

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

SCOTTISH ELECTIONS (FRANCHISE AND REPRESENTATION) BILL

WRITTEN EVIDENCE FROM INTERNATIONAL IDEA

International IDEA has been requested by the Scottish Parliament to provide evidence on the impact of enfranchising residents who are not nationals or citizens. In this written submission, we present an overview of global comparative knowledge and current debate on the criterion for franchise relating to residency and/or citizenship.

International IDEA is an intergovernmental organization with the mission to advance democracy worldwide. As part of our package of products and services, we keep databases on how elections are regulated in different parts of the world, we cooperate with academics on topics of interest to democracy practitioners and we produce handbooks on election related topics. This written submission is primarily based on these sources, available at www.idea.int. On this topic we also rely on the Global Citizenship Observatory (GlobalCIT), an academic resource focusing on citizenship and nationality.

Political rights, citizenship and residence – trends and debates

The right to vote and the right to stand as a candidate are normally limited to citizens of the respective state. However, in tandem with an increase of movement and mobility of people, we note a visible trend whereby the traditional political rights-citizenship-residence linkage is being reconsidered by governments and civil society organisations, both at the national and sub-national level. An increased interest in mechanisms to facilitate emigrants voting rights in their country of origin – ‘out-of-country’ voting – is one example. Another is the interest in the viability of granting voting rights based on *residency* rather than citizenship, at least at the sub-national level.

One of the reasons for the delinking of voting rights from citizenship is a concern about a democratic deficit if a significant part of the adult population in a given jurisdiction is without voting rights. Evidence shows that exclusion from a political system can create a barrier to social integration between citizens and non-citizens.¹ Two solutions for addressing this deficit are 1) granting easier access to citizenship, especially in cases of constitutional restrictions against granting non-citizens voting rights; 2) granting voting rights to resident non-citizens, usually limited to elections at the sub-national level.

While arguments for a residency-based approach are often related to political integration and democratic representation, arguments against a residency-based approach are normally related to questions about a voter’s loyalty to the state,

¹ International IDEA: The Global State of Democracy, 2017 <https://www.idea.int/gsod/files/IDEA-GSOD-2017-REPORT-EN.pdf>, pp. 213

preservation of national identity and preservation of national interest. Either way, global migration - both temporary and permanent - is affecting contemporary policy debates regarding individual identity, social inclusion and political representation. Our 2018 report on 'Political Participation of Refugees: Bridging the Gaps'² discusses these dynamics in detail and advocates a generous approach to franchise criterion choices. This is because political systems that are inclusive of political integration of non-citizens tend to score high in key attributes of democracy quality.³

Comparative Examples – voting rights for non-citizens

The most common examples of resident non-citizen voting rights exist at the sub-national level. The right of non-citizen residents to vote in *regional elections* with a minimum residency duration exists in 11 countries out of 51 surveyed by GlobalCIT⁴. Voting rights for resident non-citizens in *local elections* with a minimum residency duration exist in 28 countries out of 51 surveyed by GlobalCIT⁵. Resident non-citizen voting rights in regional elections without a minimum residency duration exist in Croatia, Denmark, Hungary, Slovakia, Sweden, and the United Kingdom for European Union citizens only. Non-citizen voting rights for residents in local elections without minimum residency duration exist in 24 of the 28 European Union countries. European Union member citizens residing in other European Union member states have the right to vote in European Parliamentary elections in the country in which they reside.

A less common example is the extension of voting rights to resident non-citizens at the national level. Several countries have long-standing reciprocal agreements allowing each other's citizens to vote in national level elections. The United Kingdom extends voting rights to Irish citizens resident in the United Kingdom and citizens of Commonwealth countries with 'Indefinite Leave to Remain in the United Kingdom'. Australia extends voting rights to 'Subjects of the British Crown' who have been on the voters register since 1984. Chile, Uruguay and Ecuador extend voting rights to each other's citizens resident in their countries. Similarly, Venezuela extends voting rights to citizens of these countries, but only in regional and local elections. New Zealand extends voting rights to resident non-citizens in national elections with a minimum residency duration. New Zealand has one of the most inclusive laws globally.

As a further example, Portugal extend voting rights to Brazilian citizens in national legislative elections, under the Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federal Republic of Brazil. Brazil also extend voting rights in regional and local elections to Portuguese citizens who have resided in Brazil for at least three years prior to election day. Nordic Passport Union member countries, Iceland, Norway, Sweden and Denmark extend voting rights to citizens from other member states residing in their country.

² <https://www.idea.int/sites/default/files/publications/political-participation-of-refugees-bridging-the-gaps.pdf>

³ www.idea.int/gsod-indices

⁴ <http://globalcit.eu/conditions-for-electoral-rights/>

⁵ <http://globalcit.eu/conditions-for-electoral-rights/>

The right for non-citizen residents to stand as a candidate in regional elections exist in four European Union countries, and in the United Kingdom for citizens of other Commonwealth countries. The right to stand as a candidate in local elections exists in all 28 European Union countries for European Union citizens, 12 of which require residency. The United Kingdom allows citizens of Commonwealth countries to stand as a candidate. Ireland allows third country nationals who are 'ordinarily resident' in the municipality to stand. Paraguay allows citizens with permanent residency to stand. The right for a non-citizen to stand as a candidate in national elections exists in Portugal for Brazilian citizens who have resided in the country for three years, and the United Kingdom for Irish and Commonwealth citizens residing in United Kingdom.

Impact on voter turnout

Granting voting rights to resident non-citizens may strengthen political participation and inclusion. However, it does not necessarily immediately lead to higher voter turnout. Non-citizens with voting rights do not necessarily exercise their right to vote and the turnout by immigrants in national elections is generally lower than in local elections. Even in local elections, often the voter turnout of immigrants with voting rights is lower than that of citizens, with one exception being Canada. This is true regardless of whether a country is politically inclusive towards immigrants, has an open citizenship regime or allows immigrants to vote in local elections. The Netherlands, Sweden and Norway are examples of countries, which have a significant proportion of their population being non-citizens (10%+) while promoting political inclusion of non-citizens. Different factors that influence voter turnout include political socialization, socio-economic status and interest to engage politically.

Conclusion

From a comparative perspective:

- Globally, voting rights for non-citizens in national level elections are still the exception rather than the rule.
- Specific arrangements for granting voting rights to non-citizens bilaterally or between county membership in regional blocs have existed for numerous years (EU, The Commonwealth, the Nordic Passport union).
- Often, but not always, voting rights are restricted mostly to local and/or regional elections; but sometimes also extend to national elections.
- Often, but not always, voting rights are contingent on minimum residency requirements.
- Even where voting rights are extended to non-citizens, the right to stand as a candidate is often more restrictive.
- A country granting franchise and candidacy rights to all non-citizens without any residency requirement would have one of the most inclusive approaches to political participation worldwide.

From a policy perspective:

- Citizenship is historically and often also constitutionally a precondition for voting rights.

- An increasingly mobile global population has prompted many countries to reconsider the link between citizenship and voting rights to address democratic deficits and to support the social and political integration of non-citizens.
- The two avenues that are commonly debated for extending the franchise are reforming citizenship and naturalization laws and granting voting rights to non-citizens.
- Introducing voting rights for non-citizens would be both symbolically and practically a step towards removing barriers for inclusion and strengthening overall political participation.
- Voter turnout (especially if measured as a percentage of eligible voters casting a vote) should not be expected to increase automatically.
- Voter turnout is often higher among citizens by birth, less for naturalized citizens and least for non-citizens.
- Voter turnout will also be affected by the democratic culture in the countries of origin of non-citizens as well as that of the government and society extending voting rights.

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