



## *Book Review*



### **Liav Orgad**

*The Cultural Defense of Nations – A Liberal Theory of Majority Rights*

The question of the potential changes that those coming from the outside through the means of immigration may bring upon the majority cultures in, particularly, liberal states, and how to deal with such potential contestations of certain liberal values through migratory movements, has been at the forefront of political and legal debates over the last years. Liav Orgad, in his insightful contribution, identifies certain mechanisms that he terms ‘cultural defense policies’, which are being applied by Western liberal states in order to defend the majority cultures from allegedly negative influences stemming from illiberal practices brought into liberal nation states through immigration movements. These mechanisms consist of for example citizenship tests, integration contracts, loyalty oaths, attachment requirements or certain language requirements. Orgad thereby identifies that such cultural defense policies have been widely applied to protect the values of majority cultures, while the states using such mechanisms have not been explicit about the culturally-oriented protection goals of these policies. In his analysis, he tries to make the implicit goals of these culture defense policies explicit while also to some extent questioning the legitimacy of such policies from a liberal point of view. Additionally, in reaction to some of the normative problems related to cultural defense policies of the liberal point of view, he provides a model for a narrow defense of majority cultures under certain specific circumstances in the form of a concept that he coins ‘national constitutionalism’.

The book is divided into two main parts. The first three chapters comprising the first part provide a descriptive analysis over how the changing dynamics of global immigration patterns have contributed to mostly unjustified moral panic over changes in the demographic composition of certain populations, and how liberal democracies have responded to this through legal means in the form of cultural defense policies. The three chapters making up the second part of the book provide the normative analysis, which seeks to distinguish in

between the justifiable and unjustifiable efforts of liberal states to protect their culture and draws out the certain narrow conditions under which cultural defense policies can be a tool that can be legitimately relied upon.

Orgad starts with a discussion of the changing dynamics of global immigration as a factor that contributed to the development of cultural defense policies in liberal states. He discusses the changes in immigration patterns, such as scale, character, and intensity of the global movements of people. He also looks at the demographic and sociopolitical changes in Western societies, such as a steady population decline, changing lifestyles and new human rights regimes limiting the means of immigration control, which altogether contributed to certain perceived demographical changes triggering the development of cultural defense policies as a reaction. Additionally, he also assesses how certain global geopolitical developments, technological advances, and globalization as a phenomenon in itself contributed to a stronger fluidity of cultural identities, which further contributed to the development of seemingly reactionary defense policies.

The dynamics in immigration patterns has created political reactions in liberal states, which due to the therefrom-stemming changes in the demographic composition of populations contributed to a public hysteria about a perceived cultural demise of the majority culture, something that Orgad calls 'demophobia'. In tackling this issue, Orgad engages in a detailed analysis of several case studies of certain groups of foreigners who are being perceived as an existential threat to the majority cultures within several countries. He thereby particularly looks at how certain parts of the public and conservative thinkers picture Hispanic immigrants in the United States, Muslim immigrants in Europe and Palestinian immigrants in Israel as existential threats to the host countries' majority cultures. These case studies remain an underlying thread throughout his analysis within the book, whereby in Europe he specifically looks at the situation in France, Germany, the Netherlands and the United Kingdom.

Next to these political reactions, the legal reactions in the form of immigration and citizenship mechanisms aimed at cultural defense of the majority cultures within the case study countries are at the core of the analysis in the book. Orgad thereby differentiates in between three types of pro-active immigration policies designed to defend the culture of majority groups – ethno-religious, ethno-cultural and civic-political defenses, whereby the policies applied by liberal states are usually a certain mix of these three different types of cultural defense. A classic case of an ethno-religious defense, is for example, the citizenship policy in Israel, which is broadly limited to targeting people of Jewish descent. An example of an ethno-cultural defense is the citizenship test in the Netherlands, where the credo of the test is that one cannot study to be Dutch,

but one has to feel Dutch. Civic-political defense aims at the protection of certain liberal constitutional values and calls for loyalty from those applying for entrance or membership. Orgad mentions the current citizenship tests in the US as a good example of this form of limited defense of specific civic-political values.

On the basis of the rich analysis of the particular forms of cultural defense policies within his case studies, whereby amongst others extensive analysis of relevant case law in the respective countries has been undertaken, Orgad also critically assesses some of these practices from a liberal point of view. He namely, within the recent trend towards a strengthened use of such practices, identifies a certain 'paradox of liberalism' in this area – some of these practices namely through their intrusiveness violate certain core liberal values that they actually seek to protect through these practices from negative influences from the outside in the first place. Some of these state designed policies namely run counter with certain basic liberal values such as state neutrality or liberal tolerance of different opinions and are often motivated by policy goals undermining these values.

While Orgad remains critical of some forms of how cultural defense policies have been applied within the country case studies he looks at, he nevertheless advocates for a particular narrow defense of majority cultures under specific circumstances. He outlines these circumstances through a detailed analysis of concepts such as 'peoples', 'nations', and 'majorities' in international law and moral philosophy and identifies a lack of the existence of clear concepts of majorities or majority cultures in these areas. He then consecutively, on the basis of certain core concepts from the rich definitions of notions of 'minority rights', develops an essence of what needs to be defended when referring to cultural defense policies and thus offers two justifications for cultural majority rights, namely the right of persons belonging to these groups to identity and personal autonomy. Based on these criteria, he presents four cases in which majorities are needy – diminishing majorities, regional-minority majorities, victimized majorities and minoritized majorities.

But Orgad not only provides cases in which cultural defense policies might be justified from a liberal point of view, he also introduces a concept, "national constitutionalism", which might be applied in case there are needy majorities that need to be protected by some sort of cultural defense policies. National constitutionalism widely resembles Habermas' concept of constitutional patriotism, but it is a bit more detailed as regards its application and does not depend on social theoretical notions of deliberative democracy as much as Habermas' ideas do. Orgad, in regard to an implementation of policies of national constitutionalism, calls for a two-stage immigration regulation concerning

the admittance and naturalization of those from the outside of a polity. In a first step, in regard to admission, immigrants have to accept basic liberal-democratic principles of political liberalism in case they want to be admitted, principles which are universal and represent a basic overlapping consensus on some core constitutional issues. For naturalization, acceptance of some more particular constitutional essentials in the sense of accepting certain ways certain things are done in particular constitutional settings and are essential in specific states can be demanded from those wishing naturalization. Orgad develops this two-stage process based on discussions of Rawlsian political liberalism and Habermasian constitutional patriotism. This process thereby in its initial stage prevents cultural defense policies from becoming illiberal by focusing on certain universal values, while at the second stage, the naturalization, it takes account of certain particular values majority cultures see as essential and can thus demand immigrants to adhere to. Through the concept of constitutional patriotism, Orgad tries to offer possible forms of cultural defense, which are morally defensible and politically wise.

Overall, Orgad's contribution provides a concise and insightful discussion of one of the greatest challenges liberalism is facing today – whether it is justified for liberal states to restrict immigration in order to protect the culture of majority groups. While he is critical of many forms of cultural defense he finds in his detailed country case studies, he provides an interesting definition of needy majorities for which a narrow form of cultural defense, in the form of national constitutionalism, can be justified. Orgad's book is an important contribution to questions concerning the ways of protecting liberal values against illiberal influences, discussed recently by thinkers as diverse as Jürgen Habermas and Slavoj Žižek, and neatly fits into a debate, which will definitely gain further dynamics given the geopolitical developments of our times.

*Lukasz Dziedzic*

Department of European and International Public Law, Tilburg Law School,  
Tilburg University

*[ldziedzic@tilburguniversity.edu](mailto:ldziedzic@tilburguniversity.edu)*