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# REPORT ON CITIZENSHIP LAW: ISRAEL

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# Report on Citizenship Law

## Israel

*Yossi Harpaz and Ben Herzog*

### 1. Introduction

Soon after its establishment in 1948, Israel adopted a citizenship regime that is premised on co-ethnic immigration. The cornerstone of this policy is the 1950 Law of Return, which stipulates that every Jew has the right to come to Israel and take up citizenship. The Law of Return is a symbolic expression of the most central tenet in Zionist ideology, the ‘return’ of all Jews to their ancient homeland in Palestine. At the same time, this law has been central in securing a Jewish majority in Israel. In contrast, Israel’s 1952 Citizenship Law, which is mostly used to regulate access to membership by non-Jewish minorities and immigrants, plays a relatively minor role in shaping the country’s identity and demography.

Whereas many European countries have made substantial changes to their citizenship policy in recent decades, Israel’s citizenship regime has remained remarkably unchanged since the country’s establishment. Over the years, several developments have arisen which challenge this order, including the annexation of territories with large Arab populations and the arrival of hundreds of thousands of non-Jewish immigrants. To date, however, these challenges have been resolved mostly through ad hoc responses that did not entail any major revisions of the fundamental structure. Alongside the principle of ethnic return, which remains the major framework that governs citizenship for the Jewish majority, a patchwork citizenship regime has grown. This patchwork system allocates specific statuses to different population categories, including East Jerusalem Palestinians, Asian labour migrants, African asylum seekers and others. As of now, then, Israel’s citizenship regime remains resistant to deep reforms and shows only limited signs of de-ethnicisation (cf. Joppke 2003; see Yakobson and Rubinstein 2008).

## 2. Historical Background

Israel's citizenship regime rests on two laws: the 1950 Law of Return and the 1952 Citizenship Law. The former law defines the ethnic component that makes Israel a nation-state for the Jews while the latter law provides the civic-territorial component that defines the inclusion of non-Jewish minorities. These laws have been subject to numerous amendments over the years but no new laws have been formulated and, at present, there are no serious proposals for a new citizenship law.

### *The Law of Return (1950)*

The Law of Return (1950) explicitly refers to the right of Jews, regardless of their specific situation, to immigrate to Israel. It does not, however, confer citizenship. In the vein of the central Zionist goal of encouraging Jewish immigration to Israel/Palestine, article 1 of the law states the principle of return decisively and explicitly: "Every Jew has a right to come to this country as an *Oleh* [Jewish immigrant]". The terminology is significant: Jews who move to Israel are not seen as immigrants; instead, they are carrying out *Aliyah*, which literally means 'ascent'. This theologically-inspired term, which first appears in the Hebrew Bible, is the traditional Jewish way of referring to immigration to Israel. Zionism adds a national dimension to this religious understanding: *Aliyah* is viewed not just as spiritual ascent, but also as joining the Israeli national collective and showing willingness to contribute to it.

The Law of Return signifies and embodies the ethnic foundation of the State of Israel. According to Zionist principles, full Jewish existence is not possible outside Israel. Therefore, a key goal is the 'ingathering of exiles' (*kibbutz galuyot*) - bringing all of the world's Jews 'back' to Israel. In addition to this long-term goal, the law also defines Israel as a place of refuge open to Jews who wished to become a part of it (Zilbershats 2000). The principle of free admission to all Jews came to be seen as particularly important after the Holocaust, and the fateful refusal of British Palestine Mandate authorities to admit Jewish refugees from Europe during the war (Gavison 2010). Finally, the Law of Return institutionalizes the symbolic tie between Israel and the Jewish Diaspora (Hacohen 1998). At the same time, the law also has a clear instrumental value: it has allowed Israel to maintain a Jewish demographic majority (see below, under 'current regime').

David Ben-Gurion, Israel's first Prime Minister, has expressed this view in the following terms: "The Law of Return is one of the State of Israel's basic laws. It encompasses the central mission of our country, the ingathering of exiles. This law determines that it is not the state which accords the Jews of the Diaspora the right to settle here, but that this right belongs to every Jew by virtue of the fact that he is Jewish".

The government ascribed a festive significance to the Law of Return and passed this bill unanimously, without any debates, and in a remarkably short time (two days) to ensure that it would be enacted on the anniversary of the death of the visionary of the Jewish state, Theodor Herzl (Herzog 2010). Seventy years on, the law retains its consensual, almost sacred status: in a recent survey conducted by Pew Forum, 98% of Israeli Jews agreed that any Jewish person should have the right to citizenship in Israel (Pew 2016).

It is noteworthy the incorporation regime established by Israel's laws of return and citizenship is that Jews who move to the country from abroad are not treated as immigrants but rather as repatriates. Patrick Weil (2001) has argued that the legal construction of citizenship in Israel reflects a self-understanding as a country of (returning) emigrants rather

than a country of immigrants. Members of the Jewish diaspora, are not seen as potential members of the nation (as immigrants are usually treated) but as persons who ‘already’ belong, like emigrants and their children. The ‘right to return’ is automatic and non-selective (barring the qualifications listed below); the law even stipulates explicitly that the rights of any Jew who becomes a citizen through the principle of return are identical to the rights of citizens who were born in the country.

Nonetheless, the Law of Return did place some limitations on the eligibility of Jews to make *Aliyah*. Not only did such immigration require the immigrant to acquire a visa as an *Oleh*, but it was also decided that the Minister of Immigration could deny the application if the applicant (1) is engaged in an activity directed against the Jewish people; or (2) is likely to endanger public health or the security of the state. In the first amendment of the law in 1954, it was decided to add another condition and exclude from *Aliyah* (3) persons with a criminal record who might endanger the public.

One of the challenges raised by the Law of Return has to do with the thorny question of defining who is a Jew. The Law of Return is one of the only instances in Israeli law where an explicit distinction is made between Jews and non-Jews (Shachar 1998:241). The original 1950 formulation of the law, however, does not include any explicit criteria for defining Jews who are eligible for return. This omission creates an ambiguity between two main ways of defining Jews, the religious and the ethnic-ancestral. The religious definition would exclude two categories of persons who could be considered Jewish in the ethnic sense: first, persons who only have Jewish ancestry on their father’s side (since membership in the Jewish religion is exclusively matrilineal); and second, persons with Jewish ancestry who have converted to another religion.

During the 1960s, both criteria were eventually challenged in court. The first case, resolved in 1962, concerns Oswald Rufeisen, a Polish Jew who converted to Catholicism during the Holocaust. Rufeisen became a Carmelite monk and adopted the name Brother Daniel. His application for an *Oleh* visa was declined on the grounds that following his conversion, he could no longer be considered Jewish. The Supreme Court upheld that decision. A second challenge came in 1968: Benjamin Shalit, an Israeli naval officer who had married a non-Jewish Scottish woman, sought to register his children in the population registry as being of Jewish nationality. Following the state’s refusal, Shalit appealed to the Supreme Court, which ruled that he should be allowed to register his children as Jewish on the basis of his subjective self-identification (Shachar 1998; Gavison 2010).

In response to this ruling by the Supreme Court, the Knesset (Israeli parliament) has made the most significant and well-known amendment to the Law of Return (1970). For the first time, Israel articulated legally ‘who is a Jew’, and officially differentiated between the Jewish ethnic nation and the Jewish religion. Section 4B of the amended law explicitly maintained that "for the purposes of this Law, 'Jew' means a person who was born of a Jewish mother or has become converted to Judaism and who is not a member of another religion." Section 4A, meanwhile, stated that "the rights of a Jew under this Law and the rights of an *Oleh* under the Citizenship Law, 1952, as well as the rights of an *Oleh* under any other enactment, are also vested in 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”.

The key importance of this amendment lies in establishing a clear distinction between persons who are considered Jewish by *Halakha* (Jewish religious law) and persons who are eligible for *Aliyah*. It defines Jews based on religious criteria, but broadens the right to make *Aliyah* to a range of persons with family ties to Jews. The amendment thus creates the

possibility for non-Jewish *Aliyah* - an oxymoron, since the term is traditionally reserved to Jews who move to Israel. The 1970 amendment, however, does not represent an ideological transformation. Rather, it was a procedural change that aimed to find an ad hoc solution to the gap between two ways of defining Jewishness that are common in Israeli society: as an ethnicity/ancestry and as a religion.

When mass immigration from the Former Soviet Union (FSU) to Israel began in 1989, however, this amendment began to carry substantial unintended consequences: it allowed about 400,000 non-Jewish persons to enter Israel as *Olim* (Weiss 2002). A new population group appeared in Israel: persons from FSU countries who are neither Jewish nor Arab, but are related to Jews through blood ties or marriage. Sociological studies on this group of ‘non-Jewish *Olim*’ usually found that they were strongly integrated into the Israeli-Jewish majority in terms of their everyday lives, social ties and identity (Yakobson 2010; Prashizky and Remennick 2014; *see, however, Elias and Kemp 2010*).

The emergence of this new group has led the Central Bureau of Statistics to change the basic categories that are used to classify Israel’s population. Until 1995, official publications would classify the population into Jews and non-Jews; on that year, a new ‘Other’ category was established which includes those non-Arab non-Jews. The main distinction is now between ‘Jews and Others,’ on one side, and ‘Arabs’ on the other (Lustick 1999). The 1970 amendment - originally an ad hoc political compromise - has thus made possible the mass immigration of non-Jewish persons with family ties to Jews, and even led to changes in the way that Israel’s majority population is defined.

### ***Citizenship Law (1952)***

The Citizenship Law of 1952 regulates the acquisition and loss of citizenship. It addresses both the Jewish and non-Jewish segments of Israel’s population. The first part of the law describes the different routes for acquiring Israel citizenship.

The first section restates the ethnic principle of the Law of Return – (1) any Jew who immigrates to or lives in Israel automatically becomes an Israeli citizen. From a legalistic standpoint, the Law of Return only guaranteed the unrestricted immigration of Jews. Only after the legislation of the citizenship law did those Jewish immigrants become Israeli citizens. The following provisions cover the granting of citizenship according to other principles beside ethnic return: (2) citizenship is granted to permanent residents who lived within the territory of Israel immediately after its establishment (i.e. Palestinian Arabs – see below); (3) citizenship is established at birth if one of the parents is an Israeli citizen (eligibility *iure sanguinis* is only transmitted to the first generation born abroad); and (4) a naturalisation process is instituted that requires residence, active participation and cultural assimilation. Two additional means to acquire Israeli citizenship were added later on: the discretionary granting of nationality by the Minister of the Interior (2nd amendment – 1968) and through adoption of a child (6th amendment – 1996). The second part of the Citizenship Law lays out conditions for the revocation of citizenship (Herzog 2017).

The 1952 Citizenship Law provided the legal basis for the inclusion of the Arab minority as citizens of Israel. Even though Israel is a successor state of the British-controlled Palestine Mandate which existed until May 15, 1948, Israeli law did not automatically recognise nationals of Palestine as Israeli. Jewish and Arab nationals of Palestine became part of Israel through different pathways: Palestinian Jews became Israeli on the basis of Return, whereas Palestinian Arabs could only gain Israeli citizenship in 1952 if they (1) previously

held Palestinian nationality, (2) were registered as residents of Israel since February 1949 and (3) were still registered as residents in 1952 and had not left the country in the meantime.

These stipulations concerning residence were intended to limit the number of Palestinian Arabs who could claim Israeli citizenship and prevent the inclusion of those who tried to return after the 1948 war. According to the United Nations partition plan of 29 November 1947, Palestine was to be divided into Jewish and Arab states. The Palestinian Arab leadership, however, rejected the partition plan and started a war on 30 November 1947 to prevent its implementation; in May 1948, upon Israel's declaration of independence, the country faced an invasion by the military forces of Egypt, Jordan, Syria and Iraq. At the close of the war, Israel controlled 78% of Mandate Palestine while the remaining 22% were divided between Jordan and Egypt. Close to 700,000 Palestinian Arabs left the territories that became Israel. Most of the refugees moved to the parts of Palestine that were occupied by Jordan and Egypt (now known as the West Bank and the Gaza Strip, respectively), while others went to Syria, Lebanon and other Arab countries. About 160,000 Palestinian Arabs remained in the territories that became Israel (Morris 2011).

In the years after the war, many thousands of Arabs have tried to return to their erstwhile villages in the territories that became Israel. The strict requirements for registration and continuous residence listed in the Citizenship Law were intended to limit the numbers of returning Arabs who could claim Israeli citizenship and deny them incentives for return. For those who did return to settle in Israel, those requirements have led to the denial of citizenship for thousands of residents - a condition that was repeatedly challenged in courts, until a 1980 amendment secured these persons' citizenship and eliminated statelessness (Shachar 1998).

Israel's early years were characterised by vigorous attempts to fortify the borders and prevent the unauthorised entry of Palestinian Arabs from the West Bank and Gaza - especially since some of them committed terrorist attacks on Israeli civilians. In this context, Israel legislated in 1954 the 'Law for the Prevention of Infiltration' (Morris 1997; Kemp 1998). This law deemed as infiltrator any person who was not a resident and who entered Israeli illegally; such infiltrators were subjected to harsh punishments. Five decades later, when African migrants from Sudan and Eritrea began to enter Israel illegally through the Sinai desert, the same law would be revived as a legal instrument against them (Duman 2015).

In contrast to the Law of Return, which has been revised only twice, the Citizenship Law has been amended 13 times since 1952 and complementary laws were added. Apart from the 1980 amendment that was mentioned above, most changes have been technical in nature. For example, Amendment 1 (1952) added the option to request the renunciation of Israeli citizenship without the requirement to leave the state. Amendment 3 (1971) stated that a Jew can express his or her intention to make *Aliyah* before coming to Israel (and not just after immigration). Amendment 4 (1980) made it possible for Jewish parents to make a different decision for themselves and for their children with regard to not becoming Israeli after *Aliyah*. In addition, the Knesset extended the period in which the child could overturn this announcement from age 21 to 22. Amendments 5 (1987) and 8 (2004) facilitated the naturalisation of non-Jews who served in the IDF. All of these changes do not reflect a fundamental shift in immigration or naturalisation policies but slightly amend them to solve particular difficulties in existing regulations.

The second group of changes is connected to social changes and shifts in cultural attitudes in Israel. By the end of the twentieth century, the adoption of non-Jewish children by Israeli parents became legitimate and accessible. Amendment 6 added that those children,

who are not entitled to Israeli citizenship according to the Law of Return or through birth to Israeli parents in Israeli territory, are nonetheless automatically granted Israeli citizenship.

Lastly, some amendments aim to address security threats facing Israel, particularly terrorism. In recent years, there has been a spate of proposals for amendments that would facilitate stripping the Israeli citizenship of persons who have been convicted of terrorism. Amendments 9 (2008), 10 (2011), 12 (2016) and 13 (2017) define the conditions for the expatriation of terrorists who are Israeli citizens. In practice, however, the extreme measure of citizenship stripping has been used very rarely.

According to Section 11 in the 1952 Citizenship Law, a citizen can lose his or her citizenship on one of three grounds. The revocation of citizenship based on any of the subsections of the law is not automatic but must be initiated by the Minister of Interior or on his behalf. First, if a person obtains his or her citizenship using false information it will be revoked. While in office as the Minister of Internal Affairs (1996–1999), Elyahu Suissa from the ultra-Orthodox party *Shas* used this clause to revoke citizenship from *Olim* whose Jewish origin or family ties to Jews were suspect. The second grounds for revocation of citizenship was continuous voluntary residence in a foreign country for more than seven years during which the person does not have a substantial relationship with Israel. This clause was annulled in 1980. Breach of loyalty was the third reason for citizenship revocation. That is, any person who carries out an act that constitutes as a breach of allegiance to the State of Israel may (in theory, at least) lose his or her citizenship.

Since allegiance is a subjective attitude and there was no clear definition of acts that constitute acts of disloyalty to the country, this third provision theoretically guarantees the authorities almost unlimited authority to denaturalise a citizen. Indeed, there have been numerous calls to use this clause to revoke the citizenship of terrorists, criminals, military traitors or even radical politicians. Since 1995, and in a higher rate since the September 11 attacks in New York City, Israeli politicians proposed no fewer than 34 amendments to the citizenship law in order to expand the grounds for the revocation of citizenship. Most of these bills were presented as measures to prevent and punish terrorism. Their main effect, however, was symbolic rather than practical: since its establishment, Israel has used this clause only three times: twice in 2002 and once in 2017. All three cases involved Arab citizens of Israel who were convicted of terrorism.

### 3. The current citizenship regime

Over the past two decades, students of immigration and citizenship have identified a policy convergence across Western Europe. In response to immigration – in particular, non-European immigration – numerous countries have de-ethnicised their regime, facilitating access to citizenship, permitting dual nationality where they did not before and even developing some qualified forms of *ius soli* (Weil 2001; Joppke 2003, 2005; Vink and Bauböck 2013; but see Koopmans et al. 2012). In another sign of changing times, numerous European countries have created programs that offer immigration visas or even citizenship on the basis of skills or an investment (Shachar 2017). In spite of its similarity to and ties with European countries in terms of economy and culture, Israel has not been part of this trend. The country's citizenship regime continues to be based on the principle of ethnic repatriation.

### 3.1. Consequences of the Law of Return

Apart from the ideological and symbolic meanings of Israel's Law of Return, special attention should be accorded to its profound demographic implications over the years. Israel's Jewish population increased from about 650,000 persons in 1948 to 6.6 million in 2018 (the Arab population grew from 160,000 to about 1.8 million). Massive Jewish immigration - made possible through the Law of Return - has been crucial in increasing the country's population and, no less important from a Zionist point of view, maintaining a Jewish demographic majority (Cohen 2002).

Between 1948 and 2016, Israel has received 3.2 million *Olim* (i.e. Jewish immigrants). *Aliyah*, or Jewish immigration, has been responsible for almost 40% of Israel's total population growth over that period (DellaPergola 2011). The demographic contribution of immigration played a particularly big role in the state's early years. In the first three years of Israel's existence (1948-1951), the population doubled thanks to the immigration of hundreds of thousands of Holocaust refugees from Europe as well as Jews who were forced to leave Arab countries such as Iraq and Yemen. Between 1948 and 1960 immigration was responsible for 65% of Israel's population growth, while natural increase (births minus deaths) was responsible for only 35% of growth. The demographic impact of immigration has diminished over time, as Israel's population grew in size relative to other Jewish communities. In the years 2009-2016, only 15% of Israel's population growth was a result of immigration and the rest is explained by natural increase (ICBS 2017a).

The table below shows the number of immigrants who arrived in Israel between 1948 and 2016 on the basis of the Law of Return, as well as the key origin countries for each time period.

**Table 1: Co-Ethnic Immigration (*Aliyah*) to Israel, 1948-2016**

Period	Immigrants	Immigration rate (per 1,000)	Leading origin countries
1948-1951	687,624	155.8	Romania, Poland, Iraq, Turkey, Yemen, Bulgaria, Libya, Iran, Tunisia, Egypt, Hungary, Czechoslovakia
1952-1959	272,446	18.6	Morocco, Poland, Romania
1960-1969	373,840	15.3	Morocco, Romania
1970-1979	346,260	10.5	Soviet Union
1980-1989	153,833	3.8	Soviet Union
1990-1999	956,319	17	Former Soviet Union, Ethiopia
2000-2009	268,277	2.1	Former Soviet Union
2010-2016	145,022	2.3	Former Soviet Union
Total	3,203,621		

Notes: The table refers to immigrants on the basis of the Law of Return (not including labour migrants, asylum seekers or other kinds of immigrants). Immigration rate refers to the number of immigrants per 1,000 residents in Israel. Leading origin countries have sent more than 3,000 immigrants per year in the relevant period.

Source: Israeli Central Bureau of Statistics.

While the Law of Return treats all Jews equally, mass immigration inevitably led to some inequalities based on country of origin and time of arrival. In the 1950s and early 1960s, many new immigrants were sent to settle in remote, thinly-populated (or depopulated) areas that the new state had acquired as a result of the war. The newly created ‘development towns’ were often created without a solid economic basis; many of them were - and still are - impoverished and depended on government support (Picard 2013). This policy of artificial, top-down population dispersal disproportionately impacted immigrants from Middle Eastern countries, and especially from Morocco; it is seen as being responsible for economic and social gaps in Israeli society today (Lewin-Epstein et al. 1997; Cohen, Haberfeld and Kristal 2007).

Over the decades, the nature of Jewish immigration to Israel has changed both in terms of origin countries and in terms of the immigrants’ human capital. Early immigrants were mostly refugees and displaced persons coming in from devastated communities in

Europe or the Middle East. They had on average low levels of education. After 1967, when the decisive victory in war removed some of the doubts about Israel's ability to survive in the Middle East, Jews from new origin countries began to arrive, including from the United States. The average level of education of immigrants also increased (Cohen 2002). The final massive wave of immigrants came in the years following the collapse of the Soviet Union in 1989 and involved the arrival of more than a million Russian-speaking immigrants.

Today, *Olim* to Israel are on average a highly-educated group, and up to half of them come from Western countries (Raijman 2009). In 2016, Israel received 26,000 *Olim*, with the leading origin countries being Russia (27% of immigrants), Ukraine (23%), France (17%) and the United States (11%). Seventy-nine percent of them had 13 years of education or more (among persons aged 25 or over) (ICBS 2017b). A sizable share of the *Olim* who have arrived in Israel in recent years - up to a third - are not Jewish by religion, but are eligible for immigration on the basis of family ties to or descent from Jews (ICBS 2017a).

### ***Arab Citizens of Israel***

Although symbolically and legally Israel was established as a Jewish state, it has a substantial Arab (or Palestinian-Arab) minority (Rouhana 1997). As mentioned above, the 1952 citizenship law granted Israeli citizenship to most of the Arabs who remained in the Israeli territory and created a mechanism through which their children will also be Israeli citizens (as long as one of the parents is an Israeli citizen). In the first Israeli population census in 1948, Arabs constituted 18% of the country's population. After 70 years of independence, this percentage has changed only slightly, and Arabs now form 21% of the Israeli population. Most Arab citizens of Israel are Muslim (84%), with smaller populations of Christians (8%) and Druze (8%).

As discussed above, the 1952 Citizenship Law conferred full citizenship status on the Palestinian Arabs who remained in Israel after the 1948 war. However, following the war, this group was perceived as a security threat and initially placed under military administration, which imposed severe restrictions on their freedom of movement (Lustick 1980; Kemp 1998). The military administration has been lifted in 1966 and since then, Israeli Arabs enjoy all civic, political and social rights *de jure*. Many scholars, however, have registered the unequal policies toward the Arab citizens which continue until today, referring to their legal, social, symbolic, cultural, and economic discrimination. Some studies describe these patterns as acute and deliberate and view them as a major flaw in Israeli democracy (e.g. Yiftachel 2006), while others argue that the degree of ethno-national disparities within Israel is not exceptional (e.g. Smooha 2002). In any case, the citizenship status of Palestinian Arab citizens of Israel has enabled them to conduct their political struggles within the framework of the law, through electoral politics and civil society activism (Peled 1992).

### ***Dual citizenship***

A remarkably large percentage of Israel's population holds dual nationality, resulting from a combination of high-volume immigration and permissive citizenship laws. The 1952 citizenship law explicitly permits the possession of more than one citizenship (Herzog 2010a). The toleration of dual citizenship is aimed at encouraging *Olim* to become Israeli by allowing them to keep their former nationality (Kalekin-Fishman 2007; Herzog 2010b). The situation is different for persons who naturalise in Israel according to section 5 of the 1952 citizenship law (naturalisation). Such persons – who may be labour migrants, family migrants

or permanent residents from East Jerusalem or the Golan Heights - must renounce their original citizenship in order to become Israeli.

Dual citizenship never became politically contentious in Israel, and there have never been any serious proposals in the Knesset to restrict it. On the other hand, there are several restrictions on dual citizens. First, the law prohibits dual citizenship with enemy countries. Second, dual citizens cannot serve as members of the Knesset or fill sensitive security positions. The requirement that persons who enter such positions renounce their non-Israeli citizenship seems to be meticulously enforced. For example, in 2015, five new Members of Knesset have had to give up citizenships from the UK, Argentina, Russia and the United States (Bender 2015). Third, dual citizens must enter Israel with their Israeli passport. One of the motivations behind the law is to prevent Israelis from using dual citizenship to evade military conscription which is obligatory for most young Israelis (Arab-Muslims and Arab-Christians are exempt).

In recent decades, the number of Israelis who hold dual citizenship has grown rapidly. Many dual citizens are first-generation or second-generation immigrants. The number of U.S. dual citizens in Israel has been estimated at close to 300,000, while the number of French dual citizens is about 100,000. The number of persons holding Russian dual citizenship probably exceeds 150,000 (Harpaz m.s.). Another pathway is long-distance acquisition of ancestry-based dual citizenship by the children and grandchildren of immigrants. Since around 2000, in the context of the consolidation and expansion of the EU, over 60,000 Israelis obtained citizenship from their European countries of origin - including Germany, Poland, Romania and Hungary (Harpaz 2013). Since 2015, some Israelis have acquired dual citizenship with Spain and Portugal, which now offer dual citizenship to descendants of Sephardic Jews who were exiled over 500 years ago. Today, the total number of EU dual citizens can be estimated at about 380,000. The majority of Israelis who acquire EU citizenship have no intention of emigrating and are mostly interested in an insurance policy and a 'European passport' that provides greater travel freedom. The total number of dual citizens in Israel (with all countries) can be estimated at between 800,000 and 900,000 - about 10% of the country's population (Harpaz 2013, 2018; Harpaz m.s.).

### ***Emigration***

Just as the cornerstone of Zionism is *Aliyah* - Jewish immigration to Israel - so is emigration from Israel anathema to Zionist ideals and values. Whereas *Aliyah* literally means ascent, the word for emigration - *Yeridah* - means descent. Traditionally, harsh condemnation was reserved for those Israelis who decided to find their fortune overseas (*yordim*), and they were considered as 'weaklings' and 'defectors'. In recent years, there is a much more relaxed attitude toward emigration (Cohen 2007). In some cases, emigration is described using the neutral term 'relocation'. This tolerant attitude may reflect a change of values in Israeli society and its becoming more individualistic. It also has to do with the fact that at this point, emigration is too small to pose a demographic threat. Over the past decade, about 16,000 Israelis have emigrated each year, while the number of *Olim* and returning Israelis hovers around 35,000 a year. The Central Bureau of Statistics estimates the total number of Israelis abroad at between 550,000 and 600,000, and the majority are presumed to live in the United States (Cohen 2011; ICBS 2017c).

Israeli citizenship policy does not make any special efforts to include the emigrant population: citizenship is transmitted *iure sanguinis* only to the first generation born abroad, and overseas voting is not allowed (Shachar 1998; Kenig and Pelsner 2016). Israel is

apparently reluctant to adopt diaspora-building citizenship policies of the kind practiced by many European countries, including Italy, France or Hungary and does not offer ‘external citizens’ (Bauböck 2009) voting rights. This is explained not only by the small influence of the Israeli diaspora and the lingering negative perceptions of it, but - even more importantly - by the well-established ties with the Jewish diaspora. Israel has traditionally been successful in harnessing the Jewish diaspora as a source of political and financial support without offering non-resident citizenship, and few policy makers consider straying from that policy. On the other hand, Israeli emigrants and their children have been targeted specifically by government campaigns that encourage immigration to Israel (*Aliyah*); due to their close ties to Israel and their knowledge of Hebrew, they are perceived as more likely candidates for *Aliyah* compared to other groups of diaspora Jews.

### **3.2. Special populations and special institutional arrangements**

#### ***Palestinians in West Bank and Gaza***

The 1967 Six Day War had significant impact on the demographic and territorial condition of the State of Israel. During the war, the Israeli army (IDF) seized extensive areas: the Sinai Peninsula and Gaza Strip from Egypt, the Golan Heights from Syria and the West Bank (including East Jerusalem) from Jordan. The status of each of these territories evolved differently, and accordingly, so did the citizenship status of its inhabitants.

Except for the annexation of East Jerusalem and the Golan Heights, which will be discussed in the next section, Israel made only hesitant moves towards the permanent integration of the new territories. The Sinai Peninsula was returned to Egypt in 1979 as part of the peace agreement between the two countries. Israel originally encouraged settlement in the Gaza Strip, but in 2005 Israeli military and civilians were withdrawn as part of a unilateral disengagement plan.

The most actively disputed territory is the West Bank, which from 1948 to 1967 was part of Jordan, which also granted citizenship to the area’s Arab residents (in 1988, Jordan declared its decision to disengage from the West Bank). Following the 1993 Oslo Accords, the West Bank was divided into three zones with different legal statuses: Area A is exclusively administered by the Palestinian Authority; Area B is administered jointly by the Palestinian Authority and Israel; and Area C - which is home to 400,000 Israeli settlers - is administered by Israel. Although the area has never been annexed to Israel, settlers in the West Bank hold full Israeli citizenship. West Bank Palestinians, meanwhile, have no status in Israel; they are nationals of the Palestinian Authority, an autonomous entity that many countries recognize as a state. Palestinians in Gaza are *de iure* nationals of the same Palestinian Authority, but *de facto* control is in the hands of the Islamist organisation Hamas.

#### ***Annexation without citizenship: Golan Heights and East Jerusalem***

Israel annexed two of the territories that it captured in 1967: the Golan Heights and the eastern part of Jerusalem (or East Jerusalem).

The Golan Heights, formerly part of Syria, were annexed in 1981 and legally became part of Israel. Upon annexation, Israel extended permanent resident status to the Druze population living in the area. This status provides them with all civil and social rights (including access to welfare and social security) but does not include the right to vote or to

carry an Israeli passport. While no other country recognizes the Golan as part of Israel, it is subject to Israeli law and about 20,000 Israeli Jews have settled there. For decades, the Druze population of the Golan Heights (about 21,000 persons today) has retained its ties to Syria and its Syrian citizenship. The Golan Druze may apply for Israeli citizenship through naturalisation. Traditionally, very few have done so for fear of being labelled as traitors to Syria. In recent years, however, there is evidence of growing - albeit still small - interest in Israeli citizenship. This no doubt has to do with the collapse of Syria, as well as the spread of more individualistic attitudes among the younger generation (Plachta 2017; Hashmonai 2017).

The status of Jerusalem is even more complicated. According to the UN partition plan from 1947, the holy city was to become *corpus separatum* - a separate political entity governed by the international community. Following the 1948 Arab-Israeli war, however, the city was divided *de facto* between Israel and Jordan. In June 1967, Israel took control of the eastern part of the city along with the rest of Jordanian-controlled West Bank. Two weeks after the war, the municipal borders of Israeli Jerusalem were extended to include the hitherto-Jordanian parts of the city, along with a number of nearby Palestinian-populated villages. The Palestinian-Arab residents of this newly-unified Jerusalem did not automatically become Israeli citizens; instead, they were granted permanent resident status.

This status is identical to that granted to the Golan Druze. It offers civil and social rights without voting rights or a passport. What makes the permanent resident status particularly problematic for Jerusalem Palestinians is that it is not secure: permanent residents who are away for more than 7 years or who take up another citizenship stand to lose their status. In fact, since 1967, 14,000 residents of Jerusalem have been stripped of their status in this manner (Hasson 2017; Shaham 2018). The Jordanian decision to disengage from the West Bank in 1988 altered the status of East Jerusalem Arab residents, causing most of them to lose their Jordanian citizenship and essentially become stateless (Ramon 2017).

East Jerusalem Palestinians may apply to be naturalised as Israeli citizens. Since 1967, however, relatively few of them have done so. This is explained not only by the difficulty of the naturalisation process - which requires knowledge of Hebrew and numerous documents - but mostly by a nationalist-inspired resistance to 'normalising' and accepting Israeli control of Jerusalem. The Oslo Accords in 1993 and the establishment of the Palestinian Authority in 1994 complicated their status even further as they were torn between three governmental authorities - Israel, Jordan and the Palestinian Authority (Ramon 2017). Since the mid-2000s, demand for Israeli citizenship has dramatically increased. By 2017, about 20,000 of the 300,000 Palestinian Arabs in Jerusalem have become Israeli citizens, and there is a long backlog of citizenship applications (Shaham 2018).

### ***Citizenship and Entry into Israel Law (Temporary Order)***

Between 1967 and 1990, approximately 22,000 Palestinians from the West Bank and Gaza Strip settled in Israel on the basis of family-based immigration (or 'family unification'). Until the early 2000s, the rules regarding family-based immigration the West Bank and the Gaza Strip were not different from those of other non-Jewish immigrants. Access to such immigration was restricted during the Second Intifada in 2000, and especially after a terrorist attack on April 2002 carried out by a Palestinian who had received Israeli citizenship in this framework. Consequently, the Interior Ministry ordered a freeze of family unification procedures for Palestinians from the West Bank and Gaza Strip. In 2003 the Knesset legislated the 'Citizenship and Entry into Israel Law (Temporary Order)', which prohibits the

granting of citizenship or permanent residency to Palestinians from the West Bank and Gaza Strip (Shapira 2018). The law, which was originally enacted for one year, is extended by the Knesset annually, and although several amendments have been made, it is still in the books today. Several human rights organisations and public figures argued that the law violates the right to family life and the right to equality of Arab citizens of Israel. In 2012, however, the Israeli Supreme Court rejected this standpoint and confirmed the constitutionality of the law (Peled 2014).

### ***Labour migration***

In the early 1990s, Israel began to receive labour migrants. Leading origin countries include the Philippines and Thailand, but numerous Asian, Latin American and Eastern European countries are represented. The reasons for Israel's acceptance of labour migration were largely twofold: security considerations arising from the first intifada and the dual structure of Israeli labour market (Bartram 1998; Raijman 2009). The Israeli labour market has been marked by duality for a long time, with Palestinian-Arab workers filling many of the low-skilled positions. These were first Israeli Arabs (Semyonov and Lewin-Epstein 1987) and then, increasingly, Palestinians workers from the West Bank and Gaza who commuted to Israel on a daily or weekly basis. Labour supply from the West Bank and Gaza, however, became increasingly unavailable during the first Palestinian Intifada in 1987. Initially, the state attempted to resolve labour shortages with Israeli citizens, but the state's effort to replace Palestinian workers with immigrants from the former Soviet Union turned out to be an utter failure.

Therefore, Israel compiled the 'Foreign Workers Law' (1991), and the recruitment of low-skilled and low-paid jobs began with Romanian workers who were employed in construction, Thai workers in agriculture, and later, Filipino workers (predominantly women) as caretakers for the elderly and disabled. Although the state has been attempting to regulate the recruitment of labour migrants and ensure that their stay in Israel is temporary, these migrants have gradually imposed their permanent presence in Israel's urban centers, notably in south Tel-Aviv (Keum 2017). According to Israel's citizenship regime, both legal and undocumented labour migrants have no clear pathway to Israeli citizenship.

Since the 1990s, the number of 'illegal' workers has steadily increased, as did the number of children who were born and raised in Israel to labour migrant parents (Kemp 2007; Elias and Kemp 2010). These Israeli-raised, Hebrew-speaking children are referred to as 'sabra-ghost' children (Willen 2005): *sabra* [prickly pear] is a slang term that denotes native Israelis, and the 'ghost' refers to their non-recognition by the state where they reside. In response to the increase of these children and civic activism against their deportation, the state formulated two 'one-time' naturalisation arrangements in 2005 and 2010, which legalised about 1,000 children. The schemes, which were presented as "Zionist and humanitarian", did not initiate an ideological shift or a new citizenship practice but reified state membership practices while simultaneously providing a humanitarian solution for the children approved by the schemes (Keum 2017).

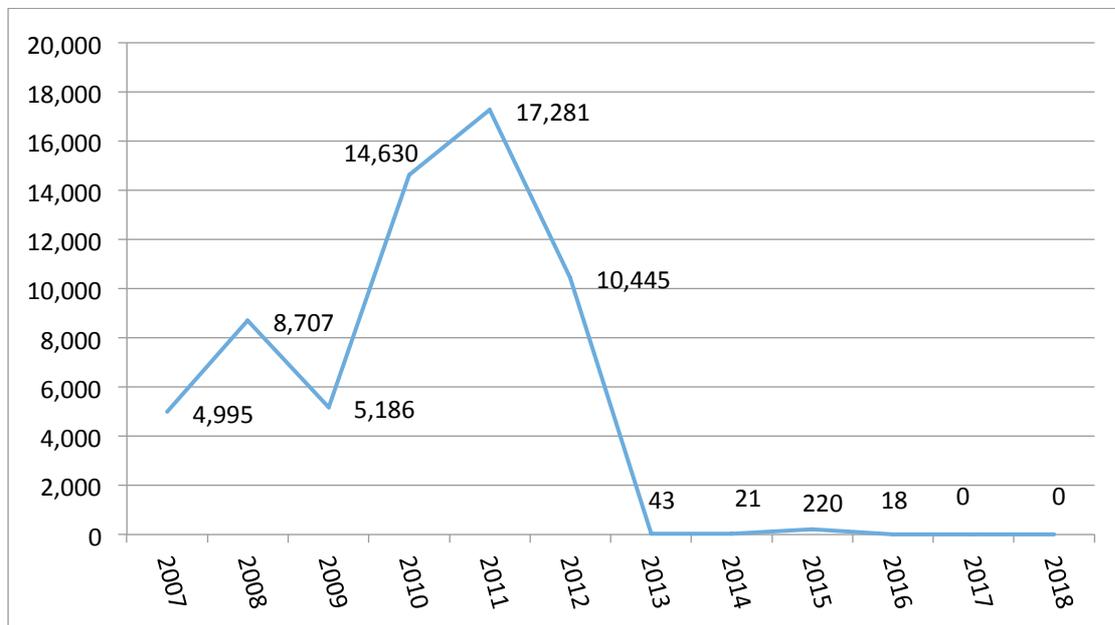
### ***Refugees and asylum seekers***

Israel has formally accepted groups of people identified as refugees on six special occasions: from Vietnam in 1977 and 1979, From Bosnia in 1993, from Kosovo in 1999, from Lebanon in 2000, and finally from Darfur in 2007 (Herzog 2009). Until 2006, several hundreds of

individual asylum seekers sought refuge in Israel and the phenomenon did not attract attention from politicians and the media.

The situation changed with the mass arrival of African asylum seekers, mostly Sudanese and Eritrean, through the Sinai desert. Most of these asylum seekers have entered the country between 2007 and 2012, and they now number about 40,000 persons. By 2012, a new fence has been erected along the Israeli-Egyptian border which effectively stopped undocumented immigration by land. While official government publications refer to them as *mistananim*, meaning infiltrators, we refer to them as asylum seekers because they have been granted protection from deportation and many have applied for asylum. Figure 1 below presents the number of such migrants who have entered Israel through the Egyptian border.

**Figure 1: Number of Asylum Seekers Entering Israel Through Egyptian Border, 2007-2018**



Source: Israeli Population and Immigration Authority

The government's overt aim vis-à-vis those East African migrants was to encourage the departure of those present in the country and discourage the arrival of new immigrants (Kritzman-Amir 2009). Among the measures taken by the state were: defining asylum seekers as 'infiltrators' which entitles the state to enforce a harsher legal treatment; a 'coordinated return' procedure to Sudan; detainment at the Holot camp; prohibiting work; restricting transfer of money abroad until the 'infiltrators' leave; attempts to reach resettlement agreements with third states (Ziegler 2015). The Israeli Supreme Court, sitting as a High Court of Justice, questioned the constitutionality of these measures under Israeli law. Israeli government policy regarding this population remains indecisive: on one hand, some officials claim that African asylum seekers are in fact illegal labour migrants, and therefore should not stay in Israel. On the other hand, Israel refrains from forcibly removing Eritreans and Sudanese to their respective states of origin, out of concern that such removal could expose the deportees to risks to their lives or freedom.

#### 4. Current political debates and reform plans

All of the issues described above are still debated in Israel. We will elaborate on five issues which are currently debated in the Israeli public, having to do with labour migrants, African asylum seekers, the Ethiopian Falashmura, conversion to Judaism and voting from abroad.

In a manner comparable to the ongoing debates in Europe regarding the status of documented and undocumented labour migration, Israel is far from reaching a final decision on the matter. The same uncertainty exists regarding the status of immigrants' families, the responsibility of the state towards them, and the arrangements for bringing new migrant workers. The recruitment of migrant workers on a large scale in the 1990s, a policy which is still in force today, challenges the traditional insistence on upholding a citizenship regime premised on co-ethnic immigration (*see* Kritzman-Amir 2009). Nevertheless, the relatively new phenomenon of African asylum seekers, has turned the attention of the Israeli public away from labour migration.

The presence of African asylum seekers - and, especially, their concentration in impoverished neighborhoods in south Tel-Aviv - has become a thorny issue in Israeli politics. For example, a survey on May 2012 found that more than half (52%) of surveyed Jews agreed with the statement of right wing politician Miri Regev that the unauthorised Africans living in Israel are a 'cancer' in the body of Israel (Israel Democracy Institute 2012). On the other hand, numerous politicians and civil society organisations try to protect the rights of African migrants. The state is constantly trying to find a solution (both for the migrants and for the neighborhoods in South Tel Aviv); however, it is not likely that the status of asylum seekers will be resolved soon.

Table 2 presents data on the number of labour migrants and asylum seekers, meaning immigrants who are not *Olim* and do not hold Israeli citizenship. These are stock data, i.e. the number of persons in each category who are present in the country in every given year, not flow data on annual entries and departures. While the public debate focuses on the deportation of African asylum seekers who enter Israel by land, Table 2 suggests that there is much larger ignored population of undocumented labour migration entering initially with a legal tourist or working visa. Most of them come from Former Soviet Union (FSU) and Asian countries and smaller numbers are from Latin America or Africa.

**Table 2: Stocks of Labour Migrants and Asylum Seekers, By Category 2010-2018**

	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>African Asylum Seekers</b>		54,497		52,961		43,186	40,274	37,288	36,630
<b>Legal Labour Migrants</b>	75,818	74,778	71,281	71,352	74,567	77,192	84,485	88,171	91,338
<b>Unauthorised Labour Migrants</b>	14,795	14,118	14,109	15,366	15,315	15,915	15,660	18,059	18,404
<b>Overstaying Tourists</b>		95,000		93,000		91,000	78,500	74,000	74,000

Source: Israeli Population and Immigration Authority

Another unresolved issue concerns *Aliyah* from Ethiopia. Israel has mounted *Aliyah* operations to bring Ethiopian Jews (*Beta Israel*) since 1979. This raised questions about the status of a group called Falashmura, which includes descendants of Ethiopian Jews who have converted to Christianity but kept some Jewish traditions. In 1992, a ministerial committee ruled that Falashmura are not eligible for Return. Nevertheless, Israel allowed Falashmura migrants who had already left their homes and were living in transitional camps in Addis Ababa to immigrate to Israel in the framework of the 'Entry into Israel Law'. Subsequent government decisions have allowed many more members of this community to immigrate to Israel and, upon arrival, undergo conversion to Judaism and acquire citizenship. It is estimated that more than 33,000 Falashmura had arrived in Israel between 1993 and 2013. These immigrants are not seen as naturalised citizens as they receive citizenship on the basis of the Law of Return, albeit only after conversion (Shapira 2018). Meanwhile, opposing voices argue that the Falashmura are not Jewish and claim that their absorption might lead to dire social and religious consequences.

The 1970 amendment to the Law of Return attempted to resolve the quandary over 'who is a Jew?' for immigration purposes and concluded that a Jew is a person who was born of a Jewish mother or converted to Judaism. However, it did not decide which kind of conversion is needed, or who may legitimately carry out conversion. The Israeli state gave monopoly over religious matters to the Rabbinate (the Israeli religious institution) which operates under Orthodox auspices. As a consequence, conversions performed by rabbis from non-Orthodox streams are disputed. This becomes especially problematic because Orthodox Jews form a small minority among American Jews, which are by far the largest diaspora community (out of approximately 14.5 million Jews around the world, 6.5 million live in Israel and about 5.7 million in the U.S.). Only 10% of American Jews belong to the Orthodox stream, compared with 35% who belong to the Reform stream and 18% who adhere to the Conservative stream (Pew 2015).

At present, the Orthodox monopoly on conversion in Israel generates a sense of exclusion among Jewish communities in the diaspora. One attempt to address this situation is a new law which is being formulated by the government, which stipulates the establishment of a new conversion authority that will be independent from the Chief Rabbinate. However, even with the new law, the Orthodox state monopoly over conversion will remain and it is unclear how it will affect non-Orthodox conversions in Israel or abroad (Sharon 2018). This debate within the Jewish world is still far from being resolved.

Another issue that is subject to periodic debate concerns voting from abroad. While a majority of the world's countries now permit overseas voting (Collyer 2014), Israeli citizens may only vote if they are in Israel on election day. In recent years, there have been several proposals to offer some voting rights to Israelis abroad, and Prime Minister Netanyahu has repeatedly expressed his support of such an initiative (Adamker 2016). In spite of the repeated discussions and diverse proposals, none of the proposed frameworks for overseas voting has come to fruition. Opponents of such proposals usually argue that easy access to Israeli citizenship and large numbers of potential citizens abroad (i.e. diaspora Jews) mean that overseas voting would permit non-residents to gain excessive influence over Israeli politics; moreover, it is often argued that overseas voting violates Zionist principles because it devalues the presence of Israelis in the national territory (Adamker 2016; Kenig and Pelsner 2016). Nonetheless, it is not inconceivable that the Knesset will eventually pass a bill that will offer some qualified voting rights to Israeli abroad.

## 5. Conclusions

This report surveyed the historical evolution of citizenship policy in Israel, its contemporary features and the current debates surrounding it. The emerging picture is a series of ad hoc solutions and compromises that produce a patchwork citizenship regime. While some comprehensive immigration reforms have been proposed – most notably by Avineri, Orgad and Rubinstein (2009) – none have been adopted to date. In order to understand this seeming anomaly, one must take into account that citizenship in Israel – in fact, Israel itself – is in a sense an incomplete project.

Israel's borders, both physical and symbolic, are disputed through and through. The vast majority of the world's countries do not even recognise Israel's control of its own designated capital. Even those few countries that acknowledge some parts of Jerusalem as Israeli do not accept Israel's sovereignty in the territories that it has annexed and/or used for settlements in East Jerusalem, the Golan Heights and the West Bank. Furthermore, over 30 countries do not recognise Israel as a legitimate nation at all, in any borders. Most of the world's countries adhere to the position that they will recognise Israel's final borders only after it reaches an agreement with the Palestinians. The discussions concerning the resolution of the situation in Israel/Palestine raise difficulties and dilemmas that touch at the very core of Israeli citizenship and nationality.

Different international and national actors advocate different scenarios for resolving the Arab-Israeli or Palestinian-Israeli conflict. The most widely accepted scenario is the establishment of a Palestinian state in the West Bank and the Gaza Strip. This would require Israel and the Palestinian state to reach agreements on their final borders, the status of Jerusalem, the future of Israeli settlers and the question of Palestinian refugees and their descendants (*see* Gans 2004). Meanwhile, some right wing Israeli politicians advocate the annexation of large parts of the West Bank while granting resident or citizen status to the Palestinians living in the annexed territories. Finally, some political movements call for a return to one state in Israel/Palestine that would be shared by both nations. Often, they envision some kind of federation or a complex system of autonomous cantons.

It is obvious that each of these scenarios (and others that we did not mention here) would entail a radically different social and political reality in Israel. Each would involve divergent ways of defining the citizenry and different sets of citizenship rules and practices. This helps explain the sense that Israel's citizenship regime is still 'up in the air', which leads legislators to prefer ad hoc solutions to most problems that arise. Israel, at 70, has not yet resolved fundamental questions regarding its borders and its citizenry. Only when these core national dilemmas have been given a conclusive answer can we expect to see Israel's citizenship policy moving towards convergence with European and Western countries.

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