

Who should vote where? Geography and fairness in migrant voting rights

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What determines where one can vote? A resident of Melbourne, I am required by law – as a naturalised Australian citizen – to vote in council, state, and federal elections. Yet because I am also an American citizen, and because my last address – almost a decade ago – was in Contra Costa county in California, I can elect members of that county's Board of Education, approve state-wide referenda on road building funds, and vote on the American Presidency. I usually ignore local issues, feeling quite removed from decisions over schools my children will not use, or trains I do not catch, yet I certainly feel entitled to vote at state and federal levels. It does not stop there. Born in Switzerland to Swiss parents, I also send ballots four times a year to a small town in the canton of Aargau. I have never lived in that town, but expatriate Swiss can vote in either their last place of residence or their 'hometown' as determined through patrilineal descent. Expatriate Swiss can vote in national elections (to parliament) and on national referenda.

In contrast, imagine a Turkish *Gastarbeiter* in Germany. She can no longer vote in Turkey, as non-residents have no voting rights back 'home'. Nor can she vote in Germany, as citizenship (and hence voting privileges) was until recently famously difficult to acquire

if one did not have German blood (Østergaard-Nielsen, 2003; Ehrkamp & Leitner, 2003; Leitner & Ehrkamp, 2006).

Why do I have the privilege of voting widely and often, while the Turkish *Gastarbeiter* is fully disenfranchised? In an age of democratisation and globalisation, are we witnessing the emergence of an ‘over-enfranchised’ elite, at the same time as many other migrants lack not just voting rights, but also many other basic human rights? In contrast to political science (e.g. Castles & Davidson, 2000; Bauböck, 2005; López-Guerra, 2005), geographical attention to such topics is lacking, despite significant research on the geography of voting (e.g. Johnston, 1999; Johnston & Pattie, 2006), on transnationalism (e.g. Bailey, 2001; Boyle, 2001; Leitner & Ehrkamp, 2006), and even on transnational politics (Ehrkamp & Leitner, 2003; Carter, 2005; Collyer, 2006). Below, I sketch out a geographical perspective on migrant voting, moving from a discussion of principles to an overview of current practice.

In principle

I begin with the assumption that all adults should be empowered to participate in the political process. I also assume that, in a liberal democracy, people should be empowered to have a say *on the things that affect them*: the use of their money (taxes), the rules-of-the-game of their economy, their public services, their security, their surroundings (see Bauböck, 2005, 686). However, since not all things matter to all people, how can one practically group together people who are affected by similar or overlapping concerns for the purposes of voting? Four key criteria emerge: *location* (for example, city residents electing city councillors), *citizenship* of geopolitical units (for example, citizens voting on a national referendum), *interest* (for example, labourers voting on an industry-wide strike), and *identity* (for example, a diasporic population lobbying for change back ‘home’).

Extant democratic institutions generally presume that some combination of *citizenship* and *location* provides sufficient proxies for *interest* and *identity*. State institutions can relatively easily define rules to govern who can vote using the first two categories, by creating residency criteria or citizenship and naturalization rules. Defining membership in the latter two is much more problematic, as interests and identity can be shifting, multiple (Leitner & Ehrkamp, 2006), and less immediately visible to governments.

This presumption – that *citizenship* and *location* serve as proxies for *interests* and *identities* – is, however, imperfect. Neither interests nor identities are restricted by location or geopolitical borders. National identities are not always reflected in the administrative category of citizenship, due to historical events and widescale migration (Castles and Davidson, 2000), nor does citizenship reflect many other identities people may possess, such as religious, ethnic, or sexual. Similarly, places of residence are imperfect substitutes for people’s interest: financial systems give people a stake in economic activities around the globe (via investments); environmental linkages connect decisions in one place with impacts in another (as in downstream pollution or global warming); or emotive concerns incite people to lobby for changes far from their homes (whether for forest conservation or poverty alleviation).

Furthermore, the criteria of *location* and *citizenship* do not always overlap, and thus lead to inconsistencies. Both migration (Castles & Davidson, 2000; Leitner & Ehrkamp, 2006) and the politics of inclusion and exclusion from active citizenship (e.g., Ehrkamp & Leitner, 2003; Kofman, 2003; Valentine & Skelton, 2007) lead to situations where residents in a country are not simultaneously citizens.

There are two additional complications to defining membership in an electorate. First, not everyone will have an equal claim to the membership criteria; that is, there are

degrees of qualification. When does a part-time resident or short-term migrant qualify for residency? How strong must an ethnic or national identity be to qualify – and do multiple identities disqualify? What methods can distinguish between levels of interest? Only citizenship is clearly something one possesses (or does not possess) without ambiguity. While ethnic prejudices, gender dynamics, or language politics may create different ‘classes’ of citizenship (Ehrkamp & Leitner, 2003; Kofman, 2003; Valentine & Skelton, 2007), these do not typically interfere with voting rights.

Second, grouping people with overlapping concerns necessitates decisions related to levels of *scale* and attendant *boundaries* (Table 1). The ‘things that matter’ upon which people vote do not always fit neatly into scalar units or their boundaries. Should forest management in places like Tasmania, Oregon, or Amazonia be decided by local villages (which ones?), counties, state forest agencies, federal governments, or the United Nations? Should neighbouring places (or, for that matter, related interest groups or identity groups) have a say in each other’s decisions? That a geographically-defined city electorate votes on its own rubbish collection services makes sense, yet neighbours of a landfill site outside city limits may feel disenfranchised. Questions like these are sometimes most obvious in border zones, where geopolitics artificially separate people from political rights in places that matter to their daily lives (take, for example, the commuting *frontaliers* who live in the French suburbs surrounding the Swiss city of Geneva).

[insert Table 1 about here]

The case of transnational migrants, in particular, poses challenging questions with respect to degrees of qualification, scale, and boundaries (Castles & Davidson, 2000; Bailey, 2001). Capable of sustaining multiple identities and citizenships without contradiction (Leitner & Ehrkamp, 2006), migrants may care as strongly about politics ‘back home’ – where they still have investments, an elderly parent, or ethnic allegiances (Boyle, 2001; Carter, 2005; Collyer, 2006) – as they care about economic policy, rubbish collection or schools in their new home. As most 20th century democracies based their voting systems on some combination of *location* (residency) and *citizenship*, many migrants were disenfranchised in both locations. As we will see, this has changed over recent decades, as *some* voting systems began to separate the requirements for *location* and *citizenship*, allowing non-resident citizens or non-citizen residents to vote.

This situation – where some people have no political rights and others can vote in several places – evokes concerns over fairness and justice (Johnston, 1999). Migrants – as well as other transnational types from investors (and their corporations) to tourists (and their holiday homes) and issues-based campaigners (like environmentalists) – make potentially legitimate claims to being affected by things in multiple places and jurisdictions. If in an idealized fair world all people should have equal rights, then should dual citizens, people splitting time between two residences, cross-border investors, or those with plural national identities be somehow restricted from becoming over-enfranchised? That is, should, for example, a dual citizen’s qualification for voting be only half as strong in each place or constituency? Or, is there a stronger case to be made for giving all people rights to participate in whatever arenas they have legitimate interests, without concern for the possibility of over-enfranchisement?

There is, of course, no perfect way to divide or assign voting rights. Any such process is inherently political and open to abuse and contestation. Following Bauböck (2005), I would argue that, as long as governments are organized territorially, a *locational* system based on thresholds of presence and material interests is the most expedient way of

assigning voting rights, as location is tightly linked to ‘things that affect people’ in their lives. A *locational* system where voting rights scale up in a kind of reverse subsidiary principle (local voting on rubbish collection and town planning issues, to intermediate-level voting on larger economic or conservation interests, to global voting on global topics of concern like trade, climate change) makes logical sense. Following this line of thought, immigrants should, after a few years, be allowed to vote in their new place of residence regardless of *citizenship*. Emigrants who no longer pay taxes or hold investments in their old place of residence should progressively lose their right to vote at local, then later national-level elections ‘back home’. Furthermore, peoples’ *identity* is not a useful criteria by which to qualify people to vote. While a person may certainly ‘feel’ Irish despite never living in Ireland, one can argue that this identity is not really shaped or affected by votes on economic, social, and geopolitical policies in Ireland.

Following this line of argument, the number of ‘over-enfranchised’ people who can vote in several places simultaneously would be limited by thresholds to political participation based on physical presence (duration, how recent) and material interests (tax obligations, property). Depending on the rules, such a system could still be open to manipulation and vote-stacking as people (particularly elites) ‘buy’ their way into relevant jurisdictions, and it would certainly leave some people with multiple voting entitlements based on defensible interests in multiple locations. But such a system could be reasonably fair. There is nothing inherently unequal about some people getting to vote in more than one place, as long as they are legitimately affected by those votes (the case of border commuters or cyclical migrants comes to mind). As long as everybody – whether poor economic migrants or cosmopolitan elites – has similar rights to vote in multiple places if they meet thresholds of presence and material interests, then such a system could be argued to be fair.

In practice

Voting for much of the 20th century was purely organised along Westphalian nation-state lines. Combined citizenship and residence determined where one could vote. Over recent decades, two trends have emerged that challenge both the locational and citizenship-based logic of this system. The more widespread – yet highly uneven – trend is for countries to extend voting rights to citizens residing abroad. Many countries that have chosen to do so have significant numbers of expatriated citizens. Most European countries give such rights. Indeed, much thinking about cross-border voting rights was inspired by the introduction of an elected European Parliament – countries had to address, for example, how a German living in Italy could vote in such elections (Day & Shaw, 2002). Poorer diasporic countries also increasingly give expatriate voting rights. They view their overseas citizens as key resources, particularly for remittances (Basch et al., 1994; Levitt & de la Dehesa, 2003; Dickinson & Bailey, 2007); in turn, expatriates have claimed the right to participate politically back ‘home’. Mexico, for example, allowed postal voting on Presidential elections for the first time in 2006, though only in important diasporic locations (including the U.S., Spain, and Canada).

Countries vary widely in their strategies for expatriate voting (Table 2). Some link expatriate voters to a particular place, like a former place of residence (for example, Switzerland and the U.S.); others create a specific expatriate constituency including parliamentary seats (for example, Italy and Portugal). Some restrict voting to the national level; others allow local-level balloting. Many expatriate voting rights last a lifetime; others expire after a certain number of years of non-residence (for example, Canada and Australia). Finally, the transaction costs for voters vary enormously (Bauböck, 2005):

expatriate Israelis must be present in Israel to vote; French, Colombian, or Indonesian voters must travel to consulates or other designated voting sites; while the Germans, Mexicans, and many others vote by post.

[insert Table 2 about here]

The second trend, much less common, is for countries (or individual cities) to extend local voting rights to non-citizen residents (see also Table 2). Many European countries extend local voting privileges to citizens of other EU countries, but not to third-party citizens (Day & Shaw, 2002). Other countries enfranchise all foreign residents in local elections (for example, the Netherlands and Colombia). Local governments in some countries have taken matters into their own hands, allowing non-citizen residents to vote (Neuchâtel in Switzerland, some towns in the United States – see Huang, 2003). Again, qualifications and transaction costs vary: some places like New Zealand just require a certain period of residency, others like Victoria (Australia) require property tax payment, others like France require complex paperwork.

Conclusion

Based on the principle that people should be enfranchised to vote on matters that affect them, I have argued that scaled qualifications of *location* and *interest* are – in an ideal, and now globalised, world – the most appropriate ways to qualify people to vote (compare Bauböck's [2005, 686] idea of 'stakeholder citizenship'). The reality of the Westphalian system of nation-states and national citizenships only partially supports this means of enfranchisement, particularly with large flows of people and capital across borders. Recent policies in some places, whereby location-based voting rights are granted to non-citizen residents, are a move towards this more 'ideal' system; however the concurrent global trend for increasing rights for expatriate voters may be a backwards step if these voters' only qualifications are citizenship and cultural identity, as opposed to location and interests. Australia and Canada's systems provide perhaps the most appropriate compromise: both facilitate relatively rapid citizenship (and thus voting rights) for immigrants; both limit the enfranchisement of their citizens abroad to a limited period after departure (López-Guerra, 2005).

After this discussion, should I continue to vote overseas? Following the 'voting rights on things that matter' principle, I will continue to vote in the United States, at least at a national level, for two reasons. One, the U.S. taxes its citizens anywhere in the world. Two, its policy decisions and military actions have global impact (in all fairness, perhaps much of the world's 6 billion citizens would wish to influence some of Washington's decisions). As far as Switzerland, my claims to enfranchisement are more tenuously based, largely on identity. Following the principles outlined above, I should probably abstain.

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Table 1: Examples of levels of scale possible for assessing the four qualifications for membership in a grouping of people with overlapping concerns.

| | location | citizenship | identity | interest | |
|-------|--------------|--------------------------|------------------------------|----------------------------|-------------------------|
| scale | small | <i>neighbourhood</i> | <i>municipality/district</i> | <i>family/clan?</i> | <i>fellow employees</i> |
| | | <i>metropolitan area</i> | <i>state/province</i> | <i>tribe/ethnicity?</i> | <i>profession</i> |
| | | <i>regional</i> | <i>nation-state</i> | <i>nationality?</i> | <i>trade union</i> |
| | | <i>continental</i> | <i>continental (i.e. EU)</i> | <i>race? religion?</i> | <i>national union</i> |
| large | <i>Earth</i> | <i>global (i.e. UN)</i> | <i>humanity</i> | <i>international union</i> | |

Table 2: Summary of migrant voting rights in an illustrative sample of countries. (Sources: Day & Shaw, 2002; Bauböck, 2005; personal communication with colleagues and students; additional country-specific sources listed in table. Websites current as of Sept. 2007)

| political unit | expatriate voting rights | | | immigrant voting rights | additional sources |
|-----------------------|---|--|--|--|---|
| | who | level | 'location' of vote | | |
| Algeria | emigrant citizens | presidential and parliamentary | 8 expatriate seats in national assembly | only at citizenship | Collyer, 2006 |
| Australia | citizens temporarily non-resident for less than 6 years | federal, state, local | electorate of previous registration | only at citizenship; in Victoria (only) local elections also open to non-citizen property tax payers | aec.gov.au, vec.gov.au |
| Canada | citizens non-resident for less than 5 years who intend to return (2 years for Quebec); | federal, some provinces | electorate of previous registration | only at citizenship | www.elections.ca and provincial web sites |
| Colombia | all expat citizens | national level | at-large | non-citizens with 5 year residence may vote in local and district level elections and referenda | |
| European Union | all EU citizens resident anywhere within EU; rights when outside EU depend on rules of country where registered | European parliament | EMP constituency (of residence) | no rights to non-EU citizens | |
| France | all expat citizens | presidency & referenda (local level possible but difficult paperwork) | at-large; unless registered to vote locally in France (more difficult) | resident EU citizens in local elections based on 6 months residency or 5 years local tax payment | interieur.gouv.fr; |
| Germany | citizens who have lived 3 months in Germany during the past 25 years | federal and EU elections (rules for <i>Länder</i> and local elections) | vote in locality of last residence | resident EU citizens in local elections; no rights to non-EU citizens | Østergaard-Nielsen, 2003; Consulate General of Germany Melbourne; |

| | | | | | |
|-----------------------|--|--------------------------------------|--|---|--|
| | | vary) | | | www.bundeswahlleiter.de/wahlrecht/ausld.htm |
| India | none | n/a | n/a | only at citizenship | |
| Indonesia | all expat citizens | national level | votes all count in DKI Jakarta | only at citizenship | www.kpu.go.id |
| Italy | all expat citizens | national level | 6 expatriate seats in the Senate and 12 in the House of Representatives | resident EU citizens in local elections | |
| Madagascar | none | n/a | n/a | only at citizenship | |
| Mexico | all expat citizens in countries with large population of Mexicans | presidential only | in district of permanent (previous) address in Mexico | only at citizenship | mxvote06.ife.org.mx |
| New Zealand | all expat citizens (and permanent residents) who have visited NZ within the last 3 years (1 yr. for permanent residents) | all levels | in electorate in which last lived for a month or more | at permanent residency | www.nzembassy.com ; www.elections.org.nz |
| Portugal | all expat citizens | national level | 4 expatriate deputies to parliament | resident EU citizens and some 3 rd country nationals (based on reciprocity, includes Brazil, Cape Verde, Argentina, Israel, Norway, Peru, Uruguay) can vote in local elections | |
| South Africa | none | n/a | n/a | only at citizenship | elections.org.za |
| Switzerland | all expat citizens voters | national referenda and parliamentary | vote in locality of last residence / paternal home town | only at citizenship; a few exceptions for local (communal elections) where non-citizen residents are enfranchised (e.g. in Jura or Neuchâtel) | Consulate General of Switzerland Sydney |
| Turkey | none | n/a | n/a | only at citizenship | Østergaard-Nielsen, 2003 |
| United Kingdom | citizens non-resident for 15 years or less | parliamentary and EU only | in electorate in which last registered | resident Irish & Commonwealth citizens can vote in all elections; EU citizens in local/regional elections | electoralcommission.org.uk , aboutmyvote.co.uk |
| USA | all expat citizens | local, state, national | vote in locality of 'permanent' residence (in effect, last place of residence) | only at citizenship; a few exceptions for local elections (for example Takoma Park, MD or Cambridge MA) | Huang 2003 |