

EZRCHUT – HaETGAR, Chapter 4

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The Right to Be a Citizen

What is a Citizen, and What is Citizenship?

Every state has citizens and resident aliens as defined by that state's laws, and both citizens and resident aliens are obligated to obey the state's laws. The majority of the population are citizens; there is usually a handful of foreigners who lack citizenship and are only present in the country on a temporary basis.

In every country, there exists a contract between the citizens and the state, by which the citizens enjoy various rights and security as guaranteed by the state in exchange for allegiance to the state and compliance with the state's laws.

Democracies run on accepted rules and the Rule of Law, which is a circumstance whereby the government is subject to written laws and criticism from the judicial system, and all are considered equal before the law.

The citizens are involved in the politics of the state, and the state preserves the liberties of the citizens, as opposed to that which exists in non-democratic systems, where in the people do not have political rights, and live at the mercy of the ruler. People in such countries are referred to as "subjects," and not as citizens.

What Considerations are Used to Grant Citizenship?

* It depends on the country and its worldview.

Nationalist considerations: some states grant citizenship to the members of a particular nation.

Economic considerations, as exist, for example, in countries that want to increase immigration in order to bolster the local economy.

Ideological considerations, like offering asylum and citizenship for persecuted minorities from other lands.

Familial considerations (i.e. granting citizenship to relatives of citizens).

Social considerations, like seeking to include certain ethnicities or professionals.

The 20th century witnessed many social and political upheavals due to war, leading to massive international immigration and millions of people world-wide losing their citizenship.

In many countries, attaining citizenship is a complicated and difficult process, whereas in many states the process is quick and easy.

Some states have minimum residency requirements before one is granted citizenship, while others require potential citizens to be familiar with the local

language, have basic knowledge of the country's laws, or have experience serving their host country.

Some states allow for citizens to hold dual citizenship, while others do not.

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Criteria for Granting Citizenship by Right of Birth

Two general types of such criteria: the Blood Principle, and the Land Principle.

The Blood Principle considers the potential citizen's ethnicity in granting citizenship: either because his parents were citizens of the state, even though he himself was not born within the state's borders, or because he is a member of the nation that grants citizenship to those descended from its own citizens. This principle is utilized in countries that wish to preserve the citizenship of those who have left the country and their descendants, e.g. in Germany and Greece.

The Land Principle grants citizenship to anyone born within the country, without regards to his ethnic or national heritage.

This principle is utilized in countries that wish to attract immigrants, e.g. in the United States and many South American states.

Most countries utilize both of these principles, but to different extents.

Although Israel is a nation of immigrants, with the majority of its Jewish citizens being immigrants or the children of immigrants, because the state's goal is to serve as the Jewish National Home, it gives preference to the Blood Principle.

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The Law of Return

The Law of Return, 1950 is considered by many to be the most important law passed in Israeli history. This is the official translation of the law as published by the Ministry of the Interior.

Right of aliyah

1. Every Jew has the right to come to this country as an *oleh*.

Oleh's visa

2. (a) Aliyah shall be by *oleh's* visa.

(b) An *oleh's* visa shall be granted to every Jew who has expressed his desire to settle in Israel, unless the Minister of Immigration is satisfied that the applicant

(1) is engaged in an activity directed against the Jewish people; or

(2) is likely to endanger public health or the security of the State.

Oleh's certificate

3. (a) A Jew who has come to Israel and subsequent to his arrival has expressed his desire to settle in Israel may, while still in Israel, receive an *oleh's* certificate.

(b) The restrictions specified in section 2(b) shall apply also to the grant of an *oleh's* certificate, but a person shall not be regarded as endangering public health on account of an illness contracted after his arrival in Israel.

Residents and persons born in this country

4. Every Jew who has immigrated into this country before the coming into force of this Law, and every Jew who was born in this country, whether before or after the coming into force of this Law, shall be deemed to be a person who has come to this country as an *oleh* under this Law.

Implementation and regulations

5. The Minister of Immigration is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation and also as to the grant of *oleh's* visas and *oleh's* certificates to minors up to the age of 18 years.

DAVID BEN-GURION
Prime Minister

MOSHE SHAPIRA
Minister of Immigration

YOSEF SPRINZAK
Acting President of the State
Chairman of the Knesset

The Law of Return expresses the central goal of Zionism: the realization of the natural and historical right of the Jewish people to a sovereign state in its own land, and this principle is expressed by the right of every Jew to immigrate to Israel and dwell there.

Since the Law of Return was passed, it has brought about the immigration of millions of Jews to the country.

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There are exceptions to the Law of Return. The Minister of the Interior may prohibit the immigration of a Jew if he acts against the Jewish people, or if he is a threat to national security or public health.

The "Who is a Jew?" Issue: as defined by the Law of Return, "a Jew is one who was born to a Jewish mother, or who has converted to Judaism and is not a member of another religion."

The law does not truly reflect traditional orthodox standards, which require converts to immerse in a ritualarium, and if male, to have themselves circumcised.

The law also does not reflect the definitions used by other parties: some define themselves as Jewish in a nationalist sense, or because they might have Jewish fathers; others have undergone non-orthodox conversions.

This eventually led to controversies over who could register with government agencies as a Jew and many appeals to the High Court of Justice by people seeking immigrants' and citizens' rights through the Law of Return.

The Law of Return grants Jews rights that are not granted to gentiles. The law also recognizes the rights of the spouses, children, and grandchildren of potential Jewish immigrants, whereas the families of gentile immigrants do not enjoy such rights.

Many Arab citizens of the state see the Law of Return as discriminatory and in violation of the principle of equality, one of the fundamentals of a healthy democracy, and therefore the law of return should be annulled.

Proponents of the Law of Return point to its necessity in order to maintain a Jewish majority in the state. (editor's note: the law is also a way to ensure that persecuted and endangered Jews around the globe have asylum.)

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The Means of Acquiring Israeli Citizenship

Citizenship by Way of the Law of Return

The law grants citizenship to those who immigrated to Israel or were born there before the establishment of the state, effective the day of the founding of the state; to immigrants to the state, effective the day of arrival in the state; to any one born in the state, effective the day he was born; or to any one who has received an oleh's certificate according to article three of the Law of Return, effective the day of receipt.

The Minister of the Interior may also grant citizenship to those who have expressed interest in attaining citizenship, even if they have yet to arrive in the country, like what was done for the jews of the former Soviet Union.

Citizenship by Virtue of Living in Israel on the Eve of Independence

Article three of the Citizenship Law grants citizenship to gentiles who resided in the country on the eve of the establishment of the state, as long as they were legally registered according to the law, and still lived in the land when the law was passed.

Also includes those who legally immigrated to Israel after the founding of the state, or who were born in Israel after the founding of the state, and were still living in Israel at the time the law was passed.

This allows for gentiles to achieve Israeli citizenship merely by right of living in the country for a long enough time.

c. Citizenship by Right of Birth

Citizenship is also granted to one born in Israel and either of his parents are citizens, or one who was born outside of the country to an Israeli citizen who at one time lived in Israel.

This excludes the next generation from receiving citizenship by right of birth, as only a citizen who at one time lived in Israel may pass on citizenship. This was established by an amendment to the law in 1980.

Citizenship by Right of Birth and Residence in the Land

Mostly for the benefit of gentiles whose parents were unable to attain citizenship via the processes described in paragraph (b), above.

One who was born in Israel after the founding of the state and for whatever reason does not hold citizenship, may request citizenship on two conditions - he officially requests between his eighteenth and twenty-first birthdays, and he resided in the country for at least five consecutive years sometime prior to his request.

The Minister of the Interior may deny citizenship to an applicant who was convicted of a crime against national security or who was sentenced to five or more years of imprisonment for any other crime.

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Citizenship via Naturalization

One older than 18 years of age who is ineligible for citizenship based on the previous four methods may still attain citizenship through naturalization, as long as he satisfies a number of conditions: he has to have spent three of the last five years before his request in Israel, he has made his residence or intends to make his residence in Israel, he has a working knowledge of the Hebrew language, he has renounced or has proven he intends to renounce any foreign citizenship, and he is eligible to remain in Israel.

An applicant must affirm that he will remain a faithful citizen of the state, but the Minister of the Interior retains the right to deny his request.

Those who have served in the IDF or who have served the country in an even greater capacity as defined by the Minister of the Interior, or who have raised children who have done so, may forego the previously-mentioned conditions. Although generally speaking, dual citizenship is legal in Israel, naturalized citizens are ineligible.

Citizenship via Exceptional Grant

The Minister of the Interior may grant citizenship to individuals in very specific and unusual circumstances. For example, to the grandparents of a child citizen of the state, Druze soldiers who assisted the nascent IDF in the War of Independence without intent thereby to acquire citizenship, or one who was taken out of the country by his parents and had his citizenship revoked when he was still a child, but wants to re-acquire citizenship.

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Losing Israeli Citizenship

One's citizenship can either be renounced by the holder, or annulled by the state.

One may renounce his citizenship whether he lives within Israel or not, but it must meet with the approval of the Minister of the Interior.

The Minister of the Interior may annul one's citizenship under the following circumstances: he obtained his citizenship under false pretenses, he traveled to an enemy country without approval of the Ministry of the Interior, or he acted in defiance of expected allegiance to the state.

The Rights and Obligations of the Israeli Citizen

Attaining and maintaining citizenship requires one to be a solid citizen, i.e. allegiance to the state and obedience of the law, for example, by volunteering for the army when called upon.

A good citizen works to improve society and state, and is positively involved in giving of his time.

Citizens enjoy political and social rights that non-citizens do not enjoy.