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Robert Schuman Centre for Advanced Studies
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**Swearing loyalty: should new citizens pledge
allegiance in a naturalisation oath?**

Patti Tamara Lenard and Rainer Bauböck (Eds.)

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Abstract

In many countries, immigrants conclude their naturalisation by swearing a citizenship oath. In her kick-off piece, Patti Lenard defends naturalisation oaths as permissible on three grounds. First, even if mandatory, they are premised on individual consent to acquire a new citizenship. Second, such oaths express immigrants' acceptance of citizenship responsibilities in exchange for protection offered by the state and they signal to existing citizens that new ones can be trusted to take their obligations seriously. Third, taking such an oath at a public ceremony is often a meaningful and valuable experience for immigrants. So long as the content of the oath and the procedure of the ceremony do not violate liberal constraints, such as respect for cultural and religious diversity, mandatory oaths are permissible (but not required) public policy. Many of the sixteen respondents disagree. Some question why only immigrants are asked to take such oaths, point to their historic roots in illiberal conceptions of allegiance, or ask whether demanding promises to obey the law makes immigrants specifically vulnerable to sanctions, including citizenship deprivation, that do not apply to native-born citizens. Others object that the content of naturalisation oaths is never specific enough to ground legal obligations or likely to violate freedom of conscience. Some contributions consider whether there is empirical evidence for Lenard's claim that naturalisation oaths are a positive experience and enhance trust in new citizens. Finally, several authors consider justifications and effects of citizenship oaths in specific national contexts, where they have been used for contrasting purposes, or in the wider context of global democratic backsliding. Lenard addresses these concerns and objections in her concluding rejoinder.

Keywords

oath, pledge, allegiance, affiliation, ceremony, naturalisation, immigrants, citizenship

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Kick-off contribution

Swearing loyalty: should new citizens pledge allegiance in a naturalisation oath?

Patti Tamara Lenard*

Across many countries, new citizens pledge allegiance to their new states of citizenship, as part of a citizenship ceremony that concludes a long and often arduous naturalisation process. The ceremony, and the oath, are part of a celebration that marks the formal welcoming of new citizens into the community, as full and equal members. In what follows, I will defend the choice to require pledges of allegiance, where allegiance requires a commitment to obey the law and often where it requires a shift in beliefs and sentiments as well.

Context

The so-called traditional immigrant receiving countries, including Canada, the United States and Australia, have long asked would-be citizens to take an oath of citizenship, as a final step in the naturalisation process. The United States has required would-be citizens to take an oath since 1790;¹ Canada since 1947;² Australia since 1949 (but not for British nationals).³ More recently, other countries have followed suit. For example, the United Kingdom began requiring new citizens to swear an oath of allegiance in 2004;⁴ optional citizenship ceremonies, including an oath of allegiance, were made available to incoming citizens in Norway in 2007;⁵ and more recently, Peru and South Korea adopted ceremonies, with oaths, in 2016 and 2018 respectively.⁶

The context for the adoption of citizenship ceremonies is the worry that immigrants, especially those who come from countries with distinctive religious and cultural practices, may not be integrating effectively, and that more work has to be done to ensure that they do.⁷ Many states have adopted the view that more robust efforts at nation-building should accompany this rise in immigration. As a result, the last twenty years have seen many states adopt a range of policies ostensibly encouraging integration. Their goal is to ensure that by the time immigrants naturalise, they are not only successful in mastering a national language, in pursuing education and finding employment but are also loyal members of the nation they have joined. These policies include citizenship and language classes and tests, and in some countries a citizenship ceremony that includes an oath of allegiance.

These nation-building policies are not obviously objectionable in and of themselves, though many scholars (including me) do believe that naturalisation should be made easier rather than more challenging. One main worry is that the adoption of more robust naturalisation policies is fundamentally rooted in Islamophobia, where the implicit objective is to make it harder for Muslim migrants to gain access to the full set of rights and privileges of citizenship⁸ – or at least to ensure

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1 'History of the Oath of Allegiance', US Citizenship and Immigration Services, <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/history-of-the-oath-of-allegiance>.

2 Major D. (2022), 'New Canadians among first to swear oath to King Charles', CBC News, <https://www.cbc.ca/news/politics/canada-citizenship-oath-new-monarch-1.6578111>.

3 'Changes in the Australian oath of citizenship', Parliament of Australia, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=ld:%22library/prspub/1VW76%22>.

4 Nationality Act 1981, schedule 5: oath (United Kingdom).

5 Nationality Act 2023 (Norway).

6 'Foreigners granted Peruvian citizenship in special ceremony', Andina, 12 September 2016, <https://andina.pe/ingles/noticia-foreigners-granted-peruvian-citizenship-in-special-ceremony-644240.aspx>; 'Foreigners Awaiting Naturalization Take Oath of Citizenship', The Korea Bizwire, 28 November 2018, <http://koreabizwire.com/foreigners-awaiting-naturalization-take-oath-of-citizenship/128016>.

7 Silj A. (eds.) (2010), *European Multiculturalism Revisited*, Bloomsbury (hereinafter 'Silj 2010'); Kymlicka W. (2010), 'The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies', *International Social Science Journal*, 61, 97-112; Vertovec S. and Wessendorf S. (eds.) (2010), *The Multiculturalism Backlash: European Discourses, Policies and Practices*, Routledge.

8 Guild E. and Groenendijk K. (2009), *Illiberal Liberal States: Immigration, Citizenship and Integration in the EU*, Routledge.

that objectionable values are weeded out of would-be citizens before they act on them.⁹

Moreover, the worry that immigrants are not loyal to their host state, and therefore that it is worthwhile to be suspicious of them, is not new. In particular, the demand that newcomers pledge allegiance is often rooted in the worry that certain newcomers remain loyal to their countries of origin, even as they take advantage of the benefits of living in stable and democratic host societies, in part by sustaining rather than giving up the norms and values that define their country of origin.

Pledges of allegiance: a defence

Before examining whether this demand can be justified, it is important to consider what allegiance is. In contemporary discussions of allegiance, a distinction is drawn between a thinner and thicker understanding of the concept. On some thinner interpretations, allegiance is understood minimally to mean a commitment to obey the law. On thicker interpretations, allegiance is believed to require possession of certain beliefs or sentiments,¹⁰ or “loyalty to the law.”¹¹ Oaths of allegiance are defensible, in my view, if they are entirely thin and, subject to the conditions I outline below, even if they demand the public expression of allegiance or loyalty.

I will defend three reasons that oath-taking, in which newcomers pledge their allegiance to their new country of citizenship, is defensible policy: 1) taking the oath signals the voluntary consent of new citizens to the authority of their new state of citizenship; 2) taking the oath solemnizes the moment in which new citizens commit themselves to the state that, in turn, protects their rights and privileges; and 3) taking the oath is, at least so far as empirical evidence suggests, a meaningful moment for newcomers, who are happy and excited to join a new state formally and who recognise the moment as one in which they are accepted as belonging to a new state. None of these reasons is without criticism, but together they provide a strong case in defence of states’ choice to adopt pledges of allegiance for new citizens.

First, at least so long as naturalisation is itself *voluntary* on the part of the immigrant, pledging allegiance during a citizenship ceremony is “closely connected with the voluntaristic aspects of the liberal tradition. Declarations of attachment can be seen as part of an effort to link political obligation with the active consent of the governed.”¹² Naturalisation itself is a choice that immigrants can make, if they meet the requirements the state asks of them. Even if the specific steps required to naturalise are themselves not matters of choice, the choice to naturalise highlights that incoming citizens are consenting to the authority of the state they are joining (I assume, it is worth emphasising, that naturalisation is voluntary; were naturalisation mandatory rather than a matter of choice, the matter might well be different).¹³ Many choices have this structure – as I say to my Applied Ethics students, my course may be mandatory and therefore you *must* take it, but only because you have made the *prior choice* to pursue a graduate degree in Policy Studies.

A critic might respond that it is disingenuous to claim that the steps of naturalisation should be treated as voluntary, including especially a mandatory oath, just because a choice to naturalise has been made. On this view, the choice to naturalise does not translate into a choice to say *anything* in an oath. If the content of an oath is sufficiently objectionable, then it is misleading at best to treat oath-taking as voluntary, and at worst, when it is the only way to acquire citizenship status, the requirement to utter it is a violation of freedom of conscience. I think this objection has some validity, but only where the content of the oath is truly objectionable. Below I will say more about the content

9 Goodman S. W. (2014), *Immigration and Membership Politics in Western Europe*, Cambridge University Press.

10 Orgad L. (2014), ‘Liberalism, Allegiance, and Obedience: The Inappropriateness of Loyalty Oaths in a Liberal Democracy’, *Canadian Journal of Law & Jurisprudence* 27(1):99-122 (hereinafter ‘Orgad 2014’).

11 Vasanthakumar A. (2014), ‘Treason, Expatriation and So-Called Americans: Recovering the Role of Allegiance in Citizenship’, 12 *Geo. J. L. and Pub. Pol.* 187 (hereinafter ‘Vasanthakumar 2014’).

12 Sunstein C. (1990), ‘Unity and Plurality: The Case of Compulsory Oaths’, 2 *Yale Journal of Law and the Humanities* 101.

13 De Schutter H, Ypi L. (2015), ‘Mandatory Citizenship for Immigrants’, *British Journal of Political Science*, 45(2):235-251 (hereinafter ‘Schutter and Ypi 2015’).

requirements for mandatory oaths, but for now let me at least point out that in cases where the oath contains only statements about the willingness to conform to the law, it is reasonable to treat oath-taking as being done voluntarily and thus as expressing consent. This response is especially strong in democratic states where most rights and obligations are protected for and possessed by both citizens and non-citizens of a territory.

Although some scholars and activists wish it were otherwise, citizenship status remains extremely valuable – one’s country of citizenship is legally and morally obligated to protect the rights and privileges of its citizens on an equal basis. A second reason to defend naturalisation oaths, then, is that in taking them, new citizens publicly accept the responsibilities of citizenship in exchange for the protection offered by citizen status. In general, oaths are an especially weighty promise, and the taking of the citizenship oath specifically highlights the importance of this exchange – of responsibility-taking for protection – for both the host state and the new citizen. In addition to formalising the connection between incoming citizens and their new state, the oath also has an important expressive dimension: it signals to current citizens that incoming citizens have done the work they need to warrant citizenship status, and that they ought therefore to be welcomed since they can be trusted to take their role as citizens in their new state seriously. While the oath appears one-sided – newcomers take on the responsibilities of citizenship, whereas the state is not itself required to pledge allegiance – naturalisation, as represented by the completion of the oath, immediately gives rise to the obligation by a state to protect the oath taker’s citizenship rights. While citizenship status can be revoked in many states once it is granted, doing so is often a cumbersome and difficult process, even where new citizens are accused of fraud or disloyalty. In other words, the cementing of citizenship status, via an oath, is often paradoxically more binding on the state than the incoming citizen.

Some scholars argue that requiring the consent of incoming citizens distinguishes them problematically from “natural-born” citizens who are also subject to the authority of the state but who have not consented to this authority; Liav Orgad for example suggests that this generates an unacceptable inequality between types of citizens.¹⁴ I think this objection is mistaken for two reasons. For one, if consent to state authority is important, then this objection is in fact an argument in favour of finding ways to secure the consent of natural born citizens rather than objecting to the ways in which consent is offered by incoming citizens.¹⁵ As well, while natural-born citizens may not consent to the authority that is exercised over them by taking an oath, *if* the state is democratic and offers extensive ways in which citizens can participate in politics, extract justifications for the policies to which they are subject, and issue criticisms of them, then they too can be understood as offering something like consent to the authority of the state, albeit via an alternative mechanism. This reason borrows from the literature that justifies state authority: This authority is not a morally problematic violation of individual freedom, if individuals can freely access justifications for the use of that authority and if they can participate freely in the democratic procedures that shape its actions.¹⁶ In other words, the mechanisms by which incoming and natural-born citizens offer their consent need not be the same.

A third reason to defend oath-taking is that doing so is often important to immigrants themselves. For many individuals, the journey of taking on citizenship has been long and difficult, and they are at least relieved and sometimes even ecstatic to do so. So, the oath and the ceremony surrounding it are together a meaningful recognition of a valuable transition for many immigrants. Ethnographic research bears out the claim that the ceremony, and the oath-taking, are significant to many new citizens, suggesting that incoming citizens appreciate the opportunity to make a firm commitment to their new state. To quote just one example, “what is nice about it is that it gives you that moment of ceremony, where you actually are affirming your citizenship. (...) One of the greatest privileges

¹⁴ Orgad 2014.

¹⁵ Dumbrava C. (2014), *Nationality, Citizenship and Ethno-Cultural Belonging: Preferential Membership Policies in Europe*, Palgrave (hereinafter ‘Dumbrava 2014’).

¹⁶ Blake M. (2001), ‘Distributive Justice, State Coercion, and Autonomy’, 30(3) *Philosophy & Public Affairs*, 257–96.

about it is being able to vote. And to me that means being a stakeholder in the community and a citizen – having a responsibility for this place.”¹⁷ Research suggests that, in cases where oaths and ceremonies are voluntary, the reasons that incoming citizens choose not to attend are mainly instrumental – for instance, that they cannot easily take time off work – rather than principled: “It was interesting to note that hardly anybody expressed more principled or ideologically motivated reasons for not participating.”¹⁸

Correspondingly, as one scholar explains, pledges of allegiance have the “stated purpose of creating a sense of belonging and loyal citizens.”¹⁹ The ceremony aims at generating and deepening the feelings of belonging experienced by new members, by marking the occasion of their joining the community. This reason is connected to the motivation that states have cited for adopting naturalisation oaths – namely, that they are seeking ways to secure the loyalty of incoming citizens, and to ensure that they endorse the values and norms of their new country of citizenship. Describing the voluntary citizenship ceremony and oath that is made available to incoming citizens in Norway, two scholars observe its purpose as “primarily to formally celebrate the transition to Norwegian citizenship in a dignified manner. The idea is to create a sense of belonging – and through this a basis for social cohesion.”²⁰ In describing the motivation for the British government to adopt naturalisation ceremonies, another scholar writes that, “in the ongoing debate around immigration and national-state belonging, the citizenship ceremonies were constructed as a moment of marking and celebrating the end of a journey of migration.”²¹

There are both dark and benign readings of these moves to create national belonging and generate pride and loyalty among naturalised citizens. A critic could emphasise the motivations originating in the Islamophobia I highlighted at the beginning and the more general suspicions that some states have demonstrated with respect to incoming migrants, prompting states to take a more active role in shaping newcomers. But there is a benign and even optimistic reading of these moves, which recognizes the importance of citizenship status and the felt need for incoming citizens to *belong* to the community they have joined and to be recognised as members.

Two constraints

The positive case for requiring new citizens to take oaths of allegiance leans on the voluntary acceptance of the authority of the new state, the importance of the status of citizenship itself, including the protections it provides and the obligations it generates, and its connection to generating a sense of belonging among incoming citizens, as full and equal members of a state. I will highlight two constraints on the acceptability of such oaths.

The first constraint concerns the conditions of naturalising citizens as they say the oath, rather than the oath itself. For example, Zunera Ishaq took the Canadian government to court over its claim that she had to display her face while taking the oath.²² As a devout Muslim, who interpreted her faith obligations as requiring her to keep her face covered at all times, she argued that the requirement to show her face to a roomful of people (rather than merely a female officer, in advance of the oath, to ensure her identity) was a violation of her religious freedom. The Canadian Federal Court ultimately agreed with her, and so do I (the Canadian government initially announced, and then retracted, an intention to appeal the decision). It seems clear enough that offering accommodations

17 Damsholt T. (2018), ‘I didn’t think I would be emotional until I started saying the oath’ – emotionalising and ritualising citizenship’, *Journal of Ethnic and Migration Studies*, 44:16, 2701-2716; Hagelund A. and Reegård K. (2011), ‘Changing teams’: a participant perspective on citizenship ceremonies’, *Citizenship Studies*, 15:6-7, 735-748 (hereinafter ‘Damsholt 2018’).

18 Damsholt 2018.

19 Damsholt 2018.

20 Hagelund and Reegård 2010.

21 Byrne B. (2012), ‘A local welcome? Narrations of citizenship and nation in UK citizenship ceremonies’, 16:3-4 *Citizenship Studies*, 531-544.

22 ‘Zunera Ishaq, who challenged ban on niqab, takes citizenship oath wearing it’, CBC News, 5 October 2015, <https://www.cbc.ca/news/politics/zunera-ishaq-niqab-ban-citizenship-oath-1.3257762>.

to individuals with religious and cultural commitments, so that they can take the oath, is required of liberal democratic states, if they intend the ceremony and oath-taking to be experienced as a form of inclusion and to inculcate a sense of belonging among citizens with diverse backgrounds. The same can be said for accommodations that allow incoming citizens to bypass handshaking where their religion asks them to refrain from touching others of the opposite sex. These accommodations have nothing to do with the taking of the oath and do not interrupt the exchange that the oath implies for incoming citizens.

A second constraint relates to the content of the oath. Among those who object to oath-taking some believe the *content* can, if incoming citizens are forced to say it, violate their freedom of conscience. The content of existing oaths varies widely from the relatively formal commitments to law-abidingness that characterizes the voluntary Scandinavian oaths to the more fiery commitments that incoming American citizens have to pledge, for example to “absolutely and entirely renounce and abjure all allegiance and fidelity” to other states, and to “bear arms on behalf of the United States.”²³ While the Scandinavian variation simply and permissibly asks incoming citizens to abide by the law – something which they are presumably doing already, even without citizenship status, the American version asks incoming citizens to adopt unequivocal loyalty to their new state and this is normatively problematic.²⁴ The recognition that incoming citizens will sometimes have multiple loyalties, and that this does not compromise the integrity of the new state, is increasingly widespread.

Additionally, naturalising citizens ought not to be asked to swear an oath that entrenches ethnic or religious constructions of national identity. So, on the one hand, when Israel briefly flirted with requiring non-Jewish (and then all) naturalising citizens to proclaim their loyalty to Israel as a *Jewish* state, that move was properly condemned as discriminatory in a democratic state.²⁵ On the other hand, some states have adapted oaths to remove religious references or to give incoming citizens an option to remove religious references, in respect of the religious diversity among incoming citizens. This shift is appropriate. States also adapt and adopt changes to the oaths to reflect internal shifts in domestic priorities – as for example when Canada adapted its oath to recognise formally that the willingness to abide by Canadian law includes the requirement to respect Indigenous rights, including treaties made between the government of Canada and Indigenous Peoples. In this latter case, while newcomers may not arrive with a commitment to protecting and preserving Indigenous Peoples’ rights, it is expected that they will adopt this priority as they ‘Canadianize’.²⁶

The precise boundary between permissible and impermissible content is fuzzy, and I will not engage in further examination here. I will simply conclude by telling this story of repeated contestations of the Canadian oath of citizenship. Several times, the Canadian oath’s content has been challenged in court as a violation of freedom of conscience, for requiring incoming citizens to swear their allegiance to the British Monarchy, Canada’s official head of state. The text reads that an applicant for citizenship must be “faithful and bear true allegiance to His Majesty King Charles the Third, King of Canada, His Heirs and Successors.”²⁷ Some of those who challenged the content were anti-monarchist as a matter of principle; others had specific grievances against the British Monarchy for its contribution to colonialism and connected injustices. Yet, these challenges have not succeeded for many reasons. To give just one example, a Federal Court Judgement read that “it is neither un-constitutional, nor illegal, nor inappropriate to advocate the amendment of the Constitution”, but the requirement to

23 ‘Naturalization Oath of Allegiance to the United States of America’, US Citizenship and Immigration Services, <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/naturalization-oath-of-allegiance-to-the-united-states-of-america>.

24 Midtbøen, A.H. (2015), ‘Citizenship, integration and the quest for social cohesion: nationality reform in the Scandinavian countries’, 3 *Comparative Migration Studies* 3.

25 ‘Israel’s loyalty oath: Discriminatory by design’, The Guardian, 11 October 2010, <https://www.theguardian.com/commentisfree/2010/oct/11/israel-loyalty-oath-discriminatory>.

26 Kontaxis K. (2022), ‘The Interpretation of the Residency Requirement for Canadian Citizenship’, My Consultant CA, <https://www.my-consultant.ca/EN/The-Interpretation-of-the-Residency-Requirement-for-Canadian-Citizenship>.

27 An Act to amend the Citizenship Act (Oath of Citizenship), S-262 (Canada).

speaking the oath as it is written to attain citizenship would remain in place.²⁸ In other words, once incoming citizens have said the oath, they are Canadian, and like all Canadians will have full access to the political system in which the content of the oath is debated.

The process by which newcomers are welcomed into a community, and by which they come to feel like they belong, is long and it is not complete at the time of naturalisation. As part of this process, an incoming citizen's formal pledge to respect their new state's laws, and in some cases to take on its norms and values, does however mark a meaningful milestone in that process of integration.

²⁸ Sirota L. (2014), 'True Allegiance: The Citizenship Oath and the Charter', 33:2 *National Journal of Constitutional Law* 137. Lenard P. (2023), *Democracy and Exclusion*, Oxford University Press.

Too hot or too cold: pledges of allegiance and the liberal dilemma

Lior Erez*

In her lead essay, Patti Tamara Lenard defends the requirement of a pledge of allegiance from newly naturalised citizens.²⁹ The first part of the essay presents the positive case for this requirement. She argues that requiring such a pledge will signify the new citizens' voluntary consent to the state's authority, that it communicates and strengthens the mutual commitment and duties of fellow citizens, and that it provides further symbolic and psychological significance to the act of naturalisation itself. In the second part of the essay, she presents two constraints on the acceptability of pledges of allegiance. The first one is that the conditions of making the pledge must be compatible with new citizens' religious and cultural commitments. The second involves the content of the oath, which for Lenard is only legitimate if it is "entirely thin", and "understood minimally [as] a commitment to obey the law."³⁰

In this contribution, I will present an internal challenge to this account. In brief, I will argue that the three positive reasons stand in tension with each other, and that together they are inconsistent with the constraints presented in the second half. While I tend to agree with recent arguments calling for the abolition of loyalty oaths for naturalising citizens, made for example by Liav Orgad³¹ and Adam Lovett and Daniel Sharp,³² my more limited aim in this essay is to argue that Lenard's position is stuck on the horns of a dilemma. To paraphrase Goldilocks: the pledge is either too hot to be defended by Lenard's liberal framework, or too cold to serve its intended purpose.

Lenard argues that the requirement to pledge allegiance can be seen as voluntary because the choice to naturalise stays with the non-citizen, and as such can be viewed as expressing consent, in line with the liberal social contract tradition. Yet not all individual choice is meaningfully voluntary. As David Hume wrote in his 1748 treatise against the idea of the social contract, "[w]e may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish, the moment he leaves her."³³ We have to consider an action as being voluntary only if the alternatives are sufficiently acceptable. My choice to hand over my wallet to the gun-wielding mugger is hardly voluntary, after all. Lenard recognises this, of course, as she qualifies the statement by saying that it is reasonable to treat the choice to naturalise as voluntary 'in democratic states where most rights and obligations are protected for and possessed by both citizens and non-citizens of a territory'. That is, the choice *not* to naturalise is not so detrimental to the individual's interests to make it an involuntary choice.

But if the status of citizens and non-citizens of a territory is more or less equal, what renders citizenship status 'extremely valuable'? In light of Lenard's second and third reasons for supporting a pledge of allegiance, if the rights and obligations of citizens and non-citizens are similar, it remains unclear what kind of commitment new citizens are making, what kind of new protections they are receiving in exchange, and why they would find the ceremony and the oaths meaningful. All of these transformations are meaningful only if being a citizen is different from being a resident non-citizen. If only citizens have the right to vote, to run for office, to leave and enter the country freely, and to know that they and their children have a stable stake in the country, the act of becoming a citizen marks a significant change in their status. The same is true for civic duties: explicitly taking on the duties of serving as a jury member, of participating actively in the shaping of the political community and its future, or of defending it against foreign and domestic threats, is indeed a signal to others that one

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29 Lenard P. (2023), 'Swearing loyalty: Should new citizens pledge allegiance in a naturalisation oath?', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/> (hereinafter 'Lenard 2023').

30 Lenard 2023.

31 Orgad 2014.

32 Lovett, A. & Sharp, D. (2022), 'What Immigrants Owe', *Ergo an Open Access Journal of Philosophy* 8: 36 (hereinafter 'Lovett and Sharp 2022').

33 Hume D. (1748) [1963], 'Of the Original Contract', in *Essays – Moral, Political and Literary*, Oxford University Press, 452-473.

can “be trusted to take [one’s] role as citizens in their new state seriously”.³⁴ The thinner these duties are, the more indistinct the citizen is from the non-citizen, the less significant is naturalisation itself, and with it the oath. Note that I am not arguing against what Christian Joppke has described as the ‘lightening of citizenship’, only pointing out that it is unclear how the meaningfulness of naturalisation can be squared with the claim that it is, in a full sense, voluntary.³⁵

Lenard might wish to resolve this apparent tension by suggesting that non-citizen residents’ rights are equally protected without naturalisation, and that becoming a citizen is an act of voluntarily taking on additional, meaningful duties. This strategy might defuse some of the force of my objection above, but it does so by creating a new problem with Lenard’s insistence on limiting the content of the oath to a pledge to ‘obey the law’. To highlight this problem, consider Lenard’s pre-emptive response to the objection that non-naturalised citizens are not required to make a similar pledge. This non-requirement is not necessarily a problem for civic equality, she argues, because consent to the state’s legitimate authority can be achieved through other mechanisms. But that raises an obvious question – why is the act of naturalisation, in itself, not sufficient to imply consent to the legitimate authority of the state, without requiring the naturalised to utter an explicit obligation? And if the pledge is necessary in the absence of paths to political participation, why are non-citizen residents (who are, after all, also obliged to obey the law) not required to take this oath when they immigrate to the country?

I suspect that the most plausible answer is that the oath is more than simply a declaration of one’s intention to obey the law. As Helen Irving argues in her excellent recent book on the subject, the act of naturalisation and the oath accompanying it are meant to contain “a promise of belonging, identifying oneself with fellow adherents and their values, and forcing potential enemies to expose themselves by refusing to swear”.³⁶ New citizens become ‘one of us’ because, in effect, they are already one of us. This rather harsh assimilationist narrative is tamed, by Lenard’s rejection of strict ideological, ethnic, or religious requirements, and this is in line with her arguments elsewhere in defense of a cultural conception of liberal national identity. Lenard is also correct that citizens can always contest the meaning of citizenship and national identity, including the content of the oath itself, such that allegiance does not entail conformity. But the trouble remains political, rather than cultural; even if they are dissenting, the oath of allegiance is, as I have argued elsewhere, meant to allow citizens to be assured that others are acting for the common good of our political community, and not in order to advance the interests of some other group.³⁷ I struggle to see how this end is served by a thin pledge to obey the law, without being supplemented with ‘thicker’ and more specific value-laden content, such as a commitment to a political identity or a normative ideal.

Lenard’s proposal, in summary, is either too hot or too cold. The kind of oath she defends is at odds with the reasons such an oath is viewed as necessary; and the kind of oath that aligns with these reasons would likely violate the liberal constraints she (in my view, justifiably) places on it.

³⁴ Lenard 2023.

³⁵ Joppke C. (2010), ‘The Inevitable Lightening of Citizenship’, 51(1) *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv Für Soziologie*, 9–32 (hereinafter ‘Joppke 2010’).

³⁶ Irving H. (2022), *Allegiance, Citizenship and the Law: The Enigma of Belonging*, Edward Elgar.

³⁷ Erez L. (2019), ‘Where the Heart Is: Liberal Nationalism, Social Trust, and Multiple National Belongings’, in Gustavsson G. and Miller D. (eds), *Liberal Nationalism and Its Critics: Normative and Empirical Questions*, Oxford University Press.

Mandatory naturalisation oaths: a small price to pay that shouldn't be asked

Ashwini Vasanthakumar*

Patti Lenard defends selectively mandatory oaths of allegiance that are required only from naturalising citizens.³⁸ She does so on three grounds: (1) taking the oath “signals the voluntary consent of new citizens to the authority of their new state of citizenship”; (2) the oath “solemnizes the moment new citizens commit themselves to the state,” reassuring current citizens that they take citizenship seriously; and (3) the oath is significant to new citizens, “who are happy and excited to join a new state.” Lenard limits her defence to oaths requiring allegiance understood as “a commitment to obey the law,” and where the circumstances of taking the oath and content of the oath are not objectionable on grounds she outlines. Oaths of allegiance, according to Lenard, “mark a meaningful milestone” in the process “by which newcomers are welcomed into a community, and by which they come to feel like they belong.”

Most of my response will critique Lenard's nuanced defence, which presents the most normatively compelling account of selectively mandatory oaths. I nevertheless reject this account, and drawing on my citizenship ceremony in Canada, I reflect on what mandatory oaths can express and how they may be counter-productive to making us newcomers “feel like [we] belong.”³⁹ I am relieved to be a Canadian and take my citizenship seriously *in spite of* the mandatory oath and all that it represents.

What is consensual about a mandatory oath?

Lenard's defence of selectively mandatory oaths relies on some background assumptions, including about the nature of authority and the role of consent in establishing this authority. Even on its own terms, however, Lenard's defence does not establish that selectively mandatory oaths are either necessary or sufficient to signal voluntary consent, to solemnise moments of commitment, or to provide newcomers with opportunities for celebration. As Lenard observes, naturalisation is a choice and one that often is costly and time-consuming. Undertaking this process would seem sufficient to signal “the voluntary consent of new citizens”,⁴⁰ well before they take an oath, naturalising immigrants have signalled a willingness to obey the law (unlike their natural-born counterparts, who generally are free to break the law without their allegiance being called into question). As Lior Erez argues in his response,⁴¹ the oath is superfluous, especially when it is understood in the minimal terms Lenard endorses.

Lenard provides an analogy with university: once students have made the decision to pursue a graduate degree in Policy Studies, they are subject to the degree's mandatory Applied Ethics course. First, this analogy is question-begging: at issue is whether oaths should be a mandatory part of the process of naturalisation, so simply pointing to the fact that individuals consent to this process is beside the point. To use Lenard's analogy, when we, as university lecturers and departments, are asked to provide an account of our curricular choices, it is no answer to note that our students signed up for the degree and therefore no explanation is necessary, provided that a curricular requirement is not “truly objectionable.”⁴² More is needed to justify the requirements we impose.

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38 Lenard 2023.

39 Lenard 2023.

40 Lenard 2023.

41 Erez L. (2023), 'Too Hot or Too Cold: Pledges of Allegiance and the Liberal Dilemma', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/2/> (hereinafter 'Erez 2023').

42 Lenard 2023.

This analogy is illuminating, however, precisely because of the disanalogies between a graduate degree and citizenship. For one, an Applied Ethics course seems integral to Policy Studies: it might be a safe assumption that someone who wishes to pursue graduate studies in Policy Studies would benefit from or need an Applied Ethics course. It is unclear that an oath similarly is integral to being a citizen; indeed, we know it is not because most citizens never take an oath. Second, typically *all* students are required to take mandatory courses. Perhaps naturalising citizens are like remedial students who need additional coursework. But this brings us back to the problem that the oath is superfluous: if there is extra work that naturalising citizens need to do, the oath will not suffice (tests showing knowledge of language, history, and democratic procedures are another matter). And third, and most significantly in my view, the choice exercised in these contexts is not merely of different degrees but kinds. Pursuing a graduate degree is part of a plan or project; citizenship provides the framework of rights and resources within which particular plans or projects even become options. As Lenard notes, some of us must brave life-threatening journeys, jump through interminable hoops, pay large sums of money to enjoy the options that others take as their birthright. Having made it as far as the naturalisation ceremony, not many would balk at a mandatory oath, when it is all that stands between them and the several securities of citizenship in a wealthy liberal democracy like Canada, the United States or Western Europe. Among other things, this means that a citizenship oath is not sufficient, by itself, to signal someone's 'voluntary consent'. Mandatory requirements in high-stakes contexts have a way of obscuring, rather than expressing, individual intent.

That selectively mandatory oaths may not suffice to show consent also undermines Lenard's second argument: oaths are a way for new citizens to "publicly accept the responsibilities of citizenship in exchange for the protection offered by citizen status." In addition, the oath seems superfluous. Satisfying the myriad requirements of naturalisation should be sufficient to reassure "current citizens that incoming citizens have done the work they need to warrant citizenship status...and that they can be trusted to take their role as citizens in their new state seriously."⁴³ Moreover, there exists no reciprocal reassurance to naturalising citizens from natural-born citizens. Lenard notes that the state provides reassurance to naturalising citizens that it will protect their rights, but this says nothing about current citizens. For some unstated reason, Lenard assumes that this reassurance needs to be provided only by naturalising citizens to current citizens, despite all the hoops through which they have already jumped; those who are natural born are assumed "to warrant citizenship status [and] be trusted to take their role as citizens ...seriously."⁴⁴

Lenard tries to do away with this apparent asymmetry between natural-born and naturalised citizens. She argues that "the mechanisms by which incoming and natural-born citizens offer their consent need not be the same."⁴⁵ This may well be true, except that on Lenard's account simply being alive in a liberal democracy is enough to show consent. It is unclear at times whether Lenard is relying on tacit consent theory or is arguing that the state's authority can be justified even in the absence of consent provided its exercise of authority satisfies certain conditions.⁴⁶ I am not sure either account helps Lenard address the asymmetry that Liav Orgad deems unacceptable.⁴⁷ First, many natural-born citizens do not participate in democratic processes or are law-breakers; does Lenard see them as withholding consent? Furthermore, a not-insignificant proportion of natural-born citizens have reason to reject the state's authority and its justifications, such as Indigenous peoples, racialised groups, religious minorities, the poor and the unhoused. That they remain within the state's territory, comply with its laws, and occasionally participate in its democratic processes does not cure the lack of legitimate authority over them nor should be treated as consent. At least some current citizens, therefore, cannot provide reassurance of their law-abidingness to newcomers. Their citizenship status does not thereby become unwarranted, nor does it mean that they do not

43 Lenard 2023.

44 Lenard 2023.

45 Lenard 2023.

46 Simmons J. (1976), 'Tacit Consent and Political Obligation', 5(3) *Philosophy & Public Affairs*, 274–91.

47 Orgad L. (2015), *The Cultural Defense of Nations: A Liberal Theory of Majority Rights*, Oxford University Press.

take their role as citizens seriously—it means only that being earnest and diligent citizens need not translate into obedience to the state’s commands. Indeed, active citizenship is consistent with working to fundamentally re-shape the state, including through disobedience.⁴⁸ Selectively mandatory oaths therefore enact two forms of asymmetry. First, they demand a superfluous reassurance from naturalising citizens with no reciprocal obligation on the part of current citizens. Second, they relegate naturalising citizens to a narrow conception of citizenship as obedience to the state’s commands. Oaths are neither necessary nor sufficient for the task of providing reassurance, and the asymmetric demand for reassurance introduces an as-yet-unjustified inequality.

Lenard’s final argument rests on the meaning that oath-taking has for naturalising citizens. “Ethnographic research,” she claims, “bears out the claim that the ceremony, and the oath-taking, are meaningful to many new citizens, suggesting that incoming citizens appreciate the opportunity to make a firm commitment to their new state.”⁴⁹ Some of the ethnographic research Lenard cites pertains to *voluntary* citizenship ceremonies, only some of which involve an oath. It is unclear how this evidence bears on a selectively *mandatory* oath. This evidence also provides no normative justification whatsoever and might even counsel against selectively mandatory oath-taking: compulsory celebrations that only some people must attend can be something of a buzzkill. Indeed, the Canadian court challenge that Lenard briefly addresses provides countervailing empirical evidence she does not consider: at least some naturalising citizens are not “happy and excited,” but instead felt “somewhat humiliated,”⁵⁰ so much so that they were willing to go to court over it and publicly disavow a portion of the oath.⁵¹ At most, the ethnographic research Lenard cites makes the case for optional oaths, and perhaps one available to all citizens (after all, why deny natural-born citizens opportunities for emotional catharsis?)⁵²

Lenard is aware of the dark readings of mandatory oaths and other “moves to create national belonging and generate pride and loyalty among naturalised citizens.”⁵³ She offers a “benign and even optimistic” interpretation, arguing that selectively mandatory oaths are an expression of voluntary consent, a public reassurance to current citizens, and an occasion for celebration. These arguments do not support a selectively mandatory oath. A mandatory oath is not necessary to achieve these nor is it sufficient; indeed, the mandatory nature of the oath inhibits its communicative potential, and its selective nature can be counterproductive to welcoming newcomers as equal members of the polity.

Why is integration something only immigrants do?

Lenard’s thought-provoking essay prompted me to revisit my citizenship ceremony in Canada, more than 20 years ago. It was one of the rare institutional events in Canada where immigrants and people of colour were in a majority, and where we could therefore express relief, happiness, and gratitude without performing the role of ‘the grateful immigrant’ that is demanded, however implicitly, by so many liberal Canadians.⁵⁴ One person was wearing a tuxedo with a red bowtie. Already law-abiding, I would have preferred not to swear an oath of allegiance and certainly not one to the Queen and her heirs and successors—which, to be clear, Lenard neither defends nor rejects. But the oath could have been in Klingon for all I cared. In the grotesquely unequal world we inhabit, citizenship overdetermines life chances. When natural-born citizens from affluent states worry about the consent, loyalty, and the worthiness of newcomers, it’s a little like listening to a wealthy heir

48 Delmas C. (2018), *A Duty to Resist: When Disobedience Should Be Uncivil*, Oxford University Press.

49 Lenard 2023.

50 Mehta D. (2015), ‘New Canadian citizen renounces ‘royalty part’ of oath’, CTV News, <https://www.ctvnews.ca/canada/new-canadian-citizen-renounces-royalty-part-of-oath-1.2680164>.

51 See <http://www.disavowal.ca/>.

52 Sherwood S. and Salvage M., ‘Public invited to swear their allegiance as king is crowned’, The Guardian, 29 April 2023.

53 Lenard 2023.

54 ‘Simu Liu says this generation of immigrants needs ‘to show the world that we belong’’, CBC Radio, 17 June 2022, <https://www.cbc.ca/radio/sunday/the-sunday-magazine-for-june-12-2022-1.6483318/simu-liu-says-this-generation-of-immigrants-needs-to-show-the-world-that-we-belong-1.6491064>;

earnestly discuss the importance of hard work.⁵⁵

Lenard presents her arguments as a counterpoint to criticisms that citizenship ceremonies and selectively mandatory oaths originate in Islamophobia and more generalised xenophobia. These political forces tend to announce themselves as such. More insidious, to my mind, are liberal concerns about immigration and integration, “worry[ing] that immigrants, especially those who come from countries with distinctive religious and cultural practices, may not be integrating effectively, and that more work has to be done to ensure that they do.”⁵⁶ The seemingly benign framing of this concern assumes a lot that goes unexplained. How does one ‘ensure’ that people integrate? Who gets to define ‘effective integration’? Whose worries about inadequate or ineffective integration matter and why? And why is integration something only *immigrants* do?

You cannot hector people into affection and loyalty; you earn it. Instead of focusing on immigrants and why they will not integrate, immigrant-receiving countries might better spend their time addressing the deep injustices that lay at their foundation and endure into the present, and the racial, religious, and class hierarchies that are carefully nurtured even as they are officially disavowed. At a time of critical reckoning about the founding of the Canadian state and of imminent demographic change,⁵⁷ a selectively mandatory oath of allegiance to an overwhelmingly white institution complicit in colonialism and slavery certainly has expressive functions that will reassure some current citizens—just not in the way Lenard contemplates. I now think of the selectively mandatory oath as quintessentially Canadian, a way that liberal Canadians can congratulate themselves on their magnanimity in being so welcoming, all the while reminding you that you’re in their house and they set the price of entry.

As Lenard notes, integration is a process. My sense of belonging in Canada has happened over time, through institutional and interpersonal interactions with other Canadians who see Canadian citizenship as a complicated bond that connects us to local and global struggles for justice and dignity, and that commits us to creating a place that is worthy of all the peoples who make it their home. For all this, an oath was a small price to pay perhaps, but that does not mean it should have been asked.

55 Shachar A. (2009), *The Birthright Lottery: Citizenship and Global Inequality*, De Gruyter (hereinafter ‘Shachar 2009’).

56 Sijj 2010.

57 Qaqqaq M. (2021), ‘This Canada Day, let’s remember: this country was built on genocide’, *The Guardian*, <https://www.theguardian.com/commentisfree/2021/jul/01/this-canada-day-lets-remember-this-country-was-built-on-genocide>; Statistics Canada, ‘Canada in 2041: A larger, more diverse population with greater differences between regions’, 8 September 2022, <https://www150.statcan.gc.ca/n1/daily-quotidien/220908/dq220908a-eng.htm>.

Naturalisation without allegiance

Daniel Sharp*

Patti Lenard makes a persuasive case that mandatory citizenship oaths are “defensible policy,” if they meet certain conditions.⁵⁸ Nevertheless, I remain unconvinced by her argument. I believe (and have argued elsewhere) that mandatory oaths of allegiance should be abolished, even if they meet Lenard’s conditions.⁵⁹ It is wrong to condition immigrants’ access to citizenship on their swearing allegiance.

Lenard makes three arguments in favour of mandatory oaths: 1) they secure voluntary consent to state authority, 2) they publicly signal to current citizens that naturalising citizens merit citizenship, and 3) they are a meaningful moment for naturalising citizens. I argue that, in each case, the alleged benefit is outweighed by a corresponding cost, and that the benefit can instead be better achieved by a voluntary oath of allegiance or citizenship ceremony.

Obligations and inequality

First, Lenard suggests that taking the oath signals the voluntary consent of new citizens to the authority of the state. She understands oaths as “especially weighty promise[s]”, which confer an obligation to do as promised.⁶⁰ She thinks securing the state’s authority is very important; so, this is a reason to compel immigrants to take an oath.

Of course, promises only bind if they are voluntarily made.⁶¹ Lenard emphasizes that “naturalisation is *voluntary*”, but she acknowledges that immigrants in countries like the U.S. lack the option to naturalise without taking an oath. Like Lior Erez⁶² and Ashwini Vasanthakumar,⁶³ I have my doubts about how ‘voluntary’ oath-taking really is, given the costs of remaining a noncitizen. This is especially so for those whose original citizenship has been rendered inoperative (e.g., stateless persons and refugees).⁶⁴ I thus don’t think oaths create binding obligations for those whose need for citizenship is most dire, since it would severely wrong them to make their access to citizenship conditional on swearing an oath. Still, I concur with Lenard that they are often voluntary enough to create genuine obligations.

Contra Lenard, however, I believe that creating such obligations for immigrants comes with a cost. Adam Lovett and I have argued that mandatory oaths create problematic inequalities between natural-born and naturalised citizens.⁶⁵ Let me explain. To begin, note that, unless they take on a public office, natural-born Canadians (to take an example Lovett discusses here⁶⁶) don’t typically swear allegiance to Canada. They do not typically make promises to obey the law. They, therefore, do not have an obligation based on a promise to obey the laws of Canada. Of course, as Lenard suggests, natural-born Canadians have some obligation to obey the law. However, because they have not explicitly *promised* to obey the law, they have weaker obligations to do so than naturalised Canadians.

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58 Lenard 2023.

59 Lovett and Sharp 2021.

60 Lenard 2023.

61 Simmons, A. (1979), *Moral Principles and Political Obligations*, Princeton University Press.

62 Erez 2023.

63 Vasanthakumar A. (2023), Mandatory naturalisation oaths: a small price to pay that shouldn’t be asked, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/3/> (hereinafter ‘Vasanthakumar 2023’).

64 Kingston, L. (2014), ‘Statelessness as a Lack of Functioning Citizenship’, 19 (1-2) *Tilburg Law Review* 127-135.

65 Lovett and Sharp 2021.

66 Lovett A. (2023), ‘Should Canada have oaths of allegiance?’, *Canadian Foreign Policy Journal*.

Lenard suggests that natural-born citizens may have consented “via an alternative mechanism”. I have argued elsewhere that this is mistaken.⁶⁷ It is simply not the case that anything citizens typically do involves giving valid consent to obey the law or be loyal to the state. Moreover, this defence would, at best, render oaths of allegiance pointless because immigrants, like citizens, would invariably ‘consent’ in just the same way citizens do. On this point, I concur with Erez.⁶⁸ What is true, however, is that natural-born citizens have *some* reason to obey the law, though these aren’t based on consent. Still, whatever these reasons are, and whatever their source is (there’s much debate about this among philosophers),⁶⁹ *naturalising* citizens also generally have, and will anyway usually acquire, these obligations as well. But *only* naturalising immigrants, in virtue of taking an oath, have an additional obligation based on a promise.

The point is not that natural-born and naturalised citizens have reasons of different kinds to obey the law. Rather, the promise gives naturalising citizens an *extra* reason, on top of those they already have, to obey the law or remain loyal to the state. This puts on them an overall weightier obligation to obey the law or be loyal to the state. We might, like Erez, regard this as a dilemma: either the promise adds no weight to naturalising citizens’ overall obligations to show allegiance to the state, in which case the practice is pointless, since naturalising citizens already have all the reasons naturalised citizens have obligations to obey the law; or the promise adds something—another reason on top of those naturalising citizens already have—and thus gives new citizens a stronger overall obligation to obey the law.

What’s the problem with naturalising citizens having weightier obligations to obey the law or remain loyal to the state than natural-born citizens? There are, in my view, two issues, both of which concern equality. First, justice requires an equal, or at least fair distribution, of burdens among citizens. But having weightier duties to obey the law is burdensome. The state’s laws are, after all, sometimes unjust. Thus, requiring naturalising citizens to swear an oath foists upon them burdens, which are heavier than those that natural-born citizens have. This is an unjust distribution of the burdens of citizenship. Second, this sort of inequality undermines the sort of social equality implicit in the ideal of equal citizenship. It is widely thought that citizens ought to relate to each other as social equals.⁷⁰ This requires sharing in the benefits and burdens of citizenship equally. Consider an analogy: suppose a husband announces he will marry his wife only if she promises to do all the housework. He makes no similar commitment to do his part. This kind of arrangement is no basis for an equal marriage. The burdens are too unevenly shared. Analogously, forcing only immigrants to promise to obey the law is no basis for fostering a relationship of equal citizenship between naturalised and natural-born citizens.

So, although I agree with Lenard that oaths of allegiance create political obligations, I think it is unfair to foist such obligations on immigrants alone.

The expressive dimension of oaths

Lenard’s second argument (or, at least, a key aspect of it—her discussion here is intricate) is that oaths have a public, “expressive dimension”. Because such oaths involve “publicly accept[ing] the responsibilities of citizenship”, this “signals to current citizens that incoming citizens have done the work they need to warrant citizenship status, and that they ought therefore to be welcomed since they can be trusted to take their role as citizens in their new state seriously.”

67 Lovett and Sharp 2021.

68 Erez 2023.

69 Dagger R. and Lefkowitz D. (2021), ‘Political Obligation’, in Zalta E. (ed.), *The Stanford Encyclopedia of Philosophy* (Summer 2021 Edition), <<https://plato.stanford.edu/archives/sum2021/entries/political-obligation/>>.

70 Sharp, D. (2023), ‘Immigration, Naturalization, and the Purpose of Citizenship’, 104 *Pacific Philosophical Quarterly* 408–441.

This argument is, at best, inconclusive, given the lack of data on the nature of oaths' signalling effects. At worst, I fear the expressive role of mandatory oaths may further undermine new citizens' quest to be received as equal members. Lenard's interpretation of signalling fits with a broad body of research,⁷¹ which suggests, as David Bartram puts it that "the real 'targets' of [citizenship requirements] are not the immigrants themselves but rather those who are already citizens."⁷² They are, in his words, "intended primarily to reassure anxious citizens that the government is 'doing something' about immigration". Despite this being the motivation for such policies, there's no evidence, to my knowledge, that these policies *in fact* reassure such voters or increase trust.

Indeed, I find it more plausible that mandatory oaths of allegiance do the opposite. By singling out only immigrants as *needing* to take an oath before they can be trusted with citizenship, they express that naturalising citizens are presumptively disloyal or disobedient. This contributes to the broader climate of "heightened suspicion" of (racialised) immigrant subjects.⁷³ Moreover, it contributes to a politics in which those who have not chosen to naturalise are seen as "undesirable" and undeserving.⁷⁴ Thus, although more data is needed on this issue, the 'expressive dimension' of mandatory oaths of allegiance strikes me as at least as likely to exacerbate inequalities and foment racialised suspicion of immigrants as it is to reassure anxious citizens that those who naturalise 'deserve' citizenship. Here, though, more data are needed on the actual effects, if any, of these policies. Rather than play into a discourse on whether people 'deserve' citizenship and can be 'trusted' with it, we ought to make citizenship status easily available for all long-term immigrants.

Meaningful, meaningless, or alienating?

Third, Lenard argues that "[f]or many individuals, the journey of taking on citizenship has been long and difficult, and they are at least relieved and sometimes even ecstatic about the event. So, the oath, and the ceremony surrounding it, are a meaningful recognition of a valuable transition for many immigrants." Her evidence for this claim comes from a study of participants in naturalisation ceremonies in Norway.⁷⁵

However, this study hardly offers unambiguous support for her argument. The study's authors, Hagelund and Reegård, note that "new citizens vary in their view on citizenship ceremonies." True, "for an enthusiastic minority the ceremonies represented important symbolic events."⁷⁶ But this is a *minority*. In Norway, where naturalisation ceremonies are voluntary, the "majority" of new citizens choose "not to participate". Although, as Lenard notes, many don't attend for practical reasons, others were "simply not that interested in taking part" because "for many new citizens such ceremonies appear as being without much meaning."

Those who do participate often do so for more mundane reasons. Some were "curious"; others "had made no other plans...and thought to themselves: Why not?" We thus shouldn't overstate the symbolic import of these events. Indeed, Kamran Khan's study of W, a Yemeni man's journey to British citizenship suggests it is often practical concerns that matter most to immigrants: "For all that political discourse promot[ing] a sense of citizenship...W.'s first thought following the ceremony was for the passport."⁷⁷ Worse, David Bartram suggests that "being forced (in a mandatory citizenship ceremony) to feign a loyalty one does not already genuinely feel might instead foster a sense of

71 Goodman S. & Wright M. (2015), 'Does Mandatory Integration Matter? Effects of Civic Requirements on Immigrant Socio-economic and Political Outcomes', 41:12 *Journal of Ethnic and Migration Studies*, 1885-1908.

72 Bartram D. (2019), 'The UK Citizenship Process: Political Integration or Marginalization?', 53(4) *Sociology*, 671-688 (hereinafter 'Bartram 2019').

73 Ayata B. (2022), 'Affective Citizenship: Differential Regimes of Belonging in Plural Societies', in Ayata B. (ed.), *Affect, Power, and Institutions*, Routledge.

74 Fortier, A.-M. (2017), 'The psychic life of policy: Desire, anxiety and 'citizenisation' in Britain', 37(1) *Critical Social Policy* 3-21.

75 Hagelund and Reegård 2010.

76 Hagelund and Reegård 2010.

77 Khan K. (2019), *Becoming a Citizen: Linguistic Trials and Negotiations in the UK*, Bloomsbury.

alienation,⁷⁸ a concern given even more force by Liav Orgad's worries about how compelling may affect freedom of conscience⁷⁹ and echoed in Ashwini Vasanthakumar's insightful contribution.⁸⁰

There are two further reasons to doubt that the data support Lenard's conclusion. First, it is unclear that those who find naturalisation ceremonies meaningful also find the oath particularly meaningful. Here is Hagelund and Reegård again:

"We asked both participants.... How they felt about the oath of allegiance. ... Among participants the refrain was 'ok'. One informant was explicitly negative about the oath of allegiance as 'people have different cultures'."⁸¹

The oath, after all, is only one part of the "ceremony surrounding it," and it is not obviously an essential part. Second, as Vasanthakumar points out,⁸² the data come from Norway's *voluntary* naturalisation ceremony. Indeed, the authors of the study speculate:

"One unpublished study of new British citizens indicates that participants view ceremonies as a mainly bureaucratic procedure they had to go through to get their British passport...An interesting question thus arising is whether the voluntary character of the Scandinavian ceremonies opens up to a more positive experience for those who choose to participate, than if the ceremony had a legal function."⁸³

More data are needed to help answer this question. Still, it seems unfair to mandate oaths just because a minority finds them meaningful, if the data show that at least a substantial minority finds them alienating.

Alternatives to mandatory oaths

I have argued that mandatory oaths of allegiance do not unambiguously serve the functions Lenard identifies. Moreover, they come with serious disadvantages. They create problematic inequalities between natural-born and naturalised citizens, imposing unfair burdens on the latter. They may contribute to a problematic presumption of disloyalty. Finally, they may alienate those who reasonably feel distanced from the content of the oath.

Still, I have sympathy for Lenard's aspirations—what she wants oaths to achieve. Fortunately, there are alternatives that better achieve these aspirations:

1. Rather than conditioning citizenship on oaths, states can make naturalisation ceremonies and naturalisation oaths fully voluntary, like in Norway.
2. States can retain mandatory naturalisation ceremonies, but make oaths a voluntary part of such a ceremony.
3. States can cease to make oaths a condition for naturalisation, but provide other positive incentives for immigrants to take them.
4. States can retain mandatory oaths, but allow participants to exercise more choice over the content of the oath that they swear.

78 Bartram 2019.

79 Orgad 2014.

80 Vasanthakumar 2023.

81 Hagelund and Reegård 2010.

82 Vasanthakumar 2023.

83 Hagelund and Reegård 2010.

Any of these alternatives would better serve the purposes Lenard identifies, but I will focus on the first since it is closest to existing practice and, in my view, the most desirable option of the bunch. First, fully voluntary oaths are certain to create promissory obligations. They better fit with the “voluntaristic tradition” Lenard draws on, though surely fewer people will end up taking such oaths. They also more likely avoid creating problematic inequalities, since any extra burdens are purely chosen. Second, such oaths are less likely to create a culture of suspicion—although perhaps there is a risk of this, since publics may come to distinguish between “oath takers” and “oath shirkers”. Finally, since only some people find citizenship ceremonies meaningful, voluntary ceremonies would allow those who want meaning to find it without coercing those who lack interest to participate.

I thus think there are decisive reasons to prefer *voluntary* oaths of allegiance to mandatory ones. Nevertheless, I think it would be even better to do away with oaths of allegiance entirely (though this is compatible with retaining mandatory naturalisation ceremonies). Doing so best avoids the worries about inequality raised above. Moreover, an oathless naturalisation process is also more likely to foster a culture of *presumptive welcome*, rather than presumptive suspicion, towards new citizens. Finally, with Vasanthakumar, I believe it is worth questioning how often really existing states merit obedience or deserve loyalty; I thus think that other modes of good, active, *and* disobedient citizenship are both possible and desirable. Nevertheless, I agree that Lenard’s proposal for a ‘thin’ oath would be an improvement over the ‘thick’ oaths that are characteristic of the current practice: if states are to retain such oaths, they should at least purge them of their objectionable content.

Beyond idealised liberal countries: swearing loyalty in a hostile context

Christine Hobden*

Our debate on the defensibility of mandatory pledges of allegiance for naturalising citizens has not yet considered what such oaths mean in violently xenophobic contexts. In response to the deadly building fire in Johannesburg this September, South African politicians quickly blamed the presence of undocumented migrants – without evidence or empathy for the over 70 people who lost their lives.⁸⁴ In the same month, the violently anti-migrant group Operation Dudula registered as a political party for the 2024 South African elections.⁸⁵ In South Africa, foreign nationals, regardless of their legal status, are targeted by politicians and citizens in a society characterised by rising anger and frustration over inequality, unemployment, and a lack of access to basic services. Noting the role of the state, political parties, and vigilante groups, UN experts warned in 2022 of serious concerns that South Africa ‘is on the precipice of explosive [xenophobic] violence’.⁸⁶ It is within this context that South Africa too mandates an oath of allegiance for naturalising citizens.⁸⁷ Can we debate the defensibility of mandating such pledges without considering this background? This contribution uses the South African example to argue that engaging with an expanded geographical, and so also wider political, legal, and social context raises important questions for Patti Lenard’s argument that mandatory oaths of allegiance for naturalising citizens can be defended.⁸⁸

Lenard’s argument is clearly, if not explicitly, centred on mandatory pledges of allegiance in what she terms ‘so-called traditional immigrant receiving countries, including Canada, the United States and Australia.’ We know however that a significant portion of the world’s migration is between countries in the Global South. Some of these countries, such as South Africa, also have mandatory naturalisation pledges. While Peru and South Korea are mentioned by Lenard, the background to her argument and its early respondents is largely drawn from a few western liberal democratic contexts. A focus on South Africa reveals risks to democratic equality and a related risk of reinforcing xenophobic othering through state practices. This insight reveals the importance of noticing that policies that require pledges of allegiance do not exist in isolation and should be carefully considered within the surrounding political and legal landscape that shapes the experiences of naturalised individuals as democratic citizens. We cannot defend mandatory pledges of allegiance in theory alone – and, when applied to and embedded within the fraught contexts of democracies today, mandatory pledges of allegiance are unlikely to remain defensible.

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84 Centre for Analytics and Behavioural Change, ‘Joburg fire disaster being used to fan flames of xenophobia ahead of 2024 elections’, Daily Maverick, 7 September 2023, <https://www.dailymaverick.co.za/article/2023-09-07-joburg-fire-disaster-being-used-to-fan-flames-of-xenophobia-ahead-of-2024-elections/>.

85 Allison S. (2023), ‘South African anti-migrant ‘vigilantes’ register as party for next year’s polls’, The Guardian, <https://www.theguardian.com/global-development/2023/sep/26/south-africa-anti-migrant-vigilante-operation-dudula-registers-as-party-2024-elections>.

86 ‘South Africa: UN experts condemn xenophobic violence and racial discrimination against foreign nationals’, OHCHR, 15 July 2022 (hereinafter ‘OHCHR 2022’).

87 Publication of the Draft Regulations on The South African Citizenship Act, 1995 for Comments, Department of Home Affairs, No.815, 24 July 2020.

88 Lenard 2023.

Why require an oath if its benefits can be achieved otherwise?

For Lenard three reasons, taken together, present a strong justification for pledges of allegiance for new citizens: first, the oath generally signals voluntary consent to the authority of the new state; second, expressing this consent via an oath solemnises and publicises the commitment, an expressive dimension that can contribute to welcome by fellow citizens; and third, it creates a meaningful moment of recognition for new citizens. While these outcomes may be desirable, I agree with Lior Erez⁸⁹ and Ashwini Vasanthakumar⁹⁰ that it is not clear why the act of naturalisation, voluntarily undertaken, does not already sufficiently express this voluntary consent, particularly since the act of naturalisation requires much that proves commitment: long term residency, extensive paperwork, often significant financial costs, at times citizenship tests and language requirements, and importantly, an explicit process to request to be considered for naturalisation. Including a public ceremony in this process at its culmination when citizenship is acquired can provide meaning and public expression without requiring a signed or declared oath of any kind. Indeed, Vasanthakumar and Daniel Sharp highlight that much of Lenard's argument really applies to ceremonies and voluntary oaths rather than mandatory ones.⁹¹

It doesn't then appear necessary to have a mandatory citizenship oath for naturalising citizens to achieve the kinds of benefits Lenard has in mind. She does not, however, argue that an oath is essential or necessary in order to achieve them; rather her argument begins with the policy and argues that it can be defensible in light of the role it can play in securing these valuable ends. My objection comes in two steps: First, as pointed out above and in previous contributions, these goods can be pursued in other ways such as through a voluntary pledge;⁹² and, second, as I will set out below, this oath should not be regarded in isolation, and when put in its context it comes with a number of risks to building a democratic polity rooted in political equality. Taken together, while pledges of allegiance may not necessarily always be unjustified, requiring new citizens to 'swear loyalty' is not defensible in the current global context. Since we don't need mandatory oaths to express consent, create meaning, or facilitate welcome, the risks they pose are too great to defend. I agree then with Vasanthakumar that 'an oath [is] a small price to pay perhaps, but that does not mean it should have been asked'. I add to this argument by examining the case of South Africa, to illustrate the wider cost and risks of such a policy against a background of violent anti-immigrant sentiment and institutionalised asymmetry between the status of naturalised and natural-born citizens.

Unequal status among citizens

In the most recent proposed regulations to the South African Citizenship Act,⁹³ naturalising citizens are required to sign a document declaring that they 'swear/ solemnly affirm that [they] will be faithful to the Republic of South Africa and will obey and respect the Constitution and all other laws of the Republic and commit to the duties and responsibilities of citizenship.' The state, as Lenard concedes, does not make a reciprocal pledge in the same manner. But, Lenard argues, the state is nevertheless paradoxically more bound by the cementing of citizenship status than the new citizens themselves, because the state now owes citizenship rights to its new citizens. It is burdensome, difficult, and rare for this citizenship status to be revoked, so we ought to see the state as swearing loyalty in an equivalent, if different, way. Similarly, she argues that 'the mechanisms by which incoming and natural-born citizens offer their consent need not be the same'. These arguments aim, independently, to respond to two kinds of asymmetry: that between the state and the new citizen, and between the

⁸⁹ Erez 2023.

⁹⁰ Vasanthakumar 2023.

⁹¹ Sharp D. (2023), 'Naturalisation without Allegiance', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/4/> (hereinafter 'Sharp 2023').

⁹² Sharp 2023.

⁹³ Publication of the Draft Regulations on The South African Citizenship Act, 1995 for Comments, Department of Home Affairs, No.815, 24 July 2020.

naturalised citizens and the existing citizenry whom they join. These asymmetries are not, however, separate from each other: As I have argued elsewhere,⁹⁴ where the relationship between citizens and their state is undermined or failing, this can impact the relationship between citizens – and vice versa. The unequal treatment of naturalised citizens affects not just the strength of the contract between these citizens and their state, but risks undermining political equality and cohesion within the citizenry through the creation of citizenships with different legal protections.

This asymmetry between naturalising and natural-born citizens does not just arise, as Sharp argues, from the additional obligation to obey the law naturalised citizens have generated through this required promise. On Lenard's argument, this declaration also serves to reassure natural-born citizens that those joining 'can be trusted to take their role as citizens in their new state seriously' and, as Vasanthakumar's contribution highlights, does not require natural-born citizens to reciprocate this reassurance to those who are now equally subject to the collective political project. There is thus a one-sidedness in this need to reassure, and it is made worse by some states' conditions on naturalised citizenship – conditions to which natural-born citizens are not subject.

For example, the South African Citizenship Act holds that naturalised citizens in South Africa may have their citizenship deprived not only for procedural reasons, such as fraud or acquisition in conflict with the provisions of the Act, that imply that citizenship has never been legally acquired, but also on the grounds of imprisonment for longer than 12 months and where the 'minister is satisfied it is in the public interest'. So not only are naturalised citizens expected to explicitly pledge loyalty in a way that natural-born citizens are not, they are also offered a significantly less secure citizenship status. The result is to create asymmetry in the exchange between the new citizens and their new state and between 'new' and 'old' citizens. The relationship between naturalised citizens and their new state is weakened through these deprivation clauses, and in creating this distinction between naturalised and natural-born citizens, political equality is undermined too.

Rather than offering reassurances of commitment to fellow citizens, a mandatory oath publicises that naturalised citizens have a different status within the state and so also among their fellow citizens. Sharp emphasises the heavier burden on naturalised citizens in virtue of the extra layer of obligation that is mandated,⁹⁵ but there are also vastly different risks associated with failing to fulfil these obligations due to deprivation clauses to which only naturalised citizens are subject. This risk is particularly acute for those who no longer have viable ties to their original state, such as refugees, or those who have lived since childhood in the state of their naturalised citizenship. While it is true that such provisions in the law are rarely made use of, and are cumbersome to execute, I disagree with Lenard that the political and procedural barriers to implementing these provisions can be viewed as a sign of the state's commitments to new citizens. The existence of these conditions in law is central to the nature of the commitment the state makes to naturalising citizens – and, in cases like South Africa, its significantly diminished commitment compared to that for natural-born citizens. For those who, like I do, believe a central, justifying aim of the democratic state is creating space to live as political equals, this kind of asymmetry poses a serious concern.

94 Hobden, C. & Matisonn, H. (2022), 'South Africa's Vaccine Roll-Out and Its Potential Costs to Our Social Contract', 69 (173) *Theoria*, 64-85.

95 Sharp 2023.

Access to citizenship in the face of hostility

In addition to the legal context, mandatory pledges of allegiance must be considered in their political context. In South Africa, this context is one of active and violent xenophobia.⁹⁶ In the focus on certain western democracies in this forum so far, some contributors have mentioned the racialised and Islamophobic elements within many current migration regimes. Sometimes these even serve to justify discriminatory immigration policies. South Africa's simmering violent xenophobia introduced at the start of this contribution should bring the shared worries about inequality and discrimination into sharper focus. I have argued elsewhere that the South African state is steadily rolling back access to citizenship by naturalisation through legislation, regulations, and on-the-ground implementation.⁹⁷ This approach both feeds from, and back into, an increasingly xenophobic public discourse. Against this background, the state has a responsibility to ensure that those whom it admits as citizens are admitted as equals: when we view required pledges of loyalty not in isolation but alongside conditional citizenship and a hostile reception from host citizenries it becomes much harder to defend mandatory oaths of loyalty.

While South Africa presents only one example, it is indicative of a wider global context of growing hostility towards migrants, including, at times, those already long settled in their new state. Requiring a pledge of allegiance is not only unnecessary to achieve the benefits to which Lenard points, but this contextual view reveals that the risks associated with unequal burdens of loyalty should caution us against justifying such a policy.

⁹⁶ OHCHR 2022.

⁹⁷ Hobden C. (2020), 'Shrinking South Africa: Hidden Agendas in South African Citizenship Practice', 47:2 *Politikon*, 159-175.

Morality, hypocrisy and prudence⁹⁸

David Owen*

In her tentative defence of mandatory oaths of allegiance, Patti Lenard identifies three reasons “that oath-taking, in which newcomers pledge their allegiance to their new country of citizenship, is defensible policy” which can be glossed thus:

1. as a signal of the voluntary consent of new citizens to the authority of their new state;
2. as a public ritual that gives expressive weight to the moment of consent;
3. as a meaningful moment for newcomers “who are happy and excited to join a new state formally and who recognise the moment as one in which they are accepted as belonging to a new state”.⁹⁹

For reasons that have already been outlined by Lior Erez, Ashwini Vasanthakumar, and Daniel Sharp,¹⁰⁰ I think that these reasons are insufficient to ground a moral defence of *mandatory* oath-taking for immigrants. Indeed, for reasons akin to those Sharp outlines, I think that to require an oath of allegiance solely of immigrants wishing to naturalise is not to affirm the voluntaristic dimension of the liberal tradition but to exemplify its practical history of moral hypocrisy. From a moral standpoint, as Vasanthakumar nicely puts it, “an oath was a small price to pay perhaps, but that does not mean it should have been asked.”¹⁰¹

However, to reject the moral case for mandatory oath-taking for immigrants is not to end the argument but to open two further, alternative ways in which oaths might be more successfully defended. The first is to maintain the commitment to mandatory oath-taking in the thin form that Lenard affirms but generalise it to all potential citizens. The second is to offer a prudential defence of mandatory oath-taking for naturalising immigrants that accepts its moral hypocrisy but argues that it serves important public ends. I will consider each in turn.

The moral argument

Lenard’s appeal to the idea that whereas immigrants can be required to take oaths, native-born citizens can be taken to consent in other ways is reminiscent of a widespread misunderstanding of John Locke on express and tacit consent, and going back to Locke may help clarify this issue. The development of the liberal theory of the modern state beginning with Locke is concerned to establish a natural right to leave’s one state as a fundamental liberty. There are two aspects to Locke’s argument. The first is that no one can be legitimately bound to a state to which they have not consented and hence, on reaching the age of majority, each person has a right to leave the territory of the state in order to join or, indeed, act with others to create another:

“Tis plain then, . . . by the Law of right Reason, that *a Child is born a Subject of no Country, or Government*. He is under his Fathers Tuition and Authority, till he come to the Age of Discretion; and then he is a Free-man, at liberty what Government he will put himself under; what Body Politick he will unite himself to.”¹⁰²

Locke takes this practice not to be a threat to existing states but rather a justified historical practice. Moreover, as Fredrick Whelan notes:

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98 My thanks to Rainer Bauböck, Patti Lenard, Daniel Sharp, and Ashwini Vasanthakumar for quick and thoughtful feedback on a draft of this commentary.

99 Lenard 2023.

100 Vasanthakumar 2023; Sharp 2023; Erez 2023.

101 Vasanthakumar 2023.

102 Locke J. (1689), *The Second Treatise of Government*, VIII.118 (hereinafter ‘Locke 1689’).

“This doctrine follows logically from Locke’s premises, although ... it is a radical one, at variance with English law after as well as prior to 1688. It comprises a very clear argument for a right of emigration set within a general and coherent theory of political society, a right moreover which is fundamental because of its relationship to what is asserted to be the very basis of such society.”¹⁰³

What is equally important, however, is the second aspect of Locke’s argument, namely, that this right is ceded once an individual chooses to become a citizen of a particular state, unless and until this government breaches the terms of the social contract:

“Whereas he, that has once, by actual Agreement, and any express Declaration, given his Consent to be of any Commonweal, is perpetually and indispensably obliged to be and remain unalterably a Subject to it, and can never again be in the liberty of the state of Nature; unless by any Calamity, the Government, he was under, comes to be dissolved.”¹⁰⁴

Two points are pertinent here. The first is that for Locke citizenship is acquired by express consent and, if there is no breakdown of the legitimacy of the polity, denotes a lifelong status, a permanent bond. The second is that Locke regards the express consent of a rational adult to joining a polity to be both necessary and sufficient to establish their membership of that polity.

Locke’s view has been liberalised further by thinkers such as Thomas Jefferson in the context of the American Revolution to allow for voluntary renunciation of citizenship, but the important point for our current concerns is that the liberal idea of the consent of the governed is not simply compatible with mandatory oath-taking but requires it for all would-be citizens – citizenship needs to be acquired by all, and not just immigrants, through express consent, which could be performed through an oath. Moreover, such oaths certainly do not require obedience to law when the government is abusing the trust it is charged with upholding.

This liberal view may have been forged against a background in which the right to leave the state was more prominent than that of gaining access to another state. However, if one’s concern is with the consent of the governed then a suitably adjusted version of this particular argument could provide a basis for a moral argument for mandatory oath-taking so long as people have some reasonable degree of choice concerning where they become citizens. To put it in modern parlance, the voluntaristic strand of liberal thought in its non-hypocritical version links mandatory oath-taking with both its generalisation to all citizens, not just immigrants, and access to a valuable range of citizenship options. This may be attractive to Lenard given her wider theoretical commitments, but it cannot support the restricted argument she offers here.

The prudential argument

The alternative argument is to accept that mandatory oath-taking for immigrants is a piece of moral hypocrisy that is primarily directed at re-assuring existing citizens of the integration and loyalty of naturalised citizens and defend it on these grounds. This argument is conditional as it depends on empirical support. For example, we would need to look comparatively at states with mandatory oath-taking, voluntary oath-taking, and no oath-taking for naturalisation to see what, if any, positive effects mandatory oath-taking has and to judge whether, if it does out-perform the alternatives on relevant metrics, it is a proportionate means to the desirable ends. As Sharp notes, these musings can only be speculative since we do not seem to have the relevant data (and this would be a nice project). But let us assume for the sake of argument that states with mandatory oath-taking are more receptive to immigrants becoming citizens and more equitable in outcomes for naturalised citizens across a range of measures. In such circumstances, it would be plausible to argue that a mandatory citizenship oath is a small price to pay and well worth paying. Moreover, we could even argue that

103 Whelan F. (1981), ‘Citizenship and the Right to Leave’, 75(3) *American Political Science Review* 636-653.

104 Locke 1689.

this prudential argument grounds an obligation of naturalising immigrants not to native citizens but to each other and future immigrants to sustain the (stipulated) conditions. Sometimes the moral hypocrisy of others may be worth enduring, at least in the short-medium term.

Conclusion

In this commentary, I have aimed to draw attention to the fact that the important (and, in my view, compelling) objections offered to Patti Lenard's defence of mandatory oaths of allegiance for immigrants do not end the argument about mandatory oaths of allegiance or their specific use in relation to immigrants. I have suggested that mandatory oath-taking can be defended on grounds of liberal morality, but only when applied to all citizens and under conditions where there is an adequate range of citizenship options available for individuals. Since these conditions do not currently apply, I have indicated that another line of argument available to Lenard would be a prudential defence that mandatory oath-taking for immigrants makes citizens more likely to welcome them as new members. This defence is conditional on empirical support but, if it is supported, it would provide Lenard with a strong response to the criticisms directed at her view.

There's no such thing as 'thin' allegiance

Helen Irving*

In Patti Lenard's defence of mandatory oaths of allegiance in naturalisation ceremonies, the oath plays both a functional and expressive role. It serves to reassure the existing citizenry that the new citizen will (or at least will promise to) conform in conduct and commitments to the national community rules, and, at the same time, it offers meaningful, even joyful, value to the new citizens themselves as they willingly embrace the authority of their new state. The ceremony in which oaths are sworn, Lenard writes, is part of the 'welcome' extended to new citizens, but the welcome, it is clear, is also inflected with mistrust and anxiety about the character of the incoming citizens. Lenard attempts to minimise the mistrust by surrounding the oath-taking with liberal-democratic conditions. However, for reasons explored below, it is the mistrust that inevitably dominates as an inescapable outcome of a discourse of 'allegiance'.

The conditions in which the oath is taken, Lenard explains, must respect the cultural and religious commitments of the new citizens; it must be 'entirely thin', making only minimal substantive demands of the naturalising immigrant. Examining these conditions, Lenard commendably acknowledges the need 'to consider 'what allegiance is' (something most citizenship scholars who employ the term fail to do). Her account distinguishes between a 'thinner' and a 'thicker' version. The thinner version understands allegiance "minimally to mean a commitment to obey the law". In contrast, the thicker account understands allegiance as requiring 'certain beliefs or sentiments or 'loyalty to the law.'¹⁰⁵ Characterised in this manner, thick allegiance is incompatible with the liberal-democratic values and practices that, in Lenard's account, legitimise thin oaths. We can dispense with the thick version, Lenard suggests, and in doing so, we can stamp oath-taking – even mandatory oath-taking – with a democratic, welcoming, and joyful character. It is here, I think, that Lenard misstates the core character of allegiance and, thus, misses the point of oaths of allegiance.

Lenard's characterisation of thick allegiance is correct, albeit incomplete, but her concept of thin allegiance is a misnomer, even an oxymoron. *Allegiance* is specifically and intentionally a *thick* concept. It is both content laden and coercive. The very purpose of swearing allegiance is counter-consensual; it is to constrain the citizen's choices and bind the citizen's conscience, tying both conduct and belief to the commands of the state or sovereign. The decision to swear allegiance in a naturalisation ceremony may be 'voluntary' in the sense that choosing to undergo naturalisation is voluntary. Once that choice is made, however, if 'allegiance' is part of the deal, consent – including to the obligations that follow the oath – is exhausted; no prevarication or equivocation is permitted. Allegiance, furthermore, is essentially singular; one cannot 'split' allegiance or owe allegiance to more than one sovereign.

The principle of exclusive allegiance, it might be objected, is contradicted by the fact of dual or multiple nationality, an expanding global reality, now more or less tolerated in a world that once treated it as anathema and sought by international effort to reduce it.¹⁰⁶ But, even tolerated, jurisprudence and enduring rules of international law (such as the 'master nationality rule'¹⁰⁷) indicate that dual nationality is not to be confused or conflated with dual *allegiance*. In Vasanthakumar's words, dual nationals 'may enjoy multiple rights but their duties [of allegiance] may conflict.'¹⁰⁸ To give the paradigmatic example, under international law, one cannot bear allegiance to one country and, at the same time, fight against that country in a war. The oath of allegiance is an oath of *obedience* to

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¹⁰⁵ Lenard 2023.

¹⁰⁶ Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, entered into force 6 May 1963, E.T.S. No. 043.

¹⁰⁷ Convention on Certain Questions Relating to the Conflict of Nationality Laws, adopted on 12 April. 1930, entered into force 1 July 1937, 179 L.N.T.S. 89 (LoN-4137).

¹⁰⁸ Vasanthakumar 2014.

a single sovereign or state.

Lenard, as we have seen, characterises the oath of allegiance as signifying the incoming citizens' willingness to recognise the authority of their new state and, with that, their commitment to obeying the law. This makes no sense absent an understanding of 'the law' as something beyond the regular law, having a higher, transcendent character; meaning, effectively, the state itself. No one, whether citizen or alien, is free to disobey the law in its ordinary sense simply by virtue of having failed or declined to swear to obey, and no evidence is given that an oath of allegiance in itself (in the absence of targeted legal sanctions or heavier penalties for breaches of the law by naturalised citizens) creates a higher incentive to be law-abiding on the part of those who have sworn. But the citizen who has sworn allegiance must in principle, identify with, and subordinate his or her judgment to the new state. Oaths, as Vasanthakumar writes (with reference to the citizen's duty to disobey¹⁰⁹) "relegate naturalising citizens to a narrow conception of citizenship as obedience to the state's commands" (see also Orgad¹¹⁰ and Lavi¹¹¹).¹¹² This is a counter-democratic conception, incompatible with democratic notions of citizenship which must allow for the citizen to work "to fundamentally re-shape the state, including through disobedience."

Distinguishing allies from enemies

An understanding of the concept of allegiance as analytically 'thick' draws upon the history of oaths of allegiance. Oaths, as I have noted elsewhere,¹¹³ were historically administered not merely to secure support for the sovereign, but importantly, in order to distinguish allies from enemies. Those who refused to swear would, in refusing, expose themselves as enemies, risking serious punishment. Falsely swearing also attracted penalties. It was anticipated and pre-empted in certain naturalisation oaths; for example, in the United States, where, since the 1790s, the oath has included a promise that its commitments were undertaken without 'mental reserve' or 'purpose of evasion.' An individual could be denied the right to swear if it was known that he or she would do so falsely. The case of Charles Bradlaugh, the prominent nineteenth-century English atheist and secularist, offers a memorable illustration. Bradlaugh was repeatedly disbarred from swearing the parliamentary oath (which included a reference to God) and thus from taking the seat in the House of Commons to which he had been elected. He professed himself willing to swear, but did not disguise the fact that he would do so insincerely, his conscience unbound. This principle of strict obedience to both the wording and the intent of the oath, preventing its personalisation, was echoed more recently in the disqualification from office in 2016 and 2017 of several pro-democracy members of the Legislative Council of Hong Kong who, in protest against the oath's identification of Hong Kong as part of China, recited the oath in a manner that distorted or mocked its words. It was echoed in Australia last year, when Lidia Thorpe, a newly-elected Senator and an Indigenous woman, added words to the Senators' oath of allegiance, protesting against Britain's historical colonisation, but was required to recite the oath correctly before being permitted to take her seat.

109 Delmas 2018.

110 Orgad 2014.

111 Lavi S. (2011), 'Citizenship Revocation as Punishment: On the Modern Duties of Citizens and their Criminal Breach', 61(4) *The University of Toronto Law Journal*, 783–810.

112 Vasanthakumar 2023.

113 Irving 2022.

A context of fears about dubious loyalty

Such examples, it might be objected, are tendentious or atypical; surely an oath need not include such antiquated or undemocratic commitments. This, indeed, is Lenard's argument: an oath of allegiance may be both mandatory and legitimate, so long as it is 'thin' in its commitments and is taken under conditions of liberal democracy and tolerance. In return, Lenard should consider more closely the context in which naturalisation oaths are increasingly appearing. The context, as she herself acknowledges, is one of fear that immigrants who become citizens will 'take advantage of the benefits of living in stable and democratic host societies' while remaining loyal to their country of origin and its counter-democratic values and practices. Such fears, she notes, have found a place in the last two decades in particular as a response to new global pressures of immigration and the rise of Islamophobia. Hence the expanding number of countries in which an oath of allegiance has been added to the naturalisation process. Lenard, however, takes insufficient note of this context and what it signifies.

If we consider the motives behind the recent introduction of oaths of allegiance, we find that 'dark readings' – to use Lenard's expression – dominate. Governments are responding to public concerns, in particular that Muslim immigrants who gain a foothold through naturalisation, will undermine the democratic national culture of their new state, and contribute to radicalisation and its offshoot, terrorism. These concerns and the chain of reasoning attached to them were undisguised in Britain's amendment of its citizenship law in 2006, allowing for the revocation of citizenship if this is 'conducive to the public good', extending such grounds, among other things, to revocation for involvement in terrorism.¹¹⁴ Similarly, Australia's amendment in 2015 of its Citizenship Act to provide for revocation of citizenship (whether acquired by birth or naturalisation) for conduct amounting to a breach of allegiance,¹¹⁵ focused pre-eminently on acts of, or support for, terrorism. In the political discourse surrounding the introduction of these laws, Muslims were depicted as being under an allegiance not to the state, but to an alternative non-state sovereign. As such, their loyalty was treated as essentially insecure and unreliable.

Lenard side-steps these issues by defending only thin oaths of allegiance that are sworn under liberal-democratic conditions. She thus loads the dice. But these conditions are such as to make an oath effectively redundant. As Erez writes, "The kind of oath she defends is at odds with the reasons such an oath is viewed as necessary."¹¹⁶ Not only is an oath of allegiance redundant, it also essentially serves as a negative reminder that immigrants' allegiance is unproven until they swear, that they must distinguish themselves from the enemies they may otherwise be suspected of being, and that they must reassure existing citizens of their obedience to the state. The very conditions upon which they are permitted to become part of the citizenry are thus paradoxically tainted with the counter-democratic 'unwelcome' that Lenard's thin version of allegiance wants to resist.

An oath of allegiance was never meant to be democratic; it has always strained against the principle of freedom of conscience, pre-committing the oath-taker to exclusive, uncritical obedience and subordination to the sovereign or state. What might legitimately be demanded of immigrants in their transition to their new citizenship is a very large question. But the answer cannot be that they must make a non-revocable promise to obey the commands of the state, both in conduct and conscience, at least not if the state we have in mind is a liberal democratic one.

114 Macklin A. and Bauböck R. (2015), 'The Return of Banishment: Do the New Denationalisation Policies Weaken Citizenship?', EUI Working Paper RSCAS 2015/14.

115 Citizenship Amendment (Allegiance to Australia) Act 2015 (Australia).

116 Erez 2023.

Pledges of allegiances and historical contexts

Zara Goldstone* and Avia Pasternak**

Lenard's thoughtful defence of mandatory naturalisation oaths is located within a broader liberal view which, while sympathetic to lifting immigration restrictions in Western liberal democracies (the states which Lenard focuses on), also assumes that newcomers owe duties to the states that welcomed them.¹¹⁷ As Lenard explains in her opening paragraph, "the context for the adoption of citizenship ceremonies is the worry that immigrants may not be integrating effectively, and that more work has to be done to ensure that they do."¹¹⁸

According to Lenard, naturalisation ceremonies serve this integrative purpose in three correlated ways.¹¹⁹ First, they communicate that newcomers have *consented* to the state's authority. Given they have consented rather than were forced to be part of the state, they can be expected to respect its rules. Second, the ceremony "signals to current citizens that incoming citizens have done the work they need to warrant citizenship status, and that [...] they can be trusted to take their role as citizens in their new state seriously." Third, the ceremony generates and deepens "the feeling of belonging experienced by new members."

We agree with Lenard that some newcomers have duties of thin integration, and that some have a duty to publicly demonstrate this commitment. However, we also believe that many Western states lack the standing to demand such public expressions, at least from many of the individuals who choose to make them their new homes. In our view, whether a state has the standing to demand such public declarations very much depends on its history. As we will argue, in focusing on the integrative duties of newcomers, Lenard's argument does not pay sufficient heed to such histories, and to the responsibilities they generate for Western states towards many of their newcomers.

State wrongdoing and standing to demand loyalty

To better understand our concern, consider first the case of Mr. Abdul Khan (a fictive character). Khan was born in Afghanistan and immigrated to the US with his family in 2020, after winning in the Green Card lottery. Khan left Afghanistan reluctantly. He is attached to his homeland, but he and his wife agreed that, despite all the hardships of relocation, they must resettle, as they do not see a viable future for their daughters in Afghanistan. The year is 2023, and Khan is finally eligible to become an American citizen. May the US demand that he participates in a public oath ceremony as a condition of being granted citizenship? In our view, it may not. As even a cursory glance at the history of the US foreign policy in Afghanistan indicates, the US bears much responsibility for Khan having to make the painful decision to leave his homeland. In the first instance, the US shares responsibility for the rise of the Taliban to power in Afghanistan in the late 1990s. The US is also responsible for the war it waged on Afghanistan between 2001 and 2020, and for the return of the Taliban to power in 2021, which sealed Khan's decision not to return there, given the abominable rights violations against women the Taliban reinstated.

Given this history, we believe that the demand that Khan should publicly declare his loyalty to the US is inappropriate. Our concern here is with the symbolic meaning of the mandatory oath as identified by Lenard. She argues that the oath signifies Khan's consent to become a US citizen, and his consequent loyalty to its laws. Ashwini Vasanthakumar,¹²⁰ Daniel Sharp,¹²¹ and David Owen¹²² have

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117 Lenard 2023.

118 Lenard 2023.

119 Lenard 2023.

120 Vasanthakumar 2023.

121 Sharp 2023.

122 Owen D. (2023), 'Morality, Hypocrisy and Prudence', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/6/> (hereinafter 'Owen 2023').

all questioned in their responses the extent to which *mandatory* oaths signal consent, given the “high-stakes context” in which they are given, to use Vasanthakumar’s phrase. Nevertheless, all three authors seem to agree that the very process of migration and integration to a new country is often consensual. Our concern is different. We would like to suggest that, in seeking to symbolise Khan’s consent through the oath, the US obscures the very fact that this ‘choice’ to migrate to the US was made under highly unfavourable circumstances, brought about to a large extent by the US’s morally irresponsible foreign policy. The US policy pushed Khan to make a choice he would not have made, had it not wreaked havoc and devastation in his homeland. Obscuring this fact is, in our view, wrong. It underplays the historical responsibility of the US for the situation, and what *it* owes Khan, given that responsibility.

Lenard could respond by pointing out that mandatory oaths convey more than the oath giver’s consent and acceptance of their duties. As she notes “while the oath appears to be one sided – newcomers take on the responsibilities of citizenship, while the state itself is not required to pledge allegiance – naturalisation, as represented by the completion of the oath, immediately gives rise to the obligation by the state to protect the oath taker’s citizenship right.”¹²³ But while this may be the case in principle, it is hard to deny that in practice, as Christine Hobden notes in her response, the citizenship ceremony revolves around the newcomers’ oath *to* the state rather than the other way around.¹²⁴ Furthermore, if the core element of the ceremony is the expression of loyalty of the state to its new citizens, it remains unclear why the state may *demand* that they participate in the ceremony, as a condition for their naturalisation.

The problem of colonial histories

Lenard might accept our argument in the case of Khan, given the US’s direct responsibility for his dire circumstances, but insist that cases such as this are marginal and rare. We disagree. In our view, history looms large in a wider set of cases and threatens to undermine Lenard’s defence of the very practice of naturalisation oaths. To see this, consider our second hypothetical migrant, Ms. Delphine Soko. Ms. Soko was born in Senegal in 1990. Her first language is French, and she attended a French-speaking school in Dakar. At the age of 18, she was accepted to study at the Sorbonne. Whilst studying in Paris she fell in love with a French woman, and they got married. When considering where to settle as a couple, it was obvious to both that, given the less-than-ideal political environment in Senegal and its unstable economic situation, they should settle in France.

Soko could now choose to become a naturalised French citizen. Currently, the French naturalisation ceremony does not require a mandatory oath of allegiance. Should France follow suit and adopt such an oath? We believe it does not have the standing to do so. Our concern revolves, again, around the history of relations between France and Soko’s country of origin. This argument has implications for other states with a similar past to that of France’s, like Britain or Belgium, which currently do require oaths.

How does France’s history affect the question of the oath? France was a colonial occupier of Senegal from the 17th century to the mid-20th century. Over that period, France sold Senegalese people into slavery and extracted their land resources – mainly gold and gum. The French colonial occupation in Senegal, like elsewhere, was brutal and involved many atrocities, including the destruction of local cultures and the forcing of French language, culture, and customs on the local population. Senegal gained independence in 1960 but received no compensation for the centuries of colonial rule that left it depleted of economic and political resources. Today, Senegal enjoys relative political stability but, like many other former colonies of France, it struggles to prosper economically.

123 Lenard 2023.

124 Hobden C. (2023), ‘Beyond idealised liberal countries: Swearing loyalty in a hostile context’, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/5/> (hereinafter ‘Hobden 2023’).

Does France bear responsibility for Senegal's post-independence situation, which drove Soko, as well as many other Senegalese, to attempt to migrate to France? According to Léopold Senghor, a Senegalese and one of the 20th century's important political philosophers, it does. Senghor (with his Caribbean colleague Aimé Césaire) advocated in the late 1940s and 1950s an integrative vision for France and its colonies. He believed that, given the depth of colonial rule and its devastating impact, full separation between France and its colonies was not possible. Instead, he called for the creation of a post-imperial and post-national federation, which would include France and its former colonies as equal and free partners. Such full political and cultural equal integration, which of course would have entailed open borders, was the only path for viable reconstruction of the French colonies.

If Senghor's vision had come true, Soko would not have needed to apply for full citizenship in France. But this was not the course that history took. Senghor himself deserted this vision after realising that France was not planning to invest resources in its colonies. Given France's attitude, Senghor moved on to support Senegalese self-determination and became Senegal's first president in 1960.

While there may have been other reasons to reject Senghor's federative vision, it nevertheless contains an important truth: France's responsibility for Senegal had not disappeared after Senegal's political independence in 1960. Senegal's economic, political, and cultural institutions have been shaped by its colonial history. The multiple challenges it faces to this day, and its struggles to overcome them, are rooted in the history of its own colonial occupation and that of West Africa more generally. With Senghor, we believe that, given this bloody legacy, France has no right to close its borders to Senegalese individuals. But even if it had that right, we believe France may not demand that Senegalese migrants publicly demonstrate that they "have done the work they need to warrant citizenship status, and that [...] they can be trusted," as a condition for full naturalisation. After all, not that long ago – in Soko's parents' generation time – France and French citizens blatantly failed to respect Senegalese people's rights. France shoved its racism, religion, and language down the throats of its Senegalese subjects whilst depleting their country's resources, and then left them to pick up the pieces. Given this colonial history, France, and French citizens, should be humbled that descendants of the victims of its atrocities are now willing to trust it enough to make it their home. Rather than demand that she takes further steps to express her loyalty, it is France that should "do the work" and give Soko a solemn promise that she will always be treated as equal and that it will try to correct the wrongs of its dark past.

Soko and Khan are two among very many immigrants who may rightfully challenge the standing of Western states to demand that they publicly express loyalty, given their colonial history and other foreign policy exploits. As we have shown, such problematic histories challenge more deeply the liberal view's tendency to focus on what it is that new migrants owe to the state that opens its border to them, rather than on what that state might owe them, given their past history. That said, we do not deny that if such newcomers wish to celebrate their formal acceptance to their new state, their new state should assist them and take part in the celebration. But such celebrations should be shaped by their shared history and its normative implications. When that history is tainted in the ways we explored, the ceremonies could include voluntary oaths, if the new migrants wish to make such public pledges of allegiance. However, where that happens, we believe the ceremony should also include a pledge of allegiance by the state to its newcomers, acknowledging its responsibilities to them in light of their shared past.

Citizenship oaths in embattled democracies

Rainer Bauböck*

In this forum we discuss whether immigrants who have successfully gone through a naturalisation process can be required to pledge allegiance to their newly adopted country. Except for Christine Hobden, the authors who have contributed to this debate so far all assume a background of stable liberal democracies that welcome immigrants.¹²⁵ In such a context, asking immigrants to perform an oath seems at best unnecessary and at worst mean-spirited as it puts them under a suspicion of disloyalty. While I accept some of the critiques raised against Patti Lenard's defence of mandatory naturalisation oath,¹²⁶ I want to shift the focus of the debate by proposing that such oaths can still be justified if democracies are under attack from the inside and outside.

Data collected by V-Dem show that after a long period of steady increase the number of liberal democracies has peaked in 2012 with 42 and has decreased to only 35 in 2022.¹²⁷ Merely 13% of the world's population live in these countries. There are more dictatorships today than a decade ago and the most frequent type of political regime are electoral autocracies where elections are held under conditions that are neither free nor fair to provide a veneer of legitimacy to autocratic regimes.

If one accepts the democratic peace hypothesis,¹²⁸ the global democratic recession will contribute to new geopolitical conflicts that can result in wars. In some cases, wars of aggression have been threatened or undertaken by authoritarian regimes with the explicit aim of destroying neighbouring democratic ones. Just think of Vladimir Putin's war against Ukraine or China's destruction of democracy in Hong Kong and its threat to invade Taiwan. Massive democratic backsliding has also occurred in previously stable democracies – as in the US under the Trump administration, in Poland under the PIS government, in Turkey under Recep Tayyip Erdogan's regime and in Hungary under Viktor Orbán's. Even some Western European states with the longest continuity of democratic institutions, such as Sweden, Finland or the Netherlands, are witnessing a steep rise of radical right populist parties that aim at undermining the rule of law and that invariably scapegoat immigrant populations as they want to restore an ethnically purified and culturally assimilated nation.

Liberal political theories since the 1970s have been mainly preoccupied with figuring out what justice requires in a global context where ever more countries would become stable liberal democracies with friendly relations amongst each other. But there is an older tradition of republican theory associated with Niccolò Machiavelli, Jean-Jacques Rousseau and Hannah Arendt, which started from the assumption that republics are embattled islands of freedom in a sea of unfreedom. These theories asked what can and needs to be done for "*mantenere lo stato*", as Machiavelli put it, i.e. to temporarily stabilise and extend republican freedom and its institutional support against internal and external enemies. We are not yet back in such a world, but when discussing justifications for devices such as oaths of loyalty, maybe we should take into account that the conditions for promoting liberal democracy have deteriorated in recent years.

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125 Hobden 2023.

126 Lenard 2023.

127 V-Dem Institute (2022), 'Democracy Report 2022: Autocratization Changing Nature', https://v-dem.net/media/publications/dr_2022.pdf.

128 Reiter D. (2019), 'Democratic Peace Theory', *Oxford Bibliographies*, <https://www.oxfordbibliographies.com/display/document/obo-9780199756223/obo-9780199756223-0014.xml>.

What oaths of loyalty are good for

Native-born citizens typically have to take oaths of loyalty towards the state on two occasions: when they are sworn into important public offices, such as that of judge or juror, member of parliament, minister or president, and when they start their military service. The purpose of the former kind of oaths is to signal to citizens who hold such public offices that they bear a special responsibility for the common good of the polity. In the republican view that I cited above, this rationale may also apply to ordinary citizens. Herman van Gunsteren argued in the late 1990s that citizenship itself should be regarded as a public office rather than merely a bundle of rights bestowed on individuals from above by the liberal state.¹²⁹ This view would not object to a mandatory oath for all citizens at the age of majority, as proposed by David Owen in this forum.¹³⁰ Yet requiring it from those who take up public office as a profession still serves a specific goal: it makes it possible to hold them accountable, including through criminal law, for a breach of their professional duties in a way that liberal states cannot hold accountable ordinary citizens for failing to perform their civic duties.

The main occasion when the latter are asked to swear loyalty is when they are drafted into the army or voluntarily serve in a country's military forces. Where the state's institutions can claim democratic legitimacy, the task to defend them against violent aggression may not only be imposed on citizens by law but should also be highlighted as their democratic duty. What they are defending in this case, as Ukrainian resistance against Russia's invasion so vividly demonstrates, is their capacity for collective self-government. This is what a suitably worded public oath taken by soldiers should signal.

Why not extend this practice also to the defence of democracy against its internal enemies to which all citizens should commit? There are again liberal reasons for distinguishing the tasks of soldiers from those of ordinary citizens. Liberal constitutions must be firmly grounded in universal values such as the equal moral worth of individuals and spell out their implications for non-discrimination, equality of basic freedoms and the state's duty to protect the lives and basic needs of all who live in its territory. But this very commitment also entails freedom of thought, speech and association for those who reject liberal worldviews, as long as they do not undermine liberal democracy through their actions.

It is one thing to educate children and adults about the country's constitution and its values, which is important for defending it against internal attacks. It is quite another thing to ask all citizens to take an oath that they are committed to a detailed list of liberal values and rights, often spelled out in democratic constitutions. Doing so risks violating at least one of these rights – freedom of conscience and is likely to turn public oath-taking into a forced exercise in hypocrisy. This is not a definitive objection against the idea of introducing public oaths also for native citizens, but merely against making their content too thick.

An oath of affiliation for new citizens

How does this help to answer the question raised in this forum, which is about mandatory oaths for naturalising immigrants? If citizens-by-birth were asked to swear an oath at a citizenship ceremony, which could be held to celebrate their enfranchisement, it would be entirely appropriate to ask immigrants to take a similar oath when they are admitted to full citizenship. The open question is whether it is still justifiable to impose such a requirement on naturalising immigrants only if and as long as those who have acquired their membership status at birth are not asked to take such an oath.

¹²⁹ van Gunsteren H. (1998), *A theory of citizenship: organizing plurality in contemporary democracies*, Westview Press.
¹³⁰ Owen 2023.

In contrast to most contributors to this forum my answer is a conditional yes. The main reason is that a naturalisation oath serves an additional function that is absent in the oaths for citizens discussed so far. It affirms a change of membership status and proclaims inclusion in a new political community.

Here I differ from Lenard who regards a promise of obedience to the law as the core content of a thin liberal oath. As pointed out by Lior Erez, Ashwini Vasankathumar, Daniel Sharp and Christine Hobden,¹³¹ citizens as well as noncitizen immigrants have reasons to obey the law and making it a requirement only for naturalising immigrants to give such a formal promise puts an extra burden on them and can serve to make their legal status more precarious when they are found to break the law.

The value component of a liberal oath is, or ought to be, universalistic in asking immigrants only to affirm those values that could also be included in a general oath for all citizens without violating their freedom of conscience, rather than any particularistic values spelled out in the country's constitution or associated with its religious and ethical traditions. The membership component is, however, necessarily particularistic. It asks immigrants to affirm their new affiliation to this particular state. This affirmation need not be spelled out explicitly, since it is anyhow implied in a naturalisation oath. The membership component may therefore be expressed performatively through the very act of taking an oath. This does not mean that the membership element of the oath is insignificant or thin. It marks the acquisition of a new citizenship as a rite of passage. As argued by Tine Damsholt, a naturalisation oath is also "a step towards the emotionalisation of citizenship, in order to ensure cohesion, unity, and a sense of belonging, since the emotional significance of citizenship is considered to be a guarantee for loyalty and the desired civil awareness."¹³²

There are, once again important liberal constraints on what immigrants can be asked to proclaim in this regard. As pointed out by Helen Irving, the notion of allegiance is treacherous in this context, as it calls for obedience, "tying both conduct and belief to the commands of the state or sovereign."¹³³ It is also hard to square with state recognition of migrants' transnational ties to countries of origin and destination and the global trend towards acceptance of dual citizenship.¹³⁴

A liberal naturalisation oath ought to be worded and interpreted therefore as a proclamation of *affiliation* rather than allegiance. It should emphasize, on the one hand, the consensual nature of membership acquisition grounded in the fact that the immigrant was invited but not forced to become a citizen and, on the other hand, a mutual responsibility of the new citizens for the common good of the state and of the state for protecting the new members and their rights inside and outside the territory. Such an oath would not require the new citizens to renounce their citizenship in or their emotional connections to a country of origin.

This particularistic membership component is made explicit in a liberal naturalisation oath but remains implicit for citizens by birth, even if they were asked at the age of majority to publicly commit to universal values and defend democracy.

131 Erez 2023; Vasanthakumar 2023; Sharp 2023; and Hobden 2023.

132 Damsholt 2018.

133 Irving H. (2023), 'There's no such thing as 'thin' allegiance', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/7/> (hereinafter 'Irving 2023').

134 Bauböck R. and Haller M. (2021), *Dual Citizenship and Naturalisation: Global, Comparative and Austrian Perspectives*, Austrian Academy of Sciences Press.

Immigrants' admission to birthright communities

The consensual nature of naturalisation should not blind us to the fact that membership in political communities is not, and cannot be, consensual in the sense of voluntary association. David Owen rightly invokes John Locke as the most consistent social contract theorist in this regard.¹³⁵ Yet no state has ever taken up Locke's idea that citizenship can only be acquired through express consent at the age of majority.

Since citizenship in independent states is firmly grounded in automatic birthright,¹³⁶ the only way that immigrants can acquire it without upsetting this arrangement is through applying for admission and being individually granted membership. Asymmetry between citizens by birth and by naturalisation has been the focus of critique by most contributions in this forum. However, asymmetry in the sense of a distinction between automatic and consensual acquisition of citizenship does not prevent equal citizenship thereafter and is both inevitable and justified.

Political theorists who criticise this asymmetry should consider again the question with which I started this comment.¹³⁷ What rules for determining membership could enable democratic self-government to survive in a world divided into independent territorial jurisdictions if cross-border mobility is steeply on the rise and democracies are under attack from internal and external enemies?¹³⁸ Birthright citizenship provides intergenerational stability of membership in bounded political communities. This does not devalue the critique of the "birthright lottery"¹³⁹ and the undeserved allocation of opportunities it entails in a deeply unequal world.¹⁴⁰ But it points towards the need for other solutions for rectifying global injustice than abolishing birthright citizenship.

Lenard builds her argument partly on the fact that naturalisation is a voluntary choice.¹⁴¹ If citizenship oaths could in principle also be required from citizens by birth, then voluntary choice does not seem to be a necessary condition for justifying the practice of mandatory oath-taking. However, this objection only applies to the universalistic value component of the oath. Lenard's argument still holds with regard to the particularistic membership component. If naturalisation were mandatory, as Ruth Rubio Marín,¹⁴² Lea Ypi and Helder de Schutter¹⁴³ have advocated, requiring that immigrants affirm under oath a new affiliation imposed on them would add insult to injury.

Naturalisation oaths as signalling devices

Of course, if voluntary naturalisation under fair requirements is a necessary condition for a mandatory oath the content of which meets the conditions spelled out above, it does not follow that it is also a sufficient one for justifying it. So let me conclude by discussing conditions that could make this practice legitimate and prudentially useful, even if certainly not required in the sense that all liberal democracies should introduce it – which Lenard has not argued for anyway.¹⁴⁴

135 Owen 2023.

136 Bauböck R. (2017), *Democratic inclusion: Rainer Bauböck in dialogue*, Manchester University Press.

137 Dumbrava C. and Bauböck R. (eds.) (2015), 'Bloodlines and belonging: time to abandon "ius sanguinis"?' , EUI Working Paper RSCAS 2015/80.

138 Bauböck R. (2011), 'Temporary migrants, partial citizenship and hypermigration', *Critical Review of International Social and Political Philosophy*, 14:5, 665-693.

139 Shachar 2009.

140 Milanovic B. (2018), *Global Inequality: A New Approach for the Age of Globalization*, Harvard University Press.

141 Lenard 2023.

142 Rubio-Marín R. (2000), *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States*, Cambridge University Press.

143 Schutter and Ypi 2015.

144 Lenard 2023.

Unlike oaths taken by those holding public office, a liberal naturalisation oath must not serve as a quasi-contract, the breach of which leads to being deprived of the office or of membership. Since in liberal democracies immigrants join a birthright community that reproduces itself without political control over its composition, such states should have only minimal powers to deprive individuals of their citizenship.¹⁴⁵ Any distinction between birthright and naturalised citizens in this respect is discriminatory and downgrades the latter to second-class membership. The danger of abusing an oath in this way are clearly spelled out in Hobden's discussion of South African practices.¹⁴⁶

A naturalisation oath is not a promise or contract but a signal. It tells immigrants that from now on they are full members of the polity and ought to support its universal values and defend it when needed. Where naturalisation oaths are taken at public ceremonies, they also address a wider audience of citizens by telling them that they should trust the new members to be good citizens. Hobden argues that in a hostile context, mandatory oaths will be used against naturalised immigrants.¹⁴⁷ However, in democracies that are under attack from anti-migrant political parties and movements, a liberal version of a naturalisation oath may also have the opposite effect. Sharp and Owen are right that empirical evidence is needed to find out whether and how the signalling effect works towards the broader public.¹⁴⁸ My hunch is that positive effects will depend not just on the wording of the oath but also on the government's and society's general attitude towards migrants. Finally, Lenard is right to point out that by accepting a naturalisation application it is also the state that expresses a commitment towards its new members.¹⁴⁹ It makes this commitment public through staging naturalisation ceremonies. By welcoming them on this occasion it promises to protect them and their rights.

The combination of and balance between these three signals is crucial for justifying naturalisation oaths. Where oaths put all the emphasis on the new citizens' allegiance, they can serve to support jingoistic patriotism and put immigrants under suspicion. Where they merely ask for commitment to the same universal values that could also be included in a general oath for citizens and affirm immigrants' new affiliation, they could be productive. Several contributors to our debate have endorsed a voluntary ceremony and oath as a better alternative. However, as Sharp acknowledges, there is a risk that voluntary oaths create a distinction between "oath takers and oath shirkers" and send a problematic signal that some of the new citizens have not accepted the duties of membership.¹⁵⁰

Whether it is ultimately recommendable to introduce a mandatory ceremony and oath in order to send the positive signals depends, in my view, also on the broader background context. In a peaceful world of stable liberal democracies, it may be preferable to turn down the volume and emphasise instead that naturalisation is an individual entitlement of long-term resident immigrants that ought to be handled by bureaucrats like any other legal procedure rather than an occasion for public ceremonies and oath swearing. In a world where democracy is embattled, there may be good reasons for a different approach.

145 Bauböck R. and Paskalev V. (2016), 'Cutting Genuine Links: A Normative Analysis of Citizenship Deprivation', 30:47 *Georgetown Immigration Law Journal* 47-104.

146 Hobden 2023.

147 Hobden 2023.

148 Sharp 2023; Owen 2023.

149 Lenard 2023.

150 Sharp 2023.

Illiberal origin, liberal future? pledges of allegiance for native-born and naturalised citizens in South Korea

Jaeun Kim*

Patti Lenard opens her essay by noting the increasing adoption of mandatory naturalisation oaths across the world, adding South Korea as one of the latest that followed suit in 2018.¹⁵¹ Heeding the call by Christine Hobden and Zara Goldstone and Avia Pasternak,¹⁵² I would like to show that the mandatory pledge of allegiance for naturalising immigrants in South Korea, and by extension the contestation over its defensibility, should be situated in the distinctive macro-historical and sociopolitical contexts quite different from the much-discussed Western cases. While my contribution considers only South Korea, analogous conditions apply to other rich democracies and immigrant-receiving countries in East Asia like Japan and Taiwan, implying the importance of expanding the geographical coverage of our discussion.

Western states in North America and Europe serve as a shared reference point for all posted essays but the one by Christine Hobden.¹⁵³ These essays commonly highlight how powerful liberal democratic states, with the history of engaging in, or complicit with colonialism and neo-imperialist interventions, are responding to the immigration of ethno-racial and ethnoreligious others (who are often former colonial subjects), and whether and under what conditions the mandatory pledge of allegiance for naturalising immigrants can be justified given these contexts. Many authors pointed out the inequality that the mandatory pledge creates between native-born and naturalised citizens: native-born citizens are not required to participate in the same kind of pledge; the refusal to participate does not lead to the loss of fundamental rights or the right to have these rights (in Hannah Arendt's words) for them, in a world where the birthright lottery of citizenship makes a massive difference in individuals' life chances,¹⁵⁴ as highlighted by Ashwini Vasanthakumar.¹⁵⁵

This summary does not apply well to South Korea. The genealogy of the mandatory pledge of allegiance for naturalising immigrants in South Korea – and the controversy over its legitimacy – should be situated in its colonial history (1910–1945), post-colonial state-building intertwined with the Cold War (which was not quite cold in this region), the country's post-1987 democratic consolidation that coincided with the increasing migration from the neighbouring countries, and finally, the complicated trajectory of its diaspora politics.

Pledges of allegiance for native-born citizens: historical trajectory

The Japanese colonial state and the authoritarian South Korean regime both imposed various kinds of mandatory pledges of allegiance on *native-born* Korean subjects/citizens. The salute to the flag, introduced at the turn of the twentieth century by American missionaries and the U.S.-educated political elites, became a sanctified ritual for nationalist elites after Japan occupied Korea. However, it was not the weak and fragmented provisional government in exile but the Japanese colonial state that made the salute to the flag, accompanied by the pledge of allegiance, an everyday presence in the lives of ordinary Koreans. With the beginning of the Sino-Japanese War in 1937, the Government General required every colonial subject to perform Kyujo-Yohai (bowing to the East where the emperor was located) and recite the Pledge of the Loyal Subjects of Imperial Japan (Hwangguk sinmin sōsa).

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151 Lenard 2023.

152 Hobden 2023; Goldstone Z. and Pasternak A. (2023), 'Pledges of Allegiances and Historical Contexts', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/8/> (hereinafter 'Goldstone and Pasternak 2023').

153 Hobden 2023.

154 Shachar 2009.

155 Vasanthakumar 2023.

The postcolonial South Korean state inherited and updated this practice in the context of the all-out mobilisation for economic development and national security against the communist enemy to the North. This effort was especially strong after President Park Chung Hee, the military dictator, suspended the Constitution and dissolved the legislature in 1972. The pledge of allegiance that came to accompany the salute to the flag the same year reads as follows: “Before the proud T’aegŭkki [the name of the South Korean national flag], I firmly pledge to loyally dedicate all my body and heart to the eternal glory of the fatherland and the nation.” In 1978, the lowering of the national flag in the evening became another everyday ritual (literally, in this case): when the flag was lowered at the designated time with the national anthem playing out loud, every citizen on the street had to stand still and salute to the flag until the anthem was over. The refusal to participate in these various nationalistic rituals immediately made one a North Korea sympathizer and a threat to national security, vulnerable to the loss of fundamental civil rights. In addition to Jehovah’s Witnesses, political prisoners convicted of the violation of the National Security Law and the Assembly and Demonstration Act suffered the most severe consequences. The latter group was also forced (at times by torture) to submit the Pledge of Ideological Conversion (Sasangjŏnhyangsŏ) before their release from the prison, another practice inherited from the Japanese colonial state.

All these mandatory and “too hot” pledges of allegiance¹⁵⁶ came to be contested, reformulated, or abolished as South Korea underwent democratic transition from 1987 onward. The ritualistic lowering of the national flag was discontinued in 1989. The Pledge of Allegiance to the National Flag survived a challenge in 2007 with its content changed: “the fatherland and the nation” was replaced by “the free and just Republic of Korea”; and “dedicate all my body and heart” was swiped off. The Pledge of Ideological Conversion was also replaced by the Pledge to Obey the Law (Chunbŏpsŏyaksŏ) in 1998, which continued to be required for the parole, amnesty, and reinstatement of political prisoners. Although the Constitutional Court ruled the practice ‘constitutional’ in 2002, it was eventually abolished the next year, except for exemption from probation imposed on released political prisoners.

I would like to note that, when in place, the Pledge to Obey the Law was also required of ethnic Koreans who wanted to visit or return to the democratising homeland after having been banned from doing so for decades on national security grounds – most representatively, ethnic Koreans in Japan who did not obtain South Korean or Japanese citizenship and were affiliated with the pro-North Korea ethnic organisation. As I have shown elsewhere,¹⁵⁷ Cold War geopolitics powerfully shaped diaspora policies and politics in South Korea, making ethnic Koreans in Japan the target of propaganda and suspicion, and leaving those behind the Iron Curtain – in China and the Soviet Union – in wilful oblivion until the late 1980s.

Pledges of allegiance for naturalised citizens: challenge and reform

The controversy over the mandatory written oath required at the time of applying for naturalisation unfolded in these broader historical and sociopolitical contexts. While South Korea underwent a steady, if bumpy, democratic transition throughout the 1990s and the 2000s, it also transitioned from the major source of emigrants fleeing economic insecurity and political turmoil to an economic powerhouse attracting immigrants from the neighbouring countries. What is notable in this transformation is that ethnic Koreans from (former) communist countries like China and (to a lesser extent) former Soviet Republics – the descendants of colonial-era migrants who had long been contained behind the Iron Curtain – came to constitute the largest proportion of ‘foreign’ migrants in South Korea.

¹⁵⁶ Erez 2023.

¹⁵⁷ Kim J. (2016), *Contested Embrace: Transborder Membership Politics in Twentieth-Century Korea*, Stanford University Press.

Approximately 30% of non-citizen residents in South Korea currently are Korean Chinese. Co-ethnic migrants also predominate among naturalised citizens. China has consistently topped the list of origin countries of the naturalised citizens over the last two decades or so; the majority of them have been ethnic Korean ‘returnees’. For example, 36.2% of those naturalised between 2016 and 2021 were Korean Chinese, about 78% of all naturalised citizens from China.¹⁵⁸ In this context, the suspicion about the loyalty of naturalised citizens has not been directed to ethnoracial or ethnoreligious others, as has been the case in North America and Europe; it has rather been directed to co-ethnic brethren whom the newly affluent and democratic homeland began to embrace reluctantly, despite enduring geopolitical anxiety.

It is not surprising then that the Ministry of Justice relied on the familiar language of national security when it began to require a written pledge of allegiance for naturalisation applicants in 2011. Following the 2010 revision of the nationality law that began to tolerate multiple nationality selectively and conditionally,¹⁵⁹ the Ministry of Justice put in place several measures to countervail the “lightening of citizenship,”¹⁶⁰ such as requiring multiple citizenship holders to pledge to not exercise their foreign citizenship in South Korea. The mandatory oath that naturalisation applicants were obliged to sign at the time of application (not at the end of the naturalisation process) was another measure to make the acquisition of South Korean citizenship ‘weightier’. The oath included a passage about their pledge to “defend the basic liberal democratic order and pursue peaceful unification [between North and South Korea].” The Ministry of Justice justified the new requirement by invoking the fact that over 93% of naturalising immigrants were from (former) socialist countries such as China, former Soviet Republics, and Vietnam (Vietnamese naturalised citizens have been mostly female marriage migrants), singling them out as suspect citizens.¹⁶¹

The challenge to this mandatory pledge was also couched in the familiar language of the struggle for democracy rather than the language of immigrant integration per se. Various civil society organisations accused the Ministry of Justice of bringing back the Pledge to Obey the Law through the backdoor and reviving the authoritarian legacy in the name of national security. This finding is in line with the argument made by Erin Chung among others that migrant rights activism in South Korea has drawn heavily on the repertoires and the moral authority of the relatively recent democratisation movement.¹⁶²

This contestation over the mandatory written oath is likely to have influenced the policy change in 2018 made by the new Centre Left government – the one Lenard noted in her kick-off essay.¹⁶³ The Ministry of Justice removed the controversial written oath from the application requirement. Instead, it began to require that naturalising immigrants verbally take an oath of allegiance, named “The Citizen’s Oath” (Kungminsönsö), before they received the certificate of naturalisation at a public ceremony. It was not just the mode of delivery (from written to verbal, from the backstage to the frontstage) and the timing of the oath (from the time of application to the end of the process) that changed through this reform. The content of the oath also became “thinner.” It now reads: “As a proud citizen of the Republic of Korea, I pledge to obey its Constitution and law and fulfil the citizen’s responsibilities and duties.” To the best of my knowledge, civil society protest against this new requirement was negligible. I would like to note that in 2019 the Ministry of Justice also removed the last vestige of the Pledge to Obey the Law, required for exemption from probation imposed on released political prisoners, after a former political prisoner brought a legal challenge.

158 Yearbook of Korean Immigration Statistics 2021, <https://viewer.moj.go.kr/skin/doc.html?rs=/result/bbs/228&fn=temp1661135540788101>

159 Lee C. (2019), ‘Report on Citizenship Law: The Republic of Korea’, GLOBALCIT Country Report, RSCAS/GLOBALCIT-CR 2019/3.

160 Joppke 2010.

161 For the press release of the Ministry of Justice in 2010, see: <https://www.moj.go.kr/moj/222/subview.do?enc=Zm5jdDF8QEB8JTJGYm-JzJTJGbw9qJTJGmTgzJTJGMjzODk5JTJGYXJ0Y2xWaWV3LmRvJTNgcGFzc3dvcmQIM0QIMjZyZ3NCZ25kZVN0ciUzRCUyN-mJic0NsU2VxJTNEJTI2cmdzRW5kZGVtdHlIM0QIMjZpc1ZpZXdNaW5JTNEZmFsc2UIMjZwYWdlJTNEMSUyNmJic09wZW5Xcm-RTZXEIM0QIMjZzcmNoQ29sdW1uJTNEc2oIMjZzcmNoV3JkJTNEJUUVBJUI3JTgwJUVEJTk5JTk0JTl2>

162 Chung EA. (2020), *Immigrant Incorporation in East Asian Democracies*, Cambridge University Press.

163 Lenard 2023.

Overall, the mandatory naturalisation oath put in place in 2018 was a *liberal* reform under the administration with stronger democratic credentials: a progress from the authoritarian past when native South Korean citizens were subject to various “hot” pledges of allegiance and the red scare was mobilised against potential enemies *within* the imagined community of the nation, both inside and outside the Korean peninsula. It remains to be seen whether the mandatory naturalisation oath in South Korea can be freed from its illiberal and undemocratic origin and operate as a bulwark for robust liberal democracy, as Rainer Bauböck cautiously hopes.¹⁶⁴

Comparative implications: East Asian democracies

While my contribution considers only South Korea, similar dynamics are likely to shape the contestation over the legitimacy of the mandatory naturalisation oath in other rich democracies and immigrant-receiving countries in East Asia like Japan and Taiwan. They share the legacy of Japanese (colonial) rule, the heavy influence of Cold War geopolitics at the formative stage of postwar state-building, rapid economic development accompanied by migrant influx, and democratic consolidation that followed decades of authoritarian rule (a “soft” version in Japan). Without considering these factors, it would be impossible to explain who has been required to take the pledge of allegiance, what consequences the refusal to participate has brought, what form the challenge to these practices has taken, which migrant/minority group has driven naturalisation politics, and what signalling effect the mandatory naturalisation oath has had.

To illustrate, in Japan, the policies and politics of naturalisation have been essentially about the inclusion/exclusion of its Korean minority – former colonial subjects whose Japanese citizenship was categorically stripped in 1952 and whose naturalisation had been discouraged by all means. In Taiwan, migrants from mainland China have been the major source of anxiety and suspicion in immigration and citizenship policymaking. These co-ethnic migrants are required to jump through more hoops and take a few more years to acquire Taiwanese citizenship than migrants from other countries. The policies and politics of naturalisation vis-à-vis co-ethnic migrants in South Korea and Taiwan contrast with those in many countries in Central and Eastern Europe where co-ethnics are granted preferential treatment in citizenship acquisition and exempted from ordinary naturalisation requirements, including the mandatory naturalisation oath. Our discussion on the defensibility of the naturalisation oath in democratic, undemocratic, and democratising states will become more precise if we expand the comparative horizon and consider these distinctive configurations in East Asian democracies along with other much-discussed cases in the West.

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164 Bauböck R. (2023), 'Citizenship oaths in embattled democracies', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/9/> (hereinafter 'Bauböck 2023').

Mandatory hypocrisy: oaths in extraterritorial naturalisations

Jelena Džankić*

*Danas, kada postajem pionir,
dajem časnu pionirsku riječ
da ću marljivo učiti i raditi,
poštovati roditelje i starije,
i biti vjeran i iskren drug,
koji drži datu riječ,
da ću voljeti našu domovinu,
samoupravnu Socijalističku Federativnu
Republiku Jugoslaviju,
da ću razvijati bratstvo i jedinstvo
i ideje za koje se borio drug Tito,
da ću cijeniti sve ljude svijeta koji žele
slobodu i mir!*

*Today, as I become a pioneer,
I give my honourable pioneer word
that I will study and work diligently,
respect my parents and elders,
be a loyal and honest friend,
who holds their word,
that I will love our homeland,
the self-governing Socialist Federal Republic
of Yugoslavia,
that I will develop brotherhood and unity
and the ideas Comrade Tito fought for,
that I will appreciate all the people of the
world seeking freedom and peace!*

This was my very first oath. I took it together with thousands of other first-graders, on 29 November 1988, in a ceremony celebrating the creation of a state that would disappear two years later. Oaths were quite common during communism, as symbolic acts marking one's entry into a community of pioneers, or - for those subject to military duty – of soldiers. They were intended to simultaneously create a moment of social 'togetherness' that would erase the otherwise existing ethnic, religious, or social boundaries, and ensure loyalty to the state. And in this, their logic was not that much different from naturalisation oaths, which Patti Lenard defends in her kick-off.¹⁶⁵ Remembering the joy of my first oath that at the time commemorated my 'becoming a pioneer', I fully agree with Lenard that taking an oath might be a meaningful moment for immigrants who have lived in foreign countries for years, and for whom it might symbolise a 'rite of passage'. Even so, as Christine Hobden,¹⁶⁶ Rainer Bauböck,¹⁶⁷ and Jaeun Kim point out,¹⁶⁸ context matters – and that is my first objection to having an oath as a part of the process of citizenship acquisition. In cases of extraterritorial or *en masse* naturalisations, which are frequent in the post-communist world, an oath is largely just a means to an end for both individuals and states. Furthermore, beyond the contestation of whether there should be an oath as a symbolic marker of becoming a citizen, there is also a deeper normative dilemma on whether such an oath – even as a 'thin' pledge to respect the country's laws – should be mandatory. In this respect, Ashwini Vasanthakumar rightly highlights that pledging loyalty to one's new state is "a small price to pay that should not be asked."¹⁶⁹ Yet, following Helen Irving's argument,¹⁷⁰ I would take a step further in objecting to mandatory oaths: they take away the "voluntary consent of new citizens to the authority of their new state of citizenship."¹⁷⁰ When oaths are *a sine qua non* for naturalisation, they are not a mechanism of integration of newcomers, but rather one among the conditions that act together as coercive mechanisms of selection.

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165 Lenard 2023.

166 Hobden 2023.

167 Bauböck 2023.

168 Kim J. (2023), 'Illiberal Origin, Liberal Future? Pledges of Allegiance for Native-Born and Naturalised Citizens in South Korea', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/10/> (hereinafter 'Kim 2023').

169 Vasanthakumar 2023.

170 Irving 2023.

Oath across the post-communist landscapes: beyond the 'rite of passage'

Lenard defends states that adopt mandatory naturalisation oaths to the idea of improving effective immigrant integration,¹⁷¹ highlighting that citizenship ceremonies are one in the range of policies – including language, education, employment, and civics – with the ultimate objective of ensuring that immigrants, especially those from distinct cultural and religious backgrounds, may be seen as 'loyal members' of the nation they joined. In so doing, she ultimately connects oaths to the contemporary nation-building agendas that have emerged in response to increased immigration. While this argument might be appropriate for predominantly immigrant societies, such as Australia, Canada, Switzerland, the United Kingdom, the United States, and a number of west-European Union Member States, this is far less so in the former communist world. The main reason for this difference is the distinct dynamic of state and nation building, in the wake of disintegration of multinational federations, and the different purpose that extraterritorial naturalisations serve.

Unlike in the Western immigrant societies, nation-building projects in much of Eastern Europe did not aim at responding to pressures of immigration.¹⁷² Rather, they aimed at consolidating the newly established states, ensuring the viability of their sovereignty, or – in some cases – projecting broader political and geopolitical ambitions.¹⁷³ The resulting citizenship laws, including naturalisation policies, reflected the state's need to determine its population, and define mechanisms for including or excluding the 'new minorities' created by shifting international borders. In some cases, extraterritorial naturalisation pathways have been developed to address historical wrongdoings, as a part of electoral strategies, or to make territorial or political claims in the neighbourhood. In my contribution to an earlier forum debate,¹⁷⁴ I discussed the examples of Russia's 'passportisation' policy, and the Bulgarian extension of citizenship on the basis of ethnic kinship to citizens of the neighbouring North Macedonia. In a somewhat less controversial way, countries such as Croatia, Hungary, Serbia, and Romania also allow their ethnic kin from the neighbouring countries to become their nationals. Most of these countries, in fact, require their new citizens to swear an oath of allegiance. In a context of contested states, institutions, and borders – and citizens from formerly communist countries seeking additional mobility and life opportunities – a mandatory oath has a different purpose for states and meaning for individuals from what Lenard refers to.¹⁷⁵

For states, the oath is much closer to what Irving has described – a way of pre-committing to obedience,¹⁷⁶ yet as a part of an instrumentalised (and possibly weaponised) citizenship policy. Those becoming Russian nationals swear that they "will protect the freedom and independence of the Russian Federation; and that [they] will be loyal to Russia and respect its culture, history and traditions."¹⁷⁷ Future citizens of Hungary solemnly swear loyalty to their new homeland and its Constitution and laws. If I were to become a new Hungarian citizen, I could pledge to "defend my country as far as my strength allows, and shall serve it according to the best of my abilities allow",¹⁷⁸ or take the full oath by adding "So help me God!" at the end of the statement. In a ceremony, citizens seeking naturalisation in Croatia swear "on their honour" that they will respect "the laws, culture and

171 Lenard 2023.

172 Kymlicka W. (2000), 'Nation-building and minority rights: Comparing West and East', 26:2 *Journal of Ethnic and Migration Studies*, 183-212; Mungiu A. and Krastev I. (2014), *Nationalism After Communism: Lessons Learned*, Central European Press.

173 Džankić, J. (2015), *Citizenship in Bosnia and Herzegovina, Macedonia and Montenegro: Effects of Statehood and Identity Challenges*, 1st edn. Routledge; Štikl I. (2015), *Nations and Citizens in Yugoslavia and the Post-Yugoslav States: One Hundred Years of Citizenship*, Bloomsbury; Pogonyi S. (2023), 'The Double-Edged Sword of External Citizenship and Minority Protection in Post-Communist Europe', in Bíró and Newman (eds.), *Minority Rights and Liberal Democratic Insecurities: The Challenge of Unstable Orders*, Routledge.

174 Džankić J. (2022), 'Regulation against weaponization: a double-edged sword?', GLOBALCIT, <https://globalcit.eu/weaponized-citizenship-should-international-law-restrict-oppressive-nationality-attribution/2/>.

175 Lenard 2023.

176 Irving 2023.

177 'State Duma approves law on Russian naturalization oath', TASS, 19 July 2017, https://tass.com/politics/956884?utm_source=en.wikipedia.org&utm_medium=referral&utm_campaign=en.wikipedia.org&utm_referrer=en.wikipedia.org.

178 Act LV of 1993 on Citizenship (Hungary).

customs” of the country.¹⁷⁹ One thing these oaths have in common is that they are by no means ‘thin’ pledges to respect the laws. Rather, they contain important ethnic, cultural, and even religious references, which may be instrumentalised by states that grant extraterritorial citizenship to make claims in view of protecting the “ethnic”, “cultural”, or “religious” particularities of their citizens in neighbouring countries.

For individuals seeking to naturalise in a country where they do not live, it is often just a piece of paper they have to sign, or a sentence they have to read out aloud, in order to receive a much sought-after second citizenship. Across Eastern Europe, a new passport – especially if tied to the benefits of European Union citizenship - is a compensatory mechanism for much of the limitations that individuals face as a result of having a citizenship that comes with visa limitations for travel, less opportunities for personal and professional growth, and political or economic instability.¹⁸⁰ In such a context, unlike in cases of immigrants celebrating an emotional moment of naturalisation in their new country, for recipients of extraterritorial citizenship, taking an oath of allegiance is quite contradictory to their true motivations for naturalising. Even as “a small price to pay”, to refer again to Vasanthakumar, a mandatory oath of allegiance forces new citizens to be hypocritical.¹⁸¹

Mandatory oath as one of the coercive conditions for selection of future citizens

I largely agree with Daniel Sharp,¹⁸² David Owen,¹⁸³ Zara Goldstone and Avia Pasternak that,¹⁸⁴ while highly contested, the oath could potentially be acceptable, for as long as it remains optional. As such, it might even incentivise the new citizens to voluntarily engage in a ceremony marking their entry into a new community and thus develop a stronger sentiment of belonging. I have never had the personal experience of naturalising in another country, but the conferral of my doctoral degree foresaw a procedure that entailed kneeling down, with hands in prayer, and accepting the degree “*in nomine Patris et Filii et Spiritus Sancti*”. I would have found such a mandatory religious element very much oppressive, because my effort to get the degree (just as the effort of a future citizen to meet the naturalisation requirements) had nothing to do with the ‘higher power’. However, the fact that I could opt out from this religious element of the ceremony took away the element of coercion. Having the freedom to choose, I decided that the religious bit was a part of the experience, and that it would make me ‘feel’ as a part of the community of graduates from my university.

Beyond the sentiment of belonging, which indicates why the idea of a mandatory oath might be overbearing for the future citizens (and why an optional one would be a better way to truly integrate them, despite objections raised by Sharp and Bauböck that optional oaths might create classes of new citizens or arise suspicion against those opting out¹⁸⁵), I see two further objections to the obligation to pledge allegiance in view of naturalisation.

First, Lenard notes that the ceremony and the oath mark the welcoming of new citizens to a community as “full and equal members.”¹⁸⁶ Even with the thinnest form of a mandatory oath, new citizens are unequal to those who were citizens by birth. The latter have never been asked to formally swear allegiance, or to obey the laws and the constitution of the country of which they are citizens by birth. Hence there is an unspoken presumption of loyalty in the idea of birthright citizenship (in whichever way it was obtained). Subjecting those who seek to naturalise to formally declare loyalty – which is not a requirement for those who already are citizens – reinforces the dividing line between naturalised and non-naturalised citizens, and is not conducive to the idea of equal membership.

179 O Načinu I Postupku Davanja Svečane Prisega, Croatian Ministry of Internal Affairs, Article 24b(3) of Regulation (EU) No 1303/2013 (2013).

180 Harpaz Y. (2019), *Citizenship 2.0: Dual Nationality as a Global Asset*, Princeton University Press (hereinafter ‘Harpaz 2019’).

181 Vasanthakumar 2023.

182 Sharp 2023.

183 Owen 2023.

184 Goldstone and Pasternak 2023.

185 Sharp 2023; Bauböck 2023.

186 Lenard 2023.

Second, in many cases, new citizens are required to attend a citizenship ceremony and take the oath before the naturalisation decision, or thereafter within a legally defined timeframe. In the first case, such as Croatia, the oath is taken ahead of the decision on naturalisation (exceptionally, on the day of decision), conditioning the admission on a declaration of allegiance. In the second case, such as Italy, an applicant who has received the decision on naturalisation has six months to take an oath of allegiance; otherwise, the Ministry of Interior issues a declaration of forfeiture for not taking the oath. This in practice means that the application needs to be re-submitted and re-considered, unless the applicant can prove that they failed to take the oath due to *force majeure* (e.g. pandemic, war, etc.).¹⁸⁷ This temporal element between the decision on naturalisation and the mandatory oath that would make it effective, turns what Lenard sees as a ceremonial moment into the last hurdle a future citizen needs to jump over on the path to citizenship.¹⁸⁸ In such cases, a mandatory oath is not a celebration *of* but rather a condition *for* becoming citizens.

In lieu of conclusion

Being a citizen or being a 'good citizen' has little to do with any pledge of allegiance. Allegiance, after all is not ephemeral, and can change for a lot of reasons, and that is fine. Taking a naturalisation oath can have different meanings and purposes for both individuals and states. In this sense, what might be desirable in immigrant societies in the 'Global North' may have different implications and connotations elsewhere. Having an oath as a part of the naturalisation process might be problematic, especially in cases of extraterritorial citizenship conferral. Having a mandatory oath, which decisively impacts on the naturalisation decision, takes away the 'freedom' from the new citizen to associate with the new community and forces them into doing so. And this is hardly conducive to developing belonging, affinity, and true connections with the new state and its citizens.

¹⁸⁷ Giuditta De Ricco, 'Loss of Italian citizenship for failure to take the oath of citizenship within 6 Months: What remedies are there?', Mazzeschi, 6 July 2023, <https://www.mazzeschi.it/loss-of-italian-citizenship-for-failure-to-take-the-oath-of-citizenship-within-6-months-what-remedies-are-there/>.

¹⁸⁸ Lenard 2023.

Bringing naturalisation back in: why oaths should mark the transition to a new citizenship

Geoffrey Brahm Levey*

Of the eleven preceding contributions to this forum, none defends requiring new citizens to swear loyalty or pledge allegiance as traditionally understood and practiced. That is unsurprising. I join everyone else on that. It is interesting, however, that only two contributors defend more limited mandatory pledges from naturalising immigrants.

Patti Lenard finds in this common state practice some genuine benefits: it solicits the consent of would-be citizens to the ruling authority of their new state, solemnises the moment of their committing to a new society, and bestows ceremony and joy on this milestone in their lives, which, in general, they appreciate.¹⁸⁹ Even so, she argues that such oaths are defensible only where the state is not proscriptive about tangential matters such as what oath-takers may wear and, more centrally, where the declared 'allegiance' or commitment is limited to obeying the law.

In contrast, Rainer Bauböck argues that mandatory oaths for new citizens might be defended if understood as signalling their new membership and affiliation.¹⁹⁰ He limits this defence to circumstances in which democracies are under siege from forces without and within, as they could be said to be today. He suggests that part of the value of an oath is that it performatively signals one's commitment to defend one's democracy from internal enemies, while the oath itself should express a commitment to some universal values which do not impose on freedom of conscience.

I join Lenard and Bauböck in holding that immigrant citizenship oaths may be morally defended. In my view, consent and political obligation are the wrong way to think about citizenship oaths, which is also to say that many recent state oaths are misconceived. Like Bauböck, I think that a defensible pledge centres on oath-takers' change in membership. However, I argue that this perspective should be taken further, back to the concept of naturalisation itself. Unlike Bauböck, I would not link citizenship oaths to defending democracy, implicitly or otherwise, and am sceptical that there is an unproblematic values component. Instead, I suggest that the oath or ceremonial statement should be limited to conveying one's new membership and affiliation.

Before explaining these points, let me say that I find compelling Christine Hobden's,¹⁹¹ Zara Goldstone and Avia Pasternak's,¹⁹² and Jaeun Kim's cautions about certain historical and political contexts.¹⁹³ There *is* something elementally wrong, for instance, about a state demanding anything much from people seeking asylum as a consequence of what it has wrought on their home country. Still, if some political circumstances undermine the case for imposing citizenship oaths, other political circumstances, as Bauböck observes, may recommend them. In my remarks, I put aside the force of particular political circumstances to treat the question of whether mandating citizenship pledges for new members can be morally justified as a general matter.

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189 Lenard 2023.

190 Bauböck 2023.

191 Hobden 2023.

192 Goldstone and Pasternak 2023.

193 Kim 2023.

The red herring of social contract theory

For Lenard, a key factor in favour of mandatory oaths for new citizens is that these afford them the opportunity to consent to the political authority and laws that will govern them. What could be more liberal?

Liberals have been beguiled by consent and social contract as the foundations of liberal legitimacy for centuries, so it takes more than a comment to dispel these suppositions. Nevertheless, the present subject confounds a social contract approach in all sorts of ways. Lior Erez,¹⁹⁴ Ashwini Vasanthakumar,¹⁹⁵ Daniel Sharp,¹⁹⁶ and Christine Hobden highlight aspects of a central conundrum facing Lenard's argument: either consenting to political authority and to obey the law is exclusively being asked of immigrants seeking citizenship, in which case it breaches equality, or such consent is something that native-born and permanent residents also grant implicitly, in which case such oaths for naturalising citizens are unnecessary.

Bauböck rightly notes that no state abides by Locke's theory that citizenship – what Locke calls being a 'perfect member' of a political society – is established only through expressly subjecting oneself to the political authority.¹⁹⁷ That would mean only immigrants who took an oath of obedience are citizens today; so-called native-born citizens are not citizens at all. Even more incongruously, on Locke's theory only visitors and the native-born would be entitled to exit the political community; anyone taking the oath is forever a citizen and locked into that community (unless the government engages in 'a long train of abuses'). While opposed to such restrictions, Helen Irving suggests that oaths of allegiance in democratic states operate in that way: 'no prevarication or equivocation is permitted' after the initial choice to take the oath. However, that's not the case even with full throttle oaths of allegiance.¹⁹⁸ Naturalised citizens of most democracies retain the options of voice and exit in addition to that of loyalty; they may protest, leave, and renounce their acquired citizenship in various ways.

Might, then, Lenard's argument be saved, as David Owen suggests,¹⁹⁹ by requiring an oath also from native-born citizens at the age of majority? There is an elementary reason why democratic states do not entertain such a policy: what follows for those who decline to take the oath? Peter Schuck and Rogers Smith (1985) once proposed that every citizen in the United States be given the opportunity, at the age of majority, to decline their American citizenship and to self-expatriate.²⁰⁰ They argued that a failure to expatriate voluntarily should be taken as tacitly consenting again to one's citizenship, or else be met by allowing objectors to remain as permanent resident aliens. But many objectors will not have anywhere to expatriate to, being a citizen of no other country. So, it would be wrong to read their non-self-expatriation as tacit acceptance of anything. And depending on numbers, demoting them to permanent residency risks creating a divided society and the government becoming (even more) non-representative.

Finally, if contract and consent were genuinely involved in a citizenship oath, it would require at least one asterisk specifying terms and conditions, not only regarding what the state expects and will provide but also what the individual is prepared to accept under whichever general commitments are specified. If that be 'to obey the law', one would want exempting clauses, for example, in cases of the government pursuing unjust wars or laws to which the individual might conscientiously object. An oath of law-abidingness does not come close to respecting genuinely contracting parties.

Understanding citizenship oaths as a social contract bequeaths all these difficulties and more.

194 Erez 2023.

195 Vasanthakumar 2023.

196 Sharp 2023.

197 Locke 1689.

198 Irving 2023.

199 Owen 2023.

200 Schuck P. and Smith R. (1985), *Citizenship Without Consent: Illegal Aliens in the American Polity*, Yale University Press.

Getting back to naturalisation

Let us return, then, to the concept of naturalisation. It is the idea that newcomers become members by being inducted into a society and immersed in its ways over years, and thereby develop an intellectual and affective identification with it, mirroring the experience of native-born citizens. Naturalisation is the opposite of the cold and abstract terms of a momentary contract. Of course, citizenship oaths are typically the culmination of a prescribed number of years of residency. But then the work is done through that residency; any contractual oath is, at best, redundant and, at worst, corrosive of the sentimental bonds established by injecting a clashing idiom into the relationship. I detect something of this souring in Vasanthakumar's account of her Canadian experience.²⁰¹

Acquiring membership in a national political community involves developing new relationships and bonds over a period of time. It is these relationships that sustain liberal legitimacy: it is *our* constitution, *our* institutions, *our* government, and *our* state passed down by our forebears. We do not proactively consent to these things but rather *assent* to them through inheritance. We agree to them insofar as we do not dissent. This is Ernest Renan's metaphorical 'daily plebiscite' that is a nation: we vote by continuing to live together;²⁰² we do not vote to continue to live together. Naturalised citizens elect to join this chain of community.

This is also why democratic citizenship is not generally contingent on obeying the law: the offenders are *our* burglars, rapists, and murderers. Nor does it depend on wholesale loyalty or abstract allegiance; do not a sizeable number of our fellow citizens barrack for their birth country team over their home team in international competitions? In 2019, the *Hindustan Times* declared that "It's now OK to fail Tebbit's infamous cricket 'test'", referring to Lord Norman Tebbit's proposed test of loyalty for immigrants that they support the English cricket team.²⁰³ In truth, it was always okay. Many native-born citizens also have multiple attachments and allegiances, amply managed. Where there are bonds and identification, there is no need for loyalty tests.

In recent times, many democracies have responded to global migration, global terror, and public moral panic over Islam and Muslims by embracing the form and language of contract and obligation regarding citizenship. Some, such as Australia, have exchanged their old pledges of allegiance for this language. While reminiscent of early liberal political thought, this language is at odds with democratic states' traditional practice of naturalisation as the mechanism of immigrant absorption. This iteration of an earlier modern shift in social relations from *Gemeinschaft* to *Gesellschaft* (Ferdinand Tönnies [1887] 1955) is undoubtedly connected to broader contemporaneous currents such as neoliberalism, managerialism, and corporatisation that reshaped institutions and societies over the past half century.²⁰⁴

Perhaps given this broader context, it is quaint to think that the traditional reliance on naturalisation can be retrieved. On the other hand, the current 'contract and obligation' approach does not appear to be working all that well, and little wonder as it undercuts the very kind of social relations and bonds that democratic governments and societies still seek. They want contract to do the work of integration that only naturalisation can provide.

Now, it might be objected that membership of anything typically comes with a set of entitlements and obligations, and swearing obedience on citizenship acquisition is no different. For example, for nearly four hundred years, every reader at the Bodleian Library of the University of Oxford was required to take an oral oath vowing not to remove or deface any volume, introduce any fire or flame, and to obey the Library's rules.²⁰⁵ In some versions, like the one I took, one also vowed not to

201 Vasanthakumar 2023.

202 Renan E. (2018), *What Is a Nation? and Other Political Writings*, Columbia University Press.

203 Prasun Sonwankar, 'It's now OK to fail Tebbit's infamous cricket 'test'', *Hindustan Times*, 2 June 2019.

204 Tönnies F. (1887), *Community and Association*, Routledge and Paul [1955].

205 Simon McLeish, Preservation of a leaf, *The Conveyor*, 22 June 2010, <https://blogs.bodleian.ox.ac.uk/theconveyor/preserva->

bring goats into the Library. All of these things may reasonably be assumed of any responsible user of the Library. Readers at other Oxford libraries were not so burdened with an oath. Yet few were those over centuries who felt slighted by the Bodleian requirement or protested the ritual as unfair or morally indefensible. Citizenship differs, however, in being more than a set of entitlements and obligations; it is also a set of identifications, with people, land, place, language, culture, history, and fate. And acquiring these is a process. There is no equivalent to naturalisation in joining a library.

The objection that it's unfair to require only immigrant citizens to take an oath – which some contributors to this forum make in the context of soliciting allegiance, law-abidingness, or political consent – loses its force with an affiliation, membership, and naturalisation perspective. For only immigrants decide to join a political community. (I do not say decide to leave their community to join another as many retain strong identification with their country of birth.) Vasanthakumar rightly observes that integration is not something only immigrants do. But deciding to throw one's lot in with a new national community is.²⁰⁶ This, more than any bundle of rights and obligations, distinguishes naturalised citizens from native-born citizens, permanent residents, and tourists. It is a decision and transition worthy of being publicly marked in some way.

Marking the transition

I agree with Lenard that it is appropriate to mark the culmination of naturalisation and the acquisition of citizenship with occasion and ceremony. Unless one considers countries to be like hotels, citizenship acquisition through naturalisation in a new society is a significant transition in a person's life. Several contributors to this debate suggest that the expressive and ceremonial dimensions could be achieved through a voluntary celebratory event. But that would be like having a wedding celebration at which the newlyweds are not present or do not address the gathering. (Any state requirement in this regard would perforce make due allowance for extenuating circumstances.)

One option is a ceremony at which new citizens are invited to share something of their experience, whether this be pre-arranged or, karaoke-like, spontaneous at the event. I daresay, however, that most people would appreciate a prepared statement to mark the occasion. If not allegiance to country or crown or a commitment to obey the law, what should be in that statement?

Bauböck suggests a commitment to some universal values without impinging on freedom of conscience.²⁰⁷ But how feasible is this? '*Life, liberty, and the pursuit of happiness*'? Plagiarism. '*I affirm my belief in democracy and the equal moral worth of individuals*'? Hold on, what about groups and non-human animals! '*Freedom and justice for all*'? Why then am I bothering to become a citizen...?

I agree with Bauböck that the ceremonial act of consummating naturalisation with an oath or statement performatively signals one's new status and place in the community. That has value for the new citizen and for the established community. I cannot agree, however, with imbuing this act with a commitment to defend democracy, local or universal. That kind of strong obligation is an involved question turning on the presumed foundation and purpose of the state, which historically has divided liberals and republicans.²⁰⁸ A citizenship oath best avoids such controversy.

I think a minimalist expression of commitment is appropriate, one which abandons the language of consent and contract and of rights and obligations and instead affirms the point and purpose of naturalisation. Something like: '*On this day, I am proud [or pleased] to become a [Nationality] and look forward to participating in and contributing to the life of [Country] as best I can*'.

Sometimes less is more.

[tion-of-a-leaf/](#)

206 Vasanthakumar 2023.

207 Bauböck 2023.

208 Walzer M. (1970), *Obligations: Essays on Disobedience, War, and Citizenship*, Harvard University Press.

Citizenship oaths and territorial admission: insights from the German debate

Oliviero Angeli*

Migration has been a powerful catalyst for social polarisation and political division in recent decades. Many people worry that the growing hostility and animosity surrounding migration-related issues threatens to deepen the existing divide between native and immigrant populations. Bridging this divide requires not only the willingness on the part of the native population to accept immigrants as integral members of society, but also a minimum willingness on the part of immigrants to identify with the host country and its core values. This is where the concept of a citizenship or naturalisation oath usually comes into play. States understandably have an interest in avoiding harbouring individuals who are blatantly hostile to their constitutional order, preferring instead to welcome new members who have a positive regard for their state's legal order – a sentiment that can be expressed through naturalisation oaths.

The German case: are citizens required to share constitutional values?

Using Patti Tamara Lenard's framework,²⁰⁹ which distinguishes between a thinner and a thicker conception of loyalty, German naturalisation practice occupies a middle ground. While it departs from the thinner view, which sees loyalty as mere compliance with the Basic Law, it broadens its scope to include values that are intrinsic to the constitution. In contrast to the thicker understanding, it avoids integrating cultural elements external to the constitution and concentrates solely on values derived from it. Nevertheless, the consensus on naturalisation practice remains fragile, as recent controversies over proposed reforms demonstrate.

As part of the naturalisation process, applicants must affirm their commitment to the constitution by signing a declaration of loyalty to the Basic Law. In recent years, both the Christian Democratic Union (CDU) and the liberal Free Democratic Party (FDP) have explored options to transform this declaration into a more ceremonial gesture. The CDU, for example, has proposed the introduction of an oath to be taken by individuals before receiving naturalisation documents that would include a public pledge to respect the German Basic Law, with an optional religious affirmation.²¹⁰ More recently, these proposals have been expanded to include a commitment to uphold important constitutional values, not just the law (as I will show below).

These proposals serve two purposes. First, increasing the ceremonial aspect of naturalisation adds symbolic meaning to the act of becoming a citizen and encourages immigrants to make a deeper commitment. By publicly pledging allegiance to the constitution, newcomers are likely to develop a deeper connection to the values and principles of their host country. As Lenard points out,²¹¹ a citizenship oath symbolises and 'solemnises' the moment when immigrants commit themselves to a new state. Second, and more narrowly, the oath of allegiance aims to screen out individuals who are unwilling to embrace German constitutional values, acting as a gatekeeper to ensure that those seeking citizenship are committed to the fundamental ideals and principles of the German constitution.

The Mercator Forum Migration and Democracy - TU Dresden
209 Lenard 2023.

210 Entwurf eines Gesetzes über die Eidesleistung bei Einbürgerungen, 67/05 (2005).

211 Lenard 2023.

On a normative level, the first point is less of a concern. One might argue, as Ashwini Vasanthakumar does,²¹² that the process of naturalisation itself with its significant costs and efforts should be enough to signal voluntary consent and commitment from immigrants. But I am inclined to agree with Lenard that the act of taking an oath and the ceremony that accompanies it can be a significant moment for most immigrants as it comes to symbolise the recognition of their transition and the culmination of a long process.²¹³ Moreover, it is quite possible that the oath is a way of reassuring current citizens by publicly demonstrating new citizens' commitment to the values and laws of the host country, although the evidence for this still needs to be gathered, as Daniel Sharp and David Owen rightly point out.²¹⁴

The second point, however, is of greater concern. Critics may argue that requiring an oath of allegiance is potentially illiberal because it interferes with the moral attitudes of individuals. In their view, the state's role should be limited to ensuring compliance with the law. Along these lines, the German Federal Constitutional Court has argued in a 2010 ruling that "citizens are not legally obliged to personally share the values of the constitution"²¹⁵ and that they should be "free to question even fundamental values of the constitution as long as they do not endanger the legal interests of others" (my translation). Moreover, in addition to being seemingly illiberal, applying a duty of loyalty to all naturalised citizens could be seen as unfair, imposing a disproportionately burdensome requirement compared to the native population. As Daniel Sharp points out, mandatory oaths "create problematic inequalities between natural-born and naturalised citizens."²¹⁶

I will not go into too much detail about the 'inequality charge' because it appears to be less compelling. Like Rainer Bauböck, I believe that a naturalisation oath serves an "additional function" that is specific to immigrants, namely that it "affirms a change of membership status and proclaims inclusion in a new political community."²¹⁷ Moreover, it is worth noting that discriminatory legal measures can manifest themselves in different ways for both native and immigrant populations. While native Germans generally do not take an oath of allegiance, they are subject to other forms of coercive value 'inculcation' from which immigrants are typically exempt. For example, political education is integrated into the school curriculum to promote democratic principles and civic engagement among the younger generation and to prevent the resurgence of authoritarianism. From this perspective, the oath taken during the naturalisation process can be seen as a 'fast track' for individuals to express their commitment to the legal and ethical principles of the host society.

The charge of illiberalism, however, raises a deeper point, which is how much states can demand of non-nationals in order to preserve their distinctive legal and political values. I am inclined to accept the argument that oaths of allegiance are difficult to justify with respect to long-term resident aliens. Elsewhere, I have argued extensively that immigrants should be provided with a path to citizenship once they have settled in a foreign country.²¹⁸ Refusing to naturalise long-term settled noncitizens poses a particular challenge in a democratic country, where citizens as law's addressees should also ideally be seen as its authors. Conditioning the naturalisation of resident immigrants on an oath of allegiance effectively risks relegating them to an inferior and unequal position, treating them merely as objects of the law rather than as equal participants in shaping it.

212 Vasanthakumar 2023.

213 Lenard 2023.

214 Sharp 2023; Owen 2023.

215 Federal Constitutional Court's Order of 4 February 2010, 1 BvR 369/04, 1 BvR 370/04.

216 Sharp 2023.

217 Bauböck 2023.

218 Angeli, O. (2015), 'Territorial Inclusion and Its Boundaries', in *Cosmopolitanism, Self-Determination and Territory. Comparative Territorial Politics*, Palgrave Macmillan

Pledging allegiance at territorial admission

However, this is hardly the end of the story. As I see it, the discussion of naturalisation misses an important point if it is not informed by the legal distinction between initial territorial admission and the subsequent decision about how to treat long-term, settled noncitizens who are already participating in the economy and subject to the laws of the nation. In this sense, the question is whether the oath of allegiance should be applied to the territorial admission of non-resident aliens rather than to resident immigrants. It strikes me that if states may permissibly deny non-resident aliens access to citizenship in some cases, then states may permissibly require non-resident aliens to pledge allegiance to the host country's core values before or at the time of admission. In other words, if a state has the right to deny entry, it may also have the right to set conditions for entry, such as requiring non-resident aliens to pledge allegiance to the core values of the host country. This is all the more true in view of the dangers (emphasised by Bauböck²¹⁹) posed by the current increase in the number of autocracies. To illustrate this argument, consider the current debate over whether an application for German citizenship should be conditioned on a declaration of support for Israel's right to exist, which is seen as a significant aspect of Germany's post-Cold War political self-understanding, although not explicitly codified in German law. One could argue about the political merits of a policy that excludes non-resident aliens who do not support Israel's right to exist. However, my assumption is that from a moral point of view it would not be inherently wrong to implement such a policy. I see three possible counter-arguments.

First, it could be argued that asking for allegiance from individuals who have not yet committed to permanent residency might seem premature. Non-resident aliens may have a less entrenched connection to the host country, and imposing such a commitment might be seen as a hurdle for those exploring temporary opportunities. Second, an inherent contradiction may arise when arguing that requiring resident immigrants to pledge allegiance to the core legal values of the host country poses a potential constraint on freedom of expression, while simultaneously suggesting that imposing the same allegiance requirement on non-resident immigrants does not present such concerns. Third, it can be argued that mandating refugees, who often flee persecution or conflict, to swear allegiance to the host country may seem unjust. This objection recognises the involuntary nature of displacement for refugees and suggests that imposing political obligations through an allegiance oath may not align with the principle of providing refuge without additional burdens. This concern resonates with Lior Erez's argument that the choice to naturalise would not be entirely voluntary if the alternatives were not sufficiently acceptable.²²⁰

With regard to the first argument, it is crucial to recognise that, especially in Western countries, legal entry can serve as a steppingstone to permanent residency and, subsequently, citizenship. While it is true that not every legal immigrant will eventually become a naturalised citizen, the process of legal immigration is a common pathway to permanent residency and citizenship. Moreover, for individuals who do not plan to stay permanently, the oath of allegiance may be viewed as a temporary commitment and therefore not particularly onerous. For them, the commitment is not permanent in the sense that it can be relinquished if they decide to leave the country. Nevertheless, it is clear that the application of oaths to migrants is a policy primarily directed at permanent migrants, and distinguishing between truly temporary migrants and those transitioning to permanent residence can be a complex task. In addition, the dynamics of applying oaths to migrants may be different in international settings, particularly in regions such as the European Union, where member states have committed to freedom of movement. In such cases, traditional understandings of loyalty and commitment may need to be adapted to fit the unique characteristics of these regional arrangements.

219 Bauböck 2023.

220 Erez 2023.

In response to the second argument, I should emphasise that criticism of the distinction between resident and non-resident immigrants overlooks the special demands and responsibilities that come with residency in a country. While a universalist perspective might neglect these special demands and responsibilities, from a statist perspective, the moral and legal implications of residency provide a reasonable basis for imposing different, and potentially more stringent, legal requirements on non-resident aliens. To illustrate this point, consider the somewhat related case of me looking for a roommate. If I, as the current resident, bring someone into my living space, it may be perceived as unfair if I unilaterally impose rules on the cohabitation after a few years of living together. At that point, the roommate could reasonably be considered an equal resident, and imposing new rules could be seen as arbitrary and coercive. However, the situation may be far less problematic if the terms of cohabitation have been clearly communicated and agreed upon as a condition of admission for new roommates. Similarly, in the context of states, the establishment of certain obligations as a condition of territorial admission can be seen as a transparent agreement that reflects the legal inequality between members and non-members. Finally, the third objection, while compelling, may be overstated when applied broadly to the entire immigrant population. It is true that in the case of forced migrants, including asylum seekers, concerns about the voluntariness and validity of the oath of allegiance do matter. Forced migrants, faced with the involuntary nature of their displacement, may feel compelled to subscribe to anything that facilitates entry into a safe country. However, forced migrants represent only a small fraction of legal migrants, so even exempting them from the obligation to swear allegiance would not completely undermine the argument.

A last caveat emerges with regard to the concern expressed by Helen Irving that efforts to introduce an oath of loyalty stem from the suspicion that naturalised Muslim immigrants may undermine the democratic national culture.²²¹ Indeed, requiring non-resident immigrants to reject any kind of “anti-Semitic crime” and to declare their support for “Israel’s right to exist”, as in the German case, could be seen as an indirect anti-Muslim stance. One may hold that the policy of excluding people who do not commit to Israel’s right to exist, however politically problematic, is not morally impermissible to implement in and of itself. The problem, however, is that such a policy may be interpreted as expressing disrespect for minorities within the society, whether naturalised or not.

Consider the special relationship to Germany’s troubled past: While the Holocaust occupies a central place in German historical consciousness and is a key element of constitutional patriotism, immigrants from regions with a difficult relationship with Israel may not have the same connection to this history. This difference in historical perspective could create a sense of exclusion or alienation among Muslim communities who have no biographical connection to German history while being exposed to conflicts in the Middle East. In this sense, one might caution against using constitutional values as a litmus test for belonging, as it may exclude those who do not share the same historical references in interpreting the constitution, potentially leading to discrimination or stigmatisation. Given the existing Islamophobia in many countries, these concerns are not entirely unfounded.

221 Irving 2023.

The ground is shifting underneath constitutional patriotism

In conclusion, while I endorse Lenard's arguments in support of requiring new citizens to take an oath of allegiance, I find it more reasonable to apply this principle to non-resident aliens seeking legal immigration (excluding forced migrants).²²² Obviously, the context of legal immigration may diminish the solemnity of the oath, since it signifies entry into a new country rather than admission to a new membership through naturalisation, but the act still symbolizes a voluntary commitment to the fundamental constitutional values of the host country.

While I believe that the exclusion of non-resident aliens who are unwilling to subscribe to these values can be justified, it is also crucial to address concerns about the potential marginalisation of communities with different historical references. Care must be taken to avoid discrimination and alienation, especially given Germany's complex historical context and the diverse backgrounds of its immigrant population. Striking a balance between upholding constitutional values and promoting inclusiveness is challenging but essential to avoid high levels of polarisation. Germany's constitutional patriotism, rooted in universalist values, prioritises shared values over inherited characteristics. However, it is crucial to recognise that the evolving societal interpretations of these values may challenge the very idea of constitutional patriotism. If different groups interpret constitutional values in significantly different ways, the unifying power of constitutional patriotism is likely to be undermined.

²²² Lenard 2023.

Oaths as signals and the perceived membership of new citizens

Keith Banting*

This fascinating debate focuses primarily on the normative implications of requiring citizenship oaths of individuals becoming citizens, with most contributors criticising such oaths as unfair to new citizens. However, a minor theme suggests that citizenship oaths may represent a signal to existing citizens that newcomers are committed to their new community and willing to assume the burdens of membership. Patti Lenard argues that an oath “signals to current citizens that incoming citizens.... can be trusted to take their role as citizens in their new state seriously.”²²³ Rainer Bauböck joins her, arguing that a naturalisation oath is “a signal to the wider audience of citizens they should trust the new members to be good citizens”.²²⁴ Others share the view.²²⁵

The difficulty this argument confronts is the absence of empirical evidence that citizenship oaths actually do influence the perceptions of newcomers held by the wider citizenry. Daniel Sharp argues that such speculation is “inconclusive”, given the lack of empirical evidence.²²⁶ Elsewhere, Liav Orgad argues that “social science provides no evidence” to support the premise that a citizenship oath contributes to social cohesion.²²⁷ There is substantial evidence that *being* a citizen increases public support for the inclusion of newcomers in some countries, such as the United States.²²⁸ But what about the nature of the act of *becoming* a citizen? What about a citizenship oath itself?

Given the intensity of anti-immigrant sentiments across contemporary democracies, the debate should not stop here. Perhaps citizenship oaths, despite their questionable normative status, do advance the cause of a more inclusive society and – on balance – contribute to more equitable treatment of newcomers. David Owen suggests such a prudential argument in the following terms: “Let us assume for the sake of argument that states with mandatory oath-taking are more receptive to immigrants becoming citizens and more equitable in outcomes for naturalised citizens across a range of measures. In such circumstances, it would be plausible to argue a mandatory citizenship oath is a small price to pay and well worth paying.”²²⁹ This prudential argument captures the issue well.

While there is no direct empirical evidence in support of this pragmatic argument for citizenship oaths, there is a broader literature on the importance of signalling commitment that is relevant. This comment draws on an extended cross-national research project on membership and inclusion in culturally diverse societies, conducted by Allison Harell, Will Kymlicka, and me.²³⁰ Our findings underscore the importance of public perceptions of immigrants’ commitment to their new country and the power of signalling processes to influence those perceptions. Moreover, although not designed explicitly to analyse the effects of oaths, our findings provide both theoretical reasons and some initial evidence that oaths may play such a role in support of the equitable inclusion of newcomers.

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223 Lenard 2023.

224 Bauböck 2023.

225 Shachar A. (2017), ‘Constituting Citizens: Oaths, Gender, Religious Attire’, in Albert R, Cameron DR (eds.), *Canada in the World: Comparative Perspectives on the Canadian Constitution*, Cambridge University Press.

226 Sharp 2023.

227 Orgad 2014.

228 Levy M, Wright M. (2020), *Immigration and the American Ethos*, Cambridge University Press.

229 Owen 2023.

230 Harell A., Banting K., Kymlicka W. (2024), ‘Inclusive Redistribution and Perceptions of Membership: A Cross-National Comparison’, *Advance*. DOI: 10.31124/advance.171154796.67063669/v1; For a more theoretical discussion, see also: Harell A., Kymlicka W., and Banting K. (2022), ‘The Boundaries of Generosity: Membership, Inclusion and Redistribution’ in Crepez (ed.), *The Edward Elgar Handbook on Migration and Welfare*. Edward Elgar, 102-117.

Perceived membership and inclusion

The focus of our research is the *perceived membership* of immigrants. That is, we measure the extent to which the majority population sees immigrants as committed to their new shared community and willing to bear the burdens of membership. Our hypothesis is that the inclusion of immigrants is fundamentally a matter of perceived commitment, and that the majority is responsive to signals of commitment. That is, the willingness of the majority to support the inclusion of immigrants in the political and social mainstream depends in part on whether immigrants are seen as committed to the larger society. Obviously, such commitment can take a number of forms. One metric often deployed in public debates is whether immigrants make an economic contribution by working hard and paying taxes. However, the commitment that matters is not just economic. Full membership in a new political community also involves an affective commitment to that community and to the responsibilities inherent in belonging. In our view, the majority population's perceptions of the commitment of newcomers – which we call “membership perceptions” – are critical to societal support for the full inclusion of newcomers.

The essence of this conception of membership can be seen in questions we use in surveys to tap the beliefs of the majority population about newcomers' commitment to the wider society.

- IDENTIFY: Compared to other people living in the country, how much do you think immigrants identify with [COUNTRY]?
- CARES: Compared to other people living in the country, how much do you think immigrants care about the concerns and needs of other [NATIONALITY citizens]?
- SACRIFICE: Compared to other people living in the country, how willing do you think immigrants are to make sacrifices for others in our society?
- CONTRIBUTE: One way that citizens contribute to society is by working and paying taxes. Compared to other people living in the country, do you think immigrants are contributing their fair share, or more or less than their fair share?

This is not a complete evaluation, of course. Immigrants make myriad contributions to collective life. Yet, the membership scale that we build from these questions captures important dimensions of majority perceptions of the commitment of immigrants to the shared community.

We now have data on perceived membership levels in seven democracies (Denmark, Sweden, Italy, France, the UK, Canada and the United States). Strikingly, immigrants in all seven countries are seen as less committed to the shared community than the rest of the population. In effect, immigrants in all seven countries bear what we call a “membership penalty”. Critically, these penalties are not simply reflections of racism and xenophobia. Statistical analysis with a full set of controls confirms that these membership penalties are not reducible to racial prejudice or a highly ethnicised conception of national identity. There is a larger point here. Much attention focuses on the drivers of outgroup exclusion such as racism, but less attention is devoted to the sources of ingroup inclusion. They are not the same. Inclusion into a solidaristic community is not simply a matter of overcoming perceptions of outgroup threat, bias and prejudice, but also involves active processes of membership-making, and of inclusion into a ‘we’. These processes reflect deep assumptions about what it means to be a community, including a shared identity and powerful norms of reciprocity. Membership penalties reflect the majority's perceptions of how committed newcomers are to the shared community.

Critically for this debate, an experiment conducted within our survey in four of our countries demonstrates that membership penalties are not immutable but are malleable in response to signals of commitment. When immigrants perform acts of charity aimed at the host society, majority respondents' beliefs about the level of commitment among immigrants shifts upwards; in contrast, charitable initiatives directed toward an immigrant's country of origin perversely have the opposite effect.

Finally, membership penalties matter. In an early study in Canada, we found that perceived membership is strongly related to public support for immigrant participation in the political life of the country. Our more recent cross-national survey finds that membership penalties are strongly associated with the level of public support for 'inclusive redistribution' – that is, public support for immigrant access to social benefits (as opposed to welfare chauvinism). These indicators make clear that membership penalties matter to public support for the inclusion of immigrants in the political and social life of their new home.

Membership, signals, and citizenship oaths

Can one draw implications from this research for the role of naturalisation oaths? One point of leverage comes from the size of membership penalties across our seven countries, which vary considerably. Membership penalties are smaller in the United States, Canada, and Great Britain, and considerably larger (and remarkably uniform) in the four continental European countries, Denmark, Sweden, France and Italy. Moreover, there is a striking relationship between the size of the membership penalty in a country and the presence or absence of a requirement that naturalising citizens publicly swear an oath of allegiance, as recorded in the GLOBALCIT dataset on acquisition of citizenship.²³¹ All three countries with smaller membership penalties (the United States, Canada and Great Britain) are known for such oaths and ceremonies. In contrast, three of the four continental countries with much larger membership penalties do not require such an oath. On first glance, Denmark is the one exception. Those acquiring Danish citizenship by naturalisation are required to declare allegiance to Denmark and Danish society. However, the swearing of the oath takes place in private as part of a digital application. There are ceremonies once a year for new citizens. However, "the Danish ceremonies do not include swearing-in ceremonies but are rather informal public celebrations including an official welcome speech, entertainment, and refreshments."²³² Perhaps Denmark is not a significant exception.

Policy domains are never static, and the regulations governing naturalisation are no exception. Proposals for change can trigger interesting debates, as recent Canadian experience attests. During the pandemic, the government shifted from in-person to online ceremonies, which retain a collective swearing of the oath before a public official but which are clearly less public than the traditional ceremonies and, as a result, attract much less media attention. After the pandemic, the government decided to retain this approach, presumably for administrative reasons. In 2023, the government opened an online feedback forum, inviting individuals to comment on the new approach. The response was intriguing. The small number of current applicants for naturalisation who expressed an opinion tended to support online ceremonies as a means of accelerating the process. However, the largest number of responses came from current citizens. They overwhelmingly opposed the change (94.1%) and defended the importance of public ceremonies.²³³

231 Vink M., van der Baaren L., Bauböck R., Džankić J., Honohan I., and Manby B. (2023), 'GLOBALCIT Citizenship Law Dataset, v2.0, Country-Year-Mode Data (Acquisition)', Global Citizenship Observatory, <https://hdl.handle.net/1814/73190>.

232 Damsholt 2018.

233 Griffith A. (2023), 'A one-click citizenship oath isn't the way to go', Policy Options Politiques, <https://policyoptions.irpp.org/magazines/june-2023/a-one-click-citizenship-oath-isnt-the-way-to-go/>

Obviously, our research findings do not constitute the conclusive social science evidence that might convince sceptics. Seven countries represent a limited sample; and there are undoubtedly many other factors beyond oaths influencing the size of membership penalties. Nonetheless, there are four key conclusions here. First, the evidence of the impact of membership perceptions highlights the importance of understanding the factors that shape membership penalties. Second, the full analysis confirms that such penalties are not simply a result of racism or xenophobia, but reflect a distinct process of inclusion. Third, the survey experiment indicates that such penalties are not immutable but respond to signals of commitment. Fourth, the relationship between the size of membership penalties and the presence or absence of citizenship oaths in our seven countries suggests that such oaths may well represent a signal to the wider audience of citizens that newcomers share their commitment to the collective community.

The wisdom of prudential thinking

The inclusion of newcomers in the shared political community faces two challenges. Much has been written about the first challenge: how to overcome deep legacies of ethnicised and racialised definitions of the nation among the historic population. But much less has been written about the second challenge: how do newcomers signal their commitment to the nation, to membership in the collective 'we', with its associated ideas of belonging and the sharing of obligations to each other? And, by extension, what signals do others in society recognise?

Citizenship oaths need to be evaluated in this context. There are undoubtedly normative dilemmas here. Citizenship oaths may well come with normative costs, which Lenard's critics highlight. However, what are the alternative signals? Several unpleasant possibilities confront us. A search for alternatives shifts the burden onto immigrants to find signalling opportunities; and some of the alternative mechanisms might be even more unfair to newcomers, as suggested by the negative response to charitable efforts to assist their countries of origin. Finally, in the absence of effective modes of signalling, the default position presumably prevails, with serious membership penalties and their associated barriers to inclusion, which are manifestly unfair.

In the end, this commentary points to the wisdom of Owen's prudential argument.²³⁴ Admittedly, the evidence presented here is suggestive, not determinative. However, in light of the pace of social science research, waiting for definitive evidence implies a lengthy period of inaction. Given the intensity of public anxiety about immigration, there is wisdom in more prudential thinking about citizenship oaths.

234 Owen 2023.

Oaths of allegiance: too icky, too tricky, and too sticky

Ashley Mantha-Hollands*

Patti Lenard's kick-off to this forum has defended mandatory oaths of allegiance understood in their thinnest form as "a commitment to obey the law" and "a shift in beliefs and sentiments."²³⁵ Contributions have, so far, analysed some of the moral and ethical challenges of the proposal,²³⁶ as well as evaluated oath taking requirements in other contexts such as in hostile immigration states,²³⁷ their colonial and historical backgrounds,²³⁸ or extraterritorial settings.²³⁹ One of the aspects currently still under-developed in the conversation (although both Lenard and Bauböck offer some food for thought²⁴⁰) is on the content of oaths of allegiance – what exactly makes an oath 'thin' or 'thick', and what is permissible and impermissible content? Or are 'thin' oaths merely a fiction (as Helen Irving argues)?²⁴¹ In this brief contribution, I will look at different loyalty oaths and reflect on why they can be both 'icky' (filled with objectionable content) and 'tricky' (used to unfairly exclude newcomers) from a liberal perspective using both comparative and historical examples. Moreover, if we are to accept Lenard's proposal of a 'thin' oath of allegiance, it should be noted that loyalty oaths and their content are rather 'sticky' and have been resilient to change.

'Icky' oaths – on vague and ambiguous content

One of the problems with oaths of allegiance is that their content is often vague and thus, what exactly is being asked of the newcomer is unclear. Looking across some current naturalisation oaths reveals this ambiguity. For example, the Australian pledge of commitment states, "From this time forward, [under God], I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey."²⁴² What exactly are the democratic beliefs that the newcomer is expected to share? How is this belief to be proven? And what is the legal obligation derived from this oath? Liav Orgad writes that the content of an oath,²⁴³ such as this one, can be interpreted in two ways: i) "loyalty to substance", i.e., the thing itself, in which case it would need to be specified what democratic beliefs are, in order to guarantee that they are shared; or ii) "loyalty to a legal form," i.e., the acceptance of the fact that Australia is a democratic state and that democracy is the legal procedure for amending or creating laws. This distinction is important. For example, someone who does not hold democratic beliefs and would like to see Australia move to another form of government (but by way of current democratic processes) could not ethically take the oath under the first meaning but could do so under the second. As currently worded, the obligation is not clear, and thus has the potential to create problems for the person asked to swear it.

Other oaths are similarly vague. The pledge in Britain asks newcomers to "uphold its democratic values" and to "fulfil my duties and obligations as a British citizen."²⁴⁴ Fulfilling the 'duties of citizenship' is present also in the oaths in Canada, Greece, India, New Zealand, and the Czech Republic. What are the duties a newcomer is expected to fulfil? While empirical evidence would be needed to prove this in each context, my best guess is that most people taking the oath are unclear on what is expected of them. Does this include the duty to vote? Or participate in democratic deliberation? In

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235 Lenard 2023.

236 Erez 2023; Vasanthakumar 2023; Sharp 2023; Owen 2023.

237 Hobden 2023.

238 Goldstone and Pasternak 2023; Kim 2023; Irving 2023.

239 Džankić J. (2024), 'Mandatory hypocrisy: oaths in extraterritorial naturalisations', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/11/> (hereinafter 'Džankić 2024')

240 Lenard 2023; Bauböck 2023.

241 Irving 2023.

242 'Australian citizenship pledge', Australian Government Department of Home Affairs, <https://immi.homeaffairs.gov.au/citizenship/ceremony/what-is-the-pledge>.

243 Orgad 2014.

244 Nationality Act 1981, schedule 5: oath (United Kingdom).

Canada, these duties are outlined in the 'Discover Canada – Study Guide' and include: "obeying the law", "taking responsibility for oneself and one's family", "serving on a jury", "voting in elections", "helping others in the community", and "protecting and enjoying our heritage and environment."²⁴⁵ While some of these duties are specific, others are vague or go beyond what is asked of birthright citizens. As Vasanthakumar writes, "many natural-born citizens do not participate in democratic processes" nor are they expected to "help others in the community."²⁴⁶ Not all countries provide such a guide. If being involved in democratic processes is not one of the duties enshrined in the oath, are these simply other ways of articulating the requirement that the person follow the law? If yes, then does that include all laws? And to what degree? As Irving highlights, "this makes no sense absent understanding of 'the law' as something beyond the regular law, having a higher, transcendent character."²⁴⁷

There are other oaths that are filled with less subtle and more objectionable content from a 'thin' liberal perspective. As discussed by Oliviero Angeli,²⁴⁸ in Germany there have even been recent proposals for newcomers to pledge to support the right of existence of a particular foreign state: Israel.²⁴⁹ Moreover, any oath that requires a commitment or reference to religious or cultural criteria is surely out. In states such as, Lithuania, Georgia, and Armenia, newcomers are asked to make a pledge to respect the state language, national culture, and traditions. These examples can be categorised in the 'too thick' category.

In other cases, the oath is less about democratic principles but refers to the need to defend the country's independence, as in Hungary which asks for the defence of "the country as far as my strength allows" or Lithuania where the oath asks for defence of "the independence of Lithuania" and "to protect the territorial integrity of the state." In the U.S., as well, newcomers are asked to "support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic." Again, these oaths, as written, seem to me to be asking about military service which is a commitment that would not be shared by natural-born citizens in states without mandatory military service. However, if we are to understand defending the country or constitution in a thin sense, as Bauböck suggests, then is this content objectionable in the context of rising anti-immigrant sentiment and democratic backsliding?²⁵⁰ In my view it still is, as the implication then is that it is immigrants who are the ones responsible for the backsliding whereas, in the examples provided, it is natural-born citizens that are moving towards more autocratic sentiments.

Lenard defends a 'thin' oath which she defines as a commitment to obey the law. But she aptly writes, "the precise boundary between permissible and impermissible content is fuzzy." It is much harder, from a liberal perspective, to decide what can go in the appropriately 'thin' box. As I have laid out, even the thinnest of oaths are full of vague criteria and legal expectations that can be problematic. How should states decide what is considered permissible or impermissible content? What criteria are used? As others in this forum have suggested, simply uttering the words 'I will follow the law' is quite futile when all within the territorially bounded state are already expected to do so. Daniel Sharp suggests that oaths be "purge[d] of their objectionable content" and proposes that if mandatory oaths be maintained, the state should allow "more choice over the content of the oath."²⁵¹ But if the state becomes too elastic in what exactly they allow newcomers to profess loyalty towards, this would likely defeat the purpose of the oath altogether.

245 'Discover Canada - Rights and Responsibilities of Citizenship', Government of Canada, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/discover-canada/read-online/rights-responsibilities-citizenship.html>

246 Vasanthakumar 2023.

247 Irving 2023.

248 Angeli O. (2024), 'Citizenship Oaths and Territorial Admission: Insights from the German Debate', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/13/> (hereinafter 'Angeli 2024').

249 Thureau J. (2023), 'Germany debates tying citizenship to Israel loyalty', DW, <https://www.dw.com/en/germanys-new-citizenship-rule-pledge-to-israel-stirs-debate/a-67673872#:~:text=Saxony%2DAnhalt%2C%20a%20state%20in.legality%20of%20this%20remains%20unclear.>

250 Bauböck 2023.

251 Sharp 2023.

'Tricky' oaths – the importance of specificity

As we have seen, oaths are entrenched with cloudy and sometimes objectionable expectations. Why is specificity important? Because in the past, abstract requirements have been used by states to exclude 'unwanted' or 'undesirable' citizens. This danger is particularly clear in American (de) naturalisation cases. One enlightening example is the case of Mahmoud Kassas, a Syrian national, who applied for American citizenship in 1992.²⁵² Kassas requested to take a modified oath of allegiance since his religious faith prohibited him from taking up arms against another Muslim person or country. In the U.S., a modified oath is an option for people who are opposed to bearing arms. However, because Kassas was not opposed to bearing arms in general, but only in certain cases, the District Court stated that by being hesitant to take the oath, Kassas could not be considered attached to the U.S. Constitution (which has historically been a separate naturalisation requirement). The court decided that Kassas' beliefs were somehow an indicator of his potential future behaviour – i.e., whether he would be a law-abiding citizen.

I have written elsewhere about some of the challenges inherent in vague naturalisation requirements.²⁵³ States may use these to exclude certain people or groups when criteria are not clearly spelled out. Allegiance itself is a polysemous concept which means different things to different people in different contexts and at different points in time, and thus as much specificity as possible is necessary to secure equality, fairness, and justice for new incoming members.

'Sticky' oaths – the resiliency of loyalty oaths

Should it be agreed that an oath is necessary and that current oaths are too thick in content, what would be the process of modifying the oath of allegiance? Or what would be involved in doing away with it altogether? Oaths have, historically, proven hard to get rid of or change. Think of the German case where oaths of allegiance have come in and out of formal naturalisation requirements for years. After reunification in 1990, naturalisation required that the person declare that they would not support endeavours that could be considered directed against the democratic basic order (along with the payment of fees). In 1999, the declaration of loyalty was introduced by reform.²⁵⁴ A formal oath was re-introduced in 2006: Upon receipt of the certificate of naturalisation, the applicant must recite: "I solemnly declare that I will respect and observe the Basic Law and the laws of the Federal Republic of Germany, and that I will refrain from any activity which might cause it harm."

In Canada, there have been numerous (at least eight since 1977) attempts to modify the oath's content since its adoption in 1947. Despite these attempts, the content has only been changed on two occasions (in 1977 and in 2021). Changing the oath requires a Bill to be passed by parliament, which on its own entails a massive amount of time and resources. One such attempt occurred in 1994, when the Minister of Citizenship and Immigration commissioned a team of writers and poets to re-write the oath in order to remove reference to the monarch. The Minister described the proposals for the new oath to Canada as "beautiful, simple, powerful, and modern."²⁵⁵ The process was eventually cut by then Prime Minister Jean Chretien and the entire endeavour was wasted (a similar situation also occurred in 1987).²⁵⁶ There is currently a bill (Bill S-262, An Act to Amend the Citizenship Act (Oath of Citizenship)) that has gone through a first Senate reading. If passed, it would provide two options for reciting the oath: one to the King and his heirs, and the other to Canada.²⁵⁷

252 Petition for Naturalization of Kassas, 788 F. Supp. 993 (M.D. Tenn. 1992).

253 Mantha-Hollands A. (2023), 'Attachment Issues: Assessing the Relationship Between Newcomers and the Constitution', 31 *Wm. & Mary Bill Rts. J.* 1191

254 Farahat A. and Hailbronner K. (2020), 'Report on citizenship law : Germany', GLOBALCIT Country Reports, 2020/05.

255 Perkel C. (2013), 'Chretien nixed axing oath to Queen at last minute, ex-minister says', Canadian Press, <https://globalnews.ca/news/714304/cautious-chretien-nixed-axing-oath-to-queen-at-last-minute-ex-minister-says/>.

256 Perkel C. (2013), 'Chretien nixed axing oath to Queen at last minute, ex-minister says', Canadian Press, <https://globalnews.ca/news/714304/cautious-chretien-nixed-axing-oath-to-queen-at-last-minute-ex-minister-says/>.

257 An Act to amend the Citizenship Act (Oath of Citizenship), S-262 (Canada).

Yet, there is no guarantee that this effort will not meet the same fate as its predecessors.

Conclusion – who should be signalling?

I am sympathetic to the view that oaths are a form of ritual that can be a nice way to signify the shift into something new, or “a change of membership status” as Bauböck notes.²⁵⁸ I think back fondly to my own wedding vows, which, while practically did not change much in our partnership, was a nice proclamation of our commitment and change in legal status. But the problem with oaths of allegiance, at least the ways in which they have been written to date, is that they try to capture a sentiment which is not ephemeral using language that does not seem to help a state produce the intended outcome.²⁵⁹

I agree with Bauböck that in the face of democratic backsliding we should consider a different approach.²⁶⁰ However, I would flip the switch. My own home country Canada, which is supposedly congenitally immigrant-friendly, has seen a drastic rise in xenophobia²⁶¹ and a constant echo of blaming immigrants for various largely unrelated social problems (a trend that is also true in states across Western Europe). Keith Banting suggests that oaths can be used to signal the affective belonging shared by newcomers which will help improve public perceptions of immigration and that oaths may help reduce the “membership penalty” immigrants face.²⁶² But “given the intensity of public anxiety about immigration” in states with already thicker versions of oaths of allegiance than Lenard advocates for in her proposal, will a thinner oath really appease the backlash towards immigration? I agree with Geoffrey Brahm Levey that we should get back to thinking of naturalisation as a “mechanism of immigrant absorption,” in which case the state should be the one asked to renew its commitment and swear an oath to newcomers, to commit to being welcoming and tolerant of the plurality of ways of life that are supposed to be accepted in a liberal democracy.²⁶³ This, in my view, would be a more appropriate signal to the public that immigrants are an integral part of the ‘we’.

258 Bauböck 2023.

259 Džankić 2024.

260 Bauböck 2023.

261 Khan T. (2023), ‘Expanding immigration will not erase racism in Canadian society’, Policy Options Politiques, <https://policyoptions.irpp.org/magazines/february-2023/immigration-racism-canada/>.

262 Banting K. (2024), ‘Oaths as Signals and the Perceived Membership of New Citizens’, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/14/> (hereinafter ‘Banting 2024’).

263 Levey G. (2024), ‘Oaths of Allegiance: Too Icky, Too Tricky, and Too Sticky’, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/15/> (hereinafter ‘Levey 2024’).

Against loyalty oaths

Liav Orgad*

Patti Tamara Lenard has triggered a debate on an important and timely topic – the ethics of loyalty oaths. She has sympathy for such oaths, defending them when allegiance means obedience (“where allegiance requires a commitment to obey the law”), but also, subject to some conditions, when allegiance “requires a shift in beliefs and sentiments.”²⁶⁴ For me, Lenard’s thin loyalty is inessential, and her thick version can hardly be justified in a liberal democracy.

There are four objections against Lenard’s thesis on loyalty oaths.²⁶⁵

Conceptually, loyalty oaths fail to specify clear obligations

Imagine that you want to naturalise in Austria. You have to pledge to be “a loyal citizen of the Republic of Austria,” “avoid everything that might harm the interests and the reputation of the Republic,” and commit yourself to “the basic values of a democratic European country and its society.”²⁶⁶ Can you identify your legal or moral obligations? What about pledging “loyalty to Australia and its people,”²⁶⁷ “fidelity to the Irish nation,”²⁶⁸ or “allegiance to His Majesty King Charles III”?²⁶⁹ Does it make more sense? Or perhaps a pledge to “consider Hungary”²⁷⁰ as “my homeland,” “protect the territorial integrity of Lithuania” and respect its “culture and customs,”²⁷¹ or “spare no efforts” to protect the Latvian Constitution?²⁷²

A key problem with loyalty is that no one knows what it means, as Ashley Mantha-Hollands points out.²⁷³ Lenard offers two possible meanings, thin and thick.²⁷⁴ For Helen Irving, “*Allegiance* is specifically and intentionally a *thick* concept”.²⁷⁵ As she points out “[t]here’s no such thing as ‘thin’ allegiance.” I am not claiming that Lenard is wrong and Irving is right (or vice versa).²⁷⁶ It’s just that we talk about many things in many contexts whose meaning varies among cultures, periods, and legal systems. To assess the ethics of loyalty oaths, we need a better understanding of their essence. Clarity is required on what obligations they entail, by whom, to whom, when, and where. Do the duties arise already when entering a country, as Oliviero Angeli suggests, or only when getting its citizenship?²⁷⁷ Is loyalty due only towards universal values or also towards particular identities?

The authors of this symposium often talk about different things for different goals; hence, their normative judgement differs. These differences may demonstrate an advantage, since, as Morton Grodzins notes in *The Loyal and the Disloyal*, “in democratic states it is easy to maintain loyalty because the meaning of ... loyalty is ambiguous” (p. 75).²⁷⁸ The concept of loyalty is like a Humpty Dumpty theory of meaning: “When I use a word, it means just what I choose it to mean, neither more nor less.”²⁷⁹ Such a concept makes it easier to justify the oath. Especially if it “does not have any

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264 Lenard 2023.

265 Lenard 2023.

266 Federal Law Concerning the Austrian Nationality, 1985 (Austria).

267 Australian citizenship pledge, <https://immi.homeaffairs.gov.au/citizenship/ceremony/what-is-the-pledge>.

268 Irish Citizenship Ceremonies, <https://www.irishimmigration.ie/how-to-become-a-citizen/citizenship-ceremonies/>.

269 The Homage of the People to Charles III: Allegiance in British Nationality Law, <https://nationalityandcitizenshiplaw.com/2023/05/03/the-homage-of-the-people-to-charles-iii-allegiance-in-british-nationality-law/>.

270 Hungary: Act LV of 1993 on Citizenship (Hungary).

271 Oath of Allegiance to the Republic of Lithuania, <https://www.migration.lt/oath-of-allegiance-to-the-republic-of-lithuania>.

272 1994 Law on Citizenship (Latvia).

273 Mantha-Hollands A. (2024), ‘Oaths of Allegiance: Too Icky, Too Tricky, and Too Sticky’, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/15/> (hereinafter ‘Mantha-Hollands 2024’).

274 Lenard 2023.

275 Irving 2023.

276 Lenard 2023; Irving 2023.

277 Angeli 2024.

278 Grodzins M. (1966), *The loyal and the disloyal: Social boundaries of patriotism and treason*, World Publication Company.

279 McDonald L (2022), ‘The return of Humpty Dumpty: who is the ultimate arbiter of meaning?’, OUPblog, <https://blog.oup.com/2022/11/the-return-of-humpty-dumpty-who-is-the-ultimate-arbiter-of-meaning/#:~:text=>.

definite legal significance but is rather of a moral and political nature,” as Hans Kelsen claimed.²⁸⁰ Such an oath is merely a ritual. It reminds me of my bar mitzva¹, when I pledged to obey religious laws and, once the ceremony ended, celebrated the event by eating non-kosher food.

In many countries, however, loyalty oaths are not only moral and political promises but a legal institution. Their lack of clarity leaves the oath-takers at a continued risk because the range of obligations the oath imposes is wide. In a rule-of-law system, vagueness is an obstacle. In one case, a U.S. court found a loyalty oath unconstitutional since its language was “uncertain and broad ... forbidding or requiring conduct in terms so vague that men of common intelligence must necessarily guess at its meaning.”²⁸¹ Loyalty oaths are a sneaky concept, an enigma. Does the promise to “support the U.S. Constitution” also require supporting the judicial interpretation on abortion or the right to bear arms? Can a migrant pledge to support the constitution yet advocate its repeal? Without understanding what we are talking about (elsewhere, I offered three ways to make loyalty less vague),²⁸² defending the oath as a legal institution is difficult.

Historically, oaths have been used as instruments of fear and exclusion

One way to learn about the essence of loyalty oaths is to examine their role in (at least Western) history. After all, the gradual appeal to loyalty oaths in the recent decade has not happened in a vacuum. There are reasons to worry that, although some of the authors of this symposium want to credit naturalisation oaths with achieving legitimate goals, we cannot ignore that the history of loyalty oaths is rooted in religious crusades, feudalism, and abuse of power.

The modern concept of political allegiance was developed in medieval England. Fealty tied vassals to lords and obligated fidelity for protection. Oaths of allegiance derived from oaths of fealty. Allegiance was the obligation that subjects owed to the King for his protection. In 1534, when Henry VIII broke with the Pope, he invoked the oath as a political test. Those who refused to recognise the validity of his marriage to Anne Boleyn and to pledge loyalty to the Church of England were put on trial for high treason. The story of Thomas More, whom Henry VIII executed because he refused to swear allegiance to the Protestant Church, is a known historical precedent.

History shows many occasions when oaths were carefully designed to intimidate and exclude non-conformists for political reasons. In the United States, this was the case during the Civil War, World War II, and the Cold War.²⁸³ Such backgrounds shall never be forgotten. As Christine Hobden shows regarding South Africa, oaths are politics by other means, usually against the “other.”²⁸⁴ Hobden, and to some extent Jaeeun Kim and Zara Goldstone and Avia Pasternak,²⁸⁵ demonstrate why assessing the ethics of loyalty oaths must be historically cautioned, context-related, and culturally sensitive. Irving even puts it more bluntly: “Oaths ... were historically administered not merely to secure support for the sovereign, but importantly, in order to distinguish allies from enemies.”²⁸⁶

One can claim that today’s oaths are different (in general or in a particular case) or that they have a legitimate goal. Rainer Bauböck, for one, perceives oaths as a possible mechanism to defend “democracy against its internal enemies” or signal a new membership and affiliation of newcomers,²⁸⁷ a view that Geoffrey Levey also shares.²⁸⁸ The idea of “good oaths” in the service of democratic ideals sounds compelling. But without clear evidence that this is the current function of loyalty oaths, either their motives/intentions or effects, such claims remain pious wishes rather than social reality. It

280 Kelsen H. (1945), *General Theory of Law and State*, Routledge [2017].

281 *Cramp v. Board of Public Instruction*, 368 U.S. 278 (1961).

282 Orgad 2014.

283 Hyman H. (1982), *To Try Men’s Souls: Loyalty Tests in American History*, Praeger.

284 Hobden 2023.

285 Kim 2023; Goldstone and Pasternak 2023.

286 Irving 2023.

287 Bauböck 2023.

288 Levey 2024.

is precisely in this context that we better look at history to learn what roles loyalty oaths have indeed played in social reality. And it is precisely in this field where we see that the history of the oath is the history of fear, exclusion, and xenophobia.

Empirically, there is no evidence for the positive effects of oaths

The lack of empirical data on the motives and effects of loyalty oaths is another reason to be cautious. It is striking that a legal institution, commonly used worldwide, escapes the radar of scholars in social science and social psychology. Are loyalty oaths effective in the immigration or citizenship context? For which goals? For which categories of immigrants (by age, religion, gender, etc.)? How long does their effect (whatever it is) last? Are there any side effects? And, overall, under which social structure are people generally prone to be more loyal to a state?

Some of the authors of this symposium admit the lack of evidence to support normative claims. For example, Jelena Džankić²⁸⁹ (“Being a citizen or being a ‘good citizen’ has little to do with any pledge of allegiance”) or Daniel Sharp (“there’s no evidence” that loyalty oaths “increase trust”).²⁹⁰ Others, like Ashwini Vasanthakumar, claim that loyalty oaths “may be counter-productive to making us newcomers ‘feel like [we] belong.’”²⁹¹ This uncertainty is a major challenge to Lenard’s thesis about the potential benefits of the oath.²⁹² The evidence that she presents is based on limited studies. Sharp rightly observes this lacuna and advises that “More data are needed.”²⁹³

It *might* be that loyalty oaths are effective as a nation-building symbol or a mechanism to foster social cohesion, public trust, or other goals. But it also might not. We do not know how positive the oath’s influence is on one’s sense of loyalty. We do not know what transformation occurs in the hearts and minds of people taking a loyalty oath, either once or daily. We do not know if repeating words makes people more attached to the object of loyalty. And even if oaths effectively foster cohesion, trust, or a sense of belonging, their efficiency depends on their content and context. Forcing a Catholic Irish or a Jewish migrant to swear allegiance to King Charles III, who is the head of the Church of England, might well exacerbate social divisions rather than create social unity. And unlike daily pledges in schools, the immigration or naturalisation oath is a one-time event. It is naïve to assume that it has a significant impact on the newcomer’s identity.

Historical evidence raises doubt about the efficiency of oaths.²⁹⁴ The American Founding Fathers swore loyalty to King George yet rebelled against him. Benjamin Franklin noted that “there could be no reliance on their oaths” as they are “the last recourse of liars.” James Wilson wrote, “a good government did not need them, and a bad government could not or ought not to be supported.” And Noah Webster claimed that “Ten thousand oaths” could not create a loyal subject.” Instead of a coerced statement, a country can create loyal citizens by good laws. Congressman John Page: “If we have good laws,” newcomers “will find it in their interest to be good citizens” (he warned against making the oath “a test of faith and politics”). And as Noah Webster nicely put it – only “A good Constitution, and good laws, make good subjects.”

Whether one believes that oaths positively affect the migrants (it’s good for them) or the citizens (it’s good for us), one must provide empirical support for the claim. Keith Banting tries to do this.²⁹⁵ But even he has to admit that, eventually, “there is no direct empirical evidence in support of this pragmatic argument for citizenship oaths.” Against this background, I stand with Sandy Levinson in warning that “anyone who intends to be loyal will be so without a specific promise, and those who

289 Džankić 2024.

290 Sharp 2023.

291 Vasanthakumar 2023.

292 Lenard 2023.

293 Sharp 2023.

294 Orgad 2014.

295 Banting 2024.

are in fact disloyal will further demonstrate their perfidy by cheerfully lying about it.”²⁹⁶ This reminds me of the story about a naturalised U.S. citizen who was put on trial for a terrorist attack.²⁹⁷ When the judge asked him about his oath, in which he promised to be loyal to the U.S. Constitution, he replied: “I swore [sic] but I didn’t mean it.”

Morally, oaths undermine freedom of conscience

Perhaps we can sustain loyalty oaths despite the lack of evidence of their benefits if they were cost-free. Unfortunately, this is often not the case. Let me put aside the issues of consent²⁹⁸ and equality,²⁹⁹ and focus on what I consider a fundamental issue – freedom of conscience. This is not a claim against the oath but against problematic content and form or lack of conscience-related exemptions (note that my previous claims, too, are not against loyalty oaths per se but against their lack of clarity, empirical evidence, and legitimate goals).

As a secular Jew, I find it problematic to pledge loyalty to His Majesty King Charles III.³⁰⁰ I would find it similarly problematic to swear allegiance to Israel as a “Jewish state,” certainly if you are not Jewish but also if you are a secular Jew. A liberal state must respect one’s conscience, which often entails the freedom to dissent, not only from minor issues but also from matters that touch the heart of the constitutional order. I thus disagree with Vasanthakumar that the oath is “a small price to pay.”³⁰¹ This is not a small price even when the oath “only” asks loyalty to the constitution as, e.g., is the case of Norway,³⁰² whose oath Lenard finds legitimate.³⁰³ As a Jew, I find it difficult to pledge allegiance to a constitution whose article 2 declares “Our values will remain our *Christian* and humanist heritage.” Referring to oaths of beliefs in courts, Kant considers them as *tortura spiritualis*, even if they are taken “to the Common Good.”³⁰⁴ This does not imply that everything goes. If, e.g., a migrant denies a state’s right to exist, I can find no moral argument that forces the state to let him/her in as a rule (subject to some exceptions).

The cost generated by the oath may be softened by equating allegiance to obedience, avoiding ideological statements, turning oaths from mandatory to voluntary, and making loyalty oaths similar to statements of affiliation, only to universal values, as Bauböck and Levey suggest.³⁰⁵ “Sometimes less is more,” Levey says. True, but sometimes less is meaningless. Following this direction will end up with neither an oath nor loyalty. Erez catches this point by saying, “the pledge is either too hot to be defended by Lenard’s liberal framework, or too cold to serve its intended purpose ... The kind of oath she defends is at odds with the reasons such an oath is viewed as necessary.”³⁰⁶ In other words, you cannot have your cake and eat it too.

Conclusion

People are willing to tolerate loyalty oaths since the commonly accepted proposition is that they yield benefits and are cost-free. This proposition begs re-examination. There is a further need to clarify what we talk about when referring to loyalty oaths/pledges – what is their motive, goal, scope, and legal validity; in other words, who owes what to whom, when, where, and why.

296 Levinson S. (1986), ‘Constituting Communities through Words That Bind: Reflections on Loyalty Oaths’, 84(7) *Michigan Law Review* 1440–70.

297 Ali A. (2013), ‘Swearing In the Enemy’, *The Wall Street Journal*, <https://www.wsj.com/articles/SB10001424127887324767004578486931383069840>

298 Erez 2023; Vasanthakumar 2023; Sharp 2023; Owen 2023; and Džankić 2024.

299 Erez 2023; Vasanthakumar 2023; Sharp 2023; Hobden 2023.

300 The Homage of the People to Charles III: Allegiance in British Nationality Law, <https://nationalityandcitizenshiplaw.com/2023/05/03/the-homage-of-the-people-to-charles-iii-allegiance-in-british-nationality-law/>.

301 Vasanthakumar 2023.

302 Nationality Act 2023 (Norway).

303 Lenard 2023.

304 Kant I. (1790), *The Science of Right*, Wilder Publications [2009].

305 Bauböck 2023; Levey 2024.

306 Erez 2023.

Evaluating the effectiveness of naturalisation oaths

Yossi Harpaz*

Patti Lenard's kick-off essay provides an intriguing starting point for a fascinating and timely debate: should new citizens pledge allegiance in a naturalisation oath?³⁰⁷ Lenard answered this question affirmatively, sparking a provocative ethical discussion which carries direct policy implications. Most of the contributions focused on the normative dimension, cautiously justifying loyalty oaths³⁰⁸ or claiming that such a requirement would be unfair,³⁰⁹ oppressive³¹⁰ or even counterproductive.³¹¹

It is generally agreed that naturalisation oaths are not an unacceptable violation of human rights, nor are they an indispensable requirement for citizenship acquisition. Therefore, the normative question can be put as inquiring whether the expected benefits outweigh the costs. It is crucial, then, to specify the costs and benefits by answering the following empirical question: Do oaths increase immigrants' sense of belonging and their acceptance by society, or do they produce exclusion and alienation? Unfortunately, as contributors including Sharp,³¹² Banting³¹³ and Orgad³¹⁴ have noted, empirical research that directly addresses the effects of loyalty oaths is scarce.

The present contribution advances the discussion by framing the effectiveness of oaths as an empirical puzzle and outlining a research program to examine their effects. The findings of the proposed research could provide a solid basis for normative and policy discussions on the merits and demerits of naturalisations oaths. Below, I analyse two kinds of effects: on the naturalising immigrant and the receiving society. I propose hypotheses for each effect and outline potential research methodologies to test them.

Effect on immigrants

Enhanced Belonging. Proponents of loyalty oaths, including Lenard,³¹⁵ argue they increase naturalizing immigrants' sense of belonging. The literature suggests two mechanisms that may drive this effect. First, a public, solemn commitment to a new country of citizenship may lead immigrants to align their behaviour to avoid cognitive dissonance – a contradiction between self-image and actions.³¹⁶ Second, a loyalty oath ritualises the transition into citizenship. Rituals, which are scripted actions carrying symbolic meaning,³¹⁷ enhance the subjective significance of events and serve as mnemonic devices.³¹⁸ An oath, as a ritual that requires the participation of naturalizing immigrants, may make citizenship acquisition more subjectively meaningful and more memorable. This perspective suggests that an oath of citizenship would strengthen national identification, and that mandatory oaths would boost the identification of naturalising citizens across the board.

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307 Lenard 2023.

308 Lenard 2023; Owen 2023; Bauböck 2023; Banting 2024.

309 Sharp 2023.

310 Hobden 2023; Orgad L. (2024), 'Against Loyalty Oaths', GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/16/> (hereinafter 'Orgad 2024').

311 Vasanthakumar 2023; Orgad 2024.

312 Sharp 2023.

313 Banting 2024.

314 Orgad 2024.

315 Lenard 2023.

316 Festinger L. (1957), *A theory of cognitive dissonance*, Stanford University Press.

317 Bell C. (1992), *Ritual theory, ritual practice*, Oxford University Press.

318 Rossano M. (2012), 'The essential role of ritual in the transmission and reinforcement of social norms', 138.3 *Psychological Bulletin* 529-549; Whitehouse H. and Lanman J. (2014), 'The ties that bind us: Ritual, fusion, and identification', 55:6 *Current Anthropology* 674-695; Durkheim E. (1912), *The Elementary Forms of Religious Life*, Free Press [1965].

Alienation. Critics argue that mandatory oaths may backfire. Functioning as a loyalty test, they may alienate immigrants, particularly if they perceive a double standard compared to native-born citizens. This sentiment could be stronger when the testing function is overt, as in the case of observant Muslim women in Canada who are sometimes required to remove face veils when taking the oath.³¹⁹ This approach predicts that mandatory oaths might weaken national identification among naturalised citizens.

It may seem as if the enhanced belonging and alienation approaches lead to directly opposite predictions. Reality may be more nuanced: a mandatory oath might reinforce national identification among certain immigrant groups (e.g., middle-class or European-origin) while alienating others (e.g., working-class or non-Europeans). Empirical literature on naturalisation ceremonies, often including oaths,³²⁰ is largely qualitative and shows diverse responses. The evidence lends support to both hypotheses, showing stronger identification among some respondents and alienation among others. A quantitative study could measure effects of oaths on a large sample, identifying different impacts and their correlates. However, isolating the oath's effect is challenging due to the powerful impact of citizenship acquisition. For a naturalising immigrant, the oath is a small detail compared to the major step of becoming a citizen,³²¹ which entails receiving a passport, gaining secure residence, the right to vote and more. It is therefore difficult to isolate the oath's effect. Thus, more ethnographic and interview-based studies are needed to understand immigrants' perceptions of the oath. Establishing the effect of oaths on immigrants' identity in a statistically rigorous, replicable manner is very challenging.

Screening by Loyalty. Historically, oaths distinguished allies from enemies.³²² This function is controversial today, and Lenard does not advocate screening as a desirable function of oaths.³²³ Nonetheless, it makes sense to examine whether oaths screen for loyalty, as citizenship tests have been used for that purpose.³²⁴ Disloyalty can be understood in the narrow sense as opposition to the current political system, or more broadly (and controversially) as failure to accept foundational values like gender equality. An empirical study could analyse the characteristics of naturalised immigrants to identify a selection effect by political, cultural, or religious orientation, comparing countries with and without mandatory oaths or before-and-after scenarios in countries introducing such oaths.

Effect on receiving societies

Signalling. An oath is not just supposed to change the individual who takes it; it is also an important political spectacle that has an expressive function vis-à-vis the receiving society.³²⁵ An oath of loyalty is a ritual enactment of an individual's accession into the national collective. The naturalisation ceremony and the oath are a rite of passage that marks the transformation of foreigners into citizens.³²⁶ Such rituals typically include shedding an old identity and embracing a new one. An applicant who recites a scripted oath publicly expresses her submission and receptiveness to the rules and the values of new society. This kind of demonstration is at the heart of most rites of passage. From an anthropological perspective, a naturalising immigrant's loyalty oath is not all that different from a confirmation ceremony, a bar-mitzvah – or a hazing session for students who join a

319 Winter E. (2018), 'Passing the Test? From Immigrant to Citizen in a Multicultural Country', 6:3 *Social Inclusion* 229-236 (hereinafter 'Winter 2018').

320 Verkaaik O. (2010), 'The Cachet Dilemma: Ritual and Agency in New Dutch Nationalism', 37(1) *American Ethnologist* 69–82; Byrne B. (2014), *Making citizens: Public rituals and personal journeys to citizenship*, Springer; Aptekar S. (2015), *The road to citizenship: what naturalisation means for immigrants and the United States*, Rutgers University Press; Damsholt 2018; Harper R. (2018), 'Deconstructing naturalisation ceremonies as public spectacles of citizenship', *Digesting the Public Sphere. Routledge* 92-107; Henrich J. (2016), *The Secret of Our Success*, Princeton University Press.

321 Vasanthakumar 2023.

322 Irving 2023; Kim 2023; Orgad 2024.

323 Lenard 2023.

324 Orgad L. (2010), 'Illiberal liberalism cultural restrictions on migration and access to citizenship in Europe', 58(1) *American Journal of Comparative Law* 53-105; Orgad 2014.

325 Lenard 2023; Sharp 2023; Bauböck 2023.

326 van Gennep, A. (1909), *Les rites de passage*, Émile Nourry.

fraternity. The letter of the oath is of lesser significance than the public submission to the collective. Social scientists such as Durkheim and Turner have emphasised the universal need for ritualising belonging.³²⁷ Thus, mandatory oaths could enhance native populations' acceptance of immigrants, producing the reassuring, trust-enhancing effects mentioned by Lenard, Owen and Banting.³²⁸

Labelling. Conversely, mandatory oaths might label immigrants as suspects who need to prove their loyalty.³²⁹ This use of the oath to weed out the disloyal also has a long history, as Irving and Kim note.³³⁰ Such a perception could lead to the stigmatisation of immigrants. Scholars including Orgad and Winter have noted the rise of formal and informal tests in Western democracies targeting specific groups, especially observant Muslims.³³¹

The signalling and labelling approaches suggest contrasting outcomes for mandatory oaths. The former predicts increased acceptance of immigrants, while the latter implies potential stigmatisation. One way to test this relationship empirically would be to compare attitudes in the general population across societies, as in Banting's preliminary analysis.³³² It would be useful to expand that comparison, including more countries across multiple years. A limitation of this approach is that there may be too many intervening factors affecting attitudes on immigration, making it difficult to isolate the effect of the oath. Moreover, we cannot assume that members of the general public are highly knowledgeable about naturalisation procedures. Therefore, another promising avenue of research would consist of a quasi-experimental survey that would inquire about respondents' attitudes towards immigrants while exposing some of them to texts that describe the loyalty oath and others to texts that do not mention it.

Conclusion

In this contribution, I outlined a research agenda that can shed light on the key empirical questions relevant to naturalisation oaths: Do mandatory oaths increase immigrants' sense of belonging and their acceptance by society, or do they stigmatise and alienate them? Having the answers to these questions will not magically resolve the complex ethical questions involved, but it would provide a solid factual ground for the debate.

In conclusion, I will hazard my own conjectures about the outcomes of the proposed research agenda. Concerning the effect on immigrants, I believe that subsequent studies will continue to find wide variation without one clearly-defined effect. Naturalization oaths will most likely have diverse effects on immigrants of different backgrounds and values. Regarding the screening effect, I believe that a mandatory oath will act as a deterrent for immigrants who harbour political opposition to their countries of residence. There are numerous known instances where political rivalry or suspicion lowers interest in acquiring citizenship (for example, one reason for Mexican immigrants' low naturalisation rate in the U.S. is a traditional reluctance to 'humiliate' Mexico by becoming American).³³³ Finally, concerning the effect on public views on immigrants, I suspect that whether oaths act as a positive signal of integration or a negative mark of suspicion will depend to a large extent on the political and media framing around the oath, and around naturalisation more broadly.

327 Turner V. (1964), 'Betwixt and Between: The liminal period in rites of passage', *The Proceedings of the New American Ethnological Society, Symposium on New Approaches to the Study of Religion*, 4-20.

328 Lenard 2023; Owen 2023; Banting 2024.

329 Sharp 2023.

330 Irving 2023; Kim 2023.

331 Orgad 2010; Orgad 2014; Winter 2018.

332 Banting 2024.

333 Harpaz 2019.

Naturalisation oaths are meaningful and (mostly) effective: a rejoinder

Patti Tamara Lenard*

Oaths are typically understood to be particularly important and meaningful types of promises. In many countries, immigrants conclude their formal naturalisation journey by swearing a citizenship oath, after which they are full and equal members of a state, which in turn becomes committed to protecting their citizenship rights. In my kick-off piece I defended mandatory oaths for three reasons, all of which I argued contributed to their permissibility.³³⁴

First, I suggested that although oaths are generally mandatory, they are ultimately voluntary *enough* to be interpreted as expressing genuine consent to respect the laws and practices of the state that is being joined. Second, I suggested that the taking of an oath is an opportunity for immigrants to publicly accept the responsibilities and obligations that typically attach to democratic citizenship, in exchange for accepting the protection that the state offers. There is an important expressive dimension to highlight as well, which is that for existing citizens this public proclamation of commitment to the new state – which concludes the formal naturalisation process – may well be a signal that incoming citizens can be trusted to take the obligations of citizenship seriously. Finally, I suggested, there is some evidence that the taking on of a new citizenship, via the swearing of an oath, is a meaningful and valuable experience for oath-takers. So long as the oath itself meets certain content requirements, for example by not requiring a commitment to specific religious or cultural values, and so long as the ‘logistics’ for taking the oath are accommodating of the religious and cultural commitments of oath-takers, I argued, mandatory oaths are permissible (but not required) public policy.

My interlocutors contradicted each of these reasons. One repeated objection is that, in my original contribution, I exaggerate or misunderstand the extent to which oath-takers are consenting to taking the oath. A second objection states that mandatory oath-taking does not (and indeed cannot) generate the goods I attribute to it. A third objection worries that the content of the oath is problematically vague, such that oath-takers cannot possibly know what they have committed to do. A fourth and final objection is that the history of oaths of allegiance – as tools of exclusion and stigmatisation – cannot be shed. Throughout all of these counter-arguments, two themes return – one is about the various ways in which mandatory oath-taking for immigrants generates inequalities between naturalised and birthright citizens, and a second is about the availability (or not) of evidence in favour of or against my own claims. Among these objections, the worry that ‘allegiance’ is problematic is most persuasive to me, and I endorse a modification of my original view – offered as suggestions by Rainer Bauböck and Geoffrey Brahm Levey – that it is better to treat the oath as an oath of *affiliation* rather than allegiance.³³⁵

Objection 1: mandatory oaths do not signal consent

Many of my interlocutors are not persuaded that mandatory oaths can be described as demonstrating consent. In particular, some among those who might naturalise are forced migrants, or are stateless, and taking the oath is the only option they have to gain the standard package of citizenship rights. If the oath is the only thing that stands between an individual and citizenship, then it is hardly fair to describe it as consensual. As Ashwini Vasanthakumar puts it: “mandatory requirements in high-stakes contexts have a way of obscuring, rather than expressing, individual intent.”³³⁶

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334 Lenard 2023.

335 Bauböck 2023; Levey 2024.

336 Vasanthakumar 2023.

To properly evaluate this objection, I think it is first important to place the oath in the more general context of naturalisation. Naturalisation is a multi-step, multi-year, process, the requirements of which vary considerably by state and can include linguistic competence, evidence of sufficient income, civic integration as measured for example by participation in citizenship classes and by successfully completing citizenship tests, minimum residency requirements, and sometimes a final citizenship ceremony that includes an oath. These requirements vary in their level of difficulty – for example, in some states, immigrants must prove quite high levels of linguistic competence and in others only very low levels. Each of these naturalisation requirements can be evaluated independently for their permissibility – an earlier forum considered when and whether citizenship tests are permissible, for example.³³⁷ Moreover, taken as a whole, the naturalisation process is both consensual and coercive at the same time: it is consensual in the sense that immigrants have chosen to naturalise and coercive in the sense that each of the requirements must be fulfilled. So, the question of whether an oath is problematically coercive is at least in part a function of the fairness of the naturalisation process itself.

Leaving the question of the naturalisation process as a whole aside, however, I do believe taking the oath is voluntary *enough* to signal consent. Much immigration is at least somewhat voluntary, in the sense that migrants have made choices to move where they could have made alternative decent choices. But choosing to migrate is not what makes naturalisation itself voluntary: what makes the choice to naturalise voluntary is the availability of a decent alternative, which in this case is provided by the availability of long-term resident status, described as ‘denizenship’ by Tomas Hammar³³⁸ and Rainer Bauböck. While it does not, Bauböck says, “fully substitute for citizenship”, the status of legal long-term residents in liberal democratic states is sufficiently good to make the application for citizenship a genuine choice, and therefore taking the oath can be understood as a genuine choice as well.³³⁹ Obviously, forced migration is not a choice – although choices are certainly made even in the context of forced migration. But, having been admitted and granted domicile and the attendant rights, the option to naturalise or remain in a ‘permanent resident’ status is sufficiently good to provide would-be oath-takers with a genuine option.

I did claim that citizenship status is valuable, which Lior Erez suggested raises a puzzle: it is either valuable, in which case there is no choice but to take the oath to gain the relevant value, or it isn’t, in which case the oath is superfluous, since it offers nothing of value to oath-takers.³⁴⁰ Solving this puzzle requires nothing more than rejecting its binary logic. Citizenship status *is* valuable – it generally comes with the right to vote and, more importantly, with the right to return and protection against deportation. But, to repeat, denizenship status is sufficiently good that it offers a real choice to would-be oath-takers.

Other interlocutors, including Daniel Sharp and Jelena Džankić suggested instead that the difficulty with my claim does not lie with whether the oath is consensually taken, but rather with the inequality it creates – since naturalising, but not birthright citizens, are required to consent to the authority of the state.³⁴¹ The result is that mandatory oaths produce an objectionable inequality between citizens, based on the manner of their acquiring citizenship.

I did suggest in my original contribution that at least some actions taken by citizens by birth can be regarded as equivalent in some way to the oath-taking requested of immigrants. In particular, participation in democratic institutions (in which justifications for policies can be demanded) might offer a way to signal consent among the natural-born citizenry. As Vasanthakumar observed, the difficulty with this position is that not all citizens participate in democratic politics in the first place –

337 Bauböck R. and Joppke C. (eds.) (2010), ‘How liberal are citizenship tests?’, EUI Working Paper RSCAS 2010/41.

338 Hammar, T. (1990), *Democracy and the Nation State* (1st ed.). Routledge.

339 Bauböck R. (2008), ‘Stakeholder Citizenship: An idea whose time has come?’, Migration Policy Centre, <https://www.migrationpolicy.org/sites/default/files/publications/Baubock-FINAL%5b1%5d.pdf>.

340 Erez 2023.

341 Sharp 2023; Džankić 2024.

and many of those who opt out are marginalised within or alienated from the mainstream democratic institutions that govern them.³⁴²

I agree that participation in democratic institutions is not a perfect demonstration of consent. Before this consent-generating mechanism is dismissed entirely, however, it is critical to see that we all participate in many more democratic institutions than the narrowly political ones, including the general governing institutions in a state. For example, consider the institution of rule of law and its connection to general public benefits, including health care, welfare, education, transit, and so on. Specifically, I have argued elsewhere that one essential feature of democracies is that their citizens generally abide by the law without direct or forceful coercion; the result is that democracies can direct the resources that might otherwise be spent on enforcement and punishment towards providing shared public goods, in which all citizens can partake.³⁴³ The taking of these goods, in exchange for the general willingness to abide by the law, can reasonably be interpreted as a form of consent-giving to the institutional structures of the state.

Perhaps David Owen is right that “mandatory oath-taking can be defended on grounds of liberal morality, but only when applied to all citizens.”³⁴⁴ I think, however, that both birthright and incoming citizens are subject to a degree of coercion, and that it is a mistake to treat incoming citizens as though they, alone, are subject to coercion over the course of the naturalisation process, up to and including the oath. Rather, and following Oliviero Angeli’s observations,³⁴⁵ citizens by birth are subject to extensive “political education [that] is integrated into the school curriculum to promote democratic principles and civic engagement among the younger generation.” As Angeli says, we ought to think of naturalisation as a “fast-track” towards imparting the sort of political education that a state expects and requires of all citizens. So, both birthright and naturalised citizens are subject to a degree of coercion by the state. And both birthright and naturalised citizens demonstrate consent, although in different ways.

Objection 2: citizenship oaths are ineffective or counter-productive

Above, I listed various requirements that states impose on naturalising citizens and suggested that what matters is that the naturalisation process as a whole is fair, and therefore that evaluating the oath as a distinct requirement was difficult. Having said that, to evaluate each of these elements for their permissibility, as well as the entire naturalisation process adopted in specific states, we need to agree, first, on what the goal of naturalisation is, and second, whether that goal is permissible. One ostensible goal of naturalisation is to prepare immigrants to be successful – that is, to integrate – in the state they are joining. Here, then, the obvious question is whether each specific requirement contributes to supporting integration, and the less obvious question is whether how integration is defined in a particular state is justified. While many scholars agree that ‘integration’ is a justifiable objective (there are notable exceptions, however, including Adrian Favell,³⁴⁶ Willem Schinkel,³⁴⁷ and Janine Dahinden³⁴⁸), there is ongoing and vigorous debate about what ‘integration’ consists in and, more specifically, who is responsible for achieving it, and how much (if anything) incoming citizens are forced to ‘give up’ to integrate into a particular state.

342 Vasanthakumar 2023.

343 Lenard PT (2008), ‘Trust your compatriots but count your change: The roles of trust, mistrust and distrust in democracy’, 58(2) *Political Studies* 312-332

344 Owen 2023.

345 Angeli 2024.

346 Favell A. (2022), *The Integration Nation: Immigration and Colonial Power in Liberal Democracies*, Wiley.

347 Schinkel W. (2018), ‘Against ‘immigrant integration’: for an end to neocolonial knowledge production’, 6 *Comparative Migration Studies* 31.

348 Dahinden J. (2016), ‘A plea for the ‘de-migrantization’ of research on migration and integration’, 39: 13 *Ethnic and Racial Studies*, 2207-2225.

A second and more controversial objective of mandatory oaths is to build trust relations between citizens and immigrants. It is, I have long maintained (and argued at great length in my first book, *Trust, Democracy and Multicultural Challenges*³⁴⁹), a matter of fact that citizens are sometimes wary of the diversity – racial, ethnic, religious – that is created by immigrants. There are lots of reasons for this wariness, and many of them are bad ones – steeped in histories of racism, colonialism, oppression, cultural and religious misunderstandings, and so on. It would be a better world if humans welcomed others, on the assumption that they are trustworthy. But it would be foolish to develop public policy on that basis. It is at least partly for the public demonstration of trustworthiness that I have defended mandatory oaths.

Naturalisation requirements kicking in earlier in the process cannot fulfil this purpose very well, since they do not contain the public and expressive element that oaths do. So, I disagree with a suggestion by Vasanthakumar, Daniel Sharp and Helen Irving that the oath seems “superfluous” or “pointless” or “redundant”,³⁵⁰ on top of the myriad other requirements of naturalisation, since these ought to be sufficient for reassuring citizens of the host state that newcomers can and should be trusted as new citizens. They do not have a public, expressive element and therefore they cannot play this trust-building role.

I have argued before that democracies’ vigour *relies* on trust relations among citizens – such relations underpin a shared commitment to democratic practice as a way of decision-making, and at least some willingness to redistribute resources to those in need. It is therefore normatively important that democracies sustain this trust so that they can continue to deliver these goods. The empirical question is open, certainly, and I will return to this question below. But for now, *if* evidence is available to demonstrate that oath-taking is a good signal to current citizens of the trustworthiness of incoming immigrants, then I think this offers a reason to support this practice, even in cases where it is adopted from a position of wariness about immigrants.

Owen offers a cautious defence of the trust-building that might well be played by oaths – he describes his additional defence as “prudential”, and a piece of “moral hypocrisy” that may be justified *if* it delivers on its promises.³⁵¹ This prudential justification is, I think, congruent with my suggestion that oaths offer signals to natural-born citizens that incoming citizens are trustworthy as fellow citizens – however, I do not think this is moral hypocrisy. Democracies, imperfect as they undoubtedly are, are precious and increasingly at risk as a result of a variety of threats, from inside and outside, as Bauböck outlines.³⁵² It is not merely prudential that democratic states adopt policies to sustain themselves as democracies – it is morally required.

Do oaths contribute to the building of trust relations, though? One key plank of Liav Orgad’s full-throated rejection of oaths hinges on the apparent lack of “evidence for the positive effects of oaths,” either that they serve to signal trustworthiness or that they serve to shape the identity of incoming citizens in meaningful ways (“we do not know what transformation occurs in the hearts and minds of people taking a loyalty oath”).³⁵³

349 Lenard P. (2012), *Trust, Democracy, and Multicultural Challenges*, Penn State University Press.

350 Vasanthakumar 2023; Sharp 2023; Irving 2023.

351 Owen 2023.

352 Bauböck 2023.

353 Orgad 2024.

Although Orgad is not persuaded, I believe that the first conjecture – about the contribution of oaths to developing trust relations – finds some empirical support from the project Keith Banting outlines in his response.³⁵⁴ Banting and his colleagues defend the claim that I have also made, namely, that citizens’ perceptions “are critical to societal support for the full inclusion of newcomers.” The evidence that he and his team have so far marshalled suggests that citizens are responsive to signals that newcomers are committed to the state, giving preliminary support for defending the oath as such a signal. As initial evidence, Banting reports feedback collected by the Canadian government in response to its proposal to continue online oath ceremonies, which began during the covid pandemic: Current citizens (the majority of respondents) expressed very strong support for public citizenship ceremonies.

Not all contributors to this forum are sympathetic to this reason – and indeed, the claim that an anti-immigrant, colonial, racist population ought to be reassured of the trustworthiness of incoming citizens is deeply problematic, as Vasanthakumar emphasises, especially where such citizens are not themselves required to prove that they too are trustworthy or that they consent to abide by the law.³⁵⁵ As Christine Hobden argues, asking immigrants to swear an oath of loyalty in a society where hostility towards immigrants is pervasive may be equally problematic.³⁵⁶ Yet, if and where the signalling role is accepted as important, it is better if the state offers incoming citizens an easy and straightforward way to send this signal, rather than requiring them to do the work of figuring out how to do so on their own, and therefore risking getting it wrong. Banting’s team demonstrates that some immigrants do get this signalling wrong, by offering evidence that existing citizens interpret some actions but not others as evidence of commitment to the new state.³⁵⁷ For example, results from an experiment they conducted show that where immigrants engage in charitable work directed at their new state, existing citizens interpret that as a commitment, whereas “charitable initiatives directed toward an immigrant’s country of origin perversely have the opposite effect.”

Maybe, though, the relevant relations of trust that must be built are not only between new and existing citizens but also between the former and their new state. Zara Goldstone and Avia Pasternak observe that one difficulty with oath-taking is that it is one-sided.³⁵⁸ Their focus is on whether and when states can legitimately ask for oaths from newcomers, highlighting several cases in which states may simply not have the standing to do so. In agreement with Hobden, they write, “the citizenship ceremony resolves around the newcomers’ oath *to* the state rather than the other way around.”³⁵⁹ But, I think, this is a myopic understanding of the oath-taking moment, since it *immediately* shifts the responsibility of the state to offering oath-takers full and complete protection of their rights. In effect, it is the saying of the oath that brings these state duties into being. As Bauböck says, and I concur, “by welcoming them on this occasion it [the state] promises to protect them [newcomers] and their rights.”³⁶⁰ Goldstone and Pasternak propose that the state also take on a reciprocal pledge of allegiance to newcomers, and I can see no reason to oppose that proposal;³⁶¹ it may be superfluous just as is the taking of the oath itself for those who believe that the completion of all the other naturalisation requirements is sufficient to demonstrate consent to the new state, but it would have the expressive benefit that I have attributed to citizenship oaths as well.

354 Banting 2024.

355 Vasanthakumar 2023.

356 Hobden 2023.

357 Banting 2024.

358 Goldstone and Pasternak 2023.

359 Hobden 2023

360 Bauböck 2023.

361 Goldstone and Pasternak 2023.

The second claim that I made about the value produced by oaths is that oath-taking may well be meaningful to incoming citizens. There is at least some evidence from a Norwegian study that many immigrants welcome oath-taking and the celebration that surrounds it,³⁶² finding it a meaningful and important moment, and more evidence from both Denmark and Australia that a majority of oath-takers experience the same.³⁶³ But, as Sharp observed, the evidence is mixed, and some oath-takers are indifferent or hostile to the requirement.³⁶⁴ Vasanthakumar too suggests the possibility that the oath-taking is “counter-productive” to the goals it sets out to achieve: “compulsory celebrations that only some people must attend can be something of a buzzkill.”³⁶⁵ It might be counter-productive in two ways. One way is in generating frustration among newcomers, which as Vasanthakumar reports reflected her own experience.

Another is by creating the idea that newcomers are worthy of suspicion – something citizens might not have considered – an idea *triggered* by the state’s requirement that the former take an oath before being granted citizenship status. Sharp argues that oaths fundamentally cannot play the trust-building role I ascribe to them because they, fundamentally, pick out naturalising citizens as “presumptively disloyal or disobedient.”³⁶⁶ Džankić shares this view, arguing that there is an “unspoken presumption of loyalty in the idea of birthright citizenship”,³⁶⁷ such that asking immigrants to proclaim loyalty is inherently unequal, generating a “dividing line between naturalised and non-naturalised citizens.”

This presumption is particularly problematic in the increasingly anti-immigrant environment that characterises many democratic states – and moreover threatens to do the exact opposite of what I desire, because it may heighten rather than undermine suspicion directed at incoming immigrants. When Hobden describes the decision to mandate oaths in South Africa, this worry is also on her mind.³⁶⁸ As she explains, South Africa adopted oath-taking as part of its naturalisation procedure in the context of a more generalised anti-immigrant orientation. She writes, “a mandatory oath publicises that naturalised citizens have a different status within the state and so also among their fellow citizens.” However, an optional oath, as Sharp proposes, does not solve the problem.³⁶⁹ The danger here is the one that Irving identifies, namely that those who choose against it will be viewed with even more suspicion.³⁷⁰ Where an oath is available, it ought to be made mandatory for this reason. More generally, it seems likely that whether the oath generates suspicion or alleviates it will depend on the overall environment, rather than the oath in particular. As Yossi Harpaz suggests, “whether oaths act as a positive signal of integration or a negative mark of suspicion will depend to a large extent on the political and media framing around the oath, and naturalisation more broadly.”³⁷¹

Objection 3: the content of a citizenship oath is too vague to be meaningful

While I had conceded in my kick-off essay that there is some fuzziness in defining what is appropriate content for a citizenship oath, I did argue that religious and ethnically specific content was impermissible. In general, the content of the oath should be limited to abiding by the law. Two separate objections arose to these claims: that all oaths are problematically vague and that demands for incoming citizens to abide by the law limits their (moral) right to engage in civil disobedience, once they are citizens.

362 Hagelund and Reegård 2011.

363 Damsholt 2018.

364 Sharp 2023.

365 Vasanthakumar 2023.

366 Sharp 2023.

367 Džankić 2024.

368 Hobden 2023.

369 Sharp 2023.

370 Irving 2023.

371 Harpaz Y. (2024), ‘Evaluating the effectiveness of naturalisation oaths’, GLOBALCIT, <https://globalcit.eu/swearing-loyalty-should-new-citizens-pledge-allegiance-in-a-naturalisation-oath/17/> (hereinafter ‘Harpaz 2024’).

For example, Ashley Mantha-Hollands objected that content is always vague and imprecise: “what exactly is being asked of the newcomer is unclear.”³⁷² No oath-taker can reasonably understand to what *specifically* she is committing herself, based on most citizenship oaths that Mantha-Hollands has studied. Orgad concurs, suggesting that “clarity is required on what obligations they entail, by whom, to whom, when, and where.”³⁷³ Similarly, Erez writes, “it remains unclear what kind of commitment new citizens are making.”³⁷⁴ This objection seems important: if someone is promising to do something, then it ought to be clear what that something is.

I think this objection is overstated, for two reasons, however. First, some of the apparent vagueness in oaths is only apparent. As I noted earlier, oaths are typically the final stage of the naturalisation process, and one key part of that process is learning about the obligations that citizenship carries with it. I think it is reasonable to believe that if the naturalisation process is carefully done, then oath-takers will arrive with a clear understanding of what is being asked of them. It is only if the oath is treated as though it stands alone and separated from the general naturalisation process that it will seem unclear to those who take it.

A second reason to believe that the objection is overstated has to do with the implicit assumption that *all* oaths or promises are, or should be, crystal clear. But that is not the case. When we take wedding vows (an example that Mantha-Hollands raises), we take them *in general* without knowing exactly what they will entail.³⁷⁵ When individuals take oaths to uphold the values of their professions, they again do not know precisely what they are committing to do. When friends promise, well, friendship to each other, that promise is made without specifying what exactly that entails, beyond the generally understood duties that are connected to friendship. Where oaths solidify new roles and relations, in other words, it is typically understood that what is undertaken is the set of obligations that are connected to that role, though what precisely one is called upon to do will depend significantly on context. It is truer to the role that oaths play in our lives in general to understand them as setting out a general guiding commitment, rather than a precise list of one’s duties and obligations.

This way of understanding oaths responds to another objection, that a commitment to abiding by the law – the thin content that I defended in my initial article – appears, says Vasanthakumar, to deny new citizens the right to civil disobedience when it is called for.³⁷⁶ Irving concurs, arguing that “the citizen who has sworn allegiance must in principle ... subordinate his or her judgement to the new state.”³⁷⁷ Sharp explains why incoming citizens – but not citizens in general – might be restricted from engaging in civil disobedience: the taking of the oath, he says, gives immigrants a *weightier* duty to abide by the law (including specifically unjust law).³⁷⁸

But, if oaths are understood as offering guiding commitments, then it is open to new citizens – as it is for all citizens – to argue that respecting these commitments (let us say, to upholding democratic institutions) requires engaging in civil disobedience against policies and proposals that undermine them. Even soldiers, who pledge near absolute obedience to their superiors, are taught that this obedience is required up until they come to believe that they are being asked to do something that is illegal or deeply immoral.³⁷⁹ In such cases, they may have a duty to disobey rather than a duty to obey. There are necessarily, as Levey asks for, “exempting clauses” that attach to the citizenship oath, as they do to all oaths.³⁸⁰ Oath-taking is therefore not “counter-democratic”, for denying incoming citizens the right to protest, as Irving suggests. Rather, I concur with Owen when

372 Mantha-Hollands 2024.

373 Orgad 2024.

374 Erez 2023.

375 Mantha-Hollands 2024.

376 Vasanthakumar 2023.

377 Irving 2023.

378 Sharp 2023.

379 Dahl R. (2019), ‘What Is a Military ‘Duty to Disobey’?’, FindLaw, <https://www.findlaw.com/legalblogs/law-and-life/what-is-a-military-duty-to-disobey/>.

380 Levey 2024.

he writes, “such oaths certainly do not require obedience to law when the government is abusing the trust it is charged with upholding.”³⁸¹

One implication of this argument is that the state to which oath-takers are committed may well be unjust – and of course this will be true. All democracies are rife with injustices and inequalities, and so the question, which is the central to Goldstone and Pasternak’s response,³⁸² is whether an unjust state has standing to demand oaths in the first place. Their contribution highlights specific cases, such as when Afghan refugees in the United States are asked to pledge allegiance to the state that is responsible for their emigration in the first place, for example, or where immigrants from Senegal migrate to France because of the ways in which France’s past colonial policies continue to hamper Senegal’s development. Such historically unjust relations with specific immigrants might undermine a state’s right to demand an oath *from them* as a condition of their naturalisation. These two examples may be extreme cases of injustice, but all democratic states are unjust to some extent. They are nevertheless worth protecting, in a global environment in which democracy is under threat. Moreover, if clear evidence emerges that oaths do signal trustworthiness, by conveying the message that incoming citizens aim to sustain rather than overthrow the state, then exempting those who may have (admittedly reasonable) grudges against the admitting state from the oath will weaken its capacity to do this important – *democratic* – work.

Given that we live in a world of states, and that movement among them is permitted although controlled, states do need rules for how immigrants can gain access to the rights and protection of citizens. There is therefore a natural asymmetry between the mechanisms by which birthright citizens and immigrant citizens come to access their full package of rights. The existence of this asymmetry is not obviously problematic. It is crucial to distinguish between the *manner* of gaining citizenship and the rights to which citizens are entitled. As Bauböck pointed out, an asymmetry in the first does not translate automatically into an asymmetry in the second, although many respondents suggested that it does.³⁸³

Any subsequent inequalities between citizens, based on how they acquired citizenship, are not built into the oath itself, but rather emerge from policies that permit differential treatment. Where denationalisation is permitted, as Irving highlights or as Hobden describes in the South African case, but only for naturalised citizens,³⁸⁴ that is an objectionable inequality which is connected, by specific states, to the manner of citizenship acquisition. But this specific policy of rendering naturalised citizens less secure in their status, to which I have objected at great length for the ways in which it formalises inequality between citizens, is not permitted or encouraged by the taking of an oath, or even by naturalisation in general.³⁸⁵ It is adopted by policymakers who are acting undemocratically by legally instantiating problematic inequality among citizens. The taking of a citizenship oath does not generate such inequality.

Objection 4: the dark history of allegiance oaths cannot be overcome

I opened my discussion of oaths with a definition of allegiance, and in so doing triggered Irving’s overview of the history of oaths of allegiance. Both Irving and Orgad emphasise the dark sides of this history,³⁸⁶ highlighting the frequency with which oaths were used to exclude and intimidate political opponents, and both express scepticism that they can be resurrected for legitimate and valuable purposes, as I and others suggest.

381 Owen 2023.

382 Goldstone and Pasternak 2023.

383 Bauböck 2023.

384 Irving 2023.

385 Lenard P. (2020), *Cruel and Unusual*, Fabian Society, <https://fabians.org.uk/cruel-and-unusual/>

386 Irving 2023; Orgad 2024.

In my initial account, I tried to say something about the permissible *content* of oaths, highlighting that thinner content focused on a commitment to democratic principles and a willingness to abide by the law was more likely to be permissible than an oath that required a commitment to relatively thick religious or cultural values or uncritical, undivided loyalty. But, says Irving, in defending the former but not the latter, I have failed to understand the “point” of oaths of allegiance which, she says, are necessarily and inevitably “thick” – oaths are, she says, “content laden and coercive”, and therefore “counter-consensual” for the ways they bind new citizens to the state.³⁸⁷ Similarly, Orgad observes that even in Norway, where the oath meets the thin criteria I have outlined, there are normative difficulties – the Norwegian constitution declares, he points out, a commitment to its Christian heritage.³⁸⁸ So, although the *oath* is not obviously problematic, the Norwegian constitution remains so.

I think Irving overstates the bond that is created between a state and a naturalising citizen, because of the oath. Naturalising citizens, like all citizens, are free to relinquish their citizenship if they so choose, and this point is one that is also made by Levey.³⁸⁹ However, I accept the broader challenge that Irving issues, and propose to abandon the concept of allegiance, referring instead to the oath of citizenship as an oath of affiliation.

Re-interpreting oaths of citizenship as focused on affiliation was proposed by both Bauböck and Levey.³⁹⁰ Levey writes, “I suggest that the oath or ceremonial statement should be limited to conveying one’s new membership and affiliation”, and this strikes me as the right way forward here – given my initial thought that one reason to defend oaths is that they are meaningful to incoming citizens. Whether they are in fact, which some of my respondents questioned, is an empirical question that has not yet been answered satisfactorily. But *if* they are meaningful, they should be defended because they ritualise a welcome and joyous celebration of joining a new state, of trading a commitment to uphold that state for the rights and protections it offers (on an equal basis) to all citizens.

The oath does not require or celebrate absolute subservience to a state, nor does it commit oath-takers to be more faithful than natural born citizens to respect the law, whether just or not. Rather, it celebrates an expansion of a political community, to individuals who are choosing to affiliate themselves with it. It is, says Bauböck, best understood as a “rite of passage”, which “affirms a change of membership status and proclaims inclusion in a new political community.”³⁹¹ The emphasis in such an oath is not on allegiance, but rather on the “consensual nature of membership acquisition”, highlighting the “mutual responsibility” of both new citizens and the state towards each other. In Levey’s words, naturalisation into citizenship is “a decision and transition worthy of being publicly marked in some way.”³⁹²

Conclusion: context matters

My kick-off article defended states’ choice to mandate oaths of citizenship as a precondition for attaining citizenship status, in general. But of course, oaths take place in the real world, in existing democracies, with all their myriad injustices and inequalities. Moreover, many democratic states are confronting significant anti-immigrant voices and are adopting oaths specifically in that context. Hobden’s vivid account of the adoption of oath-taking in South Africa,³⁹³ as just one part of a state-lead effort to reinforce rather than undermine xenophobia, is particularly poignant in that regard.

387 Irving 2023.

388 Orgad 2024.

389 Levey 2024.

390 Bauböck 2023; Levey 2024.

391 Bauböck 2023.

392 Levey 2024.

393 Hobden 2023.

But that is not the whole story. Even where states are home to anti-immigrant voices, there are occasions where the adoption of oath-taking is positive rather than negative. In an examination of the use of oaths in South Korea, Jaeun Kim demonstrates that while oaths of allegiance were used historically in the highly problematic ways that Irving and Orgad describe, for example by the colonial Japanese state to secure the loyalty of South Korean subjects, over time the oath shifted to become an instrument of democratic legitimacy.³⁹⁴ Offering a counter to Mantha-Holland's worry that the content of oath is necessarily sticky,³⁹⁵ the content of the oath in South Korea has changed from demanding pledges of nearly full subjugation to authority towards simply declaring a commitment to fulfilling the duties and responsibilities of citizenship.

More evidence in favour or against oath-taking's benefit is needed, and luckily Banting's team and Harpaz are on the case.³⁹⁶ For now, taking the two examples of South Africa and South Korea, and the many others offered in the responses to my original defence, together suggests that context matters for whether oaths will be able to do what I argued they can do: provide moments of meaning to incoming citizens, as they adopt a new political affiliation, and signal their commitment to existing citizens, in ways that serve to build trust relations among them. These trust relations are central to the success of democratic institutions, and in this rejoinder, I have emphasised the importance of protecting them – as a democratic, not merely prudential, reason to defend naturalisation oaths. Their contribution to sustaining democratic institutions may well be real, even where they are adopted from a position of wariness towards outsiders.

394 Kim 2023.

395 Mantha-Hollands 2024.

396 Banting 2024; Harpaz 2024.

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