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**The American University in Cairo**

**School of Global Affairs and Public Policy**

**LEGAL CONSTRUCTION OF NATIONALISM AND NATIONAL  
IDENTITY IN THE HASHEMITE KINGDOM OF JORDAN**

**A Thesis Submitted to the**

**Department of Law**

**in partial fulfillment of the requirements for the degree of  
Master of Arts in International Human Rights Law**

**By**

**Zaina Abdullah Mohamed Ali Siyam**

**May 2021**

The American University in Cairo  
School of Global Affairs and Public Policy

A Thesis Submitted by  
*Zaina Abdullah Mohammed Ali Siyam*

LEGAL CONSTRUCTION OF NATIONALISM AND NATIONAL  
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in partial fulfillment of the requirements for the  
degree of Master of Arts in International Human Rights Law  
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## **DEDICATION**

This thesis is dedicated to my family who stood by me and gave me support and affection at the times I needed it most. Thank you for grounding me and pushing me to go beyond my limits because you believed in me when I did not believe in myself.

I also dedicate this to my late grandfather, Mohammed Ali Siyam, who encouraged me from day one, and always believed and motivated me and called me his lawyer. I miss you dearly. May your soul rest in peace.

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The American University in Cairo  
School of Global Affairs and Public Policy  
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## LEGAL CONSTRUCTION OF NATIONALISM AND NATIONAL IDENTITY IN THE HASHEMITE KINGDOM OF JORDAN

Zaina Abdullah Mohammed Ali Siyam

Supervised by Professor Hani Sayed

### ABSTRACT

Nationalism is an ideology that is not unique to one nation or one area, but it is a concept unique in the way it is defined. How it is defined and what it really is depends on where the definition is coming from. It is most important to post-colonial nations that relied and still rely on the creation of national identity and construction of an imagined community, in order to reach their liberation. Nations are imagined communities constructed through shared history, beliefs, traditions, and experiences that happen over different periods in time, between individuals that do not necessarily know each other on a face-to-face basis, nationalism is the ideology that brings all the shared elements together and creates a desire to belong, and national identity is the result of those social constructs. Then, in order to maintain the nation, law is used as the tool to protect a nation's sovereignty and the dominance of a certain national identity. However, the relationship between law and nationalism and national identity is not one sided, law does not only help maintain and reinforce national identity, but law is also influenced by nationalism and the most prominent national identity in the territory. The Hashemite Kingdom of Jordan is no stranger to the nation building process and is heavily reliant on the existence of a Jordanian national identity in order to remain powerful. The Jordanian nation has carried out processes of Jordanization throughout the years in order to keep its population made up of on real Jordanians, but there is a long history between real Jordanians and their Palestinian neighbours.

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## I. Introduction

Nationalism is a concept that does not have a concrete definition, and the way it is defined depends on the perspective of those defining it. However, for the purpose of this thesis, nationalism is an ideology that stems from the innate human desire to belong. Various schools of thought tried to identify what nationalism actually is and where it all began. Schools like the modernists, which include Ernest Gellner and Benedict Anderson, believe that nationalism is a result of modernization and a sociological condition that came to be as societies transition from agrarian to industrial. Other schools like primordialism, which include John Hutchinson and Anthony Smith, argue that nationalism existed way before the transition to industrial society, and that nationalism and the desire of communities for self-determination in response to colonization.<sup>1</sup> Nationalism can be manifested as a popular movement, and these manifestations arise from the different types of nationalism; ethnic, religious, civic, cultural, and ideological. These different forms of nationalism can be seen in different nations and are usually perceived through the history of how a nation came to be and the laws that it enforces.

Through nationalism and the human desire to belong, national identity is formed, and it brings together individuals within a community, that then form the populations that creates modern day nations. In this thesis, I will examine the ways in which national identity was formed in the Hashemite Kingdom of Jordan by looking at its history, and by studying the laws in which the state creates and maintains its national identity while hosting the largest refugee population in the Middle East. Jordan hosts over 750,000 refugees of nearly 60 different nationalities, predominantly from Syria.<sup>2</sup> However, this number does not include the Palestinian refugee population, as they do not fall under the definition set out in the United Nations Refugee Agency's 1951 Refugee Convention. The convention defines a refugee as "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political

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<sup>1</sup> ANTHONY SMITH, JOSH HUTCHINSON, NATIONALISM, 12, (OXFORD UNIVERSITY PRESS, NEW YORK, 1994)

<sup>2</sup> The United Nations Refugee Agency, Jordan: Key Figures, (2021) <https://reporting.unhcr.org/jordan>

opinion”.<sup>3</sup> Alongside the refugees registered with the OHCR, there are over 2,000,000 Palestinian refugees in Jordan registered with the United Nations Relief and Works Agency (UNRWA).<sup>4</sup> Most Palestinian refugees have full Jordanian citizenship, either permanent or temporary passports, while others, around 370,000 inhabit 10 registered and 3 unofficial refugee camps scattered around the nation, making up 18 percent of the state’s population.<sup>5</sup> Jordan has always welcomed the idea of Arab migrants, and promoted the open-door policy whenever a neighboring Arab state was in crisis, as seen with the Palestinians, the Iraqis, the Syrians, and most recently the Yemins. However, this multinational nation sets out certain legislative policies that help maintain and preserve the Jordanian national identity despite the waves of immigrants residing within their territory. States with such a large immigrant population are those most at risk to have a national identity clash.<sup>6</sup> The thesis will look at the relationship between the Jordanian state and Palestinian refugees mainly because of the history both populations share. The relationship between Jordanians and Palestinians is complicated because they were essentially under the same British Mandate, and while the River of Jordan gained its independence, Palestinians did not. This relationship can be understood by looking at how Jordanian law handles its refugee population, and how it uses law to maintain the dominance of the “real Jordanian” identity, thus maintaining the state’s sovereignty.

The object of study for this thesis is the link between the Jordanian national identity and the Palestinian national identity, as well as their shared existence within one large, imagined community. To understand this link, looking at the history of the kingdom and the process in which the identity was created is important. The study will further examine the legal framework that formed the Hashemite Kingdom of Jordan beginning with the Transjordan Empire under the British Mandate. This will show how Palestine was placed under the control of the British and to an extent the Jordanians, and how the current Jordanian monarchy continues to pass legislation distinguishing

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<sup>3</sup> United Nations Refugee Agency, Convention and Protocol Relating to the Status of Refugees, 3. (December 2010) <https://www.unhcr.org/protection/basic/3b66c2aa10/convention-protocol-relating-status-refugees.html>.

<sup>4</sup> Supra note 2, UNHCR Key Figures.

<sup>5</sup> Id.

<sup>6</sup> Schmidt, P., & Quandt, M. *National identity, nationalism, and attitudes toward migrants in comparative perspective*, 59(5-6). *International Journal of Comparative Sociology*. 90 (2018).

Jordanians from Palestinians and reinforcing national identities created throughout the years.

The aim of the research is to answer the question of how an imagined community like Jordan creates its distinct national identity and maintains it through legal sectors, such as nationality laws. To answer that question, the thesis will look at what Jordanian national identity really is and what it means to be a real Jordanian as opposed to other Jordanians like those of Palestinian origins, as well as how that identity is made distinct from other sub identities that exist within the same borders and how the state manages to keep it dominant. It is important to look at the link between the Jordanian and Palestinian identities within the borders of the Hashemite Kingdom because history shows how important it is for the Jordanian government to keep the two identities completely separate, which in that case means that in order for one to exist, the other needs to as well, to create that separation and avoid melting all national identities within the state into one. On one hand, the Jordanians do not want the Palestinians to overpower them with their identity, because when the Palestinian identity takes over and becomes superior and becomes the prominent identity of the state, then that non-Jordanian imagined community may as well turn into a Proxy Palestinian state. And on the other hand, Palestinians in Jordan need to keep their identity separate in order to keep the cause alive, and to preserve their right to return, which is why many refused the Jordanian nationality.

Palestinian identity is essentially the shared attachment the people have to their village, town of origin, or the sense of the loss of their homeland and the feeling of injustice on the hands of the international community. This is a shared identity that runs through generations of Palestinians regardless of whether or not they were born or have visited the country. Palestinian identity also includes the shared belief in the right to return, a right in which they were promised to return to their land at some point in time, and one that they hold on to until this very day. The research will aim to show how the relationship between nationalism, including its outcome, national identity, and law is two sided. Law is used as a tool to create and maintain national identity, and at the same time law is affected by nationalist discourse and how the dominant group of the population identifies. Some laws are direct results of nationalism, such as nationality law, which

constitutes who is and who can be a national of the country. Other laws are indirectly influenced by it, like residency laws and education and healthcare laws. Therefore, while law helps create national identity, nationalism as a movement has fueled the creation of laws the create and maintain national identities.

The formation of a national identity is a phenomenon that can arise as a result of shared belief, history, traditions, or situations of a group of people. Such shared elements affect these people's daily lives. Nationalism is not a term that has been given a concrete definition, because different schools of thinking define it in different ways; some believe one is born into nationalism and national identity, others believe it is formulated over the years and is a consequence of historical events. Scholars: like Joseph Masaad, claim that nationalism has a continued repressive function, in a sense that they control how people think and act.<sup>7</sup> Identity politics can be seen as a framework for world politics today, as it is observed in many situations, whether ethnic, religious, or national. Others like Benedict Anderson observe identity as a construct formed in accordance with certain events or circumstances.

In a way national identity does not shape history but is shaped throughout history, one's sense of belonging or loyalties does not shape how certain events will play out, but it is the events that will shape those beliefs and mold them into a national identity. The most popular example is that of the Palestinian people, their nationality did not shape their history, because it did not play a part in it, but the existence of the occupation and the oppression they face, constructed the sense of nationalism and loyalty within Palestinians, that sense of nationalism is not found in Palestinians inside Palestine alone, but in those displaced as well. Modernists like Anderson believe that identity is not natural in a sense that we are born with or into a sense of national, religious, or political identity, however, they do believe that it is organic. It is organic because it is bound to be shaped or formed throughout history and depending on the consequences. Identity has two elements to it, one is the identifier, which in most cases is the society or community, and the identified, which is usually the self. In the case of imagined communities and national identity, it can be said that the identifier is the shared belief, history and so on.

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<sup>7</sup> JOSEPH ANDONI MASAAD, COLONIAL EFFECTS: THE MAKING OF NATIONAL IDENTITY IN JORDAN, 4, (COLUMBIA UNIVERSITY PRESS, 2001).

Whereas the identified is the self in a sense that is an individual, but the community that creates said imagined community. The creation of a nation depends completely on the community and their shared identity.

Studying such Post-Colonial nations shows how most of them are in fact “imagined communities” that emerged as a result of a fight for sovereignty and independence. The Jordanian-Palestinian clash of identities is not the only one in existence. There are cases like the Shiite and the Sunnis in Lebanon, the Israelis and the Palestinians in Occupied Palestine, the Circassians and the Jordanians in the Hashemite Kingdom of Jordan, and so on. Palestinians are in fact an imagined community within another imagined community. There are three different types of Palestinians in Jordan: Jordanian Palestinians who are passport and nationality holders, Palestinians with temporary Jordanian passports; these are Palestinians that were part of the West Bank before it was separated, and finally the refugees; who are in fact split into two categories; green ID holders and yellow ID holders, with each ID providing different rights. It is important to look at the Jordanian and Palestinian identities together, because they developed at the same time, and shared a lot of history together, one can even go as far as argue that, together, those two identities could form one imagined community together. It is also important to note that since the arrival of Palestinians to Jordan in 1948 during the first wave of refugees, population numbers only intensified over time. This helps in understanding the term “Real Jordanian” because individuals under that category are those who existed in Transjordan before 1948.

The first chapter will provide the theoretical background that the thesis will be engaging in discussion with. The theoretical background will look at discussions between the different schools of thought, Modernisms, which looks at nationalism and national identity as results of modernity and the transition into industrial society and Primordialism which views nationalism as an ideology that existed throughout history and has fueled decolonization movements. From modernism the thesis will pull on the idea that nationalism has indeed gained strength from modernity and legal evolvement, and from primordialism it will pull on the fact that nationalism is not a modern phenomenon but national identity, which is a result of nationalism, is quite modern. The theoretical background will look further into Benedict Anderson’s concept of an

imagined community and how it is constructed over different stages in history. Anderson argues that and imagined community is created through shared ideas, beliefs, and experiences amongst people, in which they connect and establish an imagined community, this could also be seen as national identity in the modern form. Alongside Anderson's theory, the thesis will also engage in a conversation with Ernest Gellner and Eric Hobsbawm, who have also written some of the most important literature on nationalism and national identity. Gellner analyzed nationalism by a historical perspective. He saw the history of humanity culminating in the discovery of modernity, nationalism being a key functional element. In that sense, modernity, by changes in political and economic system, is tied to the popularization of education, which, in turn, is tied to the unification of language.<sup>8</sup> In relation to that, Hobsbawm, who draws inspiration from the work of Gellner, speaks about the sense of belonging that is fostered by the state and how it rarely sets down roots without a popular proto-nationalist basis, including beliefs attached to language and religion, in which to grow. The most important is his insistence that the spread of nationalism must be analyzed from below and not just as it is imposed from above.<sup>9</sup> Meaning the roots and origins of nationalism need to be understood in order to understand its modern-day form.

Engaging in the argument as well, will be Joseph Masaad's *Colonial Effects, the Creation of a Jordanian National Identity*. Masaad argues that national identities are fabricated to benefit a nation state. Not only are they created to benefit the state, but that states produce individuals with a certain national identity or belonging, and then uses that to repress them and practice its power and authority on them, consolidating that through its legal and military instruments. Whereas Anderson argues that it is the community that creates the nation by coming together through their shared sense of belonging. This chapter is relevant because it sets a framework in which this thesis can engage with. The thesis will argue that Jordan at its essence is an imagined community, as theorized by Anderson, looking at its history, and its path to the creation of a Jordanian national

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<sup>8</sup> ERNEST GELLNER, *NATIONS AND NATIONALISM*, 30, (CORNELL UNIVERSITY PRESS, 1<sup>ST</sup> ED. 1983).

<sup>9</sup> ERIC HOBSBAWM, *NATIONAL AND NATIONALISM SINCE 1780: PROGRAMME, MYTH, REALITY*, 15, (CAMBRIDGE UNIVERSITY PRESS, 2<sup>ND</sup> ED. 1992).

identity. And then engaging with Masaad as well in understanding the instruments that Jordan used in order to consolidate that national identity throughout the years.

The second chapter explores the definition of Jordanian nationality, by first looking at the history of the establishment of the Jordanian nation state, and then looking at the characteristics that define Jordanian national identity. It speaks about what the Jordanian identity actually is, and how it was formed. Looking at how the identity was formed and what is formed of is important in order to understand how Jordan is indeed an imagined community built on common history and shared grievances. This imagined community was reinforced through several means, as listed below. When the British created the Emirate of Transjordan in 1921, the territory and administration were under the jurisdiction of the government of Palestine, since technically they both were under the same mandate system. There were no real borders between Transjordan and Palestine, even the Palestinian currency was used on both banks of the Jordan River. The absence of real borders allowed the local population to maintain to a certain extent the traditional, commercial, and familial relationship across Jordan, which helped create their imagined community, it helped preserve the sense of a common identity amongst the Palestinians, and the Jordanians.

All these factors determined a political and cultural ambiguity which then became a constant feature of Jordan identity, at least until the separation of the banks after Jordan's independence in 1946. Policies in the Hashemite kingdom reinforced the uncertainty of the identity when integrating the territory of Palestine into the Kingdom. The chapter will look at the use of include history books, used to teach in schools, which is what Benedict Anderson referred to as Print Capitalism, as well as museums, passports and identification cards, the process of Jordanization, finally looking at the different types of Jordanian identity, such as Transjordanian or East Jordanian, and Palestinian/Jordanian.

Part of Jordanian national identity is the fact that the nation in its essence is a multicultural state that uses its legislative policies to maintain ethnic and cultural diversity, as a means to protect and preserve the Jordanian national identity. One of those policies is the way the state handles Palestinians, claiming to maintain their cultural, social, and civil separation from Jordanians, in order to preserve their right to return to

the homeland. Palestinians in Jordan are perceived as guests rather than asylum seekers or refugees.

The third chapter looks at the legal construction of Jordanian nationality through laws of nationality and citizenship. The chapter looks at the distinction between the two terms, and how that exact differentiation creates regulation and maintenance for a state's national identity. This is relevant because it explains how the nation treats Jordanians that are not "real Jordanians". By building a nation on the idea of muwatana, the state defines "Jordanians" as those who came from the original tribes that lived in Transjordan before 1948. This is seen in laws that give Bedouins a role in the government, and gives them rights, whereas it does not allow non-Jordanians to apply for government positions until they have had the nationality for at least 10 years, this reserves governmental positions for real Jordanians. Bedouins were monitored under the law, until Britain pulled out of Jordan completely. The chapter also offers insight on how Palestinians contributed to Jordanian economy and have somewhat of a monopoly over the private sector, which some Jordanians may find threatening to their national identity.

Building on what is discussed in the third chapter, the fourth chapter looks at citizenship rights in Jordan and what the difference is between being a citizen or a national of the state. This is important because it shows the separation the nation creates between the different groups of individuals in order to maintain its own national identity. The chapter looks separation created by the different documents and identification cards given to individuals in the state, as well as the different rights obtained by having a permanent and temporary passport.

## II. Theoretical Background

In this chapter we consider different conversations about the concept of national identity and the formation of a nation. And in order to understand what national identity actually is, it is important to look at how different scholars define nationalism; the ideology that created what is known as national identity. The thesis will be engaging in a conversation with Modernist scholars like Benedict Anderson, Eric Hobsbawm, and Ernest Gellner, who are thought to be the most influential scholars when it comes to the study of nationalism and are believed to have set the basis for the scholars that came after them. Modernism in the nationalist literature looks at nations and nationalism as modern in nature. As well as Primordial scholars, like Anthony Smith, who define nations as having ineffable and affective significant for the members, but have trouble explaining why and how nations always existed. For the purpose of the focus on the Hashemite Kingdom of Jordan, the thesis will also engage in a discussion with Postcolonial scholars such as Joseph Masaad, Adnan Abo Odeh, and Stephanie Nanes, who look at the history of the formation of the Kingdom, and how it maintains its sovereignty through maintenance of national identity and look at the nation building process of the Hashemite Kingdom of Jordan and how a nation uses the legal and military sectors to enforce a common national identity amongst the masses. This idea will be explored later on by looking at how nations employ certain methods to keep their existence as “nations” intact, mainly through the preservation of a common and shared national identity as a means to preserve their sovereignty.

By engaging in these conversations, first, we can understand the concept of how nations are in their essence imagined communities, that rely completely on the existence of shared values and beliefs between individuals that help socially construct borders that create modern day nations. Second, we can identify the ways in which nations use legal instruments in order to reinforce national identity, and therefore maintain their status as nations. Because ultimately, if the collective national identity of the individuals within the borders was to change, the whole dynamic of the nation would as well. In the case of Jordan, it was once seen as the host of the largest Palestinian refugee population and the

host of the largest refugee population in the Middle East. However, through engaging with the discussions about nationalism and national identity and by understanding the history of the nation building process of Jordan, one can understand the methods Jordan uses in order to maintain the strength of Jordanian national identity, which in turn preserves the Kingdom's sovereignty. Jordan has tried both assimilation and separation of refugees during different time periods but has now resorted to maintaining the sovereignty of the country through its legal system, where foreigners may acquire the Jordanian citizenship, only if they promise utter and complete loyalty to the monarch and the monarchy. In Jordan, loyalty to the monarchy and the monarchy are large elements of their national identity, because it shows where their loyalties lie. If the individual does not pledge full loyalty, then they may not be deemed as real Jordanians, and therefore may not play a large role in the sectors that affect governmental decision making.<sup>10</sup>

According to Gellner, when a nation shifts into industrialization, there are two possibilities, assimilation or lack of assimilation.<sup>11</sup> If both communities within the territory share the language and culture, the ethnicity, then assimilation is possible, and they will come together through standardized education. However, if there is no shared ethnicity then assimilation cannot take place, and one community will be excluded from society. In this case, nationalism would emerge as a result of the excluded community pushing for their political sovereignty. This is an interesting argument because, in the case of Jordan, there seems to be an assimilation between the Jordanian community and Palestinian community, and the state claims to have integrated Palestinians into the population, but it continues to confiscate passports and nationalities, and creates a boundary between real Jordanians and Palestinian Jordanians.

## **A. Defining Nationalism and National Identity**

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<sup>10</sup> Stephanie Nanes, *Hashemitism, Jordanian National Identity, And the Abu Odeh Episode*, 18, *The Arab Studies Journal*, 162, 165-166 (2010). See also Constitution of the Hashemite Kingdom of Jordan, 11. January, 1952, Art. 29, 43, and 80. The constitution clearly states that in order for one to be a full citizen of the kingdom and to be able to participate in the administrative sector of the state, the individual must swear loyalty to the king. In order to ascend to the throne, become part of parliament, or have a seat in senate, the individual must take an oath of loyalty. [http://www.kinghussein.gov.jo/const\\_ch1-3.html](http://www.kinghussein.gov.jo/const_ch1-3.html)

<sup>11</sup> Gellner, *supra* note 8, at 42

Nationalism and the concept of national identity vary in definition among scholars. It represents an ideology, a concept and a belief. We need to be familiar with the concepts we use when speaking about this topic, namely, nation and nationalism, in order to understand how much this phenomenon and its dynamics have grown. Anthony Smith defines nationalism as “an ideological movement for the attainment and maintenance of self-government and independence on behalf of a group, some of whose members conceive it to constitute an actual potential nation.”<sup>12</sup> He then continues to define the nation “as a group of human beings, possessing a common and distinctive elements of culture, a unified economic system, citizenship rights for all members, a sentiment of solidarity arising out of common experiences, and occupying a common territory.”<sup>13</sup> Ruth Wodak describes national identity as something that is context dependent and dynamic. She follows the studies of Anderson and says that national identity is a special form of social identity that is produced and reproduced.<sup>14</sup> Wodak proposes that there is no such thing as one national identity but rather different identities constructed based on the audience, setting, topic, and substantive content.<sup>15</sup> Also, William Bloom claims that in order to achieve psychological security, people tend to identify with the behaviors and attitudes of significant figures in their environment, meaning that people actively seek identity and a sense of belonging.<sup>16</sup> In line with what Joseph Masad refers to as legal enforcement of national identity through means of legislature and the military, Bloom says that people have an inherent need to protect the identities they have made meaning that they actively seek to enhance and protect identity.<sup>17</sup>

This could be seen as true to states, in a sense that they will lay out policies against foreign threats to national identity, like migrants, in order to protect and maintain their own. This is seen through the form of nationality laws, and laws that connote the rights that are given to refugees in the nation. Nationalism has a dialectical quality about it, it is both inclusive and exclusive at the same time. The very idea of including people

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<sup>12</sup> Smith, *supra* note 1, 171.

<sup>13</sup> Id.

<sup>14</sup> RUTH WODAK ET. AL., *THE DISCURSIVE CONSTRUCTION OF NATIONAL IDENTITY*, 3, (EDINBURGH UNIVERSITY PRESS, 2009).

<sup>15</sup> Id, 4.

<sup>16</sup> WILLIAM BLOOM, *PERSONAL IDENTITY, NATIONAL IDENTITY AND INTERNATIONAL RELATIONS*, 23, (CAMBRIDGE UNIVERSITY PRESS, 1990)

<sup>17</sup> Id.

who share the same characteristics in the political community of a nation inevitably excludes those who do not share those same characteristics.

Benedict Anderson's idea of imagined communities, speaks mainly about how all nations are in essence created through an imagined common factor between the community within the territory with Gellner's idea of nationalism and the inherent need of human beings to belong as the main factors that create national identity, are both important discussions for the thesis, as they set the basis to understanding how the Kingdom of Jordan was created, how the Jordanian national identity came to be, and what it means to be a real Jordanian as opposed to Jordanian of other origin.<sup>18</sup> The concept of nationality is an odd one, the mere idea that one can identify with millions of strangers just based on borders, religion, kinship, and so on. That is because national identity is made up. It is the myth that built the modern world, but it also primes human for dictatorship, racism, and genocide if combined with extremism. Ernest Gellner, in *Nations and Nationalism*, defined nationalism as a political principle that holds that the political and the national unit should be harmonious.<sup>19</sup> Meaning that a person's political and national interests should be the same. Comparing this to Jordanian nationalist theory, this means an individual belong to a Palestinian national identity but still care for the political interests of Jordan.<sup>20</sup>

Like Anderson, Gellner analyzed nationalism by a historical perspective. He looked at the history of humanity and how it reached modernity, and he believed nationalism was a key element to reaching said modernity. He believed that modernity, by changes in the economy and political system, is tied to the widespread and growing popularization of education, which in turn, is tied to the unification of language.<sup>21</sup> For Gellner, nationalism was a sociological condition and an outcome of the transition from agrarian to industrial society.<sup>22</sup> Similar to Gellner, Benedict Anderson's *Imagined Communities* rejects the assumption that nations are a natural or inevitable social unit,

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<sup>18</sup> BENEDICT R. O'G ANDERSON IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM. 6. (VERSO, REV. ED. 2006).

<sup>19</sup> Gellner, *supra* note 8, 20.

<sup>20</sup> Nanes, *supra* note 10, 168.

<sup>21</sup> Gellner, *supra* note 8, 20-21.

<sup>22</sup> *Id.*

and says that a nation is a cultural construct based on specific advancements, such as literacy, technology, and capitalism. Anderson speaks about how no one would die for liberalism but would gladly die for their country in the name of nationalism, this is what Anderson would say is “profoundly self-sacrificing love”<sup>23</sup>. The term “imagined community” refers to the phenomenon in which people may perceive themselves as one community or nation, based on shared aspects, even though they may have not met before. Anderson has two main arguments in his book. Firstly, that national identity is constructed, and secondly, that there is an intersubjective imagined aspect to the national identity and how that aspect is created. He created his theory of imagined communities based on the events that led up to the construction of nationalism in the 18<sup>th</sup> and 19<sup>th</sup> centuries, mainly focusing on the Americas rather than Europe. Anderson, like Gellner, frames the problem by looking at a historical shift, for example, he examines nations at war with one another, and how they define themselves in national terms, such as Marxist nations that share the same beliefs thus creating borders for their own states. But he tries to answer the question of why nationalism has become so compelling and why it has become a sort of de facto state that individuals must be put under.

## **B. Discussing Nationalism and National Identity in Jordan**

National identity is a result of the growth of nationalism throughout the decades, and is the idea that language, race, and borders should help create a country. Nations cannot admit that they are made up, so they invent some sort of a national mythology that says they been like this forever. By passing down stories from ancestors to newer generations, national identity is kept alive. Joseph Masaad engages in this discussion in *Colonial Effects- The Making on National Identity: The Making of National Identity in Jordan* offering a study of the legal changes and the use of the military for nation building purposes in Jordan. He looks at how the nation building process in Jordan took place, and how it is, until this very day, reinforced both through law and through the military. He views the military and the law as central institutions set up by colonial powers to maintain power over their colonies and retain colonial markings that serve the colonial

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<sup>23</sup> Anderson, *supra* note 18, 37.

state. These institutions are now replaced by juridical and military structures that make up governmental institutions that aid in maintaining and preserving the state.<sup>24</sup> He explores the creation and definition of the modern Jordanian nation and its identity in the Post-Colonial period. Masaad relies on Foucauldian theoretical framework. In some ways, he agrees with Foucault that power in the modern period does not necessarily repress individuals, but rather produces subjects in which a state can practice its power on, through law. This is parallel to Antonio Gramsci's notion of sovereignty, which differs from Foucault's, where Gramsci describes a modern nation's power by its coercion and hegemony, unlike Foucault who describes it as production at the expense of repression.<sup>25</sup> Masaad concurs with Foucault that law is a disciplinary tool that is used for normalization, and to penalize those who remain outside the norm. He believes that a nation state acquires a monopoly over discipline in a legitimate way, which is generalized through law and the military. He defines nationalism as an ideology, meaning that it is a shared idea or belief amongst certain people.

Nationalism differs from one community to the other depending on elements such as tradition and religion- and says that one of the most obvious ideological underpinnings of anticolonial nationalism is the combining of modernization and tradition.<sup>26</sup> Masaad argues that in examining the roles of state organs, such as law and the military, in the fashioning of a post-colonial national identity to be a non-essence. He says that it is more of a dynamic, between itself and its other which change according to different historical moments.<sup>27</sup> On the other hand, Anderson looked at nationalism not in the point of view of law, but rather maintained that it should be treated as if it belongs alongside other concepts such as kinship and religion, rather than granting it a social grouping such as an ideology, as Masaad argues.

Anderson speaks about the presumption that everyone assumes that everyone belongs to a nation, which is what helps create the concept of an imagined community, a nation is imagined because citizens may not necessarily meet each other face to face, but they feel as if they are part of a political community with shared history, grievances, and

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<sup>24</sup> Masaad, *supra* note 7, 1.

<sup>25</sup> *Id.*, 3

<sup>26</sup> *Id.*, 5

<sup>27</sup> *Id.*, 8

traditions.<sup>28</sup> This theoretical background is extremely important when looking at national identities. Jordan in itself is an imagined community, with clusters of different imagined communities living in it; which is not unique but common in most Post-Colonial nations. The existence of such various clusters in one nation causes unseen and hidden tensions, such as those between those of Transjordanian origin, and those of Palestinian origin, for example. Anderson writes about how the idea of a nation is so powerful, that everyone feels as if they belong to one, he speaks about how the world's most important international political institution is called the "United Nations" and how they define themselves on national terms, but he finds it ironic how, despite how important nations are to people, no one has been able to provide a clear definition of nation, nationality, or nationalism.<sup>29</sup> He defines a nation as "an imagined political community- and imagined as both inherently limited and sovereign".<sup>30</sup> Anderson argues that many nations are actually continuities that are formed in different eras and places, and that countries are simply copying one another. He speaks about nationalist movements like those in Africa and Asia after the Second World War, and how they were basically copying their European colonizers.

Anderson's chapters each speak about a different aspect of what an imagined community is and how a national identity is formed. He starts by looking at nations in a cultural form, arising from particular historical events and their transformations such as the Second World War. The notion of belonging is one of the biggest pillars to creating a national identity, similar to Anderson's thoughts on the tombs of soldiers from the Vietnam war.<sup>31</sup> Jordanian historic sites symbolize their road to independence and nation building, such as Jerash. The same goes to Palestinians, the symbolism of olive trees to establish a common national identity, as well as graffiti, martyr graveyards, and most importantly, Al Aqsa Mosque. National identity is preserved through objects or places that are perceived to have a significant role in representing what the people stand for and where they came from.

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<sup>28</sup> Id, 10

<sup>29</sup> Id.

<sup>30</sup> Supra note 7, 3.

<sup>31</sup> Anderson, *supra note 18*, 42.

The sense of belonging is also created through what Anderson called print capitalism. This is one of the factors that enabled nationalism to distinguish itself among the older and better-established form of community was, like Anderson claimed, print technology and its growth over the course of the sixteenth to the eighteenth century that enable print capitalism. He speaks about how things like newspapers, magazines, and so on create a sense of a shared identity between the audience, which helps in the creation of an imagined community, and helps governments reinforce a sense of nationalism. Print capitalism, is seen as the aspect with the biggest role in the construction of nationalism and an imagined community, in the form of printed texts being circulated in essentially more accessible and common languages, to a wider audience, thus creating an imagined community through the audience.<sup>32</sup> The creation of colloquial newspapers set a basis for the nation, as it created a sense collective experiences and knowledge of news amongst the wider audience, despite geographic distance between each person, as well as the distance from social hierarchies, the news was the same no matter who read it, everyone understood it, and that helped in the creation of an imagined community. In modern day Jordan, literacy and print capitalism have played a large role in the construction of national identity, proof of that link is the large government expenditures on education.<sup>33</sup> Such investments in the schooling systems for all is specific to the postcolonial era and the intellectual results of mass literacy, the system holds a promise of a properly indoctrinate and modernized population, which in the case of Jordan and other Arab countries, are now being felt. This is now being felt in the sense that the promotion of a uniquely Jordanian national identity, for example is recent.

Since King Hussein's rule in 1953, school history books can also be seen as another example, where in Jordan, like any other state, all content in history books needs to be reviewed by the Ministry of Education before being added to a curriculum. These history books reinforce a sense of national belonging amongst Jordanians from a young age, by teaching them history in a context that shows the greatness of the state, and how it fought for its independence, as well as the achievements of the ruling family, A'al

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<sup>32</sup> Id, 67.

<sup>33</sup> PHILLIP ROBINS, A HISTORY OF JORDAN. 16. (CAMBRIDGE UNIVERSITY PRESS, 2<sup>ND</sup> ED. 2019).

Hussein, in making it a great and sovereign nation. Anderson's concept of print capitalism being one of the biggest aspects in the creation of an imagined community is one that can be seen all over the world. This was referred to as an economic and individual virus that spread through the medium of Europe's vernacular language.<sup>34</sup> Anderson looks at the example of the Creole pioneers and American nationalism in 1760 until 1830 and their quest to independence and nationalism, arguing that post-colonial nations take on a national form within a territory because capitalism and technology allow them to, out of economic interest.

Similarly, tribal historiography in Jordan can be seen as an adaptive response to nationalism is influenced not only by the testimony of tribespeople, and can be seen in Anderson *Imagined Communities*, which reshaped anthropological thinking on the concept of nationalism and national identity.<sup>35</sup> In Jordan, newspapers all use a certain tone in the writing of the news that gives a lot of praise to the Royal family, this creates a sense of loyalty and belonging amongst the Jordanian people, not only to the nation, but to the monarchs. Although means of print capitalism, like history books and newspapers, may exclude certain narratives in order to conserve the national identity a state tries to establish, it does not necessarily mean that it is trying to generate racism against any non-nationals in the state. Anderson speaks about how nationalism does not cause or lead to racism; however, racism may be expressed in nationalistic language. So, in the example of Jordan, being "Passionately Jordanian" does not necessarily mean that person is racist towards Palestinians, or Syrians so on and so forth. But racists may use nationalistic language such as "this is my land nor yours, we fought for it" or "the reason my country has so much corruption is the excess number of refugees".

In 1988, King Hussein severed all of Jordan's legal and administrative ties with the West Bank, and suddenly Jordan and Palestine fell under separate jurisdictions, and an opposition of national identities started to take place within Jordan, which was a recipe for political instability. Now, what remains of Jordanian national identity is what

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<sup>34</sup> ANDREW SHRYOCK, NATIONALISM AND THE GENEALOGICAL IMAGINATION: ORAL HISTORY AND TEXTUAL AUTHORITY IN TRIBAL JORDAN, 317, (UNIVERSITY OF CALIFORNIA PRESS, FEBRUARY 12, 1997).

<sup>35</sup> *Id.*, 317-318.

is promulgated in government issued textbooks, and it is centered around Arab Muslim unity, and loyalty to the ruling family. By emphasizing Arab Muslim unity, Jordanian textbooks attempt to center the image of their history and nation building process around religious and cultural unity, but it does not shed light on how it has shared history with the Palestinians. Jordanian print capitalism aims to maintain the Jordanian national identity by creating a narrative that creates a sense of belonging and nationalism amongst individuals. This sense of nationalism may be so strong, that individuals are ready to die for their country. This is something that Anderson questions as well, he asks why individuals are ready to sacrifice themselves for the nation. He calls it profoundly self-sacrificing love.<sup>36</sup> Throughout Jordanian history and legislation, it is evident that the Jordanian state worries about the notion of self-sacrificing love, which is why it has created laws and regulations that only allow those with complete loyalty to the monarch and the monarchy take part in governmental affairs, in order to maintain its national identity and its safety.

Similar to Anderson's division of the construction of imagined community into different stages, Masaad speaks about the formation of a national identity in different transformative stages, which are not necessarily discontinuous. The first stage is colonialism, in which colonialism establishes a state's framework on a territory, replacing an existing state structure or creating a whole new one, establishing the political, military, administrative, and judicial structures of the territory, eventually rendering a nation state. This includes laws of nationality, governance, and citizenship being codified, as well as borders being created and drawn, and bureaucratic divisions imposed upon the population.<sup>37</sup> The second stage is that of national independence, this is when the struggle against the colonizers become hegemonic, and the quest to the ultimate national independence becomes a shared interest amongst the community.<sup>38</sup> This could be seen as the beginning of the establishment of an imagined community, in the sense that Anderson explains. The third stage is that of expansion and creation of the nation. Here, Masaad refers to the territorial and demographic expansion in which a new nation state begins to draw its own political and sovereign borders. This also includes the

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<sup>36</sup> Anderson, *supra* note 18, 142.

<sup>37</sup> Masaad, *supra* note 7, 9.

<sup>38</sup> *Id.*

expansion of citizen rights which were previously denied by the colonizers.<sup>39</sup> The fourth stage is that of Masaad refers to as internal implosion, which is usually characterized by civil war or revolution calling for the redefinition of the nation state itself or secession from it.<sup>40</sup>

Masaad writes about how identities are codified in the laws of nation states, and cannot really exist without the support of the juridical in the constituting of said nationalism.<sup>41</sup> He says that law enforcement plays a huge role in the formulation of a national identity that is codified in law and transcends time and space.<sup>42</sup> Through the juridical structures, a nation state is able to define and limit the time of the nation, its space, and its subjects. Anderson believes that a nation state is an imagined community, that could be created through shared history, traditions, and grievances, which could lead up to the formation of a national identity. Masaad does not believe the nation itself is imagined, but believes that the national identity itself is fabricated, and copied from previous national identities; merely adjusted to the circumstances. Anderson believes that the people create the nation and the national identity, whereas Masaad believes that the nation state reinforces national identity upon the people through its laws, military, and other institutions. They are not necessarily at disagreement but look at different aspects to eventually reach the same point, that national identities are imagined, and without those imagined identities, nation states would cease to exist. The discussion they are both having is similar to what this thesis aims to prove, and that nations only exist due to the existence of national identity that creates the imagined community that empowers it. This is why in the case of Jordan, the nation is threatened by the rising Palestinian imagined community and strong national identity, because if it were to take over, Jordan would become a Palestinian state and not a Jordanian one. This is why the Hashemite Kingdom has tried tirelessly over the years to control the situation through its legislation. It may not necessarily come off as repressive for the Palestinians but does create a cluster of limitations for them to live in Jordanian territory if they are not nationality holders and makes it somewhat difficult for them to obtain the citizenship or nationality if they

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<sup>39</sup> Id, 10.

<sup>40</sup> Id, 10.

<sup>41</sup> Id, 18.

<sup>42</sup> Id.

wished to do so. In a way, Jordan's demographic imbalance and identity conflict help shape its foreign policies and national legislation.

### **III. Historical Overview of Jordanian Nationalism and Formation of National Identity.**

The formation of the Jordanian state happened over a course of events and time periods. It is a story of the creation of a state and the attempt to somehow mold and create a political community within that state that will renders its allegiance to it. It is a story of the formation of not only the physical state, but the imagined community within those borders, with a sense of national identity. The time periods can be divided into different phases, each period with a sequence of events that helped define what the Jordanian national identity is, and how it was established. The Kingdom of Jordan is at the centre of an ancient region that since the end of Roman domination, has been attached as a province to Syria, conquered by the Crusaders in 11th and 12th centuries and then the Mamluks until 1516, who were then defeated by the Ottomans and area in which Jordan was fell under the Ottoman Empire.<sup>43</sup> It remained a part of Ottoman territory, with its legal system developing, or remaining static, until Ottoman Empire final disintegration after the Great Arab Revolt in 1916. Essentially, legal development began under the Ottoman Sultans. Technically, the Ottomans conquered this territory in the 15th century, but the various Bedouin tribes were not disturbed in the exercise of their local authority until 19th century. By the end of Ottoman rule, their codification of the civil law aspects of Sharia, which is an uncodified body of Islamic law and practices, and the Majallah, which is the imperial ottoman version of a civil code headed by Ahmed Cevdat Pasha which entered into force in 1877, had been accepted.<sup>44</sup> This was, in turn, based on French theories of codification, although the law it codified was essentially Islamic. The ottoman civil code was replaced by a modern codification. But the Great Aran Revolt dissolved the Ottoman Empire and then fell into the consequent British Invasion. Abdullah, the Son of Sharif Hussein arrived in Transjordan in 1920, and in 1946 the independent Hashemite

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<sup>43</sup> Robins, *supra* note 33, 12.

<sup>44</sup> Id, 15.

Kingdom of Jordan was formed and shortly after, admitted to the United Nations and the Arab League.<sup>45</sup>

### **A. The First Phase of Jordanian National Identity – The Ottoman Empire and the Great Arab Revolt.**

The first phase is the Pre-First World War, which is mainly the period of the Ottoman Empire. Prior to 1920, there was no Transjordanian territory, there were no people, and there weren't any national movements, neither Transjordanian nor Palestinian.<sup>46</sup> The Ottomans ruled for 4 centuries, starting in 1516 until they were dissolved after the first World War.<sup>47</sup> Their biggest interest and preoccupation at the time was not with Transjordan as a land or people; as it was merely a dessert and had harsh climatic conditions, but in the administrative units of Greater Syria.<sup>48</sup> The land beyond the River of Jordan was nothing more than a southern extension to Greater Syria. Before 1830, there had been barely any use to the Transjordanian land to the Ottomans, until they started the Tanzimat reforms.<sup>49</sup> The reforms incorporated Transjordan into the core of the Empire, in which a land that was of no use initially, became an important administrative unit. Along with the Tanzimat reforms came the modernization of administrative practice. It may be argued that the Ottomans were the ones to introduce the modern state in Transjordan by the nineteenth century.<sup>50</sup>

The majority of the population in that area was Nomadic consisting of Bedouin populations that identified by membership to a kin-group or village. These identity associations are still seen in present day Jordanian populations, mainly kinship.<sup>51</sup> The Ottomans were primarily interested in Transjordan in terms of the importance of its location to the pilgrimage route to Mecca, and being an Empire built on the religion of Islam, this was very important to them.<sup>52</sup> So they built the Hijaz Railway in 1908

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<sup>45</sup> YOAV ALON, THE MAKING OF JORDAN: TRIBES, COLONIALISM, AND MODERN STATE, 34 (I.B TAURIS, NOVEMBER, 30, 2009).

<sup>46</sup> Robins, *supra* note 33, 10.

<sup>47</sup> Masaad, *supr* note 7, 6.

<sup>48</sup> Id, 7.

<sup>49</sup> EUGENE ROGAN, FRONTIERS OF THE STATE IN THE LATE OTTOMAN EMPIRE; TRANSJORDAN 1850-1921. 1. (CAMBRIDGE UNIVERSITY PRESS, 1999).

<sup>50</sup> Id, 4.

<sup>51</sup> Id, 7.

<sup>52</sup> Masaad, *supra* note 7, 9.

extending from Damascus to Mecca, which helped them provide pilgrims with food and water, and also helped them ferry Ottoman armies and supplies into the territory.

The Ottomans were not able to incorporate the new territories properly, and due to this untidy process, both on an administrative and socio-economic level, the existing tribes instinctively resisted such imposition of rival authority. That is, until the tribal leaders discovered that they could potentially benefit from the Ottomans.<sup>53</sup> The struggle between Transjordanians was not one of life and death but rather a resistance and fight for accommodation. What the Ottomans brought to Transjordan in this period was the basis to nation building, they provided them with the Wilayat law; which basically created the judicial bodies of the state.<sup>54</sup>

Some may argue that this time period is not important to this discussion, but what history shows is that during the Ottoman empire a few bases were set with the Tanzimat reforms and the importance of the River of Jordan to the Ottomans in terms of its location as a route to pilgrimage in Mecca. The Ottoman empire laid out the first foundation for legal reform in the area, but it was also in that time that tribal leaders realized that they could benefit from the Ottomans, and then in the next phase, we see how Jordanian nationalism starts to emerge as against the Ottomans.

### **B. The Second Phase of Jordanian National Identity – The British Mandate’s State Building Project and the Creation of the Emirate of Transjordan.**

The second phase is Post-First World War until the Post-Second World War, which was the period in which the British Empire took over from the Ottomans through Sharif Hussein who led the Great Arab Revolt against the Ottomans and was supported by France and Britain and created the British Mandate over Palestine and Transjordan.<sup>55</sup> During this period in time, Britain took over the impoverished peripheries of the Ottoman Empire and had to forge modern states out of them. Although Transjordan had picked up a few state building instruments and lessons from the Ottomans, they were still lacking the structure and support to become sovereign. The British Mandate system was

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<sup>53</sup> Id, 9.

<sup>54</sup> Id, 9-10.

<sup>55</sup> Rogan, *supra* note 49, 8.

proposed in 1920 and then ratified in 1922 at the San Remo Conference and was approved by the League of Nations.

The British Mandate's state building project after World War I was essentially a neocolonial and external one in nature, it was led by a few British officials that were in the territory, as well as the administrative elites that they had introduced from outside.<sup>56</sup> The project could be seen as a collaboration between the British and the Hashemites; mainly with Emir Abdullah I. In exchange for maintaining security of the area against anti-French and anti-Zionist expansion, Abdullah remained in charge of Transjordan. This stretched on for more than 6 months, and with the end of the mandate, Abdullah was able to create his own state. In February 1928 a constitutional system was launched in an agreement signed between Britain and Transjordan. The 1928 Treaty allowed Britain to handle Transjordanian security and defense facilities and in return the Emirate was made extremely dependent on British financial, military, and political support. This could be seen as Britain's way of granting Transjordanians independence but still somewhat keeping control over them by making them dependent on the support.

With the establishment of the Organic Law of 1928 a small constitutional advance provided to the Emirate. The new law was one of the decisive moments for Jordanian state building. The law stipulated that there would be an elected legislative council and an executive council while the ultimate power would be vested in the hands Emir Abdullah.<sup>57</sup> The 1928 Organic Law also set a basis for the Jordanian Nationality Law, as it set a definition for who could be labelled as a Transjordanian. It is reflected in the 1954 Nationality Law and its amendments.<sup>58</sup>

### **C. The Third Phase of Creation of Jordanian National Identity – Refugee Waves and Identity Maintenance in the Middle East Region.**

The third phase is the end of the 1940s until 1988. This period highlights the Hashemite Kingdom's pursuit for viability and territorial expansion, and it also highlights the rising

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<sup>56</sup> Robins, *supra* note 33, 22.

<sup>57</sup> *Id.*

<sup>58</sup> GIAN LUCA PAROLIN, *CITIZENSHIP IN THE ARAB WORLD*, 86, (AMSTERDAM UNIVERSITY PRESS, 2009).

tensions between Palestinian-ness and Jordanian-ness. This was a turbulent period, but it was not without achievements. During this period not only was the Arab League established in 1945 with Transjordan as a founding member, but in 1946, the Hashemite Kingdom of Transjordan was proclaimed.<sup>59</sup>

The end of the Second World War formed a chain reaction of conflicts in the territory of Palestine. The future of the British was undermined by economic struggle as well as social exhaustion back home, and the new international norms and world order now frowned upon imperial enterprises.<sup>60</sup> Along with the end of the Second World War came an accelerated wave of Jewish immigrants from Europe, fleeing Nazi persecution. In 1947, the newly founded United Nations General Assembly passed the Partition Plan that created a Jewish and an Arab community inside the Palestinian territory, an idea welcomed by King Abdullah. In 1948, not only did Britain terminate the Mandate of Palestine, but the State of Israel was declared, unleashing not only a civil war, but an interstate war.<sup>61</sup> During May and June of 1948 the first phase of the war took place, ending with the Kingdom of Jordan now holding Arab Jerusalem while Abdullah also wanted control over the Arab territory of Palestine under the Arab Legion.<sup>62</sup> In July of 1948, the second phase of the war took place. At the cost of holding Jerusalem, King Abdullah had to relinquish territories elsewhere during this ten-day war. This came at the cost of Lydda and Ramleh being forfeited to the Jews to build settlements on.<sup>63</sup> Some Palestinian Arab leaders, like Ragheb Nashashibi, perceived Abdullah as the key player in the settlement of Palestinian problem.

King Abdullah's political ties with Palestine became stronger and more apparent following the British evacuation from the mandate. This came after King Abdullah's proposal to merge Palestine with the Eastern part of the river, which the British argued against, and it was recommended by the United Nations Special Commission on

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<sup>59</sup> Treaties and International Agreements Registered or Filed and Recorded with the Secretariat of the United Nations, 142, No. 74, Volume 6. (1947).

<https://treaties.un.org/doc/Publication/UNTS/Volume%206/v6.pdf>

<sup>60</sup> Robins, *supra* note33, 60.

<sup>61</sup> Id, 61.

<sup>62</sup> Id, 67.

<sup>63</sup> Id.

Palestine (UNSCOP) that a partition of the Palestinian territory as a solution for the dispute between the Arab and Jewish population. Abdullah attempted to fight for this idea of merging Palestine and the East River in the Peel Commission of 1937. The proposal was not welcome by Arab States and Palestinians, but the partition plan was established regardless. In 1948, King Abdullah proposed the idea of keeping Palestine and Transjordan undivided to Ben Gurion, the Prime Minister of Israel at the time, and while the proposal was not passed it was greatly appreciated by the Palestinians.<sup>64</sup> Abdullah, until his death, kept proposing his Greater Syria project, which called for the unification of Syria, Transjordan, Palestine, and Iraq under a single Arab Kingdom, but unlike the Damascus Protocol, it excluded Lebanon. This idea was welcomed by Syrian nationalists, as they preferred to be under Abdullah's rule than that of a foreign power.

The period between October 1948 and March 1949 marked the third phase of the war, where Israel attacked Egypt instead of Jordan. Through secret calls between the Hashemites and the Israelis, a cease fire was negotiated, and King Abdullah got to keep Jerusalem and the West Bank, without having to get into another war. During the war, the first Palestinian national congress convened in Amman to discuss the annexation process in October of 1948. Then in December of 1948, the Jericho congress opted for unity of Jordan and the West Bank, and in 1950, the Jordanian parliament passed the unification resolution; which resulted in the 1950 Passport Act which gave all Palestinians of the West and East Banks automatic Jordanian citizenship.<sup>65</sup> Things took a downfall in 1951 when King Abdullah was assassinated during his visit to Jerusalem while attending Friday prayers at al Aqsa mosque by a member of the Sacred Jihad Organization, followers of the Grand Mufti of Palestine, Haj Amin-Al Husseini.<sup>66</sup> King Talal took over the title, until he had to step down due to illness, and in 1953, King Hussein ascended the throne.

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<sup>64</sup> ADNAN ABU ODEH, JORDANIANS, PALESTINIANS, & THE HASHEMITE KINGDOM IN THE MIDDLE EAST PEACE PROCESS. 36. (UNITED STATES INSTITUTE OF PEACE PRESS, 1999).

<sup>65</sup> Parolin, *supra* note 58, 74.

<sup>66</sup> "Regarding the Assassination of King Abdullah ['Abd Allāh]," July 21, 1951, History and Public Policy Program Digital Archive, Emir Farid Chehab Collection, GB165-0384, Box 11, File 16/11, Middle East Centre Archive, St Antony's College, Oxford. <https://digitalarchive.wilsoncenter.org/document/176074>

King Hussein established martial law in 1957, banned political parties, forced the government to resign, and held democratic elections for a new government.<sup>67</sup> This is when a separation between the Jordanian and Palestinian identities started to form, and tensions started to rise more so. In 1988, King Hussein cut all administrative and legal ties with the West Bank, creating an obstacle for the Jordanians of the West Bank, as their citizenships were being called into question and were not being renewed.<sup>68</sup> Hussein and his government continued to favor a settlement that would reestablish Jordan's control over the West Bank. Nevertheless, and despite the acknowledgement of Jordan's right to remain a partner to the solution of the Palestine question and despite the kingdom's frequent coordination efforts and agreements with the PLO, its prospect of regaining a foothold in the West Bank constantly seemed to diminish.

The disengagement from the West Bank was a decisive shift in Jordan's policy because, for the first time, the government felt as if it were mature enough to take crucial decisions regarding their future position in the politics of the Middle East, with total disregard to Palestinians outside of those in the East Bank. To the monarchy, the disengagement seemed like a perfect solution to solve the divide between those with Jordanian origins and Palestinian Jordanians, since all those from the East Bank were granted nationalities and passports, unlike their counterparts in the West Bank. Solving the divide between Jordanians and Palestinian Jordanians created the term "real Jordanians", which is defined as anyone who resided in the Jordanian territory before 1948; disregarding all displaced Palestinians and creating a divide between the identities.<sup>69</sup>

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<sup>67</sup> MARY C. WILSON, *KING ABDULLAH, BRITAIN, AND THE MAKING OF JORDAN*. 187. (CAMBRIDGE UNIVERSITY PRESS, 1897)

<sup>68</sup> *Id.*

<sup>69</sup> MORTEN VALBJORN, *Like but not Same as...: Arab Citizenship and the Jordanian Experience*, in *THE CRISIS OF CITIZENSHIP IN THE ARAB WORLD*, 176, (BRILL, 2017)

#### IV. Jordanian National Identity and its Legal Constriction and Maintenance

Jordan could be considered a nation building project in the Middle East, and one of the fundamental problems in indicating or pinpointing Jordanian national identity is closely related to the territorial integrity of what was Transjordan under the British Mandate system in Palestine, as well what is was as a part of the Wilayet under the Ottoman Empire.<sup>70</sup> There were no Jordanian ancestors on the land, but there was a Bedouin population. However, the East Bank populations were seen as the native population of the country in later years, which shows the extent of the artificiality that has been achieved in the region.<sup>71</sup> The Jordanian national identity is one that comes with ethnic division and identity conflict. Since its independence, the state went through several stages of rebuilding of the Jordanian identity. While forming the nation, the Kingdom attempted to create a shared sense of rituals and myths amongst those occupying the lands, in order to construct somewhat of a projected nation on the basis of a “watani” identity, or a territorial nationalist identity. Jordan shifted from a tribal community into a nation state; which creates a lack of a coherent identity due to the impact of tribalism on political behavior and social organization within the Kingdom.<sup>72</sup>

The Hashemite Kingdom of Jordan came to be due to two very important agreements that set the basis for not only the status of Transjordan as a nation, but also the future of the Palestinians. The first agreement was the Sykes-Picot Agreement in 1916. This was a secret agreement between Britain, France, Russia, and Italy about the eventual control of the Ottoman Empire territories after it had been dissolved and defeated after the First World War.<sup>73</sup> This agreement divided the Ottoman provinces outside the Arab Peninsula into areas under British and French control. It placed Palestine, Jordan, and Southern Iraq under the control of Britain, as well as parts of the ports of Haifa and Acre, giving them

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<sup>70</sup> ILIYA HARIK, *The Origins of the Arab State System*, in THE FOUNDATIONS OF THE ARAB STATE 35 (GHASSAN SALAMEH 1<sup>ST</sup> ED, 1987).

<sup>71</sup> GUDRUN KRAMER, *Integration of the Integrists: A Comparative Study of Egypt, Jordan and Tunisia in DEMOCRACY WITHOUT DEMOCRATS* 208. (GHASSAN SALAMEH 1994).

<sup>72</sup> *Id.*, 209

<sup>73</sup> Sykes Picot Agreement (1916)

A secret Anglo-French agreement on the partition of the Ottoman Empire after World War 1.  
<https://unispal.un.org/UNISPAL.NSF/0/232358BACBEB7B55852571100078477C>

access to the Mediterranean so they can continue free trade with France.<sup>74</sup> Whereas France got control of Southeastern Turkey, Northern Iraq, Syria, and Lebanon.<sup>75</sup> Then in 1917, came the Balfour Declaration, a statement issued by the British government announcing their support for the establishment of a national home for the Jewish population in Palestine.<sup>76</sup> While the Balfour Declaration constitutes the beginning of Israel's legitimation by other nations, the declaration's own legitimacy has been the subject of unending attacks. This essentially started to form the Palestinian national identity, and this was when Transjordanians started to plan their own state and begin to form their imagined community through their shared history under the British Mandate. The declaration itself was problematic not only for the Palestinians, but also for the Transjordanians, since both entities fell under the same mandate system. For the Palestinians, it was a concern of expulsion and displacement, which Winston Churchill addressed in 1921, during a meeting of the Imperial Cabinet, saying that if over the course of the years the Jewish population becomes a majority, then they take over the territory, and the same could be said for the Arabs. He stated that the British have made an equal pledge to not turn the Arabs off their land, nor invade their social and political rights.<sup>77</sup> As for the Transjordanians, their concern was that the Jewish migration wave would result in their own land being taken as well, a concern which was addressed by Churchill in 1922 in a document officially titled Palestine - Correspondence with the Palestine Arab Delegation and the Zionist Organization, but more commonly known as Churchill White Paper.<sup>78</sup> He stated that the agreement was for the Jews to create a national home in part of Palestine but not the entirety of it, which would exclude Transjordan.<sup>79</sup> The Transjordanian fear at the time foreshadowed their actions in the future, establishing a Transjordanian nation, distinguishing it from Palestine thereby not allowing Jewish populations to settle within those borders.

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<sup>74</sup> Id, 4.

<sup>75</sup> Id, 6.

<sup>76</sup> Balfour Declaration (1917). <https://www.iwm.org.uk/collections/item/object/205133261>

<sup>77</sup> PAUL JOHNSON, HISTORY OF THE JEWS. 441. (HARPER PERENNIAL, 1<sup>ST</sup> ED. 1988).

<sup>78</sup> The Churchill White Paper, United Kingdom (1922).

<https://unispal.un.org/UNISPAL.NSF/0/F2CA0EE62B5680ED852570C000591BEB>

<sup>79</sup> NEIL CAPLAN, THE ISRAEL-PALESTINE CONFLICT: CONTESTED HISTORIES. 77. (JOHN WILEY & SONS, 1<sup>ST</sup> ED. 2009).

## A. Jordanian National Identity

Jordanian identity is synonymous with the loyalty to the monarch and the Kingdom. It is also a state that is the epitome example of coexistence between two populations on one land, since Jordan is home to many Palestinians. The huge influx of Palestinian refugees after the 1948 Arab Israeli war threatened Jordan's identity formation since the newly recognized Kingdom was now hosting a very large community of non-Jordanians, making it difficult to preserve dominance over the East Bank while integrating the populations into the state. The identity conflict between the Transjordanians and the Palestinians began with the establishment of the PLO in 1946 which solidified the Palestinian national identity. What also created growing tensions between the two communities was King Hussein's disengagement from the West Bank in 1988, which made those of Palestinian descent feel as though they were not full citizens like those of the East Bank, but rather temporary residents on someone else's homeland.

Jordanian identity is reinforced both through state institutions, legally, and even through education material. The Kingdom introduced several projects and used a few tools to help create a shared history, belief, and culture between the citizens or nationals of the Kingdom, thus creating an imagined community<sup>80</sup>. The foundation of what was in 1921 the Emirate of Transjordan was designed to solve the British political and strategic issues. It was also designed to satisfy Emir Abdullah Ibn Hussein's personal ambitions of unifying the Transjordanians and creating a sovereign nation state. The artificially drawn borders that outlined a new state did not come from a preexisting political community but were drawn to create a new one. As an outsider, Abdullah did not have any commitment to a certain group or region, which gave him an advantage when negotiating with the British leaders. Up until 30 years of Abdullah's establishment of Jordan, most prime ministers were non-natives to the area, they were local representatives to the administrative sector, but were not originally Jordanian, but rather Syrian, Palestinian, or Hijazi. It was not until Abdullah managed to create the imagined community, which is now Jordan, and establish a national identity amongst the tribes and the Bedouins of the

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<sup>80</sup> Riad Nasser, *Exclusion and the Making of Jordanian National Identity: An Analysis of School Textbooks*. 10. Nationalism and Ethnic Politics. 221. 221-222 (2004).

land, that “local” started to mean “Jordanian”. It took a whole generation in order to be able to create what now is a Jordanian identity, which still holds the burden of being directly related to the original immigrants who were from the partitioned districts under the Ottoman rule. Jordan’s artificial creation as a political entity was a gradual development over a series of agreements, treaties, and coherent development of a national identity through many means. The army, which at one point was known as the Arab Legion, served as one of those unifying instruments for national identification, as it was one of the very few Jordanian institutions, created when Transjordan was given independence and excluded from the British mandate. The military’s most important role was the integration of the Bedouins into the manifesting Jordanian society. This tied the Bedouins into a wage economy, which made them economically dependent on the state, thus expanding the state’s authority over the people in the territory. Its expansion of authority over the people within its territory, the Jordanian state reverted to additional means including Print Capitalism.

Benedict Anderson referred to Print Capitalism when describing how a state may create an imagined community through an audience, he referred to the creation of newspapers.<sup>81</sup> This is seen in Jordan in terms of the history books that are used in schools, and how those books teach Jordanian history. Jordan’s leaders were not Jordanian in origin, but were foreigners, their roots are in the Arab Peninsula, such as Hijaz. The ambitions of creating a Jordanian identity were clearly seen in school books of the 1950s where the entire territory of British Palestine was actually described as Jordanian and the maps of the kingdom included not only the West Bank, which was separated from the East Bank and no longer part of Jordan, but also the villages and cities that had been included into the state of Israel. History books in the Jordanian kingdom do not portray history the way it was, and they do not include Jordan as part of Palestine. In Jordan, the primary aim of the educational system is to construct a national identity of students as Jordanians, shaping a collective memory.<sup>82</sup> This is an aspect of a state’s control. Jordanian textbooks advocate identification through Pan-Arabism and Pan-Islamism, neglecting the Palestinians who constitute the majority of the population of

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<sup>81</sup> Supra note 5, 20

<sup>82</sup> Riad Nasser, *Exclusion and the Making of Jordanian National Identity: An Analysis of School Textbooks*. 10. Nationalism and Ethnic Politics. 221. 221-222 (2004).

Jordan. The textbooks appeal to the future rebirthing of and assimilation into Pan-Arabism. Instead of tracing the territorial history of what Jordan used to be, it appropriates Arab history as its own.<sup>83</sup> Jordan sought legitimization by promoting those identifications, as well as for the intensifying of the “Jordanization” process. School textbooks are issued solely by the Ministry of Education in Jordan and are approved by the state. These textbooks are important because they carry an authoritative and legitimizing power of an established social, political, and historical order.<sup>84</sup> They are sources that are essentially above any type of criticism, because it is trusted that they would be thoroughly reviewed to portray the correct facts, so, no one questions the information in them. Anderson says that the development of print as commodity is the key to the generation of a new idea of simultaneity.<sup>85</sup>

A different strategy for the Hashemites to create a Jordanian or Pan-Jordanian identity, different from the Transjordanian identity, was the creation of Museums. The creation of the first archaeological museum in Jordan created on the top of the hill of the Citadel in Amman in 1951 by a British archaeologist called Gerald Lankester Harding. All the pieces found in that museum were excavations from the East Bank. Until that date, most pieces belonged to the Museum of Palestinian Archaeology in Jerusalem, mainly because the British never thought of the possibility of building a museum in the Emirate of Jordan, and both entities were essentially part of the same mandate.<sup>86</sup> This could have been a cause for the pent-up tension between Jordanians and Palestinians, and the Jordanian insistence on creating an identity of their own, separate from that of the Palestinians. The British had no intention on spending money on a country that was essentially poor and lacked important autonomous cultures; unlike Palestine, Syria, and Mesopotamia.<sup>87</sup> It was inhabited by nomadic and semi nomadic tribes and did not really offer lucrative resources. The British were more interested in settling the nomadic populations, pacifying the country, and fighting epidemic illnesses. Building the museum

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<sup>83</sup> Id.

<sup>84</sup> Id, 222.

<sup>85</sup> Anderson, *supra* note 18, 53

<sup>86</sup> IRENE MAFFI. THE CREATION OF JORDANIAN NATIONAL IDENTITY. A SHORT MUSEOGRAPHIC STORY OF A COMPLEX PROCESS, IN VILLES, PRATIQUES URBAINES ET CONSTRUCTION NATIONALE EN JORDANIE. (BEYROUTH: PRESSES DE L'IFPO, 2011) Found <https://books.openedition.org/ifpo/1737?lang=en>

<sup>87</sup> Id.

was a political act with a clear meaning. Jordanians wanted to create their own historical dignity and as an independent state, they felt that they deserved their own cultural institutions.

Jordan's redefining of Bedouin culture into a form of a nation state, and creating a national identity amongst the people is essential to understanding how it became extremely significant in the realm of foreign relations.<sup>88</sup> It did not only organize itself internally in terms of civil society and national identity, but it also created a nationality for itself that represented it in foreign relations.<sup>89</sup> Tribes were legislated in and out of existence by the juridical power of the nation state and its coercive apparatus. This was an effort for Jordan to establish a national identity amongst the tribes and unify the people into a community of Jordanian nationals.<sup>90</sup> In the 1980's, Jordan took on the trend of establishing its Jordanian-ness externally, where it asserted itself to defy Israeli claims that Jordan is Palestine. They distinguished themselves as proud carriers of ancient Arab history and culture within the modern Arab world and tried to disassociate from Palestine by marketing themselves as a modern state embracing traditional culture. This is still seen in the architecture of Jordan, as well as its tourist areas, which embrace the Bedouin lifestyle, and show off what life was like before modernization, seen especially in Petra and Jerash. This, along with the creation of Bedouin songs, and the subsequent modernization of those styles which included praise to the Hashemite family, the kingdom, and the land, all worked together to establish a Jordanian identity distinctly different from that of the Palestinians.

National identity in Jordan is made exclusive to those who agree with the political state and its affairs, those with the opposition to how the nation is run and the Hashemite family's rule were not considered to be part of the nation, as they do not show the sense of belonging the state wants them to show. Being part of a national identity is not determined by whether or not a person has a nationality or a passport but by where the person's opinions and loyalties lie. For example, in January of 1997, Tahir Al Masri former prime Minister, speaker of the House of Representatives, and who also served as the President of the Jordanian Senate made a public speech on Jordanian identity and on

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<sup>88</sup> Masaad, *supra* note 7, 73.

<sup>89</sup> *Id.*, 74.

<sup>90</sup> *Id.*

the question of double loyalty. He expressed doubts whether all Palestinians in Jordan identified themselves with the state. According to his perception, all those who lived in Jordan were considered Jordanians as long as they were content with the political state of affairs in the country, with the constitution and with the Jordanian-Palestinian unity. He also implied that it may be better if those Jordanians of Palestinian origin, especially those who claimed to be deprived of equality, would materialize their political rights in Palestine.<sup>91</sup>

The question of national identity has become extremely politicized, especially in states like Jordan. While this may actually be a prospect for the creation of pluralistic democracies, migration at the capacity Jordan is receiving have proven to be a catalyst contributing to contestation. In other words, having such large numbers of immigrants, each group with a distinct national identity and sense of belonging and loyalty to where they originally came from, could be perceived as a great threat to the already existing national identity of the state. State policies could be seen as pitting those who are prepared to blur the boundaries and view national identity in exclusive parochial terms against those who define it in an inclusive multicultural way.

## **B. The Right of Return; the Essence of Palestinian National Identity in Jordan**

Due to the influx of Palestinian refugees after the Arab Israeli wars, the Partition Plan, and the Intifadas, the majority of the Jordanian population today are essentially of Palestinian origin. Palestinians in Jordan, however, recognize the alternative homeland scenario that aims to destroy the right of return, but they hold on to it as an act that symbolizes nationalism and patriotism. The right of return is a universally recognized human right in international refugee law, as well as in the law of nationality, and the laws of state responsibility. International customary law refers to the rights to the freedom of movement in several conventions and declarations, like in Article 13 of the Universal Declaration on Human Rights (UDHR). The right of return was reaffirmed in United Nations resolution 2535 "... recognizing that the problem of Palestinian Arab refugees

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<sup>91</sup> Nasser Qamash, Taher Al Masri 'Ala Korsi Al I'tiraf, Amman News, Aug. 18, 2007. <https://www.ammonnews.net/article/9079>

arose from the denial of their rights under the Charter of the UN and the UDHR”,<sup>92</sup> as well as resolutions UNGA Resolution 2452(XXIII)<sup>93</sup> “Convinced that the plight of the displaced persons could best be relieved by their speedy return to their homes and to the camps which they formerly occupied” and “Calls upon the Government of Israel to take effective and immediate steps for the return without delay of those inhabitants who have fled the areas since the outbreak of hostilities”. Also UNGA Resolution ES-7-4 which “expresses rejections of all policies and plans aiming at the resettlement of the Palestinians outside their homeland”.<sup>94</sup> These resolutions strengthen the right of return and claim it as indispensable for the solution of the Palestinian question.

The right of return has always been at the core of Palestinian national identity and nationalism, and it is what nationalist movements are currently fighting for. Furthermore, the International Covenant on Civil and Political Rights (ICCPR) “affirms that no one shall be arbitrarily deprived of their right to return to their own country in Article 12.”<sup>95</sup> The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) also “requires all State parties to prohibit racial discrimination, as well as guarantee the rights of everyone including the right of return to one’s own country.”<sup>96</sup> While Palestinian refugees are not necessarily considered as refugees, under the definition included by the Refugee Convention, hence, two agencies were created in order to preserve the rights of the Palestinian refugees as embodied in Resolution 194: the United Nations Conciliation Commission on Palestine (UNCCP), and the United Nations Relief and Welfare Agency (UNRWA).

Palestinian refugees’ right to return to their homeland is one of the most emotionally and politically charged issues of the entire Palestine-Israel conflict. It is a cornerstone of Palestinian nationalism, and the hope that keeps the resistance alive, in order for future generations to return to the land. The Palestinian Liberation Organization have strived to fulfill this right since 1964 and making sure of the implementation of

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<sup>92</sup> G.A Res. 2535(XXIV), ¶ U.N Doc. A/RES2535(XXIV) (Dec. 1969).

<sup>93</sup> G.A Res. 2452(XXII), ¶ U.N Doc. A/RES2452(XXII) (Dec. 1968).

<sup>94</sup> G.A Res. ES-7-4, ¶ U.N Doc. A/RES/ES-7/4 (Apr. 1982).

<sup>95</sup> G.A Res. 2200A(XXI), ¶ U.N Doc. A/RES/2200A(XXI), International Covenant on Civil and Political Rights, Art. 12 (Dec. 1966).

<sup>96</sup> G.A Res. 2106(XX), ¶ U.N Doc. A/RES/2106(XX), Committee on the Elimination of Racial Discrimination, Art. 5, (Dec. 1965).

Resolution 194.<sup>97</sup> The PLO have always considered themselves, Palestinians, as victims of politicide.<sup>98</sup>

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<sup>97</sup> Rashid Al Khalidi, *Observations on the Right of Return*, 2, *Journal of Palestinian Studies*, 21. 30 (1992)

<sup>98</sup> *Id.*

## V. Citizenship and Nationality, What Makes Them Different and How They Help in the Construction of Jordanian National Identity

The concepts of nationality and citizenship are very similar but do not mean the same or connote to the same rights and responsibilities. Nationality is the status of belonging to a certain nation. It is acquired through birth, adoption, marriage or in some cases descent.<sup>99</sup> The Universal Declaration of Human Rights (UDHR) declares that everyone has the right to a nationality and that no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.<sup>100</sup> Gianluca Parolin states that nationality has two dimensions. The first is external, meaning it is a rule of mutual recognition between states, which entails the powers of states to protect their nationals abroad and gives them the ability and duty to readmit them into their territories.<sup>101</sup> The second is internal, meaning that nationality does not presuppose democratic participation within a nation, but rather refers to individuals as subjects of a sovereign political authority independent of the nature of the regime.<sup>102</sup> On the other hand, citizenship is the position or status of an individual as a citizen of a particular country, it is specific to the legal relationship between the state and the individual.<sup>103</sup> One may be a national but not a citizen, or may not enjoy full citizenship rights.

Citizenship is not only associated with having a passport of a certain state and the formal membership of a nation state and acceptance by international law as a national of a given state. It is also directly related to the right of an individual to have access to state and government resources and have a role in saying how these resources are to be divided are used in the form of political participation.<sup>104</sup> It also refers to an individual's loyalty and allegiance to the nation as part of its cultural community. Thomas Humphrey Marshall identifies three types of rights that are crucial to the idea of citizenship, the first are civil rights, meaning an individual's right to property, safety, equality before the law,

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<sup>99</sup> Parolin, *supra* note 58, 8.

<sup>100</sup> G.A Res. 217A, ¶ U.N Doc. A/RES/217A (Dec. 10, 1948). Universal Declaration of Human Rights.

<sup>101</sup> Parolin, *supra* note 58, 9.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*, 9-10.

<sup>104</sup> Roel Meijer, *The Struggle for Citizenship: The Key to Understanding the Arab Uprisings*, 2 (Norwegian Peace Building Resource Centre, 2014).

freedom of speech, and the right to practice one's own faith.<sup>105</sup> The second set of rights are political rights, including the freedom of organization and the right to establish political parties.<sup>106</sup> And the third are social rights, which include the right to social welfare; in the form of education, healthcare employment, unemployment benefits and so on.<sup>107</sup> All in which are considered fundamental human rights emphasized in the UDHR and other international law conventions such as the ICCPR and ICESR. The right of nationality is of great importance to the realization of many other fundamental human rights, possessing a nationality carries with it diplomatic protection as well as the legal requirements in order to be able to exercise one's fundamental rights. It is described as the right to have rights, and those without nationality or an effective citizenship are the most vulnerable to violations of their utmost basic human rights. Despite the recognition of nationality as a fundamental human right in several international law instruments, there are over 10 million people who do not have a nationality and are considered stateless.<sup>108</sup> The notion of modern-day citizenship rights emerged after the collapse of the Ottoman Empire, the establishment of colonial states, and the introduction of a Mandate system. At that time those rights were promoted by a Western elite that used and introduced Western legal and political language of independence and sovereignty to a region that was struggling with its independence.<sup>109</sup> Citizenship rights remained exclusive to the elites that claimed to represent the nation and claimed to be the true and real citizens, and allowed foreigners to join the nation, but did not give them full citizenship rights, in order for them to be able to maintain their status as the true citizens of a specific nation.

Citizenship in the Middle East can be seen in several historical phases. In the beginning of Middle Eastern societies, during classic Islamic empires, from 1500-1830, there was no equivalent to the concept of an individual citizen, as there was in Europe, however, there were the *ra'aya* (the flock) and *al a'ama* (the public), these were the

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<sup>105</sup> THOMAS HUMPHREY MARSHALL, *CITIZENSHIP AND SOCIAL CLASS*, 14, (PLUTO PRESS 1992).

<sup>106</sup> *Id.*, 15.

<sup>107</sup> *Id.*

<sup>108</sup> N.Lukin, *A Special Report: Ending Statelessness Within 10 Years*, 10. (UNHCR, Nov. 2010).

<sup>109</sup> Valbjorn, *supra* note 69, 180.

unprivileged or did not belong to the khassa, or privileged classes.<sup>110</sup> Back when the classic empires, there were strong connotations of a society where different social formations were organized as large autonomous communities. In the case of Jordan, a similar pattern can be traced back to the early 1920's when the Emirate of Transjordan had just emerged as a separate country due to British portioning of the area East of the Jordan River, and made Emir Abdullah, at the time, the ruler of the Emirate. The modern Jordanian state is in essence an outcome of European extra regional interests rather than an internal aspiration for independence expressed by a national movement against colonialism.<sup>111</sup> The second phase took place around the 1830s and leading up to the 1930s, the Ottoman Empire started to collapse, in which the world saw the establishment of colonial states in Algeria and Egypt, as well as the mandate system in Lebanon, Jordan, Syria, Palestine, and Iraq. During this period, individuals started learning to speak the language of citizenship rights, where they realized that they now had the ability to resist rulers who failed to protect them against foreign invaders.<sup>112</sup> Nationalism gained momentum after the First World War, where the political parties spoke in the name of the people and tried to monopolize power to promote national division rather than a party system as brought by the Europeans.<sup>113</sup> In this sense, a citizen or muwatin was not an individual with rights, but rather a member of the nation, al watan, and a part of a collective community. Looking at this, one may compare the studies of Benedict Anderson that speak about how nations are essentially imagined communities based on the collective belief and shared history of a group of people.

The modern nation state model resembles exactly that, an imagined community based solely on the collective thought, unity, and allegiance of its citizens. Legislative systems were then laid out in order to create the separation between a nation, a person that lives in the state and carries its nationality by association to it, and a citizen who carries the responsibility to be completely loyal to the state, and therefore obtains the rights to actively participate in state and government affairs, as well as benefit from its institutions, which is what Joseph Masaad argues in the case of the Hashemite Kingdom

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<sup>110</sup> Parolin, *supra* note 58, 3.

<sup>111</sup> Id.

<sup>112</sup> Id, 4.

<sup>113</sup> Nanes, *supra* note 10, 170.

of Jordan. In the Jordanian case, although not identical to the events that took place during this time period, a pattern can indeed be traced. With regards to nationalism, Abdullah's conservative idea of Pan Arabism and exclusivist movement of Transjordan being for the Transjordanians was disputed by the 198 Arab Israeli war and the subsequent Annexation of the West Bank in 1950.<sup>114</sup> With wider sections of Jordanian society, including the periphery and tribes gaining their political and social rights during this time period, Jordanian society was becoming increasingly politicized. Jordanian society had a very active political scene which resulted in the creation of various political parties, mass demonstrations, and many other forms of political activism.

The third period was that of social rights, which took place from 1930 to 1956. This included a range of fights for independence and the creation of social parties. This left minorities and foreigners vulnerable due to the growing exclusivist national movements.<sup>115</sup> While other monarchies such as that of Egypt were toppled during this time period, Jordan was able to maintain its own, as King Hussein faced the challenges during his first years of rule. In a preemptive palace coup in 1957, King Hussein dismissed the Nabulsi government, dissolved parliament and created a new one, banned all political parties, suppressed popular protests with the help of the army and kinsmen of major tribes, imprisoned hundreds of leading opposition officials and figures, and claimed martial law.<sup>116</sup> During this time period all political and civil rights were limited and power was centralized to the king.

The fourth phase was between 1956 and 1970 where the struggle for independence was finally successful, however it brought along the authoritarian regime, in which civil and political rights were immediately suppressed, this is due to leadership being extremely personalized and being given to those who were in power of the most powerful nationalist movement.<sup>117</sup> Middle Eastern politics relied on kinship and what were called cult leaderships.<sup>118</sup> In the case of Jordan, with economic crisis, came negotiations with the International Monetary Fund, which led to removal of subsidies, privatizations, and

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<sup>114</sup> Valbjorn, *supra* note 69, 182.

<sup>115</sup> Id.

<sup>116</sup> Id, 183.

<sup>117</sup> Id, 185.

<sup>118</sup> Id.

cuts in public sector employment; which affected immigrants and foreigners including the Palestinians negatively.

Finally, after the 1970's, there was a major shift in government policies based on the market economy. The fiscal crisis due to the drastic drop of oil revenues in the late 1980s forced Jordan to turn to the International Monetary Fund (IMF) for assistance since they were not able to pay their foreign debts, resulting in a structural adjustment plan that included monetary stabilization to fight inflation and privatization to encourage economic growth. Although the political opening was limited at the time, it affected the citizenship balance by reviving the language of equality among citizens. Any political reform that moves towards equal treatment of all Jordanian citizens threatens the privileged political position of Transjordanians, who feel that as the original Jordanians the state belongs to them.<sup>119</sup>

Shifts in the economy caused rights and waves of immigrants that fled their countries seeking out civil and political rights, as well as employment and social services.<sup>120</sup> All these phases played a role in the creation of the term muwatin or citizen. While there were hopes after the crowning of young King Abdullah II in 1999 for new political reforms, he carried out pseudo reforms that mimicked those that had already been set out by his father.

### **A. Nationality Law in Jordan and its Development**

Jordan is governed by a limited constitutional monarchy. The King retains the power to promulgate and ratify laws, direct the enactment of regulations, ratify treaties and agreements, declare war, conclude peace, dismiss the Prime Minister, appoint Senators, adjourn and suspend the Chamber of Deputies, and is the Commander in Chief of the armed forces. The King, Prime Minister, and Council of Ministers exercise the executive functions of government; the Senate and Chamber of Deputies are the higher and lower houses of the National Assembly, which exercise the legislative functions; and various Civil, Religious and Special courts exercise the judicial power. The new Constitutional

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<sup>119</sup> Mohammed Ghazal, *IMF Suggests Strict Measures To Fix Economy*, The Jordan Times, Nov. 8, 2016.

<sup>120</sup> Stefanie Nanes, *Choice Loyalty, and the Melting Pot: Citizenship and Loyalty in Jordan*, 14 *Nationalism and Ethnic Politics* 1, 92 (Feb. 2008).

Court, which saw its first members appointed in October 2013, is intended to guarantee a respect for the Constitution and to enforce a greater separation of powers. The creation of this Court in accordance with articles 58 and 59 of the Constitution is part of a series of reforms enacted by King Abdullah II to democratize the Kingdom in the wake of the Arab Spring revolts across the region.<sup>121</sup>

According to the Law No. 6 on Jordanian Nationality, Jordanian nationals are defined as any person whose father is of Jordanian nationality<sup>122</sup>, any person born in the Hashemite Kingdom of Jordan whose mother is of Jordanian nationality and whose father is of an unknown nationality or is Stateless or whose filiations is not established, any person born in the Hashemite Kingdom of Jordan of unknown parents, all members of the Bedouin Tribes of the North, and any non-Jewish person possessing Palestinian nationality before 15 May 1948 and was a regular resident of Jordan between 20 December 1949 and 16 February 1954.<sup>123</sup>

In 1949, a new passport act was created in Jordan, amending that of 1928. This occurred after the annexation of the Banks and created different categories of passports and identifications. Technically, Palestinians did not ask for the citizenship but were granted it, or it was imposed on them, depending on whether they came from the East Bank or the West Bank. Palestinians from the East Bank became full Jordanian citizenships, entitled to all the rights that any Jordanian citizen would have, those from the West Bank received temporary passports that could or could not be renewed, and those from Gaza received identification card which classed them as Palestinian refugees, meaning that they were not entitled to any rights outside of the Ministry of Refugees or United Nations Relief and Welfare Agency (UNRWA). The United Nations Refugee Agency (UNHCR) does not consider them refugees under its definition. Since 1988, and especially over the past few years, the Jordanian government has been arbitrarily and without notice withdrawing Jordanian nationality from its citizens of Palestinian origin, making them stateless. The Jordanian government explains such an act by saying they did this in order to maintain a Palestinian population to prevent Israel from emptying

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<sup>121</sup> Massad, *supra* note 7, 32.

<sup>122</sup> Law No. 6 of 1954 (Law of Nationality, Hashemite Kingdom of Jordan, 1 Jan. 1954, at. 9. <http://www.refworld.org/docid/3ae6b4ea13.html>.

<sup>123</sup> *Id.*, at. 3.

Palestine of its original inhabitants, they even went as far as saying it is a national duty and that they should be thanked for doing so. This could also be seen as an act of creating a separation between Palestinians and Jordanians, because if all Palestinians are granted Jordanian citizenships, then the country essentially turns into a proxy state of Palestine, hindering the Jordanian identity that the ruling family has been trying so hard to create.

Laws stipulated in the Nationality Law also include that any Arab as defined in the law; any person whose father is of Arab origin or a member of the League of Arab States, who has resided continuously in Jordan for at least 15 years may acquire Jordanian nationality and renounce their nationality of origin – provided they are of good conduct, have lawful means of livelihood, are of sound mind, does not suffer from an impairment that would make them a burden on society, and takes an oath of allegiance and loyalty to the King before a justice of the peace.<sup>124</sup> The law also stipulates that the King may also, with approval of the Council of Ministers, grant Jordanian nationality to any emigrant.<sup>125</sup> The law also states that women foreign woman may obtain Jordanian nationality by making a written statement three years after her marriage to a Jordanian man if she is an Arab or after five years of marriage if she is non-Arab.<sup>126</sup> However, the law has discriminatory articles in which a Jordanian woman married to a non-Jordanian may retain her nationality; if she renounces her nationality and her marriage subsequently dissolves, she may recover her Jordanian nationality.<sup>127</sup> Also, if a foreign widow or divorced woman marries a Jordanian man, her children before the marriage do not automatically acquire Jordanian citizenship.<sup>128</sup> Laws relation to Jordanian women married to non-Jordanian men have been the center of human rights protests, where the government argues that it is a precaution of national security, but human rights organizations find that the law leaves many children of Jordanian mothers stateless as they can reside in the state, but do not have the right to residence, work, education, or healthcare. Also, a non-Jordanian may naturalize if they have regularly been a resident of

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<sup>124</sup> Id, at. 2 and 4.

<sup>125</sup> Id, at. 5.

<sup>126</sup> Id, at. 8(1).

<sup>127</sup> Id, at. 8(2).

<sup>128</sup> Id, at. 11.

Jordan for at least four years and intends to reside in Jordan by application to the Council of Ministers.<sup>129</sup>

The Hashemite Kingdom used its legal system in order to help in creating the Jordanian identity and reinforcing it. This is predominantly done through the nationality laws and the Passport Act of 1950, which constitute who can and cannot get the Jordanian nationality and be entitled to all the rights of a citizen. Legal experts and political historians trace Jordanian nationality laws back to the Ottoman period as well as the treaty of Lausanne.<sup>130</sup> The treaty of Lausanne itself is actually influenced greatly by British Nationality laws. Jordan's Ottoman and British colonial legacy not only shaped its legal system, but also the nature of the Jordanian nationality. Nationality laws of Transjordan were created verbatim from the British Nationality and Status of Aliens Act in 1914 as well as its 1918 amendments,<sup>131</sup> although they preferred the association with the Islamic nature of the Ottoman Empire and often claimed to be influenced by it.<sup>132</sup> To an extent, the Ottomans were not considered as culturally different or as colonizers, whereas Britain's colonial "original sin" and its contamination are essentially erased from what a Jordanian juridical nationality constitutes. British officials in Transjordan were not even sure whether or not a separate Jordanian nationality should be created. In 1922, several colonial officials discussed the possibility of creating a separate nationality for the people of Transjordan, or as Churchill insisted, to call them "Transjordanian Palestinians", making them an entity not of their own, but an entity linked to the Palestinians and the Arabs in Palestine. The matter was settled, obviously as seen today, in favor of creating a separate Transjordanian identity.<sup>133</sup> Jordan's politics evidently rely heavily on kinship and tribalism, this is seen in Article 3(6), which states that All members of the Bedouin tribes of the North mentioned in paragraph (j) of article 25 of the Provisional Election Law, No. 24 of 1960, who were effectively living in the

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<sup>129</sup> Id, at. 12.

<sup>130</sup> Robins, *supra* note 3, 22.

<sup>131</sup> Id, 23.

<sup>132</sup> Id.

<sup>133</sup> Massad, *supra* note 7, 23. See also, Letter from John Shuckburgh, assistant secretary to the Colonial Office to the undersecretary of state at the Foreign Office, FO371/6372 (May 18, 1922), p. 26, and Despatch no. 280 from Acting High Commissioner of Palestine W. H. Deedes to Winston Churchill, the secretary of state for the colonies, FO371/ 6372 (April 28, 1922), p. 27, and Foreign Office to the undersecretary of state, Colonial Office, FO371/6372 (June 9, 1922), p. 29.

territories annexed to the Kingdom in 1930” are automatically considered nationals of Jordan.<sup>134</sup>

The nationality law of 1928 was not the only attempt to define Jordanian juridical nationality. The first attempt was actually in 1927, following the British Nationality Law of 1914, in which the 1928 law defined a foreigner as “everyone who is not Jordanian.”<sup>135</sup> There was no clear definition of the word foreigner, and if it included British nationals, officials, and employees. So, in article 9 of the nationality law, the British included that no foreigner shall be brought in front of a Transjordanian court without the concurrence of the Britanie Majesty.<sup>136</sup> This is different to the British Nationality Law, where foreigners can be tried in a manner as if they were a natural born British subject.<sup>137</sup> This differentiation is made so that the British can remain in control of Transjordan, even if the Emir had jurisdiction over the territory. Without that control, the foreigners would not be able to do as they please, and British empire employees may be tried for acting in the interest of the colonial power. Whereas in Britain, foreigners were not allowed to act as they pleased, since they were not a colonial power, they were still subject to being tried just liked any other British citizen. Palestinians were not referred to as foreigners, but rather emigrants.<sup>138</sup>

## **B. What is Jordan and Who are the Real Jordanians? Permanent versus Temporary Passports**

The questions of what is Jordan and who is really Jordanian affect the nature of citizenship in the state and are closely related to the demographic situation in Jordan. Following the 1948 Arab Israeli war and the Jordanian annexation of the West Bank, the size of the Jordanian population trebled, thus for each Transjordanian there were two Palestinians. This changed quickly after the loss of the West Bank in 1967, in which Jordanian passports were confiscated from Palestinians from the West Bank and Gaza,

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<sup>134</sup> Law No. 6, *supra* note 122, at. 3(6).

<sup>135</sup> *Id.*, at. 2.

<sup>136</sup> *Id.*, at. 9.

<sup>137</sup> British Nationality and Status of Aliens Act of 1914, at. 18.

<https://www.legislation.gov.uk/ukpga/Geo5/4-5/17/enacted>

<sup>138</sup> Valbjorn, *supra* note 69, 180.

however, most observers estimate that at least half of the Jordanian population today are of Palestinian origin. Although these demographics are hard to determine due to inter group marriages which make it extremely difficult and rather artificial to make a clear distinction between Palestinians and Jordanians. While the question of who is really Jordanian has not been openly addressed or faced in Jordan, it is evident in their policies when it comes to granted nationalities or citizenships to Palestinians.<sup>139</sup> This happens in the form of permanent passports which include national numbers that grant the holder of the passport full citizenship rights like any other individual of Transjordanian origin, and temporary passports that do not contain a national number, which only acts as nation identification and a travel document, this does not grant the holder automatic residency nor does it give the holder the right to employment. Holders of the temporary passport are considered, legally and politically, as foreigners that do not have the right to participate in state or government affairs. Uri Davis sets a distinction between the concept of *jinsiyya* (nationality) versus that of *muwatana* (citizenship). Davis describes the difference between Palestinians in Lebanon and Jordan, he explains that unlike the Palestinians in Lebanon, Palestinians in Jordan do, from a *jinsiyya* citizenship perspective, have the same citizenship rights as Transjordanians. However, when it comes to the *muwatana* citizenship perspective, there is a debate about whether Palestinians are guests in the Jordanian territory that will at some point return to their homeland, and therefore should appreciate and respect Transjordanian hospitality and not interfere in state affairs, or if they are full members of Jordanian society and contribute to it.

Historically, Palestinians have contributed to Jordanian society, and after the economic liberalization and privatizations in the 2000s, Jordanians dominated the public sector, whereas Palestinians built strong roots in the private sector as foreigners, where Palestinian businessmen benefited from the reforms economically, but suffered politically with regards to their status as citizens of the state.<sup>140</sup> Since Transjordanians tend to dominate all levels of the state bureaucracy, any attempt to reduce state power is

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<sup>139</sup> Uri Davis, *Jinsiyya versus Muwatana: The Question of Citizenship and the State in the Middle East: The Cases of Israel, Jordan, and Palestine*, 17 Arab Studies Quarterly. 19, 24 (1995).

<sup>140</sup> Valbjorn, *supra* note 69, 194.

seen as directly attacking their individual and collective status.<sup>141</sup> Strengthening the private sector, considered the preserve of Palestinian Jordanians, is seen as strengthening Palestinian Jordanians economically and thus contributes to Transjordanian nationalist insecurities. Transjordanians argue that Palestinian Jordanians are more than compensated for their political exclusion by their control over the private sector. And that it is simply unjust, for one group to control both the state and the economy, especially since they are not true Jordanians. And that Palestinians should control both Jordan and any future state of Palestine.

Nations are composed of human beings with their own history, language and culture. The legitimacy of the state depends on its respect of the nation's historical and human dimension and the degree to which its structure and institutions reflect the will of its constituencies. Once a state comes into existence, it should not discriminate against citizens who are not part of its cultural heritage. The challenge for contemporary states, like modern Middle Eastern States, is their being multi in terms of the nationscultures, languages and ethnicities within the borders. All constituent groups and individuals should be able to consider the state as their own, like open door immigration policies in Jordan claim to abide by, and should be able to identify with its constitution in order to preserve the unity of the state. This is a challenge that Jordan has seemingly struggled with as it strives to maintain Jordanian nationality in a territory that hosts many ethnic and cultural identities that are looking for an autonomous national territory in which they can practice their most basic human rights. As set out by Gianluca Parolin and Joseph Masaad, creating the distinction between a citizen and a national relied heavily on the types of legislative policies that a state sets out. In that sense, individuals that belong to a certain nation, such as Jordanian nationals in this case, with only parts of citizenry of the state, but they do not necessarily accord with the totality of the citizens of the state, nor are they particularly limited within the borders of the state. Including Anderson's idea of an imagined community, one can still talk about the Palestinians living in Jordan but would still have to consider the fact that they have been citizens of Jordan for at least two or three generations. In the same sense states facilitate citizenships for individuals living abroad, like the child of a Jordanian man born abroad, or the wife of a Jordanian man

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<sup>141</sup> Nanes, *supra* note 10, 165.

who applies for citizenship while abroad. That being said, the understanding of traditional meaning of nation states is different, this means that, for example, being Jordanian nationals does not necessarily mean being Jordanian citizens and vice versa.

The distinction between citizen and national, *muwatin* or *mujannas*, applies to the Palestinians in the sense that self-determination can be expressed in terms of statehood, and the Palestinian state can only exist when the indigenous, or in the terms of Anderson, artificial people can exercise their sovereign powers over a territory. Only when there is a legitimate sovereign Palestinian state, can there be a distinction between Palestinian nationals and citizens. This is because citizenship regulation follows the establishment of the state and is influenced by the nation building process that precedes the establishment of the nation.<sup>142</sup> By contrast, national identity follows the nation building process, but is extremely ambiguous in terms of what clearly creates and defines it. Citizenship seeks to create equality between all those holding the same status and citizenship regulation must be clearly defined and regulated. Whereas national identity is a process that is chaotic and open ended, and often times, not even clear to the individuals themselves. A person can be born and raised to believe in a certain national identity, and grow attached to it, but may not necessarily understand the connotations to it. However, that same individual can choose which state they would like to legally be tied to, and that choice also goes to the state, in choosing who it accepts as its citizens and who it will grant full citizenship rights to.<sup>143</sup>

There have been several cases in which the debate of national versus citizen have played a huge role. An example is of a Palestinian individual with an Egyptian identification card and travel document who resided in Jordan in 2004. The individual resided with his family in Kuwait 1966 until 1990, following their displacement from Gaza.<sup>144</sup> After the Gulf War, the Kuwaiti government expelled Palestinian nations, which led them to move to and reside in Jordan. The appellant travelled to the United Kingdom in 1998 with a valid Jordanian passport, with legal clearances as a visitor, and was

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<sup>142</sup> Id.

<sup>143</sup> Nanes, *supra* note 120, 96.

<sup>144</sup> Immigration Appeal Tribunal, NA (Palestinians – Not at General Risk), United Kingdom, (2005). <https://tribunalsdecisions.service.gov.uk/utiac/38108>

admitted to the UK on that basis.<sup>145</sup> In 2003, the appellant applied for asylum in the UK but for unapparent reason was rejected, he claims that as a result of the creation of the Israeli state, his family settled in an UNRWA refugee camp and was issued an Egyptian travel document, after the Gulf war and expulsion of Palestinians, Jordan was the only state that would accept Palestinian nationals, he acquired a Jordanian ID and travel document on that basis.<sup>146</sup> The issue of citizenship and nationality is not in the fact that the appellant was forced to move around due to displacement, but due to the fact that in 1989, the Jordanian embassy in Kuwait refused to renew the appellant's travel document, but deciding later to renew it on a yearly basis. Then in 1996, the Jordanian government refused to renew the appellants temporary passports granted to those who were born in Gaza Strip. The appellant filed a case to have his passport renewed and was granted a two-year renewal. The case gets more complicated as the appellant's wife has been living in Jordan illegally with no passport or travel document.<sup>147</sup> For reasons, including his legal situation with Jordan and Kuwait, he was denied asylum in the UK as he was perceived to be in no persecutory hardship as identified in the 1951 Refugee Convention.<sup>148</sup> The appeal concluded in the fact that no sufficient evidence was provided that the appellant would be persecuted if returned to Jordan. The adjudicator believed that, ethnic Palestinians, whether recognised as citizens of Jordan or not, are not persecuted or treated in breach of their protected human rights under Article 3 of the European Convention in Jordan by reason of their ethnicity. He believed that, although they may be subject to discrimination in certain respects in their social and political lives in Jordan, it is in a manner which does not cross the threshold from discrimination to persecution or breach of protected human rights.<sup>149</sup>

### **C. Distribution of Colored Cards to Palestinians to Distinguish Legal and Political Status**

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<sup>145</sup> Id.

<sup>146</sup> Id.

<sup>147</sup> Id.

<sup>148</sup> Id.

<sup>149</sup> Id, 24(b).

The legal status of Palestinian refugees in Jordan differs according to the origin and time of their displacement. There are two types of identification cards in Jordan, the different colors determine a person's legal status in the state, and whether or not the individual is entitled to full citizenship rights or not. First, yellow cards which were distributed to Jordanians of Palestinian origin that either resided in Jordan, with family or material connections to the West Bank, or those who lived overseas who had Jordanian Citizenship and connections with the West Bank. In addition, it is distributed to individuals who held an Israeli Identity number prior to 30 June 1983 would also be granted a yellow card. Yellow cards entitled the holder to all the rights of a Jordanian national. These citizens of Palestinian origin were also provided regular Jordanian passports granting them full citizenship rights.<sup>150</sup> Second, green cards which are issued to Jordanians of Palestinian origin who were residents of the West Bank. West Bank residents who had lived there prior to the disengagement in 1988 were issued with temporary two year passports which, after 1995, could be traded in for five year passports. These passports and green cards do not denote citizenship rights like Jordanian nation, but permit travel between the West Bank and Jordan.<sup>151</sup> The length of time each individual was allowed in Jordan is dependent on Jordanian authorities. Refugees who fled from Gaza in 1967 are in a whole different category of their own, in which they are granted refugee status, as defined under the mandate of UNRWA not the UNHCR, upon their arrival to Jordan. Upon arrival, they were issued temporary Jordanian passports, which did not display identification numbers and were only valid for two years. These refugees have no citizenship rights in Jordan; they remain predominantly in refugee camps and are assisted by UNRWA.<sup>152</sup> In 1992 the Jordanian government made the national identification number proof of nationality. Those without an identification number are not recognised as citizens of Jordan. They are treated as foreigners in Jordan; as defined in article 3 of the Nationality Law No.6, and the renewal of their residence requires clearance from the Jordanian security authorities. Any delay in renewing the

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<sup>150</sup> Oroub Al Abed, *Palestinian Refugees in Jordan*, in Forced Migration Online, 1, (Refugee Review Tribunal, Jordan: 1, February 2004). See also 'Stateless again, Palestinian-Origin Jordanians deprived of their nationality', in Human Rights Watch. February 2010.

<sup>151</sup> Id.

<sup>152</sup> Id.

temporary passport or in applying for one puts an individual at risk of becoming undocumented, which puts them at risk of statelessness, and full loss of fundamental human rights, since Palestinian refugees are not put under the definition of the 1951 Refugee Convention, and UNRWA's resources are limited to registered refugees as a priority after the 2018 budget cuts.<sup>153</sup>

Palestinians with the green identity card and temporary passports have faced threats of document revocation since 1988. In an interview in 2010 with the Resource Center for Palestinian Residency and Refugee Rights (BADIL); an independent human rights organization based in Amman, Jordan, International Lawyer Anis Kassim where he laid out the implications of the Jordanian government revoking nationalities from individuals of Palestinian origin.<sup>154</sup> He states that citizens that were included in the revocation included those who had jobs with the governmental authority institutions, as well as those who had their residencies revoked by the Israeli government under the pretext that Palestinians should go back to the West Bank and have their permits issued from there, instead of renewing them in Jordan.<sup>155</sup> Some Palestinians who held yellow cards were given green cards instead. These actions meant that some children of Palestinians had their citizenships revoked, although they had no connection or engagement to the West Bank and were born and raised in Jordan. The policy did not apply to everyone, so in some cases, one member or a group of members from the same family had their citizenships revoked and were forced to either live in Jordan illegally and undocumented or were forced to go back to the West Bank in hopes of renewal.<sup>156</sup> With the revocation, thousands of Jordanian nationals of Palestinian origin lost their right to residency, public healthcare, education, and lost their freedom of movement between Gaza, the West Bank, and Jordan. once the citizenship is revoked, the Palestinian refugee

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<sup>153</sup> UNGA/SPD/684, Fourth Committee, 73<sup>rd</sup> Meeting, 24<sup>th</sup> Session, UNRWA Faces Greatest Financial Crisis in Its History Following 2018 Funding Cuts, Commissioner-General Tells Fourth Committee (9 Nov. 2019).

<https://www.un.org/unispal/document/unrwa-faces-greatest-financial-crisis-in-its-history-following-2018-funding-cuts-commissioner%E2%80%91general-tells-fourth-committee-press-release/>

<sup>154</sup> Hazem Jamjoum, *Palestinian Refugees in Jordan and Revocation of Citizenship*, Interview with Anis Kassim, BADIL Issue. 50, (24 Oct. 2012).

<https://www.badil.org/en/component/k2/itemlist/user/67-hazem-jamjoum.html>

<sup>155</sup> Id.

<sup>156</sup> Id.

is left with no political, civil or economic rights. This limits their right to marriage, child registry, employment, or even receiving payment through a bank.<sup>157</sup>

In terms of social services, non-Jordanian nationals have limited access to a number of services, including the Jordanian National Aid Fund, provided to help the state manage its refugee population without harming the economy or carrying the burden of caring for them on their own expense.<sup>158</sup> With such limited access to social resources like free and public education, Palestinian are expected to buy their own textbooks and stationary, with funds that they do not have as they are deprived of the right of employment, as well as the cuts in financial aid given to refugees from the government. Other social services that are limited are healthcare services, since Palestinians without citizenship are excluded from public healthcare services.<sup>159</sup> Nationals of Jordan pay less for medical care than non-nationals, making it disproportionately difficult for already impoverished Palestinians to gain access. Being stateless will also restrict travel to obtain medical assistance from abroad, if necessary.

Citizenship is not only associated with having a passport of a certain state and the formal membership of a nation state and acceptance by international law as a national of a given state. It is also directly related to the right of an individual to have access to state and government resources and have a role in saying how these resources are to be divided are used in the form of political participation. Palestinian Jordanians are citizens but not nationals. To be nationals connotes having full loyalty to one nation alone.

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<sup>157</sup> Id.

<sup>158</sup> United Nations Economic and Social Commission for Western Asia, National Aid Fund (2014). <https://www.unescwa.org/ar/national-aid-fund>

<sup>159</sup> Al Abed, *supra* note 150, 18.

## **VI. Conclusion**

In conclusion, by looking at and understanding the different time frames of the creation of not only the Hashemite Kingdom of Jordan, but also the national identity that helped in constructing this imagined community, one can agree with both Anderson and Masaad in saying that national identities are fabricated and artificially created in order to serve a larger political goal, that is then consolidated through various legal, military, juridical, and administrative instruments that help in the creation on a state structure. Jordan was able to evolve from a periphery under the Ottoman Empire to a state that holds international power due to its geopolitical location. It did so by creating a national identity amongst its people that is based on loyalty to the land and to the crown. The state was even able to impose that national identity on individuals that are not originally Jordanian, but have been through the Jordanian educational system, and have spent all their lives in the kingdom.

Citizens of the kingdom are taught from a young age about its battle for independence, and how it was able to create a nation out of a tribal system. National identity is a concept created or imagined by communities that not only share cultures, traditions, and beliefs, but arguably, raised to have that national identity; like Palestinians living outside of Palestine, or Jordanians living abroad. Nations reinforce national identity in several ways, because without that shared identity amongst the people, the state would be weak. Multinational states like Jordan face the challenge of maintaining their identity in a territory that is full of so many other strong national identities. Jordan needs the laws that it has in order to separate Palestinians from Jordanians, because if all Palestinians were to be accepted as nationals of Jordan, then the Jordanian national identity is at risk of losing the battle of the identities.

As with the case of many other post-colonial nations, Jordan's biggest struggle was the establishment of an independent national identity for the people within the Transjordanian territory. The incorporation of such large numbers of immigrants presented the nation with challenges since it began its nation building process. With that being said, Jordan's reaction to every migrant crisis and refugee wave that affects it is

more of a defensive approach that aims to protect and maintain the identity that they have built despite all outsider intervention. The nation does not really need to create new protocols or laws to protect national identity against the existence of other national groups within their territory, because they have built their nation on laws that insured that protection since the beginning. The nationality and citizenship laws have been amended several times but have always laid out the definition of “Jordanian” and “Non-Jordanian or Arab”.

It is reasonable to speculate that even if an independent Palestinian state was established, not the current state but a fully independent one that is free of any ties to the occupational powers of Israel, this Palestinian state would enjoy special ties with Jordan due to the long history between the two territories; however, the Jordanian identity would continue to be dominant. Even if a Palestinian state was to be established after all this time, Palestinians in Jordan will still have loyalty to the state that they spent their whole lives in. This of course does not apply to all Palestinians, since the opposition still exists in refugee camps where refugees refuse to identify as anything but Palestinian. But one cannot expect Palestinians with Jordanian nationalities to let go of their current nationalities. Anderson speaks about the ability to forget and move on, but still remember, and maybe the Jordanian Palestinians will be so deeply intertwined with the Jordanian national identity that some will have the ability to forget and move on but remember what their history once was. The point in this is to say that regardless of the Palestinian state and the Jordanian state being two completely different entities, their national identities cannot be separated. There is too much shared history between the two populations to a point where one cannot speak about Jordan without speaking about Palestine and vice versa.

Transjordanian fears about Palestinian citizenship are really unconscious fears about the vulnerability of the Jordanian state. And the use of legal instruments in order to reinforce Transjordanian national identity, is only an attempt to make sure it stays legitimate and uncontested.

The existence of the Jordanian national identity depends severely on the existence of a Palestinian national identity; it needs that separation between the two populations in

order to thrive. It has shown that need by creating a separation in nationality laws, labor laws, the military, educational systems, and so on. Jordan does not identify as a territory that was at one point in time part of the same mandate as Palestine but identifies as a traditional Arab state that was built from Bedouin routes, and has solidarity towards the Palestinians.

