap Kirtsaeng bought the original copies of textbooks in Thailand and sold them in the U.S on profit but this price offered by him including his profit was still less than the price of that textbook in U.S. John wiley and sons sued for infringement of copyright. District court and the appellant court granted the decision in favor of John wiley but the Supreme Court reversed the decision. Supreme Court construed the phrase “lawfully made under this title” as “in accordance with the copyright law” The Supreme Court held that this phrase doesn’t apply any territorial restriction. Amici’s arguments related to the restriction of the application of the doctrine of exhaustion to goods produced in the U.S. were noticeably authoritative.

The argument made by the museums, libraries, technological companies and old or used book distributors is that, if the doctrine of exhaustion were restricted then the usage of those products where the copyright law of the U.S. is applicable. She further stated that the protection of price differentiation by the copyright owner is important. She also highlighted that in trade conferences the U.S has regularly opposed and not supported the principles of international exhaustion. Kirtsaeng efficiently constructed international copyright exhaustion as the law of United States (Pruzman, 2020).
Now, this research will discuss copyright law of India & how India addresses the issue of exhaustion of copyrights. Because India is neighboring country and share somehow same history, culture and area.

2.4 Parallel Import of Copyrights Material in India

“Meaning of copyright.—For the purposes of this Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorize the doing of any of the following acts in respect of a work or any substantial part thereof, namely:—

(a) in the case of a literary, dramatic or musical work, not being a computer programme,—
(ii) to issue copies of the work to the public not being copies already in circulation; (14 The Copyright Act, 1957, § 14 (a) (ii))”

To understand the meaning of the provision, it is divided into two segments. One part provides the exclusive right to distribute the copyrighted work in public to the creator of work. While other part puts the restriction which states that copyright will not be granted to the copy that is available in the market previously. Understanding of the impression “copies already in circulation” is important to decide that whether copyright law of India allows parallel import of copyrighted work (Basheer, 2001, p.263-265).

A copy of work shall be considered as already in circulation which has been vended once. But it is important to find the regime of exhaustion allowed by the above mentioned section. Regime of exhaustion is not clear from the wording. It could be either interpreted as the circulation in whole world or circulation in India only because the Act is applicable only in India. Interpretation in favor of international exhaustion has been given to this impression. Reasons for this interpretation are stated below:

The term “already in circulation” is wide and means circulation in whole world. It is the general perception that legislature always choose the words very carefully. If legislation intended to allow domestic exhaustion they must have added the word “India” at the end, i.e. “already in circulation in India” but this present phrase clearly has wide meaning and covers the whole world (Watal, 2020).

While interpreting judiciary always interprets the law by using the literal rule on the first instance. The literal meaning of the provision is clear, so it is the duty of court to give plain meaning to the provision (Association for Development v. Union of India, 2013, 34 A.I.R 621).

It can also be argued that because it is copyright law of India so it is applicable in the territorial jurisdiction of India only. Opposing this argument, it can be stated that the literal meaning coming from the provision is clear and obvious, i.e., international exhaustion, so we can’t limit the scope of the provision (Mittal, 2013, p.515-517).

One of the famous maxims of common law is that everything is allowed if it is not forbidden. As copyright law of India doesn’t expressly forbid the international exhaustion so it allows this (Mittal, 2013, p.515-517).

It can be noticed from the international conferences that India always favors the international exhaustion. India supported this phenomenon on different occasions at international level. It’s not possible that the policy makers and legislators legislate national laws different from their international stance. Keeping in mind the international standing of India on the issue it is the best interpretation for the provision which states that it allows international exhaustion (Bansal, 2011, p.159-161).

As we know that the trademark and patent are the siblings of copyright. These all are types of the intellectual property rights. An object may contain two of them e.g. a book has copyright and trademark at the same time India allows the exhaustion of patent (39 Patents Act, 1970, § 107(a)) and trademark (47 Trademarks Act, 1999, § 30(3)), so exhaustion is obvious in case of copyright.

2.5 Conclusion

Conclusively, TRIPs left the matter of exhaustion upon the legislation of countries. It gives power to the states to write according to their will and need. EU allows regional exhaustion. First valid sale in any of the country of EU will amount to the exhaustion of the distribution right in the region. But first valid sale of legal copy outside the region will not amount to the exhaustion of distribution right. According to U.S law, First sale doctrine was only available for imported goods that were manufactured in the U.S. In a March 19, 2013, 6-3 decision, the Court held that the first sale doctrine does apply to the resale of copies lawfully made abroad. The copyright law of India allows international exhaustion. It adopts the first sale doctrine. This is how Exhaustion is taken at the international level.
3. Parallel Import of Copyrighted Products in Pakistan

3.1 Copyright Law of Pakistan

Pakistan recognized the matter of copyright too late because of other issues after independence. On the other hand, the world recognized this matter too early. An ordinance related to copyrights of the author was passed by Pakistan in 1962. It was further amended in 1992 (afterwards called as the ordinance). This chapter will discuss rights given to the copyright owner in the light of the ordinance. In the end, the legal status of copyrighted work will be discussed. It will start with the International Treaties ratified by Pakistan.

3.1.2 Pakistan & International Laws

Pakistan is the signatory of the Berne Convention, the Universal Copyright Convention and International Copyright Order, 1968. All the provisions of the ordinance are applicable to members of the Berne Copyrights Union and the Universal Copyrights Convention, other than those of Chapter (IV) i.e. Rights of Broadcasting Organizations. According to the present situation, it is true to state that the work of most states is protected in Pakistan including Europe and the U.S (Sheikh, 2014, p.176-178).

It is important to know which rights are given to the right holder under the copyright law of Pakistan.

3.1.3 Exclusive Rights Of Copyright Owners In Pakistan

Follow rights are given to the copyright holder:

- To reproduce the work in any material form.
- To Publish.
- To perform the work in public.
- To communicate it to the public.
- To make any cinematographic film.
- To make any sound recording.
- To make any translation of the work.
- To make any compilation of the work.
- To make any adaptation of the work.
- To offer the work for rental or hire (34 Copyright Ordinance, 1962, § 3).

From all the rights mentioned above, it is pertinent to know the meaning of the right to publish because it serves as the foundation for the understanding the doctrine of exhaustion.

3.1.4 Right to Publish

Right to Publish means to issue the sufficient copies of the work to the public it means that the right to publish will amount to distribution right of the owner (34 Copyright Ordinance, 1962, § 4). It can be explained as to make the work available to the public via any mode of transfer e.g., lease, sale, rent, gift etc. After knowing the rights given to the right holder now it is eminent to know the subject-matter on which copyright can be given.

3.1.5 Subject Matter of Copyright

According to copyright ordinance 1992 division of work is as under

(i) Original literary dramatic, musical and artistic works;
(ii) Cinematographic works.
(iii) Records (34 Copyright Ordinance, 1962, § 10).

Subject matter is owned by someone, ownership of copyright has its requirements to be fulfilled.

3.1.6 Ownership of Copyright

Like other countries, ownership of copyright depends upon different factors e.g. domicile, nationality and place where work was first published. Sections 10, 13 and 54 of the Ordinance states that who will be considered as the owner of the copyright in Pakistan.

The ordinance states that the author of the work shall be the first owner of the copyright. Work shall be copyrighted when the work first published in Pakistan and if first published outside Pakistan, the author was the citizen or domiciled of Pakistan on the date of publishing (34 Copyright Ordinance, 1962, § 10 (2)). In the case of unpublished work, the author was the citizen of Pakistan on the date of making of that work (34 Copyright Ordinance, 1962, § 10 (2)).

Matter of ownership may arises a question in a person’s mind related to registration of copyright i.e. is it important to register the copyright or not? Answer to this question is mentioned below.
3.1.7 Registration of Copyrighted Work
Expressly mentioned categories of works are copyrighted on their creation. When a work came into existence it is copyrighted. Registration of copyright is not mandatory, it’s just optional (34 Copyright Ordinance, 1962, § 39, § 10(1)). Any formal registration requirements, to protect foreign copyright works, can’t be imposed by Pakistan within its own jurisdiction because Pakistan is a member of the Berne Copyrights Union and the International Copyrights Union (US Embassy, US Embassy Consultates in Pakistan, 2020).

Copyright does not diminish or invalidate just because of non-registration. Right to sue for any infringement of copyright is also not affected because of non-registration. It was also considered by the court that, though registration is not mandatory but it serves as the proof for authorship in case of any dispute (Kureshi, 2003).

Here it is necessary to know that what amounts to the infringement of copyright.

3.2 Infringement of Copyright
A lavish meaning has been granted to infringement of copyright. Infringement occurs when anyone perform any act, which is copyright owner’s exclusive right to do (34 Copyright Ordinance, 1962 § 56). It can be understood from Section 56 (related part reproduced above) that when any person without the will of copyright owner or his authorized person i.e. licensee does anything which is the exclusive right of the copyright owner, it will amount to infringement of copyright owner’s exclusive right to distribute. Moreover, the provision explicitly incorporates import into Pakistan of any infringing copies (discussed below in detail) of the specific work, to assist legal action against parallel imports.

This all basic information mentioned will help in explaining the parallel import in Pakistan.

3.3 Parallel Importation into Pakistan
The parallel imports of infringing copies into Pakistan is covered by Section 58 of the ordinance. According to Section 58(1), the Registrar may make such enquiry which he considers important on the application by the copyright owner or his authorized person. The registrar may ban importation of copies made abroad which if made in Pakistan would infringe copyright.

This study is not concerned with infringing copies, but will show, in further detail, how a legitimate copy is equivalent to an infringing copy.

There is no difference, stated by the Section 58 itself, between the copies lawfully manufactured and first time sold in the country of manufacturing and the copies unlawfully manufactured in the country of manufacturing. There is no second thought that if a copy is unlawfully made in country of manufacturing, importation of such copy of work will come under the realm of section 58 and that of paremateria1 sections in any domestic copyright law. The important question arises here that whether the rights of the copyright owner and his “exclusive licensee” in Pakistan, have been infringed by the importation of the work, lawfully manufactured and first sold in the country of manufacturing, into Pakistan (34 Copyright Ordinance, 1962, § 3). “Exclusive license” means a license which grants the licensee and his authorized person, the exclusion of all other persons (as well as the copyright owner) any right encompassed in the copyrighted work, and ‘exclusive licensee’ shall be interpreted accordingly (34 Copyright Ordinance, 1962, § 2(1)). So concerning the above mentioned question we need to refer to the definition of “infringement of copyright” as described in section 56. It states that when a right is exclusive right of copyright holder e.g. right to distribute, infringement of that right amounts to infringing copy even though the copy itself is original and genuine. Any copy of work that invades or infringe the right of copyright owner is infringing copy. Importation of copies without the consent of copyright owner is an infringement of his right and this tends to render an original copy as an infringing copy.

When a person does anything which is the exclusive right of the copyright owner under the ordinance. He also don’t have license granted by the copyright owner. This will amount to the infringement of copyright. Publishing, Printing and disseminating the copies of work into the public is the exclusive right of the copyright owner and his licensee. When any person e.g. distributor disseminate or distribute the copies of work into the public without the consent of the copyright owner or his

1 It is a doctrine in statutory construction that statutes that are in pari materia(on the same subject or matter : in a similar case) must be construed together.
licensee, it will deemed to be infringement of the copyright. They are managing unlicensed copies and those unlicensed copies are amount to infringing copies. Infringing copies are prohibited in Pakistan. So current Law of Copyright of Pakistan does not allow Parallel import of copyrighted work.

The Copyright law of Australia is same as copyright law of Pakistan regarding provisions of distribution of copyrighted work. The Australian Copyright Act was construed by the high Court of Australia, which in related portion is paramateria to the provisions of the Copyright Ordinance 1967 in Pakistan. The court held that an importer, bought books from an American Licensee of the copyright into Australia without the permission of Australian licensee. He has infringed the copyright law of Australia. It was also decided by the court that sales without any condition in U.S.A. doesn’t amount to any implied license to import those copies into Australia. In the present situation, an implied restriction or information of exclusive distribution-ship wasn’t needed to reject the arguments in favor of implied license to import, e.g., any disclaimer stating that it is only for sale in U.S.A or not for sale in Australia (Sheikh, 2014, p176-178).

There is no direct case law on this issue in Pakistan but Pakistan has almost same laws as India. Referring to interpretation given by court of India, will also help in understanding the possible interpretation that may be given to the copyright law provisions. Indian Court held that the Plaintiff i.e. Penguin Book Limited of England were exclusive licensee of copyright for importation of books in India. They profess that they can stop Indian Book Distributors from parallel importation of American Editions of titles into India because they were exclusive licensee. The court decided that the importation of copies in India for sale and distribution without the consent of copyright owner or his licensee is amount to the infringement of exclusive right to distribute. That copy of work is deemed to be infringing copy though it is genuine one. So the sale of that infringing copy is also an infringement. Any importation of copyrighted work is infringement unless it is for the importers personal use and not for the commercial purposes. When the copies of the books legally published in America imported in to India, that importer can be sued for the infringement of copyright regarding those books. A legal action can be taken against the distributor of those copies. This is because of the importation of books without the license and consent of the copyright owner or his licensee (Penguin Book Limited,1985).

It is obvious from the aforementioned cases that in India and Australia and probably in all the nations except the European Economic Countries (EEC) the domestic copyright law will be given superiority over profess of implied license to import. The copyright law in Pakistan is paramateria in this regard and the Courts are more than likely to adopt the same interpretation. Now, it can be stated as there is no existence of such concept like International Exhaustion except in U.S.A and EEC. Above mentioned laws and case laws leads to the following analysis.

3.4 Brief analysis of Copyright Law of Pakistan on Parallel Import
From previous discussion it is concluded that an infringement of any right which is the exclusive right of copyright owner is amounts to infringing copy of copyrighted work according to the section 56 of copyright ordinance of Pakistan. So the right of publication is the exclusive right of the copyright owner according to the section 3 of copyright ordinance 1962. Section 4 of the ordinance defines publication as issue copies of the work to the public in sufficient quantity which is distribution of work in public. So if someone imports the legal and validly sold copies of copyrighted material in Pakistan without the consent of author it will be considered as infringing copy and also amount to infringement of copyrights, despite the fact that the copy is genuine. Importation of infringing copy in Pakistan is prohibited and doing so will amount to crime (4 The Custom Act, 1969, § 16). Importation of infringing copies will rise penalties against the importer. Infringing copies can be detained, seizure or confiscated by the custom department (4 The Custom Act, 1969, § 17). Court may dispose of the infringing copies. Aggrieved party is entitled to the damages or injunctions as court may deem fit (34 Copyright Ordinance, 1962, § 60). Pakistan is paying less or no attention to this matter because of other struggles. Pakistan as a developing country needs to understand the importance of matter to compete with the world.

It is important to throw some light on the debate between developed and developing country on parallel import. Because it will help to determine whether or not to legalize the parallel import in Pakistan.
3.5 Debate between Developed and Developing Countries

Developing countries are in favor of principle of international exhaustion. Parallel import is validated by this principle, which helps developing countries to get access to the copyrighted work on low rate (Mitsou Matsushita, 2006). On the other hand, developed countries are in favor of territorial exhaustion. They want more protection for copyright owner because this encourages people to research and that helps in development. Parallel importation is considered as a tool for economic growth by the developing countries. They also consider it as the mode for protection against the monopoly of single distributor and to encourage healthy competition in the overseas market. (Nhuquynh, 2020)

There exist various groups on the notion of parallel importation. One group is of the view that parallel importation limits rivalry and the progress of Research and Development which will cause instability in price of commodities. While others group believes that parallel importation encourages healthy competition, enhances competences. This will be beneficial for the consumers in the country of importation. Furthermore, there exists various defenses for the notion of parallel importation. Major one is that a considerable percentage of the general public in developing states is not able to pay for the important goods and the importer tries to come up with a solution to meet the demands of the market by importing medicines. Those medicines are genuine not fake, but not available in the market legally (Okoji, 2009, p.237-238).

The most frequent issue faced by the developed countries is regarding the copyright owner. Copyright owner could be reluctant to price differentiation in different markets for the benefit of developing countries. Copyright owner can sell his product on low price in low-income countries but if they allow parallel trade that will serve as the way back to the copyrighted product in the high-income country and product will be sold at higher rates. This act of re-importation will not benefit the copyright owner instead it will benefit the mediators only. Moreover, developed countries are of the view that parallel importation may serve as the passage for forged or fake products into the market (Maskuk, 2020).

It is clear from all the previous discussion that parallel trade doesn’t consider inferior or fake goods. Furthermore, countries have the authority and needs to control and regulate the issue of parallel importation. To address the issue of re-importation of copyrighted goods countries can take appropriate legal measures (UNCTAD- ICTSD, 2010). E.g., developed countries can ban parallel imports from developing countries through domestic legislation (Mathews & Tellez, 2014, p.732-733).

Pakistan needs to adopt the parallel import to compete with the rest of the world. Pakistan is a developing country and needs less trade barriers, it is beneficial to adopt this phenomena. The interests of consumer and manufacturer are balanced by the parallel trade. Parallel importation serves as the protection for consumer’s interests. It is an essential public policy for developing states. States are at liberty to legalize and allow the parallel trade. Parallel trade provides the opportunity to the government for purchasing copyrighted product from various markets on cheaper rates.

The phenomenon of parallel import of copyrighted products is predominantly significant in the educational sector. Books are very expensive and beyond the purchasing power of the students in developing countries. Parallel importation provides an alternate solution for buying the copyrighted work on cheaper rates. Developing countries can approach the data and knowledge by adopting this phenomena. It ensures the greater access and availability to the knowledge. Progress in research and development of new skills occurs, when knowledge is available at low cost. To cope with the issue of anti-competitive practices developing countries can adopt parallel importation.

Parallel import benefits the consumers more. It allows the consumer to buy the product at lower rate from other market because it is expensive in their own market. It provides them various options and variety. It is observed that the copyrighted products are very expensive and beyond the purchasing power of the majority of general public. That is why major portion of public is not able to access that work and government is failed to financially support them by reducing the price.

Parallel import benefits the traders, wholesalers and retailers. It allows their access to the copyrighted work on lower price. It also enables them to access the copyrighted products from alternative many international sources. It also facilitates them to access the copyrighted product at cheap rates comparatively from domestic market. In this way retailers can fulfill the needs of the market.

If there is no parallel import, it leads to the monopoly of licensee. There will be no competition regarding price of the product in the market. When there is no other source for
accessing the product this will lead to the higher rates. Furthermore, copyright owner will be benefited by the prohibition of parallel import. When there is restriction on parallel trade copyright owner may adopt the strategy of price differentiation. He will be able to manage the rates of his work, dissemination and related matters of the market (Mathews & Tellez, 2014, p.732-733).

RECOMMENDATIONS
This research recommends to amend the copyright law of Pakistan in favor of parallel import. There is need to add a section 4(A) which states as “right to further distribute the copyrighted product will be exhausted on the first sale in any market of the world.”

This will exclude the products imported by unauthorized agent from the ambit of infringing copies. All the provision of infringing copies will not be applied on these products. Such products will not be subject to the provisions of infringing copies. This clause will facilitate the parallel importation of copyrighted goods. It recognizes his right to distribute but that right exhausts on the first sale; he will not have any further control over distribution. This means he will not have exclusive right of further distribution. Infringement of exclusive right turns the original copy into an infringing copy but it doesn’t constitute infringement when further distribution isn’t included in his exclusive rights. Genuine copy of work will remain genuine even if it’s imported by an unauthorized agent. Importation of genuine work and product is allowed under custom act.

Addition of word “once” after “in sufficient quantity” in 4(1)(a) and 4(1)(c). In 4(1)(b) addition of word “once” after “thereof to the public”. Reproduces as follow

“(a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities once (34 Copyright Ordinance, 1962, § 4(10)(a));
(b) in the case of cinematographic work, the sale or hire or offer for sale or hire of the work or copies thereof to the public once (34 Copyright Ordinance, 1962, § 4(1)(b));
(c) in the case of a record, the issue of records to the public in sufficient quantities once (34 Copyright Ordinance, 1962, § 4(1)(c));”

This will imply that the distribution of work in sufficient quantity in the public is his exclusive for the first time, afterwards he will not have any control on further distribution.

CONCLUSION
Copyrights are the exclusive right of the copyright holder. Distribution right is one of the exclusive rights, it exhausts on the first sale of copyrighted product. Adaptation of international exhaustion by the legislation of the country validates the parallel import of copyrighted goods. Legalizing parallel trade reduces the trade barriers which helps in development and economic stability. Mostly developed countries like US and EU countries allow the parallel trade. Our neighboring country India has also adopted this phenomena. Pakistan doesn’t allow the parallel import of copyrighted work. Present Copyright law of Pakistan prohibits the parallel importation of copyrighted material.

Parallel importation is a debatable phenomenon. Developing countries advocates for international exhaustion principle while on the other hand developed countries repudiate this principle. Copyright holders are restrained from price differentiation to avoid the re-importation of copyrighted product. To counter this problem a two-prong strategy is required: developing countries need strict regulation and monitoring on parallel exports; secondly developed countries should ban parallel imports from developing countries.

As Pakistan is developing state, legislators of the Pakistan should fully take advantage of the liberty given by the TRIPS. It will benefit the needy population of the country in approaching the copyrighted work. Adaptation of international exhaustion is the base for legalizing parallel trade so legislators of Pakistan needs to adopt this principle in legislation. Policy makers of Pakistan are required to restrict the copyright owner’s control on further distribution, once he has sold his product in any market of any other country. Pakistan needs to legislate in favor of parallel trade to consume the liberty fully.
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