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Citizenship in the shadow of law: identifying the origins, effects, and operation of legal ambiguity in Jordan

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Abstract

What are the origins and effects of legal ambiguity in authoritarian regimes? Using a detailed case study of nationality rights in Jordan – which draws from interviews with 210 Jordanian political officials, judges, lawyers, activists, and citizens/residents - we develop a framework for understanding how legal ambiguity emerges, and how it matters, under authoritarianism. We first conceptualize four discrete forms in which legal ambiguity manifests: lexical ambiguity (in legal texts); substantive ambiguity (in status as law); conflictual ambiguity (between contradictory legal rules); and operational ambiguity (in enforcement processes). We then scrutinize the emergence and effects of legal ambiguity in Jordanian nationality policy by integrating historical process tracing, detailed interview evidence, and a content analysis of archival documents, laws, and court verdicts pertaining to nationality rights. Our findings contribute to scholarship on legal ambiguity, authoritarian legality, and discretionary state authority by showing that (1) crisis junctures make the emergence of legal ambiguity more likely; (2) legal ambiguity takes a variety of different forms that warrant conceptual disaggregation; and (3) different forms of legal ambiguity often have disparate effects on how authoritarian state power is organized and experienced in public life.

Keywords: legal ambiguity; authoritarianism; authoritarian legality; citizenship; nationality; Middle East: Iordan

A body of rich cross-national work on authoritarian legality identifies significant ambiguity in how legal institutions operate - often simultaneously serving as sites of top-down authoritarian control as well as bottom-up societal resistance (Chua 2012; Massoud 2013; Moustafa 2007; Schaaf 2021). Underneath such ambiguity in the functioning of legal institutions, many authoritarian systems also exhibit a great deal of ambiguity in the content of law itself: what law says, what it allows, what it forbids, and even whether particular rules or commands actually count as "law" in the first place (Arslanalp and Deniz Erkmen 2020; Druzin and Gordon 2018; Stern 2010). This

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study develops a framework for understanding the origins and effects of legal ambiguity under authoritarianism. It does so through a fine-grained analysis of glaring ambiguities in how Jordan regulates one of the most basic questions of any political community: who is, and is not, a "citizen."

In the popular imaginary, particularly among audiences in the global West, citizenship is commonly viewed as inviolable. This is not the case in Jordan, where thousands of people have had their nationality revoked in recent years, and hundreds-of-thousands remain vulnerable to similar revocations (Jamjoum 2013). Many people become effectively stateless after nationality revocations, and those who remain in Jordan find their loss of nationality obstructs access to: education, health care, employment, housing, state subsidies, and social security (Frost 2022).

When, why, and how do these nationality revocations occur? Which state actors have the authority to issue them? And are such revocations even "legal"? The answer to each question is that, at the end of the day, it is deeply ambiguous. And the sheer magnitude of this ambiguity over such a core concern in how the state relates to its people is precisely what makes the Jordanian case fruitful for a theoretical and empirical exploration of legal ambiguity.

Jordan also represents a productive case for exploring how legal ambiguity and authoritarianism intersect. Jordan's Head of State is an unelected monarch, who exercises chief executive authority. By having a ruler (i.e., chief executive) who is not selected through competitive elections, Jordan meets the defining feature of an "authoritarian" polity (Brown et al. 2024). Moreover, throughout the structure of its political institutions, Jordan is "ruled by an authoritarian state that has never seen political liberalization as anything more than an occasionally useful tactic in the endless struggle to hang on to power" (Yom 2009: 151).

To systematically investigate legal ambiguity under authoritarianism, the first step of our inquiry begins by assembling a new conceptual toolkit that is needed to better analyze the unique forms in which legal ambiguity manifests: *lexical ambiguity* (in a legal rule's text); *substantive ambiguity* (in a rule's status as "law"); *conflictual ambiguity* (between contradictory legal rules); and *operational ambiguity* (over enforcement processes). In our empirical analysis, we then use this framework to probe the origins and effects of legal ambiguity in Jordanian nationality policy, combining: (1) historical process tracing; (2) an analysis of archival documents, Jordanian laws, and court verdicts involving nationality; and (3) interviews with 210 different respondents in Jordan between January 2016 and May 2023. Using this wealth of qualitative evidence, our study contributes to socio-legal scholarship in four key ways.

First, we extend research on discretionary rule (Berda 2023; Könönen 2022; Lipsky 1980) and the decentralization of authoritarian state power (Brown et al. 2024; Sievert 2018; Slater 2003) by demonstrating that legal ambiguity affords state agents outside an autocrat's inner circle tremendous discretion in how they wield state authority. Second, we show that attentiveness to legal ambiguity is key to developing a richer understanding of the judicialization of politics under authoritarianism (Ginsburg and Moustafa 2008; Moustafa 2003). Third, we add new insights to a growing body of scholarship on authoritarian legality (Gallagher 2017; Massoud 2013; Rajah 2012) by developing a framework for explaining when legal ambiguity emerges and how it matters in authoritarian societies. Fourth, we synthesize disparate conceptions of legal ambiguity in the socio-legal literature to (1) develop a typology of distinctive forms in

which legal ambiguity manifests and (2) show that the effects of legal ambiguity vary according to the form it takes.

The proceeding sections of this paper use a context-rich analysis of Jordanian nationality policy to grapple with the following question: What are the origins and effects of legal ambiguity in authoritarian regimes? The "Conceptualizing legal ambiguity" section develops our conceptual framework for understanding legal ambiguity and situates this framework within the literature. The "Research design and methodology" section details our methodology for applying this framework to examine the origins, forms, and effects of legal ambiguity in Jordan. The "Crisis origins: four forms of legal ambiguity emerge" section probes the historical factors that fostered extensive ambiguity in Jordanian nationality policy, and it identifies what forms this ambiguity takes in practice. The "Different types of legal ambiguity, disparate effects" section evaluates the disparate effects that each form of legal ambiguity has on the organization and exercise of state power in Jordan. We then conclude by discussing the importance of our findings for cross-national research on legal ambiguity, authoritarian legality, and contingent citizenship.

Conceptualizing legal ambiguity

The concept of legal ambiguity is regularly invoked in socio-legal work, but – perhaps ironically – it is seldom defined explicitly, nor is it conceptualized consistently. As a result, Farnsworth et al. (2010: 258) identify a risk of conceptual slippage in the study of legal ambiguity, largely because "the word [ambiguity] itself is notably ambiguous" in its usage.

We begin this section by arguing that inconsistency in the conceptualization of legal ambiguity across studies is not a byproduct of scholarly imprecision. Instead, it is because different researchers home in on distinctive forms of legal ambiguity in their work. In pursuit of conceptual clarity, we synthesize those disparate forms into a common typology. Later, our empirical analysis will demonstrate the utility of this typology by illustrating how (1) Jordanian nationality policy is characterized by multiple types of legal ambiguity that unsettle citizenship rights and (2) different types of legal ambiguity have disparate effects on the organization of state power.

One strand of the literature locates legal ambiguity within *the text of law* itself. Hansen (2016: 194), for instance, refers to legal ambiguity as instances in which "the same term or legal provision can mean different things to different people." Kirkland et al. (2021) analyze legal ambiguity in the Affordable Care Act through the contested meaning of what constitutes a "medically necessary" health procedure. Shevel (2011) similarly identifies legal ambiguity in the form of an indeterminate textual meaning of Russia's 1999 Compatriots Law, which never defined the contours of the Russian "nation." In the context of American civil rights law, Edelman et al. (1991) describe legal ambiguity as vagueness in the text of law, compounded by the lack of definition for key terms in statutes (Edelman 2016). A quintessential example is Executive Order 11246 (on Equal Employment Opportunity), which gave "no explicit definitions for 'discrimination,' 'affirmative action,' or 'equal employment opportunity" (Edelman 1992: 1538).

While Edelman's definition of legal ambiguity begins with law's text, she and colleagues have pioneered a conception of legal ambiguity that also extends outward to

implicate how law operates. This extension occurs because ambiguous legal texts afford non-state actors more space to construct law's meaning for themselves (Edelman et al. 1999), and those social constructions can flow back into how law is interpreted in the legislative and judicial arenas (Edelman 2016; Edelman and Talesh 2011). Thus, a body of work that begins with ambiguity in law's text ultimately arrives at a different form of legal ambiguity, one emphasizing the dualistic operation of law as it is socially constituted. Actors that the law is intended to regulate and constrain actually become empowered – with no formal delegation or authority – to construct and redefine law's meaning in practice (Talesh 2009). Those constructions often skew toward symbolic exercises of structural elaboration (Edelman 1992), which further reinforce an ambiguous disjuncture between the goals of law on paper and the operation of law in practice (Edelman et al. 1991).

This move from identifying legal ambiguity within law's text to its operation has echoes in scholarship on authoritarian legality. Moustafa (2014: 287) characterizes legal ambiguity under authoritarianism as the dualistic operation of legal systems, being sites for both top-down state control and bottom-up societal contestation. Arslanalp and Erkmen (2020) similarly locate legal ambiguity in the operation of law, specifically the uneven application of emergency laws in Turkey.

A separate stream of scholarship conceptualizes legal ambiguity according to the *substantive form* law takes. Scholars of colonial legality trace legal ambiguity to informal governing arrangements that lack an official legal status (Berda 2023; Evans 1997). Sachs' (2013) analysis of colonial Sudan, for instance, treats legal ambiguity as the system-level reliance on informality, as opposed to formally codified or institutionalized legal rules. Research on refugee communities approaches legal ambiguity in similar terms, locating it in systems of "calculated informality" (Mielke 2023) or *ad hoc* combinations of formal and informal rules (Nassar and Stel 2019: 46; Natter 2023).

Legal ambiguity also enters the socio-legal lexicon in the form of *incoherent or conflictual legal frameworks*. In this approach, ambiguity is treated as relational, emerging from multiple legal rules that – while perhaps clear on their own – prescribe conflicting standards of legality when taken together. Grattet and Jenness (2005: 897), for example, conceptualize legal ambiguity as "alternative expressions of [a] rule (e.g., multiple statutes defining the same phenomena)" that coexist but are contradictory. Likewise, Frost (2024: 4) emphasizes "intentional" legal ambiguity as it manifests in conflicts between "the content of laws, on the one hand, and the content of related implementing measures, on the other."

Some scholars even observe multiple types of legal ambiguity in their work. In the case of Israel, Mehozay (2012) identifies legal ambiguity in both (1) a patchwork of often-contradictory emergency rule mechanisms and (2) the substantive legal status of discrete emergency rule mechanisms, many of which carry legal authority but are not obviously "laws" in themselves. And on our count, Rubin's (2021) analysis of Pennsylvania's Eastern State Penitentiary discusses legal ambiguity in three distinct forms: (1) multiple, conflicting statutes regarding sentencing; (2) vague or internally contradictory legal texts; and (3) in the penitentiary's day-to-day operation.

Across studies, the term legal ambiguity is disparately employed to connote some combination of: vagueness in law's text (Hansen 2016); uncertainty regarding governing rules' status as "law" (Sachs 2013); contradictions between multiple legal rules (Frost 2024; Grattet and Jenness 2005); and indeterminateness in the operation of law

Lexical (in law)	Ambiguity in a legal text that enables different interpretations. Ambiguity on whether a legal rule has the status of "law."	
Substantive (of law)		
Conflictual (across law)	Ambiguity between multiple, conflicting legal rules.	
Operational (through law)	Ambiguity on how legal rules are implemented or enforced	

Table 1. Types of legal ambiguity

(Arslanalp and Erkmen 2020; Moustafa 2014). We do not seek to pick a preferred side among these conceptualizations, because we view their differences as often unacknowledged – but not fundamentally irreconcilable. Indeed, the case of Jordanian nationality policy will prove especially useful because it features all these forms of legal ambiguity and, thus, allows us to unite them into a common conceptual framework.

In what follows, we will define legal ambiguity as: the viability of multiple, conflicting understandings of a given legal framework, generated by uncertainty *in law, of law, across law*, or *through law*. These four dimensions give the concept heightened clarity by highlighting unique subtypes of legal ambiguity that researchers are likely to – and do – observe in practice (Table 1).

As we charted in our discussion of the literature, legal institutions can be "ambiguous" in qualitatively different ways. Some legal rules may have an internally ambiguous meaning (lexical), others may be ambiguous in whether they count as "law" (substantive), others ambiguous in how they mesh with other laws or regulations (conflictual), and still others may exhibit clarity in all these areas but feature ambiguity in processes of implementation and enforcement (operational).

Multiple forms of legal ambiguity across regime types

By developing a common framework for distinguishing different forms of legal ambiguity, we offer a conceptual toolkit that is useful not only to socio-legal studies, but also to scholars of authoritarian legality. Hendley (2022: 221), for instance, identifies "authoritarian legality" as systems in which laws are "vague and overbroad, allowing the regime to … [twist] the letter of the law beyond recognition." This conceptualization clearly implicates *lexical ambiguity* (vague legal texts) and *operational ambiguity* (twisting law in its operation).

Of course, legal ambiguity can also be quite frustrating – and sometimes, threatening – to autocrats. Brown et al. (2024: 5) highlight how what we refer to as *operational ambiguity* can confound authoritarian elites and result in autocrats finding "important levers of state power inaccessible or ... master[ing] them so crudely that the machinery of the state backfire[s] on them." In his analysis of South Africa, Abel (1995: 3) concludes that the apartheid regime found itself vulnerable to legal contestation precisely because it used a welter-complex of "legal institutions to construct and administer apartheid." This ambiguous operation of authoritarian legality as a tool for both effectuating and contesting state power is documented in a wide array of cases: Sudan (Massoud 2013), Russia (van der Vet 2018), Singapore (Chua 2014), Pakistan (Ghias 2010; Kureshi 2021), Egypt (Moustafa 2007), and Jordan (Schaaf 2021).

At the same time, legal ambiguity traverses regime types. Scholarship on "hybrid regimes" – sometimes referred to as "semi-democracies," "semi-autocracies," or

"inconsistent regimes" (Gates et al. 2006) – characterizes these systems by a fundamentally "ambiguous and unstable political environment" (Ozen and Dogu 2020: 625). This is largely a result of the inherent *conflictual ambiguity* generated by such regimes combining liberal and illiberal legal frameworks. Some conceptualizations of "hybrid regimes" even make that ambiguity a defining feature, as Morlino (2009: 280) does when clarifying that: "a hybrid regime is always a set of ambiguous institutions."

But legal ambiguity is not confined to either fully- or semi-authoritarian systems. Indeed, most studies that explicitly center legal ambiguity in their analyses tend to focus on Western democracies (Bybee 2000; Edelman 1992; Edelman et al. 1991; Hansen 2016; Kubal 2013; Lageson et al. 2015). Within democracies, investigations of legal ambiguity consistently intersect with questions of discretionary political authority – an intersection that we will similarly probe in our analysis of Jordanian nationality policy. Edelman emphasizes how *lexical ambiguity* "leaves organizations wide latitude to construct the meaning of law and compliance" for themselves (2016: 14), while simultaneously intensifying judicial discretion (Edelman 1992: 1538). This aligns with a volume of scholarship showing that legal ambiguity expands discretionary authority for a range of actors within the democratic state (Lipsky 1980): law enforcement officers (Grattet and Jenness 2005); labor inspectors (Loyens and Paraciani 2023); immigration officers (Könönen 2022); arbiters (Talesh 2012); and judges (Lovell 2003; Randazzo et al. 2011).

Legal ambiguity and discretionary authority also intersect outside democracies, as we will show in our analysis of the Jordanian case. In her study of British colonial rule, Berda (2023: 33) develops the concept of "hybrid bureaucracy" to describe governing arrangements that ambiguously mix elements of rational-legal authority with a disorganized "array of improvisational practices [and] institutions." This administrative framework reflects a profound relationship between *substantive ambiguity* and the decentralization of discretion. In policy areas governed by informality, individual colonial bureaucrats "employed sovereign-like powers, made extensive political decisions, created laws, and defined the limits of their own discretion" (Berda 2023: 21). While the hybrid-bureaucracy concept is specific to colonialism, it has analogues in the "dual state" framework (Fraenkel 2017) that recent work increasingly applies to the intersection of authoritarian legality and discretionary (or "prerogative") state power (Hendley 2022; Meierhenrich 2008; 2018; Sakwa 2010; Trochev and Solomon 2018).

Crisis junctures and legal ambiguity's emergence

There are good reasons to expect that authoritarian rule and legal ambiguity of all types should be natural bedfellows. Vague rules (*lexical ambiguity*), informal instruments of social control (*substantive ambiguity*), and conflicting legal frameworks (*conflictual ambiguity*) allow for easier elite manipulation (Szakonyi 2022: 651). Moreover, uncertain boundaries on what constitutes legally punishable conduct in practice (*operational ambiguity*) can drive the public toward political quietism (Druzin and Gordon 2018). But empirically, the linking of authoritarianism and legal ambiguity is not as uniform across cases as this "natural bedfellows" perspective would suggest.

Some authoritarian regimes, particularly those that lean into overt repression, gravitate toward legal structures that are brutally unambiguous (Law and Versteeg 2014: 172). The Soviet Union's 1918 constitution, for instance, was quite frank about

its repressive legal aim to establish "a powerful All-Russian Soviet Government" that could "deprive individuals and sections of the community of any rights" (Brown 2002: 6). Scholarship on authoritarian legality offers a compelling logic for why many autocrats prefer legal clarity above ambiguity. By effectuating their rule through clear legal mechanisms, autocrats appear more capable of: controlling the public (Rajah 2012); ensuring bureaucratic compliance (Ginsburg 2008); coordinating elites (Barros 2002); and cultivating centralization (Brown 1997).

If the natural compatibility between authoritarianism and legal ambiguity is not as obvious as it seems at first glance, what explains the origins of legal ambiguity in authoritarian contexts? We advance a historical approach for answering this question, one which looks specifically to the importance of critical junctures – moments of crisis that established legal frameworks are ill-equipped to handle. Specifically, we illustrate how the first Palestinian *intifada* (1987–1993) constituted a critical juncture that pushed Jordan's King Hussein to sever administrative and legal ties with the West Bank in 1988 (which Jordan claimed as part of its territory at the time). The legacy of Jordan's 1988 disengagement from the West Bank has been the entrenchment of multiple forms of legal ambiguity regarding nationality rights for Jordanians of Palestinian origin, who comprise a majority of the Kingdom's population (Brand 1995: 60).

Critical junctures are focal in our analysis because in these periods, "decisions are taken in a situation of high uncertainty and unpredictability" (Capoccia and Daniel Kelemen 2007: 355), which generates ambiguity over how actions taken to address today's urgent problems might affect outcomes down the road. Roberts (2015: 43) defines critical junctures as "periods of crisis or strain that existing policies and institutions are ill-suited to resolve." As such, key decisions taken during a critical juncture follow a logic of "tactical governance," which Feldman (2008: 3) conceptualizes as "a means of governing that shifts in response to crisis... without long-term planning." Tactical governance fosters legal ambiguity because its characteristic focus on crafting band-aid solutions for the crisis *du jour* coincides with a "preference for the temporary, the piecemeal, [and] the make-shift" (Feldman 2008: 20). As we will see in the Jordanian case, short-term crises create an authoritarian "need for speed," but also a desire for flexible arrangements that can be walked back as the crisis fades. This priority for speed and flexibility makes *ad hoc* and informal decision-making likely, thereby heightening prospects for all four types of legal ambiguity.

A wealth of cross-national studies suggests that linking crisis junctures with legal ambiguity offers a fruitful basis for generalization. Comparative work on hybrid regimes, which exhibit significant *conflictual ambiguity* in the legal order, often traces their origins to crises that autocrats sought to manage with liberalizing reforms (Knutsen and Nygard 2015). Examples include the many ambiguities that *glasnost* introduced into the Soviet order (Gibbs 1999), as well as ambiguous reforms toward limited liberalization that autocrats in Angola, Zaire, Cameroon, and Gabon introduced when facing 1990s fiscal crises (Somerville 1993; Levitsky and Way 2015: 51).

The connection between crises and legal ambiguity extends beyond hybrid regimes. In Sudan's system of one-party rule, President Nimeiri sought cover for repression during a 1983 economic crisis by redrafting all Sudanese laws in accordance with the Islamic Sharia; this produced significant *operational ambiguity* as "many judges had difficulty applying religious laws in which they had little training" (Massoud 2013: 114). In Putin's Russia, opposition to the Ukraine war prompted the enactment of *lexically*

ambiguous laws criminalizing the undefined act of "discrediting" Russia's military (McCarthy et al. 2023). And in the United States, political scientists emphasize how during times of emergency, the President's authority as Commander-in-Chief "transform[s] from a simple power of military command to a vast reservoir of indeterminate powers" (Corwin 1957: 261), which judges "employ laxer standards for evaluating" (Howell and Ahmed 2014: 40).

To be clear, our argument that crisis junctures foster legal ambiguity is probabilistic rather than deterministic. We do not argue that crises always result in legal ambiguity; they just make it more likely. Nor do we argue that every form of legal ambiguity that emerges across cases can be traced back to a crisis in the past. The crisis juncture is one important path through which legal ambiguity is particularly likely to manifest, but it is not the sole or exclusive causal path.

Research design and methodology

We systematically trace the origins, forms, and effects of legal ambiguity in Jordanian nationality policy by drawing insights from three key sources of data: (1) in-person, semi-structured interviews; (2) archival files; and (3) Jordanian laws, regulations, and court verdicts. Triangulating our analysis across these diverse materials allows us to corroborate the interview data that we present and, further, to contextualize our insights within a variety of substantively informative perspectives, ranging from those of: executive decision-makers; bureaucrats; legislators; judges and lawyers; and Jordanians affected by the country's ambiguous nationality policy.

Interviews

We conducted interviews with 210 different respondents in Jordan between January 2016 and May 2023. Specifically, we interviewed: lawyers and judges (n=37), activists (n=21), cabinet ministers (n=35), parliamentarians (n=17), state bureaucrats (n=28), civil society organization staff (n=40), journalists (n=11), and Jordanian citizens and noncitizen residents (n=21). These interviews were typically between one interviewer and one respondent, lasting about an hour. Appendix A provides details about the participants and dates for all interviews that we cite in this study.

For different categories of participants, our semi-structured approach began with prepared questions prompting respondents to discuss their specific knowledge of different facets of Jordan's nationality policy. For instance, we asked judges and legal experts to comment on different elements' status as "law"; former cabinet ministers to contextualize why and how key decisions were taken at specific moments; and individuals involved in nationality disputes to discuss their experiences of nationality policy as it is implemented in everyday life. Subsequently, diverse follow-up questions and branching paths of conversation depended upon each participant's responses to the prepared questions. This flexibility enabled us to clarify key pieces of information and allow respondents to provide deeper context on the aspects of Jordanian nationality policy that they viewed as most important.

We combined purposive and snowball sampling techniques to select respondents (Lynch 2013, 40–42). Specifically, we relied on preexisting contacts in Jordan to schedule initial interviews, then we arranged additional interviews based on recommendations from previous respondents. We also sought out particular groups to

interview by, for instance, regularly attending administrative court hearings to make contacts with judges, lawyers, and litigants. This also allowed us to (1) collect information on nationality lawsuits on the court's docket; and (2) identify the state, non-state, and legal actors involved on both sides of those disputes.

Likewise, we leveraged years of previous work in Jordan dating back to 2009, through which each of us progressively cultivated extensive research networks in the country. These networks proved invaluable in accessing difficult-to-reach respondents like cabinet ministers and other elites. Many of these respondents were recruited to participate in this study through existing contacts, while others were simply gracious in being receptive to our cold-calls or impromptu introductions.

In our interviews, we let respondents choose the location, the language (Arabic/English), and whether to allow audio recording. Given the sensitivity of this issue in Jordan, we keep all respondents anonymous and reference them only with randomly assigned alphanumeric identifiers. Lastly, we progressively built trust with respondents by conducting repeat, follow-up interviews, which occurred with roughly a quarter of participants.

We organized and analyzed the interview data based on the category of respondent as well as the aspects of Jordanian nationality policy they discussed. In writing this study, hard choices were necessary because we could not include the rich information provided by all 210 interview participants here. Thus, we select evidence to present based on the reliability of its source, its informativeness, and its representativeness of common perspectives across respondents.

Archives

As part of our historical process tracing effort, we use archival evidence from files at the British National Archives at Kew and the United States National Archives at College Park. Jordan's historically close relationship with the United Kingdom and United States produced substantial archival documentation at these sites pertaining to Jordanian nationality policies. This is fortunate because Jordan's government does not grant public access to its own archival records.

Our study draws insights from British National Archives documents in the Foreign Office and Foreign and Commonwealth Office general correspondence files on Jordan's politics from 1946 to 1993. It also uses evidence from US National Archives documents from the State Department's Central Decimal Files and Subject-Numeric Files, focusing on Jordanian political affairs from 1946 to 1973.

These archives enabled us to assess private conversations between Jordanian and US or British leaders regarding Jordan's disengagement from the West Bank in 1988, the key critical juncture through which we observe the emergence of legal ambiguity in Jordanian nationality policy. The files provide valuable information regarding the origins and implications of that legal ambiguity from the perspective of Jordanian leaders, most notably King Hussein. And these historical data further help corroborate the evidence that we collected from interviews with former Jordanian cabinet ministers and other political elites who served during the disengagement period.

Legal documents

Most of the Jordanian laws, regulations, and court verdicts that we analyze in this study come from Qistas, a subscription-based legal archive in Jordan. We aimed to compile

all documents that referenced nationality law, passports law, or Jordan's 1988 disengagement from the West Bank. When Qistas lacked documents that we suspected were relevant (e.g., from interviews), we turned to searching Jordan's *Official Gazette* and then to requesting those files personally at Amman's Palace of Justice courthouse, which often held hard copies of relevant legal materials on site.

These diverse sources of data enable us to systematically assess the dynamics of legal ambiguity in Jordanian nationality policy. The Jordanian case is especially useful for our efforts at theory-building and improving conceptualization, as its nationality policy is (1) profoundly ambiguous; (2) characterized by legal ambiguity in all four forms that we identified in our conceptual discussion above; and (3) traceable to a specific historical moment, allowing us to better explain historical variation in the emergence of legal ambiguity.

Crisis origins: four forms of legal ambiguity emerge

In this first step of our empirical analysis, we trace the origins of all four forms of legal ambiguity in Jordanian nationality policy (lexical, substantive, conflictual, and operational) to a particular moment: the first Palestinian *intifada* and Jordan's disengagement from the West Bank in response. We describe how each form of legal ambiguity manifested in Jordanian nationality policy, and we argue that crisis management incentives and institutional constraints coalesced during the *intifada* to produce an environment where legal ambiguity was especially likely to emerge.

In the next section, the second step of our empirical analysis will then illustrate how each discrete form of legal ambiguity exerts different effects on how nationality policy works in Jordan.

The rather unambiguous beginnings of Jordanian nationality policy

The legal regulation of nationality in Jordan was not always as ambiguous as it is today, which makes historical process tracing of legal ambiguity's origins in Jordan particularly worthwhile.

Transjordan's first Nationality Law (1928) was explicit in recognizing that: "All Ottoman subjects ordinarily residing in Transjordan on the sixth day of August 1924 are considered to have acquired the nationality of Transjordan." That law remained unamended for 20 years, even after Transjordan's independence from Britain in 1946. In 1948, the onset of war with a newly declared Israeli state radically shifted conceptions of Transjordanian citizenship (Frost 2022: 8), but did not result in legal ambiguity. Jordan annexed the West Bank and its population tripled from 476,000 to 1.5 million (United Kingdom Foreign Office Research Department 1949), but the government adopted laws that unequivocally incorporated new Palestinian residents into the nation. The Addendum to the Passports Law (1949), for instance, provided that

No matter what is stated in.. the Passports Law No. 5 of 1942, any Arab Palestinian person ... may procure a Transjordanian passport.

In May 1949, the country changed its name from the "Hashemite Kingdom of Transjordan" to the "Hashemite Kingdom of Jordan," reflecting its new territorial

claims to both banks of the Jordan River (Kirkbride 1950). Then in December, Jordan's government issued a Supplementary Law (1949) that unambiguously extended nationality to all Palestinians in the East and West Banks, making them full citizens. Finally, in April 1950, the government announced the formal unification of the East and West Banks, after a related vote in the new Jordanian parliament, which included representatives from both banks (Act of the Jordanian Parliament on the Union of the Two Banks 1950).

King Hussein took the throne following his grandfather's (King Abdullah I) assassination in 1951 and his father's (King Talal) abdication in 1952. Two years later, Jordan's parliament passed a new Nationality Law (1954) that institutionalized Palestinian belonging in the national community. That 1954 law, which remains in effect, clearly recognizes as Jordanian nationals: "Every non-Jewish person who carried Palestinian nationality before 15 May, 1948 and whose typical residence on the date of the issuance of this law is in the Hashemite Kingdom of Jordan."

The 1967 Arab-Israeli War again reconfigured Jordan's national community, but still did not generate legal ambiguity in nationality. Israeli occupation ended Jordan's *de facto* (but not *de jure*) control of the West Bank, and a new wave of 260,000 refugees was displaced to Jordan's East Bank (United States Department of State 1968). Those coming from the West Bank maintained Jordanian nationality, whereas refugees from Gaza – an area formerly administered by Egypt – were legally foreigners. This differential treatment was not legally ambiguous, as withholding nationality from the Gaza refugees conformed to Jordan's 1954 Nationality Law, which only recognized West Bank Palestinians as nationals.

The Palestine Liberation Organization (PLO), formed in 1964, challenged King Hussein's claims to the West Bank after the 1967 war, when it relocated to Jordan and operated as a local insurgency. This culminated in the 1970 "Black September" battles between the PLO and Jordanian army, which drove the PLO out of the country. Despite Jordan's victory, the League of Arab States (1974) unanimously voted to recognize the PLO (and not Jordan) as "the sole legitimate representative of the Palestinian people." Although these events stymied Hussein's aspirations of regaining the West Bank, neither created ambiguity in Jordan's nationality policy.

Following two decades of failed attempts to reclaim Jordan's control of the West Bank through negotiations with the PLO and Israel, a mass uprising against Israeli occupation in the West Bank and Gaza began in December 1987 (the first Palestinian *intifada*). The *intifada* precipitated a crisis that threatened Jordan's domestic stability and undermined King Hussein's claims to represent West Bank constituencies. While Jordan's government officially supported the *intifada*, the *intifada* movement was not equally supportive of the Jordanian regime. In March 1988, for example, the United National Command of the Uprising in the Occupied Territories explicitly called for Palestinians on both Banks to intensify mass pressure "against the occupation army ... and personnel of the Jordanian regime" (Mishal and Aharoni 1994: 70). The *intifada* crisis juncture, and King Hussein's response to it, is what first sowed the seeds of significant legal ambiguity in nationality rights.

Crisis, disengagement, and four forms of legal ambiguity

The *intifada* challenged King Hussein's international and domestic legitimacy,³ and it grew to threaten Hussein's rule in the East Bank. Decisive action was needed to

maintain the monarchy's grip on power. A series of hurried, drastic decisions during this crisis set the stage for the tremendous amount of legal ambiguity that still endures in Jordanian nationality policy today.

To preempt the threat of Palestinians on both Banks turning against Hashemite rule, Hussein needed to put his goal of reclaiming the West Bank on the back burner and recast his regime as a proponent – rather than hindrance – of Palestinian self-rule. In July 1988, he did so by announcing in a televised speech that Jordan was initiating an "administrative and legal disengagement from the West Bank." Although Jordan never codified this "disengagement" into law, the government did issue "regulations" (taʻlimat) interpreting what it meant. The Disengagement Regulations (1988) specified that

Every person residing in the West Bank before the date of July 31, 1988 will be considered as a Palestinian citizen and not as Jordanian.

The immediate result of the disengagement was that it effectively revoked the Jordanian nationality of approximately one million West Bank residents overnight. This was despite the fact that Palestinians residing on the West Bank, according to the still-effective 1954 Nationality Law, had a guaranteed right to Jordanian nationality. Through this contradiction, we observe the initial manifestation of *conflictual ambiguity* over Jordanian nationality rights. At the same time, King Hussein tried to send an unambiguous signal to Palestinians residing on Jordan's East Bank, stating in his disengagement speech that

It has to be understood in all clarity, and without any ambiguity or equivocation, that our measures ... do not relate in any way to the Jordanian citizens of Palestinian origin in the Hashemite Kingdom of Jordan. They all have the full rights of citizenship.⁵

Despite Hussein's nominal attempts to reduce the disengagement's ambiguity on the front end, this decision – made during a crisis juncture – opened the flood gates to a torrent of legal ambiguity. Indeed, severing ties with half of the country's official territory and denationalizing a million people though a nighttime-TV speech would almost unavoidably have such an effect. We now proceed to detail the four distinct forms that this legal ambiguity took in practice, and subsequently, to analyze why such ambiguity emerged during this crisis moment.

The disengagement and lexical ambiguity

Jordan's government created a new Follow-Up and Inspection Department (FUID) within the Ministry of Interior (MOI) to implement the disengagement and its corresponding "regulations" (taʻlimat). And those regulations contained significant lexical ambiguity, which Ministers of Interior subsequently interpreted by issuing secret, "internal" sets of supplementary regulations.

The public regulations declared that every person residing in the West Bank before July 31, 1988, was considered a Palestinian "citizen" (*muwatin*). Because there was no Palestinian "nation-state" at the time, what it meant to be a Palestinian "citizen" and how that status differed from statelessness was inherently ambiguous. Moreover,

the term "citizen" (muwatin) did not have an established legal meaning in Jordan, as the term "nationality" (jinsiyya) was historically used to describe an individual's legal relationship to the state (Frost 2022). This introduced ambiguity on whether being considered a "Palestinian citizen (muwatin)" did or did not imply a concomitant loss of Jordanian nationality (jinsiyya) and the rights associated with it.

There was also *lexical ambiguity* concerning whether the disengagement rules applied only to Palestinians living in the West Bank or, more broadly, to all Palestinians who *were not* in the East Bank. The disengagement regulations never specified whether the many Palestinians with Jordanian nationality living abroad (e.g., in the Arab Gulf) retained nationality. After Iraq's invasion of Kuwait in 1990, this ambiguity became focal as 300,000 Palestinian-Jordanians were forced to leave the Arab Gulf and return to Jordan (Le Troquer and Hommery Al-Oudat 1999).

The disengagement and substantive ambiguity

From the outset, there was also tremendous *substantive ambiguity* in whether the disengagement decision (and the regulations derived from it) even counted as "law."

At a formal level, Jordan's King cannot amend the constitution or pass new laws (without parliament, the cabinet, or both). Yet, the constitution (Article 40) also authorizes the King to exercise power through royal decrees. Because Jordan's judiciary derives its authority from the King and issues its verdicts in his name, judges have informally converged on a view that royal decrees supersede all other legal rules. As one judge explained:

Royal decrees are the highest authority ... they must be implemented immediately. (Interview YI33)⁶

Yet, King Hussein's disengagement decision still had no formal status in Jordan's legal system: it was not a constitutional provision (*mada dustouria*), law (*qanun*), or regulation (*ta'leem*). Arguably, the decision – conveyed via televised speech – does not even qualify as a formal "royal decree" since it was never put in print or ratified. A prominent former minister even candidly noted that "the disengagement did not need to be formal" (Interview MO43), while another emphasized that the disengagement regulations were always "political and not really legal" (Interview WH70).

It was clear that the regulations (ta'limat) interpreting disengagement – being crafted by state bureaucrats outside parliament – were not "law" (qanun) in any formal sense. But it remained deeply ambiguous as to whether they were subordinate to existing parliamentary acts (as with all other ta'limat regulations in Jordan) or if their association with an informal royal decree somehow gave them a superior legal status.

The disengagement and conflictual ambiguity

Despite revising the country's borders and withdrawing nationality from a million people, the 1988 disengagement involved no changes to Jordan's constitution or Nationality Law. The constitution (Article 1) maintained that Jordan "is indivisible and no part of it may be ceded." Moreover, the 1954 Nationality Law still guaranteed West Bank Palestinians a right to Jordanian nationality.

By severing Jordan's ties with the West Bank and denationalizing its residents, the disengagement decision contravenes the constitution and 1954 Nationality Law.

But Jordan's judiciary has never adjudicated these legal inconsistencies or sought to clarify the *conflictual ambiguity* they generate. This is because the doctrine of "sovereign acts" precludes the filing of many – and on some interpretations, all – legal challenges that might seek to reconcile conflicts between the disengagement and other laws (Interviews XL28, MU65a).

The sovereign acts doctrine emerged as an import from French administrative law, and it prohibits courts from reviewing executive decisions over foreign affairs or national security. While the concept of "sovereign acts" is ill-defined, its plausible application to the disengagement has prevented Jordan's courts from reviewing the decision's legality, and thereby addressing the *conflictual ambiguity* that it created (Interview RP40).

The disengagement and operational ambiguity

Like most judicial systems in the Arab world, Jordanian courts have never specified which state actors are authorized to promulgate "sovereign acts of state." While the King certainly enjoys this authority, there are no established guidelines on which, if any, of the King's subordinates can similarly classify their decisions as unchallengeable acts of state sovereignty.

This question strikes at the heart of many disputes over nationality revocations that followed Jordan's 1988 disengagement. The 1954 Nationality Law specifies that only the cabinet, with royal approval, can order nationality revocations. But in practice, most nationality revocations do not involve cabinet or royal decisions, and instead come from officials at various positions in the MOI. This decentralized operating practice appears *prima facie* invalid. But persistent *operational ambiguity* regarding who is authorized to enforce the disengagement – and whether measures implementing the disengagement even qualify as "state decisions" – routinely thwarts judicial efforts to rein in nationality revocations. As a result, MOI officials operate as if they enjoy a sweeping discretionary power to deprive individuals of their nationality for reasons related (even if only tangentially) to the disengagement.

Multiple types of legal ambiguity, a common origin

Why was King Hussein's abrupt decision to disengage from the West Bank not formalized in law or reconciled with contradictory laws on the books? While doing so would have reduced all four forms of ambiguity that we detailed above, the ambiguous legal arrangement that emerged is primarily explained by (1) the urgency of a speedy response to the <code>intifada</code>, combined with Hussein's desire for flexibility and potential back-tracking down the road; and (2) institutional constraints – in the form of an unreliable Jordanian parliament – which made it impractical for Hussein to address the crisis through formal legal reform.

Crisis management: how the need for speed and flexibility fostered ambiguity

King Hussein faced an immediate need to remove himself from the *intifada's* cross-hairs and to safeguard the Jordanian regime from its destabilizing effects. Just months into the *intifada*, demonstrators were calling for direct action against the Jordanian regime,

pro-intifada protests proliferated throughout Jordan's East Bank, and pro-PLO committees across Jordan organized demands for Palestinian self-rule. Insulating Jordan from the intifada was a critical regime survival concern, particularly because it appeared to King Hussein that intifada demonstrators "seemed to target him almost as much as the Israelis" (Satloff 1990: 58).

At the same time, Hussein wanted to delegitimize the PLO by throwing it in the deep end, making it responsible for West Bank governance in the midst of a mass uprising, expecting it to fail spectacularly, and thereby, revealing to the Palestinian people that Jordan's control over the West Bank was indispensable. Both motivations – protecting his own rule and hanging the PLO out to dry – fed into Hussein's sudden decision to sever ties with the West Bank in 1988, as well as the uniquely uninstitutionalized, and thus substantively ambiguous, form that this decision took.

Because no steps were taken to amend Jordan's constitution, its nationality law, or the 1950 Act on the Union of the Two Banks, the disengagement also represented a sharp turn toward *conflictual ambiguity* in Jordanian nationality. And that ambiguity was functional in many ways, as it meant Jordan "did not renounce irrevocably the Hashemite claim to this territory" (Shlaim 2008: 471). Essentially, King Hussein wanted to be able to reverse the disengagement just as abruptly as he announced it – once the *intifada's* short-term threat to his rule subsided and the PLO's inability to govern the West Bank was revealed. Shlaim (2008: 472) quotes the former head of Jordan's Ministry of Occupied Territories' Affairs, who observed:

The decision to disengage was not a favor to the PLO; it was a provocation.. intended to demonstrate that the PLO was inadequate and Jordan was indispensable.

King Hussein also wanted to persuade the Arab League that its 1974 recognition of the PLO as "the sole legitimate representative" of Palestinians was folly. Multiple former ministers in Jordan explained that "Hussein left the disengagement murky [because] he never wanted to do [it]," but was pressured by "the PLO, Palestinians, and the Arab League" (Interview S075b) – and most proximately by the League of Arab States' (1988) summit in Algeria (Interviews MI39, MO43) which reaffirmed the PLO as the "sole legitimate representative" of Palestinians.

In the short-term, disengaging from the West Bank aimed to shield Jordan's monarchy from becoming an additional target of the <code>intifada</code>. But King Hussein's long-term aspirations to regain the West Bank did not disappear (Shlaim 2008: 391). As one high-profile analyst of Palestinian-Jordanian affairs surmised: "King Hussein probably died dreaming of restoring the Hashemites in the West Bank" (Interview JL12). British summaries of elite meetings with Jordanian leaders further confirm that Hussein nominally maintained Jordan's claim to sovereignty over the West Bank even after the disengagement:

Prime Minister [Thatcher] asked [King Hussein] whether the [disengagement] decision meant that Jordan was relinquishing its claim to the West Bank.. After some humming and ha-ing, the King said that Jordan was relinquishing responsibility for the West Bank rather than its claim. (Private Secretary to the Prime Minister of the United Kingdom 1988)

Likewise, in a separate meeting:

The Crown Prince replied [to the British UN Ambassador] ... that Jordan had in no way modified its sovereignty over the West Bank and had no intention of doing so. (Tickell 1989)

The disengagement was a tactical decision that – as long as it remained in effect – came at the expense of Hussein's long-term, strategic goals. By embracing *substantive ambiguity* and keeping the disengagement uncodified, Hussein reconciled this tradeoff by leaving the possibility of future back-tracking open. As one prominent lawyer explained (Interview MU65b) – with corroboration from cabinet ministers (Interview S075b) and high-level bureaucrats (Interview II77) – King Hussein "wanted to be able to go back on the disengagement speech" when the opportunity arose.

Institutional constraints: legal ambiguity as the only viable option

Hussein's desire for flexibility and back-tracking map onto our theoretical expectation that autocrats favor legal ambiguity during crisis moments – when short-term needs and long-term goals are prone to diverge. The unreliability of Jordan's parliament during the *intifada* further supports our second proposition: institutional constraints obstruct autocrats' ability to deploy conventional legal channels in crises, making legally ambiguous responses more likely.

While Jordan's King is constitutionally authorized to rule by decree, those decrees cannot amend existing law or be considered full "laws" themselves unless parliament is involved. The King effectively needs to work with parliament in order to make legal arrangements that are not *substantively ambiguous*. But the *intifada* represented a period in which relying upon parliament would have been a highly risky method for effectuating disengagement.

Ever since the West Bank's incorporation into the Kingdom in 1950, Jordan's parliament allotted equal seats to East and West Bank constituencies. Historically, the Jordanian government tilted the scales of parliamentary elections to ensure that West Bank seats were filled by members of parliament (MPs) who supported the Hashemite monarchy. And as a result of this pro-Hashemite orientation, West Bankers viewed most of their MPs as an obstacle to self-rule. Aruri (1985: 890) shows that Palestinian newspapers denounced these MPs as "in no way ... delegated by the West Bank people to speak on their behalf." And just three months into the *intifada*, Abu-Amr (1988: 392) and Gabby (2014: 5) report that a communique from the United National Command of the Uprising in the Occupied Territories called for: "[All West Bank] deputies in the Jordanian Parliament to resign their seats and align with the people. Otherwise, there will be no room for them on our land."

No West Bank MPs resigned, likely seeing few opportunities to retain their status in any Palestinian nation that was sequestered from Jordan's influence. These legislators' previous fidelity to Hashemite rule ultimately became a liability during the <code>intifada</code> – when King Hussein pivoted from seeking to regain the West Bank and instead moved to sever Jordan's ties with it. Any attempt to pursue disengagement through the parliamentary process would have been tantamount to asking West Bank MPs to (1) vote themselves out of a job; (2) pave the way for revoking their own nationality; and (3) relocate to the West Bank, which was unlikely to give them a warm welcome.

As a prominent Jordanian minister explained, expected opposition to the disengagement made parliament a dubious vehicle for managing the *intifada* crisis:

[Hussein] maybe worried that it would not pass in parliament. Most Palestinian-[Jordanians] and some [Trans-]Jordanians probably would not have supported the disengagement. (Interview EU87)

Even if cut out of the disengagement process, parliament remained a threat. Its constitutionally enshrined prerogatives (Articles 53, 93, 96) to interpellate and dismiss cabinet ministers – as well as to publicly debate the disengagement and politicize the issue among Jordan's public – offered tools to hamstring withdrawal from the West Bank. Hussein, thus, dissolved parliament the day before his 1988 disengagement speech to preempt this threat. And as multiple former cabinet ministers noted, Hussein's move to dissolve parliament had the additional benefit of making the disengagement decision appear more credible to the PLO, Arab League, and Israel by virtue of ending West Bank representation in Jordanian institutions (Interviews MI39, MO43, NM94).

Parliament's dissolution effectively guaranteed that the disengagement would be riddled with *substantive ambiguity*. As the former Jordanian minister quoted above described, "[Hussein] did not put the disengagement into law because it was unconstitutional, and would have required amending the constitution" (Interview EU87). Without parliament, this was impossible. Parliamentary input was also needed to have any hope at avoiding *conflictual ambiguity* – by amending existing laws that contradicted the disengagement and its regulations. Moreover, parliament was the institution best-equipped to clear up *lexical* and *operational ambiguity*, through its power to compel key Ministers (e.g., of Interior) to go on the record and officially interpret the disengagement and its implications. But given parliament's unreliability during the *intifada*, ambiguous legal arrangements emerged as the most workable option for quickly insulating Jordan from the uprising.

Legal ambiguity's persistence

The four forms of legal ambiguity in Jordanian nationality policy that we describe in this section, which date back to the 1988 disengagement, persist today. A full account of this persistence is outside the scope of our study, as the processes that explain institutional change are often fundamentally different from those that explain how institutions subsequently perpetuate themselves over time (Mahoney and Thelen 2010; Streeck and Thelen 2005). But we will briefly point to two reasons for legal ambiguity's persistence before proceeding to scrutinize the effects of each distinct type of ambiguity.

First, a constituency within Jordan's state apparatus came to appreciate the flexibility that ambiguous nationality policies provided. Ministers of Interior, bureaucrats, and security agencies all found that ambiguity afforded them tremendous discretionary power and autonomy that they wished to protect. From the perspective of those enforcing nationality policy, ambiguity is functional as it allows them to nimbly shift from repression to accommodation on a case-by-case basis without legal constraints (Interview NM94). Thus, legal ambiguity became a self-reinforcing process that grew more difficult to rein in as time unfolded (Pierson 2000).

Second, with tremendous uncertainty regarding the future – indeed, even the present – status of Palestine, leaving the disengagement uninstitutionalized gives it a property of reversibility if the need is ever perceived to arise. As one Jordanian official explained:

The disengagement ... is not in the constitution, so it can be canceled at any time.... Maybe in 100 or 200 years, the East and West Banks will be back together in a confederation or federation. (Interview JZ00)

Given the significant and enduring ambiguity characterizing nationality rights in Jordan, most people subjected to nationality revocations today experience them as a shocking blindside that disrupts what they expect to be quotidian interactions with the state – applying for a state ID (Slackman 2010), a marriage license (*Al-Zuyud v. Minister of Interior* 2017), or registering one's child for school (*Asa'id v. Minister of Interior* 1993). While most nationality revocations begin as mundane administrative procedures like these, a meaningful subset is tied to geopolitical events in the region: (1) Jordanian nationals returning from Syria after the outbreak of civil war, only to discover that their nationality was revoked (*Jawhar v. Director of Civil Status and Passports* 2017); (2) people who fled Jordan with Palestinian factions defeated in the country's own 1970 civil war, returning years later to find they were no longer citizens (*Da'as v. Minister of Interior* 2014); and (3) Jordanian nationals working abroad and forced to return from Arab Gulf states after Saddam Hussein's 1990 invasion of Kuwait, to then learn that their government denied their nationality status (Interview UH92; *Ya'qub v. Director of Civil Status and Passports* 1993).

Different types of legal ambiguity, disparate effects

The prior section detailed how legal ambiguity in Jordanian nationality policy originated during the first *intifada*. We now proceed to analyze how each distinct type of legal ambiguity affects the operation of authoritarian politics in Jordan.

We show that *lexical ambiguity* expands state discretion, allowing for a flexible – often, seemingly arbitrary – enforcement of nationality policy. *Substantive ambiguity* has a compounding effect of decentralizing that discretionary authority quite broadly throughout the state apparatus. And whereas *conflictual ambiguity* enables significant judicial discretion in the adjudication of nationality policy, *operational ambiguity* makes it exceptionally difficult for aggrieved individuals to access the courts even if they expect that judges might render favorable verdicts.

Effects of lexical ambiguity: enabling discretion and discrimination

Lexical ambiguity was an ingrained feature of the disengagement regulations, most notably regarding who they reclassified as Palestinian citizens and deprived of Jordanian nationality. In practice, identifying who the disengagement applied to depended on the subjective assessments of state officials. One former minister highlighted what they viewed as the benefits of state agents having such wide discretion, noting

The disengagement was meant to be ambiguous ... [because] it is not as simple as 'Palestinians are Palestinians and Jordanians are Jordanians,' even in 1988. (Interview QZ65)

Of course, discretionary authority does not always result in discriminatory decision-making. Some former ministers stress how there are "humanitarian exceptions" when interpreting the disengagement regulations, which are made on an impromptu basis (Interview WH70). Other government officials report that changes in the secret disengagement regulations sometimes occur to counter Israeli policies that make it harder for Palestinians to continue residing on the West Bank (Interviews KT61, KA74, WD47).

However, state discretion also enables officials to use nationality revocations to politically target Palestinian-Jordanians believed to be subversive – a belief that judicial records indicate is partly formed by identifying whether individuals have any connections to the PLO (Ya'qub v. Director of Civil Status and Passports 1993; Al-Rimawi v. Minister of Interior 2017). In other circumstances, Jordanian officials manipulate the disengagement's lexical ambiguity to apply nationality revocations in a way that serves their own nationalist ideologies – particularly when those ideologies advocate East Bank favoritism. As a former minister noted:

There were nationality revocations because of a misreading of the regulations.... Some actors misread these regulations [deliberately], especially ministers [and] some 'pure' East Bankers.⁸ (Interview OY66)

Even today, the disengagement's *lexical ambiguity* allows state officials to infringe upon nationality rights with wanton discretion. As a Jordanian lawyer explained when reflecting on three different nationality revocation lawsuits they filed in 2017:

Not one of these revocations came with any sort of justification or official explanation. In my experience, the Minister of Interior just decides to target people with revocations for his own personal reasons. (Interview CS32b)

As a result, even senior government officials admit that nationality rights basically "seem random" to most people (Interview LG53). One interviewee, for instance, recounted their experience of losing nationality while returning to Jordan after a trip in the West Bank:

I lost nationality one day when coming from the West Bank to the East Bank. They [the border guards] took my yellow card and gave me a green card when I was at the border.... All my kids lost their national[ity] ... at the same time (by default). (Interview HE81)

Even 30 years after the disengagement, many Palestinian-Jordanians still find their nationality rights fundamentally uncertain. A Jordanian legal activist who works on nationality causes expressed this uncertainty:

The disengagement regulations make it impossible for people to know if, on a given day, they are Jordanian or not. I have read the regulations multiple times. And honestly, I don't know if they can take my nationality away. (Interview HR68)

This uncertain consciousness of one's own legal rights puts Palestinian-Jordanians in a vulnerable position. Losing Jordanian nationality means losing access to property ownership, education, health care, employment, and a wide array of state services. As one former Jordanian minister explained, this effectively makes *lexical ambiguity* over nationality status "a weapon to force Palestinians [with Jordanian nationality] to accept discrimination. (Interview CC83)¹⁰

Effects of substantive ambiguity: decentralizing discretionary power

The disengagement decision and its regulations involving nationality have a profoundly ambiguous legal status. In practice, there is still a "huge debate about whether the disengagement is a law or not" (Interview GR25). While *lexical ambiguity* expands state discretionary authority over nationality revocations, the use of that authority is highly decentralized due to the disengagement's *substantive ambiguity*.

For most of Jordan's history, the authority to revoke nationality was clearly vested at the top-echelon of political authority – the King and cabinet. But the disengagement regulations broke with this top-down tradition by empowering state agents outside the regime's central leadership group to revoke nationality with minimal oversight. The practice of revoking nationality quickly evolved such that the parliament, cabinet, and even the King were disassociated from the decision-making process. State agents within the MOI were calling the shots. And as one former minister explained, they did so in a way that was difficult to police:

There were deals and decisions after the disengagement.... Maybe some in charge looked the other way; maybe the minister wanted to see misinterpretations.... The King cannot do whatever he wants.... [These] policies are under the Ministry, not the Royal Court. The King cannot fight 100 wars at the same time. (Interview SO75a)

The MOI's *de facto* autonomy in ordering nationality revocations may sometimes be a headache for the monarchy, but it is also one that is self-inflicted. In the Jordanian legal system, "regulations" (*ta'limat*) are clearly made subordinate to "laws" (*qawaneen*) in order to protect centralization in the state apparatus (Interview EB63). But because King Hussein never allowed the disengagement to be governed by a formal legal framework, there are no authoritative laws (*qawaneen*) that constrain how state agents interpret and enforce the disengagement regulations (*ta'limat*).

Thus, top-down autocratic control has less to do with the administration of nationality policy than an informal balance of power between the MOI and the General Intelligence Directorate¹¹ (Interview LG53). As one former minister explained:

[Nationality revocations] depend on the Minister [of Interior] and the intelligence agency. Intelligence interferes sometimes ... [but] the Minister can ignore the [m].... Unless the Minister is weak, then he will cave to the intelligence

directorate. It depends on the relations between intelligence and the Minister. (Interview TV54)

In practice, authority to revoke nationality often gets devolved quite far down the state's hierarchy, such that ordinary bureaucrats and security officers are the ones who issue many nationality revocations on a day-to-day basis. One legal activist summarized this decentralization of authority:

Who in the Follow-Up and Inspection Department (FUID) decides whether someone has nationality? Regular police officers.... If you ask people who decided their nationality was revoked, they will say: 'Some regular employee, someone small.' (Interview HR68)

Effects of conflictual ambiguity: judicial discretion, uncertain results

Jordanian Nationality Law clearly prohibits nationality revocations that occur without the cabinet and King's approval. But the disengagement regulations blatantly contradict this law, generating uncertainty regarding whether (and when) the rights enshrined in it actually apply (Frost and Brown 2020). As Jordanian citizens described:

It is unclear why you can lose nationality. It fluctuates with the enforcement of the [disengagement] regulations. (Interview NG24)

[The disengagement regulations] are always different from the law and constitution, [and] changing in a confidential way. (Interview QR76)

Such *conflictual ambiguity* between legal rights to nationality and regulations authorizing its removal fosters tremendous judicial discretion. Indeed, Jordanian judges effectively pick which legal framework to prioritize on a case-by-case basis. As a result, the outcomes of judicializing disputes over nationality rights are profoundly uncertain for all parties involved.

Former cabinet ministers note that there are approximately 1,600–1,700 nationality revocations in Jordan each year (Interview MO43), though there is also significant variation in this estimate (Interviews JR62, TV54). But only a small fraction of people – fewer than 20 most years – seek redress through the courts (Schaaf 2022). Most people refrain from bringing nationality disputes to the judiciary due to the unpredictability of its discretionary jurisprudence on the issue.

Even lawyers who specialize in administrative law struggle to know whether a given panel of judges will treat the 1954 Jordanian Nationality Law as superior or subordinate to the disengagement regulations. This uncertainty makes accessing the judiciary quite risky for Palestinian-Jordanians. Unfavorable court decisions will lock in their nationality revocations as final, foreclosing opportunities to request one's nationality be reinstated through other channels:

I refused to raise such cases before the court because it was dangerous.... This [could] have finalized the revocation of nationality from my clients. If the court

rejected our appeals, that's it—these people would no longer be Jordanians. (Interview CS32a)

Fear of any permanent outcome delivered by the courts is well-founded in many ways. When handling nationality cases, judges are given two completely antithetical legal frameworks to choose from (the 1954 Jordanian Nationality Law and the 1988 disengagement regulations), and they have no obligation to do so consistently in line with precedent (Interviews KL69, BL78). In the 1990s, judges broadly supported state agents denationalizing Palestinian-Jordanians – finding, for instance, that individuals targeted were "West Bank residents" even when they did not actually "reside" on the West Bank:

Despite the expulsion of the petitioner from his homeland in Palestine, it is still his permanent residence ... and so his [nationality] status is Palestinian in accordance with the decision to disengage ... from the West Bank and its associated regulations. (Abu Hassan v. Director of Civil Status and Passports 1993)

This verdict – along with others issued during the same period – further revealed that many judges viewed the disengagement as a "sovereign act," and so even "implementing the disengagement decision is outside the jurisdiction of this [judiciary]" (Abu Hassan v. Director of Civil Status and Passports 1993; Asa'id v. Minister of Interior 1993). Lawyers representing Palestinian-Jordanians in court denounce this broad interpretation of the sovereign acts doctrine:

I understand that sovereign acts are related to things like declarations of war.. But how can you tell me that taking someone's passport away is an act of sovereignty? (Interview RP40)

Such objections often fell on deaf ears, though not uniformly. While the courts' handling of nationality disputes is capricious and discretionary as a result of *conflictual ambiguity*, judicial reticence to regulate nationality revocations is not absolute. Even in the 1990s, some litigants who had their nationality revoked prevailed in court (*A'id v. Director of Civil Status and Passports* 1993), particularly those living abroad when the disengagement was issued (Interview DU30; *Ya'qub v. Director of Civil Status and Passports* 1993). Later in 2014, Jordan's administrative judiciary was restructured, and a new group of judges appointed to the primary administrative court began their tenures by more boldly striking down nationality revocations (*Da'as v. Minister of Interior* 2014).

Even despite this significant shift in how judges used their discretion, the authority to enforce rights guaranteed by Jordan's 1954 Nationality Law remains confounded by *operational ambiguity*. This final form of legal ambiguity stymies the judicialization of nationality disputes in Jordan by making the process of accessing the judiciary procedurally vexing.

Effects of operational ambiguity: inhibiting access to justice

The disengagement's operational ambiguity enables state agents to sidestep judicial scrutiny by exploiting loopholes in the courts' own rules on legal standing.

Internal codes of judicial procedure make it nearly impossible for Jordanians to navigate the judicial process unless they have very concrete information on the state decisions that they challenge.

In this way, operational ambiguity has the effect of restricting Jordan's legal opportunity structure (LOS). Socio-legal scholars conceptualize LOS as the array of "institutional factors affecting access to justice in a jurisdiction" (Schaaf 2021: 150; Evans Case and Givens 2010; Hilson 2002), which notably include rules on standing and justiciability that govern the admissibility of legal claims (Vanhala 2018: 384). Like most Arab countries, Jordan has strict standing rules. Any claim filed against state officials must be rejected if it does not (1) contest an official administrative decision and (2) challenge the specific state actor who issued that decision. Because operational ambiguity involving nationality revocations makes identifying injurious decisions and responsible actors exceptionally difficult, the prospects of holding state agents accountable for violating nationality rights (even when such violations clearly occurred) are slim.

No official decision, no legal standing

While the 1954 Jordanian Nationality Law limits the legal authority to "revoke" nationality to the cabinet and King, state agents at lower levels learned to elude this constraint by using a selective terminology to describe their activities. When Jordan's judiciary grew more assertive in overturning decisions to "revoke" (*sahab*) individuals' nationality (*Fardah v. Minister of Interior* 2011; *Da'as v. Minister of Interior* 2014), enforcement agents started to shun the word "revoke" entirely and instead construed the exact same practice as just "changing" (*tagheer*) an individual's nationality status in government registries (*Jawhar v. Director of Civil Status and Passports* 2017; *Khadir v. Director of Civil Status and Passports* 2017a; *Al-A'ti v. Director of Civil Status and Passports* 2017; *Gatasha v. Director of Civil Status and Passports* 2017). ¹²

The practical effect of "revoking" (sahab) and "changing" (tagheer) nationality is identical – people lose their nationality and the rights associated with it. But the legal implications are treated as profoundly different in Jordan's courts. "Revoking" nationality is seen as an active administrative decision that withdraws a right that previously existed, whereas "changing" nationality just revises state records to reflect that the right never existed in the first place but (allegedly) was recorded due to a clerical misunderstanding. Speaking on behalf of a client who had their nationality "changed" (tagheer), one lawyer explained that because Jordan's administrative courts only have jurisdiction over "official administrative decisions," this semantic difference matters a great deal:

For us, it was a decision to revoke nationality. But to the court, it was not a tangible administrative act so could not be subject to appeal.... In effect, the court simply allowed the [FUID] to take a Jordanian's nationality away. (Interview CS32a)

With ambiguous guidelines on how nationality revocations are to be effectuated, state agents are not bound to formalize these orders in official administrative decisions. This

operational leeway gives state agents room to sidestep the courts' jurisdiction when issuing nationality revocations, as illustrated through the following court rulings:

The [FUID's] action does not constitute an administrative decision subject to appeal. It is simply a statement of fact regarding the petitioner's [nationality] status. (Al-Tamimi v. Director of Civil Status and Passports 2011)

[With] no evidence that ... any decision was ever issued ... the claim must be rejected due to the absence of any administrative decision subject to appeal. (Fardah v. Minister of Interior 2011)

Commenting on a nationality lawsuit that Jordan's administrative court had recently rejected, one judge explained this practice as akin to a "no body, no crime" form of jurisprudence:

Look, there is no evidence that there was ever an administrative decision.... So there is nothing for our court to cancel. (Interview QI59)

Still today, nationality rights claims are routinely dismissed by Jordan's administrative courts because petitioners are unable to provide evidence that "show[s] specifically what the decision was, nor its number, nor its date, nor the actor that issued it" (Khadir v. Director of Civil Status and Passports 2017b). This is more related to state agents' ambiguous operating practices than it is to inadequate evidence collection; the vast majority of nationality revocations never occur through official decisions, do not have decision numbers (as all formal administrative acts do in Jordan), and are not signed by an identifiable public official.

Which state actors to litigate? Never the usual suspects

Jordanian litigants contesting nationality revocations must go beyond simply challenging a concrete administrative decision – which is no easy feat. They must also correctly name the official who issued that decision as a respondent. Even if a legal claim contests a patently unlawful state act, judges must reject it on standing grounds (for "lack of conflict") if it is filed against the wrong state actor. A lawyer explained this hurdle to accessing justice in comparative terms:

In France, it is enough to challenge the [injurious] administrative decision itself. In Jordan, they also make you challenge the source of the decision as an individual actor, and this is hard to know with much certainty. (Interview NQ80)

The high degree of *operational ambiguity* over who actually issues nationality revocations makes naming the public official responsible for one's loss of nationality a near-Sisyphean task. In 2017, for example, Jordan's administrative court rejected a nationality revocation claim filed against the Minister of Interior and FUID Director on the basis that neither issued a formal decision; they simply gave "directives" instructing their subordinate (the Director of the Civil Status and Passports Department, DCSPD) to reclassify the petitioner's nationality (*Yussuf v. Minister of Interior* 2017). While the court suggested that an administrative decision to revoke nationality existed, it ruled that such a decision would have been issued by the DCSPD, which

mandated rejecting all claims against the Minister and FUID Director on standing grounds.

The process for revoking nationality is a black-box, which makes the state actors responsible a moving target. Challenging the DCSPD in court is sometimes more effective (*Hikal v. Director of Civil Status and Passports* 1993; *A'id v. Director of Civil Status and Passports* 2017), but not consistently (as the following verdicts show):

The respondent [DCSPD] acted to change petitioners' nationality only to implement instructions from the Minister of Interior.... but did not issue the official nationality decision or participate in it. (A'mara v. Director of Civil Status and Passports 2017)

The respondent's [DCSPD] contested action ... is nothing more than a procedure to implement the Minister of Interior's previous decision, and thus it is not considered a final administrative decision subject to appeal. (A'mara v. Director of Civil Status and Passports 2018; Gatasha v. Director of Civil Status and Passports 2018)

To make navigating this operational ambiguity even more difficult, people subjected to nationality revocations only have sixty days to track down an official decision (if there was one) and identify who issued it. Otherwise, their legal claims are outside the statute of limitations (Al-A'ti v. Director of Civil Status and Passports 2017; Al-Badawi v. Director of Civil Status and Passports 2017). Operational ambiguity, thus, impedes access to justice by restricting the LOS in Jordan – specifically by making it extremely difficult to meet legal requirements for standing and justiciability in nationality disputes.

Conclusion

While some authoritarian regimes adopt unambiguous legal frameworks to institutionalize their power, others develop critical areas of their legal systems in a way that resembles a magpie, unconcerned with uniformity or consistency. In this latter group of "magpies," researchers are apt to find eclectic combinations of: equivocation in legal texts (*lexical ambiguity*); indeterminateness in different rules' status as "law" (*substantive ambiguity*); contradictory legal rules (*conflictual ambiguity*); and ill-defined procedures for implementing law (*operational ambiguity*).

Our study of ambiguity in Jordanian nationality policy broadens comparative scholarship on legal ambiguity, which remains most developed in the study of Western democracies (Hansen 2016; Kubal 2013) and the United States in particular (Bybee 2000; Edelman 1992; Edelman et al. 1991; Lageson et al. 2015). We offer new insights on the origins of legal ambiguity under authoritarianism, finding that it is particularly likely to emerge during crisis junctures in which autocrats' short-term (tactical) needs and long-term (strategic) goals diverge. And in the process, we advance conceptual precision by (1) identifying four distinct forms in which legal ambiguity manifests and (2) tracing the disparate effects that each form has on the exercise of state power.

Our findings demonstrate the importance of linking research on legal ambiguity with complementary bodies of scholarship on: discretionary authority; the judicialization of politics; and authoritarian legality. Building on prior legal ambiguity research (Edelman 1992; 2016; Talesh 2009), we show how *lexical ambiguity* facilitates

discretionary rule in how Jordanian officials construct law's meaning. For scholars of authoritarian legality (Gallagher 2017; Massoud 2013; Rajah 2012), we highlight how substantive ambiguity in law conditions the degree to which discretionary state authority is centralized or decentralized. We extend work on the judicialization of politics (Ginsburg and Moustafa 2008; Moustafa 2003) by demonstrating that conflictual ambiguity affords judges' discretion to use competing legal frameworks to either constrain or empower the state, but in doing so, also makes the outcomes of judicializing politics less predictable. Finally, we detail how operational ambiguity inhibits access to justice by making it more difficult for aggrieved individuals to navigate the legal process (Schaaf 2021; Vanhala 2018).

For experts in Jordan, our framework for studying legal ambiguity is likely to prove useful beyond nationality policy. Jordanian officials have come to appreciate the discretionary flexibility that legal ambiguity offers, a common theme that can be seen across diverse policy areas, such as redistricting amendments to state elections laws (Fathi 2005; Schwedler 2006); nationality-by-investment policies (Frost 2021); state welfare policies (Martínez 2022); and counter-terrorism law (Rubio 2022), which also grew more ambiguous through crisis junctures.

For specialists in other areas of the world, this study contributes to a broader socio-legal understanding of contingent citizenship practices cross-nationally. Such practices are becoming more widespread, and this should not escape scholarly attention. In her 2019 presidential address to the Law & Society Association, Kim Scheppele (2023: 441) observed that to help combat the contemporary spread of autocratic legalism, "the comparative legal analysts among us can show how autocratic tricks travel across borders." The trick we have analyzed in this study - eroding citizenship rights through often-ambiguous legal means – is spreading, which both concerns us and motivates our efforts to cultivate a deeper understanding of the practice. Pillai and Williams (2017) highlight the twenty-first century proliferation of nationality deprivation laws in the United Kingdom, Canada, and Australia. Belton and Liew (2021: 30) flag the recent expansion of nationality deprivation practices in "Austria, Azerbaijan, Bangladesh, Belgium, Israel, Russia, the Netherlands, the United Kingdom, the United States and other [countries]." And Liew (2024) meticulously details the ambiguous nature of "ghost citizenship" in Malaysia, a status of government-inflicted statelessness that is analogous to the contingent nationality practices we observe in Jordan.

As the presumed inviolability of citizenship is called into question in both democracies (Mantu 2015) and autocracies (Heydemann 2020), attentiveness to the contributory role of legal ambiguity will be a key concern. This is abundantly clear in Jordan, and also in a wide range of quizzical legal practices for administering citizenship across the globe. Examples includethe following: (1) governments in the Arab Gulf outsourcing the nationality of their own residents to the Comoros Islands (Lori 2019); (2) legislation pending in the Russian State Duma that would revoke nationality from individuals who vaguely "discredit the special military operation" in Ukraine (Reuters 2023); (3) a UK Special Immigration Court recently ruling that "British citizenship is not an absolute entitlement for everyone," but instead one that can in special circumstances "be removed by the Secretary of State" (Begin v. Secretary of State 2019); and (4) Saudi Arabia recently granting nationality to a female-looking robot, while still continuing to strip nationality from Saudi women who marry foreigners without government

permission (Bsheer 2020; Al-Rasheed 2021: 169). As our findings from Jordan highlight, making sense of such precarious citizenship practices is routinely inseparable from rigorously analyzing the dynamics and effects of legal ambiguity.

Supplementary material. The supplementary material for this article can be found at https://doi. org/10.1017/lsr.2024.39.

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Notes

- 1. Research for this study was approved by Institutional Review Boards at George Washington University (#111530 and #061747) and Virginia Tech (#22-471).
- 2. For example, see the failed 1987 London Agreement between King Hussein and Shimon Peres.
- **3.** See League of Arab States (1988) Algiers Summit, where members decided to provide financial support for the *intifada* exclusively through the PLO.
- 4. King Hussein, Address to the Nation, 7/31/1988.
- 5. Ibid.
- 6. Interviews with MOI officials further corroborate this view (Interviews KA74, KT61).
- 7. Parliamentary elections in Jordan had also not been held since before the 1967 War, which further undermined West Bank MPs' legitimacy among Palestinians.
- 8. The term "pure East Banker" specifically implies "Transjordanian" or "non-Palestinian."
- 9. At this time, green border crossing cards indicated individuals without Jordanian nationality.
- **10.** Jordanian activists share the view that such *lexical ambiguity* coerces Palestinian-Jordanians to countenance discrimination (Interview PZ45).
- 11. The GID is the central node of Jordan's security apparatus.
- **12.** This practice of "changing" (tagheer) nationality to non-Jordanian is sometimes called *taTHheer* ("verifying") or *taSheeh* ("correcting") nationality status.

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Appendix A. Details for cited interviews

Note: For ease of use, interviews are organized in the order in which they are cited in the manuscript. This appendix lists only those interviewees who we cite in the article text.

Interview IDs in which the last character is a letter (i.e., a or b) indicate a respondent who was: (1) interviewed multiple times; and also (2) referenced in the article text multiple times, with distinct interview sessions dates corresponding to those references. For example, entries eight and nine in the list below are "MU65a" and "MU65b." This reflects two separate interviews with respondent MU65, the first one (a) in April 2017 and the second one (b) in June 2022.

	Interview ID	Description	Date
1	UH92	Jordanian Lawyer	May 2017
2	YI33	Jordanian Judge	October 2017

(Continued)

(Continued.)

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	Interview ID	Description	Date
3	KA74	Jordanian Ministry of Interior Official	May 2023
4	KT61	Jordanian Ministry of Interior Official	May 2023
5	MO43	Former Jordanian Cabinet Minister	October 2019
6	WH70	Former Jordanian Cabinet Minister	May 2023
7	XL28	Jordanian Lawyer	January 2016
8	MU65a	Jordanian Lawyer	April 2017
9	RP40	Jordanian Lawyer	November 2017
10	SO75b	Former Jordanian Cabinet Minister	June 2022
П	MI39	Former Jordanian Cabinet Minister	May 2017
12	JL12	Jordanian Political Analyst	June 2022
13	MU65b	Jordanian Lawyer	June 2022
14	1177	High-Level Jordanian Government Official	June 2022
15	EU87	Former Jordanian Cabinet Minister	June 2022
16	NM94	Former Jordanian Cabinet Minister	May 2023
17	JZ00	Jordanian Government Official	May 2023
18	QZ65	Former Jordanian Cabinet Minister	June 2017
19	WD46	Jordanian Ministry of Interior Official	May 2023
20	OY66	Former Jordanian Cabinet Minister	December 2017
21	CS32b	Jordanian Lawyer	January 2018
22	LG53	High-Level Jordanian Government Official	January 2016
23	HE81	Jordanian Resident	May 2017
24	HR68	Jordanian Legal Activist	September 2018
25	CC83	Former Jordanian Cabinet Minister	February 2017
26	PZ45	Jordanian Activist	November 2017
27	GR25	Former Jordanian Cabinet Minister	June 2017
28	SO75a	Former Jordanian Cabinet Minister	December 2017
29	EB63	Jordanian Judge	September 2018
30	TV54	Former Jordanian Cabinet Minister	October 2019
31	NG24	Jordanian Citizen	October 2017
32	QR76	Jordanian Citizen	February 2017
			(Continued

(Continued)

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(Continued.)

	Interview ID	Description	Date
33	JR62	Former Jordanian Cabinet Minister	December 2017
34	CS32a	Jordanian Lawyer	October 2017
35	KL69	Jordanian Lawyer	September 2018
36	BL78	Jordanian Lawyer	October 2018
37	DU30	Jordanian Lawyer	October 2017
38	Q159	Jordanian Judge	August 2018
39	NQ80	Jordanian Lawyer	November 2018

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