

DUAL CITIZENSHIP AMONG DIASPORA COMMUNITIES. SOCIAL TIES OR ECONOMIC AND POLITICAL RESOURCES?

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Abstract

The new measures that States set up with regard to expatriates and diaspora communities have considerably strengthened the extraterritorial dimension of citizenship. Expatriates have long been transformative actors in their countries of origin: they foment atypical citizenship-granting practices and create renewed identities at home. Moreover, while diasporic States use the rhetoric of engaging the global nation, their policies often target specific populations abroad. Does it depend on what these populations can offer the home State? This also raises the question of how relevant diaspora politics, extraterritorial voting and the extension of citizenship rights beyond the borders of nation-states actually are, and how they can contribute to the ongoing transformation of national citizenship.

Concerning the methodology, this paper will start by analysing the Italian case as an example of atypical granting of citizenship to many emigrants with particular connotations compared to other European countries. In fact, Italy permits natives who settled abroad, as well as persons who were once Italian citizens, residing in the territories that were part of the Italian territory subsequently ceded to the Republic of Yugoslavia, to regain Italian citizenship under certain conditions and, in general, if they are able to attest that none of their direct ancestors unequivocally renounced it. Moving East, this paper will then examine the case of Israel, principally anchored to its Law of Return, which dates back to the period of the idea of exclusive and territorial citizenship, and which still seems to bear witness to a religious heritage. Russian extraterritorial naturalization will conclude the macro-comparison as a way of “creating” new Russian citizens through compulsory “passportization”, which could be an instrument of ambiguous extraterritorial governance. For each of the above-mentioned countries, the paper will examine the normative bases, rules and basic principles, as well as the provisions enacted regulating the granting of citizenship to expatriates. The results will also be interpreted considering the differences in citizenship-granting policies between diaspora communities and other instances.

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Résumé

Les nouvelles mesures mises en place par les États à l'égard des expatriés et des diasporas ont considérablement renforcé la dimension extraterritoriale de la citoyenneté. Les expatriés sont depuis longtemps des acteurs de transformation dans leur pays d'origine : ils fomentent des pratiques atypiques d'octroi de la citoyenneté et créent des identités renouvelées dans leur pays d'origine. En outre, alors que les États diasporiques utilisent la rhétorique de l'engagement de la Nation mondiale, leurs politiques ciblent souvent des populations spécifiques à l'étranger. Cela dépend-il de ce que ces populations peuvent offrir à l'État d'origine ? Cela soulève également la question de la pertinence des politiques de diaspora, du vote extraterritorial et de l'extension des droits de citoyenneté au-delà des frontières des États-nations, et de la manière dont ils peuvent contribuer à la transformation en cours de la citoyenneté nationale.

En ce qui concerne la méthodologie, ce document commencera par analyser le cas de l'Italie en tant qu'exemple d'octroi atypique de la citoyenneté à de nombreux émigrants, avec des connotations particulières par rapport à d'autres pays européens. En fait, l'Italie permet aux autochtones qui se sont installés à l'étranger, ainsi qu'aux personnes qui étaient autrefois des citoyens italiens, résidant dans les territoires qui faisaient partie du territoire italien cédé par la suite à la République de Yougoslavie, de recouvrer la citoyenneté italienne sous certaines conditions et, en général, s'ils sont en mesure d'attester qu'aucun de leurs ancêtres directs n'y a renoncé de manière non équivoque. En se déplaçant vers l'Est, ce document examinera ensuite le cas d'Israël, principalement ancré dans sa loi du retour, qui remonte à l'époque de l'idée de citoyenneté exclusive et territoriale, et qui semble encore témoigner d'un héritage religieux. La naturalisation extraterritoriale russe conclura la macro-comparaison en tant que moyen de « créer » de nouveaux citoyens russes par le biais de la « passportisation » obligatoire, qui pourrait être un instrument de gouvernance extraterritoriale ambigu. Pour chacun des pays susmentionnés, le document examinera les bases normatives, les règles et les principes fondamentaux, ainsi que les dispositions adoptées pour réglementer l'octroi de la citoyenneté aux expatriés. Les résultats seront également interprétés en tenant compte des différences dans les politiques d'octroi de la citoyenneté entre les communautés de la diaspora et d'autres instances.

Mots-clés : Diaspora ; double citoyenneté ; droits de l'homme ; transnationalisme ; liens du sang.

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Introduction

For most of the twentieth century, citizenship represented the tight and *exclusive* bond between an individual and its State. Dual citizenship after birth was suppressed from the late nineteenth through the middle of the twentieth century. In fact, *loyalty* played a leading role in the historical discourse against dual citizenship. Indeed, using the common analogy of bigamy, dual citizenship was considered an abomination because one could not serve two masters.¹ Since the last decade of the century, the criterion of exclusive citizenship has been abandoned and dozens of countries encouraged the achievement of *dual* citizenship.² Nowadays, the loyalty objection to dual citizenship is inconsistent and the legitimation of multiple citizenship has become the norm. As a result, the broadening acceptance of dual citizenship is creating new realities on the ground, reshaping trends in international migration, global security, ethnic relations and political participation. Some scholars have analyzed the causes that are driving this global shift, especially the legal and political dynamics behind tolerant naturalization strategy changes. The consequences of this attitude, however, remain understudied and undertheorized. The fundamental question that the present analysis aims to answer

¹ Peter J Spiro, *Citizenship. What Everyone Needs to Know* (Oxford: Oxford University Press, 2020) at 92—99. The author, in these pages, explains how one gets dual citizenship after birth and why States did not allow it. For an analysis of the mechanisms and history of dual citizenship, see Chapter 4.

² Yossi Harpaz, *Citizenship 2.0: Dual Nationality as a Global Asset* (Princeton and Oxford: Princeton University Press, 2019) at 1—3.

is: what does the sense of belonging and identity mean in the age of flexible, overlapping, and non-territorial citizenship?

The States' attitude towards dual citizenship changed with the liberalization of trade and the transformation of the conception of the global economy, along with a parallel shift in the self-concept of diaspora States. In the 1980s and 1990s, emigrants from developing countries were seen not as having abandoned their homeland, but rather as representing a crucial economic resource.³ Part of this change derived from the massive flows of migrants, which in many cases represented the largest source of foreign exchange for developing States.⁴ Prosperous compared to their compatriots at home, migrants supported not only family members, but also entire communities of origin. Faced with these changes, governments in countries of origin began to consider dual citizenship as a strategy to consolidate ties with emigrant communities, both for economic and cultural purposes. In fact, starting in the early 1990s, States of origin of immigrants began to repeal laws that ended citizenship in the case of naturalization elsewhere.

Analyzing the rise of dual citizenship through the prism of diaspora politics, a crucial but overlooked aspect comes into sharp relief related to the consequence of this change: the creation of new opportunities for people around the world to obtain a second *premium* citizenship.⁵

At one end of the spectrum, fifteen Member States of the European Union now tolerate dual citizenship for foreign nationals obtaining their citizenship or for citizens acquiring citizenship of a foreign country,⁶ while others, by removing residence requirements, have managed to enlarge the size of the homeland's people in transborder areas, such as Italy. Therefore, positive incentives emerged: dual citizenship has turned into a tool for cementing ties with powerful diasporas.

³ Spiro, *supra* note 1 at 104.

⁴ *Ibid.*

⁵ Harpaz, *supra* note 2 at 1—3.

⁶ They include Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Greece, Hungary, Italy, Luxembourg, Malta, Poland, Portugal, Romania, and Sweden. See the GLOBALCIT Global Database on Modes of Acquisition of Citizenship, online: <<https://globalcit.eu/modes-acquisition-citizenship/>> (last visited 26 November 2023). See also Hannah M. Alarian, Sara Wallace Goodman, "Dual Citizenship Allowance and Migration Flow: An Origin Story" (2017) 50:1 Comp Polit Stud 133 DOI <10.1177/0010414015626443>.

At the other end, some countries expand territorially through external dual citizenship: a recent case is Russia's use of dual citizenship to justify its invasion of Georgia first, and then of Ukraine. Already since 2017, Putin has been trying to concentrate increasingly more individuals around the *russkij mir* (Russian world) with measures to promote the Russian nationality, leaving aside minority voices in the stubbornly contrary direction.⁷ The targets of these policies are precisely those who believe to be – above all – former Soviet citizens and not exclusively Ukrainian.

In between these two poles, States can regulate dual citizenship, generating atypical citizenship-granting practices and creating renewed identities at home. Here is situated Israel, which is trying to avoid breaking the link – a solid bond apparently founded on cultural-historical and above all religious roots – with diasporic Jews.

Part 1. Italian Acrobatics to Establish the Ethnocultural Conception of National Identity

A particular new trend observed by dual citizenship research is the mass granting of citizenship to nationally and ethnically connected minority populations residing abroad, of which Italy is an exemplary case.

In 1963, Italy signed the European Convention on the Reduction of Cases of Multiple Nationality. In theory, this treaty rejects multiple nationalities, insists on the loss of previous nationality in the event of acquiring the nationality of another convention member State, and prohibits signatory States from authorizing the retention of nationality.⁸ However, like other signatory States, Italy has never actually implemented the 1963 Convention.

The debate on dual citizenship in Italy was and still is determined by the dominant theme of migration. In fact, in just a few decades, the peninsula turned from one of the main emigration countries, especially to the American continent, to a land of immigrants. Therefore, Italy became a nation of immigrants, after having been the European country with the highest number of emigrants

⁷ Mauro De Bonis, "La saga dei 'piedi rossi'", *Limes* (13 December 2021) at 215—22.

⁸ See *Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality*, 6 May 1963, ETS No. 043, entered into force 28 March 1968.

for over a century, at least until 1973, when, for the first time, the number of immigrants arriving in Italy exceeded the number of emigrants leaving.⁹ Since the post-unification years, in Italy, the migratory issue was addressed by allowing millions of emigrants to maintain a link with the motherland. Indeed, it is estimated that, in about a century of history, more than 27 million citizens left Italy.¹⁰ Considering that period, the first rules adopted to regulate the acquisition, loss and re-acquisition of citizenship were contained in the Civil Code of 1865 (arts 4—15).¹¹ However, this discipline immediately demonstrated incapable of providing a solution to the issue of emigration.¹² Since the early twentieth century, there has been a perceived need to address the migration issue so that millions of emigrants could maintain a bond with their homeland. To this purpose, precisely at the peak of Italian emigration from the peninsula, the legislator approved Law No. 555/1912, which facilitated the possibility for expatriates to maintain and re-acquire citizenship (arts 7—9, 15—16).¹³ The result was a “re-ethnicization”¹⁴ of emigrants and their descendants, as if there were no limit to the hereditary “transmission” of citizenship *iure sanguinis*.

Later, the problem of Italians abroad emerged again after the Second World War, which saw a large part of Italians in the areas that had been “lost in war”.¹⁵ Therefore, Italy had to welcome Italians who had escaped or been expelled from Istria (today Slovenia and Croatia). Then, in the 1960s, there was another migratory flow from the former Italian colonies; afterward, Italy made a U-turn when the Republic began to welcome a considerable number of immigrants from other continent. So, it became necessary to adapt and update the legislation, especially by providing the possibility of

⁹ Giammaria Milani, “Cittadinanza e integrazione. L’influenza del diritto comparato sulla disciplina italiana e sulle proposte di riforma” (2018) 4 *federalismi.it* 1 at 3.

¹⁰ Luca Einaudi, *Le politiche dell’immigrazione in Italia dall’Unità a oggi* (Rome and Bari: Laterza, 2007) at 52.

¹¹ *Il codice civile del Regno d’Italia*, 1865, was the first civil code of the Kingdom of Italy, promulgated by royal decree on 25 June 1865. It replaced the laws and civil codes that were in force independently and separately in the pre-unitary Italian states.

¹² Rolando Quadri, *Cittadinanza* (Torino: Novissimo Digesto Italiano, 1959). The author states that the essence of citizenship is “*inafferrabile nei suoi caratteri fondamentali*” (“elusive in its fundamental characters” [translated by the author]).

¹³ Law No. 555 of 13 June 1912, *Sulla cittadinanza italiana*, entered into force 1 July 1912 (Official Gazette No. 153, 30 May 1912) and which was repealed by art 26(1), Law No. 91 of 5 February 1992.

¹⁴ Costanza Margiotta, “Cittadinanza” in Corrado Caruso & Chiara Valentini, eds, *Grammatica del costituzionalismo* (Bologna: il Mulino, 2021) 239 at 245.

¹⁵ Günther Pallaver & Guido Denicolò, “Dual Citizenship in Italy: An Ambivalent and Contradictory Issue” in Rainer Bauböck, Max Haller, eds, *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Vienna: Austrian Academy of Sciences Press, 2021) 183 at 183.

granting citizenship to foreigners. More concretely, this passage was characterized by a process of “de-ethnicization”¹⁶ in relation to the stable presence of immigrants on the territory, which has allowed the introduction, alongside the *ius sanguinis*, of the criterion based on the acquisition of nationality by birth on the territory, *ius soli*, and residence, *ius domicilii*.

Subsequently, Italian nationality law has evolved for the second time with the entry into force of the second and current nationality Law No. 91/1992.¹⁷ The law, titled *nuove norme sulla cittadinanza* (“new norms on nationality”), which replaced the law on Italian citizenship of 1912, tolerates the possession of dual citizenship, while encouraging the granting of Italian nationality to the descendants of Italians who emigrated abroad. Despite the fact that this evolution brought about the need to adapt and update citizenship legislation, the underlying logic seems to have remained unchanged from the law dated 80 years earlier.¹⁸ In fact, the law of 1992 was supposed to adapt the legislation of the monarchical era to constitutional values, thus to the new and changed constitutional framework, and then to the socio-demographic reality of Italy in the 1990s. However, there remains a pervasive acquisition of citizenship *iure sanguinis*, and so, based exclusively on descent and blood transmission, that can continue from generation to generation¹⁹ regardless of whether the person acquiring citizenship maintains an effective link with Italian territory. In addition, the ‘92 legislator confirmed a marginal use of *ius soli*, which is still limited to residual cases.²⁰ However, it introduced two important news; namely, an individual born abroad could obtain a foreign nationality *iure soli* without losing his or her Italian one, nevertheless could renounce the latter after the age of eighteen. In addition, an Italian female citizen who married a foreigner no longer loses her nationality.²¹

¹⁶ Margiotta, *supra* note 14 at 245.

¹⁷ Law No. 91 of 5 February 1992, *Nuove norme sulla cittadinanza*, entered into force 16 August 1992 (Official Gazette No. 38, 15 February 1992). The decrees of the President of the Republic DPR No. 572 (12 October 1993) and DPR No. 362 (18 April 1994) regulate the implementation of the law.

¹⁸ Milani, *supra* note 9 at 3.

¹⁹ Law No. 91/1992, arts 1, 13.

²⁰ The only cases in which Italian nationality is acquired *iure soli* are contained in Law No. 91/1992, art 1, para 1, letter b) and para 2; art 4, para 2.

²¹ The previous regulations treated the status of married women differently from that of men, see Law No. 555/1912, arts 10—11.

Despite its primary hostility towards dual citizenship, the State wanted to maintain relations with the massive diasporic Italians. The inclusion of Italians abroad as citizens from generation to generation is entirely compatible with an ethno-cultural notion of national identity. The common association with the cultural nation is symbolized by the principle of *ius sanguinis*, through which Italians continue to hold a bond with their nation also from outside. Italy has always made this criterion prevail in its law that allowed dual citizenship just for maintaining contacts with the diasporic Italians, who acquire Italian nationality based on paternal ancestry regardless of place of birth.

The uniqueness of the Italian case, therefore, lies in the category of so-called *italiani oriundi*, namely people of Italian descent living permanently overseas — most of them in Brazil and Argentina — who are granted the possibility of regaining Italian citizenship if they are able to attest that none of their direct ancestors explicitly refused it.²² This suggests that posterities of Italian citizens who, for generations, have never been interested in Italian citizenship can apply, once come of age, for its recognition since they actually never lost it.

Furthermore, there is a second group of residents outside the Italian peninsula for whom Italy stimulates the regaining of citizenship. This group is embodied by ethnic Italians in the neighboring territories of Slovenia and Croatia, which were lost after the Second World War. Despite this, compared to *italiani oriundi*, the latter group needs to establish a certain familiarity with Italian culture and language.²³ In particular, a decisive opening towards dual citizenship for Yugoslav citizens of Italian nationality originated due to the entry into force of Law No. 124 of 8 March 2006, which added arts. 17-*bis* and 17-*ter* to the 1992 Italian Nationality Law. Indeed, Italy was interested in guaranteeing naturalization to prior citizens of the Habsburg Empire and their descendants who were born and resident in the territories now belonging to Italy or in the former Italian territories,²⁴

²² Pallaver & Denicolò *supra* note 15 at 191—93.

²³ Law No. 91/1992, arts 17-*bis*, 17-*ter*, para 3, letter c).

²⁴ *Ibid* art 17-*bis*, letter b).

and later ceded to Yugoslavia²⁵ and who had emigrated before 16 July 1920. Excluded from the possibility of acquiring Italian citizenship, on the other hand, are those who emigrated to the territory of the current Republic of Austria before the aforementioned deadline. As can be observed, there is no obvious ethnic connection for the group of people covered by this provision. Looking closer, it can be detected that the norm refers totally to birth and residence in a certain territory and to emigration before a historical reference date.²⁶ Whereas, as regards their descendants, they must, *in primis*, attest the direct descent relationship between the applicant and the parent or ascendant; then evidence the Italian citizenship of the applicant's parent or of his ascendant and his residence in the territories mentioned; finally, prove the requirement of Italian language and culture.²⁷ Therefore, they need to exhibit an explicit link with a linguistic-cultural condition, demonstrating the current characteristics of their *italianità*.²⁸

The last category addressed in this paragraph are non-Italian immigrants, whose numbers have grown substantially since the 1990s. Even if dual citizenship is tolerated in residence-based naturalizations, these are relatively rare. Parliamentary initiatives to introduce moderate forms of *ius soli* and *ius culturae* or *ius scholae* (naturalization based on years of scholarization and general education in Italy)²⁹ for second generations have so far been unsuccessful and stalled in the Senate of the Republic.³⁰

²⁵ After the 1947 Peace Treaty and 1975 Treaty of Osimo.

²⁶ Law No. 91/1992, art 17-ter, paras 1—2.

²⁷ Law No. 91/1992, art 17-ter, para 3.

²⁸ Meaning “Italian-ness”, *italianità* indicates the belonging to the Italian civilization, history, culture, and language, especially the consciousness of this belonging. Mirko Tremaglia was considered the representative of the “italianità” (see Statement of Minister Terzi during the Commemoration Ceremony of Mirko Tremaglia (31 January 2012), Italian Ministry of Foreign Affairs and International Cooperation, Rome, online:

<https://www.esteri.it/it/sala_stampa/archivionotizie/interventi/2012/01/20120131_comtrem/>). Tremaglia was the Minister for Italians in the world, who cared about the “cultural-historical” dimension of Italians, so much so that he cultivated with great zeal the memory especially of the sacrifices that Italians had to face in order to establish themselves. The memory of the events that saw the rooting of Italian communities in so many countries, keeping the link with the country of origin, in Tremaglia's eyes was fundamental to strengthen the sense of identity and civic consciousness of the Italians themselves in their homeland.

²⁹ Bill No. 2092 of 2015, XVII Legislature. Also during the XVIII Legislature, the parliamentary debate was enriched with various hypotheses and perspectives along a plurality of bills on *ius culturae*: Bill Boldrini and others (105), Bill Polverini (717), Bill Orfini (920) and Bill Ungaro, Migliore (3511).

³⁰ Refer to the studies conducted by Daniele Porena on this matter. See in particular, Daniele Porena, “Temi e problemi della cittadinanza nazionale. Evoluzioni della normativa sull'acquisto dello *status civitatis* e dibattito istituzionale sulle ipotesi di revisione” in Angela Di Stasi, Maria Caterina Baruffi & Lina Panella, eds, *Cittadinanza europea e cittadinanza nazionale. Sviluppi normativi e approdi giurisprudenziali* (Napoli: Editoriale Scientifica, 2023) 67; Daniele Porena, “Le buone ragioni dello *ius culturae*.”

For the aforementioned cases, the Italian debate on dual citizenship is thus dealing with three categories of person: Italians who have emigrated, Italians in “lost territories”, and non-Italians second-generation migrants. The latter are the descendants of immigrants born and raised on the territory of the Italian Republic, who still find it difficult to see their rights recognized equally to other Italians. In summary, Italian naturalization policies are characterized by openness towards the Italians overseas, the first two categories, but closure towards foreigners, the last category analyzed. The result is that Italy today refers to a law with an anachronistic soul because it is built on an *exclusive* concept of nationality, which contrasts with the widespread trends in the relevant European legislations. In fact, any foreign individual wishing to acquire Italian citizenship is subject to considerably stricter regulations operated by Law No. 132 of 1 December 2018³¹ that introduced art. 9.1 within Law No. 91/1992. In fact, it subordinates naturalization to the achievement of an adequate knowledge of the Italian language, not less than the high B1 level of the Common European Framework of Reference for Languages (CEFR). Furthermore, it provides for the raising of costs to €250 for the purposes of acquiring, reacquiring, renouncing, or granting Italian citizenship in the case of naturalized persons by marriage (art 5) and after years of legal residency on the Italian territory (art 9).

It can be said that there has always been, since it belongs to an Italian cultural inheritance, a consensus among the Italian political parties who, albeit with different motivations, cultivate the myth of *L’Altra Italia*,³² i.e. the other Italy outside the borders of the State. Indeed, Italy denounced Chapter I of the 1963 Convention³³ and adopted a series of regulations granting citizenship to individuals with clear emphasis on their *italianità*. It appears relevant to underline that without the option of dual citizenship, it would have been difficult for the Italian Republic to encourage foreign Italians to apply

note a margine dell’ennesimo tentativo di revisione della legge sulla cittadinanza” (2020) 4 Rivista AIC 228; Daniele Porena, “Il travagliato iter della proposta di riforma della legge sulla cittadinanza. Brevi osservazioni sui contenuti del Disegno di legge n. 2092” (2017) 21 federalismi.it 1.

³¹ Conversion into law, with amendments, of Decree-Law No. 113 of 4 October 2018.

³² Pallaver & Denicolò, *supra* note 15 at 190.

³³ See Circular of the Ministry of the Interior No. 14232 of 28 October 2009 [Circular 2009] with effects from 4 June 2010.

for its citizenship if they had to renounce the other one. It is interesting to observe that the promotion of dual citizenship for these Italians sets Italy in a discordant position when opposing the possibility for Austria to grant Austrian citizenship to German-speakers from Italian South Tyrol.³⁴ Moreover, the possibility to apply for Italian citizenship for foreigners residing in the “lost territories” of the former Yugoslavia was presented unilaterally by the Italian Republic without first consulting the governments of Croatia and Slovenia. The result has been diplomatic displeasure from the two countries, accusing Italy of a new “imperialism”³⁵ aimed at reconquering its lost territories.

Part 2. The *Aliyah* in Israel: How not to Break an Indispensable Connection

Moving to the Middle East, nowadays, the State of Israel embodies an exceptional case to be analyzed. In fact, the construction of the Jewish identity is ensured in granting citizenship perhaps less focused on a nationalistic concern and more focused on “familism as a component of peoplehood”.³⁶ Indeed, most Israelis understand their family’s immigration to Israel not just as a geographical transition but also as an existential revolution: from the humiliated and miserable life in the diaspora to proud and independent life in Israel.³⁷

Seventy-five years after its birth, five after its self-certification as the State of the Jewish people through a majority vote in parliament, it seems useful to reflect on how this Zionist creature is still perceived as a refuge for Jews,³⁸ erected on the belief of an eternal bond between Jews, as if it were a “state *after* exile”.³⁹ In the Zionist conception, the State of Israel was supposed to provide the ultimate “insurance policy” to guarantee the survival of Jews; the unique place where they do not

³⁴ Rainer Bauböck & Max Haller, ‘Preface’ in Rainer Bauböck & Max Haller, eds, *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Vienna: Austrian Academy of Sciences Press, 2021) 13 at 13—15.

³⁵ Pallaver & Denicolò, *supra* note 15 at 195.

³⁶ Erica Brown & Misha Galperin, *The Case for Jewish Peoplehood: Can We Be One?* (Woodstock, Vermont: Jewish Lights Publishing, 2009) at 144.

³⁷ Harpaz, *supra* note 2 at 113.

³⁸ For further analysis, see e.g. Arie Dubnov & Itamar Ben Ami, “Did Zionist Leaders Actually Aspire Toward a Jewish State?”, *Haaretz* (1 June 2019), online: <<https://www.haaretz.com/israel-news/2019-06-01/ty-article-magazine/.premium/did-zionist-leaders-actually-aspire-toward-a-jewish-state/0000017f-da82-d718-a5ff-fa8680cf0000>>. See also Dmitry Shumsky, *Beyond the Nation-State: The Zionist Political Imagination from Pinsker to Ben-Gurion* (New Haven and London: Yale University Press, 2018).

³⁹ This locution was inspired by the study of the French sociologist Danny Trom, *L’État de l’exil. Israël, les juifs, l’Europe* (Paris: Presses Universitaires de France, 2003) at 9.

need to secure a “route of escape”.⁴⁰ Indeed, it could be assumed that we are faced with a binary Jewish project. In the international system, it invokes the right to self-determination of a people that wants to be a nation, the *State of the Jews*. Instead, internally, it provides shelter for the persecuted, starting with survivors of extermination camps. This is the *State for Jews*, considered a refuge of last instance.

The Jewish diaspora — *təfūšā* — in this case seems to be contrasted by what might be defined as a “centripetal vocation” towards the Land of Israel — *Eretz Yisrael* — i.e. the creation of a movement waiting for the last Jew to create a Jewish entity. Today, the biggest diaspora communities exist in the United States, France, Canada, the UK and Russia. This sort of “Herzlian territorialism”, or “Jewish territorialism”⁴¹ seems to have led to the creation of a permanent *Provisorium*,⁴² the fluidity of which accommodates diverse Jews and remains open to diasporics.

The Jewish State born from this Jewish mission seems therefore to promote Jewish cultural heritage and its values,⁴³ 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 traditions, which have been maintained even in the oversea diaspora *n'importe où* (everywhere).⁴⁴ 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.

For this reason, against the *Diaspora Jewry*,⁴⁵ which is the collective name for the Jewish communities outside of the Land of Israel that goes back to historical events like the Babylonian

⁴⁰ Harpaz, *supra* note 2 at 118.

⁴¹ Laura Almagor, “Jewish Territorialism (in Relation to Jewish Studies)” (2023) Oxford Bibliographies in Jewish Studies <DOI: 10.1093/OBO/9780199840731-0159>.

⁴² Trom, *supra* note 39 at 271—72. Trom compares the State of Israel in a precarious balance to that child on a bicycle who, the moment he wonders how he can balance himself, stops riding, gets scared and falls down. Perhaps the child foresees it, avoids thinking, and keeps riding.

⁴³ 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* (Liverpool: Jewish Law Association VIII, 2011) 285 at 294.

⁴⁴ Raphael Patai, ed, *The Complete Diaries of Theodor Herzl* (New York: Herzl Press, 1960) at 1547—48.

⁴⁵ Reuven Rivlin, who served as the tenth President of Israel between 2014 and 2021, referred to the Diaspora Jewry as the “fifth tribe”. See Rick Jacobs, “President Rivlin Outlined Israel’s ‘Four Tribes’, and Embraced a Fifth: Diaspora Jews”, *Haaretz* (1 July 2021), online: <<https://www.haaretz.com/opinion/2021-07-01/ty-article-opinion/.highlight/president-rivlin-outlined-israels-four-tribes-and-embraced-a-fifth-diaspora-jews/0000017f-e86a-df2c-a1ff-fe7b21420000>>.

exile, the State of Israel established the law of return — *hok ha-shvūt* — in order to restore and renew their perceived ancestral community. In fact, this law grants every Jew the possibility of *aliyah*,⁴⁶ the right to return and acquire citizenship and, in parallel, also facilities to settle in the State of Israel. The Law of Return preserves the difference between Israelis and diaspora Jews. The latter category could easily become Israeli but must still be naturalized through immigration.⁴⁷

Previously, there was a belief that it was up to God to decide on the return of his elects to the *Holy Land*, hence, by the thirteenth century, many Jews started to return to the Land of Israel and rebuild their lives here. In fact, *aliyah* gradually became a common pattern of behavior among Jews, particularly in Western lands. Already at the beginning of the fourteen century, groups of Jews settled in Jerusalem and elsewhere in the Land of Israel, since returning there became an obligatory precept for future generations. Subsequently,⁴⁸ the intensive *aliyah* turned into an actual religious demand in different eras and in several places since there was a perceived need to settle in the “Promised Land”.⁴⁹ Hence, the Land of Israel began to welcome tens of thousands of Jews into its protective womb, culminating with the creation of the State of Israel after the 1948 Palestine war, referred to by Israelis as the War of Independence, and *Nakba* or “catastrophe” by Palestinians.⁵⁰

Today, any possible messianic connotations accruing to *aliyah* have been eliminated. In fact, Law No. 5710-1950, namely the Law of Return,⁵¹ fixes this right of *aliyah*. According to Law 5712-1952, the Nationality Law, every Jew in the world has the unlimited and unconditional right to

⁴⁶ The term originates from עלייה לרגל, *Aliyah laRegbel* meaning “pilgrimage”, due to the climb to arrive in Jerusalem during the three pilgrimages prescribed for the festivals of Pesach, Shavuot and Sukkot. Consequently, it indicates Jewish immigration to the land of Israel.

⁴⁷ Yossi Harpaz, “Strategic Dual Citizenship: Global Dynamics of Supply and Demand” in Rainer Bauböck & Max Haller, eds, *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Vienna: Austrian Academy of Sciences Press, 2021) 97 at 103–04.

⁴⁸ In particular, throughout Fourth Aliyah (1924–1929), during which Jews reached the Land of Israel, many because of growing anti-Semitism in Poland and throughout Europe, mostly from Romania and Lithuania. In addition, in the occasion of the Fifth Aliyah (1929–1939), with the rise of Nazism in Germany, a new flow of immigrants arrived; the majority of them came from Central Europe. Then, a few Jewish immigrants also arrived from other countries such as Iran, Yemen and Turkey.

⁴⁹ Walter Jacob, “The Primacy of the Diaspora” in Walter Jacob & Moshe Zemer, eds, *Israel and the Diaspora in Jewish Law: Essays and Responsa* (Pittsburgh and Tel Aviv: Rodef Shalom Press, 1997) 149 at 149.

⁵⁰ Daniel Estrin, “75 years ago: Israel’s triumph became a catastrophe for Palestinians”, *NPR* (15 May 2023), online: <<https://www.npr.org/2023/05/15/1176108887/75-years-ago-israels-triumph-became-a-catastrophe-for-palestinians>> (last visited 15 May 2023).

⁵¹ Law of Return 1950, s 1.

immigrate to the State of Israel — *Medinat Yisrael* — and become an Israeli citizen without renouncing their passport.⁵² This provision entitles Jewish immigrants — *olim* — to obtain citizenship with no prior conditions, without passing through the 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.⁵³ 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 their religion.⁵⁴

The basic aspect of Zionist ideology, namely the rejection of exile — *Shlilat HaGalut* — displayed dramatically in the lives of second-generation Israelis. Growing up in the 1950s and 1960s, they sought to embrace the Israeli identity as wholly as possible, resulting in a feeling of estrangement from their diasporic parents — *Galuti*.⁵⁵ Hence, applying for citizenship offers the second generation the opportunity to rediscover and reconnect with their family roots together with their children.

At the same time, it is interesting to point out that dual or multiple citizenship is explicitly allowed for an *oleh* who becomes Israeli by right of return. Actually, Israel has permitted dual citizenship since the Nationality Law was passed in 1952,⁵⁶ which has only been subject to minor revisions. The main guiding logic behind this tolerant attitude is an ethnic and religious one. This provision clearly encourages the overseas Jewish diaspora to migrate to the *Medinat Yisrael* without imposing them to lose their previous *status civitatis*. As Patrick Weil has argued,⁵⁷ Israeli law is based on a legal construction according to which *olim* are defined as returning emigrants and, thus, already members of the nation. This assumption underlies 1950 Law of Return, which offers automatic

⁵² Nationality Law 1953, ss 1—2.

⁵³ Any *oleh* (עולה) will become an Israel citizen by return, except if Israeli citizenship has been granted to him/her by birth.

⁵⁴ Law of Return 1950, s 4A.

⁵⁵ Harpaz, *supra* note 2 at 113.

⁵⁶ Nationality Law 1953, s 14 (*Dual nationality and dual residence*).

⁵⁷ Patrick Weil, “Access to Citizenship: A Comparison of Twenty-Five Nationality Laws” in Alex Aleinikoff & Doug Klusmeyer, eds, *Citizenship Today* (Washington, DC: Carnegie Endowment for International Peace, 2001) 17.

citizenship to Jewish immigrants without imposing any of the requirements associated with the naturalization of immigrants. Tolerance of dual citizenship is intended to encourage *olim* to become Israelis by allowing them to retain their previous nationality. In the early 1950s, when the Israeli citizenship regime was taking shape, the right to dual citizenship was irrelevant to most Israelis, who arrived stateless from Eastern Europe or the Middle East. It was mainly intended to attract Jews from Western Europe and North America. Therefore, dual citizenship today is common among native-born Israelis. By contrast, it should be noted that non-diasporic naturalization candidates are not allowed to maintain dual citizenship, and they have to renounce their original nationalities to become Israeli nationals.⁵⁸

But today, on what do Jews base their *Jewishness*? The question, which scholars who study Judaism have been asking for some time, is still waiting for a definitive answer, although many have already been given. According to the expected *halakhah*,⁵⁹ “Jew” is any individual born of a Jewish mother or someone who has converted following the tradition of Orthodox Judaism. When it comes to the State of Israel — which must decide to whom it will grant citizenship — on the other hand, a “Jew” is instead one who has at least one Jewish parent,⁶⁰ is the spouse of a person who is an Israel national,⁶¹ has converted to Judaism, even if not in the Orthodox tradition, and has not voluntarily changed his/her religion.⁶² In such way, it seems like creating a citizenship to *prove* Jewish ownership of the Land of Israel, which still preserves a concept of *holiness* — most probably for historical association — even for the Jews who have nevertheless not maintained a constant presence in it.⁶³

The discussion on Jewish identity is probably as old as the Jews themselves. On this topic, A.B. Yehoshua, one of Israel’s leading writers, states that “it seems that no other people are so

⁵⁸ Nationality Law 1953, s 5 (6).

⁵⁹ In Hebrew הלכה, *Halakhah*, is the religious “normative” tradition of Judaism, codified in a body of scripture and includes the biblical law (the 613 *mitzvot*) and subsequent Talmudic and rabbinic laws, as well as traditions and customs.

⁶⁰ Nationality Law 1953, s 4 (*Nationality by birth*).

⁶¹ Nationality Law 1953, s 7 (*Naturalisation of husband and wife*).

⁶² Law of Return 1950, s 4B.

⁶³ John D Rayner, “The Land, the Law, and the Liberal Conscience” in Walter Jacob & Moshe Zemer, eds, *Israel and the Diaspora in Jewish Law. Essays and Responsa* (Pittsburgh and Tel Aviv: Rodef Shalom Press, 1997) 19 at 41.

concerned with elucidating and defining their identity as the Jewish one.”⁶⁴ The above, however, are purely formal responses, one to religious law and the other to State’s law, that make no reference to the feeling of belonging, to shared memory, nor to what we call the elements of a culture. Sigmund Freud questioned the point and answered that neither faith nor a feeling of national pride were enough to bind him to Judaism. In fact, according to him, other elements gave it an irresistible force of attraction, namely, occult forces — feelings that were indefinable in words and for this reason powerful — and the awareness of possessing an inner identity, a soul structure common to all Jews.⁶⁵ Hence, by citing Freud, Yehoshua appears to emphasize that anyone who considers himself/herself a Jew is a Jew.⁶⁶ In other words, Israeli identity formed because of Jews’ consciousness of themselves as citizens.⁶⁷ The keystone of this attitude is reconstructed in the words of Yehuda Bauer, a scholar of the *Shoah* and former director of the International Center for Holocaust Studies at Yad Vashem, who underlines that among Jews there is no shared interpretation of their selves.⁶⁸ In addition to the reasons intrinsic to Jewish culture, it could be noted that diasporic Jews have certainly acquired and reworked the laws and customs of the societies in which they lived. Despite that, however very fluid, this identity, whether faith-based or laic, has never abandoned a close link with the religion. Indeed, the special relationship between God, Abraham and his descendants bequeathed *Eretz Yisrael* — protagonist of Jewish history and cultural memory — to the Jewish people. Moreover, even in the various elaborations of the *Shoah* that accompanied the reconstruction of Jewish identity after the tragedy, none goes deeper than that which draws its language and imagery from the classical sources of Jewish identity, which, in spite of every process of secularization, was and remains a religiously connoted identity.⁶⁹

⁶⁴ Translated by the author. Abraham B Yehoshua, *Il labirinto dell’identità* (Torino: Einaudi, 2009) at 6 (“pare che nessun altro popolo si preoccupi tanto di chiarire e di definire la propria identità come quello ebraico”).

⁶⁵ *Ibid* at 7.

⁶⁶ Abraham B Yehoshua, *Ebreo, israeliano, sionista. Termini da precisare* (Roma: Edizioni e/o, 2000) at 31.

⁶⁷ This step is well explained by Orit Rozin, *A Home for All Jews: Citizenship, Rights, and National Identity in the New Israeli State* (Waltham, MA: Brandeis University Press, 2016).

⁶⁸ Amos Goldberg, “Jewish Identity after the Holocaust” (18 January 1998), online:

<https://www.yadvashem.org/odot_pdf/microsoft%20word%20-%203858.pdf> (last visited 29 June 2023).

⁶⁹ Massimo Giuliani, *Le terze tavole: La Shoah alla luce del Sinai* (Bologna: Edizioni Dehoniane, 2019) at 135.

Therefore, it is clear that these boundaries of loyalty are overshadowed by a still strong religious attachment: “...the symbiotic relationship between Israel and global Jewry is an integral part of our joint Jewish identity and community” – affirms Israel’s former Minister of Diaspora Affairs – “It is the ink with which we write our story and history”.⁷⁰

Cultures change with the passage of time, due to internal and external causes, and in the same way, identity can change, subtracting or adding pieces to its structure. The *Shoah* is the last, fundamental piece to have been added to the Jewish sense of belonging, which Yehoshua rightly called a *labyrinth*.⁷¹ A piece that, in this historical moment of conflict and doubts about the very nature of the Jewish State, seems the strongest and most foundational.

Part 3. Weaponizing External Dual Citizenship for Russian Territorial Expansion

Moving further East, in the States restored after the dissolution of the Soviet Union in 1991 the question of citizenship became relevant. Therefore, it seems interesting to trace the different meanings attributed to citizenship within the relationship between access to *status civitatis* and minority rights in this eastern area. Indeed, when the USSR dissolved, the interior borders became international ones and, thus, internal diasporas turned into ethnic minorities in the new States.⁷² The new nationalizing States set up selective citizenship systems to exclude ethnic minorities from the *demos*. This legislative option was mainly preferred by the two Northern Baltic republics, Estonia and Latvia, which denied the *status civitatis* to the majority of Russian-speaking immigrants from the Soviet era.⁷³

After independence, many of the previous USSR countries permitted external dual citizenship and therefore migrants could re-establish former legal ties with their homeland; while other States

⁷⁰ Nachman Shai, “What will the next chapter of the Israel-Diaspora Jewry story be? – opinion”, *The Jerusalem Post* (29 December 2022) <<https://www.jpost.com/opinion/article-726049>> accessed 2 June 2023.

⁷¹ Yehoshua, *supra* note 64.

⁷² Szabolcs Pogonyi, “Kin Citizenship in Eastern Europe” in Rainer Bauböck & Max Haller, eds, *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Vienna: Austrian Academy of Sciences Press, 2021) 141 at 144.

⁷³ For an in-depth study see e.g. Lino Panzeri, *Nazione e cittadinanza nelle Repubbliche baltiche: Profili costituzionali e sovranazionali* (Napoli: Editoriale Scientifica, 2021).

promoted favored citizenship rules or simplified the resettlement of diasporas.⁷⁴ Approximately three decades after independence, laws in favor of marginalized national minorities continue to affect the refinement of the Nation-building process in Eastern Europe.⁷⁵

On the other hand, Russia seems to use the pretext of maintaining a link with minorities abroad and in neighboring States to strategically extend citizenship rights. In fact, since April 2019, residents of the Donetsk and Luhansk People's Republics in eastern Ukraine's Donbas region⁷⁶ can become Russian citizens through an extremely simplified procedure, according to art. 14, part eight, of the Federal Law No. 62-FZ on citizenship of the Russian Federation.⁷⁷ Indeed, the Presidential Decree No. 183/2019,⁷⁸ issued by Vladimir Putin, made possible this fast track to obtain Russian citizenship, which accelerated the naturalization process under three months.⁷⁹ Moreover, people living in the Ukrainian Donetsk and Luhansk *oblasts* can apply for Russian citizenship without fulfilling the

⁷⁴ André Liebich, "Altneuländer or the vicissitudes of citizenship in the new EU states" in Rainer Bauböck, Bernhard Perchinig & Wiebke Sievers, eds, *Citizenship Policies in the New Europe* (Amsterdam: Amsterdam University Press, 2009) 17 at 21ff.

⁷⁵ Panzeri, *supra* note 73 at 111—62.

⁷⁶ Although officially Ukrainian leaders run the two "separatist republics" in the Donbas, the pro-Russian separatists *de facto* control them. Both *oblasts* declared independence from Ukraine following an unofficial status referendum in the spring of 2014, even if the Ukrainian government continues to define the two self-proclaimed republics as temporarily occupied territories by Russia and calls the front administrative line. On 21 February 2022, the State Duma of Russia officially recognized these two separatist republics as independent states.

⁷⁷ Статья 14. "Прием в гражданство Российской Федерации в упрощенном порядке", Федеральный закон от 31.05.2002 N 62-ФЗ (ред. от 30.12.2020) "О гражданстве Российской Федерации" [Art 14, "Admission to the citizenship of the Russian Federation in a simplified procedure", Federal Law of May 31, 2002 N 62-FZ (as amended on December 30, 2020) "On citizenship of the Russian Federation"] [translated by the author].

⁷⁸ Указ Президента Российской Федерации от 24.04.2019 г. N 183 "Об определении в гуманитарных целях категорий лиц, имеющих право обратиться с заявлениями о приеме в гражданство Российской Федерации в упрощенном порядке" [Decree of the President of the Russian Federation, April 24, 2019 No. 183 "On the definition for humanitarian purposes of the categories of persons entitled to apply for admission to the citizenship of the Russian Federation in a simplified procedure"] [translated by the author] as amended by the Executive Order of the President of the Russian Federation No. 214 of 27 March 2020, No. 665 of 4 November 2020, No. 255 of 4 May 2022. Citizens of Ukraine – including those who previously held the citizenship of the Russian Federation – citizens of the Donetsk People's Republic or of the Lugansk People's Republic, those permanently residing in the territories of the Donetsk People's Republic and the Lugansk People's Republic, as well as orphans and children left without parental care, incapable persons who are citizens of the Donetsk People's Republic, the Luhansk People's Republic or Ukraine, have the right to apply for citizenship of the Russian Federation in a simplified procedure in accordance with art 14(8), Federal Law of 31 May 2002 No. 62-FZ on Citizenship of the Russian Federation. Online: <<http://www.kremlin.ru/acts/bank/44190/page/1>> (last visited 15 May 2023).

⁷⁹ Указ Президента РФ от 27.03.2020 N 214 "О внесении изменений в Указ Президента Российской Федерации от 24 апреля 2019 г. N 183 и Указ Президента Российской Федерации от 29 апреля 2019 г. N 187" [Decree of the President of the Russian Federation of 27 March 2020 N 214 "Amending the Decree of the President of the Russian Federation of April 24, 2019 N 183 and Decree of the President of the Russian Federation of 29 April 2019 N 187"] [translated by the author]. According to para 2 a), the deadline for processing applications for the Russian Federation citizenship and for the adoption of decisions on them by the territorial bodies of the Ministry of the Interior of the Russian Federation shall not exceed three months. In addition, if it is necessary to clarify the circumstances indicating that there are grounds for rejecting such applications - as provided for in paragraphs a, c, e - of the first part of art 16 of the Federal Law of 31 May 2002 N 62-FZ, the specified period may be extended, but not exceeding three months.

general conditions stipulated in the first part of art. 13 of the Federal Law No. 62-FZ.⁸⁰ Specifically, they are exempt from the conditions established in paragraph “a”, since a five-year continuous residence is not necessary to become a naturalized Russian citizen. In addition, they are not required to comply with the requirements set by paragraph “c”, namely having legal means of subsistence, and paragraph “e”, which refers to the proficiency in Russian.

The Russian passportization is intensifying. Indeed, on May 2022, Putin signed the Decree No. 304⁸¹ and the Decree No. 330⁸² that amended the Presidential Decree No. 183 of 2019 on establishing the categories of persons who have the right to apply for Russian citizenship under the simplified procedure for humanitarian purposes.⁸³ These new Decrees extended the possibility of obtaining Russian citizenship within three months for residents of the Kherson region and the Azov part of the Zaporizhzhia in the southeast of Ukraine.

President Putin described his purpose as “the protection of people who have been abused and subjected to genocide by Kiev for eight years”.⁸⁴ Actually, this policy emphasizes the strategic importance of the naturalization procedure in Donetsk and Luhansk *oblasts* highlighting Moscow’s intention to keep and consolidate its grasp over eastern Ukraine for the near future. So, is the protection of Russian citizens living in Donbas a pretext for military action?

⁸⁰ Статья 13. “Прием в гражданство Российской Федерации в общем порядке”, Федеральный закон от 31.05.2002 N 62-ФЗ (ред. от 30.12.2020) “О гражданстве Российской Федерации” [Art 13, “Admission to the citizenship of the Russian Federation”, Federal Law of 31 May 2002 N 62-FZ (as amended of December 30, 2020) “On Citizenship of the Russian Federation”] [translated by the author].

⁸¹ Указ Президента РФ от 25.05.2022 N 304 О внесении изменений в Указ Президента Российской Федерации от 24 апреля 2019 г. N 183 [Decree of the President of the Russian Federation of 25 May 2022 N 304, Amendments to Decree of the President of the Russian Federation of 24 April 2019 N 183] [translated by the author].

⁸² Указ Президента Российской Федерации от 30.05.2022 г. N 330 О внесении изменений в Указ Президента Российской Федерации от 24 апреля 2019 г. N 183 и Указ Президента Российской Федерации от 29 апреля 2019 г. N 187 [Presidential Decree No. 330 of 30.05.2022 on Amendments to Presidential Decree No. 183 of 24 April 2019 and Presidential Decree No. 187 of 29 April 2019] [translated by the author].

⁸³ According to the amendments of para 1 and the para 2.2(b): the words “on the territory of the Donetsk People’s Republic, or the Lugansk People’s Republic” in two clauses of the Executive Order of 24 April 2019, shall be replaced by the words “on the territory of the Donetsk People’s Republic, Lugansk People’s Republic, and the Zaporizhzhia and Kherson regions of Ukraine” [translated by the author].

⁸⁴ See “защиту людей, которые на протяжении восьми лет подвергаются издевательствам, геноциду со стороны киевского режима”, *RLA Novosti* (6 May 2022), online: <<https://ria.ru/20220506/grazhdanstvo-1787326782.html>> (last visited 20 May 2023).

Certainly, 2019 is not the first time Putin has used the “weapon” of citizenship to achieve his goals. In fact, the Russian President has already expanded the list of people entitled to the fast-tracked passports to nationals of disputed territories in Russia’s neighboring countries. For instance, before the armed intervention of 2008, the Russian government seemed to use the excuse of defending its Russian citizens in South Ossetia and Abkhazia as a pretext for a full-scale military invasion of Georgia.⁸⁵ In fact, in November 2006, after a referendum on independence held in South Ossetia, Russia streamlined the process by which South Ossetians could obtain Russian passports.⁸⁶ This move in itself seemed designed to weaken the sovereignty of Georgia. Similarly, Russia began the passportization of Ukrainians who once lived in Ukraine’s Crimea region, after its annexation in 2014. The issuance of Russian passports in occupied Crimea started immediately after Putin signed a law according to which Crimea and Sevastopol had become part of the Russian Federation.⁸⁷ Later, in April 2019, the President of Russia signed the Decree No. 187⁸⁸ extending the access to the simplified naturalization process to citizens of Ukraine and stateless persons who were born in Crimea and permanently resided there until 18 March 2014 and their children, spouses, and parents; or to Ukrainian citizens, and their children, spouses, and parents, who have obtained a Russian residence permit.

Furthermore, Putin claimed that Russia had the duty and right to protect ethnic minorities who were living abroad. The Kremlin has provided, indeed, Russian-speaking minorities in Lithuania and Estonia – many of whom in 1990 became stateless once these countries regained independence – with

⁸⁵ See “Грузия обвинила РФ в попытке легализации аннексии грузинских регионов”, *RIA Novosti* (17 April 2008), online: <<https://ria.ru/20080417/105267869.html>> (last visited 20 May 2023).

⁸⁶ See “Хроника грузино-осетинского конфликта”, *RIA Novosti* (31 October 2006), online: <<https://ria.ru/20061031/55268289.html>> (last visited 25 May 2023).

⁸⁷ Федеральный конституционный закон от 21 марта 2014 г. N 6-ФКЗ “О принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов - Республики Крым и города федерального значения Севастополя” [Federal Constitutional Law No. 6-FKZ of 21 March 2014 “On the Admission of the Republic of Crimea into the Russian Federation and the Formation of New Subjects in the Russian Federation - the Republic of Crimea and the Federal City of Sevastopol”] [translated by the author].

⁸⁸ Указ Президента Российской Федерации от 29.04.2019 г. N 187 “Об отдельных категориях иностранных граждан и лиц без гражданства, имеющих право обратиться с заявлениями о приеме в гражданство Российской Федерации в упрощенном порядке” [Decree of the President of the Russian Federation of 29 April 2019 No. 187 “On certain categories of foreign citizens and stateless persons who have the right to apply for admission to the citizenship of the Russian Federation in a simplified procedure”] [translated by the author].

the possibility to acquire Russian citizenship. Moreover, a bill with the aim of simplifying the naturalization for resident of the Baltic States has been recently submitted to the State Duma.⁸⁹ Another amendment intended to include more citizens was embedded in a “revolutionary”⁹⁰ bill that the Russian Duma passed in 2020, allowing dual citizenship⁹¹ for foreigners without renouncing another existing citizenship. The changes concerned the invalidation of the first part of art. 13, clause “d”, of the Russian Nationality Law,⁹² according to which, one of the conditions for the acquisition of Russian citizenship by foreign citizens was the renouncement of any previous citizenship. An essential revision was also the elimination of the requirement to submit an application to the competent authority of a foreign State with a declaration on the renunciation of the previous citizenship. This amendment made possible the passportization of people living outside the Russian Federation, who wished to obtain Russian citizenship but were unable to apply.

Although Georgia remains so far the only case where the mass conferral of Russian citizenship preceded the military intervention instead of following it,⁹³ as in the case of Crimea and Eastern Ukraine, this passportization of territorial conflicts provides an evident explanation for fears that the granting of citizenship to external populations is a precursor to territorial reassessment. Therefore,

⁸⁹ See “В Госдуме предложили упростить получение гражданства для жителей Прибалтики”, *RIA Novosti* (22 June 2022), online: <<https://ria.ru/20220622/obschestvo-1797333465.html>> (last visited 30 May 2023).

⁹⁰ See Andrei Lyubimov, “Russia Passes Dual Citizenship Law, Hoping to Add 10M Citizens”, *The Moscow Times* (17 April 2020), online: <<https://www.themoscowtimes.com/2020/04/17/russia-passes-dual-citizenship-law-hoping-to-add-10m-citizens-a70036>> (last visited 30 May 2023).

⁹¹ According to art 6 of the Federal Law No. 62-FZ of 31 May 2002 (as amended on 30 December 2020), a citizen of the Russian Federation, who also has another citizenship, shall be considered by the Russian Federation as a Russian citizen only; the acquisition by a citizen of the Russian Federation of another citizenship shall not result in the termination of citizenship of the Russian Federation.

⁹² проекте федерального закона N 938282-7 “О внесении изменений в Федеральный закон “О гражданстве Российской Федерации” в части упрощения процедуры приема в гражданство Российской Федерации иностранных граждан и лиц без гражданства” [Draft Law No. 938282-7 on “Amendments to the Federal Act on Russian citizenship, with regard to simplifying the procedure for granting Russian citizenship to foreign nationals and stateless persons” of 17 April 2020] [translated by the author]. See also Федеральный закон от 24.04.2020 N 134-ФЗ “О внесении изменений в Федеральный закон “О гражданстве Российской Федерации” в части упрощения процедуры приема в гражданство Российской Федерации иностранных граждан и лиц без гражданства” [Federal Law No. 134-FZ on “Amendments to the Federal Law on Citizenship of the Russian Federation, in the Part of “Simplifying the Procedure for Admission of Foreign Citizens and Stateless Persons to Citizenship of the Russian Federation” of 24 April 2020] [translated by author].

⁹³ Rainer Bauböck, “The Toleration of Dual Citizenship: A Global Trend and its Limits” in Rainer Bauböck & Max Haller, eds, *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives* (Vienna: Austrian Academy of Sciences Press, 2021) 59 at 72.

the Russian project stresses how the naturalization of cross-border communities could be used as a “foreign policy weapon”.⁹⁴

Conclusion

Historically, citizenship has evolved as a status that provides national unity and replaces all sub-national distinctions based on social class, ethnicity, religion or race. Therefore, nowadays citizenship represents a key manifestation of national identity, and it is designed as a sacred form of belonging. The association of citizenship with national identity inspires the naturalization policies and nationality laws described above.

A few States have long used ethnic or cultural inclinations in their nationality systems. One of the crucial motivations that drive governments to adopt co-ethnic external-citizenship policies includes instituting the preeminence of an ethnic over a civic description of the nation. Consequently, it reveals and symbolizes that the State belongs to a community of traditions and identity rather than to a community of legal citizens.

This symbolic function can be found in the Israel’s Law of Return, which gives automatic citizenship to any Jew who settles in the country; but it has also a performative function as a statement of national identity. The law expresses the principle that Israel *belongs* to the Jewish people and citizenship policies are used to bind a particular population to a State in both institutional and symbolic terms.⁹⁵ The Law of Return, a creature of the era of exclusive and territorial citizenship, aims at inviting diaspora Jews to return to Israel as immigrants, who may obtain citizenship as part of the package. In contrast, ethnic dual citizenship laws preferred by Italy in the case of *italiani oriundi* offer whole citizenship, avoid conditioning it on any other bond to the State. Moreover, the extension of citizenship outside State borders may be combined with a form of irredentism or even be an implementer of *transborder* nationalism. Regarding this aspect, a recent and exemplary case is

⁹⁴ See Thomas Simon, “Citizenship as a weapon” (2013) 17:3—4 *Citizenship Studies* 505, DOI <10.1080/13621025.2013.793088>.

⁹⁵ Harpaz, *supra* note 2 at 5—6.

represented by Russia. In fact, alongside the political-territorial motivation to conquer the neighboring States might lie the intention of maintaining the control on territories formed following the dissolution of the USSR and, thus, considered the historical heartland of Russian civilization. In fact, in 2020 Russia offered a preferential citizenship for residents of Ukraine, with clear geopolitical goals that may range from putting pressure on its neighbors to preparing annexation similar to the attack on Georgia.

This paper has delineated some of the political and economic perspectives driving the global phenomenon of dual citizenship today, highlighting emerging new strategic options for States and individuals once the historical criteria of exclusive belonging and territorial residence are no longer significant.

Scholars have criticized dual citizenship arguing that it gives rise to inequalities in terms of overall political power, as dual citizens enjoy political rights (including voting rights) in each of the two countries.⁹⁶ This would be a strong criticism if individuals had political power exclusively through national governments, but they also have it through the instruments of civil society, including religions and other non-state identities. The overall weight of additional citizenship will in almost all cases be irrelevant. Instead, the equality argument must be taken seriously when a group of citizens of a country, whose nationality is globally undervalued, has access to the citizenship of a country that is ranked higher in terms of the *quality* of citizenship.⁹⁷ For example, the tens of thousands of Argentine citizens who were able to acquire Italian nationality on an ancestral basis during the Latin American financial crisis of the early 2000s had a clear advantage over Argentine citizens without dual citizenship. As a matter of sociological opportunity, having an extra citizenship in that context creates significant inequalities. To the extent that access to *premium* citizenship is arbitrary, equality

⁹⁶ Spiro, *supra* note 1 at 109—10.

⁹⁷ The term “quality” refers to the fact that interest in acquiring the nationality of a country differs on the characteristics of the countries of origin and destination, see Dimitry Kochenov & Justin Lindeboom, “Part I: Laying down the Base” in Dimitry Kochenov & Justin Lindeboom, eds, *Kälén and Kochenov’s Quality of Nationality Index. An Objective Ranking of the Nationalities of the World* (Oxford: Hart Publishing, 2020) 9.

objections are legitimate. Ultimately, the objections concern inequalities related to citizenship as an institution, be it single or dual.⁹⁸

From the comparison carried out, the emerging picture highlights the close connection between dual citizenship and the developing diaspora politics and cross-border nationalism. In fact, the strategic approach to national membership grew, and the transformation of attitudes towards diasporas could not only be appreciated by governments attempting to use them as an economic and political resource but also by diaspora organizations' activism for multiple citizenship toleration and using their electoral influence for this objective.

The present study verified in the Italian, Israeli, and Russian cases that the inclusion of the possibility of holding dual citizenship is crucial since it allows the States examined to pursue their goals of expanding the "ground of rights". The motivations behind these choices, however, are different, as previously illustrated. Nevertheless, what these States' tendencies have in common is the desire to extend citizenship to those they consider native emigrants or former citizens residing outside their borders, whether they are neighbors, such as the former territories of Istria for Italy or Russian minorities in the former USSR territories, or whether they are overseas, like *italiani oriundi* or the majority of diasporic Jews. Moreover, by observing the various provisions on the matter, this analysis has made it possible to point out how granting citizenship after birth has different rules for diaspora communities than for any other instance. In fact, the case studies considered in this paper have shown that States set up naturalization policies designed to facilitate individuals with blood or ethnic ties to the country. These practices have undefined reasons, if we consider the case of Israel, which still seems to retain a "sacred" bond with those elected to return to the Holy Land. Otherwise, considering Italy, the laws passed correspond to a strong cultural heritage difficult to overcome due to the management of a large emigration flow in past years and, now, representing the European country with the greatest number of immigrants. In further cases though, like Russia, a geopolitical aspiration

⁹⁸ Spiro, *supra* note 1 at 109—10.

can prescribe the rules for a preferential way to citizenship for certain categories of people. Of course, all the dispositions represent an unequal treatment and, thus, a prejudice against people who do not possess the “blood tie” with the homeland. Consequently, membership governed by ethnic and ancestral ties notes how much belonging to a national identity, hence the identification with certain interests, is still very relevant today.

Probably, behind this representation of nation-*cives* deep ties lie political and economic interests that the States in question want to ensure by offering a safe place to expatriates or nearby minorities. However, it is important to point out that, since the great extent of migration waves, the concrete bonds of nationality built inside the State even with foreigners who permanently and regularly reside in the territory of the State, require overcoming the dimension of consanguinity in order to embrace diversity and integration between peoples and cultures.