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DIASPORIC POLITICS AND DEFINING DIASPORA IN LAW: THE CASE OF LATVIA

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ABSTRACT

Passage of the Diaspora Law of Latvia required policymakers to go through an arduous process of discussing the limitations of diaspora, weighing the potential risks and benefits of various possible approaches, and ultimately agreeing on a definition to be included in the law. The end result was a very broad interpretation of who can be recognized as part of the Latvian diaspora. In this paper, to understand the political process of arriving at a definition, the

theoretical perspectives of the 'narrow' and 'broad' definitions of diaspora are discussed, the motivations driving national governments to engage with their diasporas are analysed, and the discourse used during the drafting process is reviewed.

KEYWORDS

Diaspora, diaspora politics, Latvia, diaspora law, diaspora definition, diaspora policy

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INTRODUCTION

As of January 1, 2019, Latvia implemented a separate diaspora legislative framework in the form of the Diaspora Law.[1] This legislation is important not only because it brings order to the previously fragmented and haphazard approach to diaspora relations, but also because it provides a definition of who is included in state relations with the Latvian diaspora abroad. The law defines members of the diaspora as "citizens of Latvia residing permanently outside the country, Latvians [*latvieši, denoting ethnicity*], and others who have a connection to Latvia, as well as their family members". As such, it offers a very broad interpretation of who can be recognized as part of the Latvian diaspora.

In academic literature and debate, there is no generally accepted way of defining and categorizing diaspora. As a result, Brubaker has argued, "the boundaries have been stretched in the very course of that contestation."[2] This tendency is also true in the Latvian case, with its very broad formulation of who qualifies as part of the diaspora. The present article offers a case study of the process of defining diaspora in Latvian legislation, as a prime example of diasporic politics;[3] it also applies the embracing, tapping and governing perspectives set forth by Gamlen et al.[4] to understand the motivation of Latvian policy makers in pursuing the broad definition of the term. The analysis of the discourse used in the relevant Parliamentary Foreign Affairs Committee working group and the Parliamentary sessions in the drafting process of the Diaspora Law will show that even though concerns regarding the broad definition of the diaspora were considered, the pragmatic potential gains of adopting an all-encompassing definition prevailed.

1. NARROW OR BROAD DEFINITION?

Often, in policy making, the concept of diaspora is assumed as given and the process of rigorously defining the diaspora itself in policy documents is overlooked, in favour of defining the target group of the policy itself.[5] For policy makers, the basic

[1] *Diaspora Law of the Republic of Latvia*, Latvijas Vēstnesis, No. 225, 14.11.2018. 2018/225.3.
[2] Rogers Brubaker, "Revisiting The 'diaspora' diaspora," *Ethnic and Racial Studies* Vol. 40, No. 9 (2017): 1559 // DOI: 10.1080/01419870.2017.1308533.
[3] Fiona B. Adamson, "Constructing the Diaspora"; in: Terrence Lyons and Peter G. Mandaville, eds., *Politics from Afar: Transnational Diasporas and Networks* (London: Hurst & Co, 2012).
[4] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, Amsterdam: International Migration Research Institute (2013) // https://www.migrationinstitute.org/publications/wp-78-13; Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *International Migration Review* Vol. 48, No. S1 (2014) // DOI: 10.1111/imre.12136; Alan Gamlen, Nando Sigona, Giulia Liberatore, and Neveu Kringelbach, eds., *Diasporas Reimagined: Spaces, Practices and Belonging* (Oxford: Oxford Diasporas Programme, 2015); Alan Gamlen, Michael E. Cummings, and Paul M. Vaaler, "Explaining the Rise of Diaspora Institutions," *Journal of Ethnic and Migration Studies* Vol. 45, No. 5 (2017) // DOI: 10.1080/1369183X.2017.1409163.
[5] Inta Mieriņa, Evija Zača, and Jānis Buholcs, *Diaspora Policy Development* (Riga: LU DMPC, 2018).

guiding understanding is that the diaspora's existence is the result of globalization and transnationalism, but that dispersed people retain a sense of identification with and an interest in their homeland, and that according to what Gamlen[6] has labelled the "emigration state" approach, this interest should be maintained and exploited. As such, an ever-growing number of national governments are enacting diaspora policies and engagement strategies.[7] A clear definition, however, is essential for an understanding of the concept of the diaspora, and especially of who is included in or excluded from diaspora membership. By defining diaspora in policy, the state de facto sets the boundaries of membership and sends a signal as to who is valued, desired and welcome to maintain ties to the country of origin and, potentially, entitled to state support in doing so.

In academia, despite the ever-expanding definitions and the never-ending debates over who and what constitutes the diaspora, Grossman,[8] furthering the constitutive characteristics identified by Brubaker,[9] has attempted to provide a structured and systematic conceptualization of the diaspora by emphasizing six characteristics. His definition states that the "diaspora is a transnational community whose members (or their ancestors) emigrated or were dispersed from their original homeland but remain oriented to it and preserve a group identity."[10] This definition is more in line with the essentialist stance in the diaspora debate and lends itself to the narrow approach of defining diaspora, as it presupposes that the diaspora consists of the non-resident population of the state who share a national, civic or ethnic identity associated with a particular homeland, maintain to some degree this identity in relation to their host society, and can claim either to have been born in the homeland or to be the descendants of emigrants who left the homeland. The narrow definition of diaspora can also include what Yamashiro[11] refers to as "overseas coethnics", who reside outside the homeland and can claim shared

[6] Alan Gamlen, "The Emigration State and the Modern Geopolitical Imagination," *Political Geography* Vol. 27, No. 8 (2008): 840-856 // DOI: 10.1016/j.polgeo.2008.10.004.
[7] Dovelyn R. Aguinas and Kathleen Newland, *Engaging the Asian Diaspora* (Bangkok and Washington, D.C.: International Organization for Migration and Migration Policy Institute, 2012); Delphine Ancien, Mark Boyle, and Rob Kitchin, *Exploring Diaspora Strategies: An International Comparison*, Workshop report (Maynooth: NIRSA, National University of Ireland, 2009); Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4; Alan Gamlen, Michael E. Cummings, and Paul M. Vaaler, "Explaining the Rise of Diaspora Institutions," *Journal of Ethnic and Migration Studies*, *supra* note 4; Rob Kitchin and Mark Boyle, "Diaspora Strategies in Transition States: Prospects and Opportunities for Armenia," Working paper, Maynooth: NIRSA, National University of Ireland (2011); Eszter Kovács, "Direct and Indirect Political Remittances of the Transnational Engagement of Hungarian Kin-minorities and Diaspora Communities," *Journal of Ethnic and Migration Studies* Vol. 46, No. 6 (2019) // DOI: 10.1080/1369183X.2018.1554315.
[8] Jonathan Grossman, "Toward a Definition of Diaspora," *Ethnic and Racial Studies* Vol. 42, No. 8 (2019) // DOI: 10.1080/01419870.2018.1550261.
[9] Rogers Brubaker, *supra* note 2; Rogers Brubaker, "The 'Diaspora' Diaspora," *Ethnic and Racial Studies* Vol. 28, No. 1 (2005) // DOI: 10.1080/0141987042000289997.
[10] Jonathan Grossman, *supra* note 8: 1267.
[11] Jane H. Yamashiro, "Working Towards Conceptual Consistency in Discussing 'Diaspora' and 'Diaspora Strategies': Ethnicity and Affinity in the Case of Japan," *Geoforum* Vol. 59 (2015) // DOI: 10.1016/j.geoforum.2014.11.009.

ancestral ties to it but whose identity orientation and preservation efforts are unknown.[12] Thus, in a way, the narrow definition is the primordial definition of the diaspora, in which the national identity, whether ethnic or civic, is something objective, acquired by birth and fixed.

On the other hand, the constructivist approach "consider[s] diaspora to be not only the end result but also the process through which a particular social and political reality is produced".[13] In their summary of the meaning of diaspora, Adamson and Demetriou[14] propose defining it as "a social collectivity that exists across state borders and that has succeeded over time to (1) sustain a collective national, cultural or religious identity through a sense of internal cohesion and sustained ties with a real or imagined homeland and (2) display an ability to address the collective interests of members of the social collectivity through a developed internal organizational framework and transnational links".

Some scholars have attempted an even more radical expansion of the definition of diaspora in relation to the homeland. Brah, for example, separates the feelings of and for a 'home' and a 'homeland'.[15] Her concept of diaspora embraces the idea of the lived experience of setting up a 'home' away from the place of origin.[16] By de-coupling the concept of the diaspora from the place of origin, or the homeland, we can include the 'affinity diaspora' in the broad conception of the diaspora. The affinity diaspora, as defined by Ancien et al., "is a collection of people, usually former immigrants and tourists or business travellers, who have a different national or ethnic identity to a nation state but who feel some special affinity or affection for that nation state and who act on its behalf, whilst resident in the state, after they return home, or from a third country."[17] However, the broad definition of diaspora does not include Yamashiro's (2015: 180) category of 'overseas non-coethnics'[18], as these are individuals with experience of a particular country, no ancestral ties to it, and no special feelings of affinity that would motivate positive action. It does include those with no known ancestral ties but who do feel a certain sense of belonging to a particular state as their adopted homeland and are willing to act on its behalf. This is very much in line with the constructivist paradigm, in which the group itself and the societal conditions play a leading role in the construction and reconstruction of identities, setting boundaries and asserting meanings.

[12] *Ibid*.: 180.
[13] Francesco Ragazzi, "Diaspora: The Politics of Its Meanings," *International Political Sociology* Vol. 6, No. 1 (2012): 109 // DOI: 10.1111/j.1749-5687.2011.00152_5.x
[14] Fiona B. Adamson and Madeline Demetriou, "Remapping the Boundaries of `State' and `National Identity': Incorporating Diasporas into IR Theorizing," *European Journal of International Relations* Vol. 13, No. 4 (2007): 497 // DOI: 10.1177/1354066107083145.
[15] Avtar Brah, *Cartographies of Diaspora* (London: Routledge, 1996).
[16] *Ibid*., 193.
[17] Delphine Ancien, Mark Boyle, and Rob Kitchin, *supra* note 7, 8.
[18] Jane H. Yamashiro, *supra* note 11: 180.

2. DIASPORIC POLITICS AND MOTIVATION

Adamson[19] argues that diasporas should be viewed as the constructs of political entrepreneurs who engage in transnational mobilization activities to achieve a strategic end goal. King and Melvin[20] go as far as to state that "like nations, diasporas are constructed by political and cultural elites." The process of defining and constructing, in turn, depends heavily on the envisioned end game, the context in which diaspora politics takes place, the conditions and possibilities, and the perceived gains. As such, Adamson[21] argues that "diasporas are corporate agents that need to be 'produced' before they can 'act.'" To understand the motivation driving national governments to engage with their diasporas through official state-of-origin or homeland institutions and policies, the perspectives of embracing, tapping and governing developed by Gamlen et al.[22] can be utilized. In this way, we can better grasp the reasons for applying a broad or narrow interpretation of diaspora in the process of constructing or defining the concept.

2.1. EMBRACING

The embracing perspective of diaspora engagement is concerned with the preservation and development of a national identity across international borders. The nation is envisioned as transcending the physical borders of the homeland, and the home country encourages political and cultural communities to flourish abroad. Csergo and Goldgeier [23] label this as trans-sovereign nationalism, in which institutions in the country of origin forge links with the construed members of the nation abroad, across state boundaries. The embracing perspective encourages the maintenance of a link with the homeland, often in the form of external citizenship[24] or emigrant citizenship,[25] and dual citizenship is frequently tolerated. Joppke has labelled such a formal link as "citizenship light: easy to access, with rights (and few

[19] Fiona B. Adamson, *supra* note 3: 26.
[20] Charles King and Neil Melvin, "Diaspora Politics: Ethnic Linkages, Foreign Policy, and Security in Eurasia," *International Security* Vol. 24, No. 3 (1999): 109 // DOI: 10.2307/2539307.
[21] Fiona B. Adamson, "Sending States and the Making of Intra-Diasporic Politics: Turkey and Its Diaspora(s)," *International Migration Review* Vol. 53, No. 1 (2019): 215 // DOI: 10.1177/0197918318767665.
[22] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, *supra* note 4; Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4; Alan Gamlen, Nando Sigona, Giulia Liberatore, and Neveu Kringelbach, eds., *Diasporas Reimagined: Spaces, Practices and Belonging*, *supra* note 4; Alan Gamlen, Michael E. Cummings, and Paul M. Vaaler, "Explaining the Rise of Diaspora Institutions," *Journal of Ethnic and Migration Studies*, *supra* note 4.
[23] Zsuzsa Csergo and James M. Goldgeier, "Nationalist Strategies and European Integration," *Perspectives on Politics* Vol. 2, No. 1 (2004): 26 // DOI: 10.1017/S153759270400060X.
[24] Rainer Bauböck, "The Rights and Duties of External Citizenship," *Citizenship Studies* Vol. 13, No. 5 (2009) // DOI: 10.1080/13621020903174647.
[25] David Fitzgerald, "Rethinking Emigrant Citizenship," *New York University Law Review* Vol. 81, No. 1 (2016).

obligations)".[26] However, Joppke[27] has also warned that the trend of embracing long-distance nationalism comes at the cost of 're-ethnicizing' citizenship, as national governments favour the maintenance of links with some more than with others. This would suggest a preference for a narrow definition of diaspora, under which ethno-cultural links are emphasized.

However, Gamlen et al.[28] argue that this is not always the case and that diaspora institutions may just as well attempt to embrace "a multicultural diaspora rather than a mono-ethnic one". The goal, however, remains the same: to "re-incorporate 'lost' members of the nation".[29] Thus, a truly broad definition, which encompasses the 'affinity diaspora' composed of people with no pre-existing ethnic or civic links to the homeland, is not envisioned by the embracing perspective.

As indicators of the use of the embracing perspective, Gamlen et al.[30] have suggested factors related to the identity of the homeland and the need for extra-territorial reach. The relevant factors are related to the democratic nature and right-wing orientation of the government, as well as the voting rights granted to external citizens in homeland affairs. Thus, the discourse surrounding the diaspora and the need for diaspora institutions is likely to focus on the importance of maintaining language and culture, sustaining links with transnational communities over generations, recognizing the diaspora as rightful members of the nation, and facilitating the civic engagement of the diaspora in homeland affairs.

2.2. TAPPING

The tapping perspective explains the rise in diaspora institutions and engagement practices by focusing on "origin states' material interests in emigrant remittances, investments, connections, skills, and strategic capabilities".[31] Countries of origin look to the diaspora as a resource from which the state can benefit by engaging its wealth, knowledge and influence. The country of origin can benefit in two ways: economically and by deploying the diaspora as a diplomatic lobby. The economic perspective "suggests that the primary function of origin-state diaspora institutions is to help organize and obligate diaspora groups to remit, invest, donate, or travel to the origin country, or share their development-friendly expertise from

[26] Christian Joppke, *Citizenship and Immigration* (Cambridge: Polity Press, 2010), 147.
[27] *Ibid*.
[28] Alan Gamlen, Nando Sigona, Giulia Liberatore, and Neveu Kringelbach, eds, *Diasporas Reimagined: Spaces, Practices and Belonging*, *supra* note 4, 169.
[29] Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4: 183.
[30] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, *supra* note 4: 11.
[31] Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4: 203.

afar, off-setting 'brain drain'".[32] In addition, the state may engage the diaspora as activists and lobbyists on behalf of the homeland in their countries of residence in international affairs. In either case, the country of origin benefits from diaspora members' willingness to contribute time and resources on behalf of the homeland. Thus, the core focus of the tapping perspective is the "states' pursuit of material resources through engaging the diaspora".[33]

As suggested by Gamlen et al.,[34] two scenarios are possible within the tapping perspective. In the first scenario, wider diaspora engagement becomes likely when alternate development routes are being exhausted. The discourse surrounding diaspora legislation would thus focus on the importance of the diaspora for further development and would reference investment potential and the importance of remittances. The other scenario suggests that diaspora engagement is of paramount importance to take advantage of the skills and connections of the diaspora members. In either case, since the tapping perspective emphasizes the development potential for the homeland and the resources that can be extracted from the diaspora, the hesitation regarding the broad definition of the diaspora is less prominent. Thus, the inclusion of the 'affinity diaspora' in the official definition is a proactive step in engaging a broader community of supporters, as the population of the affinity diaspora is potentially limitless.

2.3. GOVERNING

In proposing the governing explanation of diaspora engagement, Gamlen argues that the rise in diaspora institutions and other methods of diaspora engagement can be explained by the overarching desire to "evolve a coherent system of global migration governance".[35] From the governing perspective, policies are the result of a combination of the influence of the international system, organizations and actors, inspiration drawn from policy transfer and policy diffusion by first-mover states, and the lobbying efforts of epistemic communities who are optimistic about the benefits of migration. The basic idea is that "states themselves are activated into an international community whose members share responsibility for migration management without the need for top-down coordination."[36] The similarities in approaches to engaging diasporas, and in the institutions tasked with doing so, are due to the inspiration that national governments draw from the policy practices of

[32] Alan Gamlen, Nando Sigona, Giulia Liberatore, and Neveu Kringelbach, eds, *Diasporas Reimagined: Spaces, Practices and Belonging*, *supra* note 4, 168.
[33] Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4: 183.
[34] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, *supra* note 4: 8.
[35] Alan Gamlen, "Diaspora Institutions and Diaspora Governance," *supra* note 4: 183.
[36] *Ibid*.: 194.

other neighbouring or culturally similar states, effectively adapting policies to the existing situation in the homeland. In this approach, much credit is also due to the epistemic communities, who are defined as 'agentic others' "who de-emphasize their own status as actors and invoke the authority of expert knowledge and organizational theories as they orient themselves toward shaping the identities and strategies of state actors".[37] These communities of experts are "'migration optimists' who believe that migration brings developmental benefits to individual migrants as well as origin and destination states as long as the right policies are in place".[38]

According to the governing perspective, diaspora institutions are more likely to emerge when international norms, actors and organizations play a leading role, as well as when culturally and geographically proximate countries engage with their diasporas and the resulting policy can be transferred. As indicators of the governing perspective, Gamlen et al.[39] have suggested the standards set by regional neighbours and global leaders, examples of diaspora institutions in neighbouring countries, and the willingness to accept global standards and norms. Thus, the discourse would be expected to reference the experiences of other countries, effective strategies that can be modified and adapted, and contributions from the epistemic community – i.e. think tanks, scientists, consultants and other professionals. This would also dictate the acceptance of a definition of diaspora based on the experience and recommendations of others who have used either broad or narrow definitions and their evaluation of the associated drawbacks and benefits of each.

3. DEFINING THE DIASPORA IN LATVIA

3.1. DIASPORA POLICY DEVELOPMENT SINCE 1991

Relations with Latvia's diaspora have been intertwined with policy development since the restoration of Latvia's independence. In 1995, the Parliament of Latvia issued the *Guidelines on Latvia's Foreign Policy Priorities until 2005*, which emphasized the need to promote the strengthening of cultural, economic and other links with the diaspora.[40] The state program of 2001, *Society Integration in Latvia*, reiterated this need, along with emphasizing the role of the diaspora in attaining

[37] *Ibid*.: 196.
[38] *Ibid*.: 204.
[39] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, *supra* note 4: 11.
[40] Ministry of Foreign Affairs of Latvia, *Guidelines on Latvia's Foreign Policy Priorities Until 2005 (1995)* // https://www.mfa.gov.lv/arpolitika/latvijas-arpolitikas-pamatvirzieni-lidz-2005-gadam.

Latvia's foreign policy goals, as well as repatriation.[41] The terms used alongside "diaspora" are ethnic Latvians abroad (*latvieši ārzemēs*) and compatriots (*tautieši*), both terms with a clear link to ethnicity over nationality. The first policy planning document aimed at diaspora was defined under the auspices of the Secretariat of the Special Assignment Minister for Society Integration Affairs: *Diaspora Support Program 2004–2009.*[42] It defines the diaspora of Latvia as "the people of the Latvian nation and their groups living outside the state of Latvia", which is considered their ethnic homeland. Thus, the initial focus of diaspora politics in Latvia mainly reflected the embracing perspective.

Between 2009 and 2012, when intensive emigration flows occurred following a global financial crisis, diaspora policy was not one of the government's priority areas. Even though the issue was mentioned in all government declarations, no targeted policy measures were enacted. In 2012, responding to the large-scale emigration of about 30,000 to 40,000 people from Latvia each year since 2009 (see Figure 1 below), the government set forth a new task: to promote return migration.

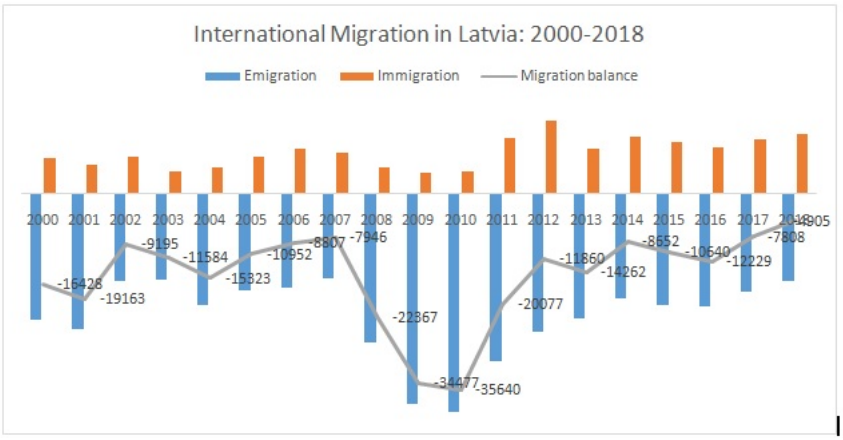


Figure 1. International Migration in Latvia, 2000–2018
(Source: Central Statistical Bureau of Latvia. Official Statistics Portal. Long-term Migration. *International Migration in Latvia 2000-2018 (2019)*)

The target audience of the *Return Migration Support Plan 2013–2016* consisted of those "belonging to Latvia and their family members living abroad who have or might have decided to return to Latvia for work or business".[43] Thus, this plan had a

[41] *Cabinet of Ministers, Order No. 542, National Identity, Civil Society and Integration Policy Guidelines 2012-2018 (2011)* // https://www.km.gov.lv/uploads/ckeditor/files/Sabiedribas_integracija/KM_130515_Prec_Nac_ident_pilson_sab_un_itegr_polit_pamatnost_2012-2018.pdf.
[42] *Cabinet of Ministers, Order No. 738, Latvian Diaspora Support Program 2004-2009 (2004)* // https://likumi.lv/ta/id/94728-par-latviesu-diasporas-atbalsta-programmu-2004-2009-gadam.
[43] *Cabinet of Ministers, Order No. 356, Return Migration Support Action Plan 2013-2016 (2013)* // https://likumi.lv/doc.php?id=258715.

clear economic objective, reflecting the tapping perspective, and there were no widespread discussions about who the target group of this plan should be.

In 2013–2014, another policy document was developed: the *Action Plan for Cooperation with Latvia's Diaspora 2015–2017* (Ministry of Foreign Affairs of Latvia 2014).[44] This document was devised in line with the *National Identity, Civic Society and Integration Policy Guidelines 2012–2018* (Integration Policy Guidelines) and included a broad discussion of what understanding of 'diaspora' was used in the action plan. It stated that diaspora was understood as "a part of a nation scattered outside its homeland that is aware of its belonging to the country of origin". Furthermore, the diaspora was understood as "individuals belonging to Latvia who live in different territories of other countries and who maintain cultural, economic and political ties with Latvia". Based on a term coined in the *Integration Policy Guidelines*, open *Latvianness* – which signifies that the Latvian nation is inclusive and indicates a certain level of self-determination in becoming Latvian – this Action Plan "uses the concept of diaspora in a broad sense to include all citizens of Latvia, both citizens and non-citizens,[45] as well as those who emigrated from Latvia and their descendants regardless of ethnicity and mother tongue".

One can perceive a development in the understanding of diaspora in Latvia's policies since the 1990s, from a solely ethnic focus to a wider interpretation of those originating from Latvia, which by 2015 also included people of a different ethnicity. Moreover, a shift in the aims of diaspora policy can be observed, from maintaining and strengthening the cultural and linguistic practices of diaspora members and their ties with Latvia towards a greater focus on economic issues, social and political participation, and returning to Latvia.

Given the size of the diaspora (which is currently estimated at around 300,000 people or approximately 15 percent of all Latvian nationals), the ageing population of Latvia, growing demographic pressures, and projections of future labour shortages, implementing a comprehensive, continuous diaspora policy was deemed crucial. In early 2018, the idea of defining the diaspora through a Diaspora Law was put forward to further systematize existing Latvian diaspora policy, as previous policy

[44] Ministry of Foreign Affairs of Latvia, *Action Plan on Cooperation with the Latvian Diaspora for 2015-2017 (2014)* // https://www.mfa.gov.lv/data/file/AMPlans_150714_Diaspora.662.pdf.

[45] The non-citizen status in Latvia was created after Latvia regained its independence from the USSR, and is a special temporary status, established for former USSR citizens – "former citizens of the USSR without the citizenship of the Republic of Latvia or any other country". Non-citizens enjoy equal protection under the law both in Latvia and while living or travelling abroad, and are the only group of persons, beside citizens, who are granted permanent residence in Latvia *ex lege*. They can have permanent residence in a foreign country while retaining all rights and privileges, inter alia, to travel freely and to return back to Latvia at any time. Non-citizens have the same social guarantees as Latvian citizens, and they enjoy the majority of political rights, including, for example, with regard to pensions and unemployment benefits. The only significant difference between Latvian citizens and non-citizens is the right to vote and to work in the civil service or occupy posts directly related to national security (source: https://www.mfa.gov.lv/en/policy/society-integration/citizenship/citizenship-policy-in-latvia).

measures had been fragmented. Besides clearly dividing areas of responsibility amongst state institutions and defining core activities of diaspora policy, the Diaspora Law includes renewed or new definitions of key concepts. These changes are at the core of the analysis that follows.

3.2. DEFINING DIASPORA IN THE LAW: FROM BROAD TO NARROW TO BROAD AGAIN

This section is based on an analysis of the text of the Diaspora Law, its annotations, and minutes and recordings of the Diaspora Law Working Group (DLWG) created by the Foreign Affairs Committee of the Parliament of Latvia (FACPL), the committee itself, and the Parliamentary sessions that led to passage of the law. We analysed these documents in accordance with the typology of diaspora engagement developed by Gamlen et al.,[46] to see which perspective –embracing, tapping or governing – prevailed. In particular, recordings and minutes were analysed to explain the wording of the final text of the law and uncover the debates, dilemmas and considerations of policy makers and other actors involved as they advocated regarding the principles defined in the Diaspora Law.

The Diaspora Law defines diaspora policy as a new policy area in Latvia, essentially implying that previous efforts to maintain links with the diaspora and to promote return migration were too fragmented to be considered a coherent state policy. The DLWG agreed early on that the law should be practical, not declarative, and that it should contain clear policy measures that facilitate work with diaspora members and do not overly bureaucratize the relationship.[47] Also, the scope of the law was agreed to early on and included four main strains: (1) maintaining and strengthening the diaspora's ties with Latvia and its national identity; (2) facilitating civic and political participation by the diaspora; (3) promoting cooperation with and participation of the diaspora in the fields of the economy, science and culture; and (4) supporting those who wish to return to Latvia.[48] Elements of embracing and tapping perspectives are clear here. The first two strains reflect the core ideas of embracing – the preservation and development of national identity across borders and the promotion of civic and political engagement, respectively. The scope itself, however, says nothing about who qualifies as part of the diaspora. The third and fourth strains exemplify the tapping perspective, drawing on the potential resources available in the diaspora and seeking to engage them across various fields through,

[46] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions", Working paper 78, *supra* note 4.
[47] Diaspora Law Working Group, *Minutes, February 12, 2018*.
[48] *Ibid*.

inter alia, entrepreneurship, labour market participation and scientific activities, both from abroad and upon their return to Latvia.

The governing perspective was illustrated by the participation of researchers in the working group and by references to their previous studies as a basis for the proposed scope of the law. Government representatives emphasized the importance of the epistemic community and used the authority of scientific studies to argue in favour of the proposed scope of this law, citing research conducted at the University of Latvia Centre for Diaspora and Migration Studies (LU DMPC). The LU DMPC was consulted for expertise and its studies were quoted several times by members of the working group as they sought information on similar laws in other countries, including the definition of diaspora used elsewhere.[49] Whereas the scope of the law was agreed upon quite readily, defining the diaspora turned out to be the most contentious and most politicized issue.

The initial definition proposed in the draft law was as follows: "Diaspora is the people of Latvia permanently residing outside Latvia who associate their origin with Latvia and its historical territory as in 1885, and who consider themselves as belonging to Latvia, as well as those who have temporarily left Latvia (students, trainees, workers seconded by employers, etc.)."[50] The scope of this definition was very broad. It encompassed subjective elements of associating one's origin and belonging to a certain territory and country, as well as objective elements of temporary migration in the framework of the current migration regime.

Earlier on, the references to particular emigrant groups and to the historical territory of Latvia were questioned by the working group. The Ministry of Foreign Affairs (MFA) again referenced studies conducted by the LU DMPC and proposed an abridged version of the initial definition: "Diaspora is the people of Latvia permanently residing outside Latvia who consider themselves as belonging to Latvia."[51] The representatives of the MFA also noted the need for further discussion of the term "people of Latvia", contending that it should include citizens, non-citizens, ethnic Latvians and others whose country of origin is Latvia, as well as people of other ethnicities who consider themselves as belonging to Latvia. A representative of the Ministry of Economy noted that a broader definition was in the national interest so as to attract as many people as possible to the 'affinity diaspora'; this representative further suggested that separate, narrower target groups could be defined for specific activities.[52]

[49] Diaspora Law Working Group, *Minutes, February 19, 2018*.
[50] Diaspora Law Working Group, *Minutes, February 12, 2018*.
[51] Diaspora Law Working Group, *Minutes, February 19, 2018*.
[52] *Ibid*.

Whereas the initial definition was quite broad, the one suggested subsequently highlighted two aspects of diaspora engagement envisioned by some stakeholders. First, it further illustrated the initially identified embracing perspective, as the strengthening of ties with the diaspora had not just an ethnic aspect, but also a national (statist) one. Second, it clearly showcased the tapping strategy by suggesting that a broader definition would be desirable to foster an increased or more intensive engagement of the diaspora in promoting economic growth, development and innovation in Latvia.

Although diaspora organizations urged the working group not to complicate the definition of the target group in this law, as doing so could create an unnecessary administrative burden for those actually implementing various support activities, the definition still seemed too broad to some. Here, an aspect of the governing perspective was present in the desire to support diaspora organization activism and reflect it in a definition that would be less burdensome to diaspora civic participation.

However, several members of the working group suggested using the term *valstspiederīgie* or "nationals" (a term that also includes Latvia's non-citizens) instead of *piederīgie* or "people of Latvia", in order to narrow the scope of the definition. Others countered that this change would exclude ethnic Latvians who have renounced their citizenship and émigrés who could no longer prove their legal ties to Latvia. The LU DMPC proposed to formulate the definition as follows: "The diaspora consists of Latvian nationals and persons who recognize their belonging to Latvia and who permanently reside abroad."[53] This version would still include a subjective self-identification element that would allow the inclusion of a broad group of people, while clearly stating the importance of national (not necessarily ethnic) belonging. In the end, the definition advanced by the DLWG for further discussion in the Parliament was that the diaspora includes the people of Latvia and persons who recognize their belonging to Latvia, while permanently residing abroad.

The additional eight meetings of the working group focused on practical aspects of the law, such as the responsibilities of various state institutions, principles of funding and specific support measures to be introduced or systematized. The definition was not discussed again until the draft law was reviewed by the full FACPL.

At its meeting on 23 May 2018, the FACPL decided to submit the draft law for further review by the Parliament. Maintenance of ties, strengthening of Latvian language and culture in the diaspora, and promoting Latvia's economic growth were mentioned as primary reasons for the law at this meeting. The diaspora was seen as a single unit and an indivisible part of the society of Latvia, reflecting the embracing perspective. The proposed policy measures were described as having varying target

[53] *Ibid*.

groups, ranging from citizens only to co-ethnics to the affinity diaspora, thus highlighting the tapping elements of the law. Finally, the governing perspective was once again demonstrated in the emphasis on the role of the epistemic community (diaspora organizations, the LU DMPC and the MFA) and the assertion that the law relied on in-depth analysis.[54] The MFA representative invited all parliamentarians in the FACPL to remember that the law should be aimed at the people in the diaspora and should not be a pre-election law to benefit politicians.[55] This remark was significant because most of the work performed by the DLWG and FACPL occurred in the run-up to the 2018 Parliamentary election, as intensive campaigning was taking place. Discussions in Latvian diaspora communities also coincided with election campaigns in the United Kingdom and United States, and the law, not surprisingly, became one keyway to assess Latvian political parties' commitment to the well-being of the Latvian community abroad. However, the political debates barely mentioned the definition of the diaspora, focusing instead on the practical supports envisioned in the draft law.

The first meeting of the Committee was more conceptual than detailed and technical, as an agreement on whether to submit the law for its first reading in the Parliament had to be reached. Nevertheless, the Legal Service of the Parliament already identified some shortcomings it foresaw in the legal technique of the draft law. One of those was the formulation of the definition, in particular the section referring to "those who acknowledge their belonging to Latvia", as it did not presume a link to their ethnic origin.[56] This remark would become central to the debate over the formulation of the definition during the second reading of the draft law. Nevertheless, the FACPL decided to submit the draft law for its first reading at the Parliament, agreeing to defer the conceptual discussions to a later point so as to speed up the process and, hopefully, achieve passage of a final version before the end of the year.[57]

In the Parliamentary session of 24 May 2018, during the first reading of the law, it received widespread support, though some commented that emphasizing promotion of the Latvian language and traditions in the diaspora would exclude some national minorities. Some parliamentarians upheld the tapping perspective and were keen to emphasize the diaspora as a source of human resources for the Latvian labour market and a key resource for national preservation.[58] After the first reading, the Parliament voted unanimously in favour of the law.

[54] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, May 23, 2018*.
[55] *Ibid*.
[56] *Ibid*.
[57] *Ibid*.
[58] Parliament of the Republic of Latvia, *Protocol of the May 24, 2018, Session* // http://saeima.lv/lv/transcripts/view/483.

However, politicians became more involved in the drafting process in preparation for the second reading, and the definition of the diaspora underwent significant changes in the FACPL. The Committee's discussions of the definition can be divided into several topics:

1. Measuring one's belonging, or the subjective character of the definition;
2. Security aspects;
3. Inclusion of non-citizens;
4. The administrative burden for diaspora organizations; and
5. Possible limitations on engagement of the diaspora.

First, the issue of *measuring one's belonging* was initially raised by the Legal Service of the Parliament in its reflections on the legal language of the draft law. That office indicated that the definition should not be either too narrow to achieve the law's aims or so broad as to award support to people who should not be included. It noted that this discussion was of constitutional importance, since the law stated that the diaspora is an indivisible part of the nation of Latvia. The Legal Service contended that the formulation of "recognizing one's belonging to Latvia" was very subjective and called for a more detailed elaboration of the dimensions of such belonging. The office proposed a new definition: "persons who permanently reside outside Latvia and whose ethnic origin is Latvian".[59]

A representative of the National Alliance party, Jānis Dombrava, agreed with the Legal Service that the initial definition left too much room for interpretation. Anyone could become a member Latvia's diaspora, even all former citizens of the Soviet Union who used to reside in the territory of Latvia, and initiate a court challenge if the support offered to members of the diaspora was not made available to them. MP Dombrava suggested narrowing the definition to "Latvia's citizens, Latvians [*latvieši, denoting ethnicity*] and their family members who permanently reside abroad".[60]

However, the MFA and diaspora organizations counteracted both suggestions to narrow the definition by citing examples of cases in which Latvian citizenship could not be attained or a person's ethnicity could not be proved, as well as instances where Latvian citizenship had been renounced because of previous limitations on dual citizenship. For example, according to Ambassador-at-Large for the Diaspora Atis Sjanītis, only 20 percent of the Latvian diaspora in the USA had Latvian citizenship.[61] Others noted that many people had left Latvia during both world wars who had various ethnic status (for example, Jews, Baltic Germans and Lithuanians) but who were nevertheless citizens of Latvia and that their descendants should not be left in

[59] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, August 30, 2018*.
[60] *Ibid*.
[61] *Foreign Affairs Committee of the Parliament of Latvia*, Minutes, September 5, 2018.

limbo. Moreover, there existed strong diaspora communities in countries in which dual citizenship was not allowed, namely Russia and Israel. Supporting the narrower definition would thus exclude many persons who were active members of the diaspora despite lacking any legal ties with Latvia, and it might also contradict the provision in the Constitution of Latvia that prohibits discrimination on ethnic grounds.

This discussion, even if initiated with matters of legal technique in mind, centred on the embracing perspective or about which people outside the nation's borders should be treated as belonging to the nation. Gamlen et al.[62] do not offer a single interpretation of the embracing perspective, as it could be based on ethnic terms or could favour multiculturalism. The broader definition offered in the draft law initially went further, suggesting that the state alone does not define the scope of belonging, but that individual self-perceptions are also a key element. Those favouring a narrower, ethnicity-based definition advanced the notion that belonging to the diaspora is a widely desired good, even a prize, especially if it is associated with support from the Latvian government for activities abroad or for returning to Latvia.

The Diaspora Law and the related discussions on defining diaspora are among a few highly politicized discussions on belonging that have taken place in the last decade. Other notable debates concerned the introduction of dual citizenship in the 2013 Citizenship Law and the proposed, but ultimately rejected, clause on self-determination of ethnicity in the 2016 amendments to the Law on the Change of a Given Name, Surname and Nationality Record. These debates reflected a similar clash between the competing roles of individuals and the state in determining one's belonging. This discussion is also related to two other aspects of the debate over the definition of diaspora: security and administration.

The *security* aspect in parliamentary discourse on the definition of diaspora was generally linked to the possibility that the support offered to the diaspora might be exploited by former members of the Soviet military who used to reside in Latvia, by labour migrants who arrived in the territory of Latvia during the Soviet period, or by former KGB agents who worked in Latvia, as all these groups could claim a sense of belonging to Latvia. Besides the exploitation of support, some parliamentarians also feared that the above-mentioned persons might infiltrate diaspora organizations. MP Dombrava stated, "We have to close the gate to those who could come with any kinds of demands as belonging to the diaspora of Latvia."[63] The security aspect was further highlighted in discussions of promoting civic and political participation by members of the diaspora, as this could also mean granting voting rights at the municipal or national level. The MFA denied any intention to include Soviet labour migrants in the

[62] Alan Gamlen, Michael Cummings, Paul M. Vaaler, and Laura Rossouw, "Explaining the Rise of Diaspora Institutions," Working paper 78, *supra* note 4.
[63] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, August 30, 2018*.

diaspora, especially since most of them had left before Latvia regained its independence. This strain of the discourse reflects two interpretive perspectives: the embracing perspective regarding the establishment of limitations on civic engagement, and the tapping perspective regarding the possible costs and benefits of diaspora engagement. At the same time, this aspect presupposed a significant impact of the Diaspora Law even though other laws were in place to govern, *inter alia*, immigration, citizenship and access to services.

Security considerations were often interlinked with the *inclusion of non-citizens* in the definition of diaspora. Some parliamentarians, most notably from the Harmony political party, noted that a narrow definition, addressing only citizens and ethnic Latvians, constituted a clear effort to exclude non-citizens, even though they might also have legal ties to Latvia. As a result, the MFA offered an amended definition: "The diaspora includes Latvian citizens and non-citizens, as well as persons of Latvian origin, who permanently reside abroad and who link their belonging to Latvia."[64] The responses to such a formulation of the definition were mixed. First, several parliamentarians said that if Latvian non-citizens could not decide on naturalization, they should not be eligible for any diaspora support activities. Second, it was noted that they could engage with other ethnic or national groups in their new host countries that may receive support from their own country of origin, such as Russia or Ukraine. Third, examples taken from the work of diaspora organizations were used to demonstrate that Latvian non-citizens already participate in diaspora activities, most notably Latvian schools for children. This strain of the debate stems from the embracing perspective, reflecting a strong focus on drawing clear boundaries between those who belong and those who do not – a distinction already embedded in the respective legal statuses of citizens and non-citizens of Latvia, and which is often justified by referencing the 'protection' of both groups of *valstspiederīgie* or nationals.

The subjective element of the notion of self-identification was seen as problematic by several parliamentarians and the Legal Service. Although this office kept highlighting the difficulty of measuring belonging for administrative purposes, parliamentarians kept devising scenarios in which undesirable persons or groups might imagine themselves as belonging to the diaspora. During one of the final Committee meetings during the second reading of the Law, MP Dombrava said that it would be better to introduce a narrower definition that could later be expanded to include those "we [sic!] consider as belonging to the diaspora",[65] thus reasserting the deciding role of the state.

[64] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, September 5, 2018*.
[65] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, September 26, 2018*.

A narrower definition was sometimes perceived as creating an *additional administrative burden* on diaspora organizations, as support would be offered to a narrower share of the diaspora community. The largest diaspora organization, the World Association of Free Latvians, noted that it had been working without a specific diaspora law for a long time and invited MPs not to 'bureaucratize' diaspora policy. The vice-chair of the European Latvian Association, Elina Pinto, in her address to the FACPL asked whether each morning at the Latvian Saturday school should start with checking of passports. Pinto cited this example to illustrate the possible effects of a narrow definition, which could also counteract the law's intent to foster more intensive ties with Latvia.[66] Municipalities, on the other hand, said that a wider definition would create an additional administrative burden on them, as they would not know how to assess who deserves municipal support upon returning to the country.[67] The governing and tapping perspectives are evoked here, as the experience of diaspora organizations served as a key consideration for the scope of the definition, while possible effects on efforts to tap the resources present in the diaspora remained a concern.

Finally, the possible *limitations on diaspora engagement*, a critical aspect of the tapping perspective and a primary means of attaining one of the law's aims, were debated. While keeping the previous arguments in mind, the MP from the National Alliance party, Rihards Kols, suggested defining the affinity diaspora separately to promote these persons' economic engagement.[68] However, diaspora organizations and MPs argued that a narrow definition might cause resentment and a sense of exclusion, thus also limiting diaspora engagement not only in the economic sense (where the affinity diaspora is most commonly addressed), but also in terms of civic participation in diaspora organizations, partnerships between scientific institutions, and so on. This is a broader interpretation of the tapping perspective, according to which diaspora members' contributions are not only material but also take the form of skills, contacts and networks.

Table 1 provides an overview of the various definitions of the diaspora considered in the drafting process of the Diaspora Law. In the end, several diaspora and non-governmental organizations offered their own definition, grounded in the legal reasoning provided by then–European Court of Justice judge Egils Levits: "citizens of Latvia residing permanently outside Latvia, ethnic Latvians and others who have a connection to Latvia, as well as their family members". This definition

[66] *Ibid*.
[67] *Ibid*.
[68] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, October 19, 2018*.

was also supported at the annual meeting of the World Association of Free Latvians,[69] because it included the various groups represented in the diaspora and facilitated the work of diaspora organizations. Although the potential field of candidates who could now be recognized as belonging to the Latvian diaspora was expanded significantly, a special note was made that the Diaspora Law would not supersede other laws of the Republic of Latvia.[70] Effectively, this meant that individuals could qualify as part of the Latvian diaspora, but that they were not automatically entitled to the rights of citizens on this basis. This distinction safeguards the privileges bestowed on citizens and maintains the regulations set forth by the Citizenship Law, the Immigration Law and the Election Law of Latvia, among others. This final version of the definition was accepted by the FALPC and later by the Parliament.[71] It reflects all three interpretive perspectives: the embracing perspective through the inclusive character of the law, the tapping perspective to maximize the gains in diaspora engagement, and the governing perspective by drawing on the experience of diaspora organizations that reflect the diversity of the diaspora community.

Table 1. Diaspora definitions considered

Definitions offered throughout the elaboration of the Diaspora Law
people of Latvia permanently residing outside Latvia who associate their origin with Latvia and its historical territory as in 1885, and who consider themselves as belonging to Latvia, as well as those who have temporarily left Latvia (students, trainees, workers seconded by employers, etc.) (initial draft)
people of Latvia and persons who recognize their belonging to Latvia, who permanently reside abroad (19.02.2018)
Latvia's citizens, Latvians [*latvieši, denoting ethnicity*] and their family members who permanently reside abroad (05.09.2018)
permanently outside of Latvia residing citizens of Latvia, Latvians and others who have a connection to Latvia, as well as their family members (26.09.2018 in the Committee, 04.10.2018. in the Parliament)

CONCLUSIONS

As in the largest empirical study of diaspora legislation, carried out by Gamlen et al.,[72] support for all three perspectives can be found in the discourse analysis of the development of the definition of diaspora during the drafting process of the Diaspora Law of Latvia. The law could adopt an all-encompassing, broad definition because it does not grant additional rights in terms of citizenship, immigration or election participation. The law's aims reflect a focus on preserving the Latvian identity, language and culture in the diaspora and on promoting the economic growth

[69] World Association of Free Latvians, *2018 Annual Board Resolutions* // https://www.pbla.lv/pbla-2018-gada-valdes-sede-pienemtas-rezolucijas/.
[70] Foreign Affairs Committee of the Parliament of Latvia, *Minutes, September 26, 2018*.
[71] Parliament of the Republic of Latvia, *Protocol of the October 4, 2018, Session* // http://saeima.lv/lv/transcripts/view/495.
[72] Alan Gamlen, Michael E. Cummings, and Paul M. Vaaler, "Explaining the Rise of Diaspora Institutions," *Journal of Ethnic and Migration Studies*, *supra* note 4.

of Latvia through diaspora engagement in the realms of the economy, science and culture. Thus, the potential risks of defining the diaspora as broadly as possible were outweighed by the potential gains that could be reaped from recognizing a diverse and extensive diaspora.

The definition finally accepted by the Parliamentary committee, and later by the full Parliament, includes citizens of Latvia residing permanently outside Latvia, ethnic Latvians and others who have a connection to Latvia, as well as their family members. The definition reflects all three perspectives suggested by Gamlen et al. as driving motivations for national governments to engage with their diasporas: the embracing perspective through the inclusive character of the law, the tapping perspective to maximize the gains in diaspora engagement, and the governing perspective by drawing on the experience of diaspora organizations that reflect the diversity of the diaspora community.

Although the discourse amongst parliamentarians mirrored the overall discourse on belonging to Latvia generally, the specific character of the diaspora policy, designed to engage not only with individual diaspora members but also with diaspora organizations, as well as the desire to tap the resources of the diaspora, led to agreement on an inclusive, broad definition. Combining all three perspectives identified by Gamlen et al.[73] was feasible to attain the aims of diaspora policy, but several sensitive policy issues arose due to the historical composition of Latvia's society and the development of the law during an election campaign period. Thus, this Latvian case study shows that defining the concept of diaspora can become a complicated matter if intertwined with political agendas that extend beyond diaspora policy. However, for a small country that has experienced significant out-migration, the pragmatic benefits of defining diaspora broadly in national policy outweighed the potential risks of doing so.

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