



Lauder School
of Government,
Diplomacy & Strategy

Immigration and Citizenship: Contemporary Challenges and Dilemmas

Liav Orgad

Summer 2021

Class (Zoom); August 9-12, 17:30-22:30

TA: Haile Zola, haile.zola01@post.idc.ac.il

Overview

Global migration yields demographic shifts of historical significance—as shown by the “refugee crisis” in Europe, the rise of white nationalism in the United States, and the spread of populism in the West. Migration is one of the defining issues of the 21st century, challenging the fabric of societies, remodeling the essence of sovereignty, and changing the way we think of borders and boundaries. The course contains three parts. The *first* part examines the causes of migration and the transformations it is undergoing; topics include global migration governance, immigration and populism, refugee rights and state sovereignty, and the ethics of borders. The *second* part analyzes contemporary debates in a theoretical and comparative perspective: topics include admission and discrimination, integration and identity, naturalization and citizen-making, dual nationality, EU citizenship, loyalty and patriotism, birthright citizenship, citizenship revocation, and “citizenship for sale.” The *third* part explores how emerging technologies reshape the concepts of migration and citizenship: should migrants be selected by AI and machine learning? Can Blockchain technologies lead to the creation of digital identity and global citizenship? Is citizenship becoming cybernetic? And how can predictive technologies affect global migration?

Grade

In advance of each class, please read the reading assignments prescribed in the syllabus. Students should come to class prepared, having completed the readings and considered the guiding questions for each class. Students should regularly check ongoing updates on the course website.

Final Paper: The assignment should be done in pairs (10 pages, not including a cover page and bibliography) and focus on one of the course topics. It must include a research question, literature review, and a thesis. Students should send to the TA the chosen topic and an abstract no later than August 14. Students cannot write on a topic that has been already chosen; the selection will be based on “first come, first served”. Students should submit the paper no later than September 2.

Simulation: There will be a “debate” on some of the class issues on August 10-12. Students can work in pairs or individually. Students must sign up for a topic on Moodle before the first class (August 9). Students should prepare and present a 10-minute opening speech supporting their claim (“for” or “against”) based on the class readings, after which there will be a class discussion.

Grade: (1) Paper: 80%; (2) Class Participation (10%); (3) Class Simulation (10%).

SECTION I: GLOBAL MIGRATION CRISIS?

CLASS 1: Global Migration Governance: A Crisis or Opportunity?

What are the central drivers for global migration? What are the current trends in international migration? What are the challenges and opportunities brought about by migration? Is there a global migration “crisis”? How to govern migration in international law? Is the rapidly changing reality adequately addressed by political theory and international human rights law? The first class provides an empirical and critical overview of human movement in a historical perspective.

1. IOM, “World Migration Report 2020” (2020): 1-9.
2. “The 2018 Global Compacts on Refugees and Migration: Special Issue”, *International Journal of Refugee Law* 30(4) (2018) (excerpts).
3. Stephen Castles, “Why Migration Policies Fail,” *Ethnic and Racial Studies* 27(2) (2004): 222-227.
4. Michael W. Doyle, “The Model International Mobility Convention”, *Columbia Journal of Transnational Law* 56 (2018): 219-233.
5. Amnon Rubinstein and Liav Orgad, “Global Migration Crisis”, *Justice* 62 (2018-19): 38-41.

CLASS 2: Refugee Rights and State Sovereignty

Who are refugees? What are the grounds and characters of refugee law? What is the scope of the principle of non-refoulement? Are there permissible grounds to refuse to accept refugees? What are the current problems with refugee law from an ethical and legal perspective? What reforms are needed? This class focuses on the tensions between core human rights and state sovereignty.

1. Hannah Arendt, *The Origins of Totalitarianism Paperback*, New York: Harcourt Brace Jovanovich, Publishers, 1973, Ch. 9.
2. Alexander T. Aleinikoff and Leah Zamore, *The Arc of Protection: Reforming the International Refugee Regime*, Palo Alto: Stanford University Press, 2019, 33-53.
3. Alexander Betts, *Survival Migration: Failed Governance and the Crisis of Displacement*, Ithaca, New York: Cornell University Press, 2013, Ch. 1.
4. Matthew J. Gibney, “The Ethics of Refugees”, *Philosophy Compass* 13(10) (2018): 1-9.
5. Peter H. Schuck, “Refugee Burden-Sharing: A Modest Proposal Fifteen Years Later?” in Anita Shapira, Yedidia Z. Stern, Alexander Jakobson, and Liav Orgad (eds.). *The Nation State and Immigration: The Age of Population Movements*. Sussex Academic Press. 2014, Ch. 4.

CLASS 3: **The Ethics of Borders: Immigrant Exclusion or Open Borders?**

The power to control the borders of its territory is one of the core features of traditional Westphalian statehood. But is it just? This class examines whether states have the right to control borders, on what grounds such a right can(not) be justified, and the factual and normative assumptions underlying contemporary immigration regulation in international law and politics.

1. Arash Abizadeh, "Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Border", *Political Theory* 36 (2008): 37-65, 37-39, 44-56.
2. Michael Blake, "Immigration, Jurisdiction, and Exclusion", *Philosophy & Public Affairs* 41(2) (2013): 103-130.
3. Joseph H. Carens, *The Ethics of Immigration*, Oxford: Oxford University Press, 2013, 225-254.
4. David Miller, *Strangers in Our Midst: The Political Philosophy of Immigration*, Cambridge: Harvard University Press, 2016, 57-75.
5. Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, New York: Basic Books, 1983, 31-63.

CLASS 4: **Immigration and Populism: Demographic Threat, or Moral Panic?**

New waves of immigrants have normally been accompanied by feelings of threat to national identity and unity. Is the current case different? What are the political concerns toward migrants? What are the national policies motivated by them? Are they based on exaggerated facts and false conclusions, or solid evidence and legitimate claims? What are the normative considerations to analyze this question? This class examines legitimate and illegitimate responses to immigration.

1. Rogers Brubaker, "Between Nationalism and Civilization: The European Populist Moment in Comparative Perspective", *Ethnic & Racial Studies* 40(8) (2017): 1191-1226.
2. David Goodhart, *The Road to Somewhere: The Populist Revolt and the Future of Politics*, Hurst, 2017, 49-80.
3. Eric Kaufmann, "Immigration and White Identity in the West", *Foreign Affairs*, September 8, 2017.
4. Liav Orgad, *The Cultural Defense of Nations: A Liberal Theory of Majority Rights*, Oxford: Oxford University Press, 2015, 51-78.
5. Liav Orgad, "Forced to be Free: The Limit of European Tolerance," 34 *Harvard Human Rights Journal* 34 (2021): 1-35.

SECTION II: CONTEMPORARY DEBATES

CLASS 5: **How to Select Immigrants?**

Changes in domestic law and international human rights law have restrained states' power to regulate the terms for immigration selection. States can still select immigration, but they are more limited by some base-level standards of permissible and impermissible goals, criteria, and means. This class examines the limits of permissible and impermissible immigration selection.

1. Joseph H. Carens, "Who Should Get in? The Ethics of Immigration Admissions", *Ethics & International Affairs* 17(1) (2003): 95-110.
2. Sara Fine, "Immigration and Discrimination", in Sarah Fine and Lea Ypi (eds.). *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press, 2016, 125-150 (hereinafter: "Migration in Political Theory").
3. Douglas MacKay, "Are Skill-Selective Immigration Policies Just?", *Social Theory and Practice* 42(1) (2016): 123-154.
4. Kieran Oberman, "Poverty and Immigration Policy," *American Political Science Review* 109 (2015): 239-251.
5. Liav Orgad and Theodore Ruthizer, "Race, Religion and Nationality in Immigration Selection", *Constitutional Commentary* 26(1) (2010): 101-153.

CLASS 6: **Integration and National Identity**

What are the various meanings of the term "integration"? Who needs to integrate, and into what? What degree of integration may/should/must a democracy require from an immigrant who is seeking entry/naturalization? How legitimate (and effective) is it for a political community to restrict migration to preserve its cultural essentials (and what does it mean)? This class provides an overview of cultural restrictions on immigration/naturalization and analyzes their legitimacy.

1. David Abraham, "Immigrant Integration and Social Solidarity in a Time of Crisis: Europe and the United States in a Postwelfare State," *Critical Historical Studies* 1(2) (2014): 215-253.
2. Johanna Hase, "Repetition, Adaptation, and Institutionalization: How the Narratives of Political Communities Change" (forthcoming): 1-5, 7-16.
3. Will Kymlicka and Keith Banting, "Immigration, Multiculturalism, and the Welfare State", *Ethics & International Affairs* 20(3) (2006): 281-304.
4. Liav Orgad, *The Cultural Defense of Nations*, 85-112, 234-235.
5. Samuel Scheffler, "Immigration and the Significance of Culture", *Philosophy and Public Affairs* 35(2) (2007): 93-125.

CLASS 7: **Naturalization: How to Turn Immigrants to Citizens?**

Through naturalization, people are presumed to become “full” members of a political community by attaining the status of citizenship. But what is the essence of naturalization? This class looks at how naturalization policies reflect imagined communities and discusses ethical dilemmas of setting naturalization requirements and defining the “bonds” that connect individuals and states.

1. Helder De Schutter and Lea Ypi, “Mandatory Citizenship for Immigrants”, *British Journal of Political Science* 45(2) (2015): 235-251.
2. Gerald L. Neuman, “Justifying U.S. Naturalization Policies”, *Virginia Journal of International Law* 35(1) (1994): 237-278.
3. Andrew Mason, *Living Together as Equals: The Demands of Citizenship*, Oxford: Oxford University Press, 2012, Ch. 7.
4. Liav Orgad, “The Citizen-Makers: Ethical Dilemmas in Immigrant Integration”, *European Law Journal* 25(6) (2019): 524-543.
5. Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality*, Cambridge: Harvard University Press, 2009, 164-190.

CLASS 8: **Is Loyalty a Legitimate Requirement?**

Every citizen in the democratic world should be “loyal,” yet loyalty is a vague concept. What is loyalty? Why is it justified? Why is it legitimate to require “loyalty to the law” (allegiance), as distinct from the duty to “obey the law” (obedience)? The class discusses one of the puzzling concepts in political theory, loyalty and patriotism, in the context of citizenship and immigration.

1. Sanford Levinson, *Constitutional Faith*, Princeton: Princeton University Press, 2011, 90-121.
2. Liav Orgad, “Liberalism, Allegiance, and Obedience: The Inappropriateness of Loyalty Oaths in a Liberal Democracy”, *Canadian Journal of Law & Jurisprudence* 27(1) (2014): 99-122.
3. Kim Rubenstein, “Loyalty and Membership”, in *Political Theory and Australian Multiculturalism*. Geoffrey B. Levey (ed.), New York: Berghahn Books, 2008, 171-187.
4. Anna Stilz, *Liberal Loyalty: Freedom, Obligation, and the State*, Princeton: Princeton University Press, 2009, 137-172.
5. Robert Wolff, “An Analysis of the Concept of Political Loyalty”, in *Political Man and Social Man: Readings in Political Philosophy*. Robert P. Wolff (ed.), Random House, 1966, 218.

CLASS 9: **Should Citizenship be for Sale?**

Recent years have witnessed the emergence of “citizenship-for-sale” policies in which wealthy people can “buy” citizenship by investment. What are the pros and cons of putting citizenship for sale in Western societies? Can individuals sell their citizenship? Is the case for/against selling citizenship fundamental, or a matter of degree? And are these policies lawful under international law? This class addresses the laws and ethics of citizenship-for-sale policies and different forms.



1. Atossa Araxia Abrahamian, *The Cosmopolites: The Coming of the Global Citizen*, New York: Columbia University Press, 2015, 40-49.
2. Samantha Besson, "Investment Citizenship and Democracy in a Global Age", *Swiss Review of International and European Law* 29(4) (2019): 525-547.
3. Jelena Džankić, *The Global Market for Investor Citizenship*, Palgrave Macmillan, 2019, Ch. 5.
4. Javier Hidalgo, "Selling Citizenship: A Defence", *Journal of Applied Philosophy* 33(3) (2016): 223-239.
5. Ayelet Shachar, "The Marketization of Citizenship in an Age of Restrictionism", *Ethics & International Affairs* 32(1) (2018): 3-13.

CLASS 10: **Dual Nationality: Can You have a "Home" in Multiple Countries?**

The concept of dual citizenship has evolved from being socially reviled to instrumentally desirable. The new reality brings about new dilemmas. This class examines whether multiple citizenships (*polycivitas*) resemble polygamy and polyethism, or is it more similar to multiple parental relationships? Is the problem of polycivitas the "poly", or the current concept of civitas?

1. Rainer Bauböck, "Genuine Links and Useful Passports: Evaluating Strategic Uses of Citizenship", *Journal of Ethnic and Migration Studies* 45(6) (2019): 1015-1026.
2. Linda Bosniak, "Multiple Nationality and the Postnational Transformation of Citizenship", *Virginia Journal of International Law* 42 (2001-2002): 979-1005.
3. Yossi Harpaz, "Compensatory Citizenship: Dual Nationality as a Strategy of Global Upward Mobility", *Journal of Ethnic and Migration Studies* 45(6) (2019): 897-916.
4. Peter H. Schuck, "Plural Citizenships", in *Immigration and Citizenship in the Twenty-first Century*, Noah Pickus (ed.), Lanham: Rowman & Littlefield Publishers, 1998, 149-192.
5. Peter J. Spiro, *At Home in Two Countries: The Past and Future of Dual Citizenship*, New York: NYU Press, 2016, 111-130.

CLASS 11: **Multilevel and Local Citizenship**

While citizenship is often used synonymously with nationality, its historic roots lies in cities. Today, we witness again the development of forms of citizenship beyond the nation-state, at sub- and at supranational level. A focus is given to EU citizenship. Is EU citizenship in crisis? What are the causes for that, and the normative/political consequences? This class discusses citizenship as multilevel concepts and examines whether the future of citizenship lies beyond the nation-state.



1. Rainer Bauböck, “The Three Levels of Citizenship in the European Union”, *Phenomenology and Mind* 8, pp. 66-76.
2. Dimitry Kochenov, “EU Citizenship Without Duties”, *European Law Journal* 20(4) (2014): 482-498.
3. Willem Maas, “Multilevel Citizenship”, in *The Oxford Handbook of Citizenship*, Ayelet Shachar et al. (eds.). Oxford University Press, 2017, 644-668.
4. Jo Shaw, “‘Shunning’ and ‘Seeking’ Membership: Rethinking Citizenship Regimes in the European Constitutional Space”, *Global Constitutionalism* (forthcoming, 2019).
5. Joseph Weiler, “To be a European Citizen: Eros and Civilization”, in *The Constitution of Europe*. J.H.H. Weiler (ed.). Cambridge University Press, 1999, 324-256.

CLASS 12: **Citizenship Revocation: Should Terrorists be Deprived of Their Citizenship?**

In what circumstances it would be just to deprive citizenship—for what purpose and based on which procedures? Should there be a difference between natural-born citizens and naturalized citizens? This class analyzes the topic of citizenship revocation from theoretical and comparative perspectives, presents recent developments in the field, and evaluates the ethics of current policies.

1. Émilien Fargues and Elke Winter, “Conditional Membership: What Revocation Does to Citizenship”, *Citizenship Studies* 23(4) (2019): 295-303.
2. Christian Joppke, “Terror and the Loss of Citizenship”, *Citizenship Studies* 20(6-7) (2016): 728-748.
3. Shai Lavi, “Revocation of Citizenship as Punishment”, *Toronto Law Journal* 61(4) (2011): 783-810.
4. Patti T. Lenard, “Democratic Citizenship and Denationalization”, *American Political Science Review*, 112(1) (2018): 99-111.
5. Peter Spiro, “Expatriating Terrorists”, *Fordham Law Review* 82 (5) (2014): 2169-2187.

SECTION III: TECHNOLOGICAL DEVELOPMENTS

CLASS 13: **Jus Algorithmi, Cybernetic Citizenship, and Social Credit Systems**

How do emerging technologies affect the institution of citizenship? What is/should be the role of technology in citizenship governance? What are the ethical problems with social credit systems? What does cybernetic citizenship mean? The class explores how the ideals based on which Western citizenship is grounded—liberty, justice, and democracy—are reshaping by the digital revolution.

1. John Cheney-Lippold, “Jus Algorithmi: How the National Security Agency Remade Citizenship”, *International Journal of Communication* 10 (2016): 1721-1742.



2. Daithi Mac Sithigh and Mathias Siems, “The Chinese Social Credit System: A Model for Other Countries?” *Modern Law Review* 82(6) (2019): 1034-1071.
3. Liav Orgad and Wessel Reijers, “How to Make the Perfect Citizen? Lessons from China’s Model of Social Credit System,” *Vanderbilt Journal of Transnational Law* (2021).
4. Yu-Jie Chen, Ching-Fu Lin, and Han-Wei Liu, “‘Rule of Trust’: The Power and Perils of China’s Social Credit Megaproject”, *Columbia Journal of Asian Law* 32(1) (2018): 1-36.
5. Liav Orgad Wessel Reijers, and Primavera de Filippi, *The Human Metric: How Scoring is Governing Our Life* (work-in-progress): Ch. 1-2.

CLASS 14: **The Dawn of Global e-Citizenship and Cloud Communities?**

What does “global citizenship” mean? Is it technologically/politically possible and normatively justified? Should international law recognize a concept of “virtual states”/“cloud communities” (deterritorialized political entities where individuals participate in global political decisions)? What concepts of sovereignty and social contract can emerge out of it? The class examines how technology alters the way people perceive communities and identities, membership and belonging.

1. *Cloud Communities: The Dawn of Global Citizenship?* Robert Schuman Centre for Advanced Studies Research Paper No. RSCAS 2018/28. Liav Orgad and Rainer Bauböck (eds.), 2018, 1-6, 11-18, 23-24, 45-46.
2. Migrant Nations, “Empowered Livelihoods for Displaced People Road Map for Action”, United Nations Development Programme, 2019.
3. Wolfgang Drechsler, “Pathfinder: e-Estonia as the β -version”, *JeDEM* 10(2) (2018): 1-22.
4. David Miller, “The Idea of Global Citizenship”, in *Varieties of Sovereignty and Citizenship*, Sigal Ben-Porath and Rogers Smith (eds.), Philadelphia: University of Pennsylvania Press, 2012, Ch. 12.
5. Liav Orgad, *The Future of Citizenship: How Technology Shapes Membership and Belonging* (Cambridge University Press, under contract, excerpts).