

**Achievement of Market-Friendly Initiatives and Results Program  
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**Evaluation of the Copyright Enforcement Capability  
of the National Library and Its Cooperative  
Relationships with Other Jordanian  
Enforcement Bodies**

**Final Report**

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**Executive Summary:**

Given the limited resources with which it has to work, the National Library has done an outstanding job of improving enforcement of the Copyright Law and creating the beginnings of a culture of copyright awareness in the Kingdom. Under the leadership of its Director General, Mr. Mahmoud Talhouni, who was appointed to office only in July 2001, the National Library has:

- Increased significantly the number of anti-piracy inspections and raids it has carried out;
- Referred substantially more infringement cases to prosecution;
- Undertaken to improve collaboration with the customs authorities and police departments; and
- Prepared draft legislative amendments to ensure compliance with copyright treaties and agreements.

It is clear, however, that the National Library and its collaborative government agencies require training and resources to enhance the progress they have made. Without them, it will be an enormous challenge for the National Library to establish the desired infrastructure and build sufficient institutional capacity to fully enforce the Copyright Law. Among the most pressing copyright needs of the Kingdom are:

- Practical training programs on advanced procedures for the detection, identification, seizure, reporting, and handling of infringing copyright material, geared specifically to employees of the National Library, customs officials, and police officers;
- At least three digital cameras, laptop computers, and mobile phones to improve the ability of the employees of the National Library to carry out their enforcement duties as judiciary police officers;
- Improved computer servers to provide sufficient speed, power, and memory for the enforcement database being created by the National Library;
- Appropriate software for the further development of that database; and
- Air conditioning units for the rooms in which the computer server and terminals will be located.

In addition to meeting the direct needs of the National Library and its cooperative agencies, support for the following is necessary to continue to improve the development of a national culture of copyright enforcement:

- Public awareness programs, particularly geared at educating young people about the rudiments of copyright law; and
- Advanced training programs for judges and prosecutors on copyright prosecution, litigation, and enforcement

The National Library and its collaborative government agencies have the potential to serve as models of copyright enforcement for the region. They have made significant progress in promoting respect for copyright and deserve full continued assistance and support.

**Introduction:**

This report was compiled on the basis of:

- Interviews with Mahmoud Talhouni, Director General of the National Library;
- Discussions with members of the National Library staff;
- An interview with a judge and a General Prosecutor;
- Inspections of the National Library and of the copyright databases that the National Library is creating and/or expanding;
- An examination of the current Jordanian Copyright Law and of pending legislative amendments;
- A review of available statistical data;
- A review of Jordanian news articles about the work of the National Library and the issue of copyright enforcement in general; and
- A survey of correspondence received by the National Library concerning its copyright enforcement activities.

In general, all those involved in the compilation of this report were cooperative, helpful, proud of the work they were accomplishing, and committed to the objective of achieving recognition of, and respect for, copyright throughout the Kingdom.

**Legislative Infrastructure:**

An effective copyright system cannot exist in the absence of an effective copyright law. In 1998, Jordan significantly revamped its copyright legislation and created a new law (No. 14 of 1998) that is compliant with both the Berne Agreement for the Protection of Literary and Artistic Works and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In 1999, Jordan introduced further amendments to its Copyright Law (Law No. 29 of 1999) and has additional amendments pending to conform the copyright legislation to the added requirements of the WIPO Copyright and WIPO Performances and Phonograms Treaties.

Among the most noteworthy features of the Jordanian Copyright Law is its Article 36, which grants the status of “judiciary police officer” to employees of the National Library’s Copyright Office. In accordance with Article 36, the officers are authorized to:

- Inspect the premises of establishments that print, reproduce, produce or distribute works;
- Search those premises;
- Confiscate infringing copies and the material used in committing copyright infringement;
- Submit the copies, the materials, and the offenders to the court; and
- Via the Minister for Cultural Affairs, request the court to order the closing of the offending establishment.

The Jordanian legislation thereby bestows upon the National Library enforcement powers seen in few other national copyright laws.

A problem that has emerged in the application of Article 36 concerns the meaning of the term “establishment.” Under Jordanian law, an “establishment” is an official commercial enterprise. Houses, automobiles, or warehouses, factories or storefronts without signs or other identification are not “establishments” within the meaning of the law and therefore fall outside the scope of enforcement authority. One of the pending amendments to the Copyright Law attempts to address this problem by authorizing the National Library’s officers to enter and carry out their functions in non-commercial establishments.

Under Article 51 of the Copyright Law, sanctions for copyright infringement consist of imprisonment for a term of three months to three years and fines ranging from J.D. 1,000 to J.D. 3,000. Repeat offenders are subject to the maximum term of imprisonment and maximum fine. While the current range of fines might serve as a deterrent for small-scale commercial establishments, it is questionable whether they would serve to deter owners of larger establishments. Consideration should therefore be given to increasing significantly the maximum fine that can be imposed in a willful copyright infringement case.

Article 51 also provides that infringement consists of offering for sale, distributing, renting, publishing, or knowingly importing or exporting counterfeit works. Although Article 51’s definition of the acts that constitute criminal infringement already conforms to international standards, Jordan is (to its credit) considering expanding the list to include transfers of counterfeit works for purely personal use. If this proposal is enacted, Jordan will be at the cutting edge worldwide of copyright enforcement legislation.

### **Copyright Enforcement in Action:**

The National Library has six employees who are charged with enforcing the Copyright Law as judiciary police officers. They respond to complaints of copyright violations as well as carry out regular, ad hoc, unannounced inspections of establishments that print, publish, sell, or rent copyright works (primarily establishments that sell or rent CDs, cassettes, or computer software). The officers carry out their duties in teams of two and are accompanied by a police officer assigned by the local police authority.

A problem that has occasionally hampered the National Library officers’ ability to carry out their duties most effectively is that police officers have varying degrees of familiarity with copyright law and copyright enforcement procedures. To rectify this problem, training programs need to be provided for police officers to educate them on the importance of copyright enforcement and on their particular role in the copyright enforcement process. In addition, it would be helpful if designated representatives from the National Library and the police authorities met periodically to discuss ways of improving collaboration. A more sweeping, long-term solution might consist in the establishment and training of a special police unit that would have exclusive responsibility for accompanying and assisting the National Library officers. I believe that in Egypt, a special unit of the police, headquartered in Cairo, is charged with anti-piracy copyright enforcement.

When the National Library officers discover works or materials that appear to violate the Copyright Law, they seize and photograph the allegedly infringing copies and prepare and sign a

report that the National Library lodges with the appropriate general prosecutor. The general prosecutor reviews the evidence submitted by the National Library, interviews the officers concerned, and determines whether there is sufficient evidence to bring a case against the alleged infringer in the competent Court of First Instance. The responsibility for trying the case rests with the general prosecutor, but the officers testify as witnesses at the trial. Effective collaboration between the National Library and the general prosecutors is therefore essential.

While the National Library officers have gained enormous experience in carrying out inspections and raids, all those to whom I spoke mentioned the need for additional training. What would be most useful, in the officers' opinion, is practical training on how to detect and identify infringing CDs, software, and cassettes, and on how to seize, preserve, and report evidence so that cases are not tossed out of court for evidentiary reasons. Training by the general prosecutors on this latter issue would be most helpful.

An additional problem is that the National Library officers are forced to carry out their duties with inferior equipment. They lack mobile phones to communicate with each other as well as with the National Library when they are on the road or carrying out an inspection. Although the National Library is in the final stages of developing a first-rate computerized enforcement database (see below), the officers cannot access it because they lack laptop computers or PDAs. The officers also lack digital cameras. As a result, the photographs of infringing works the officers now take are neither of the highest quality nor easily enterable in the database. Providing the officers with effective equipment would greatly improve the officers' ability to perform their duties at the level to which the officers aspire.

### **Copyright Enforcement Record:**

There has been a significant and praiseworthy increase in the number of inspections that the National Library officers have carried out and in the number of cases they have lodged with the general prosecutors. Director General Talhouni deserves much credit for this increase. From the moment he assumed the position of Director General in July 2001, he made copyright enforcement a high priority of the National Library.

The following chart provides statistics on the number of cases that have been referred to general prosecutors, broken down by year, geographic area, type of copyright work in question, and number of infringing copies seized. As can be seen, the number of cases has increased from six in the year 2000, to 149 in 2001, with the vast majority occurring from July onwards, to 148 in just the first five and one-half months of 2002. What is equally noteworthy is the geographic spread of the inspections being carried out and cases being lodged. In 2000, all but one of the cases originated in Amman, whereas in 2002, cases also were referred on a regular basis from Irbid, Zarqa, Aqaba, Karak, and Mafraq. In addition, the National Library estimates that the number of inspections it carries out is approximately three times the number of cases it lodges (since not all inspections yield infringing works). Based on that estimate, the National Library officers had already carried out about 444 inspections during the first part of 2002.

### **Year 2000**

<b>No.</b>	<b>Work</b>	<b>No. of Tapes</b>	<b>No. of cases</b>	<b>Total No. of</b>
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			according to Area	Cases
1	Cassette Tapes	156	Amman (5)	6
2	Video Tapes	153	Madaba (1)	

**Year 2001**

No.	Work	No. of Tapes	No. of cases according to Area	Total No. of Cases
1	Cassette Tapes	1968	Amman (116)	35 (1/1-22/7) 114 (23/7-31/12) 149
2	Video Tapes	191	Irbid (13)	
3	CD's & DVD's	1782	Karak (7)	
4	Books	188	Aqaba (5)	
5	Software	1	Madaba (1)	
6	Satellite Cards	18		

**Year 2002**

No.	Work	No. of Tapes	No. of cases according to Area	Total No. of Cases
1	Cassette Tapes	1662	Amman (171)	1/1-14/5 148
2	CD's & DVD's	4323	Irbid (32)	
3	Books	248	Zarqa (20)	
4	Video Tapes	240	Aqaba (11) Karak (11) Mafraq (3)	
5	Software	3	Amman (3)	

According to information provided by a judge of the Court of First Instance and a general prosecutor, all cases lodged with a general prosecutor proceed to trial, but to date about ten percent of those cases have been dismissed for evidentiary reasons. Of the cases that were tried, about 75% resulted in convictions and about 25% in acquittals. Approximately 90% of all convictions have been the subject of an appeal. Of those, the appeals court has remanded about 30% to the first-instance court for further review, and upheld about 70% of the convictions. The record of enforcement by the courts is therefore a commendable one. The primary drawback is that the penalties imposed have been small, reflecting perhaps the fact that the value of the seized works has tended also to be small, generally only several hundred J.D. To the extent that the low level of fines is attributable to lack of familiarity with principles of copyright law, however, judges should be provided the opportunity to receive training in copyright law matters.

Despite the generally low level of fines stated above, it appears that heightened copyright enforcement has begun to have an impact on commercial behavior in the Kingdom. In one instance, the owner of a large commercial establishment with multiple branches throughout the Kingdom voluntarily surrendered a very large stock of infringing works following inspections by officers of the National Library in two of his branches. In another, the Arabian Anti-Piracy Alliance announced in February 2002 that some American film companies would sell videocassettes to Jordanian video shops at reduced prices to encourage further adherence to copyright law. Although this measure has, apparently for unrelated reasons, not yet been implemented, it would never have been initiated in a climate of large-scale copyright infringement. In addition, the number of deposits of copyrighted works with the National Library is increasing, as is the number of newspaper and journal articles that focus attention on copyright enforcement. Articles with titles such as “Inspectors crack down on bootleg tapes and videos,” “National Library refers 27 shop owners to prosecutor general,” and “Copyright infringement still occurs, in spite of fines and possible imprisonment” have begun appearing in the national press, and all make clear that an objective of the Jordanian government is to minimize violations of the Copyright Law. Ensuring that copyright enforcement remains a subject of topical interest in the press as well as through other public awareness campaigns should be an important public relations goal of the National Library.

### **Copyright Enforcement Database:**

Thanks in part to computers donated to the National Library by USAID, the National Library is in the final stages of launching a comprehensive database that tracks all its enforcement activity. Designed and programmed by the National Library staff, the database will include records of all inspections, inventories of all seized works and materials, copies of all reports filed, file histories of all cases referred to the general prosecutor, and records of the disposition of copyright cases. The database should greatly facilitate the work of the National Library officers, particularly in planning inspections and tracking recidivist violators. In order to make maximum use of the database, however, the officers need to be able to access it while traveling throughout the Kingdom to make inspections. For that reason, as stated above, laptop computers are essential. In addition, it is important that the National Library be provided with whatever additional software and technical support it requires to ensure that the database becomes fully operational and performs properly. Once completed, I believe the database will be able to serve as a model for other nations that are embarking on similar enforcement efforts.

### **Collaboration with the Customs Authority:**

The Jordanian Customs Authority is empowered to detain allegedly infringing goods at the border. It therefore needs to be able to detect and identify copyright infringements and benefits from collaboration with the National Library. According to the National Library, the Customs Authority has already turned to it for advice and expertise in specific cases. This is a beneficial development, and one that should continue. To ensure that it does, inclusion of Customs Authority personnel in copyright training programs, and periodic meetings of the two bodies should be encouraged.

### **Training Opportunities:**

In addition to training opportunities possibly available under the AMIR II program, resources exist that the National Library should exploit in order to maximize its training objective. The most important resource is the World Intellectual Property Organization (WIPO), which organizes seminars and training courses at its headquarters in Geneva, Switzerland, as well as in countries worldwide. Of particular note is WIPO's Worldwide Academy, the primary purpose of which is to provide training to government officials from developing countries. Another resource is the Arabian Anti-Piracy League, headquartered in Dubai, which provides excellent technical instruction in the detection and seizure of infringing works.

If the National Library wishes to consult with other countries that have also done battle with copyright infringement issues, it might wish to consider Cyprus (particularly for CDs and cassettes), Egypt (particularly for books), or India (particularly for software, CDs and cassettes). While none of these countries has resolved the problem of copyright infringement, they have histories to share of both successful and unsuccessful efforts. Unlike Jordan, however, where the effort to enforce copyright is centered in a governmental institution, the efforts to combat copyright infringement in other countries are led mostly by the private sector.

Because the National Library has taken the lead in Jordan's determination to enforce copyright, this report has focused on efforts to support the Library. I would be remiss, however, if I did not include the need to provide copyright training for the private sector in Jordan. The principle that copyright enforcement is the obligation of governments is a relatively new one. Historically, copyright was viewed as a private right with the burden of enforcement falling squarely on the copyright owner. While times have clearly changed, the burden of enforcement cannot be borne solely by the government. The private sector must play its part by filing civil lawsuits to enjoin and seek remedies for copyright infringement. It must also participate actively in public awareness campaigns and in supporting government enforcement efforts. To the extent that the interested circles in Jordan require training to allow them to fulfill their role in copyright enforcement, that training should be considered a necessity.

### **Conclusion: Recommendations for Further Action**

The National Library, its Director General, and its staff are to be commended. In a relatively short period of time, they have created a workable, effective system of copyright enforcement. Their efforts were aided by a Copyright Law that generally conforms to prevailing international norms, and by a Government that seems determined to accord copyright its highest respect. What is needed now are measures to ensure that Jordan will maintain, if not increase, its momentum its campaign against copyright infringement.

Among those measures are the following:

- Training, both in the Kingdom and abroad, on copyright enforcement for National Library, police, and customs authority employees, as well as for judges;
- Infrastructure resources to allow the National Library to implement fully its copyright enforcement objectives;

- Copyright Law amendments to ensure, in particular, that the National Library officers have the authority to inspect non-commercial establishments and to the increase maximum fines in cases of copyright infringement;
- Continued public relations efforts to draw the nation's attention to the importance of copyright enforcement;
- Enhanced opportunities for coordination among the National Library, the police, customs authorities, and general prosecutors; with respect to the police, the designation of particular officers to work closely with the National Library;
- Training opportunities for private-sector establishments to permit them to play a more constructive role in copyright enforcement; and
- Continued participation by the National Library in opportunities provided by organizations such as WIPO and the Arabian Anti-Piracy Alliance, as well as by the copyright regimes of other countries.

Jordan is well on its way to a bright copyright future. With continued perseverance, bolstered with continued assistance and support, Jordan has the potential to become a copyright beacon for the Arab world.