

# Expansive Citizenship—Voting beyond Territory and Membership

Voting rights have traditionally been regarded as the core of democratic citizenship. While T. H. Marshall (1965) described citizenship as a bundle of civil, political, and social rights, political philosophers from Aristotle via Rousseau to Michael Walzer have understood citizenship to be essentially a status of full membership in a self-governing polity. This republican conception explains the central place of electoral rights: citizens are those who participate in collective self-government either directly or through voting for representatives and running as candidates for elective public office.

In liberal democratic states Marshall's civil and social rights have been largely disconnected from formal citizenship status. Civil liberties are regarded as universal human rights and public education, health care, or social security benefits are derived from residence or employment. Tomas Hammar (1990) has introduced the term "denizenship" to describe the legal status of long-term resident foreign nationals who enjoy most rights of citizenship. Denizenship

has turned the bright line between citizens and aliens into a grey zone of transition, but electoral rights have generally remained as a privilege attached to membership status.

While in the traditional view residence is not sufficient for political participation rights, it is still regarded as a necessary condition. The idea of citizens giving laws to themselves is difficult to reconcile with letting expatriates cast votes from outside the national territory. Citizens who live permanently abroad will not be subject to the decisions of legislatures and executives whose composition they determine through their votes.

This dual restriction of electoral rights to citizens who are also residents has been, however, attenuated or abandoned in a growing number of democratic countries. This trend is symptomatic for a broader transformation of the territorial and membership boundaries that circumscribe democratic citizenship. This short essay will first describe the phenomenon and reasons for this trend and will then discuss alternative ideas for how it should be evaluated.

## Non-resident Citizens

Voting rights for expatriates are more common than for non-citizen residents. I have not been able to compile a global survey of coun-

tries that permit their emigrants to cast votes and will instead mention some illustrative examples.<sup>1</sup> Although formal rights of this kind exist in a large number of countries (among the old 15 Member States of the European Union only Ireland and Greece have no voting rights for expatriates), their significance varies considerably and depends on accessibility, the percentage of expatriates in the total citizen population, and participation rates among the eligible expatriates. Some countries, such as Israel or Nicaragua, demand that expatriates must travel to their country of citizenship in order to cast their votes on election day. Most Latin American countries require them to visit a consulate or embassy in their country of residence (Argentina, Brazil, Colombia, Peru, Honduras, and Venezuela). The U.S., Canada, and several European states (e.g., Austria, Germany, Italy, and Luxembourg) have instead increased accessibility through absentee ballots sent by mail. Another obstacle for many expatriates is the need to register some time before the vote. Even highly accessible modes of expatriate voting may, however, be of little relevance for election campaigns and outcomes where there are few emigrants or where they feel too disconnected to get involved.

Voting rights for expatriates are often attached to conditions of former residence in the country of citizenship or expire after a certain time of residence abroad. Many countries, however, (e.g., Austria, Belgium, Finland, France, Italy, Luxembourg, Portugal, and Spain) enfranchise even citizens who have lived all their lives abroad.

A rather exceptional way of mobilizing the expatriate vote and emphasizing its importance is to give it special representation in parliament. Among the old 15 EU Member States only France, Italy, and Portugal have set aside parliamentary seats for this purpose. In Colombia, expatriates are defined as one of five minorities with reserved seats in parliament.

What motivates governments to expand voting rights to expatriates? The most obvious reason is to maintain political ties with those who have left but have retained their citizenship. Cheap air fares, satellite TV, and the Internet have made it much easier for migrants to stay connected and to be politically well-informed. Since the 1970s, many sending country governments have also dramatically changed their originally negative attitudes toward emigrants and see them now as a valuable source of remittances or even of political influence in the receiving state (Itzigsohn 2000; Bauböck 2003). This turnaround is particularly striking in Mexico, which in 1998 permitted its roughly 10

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million emigrants to retain their nationality when naturalizing abroad. On June 28, 2005, an overwhelming majority in the Chamber of Deputies passed a law that will allow expatriates to vote in Mexican elections by absentee ballots.

The electoral inclusion of citizens living abroad is supported by ethnic conceptions of nationhood that conceive of the polity not as a territorial state and its inhabitants, but as a community that may be dispersed over several states. Ethnic nationalism becomes a dominant justification when electoral rights are extended not only to emigrants but also to later generations born abroad who have inherited their parents' citizenship. In Central Eastern Europe there have been attempts to extend voting rights to co-ethnic minorities separated from their kin-state not through migration but through shifting state borders. For example, Romania has offered citizenship to the ethnic majority population of Moldova, whom nationalists consider as part of a greater Romanian nation (Iordachi 2004). In December 2004, a Hungarian referendum initiative to give up to three million ethnic Hungarians in neighboring states citizenship status was defeated due to low turnout. Opponents argued that, as in the Mexican case, voting rights would have been the next step. In the Hungarian case, however, the expatriate vote would mainly strengthen right wing and nationalist parties (Kovacs 2005).

Although a non-territorial conception of nationhood is always involved in strengthening external citizenship rights, there are other relevant reasons that provide supplementary justifications. In several Latin American countries, in Portugal, and in Spain extensions of voting rights have occurred in the context of democratic transition. Authoritarian regimes in Latin America and Southern Europe had often caused a substantial exodus of citizens who remained committed to democracy in their homelands. When political exile had lasted for several decades it was unrealistic to expect that these expatriates would simply return. In countries where democratic participation had to be newly defined, it seemed natural to reward these expatriates for their contribution by granting them full political participation.

It is well-known that major expansions of citizenship such as voting rights, gender equality, and social welfare provisions have often occurred in the context or aftermath of major wars as an incentive for, or recognition of, citizens' sacrifices. This was also the reason for introducing absentee ballots for military personnel in Canada (in World War I) and the U.S. (in World War II). The U.S. policy of taxing expatriates' income earned abroad provided another linkage between claims to political participation from abroad and citizenship obligations. The Overseas Voting Rights Act that first granted voting rights to civilians living abroad was passed in 1975 after a campaign to send tea bags to Members of Congress that alluded to the Boston Tea Party and its slogan: "No taxation without representation!"<sup>2</sup>

Extending voting rights to citizens abroad, just as granting them to non-citizen residents, is, of course, also often motivated by the interests of political parties who hope that expatriates will support them more often than their competitors. In Austria, for example, the law introducing absentee ballots in 1990 was sponsored by the conservative Peoples' Party, whereas the social democratic majority in Vienna adopted a local franchise for non-EU immigrants in Vienna in 2003 that was overturned by the Constitutional Court in 2004.

## Non-citizen Residents

The complementary phenomenon of voting rights for non-citizens is less widespread and is more often regarded as an irregular-

**Table 1: Electoral Rights for Non-Citizen Residents**

national	Australia Barbados Belize Guyana Ireland St. Lucia St. Vincent & Grenadines Trinidad & Tobago UK Portugal	New Zealand Malawi Chile Uruguay
	Switzerland	Ireland Denmark Finland Iceland Norway Sweden
local or regional	U.S.	Belgium Luxembourg Netherlands Estonia Hungary Lithuania Slovakia Slovenia
	Canada Israel	Belize Venezuela (Bolivia) (Colombia)

in part of country for particular nationalities universal

Sources: Blais et al. (2001), Earnest (2004), Waldrauch (2005), various web sites. This is a modified and updated version of Figure 2.6 in Earnest (2004, 27). Brackets indicate constitutional provisions that have not been implemented.

ity. It was, however, quite common in U.S. history (Raskin 1993). Ron Hayduk (2005) documents that 40 U.S. states had over various periods of their history permitted alien residents to vote in state or federal elections. In the U.S. this practice was stopped in the interwar period of the last century. Today there are political campaigns in several large cities for introducing a local franchise for non-citizens and six towns in Maryland have already adopted this policy.

Recent international comparisons show that currently non-citizen voting rights in political elections exist, or are explicitly provided for in the national constitution without having been implemented, in 45 democracies (Blais et al. 2001; Earnest 2004; Waldrauch 2005). This number includes some rather marginal cases, such as Canada, where British citizens can vote in provincial elections in Nova Scotia and Saskatchewan, Australia, where they can vote in national elections if they have been registered before 1984, and Israel, where only immigrants who have arrived under the Law of Return but have not acquired Israeli nationality may vote in local elections.

At the other end of the spectrum there are only four countries with a residence-based right to vote in national elections that does not discriminate between different citizenships. New Zealand has the most inclusive franchise of this kind with access after one year

of legal residence, but still requires that candidates must be nationals of New Zealand. Malawi, also a Commonwealth Country, grants the franchise after seven years. In Chile, the residence requirement is five years and in Uruguay it is rather extensive with 15 years.

The largest group of countries with a specific franchise for non-citizens is the 25 member states of the European Union. The 1993 Maastricht Treaty introduced a citizenship of the Union with voting rights of nationals of another member state in local and European Parliament elections. The Republic of Ireland, all Scandinavian states, and the Netherlands had, however, already introduced a universal local franchise for all residents independent of their nationality. And several new Member States that joined in May 2004 (Estonia, Hungary, Lithuania, Slovakia, and Slovenia) have followed this example. Most recently, Luxembourg and Belgium extended local voting rights to third country nationals in 2003 and 2004, respectively.

Outside the EU, Norway and Iceland, Belize, and Venezuela have the same purely residence-based local franchise. The Bolivian and Colombian constitutions also provide for this right although legislation required for implementation appears to be missing.

Less universal modes of an alien suffrage exist in several states where electoral rights are either restricted to certain nationalities (as they are in the EU) or have been introduced only in some autonomous municipalities or provinces. In the United Kingdom, Irish and Commonwealth citizens enjoy not only a right to vote in national elections but can also be elected. The Republic of Ireland reciprocated in 1984 by granting UK citizens voting rights in national elections. In Spain and Portugal local (for Brazilians in Portugal also national) voting rights are derived from reciprocity and linguistic commonality. In Switzerland, six out of 26 cantons have provisions for electoral rights of non-citizens.

In several European countries (among them Austria, France, Germany, and Italy) local voting rights for all third country nationals have been adopted by parliamentary vote at national or regional levels but have been blocked or eventually struck down as incompatible with the Constitution.

The European Parliament and the EU Commission have generally promoted an extension of voting rights to third country nationals but have also argued that imposing it on member states would fall outside Community competence as defined in the European Treaties (Day and Shaw 2002). In 1992, the Council of Europe, which has 46 member states, adopted the Convention on the Political Participation of Foreigners in Local Life, which entered into force in 1997. It includes a local franchise for all foreign nationals after five years of residence but has been ratified by only five states and has had no major impact. This is also true for Recommendation 1500 by the Parliamentary Assembly of the Council of Europe passed in 2001. Nonetheless, these endorsements by international bodies demonstrate that the practice of extending voting rights to non-citizens can no longer be regarded as an irregularity at odds with the international community's conception of citizenship.

Reasons for introducing a non-citizen franchise are, again, quite mixed. The political integration of immigrants who do not qualify yet for, or may not be interested in, naturalization, was clearly the dominant motive in Scandinavia and the Netherlands. The Maastricht Treaty provisions have instead deepened the status difference between migrants from other EU Member States and from third countries. They are grounded in a project of a supranational European polity with a common citizenship. By contrast, voting rights for British, Irish, or Commonwealth citizens in the British Isles and in several Caribbean states do not refer to future political integration but to a shared imperial past. In postcolo-

**Table 2: Perspectives on expansive electoral rights**

		non-resident citizens	
		no	yes
non-citizen residents	no	(1) civic republicanism	(2) ethnic nationalism
	yes	(3) territorial inclusion	(4) affected interests

onial and post-secession contexts states are sometimes willing to honor historical links by extending voting rights to those who had previously lived under a common political authority. A slightly different rationale, which often overlaps with a shared imperial past, derives political participation claims of certain non-citizens from cultural affinity and linguistic community.

Apart from these four motives that refer to different visions of political community, there are two reasons that seem to be fairness-based. One is a principle of reciprocity that operates within the European Union but is also applied to non-EU nationalities in Spain and Portugal. The other is a principle of compensation for blocked access to naturalization, which was a main motive for introducing a local suffrage in Estonia in 1996 to accommodate the large Russian minority. At closer inspection, both ideas appear rather suspect. Reciprocity is an important principle for international rights of non-citizens (e.g., to diplomatic protection), but it is not a relevant consideration when considering which residents qualify for political participation in domestic institutions. Why should the very few Norwegians in Portugal have a better claim than much larger immigrant populations from African countries? Neither can granting a local franchise to non-citizens justify denying them access to full citizenship.

### Arguments for and against Expansive Citizenship

Which general ideas support or reject electoral rights beyond territory and beyond citizenship? I will sketch four contrasting ideal-typical positions, which emerge from combining positive and negative answers, but will argue that each is defective.

(1) A traditional republican position must reject both types of enlarged citizenship. Its conception of the polity emphasizes territorial boundaries as well as those of membership. Only citizens who are present in the polity can govern themselves by participating in making its laws. Voting rights must be an exclusive privilege of citizens. Finally, a republican polity will be open to newcomers, but can freely determine through its own laws whom to admit.

(2) Ethnic nationalism supports the inclusion of expatriates but rejects political rights for non-citizen residents. It conceives of the nation as a community of culture, imagined descent, and destiny that has a right to self-determination. A nation's membership need not coincide with the resident population of a state where this nation is dominant. It is therefore imperative to include external citizens in national self-government and legitimate to exclude non-citizens who have not assimilated into the national community.

(3) Voting rights for non-citizens can be derived from two principles of liberal democracy. The first may be called territorial inclusion. It regards a democratic polity as a community of individuals who are subjected to the same political authority and its laws and who have therefore equal rights to representation and participation in the making of these laws. Every permanent resident in a territorial jurisdiction should therefore enjoy voting rights. This may be achieved either by automatic naturalization of all who have legally resided in the country for a certain number of years (Rubio-Marín 2000) or by disconnecting electoral rights from formal citizenship status. From this perspective, voting rights for expatriates are certainly not required and may even be seen as undermining the integrity of the democratic process since those who live permanently abroad should not be able to influence the making of laws to which only internal residents will be subjected (López-Guerra 2005).

(4) The alternative liberal principle is "*quod omnes tangit ab omnibus approbetur*" (what affects all shall be approved by all). Ian Shapiro suggests that this principle of affected interests requires "defining the demos decision by decision rather than people by people" (2003, 222). This view naturally leads to including resident non-citizens in elections, but it also may be invoked by expatriates if some of their vital interests are affected by political decisions taken in their country of original citizenship. A principle of affected interests may even justify voting rights for non-citizen non-residents when the decisions of governments profoundly impact on the interests of other countries' populations. One difficulty with this idea is that most elections in representative democracies are not decisions about specific laws (i.e., referenda) but decisions about who will enjoy general powers of law-making and enforcement within an already given polity. A principle of affected interests can therefore not overcome the need to define the territorial and membership boundaries of the demos.

As an alternative I propose a fifth principle that I call stakeholder citizenship. It combines insights from republican and liberal perspectives. From the former it retains the idea that citizenship is a status of full membership in a self-governing polity and that voting rights should generally be attached to such status. From the latter it derives a principle of inclusion that would give stakeholders a subjective claim to membership and electoral rights. Stakeholdership should, however, be less vague and overinclusive than affected interests. It is best described as expressing an interest in membership that makes an individual's fundamental rights dependent on protection by a particular polity and that ties an individual's well-being to the common good of that polity. Stakeholdership would require the political inclusion of immigrants, but—different from inclusion derived from mere territorial subjection—it could justify a condition of long-term residence and the common requirement that immigrants have to apply for naturalization instead of being automatically turned into citizens. Stakeholdership would also permit (although probably not require) extending the vote to expatriates, but it would exclude those who have never lived in the country and would not give

access to citizenship to persons whose interests lie in economic investment or tax evasion but who do not take up permanent residence.

The idea of stakeholder citizenship becomes even more distinct from the four positions sketched above when we apply it to a pluralistic conception of political community. In a traditional republican or ethnonationalist view, individuals cannot be loyal to several states. The liberal perspective of territorial inclusion, too, tends to ignore external attachments of citizenship. Yet migrants certainly often have relevant stakes in more than one polity. These can be expressed through either multiple citizenship or a combination of expatriate voting rights with denizenship in the country of settlement.

Stakeholder citizenship allows not only for overlapping membership, but also for nested membership in polities contained within larger polities. The republican, ethnonationalist, and territorial inclusion principles are too closely based on the sovereign state model. Autonomous municipalities and provinces may be regarded as self-governing polities within states with their own models of subnational citizenship and the European Union has developed a rudimentary model of supranational citizenship. Voting rights need not be homogeneous across these levels and they need not imitate the rules governing the national level. This seems to me the most plausible interpretation of voting rights in the EU that are acquired automatically with the nationality of a member state, but—different from democratic federations—do not include participation in another constituent entity's national elections. A similar account can be given of the trend toward a local non-citizen franchise. It does not abandon a citizenship condition for the vote, but, quite on the contrary, asserts a distinct conception of local citizenship as a membership acquired through residence in contrast with national citizenship acquired at birth or through naturalization.

## Conclusions

Migration is not a new phenomenon. But it is only in our age that the challenge of migration for democratic boundaries has thoroughly undermined traditional ideas of how citizenship, residence, and voting rights should be connected. There are two ways to make sense of the phenomenon of non-citizen and non-resident voting: 1) retain the mental framework of a Westphalian state system with clear cut boundaries between polities and revise our conception of citizenship by disconnecting status from rights and regarding the latter as a global commodity offered by states to mobile populations, or: 2) adapt the republican concept of citizenship as equal membership in a self-governing polity to a world in which political boundaries are increasingly overlapping or nested within each other. The latter route seems more promising not only for explaining why so many democracies have extended electoral rights to non-citizen residents or non-resident citizens, but also for developing democratic principles for how these rights ought to be allocated.

## Notes

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1. For a comprehensive analysis of expatriate voting in Latin American

countries, the U.S., Canada, Portugal, and Spain, see Calderón Chelius (2003).

2. See [www.fawco.org/us\\_concerns/voting\\_overseas/struggle.html](http://www.fawco.org/us_concerns/voting_overseas/struggle.html), last accessed June 20, 2005.

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