A SOCIO-LEGAL APPROACH TO GAUGING ATTITUDES TOWARDS INTELLECTUAL PROPERTY RIGHTS

Faris K. Nesheiwat and Mike Adcock†

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ABSTRACT

This article seeks to provide a socio-legal framework for the examination of the attitudes of a section of the Jordanian public towards intellectual property rights (IPRs) using copyright protected software as an example. The article provides an overview of perceptions of IPRs within an Arabic and predominantly Muslim society and examines how such perceptions impact attitudes towards abiding with, and enforcing, IPRs. Through its analytical value and empirical research, the article fills a void in the availability of reliable empirical data in Jordan as part of the analysis to gauge the impact of intellectual property (IP) laws. A review of the literature indicates that the empirical research presented in this paper provides numerical data that has thus far been either unavailable or not reliably

† Faris K. Nesheiwat: Visiting Tutor at Durham University, PhD Durham University, JD Seton Hall University. Mike Adcock: Lecturer at the Department of Law, Durham University, PhD University of Sheffield.
supported. This article concludes that traditional, cultural attitudes to property rights still exist, and while a uniform, strong religious stance against software infringement might have more influence over attitudes than the raising of awareness of intellectual property law, such a stance is unlikely given the non-hierarchal nature of Islamic theology.

Jordan had limited IP law prior to the 1990s. While patents, trademarks, and copyright were acknowledged as distinct areas of jurisprudence in the Civil Code, the small role they played in practice reflected their generally minor economic roles. This all changed with the World Trade Organization (WTO) accession talks and Jordan’s growing openness to the global economy. With the adoption of IP laws that are compatible with the WTO’s Trade Related Aspects of Intellectual Property Rights (TRIPS), Jordan’s IP laws have undergone radical developments and are considered to be in a TRIPS-plus stage in some areas. The integration of a TRIPs-plus IP regime into the policies and practices of countries with no previous tradition of providing private property rights, particularly where those countries have not had the opportunity of debating the issues over a number of years, raises a number of issues. One such key issue that is addressed in this article is the attitude of the public to this new wave of IPRs. Attitudes are important because they guide behavior, such as infringement activities. Clearly enforcement alone, i.e. a legal approach, will not solve the problems of infringement. What is required is a greater understanding of what influences people’s attitudes and behaviors towards IP, i.e. a socio-legal approach.
I. INTRODUCTION

At a time when the application of TRIPS and TRIPS-plus IP regimes across the world provoke reactions ranging from indifference to indignation, it is worthwhile to observe that IP laws and their enforcement lie at the heart of a substantial global strategy for developed countries and multinational companies (“MNCs”).

A steady stream of publications attests to the growing importance of IP. Even so, there are still few specific treatments of perceptions towards IP and how such perceptions affect IPR enforcement in specific country and cultural settings. This article is intended to provide an overview of perceptions of IPRs within an Arabic and predominantly Muslim society, and examine how such perceptions impact attitudes towards abiding with, and enforcement of, IPRs. The article presents its findings, however, without passing judgment on the country and culturally specific settings or suggesting how such settings can, or even if they should, be improved.

In the face of the increased proliferation of IP laws as a result of the increased number of countries acceding to the WTO and therefore being forced to adopt TRIPS, the reality of such mandated adoption is contrasted against the more ideal notions of having IPR legislations be organically linked to the local economy and governed by the principles of cost and benefit at the local level. Similar notions include the hope that IP legislation be clear and transparent and fulfill social and developmental goals, while copying Western IP standards should be limited. This approach can be best understood in terms of the evolving context of the local IP legislation and its interaction with the local perceptions of IPRs.

Prior to Jordan’s amendment of its IP laws for accession to the WTO on April 11, 2000, there was not a substantive legal body that focused on issues of IP. However, a major overhaul of laws and regulations in general impacted IP laws as well. The main two catalysts for that overhaul were Jordan’s goal of securing membership in the WTO, and the new liberalized economic outlook, which focused on market liberalization, economic openness, and the attraction of

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2 A search query on Google Scholar conducted on July 8, 2012 revealed that since January 1, 2012 about 956 articles were added with the words “intellectual property” in their title.
foreign investments.4

Among the changes to IP laws were: (1) a new patent law granting 20 years of patent protection, which was enacted in 1999, (2) the incorporation of TRIPS-consistent standards into statutory language,5 (3) a new copyright law, enacted in 1992,6 and (4) several 2007 amendments7 to the nation’s original trademark law, which was written in 1952.8 Additionally, in the span of three years (2000-2003), Jordan went from having only four IP laws to having twelve such laws.9

Pursuing WTO membership, however, was not mainly an economic decision; rather, it seems to have been steered primarily by a political view influenced by the principles advocated by the International Monetary Fund (IMF) during its support program of the Jordanian economy and currency, which began in 1989 and ended in 2004.10 The economic impact and value of the WTO membership was not evaluated beyond the promises made by the developed countries of more access to world markets, increased foreign direct investment (FDI), and the improvement of the Jordanian standard of living.11

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4 Interview with Mohammad Halaiqah, Head of the Jordanian Negotiations Team for Joining the WTO (Apr. 9, 2011). Transcripts of all interviews are on record with the Author.

5 Patent Law No. 32 (Jordan 1999). TRIPS stands for the “the Agreement on Trade Related Aspects of Intellectual Property”.

6 Copyright Law No. 22 (Jordan 1992).


8 See id.


Additionally, the Parliament was suspended when the new IP laws were enacted; thus, the process was deprived of a full debate by the legislative branch. Further, civil-society organizations were not involved in the debate, which limited the feedback on the economic and social costs of WTO membership in general, and the adoption of TRIPS in particular.

Shortly after the WTO accession, Jordan embarked on negotiations to conclude the Jordan–U.S. Free Trade Agreement (“JUSFTA”), and the Jordan-EU Association Agreement (“JEUAA”). The former entered into force on December 17, 2001, and the latter entered into force on May 1, 2002. Both the JUSFTA and the JEUAA have a strong IP component with a significant TRIPS-plus dimension.

The implementation or amendment of a raft of laws covering IP with little debate in Parliament and no involvement of civil society did not foster conditions of accountability and transparency, which are key factors for the development of good governance and the acceptance of change amongst society. These fundamental changes to IP policy and practice bypassed any societal involvement. This potentially leaves a gap between IP laws and the awareness and attitude of society towards IP. This article seeks to gauge the attitudes of a section of Jordanian society towards IP 12 years after Jordan’s accession to the WTO.

In order to gauge the attitudes towards IPRs, it is important to frame the cultural and religious perspective. Cultural indicators shape the cultural perspective towards property and the sharing of property, while religious factors influence behavioral attitudes towards property. The following section looks at cultural and religious factors that have shaped the Jordanian peoples’ attitudes towards IPRs.

II. CULTURAL FACTORS

Jordan and the Arab world can be described, according to the cultural indicators developed by Hofstede, as conservative, masculine, power distant, and collective. Masculine cultures are more assertive

12 Jordanian Parliament was suspended between 2000-2002 and 2009-2010.
13 Telephone Interview with Halim Abu Rahmeh, Vice-chairman, Jordan Exporters Association (Aug. 7, 2011); Telephone Interview with Hanan Sboul, supra note 10.
14 The Free Trade Agreement between Jordan and the United States (“JUSFTA”) was signed on October 24, 2000.
15 See Stephanie S. Robbins & Antonis C. Stylianou, A Study of Cultural Differences in Global Corporate Web Sites, 42 J. COMPUTER INFO. SYS. 3, 3-7 (2002); Shifra Sagy et al., Individualism and Collectivism in Two Conflicted...
than feminine cultures in regards to value achievement and materialism.\textsuperscript{16} In power distant cultures, the authority of superiors is accepted, inequalities among people are both expected and desired, less powerful people are dependent on the more powerful, and the hierarchy in organizations reflects the inequality between higher-ups and lower-downs.\textsuperscript{17} Collective countries have little personal freedom, because the groups and organizations to which one belongs invade one’s private life.\textsuperscript{18}

“Hofstede’s power distance index measures the extent to which the less powerful members of organizations and institutions (like the family) accept and expect that power is distributed unequally,” resulting in inequality (those who have more versus those who have less).\textsuperscript{19} Hofstede suggests that the followers endorse a society’s level of inequality as much as the leaders do. For example, Germany is positioned at 35 on Hofstede’s scale.\textsuperscript{20} “Compared to Arab countries where the power distance is very high (80) and Austria where it is very low (11), Germany is somewhat in the middle.”\textsuperscript{21} German society does not have a large gap between the wealthy and the poor, and German citizens have a strong belief in equality.\textsuperscript{22} German citizens "have the opportunity to rise in society."\textsuperscript{23} By contrast, the Arab world has a large gap between the wealthy and the poor, and its residents do not have a strong belief in equality.\textsuperscript{24}

\textit{Societies: Comparing Israeli-Jewish and Palestinian-Arab High School Students}, 33 YOUTH \& SOC'Y 3, 5-25 (2001); Gupta et al., \textit{Cultural Clusters: Methodology and Findings}, 37 J. WORLD BUS. 11, 12-14 (2002). Hofstede developed an empirically-based typology of cultural attributes by analyzing data obtained from surveys conducted among individuals in 53 nations in 1968 and 1972. Since all 116,000 respondents were employees of the same firm, IBM, Hofstede was able to hold constant the influence of industry and corporate culture. Based on the data obtained, he classified countries along four dimensions: power distance, uncertainty avoidance, individualism/collectivism, and masculinity/femininity. Hofstede rated each of the 53 countries in his study by these cultural dimensions. K. Bagchi, P. Hart, and M. F. Peterson, \textit{National Culture and Information Technology Product Adoption}, 7 J. GLOBAL INFO. TECH. MGMT. 4, 29-46 (2004).

\textsuperscript{16} See Gupta et al., \textit{supra} note 15, at 12-14; Robbins \& Stylianou, \textit{supra} note 15, at 3-7.
\textsuperscript{17} Robbins \& Stylianou, \textit{supra} note 15, at 5.
\textsuperscript{18} \textit{Id.}
\textsuperscript{20} \textit{Id.}
\textsuperscript{21} \textit{Id.}
\textsuperscript{22} \textit{Id.}
\textsuperscript{23} \textit{Id.}
\textsuperscript{24} \textit{Id.} (establishing that a larger power distance index is associated with a greater

\textit{continued} . . .
The strong collectivist culture of the Arab world, of which Jordan is part, results in little personal freedom, which leads to a weak individual assumption of responsibility. This collectivist orientation is expressed in ideals that scholars associate with Arab culture, such as "solidarity, cooperation, commitment, mutual trust, support, and a sense of belonging." As Kurman suggests, collectivist cultures, such as Jordan, place strong cultural restrictions on the self, resulting in a low need for uniqueness and a strong motivation not to break away from the aforementioned values. In such a collective society, where individuals sacrifice their personal ambitions for the good of the collective, the spread of IP piracy is more likely, as individuals motivated by solidarity, cooperation, trust, and support are likely to share property with others and expect them to do the same, without much regard for the notion of IPRs.

IP piracy is also related to power distance, which is high in Arab countries. The greater a culture’s power distance (i.e., the further individuals feel separated from their superiors, such as law enforcement officials), the greater the propensity to pirate IP products. The Arab culture, therefore, scores high on collectivism and power distance, both of which have been correlated in the literature with increased piracy rates and low enforcement of IPRs. Overall, this points to the cultural effects on perceptions of IP.

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28 See Bryan W. Husted, *The Impact of National Culture on Software Piracy*, 26 J. BUS. ETHICS 197, 202-03 (2000). Husted examined the impact of the level of economic development, income inequality, and cultural variables on the rate of software piracy at the country level and found that software piracy is significantly correlated to GNP per capita, income inequality, and individualism. Husted also developed implications for anti-piracy programs and suggestions for future research.
Specific nations have specific cultural traits that are difficult to change in their essentials, although they can often be superficially modified.\(^{32}\)

**III. RELIGIOUS FACTORS**

Next, religion is examined as a potential factor in shaping Jordanian attitudes towards IPRs. Religion is an important moral and cultural force in Arab societies, including Jordan, where 95% of the population is Muslim.\(^{33}\) In Islamic countries, religion directs the citizens’ behavior.\(^{34}\) However, due to the lack of contemporary Islamic views on IP, which itself is a modern concept, it is difficult to ascertain a clear position in Islamic jurisprudence towards IP concepts,\(^{35}\) although we can sketch two broad approaches. On the one hand, we find the approach of those who adhere to the position of classical scholars and reject the concept of IP, arguing that knowledge should be available for all humans to use and share with each other and that no one should be deprived of access to knowledge.\(^{36}\) On the other hand, some Islamic scholars have accepted the premise that ideas and/or methods can be owned under the rubric of IP, but have premised their prohibition of copying on the need to have a ‘legitimate ruler’ approve such a prohibition.\(^{37}\) The issue of who is a legitimate ruler under Islamic law is not a clear one; Sharia, which is considered

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\(^{35}\) Id.

\(^{36}\) The main principles here are not a complete negation of IPRs, rather (i) the rejection of plagiarism, and (ii) the permissiveness of personal use. See, e.g., حَقُوق إِلَام وِمَتَّرَكَاتُ القِبْلَةِ التَّأَليفِ والختانِجِ والإِبْتِكَارِ مَحْفَظَةُ لأَصَابِحَا، http://www.islamweb.net/fatwa/index.php?page=showfatwa&Option=FatwaId&Id=161059 (last visited Feb. 15, 2013) (fatwa stating that one should not claim to themselves that which they did not produce, but that personal use of knowledge is permissible).

God’s law and supersedes the laws of the State, is expected to be the sole criterion of behavior, and the authority of the temporal ruler as the representative of Allah is derived from and designed by that law.\textsuperscript{38} The fact that all Arab countries, including Jordan, have adopted a hybrid legal system that takes Sharia law into account in certain areas but forsakes it in other areas can be a key factor in leading observant Muslims to believe that laws pertaining to IPRs should not be observed from a religious point of view because the ruler who approved them is not technically a ‘legitimate ruler’ according to Sharia law.

Thus, because there is not a single unified Islamic position on IP, any claims that Islam supports the enforcement of TRIPS-style IP are questionable. The problem of establishing a unified religious position on IP is further complicated by the fact that Islam does not acknowledge the role of a “universal legal authority” with the power and right to make religious laws applicable to all Muslims;\textsuperscript{39} rather, the authority of even a legitimate ruler is no greater than that of any other qualified mujtahid\textsuperscript{40} (one who possess the power of Ijtihad, the interpretation of problems not precisely covered by the Qurān, Hadīth (traditions concerning the Prophet’s life and utterances), and Ijmā (scholarly consensus)).\textsuperscript{41} Therefore, since the default position under Islamic jurisprudence is to allow an activity unless it is specifically prohibited, the position of one legal scholar opposed to piracy is considered only that scholar’s personal opinion and cannot be given any more weight than another scholar’s opinion that might contradict it.\textsuperscript{42} IPRs are not addressed under the Qur'an, Hadīth, or Ijmā; thus, it is an area that will likely never be treated uniformly by legal scholars, resulting in inconsistent approaches that allow for individual interpretation on how a Muslim should observe or not observe IPRs laws.

One can also conclude that studies suggesting that Muslims will abide by IPRs laws if Islam prohibits piracy\textsuperscript{43} should be viewed with skepticism and interpreted within the context of (i) the lack of

\textsuperscript{38} N. J. Coulson, The State and the Individual in Islamic Law, 6 INT'L & COMP. L. Q. 49, 49-60 (1957).
\textsuperscript{41} See Coulson, supra note 38.
\textsuperscript{42} See id.
\textsuperscript{43} See, e.g., Fadhli, supra note 34, at 1.
treatment of IPRs under Islamic law, and (ii) the fact that any Islamic legal opinion on piracy holds little or no universal jurisprudential weight. Rather, as there is an apparent lack of any clear religious position under Islamic law on the enforcement of IPRs, religion may be a factor in the way people look to rationalize their behavior, but one which is not easily or fully predicted. The empirical research provided in this article thus provides valuable insights into how religion can be interpreted by Muslims as a rationalizing factor towards IPR enforcement.

IV. ECONOMIC FACTORS

Another potential rationalization for individuals to disregard IPRs is that counterfeiting data provided by multinational companies is accused of being grossly overestimated; thus, some research concludes that piracy is an externality to MNCs, meaning that piracy has little to no negative monetary impact on MNCs.44 MNC’s repeated warnings about the staggering financial losses they claim to be suffering due to a surge in the global trade of counterfeit goods place such losses at the hundreds of billions of dollars per year.45 MNCs claim that they suffer the vast majority of these losses from counterfeiters located in developing countries, and they claim that corrupt governments in many of these developing countries protect or support counterfeiters that harm their businesses and the global economy.46

Recent research, however, suggests that MNCs are not really harmed by counterfeiting and that “the financial losses that MNCs claim to suffer from lost sales caused by counterfeiting are based on methods that grossly exaggerate both the levels of counterfeit goods

44 See generally Simon Mackenzie, Counterfeiting as Corporate Externality: Intellectual Property Crime and Global Insecurity, 54 CRIME L. SOC. CHANGE 21-38 (2010) (suggesting that the current global problem of IP crime is an externality and that it has not been recognized as such because corporations characterize product counterfeiting and piracy as crimes which reduce their revenue, rather than as predictable side effects of corporate production and merchandising, including branding activity, which have considerable socially deleterious consequences); Danial Chow, Counterfeiting as an Externality Imposed by Multinational Companies on Developing Countries, 51 VA. J. INT’L L. 785 (2010-11). Chow notes that multinational companies (MNCs) are not really harmed by counterfeiting. MNCs cannot substantiate their claims of massive losses through credible evidence; instead, they use methods for calculating losses based upon dubious and spurious assumptions.

45 Chow, supra note 44, at 785.

46 Id.
sold and the losses suffered.”\footnote{47} According to Chow,

\begin{quote}
[C]laims [by MNCs] of severe financial losses are unsubstantiated and based upon dubious assumptions that do not withstand scrutiny.\footnote{48} The actual losses suffered are most likely only a tiny fraction of the amounts claimed; in dollar terms, lost sales of genuine products due to counterfeits are likely insignificant and cause little or no financial damage to a majority of MNCs.\footnote{49}
\end{quote}

MNCs have been accused of making false claims of massive economic losses in order to divert attention from the real harms of counterfeiting, such as the use of IP piracy to fund organized crime, and the MNCs role in perpetuating these harms by aggressively marketing their expensive brands as status symbols.\footnote{50}

Moreover, it is found that economic variables do play a role in the decision to pirate software and that increased power distance (the further individuals feel from their superiors, such as law enforcement officials) leads to a greater propensity to pirate software.\footnote{51} As Strikwerda and Ross point out, people look for ways to rationalize their behavior when considering decisions such as whether to pirate a copy of software.\footnote{52} A monetary rationalization posits that most IP companies are large corporations that make large profits and can therefore afford the alleged losses from pirated copies.\footnote{53} A person’s rationalizations are based on perceived inequity with those who have power over the person or how close they feel to those who have power over them.\footnote{54} Similar to the insights gained on the role of religion as a rationalizing factor towards IPR enforcement, the empirical research in this article provides valuable insights into the rationalizing role played by the perception of MNCs as aggressive marketers of expensive materialistic goods.

\footnote{47} Id. at 787.
\footnote{48} Id.
\footnote{49} Id.
\footnote{50} Id. at 791.
\footnote{51} Depken & Simmons, supra note 29, at 98.
\footnote{52} Id.
\footnote{53} Id.
\footnote{54} Id.
V. A NOTE ON EMPIRICAL DATA

Among the issues encountered in this research was the lack of a unified repository of statistical data. Statistics in Jordan have not been made publicly available in all areas (including important economic information like the FDI, as noted by the U.S. Government accountability office), and available information is usually overly general and lacking in detail. Even though Jordan has a General Statistics Department (GSD), statistics and data on several areas are compiled by other agencies and sources (e.g., Gross Domestic Product (GDP) and FDI numbers are compiled by the Central Bank of Jordan (CBJ)). Similarly, data on court activities is compiled and published by the Ministry of Justice and the Judicial Council, and data on specific enforcement agencies like the Customs Department and the Ministry of Industry and Trade (MoIT) are available almost exclusively through those agencies. This problem is not unique to the economic or legal sector and even extends to social sectors. For example, there are three different figures for the percentage of handicapped individuals in Jordan, and unemployment numbers are similarly disputed and contested. The end result is that securing data or statistics in almost any social, legal, or economic area requires a great deal of research to determine the source of those figures and to reconcile their disparate values, often by examining their differing definitions, areas of measurement, and measurement methodologies.

Also, the quality of the available data is not uniform. For example, the imports and exports numbers compiled and published by the CBJ are usually presented in the form of a press release that states the relative breakdown of a few major categories of imports and exports, but stops well short of a detailed analysis or even a complete listing. FDI numbers as presented by the CBJ represent another major problem because they are not broken down by category. This means that there is not a specific number for the IP component of FDI figures, and instead the data has to be deduced from other numbers.

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56 The GSD estimates the percentage of handicapped persons in Jordan to be 1.2% (GSD 2004 census), the Higher Council for Handicapped Persons puts it at 4%, and the World Bank estimates that 4-6% of the population is handicapped. See Nesheiwat, supra note 11, at 32 n.103.

pertaining to the sources of the FDI and the areas to which the FDI was targeted. In some instances, as with the numbers pertaining to investments benefiting from incentives by the investment promotion laws, which are compiled by the Jordan Investment Board (JIB), it was found that projects were counted more than once in order to artificially increase the value of projects benefiting from those incentives. This researcher therefore relied on CBJ data rather than JIB data when examining the impact of IP laws on economic development and investment. This lack of uniformity, which continues to be perpetuated by the existence of many competing sources of data and the absence of full statistical analysis, is particularly dangerous because the public tends to be easily manipulated by statistics. An old adage describing the persuasive power of numbers rings true in the case of obtaining data in Jordan: “[t]here are three kinds of lies – lies, damned lies, and statistics.”

The various agencies and departments are largely reluctant to offer any figures on their work, especially if those numbers pertain to areas that are considered problematic or in which the official data could be used in potentially unflattering ways, such as IP laws. Jordan does have an Access to Information Law, which stipulates that citizens have the right to access written, recorded and photographed governmental information and basic government records. Actual access, however, is restricted by agencies’ obfuscation and by other laws, like the Press and Publication Law and the Government Secrets Law, in addition to ten exceptions within the Access to Information law itself that place certain data outside its purview. It is worth noting that agencies’ reluctance seems to disappear when communicating with foreign governmental officials or local staff of foreign embassies, as indicated by correspondence between the Government of Jordan and foreign agencies released through Wikileaks, which showed that Jordanian officials are readily willing to share information with

58 Hiba Issawi, Values of Projects Benefitting from Investment Promotion Laws Do Not Reflect Improvement in Data, ALGHAD DAILY NEWSPAPER, Apr. 8, 2010.
61 Access to Information Law No. 47 (Jordan 2007).
foreign agencies.62

Additionally, the Access to Information Law Request Form demands that the seeker explain why the information is needed,63 thus allowing the request to be refused if the reviewer does not approve the intended use. There are no mechanisms to force the government to explain its denial of the request; while the law states that each denied request must be justified, the refusal to provide an answer to a request is considered an implied denial under the law, which does not require justification.64 It is not clear how one would exercise a judicial review option under such a *de facto* denial, as the requester is not provided with any reasons to include in its claim before a court of law. On the other hand, Jordan’s willingness to provide information to international agencies was clearly indicated by considerable data often found by this researcher in filings by the Jordanian government to the WTO or the USTR and the US Congress, when attempts to obtain similar data from the local sources were futile.

VI. Empirical Research

A. Field Interviews

1. Questionnaire:65

A questionnaire was created and used to gather the attitudes of students at Jordan University toward counterfeit products. The survey questions were formulated based on the literature.66 The questionnaire consisted of four sections. The first section contained questions on perception of the current prevalence of counterfeit products among university students. The second section contained questions on the respondents’ attitudes

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63 Access to Information Law No. 47 (Jordan 2007).
64 Id.
65 The questionnaire was designed, prepared, collected, tabulated and analyzed with the help of the staff of Jordan University’s Center for Strategic Studies (CSS), under the supervision of Dr. Waleed Alkhateb the head statistician of the CSS.
towards counterfeit products based on their religious beliefs; these questions were intended to examine whether students’ ethical orientation affected their behavior towards counterfeit products. The third section, consisting of six items measured on a two-point (yes or no) scale, contained questions on the respondents’ ethical attitudes towards counterfeit products. The fourth section contained questions on the following demographic categories:

1) Respondent’s age;
2) Marital status;
3) Monthly income of the respondent’s family;
4) Respondent’s college;
5) Respondent’s country of birth;
6) Respondent’s place of residence (province);
and
7) Source of respondent’s tuition.

Given the earlier discussion on the power distance and collectiveness of Jordanian society, the lack of a unified religious position on the issue of IPRs in Islamic jurisprudence, and the monetary rationalization against MNCs, the results of the questionnaire were expected to indicate a high percentage of piracy, the non-conclusive role of religion in combating piracy, and a general disregard for the alleged damages suffered by MNCs as a result of piracy among university students.

2. Sample

Jordan University students from several colleges (outlined in Table 1, below) were chosen as the sample population for the questionnaire because college students represent a large segment of copyright violators. The University of Jordan is the oldest and largest campus in Jordan, and its location in the capital, Amman, attracts students from various parts of the country, unlike provincial universities where the student composition tends to be more localized.

The total sample was 381 students. Of the 362 valid responses, 177 (46.5%) of respondents were male, and 199 (52.2%) were female, with five (1.3%) not reporting their gender. The respondents represented a cross section of majors taught at the university.

The sample was representative of the various colleges at the University of Jordan and was distributed as follows:

**Table (1) Sample Distribution:**

<table>
<thead>
<tr>
<th>Faculty</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering</td>
<td>109</td>
<td>30.1</td>
</tr>
<tr>
<td>Education</td>
<td>35</td>
<td>9.7</td>
</tr>
<tr>
<td>Science</td>
<td>43</td>
<td>11.9</td>
</tr>
<tr>
<td>Islamic Law (Sharia)</td>
<td>17</td>
<td>4.7</td>
</tr>
<tr>
<td>Agriculture</td>
<td>4</td>
<td>1.1</td>
</tr>
<tr>
<td>Information Technology</td>
<td>33</td>
<td>9.1</td>
</tr>
<tr>
<td>Business Administration</td>
<td>71</td>
<td>19.6</td>
</tr>
<tr>
<td>Arts</td>
<td>50</td>
<td>13.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>362</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

B. Analysis and Findings

In the following section, the responses are explained according to the three groups of questions.

The first group of questions explored the current state of digital piracy among University of Jordan students. A total of 89.9% of the respondents had knowingly engaged in buying counterfeit products or using cracked software on at least one occasion. This finding confirms the high level of use of counterfeit goods among young people in Jordan.
Table (2) Have you engaged at least one time in knowingly buying counterfeit products?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>1 Yes</td>
<td>342</td>
<td>89.8</td>
<td>89.8</td>
</tr>
<tr>
<td></td>
<td>2 No</td>
<td>39</td>
<td>10.2</td>
<td>10.2</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>381</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

When respondents were asked if they had any original software installed on their computers, the responses were: none (26.5%), one to two software products (59.6%), and three or more software products (13.1%). None of the respondents claimed that all of their software was original. When asked if they were likely to continue buying counterfeit products or using cracked software, 53% said they would, indicating that the buying of counterfeit products is an acceptable social norm for the majority of the respondents. The economic factor was a major incentive to buy counterfeit products, as 64.3% of the respondents said that they would not buy counterfeit goods if they could afford to buy the original versions. It is an indication of the inappropriate pricing levels of original products that even in rich countries like Kuwait, with a GDP nine times that of Jordan, the economic factor played an essential role in the purchase of counterfeit products for 51.9% of respondents to a similar question.

Dedicated shops were the source for buying counterfeit products for 24.7% of the respondents, while 55.9% of the respondents said they bought the counterfeit products from dedicated shops as well as other places, and 19.2% of the respondents indicated that friends and relatives were their source of counterfeit products.

The second group of questions explored the respondents’ attitudes towards counterfeiting based on their religious beliefs. This question examines whether students’ ethical orientation affects their choice to buy counterfeit products.

In the questionnaire, ethical orientation was tested using responses

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69 Al-Fadhli, supra note 34, at 5.
to the scales measuring ethical cases. A majority of the respondents (65.9%) believed that counterfeit products are not prohibited by religion, while only 28.6% of the respondents thought that religion prohibited counterfeit products, and 4.7% did not know whether such a religious prohibition existed. A majority of the respondents (81.1%) indicated that they would not continue to buy counterfeit products if prohibited by religion, while a smaller majority of the respondents (64.8%) indicated that they would stop buying counterfeit products if prohibited by state law. Tables 3 and 4 show the results.

Table (3): If you knew that counterfeit products were prohibited by religion, would you continue to buy and use such products?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid 1 Yes</td>
<td>66</td>
<td>17.3</td>
<td>17.3</td>
<td>17.3</td>
</tr>
<tr>
<td>2 No</td>
<td>309</td>
<td>81.1</td>
<td>81.1</td>
<td>98.4</td>
</tr>
<tr>
<td>6 I don’t know</td>
<td>4</td>
<td>1.0</td>
<td>1.0</td>
<td>99.5</td>
</tr>
<tr>
<td>9 Missing</td>
<td>2</td>
<td>.5</td>
<td>.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>381</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>
Table (4): If you knew that state law prohibited counterfeit products, would you continue to buy and use such products?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>132</td>
<td>34.6</td>
<td>34.6</td>
</tr>
<tr>
<td>No</td>
<td>247</td>
<td>64.8</td>
<td>99.5</td>
</tr>
<tr>
<td>6 I don’t know</td>
<td>1</td>
<td>.3</td>
<td>99.7</td>
</tr>
<tr>
<td>9 Missing</td>
<td>1</td>
<td>.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>381</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Results from Table 3 show that the majority of the respondents (81.1%) would stop buying counterfeit products if they knew that Islam prohibits it, while 64.8% of them said that they would stop buying counterfeit products if prohibited by state law. But given that IP is not a matter dealt with directly by religion, and given the decentralized and non-hierarchical nature of the Islamic faith practiced by the vast majority of Jordanians,\(^70\) it is misleading to take answers based on religious belief without further scrutiny. In the interest of further scrutiny, two questions were posed. First, respondents were asked to identify what they considered their source of religious authority, and then they were asked to identify the degree to which they were inclined to follow the opinion of that religious authority on matters related to counterfeit goods. Tables 5 and 6 show the results for both questions, respectively.

The Mufti (a Muslim legal expert and adviser on the law of the Quran)\(^71\) was considered the source of religious authority by 41.2% of the respondents; however, interestingly enough, only 52.8% said they would always follow the guidance of the main religious authority on the prohibition of counterfeit products, while 46.7% said they would

\(^{70}\) Guideline: Christians in the Middle East, BBC NEWS (last updated Oct. 11, 2011), http://www.bbc.co.uk/news/world-middle-east-15239529 (estimating that only 3-4% of Jordanians are Christian).

either never or only sometimes follow such guidance, indicating that the effect of religion on the respondents’ choice to use counterfeit products may not be as strong as it first appeared. This validates the earlier conclusion that the suggestion that Muslims will abide by IPRs laws if piracy is prohibited by Islam should be interpreted within the context of (i) the lack of treatment of IPRs under Islamic law, and (ii) the fact that any Islamic legal opinion on piracy holds little or no universal jurisprudential weight.

Table (5): What is the main source of your Islamic actions and decisions?

<table>
<thead>
<tr>
<th>Source</th>
<th>Frequency</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>381</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>1 The Mufti</td>
<td>157</td>
<td>41.2</td>
<td>41.2</td>
</tr>
<tr>
<td>2 The Cleric in my neighbourhood</td>
<td>60</td>
<td>15.7</td>
<td>57.0</td>
</tr>
<tr>
<td>3 Parents</td>
<td>65</td>
<td>17.1</td>
<td>74.0</td>
</tr>
<tr>
<td>4 Other</td>
<td>96</td>
<td>25.2</td>
<td>99.2</td>
</tr>
<tr>
<td>6 I don’t know</td>
<td>2</td>
<td>.5</td>
<td>99.7</td>
</tr>
<tr>
<td>9 Missing</td>
<td>1</td>
<td>.3</td>
<td>100.0</td>
</tr>
</tbody>
</table>
Table (6): If the source of your religious guidance deemed counterfeiting to be prohibited by religion, to what extent would you abide by such an edict?

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Valid</th>
<th>Cumulative</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percent</td>
<td>Percent</td>
<td>Percent</td>
</tr>
<tr>
<td>Valid 1 Always</td>
<td>201</td>
<td>52.8</td>
<td>52.8</td>
</tr>
<tr>
<td>2 Sometimes</td>
<td>148</td>
<td>38.8</td>
<td>91.6</td>
</tr>
<tr>
<td>3 Never</td>
<td>30</td>
<td>7.9</td>
<td>99.5</td>
</tr>
<tr>
<td>6 I don’t know</td>
<td>1</td>
<td>.3</td>
<td>99.7</td>
</tr>
<tr>
<td>9 Missing</td>
<td>1</td>
<td>.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>381</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The third group of questions focused on the respondents’ ethical attitudes towards counterfeit products. The results showed that 71.9% of the respondents believed that buying counterfeit products is an ethical act because counterfeit products provide people of limited income with access to goods, software and books, while only 27.3% of respondents believed that buying counterfeit products is an unethical act. Oddly, 75.1% of the respondents believe that counterfeit products infringe on the rights of companies, while 63.5% indicated that they personally did not care about the companies’ losses because of counterfeiting, which shows that a majority of the respondents do not see the intrusion on the rights of companies because of counterfeit products as a personal issue for them to care about. To the probable satisfaction of the IP scholar and IP reification opponent Christopher May, the reification of IPRs in Jordan has a long way to go.

Although 27% of the respondents indicated that they would continue to buy counterfeit products even if they could afford to buy the original, 49.3% indicated that they felt uncomfortable when buying counterfeit products. It is worth noting that 45.5% of the respondents

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did not believe that buying counterfeit products causes any harm to Muslim people, likely because the companies that produce the original goods are located in the West.

As with any empirical study, there are always limitations that need to be realized before any conclusions can be drawn.

Statistical analysis can be used to provide evidence to support causal relationships between constructs, but it cannot be used alone to infer causality.\(^{73}\) The statistical analysis was performed on data collected from undergraduate students in eight colleges at one university. The sample was statistically representative of the university’s populations, as it was a random sample intended to ensure that each member of that population had an equal probability of being selected. The sample, however, did not include members of the society outside of the university, which may restrict the generalization of the findings to larger populations.

**VII. Conclusion**

According to the cultural indicators, Jordan is a masculine, conservative, power distant and collective,\(^{74}\) and Muslim society. This article suggests that the attitudes of the studied section of Jordanian society towards intellectual property are strongly influenced by these cultural indictors.

Even amongst an educated section of the population whose awareness of IPRs is reasonably high, software piracy is carried out on a large scale. This suggests that the attitude of this section of the population towards infringement is very liberal or indifferent to the consequences of infringement. In fact, it is clear that a strong majority are not at all sympathetic to the piracy losses, whether real or alleged, of MNCs. Moral relativism is clearly involved in respondents’ claims that they considered counterfeit products to be infringement, yet they did not care personally about the issue. This is a strong indication that a majority of Jordanian youth do not concern themselves much with counterfeiting notions, which the Jordanian IP laws have embraced, as the majority of the respondents indicated that they would continue to buy counterfeit products even if prohibited by state law. This demonstrates the masculine aspect of Jordanian society with its goal of achievement and material success with little thought or regard for the consequences of the action.

Furthermore, the sharing of counterfeit software is high amongst


\(^{74}\) **Franke, Hofstede & Bond, supra note 31**, at 165–17.
the group that was studied most likely due to the collective nature of Jordanian society. IP laws were introduced without consultation with civil society and without consideration of the IP laws’ compatibility with the level of economic development in Jordan. It is possible that MNCs and the introduction of TRIPs-compliant IP laws without any consultation of civil society are viewed as external threats. This may lead to different sectors of society pulling together to defend against the perceived common enemy (MNCs, government, and western laws), leading to an increased size of the resultant collective and further sharing of pirated software.

The prevalence of the use of counterfeit software reflects the power distance of Jordanian society. First, a large power distance relates closely to the relationship between the individual and authority. In this case, the government is seen as having little authority in terms of prohibiting piracy. The result is that individuals can express a degree of freedom by ignoring the law and using pirated software. Second, a large power distance reflects the considerable gap between the wealthy and the poor. Although the conservative nature of Jordanian society suggests that its residents do not have a strong belief in equality, obtaining and using pirated software can be seen as a way of addressing both the wealth gap and inequity.

The power distance relates to both religious and governmental authority. In terms of prohibiting piracy, the government is seen by the individual as having less authority than religious leaders. Although religious authority is generally given more credence than government authority, the lack of a unified religious stance allows individuals to “shop” around for a religious viewpoint that does not outright prohibit the use of counterfeit software. Thus, all of these previously discussed factors have contributed to piracy among university students: the power distance and collectiveness of Jordanian society; the lack of a unified religious position on the issue of IPRs in Islamic jurisprudence; the monetary rationalization against MNCs; the results of the questionnaire that indicate a high percentage of piracy; the non-conclusive role of religion in combating piracy; and a general disregard for the alleged damages suffered by MNCs.

The ethical attitude of consumers is important in addressing the purchase of counterfeit products because it may complement legal actions against piracy. Legal actions alone are therefore insufficient in confronting this problem, especially in developing countries like Jordan.

Cost is also very important in a consumer’s decision of whether to pirate or legally purchase IP-protected products. Monetary rationalization was significant, and the results indicate a general indifference to damages incurred by MNCs as a result of piracy. This
can be interpreted as an indication of the disregard of MNCs’ allegations that piracy is harmful to the local economy or that it is a form of theft. Cultural and social backgrounds are found to be influential factors in a consumer’s decision to buy counterfeit products, as a significant percentage of consumer’s do not view counterfeit products as harmful to Muslim people.

The results indicate that piracy percentages are high and those religious beliefs, while not decisive deterrents against IPRs infringement, are stronger deterrents than legal measures.

This questionnaire’s finding that most respondents would not follow their religious leader or guide if that leader prohibited counterfeit products does not support the call made by some scholars to concentrate efforts on the media to spread Muslim *fatwas* (Islamic juridical verdicts) forbidding the purchase of counterfeit products. Further, the finding that the majority of the respondents would continue to buy counterfeit products even if prohibited by state law, in addition to the apathy shown toward the infringement of MNCs’ rights, indicates that more public awareness of IPRs will not stem the tide of consumers buying counterfeit products. Instead, following the finding that a substantial percentage of software users would buy original software if they could afford to do so, an alternate pricing model should be adopted by MNCs.

This article has provided a good indication of the attitudes of a section of Jordanian society towards IP. Software piracy is widespread as the “shapers” (those who define rules and interactions that govern a certain activity), the government, and religious leaders, to a slightly lesser extent, have little influence on attitudes.

In today’s increasingly globalized world, it is the companies, i.e., the “adapters” (those who must adapt to the rules and interactions laid down), which may have the biggest influence on the acceptance of IP. Increased cultural sensitivity and an understanding of the effects that socio-economic factors have on the attitudes towards IP, if it leads to an alternate pricing model, may do more towards changing the attitudes towards IP than can ever be achieved by the government and religious leaders in a society like Jordan.

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75 Al-Fadhli, *supra* note 3, at 8.
77 *Id.*