

Representation

Granting Non-Citizens the Right to Vote in Toronto's Municipal Elections

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In an era of global migration, traditional understandings of citizenship that equate citizenship and nationality with voting rights are being challenged. There has been a trend in Western liberal democracies towards granting non-citizen residents local or regional voting rights. This paper will argue that extending the franchise to non-citizens is fundamental to the ideal of democracy. Using Toronto as a case study, it will examine the outcomes of various jurisdictions that have implemented non-citizen voting rights, along with alternative mechanisms to enhance democratic commitments and the deliberative capacities of non-citizens.

Introduction

In an era of globalization and migration, conventional understandings of citizenship that tie membership to national and ethno-cultural identity are being challenged by more fluid and expansive models based on residence, participation, and inclusion. Over the past few decades, there has been a trend in Western liberal democracies towards granting non-citizen residents local or regional voting rights. This extension of the franchise is often motivated by concern for democratic legitimacy and the need for better immigrant integration and inclusion. According to Skogstad (2003), input legitimacy is “sourced in procedures that allow preferences to enter into the political processes.” Non-citizens, who are subjects of the state and thus affected by its policies, lack input legitimacy as they have no democratic voice and no meaningful way to petition for redress of grievances through the electoral process. Limiting the vote to citizens therefore weakens the quality of democracy, and is not congruent with a democratic criterion of inclusion.

This paper will argue that expanding the franchise to non-citizens is necessary to improve democratic legitimacy and ensure greater political

inclusion. This expansion would create an incentive for political elites and decision-makers to represent the interests of non-citizens, and a means by which to hold them to account. An increasing number of decision-makers to represent the interests of non-citizens, as well as a means by which to hold them to account. An increasing number of voices are now calling for political participation in western liberal democracies to be made more universal. By examining the outcomes of a number of other jurisdictions that have extended the municipal franchise, and using Toronto as a case study, it will be argued that answering this call through an extension of the franchise is a necessary, yet insufficient condition for more equitable political inclusion. That is, although an expanded municipal franchise would improve the quality of democracy in its own right, there is also a need to identify the conditions under which such an expansion can deliver results.

Citizenship as a Criterion for Political Inclusion

Today, large groups of non-citizens are denied the right to vote by democratic governments. However, in liberal democratic states, active participation in the political process is seen to be a necessary element of democracy, as without electoral participation individuals are not likely to influence policies or be able to protect their interests. In electing not to enfranchise certain sects of the population, some nations are failing to satisfy the criteria of inclusion held key by theorists of democracy. Dahl (in Beckman, 2006) argues that the idea of procedural democracy entails the “criterion of inclusion” that guarantees “all members of the association” full rights of political participation.

Denying non-citizens the ability to participate in the democratic process is a clear consequence of legal and constitutional regulations concerning the right to vote. These regulations commonly maintain that voting and full political rights remain the privilege of citizens. While voting rights were once distributed on the basis of wealth, creating general and equal rights for all citizens was what made democracy “the great philosophy of inclusion” (Beckman, 2006). Understanding citizenship as a requirement for political participation finds root in the idea that membership provides the basis for voting rights. In other words, political power is reserved for members only, and membership is defined either in terms of citizenship or some social, ethnic, or other characteristic shared among a population (D’Oliveira, 1984).

More recently, the issue has shifted in the direction of political exclusion, as

citizenship itself has become a source of unequal rights among people living in the same country (Beckman, 2006). An alternative view posits that the inclusion of “all” refers to anyone subject to the authority of the state. Known as the all affected principle, it is the view that individuals who live in a community, pay taxes, and obey the law should have an equal say in the community’s decision-making process (Munro, 2008) on matters affecting their interests. Walzer (1981) defends the right of communities to self-determination based on the shared understandings of their members. When considering the political rights of non-citizens, the comparative authority of citizens may be said to constitute a form of tyranny.

Those opposed to extending the franchise to non-citizens argue that voting is an earned privilege and, in linking voting to nationality, that individuals must demonstrate sufficient patriotism and loyalty before being granted such rights (Siemiatycki, 2006). Others have contended that extending the franchise to non-citizens could undermine incentives that newcomers have to pursue citizenship. However, severing the link between the right to vote and citizenship would not necessarily negate the privileged status of citizenship (Shapiro 2013). Citizenship carries significant practical benefits, including secure status and protection against deportation.

Conceptions of what and who constitute “the people” – a political community, citizens, and eligible voters – have also shifted over time. The institutions of citizenship and suffrage have unique and different histories; citizenship has not always been a guarantee of being able to vote and being able to vote has not always meant that one was a citizen (Varsanyi, 2005). This is in line with the tradition of sociological institutionalism, which contends that institutions reflect deeply embedded norms and traditions, and as such drive politics by shaping identities; in this case, who is granted the franchise. Records of voter eligibility over time reflect prevailing social prejudices about who is ‘fit’ to have a say in municipal decision-making.

Municipal Voting Rights in Canada

Municipal voting rights have a particularly unique history in Canada. The municipal franchise in Toronto, for example, was based on age, gender, and property ownership throughout the 19th century; and until recently, some privileged non-citizens - British subjects of the Commonwealth - also held the right to vote in municipal elections in several provinces (Siemiatycki, 2014). Today, municipal voter eligibility criteria is determined by provincial election

legislation, which can vary significantly from province to province. As a general rule, individuals must be 18, a citizen of Canada, and a resident of the municipality in order to be eligible to vote.

Five provinces currently permit some form of non-resident voting. In Ontario, for example, the municipal franchise extends to non-resident citizens who own or rent real estate in the municipality in which they live (Siemiatycki, 2014). Thus, on top of standard eligibility requirements, property owned or rented as a resident or non-resident confers voting rights. The “no taxation without representation” argument holds that, at the local level, individuals who demonstrate a financial stake in society by contributing to municipal revenue should be extended the right to vote. A complimentary concept of “stakeholdership”, which views local citizenship as a membership acquired through residence, has also been advanced (Seidle, 2014). If municipalities already possess different eligibility rules than those found at the provincial and federal levels, and if non-resident tax-payers are eligible to vote, reason would dictate that this principle be extended to all non-citizens.

Naturalization Policies and the Democratic Deficit

Global migration and demographic concentration in urban centres have brought municipalities into focus as a hub for citizenship and political participation (Siemiatycki, 2014). Demographic concentration is driven in large part by immigrant settlement, and few countries in the world are as dependent as Canada is on immigration for recent urban growth. The federal government sets naturalization policies, and has increasingly framed the country’s immigration policies in terms of economic gains and public safety (Alboim and Cohl, 2012). Its current vision for immigration involves the elimination of citizenship fraud and application backlog, and a new application management system responsive to changing goals and priorities.

It has been argued that extending the franchise to non-citizens would apply more to other countries than it would to Canada, as the latter has a high rate of naturalization and a comparatively short duration of residence required to qualify for citizenship (Triadafilopoulos, 2010). The three-year gap between arrival in Canada and eligibility for citizenship is not a particularly significant hurdle when compared with five-, 10- or even 15-year waiting periods that exist in countries such as the United States. However, Canada’s three-year minimum waiting period still entails a notable democratic deficit. There are also individual cases in which the waiting period extends beyond three years

and some permanent residents may choose not to attain citizenship for reasons including fear of losing status in their home countries. Despite the relative ease of naturalizing, there is still cause for concern regarding the increasing number of foreign born individuals living in Canadian cities who pay taxes but may not obtain permanent resident status.

Due to a lengthy application cycle, individuals working to secure Canadian citizenship generally experience a fourth 'gap' year. With municipal elections in Toronto held every four years, this means that immigrants often wait eight or more years from their time of arrival to secure the right to vote (Siemiatycki, 2014). Recent changes in federal legislation, including more robust language requirements for citizenship, could bring significant change to the naturalization rate. Efforts to contain fraudulent acquisition of citizenship and changes to the application process have also resulted in longer wait times in processing citizenship requests for permanent residents. In 2013, 300,000 residents were on a citizenship backlog. The refusal rate was 3.5 per cent (Keung, 2013).

Moving Towards Non-Citizen Voting Rights in Toronto

In contrast to the federal government, municipal governments emphasize newcomer service provision, integration, and liberal democratic norms (Siemiatycki, 2014). Immigrants tend to cluster in residential areas, and the city of Toronto's demographic make-up makes it a particularly interesting case study. According to the 2013 census, visible minorities and immigrants comprised 49 per cent of the total population (City of Toronto, 2013). Over 30 per cent of the population in some Toronto neighbourhoods are non-citizens. This can lead to vote-less and voiceless neighbourhoods, as the political exclusion of residents makes it difficult for their needs to be heard, understood and addressed. However, settlement patterns and immigrant inclusion both shape and are shaped by institutions. The residential concentration of ethnic minorities has been associated with greater levels of political incorporation, where institutions create an incentive among parties to reach out to immigrants, newcomers, and ethnic minorities (Marwah, Triadafilopoulos, and White 2013). In Toronto, the issue of the lack of voting rights for non-citizens is particularly pressing, as these individuals comprise 16.2 per cent of the city's overall population (Siemiatycki, 2007).

Granting the right to vote at the municipal level could encourage greater political participation by newcomers early on in their settlement process,

integrating the individual into the normal functions of the state and instilling a sense of belonging (Aleinikoff and Klusmeyer, 2002). This could in turn lead to participation in the democratic process in the longer-term. Proponents of non-citizen voting rights typically outline a minimum residency requirement of one year before extending the franchise to newcomers.

Today, non-citizen residents of Toronto could be classified into three main categories: those eligible for citizenship who have not naturalized; recent immigrants not yet eligible for citizenship; and non-status migrants ineligible for citizenship (Siemiatycki, 2007). In 2013, a motion in favour of asking the province to amend the Municipal Elections Act in order to extend the local vote to permanent residents passed the Toronto City Council by a single vote (City of Toronto, 2013). As the approval of the provincial government would be required for any change in municipal voting rights, the province is a major stakeholder in this campaign. The City of Toronto lacks the authority to implement such a change.

The idea of extending the franchise to non-citizens in Toronto is not new. Former Mayor David Miller, himself an immigrant, held office from 2003 to 2010 and was an advocate of non-citizen municipal voting rights. Miller saw the municipal franchise as a tool for the empowerment for Toronto's lower-income neighbourhoods. His efforts were ultimately unsuccessful, due largely to a belief among many Toronto municipal politicians that political rights only came with formal citizenship (Spears, 2009). However, Ontario Premier Kathleen Wynne has recently signalled greater receptivity to the idea than her predecessor Dalton McGuinty, who directly connected enfranchisement to citizenship (Benzi, 2013).

Those opposed to the idea of granting voting rights to non-citizens also contend that it would have a 'domino effect' – namely, in weakening the argument for withholding the same right at the provincial and federal levels. These concerns are rooted in a belief that granting non-citizens the franchise could negatively impact the quality of public policy making and the stability of democratic societies, as non-citizens may have divided or multiple political loyalties (Munro, 2008). However, calls for non-citizen voting rights in Toronto have largely remained focused at the municipal level, thus avoiding the nationality or 'dual loyalty' concerns that could arise federally.

By contrast, the service delivery focus of municipal government allows for a stakeholder approach to municipal voting that is far less contentious.

Municipal elections across Ontario serve to determine the leaders of local government, councils, and institutions such as school boards. City residents depend on these bodies to make decisions that directly affect service delivery and quality of life. Integration will always be first and foremost a local affair, as various critical interactions between newcomers and the larger community occur at the local level (Seidle, 2014).

Many opponents of extending the franchise argue that non-citizen residents do not possess the necessary civic skills, and thus many may not understand the political system. If this is true, then effective integration must precede political participation, as it is only after a sufficient amount of time has passed that immigrants can be expected to have acquired commitments to the democratic process and an ability to participate in the language of public deliberation (Seidle, 2014). Yet proponents for extending the franchise argue that integration is best achieved through political participation, and allowing non-citizens to vote could provide them with an incentive to learn about the norms and practices of their communities (Munro, 2008). Moreover, it has been argued that political participation can have integrative and educative effects, as both academic and practical skills are best developed through activities that exercise those skills (Hayduk, 2006).

Non-Citizen Voting Rights: Global Trends

Internationally, over 40 countries provide some form of non-citizen voting rights. When several Nordic governments first introduced these voting arrangements in the late-1970s and early 1980s, the underlying rationale was to better facilitate the integration of immigrants into both local community life and the broader, more foundational national identity. The Maastricht Treaty requirement that citizens of European Union states receive local voting rights in sister states was also adopted in part to facilitate a sense of shared EU citizenship and integration (Groenendijk, 2008).

Although there is limited empirical evidence to evaluate the practical effects of non-citizen voting arrangements, that which is available suggests that while rates of immigrant voting participation vary across jurisdictions, in nearly all cases the participation of enfranchised non-citizen residents in elections is below that of citizens. (Munro 2008; Groenendijk 2008; Earnest 2014; Bevelander, 2014). Low voter turnout has been attributed to the comparatively lower socioeconomic status of noncitizen residents, who tend to have fewer resources, be it time, money or language skills, that are

often required for effective participation in the political process (Munro, 2008).

Voter turnout rates for immigrants in Canada are almost identical to those of the Canadian-born population, demonstrating that enfranchised immigrants are able and willing to exercise their political rights (Marwah, Triadafilopoulos, and White, 2013). However, Toronto has observed immigrant disengagement from the city's municipal electoral system. Toronto neighbourhoods with high numbers of low-income immigrants have significantly lower voter turnout rates than other neighbourhoods, and some claim that granting the franchise to non-citizens could produce even greater disinterest in the political process (Siemiatycki, 2014). Participatory democrats maintain that democracy is witnessing the decline of its representative function, as elections rarely reveal the preferences of the voters on specific issues, and that it has become increasingly difficult for individuals to express their preferences through voting alone (Michels, 2010). In an increasingly interconnected world, there has increasingly been a rejection of top-down policy-making, coupled with a demand for more transparency and popular authority characterized by non-hierarchical governance arrangements involving a wide range of stakeholders (Skogstad, 2003). Participatory democrats in particular argue that citizen participation beyond voting can have positive effects on the quality of democracy.

Enhancing Participation and Capacity of Non-Citizens

In light of the evidence of low voter turnout among non-citizens and of the increasingly limited role of representative democracy, policy-makers must explore mechanisms that will develop and encourage deliberative capacities and democratic commitments.

These mechanisms could include neighbourhood-based campaigns to promote awareness of municipal government institutions, a multi-lingual promotional campaign to encourage voting in the period immediately leading up to a municipal election, and the introduction of electronic voting (Siemiatycki, 2006). The City of Toronto has established advisory bodies and working groups over the years on specific policy issues, and/or to engage with specific sects of the city's population (Andrew et al. 2008). Focused on building inclusion and participatory forms of policy-making, these committees are comprised of members of the community and at least one elected member of council. The Immigration and Refugee Issues Working Group is one example of a successful initiative, having contributed to the adoption of

the Immigration and Settlement Policy Framework (Good, 2009). Using this model, the City of Toronto could look to establish a Municipal Non-Citizens Advisory Council comprised of researchers, advocates, non-citizen community members, and city councillors to represent the interests of non-citizen populations, and to engage with policy-makers to influence municipal policies that directly affect them. Policy-makers must also ensure that non-citizens are able to actively participate in these advisory panels, as a means of encouraging the development of deliberative capacities.

Participatory and deliberative initiatives can serve an educational function, and can result in higher-quality public policies. Studies on initiatives such as participatory budgeting and democratic school councils have found that participants develop a better understanding of, and capacity to participate in political life (Good, 2009). Government is incited to respond to the rhetoric of popular participation, as the forums that establish a flow of communication between officials and the general public result in more effective and legitimate policy outcomes (Skogstad, 2003). These initiatives feature a wide range of voices, contribute to a greater legitimacy of policy decisions, and increase public engagement and awareness of the various issues facing the community (or sectors therein). Non-citizens can make use of these avenues to promote the issues affecting them specifically, such as credential recognition, ESL learning opportunities, and the regularization of citizenship (Siemiatycki, 2006). However, some community leaders have questioned whether it is more effective to have separate structures to address these issues or to deal with them in a more integrated manner.

Despite some effort, issues of representation and hierarchies of power continue to limit participatory democratic initiatives. Marginalized populations continue to face significant barriers that may lead to a replication of social inequalities, as those with the most time, resources, and education dominate the decision-making process (Michels and de Graaf, 2010). Moreover, inclusive, deliberative forums can at times overcome the representational deficit only to substitute it with an incapacity for decision-making. Connecting these initiatives to electoral democracy and democratic commitments remain a noteworthy challenge.

Mechanisms of participatory democracy cannot serve as a substitute for state-centred governance. However, these mechanisms can enhance the input legitimacy of governments and act as a supplement to representative democracy (Skogstad, 2003). If non-citizen voting arrangements can create a

political incentives for decision-makers, making them more prone to take into account and secure the interests of those vulnerable populations affected by their decisions, and if this is linked to an increased effort to improve deliberative and political participation and capacity, then municipalities will may in fact have sufficient reason to extend the franchise (Beckman, 2006).

Conclusion

Granting non-citizens the right to vote in municipal elections will improve the quality of democracy; however, the question remains as to how much or for whom. On the one hand, electoral rights offer political leaders greater incentive to support the interests of non-citizen residents, and to organize and mobilize these populations in the democratic process. On the other hand, low voter turnout in immigrant neighbourhoods necessitates pro-active engagement strategies by civic and community institutions.

The motion passed by the City of Toronto in 2013 in favour of asking the province to amend the Municipal Elections Act to extend the local franchise to permanent residents holds promise, as does the position of the current Liberal government. Although this is a necessary step forward, however, the continued exclusion of temporary foreign workers and other groups of non-citizens from the current policy debate reflects a double standard in the regulation of capital and labour mobility. Contemporary migration will continue to unsettle traditional assumptions of citizenship, political belonging, and voting rights. Until society effectively defines a human right to democratic participation, political participation will remain exclusionary, necessitating the creation of multiple platforms through which all sects of the population can engage in the political process.

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