

# Book Review: The Cultural Defense of Nations: A Liberal Theory of Majority Rights by Liav Orgad

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In *The Cultural Defense of Nations: A Liberal Theory of Majority Rights*, Liav Orgad directly addresses the notion of 'majority rights' through the prism of liberal theory. He explores the parameters of claims made on behalf of 'majority groups', with particular attention paid to the capacity of liberal states to restrict immigration. Daniel Falkiner finds this a timely, provocative and perceptive work that should be read by policy makers attending to the challenges facing liberal democracies today.

*The Cultural Defense of Nations: A Liberal Theory of Majority Rights*. Liav Orgad. Oxford University Press. 2015.

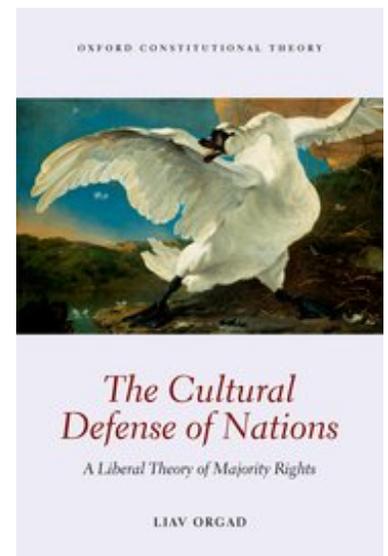
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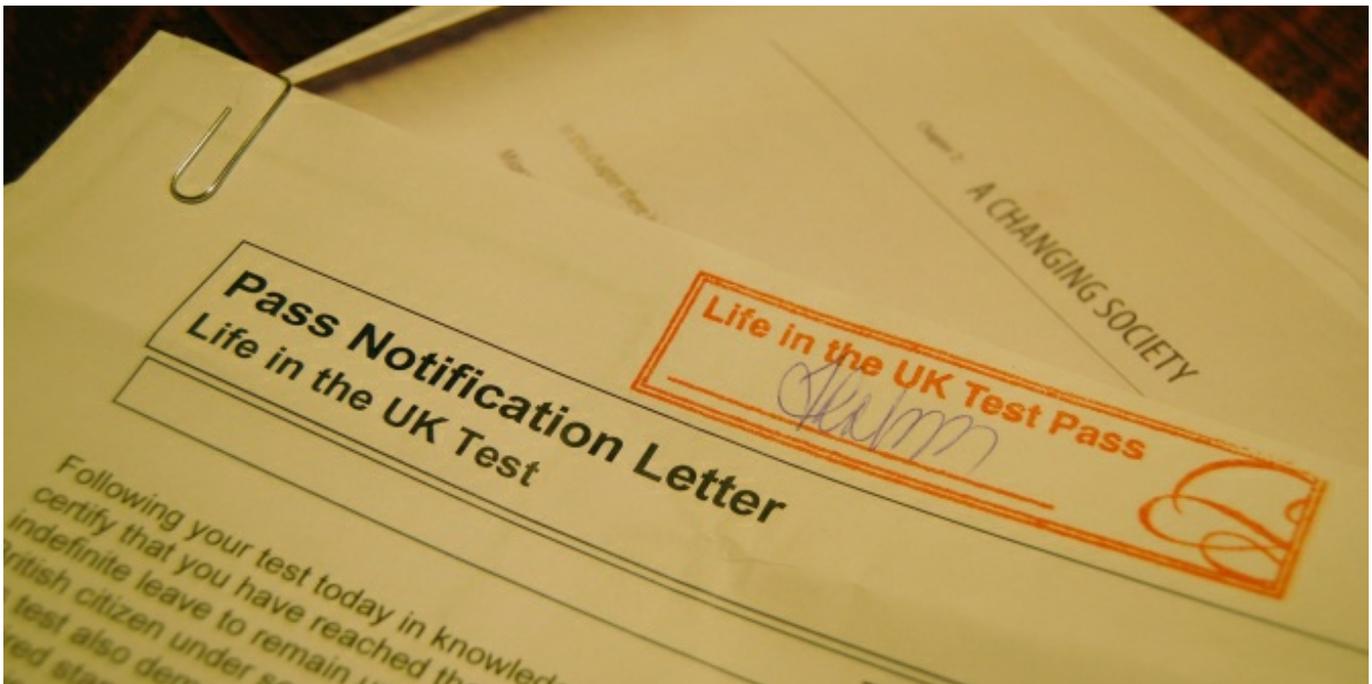
Is it justified for liberal states to restrict immigration in order to protect the culture of majority groups? According to Liav Orgad, an Israeli law professor and a fellow at the Edward J. Safra Center for Ethics, Harvard University, this question should be answered confidently in the affirmative. *The Cultural Defense of Nations: A Liberal Theory of Majority Rights* is his bold and balanced attempt to spell out why we should agree with him.

Focusing on the USA, Europe and Israel, Orgad notes that low fertility rates among citizens with European ancestry and historic policies of mass immigration are creating extraordinary demographic changes across the Western world. The United States, he says, is currently witnessing 'the most drastic demographic change in its history': non-Hispanic whites have already lost their majority status in a number of states, and they are expected to become a nationwide minority by 2043. In the European Union, on the other hand, even the most modest official projections suggest that over a quarter of the population in many member states will have non-European ancestry by 2051. When other models are included, current ethnic majorities in Austria, Belgium, Cyprus, Germany and Spain are forecast to have become minorities by the middle of this century. In Israel, it is expected that by 2034, well over one quarter of the population will be non-Jewish.

These tectonic demographic shifts are giving rise to popular fears that important interests are under threat. Such interests are not always clearly defined – they may be a political idea, for example, or a liberal institution, dominant culture, ethnic majority or some combination of these – but whatever form they ultimately take, Orgad argues, the growing perception that they are at risk has forced many governments to engage in what he calls 'the cultural defense of nations'.

Cultural defence is manifest in immigration and naturalisation policies aimed at preserving and defending dominant forms and expressions of national identity. Such policies may include culture- and ethnicity-based selection requirements for prospective immigrants; citizenship tests, loyalty oaths and language requirements; and, occasionally, legal measures designed to compel migrants to adopt the norms and behaviours considered by the state to be the 'correct' ones.





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According to Orgad, many cultural defence policies are enacted out of a genuine concern to protect liberal values; they are often rooted in suspicions that segments of the immigrant population lack faith in liberalism, and are driven by the belief that this lack of faith must be addressed for the good of society. Sometimes, however, these policies can undermine the very values they are meant to protect. The French government's ban on wearing the niqab in public, for example, was ostensibly intended to foster respect for women's rights and to encourage social participation, but it has also substantially encroached on the individual's freedom of expression.

This slide towards illiberalism causes Orgad great concern. In contrast to many other academics and media pundits, however, he argues that dismissing the needs and wants of the majority as 'xenophobia' simply will not do. 'Disregarding the interests of the majority is not just morally wrong', he writes, 'but [also] politically unwise, as it may enhance majority nationalism in the future'. This observation seems [eminently reasonable](#), especially when considered in light of [Donald Trump's remarkable rise](#) within the Republican party, and indeed among Americans in general (Trump is now [polling on par with Hillary Clinton](#)). In such a tense atmosphere, it seems, at the very least, imprudent to [mock the concerns of white Americans](#) and [celebrate their demographic decline](#).

Orgad offers his 'liberal theory of majority rights' as a prospective means to counter these worrying trends. But what, exactly, *are* majority rights? Philosophically, Orgad says, 'majority rights' are a logical outcome of the liberal development of minority rights. Like minorities, he says, majorities 'have an interest in adhering to their culture and preserving at least some of it – maintaining a meaningful, yet distinctive, collective way of life. This interest is based on similar justifications of cultural minority rights – personal autonomy and identity.' To put it in more colloquial terms: what has been good for the minority goose is now, in an age of mass migration and demographic flux, also good for the majority gander.

More practically, 'majority rights' would mean that the cultural interests of the majority are protected by law. Orgad argues that there should be international recognition that – in some cases and subject to some limitations – the cultural interests of majorities are a sufficient reason for granting privileges to the majority and imposing duties on others in order to secure those interests.

Orgad makes a distinction, however, between majority rights in immigration and non-immigration contexts. In the latter case, he argues, the majority does not usually need legally enshrined rights to protect its culture, because it

can use its numerical advantage to employ ordinary means of cultural protectionism, including public education, national ceremonies, limitations on cultural free trade or criminal and civil sanctions (on abortion, circumcision or animal slaughter processes, for example). In the immigration context, however, majorities are much less able to protect their interests; recent developments, particularly in the field of human rights law, have made curtailing immigration more difficult than it has been in the past. Majority rights in this context would require consideration of the majority's cultural interests when determining immigration capacity, either as a justification for certain immigration policies or as a reason for deviation from particular legal norms.

Orgad's argument is easy to follow and is, in general, quite convincing. His treatise provides a robust framework for policy makers in the West to think more clearly about how to balance the concerns of the majority with the demands of liberal political theory. And it is reasonable to believe that, if implemented, his concept of majority rights could assuage many popular anxieties in the West – thereby reducing demand for more illiberal forms of cultural defence. Moreover, the liberal foundations of his theory imbue it with sensitivity towards the rights and needs of minorities and a natural resistance to overly intrusive government, which should give comfort and assurance to minorities themselves.

But while his theory is sensible, Orgad leaves several important topics ploughed up by his argument more or less untouched. This is disappointing. For example, while it is highly unusual and intriguing to see the 'cultural defense' policies of the USA, European countries and Israel compared like they are here, the book does not examine the related question of whether the moral right of Israel (and arguably some eastern European states) to define 'cultural' interests in explicitly ethnic terms also extends to other countries. Orgad does discuss the right of peoples to self-determination in some depth, but he does not really elaborate on issues such as whether *jus sanguinis*, rather than *jus soli*, should be considered the most appropriate and ethical basis for citizenship in any (or all) states, Western or otherwise.

More attention should also have been paid to the ways in which some elite groups and interests have managed to shape 'acceptable' discourses on immigration and national identity. Had it been, Orgad would have avoided the backward logic that led him to write short-sighted statements such as the following: 'contemporary concerns [in the US] are less alarming and visible compared to those of the past. Despite the persistence of anti-immigrant groups, demographic concerns are not part of mainstream politics in America and are not front-page news.' That an issue or viewpoint is not front-page news does not necessarily mean it is meaningless to most people; it may just mean that those to whom it matters have better access to social media than they do to the mainstream press.

Despite these minor flaws, *The Cultural Defense of Nations* is an exceptional work that sounds a timely, provocative and very perceptive alarm about the looming challenges facing liberal democracies across the West. As national conservative movements surge in popularity, and with the migrant crisis set to endure for some time, the questions this book examines are likely to become ever more trenchant. Given the importance of those questions and the thoughtfulness of Orgad's answers to them, policy makers of all sorts should make reading this book a top priority.

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