

Shaping Citizenship in Globalized World: The Survival of National Identities

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Abstract

Citizenship and membership in a nation state may constitute significant elements of identity. Every society looks for the legitimacy of the principles governing it within its own origins. Therefore, cultural diversity is synonymous with juridical and ethical difference, which can range from the recognition of several sources of legitimacy of law to a different relationship between these sources. In the legal sphere, each society's constant pursuit of its own origins has its greatest expression in the rules of citizenship chosen. For example, the provision of citizenship tests within the EU Member States' naturalization policies bears witness to this attitude, strengthening the requirements to obtain the citizenship. In fact, during the last decade, the European Union has experienced the rise of test-based forms of integration and this indicates the adaptation of the legal system to increasing flows of migration. Similarly, in the Middle East, the State of Israel represents a paradigmatic case of how the survival of cultural ties is nowadays maintained in granting citizenship. This also highlights how the national law adapts to the historical context in order to respect economic, political and social rights. Against the perceived Jewish diaspora, indeed, the State of Israel established the Law of Return (*hok ha-shvūt*), which is that all Jews have the right to return and obtain, along with citizenship, other facilities to rebuild their lives there ('*aliyah*'). Could these two approaches from Western Europe and the Middle East testify to a strong state sovereignty in choosing their ideal citizens? In conclusion, the purpose of the paper is to show how naturalization policies are still deeply influenced by historical, cultural and social elements. Nevertheless, the globalization and the consequent loss of importance of political geography in view of functional geography, affecting both government policies and the lives of individuals, weaken the traditional association between citizenship and national identity. Indeed, it nurtures a strategic approach to national belonging that allows countries to devise new methods of choosing citizens according to not only ethnic but also economic and political types of preference, as many states "offer" rights to individuals living outside their borders. Therefore, citizenship does not always constitute a strong link between the individual and the country of origin or residence. People move freely between states where they have strong family ties, property and a political interest in the society. Thus, individuals are increasingly only interested in earning the benefits of acquiring further citizenship, without paying attention to the connection they can establish with the state of citizenship. Could these naturalization systems be considered anachronistic in the context of the XXI century globalized world?

Keywords: *Citizenship, National Identities, Law of Return, Migration, Cultural Defense Policies.*

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Résumé

La citoyenneté et l'appartenance à un État nation peuvent constituer des éléments importants de l'identité. Chaque société cherche la légitimité des principes la gouvernant dans ses propres origines. Ainsi, la diversité culturelle est synonyme de différence juridique et éthique, pouvant aller de la reconnaissance de différentes sources de légitimité du droit à une relation différente entre ces sources. Dans la sphère juridique, la recherche permanente par chaque société de ses propres origines trouve sa plus grande expression dans le choix des règles de citoyenneté. Par exemple, la mise en place d'examens pour la citoyenneté au sein des politiques de naturalisation des États membres de l'UE témoigne de ce type de comportement, en renforçant les exigences pour obtenir la citoyenneté. De fait, au cours de la dernière décennie, l'Union européenne a connu la montée des modes d'intégration basés sur des tests. Cela montre l'adaptation du système juridique aux flux de migration grandissants. De manière similaire, au Moyen-Orient, l'État d'Israël représente un cas paradigmatique de la manière dont la survie des liens culturels est désormais maintenue via l'accord de la citoyenneté. Cela souligne également la manière dont la loi nationale s'adapte au contexte historique afin de respecter les droits économiques, politiques et sociaux. Contre la diaspora juive perçue, en effet, l'État d'Israël a établi la loi du retour (*hok ha-shvūt*), qui prévoit que tous les juifs ont le droit de revenir et d'obtenir, en parallèle de la citoyenneté, d'autres facilités pour reconstruire leur vie là-bas (*aliyah*). Ces deux approches venues de l'Europe de l'Ouest et du Moyen-Orient pourraient-elles témoigner d'une forte souveraineté de l'État dans le choix de ses citoyens idéals ? En conclusion, l'objectif de cet article est de montrer comment les politiques de naturalisation sont profondément influencées par des facteurs historiques, culturels et sociaux. Toutefois, la mondialisation et la consécutive perte d'importance de la géographie politique au vu de la géographie fonctionnelle, affectant à la fois les politiques gouvernementales et la vie des individus, affaiblissent l'association traditionnelle entre citoyenneté et identité nationale. En effet, cela nourrit une approche stratégique de l'appartenance nationale, qui permet aux pays de concevoir de nouvelles méthodes pour choisir leurs citoyens selon des préférences non seulement ethniques mais également économiques et politiques, à la manière dont beaucoup d'États « offrent » des droits à des individus vivant au-delà de leurs frontières. Par conséquent, la citoyenneté ne constitue pas toujours un lien fort entre l'individu et le pays d'origine ou de résidence. Les habitants circulent librement entre des États où ils ont de forts liens familiaux, des biens, ou un intérêt politique dans la société. Ainsi, les individus sont de plus en plus uniquement intéressés par l'accès aux bénéfices accompagnant l'accord d'une nationalité supplémentaire, sans prêter attention aux connections qu'ils peuvent établir avec l'État en question. Ces systèmes de naturalisation pourraient-ils être considérés comme anachroniques dans le contexte de la mondialisation au XXIème siècle ?

Mots-clés : *Citoyenneté, Identités nationales, loi du retour, migration, politiques de défense culturelle.*

Introduction

This paper will analyze two trends in naturalization policies, which influence the link between the possession of the related status and the survival of national identities. First, the most representative naturalization policies of the twenty-seven countries of the European Union will be examined, highlighting common standards. Then, the following part of the study will concern the Middle East, focusing on the State of Israel. Consequently, the article will examine Law No. 5710-1950, namely the Law of Return, and Law 5712-1952, the Israel Nationality Law, concerning the naturalization of non-Jews. The first approach is to grant citizenship to individuals who know the national language, culture and traditions. This therefore creates *de facto* citizens who are more likely than not fully integrated into the territory of the country of citizenship. The second one is to protect citizens beyond the territory of the state by implementing laws which can facilitate the return to and settlement in the land of citizenship, thus fortifying the sense of identity and increasing the number of citizens of the concerned state. Both trends are fundamental to understand the development of contemporary citizenship. At the end, based on the observation of recent trends, the conclusions will be drawn. The author intends to deal with the study of the EU member states as it represents its very near and topical reality. Then, the intention is to develop an analysis of the case of Israel in order to find any dissimilarities or parallels with a state from another continent, which represents, at the same time, an exemplary and peculiar element to illustrate the thesis.

Part 1. Citizenship Within the European Union

Most European countries make naturalization dependent on citizenship tests, which can require the successful passing of a language or culture test, as if the recognition of this status were a reward to be earned, reserved for individuals who demonstrate that they have - substantively - integrated.

Among these requirements for the acquisition of nationality by voluntary action, whatever the national model of reference taken into consideration, the knowledge of the national language can be considered an element capable of assessing the individual's ability to integrate culturally

into the society (*ethnos*), or to participate in the political, economic and social life of the community (*demos*).¹

These tests may have different characteristics with regard, for example, to their difficulty, the level of formalization, and their inclusion in broader integration tests. Usually, the applicants' proficiency in the official or national language is the most widespread criterion and it is essential for understanding and defining how inhabitants of other states belong to and participate in the societies that welcome them. During the last decades, language tests have appeared throughout the European Union, and they are implemented as a written and oral test or as the participation in language courses offered by official institutes, which have the task of issuing a document certifying language skills and proficiency. Most recently, this practice has been ushered in Italy by the Law No. 132 of 1 December 2018.² This Law has introduced Article 9.1 in the Italian Citizenship Law No. 91 of 5 February 1992, establishing that the granting of Italian citizenship under Articles 5 and 9 is subject to the possession of an adequate knowledge of the Italian, not less than level B1 of the Common European Framework of Reference for Languages (CEFR).

Moreover, it is possible to notice a trend within the EU States' provisions regulating naturalization in the specified level of language proficiency chosen in order to grant citizenship. In fact, this level is generally B1 of the CEFR. Specifically, the applicant has to demonstrate language skills that allow independent use of the language at the B1 level of the CEFR (intermediate) in the

¹ Giammaria Milani, *Cittadini jure linguae. Test linguistici e cittadinanza in Europa* (Giuffrè 2017) 59.

² Security Decree-Law converted into Law 2018, art 9 para 1. This law concerns urgent provisions on international protection and immigration, public security, as well as measures for the functioning of the Ministry of the Interior and the organization and functioning of the National Agency for the Administration and Destination of Assets Seized and Confiscated from Organized Crime. Moreover, the new decree adopted by the Ministry of the Interior in agreement with the Ministry of Education and the Ministry of Universities and Research on 7 December 2021 deals with the procedures for carrying out the Italian language knowledge test, which must be passed before an EU long-term residence permit can be issued (Legislative Decree 286/98, article 9 para 2-bis). The decree introduces the following novelties concerning the recognized certifying bodies that issue certificates of knowledge of the Italian language certifying a level of knowledge not lower than level A2 of the Common European Framework of Reference for Languages approved by the Council of Europe: 1. Removed reference to bodies recognised by the Ministry of Foreign Affairs; 2. There are now five recognised bodies (previously four), namely: Università degli studi di Roma Tre, Università per stranieri di Perugia, Università per stranieri di Siena, Società Dante Alighieri, Università per stranieri *Dante Alighieri* di Reggio Calabria; and 3. The Ministry of Universities and Research will issue a decree setting out the procedures for accreditation, verification and monitoring of compliance with the quality requirements for the issue of Italian language certificates by further institutions.

Czech Republic,³ Estonia,⁴ Finland,⁵ France,⁶ Germany,⁷ Italy,⁸ Luxembourg⁹ and Poland.¹⁰ For instance, in 2013 Czech Republic introduced stricter Czech language tests and the requirement of basic knowledge of the Czech Republic's constitutional system; the same year, France provided the knowledge of French equivalent to level B1 oral and written (CEFR). In Finland, according to Section 17 of the Finnish Nationality Law, to acquire Finnish citizenship the applicant should have a minimum level three (intermediate) of proficiency in spoken and written Finnish or Swedish in the general language examination or satisfactory oral and written skills, which corresponds to B1 level (CEFR), in the National Language Examination. Alternatively, the individual can prove a completion of basic education with Finnish or Swedish as a native tongue to meet the language skills requirement (YKI). In addition, following a Federal Administrative Court decision¹¹ in 2005, Germany has standardized the application of integration requirements by developing a test and setting the required level of language proficiency throughout the federation. The amendment now requires sufficient knowledge of the German language by providing a certificate in German at level B1 of the CEFR. Furthermore, in Luxembourg the applicants for nationality must take the *Sproochentest* examination at the *Institut national des langues (INL)*. The *INL*'s Luxembourgish language courses provide preparation for the examination, which covers level A2 in oral communication and level B1 in oral comprehension, as established in article 15 of the New Luxembourg Nationality Law. This Law also requires taking part in Luxembourg language courses, which aim to introduce the language in oral expression and comprehension, organized by the *Institut national des langues* or by a provider whose course program is approved by the Minister responsible for National Education, as stated by article 28.

³ Czech Citizenship Act 2013, s 14 para 4, s 19 para g, and s 70. The Czech Citizenship Act No. 186 of 2013 replaces all previous nationality legislation (Act No. 40/1993 concerning the acquisition and loss of nationality of the Czech Republic as amended, and Act No. 193/1999 concerning the nationality of certain former Czechoslovak nationals as amended).

⁴ Estonian Citizenship Act 1995, s 8.

⁵ Finnish Nationality Law 2003, s 13, 17, and 18.

⁶ Civil Code 2013, art 21-2, and 21-24. It establishes the language test requirement, whose level and manner of evaluation are fixed by decree en *Conseil d'État* n° 2011-1265 of 11 October 2011.

⁷ *BVerwGE* [2005] 124, 268, 273.

⁸ Security Decree-Law converted into Law 2018.

⁹ New Luxembourg Nationality Law 2017, arts 14-18, abrogating the law of 23 October 2008 on Luxembourg nationality and the law of 7 June 1989 on the transposition of the surnames and forenames of persons acquiring or recovering Luxembourg nationality.

¹⁰ Polish Citizenship Act 2009, arts 30(2) and 33.1(4). To be naturalized, the alien shall prove linguistic skill by the official certificate regulated in Article 11a of the Law of 7 October 1999 r. on the Polish Language (OJ No. 90, item. 999, as amended).

¹¹ The Federal Administrative Court judgment of 20 October 2005, sentence of the nationality law, the introduction in the naturalization requirements of standards of knowledge of the German language and the adoption of integration tests. The Federal Administrative Court decided that in order to fulfil naturalization requirements an applicant did not need to be able to write German provided that he or she was able to understand a simple text of daily life and to dictate letters in German.

The Austrian¹² regular naturalization process can be considered one of the strictest in the world.¹³ Since 1998,¹⁴ the naturalization procedure has been gradually tightened in Austria¹⁵ as shown by the fact that some requirements were raised and the prerequisite of German proficiency was introduced. Later, in 2011,¹⁶ the exam of language proficiency was further tightened to the current B1 level, as previously only proficiency in the German language had needed to be demonstrated. Furthermore, if foreigners prove a B2 level proficiency in German (CEFR) the minimum residence period is reduced to six years.¹⁷ This system signals that stronger language proficiency speaks to an individual's degree of integration and thus justifies a shorter minimum residence period.¹⁸

Similarly, individuals seeking Danish citizenship must complete and pass B2 level language courses and examinations. In fact, Denmark, like Austria, is one of the strictest European states in granting naturalization, representing the only Nordic country with a general residence requirement of nine years.¹⁹ Since January 2006,²⁰ the Danish language requirement was raised significantly from Test in Danish 2 (comparable to ALTE level 2 and B1 of CEFR) to Test in Danish 3 (comparable to ALTE level 3 and B2 of CEFR).²¹ Nevertheless, the naturalization criteria were tightened in 2008,²² when it was no longer sufficient to pass Danish Test 3 (B2) with a mark of 6 on a 13-point scale or a mark of 2 on the 7-step scale, but the general language requirement was set to a certificate of having passed Danish Test 3 with an average mark of at least 7 on the 13-point scale or 4 on the 7-step scale (or another comparable exam).²³ Since 2002, this language requirement was the most stringent in Europe,²⁴ until the change in 2013. Indeed the adoption of a new circular on naturalisation, No. 9253 of 6 June 2013, together with Law No. 1496 of 23 December 2014,

¹² Austrian Nationality Act 1985, article 11a para 6. As amended by Act Amending the Aliens Law 2011, FLG I No. 38/2011.

¹³ Martin Stiller, *Pathways to Citizenship for Foreigners in Austria* (IOM 2019) 15.

¹⁴ Act Amending the Citizenship Act 1998.

¹⁵ David Reichel, *Staatsbürgerschaft und Integration: Die Bedeutung der Einbürgerung für MigrantInnen* (VS Verlag für Sozialwissenschaften | Springer Fachmedien Wiesbaden GmbH 2011) 94.

¹⁶ Act Amending the Aliens Law 2011.

¹⁷ In accordance with art 11a para 6 of the Citizenship Act 1985: foreigners have to demonstrate a B2 level proficiency in German (CEFR) and evidence of long-term integration (6 years).

¹⁸ Stiller (n 14) 43.

¹⁹ Eva Ersbøll, *Report on Citizenship Law: Denmark* (EUDO Citizenship Observatory 2015) 1.

²⁰ See Circular No. 9 of 12 January 2006 on Danish naturalization.

²¹ Ersbøll (n 20) 25.

²² See Circular Letter No. 61 of 22 September 2008 on Danish naturalization

<https://www.legislationline.org/download/id/6532/file/Denmark_Circular_Letter_Naturalisation_2008_eng.pdf>.

²³ The restriction to DT3 resulted from the agreement of 22 September 2008 between the government and the Danish People's Party on the handling of the EU-legislation on free movement (Section 4.1).

²⁴ Ersbøll (n 20) 38.

amending Danish citizenship and accepting dual citizenship, led to a reduction in the language requirement to the B1 level and the requirement on self-support was eased. Notwithstanding the above, new rules were introduced since 10 May 2021.²⁵ In fact, the Danish language proficiency must be attested by issuing a certificate of the Danish 3 Examination (B2 of CEFR) or a similar exam, including the Danish school-leaving exams. However, for applicants who have been self-supporting for the last nine year, passing the Danish 2 Examination (B1 of CEFR) or a similar exam is sufficient.²⁶

Therefore, it can be inferred that, within the European Union, there is a shared idea that the conferral of citizenship symbolizes the end point of successful integration, for which language skills are an important benchmark. Language tests are often combined with a residency requirement, so the applicant must prove having resided in the country whose nationality s/he is requesting for a predetermined number of years. The purpose of this practice seems to be that of shaping potentially *more integrated* people who have studied, breathed and experienced national culture.

Part 2. Middle East: The Case of Israel

If in Western Europe, European Member States have experienced the rise of test-based forms of integration, similarly, in the Middle East, the State of Israel represents a paradigmatic case of how the survival of cultural ties is nowadays maintained in granting citizenship.

Jewish identity seems to be anomalous because it is composed of two collectives, nationhood and religion, which do not usually coincide.²⁷ Although, throughout the centuries of perceived exile, the Jews may have been a “stateless nation,”²⁸ biblical stories combined both of these concepts into a singular whole, and through this narrative the Jewish identity was defined.²⁹

²⁵ On 6 May 2021, the Ministry of Immigration and Integration Affairs issued an Executive Circular Letter on Naturalization <[Cirkulæreskrivelse om naturalisatio \(CIS nr 9298 af 06/05/2021\)](#)>, entered into force on 10 May 2021, outlining the conditions for receiving Danish citizenship through naturalization.

²⁶ See <<http://refugees.dk/en/facts/legislation-and-definitions/citizenship-in-denmark/>>.

²⁷ Michael Walzer, ‘The Anomalies of Jewish Political Identity’ in Moshe Halbertal and Donniel Hartman (eds.), *Judaism and the Challenges of Modern Life* (Continuum 2007) 134-138.

²⁸ *Ibid* 134.

²⁹ Roberta Rosenthal Kwall, *The Myth of the Cultural Jew* (Oxford University Press 2016) 237.

The construction of this Jewish identity is perhaps less focused on a nationalistic concern and more focused on “familism as a component of peoplehood.”³⁰ The Jewish State³¹ seems therefore to promote Jewish cultural heritage and its values³² in order to shape its concepts of citizenship. In fact, it is easy for Jews to have a basic familiarity with Jewish text, customs, and traditions³³ that has been maintained even in the oversea diaspora. Indeed, after centuries of persecution, Zionism³⁴ originated in the XIX century as a political movement of the Jewish people - “the yearning and desire of Jews to re-establish their Jewish homeland in the Land of Israel”³⁵ - which became the expression of the Jews’ shared ethnicity and religious heritage. Zionism represents an integral part of Jewish identity as a support for the right of Jewish self-determination in the ancestral native land of the Jewish people.³⁶ Consequently, Israeli nationality laws are a way to reestablish a connection among all Jews in the world and to rebuild the Hebrew and Jewish traditions in a place perceived as their historic homeland.

Part 3. Law of Return: Creating Citizenship in the New State

This “context-bound”³⁷ Jewish identity could potentially be problematic if referring to Jews not living in Israel. Indeed, within the communities of Jews abroad, who share a deep-rooted cultural affiliation, the religious component of their identity remains in unresolved tension with more nationalistic aspects. For this reason, against the perceived Jewish diaspora - *təfūṣā* - the State of Israel established the Law of Return - *ḥok ha-shvūt* - in order to restore and renew their perceived ancestral community. In fact, this law grants every Jew the possibility of *‘aliyah*,³⁸ the right to return and obtain, along with citizenship, other facilities to settle in the State of Israel. The Law of Return,

³⁰ Erica Brown, Misha Galperin, *et al.*, *The Case for Jewish Peoplehood: Can We Be One?* (1st ed. Jewish Lights Publishing 2009) 144.

³¹ For further analysis, see the difference between State of Jews and Jewish State operated by Menachem Mautner, *Law and the Culture of Israel* (Oxford University Press 2011) 209.

³² Aviad Hacoen, “From ‘Juden Shtetl’ (Jewish Village) to ‘Juden Staat’ (Jewish State): Israel as a Jewish and Democratic State: Theory and Practise” in Asher Maoz (ed.), *Israel as a Jewish and Democratic State* (Jewish Law Association VIII 2011) 294.

³³ Kwall (n 30) 251.

³⁴ “Zion” is a fundamental concept in Jewish theology derived from the name of Mount Zion, located south of the Zion Gate, immediately outside the Old City of Jerusalem, on which the original nucleus of the city was supposedly born.

³⁵ Alyza D. Lewin, “Zionism - The integral component of Jewish identity that Jews are historically pressured to shed” [2020] *Israel Affairs* 330.

³⁶ *Ibid* 332.

³⁷ Shlomo Fischer and Suzanne Last Stone, *Jewish Identity and Identification: New Patterns, Meanings, and Networks* (Jewish People Policy Institute 2012) 12.

³⁸ The term derives from עלייה לרגל, *Aliyah laRegel* meaning “pilgrimage”, because of the climb to reach Jerusalem during the three pilgrimages prescribed for the festivals of Pesach, Shavuot and Sukkot. Therefore, it indicates Jewish immigration to the land of Israel.

which dates back to the era of exclusive and territorial citizenship, preserves the difference between Israelis and diaspora Jews. The latter may easily become Israeli, but must still become naturalized via immigration.³⁹

The thirteenth century saw an important change with regards to the diaspora when Jews started to return to the Land of Israel - *Eretz Yisrael* - and rebuild their lives here. In fact, *'aliyah* gradually became a common pattern of behavior among Jews, particularly from Western lands. Already at the beginning of the XIV century, groups of Jews settled in Jerusalem and elsewhere in the Land of Israel, since returning there became an obligatory precept for future generations.⁴⁰ The mass *'aliyah*, then,⁴¹ became an actual religious question in different eras and in different places⁴² and there was the need to settle in the Land of Israel, as a “Promised Land”.⁴³

Today, any possible messianic connotations accruing to *'aliyah* have been eliminated. Jewish messianic movements had led Jews to Israel demonstrating the historical sense of the Jewish people and their belief in the “ingathering of the exiles.”⁴⁴ In the XVIII century, Jews first shed this element of Jewish identity because European governments required this renunciation in exchange for citizenship. Thus, subsequent Jewish messianic movements sought to turn Jewish prayers into action reestablishing a Jewish presence in the Land of Israel.⁴⁵ Therefore, Law No. 5710-1950, namely the Law of Return⁴⁶, fixes this right of *'aliyah*. According to Law 5712-1952, the Nationality Law,⁴⁷ every Jew in the world has the unlimited and unconditional right to immigrate to the Land of Israel and become an Israeli citizen without renouncing their passport. This provision entitles Jewish immigrants - *'olim* - to obtain citizenship with no prior conditions,

³⁹ Yossi Harpaz, “Strategic Dual Citizenship: Global Dynamics of Supply and Demand” in Rainer Bauböck and Max Haller (eds.), *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Austrian Academy of Sciences Press 2021) 97-117.

⁴⁰ Aviezer Ravitsky, “They Shall not Mount the Wall from Exile” in Walter Jacob and Moshe Zemer (eds.), *Israel and the Diaspora in Jewish Law. Essays and Responsa* (Freehof Institute of Progressive Halakhah, Pittsburgh and Tel Aviv, Rodef Shalom Press 1997) 55-62.

⁴¹ Especially during Fourth Aliyah (1924–1929), when Jews arrived in the Land of Israel, many as a result of increasing anti-Semitism in Poland and throughout Europe, mostly from Romania, and Lithuania. Also on the occasion of the Fifth Aliyah (1929–1939), with the rise of Nazism in Germany, a new wave of immigrants arrived; the majority of these arrived from Central Europe. Some Jewish immigrants also came from other countries such as Turkey, Iran, and Yemen.

⁴² Ravitsky (n 41) 65.

⁴³ Walter Jacob, ‘The Primacy of the Diaspora’ in Walter Jacob and Moshe Zemer (eds.), *Israel and the Diaspora in Jewish Law. Essays and Responsa* (Freehof Institute of Progressive Halakhah, Pittsburgh and Tel Aviv, Rodef Shalom Press 1997) 149.

⁴⁴ Lewin (n 36) 330.

⁴⁵ *Ibid* 332-333.

⁴⁶ Law of Return 1950, s 1.

⁴⁷ Nationality Law 1953, s 1 and s 2.

without passing through a naturalization process. Consequently, any Jew who immigrates to Israel as a Jewish immigrant - *'oleh* - under the Law of Return immediately becomes an Israeli national once returned from foreign lands.⁴⁸ Furthermore, the rights of a Jew under this Law and the rights of an *'oleh* under the Nationality Law, as well as the rights of an *'oleh* under any other enactment, are also conferred to a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.⁴⁹

Moreover, it should be considered whether Israeli citizenship serves as *proof* that the Israeli geographical area belongs to Jews. Indeed, the land of Israel still evokes a certain sense of *holiness* even for those Jews who were neither born nor raised in the country.⁵⁰ In fact, for the purpose of the Law of Return, “Jew” is any individual who was born of a Jewish mother or has become converted to Judaism and who is not a member of any other religion.⁵¹

The Israeli identity formed as a result of their consciousness of themselves as citizens;⁵² it is, thus, clear that these boundaries of loyalty are overshadowed by a still-strong religious attachment. The Law of Return has no analogues in the world. This system is indeed completely different from the procedures for the acquisition of nationality adopted by EU States, firmly anchored to the residency requirement in conjunction with the passing of citizenship tests in order to verify the knowledge of the culture, language and constitutional principles of the country of citizenship.

Part 4. Naturalization in Israel

The naturalization of non-Jews is different from the previous one, but it is similar to that adopted by the EU Member States. The acquisition of nationality by naturalization⁵³ is possible with the consent of the Minister of the Interior, which issues the appropriate certificate;⁵⁴ for this reason, a series of conditions must be satisfied, including the requirement to be resident in Israel

⁴⁸ Every *'oleh* (עולה) shall become an Israel national by return unless Israel nationality has been conferred on him/her by birth.

⁴⁹ Law of Return 1950, s 4A.

⁵⁰ John D. Rayner, “The Land, the Law, and the Liberal Conscience” in Walter Jacob and Moshe Zemer (eds.), *Israel and the Diaspora in Jewish Law. Essays and Responsa* (Freehof Institute of Progressive Halakhah, Pittsburgh and Tel Aviv, Rodef Shalom Press 1997) 41.

⁵¹ Law of Return 1950, s 4B.

⁵² On this point, see Orit Rozin, *A Home for All Jews. Citizenship, Rights, and National Identity in the New Israeli State* (Brandeis University Press 2016).

⁵³ Nationality Law 1953, s 5.

⁵⁴ Nationality Law 1953, s 15.

at the time of application. In fact, any person over 18 years old, not being an Israel national, could be naturalized after living in the country for at least three of the last five years with permanent residence in Israel, if s/he demonstrates the intention and the ability to settle in Israel and renounces any previous citizenship.⁵⁵

In addition, the applicant must prove “some knowledge of the Hebrew language.”⁵⁶ This provision, which lies within the Nationality Law, closely resembles the language tests posed for naturalizations in the European Union. Nevertheless, official tests are not used in Israel and the level of language proficiency is not specified, just as is the case in Bulgaria⁵⁷, Greece⁵⁸, Hungary⁵⁹, Lithuania⁶⁰ and Romania.⁶¹ Yoav Peled, Professor Emeritus of Political Science at Tel Aviv University and expert in citizenship, Israeli politics and Israeli-Palestinian conflict, stated that Israel does not require proof of knowledge of or proficiency in Hebrew because national belonging is essentially based on religious and ethnic affiliation.⁶² While both Hebrew and Arabic are official languages in Israel, Hebrew represents the language that symbolizes the collective national identity of Israel as a Jewish State. Although Hebrew is not compulsory for *olim*, who want to become Israeli citizens, they are faced with strong social pressures to practice Hebrew in all domains of life. In fact, many government and legal services are offered in Hebrew, but not in Arabic as Hebrew is also the main language of business, trade, and the service sector.⁶³ The teaching of Hebrew in Arabic-medium schools has experienced different phases of development over the years. Together with the creation of the State of Israel, the Education Committee established that learning Hebrew is a requirement for Arabs, while demands that Hebrew speakers must study Arabic were only made almost forty years later.⁶⁴ It should be taken into account that a significant portion of Israelis are immigrants who come under the Law of Return and learned Hebrew as a

⁵⁵ Nationality Law 1953, s 5(a).

⁵⁶ Nationality Law 1953, s 5(a) pt 5.

⁵⁷ Art 12 para 5 of the Bulgarian Citizenship Act 1999. The aliens has to be” fluent in Bulgarian language”.

⁵⁸ Art 5 para 2 subpara b of the Greek Nationality Code 2004. The applicant must “have adequate knowledge of the Greek language.”

⁵⁹ S 4 para 3 of the Hungarian Nationality Law 1993. A non-Hungarian citizen has to prove that “he/she is sufficiently proficient in the Hungarian language.”

⁶⁰ Art 12 para 1 of the Republic of Lithuania Law on Citizenship 2002. The applicant can be naturalized if he/she “has passed the examination in the Lithuanian language.”

⁶¹ Art 8 para 1 subpara f of the Romanian Citizenship Law 1991. An individual who “knows the Romanian language” can be naturalized.

⁶² Yoav Peled, ‘Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens of the Jewish State’ [1992] *The American Political Science Review* 432.

⁶³ Iair G. Or and Elana Shohamy, “Contrasting Arabic and Hebrew textbooks in Israel. A focus on culture” in Xiao Lan Curdt-Christiansen, Csilla Weninger (eds.), *Language, Ideology and Education. The politics of textbooks in language education* (Routledge 2015) 109-125.

⁶⁴ *Ibid.*

second language since they are entitled to a free course in an *ulpan* or Hebrew language school. Most of them speak fluent Hebrew like most Israeli-Arabs, who comprise a large national minority, and members of other minorities. The reason is that, historically, Hebrew was taught in Arab schools from the third grade onward, but it has been gradually introduced from kindergarten onward only in recent years. By way of contrast, Arabic is used in Arab communities, at home, and as a medium of instruction in schools, but not at universities. The policy of the Ministry of Education regarding the teaching of Arabic in Jewish education is based on the provisions of the State Education Law 573-1953 and various circulars. This policy defines Arabic as a compulsory language in the educational system and stresses the importance and advantages for Hebrew-speaking students in Arabic studies. However, the teaching of the Arabic in the educational system faces significant barriers and challenges related to the perception of Arabic and its method of teaching. In addition, the level of Arabic proficiency among the Jewish population in Israel is low. Since 2018, Arabic has been taught in primary education and according to data from the Ministry of Education in the academic year 2021/2022, Arabic is nowadays taught in 191 elementary schools in Jewish education; a decade ago Arabic was taught in 220 elementary schools.⁶⁵ As a result, Israeli citizenship - *ezrahut* - was normatively subordinated to the national affiliation - *le'om* - of the hegemonic Jewish majority⁶⁶ and shaped to reproduce the modern Hebrew national identity that has developed in the last century. Thus, while Israel does not implement a language “testing” system for citizenship, proficiency in Hebrew is essential for full participation in civic life, giving Hebrew language skills substantial political, economic, and cultural connotations with respect to Israeli citizenship. Therefore, Amal Jamal, Professor of Political Science at Tel Aviv University and Head of the Walter Lebach Institute for the Study of Jewish-Arab Coexistence, argues that recent state policies lead to the majority despotism of the Jewish majority and the subordination of the Arab and Palestinian minority. In particular, Amal Jamal, seeking to further understand the dialectic of the dispute between the State of Israel and its Arab-Palestinian national minority, coined the concept of “hollow citizenship,”⁶⁷ referring to Israeli-Arab citizenship. His purpose is to highlight how Israel has *de facto* different levels and types of citizenship, and the

⁶⁵ See “Teaching the Arabic language in Jewish education” of 24 January 2022 <https://fs.knesset.gov.il/globaldocs/MMM/f6c83e2f-a856-ec11-813c-00155d0824dc/2_f6c83e2f-a856-ec11-813c-00155d0824dc_11_18444.pdf> accessed 6 July 2022.

⁶⁶ Peled (n 63).

⁶⁷ Amal Jamal, “Nationalizing States and the Constitution of ‘Hollow Citizenship’: Israel and its Palestinian Citizens” [2007] *Ethnopolitics* 471. Jamal, examining the relationship between the Israeli state and its Arab-Palestinian minority, aims at emphasizing that political, economic and cultural policies often hollow out the citizenship of national minorities, leaving it meaningless.

citizenship of the national minorities are deprived of substantive cultural, economic and political meaning by the predominant culture.

Part 5. Recent Trends

The new Bennett-Lipid government has focused its discussion on the extension of the Citizenship and Entry into Israel Law No. 5763-2003⁶⁸ that, since 2003, has forbidden the naturalization of Palestinians from Gaza and the West Bank who have married Israeli citizens, *de facto* preventing family reunification between Israeli-Arab citizens and Palestinians. Passed as a temporary measure, this provision was introduced in the middle of the Second Intifada to prevent the option for possible terrorists to enter Israel by abusing the naturalization process by marrying an Israeli. Nevertheless, several rights groups strongly condemned it, claiming discrimination against Palestinians and Israeli-Arabs.

As stated by “Restriction on citizenship and residence in Israel” Paragraph 2 of this Law, the Minister of the Interior should not have granted citizenship to a resident of these regions pursuant to the Citizenship Law, and should not have given him/her a permit to reside and stay in Israel pursuant to the Entry into Israel Law. The exceptions under Paragraph 3 concerned only: applications for purposes of work or medical treatment or other temporary purposes, for a fixed period of time, and for a cumulative period not longer than six months; applications to prevent the separation of a child under twelve years from his parent who is lawfully staying in Israel; and applications of a resident who identifies with the State of Israel and its goals, and which is of special interest to the state. Furthermore, the law was amended in 2007 to apply to citizens from Iraq, Iran, Syria and Lebanon, defined as enemies of Israel elsewhere. Another amendment provides for such spouses to obtain stay permits from the Interior Ministry, a status that should be renewed every year but with no guarantee of being approved, and obstructed by bureaucracy.⁶⁹ This ban, originally a decree with a one-year expiry date,⁷⁰ proposed by then-Prime Minister Sharon, was temporarily suspended in July 2021.⁷¹ Indeed, the text was not renewed by the coalition ruling the

⁶⁸ Citizenship and Entry into Israel Law (Temporary Order) 2003.

⁶⁹ See <<https://www.jpost.com/israel-news/why-is-the-citizenship-law-dividing-the-govt-explainer-672967>> accessed 2 May 2022.

⁷⁰ Citizenship and Entry into Israel Law 2003, Explanatory Notes s 5: the provisions of the proposed law are stated as an emergency provision for one year. However, it is proposed to allow the government to extend them from time to time, each time for one additional year, in accordance with the state’s security needs.

⁷¹ See <<https://www.jpost.com/israel-news/why-is-the-citizenship-law-dividing-the-govt-explainer-672967>> accessed 2 May 2022.

Knesset, which also included left-wing parties and an Arab party. Although the Likud, United Torah Judaism, Shas and Religious Zionist Party deputies have all voted in favor, the law has been opposed by two coalition parties, the leftist Meretz and Ra'am, who described it as racist because it was designed to displace Palestinian spouses, while foreign spouses from other nations could obtain citizenship by marrying an Israeli. In addition, the United Arab List also referred to the humanitarian suffering caused by the law.

After eight months of negotiations under the leadership of Interior Minister Shaked, in March 2022, the *Knesset* re-established this law, which had been contested for 18 years. However, between the two votes (July 2021 - March 2022), the Interior Ministry refused to accept any requests for family reunification.⁷² It is interesting to observe that this provision, in addition to the security aspects, seems to ensure a Jewish demographic majority in Israel. In fact, the “demographic reasons” behind citizenship policies underline that, in Israel, cultural roots are still important and history seems to hold considerable weight nowadays in the effort to shape citizens who are loyal and faithful to the state.

Conclusion

National belonging is a crucial aspect of modern social identities. In Europe, nation-building often went hand in hand with linguistic nationalism. While the empires that preceded the modern nation had been multilingual communities, many nation states were created on the ideology of “One Language, One Nation.”⁷³ States are not only systems of cultural representation that unite people sharing the same identity, but also gate-keeping historical and institutional practices supporting cultural defense policies found in nationality laws. In fact, linguistic and cultural restrictions can be seen in citizenship tests, which usually take place during the naturalization interview, after the multiple-choice questions, and test the applicant’s proficiency in a country’s official language. So, the present analysis points out how naturalization policies are deeply influenced by historical, cultural and social elements, and that this is not only an European tendency. This article has examined the Israel case of the Law of Return, which can stress the relationship between the sense of national identity and the ways in which it impacts on ideologies of citizenship.

⁷² See <<https://www.haaretz.com/israel-news/.premium.HIGHLIGHT-deal-on-citizenship-law-may-grant-israel-residency-to-hundreds-of-palestinians-1.9972128>> accessed 2 May 2022.

⁷³ Ingrid Piller, “Naturalization language testing and its basis in ideologies of national identity and citizenship” [2001] 259 <<https://doi.org/10.1177/02F13670069010050030201>> accessed 11 May 2022.

To conclude, many countries have enacted national laws linking naturalization to a satisfactory level of knowledge of the national language and culture, and this indicates adaptations within a specific legal system to increase immigration. Looking at Western Europe and the Middle East, we can notice that some countries have suggested, but never strictly applied language proficiency tests for acquiring nationality. Others verify that the applicant knows the national language or culture, but do not specify by law the level of language proficiency. In both cases, we could argue that states *shape* and/or *attract the ideal citizen through* their naturalization procedure, to suit their cultural context and heritage.

Nowadays, each society's constant engagement with their own origins has its greatest expression in the rules of citizenship chosen. This is evident from both the Jewish Law of Return and the language or citizenship tests that countries provide in some way to preserve their cultural particularism and national identity. Both trends examined emphasize the ties to the land of citizenship, and certainly differ from those policies of fast-track naturalization upon investment⁷⁴ - equally widespread - which ignore any real link with the territory and which “sell off” national principles to the best investor.

On the one hand, citizenship laws can imply a *return* of citizens to the land of citizenship and have deep-rooted historical and especially religious motivations. On the other hand, the test-based integration route would seem to be a way to link (and allow acquisition by) the applicant to the history, language and, in general, cultural roots that are essential for full integration and life within the state of citizenship. In this sense, the naturalisation policies that shape the citizen according to the cultural nuances could be read as the adaptation of the legal system to the historical context of territorial insecurity, seeking to preserve diversity and plurality in a globalized world.

⁷⁴ The example of Malta and Cyprus can be considered. See Maltese Exceptional Investor Naturalization (MEIN), 20 November 2020, which replaced the Malta Individual Investor Programme (MIIP), 13 November 2013. See also the case of Cyprus, which since November 2020 has suspended its Cyprus Citizenship by Investment Programme, 19 March 2014, due to the European Commission Infringement Procedure, 20 October 2020 [INFR(2020)2301]. These two cases of Golden Passports programs are paradigmatic if considering that they have aroused and continue to arouse reactions from the European Union. In fact, the European Parliament has taken a firm stand against the sale of European common principles and values to the best investor (see Resolution of 16 January 2014 on ‘EU citizenship for sale’ [2013/2995(RSP) <https://www.europarl.europa.eu/doceo/document/TA-7-2014-0038_EN.pdf> accessed 26 April 2022]). Even the European Commission has considered investment-based naturalization programs as the black hole of Europe, which weaken the essence of European citizenship and have implications for the Union as a whole [See ‘Investor Citizenship and Residence Schemes in the European Union’ COM(2019) of 23 January 2019 <https://ec.europa.eu/info/sites/default/files/com_2019_12_final_report.pdf> accessed 10 May 2022].